



AN ACT REVISING PROFESSIONAL AND OCCUPATIONAL LICENSING LAWS; REVISING AND CLARIFYING CERTAIN BOARD MEMBER REQUIREMENTS, BOARD TERMS, AND BOARD COMPOSITION; REQUIRING SENATE CONFIRMATION OF APPOINTMENTS TO THE BOARD OF RESPIRATORY CARE PRACTITIONERS AND THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; REVISING CERTAIN REGULATORY AND LICENSURE REQUIREMENTS; REVISING CERTAIN BOARD DUTIES; REVISING PROVISIONS RELATING TO UNPROFESSIONAL CONDUCT; REVISING HEARING AID DISPENSER TRAINEE AND BOARD DUTIES; CREATING A TEMPORARY PRACTICE PERMIT IN ADDICTION COUNSELING; REVISING CERTAIN LICENSING REQUIREMENTS FOR PUBLIC ACCOUNTANTS AND FIRMS; REMOVING AUTHORIZATION FOR LAETRILE MANUFACTURE, SALE, POSSESSION, AND DISTRIBUTION; AMENDING SECTIONS 2-15-1738, 2-15-1740, 2-15-1741, 2-15-1744, 2-15-1748, 2-15-1750, 2-15-1753, 2-15-1756, 23-3-501, 30-11-515, 37-1-316, 37-1-410, 37-3-102, 37-3-305, 37-3-306, 37-3-308, 37-3-311, 37-3-323, 37-3-342, 37-4-501, 37-8-202, 37-9-203, 37-9-301, 37-9-302, 37-9-305, 37-9-312, 37-10-302, 37-16-202, 37-16-405, 37-16-411, 37-16-413, 37-18-302, 37-25-303, 37-29-201, 37-35-201, 37-35-202, 37-36-202, 37-47-302, 37-47-404, 37-50-101, 37-50-102, 37-50-203, 37-50-301, 37-50-314, 37-50-330, 37-50-335, 37-50-341, 37-50-401, AND 37-50-402, MCA; AND REPEALING SECTIONS 37-21-101, 37-21-201, 37-21-301, 37-21-302, 37-21-405, 37-21-406, 37-50-323, 37-50-324, 50-41-101, 50-41-102, 50-41-103, 50-41-104, 50-41-105, 50-41-106, AND 50-41-107, MCA.

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

Section 1. Practice privilege for nonresident certified public accountant -- rules. (1) (a) A person whose principal place of business is not in this state and who holds a valid license as a certified public accountant from any state that the national association of state boards of accountancy national qualification appraisal service or successor organization has verified to be in substantial equivalence with the certified public accountant licensure requirements of the Uniform Accountancy Act or subsequent act of the American institute of certified public accountants/national association of state boards of accountancy has qualifications substantially equivalent

to this state's requirements and has all the privileges of persons holding a certificate and a permit of this state without the need to obtain a certificate under 37-50-302 or a permit under 37-50-314.

(b) A person who offers or renders professional services under this section, whether in person, by mail, by telephone, or by electronic means, is granted practice privileges in this state and no notice, fee, or other submission is required. The person is subject to the requirements of subsections (3) and (4) and this subsection (1).

(2) (a) A person whose principal place of business is not in this state and who holds a valid license as a certified public accountant from any state that the national association of state boards of accountancy national qualification appraisal service or successor organization has not verified to be in substantial equivalence with the certified public accountant licensure requirements of the Uniform Accountancy Act or subsequent act of the American institute of certified public accountants/national association of state boards of accountancy has qualifications substantially equivalent to this state's requirements and has all the privileges of persons holding a certificate and a permit of this state without the need to obtain a certificate under 37-50-302 or a permit under 37-50-314 if the person obtains verification from the national association of state boards of accountancy national qualification appraisal service that the person's CPA qualifications are substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act of the American institute of certified public accountants/national association of state boards of accountancy.

(b) A person who has passed the uniform certified public accountant examination and holds a valid license issued by any other state prior to January 1, 2012, is exempt from the education requirements in the Uniform Accountancy Act or subsequent act for purposes of this subsection (2).

(c) A person who offers or renders professional services under this subsection (2), whether in person, by mail, by telephone, or by electronic means, is granted practice privileges in this state and no notice, fee, or other submission is required. The person is subject to the requirements of subsections (3) and (4) and this subsection (2).

(3) A licensee of another state exercising the privilege under this section and the firm that employs that person, as a condition of the grant of this privilege:

- (a) are subject to the personal and subject matter jurisdiction and disciplinary authority of the board;
- (b) shall comply with this chapter and the board's rules;
- (c) shall cease offering or rendering professional services in this state individually or on behalf of a firm

if the license from the state of the person's principal place of business is no longer valid; and

(d) shall accept the appointment of the state board that issued the license as the agent upon whom process may be served in any action or proceeding by the board of public accountants against the licensee.

(4) A person who has been granted practice privileges under this section and who, for any client with its home office in this state, performs any attest services or compilations may do so only through a firm registered under 37-50-335.

Section 2. Section 2-15-1738, MCA, is amended to read:

"2-15-1738. Board of radiologic technologists. (1) There is a board of radiologic technologists.

(2) The board consists of seven members appointed by the governor with the consent of the senate, including:

(a) ~~one member shall be~~ a radiologist licensed to practice medicine in Montana;

(b) ~~one member shall be a physician licensed to practice medicine in Montana who employs at least one person granted a permit issued by the board pursuant to 37-14-306;~~

(e)(b) ~~one member shall be~~ a person granted a permit issued by the board pursuant to 37-14-306;

(d)(c) ~~one member shall be~~ a public member; and

(e)(d) ~~three members shall be~~ four licensed radiologic technologists registered with the American registry of radiologic technologists (ARRT) ~~who, with the exception of the first appointed members, are licensed radiologic technologists, including one radiologist assistant or radiology practitioner assistant licensed under 37-14-313.~~

(3) Vacancies in unexpired terms ~~shall~~ must be filled for the remainder of the term.

(4) Each member shall serve ~~for a term of 3 years~~ 3-year terms.

(5) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 3. Section 2-15-1740, MCA, is amended to read:

"2-15-1740. Board of hearing aid dispensers. (1) There is a board of hearing aid dispensers.

(2) The board consists of ~~seven~~ five members appointed by the governor with the consent of the senate: ~~The members are:~~ including:

(a) ~~one member who shall hold or be eligible for a certificate of qualification from the American board of otolaryngology;~~

~~(b)(a)~~ two members, each of whom has been a licensed hearing aid dispenser for at least 5 years, possesses ~~national certification in audiology~~ a current audiologist license issued under Title 37, chapter 15, and has a master's level college degree;

~~(e)(b)~~ two members, each of whom does not hold a master's level college degree in audiology but has been a licensed dispenser and fitter of hearing aids for at least 5 years before being appointed to the board; and

~~(d)(c) two one public members member,~~ each of whom is not in the hearing health field and one of whom who is either an otolaryngologist or a person who is not a licensed hearing aid dispenser or a licensed audiologist and who regularly uses a hearing aid because the person has of a demonstrated hearing impairment.

(3) Each member shall serve for ~~a term of 3 years~~ 3-year terms. A member may not be reappointed within 1 year after the expiration of the member's second consecutive full term.

(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 4. Section 2-15-1741, MCA, is amended to read:

"2-15-1741. Board of psychologists. (1) There is a board of psychologists.

(2) The board consists of six members appointed by the governor with the consent of the senate. Two members must be licensed psychologists in private practice, one member must be a licensed psychologist in public health, one member must be a licensed psychologist engaged in the teaching of psychology, and two members must be from the general public. A member may not serve more than two consecutive 5-year terms ~~but may be reappointed after 5 years following the termination of the previous appointment.~~

(3) Members shall serve staggered 5-year terms.

(4) The board is allocated to the department for administrative purposes only, as prescribed in 2-15-121."

Section 5. Section 2-15-1744, MCA, is amended to read:

"2-15-1744. Board of social work examiners and professional counselors. (1) (a) The governor shall appoint, with the consent of the senate, a board of social work examiners and professional counselors consisting of seven members.

(b) Three members must be licensed social workers, and three must be licensed professional counselors.

(c) One member must be appointed from and represent the general public and may not be engaged in

social work.

(2) The board is allocated to the department for administrative purposes only as provided in 2-15-121.

(3) ~~Members are appointed, serve, and are subject to removal in accordance with 2-15-124~~ Members shall serve staggered 4-year terms."

Section 6. Section 2-15-1748, MCA, is amended to read:

"2-15-1748. Board of physical therapy examiners. (1) There is a board of physical therapy examiners.

(2) The board consists of five members appointed by the governor with the consent of the senate for terms of 3 years. The members are:

(a) ~~three~~ four physical therapists licensed under Title 37, chapter 11, who have been actively engaged in the practice of physical therapy for the 3 years preceding appointment to the board; and

~~(b) one physician licensed under Title 37, chapter 3, who has been actively engaged in the practice of medicine for the 3 years preceding appointment to the board; and~~

~~(c)~~(b) one member of the general public who is not a physician or a physical therapist.

(3) Each member must have been a resident of Montana for the 3 years preceding appointment to the board.

~~(4) The Montana medical association may submit names of nominees under subsection (2)(b) to the governor as provided in 37-1-132.~~

~~(5)~~(4) A vacancy on the board must be filled in the same manner as the original appointment. These appointments may be made only for the unexpired portions of the term.

~~(6)~~(5) A member may not be appointed for more than two consecutive terms.

~~(7)~~(6) The governor may remove any board member for negligence in performance of any duty required by law and for incompetence or unprofessional or dishonorable conduct.

~~(8)~~(7) A board member is not liable to civil action for any act performed in good faith in the execution of the duties required by Title 37, chapter 11.

~~(9)~~(8) The board shall provide for its organizational structure by rule, which must include a presiding officer, vice presiding officer, and secretary-treasurer.

~~(10)~~(9) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 7. Section 2-15-1750, MCA, is amended to read:

"2-15-1750. Board of respiratory care practitioners. (1) There is a board of respiratory care practitioners. The board consists of five members appointed by the governor with the consent of the senate. Each member must be a citizen of the United States and a resident of this state. The governor may request advice from the Montana society for respiratory care in making appointments to the board.

(2) The board consists of:

(a) subject to subsection (3), three respiratory care practitioners, each of whom has engaged in the practice of respiratory care for a period of at least 3 years immediately preceding appointment to the board; ~~At least one of these members must have passed the registry examination for respiratory therapists administered by the national board for respiratory care, and at least one of these members must have passed the entry-level examination for respiratory therapy technicians administered by the national board for respiratory care.~~

(b) ~~one physician licensed in Montana who has a special interest in the treatment of cardiopulmonary diseases~~ respiratory care practitioner who has engaged in the practice of respiratory care for at least 3 years immediately prior to appointment and who specializes in pulmonary functions or sleep studies; and

(c) one member of the public who is not a member of a health care profession.

(3) At least one of the members appointed under subsection (2)(a) must have passed the registry examination for respiratory therapists administered by the national board for respiratory care, and at least one of the members must have passed the entry-level examination for certified respiratory therapists administered by the national board for respiratory care.

~~(3)(4) Members are appointed, serve, are compensated, and are subject to removal as provided in 2-15-124 shall serve staggered 4-year terms.~~

~~(4)(5) The board is allocated to the department of labor and industry for administrative purposes only as provided in 2-15-121."~~

Section 8. Section 2-15-1753, MCA, is amended to read:

"2-15-1753. Board of clinical laboratory science practitioners. (1) There is a board of clinical laboratory science practitioners.

(2) The board is composed of five members who have been residents of this state for at least 2 years

prior to appointment and who are actively engaged in their respective practices.

(3) Members are appointed by the governor, with consent of the senate. The members are:

~~(a) one physician who is qualified to direct a high complexity laboratory as provided for in the federal clinical laboratory regulations set forth in 42 CFR part 493;~~

~~(b)~~(a) ~~three~~ four clinical laboratory science practitioners who, ~~except for the initial appointments;~~ hold active licenses as clinical laboratory science practitioners in Montana; and

~~(c)~~(b) one public member who is not associated with or financially interested in the practice of clinical laboratory science.

(4) ~~Following the initial appointments of members to the board, all members~~ Members shall serve staggered 4-year terms. ~~The terms of the initial appointments must be staggered, with three members serving 4-year terms and two members serving 2-year terms.~~ A member may not serve more than two consecutive terms.

(5) Whenever a vacancy occurs on the board during a term of office, the governor shall appoint a successor with similar qualifications for the remainder of the unexpired term.

(6) The board is allocated to the department for administrative purposes only, as provided in 2-15-121.

(7) Members of the board are entitled to compensation and travel expenses as provided ~~by law~~ for in 2-18-501 through 2-18-503."

Section 9. Section 2-15-1756, MCA, is amended to read:

"2-15-1756. Board of public accountants. (1) There is a board of public accountants.

(2) The board consists of seven members appointed by the governor. The members are:

(a) ~~four~~ except as provided in subsection (3), five certified public accountants certified under Title 37, chapter 50, who are certified and actively engaged in the practice of public accounting and who have held a valid certificate for at least 5 years before being appointed; ~~and. The Montana society of certified public accountants shall submit to the governor annually a list of names of two candidates from which the appointments of these members may be made. However, the governor is not restricted to the names on this list. These members may not be residents of the same county.~~

~~(b) one licensed public accountant licensed under Title 37, chapter 50, who is actively engaged in the practice of public accounting and who has held a valid license for at least 5 years before being appointed. When an appointment in this category is necessary, the Montana society of public accountants shall submit to the~~

~~governor a list of names of two candidates from which the appointment may be made. However, the governor is not restricted to the names on this list. If there is no licensed public accountant known by the governor to be qualified and willing to serve in this position, the governor may appoint a certified public accountant meeting the qualifications provided in subsection (2)(a):~~

~~(c)(b)~~ two members of the general public who are not engaged in the practice of public accounting.

~~(3) The board may include four certified public accountants pursuant to subsection (2)(a) and one licensed public accountant licensed under Title 37, chapter 50, who is actively engaged in the practice of public accounting and who has held a valid license for at least 5 years prior to appointment.~~

~~(4) Professional associations of public accountants may submit to the governor a list of names of two candidates for each position from which the appointment pursuant to subsection (2)(a) may be made. However, the governor is not restricted to the names on the list. The list may include recommendations for a certified public accountant or a licensed public accountant.~~

~~(3)(5) Each appointment is subject to confirmation by the senate and must be submitted for consideration at the next regular session following appointment.~~

~~(4)(6) The members shall serve staggered 5-year 4-year terms. A member may not serve consecutive 5-year terms on the board. A member is eligible for reappointment to the board after 1 year or more has elapsed. The governor may remove a member for neglect of duty or other just cause.~~

~~(5)(7) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."~~

Section 10. Section 23-3-501, MCA, is amended to read:

"23-3-501. Licenses -- fees. (1) The department may issue a ~~license to a professional or semiprofessional promoter of combative events, whether an individual or organization, promoter's license to an individual~~ for the sole purpose of conducting professional or semiprofessional combative events.

(2) The department may issue licenses to qualified referees, managers, contestants, seconds, trainers, and judges.

(3) A license issued in accordance with subsections (1) and (2) expires on the date set by department rule.

(4) Each application for a license under this section must be accompanied by a fee, as provided in

37-1-134, set by the department."

Section 11. Section 30-11-515, MCA, is amended to read:

"30-11-515. Enforcement. The provisions of this part must be enforced by ~~the department of labor and industry~~ and the county attorney of the county in which the violation occurred."

Section 12. Section 37-1-316, MCA, is amended to read:

"37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this ~~chapter~~ part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

~~(10) addiction to or dependency on a habit-forming drug or controlled substance as defined in Title 50, chapter 32, as a result of illegal use of the drug or controlled substance;~~

~~(11)~~(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

~~(12)~~(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

~~(13)~~(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

~~(14)~~(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

~~(15)~~(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

~~(16)~~(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

~~(17)~~(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

- (a) peer review committee;
- (b) professional association; or
- (c) local, state, federal, territorial, provincial, or Indian tribal government;

~~(18)~~(17) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards."

Section 13. Section 37-1-410, MCA, is amended to read:

"37-1-410. Unprofessional conduct. ~~(1)~~ The following is unprofessional conduct for a licensee or license applicant in a profession or occupation governed by this ~~chapter~~ part:

~~(a)~~(1) being convicted, including a conviction following a plea of nolo contendere and regardless of a pending appeal, of a crime relating to or committed during the course of practicing the person's profession or occupation or involving violence, the use or sale of drugs, fraud, deceit, or theft;

~~(b)~~(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

~~(c)~~(3) committing fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

~~(d)~~(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

~~(e)~~(5) making a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

~~(f)~~(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

~~(g)~~(7) receiving a denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal or under judicial review or has been satisfied;

~~(h)~~(8) failing to comply with a term, condition, or limitation of a license by final order of the department;

~~(i)~~(9) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

~~(j)~~(10) misappropriating property or funds from a client or workplace or failing to comply with the department's rule regarding the accounting and distribution of a client's property or funds;

~~(k)~~(11) interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts, failure to respond to department inquiries regarding a complaint against the licensee or license applicant, or the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action or use of threats or harassment against or inducement to a

person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

~~(12)~~ assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice the profession or occupation by use of the licensee's license;

~~(2)~~ For the purposes of Title 37, chapters 72 and 73, and Title 50, chapters 74 and 76, the following additional practices are considered unprofessional conduct:

~~(a)~~ addiction to or dependency on alcohol, an illegal drug, or a dangerous drug, as defined in Title 50, chapter 32;

~~(b)~~ ~~use of~~ using alcohol, an illegal drug, or a dangerous drug, as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

or

~~(c)~~ exhibiting conduct that does not meet generally accepted standards of practice. A certified copy of a judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring within the scope of practice and the course of the practice is considered conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards."

Section 14. Section 37-3-102, MCA, is amended to read:

"37-3-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Approved internship" means an internship training program of at least 1 year in a hospital that is either approved for intern training by the American osteopathic association or conforms to the minimum standards for intern training established by the council on medical education of the American medical association or successors. However, the board may, upon investigation, approve any other internship.

(2) "Approved medical school" means a school that either is accredited by the American osteopathic association or conforms to the minimum education standards established by the council on medical education of the American medical association or successors for medical schools or is equivalent in the sound discretion of the board. The board may, on investigation of the education standards and facilities, approve any medical school, including foreign medical schools.

(3) "Approved residency" means a residency training program in a hospital conforming to the minimum

standards for residency training established by the council on medical education of the American medical association or successors or approved for residency training by the American osteopathic association. ~~However, the board may upon investigation approve any other residency.~~

(4) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

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

(6) "Medical assistant" means an unlicensed allied health care worker who functions under the supervision of a physician or podiatrist in a physician's or podiatrist's office and who performs administrative and clinical tasks.

(7) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.

(8) "Practice of medicine" means the diagnosis, treatment, or correction of or the attempt to or the holding of oneself out as being able to diagnose, treat, or correct human conditions, ailments, diseases, injuries, or infirmities, whether physical or mental, by any means, methods, devices, or instrumentalities. If a person who does not possess a license to practice medicine in this state under this chapter and who is not exempt from the licensing requirements of this chapter performs acts constituting the practice of medicine, the person is practicing medicine in violation of this chapter."

Section 15. Section 37-3-305, MCA, is amended to read:

"37-3-305. Qualifications for licensure. (1) Except as provided in subsections (4) and (5), a person may not be granted a physician's license to practice medicine in this state unless the person:

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

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has successfully completed an approved postgraduate residency program of at least 2 years or, ~~in the opinion of the board, for an applicant who graduated from medical school prior to 2000,~~ has had experience or training that in the opinion of the board ~~that~~ is at least the equivalent of a 2-year postgraduate approved residency program;

(d) has submitted a completed application; and

(e) is able to communicate, in the opinion of the board, in the English language.

(2) The board may authorize the department to issue the license subject to terms of probation or other

conditions or limitations set by the board or may refuse a license if the applicant has committed unprofessional conduct or is otherwise unqualified.

(3) A person may not be granted a temporary license to practice medicine in this state unless the person:

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

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has successfully completed an approved postgraduate residency program of at least 2 years or, ~~in the opinion of the board, for an applicant who graduated from medical school prior to 2000,~~ has had experience or training that in the opinion of the board that is at least the equivalent of a 2-year postgraduate approved residency program; and

(d) is able, in the opinion of the board, to communicate in the English language.

(4) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or in the opinion of the board has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with the Montana family practice residency program; and

(c) is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state.

(5) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or, in the opinion of the board, has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with a program accredited by the accreditation council for graduate medical education or the American osteopathic association;

(c) in the course of an approved rotation of the person's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state;

(d) makes application to the department on an approved form; and

(e) pays a fee set by the board, as provided in 37-3-308."

Section 16. Section 37-3-306, MCA, is amended to read:

"37-3-306. Physician's license -- examination -- reciprocity and endorsement. (1) The board may authorize the department to issue to an applicant a physician's license, license by reciprocity, or license by

endorsement only on the basis of:

~~(a) passing an approved examination, subject to 37-1-101;~~

~~(b)(a)~~ certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of examiners for osteopathic physicians and surgeons, incorporated, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by this board; or

~~(c)(b)~~ a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were, in the judgment of the board, essentially equivalent to those of this state for granting a license to practice medicine, if under the scope of the license or certificate the applicant was authorized to practice medicine in the other state, territory, or country.

(2) An applicant who applies for a license on the basis of an examination and fails the examination may not be granted a license based on credentials from another state, territory, or foreign country or on a certificate issued by the national board of medical examiners or successors, by the federation licensing examination committee or successors, or by the medical council of Canada or successors.

(3) The board may adopt reciprocity or endorsement requirements current with changes in standards in the practice of medicine.

(4) The board may, in the case of an applicant for admission by reciprocity or endorsement, require a written or oral examination of the applicant.

(5) The board may require that graduates of foreign medical schools pass an examination given by the education council for foreign medical graduates or successors.

(6) A holder of the degree of doctor of osteopathy granted in 1955 or before may not be licensed without taking and passing the examination given by the department, subject to 37-1-101. A holder of the degree of doctor of osteopathy granted after 1955 must be licensed in the same manner as provided in this section for physicians."

Section 17. Section 37-3-308, MCA, is amended to read:

"37-3-308. ~~Examination and application fees~~ Application fee -- further tax forbidden. (1) An applicant for a license to practice medicine to be issued on the basis of an examination by the board shall pay an examination fee as set by the board. The board shall set the fee, and it shall be reasonable and commensurate with the costs of the examination and related costs. Such examination fee shall be in addition to the application fee.

~~_____ (2)~~ All applicants, including applicants for a temporary license, shall pay an initial application fee as prescribed by the board.

~~(3)~~(2) ~~No~~ A license tax ~~shall~~ may not be imposed upon physicians by a municipality or any other subdivision of the state."

Section 18. Section 37-3-311, MCA, is amended to read:

"37-3-311. ~~Examination~~ Foreign medical graduate examination. (1) An applicant who is a graduate of a foreign medical school is required to have passed an examination given by the education council for foreign medical graduates or its successor and attained a minimum grade as set by the board.

~~(2)~~ The board may in its discretion require the department to give, subject to 37-1-101, an oral or practical examination to test the applicant's qualifications for licensure and grant appropriate credit for the examination:

~~_____ (3)~~ The board may use other Montana physicians to assist in preparing the examination:

~~(4)~~ A person may not be granted a license to practice medicine if the person fails to attain a passing grade as set by the board:

(2) If an applicant fails to meet the minimum grade requirements on the first examination, the applicant may be reexamined not more than two additional times on each of the component parts of the examination. If an applicant is prevented through no fault of the applicant's from taking a scheduled examination, the applicant may, within 2 years, be examined without submitting a new application."

Section 19. Section 37-3-323, MCA, is amended to read:

"37-3-323. ~~Revocation or suspension of license~~ Suspension of license -- investigation. (1) The department may investigate whenever the department learns of a reason to suspect that a license applicant or

a person having a license to practice medicine in this state:

(a) is mentally or physically unable to safely engage in the practice of medicine, has procured a license to practice medicine by fraud or misrepresentation or through mistake, has been declared incompetent by a court of competent jurisdiction and has not later been lawfully declared competent, or has a condition that impairs the person's intellect or judgment to the extent that the condition incapacitates the person for the safe performance of professional duties;

(b) has been guilty of unprofessional conduct;

(c) has practiced medicine with a suspended or revoked license;

(d) has had a license to practice medicine suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(e) while under probation has violated the terms of probation.

(2) The investigation must be for the purpose of determining the probability of the existence of these conditions or the commission of these offenses and may, upon order of the board, include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and scrutinize the hospital records and reports of a licensee or license applicant as part of the examination, and copies must be released to the board on written request.

(3) If a person holding a license to practice medicine under this chapter is by a final order or adjudication of a court of competent jurisdiction adjudged to be mentally incompetent, to be addicted to the use of addictive substances, or to have been committed pursuant to 53-21-127, the person's license may be suspended by the board. The suspension continues until the licensee is found or adjudged by the court to be restored to reason or cured or until the person is discharged as restored to reason or cured and the person's professional competence has been proved to the satisfaction of the board."

Section 20. Section 37-3-342, MCA, is amended to read:

"37-3-342. Definition -- scope of practice allowed by telemedicine license. (1) As used in 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, "telemedicine" means the practice of medicine, as defined in 37-3-102, by a physician located outside the state who performs an evaluative or therapeutic act relating to the treatment or correction of a patient's physical or mental condition, ailment, disease, injury, or

infirmity and who transmits that evaluative or therapeutic act into Montana through any means, method, device, or instrumentality under the following conditions:

(a) The information or opinion is provided directly to a patient in Montana for compensation or with the expectation of compensation.

(b) The physician does not limit the physician's services to an occasional case.

(c) The physician has an established or regularly used connection with the state, including but not limited to:

(i) an office or another place for the reception of a transmission from the physician;

(ii) a contractual relationship with a person or entity in Montana related to the physician's practice of medicine; or

(iii) privileges in a Montana hospital or another Montana health care facility, as defined in 50-5-101.

(2) As used in 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, telemedicine does not mean:

(a) an act or practice that is exempt from licensure under 37-3-103;

(b) an informal consultation, made without compensation or expectation of compensation, between an out-of-state physician and a physician or other health care provider located in Montana;

(c) the transfer of patient records, independent of any other medical service and without compensation;

(d) communication about a Montana patient with the patient's physician or other health care provider who practices in Montana, in lieu of direct communication with the Montana patient or the patient's legal representative; or

~~(e) diagnosis of a medical condition by a physician located outside the state, based upon an x-ray, cardiogram, pap smear, or other specimen sent for evaluation to the physician outside the state by a health care provider in Montana; or~~

~~(f)~~(e) a communication from a physician located outside Montana to a patient in Montana in collaboration consultation with a physician or other health care provider licensed to practice medicine in Montana."

Section 21. Section 37-4-501, MCA, is amended to read:

"37-4-501. Work order for construction or repair of appliances. (1) A licensed dentist who employs or engages the services of a person, firm, or corporation to construct, reproduce, make, alter, or repair bridges,

crowns, dentures, other prosthetic appliances, surgical appliances, or orthodontic appliances shall furnish the person, firm, or corporation with a written work authorization on forms ~~prescribed by the board which shall~~ that must contain:

- (a) the name and address of the person, firm, or corporation to which the work authorization is directed;
 - (b) the patient's name or identification number, but if only a number is used, ~~the patient's name shall~~ must be written on the duplicate copy of the work authorization retained by the dentist;
 - (c) the date on which the work authorization was written;
 - (d) a description of the work to be done, including diagrams if necessary;
 - (e) a specification of the type and quality of the materials to be used; and
 - (f) the signature of the dentist and the number of ~~his~~ the dentist's license to practice dentistry.
- (2) The person, firm, or corporation receiving a work authorization from a licensed dentist shall retain the original work authorization, and the dentist shall retain the duplicate copy for inspection at a reasonable time by the board for a period of 2 years from date of issuance."

Section 22. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers and duties. (1) The board shall:

- (a) meet annually and elect from among the members a president and a secretary;
- (b) hold other meetings when necessary to transact its business;
- (c) prescribe standards for schools preparing persons for registration and licensure under this chapter;
- (d) provide for surveys of schools at times the board considers necessary;
- (e) approve programs that meet the requirements of this chapter and of the board;
- (f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list;
- (g) cause the prosecution of persons violating this chapter. The board may incur necessary expenses for prosecutions.
- (h) adopt rules regarding authorization for prescriptive authority of advanced practice registered nurses. If considered appropriate for an advanced practice registered nurse who applies to the board for authorization, prescriptive authority must be granted.
- (i) establish a program to assist licensed nurses who are found to be ~~physically or mentally~~ impaired by

mental illness, habitual intemperance, or the excessive use of narcotic drugs, alcohol, or any other drug or substance. The program must provide for assistance to licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

(2) The board may:

(a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses;

(b) define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or the equivalent. The applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses. Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

(c) establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the type of drugs that are allowed to be administered and the method of administration.

(d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons;

(e) adopt rules necessary to administer this chapter; and

(f) fund additional staff, hired by the department, to administer the provisions of this chapter."

Section 23. Section 37-9-203, MCA, is amended to read:

"37-9-203. Duties of board. The board shall:

(1) develop, impose, and enforce standards that must be met by individuals in order to ~~register and~~ receive a license as a nursing home administrator, designed to ensure that nursing home administrators are individuals of good character and otherwise suitable and, by education, training, or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(2) develop and apply appropriate techniques, including examination and investigation, for determining whether individuals meet the standards;

(3) authorize the department to ~~register and~~ issue licenses to individuals, ~~after application of the techniques,~~ determined to meet the standards;

(4) establish and implement procedures designed to ensure that individuals ~~registered and~~ licensed as nursing home administrators will, during the period that they serve, comply with the requirements of the standards; and

(5) conduct a continuing study and investigation of nursing home administrators within the state with a view to the improvement of the standards imposed for the licensing of administrators and of procedures and methods for the enforcement of the standards with respect to nursing home administrators."

Section 24. Section 37-9-301, MCA, is amended to read:

"37-9-301. Qualifications for licensure -- examination. ~~(1) The department shall register and issue licenses to qualified persons as nursing home administrators, and the board shall establish qualification criteria for nursing home administrators. No registration or license shall be issued to a person as a nursing home administrator unless he:~~

~~(a)(1) A person may not be granted a nursing home administrator license unless the person:~~

~~(a) is of good moral character, as determined by the board, and of sound physical and mental health, has received a high school diploma or its equivalent; and~~

~~(b) (i) has satisfactorily completed a course of instruction and training prescribed by the board, which ~~shall~~ must be designed and administered to present sufficient knowledge of the needs properly served by long-term care facilities, laws governing the operation of long-term care facilities and the protection of the interests of patients, and the elements of good nursing home administration; or~~

~~(ii) has presented evidence satisfactory to the board of sufficient education, training, or experience, or a combination of education, training, and experience, in the fields referred to in subsection (1)(b)(i) to administer, supervise, and manage a long-term care facility; and~~

~~(c) has passed an examination designed to test for competence in the subject matters referred to in subsection (1)(b)(i).~~

~~(2) The minimum standards for qualification ~~shall~~ must comply with the requirements, if any, set forth in Title XIX of the Social Security Act, Public Law 90-248, as amended 42 U.S.C. 1396g."~~

Section 25. Section 37-9-302, MCA, is amended to read:

"37-9-302. Department to license pursuant to board rules -- nontransferability. (1) The department shall ~~register and~~ license nursing home administrators under the rules adopted by the board.

(2) A nursing home administrator's ~~registration and~~ license is not transferable ~~and is valid until surrendered for cancellation, suspended, or revoked for violation of this chapter or any other laws or rules relating to the proper administration and management of a long-term care facility.~~"

Section 26. Section 37-9-305, MCA, is amended to read:

"37-9-305. License -- grounds for discipline. A license must be granted ~~as a matter of course. However, if the board finds, after notice and hearing, that the applicant has acted or failed to act in accordance with this chapter, the board may find grounds for discipline~~ if the applicant meets the qualifications pursuant to 37-9-301 and, if the applicant holds another professional, temporary, or restricted license, there is no finding of unprofessional conduct. If an applicant for a license is denied, the applicant is entitled to notice and a hearing as provided in Title 2, chapter 4, part 6."

Section 27. Section 37-9-312, MCA, is amended to read:

"37-9-312. Violation. It ~~shall be~~ is unlawful for any person to act or serve in the capacity of a nursing home administrator unless ~~he~~ the person is the holder of a ~~registration and~~ license as a nursing home administrator, issued in accordance with the provisions of this chapter. A person who violates the provisions of this chapter ~~shall be~~ is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500₁ ~~or~~ by imprisonment for not more than 6 months₁ ~~or by both such fine and imprisonment.~~"

Section 28. Section 37-10-302, MCA, is amended to read:

"37-10-302. Qualifications -- application. (1) The board shall adopt rules relative to and governing the qualifications of applicants for licensure as optometrists.

(2) A person is not eligible to receive a license unless that person is of good moral character.

(3) A person is not eligible to receive a license unless that person has graduated from an accredited school of optometry in which the practice and science of optometry is taught in a course of study that is accredited by the ~~international association of boards of examiners in optometry~~ association of regulatory boards of

optometry.

(4) An applicant for a license shall file a completed application on a form provided by the department and pay a fee prescribed by the board."

Section 29. Section 37-16-202, MCA, is amended to read:

"37-16-202. Powers and duties. (1) The powers and duties of the board are to:

(1)(a) license persons who apply and are qualified to practice the fitting of hearing aids;

(2)(b) establish a procedure ~~to act as a grievance board~~ to initiate or receive, investigate, and ~~mediate process~~ complaints from any source concerning the activities of persons licensed under this chapter ~~or their agents, whether licensed or not;~~

(3)(c) adopt rules necessary to carry out this chapter;

(4)(d) require the periodic inspection and calibration of audiometric testing equipment ~~and carry out periodic inspections of facilities of persons who practice or engage in the business of fitting or selling hearing aids;~~

(5)(e) initiate legal action to enjoin from operation a person engaged in the sale, dispensing, or fitting of hearing aids in this state that is not licensed under this chapter;

(6)(f) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-405, 37-16-408, and 37-16-411. ~~Rules adopted by the board may include but are not limited to rules defining the term "related devices" and other rules necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-405, 37-16-408, and 37-16-411.; and~~

(7)(g) establish and adopt minimum requirements for the form of bills of sale and receipts.

(2) Rules adopted by the board pursuant to subsection (1)(f) may include but are not limited to rules defining the term "related devices" and other rules necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-405, 37-16-408, and 37-16-411."

Section 30. Section 37-16-405, MCA, is amended to read:

"37-16-405. Trainee license. (1) An applicant who fulfills the requirements of 37-16-402 and who has not previously applied to take a practical examination may apply to the board for a trainee license.

(2) On receiving an application under subsection (1), accompanied by a fee fixed by the board and verification that the applicant has passed the written portion of the examination with a passing score as

determined by board rule, the board shall issue a trainee license that entitles the applicant to engage in a ~~180-day~~ training period during which the applicant:

~~—— (a) is required to pass the practical examination administered by the board before being issued a hearing aid dispenser's license; and~~

~~—— (b) shall work under the direct supervision of the sponsoring licensed hearing aid dispenser. During this time the applicant may do the testing necessary for proper selection and fitting of hearing aids and related devices and make necessary impressions. However, the delivery and final fitting of the hearing aid and related devices must be made by the trainee and the supervisor.~~

~~(3) The training period must consist of a continuous 180-day term. Any break in training requires application for another trainee license under rules that the board may prescribe.~~

~~(4)(3)~~ A trainee license may not be issued unless the board has on file an unrevoked statement from a qualified licensed hearing aid dispenser accepting responsibility for the trainee. Every licensed hearing aid dispenser supervising a trainee license holder shall submit a report every 90 days of the trainee's activities and training assignments, on forms furnished by the board. The supervisor is responsible for all hearing aid fittings of the trainee. A supervisor may terminate any responsibilities to the trainee by mailing ~~by certified mail~~ a written notice by certified mail to the board and the trainee.

~~(5) If a person who holds a trainee license takes and fails to pass the practical examination, the trainee license expires, and the person may not practice as a trainee.~~

~~(6)(4)~~ A person licensed as an audiologist under the provisions of Title 37, chapter 15, or a person practicing pursuant to 37-1-305 is exempt from the ~~180-day~~ training period but is required to pass the examinations prescribed in this chapter.

(5) The trainee license terminates 1 year after issuance or after the trainee passes the practical examination, whichever occurs first.

(6) Upon completion of 1,000 hours of supervised training, the trainee is eligible to take the practical examination.

(7) A trainee who does not complete 1,000 hours of supervised training before the trainee license terminates may be issued a second trainee license upon making application and paying the appropriate fee. The hours of training obtained under the first trainee license must be carried forward.

(8) A trainee who fails the practical examination may continue to practice under direct supervision until

the trainee license terminates. A second trainee license may not be issued. Termination of the trainee license and cessation of the authority to practice do not preclude a person from retaking the practical examination upon payment of the appropriate fees.

(9) Upon passing the practical examination, a trainee may submit an application for a hearing aid dispenser license with the appropriate fee and a hearing aid dispenser license must be issued.

~~(7)~~(10) A licensed hearing aid dispenser who sponsors a trainee is directly responsible and accountable under the disciplinary authority of the board for the conduct of the trainee as if the conduct were the licensee's own.

~~(8)~~(11) For the purposes of this section, "direct supervision" means the direct and regular observation and instruction of a trainee by a licensed hearing aid dispenser who is available at the same location for prompt consultation and treatment."

Section 31. Section 37-16-411, MCA, is amended to read:

"37-16-411. Revocation or suspension of license -- investigations -- fines. (1) The board may, at its discretion or upon written complaint of an aggrieved person, investigate an alleged violation of this chapter by a licensee or applicant for licensure. If the investigation discloses a probable violation of this chapter or board rules, the board may; institute a proceeding pursuant to the provisions of 37-1-136 and 37-1-137, ~~suspend or revoke the accused person's license or suspend or deny the person's application for a fixed period to be determined by the board.~~

(2) ~~A person licensed under this chapter may have the license revoked or suspended for a fixed period to be determined by the board or be fined not to exceed \$500 per incident~~ licensee or license applicant may be sanctioned as provided in 37-1-312 for any of the following causes:

(a) being convicted of a felony, subject to chapter 1, part 2, of this title. The record of the conviction or a certified copy from the clerk of the court for the district where the conviction occurred or certification by the judge of the court is conclusive evidence of the conviction, except that if the person has been pardoned by a governor or the president of the United States, the conviction does not constitute grounds for ~~revocation or suspension~~ imposing sanctions.

(b) securing a license under this chapter through fraud, deceit, or false statements;

(c) the personal use of a false name or alias in professional practice;

- (d) violating any of the provisions of this chapter;
- (e) obtaining a fee or making any sale by fraud or misrepresentation;
- (f) knowingly employing, directly or indirectly, any suspended or unlicensed person to perform any work covered by this chapter;
- (g) using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, that is improbable, misleading, deceptive, or untruthful;
- (h) representing that the services or advice of a person licensed to practice medicine or possessing certification as an audiologist will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids and related devices if that is not true or using the terms "doctor", "clinic", "hearing clinic", "state registered", or other similar words, abbreviations, or symbols that tend to connote the medical profession when that use is not accurate;
- (i) permitting another to use the a license or certificate;
- ~~(j) defaming competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, or questionable credit standing or by other false representations or falsely disparaging the products of competitors in any respect or their business methods, selling prices, values, credit terms, policies, or services;~~
- ~~(k)~~(j) using any method of advertising prohibited by trade practice rules 1 through 17 of the federal trade commission;
- ~~(l) obtaining information concerning the business of a competitor by bribery of an employee or agent of that competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unlawful means;~~
- ~~(m)~~(k) directly or indirectly giving or offering to give or permitting or causing to be given money or anything of value to any person who advises another in a professional capacity as an inducement to influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser or influencing persons to refrain from dealing in the products of competitors;
- ~~(n)~~(l) unethical conduct or gross incompetence or negligence in the performance of professional duties, including repeated failure to make indicated medical referrals of customers;
- ~~(o)~~(m) selling a hearing aid or related device to a person who has not been given tests using appropriate established procedures and instrumentation in fitting hearing aids or related devices, except for the sale of a

replacement hearing aid or a related device of the same make and model within 1 year of the original sale;

~~(p)~~(n) falsifying hearing test or evaluation results or any associated client records;

~~(q)~~(o) refusing to cooperate with an investigation by the board by:

(i) failing to furnish requested records or documents;

(ii) failing to furnish a complete explanation of matters referred to in the complaint;

(iii) failing to respond to a subpoena issued by the board;

(iv) willfully misrepresenting any relevant fact to a board investigator; or

(v) attempting to discourage a potential witness from cooperating with a board investigator or from testifying by using threats, harassment, extortion, or bribery."

Section 32. Section 37-16-413, MCA, is amended to read:

"37-16-413. Penalty for unlawful practice -- injunction. (1) Any person who practices the selling, fitting, or dispensing of hearing aids without a valid license ~~shall be~~ is guilty of a misdemeanor and upon conviction ~~shall be fined not more than \$500 less than \$250 or more than \$1,000, or be imprisoned for not more than 90 days, in the county jail for not less than 90 days or more than 1 year, or both.~~

(2) The board may enforce any provision of this chapter by injunction or by any other appropriate proceeding."

Section 33. Section 37-18-302, MCA, is amended to read:

"37-18-302. Application -- qualification -- fee. A person desiring to begin the practice of veterinary medicine or veterinary surgery in this state or who desires to hold out to the public that the person is a practitioner of veterinary medicine or veterinary surgery, except as provided in 37-18-104, shall apply to the department for a license to do so. The application must be on a form furnished by the department, must be accompanied by satisfactory evidence of the good moral character of the applicant, and must contain evidence of the applicant's having received a degree from a legally authorized veterinary medical school having educational standards equal to those approved by the American veterinary medical association. On application, a certified transcript of the applicant must be submitted to the department for inspection and verification. The certified transcript remains the property of the department. ~~A person applying for a license to practice shall pay to the department a nonrefundable fee commensurate with the costs of the examinations and set by the board."~~

Section 34. Section 37-25-303, MCA, is amended to read:

"37-25-303. Issuance of license --effective date. (1) Upon successful completion of the requirements in 37-25-302, an applicant must be issued a license attesting to the date and fact of licensure.

~~(2) The license is effective on the date of issuance and expires 1 year after that date."~~

Section 35. Section 37-29-201, MCA, is amended to read:

"37-29-201. Board powers and duties. The board has the following powers and duties:

- (1) determination of the qualifications of applicants for licensure under this chapter;
- (2) administration of examinations for licensure under this chapter;
- (3) collection of fees and charges prescribed in this chapter;
- (4) issuance, suspension, and revocation of licenses for the practice of dentistry under the conditions prescribed in this chapter; and
- (5) to adopt, amend, and repeal rules necessary for the implementation, continuation, and enforcement of this chapter, including but not limited to form and display of licenses, license examination format, criteria and grading of examinations, and disciplinary standards for licensees, ~~and inspection of dentistry premises and facilities."~~

Section 36. Section 37-35-201, MCA, is amended to read:

"37-35-201. License required -- exceptions. (1) Except as otherwise provided in this chapter, a person may not practice addiction counseling or represent to the public that the person is a licensed addiction counselor unless the person is licensed under the provisions of this chapter.

(2) This chapter does not prohibit an activity or service:

(a) performed by a qualified member of a profession, such as a physician, lawyer, licensed professional counselor, licensed social worker, licensed psychiatrist, licensed psychologist, nurse, probation officer, court employee, pastoral counselor, or school counselor, consistent with the person's licensure or certification and the code of ethics of the person's profession, as long as the person does not represent by title that the person is a licensed addiction counselor. If a person is a qualified member of a profession that is not licensed or certified or for which there is no applicable code of ethics, this section does not prohibit an activity or service of the

profession as long as the person does not represent by title that the person is a licensed addiction counselor.

(b) of, or use of an official title by, a person employed or acting as a volunteer for a federal, state, county, or municipal agency or an educational, research, or charitable institution if that activity or service or use of that title is a part of the duties of the office or position;

(c) of an employee of a business establishment performed solely for the benefit of the establishment's employees;

~~(d) of a student, intern, or resident in addiction counseling who is pursuing a course of study at an accredited college or university or who is working in a generally recognized training center if the activity or service constitutes part of the course of study;~~

(d) of a student in addiction counseling who is pursuing a course of study at an accredited college or university or who is working in a generally recognized training center if the activity or service constitutes part of the course of study; or

~~(e)~~(e) of a person who is not a resident of this state if the activity or service is rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year and if the person is authorized under the laws of the state or country of residence to perform the activity or service. However, the person shall report to the department the nature and extent of the activity or service if it exceeds 10 days in a calendar year.

~~(f) of a person who is working to satisfactorily complete supervised addiction counseling experience required for licensure.~~

(3) This chapter is not intended to limit, preclude, or interfere with the practice of other persons and health care providers licensed by the appropriate agencies of the state of Montana."

Section 37. Section 37-35-202, MCA, is amended to read:

"37-35-202. Licensure requirements -- examination -- fees -- temporary practice permit. (1) To be eligible for licensure as a licensed addiction counselor, the applicant shall submit an application fee in an amount established by the department by rule and a written application on a form provided by the department that demonstrates that the applicant has completed the eligibility requirements and competency standards as defined by department rule.

(2) A person may apply for licensure as a licensed addiction counselor if the person has:

(a) received a baccalaureate or advanced degree in alcohol and drug studies, psychology, sociology,

social work, or counseling, or a comparable degree from an accredited college or university; or

(b) received an associate of arts degree in alcohol and drug studies, addiction, or substance abuse from an accredited institution.

(3) Prior to becoming eligible to begin the examination process, each person shall complete supervised work experience in an addiction treatment program as defined by the department, in ~~an internship~~ a program approved by the department, or in a similar program recognized under the laws of another state.

(4) Each applicant shall successfully complete a competency examination, in writing only, as defined by rules adopted by the department.

(5) (a) Except as provided in subsections (5)(d) and (6), an applicant who has completed all licensure requirements except the required supervised work experience may apply for a temporary practice permit that authorizes the applicant to complete the required supervised work experience.

(b) Temporary practice permits must be issued if it is determined that:

(i) a complete application approved by the department has been submitted;

(ii) initial screening by program staff shows no current disciplinary action against the applicant in this or any other state;

(iii) the applicant for a temporary practice permit may only function under the supervision of a supervisor who is trained in addiction counseling or a related field as defined by rule and who has an active license in good standing in Montana or any other state; and

(iv) the applicant has completed all educational requirements as prescribed in subsection (2)(a) or (2)(b).

(c) A person may practice licensed addiction counseling under a temporary practice permit until the person either fails the first license examination for which the person is eligible following issuance of the temporary practice permit or passes the examination and is granted a license.

(d) A student is not required to obtain a temporary practice permit.

(6) The provisions of subsection (5) do not apply until the department has adopted rules implementing this section. The rules must provide for a waiver of the provisions of subsection (5) for a person who is engaged in a supervised work experience prior to the adoption of the rules.

~~(5)~~(7) A person holding a license to practice as a licensed addiction counselor in this state may use the title "licensed addiction counselor".

~~(6)~~(8) For the purposes of this section, "comparable degree" means a degree with accredited college

course work, of which 6 credit hours must be in human behavior, sociology, psychology, or a similar emphasis, 3 credit hours must be in psychopathology or course work exploring patterns and courses of abnormal or deviant behavior, and 9 credit hours must be in counseling. For the 9 credit hours in counseling, 6 credit hours must be in group counseling and 3 credit hours must be in the theory of counseling. The credit hours specified in this subsection may be obtained in an associate or master's degree program if the applicant does not have a qualifying baccalaureate degree."

Section 38. Section 37-36-202, MCA, is amended to read:

"37-36-202. License -- revocation. (1) Except as provided in subsection (2), a license issued under this chapter is valid for ~~3 years~~ 1 year.

(2) The board may revoke a license if a licensee knowingly:

(a) provided fraudulent information on the application or documentation required in 37-36-201;

(b) violated standards of conduct as prescribed by the board; or

(c) engaged in practices beyond the scope and limitation of the person's training and education as determined by the board."

Section 39. Section 37-47-302, MCA, is amended to read:

"37-47-302. Outfitter's qualifications. An applicant for an outfitter's license or renewal of a license must meet the following qualifications:

(1) be 18 years of age or older, be physically capable and mentally competent to perform the duties of an outfitter, and meet experience, training, and testing requirements as prescribed by board rule;

(2) own or hold under written lease or represent a company, corporation, or partnership who owns or holds under written lease the equipment and facilities that are necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and the outfitter's clients (all equipment and facilities are subject to inspection at all reasonable times and places by the board or its designated agent); and

(3) have demonstrated a respect for and compliance with the laws of any state or of the United States and all rules promulgated under those laws related to fish and game, conservation of natural resources, and preservation of the natural ecosystem without pollution of the ecosystem; and

~~(4) have not, at any time, practiced fraud, deception, or material misrepresentation in procuring any~~

~~previous outfitter's, guide's, professional guide's, or conservation license from the state of Montana;~~

~~— (5) have not, at any time, promulgated any false or misleading advertising relating to the business of outfitting."~~

Section 40. Section 37-47-404, MCA, is amended to read:

"37-47-404. Responsibility for violations of law. (1) A person accompanying a hunting or fishing party as an outfitter, ~~or~~ guide, ~~or~~ professional guide, ~~or other employee of the outfitter~~ is equally responsible with any person or party ~~employing~~ engaging the person as an outfitter for any violation of fish and game laws unless the violation is reported to a peace officer by the outfitter, guide, ~~or~~ professional guide, ~~or employee~~ and the outfitter, guide, ~~or~~ professional guide, ~~or employee~~ was not an active participant. An outfitter, ~~or~~ guide, ~~or~~ professional guide, ~~or other employee of an outfitter~~ who willfully fails or refuses to report any violation of fish and game laws is liable ~~to~~ for the penalties provided in this ~~section~~ chapter. If ~~any~~ a guide or professional guide violates the laws or applicable regulations relating to fish and game, outfitting, or guiding with actual or implied knowledge of an outfitter ~~employing~~ engaging the guide or professional guide, the outfitter is legally responsible for the violation for all purposes under the laws or regulations if the outfitter fails to report the violation to the proper authority.

(2) An outfitter, guide, or professional guide shall report any violation or suspected violation of fish and game laws that the outfitter, guide, or professional guide knows or reasonably should have known has been committed by the employees, agents, representatives, clients, or participants in the outfitting or guiding activity. The violation or suspected violation must be reported to a peace officer at the earliest possible opportunity.

(3) A person may not hire or retain an outfitter unless the outfitter is currently licensed in accordance with the laws of the state of Montana. A person may not use the services of a guide or professional guide and a guide or professional guide may not offer services unless the services are obtained through an endorsing outfitter."

Section 41. Section 37-50-101, MCA, is amended to read:

"37-50-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Affiliated entity" means an entity owned, leased, or controlled by a firm through common employment or any other service arrangement, including but not limited to financial or investment services, insurance, real estate, and employee benefits services.

(2) "Agreed-upon procedures engagement" means an engagement performed in accordance with applicable attestation standards and in which a firm or person is engaged to issue a written finding that:

- (a) is based on specific procedures that the specified parties agree are sufficient for their purposes;
- (b) is restricted to the specified parties; and
- (c) does not provide an opinion or negative assurance.

(3) "Attest" means providing the following services:

(a) an audit or other engagement to be performed in accordance with the statements on auditing standards;

(b) a review of a financial statement to be performed in accordance with the statements on standards for accounting and review services;

(c) an examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements;

(d) an engagement to be performed in accordance with the auditing standards of the public company oversight board; and

(e) an agreed-upon procedures engagement to be performed in accordance with the statements on standards for attestation engagements.

~~(4)~~(4) "Board" means the board of public accountants provided for in 2-15-1756.

(5) "Compilation" means providing a service to be performed in accordance with statements on standards for accounting and review services that presents, in the form of financial statements, information that is the representation of owners without undertaking to express any assurance on the statements.

~~(2)~~(6) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(7) "Firm" means a sole proprietorship, partnership, professional corporation, or limited liability company engaged in the practice of public accounting.

(8) "Home office" is the location specified by the client as the address where a service described in [section 1(4)] is directed.

(9) "Peer review" means a board-approved study, appraisal, or review of one or more aspects of the attest or compilation work of a permittee or licensee of a registered firm in the practice of public accounting, by a person or persons who hold licenses in this or another jurisdiction and who are not affiliated with the person

or firm being reviewed.

~~(9)~~(10) "Practice of public accounting" means performing or offering to perform, by a person certified under 37-50-302, or licensed under 37-50-303, or holding a practice privilege under [section 1], for a client or potential client; one or more types of services involving the use of accounting or auditing skills, including:

- (a) the issuance of reports or financial statements on which the public may rely;
- (b) one or more types of management advisory or consulting services;
- (c) the preparation of tax returns; or
- (d) furnishing advice on tax matters.

(11) "Principal place of business" means the office location designated by the licensee for the purposes of substantial equivalency.

(12) "Substantial equivalency" or "substantially equivalent" means a determination by the board or its designee that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to or exceed the education, examination, and experience requirements contained in the Uniform Accountancy Act or subsequent acts or that an individual certified public accountant's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in the Uniform Accountancy Act. In ascertaining substantial equivalency, the board shall take into account the qualifications without regard to the sequence in which the experience, education, and examination requirements were attained."

Section 42. Section 37-50-102, MCA, is amended to read:

"37-50-102. Exemptions. This chapter does not prohibit any person who is not a certified public accountant or licensed public accountant from serving as an employee of or an assistant to a certified public accountant or a licensed public accountant holding a permit to practice under 37-50-314, a ~~partnership or corporation~~ firm composed of certified public accountants or licensed public accountants registered under this chapter, or a foreign accountant whose credentials have been recognized under 37-50-313. However, the employee or assistant may not issue any accounting or financial statement in the employee's or assistant's name."

Section 43. Section 37-50-203, MCA, is amended to read:

"37-50-203. Rules of the board. (1) The board may adopt rules, consistent with the purposes of this chapter, ~~as that~~ it considers necessary.

(2) The board shall adopt:

(a) rules of professional conduct appropriate to establish and maintain a high standard of integrity, dignity, and competency in the profession of public accounting, including competency in specific fields of public accounting;

(b) rules of procedure governing the conduct of matters before the board;

(c) rules governing education requirements, as provided in 37-50-305, for issuance of the certificate of a certified public accountant and the license for licensed public accountant;

(d) rules defining requirements for accounting experience, not exceeding 2 years, for issuance of the initial permit; and

(e) rules to enforce the provisions of this chapter. The purpose of the rules must be to provide for the monitoring of the profession of public accounting and to maintain the quality of the accounting profession.

(3) The board may adopt rules:

(a) governing ~~partnerships, corporations, firms~~ and other types of entities practicing public accounting, including but not limited to rules concerning style, name, title, and affiliation with other organizations;

(b) (i) establishing reasonable standards with respect to professional liability insurance and unimpaired capital; and

(ii) prescribing joint and several liability for torts relating to professional services for shareholders of a ~~corporation~~ firm or owners of other types of entities that fail to comply with standards established pursuant to subsection (3)(b)(i); and

(c) establishing education and experience qualifications for out-of-state and foreign accountants seeking ~~authorization~~ permits, certificates, or licenses to practice in Montana."

Section 44. Section 37-50-301, MCA, is amended to read:

"37-50-301. Illegal use of title. (1) It is not a violation of this chapter for a firm that is not registered under 37-50-335 and that does not have an office in this state to provide its professional services and to practice public accounting in this state and use the title "CPA" or "CPA firm" so long as it complies with the exemption requirements of 37-50-335(2).

(2) A person may not assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the person is a certified public accountant unless the person holds a current certificate as a certified public accountant under this chapter or qualifies for the practice privilege under [section 1]. However, a foreign accountant whose credentials are recognized under the provisions of 37-50-313 shall use the title under which the foreign accountant is generally known in the foreign country, followed by the name of the country from which the foreign accountant's certificate, license, or degree was received.

~~(2)~~(3) A ~~partnership or corporation~~ firm may not assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the ~~partnership or corporation~~ firm is composed of certified public accountants pursuant to the requirements of 37-50-330 unless it is registered as required under 37-50-335 or meets the conditions to be exempt from such registration set forth in 37-50-335(2).

~~(3)~~(4) A person may not assume or use the title or designation "licensed public accountant", "public accountant", or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the person is a public accountant unless the person holds a current license as a licensed public accountant under this chapter.

~~(4)~~(5) A ~~partnership or corporation~~ firm may not assume or use the title or designation "licensed public accountant", "public accountant", or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the ~~partnership or corporation~~ firm is composed of public accountants unless it is registered as required under 37-50-335.

~~(5)~~(6) A person, ~~corporation, or partnership~~ or firm may not assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or designation likely to be confused with "certified public accountant", "licensed public accountant", "public accountant" or any of the abbreviations "CA", "EA", "LA", or "RA" or similar abbreviations likely to be confused with "CPA". However, a foreign accountant whose credentials are recognized under 37-50-313 shall use the title under which the foreign accountant is generally known in the foreign country, followed by the name of the country from which the foreign accountant's certificate, license, or degree was received, and a person who is licensed as an enrolled agent by the internal revenue service may use the title "enrolled agent" or the abbreviation "EA".

~~(6)~~(7) A person may not sign or affix the person's name or any trade or assumed name used by the person in the person's profession or business with any wording indicating that the person has expert knowledge in accounting or auditing to any accounting or financial statement or to any opinion on, report on, or certificate to any accounting or financial statement unless the person holds a current permit issued under 37-50-314 and all of the person's offices in this state for the practice of public accounting are maintained and registered under 37-50-335. However, the provisions of this subsection do not prohibit any officer, employee, partner, or principal of any organization from affixing a signature to any statement or report in reference to the financial affairs of that organization with any wording designating the position, title, or office that the person holds in that organization, nor do the provisions of this subsection prohibit any act of a public official or public employee in the performance of the official's or employee's public duties.

~~(7)~~(8) A person may not sign or affix a ~~partnership or corporation~~ firm name with any wording indicating that it is a ~~partnership or corporation~~ firm composed of persons having expert knowledge in accounting or auditing to any accounting or financial statement or to any report on or certificate to any accounting or financial statement unless the ~~partnership or corporation~~ firm conforms to the requirements of 37-50-330 and is registered as required under 37-50-335.

~~(8)~~(9) A person may not assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a ~~partnership or corporation~~ firm or in conjunction with the designation "and company" or "and co." or a similar designation if there is in fact no bona fide ~~partnership or corporation~~ firm that has been formed subject to the provisions of 37-50-330 and registered under 37-50-335. However, it is lawful for a sole proprietor to continue the use of a deceased's name in connection with the sole proprietor's business for a reasonable period of time after the death of a former partner or co-owner."

Section 45. Section 37-50-314, MCA, is amended to read:

"37-50-314. Permit required -- display. (1) A person may not engage in the practice of public accounting in this state without a current permit issued by the department. A permit to engage in the practice of public accounting in this state must be issued by the department to a person who holds a current certificate as a certified public accountant or license as a licensed public accountant and complies with the requirements of this chapter.

(2) The current permit to engage in the practice of public accounting must be prominently displayed for public inspection.

(3) A person qualifying for a practice privilege under [section 1(1) or (2)] is exempt from this requirement."

Section 46. Section 37-50-330, MCA, is amended to read:

"37-50-330. ~~Corporations and partnerships -- registration -- compliance~~ Compliance with ownership requirements -- firm registration. (1) ~~A corporation or partnership firm~~ composed of certified public accountants or a ~~corporation or partnership firm~~ composed of public accountants that is or plans to become engaged in the practice of public accounting may include ~~individuals~~ persons who are not licensed as public accountants or certified as certified public accountants if:

(a) ~~the corporation or partnership firm~~ designates an accountant who is licensed or certified in this state or, in the case of a firm that must be registered pursuant to 37-50-335, a licensee of another state who meets the requirements set out in [section 1(1) or (2)] to be responsible for the proper registration of the ~~corporation or partnership firm~~;

(b) a simple majority of ownership in the ~~corporation or partnership firm~~, in terms of equity and voting rights, is held by accountants who are licensed or certified accountants in this state or in another substantially equivalent jurisdiction or meet the requirements of [section 1(2)];

(c) all persons with an ownership interest in the ~~partnership or corporation firm~~ are individuals actively participating in the business of the ~~partnership or corporation firm~~ or its affiliated entities; and

(d) any person with an ownership interest in the ~~partnership or corporation firm~~ who is not licensed or certified as an accountant and who holds a professional license, registration, or certification issued by this state or another jurisdiction is in compliance with the requirements for that license, registration, or certification.

(2) An accountant licensed or certified in this state or a person qualifying for practice privileges under [section 1] who holds an ownership interest in a ~~partnership or corporation~~ organized pursuant to this section is ultimately responsible for all services provided by the partnership or corporation including any unit, branch, or division of the partnership or corporation providing attestation services firm, who is responsible for supervising attest or compilation services, and who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm is responsible for all attest or compilation services.

(3) A person licensed or certified in this state and a person qualifying for practice privileges under [section 1] who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm must meet the competency requirements of 37-50-203(2)(a).

~~(3)(4)~~ (a) A ~~partnership or corporation~~ firm that is no longer in compliance with the ownership requirements of subsection (1)(b) shall give notice to the board within 90 days of the noncompliance.

(b) The board shall grant the ~~partnership or corporation~~ firm a reasonable amount of time to reestablish compliance with the ownership requirements of subsection (1)(b). The time granted by the board to a ~~partnership or corporation~~ firm to reestablish compliance may not be less than 90 days from the date the board receives the ~~partnership's or corporation's~~ firm's notice of noncompliance.

(c) The failure of a ~~partnership or corporation~~ firm to reestablish compliance with the ownership requirements of subsection (1)(b) is grounds for the board to suspend or revoke the ~~partnership's or corporation's~~ firm's registration required by 37-50-335."

Section 47. Section 37-50-335, MCA, is amended to read:

"37-50-335. Registration of ~~offices~~ firms -- exemptions. (1) The following firms must register annually with the department:

(a) those with an office in this state performing attest services and compilations;

(b) those with an office in this state that use the title "CPA" or "CPA firm"; and

(c) those that do not have an office in this state but perform attest services and compilations for a client having its home office in this state.

(d) A fee may not be charged for the annual registration required in subsection (1)(c).

(2) A firm that undergoes a board-sanctioned compliance or peer review process and receives an acceptable, a pass, or a pass with deficiencies rating for these services and completes all remediation in its principal place of business is exempt from registration.

(3) A firm that is not subject to the requirements of subsection (1) may perform other professional services while using the title "CPA" or "CPA firm" in this state without registering with the department only if:

(a) it performs the services through a person with practice privileges under [section 1]; and

(b) it can lawfully perform the services in the state where persons with practice privileges have their principal place of business.

~~(4) Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, by a partnership or corporation firm of certified public accountants, by a licensed public accountant, by a partnership or corporation firm of licensed public accountants, or by a foreign accountant recognized under 37-50-313 must be registered register annually with the department. A fee may not be charged for this registration. In addition, each individual engaged in this state in the practice of public accounting must have annually received a permit under 37-50-314."~~

Section 48. Section 37-50-341, MCA, is amended to read:

"37-50-341. Initiation of proceedings -- hearings and rulemaking. (1) The board may initiate proceedings under this chapter ~~either~~ on its own motion, upon a complaint made by the board of accountancy of another state, or on the complaint of a person.

(2) A person licensed or certified in this state offering or rendering services or using a "CPA" title in another state is subject to disciplinary action in this state for an act committed in another state where the licensee would be subject to discipline for the act committed in the other state.

(3) A person licensed or certified in another state offering or rendering services or using a "CPA" title in this state is subject to disciplinary action in this state for an act committed in this state for which a licensee in this state would be subject to discipline.

~~(2)~~(4) Hearings and rulemaking proceedings ~~shall be~~ are governed ~~in all respects~~ by the Montana Administrative Procedure Act."

Section 49. Section 37-50-401, MCA, is amended to read:

"37-50-401. False statements by accountants -- misdemeanor -- penalty. Any person practicing as an accountant, public accountant, ~~auditor,~~ or certified public accountant in this state who, because of negligence, gross inefficiency, or willfulness, ~~shall issue or permit~~ issues or permits the issuance of any false statement of the financial transactions, standing, or condition of any ~~corporation, partnership, firm~~ or individual business undertaking ~~shall be deemed~~ is guilty of a misdemeanor and upon conviction ~~thereof~~ shall be fined not less than \$500 or more than \$2,000, ~~or~~ be imprisoned for a period of not less than 90 days or more than 1 year, ~~or~~ or subjected to both ~~said fine and imprisonment, in the discretion of the court.~~

Section 50. Section 37-50-402, MCA, is amended to read:

"37-50-402. Privileged communications -- exceptions. (1) Except by permission of the client, person, ~~or firm, or corporation~~ engaging a certified or licensed public accountant or an employee of the accountant or by permission of the heirs, successors, or personal representatives of the client, person, ~~or firm, or corporation~~ and except for the expression of opinions on financial statements, a certified public accountant, licensed public accountant, or employee ~~thereof~~ may not be required to disclose or divulge or voluntarily disclose or divulge information that the certified or licensed accountant or an employee may have relative to and in connection with any professional services as a public accountant. The information derived from or as a result of professional services is considered confidential and privileged.

(2) The provisions of this section do not apply to the testimony or documents of a public accountant furnished pursuant to a subpoena in a court of competent jurisdiction, pursuant to a board proceeding, or in the process of any board-approved practice review program."

Section 51. Repealer. Sections 37-21-101, 37-21-201, 37-21-301, 37-21-302, 37-21-405, 37-21-406, 37-50-323, 37-50-324, 50-41-101, 50-41-102, 50-41-103, 50-41-104, 50-41-105, 50-41-106, and 50-41-107, MCA, are repealed.

Section 52. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 37, chapter 50, part 3, and the provisions of Title 37, chapter 50, part 3, apply to [section 1].

Section 53. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 54. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

- END -

I hereby certify that the within bill,
HB 0080, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 80
INTRODUCED BY D. KOTTEL
BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

AN ACT REVISING PROFESSIONAL AND OCCUPATIONAL LICENSING LAWS; REVISING AND CLARIFYING CERTAIN BOARD MEMBER REQUIREMENTS, BOARD TERMS, AND BOARD COMPOSITION; REQUIRING SENATE CONFIRMATION OF APPOINTMENTS TO THE BOARD OF RESPIRATORY CARE PRACTITIONERS AND THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; REVISING CERTAIN REGULATORY AND LICENSURE REQUIREMENTS; REVISING CERTAIN BOARD DUTIES; REVISING PROVISIONS RELATING TO UNPROFESSIONAL CONDUCT; REVISING HEARING AID DISPENSER TRAINEE AND BOARD DUTIES; CREATING A TEMPORARY PRACTICE PERMIT IN ADDICTION COUNSELING; REVISING CERTAIN LICENSING REQUIREMENTS FOR PUBLIC ACCOUNTANTS AND FIRMS; REMOVING AUTHORIZATION FOR LAETRILE MANUFACTURE, SALE, POSSESSION, AND DISTRIBUTION; AMENDING SECTIONS 2-15-1738, 2-15-1740, 2-15-1741, 2-15-1744, 2-15-1748, 2-15-1750, 2-15-1753, 2-15-1756, 23-3-501, 30-11-515, 37-1-316, 37-1-410, 37-3-102, 37-3-305, 37-3-306, 37-3-308, 37-3-311, 37-3-323, 37-3-342, 37-4-501, 37-8-202, 37-9-203, 37-9-301, 37-9-302, 37-9-305, 37-9-312, 37-10-302, 37-16-202, 37-16-405, 37-16-411, 37-16-413, 37-18-302, 37-25-303, 37-29-201, 37-35-201, 37-35-202, 37-36-202, 37-47-302, 37-47-404, 37-50-101, 37-50-102, 37-50-203, 37-50-301, 37-50-314, 37-50-330, 37-50-335, 37-50-341, 37-50-401, AND 37-50-402, MCA; AND REPEALING SECTIONS 37-21-101, 37-21-201, 37-21-301, 37-21-302, 37-21-405, 37-21-406, 37-50-323, 37-50-324, 50-41-101, 50-41-102, 50-41-103, 50-41-104, 50-41-105, 50-41-106, AND 50-41-107, MCA.