

1 SENATE BILL NO. 453
2 INTRODUCED BY J. SMALL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO MEDICAL
5 LICENSING BOARDS; REVISING THE COMPOSITION OF THE ALTERNATIVE HEALTH CARE BOARD;
6 REVISING THE COMPOSITION OF THE BOARD OF MEDICAL EXAMINERS; TRANSFERRING
7 OVERSIGHT OF ACUPUNCTURISTS FROM THE BOARD OF MEDICAL EXAMINERS TO THE
8 ALTERNATIVE HEALTH CARE BOARD; AND AMENDING SECTIONS 2-15-1730, 2-15-1731, 37-3-203, 37-
9 13-103, AND 37-13-316, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 2-15-1730, MCA, is amended to read:

14 **"2-15-1730. Alternative health care board -- composition -- terms -- allocation.** (1) There is an
15 alternative health care board.

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

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

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

22 (c) one member who is a Montana physician whose practice includes obstetrics.

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

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

28 (5) The board is allocated to the department for administrative purposes only, as prescribed in 2-

1 15-121."

2

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

4 **"2-15-1731. Board of medical examiners.** (1) There is a Montana state board of medical examiners.

5 (2) The board consists of the following 13-12 members ~~appointed by the governor with the consent~~
6 ~~of the senate. Appointments made when the legislature is not in session may be confirmed at the next session.~~

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

8 (a) ~~five members having the degree of doctor~~ doctors of medicine, including one member with
9 experience in emergency medicine; ~~none of whom may be from the same county;~~

10 (b) ~~one member having the degree of doctor~~ of osteopathy;

11 (c) ~~one member who is a~~ licensed podiatrist;

12 (d) ~~one member who is a~~ licensed nutritionist;

13 (e) ~~one member who is a~~ licensed physician assistant;

14 ~~(f) one member who is a licensed acupuncturist;~~

15 ~~(g)~~(f) ~~one member who is a volunteer emergency care provider, as defined in 50-6-202; and~~

16 ~~(h)~~(g) ~~two public members of the general public who are not medical practitioners.~~

17 ~~(4) (a) The members having the degree of doctor of medicine may not be from the same county.~~

18 ~~(b) The volunteer emergency care provider must have a demonstrated interest in and knowledge of~~
19 ~~state and national issues involving emergency medical service and community-integrated health care.~~

20 ~~(c) Each member must be a citizen of the United States.~~

21 ~~(d) Each member, except for public members, must have been licensed and must have practiced~~
22 ~~medicine, acupuncture, emergency medical care, or dietetics-nutrition in this state for at least 5 years and must~~
23 ~~have been a resident of this state for at least 5 years.~~

24 ~~(5)~~(3) Members shall serve staggered 4-year terms. A term begins on September 1 of each year of
25 appointment. A member may be removed by the governor for neglect of duty, incompetence, or unprofessional
26 or dishonorable conduct.

27 ~~(6)~~(4) The board is allocated to the department for administrative purposes only as prescribed in 2-
28 15-121."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Section 3. 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,~~ podiatry, physician assistants, nutritionists, and emergency care providers as set forth in Title 37, chapters ~~6, 13, 6,~~ 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) 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 increasing license fees as necessary.

(2) (a) The board shall establish 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.

(b) 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.

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

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

5 (ii) the number of complaints for which a reasonable cause determination was made pursuant to
6 37-1-307;

7 (iii) the general nature of the complaints;

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

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

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

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

17 (i) the name of the physician;

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

19 (iii) the disciplinary action taken against the physician.

20 (d) The board shall provide the report to the economic affairs interim committee in accordance with
21 5-11-210 and shall make a copy of the report available on the board's website.

22 (4) The board may enter into agreements with other states for the purposes of mutual recognition
23 of licensing standards and licensing of physicians and emergency care providers from other states under the
24 terms of a mutual recognition agreement."
25

26 **Section 4.** Section 37-13-103, MCA, is amended to read:

27 **"37-13-103. Definitions.** As used in this chapter, the following definitions apply:

28 (1) (a) "Acupuncture" means a form of primary health care that is developed from traditional

1 oriental and modern medical philosophies for providing evaluation, diagnosis, and treatment of human
 2 conditions, ailments, diseases, injuries, or infirmities. The term includes the manual, mechanical, injection,
 3 thermal, vibrational, electrical, and electromagnetic stimulation and treatment of traditional and modern
 4 acupuncture points, trigger points, motor points, and ashi points on the human body for promotion,
 5 maintenance, and restoration of health and prevention of disease. The term also includes but is not limited to
 6 auricular acupuncture, body acupuncture, distal acupuncture, dry needling, point bleeding, and point injection.

7 (b) Adjunctive therapies included in, but not exclusive to, acupuncture include:

8 (i) herbal and nutritional recommendations;

9 (ii) therapeutic exercise, including but not limited to taiji and qigong;

10 (iii) manual therapy, including but not limited to bodywork, tui na, and shiatsu; and

11 (iv) other therapies based on traditional oriental and modern medical theory, as taught in
 12 accredited acupuncture programs.

13 (2) "Acupuncturist" means a natural person licensed by the ~~board of medical examiners~~ alternative
 14 health care board to practice acupuncture.

15 (3) "Board" means the Montana ~~state board of medical examiners~~ alternative health care board
 16 provided for in 2-15-1730.

17 (4) "School of acupuncture" means a school in which acupuncture is taught that has been
 18 recognized and designated by the ~~board of medical examiners~~ alternative health care board."

19

20 **Section 5.** Section 37-13-316, MCA, is amended to read:

21 **"37-13-316. Penalty.** A person who violates any of the provisions of this chapter or the rules of the
 22 ~~Montana state board of medical examiners board~~ is guilty of a misdemeanor punishable by imprisonment in the
 23 county jail not exceeding 6 months or by a fine not exceeding \$500, or both."

24

- END -