

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
27 SECTIONS 2-15-121, 2-15-1738, 2-15-1749, 20-4-502, 20-5-420, 20-9-327, 20-26-1511, 25-1-1101, 27-1-
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Amendment - 1st Reading-white - Requested by: Edward Buttrey - (H) Business and Labor

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Drafter: Erin Sullivan, 406-444-3594

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208, 37-73-216, 37-73-220, 37-73-221, 37-73-225, 37-73-226, AND 37-73-227, MCA.”

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.

- 1 (a) graduated from a school of podiatry approved by the board;
- 2 (b) completed at least 1 year of postgraduate training or equivalent experience or training
- 3 approved by the board; and
- 4 (c) passed an examination administered by the national board of podiatric medical examiners.

5

6 **NEW SECTION. Section 15. Pharmacist and pharmacy technician license required --**

7 **qualifications.** (1) An individual may not practice pharmacy or assist in the practice of pharmacy unless

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

- 9 (2) An applicant for licensure as a pharmacist must have:
- 10 (a) received an accredited pharmacy degree that has been approved by the board;
 - 11 (b) complied with the internship requirements established by the board; and
 - 12 (c) passed the licensing examinations prescribed by the board.
- 13 (3) An applicant for licensure as a pharmacy technician must have the qualifications prescribed by
- 14 board rule.

15

16 **NEW SECTION. Section 16. Certified pharmacy license required -- qualifications.** (1) A person

17 may not operate a pharmacy unless the pharmacy is licensed as a certified pharmacy under Title 37, chapter 1,

18 and this chapter.

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

21

22 **NEW SECTION. Section 17. Optometrist license required -- qualifications.** (1) An individual may

23 not practice optometry unless licensed under Title 37, chapter 1, and this chapter.

- 24 (2) An applicant for licensure as an optometrist must have:
- 25 (a) graduated from an optometry school accredited by the ~~association of regulatory boards of~~
 - 26 ~~optometry accreditation council on optometric education~~; and
 - 27 (b) passed examinations of the national board of examiners in optometry prescribed by board rule.

(ii) ~~has presented evidence satisfactory to the board of sufficient education, training, or experience, or a combination of education, training, and experience, in the fields referred to in subsection (1)(b)(i) to administer, supervise, and manage a long term care facility; and~~

(c) ~~has passed an examination designed to test for competence in the subject matters referred to in subsection (1)(b)(i) have passed an examination prescribed by board rule.~~

~~(2)(3) The minimum standards for qualification must comply with the requirements, if any, set forth in The requirements in subsection (2) must comply with 42 U.S.C. 1396g."~~

Section 111. Section 37-10-101, MCA, is amended to read:

"37-10-101. Definitions -- scope of practice of optometry. ~~(1) The practice of optometry is the profession constituting the art and science of visual care and includes any one of the following acts~~ As used in this chapter, the following definitions apply:

(1) "Board" means the board of optometry provided for in 2-15-1736.

(2) "Optometrist" means an individual who practices optometry.

(3) "Optometry" means the profession constituting the art and science of visual care and includes:

(a) the optometric examination or optometric diagnosis of all of those physiological or anatomical parts or functions that consummate the process of human vision to ascertain the presence of abnormal conditions or functions that may be optometrically diagnosed, corrected, remedied, or relieved ~~to conduct an optometric examination of the physiological and anatomical aspects of human vision and diagnose, correct, remedy, and relieve abnormal conditions or functions of human vision~~ the optometric examination or optometric diagnosis of all of those physiological or anatomical parts or functions that comprise the process of human vision to ascertain the presence of abnormal conditions or functions that may be optometrically diagnosed, corrected, remedied, or relieved;

(b) the employment of any optometric means for the purpose of detecting any condition of the process of vision that may have any significance in a complete optometric eye and vision examination, including the employment and administration of drugs topically applied for examination purposes, limited to administer the following topical drugs for optometric examination purposes ~~the employment of any optometric means for the purpose of detecting any condition of the process of vision that may have any significance in a~~

complete optometric eye and vision examination, including the employment and administration of drugs

topically applied for examination purposes, limited to:

(i) _____ cycloplegics;

(ii) _____ mydriatics;

(iii) _____ topical anesthetics;

(iv) _____ dyes such as fluorescein; and

(v) _____ for emergency use only, miotics;

(c) ~~the application or prescription of~~ to apply or prescribe the application or prescription of

ophthalmic lenses, contact lenses, prisms, orthoptics, visual training, and any physical, mechanical, or

physiological therapy and ~~the furnishing or application of~~ the furnishing or application of any prosthetic or

therapeutic devices ~~for the correction or relief of visual anomalies~~ for the correction or relief of visual anomalies;

(d) ~~the administration, dispensation, and prescription of~~ to prescribe, dispense, and administer,

~~alone or in combination with nonscheduled or nonregulated drugs, the administration, dispensation, and~~

prescription of the following following oral analgesics:

(i) _____ codeine;

(ii) _____ propoxyphene;

(iii) _____ hydrocodone; and and

(iv) _____ dihydrocodeine, alone or in combination with nonscheduled or nonregulated drugs, alone or in

combination with nonscheduled or nonregulated drugs; and

~~(e)(v)(e) the administration, dispensation, and prescription of those~~ the administration,

dispensation, and prescription of those drugs ~~approved~~ prescribed- approved by ~~the~~ the board ~~rule~~ for use in

ocular treatment limited to the anterior segment of the eye and adnexa. ~~, except to treat glaucoma. Glaucoma~~

~~may be treated. Glaucoma may be treated;~~

~~(e)(f)~~ to replace or duplicate ophthalmic lenses with or without a prescription or to dispense

ophthalmic lenses from ~~a prescription~~ prescriptions, except that an optical mechanic may replace or duplicate

an existing lens for glasses or perform ~~the merely~~ mechanical work on ~~a-an ophthalmic lens prescribed that is~~

ordered on a prescription signed by an optometrist and dispensed only by an optometrist or an individual

employed by an optometrist and who does so in the office and under the direct personal supervision of an

1 optometrist; and

2 (g) to take or make measurements, including the use of mechanical devices, for the purpose of
3 fitting or adapting ophthalmic lenses to the human eye or, in the sale of spectacles, eyeglasses, or lenses, to
4 use in the testing of the eyes lenses other than the lenses actually sold; and

5 (f)(h) to measure, fit, or adapt ophthalmic lenses a lens to the human eye with direct, contiguous
6 contact to the human eyeball, or in the sale of eyeglasses or lenses, to test eyes with lenses other than the
7 lenses actually sold.

8 ~~(2)(4)~~ Subsection ~~(1)~~ (3) does not:

9 (a) prohibit an optometrist from removing from the eye or adnexa a foreign body that is not
10 intraocular; or

11 ~~(3)(b)~~ Subsection ~~(1)~~ does not allow an optometrist to perform surgery or laser surgery for any
12 purpose.

13 ~~(4)~~ Unless the context requires otherwise, in this chapter:

14 ~~(a)~~ "board" means the board of optometry provided for in 2-15-1736; and

15 ~~(b)~~ "department" means the department of labor and industry provided for in Title 2, chapter 15, part
16 ~~47.~~"

17
18 **Section 112.** Section 37-12-101, MCA, is amended to read:

19 **"37-12-101. Definitions -- practice of chiropractic.** Unless the context requires otherwise, in this
20 chapter, the following definitions apply:

21 (1) "Board" means the board of chiropractors provided for in 2-15-1737.

22 ~~(2)~~ "Department" means the department of labor and industry provided for in Title 2, chapter 15, part
23 ~~47.~~

24 ~~(3)(2)~~ "Chiropractic" is the system of specific adjustment or manipulation of the articulations and
25 tissues of the body, particularly of the spinal column, for the correction of nerve interference and includes the
26 use of recognized diagnostic and treatment methods as taught in chiropractic colleges but does not include
27 surgery or the prescription or use of drugs.

28 (3) "Chiropractor" means an individual who practices chiropractic."

1 37-9-203. Duties of board.

2 37-9-302. Department to license pursuant to board rules -- nontransferability.

3

4 NEW SECTION. Section 239. Repealer. The following sections of the Montana Code Annotated are
5 repealed:

6 37-9-304. Fees.

7 37-9-305. License -- grounds for discipline.

8 37-9-306. Deposit of fees.

9 37-10-105. Purpose.

10 37-10-201. Organization -- meetings.

11 37-10-202. Rulemaking power -- seal.

12 37-10-203. Compensation of members -- expenses -- deposit of moneys.

13 37-10-301. License required for practice -- unlawful acts -- injunction.

14 37-10-302. Qualifications -- application.

15 ~~37-10-304. Course in use of diagnostic and therapeutic drugs required.~~

16 37-10-306. License to be displayed in office.

17 37-11-201. General powers -- rulemaking.

18 37-11-203. Travel expense -- deposit of fees.

19 37-11-301. License required for physical therapist and physical therapist assistant -- unauthorized
20 representation as licensed therapist.

21 37-11-303. Qualifications of applicants for license.

22 37-11-304. Application for examination.

23 37-11-306. Issuance of license -- certificate as evidence.

24 37-11-307. Applicants licensed in other states.

25 37-11-311. Display of license.

26 37-11-312. Criminal record background check.

27 37-11-320. Duty to report violations -- immunity from liability.

28 37-11-321. Refusal to issue or renew license.

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- 1 37-12-103. Duties of chiropractic practitioners.
- 2 37-12-201. Organization of board -- powers and duties.
- 3 37-12-202. Compensation of members -- expenses.
- 4 37-12-301. Unlawful to practice without license.
- 5 37-12-302. Applications -- qualifications -- fees.
- 6 37-12-304. Examinations -- subjects.
- 7 37-12-308. Deposit of fees -- accounting.
- 8 37-12-309. Municipal license fee prohibited.
- 9 37-12-322. Investigation of complaints.
- 10 37-12-323. Reconsideration of board action -- fee for restoration of license.
- 11 37-13-102. Legislative finding and purpose.
- 12 37-13-201. Powers and duties.
- 13 37-13-301. License required for practice.
- 14 37-13-302. Application for licensure -- fee -- qualifications.
- 15 37-13-304. Issuance of certificate of license -- license fee.
- 16 37-14-101. Purpose.
- 17 37-14-201. Compensation of board members -- meetings.
- 18 37-14-202. Rulemaking power.
- 19 37-14-305. Issuance of license or permit -- fee.
- 20 37-14-307. Duty to carry or display license or permit.
- 21 37-14-308. Issuance of other documents.
- 22 37-14-311. Deposit of fees.
- 23 37-14-322. Inspections.

24

25 **NEW SECTION. Section 240. Repealer.** The following sections of the Montana Code Annotated are

26 repealed:

- 27 37-15-101. Purpose.
- 28 37-15-201. Meetings.