

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:

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

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

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

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

4 (b)(II) MUST be currently practicing in the profession or occupation and have an active license in this  
5 state FOR AT LEAST 1 YEAR AND in good standing for the profession or occupation in which the member is  
6 appointed to serve; AND

7 (III) — MAY NOT HAVE THE SAME EMPLOYER OR OWN THE SAME BUSINESS GROUP ENTITY THAT PROVIDES  
8 SERVICES UNDER THE MEMBER'S LICENSE.

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

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

13 (b) A public member may not be:

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

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

16 (iii)(II) a person who currently or within the 3 years prior to appointment had any material financial  
17 interest in the provision of professional services or engaged in any activity related to the practice of the  
18 profession regulated by the board on which the public member is appointed to serve, except as a consumer.

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

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

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

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

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

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

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

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

17  
18 NEW SECTION. Section 2. Board organization -- meetings -- compensation -- DEPARTMENT

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

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

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