

HOUSE BILL NO. 133

INTRODUCED BY T. BERRY

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROFESSIONAL AND OCCUPATIONAL LICENSING LAWS; CLARIFYING CERTAIN PROVISIONS REGARDING PROFESSIONAL LICENSING BOARDS; RENAMING THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS TO THE BOARD OF SOCIAL WORK EXAMINERS, PROFESSIONAL COUNSELORS, AND MARRIAGE AND FAMILY THERAPISTS; PROVIDING THAT FAILURE TO REPORT GUNSHOT AND STAB WOUNDS IS A MISDEMEANOR; ~~REVISING PHYSICIAN RECIPROCITY PROVISIONS; ADDING HYPERBARIC OXYGEN THERAPY TO A PODIATRIST'S SCOPE OF PRACTICE; ADDING THE OPERATION OR ADMINISTERING OF PHARMACY BENEFIT PLANS TO THE DEFINITION OF "PRACTICE OF PHARMACY";~~ PROVIDING FOR THE PRACTICE OF ANIMAL CHIROPRACTIC BY CHIROPRACTORS AND VETERINARIANS; DEFINING "REGISTERED CANDIDATE" FOR CERTAIN PROFESSIONAL DISCIPLINES; REVISING Licensure REQUIREMENTS FOR PERSONS SEEKING Licensure AS CLINICAL SOCIAL WORKERS, PROFESSIONAL COUNSELORS, OR MARRIAGE AND FAMILY THERAPISTS; ELIMINATING THE BOARD OF OUTFITTERS AUDIT OF TRANSFERRED NET CLIENT HUNTER USE; REVISING CERTIFIED PUBLIC ACCOUNTING TERMINOLOGY AND LICENSING PROVISIONS TO CONFORM WITH THE UNIFORM ACCOUNTANCY ACT; RAISING EXPERIENCE REQUIREMENTS FOR PROFESSIONAL LAND SURVEYOR AND LAND SURVEYOR INTERN Licensure; WAIVING THE FINE FOR A CITATION FOR THE FIRST FAILURE OF A PLUMBER OR ELECTRICIAN TO DISPLAY A LICENSE; ELIMINATING THE PRACTICAL EXAMINATION FOR A JOURNEYMAN PLUMBER'S LICENSE; REVISING QUALIFICATIONS FOR A CRANE INSPECTOR; EXPANDING DEPARTMENT OF LABOR AND INDUSTRY RULEMAKING AUTHORITY; AMENDING SECTIONS ~~2-15-1740~~, 2-15-1744, 2-15-1757, 37-2-302, 37-3-102, 37-3-204, 37-3-301, 37-3-303, ~~37-3-306~~, 37-3-312, 37-3-321, 37-3-323, ~~37-7-101~~, ~~37-7-702~~, 37-8-202, 37-12-104, 37-16-402, 37-17-104, 37-22-102, ~~37-22-301~~, 37-22-305, 37-23-102, 37-23-201, 37-35-201, 37-37-102, 37-37-201, 37-47-303, 37-47-304, 37-48-106, 37-50-101, 37-50-102, 37-50-203, 37-50-301, 37-50-302, 37-50-305, 37-50-309, 37-50-314, 37-50-316, 37-50-325, 37-50-330, 37-50-335, 37-50-341, 37-50-401, 37-50-402, 37-50-403, 37-51-102, 37-51-103, 37-51-306, 37-51-602, 37-67-309, 37-67-310, 37-68-316, 37-69-304, 37-69-310, 50-31-307, 50-31-308, 50-32-208, AND 50-76-110, MCA; REPEALING SECTIONS 37-3-327, 37-3-328,

37-47-316, 37-48-107, 37-50-303, 37-50-304, 37-50-311, 37-50-312, AND 37-50-313, MCA; AND PROVIDING
A DELAYED EFFECTIVE DATE."

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

~~Section 1. 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 five members appointed by the governor with the consent of the senate,
including:~~

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

~~(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~~

~~(c)(b) one public member who is either is an otolaryngologist or an audiologist or is a person who
regularly uses a hearing aid because of a demonstrated hearing impairment and who is not a licensed hearing
aid dispenser or a licensed audiologist and who regularly uses a hearing aid because of a demonstrated hearing
impairment; and~~

~~(c) a member of the public.~~

~~(3) Each member shall serve for 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 1. Section 2-15-1744, MCA, is amended to read:

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

1 social work.

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

3 (3) Members shall serve staggered 4-year terms."

4
5 **Section 2.** Section 2-15-1757, MCA, is amended to read:

6 **"2-15-1757. Board of realty regulation.** (1) There is a board of realty regulation.

7 (2) The board consists of seven members appointed by the governor with the consent of the senate. Five
8 members must be licensed real estate brokers, salespeople, or property managers who are actively engaged in
9 the real estate business as a broker, a salesperson, or a property manager in this state. Two members must be
10 representatives of the public who are not state government officers or employees and who are not engaged in
11 business as a real estate broker, a salesperson, or a property manager. The members must be residents of this
12 state.

13 (3) ~~Not more than five members, including the presiding officer, may be from the same political party.~~

14 ~~——(4) The members shall serve staggered terms of 4 years. A member may not serve more than two terms~~
15 ~~or any portion of two terms.~~

16 ~~(5)~~(4) The board is allocated to the department for administrative purposes only as prescribed in
17 2-15-121."

18
19 **Section 3.** Section 37-2-302, MCA, is amended to read:

20 **"37-2-302. Gunshot or stab wounds to be reported.** (1) The physician, nurse, or other person licensed
21 to practice a health care profession treating the victim of a gunshot wound or stabbing shall make a report to a
22 law enforcement officer by the fastest possible means. Within 24 hours after initial treatment or first observation
23 of the wound, a written report ~~shall~~ must be submitted, including the name and address of the victim, if known,
24 and ~~shall~~ must be sent by regular mail.

25 (2) A person who knowingly violates the provisions of this section or rules adopted by the department
26 pursuant to this section is guilty of a misdemeanor. On conviction, the person shall be fined not less than \$10
27 or more than \$500 or imprisoned for not more than 90 days, or both. Each day of violation constitutes a separate
28 offense. Fines, except those collected by a justice's court, must be paid to the county treasurer of the county in
29 which the violation occurs."

Section 4. 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.

(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 5. Section 37-3-204, MCA, is amended to read:

1 **"37-3-204. Meetings.** The board shall hold meetings for ~~examinations and for other~~ business properly
2 before the board at least twice annually at times and places set by the board. The president of the board may call
3 special meetings that the president considers advisable or necessary."
4

5 **Section 6.** Section 37-3-301, MCA, is amended to read:

6 **"37-3-301. License required -- kinds of licenses.** (1) Before being issued a license, an applicant may
7 not engage in the practice of medicine in this state.

8 (2) The department may issue four kinds of licenses under the board's seal, which include a physician's
9 license, a specialized license, a temporary license, and a telemedicine license issued in accordance with
10 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349. ~~The physician's license and the specialized license~~
11 ~~must be signed by the president, but the temporary license may be signed by any board member. The board shall~~
12 ~~decide which kind of license to issue."~~
13

14 **Section 7.** Section 37-3-303, MCA, is amended to read:

15 **"37-3-303. Practice authorized by physician's license.** A physician's license authorizes the holder
16 to perform one or more of the acts embraced in 37-3-102(8) in a manner ~~reasonably~~ consistent with the holder's
17 training, skill, and experience."
18

19 ~~Section 9.~~ Section 37-3-306, MCA, is amended to read:

20 ~~"37-3-306. Physician's license -- examination -- reciprocity and endorsement.~~ (1) The board may
21 authorize the department to issue to an applicant a physician's license, license by reciprocity, or license by
22 endorsement only on the basis of:

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

29 ~~(b) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an~~
30 ~~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)(3) The board may require that graduates of foreign medical schools pass an examination given by the education council for foreign medical graduates or its successors.~~

~~——— (6)(4) 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 8. Section 37-3-312, MCA, is amended to read:

"37-3-312. Issuance of license. If the board determines that an applicant possesses the qualifications required by this chapter, the department shall issue a license to practice medicine, which ~~shall~~ must be signed ~~by the president or vice-president, attested by the secretary, and sealed with the seal of the board."~~

Section 9. Section 37-3-321, MCA, is amended to read:

"37-3-321. Refusal of license. If the board determines that an applicant for a license to practice medicine does not possess the qualifications or character required by this chapter or that the applicant has committed unprofessional conduct, ~~it the board shall refrain from authorizing~~ may not authorize the department to issue a license. ~~The department shall mail to the applicant, at the applicant's last address of record with the department, written notification of the board's decision, together with notice of a time and place of a hearing~~

1 ~~before the board. If the applicant without cause fails to appear at the hearing or if after the hearing the board~~
2 ~~determines that the applicant is not entitled to a license, the board shall refuse to grant the license."~~

3
4 **Section 10.** Section 37-3-323, MCA, is amended to read:

5 **"37-3-323. Suspension of license -- investigation.** (1) The department may investigate whenever the
6 department learns of a reason to suspect that a license applicant or a person having a license to practice
7 medicine in this state:

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

13 (b) has been guilty of unprofessional conduct;

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

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

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

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

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

~~NEW SECTION. Section 13. Certification required for hyperbaric oxygen therapy -- places of performance. (1) A podiatrist may not perform hyperbaric oxygen treatments of the foot unless certified to do so by the board. The board shall certify a podiatrist that it considers qualified by education, training, and experience.~~

~~(2) Hyperbaric oxygen therapy performed in accordance with subsection (1) must be performed in a hospital or outpatient center for surgical services licensed under Title 50.~~

~~Section 14. Section 37-7-101, MCA, is amended to read:~~

~~"37-7-101. Definitions. As used in this chapter, the following definitions apply:~~

~~(1) (a) "Administer" means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.~~

~~(b) Except as provided in 37-7-105, the term does not include immunization by injection for children under 18 years of age.~~

~~(2) "Board" means the board of pharmacy provided for in 2-15-1733.~~

~~(3) "Cancer drug" means a prescription drug used to treat:~~

~~(a) cancer or its side effects; or~~

~~(b) the side effects of a prescription drug used to treat cancer or its side effects.~~

~~(4) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.~~

~~(5) "Clinical pharmacist practitioner" means a licensed pharmacist in good standing who meets the requirements specified in 37-7-306.~~

~~(6) "Collaborative pharmacy practice" means the practice of pharmacy by a pharmacist who has agreed to work in conjunction with one or more prescribers, on a voluntary basis and under protocol, and who may perform certain patient care functions under certain specified conditions or limitations authorized by the prescriber.~~

~~(7) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more prescribers that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients.~~

~~(8) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.~~

~~———— (9) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device based on:~~

~~———— (a) a practitioner's prescription drug order;~~

~~———— (b) a professional practice relationship between a practitioner, pharmacist, and patient;~~

~~———— (c) research, instruction, or chemical analysis, but not for sale or dispensing; or~~

~~———— (d) the preparation of drugs or devices based on routine, regularly observed prescribing patterns.~~

~~———— (10) "Confidential patient information" means privileged information accessed by, maintained by, or transmitted to a pharmacist in patient records or that is communicated to the patient as part of patient counseling.~~

~~———— (11) "Controlled substance" means a substance designated in Schedules II through V of Title 50, chapter 32, part 2.~~

~~———— (12) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.~~

~~———— (13) "Device" has the same meaning as defined in 37-2-101.~~

~~———— (14) "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for administration to or use by a patient.~~

~~———— (15) "Distribute" means the delivery of a drug or device by means other than administering or dispensing.~~

~~———— (16) "Drug" means a substance:~~

~~———— (a) recognized as a drug in any official compendium or supplement;~~

~~———— (b) intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;~~

~~———— (c) other than food, intended to affect the structure or function of the body of humans or animals; and~~

~~———— (d) intended for use as a component of a substance specified in subsection (16)(a), (16)(b), or (16)(c).~~

~~———— (17) "Drug utilization review" means an evaluation of a prescription drug order and patient records for duplication of therapy, interactions, proper utilization, and optimum therapeutic outcomes. The term includes but is not limited to the following evaluations:~~

~~———— (a) known allergies;~~

~~———— (b) rational therapy contraindications;~~

~~———— (c) reasonable dose and route administration;~~

~~———— (d) reasonable directions for use;~~

- 1 ~~—— (e) drug-drug interactions;~~
2 ~~—— (f) drug-food interactions;~~
3 ~~—— (g) drug-disease interactions; and~~
4 ~~—— (h) adverse drug reactions.~~
5 ~~—— (18) "Equivalent drug product" means a drug product that has the same established name, active~~
6 ~~ingredient or ingredients, strength or concentration, dosage form, and route of administration and meets the same~~
7 ~~standards as another drug product as determined by any official compendium or supplement. Equivalent drug~~
8 ~~products may differ in shape, scoring, configuration, packaging, excipients, and expiration time.~~
9 ~~—— (19) "Health care facility" has the meaning provided in 50-5-101.~~
10 ~~—— (20) (a) "Health clinic" means a facility in which advice, counseling, diagnosis, treatment, surgery, care,~~
11 ~~or services relating to preserving or maintaining health are provided on an outpatient basis for a period of less~~
12 ~~than 24 consecutive hours to a person not residing at or confined to the facility.~~
13 ~~—— (b) The term includes an outpatient center for primary care and an outpatient center for surgical services,~~
14 ~~as those terms are defined in 50-5-101, and a local public health agency as defined in 50-1-101.~~
15 ~~—— (c) The term does not include a facility that provides routine health screenings, health education, or~~
16 ~~immunizations.~~
17 ~~—— (21) "Hospital" has the meaning provided in 50-5-101.~~
18 ~~—— (22) "Intern" means:~~
19 ~~—— (a) a person who is licensed by the state to engage in the practice of pharmacy while under the personal~~
20 ~~supervision of a preceptor and who is satisfactorily progressing toward meeting the requirements for licensure~~
21 ~~as a pharmacist;~~
22 ~~—— (b) a graduate of an accredited college of pharmacy who is licensed by the state for the purpose of~~
23 ~~obtaining practical experience as a requirement for licensure as a pharmacist;~~
24 ~~—— (c) a qualified applicant awaiting examination for licensure; or~~
25 ~~—— (d) a person participating in a residency or fellowship program.~~
26 ~~—— (23) "Long-term care facility" has the meaning provided in 50-5-101.~~
27 ~~—— (24) (a) "Manufacturing" means the production, preparation, propagation, conversion, or processing of~~
28 ~~a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by~~
29 ~~means of chemical or biological synthesis.~~
30 ~~—— (b) Manufacturing includes:~~

- 1 ~~—— (i) any packaging or repackaging;~~
2 ~~—— (ii) labeling or relabeling;~~
3 ~~—— (iii) promoting or marketing; and~~
4 ~~—— (iv) preparing and promoting commercially available products from bulk compounds for resale by~~
5 ~~pharmacies, practitioners, or other persons.~~
6 ~~—— (25) "Medicine" means a remedial agent that has the property of curing, preventing, treating, or mitigating~~
7 ~~diseases or which is used for this purpose.~~
8 ~~—— (26) "Participant" means a physician's office, pharmacy, hospital, or health clinic that has elected to~~
9 ~~voluntarily participate in the cancer drug repository program provided for in 37-7-1403 and that accepts donated~~
10 ~~cancer drugs or devices under rules adopted by the board.~~
11 ~~—— (27) "Patient counseling" means the communication by the pharmacist of information, as defined by the~~
12 ~~rules of the board, to the patient or caregiver in order to ensure the proper use of drugs or devices.~~
13 ~~—— (28) "Person" includes an individual, partnership, corporation, association, or other legal entity.~~
14 ~~—— (29) "Pharmaceutical care" means the provision of drug therapy and other patient care services intended~~
15 ~~to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's~~
16 ~~symptoms, or arresting or slowing of disease process.~~
17 ~~—— (30) "Pharmacist" means a person licensed by the state to engage in the practice of pharmacy and who~~
18 ~~may affix to the person's name the term "R.Ph.".~~
19 ~~—— (31) "Pharmacy" means an established location, either physical or electronic, registered by the board~~
20 ~~where drugs or devices are dispensed with pharmaceutical care or where pharmaceutical care is provided.~~
21 ~~—— (32) "Pharmacy technician" means an individual who assists a pharmacist in the practice of pharmacy.~~
22 ~~—— (33) "Poison" means a substance that, when introduced into the system, either directly or by absorption,~~
23 ~~produces violent, morbid, or fatal changes or that destroys living tissue with which it comes in contact.~~
24 ~~—— (34) "Practice of pharmacy" means:~~
25 ~~—— (a) interpreting, evaluating, and implementing prescriber orders;~~
26 ~~—— (b) administering drugs and devices pursuant to a collaborative practice agreement and compounding,~~
27 ~~labeling, dispensing, and distributing drugs and devices, including patient counseling;~~
28 ~~—— (c) properly and safely procuring, storing, distributing, and disposing of drugs and devices and~~
29 ~~maintaining proper records;~~
30 ~~—— (d) monitoring drug therapy and use;~~

1 ~~——— (e) initiating or modifying drug therapy in accordance with collaborative pharmacy practice agreements~~
2 ~~established and approved by health care facilities or voluntary agreements with prescribers;~~

3 ~~——— (f) participating in quality assurance and performance improvement activities;~~

4 ~~——— (g) providing information on drugs, dietary supplements, and devices to patients, the public, and other~~
5 ~~health care providers; and~~

6 ~~——— (h) participating in scientific or clinical research as an investigator or in collaboration with other~~
7 ~~investigators; and~~

8 ~~——— (i) operating or administering pharmacy benefit management plans.~~

9 ~~——— (35) "Practice telepharmacy" means to provide pharmaceutical care through the use of information~~
10 ~~technology to patients at a distance.~~

11 ~~——— (36) "Preceptor" means an individual who is registered by the board and participates in the instructional~~
12 ~~training of a pharmacy intern.~~

13 ~~——— (37) "Prescriber" has the same meaning as provided in 37-7-502.~~

14 ~~——— (38) "Prescription drug" means any drug that is required by federal law or regulation to be dispensed only~~
15 ~~by a prescription subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 353.~~

16 ~~——— (39) "Prescription drug order" means an order from a prescriber for a drug or device that is communicated~~
17 ~~directly or indirectly by the prescriber to the furnisher by means of a signed order, by electronic transmission, in~~
18 ~~person, or by telephone. The order must include the name and address of the prescriber, the prescriber's license~~
19 ~~classification, the name and address of the patient, the name, strength, and quantity of the drug, drugs, or device~~
20 ~~prescribed, the directions for use, and the date of its issue. These stipulations apply to written, oral, electronically~~
21 ~~transmitted, and telephoned prescriptions and orders derived from collaborative pharmacy practice.~~

22 ~~——— (40) "Provisional community pharmacy" means a pharmacy that has been approved by the board,~~
23 ~~including but not limited to federally qualified health centers, as defined in 42 CFR 405.2401, where prescription~~
24 ~~drugs are dispensed to appropriately screened, qualified patients.~~

25 ~~——— (41) "Qualified patient" means a person who is uninsured, indigent, or has insufficient funds to obtain~~
26 ~~needed prescription drugs or cancer drugs.~~

27 ~~——— (42) "Registry" means the prescription drug registry provided for in 37-7-1502.~~

28 ~~——— (43) "Utilization plan" means a plan under which a pharmacist may use the services of a pharmacy~~
29 ~~technician in the practice of pharmacy to perform tasks that:~~

30 ~~——— (a) do not require the exercise of the pharmacist's independent professional judgment; and~~

~~_____ (b) are verified by the pharmacist.~~

~~_____ (44) "Wholesale" means a sale for the purpose of resale."~~

~~_____ **Section 15.** Section 37-7-702, MCA, is amended to read:~~

~~_____ **"37-7-702. Out-of-state mail service pharmacy defined.** "Out-of-state mail service pharmacy" means a pharmacy located outside this state that:~~

~~_____ (1) ships, mails, or delivers by any lawful means a dispensed legend drug to a resident in this state pursuant to a legally issued prescription;~~

~~_____ (2) provides to a resident of this state information on drugs or devices that may include but is not limited to advice relating to therapeutic values, potential hazards, and uses; or~~

~~_____ (3) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs; or~~

~~_____ (4) operates or administers pharmacy benefit management plans."~~

Section 11. 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) adopt rules to define criteria for the recognition of registered nurses who are certified through a nationally recognized professional nursing organization as registered nurse first assistants; and

(j) establish a medical assistance program to assist ~~licensed nurses~~ licensees who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness. The program must provide for assistance to licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward rehabilitation. The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state. For purposes of funding this medical assistance 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 12. Section 37-12-104, MCA, is amended to read:

"37-12-104. Rights and limitations governing practice. (1) Chiropractors licensed under this chapter shall have the right to practice that science defined as chiropractic under 37-12-101 in accordance with the

method, thought, and practice of chiropractors; and ~~they shall be~~ are permitted to use the prefix "Dr." or "Doctor" as a title but ~~shall~~ may not in any way imply that they are medical doctors, osteopaths, or surgeons. They ~~shall~~ may not prescribe for or administer to any person any medicine or drugs or practice medicine or surgery or osteopathy, except that the use of antiseptics for purposes of sanitation and hygiene and to prevent infection and contagion ~~shall be~~ is permitted.

(2) Licensed chiropractors may diagnose, palpate, and treat the human body by the application of manipulative, manual, mechanical, and dietetic methods, including chiropractic physiotherapy, the use of supportive appliances, analytical instruments, and diagnostic x-ray in accordance with guidelines promulgated or approved by state or federal health regulatory agencies. A chiropractor who has the necessary qualifications and meets the requirements of [section 24 16] is considered an animal chiropractic practitioner as defined in [section 49 14] and is not limited to diagnosing, palpating, and treating only the human body."

Section 13. Section 37-16-402, MCA, is amended to read:

"37-16-402. Application -- qualifications -- fee. An applicant for a license shall pay a fee fixed by the board and commensurate with the costs of processing and administering the application and related functions of the board and shall show to the satisfaction of the board that the applicant:

(1) is a person of good moral character;

(2) has an education equivalent to a 4-year course in an accredited high school ~~or holds a current license as an audiologist under Title 37, chapter 15;~~ and

(3) is free of contagious or infectious disease."

NEW SECTION. Section 14. Definitions. As used in [sections ~~49 through 24~~ 14 THROUGH 19], the following definitions apply:

(1) "Animal chiropractic" means the examination and diagnosis of a nonhuman animal and treatment of the animal through vertebral subluxation complex, spinal, joint, and musculoskeletal manipulation by a veterinarian or by a chiropractor if the chiropractor has been issued a certificate by the board.

(2) "Animal chiropractic practitioner" means a veterinarian certified by the AVCA or IVCA or a chiropractor who is certified by the AVCA or IVCA and has been issued a certificate by the board.

(3) "AVCA" means the American veterinary chiropractic association or its successor organization.

(4) "IVCA" means the international veterinary chiropractic association or its successor organization.

1
2 **NEW SECTION. Section 15. Scope of practice.** (1) A person who is not certified by the AVCA or IVCA
3 may not hold out to the public that the person is an animal chiropractic practitioner. However, nothing in this
4 section prevents a person licensed as a veterinarian in this state who is not certified by the AVCA or IVCA from
5 manipulating a nonhuman animal pursuant to 37-18-102, so long as the person does not use the term
6 "chiropractor" and practices within the scope of the person's veterinary medical training. A veterinarian may not
7 represent or imply, either directly or indirectly, that the veterinarian is engaged in practice as a chiropractor as
8 defined in 37-12-104.

9 (2) A chiropractor who has been issued a certificate by the board under [section 24 16] may not:

- 10 (a) radiograph an animal patient;
11 (b) perform surgery;
12 (c) dispense or administer prescription medications; or
13 (d) practice veterinary medicine as defined in 37-18-102.
14

15 **NEW SECTION. Section 16. Qualification to practice -- application for certificate -- fee.** (1) A
16 person may not practice animal chiropractic or hold out to the public that the person is an animal chiropractic
17 practitioner in this state unless that person is:

- 18 (a) a Montana-licensed veterinarian who is certified by the AVCA or IVCA; or
19 (b) a Montana-licensed chiropractor who is certified by the AVCA or IVCA and has been issued a
20 certificate by the board.

21 (2) A chiropractor desiring to be certified to practice animal chiropractic in this state shall apply to the
22 board on a form provided by the department and provide satisfactory proof that the applicant:

- 23 (a) is of good moral character;
24 (b) has been actively licensed in good standing as a chiropractor for at least 1 year; and
25 (c) is certified by the AVCA or IVCA.

26 (3) The application must be signed by the applicant and accompanied by a nonrefundable fee set by the
27 board.
28

29 **NEW SECTION. Section 17. Renewal fee.** (1) Each certificate issued under [section 24 16] must be
30 renewed on or before the date set by the department by rule.

(2) Each renewal application must be made on a form provided by the department, signed by the certificate holder, accompanied by a renewal fee set by the board, and accompanied by proof that the certificate holder also holds an active license in good standing to practice chiropractic in this state.

NEW SECTION. Section 18. Standard of practice for chiropractor holding certificate -- communication with referring veterinarian -- maintenance of records. (1) (a) A chiropractor who holds a current certificate issued under [section 24 16] may practice animal chiropractic only upon verifying before the animal chiropractic is performed that the animal patient and its owner have an established professional relationship with a veterinarian licensed in this state and upon the chiropractor assuming personal liability for the quality of the animal chiropractic performed.

(b) The animal patient's veterinarian may, but is not required to, perform an examination of the animal prior to the animal receiving chiropractic treatment. Upon request of the animal chiropractic practitioner and with the consent of the owner, the veterinarian shall provide the animal chiropractic practitioner with the animal patient's medical history, including current medications, prior and current examination findings, and any treatment plan.

(c) To ensure proper patient care, the veterinarian and the animal chiropractic practitioner shall maintain ongoing communication, documented in the animal patient's veterinary and chiropractic records.

(2) The animal patient's veterinarian is not:

(a) required to supervise the animal chiropractic practitioner during the animal chiropractic; or

(b) liable for the acts or omissions of the animal chiropractic practitioner.

(3) Each chiropractor who has been issued a certificate under [section 24 16] shall:

(a) maintain for at least 3 years a medical record of each animal receiving animal chiropractic;

(b) within 7 days after each animal chiropractic visit, transmit a copy of the medical record generated by the visit to the veterinarian who has established the professional relationship with the animal and the animal's owner. The medical record must include:

(i) the name, address, and telephone number of the animal's owner;

(ii) the name, age, sex, and breed of the animal;

(iii) the date of the animal chiropractic examination, care, or treatment of the animal, including the diagnosis and recommended treatment plan; and

(iv) the progress and disposition of the case.

1
2 **NEW SECTION. Section 19. Disciplinary action -- audit.** (1) A chiropractor who holds a certificate
3 issued under [section 24 16] shall inform the board of the nonrenewal of the chiropractor's chiropractic license
4 or of any disciplinary or other action taken against the chiropractic license by the board of chiropractors.

5 (2) A violation by a chiropractor of any provision of [sections 19 through 24 14 THROUGH 19] or any rule
6 adopted by the board pursuant to [sections 19 through 24 14 THROUGH 19] is grounds for disciplinary action
7 against the certificate holder by the board.

8 (3) The board may audit certificate renewals to verify AVCA or IVCA certification.
9

10 **SECTION 20. SECTION 37-17-104, MCA, IS AMENDED TO READ:**

11 **"37-17-104. Exemptions.** (1) Except as provided in subsection (2), this chapter does not prevent:

12 (a) qualified members of other professions, such as physicians, social workers, lawyers, pastoral
13 counselors, professional counselors licensed under Title 37, chapter 23, or educators, from doing work of a
14 psychological nature consistent with their training if they do not hold themselves out to the public by a title or
15 description incorporating the words "psychology", "psychologist", "psychological", or "psychologic";

16 (b) the activities, services, and use of an official title clearly delineating the nature and level of training
17 on the part of a person in the employ of a federal, state, county, or municipal agency or of other political
18 subdivisions or an educational institution, business corporation, or research laboratory insofar as these activities
19 and services are a part of the duties of the office or position within the confines of the agency or institution;

20 (c) the activities and services of a student, intern, or resident in psychology pursuing a course of study
21 at an accredited university or college or working in a generally recognized training center if these activities and
22 services constitute a part of the supervised course of study of the student, intern, or resident in psychology;

23 (d) the activities and services of a person who is not a resident of this state in rendering consulting
24 psychological services in this state when these services are rendered for a period which does not exceed, in the
25 aggregate, 60 days during a calendar year if the person is authorized under the laws of the state or country of
26 that person's residence to perform these activities and services. However, these persons shall report to the
27 department the nature and extent of the services in this state prior to providing those services if the services are
28 to exceed 10 days in a calendar year.

29 (e) a person authorized by the laws of the state or country of the person's former residence to perform
30 activities and services, who has recently become a resident of this state and who has submitted a completed

1 application for a license in this state, from performing the activities and services pending disposition of the
2 person's application; and

3 (f) the offering of lecture services.

4 (2) Those qualified members of other professions described in subsection (1)(a) may indicate and hold
5 themselves out as performing psychological testing, evaluation, and assessment, as described in
6 37-17-102(4)(b), provided that they are qualified to administer the test and make the evaluation or assessment.

7 (3) The board of social work examiners, and professional counselors, and marriage and family therapists
8 shall adopt rules that qualify a licensee under Title 37, chapter 22 or 23, to perform psychological testing,
9 evaluation, and assessment. The rules for licensed clinical social workers and professional counselors must be
10 consistent with the guidelines of their respective national associations. Final rules must be adopted by October
11 1, 2010. A qualified licensee providing services under this exemption shall comply with the rules no later than 1
12 year from the date of adoption of the rules."

13
14 **Section 21.** Section 37-22-102, MCA, is amended to read:

15 **"37-22-102. Definitions.** As used in this chapter:

16 (1) "Board" means the board of social work examiners, and professional counselors, and marriage and
17 family therapists established under 2-15-1744.

18 (2) "Department" means the department of labor and industry.

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

20 (4) "Psychotherapy" means the use of psychosocial methods within a professional relationship to assist
21 a person to achieve a better psychosocial adaptation and to modify internal and external conditions that affect
22 individuals, groups, or families in respect to behavior, emotions, and thinking concerning their interpersonal
23 processes.

24 (5) "Registered candidate" means an applicant for licensure who is registered pursuant to [section 28
25 23] to obtain postdegree supervised work experience necessary for licensure.

26 ~~(5)~~(6) "Social work" means the professional practice directed toward helping people achieve more
27 adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge
28 of social resources, human capabilities, and the roles that individual motivation and social influences play in
29 determining behavior and involves diagnoses and the application of social work techniques, including:

30 (a) counseling and using psychotherapy with individuals, families, or groups;

- 1 (b) providing information and referral services;
- 2 (c) providing, arranging, or supervising the provision of social services;
- 3 (d) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or
- 4 groups;
- 5 (e) helping communities to organize to provide or improve social and health services;
- 6 (f) research or teaching related to social work; and
- 7 (g) administering, evaluating, and assessing tests if the licensee is qualified to administer the test and
- 8 make the evaluation and assessment."

9

10 ~~Section 26. Section 37-22-301, MCA, is amended to read:~~

11 ~~"37-22-301. License requirements -- exemptions. (1) A license applicant shall satisfactorily complete~~

12 ~~an examination prescribed by the board.~~

13 ~~(2) Before an applicant may take the examination, the applicant shall present three letters of reference~~

14 ~~from licensed social workers, licensed clinical social workers, licensed professional counselors, licensed clinical~~

15 ~~professional counselors, psychiatrists, or psychologists who have knowledge of the applicant's professional~~

16 ~~performance and shall demonstrate to the board that the applicant:~~

17 ~~(a) has a doctorate or master's degree in social work from a program accredited by the council on social~~

18 ~~work education or approved by the board;~~

19 ~~(b) has completed at least 24 months of supervised post master's degree work experience in~~

20 ~~psychotherapy, which included 3,000 hours of social work experience, of which at least 1,500 hours were in direct~~

21 ~~client contact, within the past 5 years; and~~

22 ~~(c) abides by the social work ethical standards adopted under 37-22-201.~~

23 ~~(3) An applicant who fails the examination may reapply to take the examination.~~

24 ~~(4) An applicant is exempt from the examination requirement if the applicant satisfies the board that the~~

25 ~~applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes~~

26 ~~substantially the same requirements as this chapter and that the applicant has passed an examination similar~~

27 ~~to that required by the board.~~

28 ~~(5) As a prerequisite to the issuance of a license, the board shall require the applicant to submit~~

29 ~~fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau~~

30 ~~of investigation as provided in 37-4-307.~~

~~1 (6) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the~~
~~2 opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust,~~
~~3 and if the board determines that the applicant is not, the license may be denied."~~

4
5 **Section 22.** Section 37-22-305, MCA, is amended to read:

6 **"37-22-305. Representation to public as licensed clinical social worker -- limitations on use of title**
7 **-- limitations on practice.** (1) Upon issuance of a license in accordance with this chapter, a licensee may use
8 the title "licensed clinical social worker". Except as provided in subsection (2), a person may not represent that
9 the person is a licensed clinical social worker by adding the letters "LSW" or "LCSW" after the person's name or
10 by any other means unless licensed under this chapter.

11 (2) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title
12 "licensed social worker" or "LSW" may use the title "licensed clinical social worker" or "LCSW".

13 (3) Subsection (1) does not prohibit:

14 (a) qualified members of other professions, such as physicians, psychologists, lawyers, pastoral
15 counselors, educators, or the general public engaged in social work like activities, from doing social work
16 consistent with their training if they do not hold themselves out to the public by a title or description incorporating
17 the words "licensed social worker" or "licensed clinical social worker";

18 (b) activities, services, and use of an official title by a person in the employ of or under a contract with
19 a federal, state, county, or municipal agency, an educational, research, or charitable institution, or a health care
20 facility licensed under the provisions of Title 50, chapter 5, that are a part of the duties of the office or position;

21 (c) an employer from performing social work like activities performed solely for the benefit of employees;

22 (d) activities and services of a student, intern, or resident in social work pursuing a course of study at
23 an accredited university or college or working in a generally recognized training center if the activities and
24 services constitute a part of the supervised course of study;

25 (e) activities and services by a person who is not a resident of this state that are rendered for a period
26 that does not exceed, in the aggregate, 60 days during a calendar year if the person is authorized under the law
27 of the state or country of residence to perform the activities and services. However, the person shall report to the
28 department the nature and extent of the activities and services if they exceed 10 days in a calendar year.

29 (f) pending disposition of the application for a license, activities and services by a person who has
30 recently become a resident of this state, has applied for a license within 90 days of taking up residency in this

1 state, and is licensed to perform the activities and services in the state of former residence; or
2 (g) an activity or service of a person who is working to satisfactorily complete the experience required
3 for licensure if the person is a registered clinical social worker candidate, registered marriage and family therapist
4 candidate, or registered professional counselor candidate."
5

6 **NEW SECTION. Section 23. Candidate for licensure -- registration requirements -- renewal --**
7 **ethical standards.** (1) If an applicant for a license under 37-22-301 has completed the required education but
8 has not completed the supervised experience required for a license, the applicant shall register as a candidate
9 for licensure to be permitted to gain supervised experience in this state. To apply for registration as a candidate
10 for licensure, the applicant shall submit:

11 (a) the application and fee required by the board;
12 (b) proof of completion of the education requirement;
13 (c) the background and fingerprint check required by 37-22-
14 301(5); and

15 (d) a training and supervision plan that meets the requirements set by the board.

16 (2) Upon satisfaction of the requirements of subsection (1) and approval by the board, a registered
17 clinical social worker candidate may engage in social work under the supervision required and conditions set by
18 the board. The candidate shall use the title of "registered clinical social worker candidate".

19 (3) A registered candidate shall renew the registration annually in the manner required by the board. The
20 board may limit the number of years a person may practice in this state as a registered candidate.

21 (4) A registered candidate shall conform to the standards of conduct applicable to licensees.

22 (5) Unprofessional conduct or failure to satisfy the training and supervision requirements and other
23 conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's
24 authorization to act as a registered candidate.

25
26 **Section 24.** Section 37-23-102, MCA, is amended to read:

27 **"37-23-102. Definitions.** As used in this chapter, the following definitions apply:

28 (1) "Board" means the board of social work examiners, and professional counselors, and marriage and
29 family therapists established under 2-15-1744.

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

(3) "Professional counseling" means engaging in methods and techniques that include:

(a) counseling, which means the therapeutic process of:

(i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives; or

(ii) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health;

(b) assessment, which means selecting, administering, scoring, and interpreting instruments, including psychological tests, evaluations, and assessments, designed to assess an individual's aptitudes, attitudes, abilities, achievement, interests, and personal characteristics and using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations;

(c) counseling treatment intervention, which means those cognitive, affective, behavioral, and systemic counseling strategies, techniques, and methods common to the behavioral sciences that are specifically implemented in the context of a therapeutic relationship. Other treatment interventions include developmental counseling, guidance, and consulting to facilitate normal growth and development, including educational and career development.

(d) referral, which means evaluating information to identify needs or problems of an individual and to determine the advisability of referral to other specialists, informing the individual of the judgment, and communicating as requested or considered appropriate with the referral sources.

(4) "Registered candidate" means an applicant for licensure who is registered pursuant to [section 34-26] to obtain postdegree supervised work experience necessary for licensure."

Section 25. Section 37-23-201, MCA, is amended to read:

"37-23-201. Representation or practice as licensed clinical professional counselor -- license required. (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title "licensed clinical professional counselor" or "professional counselor".

(2) Except as provided in subsection (3), a person may not represent that the person is a licensed professional counselor or licensed clinical professional counselor by adding the letters "LPC" or "LCPC" after the person's name or by any other means, engage in the practice of professional counseling, or represent that the person is engaged in the practice of professional counseling, unless licensed under this chapter.

(3) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or "LCPC".

(4) Subsection (2) does not prohibit:

(a) a qualified member of another profession, such as a physician, lawyer, pastoral counselor, probation officer, court employee, nurse, school counselor, educator, chemical dependency counselor accredited by a federal agency, or addiction counselor licensed pursuant to Title 37, chapter 35, from performing duties and services consistent with the person's licensure or certification and the code of ethics of the person's profession or, in the case of a qualified member of another profession who is not licensed or certified or for whom there is no applicable code of ethics, from performing duties and services consistent with the person's training, as long as the person does not represent by title that the person is engaging in the practice of professional counseling;

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

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

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

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

(f) pending disposition of the application for a license, the activity or service by a person who has recently become a resident of this state, has applied for a license within 90 days of taking up residency in this state, and is licensed to perform the activity or service in the state of the person's former residence;

(g) an activity or service of a person who is working to satisfactorily complete the 3,000 hours of counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a planned graduate program, as required by 37-23-202(1)(a), or is working to complete the 3,000 hours of social work experience as required by 37-22-304 experience requirement for licensure if the person is a registered

professional counselor candidate, registered clinical social worker candidate, or registered marriage and family therapist candidate; or

(h) an activity or service performed by a licensed social worker, licensed psychiatrist, or licensed psychologist when performing the activity or service in a manner consistent with the person's license and the code of ethics of the person's profession."

NEW SECTION. Section 26. Candidate for licensure -- registration requirements -- renewal -- ethical standards. (1) If an applicant for a license under 37-23-202 has completed the required education but has not completed the supervised experience required for a license, the applicant shall register as a candidate for licensure to be permitted to gain supervised experience in this state. To apply for registration as a candidate for licensure, the applicant shall submit:

- (a) the application and fee required by the board;
- (b) proof of completion of the education requirement;
- (c) the background and fingerprint check required by 37-23-202(3); and
- (d) a training and supervision plan that meets the requirements set by the board.

(2) Upon satisfaction of the requirements in subsection (1) and approval by the board, a registered professional counselor candidate may engage in professional counseling under the supervision required and conditions set by the board. The candidate shall use the title of "registered professional counselor candidate".

(3) A registered candidate shall renew the registration annually in the manner required by the board. The board may limit the number of years a person may practice in this state as a registered candidate.

(4) A registered candidate shall conform to the standards of conduct applicable to licensees.

(5) Unprofessional conduct or failure to satisfy the training and supervision requirements and other conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's authorization to act as a registered candidate.

Section 27. 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 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) 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.

(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 28. Section 37-37-102, MCA, is amended to read:

"37-37-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of social work examiners, ~~and~~ professional counselors, and marriage and family therapists established in 2-15-1744.

(2) "Department" means the department of labor and industry.

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

(4) "Marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders

1 within the context of interpersonal relationships, including marriage and family systems. Marriage and family
2 therapy involves the professional application of psychotherapeutic and family system theories and techniques,
3 counseling, consultation, treatment planning, and supervision in the delivery of services to individuals, couples,
4 and families.

5 (5) "Practice of marriage and family therapy" means the provision of professional marriage and family
6 therapy services to individuals, couples, and families, singly or in groups, for a fee, monetary or otherwise, either
7 directly or through public or private organizations.

8 (6) "Qualified supervisor" means a supervisor determined by the board to meet standards established
9 by the board for supervision of clinical services.

10 (7) "Recognized educational institution" means:

11 (a) an educational institution that grants a bachelor's, master's, or doctoral degree and that is recognized
12 by the board and by a regional accrediting body; or

13 (b) a postgraduate training institute accredited by the commission on accreditation for marriage and
14 family therapy education.

15 (8) "Registered candidate" means an applicant for licensure who is registered pursuant to section 35
16 30] to obtain postdegree supervised work experience necessary for licensure."

17
18 **Section 29.** Section 37-37-201, MCA, is amended to read:

19 **"37-37-201. License requirements -- exemptions -- ~~temporary permit~~.** (1) An applicant for a license
20 shall pay an application fee set by the board by rule. The board may provide a separate, combined fee for
21 persons licensed by the board holding dual licenses. An applicant for a license under this section shall also
22 complete an application on a form provided by the department and provide documentation to the board that the
23 applicant:

24 (a) (i) has a master's degree or a doctoral degree in marriage and family therapy from a recognized
25 educational institution or a degree from a program accredited by the commission on accreditation for marriage
26 and family therapy education; or

27 (ii) has a graduate degree in an allied field from a recognized educational institution and graduate level
28 work that the board determines to be the equivalent of a master's degree in marriage and family therapy or
29 marriage and family counseling;

30 (b) has successfully passed an examination prescribed by the board;

(c) has worked under the direct supervision of a qualified supervisor for at least 3,000 hours, including 1,000 hours of face-to-face client contact in the practice of marriage and family therapy, of which up to 500 hours may be accumulated while achieving the educational credentials listed in subsection (1)(a); and

(d) is of good moral character. Being of good moral character includes in its meaning that the applicant has not been convicted by a court of competent jurisdiction of a crime described by board rule as being of a nature that renders the applicant unfit to practice marriage and family therapy.

(2) As authorized in 37-1-307 and as a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation.

(3) If an applicant has a history of criminal convictions, the board, pursuant to 37-1-203, shall allow the applicant the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust and may deny the license if it determines that the applicant is not sufficiently rehabilitated.

~~(2)~~(4) An applicant is exempt from the examination requirement in subsection (1)(b) if the board is satisfied that:

(a) the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this chapter and has passed an examination similar to that required by the board; or

~~(b) for applications received before July 1, 2011, the applicant is a clinical member of the American association for marriage and family therapy and is a current resident of this state; or~~

~~(c)~~(b) the applicant is licensed as a clinical social worker under Title 37, chapter 22, or as a clinical professional counselor under Title 37, chapter 23, and has practiced marriage and family therapy within the state for a period prescribed by the board.

~~(3)~~(5) A person is exempt from licensure as a marriage and family therapist if the person practices marriage and family therapy:

(a) under qualified supervision in a training institution or facility or other supervisory arrangements approved by the board and uses the title of intern;

(b) as part of the person's duties as a member of the clergy or priesthood; or

~~(c) under a temporary permit that the board may issue under rules adopted to allow a 1-year temporary permit to an applicant for licensure pending examination for a license or processing of the application for a license. An applicant with a temporary permit under this subsection shall use the title of "licensed marriage and~~

1 ~~family therapy candidate" while gaining the experience required for licensure if the person is a registered marriage~~
2 ~~and family therapist candidate, registered clinical social worker candidate, or registered professional counselor~~
3 ~~candidate."~~

4
5 **NEW SECTION. Section 30. Candidate for licensure -- registration requirements -- renewal --**
6 **ethical standards.** (1) If an applicant for a license under 37-37-201 has completed the required education but
7 has not completed the supervised experience required for a license, the applicant shall register as a candidate
8 for licensure to be permitted to gain supervised experience in this state. To apply for registration as a candidate
9 for licensure, the applicant shall submit:

- 10 (a) the application and fee required by the board;
11 (b) proof of completion of the education requirement;
12 (c) the background and fingerprint check required by 37-37-
13 201; and

- 14 (d) a training and supervision plan that meets the requirements set by the board.

15 (2) Upon satisfaction of the requirements in subsection (1) and approval by the board, a registered
16 marriage and family therapist candidate may engage in marriage and family therapy under the supervision
17 required and conditions set by the board. The candidate shall use the title of "registered marriage and family
18 therapist candidate".

19 (3) A registered candidate shall renew the registration annually in the manner required by the board. The
20 board may limit the number of years a person may practice in this state as a registered candidate.

21 (4) A registered candidate shall conform to the standards of conduct applicable to licensees.

22 (5) Unprofessional conduct or failure to satisfy the training and supervision requirements and other
23 conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's
24 authorization to act as a registered candidate.

25
26 **Section 31.** Section 37-47-303, MCA, is amended to read:

27 **"37-47-303. Guide's and professional guide's qualifications.** (1) An applicant for a guide's or
28 professional guide's license must meet the following qualifications:

- 29 (a) be 18 years of age or older and be physically capable and mentally competent to perform the duties
30 of a guide or professional guide; and

(b) be endorsed and recommended by an outfitter with a valid license, unless otherwise qualified under guide or professional guide standards established by the board pursuant to 37-47-201(4); and

~~(c) have been issued a valid wildlife conservation license.~~

(2) In addition to the requirements listed in subsection (1), an applicant for licensure as a professional guide must meet additional experience requirements, to be set by board rule, and may be required to show proof of training or pass a qualifying examination when required by board rule."

Section 32. Section 37-47-304, MCA, is amended to read:

"37-47-304. Application. (1) Each applicant for an outfitter's, guide's, or professional guide's license shall apply for a license on a form furnished by the department.

(2) The application for an outfitter's license forms the basis for the outfitter's operations plan and must include:

(a) the applicant's full name, residence, address, ~~conservation license number, driver's license number, birth date, physical description~~ proof of age, and telephone number;

(b) the address of the applicant's principal place of business in the state of Montana;

(c) the amount and kind of property and equipment owned and used in the outfitting business of the applicant;

(d) the experience of the applicant, including:

(i) years of experience as an outfitter, guide, or professional guide;

(ii) the applicant's knowledge of areas in which the applicant has operated and intends to operate; and

(iii) the applicant's ability to cope with weather conditions and terrain;

~~(e) a signed statement of the licensed outfitter for each guide and professional guide to be employed or retained as an independent contractor, stating that the guide or professional guide is to be employed by the outfitter and stating that the outfitter recommends the guide or professional guide for licensure;~~

~~(f)(e)~~ an affidavit by the outfitter to the board that the equipment listed on the application is in fact owned, leased, or contracted for by the applicant, is in good operating condition, and is sufficient and satisfactory for the services advertised or contemplated to be performed by the applicant;

~~(g)(f)~~ a statement of the maximum number of participants to be accompanied at any one time;

~~(h)(g)~~ the written approval of the appropriate agency or landowner on whose lands the applicant intends to provide services or establish hunting camps; and

(h) the boundaries of the proposed operation, stating when applicable:

- (i) the name and portion of river;
- (ii) the county of location;
- (iii) the legal owner of the property;
- (iv) the name of the ranch;
- (v) the proposed service, including the type of game sought;
- (vi) the name of the agency granting use authority; and
- (vii) other means of identifying boundaries as established by board rule.

(3) An application for an outfitter's license must be in the name of an individual person only. An application involving corporations, proprietorships, or partnerships must be made by one individual person who qualifies under the provisions of this part. A license issued pursuant to this part must be in the name of that person. Any revocation or suspension of a license is binding upon the individual person and the corporation, proprietorship, or partnership for the use and benefit of which the license was originally issued.

(4) Application must be made to and filed with the board.

(5) Only one application for an outfitter's license may be made in any license year. If an application is denied, subsequent applications by the same applicant for the license year involved are void, except as provided in 37-47-308."

Section 33. Section 37-48-106, MCA, is amended to read:

"37-48-106. Licensure. (1) A program must be licensed by the board.

(2) The board may issue a license that is valid for a period of between 1 year and 3 years ~~or may issue a provisional license as provided in 37-48-107.~~

(3) A license is valid only for the program for which it is issued and may not be sold, assigned, or transferred without the approval of the board.

(4) The board may suspend or revoke a license if the board, upon a hearing, as provided in 37-1-131, determines that the program is not operated in a manner consistent with the rules adopted and is not in substantial compliance with the program's plan of operation.

(5) The board may approve a modification of the program's plan of operation. A program may not deviate from its plan of operation without the prior approval of the board.

(6) A license terminates and the holder of the program license shall return the license to the department

1 if:

2 (a) program operations are discontinued;

3 (b) ownership of the program is transferred without approval of the board;

4 (c) the board suspends or revokes the license; or

5 (d) the license expires without being renewed.

6 (7) The program license must be displayed in a conspicuous place near the admitting office of the
7 program."

8

9 **Section 34.** Section 37-50-101, MCA, is amended to read:

10 **"37-50-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
11 apply:

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

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

17 (a) is based on specific procedures that the specified parties agree are sufficient for their purposes;

18 (b) is restricted to the specified parties; and

19 (c) does not provide an opinion or negative assurance.

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

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

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

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

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

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

(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.

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

(7) "Firm" means a solo practice, sole proprietorship, partnership, professional corporation, ~~or~~ limited liability company, or other private industry entity 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 37-50-325(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 certified 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.

(10) "Practice of public accounting" means performing or offering to perform, by a person ~~certified under 37-50-302~~, licensed as a certified public accountant under 37-50-303, or holding a practice privilege under 37-50-325, 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 as determined by the board;

(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) "Private industry" means for-profit organizations, nonprofit organizations including religious institutions, nongovernmental organizations, and public utilities and includes other organizations and entities that are not firms engaged in the practice of public accounting.

~~(12)~~(13) "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

1 education, examination, and experience qualifications are comparable to or exceed the education, examination,
2 and experience requirements contained in the Uniform Accountancy Act. In ascertaining substantial equivalency,
3 the board shall take into account the qualifications without regard to the sequence in which the experience,
4 education, and examination requirements were attained."

5
6 **Section 35.** Section 37-50-102, MCA, is amended to read:

7 **"37-50-102. Exemptions.** This chapter does not prohibit any person who is not a certified public
8 accountant ~~or licensed public accountant~~ from serving as an employee of or an assistant to a certified public
9 accountant ~~or a licensed public accountant~~ holding a permit license to practice under 37-50-314; or a firm
10 composed of certified public accountants ~~or licensed public accountants~~ registered under this chapter, ~~or a foreign~~
11 ~~accountant whose credentials have been recognized under 37-50-313.~~ However, the employee or assistant may
12 not issue any accounting or financial statement in the employee's or assistant's name."

13
14 **Section 36.** Section 37-50-203, MCA, is amended to read:

15 **"37-50-203. Rules of board.** (1) The board may adopt rules, consistent with the purposes of this
16 chapter, that it considers necessary.

17 (2) The board shall adopt:

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

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

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

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

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

28 (3) The board may adopt rules:

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

1 ~~(b) (i) establishing reasonable standards with respect to professional liability insurance and unimpaired~~
2 ~~capital; and~~
3 ~~—— (ii) prescribing joint and several liability for torts relating to professional services for shareholders of a firm~~
4 ~~or owners of other types of entities that fail to comply with standards established pursuant to subsection (3)(b)(i);~~
5 ~~and~~
6 ~~(c)(b)~~ establishing education and experience qualifications for out-of-state and foreign accountants
7 seeking ~~permits, certificates, or licenses~~ to practice in Montana."
8

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

10 **"37-50-301. Illegal use of title.** (1) It is not a violation of this chapter for a firm that is not registered
11 under 37-50-335 and that does not have an office in this state to provide its professional services and to practice
12 public accounting in this state and use the title "CPA" or "CPA firm" so long as it complies with the exemption
13 requirements of 37-50-335(2).

14 (2) A person may not assume or use the title or designation "certified public accountant" or the
15 abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that
16 the person is a certified public accountant unless the person holds a current certificate license as a certified public
17 accountant under this chapter or qualifies for the practice privilege under 37-50-325. ~~However, a foreign~~
18 ~~accountant whose credentials are recognized under the provisions of 37-50-313 shall use the title under which~~
19 ~~the foreign accountant is generally known in the foreign country, followed by the name of the country from which~~
20 ~~the foreign accountant's certificate, license, or degree was received.~~

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

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

29 ~~—— (5) A firm may not assume or use the title or designation "licensed public accountant", "public~~
30 ~~accountant", or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the~~

1 ~~firm is composed of public accountants unless it is registered as required under 37-50-335.~~

2 ~~(6)(4)~~ A person or firm may not assume or use the title or designation "certified accountant", "chartered
3 accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or
4 designation likely to be confused with "certified public accountant", "licensed certified public accountant", "~~public~~
5 ~~accountant~~" or any of the abbreviations "CA", "EA", "LA", or "RA" or similar or any abbreviations likely to be
6 confused with "CPA". However, a foreign accountant ~~whose credentials are recognized under 37-50-313 shall~~
7 may use the title under which the foreign accountant is generally known in the foreign country, followed by the
8 name of the country from which the foreign accountant's certificate, license, or degree was received, and a person
9 who is licensed as an enrolled agent by the internal revenue service may use the title "enrolled agent" or the
10 abbreviation "EA".

11 ~~(7) A person may not sign or affix the person's name or any trade or assumed name used by the person~~
12 ~~in the person's profession or business with any wording indicating that the person has expert knowledge in~~
13 ~~accounting or auditing to any accounting or financial statement or to any opinion on, report on, or certificate to~~
14 ~~any accounting or financial statement unless the person holds a current permit issued under 37-50-314 and all~~
15 ~~of the person's offices in this state for the practice of public accounting are maintained and registered under~~
16 ~~37-50-335. However, the provisions of this subsection do not prohibit any officer, employee, partner, or principal~~
17 ~~of any organization from affixing a signature to any statement or report in reference to the financial affairs of that~~
18 ~~organization with any wording designating the position, title, or office that the person holds in that organization,~~
19 ~~nor do the provisions of this subsection prohibit any act of a public official or public employee in the performance~~
20 ~~of the official's or employee's public duties.~~

21 ~~(8)(5)~~ A person may not sign or affix a firm name with any wording indicating that it is a firm composed
22 of persons having expert knowledge in accounting or auditing to any accounting or financial statement or to any
23 report on or certificate to any accounting or financial statement unless the firm conforms to the requirements of
24 37-50-330 and is registered as required under 37-50-335.

25 ~~(9)(6)~~ A person may not assume or use the title or designation "certified public accountant" or "~~public~~
26 ~~accountant~~" in conjunction with names indicating or implying that there is a firm or in conjunction with the
27 designation "and company" or "and co." or a similar designation if there is in fact no bona fide firm that has been
28 formed subject to the provisions of 37-50-330 and registered under 37-50-335. However, it is lawful for a sole
29 proprietor to continue the use of a deceased's name in connection with the sole proprietor's business for a
30 reasonable period of time after the death of a former partner or co-owner."

1
2 **Section 38.** Section 37-50-302, MCA, is amended to read:

3 **"37-50-302. Certified public accountants -- certification licensure -- qualifications and**
4 **requirements.** The board shall grant an initial ~~certificate~~ license as a certified public accountant to any person
5 who:

- 6 (1) is of good moral character;
7 (2) has successfully passed the certified public accountants' examination; ~~and~~
8 (3) meets the requirements of education set forth in this chapter and in board rules;
9 (4) meets the requirements for accounting experience provided in board rule; and
10 (5) has successfully passed the ethics examination of the American institute of certified public
11 accountants or its successor organization as defined in board rule."

12
13 **Section 39.** Section 37-50-305, MCA, is amended to read:

14 **"37-50-305. Education requirements.** (1) A candidate for initial ~~certification~~ licensure as a certified
15 public accountant ~~or licensing as a licensed public accountant~~ must have:

- 16 (a) graduated from a an accredited college or university accredited to offer a baccalaureate degree;
17 ~~(a) with an accounting concentration or its equivalent as determined by the board; and~~
18 ~~(b) with a baccalaureate degree and at least 150 semester hours of credit, including those earned toward~~
19 ~~the baccalaureate degree or its equivalent; and~~
20 (b) met the requirements for accounting and business course credit hours specified by board rule.

21 (2) For the purposes of this section, "initial ~~certification~~ licensure" means that the candidate has never
22 been ~~certified as a certified public accountant or licensed as a licensed~~ certified public accountant by any
23 jurisdiction."

24
25 **Section 40.** Section 37-50-309, MCA, is amended to read:

26 **"37-50-309. Credit for examinations taken in other jurisdictions.** The board may ~~by rule provide for~~
27 ~~granting grant~~ credit to a candidate for the satisfactory completion of ~~an examination in any one or more of the~~
28 ~~subjects of examination given by the licensing authority~~ the uniform certified public accounting examination taken
29 in another jurisdiction."

1 **Section 41.** Section 37-50-314, MCA, is amended to read:

2 **"37-50-314. Permit License required -- display proof of licensure.** (1) A person may not engage in
3 the practice of public accounting in this state without a current permit license issued by the department. A permit
4 license to engage in the practice of public accounting in this state must be issued by the department to a person
5 who ~~holds a current certificate as a certified public accountant or license as a licensed public accountant and~~
6 complies with the requirements of this chapter.

7 (2) The current permit license to engage in the practice of as a certified public accounting accountant
8 must be ~~prominently displayed for public inspection~~ presented as proof of licensure upon request by a client.

9 (3) A person qualifying for a practice privilege under 37-50-325(1) or (2) ~~is exempt from this requirement~~
10 shall present proof of licensure in the state in which the person is licensed upon request by a client in Montana."

11
12 **Section 42.** Section 37-50-316, MCA, is amended to read:

13 **"37-50-316. Other license fees prohibited.** ~~No certificate, permit, or license~~ License fees shall may not
14 be imposed as a condition upon the practice of public ~~accountancy~~ accounting other than those provided for in
15 this chapter."

16
17 **Section 43.** Section 37-50-325, MCA, is amended to read:

18 **"37-50-325. Practice privilege for nonresident certified public accountant -- rules.** (1) (a) A person
19 whose principal place of business is not in this state and who holds a valid license as a certified public accountant
20 from any state that the national association of state boards of accountancy's national qualification appraisal
21 service or a successor organization has verified to be in substantial equivalence with the certified public
22 accountant licensure requirements of the Uniform Accountancy Act or a subsequent act of the American institute
23 of certified public accountants/national association of state boards of accountancy ~~has~~ must be presumed to have
24 qualifications substantially equivalent to this state's requirements and has all the privileges of persons holding
25 ~~a certificate and a permit a license~~ of this state without the need to obtain a certificate license under 37-50-302
26 ~~or a permit under 37-50-314.~~

27 (b) A person who offers or renders professional services under this section, whether in person, by mail,
28 by telephone, or by electronic means, is granted practice privileges in this state and no notice, fee, or other
29 submission is required. The person is subject to the requirements of subsections (3) and (4) and this subsection
30 (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's national qualification appraisal service or a successor organization has not verified to be in substantial equivalence with the certified public accountant licensure requirements of the Uniform Accountancy Act or a subsequent act of the American institute of certified public accountants/national association of state boards of accountancy ~~has~~ must be presumed to have qualifications substantially equivalent to this state's requirements and has all the privileges of persons holding a ~~certificate and a permit~~ license of this state without the need to obtain a ~~certificate~~ license 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's 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 a 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 unless the person is registered pursuant to 37-50-335. 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."

1 **Section 44.** Section 37-50-330, MCA, is amended to read:

2 **"37-50-330. Compliance with ownership requirements -- firm registration.** (1) A firm composed of
3 certified public accountants ~~or a firm composed of public accountants~~ that is ~~or plans to become~~ engaged in the
4 practice of public accounting may include persons who are not licensed as ~~public accountants or certified as~~
5 certified public accountants if:

6 (a) the firm designates an accountant who is licensed ~~or certified~~ in this state or, in the case of a firm that
7 must be registered pursuant to 37-50-335, a licensee of another state who meets the requirements set out in
8 37-50-325(1) or (2) to be responsible for the proper registration of the firm;

9 (b) a simple majority of ownership in the firm, in terms of equity and voting rights, is held by accountants
10 who are licensed ~~or as~~ certified public accountants in this state or in another substantially equivalent jurisdiction
11 or meet the requirements of 37-50-325(2); and

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

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

17 (2) An accountant licensed ~~or certified~~ in this state or a person qualifying for practice privileges under
18 37-50-325 who holds an ownership interest in a firm, who is responsible for supervising attest or compilation
19 services, and who signs or authorizes someone to sign the accountant's report on the financial statements on
20 behalf of the firm is responsible for all attest or compilation services.

21 (3) A person licensed ~~or certified~~ in this state and a person qualifying for practice privileges under
22 37-50-325 who signs or authorizes someone to sign the accountant's report on the financial statements on behalf
23 of the firm must meet the competency requirements of 37-50-203(2)(a).

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

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

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

1
2 **Section 45.** Section 37-50-335, MCA, is amended to read:

3 **"37-50-335. Registration of firms -- exemptions.** (1) The following firms shall register annually with
4 the department:

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

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

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

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

10 (2) A firm that undergoes a board-sanctioned compliance or peer review process and receives an
11 acceptable, a pass, or a pass with deficiencies rating for these services and completes all remediation in its
12 principal place of business is exempt from ~~registration~~ the profession monitoring program established by the
13 board by rule.

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

16 (a) it performs the services through a person with practice privileges under 37-50-325; and

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

19 (4) ~~Each office established or maintained~~ firm that establishes or maintains offices in this state for the
20 practice of public accounting ~~in this state by a certified public accountant, by a firm of certified public accountants,~~
21 ~~by a licensed public accountant, by a firm of licensed public accountants, or by a foreign accountant recognized~~
22 ~~under 37-50-313~~ shall register annually with the department. A fee may not be charged for this registration."
23

24 **Section 46.** Section 37-50-341, MCA, is amended to read:

25 **"37-50-341. Initiation of proceedings -- hearings and rulemaking.** (1) The board may initiate
26 proceedings under this chapter upon its own motion, upon a complaint made by the board of accountancy of
27 another state, or upon the complaint of a person.

28 (2) A person licensed ~~or certified~~ in this state offering or rendering services or using a "CPA" title in
29 another state is subject to disciplinary action in this state for an act committed in another state where the licensee
30 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.

(4) Hearings and rulemaking proceedings are governed by the Montana Administrative Procedure Act."

Section 47. 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, or a~~ certified public accountant in this state who, because of negligence, gross inefficiency, or willfulness, issues or permits the issuance of any false statement of the financial transactions, standing, or condition of any firm or individual business undertaking is guilty of a misdemeanor and upon conviction shall be fined not less than \$500 or more than \$2,000, be imprisoned for a period of not less than 90 days or more than 1 year, or both."

Section 48. 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 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 and except for the expression of opinions on financial statements, a certified public accountant, ~~licensed public accountant,~~ or employee may not be required to disclose or divulge or voluntarily disclose or divulge information that the certified ~~or licensed~~ public accountant or an employee may have relative to and in connection with any professional services as a certified 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 certified 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 49. Section 37-50-403, MCA, is amended to read:

"37-50-403. Nonliability -- evidential privilege -- application to nonprofit corporations. (1) A member of a peer review, professional standards review, or ethics review committee of a society composed of persons licensed to practice ~~the accounting profession~~ as certified public accountants is not liable in damages

1 to any person for any action taken or recommendation made within the scope of the functions of the committee
2 if the committee member acts without malice and in the reasonable belief that the action or recommendation is
3 warranted by the facts known to the member after reasonable effort to obtain the facts.

4 (2) The proceedings and records of peer review, professional standards review, and ethics review
5 committees are not subject to discovery or introduction into evidence in any proceeding. However, information
6 otherwise discoverable or admissible from an original source is not to be construed as immune from discovery
7 or use in any proceeding merely because it was presented during proceedings before the committee, nor is a
8 member of the committee or other person appearing before it to be prevented from testifying as to matters within
9 that person's knowledge. However, the person may not be questioned about the person's testimony or other
10 proceedings before the committee or about opinions or other actions of the committee or any member of the
11 committee.

12 (3) This section also applies to a member, agent, or employee of a nonprofit corporation engaged in
13 performing the functions of a peer review, professional standards review, or ethics review committee with respect
14 to the profession of accounting."
15

16 **Section 50.** Section 37-51-102, MCA, is amended to read:

17 **"37-51-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
18 apply:

19 (1) "Account" means the real estate recovery account established in 37-51-501.

20 (2) (a) "Adverse material fact" means a fact that should be recognized by a broker or salesperson as
21 being of enough significance as to affect a person's decision to enter into a contract to buy or sell real property
22 and may be a fact that:

23 (i) materially affects the value, affects structural integrity, or presents a documented health risk to
24 occupants of the property; or

25 (ii) materially affects the buyer's ability or intent to perform the buyer's obligations under a proposed or
26 existing contract.

27 (b) The term does not include the fact that an occupant of the property has or has had a communicable
28 disease or that the property was the site of a suicide or felony.

29 (3) "Board" means the board of realty regulation provided for in 2-15-1757.

30 (4) "Broker" includes an individual who:

1 (a) for another or for valuable consideration or who with the intent or expectation of receiving valuable
2 consideration negotiates or attempts to negotiate the listing, sale, purchase, rental, exchange, or lease of real
3 estate or of the improvements on real estate or collects rents or attempts to collect rents;

4 (b) is employed by or on behalf of the owner or lessor of real estate to conduct the sale, leasing,
5 subleasing, or other disposition of real estate for consideration;

6 (c) engages in the business of charging an advance fee or contracting for collection of a fee in
7 connection with a contract by which the individual undertakes primarily to promote the sale, lease, or other
8 disposition of real estate in this state through its listing in a publication issued primarily for this purpose or for
9 referral of information concerning real estate to brokers;

10 (d) makes the advertising, sale, lease, or other real estate information available by public display to
11 potential buyers and who aids, attempts, or offers to aid, for a fee, any person in locating or obtaining any real
12 estate for purchase or lease;

13 (e) aids or attempts or offers to aid, for a fee, any person in locating or obtaining any real estate for
14 purchase or lease;

15 (f) receives a fee, commission, or other compensation for referring to a licensed broker or salesperson
16 the name of a prospective buyer or seller of real property; or

17 (g) advertises or represents to the public that the individual is engaged in any of the activities referred
18 to in subsections (4)(a) through (4)(f).

19 (5) "Buyer" means a person who is interested in acquiring an ownership interest in real property or who
20 has entered into an agreement to acquire an interest in real property. The term includes tenants or potential
21 tenants with respect to leases or rental agreements of real property.

22 (6) "Buyer agent" means a broker or salesperson who, pursuant to a written buyer broker agreement,
23 is acting as the agent of the buyer in a real estate transaction and includes a buyer subagent and an in-house
24 buyer agent designate.

25 (7) "Buyer broker agreement" means a written agreement in which a prospective buyer employs a broker
26 to locate real estate of the type and with terms and conditions as designated in the written agreement.

27 (8) "Buyer subagent" means a broker or salesperson who, pursuant to an offer of a subagency, acts as
28 the agent of a buyer.

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

30 (10) "Dual agent" means a broker or salesperson who, pursuant to a written listing agreement or buyer

broker agreement or as a buyer or seller subagent, acts as the agent of both the buyer and seller with written authorization, as provided in 37-51-314. An in-house buyer or seller agent designate may not be considered a dual agent.

(11) "Franchise agreement" means a contract or agreement by which:

(a) a franchisee is granted the right to engage in business under a marketing plan prescribed in substantial part by the franchisor;

(b) the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, logotype, or other commercial symbol or advertising designating the franchisor; and

(c) the franchisee is required to pay, directly or indirectly, a fee for the right to operate under the agreement.

(12) "In-house buyer agent designate" means a broker or salesperson employed by or associated as an independent contractor with a broker and designated by the broker as the exclusive agent for a buyer for a designated transaction and who may not be considered to be acting for other than the buyer with respect to the designated transaction.

(13) "In-house seller agent designate" means a broker or salesperson employed by or associated as an independent contractor with a broker and designated by the broker as the exclusive agent for a seller for a designated transaction and who may not be considered to be acting for other than the seller with respect to the designated transaction.

(14) "Listing agreement" means a written agreement between a seller and broker for the sale of real estate, with the terms and conditions set out in the agreement.

(15) "Negotiations" means:

(a) efforts to act as an intermediary between parties to a real estate transaction;

(b) facilitating and participating in contract discussions;

(c) completing forms for offers, counteroffers, addendums, and other writings; and

(d) presenting offers and counteroffers.

(16) "Person" includes individuals, partnerships, associations, and corporations, foreign and domestic, except that when referring to a person licensed under this chapter, it means an individual.

(17) "Property manager" ~~includes~~ means a person who for a salary, commission, or compensation of any kind or with the intent or expectation of receiving valuable consideration engages in the business of leasing, renting, subleasing, or other transfer of possession of real estate located in this state and belonging to others

without transfer of the title to the property, ~~pursuant to 37-51-601 and 37-51-602.~~ The term includes but is not limited to a person who:

(a) negotiates or attempts to negotiate the lease of any real estate or improvements on any real estate located in this state;

(b) engages in the business of promoting the lease, rental, exchange, or other disposition of real estate located in this state without transfer of the title to the property by listing the real estate in a publication issued primarily for the purpose of promoting the lease, rental, exchange, or other disposition of real estate;

(c) assists in creating or completing real estate lease contracts;

(d) procures tenants for owners of real estate located in this state;

(e) aids or offers to aid, for a fee, any person in locating or obtaining real estate for lease in this state;

(f) makes the advertising of real property for lease available by public display to potential tenants;

(g) shows rental or lease properties to potential tenants;

(h) in conjunction with property management responsibilities, acts as a liaison between the owners of real estate and a tenant or potential tenant;

(i) in conjunction with property management responsibilities, generally oversees the inspection, maintenance, and upkeep of leased real estate;

(j) in conjunction with property management responsibilities, collects rents or attempts to collect rents for real estate located in this state;

(k) pays a fee, commission, or other compensation to a licensed broker or licensed property manager for the referral of the name of a prospective lessor or lessee of real property;

(l) receives a fee, commission, or other compensation from a licensed broker or licensed property manager for referring the name of a prospective buyer, seller, lessor, or lessee of real estate located in this state;

or

(m) advertises or represents to the public that the person is engaged in any of the activities referred to in subsections (17)(a) through (17)(l).

(18) "Real estate" includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold and whether the real estate is situated in this state or elsewhere.

(19) "Real estate transaction" means the sale, exchange, or lease or grant of an option for the sale, exchange, or lease of an interest in real estate and includes all communication, interposition, advisement, negotiation, and contract development and closing.

(20) "Salesperson" includes an individual who for a salary, commission, or compensation of any kind is associated, either directly, indirectly, regularly, or occasionally, with a real estate broker to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate.

(21) "Seller" means a person who has entered into a listing agreement to sell real estate and includes landlords who have an interest in or are a party to a lease or rental agreement.

(22) "Seller agent" means a broker or salesperson who, pursuant to a written listing agreement, acts as the agent of a seller and includes a seller subagent and an in-house seller agent designate.

(23) "Seller subagent" means a broker or salesperson who, pursuant to an offer of a subagency, acts as the agent of a seller.

(24) (a) "Statutory broker" means a broker or salesperson who assists one or more parties to a real estate transaction without acting as an agent or representative of any party to the real estate transaction.

(b) A broker or salesperson is presumed to be acting as a statutory broker unless the broker or salesperson has entered into a listing agreement with a seller or a buyer broker agreement with a buyer or has disclosed, as required in this chapter, a relationship other than that of a statutory broker.

(25) "Supervising broker" means a licensed broker with whom a licensed salesperson is associated, directly, indirectly, regularly, or occasionally, to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate.

(26) "Supervising broker endorsement" means an endorsement to a broker's license that is required of any licensed broker who supervises licensed salespersons performing real estate activity."

Section 51. Section 37-51-103, MCA, is amended to read:

"37-51-103. Exemptions. (1) An act performed for compensation of any kind in the buying, selling, exchanging, leasing, or renting of real estate or in negotiating a real estate transaction for others, except as specified in this section, must identify the person performing any of the acts as a real estate broker, ~~or a real estate salesperson, or a property manager.~~ The licensing provisions of this chapter do not:

(a) apply to any person who, as owner or lessor, performs any acts listed in subsection (1) with reference to property owned or leased by the person or to an auctioneer employed by the owner or lessor to aid and assist in conducting a public sale held by the owner or lessor;

(b) apply to any person acting as attorney-in-fact under a special or general power of attorney from the owner of any real estate authorizing the purchase, sale, exchange, renting, or leasing of any real estate, unless

1 the person acting as attorney-in-fact does so regularly or consistently for a person or persons, for or with the
2 expectation of receiving a fee, commission, or other valuable consideration in conjunction with a business or for
3 the purpose of avoiding license requirements;

4 (c) include in any way the services rendered by any attorney at law in the performance of the attorney's
5 duties;

6 (d) apply to any person appointed by a court for the purpose of evaluating or appraising an estate in a
7 probate matter;

8 (e) include a receiver, a trustee in bankruptcy, an administrator or executor, any person selling real
9 estate under order of any court, a trustee under a trust agreement, deed of trust, or will, or an auctioneer
10 employed by a receiver, trustee in bankruptcy, administrator, executor, or trustee to aid and assist in conducting
11 a public sale held by the officer;

12 (f) apply to public officials in the conduct of their official duties;

13 (g) apply to any person, partnership, association, or corporation, foreign or domestic, performing any
14 act with respect to prospecting, leasing, drilling, or operating land for hydrocarbons and hard minerals or
15 disposing of any hydrocarbons, hard minerals, or mining rights, whether upon a royalty basis or otherwise;

16 (h) apply to persons acting as managers of housing complexes for low-income persons, which are
17 subsidized, directly or indirectly, by Montana or an agency or subdivision of Montana or by the government of the
18 United States or an agency of the United States; or

19 (i) apply to a person performing any act with respect to the following types of land transactions:

20 (i) right-of-way transfers for roads, utilities, and other public purposes, not including conservation
21 easements or easements for recreational purposes;

22 (ii) condemnations; or

23 (iii) governmental or tribal permits.

24 (2) The provisions of this chapter do not apply to a newspaper or other publication of general circulation
25 or to a radio or television station engaged in the normal course of business."

26
27 **Section 52.** Section 37-51-306, MCA, is amended to read:

28 **"37-51-306. Transactions with nonresidents and with nonlicensed brokers, ~~or salespersons, or~~**
29 **property managers -- consent to legal process.** (1) A licensed broker may not employ or compensate, directly
30 or indirectly, a person for performing the acts regulated by this chapter who is not a licensed broker, ~~or a~~ licensed

1 salesperson, or a licensed property manager. However, a licensed broker may pay a commission to a licensed
2 broker of another state or jurisdiction if the nonresident broker has not conducted and does not conduct in this
3 state a service for which a fee, compensation, or commission is paid.

4 (2) A nonresident licensee shall file an irrevocable written consent that legal actions arising out of a
5 commenced or completed transaction may be commenced against the nonresident licensee in a county of this
6 state that may be appropriate and designated by Title 25, chapter 2, part 1. The consent must provide that service
7 of summons in this action may be served on the department for and on behalf of the nonresident licensee, and
8 this service is sufficient to give the court jurisdiction over the licensee conducting a transaction in a county. The
9 consent must be acknowledged and, if made by a corporation, must be authenticated by its seal."

10
11 **Section 53.** Section 37-51-602, MCA, is amended to read:

12 **"37-51-602. ~~Definition of property management -- exemptions~~ Exemptions from application**
13 **requirement for property manager license.** (1) ~~An act performed for compensation of any kind in the leasing,~~
14 ~~renting, subleasing, or other transfer of possession of real estate owned by another without transfer of the title~~
15 ~~to the real estate, except as specified in this section, constitutes the practice of property management. The~~
16 property manager licensing provisions of this chapter do not apply to:

17 (a) a relative of the owner of the real estate, defined as follows:

18 (i) a son or daughter of the property owner or a descendant of either;

19 (ii) a stepson or stepdaughter of the property owner;

20 (iii) a brother, sister, stepbrother, or stepsister of the property owner;

21 (iv) the father or mother of the property owner or the ancestor of either;

22 (v) a stepfather or stepmother of the property owner;

23 (vi) a son or daughter of a brother or sister of the property owner;

24 (vii) a brother or sister of the father or mother of the property owner;

25 (viii) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the
26 property owner; or

27 (ix) the spouse of the property owner;

28 (b) a person who leases no more than four residential real estate units;

29 (c) a person acting as attorney-in-fact under a power of attorney from the owner of real estate who
30 authorizes the final consummation of any contract for the renting or leasing of the real estate. This exemption is

1 meant to exclude a single or irregular transaction and may not be routinely used to escape the necessity of
2 obtaining a license.

3 (d) an attorney at law in the performance of duties as an attorney;

4 (e) a receiver, trustee in bankruptcy, personal representative, person acting in regard to real estate
5 pursuant to a court order, or a trustee under a trust agreement, deed of trust, or will;

6 (f) an officer of the state or any of its political subdivisions in the conduct of official duties;

7 (g) a person acting as a manager of a housing complex for low-income individuals subsidized either
8 directly or indirectly by the state, any agency or political subdivision of the state, or the government or an agency
9 of the United States;

10 (h) a person who receives compensation from the owner of the real estate in the form of reduced rent
11 or salary, unless that person holds signatory authority on the account in which revenue from the real estate is
12 deposited or disbursed;

13 (i) a person employed by the owner of the real estate if that person's property management duties are
14 incidental to the person's other employment-related duties; or

15 (j) a person employed on a salaried basis by only one person.

16 (2) A licensed real estate broker on active status or a licensed real estate salesperson on active status
17 and acting under a supervising broker may act as a property manager without meeting any qualifications in
18 addition to those required for licensure as a real estate broker or real estate salesperson and without holding a
19 separate property manager's license."

20
21 **Section 54.** Section 37-67-309, MCA, is amended to read:

22 **"37-67-309. Qualifications of applicant for licensure as professional land surveyor.** One of the
23 following must be considered as minimum evidence to the board that the applicant is qualified for licensure as
24 a professional land surveyor:

25 (1) The applicant has a bachelor of science degree in a board-approved curriculum that includes a
26 minimum of 40 quarter credit hours in surveying techniques, principles, and practices; the applicant presents
27 evidence satisfactory to the board that, in addition, the applicant has had at least 4 years of combined office and
28 field experience in land surveying, with a minimum of 3 years of progressive experience on land surveying
29 projects under the direct supervision of a professional land surveyor; and the applicant has passed the
30 examinations required by the board.

(2) The applicant has 2 years of formal education in a board-approved curriculum above high school level, with at least 90 quarter credit hours that include a minimum of 40 quarter credit hours in surveying techniques, principles, and practices, or equivalent semester hours passed, or the equivalent approved by the board; the applicant presents evidence satisfactory to the board that, in addition, the applicant has had at least 6 years of combined office and field experience in land surveying satisfactory to the board, with a minimum of 4 years of progressive experience on land surveying projects under the direct supervision of a professional land surveyor; and the applicant has passed the examinations required by the board.

(3) The applicant has a bachelor of science degree in a board-approved curriculum and presents evidence satisfactory to the board that, in addition, the applicant has had at least 6 years of combined office and field experience in land surveying, with a minimum of 4 years of progressive experience on land surveying projects under the direct supervision of a professional land surveyor, and the applicant has passed the examinations required by the board.

(4) The applicant presents evidence satisfactory to the board that the applicant has had at least ~~40~~ 20 years of combined office and field experience in land surveying satisfactory to the board, with a minimum of ~~6~~ 12 years of progressive experience on land surveying projects under the direct supervision of a professional land surveyor, and has passed the examinations required by the board."

Section 55. Section 37-67-310, MCA, is amended to read:

"37-67-310. Qualifications of applicant for certification as land surveyor intern. To qualify for certification as a land surveyor intern, an applicant shall present as evidence to the board at least one of the following:

(1) a bachelor of science degree in a board-approved curriculum that includes a minimum of 27 semester or 40 quarter credit hours in surveying techniques, principles, and practices and evidence of having passed the written examinations required by the board;

(2) at least 2 years of formal education in an approved curriculum that includes a minimum of 27 semester or 40 quarter credit hours in surveying techniques, principles, and practices, above high school level, with at least 60 semester or 90 quarter credit hours or equivalent semester hours passed, or the equivalent approved by the board, and evidence of having passed the written examinations required by the board;

(3) a bachelor of science degree in a board-approved curriculum and evidence satisfactory to the board that, in addition, the applicant has had at least 2 years of combined office and field experience in land surveying,

1 with a minimum of 1 year in charge of land surveying projects under the supervision of a professional land
2 surveyor, and evidence of having passed the written examinations required by the board; or

3 (4) evidence satisfactory to the board that the applicant has had at least ~~6~~ 12 years of combined office
4 and field experience in land surveying, with a minimum of ~~4~~ 8 years of experience in charge of land surveying
5 projects under the supervision of a professional land surveyor, and evidence of having passed the examinations
6 required by the board."

7
8 **Section 56.** Section 37-68-316, MCA, is amended to read:

9 **"37-68-316. Citation and fine for failure to display license.** (1) A citation for failure to display an
10 electrician's license or proof of licensure issued by an employee of the department must include:

- 11 (a) the time and date on which the citation is issued;
12 (b) the name, address, mailing address, and signature of the person to whom the citation is issued;
13 (c) reference to the statutory authority to issue the citation;
14 (d) the name, title, affiliation, and signature of the person issuing the citation;
15 (e) information explaining the procedure for the person to follow in order to pay the fine or to demonstrate
16 proof of licensure; and
17 (f) the amount of the applicable fine.

18 (2) The applicable civil fines for failing to display a license or proof of licensure are as follows:

- 19 (a) \$100 for the first offense;
20 (b) \$250 for the second offense; and
21 (c) \$500 for the third and any subsequent offense.

22 (3) The fine imposed on a licensee who produces proof of licensure within 5 days of receiving a citation
23 for a first offense of failing to display a license must be waived. However, a second citation must be considered
24 to be the second offense and the fine must be the fine imposed for a second offense.

25 ~~(3)~~(4) Each day of violation constitutes a separate offense. The person issuing the citation is responsible
26 for determining, by means of an up-to-date list or through telephone or other communication with the board office,
27 whether the citation being issued is for a first, second, or subsequent offense.

28 ~~(4)~~(5) The person who issues the citation is authorized to collect the fine, but the person who is issued
29 a citation may pay the fine to the appropriate authority identified on the citation within 5 business days of the date
30 of issuance. The board may, upon finding that the person has demonstrated acceptable proof of licensure, waive

1 or refund the fine.

2 ~~(5)~~(6) A person who refuses to sign and accept a citation commits a misdemeanor, punishable in the
3 same manner as provided in 37-1-318."

4
5 **Section 57.** Section 37-69-304, MCA, is amended to read:

6 **"37-69-304. Qualifications of applicants for journeyman plumber's license -- restriction on**
7 **authority.** (1) The following requirements must be met by applicants for a journeyman plumber's license:

8 (a) a specific record of 5 years of legally obtained experience in the field of plumbing. This experience
9 requirement may be fulfilled by working 5 years in a major phase of the plumbing business, verified by time or
10 pay records, or by completing an apprenticeship program meeting the standards set by the department or the
11 United States department of labor, bureau of apprenticeship, or credit towards this experience requirement may
12 be given for time spent attending an accredited trade or other school specializing in training of value in the field
13 of plumbing and approved by the board.

14 (b) satisfactory completion of an examination prescribed by the board conducted by the department,
15 subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of
16 plumbing ~~and establishing by practical demonstration competence in the special skills required in the field of~~
17 ~~plumbing.~~

18 (2) A licensed journeyman plumber may perform work only in the employment of a licensed master
19 plumber unless otherwise permitted by rule of the board."

20
21 **Section 58.** Section 37-69-310, MCA, is amended to read:

22 **"37-69-310. Citation and fine for failure to display license.** (1) A citation for failure to display a
23 plumber's license or proof of licensure issued by an employee of the department must include:

- 24 (a) the time and date on which the citation is issued;
25 (b) the name, address, mailing address, and signature of the person to whom the citation is issued;
26 (c) reference to the statutory authority to issue the citation;
27 (d) the name, title, affiliation, and signature of the person issuing the citation;
28 (e) information explaining the procedure for the person to follow in order to pay the fine or to demonstrate
29 proof of licensure; and
30 (f) the amount of the applicable fine.

(2) The applicable civil fines for failing to display a license or proof of licensure are as follows:

(a) \$100 for the first offense;

(b) \$250 for the second offense; and

(c) \$500 for the third and any subsequent offense.

(3) The fine imposed on a licensee who produces proof of licensure within 5 days of receiving a citation for a first offense of failing to display a license must be waived. However, a second citation must be considered to be the second offense and the fine must be the fine imposed for a second offense.

~~(3)~~(4) Each day of violation constitutes a separate offense. The person issuing the citation is responsible for determining, by means of an up-to-date list or through telephone or other communication with the board office, whether the citation being issued is for a first, second, or subsequent offense.

~~(4)~~(5) The person who issues the citation is authorized to collect the fine, but the person who is issued a citation may pay the fine to the board within 5 business days of the date of issuance. The board may, upon finding that the person has demonstrated acceptable proof of licensure, waive or refund the fine.

~~(5)~~(6) A person who refuses to sign and accept a citation commits a misdemeanor, punishable in the same manner as provided in 37-1-318."

Section 59. Section 50-31-307, MCA, is amended to read:

"50-31-307. Dispensing of prescription drugs -- disposal of dispensed drugs or devices. (1) A drug intended for use by humans that is included in one of the categories in subsection (2) may be dispensed only:

(a) upon a written prescription of a practitioner licensed by law to administer the drug;

(b) upon an electronic prescription transmitted directly from the practitioner to the pharmacy;

~~(b)~~(c) upon an oral prescription of the practitioner that is reduced promptly to writing and filed by the pharmacist; or

~~(c)~~(d) by refilling a written or oral prescription if the refilling is authorized by the practitioner, either in the original prescription or by an oral order that is reduced promptly to writing and filed by the pharmacist.

(2) A drug must be dispensed as provided in subsection (1) if the drug:

(a) is a habit-forming drug to which 50-31-306(1)(d) applies;

(b) because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer the drug; or

(c) is limited by an approved application under section 505 of the federal act (21 U.S.C. 355) or 50-31-311 to use under the professional supervision of a practitioner licensed by law to administer the drug.

(3) If the drug is a factory prepackaged contraceptive, other than mifepristone, it may be dispensed as provided in subsection (1) or by a registered nurse employed by a family planning clinic under contract with the department of public health and human services pursuant to a physician's written protocol specifying the circumstances under which dispensing is appropriate and pursuant to the board of pharmacy's rules concerning labeling, storage, and recordkeeping of drugs.

(4) Dispensed drugs or devices, except a substance defined as a dangerous drug in 50-32-101 or designated as a precursor to a controlled substance in 50-32-401, may be returned to and collected by a pharmacy for disposal.

~~(4)~~(5) The act of dispensing a drug contrary to the provisions of this section is considered an act that results in a drug being misbranded while held for sale."

Section 60. Section 50-31-308, MCA, is amended to read:

"50-31-308. Prescription drugs exempt from certain provisions of chapter. Any drug dispensed by filling or refilling a written, electronic, or oral prescription of a practitioner licensed by law to administer ~~such the~~ drug ~~shall be~~ is exempt from the requirements of 50-31-306, except subsections (1)(a), (1)(j), (1)(k), (1)(m), (1)(n), and the packaging requirements of subsections (1)(g) and (1)(h), if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber, and if stated in the prescription, the name of the patient and the directions for use and cautionary statements, if any, contained in such prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or to a drug dispensed in violation of 50-31-307."

Section 61. Section 50-32-208, MCA, is amended to read:

"50-32-208. Prescription and medical requirements for scheduled drugs -- penalty. (1) ~~No A~~ dangerous drug in Schedule II may not be dispensed without the written or electronic prescription of a practitioner.

(2) In emergency situations, as defined by rule of the board, Schedule II drugs may be dispensed upon a practitioner's oral prescription reduced promptly to writing and filed by the pharmacy. Prescriptions ~~shall~~ must be retained in conformity with the requirements of 50-32-309. ~~No A~~ prescription for a Schedule II drug may not

1 be refilled.

2 (3) A dangerous drug included in Schedule III or IV, which is a prescription drug as determined under
3 the federal or Montana food, drug, and cosmetic acts, ~~shall~~ may not be dispensed without a written, electronic,
4 or oral prescription of a practitioner. The prescription ~~shall~~ may not be filled or refilled more than 6 months after
5 the date ~~thereof~~ of the prescription or be refilled more than five times unless renewed by the practitioner.

6 (4) A dangerous drug included in Schedule V ~~shall~~ may not be distributed or dispensed other than for
7 a medical purpose.

8 (5) Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction
9 may be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both
10 fined and imprisoned."

11

12 **Section 62.** Section 50-76-110, MCA, is amended to read:

13 **"50-76-110. Crane inspector -- qualifications -- inspections.** (1) The department shall employ at least
14 one crane inspector. A crane inspector must have a minimum of 3 years of experience as a licensed third-class
15 crane and hoist engineer ~~operating cranes and must have been licensed for at least 1 year as a first-class crane~~
16 ~~and hoist engineer.~~

17 (2) The department may adopt by rule applicable operating and safety standards established by the
18 American national standards institute.

19 (3) A crane inspector may require that a crane, hoist, or other equipment subject to this chapter that is
20 not being operated in compliance with an operating or safety standard adopted by rule pursuant to subsection
21 (2) be declared to be out of service and that the crane, hoist, or other equipment not be operated until the
22 noncompliance is cured."

23

24 **NEW SECTION.** **Section 63. Repealer.** The following sections of the Montana Code Annotated are
25 repealed:

26 37-3-327. Subpoena -- fees.

27 37-3-328. Failure to appear or testify.

28 37-47-316. Transfer of net client hunter use upon transfer of operations plan.

29 37-48-107. Provisional license.

30 37-50-303. Public accountants -- licensure -- qualifications and requirements.

1 37-50-304. Public accountants -- licensure without examination of former military personnel -- examination
2 otherwise required.

3 37-50-311. Certified public accountants -- waiver of examination.

4 37-50-312. Public accountants -- waiver of examination for holders of out-of-state license.

5 37-50-313. Recognition of credentials of foreign accountants -- restriction on title used -- practice.

6
7 **NEW SECTION. Section 64. Codification instruction.** ~~(1) [Section 13] is intended to be codified as~~
8 ~~an integral part of Title 37, chapter 6, part 1, and the provisions of Title 37, chapter 6, part 1, apply to [section 13].~~

9 ~~(2)(1) [Sections 19 through 24 14 THROUGH 19] are intended to be codified as an integral part of Title 37,~~
10 ~~chapter 18, and the provisions of Title 37, chapter 18, apply to [sections 19 through 24 14 THROUGH 19].~~

11 ~~(3)(2) [Section 28 23] is intended to be codified as an integral part of Title 37, chapter 22, and the~~
12 ~~provisions of Title 37, chapter 22, apply to [section 28 23].~~

13 ~~(4)(3) [Section 34 26] is intended to be codified as an integral part of Title 37, chapter 23, and the~~
14 ~~provisions of Title 37, chapter 23, apply to [section 34 26].~~

15 ~~(5)(4) [Section 35 30] is intended to be codified as an integral part of Title 37, chapter 37, and the~~
16 ~~provisions of Title 37, chapter 37, apply to [section 35 30].~~

17
18 **NEW SECTION. Section 65. Effective date.** ~~[Sections 59 and 60 54 AND 55] are effective October 1,~~
19 ~~2019.~~

20 - END -