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HOUSE BILL NO. 87

INTRODUCED BY B. MERCER

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO LICENSING BOARDS; ESTABLISHING STANDARDS FOR APPOINTMENTS, QUALIFICATIONS, AND TERMS FOR LICENSING BOARDS; PROVIDING FOR STANDARDIZED LICENSING BOARD ORGANIZATION AND COMPENSATION; REVISING REQUIREMENTS TO REVIEW REQUESTS TO CREATE A NEW LICENSING BOARD; ADDING LICENSING PROGRAMS TO THE REVIEW REQUIRED FOR NEW LICENSING BOARDS; AMENDING SECTIONS 2-8-401, 2-8-402, 2-15-1730, 2-15-1731, 2-15-1732, 2-15-1733, 2-15-1734, 2-15-1735, 2-15-1736, 2-15-1737, 2-15-1738, 2-15-1739, 2-15-1740, 2-15-1741, 2-15-1742, 2-15-1743, 2-15-1744, 2-15-1747, 2-15-1748, 2-15-1749, 2-15-1750, 2-15-1751, 2-15-1753, 2-15-1756, 2-15-1757, 2-15-1758, 2-15-1761, 2-15-1763, 2-15-1764, 2-15-1765, 2-15-1771, 2-15-1773, 2-15-1781, ~~AND 2-15-1782~~, AND 37-1-133, MCA; REPEALING SECTION 2-8-403, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Appointment -- qualifications -- terms.** (1) The governor shall appoint the members of a board designated under 2-15-1730 through 2-15-1782 in accordance with this section and with the consent of the senate.

(2) The governor shall have the authority to remove members of the board ~~with or without cause~~ for misconduct, incompetence, or neglect of duty. A board member who misses three meetings over a period of 1 year without good cause must be removed from the board automatically.

(3) Each board must be composed of professional and public members.

(4) Each professional member of a board must, while serving as a board member:

(a) be a resident of this state and at least 18 years of age; and

(b) be currently practicing in the profession or occupation and have an active license in this state in good standing for the profession or occupation in which the member is appointed to serve. For the purposes of

1 this section, "good standing" means an active license unencumbered by a final order of disciplinary action or
2 administrative suspension.

3 (5) (a) Each public member of the board must be a resident of this state and at least 18 years of
4 age.

5 (b) A public member may not be:

6 (i) or ever have been, a licensee of the board on which the public member is appointed to serve;

7 (ii) the spouse, parent, or child of a current or former licensee of the board; or

8 (iii) a person who currently or within the 3 years prior to appointment had any material financial

9 interest in the provision of professional services or engaged in any activity related to the practice of the

10 profession regulated by the board on which the public member is appointed to serve, except as a consumer.

11 (6) (a) Each board member shall maintain eligibility to serve on the board by avoiding conflicts of
12 interest or relationships that would interfere with the board mission of public protection.

13 (b) (i) A member of the board may not serve as an officer or hold any leadership position in a state
14 or national professional association representing the industry related to the profession regulated by the board
15 for the term of the board member's appointment.

16 (ii) A leadership position includes but is not limited to a voting member of an executive board or
17 service on ~~an ethics committee, membership committee, examination committee, or other similar positions of~~
18 ~~the association or other similar organization a disciplinary committee, or other similar position.~~

19 (7) A board member may not have a financial interest in the provision of continuing education to
20 any licensee if that continuing education is required by statute or rule.

21 (8) Each member of the board shall annually attest to having completed coursework or training of a
22 duration and covering content provided by the department to address relevant regulatory issues, including role
23 of the board, role of the board member, conflict of interest, competition, administrative procedures,
24 enforcement, and immunity.

25 (9) Except as provided in subsection (10), board members must be appointed by the governor with
26 the consent of the senate for a term of 4 years unless appointed to fill a vacancy that occurs prior to the
27 expiration of a former member's full term. A member appointed to fill a vacancy under this section shall serve
28 the remaining portion of the unexpired term. Appointments made when the legislature is not in session must be

1 confirmed at the next regular legislative session.

2 (10) The terms of the board members begin on July 1 and are staggered. Subject to 2-16-213, each
3 member shall serve until the expiration of their term unless the member cannot serve because of removal or
4 resignation from board membership.

5 (11) A member may serve two consecutive full terms and may not be reappointed within 4 years of
6 the completion of the member's second consecutive full term. For the purposes of this section, an appointment
7 to fill an unexpired term does not constitute a full term.

8
9 **NEW SECTION. Section 2. Board organization -- meetings -- compensation.** (1) The board shall
10 annually elect a presiding officer and a vice presiding officer to serve in the absence of the presiding officer.
11 The presiding officer shall preside at all meetings of the board and perform duties customarily associated with
12 the position. The presiding officer may establish board committees to further board business and designate
13 board members as committee members.

14 (2) A presiding officer elected by the board shall serve a 1-year term commencing at the
15 conclusion of the meeting at which the presiding officer is elected and ending on the election of their successor.
16 A presiding officer may serve no more than four consecutive 1-year terms.

17 (3) The board shall meet at least annually to conduct business. A majority of the membership of
18 the board constitutes a quorum to conduct business. ~~For the purposes of this subsection, the "membership" of~~
19 ~~the board does not include members whose terms have expired or who have been removed from board~~
20 ~~membership.~~

21 (4) Members of the board are entitled to compensation and travel expenses as provided in 37-1-
22 133.

23
24 **Section 3.** Section 2-8-401, MCA, is amended to read:

25 **"2-8-401. Purpose.** It is the intent of the legislature to:

26 (1) exercise the police power of the state through the establishment of licensing boards and
27 licensing programs only when regulation of a profession or occupation benefits the public health, safety,
28 welfare, or common good of the state's residents and that benefit outweighs the potential increased cost to the

1 (b) one dentist;

2 (c) two dental hygienists; and

3 (d) one public member.

4 ~~(3) Each member shall serve for a term of 5 years. The governor may remove a member only for~~
5 ~~neglect or cause.~~

6 ~~(4) The governor shall fill any vacancy within 30 days.~~

7 ~~(5)(3) The board is allocated to the department for administrative purposes only as prescribed in 2-~~
8 ~~15-121."~~

9

10 **Section 8.** Section 2-15-1733, MCA, is amended to read:

11 **"2-15-1733. Board of pharmacy.** (1) There ~~in accordance with [section 1], there is~~ a board of
12 pharmacy.

13 (2) The board consists of ~~seven members appointed by the governor with the consent of the~~
14 ~~senate. Four members must be licensed pharmacists, one member must be a registered pharmacy technician,~~
15 ~~and two members must be from the general public. five-six members:~~

16 (a) ~~Each licensed pharmacist member must have graduated and received the first professional~~
17 ~~undergraduate degree from the school of pharmacy of the university of Montana-Missoula or from an accredited~~
18 ~~pharmacy degree program that has been approved by the board. Each licensed pharmacist member must have~~
19 ~~at least 5 consecutive years of practical experience as a pharmacist immediately before appointment to the~~
20 ~~board. A licensed pharmacist member who, during the member's term of office, ceases to be actively engaged~~
21 ~~in the practice of pharmacy in this state must be automatically disqualified from membership on the board. three~~
22 ~~four pharmacists;~~

23 (b) ~~A registered one pharmacy technician member must have at least 5 consecutive years of~~
24 ~~practical experience as a pharmacy technician immediately before appointment to the board. A registered~~
25 ~~pharmacy technician member who, during the member's term of office, ceases to be actively engaged as a~~
26 ~~pharmacy technician in this state must be automatically disqualified from membership on the board. ; and~~

27 (c) ~~Each one public member of the board must be a resident of the state and may not be or ever~~
28 ~~have been.;~~

1 (i) ~~a member of the profession of pharmacy or the spouse of a member of the profession of~~
2 ~~pharmacy;~~

3 (ii) ~~a person having any material financial interest in the providing of pharmacy services; or~~

4 (iii) ~~a person who has engaged in any activity directly related to the practice of pharmacy.~~

5 (3) ~~Members shall serve staggered 5 year terms. A member may not serve more than two~~
6 ~~consecutive full terms. For the purposes of this section, an appointment to fill an unexpired term does not~~
7 ~~constitute a full term.~~

8 (4) ~~A member must be removed from office by the governor:~~

9 (a) ~~upon proof of malfeasance or misfeasance in office, after reasonable notice of charges against the~~
10 ~~member and after a hearing; or~~

11 (b) ~~upon refusal or inability to perform the duties of a board member in an efficient, responsible, and~~
12 ~~professional manner.~~

13 (5)(3) ~~The board is allocated to the department for administrative purposes only as prescribed in 2-~~
14 ~~15-121."~~

15

16 **Section 9.** Section 2-15-1734, MCA, is amended to read:

17 **"2-15-1734. Board of nursing.** (1) ~~There~~ In accordance with [section 1], there is a board of nursing.

18 (2) ~~The board consists of nine~~ seven ~~members appointed by the governor with the consent of the~~
19 ~~senate. The members are:~~

20 (a) ~~five registered professional nurses, of whom at least including:~~

21 (i) ~~at least one must have had at least 5 years with experience in administrative administration,~~
22 ~~teaching, or supervisory experience~~ supervision ~~in one or more schools of nursing;~~

23 (ii) ~~at least one must be an advanced practice registered nurse;~~

24 (iii) ~~at least one must be engaged in nursing practice in a rural health care facility;~~ and

25 (iv) ~~at least one must be currently engaged in the administration, supervision, or provision of direct~~
26 ~~client care. Each member who is a registered professional nurse must:~~

27 (i) ~~be a graduate of an approved school of nursing;~~

28 (ii) ~~be a licensed registered professional nurse in this state;~~

1 licensed hearing aid dispenser, or a licensed audiologist, and at least one of whom must regularly use a
2 hearing aid because of a demonstrated hearing impairment. ~~One public member may meet both the conditions~~
3 ~~in this subsection (2)(b).~~

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

6 ~~(4)(3) The board is allocated to the department for administrative purposes only as prescribed in 2-~~
7 ~~15-121."~~

8
9 **Section 16.** Section 2-15-1741, MCA, is amended to read:

10 **"2-15-1741. Board of psychologists.** (1) ~~There~~ In accordance with [section 1], there is a board of
11 psychologists.

12 (2) The board consists of six members appointed by the governor with the consent of the senate; ~~;~~

13 (a) ~~Two~~ two members must be two licensed psychologists engaged in private practice; ~~;~~

14 (b) ~~one~~ one member must be a licensed psychologist engaged in public health; ~~;~~

15 (c) ~~one~~ one member must be a licensed psychologist engaged in the teaching of psychology; ~~;~~

16 (d) ~~one~~ one member must be a behavior analyst licensed under Title 37, chapter 17, part 4; ~~;~~ and

17 (e) ~~one~~ one public member must be from the general public. A member may not serve more than two
18 consecutive ~~5-year~~ terms.

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

20 ~~(4)(3) The board is allocated to the department for administrative purposes only, as prescribed in 2-~~
21 ~~15-121."~~

22
23 **Section 17.** Section 2-15-1742, MCA, is amended to read:

24 **" 2-15-1742. (Temporary) Board of veterinary medicine.** (1) ~~There is~~ a board of veterinary
25 medicine.

26 ~~(2) The board consists of six members appointed by the governor with the consent of the senate, five~~
27 ~~of whom must be licensed veterinarians and one of whom must be a public member who is a consumer of~~
28 ~~veterinary services and who may not be a licensee of the board or of any other board under the department of~~

1 labor and industry.

2 (3) ~~Each veterinarian member must be a reputable licensed veterinarian who has graduated from a~~
3 ~~college that is authorized by law to confer degrees and that has educational standards equal to those approved~~
4 ~~by the American veterinary medical association. Each veterinarian member must have actually and legally~~
5 ~~practiced veterinary medicine in either private practice or public service in this state for at least 5 years~~
6 ~~immediately before appointment.~~

7 (4) ~~Each member shall serve for a term of 5 years. The governor may, after notice and hearing,~~
8 ~~remove a member for misconduct, incapacity, or neglect of duty.~~

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

10 **2-15-1742. (Effective January 1, 2023) Board of veterinary medicine.** (1) ~~There~~ In accordance with
11 [section 1], there is a board of veterinary medicine.

12 (2) The board consists of ~~seven~~ five-seven members appointed by the governor with the consent
13 of the senate.;

14 (a) Five members must be ~~three~~ five veterinarians licensed under Title 37, chapter 18,;

15 (b) one member must be a veterinary technician licensed under Title 37, chapter 18,; and

16 (c) one public member must be a public member who is a consumer of veterinary services and is
17 not a licensee of the board or of any other board under the department of labor and industry.

18 (3) (a) ~~Each veterinarian board member must be a reputable licensed veterinarian who has~~
19 ~~graduated from a college that is authorized by law to confer degrees and that has educational standards equal~~
20 ~~to those approved by the American veterinary medical association. Each veterinarian board member must have~~
21 ~~actually and legally practiced veterinary medicine in either private practice or public service in this state for at~~
22 ~~least 5 years immediately before appointment.~~

23 (b) ~~The individual initially appointed as the licensed veterinary technician board member must have~~
24 ~~practiced in this state for at least 5 years prior to January 1, 2023, and shall obtain a license under Title 37,~~
25 ~~chapter 18, as a licensed veterinary technician by the time the individual becomes a board member. An~~
26 ~~individual appointed subsequent to the initial appointment must only meet the requirement that the individual be~~
27 ~~a veterinary technician licensed under Title 37, chapter 18.~~

28 (4) (a) ~~Each member term is 5 years. A member may be reappointed.~~

1 ~~(b) The governor may, after notice and hearing, remove a member for misconduct, incapacity, or~~
2 ~~neglect of duty.~~

3 ~~(5)(3) The board is allocated to the department for administrative purposes only as provided in 2-15-~~
4 ~~121."~~

5

6 **Section 18.** Section 2-15-1743, MCA, is amended to read:

7 **"2-15-1743. Board of funeral service.** (1) ~~There~~ In accordance with [section 1], there is a board of
8 funeral service.

9 (2) The board consists of six members appointed by the governor with the consent of the senate.;

10 (a) ~~Three~~ three members must be licensed morticians.;

11 ~~One member must be a representative of the public who is not engaged in the practice of mortuary~~
12 ~~science or funeral directing.;~~

13 (b) ~~One member must be a licensed~~ one crematory operator or crematory technician or a mortician
14 ~~who is engaged in a crematory operation.;~~

15 (c) ~~One member must be a~~ one representative of a cemetery company governed by Title 37,
16 chapter 19, part 8; and

17 (d) one public member.

18 ~~(3) Board members shall serve staggered 5-year terms.~~

19 ~~(4)(3) The board is allocated to the department for administrative purposes only as prescribed in 2-~~
20 ~~15-121."~~

21

22 **Section 19.** Section 2-15-1744, MCA, is amended to read:

23 **"2-15-1744. Board of behavioral health.** (1) ~~(a) The governor shall appoint, with the consent of the~~
24 ~~senate,~~ In accordance with [section 1], there is a board of behavioral health ~~consisting of 11 members.~~

25 (2) The board consists of 11 members:

26 (b)(a) ~~Three members must be licensed~~ three clinical social workers, and;

27 (b) ~~three must be licensed~~ professional counselors.;

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

1 (iii) one must be employed by or retired from a athletic trainer with experience in one or more
2 health care facility or an athletic facility in Montana facilities; and

3 (c) one public member of the public who is not engaged in or directly connected with the practice
4 of athletic training.

5 ~~(3) There may be no more than one retired athletic trainer serving on the board at anytime.~~

6 ~~(4) A vacancy on the board must be filled for an unexpired term to maintain the representation~~
7 ~~provided in subsection (2).~~

8 ~~(5)(3) The board is attached allocated to the department for administrative purposes only, as~~
9 ~~prescribed in 2-15-121, to the department of labor and industry.~~

10 ~~(6)(4) Members must be compensated as provided in 2-18-501 through 2-18-503.~~

11 ~~(7) Members shall serve 4 year, staggered terms. A member may be reappointed for one consecutive~~
12 ~~term. A member who is reappointed must be eligible under the same criteria as when first appointed.~~

13 ~~(8) For the purposes of this section, an appointment to fill an unexpired term does not constitute a full~~
14 ~~term.~~

15 ~~(9) The governor may remove a member from the board for neglect of duty, for incompetency, or for~~
16 ~~cause."~~

17
18 **Section 34.** Section 2-15-1773, MCA, is amended to read:

19 **"2-15-1773. Board of outfitters.** (1) There in accordance with [section 1], there is a board of
20 outfitters.

21 (2) The board consists of the following five members to be appointed by the governor with the
22 consent of the senate:

23 (a) one ~~outfitter licensed for both~~ outfitter licensed for both hunting and fishing ~~outfitter,~~
24 representing a public land hunting and fishing outfitter knowledgeable in government permitting ~~and preferably~~
25 ~~with a packing endorsement~~ and preferably with a packing endorsement;

26 (b) one ~~outfitter licensed only as a~~ fishing outfitter;

27 (c) one outfitter representing a private land hunting outfit;

28 (d) one ~~outfitter licensed for both~~ hunting and fishing outfitter, with their business being

1 predominately fishing; and

2 ~~(e) — one public member of the general public who is a Montana-based business owner who~~
3 ~~engages in nonoutfitted business that is reliant on the local outdoor recreation industry.~~

4 (e) — one public member who is a Montana-based business owner who engages in nonoutfitted
5 business that is reliant on the local outdoor recreation industry.

6 ~~(3) — A favorable vote of at least a majority of all members of the board is required to adopt any~~
7 ~~resolution, motion, or other decision.~~

8 ~~(4) — A vacancy on the board must be filled in the same manner as the original appointment.~~

9 ~~(5) — The members shall serve staggered 3-year terms and take office on the day they are appointed.~~

10 ~~(6)(3) The board is allocated to the department of labor and industry for administrative purposes only~~
11 ~~as prescribed in 2-15-121.~~

12 ~~(7) — Each member of the board is entitled to receive compensation and travel expenses as provided~~
13 ~~for in 37-1-133."~~

14

15 **Section 35.** Section 2-15-1781, MCA, is amended to read:

16 **"2-15-1781. Board of private security.** (1) ~~There~~ In accordance with [section 1], there is a board of
17 private security.

18 (2) The board consists of seven voting members appointed by the governor with the consent of the
19 senate. ~~The members shall represent:~~

20 (a) ~~one contract security company or proprietary security organization, as defined by 37-60-101;~~

21 (b) ~~one electronic security company, as defined by 37-60-101;~~

22 (c) ~~one city police department chief;~~

23 (d) ~~one county sheriff's office sheriff;~~

24 (e) ~~one member of the public;~~

25 (f)(e) ~~one member of the Montana public safety officer standards and training council; and~~

26 (g)(f) ~~a licensed one private investigator or a registered process server; and~~

27 (g) ~~one public member.~~

28 (3) ~~Members of the board must be at least 25 years of age and have been residents of this state for~~

- 1 ~~(a) one person who is a massage therapist to serve a 2-year term;~~
- 2 ~~(b) one person who is a massage therapist to serve a 3-year term; and~~
- 3 ~~(c) one person who is a massage therapist to serve a 4-year term.~~
- 4 ~~(5) At the expiration of terms provided in subsection (4), the governor shall appoint the person~~
- 5 ~~designated to fill each position to a 4-year term.~~

6 ~~(6)(3) The board is allocated to the department for administrative purposes only as prescribed in 2-~~
 7 ~~15-121."~~

9 **Section 37.** Section 37-1-133, MCA, is amended to read:

10 **"37-1-133. Board members' compensation and expenses.** Unless otherwise provided by law, each
 11 member of a board allocated to the department is entitled to receive ~~\$50-\$100~~ per day compensation and travel
 12 expenses, as provided for in 2-18-501 through 2-18-503, for each day spent on official board business. Board
 13 members who conduct official board business in their city of residence are entitled to receive a midday meal
 14 allowance, as provided for in 2-18-502. Ex officio board members may not receive compensation but shall
 15 receive travel expenses."

17 NEW SECTION. Section 38. Repealer. The following section of the Montana Code Annotated is
 18 repealed:

19 2-8-403. Intent to combine profession or occupation with existing board.

21 NEW SECTION. Section 39. Codification instruction. [Sections 1 and 2] are intended to be codified
 22 as an integral part of Title 37, chapter 1, and the provisions of Title 37, chapter 1, apply to [sections 1 and 2].

24 NEW SECTION. Section 40. Saving clause. (1) To the extent that [section 1] applies to board
 25 member term length and the number of terms for which a board member may be appointed, [section 1] solely
 26 applies to appointments made on or after [the effective date of this act].

27 (2) Nothing in [sections 7, 8, 9, 13, 17, 26, 27, 28, 29, and 32] reduces the term, authority, or
 28 obligations of a board member who was appointed before [the effective date of this act]. Elimination of a board