

1 HOUSE BILL NO. 152
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 REVISING LAWS RELATED TO PROFESSIONAL AND
6 OCCUPATIONAL LICENSING BY THE DEPARTMENT OF LABOR AND INDUSTRY; REORGANIZING AND
7 CLARIFYING GENERALLY APPLICABLE PROVISIONS UNDER AN ADMINISTRATIVE CHAPTER AND
8 REMOVING REDUNDANT PROVISIONS; INCORPORATING DEPARTMENT LICENSING PROGRAMS INTO
9 THE ADMINISTRATIVE CHAPTER; CREATING A UNIFORM LICENSING APPLICATION PROCESS;
10 REVISING LICENSURE BY ENDORSEMENT AND CHANGING TERMINOLOGY; REDUCING TIMELINES
11 AND REVISING PROVISIONS TO ISSUE LICENSES; REVISING AND CREATING UNIFORM DUTY OF
12 LICENSEE AND LICENSE APPLICANT TO SELF-REPORT AND REPORT UNPROFESSIONAL CONDUCT
13 OF OTHERS; REVISING UNIFORM FINGERPRINTING PROCESS FOR CERTAIN APPLICANTS; REVISING
14 AND CREATING UNIFORM STANDARDS FOR MENTAL AND PHYSICAL EVALUATIONS; REVISING AND
15 CREATING UNIFORM DUTY TO PROVIDE CONTACT INFORMATION; PROVIDING NOTICE OF PRIMARY
16 METHOD OF COMMUNICATION; PROVIDING AUTHORITY TO CONSENT TO NOTICE BY ELECTRONIC
17 PROCESS; REVISING PROVISIONS FOR LICENSE RENEWAL, LAPSE, TERMINATION, AND
18 CONTINUING JURISDICTION; REVISING TEMPORARY LICENSURE TERMINOLOGY AND CREATING A
19 PROVISIONAL LICENSE AND LIMITED PRACTICE REGISTRATION; ESTABLISHING A MILITARY SPOUSE
20 TEMPORARY LICENSE; REVISING MILITARY PERSONNEL EXEMPTIONS; REVISING CONTINUING
21 EDUCATION REQUIREMENTS; REVISING DUTIES OF THE COMMISSIONER OF THE DEPARTMENT OF
22 LABOR AND INDUSTRY; REVISING DUTIES OF THE DEPARTMENT OF LABOR AND INDUSTRY
23 RELATED TO FISCAL ADMINISTRATION OF BOARDS AND PROGRAMS, DETERMINING SUBSTANTIAL
24 EQUIVALENCY, AND INVESTIGATING COMPLAINTS; REVISING AND CLARIFYING PROVISIONS
25 RELATED TO DISCIPLINARY ACTIONS AND CONTESTED CASES; REVISING RESPONSIBILITIES AND
26 AUTHORITY OF BOARDS AND PROGRAMS; PROVIDING RULEMAKING AUTHORITY; AMENDING
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Application -- licensing -- proof of licensure. (1) To obtain a license or

an endorsement on a license to practice a profession or occupation or to operate a facility in which the practice takes place, a person must apply on a form and pay a fee prescribed by the department. The applicant must attest to and provide evidence satisfactory to the department that the applicant:

(a) (i) meets the education, experience, examination, and other qualifications for licensure set by board or program statute or rule; or

(ii) is eligible for licensure by endorsement from licensure in another jurisdiction as provided in 37-1-304; and

(b) is fit to practice the profession or occupation, as shown by an absence of unprofessional conduct in the applicant's history.

(2) Except as otherwise provided by law, an applicant must provide the applicant's social security number or taxpayer identification number.

(3) An applicant's submission of a license application constitutes consent to release information as may be necessary for the department to verify the information provided by the applicant.

(4) Except as provided by [section 11], on verification by the department that an applicant meets the qualifications and fitness for licensure, the department shall issue the license, subject to the renewal and termination provisions of 37-1-141.

(5) Unless otherwise provided by board or program rule, a licensee must

(a) continuously display the license in publicly accessible locations at any fixed location where the licensee practices; or

(b) while engaged in a practice that occurs outside of any fixed location, carry a department-issued

paper or electronic license and produce it on request by a member of the public or an agency.

(6) (a) The boards and programs under this chapter have sole jurisdiction to issue and regulate licenses to practice the professions and occupations. A municipality or other political subdivision of the state, including a local government with self-governing powers, may not impose a licensee fee or license tax as a condition for any licensee to practice the licensee's profession or occupation.

(b) This section does not prohibit the entities in subsection (6)(a) from imposing a general business license fee or general business license tax as a condition to conduct business in their respective jurisdictions.

(7) Except as provided by law, a license issued by the department is nontransferable.

NEW SECTION. Section 2. Timelines to issue licenses. (1) The department shall issue a license within 30 days of receiving a complete, routine application.

(2) The department shall notify an applicant within 10 days of receiving an application or supplemental application information of any deficiencies in the application.

(3) For applications that are not routine or that require board review, the department shall notify the applicant of an expected timeline for issuing a license and any deviations from the expected timeline.

NEW SECTION. Section 3. Duty to report contact information -- method of communication and service -- fee -- changes in information. (1) A license applicant must disclose the applicant's current contact information as requested by the department.

(2) Except as provided in subsection (3), the department shall use licensee and license applicant and e-mail addresses as the primary contact and method of communication.

(3) The department shall serve any notice or order:

(a) pursuant to the Montana Rules of Civil Procedure;

(b) by certified mail to the last address furnished to the agency by the licensee or license applicant;

or

(c) if consented to by the licensee or license applicant, by electronic means.

(4) The department may impose a reasonable fee for service of process or recover the reasonable costs of service if a licensee or license applicant fails to consent to process by electronic means.

(5) Licensees and license applicants must notify the department within 30 days of any change in any information previously furnished to the department, including but not limited to personal history information, individual or business name, contact information, supervisory relationships, supervisory or collaborative agreements, operation plans, designated individuals or licensees in charge, business location, and officers, directors, or owners.

NEW SECTION. Section 4. National criminal history background check -- applicant and licensee fingerprinting requirements. (1) In accordance with Public Law 92-544, 34 U.S.C. 40316, the boards or programs listed in subsections (2) through (9) shall require initial applicants, and may require renewing license applicants, for the listed license types to submit a full set of fingerprints to obtain a national criminal history background check by the Montana department of justice and the federal bureau of investigation as a prerequisite to the issuance or renewal of a license. The department may use and control criminal record information received under this section only in accordance with laws, regulations, and procedures of the U.S. department of justice under the National Crime Prevention and Privacy Compact Act of 1998 to administer the licensing process and assist the listed licensing agencies to screen licensees and license applicants:

(2) Board of behavioral health, Title 37, chapters 22, 23, 35, 37, and 38:

(a) addiction counselor;

(b) addiction counselor candidate;

(a)(c) baccalaureate social worker;

(d) baccalaureate social worker candidate;

(b)(e) clinical professional counselor;

(e)(f) clinical professional counselor candidate;

(d)(g) clinical social worker;

(e)(h) clinical social worker candidate;

(f)(i) marriage family therapist;

(g)(j) marriage family therapist candidate;

(h)(k) master's-level social worker; and

(l) master's-level social worker candidate; and

- 1 ~~(i)~~(m) peer support specialist.
- 2 (3) Board of medical examiners, Title 37, chapter 3: physician ~~compact license applicants~~ applying
- 3 for expedited licensure in another state as allowed under 37-3-356.
- 4 (4) Board of nursing, Title 37, chapter 8:
- 5 (a) advanced practice registered nurse;
- 6 (b) medication aide 1;
- 7 (c) medication aide 2;
- 8 (d) practical nurse; and
- 9 (e) registered nurse.
- 10 (5) Board of pharmacy, Title 37, chapter 7:
- 11 (a) third-party logistics provider; and
- 12 (b) wholesale distributor.
- 13 (6) Board of physical therapy, Title 37, chapter 11:
- 14 (a) physical therapist; and
- 15 (b) physical therapy assistant.
- 16 (7) Board of private security, Title 37, chapter 60:
- 17 (a) alarm installer;
- 18 (b) alarm response runner;
- 19 (c) certified firearms instructor;
- 20 (d) private investigator;
- 21 (e) process server;
- 22 (f) resident manager of a contract security company, electronic security company, or proprietary
- 23 security organization; and
- 24 (g) security guard.
- 25 (8) Board of ~~psychology~~ psychologists, Title 37, chapter 17:
- 26 (a) assistant behavior analyst; and
- 27 (b) behavior analyst.
- 28 (9) Board of real estate appraisers, Title 37, chapter 54:

- (a) appraiser trainee;
- (b) certified general appraiser;
- (c) certified residential appraiser; and
- (d) licensed real estate appraiser.

NEW SECTION. Section 5. Mental and physical evaluations. (1) If a board or program has

objective and reasonable belief that a licensee or license applicant presents a significant risk of substantial harm to public health and safety, the board or program may require an evaluation of the licensee or license applicant by a physician or other health care provider designated by department personnel.

(2) The evaluation must determine to what extent and how any existing mental or physical impairment or disability or use of controlled substances by the individual may impact the individual's performance of the profession or occupation with reasonable skill and safety. The factors to be considered include but are not limited to:

- (a) the duration of the risk;
- (b) the nature and severity of the potential harm;
- (c) the likelihood that the potential harm will occur; and
- (d) the imminence of the potential harm.

(3) The board or program may consider additional mental or physical evaluations and may base a proposed disciplinary or enforcement action on a single evaluation or the totality of any evaluations considered.

(4) The board or program may summarily suspend the license or suspend processing the application of an individual who refuses to submit to the evaluation.

NEW SECTION. Section 6. Military spouse temporary license. (1) A spouse of an active member

serving in the United States armed forces stationed in Montana under military orders who is licensed in good standing in another state or United States territory to practice a profession or occupation regulated by the department is, on application to the department, entitled to receive a temporary license to practice.

(2) The department shall waive the application fee.

(3) A temporary license issued under this section has a term of 3 years after the date of issuance

and may not be renewed. The provisions of 37-1-141 do not apply to this section.

NEW SECTION. Section 7. Duties of department -- rulemaking. (1) In addition to the provisions of

2-15-121 and other duties expressed in this chapter or the chapter of a board or program, the department shall establish and provide all of the administrative, fiscal, inspection, investigative, and legal services needed by a board or program.

(2) The department shall adopt uniform rules applicable to all boards and programs and any rules necessary to administer this chapter, including but not limited to fees and processes related to:

- (a) license applications, examinations, and license renewals;
- (b) requests to inactivate, reactivate, or reinstate licenses;
- (c) changes of name, contact information, or practice-related information;
- (d) continuing education or other requirements for continued licensure; and
- (e) administrative suspensions, complaints, or other enforcement actions.

NEW SECTION. Section 8. Duty to report actions -- immunity from liability. (1) A license

applicant shall immediately report to the department any action against the applicant that arises while the application is pending and relates to the applicant's qualifications or fitness to practice the profession or occupation.

(2) A licensee shall report to the department any action against the licensee that relates to the licensee's qualifications or fitness to practice the profession or occupation within 30 days of final disposition of the action.

(3) A licensee shall report in a timely manner to the department any information gained through personal knowledge that appears to show that another licensee or license applicant has engaged in unprofessional conduct under 37-1-316 or board or program rule.

(4) There is no liability on the part of and no cause of action may arise against a licensee who in good faith provides information required in subsection (3) to the department.

NEW SECTION. Section 9. Duties of boards and programs -- authority to join association. (1) A

board under the active supervision of the state as described in 37-1-121(1)(d) and a program shall:

(a) enforce statutes and rules governing the educational, examination, and experience qualifications for initial and continued licensure and the professional, practice, and ethical standards of conduct of licensees and license applicants under the board's or program's jurisdiction; and

(b) apply the standards statutes and rules referred to in subsection (1)(a) without discrimination between licensees and license applicants and without restraint of trade or competition unless necessary to protect public health and safety.

(2) A board may join and pay dues to professional organizations and associations organized exclusively to promote the improvement of standards of a profession or occupation for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

NEW SECTION. Section 10. Activated military personnel exemptions. (1) Upon notice and proof of deployment as described in this subsection, the department shall exempt licensees who deployed to federal funded active duty as military personnel for more than 90 consecutive days from:

(a) the payment of any license renewal or late renewal fees; and

(b) any continuing education or certification requirements or audits for a renewal cycle that falls within the period of active duty and within the 6 months following active duty.

(2) If a license in subsection (1) terminates as provided in 37-1-141, the board or program may impose reasonable conditions to demonstrate competency as a condition to reactivate the license upon notice and opportunity for a hearing pursuant to 37-1-309.

NEW SECTION. Section 11. Provisional license -- limited practice registration. (1) The department may issue a provisional license to an applicant the department has initially determined to be eligible for licensure except for one or more of the following pending conditions:

(a) passage of the required licensure examination;

(b) completion of supervised work or educational experience as a license holder;

(c) facility or equipment inspection;

(d) verification of licensure in good standing from other licensing jurisdictions and applicable

national licensing databases; or

(e) verification of absence of relevant criminal charges or other action.

(2) A board or a program, by rule, may prescribe time, place, supervision, or other limitations respecting the provisional license.

(3) The provisional license is valid until the applicant is issued a license or until one or more of the following occurs:

(a) the applicant fails the first license examination the applicant is eligible to take following issuance of the license;

(b) the applicant exceeds the prescribed time limit to complete the work experience;

(c) the applicant substantially and materially fails an inspection;

(d) the applicant is found to have license discipline, criminal, or other action in conflict with information reported on the application; or

(e) the applicant fails to act timely to complete the required condition.

(4) Upon one or more of the occurrences in subsection (3), the department shall void the provisional license, notify the applicant, and render the provisional license inactive without appeal or judicial review.

(5) Upon registration with the department, individuals actively licensed in good standing in another state may practice in Montana up to 21 days in a calendar year without licensure in this state to provide education, continuity of treatment, treatment to underserved populations, or highly specialized treatment care to clients or patients.

NEW SECTION. Section 12. Continuing education -- certification -- other conditions for continued licensure -- audit. (1) A board or program may require licensees to maintain accessible continuing education that is relevant to the occupation or profession.

(2) The department may not precondition timely license renewal on proof of continuing education, certification, or other recurring qualifications except that:

(a) after the renewal date, the department may determine a percentage of up to 25% of each applicable license type to randomly audit for continuing education compliance. If the audit results in more than a

15% noncompliance rate before the department administers the provisions of 37-1-321, the department may audit up to 100% of the licensees in the next audit year.

(b) the department shall audit all licensees who renew an expired license for compliance with continuing education, certification, or other recurring qualifications.

(3) The department shall notify licensees before the expiration of current certification or other recurring qualifications and require submission of the qualifications.

(4) A licensee who fails to provide the department with proof of continuing education or a current certification or other recurring qualifications requested under this section is subject to administrative suspension of the license under 37-1-321.

NEW SECTION. Section 13. Physician and resident licenses -- qualifications. (1) An individual may not practice medicine unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for licensure as a physician must:

(a) have graduated from an approved medical school as defined in 37-3-102;

(b) have completed an approved residency program;

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

(i) the national board of medical examiners or its successors;

(ii) the national board of osteopathic medical examiners or its successors;

(iii) the medical council of Canada or its successors if the applicant is a graduate of a Canadian medical school approved by the medical council of Canada or its successors; or

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

(d) be able to communicate in the English language as determined by the board.

(3) An applicant for licensure to practice medicine as a resident must have:

(a) good standing in an approved residency program and rotation; and

(b) supervision by a physician who possesses an active, unrestricted license to practice medicine

1 in this state.

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

5
6 **NEW SECTION. Section 14. Podiatrist license required -- qualifications.** (1) An individual may not
7 practice podiatry unless licensed under Title 37, chapter 1, and this chapter.

8 (2) An applicant for licensure as a podiatrist must have:

9 (a) graduated from a school of podiatry approved by the board;

10 (b) completed at least 1 year of postgraduate training or equivalent experience or training
11 approved by the board; and

12 (c) passed an examination administered by the national board of podiatric medical examiners.

13

14 **NEW SECTION. Section 15. Pharmacist and pharmacy technician license required --**
15 **qualifications.** (1) An individual may not practice pharmacy or assist in the practice of pharmacy unless
16 licensed under Title 37, chapter 1, and this chapter.

17 (2) An applicant for licensure as a pharmacist must have:

18 (a) received an accredited pharmacy degree that has been approved by the board;

19 (b) complied with the internship requirements established by the board; and

20 (c) passed the licensing examinations prescribed by the board.

21 (3) An applicant for licensure as a pharmacy technician must have the qualifications prescribed by
22 board rule.

23

24 **NEW SECTION. Section 16. Certified pharmacy license required -- qualifications.** (1) A person
25 may not operate a pharmacy unless the pharmacy is licensed as a certified pharmacy under Title 37, chapter 1,
26 and this chapter.

27 (2) A certified pharmacy must have a licensed pharmacist in charge to operate, manage, and
28 supervise the certified pharmacy.

1

2 **NEW SECTION. Section 17. Optometrist license required -- qualifications.** (1) An individual may
3 not practice optometry unless licensed under Title 37, chapter 1, and this chapter.

4 (2) An applicant for licensure as an optometrist must have:

5 (a) graduated from an optometry school accredited by the association of regulatory boards of
6 optometry; and

7 (b) passed examinations of the national board of examiners in optometry prescribed by board rule.

8

9 **NEW SECTION. Section 18. Physical therapist and physical therapist assistant licenses**

10 **required -- qualifications.** (1) An individual may not practice physical therapy or assist in the practice as a
11 physical therapy assistant unless licensed under Title 37, chapter 1, and this chapter.

12 (2) An applicant for licensure as a physical therapist must:

13 (a) have graduated from an accredited school of physical therapy approved by the board; and

14 (b) have passed an examination prescribed by board rule.

15 (3) An applicant for licensure as a physical therapist assistant license must:

16 (a) have graduated from an accredited physical therapist assistant curriculum approved by the
17 board; and

18 (b) have passed an examination prescribed by board rule.

19

20 **NEW SECTION. Section 19. Chiropractor license required -- qualifications.** (1) An individual may
21 not practice chiropractic unless licensed under Title 37, chapter 1, and this chapter.

22 (2) An applicant for licensure as a chiropractor must:

23 (a) have a bachelor's degree from an accredited college or university;

24 (b) have a degree from a chiropractic program accredited by the council on chiropractic education
25 or another accrediting body in good standing with the councils on chiropractic education international; and

26 (c) have passed the examination of the national board of chiropractic examiners as prescribed by
27 board rule.

28

NEW SECTION. Section 20. Acupuncturist license required -- qualifications. (1) An individual

may not practice acupuncture unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for licensure as an acupuncturist must have:

(a) graduated from a school of acupuncture that is approved by the accreditation commission for acupuncture and herbal medicine and offers a course of at least 1,000 hours of entry-level training in recognized branches of acupuncture, or an equivalent curriculum approved by the board; and

(b) passed an examination prepared and administered by the national certification commission for acupuncture and oriental medicine or its successor.

NEW SECTION. Section 21. Speech-language pathology and audiology licenses and assistant

licenses required -- qualifications. (1) An individual may not practice speech-language pathology or audiology unless licensed under Title 37, chapter 1, and this chapter. An individual may be licensed in both areas if the individual meets the respective qualifications, and in those instances, the license fee must be as though for one license.

(2) An individual may not practice as a speech-language pathology assistant or audiology assistant unless licensed under Title 37, chapter 1, and this chapter.

(3) An applicant for licensure as a speech-language pathologist or audiologist must, as further prescribed by board rule:

(a) have completed an academic ~~program~~;

~~(b)~~ have completed a supervised clinical practicum;

~~(b)(c)~~ have completed supervised professional experience; and

~~(c)(d)~~ have passed an examination.

(4) An applicant for licensure as a speech-language pathology assistant or an audiology assistant must:

(a) have completed academic requirements ~~in subsections (3)(a) and (3)(b)~~ as prescribed by board rule for assistant-level licensure; or

(b) if gained before January 1, 2024, have experience working as an unlicensed assistant in an amount and character prescribed by board rule that is equivalent to the requirements in ~~(3)(a)(4)(a)~~.

(5) This section may not be construed to prohibit speech-language pathologists, audiologists, or assistants from delegating tasks to unlicensed individuals.

NEW SECTION. Section 22. Psychologist license required -- qualifications. (1) An individual may not practice psychology unless the individual is licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for licensure as a psychologist must:

(a) (i) have a doctoral degree in clinical psychology from an accredited college or university with a graduate program approved by the American psychological association; or

(ii) if the doctoral degree possessed under subsection (2)(a) is in psychology and the graduate program is not approved by the American psychological association, have successfully completed:

(A) a formal graduate retraining program in clinical psychology approved by the American psychological association; or

(B) a course of studies that meets minimum standards specified by board rule;

(b) have a minimum of 2 years of supervised experience in the practice of psychology, of which 1 year must be postdoctoral and include no more than 6 months of supervised research, teaching, or a combination of both; and

(c) have passed an examination prescribed by board rule.

(3) An individual who has completed the education requirements under this section but who has not completed the postdoctoral supervised psychology practice may apply for a provisional license to practice psychology pursuant to [section 11] and an approved supervision plan prescribed by board rule.

NEW SECTION. Section 23. Veterinarian license required -- qualifications. (1) An individual may not practice veterinary medicine unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for licensure as a veterinarian must:

(a) have a degree from a veterinary medical school having educational standards equal to those approved by the American veterinary medical association; and

(b) have passed a board-approved examination.

NEW SECTION. Section 24. Occupational therapist and occupational therapist assistant

licenses required -- qualifications. (1) An individual may not practice occupational therapy as a therapist or an assistant unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for licensure as an occupational therapist or an occupational therapy assistant must have certification from the national board for certification in occupational therapy.

NEW SECTION. Section 25. Dietitian nutritionist license required -- qualifications. (1) An

individual may not practice ~~as a dietitian, dietitian nutritionist, or nutritionist~~ medical nutrition therapy unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for a dietitian nutritionist license must have a current credential as a registered dietitian or a registered dietitian nutritionist from the commission on dietetic registration, as accredited by the national commission for certifying agencies.

(3) The requirement in subsection (2) is necessary for continued licensure and is subject to audit under [section 12].

NEW SECTION. Section 26. Naturopathic physician license required -- qualifications. (1) An

individual may not practice naturopathy unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for licensure as a naturopathic physician must have:

(a) graduated from an approved naturopathic medical college; and

(b) passed an examination as prescribed by board rule.

NEW SECTION. Section 27. Direct-entry midwife license required -- qualifications -- provisional

license. (1) An individual may not practice as a direct-entry midwife unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for licensure as a direct-entry midwife must have:

(a) certification as a certified professional midwife from the North American registry of midwives;

and

(b) certification from the American academy of pediatrics or the American heart association to

1 perform neonatal resuscitation.

2 (3) The requirements in subsection (2) are necessary for continued licensure and are subject to
3 audit under [section 12].

4 (4) An applicant who has completed the education requirements toward certification but has not
5 completed the supervised work experience may apply for a provisional license under [section 11] and as
6 prescribed by board rule.

7

8 **NEW SECTION. Section 28. Respiratory care license required -- qualifications -- exemptions.**

9 (1) An individual may not practice respiratory care unless licensed under Title 37, chapter 1, and this chapter.

10 (2) An applicant for licensure as a respiratory care practitioner must:

11 (a) have completed a respiratory care educational program accredited or provisionally accredited
12 by the commission on accreditation of allied health education programs in collaboration with the joint review
13 committee for respiratory therapy education or their successor organizations; and

14 (b) pass an examination prescribed by board rule.

15 (3) This chapter does not prohibit:

16 (a) the practice of respiratory care that is an integral part of study by a student respiratory care
17 practitioner;

18 (b) self-care by a patient or gratuitous care by a friend or family member who does not purport to
19 be a respiratory care practitioner;

20 (c) respiratory care rendered during an emergency; or

21 (d) the practice of other persons and health care providers licensed by appropriate agencies of this
22 state.

23 (5) This chapter may not be construed to permit the practice of medicine.

24

25 **NEW SECTION. Section 29. Denturist license required -- qualifications.** (1) An individual may not
26 practice denturity unless licensed under Title 37, chapter 1, and this chapter.

27 (2) An applicant for licensure as a denturist must:

28 (a) have completed 2 years at an educational institution accredited by a national or regional

1 accrediting agency recognized by the board of regents of higher education, the curriculum of which includes
2 courses in head and oral anatomy and physiology, oral pathology, microbiology, partial denture construction
3 and design, clinical dental technology, radiology, dental laboratory technology, asepsis, clinical jurisprudence,
4 and medical emergencies;

5 (b) have completed 1 year of an internship under the direct supervision of a licensed dentist;

6 (c) have passed an examination prescribed by board rule; and

7 (d) have certification in cardiopulmonary resuscitation from a nationally recognized provider.

8 (3) The requirement in subsection (2)(d) is necessary for continued licensure and is subject to
9 audit under [section 12].
10

11 **NEW SECTION. Section 30. License required to practice, teach, or operate salon, shop, booth,**
12 **or school -- qualifications.** (1) An individual may not practice or teach the professions of barbering, barbering
13 nonchemical, cosmetology, electrology, esthetics, or manicuring, or operate a facility to practice or teach any of
14 the professions listed in this subsection unless licensed under Title 37, chapter 1, and this chapter.

15 (2) An individual may not manage or operate a booth unless licensed under Title 37, chapter 1,
16 and this chapter.

17 (3) An applicant for licensure in a profession listed in subsection (4) must:

18 (a) (i) have graduated from a school authorized to offer a course of study in the profession as
19 prescribed by board rule for the number of hours listed for the profession in subsection (4); and

20 (ii) have passed a board-approved examination; or

21 (b) be a licensed cosmetologist and pass the board-approved esthetics examination.

22 (4) The requirements in subsection (3) apply to the following professions:

23 (a) barbering, at least 1,100 hours;

24 (b) barbering nonchemical, at least 900 hours;

25 (c) cosmetology, at least 1,500 hours;

26 (d) electrology, at least 600 hours;

27 (e) manicuring, at least 400 hours; and

28 (f) esthetics, at least 650 hours.

1

2 **NEW SECTION. Section 31. Clinical laboratory science license required -- qualifications.** (1) An

3 individual may not practice clinical laboratory science unless licensed under Title 37, chapter 1, and this
4 chapter.

5 (2) An applicant for licensure as a clinical laboratory scientist must have:

6 (a) graduated with a baccalaureate degree, including a minimum number of hours in areas or
7 disciplines established by board rule; and

8 (b) passed a board-approved examination.

9 (3) An applicant for licensure as a clinical laboratory specialist must have:

10 (a) graduated with a baccalaureate degree as described in subsection (2)(a); and

11 (b) passed a board-approved examination.

12 (4) An applicant for licensure as a clinical laboratory technician must have:

13 (a) (i) earned an associate degree or 60 semester hours in a science-related discipline; or

14 (ii) completed other board-approved equivalent formal education; and

15 (b) passed a board-approved examination.

16

17 **NEW SECTION. Section 32. Athletic trainer license required -- qualifications -- exemptions.** (1)

18 An individual may not practice athletic training unless licensed under Title 37, chapter 1, and this chapter.

19 (2) An applicant for licensure as an athletic trainer must:

20 (a) have a ~~baccalaureate~~ degree from a postsecondary institution that meets the academic

21 standards for athletic trainers established by the national athletic trainers' association board of certification; and

22 (b) have passed a board-approved examination.

23 (3) An applicant is exempt from the examination requirement in subsection (2)(b) if the applicant is
24 certified as an athletic trainer by an organization recognized by the national commission for certifying agencies.

25 (4) This section does not prohibit:

26 (a) a health care professional licensed under Title 37 from:

27 (i) practicing an occupation or profession for which the health care professional is licensed; or

28 (ii) practicing on an athlete;

- (b) an educator or an information specialist from providing general information regarding prevention of athletic injuries;
- (c) an individual from providing a first aid procedure incidental to the individual's employment or volunteer duties;
- (d) an intern or student trainee who is studying a course of athletic training at an accredited postsecondary institution from providing athletic training under qualified supervision as part of the intern or student trainee's course of study. The intern or student trainee shall use the title "athletic training student" while carrying out athletic training activities.
- (e) a personal trainer from providing personal training services;
- (f) a massage therapist from providing massage; or
- (g) a coach, physical education teacher, athletic director, other school employee, or supervised volunteer from providing first aid, preventative care, or continual follow-up care of athletes and athletic injuries in a school setting.

NEW SECTION. Section 33. Sanitarian license required -- qualifications. (1) An individual may not practice the profession of sanitarian unless licensed under Title 37, chapter 1, and this chapter.

- (2) An applicant for licensure as a sanitarian must:
- (a) have a bachelor's degree in environmental health or its equivalent from an accredited university or college; and
- (b) have passed a board-approved examination.

NEW SECTION. Section 34. Genetic counselor license required -- qualifications -- exemptions.

(1) An individual may not practice genetic counseling unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for licensure as a genetic counselor must have certification from the American board of genetic counseling as a genetic counselor.

(3) This chapter does not apply to:

- (a) an individual licensed as a physician or advanced practice registered nurse or licensed to

1 practice in a profession other than that of genetic counseling when acting within the scope of the profession;

2 (b) an individual employed as a genetic counselor by the federal government or an agency of the
3 federal government to provide genetic counseling services solely under the direction and control of the
4 organization; or

5 (c) a student or intern enrolled in a genetic counseling educational program accredited by the
6 American board of genetic counseling if the student or intern is designated by the title "genetic counseling
7 intern" and the genetic counseling services performed are:

8 (i) an integral part of the course of study; and

9 (ii) performed under the direct supervision of a licensed genetic counselor who is on duty and
10 available in the assigned patient care area.

11
12 **NEW SECTION. Section 35. Certified public accountants license required -- qualifications.** (1)

13 An individual may not practice public accounting unless licensed under Title 37, chapter 1, and this chapter or
14 qualified for practice privilege under 37-50-325.

15 (2) An applicant for licensure as a certified public accountant must, as may be further prescribed
16 by board rule:

17 (a) have graduated from an accredited college or university with a baccalaureate degree and at
18 least 150 semester credit hours, including specific accounting and business credit hours;

19 (b) have passed the certified public accountant examination;

20 (c) have 1 year of accounting experience; and

21 (d) have successfully completed a professional ethics course for certified public accountants.

22
23 **NEW SECTION. Section 36. Real estate broker and salesperson license required -- supervising**
24 **broker endorsement required -- qualifications -- business entities.** (1) An individual may not practice as a
25 real estate broker or a real estate salesperson unless licensed under Title 37, chapter 1, and this chapter.

26 (2) A real estate broker may not practice as a supervising broker without an endorsement issued
27 under Title 37, chapter 1, and this chapter.

28 (3) An applicant for a broker's license must:

(a) be at least 18 years of age;

(b) have been engaged as a licensed real estate salesperson for at least 2 years or have equivalent experience as prescribed by board rule, except that if the board finds that an applicant could not obtain employment as a licensed real estate salesperson because of conditions existing in the area where the applicant resides, the board may waive this experience requirement;

(c) have completed 60 hours of education in the principles, law, ethics, and finance of real estate as prescribed by board rule; and

(d) have passed an examination prescribed by board rule.

(4) An applicant for a supervising broker endorsement must:

(a) have a broker's license in good standing;

(b) have successfully completed a supervising broker course; and

(c) maintain continuing education specific to the endorsement.

(5) An applicant for a salesperson's license must:

(a) be at least 18 years of age;

(b) have completed between 60 and 80 classroom or equivalent hours, as prescribed by board rule;

(c) have passed an examination on the curriculum in subsection (4)(b); and

(d) have and maintain oversight by a supervising broker.

(6) Corporations, partnerships, and associations may not be licensed under this chapter. A corporation or a partnership may act as a licensee if every corporate officer and every partner performing the functions of a licensee are licensed under this chapter. All officers of a corporation or all members of a partnership acting as a licensee are in violation of this chapter unless there is full compliance with this subsection.

(7) The board may adopt rules allowing a salesperson to temporarily associate with a supervising broker other than the supervising broker listed on the salesperson's license.

NEW SECTION. Section 37. License required to manage property -- qualification of property manager applicants -- examination. (1) An individual may not practice as a property manager unless licensed

1 under Title 37, chapter 1, and this chapter.

2 (2) An applicant for licensure as a property manager must:

3 (a) be at least 18 years of age;

4 (b) have completed education on real estate leasing principles, real estate leasing law, and related
5 topics prescribed by board rule; and

6 (c) have passed an examination on the education in subsection (2)(b).

7

8 **NEW SECTION. Section 38. Real estate appraiser license or certification required --**

9 **qualifications -- scope of practice -- exemptions.** (1) Except as provided in subsection (4), an individual may
10 not practice as a real estate appraiser unless licensed or certified under Title 37, chapter 1, and this chapter.

11 (2) An applicant for licensure, residential certification, or general certification as a real estate
12 appraiser must, as prescribed by board rules that are at least as stringent as those required for compliance with
13 Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989:

14 (a) have successfully completed a course of study;

15 (b) have experience in real estate appraisal;

16 (c) have passed an examination; and

17 (d) comply with any other requirements related to the practice of real estate appraisal.

18 (3) An applicant for licensure as a real estate appraisal trainee must:

19 (a) have successfully completed a course of study prescribed by the board; and

20 (b) provide a written acknowledgment from the real estate appraiser mentor whom the applicant
21 will assist.

22 (4) A real estate appraiser may be certified in one or both of the following classes:

23 (a) general real estate, which relates to the appraisal of all types of real property;

24 (b) residential real estate, which relates to the appraisal of expensive or complex one- to four-unit
25 residences.

26 (5) A licensed or certified real estate appraiser is subject to restrictions on the scope of practice,
27 depending on the value and complexity of the federally related transaction or transactions as established by the
28 federal financial institutions examination council agencies, as those rules may be amended.

(6) The terms "licensed real estate appraiser" and "certified real estate appraiser" may not be used to describe a firm, partnership, corporation, group, or anyone other than an individual licensee. However, a licensed or certified real estate appraiser may engage in real estate appraisal as a professional corporation.

(7) This chapter does not prohibit an individual who is not a licensed or certified real estate appraiser from appraising real property for transactions not related to a federal agency or project for compensation if the individual does not purport to be a licensed or certified real estate appraiser.

(8) This section does not:

(a) prohibit a person who is licensed to practice in this state under any law from engaging in the practice for which the person is licensed; or

(b) apply to public officials in the conduct of their official duties that are not governed by the rules established by the federal financial institutions examination council agencies.

NEW SECTION. Section 39. Temporary permit practice by out-of-state appraisers. In accordance with policy statements issued by the appraisal subcommittee of the federal financial institutions examination council under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and without regard to the provisions of [section 11], the department shall issue a temporary practice permit to an appraiser licensed or certified in another state to complete one or more assignments for a federally related transaction in this state if:

(1) the appraiser registers with the department; and

(2) the license or certificate is in good standing as verified by the national registry of appraisers.

NEW SECTION. Section 40. Private security licenses required -- process server registration required -- qualifications. (1) (a) A person may not practice as a contract security company, a proprietary security organization, an electronic security company, a branch office, a private investigator, a security alarm installer, an alarm response runner, a resident manager, a certified firearms instructor, or a private security guard unless licensed under Title 37, chapter 1, and this chapter.

(b) Except as provided in 25-1-1101(2), an individual may not practice as a process server for more than 10 services of process in a calendar year unless registered under Title 25, chapter 1, part 11, and

1 Title 37, chapters 1 and 60.

2 (2) An individual appointed by the court as a confidential intermediary under 42-6-104 is not
3 required to be licensed under this chapter. A licensee under this chapter is not authorized to act as a
4 confidential intermediary, as defined in 42-1-103, without meeting the requirements of 42-6-104.

5 (3) An applicant to practice as a private investigator, private security guard, process server,
6 security alarm installer, or alarm response runner must:

7 (a) be at least 18 years of age;

8 (b) have successfully completed training prescribed by the board;

9 (c) if seeking licensure as a private investigator, have passed an examination; and

10 (d) fulfill other requirements as the board may prescribe by rule.

11 (4) An applicant for a private investigator license who has not met the training and examination
12 requirements may apply for a provisional license subject to [section 11] and as prescribed by board rule.

13 (5) An applicant for a license as a private security patrol officer or private investigator who will
14 wear, carry, or possess a firearm in performance of the applicant's duties must have successfully completed a
15 firearms training program prescribed by board rule.

16 (6) A business entity that intends to engage in business governed by the provisions of this chapter
17 must be incorporated under the laws of this state or qualified to do business within this state.

18

19 **NEW SECTION. Section 41. Architect license required -- qualifications.** (1) An individual may not
20 practice architecture unless licensed under Title 37, chapter 1, and this chapter.

21 (2) An applicant for licensure as an architect must, as may be further prescribed by board rule:

22 (a) have successfully completed education;

23 (b) have practical experience; and

24 (c) have passed an examination in substantial conformance with the standard national council of
25 architectural registration boards examination and grading procedure, except as modified by board rule.

26

27 **NEW SECTION. Section 42. Landscape architect license required -- qualifications.** (1) An
28 individual may not practice as a landscape architect unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for licensure to practice landscape architecture must have successfully completed the educational, practical experience, and examination requirements prescribed by board rule.

NEW SECTION. Section 43. Professional engineer and professional land surveyor licenses required -- qualifications. (1) An individual may not practice as a professional engineer or a professional land surveyor unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for licensure as a professional engineer must:

(a) (i) have a baccalaureate or master's degree in engineering or engineering technology from an accredited program or board-approved equivalent;

(ii) have passed the fundamentals of engineering examination; and

(iii) have completed 4 years of supervised progressive experience, except that if the degree in subsection (2)(a)(i) is not accredited or is a bachelor of science degree, have completed 20 years of experience on engineering projects, of which 10 years must be supervised progressive experience; or

(b) (i) have a doctoral degree in engineering from an accredited program or board-approved equivalent;

(ii) except as provided in subsection (2)(b)(iii), have passed the fundamentals of engineering examination; and

(iii) have 2 years of progressive experience unless the applicant has not taken the fundamentals of engineering examination, in which case the applicant must have 4 years of progressive experience.

(3) After completion of the experience requirements, the applicant shall pass the principles and practices of engineering examination to be eligible for a professional engineering license.

(4) An applicant for licensure as a professional land surveyor must:

(a) have a board-approved bachelor's degree in land surveying;

(b) have passed the fundamentals of surveying examination;

(c) have 4 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor, of which at least 3 years must be progressive experience on land surveying projects, except that if the degree in subsection (4)(a) is ~~an~~ a board-approved associate degree in land surveying or a board-approved bachelor's degree with a minor in land surveying, the applicant

1 must have 6 years and 4 1/2 years, respectively, of the experience required in this subsection (4)(c).

2 (5) After completion of the experience requirements, to be eligible for a professional land surveyor
3 license the applicant:

4 (a) must have passed the principles and practices of land surveying; ~~and~~

5 (b) must have passed the Montana state-specific land surveyor examination; and

6 ~~(b)(c)~~ shall submit exhibits of land surveying projects as prescribed by board rule.

7
8 **NEW SECTION. Section 44. Electrical work licenses required -- qualifications.** (1) An individual
9 may not practice as a master electrician, journey-level electrician, residential electrician, or electrical contractor
10 unless licensed under Title 37, chapter 1, and this chapter.

11 (2) An applicant for a master electrician's license must, as may be further prescribed by board rule:

12 (a) have an electrical engineering degree from an accredited college or university and 2,000 hours
13 of practical experience; or

14 (b) have graduated from a board-approved electrical trade school and have 8,000 hours of
15 journey-level experience; and

16 (c) have passed an examination prescribed by board rule.

17 (3) An applicant for a journey-level electrician's license must, as may be further prescribed by
18 board rule:

19 (a) (i) have completed a board-approved apprenticeship program, training program, or trade
20 school;

21 (ii) have 8,000 hours of practical experience; or

22 (iii) have worked in the electrical maintenance field for at least 20,000 hours, of which 8,000 hours
23 must be practical experience; and

24 (b) have passed an examination prescribed by board rule.

25 (4) An applicant for a residential electrician's license must:

26 (a) have completed a board-approved residential electrician apprenticeship program, training
27 program, or trade school;

28 (b) have 4,000 hours of practical experience in the wiring for, installing, and repairing of electrical

apparatus and equipment for light, heat, and power in residential construction consisting of fewer than five living units in a single structure;

(c) have worked in the electrical maintenance field for at least 20,000 hours, of which 8,000 hours must be practical experience; and

(d) have passed an examination prescribed by board rule.

(5) (a) For the purposes of this section, "electrical maintenance" means the ordinary and customary installations in a plant or onsite in addition to modifications, additions, or repairs that are limited to replacing ballasts, relamping, trouble-shooting motor controls, and replacing motors, breakers, or magnetic starters in a kind-for-kind manner. The term includes the connection of specific items of specialized equipment that can be directly connected to an existing branch circuit panel by means of factory-installed leads.

(b) The term does not include installation of a new circuit to operate the equipment described in subsection (5)(a) or installation that requires the size of supply conductors to be increased.

(6) An applicant for licensure as an electrical contractor must meet the qualifications as prescribed by board rule.

NEW SECTION. Section 45. Plumber license required -- qualifications -- restrictions on authority for journey-level plumber. (1) An individual may not practice in the field of plumbing as a master plumber or as a journey-level plumber unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for a master plumber's license must, as may be further prescribed by board rule:

(a) have 4 years of experience as a licensed journey-level plumber in the field of plumbing;

(b) have 3 years of experience, which may run concurrently with the requirement in subsection

(2)(a):

(i) working with a licensed master plumber; or

(ii) in a supervisory capacity in the field of plumbing; and

(c) have passed an examination prescribed by board rule.

(3) For the purposes of subsection (2), 1 year of experience is 1,500 hours or more of work in a continuous 12-month period.

(4) An applicant for licensure as a journey-level plumber must, as may be further prescribed by

1 board rule:

2 (a) (i) have 5 years of experience in the field of plumbing, which may include credit for time

3 attending an accredited trade or other school; or

4 (ii) have successfully completed an apprenticeship program that meets standards set by the
5 department or the United States department of labor, bureau of apprenticeship; and

6 (b) have passed an examination of the techniques and methods employed in the field of plumbing.

7 ~~(5) — Credit toward the apprenticeship program may be given for time spent attending an accredited~~
8 ~~trade or other school specializing in the field of plumbing as prescribed by board rule.~~

9 ~~(6)(5)~~ In the case of a firm or corporation, the examination and issuance of a license to an individual
10 of the firm or to a principal of the firm or corporation satisfies the requirements of this chapter as to master
11 plumbers but not as to journey-level plumbers. An individual, firm, or corporation may not do the work of a
12 master plumber unless licensed under this chapter.

13
14 **NEW SECTION. Section 46. Construction blaster license required -- qualifications.** (1) An
15 individual may not practice construction blasting unless licensed under Title 37, chapter 1, and this chapter or
16 under the supervision of a construction blaster licensed under Title 37, chapter 1, and this chapter.

17 (2) An applicant for licensure as a construction blaster must:

18 (a) be at least 18 years of age;

19 (b) have completed a training program recognized by the explosives or construction industry and
20 the rules of the department; and

21 (c) have 2 years of experience in construction blasting.

22 (3) The department may not approve a training program under subsection (2)(b) unless the
23 program offers comprehensive instruction in types of explosives, methods and purposes of their use, and safety
24 and storage.

25
26 **NEW SECTION. Section 47. Elevator mechanic, inspector, and contractor licenses required --**
27 **qualifications.** (1) An individual may not practice as an elevator mechanic, limited elevator mechanic, or
28 elevator inspector or engage in the business of an elevator contractor or limited elevator contractor unless

1 licensed under Title 37, chapter 1, and this chapter.

2 (2) An applicant for licensure as an elevator mechanic must:

3 (a) (i) have successfully completed a state-approved apprenticeship or other education program
4 prescribed by department rule; or

5 (ii) have 3 years of experience, verified by current and previous employers, working with
6 equipment subject to the provisions of Title 50, chapter 60, part 7; and

7 (b) have passed an examination prescribed by department rule.

8 (3) An applicant for licensure as a limited elevator mechanic to work only on platform lifts, stairway
9 chairlifts, and dumbwaiters that are installed in private residences must have passed an examination for a
10 limited mechanic's license based on the applicable codes for the equipment described in this subsection.

11 (4) An applicant for licensure as an elevator inspector must have certification by a nationally
12 recognized inspector certification entity prescribed by department rule.

13 (5) An elevator inspector who is not certified may conduct inspections under the supervision of
14 certified personnel for up to 6 months under a provisional license in accordance with [section 11].

15

16 **Section 48.** Section 2-15-121, MCA, is amended to read:

17 **"2-15-121. Allocation for administrative purposes only.** (1) An agency allocated to a department
18 for administrative purposes only in this chapter shall:

19 (a) (i) exercise its quasi-judicial, quasi-legislative, licensing, and policymaking functions
20 independently of the department and without approval or control of the department except as provided in
21 subsection (1)(a)(ii);

22 (ii) accede, if the agency is a licensing board regulated by the department of labor and industry
23 under Title 37, to the active supervision required by 37-1-121(1)(d);

24 (b) submit its budgetary requests through the department; and

25 (c) submit reports required of it by law or by the governor through the department.

26 (2) The department to which an agency is allocated for administrative purposes only in this title
27 shall:

28 (a) direct and supervise the budgeting, recordkeeping, reporting, and related administrative and

1 clerical functions of the agency;

2 (b) include the agency's budgetary requests in the departmental budget;

3 (c) collect all revenues for the agency and deposit them in the proper fund or account. Except as
4 provided in ~~37-1-101~~ 37-1-134, the department may not use or divert the revenues from the fund or account for
5 purposes other than provided by law.

6 (d) provide staff for the agency. Unless otherwise indicated in this chapter, the agency may not
7 hire its own personnel.

8 (e) print and disseminate for the agency any required notices, rules, or orders adopted, amended,
9 or repealed by the agency.

10 (3) The department head of a department to which any agency is allocated for administrative
11 purposes only in this chapter shall:

12 (a) represent the agency in communications with the governor;

13 (b) allocate office space to the agency as necessary, subject to the approval of the department of
14 administration."

15

16 **Section 49.** Section 2-15-1738, MCA, is amended to read:

17 **"2-15-1738. Board of radiologic technologists.** (1) There is a board of radiologic technologists.

18 (2) The board consists of seven members appointed by the governor with the consent of the senate,
19 including:

20 (a) ~~a one~~ radiologist licensed to practice medicine in Montana;

21 (b) ~~a person granted a permit issued by the board pursuant to 37-14-306~~ one person licensed as a
22 limited radiology technician;

23 (c) ~~a one~~ public member; and

24 (d) four licensed radiologic technologists registered with the American registry of radiologic
25 technologists (ARRT), including one radiologist assistant or radiology practitioner assistant licensed under 37-
26 14-313.

27 (3) Vacancies in unexpired terms must be filled for the remainder of the term.

28 (4) Each member shall serve 3-year terms.

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

Section 50. Section 2-15-1749, MCA, is amended to read:

"2-15-1749. Board of occupational therapy practice. (1) There is a board of occupational therapy practice.

(2) The board consists of five members appointed by the governor. The members are:

(a) three occupational therapists licensed under Title 37, chapter 24, who are actively engaged in the practice or teaching of occupational therapy; and

(b) two members of the general public with an interest in the rights of the consumers of health services.

~~(3) The Montana occupational therapy association may submit names of nominees under subsection (2)(a) of this section to the governor as provided in 37-1-132.~~

~~(4)(3)~~ Each appointment is subject to confirmation by the senate then meeting in regular session or next meeting in regular session following appointment.

~~(5)(4)~~ Members shall serve staggered 4-year terms. A term begins on the first day of the calendar year and ends on the last day of the calendar year or when a successor is appointed. A member who has served two successive complete terms is not eligible for reappointment until after 1 year.

~~(6)(5)~~ The governor may, after hearing, remove a member for neglect of duty or other just cause.

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

Section 51. Section 20-4-502, MCA, is amended to read:

"20-4-502. Definitions. For purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Critical quality educator shortage area" means a specific licensure or endorsement area in an impacted school in which:

(a) in any of the 3 immediate preceding school fiscal years a position was:

- 1 (i) filled through the procedures set forth in 19-20-732, 20-4-106(1)(e), or 20-4-111;
- 2 (ii) filled from a candidate pool of less than five qualified candidates; or
- 3 (iii) advertised and remained vacant and unfilled due to a lack of qualified candidates for a period
- 4 in excess of 30 days; or
- 5 (b) a vacancy for the current school year was advertised for a period of at least 30 days and the
- 6 district received less than five applications from qualified candidates.
- 7 (2) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-
- 8 451.
- 9 (3) "Educational loans" means all loans made pursuant to a federal loan program, except federal
- 10 parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.
- 11 (4) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20
- 12 U.S.C. 1087a, et seq., and 20 U.S.C. 1087aa, et seq.
- 13 (5) "Impacted school" means:
- 14 (a) a special education cooperative;
- 15 (b) the Montana school for the deaf and blind, as described in 20-8-101;
- 16 (c) the Montana youth challenge program, as established in 10-1-1401;
- 17 (d) a correctional facility, as defined in 41-5-103;
- 18 (e) a public school located on an Indian reservation; and
- 19 (f) a public school that, driving at a reasonable speed for the road surface, is located more than 20
- 20 minutes from a Montana city with a population greater than 15,000 based on the most recent federal decennial
- 21 census.
- 22 (6) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent
- 23 of public instruction for accreditation purposes in the current school year, who:
- 24 (i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in
- 25 subsection (6)(b) in a position that requires an educator license in accordance with administrative rules adopted
- 26 by the board of public education; or
- 27 (ii) is a licensed professional under 37-8-405, 37-8-415, ~~37-11-301, 37-15-301, 37-17-302, 37-22-~~
- 28 ~~301, 37-23-201, 37-24-301, or 37-25-302~~ [section 18, 21, 22, 24, or 25] and is employed by an entity listed in

1 subsection (6)(b) of this section to provide services to students.

2 (b) For purposes of subsection (6)(a), an entity means:

3 (i) a school district;

4 (ii) an education cooperative;

5 (iii) the Montana school for the deaf and blind, as described in 20-8-101;

6 (iv) the Montana youth challenge program; and

7 (v) a correctional facility, as defined in 41-5-103.

8 (7) "School district" means a public school district, as provided in 20-6-101 and 20-6-701."

9

10 **Section 52.** Section 20-5-420, MCA, is amended to read:

11 **"20-5-420. Self-administration or possession of asthma, severe allergy, or anaphylaxis**

12 **medication.** (1) As used in 20-5-421 and this section, the following definitions apply:

13 (a) "Anaphylaxis" means a systemic allergic reaction that can be fatal in a short time period and is
14 also known as anaphylactic shock.

15 (b) "Asthma" means a chronic disorder or condition of the lungs that requires lifetime, ongoing
16 medical intervention.

17 (c) "Medication" means a medicine, including inhaled bronchodilators, inhaled corticosteroids, and
18 autoinjectable epinephrine, prescribed by a licensed physician as defined in 37-3-102, a physician assistant
19 who has been authorized to prescribe medications as provided in 37-20-404, or an advanced practice
20 registered nurse with prescriptive authority as provided in ~~37-8-202(1)(h)~~ 37-8-202(1)(d).

21 (d) "Self-administration" means a pupil's discretionary use of the medication prescribed for the
22 pupil.

23 (e) "Severe allergies" means a life-threatening hypersensitivity to a specific substance such as
24 food, pollen, or dust.

25 (2) A school, whether public or nonpublic, shall permit the possession or self-administration of
26 medication, as prescribed, by a pupil with asthma, severe allergies, or anaphylaxis if the parents or guardians
27 of the pupil provide to the school:

28 (a) written authorization, acknowledging and agreeing to the liability provisions in subsection (4),

1 for the possession or self-administration of medication as prescribed;

2 (b) a written statement from the pupil's physician, physician assistant, or advanced practice
3 registered nurse containing the following information:

4 (i) the name and purpose of the medication;

5 (ii) the prescribed dosage; and

6 (iii) the time or times at which or the special circumstances under which the medication is to be
7 administered as prescribed;

8 (c) documentation that the pupil has demonstrated to the health care practitioner and the school
9 nurse, if available, the skill level necessary to self-administer the asthma, severe allergy, or anaphylaxis
10 medication as prescribed; and

11 (d) documentation that the pupil's physician, physician assistant, or advanced practice registered
12 nurse has formulated a written treatment plan for managing asthma, severe allergies, or anaphylaxis episodes
13 of the pupil and for medication use, as prescribed, by the pupil during school hours.

14 (3) The information provided by the parents or guardians must be kept on file in the office of the
15 school nurse or, in the absence of a school nurse, the school's administrator.

16 (4) The school district or nonpublic school and its employees and agents are not liable as a result
17 of any injury arising from the self-administration of medication by the pupil unless an act or omission is the
18 result of gross negligence, willful and wanton conduct, or an intentional tort. The parents or guardians of the
19 pupil must be given a written notice and sign a statement acknowledging that the school district or nonpublic
20 school may not incur liability as a result of any injury arising from the self-administration of medication by the
21 pupil and that the parents or guardians shall indemnify and hold harmless the school district or nonpublic school
22 and its employees and agents against any claims, except a claim based on an act or omission that is the result
23 of gross negligence, willful or wanton misconduct, or an intentional tort.

24 (5) The permission for self-administration of asthma, severe allergy, or anaphylaxis medication is
25 effective for the school year for which it is granted and must be renewed each subsequent school year or, if the
26 medication expires or the dosage, frequency of administration, or other conditions change, upon fulfillment of
27 the requirements of this section.

28 (6) If the requirements of this section are fulfilled, a pupil with asthma, severe allergies, or

1 anaphylaxis may possess and use the pupil's medication as prescribed:

2 (a) while in school;

3 (b) while at a school-sponsored activity;

4 (c) while under the supervision of school personnel;

5 (d) before or after normal school activities, such as while in before-school or after-school care on
6 school-operated property; or

7 (e) while in transit to or from school or school-sponsored activities.

8 (7) If provided by the parent, an individual who has executed a caretaker relative educational
9 authorization affidavit pursuant to 20-5-503, an individual who has executed a caretaker relative medical
10 authorization affidavit pursuant to 40-6-502, or a guardian and in accordance with documents provided by the
11 pupil's physician, physician assistant, or advanced practice registered nurse, asthma, severe allergy, or
12 anaphylaxis medication may be kept by the pupil and backup medication must be kept at a pupil's school in a
13 predetermined location or locations to which the pupil has access in the event of an asthma, severe allergy, or
14 anaphylaxis emergency.

15 (8) Immediately after using epinephrine during school hours, a student shall report to the school
16 nurse or other adult at the school who shall provide followup care, including making a 9-1-1 emergency call.

17 (9) Youth correctional facilities are exempt from this section and shall adopt policies related to
18 access and use of asthma, severe allergy, or anaphylaxis medications."

19

20 **Section 53.** Section 20-9-327, MCA, is amended to read:

21 **"20-9-327. Quality educator payment.** (1) (a) The state shall provide a quality educator payment to:

22 (i) public school districts, as defined in 20-6-101 and 20-6-701;

23 (ii) special education cooperatives, as described in 20-7-451;

24 (iii) the Montana school for the deaf and blind, as described in 20-8-101;

25 (iv) correctional facilities, as defined in 41-5-103; and

26 (v) the Montana youth challenge program.

27 (b) A special education cooperative that has not met the requirements of 20-7-454 may not be
28 funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills correctional facility and the facility under contract with the department of corrections for female youth must be distributed to those facilities by the department of corrections.

(d) The quality educator payment for the Montana youth challenge program must be distributed to that program by the department of military affairs.

(3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) of this section in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education;

(b) (i) is a licensed professional under 37-8-405, 37-8-415, ~~37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302~~ [section 18, 21, 22, 24, or 25]; and

(ii) is employed by an entity listed in subsection (1) to provide services to students; or

(c) (i) holds an American Indian language and culture specialist license; and

(ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian language immersion program pursuant to Title 20, chapter 7, part 14."

Section 54. Section 20-26-1511, MCA, is amended to read:

"20-26-1511. Institutional nursing incentive program. (1) There is a loan reimbursement program for an individual who is licensed to practice as a registered professional nurse pursuant to ~~37-8-406~~ and who works at the Montana state prison or the Montana state hospital.

(2) (a) The board of regents shall, subject to available appropriations, pay up to 50% of a loan balance of \$30,000 for a registered professional nurse working at the Montana state prison or the Montana

state hospital who applies for the program and submits proof of the balance related to loans for nursing education.

(b) The reimbursement under this section is limited to a maximum of \$3,750 a year for 4 years and must be based on a participant's actual loan balance.

(c) An individual with a loan balance of less than \$1,000 is not eligible for the program provided for in this section.

(3) (a) The board of regents shall reimburse a participant in the loan reimbursement program at the end of every 12-month period that the participant works at either the Montana state prison or the Montana state hospital. The amount to be reimbursed as determined in subsection (2) must be reimbursed in equal annual installments over 4 years as long as the participant continues to work at either facility.

(b) A participant who works less than a full 12-month period must receive a reimbursement that is prorated to reflect the amount of time worked during that 12-month period.

(c) The reimbursement payment by the board of regents must be to the participant and the loan institution."

Section 55. Section 25-1-1101, MCA, is amended to read:

"25-1-1101. Registered process server -- levying officer -- use of title reserved. (1) Except as provided in subsection (2), ~~a person~~ an individual who makes more than 10 services of process, as defined in 25-3-101, within this state during 1 calendar year must be registered under Title 37, chapter 60. ~~A process server who holds a valid certificate of registration from a clerk of court in this state as of July 1, 2007, shall present the registration certificate to the board of private security, and the board shall exchange that registration certificate for a new certificate that expires on March 31, 2009.~~

(2) This part does not apply to:

(a) a sheriff, constable, coroner, elisor, or other government employee who is acting in the course of employment; or

(b) a licensed attorney.

(3) A registered process server may act as a levying officer under Title 25, chapter 13.

(4) A registered process server may make service of process in any county in this state.

(5) A ~~person~~ An individual may not use the title of process server unless the ~~person~~ individual is registered as a process server under Title 37, chapter 60."

Section 56. Section 27-1-1101, MCA, is amended to read:

"27-1-1101. Definition. As used in this part, "mental health professional" means:

- (1) a certified professional person as defined in 53-21-106;
- (2) a physician licensed under Title 37, chapter 3;
- (3) a professional counselor licensed under Title 37, chapter 23;
- (4) a psychologist licensed under Title 37, chapter 17;
- (5) a social worker licensed under Title 37, chapter 22; or
- (6) an advanced practice registered nurse, ~~as provided for in 37-8-202, with a clinical specialty in~~ psychiatric mental health nursing licensed under Title 37, chapter 8.

Section 57. Section 27-12-206, MCA, is amended to read:

"27-12-206. Funding. (1) There is a pretrial review fund to be administered by the director for the purposes stated in this chapter. The fund and any income from it must be held in trust, deposited in an account, and invested and reinvested by the director. The fund may not become part of or revert to the general fund of this state but is subject to auditing by the legislative auditor. Money from the assessments levied under this section must be deposited in the fund.

(2) For each fiscal year, beginning July 1, an annual assessment is levied on all chiropractic physicians. The amount of the assessment must be annually set by the director and equally assessed against all chiropractic physicians. A fund surplus at the end of a fiscal year that is not required for the administration of this chapter must be retained by the director and used to finance the administration of this chapter during the next fiscal year, in which event the director shall reduce the next annual assessment to an amount estimated to be necessary for the proper administration of this chapter during that fiscal year.

(3) The annual assessment must be paid on or before the date that the chiropractic physician's annual renewal fee under 37-1-134 is due. An unpaid assessment bears a late charge fee of \$25. The late charge fee is part of the annual assessment. The director has the same powers and duties in connection with

the collection of and failure to pay the annual assessment as the department of labor and industry has under 37-1-134 with regard to a chiropractic physician's annual license fee. ~~However, nothing in this section may be interpreted to conflict with 37-1-138."~~

Section 58. Section 28-10-103, MCA, is amended to read:

"28-10-103. Actual versus ostensible agency -- limitation. (1) An agency is either actual or ostensible. An agency is actual when the agent is really employed by the principal. An agency is ostensible when the principal intentionally or by want of ordinary care causes a third person to believe another to be the principal's agent when that person is not really employed by the principal.

(2) Except as provided in subsection (3), for purposes of a malpractice claim, as defined in 27-6-103, liability may not be imposed on a health care provider, as defined in 27-6-103, for an act or omission by a person or entity alleged to have been an ostensible agent of the health care provider at the time that the act or omission occurred.

(3) (a) Subsection (2) is not applicable unless the health care provider has instituted a policy or practice requiring persons providing independent professional services to have insurance of a type and in the amount required by the rules and regulations of the medical staff, by the medical staff bylaws, or by other similar health care facility rules or regulations. The insurance provided for in this subsection (3)(a) must be in effect for the period of time during which a medical malpractice action must be brought as provided in 27-2-205.

(b) Failure of a health care provider providing independent professional services to comply with a policy or practice implementing subsection (3)(a) constitutes unprofessional conduct pursuant to ~~37-1-316(17)~~ 37-1-316(19) and 37-2-304."

Section 59. Section 32-9-104, MCA, is amended to read:

"32-9-104. Exemptions -- proof of exemption. (1) The provisions of this part do not apply to:

(a) an entity that is an agency of the federal, state, tribal, or local government;

(b) an individual who is an employee of a federal, state, tribal, local government, or housing finance agency acting as a loan originator only pursuant to the individual's official duties as an employee of the federal, state, tribal, local government, or housing finance agency;

- 1 (c) an entity described in 32-9-103(38)(a)(i) through (38)(a)(iii);
- 2 (d) a registered mortgage loan originator when acting for an entity described in 32-9-103(38)(a)(i)
- 3 through (38)(a)(iii);
- 4 (e) an individual who performs only administrative or clerical tasks at the direction of and subject to
- 5 the supervision and instruction of an individual who:
- 6 (i) is a licensed and registered mortgage loan originator pursuant to this part; or
- 7 (ii) is not required to be licensed in accordance with subsection (1)(b), (1)(d), or (1)(g);
- 8 (f) an entity that is a bona fide not-for-profit entity;
- 9 (g) an employee of a bona fide not-for-profit entity who acts as a loan originator only with respect
- 10 to work duties for the bona fide not-for-profit entity and who acts as a loan originator only with respect to
- 11 residential mortgage loans with terms that are favorable to the borrower;
- 12 (h) a person that performs only real estate brokerage activities and is licensed or registered
- 13 pursuant to ~~37-51-304~~ section 36 unless the person is compensated by a mortgage broker, a mortgage
- 14 lender, or a mortgage loan originator or an agent of the mortgage broker, mortgage lender, or mortgage loan
- 15 originator;
- 16 (i) a person regulated by the commissioner of insurance if that person's principal business is that
- 17 of preparing abstracts or making searches of titles that are used as a basis for the issuance of any title
- 18 insurance policy by a company doing business under the laws of this state relating to insurance companies;
- 19 (j) a Montana-licensed attorney performing activities that fall within the definition of a mortgage
- 20 loan originator if the activities are:
- 21 (i) considered by the Montana supreme court to be part of the authorized practice of law within
- 22 this state;
- 23 (ii) carried out within an attorney-client relationship; and
- 24 (iii) accomplished by the attorney in compliance with all applicable laws, rules, and standards; or
- 25 (k) an individual who is an employee of a retailer of manufactured or modular homes if the
- 26 employee is performing only administrative or clerical tasks in connection with the sale or lease of a
- 27 manufactured or modular home and if the individual receives no compensation or other gain from a mortgage
- 28 lender or a mortgage broker for the performance of the administrative or clerical tasks.

(2) (a) To qualify for an exemption under subsection (1)(f), an entity shall certify, on a form prescribed by the department, that it is a bona fide not-for-profit entity and shall provide additional documentation as required by the department by rule. To maintain this exemption, the entity shall file the prescribed certification and accompanying documentation by December 31 of each year.

(b) In determining whether an entity is a bona fide not-for-profit entity, the department may rely on its receipt and review of:

(i) reports filed with federal, state, tribal, local government, or housing finance agencies and authorities; or

(ii) reports and attestations prescribed by the department.

(3) The burden of proving an exemption under this section is on the person claiming the exemption. (See part compiler's comment regarding contingent suspension.)"

Section 60. Section 33-18-217, MCA, is amended to read:

"33-18-217. Military discount exception to rebate and discount prohibition for property or casualty insurance. (1) The prohibition against rebates or discounts provided for in 33-18-210 does not apply with respect to property or casualty insurance sales to:

(a) an active, retired, or honorably separated member of the United States armed forces, including a member of a reserve component as defined in 37-1-138 of the Montana national guard or the military reserves of the United States armed forces; or

(b) a spouse, surviving spouse, dependent, or heir of a United States armed forces member referred to in subsection (1)(a).

(2) This section does not permit unfair discrimination based on rank or pay grade."

Section 61. Section 33-22-111, MCA, is amended to read:

"33-22-111. Policies and certificates to provide for freedom of choice of practitioners -- professional practice not enlarged. (1) All policies or certificates of disability insurance, including individual, group, and blanket policies or certificates, must provide that the insured has full freedom of choice in the selection of, subject to holding a current license under Title 37, any ~~licensed~~ physician, physician assistant,

dentist, osteopath, chiropractor, optometrist, podiatrist, psychologist, ~~licensed~~ social worker, ~~licensed~~ professional counselor, ~~licensed~~ marriage and family therapist, acupuncturist, naturopathic physician, physical therapist, speech-language pathologist, audiologist, ~~licensed~~ addiction counselor, or advanced practice registered nurse ~~as specifically listed in 37-8-202~~ for treatment of any illness or injury within the scope and limitations of the person's practice. Whenever the policies or certificates insure against the expense of drugs, the insured has full freedom of choice in the selection of any licensed and registered pharmacist.

(2) This section may not be construed as enlarging the scope and limitations of practice of any of the licensed professions enumerated in subsection (1). This section may not be construed as amending, altering, or repealing any statutes relating to the licensing or use of hospitals."

Section 62. Section 33-30-1013, MCA, is amended to read:

"33-30-1013. Coverage required for services provided by nurse specialists. A health service corporation shall provide, in group and individual insurance contracts, coverage for health services provided by ~~a nurse specialist, as specifically listed in 37-8-202~~ an advanced practice registered nurse licensed under 37-8-409, if health care services that ~~nurse specialists~~ advanced practice registered nurses are licensed to perform are covered by the contract."

Section 63. Section 33-31-102, MCA, is amended to read:

"33-31-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Accountable care organization" means a group of health care providers that are willing and capable of accepting accountability for the total cost and quality of care for a defined population.

(2) "Affiliation period" means a period that, under the terms of the health insurance coverage offered by a health maintenance organization, must expire before the health insurance coverage becomes effective.

(3) "Basic health care services" means:

(a) consultative, diagnostic, therapeutic, and referral services by a provider;

(b) inpatient hospital and provider care;

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- 1 (c) outpatient medical services;
- 2 (d) medical treatment and referral services;
- 3 (e) accident and sickness services by a provider to each newborn infant of an enrollee pursuant to
- 4 33-31-301(3)(e);
- 5 (f) care and treatment of mental illness, alcoholism, and drug addiction;
- 6 (g) diagnostic laboratory and diagnostic and therapeutic radiologic services;
- 7 (h) preventive health services, including:
- 8 (i) immunizations;
- 9 (ii) well-child care from birth;
- 10 (iii) periodic health evaluations for adults;
- 11 (iv) voluntary family planning services;
- 12 (v) infertility services; and
- 13 (vi) children's eye and ear examinations conducted to determine the need for vision and hearing
- 14 correction;
- 15 (i) minimum mammography examination, as defined in 33-22-132;
- 16 (j) outpatient self-management training and education for the treatment of diabetes along with
- 17 certain diabetic equipment and supplies as provided in 33-22-129; and
- 18 (k) treatment and medical foods for inborn errors of metabolism. "Medical foods" and "treatment"
- 19 have the meanings provided for in 33-22-131.
- 20 (4) "Commissioner" means the commissioner of insurance of the state of Montana.
- 21 (5) "Dependent" has the meaning provided in 33-22-140.
- 22 (6) "Enrollee" means a person:
- 23 (a) who enrolls in or contracts with a health maintenance organization;
- 24 (b) on whose behalf a contract is made with a health maintenance organization to receive health
- 25 care services; or
- 26 (c) on whose behalf the health maintenance organization contracts to receive health care services.
- 27 (7) "Evidence of coverage" means a certificate, agreement, policy, or contract issued to an
- 28 enrollee setting forth the coverage to which the enrollee is entitled.

1 (8) "Health care services" means:

2 (a) the services included in furnishing medical or dental care to a person;

3 (b) the services included in hospitalizing a person;

4 (c) the services incident to furnishing medical or dental care or hospitalization; or

5 (d) the services included in furnishing to a person other services for the purpose of preventing,
6 alleviating, curing, or healing illness, injury, or physical disability.

7 (9) "Health care services agreement" means an agreement for health care services between a
8 health maintenance organization and an enrollee.

9 (10) (a) "Health maintenance organization" means a person who provides or arranges for basic
10 health care services to enrollees on a prepaid basis, either directly through provider employees or through
11 contractual or other arrangements with a provider or a group of providers. This subsection (10) does not limit
12 methods of provider payments made by health maintenance organizations.

13 (b) The term does not apply to:

14 (i) a PACE organization or an accountable care organization that has received a waiver pursuant
15 to 33-31-201; or

16 (ii) a direct patient care agreement established pursuant to 50-4-107.

17 (11) "Insurance producer" means an individual or business entity appointed or authorized by a
18 health maintenance organization to solicit applications for health care services agreements on its behalf.

19 (12) "PACE organization" means an organization, as defined in 42 CFR 460.6, that is authorized by
20 the centers for medicare and medicaid services and the department of public health and human services to
21 operate a program of all-inclusive care for the elderly.

22 (13) "Person" means:

23 (a) an individual;

24 (b) a group of individuals;

25 (c) an insurer, as defined in 33-1-201;

26 (d) a health service corporation, as defined in 33-30-101;

27 (e) a corporation, partnership, facility, association, or trust; or

28 (f) an institution of a governmental unit of any state licensed by that state to provide health care,

including but not limited to a physician, hospital, hospital-related facility, or long-term care facility.

(14) "Plan" means a health maintenance organization operated by an insurer or health service corporation as an integral part of the corporation and not as a subsidiary.

(15) "Point-of-service option" means a delivery system that permits an enrollee of a health maintenance organization to receive health care services from a provider who is, under the terms of the enrollee's contract for health care services with the health maintenance organization, not on the provider panel of the health maintenance organization.

(16) "Provider" means a physician, hospital, hospital-related facility, long-term care facility, dentist, osteopath, chiropractor, optometrist, podiatrist, psychologist, ~~licensed~~ social worker, registered pharmacist, or advanced practice registered nurse, ~~as specifically listed in 37-8-202,~~ or registered nurse first assistant as defined by the board of nursing under Title 37, chapter 8, who treats any illness or injury within the scope and limitations of the provider's practice or any other person who is licensed or otherwise authorized in this state to furnish health care services.

(17) "Provider panel" means those providers with whom a health maintenance organization contracts to provide health care services to the health maintenance organization's enrollees.

(18) "Purchaser" means the individual, employer, or other entity, but not the individual certificate holder in the case of group insurance, that enters into a health care services agreement.

(19) "Uncovered expenditures" mean the costs of health care services that are covered by a health maintenance organization and for which an enrollee is liable if the health maintenance organization becomes insolvent."

Section 64. Section 37-1-104, MCA, is amended to read:

"37-1-104. Standardized forms -- seals. (1) The department shall adopt standardized forms and processes to be used by the boards and department programs. The standardization is to streamline processes, expedite services, reduce costs and waste, and facilitate computerization.

(2) When required by law to affix a seal, the seal of the department may serve as the seal for a board or program."

Section 65. Section 37-1-106, MCA, is amended to read:

"37-1-106. Biennial report. The department, in cooperation with each licensing board and program, shall prepare a biennial report. ~~The biennial report of the department shall contain for each board a summary of the board's activities, the board's~~ that summarizes the goals and objectives of each board and program, a detailed breakdown of board and program revenues and expenditures, ~~statistics illustrating board activities concerning licensing, summary the number of complaints received and their disposition, the number of licenses revoked or suspended~~ license applications received and their disposition, legislative or court action affecting the board, and any other information the department or board or program considers relevant. The department shall submit the report to the office of budget and program planning as a part of the information required by 17-7-111."

Section 66. Section 37-1-121, MCA, is amended to read:

"37-1-121. Duties of commissioner —definitions. (1) In addition to the powers and duties under 2-15-112 and 2-15-121, the commissioner of labor and industry shall:

(a) at the request of a party, appoint an impartial hearings examiner to conduct ~~hearings whenever any board or department program holds a contested case~~ a contested case hearing. ~~The hearings examiner shall conduct hearings in a proper and legal manner.;~~

(b) establish the qualifications of and hire all personnel to perform the administrative, fiscal, inspection, investigative, and legal, and clerical functions of the department for the boards and programs; ~~Boards within the department do not have authority to establish the qualifications of, hire, or terminate personnel. The department shall consult with the boards regarding recommendations for qualifications for executive or executive director positions.~~

(c) approve all contracts and expenditures by boards ~~within the department~~ and programs. A board ~~within the department~~ or program may not enter into a contract or expend funds without the approval of the commissioner.

(d) provide oversight and supervision of the duties and authority exercised by boards regulated under Title 37, other than chapters 42, 43, and 61, by exercising active supervision authority to approve or disapprove any board action identified by the department as restraining or potentially restraining competition in

trade or commerce. A board action includes any policy, rule, or other action of the board subject to this ~~section~~
subsection (1)(d).

(2) Subject to the provisions of 37-1-122(6), the commissioner shall determine if the board action is
~~made or taken pursuant to~~ based on a clearly articulated state policy and if the restraint or potential restraint of
trade or commerce is reasonable and necessary to protect the public health, safety, or welfare. Any approval or
disapproval under ~~this~~ subsection (1)(d) must be in writing, comply with the provisions in 37-1-122, and set forth
the ~~particular~~ reasons supporting the determination. A disapproval determination may include the
commissioner's recommended modifications, if any, for the board's consideration. The commissioner may
assign duties, as necessary, but may not assign final approval or disapproval.

(2)(3) If the department disapproves or modifies any board action under subsection (1)(d), the
department and not the board may be liable for claims resulting from the disapproval or modification.

~~(3) As used in this chapter, the following definitions apply:~~

~~(a) "Board action" means a policy, rule, or other action taken by a board subject to subsection (1)(d).~~

~~(b) "Commissioner" means the commissioner of labor and industry unless otherwise specified."~~

Section 67. Section 37-1-130, MCA, is amended to read:

"37-1-130. Definitions. As used in this part Title 37 pertaining to professional and occupational
licensing boards and programs, the following definitions apply:

~~(1) "Administrative fee" means a fee established by the department to cover the cost of administrative~~
~~services as provided for in 37-1-134.~~

(2)(1) "Board" means a licensing board created under Title 2, chapter 15, ~~that regulates part 17, to~~
regulate a profession or occupation ~~and that is administratively attached to the department as provided in 2-15-~~
121.

(2) "Business entity" means a sole proprietor, corporation, partnership, limited partnership, limited
liability company, limited liability partnership, or association.

(3) "Complaint" means information provided to or obtained by the department that, if true, warrants
disciplinary, enforcement, or other action authorized by this chapter against a licensee, license applicant, or
other person.

(3) ~~"Board fee" means:~~

(a) ~~a fee established by the board to cover program area costs as provided in 37-1-134 ; and~~

(b) ~~any other legislatively prescribed fees specific to boards and department programs.~~

(4) "Department" means the department of labor and industry established in 2-15-1701.

(5) ~~"Department program" means a program administered by the department pursuant to this title and not affiliated with a board.~~

(6) ~~"Expired license" means a license that is not reactivated within the period of 46 days to 2 years after the renewal date for the license.~~

(7) ~~"Lapsed license" means a license that is not renewed by the renewal date and that may be reactivated within the first 45-day period after the renewal date for the license.~~

(5) "Endorsement" means, depending on the context:

(a) an application for licensure in this state from a person licensed in another state; or

(b) authority that expands the scope of practice of a license.

(6) "Individual" means a human being.

(7) "Inspect" or "inspection" means the periodic examination of premises, equipment, or procedures of a practitioner by the department for compliance with department, board, or program statutes and rules.

(8) "License" or "licensed" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation, regardless of the specific term used for the permission, including permit, certificate, recognition, or registration to a person under a chapter of this title to practice or use a protected title in this state in a profession or occupation during times when the license is in active status, regardless of the term used for the permission, including but not limited to "permit", "certificate", "endorsement", "recognition", or "registration".

(9) ~~"Terminated license" means a license that is not renewed or reactivated within 2 years of the license lapsing.~~

(9) "Person" means an individual or a business entity.

(10) "Practice" means to engage in, hold out, represent, or offer to provide services defined by a scope of practice of a profession or occupation regulated by a board or program under Title 37 and to use one

1 or more terms, words, initials, insignia, designations, or abbreviations to imply that the person holds a license to
2 practice the profession or occupation or to operate a firm or facility regulated by a board or program under Title
3 37.

4 (11) "Profession" or "occupation" means the license types governed by boards and programs as
5 defined in this section.

6 (12) "Program" or "department program" means a licensing program administered by department
7 staff under:

8 (a) Title 37, chapter 49, 72, or 73; or

9 (b) Title 50, chapter 39, 74, or 76.

10 (13) "Unprofessional conduct" means conduct in violation of board or program statute or rule by a
11 licensee or license applicant."

12
13 **Section 68.** Section 37-1-134, MCA, is amended to read:

14 **"37-1-134. ~~Boards -- costs~~ Fiscal administration -- fees and fines.** (1) Each board allocated to the
15 The department shall:

16 (a) ~~set board and collect fees related to its program area that provide the amount of money usually~~
17 ~~needed for the operation of the board for services, including but not limited to licensing, reciprocity, renewals,~~
18 ~~applications, inspections, investigations, compliance, discipline, and audits by the board or program to perform~~
19 ~~duties and responsibilities required and authorized by law.;~~

20 (b) ~~The base the amount of money needed for the operation of the board is based in subsection~~
21 ~~(1)(a) on the revenues and expenses incurred in the 5 prior license renewal years as set by the board. In~~
22 ~~setting the fees, the board shall consider the revenues and expenses incurred in the prior 5 licensing renewal~~
23 ~~years, but a board's cash balances may not exceed two times the board's annual appropriation level. Unless~~
24 ~~otherwise provided by law, the department may establish standardized administrative fees. These fees may~~
25 ~~include but are not limited to fees for administrative services such as license verification, duplicate licenses, late~~
26 ~~penalty renewals, licensee lists, and other administrative service fees determined by the department as~~
27 ~~applicable to all boards and department programs. The department shall subject to the limit in subsection (3);~~

28 (c) ~~assess the costs of the department to the boards and programs on an equitable basis as~~

determined by the department;

(d) collect fees on behalf of each board or department program and deposit the fees in the state special revenue fund in the appropriate account for each board or department program;

(e) collect and deposit fines ordered by a board or program in the state general fund or as otherwise specified by law;

(f) Administrative service equitably distribute administrative costs not related to a specific board or program area may be equitably distributed to board or program areas as determined by the department. Each board and department program shall; and

(g) maintain records sufficient to support document the fees charged revenues and expenses for each board or program area.

(2) The department shall provide notice to the board or program and to the appropriate legislative interim committee when a board or program cannot operate in a cost-effective manner and shall take the following actions:

(a) suspend all duties of the board or program except for renewal of licenses;

(b) review the need for the board or program and make recommendations to the assigned legislative interim committee to achieve fiscal solvency; and

(c) recover the revenue deficit by one-time charges against all licensees of the board or program after providing notice and an opportunity for public comment.

(3) The department shall monitor board and program cash balances to ensure that the balances do not exceed two times the annual appropriation levels and shall adjust fees in administrative rules when necessary. This subsection does not apply to the board of public accountants, except that the department may monitor the board's cash balances.

(2)(4) The department and the boards shall adopt rules regarding all fees charged and shall adopt any rules reasonably necessary to carry out this section."

Section 69. Section 37-1-141, MCA, is amended to read:

"37-1-141. License renewal -- lapse -- expiration -- termination -- jurisdiction. (1) The department shall set license renewal date for a license must be set by department dates, renewal fees, and late fees by

rule. The department shall ~~provide notice prior to the~~ send a renewal notice to the licensee's last known
address before the license renewal date.

(2) ~~To~~ In accordance with 2-4-631, a licensee may timely renew a license, a licensee shall submit
by submitting on or before the renewal date a completed complete renewal form, comply with all certification
and continuing education requirements as provided by 37-1-306 or 37-1-420, and remit remitting the renewal
fees before the end of the renewal period fee. If a licensee fails to renew under this subsection, the license
automatically lapses but remains active.

(3) A licensee may ~~reactivate~~ renew a lapsed license within 45 days after the renewal date by
following the process in subsection (5) and complying with all certification and educational requirements
submitting a complete renewal form, the renewal fee, and the late fee. If a licensee fails to renew under this
subsection, the license automatically expires and becomes inactive.

(4) A licensee may ~~reactivate~~ renew an expired license within 2 years after the renewal date by
following the process in subsection (5) and complying with all certification and education requirements that
have accrued since the license was last granted or renewed as prescribed by board or department rule
submitting a complete renewal form, the renewal fee, and the late fee or fees. If a licensee fails to renew under
this subsection, the license automatically terminates.

~~(5) To reactivate a lapsed license or an expired license, in addition to the respective requirements~~
~~in subsections (3) and (4), a licensee shall:~~

~~(a) submit the completed renewal form;~~

~~(b) pay the late penalty fee provided for in subsection (7); and~~

~~(c) pay the current renewal fee as prescribed by the department or the board.~~

~~(6) (a) A licensee who practices with a lapsed license is not considered to be practicing without a~~
~~license.~~

~~(b) A licensee who practices after a license has expired is considered to be practicing without a~~
~~license.~~

~~(7) The department may assess a late penalty fee for each renewal period in which a license is not~~
~~renewed. The late penalty fee need not be commensurate with the costs of assessing the fee.~~

~~(8) Unless otherwise provided by statute or rule, an occupational or professional license that is not~~

~~renewed within 2 years of the most recent renewal date automatically terminates. The terminated license may not be reactivated, and a new original license must be obtained.~~

(5) A licensee who practices with an expired or terminated license is subject to disciplinary or other action authorized under Title 37, chapter 1.

(6) To apply for reactivation of a terminated license, an applicant shall submit a new application and fee as provided in [section 1]. By stipulation or contested case proceeding, the board or program may require successful completion of an examination or other demonstration of the applicant's competency and may reactivate the license or impose terms and conditions as provided in 37-1-312.

(9)(7) The department or board responsible for licensing a licensee or program retains jurisdiction for disciplinary purposes over the licensee for a period of 2 years after the date on which the license lapsed over licenses whether the status is active or inactive and extending to terminated licenses, regardless of termination by operation of law or lawful order. Jurisdiction extends for all matters known and unknown to the board or program at the time of termination.

~~(10) This section may not be interpreted to conflict with 37-1-138."~~

Section 70. Section 37-1-145, MCA, is amended to read:

"37-1-145. Military training or experience to satisfy licensing or certification requirements -- rulemaking. (1) Each licensing board or the department on behalf of a program shall adopt rules that provide that certification or licensure requirements established by that board or program may be met by relevant military training, service, or education completed by an individual as a member of the armed forces or reserves of the United States, the national guard of a state, or the military reserves.

~~(2) (a) An applicant for certification or licensure shall provide to the board or, if applying for licensure by a program, to the department satisfactory evidence, as specified in rule, of receiving military training, service, or education that is equivalent to relevant certification or licensure requirements.~~

~~(b) The department and each licensing~~ Each board and program shall, upon presentation of satisfactory evidence by an applicant for certification or licensure, accept relevant education, training, or service completed by an individual as a member of in the armed forces or reserves of the United States, or the national guard of a state, or the military reserves, or naval militia of a state toward the qualifications to receive the

1 license or certification."

2

3 **Section 71.** Section 37-1-301, MCA, is amended to read:

4 **"37-1-301. Purpose -- legislative finding.** (1) The purpose of this ~~part~~ chapter is to establish uniform
5 ~~guidelines for the licensing and regulation of procedures and principles to regulate persons, in or out of this~~
6 ~~state, who engage in~~ professions and occupations under the jurisdiction of professional and occupational
7 licensing boards governed by this part and programs attached to the department in Title 37.

8 (2) The practice of the professions and occupations under the jurisdiction of professional and
9 occupational licensing boards and programs attached to the department in Title 37 affects the public health,
10 safety, and welfare and is subject to regulation and control in the public interest."

11

12 **Section 72.** Section 37-1-303, MCA, is amended to read:

13 **"37-1-303. Scope.** ~~This part governs the licensure, the practice and unauthorized practice, and the~~
14 ~~discipline of professions and occupations governed by this title unless otherwise provided by statutes relating to~~
15 ~~a specific board and the profession or occupation it regulates. The provisions of this chapter must be construed~~
16 ~~to supplement the statutes relating to a specific~~ and rules of each board and the profession it regulates
17 program. ~~The method for initiating and judging a disciplinary proceeding, specified in 37-1-307(1)(d), must be~~
18 ~~used by a board in all disciplinary proceedings involving licensed professionals."~~

19

20 **Section 73.** Section 37-1-304, MCA, is amended to read:

21 **"37-1-304. Licensure of out-of-state applicants by endorsement -- reciprocity.** (1) A board shall
22 ~~issue a license to practice without examination to a person licensed in another state if the board determines~~
23 ~~that:~~

24 ~~(a) the other state's license standards at the time of application to this state are substantially~~
25 ~~equivalent to or greater than the standards in this state; and~~

26 ~~(b) there is no reason to deny the license under the laws of this state governing the profession or~~
27 ~~occupation.~~

28 ~~(2) The license may be issued if the applicant affirms or states in the application that the applicant has~~

~~requested verification from the state or states in which the person is licensed that the person is currently licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or impairment. If the board or its screening panel finds reasonable cause to believe that the applicant falsely affirmed or stated that the applicant has requested verification from another state, the board may summarily suspend the license pending further action to discipline or revoke the license. An applicant for licensure by endorsement is subject to the application procedure in [section 1] and must have an active license in good standing from a jurisdiction whose license qualifications, measured at the time of application to this state, are substantially equivalent to the license qualifications in this state as determined by the department.~~

(2) For an application regulated by a program, if the qualifications in subsection (1) are not substantially equivalent, the department shall determine whether the deficiency can be addressed by the applicant's actual qualifications and work experience.

(3) For an application regulated by a board, if the qualifications in subsection (1) are not substantially equivalent, the department shall refer the application to the board to determine if the deficiency can be addressed by the applicant's actual qualifications and work experience.

~~(3)(4) This section does not prevent a board from entering into a reciprocity agreement with the licensing authority of another state or jurisdiction. The agreement may not permit out-of-state licensees to obtain a license by reciprocity within this state if the license applicant has not met standards that are substantially equivalent to or greater than the standards required in this state as determined by the board on a case-by-case basis.~~
department.

(5) This section does not apply to the licensure of schools and facilities regulated by boards and programs.

(6) If the department determines that an applicant is qualified under subsection (1), the department shall provide the applicant the opportunity to qualify for licensure by endorsement regardless of board and program qualifications for issuance of an initial license."

Section 74. Section 37-1-307, MCA, is amended to read:

"37-1-307. Board and department authority -- disciplinary and enforcement actions. (1) A-On behalf of a board or program, the department board may, in connection with an investigation, hearing, or other

1 action authorized under this chapter:

2 ~~(a) hold hearings as provided in this part;~~

3 ~~(b)(a) issue subpoenas requiring the attendance of witnesses or the production of documents, and~~
4 ~~administer oaths in connection with investigations and disciplinary proceedings under this part. Subpoenas~~
5 ~~must be relevant to the complaint and must be signed by a member of the board. Subpoenas may be enforced~~
6 ~~as provided in 2-4-104.~~

7 ~~(e)(b) authorize depositions and other discovery procedures under the Montana Rules of Civil~~
8 ~~Procedure in connection with an investigation, hearing, or proceeding held under this part;~~

9 ~~(d)(2) In the case of professions and occupations regulated by a board, the board may establish a~~
10 ~~screening panel to determine whether there is reasonable cause to believe that a licensee has violated a~~
11 ~~particular statute, rule, or standard justifying disciplinary proceedings deny or restrict a license application or~~
12 ~~initiate disciplinary or enforcement action against a licensee or other person. A screening panel is an agency for~~
13 ~~purposes of summary suspensions under 2-4-631.~~

14 ~~(3) A screening panel and a program shall specify in writing the particular any statute, or rule, or~~
15 ~~standard that the panel believes may believed to have been violated. The screening panel shall also state in~~
16 ~~writing and the reasonable grounds that support the panel's finding that a violation may have occurred violation.~~

17 ~~(4) The assigned board screening panel members may not subsequently participate in a hearing of~~
18 ~~adjudicate the case. The final decision on the case must be made by a majority of the board members who did~~
19 ~~not serve on the screening panel for the case.~~

20 ~~(e) grant or deny a license within 45 calendar days of receiving a complete application, including the~~
21 ~~confidential criminal justice information report, and notify an applicant within 10 days of receiving an application~~
22 ~~of any deficiencies for an incomplete application or provide information as to any exigent circumstances that~~
23 ~~may delay issuing a license in the 45 days; and~~

24 ~~(f) upon a finding of unprofessional conduct by an applicant or license holder, impose a sanction~~
25 ~~provided by this chapter.~~

26 ~~(2)(5) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the~~
27 ~~purpose of obtaining confidential criminal justice information, as defined in 44-5-103, regarding the board's~~
28 ~~licensees and license applicants and regarding possible unlicensed practice, but the board may not record or~~

retain any confidential criminal justice information without complying with the provisions of the Montana Criminal Justice Information Act of 1979, Title 44, chapter 5.

~~(3)(6)~~ A board may contact and request information from the department of justice, which is designated as a criminal justice agency within the meaning of 44-5-103, for the purpose of obtaining criminal history record information regarding the board's licensees and license applicants and regarding possible unlicensed practice.

~~(4) (a) A board that is statutorily authorized to obtain a criminal record background report as a prerequisite to the issuance of a license shall require the applicant to submit a full set of fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation.~~

~~(b) The applicant shall sign a release of information to the board and is responsible to the department of justice for the payment of all fees associated with the criminal record background report.~~

~~(c) Upon completion of the criminal record background check, the department of justice shall forward all criminal history record information, as defined in 44-5-103, in any jurisdiction to the board as authorized in 44-5-303.~~

~~(d) At the conclusion of any background check required by this section, the board must receive the criminal record background report but may not receive the fingerprint card of the applicant. Upon receipt of the criminal record background report, the department of justice shall promptly destroy the fingerprint card of the applicant.~~

~~[(5) Each board shall require a license applicant to provide the applicant's social security number as a part of the application. Each board shall keep the social security number from this source confidential, except that a board may provide the number to the department of public health and human services for use in administering Title IV-D of the Social Security Act.] (Bracketed language terminates on occurrence of contingency sec. 1, Ch. 27, L. 1999.)"~~

Section 75. Section 37-1-308, MCA, is amended to read:

"37-1-308. Unprofessional conduct -- complaint Complaints -- investigation -- immunity -- exceptions. (1) Except as provided in subsections (4) and (5), a person, government, or private entity A person or government agency may submit a written complaint to the department charging a against a person, licensee,

or license applicant, ~~with a violation of this part and specifying~~ The complaint must specify the grounds for the complaint.

(2) ~~If Except as provided by 37-1-331 governing complaints filed by incarcerated or detained individuals, the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have committed a violation of this part, the department may, with the concurrence of a member of the screening panel established in 37-1-307, investigate~~ shall investigate complaints to determine whether there is reasonable cause to believe that the person, licensee, or license applicant has committed the violation ~~violated board or program statute or rule.~~

(3) A person ~~or private entity, but not a government entity,~~ filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint. This subsection does not apply to a government agency.

~~(4) A person under legal custody of a county detention center or incarcerated under legal custody of the department of corrections may not file a complaint under subsection (1) against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while detained or confined in a county detention center or incarcerated under legal custody of the department of corrections unless the complaint is first reviewed by a correctional health care review team provided for in 37-1-331.~~

~~(5)(4)~~ A board member may file who files a complaint ~~with or is a witness to a complaint before the board on which the member serves or otherwise act in concert with a complainant in developing, authoring, or initiating a complaint to be filed with the board if the board member determines that there are reasonable grounds to believe that a particular statute, rule, or standard has been violated~~ may not participate in a reasonable cause finding or final adjudication of the complaint."

Section 76. Section 37-1-309, MCA, is amended to read:

"37-1-309. Notice ~~Disciplinary action -- notice -- request for hearing.~~ (1) If a screening panel or the department on behalf of a program finds reasonable cause ~~determination is made pursuant to 37-1-307 that a violation of this part has occurred~~ licensee or license applicant committed unprofessional conduct, or lacks the qualifications or fitness for licensure and the provisions of 37-1-321 do not apply, the department shall prepare and serve, as provided by [section 3], a notice must be prepared by department legal staff and served

on the alleged violator. The notice may be served by certified mail to the current address on file with the board or by other means authorized by the Montana Rules of Civil Procedure. The notice may not allege a violation of a particular statute, rule, or standard unless the board or the board's screening panel, if one has been established, has made a written determination that there are reasonable grounds to believe that the particular statute, rule, or standard has been violated of charges and any accompanying summary suspension order.

~~(2)~~ A licensee or license applicant shall give the board the licensee's or applicant's current address and any change of address within 30 days of the change.

~~(3)~~(2) The notice must state that the licensee or license applicant may request a hearing to contest the charge or charges. A request for a hearing must be in writing and received in the offices of by the department within 20-21 days after the licensee's receipt service of the notice. Failure to request a hearing constitutes a default on the charge or charges, and the board or program may enter a decision based on the basis of the facts available to it.

(3) A disciplinary action under this section may not be taken against an individual who is in compliance with Title 16, chapter 12, part 5.

(4) The remedies in this section do not preclude or in any way limit other remedies or action otherwise permitted or required by law."

Section 77. Section 37-1-310, MCA, is amended to read:

"37-1-310. Hearing -- adjudicative procedures. (1) The procedures in Title 2, chapter 4, governing adjudicative proceedings before agencies; the Montana Rules of Civil Procedure; and the Montana Rules of Evidence govern a hearing under this part. A board or program has all the powers and duties granted by Title 2, chapter 4.

(2) The department has the burden to prove the charges at the hearing by a preponderance of the evidence."

Section 78. Section 37-1-311, MCA, is amended to read:

"37-1-311. Findings of fact -- order -- report. (1) If the board decides by a preponderance of the evidence, following a hearing or on default, that a violation of this part occurred, the An adjudication panel of

1 the board or the department on behalf of a program shall review and adjudicate proposed dispositions by
2 hearing, default, or stipulation in accordance with 2-4-621.

3 (2) The department shall prepare and serve the board's deliver findings of fact and an order,
4 including an order of dismissal as provided in Title 2, chapter 4 ~~42-4-623~~ 2-4-623. If the licensee or license
5 applicant is found not to have violated this part, the department shall prepare and serve the board's findings of
6 fact and an order of dismissal of the charges.

7 (2)(3) (a) The department shall within a reasonable amount of time report to the public the issuance
8 of a summary suspension, a notice under 37-1-309, an accepted stipulation, a hearing examiner's proposed
9 decision, and a final order.

10 (b) In addition to any other means of notice public dissemination of final orders required by 2-4-
11 623, the department shall post the required information on a publicly available website.

12 (c) This subsection (2) (3) may not be construed to require a meeting to be open or records to be
13 disseminated when the demands of individual privacy clearly exceed the merits of public disclosure."
14

15 **Section 79.** Section 37-1-312, MCA, is amended to read:

16 **"37-1-312. Sanctions -- stay -- costs -- stipulations.** (1) Upon a decision that a licensee or license
17 applicant has ~~violated this part or is unable to practice with reasonable skill and safety due to a physical or~~
18 ~~mental condition~~ committed unprofessional conduct or upon stipulation of the parties as provided in subsection
19 (3), the a board or a program may issue an order providing for one or any combination of the following
20 sanctions that are necessary to protect the public:

- 21 (a) revocation of the license;
22 (b) suspension of the license for a fixed or indefinite term;
23 (c) restriction or limitation of the practice;
24 (d) satisfactory completion of a specific program of remedial education or treatment;
25 (e) monitoring of the practice by a supervisor approved by the disciplining authority;
26 (f) censure or reprimand, ~~either public or private~~;
27 (g) compliance with conditions of probation for a designated period of time;
28 (h) payment of a fine not to exceed \$1,000 for each violation. Fines must be deposited in the state

1 general fund.

2 (i) denial of a license application or issuance of the license for a probationary period not to exceed
3 3 years;

4 (j) refund of costs and fees billed to and collected from a consumer; or

5 (k) other appropriate action.

6 (2) A sanction may be totally or partly stayed by the board or program. ~~To determine which~~
7 ~~sanctions are appropriate, the board shall first consider the sanctions that are necessary to protect or~~
8 ~~compensate the public. Only after the determination has been made may the board consider and include in the~~
9 ~~order any requirements designed to rehabilitate the licensee or license applicant.~~

10 (3) The licensee or license applicant may enter into a stipulated agreement resolving potential or
11 pending charges that includes one or more of the sanctions in this section. The stipulation is an informal
12 disposition for the purposes of 2-4-603.

13 ~~(4) A licensee shall surrender a suspended or revoked license to the board within 24 hours after~~
14 ~~receiving notification of the suspension or revocation by mailing it or delivering it personally to the board."~~

15

16 **Section 80.** Section 37-1-314, MCA, is amended to read:

17 **"37-1-314. Reinstatement.** ~~(1) A~~ Unless a board or program orders a permanent revocation, a
18 licensee whose license has been suspended or revoked under this part may petition the board or program for
19 reinstatement after an interval set by the board in the order. The board may hold a hearing on the petition and
20 or program may deny the petition or order reinstatement and impose the terms and conditions as provided in
21 37-1-312.

22 (2) The board or program may require the successful completion of an examination as a condition
23 of reinstatement and may treat a licensee whose license has been revoked or suspended as a new applicant
24 for purposes of establishing the requisite licensure qualifications of licensure."

25

26 **Section 81.** Section 37-1-315, MCA, is amended to read:

27 **"37-1-315. Enforcement of fine.** ~~(1) If payment of a fine is included in an order and timely payment is~~
28 ~~not~~ not made as directed in the an order, the ~~board~~ department may enforce the order for payment in the district

1 court of the first judicial district.

2 (2) ~~In a proceeding for enforcement of an order of payment of a fine, the order is conclusive proof~~
3 ~~of the validity of the order of payment and the terms of payment. A proceeding under this section is not a review~~
4 ~~of the validity of the board or program order."~~

5
6 **Section 82.** Section 37-1-316, MCA, is amended to read:

7 **"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or
8 license applicant governed by this part:

9 (1) Subject to Title 37, chapter 1, part 2, having a conviction, including conviction following a plea
10 of nolo contendere, of a crime relating to or committed during the course of the person's practice of the
11 profession or occupation or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an
12 appeal is pending;

13 (2) engaging in conduct defined as a sexual crime in Title 45, chapter 5, part 5, regardless of
14 whether the conduct occurred during or is related to the licensee's profession or occupation;

15 (3) engaging in conduct in the profession or occupation found to be a violation of the Montana
16 Human Rights Act, Title 49;

17 ~~(2)(4)~~ permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to
18 licensure or certification;

19 ~~(3)(5)~~ fraud, misrepresentation, deception, or concealment of a material fact in applying for or
20 assisting in securing a license or license renewal or in taking an examination required for licensure;

21 ~~(4)(6)~~ signing or issuing, in the licensee's professional capacity, a document or statement that the
22 licensee knows or reasonably ought to know contains a false or misleading statement;

23 ~~(5)(7)~~ a misleading, deceptive, false, or fraudulent advertisement or other representation in the
24 conduct of the profession or occupation;

25 ~~(6)(8)~~ offering, giving, or promising anything of value or benefit to a federal, state, or local
26 government employee or official for the purpose of influencing the employee or official to circumvent a federal,
27 state, or local law, rule, or ordinance governing the licensee's profession or occupation;

28 ~~(7)(9)~~ denial, suspension, revocation, probation, fine, surrender during investigation or in lieu of

1 discipline, or other license restriction or discipline against a licensee by a state, province, territory, or Indian
2 tribal government or the federal government court, government agency, or private licensing or credentialing
3 entity if the action is not on appeal, not under judicial review, or has not been satisfied; For the purposes of this
4 section, a revoked license or certificate is not satisfied unless it is reinstated.

5 ~~(8)(10)~~ failure to comply with a term, condition, or limitation of a license by final order of a board;

6 ~~(9)(11)~~ revealing confidential information obtained as the result of a professional relationship without
7 the prior consent of the recipient of services, except as authorized or required by law;

8 ~~(10)(12)~~ use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter
9 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional
10 duties;

11 ~~(11)(13)~~ having a physical or mental disability that renders the licensee or license applicant unable to
12 practice the profession or occupation with reasonable skill and safety;

13 ~~(12)(14)~~ engaging in conduct in the course of one's practice while suffering from a contagious or
14 infectious disease involving serious risk to public health or without taking adequate precautions, including but
15 not limited to informed consent, protective gear, or cessation of practice;

16 ~~(13)(15)~~ misappropriating property or funds from a client or workplace or failing to comply with a board
17 rule regarding the accounting and distribution of a client's property or funds;

18 ~~(14)(16)~~ interference with an audit, investigation, inspection, or disciplinary proceeding by failure to
19 respond or cooperate, willful misrepresentation of facts, ~~by the use of threats or harassment against or~~
20 ~~inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other~~
21 ~~legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to~~
22 ~~prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;~~

23 ~~(15)(17)~~ assisting in the unlicensed practice of a profession or occupation or allowing another person
24 or organization to practice or offer to practice by use of the licensee's license, or practicing while the licensee's
25 license is in an inactive status;

26 ~~(16)(18)~~ failing to report the institution of or final action on a malpractice action, including a final
27 decision on appeal, against the licensee or of an action against the licensee by a:

28 (a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

~~(17)~~(19) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

~~(18)~~(20) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards.

~~(19)~~(21) the sole use of any electronic means, including teleconferencing, to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to Title 16, chapter 12, part 5; and

(22) violating a federal, state, or local law or rule relating to the conduct of the profession or occupation."

Section 83. Section 37-1-317, MCA, is amended to read:

"37-1-317. Practice without license -- investigation of complaint -- injunction -- penalties. (1)

The department shall investigate complaints or other information received concerning practice by an unlicensed person of a profession or occupation for which a license is required by this title.

(2) (a) Unless otherwise provided by statute, a board may file an action to enjoin a person from practicing, without a license, a profession or occupation for which a license is required by this title. In addition to the penalty provided for in 37-1-318, a person violating an injunction issued pursuant to this section may be held in contempt of court.

(b) A person subject to an injunction for practicing without a license may also be subject to criminal prosecution. In a complaint for an injunction or in an affidavit, information, or indictment alleging that a person has engaged in unlicensed practice, it is sufficient to charge that the person engaged in the unlicensed practice of a licensed profession or occupation on a certain day in a certain county without averring further or more particular facts concerning the violation.

(3) Unless otherwise provided by statute, a person practicing a licensed profession or occupation

in this state without complying with the licensing provisions of this title is guilty of a misdemeanor punishable by a fine of not less than \$250 or more than \$1,000, imprisonment in the county jail for not less than 90 days or more than 1 year, or both. Each violation of the provisions of this chapter constitutes a separate offense.

~~(4) The department may issue a citation to and collect a fine, as provided in 37-68-316 and 37-69-310, from a person at a job site who is performing plumbing or electrical work and who fails to display a license or proof of licensure at the request of an employee of the department who bears responsibility for compliance with licensure requirements."~~

Section 84. Section 37-1-319, MCA, is amended to read:

"37-1-319. Rules Rulemaking authority of boards and programs. A board or the department on behalf of a program may adopt rules:

(1) ~~under the guidelines of 37-1-306, in accordance with [section 12],~~ regarding continuing education and establishing the number of hours required each year, the methods of obtaining education, education topics, and carrying over hours to subsequent years;

~~(2) regarding practice limitations for temporary practice permits issued under 37-1-305 and designed to ensure adequate supervision of the practice until all qualifications for licensure are met and a license is granted;~~

~~(3)(2) regarding qualifications for inactive license status that may require compliance with stated continuing education requirements and may limit the number of years a person may remain have held a license on inactive or administratively suspended status without having to reestablish qualifications for licensure before requiring continuing education or other competency requirements necessary to reactivate the license;~~

~~(4)(3) regarding maintenance and safeguarding of client funds or property possessed by a licensee and requiring the funds or property to be maintained separately from the licensee's funds and property; and~~

~~(5)(4) defining acts of unprofessional conduct standards of professional and ethical conduct and standards of practice, in addition to those contained the conduct defined in 37-1-316, that constitute a threat to public health, safety, or welfare and that are inappropriate to the practice of the profession or occupation or the board or program chapter;~~

~~(5) regarding examination or examinations required for licensure or reinstatement, timing of the~~

1 examinations relative to completion of education, experience, or board or program approval, manner of
2 registration for the examination, and criteria for retaking the examination, except that all examinations and
3 passage rates must be developed by a third-party professional examination vendor or nationally recognized
4 examiner of the profession or occupation;
5 (6) defining titles, terms, words, initials, insignia, designations, or abbreviations that are protected
6 by licensure;
7 (7) designating third-party entities to perform internationally educated applicant credential
8 evaluations; and
9 (8) necessary to administer and implement the provisions of any board or program licensing act
10 and regulate the conduct of persons under board or program jurisdiction."
11

12 **Section 85.** Section 37-1-320, MCA, is amended to read:

13 **"37-1-320. Mental intent -- unprofessional conduct.** A licensee may be found to have violated a
14 provision of 37-1-316 or a rule of professional conduct enacted by a ~~governing board or program~~ without proof
15 that the licensee acted purposefully, knowingly, or negligently."
16

17 **Section 86.** Section 37-1-321, MCA, is amended to read:

18 **"37-1-321. Authority to administratively suspend license.** (1) ~~A board, the~~ The department if
19 ~~authorized by the board, or the department for programs without a board~~ may administratively suspend a
20 license when:

- 21 (a) an audit of continuing education, certification, or other qualifications necessary for continued
22 licensure demonstrates that the licensee is noncompliant with requirements established by the board or by the
23 department for a program;
- 24 (b) the licensee fails to respond to a ~~board or~~ department audit as provided in subsection (1)(a);
- 25 (c) the department receives notice of insufficient funds in the account used by the licensee to pay
26 for an ~~administrative fee or a board~~ a fee or fine;
- 27 (d) the department has reasonable grounds to believe the licensee did not possess the
28 qualifications for initial issuance of the license; or

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(e) a licensee fails to comply with the terms of a final order imposed pursuant to 37-1-312 or 37-1-405.

(2) Upon identifying one or more of the deficiencies listed in subsection (1), the department shall inform the licensee in writing and provide the licensee 60 days from the date of the correspondence to cure the deficiency.

(3) If the licensee fails to cure the deficiency as provided in subsection (2), ~~a board, the department if authorized by the board, or the department for programs without a board~~ may administratively suspend the license without additional notice or opportunity for hearing.

(4) (a) The administrative suspension remains in effect until:

(i) ~~a board, the department if authorized by the board, or the department for programs without a board~~ determines the licensee has cured the deficiency; or

(ii) the license terminates as provided in 37-1-141.

(b) An administratively suspended license that is not renewed lapses, expires, ~~or~~ and terminates as provided in 37-1-141.

~~(5) A licensee may not use a protected title or practice the licensed profession or occupation while the license is administratively suspended.~~

~~(6)(5)~~ To reinstate the administratively suspended license, a licensee must pay an administrative a fee ~~established by the department by rule~~ and submit information necessary to cure the deficiencies as determined in the discretion of the department. The board or program may require successful completion of an examination or other demonstration of the applicant's competency and may reinstate the license or impose terms and conditions in 37-1-312.

~~(7)(6)~~ Instead of an administrative suspension, the department may refer the deficiencies demonstrated in subsection (1) for disciplinary proceedings ~~as provided in 37-1-309 or 37-1-403, as applicable.~~ A board or the department may not proceed against a licensee for the same act or failure to act under both an administrative suspension ~~as provided in this section and a disciplinary proceeding as provided in 37-1-309 or 37-1-403.~~

Section 87. Section 37-2-101, MCA, is amended to read:

"37-2-101. Definitions. As used in this part, the following definitions apply:

(1) "Community pharmacy", when used in relation to a medical practitioner, means a pharmacy situated within 10 miles of any place at which the medical practitioner maintains an office for professional practice.

(2) "Controlled substance" has the meaning provided in 37-7-101.

(3) "Device" means any instrument, apparatus, or contrivance intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans;

(b) to affect the structure or any function of the body of humans.

(4) "Dispense" has the meaning provided in 37-7-101.

(5) "Drug" has the meaning provided in 37-7-101.

(6) "Drug company" means any person engaged in the manufacturing, processing, packaging, or distribution of drugs. The term does not include a pharmacy.

(7) "Medical practitioner" means any person who is licensed by the state of Montana to engage in the practice of medicine, dentistry, osteopathy, podiatry, optometry, or a nursing specialty as described in 37-8-202 under Title 37 as an advanced practice registered nurse, dentist, optometrist, physician, or podiatrist and in the is licensed practice to administer or prescribe drugs.

(8) "Naturopathic physician" means a person licensed under Title 37, chapter 26, to practice naturopathic health care.

(9) "Opioid" has the meaning of "opiate" provided in 50-32-101.

(10) "Opioid-naive patient" means a patient who has not been prescribed a drug containing an opioid in the 90 days prior to the acute event or surgery for which an opioid is prescribed.

~~(11) "Person" means any individual and any partnership, firm, corporation, association, or other business entity.~~

~~(12)~~(11) "Pharmacy" has the meaning provided in 37-7-101.

~~(13)~~(12) "State" means the state of Montana or any political subdivision of the state."

Section 88. Section 37-2-401, MCA, is amended to read:

"37-2-401. Definitions. As used in this part, the following definitions apply:

(1) (a) "Data" means written reports, notes, or records or oral reports or proceedings created by or at the request of a quality assurance committee that may be shared with a medical practitioner, including the medical practitioner being reviewed, and that are used exclusively in connection with quality assessment or improvement activities, including but not limited to the professional training, supervision, or discipline of a medical practitioner by a medical practice group. The term includes all subsequent evaluations and analysis of an untoward event, including any opinions or conclusions of a reviewer.

(b) The term does not include:

(i) incident reports or occurrence reports; or

(ii) health care information that is used in whole or in part to make decisions about an individual who is the subject of the health care information.

(2) "Health care facility" has the meaning provided in 50-5-101.

(3) (a) "Incident report" or "occurrence report" means the written business record of a medical practice group that:

(i) may be but is not required to be created by the staff involved in response to an untoward event, including but not limited to a patient injury, adverse outcome, or interventional error, for the purpose of ensuring a prompt evaluation of the event; and

(ii) is a factual rendition of the event.

(b) The terms do not include any subsequent evaluation of the event by a quality assurance committee, regardless of whether or not the subsequent evaluation of the event occurred in response to an incident report or occurrence report. The creation of an incident report or occurrence report is not a condition precedent for a subsequent evaluation of an event, and any subsequent evaluation of an event remains privileged and confidential pursuant to this part, regardless of the creation of an incident report or occurrence report.

(4) "Medical practice group" means a group of two or more medical practitioners practicing medicine in a professional corporation, professional limited liability company, partnership, sole proprietorship, or associations of these entities.

(5) "Medical practitioner" means an individual who is licensed by the state of Montana to engage in ~~the practice of medicine, osteopathy, podiatry, optometry, or a nursing specialty described in 37-8-202 or~~

licensed as a physician assistant pursuant to 37-20-203 under Title 37 as an advanced practice registered nurse, optometrist, physician, physician assistant, or podiatrist.

(6) "Quality assurance committee" means a duly appointed committee within a medical practice group that administers a quality assurance program and may be called by another name within the medical practice group, including but not limited to a utilization review, peer review, medical ethics review, professional standards review, quality assurance, or quality improvement committee.

(7) "Quality assurance program" means a comprehensive, ongoing system of mechanisms established by a medical practice group for monitoring and evaluating the quality and appropriateness of the care provided to patients in order to:

(a) identify and take steps to correct any significant problems and trends in the delivery of care;

and

(b) take advantage of opportunities to improve care.

(8) (a) "Records" means records of interviews, internal reviews and investigations, and all reports, statements, minutes, memoranda, charts, statistics, and other documentation generated during the activities of a quality assurance program.

(b) The term does not mean original medical records or other records kept relative to any patient in the course of the business of operating as a medical practice group."

Section 89. Section 37-3-104, MCA, is amended to read:

"37-3-104. Medical assistants -- guidelines. (1) The board shall adopt guidelines by administrative rule for:

(a) the performance of administrative and clinical tasks by a medical assistant that are allowed to be delegated by a physician, physician assistant, or podiatrist, including the administration of medications; and

(b) the level of physician, physician assistant, or podiatrist supervision required for a medical assistant when performing specified administrative and clinical tasks delegated by a physician, physician assistant, or podiatrist. However, the board shall adopt a rule requiring onsite supervision of a medical assistant by a physician, physician assistant, or podiatrist for invasive procedures, administration of medication, or allergy testing.

(2) The physician, physician assistant, or podiatrist who is supervising the medical assistant is responsible for:

(a) ensuring that the medical assistant is competent to perform clinical tasks and meets the requirements of the guidelines;

(b) ensuring that the performance of the clinical tasks by the medical assistant is in accordance with the board's guidelines and good medical practice; and

(c) ensuring minimum educational requirements for the medical assistant.

(3) The board may ~~hold~~ pursue disciplinary action against the supervising physician, physician assistant, or podiatrist responsible in ~~accordance with 37-1-410 or 37-3-323~~ for any acts of or omissions by the medical assistant acting in the ordinary course and scope of the assigned duties."

Section 90. Section 37-3-203, MCA, is amended to read:

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

(a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1 through 4, and of chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively. Rules adopted for emergency care providers with an endorsement to provide community-integrated health care must address the scope of practice, competency requirements, and educational requirements.

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

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

~~(1)(c).~~

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

~~(e) fund additional staff, hired by the department, to administer the provisions of this chapter, by~~

1 ~~increasing license fees as necessary.~~

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

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

11 (3) (a) The board shall report annually on the number and types of complaints it has received
12 involving physician practices in providing written certification, as defined in 16-12-502, for the use of marijuana
13 for a debilitating medical condition provided for in Title 16, chapter 12, part 5. The report must contain:

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

15 (ii) the number of complaints for which a reasonable cause determination was made pursuant to
16 37-1-307;

17 (iii) the general nature of the complaints;

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

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

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

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

27 (i) the name of the physician;

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

(iii) the disciplinary action taken against the physician.

(d) The board shall provide the report to the economic affairs interim committee in accordance with 5-11-210 and shall make a copy of the report available on the board's website.

~~(4) The board may enter into agreements with other states for the purposes of mutual recognition of licensing standards and licensing of physicians and emergency care providers from other states under the terms of a mutual recognition agreement."~~

Section 91. Section 37-4-205, MCA, is amended to read:

"37-4-205. Rulemaking. The board may adopt, amend, or repeal rules necessary for the implementation, continuation, and enforcement of this chapter in accordance with the Montana Administrative Procedure Act. Rules adopted under this section may include but are not limited to rules on the following subjects:

- (1) the practice of dentistry or oral surgery involving the administration of anesthetics; and
- (2) advertising by a licensed dentist including:
 - (a) the use of false, deceptive, or misleading advertising;
 - (b) the use of information concerning fees, areas of practice, specialization, personal background, and quality of service in advertising; and
 - (c) the use of warnings and disclaimers in advertising."

Section 92. Section 37-4-301, MCA, is amended to read:

"37-4-301. ~~Qualifications -- fees~~ Dentist license required -- qualifications. (1) An individual may not practice dentistry unless licensed under Title 37, chapter 1, and this chapter.

(2) ~~Applicants~~ An applicant for licensure as a dentist shall must have submit an application that must include, when required:

(1)(a) ~~certification of successful completion of the~~ passed a national board examination;

(2)(b) ~~certification of successful completion of~~ passed a regional board examination; and

~~(3) three affidavits of good moral character;~~

(4)(3) ~~a certificate of graduation~~ graduated from a board-approved dental school; and

(5) ~~an application fee.~~"

Section 93. Section 37-4-402, MCA, is amended to read:

"37-4-402. ~~License -- examination~~ Dental hygienist license required -- qualifications. (1) ~~The department may issue licenses for the practice of dental hygiene to qualified applicants to be known as dental hygienists. An individual may not practice dental hygiene unless licensed under Title 37, chapter 1, and this chapter.~~

~~(2) Except as provided by rules adopted under 37-1-319, a person may not engage in the practice of dental hygiene or practice as a dental hygienist in this state until the person has passed an examination approved by the board under rules adopted by the board and has been issued a license by the department.~~

~~(3)(2)~~ (2) An applicant for licensure shall submit an application that must include, when required as a dental hygienist must have:

(a) ~~certification of successful completion of~~ passed the national board written examination;

(b) ~~certification of successful completion of~~ passed a regional board practical examination; and

~~(c) two affidavits of good moral character;~~

~~(d)(c)~~ (c) a certificate of graduation graduated from a board-approved dental hygiene school; and

~~(e) an application fee."~~

Section 94. Section 37-7-101, MCA, is amended to read:

"37-7-101. Definitions. As used in this chapter, the following definitions apply:

(1) (a) "Administer" means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

(b) Except as provided in 37-7-105, the term does not include immunization by injection for children under 18 years of age.

(2) "Board" means the board of pharmacy provided for in 2-15-1733.

(3) "Cancer drug" means a prescription drug used to treat:

(a) cancer or its side effects; or

(b) the side effects of a prescription drug used to treat cancer or its side effects.

(4) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(5) "Clinical pharmacist practitioner" means a licensed pharmacist in good standing who meets the requirements specified in 37-7-306.

(6) "Collaborative pharmacy practice" means the practice of pharmacy by a pharmacist who has agreed to work in conjunction with one or more prescribers, on a voluntary basis and under protocol, and who may perform certain patient care functions under certain specified conditions or limitations authorized by the prescriber.

(7) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more prescribers that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients.

(8) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.

(9) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device based on:

(a) a practitioner's prescription drug order;

(b) a professional practice relationship between a practitioner, pharmacist, and patient;

(c) research, instruction, or chemical analysis, but not for sale or dispensing; or

(d) the preparation of drugs or devices based on routine, regularly observed prescribing patterns.

(10) "Confidential patient information" means privileged information accessed by, maintained by, or transmitted to a pharmacist in patient records or that is communicated to the patient as part of patient counseling.

(11) "Controlled substance" means a substance designated in Schedules II through V of Title 50, chapter 32, part 2.

(12) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(13) "Device" has the same meaning as defined in 37-2-101.

(14) "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a

prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for administration to or use by a patient.

(15) "Distribute" or "distribution" means the sale, purchase, trade, delivery, handling, storage, or receipt of a drug or device and does not include administering or dispensing a prescription drug, pursuant to section 353(b)(1), or a new animal drug, pursuant to section 360b(b) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(16) "Drug" means a substance:

(a) recognized as a drug in any official compendium or supplement;

(b) intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(c) other than food, intended to affect the structure or function of the body of humans or animals; and

(d) intended for use as a component of a substance specified in subsection (16)(a), (16)(b), or (16)(c).

(17) "Drug utilization review" means an evaluation of a prescription drug order and patient records for duplication of therapy, interactions, proper utilization, and optimum therapeutic outcomes. The term includes but is not limited to the following evaluations:

(a) known allergies;

(b) rational therapy contraindications;

(c) reasonable dose and route administration;

(d) reasonable directions for use;

(e) drug-drug interactions;

(f) drug-food interactions;

(g) drug-disease interactions; and

(h) adverse drug reactions.

(18) "Equivalent drug product" means a drug product that has the same established name, active ingredient or ingredients, strength or concentration, dosage form, and route of administration and meets the same standards as another drug product as determined by any official compendium or supplement. Equivalent

drug products may differ in shape, scoring, configuration, packaging, excipients, and expiration time.

(19) "FDA" means the United States food and drug administration.

(20) "Health care facility" has the meaning provided in 50-5-101.

(21) (a) "Health clinic" means a facility in which advice, counseling, diagnosis, treatment, surgery, care, or services relating to preserving or maintaining health are provided on an outpatient basis for a period of less than 24 consecutive hours to a person not residing at or confined to the facility.

(b) The term includes an outpatient center for primary care and an outpatient center for surgical services, as those terms are defined in 50-5-101, and a local public health agency as defined in 50-1-101.

(c) The term does not include a facility that provides routine health screenings, health education, or immunizations.

(22) "Health information system" means one of the following systems used to compile and manage patient health care information:

(a) an electronic health record system;

(b) a health information exchange approved by the board;

(c) a pharmacy dispensing system; or

(d) a system defined by the board by rule.

(23) "Hospital" has the meaning provided in 50-5-101.

(24) "Immunization-certified pharmacist" means a pharmacist who:

(a) has successfully completed an immunization delivery course of training that is approved by the accreditation council for pharmacy education or by an authority approved by the board and that, at a minimum, includes instruction in hands-on injection technique, clinical evaluation of indications and contraindications of immunizations, storage and handling of immunizations, and documentation and reporting; and

(b) holds a current basic cardiopulmonary resuscitation certification issued by the American heart association, the American red cross, or another recognized provider.

(25) "Intern" means:

(a) a person who is licensed by the state to engage in the practice of pharmacy while under the personal supervision of a preceptor and who is satisfactorily progressing toward meeting the requirements for licensure as a pharmacist;

(b) a graduate of an accredited college of pharmacy who is licensed by the state for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;

(c) a qualified applicant awaiting examination for licensure; or

(d) a person participating in a residency or fellowship program.

(26) "Long-term care facility" has the meaning provided in 50-5-101.

(27) "Manufacturing" means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis.

(28) "Medicine" means a remedial agent that has the property of curing, preventing, treating, or mitigating diseases or which is used for this purpose.

(29) "Outsourcing facility" means a facility at one geographic location or address that:

(a) engages in compounding of sterile drugs;

(b) has elected to register as an outsourcing facility with FDA; and

(c) complies with all the requirements of section 353b of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq.

(30) "Participant" means a physician's office, pharmacy, hospital, or health clinic that has elected to voluntarily participate in the cancer drug repository program provided for in 37-7-1403 and that accepts donated cancer drugs or devices under rules adopted by the board.

(31) "Patient counseling" means the communication by the pharmacist of information, as defined by the rules of the board, to the patient or caregiver in order to ensure the proper use of drugs or devices.

(32) "Person" includes an individual, partnership, corporation, association, or other legal entity.

(33) "Pharmaceutical care" means the provision of drug therapy and other patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process.

(34) "Pharmacist" means a person licensed by the state to engage in the practice of pharmacy and who may affix to the person's name the term "R.Ph.".

(35) "Pharmacy" means an established location, either physical or electronic, registered by the board where drugs or devices are dispensed with pharmaceutical care or where pharmaceutical care is

provided.

(36) "Pharmacy technician" means an individual who assists a pharmacist in the practice of pharmacy.

(37) "Poison" means a substance that, when introduced into the system, either directly or by absorption, produces violent, morbid, or fatal changes or that destroys living tissue with which it comes in contact.

(38) "Practice of pharmacy" means:

(a) interpreting, evaluating, and implementing prescriber orders;

(b) administering drugs and devices pursuant to a collaborative practice agreement, except as provided in 37-7-105, and compounding, labeling, dispensing, and distributing drugs and devices, including patient counseling;

(c) properly and safely procuring, storing, distributing, and disposing of drugs and devices and maintaining proper records;

(d) monitoring drug therapy and use;

(e) initiating or modifying drug therapy in accordance with collaborative pharmacy practice agreements established and approved by health care facilities or voluntary agreements with prescribers;

(f) participating in quality assurance and performance improvement activities;

(g) providing information on drugs, dietary supplements, and devices to patients, the public, and other health care providers; and

(h) participating in scientific or clinical research as an investigator or in collaboration with other investigators.

(39) "Practice pharmacy by means of telehealth" means to provide pharmaceutical care through the use of information technology to patients at a distance.

(40) "Preceptor" means an individual who is registered by the board and participates in the instructional training of a pharmacy intern.

(41) "Prescriber" has the same meaning as provided in 37-7-502.

(42) "Prescription drug" means any drug that is required by federal law or regulation to be dispensed only by a prescription subject to section 353(b) of the Federal Food, Drug, and Cosmetic Act, 21

U.S.C. 301 et seq.

(43) "Prescription drug order" means an order from a prescriber for a drug or device that is communicated directly or indirectly by the prescriber to the furnisher by means of a signed order, by electronic transmission, in person, or by telephone. The order must include the name and address of the prescriber, the prescriber's license classification, the name and address of the patient, the name, strength, and quantity of the drug, drugs, or device prescribed, the directions for use, and the date of its issue. These stipulations apply to written, oral, electronically transmitted, and telephoned prescriptions and orders derived from collaborative pharmacy practice.

(44) "Provisional community pharmacy" means a pharmacy that has been approved by the board, including but not limited to federally qualified health centers, as defined in 42 CFR 405.2401, where prescription drugs are dispensed to appropriately screened, qualified patients.

(45) "Qualified patient" means a person who is uninsured, indigent, or has insufficient funds to obtain needed prescription drugs or cancer drugs.

(46) "Registry" means the prescription drug registry provided for in 37-7-1502.

~~(47) "Utilization plan" means a plan under which a pharmacist may use the services of a pharmacy technician in the practice of pharmacy to perform tasks that:~~

~~(a) do not require the exercise of the pharmacist's independent professional judgment; and~~

~~(b) are verified by the pharmacist.~~

~~(48)~~(47) "Wholesale" means a sale for the purpose of resale."

Section 95. Section 37-7-201, MCA, is amended to read:

"37-7-201. ~~Organization -- powers~~ Powers and duties -- rulemaking authority. (1) The board shall ~~meet at least once a year to transact its business. The board shall annually elect from its members a president, vice president, and secretary.~~

~~(2) The board shall regulate the practice of pharmacy in this state, including but not limited to:~~

~~(a) establishing establish minimum standards for:~~

~~(i)(a) necessary pharmacy equipment necessary in and for a pharmacy;~~

~~(ii)(b) the purity and quality of drugs, devices, and other materials dispensed within the state through~~

the practice of pharmacy, using an official compendium recognized by the board or current practical standards;

(iii)(c) ~~specifications for the facilities, including outsourcing facilities, as well as~~ and for the environment, supplies, technical equipment, personnel, and procedures for the storage, compounding, distribution, or dispensing of drugs and devices;

(iv)(d) monitoring drug therapy; and

(v)(e) maintaining the integrity and confidentiality of prescription information and other confidential patient information;

(b)(2) ~~requesting the department to~~ The department shall inspect, at reasonable times:

(i)(a) places where drugs, medicines, chemicals, or poisons are sold, vended, given away, compounded, dispensed, distributed, or manufactured; and

(ii)(b) the appropriate records and the license of any person engaged in the practice of pharmacy for ~~the purpose of determining whether any~~ to determine compliance with laws governing the legal dispensing, distribution, or manufacturing of drugs or devices or the practice of pharmacy ~~are being violated~~.

(3) ~~The department and board shall cooperate with all agencies charged with the enforcement of the laws of the United States, other states, or this state relating to drugs, devices, and the practice of pharmacy. It is a misdemeanor for a person to refuse to permit or otherwise prevent the department from entering these places and making an inspection.~~

~~(c) regulating:~~

(4) The board shall adopt rules concerning:

(i)(a) the training, qualifications, employment, licensure, and practice of pharmacists and interns;

(ii)(b) the training, qualifications, employment, and ~~registration~~ licensure of pharmacy technicians;

and

(iii)(c) under therapeutic classification, the dispensing, distribution, sale, and labeling of drugs, devices, medicines, chemicals, and poisons;

(d) examining applicants and issuing and renewing licenses of:

(i) applicants whom the board considers qualified under this chapter to practice pharmacy;

(ii) pharmacies and certain stores under this chapter;

(iii) wholesale distributors;

- (iv) third-party logistics providers as defined in 37-7-602; and
- (v) persons engaged in the manufacture, dispensing, and or distribution of drugs or devices regarding the practice of pharmacy and authorized under Title 37, chapter 2, and this chapter;
- (e) in concurrence with the board of medical examiners, ~~defining the~~ additional education, experience, or certification required of a licensed pharmacist to become a certified clinical pharmacist practitioner;
- ~~(f) issuing certificates of "certified pharmacy" under this chapter;~~
- ~~(g) establishing and collecting license and registration fees;~~
- ~~(h) approving pharmacy practice initiatives that improve the quality of, or access to, pharmaceutical care but that fall outside the scope of this chapter. This subsection (2)(h) may not be construed to expand on the definition of the practice of pharmacy.~~
- ~~(i)~~(f) establishing a medical assistance program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness. The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state.
- ~~(j) making rules for the conduct of its business;~~
- ~~(k) performing other duties and exercising other powers as this chapter requires; and~~
- ~~(l) adopting and authorizing the department to publish rules for carrying out and enforcing parts 1 through 7 of this chapter, including but not limited to:~~
- ~~(i) requirements and qualifications for the transfer of board-issued licenses;~~
- ~~(ii) minimum standards for pharmacy internship programs and qualifications for licensing pharmacy interns;~~
- ~~(iii) qualifications and procedures for registering pharmacy technicians; and~~
- (iv)(g) requirements and procedures necessary to allow a pharmacy licensed in another jurisdiction to

be registered to practice pharmacy by means of telehealth across state lines.

~~(3)(5)~~ The board may:

~~(a) join professional organizations and associations organized exclusively to promote the improvement of standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board; and~~

~~(b)(a)~~ establish standards of care for patients concerning health care services that a patient may expect with regard to pharmaceutical care; and

~~(b)~~ approve pharmacy practice initiatives that improve the quality of, or access to, pharmaceutical care but that fall outside the scope of this chapter. This subsection (5)(b) may not be construed to expand on the definition of the practice of pharmacy."

Section 96. Section 37-7-306, MCA, is amended to read:

"37-7-306. Clinical pharmacist practitioner endorsement required -- qualifications -- scope of practice. (1) A pharmacist may not practice as a clinical pharmacist practitioner is a licensed pharmacist in good standing who, without an endorsement issued under Title 37, chapter 1, and this chapter.

(2) An applicant for a clinical pharmacist practitioner endorsement must have:

~~(a) is certified by the board, in concurrence with the board of medical examiners, to provide drug therapy management, including initiating, modifying, or discontinuing therapies, identifying and managing drug-related problems, or ordering tests under the direction or supervision of a prescriber~~ a pharmacist license issued under Title 37, chapter 1, and this chapter;

~~(b) has additional~~ education, experience, or certification as required by the board in concurrence with the board of medical examiners; and

~~(c) has in place a~~ a current collaborative pharmacy practice agreement.

~~(2)(3)~~ Only a pharmacist certified by the board may legally be identified as a clinical pharmacist practitioner. The requirements in subsections (2)(a) through (2)(c) must be maintained for active licensure and are subject to audit as provided in [section 12].

(4) For the purposes of this section, a clinical pharmacist practitioner provides drug therapy management, including initiating, modifying, or discontinuing therapies, identifying and managing drug-related

1 problems, or ordering tests under the direction or supervision of a prescriber."

3 **Section 96.** ~~Section 37-7-308, MCA, is amended to read:~~

4 ~~"37-7-308. Preparation and approval of utilization plan -- revocation of or refusal to renew plan~~
5 ~~-- contested case hearing inspection. (1) A supervising pharmacist shall:~~

6 ~~(a)(1) prepare the utilization plan and submit a summary of the plan to the board for approval upon~~
7 ~~initial application;~~

8 ~~(b)(2) keep on file in the pharmacy a copy of comply with and maintain the utilization plan for~~
9 ~~department inspection by the board; and~~

10 ~~(c)(3) annually review the utilization plan and provide documentation to the board to ensure that the~~
11 ~~plan accurately reflects the current use of the services of a pharmacy technician or auxiliary.~~

12 ~~(2) The board shall refuse to approve or shall revoke or fail to renew approval of a utilization plan if it~~
13 ~~does not conform to the provisions of 37-7-307 through 37-7-309 and rules adopted under those sections.~~

14 ~~(3) One year after the board revokes approval of a utilization plan, the supervising pharmacist may~~
15 ~~reapply for approval by complying with the requirements of 37-7-307 through 37-7-309 and with rules adopted~~
16 ~~under those sections.~~

17 ~~(4) Before refusing to approve or before revoking or failing to renew approval of a utilization plan, the~~
18 ~~board shall provide the supervising pharmacist a reasonable time in which to supply additional information~~
19 ~~demonstrating compliance with the requirements of 37-7-307 through 37-7-309 and with rules adopted under~~
20 ~~those sections and the opportunity to request a hearing.~~

21 ~~(5) If a supervising pharmacist requests a hearing, the board shall conduct the hearing in accordance~~
22 ~~with the contested case procedures in Title 2, chapter 4, part 6."~~

24 **Section 97.** ~~Section 37-7-323, MCA, is amended to read:~~

25 ~~"37-7-323. Penalty -- enforcement. (1) A person, firm, partnership, or corporation violating any of the~~
26 ~~provisions of parts 1 through 3 of this chapter is guilty of a misdemeanor and upon conviction for each violation~~
27 ~~shall automatically lose any license issued by the board.~~

28 ~~(2) In addition to the penalty provided in subsection (1), the board may withdraw its approval of a~~

~~utilization plan previously approved for a supervising pharmacist who:~~

~~(a) violates any provision of 37-7-307 through 37-7-309 or 37-7-308 or rules adopted under those sections;~~

~~(b) obtained the approval of the utilization plan through fraud; or~~

~~(c) acts in a manner contrary to the terms of the utilization plan.~~

~~(3) The board may seek an injunction to enforce the provisions of subsection (2)."~~

Section 97. Section 37-7-506, MCA, is amended to read:

"37-7-506. Notice to purchaser. (4) A pharmacist who selects a drug product, as provided in 37-7-505, shall notify the person individual presenting the prescription that the person individual may refuse the product selection as provided in 37-7-505.

~~(2) Each pharmacy shall display in a prominent place that is in clear and unobstructed public view, at or near the place where prescriptions are dispensed, a sign stating: "This pharmacy may be able to select a less expensive drug product that is equivalent to the one prescribed by your physician unless you or your physician request otherwise." The printing on the sign must be in block letters not less than 1 inch in height."~~

Section 98. Section 37-7-604, MCA, is amended to read:

"37-7-604. Wholesale distributor, third-party logistics provider, manufacturer, and repackager licensing requirements license required -- fee qualifications -- federal compliance. (1) A person or distribution outlet may not act as a wholesale distributor, third-party logistics provider, manufacturer, or repackager without first obtaining a license from the board and paying the license fee unless licensed under Title 37, chapter 1, and this chapter.

(2) ~~A license may not be issued or renewed for~~ An applicant for initial licensure or license renewal ~~as a wholesale distributor, third-party logistics provider, manufacturer, or repackager to operate in this state unless the applicant: must~~

(a) ~~agrees~~ agree to abide by federal and state law and to comply with the rules adopted by the FDA and the board; and

~~(b) pays the license fee set by the board.~~

- 1 (3) The board in its discretion may require that a separate license be obtained for:
- 2 (a) each facility directly or indirectly owned or operated by the same business entity within the
- 3 state; or
- 4 (b) a parent entity with divisions, subsidiaries, or affiliates within the state if operations are
- 5 conducted at more than one location and joint ownership and control exists among all entities.
- 6 (4) An applicant ~~for a license under this section or for a license renewal~~ shall provide written
- 7 documentation to the board attesting that the applicant has maintained and will continue to maintain:
- 8 (a) adequate storage conditions and facilities;
- 9 (b) minimum liability and other insurance that may be required by applicable federal or state law;
- 10 (c) a functioning security system that includes:
- 11 (i) an after hours central alarm or comparable entry detection system;
- 12 (ii) restricted access to the premises;
- 13 (iii) comprehensive employee applicant screening; and
- 14 (iv) safeguards against employee theft;
- 15 (d) a system of records setting forth all activities of wholesale distribution, third-party logistics,
- 16 manufacturing, or repackaging for at least a period of the 2 previous years. The system of records must be
- 17 accessible, as defined by board regulations, for inspections authorized by the board.
- 18 (e) a list of active business entity principals, including officers, directors, primary shareholders, and
- 19 management executives, who shall ~~at all times~~ demonstrate and maintain their responsibility for conducting the
- 20 business in conformity with sound financial practices ~~as well as~~ and state and federal law;
- 21 (f) complete, updated information, to be provided to the board as a condition for obtaining and
- 22 renewing a license, pertaining to each wholesale distributor, third-party logistics provider, manufacturer, or
- 23 repackager to be licensed, including but not limited to:
- 24 (i) all pertinent corporate license information, if applicable; and
- 25 (ii) other information regarding ownership, principals, key personnel, and facilities;
- 26 (g) a written protocol of procedures and policies that ensures preparation by the applicant or
- 27 licensee under this section for the handling of security or operational problems, including but not limited to
- 28 those caused by:

- 1 (i) natural disaster or government emergency;
- 2 (ii) inventory inaccuracies or product shipping and receiving;
- 3 (iii) insufficient inspections for all incoming and outgoing product shipments;
- 4 (iv) lack of control of outdated or other unauthorized products;
- 5 (v) inappropriate disposition of returned goods; and
- 6 (vi) failure to promptly comply with product recalls; and
- 7 (h) operations in compliance with all federal requirements applicable to a wholesale distributor,
- 8 third-party logistics provider, manufacturer, or repackager.

9 (5) An agent or employee of a licensed wholesale distributor, third-party logistics provider,
10 manufacturer, or repackager need not be licensed as a wholesale distributor, third-party logistics provider,
11 manufacturer, or repackager.

12 (6) ~~For purposes of this section, all~~ All rules and regulations promulgated by the board pertaining
13 to this section must conform to the wholesale distributor, third-party logistics provider, manufacturer, and
14 repackager licensing guidelines and rules formally adopted by the FDA. If a conflict arises between an FDA
15 guideline or rule and a rule or regulation of the board, the former controls.

16 (7) Wholesale distributors, third-party logistics providers, manufacturers, and repackagers licensed
17 by the board shall comply with the tracing requirements defined in sections 353 and 360eee of the Drug Supply
18 Chain Security Act, 21 U.S.C. 301, et seq., and all corresponding guidelines and rules."

19
20 **Section 99.** Section 37-7-703, MCA, is amended to read:

21 **"37-7-703. Registration requirements Out-of-state mail order pharmacy -- registration**
22 **requirements.** Each out-of-state mail ~~service order~~ pharmacy must be registered with the board of pharmacy
23 ~~under Title 37, chapter 1, and this chapter.~~ In order to be registered with the board to do business in this state
24 ~~and for the renewal of its~~ To be registered and to renew the registration, an out-of-state mail ~~service order~~
25 pharmacy shall:

26 (1) (a) ~~shall~~ submit a certificate from the appropriate licensing authority with which it is currently
27 licensed and in good standing in the state in which its dispensing facilities are located; ~~and~~

28 (b)(2) shall comply with all applicable laws, regulations, and standards of that state and the United

States and, if requested by the board, provide evidence that it has complied;

~~(2)(3)~~ shall register with the board and provide information on ownership and location, including the names and titles of the corporate officers, of the out-of-state mail service order pharmacy and the identity of a pharmacist licensed in the state in which the pharmacy is located who is in charge of dispensing prescriptions for shipment to Montana from the out-of-state mail service order pharmacy; and

~~(3)(4) shall submit a utilization plan for the employment of pharmacy technicians if allowed required by the state where the mail service order pharmacy is located. If the state in which the pharmacy is located does not establish a ratio of technicians to pharmacists for determining the number of pharmacy technicians or otherwise define the role of the pharmacist in compounding or dispensing drugs at the pharmacy, then the out-of-state mail service pharmacy may not allow a pharmacist to supervise more than one supportive person at any one time in the compounding or dispensing of prescription drugs, unless approved by the board as provided in 37-7-307 through 37-7-309; and~~

~~(4)(5)(4)~~ shall submit to the board proof of the pharmacist's good standing with the licensing authority in the state where the pharmacist is employed ~~and the pharmacist's written commitment to comply with the utilization plan, if any,~~ for each pharmacist identified under subsection ~~(2)~~ (3) and shall provide to the board the same toll-free telephone service referenced in 37-7-706 in order to comply with all information requests by the board; ~~and~~

~~(5) shall pay an initial registration fee and a periodic renewal fee in an amount to be determined by the board and at a time established by the department by rule."~~

Section 100. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers Power and duties -- rulemaking authority. (1) The board shall:

~~(a) meet annually and elect from among the members a president and a secretary;~~

~~(b) hold other meetings when necessary to transact its business;~~

~~(c)(a)~~ prescribe standards for schools preparing persons individuals for registration and licensure under this chapter;

~~(d)(b)~~ provide for surveys of schools at times the board considers necessary;

(e)(c) approve programs that meet the requirements of this chapter and of the board;

~~(f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list;~~

~~(g) cause the prosecution of persons violating this chapter. The board may incur necessary expenses for prosecutions.~~

(h)(d) adopt rules regarding authorization for prescriptive authority of advanced practice registered nurses. If considered appropriate for an advanced practice registered nurse who applies to the board for authorization, prescriptive authority must be granted.;

(i)(e) adopt rules to define criteria for the recognition of registered nurses who are certified through a nationally recognized professional nursing organization as registered nurse first assistants; and

(j)(f) establish a medical assistance program to assist licensees who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness. The program must provide for assistance to licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward rehabilitation. The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state. For purposes of funding this medical assistance program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

(2) The board may:

~~(a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses;~~

(b)(a) define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. ~~Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or the equivalent. The applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses.~~

~~Advanced practice registered nurses include nurse practitioners, nurse midwives, nurse anesthetists, and clinical nurse specialists;~~

~~(e)(b) establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational qualifications, responsibilities, and the level of acuity of the medication aides' patients; The board may limit and the type of drugs that are allowed to be administered and the method of administration; and~~

~~(d)(c) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons; individuals.~~

~~(e) adopt rules necessary to administer this chapter; and~~

~~(f) fund additional staff, hired by the department, to administer the provisions of this chapter."~~

Section 101. Section 37-8-405, MCA, is amended to read:

"37-8-405. Professional nursing license required -- qualifications of applicants for license.

~~(1)An applicant for a license to practice as a registered professional nurse~~ An individual may not practice professional nursing unless licensed under Title 37, chapter 1, and this chapter.

~~(2) An applicant for licensure as a registered professional nurse must~~ shall submit to the department written evidence that the applicant:

~~(1) has successfully completed at least an approved 4-year high school course of study or the equivalent as determined by the office of the superintendent of public instruction;~~

~~(2)(a) has have received a diploma from and completed the basic professional nursing curriculum in an approved school of nursing and holds a diploma from that school; and;~~

~~(b) have passed a nationally recognized examination prescribed by board rule; and~~

~~(3)(c) meets-meet other qualification requirements the board prescribes."~~

Section 102. Section 37-8-409, MCA, is amended to read:

"37-8-409. Advanced practice registered nursing license required -- when professional nurse may practice qualifications. (1) ~~A person~~ An individual may not practice advanced practice registered nursing unless licensed under Title 37, chapter 1, and this chapter.

(2) Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

(3) An applicant for an advanced practice registered nurse license must have:

(a) an active registered professional nurse license; and

(b) who holds a board-approved certificate in a field of advanced practice registered nursing from a national certifying body. may practice in the specified field of advanced practice registered nursing upon approval by the board of an amendment to the person's license granting a certificate in a field of advanced practice registered nursing. The board shall grant a certificate in a field of advanced practice registered nursing to a person who submits written verification of certification by a board-approved national certifying body appropriate to the specific field of advanced practice registered nursing and who meets any other qualification requirements that the board prescribes.

(4) The requirements in subsections (3)(a) and (3)(b) must be maintained for active licensure as an advanced practice registered nurse and are subject to audit as provided in [section 12].

~~(2) The board may give temporary approval to practice in a specific field of advanced practice registered nursing to a person who:~~

~~(a) intends to apply for approval under subsection (1); and~~

~~(b) has completed the advanced practice registered nursing education required in order for the person to apply to take the first national certification examination available from a board-approved national certifying body appropriate to the specific field of advanced practice registered nursing.~~

~~(3) If the person fails to obtain certification upon the person's first examination, the temporary approval provided for in subsection (2) expires on receipt of the examination results. The temporary approval may not be extended.~~

~~(4) In order to protect the public, the board may, in consultation with persons in the specific field of advanced practice registered nursing, adopt specific rules for each field of advanced practice registered nursing for the granting of temporary approval to practice and for determining the supervision of the licensee with temporary approval."~~

Section 103. Section 37-8-415, MCA, is amended to read:

1 **"37-8-415. Licensed practical nursing license required -- qualifications of applicants.** (1)An
2 applicant for a license to practice as a licensed practical nurse shall submit to the board written evidence that
3 the applicant: An individual may not practice nursing unless licensed under Title 37, chapter 1, and this chapter.

4 (2) An applicant for licensure as a licensed practical nurse must:

5 ~~(1) has successfully completed at least an approved 4-year high school course of study or the~~
6 ~~equivalent as determined by the office of the superintendent of public instruction;~~

7 (2)(a) is a graduate of an approved ~~have graduated from a board-approved~~ practical nursing
8 education program that is authorized to prepare persons for licensure as practical nurses; and;

9 (b) have passed a nationally recognized examination prescribed by board rule; and

10 ~~(3)(c) meets other qualification requirements the board prescribes in its rules~~ meet other
11 qualifications as prescribed by board rule."

12
13 **Section 104.** Section 37-8-421, MCA, is amended to read:

14 **"37-8-421. ~~Temporary practice permit~~ Supervision under provisional license practice.** (1) The
15 board ~~shall issue a temporary practice permit to an individual licensed in another state that has licensing~~
16 ~~standards substantially equivalent to those of this state if the board determines that:~~

17 ~~(a) the applicant has submitted a completed application as approved by the board;~~

18 ~~(b) the initial screening by the board staff shows no current disciplinary action as identified by the~~
19 ~~board by rule; and~~

20 ~~(c) there is no reason to deny a temporary practice permit under the laws of this state governing the~~
21 ~~practice of nursing.~~

22 ~~(2) The individual may practice under a temporary practice permit until a license is granted, until a~~
23 ~~notice of proposal to deny a temporary practice permit is issued, or until the period of time adopted by the board~~
24 ~~by rule expires.~~

25 (3) ~~A nurse who is employed~~ practices nursing under a temporary practice permit provisional license
26 may function only under the supervision of a registered professional nurse, physician, dentist, osteopath, or
27 podiatrist who, during the nurse's practice, is on the premises and ~~where and when the permittee is working~~
28 ~~and who is specifically assigned the responsibility of supervising the performance of the temporary practice~~

1 permittee the nurse."

2

3 **Section 105.** Section 37-8-422, MCA, is amended to read:

4 **"37-8-422. Medication aide I license required to use title -- scope of practice.** ~~(1) A~~ An individual
5 may not use the title medication aide I unless licensed under Title 37, chapter 1, and this chapter.

6 (2) A medication aide I may:

7 ~~(1)(a)~~ (a) perform services requiring basic knowledge of medications and medication administration
8 under specific circumstances as ~~determined by the~~ prescribed by board ~~by administrative rule;~~

9 ~~(2)(b)~~ (b) practice only in a licensed assisted living facility, as defined in 50-5-101; and

10 ~~(3)(c)~~ (c) practice only under the general supervision of a licensed professional or practical nurse."

11

12 **Section 106.** Section 37-8-423, MCA, is amended to read:

13 **"37-8-423. Medication aide II license required to use title -- qualifications.** ~~(1) An applicant for a~~
14 ~~license to practice as a~~ An individual may not use the title medication aide II unless licensed under Title 37,
15 chapter 1, and this chapter. An applicant for licensure as a medication aide II must: shall submit to the board
16 ~~written evidence that the applicant:~~

17 ~~(1)(a)~~ (a) has ~~successfully completed at least an approved 4-year high school course of study or the~~
18 ~~equivalent as determined by the office of public instruction~~ have a high school diploma or equivalent;

19 ~~(2)(b)~~ (b) ~~holds~~ have a valid certificate from the department of public health and human services as a
20 certified nursing assistant;

21 ~~(3)(c)~~ (c) has have been employed as a certified nursing assistant in a long-term care facility licensed to
22 provide skilled nursing care, as defined in 50-5-101, for a minimum of 2 years;

23 ~~(4)(d)~~ (d) ~~holds~~ have a valid certificate in cardiopulmonary resuscitation;

24 ~~(5)(e)~~ (e) ~~has~~ have successfully completed a training program specified by the board that includes
25 100 hours of education consisting of classroom instruction, laboratory skills, and supervised medication
26 administration related to basic pharmacology and principles of safe medication administration; ~~or~~ and

27 ~~(b) is currently licensed as a medication aide in another state with a program that is determined by the~~
28 ~~board to be reasonably equivalent to the board-specified program;~~

(6)(f) has have passed a board-approved competency examination with at least 80% proficiency;

and.

~~(7) has completed 12 hours of annual continuing education in pharmacology and medication administration.~~

(2) The requirements in subsections (1)(b) and (1)(d) are necessary for continued licensure and are subject to audit in [section 12]."

Section 107. Section 37-8-424, MCA, is amended to read:

"37-8-424. Medication aide II -- scope of practice. (1) A ~~licensed~~ medication aide II may:

(a) perform services requiring basic knowledge of medications and medication administration subject to the limitations outlined in subsection (2);

(b) practice only in a long-term care facility licensed to provide skilled nursing care, as defined in 50-5-101; and

(c) practice only under the supervision of a licensed professional or practical nurse who is on the premises.

(2) A ~~licensed~~ medication aide II may not:

(a) administer medications on an as-needed basis;

(b) administer parenteral or subcutaneous medications except for prelabeled, predrawn insulin;

(c) administer medications through nasogastric routes or by gastrostomy or jejunostomy tubes;

(d) convert or calculate dosages; or

(e) take verbal orders related to changes in medications and dosages."

Section 108. Section 37-8-426, MCA, is amended to read:

"37-8-426. Medication aide II -- implementation. The board shall establish rules implementing the provisions of 37-8-102 and 37-8-422 through 37-8-426 and providing for the establishment of requirements for ~~license renewal, respecting medication aides and certified nursing assistants,~~ including but not limited to continuing education, continued certification ~~as a certified nursing assistant and medication aide II,~~ and mandatory cardiopulmonary resuscitation certification."

1

2 **Section 109.** Section 37-9-301, MCA, is amended to read:

3 **"37-9-301. Qualifications for licensure -- examination Nursing home administrator license**

4 **required -- qualifications.** (1) ~~A person may not be granted a nursing home administrator license unless the~~
5 ~~person: An individual may not practice as a nursing home administrator unless licensed under Title 37, chapter~~
6 ~~1, and this chapter.~~

7 (2) An applicant for licensure as a nursing home administrator must:

8 (a) ~~is of good moral character, as determined by the board, and has received~~ have a high school
9 diploma or its equivalent; and

10 (b) ~~(i) has~~ have satisfactorily completed a course of instruction and training education or a
11 combination of education and experience prescribed by the board ~~rule~~, which must be designed and
12 administered to present sufficient knowledge of the needs properly served by long-term care facilities, laws
13 governing the operation of long-term care facilities and the protection of the interests of patients, and the
14 elements of good nursing home administration; ~~or~~ and

15 ~~(ii) has presented evidence satisfactory to the board of sufficient education, training, or experience, or~~
16 ~~a combination of education, training, and experience, in the fields referred to in subsection (1)(b)(i) to~~
17 ~~administer, supervise, and manage a long term care facility; and~~

18 (c) ~~has passed an examination designed to test for competence in the subject matters referred to~~
19 ~~in subsection (1)(b)(i)~~ have passed an examination prescribed by board rule.

20 (2)(3) ~~The minimum standards for qualification must comply with the requirements, if any, set forth in~~
21 The requirements in subsection (2) must comply with 42 U.S.C. 1396g."

22

23 **Section 110.** Section 37-10-101, MCA, is amended to read:

24 **"37-10-101. Definitions -- scope of practice of optometry.** (1) ~~The practice of optometry is the~~
25 ~~profession constituting the art and science of visual care and includes any one of the following acts~~ As used in
26 this chapter, the following definitions apply:

27 (1) "Board" means the board of optometry provided for in 2-15-1736.

28 (2) "Optometrist" means an individual who practices optometry.

1 (3) "Optometry" means:

2 (a) ~~the optometric examination or optometric diagnosis of all of those physiological or anatomical~~
3 ~~parts or functions that consummate the process of human vision to ascertain the presence of abnormal~~
4 ~~conditions or functions that may be optometrically diagnosed, corrected, remedied, or relieved~~ to conduct an
5 optometric examination of the physiological and anatomical aspects of human vision and diagnose, correct,
6 remedy, and relieve abnormal conditions or functions of human vision;

7 (b) ~~the employment of any optometric means for the purpose of detecting any condition of the~~
8 ~~process of vision that may have any significance in a complete optometric eye and vision examination,~~
9 ~~including the employment and administration of drugs topically applied for examination purposes, limited to~~
10 administer the following topical drugs for optometric examination purposes:

11 (i) cycloplegics;

12 (ii) mydriatics;

13 (iii) topical anesthetics;

14 (iv) dyes such as fluorescein; and

15 (v) for emergency use only, miotics;

16 (c) ~~the application or prescription of~~ to apply or prescribe ophthalmic lenses, contact lenses,
17 prisms, orthoptics, visual training, and any physical, mechanical, or physiological therapy and ~~the furnishing or~~
18 ~~application of any prosthetic or therapeutic devices for the correction or relief of visual anomalies;~~

19 (d) ~~the administration, dispensation, and prescription of~~ to prescribe, dispense, and administer,
20 alone or in combination with nonscheduled or nonregulated drugs, the following oral analgesics:

21 (i) codeine;

22 (ii) propoxyphene;

23 (iii) hydrocodone; and

24 (iv) dihydrocodeine, alone or in combination with nonscheduled or nonregulated drugs; and

25 (e)(v) ~~the administration, dispensation, and prescription of those drugs approved~~ prescribed by the
26 board rule for use in ocular treatment limited to the anterior segment of the eye and adnexa, except to treat
27 glaucoma. ~~Glaucoma may be treated;~~

28 (e) to replace or duplicate ophthalmic lenses with or without a prescription or to dispense

ophthalmic lenses from a prescription, except that an optical mechanic may replace or duplicate an existing lens for glasses or perform mechanical work on a lens prescribed by an optometrist and dispensed by an optometrist or individual under the direct supervision of an optometrist; and

(f) to measure, fit, or adapt ophthalmic lenses to the human eye with direct, contiguous contact to the eyeball, or in the sale of eyeglasses or lenses, to test eyes with lenses other than the lenses actually sold.

~~(2)(4)~~ Subsection ~~(1)~~ ~~(3)~~ does not:

~~(a)~~ prohibit an optometrist from removing from the eye or adnexa a foreign body that is not intraocular; or

~~(3)(b)~~ Subsection ~~(1)~~ does not allow an optometrist to perform surgery or laser surgery for any purpose.

~~(4)~~ Unless the context requires otherwise, in this chapter:

~~(a)~~ "board" means the board of optometry provided for in 2-15-1736; and

~~(b)~~ "department" means the department of labor and industry provided for in Title 2, chapter 15, part 17."

Section 111. Section 37-12-101, MCA, is amended to read:

"37-12-101. Definitions -- practice of chiropractic. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of chiropractors provided for in 2-15-1737.

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

~~(3)(2)~~ "Chiropractic" is the system of specific adjustment or manipulation of the articulations and tissues of the body, particularly of the spinal column, for the correction of nerve interference and includes the use of recognized diagnostic and treatment methods as taught in chiropractic colleges but does not include surgery or the prescription or use of drugs.

~~(3)~~ "Chiropractor" means an individual who practices chiropractic."

Section 112. Section 37-12-104, MCA, is amended to read:

1 **"37-12-104. Rights and limitations governing practice.** ~~(1) Chiropractors licensed under this~~
2 ~~chapter shall have the right to practice that science defined as chiropractic under 37-12-101 in accordance with~~
3 ~~the method, thought, and practice of chiropractors, and they shall be permitted to~~

4 (1) Chiropractors may use the prefix "Dr." or "Doctor" as a title but shall not in any way imply that they
5 are medical doctors, osteopaths, or surgeons.

6 (2) ~~They shall~~ Chiropractors may not prescribe ~~for or~~ administer to any ~~person~~ individual any
7 medicine or drugs or practice medicine or surgery or osteopathy, except that the use of antiseptics for purposes
8 of sanitation and hygiene and to prevent infection and contagion shall be permitted.

9 ~~(2)(3) Licensed chiropractors may~~ Chiropractors may diagnose, palpate, and treat the human body by
10 the application of manipulative, manual, mechanical, and dietetic methods, including chiropractic physiotherapy,
11 the use of supportive appliances, analytical instruments, and diagnostic x-ray in accordance with guidelines
12 promulgated or approved by state or federal health regulatory agencies."

13
14 **Section 113.** Section 37-13-104, MCA, is amended to read:

15 **"37-13-104. Partial exemptions.** (1) (a) This chapter may not be construed to require doctors of
16 medicine, osteopathy, chiropractic, dentistry, and podiatry who are licensed in Montana to take further
17 examinations in anatomy, physiology, chemistry, dermatology, diagnosis, bacteriology, materia medica, or other
18 subjects that are or may be required for licensure in their respective professions.

19 (b) A doctor of medicine, osteopathy, chiropractic, dentistry, or podiatry may not practice
20 acupuncture in this state unless that doctor has completed a course and passed an examination in acupuncture
21 as required by this chapter.

22 (2) Except as provided in ~~37-13-301~~ [section 20] and with particular regard to the insertion of solid
23 needles used to perform acupuncture, this chapter is not intended to limit, interfere with, or prevent a licensed
24 health professional from practicing within the scope of the health professional's license.

25 (3) This chapter does not affect the practice of an occupation by an individual who does not
26 represent to the public that the individual is licensed under this chapter."

27
28 **Section 114.** Section 37-14-301, MCA, is amended to read:

"37-14-301. Limitation of license authority -- exemptions Exemptions -- radiologic technology

scope of practice limitation. ~~(1) A person may not perform x-ray procedures on a person unless licensed or granted a limited permit under this chapter, with the following provisos:~~

~~(a)(1) Licensure under this chapter is not required for individuals:~~

~~(i)(a) a student enrolled in and attending a school or college of medicine, osteopathy, podiatry, dentistry, dental hygiene, chiropractic, or radiologic technology who applies apply x-ray radiation to persons individuals under the specific direction of a person an individual licensed to prescribe examinations or treatment;~~

~~(ii)(b) a person administering x-ray examinations related to the practice of dentistry or denturistry if the person is certified by the board of dentistry as having passed an examination testing the person's proficiency to administer x-ray examinations;~~

~~(iii)(c) a person who performs performing only darkroom procedures and is under the supervision of a licensed radiologic technologist or radiologist or is able to show evidence of completion of who have completed formal training in darkroom procedures as established prescribed by board rule; or~~

~~(iv)(d) a person who only operates operating industrial x-ray equipment that does not involve procedures administered on people; or~~

~~(b)(e) This chapter may not be construed to limit or affect in any respect the practice of licensed to practice their respective professions by licensed practitioners.~~

~~(2) A person licensed as a radiologic technologist may perform x-ray procedures on persons individuals for medical, diagnostic, or therapeutic purposes under the specific direction of as ordered by a person an individual licensed to prescribe x-ray procedures.~~

~~(3) (a) A radiologic technologist licensed under this chapter may inject contrast media and radioactive isotopes (radionuclide material) intravenously by the use of using venous puncture and saline solution flush upon request and direction of as ordered by a licensed practitioner. In; except that in the case of contrast media, the licensed practitioner requesting the procedure, the radiologist, or personnel or other health care practitioner trained in advanced cardiac life support must be immediately available in the facility during the procedure.~~

~~(b) _____ Injections under subsection (3)(a):~~

(i) _____ must be for diagnostic studies only and not for therapeutic purposes; and

(ii) _____ Except as provided in 37-14-313, permitted injections may include peripheral intravenous injections but specifically exclude intra-arterial injections. ~~An uncertified radiologic technologist, a limited permit technician under 37-14-306, or an individual who is not licensed or authorized under a separate licensing act may not perform any of the activities listed in this subsection.~~

(4) _____ A radiologist assistant licensed under 37-14-313 may give injections related to the procedures authorized by the board to be provided by a radiologist assistant without regard to the restrictions on radiologic technologists provided in this section, except that when contrast media is used, a licensed physician or additional medical personnel trained in advanced cardiac life support must be immediately available in the facility. A radiologist assistant may perform the procedures described in subsection (3) without regard to the restrictions on radiologic technologists provided in subsection (3)(b)."

Section 115. Section 37-14-302, MCA, is amended to read:

"37-14-302. Qualifications Radiologic technologist -- license required -- qualifications. (1) An individual may not practice as a radiologic technologist unless licensed under Title 37, chapter 1, and this chapter.

(2) Each ~~An~~ applicant for licensure as a radiologic technologist shall must have satisfactorily completed a 24-month course of study in radiologic technology approved by the board.

~~(2) Each applicant for licensure as a radiologic technologist shall:~~

~~(a) be of good moral character;~~

~~(b) be at least 18 years of age; and~~

~~(c) not be addicted to intemperate use of alcohol or narcotic drugs."~~

Section 116. Section 37-14-306, MCA, is amended to read:

"37-14-306. Permits Limited radiology technician license required -- qualifications -- scope of practice -- temporary hardship exception. (1) ~~The board may issue a permit to an applicant not qualifying for the issuance of a license under the provisions of this chapter but who has demonstrated to the satisfaction of the board the capability of performing high-quality x-ray procedures without endangering public health and~~

1 safety. An applicant shall demonstrate this capability by completion of Except as provided in subsection (4), an
2 individual may not practice as a limited radiology technician unless licensed under Title 37, chapter 1, and this
3 chapter.

4 (2) An applicant for a limited radiology technician license must have:

5 (a) completed formal classroom training that meets the standards established by prescribed by
6 board rule; and

7 (b) and by means of passed an examination as prescribed by board rule.

8 (3) Permits Licenses issued under provisions of 37-14-305 and this section must specify x-ray
9 procedures, defined and established the technician may perform as prescribed by board rule, that may be
10 performed by the holder. Permits are valid for a period not to exceed 12 months but may be renewed under the
11 provisions established by rule.

12 (2) An applicant meeting minimum requirements for licensure must be issued a temporary permit to
13 work as a radiologic technologist. This temporary permit expires 15 days after the date of first opportunity for
14 examination.

15 (3)(4) The board shall issue temporary permits to unlicensed persons to perform x-ray procedures
16 when adequate evidence is provided to the board that a temporary permit is necessary because An individual
17 who is at least 18 years of age may receive a temporary hardship permit to perform x-ray procedures upon
18 documentation and attestation:

19 (a) of a regional hardship or emergency condition and from a health facility administrator of
20 unsuccessful efforts to hire or retain other qualified radiology personnel and there is no other facility in the
21 region staffing such personnel; and

22 (b) that the prospective recipient of a temporary permit is capable of performing from a licensed
23 radiologic technologist of the individual's training and competency to perform x-ray procedures safely without
24 endangering public health and safety.

25 (5) Temporary hardship permits may not exceed 12 months in duration but may be renewed by
26 reestablishing to the board's satisfaction evidence of demonstrating continued regional hardship or emergency
27 conditions. The required adequate evidence of regional hardship, emergency conditions, and capability to
28 perform x-ray procedures without endangering public health and safety must be established by rule.

(4) ~~Each applicant for a permit must:~~

(a) ~~be of good moral character;~~

(b) ~~be at least 18 years of age; and~~

(c) ~~not be addicted to intemperate use of alcohol or narcotic drugs."~~

Section 117. Section 37-14-313, MCA, is amended to read:

"37-14-313. Radiologist assistant endorsement required-- qualifications -- scope of practice --

board approval. (1) A person licensed under this chapter who has completed an advanced academic program encompassing a nationally recognized radiologist assistant curriculum or certification and who has a radiologist-directed clinical preceptorship certificate may practice as a radiologist assistant upon approval by the board. Board action upon a request for approval must be taken, with or without prior rulemaking, after a written request for approval is received by the board. A radiologist assistant may not practice as described under subsection (3) without an endorsement issued under Title 37 chapter 1, and this chapter.

(2) An applicant for a radiologist assistant endorsement must:

(a) have a current radiologic technician license issued under Title 37, chapter 1, and this chapter;

(b) have completed a bachelor's degree or higher from a radiologist assistant curriculum that is accredited by one or more entities designated by board rule; and

(c) have certification and a radiologist-directed clinical preceptorship certificate.

~~(2)(3) (a) The specific duties allowed for a radiologist assistant may be defined by the board by rule. The rules must be consistent~~ Consistent with guidelines adopted by the American college of radiology, the American society of radiologic technologists, the American registry of radiologic technologists, and the certifying board of radiology practitioner assistants, ~~and subsection (2)(b). The~~ the board shall adopt rules governing the scope of practice for radiologist assistants ~~in order to resolve any conflicts in that subject between the guidelines of the associations named in this subsection.~~

(b) The rules must specify the functions that a radiologist assistant may perform in connection with diagnostic procedures under the supervision of a radiologist, including radiology procedures, invasive procedures, procedures as delegated by a radiologist, and the types of injection of contrast media and radioactive isotopes (radionuclide) material allowed.

(c) The rules may specify levels of supervision based on education and experience, but at a minimum, the level of supervision must be general supervision.

(d) A radiologist assistant may not interpret images, make diagnoses, or prescribe medications or therapies.

~~(3)~~(4) A radiologist assistant may also be referred to as a "radiology practitioner assistant".

Section 118. Section 37-15-103, MCA, is amended to read:

"37-15-103. Exemptions -- rulemaking. ~~(1) This chapter does not prevent a person licensed in this state under any other law from engaging in the profession or business for which that person is licensed.~~

~~(2) This chapter does not restrict or prevent activities of a speech language pathology or audiology nature or the use of the official title of the position for which the activities were performed on the part of a speech language pathologist or audiologist employed by federal agencies.~~

~~(3) Those persons performing activities described in subsection (2) who are not licensed under this chapter may perform those activities only within the confines of or under the jurisdiction of the organization in which they are employed and may not offer speech language pathology or audiology services to the public for compensation over and above the salary they receive for performance of their official duties with organizations by which they are employed. However, without obtaining a license under this chapter, these persons may consult or disseminate their research findings and scientific information to other accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee without being licensed under this chapter.~~

~~(4) This chapter does not restrict the activities and services of a student in speech language pathology or audiology from pursuing a course of study in speech language pathology or audiology at an accredited or approved college or university or an approved clinical training facility. However, these activities and services must constitute a part of a supervised course of study, and a fee may not accrue directly or indirectly to the student. These students must be designated by the title "speech language pathology or audiology intern", "speech language pathology or audiology trainee", or a title clearly indicating the training status appropriate to the level of training.~~

~~(5) This chapter does not restrict a person from another state from offering speech-language pathology or audiology services in this state if the services are performed for not more than 5 days in any calendar year and if the services are performed in cooperation with a speech-language pathologist or audiologist licensed under this chapter. However, by securing a temporary license from the board subject to limitations that the board may impose, a person not a resident of this state who is not licensed under this chapter but who is licensed under the law of another state that has established licensure requirements at least equivalent to those established by this chapter may offer speech-language pathology or audiology services in this state for not more than 30 days in any calendar year if the services are performed in cooperation with a speech-language pathologist or audiologist licensed under this chapter.~~

This chapter does not restrict the practice, services, or activities of:

(1) persons licensed in this state under any other law who are engaging in the profession or business for which that person is licensed;

(2) individuals during their employment by federal agencies as speech pathologists or audiologists;

(3) students pursuing a course of study in speech-language pathology or audiology at an accredited or approved college or university or an approved clinical training facility and designated by a title that clearly indicates their student status; or

~~(6)(4)~~ This chapter does not restrict a person individuals holding a class A certificate issued by the conference of executives of American schools of the deaf from performing the functions for which the person qualifies.

~~(7) This chapter does not restrict a person who is licensed in this state as a hearing aid dispenser from performing the functions for which the person qualifies and that are described in Title 37, chapter 16.~~

~~(8) (a) An audiologist who sells, dispenses, or fits hearing aids is exempt from the licensing requirements or other provisions of Title 37, chapter 16, except for the provisions of 37-16-304.~~

~~(b) The board may adopt rules pertaining to the selling, dispensing, and fitting of hearing aids and hearing aid parts, attachments, and accessories."~~

Section 119. Section 37-16-202, MCA, is amended to read:

"37-16-202. Powers and duties -- board of hearing aid dispensers. ~~(1) The powers and duties of~~

the board are ~~The board may adopt rules to:~~

~~(a) license persons who apply and are qualified to practice the fitting of hearing aids;~~

~~(b) establish a procedure to initiate or receive, investigate, and process complaints from any source concerning the activities of persons licensed under this chapter;~~

~~(c) adopt rules necessary to carry out this chapter;~~

~~(d)(1) require the periodic inspection and calibration of audiometric testing equipment;~~

~~(e) initiate legal action to enjoin from operation a person engaged in the sale, dispensing, or fitting of hearing aids in this state that is not licensed under this chapter;~~

~~(f) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-405, 37-16-408, and 37-16-411 ; and~~

~~(g)(2) establish and adopt minimum requirements for the form of bills of sale and receipts; and.~~

~~(2)(3) Rules adopted by the board pursuant to subsection (1)(f) may include but are not limited to rules defining the term "related devices" and other rules necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-405, 37-16-408, and 37-16-411 define the term "related devices" as used in this chapter.~~

Section 120. Section 37-16-402, MCA, is amended to read:

"37-16-402. Application Hearing aid dispenser license required -- qualifications -- fee. (1) An individual may not engage in the practice of selling, dispensing, and fitting hearing aids unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for a license shall pay a fee fixed by the board and commensurate with the costs of processing and administering the application and related functions of the board and shall show to the satisfaction of the board that the applicant: licensure as a hearing aid dispenser must:

~~(1) is a person of good moral character;~~

~~(2)(a) has an education equivalent to a 4-year course in an accredited high school have a high school diploma or equivalent; or~~

~~(b) holds hold a current license as an audiologist under Title 37, chapter 15; and~~

~~(3) is free of contagious or infectious disease."~~

Section 121. Section 37-16-411, MCA, is amended to read:

"37-16-411. Revocation or suspension of license -- investigations -- fines Unprofessional

conduct. (1) The board may, at its discretion or upon written complaint of an aggrieved person, investigate an alleged violation of this chapter by a licensee or applicant for licensure. If the investigation discloses a probable violation of this chapter or board rules, the board may institute a proceeding pursuant to the provisions of 37-1-136 and 37-1-137.

(2) A licensee or license applicant may be sanctioned as provided in 37-1-312 for any of the following causes:

(a) being convicted of a felony, subject to chapter 1, part 2, of this title. The record of the conviction or a certified copy from the clerk of the court for the district where the conviction occurred or certification by the judge of the court is conclusive evidence of the conviction, except that if the person has been pardoned by a governor or the president of the United States, the conviction does not constitute grounds for imposing sanctions.

(b) securing a license under this chapter through fraud, deceit, or false statements;

(c) the personal use of a false name or alias in professional practice;

(d) violating any of the provisions of this chapter;

(e) obtaining a fee or making any sale by fraud or misrepresentation;

(f) knowingly employing, directly or indirectly, any suspended or unlicensed person to perform any work covered by this chapter;

(g) using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, that is improbable, misleading, deceptive, or untruthful;

(h) representing that the services or advice of a person licensed to practice medicine or possessing certification as an audiologist will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids and related devices if that is not true or using the terms "doctor", "clinic", "hearing clinic", "state registered", or other similar words, abbreviations, or symbols that tend to connote the medical profession when that use is not accurate;

- 1 (i) ~~permitting another to use a license or certificate;~~
- 2 (j) ~~using any method of advertising prohibited by trade practice rules 1 through 17 of the federal trade~~
- 3 ~~commission;~~
- 4 (k) ~~directly or indirectly giving or offering to give or permitting or causing to be given money or~~
- 5 ~~anything of value to any person who advises another in a professional capacity as an inducement to influence~~
- 6 ~~others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser or~~
- 7 ~~influencing persons to refrain from dealing in the products of competitors;~~
- 8 (l) ~~unethical conduct or gross incompetence or negligence in the performance of professional duties,~~
- 9 ~~including repeated failure to make indicated medical referrals of customers;~~
- 10 (m) ~~selling~~ In addition to 37-1-316 and board rules, it is unprofessional conduct to sell a hearing aid or
- 11 related device to a person an individual who has not been given tests using appropriate established procedures
- 12 and instrumentation in fitting hearing aids or related devices, except for the sale of a replacement hearing aid or
- 13 a related device of the same make and model within 1 year of the original sale;_
- 14 (n) ~~falsifying hearing test or evaluation results or any associated client records;~~
- 15 (o) ~~refusing to cooperate with an investigation by the board by:~~
- 16 (i) ~~failing to furnish requested records or documents;~~
- 17 (ii) ~~failing to furnish a complete explanation of matters referred to in the complaint;~~
- 18 (iii) ~~failing to respond to a subpoena issued by the board;~~
- 19 (iv) ~~willfully misrepresenting any relevant fact to a board investigator; or~~
- 20 (v) ~~attempting to discourage a potential witness from cooperating with a board investigator or from~~
- 21 ~~testifying by using threats, harassment, extortion, or bribery."~~

22

23 **Section 122.** Section 37-17-403, MCA, is amended to read:

24 **"37-17-403. License required Behavior analyst -- assistant behavior analyst -- license required -**

25 **- qualifications.** (1) An individual may not represent to the public that the individual is an assistant behavior

26 analyst or a behavior analyst without a license issued practice applied behavior analysis unless licensed under

27 this section Title 37, chapter 1, and this chapter.

28 (2) The board shall license An applicant for licensure as a behavior analyst or an assistant

behavior analyst must an individual who:

~~(a) submits an application as determined by the board by rule;~~

~~(b) pays required applicant fees and subsequent renewal fees;~~

~~(c) submits a full set of the applicant's fingerprints to the board to facilitate a fingerprint-based criminal record background check by the Montana department of justice and the federal bureau of investigation. The board may not disseminate criminal history record information resulting from the background check across state lines.~~

~~(d)~~(a) provides evidence of current have certification at the appropriate level from the behavior analyst certification board;

~~(e) is of good moral character; and~~

~~(f)~~(b) attests have attested to abiding by professional and ethical requirements indicated in the Professional and Ethical Compliance Code for Behavior Analysts recognized by the behavior analyst certification board.;

~~(3) To obtain a license as a behavior analyst, an individual must meet the requirements in subsection (2) and:~~

~~(a)~~(c) have passed the applicable board-certified behavior analyst or assistant behavior analyst examination by the behavior analyst certification board; and

~~(b) be currently certified as a behavior analyst by the behavior analyst certification board; and~~

~~(e)~~(d) have met the educational course work and requirements set by the board by rule.

~~(4) To obtain a license as an assistant behavior analyst, an individual must meet the requirements in subsection (2) and:~~

~~(a) have passed the board-certified assistant behavior analyst examination by the behavior analyst certification board;~~

~~(b) be currently certified as an assistant behavior analyst by the behavior analyst certification board;~~

and

~~(c) have met the educational course work and requirements set by the board by rule."~~

Section 123. Section 37-18-101, MCA, is amended to read:

" ~~37-18-101. (Temporary) Definitions.~~ Unless the context requires otherwise, in this chapter the following definitions apply:

(1) ~~"Board" means the board of veterinary medicine provided for in 2-15-1742.~~

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

37-18-101. (Effective January 1, 2023) Definitions. Unless the context requires otherwise, As used in this chapter, the following definitions apply:

(1) "Board" means the board of veterinary medicine provided for in 2-15-1742.

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

~~(3)(2) "Direct supervision" means direction on an animal patient's care provided supervision and instruction on the care of a specific animal by a veterinarian licensed under this chapter who is on the premises and readily available to take over direct care of or to consult on animal veterinary medical care directly with a licensed veterinary technician.~~

~~(4)(3)(2)~~ "Emergency" means a life-threatening condition in which immediate treatment is necessary to sustain life or, if death is imminent, to relieve pain and suffering.

~~(5)(4) "Immediate supervision" means direction on an animal patient's care provided supervision by a veterinarian licensed under this chapter who is within direct eyesight and hearing range of a licensed veterinary technician and immediately available to take over veterinary medical care.~~

~~(6)(5) "Indirect supervision" means direction on an animal patient's care supervision provided by a veterinarian licensed under this chapter who is not on the premises but is readily available to perform the duties of a licensed veterinarian by maintaining direct communication with a licensed veterinary technician and who is in compliance with 37-18-309 communicate with electronically.~~

(3) "Supervision" means instruction on the care of a specific animal by a veterinarian to a veterinary technician under three levels of supervision as follows from the highest to lowest level:

(a) "immediate" means within direct eyesight and hearing range and immediately available to take over care or consult;

(b) "direct" means on the same premises and readily available to take over care or consult; and

(c) "indirect" means to be readily available to communicate electronically to direct care or consult.

~~(6)~~(4) "Veterinary medicine" means to:

(a) diagnose, prescribe, or administer a drug, medicine, appliance, application, or treatment or perform a surgical operation or manipulation for the prevention, cure, or relief of a pain, deformity, wound, fracture, bodily injury, physical condition, or disease of animals;

(b) instruct, demonstrate, or solicit by a notice, sign, or other indication, with contract either express or implied, or otherwise, with or without the necessary instruments, for the administration of biologics or medicines or animal disease cures for the prevention and treatment of disease of animals and remedies for the treatment of internal parasites in animals;

(c) perform a manual or laboratory procedure on livestock for the diagnosis of pregnancy, sterility, or infertility for remuneration or hire, except that a person or the person's agent may conduct pregnancy testing of the person's own farm animals;

(d) perform acupuncture, ova or embryo transfer, or dentistry on animals; and

(e) instruct others, except as exempted in 37-18-104(4) for compensation, to practice veterinary medicine.

~~(7)~~(5) "Veterinary technician" means an ~~employee of a veterinarian individual~~ with an advanced level of training or experience who performs delegated tasks under the direct, immediate, or indirect supervision of a veterinarian as prescribed in this chapter and board rule."

Section 124. Section 37-18-104, MCA, is amended to read:

" 37-18-104. (Temporary) Exemptions -- rules. (1) This chapter does not apply to:

(a) ~~a veterinarian in the performance of the veterinarian's official duties, either civil or military, in the service of the United States unless the veterinarian is engaged in the practice of veterinary medicine in a private capacity;~~

(b) ~~laboratory technicians and veterinary research workers, as distinguished from veterinarians, in the employ of this state or the United States and engaged in labors in laboratories under the direct supervision of the board of livestock, Montana state university Bozeman, or the United States;~~

(c) ~~a veterinarian practicing in another state or country and authorized under the laws of that state or~~

~~country to practice veterinary medicine, whose practice in this state is limited to an occasional case as that term is defined in board rule;~~

~~(d) the employment of a veterinary medical student who has successfully completed 3 years of the professional curriculum in veterinary medicine at a college having educational standards equal to those approved by the American veterinary medical association, if the student is employed by and works under the immediate supervision of a veterinarian licensed and registered under this chapter; or~~

~~(e) a person advising with respect to or performing acts that the board defines by rule as accepted livestock management practices.~~

~~(2) The operations known and designated as castrating or dehorning of cattle, sheep, horses, and swine are not the practice of veterinary medicine within the meaning of this chapter.~~

~~(3) Nonsurgical embryo transfers in bovines may be performed under the supervision of a veterinarian licensed and residing in Montana. At a minimum, board rules regarding nonsurgical embryo transfers in bovines must address:~~

~~(a) minimum education requirements;~~

~~(b) minimum requirements of practical experience;~~

~~(c) continuing education requirements;~~

~~(d) limitations on practices and procedures that may be performed by certified individuals;~~

~~(e) the use of specific drugs necessary for safe and proper practice of certified procedures;~~

~~(f) content and administration of the certification test, including written and practical testing;~~

~~(g) application and reexamination procedures; and~~

~~(h) conduct of certified individuals, including rules for suspension, revocation, and denial of certification.~~

~~(4) This chapter does not prohibit a person from caring for and treating the person's own farm animals or being assisted in this treatment by the person's full-time employees, as defined in 2-18-601, employed in the conduct of the person's business or by other persons whose services are rendered gratuitously in case of emergency.~~

~~(5) This chapter does not prohibit the selling of veterinary remedies and instruments by a registered pharmacist at the pharmacist's regular place of business.~~

~~(6) This chapter does not prohibit an employee of a licensed veterinarian from performing activities determined by board rule to be acceptable, when performed under the supervision of the employing veterinarian.~~

~~(7) This chapter does not prohibit an employee of a licensed veterinarian from rendering care for that veterinarian's animal patients in cases of emergency. Permissible emergency employee activities under this subsection include activities determined by board rule to be acceptable but do not include the performance of surgery or the rendering of diagnoses.~~

~~(8) This chapter does not prohibit a certified agency from possessing, or a certified euthanasia technician from administering, any controlled substance authorized by the board for the purpose of euthanasia pursuant to part 6 of this chapter.~~

37-18-104. ~~(Effective January 1, 2023)~~ Exemptions -- rules. (1) This chapter does not apply to:

(a) a veterinarian in the performance of the veterinarian's official duties, either civil or military, in the service of the United States unless the veterinarian is engaged in the practice of veterinary medicine in a private capacity;

(b) laboratory technicians and veterinary research workers, as distinguished from veterinarians, in the employ of this state or the United States and engaged in labors in laboratories under the direct supervision of the board of livestock, Montana state university-Bozeman, or the United States;

~~(c) a veterinarian practicing in another state or country and authorized under the laws of that state or country to practice veterinary medicine, whose practice in this state is limited to an occasional case as that term is defined in board rule. The board may, by rule, define conditions in which a veterinary technician licensed or registered in another state may engage in occasional veterinary technician tasks in this state, as provided in 37-18-702.~~

~~(d)~~(c) the employment of a veterinary medical student who has successfully completed 3 years of the professional curriculum in veterinary medicine at a college having educational standards equal to those approved by the American veterinary medical association, if the student is employed by and works under the immediate supervision of a veterinarian licensed and registered under this chapter; or

~~(e)~~(d) a person advising with respect to or performing acts that the board defines by rule as accepted livestock management practices.

(2) The operations known and designated as castrating or dehorning of cattle, sheep, horses, and swine are not the practice of veterinary medicine within the meaning of this chapter.

(3) Nonsurgical embryo transfers in bovines may be performed under the indirect supervision of a veterinarian licensed and residing in Montana. At a minimum, board rules regarding nonsurgical embryo transfers in bovines must address:

- (a) minimum education requirements;
- (b) minimum requirements of practical experience;
- (c) continuing education requirements;
- (d) limitations on practices and procedures that may be performed by certified individuals;
- (e) the use of specific drugs necessary for safe and proper practice of certified procedures;
- (f) content and administration of the certification test, including written and practical testing;
- (g) application and reexamination procedures; and
- (h) conduct of certified individuals, including rules for suspension, revocation, and denial of certification.

(4) This chapter does not prohibit a person from caring for and treating the person's own farm animals or being assisted in this treatment by the person's full-time employees, as defined in 2-18-601, employed in the conduct of the person's business or by other persons whose services are rendered gratuitously in case of emergency.

(5) This chapter does not prohibit the selling of veterinary remedies and instruments by a registered pharmacist at the pharmacist's regular place of business.

(6) This chapter does not prohibit an employee of a licensed veterinarian from performing activities determined by board rule to be acceptable, when performed under the direct, immediate, or indirect supervision of the employing veterinarian. The board shall adopt rules regarding which veterinary practices may be performed under direct, immediate, or indirect supervision by a licensed veterinary technician.

(7) This chapter does not prohibit an employee of a licensed veterinarian from rendering care for that veterinarian's animal patients in cases of emergency. Permissible emergency employee activities under this subsection include activities determined by board rule to be acceptable but do not include the performance of surgery or the rendering of diagnoses.

(8) This chapter does not prohibit a certified agency from possessing, or a certified euthanasia technician from administering, any controlled substance authorized by the board for the purpose of euthanasia pursuant to part 6 of this chapter."

Section 125. Section 37-18-309, MCA, is amended to read:

"37-18-309. (Effective January 1, 2023) Supervision of licensed veterinary technician -- failure to comply technicians and support personnel. (1) A veterinarian licensed under 37-18-302 is responsible for determining whether tasks delegated to a licensed veterinary technician are A veterinarian may delegate to an employee only those tasks the veterinarian believes after reasonable inquiry and observation are::

(a)(1) within the employees' employee's training, expertise, and skills;
(b)(2) allowed by rule under direct supervision, immediate supervision, or indirect supervision; and
(c)(3) clearly defined by written orders order, established office protocols protocol, or, in an emergency, by verbal direction directions in the case of an emergency.

(2) ~~Even in a case of emergency, a veterinarian licensed under 37-18-302 is responsible for authorizing the licensed veterinary technician to perform only those duties within the employees' scope of practice as provided in 37-18-702 or by rule.~~

(3) ~~A veterinarian subject to this section may be cited for unprofessional conduct for failure to comply with this section."~~

Section 126. Section 37-18-603, MCA, is amended to read:

"37-18-603. Powers of board -- euthanasia certification Euthanasia agency and euthanasia technician -- qualifications -- controlled substances -- inspections. The board may ~~shall~~ adopt rules to:

(1) establish qualifications and ~~prescribe the application format for certification~~ licensure as a certified euthanasia agency or and as a certified euthanasia technician and ~~review each application for compliance with certification requirements;~~

(2) ~~examine and determine the qualifications and fitness of applicants to operate as a certified agency or as a certified euthanasia technician;~~

(3) ~~issue, renew, reinstate, deny, suspend, require voluntary surrender of, or revoke any certifications~~

~~or temporary permits or impose other forms of discipline and enter into consent agreements and negotiated settlements with certified agencies or certified euthanasia technicians consistent with the provisions of this chapter and rules adopted pursuant to Title 37, chapter 1, and this chapter;~~

~~(4) establish a schedule of fees for certifying agencies and euthanasia technicians, ensuring that the fees are commensurate with the costs of the certification program;~~

~~(5)(2) establish a list of controlled substances approved for the purpose of euthanasia in all settings; and~~

~~(6) adopt other rules that the board or department considers necessary for the implementation of this part; and~~

~~(7)(3) inspect any certified euthanasia agency's controlled substance storage, inventory, administration procedures, and recordkeeping."~~

Section 127. Section 37-18-605, MCA, is amended to read:

"37-18-605. Certified euthanasia technician license required -- scope of practice -- exemptions.

(1) An individual may not practice as a certified euthanasia technician unless licensed under Title 37, chapter 1, and this chapter.

(2) A person ~~An individual~~ may not administer controlled substances for euthanasia purposes unless the ~~person~~ individual is a licensed veterinarian, a certified euthanasia technician, or support personnel as defined by rules adopted by the board.

(2)(3) A certified euthanasia technician may use controlled substances only for euthanasia purposes unless the certified euthanasia technician is under the direct supervision of a licensed veterinarian."

Section 128. Section 37-18-701, MCA, is amended to read:

"37-18-701. ~~(Effective January 1, 2023) License required for to use veterinary technicians-- requirements -- license renewal -- use of initials or terms~~ technician title. (1) ~~(a) An individual seeking to practice as a~~ may not use the title ~~veterinary technician in this state must be unless licensed as a veterinary technician by the board under Title 37, chapter 1, and this chapter.~~

(2) ~~To be eligible~~ An applicant for licensure as a veterinary technician, ~~an applicant must:~~

~~(a) shall file an application on a form furnished by the department and pay fees as prescribed by rule;~~

~~(b) must meet the requirements of subsection (3); and~~

~~(c) must meet additional requirements set by the board by rule.~~

~~(3) — (a) (i) Except as provided in subsection (3)(b), an applicant must be a graduate of have graduated from a program accredited by the American veterinary medical association as ~~determined by board~~ rule and pass an examination as prescribed by the board; or~~

~~(b) An applicant who does not meet the qualifications required in subsection (3)(a) shall:~~

~~(i)(ii) obtain a minimum of have 4,500 hours of experience equivalent to that of a licensed veterinary technician; and gained under the supervision and employment of a veterinarian; and~~

~~(ii)(b) pass an examination as prescribed by the board rule.~~

~~(4) Subject to review by the board, a person who does not hold an active license as a veterinary technician may not state or imply orally, in writing, or in print that the person is a "licensed veterinary technician" or use the initials "LVT".~~

Section 129. Section 37-19-302, MCA, is amended to read:

"37-19-302. License required for practice of mortuary science -- qualifications of applicants. (1)

An individual may not practice mortuary science unless licensed as a mortician or a mortician intern.~~The practice of mortuary science is limited to:~~

~~(a) licensed morticians;~~

~~(b) licensed interns; and~~

~~(c) students exempted under 37-19-308.~~

~~(2) A person 18 years of age or older wishing to practice mortuary science in this state must apply to the board on the form and in the manner prescribed by the board.~~

~~(3)(2) To qualify for a mortician's license, a person~~ An applicant for licensure as a mortician intern must have:

~~(a) be of good moral character;~~

~~(b)(a) have graduated from an accredited college or university with an associate degree in mortuary science; and~~

(e)(b) ~~pass~~ passed an examination prescribed by the board and pay the application fee set by the board by rule; and.

(d)(3) ~~serve~~ An applicant for licensure as a mortician must, in addition to the requirements in subsection (2), have served a 1-year internship under the supervision of a licensed mortician in a licensed mortuary after ~~passing the examination provided for in subsection (3)(c) as prescribed by board rule.~~

(4) ~~A person who fails the examination required in subsection (3)(c) may retake the examination under conditions prescribed by rule of the board."~~

Section 130. Section 37-19-402, MCA, is amended to read:

"37-19-402. Operator's Mortuary license requirements -- required facility inspections -- transfer of license to new facility. (1) ~~The operation of~~ A person may not operate a mortuary is prohibited by anyone not holding a mortician's license. without an active mortuary license issued under Title 37, chapter 1, and this chapter.

(2) ~~A license to operate a new mortuary facility in Montana may be issued only if the proposed mortuary facility meets standards for operating mortuaries adopted by the board.~~

(3)(2) (a) ~~An applicant for a license to operate a new mortuary~~ must shall send to the department a written and verified application on a form prescribed by the board. ~~The application must be accompanied by an initial inspection fee.;~~

(b) ~~The department shall inspect the proposed new mortuary and report its findings to the board.~~

(a) have a licensed mortician in charge of the mortuary; and

(b) have passed an inspection of the mortuary.

(4) ~~The board shall grant a license if the department determines that the proposed new facility meets the standards adopted by the board and will be operated by a person who has been issued a mortician's license.~~

(5) ~~The board may grant a temporary license to a mortuary until the initial inspection is completed.~~

(6)(3) A mortuary license may be transferred from one facility to another if: only when the proprietor of a licensed facility terminates services at the licensed facility and commences services at a new facility. ~~The new facility must be inspected and must meet standards for operating mortuaries.~~

(a) the original facility terminates services and commences services at the new facility; and

(b) the new facility passes an inspection.

~~(7) A mortuary may be inspected by members of the board or their representatives during business hours."~~

Section 131. Section 37-19-403, MCA, is amended to read:

"37-19-403. Power of board to set facility standards -- inspection -- fees. (1) The board may adopt rules prescribing reasonable standards for operating mortuaries, including minimum requirements for drainage, ventilation, and instruments. ~~The board may inspect the premises of a mortuary establishment to determine if rules are complied with. Inspections are at the discretion of the board and may be without notice. An initial inspection is mandatory.~~

~~(2) The board may charge the operator an inspection fee, including an initial inspection fee, to be set at the discretion of the board. Fees must be commensurate with costs.~~

(2) In addition to the initial inspection, the department may inspect the mortuary on a recurring basis."

Section 132. Section 37-19-702, MCA, is amended to read:

"37-19-702. Licenses Crematory license required -- display of licenses -- renewal -- penalty for late renewal qualifications. (1) A person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture, voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and facilities for the cremation of human remains and that conducts cremations must be licensed by the board. The license must be displayed in a conspicuous place in the crematory facility may not operate a crematory without a crematory facility license issued under Title 37, chapter 1, and this chapter.

(2) A-An applicant for a crematory facility license must:

(a) have and maintain, while licensed, a licensed crematory operator in charge of the crematory;
and

(b) have passed an inspection of the crematory. expires on the date set by department rule and may be renewed upon payment of a fee set by the board. The fee must include the cost of annual inspection.If

1 a crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection of
2 both a mortuary facility under 37-19-403 and a crematory facility.

3 ~~(3) A person in charge of a licensed crematory facility must be licensed as a crematory operator by~~
4 ~~the board. A person employed by a licensed crematory facility must be licensed as a crematory technician by~~
5 ~~the board. The license must be displayed in a conspicuous place in the crematory facility.~~

6 (3) An individual may not practice as a crematory operator or a crematory technician unless
7 licensed under Title 37, chapter 1, and this chapter.

8 (4) An applicant for a license as a crematory operator must:

9 (a) be at least 18 years of age; and

10 (b) have a high school or equivalent diploma.

11 (5) An applicant for a license as a crematory technician must:

12 (a) be at least 18 years of age;

13 (b) have a high school or equivalent diploma; and

14 (c) complete training provided by the crematory.

15 ~~(4) Crematory operator and crematory technician licenses expire on the date set by department rule~~
16 ~~and may be renewed upon payment of a fee set by the board. On the job training must be provided to a~~
17 ~~crematory technician at the time of employment."~~

18
19 **Section 133.** Section 37-19-703, MCA, is amended to read:

20 **"37-19-703. Application -- power of board to set Board rulemaking crematory standards --**
21 **inspection -- fees.** (1) Application for a crematory, crematory operator, or crematory technician license must be
22 on forms prescribed by the board and must include the name of the applicant, name of the crematory facility,
23 location of the crematory facility and its mailing address, and any further information the board requires. To be
24 eligible for licensure:

25 ~~(a) as a crematory facility, an application must include a description of the type of structure and~~
26 ~~equipment to be used in the operation of the crematory facility;~~

27 ~~(b) as a crematory operator, an applicant must be at least 18 years of age, must be a high school~~
28 ~~graduate or have an equivalent degree, and must be of good moral character.~~

~~(2) The application must be accompanied by an application fee set by the board.~~

~~(3) The board must be notified of any change of ownership of a crematory within 30 days of the change.~~

~~(4) A license to operate a crematory in Montana may be issued only upon inspection of the crematory facility and upon a finding of compliance with standards for operation set by the board.~~

~~(5) A temporary permit may be issued to operate a crematory facility, as prescribed by board rule, that is effective until the initial inspection is completed to the board's satisfaction.~~

~~(6) A crematory facility may be inspected by a board member or the board's designated representative during business hours.~~

~~(7)~~(1) The board shall adopt rules governing the cremation of human remains, the transportation of human remains, sanitation, equipment, fire protection, building construction, and recordkeeping.

~~(8)~~(2) A crematory facility shall comply with all local building codes, environmental standards, and applicable state and local regulations.

~~(9) A new crematory facility shall pay an initial inspection fee, set by the board, that must accompany the application.~~

~~(3)~~ In addition to the initial inspection, the department may inspect the crematory on a recurring basis."

Section 134. Section 37-20-301, MCA, is amended to read:

"37-20-301. Requirements for use of physician assistant -- supervision agreement -- duties and delegation agreement -- content -- approval -- filing. (1) A physician, office, firm, state institution, or professional service corporation may not employ or make use of the services of a physician assistant in the practice of medicine, as defined in 37-3-102, and as provided in this chapter ~~and a physician assistant may not be employed or practice as a physician assistant unless the physician assistant is licensed under Title 37, chapter 1, and this chapter;~~

~~(a) is supervised by a physician licensed in this state;~~

~~(b) is licensed by the board;~~

~~(c) has submitted a physician assistant supervision agreement to the board on a form prescribed by~~

1 ~~the department; and~~

2 ~~(d) has paid to the board the applicable fees required by the board.~~

3 (2) A supervising physician and the supervised physician assistant shall execute;

4 (a) a supervision agreement; and

5 (b) a duties and delegation agreement constituting a contract that defines the physician assistant's
6 professional relationship with the supervising physician and the limitations on the physician assistant's practice
7 under the supervision of the supervising physician.

8 (3) A physician assistant and the supervising physician shall, concerning the agreements in
9 subsection (2):

10 (a) The agreement must be kept current, by amendment or substitution, update the agreements to
11 reflect changes in the duties of each party occurring over time; and

12 (b) maintain the agreements at their place of work and make copies of the agreements available to
13 a health care provider, a health care facility, a state or federal agency, the department, and any other person
14 who requests one.

15 (4) The board may by rule specify other requirements for the agreement agreements. A physician
16 assistant licensed by the board before October 1, 2005, shall execute a duties and delegation agreement with a
17 supervising physician by October 1, 2006.

18 ~~(3) A physician assistant and the physician assistant's supervising physician shall keep the~~
19 ~~supervision agreement and the duties and delegation agreement at their place of work and provide a copy upon~~
20 ~~request to a health care provider, a health care facility, a state or federal agency, the board, and any other~~
21 ~~individual who requests one."~~

22
23 **Section 135.** Section 37-20-402, MCA, is amended to read:

24 **"37-20-402. Criteria for licensing physician assistant Physician assistant license required --**
25 **qualifications for licensure.** (1) An individual may not practice as a physician assistant unless licensed under
26 Title 37, chapter 1, and this chapter.

27 (2) ~~A person may not be licensed~~ An applicant for licensure as a physician assistant must have in
28 ~~this state unless the person:~~

(1) ~~is of good moral character;~~

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

(3)(b) ~~has taken and~~ passed an examination administered by the national commission on the certification of physician assistants."

Section 136. Section 37-22-301, MCA, is amended to read:

"37-22-301. Licensed clinical social worker requirements -- rulemaking -- exemptions. (1) An applicant to be a licensed clinical social worker:

(a) (i) must have a doctorate or master's degree in social work from a program accredited by the council on social work education or approved by the board; or

(ii) if the applicant has not completed a degree listed in subsection (1)(a)(i), must have met the requirements established by the board by rule for additional postdegree social work experience equivalent to the provisions of subsections (1)(a)(i) and (1)(b); and

(b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and completed at least 24 months of supervised post-master's degree work experience in psychotherapy, which must have included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years.

(2) After completing the required supervised work experience as a social worker licensure candidate, the applicant shall:

(a) satisfactorily complete an examination prescribed by the board. An applicant who fails the examination may reapply to take the examination and may continue as a social worker licensure candidate, subject to the terms set by the board.

(b) submit a completed application required by the board and the application fee prescribed by the board.

(3) A licensed clinical social worker:

- 1 (a) is subject to the social work ethical standards adopted under 37-22-201;
- 2 (b) may engage in independent practice, as defined by the board, upon receiving a license; and
- 3 (c) may use the initials "LSW" or "LCSW" for "licensed social worker" or "licensed clinical social
- 4 worker".
- 5 (4) An applicant is exempt from the examination requirement in subsection (2)(a) if the applicant:
- 6 (a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of
- 7 the United States under laws that have substantially the same requirements as this chapter; and
- 8 (b) has passed an examination similar to that required by the board.
- 9 (5) As a prerequisite to the issuance of a license, the board shall require the applicant to submit
- 10 fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of
- 11 investigation as provided in ~~37-1-307~~ section 4. The board may require a criminal background check of
- 12 applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and ~~37-1-307~~
- 13 section 4.
- 14 (6) The board shall adopt rules to implement this section."
- 15

16 **Section 137.** Section 37-22-307, MCA, is amended to read:

17 **"37-22-307. Licensed baccalaureate social worker requirements -- exemption -- rulemaking. (1)**

18 An applicant to be a licensed baccalaureate social worker:

- 19 (a) must have a bachelor's degree in social work from a program accredited by the council on
- 20 social work education or a program approved by the board by rule; and
- 21 (b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and
- 22 completed supervised work experience as specified in 37-22-313 and board rule. Some of the required hours
- 23 must be in direct client contact.
- 24 (2) After completing the required supervised work experience as a social worker licensure
- 25 candidate, the applicant shall:
- 26 (a) satisfactorily complete an examination prescribed by the board by rule. An applicant who fails
- 27 the examination may reapply to take the examination and may continue as a social worker licensure candidate,
- 28 subject to the terms set by the board.

(b) submit a completed application required by the board and the application fee prescribed by the board; and

(c) as a prerequisite to the issuance of a license, submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in ~~37-1-307~~ [section 4]. The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and ~~37-1-307~~ [section 4].

(3) A licensed baccalaureate social worker:

(a) is subject to the social work ethical standards adopted under 37-22-201;

(b) may engage in social work activities as provided in 37-22-102(5)(c) through (5)(h);

(c) may engage in practice, as defined by the board, upon receiving a license; and

(d) may use the initials "LBSW" for "licensed baccalaureate social worker".

(4) An applicant is exempt from the examination requirement in subsection (2)(a) if the applicant:

(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of the United States under laws that have substantially the same requirements as this chapter; and

(b) has passed an examination similar to that required by the board.

(5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable work and education experience as provided in subsection (1) are exempt from examination procedures provided in subsection (2)(a) and may be licensed under this section.

(6) The board shall adopt rules to implement this section."

Section 138. Section 37-22-308, MCA, is amended to read:

"37-22-308. Licensed master's social worker requirements -- rulemaking -- exemption. (1) An applicant to be a licensed master's social worker:

(a) must have a master's degree in social work from a program accredited by the council on social work education or a program approved by the board by rule; and

(b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and completed supervised work experience as specified in 37-22-313 and board rule. Some of the required hours must be in direct client contact.

(2) After completing the required supervised work experience as a social worker licensure candidate, the applicant shall:

(a) satisfactorily complete an examination prescribed by the board by rule. An applicant who fails the examination may reapply to take the examination and may continue as a social worker licensure candidate, subject to the terms set by the board.

(b) submit a completed application required by the board and the application fee prescribed by the board by rule; and

(c) as a prerequisite to the issuance of a license, submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in ~~37-1-307~~ [section 4]. The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and ~~37-1-307~~ [section 4].

(3) A licensed master's social worker:

(a) is subject to the social work ethical standards adopted under 37-22-201;

(b) may engage in social work activities as provided in 37-22-102(5)(c) through (5)(h);

(c) may engage in practice, as defined by the board, upon receiving a license; and

(d) may use the initials "LMSW" for "licensed master's social worker".

(4) An applicant is exempt from the examination requirement in subsection (2)(a) if the applicant:

(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of the United States under laws that have substantially the same requirements as this chapter; and

(b) has passed an examination similar to that required by the board.

(5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable work and education experience as provided in subsection (1) are exempt from examination procedures provided in subsection (2)(a) and may be licensed under this section.

(6) The board shall adopt rules to implement this section."

Section 139. Section 37-22-313, MCA, is amended to read:

"37-22-313. Social worker licensure candidate -- registration requirements -- renewal -- standards. (1) A person who has completed the education required for licensure under 37-22-301, 37-22-307,

or 37-22-308 but who has not completed the supervised work experience required for licensure shall register as a social worker licensure candidate in order to engage in social work and earn supervised work experience hours in this state.

(2) To register, the person shall submit:

(a) the application and fee required by the board;

(b) proof of completion of the education requirement;

(c) fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in ~~37-1-307~~ [section 4];

(d) proof of good moral character; and

(e) a training and supervision plan that meets the requirements set by the board.

(3) Upon satisfaction of the requirements of subsection (2) and approval by the board, a person may engage in social work under the conditions set by the board and use the title of "social worker licensure candidate" that is appropriate to the applicant's proposed level of licensure.

(4) A person shall register annually as a social worker licensure candidate. The board may limit the number of years that a person may act as a social worker licensure candidate.

(5) A social worker licensure candidate shall conform to the standards of conduct applicable to all licensees.

(6) Unprofessional conduct or failure to satisfy the training and supervision requirements and other conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's authorization to act as a social worker licensure candidate.

(7) The board may:

(a) deny a license or issue a probationary license to an applicant for licensure based on the applicant's conduct as a social worker licensure candidate; and

(b) determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and ~~37-1-307~~ [section 4]."

Section 140. Section 37-23-202, MCA, is amended to read:

"37-23-202. Licensure requirements. (1) An applicant for licensure must have satisfactorily:

(a) completed a graduate program, primarily counseling in nature, that resulted in a graduate degree from an institution accredited to offer a graduate program in counseling with a minimum number of hours in areas or disciplines established by the board in rule;

(b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) passed an examination prepared and administered by:

(i) the national board of certified counselors; or

(ii) the national academy of certified clinical mental health counselors; and

(d) completed an application.

(2) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in ~~37-1-307~~ [section 4].

(3) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied."

Section 141. Section 37-23-213, MCA, is amended to read:

"37-23-213. Professional counselor licensure candidate -- registration -- renewal -- standards.

(1) A person who has completed the education required for licensure but who has not completed the supervised work experience required for licensure shall register as a professional counselor licensure candidate in order to engage in professional counseling and earn supervised work experience hours in this state.

(2) To register, the person shall submit:

(a) the application and fee required by the board;

(b) proof of completion of the education requirement;

(c) fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in ~~37-1-307~~ [section 4];

(d) proof of good moral character; and

(e) a training and supervision plan that meets the requirements set by the board.

(3) Upon satisfaction of the requirements of subsection (2) and approval by the board, a person may engage in professional counseling under the conditions set by the board and shall use the title of "professional counselor licensure candidate".

(4) A person shall register annually as a professional counselor licensure candidate. The board may limit the number of years that a person may act as a professional counselor licensure candidate.

(5) A professional counselor licensure candidate shall conform to the standards of conduct applicable to all licensees.

(6) Unprofessional conduct or failure to satisfy the training and supervision requirements and other conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's authorization to act as a professional counselor licensure candidate.

(7) The board may deny a license or issue a probationary license to an applicant for licensure based on the applicant's conduct as a professional counselor licensure candidate."

Section 142. Section 37-24-104, MCA, is amended to read:

"37-24-104. Exemptions. Nothing in this chapter prevents or restricts the practice, services, or activities of:

(1) a person licensed in this state under any other law or certified or registered as a member of an occupational or professional group other than occupational therapy from engaging in the profession or occupation for which the person is licensed, certified, or registered;

(2) ~~a person~~ an individual who provides treatment, teaches living skills, designs orthotic or prosthetic devices, administers tests, or engages in other activities described in 37-24-103 but does not represent to the public that the ~~person~~ individual is an occupational therapist;

(3) ~~a person~~ an individual employed as an occupational therapist or occupational therapy assistant by an institution or agency of the federal government;

(4) ~~a person~~ an individual pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited institution or under an approved educational program if the ~~person~~ individual is designated by a title that clearly indicates ~~the person's status as a student or trainee~~ status; or

~~(5) a person fulfilling the supervised fieldwork experience requirements of 37-24-303 if the experience constitutes a part of the experience necessary to meet the requirements of that section;~~

~~(6) a person performing occupational therapy services in the state if these services are performed for no more than 10 days in a calendar year in association with an occupational therapist licensed under this chapter, provided that:~~

~~(a) the person is licensed under the law of another state that has licensure requirements at least as stringent as the requirements of this chapter; or~~

~~(b) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA), established by the national board for certification in occupational therapy, inc. (NBCOT); or~~

~~(7)(5) a person an individual employed as an occupational therapy aide."~~

Section 143. Section 37-24-108, MCA, is amended to read:

"37-24-108. Application and administration of topical medications -- prescription, purchasing, and recordkeeping requirements. (1) A licensed occupational therapist who meets the requirements of 37-24-106 may apply or administer topical medications by:

- (a) direct application;
- (b) iontophoresis, a process in which topical medications are applied through the use of electricity;
- or
- (c) phonophoresis, a process in which topical medications are applied through the use of ultrasound.

(2) A licensed occupational therapist may apply or administer the following topical medications:

- (a) bactericidal agents;
- (b) debriding agents;
- (c) anesthetic agents;
- (d) anti-inflammatory agents;
- (e) antispasmodic agents; and
- (f) adrenocorticosteroids.

(3) (a) Topical medications applied or administered by a licensed occupational therapist must be prescribed on a specific or standing basis by a licensed medical practitioner authorized to order or prescribe topical medications and must be purchased from a pharmacy certified under 37-7-321 [section 16].

(b) Topical medications dispensed under this section must comply with packaging and labeling guidelines developed by the board of pharmacy under Title 37, chapter 7.

(4) A licensed occupational therapist who applies or administers topical medications shall keep appropriate records with respect to those medications."

Section 144. Section 37-25-102, MCA, is amended to read:

"37-25-102. Definitions. In this chapter, unless the context requires otherwise, the following definitions apply:

~~(1) "Accredited" means accredited through the council on postsecondary accreditation and the U.S. department of education.~~

~~(2)~~(1) "Board" means the board of medical examiners.

~~(3)~~(2) "Commission" means the commission on dietetic registration, ~~which is a member of the national commission for health certifying agencies of the academy of nutrition and dietetics.~~

~~(4) "Dietetic nutrition practice" or "dietetics nutrition" is the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, and food management and from the behavioral and social sciences to achieve and maintain health. The primary function of dietetic nutrition practice is to provide nutrition assessment and nutrition counseling.~~

(3) "Dietitian", "dietitian nutritionist", or "nutritionist" means an individual licensed under this chapter.

~~(5)~~(4) "General nutritional information" means information on:

- (a) principles of good nutrition;
- (b) foods to be included in a daily diet;
- (c) the essential nutrients needed by the body;
- (d) recommended amounts of these nutrients;
- (e) the action of these nutrients on the body;

(f) the effects of deficiencies in these nutrients; or

(g) foods and supplements that are good sources of essential nutrients.

(5) "Medical nutrition therapy" means the provision of nutrition care services for the treatment or management of a disease or medical condition. The term does not include providing general nutritional information but does include any of the following:

(a) recommending, ordering, and discontinuing patient diets consistent with controlling facility-approved protocols, including oral therapeutic diets, dietary supplements, and enteral and parenteral nutrition therapy;

(b) ordering medical laboratory tests related to nutritional therapeutic treatments consistent with state law;

(c) implementing prescription drug dose adjustments for specific disease treatment protocols within the limits of the licensee's knowledge, skills, judgment, and informed clinical practice guidelines as indicated in a facility-approved protocol and as approved and delegated by the licensed prescriber. This subsection (5)(c) does not allow licensees to prescribe or initiate drug treatment.

(d) implementing prescription drug dose adjustments for specific disease treatment protocols within the limits of the licensed nutritionist's knowledge, skills, and judgment in an outpatient setting as approved by and under the delegation of a prescriber. This subsection (5)(d) does not allow licensees to prescribe or initiate drug treatment; and

(e) accepting or transmitting oral, verbal, delegated, or electronically transmitted orders related to the practice of medical nutrition therapy from a referring provider consistent with applicable laws, rules, and established protocols.

~~(6) "Licensed nutritionist" means a nutritionist licensed under this chapter.~~

~~(7)(6)~~ "Nutrition assessment" means the evaluation of nutritional needs of individuals and groups based on appropriate biochemical, anthropometric, physical, and dietary data in order to determine nutrient needs and to recommend appropriate nutritional intake, including both enteral and parenteral nutrition.

(7) "Nutrition care services" means the use of principles derived from the sciences of nutrition, biochemistry, physiology, and food management and from the behavioral and social sciences to achieve and maintain health in a systematic process that includes nutrition assessment and nutrition counseling.

(8) "Nutrition counseling" means providing assistance and advice to individuals or groups in the selection of food and other sources of nutrients to achieve appropriate nutritional intake, based on:

(a) the nutrition assessment;

(b) the composition of food and other sources of nutrients; and

(c) meal preparation consistent with cultural background and socioeconomic status.

~~(9) "Nutritionist" means:~~

~~(a) a person licensed under this chapter; or~~

~~(b) a person who has satisfactorily completed a baccalaureate and master's or a doctoral degree in the field of dietetics, food and nutrition, or public health nutrition conferred by an accredited college or university."~~

Section 145. Section 37-25-304, MCA, is amended to read:

"37-25-304. Exemptions from licensure requirements. This chapter does not prevent:

(1) a student or intern in an approved academic program or a paraprofessional with approved dietetic-nutrition training from engaging in the practice of ~~dietetics-nutrition~~ medical nutrition therapy if a ~~licensed dietitian or nutritionist~~ is available for direct supervision and if the student, intern, or paraprofessional does not represent to the public that the individual is a dietitian or nutritionist;

(2) a licensed physician or nurse from engaging in the practice of ~~dietetics-nutrition~~ medical nutrition therapy when it is incidental to the practice of that profession;

(3) a person licensed under any other law from engaging in the profession or business for which the person is licensed if the person does not represent to the public that the person is a dietitian or nutritionist;

(4) an educator or adviser employed by a nonprofit agency acceptable to the board or by an accredited degree-granting institution or an accredited elementary or secondary school from engaging in an activity within the scope of the individual's salaried position;

(5) a person employed by or under contract with an agency of the state or federal government from discharging an official duty if the person does not represent to the public that the person is a dietitian or nutritionist;

(6) a person from furnishing general nutritional information, including dissemination of literature, as

to the use of food, food materials, or dietary supplements or from engaging in the explanation as to the use of foods or food products, including dietary supplements, in connection with the marketing and distribution of those products if the person does not represent to the public that the person is a dietitian or nutritionist;

(7) a person from furnishing general nutrition information or disseminating literature if the person does not represent to the public that the person is a dietitian or a nutritionist; ~~or~~

(8) a person from fulfilling state or federal regulations governing the delivery or provision of nutritional health services to hospitals or long-term care facilities if the person does not represent to the public that the person is a nutritionist; or

(9) a person who provides individualized nutrition recommendations for the wellness and primary prevention of chronic disease, health coaching, holistic and wellness education, guidance, motivation, behavior change management, services for nonmedical weight control, or other nutrition care services if the services do not constitute medical nutrition therapy and the person does not represent to the public that the person is a dietitian or nutritionist."

Section 146. Section 37-26-201, MCA, is amended to read:

"37-26-201. Powers and duties of board. The board shall:

~~(1) adopt rules necessary or proper to administer and enforce this chapter;~~

~~(2)~~(1) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

~~(3) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;~~

~~(4) adopt rules that set nonrefundable fees for application, and licensure;~~

~~(5) approve naturopathic medical colleges as defined in 37-26-103;~~

~~(6)~~(2) issue certificates of specialty practice; and

~~(7)~~(3) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery allowed under 37-26-301; and

~~and~~

~~(8) adopt rules that contain the natural substance formulary list created by the alternative health care formulary committee provided for in 37-26-301."~~

Section 147. Section 37-26-301, MCA, is amended to read:

"37-26-301. Practice of naturopathic health care -- restrictions -- alternative health care formulary committee. (1) ~~Naturopathic physicians may practice naturopathic medicine as a limited practice of the healing arts as exempted in 37-3-103(1)(m), with the following restrictions. A naturopathic physician may~~ not:

- (a) prescribe, dispense, or administer:
 - (i) any legend drug, as defined in 50-31-301, except for whole gland thyroid;
 - (ii) homeopathic preparations;
 - (iii) the natural therapeutic substances, drugs, and therapies described in subsection (2); and
 - (iv) oxytocin (pitocin), provided that the naturopathic physician may administer but may not prescribe or dispense oxytocin (pitocin);
- (b) administer ionizing radioactive substances for therapeutic purposes; or
- (c) perform surgical procedures except those minor surgery procedures authorized by this chapter;
- ~~or~~
- ~~(d) claim to practice any licensed health care profession or system of treatment other than naturopathic medicine unless holding a separate license in that profession.~~

(2) Naturopathic physicians may prescribe and administer for preventive and therapeutic purposes the following natural therapeutic substances, drugs, and therapies, as well as drugs on the natural substance formulary list provided for in subsection (3):

- (a) food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanical medicines, homeopathic preparations, and oxytocin (pitocin);
 - (b) topical drugs, health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, therapeutic devices, and nonprescription drugs; and
 - (c) barrier devices for contraception, naturopathic childbirth attendance, and minor surgery.
- (3) A five-member alternative health care formulary committee appointed by the board shall

1 establish a natural substance formulary list. The committee consists of a licensed pharmacist plus four
2 members of the board, two of whom must be licensed naturopathic physicians, one who must be a licensed
3 medical doctor, and one who must be a public member. The list may not go beyond the scope of substances
4 covered by approved naturopathic college curricula or continuing education and must be reviewed annually by
5 the committee. Changes to the list that are recommended by the committee and accepted by the board must be
6 published as administrative rules.

7 (4) Naturopathic physicians may perform or order for diagnostic purposes a physical or orificial
8 examination, ultrasound, phlebotomy, clinical laboratory test or examination, physiological function test, and
9 any other noninvasive diagnostic procedure commonly used by physicians in general practice and as
10 authorized by 37-26-201(2).

11 (5) Except as provided by this subsection, it is unlawful for a naturopath to engage, directly or
12 indirectly, in the dispensing of any drugs that a naturopath is authorized to prescribe by subsection (2). If the
13 place where a naturopath maintains an office for the practice of naturopathy is more than 10 miles from a place
14 of business that sells and dispenses the drugs a naturopath may prescribe under subsection (2), then, to the
15 extent the drugs are not available within 10 miles of the naturopath's office, the naturopath may sell the drugs
16 that are unavailable."

17
18 **Section 148.** Section 37-26-304, MCA, is amended to read:

19 **"37-26-304. Naturopathic childbirth attendance endorsement required-- certification for**
20 **specialty practice -- requirements qualifications.** (1) A naturopathic physician may not practice
21 naturopathic childbirth attendance without first obtaining from the board a certificate of specialty practice an
22 endorsement issued under Title 37, chapter 1, and this chapter. The board shall adopt rules setting forth the
23 requirements to be met in order to certify naturopathic physicians for the specialty practice of naturopathic
24 childbirth attendance.

25 (2) ~~In order to be certified for the specialty practice of naturopathic childbirth attendance, a~~
26 ~~naturopathic physician shall~~ An applicant for a childbirth attendance endorsement must:

27 (a) have a current naturopathic license issued under Title 37, chapter 1, and this chapter;

28 (b) ~~pass~~ have passed either a national standardized supplemental examination in naturopathic

childbirth attendance provided by the national naturopathic profession licensing organization or another specialty examination approved by the board;

~~(b)(c)~~ complete ~~have completed~~ a minimum of 100 hours in any one or in any combination of the following upon approval by the board:

(i) course work in naturopathic childbirth attendance;

(ii) an internship in naturopathic childbirth attendance; or

(iii) a preceptorship in naturopathic childbirth attendance; and

~~(e)(d)~~ have assisted in a minimum of 50 supervised births, including prenatal and postnatal care, under the direct supervision of a licensed naturopathic, medical, or osteopathic physician with specialty training in obstetrics or natural childbirth attendance. The 50 supervised births required under this subsection ~~(e)-(2)(d)~~ must include 25 births that document the naturopathic physician as the primary birth attendant."

Section 149. Section 37-27-105, MCA, is amended to read:

"37-27-105. General powers and duties of board -- rulemaking authority. ~~(1) The board shall:~~

~~(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and~~

~~(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.~~

~~(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.~~

~~(3) The board shall adopt rules to administer this chapter. The rules may include but are not limited to:~~

~~(a)(1)~~ the establishment of criteria for minimum educational, apprenticeship, and clinical requirements that, at a minimum, meet the standards established in ~~37-27-204~~ [section 27];

~~(b)(2)~~ the development of eligibility criteria for client screening by direct-entry midwives to achieve the goal of providing midwifery services to women during low-risk pregnancies;

~~(e)(3)~~ the development of standardized informed consent and reporting forms;

~~(d) the adoption of ethical standards for licensed direct-entry midwives;~~

~~(e)(4)~~ the adoption of supporting documentation requirements for primary birth attendants; and

(f)(5) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in ~~37-27-204~~ [section 27]."

Section 150. Section 37-27-312, MCA, is amended to read:

"37-27-312. Screening procedures. In addition to meeting the eligibility criteria for client screening established by the board pursuant to ~~37-27-105~~ rule, a direct-entry midwife shall recommend that patients secure the following services by an appropriate health care provider:

- (1) the standard serological test, as defined in 50-19-101, for women seeking prenatal care;
- (2) screening for human immunodeficiency virus, when appropriate;
- (3) maternal serum alpha-fetoprotein test and ultrasound, upon request;
- (4) Rh antibody and glucose screening at 28 weeks' gestation, upon request;
- (5) nonstress testing by a fetal monitor of a fetus at greater than 42 1/2 weeks' gestation or if other reasons indicate the testing;
- (6) screening for phenylketonuria;
- (7) Rh screening of the infant for RhoGAM treatment if the mother is Rh negative; and
- (8) screening for premature labor and other risk factors."

Section 151. Section 37-29-302, MCA, is amended to read:

"37-29-302. Exceptions. The provisions of this chapter do not apply to:

- (1) ~~a person interning an intern~~ under the direct supervision of a licensed denturist as required by ~~37-29-303(2)~~ [section 29(2)], provided that a denturist may not supervise more than one intern at any one time;
- (2) the practice of dentistry or medicine by ~~persons~~ individuals authorized to do so by ~~the~~ this state of Montana; or
- (3) a student of denturistry in pursuit of clinical studies under a school program or internship as required by ~~37-29-303~~ [section 29]."

Section 152. Section 37-31-101, MCA, is amended to read:

"37-31-101. Definitions. Unless the context requires otherwise, in this chapter the following

1 definitions apply:

2 (1) "Affiliated" is an individual who owns more than 20% of or is employed 32 hours or more
3 weekly at a school licensed under this chapter.

4 (2) "Barber" means a person licensed under this chapter to engage in the practice of barbering.

5 (3) "Barbering" means any of the following practices performed for payment, either directly or
6 indirectly, on the human body for tonsorial purposes and not performed for the treatment of disease or physical
7 or mental ailments:

8 (a) shaving or trimming a beard;

9 (b) cutting, styling, coloring, or waving hair;

10 (c) straightening hair by the use of chemicals;

11 (d) giving facial or scalp massages, including treatment with oils, creams, lotions, or other
12 preparations applied by hand or mechanical appliance;

13 (e) shampooing hair, applying hair tonic, or bleaching or highlighting hair; or

14 (f) applying cosmetic preparations, antiseptics, powders, oils, lotions, or gels to the scalp, face,
15 hands, or neck.

16 (4) "Barber nonchemical" means a person licensed under this chapter to engage in the practice of
17 barbering nonchemical.

18 (5) "Barbering nonchemical" means the practice or teaching of barbering as provided in subsection
19 (3) but excludes the use of chemicals to wave, straighten, color, bleach, or highlight hair.

20 (6) "Board" means the board of barbers and cosmetologists provided for in 2-15-1747.

21 (7) "Booth" means any part of a salon or shop that is rented or leased for the performance of
22 barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring services, as provided for
23 in 39-51-204.

24 (8) "Cosmetologist" means a person licensed under this chapter to engage in the practice of
25 cosmetology.

26 (9) (a) "Cosmetology" means work included in the terms "hairdressing", "manicuring", "esthetics",
27 and "beauty culture" when the work is done for the embellishment, cleanliness, and beautification of the hair
28 and body.

(b) The term may not be construed to include itinerant cosmetologists who perform their services without compensation for demonstration purposes in any regularly established store or place of business holding a license from the state as a store or place of business.

(10) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(11) "Electrologist" means a person licensed under this chapter to engage in the practice of electrology.

(12) (a) "Electrology" means the study of and the professional practice of permanently removing superfluous hair by destroying the hair roots through passage of an electric current with an electrified needle. Electrology includes electrolysis and thermolysis. Electrology may include the use of waxes for epilation and the use of chemical depilatories.

(b) The term does not include pilethermology, which is the study and professional practice of removing superfluous hair by passage of radio frequency energy with electronic tweezers and similar devices.

(13) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.

(14) "Esthetics" means skin care of the body, including but not limited to hot compresses or the use of safety-approved electrical appliances or chemical compounds formulated for professional application only and the temporary removal of superfluous hair by means of lotions, creams, or mechanical or electrical apparatus or appliances on another person.

(15) "Instructor" or "teacher" means a person licensed under ~~37-34-303~~ section 30.

(16) "Manicuring" includes care of the nails, the hands, the lower arms, the feet, and the lower legs and the application and maintenance of artificial nails.

(17) "Manicurist" means a person licensed under this chapter to engage in the practice of manicuring.

(18) "Place of residence" means a home and the following residences defined under 50-5-101:

(a) an assisted living facility;

(b) an intermediate care facility for the developmentally disabled;

(c) a hospice;

(d) a critical access hospital;

(e) a long-term care facility; or

(f) a residential treatment facility.

(19) (a) "Salon or shop" means the physical location in which a person licensed under this chapter practices barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.

(b) The term does not include a room provided in a place of residence that is used for the purposes of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring unless the owner, manager, or operator allows the room to be used for the practice of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring to serve nonresidents for compensation, in which case the room must be licensed as a salon or a shop.

(20) "School" means a location approved by the board for training persons for licensure as provided for in 37-31-311.

(21) "Student teacher" means an individual enrolled in a teacher training course as provided for under ~~37-31-301(1)(d)~~ 37-31-305(2).

(22) "Teacher" means a person licensed under 37-31-305.

(23) "Teacher training" means a 650-hour course prescribed by the board by rule under this chapter."

Section 153. Section 37-31-301, MCA, is amended to read:

"37-31-301. Prohibited Unprofessional conduct -- prohibited acts. ~~(1) Without an appropriate license issued under this chapter, it is unlawful:~~

~~(a) to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring for compensation;~~

~~(b) for an unlicensed student to provide services as a barber, a barber nonchemical, a cosmetologist, an electrologist, an esthetician, or a manicurist other than in a licensed school;~~

~~(c) to own, manage, or operate a salon, shop, booth, or school; or to teach in a school other than as a student enrolled in a teacher training course.~~

~~(2) It is unlawful:~~

~~(a)~~ (1) to employ or use an unlicensed ~~person~~ individual as a barber, a barber nonchemical, a

1 cosmetologist, an electrologist, an esthetician, or a manicurist;

2 (b)(2) for a teacher or student teacher to practice barbering, barbering nonchemical, cosmetology,
3 electrology, esthetics, or manicuring on the public in a school;

4 (e)(3) for student teachers to substitute for full-time teachers;

5 (d)(4) to operate a salon, shop, or booth in connection with a school;

6 (e)(5) to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or

7 manicuring outside a licensed salon or shop as provided in this chapter, except when a licensee is requested:

8 (i)(a) by a customer to go to a place other than a licensed salon or shop and is sent to the customer
9 from a licensed salon or shop; or

10 (ii)(b) by a customer with a disability or homebound customer to go to the customer's place of
11 residence; or

12 (f) to violate any of the provisions of this chapter."

13

14 **Section 154.** Section 37-31-305, MCA, is amended to read:

15 **"37-31-305. Qualifications of applicants for license to teach -- provisional teaching license.** (1)

16 An applicant for a license to teach under this chapter licensure to teach the professions in this chapter must:

17 (a) must have a license to practice issued by the department in the particular area of practice or
18 the same profession scope of practice, in which the person the applicant plans to teach;

19 (b) must have been actively engaged in that particular area of practice have practiced under the
20 license in subsection (1)(a) for 12 continuous months before taking the teacher's examination;

21 (c) ~~must have:~~

22 (i)(c) have completed teacher training and received a diploma from a board-approved teacher
23 training school authorized to offer a course of study in teacher training as prescribed by the board by rule; or,
24 and

25 (d) have passed the board-approved examination.

26 (ii)(2) ~~have~~ An applicant who meets the criteria in subsection (1)(a) but has 3 or more years of
27 experience practice in that particular area of practice. A person who qualifies for a license under this subsection
28 (1)(c)(ii) has 2 years to complete the profession the applicant plans to teach is eligible for a nonrenewable, 2-

year provisional license as a student teacher while completing board-approved coursework related to teaching methodology before a license to teach is renewed in lieu of a diploma in subsection (1)(c).

~~(d) except as provided in subsection (2), must have passed the examination prescribed by the board by rule to qualify for licensure; and~~

~~(e) shall file an application provided by the board.~~

~~(2) The board shall issue a license to teach under this chapter, without examination, to a person licensed in another state if the board determines that:~~

~~(a) the other state's course of study hour requirement is equal to or greater than the hour requirement in this state; and~~

~~(b) the person's license from the other state is current and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment."~~

Section 155. Section 37-31-308, MCA, is amended to read:

"37-31-308. Exemption for persons individuals with disabilities. A person An individual with a physical disability who is trained to practice under this chapter by the department of public health and human services is, for a period of 1 year immediately following graduation, exempt from the examination and the ~~fees~~ described in 37-31-323 fee requirements of Title 37, chapter 1, and this chapter. On certification from the department of public health and human services that a department of public health and human services beneficiary has successfully completed the required training in a school, the department shall issue the ~~person~~ individual the necessary license to practice the profession in this state."

Section 156. Section 37-31-311, MCA, is amended to read:

"37-31-311. Schools -- license -- requirements -- bond -- curriculum. (1) ~~A person, firm,~~ partnership, corporation, or other legal An individual or business entity may not operate a school for compensation with a license issued by the department. unless licensed under Title 37, chapter 1, and this chapter. Application for the license must be filed with the department on a form approved by the board by rule.

(2) ~~A school may not be granted a license unless the school complies with or is able to comply with the following requirements:~~ An applicant for a school license:

- 1 (a) It has in its shall employ at least one teacher.;
- 2 (b) It ~~does not~~ may not have more than 25 students for each teacher.;
- 3 (c) The school's ~~shall~~ provide a course of training and technical instruction ~~comply with rules as~~
- 4 ~~prescribed by the board rule.~~;
- 5 (d) It possesses must have apparatus and equipment consistent with industry standards.;
- 6 (e) It ~~keeps~~ shall keep a daily record of the attendance of each student, ~~establishes~~ establish
- 7 grades, and holds require passage of examinations ~~before issuing for students to receive~~ a diploma.;
- 8 (f) It ~~does not permit a person to sleep in, or use for residential purposes or for any other purpose,~~
- 9 ~~a room, wholly or in part, that could make the school unsanitary~~ must have a bond or other security of \$5,000 at
- 10 all times licensed in a form and amount as prescribed by board rule.
- 11 (3) Schools licensed under this chapter shall maintain a school term of not less than the following
- 12 number of hours and provide practical training and technical instruction consistent with the board licensure
- 13 examination:
- 14 (a) barbering, 1,100 hours;
- 15 (b) barbering nonchemical, 900 hours;
- 16 (c) cosmetology, 1,500 hours;
- 17 (d) electrology, 600 hours;
- 18 (e) manicuring, 400 hours;
- 19 (f) esthetics, 650 hours;
- 20 (g) teachers, 650 hours.
- 21 (3) — A school for teaching barbering ~~may not be granted a license unless the school maintains a~~
- 22 ~~school term of not less than 1,100 hours and a course of practical training and technical instruction equal to the~~
- 23 ~~requirements for board examinations.~~
- 24 (4) — A school for teaching barbering nonchemical ~~may not be granted a license unless the school~~
- 25 ~~maintains a school term of not less than 900 hours for barbering nonchemical and a course of practical training~~
- 26 ~~and technical instruction equal to the requirements for board examinations.~~
- 27 (5) — A school for teaching cosmetology ~~may not be granted a license unless the school maintains a~~
- 28 ~~school term of not less than 1,500 hours and a course of practical training and technical instruction equal to the~~

~~requirements for board examinations.~~

~~(6) — A school for teaching electrology may not be granted a license unless the school maintains a school term of not less than 600 hours and a course of practical training and technical instruction equal to the requirements for board examinations.~~

~~(7) — A school for teaching manicuring may not be granted a license unless the school maintains a school term of not less than 400 hours and a course of practical training and technical instruction equal to the requirements for board examinations.~~

~~(8) — A school for teaching esthetics may not be granted a license unless the school maintains a school term of not less than 650 hours and a course of practical training and technical instruction equal to the requirements for board examinations.~~

~~(9) — A school for teaching teachers may not be granted a license unless the school maintains a school term of not less than 650 hours and a course of practical training and technical instruction equal to the requirements for board examinations.~~

~~(10) Licenses for schools may be refused, revoked, or suspended as provided in 37-31-331.~~

~~(11) The board shall require the person, firm, partnership, corporation, or other legal entity operating a school to furnish a bond or other similar security in the amount of \$5,000 and in a form and manner prescribed by the board by rule."~~

Section 157. Section 37-33-502, MCA, is amended to read:

"37-33-502. Qualifications for licensure Massage therapy license required -- qualifications. (1)

An individual may not practice massage therapy unless licensed under Title 37, chapter 1, and this chapter.

~~(2) — To be eligible~~An applicant for licensure as a massage therapist as provided in 37-33-501, an applicant: must have:

~~(a) — shall submit an application on a form provided by the department;~~

~~(b) — shall include with the application the application fee set by the board;~~

~~(c) — must possess a high school diploma or its equivalent;~~

~~(d) — must be at least 18 years of age; and~~

~~(e) — must be of good moral character.~~

(2) ~~The applicant, in addition to the requirements established in subsection (1), is required to:~~

(a) ~~successfully complete~~ completed a massage therapy program ~~education~~ of a minimum of 500 hours of study that meets or exceeds the curriculum guidelines established by any program or organization accredited by the national commission for certifying agencies or its equivalent or successor; and

(b) ~~receive a passing score on an~~ passed a board-approved examination ~~prescribed by the board;~~
or

(b) ~~possess an equivalent current license, certification, or registration in good standing from another state."~~

Section 158. Section 37-34-201, MCA, is amended to read:

"37-34-201. Powers and duties of board -- Board rulemaking authority. (1) The board shall:

(a) ~~meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and~~

(b) ~~administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.~~

(2) ~~The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.~~

(3) ~~The board shall adopt rules to administer this chapter. The rules must include but are not limited to:~~

(a) ~~the development of acceptable certifications for each category of license;~~

(b) ~~the establishment of criteria for educational requirements that, at a minimum, meet the standards set forth in 37-34-303 ; and~~

The board shall adopt rules to:

(1) develop acceptable certifications for each category of license; and

(c)(2) a requirement that require the supervisor of a clinical laboratory technician to be accessible at all times that testing is being performed by the technician ~~in order~~ to provide onsite, telephonic, or electronic consultation."

Section 159. Section 37-35-202, MCA, is amended to read:

"37-35-202. Licensure and registration requirements -- examination -- fees -- fingerprint check.

(1) To be eligible for licensure as a licensed addiction counselor, the applicant shall submit an application fee in an amount established by the board by rule and a written application on a form provided by the board that demonstrates that the applicant has completed the eligibility requirements and competency standards as defined by board rule.

(2) An applicant must meet one of the following degree requirements:

(a) a minimum of a baccalaureate or advanced degree from an accredited college or university in one of the following areas:

(i) alcohol and drug studies;

(ii) psychology;

(iii) sociology;

(iv) social work;

(v) counseling;

(vi) human services;

(vii) psychiatric rehabilitation; or

(viii) community health;

(b) a minimum of an associate of arts degree or a certificate from an accredited institution in one of the following areas:

(i) alcohol and drug studies;

(ii) addiction; or

(iii) substance abuse; or

(c) a minimum of a baccalaureate or advanced degree from an accredited college or university in any area. Either as part of that degree or taken as courses outside the degree from an accredited college or university, the applicant must have the following:

(i) six semester credits in human behavior, sociology, psychology or a similar emphasis;

(ii) three semester credits in psychopathology or course work exploring patterns and courses of abnormal or deviant behavior; and

(iii) six semester credits in counseling. Three of these six credits must be in group counseling and three must be in the theory of counseling.

(d) if the person has not completed a degree listed in subsections (2)(a) through (2)(c), met the additional work experience requirements in an addiction treatment program set by the board by rule as equivalent and necessary to meet the provisions of (2)(a), (2)(b), or (2)(c).

(3) Prior to becoming eligible to begin the examination process, each applicant shall complete supervised work experience in:

(a) an addiction treatment program as defined by the board;

(b) a program approved by the board; or

(c) a similar program recognized under the laws of another state.

(4) Each applicant for licensure as a licensed addiction counselor shall successfully pass a written examination prescribed by the board. The board shall provide by rule how much experience counts for the examination.

(5) (a) A person who has completed the education required for licensure but who has not completed the supervised work experience required for licensure shall register as an addiction counselor license candidate in order to engage in addiction counseling and earn supervised work experience hours in this state.

(b) A person registered as an addiction counselor licensure candidate shall register annually until the person becomes a licensed addiction counselor. The board may limit the number of years that a person may act as an addiction counselor licensure candidate.

(c) A student is not required to register as an addiction counselor licensure candidate.

(6) (a) As a prerequisite to the issuance of a license and registration as an addiction counselor licensure candidate, the board shall require an applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in ~~37-1-307~~ [section 4]. The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and ~~37-1-307~~ [section 4].

(b) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the

public trust and if the board determines that the applicant is not, the license may be denied.

(7) A person holding a license to practice as a licensed addiction counselor in this state may use the title "licensed addiction counselor".

Section 160. Section 37-36-204, MCA, is amended to read:

"37-36-204. Application and administration of topical medications -- recordkeeping. (1) A

licensed athletic trainer may apply or administer topical medications by:

(a) direct application;

(b) iontophoresis, a process by which topical medications are applied ~~through the use of~~ with electricity; or

(c) phonophoresis, a process by which topical medications are applied ~~through the use of~~ with ultrasound.

(2) A licensed athletic trainer may apply or administer the following topical medications:

(a) bactericidal agents;

(b) debriding agents;

(c) anesthetic agents;

(d) anti-inflammatory agents;

(e) antispasmodic agents; and

(f) adrenocorticosteroids.

(3) Topical medications applied or administered by a licensed athletic trainer must be prescribed on a specific or standing basis by a licensed medical practitioner authorized to order or prescribe topical medications and must be purchased from a pharmacy certified under ~~37-7-324~~ [section 16]. Topical medications dispensed under this section must comply with packaging and labeling guidelines developed by the board of pharmacy under Title 37, chapter 7.

(4) Appropriate recordkeeping is required of a licensed athletic trainer who applies or administers topical medications as authorized in this section."

Section 161. Section 37-37-201, MCA, is amended to read:

"37-37-201. License requirements -- exemptions. (1) An applicant for a license shall pay an

application fee set by the board by rule. The board may provide a separate, combined fee for persons licensed by the board holding dual licenses. An applicant for a license under this section shall also complete an application on a form provided by the department and provide documentation to the board that the applicant:

(a) (i) has a master's degree or a doctoral degree in marriage and family therapy from a recognized educational institution or a degree from a program accredited by the commission on accreditation for marriage and family therapy education;

(ii) has a graduate degree in an allied field from a recognized educational institution and graduate level work that the board determines to be the equivalent of a master's degree in marriage and family therapy or marriage and family counseling; or

(iii) has met additional postdegree experience requirements set by the board by rule as being equivalent to the degree requirements in subsection (1)(a)(i) or (1)(a)(ii) if the applicant does not have a degree as provided in subsection (1)(a)(i) or (1)(a)(ii);

(b) has successfully passed an examination prescribed by the board;

(c) has worked under the direct supervision of a qualified supervisor for at least 3,000 hours, including 1,000 hours of face-to-face client contact in the practice of marriage and family therapy, of which up to 500 hours may be accumulated while achieving the educational credentials listed in subsection (1)(a)(i) or (1)(a)(ii); and

(d) is of good moral character. Being of good moral character includes in its meaning that the applicant has not been convicted by a court of competent jurisdiction of a crime described by board rule as being of a nature that renders the applicant unfit to practice marriage and family therapy.

(2) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in ~~37-1-307~~ [section 4].

(3) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied.

(4) An applicant is exempt from the examination requirement in subsection (1)(b) if the board is

1 satisfied that:

2 ~~(a) — the applicant is licensed, certified, or registered under the laws of a state or territory of the~~
3 United States that imposes substantially the same requirements as this chapter and has passed an
4 examination similar to that required by the board; ~~or~~

5 ~~(b) — the applicant is licensed as a clinical social worker under Title 37, chapter 22, or as a clinical~~
6 ~~professional counselor under Title 37, chapter 23, and has practiced marriage and family therapy within the~~
7 ~~state for a period prescribed by the board.~~

8 (5) A person is exempt from licensure as a marriage and family therapist if the person practices
9 marriage and family therapy:

10 ~~(a) — under qualified supervision in a training institution or facility or other supervisory arrangements~~
11 ~~approved by the board and uses the title of intern;~~

12 ~~(b) — as part of the person's duties as a member of the clergy or priesthood; or~~

13 ~~(c) — while registered as a social worker licensure candidate, professional counselor licensure~~
14 ~~candidate, or marriage and family therapist licensure candidate."~~

15
16 **Section 162.** Section 37-37-205, MCA, is amended to read:

17 **"37-37-205. Marriage and family therapist licensure candidate -- registration -- renewal --**
18 **standards.** (1) A person who has completed the education required for licensure but who has not completed
19 the supervised work experience required for licensure shall register as a marriage and family therapist licensure
20 candidate in order to engage in marriage and family therapy and earn supervised work experience hours in this
21 state.

22 (2) To register, the person shall submit:

23 (a) the application and fee required by the board;

24 (b) proof of completion of the education requirement;

25 (c) fingerprints for the purpose of fingerprint checks by the Montana department of justice and the
26 federal bureau of investigation as provided in ~~37-1-307~~ [section 4];

27 (d) proof of good moral character; and

28 (e) a training and supervision plan that meets the requirements set by the board.

(3) Upon satisfaction of the requirements of subsection (2) and approval by the board, a person may engage in marriage and family therapy under the conditions set by the board and shall use the title of "marriage and family therapist licensure candidate".

(4) A person shall register annually as a marriage and family therapist licensure candidate. The board may limit the number of years that a person may act as a marriage and family therapist licensure candidate.

(5) A marriage and family therapist licensure candidate shall conform to the standards of conduct applicable to all licensees.

(6) Unprofessional conduct or failure to satisfy the training and supervision requirements and other conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's authorization to act as a marriage and family therapist licensure candidate.

(7) The board may deny a license or issue a probationary license to an applicant for licensure based on the applicant's conduct as a marriage and family therapist licensure candidate."

Section 163. Section 37-38-202, MCA, is amended to read:

"37-38-202. Certificate requirements -- supervision -- fees. (1) A person may apply for certification as a behavioral health peer support specialist if the person has attested to the fact that the person:

- (a) has been diagnosed by a mental health professional as having a behavioral health disorder;
- (b) has received treatment; and
- (c) is in recovery, as defined by the board by rule, from a behavioral health disorder.

(2) An applicant shall submit a written application on a form provided by the board and an application fee prescribed by the board. A person must be recertified annually using a process specified by the board by rule, including payment of a fee prescribed by the board.

(3) An applicant must have:

- (a) successfully completed a training course in behavioral health peer support, as defined by the board by rule, which must include a module in ethics; and
- (b) verified the applicant's ability to perform all essential functions of the certified peer support role through the application and certification process provided for by the board.

(4) As a prerequisite to the issuance of a certificate, the board shall require the applicant to submit fingerprints for the purpose of fingerprint background checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307 [section 4].

(5) Pursuant to 37-1-203, an applicant who has a history of criminal convictions has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust. The board may deny the license if it determines that the applicant is not sufficiently rehabilitated.

(6) Supervision of a certified behavioral health peer support specialist must be provided by a competent mental health professional. The amount, duration, and scope of supervision may vary depending on the demonstrated competency and experience of the peer support specialist, as well as the service mix. Supervision may range from direct oversight to periodic care consultation. The board may create guidelines for supervision but must allow for flexibility in the provision of peer support services.

(7) In selecting approved training courses as required in subsection (3), the board shall provide as much flexibility and inclusivity as possible to applicants. The board shall review existing training materials from national, regional, and state agencies and organizations, including existing Montana-based peer support providers, that adequately address the essential functions of the certified peer support role and shall include those materials as possible. The board may not exclude a training course from the list of approved courses solely because the training course was created by or is provided by a faith-based or culturally based entity, association, tribe, church, or educational institution."

Section 164. Section 37-40-101, MCA, is amended to read:

"37-40-101. Definitions. Unless the context requires otherwise, as used in this chapter, the following definitions apply:

(1) "Board" means the board of sanitarians provided for in 2-15-1751.

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

(3) "Practice the profession of sanitarian" means:

(a) giving advice on or enforcing compliance with state and local regulations applicable to local government jurisdictions and programs concerning food service, food processing, public accommodations,

trailer courts, campgrounds, day-care centers, schools, swimming pools and spas, air pollution, solid and hazardous waste collection and disposal, sewage treatment and disposal, vector control, underground storage tanks, drinking water, land subdivision, and milk sanitation;

(b) cooperating with government agencies on matters of public and environmental health, including epidemiological investigations and emergency response to investigations; and

(c) providing educational and training programs in environmental standards and public health.

(4) "Registered sanitarian" means a sanitarian licensed under this chapter.

(5) "Sanitarian", within the meaning and intent of this chapter, shall mean a person who, by reason of the person's special knowledge of the physical, biological, and chemical sciences and the principles and methods of public health acquired by professional education and practical experience through inspectional, educational, or enforcement duties, is qualified to practice the profession of sanitarian.

(6) "Sanitarian-in-training" means a person who meets the minimum educational qualifications required for a sanitarian's license and who works under the supervision of a licensed sanitarian. Sanitarians-in-training may, with board approval, work in a public health agency for a period not to exceed 1 year and be considered exempt from the licensing and registration requirements of 37-40-304 [section 33]."

Section 165. Section 37-42-308, MCA, is amended to read:

"37-42-308. Annual renewal -- fees -- revocation for failure to renew -- reinstatement -- notice of suspension. (1) Certificates issued under this chapter must be renewed annually before July 1. A certificate issued after July 1 expires the following June 30. After the payment of the initial fee under 37-42-304, a certificate holder shall pay before July 1 of each certificate year a renewal fee according to the schedule adopted by the department, except that the department shall reduce the fee by the amount that the cost of administering the certificate is offset by federal funds received to fund the administration of the program.

(2) ~~Subject to subsection (6), if~~ If a certificate holder does not apply for a renewal of the certificate before July 1 and remit to the department the necessary renewal fee, the department shall suspend the certificate. ~~Subject to subsection (6), the~~ The department shall revoke any certificate that remains suspended for a period of more than 30 days. However, the department, before this revocation, shall notify the certificate holder by certified mail at the address on the issued certificate of the department's intention to revoke, at least

1 10 days before the time set for action to be taken by the department on the certificate.

2 (3) A certificate once revoked may not be reinstated unless it appears that an injustice has
3 occurred through error or omission or other fact or circumstances indicating to the department that the
4 certificate holder was not guilty of negligence or laches.

5 (4) Notice of suspension must be given to the certificate holder when the suspension occurs and to
6 the proper official or owner of the treatment works or distribution system.

7 (5) If a person whose certificate has been revoked through the person's own fault desires to
8 continue as a water or wastewater plant operator, the person shall apply to the department under 37-42-304.
9 Successful completion of an examination may be required at the discretion of the department.

10 ~~(6) This section may not be interpreted to conflict with the provisions of 37-1-138."~~
11

12 **Section 166.** Section 37-42-321, MCA, is amended to read:

13 **"37-42-321. Revocation of operator's certificate -- disciplinary action by department.** (1) The
14 department may issue an order revoking the certificate of an operator when the department finds that:

15 (a) the operator has practiced fraud or deception;

16 (b) reasonable care, judgment, or the application of the operator's knowledge or ability was not
17 used in the performance of the operator's duties; or

18 (c) the operator is incompetent or unable to properly perform the operator's duties.

19 (2) The department may issue an order taking any disciplinary action listed in ~~37-1-136~~ 37-1-312.

20 (3) A person aggrieved by an order of the department under this section may request a hearing
21 before the board by submitting a written request stating the reason for the request within 30 days after receipt
22 of the department's decision.

23 (4) The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4,
24 part 6, apply to a hearing held under this section."
25

26 **Section 167.** Section 37-43-307, MCA, is amended to read:

27 **"37-43-307. Annual renewal -- fee -- revocation for nonrenewal.** (1) The term for licenses issued
28 under this chapter is from July 1 of each year through the following June 30. After the payment of the initial fee

under 37-43-303, a licensee shall pay, before the first day of each license year, a renewal fee as prescribed by the board.

(2) ~~Subject to subsection (3), if~~ If a licensee does not apply for renewal of the license before the first day of a license year and remit to the department the renewal fee, the license must be suspended by the board. ~~Subject to subsection (3), if~~ If the license remains suspended for a period of more than 30 days after the first day of a license year, it must be revoked by the board. However, the department, prior to this revocation, shall notify the licensee of the board's intention to revoke at least 10 days prior to the time set for action to be taken by the board on the license, by mailing notice to the licensee at the address appearing for the licensee in the records and files of the department. A license once revoked may not be reinstated unless it appears that an injustice has occurred indicating to the board that the licensee was not guilty of negligence or laches. If a person whose license has been revoked through the person's own fault desires to engage in the business of water well drilling or monitoring well construction in this state or contracting for those services, the person shall apply under 37-43-303. Notice of suspension must be given to a licensee when the suspension occurs.

~~(3) This section may not be interpreted to conflict with the provisions of 37-1-138."~~

Section 168. Section 37-43-313, MCA, is amended to read:

"37-43-313. Disciplinary authority. (1) If the board finds grounds for disciplinary action, as provided in subsection (2), the board may by order:

(a) require a licensee to repair or reconstruct substandard wells at the licensee's expense to meet board standards;

(b) require a licensee to take further training or education;

(c) place probationary terms and conditions on a license;

(d) suspend a license for a period not to exceed 1 year; or

(e) revoke a license, specifying that the licensee may not reapply for licensure for a period of 3 years from the date of revocation.

(2) Grounds for disciplinary action include:

(a) violating the rules, construction standards, or laws established by the board and this chapter;

(b) disobeying an order from the board to repair or reconstruct a substandard well;

(c) violating probationary terms of or conditions on a license;

(d) misrepresenting facts on well log reports, license or renewal applications, or apprenticeship records or in response to board inquiries; or

(e) failing to maintain qualifications for licensure as specified in 37-43-305.

~~(3) This section may not be interpreted to conflict with the provisions of 37-1-138."~~

Section 169. Section 37-47-201, MCA, is amended to read:

"37-47-201. Powers and duties of board relating to outfitters and guides. (1) The board shall adopt rules:

~~(1) cooperate with the federal government in matters of mutual concern regarding the business of outfitting and guiding in Montana;~~

~~(2) enforce the provisions of this chapter and rules adopted pursuant to this chapter;~~

~~(3)(a) to establish outfitter standards and guide standards;~~

~~(4) adopt:~~

~~(a)(b) rules to administer and enforce this chapter, including rules prescribing to prescribe all requisite qualifications for licensure as an outfitter or guide. Qualifications for outfitters may include training, testing, experience, and knowledge of rules of governmental bodies pertaining to outfitting;~~

~~(b) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the public health, safety, and welfare, including evidence of qualification and licensure under this chapter for any person practicing or offering to practice as an outfitter or guide;~~

(c) rules specifying to specify components and standards for review and approval of operations plans. Operations plans must:

(i) be updated at least annually if there has been a substantive change; and

(ii) indicate all forms of use of private land acreage where licensed outfitters are authorized by the landowner to operate, except for the use of private lands that allow unrestricted public access and are managed under cooperative agreements with adjacent public lands.

(d) ~~rules establishing~~ to establish outfitter reporting requirements; and

(e) ~~rules specifying~~ to specify what constitutes an emergency for which an outfitter's assistant may

1 be hired, standards for outfitter's assistants, and documentation standards for proof of employment or retention
2 required of outfitter's assistants. The rules must also identify data that may be collected regarding use of
3 outfitter's assistants.

4 ~~(5) hold hearings and proceedings to suspend or revoke licenses of outfitters and guides for due~~
5 ~~cause; and~~

6 ~~(6)(2)~~ The board shall maintain records of net client hunter use."

7
8 **Section 170.** Section 37-47-301, MCA, is amended to read:

9 **"37-47-301. License required -- services performed -- Outfitter and guide standards of practice.**

10 ~~(1) A person may not act as an outfitter or guide or advertise or otherwise represent to the public that the~~
11 ~~person is an outfitter or guide without first securing a license in accordance with the provisions of this part.~~

12 ~~(2)(1)~~ Whenever an outfitter is engaged by a participant, the outfitter shall keep records as required by
13 the board.

14 ~~(3)(2)~~ Outfitters, guides, and other employees of an outfitter may not shoot, kill, or take big game
15 animals for or in competition with those employing them while acting as outfitters, guides, or employees of an
16 outfitter.

17 ~~(4)(3)~~ Outfitters utilizing lands under the control of the United States government shall obtain the
18 proper permits required by the government office responsible for the area in which the outfitter intends to
19 operate and shall comply with all applicable rules and regulations established for these lands.

20 ~~(5) Outfitters may not willfully and substantially misrepresent their facilities, prices, equipment,~~
21 ~~services, or hunting or fishing opportunities.~~

22 ~~(6)(4)~~ Outfitters and their contractors, employees, agents, and representatives shall take every
23 reasonable measure to provide the outfitter's advertised services.

24 ~~(7) An outfitter may not hire or retain a guide who does not hold a current license as provided under~~
25 ~~this part."~~

26
27 **Section 171.** Section 37-47-302, MCA, is amended to read:

28 **"37-47-302. Outfitter's Outfitter and guide license required -- qualifications. (1) An individual may**

1 not practice as an outfitter or guide unless licensed under Title 37, chapter 1, and this chapter.

2 (2) An applicant for licensure as an outfitter's license or renewal of a license must meet the
3 following qualifications outfitter must:

4 (4)(a) be 18 years of age or older;

5 (b) be physically capable and mentally competent to perform the duties of an outfitter, and meet
6 have experience, and training, and testing requirements as prescribed by board rule; and

7 (2)(c) own, hold under written lease, or contract for or represent a business entity who owns, holds
8 under written lease, or contracts for have the equipment and facilities that are necessary to provide the services
9 advertised, contracted for, or agreed upon between the outfitter and the outfitter's clients;

10 (d) have an operations plan as provided by board rule;

11 (e) have a current wildlife conservation license;

12 (f) have successfully completed first aid training; and

13 (g) have passed a board-approved examination that:

14 (i) must include state and federal fish and game laws and regulations and state and federal laws
15 applicable to outfitting and guiding; and

16 (ii) may include boat and water safety as applicable to the services to be provided.

17 (3) All The equipment and facilities in subsection (2)(c) are subject to inspection at all reasonable
18 times and places by the board department.

19 (4) An applicant for a guide's license must:

20 (a) be at least 18 years of age;

21 (b) be endorsed and recommended by an outfitter with a valid license, unless otherwise qualified
22 under guide standards established by the board pursuant to 37-47-201(4);

23 (c) have a current wildlife conservation license; and

24 (d) have successfully completed first aid training.

25 (5) The requirements in subsections (2)(e), (2)(f), (4)(c), and (4)(d) are necessary for continued
26 licensure and are subject to audit under [section 12]."

27
28 **Section 172.** Section 37-47-304, MCA, is amended to read:

1 **"37-47-304. Application -- business entity.** (1) Each applicant for an outfitter's or guide's license
2 shall apply for a license on a form furnished by the department.
3 ~~(2) The application for an outfitter's license must include:~~
4 ~~(a) the applicant's full name, address, wildlife conservation license number, and telephone number;~~
5 ~~(b) the applicant's years of experience as an outfitter or guide; and~~
6 ~~(c) components of the outfitter's operations plan as required by board rule, which may include:~~
7 ~~(i) an affidavit by the outfitter to the board that the amount and kind of equipment that is owned,~~
8 ~~leased, or contracted for by the applicant is sufficient and satisfactory for the services advertised or~~
9 ~~contemplated to be performed by the applicant; and~~
10 ~~(ii) a description of any land, water body, or portion of a water body that will be utilized by the applicant~~
11 ~~while providing services. A description is not required for the use of private lands that allow unrestricted public~~
12 ~~access and are managed under cooperative agreements with adjacent public lands.~~
13 ~~(3) An application for an outfitter's license must be in the name of an individual person only. An~~
14 ~~application involving a business entity must be made by one individual person who qualifies under the~~
15 ~~provisions of this part. A license issued pursuant to this part must be in the name of that person individual. Any~~
16 ~~revocation or suspension of a license is binding upon the individual person and the business entity for the use~~
17 ~~and benefit of which the license was originally issued.~~
18 ~~(4) Application must be made to and filed with the board.~~
19 ~~(5) Only one application for an outfitter's license may be made in any license year. If an application is~~
20 ~~denied, subsequent applications by the same applicant for the license year involved are void, except as~~
21 ~~provided in 37-47-308."~~
22

23 **Section 173.** Section 37-47-325, MCA, is amended to read:

24 **"37-47-325. Outfitter's assistants -- exemption from licensing.** (1) An outfitter may hire or retain an
25 outfitter's assistant.
26 (2) An outfitter's assistant is not required to obtain a license under this chapter.
27 (3) The outfitter's assistant must carry proof of employment as required by the board by rule.
28 (4) (a) An outfitter who employs or retains an outfitter's assistant is responsible for ensuring that

1 the outfitter's assistant:

2 (i) safeguards the public health, safety, and welfare while providing services; and

3 (ii) is qualified and competent to perform the tasks of a guide.

4 (b) The board ~~shall hold~~ may pursue disciplinary action against an outfitter who employs or retains an
5 outfitter's assistant ~~responsible under the provisions of 37-1-316, 37-47-341, and 37-47-402~~ for any acts or
6 omissions by the outfitter's assistant in the ordinary course and scope of duties assigned by the outfitter.

7 (5) The outfitter's assistant may not be employed or retained by an outfitter for more than 15 days
8 in a calendar year unless the outfitter's assistant is actively obtaining a guide's license pursuant to this part and
9 the ~~board~~ department determines that the license application is routine for purposes of 37-1-104 [section 7].

10 (6) An outfitter may use more than one outfitter's assistant in a calendar year.

11 (7) An outfitter's assistant may be employed or retained by an outfitter on more than one occasion
12 in a calendar year if:

13 (a) the outfitter's assistant is not employed or retained for more than 15 days as an outfitter's
14 assistant in that calendar year; or

15 (b) the outfitter's assistant is actively obtaining a guide's license and the ~~board~~ department
16 determines that the license application is routine for purposes of 37-1-104 [section 7]."

17

18 **Section 174.** Section 37-47-345, MCA, is amended to read:

19 **"37-47-345. Enforcement.** Investigations and issuance of ~~board~~ complaints for violations of this
20 chapter or rules adopted pursuant to this chapter may be made through department investigation or at the
21 ~~board's~~ department's request by any peace officer; warden of the department of fish, wildlife, and parks; or
22 federal agency enforcement personnel."

23

24 **Section 175.** Section 37-47-404, MCA, is amended to read:

25 **"37-47-404. Responsibility for violations of law.** (1) A person accompanying a hunting or fishing
26 party as an outfitter, guide, or outfitter's assistant is equally responsible with any person or party engaging the
27 person as an outfitter for any violation of fish and game laws unless the violation is reported to a peace officer
28 by the outfitter, guide, or outfitter's assistant and the outfitter, guide, or outfitter's assistant was not an active

participant. An outfitter, guide, or outfitter's assistant who willfully fails or refuses to report any violation of fish and game laws is liable for the penalties provided in this chapter. If a guide or outfitter's assistant violates the laws or applicable regulations relating to fish and game, outfitting, or guiding with actual knowledge of an outfitter engaging the guide or outfitter's assistant, the outfitter is legally responsible for the violation for all purposes under the laws or regulations if the outfitter fails to report the violation to the proper authority.

(2) An outfitter, guide, or outfitter's assistant shall report any violation or suspected violation of fish and game laws that the outfitter, guide, or outfitter's assistant knows has been committed by the employees, contractors, agents, representatives, clients, or participants in the outfitting or guiding activity. The violation or suspected violation must be reported to a peace officer at the earliest possible opportunity.

(3) A person may not hire or retain an outfitter unless the outfitter is currently licensed in accordance with the laws of the state of Montana. A person may not use the services of a guide, and a guide may not offer services unless the services are obtained through an endorsing outfitter.

(4) An outfitter may not place a hired or retained outfitter's assistant in a position of providing services to participants until the outfitter has documentation as specified by board rule under 37-47-201(4)(e)." ~~(4)(e).~~"

Section 176. Section 37-49-102, MCA, is amended to read:

"37-49-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Active candidate status" means a person who has met the requirements established by the American board of genetic counseling to take the board's certification examination in general genetics and genetic counseling and has been granted the designation by the board.

~~(2) "Department" means the department of labor and industry provided for in 2-15-1701.~~

~~(3)(2)~~ "Genetic counseling" means the provision of the services specified under 37-49-103 by an individual who qualifies for a license under this chapter.

~~(4)(3)~~ "Genetic counselor" means an individual licensed in accordance with ~~37-49-202~~ section 34 to engage in the ~~competent~~ practice of genetic counseling."

Section 177. Section 37-50-101, MCA, is amended to read:

"37-50-101. Definitions. Unless the context requires otherwise, in this chapter, the following

1 definitions apply:

2 (1) "Affiliated entity" means an entity owned, leased, or controlled by a firm through common
3 employment or any other service arrangement, including but not limited to financial or investment services,
4 insurance, real estate, and employee benefits services.

5 (2) "Agreed-upon procedures engagement" means an engagement performed in accordance with
6 applicable attestation standards and in which a firm or person is engaged to issue a written finding that:

7 (a) is based on specific procedures that the specified parties agree are sufficient for their
8 purposes;

9 (b) is restricted to the specified parties; and

10 (c) does not provide an opinion or negative assurance.

11 (3) "Attest" means providing the following services:

12 (a) an audit or other engagement to be performed in accordance with the statements on auditing
13 standards;

14 (b) a review of a financial statement to be performed in accordance with the statements on
15 standards for accounting and review services;

16 (c) an examination of prospective financial information to be performed in accordance with the
17 statements on standards for attestation engagements;

18 (d) an engagement to be performed in accordance with the auditing standards of the public
19 company oversight board; and

20 (e) an examination, other than an examination as provided in subsection (3)(c), a review, or an
21 agreed-upon procedures engagement to be performed in accordance with the statements on standards for
22 attestation engagements.

23 (4) "Board" means the board of public accountants provided for in 2-15-1756.

24 (5) "Compilation" means providing a service to be performed in accordance with statements on
25 standards for accounting and review services that presents, in the form of financial statements, information that
26 is the representation of owners without undertaking to express any assurance on the statements.

27 ~~(6) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part~~

28 ~~47.~~

(7)(6) "Firm" means a sole practice, sole proprietorship, partnership, professional corporation, or limited liability company engaged in the practice of public accounting.

(8)(7) "Peer review" means a board-approved study, appraisal, or review of one or more aspects of the attest or compilation work of a licensee of a registered firm in the practice of public accounting, by a person or persons another licensee or licensees who hold licenses in this or another jurisdiction and who are not affiliated with the person individual or firm being reviewed.

(9)(8) "Practice of public accounting" means performing or offering to perform, by a person licensed as a certified public accountant or holding a practice privilege under 37-50-325, for a client or potential client one or more types of services involving the use of accounting or auditing skills, including:

- (a) the issuance of reports or financial statements on which the public may rely;
- (b) one or more types of management advisory or consulting services as determined by the board;
- (c) the preparation of tax returns; or
- (d) furnishing advice on tax matters.

(10) "~~Principal place of business~~" means the office location designated by the licensee for the purposes of substantial equivalency.

(11) "~~Satellite office~~" means a secondary location of a registered public accounting firm.

(12) "~~Substantial equivalency~~" or "~~substantially equivalent~~" means a determination by the board or its designee that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to or exceed the education, examination, and experience requirements contained in the Uniform Accountancy Act or subsequent acts or that an individual certified public accountant's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in the Uniform Accountancy Act. In ascertaining substantial equivalency, the board shall take into account the qualifications without regard to the sequence in which the experience, education, and examination requirements were attained."

Section 178. Section 37-50-102, MCA, is amended to read:

"37-50-102. Exemptions. This chapter does not prohibit any person who is not a certified public accountant from serving as an employee of or an assistant to a certified public accountant holding a license to

1 practice under ~~37-50-302~~ [section 35] or a firm composed of certified public accountants registered under this
2 chapter. However, the employee or assistant may not issue any accounting or financial statement in the
3 employee's or assistant's name."

4
5 **Section 179.** Section 37-50-301, MCA, is amended to read:

6 **"37-50-301. Illegal use of title.** (1) It is not a violation of this chapter for a firm that is not registered
7 under 37-50-335 and that does not have an office in this state to provide its professional services and to
8 practice public accounting in this state and use the title "CPA" or "CPA firm" so long as it complies with the
9 exemption requirements of ~~37-50-335(4)~~ 37-50-335(2).

10 (2) A person may not assume or use the title or designation "certified public accountant" or the
11 abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating
12 that the person is a certified public accountant unless the person holds a current license as a certified public
13 accountant under this chapter or qualifies for the practice privilege under 37-50-325.

14 (3) A firm may not assume or use the title or designation "certified public accountant" or the
15 abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating
16 that the firm is composed of certified public accountants pursuant to the requirements of 37-50-330 unless it is
17 registered as required under 37-50-335 or meets the conditions to be exempt from registration as set forth in
18 ~~37-50-335(4)~~ 37-50-335(2).

19 (4) A person or firm may not assume or use the title or designation "certified accountant",
20 "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title
21 or designation likely to be confused with "certified public accountant", "licensed certified public accountant", or
22 any abbreviations likely to be confused with "CPA". However, a foreign accountant may use the title under
23 which the foreign accountant is generally known in the foreign country, followed by the name of the country
24 from which the foreign accountant's certificate, license, or degree was received, and a person who is licensed
25 as an enrolled agent by the internal revenue service may use the title "enrolled agent" or the abbreviation "EA".

26 (5) A person may not sign or affix a firm name with any wording indicating that it is a firm
27 composed of persons offering attest services and compilations unless the firm conforms to the requirements of
28 37-50-330 and 37-50-335.

(6) A person may not assume or use the title or designation "certified public accountant" in conjunction with names indicating or implying that there is a firm or in conjunction with the designation "and company" or "and co." or a similar designation if there is in fact no bona fide firm that has been formed subject to the provisions of 37-50-330 and 37-50-335. However, it is lawful for a sole proprietor to continue the use of a deceased's name in connection with the sole proprietor's business for a reasonable period of time after the death of a former partner or co-owner."

Section 180. Section 37-50-318, MCA, is amended to read:

"37-50-318. Existing license or certificate transition. ~~(1) A person~~ An individual who holds a licensed public accountant license and permit to practice on July 1, 2015, issued under the laws of this state may renew the ~~person's~~ existing license and is not required to obtain a certified public accountant license under this chapter. ~~The person must~~ individual shall otherwise be subject to all provisions of this chapter.

~~(2) A person who holds a certified public accountant certificate or licensed public accountant license on July 1, 2015, issued under the laws of this state but who has not met the qualifications for a permit to practice must meet the accounting experience requirement set forth in this chapter and in board rule by December 31, 2017, in order to be licensed. Failure to meet the accounting experience requirement by the deadline must result in termination of the certified public accountant certificate or licensed public accountant license."~~

Section 181. Section 37-50-325, MCA, is amended to read:

"37-50-325. Practice privilege for nonresident certified public accountant -- rules. (1) (a) A person whose principal place of business is not in this state and who holds a valid license as a certified public accountant from any state that the national association of state boards of accountancy's national qualification appraisal service or a successor organization has verified to be in substantial equivalence with the certified public accountant licensure requirements of the Uniform Accountancy Act or a subsequent act of the American institute of certified public accountants/national association of state boards of accountancy is presumed to have qualifications substantially equivalent to this state's requirements and has all the privileges of persons holding a license of this state without the need to obtain a license under ~~37-50-302~~ [section 35].

(b) A person who offers or renders professional services under this section, whether in person, by mail, by telephone, or by electronic means, is granted practice privileges in this state and no notice, fee, or other submission is required. The person is subject to the requirements of subsections (3) and (4) and this subsection (1).

(2) (a) A person whose principal place of business is not in this state and who holds a valid license as a certified public accountant from any state that the national association of state boards of accountancy's national qualification appraisal service or a successor organization has not verified to be in substantial equivalence with the certified public accountant licensure requirements of the Uniform Accountancy Act or a subsequent act of the American institute of certified public accountants/national association of state boards of accountancy is presumed to have qualifications substantially equivalent to this state's requirements and has all the privileges of persons holding a license of this state without the need to obtain a license under ~~37-50-302~~ [section 35] if the person obtains verification from the national association of state boards of accountancy's national qualification appraisal service that the person's CPA qualifications are substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act of the American institute of certified public accountants/national association of state boards of accountancy.

(b) A person who has passed the uniform certified public accountant examination and holds a valid license issued by any other state prior to January 1, 2012, is exempt from the education requirements in the Uniform Accountancy Act or a subsequent act for purposes of this subsection (2).

(c) A person who offers or renders professional services under this subsection (2), whether in person, by mail, by telephone, or by electronic means, is granted practice privileges in this state and no notice, fee, or other submission is required unless the person is required to register pursuant to 37-50-335. The person is subject to the requirements of subsections (3) and (4) and this subsection (2).

(3) A licensee of another state exercising the privilege under this section and the firm that employs that person, as a condition of the grant of this privilege:

(a) are subject to the personal and subject matter jurisdiction and disciplinary authority of the board;

(b) shall comply with this chapter and the board's rules;

(c) shall cease offering or rendering professional services in this state individually or on behalf of a

1 firm if the license from the state of the person's principal place of business is no longer valid; and

2 (d) shall accept the appointment of the state board that issued the license as the agent upon
3 whom process may be served in any action or proceeding by the board of public accountants against the
4 licensee.

5 (4) A person who has been granted practice privileges under this section and who, for any client
6 with its home office in this state, performs any attest services or compilations may do so only through a firm in
7 compliance with 37-50-335."

8
9 **Section 182.** Section 37-50-330, MCA, is amended to read:

10 **"37-50-330. Compliance with ownership requirements -- firm registration.** (1) A firm composed of
11 certified public accountants that is engaged in the practice of public accounting may include ~~persons~~ individuals
12 who are not licensed as certified public accountants if:

13 (a) the firm designates an accountant who is licensed in this state or, in the case of a firm that
14 practices under the practice privilege pursuant to 37-50-335, a licensee of another state who meets the
15 requirements set out in 37-50-325(1) or (2) to be responsible for the proper registration of the firm;

16 (b) a simple majority of ownership in the firm, in terms of equity and voting rights, is held by
17 accountants who are licensed in this state or in another substantially equivalent jurisdiction or meet the
18 requirements of 37-50-325; and

19 (c) all ~~persons~~ individuals with an ownership interest in the firm are of good moral character and
20 ~~individuals actively participating~~ participate in the business of the firm or its affiliated entities.

21 (2) An accountant licensed in this state or ~~a person~~ an individual qualifying for practice privileges
22 under 37-50-325 who holds an ownership interest in a firm, who is responsible for supervising attest or
23 compilation services, and who signs or authorizes someone to sign the accountant's report on the financial
24 statements on behalf of the firm is responsible for all attest or compilation services.

25 (3) ~~A person~~ An individual who is licensed in this state ~~and a person qualifying or who qualifies~~ for
26 practice privileges under 37-50-325 who signs or authorizes someone to sign the accountant's report on the
27 financial statements on behalf of the firm must meet the competency requirements ~~of 37-50-203(2)(a)~~
28 established by board rule.

(4) (a) A firm that is no longer in compliance with the ownership requirements of subsection (1)(b) shall give notice to the board within 90 days of the noncompliance.

(b) The board shall grant the firm a reasonable amount of time to reestablish compliance with the ownership requirements of subsection (1)(b). The time granted by the board to a firm to reestablish compliance may not be less than 90 days from the date the board receives the firm's notice of noncompliance.

(c) The failure of a firm to reestablish compliance with the ownership requirements of subsection (1)(b) is grounds for the board to suspend or revoke the firm's registration required by 37-50-335."

Section 183. Section 37-50-335, MCA, is amended to read:

"37-50-335. Registration of firms -- exemptions. (1) All firms that ~~establish or maintain~~ have one or more offices in this state for the practice of public accounting shall register annually with the department, including a list of the location of each office.

~~(2) A fee may be charged for the annual registration of firms.~~

~~(3) Each firm that establishes or maintains satellite offices in this state for the practice of public accounting shall provide a list of the location of each satellite office in this state at the time of annual registration.~~

~~(4)~~(2) A firm that does not have an office in this state may perform professional services and may use the title "CPA" or "CPA firm" in this state without registering and may under subsection (1) if the firm:

(a) performs the services through an individual with practice privileges under 37-50-325; and

(b) has practice privileges to perform the services in the home state where the firm has its principal place of business.

~~(a)(3)~~ offer or render A firm described in subsection (2) that offers or renders attest services and compilations in this state if the firm:

~~(i) complies~~ shall comply with the home state's peer review and firm ownership qualifications;

~~(ii) performs the services through an individual with practice privileges under 37-50-325; and~~

~~(iii) has practice privileges that include offering or rendering attest and compilation services in the state where the firm has its principal place of business;~~

~~(b) perform professional services other than attest services or compilations in this state if the firm:~~

(i) ~~performs the services through a person with practice privileges under 37-50-325; and~~

(ii) ~~has practice privileges to perform the services in the state where the firm has its principal place of business."~~

Section 184. Section 37-50-341, MCA, is amended to read:

"37-50-341. Initiation of proceedings -- hearings and rulemaking Reciprocal discipline for practice privilege. (1) The board may initiate proceedings under this chapter upon its own motion, upon a complaint made by the board of accountancy of another state, or upon the complaint of a person.

(2)(1) A person licensed in this state offering or rendering services or using a "CPA" title An individual practicing as a certified public accountant in another state under a Montana license is subject to disciplinary action in this state for an act unprofessional conduct committed in another state ~~where the licensee would be subject to discipline for the act committed in the other state, whether or not disciplinary action is taken in another state.~~

(3)(2) A person licensed in An individual practicing as a certified public accountant in this state under a license from another state offering or rendering services or using a "CPA" title in this state is subject to disciplinary action in this state for an act committed in this state for which a licensee in this state would be subject to discipline unprofessional conduct.

(4) ~~Hearings and rulemaking proceedings are governed by the Montana Administrative Procedure Act."~~

Section 185. Section 37-51-306, MCA, is amended to read:

"37-51-306. Transactions with nonresidents and with nonlicensed brokers, salespersons, or property managers -- consent to legal process Limited exemption for referral fees. (1) A licensed broker may not employ or compensate, directly or indirectly, a person for performing the acts regulated by this chapter who is not a licensed broker, a licensed salesperson, or a licensed property manager. However, a licensed Without regard to the limitations to receive a fee, commission, or other compensation for referral of a prospective buyer or seller of real estate contained in 37-51-102(4), a broker may pay a commission to a licensed broker of another state or jurisdiction if the nonresident broker has not conducted and does not

conduct in this state a service for which a fee, compensation, or commission is paid.

~~(2) A nonresident licensee shall file an irrevocable written consent that legal actions arising out of a commenced or completed transaction may be commenced against the nonresident licensee in a county of this state that may be appropriate and designated by Title 25, chapter 2, part 1. The consent must provide that service of summons in this action may be served on the department for and on behalf of the nonresident licensee, and this service is sufficient to give the court jurisdiction over the licensee conducting a transaction in a county. The consent must be acknowledged and, if made by a corporation, must be authenticated by its seal."~~

Section 186. Section 37-51-309, MCA, is amended to read:

"37-51-309. Broker -- salesperson -- for-sale-by-owner personal transactions of salesperson -- notice to department of change of association. (1) A salesperson may not be associated with, be under contract to, or perform services for more than one supervising broker, except on a temporary basis as provided in 37-51-302 by board rule.

~~(2) (a) If a licensed salesperson desires to change association or contractual relationship from one supervising broker to another, the salesperson shall notify the department promptly in writing and pay the required fee.~~

~~(b) The successor supervising broker shall notify the department in writing of acceptance of the salesperson.~~

~~(c) After the department receives written acceptance of the salesperson from the successor supervising broker, the department shall issue a new license to the salesperson and a new endorsement to the supervising broker. A salesperson may not directly or indirectly work for or with a supervising broker until the salesperson has been issued a license to work for or with that supervising broker.~~

~~(3) (a) If a licensed salesperson chooses to change association or contractual relationship from the salesperson's supervising broker, but the salesperson does not have another supervising broker who has accepted supervision of the salesperson, the salesperson shall notify the department promptly in writing, at which time the salesperson's license will automatically be put on inactive status.~~

~~(b) When the conditions in subsection (3)(a) apply, the department may not charge a fee for the change in status.~~

~~(c) The salesperson may not practice during a time when the salesperson has no supervising broker or when the salesperson's license is on inactive status.~~

~~(4) A supervising broker who wishes to terminate supervision of a salesperson shall notify the salesperson in advance or concurrently with notification to the board. Termination of supervision by the supervising broker is not effective under this subsection until the supervising broker has notified both the salesperson and the board.~~

~~(5) Only one license issued to a salesperson is in effect at one time.~~

~~(6)(2)~~ (a) The provisions of this chapter do not prohibit a salesperson from engaging in for-sale-by-owner personal transactions, and the provisions of this chapter do not require a supervising broker to exercise any supervision of or provide any training for to a salesperson with respect to for-sale-by-owner personal transactions of the salesperson.

(b) A supervising broker or real estate firm is not responsible or liable for the for-sale-by-owner personal transactions of a salesperson.

(c) Prior to entering into a for-sale-by-owner personal transaction, the salesperson shall disclose in writing to the other party that the transaction is a for-sale-by-owner personal transaction with respect to the salesperson and that the transaction does not involve the salesperson's supervising broker or real estate firm.

(d) A supervising broker or real estate firm is not responsible or liable for the failure of a salesperson to provide the disclosure required in subsection ~~(6)(c)~~ (2)(c).

~~(7)(3)~~ For the purposes of this section, "for-sale-by-owner personal transaction" includes the following:

- (a) the sale, purchase, or exchange of real property owned or acquired by the salesperson; and
- (b) the leasing or renting of real property owned by the salesperson."

Section 187. Section 37-51-321, MCA, is amended to read:

"37-51-321. Unprofessional conduct -- sanction of license. (1) The following practices, ~~in addition to the provisions of 37-1-316 and as provided in board rule, are considered~~ are defined as unprofessional conduct for an applicant or a ~~person licensed~~ licensee under this chapter:

- (a) intentionally misleading, untruthful, or inaccurate advertising, whether printed or by radio,

display, or other nature, if the advertising in any material particular or in any material way misrepresents any property, terms, values, policies, or services of the business conducted. A broker who operates under a franchise agreement engages in misleading, untruthful, or inaccurate advertising if in using the franchise name, the broker does not incorporate the broker's own name or the trade name, if any, by which the office is known in the franchise name or logotype. The board may not adopt advertising standards more stringent than those set forth in this subsection (1)(a).

~~(b) making any false promises of a character likely to influence, persuade, or induce;~~

~~(c) pursuing a continued and flagrant course of misrepresentation or making false promises through agents or salespersons or any medium of advertising or otherwise;~~

~~(d) use of the term "realtor" by a person not authorized to do so or using another trade name or insignia of membership in a real estate organization of which the licensee is not a member;~~

~~(e)~~(b) failing to account for or to remit money coming into the licensee's possession when the money belongs to others;

~~(f)~~(c) accepting, giving, or charging an undisclosed commission, rebate, or profit on expenditures made for a principal;

~~(g)~~(d) acting in a dual capacity of broker and undisclosed principal in a transaction, including failing to disclose in advertisements for real property the person's licensee's dual capacity as broker and principal;

~~(h)~~(e) guaranteeing, authorizing, or permitting a person to guarantee future profits that may result from the resale of real property;

~~(i)~~(f) offering real property for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on terms other than those authorized by the owner or the owner's authorized agent;

~~(j)~~(g) inducing a party to a contract of sale or lease to break the contract for the purpose of substituting a new contract with another principal;

~~(k)~~(h) accepting employment or compensation for appraising real property contingent on the reporting of a predetermined value or issuing an appraisal report on real property in which the broker or salesperson has an undisclosed interest;

~~(l)~~(i) as a broker or a salesperson, negotiating a sale, exchange, or lease of real property directly

1 with a seller or buyer if the broker or salesperson knows that the seller or buyer has a written, outstanding
2 listing agreement or buyer broker agreement in connection with the property granting an exclusive agency to
3 another broker;

4 ~~(m)(j)~~ soliciting, selling, or offering for sale real property by conducting lotteries for the purpose of
5 influencing a purchaser or prospective purchaser of real property;

6 ~~(n)(k)~~ as a salesperson, representing or attempting to represent a real estate broker other than the
7 employer without the express knowledge or consent of the employer;

8 ~~(o)(l)~~ failing voluntarily to furnish a copy of a written instrument to a party executing it at the time of
9 its execution;

10 ~~(p)(m)~~ unless exempted, paying a commission in connection with a real estate sale or transaction to a
11 person who is not licensed as a real estate broker or real estate salesperson under this chapter;

12 ~~(q)~~ intentionally violating a rule adopted by the board in the interests of the public and in conformity
13 with this chapter;

14 ~~(r)(n)~~ failing, if a salesperson, to place, as soon after receipt as is practicably possible, in the custody
15 of the salesperson's supervising broker, deposit money or other money entrusted to the salesperson in that
16 capacity by a person, except if the money received by the salesperson is part of the salesperson's personal
17 transaction;

18 ~~(s)~~ demonstrating unworthiness or incompetency to act as a broker, a salesperson, or a property
19 manager;

20 ~~(t)~~ conviction of a felony;

21 ~~(u)(o)~~ failing to meet the requirements of part 6 of this chapter or the rules adopted by the board
22 governing property management while managing properties for owners;

23 ~~(v)(p)~~ failing to disclose to all customers and clients, including owners and tenants, the licensee's
24 contractual relationship while managing properties for owners; or

25 ~~(w)(q)~~ failing to maintain continuous professional liability insurance coverage that meets the
26 requirements of 37-51-325.

27 (2) (a) It is unlawful for a broker or salesperson to openly advertise property belonging to others,
28 whether by means of printed material, radio, television, or display or by other means, unless the broker or

1 salesperson has a signed listing agreement from the owner of the property. The listing agreement must be valid
2 as of the date of advertisement.

3 (b) The provisions of subsection (2)(a) do not prevent a broker or salesperson from including
4 information on properties listed by other brokers or salespersons who will cooperate with the selling broker or
5 salesperson in materials dispensed to prospective customers.

6 (3) The license of a broker, salesperson, or property manager who violates this section may be
7 sanctioned as provided in 37-1-312."

8
9 **Section 188.** Section 37-51-324, MCA, is amended to read:

10 **"37-51-324. Penalty for failure to comply with trust account requirements.** (1) ~~An employee of~~
11 ~~the~~ The department may audit and issue a citation to a broker or property manager responsible for
12 ~~maintenance of a trust account~~ for failure to comply with trust account maintenance requirements as provided
13 by board rule under 37-1-319 (4).

14 (2) ~~The department shall serve the citation must include: as provided by [section 3].~~

15 ~~(a) the time and date on which the citation is issued;~~

16 ~~(b) the name, title, mailing address, and signature of the person issuing the citation;~~

17 ~~(c) reference to the statute or rule violated;~~

18 ~~(d) the name, title, and mailing address of the person to whom the citation is being sent, along with~~
19 ~~information explaining the procedure for the person receiving the citation to follow to pay the fine or dispute the~~
20 ~~violation; and~~

21 ~~(e) the amount of the applicable fine.~~

22 (3) The ~~applicable civil~~ fine for failure to comply with trust account maintenance requirements is
23 ~~\$50~~ \$1,000 for each cited violation.

24 (4) ~~The person who issues the citation is authorized to collect the fine and~~ department must
25 ~~deposit the proceeds fines collected in the board's~~ state special revenue account ~~to the credit of the board.~~

26 (5) ~~The person who is issued a citation may~~ licensee must, within 21 days of the date of the
27 citation, pay the fine or file a written dispute of the violation with the board ~~within 5 business days of the date of~~
28 ~~issuance.~~

(6) ~~A person who refuses to sign and accept a citation but who does not file a written dispute of the violation is demonstrating unprofessional conduct~~ licensee who fails to pay the fine or file a written dispute in the time provided is subject to administrative suspension of the license as provided by 37-1-321."

Section 189. Section 37-53-201, MCA, is amended to read:

"37-53-201. Registration of timeshare offering required. A timeshare offering may not be advertised, offered, or sold in this state unless it is registered as provided in Title 37, chapter 1, and this chapter."

Section 190. Section 37-53-301, MCA, is amended to read:

"37-53-301. Licensure of timeshare salespersons -- licensee duties. (1) ~~A person~~ An individual offering timeshare intervals in a project located in Montana must be licensed as a timeshare salesperson and affiliated with at least one registered timeshare project unless the offering is exempt under 37-53-205.

~~(2) Licensure may be obtained upon:~~

~~(a) completion of an application;~~

~~(b) meeting the qualifications listed in subsection (3);~~

~~(c) demonstration to the board that the applicant is an individual of good repute and competent to transact the business of a timeshare salesperson in a manner that safeguards the interests of the public;~~

~~(d) payment of fees set by the board by rule; and~~

~~(e) successful completion of a course of education related to the timeshare industry that has been approved by the board.~~

~~(3)~~(2) An applicant for a timeshare salesperson license must:

(a) be at least 18 years of age; ~~and~~

(b) have graduated from an accredited a high school or completed equivalent education as determined by the board. equivalent diploma; and

(c) have successfully completed education related to the timeshare industry as prescribed by board rule.

~~(4) The board shall issue a certificate of completion to an applicant who successfully completes the~~

1 ~~course of education provided for in subsection (2)(e) and may issue a license to an applicant meeting the~~
2 ~~qualifications and licensure provisions.~~

3 ~~(5) A licensed timeshare salesperson shall notify the department of a change of affiliation within 10~~
4 ~~days of the change, designate the new license affiliation, and pay all required fees.~~

5 ~~(6) If a timeshare salesperson is no longer affiliated with a timeshare project, the timeshare~~
6 ~~salesperson shall notify the board that the license is inactive and pay the fees required by rule. A timeshare~~
7 ~~salesperson may reactivate an inactive license by filling out an application, listing a new affiliation, and paying~~
8 ~~all required fees."~~

9
10 **Section 191.** Section 37-54-102, MCA, is amended to read:

11 **"37-54-102. Definitions.** Terms commonly used in appraisal practice and as used in this chapter
12 must be defined according to the uniform standards of professional appraisal practice, as issued by the
13 appraisal foundation. As used in this chapter, unless the context requires otherwise, the following definitions
14 apply:

15 (1) "Appraisal" means the practice of developing an opinion of the value of real property in
16 conformance with the uniform standards of professional appraisal practice as developed by the appraisal
17 foundation.

18 (2) "Appraisal foundation" means the appraisal foundation incorporated as a not-for-profit
19 corporation on November 30, 1987, pursuant to Title XI of the Financial Institutions Reform, Recovery, and
20 Enforcement Act of 1989, 12 U.S.C. 3310, et seq. The purposes of the appraisal foundation are to:

21 (a) establish and improve uniform appraisal standards by defining, issuing, and promoting those
22 standards;

23 (b) establish appropriate criteria for the licensure and certification of qualified appraisers by
24 defining, issuing, and promoting qualification criteria and disseminate the qualification criteria to states and
25 other governmental entities; and

26 (c) develop or assist in the development of appropriate examinations for qualified appraisers.

27 (3) "Appraisal management company" means, in connection with valuation of properties
28 collateralizing mortgage loans or mortgages incorporated into a securitization, an external third party,

1 authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or
2 by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of
3 more than 15 certified or licensed appraisers in this state or 25 or more nationally within a given year.

4 (4) "Appraisal management services" means the direct or indirect performance of any of the
5 following functions on behalf of a lender, financial institution, client, or other person in conjunction with a
6 consumer credit transaction that is secured by a consumer's principal dwelling:

7 (a) administering an appraiser panel;

8 (b) recruiting, retaining, or selecting appraisers to be part of an appraisal panel;

9 (c) qualifying and verifying licensing or certification, negotiating fees, and verifying service level
10 expectations with appraisers who are part of an appraiser panel;

11 (d) contracting with appraisers from the appraiser panel to perform appraisal assignments;

12 (e) receiving an order for an appraisal assignment from one person and delivering the order for the
13 appraisal assignment to an appraiser who is part of an appraiser panel for completion;

14 (f) managing the process of having an appraisal assignment performed, including performing
15 administrative duties such as receiving appraisal assignment orders and reports, submitting completed
16 appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services
17 provided, and reimbursing appraisers for services performed;

18 (g) tracking and determining the status of orders for appraisal assignments;

19 (h) conducting quality control examinations of a completed appraisal assignment prior to the
20 delivery of the appraisal report to a client who ordered the appraisal assignment; and

21 (i) providing a completed appraisal report performed by an appraiser to one or more clients.

22 (5) (a) "Appraisal review" means the act or process of developing and communicating an opinion
23 about the quality of another appraiser's work that was performed as part of an appraisal assignment.

24 (b) The term does not include a quality control examination.

25 (6) "Appraiser" means an individual who holds a license or certification to complete an appraisal
26 assignment in the state where the real property that is the subject of the appraisal assignment is located.

27 (7) "Appraiser panel" means a network of licensed or certified appraisers who are independent
28 contractors with respect to an appraisal management company and who have:

(a) responded to an invitation, request, or solicitation from an appraisal management company to:
(i) perform an appraisal assignment for a client that has ordered an appraisal assignment through the appraisal management company; or

(ii) perform appraisal assignments for the appraisal management company directly as requested and assigned by the appraisal management company; and

(b) been selected and approved by an appraisal management company to perform appraisal assignments for any client of the company that has ordered an appraisal assignment through the company or to perform appraisal assignments for the appraisal management company directly on a periodic basis as assigned by the appraisal management company.

(8) "Board" means the board of real estate appraisers provided for in 2-15-1758.

(9) "Certified real estate appraiser" means ~~a person~~ an individual who develops and communicates real estate appraisals and who has a valid real estate appraisal certificate issued under ~~37-54-305~~ [section 38].

(10) "Controlling person" means:

(a) an owner, officer, or director of a corporation, partnership, or other business entity that offers appraisal management services in this state;

(b) an individual employed, appointed, or authorized by an appraisal management company to enter into a contractual relationship with other persons for the performance of appraisal management services and to enter into agreements with appraisers for the performance of appraisal assignments; or

(c) an individual who possesses directly or indirectly the power to direct or cause the direction of the management or policies of an appraisal management company.

~~(11) "Department" means the department of labor and industry provided for in 2-15-1701.~~

~~(12)~~(11) "Licensed real estate appraisal trainee" means ~~a person~~ an individual authorized only to assist a certified real estate appraiser in the performance of an appraisal assignment.

~~(13)~~(12) "Licensed real estate appraiser" means ~~a person~~ an individual who holds a current valid real estate appraiser license issued under ~~37-54-204~~ this chapter.

~~(14) "Person" means an individual, firm, partnership, association, corporation, or other business entity.~~

~~(15)~~(13) "Quality control examination" means an examination of an appraisal report for completeness, including grammatical, mathematical, and typographical errors.

1 ~~(16)~~(14) "Real estate appraiser mentor" means a certified real estate appraiser who meets the
2 qualifications set by the board and is approved by the board to supervise licensed real estate appraisal
3 trainees."

4
5 **Section 192.** Section 37-54-105, MCA, is amended to read:

6 **"37-54-105. Powers and duties Duty of board -- registry fees.** The board shall:

- 7 ~~(1) adopt rules to implement and administer the provisions of this chapter;~~
8 ~~(2) establish and collect fees commensurate with the costs of processing:~~
9 ~~(a) an application for licensure or renewal of licensure;~~
10 ~~(b) certification or renewal of a certificate; and~~
11 ~~(c) registration or renewal of registration of appraisal management companies;~~
12 ~~(3) establish minimum requirements for education, experience, and examination for licensure and~~
13 ~~certification as set out by the appraisal qualification board of the appraisal foundation;~~
14 ~~(4) prescribe the examinations for licensure or certification and determine the acceptable level of~~
15 ~~performance on examinations;~~
16 ~~(5) receive and review applications for licensure, certification, or appraisal management company~~
17 ~~registration and issue or, as appropriate, renew licenses, certificates, or appraisal management company~~
18 ~~registrations;~~
19 ~~(6) review periodically the standards for development and communication of appraisals and adopt~~
20 ~~rules explaining and interpreting the standards;~~
21 ~~(7) retain all applications and other records submitted to the board;~~
22 ~~(8) adopt by rule standards of professional appraisal practice in this state;~~
23 ~~(9) (a) require an appraisal management company to submit reports, information, and documents to~~
24 ~~the board; and~~
25 ~~(b) examine the books and records of an appraisal management company operating in the state;~~
26 ~~(10) reprimand, suspend, revoke, or refuse to renew the license, certificate, or registration of a person~~
27 ~~or entity who has violated the standards established for licensed and certified real estate appraisers or~~
28 ~~registered appraisal management companies;~~

~~(11) regulate and establish minimum requirements and qualifications for real estate appraiser mentors;~~

~~(12) collect and transmit annual registry fees from registered appraisal management companies and federally regulated appraisal management companies in the amount determined by the appraisal subcommittee of the federal financial institutions examination council; and~~

~~(13) perform other duties necessary to implement this chapter."~~

Section 193. Section 37-54-113, MCA, is amended to read:

"37-54-113. (Temporary) Registry fees -- statutory appropriation. Registry fees collected under 37-54-105~~(12)~~ are separate from registration fees provided for elsewhere in this part. Registry fees are statutorily appropriated, as provided in 17-7-502, to the department to transmit to the appraisal subcommittee of the federal financial institutions examination council. (Terminates June 30, 2023--sec. 12, Ch. 55, L. 2017.)"

Section 194. Section 37-54-301, MCA, is amended to read:

"37-54-301. Certification -- use of term -- standards of practice. ~~(1) A person may not represent to the public that the person is a certified real estate appraiser unless the person is certified under this chapter.~~

~~(2)(1)~~ Only a certified real estate appraiser may prepare and sign a certified appraisal report relating to real estate or real property in this state. If an appraisal report is prepared, signed, and certified by a certified real estate appraiser, a ~~person licensed under this chapter~~ licensee who assisted in the preparation of the appraisal may cosign the appraisal report.

~~(3)(2)~~ The term "certified real estate appraiser" may not be used to describe a firm, partnership, corporation, group, or anyone other than an individual certificate holder. However, a certified real estate appraiser may develop and communicate an appraisal on behalf of a firm, partnership, corporation, or group.

~~(4)(3)~~ Whenever an appraisal or appraiser report is identified by the certified real estate appraiser as "certified", the appraiser shall indicate in writing the class of certification the appraiser holds."

Section 195. Section 37-54-403, MCA, is amended to read:

"37-54-403. Standards of professional appraisal practice. (1) A licensed or certified real estate appraiser shall comply with generally accepted standards of professional appraisal practice, evidenced by the

uniform standards of professional appraisal practice promulgated by the appraisal standards board of the appraisal foundation. A licensed or certified real estate appraiser shall comply with these standards regardless of whether the appraisal is a federally related transaction or is capable of being performed by an unlicensed person under 37-54-201(3) [section 38(4)].

(2) If the appraisal standards board of the appraisal foundation modifies the standards or issues supplemental standards that it considers appropriate for all classes of real estate appraisers, the modification is automatically adopted as observable in this state unless the board determines that a public hearing is necessary to determine whether the modified or supplemented standards must be observed in this state. If following the hearing the board determines that the modified or supplemented standards are appropriate, the board shall adopt the standards by rule."

Section 196. Section 37-54-501, MCA, is amended to read:

"37-54-501. Appraisal management company registration. (1) (a) It is unlawful for a person to directly or indirectly engage in or attempt to engage in business as an appraisal management company or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration issued by the board.

(b) An applicant for registration as an appraisal management company in this state shall submit an application to the board on forms prescribed by the department.

(c) If a registration process is not in effect on October 1, 2011, an appraisal management company already conducting business in this state may continue to conduct business in accordance with this chapter until 120 days after a registration process becomes available. Upon expiration of the 120-day period, the appraisal management company must be registered as required by this chapter in order to continue to provide or offer to provide appraisal management services in this state.

(2) An application for the registration required by subsection (1) must include the following information:

(a) the name of the person seeking registration and the fictitious name or names, if any, under which the person does business in any state;

(b) the business address of the person seeking registration;

- (c) the phone contact information of the person seeking registration;
- (d) if the appraisal management company is not a corporation domiciled in this state, the name and contact information for the company's designated contact for service of process in this state;
- (e) the name, address, and contact information for one controlling person within the appraisal management company;
- (f) a certification that the person has a system and process in place to verify that an individual holds a license in good standing in this state pursuant to 37-54-202 [section 38] if a license or certification is required to perform appraisal assignments;
- (g) a certification that the person requires appraisers completing appraisal assignments at its request to comply with the uniform standards of professional appraisal practice, including the requirements for geographic and product competence;
- (h) a certification that the person has a system in place to verify that only licensed or certified appraisers are used for federally related transactions;
- (i) a certification that the person has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under section 129E of the Truth in Lending Act of 1968, 15 U.S.C. 1601, et seq., including the requirement that the fee appraisers be compensated at a customary and reasonable rate when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer;
- (j) a certification that the person maintains a detailed record of each service request that it receives and the appraiser that performs the appraisal service for the appraisal management company;
- (k) an irrevocable uniform consent to service of process; and
- (l) any other information required by the board that is reasonably necessary to implement this chapter.
- (3) An application for renewal of a registration must include information substantially similar to that required for the initial registration in subsection (2), as determined by the board.
- (4) Renewals of registered appraisal management companies must be in accordance with 37-1-141. The department shall provide notice to an appraisal management company prior to the renewal date."

1

2 **Section 197.** Section 37-54-502, MCA, is amended to read:

3 **"37-54-502. Registration exemptions.** (1) The provisions of this chapter do not apply to a person
4 who exclusively employs appraisers on an employer-employee basis for the performance of an appraisal
5 assignment.

6 (2) An ~~A~~ federally regulated appraisal management company ~~that is a subsidiary owned and~~
7 ~~controlled by a financial institution that is regulated by a federal financial institution regulatory agency is not~~
8 ~~required to register with the board but shall comply with all provisions of this chapter, as long as the provisions~~
9 ~~of this chapter do not conflict with federal law related to the operation of an appraisal management company in~~
10 ~~this state."~~

11

12 **Section 198.** Section 37-54-503, MCA, is amended to read:

13 **"37-54-503. Owner requirements.** (1) An appraisal management company ~~applying for registration in~~
14 ~~this state may not be owned by:~~ may not be registered by this state or included on the appraisal management
15 company national registry if the appraisal management company in whole or in part, indirectly or directly, is
16 owned by

17 ~~(a) a person~~ an individual or a business entity that is owned by an individual or individuals who has
18 have ~~had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in~~
19 ~~lieu of a pending revocation in any state~~ for substantive cause. ~~unless the license or certificate was~~
20 ~~subsequently granted or reinstated; or~~

21 ~~(b) another entity that is owned by a person who has had a license or certificate to act as an appraiser~~
22 ~~refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state unless the~~
23 ~~license or certificate was subsequently granted or reinstated.~~

24 (2) Subsection (1) does not bar an appraisal management company from state registration if the
25 license or certificate of the appraiser with an ownership interest was not revoked for substantive cause and has
26 been subsequently granted or reinstated.

27 ~~(2)(3) Each person who owns an~~ Any individual who owns more than 10 percent of an appraisal
28 management company ~~in this state:~~

(a) must be of good moral character, as determined by the board; and

(b) shall submit to a background examination as determined by the board.

~~(3) Each appraisal management company applying for registration in this state shall certify to the board that the appraisal management company has reviewed each person or entity that directly or indirectly owns the appraisal management company, in whole or in part, and that no person or entity that directly or indirectly owns the appraisal management company, in whole or in part, has had a license, a certificate, or registration to act as an appraiser or appraisal management company refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state."~~

Section 199. Section 37-60-105, MCA, is amended to read:

"37-60-105. Exemptions. (1) Except as provided in subsection (2), this chapter does not apply to:

(a) any one person employed singly and exclusively by any one employer in connection with the affairs of that employer only and when there exists an employer-employee relationship and the employee is unarmed, does not wear a uniform, and is guarding inside a structure that at the time is not open to the public;

(b) a person:

(i) employed singly and exclusively by a retail merchant;

(ii) performing at least some work for the retail merchant as a private security guard; and

(iii) who has received training as a private security guard from the employer or at the employer's direction;

(c) an officer or employee of the United States, of this state, or of a political subdivision of the United States or this state while the officer or employee is engaged in the performance of official duties;

(d) a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit;

(e) an attorney at law while performing duties as an attorney at law;

(f) a legal intern, paralegal, or legal assistant employed by one or more lawyers, law offices, governmental agencies, or other entities;

(g) a law student who is serving a legal internship;

(h) a collection agency or finance company licensed to do business under the laws of this state, or an employee of a collection agency or finance company licensed in this state while acting within the scope of employment, while making an investigation incidental to the business of the agency or company, including an investigation of the location of a debtor or the debtor's property when the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent;

(i) special agents employed by railroad companies, provided that the railroad company notifies the board that its agents are operating in the state;

(j) insurers and insurance producers and insurance brokers licensed by the state while performing duties in connection with insurance transacted by them;

(k) individuals engaged in the collection and examination of physical material for forensic purposes;

(l) an insurance adjuster, as defined in 37-60-101;

(m) an internal investigator or auditor while making an investigation incidental to the business of the agency or company by which the investigator or auditor is singularly and regularly employed;

(n) a person who evaluates and advises management on personnel and human resource issues in the workplace; or

(o) a certified public accountant with a license or permit to practice or a practice privilege under ~~37-50-314~~ [section 35] or 37-50-325 to the extent that the person is engaged in an investigation relating to the practice of accounting.

(2) (a) Except as provided in subsection (2)(b), persons listed as exempt in subsection (1) are not exempt for the purposes of acting as registered process servers.

(b) Subsection (2)(a) does not apply to attorneys or persons who make 10 or fewer services of process in a calendar year, as provided in 25-1-1101."

Section 200. Section 37-60-202, MCA, is amended to read:

"37-60-202. Rulemaking power. The board shall adopt and enforce rules:

(1) fixing the qualifications of resident managers, licensees, holders of identification cards, and process servers, in addition to those prescribed in Title 25, chapter 1, part 11, and in this chapter, ~~necessary to~~

1 promote and protect the public welfare;

2 (2) ~~establishing, in accordance with 37-1-134, application fees for original licenses and identification~~
3 ~~cards, and providing for refunding of any fees;~~

4 (3) ~~(a) requiring approval of the board prior to the establishment of branch offices of any licensee;~~
5 ~~and~~

6 (b) ~~establishing qualification requirements and license fees for branch offices identified in~~
7 ~~subsection (3)(a);~~

8 (4)(2) ~~for the certification licensure of private investigator, private security guard, security alarm~~
9 ~~installer, and alarm response runner training programs, including the certification of and firearms training~~
10 ~~programs;~~

11 (5)(3) ~~for the licensure of firearms instructors;~~

12 (6)(4) ~~for the approval of weapons; and~~

13 (7)(5) ~~requiring licensees, except process servers, to file an insurance policy with the board; and~~

14 (8) ~~providing for the issuance of probationary identification cards for private investigators and security~~
15 ~~alarm installers who do not meet the requirements for age, employment experience, or written examination."~~
16

17 **Section 201.** Section 37-60-302, MCA, is amended to read:

18 **"37-60-302. Resident manager required.** (1) ~~Any contract security company, electronic security~~
19 ~~company, or proprietary security organization that applies for a license under this chapter shall appoint for the~~
20 ~~duration of the license a resident manager who must have direct control and supervision of the business and~~
21 ~~employed licensees. Each resident manager shall satisfy the appropriate licensing requirements of this chapter.~~

22 (2) ~~A separate resident manager must be appointed for each branch office located in this state, and~~
23 ~~the business of the applicant or licensee must be conducted under the resident manager's direct supervision~~
24 ~~and control.~~

25 (3) ~~If a resident manager for any reason ceases to perform the duties of a resident manager on a~~
26 ~~regular basis, the licensee shall promptly notify the board of that fact."~~
27

28 **Section 202.** Section 37-60-409, MCA, is amended to read:

1 **"37-60-409. Installation of new security alarm systems by electrician.** An electrician who has
2 received a license from the department pursuant to 37-68-304 [section 44] may install new security alarm
3 systems under the direction of a licensed security alarm installer. Work performed by an electrician under this
4 section is subject to inspection and approval by a security alarm installer licensed under 37-60-303 [section
5 40]."

6
7 **Section 203.** Section 37-66-105, MCA, is amended to read:

8 **"37-66-105. Exemptions.** (1) The provisions of this chapter do not:

9 (1) prevent employees of those lawfully practicing as landscape architects from acting under the
10 instruction, control, or supervision of their employers;

11 (2) ~~The provisions of this chapter do not apply to any business conducted in this state by a~~
12 horticulturist, nursery operator, landscape nursery operator, gardener, landscape gardener, landscape
13 designer, landscape artist, landscape contractor, or land use planner, as these terms are generally used; ;
14 ~~However, an unlicensed person may not use the title "landscape architect", "landscape architecture", or any~~
15 ~~description tending to convey the impression that the person is a licensed landscape architect unless the~~
16 ~~person is licensed as provided in this chapter.~~

17 (3) ~~This chapter does not apply to architects, professional engineers, and professional land~~
18 ~~surveyors licensed to practice their respective professions; or~~

19 (4) ~~This chapter does not apply to a person performing any of the services mentioned in this~~
20 ~~chapter upon on the person's own property.~~

21 (5) ~~This chapter does not require the hiring of a landscape architect."~~

22
23 **Section 204.** Section 37-66-303, MCA, is amended to read:

24 **"37-66-303. Licensing restricted to individuals -- partnerships --local business licensing.** (1)
25 ~~Certificates of licensing~~ Licenses may be issued to ~~natural persons~~ individuals only, but this chapter does not
26 prevent a licensed landscape architect from performing services for a corporation, firm, partnership, or
27 association.

28 (2) Each partner in a partnership of landscape architects must be licensed to practice landscape

1 architecture. Subject to this requirement, a partnership of landscape architects may use a partnership name if
2 the name consists of:

3 (a) the names of two or more landscape architects; or

4 (b) the names of one or more landscape architects and one or more professional engineers,
5 architects, or planners.

6 ~~(3) A person applying to the licensing official of any county or city for a business license to practice~~
7 ~~landscape architecture shall, at the time of application, exhibit to the licensing official satisfactory evidence~~
8 ~~under the seal of the board and the hand of its secretary that the applicant possesses a current registration with~~
9 ~~the board. The license may not be granted until the evidence is presented."~~

10
11 **Section 205.** Section 37-66-308, MCA, is amended to read:

12 **"37-66-308. Display of license -- seal Seal of landscape architect.** (1) Each holder of a license
13 shall display it in the licensee's principal office, place of business, or place of employment.

14 (2) Each landscape architect must have a seal approved by the board that must contain with the
15 name of the landscape architect, and the words "Licensed Landscape Architect, State of Montana", and other
16 words or figures that the board considers necessary prescribed by board rule. All drawings and title pages of
17 specifications prepared by a landscape architect or under the supervision of a landscape architect must be
18 stamped with the landscape architect's seal. This section may not be construed to permit the seal of a
19 landscape architect to serve as a substitute for the seal of a licensed architect, a licensed professional
20 engineer, or a licensed professional land surveyor."

21
22 **Section 206.** Section 37-67-314, MCA, is amended to read:

23 **"37-67-314. Issuance of licenses -- seal Seal of professional engineer or professional land**
24 **surveyor.** (1) The department shall issue to an applicant who, in the opinion of the board, has met the
25 requirements of this chapter a license authorizing the applicant to engage in the practice of engineering or the
26 practice of land surveying and to assume responsible charge of engineering or land surveying projects in this
27 state. The license for a professional engineer must carry the designation "professional engineer" and for a
28 professional land surveyor "professional land surveyor" and must include the full name and license number of

1 the licensee.

2 ~~(2)(1)~~ Each licensee may, upon licensure, obtain a seal of a design authorized by the board. The
3 licensee shall sign, date, and seal professional or all technical documents created in the practice of professional
4 engineering or professional land surveying.

5 ~~(2)~~ All seals must meet the specifications defined by board rule.

6 ~~(3)~~ A license is prima facie evidence that the named person is entitled to all rights, privileges, and
7 responsibilities of a professional engineer or professional land surveyor while the license remains valid.

8 ~~(4)~~ It is unlawful for a licensee whose license has expired to sign or seal any professional or technical
9 document or be in responsible charge of a professional engineering or professional land surveying project."

10

11 **Section 207.** Section 37-67-317, MCA, is amended to read:

12 **"37-67-317. Deposit of moneys collected.** The department shall collect all moneys under this
13 chapter and shall deposit these moneys in the state special revenue fund for the use of the board, subject to
14 ~~37-1-101(6)~~ 37-1-134."

15

16 **Section 208.** Section 37-67-324, MCA, is amended to read:

17 **"37-67-324. Qualifications of applicant for certification as engineer intern Engineer intern**
18 **voluntary certification.** (1) An applicant who meets any of the following sets of requirements must be granted
19 a certificate as an engineer intern: Except as provided in subsection (2), an applicant who is pursuing the
20 experience requirements defined in [section 43(2)] may request and receive certification from the department
21 as an engineer intern upon proof of completion of the required education and fundamentals of engineering
22 examination.

23 ~~(a)~~ a baccalaureate or master's degree in engineering or engineering technology in a curriculum
24 approved by the board, passage of the fundamentals of engineering examination, and references as required
25 by the board; or

26 ~~(b)~~ a baccalaureate degree in a science curriculum other than a board-approved engineering or
27 engineering technology curriculum, passage of the fundamentals of engineering examination, a specific record
28 of at least 4 years of progressive experience under the supervision of a licensed professional engineer, and

references as required by the board. An applicant approved for certification pursuant to this subsection is eligible for licensure as a professional engineer only under 37-67-323 (1)(c).

(2) An applicant who has graduated from a nonaccredited engineering or technical engineering program or has a bachelor of science degree may not request or receive a certification under this subsection until after completing 4 years of supervised experience.

(2)(3) Certification as an engineer intern does not authorize the holder to practice as a professional engineer."

Section 209. Section 37-67-326, MCA, is amended to read:

"37-67-326. Qualifications of applicant for examination and certification as land surveyor intern
Land surveyor intern certification. (1) An applicant who meets any of the following sets of requirements must be admitted to the fundamentals of surveying examination: An applicant who is pursuing the experience requirements defined in [section 43] may request and receive certification from the department as a land surveyor intern upon proof of completion of the required education and fundamentals of land surveying examination.

(a) ~~a baccalaureate degree in land surveying that meets the board approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board;~~

(b) ~~an associate degree in land surveying that meets the board approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board;~~

(c) ~~a baccalaureate degree with a minor in land surveying that meets the board approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board; or~~

(d) ~~before October 1, 2022, passage of the fundamentals of surveying examination, at least 6 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 4 1/2 years must be progressive experience in charge of land surveying projects, and references and exhibits as required by the board.~~

(2) ~~Upon passage of the fundamentals of surveying examination, an applicant must be granted a certificate as a Montana land surveyor intern.~~

(3)(2) Certification as a land surveyor intern does not authorize the holder to practice as a professional land surveyor."

Section 210. Section 37-68-102, MCA, is amended to read:

"37-68-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Board" means the state electrical board provided for in 2-15-1764.

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

(3)(2) "Electrical construction" means electrical work performed by an individual, firm, or corporation in which an electrical connection is made to a supply of electricity or in which electricity is supplied to any electric equipment installation for which a permit is required by the authority having jurisdiction.

~~(4)(3) (a) "Electrical contractor" means a person, firm, partnership, corporation, association, or combination of these entities that undertakes or offers to undertake for another the planning, laying out, supervising, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric light, heat, and power~~ an individual or business entity who engages or offers to engage in the business of electrical work and employs at least one responsible electrician.

(b) A limited electrical contractor may engage only in electrical work in residential construction consisting of fewer than five living units in a single structure.

~~(b)(c) The term does not include a person, firm, partnership, corporation, association, or combination of these entities~~ an individual or business entity that only plans or designs electrical installations.

(4) "Electrical work" means installing or making additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric light, heat, and power and other purposes in accordance with this chapter and the electrical code adopted by Title 50, chapter 60.

(5) "Grid-tied generator" means a generator or a group of generators located on a utility customer's property or residence and designed to operate in parallel with a utility distribution facility.

(6) "Journeyman electrician" "Journey-level electrician" means ~~a person having the necessary qualifications, training, experience, and technical knowledge to wire for, install, and repair electrical apparatus~~

and equipment for light, heat, power, and other purposes under the rules governing this work. an individual employed by an electrical contractor or a limited electrical contractor and who engages in the practice of electrical work.

~~(7) "Journeyman level experience" means being recognized as a journeyman electrician by a state or other legally authorized jurisdiction or having a minimum of 8,000 hours of practical experience.~~

~~(8)(7) "Master electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation and repair of wiring apparatus and equipment for electric light, heat, power, and other purposes under the rules governing this work. an individual employed by an electrical contractor and who engages in the practice of electrical work and the planning, layout, and supervision of electrical work by journey-level electricians, residential electricians, and electrician apprentices.~~

~~(9)(8) "Practical experience" means electrical work experience gained in the electrical construction industry consisting of layout, assembly, repairs, wiring, and connection and testing of electrical fixtures, apparatus, and control equipment in residential and nonresidential settings pursuant to the provisions of the national electrical code or pursuant to the requirements the electrical code of another authority having jurisdiction over electrical work.~~

~~(10)(9) "Public utility" has the meaning provided in 69-3-101.~~

~~(11)(10) "Residential electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to wire for, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes an individual employed by a limited electrical contractor who engages in the practice of electrical work in residential construction consisting of fewer than five living units in a single structure under the rules governing this work.~~

~~(11) "Responsible electrician" means a master electrician employed by a single electrical contractor or a master electrician or journey-level electrician employed by a single limited electrical contractor and who is responsible for all electrical work performed, including obtaining all necessary electrical permits. The responsible electrician may engage in electrical work for the contractor.~~

~~(12) "Utility distribution facility" means a facility by and through which electricity is received from a transmission services provider and distributed to a customer that is controlled or operated by a public utility,~~

1 municipally owned utility, or cooperative utility that provides electricity for sale to consumers."

2

3 **Section 211.** Section 37-69-101, MCA, is amended to read:

4 **"37-69-101. Definitions.** Unless the context requires otherwise, in this chapter, the following
5 definitions apply:

6 (1) "Board" means the board of plumbers provided for in 2-15-1765.

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

9 ~~(3)(2)~~ (2) "Drainage system" means all the piping inside the walls of a building that conveys sewage or
10 other liquid wastes outside the building to the building sewer but that does not extend more than 2 feet outside
11 the building way.

12 ~~(4)(3)~~ (3) "Field of plumbing" means the business, trade, or work having to do with the installation,
13 removal, alteration, or repair of plumbing and drainage systems or parts of plumbing and drainage systems.

14 ~~(5)(4)~~ (4) "Journeyman plumber" "Journey-level plumber" means a person an individual who is
15 authorized to make installation of all sanitary plumbing and potable water supply piping and appliances
16 connected to the plumbing and piping under the supervision of and employment by a master plumber unless
17 exempted by board rule.

18 ~~(6)(5)~~ (5) "Master plumber" means a person an individual who is authorized by this chapter to plan,
19 estimate, bid, contract for, obtain required permits for, and supervise plumbing work and who may do the work
20 of a journeyman-journey-level plumber.

21 ~~(7)(6)~~ (a) "Plumbing system" means all potable water supply and distribution pipes, plumbing fixtures
22 and traps, drainage and vent pipes, and building drains, including their respective joints and connections,
23 devices, receptacles, and appurtenances within the property lines of any premises, up to 20 feet beyond the
24 building foundation line, and includes potable water piping, water heaters, and vents for the premises.

25 (b) The term does not include water services installed and maintained by water districts or water
26 user associations in which water service is installed by any qualified ~~person~~ individual appointed or hired by the
27 administrative authority of the water system.

28 ~~(8)(7)~~ (7) "Public sewer system" means any common sewer carrying liquid wastes from two or more

1 dwellings or any other facility that serves the public.

2 (9)(8) "Public water supply" means any community well, water hauler for cisterns, water bottling plant,
3 water dispenser, or other water supply that serves 10 or more families or 25 or more ~~persons~~ individuals on a
4 regular and continuous basis.

5 (9) "Supervise" or "supervision" means observation, consultation, guidance, and evaluation in the
6 field of plumbing at different times over the course of employment and for different levels of plumbing work."

7
8 **Section 212.** Section 37-69-320, MCA, is amended to read:

9 **~~"37-69-320. License and endorsement discipline~~ Unprofessional conduct.** (1) The board may
10 ~~revoke, suspend, restrict, censure, or apply any other disciplinary treatment contemplated by 37-1-136 to any~~
11 ~~occupational licensee or endorsee under this chapter for any one or more of~~ In addition to the provisions of 37-
12 1-316, the following causes is unprofessional conduct:

13 (a)(1) performance of plumbing work in the field of plumbing that is below the standards established
14 by the Uniform Plumbing Code;

15 (b)(2) inadequate supervision that causes or allows plumbing work in the field of plumbing that is
16 below the standards established by the Uniform Plumbing Code; and

17 (3) violation of Title 50, chapter 60, part 5, or rules adopted under that part.

18 (c) ~~material deceit in procuring, attempting to procure, or aiding and abetting the procurement of an~~
19 ~~occupational license or endorsement to practice in the field of plumbing;~~

20 (d) ~~unfitness to provide services in the field of plumbing by reason of negligence or addiction to the~~
21 ~~use of habit forming drugs;~~

22 (e) ~~physical or mental incompetence that impairs the licensee's or endorsee's ability to deliver~~
23 ~~adequate service in the field of plumbing;~~

24 (f) ~~willful or repeated violation of this chapter or rules adopted under this chapter or willful or repeated~~
25 ~~violation of Title 50, chapter 60, part 5, or rules adopted under that part; or~~

26 (g) ~~unprofessional practice related conduct as defined by rules adopted by the board.~~

27 (2) ~~Any licensee or endorsee disciplinary action under the jurisdiction of the board must be conducted~~
28 ~~as a contested case under the provisions of the Montana Administrative Procedure Act."~~

1

2 **Section 213.** Section 37-69-401, MCA, is amended to read:

3 **"37-69-401. Medical gas piping installation endorsement registration required -- qualifications.**

4 ~~(1) A medical gas piping installation endorsement entitles the holder to~~ An individual may not install pipe used
5 solely for transporting gases used for medical purposes ~~unless the individual registers under Title 37, chapter 1,~~
6 ~~and this chapter and provides evidence of holding a current medical gas piping certificate as prescribed by~~
7 ~~board rule.~~

8 ~~(2) To be eligible for endorsement under this section, a person must meet all requirements for~~
9 ~~endorsements established by the board by rule.~~

10 ~~(3) A person with a valid medical gas piping installation endorsement from another state may install~~
11 ~~medical gas piping in this state.~~

12 ~~(4) The board shall by rule establish the requirements for obtaining a medical gas piping installation~~
13 ~~endorsement."~~

14

15 **Section 214.** Section 37-72-101, MCA, is amended to read:

16 **"37-72-101. Construction blasting restrictions -- ~~license required~~ -- definitions -- exemptions.**

17 ~~(1) A person may not engage in the practice of construction blasting unless licensed or under the supervision of~~
18 ~~a person licensed as a construction blaster by the department.~~

19 ~~(2)(1)~~ For the purposes of this chapter:

20 (a) "construction blaster" means ~~a person~~ an individual who engages in construction blasting;

21 (b) "construction blasting" means the use of explosives to:

22 (i) reduce, destroy, or weaken any residential, commercial, or other building; or

23 (ii) excavate any ditch, trench, cut, or hole or reduce, destroy, weaken, or cause a change in grade
24 of any land formation in the construction of any building, highway, road, pipeline, sewerline, or electric or other
25 utility line; and

26 ~~(c) "department" means the department of labor and industry;~~

27 ~~(d)(c)~~ "explosive" has the meaning provided in 61-9-102.

28 ~~(3)(2)~~ This chapter does not apply to the private or commercial use of explosives by persons engaged

1 in farming, ranching, logging, geophysical work, drilling or development of water, oil, or gas wells, or mining of
2 any kind or to the private use of explosives in the removal of stumps and rocks from land owned by the person
3 using the explosives, except that the persons exempted from this chapter by this subsection shall comply with
4 rules adopted under 37-72-201(1)(c) and the provisions of 37-72-102 apply to a violation of those rules by an
5 ~~exempted person.~~

6 ~~(4)(3)~~ This chapter does not apply to persons conducting blasting operations when the persons and
7 operations are subject to rules adopted under 82-4-231(10)(e)."
8

9 **Section 215.** Section 37-72-201, MCA, is amended to read:

10 **"37-72-201. Rules for use of explosives -- inspections limited -- variances.** (1) The department
11 shall adopt rules governing the use of explosives in construction blasting. The rules must include provisions to:

12 (a) regulate the method of withdrawal of explosives from the construction magazine in which they
13 are kept;

14 (b) prevent the accidental detonation of explosives;

15 (c) prevent injury from blasting to persons and property near blast sites;

16 (d) provide for notification of blasting to the owners or operators of gas and electric utilities; and

17 (e) regulate the drilling of holes for explosives and the loading and firing of explosives.

18 (2) Unless the department is investigating a complaint of a violation of this chapter, the department
19 may not conduct or authorize inspections related to construction blasting.

20 ~~(2)(3)~~ The department shall adopt rules providing for variances from the rules required by subsection
21 (1). Variances may be granted by the department on a case-by-case basis for the purpose of individual
22 construction blasting operations only if it is shown by the affidavit of a construction blaster licensed under this
23 chapter that:

24 (a) compliance with the rule for which a variance is sought would be impracticable; and

25 (b) the proposed variance from department rules will not constitute a danger to property or public
26 safety."
27

28 **Section 216.** Section 37-73-101, MCA, is amended to read:

"37-73-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

~~(1) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.~~

~~(2)(1) "Elevator contractor" means any person intending to engage in the business of installing, altering, or repairing elevators, escalators, dumbwaiters, or other equipment subject to the provisions of Title 50, chapter 60, part 7 individual who engages in the business of elevator work.~~

~~(3)(2) "Elevator inspector" means any person intending to engage in inspecting individual who inspects elevators, escalators, dumbwaiters, or other equipment subject to the provisions of Title 50, chapter 60, part 7.~~

~~(4)(3) "Elevator mechanic" means any person intending to engage in installing, altering, repairing, or testing individual who installs, alters, repairs, or tests elevators, escalators, dumbwaiters, or other equipment subject to the provisions of Title 50, chapter 60, part 7.~~

~~(4) "Elevator work" means the design, construction, alteration, operation, maintenance, repair, inspection, installation, and testing of equipment, associated parts, and hoistways defined in Title 50, chapter 60, part 7.~~

~~(5) "Limited elevator contractor" means an individual in the business of installing, altering, and repairing elevators, platform lifts, stairway chairlifts, and dumbwaiters in private residences.~~

~~(6) "Limited elevator mechanic" means any individual who installs platform lifts, stairway chairlifts, and dumbwaiters in private residences."~~

Section 217. Section 37-73-202, MCA, is amended to read:

"37-73-202. Apprenticeship allowed exemption. This chapter does not prohibit a person an individual from working as an apprentice with an elevator mechanic licensed under this chapter ~~and under rules adopted by the department. The name and residence of each apprentice and the name and residence of the apprentice's employer must be filed with the department, and a record must be kept by the department showing the name and residence of each apprentice."~~

Section 218. Section 37-73-212, MCA, is amended to read:

"37-73-212. Elevator contractor's license -- limited elevator contractor's license -- liability insurance required. (1) A person intending to engage in business as an elevator contractor shall apply for a license as an elevator contractor on forms provided by the department. An applicant for licensure as an elevator contractor or a limited elevator contractor must:

(2) ~~An applicant shall provide the department with the following:~~

(a) ~~if the applicant is an individual or sole proprietor, the name, residential address, and business address of the applicant;~~

(b) ~~if the applicant is a domestic business entity, the name and business address of the business entity and the name and residential address of the business entity's principal officer;~~

(c) ~~if the applicant is a foreign business entity, the name and address of a state resident authorized to accept service of process or other notices on the business entity's behalf;~~

(d)(1) ~~evidence of have and maintain, while licensed,~~ insurance coverage required in 50-60-716; and

(e)(2) ~~other information that the department may require~~ have other requirements or information prescribed by department rule.

(3) ~~The department shall issue an elevator contractor's license to an applicant that meets the requirements of this section.~~

(4) ~~The department may issue a limited elevator contractor's license to an applicant that limits a licensee to the business of installing, altering, and repairing elevators, platform lifts, stairway chairlifts, and dumbwaiters in private residences. The department shall issue a limited elevator contractor's license to an applicant that meets the requirements of this section."~~

Section 219. Section 39-71-417, MCA, is amended to read:

"39-71-417. Independent contractor certification. (1) (a) (i) Except as provided in subsection (1)(a)(ii), a person who regularly and customarily performs services at a location other than the person's own fixed business location shall apply to the department for an independent contractor exemption certificate unless the person has elected to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3.

(ii) An officer or manager who is exempt under 39-71-401(2)(r)(iii) or (2)(r)(iv) may apply, but is not required to apply, to the department for an independent contractor exemption certificate.

(b) A person who meets the requirements of this section and receives an independent contractor exemption certificate is not required to obtain a personal workers' compensation insurance policy.

(c) For the purposes of this section, "person" means:

(i) a sole proprietor;

(ii) a working member of a partnership;

(iii) a working member of a limited liability partnership;

(iv) a working member of a member-managed limited liability company; or

(v) a manager of a manager-managed limited liability company that is engaged in the work of the construction industry as defined in 39-71-116.

(2) The department shall adopt rules relating to an original application for or renewal of an independent contractor exemption certificate. The department shall adopt by rule the amount of the fee for an application or certificate renewal. The application or renewal must be accompanied by the fee.

(3) The department shall deposit the application or renewal fee in an account in the state special revenue fund to pay the costs of administering the program.

(4) (a) To obtain an independent contractor exemption certificate, the applicant shall swear to and acknowledge the following:

(i) that the applicant has been and will continue to be free from control or direction over the performance of the person's own services, both under contract and in fact; and

(ii) that the applicant is engaged in an independently established trade, occupation, profession, or business and will provide sufficient documentation of that fact to the department.

(b) For the purposes of subsection (4)(a)(i), an endorsement required for licensure, as provided in ~~37-47-303~~ 37-47-302(4), does not imply or constitute control.

(5) (a) An applicant for an independent contractor exemption certificate shall submit an application under oath on a form prescribed by the department and containing the following:

(i) the applicant's name and address;

(ii) the applicant's social security number;

(iii) each occupation for which the applicant is seeking independent contractor certification; and

(iv) other documentation as provided by department rule to assist in determining if the applicant has an independently established business.

(b) The department shall adopt a retention schedule that maintains copies of documents submitted in support of an initial application or renewal application for an independent contractor exemption certificate for a minimum of 3 years after an application has been received by the department. The department shall, to the extent feasible, produce renewal applications that reduce the burden on renewal applicants to supply information that has been previously provided to the department as part of the application process.

(c) An applicant who applies on or after July 1, 2011, to renew an independent contractor exemption certificate is not required to submit documents that have been previously submitted to the department if:

(i) the applicant certifies under oath that the previously submitted documents are still valid and current; and

(ii) the department, if it considers it necessary, independently verifies a specific document or decides that a document has not expired pursuant to the document's own terms and is therefore still valid and current.

(6) The department shall issue an independent contractor exemption certificate to an applicant if the department determines that an applicant meets the requirements of this section.

(7) (a) When the department approves an application for an independent contractor exemption certificate and the person is working under the independent contractor exemption certificate, the person's status is conclusively presumed to be that of an independent contractor.

(b) A person working under an approved independent contractor exemption certificate has waived all rights and benefits under the Workers' Compensation Act and is precluded from obtaining benefits unless the person has elected to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3.

(c) For the purposes of the Workers' Compensation Act, a person is working under an independent contractor exemption certificate if:

(i) the person is performing work in the trade, business, occupation, or profession listed on the

person's independent contractor exemption certificate; and

(ii) the hiring agent and the person holding the independent contractor exemption certificate do not have a written or an oral agreement that the independent contractor exemption certificate holder's status with respect to that hiring agent is that of an employee.

(8) Once issued, an independent contractor exemption certificate remains in effect for 2 years unless:

(a) suspended or revoked pursuant to 39-71-418; or

(b) canceled by the independent contractor.

(9) If the department's independent contractor central unit denies an application for an independent contractor exemption certificate, the applicant may contest that decision as provided in 39-71-415(2)."

Section 220. Section 41-3-128, MCA, is amended to read:

"41-3-128. Certificate requirements -- supervision -- fees. (1) An applicant for certification as a child protection specialist shall:

(a) successfully complete a course in child protection, as defined by the department by rule, which must include training in:

(i) ethics;

(ii) governing statutory and regulatory framework;

(iii) role of law enforcement;

(iv) crisis intervention techniques;

(v) childhood trauma research;

(vi) evidence-based practices for family preservation and strengthening; and

(vii) the provisions of the Indian Child Welfare Act, 25 U.S.C. 1902, et seq.; and

(b) demonstrate the applicant's ability to perform all essential functions of the certified child protection role by earning a passing score on a competency examination developed pursuant to 41-3-130.

(2) As a prerequisite to the issuance of a certificate, the department shall require the applicant to submit fingerprints for the purpose of fingerprint background checks by the Montana department of justice and

1 the federal bureau of investigation as provided in ~~37-1-307~~ [section 4].

2 (3) An applicant who has a history of criminal convictions has the opportunity to demonstrate to the
3 department that the applicant is sufficiently rehabilitated to warrant the public trust. The department may deny
4 the certificate if it determines that the applicant is not sufficiently rehabilitated."

5

6 **Section 221.** Section 45-5-223, MCA, is amended to read:

7 **"45-5-223. Surreptitious visual observation or recordation -- place of residence -- public place -**

8 **- exceptions.** (1) A person commits the offense of surreptitious visual observation or recordation in a place of
9 residence if the person purposely or knowingly hides, waits, or otherwise loiters in person or by means of a
10 remote electronic device within or in the vicinity of a private dwelling house, apartment, or other place of
11 residence for the purpose of:

12 (a) watching, gazing at, or looking upon any occupant in the residence in a surreptitious manner
13 without the occupant's knowledge; or

14 (b) by means of an electronic device, surreptitiously observing or recording the visual image of any
15 occupant in the residence without the occupant's knowledge.

16 (2) A person commits the offense of surreptitious visual observation or recordation in public if the
17 person purposely or knowingly observes or records a visual image of the sexual or intimate parts of another
18 person in a public place without the other person's knowledge when the victim has a reasonable expectation of
19 privacy.

20 (3) Subsections (1) and (2) do not apply to a law enforcement officer, an agent or employee of an
21 insurer, or a private investigator licensed pursuant to ~~37-60-304~~ [section 40] or to any person engaged in fraud
22 detection, prevention, or prosecution pursuant to 2-15-2015 or 39-71-211 while the officer, agent, employee, or
23 private investigator is acting in the course and scope of employment for legitimate investigative purposes.

24 (4) A person convicted of an offense under subsection (1) or (2) shall be fined an amount not to
25 exceed \$500 or be incarcerated in the county jail for a term not to exceed 6 months, or both. Upon a second
26 conviction, a person shall be fined an amount not to exceed \$1,000 or be incarcerated for a term not to exceed
27 1 year, or both. Upon a third or subsequent conviction, a person shall be fined an amount not to exceed
28 \$10,000 or be incarcerated for a term not to exceed 5 years, or both."

1

2 **Section 222.** Section 46-1-202, MCA, is amended to read:

3 **"46-1-202. Definitions.** As used in this title, unless the context requires otherwise, the following
4 definitions apply:

5 (1) "Advanced practice registered nurse" means an individual certified as an advanced practice
6 registered nurse provided for in ~~37-8-202~~ 37-8-409, with a clinical specialty in psychiatric mental health nursing.

7 (2) "Arraignment" means the formal act of calling the defendant into open court to enter a plea
8 answering a charge.

9 (3) "Arrest" means taking a person into custody in the manner authorized by law.

10 (4) "Arrest warrant" means a written order from a court directed to a peace officer or to some other
11 person specifically named commanding that officer or person to arrest another. The term includes the original
12 warrant of arrest and a copy certified by the issuing court.

13 (5) "Bail" means the security given for the primary purpose of ensuring the presence of the
14 defendant in a pending criminal proceeding.

15 (6) "Charge" means a written statement that accuses a person of the commission of an offense,
16 that is presented to a court, and that is contained in a complaint, information, or indictment.

17 (7) "Conviction" means a judgment or sentence entered upon a guilty or nolo contendere plea or
18 upon a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction
19 authorized to try the case without a jury.

20 (8) "Court" means a place where justice is judicially administered and includes the judge of the
21 court.

22 (9) "Included offense" means an offense that:

23 (a) is established by proof of the same or less than all the facts required to establish the
24 commission of the offense charged;

25 (b) consists of an attempt to commit the offense charged or to commit an offense otherwise
26 included in the offense charged; or

27 (c) differs from the offense charged only in the respect that a less serious injury or risk to the same
28 person, property, or public interest or a lesser kind of culpability suffices to establish its commission.

1 (10) "Judge" means a person who is vested by law with the power to perform judicial functions.

2 (11) "Judgment" means an adjudication by a court that the defendant is guilty or not guilty, and if the
3 adjudication is that the defendant is guilty, it includes the sentence pronounced by the court.

4 (12) "Make available for examination and reproduction" means to make material and information
5 that is subject to disclosure available upon request at a designated place during specified reasonable times and
6 to provide suitable facilities or arrangements for reproducing it. The term does not mean that the disclosing
7 party is required to make copies at its expense, to deliver the materials or information to the other party, or to
8 supply the facilities or materials required to carry out tests on disclosed items. The parties may by mutual
9 consent make other or additional arrangements.

10 (13) "New trial" means a reexamination of the issue in the same court before another jury after a
11 verdict or finding has been rendered.

12 (14) "Notice to appear" means a written direction that is issued by a peace officer and that requests
13 a person to appear before a court at a stated time and place to answer a charge for the alleged commission of
14 an offense.

15 (15) "Offense" means a violation of any penal statute of this state or any ordinance of its political
16 subdivisions.

17 (16) "Parole" means the release to the community of a prisoner by a decision of the board of
18 pardons and parole prior to the expiration of the prisoner's term subject to conditions imposed by the board of
19 pardons and parole and the supervision of the department of corrections.

20 (17) "Peace officer" means any person who by virtue of the person's office or public employment is
21 vested by law with a duty to maintain public order and make arrests for offenses while acting within the scope of
22 the person's authority.

23 (18) "Persistent felony offender" means an offender who has previously been convicted of two
24 separate felonies and who is presently being sentenced for a third felony committed on a different occasion
25 than either of the first two felonies. At least one of the three felonies must be a sexual offense or a violent
26 offense as those terms are defined in 46-23-502. An offender is considered to have previously been convicted
27 of two separate felonies if:

28 (a) the two previous felonies were for offenses that were committed in this state or any other

1 jurisdiction for which a sentence of imprisonment in excess of 1 year could have been imposed;

2 (b) less than 5 years have elapsed between the commission of the present offense and either:

3 (i) the most recent of the two felony convictions; or

4 (ii) the offender's release on parole or otherwise from prison or other commitment imposed as a
5 result of a previous felony conviction; and

6 (c) the offender has not been pardoned on the ground of innocence and the conviction has not
7 been set aside at a postconviction hearing.

8 (19) "Place of trial" means the geographical location and political subdivision in which the court that
9 will hear the cause is situated.

10 (20) "Preliminary examination" means a hearing before a judge for the purpose of determining if
11 there is probable cause to believe a felony has been committed by the defendant.

12 (21) "Probation" means release by the court without imprisonment of a defendant found guilty of a
13 crime. The release is subject to the supervision of the department of corrections upon direction of the court.

14 (22) "Prosecutor" means an elected or appointed attorney who is vested by law with the power to
15 initiate and carry out criminal proceedings on behalf of the state or a political subdivision.

16 (23) "Same transaction" means conduct consisting of a series of acts or omissions that are
17 motivated by:

18 (a) a purpose to accomplish a criminal objective and that are necessary or incidental to the
19 accomplishment of that objective; or

20 (b) a common purpose or plan that results in the repeated commission of the same offense or
21 effect upon the same person or the property of the same person.

22 (24) "Search warrant" means an order that is:

23 (a) in writing;

24 (b) in the name of the state;

25 (c) signed by a judge;

26 (d) a particular description of the place, object, or person to be searched and the evidence,
27 contraband, or person to be seized; and

28 (e) directed to a peace officer and commands the peace officer to search for evidence,

1 contraband, or persons.

2 (25) "Sentence" means the judicial disposition of a criminal proceeding upon a plea of guilty or nolo
3 contendere or upon a verdict or finding of guilty.

4 (26) "Statement" means:

5 (a) a writing signed or otherwise adopted or approved by a person;

6 (b) a video or audio recording of a person's communications or a transcript of the communications;

7 and

8 (c) a writing containing a summary of a person's oral communications or admissions.

9 (27) "Summons" means a written order issued by the court that commands a person to appear
10 before a court at a stated time and place to answer a charge for the offense set forth in the order.

11 (28) "Superseded notes" means handwritten notes, including field notes, that have been
12 substantially incorporated into a statement. The notes may not be considered a statement and are not subject
13 to disclosure except as provided in 46-15-324.

14 (29) "Temporary road block" means any structure, device, or means used by a peace officer for the
15 purpose of controlling all traffic through a point on the highway where all vehicles may be slowed or stopped.

16 (30) "Witness" means a person whose testimony is desired in a proceeding or investigation by a
17 grand jury or in a criminal action, prosecution, or proceeding.

18 (31) "Work product" means legal research, records, correspondence, reports, and memoranda, both
19 written and oral, to the extent that they contain the opinions, theories, and conclusions of the prosecutor,
20 defense counsel, or their staff or investigators."

21

22 **Section 223.** Section 49-4-301, MCA, is amended to read:

23 **"49-4-301. Eligibility for disability parking permit.** (1) The department of justice shall issue a
24 disability parking permit to a person who has a disability that limits or impairs the person's mobility and for
25 whom a ~~licensed~~ physician, a ~~licensed~~ chiropractor, or a ~~licensed~~ advanced practice registered nurse, ~~as~~
26 ~~provided in 37-8-202,~~ submits a certification to the department, by electronic or other means prescribed by the
27 department, that the person meets one of the following criteria:

28 (a) cannot walk 200 feet without stopping to rest;

(b) is severely limited in ability to walk because of an arthritic, neurological, or orthopedic condition;

(c) is so severely disabled that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) uses portable oxygen;

(e) is restricted by lung disease to the extent that forced expiratory respiratory volume, when measured by spirometry, is less than 1 liter per second or the arterial oxygen tension is less than 60 mm/hg on room air at rest;

(f) has impairment because of cardiovascular disease or a cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American heart association; or

(g) has a disability resulting from an acute sensitivity to automobile emissions or from another disease or physical condition that limits or impairs the person's mobility and that is documented by the ~~licensed~~ physician, ~~the licensed-chiropractor~~, or ~~the licensed-advanced practice registered nurse~~ as being comparable in severity to the other conditions listed in this subsection (1).

(2) (a) A person who has a condition expected to improve within 6 months may be issued a temporary placard for a period not to exceed 6 months but may not be issued a disability license plate displaying a wheelchair under 61-3-332(9). If the condition exists after 6 months, a new temporary placard must be issued for the time period prescribed by the applicant's physician, chiropractor, or advanced practice registered nurse, not to exceed 24 months, upon receipt of a later paper or electronic certification from the disabled person's physician, chiropractor, or advanced practice registered nurse that the conditions specified in subsection (1) continue to exist and are expected to continue for the time specified.

(b) A person who meets one of the criteria in subsection (1) for what is considered to be a permanent condition, as determined by a ~~licensed-physician~~, a ~~licensed-chiropractor~~, or a ~~licensed-advanced practice registered nurse~~, may, by application to the department, by electronic or other means prescribed by the department, be issued a disability license plate displaying a wheelchair under 61-3-332(9) and is not required to reapply for the disability license plate when the vehicle is reregistered.

(3) The department of justice may issue disability parking permits to an agency or business that provides transportation as a service for persons with a disability. The permits must be used only to load and

1 unload persons with a disability in the accessible parking place provided for in 49-4-302. As used in this
2 subsection, "disability" means a physical impairment that severely limits a person's ability to walk.

3 (4) Except as provided in subsection (3), an applicant may not receive more than one permit."
4

5 **Section 224.** Section 49-4-303, MCA, is amended to read:

6 **"49-4-303. Issuance of interim disability parking permit.** A licensed physician, a licensed
7 chiropractor, or a licensed advanced practice registered nurse, as provided in 37-8-202, may issue an interim
8 disability parking permit, in a form authorized by the department, to a person who has a disability that limits or
9 impairs the person's mobility and upon whose behalf the physician, chiropractor, or advanced practice
10 registered nurse has submitted a request for a disability parking permit under 49-4-301. The interim disability
11 parking permit is valid only in Montana, may not be renewed or extended, and expires 5 days from the date of
12 issuance."
13

14 **Section 225.** Section 49-4-305, MCA, is amended to read:

15 **"49-4-305. Expiration of permit.** (1) Except as provided in 49-4-303 and subsection (2) of this
16 section, a disability parking permit expires on the occurrence of either of the following:

17 (a) 5 years from the date of issuance, unless the permit was issued to a person who has a
18 condition expected to improve within 6 months. A person may renew a permit if a licensed physician, a licensed
19 chiropractor, or a licensed advanced practice registered nurse, as provided in 37-8-202, certifies that the
20 person's mobility disability still exists and that one of the criteria specified in 49-4-301 continues to be met.

21 (b) certification by a licensed physician, a licensed chiropractor, or a licensed advanced practice
22 registered nurse that the person's mobility disability no longer exists or that the criteria specified in 49-4-301
23 can no longer be met.

24 (2) A permit issued before October 1, 1993, expires on the earlier of:

25 (a) the death of the permittee;

26 (b) certification by a licensed physician, a licensed chiropractor, or a licensed advanced practice
27 registered nurse that the person's mobility disability no longer exists or that the criteria specified in 49-4-301
28 can no longer be met; or

(c) October 1, 2022."

Section 226. Section 50-6-105, MCA, is amended to read:

"50-6-105. Emergency medical care standards -- review process. (1) The board of medical examiners shall establish patient care standards for:

(a) out-of-hospital emergency medical treatment and interfacility transportation; and

(b) community-integrated health care.

(2) (a) Complaints involving out-of-hospital care, interfacility care, community-integrated health care, or the operation of an emergency medical service, as defined in 50-6-302, must be filed ~~with the board~~ and reviewed by a screening panel pursuant to ~~37-1-307~~ 37-1-308.

(b) If a complaint is initially filed with the department of public health and human services, the department shall refer the complaint to the board for review by a screening panel.

(3) (a) When a complaint involves the operation or condition of an emergency medical service, the screening panel shall refer the complaint to the department for investigation as provided in 50-6-323.

(b) When a complaint involves patient care provided by an emergency care provider, the screening panel shall:

(i) refer the complaint to the board for investigation as provided in 37-1-308 and 50-6-203; and

(ii) forward to the department the complaint and the results of the screening panel's initial review as soon as the review is completed.

(c) When a complaint involves a combination of patient care and emergency medical service matters, the screening panel shall refer the complaint to both the department and the board for matters that fall within the jurisdiction of each entity.

(4) For a complaint involving patient care, the board shall:

(a) immediately share with the department any information indicating:

(i) a potential violation of department rules; or

(ii) that the existing policies or practices of an emergency medical service may be jeopardizing patient care; and

(b) notify the department when:

- 1 (i) a sanction is imposed on an emergency care provider; or
- 2 (ii) the complaint is resolved.
- 3 (5) For a complaint involving an emergency medical service, the department shall:
- 4 (a) immediately share with the board any information indicating:
- 5 (i) a potential violation of board rules; or
- 6 (ii) that the practices of an emergency care provider may be jeopardizing patient care; and
- 7 (b) notify the board when:
- 8 (i) a sanction is imposed on an emergency medical service; or
- 9 (ii) the complaint is resolved."

10

11 **Section 227.** Section 50-6-203, MCA, is amended to read:

12 **"50-6-203. Rules.** (1) The board, after consultation with the department of public health and human
13 services and other appropriate departments, associations, and organizations, shall adopt rules of the board
14 implementing this part, including but not limited to:

- 15 (a) training and licensure of emergency care providers;
- 16 (b) the administration of drugs by emergency care providers; and
- 17 (c) the handling of complaints involving patient care provided by emergency care providers.

18 (2) The board may, by rule, establish various levels of emergency care provider licensure and shall
19 specify for each level the training requirements, acts allowed, relicensure requirements, and any other
20 requirements regarding the training, performance, or licensure of that level of emergency care provider that it
21 considers necessary, ~~subject to the provisions of 37-4-138.~~"

22

23 **Section 228.** Section 50-15-101, MCA, is amended to read:

24 **"50-15-101. Definitions.** Unless the context requires otherwise, in parts 1 through 4 the following
25 definitions apply:

- 26 (1) "Advanced practice registered nurse" means an individual who has been certified as an
27 advanced practice registered nurse as provided in ~~37-8-202~~ 37-8-409.
- 28 (2) "Authorized representative" means a person:

(a) designated by an individual, in a notarized written document, to have access to the individual's vital records;

(b) who has a general power of attorney for an individual; or

(c) appointed by a court to manage the personal or financial affairs of an individual.

(3) "Dead body" means a human body or parts of a human body from which it reasonably may be concluded that death occurred.

(4) "Department" means the department of public health and human services provided for in 2-15-2201.

(5) "Dissolution of marriage" means a marriage terminated pursuant to Title 40, chapter 4, part 1.

(6) "Fetal death" means death of the fetus prior to the complete expulsion or extraction from its mother as a product of conception, notwithstanding the duration of pregnancy. The death is indicated by the fact that after expulsion or extraction, the fetus does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

(7) "Final disposition" means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus.

(8) "Invalid marriage" means a marriage decreed by a district court to be invalid for the reasons contained in 40-1-402.

(9) "Live birth" means the complete expulsion or extraction from the mother as a product of conception, notwithstanding the duration of pregnancy. The birth is indicated by the fact that after expulsion or extraction, the child breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

(10) "Local registrar" means a person appointed by the department to act as its agent in administering this chapter in the area set forth in the letter of appointment.

(11) "Person in charge of disposition of a dead body" means a person who places or causes a dead body or the ashes after cremation to be placed in a grave, vault, urn, or other receptacle or otherwise disposes

of the body or fetus and who is a funeral director, an employee acting for a funeral director, or a person who first assumes custody of a dead body or fetus.

(12) "Physician" means a person legally authorized to practice medicine in this state.

(13) "Registration" means the process by which vital records are completed, filed, and incorporated into the official records of the department.

(14) "Research" means a systematic investigation designed primarily to develop or contribute to generalizable knowledge.

(15) (a) "Stillbirth" means a fetal death occurring after a minimum of 20 weeks of gestation.

(b) The term does not include an abortion, as defined in 50-20-104.

(16) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records. The term includes the collection of reports required by this chapter and related activities, including the tabulation, analysis, publication, and dissemination of vital statistics.

(17) "Vital records" means certificates or reports of birth, death, fetal death, marriage, and dissolution of marriage and related reports.

(18) "Vital statistics" means the data derived from certificates or reports of birth, death, fetal death, induced termination of pregnancy, marriage, and dissolution of marriage and related reports."

Section 229. Section 50-16-201, MCA, is amended to read:

"50-16-201. Definitions. As used in this part, the following definitions apply:

(1) (a) "Data" means written reports, notes, or records or oral reports or proceedings created by or at the request of a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee of a health care facility that may be shared with a medical practitioner, including the medical practitioner being reviewed, and that are used exclusively in connection with quality assessment or improvement activities, including the professional training, supervision, or discipline of a medical practitioner by a health care facility. The term includes all subsequent evaluations and analysis of an untoward event, including any opinions or conclusions of a reviewer.

(b) The term does not include:

(i) incident reports or occurrence reports; or

(ii) health care information that is used in whole or in part to make decisions about an individual who is the subject of the health care information.

(2) "Health care facility" has the meaning provided in 50-5-101.

(3) (a) "Incident report" or "occurrence report" means a written business record of a health care facility that:

(i) may be but is not required to be created by the staff involved in response to an untoward event, such as a patient injury, adverse outcome, or interventional error, for the purpose of ensuring a prompt evaluation of the event; and

(ii) is a factual rendition of the event.

(b) The terms do not include any subsequent evaluation of the event created by or at the request of a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee, regardless of whether or not the subsequent evaluation of the event occurred in response to an incident report or occurrence report. The creation of an incident report or occurrence report is not a condition precedent for a subsequent evaluation of an event, and any subsequent evaluation of an event remains privileged and confidential pursuant to this part, regardless of the creation of an incident report or occurrence report.

(4) "Medical practitioner" means an individual licensed by the state of Montana to engage in the practice of medicine, osteopathy, podiatry, optometry, or a nursing specialty described in 37-8-202 or licensed as a physician assistant pursuant to 37-20-203 under Title 37 as an advanced practice registered nurse, optometrist, physician, physician assistant, or podiatrist."

Section 230. Section 53-21-102, MCA, is amended to read:

"53-21-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Abuse" means any willful, negligent, or reckless mental, physical, sexual, or verbal mistreatment or maltreatment or misappropriation of personal property of any person receiving treatment in a mental health facility that insults the psychosocial, physical, or sexual integrity of any person receiving treatment in a mental health facility.

(2) "Behavioral health inpatient facility" means a facility or a distinct part of a facility of 16 beds or less licensed by the department that is capable of providing secure, inpatient psychiatric services, including

services to persons with mental illness and co-occurring chemical dependency.

(3) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors created by 2-15-211.

(4) "Commitment" means an order by a court requiring an individual to receive treatment for a mental disorder.

(5) "Court" means any district court of the state of Montana.

(6) "Department" means the department of public health and human services provided for in 2-15-2201.

(7) "Emergency situation" means:

(a) a situation in which any person is in imminent danger of death or bodily harm from the activity of a person who appears to be suffering from a mental disorder and appears to require commitment; or

(b) a situation in which any person who appears to be suffering from a mental disorder and appears to require commitment is substantially unable to provide for the person's own basic needs of food, clothing, shelter, health, or safety.

(8) "Friend of respondent" means any person willing and able to assist a person suffering from a mental disorder and requiring commitment or a person alleged to be suffering from a mental disorder and requiring commitment in dealing with legal proceedings, including consultation with legal counsel and others.

(9) (a) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

(b) The term does not include:

(i) addiction to drugs or alcohol;

(ii) drug or alcohol intoxication;

(iii) intellectual disability; or

(iv) epilepsy.

(c) A mental disorder may co-occur with addiction or chemical dependency.

(10) "Mental health facility" or "facility" means the state hospital, the Montana mental health nursing care center, or a hospital, a behavioral health inpatient facility, a mental health center, a residential treatment facility, or a residential treatment center licensed or certified by the department that provides treatment to

children or adults with a mental disorder. A correctional institution or facility or jail is not a mental health facility within the meaning of this part.

(11) "Mental health professional" means:

(a) a certified professional person;

(b) a physician licensed under Title 37, chapter 3;

(c) a professional counselor licensed under Title 37, chapter 23;

(d) a psychologist licensed under Title 37, chapter 17;

(e) a social worker licensed under Title 37, chapter 22;

(f) an advanced practice registered nurse, as provided for in ~~37-8-202~~ 37-8-409, with a clinical specialty in psychiatric mental health nursing; or

(g) a physician assistant licensed under Title 37, chapter 20, with a clinical specialty in psychiatric mental health.

(12) (a) "Neglect" means failure to provide for the biological and psychosocial needs of any person receiving treatment in a mental health facility, failure to report abuse, or failure to exercise supervisory responsibilities to protect patients from abuse and neglect.

(b) The term includes but is not limited to:

(i) deprivation of food, shelter, appropriate clothing, nursing care, or other services;

(ii) failure to follow a prescribed plan of care and treatment; or

(iii) failure to respond to a person in an emergency situation by indifference, carelessness, or intention.

(13) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

(14) "Patient" means a person committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

(15) "Peace officer" means any sheriff, deputy sheriff, marshal, police officer, or other peace officer.

(16) "Professional person" means:

(a) a medical doctor;

(b) an advanced practice registered nurse, as provided for in ~~37-8-202~~ 37-8-409, with a clinical

1 specialty in psychiatric mental health nursing;

2 (c) a licensed psychologist;

3 (d) a physician assistant licensed under Title 37, chapter 20, with a clinical specialty in psychiatric
4 mental health; or

5 (e) a person who has been certified, as provided for in 53-21-106, by the department.

6 (17) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a
7 professional person.

8 (18) "Respondent" means a person alleged in a petition filed pursuant to this part to be suffering
9 from a mental disorder and requiring commitment.

10 (19) "State hospital" means the Montana state hospital."
11

12 **Section 231.** Section 61-5-123, MCA, is amended to read:

13 **"61-5-123. Waiver of skills test or knowledge test related to military commercial motor vehicles**
14 **experience.** (1) As used in this section, "current or former military service member" means a person:

15 (a) honorably discharged from the armed forces of the United States;

16 (b) currently serving in the armed forces of the United States;

17 (c) serving full-time in a reserve component, ~~as defined in 37-1-138~~ in the Montana national guard
18 or the military reserves of the United States armed forces; or

19 (d) honorably discharged from the reserve component after serving full-time in the reserve
20 component.

21 (2) The department may waive the skills test, knowledge test, or both, required for a commercial
22 driver's license if an applicant is a current or former military service member and meets the conditions in
23 subsection (3), (4), or (5).

24 (3) A current or former military service member applying for waiver of the skills test shall:

25 (a) certify and provide evidence that the member:

26 (i) is or was regularly employed within the last year in a military position requiring operation of a
27 commercial motor vehicle;

28 (ii) was exempted from the commercial driver's license requirements in 61-8-803; and

(iii) was operating, for at least 2 years immediately preceding separation from the military, a vehicle representative of the commercial motor vehicle type the driver applicant operates or expects to operate; and

(b) certify that during the 2-year period immediately prior to applying for a commercial driver's license, the member:

(i) has not simultaneously held more than one civilian license;

(ii) has not had any license suspended, revoked, or cancelled;

(iii) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 61-8-802;

(iv) has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and

(v) has no record of an accident in which the current or former military service member was at fault.

(4) A current or former military service member applying for waiver of the knowledge test shall certify and provide evidence that during the 1-year period immediately prior to the application, the member:

(a) is or was regularly employed and designated as a:

(i) motor transport operator--88M (Army);

(ii) PATRIOT launching station operator--14T (Army);

(iii) fueler--92F (Army);

(iv) vehicle operator--2T1 (Air Force);

(v) fueler--2F0 (Air Force);

(vi) pavement and construction equipment operator--3E2 (Air Force);

(vii) motor vehicle operator--3531 (Marine Corps); or

(viii) equipment operator--E.O. (Navy);

(b) is operating a vehicle representative of the commercial motor vehicle type the driver applicant expects to operate on separation from the military or operated a similar vehicle type immediately preceding separation from the military;

(c) has not simultaneously held more than one civilian license;

(d) has not had any license suspended, revoked, or cancelled;

(e) has not had any convictions for any type of motor vehicle for the disqualifying offenses

contained in 61-8-802;

(f) has not had more than one conviction for any type of motor vehicle for serious traffic violations

contained in 61-8-803;

(g) has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and

(h) has no record of an accident in which the current or former military service member was at fault.

(5) A current or former military service member applying for waiver of the applicable skills and knowledge tests for a passenger, tank vehicle, or hazardous materials endorsement shall certify and provide evidence that during the 1-year period immediately prior to the application, the member:

(a) is or was regularly employed in a military position requiring:

(i) operation of a passenger commercial motor vehicle if requesting waiver of the skills and knowledge test for a passenger endorsement;

(ii) operation of a tank vehicle if requesting waiver of the skills and knowledge test for a tank vehicle endorsement; or

(iii) transportation of hazardous materials if requesting waiver of the skills and knowledge test for a hazardous materials endorsement;

(b) has not simultaneously held more than one civilian license;

(c) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 61-8-802;

(d) has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in 61-8-803;

(e) has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and

(f) has no record of an accident in which the current or former military service member was at fault."

Section 232. Section 80-8-207, MCA, is amended to read:

"80-8-207. Dealers. (1) A person may not sell, offer for sale, deliver, or have delivered within the state a pesticide without first obtaining a license from the department for each calendar year or portion of a year. A separate dealer's license and fee is required for each location or outlet from which pesticides are distributed, sold, held for sale, or offered for sale. Pesticide field personnel or salespeople employed directly out of the same location or outlet and under a licensed dealer are not required to obtain a license. The dealer shall furnish the department with the names and addresses of the dealer's field personnel and salespeople selling pesticides within the state.

(2) The department shall require an applicant for a dealer's license to show, upon written examination, that the person possesses adequate knowledge related to the responsibilities of a pesticide dealer. Licensed dealers are not required to repeat an examination to renew their license provided they have earned the required recertification credits for renewal of that license.

(3) The application for a license must be accompanied by a fee of \$75. A dealer applying for renewal of a license shall apply on or before March 1 of the calendar year. A dealer applying for renewal of a license after March 1 must be assessed a \$25 late licensing fee.

(4) The dealer shall require the purchaser of a restricted pesticide to exhibit the purchaser's license or permit issued under authority of this chapter, or the dealer may verify, under procedures authorized by the department, the purchaser's license or permit through a department list or by electronic means before completing a sale. The department may adopt rules concerning dealer verification of licenses and permits.

(5) The department shall assess an additional annual license fee of \$10 on dealers to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than \$10 a year or more than \$15 a year. Fees collected under this subsection must be deposited in an account in the state special revenue fund pursuant to 80-8-112.

(6) Pharmacists licensed as provided for in ~~37-7-302~~ [section 15], veterinarians licensed as provided for in ~~37-18-302~~ [section 23], and certified pharmacies licensed under ~~37-7-324~~ [section 16] are not required to be licensed to sell pesticides if the certified pharmacies and veterinarians register with the

department each year. However, the certified pharmacies and veterinarians must meet all other requirements concerning the commercial sale of pesticides. The department shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules."

Section 233. Section 87-1-506, MCA, is amended to read:

"87-1-506. Enforcement powers of wardens. (1) A warden may:

- (a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;
- (b) conduct a search, with a search warrant, in accordance with Title 46, chapter 5;
- (c) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;
- (d) seize and hold, subject to law or the orders of the department, devices that have been used to unlawfully take game, fish, birds, or fur-bearing animals;
- (e) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the department, violation of which is a misdemeanor;
- (f) enforce the disorderly conduct and public nuisance laws, 45-8-101 and 45-8-111, as they apply to the operation of motorboats on all waters of the state;
- (g) as provided for in 37-47-345, investigate violations of 37-47-301(1) and ~~(2)~~, 37-47-302(1), and 37-47-404;
- (h) enforce the provisions of Title 80, chapter 7, part 10, and rules adopted under Title 80, chapter 7, part 10, for those invasive species that are under the department's jurisdiction; and
- (i) exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules of the department, and judgments obtained for violation of those laws or rules.

(2) The meat of game animals that are seized pursuant to subsection (1)(c) must be donated directly to the Montana food bank network or to public or charitable institutions to the extent reasonably feasible. Any meat that the department is unable to donate must be sold pursuant to 87-1-511, with the proceeds to be distributed as provided in 87-1-513(2)."

Section 234. Section 87-5-709, MCA, is amended to read:

"87-5-709. Exceptions and exemptions to possession and sale of exotic wildlife. (1) Sections

87-5-705 through 87-5-708 and this section do not apply to:

(a) institutions that have established that their proposed facilities are adequate to provide secure confinement of wildlife, including:

(i) an accredited zoological garden or wildlife sanctuary chartered by the state as a nonprofit corporation;

(ii) a roadside menagerie permitted under 87-4-803 that was established for the purpose of exhibition or attracting trade;

(iii) a research facility for testing and science that employs individuals licensed under ~~37-34-304~~ [section 31] or that submits evidence to the department that it meets animal testing standards as provided by the national institutes of health, the national science foundation, the centers for disease control and prevention, the United States department of agriculture, or another similar nationally recognized and approved testing standard; or

(b) domestic animals.

(2) Authorization for possession must be provided by the department for exotic wildlife possessed as of January 1, 2004, and the authorization may include any conditions and restrictions necessary to minimize risks."

NEW SECTION. Section 235. Repealer. The following sections of the Montana Code Annotated are repealed:

37-72-102. Penalty -- injunction.

37-73-227. Penalty.

NEW SECTION. Section 236. Repealer. The following sections of the Montana Code Annotated are repealed:

25-1-1102. Contents of registration certificate.

37-1-101. Duties of department.

37-1-105. Reporting disciplinary actions against licensees.

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- 1 37-1-131. Duties of boards -- quorum required.
- 2 37-1-132. Nominees for appointment to licensing and regulatory boards.
- 3 37-1-135. Licensing investigation and review -- record access.
- 4 37-1-136. Disciplinary authority of boards -- injunctions.
- 5 37-1-137. Grounds for disciplinary action as grounds for license denial -- conditions to new licenses.
- 6 37-1-138. Protection of professional licenses for activated military reservists -- rulemaking authority --
- 7 definitions.
- 8 37-1-302. Definitions.
- 9 37-1-305. Temporary practice permits.
- 10 37-1-306. Continuing education -- certification -- other qualifications for continued licensure -- audit.
- 11 37-1-313. Appeal.
- 12 37-1-401. Uniform regulation for licensing programs without boards -- definitions.
- 13 37-1-402. Unprofessional conduct -- complaint -- investigation -- immunity.
- 14 37-1-403. Notice -- request for hearing.
- 15 37-1-404. Hearing -- adjudicative procedures.
- 16 37-1-405. Findings of fact -- order -- report.
- 17 37-1-406. Sanctions -- stay -- costs -- stipulations.
- 18 37-1-407. Appeal.
- 19 37-1-408. Reinstatement.
- 20 37-1-409. Enforcement of fine.
- 21 37-1-410. Unprofessional conduct.
- 22 37-1-411. Practice without license -- investigation of complaint -- injunction -- penalties.
- 23 37-1-412. Violation of injunction -- penalty.
- 24 37-1-413. Department authority.
- 25 37-1-420. Continuing education -- certification -- other qualifications for continued licensure -- audit.
- 26 37-3-101. Purpose.
- 27 37-3-201. Organization.
- 28 37-3-204. Meetings.

- 1 37-3-205. Records.
- 2 37-3-206. Compensation and expenses of members.
- 3 37-3-211. Executive officer.
- 4 37-3-301. License required -- kinds of licenses.
- 5 37-3-305. Qualifications for licensure.
- 6 37-3-307. Qualifications for licensure -- resident license.
- 7 37-3-309. Application for license.
- 8 37-3-310. Notice of change of address or name -- applicants -- licensees.
- 9 37-3-312. Issuance of license.
- 10 37-3-313. Limiting authority to impose renewal fees.
- 11 37-3-314. Deposit of money received.
- 12 37-3-321. Refusal of license.
- 13 37-3-323. Suspension of license -- investigation.
- 14 37-3-324. Reconsideration and review of actions of board.

15

16 **NEW SECTION. Section 237. Repealer.** The following sections of the Montana Code Annotated are

17 repealed:

- 18 37-4-102. Designations constituting prima facie evidence of practicing dentistry.
- 19 37-4-201. Official seal -- organization -- subpoena power -- screening panel.
- 20 37-4-202. Meetings -- notice -- records.
- 21 37-4-204. Affiliation with national association authorized -- delegates.
- 22 37-4-307. Notice of name and address change -- local fees prohibited.
- 23 37-4-312. Report of incompetence or unprofessional conduct.
- 24 37-4-313. Compelling licensee evaluation.
- 25 37-4-314. Immunity of person providing information.
- 26 37-4-325. Witness fees and mileage.
- 27 37-4-327. Practicing dentistry without license -- penalty.
- 28 37-4-341. Licensure of out-of-state volunteer dentists and dental hygienists without examination.

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- 1 37-4-406. Notice of name and address change -- local fees prohibited.
- 2 37-6-106. Rulemaking authority.
- 3 37-6-301. License required for practice.
- 4 37-6-302. Qualifications for licensure.
- 5 37-6-305. Deposit of moneys collected.
- 6 37-6-311. Refusal or revocation of license -- investigation.
- 7 37-7-102. Practice subject to regulation.
- 8 37-7-202. Salaries and expenses of board members.
- 9 37-7-301. Unlawful practice.
- 10 37-7-302. Qualifications -- display of license.
- 11 37-7-309. Utilization plan approval fee -- renewal of approval -- renewal fee.
- 12 37-7-321. Certified pharmacy license -- display.
- 13 37-7-322. Use of words pharmacy, apothecary, drug store, or chemist shop for advertising.
- 14 37-7-324. Deposit of fees and fines.
- 15 37-7-605. Out-of-state licensing requirements.
- 16 37-7-606. Licenses.
- 17 37-7-611. Criminal background check for wholesale distributors and third-party logistics providers.
- 18 37-8-101. Purpose.
- 19 37-8-201. Seal -- board records public -- legal counsel.
- 20 37-8-203. Compensation of members -- expenses.
- 21 37-8-401. Unlawful to indicate licensure without valid license.
- 22 37-8-406. License -- professional nursing -- examination.
- 23 37-8-408. Title and abbreviation of registered nurse.
- 24 37-8-416. Licensed practical nursing -- examination.
- 25 37-8-418. Licensed practical nursing -- application fee.
- 26 37-8-419. Title and abbreviation of licensed practical nurse.
- 27 37-8-425. Medication aide -- title.
- 28 37-8-432. Deposit of fees.

- 1 37-8-434. Criminal background check.
- 2 37-9-102. Legislative findings -- purpose.
- 3 37-9-201. Organization and compensation of board.
- 4 37-9-202. Exclusive jurisdiction of board.
- 5 37-9-203. Duties of board.
- 6 37-9-302. Department to license pursuant to board rules -- nontransferability.

7

8 **NEW SECTION. Section 238. Repealer.** The following sections of the Montana Code Annotated are

9 repealed:

- 10 37-9-304. Fees.
- 11 37-9-305. License -- grounds for discipline.
- 12 37-9-306. Deposit of fees.
- 13 37-10-105. Purpose.
- 14 37-10-201. Organization -- meetings.
- 15 37-10-202. Rulemaking power -- seal.
- 16 37-10-203. Compensation of members -- expenses -- deposit of moneys.
- 17 37-10-301. License required for practice -- unlawful acts -- injunction.
- 18 37-10-302. Qualifications -- application.
- 19 37-10-304. Course in use of diagnostic and therapeutic drugs required.
- 20 37-10-306. License to be displayed in office.
- 21 37-11-201. General powers -- rulemaking.
- 22 37-11-203. Travel expense -- deposit of fees.
- 23 37-11-301. License required for physical therapist and physical therapist assistant -- unauthorized
- 24 representation as licensed therapist.
- 25 37-11-303. Qualifications of applicants for license.
- 26 37-11-304. Application for examination.
- 27 37-11-306. Issuance of license -- certificate as evidence.
- 28 37-11-307. Applicants licensed in other states.

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- 1 37-11-311. Display of license.
- 2 37-11-312. Criminal record background check.
- 3 37-11-320. Duty to report violations -- immunity from liability.
- 4 37-11-321. Refusal to issue or renew license.
- 5 37-12-103. Duties of chiropractic practitioners.
- 6 37-12-201. Organization of board -- powers and duties.
- 7 37-12-202. Compensation of members -- expenses.
- 8 37-12-301. Unlawful to practice without license.
- 9 37-12-302. Applications -- qualifications -- fees.
- 10 37-12-304. Examinations -- subjects.
- 11 37-12-308. Deposit of fees -- accounting.
- 12 37-12-309. Municipal license fee prohibited.
- 13 37-12-322. Investigation of complaints.
- 14 37-12-323. Reconsideration of board action -- fee for restoration of license.
- 15 37-13-102. Legislative finding and purpose.
- 16 37-13-201. Powers and duties.
- 17 37-13-301. License required for practice.
- 18 37-13-302. Application for licensure -- fee -- qualifications.
- 19 37-13-304. Issuance of certificate of license -- license fee.
- 20 37-14-101. Purpose.
- 21 37-14-201. Compensation of board members -- meetings.
- 22 37-14-202. Rulemaking power.
- 23 37-14-305. Issuance of license or permit -- fee.
- 24 37-14-307. Duty to carry or display license or permit.
- 25 37-14-308. Issuance of other documents.
- 26 37-14-311. Deposit of fees.
- 27 37-14-322. Inspections.

28

1 **NEW SECTION. Section 239. Repealer.** The following sections of the Montana Code Annotated are
2 repealed:
3 37-15-101. Purpose.
4 37-15-201. Meetings.
5 37-15-202. Powers and duties of board and department.
6 37-15-203. Compensation and expenses.
7 37-15-301. License required.
8 37-15-302. Application forms.
9 37-15-303. Qualifications.
10 37-15-307. Application and license fee.
11 37-15-310. Deposit of moneys received.
12 37-15-311. Municipal tax prohibited.
13 37-16-101. Declaration of policy.
14 37-16-201. Meetings -- organization.
15 37-16-203. Compensation of members -- expenses.
16 37-16-401. License required -- exception.
17 37-16-406. Admission of licensees from other states.
18 37-16-408. Deposit of fees, fines, and costs.
19 37-16-412. Revocation, suspension, or denial -- notice and hearing.
20 37-17-201. Meetings -- expenses of members -- attorney general as board attorney -- seal.
21 37-17-202. Powers.
22 37-17-301. License required.
23 37-17-302. Qualifications.
24 37-17-314. Immunity from liability.
25 37-17-319. Licensure by experience.
26 37-17-320. Licensure of postdoctoral supervisees.
27 37-17-401. Purpose.
28 37-17-406. Rulemaking.

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- 1 37-18-102. (Temporary) Veterinary medicine defined.
- 2 37-18-201. Organization -- meetings.
- 3 37-18-202. Rulemaking.
- 4 37-18-301. License required.
- 5 37-18-302. Application -- qualification.
- 6 37-18-305. License -- issuance and contents.
- 7 37-18-306. Display of license and certificate.
- 8 37-18-308. Deposit of money.
- 9 37-18-313. Municipal license fee prohibited.
- 10 37-18-601. Purpose.
- 11 37-18-606. Disposition of fees.
- 12 37-18-702. (Effective January 1, 2023) Licensed veterinary technician scope of practice.
- 13 37-18-703. (Effective January 1, 2023) Penalties.
- 14 37-19-201. Organization -- compensation and expenses of members.
- 15 37-19-202. Meetings -- rulemaking power.
- 16 37-19-203. Terminated.
- 17 37-19-304. Issuance of intern's license -- license fee -- issuance of mortician's license on completion of
- 18 internship.
- 19 37-19-307. Deposit of money received.
- 20 37-19-401. License required -- display of license.

21

22 **NEW SECTION. Section 240. Repealer.** The following sections of the Montana Code Annotated are

23 repealed:

- 24 37-19-701. Purpose.
- 25 37-20-202. Adoption of rules.
- 26 37-20-203. Licensing of physician assistants.
- 27 37-20-302. Application for and renewal of license -- fees.
- 28 37-20-411. Unlawful acts.

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- 1 37-22-101. Purpose.
- 2 37-23-101. Purpose.
- 3 37-24-102. Purpose.
- 4 37-24-201. Organization -- general rulemaking power.
- 5 37-24-202. Powers and duties of board.
- 6 37-24-203. Compensation and expenses.
- 7 37-24-301. License required.
- 8 37-24-302. Application.
- 9 37-24-303. Requirements for licensure.
- 10 37-24-306. Issuance of license.
- 11 37-24-310. Fees.
- 12 37-25-101. Legislative finding and purpose.
- 13 37-25-201. Powers and duties of board.
- 14 37-25-301. Scope of dietetic-nutrition practice.
- 15 37-25-302. Licensing requirements.
- 16 37-25-303. Issuance of license.
- 17 37-25-305. Representation to public as nutritionist -- limitation on use of title.
- 18 37-25-308. Grounds for revocation, suspension, or refusal to renew license.
- 19 37-26-102. Legislative finding -- purpose.
- 20 37-26-202. Board meetings.
- 21 37-26-401. License required -- titles restricted -- enjoining unlawful practice.
- 22 37-26-402. Qualifications for licensure.
- 23 37-26-403. Application for licensure.
- 24 37-26-405. Issuance of license.
- 25 37-27-102. Purpose.
- 26 37-27-103. Definitions.
- 27 37-27-105. General powers and duties of board -- rulemaking authority.
- 28 37-27-201. Qualifications of applicants for license -- educational and practical experience requirements.

- 1 37-27-202. Examination -- preparation -- requirements.
- 2 37-27-203. Examination -- exemption.
- 3 37-27-205. Provisional license -- apprentice license.
- 4 37-27-210. Fees.
- 5 37-27-212. Title restricted -- enjoining unlawful practice.
- 6 37-27-301. Unlawful to practice without license.
- 7 37-28-101. Findings -- purpose.
- 8 37-28-104. Board powers and duties.
- 9 37-28-201. License required -- exceptions -- respiratory care not the practice of medicine.
- 10 37-28-202. Licensing requirements -- examination -- fees.
- 11 37-28-305. Deposit of fees.
- 12 37-29-105. Applicability of other law.
- 13 37-29-201. Board powers and duties.

14

15 **NEW SECTION. Section 241. Repealer.** The following sections of the Montana Code Annotated are
16 repealed:

- 17 37-29-301. License to practice required.
- 18 37-29-303. Application for license.
- 19 37-29-306. Licensing.
- 20 37-29-405. Advertising restrictions.
- 21 37-31-103. Purpose.
- 22 37-31-201. Organization -- seal.
- 23 37-31-202. Compensation of members -- expenses.
- 24 37-31-203. Rulemaking powers.
- 25 37-31-302. License required to practice, teach, or operate salon, shop, booth, or school.
- 26 37-31-303. Application for license to practice or teach.
- 27 37-31-304. Qualifications of applicants for license to practice.
- 28 37-31-309. Booth rental license.

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- 1 37-31-323. Fees.
- 2 37-31-324. Deposit of fees.
- 3 37-31-331. Refusal, revocation, or suspension of licenses -- grounds -- notice and hearing.
- 4 37-31-333. Appeal from actions of board.
- 5 37-33-402. Purpose.
- 6 37-33-405. Powers and duties of board -- rulemaking authority.
- 7 37-34-102. Declaration of policy and purpose.
- 8 37-34-301. License required.
- 9 37-34-303. Standards for licensure.
- 10 37-34-305. Licensure application procedures.
- 11 37-34-307. Violation -- penalties -- injunction -- manner of charging violation.
- 12 37-35-101. Purpose.
- 13 37-36-102. Board duties -- rulemaking.
- 14 37-36-201. Qualifications -- temporary license -- exemption from examination.
- 15 37-36-202. License -- revocation.
- 16 37-36-203. Representation to public -- practice -- exemptions.
- 17 37-37-101. Purpose.
- 18 37-38-101. Behavioral health peer support specialist.
- 19 37-40-201. Presiding officer -- meetings.
- 20 37-40-202. Compensation -- expenses.
- 21 37-40-203. Rulemaking power.
- 22 37-40-301. License required.
- 23 37-40-302. Application -- examination -- certificate.
- 24 37-47-202. Executive director.
- 25 37-47-303. Guide's qualifications.
- 26 37-47-305. Outfitter's examination.
- 27 37-47-306. Fees.
- 28 37-47-307. Investigation of applicant -- issuance or denial of license.

- 1 37-47-308. Kinds of licenses.
- 2 37-47-341. Grounds for denial, suspension, or revocation of license.
- 3 37-47-343. Appeal procedure.
- 4 37-47-351. Investigators.
- 5 37-47-401. Purpose.

6

- 7 **NEW SECTION. Section 242. Repealer.** The following sections of the Montana Code Annotated are
- 8 repealed:

- 9 37-49-101. Purpose.
- 10 37-49-104. Department powers and duties -- rulemaking.
- 11 37-49-201. Representation or practice as genetic counselor -- license required.
- 12 37-49-202. Licensure requirements -- examination -- fees -- temporary practice.
- 13 37-50-201. Organization -- general rulemaking power -- seal -- records.
- 14 37-50-202. Compensation of members -- expenses.
- 15 37-50-203. Rules of board.
- 16 37-50-204. Rulemaking powers relating to examinations.
- 17 37-50-302. Certified public accountants -- licensure -- qualifications and requirements.
- 18 37-50-305. Education requirements -- definition.
- 19 37-50-309. Credit for examinations taken in other jurisdictions.
- 20 37-50-314. License required -- proof of licensure.
- 21 37-50-316. Other license fees prohibited.
- 22 37-51-201. Presiding officer -- seal -- records -- prohibition on membership in real estate associations.
- 23 37-51-202. General licensing power.
- 24 37-51-203. Rulemaking power.
- 25 37-51-204. Educational programs.
- 26 37-51-205. Compensation of members -- expenses.
- 27 37-51-207. Schedule of fees.
- 28 37-51-208. Deposit of money not otherwise provided for.

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- 1 37-51-209. Executive secretary -- hiring and duties.
- 2 37-51-301. License required -- limited to persons.
- 3 37-51-302. Broker's or salesperson's license -- qualifications of applicant -- supervising broker
- 4 endorsement.
- 5 37-51-303. Broker or salesperson examination.
- 6 37-51-308. Broker's office -- display -- notice to department of change of address.
- 7 37-51-311. Fees -- deposit of fees.
- 8 37-51-312. No taxation by municipality.
- 9 37-51-601. License required to manage property.
- 10 37-51-603. Qualification of property manager applicants -- examination -- issuance of license.
- 11 37-51-605. Property manager's office -- notice of change of address.
- 12 37-51-607. Transactions with nonlicensed persons unlawful -- action for compensation limited to licensees.
- 13 37-53-104. Rulemaking authority.
- 14 37-53-302. Denial, suspension, or revocation of license or application.
- 15 37-54-111. Certificate of good standing.
- 16 37-54-112. Deposit of fees.
- 17 37-54-201. Real estate appraiser license -- scope and display of license.
- 18 37-54-202. Qualifications for licensure.
- 19 37-54-212. Temporary registration of certification and licensure of out-of-state appraisers.
- 20 37-54-302. Certification process -- fees.
- 21 37-54-303. Classes of certification -- education and experience requirements.
- 22 37-54-305. Issuance and display of certificate.
- 23 37-54-310. Renewal of certificate.
- 24 37-54-415. Place of business.
- 25 37-60-103. Purpose.
- 26 37-60-201. Organization -- meetings -- records.

27

28 NEW SECTION. **Section 243. Repealer.** The following sections of the Montana Code Annotated are

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- 1 repealed:
- 2 37-60-211. Compensation of board members -- expenses.
- 3 37-60-301. License required -- process server registration required.
- 4 37-60-303. License or registration qualifications.
- 5 37-60-304. Licenses and registration -- application form and content.
- 6 37-60-309. Form of license and identification cards.
- 7 37-60-310. Display of license and identification card.
- 8 37-60-314. Nontransferability of license -- record changes.
- 9 37-60-320. Fees.
- 10 37-60-401. Responsibility of licensee for conduct of employees.
- 11 37-65-101. Purpose.
- 12 37-65-201. Organization -- records.
- 13 37-65-202. Compensation of board members -- expenses.
- 14 37-65-203. Exclusive licensing jurisdiction -- no additional fee.
- 15 37-65-204. Rulemaking.
- 16 37-65-301. License required.
- 17 37-65-302. Licensure limited to individuals.
- 18 37-65-303. Application -- examination -- issuance of license.
- 19 37-65-307. Deposit of license fees.
- 20 37-65-310. License verification.
- 21 37-65-311. Emeritus status.
- 22 37-66-102. Purpose.
- 23 37-66-104. Acts declared unlawful.
- 24 37-66-301. License required.
- 25 37-66-302. Illegal use of title.
- 26 37-66-304. Qualifications and application for licensure.
- 27 37-66-309. Deposit of license fees.
- 28 37-67-102. Representation as practitioner to be considered as practice.

- 1 37-67-201. Organization -- meetings -- seal.
- 2 37-67-202. Rulemaking.
- 3 37-67-203. Compensation of board members -- expenses.
- 4 37-67-204. Record of proceedings -- register of applicants.
- 5 37-67-301. License required to practice or offer to practice.
- 6 37-67-312. Licensure of professional engineers without examination by comity.
- 7 37-67-313. Licensure of professional land surveyors by comity.
- 8 37-67-322. Application -- contents -- fees.
- 9 37-67-323. Qualifications of applicant for examination and licensure as professional engineer.
- 10 37-67-325. Qualifications of applicant for examination and licensure as professional land surveyor.
- 11 37-67-327. Examinations -- fees -- third-party services.
- 12 37-67-329. Emeritus status.
- 13 37-67-331. Revocation, suspension, restriction, or limitation of license -- grounds.
- 14 37-68-101. Purpose.
- 15 37-68-201. Organization -- meetings -- rulemaking power -- seal.
- 16 37-68-202. Compensation and expenses of board members.
- 17 37-68-301. License required to engage in electrical work.

18

19 **NEW SECTION. Section 244. Repealer.** The following sections of the Montana Code Annotated are

20 repealed:

- 21 37-68-302. Unauthorized use of title.
- 22 37-68-304. Master electricians -- application -- qualifications -- contents of examination -- fees.
- 23 37-68-305. Journeyman and residential electricians -- application -- qualifications -- contents of
- 24 examination.
- 25 37-68-308. Licensure without examination of persons licensed locally.
- 26 37-68-311. Application fee -- license fee.
- 27 37-68-313. Reasonable fees -- deposit of fees and fines collected.
- 28 37-68-315. Presentation of license.

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- 1 37-68-316. Citation and fine for failure to display license.
- 2 37-69-103. No penalty for hiring unlicensed plumber.
- 3 37-69-201. Presiding officer.
- 4 37-69-202. Rulemaking power -- records.
- 5 37-69-203. Compensation of board members -- expenses.
- 6 37-69-303. Application -- contents -- requirements.
- 7 37-69-304. Qualifications of applicants for journeyman plumber's license -- restriction on authority.
- 8 37-69-305. Qualifications of applicants for master plumber's license -- restriction on authority.
- 9 37-69-306. Examination -- issuance of license.
- 10 37-69-308. Deposit of fees and fines.
- 11 37-69-310. Citation and fine for failure to display license.
- 12 37-69-311. License of retirement status.
- 13 37-69-319. Proof of license -- citation and fine.
- 14 37-69-323. Restrictions on and responsibility for employees of master plumber.
- 15 37-69-402. Requirements for installation of medical gas piping.
- 16 37-69-403. Proof of endorsement.
- 17 37-72-202. General rulemaking power.
- 18 37-72-203. Revocation, suspension, or refusal to renew license -- grounds -- procedure.
- 19 37-72-301. General qualifications.
- 20 37-72-302. Training and experience requirements.
- 21 37-72-304. Issuance of license.
- 22 37-72-305. Licensure of persons licensed by other jurisdictions.
- 23 37-72-307. License -- form -- pocket card.
- 24 37-73-102. Rulemaking.
- 25 37-73-203. Elevator mechanic's license -- limited mechanic's license.
- 26 37-73-204. Elevator mechanic's examination -- fee -- reciprocity.
- 27 37-73-208. Elevator inspector's license -- temporary license.
- 28 37-73-216. Temporary elevator mechanic's license.

1 37-73-220. License renewal -- continuing education.

2 37-73-221. Reasonable fees -- deposit of fees and fines.

3 37-73-225. Proof of license.

4 37-73-226. Failure to display license.

5

6 **NEW SECTION. Section 245. Repealer.** The following sections of the Montana Code Annotated are
7 repealed:

8 37-7-307. Utilization plan -- contents -- responsibility of pharmacist.

9 37-7-308. Preparation and approval of utilization plan -- revocation of or refusal to renew plan --
10 contested case hearing.

11 37-7-323. Penalty -- enforcement.

12

13 **NEW SECTION. Section 246. Codification instruction.** (1) [Sections 1 through 6] are intended to
14 be codified as an integral part of Title 37, chapter 1, and the provisions of Title 37, chapter 1, apply to [sections
15 1 through 6].

16 (2) [Sections 7 through 10] are intended to be codified as an integral part of Title 37, chapter 1,
17 part 1, and the provisions of Title 37, chapter 1, part 1, apply to [sections 7 through 10].

18 (3) [Sections 11 and 12] are intended to be codified as an integral part of Title 37, chapter 1, part
19 3, and the provisions of Title 37, chapter 1, part 3, apply to [sections 11 and 12].

20 (4) [Section 13] is intended to be codified as an integral part of Title 37, chapter 3, part 3, and the
21 provisions of Title 37, chapter 3, part 3, apply to [section 13].

22 (5) [Section 14] is intended to be codified as an integral part of Title 37, chapter 6, part 3, and the
23 provisions of Title 37, chapter 6, part 3, apply to [section 14].

24 (6) [Sections 15 and 16] are intended to be codified as an integral part of Title 37, chapter 7, part
25 3, and the provisions of Title 37, chapter 7, part 3, apply to [sections 15 and 16].

26 (7) [Section 17] is intended to be codified as an integral part of Title 37, chapter 10, part 3, and the
27 provisions of Title 37, chapter 10, part 3, apply to [section 17].

28 (8) [Section 18] is intended to be codified as an integral part of Title 37, chapter 11, part 3, and the

1 provisions of Title 37, chapter 11, part 3, apply to [section 18].

2 (9) [Section 19] is intended to be codified as an integral part of Title 37, chapter 12, part 3, and the
3 provisions of Title 37, chapter 12, part 3, apply to [section 19].

4 (10) [Section 20] is intended to be codified as an integral part of Title 37, chapter 13, part 3, and the
5 provisions of Title 37, chapter 13, part 3, apply to [section 20].

6 (11) [Section 21] is intended to be codified as an integral part of Title 37, chapter 15, part 3, and the
7 provisions of Title 37, chapter 15, part 3, apply to [section 21].

8 (12) [Section 22] is intended to be codified as an integral part of Title 37, chapter 17, part 3, and the
9 provisions of Title 37, chapter 17, part 3, apply to [section 22].

10 (13) [Section 23] is intended to be codified as an integral part of Title 37, chapter 18, part 3, and the
11 provisions of Title 37, chapter 18, part 3, apply to [section 23].

12 (14) [Section 24] is intended to be codified as an integral part of Title 37, chapter 24, part 3, and the
13 provisions of Title 37, chapter 24, part 3, apply to [section 24].

14 (15) [Section 25] is intended to be codified as an integral part of Title 37, chapter 25, part 3, and the
15 provisions of Title 37, chapter 25, part 3, apply to [section 25].

16 (16) [Section 26] is intended to be codified as an integral part of Title 37, chapter 26, part 4, and the
17 provisions of Title 37, chapter 26, part 4, apply to [section 26].

18 (17) [Section 27] is intended to be codified as an integral part of Title 37, chapter 27, part 2, and the
19 provisions of Title 37, chapter 27, part 2, apply to [section 27].

20 (18) [Section 28] is intended to be codified as an integral part of Title 37, chapter 28, part 2, and the
21 provisions of Title 37, chapter 28, part 2, apply to [section 28].

22 (19) [Section 29] is intended to be codified as an integral part of Title 37, chapter 29, part 3, and the
23 provisions of Title 37, chapter 29, part 3, apply to [section 29].

24 (20) [Section 30] is intended to be codified as an integral part of Title 37, chapter 31, part 3, and the
25 provisions of Title 37, chapter 31, part 3, apply to [section 30].

26 (21) [Section 31] is intended to be codified as an integral part of Title 37, chapter 34, part 3, and the
27 provisions of Title 37, chapter 34, part 3, apply to [section 31].

28 (22) [Section 32] is intended to be codified as an integral part of Title 37, chapter 36, part 2, and the

1 provisions of Title 37, chapter 36, part 2, apply to [section 32].

2 (23) [Section 33] is intended to be codified as an integral part of Title 37, chapter 40, part 3, and the
3 provisions of Title 37, chapter 40, part 3, apply to [section 33].

4 (24) [Section 34] is intended to be codified as an integral part of Title 37, chapter 49, part 2, and the
5 provisions of Title 37, chapter 49, part 2, apply to [section 34].

6 (25) [Section 35] is intended to be codified as an integral part of Title 37, chapter 50, part 3, and the
7 provisions of Title 37, chapter 50, part 3, apply to [section 35].

8 (26) [Section 36] is intended to be codified as an integral part of Title 37, chapter 51, part 3, and the
9 provisions of Title 37, chapter 51, part 3, apply to [section 36].

10 (27) [Section 37] is intended to be codified as an integral part of Title 37, chapter 51, part 6, and the
11 provisions of Title 37, chapter 51, part 6, apply to [section 37].

12 (28) [Sections 38 and 39] are intended to be codified as an integral part of Title 37, chapter 54, part
13 2, and the provisions of Title 37, chapter 54, part 2, apply to [sections 38 and 39].

14 (29) [Section 40] is intended to be codified as an integral part of Title 37, chapter 60, part 3, and the
15 provisions of Title 37, chapter 60, part 3, apply to [section 40].

16 (30) [Section 41] is intended to be codified as an integral part of Title 37, chapter 65, part 3, and the
17 provisions of Title 37, chapter 65, part 3, apply to [section 41].

18 (31) [Section 42] is intended to be codified as an integral part of Title 37, chapter 66, part 3, and the
19 provisions of Title 37, chapter 66, part 3, apply to [section 42].

20 (32) [Section 43] is intended to be codified as an integral part of Title 37, chapter 67, part 3, and the
21 provisions of Title 37, chapter 67, part 3, apply to [section 43].

22 (33) [Section 44] is intended to be codified as an integral part of Title 37, chapter 68, part 3, and the
23 provisions of Title 37, chapter 68, part 3, apply to [section 44].

24 (34) [Section 45] is intended to be codified as an integral part of Title 37, chapter 69, part 3, and the
25 provisions of Title 37, chapter 69, part 3, apply to [section 45].

26 (35) [Section 46] is intended to be codified as an integral part of Title 37, chapter 72, part 3, and the
27 provisions of Title 37, chapter 72, part 3, apply to [section 46].

28 (36) [Section 47] is intended to be codified as an integral part of Title 37, chapter 73, part 2, and the

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1 provisions of Title 37, chapter 73, part 2, apply to [section 47].

2 - END -

AMENDED