

HB 525 LICENSING BOARD STUDY PLAN FOR 2013-2014

Prepared by Pat Murdo, Legislative Staff

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Backdrop:

The directive of House Bill No. 525, enacted in the 2011 legislative session, is to review all professional and occupational licensing boards with the intent of determining whether they remain necessary to protect public health, safety, or welfare. The legislation, enacted as 37-1-142, MCA, directed that one-half of the 33 licensing boards be reviewed in the first interim and the remainder in the second interim, with the oldest boards reviewed first.

Past work:

All 16 of the boards reviewed in the 2011-2012 interim received support for continuing in existence, although the opportunity for licensees and nonlicensees to comment on the boards generated further discussion about how well the boards operated and whether existing statutes might be changed to improve how the boards function.

In the 2011-2012 review, one or more members of each board had an opportunity to present reasons for the board remaining in existence. Economic Affairs Committee members of the 2011-2012 interim suggested that this type of presentation by board members was a waste of board members' time, especially if there did not appear to be any problems with the board.

Suggested 2013-2014 format:

- Initial review of board background material, with budgetary information highlighted and responses from as many boards as possible to questions asked of all the boards. This material will be presented at the first meeting.
- Selection of which boards the Economic Affairs Committee wants to hear more about, whether because of:
 - ▶ a high number of complaints;
 - ▶ problems with budgets;
 - ▶ turf fights; or
 - ▶ an indication the board is not needed for public health, safety, or welfare purposes.

Complaints may mean that a board serves a useful purpose for members of the public by providing a place to complain about services. A high number of complaints also may mean there are complaints by licensees against competitors or other types of turf battles.

High legal fees may mean that there are a lot of disputes over a board's sanctioning powers. Or high legal fees may mean that federal or state law changes require revisions of board rules.

The balancing act necessary for the Economic Affairs Committee this interim is to determine if any of the 17

<p>Fast facts for boards to be studied this interim:</p> <ul style="list-style-type: none"> ▶ Board with highest licensing fee: Board of Private Alternative Adolescent Residential or Outdoor Programs - up to \$13,313/yr ▶ Board with lowest licensing fee: Board of Realty Regulation - \$35 for a license for a timeshare salesperson ▶ Board with the most severe budget imbalance: Board of Social Work Examiners and Professional Counselors • Board with the most licensees Board of Barbers & Cosmetologists (11,124) • Board with the fewest number of licensees - For programs -- Board of Private Alternative Adolescent Residential or Outdoor Programs (14) - For persons licensed - Board of Athletic Trainers (113)

licensing boards remaining to be reviewed are necessary for that public purpose. Are there alternatives to having a state license to operate? Does federal law or insurance reimbursement require a license? Can complaints be handled through the Attorney General's Consumer Protection Office? What if public safety indicates a need for a board but there are too few licensees willing to pay a high licensing fee needed to cover the various costs of a board? These are among the questions that underlie the HB 525 study, which ultimately is an up-or-down vote on the need for a licensing board. If the Economic Affairs Committee wants to revisit any of the boards reviewed in the 2011-2012 interim, the committee members may do so under the "monitoring" function as part of the regular statutory duties.

Board involvement:

Each board has been asked to respond to a series of questions approved by the Economic Affairs Committee in the 2011-2012 interim. This draft plan contains responses from boards to be reviewed this interim. A preliminary draft of the overall HB 525 report indicates what has been learned so far for the 16 licensing boards already reviewed. Not all material gathered from the 2011-2012 review is included in the draft report, but enough is there to get an idea of what licensees think about their boards.

Public purpose questions:

As the Economic Affairs Committee members consider the purpose of the HB 525 reviews, the following criteria may help to determine whether the board meets a public purpose:

- Does the unregulated practice of the occupation or profession create a direct, immediate hazard to the public health, safety, or welfare?
- Is the scope of practice readily identifiable and distinguishable from the scope of practice of other professions and occupations?
- Does the occupation or profession require a specialized skill or training for which nationally recognized standards of education and training exist?
- Are qualifications for licensure justified?
- Does licensure provide a public benefit?
- Does licensure significantly increase the cost of service to the public?
- Is there public support for licensure?

More background information:

Table 1 provides information on the licensing boards to be reviewed in the 2013-2014 interim along with information on the number of years in which revenues exceeded expenditures, the average number of complaints and the cost of legal fees for the board, plus the cost of renewing licenses. Although expenditures exceeding revenues may appear to be a bad thing, because of the imprecise nature of budget forecasting for an unknown number of licensees or not knowing how many complaints might be filed in any one year, in some years the expected revenues fall short and in some years revenues are greater than expected. By statute, a licensing board may not accrue a balance of more than twice its biennial budget. So in some years some boards abate their licensing fee renewal collections and revenues drop below expenditures, although the overall budget balance does not become imbalanced. The revenue to expenditure measure is still helpful, however, because the board does have some control over direct expenditures and a consistent excess of expenditures over revenues indicates a potential problem.

The same information is not available for the licensing boards reviewed in 2011-2012 but for the

final report the comparable data will be available. Table 2 is provided to show which boards already have been reviewed.

Budget information

Included in this draft study plan is information from the 2011-2012 Interim prepared for the HB 525 Study of Licensing Boards. Because of the Business Standards Division reorganization, some budget components have been changed and will be updated by Legislative Fiscal Division Analyst Kris Wilkinson at the June meeting.

Survey

Licensees as well as the general public also have been asked to respond to a survey allowing respondents to voice praise or concerns about a board. The survey may be accessed from the Economic Affairs Committee website: <http://leg.mt.gov/eaic>.

Table 1: Licensing Boards to be Reviewed in 2013-2014

Boards to Be Reviewed in 2013-2014	Revenues Exceed Expenditures x of y years	Complaints (average) plus FY 2012 legal costs indicating contested complaints	License renewal fees as of 2013
Alternative Health Care Board	4 of 4 years	13.5 / \$10,188	\$550
Board of Architects and Landscape Architects	2 of 4 years	28.75 / \$11,018	A = \$55 LA = \$250
Board of Athletic Trainers	2 of 4 years	0.75 / \$1,992	\$175
Board of Barbers and Cosmetologists	1 of 4 years	196 / \$37,848	\$75 to \$220
Board of Clinical Laboratory Science Practitioners	3 of 4 years	2.75 / \$3,030	\$60
Board of Massage Therapy	2 of 3 years	8.33 / \$11,350	\$140
Board of Occupational Therapy Practice	3 of 4 years	2 / \$1,660	\$110
Board of Physical Therapy Examiners	3 of 4 years	11 / \$19,318	\$60
Board of Private Alternative Adolescent Residential or Outdoor Programs	2 of 4 years	8.5 / \$21,139	from \$1,688 to \$13,313
Board of Private Security	2 of 4 years	34.25 / \$34,487	\$100 to \$175
Board of Radiologic Technologists	0 of 4 years	6 / \$5,623	\$50
Board of Real Estate Appraisers	2 of 4 years	46 / \$69,690	\$475* to \$3,000
Board of Realty Regulation	1 of 4 years	168 / \$186,704	\$35 to \$100
Board of Respiratory Care Practitioners	2 of 4 years	2.75 / \$1,349	\$75
Board of Sanitarians	3 of 4 years	0.5 / \$2,739	\$180

Board of Social Work Examiners & Professional Counselors	0 of 4 years <i>not in balance</i>	41 / \$56,718	\$175
Board of Speech Language Pathologists & Audiologists	3 of 4 years	0.25 / \$2,988	\$100
* The renewal fee for Real Estate Appraisers does not include a \$40 cost of a national registration fee.			

Table 2: Boards Reviewed in 2011-2012 Interim with Review Date and Comments

Boards Reviewed in 2011-2012	Review Date	Comments
Board of Chiropractors	8/24/2011	No concerns voiced
Board of Dentistry	8/23/2011	Concerns voiced among 3 entities covered by the board. Comments made in 3 meetings.
Electrical Board	4/20/2012	The board had a negative fund balance as of June 30, 2012, but was solvent by November.
Board of Funeral Services	10/6/2011	Comments made at 2 meetings. Some dissension among funeral directors/crematoria.
Board of Hearing Aid Dispensers	10/5/2011	Budget not in balance, in part due to a loss of audiologist licensees who prior to 2011 had been dually licensed under their own board and this board. Board levied a \$1,000 licensing fee but is still having financial problems.
Board of Medical Examiners	10/6/2011	No concerns about existence of board. Concerns voiced about licensing process.
Board of Nursing	1/20/2012	No concerns.
Board of Nursing Home Administrators	10/5/2011	No concerns.
Board of Optometry	1/20/2012	No concerns.
Board of Outfitters	1/19/2012	No concerns
Board of Pharmacy	8/23/2011	No concerns.
Board of Plumbers	4/20/2012	No concerns.
Board of Professional Engineers & Land Surveyors	4/20/2012	No concerns.
Board of Psychologists	6/12/2012	No concerns.
Board of Public Accountants	1/19/2012	No concerns.
Board of Veterinary Medicine	8/24/2011	No concerns.

BSD

Licensing Bureau Chief

Licensing Specialist A

Process basic applications to licensure
Endorsements
Firms
Collect all information required for license
Renewals – notices & issuance
Address changes
Name changes
License printing & mailing
Records
Management

Licensing Specialist B

Process Applications that require review

- License verifications – review/approve
- Experience evaluation
- Yes on discipline questions
- Supervision

Process non-routine applications

Licensing Specialist C

Process Applications that require research & analysis

- Evaluate transcripts
- Research residency programs – approve/validate
- Monitor supervision or trainees
- DD214 - analyze

Audit/Education/SM E

Level A
Continuing Education Audit
Continuing Education Approvals
Profession Monitoring Program
Certification and Insurance Audits,
First aid, NCHU (OUT) Audits
Internal Monitoring

Level B – (Professionals)
Real Estate Appraisals
Realty Audits
Realty Education
Nursing Educator

Board Management Bureau Chief

Administrative Specialist A

Level II

Non-Public and Public Board Books (redacted)
Board meeting follow-up and follow through
Forms development and maintenance (all Medias)
Webpage content update
Minutes
Prepare Agendas
Prepare Budgets info for review
Correspondence

Level I

Meeting and travel arrangements
Travel Expense Vouchers
Treats and lunch coordination for board and screening meetings
Technology (recorders, laptops, projectors, etc.)
Scanning
Examinations – Administer & Grade
Records Management

Administrative Specialist B (Executive Officer)

Establish Agendas
Presentations
Newsletters/Articles
Correspondence

Best practices
Identify national/state trends and issues, scope of practice
Sub-committee facilitation

Board Education
Examinations – write/develop
Department Liaison
Networking

Implementing statutes & rules
Implementing policies & procedures
Draft rules & legislation
Budgeting & Financial

Testifying – legislation, civil, criminal cases, administrative hearings
Board representation – by board motion

Operations Bureau Chief

Legal

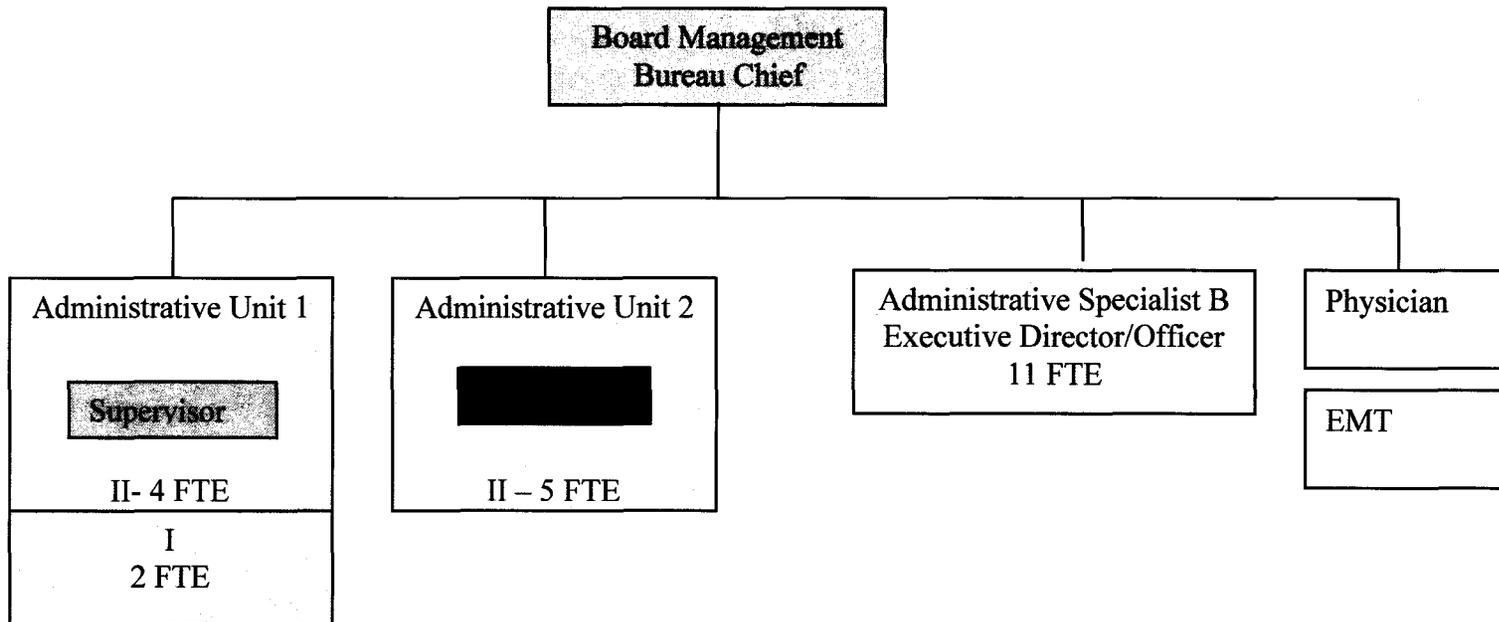
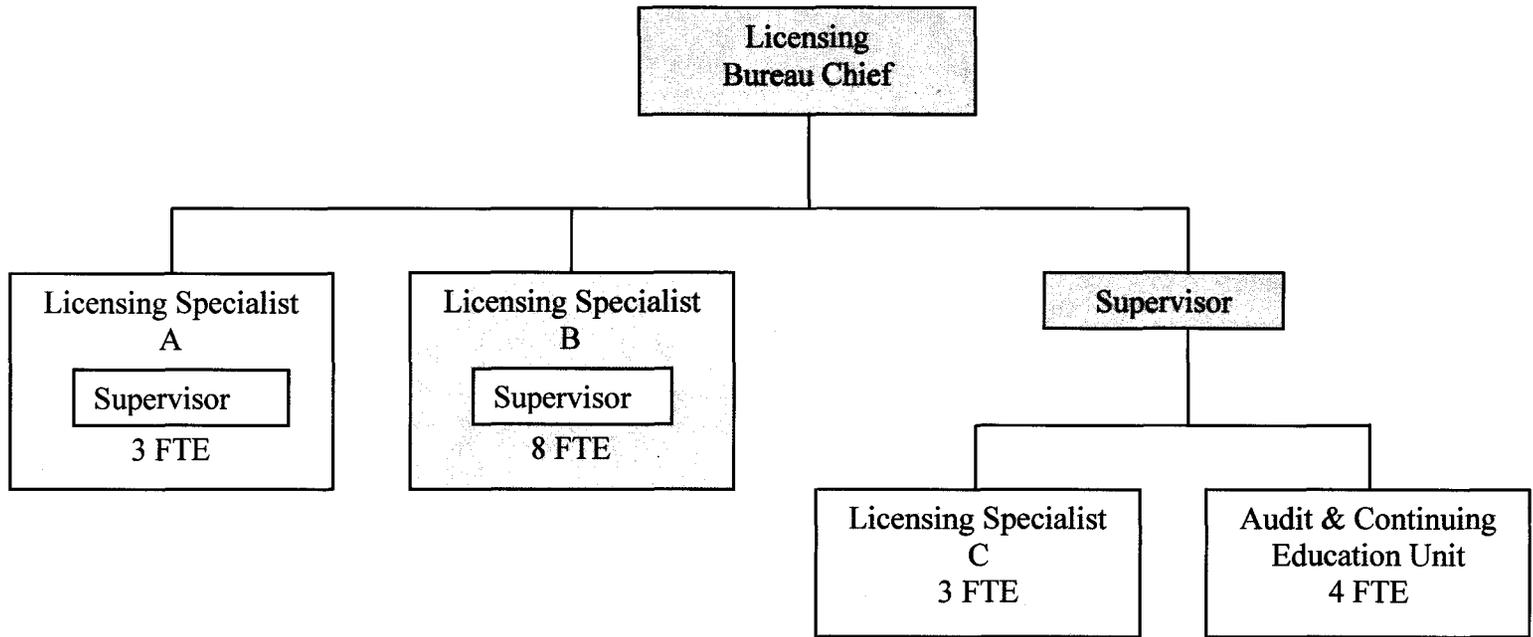
Investigators/inspectors – 10 FTE

Compliance Unit – 7 FTE

IT – 9 FTE

Training Unit -1 FTE

Fiscal / Admin
4 FTE





MONTANA LEGISLATIVE BRANCH

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Director
AMY CARLSON

DATE: June 3, 2011
TO: Economic Affairs Interim Committee
FROM: Quinn Holzer, Fiscal Analyst
RE: BSD Board licensing fees

** New information on budgets will be available at the June 25 meeting.*
Edits reflect a reorganization in 2013.

The Business Standards Division provides license oversight and administration for a variety of Boards, through ~~four~~ ^{five} different Bureaus.

1. Building Codes (five licensing programs)
2. Weights & Measures
3. ~~Health Care Licensing (22 licensing boards and a licensing program)~~
4. ~~Business & Occupational Licensing (11 licensing boards and a licensing program)~~
5. ~~Operations~~
Board Management

License fees vary greatly depending upon the Board for which a license is being applied. This variation is driven by two primary factors: 1) the number of licensees associated with the Board, and 2) the costs associated with that Board's administration.

A Board's costs are comprised of five different factors:

1. Direct Operating Expenses
2. Direct Hours
3. Indirect Hours
4. Administration Indirect
5. Indirect Charges

Direct Operating Expenses

This is simply a direct application of travel expenses and other directly applicable charges.

Direct Hours

This provides not only a direct cost, but also becomes the driver for all indirect costs, which are allocated based on the percentage associated with each Board. When a Bureau employee reports on their time, they report the number of hours worked for each associated Board. Those hours are directly charged to the Board, but the Bureau then tracks the total number of hours worked for each Board in their purview, and calculates the percentage of hours specific to each Board. This allocation percentage is reviewed on a quarterly basis.

Indirect Hours

General support of the Bureau, and other activities not specifically attributable to a single Board, are allocated based on the percentage of Direct Hours for that Board. (Total indirect hours * hourly rate * % of Direct Hours)

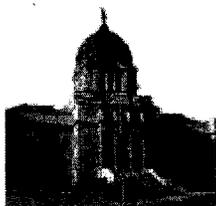
Administration Indirect

This charge is allocated based on hours as well. Hours are charged directly to boards or programs in some cases, or to a Bureau. The Bureau cost is then allocated to the individual Board, based on the direct hours allocation. These allocation are also reviewed quarterly.

Indirect Charges

Indirect charges for items benefitting all Boards (phone line fees, general supplies, etc.) are also allocated based on the Direct Hours allocation percentage.

These five charges are combined to determine the total cost of managing a Board. That total cost is then divided by the number of licensees to arrive at the cost of a license. There may be some adjustments, based on projected changes to costs, or the number of licensees. Statutorily, the fund balance for each board is limited to 200% of the annual appropriation for the Board. The Division attempts to set fees in such a way as to cover all costs and maintain one year of fund balance. In the case of an excess fund balance, the Boards may opt to either issue refunds, or to reduce license fees in the coming year to bring the balance back down.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Alternative Health Care

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 6 members (term expiration in parentheses)

Direct-entry Midwives = 2 Mary Anne Brown, Great Falls (9/1/2014) Molly Danison, Missoula (9/1/2013)	Naturopathic Physicians = 2 Nancy Patterson, Great Falls (9/1/2015) Christine White Deeble, Missoula (9/1/2016)
MT physician practicing obstetrics = 1 Anne Camber, Libby (9/1/2015)	Public member not in a profession regulated by the board = 1 Phyllis Lefon, Clancy (9/1/2014)

Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
Direct-entry midwives				
Naturopathic physicians				
Total	118	121	119	117

Licensing Fees (since 2009)

Naturopath license application	\$300	Naturopath specialty certificate	\$100
Naturopath original license	\$200	Naturopath specialty cert. renewal ..	\$25
Naturopath license renewal	\$550	Naturopath inactive status	\$275
Midwife license application	\$300	Midwife inactive status	\$275
Midwife original license	\$200	Midwife apprentice application	\$200
Midwife examination	\$800	Midwife apprentice lic. renewal	\$200
Midwife license renewal	\$550	Midwife exam proctor only fee	\$150
		Midwife apprentice inactive status..	\$100

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009		\$65,874		\$57,002
FY 2010		\$66,310		\$63,554
FY 2011		\$63,740		\$45,425
FY 2012		\$69,765		\$69,386
FY 2015 biennium*		--		\$142,023

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$21,556	\$5,444	\$1,531	\$11,621	\$1,203
Operating Expenses					
Consulting, Printing, IT, Other	\$2,663			\$998	
Supplies, incl. Computer	\$1,123			\$245	
Postage, mailing, IT network, voice svr	\$718			\$763	
Travel/Per Diem for Board Members	\$2,167				
Rent and other expenses*	\$3,781			\$5,384	
Legal and hearings	\$10,188				
Total (may be affected by rounding)	\$42,196			\$27,189	

*Includes rent of \$1,949, and dues, education & training, and fee collection expense of \$1,832 for direct expenses and DLI OIT expense of \$2,210, apportioned meeting room cost of \$7, computer and office equipment repair of \$50, and indirect agency of \$3,117 for indirect expenses.

Number of Complaints

FY 09	.....	12
FY 10	.....	10
FY 11	.....	21
FY 12	.....	11

Disciplinary Action (may be from other years)

Revocation 1, Dismissed 8, Investigations 5
 Dismissed 11, Investigations 4, Other Sanctions 2
 Dismissed 14
 Dismissed 5, Other Sanctions 1, Closed 5

Scope of Practice

Naturopathic Physician - A person authorized and licensed to practice naturopathic health care, defined in 37-26-103, MCA, as "a system of primary health care practiced by naturopathic physicians for the prevention, diagnosis, and treatment of human health conditions, injury, and disease. Its purpose is to promote or restore health by the support and stimulation of the individual's inherent self-healing processes. This is accomplished through education of the patient by a naturopathic physician and through the use of natural therapies and therapeutic substances." A naturopathic physician also may be certified in the specialty practice of natural childbirth by using "natural therapeutic substances, ophthalmic antibiotics, oxytocin (pitocin), and minor surgery, as set by board rules." An additional scope of practice is outlined in 37-26-301, MCA.

Direct-entry Midwife - A person authorized to advise, attend, or assist a woman during pregnancy, labor, natural childbirth, or the period up to 6 weeks after birth. There are limitations on the administration of prescription drugs, as provided in 37-27-302, MCA, and operative or surgical procedures, as provided in 37-27-303, MCA.

2013 Legislation Impacting Board or Profession --

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Alternative Health Care licensees -- Comments summarized separately.



To: Economic Affairs Interim Committee

From: Board of Alternative Health Care

Date: June 10, 2013

Subject: HB525 – ALT response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The regulation of direct-entry midwives through licensure serves the public interest as they advise and assist women during pregnancy, labor, natural childbirth, and the postpartum period.

The regulation of naturopathic physicians serves a public health interest as they practice a system of primary health care for prevention, diagnosis and treatment of human health conditions, injury and disease. Naturopathic medicine is a distinct health care profession and contributes to the freedom of choice in health care. Its purpose is to promote or restore health by the support and stimulation of the individual's inherent self-healing processes.

Licensing and continued oversight of these professionals is necessary to safeguard the public safety and welfare of the citizens of Montana.

2. If your profession/occupation were not licensed, what public protection would be lost?

Women who choose to birth outside of hospital settings would be without professional treatment. Persons attempting to practice naturopathic medicine without proper education, training and testing would expose the public to increased risk of harm from incompetence and malfeasance.

If a problem exists with a professional's treatment or actions, there would be no entity with the appropriate knowledge to review and adjudicate public complaints.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes. A board is necessary to provide an entity with expertise to evaluate initial licensure of applicants (appropriate education, exams passed, no disciplinary concerns) and continued monitoring of existing licensees through complaint review, mandatory birth morbidity/mortality reporting, continuing education requirements, etc. The Board of Alternative Health Care is comprised of practitioners from midwifery, naturopathic medicine, a medical doctor whose

practice includes obstetrics, and a public member who represents the perspective of consumers. The mix of talent on the board is the most appropriate method to deal with oversight issues.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes, the board has dealt with complaints of unlicensed individuals without proper training and education delivering babies, treating human health conditions, and people advertising that they are able to perform procedures that are defined in statute as within the scope of practice for these professions.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

Qualification for licensure as a Naturopathic Physician/Doctor requires a four-year post graduate medical education from a nationally accredited naturopathic medical school. It also requires successful completion of nationally accredited basic sciences and clinical examinations. Naturopathic Physicians can prescribe drugs on the approved formulary. There are those individuals with correspondence school degrees in Naturopathy who do not have hands-on clinical education or a four-year post graduate education; if licensure was not provided by the State of Montana, these people could pass themselves off to the public as being as highly trained as the presently licensed Naturopathic Doctors.

Direct-entry midwives are required to complete education, supervised experience/training requirements, and pass a national examination. This is necessary training for individuals assisting women in natural childbirth.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

Board member training provided by the Department of Labor and Industry addresses this issue; board members are advised of the need to recuse themselves from decision-making if a conflict exists. The Presiding Officer and staff also monitor bias on a case-by-case basis to help ensure that the possibility or perception of bias is avoided, and a carefully guarded and liberally administered public right of participation ensures a critical review of all such decisions. Also, having a mix of public and professional members who serve together on the board is another safeguard.

Direct-entry Midwives and Naturopathic Physicians work well together as there are shared areas of practice. There are also an equal number of members from each profession. There has never been an issue regarding unfair treatment on behalf of either profession.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

There are professional associations consisting of members who elect to join the associations. The mission of associations is to promote the industry; the board's mission is to protect the public. These are two separate functions that are not well-suited to be performed by the same entity. The associations do not have legal authority to investigate complaints and discipline professionals or public members to accomplish regulation. The cost to institute licensing and discipline functions in the association would raise association membership fees considerably.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

Yes, insurance companies are well aware of the advantage of a licensing board being able to determine the qualifications of practitioners, so licensure through an administrative agency is a prerequisite to insurance coverage for most of these professions' services. The board is not aware of any alternative billing method.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

The board has the expertise of the professional members who understand the technical aspects of the profession and a public member to represent the consumer view. Both aspects are essential to effective regulation of the professions, and neither would be available to the department without the use of a board.

10. Is there an optimum ratio between licensees, board size, or public representation?

There may be, and the number might differ for different boards. What we have now, four professional members, one public member, and a medical doctor appears to work well. A board is unwieldy if it is too large, and the current number (six board members) seems sufficient for the work load.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

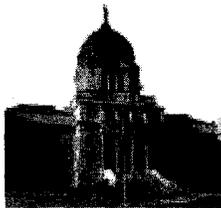
A disinterested third party would spend significant time and money learning the profession and hiring consultants in various areas of the professions to address issues as they arise. Fraud issues such as insurance billing and medicare/medicaid deception have not been not common issues for these professions. However, the board has the ability to respond to fraud issues or to forward them to the Attorney General's office as the need arises.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

The scope of practice is determined by statute and while there may be some overlap, it is important to assure that one's practice is not allowed to expand beyond the content and level of education and training associated with the license of that person. The public should be able to rely on the distinct titles associated with licensure that indicate the level of education and training associated with that person's practice. While there may be a third-party who may also properly judge whether there is an intrusion into another's practice, the statutes provide adequate notice of the respective scopes of practice and provide that if a person's practice exceeds that person's license, that person may be enjoined from the conduct by a district court action initiated by the board responsible for regulating the practice.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Terminology or titles that imply a particular level of training/experience should have its use restricted to those individuals that actually have that training/experience and have been adequately assessed. Consumers have a right to know the minimal qualifications of those who utilize the associated titles and terms, which is why some boards should be able to limit the use of certain terminology to only a licensee. It is the way of knowing that the individual is trained, tested and monitored for continued compliance.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Architects and Landscape Architects

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 6 members (term expiration in parentheses)

<p>Licensed architects = 3 (of which 1 is on the staff at MSU-Bozeman's School of Architecture)</p> <p>Dale Nelson, Great Falls (3/27/2015) Maire O'Neill, MSU-Bozeman (3/27/2016) Bayliss Ward, Bozeman (3/27/2014)</p>	<p>Licensed landscape architects = 2 Shelly Engler, Bozeman (3/27/2016) Nathan Steiner, Billings (3/27/2016)</p> <hr/> <p>Public members not connected with any profession licensed by the board = 1 Janet Cornish, Butte (3/27/2016)</p>
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Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
Architects				
Landscape Architects				
Total	1,463	1,465	1,511	1,426

Licensing Fees (since 2009)

Architect license application if registered in another state or jurisdiction	\$100
Architect application for licensure by examination	\$ 50
Architect original license fee	\$ 80
Architect annual renewal fee	\$ 55
Architect emeritus license fee	\$ 25
Landscape architect application to sit for exam	\$ 50
Landscape architect application fee	\$325
Landscape architect renewal fee	\$250

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009	\$54,037		\$74,952	
FY 2010	\$91,295		\$95,887	
FY 2011	\$94,895		\$92,218	
FY 2012	\$90,065		\$81,617	
FY 2015 biennium*	--		\$152,521	

The Board of Architects included the Board of Landscape Architects under legislation passed in 2007. The board has a budget for each profession to avoid cross-subsidization.

Expenditures, FY 2012, for Architects	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$17,997	\$5,909	\$3,317	\$7,067	\$1,578
Operating Expenses					
Consulting, Printing, IT, Other	\$9,999	\$2,631			
Supplies, incl. computer, gasoline	\$934	\$1,052			
Postage, mailing, IT network, voice srv	\$1,581	\$701			
Travel/Per Diem for Board Members	\$2,965				
Rent and other expenses*	\$11,395	\$5,466			
Legal and hearings	\$9,026				
Total (may be impacted by rounding)	\$53,897	\$27,721			

*Includes computer and office equipment repair of \$28, dues, education & training and fee collection expense of \$9,135 plus rent/office equipment of \$2,232 for direct expenses and DLI OIT expense of \$2,732, indirect agency cost of \$2,689 plus \$14 for meeting conference costs/IT training and \$31 for computer/office equipment repair for indirect expenses.

Expenditures, FY 2012, for Landscape Architects	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$6,086	\$730	\$909	\$155	\$728
Operating Expenses					
Consulting, Printing, IT, Other	\$1,279	\$1,163			
Supplies, incl. Computer	\$117	\$426			
Postage, mailing, IT network, voice srv	\$100	\$220			
Travel/Per Diem for Board Members	\$3,097				
Rent and other expenses*	\$7,389	\$1,302			
Legal and hearings	\$1,992				
Total	\$20,060	\$5,633			

*Includes computer and office equipment repair of \$17, dues, education & training and fee collection expense of \$6,749 plus rent/office equipment of \$623 for direct expenses and DLI OIT expense of \$675, indirect agency cost of \$620 plus \$7 for computer/office equipment repair and \$620 for indirect agency, training IT, etc., for indirect expenses.

Number of Complaints

FY 09 28
 FY 10 50
 FY 11 30
 FY 12 7

Disciplinary Action (may be from other years)

Dismissed 17, Other Sanction 4, Investigations 6
 Dismissed 34, Other Sanctions 8, Investigations 9
 Dismissed 20, Other Sanctions 4, Investigations 9
 Dismissed 3, Closed 4

Scope of Practice

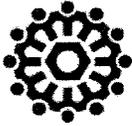
The practice of *architecture*, as defined in 37-65-102, MCA, is "Practice of architecture" the professional service or creative work using "the application of advanced knowledge of architectural design, building construction, and standards and involving the constant exercise of discretion and judgment in those activities, in which the safeguarding of life, health, or property is concerned, as consultation, investigation, evaluation, planning, design, or inspection of construction for any public or private building". Exemptions from the regulation of the practice of architecture are listed in 37-65-103, MCA.

The practice of "*landscape architecture*", as defined in 37-66-103, MCA, means "all aspects of the planning and design of the exterior environment for human use and environmental protection. It is the design discipline specifically oriented to addressing the problems involved in adapting the uses of land to the characteristics of the exterior environment both functionally and aesthetically. The term includes: regional planning of natural resources; urban and rural planning and design; institutional design; park and recreation planning and design; contract negotiations; the preparation of project master plans, contract documents, construction specifications, construction cost estimates, and project contracts; project management; and construction management. The term does not include the design of structures or facilities with separate and self-contained purposes that are ordinarily included in the practice of engineering or architecture and does not include the making of land surveys or final land plats for official approval or recording." A person who practices horticulture or runs a nursery or similar operation may not apply the term "landscape architect" or "landscape architecture" to their work unless they are licensed as a landscape architect, according to 37-66-105, MCA.

2013 Legislation Impacting Board or Profession

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Architects and Landscape Architects licensees --
Comments summarized separately.



Montana Department of
LABOR & INDUSTRY

Steve Bullock, Governor
Pam Bucy, Commissioner

Business Standards Division
Adam de Yong, Acting Division Administrator

To: Economic Affairs Interim Committee

From: Board of Architects and Landscape Architects

Date: June 10, 2013

Subject: HB525 – ARC response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The board protects the public from unprofessional, improper, unauthorized and unqualified practice of architecture and landscape architecture. The board accomplishes this mission through the performance of three key functions: licensure, regulation, and discipline.

2. If your profession/occupation were not licensed, what public protection would be lost?

The public would have very little recourse except through the legal system, which can be very costly and time consuming. Under the current system, the board ensures the public's protection through minimum qualifications for licensure and discipline of licensees for unprofessional conduct fairly quickly and with little or no cost to the public.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes. The Board of Architects was established in 1917. The Board of Landscape Architects was established in 1975. The Boards of Architects and Landscape Architects were combined in 2007. The board protects the public from unprofessional, improper, and unauthorized, unqualified providers of architecture and landscape architecture through the licensure process.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes. Practicing as an architect and landscape architect without a license or with an expired license are the most common unlicensed practice issues to come before the board.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The Legislature finds and declares that the practice of architecture and landscape architecture in the state affects the public health, safety, and welfare. Unlicensed individuals who may be qualified must be licensed before they can practice in the profession. The statutes and rules governing licensure ensure that an individual meets the minimum education and experience requirements required to practice.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

The Business Standards Division provides board member training for all members to attend that provides instruction regarding recusing oneself when there is actual, or the appearance of, a conflict of interest or bias.

Additionally, the board's composition serves to monitor bias. There are six members appointed by the Governor. The composition of the board is two licensed architects who have been in continuous practice for 3 years before their appointment, one licensed architect who is on the staff of the Montana State University-Bozeman school of architecture, two licensed landscape architects and one representative of the public who is not engaged in or directly connected with the practice of architecture or landscape architecture. The makeup of the board was determined by the number of licensees in each profession.

Finally, board member bias toward a particular applicant or licensee is kept to a minimum by following the rules and regulations that are in place for the board.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

No. The mission of associations is to promote the profession and advocate for the industry. The board's mission is to protect the public through the licensure and regulation of architecture and landscape architecture. Furthermore, it is believed that the current licensure mechanism is the most practical, efficient, and unbiased approach to meeting this requirement. An association does not have the legal authority to investigate complaints or discipline professionals.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

The board does not facilitate the billing of insurance claims in the same manner as many of the licensed health care boards do.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

Five board members are peers of the licensees they oversee and have knowledge of and expertise in the regulated profession. In addition, the board includes public representation of at least one individual. This broad representation ensures an unbiased and fair approach to discipline and other regulatory issues.

10. Is there an optimum ratio between licensees, board size, or public representation?

Yes, the board regulates 1,430 active architects and 105 active landscape architects. The board's current composition balances the number of licensees and public members while remaining small enough to function efficiently.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

No. A disinterested third party would spend significant time and money either learning the profession or hiring consulting architects or landscape architects in various areas of the profession to address practice and conduct issues. The board can more efficiently and effectively handle complaints and other business pertinent to its professions.

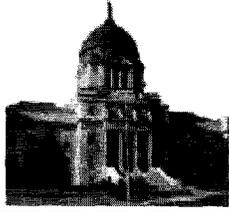
The Board, through the complaint process, monitors fraud on a licensee level. The board has the ability to respond to fraud issues or to forward them to the Attorney General's Office if necessary.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

Each profession has a specific scope of practice and educational requirements.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Yes. An individual must have the training, education and qualifications verified by examination to be licensed in the profession of architecture and landscape architecture. There are exemptions in the statutes regarding those in an educational or working condition. (Reference 37-65-103, 37-66-105, MCA)



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Athletic Trainers

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 5 members (term expiration in parentheses)

Licensed physician = 1 Vacant since 2011. Term would end 2015.	Athletic trainers = 3 Postsecondary rep. - Brian Coble, Helena (10/1/2015) Secondary rep. - Shawn Ruff, Great Falls (10/1/2013) Health or athletic facility employee - Christopher Heard, Butte (10/1/2015)
Public member not connected with athletic training = 1 Robert Fletcher, Bozeman (10/1/2013)	

Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
Total	93	117	133	113

Licensing Fees (since 2009)

Original application and license fee	\$175
License renewal fee	\$175

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009*		\$74,570		\$20,653
FY 2010*		\$10,370		\$11,137
FY 2011*		\$ 5,870		\$21,134
FY 2012*		\$24,095		\$20,045
FY 2015 biennium**		--		\$48,401

*The board had a triannual renewal period that impacted revenues. In August 2012, the board adopted an annual renewal period. Board budget balances can be twice the annual appropriation level (37-1-101(10), MCA). **Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$7,159	\$983	\$1,676	\$1,543	\$732

Operating Expenses		
Consulting, Printing, IT, Other	\$807	\$601
Supplies, incl. Computer	\$141	\$363
Postage, mailing, IT network, voice srv	\$431	\$278
Travel/Per Diem for Board Members	\$154	
Rent and other expenses*	\$1,423	\$1,761
Legal and hearings	\$1,992	
Total (rounding may give slight change)	\$12,108	\$7,937

*Includes computer and office equipment repair of \$3, dues, education & training, and fee collection expense of \$499, and rent/office equipment meeting rooms of \$920 for direct expenses and DLI OIT expense of \$823, computer/equipment repair of \$32, and indirect agency costs with IT training, freight-express, etc. costs of \$906 for indirect expenses.

Number of Complaints

FY 09 0
 FY 10 0
 FY 11 3
 FY 12 0

Disciplinary Action (may be from other years)

Dismissed 1, Investigations 1

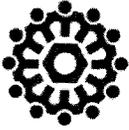
Scope of Practice

An *athletic trainer* is licensed to practice athletic training defined in 37-36-101, MCA, as prevention, recognition, assessment, management, treatment, disposition, and reconditioning of athletic injuries. The term includes the following: (a) the use of heat, light, sound, cold, electricity, exercise, reconditioning, or mechanical devices related to the care and conditioning of athletes; and (b) the education and counseling of the public on matters related to athletic training. An athletic trainer may apply or administer topical medications as outlined in 37-36-204, MCA.

2013 Legislation Impacting Board or Profession

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Athletic Trainers licensees --
 Comments summarized separately.



Montana Department of
LABOR & INDUSTRY

Steve Bullock, Governor
Pam Bucy, Commissioner

Business Standards Division
Adam de Yong, Acting Division Administrator

To: Economic Affairs Interim Committee

From: Board of Athletic Trainers

Date: June 10, 2013

Subject: HB525 – ATR response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The regulation of Athletics Trainers was enacted in 2007. Prior to legislation many well-meaning though ill prepared individuals called themselves Athletic Trainers because they had participated in an athletic taping class in high school. The statute clearly defines an "Athletic Trainer" as an individual who is licensed to practice athletic training. "Athletic training" is defined as the practice of prevention, recognition, assessment, management, treatment, disposition, and reconditioning of athletic injuries. Though not clearly addressed, licensure of Athletic Trainers serve the public interest by protecting society's at risk individuals, the youth of Montana. Youth of Montana deserve the highest quality of health care. The board ensures that all Licensed Athletic Trainers have the education and qualifications required for the profession.

2. If your profession/occupation were not licensed, what public protection would be lost?

Yes, licensure of Athletic Trainers ensures the public that those individual with the education, qualifications, and experience will be providing these services. Before licensure any person could claim to be an Athletic Trainer with virtually no qualifications. This put the athletes and other Montana citizens at great risk. Qualifications as a Licensed Athletic Trainer include a minimum of a Bachelor's degree approved by the National Athletic Trainers Association Board of Certification, clinical supervision hours, and successful completion of a national exam. As a result of these standards the licensees are qualified health care professionals who are considered experts in the field of sports medicine. During the 2013 legislative session SB 112, the Youth Concussion Act was passed. Licensed Athletic Trainers are one of the health care providers recognized by this legislation to provide services referenced in the bill.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes. As mentioned earlier, the Board of Athletic Trainers was established 2007. The purpose for the creation of the board was to clearly define "Athletic Trainer" and "Athletic training" and to establish minimum qualifications to practice as a Licensed Athletic Trainer. The board is

composed of five members appointed by the Governor. One member must be a Licensed Physician preferably with a background in the practice of sports medicine. Three members must be Athletic Trainers who have been engaged in the practice of athletic training in the state for at least two years prior to being appointed. One must be employed by or retired from employment with a postsecondary institution in Montana, the second must be employed in or retired from a secondary school in Montana and the third must be employed by or retired from a health care facility or an athletic facility in Montana. The fifth board member must be a member of the public who is not engaged in or directly connected with the practice of athletic training. Based on the board composition these experts and member of the public have the capacity to establish, implement and enforce licensure requirements.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes. As with any new profession that raises to the level of licensure the risk of unlicensed practice exists. The board has occasionally become aware of individuals who are portraying themselves as Athletic Trainers to the public, without the proper education, qualifications, or licensure. This endangers Montana's citizens, particularly our youth, due to the potential for improper diagnosis of injuries, treatment or rehabilitation of injuries. The board has used its authority to issue a cease and desist notice.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The safe and competent practice of athletic training requires a Bachelor's level of education, which includes at a minimum of 1000 hours of clinical experience in a variety of athletic training sites. The academic site must be accredited by the National Athletic Trainers Association Board of Certification. To ensure the proper and necessary preparation, the law requires reasonable standards that do not unfairly bar any individual from earning a living. In support of Montana regulations, we welcome visiting sports teams at the high school and college level to provide their own athletic trainer services without the need for a temporary Montana license. Montana Athletic Trainers supports the concept that all students, in all states deserve quality health care.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

Board member training provided by the Department of Labor and Industry addresses the issue of bias. Board members are advised of the need to recuse themselves from decision-making if a conflict exists. The Presiding Officer and staff including an attorney also monitor bias on a case-by-case basis to help ensure that the possibility or perception of bias is avoided. Also, having a mix of a public member and professional members serving together on the board is another safeguard. There are no other professions licensed by this board.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

The National Athletic Trainers Association Board of Certification exists as well as the Montana Athletic Trainers Association. Belonging to these Associations is voluntary. The Board of Certification or BOC monitors continuing education and tri-annual renewal, but they don't monitor unlicensed or unethical practices. The Associations have standards of professional practice and promote the profession while the board promotes protection of the public through regulation of the practice.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

Licensure of Athletic Trainers is a new credential. Athletic Trainers do not bill to receive insurance reimbursement though an insurance billing code is available. Licensed Athletic Trainers are able to obtain a provider identification number, but Medicaid and Medicare do not reimburse for athletic trainer services thus most insurance companies do not reimburse. Most Licensed Athletic Trainers work in a school setting as their employees and fees are not assessed to student athletes.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

The board composition is detailed in question number three. The board members appointed by the Governor are experts in the field of sports medicine plus a member of the public. These experienced and knowledgeable professionals have a clear understanding of the education, training and knowledge base needed to qualify as a Licensed Athletic Trainer. They also understand the terminology of their profession. Therefore, it is appropriate and wise for the board to set the standards of licensing and professional practice, to emphasize standards of care and to enforce discipline when needed. Most licensure applications that come before the board are "routine" and are handled primarily by staff without the need for board review. This makes for an efficient licensing process. "Non-routine" applications, those that have indicators that deviate from standards, are referred to the full board for review. The board to date has not reviewed complaints before its screening or adjudication panels. The board believes that having them involved in the discipline gives the process a "real world" perspective, and will take its charge seriously in discipline issues for each complaint. Having the process done through the perspective of board members shall yield informed and wise results. Peers are judging peers from a practice perspective.

10. Is there an optimum ratio between licensees, board size, or public representation?

The composition of the board is dictated by statute and works well for the board. They are able to do their work in regulating the licensees.

- 11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?**

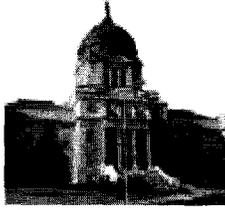
A board comprised of individuals in the profession is invested in monitoring their own profession. They have the expertise in the scope of practice and standards of care and specific knowledge regarding safety issues that need monitoring and boundaries. A disinterested third party would spend significant time and money either learning the profession or hiring consultants in various areas of the profession to address practice and conduct issues.

- 12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?**

The scope of practice for Licensed Athletic Trainers is shared to some extent with other health care professionals. While some overlap is expected it is important to assure that those practicing as a Licensed Athletic Trainer do so within the scope of practice and standard of care established by the board. In the large health care system there is overlap from the variety of health care professionals. Each has a defined scope of practice, but the Board of Athletic Trainers believes it takes a lot of health care personnel to get the job done. Yes, there are conflicts and it is the hope of the board that health care licensing boards work together to address these issues in the common goal of providing excellent professionals to deliver the best care possible as issues arise.

- 13. Should any board have the ability to limit use of certain terminology to only a licensee?**

Yes, because the board is building public trust in the Athletic Trainer profession. According to MCA 37-36-203, the use of the title "Licensed Athletic Trainer" or "Certified Athletic Trainer" is for those licensed in the profession, and they may use the abbreviations "LAT" or "AT".



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Barbers and Cosmetologists

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 9 members (term expiration in parentheses)

<p>Licensed cosmetologists = 3 -Darlene Battaiola, Butte cosmetologist and school operator (10/1/2016) -Wendell Petersen, Missoula cosmetologist (10/1/2013) -Angela Printz, Livingston cosmetologist (10/1/2017)</p>	<p>Licensed barbers = 3 (or 1 from cosmetology, electrology, esthetics, or manicuring fields) -Thayne Orton, Florence barber (10/1/2017) -Sherry Dembowski-Wieckowski, Thompson Falls (10/1/2013) -Juanita Mace, Billings (10/1/2016)</p>
<p>Licensed electrologist, esthetician, or manicurist = 1 -Corie Mora, Great Falls manicurist (10/1/2015)</p>	<p>Public members not connected with any profession licensed by the board = 2 -Jamie Ausk Crisafulli, Glendive (10/1/2013) -Sara Dobbins, Helena (10/1/2015)</p>

Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
Barbers				
Cosmetologists				
Total	11,638	11,741	12,128	11,124

Licensing Fees (since 2011)

Original and renewal license	\$ 80
Original and renewal active instructor license	\$100
Original and renewal inactive instructor license	\$ 85
Original and renewal school license	\$220
Original and renewal salon or shop license	\$ 85
Original and renewal booth rental license	\$ 75
Salon or shop inspection	\$150
School/course inspection	\$200
Additional courses within cosmetology school	\$ 70
Variance request	\$ 20

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

Revenues		Expenditures	
Licensing	Other	Personal Services	Operating

FY 2009	\$387,447	\$470,044
FY 2010	\$478,882	\$621,927
FY 2011	\$556,343	\$593,171
FY 2012	\$686,602	\$578,804
FY 2015 biennium*	--	\$1,115,379

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$181,329	\$29,938	\$18,565	\$42,471	\$13,374
Operating Expenses					
Consulting, Printing, IT, Other	\$77,044	\$30,832			
Supplies, incl. Computer	\$13,761	\$8,423			
Postage, mailing, IT network, voice srv	\$12,833	\$5,208			
Travel/Per Diem for Board Members	\$21,379				
Rent and other expenses*	\$45,405	\$40,395			
Legal and hearings	\$37,848				
Total (rounding may be a difference)	\$389,599	\$189,206			

*Includes rent of \$14,872, motor pool of \$34, computer and office equipment repair of \$345, dues, education & training, and fee collection expense of \$18,742 for direct expenses and other repair/maintenance of \$48, DLI OIT expense of \$18,450 and indirect agency including conference costs, freight, etc. of \$21,897 for indirect expenses.

Number of Complaints

FY 09 238
FY 10 243

FY 11 213

FY 12 90

Disciplinary Action (may be from other years)

Dismissed 185, Other Sanctions 113, Investigations 12
Revoked 2, Dismissed 187, Other Sanctions 37,
Investigations 14
Revoked 1, Dismissed 127, Other Sanctions 66,
Investigations 15
Dismissed 38, Other Sanctions 16, Investigations 1,
Closed 32, Pending 3

Scope of Practice

The Board of Barbers and Cosmetologists includes licensing of those who do electrology, esthetics, manicuring, and barbering or hairdressing.

Electrology is defined in 37-31-101, MCA, as the study and professional practice of permanently removing superfluous hair by destroying the hair roots through passage of an electric current with an electrified needle. Electrology includes electrolysis and thermolysis. Electrology may include the use of waxes for epilation and the use of chemical depilatories. Electrology does not include pilethermology, which is the study

and professional practice of removing superfluous hair by passage of radio frequency energy with electronic tweezers and similar devices.

The "*practice or teaching of barbering*" as defined in 37-31-101, MCA, covers any of the following practices performed for payment, either directly or indirectly, upon the human body for tonsorial purposes and not performed for the treatment of disease or physical or mental ailments: (a) shaving or trimming a beard; (b) cutting, styling, coloring, or waving hair; (c) straightening hair by the use of chemicals; (d) giving facial or scalp massages, including treatment with oils, creams, lotions, or other preparations applied by hand or mechanical appliance; (e) shampooing hair, applying hair tonic, or bleaching or highlighting hair; or (f) applying cosmetic preparations, antiseptics, powders, oils, lotions, or gels to the scalp, face, hands, or neck.

The "*practice or teaching of cosmetology*" is defined in 37-31-101, MCA, covers such work as "hairdressing", "manicuring", "esthetics", and "beauty culture" performed in salons or shops, in booths, or by itinerant cosmetologists when the work is done for the embellishment, cleanliness, and beautification of the hair and body.

The practice of "*esthetics*" involves skin care of the body, including but not limited to hot compresses or the use of approved electrical appliances or chemical compounds formulated for professional application only and the temporary removal of superfluous hair by means of lotions, creams, or mechanical or electrical apparatus or appliances on another person.

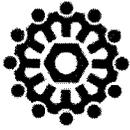
The term "*manicuring*" addresses care of the nails, the hands, the lower arms, the feet, and the lower legs and the application and maintenance of artificial nails.

2013 Legislation Impacting Board or Profession

SB 343 - Revised laws related to the Board of Barbers and Cosmetologists, which among other things requires 2 board members to be affiliated with a school

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Barbers and Cosmetologists licensees --
Comments summarized separately.



To: Economic Affairs Interim Committee

From: Montana Board of Barbers and Cosmetologists

Date: June 10, 2013

Subject: HB525 – BAR/COS response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your Profession/Occupation?

The Professions/ Occupations that are regulated by this board are those of a very few boards that require the licensee to physically touch their customers/ patrons. It is possible that licensees under the jurisdiction of this board touch more peoples skin, hair and scalp than medical doctors do with patients on a daily basis. This being the case, proper application of sanitation, disinfection and when appropriate sterilization procedures, must be observed to protect the public, to guard against the spread of infection.

The regulation of Barbers, Cosmetologists, Estheticians, Electrologists, Instructors, Manicurists through licensure serves the public interest by protecting the public against the risk of bodily harm by the use of practices (proper use of chemicals, implements, machines and equipment) that someone has been adequately trained to use and the knowledge of infection control by the proper disinfection/sterilization of equipment that is used on the public.

During the practice of these professions/occupations, there is the possibility of the licensee coming into contact with body fluids and blood, either associated with the service, or by the accidental misuse of a tool or an implement. If this should occur appropriate blood spill and blood borne pathogen procedures must be observed. It is this board's responsibility to insure that proper education, rulemaking, and ongoing facility and practitioner inspections are consistently applied for the protection of the public.

2. If your profession/occupation were not licensed, what public protection would be lost?

Licensure of the professions is preceded by and premised upon strict standards of education and periods of supervised experience for students. Students are educated in the proper and safe uses of the tools, implements, equipment and chemicals that are necessary to their practice. Students receive formal instruction in, anatomy, physiology, chemistry and the recognition of diseases and disorders that are associated with the hair, skin and nails. If this education was not required, followed by board approved nationally accepted theory and practical exams to determine competency, prior to issuing of licenses, the public would be exposed to a vast variety of unsafe, unsanitary and disease spreading practices.

The failure to regulate those who would practice under this board would be exposing the public to potentially harmful procedures and infection. If a problem exists with a professional's treatment or actions, there would be no entity with the appropriate knowledge to review and adjudicate public complaints. The board sets the standards needed to insure that competency is met for the profession it regulates.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes. The board determines the educational curriculum and school standards to ensure that all licensees receive adequate and appropriate education in their scope of practice.

A board is necessary to provide the expertise to evaluate initial licensure applicants (such as appropriate educational, exams administered and passed, and to ensure there are no discipline concerns) and continued monitoring of existing licensees through complaint review, continuing education requirements, etc. As required by law, the Board of Barbers and Cosmetologists is comprised of nine members and currently include three Cosmetologists, three Barbers, one Manicurist and two public members. The mix of the professions licensed by this board is the most appropriate method to deal with oversight issues.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Occasionally, the board is alerted to the conduct of individuals who portray themselves as having appropriate education and training to practice when they are not qualified. A great deal of personal harm to individuals may result if the unlicensed person is not trained in the correct procedures, safety, sanitation and the recognition of potentially harmful and contagious diseases associated with their practice.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The safe and competent practice of the disciplines under this board is learned through formal education and training and under supervision when students perform services on the public in an educational environment. To ensure the proper and necessary preparation, the law currently requires reasonable standards that do not unfairly bar any individual from earning a living once they have met qualifications.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

Board member training provided by the Department of Labor and Industry addresses this issue; board members are advised of the need to recuse themselves from decision-making if a conflict exists and they have followed this procedure. The presiding officer and staff also monitor bias

on a case-by-case basis to help ensure that the possibility or perception of bias is avoided. In addition, the public right to participation in open meetings is encouraged. Having a mix of public and professional members who serve together on the board is another safeguard. Board counsel will also advise members/staff if issues of bias come forward.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

Associations have a certain degree of overlap in their respective purposes. However, professional associations consist of members of the profession who choose to join the associations. Generally speaking, the primary mission of an association is to promote an industry, while the primary mission of a regulatory board is to protect the public. These are two separate functions not well-suited to be performed by the same entity.

No state professional associations currently exist that would function in this manner. Those national associations that are available for voluntary membership do not have oversight as part of their mission. Theirs is that of professional advancement, advanced training, and legislative action.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

While this may not be directly pertinent for the Board of Barbers and Cosmetologists, those licensees who want liability insurance may find it required or easier to obtain in a licensed and regulated profession that sets forth certain standards of practice.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

The board has the expertise of the disciplines it licenses along with members who understand the technical, artistic and beneficial aspects of the profession and two public members to represent the consumer view. Both aspects are essential to effective regulation of the profession, and neither would be available to the department without the use of a board.

10. Is there an optimum ratio between licensees, board size, or public representation?

The number of licensees regulated by the board does not necessarily dictate the number of board members; however it may be taken into consideration on a board by board basis. What we have now, seven professional and two public members, appears to work well.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

A disinterested third party would spend significant time and money learning the professions to best protect the public, the regulating entity must have adequate knowledge of "standards of practice," with which the board is already uniquely equipped because of its professional members.

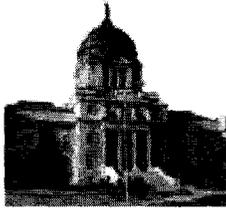
12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

The scope of practice involving the professions under the board of Barbers and Cosmetologists (37-31-101) defines the areas of practice that are overlapping (as for a cosmetologist) and those that are distinct (barbering, manicuring, electrology, esthetics and instructors).

The public should be able to rely on the distinct titles associated with licensure that indicates the level of education and training associated with that person's practice. While there may be a third-party who may also properly judge whether there is an intrusion into another's practice, the statutes provide adequate notice of the respective scopes of practice and provide that if a person's practice exceeds that person's license, that person may be enjoined from the conduct by a district court action initiated by the board responsible for regulating the practice.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Terminology that implies a particular level of training/experience should have its use restricted to those individuals that actually have that training/experience and have been adequately assessed. Consumers have a right to know the minimum qualifications of those who utilize the associated titles and terms, which is why some boards should be able to limit the use of certain terminology to only a licensee.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Clinical Laboratory Science Practitioners

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 5 members (term expiration in parentheses)

<p>Clinical laboratory science practitioners = 4 -Sarah Kolar, Lewistown (4/16/2015) -Troy Krieger, Billings (4/16/2016) -Alison Mizner, Kalispell (4/16/2017) -Vicki Rice, Helena (4/16/2015)</p>	<p>Public member not connected with or financially interested in clinical laboratory science = 1 Carl Donovan, Great Falls (4/16/2015)</p>
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Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
Clinical laboratory scientist				
Clinical laboratory specialist				
Clinical laboratory technician				
Total	907	928	934	928

Licensing Fees (since 2008)

Original application fee for: clinical laboratory scientist, specialist, or technician	\$175
Temporary license fee	\$25
License by endorsement fee	\$100
Active renewal fee	\$60
Reactivation of license fee	\$35
Inactive renewal fee	\$25

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009		\$60,060		\$57,219
FY 2010		\$60,520		\$59,128
FY 2011		\$ 60,620		\$54,326
FY 2012		\$60,075		\$70,292
FY 2015 biennium*		--		\$142,914

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau

Personal Services, incl. per diem	\$24,881	\$3,056	\$3,186	\$1,904	\$1,889
Operating Expenses					
Consulting, Printing, IT, Other	\$17,670			\$1,808	
Supplies, incl. Computer	\$529			\$510	
Postage, mailing, IT network, voice srv	\$970			\$675	
Travel/Per Diem for Board Members	\$1,980				
Rent and other expenses*	\$3,503			\$4,681	
Legal and hearings	\$3,030				
Total (may be affected by rounding)	\$52,563			\$17,709	

*Includes rent of \$1,968, computer and office equipment repair of \$67, dues, education & training, and fee collection expense of \$1,468 for direct expenses and meeting/office equipment cost and other of \$8, DLI OIT expense of \$2,024 and indirect agency, freight and express, etc. of \$2,649 for indirect expenses.

Number of Complaints

FY 09 0
FY 10 6
FY 11 1
FY 12 4

Disciplinary Action (may be from other years)

Dismissed 1
Other Sanctions 4
Dismissed 2
Dismissed 1, Other Sanctions 2, Closed 1

Scope of Practice

A clinical laboratory scientist, as defined in 37-34-103, MCA, "(a) performs clinical laboratory tests pursuant to established and approved protocols requiring the exercise of independent judgment and responsibility; (b) maintains equipment and records; (c) performs quality assurance activities related to test performance; and (d) may supervise and teach within a clinical laboratory setting".

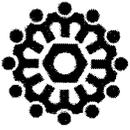
A clinical laboratory specialist, defined in 37-34-103, MCA, "(a) performs laboratory testing in a specialized testing area, such as microbiology, chemistry, immunology, or hematology, according to approved protocols requiring the exercise of independent judgment and responsibility; (b) maintains equipment and records; (c) performs quality assurance activities related to test performance; and (d) may supervise and teach within the specific area of the clinical laboratory".

A clinical laboratory technician, defined in 37-34-103, MCA: "performs laboratory tests pursuant to established and approved protocols that require limited exercise of independent judgment and that are performed under the supervision of a clinical laboratory scientist, laboratory supervisor, or laboratory director".

2013 Legislation Impacting Board or Profession

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Clinical Laboratory Science Practitioners licensees --
Comments summarized separately.



Montana Department of
LABOR & INDUSTRY

Steve Bullock, Governor
Pam Bucy, Commissioner

Business Standards Division
Adam de Yong, Acting Division Administrator

To: Economic Affairs Interim Committee

From: Board of Clinical Laboratory Science Practitioners

Date: June 10, 2013

Subject: HB525 – CLS response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The board protects the public from incompetent, unprofessional and unethical health providers. They accomplish this mission through the performance of three key functions: licensure, regulation, and discipline.

2. If your profession/occupation were not licensed, what public protection would be lost?

The patient would have very little recourse except through the legal system, which can be very costly and time consuming. Under the current system, the board ensures the public's protection through minimum qualifications for licensure and discipline of licensees for unprofessional conduct fairly quickly and with little or no cost to the patient.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes. The Board of Clinical Laboratory Science Practitioners was established in 1993. They protect the public from incompetent, unprofessional, and unethical providers of clinical laboratory science services through the licensure and regulation of qualified clinical laboratory scientists, clinical laboratory specialists and clinical laboratory technicians. In addition, clinical laboratory science practitioners provide essential services to other health care providers by furnishing vital information that may be used in the assessment of human health and in the diagnosis, prevention, and treatment of disease or impairment. Patients rely on laboratory testing as a first step in diagnosis of critical diseases, thus it is important that appropriately trained individuals perform those tests.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes. Practicing as a clinical laboratory scientist, clinical laboratory specialist and/or clinical laboratory technician without a license or with an expired license are the most common unlicensed practice issues to come before the board.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The Legislature finds and declares that the practice of clinical laboratory science in the state affects the public health, safety, and welfare. Unlicensed individuals who may be qualified must be licensed before they can practice in the profession. The clinical laboratory science profession offers three levels of licensure. The requirements for licensure in Montana are very reasonable and are not felt to be a barrier for entry to the profession.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

The Business Standards Division provides board member training for all members to attend, which includes information and instruction on how and when to recuse oneself when there is actual or the appearance of a conflict of interest or bias. Additionally, the board's composition serves to monitor bias. They consist of five members appointed by the Governor. Four of the members must be clinical laboratory science practitioners who hold active licenses as clinical laboratory science practitioners in Montana and one public member who is not associated with or financially interested in the practice of clinical laboratory science. Finally, board member bias toward a particular applicant or licensee is kept to a minimum by following the rules and regulations that are in place for the board.

7. Does the profession or occupation have one or more Associations that could provide oversight without the need for a licensing board? Why not use the Association as the oversight body?

No. The mission of associations is to promote the profession and advocate for the industry. The board's mission is to protect the public through the licensure and regulation of clinical laboratory science practitioners. Furthermore, it is believed that the current licensure mechanism is the most practical, efficient, and unbiased approach to meeting this requirement. An association does not have the legal authority to investigate complaints or discipline professionals.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

Yes, for Medicaid and Medicare and health insurance, licensure is required for billing along with facility certification by the state. There is no alternative.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

Four board members are peers of the licensees they oversee and have knowledge of and expertise in the regulated profession. In addition, the board includes public representation of at least one individual. This broad representation ensures an unbiased and fair approach to discipline and other issues.

10. Is there an optimum ratio between licensees, board size, or public representation?

Yes, the board regulates 850 licensees. The board's current composition balances the number of licenses and public members while remaining small enough to function efficiently.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

No. A disinterested third party would spend significant time and money either learning the profession or hiring consulting clinical laboratory scientists in various areas of the profession to address practice and conduct issues.

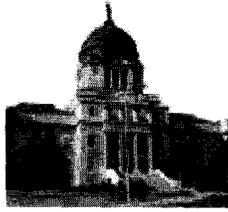
The board, through the complaint process, monitors fraud on a licensee level. They have the ability to respond to fraud issues or to forward them to the Attorney General's Office if necessary. Medicaid, Medicare, and health insurance fraud has to be monitored by those respective entities. Department of Public Health and Human Services have additional oversight over facilities.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

Each profession has a specific scope of practice and educational requirements.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Yes. The person has the training, education and qualifications verified by examination to be licensed in the profession of clinical laboratory science. Exemptions are in statute for licensed physicians, or other licensed professions with the applicable scope of practice, US government employees, or those in a research or educational status. (Reference 37-34-302, MCA)



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Massage Therapy

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 5 members (term expiration in parentheses)

<p>Massage Therapists = 3 Stacy Baird, East Helena (5/6/2016) Deborah Kimmet, Missoula (5/6/2013) Lyndsay Schott, Whitefish (5/6/2015)</p>	<p>Licensed Health Care Provider = 1 Nick Soloway, Helena (5/6/2013)</p> <p>Public member who is not a licensed health care provider or owner of a massage therapy school = 1 Carole Love, Billings (5/6/2013)</p>
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Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
- Total	NA	0	1,273	1,265

Licensing Fees (since 2010)

Application/licensing fee by grandfather status	\$130 (expired July 1, 2012)
Application/licensing fee by endorsement	\$140
Application/licensing fee by examination	\$140
Annual renewal fee.....	\$ 90

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009	Not created until 2009 Legislature		NA	
FY 2010	\$98,218		\$62,930	
FY 2011	\$85,143		\$123,667	
FY 2012	\$172,500		\$102,199	
FY 2015 biennium*	--		\$213,070	

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$39,451	\$7,626	\$5,421	\$6,188	\$2,647

Operating Expenses		
Consulting, Printing, IT, Other	\$4,242	\$2,736
Supplies, incl. Computer	\$900	\$878
Postage, mailing, IT network, voice srv	\$2,107	\$1,305
Travel/Per Diem for Board Members	\$1,110	
Rent and other expenses*	\$7,952	\$8,286
Legal and hearings	\$11,350	
Total	\$67,112	\$35,087

*Includes computer and office equipment repair of \$185, dues, education & training plus fee collection expense of \$4,002, and rent of \$3,765 for direct expenses and meeting rooms of \$10, repair/maintenance contracts of \$11, DLI OIT expenses of \$3631, and indirect agency, training IT, freight and express, etc. of \$4,634..

Number of Complaints

FY 09	NA
FY 10	0
FY 11	16
FY 12	9

Disciplinary Action (may be from other years)

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Dismissed 8, Investigations 1
Dismissed 2, Closed 7

Scope of Practice

Massage therapy as defined in 37-33-403, MCA, means--when provided by a massage therapist--"the application of a system of structured touch, pressure, positioning, or holding to soft tissues of the body, Swedish massage, effleurage, petrissage, tapotement, percussion, friction, vibration, compression, passive and active stretching or movement within the normal anatomical range of motion, the external application of water, heat, cold, lubricants, salts, skin brushing, or other topical preparations not classified as prescription drugs, providing information for self-care stress management, and the determination of whether massage is contraindicated and whether referral to another health care practitioner is recommended. (ii) The techniques described in subsection (4)(a)(i) must be applied by the massage therapist through the use of hands, forearms, elbows, knees, or feet or through the use of hand-held tools that mimic or support the action of the hands and are primarily intended to enhance or restore health and well-being by promoting pain relief, stress reduction, and relaxation.

(b) The term does not include providing examinations for the purpose of diagnosis, providing treatments that are outside the scope of massage therapy, attempts to adjust, manipulate, or mobilize any articulations of the body or spine by the use of high-velocity, low-amplitude thrusting force, exercise, exercise instruction or prescription, or the use of tape when applied to restrict joint movement, manual or mechanical traction when applied to the spine or extremities for the purposes of joint mobilization or manipulation, injection therapy, laser therapy, microwave diathermy, electrical stimulation, ultrasound, iontophoresis, or phonophoresis".

2013 Legislation Impacting Board or Profession

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Massage Therapists licensees --
Comments summarized separately.



To: The Economic Affairs Interim Committee

From: Montana Board of Massage Therapy

Date: June 10, 2013

Subject: HB525 – LMT response to the Economic Affairs Interim Committee questions

1 • What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The regulation of Massage Therapists through licensure serves the public interest by protecting the public against massage therapy practices that may result in unreasonable risk of physical injury to the client. Proper training in the use of a system of structured touch pressure, positioning, or holding to soft tissues of the body in order to restore health and well-being by promoting pain relief, stress reduction and relaxation. In addition, regulation of the practice of massage therapy helps protect the public against inappropriate or criminal sexual conduct and practices engaged in by the illegitimate or unethical practitioner.

2 • If your profession/occupation were not licensed, what public protection would be lost?

Licensure of Massage Therapists is preceded by and premised upon strict standards of education and periods of supervised experience. The failure to regulate those who would assume the role of a Massage Therapist would be exposing the public to unqualified individuals that would potentially harm a client. If a problem exists with a professional's treatment or actions, there would be no entity with the appropriate knowledge to review and adjudicate public complaints. The board sets the standards needed to insure that competency is met for Massage Therapists who practice in Montana.

3 • If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

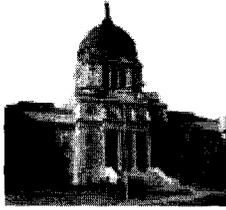
Yes. A board is necessary to provide the expertise to evaluate initial licensure applicants (such as appropriate educational, exams administered and passed, and to ensure there are no discipline concerns) and continued monitoring of existing licensees through complaint review, continuing education requirements, etc. As required by law, the Board of Massage Therapy is comprised of five members who include a public member, one member who is a licensed health care provider, and three massage therapists licensed in Montana. This combination of individuals provides the necessary knowledge and perspective on the board that is most appropriate to deal with oversight issues.

12 • If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

The scope of practice involving massage therapy could overlap with other professions. The public should be able to rely on the distinct titles associated with licensure that indicates the level of education and training associated with that person's practice. While there may be a third-party who may also properly judge whether there is an intrusion into another's practice, the statutes provide adequate notice of the respective scopes of practice and provide that if a person's practice exceeds that person's license, that person may be enjoined from the conduct by a district court action initiated by the board responsible for regulating the practice.

13 • Should any board have the ability to limit use of certain terminology to only a licensee?

Terminology that implies a particular level of training/experience should have its use restricted to those individuals that actually have that training/experience and have been adequately assessed. Consumers have a right to know the minimal qualifications of those who utilize the associated titles and terms, which is why some boards should be able to limit the use of certain terminology to only a licensee.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Occupational Therapy Practice

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 5 members (term expiration in parentheses)

<p>Occupational Therapists = 3 -Sanna Beerman, Great Falls (12/31/2015) -Brenda Toner, Missoula (12/31/2016) -Nate Naprstek, Bozeman (12/31/2014)</p>	<p>Public members interested in rights of health service consumers = 2 -Caryn Kallay, Ronan (12/31/2014) -Lora Wier, Choteau (12/31/2016)</p>
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Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
Registered occupational therapist				
Certified occ. therapist assistant				
Total	398	402	413	417

Licensing Fees (since 2006)

Original application fee for occupational therapist or occ. therapist assistant	\$110
Initial license issuance fee for occupational therapist or occ. therapist assistant ..	\$80
License renewal fee for occupational therapist or occ. therapist assistant	\$110
Temporary practice permit.....	\$120
Inactive renewal fee	\$50
Modality applications (superficial or iotophoresis)	\$20
Modality applications (sound and electrical - deep)	\$35

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009		\$49,337		\$26,746
FY 2010		\$50,084		\$33,848
FY 2011		\$51,845		\$34,670
FY 2012		\$11,240		\$39,726
FY 2015 biennium*		--		\$93,416

*Appropriation Authority In House Bill 2 NOTE: The budget variance in FY 2012 was an abatement of fees to avoid a budget balance of more than twice the appropriation authority.

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$18,340	\$2,016	\$2,181	\$2,110	\$1,639
Operating Expenses					
Consulting, Printing, IT, Other	\$2,514			\$1,288	
Supplies, incl. Computer	\$150			\$534	
Postage, mailing, IT network, voice srv	\$525			\$513	
Travel/Per Diem for Board Members	\$1,303				
Rent and other expenses*	\$1,571			\$3,384	
Legal and hearings	\$1,660				
Total	\$26,063			\$13,665	

*Includes rent of \$1,348, dues, education & training, and fee collection expense of \$223 for direct expenses and meeting room cost of \$2 with computer repair/maintenance cost of \$43, DLI OIT expense of \$1,314 and indirect agency of \$2,025 for indirect expenses.

Number of Complaints

FY 09 3
 FY 10 1
 FY 11 1
 FY 12 3

Disciplinary Action (may be from other years)

Dismissed 3
 Other Sanctions 1, Investigations 1
 Dismissed 3

Scope of Practice

Occupational therapy is defined in 37-24-103, MCA, as: " the therapeutic use of purposeful goal-directed activities and interventions to achieve functional outcomes to maximize the independence and the maintenance of health of an individual who is limited by disease or disorders, impairments, activity limitations, or participation restrictions that interfere with the individual's ability to function independently in daily life roles. The practice encompasses evaluation, assessment, treatment, consultation, remediation, and restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes. Occupational therapy services may be provided individually, in groups, or through social systems. Occupational therapy interventions include but are not limited to: (a) evaluating, developing, improving, sustaining, or restoring skills in activities of daily living, work or productive activities, including instrumental activities of daily living, and play and leisure activities; (b) developing perceptual-motor skills and sensory integrative functioning; (c) developing play skills and leisure capacities and enhancing educational performance skills; (d) designing, fabricating, or applying orthotic or prosthetic devices, applying and training in the use of assistive technology, and training in the use of orthotic and prosthetic devices; (e) providing for the development of emotional, motivational, cognitive, psychosocial, or physical components of performance; (f) providing assessment and evaluation, including the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements to identify areas for occupational therapy services; (g) adaptation of task, process, or the environment, as well as teaching of compensatory techniques, in order to enhance performance; (h) developing feeding and

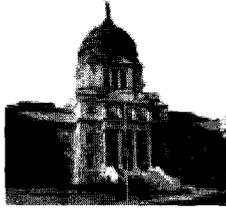
swallowing skills; (i) enhancing and assessing work performance and work readiness through occupational therapy intervention, including education and instruction, activities to increase and improve general work behavior and skill, job site evaluation, on-the-job training and evaluation, development of work-related activities, and supported employment placement; (j) providing neuromuscular facilitation and inhibition, including the activation, facilitation, and inhibition of muscle action, both voluntary and involuntary, through the use of appropriate sensory stimulation, including vibration or brushing, to evoke a desired muscular response; (k) application of physical agent modalities, as defined in this section, as an adjunct to or in preparation for engagement in purposeful goal-directed activity; (l) promoting health and wellness; (m) evaluating and providing intervention in collaboration with the client, family, caregiver, or others; (n) educating the client, family, caregiver, or others in carrying out appropriate nonskilled interventions; (o) consulting with groups, programs, organizations, or communities to provide population-based services; and (p) use of prescribed topical medications.

2013 Legislation Impacting Board or Profession

Summary of Responses from Survey as made through June 3, 2013:

*# of Responses from Board of Occupational Therapy Practice licensees --
Comments summarized separately.*

Responses from the Board of Occupational Therapy Practice to questions asked of all the boards will be presented at the meeting. These were not available for this mailing.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Physical Therapy Examiners

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 5 members (term expiration in parentheses)

Physical Therapists = 4 -Christian Appel, Bozeman (7/1/2015) -Dana Hughes, Conrad (7/1/2015) -Brian Miller, Kalispell (7/1/2014) -Robin Peterson Smith, Billings (7/1/2013)	Public member who is not a physician or a physical therapist = 1 Kathy Van Hook, Helena (7/1/2015)
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Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
Physical therapists - Total	1,112	1,158	1,194	1,250

Licensing Fees (since 2012)

Original application fee	\$100	Temporary license fee	\$100
Out-of-state license application fee	\$125	Jurisprudence reexamination fee	\$25
License renewal fee	\$60		

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009		\$88,922		\$71,415
FY 2010		\$94,891		\$93,573
FY 2011		\$93,666		\$84,518
FY 2012		\$102,910		\$119,264
FY 2015 biennium*		--		\$235,031

*Appropriation Authority In House Bill 2

Expenditures, FY 2010	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$38,367	\$7,561	\$3,945	\$9,325	\$2,709
Operating Expenses					
Consulting, Printing, IT, Other	\$9,150			\$2,723	

Supplies, incl. Computer	\$521	\$1,402
Postage, mailing, IT network, voice srv	\$2,677	\$1,150
Travel/Per Diem for Board Members	\$4,909	
Rent and other expenses*	\$7,264	\$8,242
Legal and hearings	\$19,318	
Total (may be affected by rounding)	\$82,206	\$37,057

*Includes sq. footage rent of \$3,356, computer/office equipment repair of \$111,, dues, education & training, and fee collection expense of \$3,797 for direct expenses and pro-rated meeting room rent and computer/equipment repair of \$21, DLI OIT expense of \$3,665, and indirect agency of \$4,556 for indirect expenses.

Number of Complaints

FY 09 7
 FY 10 15
 FY 11 9
 FY 12 13

Disciplinary Action (may be from other years)

Suspended 1, Dismissed 12
 Dismissed 10, Investigations 2
 Dismissed 9, Investigations 3
 Dismissed 9, Other Sanctions 2, Tabled 1, Closed 1

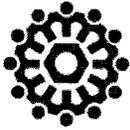
Scope of Practice

A *physical therapist* is licensed to carry out physical therapy as defined in 37-11-101, MCA, which is to evaluate, treat, and instruct human beings "to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any bodily or mental conditions by the use of therapeutic exercise, prescribed topical medications, and rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental disability." Evaluation and treatment are further defined in 37-11-104, and the application and administration of topical medications is described in 37-11-106, MCA.

2013 Legislation Impacting Board or Profession

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Physical Therapy Examiners licensees --
 Comments summarized separately.



Montana Department of
LABOR & INDUSTRY

Steve Bullock, Governor
Pam Bucy, Commissioner

Business Standards Division
Adam de Yong, Acting Division Administrator

To: Economic Affairs Interim Committee

From: Montana Board of Physical Therapy

Date: June 10, 2013

Subject: HB525 – PTP response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The board protects the public from incompetent, unprofessional and unethical health providers. The board accomplishes this mission through the performance of three key functions: licensure, regulation, and discipline.

2. If your profession/occupation were not licensed, what public protection would be lost?

The patient would have very little recourse except through the legal system, which can be very costly and time consuming. Under the current system, the board ensures the public's protection through minimum qualifications for licensure and discipline of licensees for unprofessional conduct fairly quickly and with little or no cost to the patient. Patients have direct access to physical therapy services, so licensing is critical for patients who might otherwise seek services from individuals who weren't licensed.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes. The Board of Physical Therapy Examiners was established in 1979. The board protects the public from incompetent, unprofessional, and unethical providers of physical therapy services through the licensure and regulation of qualified physical therapists and physical therapist assistants.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes. Practicing as a physical therapist and physical therapist assistant without a license or with an expired license are the most common unlicensed practice issues to come before the board.

- 5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living – what is your response?**

The Legislature finds and declares that the practice of physical therapy in the state affects the public health, safety, and welfare. Unlicensed individuals who may be qualified must be licensed before they can practice in the profession. The physical therapy profession offers two levels of licensure. The requirements for licensure in Montana are very reasonable and are not felt to be a barrier for entry to the profession.

- 6. How does your board monitor bias among board members toward a particular licensee, applicant, or respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?**

The Business Standards Division provides board member training for all members to attend, which includes information and instruction on how and when to recuse oneself when there is actual or the appearance of a conflict of interest or bias. Additionally, the board's composition serves to monitor bias. The board consists of five members appointed by the Governor. Four of the members must be physical therapists who have been actively engaged in the practice of physical therapy for the 3 years preceding appointment to the board and one member of the general public who is not a physician or a physical therapist. Lastly, board member bias toward a particular applicant or licensee is kept to a minimum by following the rules and regulations that are in place for the board.

- 7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?**

No. The mission of associations is to promote the profession and advocate for the industry. The board's mission is to protect the public through the licensure and regulation of physical therapy. Furthermore, it is believed that the current licensure mechanism is the most practical, efficient, and unbiased approach to meeting this requirement. An association does not have the legal authority to investigate complaints or discipline professionals.

- 8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?**

Yes, for Medicaid and Medicare and health insurance, licensure is required for billing. There is no alternative.

- 9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?**

Four board members are peers of the licensees they oversee and have knowledge of and expertise in the regulated profession. In addition, the board includes public representation of at least one individual. This broad representation ensures an unbiased and fair approach to discipline and other issues.

10. Is there an optimum ratio between licensees, board size, or public representation?

Yes, the board regulates 1350 licensees. The board's current composition balances the number of licenses and public members while remaining small enough to function efficiently.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

No. A disinterested third party would spend significant time and money either learning the profession or hiring consulting physical therapists in various areas of the profession to address practice and conduct issues. The board, through the complaint process, monitors fraud on a licensee level. The board has the ability to respond to fraud issues or to forward them to the Attorney General's Office if necessary. Medicaid, Medicare, and health insurance fraud has to be monitored by those respective entities.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

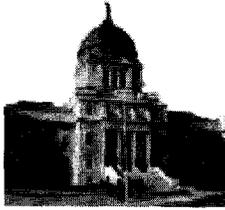
Each profession has a specific scope of practice and educational requirements.

37-11-103. Restrictions on scope of practice. Nothing in this chapter shall be construed as authorizing a physical therapist, whether licensed or not, to practice medicine, osteopathy, or chiropractic, dentistry, or podiatry; nor shall Title 37, chapter 11, be construed to limit or regulate any other business or profession or any services rendered or performed in connection with physical therapy.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Yes. The person has the training, education and qualifications verified by examination to be licensed in the profession of physical therapy.

37-11-102. Exemptions. This chapter may not be construed to limit or regulate any other business or profession or any services rendered or performed in connection with another business or profession, including osteopathy, chiropractic, chiropractic physiotherapy, or massage therapists, to the extent they do massage.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Private Alternative Adolescent Residential or Outdoor Programs

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 5 members (term expiration in parentheses)

<p>Nominees from Residential/Outdoor Programs = 3 Penny James, Trout Creek (4/19/2014) Rick Johnson, Kalispell (4/19/2014) John Santa, Marion (4/19/2014)</p>	<p>Public members = 2 Tim Callahan, Great Falls (4/19/2014) Darcie Kelly, Helena (4/19/2014)</p>
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Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
- Total	2	4	15	14

Licensing Fees (since 2011) based on the program's estimated average daily census

Programs with 0-10 participants	\$1,688
Programs with 11-25 participants	\$4,345
Programs with 26-50 participants	\$8,138
Programs with 51 and more participants	\$13,313

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009	\$58,365		\$59,009	
FY 2010	\$123,011		\$85,238	
FY 2011	\$94,890		\$73,635	
FY 2012	\$33,105		\$57,795	
FY 2015 biennium*	--		\$125,752	

*Appropriation Authority In House Bill 2

NOTE: When the program began in 2006, there were about 30 provisional licensees with only 2 of the bigger facilities having done the full licensure process. 13 have not renewed, including some of the bigger facilities.

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau

Personal Services, incl. per diem	\$9,345	\$2,857	\$9,977	\$3,989	\$919
Operating Expenses					
Consulting, Printing, IT, Other	\$399		\$969		
Supplies, incl. Computer	\$1,086		\$398		
Postage, mailing, IT network, voice srv	\$105		\$570		
Travel/Per Diem for Board Members	\$1,065				
Rent and other expenses*	\$1,548		\$3,430		
Legal and hearings	\$21,139				
Total (may be affected by rounding)	\$34,687		\$23,109		

*Includes sq. footage rent of \$1,228, computer/office equipment repair of \$52, and dues, education & training, and fee collection expense of \$267 for direct expenses and pro-rated meeting rooms and computer/equipment repair of rent of \$4, DLI OIT expense of \$1,381, and indirect agency of \$2,044 for indirect expenses.

Number of Complaints

FY 09	.....	5
FY 10	.....	23
FY 11	.....	4
FY 12	.....	2

Disciplinary Action (may be from other years)

--
Dismissed 12, Investigations 2
Dismissed 6, Other Sanctions 11, Investigations 2
Dismissed 1, Pending 1

Scope of Practice

A program regulated by the Private Alternative Adolescent Residential or Outdoor Programs (PAARP) Board is one, as defined in 37-48-102, MCA, "that provides a structured, private, alternative residential setting for youth who are experiencing emotional, behavioral, or learning problems and who have a history of failing in academic, social, moral, or emotional development at home or in less-structured traditional settings." Excluded are: programs licensed or regulated by the state under foster care or other programs under Title 50, 52, or 53; recreational programs such as scouting or 4-H; residential training or vocational programs solely focused on education and vocational training; youth camps related to recreation and faith-related activities; or boarding schools or organizations considered an adjunct ministry of a church.

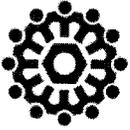
2013 Legislation Impacting Board or Profession

***HB 236** - Not enacted. Would have removed an exemption for organizations or boarding or residential schools that were an adjunct ministry of a church incorporated in this state.

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Private Alternative Adolescent Residential or Outdoor Programs licensees --

Comments summarized separately.



Montana Department of
LABOR & INDUSTRY

Steve Bullock, Governor
Pam Bucy, Commissioner

Business Standards Division
Adam de Yong, Acting Division Administrator

To: Economic Affairs Interim Committee

From: Montana Board of Private Alternative Adolescent Residential or Outdoor Programs

Date: June 10, 2013

Subject: HB 525 – PAARP response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The members and staff of the Board of Private Alternative Adolescent Residential or Outdoor Programs (PAARP) believe in the mission of the board:

To license and regulate PAARP as a public service to monitor and maintain a high standard of care and to ensure the safety and well-being of the adolescents and parents using the programs. Necessary licensure processes and safety standards for programs are best developed and monitored by the professionals that are actively engaged in providing private alternative adolescent residential care.

We believe this is a strong foundation for the three aspects of our work—licensing, regulation and, in a small number of cases, discipline of the facilities under our authority. It is critical that Montanans trust their health care facilities particularly where vulnerable youth are concerned.

The board works to insure that trust is earned, by evaluating the program's plan of operation, the policies and procedure that target behavior modification plans, routine and emergency medical and psychological care, the competence and character of the program owners, managers, and direct care staff, and the safety of each licensed program. When situations arise, we are available to address those situations and effect (or initiate) the necessary changes.

2. If your profession/occupation were not licensed, what public protection would be lost?

Without licensing and regulation, any private home or building could claim to be a Private Alternative Adolescent Residential or Outdoor Program; housing youth and allowing unscrupulous or unethical individuals to place profit over youth safety. Parents place their children in private residential care programs only when they have no other alternative or are desperate and feel that their child's emotional and behavioral problems cannot be safely dealt with in the home environment. Both the children and their parents need assurance that the programs will be run according to acknowledged, ethical, and safe standards of care. Without the PAARP board there would be no standards for the safe treatment of children in private residential settings, and no inspections to check on the safety of programs in Montana.

We also believe the board plays an important role in making sure programs in Montana deliver high quality services to youth and their families. Without the PAARP Board's disciplinary process, youth and their families would not have a state agency to report complaints regarding programs they believe have engaged in incompetent, unprofessional or unethical practices. It would be extremely difficult to remedy problems, particularly if there weren't any established standards for the appropriate procedures, rights of children, and training requirements that ensure basic safety and respect for children's dignity. A consumer who is violated would have very little recourse except through the legal system, which can be very costly and time consuming. Under the current system, the board ensures public protection through qualifications for licensure and discipline of licensees for unprofessional conduct fairly quickly and with little or no cost to youth or their families.

In addition, without a clear licensing standard and an inspection process, the PAARP board believes that it would be very difficult for legitimate programs to compete with other states that have standards of safe and ethical care for all children's residential programs. Competent licensing standards and inspections are necessary for the credibility of our youth care facilities, and increase the public's trust in those facilities and the professionals working within them.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes. The Montana board was established in 2007 to regulate Private Alternative Adolescent Residential or Outdoor Programs. The purpose for the creation of a board is oversight of health, safety, and welfare of children who are placed in private residential treatment programs. Prior to creation of this board programs serving private paying youth and families were unregulated in Montana, whereas any program that took any government funding was required to operate according to clear state standards for safe treatment and were regulated to insure compliance with these standards. The present board was created to make certain that all residential programs who serve children would be regulated and held to safe professional standards of practice. Who better to oversee these elements than a board composed of members drawn from both the public at large and from the professionals who operate these programs? As with any profession that requires a large body of knowledge, only fellow professionals truly can evaluate whether a facility meets the standards of the profession. As required by law, the PAARP board includes three members from programs of various sizes and types and two members who must be from the general public. The combination of expertise on the board is the best method to establish standards of care and deal with oversight issues.

The board protects the public from incompetent, unprofessional, and unethical providers of youth services through licensure and regulation. The board establishes and monitors licensure requirements for new licensees as well as monitors existing licensees through the complaint review process, new employee finger print and background checks, program inspections, and annual renewal requirements. Without a board, the consumer or youth & their families has no simple recourse to appeal in the event of unethical practice.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes. This is an important function. The licensing process assures that a licensed program has met the necessary requirements to be competent in providing services for youth and their families. Without licensing, we as regulators do not know the program's body of knowledge or level of services offered. The board currently licenses 14 programs has addressed very few cases of unlicensed practice. As of July 1, 2010, the board reviewed 2 cases of unlicensed practice and both cases were dismissed without prejudice. An issue of unlicensed practice could be a simple misunderstanding, in which a program is reported to the board because the complainant fails to understand program exemptions from licensure such as (any program that is required to be licensed or regulated by the state under Title 50, 52, or 53, recreational programs such as boy scouts, girl scouts, or 4-H clubs, organizations, boarding schools, or residential schools with a sole focus on academics, residential training or vocational programs with a sole focus on education and vocational training, youth camps with a focus on recreation and faith-related activities, or an organization, boarding school, or residential school that is an adjunct ministry of a church incorporated in the state of Montana. Or, it could be as serious as a facility functioning and representing themselves as a PAARP program, without a license. Recently, the Nineteenth Judicial District Court in its Order held the Ranch for Kids must be licensed.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The Legislature finds and declares that the board is to license and regulate private alternative adolescent residential or outdoor programs as a public service to monitor and maintain a high standard of care and to ensure the safety and well-being of the adolescents and parents using their services. In addition, the board shall develop and adopt rules and set fees for mandatory licensing programs. Each program is required to provide policies of insurance in a form and in an adequate amount as determined by board rule. The Legislature further finds and declares that programs shall meet the qualifications set forth in statute and provided by board rule. Additionally, board statute provides for a variety of exemptions as listed in question 4. The cost of securing licensure for a program is high as fees are set commensurate with costs and the current 14 programs are obligated to meet the financial obligations of regulation. In light of this, the board does not prevent anyone from earning a living; rather the board prevents unqualified programs from operating at the expense of vulnerable youth and their families. Without this board, an established set of program standards for safe care of children in residential programs, and a process of verifying compliance with the standards there would be no way of establishing that a person or company is qualified to operate a safe program and there would not be a process to assure compliance.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

Only one license type is regulated by the board. As mentioned in question 3, the board composition includes three members from programs of various sizes and types and two members who must be from the general public. No program size or type holds enough seats to create a quorum or win a majority if all members vote. The board includes two public member

seats which are not held by program members. We believe this provides even more diversity, as our public members have no vested interest in any particular program size or type. In addition, when a complaint enters the compliance process, two panels become involved, screening and adjudication. The panels are comprised of different members of the board. This insures that a board member who is involved in screening a case is not involved in adjudicating that same case. The Department of Labor and Industry provides board member training for all appointed members; board members are advised of the need to recuse themselves from decision-making if an actual conflict or the appearance of a conflict exists. The presiding officer and staff, including an attorney, monitor to ensure that all cases are treated according to the same requirements and the possibility or perception of bias is avoided.

7. Does the profession or occupation have one or more Associations that could provide oversight without the need for a licensing board? Why not use the Association as the oversight body?

The PAARP Board sees its role as very different from the roles played by The National Association of Therapeutic Schools and Programs or NATSAP to which many of our licensees belong. We both have adopted similar standards for safe care of children. However, NATSAP is not a regulatory body nor an accrediting body and so cannot provide the inspection and oversight that is provided by the PAARP board. The board's role is to protect the public through its own rules and through the statutes it enforces. In contrast, the Association serves as an advocate and resource for innovative organizations which devote themselves to society's need for the effective care and education of struggling young people and their families. Their vision is for a nation of healthy children. "We are the voice inspiring, nurturing, and advancing the courageous work of our schools and programs." At this time, the board is unaware of any effort by a professional association to share—or assume outright—the duties assigned to the board by statute and/or rule.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

Programs and/or staff must be licensed in order to bill Medicare, Medicaid or insurance companies. The board is not aware of any alternative billing method. Most insurance companies provide only limited coverage for longer term residential care of emotional and behavioral problems in children. However, some will provide limited support only if a program is duly licensed and regulated in a state.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

The board is made up primarily of experienced and knowledgeable service providers. As such, board members have a clear understanding of the qualifications and knowledge base needed to qualify as a licensed program in their respective categories. They also understand the appropriate professional standards for competent programs. Therefore, it is appropriate and wise for the board to set the standards of licensing and professional practice, to emphasize standards of care and to enforce discipline when needed. Board members who serve on screening and adjudication panels respectfully yield to the expertise of their counterparts to best determine outcomes of reviewed cases.

10. Is there an optimum ratio between licensees, board size, or public representation?

The Board of Private Alternative Adolescent Residential or Outdoor Programs cannot speak to the larger issue of an "optimum" ratio for all boards. We can report that the size of our board works well, in terms of both license review and the disciplinary process. We take pride that the variety of size and types of programs are represented on the board as well as recognition in the value of having two public members on the board.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

The board believes the specialized knowledge required of programs makes it appropriate for program peers to regulate programs. A disinterested third party would spend significant time and money either learning the profession or hiring consultants in various areas of the profession to address practice and conduct issues. Moreover, without established standards of care a third party could not establish whether or not a program was operating in an acceptable fashion so as to limit any adverse consequences to children under their care. When circumstances require disciplinary action, the board has tremendous faith in both the compliance specialist assigned to it and the legal staff who prosecute offenders before the Department of Labor and Industry hearing examiners.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

Licensed programs should not exceed their scope of practice. The PAARP Board is the only one of its kind at the Department of Labor and Industry. There are no overlaps or conflicts of scope of practice within the department. With that said however, there is a potential overlap of practice with the Department of Health and Human Services who is charged with providing the same tasks of setting standards and oversight of all programs that serve publically funded children. However in 2007 the legislature created the PAARP board as a separate entity to establish standards and regulation of private programs at least in part because they recognized that both the standards and regulatory process could reflect the differences in program type between what is currently offered in the private domain as opposed to the levels of care offered in the public domain.

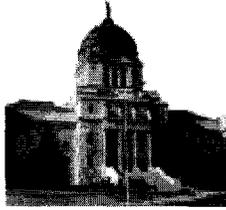
Conduct considered unprofessional and should be subject to discipline by the board which regulates that program practice whether at the DLI or DPHHS. When and if the conduct enters into another board's area of professional expertise, then the second board is justified in taking action for unlicensed practice. In many cases, the best course of action recommended by the board is for the program in question to seek an additional license to avoid a scope of practice issue. The board recognizes that issues such as scope of practice might arise periodically. The board has found that when they arise, we have been able to work cooperatively with other regulatory boards.

We believe cooperation can resolve issues and we have confidence in the strong working relationships among boards and staff within the Health Care Licensing Bureau and the Department of Public Health and Human Services.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Essentially, this is a "truth in advertising" issue that reflects both factual accuracy and the trust relationship between programs and the youth and families they serve. In Montana, the Board of Private Alternative Adolescent Residential or Outdoor Programs is the body best able to determine whether a program is truthful in presenting their professional status to the public, whether through advertising or through claims about the program. In addition, the public expects a youth care facility and its professionals to be truthful about the professional status, including the legally recognized name. According to statute, the designation as a Licensed Private Alternative Adolescent Residential or Outdoor Program shall "be displayed in a conspicuous place near the admitting office of the program."

The board looks forward to providing you with any further information you may need.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Private Security

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 7 members (term expiration in parentheses)

Representative, contract security firm or proprietary security organization = 1 Daniel Taylor, Glasgow (8/1/2015)	Sheriff's office, city police = 1 each Sheriff Leo Dutton, Helena (8/1/2015) George Skuletich, Butte city police (8/1/2015)
Representative, electronic security firm = 1 Mark Chaput, Billings (8/1/2013)	Licensed private investigator or registered process server = 1 Tom Mangan, Helena (8/1/2015)
Member of Montana Public Safety Officer Standards and Training Council = 1 Vacant (if filled, term expires 8/1/2014)	Public member = 1 Holly Dershem-Bruce, Glendive (8/1/2014)

Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
- Total	1,762	1,687	1,749	1,415

Licensing Fees (since 2011)

<i>Application fees</i>		<i>Renewal fees</i>	
Contract security companies, proprietary security organizations, and electronic security companies	\$250	\$200	
Resident managers	\$175	\$125	
Security guard, alarm installer, or alarm response runners	\$100	\$100	
Branch office	\$100	\$100	
Private investigator	\$250	\$175	
Private investigator trainee	\$150	\$100	
Process server	\$100	\$100	
Certified firearms instructor	\$150	\$125	
Armed endorsement	\$ 50	\$ 50	
<i>Examination fees:</i> Process server	\$25	All other exams	\$20
<i>Miscellaneous fees:</i> Replacement photo ID	\$20	Temporary practice permit ...	\$25
Change of employer or name	\$20	Change of supervisor or address	\$10
Training program certification application	\$50		

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009	\$156,456		\$205,630	
FY 2010	\$135,868		\$242,977	
FY 2011	\$214,563		\$203,197	
FY 2012	\$281,518		\$199,799	
FY 2015 biennium*	--		\$409,674	

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$60,099	\$10,533	\$6,444	\$17,991	\$4,786
Operating Expenses					
Consulting, Printing, IT, Other	\$14,932	\$9,558			
Supplies, incl. Computer	\$797	\$4,318			
Postage, mailing, IT network, voice srv	\$8,333	\$2,529			
Travel/Per Diem for Board Members	\$940				
Rent and other expenses*	\$9,747	\$14,307			
Legal and hearings	\$34,487				
Total (may be affected by rounding)	\$129,334	\$70,466			

*Includes sq. footage rent of \$5,678, computer/office equipment repair of \$140, dues, education & training, and fee collection expense of \$3,929 for direct expenses and pro-rated meeting room and computer/equipment maintenance costs of \$35, DLI OIT expense of \$6,671 and indirect agency of \$7,602 for indirect expenses.

Number of Complaints

FY 09 34
 FY 10 33
 FY 11 29
 FY 12 41

Disciplinary Action (may be from other years)

Dismissed 16, Other Sanctions 14
 Revoked 1, Dismissed 14, Other Sanctions 10, Investigations 10
 Dismissed 22, Other Sanctions 12, Investigations 19
 Dismissed 8, Other Sanctions 14, Tabled 1, Closed 18

Scope of Practice

The Board of Private Security regulates: armed carrier services, armed and unarmed private investigators, armed and unarmed private security guards, armored car services, alarm response runners, contract security companies, electronic security companies that sell, install, service, or maintain security alarm systems and that provide alarm response runners and security alarm installers (excluding locksmiths who also install closed-circuit television cameras and battery-operated door devices), proprietary security organizations, security companies, street patrol services, and security alarm installers.

These are defined in 37-60-101, MCA.

2013 Legislation Impacting Board or Profession

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Private Alternative Adolescent Residential or Outdoor Programs licensees --

Comments summarized separately.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes. The board deals with unlicensed practice complaints on a regular basis. Complaints range from individuals acting as private investigators and monitoring the activities of members of the public, to companies hiring unlicensed individuals who interact with and have authority over citizens, and electronic security systems companies who send individuals out to make direct contact with citizens by entering private homes and businesses and installing alarm devices. In all of these cases, these unlicensed individuals have likely interacted with the public without having met training requirements nor have they been properly vetted via a criminal records background check.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

Individuals who desire to earn a living in the various private security-related professions are eligible to apply for licensure from the board. If they meet the qualifications as spelled out in State statute and rules, then they can become licensed and earn their living. The board does not desire to impede licensure of qualified individuals. Rather, protecting public health, welfare and safety requires training and competency standards.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

All board members appointed to the board by the governor are responsible for upholding the purpose of the board in increasing the integrity, competency, and performance of the security-related professions and ensuring that public health, welfare, and safety are protected. The very structure of the board, with representation by the public and various law enforcement and private security professionals, helps create balance by the board in its regulation and oversight.

The board's review and consideration of a complaint is bifurcated into two panels, screening and adjudication, so that the board members determining whether reasonable cause exists to proceed with disciplinary action against a licensee are different than those determining the final outcome of the disciplinary matter. The board may request an investigation to be conducted by the Department of Labor and Industry (Department), and in the event a disciplinary action results in a contested case, an administrative hearing examiner is appointed to preside over the case.

board members are educated to identify and understand conflicts of interest, whether perceived or actual, that may prohibit their participation in reviewing or considering issues involving disciplinary matters with licensees, license applications, or complaints of unlicensed practice.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

The board is aware of at least one association that exists in the State regarding private investigators and security operators. However, one or more associations do not presently exist in the State that can provide the level of oversight to all of the professions of private security and

license types that the board currently regulates, to the extent necessary to ensure competency and training requirements are met.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

Certain categories of licensees are required to carry insurance or be bonded (i.e., private investigators, firearms instructors, process servers, security companies, etc.) However, it is unknown as to whether the insurance carrier(s) require that these licensees be licensed by the board.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

While the Department assists the board administratively in the license application and discipline processes, the board is in the best position to determine whether an applicant is qualified for licensure or a licensee has violated the generally accepted standards of practice within his or her profession because the board members represent all facets of the private security professions and possess the experience and expertise necessary to make these decisions.

For example, those individuals applying for licensure as certified firearms instructors must submit course outlines for board approval regarding firearm familiarization, safe handling, use of deadly force, shooting judgment, and civil and criminal liability. Board members with extensive firearms training and experience are better suited than Department staff to determine whether the applicant's proposed course curriculum is sufficient.

10. Is there an optimum ratio between licensees, board size, or public representation?

The current makeup of the board seems to be appropriate, given the diverse number of private security related professions. As previously referenced, Mont. Code Ann. § 2-15-1781 establishes seven board members who represent three different areas of private security, in addition to one public member, one local police representative, one county sheriff representative, and one representative from the Montana public safety officer standards and training council.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

If consumer protection was removed from the purview of the board and the responsibility rested solely with the Attorney General's Office to investigate and adjudicate, the effect on the board would be minimal. However, this change would likely have a larger impact on the citizens of Montana. The question of whether or not this would cause overlap of the board and the Attorney General's office is valid in this response. Consumer protection is not the only area the board addresses. Complaints may contain standards of practice and consumer protection issues. Complaints being handled in segments by separate entities, the board and the Attorney General's office, may not be efficient or in the best interest of the any of the parties involved.

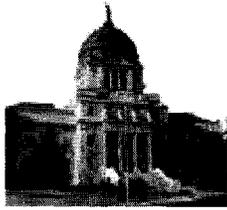
The board currently evaluates standards of practice and consumer protection issues using the members' experience and knowledge in various capacities of the private security professions. Therefore, value exists for the board to continue addressing consumer protection and fraud-related allegations. Unprofessional conduct is defined under ARM 23.182.2301 to include several consumer protection and fraud-related issues and the board members evaluate the allegations within the context of the private security industry.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

The board is unaware of an overlap with other occupational or health care boards regarding the scope of practice that this board regulates and oversees. However, Mont. Code Ann. § 37-60-105 exempts certain individuals or entities from licensing with the board to avoid scope of practice overlap with other industries or regulatory bodies, including federal and state employees, attorneys practicing law, insurance producers, and others.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Boards should be able to limit the use of certain terminology when necessary to protect public, health, welfare and safety. As an example, an individual representing to the public that he or she is an Armed Private Security Guard without meeting the necessary training requirements to competently handle a firearm and otherwise perform the duties of the profession poses a threat to the citizens of the State of Montana.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Radiologic Technologists

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 7 members (term expiration in parentheses)

<p>Licensed radiologic technologists registered with the American registry of radiologic technologists = 4 <i>(includes 1 radiology-level assistant)</i></p> <ul style="list-style-type: none"> -Kelli Bush, Butte (7/1/2015) -Sharlett Dale, Harlowton (7/1/2015) -Charles McCubbins, Shelby (7/1/2014) -Mike Nielsen, Billings (radiology practitioner assistant and radiology technologist (7/1/2013)) 	<p>Radiologist licensed to practice medicine in Montana = 1 Jesse Cole, Butte radiologist (7/1/2014)</p> <hr/> <p>Person with permit issued under 37-14-306 (either qualified but unlicensed X-ray tech or temporary permit holder) = 1 Anna Hazen, Fort Benton (7/1/2014)</p> <hr/> <p>Public member = 1 Sharon Dinstel, Colstrip (7/1/2014)</p>
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Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
- Total	1,391	1,418	1,422	1,348

Licensing Fees (since 2008)

Application fee (includes temporary permit if requested)	\$60
Original license fee	\$30
Renewal fee	\$50

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009	\$79,572		\$85,483	
FY 2010	\$81,185		\$92,432	
FY 2011	\$80,325		\$88,471	
FY 2012	\$81,050		\$109,139	
FY 2015 biennium*	--		\$221,484	

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect
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		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$50,177	\$6,063	\$2,909	\$1,330	\$1,798
Operating Expenses					
Consulting, Printing, IT, Other	\$19,270			\$1,685	
Supplies, incl. Computer	\$2,399			\$938	
Postage, mailing, IT network, voice srv	\$2,056			\$767	
Travel/Per Diem for Board Members	\$1,976				
Rent and other expenses*	\$5,086			\$7,064	
Legal and hearings	\$5,623				
Total (may be affected by rounding)	\$86,587			\$22,554	

*Includes sq. footage rent of \$2,098, computer and office equipment repair of \$93, dues, education & training, and fee collection expense for \$2,894 for direct expenses and pro-rated meeting room and computer/equipment repairs of \$17, DLI OIT expense of \$2,338, and indirect agency of \$4,708 for indirect expenses.

Number of Complaints

FY 09	.....	8
FY 10	.....	3
FY 11	.....	6
FY 12	.....	7

Disciplinary Action (may be from other years)

Dismissed 7, Other Sanctions 2, Investigations 2
Dismissed 3, Investigations 2
Dismissed 3, Other Sanctions 1, Investigations 2
Dismissed 5, Closed 2

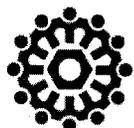
Scope of Practice

A radiologic technologist, as defined in 37-14-102, MCA, is allowed to perform diagnostic x-ray procedures on persons and the following functions in connection with the diagnostic procedure: "(a) operates x-ray equipment to reveal the internal condition of patients for the diagnosis of fractures, diseases, and other injuries; (b) prepares and positions patients for x-ray procedures; (c) selects the proper radiographic technique for visualization of specific internal structures of the human body; (d) selects the proper ancillary equipment to be used in the x-ray procedure to enhance the visualization of the desired structure; (e) prepares film processing solutions and develops or processes the exposed x-ray film; and (f) inspects, maintains, and performs minor repairs to x-ray equipment".

2013 Legislation Impacting Board or Profession

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Radiologic Technologists licensees --
Comments summarized separately.



Montana Department of
LABOR & INDUSTRY

Steve Bullock, Governor
Pam Bucy, Commissioner

Business Standards Division
Adam de Yong, Acting Division Administrator

To: The Economic Affairs Interim Committee

From: Montana Board of Radiologic Technologists

Date: June 10, 2013

Subject: HB525 – RTS response to the Economic Affairs Interim Committee questions

1 • What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The regulation of Radiologic Technologists through licensure serves the public interest by protecting the public against becoming contaminated against harmful radiation caused by x-rays. Proper training in the use of the x-ray equipment and human anatomy is crucial in providing doctors accurate images in order to diagnose or treat a patient.

2 • If your profession/occupation were not licensed, what public protection would be lost?

Licensure of Radiologic Technologists is preceded by and premised upon strict standards of education and periods of supervised experience. The failure to regulate those who would assume the role of a Radiologic Technician would be exposing the public to harmful radiation and have an increased risk of being misdiagnosed. If a problem exists with a professional's treatment or actions, there would be no entity with the appropriate knowledge to review and adjudicate public complaints. The board sets the standards needed to insure that competency is met for Radiologic Technologist based off American registry of radiologic technologists (ARRT) code of ethics.

3 • If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight?

If yes, please explain why and describe the purpose of creating a board. Yes. A board is necessary to provide the expertise to evaluate initial licensure applicants (such as appropriate educational, exams administered and passed, and to ensure there are no discipline concerns) and continued monitoring of existing licensees through complaint review, continuing education requirements, etc. As required by law, the Board of Radiologic Technologists is comprised of seven members who include a radiologist licensed to practice medicine, a limited permit holder, a public member and four licensed radiologic technologists registered with the ARRT. The mix of talent on the board is the most appropriate method to deal with oversight issues.

4 • Does your board deal with unlicensed practice issues? If yes, what types of issues?

Occasionally, the board is alerted to the conduct of individuals who portray themselves as having appropriate education and training to address or handle x-rays for which they are not qualified. A great

deal of personal harm or false diagnosis to individuals may result if the exams are erroneous and film is incorrectly processed.

5 • People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The safe and competent practice of x-rays requires a 24-month course of study in radiologic technology. To ensure the proper and necessary preparation, the law currently requires reasonable standards that do not unfairly bar any individual from earning a living once they have met qualifications.

6. • How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

Board member training provided by the Department of Labor and Industry addresses this issue; board members are advised of the need to recuse themselves from decision-making if a conflict exists. The Presiding Officer and staff also monitor bias on a case-by-case basis to help ensure that the possibility or perception of bias is avoided, and a carefully guarded and liberally administered public right of participation ensures a critical review of all such decisions. Also, having a mix of public and professional members who serve together on the board is another safeguard. There are no other professions licensed by this board.

7 • Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

Associations have a certain degree of overlap in their respective purposes. However, professional associations consist of members of the profession who choose to join the associations. Generally speaking, the primary mission of an association is to promote an industry, while the primary mission of a regulatory board is to protect the public. These are two separate functions not well-suited to be performed by the same entity.

8 • Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

Yes, insurance companies are well aware of the advantage of a licensing board being able to determine the qualifications of practitioners, so licensure through an administrative agency is a prerequisite to insurance coverage for Radiologic services. The board is not aware of any alternative billing method.

9 • What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

The board has the expertise of the Radiologic Technologist members who understand the technical aspects of the profession and one public member to represent the consumer view. Both aspects are essential to effective regulation of the profession, and neither would be available to the department without the use of a board.

10 • Is there an optimum ratio between licensees, board size, or public representation?

There may be, and the number might differ for different boards. What we have now, six professional and one public member, appears to work well. A board is unwieldy if it is too large, and the current number (seven board members) seems sufficient for the work load.

11 • If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

A disinterested third party would spend significant time and money learning the profession and hiring consulting Radiologic Technologists and medical professionals in various areas of the profession to address issues as they arise. Radiologic Technologists have specialized skills of assessing professional abilities (and lack thereof) that governmental employees will not typically have. To best protect the public, the regulating entity must have adequate knowledge of "standards of care," with which the board is already uniquely equipped because of its professional members.

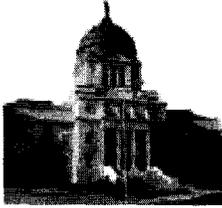
12 • If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

The scope of practice involving Radiologic Technologists is overlapped only by the dental profession. 37-14-301((1)(a)(ii), MCA, exempts administering x-rays in the practice of dentistry or denturity, but still requires the persons in the dental office to be certified by the board of dentistry as having passed an examination testing the person's proficiency to administer x-ray examinations. Physician Assistants are allowed to perform x-rays only if they have training, as well. ARM 24.156.1701.

The public should be able to rely on the distinct titles associated with licensure that indicates the level of education and training associated with that person's practice. While there may be a third-party who may also properly judge whether there is an intrusion into another's practice, the statutes provide adequate notice of the respective scopes of practice and provide that if a person's practice exceeds that person's license, that person may be enjoined from the conduct by a district court action initiated by the board responsible for regulating the practice.

13 • Should any board have the ability to limit use of certain terminology to only a licensee?

Terminology that implies a particular level of training/experience should have its use restricted to those individuals that actually have that training/experience and have been adequately assessed. Physicians, attorneys, and psychologists are amongst that group. These are titles that go with those professional labels and imply a particular level of training/experience. Consumers have a right to know the minimal qualifications of those who utilize the associated titles and terms, which is why some boards should be able to limit the use of certain terminology to only a licensee.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Real Estate Appraisers

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 7 members (term expiration in parentheses)

<p>Licensed or certified real estate appraisers = 5</p> <p>Julie Forbes, Jefferson City (5/1/2015) Dennis Hoeger, Bozeman (5/1/2013) Jennifer McGinnis, Polson (5/1/2013) George Simek, Billings (5/1/2014) Thomas Stevens, Missoula (5/1/2014)</p>	<p>Public members not engaged in real estate appraisal = 2</p> <p>Lori Christophersen, Bozeman (5/1/2015) Jeffrey Fleming, Huntley (5/1/2013)</p>
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Number of Licensees (annual license)	FY 2009	FY 2010	FY 2011	FY2012
- Total	471	445	434	524

Licensing Fees (since 2011)

Original application and license fee:

- Registered Appraisal Management Company \$2,000
- Licensed and certified real estate appraisers, trainees, and applicants \$ 475/\$515
- Real estate appraiser's original trainee license or trainee renewal fee \$ 400

Renewal fee for Appraisal Management Company:

- with 200 or fewer engagements in previous renewal cycle \$1,000
- with more than 200 engagements in previous renewal cycle \$3,000
- Licensed and certified real estate appraisers, trainees, and applicants \$ 475

Other fees (in addition to federal registry fee of \$40 as of Jan. 1, 2012):

For Appraisal Management Companies:

- temporary registration of certification and licensure of out-of-state appraisers . \$150
- each course appraisal cost payable by course provider \$300
- course renewal approval for each course \$300 address change \$ 45
- upgrade or downgrade fee \$300 audit fee (if audited)\$450
- application for change in controlling person\$500
- application for redesignation of controlling person\$250
- application for change in contact person under 37-54-504, MCA.....\$100

For licensed appraisers or certified general or residential appraisers

- license by credentialing \$475 inactive license fee\$225
- Any licensee's annual fee for reporting of all engagements\$250
- (if after 30 days \$1,000 or after 60 days \$2,000)

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009	\$216,335		\$253,249	
FY 2010	\$260,120		\$223,671	
FY 2011	\$270,208		\$272,190	
FY 2012	\$404,252		\$332,323	
FY 2015 biennium*	--		\$803,799	

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$115,431	\$17,027	\$9,306	\$14,047	\$7,349
Operating Expenses					
Consulting, Printing, IT, Other	\$22,207	\$11,951			
Supplies, incl. Computer	\$3,147	\$4,682			
Postage, mailing, IT network, voice services	\$2,192	\$2,671			
Travel/Per Diem for Board Members	\$13,806				
Rent and other expenses*	\$17,423	\$21,394			
Legal and hearings	\$69,690				
Total (may be affected by rounding)	\$243,896	\$88,427			

*Includes rent of \$7,330, computer/office equipment repair of \$123, dues, education & training, and fee collection expense of \$9,970 for direct expenses and pro-rated meeting room and computer/equipment repair costs of \$45, DLI OIT expense of \$8,806, and indirect agency of \$12,542 for indirect expenses.

Number of Complaints

FY 09	.....	23
FY 10	.....	54
FY 11	.....	57
FY 12	.....	50

Disciplinary Action (may be from other years)

Dismissed 15, Other Sanctions 8, Investigations 7
 Revoked 3, Dismissed 30, Other Sanctions 8,
 Investigations 4
 Dismissed 38, Other Sanctions 9, Investigations 8
 Dismissed 25, Other Sanctions 6, Investigations 6,
 Tabled 1, Closed 12

Scope of Practice

Under 37-54-403, MCA, the uniform standards of professional appraisal practice adopted by the Appraisal Standards Board of the Appraisal Foundation are automatically adopted unless the Montana Board of Real Estate Appraisers feels a public hearing is necessary to determine if the modified or supplemented standards "must be observed in this state".

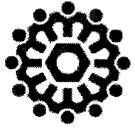
To be licensed, an applicant must present evidence of 2,000 hours of appraisal experience obtained within 18 months. A certified residential real estate appraiser must have evidence of 2,500 hours of appraisal experience within a period of 24 months. A certified general real estate appraiser must have evidence of 3,000 hours of appraisal experience within 30 months of which 1,500 hours must be nonresidential appraisal work.

2013 Legislation Impacting Board or Profession

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Real Estate Appraisers licensees --

Comments summarized separately.



Montana Department of
LABOR & INDUSTRY

Steve Bullock, Governor
Pam Bucy, Commissioner

Business Standards Division
Adam de Yong, Acting Division Administrator

To: Economic Affairs Interim Committee

From: Montana Board of Real Estate Appraisers

Date: June 10, 2013

Subject: HB525 – REA response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The Health safety and soundness of the federally insured depositories and lending institutions that rely upon accurate and credible real estate appraisals for their lending decisions. It is a Federal mandate for the States to oversee the licensing of real estate appraisers whose competency has been examined and ensure that appraisers have effective supervision.

2. If your profession/occupation were not licensed, what public protection would be lost?

In essence, the United States Congress has mandated that only appraisers who are certified and licensed may perform appraisals for federally related transactions. Without licensing or the oversight of real estate appraisers, Montana would not be allowed to provide appraisals from certified appraisers. No federally related transactions would be able to completed without the licensing and oversight required by Congress. Real Estate Appraisers are subject to oversight by the Appraisal Subcommittee. Congress has given the ASC authority over the states appraisal programs to ensure compliance with Title XI of FIRREA and the Dodd/Frank Financial Reform bill.

Title XI of FIRREA (Financial Intuitions Reform, Recovery and Enforcement Act of 1989 Real Estate Appraisal Reform [12 U.S.C.3331-3351] The purpose is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisal utilized in connection with federally related transaction are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

The Appraisal Subcommittee [12 U.S.C. 3332] shall monitor the requirements established by the states-

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

The minimum educational requirements are handled by the department staff. The qualifying experience requirements must meet the minimum development and reporting requirements of the Uniform Standards of Professional Appraisal Practice and any additional assignment conditions from the secondary market participants. This requires review of the work product. The board members are peers of those they license. The board members understand the appraisal practice and weigh the strengths and weakness of the work product presented for licensure. In addition to the Boards review, the Appraisal Subcommittee reviews the boards decisions for licensure to ensure compliance with national licensing criteria as established by Title XI [12 U.S.C.3331-3351]

The appraiser board members are a wealth of knowledge in identifying how the Montana laws and rules affect the practice of appraisers in the field. The board reviews all complaints and has unique insight as to the acceptable appraisal practice. The need for additional investigation into standards and practices is sent to a Certified Appraiser investigator.

10. Is there an optimum ratio between licensees, board size, or public representation?

No. The board of real estate appraisers consists of 7 members, 5 appraiser members and 2 public members. Originally the board consisted of 5 members, 4 appraiser members and 1 public member. There has not been any recognizable difference in the effectiveness of the board with the increased membership.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

The Attorney General's office would need additional expertise of certified appraisers on staff to set in judgment of work product. There is a Federal requirement to verify education, experience or expertise to review work product by applicants that must meet Federal requirements, The Uniform Standards of Professional Appraisal Practice requirements, assignment conditions mandated by the Veterans Administration, Housing and Urban Development, Fannie Mae and Freddie Mac. Under the Federal Mandate of Title XI and Dodd/Frank Financial Reform Bill to provide effective supervision would require the Attorney General's office to hire the same staff as required by the Department of Labor.

The board is the first entity to identify fraud in appraisal work product through its complaint process.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

The legislature should be the judge. Each board always has the opportunity to bring these issues via proposals for new regulations to the committees of the legislature.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

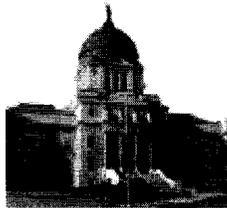
Yes. Only a licensed and certified real estate appraiser may sign an appraisal report for a federally related transaction.

37-54-301. Certification -- use of term -- standards of practice. (1) A person may not represent to the public that the person is a certified real estate appraiser unless the person is certified under this chapter.

(2) Only a certified real estate appraiser may prepare and sign a certified appraisal report relating to real estate or real property in this state. If an appraisal report is prepared, signed, and certified by a certified real estate appraiser, a person licensed under this chapter who assisted in the preparation of the appraisal may cosign the appraisal report.

(3) The term "certified real estate appraiser" may not be used to describe a firm, partnership, corporation, group, or anyone other than an individual certificate holder. However, a certified real estate appraiser may develop and communicate an appraisal on behalf of a firm, partnership, corporation, or group.

(4) Whenever an appraisal or appraiser report is identified by the certified real estate appraiser as "certified", the appraiser shall indicate in writing the class of certification the appraiser holds.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Realty Regulation

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 7 members (term expiration in parentheses)

<p>Licensed real estate brokers, salespeople or property managers = 5 C.E. Abramson, Missoula (5/9/2015) Pat Goodover II, Great Falls (5/9/2016) Larry Milless, Stevensville (5/9/2015) Connie Wardell, Billings (5/9/2015) Lucinda Willis, Polson (5/9/2013)</p>	<p>Public members = 2 Stephen Hess, Butte (5/9/2014) Shirley McDermott, Laurel (5/9/2015)</p>
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Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
- Total	6,460	5,939	5,672	5,183

Licensing Fees (since 2012) excludes costs related to continuing education courses

Original annual license fee for:

Broker..... \$100	Property manager \$60	Salesperson \$87.50
Sale of a timeshare .. \$500	Timeshare salesperson .....\$35	
Renewal fee for:	Broker..... \$100	Property manager..... \$75
	Salesperson \$87.50	Timeshare salesperson..\$35

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009		\$801,350		\$775,187
FY 2010		\$706,339		\$802,388
FY 2011		\$738,518		\$846,896
FY 2012		\$715,673		\$1,031,844
FY 2015 biennium*		--		\$2,012,766

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect
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		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$295,274	\$41,450	\$21,413	\$84,213	\$17,595
Operating Expenses					
Consulting, Printing, IT, Other	\$134,292			\$35,443	
Supplies, incl. Computer	\$21,965			\$11,237	
Postage, mailing, IT network, voice services	\$14,975			\$6,875	
Travel/Per Diem for Board Members	\$40,413				
Rent and other expenses*	\$60,821			\$59,174	
Legal and hearings	\$186,704				
Total (may be affected by rounding)	\$754,444			\$279,972	

*Includes sq. footage rent of \$19,571, computer/ office equipment repair and meeting rooms of \$4,395, dues, education & training, and fee collection expenses of \$27,853, and educational grants of \$8,582 for direct expenses and pro-rated computer/office equipment repair of \$59, DLI OIT expense of \$23,677, IT education, conference costs, etc. of \$427, and indirect agency of \$35011 for indirect expenses.

Number of Complaints

FY 09	.....	155
FY 10	.....	111
FY 11	.....	231
FY 12	.....	175

Disciplinary Action (may be from other years)

Revoked 1, Dismissed 94, Other Sanctions 35, Investigations 17
 Revoked 17, Dismissed 116, Other Sanctions 19, Investigations 26
 Revoked 2, Dismissed 160, Other Sanctions 58, Investigations 33
 Dismissed 77, Other Sanctions 58, Investigations 6, Tabled 1, Closed 32, Pending 1

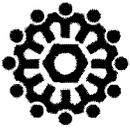
Scope of Practice

The definitions of brokers, dual agents, property managers, salespersons, and seller or buyer agents are in 37-51-102, along with seller subagents, statutory brokers, and supervising brokers. Timeshare salesperson is defined in 37-53-102. Critical to all these positions is the charging of a fee or a commission for services related to the offering for sale, purchase, or lease of real estate.

2013 Legislation Impacting Board or Profession

- **HB 133** - Under Section 3, this bill--had it been enacted--would have deleted reference to political parties as related to board members. The current statute says no more than 5 members, including the presiding officer, may be from the same political party. The bill also would have removed limits on the terms board members could serve.
- **HB 184** - Enacted, says a real estate broker is not liable for a salesperson who is doing a sale-by-owner transaction. Requires certain disclosures.
- **HB 363** - Originally would have created a Board of Realty Regulation attached in name only to the Department of Labor and Industry with budgetary, hiring, and control in the hands of the board. The department would have had a minimal relationship (website and some issues regarding all boards. As amended the bill allowed the board to hire its own employees. The governor vetoed the bill.

Summary of Responses from Survey as made through June 3, 2013: coming later



To: Economic Affairs Interim Committee

From: Montana Board of Realty Regulation

Date: June 10, 2013

Subject: HB525 – RRE response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The board exists to protect consumers when dealing in housing or other real estate, whether those persons are buying, selling, renting, or leasing the real estate. The real estate profession is an integral part of the daily lives of all Montana citizens.

Purchasing a home or other real estate is often the single largest expenditure or investment that a person will make in their lives. A home typically becomes a person's largest financial asset. In addition, real estate agents are often involved in complicated sale or leasing transactions involving agricultural and commercial properties. Real estate transactions can be very complicated and fraught with problems whether intentional or accidental. Public health, safety and welfare is at stake when proper disclosures are not made i.e. lead base paint, asbestos, mold. It is essential that consumers receive competent, fair, equitable, and honest counsel when buying and selling real estate.

The rental/leasing of real estate is utilized by a large sector of the public, often involving less sophisticated tenants and people entering the housing market for the first time. Owners must receive competent, fair, and equitable treatment when hiring someone to secure tenants for investment property. Likewise, tenants in rental property also have a right and expectation of competent and fair dealing from persons who manage the leased properties.

In all real estate transactions, large amounts of money are received, handled, held, and transferred. Much of Montana's economy depends on these transactions going smoothly.

2. If your profession/occupation were not licensed, what public protection would be lost?

If real estate brokers, salespeople and property managers were not licensed, the public could not identify those individuals who have met examination and experience requirements and can be relied upon to uphold current laws and properly handle complicated transactions. A real estate transaction represents a substantial investment from the consumer and is a transaction that happens infrequently. Because it happens infrequently, many, if not most, consumers do not develop significant expertise in

handling real estate transactions. This results in consumers relying on the real estate practitioner to navigate the ever changing complex process. It is important to note that the regulation of real estate professionals is expanding throughout the world as investors, financial institutions and governments seek to stabilize their markets and add credibility to their local/regional economies. This is being accomplished by establishing a real estate regulatory system that determines minimum competencies and expected conduct for practitioners and offers an avenue of complaint resolution for consumers. In addition, the Legislature and the Board have required that licensees pursue a course of continuing education that keeps them abreast of the rapidly changing real estate market and field. If licensure were lost, consumers could not be assured that their agents understood more recent developments in the field and the evolving regulatory environment pertaining to real estate transactions and ownership.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes. All applicants must be scrutinized to determine whether an applicant can practice safely and competently. A board is necessary to provide the expertise to evaluate initial licensure applicants (such as appropriate education, exams administered and passed. The board also ensures there are no discipline concerns for initial applicants because persons with past conduct issues in Montana or elsewhere have a higher likelihood of harming Montana consumers. Not all conduct issues would prevent a person from being licensed in Montana.

Once any practitioner is licensed, whether ones with past conduct issues or not, the Board continues to monitor those licensees through complaint review, continuing education requirements, etc. in order to ensure that practitioners are practicing in a manner that minimizes harm to consumers and other licensees. As required by law, the Board of Realty Regulation is composed of practitioners and members from the general public who represent the perspective of consumers. The goal of the board is to protect the public and fellow licensees from practitioners who may intentionally or accidentally cause harm – whether that harm is of a financial nature or other. The mix of talent on the board is the most appropriate method to deal with oversight issues. Without the real estate expertise of a board composed of several members who are professionals, it would be difficult for state employees to recognize conduct that is detrimental to the public and take appropriate action to protect the public from future misconduct.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes. The board does consider unlicensed practice issues although it has no authority to prohibit, regulate or punish it.

The most prevalent unlicensed issue currently is Internet sites that attempt to solicit buyers, sellers, or tenants. They often charge consumers for information that is outdated or incorrect. They charge consumers for information and services that are free to the public and do nothing but profit the unlicensed person. Generally, they also do not practice in a way that is protective of the public or fair to other practitioners. Unlicensed persons are subject to no oversight whether to determine that they are actually minimally qualified to practice in Montana or to ensure that they are practicing in a safe manner.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living – what is your response?

A practitioner must practice in a manner that does not harm others – financially or otherwise. In order to truly determine that someone is ‘qualified’ to practice real estate, an entity separate from the proposed practitioner is in a better position to determine whether those qualifications are actually met. The requirements for licensure are not onerous and can be accomplished in a short period of time. The important aspect of licensing is to assure consumers and fellow practitioners that the licensed practitioner has met minimum competency by completing education and demonstrating a basic knowledge through examination. Persons are permitted to buy, sell, and lease real estate on their own behalf without involving licensees. Thus, persons who wish to engage in personal real estate transactions without the assistance of real estate agents and property managers may do so, and persons who wish to engage a professional to assist in the transaction can do so with the assurance that the agent has met the professional standards prerequisite to licensure.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

The members of the board monitor each other for bias by conducting themselves in a respectful and courteous manner for all business brought before the board. The Board also understands that public scrutiny is the guarantee of governmental propriety and necessary to the protection of all public rights. Therefore, official business is always done in an open meeting format unless the meeting must be closed to protect the privacy of an individual. All meetings of the board are noticed to the public and are conducted with a majority of members present as well as departmental staff such as legal counsel or other support staff. The openness of board meetings helps to assure that the board is accountable to the public and also ensures that a particular member cannot dominate the decisions or promote their own agenda. Board orientation also helps to show that bias is not helpful to decision making. Education of board members on board work and processes is always ongoing to make sure there is a culture where all board members feel free to speak and participate and where the public may observe and participate as allowed by law. The make-up of the Board is also helpful with representation of brokers, property managers as well as public members. Likewise, the public and licensees are encouraged to attend all meetings. Licensees are even given continuing education credit simply for attending board meetings. Board members also know that they must recuse themselves if they have a personal relationship with a licensee or person appearing before the board or if they have some other interest in the matter being discussed. Further, an independent hearing examiner is used in all contested cases to ensure fairness of the process.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a license board? Why not use the association as the oversight board?

No. There is a private association called the Montana Association of Realtors (MAR). However, membership in MAR is voluntary so not every licensee is represented. Also, the board perceives that MAR is not interested in regulating the entire profession.

While the board works closely MAR, the mission of the association is to promote the profession and advocate for the industry in order to help its members become more profitable and successful. On the other hand, the mission of the Board of Realty Regulation is to protect the public through the licensure and regulation of all licensees - brokers, salespeople and property managers. Furthermore, it is believed that the current licensure mechanism is the most practical, efficient, and unbiased approach to meeting this requirement. An association does not have the legal authority to investigate complaints or discipline professionals especially of licensees who are not members of MAR. If the association regulated the profession, the association's responsibility to support its membership could be in conflict with its duty to take action against unprofessional conduct by members of the association. Moreover, there is the potential for both perceived and actual conflict should MAR also be charged with regulating non-MAR members.

- 8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternative method for billing that may be recognized rather than having a license or being regulated by a licensing board?**

No. Typically, insurance issues arise in the context of health care. Insurance billing issues are not a consideration in the practice of real estate and do not impact insurance claims.

- 9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?**

The board has the expertise of the five licensee members who understand the technical aspects of the profession and two public members to represent the consumer view. Both aspects are essential to effective regulation of the profession, and neither would be available to the department without the use of a board.

- 10. Is there an optimum ratio between licensees, board size, or public representation?**

There seems to be an appropriate ratio between the number of licensees, board size and public representation. The board is composed of five practitioners and two public members. While the public member perspective is vital, a public member often does not have the knowledge and background to determine if a licensee has violated a statute or rule. With approximately 5,500 licensees, that equates to one board member for every 785 licensees. Experience has shown that a board smaller in size to the current board causes excess workload for volunteer board members and can make it difficult to convene a quorum to conduct business (if, for example, one or more members must recuse themselves or is unable to attend a meeting due to sickness or other reasons). A board larger than the current board would increase inefficiency and could delay decision making.

- 11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?**

No. A disinterested third party would spend significant time and money either learning the profession or hiring consulting real estate professionals in various areas of the profession to address practice

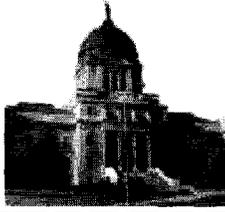
conduct issues. This would result in higher costs and cause delays in resolving important consumer issues. The real estate regulatory boards in the U.S. have developed an extensive network of information sharing amongst themselves. Monitoring fraud in the profession is achieved through this collaboration. Additionally, as is currently required by law, all board legal representation is already being conducted by Special Assistant Attorney Generals.

12. If boards have overlapping scope of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

No. This board is unique from all other boards. There is no overlapping scope of practice with other boards or professions.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Because of the public trust in the real estate profession, and to prevent consumers from believing they are dealing with a licensed person when in fact the person is unlicensed, the use of the terms 'real estate broker', 'real estate salesperson', or 'property manager' should be limited to those holding a real estate license.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Respiratory Care Practitioners

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 5 members (term expiration in parentheses)

Respiratory care practitioners = 3 Leonard Bates, Wolf Creek (1/1/2013) Thomas Fallang, Butte (1/1/2015) Tony Jay Miller, Joplin (1/1/2013)	Respiratory care practitioner specializing in pulmonary functions or sleep studies = 1 Rusty Davies, Billings (1/1/2013)
	Public member = 1 Maria Clemons, Libby (1/1/2017)

Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
- Total	542	544	594	555

Licensing Fees (since 2007)

Application fee	\$50	License fee	\$50
Annual renewal fee	\$75	Inactive license fee	\$50

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009		\$48,466		\$28,942
FY 2010		\$47,042		\$32,600
FY 2011		\$7,519		\$34,473
FY 2012		\$47,070		\$48,187
FY 2015 biennium*		--		\$94,762

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$23,251	\$5,240	\$1,078	\$440	\$1,022

Operating Expenses		
Consulting, Printing, IT, Other	\$3,775	\$1,028
Supplies, incl. Computer	\$894	\$282
Postage, mailing, IT network, voice services	\$803	\$389
Travel/Per Diem for Board Members	\$2,701	
Rent and other expenses*	\$2,411	\$3,525
Legal and hearings	\$1,349	
Total (may be affected by rounding)	\$35,184	\$13,004

*Includes sq. footage rent of \$1,172, computer/office equipment repair of \$41, dues, education & training, and fee collection expense of \$1,197 for direct expenses and pro-rated meeting rooms and computer/office equipment of \$7, DLI OIT expense of \$1,177, and indirect agency of \$2,341 for indirect expenses.

Number of Complaints

FY 09	.....	5
FY 10	.....	2
FY 11	.....	3
FY 12	.....	1

Disciplinary Action (may be from other years)

Dismissed 2, Investigations 3
Dismissed 5, Investigations 3
Revoked 1, Dismissed 3, Investigations 3
Dismissed 1

Scope of Practice

Respiratory care is defined in 37-28-102, MCA, as "the care provided by a member of the allied health profession responsible for the treatment, management, diagnostic testing, and control of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The term includes but is not limited to: (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures that are necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician; (ii) transcription and implementation of the written or verbal orders of a physician regarding the practice of respiratory care; (iii) observation and monitoring of a patient's signs and symptoms, general behavior, and physical response to respiratory care treatment and diagnostic testing, including determination of abnormal characteristics; (iv) implementation of respiratory care protocols pursuant to a prescription by a physician; and (v) initiation of emergency procedures prescribed by board rules". The statute further states that respiratory care includes inhalation and respiratory therapy, must be performed under a physician's order and qualified medical direction, but is not limited to a hospital setting.

2013 Legislation Impacting Board or Profession

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Respiratory Care Practitioners licensees -- Comments summarized separately.



Board of Respiratory Care Practitioners

TO: Legislative Interim Economic Affairs Committee

FROM: Board of Respiratory Care Practitioners

DATE: May 21, 2013

SUBJECT: HB525 – RCP response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

37-28-101 MCA states:

“The legislature finds and declares that the practice of respiratory care in the state affects the public health, safety, and welfare. To protect the public from the unqualified practice of respiratory care or unprofessional conduct by qualified practitioners, respiratory care is subject to regulation and control. The purpose of this chapter is to regulate the practice of respiratory care. The legislature recognizes that the practice of respiratory care is a dynamic and changing art and science that is continually evolving to include new ideas and more sophisticated techniques in patient care.”

The Board of Respiratory Care Practitioners takes its responsibility seriously. It is not overstating to say that the practitioners licensed and regulated by this board literally help their patients and clients with the breath of life. From chronic illness to emergency care, management of the respiratory system is critical for individual health. Appropriate regulation of these caregivers is important for the protection of public health and safety, as is the effort to keep unqualified or unscrupulous individuals out of the practice.

2. If your profession/occupation were not licensed, what public protection would be lost?

Put simply, without a system of licensing for RCPs, any individual could claim to offer cures or treatments for respiratory illnesses or conditions without any education, training or experience. Montana’s licensing of RCPs as professionals assures that standards must be met before a practitioner treats a patient. This gives the public a level of confidence that their respiratory care provider is not only qualified, but also subject to disciplinary sanction should a violation of state law or board rule occur.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

The legislature first created the Board of RCP in 1991. That, in itself, signals that a board is necessary to regulate the practice of respiratory care and respiratory therapy. Without a board and the rulemaking and compliance authority granted it, Montana would have little or no ability to regulate RCPs effectively or discipline those who violate standards of care or engage in other unprofessional conduct. Further, the existence of a board made up of respiratory care professionals, along with a lay member of the public, provides the expertise to make thoughtful and informed decisions about the profession and its practitioners.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes. Although complaints have been rare (only 6 from FY 2009 through FY 2012) the board is vigilant regarding individuals advertising as (or otherwise claiming to be) respiratory care professionals when they are not licensed. By the same token, the board has recognized instances when it has no authority over individuals because of their employment status (such as with a federal health facility) or because the treatment involved is not covered by state statute or board rule.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

This question has not been posed to the board. However, it is worth noting that licensure as an RCP does not pose an undue burden on an individual. Initial licensure costs only \$100.00, while annual renewal is only \$75. This is far less than many other licensed professions in Montana. Individuals who wish to become RCPs must invest much more time, effort and money in the education and examination that renders them fit for licensure. The board also notes that, because of its straightforward licensing standards, very few applications for licensure become "non-routine" and require extra scrutiny by the board.

The board also believes that Montana citizens benefit from licensure of RCPs because licensed individuals are subject to a disciplinary process should they violate state laws or board rules regarding the profession. In short, licensing protects the public in two ways—by allowing only qualified individuals to practice and by establishing processes to punish those who violate state standards.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

The Board of RCP licenses only one type of health care provider. Should a board member have a bias or a conflict of interest with a particular provider, licensee or alleged violator, that board member has an obligation to recuse himself or herself from the decision-making process involving that individual. That board has not been made aware of any cases of alleged bias.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

The board works with the Montana Society for Respiratory Care and its national umbrella organization, the American Association for Respiratory care. Those organizations promote the profession and seek paid membership. While valuable to their members, those organizations do not have a regulatory role and would not be an impartial body when it comes to rulemaking or discipline.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

In Montana, a respiratory care practitioner must be licensed in order to bill and receive payment through insurance.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

Members of the Board of RCP have specific, in-depth, knowledge of the practice of respiratory care. Only individuals with this knowledge are qualified to judge the care rendered by fellow professionals.

10. Is there an optimum ratio between licensees, board size, or public representation?

Currently, the board has five members, including one public member. It regulates about 880 licensees without difficulty. What the "optimum" number of licensees to Board members might be is unknown, but the board seems to function well at present.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

As noted earlier, members of the Board of RCP have specific, in-depth, knowledge of the practice of respiratory care. Only individuals with this knowledge are qualified to judge the care rendered by fellow professionals. This also is true of the evaluation of potential fraud. Only a trained RCP with knowledge of the profession would be able to distinguish between legitimate treatments and therapies and fraudulent ones.

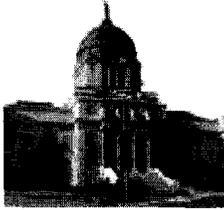
12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

The Board of RCP believes in collaborative discussions with other licensing or regulatory boards in the rare instance where scope of practice may cross boundaries with another board. Should

such an instance occur, the Board of RCP would reach out to the other entity and begin a dialogue. In the event a successful resolution cannot be reached through dialogue, the RCP Board would notify the leadership of the Business Standards Division and discuss what should happen next.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Yes. While the board of RCP cannot speak for any other board or its licensees, it recognizes the need for providers of health care to be clearly and accurately identified by profession. Whether "nurse," "dentist" or "acupuncturist," titles of licensure have specific meaning and should only apply to those professionals who have the education, training, experience or other qualifications to provide the care associated with that profession.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Sanitarians

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 5 members (term expiration in parentheses)

<p>Sanitarians = 3 Susan Brueggeman, Polson (7/1/2014) Rodney Fink, Columbus (7/1/2015) James Zabrocki, Miles City (7/1/2013)</p>	<p>Public members = 2 Eugene Pizzini, East Helena (7/1/2014) Gene Townsend, Three Forks (7/1/2014)</p>
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Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
Total	195	185	186	181

Licensing Fees (since 2011)

Application fee	\$200	Examination or reexamination	\$350
Annual renewal fee	\$180	Inactive renewal fee	\$90
Sanitarian-in-training application fee	\$200		
Sanitarian-in-training (National Environmental Health Association) application .. \$100			

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009	\$34,873		\$35,857	
FY 2010	\$33,854		\$24,830	
FY 2011	\$33,250		\$26,944	
FY 2012	\$32,220		\$25,126	
FY 2015 biennium*	--		\$63,886	

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$7,339	\$1,138	\$1,043	\$3,951	\$795

Operating Expenses		
Consulting, Printing, IT, Other	\$1,177	\$1,323
Supplies, incl. Computer	\$288	\$481
Postage, mailing, IT network, voice services	\$185	\$412
Travel/Per Diem for Board Members	\$515	
Rent and other expenses*	\$1,712	\$2,028
Legal and hearings	\$2,739	
Total (may be affected by rounding)	\$13,955	\$11,171

*Includes rent of \$853, computer and office equipment repair of \$25, and dues, education & training, and fee collection expenses of \$834 for direct expenses and prorated rent and computer/equipment repair contracts of \$5, DLI OIT expense of \$1,016 and indirect agency of \$1,007 for indirect expenses.

Number of Complaints

FY 09	.....	1
FY 10	.....	0
FY 11	.....	0
FY 12	.....	1

Disciplinary Action (may be from other years)

Dismissed 1, Investigations 1
Dismissed 1, Investigations 1
Investigations 1
Dismissed 1

Scope of Practice

The practice of the "*profession of sanitarian*" is defined in 37-40-101, MCA, as: "(a) giving advice on or enforcing compliance with state and local regulations applicable to local government jurisdictions and programs concerning food service, food processing, public accommodations, trailer courts, campgrounds, day-care centers, schools, swimming pools and spas, air pollution, solid and hazardous waste collection and disposal, sewage treatment and disposal, vector control, underground storage tanks, drinking water, land subdivision, and milk sanitation; (b) cooperating with government agencies on matters of public and environmental health, including epidemiological investigations and emergency response to investigations; and (c) providing educational and training programs in environmental standards and public health."

2013 Legislation Impacting Board or Profession

* Two bills affecting farmers markets, which sanitarians oversee. Both **HB 333** and **HB 399** exempt from licensure by the state: farmers selling whole shell eggs at farmers markets (HB 333) or those selling/offering hot beverages at farmers markets (HB 399).

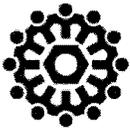
***HB 630** requires the departments of Agriculture, Livestock, and Public Health and Human Services to review Montana food laws for streamlining, updating, and compliance with the federal Food Safety Modernization Act, among other activities.

***SB 94** exempts people who exchange certain canned goods from being licensed by the state as a food establishment.

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Sanitarians licensees --

Comments summarized separately.



To: Economic Affairs Interim Committee

From: Montana Board of Sanitarians

Date: June 10, 2013

Subject: HB525 – SAN response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

Registered Sanitarians (RS) are part of the public health system that includes registered public health nurses, epidemiologists, and others concerned with issues of public health significance. The profession of sanitarian is also known as Environmental Health Specialist. Environmental Health addresses the interaction between human health and the environment. Our health is affected by the quality of air, land, food and water resources. Maintaining and improving public health by managing those environmental factors that affect health is the goal of this professional group.

Examples of duties associated with the environmental health field include:

- On-site wastewater treatment system permitting, design and inspection
- Assuring wastewater system compliance with the Montana Water Quality Act
- State licensing and inspection of retail food establishments
- State licensing and inspection of wholesale food manufacturers
- State licensing and inspection of public accommodations
- State licensing and inspection of trailer parks, work camps, campgrounds, youth camps
- State licensing and inspection of pools, spas, and similar facilities
- Licensing and inspection of tattoo parlors
- Inspection of day care centers
- Inspection of group homes for the disabled
- Review of subdivisions under MCA 76-4 Sanitation in Subdivisions Act
 - Includes review of water, wastewater, storm water, and solid waste management facilities
- Air quality program activities
- Solid waste compliance issues
- Public water system inspection under contract with MDEQ
- Education and training on all of the above
- Compliance and enforcement actions on all of the above

In Montana, those working in environmental health for a local government agency are required to be licensed by the Montana Department of Labor and Industry; state employees may require licensure if required by their position description.

2. If your profession/occupation were not licensed, what public protection would be lost?

The areas of environmental health listed above involve not only critical issues of public health but also business development and operation, the legal status of property development, and other private as well as community concerns. It is imperative that the registered sanitarian have an appropriate educational background, continuing educational, and ethical standards to competently address the science of public health, assure compliance with state and local regulations, provide education and training to promote environmental health, and interact with the public and business community in an effective and ethical way.

Without an educational and ethical standard, the administration of public health programs could result in inconsistencies in how public health laws are applied, lack of knowledge in how to protect the public's health based upon valid scientific evidence, application of state law in an unethical manner and without recourse available to the public, and a variety of other substandard practices.

The RS working for a local environmental health program is, essentially, where the state public health standards meet the public. It is critical for both current and future generations that the laws are applied accurately, fairly, and with an informed scientific basis.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Board oversight is essential to the public. State regulations require that a registered sanitarian have a degree in Environmental Health from an accredited college or a degree that is equivalent as determined by the board. Because few applications come from those with an Environmental Health degree, the board routinely reviews applications for educational equivalency. The board also does the required application review to determine if the applicant has licensing or ethics issues in their past that might prevent them from serving the Montana public well as a Registered Sanitarian.

Because Registered Sanitarians routinely deal with applying public health law and standards, it is very important that the citizens of Montana have recourse to the board if they believe they have been treated unfairly or unethically by a sanitarian. While these requests are infrequent, this opportunity to have a hearing to address such a complaint is an essential part of the licensing system.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

The board receives unlicensed practice complaints infrequently. Most of the duties that are included within a sanitarian's scope of practice are carried out by employees of local governments, and most governments are careful to hire qualified and licensed professionals. Many acts that might otherwise fall within the scope of practice as a sanitarian are covered by statutory exemptions that allow engineers, state and federal government public health officials, and individuals who are not employed by or under contract with government entities to perform sanitarian duties without being registered. Current law seems to adequately protect the public without unnecessary restrictions that hinder the work of individuals, businesses, and governments.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The only group required to be licensed are those practicing the profession of sanitarian in their employment with local government or those working for state government whose position descriptions require this licensing. There are many individuals working for private industry, state government, federal government, or self-employed who are qualified and work in areas related to the profession of the sanitarian. Examples are environmental consultants who evaluate land for development, prepare sanitation in subdivision applications, and design on-site wastewater systems. Some qualified persons serve as in-house inspectors for businesses and as trainers for the food industry. These individuals are valuable contributors to our communities; many choose to be professionally licensed as a means to demonstrate their commitment to their profession, public/environmental health, and an ethical standard.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

This board which is composed of three Registered Sanitarians and two members of the public monitor one profession with the two license types of Registered Sanitarian and Sanitarian-in-Training. The structure of the board provides balance in the regulation of the industry. Board members are educated through training to identify and understand conflicts of interest. A member who feels they may have a conflict of interest associated with an application, license, or disciplinary issue can freely recuse themselves from voting.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

Registered Sanitarians are typically members of the Montana Environmental Health Association (MEHA) and/or the National Environmental Health Association (NEHA). MEHA is formed as an affiliate under NEHA. There is no requirement that either MEHA or NEHA exist, so it is possible that any oversight these associations might provide could cease. MEHA does not have, and I would be quite confident that they would not choose to have, any involvement with professional licensing or application of an ethical standard. NEHA has professional licensing: Environmental Health Specialist (EHS) which is comparable to the Montana RS license. One avenue to meeting the Environmental Health Degree equivalency standard of Montana is to have a NEHA EHS license and a Microbiology course. NEHA licensing has not been deemed a suitable replacement for Montana licensing in that it does not have an ethical standard associated with the Environmental Health Specialist certification. The educational standards also vary somewhat from Montana which is a topic currently being addressed by the board.

- 8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?**

No - This issue is not related to Sanitarian registration.

- 9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?**

The board is composed of three Registered Sanitarians and two members of the public. Having members who are part of the profession is very important. This profession is rather unusual and not well-understood. There are only about 100+ sanitarians who work for local government. Therefore, having people who are invested in the profession serve on the board brings understanding regarding both educational and ethical standards that are appropriate for the profession. Having public member on the board is also important in that the purpose of professional licensing is to protect the public whom they represent. The board brings continuity to the process. The Department is valuable in its expertise, but the positions have turnover that can impede understanding. The Department is not an invested party to the registered sanitarian with regard to public relationship.

- 10. Is there an optimum ratio between licensees, board size, or public representation?**

A greater number of licensees allows for a reduced annual licensing fee. The Registered Sanitarian group is one of the smallest license groups; this means our operating costs bring higher fees than that of many professions. While this is not optimal, the sanitarians, when surveyed in 2011, expressed their support of maintaining its own licensing group and board. The ratio on the Board of Sanitarians seems appropriate with three RS and two members of the public. This brings a good balance between those licensed and those protected.

- 11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?**

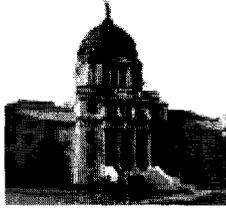
It is of great benefit to have a board who understands the profession. This is especially true with a profession that has a small number of licensees and is often not well understood by the average person. The board structure allows the members to better understand the profession, its needs for educational requirements, judgment when ethical standards are compromised, and the other responsibilities seated with the board. Rarely, does this board address issues of consumer protection. As such, it is not likely the Attorney General's office could develop the relationships and the understanding necessary to determine if the public protection is being adequately served by this profession.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

The closest example relative to this question pertains to Registered Sanitarians and Professional Engineers. There has been some issue raised over the limits of the types of wastewater systems that can be designed by Registered Sanitarians vs engineers. While not part of these conversations, this matter was resolved by the two groups meeting to determine the appropriate line of jurisdiction for the professions. It was determined that a wastewater system with a design flow of 2500gpd or more was to be designed by an engineer. A collaborative attempt to reach consensus would be the best first step with a third party entering the conversation if deemed necessary.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

In order to be protective of the public, there are times when terminology related to a professional should be limited to a licensed person. Boards should be able to limit the use of certain terminology so that the public is not misled or confused by persons describing themselves in professional terms.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Social Work Examiners and Professional Counselors

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 7 members (term expiration in parentheses)

<p>Social Workers = 3 Vonnie Brown, Great Falls (1/1/2017) Kimberly Gardner, Helena (1/1/2017) Henry Pretty On Top, Lodge Grass (1/1/2017)</p>	<p>Professional Counselors = 3 Carol Staben Burroughs, Bozeman (1/1/2015) Peter Degel, Helena (11/1/2015) John Lynn, Missoula (1/1/2017)</p>
<p>Public member = 1 B.A. Tweedy, Helena (1/1/2015)</p>	

Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
- Total	1,651	1,664	1,802	1,881

Licensing Fees (since 2012) All fees same for Social Workers, Professional Counselors, and Marriage and Family Therapists

Application fee \$200 Inactive license fee \$ 88
 Annual renewal fee..... \$175

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009	\$159,469		\$213,402	
FY 2010	\$181,893		\$191,295	
FY 2011	\$197,398		\$223,676	
FY 2012	\$210,111		\$268,963	
FY 2015 biennium*	--		\$532,111	

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$80,235	\$15,715	\$8,174	\$23,369	\$5,733

Operating Expenses	Direct	Indirect
Consulting, Printing, IT, Other	\$15,882	\$5,699
Supplies, incl. Computer	\$2,710	\$1,931
Postage, mailing, IT network, voice srv	\$4,937	\$2,169
Travel/Per Diem for Board Members	\$13,068	
Rent and other expenses*	\$15,437	\$17,186
Legal and hearings	\$56,718	
Total	\$188,987	\$79,976

*Includes computer and office equipment repair of \$219, dues, education & training, plus fee collection expense of \$8,317 and rent of \$6,902 for direct expenses. DLI OIT expense of \$7,216, meeting rooms and repair/maintenance contracts of \$38, and indirect agency, training IT, freight & express, etc. of \$9,932 for indirect expenses.

Number of Complaints

FY 09	.....	42
FY 10	.....	25
FY 11	.....	43
FY 12	.....	54

Disciplinary Action (may be from other years)

Dismissed 28, Other Sanctions 15, Investigations 26
 Revoked 2, Dismissed 23, Other Sanctions 10,
 Investigations 21
 Suspended 4, Dismissed 25, Other Sanctions 6,
 Investigations 21
 Dismissed 35, Other Sanctions 9, Closed 10

Scope of Practice

The practice of social work, as defined in 37-22-102, MCA, is "the professional practice directed toward helping people achieve more adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge of social resources, human capabilities, and the roles that individual motivation and social influences play in determining behavior and involves diagnoses and the application of social work techniques, including: (a) counseling and using psychotherapy with individuals, families, or groups; (b) providing information and referral services; (c) providing, arranging, or supervising the provision of social services; (d) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or groups; (e) helping communities to organize to provide or improve social and health services; (f) research or teaching related to social work; and (g) administering, evaluating, and assessing tests if the licensee is qualified to administer the test and make the evaluation and assessment".

The practice of professional counseling, as defined in 37-23-102, MCA, means "engaging in methods and techniques that include: (a) counseling, which means the therapeutic process of: (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives; or (ii) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health; (b) assessment, which means selecting, administering, scoring, and interpreting instruments, including psychological tests, evaluations, and assessments, designed to assess an individual's aptitudes, attitudes, abilities, achievement, interests, and personal characteristics and using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations; (c) counseling treatment intervention, which means those

cognitive, affective, behavioral, and systemic counseling strategies, techniques, and methods common to the behavioral sciences that are specifically implemented in the context of a therapeutic relationship. Other treatment interventions include developmental counseling, guidance, and consulting to facilitate normal growth and development, including educational and career development. (d) referral, which means evaluating information to identify needs or problems of an individual and to determine the advisability of referral to other specialists, informing the individual of the judgment, and communicating as requested or considered appropriate with the referral sources".

The practice of "marriage and family therapy" as defined in 37-37-102, MCA, means the "diagnosis and treatment of mental and emotional disorders within the context of interpersonal relationships, including marriage and family systems. Marriage and family therapy involves the professional application of psychotherapeutic and family system theories and techniques, counseling, consultation, treatment planning, and supervision in the delivery of services to individuals, couples, and families ... singly or in groups, for a fee, monetary or otherwise, either directly or through public or private organizations".

2013 Legislation Impacting Board or Profession

- HB 133, which did not have a Senate vote on a conference committee amendment and thus died, would have changed the board name to include Marriage and Family Therapists and would have created a new definition of registered candidate for all the professions licensed by the board. A registered candidate was to have been an applicant for licensure registered to obtain postdegree supervised work experience.

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Social Work Examiners and Professional Counselors licensees -

-

Comments summarized separately.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes. A license by definition provides evidence of meeting minimum standards of education, supervision, and competence. As with any profession that requires a large body of knowledge and specific training, only fellow mental health professionals can truly evaluate whether an individual meets the standards of the profession. The Montana board was established in 1983 regulating only Licensed Clinical Social Workers (LCSW) at the time. In 1985 Licensed Clinical Professional Counselors (LCPC) were added to the boards' authority and in 2009 Licensed Marriage and Family Therapists (LMFT). The Board of Social Work Examiners and Professional Counselors is comprised of experienced professionals in the professions they oversee. As required by law, the Governor appoints a seven member board; three members must be Licensed Social Workers, and three must be Licensed Professional Counselors; one member must be appointed from and represent the general public and may not be engaged in social work. The knowledge and expertise of the board members is the best method to deal with oversight issues. Across the United States virtually every state and the District of Columbia regulate Social Workers, Professional Counselors and Marriage and Family Therapist in some fashion. The purpose of creation of a board is oversight of health, safety, and welfare of consumers. Without a board, the consumer has no recourse to appeal to in the event of unethical practice.

4. Does your Board deal with unlicensed practice issues? If yes, what types of issues?

Yes. The board is notified of the conduct of individuals who present themselves as having appropriate education and training to address or handle issues for which they are not qualified. The licensing process assures mental health professionals have received the necessary training and are competent to practice. Without licensing, we as regulators do not know the level of a person's training or body of knowledge.

An issue of unlicensed practice could be a simple misunderstanding, in which a person is reported to the board because he or she has mistakenly advertised as a "counselor" as a generic label. This representation is acceptable. Legally, the same individual is not permitted to use the title of Licensed Clinical Social Worker, Licensed Clinical Professional Counselor or Licensed Marriage and Family Therapist without having met the licensure requirements. Or it could be as serious as a person acting as licensed professional, diagnosing and treating mental illnesses without a license. Likewise, it might involve someone acting in a blatantly fraudulent manner making false claims about mental health services.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

For qualified individuals, the process of licensure is not difficult. Individuals wishing to work as a mental health profession would desire licensure as part of an ethical and best practices means of working in the profession. It protects the licensee as well as the public. If one is not licensed, much confusion, at best, and damage, at worst is risked to the public. The requirements for licensure in Montana are very reasonable and are not felt to be a barrier for entry to the profession. The Legislature declares that the board shall set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage in the practice of professional counseling as License Clinical Social Workers, Licensed Clinical Professional Counselors and Licensed Marriage and Family Therapists. The State of Montana qualifications are closely aligned with existing national standard for the credentials under the jurisdiction of the board. Additionally, board statute provides for a variety of

exemptions including a provision for a temporary license in the event of an out of state licensee working in Montana for a limited number of days. The board does not prevent anyone from earning a living; rather they prevent unqualified practitioners from earning a living at the expense of consumers. Recognition by licensure of these qualifications upholds the high standards of the profession. Licensees are privileged professionals with access to the public under what can be very vulnerable circumstances and so should be under scrutiny to be licensed and to keep that license.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

Board member training provided by the Department of Labor and Industry addresses this issue; board members are advised of the need to recuse themselves from decision-making if a conflict exists. The board and department staff also monitor bias on a case-by-case basis to help ensure that the possibility or perception of bias is avoided, and a carefully guarded and liberally administered public right of participation ensures a critical review of all such decisions. Having a mix of public and professional members who serve together on the board is another safeguard. Three credentials are regulated by the board. The Board of Social Work Examiners and Professional Counselors relies on its members to announce any association or circumstance that might lead to bias or the perception of bias when addressing the tasks put before it. In addition, the board has three built-in checks on potential bias. First, the board is diverse. Of the seven seats no profession holds enough seats to create a quorum or win a majority if all members vote. Three seats are held by Licensed Clinical Social Workers and three seats are held by Licensed Clinical professional Counselors. Second, the board includes one public member seat which is not held by a licensee. We believe this provides even more diversity, as our public member has no vested interest in any of the professions the board oversees. Third, when a complaint enters the compliance process, the two panels involved, Screening and Adjudication are comprised of different members of the board. This insures that a board member who is involved in screening a case is not involved in adjudicating that same case.

7. Does the profession or occupation have one or more Associations that could provide oversight without the need for a licensing board? Why not use the Association as the oversight body?

The Board Social Work Examiners and Professional Counselors views its role differently from the roles played by the professional associations which many of our licensees belong. The Board's role is to protect the public through the rules and statutes it enforces. In contrast, the professional associations work to promote, enhance and advocate on behalf of their respective professional members. At this time, the Board of Social Work Examiners and Professional Counselors is unaware of any effort by a professional association to share or assume the duties assigned to the board by statute or rule.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

Yes. Insurance companies are aware of the advantage of a licensing board being able to determine the qualifications of mental health service providers. The licensees overseen by the Board Social Work Examiners and Professional Counselors must be licensed in order to bill a "third party payer" such as an insurance provider. The board is not aware of any alternative billing method.

9. What are the benefits of a Board being part of the licensing and discipline process instead of the department handling one or both?

The board has the expertise of the Licensed Social Worker and Licensed Professional Counselor members who understand the technical aspects of the profession and one public member to represent the consumer view. Both aspects are essential to effective regulation of the profession, and neither would be available to the department without the use of a board. It is vital that the nuances of each practice are understood. Board members who serve on screening and adjudication panels yield to the expertise of their counterparts to best determine outcomes of reviewed cases. The Board Social Work Examiners and Professional Counselors is made up primarily of experienced and knowledgeable mental health professionals. As such, board members have a clear understanding of the education, training and knowledge base needed to qualify as a professional in their respective areas of expertise. They also understand the terminology of their respective professions. Therefore, it is appropriate and wise for the board to set the standards of licensing and professional practice.

10. Is there an optimum ratio between licensees, board size, or public representation?

There may be. We can report that the size of our board works well, in terms of both license review and the disciplinary process with one exception. Currently the Licensed Marriage and Family Therapist credential is not represented on the board. The board has licensed Marriage and Family Therapists since 2009. The majority of these licensees hold a dual credential, i.e. a Social Worker or Professional Counselor license in addition to the Marriage and Family Therapist license. Since 2009, board members have pined over the need to have a "pure" LMFT seated at the table in dealing with issues that arise for that particular license. The board has also requested the LMFT Association return to the legislature and request the board be expanded to include a seat for LMFT. The response received from the Association cited a limit in financial resources to support lobbying efforts to enact a new law. The board intends to pursue future requests of the Association for a board seat for Licensed Marriage and Family Therapist. For now, a seven person board will suffice in meeting the work load.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

The regulating entity must have adequate knowledge of standards of care, with which the board is already uniquely equipped because of its professional members. A disinterested third party would spend significant time and money learning the profession and hiring consulting mental health professionals in various areas of the profession to address issues as they arise. Fraud issues such as insurance billing and Medicare/Medicaid deception are not uncommon. A board of licensees of the profession is very invested in monitoring their own profession and also has expertise in the scope of practice of that profession and specifically the safety issues needing monitoring and boundaries.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

The scope of practice involving counseling is shared by other licensed mental health professionals. While some of this overlap is expected, it is important to assure that a licensee's practice is not allowed to expand beyond the content and level of education and training associated with the license they hold.

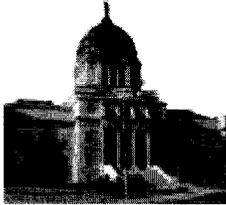
The public should be able to rely on the distinct titles associated with licensure that indicates the level of education and training associated with that person's practice. Licensed professionals should not exceed their scope of practice. Such conduct would be considered unprofessional and would be subject to discipline by the board which regulates that individual's practice. If the conduct entered into another board's area of professional expertise, then the second board would be justified in taking action for unlicensed practice. In many cases, the best course of action, and that recommended by the board is for the individual to seek an additional license to avoid a scope of practice issue. The Board of Social Work Examiners and Professional Counselors recognizes that issues such as scope of practice will arise periodically, and will continue to work cooperatively with other regulatory boards. Cooperation can resolve issues and we have confidence in the strong working relationships among boards and staff.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Because of the public trust in the Professional Counseling, Social Work and Marriage and Family Therapy professions, the use of the terms LCSW (Licensed Clinical Social Worker), LCPC (Licensed Clinical Professional Counselor, and LMFT, (Licensed Marriage and Family Therapist) should be limited to those holding the qualifications to be duly licensed.

Finally, the board is aware that this committee received comments at its final meeting of 2012. The board listened with great concern over the comments and would like to respond and provide an update to the committee of actions taken since that time. Two individuals raised a number of concerns regarding the board's processes involving complaints of misconduct by licensees at the September 11, 2012, Economic Affairs Interim Committee. The committee requested a response, and the board's understanding is that Ms. Vivian Hammill, the Chief of Staff for the Schweitzer administration, had already written to address those concerns. The board does not wish to provide redundant responses to the committee's request; however, the board would welcome an opportunity to provide further information to the committee should it so desire. In addition, the board believes that the Department of Labor and Industry has implemented policy changes related to the conduct of meetings and disciplinary proceedings by all boards that will address some of the committee's and citizens' concerns. Finally, with the enactment of SB 64, the board believes that complaints will be reduced significantly, because licensees will have immunity from disciplinary actions arising from parenting evaluations.

The board looks forward to providing you with any additional information you may need.



Legislative Background Brief

for the
Economic Affairs Interim Committee

June 2013

Board of Speech-Language Pathologists and Audiologists

Prepared by Pat Murdo, Legislative Research Analyst, with help from the Business Standards Division

Board = 5 members (term expiration in parentheses)

<p>Speech-Language Pathologists = 2 Cheri Fjare, Big Timber (12/31/2013) Alida Wright, Columbia Falls (12/31/2013)</p>	<p>Audiologists = 2 Lynn Harris, Missoula (12/31/2014) Tina Hoagland, Billings (12/31/2014)</p>
<p>Public member/Consumer = 1 Beverly Stiller, Lame Deer (12/31/2013)</p>	

Number of Licensees	FY 2009	FY 2010	FY 2011	FY2012
- Total	586	625	672	464

Licensing Fees (since 2006) Fees same for Speech-Language Pathologists & Audiologists

Application fee	\$ 50	Inactive license fee	\$ 50
Original license fee	\$ 50	Combined application/temporary license fee ..	\$50
Annual renewal fee.....	\$100	Registration as speech-language pathologist aide/assistant or audiologist aide/assistant	\$50

Revenues FY2009-FY2012 and Expenditures for FY 2009-2012

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009	\$50,778		\$42,514	
FY 2010	\$53,343		\$47,236	
FY 2011	\$52,960		\$46,799	
FY 2012	\$55,580		\$64,127	
FY 2015 biennium*	--		\$124,050	

*Appropriation Authority In House Bill 2

Expenditures, FY 2012	Direct	Indirect			
		Admin	Div. IT/Bureau	Compliance	Bureau
Personal Services, incl. per diem	\$32,611	\$2,699	\$2,695	\$222	\$1,642

Operating Expenses		
Consulting, Printing, IT, Other	\$4,259	\$1,384
Supplies, incl. Computer	\$1,569	\$413
Postage, mailing, IT network, voice srv	\$686	\$536
Travel/Per Diem for Board Members	\$3,424	
Rent and other expenses*	\$4,400	\$4,599
Legal and hearings	\$2,988	
Total (may be affected by rounding)	\$49,937	\$14,190

*Includes rent of \$1,656, computer and office equipment repair of \$81, dues, education & training, and fee collection expense of \$2,662 for direct expenses and pro-rated meeting rooms, maintenance contracts of \$8, DLI OIT expense of \$1,588 and indirect agency of \$3,003 for indirect expenses.

Number of Complaints

FY 09	.....	0
FY 10	.....	1
FY 11	.....	0
FY 12	.....	0

Disciplinary Action (may be from other years)

Investigations 1
Dismissed 1, Investigations 1
Investigations 1

Scope of Practice

The practice of *audiology* is defined in 37-15-102, MCA, as "nonmedical diagnosis, assessment, and treatment services relating to auditory and vestibular disorders as provided by board rule and includes the selling, dispensing, and fitting of hearing aids". The scope of practice is further defined in 24.222.525 to include otoscopic examination and external ear canal management for removal of cerumen for evaluation and ear impressions among other activities.

The practice of *speech-language pathology* is defined in 37-15-102, MCA, as "nonmedical diagnosis, assessment, and treatment services relating to speech-language pathology as provided by board rule". The scope of practice is further defined in 24.222.520 to include screening, identification, intervention, and the provision of followup services for speech or language disorders, among other specifications.

2013 Legislation Impacting Board or Profession

- HB 133, which did not have a Senate vote on a conference committee amendment and thus died, would have revised the Board of Hearing Aid Dispensers to include as optional an audiologist member.
- SB 230 authorized use of telepractice for licensees of the Board of Speech-Language Pathologists and Audiologists. Telepractice is to be equivalent in quality to in-person service.

Summary of Responses from Survey as made through June 3, 2013:

of Responses from Board of Speech-Language Pathologists and Audiologists licensees -- Comments summarized separately.



Montana Department of
LABOR & INDUSTRY

Steve Bullock, Governor
Pam Bucy, Commissioner

Business Standards Division
Adam de Yong, Acting Division Administrator

To: Economic Affairs Interim Committee

From: Montana Board of Speech-Language Pathologists and Audiologists

Date: June 10, 2013

Subject: HB525 – SLP response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

As per the Board of Speech-Language Pathologists and Audiologists mission statement: "in order to safeguard the public health, safety, and welfare and to protect the public from being misled by incompetent, unscrupulous, and unauthorized persons and to protect the public from unprofessional conduct by qualified Speech-Language Pathologists and Audiologists and to help ensure the availability of the highest possible quality Speech-Language Pathology and Audiology services to the people of this state with communicative disorders, it is necessary to provide regulatory authority over persons offering Speech-Language Pathology or Audiology services to the public."

The board believes that the public relies on it to diligently review public complaints filed against licensees and take necessary actions if just cause is given for discipline as a mean to protect and give safe and effective services to Montana's citizens. The board takes this role seriously by only licensing applicants who have demonstrated the proper credentials and responsible citizenship.

2. If your profession/occupation were not licensed, what public protection would be lost?

Persons with communicative disorders, especially the elderly, the young, and the disabled are particularly vulnerable and protection for these consumers is needed. A consumer who is violated would have very little recourse except through the legal system, which can be very costly and time consuming. Under the current system, the board ensures the public's protection through qualifications for licensure and discipline of licensees for unprofessional conduct fairly quickly and with little or no cost to the patient.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

The Montana board was established in 1975 to regulate Speech-Language Pathologists and Audiologists and three levels of Speech Language Pathology and Audiology Aides and Assistants. In the United States 48 states and the District of Columbia regulate Speech-Language Pathologists and Audiologists; Colorado and South Dakota regulate only Audiologists. The purpose for the creation of a board is oversight of health, safety, and welfare of consumers. Who better to oversee these elements than members of the profession and a consumer? As required by law, the Board of Speech-Language Pathologists and Audiologists includes practitioners from various areas of practice. "At least two members of the board shall be Speech-Language Pathologists and at least two shall be Audiologists, with the remaining member to be a public member who is a

consumer of speech-language pathology or audiology services and who is not a licentiate of the board or of any other board within the department. All board members, except the public member, shall at all times be validly licensed in Speech-Language Pathology or Audiology." The mix of talent on the board is the best method to deal with oversight issues.

The board protects the public from incompetent, unprofessional, and unethical providers of speech services through the licensure and regulation of qualified professionals. The board establishes and monitors education, supervision, and exam requirements for new licensees as well as monitors existing licensees through the complaint review, continuing education and renewal requirements. Without a board, the consumer has no recourse to appeal in the event of unethical practice.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Occasionally the board is faced with the conduct of individuals who often are licensed in another jurisdiction and who wish to practice in Montana. These individuals fail to understand that though they hold a credential in another state they are, by statute and rule, required to hold a license in Montana. At the present time, the board is dealing with a changing licensing environment because of changes in demographics and technology. Telepractice has risen to the forefront of practice issues for the profession and the board. The board has proactively begun the rule writing process on telepractice services to ensure that all Montana consumers continue to receive safe and quality service no matter the method of service delivery.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The Legislature finds and declares that Speech-Language Pathologists and Audiologists and Aides and Assistants shall meet the qualifications set forth in statute and provided by board rule. Additionally, board statute provides for a variety of exemptions including a provision for a temporary license in the event of an out of state licensee working in Montana for a limited number of days. Individuals who are qualified to be a Speech Language Pathologist or Audiologist would not object to being licensed. Individuals who have an interest in the profession understand early in their career that licensure is required and necessary. Furthermore the cost of securing licensure is minimal. The board does not prevent anyone from earning a living; rather the board prevents unqualified practitioners from earning a living at the expense of consumers. In addition to full licensure, the board permits further competent services for consumers by offering a registration category for Speech-Language Pathology and Audiology Aides and Assistants. Anyone who has interest in the profession but who falls short of the education, supervision or exam requirements for full licensure can enter the field and practice under the close supervision of a licensed professional.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

The board regulates two license types, Speech-Language Pathologist and Audiologists and register Aides and Assistants. The board composition includes an equal number of Speech-Language Pathologists and Audiologists even though the number of licensed Speech-Language Pathologists far exceeds the number of Audiologists. In addition, the screening and adjudication panels are balanced among the two license types. The Department of Labor and Industry provides board member training for all appointed members. Board members are advised to recuse themselves from decision-making if an actual conflict or the appearance of a conflict exists. The presiding officer and staff including an attorney also monitor bias on a case-by-case basis to help ensure that the possibility or perception of bias is avoided.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

The board concerns itself with protection of consumers where associations concern themselves with practitioners. The mission of the Montana Speech-Language Hearing Association is to provide educational and networking opportunities for members; advocate for those with communication disabilities and the issues related to our professions; and educate the public about communication disorders. The commitment of the American Speech-Language Hearing Association is to ensuring that all people with speech, language, and hearing disorders receive services to help them communicate effectively. The board's mission is to protect the public through the licensure and regulation of Speech-Language Pathologists and Audiologists. The current licensure mechanism is the most practical, efficient, and unbiased approach to meeting this requirement. An association does not have the legal authority to investigate complaints or discipline professionals.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

Service providers must be licensed in order to bill Medicare, Medicaid or insurance companies. The board is not aware of any alternative billing method.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

It is vital that the nuances of each professional practice be understood. Board members who serve on screening and adjudication panels yield to the expertise of their counterparts to best determine outcomes of reviewed cases.

10. Is there an optimum ratio between licensees, board size, or public representation?

Yes. A working board of less than 5 can have members entrenched in thinking patterns. Further, to satisfy the need for a quorum, members may be absent without the risk of losing a quorum.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

A board of licensees of the profession is very invested in monitoring their own profession and also has expertise in the scope of practice of that profession and specifically the safety issues needing monitoring and boundaries. A disinterested third party would spend significant time and money either learning the profession or hiring consultants in various areas of the profession to address practice and conduct issues.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

In the health care system there is overlap from the variety of health care professionals. Each has a defined scope of practice, but the board feels it takes a lot of health care personnel to get the job done and that an inter-professional team approach is necessary for high quality patient care. Yes, there are conflicts and it is the hope of the board that health care licensing boards work together to address these issues in the common goal of providing excellent professionals to deliver the best care possible as issues arise.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Because of the public trust in the profession as a whole, the use of the terms Speech-Language Pathologist, and Speech-Language Pathology Aide or Assistant, Audiologist, Audiology Aide or Assistant, should be limited to those holding the qualifications.

The board looks forward to meeting with you upon your request at an up and coming meeting.