

HOUSE BILL NO. 261

INTRODUCED BY B. CLOSE, J. KASSMIER, R. MINER, G. NIKOLAKAKOS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PROCEDURAL RULEMAKING AUTHORITY TO THE DEPARTMENT OF LABOR AND INDUSTRY; ESTABLISHING RULEMAKING IN CONTESTED ADMINISTRATIVE CASES; AND AMENDING SECTION 37-1-101, MCA."

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

**Section 1.** Section 37-1-101, MCA, is amended to read:

**"37-1-101. Duties of department.** In addition to the provisions of 2-15-121, the department shall:

- (1) establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, receiving, and processing routine applications for licenses as defined by a board, issuing and renewing routine licenses as defined by a board, disciplining licensees, setting administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board meetings and hearings, and filing. In issuing routine licenses for a board, the department shall issue a license within 45 days from the time of receiving a completed application or, within 10 calendar days, provide notice and response timelines to the applicant of deficiencies in the application or provide information as to any exigent circumstances that may delay issuing a license. For nonroutine licenses, the department shall confer with the board to which the licensure application is made and provide an expected timeline to an applicant for issuing a license, including notifying the applicant from that time forward of any deviations from the expected timeline.
- (2) standardize policies and procedures and keep in Helena all official records of the boards;
- (3) make arrangements and provide facilities in Helena for all meetings, hearings, and examinations of each board or elsewhere in the state if requested by the board;
- (4) contract for or administer and grade examinations required by each board;
- (5) investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board or a program within the department;

- 1           (6)     assess the costs of the department to the boards and programs on an equitable basis as  
2     determined by the department;
- 3           (7)     adopt rules setting administrative fees and expiration, renewal, and termination dates for  
4     licenses;
- 5           (8)     issue a notice to and pursue an action against a licensed individual, as a party, before the  
6     licensed individual's board after a finding of reasonable cause by a screening panel of the board pursuant to 37-  
7     1-307(1)(d);
- 8           (9)     (a) provide notice to the board and to the appropriate legislative interim committee when a  
9     board cannot operate in a cost-effective manner;
- 10          (b)     suspend all duties under this title related to the board except for services related to renewal of  
11     licenses;
- 12          (c)     review the need for a board and make recommendations to the legislative interim committee  
13     with monitoring responsibility for the boards for legislation revising the board's operations to achieve fiscal  
14     solvency; and
- 15          (d)     notwithstanding 2-15-121, recover the costs by one-time charges against all licensees of the  
16     board after providing notice and meeting the requirements under the Montana Administrative Procedure Act;
- 17          (10)    monitor a board's cash balances to ensure that the balances do not exceed two times the  
18     board's annual appropriation level and adjust fees through administrative rules when necessary. This  
19     subsection does not apply to the board of public accountants, except that the department may monitor the  
20     board's cash balances.
- 21          (11)    establish policies and procedures to set fees for administrative services, as provided in 37-1-  
22     134, commensurate with the cost of the services provided. Late penalty fees may be set without being  
23     commensurate with the cost of services provided.
- 24          (12)    adopt uniform rules for all boards and department programs to:
- 25          (a)     establish procedures for contested cases; and
- 26          (b)     comply with the public notice requirements of 37-1-311 and 37-1-405. The rules may require  
27     the posting of only the licensee's name and the fact that a hearing is being held when the information is being  
28     posted on a publicly available website prior to a decision leading to a suspension or revocation of a license or

1 other final decision of a board or the department."

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