

Amendment - 1st Reading/2nd House-blue - Requested by: (S) Business, Labor, and Economic Affairs

- 2023

68th Legislature 2023

Drafter: Erin Sullivan, 406-444-3594

HB0087.002.003

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, AND 37-1-133, MCA; REPEALING
15 SECTION 2-8-403, 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) (A) ~~The governor shall have~~ HAS the authority to remove members of the board ~~with or without~~
23 ~~cause~~ WITH REASONABLE CAUSE, INCLUDING BUT NOT LIMITED TO DOCUMENTED MISCONDUCT, INCOMPETENCE, OR
24 NEGLECT OF DUTY. ~~A board member who misses three meetings over a period of 1 year without good cause~~
25 ~~must be removed from the board automatically.~~

26 (B) A PERSON REMOVED FROM A BOARD BY THE GOVERNOR MAY REQUEST RECONSIDERATION OF THE
27 REMOVAL. THE REQUEST FOR RECONSIDERATION MUST BE SUBMITTED TO THE GOVERNOR WITHIN 14 DAYS OF THE

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1 REMOVAL. THE GOVERNOR HAS 14 DAYS TO RESCIND OR REAFFIRM THE REMOVAL FROM THE BOARD.

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

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

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

5 (b)(II) MUST be currently practicing in the profession or occupation and have an active license in this

6 state FOR AT LEAST 1 YEAR AND in good standing for the profession or occupation in which the member is

7 appointed to serve; AND

8 (III) MAY NOT HAVE THE SAME EMPLOYER OR OWN THE SAME BUSINESS GROUP entity that provides

9 services under the member's license.

10 (B) For the purposes of this section SUBSECTION (4)(A), "good standing" means an active license
11 unencumbered by a final order of disciplinary action or administrative suspension.

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

14 (b) A public member may not be:

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

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

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

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

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

20 (6) (a) Each board member shall maintain eligibility to serve on the board by avoiding OR

21 DISCLOSING conflicts of interest or relationships that would interfere with the board mission of public protection.

22 (b) ~~(i) A member of the board may not serve as an officer or hold any leadership position in a state~~

23 ~~or national professional association representing the industry related to the profession regulated by the board~~

24 ~~for the term of the board member's appointment.~~

25 ~~(ii) A leadership position includes but is not limited to a voting member of an executive board or~~

26 ~~service on an ethics committee, membership committee, examination committee, or other similar positions of~~

27 ~~the association or other similar organization.~~

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

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

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

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

15 (11) A member may serve two consecutive full terms and may not be reappointed within 4 years of the
16 completion of the member's second consecutive full term EXCEPT IN CASES WHEN NO QUALIFIED APPLICATIONS ARE
17 RECEIVED FOR MEMBERSHIP ON THE BOARD. For the purposes of this section, an appointment to fill an unexpired
18 term does not constitute a full term.

19
20 NEW SECTION. Section 2. Board organization -- meetings -- compensation -- DEPARTMENT
21 ALLOCATION. (1) The board shall annually elect a presiding officer and a vice presiding officer to serve in the
22 absence of the presiding officer. The presiding officer shall preside at all meetings of the board and perform
23 duties customarily associated with the position. The presiding officer may establish board committees to further
24 board business and designate board members as committee members.

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

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COORDINATION SECTION. Section 41. Coordination instruction. If both Senate Bill No. 453 and [this act] are passed and approved and if both amend 2-15-1730, then [section 1 of Senate Bill No. 453], amending 2-15-1730, is void, and [section 5 of this act], amending 2-15-1730, must be amended as follows:

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

(2) The board consists of ~~six-eight~~ members ~~appointed by the governor with the consent of the senate. The members are:~~

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

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

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

~~(c) one public member.~~

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

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

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

COORDINATION SECTION. Section 42. Coordination instruction. If both Senate Bill No. 453 and [this act] are passed and approved and if both amend 2-15-1731, then [section 2 of Senate Bill No. 453], amending 2-15-1731, is void, and [section 6 of this act], amending 2-15-1731, must be amended as follows:

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

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1 (2) The board consists of ~~13~~12 members ~~appointed by the governor with the consent of the senate.~~
2 ~~Appointments made when the legislature is not in session may be confirmed at the next session.;~~
3 ~~(3) The members are:~~
4 (a) five ~~members having the degree of doctor~~ doctors of medicine, including one ~~member~~ with
5 experience in emergency medicine, none of whom may be from the same county;
6 (b) one ~~member having the degree of~~ doctor of osteopathy;
7 (c) one ~~member who is a licensed~~ podiatrist;
8 (d) one ~~member who is a licensed~~ nutritionist;
9 (e) one ~~member who is a licensed~~ physician assistant;
10 ~~(f) one member who is a licensed acupuncturist;~~
11 ~~(g)~~(f) one ~~member who is a volunteer~~ emergency care provider, as defined in 50-6-202, who may be a
12 volunteer emergency care provider; and
13 (h) two ~~members of the general public who are not medical practitioners~~ public members.
14 ~~(4) (a) The members having the degree of doctor of medicine may not be from the same county.~~
15 ~~(b) The volunteer emergency care provider must have a demonstrated interest in and knowledge of~~
16 ~~state and national issues involving emergency medical service and community integrated health care.~~
17 ~~(c) Each member must be a citizen of the United States.~~
18 ~~(d) Each member, except for public members, must have been licensed and must have practiced~~
19 ~~medicine, acupuncture, emergency medical care, or dietetics nutrition in this state for at least 5 years and must~~
20 ~~have been a resident of this state for at least 5 years.~~
21 ~~(5) Members shall serve staggered 4-year terms. A term begins on September 1 of each year of~~
22 ~~appointment. A member may be removed by the governor for neglect of duty, incompetence, or unprofessional~~
23 ~~or dishonorable conduct.~~
24 (6) The board is allocated to the department ~~for administrative purposes only~~ as prescribed in 2-15-
25 121."
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1 COORDINATION SECTION. **Section 43. Coordination instruction.** If both Senate Bill No. 456 and
2 [this act] are passed and approved and if Senate Bill No. 456 repeals 2-15-1740, then [section 15 of this act],
3 amending 2-15-1740, is void.

4
5 COORDINATION SECTION. **Section 44. Coordination instruction.** If both Senate Bill No. 457 and
6 [this act] are passed and approved and if Senate Bill No. 457 repeals 2-15-1751, then [section 24 of this act],
7 amending 2-15-1751, is void.

8
9 COORDINATION SECTION. **Section 45. Coordination instruction.** If both Senate Bill No. 455 and
10 [this act] are passed and approved and if both amend 2-15-1757, then [section 9 of Senate Bill No. 455],
11 amending 2-15-1757, is void, and [section 27 of this act], amending 2-15-1757, must be amended as follows:

12 **"2-15-1757. Board of realty regulation.** (1) ~~There~~ In accordance with [section 1], there is a board of
13 realty regulation.

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

16 (a) ~~Five members must be licensed~~ four real estate brokers, ~~or~~ salespeople, ~~or~~ property managers
17 ~~who are actively engaged in the real estate business as a broker, a salesperson, or a property manager in this~~
18 ~~state. Two members must be representatives of the public who are not state government officers or employees~~
19 ~~and who are not engaged in business as a real estate broker, a salesperson, or a property manager. The~~
20 ~~members must be residents of this state.; and~~

21 (b) one public member

22 (3) ~~The members shall serve staggered terms of 4 years. A member may not serve more than two~~
23 ~~consecutive terms or any portion of two consecutive terms.~~

24 (4) ~~(3)~~ The board is allocated to the department ~~for administrative purposes only~~ as prescribed in 2-15-
25 121."

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1 COORDINATION SECTION. **Section 46. Coordination instruction.** If both Senate Bill No. 454 and
2 [this act] are passed and approved, and if Senate Bill No. 454 repeals 2-15-1781, then [section 35 of this act],
3 amending 2-15-1781, is void.
4

5 NEW SECTION. **Section 47. Saving clause.** [This act] does not affect rights and duties that
6 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].
7

8 NEW SECTION. **Section 48. Effective date.** [This act] is effective July 1, 2023.
9

- END -