

1 HOUSE BILL NO. 87  
 2 INTRODUCED BY B. MERCER  
 3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO LICENSING  
 6 BOARDS; ESTABLISHING STANDARDS FOR APPOINTMENTS, QUALIFICATIONS, AND TERMS FOR  
 7 LICENSING BOARDS; PROVIDING FOR STANDARDIZED LICENSING BOARD ORGANIZATION AND  
 8 COMPENSATION; REVISING REQUIREMENTS TO REVIEW REQUESTS TO CREATE A NEW LICENSING  
 9 BOARD; ALLOWING THE DEPARTMENT OF LABOR AND INDUSTRY TO CHARGE FEES; ADDING  
 10 LICENSING PROGRAMS TO THE REVIEW REQUIRED FOR NEW LICENSING BOARDS; AMENDING  
 11 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,  
 12 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-  
 13 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,  
 14 2-15-1764, 2-15-1765, 2-15-1771, 2-15-1773, 2-15-1781, AND 2-15-1782, MCA; REPEALING SECTION 2-8-  
 15 403, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

18  
19 NEW SECTION. **Section 1. Appointment -- qualifications -- terms.** (1) The governor shall appoint  
20 the members of a board designated under 2-15-1730 through 2-15-1782 in accordance with this section and  
21 with the consent of the senate.

22 (2) The governor shall have the authority to remove members of the board with or without cause. A  
23 board member who misses three meetings over a period of 1 year without good cause must be removed from  
24 the board automatically.

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

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

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

28 (b) be currently practicing in the profession or occupation and have an active license in this state in

1 welfare, or common good of the state's residents and that benefit outweighs the potential increased cost to the  
2 public and limitation on competition;

3 (2) recognize those professions or occupations that require specialized skill or training; and

4 (3) provide the public with a means to determine whether practitioners have met competency  
5 standards and to complain if the competency is suspect."  
6

7 **Section 4.** Section 2-8-402, MCA, is amended to read:

8 **"2-8-402. Intent to create new board.** (1) A bill draft request to create a department of labor and  
9 industry licensing board or licensing program must include a letter of intent not exceeding 1,000 words report  
10 that addresses the criteria in subsections (2) and (3):

11 ~~(2)~~ The letter of intent must contain the following descriptions:

12 (a) how licensing would protect and benefit the public; ~~and, in particular,~~

13 (b) how the unregulated practice of the profession or occupation would pose a hazard to public  
14 health, safety, or welfare or the common good and whether the nature of the profession or occupation makes it  
15 difficult for the consumer to evaluate the hazard;

16 ~~(b)(c)~~ the extent of practitioners' autonomy, as indicated by the degree of independent judgment that  
17 a practitioner may exercise or the extent of skill or experience required in making the independent judgment  
18 proposed minimum education, experience, and examination requirements necessary to provide the service,  
19 comparative data, and analysis on the licensure of the profession or occupation in other states and whether the  
20 proposed requirements are greater, less than, or equal to a national average;

21 ~~(e)(d)~~ the distinguishable proposed scope of practice;

22 ~~(d)(e)~~ the overlap or shared a description of any overlapping scopes of practices practice with an  
23 existing, licensed profession or occupation professions or occupations, whether licensed or not;

24 ~~(e)~~ the degree, if any, to which licensing would restrict entry into the profession or occupation for  
25 reasons other than public health, safety, or welfare or the common good;

26 ~~(f)~~ the specialized skills or training required for the profession or occupation;

27 ~~(g)~~ the proposed qualifications for licensure;

28 (f) an analysis of the impact licensure would have on the type, cost, and availability of services to

1 consumers, the number of providers currently in the market, and other impacts on market conditions;

2 ~~(h)(g) whether a description of any licensure exception exceptions; would be provided to existing~~  
3 ~~practitioners and whether those eligible for the exception~~

4 (h) existing practitioners and the date by which they would be required to meet proposed  
5 qualifications at a certain time;

6 (i) a list of other states that license the profession or occupation;

7 (j) regulatory alternatives other than licensing that are available to the practitioners of the  
8 profession or occupation; ~~and~~

9 (k) previous efforts, if any, to regulate the profession or occupation; and

10 (l) whether the profession or occupation could be regulated by an existing licensing board or  
11 licensing program.

12 ~~(3)(2) In order to help in the determination of licensing To estimate initial costs, the letter of intent~~  
13 ~~report must contain a good faith effort to provide answers to the following questions address:~~

14 (a) ~~how many the number of licensees are anticipated, including the number of practitioners in~~  
15 ~~Montana and a basis for the estimate;~~

16 (b) ~~what is if a licensing board is proposed, the proposed makeup of the licensing board~~  
17 ~~membership; and~~

18 (c) ~~what are the projected annual licensing fees based on information from the department of labor~~  
19 ~~and industry for all costs associated with a licensing board or licensing program of the projected size.~~

20 ~~(4) After receiving a copy of the responses to subsections (2), (3)(a), and (3)(b), the department of~~  
21 ~~labor and industry shall assist those developing the letter of intent under 2-8-403 or this section with the~~  
22 ~~responses to subsection (3)(c) of this section.~~

23 ~~(5) For the purposes of this section, a letter of intent is a public record~~

24 (3) For the purposes of membership of a board, the inclusion of an additional license type to be  
25 regulated to an existing board may not result in adding that license type as a member of the board if the scope  
26 of practice of the newly regulated license type is within the scope of an existing professional board member  
27 position on the board.

28 (4) If information is requested of the department of labor and industry in making a report under this

1 ~~section, the department may charge reasonable fees commensurate with the costs of producing the~~  
2 ~~information."~~

3

4 **Section 5.** Section 2-15-1730, MCA, is amended to read:

5 **"2-15-1730. Alternative health care board --composition--terms--allocation.** (1) There ~~In~~  
6 ~~accordance with [section 1], there is an alternative health care board.~~

7 (2) The board consists of six members appointed by the governor with the consent of the senate.  
8 The members are:

9 (a) ~~two persons~~ members from each of the health care professions regulated by the board who  
10 ~~have been actively engaged in the practice of their respective professions for at least 3 years preceding~~  
11 ~~appointment to the board;~~

12 (b) ~~one public member who is not a member of a profession regulated by the board; and~~

13 (e)(b) ~~one member who is a Montana physician whose practice includes obstetrics; and~~

14 (c) ~~one public member.~~

15 (3) ~~The members must have been residents of this state for at least 3 years before appointment to the~~  
16 ~~board.~~

17 (4) ~~All members shall serve staggered 4-year terms. The governor may remove a member from the~~  
18 ~~board for neglect of a duty required by law, for incompetency, or for unprofessional or dishonorable conduct.~~

19 (5)(3) ~~The board is allocated to the department for administrative purposes only, as prescribed in 2-~~  
20 ~~15-121."~~

21

22 **Section 6.** Section 2-15-1731, MCA, is amended to read:

23 **"2-15-1731. Board of medical examiners.** (1) There ~~In~~ accordance with [section 1], there is a  
24 Montana state board of medical examiners.

25 (2) The board consists of 13 members appointed by the governor with the consent of the senate.  
26 ~~Appointments made when the legislature is not in session may be confirmed at the next session.;~~

27 (3) ~~The members are:~~

28 (a) ~~five members having the degree of doctor of medicine~~ doctors of medicine, including one