

SENATE BILL NO. 77

INTRODUCED BY DEBBY BARRETT

BY REQUEST OF THE BOARD OF MEDICAL EXAMINERS

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LICENSURE AND OTHER REGULATIONS BY THE  
6 BOARD OF MEDICAL EXAMINERS FOR PHYSICIANS AND PHYSICIAN ASSISTANTS; CREATING A  
7 RESIDENT PHYSICIAN LICENSE; REPEALING SPECIALIZED, TELEMEDICINE, AND TEMPORARY  
8 PHYSICIAN LICENSES; PROVIDING THE BOARD WITH RULEMAKING AUTHORITY FOR TELEMEDICINE  
9 GUIDELINES AND SHORT-TERM LICENSES; REVISING AND UPDATING ACCREDITATION ENTITIES;  
10 AMENDING SECTIONS 27-6-103, 37-3-102, 37-3-103, 37-3-201, 37-3-203, 37-3-204, 37-3-211, 37-3-301,  
11 37-3-303, 37-3-305, 37-3-307, 37-3-308, 37-3-312, 37-3-321, 37-3-323, 37-3-403, AND 37-20-402, MCA;  
12 REPEALING SECTIONS 37-3-304, 37-3-306, 37-3-311, 37-3-315, 37-3-327, 37-3-328, 37-3-341, 37-3-342,  
13 37-3-343, 37-3-344, 37-3-345, 37-3-347, 37-3-348, 37-3-349, AND 37-6-304, MCA; AND PROVIDING AN  
14 EFFECTIVE DATE."

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 27-6-103, MCA, is amended to read:

**"27-6-103. Definitions.** As used in this chapter, the following definitions apply:

(1) "Dentist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:

(i) has as the individual's principal residence or place of dental practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of dentistry; or

(b) for all other purposes, a person licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as the principal residence or place of dental practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws

1 of any state to render dental services and whose shareholders, partners, or owners were individual dentists  
2 licensed to practice dentistry under the provisions of Title 37, chapter 4.

3 (2) (a) "Health care facility" means a facility licensed as a health care facility under Title 50, chapter 5.

4 (b) For the purposes of this chapter, a health care facility does not include:

5 (i) an end-stage renal dialysis facility;

6 (ii) a home infusion therapy agency;

7 (iii) a residential care facility; or

8 (iv) a governmental infirmary, except a university or college infirmary.

9 (3) "Health care provider" means a physician, a dentist, a podiatrist, or a health care facility.

10 (4) "Hospital" means a hospital as defined in 50-5-101.

11 (5) "Malpractice claim" means a claim or potential claim of a claimant against a health care provider for  
12 medical or dental treatment, lack of medical or dental treatment, or other alleged departure from accepted  
13 standards of health care that proximately results in damage to the claimant, whether the claimant's claim or  
14 potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

15 (6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

16 (7) "Physician" means:

17 (a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine  
18 under the provisions of Title 37, chapter 3, who at the time of the assessment:

19 ~~(i) has as the individual's principal residence or place of medical practice the state of Montana or~~  
20 ~~practices telemedicine as defined in 37-3-342;~~

21 (i) HAS AS THE INDIVIDUAL'S PRINCIPAL RESIDENCE OR PLACE OF MEDICAL PRACTICE THE STATE OF MONTANA  
22 OR PRACTICES TELEMEDICINE AS DEFINED IN 37-3-102;

23 ~~(ii)(ii)~~ is not employed full-time by any federal governmental agency or entity; and

24 ~~(iii)(iii)~~ is not fully retired from the practice of medicine; or

25 (b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter  
26 3, who at the time of the occurrence of the incident giving rise to the claim:

27 (i) was an individual who ~~had as the principal residence or place of medical practice the state of Montana~~  
28 ~~or practiced telemedicine as defined in 37-3-342 and~~ HAD AS THE PRINCIPAL RESIDENCE OR PLACE OF MEDICAL  
29 PRACTICE THE STATE OF MONTANA OR PRACTICED TELEMEDICINE AS DEFINED IN 37-3-102 AND was not employed  
30 full-time by any federal governmental agency or entity; or

1 (ii) was a professional service corporation, partnership, or other business entity organized under the laws  
 2 of any state to render medical services and whose shareholders, partners, or owners were individual physicians  
 3 licensed to practice medicine under the provisions of Title 37, chapter 3.

4 (8) "Podiatrist" means:

5 (a) for purposes of the assessment of the annual surcharge, an individual licensed to practice podiatry  
 6 under the provisions of Title 37, chapter 6, who at the time of the assessment:

7 (i) has as the individual's principal residence or place of podiatric practice the state of Montana;

8 (ii) is not employed full-time by any federal governmental agency or entity; and

9 (iii) is not fully retired from the practice of podiatry; or

10 (b) for all other purposes, a person licensed to practice podiatry under the provisions of Title 37, chapter  
 11 6, who at the time of the occurrence of the incident giving rise to the claim:

12 (i) was an individual who had as the principal residence or place of podiatric practice the state of  
 13 Montana and was not employed full-time by any federal governmental agency or entity; or

14 (ii) was a professional service corporation, partnership, or other business entity organized under the laws  
 15 of any state to render podiatric services and whose shareholders, partners, or owners were individual podiatrists  
 16 licensed to practice podiatry under the provisions of Title 37, chapter 6."

17

18 **Section 2.** Section 37-3-102, MCA, is amended to read:

19 **"37-3-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions  
 20 apply:

21 (1) "ACGME" means the accreditation council for graduate medical education.

22 (2) "AOA" means the American osteopathic association.

23 ~~(+)(3)~~ (3) "Approved internship" means an internship training program of at least 1 year in a hospital program  
 24 that is either is approved for intern training by the American osteopathic association AOA or conforms to the  
 25 minimum standards for intern training established by the council on medical education of the American medical  
 26 association ACGME or successors. However, the board may, upon investigation, approve any other internship.

27 ~~(2)(4)~~ (4) "Approved medical school" means a school that either is accredited by the American osteopathic  
 28 association AOA or conforms to the minimum education standards established by the council on medical  
 29 education of the American medical association LCME or the world health organization or successors for medical  
 30 schools that meet standards established by the board by rule or is equivalent in the sound discretion of the board.

1 ~~The board may, on investigation of the education standards and facilities, approve any medical school, including~~  
2 ~~foreign medical schools.~~

3 ~~(3)(5) "Approved residency" means a residency training program in a hospital conforming to the minimum~~  
4 ~~standards for residency training established by the council on medical education of the American medical~~  
5 ~~association ACGME or successors or approved for residency training by the American osteopathic association~~  
6 ~~AOA.~~

7 ~~(4)(6) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.~~

8 ~~(5)(7) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part~~  
9 ~~17.~~

10 ~~(8) "ECP" means an emergency care provider licensed by the board, including but not limited to an~~  
11 ~~emergency medical responder, an emergency medical technician, an advanced emergency medical technician,~~  
12 ~~or a paramedic.~~

13 ~~(9) "LCME" means the liaison committee on medical education.~~

14 ~~(6)(10) "Medical assistant" means an unlicensed allied health care worker who functions under the~~  
15 ~~supervision of a physician or podiatrist in a physician's or podiatrist's office and who performs administrative and~~  
16 ~~clinical tasks.~~

17 ~~(7)(11) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy~~  
18 ~~and who has a valid license to practice medicine or osteopathic medicine in this state.~~

19 ~~(8)(12) "Practice of medicine" means the diagnosis, treatment, or correction of or the attempt to or the~~  
20 ~~holding of oneself out as being able to diagnose, treat, or correct human conditions, ailments, diseases, injuries,~~  
21 ~~or infirmities, whether physical or mental, by any means, methods, devices, or instrumentalities, including~~  
22 ~~electronic and technological means such as telemedicine. If a person who does not possess a license to practice~~  
23 ~~medicine in this state under this chapter and who is not exempt from the licensing requirements of this chapter~~  
24 ~~performs acts constituting the practice of medicine, the person is practicing medicine in violation of this chapter.~~

25 ~~(13)(A) "TELEMEDICINE" MEANS THE PRACTICE OF MEDICINE USING INTERACTIVE ELECTRONIC COMMUNICATIONS,~~  
26 ~~INFORMATION TECHNOLOGY, OR OTHER MEANS BETWEEN A LICENSEE IN ONE LOCATION AND A PATIENT IN ANOTHER~~  
27 ~~LOCATION WITH OR WITHOUT AN INTERVENING HEALTH CARE PROVIDER. TELEMEDICINE TYPICALLY INVOLVES THE~~  
28 ~~APPLICATION OF SECURE VIDEOCONFERENCING OR STORE-AND-FORWARD TECHNOLOGY, AS DEFINED IN 33-22-138.~~

29 ~~(B) THE TERM DOES NOT MEAN AN AUDIO-ONLY TELEPHONE CONVERSATION, AN E-MAIL OR INSTANT MESSAGING~~  
30 ~~CONVERSATION, OR A MESSAGE SENT BY FACSIMILE TRANSMISSION."~~

- 1
- 2       **Section 3.** Section 37-3-103, MCA, is amended to read:
- 3       **"37-3-103. Exemptions from licensing requirements.** (1) This chapter does not prohibit or require a
- 4 license with respect to any of the following acts:
- 5       (a) the gratuitous rendering of services in cases of emergency or catastrophe;
- 6       (b) the rendering of services in this state by a physician lawfully practicing medicine in another state or
- 7 territory. However, if the physician does not limit the services to an occasional case or if the physician has any
- 8 established or regularly used hospital connections in this state or maintains or is provided with, for the physician's
- 9 regular use, an office or other place for rendering the services, the physician must possess a license to practice
- 10 medicine in this state.
- 11       (c) the practice of dentistry under the conditions and limitations defined by the laws of this state;
- 12       (d) the practice of podiatry under the conditions and limitations defined by the laws of this state;
- 13       (e) the practice of optometry under the conditions and limitations defined by the laws of this state;
- 14       (f) the practice of chiropractic under the conditions and limitations defined by the laws of this state;
- 15       (g) the practice of Christian Science, with or without compensation, and ritual circumcisions by rabbis;
- 16       (h) the practice of medicine by a physician licensed in another state and employed by the federal
- 17 government;
- 18       (i) the rendering of nursing services by registered or other nurses in the lawful discharge of their duties
- 19 as nurses or of midwife services by registered nurse-midwives under the conditions and limitations defined by
- 20 law;
- 21       (j) the rendering of services by interns or resident physicians in a hospital or clinic in which they are
- 22 training, subject to the conditions and limitations of this chapter. ~~The board may require a resident physician to~~
- 23 ~~be licensed if the physician otherwise engages in the practice of medicine in the state of Montana.;~~
- 24       (k) the rendering of services by a physical therapist, surgical or medical technician; OR medical assistant,
- 25 as provided in 37-3-104, ~~or other paramedical specialist~~ unlicensed health care worker under the appropriate
- 26 amount and type of supervision of a person licensed under the laws of this state to practice medicine, but this
- 27 exemption does not extend the scope of a ~~paramedical specialist~~ the individuals listed in this subsection (1)(k);
- 28       (l) the rendering of services by a physician assistant in accordance with Title 37, chapter 20;
- 29       (m) the practice by persons licensed under the laws of this state to practice a limited field of the healing
- 30 arts, ~~and~~ INCLUDING PHYSICAL THERAPISTS AND OTHER LICENSEES not specifically designated, under the conditions

1 and limitations defined by law;

2 (n) the execution of a death sentence pursuant to 46-19-103;

3 (o) the practice of direct-entry midwifery. For the purpose of this section, the practice of direct-entry  
4 midwifery means the advising, attending, or assisting of a woman during pregnancy, labor, natural childbirth, or  
5 the postpartum period. Except as authorized in 37-27-302, a direct-entry midwife may not dispense or administer  
6 a prescription drug, as those terms are defined in 37-7-101.

7 (p) the use of an automated external defibrillator pursuant to Title 50, chapter 6, part 5.

8 (2) Licensees referred to in subsection (1) who are licensed to practice a limited field of healing arts shall  
9 confine themselves to the field for which they are licensed or registered and to the scope of their respective  
10 licenses and, with the exception of those licensees who hold a medical degree, may not use the title "M.D.",  
11 "D.O.", or any word or abbreviation to indicate or to induce others to believe that they are engaged in the  
12 diagnosis or treatment of persons afflicted with disease, injury, or defect of body or mind except to the extent and  
13 under the conditions expressly provided by the law under which they are licensed."  
14

15 **Section 4.** Section 37-3-201, MCA, is amended to read:

16 **"37-3-201. Organization.** (1) (a) The board shall, ~~at the first meeting each year,~~ elect from among its  
17 members a president, vice-president, and secretary.

18 (b) The board shall adopt a seal on which appear the words "The Board of Medical Examiners of  
19 Montana" and "Official Seal". ~~The board shall authenticate acts, rules, orders, and licenses by applying the seal.~~

20 (2) The board shall establish a screening panel for disciplinary matters as provided for in 37-1-307 ~~and~~  
21 ~~shall authorize the screening panel to oversee any rehabilitation program established pursuant to 37-3-203."~~  
22

23 **Section 5.** Section 37-3-203, MCA, is amended to read:

24 **"37-3-203. Powers and duties.** (1) The board may:

25 (a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1 through  
26 ~~3 of this chapter 4,~~ as well as chapters covering podiatry, acupuncture, physician assistants, nutritionists, and  
27 emergency care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively. The  
28 rules must be fair, impartial, and nondiscriminatory.

29 (b) hold hearings and take evidence in matters relating to the exercise and performance of the powers  
30 and duties vested in the board;

1 (c) aid the county attorneys of this state in the enforcement of parts 1 through ~~3~~ 4 and 8 of this chapter  
2 as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers  
3 licensed by the board. The board also may assist the county attorneys of this state in and the prosecution of  
4 persons, firms, associations, or corporations charged with violations of ~~parts 1 through 3 of this chapter~~; the  
5 provisions listed in this subsection (1)(c).

6 (d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle  
7 as provided in 87-2-803(11); and

8 (e) fund additional staff, hired by the department, to administer the provisions of this chapter, by  
9 increasing license fees as necessary.

10 (2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who  
11 are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual  
12 intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness  
13 or chronic physical illness.

14 (b) The board shall ensure that a licensee who is required or volunteers to participate in the medical  
15 assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll  
16 in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified  
17 treatment program outside the state unless the board finds that there is no qualified treatment program in this  
18 state.

19 (3) (a) The board shall report annually on the number and types of complaints it has received involving  
20 physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana for a  
21 debilitating medical condition provided for in Title 50, chapter 46. The report must contain:

22 (i) the number of complaints received by the board pursuant to 37-1-308;

23 (ii) the number of complaints for which a reasonable cause determination was made pursuant to  
24 37-1-307;

25 (iii) the general nature of the complaints;

26 (iv) the number of investigations conducted into physician practices in providing written certification; and

27 (v) the number of physicians disciplined by the board for their practices in providing written certification  
28 for the use of marijuana for a debilitating medical condition.

29 (b) Except as provided in subsection (3)(c), the report may not contain individual identifying information  
30 regarding the physicians about whom the board received complaints.

1 (c) For each physician against whom the board takes disciplinary action related to the physician's  
2 practices in providing written certification for the use of marijuana for a debilitating medical condition, the report  
3 must include:

4 (i) the name of the physician;

5 (ii) the general results of the investigation of the physician's practices; and

6 (iii) the disciplinary action taken against the physician.

7 (d) The board shall provide the report to the children, families, health, and human services interim  
8 committee by August 1 of each year and shall make a copy of the report available on the board's website.

9 (4) The board may enter into agreements with other states for the purposes of mutual recognition of  
10 licensing standards and licensing of physicians and ECPs from other states under the terms of a mutual  
11 recognition agreement."

12

13 **Section 6.** Section 37-3-204, MCA, is amended to read:

14 **"37-3-204. Meetings.** The board shall hold meetings for ~~examinations and for other~~ business properly  
15 before the board at least twice annually at times and places set by the board. The president of the board may call  
16 special meetings that the president considers advisable or necessary."

17

18 **Section 7.** Section 37-3-211, MCA, is amended to read:

19 **"37-3-211. Executive ~~secretary~~ officer.** To perform services to the board in connection with the board's  
20 duties under this chapter, assist in prosecution and matters of license discipline, and administer the board's  
21 affairs, the department shall hire an executive ~~secretary~~ officer."

22

23 **Section 8.** Section 37-3-301, MCA, is amended to read:

24 **"37-3-301. License required -- kinds of licenses.** (1) Before being issued a license, an applicant may  
25 not engage in the practice of medicine in this state.

26 (2) The department may issue ~~four~~ two kinds of licenses under the board's seal, ~~which include a~~  
27 ~~physician's license, a specialized license, a temporary license, and a telemedicine license issued in accordance~~  
28 ~~with 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349~~ and a resident license. ~~The physician's license~~  
29 ~~and the specialized license must be signed by the president, but the temporary license may be signed by any~~  
30 ~~board member. The board shall decide which kind of license to issue.~~



1 (3) The board shall provide guidelines by administrative rule for the practice of telemedicine by  
 2 physicians.

3 (4) A license issued by the board that has not expired prior to [the effective date of this act] remains valid  
 4 until renewal unless the licensee is otherwise subject to disciplinary proceedings."

5  
 6 **Section 9.** Section 37-3-303, MCA, is amended to read:  
 7 **"37-3-303. Practice authorized by physician's license.** A physician's license authorizes the holder  
 8 to perform one or more of the acts embraced in ~~37-3-102(8)~~ 37-3-102(12) in a manner ~~reasonably~~ consistent with  
 9 the holder's training, skill, and experience."  
 10

11 **Section 10.** Section 37-3-305, MCA, is amended to read:  
 12 **"37-3-305. Qualifications for licensure.** (1) Except as provided in ~~subsections (4) and (5), a person~~  
 13 ~~may not be granted subsection (2), the board shall grant~~ a physician's license to practice medicine in this state  
 14 ~~unless the person~~ to an applicant who:

15 (a) is of good moral character as determined by the board;  
 16 (b) is a graduate of an approved medical school as defined in 37-3-102;  
 17 (c) has ~~successfully~~ completed an approved residency program ~~of at least 2 years~~ or, for an applicant  
 18 who graduated from medical school prior to 2000, has had experience or training that ~~in the opinion of the board~~  
 19 has determined is at least the equivalent of ~~a 2-year~~ an approved residency program;

20 (d) has passed all of the steps of the United States medical licensing examination, the federation of state  
 21 medical boards' federation licensing examination, or an examination offered by any of the following entities:

22 (i) the national board of medical examiners or its successors;  
 23 (ii) the national board of osteopathic medical examiners or its successors;  
 24 (iii) the medical council of Canada or its successors if the applicant is a graduate of a Canadian medical  
 25 school approved by the medical council of Canada or its successor; or

26 (iv) the educational commission for foreign medical graduates or its successors if the applicant is a  
 27 graduate of a foreign medical school outside of the United States and Canada;

28 ~~(d)~~(e) has submitted a completed application with the required nonrefundable fee; and  
 29 ~~(e)~~(f) is able to communicate, ~~in the opinion of the board,~~ in the English language as determined by the  
 30 board.

1 (2) The board may authorize the department to issue the license subject to terms of probation or other  
 2 conditions or limitations set by the board or may refuse a license if the applicant has committed unprofessional  
 3 conduct or is otherwise unqualified;

4 (3) The board may by rule impose additional requirements for licensure to protect the health and safety  
 5 of the public or to enter into a mutual recognition licensing agreement with another state.

6 (4) The board may adopt rules that provide conditions for short-term nondisciplinary licenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29

30 **Section 11.** Section 37-3-307, MCA, is amended to read:

1           **"37-3-307. Qualifications for licensure -- temporary resident license.** (1) The board may authorize  
 2 the department to issue to an applicant a temporary resident license to practice medicine ~~on the basis of to an~~  
 3 applicant who:

- 4           ~~(a) passing an examination prescribed by the board;~~  
 5           ~~———— (b) certification of record or other certificate of examination issued to or for the applicant by the national~~  
 6 ~~board of medical examiners or successors, by the federation licensing examination committee or successors, by~~  
 7 ~~the national board of osteopathic medical examiners or successors, or by the medical council of Canada or~~  
 8 ~~successors if the applicant is a graduate of a Canadian medical school that has been approved by the medical~~  
 9 ~~council of Canada or successors, certifying that the applicant has passed an examination given by the board; or~~  
 10           ~~———— (c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an~~  
 11 ~~examination by an examining board under the laws of another state or territory of the United States or of the~~  
 12 ~~District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was~~  
 13 ~~issued were essentially equivalent, in the judgment of the board, to those of this state at the time for granting a~~  
 14 ~~license to practice medicine; and~~  
 15           ~~———— (d) being a graduate of an approved medical school who has completed 1 year of internship or the~~  
 16 ~~equivalent and being of good moral character and good conduct.~~

17           ~~———— (2) The board may require that graduates of foreign medical schools pass the examination given by the~~  
 18 ~~education council for foreign medical graduates or successors.~~

19           ~~———— (3) A temporary license may be issued to a physician employed by a public institution who is practicing~~  
 20 ~~under the direction of a licensed physician. The board may authorize the department to issue a temporary license~~  
 21 ~~subject to terms of probation or other conditions or limitations set by the board or may refuse a temporary license~~  
 22 ~~to a person who has committed unprofessional conduct. The issuance of a temporary license does not impose~~  
 23 ~~any future obligation or duty on the part of the board to grant full licensure or to renew or extend the temporary~~  
 24 ~~license. The board may, in the case of an applicant for a temporary license, require a written, oral, or practical~~  
 25 ~~examination of the applicant.~~

26           (a) is in good standing;

27           (i) in a Montana residency program and is seeing patients under the supervision of a physician who  
 28 possesses a current, unrestricted license to practice medicine in this state; or

29           (ii) with an approved residency and who, in the course of an approved rotation of the applicant's residency  
 30 program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license

1 to practice medicine in this state; and

2 (b) submits an application to the department on an approved form and submits the fee set by the board,  
3 as provided in 37-3-308.

4 (2) A resident license may not be issued for a period that exceeds 1 year. A resident license may be  
5 renewed, at the board's discretion, for additional 1-year periods as long as the resident is in good standing in an  
6 approved residency program."

7

8 **Section 12.** Section 37-3-308, MCA, is amended to read:

9 **"37-3-308. Application fee -- further tax forbidden.** (1) ~~An Each applicant for a license to practice~~  
10 ~~medicine to be issued on the basis of an examination by the board shall pay an examination fee as set by the~~  
11 ~~board. The board shall set the fee, and it shall be reasonable and commensurate with the costs of the~~  
12 ~~examination and related costs. Such examination fee shall be in addition to the application fee. All applicants,~~  
13 ~~including applicants for a temporary license, shall pay an initial application fee as prescribed by the board.~~

14 (2) A license tax may not be imposed upon physicians by a municipality or any other subdivision of the  
15 state."  
16

16

17 **Section 13.** Section 37-3-312, MCA, is amended to read:

18 **"37-3-312. Issuance of license.** If the board determines that an applicant possesses the qualifications  
19 required by this chapter, the department shall issue a license to practice medicine, ~~which shall be signed by the~~  
20 ~~president or vice-president, attested by the secretary, and sealed with the seal of the board."~~  
21

21

22 **Section 14.** Section 37-3-321, MCA, is amended to read:

23 **"37-3-321. Refusal of license.** If the board determines that an applicant for a license to practice  
24 medicine does not possess the qualifications or character required by this chapter or that the applicant has  
25 committed unprofessional conduct, ~~it shall refrain from authorizing the department to issue a~~ the board may deny  
26 the license. ~~The department shall mail to the applicant, at the applicant's last address of record with the~~  
27 ~~department, written notification of the board's decision, together with notice of a time and place of a hearing~~  
28 ~~before the board. If the applicant without cause fails to appear at the hearing or if after the hearing the board~~  
29 ~~determines that the applicant is not entitled to a license, the board shall refuse to grant the license."~~

30

1           **Section 15.** Section 37-3-323, MCA, is amended to read:

2           **"37-3-323. Suspension of license -- investigation.** (1) The department may investigate whenever the  
3 department learns of a reason to suspect that a license applicant or a person having a license to practice  
4 medicine in this state:

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

10           (b) ~~has been guilty of~~ has engaged in unprofessional conduct;

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

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

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

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

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

28

29           **Section 16.** Section 37-3-403, MCA, is amended to read:

30           **"37-3-403. Report of prohibition or limitation on practice by hospital.** Each With the exception of

1 the first two violations of hospital policies related to charts, medical records, or other policies not directly  
 2 associated with the clinical care of a patient, each hospital or health care facility that prohibits or limits the  
 3 privilege of a physician to practice medicine within that facility shall report the action to the state board of medical  
 4 examiners within 30 days after the action is taken. The report must include ~~the~~ each reason ~~or reasons~~ for the  
 5 prohibition or limitation."  
 6

7 **Section 17.** Section 37-20-402, MCA, is amended to read:

8 **"37-20-402. Criteria for licensing physician assistant.** A person may not be licensed as a physician  
 9 assistant in this state unless the person:

10 (1) is of good moral character;

11 (2) is a graduate of a physician assistant training program accredited by the accreditation review  
 12 commission on education for the physician assistant or, if accreditation was granted before 2001, accredited by  
 13 the American medical association's committee on allied health education and accreditation or the commission  
 14 on accreditation of allied health education programs; and

15 (3) has taken and passed an examination administered by the national commission on the certification  
 16 of physician assistants; ~~and~~

17 ~~—— (4) holds a current certificate from the national commission on the certification of physician assistants."~~  
 18

19 **NEW SECTION. Section 18. Repealer.** The following sections of the Montana Code Annotated are  
 20 repealed:

21 37-3-304. Practice authorized by temporary license.

22 37-3-306. Physician's license -- examination -- reciprocity and endorsement.

23 37-3-311. Foreign medical graduate examination.

24 37-3-315. Qualifications for licensure -- specialized license -- suspension -- practice authorized.

25 37-3-327. Subpoena -- fees.

26 37-3-328. Failure to appear or testify.

27 37-3-341. Legislative findings.

28 37-3-342. Definition -- scope of practice allowed by telemedicine license.

29 37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations -- violations  
 30 and penalty.

- 1 37-3-344. Application for telemedicine license.
- 2 37-3-345. Qualifications for telemedicine license -- basis for denial.
- 3 37-3-347. Reasons for denial of license -- alternative route to licensed practice.
- 4 37-3-348. Discipline of physician with telemedicine license.
- 5 37-3-349. Consent to jurisdiction.
- 6 37-6-304. Designations on license -- recording.

7

8 NEW SECTION. **Section 19. Effective date.** [This act] is effective July 1, 2015.

9

- END -