

HOUSE BILL NO. 101

INTRODUCED BY J. GILLETTE

BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LICENSING RECIPROCITY PROVISIONS FOR OUT-OF-STATE PRACTITIONERS LICENSED BY THE BOARD OF BEHAVIORAL HEALTH; ESTABLISHING THAT LICENSURE IN ANOTHER STATE IS SUFFICIENT TO OBTAIN MONTANA LICENSURE FOR NEW RESIDENTS IF CERTAIN CONDITIONS EXIST; AND AMENDING SECTION 37-1-304, MCA."

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

NEW SECTION. Section 1. Licensure reciprocity for out-of-state applicants. ~~(1) The board shall issue a license as provided in this section to a person who moves to Montana and establishes residence in compliance with 1-1-215 if all of the following apply:~~

~~(a) The person is currently licensed as a clinical social worker, a baccalaureate social worker, or a master's social worker in at least one other state.~~

~~(b) The person has been licensed by another state for at least 1 year.~~

~~(c) The person's license is in good standing in all states in which the person holds a license.~~

~~(d) If the state in which the person is licensed set minimum education requirements and, if applicable, work experience and clinical supervision requirements at the time the person was licensed, the licensing authority in that state verifies that the person met those requirements when obtaining licensure in that state.~~

~~(e) The person previously passed an examination required for the license if required to do so by the state in which the license was issued.~~

~~(f) The person has not had a license revoked and has not voluntarily surrendered a license in any other state or country while under investigation for unprofessional conduct.~~

~~(g) A complaint, allegation, or investigation relating to unprofessional conduct is not pending~~

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~~against the person before a licensing authority in another state or country. If a complaint, allegation, or investigation is pending, the board shall suspend the application process and may not issue or deny a license until the complaint, allegation, or investigation is resolved.~~

~~(h) — The person has not been disciplined by another state licensing authority. If another jurisdiction has taken disciplinary action against the person, the board shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by the jurisdiction having authority, the board may not issue or deny a license until the matter is resolved.~~

~~(i) — The person pays all applicable fees.~~

~~(j) — The person does not have a disqualifying criminal history as determined by the board pursuant to Title 37, chapter 1, part 2.~~

~~(2) — A person licensed pursuant to this section is subject to the jurisdiction of the board and to the laws regulating the practice of social work in this state.~~

~~(3) — 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 applicant is licensed that the applicant 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.~~

~~(4) — This section does not apply to:~~

~~(a) — a person who is a candidate for licensure in another state and is not considered fully licensed in that state;~~

~~(b) — criteria for a license that is established by an interstate compact; or~~

~~(c) — the board's ability to require an applicant to submit fingerprints for a fingerprint-based check by the Montana department of justice and the federal bureau of investigation for noncriminal justice purposes.~~

~~(5) — A license issued pursuant to this section is valid only in Montana and does not make the person eligible to be part of an interstate compact. The board may determine eligibility for an applicant to be licensed under this section if the applicant is not part of an interstate compact.~~

1 (1) An applicant for reciprocity licensure is subject to the application procedure in this chapter and
2 must have an active license in good standing from a jurisdiction whose license qualifications, measured at the
3 time of application to this state, are substantially equivalent to the license qualifications in this state as
4 determined by the department.

5 (2) If the qualifications in subsection (1) are not substantially equivalent, the department shall refer
6 the application to the board to determine if the deficiency can be addressed by the applicant's actual
7 qualifications and work experience.

8
9 **NEW SECTION. Section 2. Licensure reciprocity for out-of-state applicants.** ~~(1) The board shall~~
10 ~~issue a license as provided in this section to a person who moves to Montana and establishes residence in~~
11 ~~compliance with 1-1-215 if all of the following apply:~~

12 ~~(a) The person is currently licensed as a clinical professional counselor in at least one other state.~~

13 ~~(b) The person has been licensed by another state for at least 1 year.~~

14 ~~(c) The person's license is in good standing in all states in which the person holds a license.~~

15 ~~(d) If the state in which the person is licensed set minimum education requirements and, if~~
16 ~~applicable, work experience and clinical supervision requirements at the time the person was licensed, the~~
17 ~~licensing authority in that state verifies that the person met those requirements when obtaining licensure in that~~
18 ~~state.~~

19 ~~(e) The person previously passed an examination required for the license if required to do so by~~
20 ~~the state in which the license was issued.~~

21 ~~(f) The person has not had a license revoked and has not voluntarily surrendered a license in any~~
22 ~~other state or country while under investigation for unprofessional conduct.~~

23 ~~(g) A complaint, allegation, or investigation relating to unprofessional conduct is not pending~~
24 ~~against the person before a licensing authority in another state or country. If a complaint, allegation, or~~
25 ~~investigation is pending, the board shall suspend the application process and may not issue or deny a license~~
26 ~~until the complaint, allegation, or investigation is resolved.~~

27 ~~(h) The person has not been disciplined by another state licensing authority. If another jurisdiction~~

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~~has taken disciplinary action against the person, the board shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by the jurisdiction having authority, the board may not issue or deny a license until the matter is resolved.~~

~~(i) — The person pays all applicable fees.~~

~~(j) — The person does not have a disqualifying criminal history as determined by the board pursuant to Title 37, chapter 1, part 2.~~

~~(2) — A person licensed pursuant to this section is subject to the jurisdiction of the board and to the laws regulating the practice of professional counseling in this state.~~

~~(3) — 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 applicant is licensed that the applicant 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.~~

~~(4) — This section does not apply to:~~

~~(a) — a person who is a candidate for licensure in another state and is not considered fully licensed in that state;~~

~~(b) — criteria for a license that is established by an interstate compact; or~~

~~(c) — the board's ability to require an applicant to submit fingerprints for a fingerprint-based check by the Montana department of justice and the federal bureau of investigation for noncriminal justice purposes.~~

~~(5) — A license issued pursuant to this section is valid only in Montana and does not make the person eligible to be part of an interstate compact. The board may determine eligibility for an applicant to be licensed under this section if the applicant is not part of an interstate compact.~~

(1) An applicant for reciprocity licensure is subject to the application procedure in this chapter 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.

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

4
5 **NEW SECTION. Section 3. Licensure reciprocity for out-of-state applicants.** ~~(1) The board shall~~
6 ~~issue a license as provided in this section to a person who moves to Montana and establishes residence in~~
7 ~~compliance with 1-1-215 if all of the following apply:~~

- 8 ~~(a) The person is currently licensed as an addiction counselor in at least one other state.~~
9 ~~(b) The person has been licensed by another state for at least 1 year.~~
10 ~~(c) The person's license is in good standing in all states in which the person holds a license.~~
11 ~~(d) If the state in which the person is licensed set minimum education requirements and, if~~
12 ~~applicable, work experience and clinical supervision requirements at the time the person was licensed, the~~
13 ~~licensing authority in that state verifies that the person met those requirements when obtaining licensure in that~~
14 ~~state.~~
15 ~~(e) The person previously passed an examination required for the license if required to do so by~~
16 ~~the state in which the license was issued.~~
17 ~~(f) The person has not had a license revoked and has not voluntarily surrendered a license in any~~
18 ~~other state or country while under investigation for unprofessional conduct.~~
19 ~~(g) A complaint, allegation, or investigation relating to unprofessional conduct is not pending~~
20 ~~against the person before a licensing authority in another state or country. If a complaint, allegation, or~~
21 ~~investigation is pending, the board shall suspend the application process and may not issue or deny a license~~
22 ~~until the complaint, allegation, or investigation is resolved.~~
23 ~~(h) The person has not been disciplined by another state licensing authority. If another jurisdiction~~
24 ~~has taken disciplinary action against the person, the board shall determine if the cause for the action was~~
25 ~~corrected and the matter resolved. If the matter has not been resolved by the jurisdiction having authority, the~~
26 ~~board may not issue or deny a license until the matter is resolved.~~
27 ~~(i) The person pays all applicable fees.~~

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~~(j) — The person does not have a disqualifying criminal history as determined by the board pursuant to Title 37, chapter 1, part 2.~~

~~(2) — A person licensed pursuant to this section is subject to the jurisdiction of the board and to the laws regulating the practice of addiction counseling in this state.~~

~~(3) — 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 applicant is licensed that the applicant 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.~~

~~(4) — This section does not apply to:~~

~~(a) — a person who is a candidate for licensure in another state and is not considered fully licensed in that state;~~

~~(b) — criteria for a license that is established by an interstate compact; or~~

~~(c) — the board's ability to require an applicant to submit fingerprints for a fingerprint-based check by the Montana department of justice and the federal bureau of investigation for noncriminal justice purposes.~~

~~(5) — A license issued pursuant to this section is valid only in Montana and does not make the person eligible to be part of an interstate compact. The board may determine eligibility for an applicant to be licensed under this section if the applicant is not part of an interstate compact.~~

(1) An applicant for reciprocity licensure is subject to the application procedure in this chapter 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) 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.

1 NEW SECTION. **Section 4. Licensure reciprocity for out-of-state applicants.** ~~(1) The board shall~~
2 ~~issue a license as provided in this section to a person who moves to Montana and establishes residence in~~
3 ~~compliance with 1-1-215 if all of the following apply:~~

4 ~~(a) The person is currently licensed as a marriage and family therapist in at least one other state.~~
5 ~~(b) The person has been licensed by another state for at least 1 year.~~
6 ~~(c) The person's license is in good standing in all states in which the person holds a license.~~
7 ~~(d) If the state in which the person is licensed set minimum education requirements and, if~~
8 ~~applicable, work experience and clinical supervision requirements at the time the person was licensed, the~~
9 ~~licensing authority in that state verifies that the person met those requirements when obtaining licensure in that~~
10 ~~state.~~

11 ~~(e) The person previously passed an examination required for the license if required to do so by~~
12 ~~the state in which the license was issued.~~

13 ~~(f) The person has not had a license revoked and has not voluntarily surrendered a license in any~~
14 ~~other state or country while under investigation for unprofessional conduct.~~

15 ~~(g) A complaint, allegation, or investigation relating to unprofessional conduct is not pending~~
16 ~~against the person before a licensing authority in another state or country. If a complaint, allegation, or~~
17 ~~investigation is pending, the board shall suspend the application process and may not issue or deny a license~~
18 ~~until the complaint, allegation, or investigation is resolved.~~

19 ~~(h) The person has not been disciplined by another state licensing authority. If another jurisdiction~~
20 ~~has taken disciplinary action against the person, the board shall determine if the cause for the action was~~
21 ~~corrected and the matter resolved. If the matter has not been resolved by the jurisdiction having authority, the~~
22 ~~board may not issue or deny a license until the matter is resolved.~~

23 ~~(i) The person pays all applicable fees.~~
24 ~~(j) The person does not have a disqualifying criminal history as determined by the board pursuant~~
25 ~~to Title 37, chapter 1, part 2.~~

26 ~~(2) A person licensed pursuant to this section is subject to the jurisdiction of the board and to the~~
27 ~~laws regulating the practice of marriage and family therapy in this state.~~

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~~(3) — 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 applicant is licensed that the applicant 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.~~

~~(4) — This section does not apply to:~~

~~(a) — a person who is a candidate for licensure in another state and is not considered fully licensed in that state;~~

~~(b) — criteria for a license that is established by an interstate compact; or~~

~~(c) — the board's ability to require an applicant to submit fingerprints for a fingerprint-based check by the Montana department of justice and the federal bureau of investigation for noncriminal justice purposes.~~

~~(5) — A license issued pursuant to this section is valid only in Montana and does not make the person eligible to be part of an interstate compact. The board may determine eligibility for an applicant to be licensed under this section if the applicant is not part of an interstate compact.~~

(1) — An applicant for reciprocity licensure is subject to the application procedure in this chapter 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) — 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.

NEW SECTION. Section 5. Certification reciprocity for out-of-state applicants. ~~(1) The board shall issue a certification as provided in this section to a person who moves to Montana and establishes residence in compliance with 1-1-215 if all of the following apply:~~

~~(a) — The person is currently certified or licensed as a behavioral health peer support specialist in at~~

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~~least one other state.~~

~~(b) — The person has been certified or licensed by another state for at least 1 year.~~

~~(c) — The person's certification or license is in good standing in all states in which the person holds a certification or license.~~

~~(d) — If the state in which the person is certified or licensed set minimum education requirements and, if applicable, work experience and clinical supervision requirements at the time the person was certified or licensed, the licensing authority in that state verifies that the person met those requirements when obtaining certification or licensure.~~

~~(e) — The person previously passed an examination required for the certification or license if required to do so by the state in which the certification or license was issued.~~

~~(f) — The person has not had a certification or license revoked and has not voluntarily surrendered a certification or license in any other state or country while under investigation for unprofessional conduct.~~

~~(g) — A complaint, allegation, or investigation relating to unprofessional conduct is not pending against the person before a licensing authority in another state or country. If a complaint, allegation, or investigation is pending, the board shall suspend the application process and may not issue or deny a certification until the complaint, allegation, or investigation is resolved.~~

~~(h) — The person has not been disciplined by another state licensing authority. If another jurisdiction has taken disciplinary action against the person, the board shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by the jurisdiction having authority, the board may not issue or deny a certification until the matter is resolved.~~

~~(i) — The person pays all applicable fees.~~

~~(j) — The person does not have a disqualifying criminal history as determined by the board pursuant to Title 37, chapter 1, part 2.~~

~~(2) — A person receiving certification pursuant to this section is subject to the jurisdiction of the board and to the laws regulating the provision of behavioral health peer support services in this state.~~

~~(3) — The certification 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 applicant holds certification or~~

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~~licensure that the applicant is currently certified or 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 certification pending further action to discipline or revoke the certification.~~

~~(4) — This section does not apply to:~~

~~(a) — a person who is a candidate for certification or licensure in another state and is not considered fully certified or licensed in that state;~~

~~(b) — criteria for certification or licensure that is established by an interstate compact; or~~

~~(c) — the board's ability to require an applicant to submit fingerprints for a fingerprint-based check by the Montana department of justice and the federal bureau of investigation for noncriminal justice purposes.~~

~~(5) — A certification issued pursuant to this section is valid only in Montana and does not make the person eligible to be part of an interstate compact. The board may determine eligibility for an applicant to receive certification under this section if the applicant is not part of an interstate compact.~~

(1) An applicant for reciprocity certification is subject to the application procedure in this chapter and must have an active certification in good standing from a jurisdiction whose certification qualifications, measured at the time of application to this state, are substantially equivalent to the certification qualifications in this state as determined by the department.

(2) 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.

Section 6. Section 37-1-304, MCA, is amended to read:

"37-1-304. Licensure of out-of-state applicants -- reciprocity. (1) ~~A~~Except as provided in [sections 1, 2, 3, 4, and 5], 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

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1 equivalent to or greater than the standards in this state; and

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

4 (2) The license may be issued if the applicant affirms or states in the application that the applicant
5 has requested verification from the state or states in which the person is licensed that the person is currently
6 licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or
7 impairment. If the board or its screening panel finds reasonable cause to believe that the applicant falsely
8 affirmed or stated that the applicant has requested verification from another state, the board may summarily
9 suspend the license pending further action to discipline or revoke the license.

10 (3) This section does not prevent a board from entering into a reciprocity agreement with the
11 licensing authority of another state or jurisdiction. ~~The~~ Except as provided in [sections 1, 2, 3, 4, and 5], the
12 agreement may not permit out-of-state licensees to obtain a license by reciprocity within this state if the license
13 applicant has not met standards that are substantially equivalent to or greater than the standards required in
14 this state as determined by the board on a case-by-case basis."

15
16 **NEW SECTION. Section 7. Codification instruction.** (1) [Section 1] is intended to be codified as an
17 integral part of Title 37, chapter 22, part 3, and the provisions of Title 37, chapter 22, apply to [section 1].

18 (2) [Section 2] is intended to be codified as an integral part of Title 37, chapter 23, part 2, and the
19 provisions of Title 37, chapter 23, apply to [section 2].

20 (3) [Section 3] is intended to be codified as an integral part of Title 37, chapter 35, part 2, and the
21 provisions of Title 37, chapter 35, apply to [section 3].

22 (4) [Section 4] is intended to be codified as an integral part of Title 37, chapter 37, part 2, and the
23 provisions of Title 37, chapter 37, apply to [section 4].

24 (5) [Section 5] is intended to be codified as an integral part of Title 37, chapter 38, part 2, and the
25 provisions of Title 37, chapter 38, apply to [section 5].

26 - END -