

HOUSE BILL NO. 246

INTRODUCED BY E. BUTTREY, L. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR STANDARDIZATION OF SUBSTANTIAL EQUIVALENCY DETERMINATIONS IN PROFESSIONAL LICENSING; PROVIDING A DEFINITION; REMOVING DUPLICATIVE SUBSECTIONS RELATED TO EQUIVALENCY AND RECIPROCITY; AMENDING SECTIONS 37-1-302, 37-1-304, 37-26-201, 37-33-405, 37-50-203, AND 37-73-204, MCA; AND REPEALING SECTIONS 37-39-203 AND 37-65-310, MCA."

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

Section 1. Section 37-1-302, MCA, is amended to read:

"37-1-302. Definitions. As used in this part, the following definitions apply:

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

(2) "Complaint" means a written allegation filed with a board that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(3) "Department" means the department of labor and industry.

(4) "Inspection" means the periodic examination of premises, equipment, or procedures or of a practitioner by the department to determine whether the practitioner's profession or occupation is being conducted in a manner consistent with the public health, safety, and welfare.

(5) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a written complaint or other information before a board, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the board;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether a board should seek an injunction.

(6) "License" 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.

(7) "Profession" or "occupation" means a profession or occupation regulated by a board.

(8) (a) "Substantial equivalency" or "substantially equivalent" means 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 licensing provisions of a profession or occupation under Title 37. When ascertaining substantial equivalency, the respective board or the department, as applicable, shall consider the qualifications without regard to the sequence in which the experience, education, and examination requirements were attained.

(b) For occupations and professions under the authority of a board, the board shall determine substantial equivalency.

(c) For occupations and professions under the authority of a department program, the department shall determine substantial equivalency."

Section 2. Section 37-1-304, MCA, is amended to read:

"37-1-304. Licensure of out-of-state applicants by endorsement -- reciprocity. ~~(1) Except as provided in Title 37, chapter 39, the board shall issue a license to practice without examination to a person licensed in another state if the board determines that:~~

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

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

~~(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. (1) Except as provided in 37-1-147, an applicant for licensure by endorsement 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 of this state.

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

(3) 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)(4)~~ This section does not prevent a board from entering into a reciprocity agreement with the licensing authority of another state or jurisdiction. ~~Except as provided in Title 37, chapter 39, the~~ 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.~~

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

Section 3. 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) 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)(3)~~ adopt rules that set nonrefundable fees for application, and licensure;

~~(5)(4)~~ approve naturopathic medical colleges as defined in 37-26-103;

1 ~~(6)~~(5) issue certificates of specialty practice;

2 ~~(7)~~(6) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope
3 of practice of naturopathic medicine, which may exclude the use of minor surgery allowed under 37-26-301;
4 and

5 ~~(8)~~(7) adopt rules that contain the formulary list created by the alternative health care formulary
6 committee provided for in 37-26-301."

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8 **Section 4.** Section 37-33-405, MCA, is amended to read:

9 **"37-33-405. Powers and duties of board -- rulemaking authority.** The board shall:

10 (1) adopt rules necessary or proper to administer and enforce this chapter;

11 ~~(2) adopt rules that endorse equivalent licensure examinations of another state or territory of the~~
12 ~~United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;~~

13 ~~(3)~~(2) adopt rules establishing reasonable requirements for continuing education, which must require
14 12 hours of continuing education to be completed in each 2-year period;

15 ~~(4)~~(3) meet as often as necessary for the conduct of business but at least twice a year; and

16 ~~(5)~~(4) take disciplinary action necessary to protect the public as provided for in Title 37, chapter 1."

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18 **Section 5.** Section 37-50-203, MCA, is amended to read:

19 **"37-50-203. Rules of board.** (1) The board may adopt rules, consistent with the purposes of this
20 chapter, that it considers necessary.

21 (2) The board shall adopt:

22 (a) rules of professional conduct appropriate to establish and maintain a high standard of integrity,
23 dignity, and competency in the profession of public accounting, including competency in specific fields of public
24 accounting;

25 (b) rules governing education requirements, as provided in 37-50-305, for issuance of the license
26 of a certified public accountant;

27 (c) rules defining requirements for accounting experience, not exceeding 2 years, for issuance of
28 the initial license; and

(d) rules to enforce the provisions of this chapter. The purpose of the rules is to provide for the monitoring of the profession of public accounting and to maintain the quality of the accounting profession.

(3) The board may adopt rules:

~~(a) governing firms and other types of entities practicing public accounting, including but not limited to rules concerning style, name, title, and affiliation with other organizations; and~~

~~(b) establishing education and experience qualifications for out-of-state and foreign accountants seeking licenses to practice in Montana."~~

Section 6. Section 37-73-204, MCA, is amended to read:

"37-73-204. Elevator mechanic's examination -- fee -- reciprocity. (1) The department shall, at least once a year, administer an examination to applicants meeting the requirements of 37-73-203(2)(b). The department shall determine the subjects, scope, and acceptable level of performance for the examination.

(2) The department shall determine by rule the fees to be charged an applicant for each examination and reexamination that the department administers. The fees must be commensurate with costs.

(3) An applicant for a license who has previously taken and failed the examination required by this section may retake it at any time within 2 years without again furnishing proof of compliance with 37-73-203(2)(b).

~~(4) The department may issue a license to an individual holding a valid license from another state that the department determines has standards substantially equal to this chapter upon application and without examination."~~

NEW SECTION. Section 7. Repealer. The following sections of the Montana Code Annotated are repealed:

37-39-203. Licensure and certification reciprocity for out-of-state applicants.

37-65-310. License verification.

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