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Mills

House BILL NO. 518

INTRODUCED BY *Luss* *Hotel James - Carlbert Larson*
McLee Forbes *Benedict Anderson* *Edk Bartlett*

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING UNIFORM PROCEDURES FOR THE LICENSING,
Cochranella *James Weldon Beck* *Masato*
DISCIPLINE, AND GENERAL REGULATION OF PROFESSIONS AND OCCUPATIONS REGULATED BY

LICENSING BOARDS ADMINISTRATIVELY ATTACHED TO THE DEPARTMENT OF COMMERCE;
ELIMINATING THE STATE LICENSE REQUIREMENT FOR EMPLOYMENT AGENCIES AND POLYGRAPH
EXAMINERS; AMENDING SECTIONS 37-1-101, 37-1-121, 37-1-131, 37-3-309, 37-3-313, 37-3-323,
37-3-403, 37-4-307, 37-4-402, 37-4-406, 37-5-307, 37-6-302, 37-6-303, 37-6-304, 37-6-311, 37-7-101,
37-7-302, 37-7-303, 37-7-321, 37-7-606, 37-8-409, 37-8-431, 37-9-101, 37-9-203, 37-9-302, 37-9-304,
37-9-305, 37-10-304, 37-11-303, 37-11-304, 37-11-308, 37-12-201, 37-12-307, 37-12-322, 37-13-306,
37-15-102, 37-15-202, 37-15-308, 37-16-202, 37-16-301, 37-16-407, 37-17-202, 37-17-306,
37-17-307, 37-18-202, 37-18-303, 37-18-305, 37-18-307, 37-19-301, 37-19-306, 37-19-401,
37-19-702, 37-20-302, 37-20-403, 37-22-304, 37-23-103, 37-23-202, 37-23-205, 37-24-202,
37-24-308, 37-25-307, 37-26-201, 37-26-403, 37-27-105, 37-28-201, 37-28-202, 37-28-203,
37-29-201, 37-29-303, 37-29-306, 37-29-403, 37-30-301, 37-30-305, 37-31-322, 37-32-305,
37-34-201, 37-34-305, 37-40-203, 37-40-304, 37-47-307, 37-50-203, 37-50-314, 37-50-317,
37-51-204, 37-51-306, 37-51-311, 37-53-211, 37-53-302, 37-54-105, 37-54-210, 37-54-211,
37-54-302, 37-54-310, 37-54-311, 37-60-202, 37-60-301, 37-60-312, 37-60-411, 37-65-306,
37-66-307, 37-67-202, 37-67-320, 37-68-201, 37-68-310, 37-68-312, 37-71-212, AND 37-71-213,
MCA; REPEALING SECTIONS 37-3-322, 37-4-306, 37-4-321, 37-4-323, 37-4-324, 37-4-404, 37-5-303,
37-5-304, 37-5-311, 37-6-310, 37-7-203, 37-7-304, 37-7-305, 37-7-311, 37-7-607, 37-7-608, 37-7-710,
37-8-407, 37-8-417, 37-8-430, 37-8-433, 37-8-441, 37-8-442, 37-9-303, 37-9-311, 37-10-204,
37-10-303, 37-10-308, 37-10-311, 37-11-202, 37-11-307, 37-11-309, 37-11-320, 37-11-321,
37-12-303, 37-12-321, 37-13-305, 37-13-311, 37-13-312, 37-13-313, 37-13-314, 37-14-304,
37-14-321, 37-15-305, 37-15-309, 37-15-321, 37-16-406, 37-16-411, 37-16-414, 37-17-304,
37-17-311, 37-17-318, 37-18-304, 37-18-311, 37-19-305, 37-19-311, 37-19-312, 37-19-316,
37-19-404, 37-20-409, 37-22-306, 37-22-311, 37-22-312, 37-23-204, 37-23-207, 37-23-211,
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37-26-410, 37-27-213, 37-27-216, 37-28-206, 37-28-210, 37-28-301, 37-29-311, 37-29-312,

1 37-29-313, 37-29-321, 37-30-306, 37-30-309, 37-30-502, 37-31-306, 37-31-307, 37-31-332,
 2 37-32-303, 37-32-310, 37-34-304, 37-34-306, 37-34-308, 37-40-303, 37-40-311, 37-47-341,
 3 37-47-342, 37-47-343, 37-47-346, 37-50-321, 37-50-322, 37-50-336, 37-51-206, 37-51-321,
 4 37-51-322, 37-51-604, 37-51-606, 37-53-302, 37-53-501, 37-53-502, 37-53-503, 37-54-401,
 5 37-54-402, 37-54-406, 37-54-417, 37-60-212, 37-60-307, 37-60-308, 37-60-321, 37-60-322,
 6 37-62-101, 37-62-102, 37-62-201, 37-62-202, 37-62-203, 37-62-204, 37-62-205, 37-62-206,
 7 37-62-207, 37-62-208, 37-62-209, 37-62-212, 37-62-213, 37-62-301, 37-62-302, 37-62-303,
 8 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323, 37-67-312, 37-67-313,
 9 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309, 37-69-320, 37-69-322, 39-5-101,
 10 39-5-102, 39-5-103, 39-5-104, 39-5-105, 39-5-201, 39-5-202, 39-5-203, 39-5-204, 39-5-205, 39-5-206,
 11 39-5-207, 39-5-208, 39-5-209, 39-5-301, 39-5-302, 39-5-303, 39-5-304, 39-5-305, 39-5-306, 39-5-307,
 12 39-5-308, 39-5-309, 39-5-310, 39-5-311, 39-5-312, 39-5-401, 39-5-402, 39-5-403, 39-5-404, 39-5-405,
 13 AND 39-5-406, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."
 14

15 STATEMENT OF INTENT

16 A statement of intent is necessary for this bill because, although the bill deletes numerous grants
 17 of rulemaking authority in numerous sections of Title 37, the bill contains a single section allowing
 18 professional and occupational licensing boards to adopt rules. The purpose of replacing the numerous
 19 rulemaking authority grants with a single grant, as is the purpose with the rest of the bill, is to standardize
 20 the law in an attempt to reduce the number of rules and reduce variations in the rules from occupation to
 21 occupation.

22 The legislature takes note of the large number of bills proposed by and affecting professional and
 23 occupational licensing boards in Montana. A uniform licensing and disciplinary process needs to be
 24 established to permit the department of commerce and administratively attached licensing boards to
 25 administer the professional and occupational regulatory programs in a manner that is responsive to the
 26 public's needs. The public interest will be served by establishing uniform administrative provisions for these
 27 regulated professions and occupations that are designed to reduce the number of statutes and rules and
 28 variations in statutes and rules between professions or occupations and to promote public awareness of
 29 and access to the regulation of professions and occupations. It is the intent of the legislature to strengthen
 30 and consolidate disciplinary and licensure procedures for the licensed professions and occupations by

1 providing a uniform disciplinary, licensing, and regulatory act, with standardized procedures for regulation,
2 the purpose of which is to assure the public of the adequacy of competence and conduct in the regulated
3 professions and occupations.

4 The rules should provide for adequate due process for licensed persons involved in disciplinary
5 proceedings.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8
9 NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 20] is to establish
10 uniform guidelines for the licensing and regulation of professions and occupations under the jurisdiction of
11 professional and occupational licensing boards governed by [sections 1 through 20].

12
13 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 20], the following
14 definitions apply:

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

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

19 (3) "Department" means the department of commerce.

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

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

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

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

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

29 (d) whether a board should seek an injunction.

30 (6) "License" means permission granted under a chapter of this title to engage in or practice at a

1 specific level in a profession or occupation, regardless of the specific term, such as permit, certificate,
2 recognition, or registration, used for the permission.

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

4
5 **NEW SECTION. Section 3. Scope.** [Sections 1 through 20] govern the licensure, the practice and
6 unauthorized practice, and the discipline of professions and occupations governed by this title unless
7 otherwise provided by statutes relating to a specific board and the profession or occupation it regulates.

8
9 **NEW SECTION. Section 4. Licensure of out-of-state applicants.** A board shall issue a license to
10 practice without examination to a person licensed in another state if the board determines that the other
11 state's license standards at the time of application to this state are substantially equivalent to the standards
12 in this state and that there is no reason to deny the license under the laws of this state governing the
13 profession or occupation. The license may not be issued until the board receives verification from the state
14 or states in which the person is licensed that the person is currently licensed and is not subject to pending
15 charges or final disciplinary action for unprofessional conduct or impairment.

16
17 **NEW SECTION. Section 5. Temporary practice permits.** (1) A board shall issue a temporary
18 practice permit to a person licensed in another state that has licensing standards substantially equivalent
19 to those of this state if the board determines that there is no reason to deny the license under the laws of
20 this state governing the profession or occupation. The person may practice under the permit until a license
21 is granted or until a notice of proposal to deny a license is issued. The permit may not be issued until the
22 board receives verification from the state or states in which the person is licensed that the person is
23 currently licensed and is not subject to pending charges or final disciplinary action for unprofessional
24 conduct or impairment.

25 (2) A board shall issue a temporary practice permit to a person seeking licensure in this state who
26 has met all licensure requirements other than passage of the licensing examination. The permit is valid until
27 the person either fails the first license examination for which the person is eligible following issuance of the
28 permit or passes the examination and is granted a license.

29
30 **NEW SECTION. Section 6. Continuing education.** A board may require licensees to participate in

1 flexible, cost-efficient, effective, and geographically accessible continuing education.

2

3 **NEW SECTION. Section 7. Board authority.** (1) A board may:

4 (a) hold hearings as provided in [sections 1 through 20];

5 (b) issue subpoenas and administer oaths in connection with investigations and disciplinary
6 proceedings under [sections 1 through 20]. Subpoenas may be enforced as provided in 2-4-104.

7 (c) authorize depositions and other discovery procedures under the Montana Rules of Civil
8 Procedure in connection with an investigation, hearing, or proceeding held under [sections 1 through 20];

9 (d) compel attendance of witnesses and the production of documents. Subpoenas may be
10 enforced as provided in 2-4-104.

11 (e) assign board members to a department screening panel that determines whether there is
12 reasonable cause to believe that a licensee has violated a statute or rule justifying disciplinary proceedings.
13 The assigned board members may not subsequently participate in a hearing of the case. The final decision
14 on the case must be made by a majority of the board members who did not serve on the screening panel
15 for the case.

16 (f) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license
17 holder, impose a sanction provided by this chapter.

18 (2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the
19 purpose of obtaining confidential criminal justice information regarding its licensees and license applicants.

20

21 **NEW SECTION. Section 8. Department authority.** The department may:

22 (1) employ investigative, administrative, clerical, and legal staff necessary to administer [sections
23 1 through 20];

24 (2) conduct investigations and inspections, issue subpoenas for the attendance of witnesses and
25 the production of documents, administer oaths, and take depositions in the course of conducting
26 investigations and inspections. Subpoenas may be enforced as provided in 2-4-104.

27 (3) establish a screening panel composed of department employees designated by the department
28 and board members designated by a board before which a complaint is submitted under [section 9]. The
29 designated employees may provide only technical assistance, information, and advice. The board members
30 on the screening panel shall determine by majority vote whether an investigation is necessary and whether

1 there is reasonable cause to believe that a licensee or license applicant has committed unprofessional
2 conduct or has failed to qualify for licensure.

3 (4) issue a notice to and pursue action, before the person's licensing board, against a person after
4 a finding of reasonable cause under subsection (3).

5

6 **NEW SECTION. Section 9. Unprofessional conduct -- complaint -- investigation -- immunity.** (1)

7 A person, government, or private entity may submit a written complaint to the department charging a
8 licensee or license applicant with a violation of [sections 1 through 20] and specifying the grounds for the
9 complaint.

10 (2) If the department receives a written complaint or otherwise obtains information that a licensee
11 or license applicant may have committed a violation of [sections 1 through 20], the department may
12 investigate to determine whether there is reasonable cause to believe that the licensee or license applicant
13 has committed the violation. A person or private entity, but not a government entity, filing a complaint
14 under this section in good faith is immune from suit in a civil action related to the filing or contents of the
15 complaint.

16

17 **NEW SECTION. Section 10. Notice -- request for hearing.** (1) If a reasonable cause determination

18 is made pursuant to [section 8] that a violation of [sections 1 through 20] has occurred, a notice must be
19 prepared by department legal staff and served on the alleged violator by certified mail to the current address
20 on file with the board.

21 (2) A licensee or license applicant shall give the board the licensee's or applicant's current address
22 and any change of address within 30 days of the change.

23 (3) The notice must state that the licensee or license applicant may request a hearing to contest
24 the charge or charges. A request for a hearing must be in writing and received in the offices of the
25 department within 20 days after service of the notice. Failure to request a hearing constitutes a default
26 on the charge or charges, and the board may enter a decision on the basis of the facts available to it.

27

28 **NEW SECTION. Section 11. Hearing -- adjudicative procedures.** The procedures in Title 2, chapter
29 4, governing adjudicative proceedings before agencies; the Montana Rules of Civil Procedure; and the
30 Montana Rules of Evidence govern a hearing under [sections 1 through 20]. A board has all the powers

1 and duties granted by Title 2, chapter 4.

2

3 **NEW SECTION. Section 12. Findings of fact -- order -- report.** (1) If the board decides, following
4 a hearing or on default, that a violation of [sections 1 through 20] occurred, the department shall prepare
5 and serve the board's findings of fact and an order as provided in Title 2, chapter 4. If the licensee or
6 license applicant is found not to have violated [sections 1 through 20], the department shall prepare and
7 serve the board's findings of fact and an order of dismissal of the charges.

8 (2) The department may report the issuance of a notice and final order to:

9 (a) the person or entity who brought to the department's attention information that resulted in the
10 initiation of the proceeding;

11 (b) appropriate public and private organizations that serve the profession or occupation; and

12 (c) the public.

13

14 **NEW SECTION. Section 13. Sanctions -- stay -- costs -- stipulations.** (1) Upon a decision that
15 a licensee or license applicant has violated [sections 1 through 20] or is unable to practice with reasonable
16 skill and safety due to a physical or mental condition or upon stipulation of the parties as provided in
17 subsection (3), the board may issue an order providing for one or any combination of the following
18 sanctions:

19 (a) revocation of the license;

20 (b) suspension of the license for a fixed or indefinite term;

21 (c) restriction or limitation of the practice;

22 (d) satisfactory completion of a specific program of remedial education or treatment;

23 (e) monitoring of the practice by a supervisor approved by the disciplining authority;

24 (f) censure or reprimand, either public or private;

25 (g) compliance with conditions of probation for a designated period of time;

26 (h) payment of a fine not to exceed \$1,000 for each violation. Fines must be deposited in the state
27 general fund.

28 (i) denial of a license application;

29 (j) refund of costs and fees billed to and collected from a consumer.

30 (2) A sanction may be totally or partly stayed by the board. To determine which sanctions are

1 appropriate, the board shall first consider the sanctions that are necessary to protect or compensate the
2 public. Only after the determination has been made may the board consider and include in the order any
3 requirements designed to rehabilitate the licensee or license applicant.

4 (3) The licensee or license applicant may enter into a stipulated agreement resolving potential or
5 pending charges that includes one or more of the sanctions in this section. The stipulation is an informal
6 disposition for the purposes of 2-4-603.

7 (4) A board may, following a final decision resulting in discipline, recover all of the board's
8 reasonable costs of the proceeding from the disciplined person if the board finds that the licensee or license
9 applicant acted in bad faith in challenging the disciplinary action. Costs recovered must be deposited in
10 the board's state special revenue account.

11 (5) A licensee shall surrender a suspended or revoked license to the board within 24 hours after
12 receiving notification of the suspension or revocation by mailing it or delivering it personally to the board.

13
14 **NEW SECTION. Section 14. Appeal.** A person who is disciplined or denied a license may appeal
15 the decision to the district court as provided in Title 2, chapter 4.

16
17 **NEW SECTION. Section 15. Reinstatement.** A licensee whose license has been suspended or
18 revoked under [sections 1 through 20] may petition the board for reinstatement after an interval set by the
19 board in the order. The board may hold a hearing on the petition and may deny the petition or order
20 reinstatement and impose terms and conditions as provided in [section 13]. The board may require the
21 successful completion of an examination as a condition of reinstatement and may treat a licensee whose
22 license has been revoked or suspended as a new applicant for purposes of establishing the requisite
23 qualifications of licensure.

24
25 **NEW SECTION. Section 16. Enforcement of fine.** (1) If payment of a fine is included in an order
26 and timely payment is not made as directed in the order, the board may enforce the order for payment in
27 the district court of the first judicial district.

28 (2) In a proceeding for enforcement of an order of payment of a fine, the order is conclusive proof
29 of the validity of the order of payment and the terms of payment.

30

1 **NEW SECTION. Section 17. Unprofessional conduct.** The following is unprofessional conduct for
2 a licensee or license applicant governed by this chapter:

3 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or
4 committed during the course of the person's practice or involving violence, use or sale of drugs, fraud,
5 deceit, or theft, whether or not an appeal is pending;

6 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating
7 to licensure or certification;

8 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or
9 assisting in securing a license or license renewal or in taking an examination required for licensure;

10 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the
11 licensee knows or reasonably ought to know contains a false or misleading statement;

12 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the
13 conduct of the profession or occupation;

14 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local
15 government employee or official for the purpose of influencing the employee or official to circumvent a
16 federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

17 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against
18 a licensee by a state, province, territory, or Indian tribal government or the federal government, whether
19 the action is on appeal, under judicial review, or has been satisfied.

20 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;

21 (9) revealing confidential information obtained as the result of a professional relationship without
22 the prior consent of the recipient of services, except as authorized or required by law;

23 (10) addiction to or dependency on a habit-forming drug or controlled substance as defined in Title
24 50, chapter 32, as a result of illegal use of the drug or controlled substance;

25 (11) use of a habit-forming drug or controlled substance as defined in Title 50, chapter 32, to the
26 extent that the use impairs the user physically or mentally;

27 (12) having a physical or mental disability that renders the licensee or license applicant unable to
28 practice the profession or occupation with reasonable skill and safety;

29 (13) engaging in conduct in the course of one's practice while suffering from a contagious or
30 infectious disease involving serious risk to public health or without taking adequate precautions, including

1 but not limited to informed consent, protective gear, or cessation of practice;

2 (14) misappropriating property or funds from a client or workplace or failing to comply with a board
3 rule regarding the accounting and distribution of a client's property or funds;

4 (15) interference with an investigation or disciplinary proceeding by willful misrepresentation of
5 facts, by the use of threats or harassment against or inducement to a client or witness to prevent them
6 from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment
7 against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal
8 action from being filed, prosecuted, or completed;

9 (16) assisting in the unlicensed practice of a profession or occupation or allowing another person
10 or organization to practice or offer to practice by use of the licensee's license;

11 (17) failing to report the institution of or final action on a malpractice action, including a final
12 decision on appeal, against the licensee or of an action against the licensee by a:

13 (a) peer review committee;

14 (b) professional association; or

15 (c) local, state, federal, territorial, provincial, or Indian tribal government;

16 (18) engaging in or soliciting sexual conduct with a client during the existence of or during the 6
17 months following the end of a professional or occupational relationship with the client that involves giving
18 health care to or a fiduciary responsibility toward the client or, if a psychotherapeutic relationship existed
19 with the client, at any time during or after the existence of the professional relationship;

20 (19) conduct that does not meet the generally accepted standards of practice. A certified copy of
21 a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving
22 an act or omission occurring during the scope and course of the practice is conclusive evidence of but is
23 not needed to prove conduct that does not meet generally accepted standards.

24
25 **NEW SECTION. Section 18. Practice without license -- investigation of complaint -- injunction --**
26 **penalties.** (1) The department shall investigate complaints concerning practice by an unlicensed person
27 of a profession or occupation for which a license is required by this title. In the investigation of the com-
28 plaints, the department has the powers specified in [section 8].

29 (2) A board may file an action to enjoin a person from practicing, without a license, a profession
30 or occupation for which a license is required by this title.

1 **NEW SECTION. Section 19. Violation of injunction -- penalty.** A person who violates an injunction
2 issued under [section 18] shall pay a civil penalty, as determined by the court, of not more than \$25,000.
3 Fifty percent of the penalty must be deposited in the general fund of the county in which the injunction is
4 issued, and 50% must be deposited in the state general fund.

5
6 **NEW SECTION. Section 20. Rules.** A board may adopt rules:

7 (1) under the guidelines of [section 6], regarding continuing education and establishing the number
8 of hours required each year, the methods of obtaining education, education topics, and carrying over hours
9 to subsequent years;

10 (2) regarding practice limitations for temporary practice permits issued under [section 5] and
11 designed to ensure adequate supervision of the practice until all qualifications for licensure are met and a
12 license is granted;

13 (3) regarding qualifications for inactive license status that may require compliance with stated
14 continuing education requirements and may limit the number of years a person may remain on inactive
15 status without having to reestablish qualifications for licensure;

16 (4) regarding maintenance and safeguarding of client funds or property possessed by a licensee
17 and requiring the funds or property to be maintained separately from the licensee's funds and property; and

18 (5) defining acts of unprofessional conduct, in addition to those contained in [section 17], that
19 constitute a threat to public health, safety, or welfare and that are inappropriate to the practice of the
20 profession or occupation.

21
22 **Section 21.** Section 37-1-101, MCA, is amended to read:

23 **"37-1-101. Duties of department.** In addition to the provisions of 2-15-121, the department of
24 commerce ~~shall~~ may:

25 (1) provide all the administrative, legal, and clerical services needed by the boards within the
26 department, including corresponding, taking applications for licenses, issuing and denying licenses granted
27 by the boards, renewing licenses, disciplining licensees, registering, taking minutes of board meetings and
28 hearings, and filing;

29 (2) standardize and keep in Helena all official records of the boards;

30 (3) make arrangements and provide facilities in Helena for the meetings, hearings, and examinations

1 of each board or elsewhere in the state if requested by the board;

2 (4) administer and grade examinations required by each board or by law for licensing, unless the
3 board determines that experts or professionals are necessary to administer or grade a particular
4 examination;

5 (5) ~~at the request of a board,~~ investigate complaints received by the department of illegal or
6 unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the
7 department;

8 (6) assess the costs of the department to the boards on an equitable basis as determined by the
9 department;

10 (7) adopt rules ~~establishing expiration dates of licenses for barbers, barbershops, professional~~
11 ~~engineers, professional land surveyors, nursing home administrators, optometrists, plumbers, social~~
12 ~~workers, speech language pathologists, audiologists, and radiologic technologists~~ setting expiration,
13 renewal, and termination dates for licenses."

14

15 **Section 22.** Section 37-1-121, MCA, is amended to read:

16 "**37-1-121. Duties of director.** In addition to ~~his~~ the powers and duties under 2-15-112 and
17 2-15-121, the director of commerce shall:

18 (1) at the request of a party, appoint an impartial legal counsel hearing examiner to conduct
19 hearings before each board within the department whenever any board holds a contested case hearing.
20 ~~The legal counsel appointed shall see that~~ hearing examiner shall conduct hearings ~~are conducted~~ in a
21 proper and legal manner.

22 ~~(2) whenever the department conducts an investigation of a complaint of illegal or unethical~~
23 ~~conduct of a member of a particular profession or occupation as prescribed in 37-1-101(5) and if requested~~
24 ~~by the appropriate board, appoint an impartial member of that profession or occupation to assist the~~
25 ~~department in its investigation. The member so appointed may not be a member of the board having~~
26 ~~jurisdiction over the particular profession or occupation.~~

27 ~~(3)~~(2) hire all personnel to perform the administrative, legal, and clerical functions of the
28 department for the boards. Boards within the department do not have ~~no~~ authority to hire personnel.

29 ~~(4)~~(3) approve all contracts and expenditures by boards within the department. ~~No~~ A board within
30 the department may not enter into a contract or expend funds without the approval of the director."

1 **Section 23.** Section 37-1-131, MCA, is amended to read:

2 **"37-1-131. Duties of boards.** Each board within the department shall:

3 (1) set and enforce standards and rules governing the licensing, certification, registration, and
4 conduct of the members of the particular profession or occupation within its jurisdiction;

5 (2) sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual
6 or potential member of the particular profession or occupation within its jurisdiction. The hearings ~~shall~~
7 must be conducted by ~~legal counsel~~ a hearing examiner when required under 37-1-121(1).

8 (3) suspend, revoke, or deny a license of a person who the board determines, after a hearing as
9 provided in subsection (2), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing
10 of the workers' compensation system in violation of the provisions of Title 39, chapter 71 or 72;

11 (4) pay to the department its pro rata share of the assessed costs of the department under
12 37-1-101(6);

13 (5) consult with the department before the board initiates a program expansion, under existing
14 legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs
15 associated with the proposed program expansion. The board may not expand a program if the board does
16 not have adequate money and appropriation authority available."
17

18 **Section 24.** Section 37-3-309, MCA, is amended to read:

19 **"37-3-309. Application for license.** (1) A person desiring a license to practice medicine shall make
20 application to the department, verified by oath and in a form prescribed by the board. The application ~~shall~~
21 must be accompanied by the license fee and documents, affidavits, and certificates necessary to establish
22 that the applicant possesses the qualifications prescribed by this chapter apart from an examination required
23 by the board. The burden of proof is on the applicant, but the ~~board~~ department may make an independent
24 investigation to determine whether the applicant possesses the qualifications and whether the applicant has
25 committed unprofessional conduct. ~~At the board's request, the~~ The applicant shall provide necessary
26 authorizations for the release of records and information pertinent to the ~~board's information~~ department's
27 inquiry.

28 (2) An applicant for a license on the basis of an examination shall file ~~his~~ the application at least
29 60 days prior to the announced date of the examination. If the applicant is not at the time of filing ~~his~~ the
30 application a graduate of but is then in attendance at an approved medical school, ~~he~~ the applicant shall

1 submit to the department, instead of a diploma or other required evidence of graduation, a written
 2 statement from the dean or other authorized representative of the approved medical school that the
 3 applicant will receive ~~his~~ a diploma at the end of the then-current school term. The applicant may not be
 4 granted a certificate until ~~he~~ the applicant has filed with the department ~~his~~ a diploma or other acceptable
 5 evidence of graduation from the approved medical school and has complied with the requirements of
 6 subsection (1) ~~of this section, and no.~~ A license may not be issued ~~to him~~ until ~~he~~ the applicant has
 7 satisfied the board that ~~he~~ the applicant has completed at least 1 year of an approved internship or its
 8 equivalent and has otherwise met the requirements for the issuance of a license under this chapter."
 9

10 **Section 25.** Section 37-3-313, MCA, is amended to read:

11 **"37-3-313. Annual registration fees -- failure to pay -- limiting authority to impose registration fees.**

12 (1) In addition to the license fees required of applicants, a licensed physician actively practicing medicine
 13 in this state shall pay each year to the department an annual registration fee as prescribed by the board.
 14 ~~If a person licensed to practice medicine absents himself from the state for a period of 1 or more years or~~
 15 ~~does not engage in active practice in this state, he may continue his license in good standing by payment~~
 16 ~~each year of a fee prescribed by the board or, at the discretion of the board, he may be reinstated on the~~
 17 ~~payment of a fee prescribed by the board for each year of absence or inactive practice.~~

18 (2) The annual payments for registration ~~shall~~ must be made prior to April 1, and a receipt
 19 acknowledging payment of the annual registration fee ~~shall~~ must be issued by the department. The
 20 department shall mail registration notices at least 60 days before the registration is due.

21 (3) In case of default in the payment of the annual registration fee by a person licensed to practice
 22 medicine who is actively practicing medicine in this state, ~~his~~ the underlying certificate to practice medicine
 23 may be revoked by the board on 30 days' notice given to the delinquent of the time and place of
 24 considering the revocation. A registered or certified letter addressed to the last-known address of the
 25 person failing to comply with the requirements of annual registration, as the address appears on the records
 26 of the department, constitutes sufficient notice of intention to revoke ~~his~~ the underlying certificate. ~~No~~ A
 27 certificate may not be revoked for nonpayment if the person authorized to practice medicine, and notified,
 28 pays the annual registration fee before or at the time fixed for consideration of revocation, together with
 29 a delinquency penalty prescribed by the board. The department may collect the dues by an action at law.

30 (4) ~~No~~ A registration or license fee may not be imposed on a licensee under this chapter by a

1 municipality or any other subdivision of the state."

2

3 **Section 26.** Section 37-3-323, MCA, is amended to read:

4 **"37-3-323. Revocation or suspension of license ~~probation fine disposition of fine.~~** (1) The
5 ~~board~~ department may make an investigation whenever it is brought to its attention that there is reason to
6 suspect that a person having a license or certificate to practice medicine in this state:

7 (a) is mentally or physically unable to safely engage in the practice of medicine, has procured a
8 license to practice medicine by fraud or misrepresentation or through mistake, has been declared
9 incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent,
10 or has a condition that impairs the person's intellect or judgment to the extent that it incapacitates the
11 person for the safe performance of professional duties;

12 (b) has been guilty of unprofessional conduct;

13 (c) has practiced medicine with a suspended or revoked license;

14 (d) has had a license to practice medicine suspended or revoked by any licensing authority for
15 reasons other than nonpayment of fees; or

16 (e) while under probation has violated its terms.

17 (2) The investigation must be for the purpose of determining the probability of the existence of
18 these conditions or the commission of these offenses and may, upon order of the board, include requiring
19 the person to submit to a physical examination or a mental examination, or both, by a physician or
20 physicians selected by the board if it appears to be in the best interests of the public that this evaluation
21 be secured. The board may examine and scrutinize the hospital records and reports of a licensee as part
22 of the examination, and copies must be released to the board on written request. ~~If the board has~~
23 ~~reasonable cause to believe that this probability exists, the department shall mail to the person's last~~
24 ~~address of record with the department a specification of the charges, together with a written notice of the~~
25 ~~time and place of the hearing on the charges, advising that the person may be present and may be~~
26 ~~represented by counsel if the person wants to offer evidence and be heard in the person's own defense.~~
27 ~~The time fixed for the hearing may not be less than 30 days from the date of mailing the notice.~~

28 ~~(3) A person, including a member of the board, may file a written complaint with the department~~
29 ~~against a person having a license to practice medicine in this state charging that person with the~~
30 ~~commission of any of the offenses set forth in 37-3-322 or with any of the offenses or conditions set forth~~

1 ~~in subsection (1) of this section. The complaint must set forth a specification of the charges. When the~~
2 ~~complaint is filed, the department shall mail a copy to the person accused at the person's last address of~~
3 ~~record with the department, together with a written citation of the time and place of the hearing on it.~~

4 ~~(4) At the hearing, the board shall adopt a resolution finding the accused guilty or not guilty of the~~
5 ~~matters charged. If the board finds that the offenses or conditions referred to in 37-3-322 or subsection~~
6 ~~(1) of this section do not exist with respect to the person or if the person is found not guilty, the board shall~~
7 ~~dismiss the charges or complaint. If the board finds that the offenses or conditions referred to in 37-3-322~~
8 ~~or in subsection (1) of this section do exist and the person is found guilty, the board shall:~~

9 ~~(a) revoke the person's license;~~

10 ~~(b) suspend the person's right to practice for a period not exceeding 1 year;~~

11 ~~(c) suspend its judgment of revocation on the terms and conditions to be determined by the board;~~

12 ~~(d) place the person on probation;~~

13 ~~(e) impose a fine, not to exceed \$500 an incident; or~~

14 ~~(f) take any other action in relation to disciplining the person as the board in its discretion considers~~
15 ~~proper.~~

16 ~~(5) In a case of revocation, suspension, or probation, the department shall enter in its records the~~
17 ~~facts of the action and of subsequent action of the board with respect to it.~~

18 ~~(6) On the expiration of the term of suspension, the licensee must be reinstated by the board if the~~
19 ~~suspended person furnishes the board with evidence that the person is then of good moral character and~~
20 ~~conduct, is restored to good health, and has not practiced medicine in this state during the term of~~
21 ~~suspension. If the evidence fails to establish to the satisfaction of the board that the holder is then of good~~
22 ~~moral character and conduct or restored to good health or if the evidence shows the person has practiced~~
23 ~~medicine in this state during the term of suspension, the board shall revoke the license, using the notice~~
24 ~~and hearing procedure provided in subsection (2). The revocation is final and absolute.~~

25 ~~(7)(3)~~ If a person holding a license to practice medicine under this chapter is by a final order or
26 adjudication of a court of competent jurisdiction adjudged to be mentally incompetent or seriously mentally
27 ill or addicted to the use of addictive substances, the person's license may be suspended by the board.
28 The suspension continues until the licensee is found or adjudged by the court to be restored to reason or
29 cured or until the person is discharged as restored to reason or cured and the person's professional
30 competence has been proven to the satisfaction of the board.

1 ~~(8) A fine imposed under this section must be deposited in the general fund.~~

2 ~~(9) The remedies and method of enforcement of this part, as provided for in this section, are~~
 3 ~~concurrent and in addition to the other remedies provided in this part."~~

4
 5 **Section 27.** Section 37-3-403, MCA, is amended to read:

6 **"37-3-403. Report of prohibition or limitation on practice by hospital.** Each hospital or health care
 7 facility ~~which~~ that prohibits or limits the privilege of a physician to practice medicine within that facility shall
 8 report ~~such~~ the action to the state board of medical examiners within 30 days after the action is taken if
 9 ~~the action is based in whole or in part upon the commission of one or more of the offenses or the existence~~
 10 ~~of one or more of the conditions set forth in 37-3-322 or 37-3-323(1).~~ The report shall must include the
 11 reason or reasons for the prohibition or limitation."

12
 13 **Section 28.** Section 37-4-307, MCA, is amended to read:

14 **"37-4-307. Annual renewal fee -- default -- ~~active, inactive status -- continuing education -- local~~**
 15 **fees prohibited.** (1) Every licensed dentist shall pay each year a renewal fee to the board. The renewal
 16 fee must be set by the board commensurate with costs. Notice of the change in the amount of renewal
 17 fees must be given to each dentist registered in this state by the department.

18 (2) Payment of the annual renewal fee must be made ~~prior to March 1~~ of each year on or before
 19 the date set by department rule, and a license renewal must be issued by the department. A reasonable
 20 late fee ~~is~~ must be required by the department if the annual renewal fee is not timely paid ~~before March 1~~.

21 ~~(3) The board may adopt rules governing requirements for demonstrating continued competency~~
 22 ~~for license renewal.~~

23 ~~(4) (a) The board may reclassify an active status license to inactive status for a licensee who~~
 24 ~~furnishes satisfactory evidence that the licensee has discontinued the actual practice of dentistry because~~
 25 ~~of physical disability or retirement.~~

26 ~~(b) An individual who wishes to maintain a Montana license but does not maintain a resident~~
 27 ~~practice must be licensed in the inactive status.~~

28 ~~(c) Application to convert an inactive status license to an active status license must be made in~~
 29 ~~accordance with rules of the board. The application to convert to active status must accompany the~~
 30 ~~submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license~~

1 ~~was inactivated, satisfactory evidence of competence must be submitted to the board before an active~~
 2 ~~status license may be issued.~~

3 ~~(5) (a) (3) (a)~~ In case of default in payment of the annual renewal fee by a licensee, ~~his~~ the license
 4 must be revoked by the board. The board shall give the licensee 30 days' notice of its proposed revocation
 5 action. The notice must be sent by certified letter addressed to the last-known address of the licensee and
 6 must contain a statement of the time and place of the meeting at which the revocation will be considered.

7 (b) If the licensee pays the renewal fee, plus a reasonable late fee set by the board, prior to the
 8 time set for revocation, the license may not be revoked.

9 (c) A license revoked for nonpayment of the renewal fee may be reinstated within 5 years of
 10 revocation if:

11 (i) renewal fees are paid for each year they were unpaid, plus a late penalty fee for each year;

12 (ii) the applicant produces evidence, satisfactory to the board, of good standing with the dentistry
 13 regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dentistry
 14 since the last payment of a renewal fee under this chapter; and

15 (iii) the applicant produces evidence, satisfactory to the board, of good character and competence.

16 ~~(6) (4)~~ ~~Every~~ Each dentist shall give the board notice of any change in name, address, or status
 17 within 30 days of the change.

18 ~~(7) (5)~~ ~~No~~ A unit of local government, including those exercising self-government powers, may not
 19 impose a license fee on a dentist licensed under this chapter."

21 **Section 29.** Section 37-4-402, MCA, is amended to read:

22 **"37-4-402. License -- examination.** (1) The department may issue licenses for the practice of
 23 dental hygiene to qualified applicants to be known as dental hygienists.

24 (2) Except as provided in ~~37-4-404~~ by rules adopted under [section 20], ~~no~~ a person may not
 25 engage in the practice of dental hygiene or practice as a dental hygienist in this state until ~~he~~ the person
 26 has passed an examination approved by the board under rules it considers proper and has been issued a
 27 license by the department.

28 (3) Applicants for licensure shall take and pass an examination in order to be licensed. The
 29 examination shall consist of a written part and a practical or clinical part. The board may accept, in
 30 satisfaction of the written part, successful completion of an examination by the national board of dental

1 examiners and, whenever the board determines necessary, successful completion of a board examination
 2 in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an
 3 examination by a board-designated regional testing service.

4 (4) The board has the right to administer its own examination in lieu of acceptance of the national
 5 board written examination and a regional testing service practical examination. The board is authorized to
 6 make rules governing ~~any such~~ examination procedures.

7 (5) Applicants for licensure shall submit an application, which ~~shall~~ must include, when required:

8 (a) certification of successful completion of the national board written examination;

9 (b) certification of successful completion of a regional board practical examination;

10 (c) two affidavits of good moral character;

11 (d) certificate of graduation from a board-approved dental hygiene school;

12 (e) an examination fee commensurate with costs and set by the board;

13 (f) a licensure fee commensurate with costs and set by the board;

14 (g) a recent photograph of the applicant; and

15 (h) copies of all other state licenses that are held by the applicant.

16 (6) Applications must be submitted no less than 20 days prior to the jurisprudence examination.

17 Applicants may not take the jurisprudence examination without first having completed and passed all other
 18 parts of the examination.

19 (7) Examination results will be accepted for a period of time as set by board rule. An applicant
 20 failing to pass ~~his~~ the first examination, if otherwise qualified, may take a subsequent examination on
 21 payment of a fee commensurate with costs and set by the board.

22 (8) The board is authorized to adopt necessary and reasonable rules governing application
 23 procedures."

24

25 **Section 30.** Section 37-4-406, MCA, is amended to read:

26 "**37-4-406. Annual renewal fee -- default** ~~-- active, inactive status -- continuing education --~~
 27 **revocation of license -- local fees prohibited.** (1) ~~Every~~ Each licensed dental hygienist shall pay each year
 28 a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. ~~The~~
 29 ~~renewal must be for either active or inactive status, as defined by rules of the board.~~

30 (2) Payment of the annual renewal fee must be made ~~prior to March 1 of each year~~ on or before

1 the date set by department rule, and a license renewal must be issued by the department. A reasonable
2 late fee is must be required if the annual renewal fee is not timely paid ~~before March 1~~.

3 ~~(3) The board may adopt rules governing requirements for demonstrating continued competency~~
4 ~~for license renewal.~~

5 ~~(4) (a) The board may reclassify an active status license to inactive status for a licensee who~~
6 ~~furnishes satisfactory evidence that the licensee has discontinued the actual practice of dental hygiene~~
7 ~~because of physical disability or retirement.~~

8 ~~(b) An individual who wishes to maintain a Montana license but does not maintain a resident~~
9 ~~practice must be licensed in the inactive status.~~

10 ~~(c) Application to convert an inactive status license to an active status license must be made in~~
11 ~~accordance with rules of the board. The application to convert to active status must accompany the~~
12 ~~submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license~~
13 ~~was inactivated, satisfactory evidence of competence must be submitted to the board before an active~~
14 ~~status license may be issued.~~

15 ~~(5)(3)~~ In case of default in payment of the renewal fee by any licensee, the board must revoke the
16 license.

17 (a) The board shall give the licensee 30 days' notice of its proposed revocation action. The notice
18 must be sent by certified mail to the last-known address of the licensee and must contain a statement of
19 the time and place of the meeting at which the revocation will be considered.

20 (b) The payment of the renewal fee on or before the time set for revocation, with a reasonable late
21 fee set by the board, excuses the default.

22 (c) A license revoked for nonpayment of the renewal fee may be reinstated within 5 years of
23 revocation if:

24 (i) renewal fees are paid for each year they were unpaid, plus a late penalty for each year;

25 (ii) the applicant produces evidence, satisfactory to the board, of good standing with the dental
26 hygiene regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice
27 of dental hygiene since the last payment of a renewal fee under this chapter; and

28 (iii) the applicant produces evidence, satisfactory to the board, of good character and competence.

29 ~~(6)(4)~~ Every Each dental hygienist shall give the board notice of any change in name, address, or
30 status within 30 days of the change.

1 ~~(7)(5)~~ The board may, after a hearing, revoke or suspend the license of a dental hygienist for
2 violating this chapter.

3 ~~(8)(6)~~ No A unit of local government, including those exercising self-government powers, may not
4 impose a license fee on a dental hygienist licensed under this chapter."

5

6 **Section 31.** Section 37-5-307, MCA, is amended to read:

7 "**37-5-307. Renewal fee.** (1) A person holding a certificate to practice under this chapter and who
8 is in active practice in this state shall, on or before April 1 of each year the date set by department rule,
9 pay a renewal fee prescribed by the board to the department, ~~and a person holding a certificate to practice~~
10 ~~under this chapter who is not in active practice shall before April 1 of each year pay a renewal fee~~
11 ~~prescribed by the board to the department. The~~ At least 2 weeks before the renewal date, the department
12 shall ~~before March 15 of each year~~ send a notice to each person holding a valid certificate to practice
13 under this chapter and from whom a fee is due stating that the fee is due.

14 (2) The certificate to practice under this chapter automatically becomes void when the renewal fee
15 is not paid at the time named. However, the board may reinstate a practitioner whose certificate has lapsed
16 on payment of back renewal fees or on payment of a maximum fee prescribed by the board if the lapsed
17 fees exceed the maximum fee."

18

19 **Section 32.** Section 37-6-302, MCA, is amended to read:

20 "**37-6-302. Qualifications for licensure -- exemptions from examination -- temporary licenses.** (1)
21 ~~Persons~~ A person who ~~wish~~ wishes to begin the practice of podiatry in this state shall make application,
22 on a form authorized by the board and furnished by the department, for a license to practice podiatry.

23 (2) ~~No~~ A person may not be granted a license to practice podiatry in this state unless ~~he~~ the
24 person:

25 (a) is of good moral character as determined by the board;

26 (b) is a graduate of a school of podiatry approved by the board;

27 (c) has completed at least 1 year of postgraduate training or has had equivalent experience or
28 training approved by the board;

29 (d) has made a personal appearance before the board;

30 (e) has passed an examination administered by the national board of podiatry examiners and is a

1 diplomate of the national board of podiatry examiners; and

2 (f) has obtained a score of at least 75% on an examination administered by the board.

3 (3) The board may waive the requirements described in subsections (2)(d) and (2)(f).

4 ~~(4) A license without written examination may be granted to podiatrists of other states maintaining~~
 5 ~~equal statutory requirements for the practice of podiatry and extending the same reciprocal privilege to this~~
 6 ~~state if they have had a valid license and practiced for at least 2 preceding years in that state prior to filing~~
 7 ~~for reciprocal privilege and by payment of a fee prescribed by the board to the department.~~

8 ~~(5) The board may authorize the department to issue a temporary license to practice podiatry in~~
 9 ~~appropriate cases, but no person may be granted a temporary license unless he:~~

10 ~~(a) is of good moral character as determined by the board;~~

11 ~~(b) is a graduate of a school of podiatry approved by the board;~~

12 ~~(c) has completed at least 1 year of postgraduate training or has had equivalent experience or~~
 13 ~~training approved by the board; and~~

14 ~~(d) has made a personal appearance before at least one member of the board.~~

15 ~~(6) The board may authorize the department to issue a temporary or permanent license subject to~~
 16 ~~probation or other conditions or limitations imposed by the board or may refuse to issue a license if the~~
 17 ~~applicant has engaged in unprofessional conduct or is otherwise unqualified."~~

18
 19 **Section 33.** Section 37-6-303, MCA, is amended to read:

20 **"37-6-303. Examination -- subjects -- fees -- reexamination.** (1) A person who is not exempt from
 21 examination ~~under 37-6-302 and desiring~~ who desires a license to practice podiatry ~~shall~~ must be examined
 22 in the following subjects: anatomy, chemistry, dermatology, physical diagnosis, materia medica, pathology,
 23 physiology, therapeutics, orthopedics, histology, bacteriology, pharmacy, neurology, surgery, shoe therapy,
 24 physiotherapy, roentgenology, and podiatric medicine. The minimum passing score is 70% for each subject
 25 tested and an average of 75% for all subjects tested.

26 (2) An examination and license fee prescribed by the board ~~shall~~ must be paid to the department.

27 (3) An applicant failing the examination and being refused a license is entitled within 6 months of
 28 the refusal to a reexamination, but one reexamination exhausts ~~his~~ the privilege under the original
 29 examination. An additional fee ~~shall~~ must be paid to the department for a reexamination."
 30

1 **Section 34.** Section 37-6-304, MCA, is amended to read:

2 **"37-6-304. Designations on license -- recording -- renewal -- display.** (1) A license issued under
 3 this chapter is designated as a "registered podiatrist's license" or a "temporary podiatrist's license".

4 (2) Licenses must be recorded by the department the same as other medical licenses.

5 (3) Licenses must be renewed annually, on a date set by the ~~board~~ department.

6 (4) A license renewal fee set by the board must be paid annually on a date set by the ~~board~~
 7 department.

8 (5) The department shall mail renewal notices no later than 60 days prior to the annual renewal
 9 date ~~set by the board under subsection (3)~~.

10 (6) If the annual renewal fee is not paid on or before the renewal date ~~set by the board under~~
 11 ~~subsection (3)~~, the board may revoke the licensee's certificate after giving 30 days' notice to the licensee.
 12 A certified letter addressed to the delinquent licensee's last-known address as it appears on the records of
 13 the department constitutes notice of intent to revoke the certificate. ~~No~~ A certificate may not be revoked
 14 for nonpayment of a renewal fee if the licensee pays the annual renewal fee plus a penalty prescribed by
 15 the board on or before the date fixed for revocation.

16 (7) A license revoked for nonpayment of the annual renewal fee may be reissued only on original
 17 application and payment of an additional fee prescribed by the board.

18 (8) Licenses must be conspicuously displayed by podiatrists at their offices or other places of
 19 practice."
 20

21 **Section 35.** Section 37-6-311, MCA, is amended to read:

22 **"37-6-311. Refusal or revocation of license -- investigation --reinstatement.** (1) After notice and
 23 opportunity for a hearing, the board may deny, revoke, or refuse to renew a license to practice podiatry
 24 if the consensus of the board is that an applicant is not of good moral character or has engaged in
 25 unprofessional conduct. ~~The department shall notify the applicant of the board's intent to deny, revoke,~~
 26 ~~or refuse to renew a license by mailing a letter to the applicant's last known address stating the board's~~
 27 ~~intent and setting a time and place for a hearing. If the applicant fails without cause to appear at the~~
 28 ~~hearing or if the board determines that the applicant is not entitled to a license, the board shall deny,~~
 29 ~~revoke, or refuse to renew the applicant's license.~~

30 (2) The ~~board~~ department may investigate whenever it is brought to its attention that a licensed

1 podiatrist:

- 2 (a) is mentally or physically unable to engage safely in the practice of podiatry;
- 3 (b) has procured ~~his~~ the license by fraud, misrepresentation, or through error;
- 4 (c) has been declared incompetent by a court of competent jurisdiction and thereafter has not been
- 5 lawfully declared competent;
- 6 (d) has a condition that impairs ~~his~~ the licensee's intellect or judgment to the extent that it
- 7 incapacitates ~~him~~ the licensee in the safe performance of ~~his~~ professional duties;
- 8 (e) has been found guilty of unprofessional conduct;
- 9 (f) has practiced podiatry while ~~his~~ the license was suspended or revoked;
- 10 (g) has had ~~his~~ the license suspended or revoked by any licensing authority for reasons other than
- 11 nonpayment of fees; or
- 12 (h) while under probation has violated its terms.

13 (3) The investigation ~~shall~~ must be for the purpose of determining the probability that the alleged

14 conditions exist or that the alleged offenses were committed. ~~The~~ Upon order of the board, the

15 investigation may include requiring the person to submit to a physical examination or a mental examination,

16 or both, by a physician or physicians selected by the board if it appears to be in the best interest of the

17 public that this evaluation be secured. The board may examine the hospital records and reports of a

18 licensee as part of the examination, and copies shall be released to the board on written request. ~~If the~~

19 ~~board has reasonable cause to believe that the alleged conditions exist or that the alleged offenses were~~

20 ~~committed, the department shall mail to the person at his last known address a specification of the charges~~

21 ~~against him, together with a written notice of the time and place of the hearing on such charges, advising~~

22 ~~him that he may be present in person and by counsel if he so desires to offer evidence and be heard in his~~

23 ~~defense. The time fixed for the hearing may not be less than 30 days from the date of mailing the notice.~~

24 ~~(4) A person, including a member of the board, may file a written complaint with the department~~

25 ~~against a person having a license to practice podiatry in this state charging him with the commission of any~~

26 ~~of the offenses set forth in 37-6-310 or with any of the offenses or conditions set forth in subsection (1)~~

27 ~~or (2) of this section. The complaint shall set forth a specification of the charges. When the complaint is~~

28 ~~filed, the department shall mail a copy to the person complained against, at his last known address,~~

29 ~~together with a written citation of the time and place of the hearing on the complaint.~~

30 ~~(5) At the hearing the board shall adopt a resolution finding the person complained against guilty~~

1 ~~or not guilty of the matters charged. If the board finds that the offenses or conditions referred to in~~
 2 ~~37-6-310 or subsection (1) or (2) of this section do not exist with respect to the person complained against~~
 3 ~~or if he is found not guilty, the board shall dismiss the charges or complaint. If the board finds that the~~
 4 ~~offenses or conditions referred to in 37-6-310 or in subsection (1) or (2) of this section do exist or the~~
 5 ~~person is found guilty, the board shall:~~

6 ~~(a) revoke his license;~~
 7 ~~(b) suspend his right to practice for a period not exceeding 1 year;~~
 8 ~~(c) suspend its judgment of revocation on the terms and conditions to be determined by the board;~~
 9 ~~(d) place him on probation; or~~
 10 ~~(e) take any other action in relation to disciplining him as the board in its discretion considers~~
 11 ~~proper.~~

12 ~~(6) In a case of revocation, suspension, or probation, the department shall enter in its records the~~
 13 ~~facts of the action and of subsequent measures taken by the board with respect to that action.~~

14 ~~(7) On the expiration of the term of suspension, the licensee shall be reinstated by the board if he~~
 15 ~~furnishes the board with evidence that he is then of good moral character and conduct or restored to good~~
 16 ~~health and that he has not practiced podiatry in this state during the term of suspension. If the evidence~~
 17 ~~fails to establish to the satisfaction of the board that the holder is then of good moral character and conduct~~
 18 ~~or restored to good health or if the evidence shows he has practiced podiatry in this state during the term~~
 19 ~~of suspension, the board shall revoke the license at a hearing held in accordance with the notice and~~
 20 ~~procedure provided in subsection (1). The revocation is final.~~

21 ~~(8)(4)~~ If a person holding a license to practice podiatry under this chapter is by a final order or
 22 adjudication of a court of competent jurisdiction determined to be mentally incompetent, seriously mentally
 23 ill, or addicted to the use of narcotics, ~~his~~ the license may be suspended by the board. The suspension
 24 continues until the licensee is found by the court to be restored to reason or cured or until ~~he~~ the licensee
 25 is discharged as restored to reason or cured and ~~his~~ the licensee's professional competence has been
 26 proven to the satisfaction of the board."

27

28 **Section 36.** Section 37-7-101, MCA, is amended to read:

29 "37-7-101. **Definitions.** Unless the context requires otherwise, in parts 1 through 3 of this chapter,
 30 the following definitions apply:

1 (1) "Board" means the board of pharmacy provided for in 2-15-1843.

2 (2) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained
3 through the process of the science and art of chemistry, whether of organic or inorganic origin.

4 (3) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and
5 commerce, exclusive of the practices of medicine and pharmacy.

6 ~~(4) "Continuing education" means professional pharmaceutical postgraduate education in the~~
7 ~~following areas:~~

8 ~~(a) the socioeconomic and legal aspects of health care;~~

9 ~~(b) the properties and actions of drugs and dosage forms; and~~

10 ~~(c) the etiology, characteristics, and therapeutics of the disease state.~~

11 ~~(5)~~(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part
12 18.

13 ~~(6) (a)~~(5) (a) "Drug" means:

14 (i) articles recognized in the official United States Pharmacopoeia/National Formulary or a
15 supplement to them;

16 (ii) articles intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in ~~man~~
17 people or other animals;

18 (iii) articles, ~~other than food,~~ intended to affect the structure or function of the body of ~~man~~ an
19 individual or other ~~animals~~ animal; and

20 (iv) articles intended for use as a component of an article specified in subsection (i), (ii), or (iii).

21 (b) "Drug" does not include devices or their components, parts, or accessories.

22 ~~(7)~~(6) "Intern" means a natural person licensed by the department to prepare, compound, dispense,
23 and sell drugs, medicines, chemicals, and poisons under the supervision of a registered and licensed
24 pharmacist.

25 ~~(8)~~(7) "Medicine" means a remedial agent which has the property of curing, preventing, treating,
26 or mitigating diseases or which is used for this purpose.

27 ~~(9)~~(8) "Person" includes an individual, partnership, corporation, or association.

28 ~~(10)~~(9) "Pharmacist" means a natural person licensed by the department to prepare, compound,
29 dispense, and sell drugs, medicines, chemicals, and poisons and who may affix to ~~his~~ the person's name
30 the term "R.Ph.".

1 ~~(11)~~(10) "Pharmacy" means an established place registered by the department of commerce in
2 which prescriptions, drugs requiring a prescription, medicines, chemicals, and poisons are compounded,
3 dispensed, vended, or sold.

4 ~~(12)~~(11) "Pharmacy technician or auxiliary" means an individual who assists a pharmacist in the
5 practice of pharmacy pursuant to an approved utilization plan.

6 ~~(13)~~(12) "Poison" means a substance which, when introduced into the system, either directly or
7 by absorption, produces violent, morbid, or fatal changes or which destroys living tissue with which it
8 comes in contact.

9 ~~(14)~~(13) "Prescription" means an order given individually for the person for whom prescribed,
10 directly from the prescriber to the furnisher or indirectly to the furnisher, by means of an order signed by
11 the prescriber and bearing the name and address of the prescriber, ~~his~~ the prescriber's license classification,
12 the name of the patient, the name and the quantity of the drug or drugs prescribed, the directions for use
13 and the date of its issue. These stipulations apply to both written and telephoned prescriptions.

14 ~~(15)~~(14) "Utilization plan" means a plan under which a pharmacist may use the services of a
15 pharmacy technician or auxiliary in the practice of pharmacy to perform tasks that:

- 16 (a) do not require the exercise of the pharmacist's independent professional judgment; and
- 17 (b) are verified by the pharmacist.

18 ~~(16)~~(15) "Wholesale" means a sale for the purpose of resale."

19
20 **Section 37.** Section 37-7-302, MCA, is amended to read:

21 **"37-7-302. Examination -- qualifications -- fees -- reciprocity.** (1) The department shall give
22 reasonable notice of examinations by mail to known applicants. The department shall record the names
23 of persons examined, together with the grounds on which the right of each to examination was claimed,
24 and also the names of persons registered by examination or otherwise.

25 (2) The fee for an examination ~~shall~~ must be set by the board at a figure commensurate with costs,
26 ~~which.~~ The fee may in the discretion of the board be returned to applicants not taking the examination.

27 (3) To be entitled to examination as a pharmacist, the applicant ~~shall~~ must be of good moral
28 character and ~~shall~~ must have graduated and received the first professional undergraduate degree from the
29 school of pharmacy of the university of Montana or from an accredited pharmacy degree program that has
30 been approved by the board. However, ~~no~~ an applicant may not receive a registered pharmacist's license

1 until ~~he~~ the applicant has complied with the internship requirements established by the board.

2 ~~(4) The board may in its discretion authorize the department to grant registration without~~
 3 ~~examination to a pharmacist licensed by a board of pharmacy or a similar board of another state which~~
 4 ~~accords similar recognition to licensees of this state if the requirements for registration in the other state~~
 5 ~~are, in the opinion of the board, equivalent to the requirements of this chapter. The fee for registration by~~
 6 ~~reciprocity shall be prescribed by the board.~~

7 ~~(5)(4) Every~~ Each person licensed and registered under this chapter shall must receive from the
 8 department an appropriate certificate attesting the fact, which shall must be conspicuously displayed at all
 9 times in ~~his~~ the place of business."

10
 11 **Section 38.** Section 37-7-303, MCA, is amended to read:

12 "**37-7-303. Annual renewal fee.** ~~(1)~~ A person licensed and registered by the department shall
 13 annually pay to the department on or before June 30 the date set by department rule a renewal of
 14 registration fee prescribed by the board. A default in the payment of a renewal fee after the date it is due
 15 increases the renewal fee as prescribed by the board. It is unlawful for a person who refuses or fails to
 16 pay the renewal fee to practice pharmacy in this state. A certificate and renewal expires at the time
 17 prescribed, not later than 1 year from its date. A defaulter in a renewal fee may be reinstated within 1 year
 18 of the default without examination on payment of the arrears and compliance with ~~the continuing education~~
 19 ~~provisions of this chapter~~ other requirements prescribe by law.

20 ~~(2) The board may charge an additional fee for such license renewal to be used in administering~~
 21 ~~the continuing education provisions of this chapter."~~

22
 23 **Section 39.** Section 37-7-321, MCA, is amended to read:

24 "**37-7-321. Certified pharmacy license —~~suspension or revocation.~~** (1) The board shall provide
 25 for the original certification and annual renewal by the department of every pharmacy doing business in this
 26 state. On presentation of evidence satisfactory to the board and on application on a form prescribed by
 27 the board and on the payment of an original certification fee prescribed by the board, the department shall
 28 issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to
 29 pharmacies operated by registered pharmacists qualified under this chapter. The annual renewal fee for
 30 a pharmacy shall must be set by the board. Any default in the payment of ~~such~~ the renewal fee after the

1 date the same is due ~~shall increase~~ increases the renewal fee as prescribed by the board. The license must
 2 be displayed in a conspicuous place in the pharmacy for which it is issued and expires on ~~June 30 following~~
 3 ~~the date of issue~~ the date set by department rule. It is unlawful for a person to conduct a pharmacy, use
 4 the word "pharmacy" to identify ~~his~~ the business, or use the word "pharmacy" in advertising unless a
 5 license has been issued and is in effect.

6 (2) The board may ~~suspend, revoke,~~ impose discipline or deny or refuse to renew a pharmacy
 7 license:

8 ~~(a) obtained by false representation or fraud;~~

9 ~~(b) when the pharmacy for which the license is issued is kept open for the transaction of business~~
 10 ~~without a pharmacist in charge;~~

11 ~~(c) when the person to whom the license is granted has been convicted of:~~

12 ~~(i) a violation of parts 1 through 3 of this chapter; or~~

13 ~~(ii) a violation of the Federal Food, Drug, and Cosmetic Act (Title 21, chapter 9, U.S.C.); chapter~~
 14 ~~2 or 7 of Title 37, chapter 9 or 10 of Title 45, or chapter 31 or 32 of Title 50, MCA; or rules adopted under~~
 15 ~~such act or chapters;~~

16 ~~(d) when the person to whom the license is granted is a natural person whose pharmacist license~~
 17 ~~has been revoked; or~~

18 ~~(e) when the pharmacy is conducted in violation of parts 1 through 3 of this chapter.~~

19 ~~(3) Before a license can be revoked, the holder is entitled to a hearing by the board for reasons~~
 20 ~~specified in and subject to conditions specified in Title 37, chapter 1."~~

21
 22 **Section 40.** Section 37-7-606, MCA, is amended to read:

23 **"37-7-606. Issuance of licenses.** The license for wholesale drug distributors is effective ~~from April~~
 24 ~~1 to March 31 of the following year~~ during the 12-month period specified by department rule. An
 25 application for renewal of a license must be mailed to each licensee ~~on or before March 1~~ at least 30 days
 26 prior to the renewal date, and if the renewal application and the fee are not mailed by ~~March 31~~ the renewal
 27 date, the license is void upon its expiration date."
 28

29 **Section 41.** Section 37-8-409, MCA, is amended to read:

30 **"37-8-409. Midwifery -- when professional nurse may practice.** ~~(1)~~ A person licensed under

1 ~~37-8-406 or 37-8-407~~ this chapter who holds a certificate in nurse-midwifery from the American college
 2 of nurse-midwives may practice midwifery upon approval by the board of an amendment to ~~her~~ the license
 3 granting a certificate of nurse-midwifery. The board shall grant a certificate of nurse-midwifery to a person
 4 who submits written verification of certification by the American college of nurse-midwives and who meets
 5 ~~such~~ other qualification requirements as the board may prescribe.

6 ~~(2) The board may give temporary approval to practice nurse-midwifery for up to 4 months to a~~
 7 ~~person who has taken the American college of nurse-midwives national certification examination, pending~~
 8 ~~receipt of official notification of the results of the examination."~~

9
 10 **Section 42.** Section 37-8-431, MCA, is amended to read:

11 **"37-8-431. Renewal of license.** (1) The license of a person licensed under this chapter must be
 12 annually renewed on the date set by department rule. ~~Before December 1 of each year~~ At least 30 days
 13 prior to the renewal date, the department shall mail an application form for renewal of license to ~~every~~ each
 14 person to whom a license was issued or renewed during the year. The applicant shall carefully complete
 15 and subscribe the application form and return it to the department with a renewal fee prescribed by the
 16 board on or before January 1 the renewal date.

17 (2) The board may increase or decrease the annual license fee so as to maintain in the state special
 18 revenue fund at all times an adequate amount to be used for the purpose of administering, policing, and
 19 enforcing the provisions of Title 37, chapter 1, and this chapter. On receipt of the application and fee, the
 20 department shall verify the accuracy of the application against its record and from other sources the board
 21 considers reliable and issue to the applicant a certificate of renewal ~~for the current year beginning January~~
 22 ~~1 and expiring December 31 following.~~ The certificate of renewal renders the holder a legal practitioner of
 23 nursing for the period stated in the certificate of renewal.

24 (3) A licensee who allows ~~his~~ the license to lapse by failing to renew the license may be reinstated
 25 by the board on satisfactory explanation for the failure to renew license and on payment of the current
 26 renewal fee prescribed by the board.

27 (4) A person practicing nursing during the time following the date ~~his~~ the license has expired is an
 28 illegal practitioner and is subject to the penalties provided for violations of this chapter.

29 (5) The board may establish a reasonable late fee for licensees who fail to renew their license by
 30 ~~January 1 as required in subsection (1)~~ the renewal date."

1 **Section 43.** Section 37-9-101, MCA, is amended to read:

2 **"37-9-101. Definitions.** Unless the context requires otherwise, in this chapter, the following
3 definitions apply:

4 (1) "Board" means the board of nursing home administrators provided for in 2-15-1845.

5 (2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

6 ~~(3) "Inactive nursing home administrator" means an individual who has been licensed in this state
7 as a nursing home administrator and whose license has not been revoked or suspended but who is not
8 actively engaged in nursing home administration.~~

9 ~~(4)~~ (3) "Long-term care facility" means any skilled nursing facility, nursing home, or intermediate
10 care facility as defined for licensing purposes under state law or the rules for long-term care facilities of the
11 department of health and environmental sciences, whether proprietary or nonprofit, including facilities
12 owned or administered by the state or a political subdivision.

13 ~~(5)~~(4) "Nursing home administrator" means a person who administers, manages, supervises, or is
14 in general administrative charge of a long-term care facility, whether the individual has an ownership
15 interest in the facility and whether ~~his~~ the individual's functions and duties are shared with one or more
16 other individuals."

17

18 **Section 44.** Section 37-9-203, MCA, is amended to read:

19 **"37-9-203. Duties of board.** The board shall:

20 (1) develop, impose, and enforce standards ~~which~~ that must be met by individuals in order to
21 register and receive a license as a nursing home administrator, designed to ensure that nursing home
22 administrators are individuals of good character and otherwise suitable and, by training or experience in the
23 field of institutional administration, are qualified to serve as nursing home administrators;

24 (2) develop and apply appropriate techniques, including examination and investigation, for
25 determining whether individuals meet the standards;

26 (3) authorize the department to register and issue licenses to individuals, after application of the
27 techniques, determined to meet the standards;

28 (4) establish and implement procedures designed to ensure that individuals registered and licensed
29 as nursing home administrators will, during the period that they serve, comply with the requirements of the
30 standards;

1 (5) conduct a continuing study and investigation of nursing home administrators within the state
 2 with a view to the improvement of the standards imposed for the licensing of administrators and of
 3 procedures and methods for the enforcement of the standards with respect to nursing home administrators;

4 ~~(6) conduct or cause to be conducted one or more courses of instruction and training sufficient to~~
 5 ~~meet the requirements of this chapter and make provisions for the conduct of these courses and their~~
 6 ~~accessibility to residents of this state, unless it finds that there are a sufficient number of courses~~
 7 ~~conducted by others within this state to meet the needs of the state; instead, the board may approve~~
 8 ~~courses conducted within and outside of this state sufficient to meet the education and training~~
 9 ~~requirements of this chapter;~~

10 ~~(7) prescribe or approve continuing education courses."~~

11
 12 **Section 45.** Section 37-9-302, MCA, is amended to read:

13 **"37-9-302. Department to license pursuant to board rules -- nontransferability -- temporary permit.**

14 (1) The department shall register and license nursing home administrators under the rules adopted by the
 15 board.

16 (2) A nursing home administrator's registration and license is not transferable and is valid until
 17 surrendered for cancellation, suspended, or revoked for violation of this chapter or any other laws or rules
 18 relating to the proper administration and management of a long-term care facility.

19 ~~(3) If the board determines that preliminary qualifications set forth in 37-9-301 will have been met~~
 20 ~~before the next examination, it may authorize the department to issue a temporary permit for a period of~~
 21 ~~180 days or until the scores of the next examination are announced. No temporary permit may be issued~~
 22 ~~to an applicant after the date of the first examination for which he is eligible."~~

23
 24 **Section 46.** Section 37-9-304, MCA, is amended to read:

25 **"37-9-304. Fees.** (1) Each person who applies for licensure, whether by waiver, examination, or
 26 reciprocity, shall pay a fee prescribed by the board at the time of application.

27 (2) Each person licensed as a nursing home administrator shall pay a license fee in an amount fixed
 28 by the board. A license ~~shall expire~~ expires each year on a date set by department ~~rule of the department~~
 29 and ~~shall~~ must be renewable annually upon timely payment of the license fee.

30 ~~(3) Each person registered as an inactive nursing home administrator shall be required to pay a~~

1 ~~registration fee in the amount fixed by the board. An inactive registration shall expire each year on a date~~
2 ~~established by rule of the department and shall be renewable annually upon timely payment of the inactive~~
3 ~~registration fee.~~

4 ~~(4) (3)~~ The fee for issuing a duplicate license shall must be fixed by the board."
5

6 **Section 47.** Section 37-9-305, MCA, is amended to read:

7 **"37-9-305. Renewal of registration and license.** ~~Every~~ Each holder of a nursing home
8 administrator's registration and license shall renew it annually by payment of the required fee for the next
9 subsequent year prior to the expiration date of ~~his~~ the currently valid registration and license. Renewals of
10 registrations or licenses shall must be granted as a matter of course, ~~providing the holder has completed~~
11 ~~a continuing education course prescribed or approved by the board,~~ however ~~however~~, if the board finds,
12 after due notice and hearing, that the applicant has acted or failed to act in ~~such~~ a manner or under
13 circumstances ~~as~~ that would constitute grounds for ~~suspension or revocation of a registration and license~~
14 discipline, it shall may not issue the renewal."
15

16 **Section 48.** Section 37-10-304, MCA, is amended to read:

17 **"37-10-304. Course in use of diagnostic and therapeutic drugs required.** (1) (a) In addition to the
18 requirements of 37-10-302 ~~or 37-10-303, whichever is applicable~~, each person desiring to commence the
19 practice of optometry shall satisfactorily complete a course prescribed by the board of medical examiners
20 with consultation and approval by the board of optometrists with particular emphasis on the topical
21 application of diagnostic agents to the eye for the purpose of examination of the human eye and the
22 analysis of ocular functions.

23 (b) A person presently licensed to practice optometry who wishes to employ diagnostic agents
24 must satisfactorily complete a course referred to in subsection (1)(a) and must pass an examination as
25 provided in subsection (1)(d).

26 (c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by
27 a regional or professional accreditation organization which is recognized or approved by the national
28 commission on accrediting or the United States commissioner of education. The course must also be
29 approved by the board.

30 (d) The board shall provide for an examination in competency in the use of diagnostic drugs and

1 shall issue a certificate to those applicants who pass ~~such~~ the examination.

2 (2) (a) ~~In addition to the requirements of 37-10-302 or 37-10-303, whichever is applicable, each~~
3 Each person desiring to commence the practice of optometry shall:

4 (i) pass an examination, of the international association of boards of examiners in optometry, on
5 the diagnosis, treatment, and management of ocular disease; or

6 (ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular
7 diseases. The course and examination must be conducted by an institution accredited by a regional or
8 professional accreditation organization which is recognized or approved by the national commission on
9 accrediting or the United States commissioner of education. The course and examination must also be
10 approved by the board.

11 (b) A person presently licensed to practice optometry who wishes to employ therapeutic
12 pharmaceutical agents must meet the requirements of subsection (2)(a).

13 (c) The board shall:

14 (i) provide for an examination in competency in the diagnosis, treatment, and management of
15 therapeutic pharmaceutical agents; and

16 (ii) issue a certificate to an applicant who passes ~~such~~ the examination."

17
18 **Section 49.** Section 37-11-303, MCA, is amended to read:

19 **"37-11-303. Qualifications of applicants for license.** To be eligible for a license as a physical
20 therapist, an applicant must:

21 (1) be of good moral character and at least 18 years of age;

22 (2) have graduated from an accredited school of physical therapy approved by the board; and

23 (3) ~~either:~~

24 ~~(a)~~ pass to the satisfaction of the board a written examination prescribed by the board and, if
25 considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical
26 therapist; ~~or~~

27 ~~(b) be entitled to a license without examination under 37-11-307."~~

28
29 **Section 50.** Section 37-11-304, MCA, is amended to read:

30 **"37-11-304. Application for examination -- fee.** (1) ~~Unless entitled to a license under 37-11-307,~~

1 a A person who desires to be licensed as a physical therapist shall apply to the department in writing, on
2 a form furnished by the department. ~~He~~ and shall:

3 (a) embody in that application evidence under oath, satisfactory to the board, of ~~his possessing~~
4 having the qualifications preliminary to the examination required by 37-11-303; and

5 (b) pay to the department at the time of filing ~~his~~ the application a fee as established by the board
6 by rule. The fee must be commensurate with the cost of the examination and its administration and must
7 be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

8 (2) Anyone failing to pass the required examination on ~~his~~ the first attempt is entitled to sit for a
9 second examination and, if ~~he fails~~ the second examination is failed, to sit for a third examination."

10

11 **Section 51.** Section 37-11-308, MCA, is amended to read:

12 "**37-11-308. Annual renewal of license -- fee.** A licensed physical therapist shall, ~~during January~~
13 on or before the date set by department rule, apply to the department for a renewal of ~~his~~ the license and
14 pay a fee ~~which shall be set by board rule~~. A license that is not renewed before ~~April every year~~ the renewal
15 date automatically lapses. The board may, in its discretion, revive and renew a lapsed license on the
16 payment of all past unpaid renewal fees or a late renewal fee."

17

18 **Section 52.** Section 37-12-201, MCA, is amended to read:

19 "**37-12-201. Organization of board -- meetings -- powers and duties.** (1) The board shall elect
20 annually a president, vice president, and secretary-treasurer from its membership.

21 (2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at
22 times and places as a majority of the board designates. A majority of the board constitutes a quorum.

23 (3) The board shall:

24 (a) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming
25 within the scope of the board;

26 (b) adopt a seal that must be affixed to licenses issued;

27 (c) make a schedule of minimum educational requirements, which are without prejudice, partiality,
28 or discrimination, as to the different schools of chiropractic;

29 (d) adopt rules necessary for the implementation, administration, continuation, and enforcement
30 of this chapter. The rules must address but are not limited to license applications, form and display of

1 license, license examination format, criteria for and grading of examinations, disciplinary standards for
2 licensees, and the registration of interns and preceptors.

3 ~~(e) investigate complaints;~~

4 ~~(f) (e) make determinations of the qualifications of applicants under this chapter;~~

5 ~~(g) (f) administer the examination for licensure under this chapter;~~

6 ~~(h) (g) establish and collect fees, fines, and charges as provided in this chapter;~~

7 ~~(i) (h) issue, suspend, or revoke licenses under the conditions prescribed in this chapter; and~~

8 ~~(j) (i) certify that a chiropractor who meets the standards that the board by rule adopts is a qualified~~
9 evaluator for purposes of 39-71-711.

10 (4) The department shall keep a record of the proceedings of the board, which ~~shall~~ must at all
11 times be open to public inspection."

12
13 **Section 53.** Section 37-12-307, MCA, is amended to read:

14 "**37-12-307. Annual renewal of license -- fees** ~~— continuing education — inactive status.~~ ~~(1) A~~
15 license expires on ~~September 1 of each year~~ the date set by department rule and ~~shall~~ must be renewed
16 by the department on payment of a renewal fee, as set by the board, and the presentation of evidence
17 satisfactory to the board that the licensee, ~~in the year preceding the application for renewal, attended and~~
18 ~~successfully completed a postgraduate educational program for chiropractors approved by the board~~
19 qualifies for renewal. All applicants for renewal who have not paid the renewal fee ~~prior to October 1 of~~
20 each year on or before the renewal date shall pay an additional late fee prescribed by the board.

21 ~~(2) The board shall by rule set standards for inactive status. It shall charge an annual fee for a~~
22 ~~license placed on inactive status.~~

23 ~~(3) An inactive license may be reinstated to active status upon payment of a fee and completion~~
24 ~~of the continuing education requirements set by the board."~~

25
26 **Section 54.** Section 37-12-322, MCA, is amended to read:

27 "**37-12-322. Investigation of complaints** ~~— discipline of licensees — revocation or suspension of~~
28 ~~license.~~ (1) The ~~board~~ department may make an investigation whenever it is brought to its attention that
29 there is reason to suspect that a person licensed to practice chiropractic:

30 (a) has a mental or physical condition such that ~~he~~ the person is unable to safely engage in the

1 practice of chiropractic;

2 (b) has been declared incompetent or seriously mentally ill by a court of competent jurisdiction and
3 thereafter has not been declared competent or released from supervision;

4 (c) has procured ~~his~~ the license through mistake;

5 (d) has been guilty of unprofessional conduct;

6 (e) has practiced chiropractic while ~~his~~ the license was suspended or revoked;

7 (f) has while under probation violated its terms.

8 (2) The investigation ~~shall~~ must be for the purpose of determining the probability of the existence
9 of these conditions or the commission of these offenses and may, upon order of the board, include requiring
10 the person to submit to a physical or mental examination, or both, by a physician or physicians selected
11 by the board if it appears to be in the best interests of the public that this evaluation be secured. The board
12 may examine the hospital records and reports of the licensee as part of the examination, and copies of
13 these ~~shall~~ must be released to the board on written request. ~~If the board has reasonable cause to believe
14 that this probability exists, the department shall mail to the person at his last address of record with the
15 department, a specification of the charges against him, together with a written notice of the time and place
16 of the hearing on such charges, advising him that he may be present in person and with counsel if he so
17 desires to offer evidence and be heard in his defense. The time fixed for hearing may not be less than 30
18 days from the date of mailing the notice.~~

19 ~~(3) Any person, including a member of the board, may file a sworn complaint with the department
20 against a licensed chiropractor charging him with any of the offenses or conditions set forth in 37-12-321
21 or subsection (1) of this section, which complaint shall set forth a specification of the charges. When the
22 complaint has been filed, the board may make an investigation as provided by this section or may proceed
23 to hearing. The department shall mail a copy of the complaint to the person charged, together with notice
24 of hearing as provided in subsection (2) of this section.~~

25 ~~(4) After the hearing, the board shall adopt a resolution finding that the offenses charged have or
26 have not been committed or that the conditions charged do or do not exist. If the finding is in the negative,
27 the board shall dismiss the charges. If the finding is in the affirmative, the board shall:~~

28 ~~(a) revoke the license;~~

29 ~~(b) suspend the licensee's right to practice for a period not to exceed 1 year;~~

30 ~~(c) suspend its judgment of revocation on terms and conditions determined by the board;~~

1 ~~(d) place the licensee on probation;~~

2 ~~(e) fine the licensee in an amount not to exceed \$500 for each incident; or~~

3 ~~(f) take any other disciplinary action which the board in its discretion considers proper.~~

4 ~~(5) In cases of revocation, suspension, or probation, the department shall record the facts of the~~
5 ~~case and all actions of the board in relation thereto.~~

6 ~~(6) On the expiration of a term of suspension, the licensee shall be reinstated by the board if he~~
7 ~~furnishes evidence, satisfactory to the board, that he is then of good moral character and conduct or~~
8 ~~restored to good health and that he has not practiced chiropractic during the term of suspension. If the~~
9 ~~evidence fails to establish such facts to the satisfaction of the board, the board shall proceed to hearing~~
10 ~~on revocation with notice as provided in subsection (2) of this section.~~

11 ~~(7) Following a final determination resulting in any disciplinary action taken by the board under~~
12 ~~subsection (4), the board may recover from the disciplined party all reasonable costs of any proceeding,~~
13 ~~not to exceed \$1,000, incurred for the purpose of the disciplinary action. Fines and costs recovered must~~
14 ~~be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6)."~~

15
16 **Section 55.** Section 37-13-306, MCA, is amended to read:

17 **"37-13-306. Annual renewal -- fee -- military exemption.** (1) The license to practice acupuncture
18 must be renewed annually, on a date set by the ~~board~~ department, without examination and upon request
19 of the licensee. The request for renewal must be on forms prescribed by the board and accompanied by
20 a renewal fee prescribed by the board. The request and fee must be in the hands of the secretary of the
21 board not later than the expiration date of the license.

22 (2) Immediately following the renewal date, the secretary shall notify all licensees from whom
23 requests for renewal, accompanied by the renewal fee, have not been received that their licenses have
24 expired and that they will be cancelled and revoked upon the records of the board unless a request for
25 renewal and reinstatement, accompanied by the renewal fee and an additional fee prescribed by the board,
26 is in the hands of the secretary within 30 days of the renewal date.

27 (3) If the licensee fails to renew within 30 days following the renewal date, the secretary of the
28 board shall cancel and revoke upon its records all licenses that have not been renewed or reinstated as
29 provided by this chapter and shall notify the licensees whose licenses are revoked of the action.

30 (4) A licensee who allows ~~his~~ the license to lapse by failing to renew or reinstate the license as

1 provided in this section may subsequently reinstate the license upon good cause shown to the satisfaction
2 of the board and upon payment of all annual renewal fees then accrued plus an additional fee prescribed
3 by the board for each year following the cancelling of the license.

4 (5) A person actively engaged in the military service of the United States and licensed to practice
5 acupuncture as provided in this part is not required to pay the annual renewal fee or make application for
6 renewal until the renewal date of the calendar year in which ~~he~~ the person returns from military service to
7 civilian or inactive status."

8
9 **Section 56.** Section 37-15-102, MCA, is amended to read:

10 **"37-15-102. Definitions.** As used in this chapter, the following definitions apply:

11 (1) "ASHA" means the American speech-language and hearing association.

12 (2) "Association" means the Montana speech-language and hearing association.

13 (3) "Audiologist" means a person who practices audiology and who meets the qualifications set
14 forth in this chapter. A person represents to the public that the person is an audiologist by incorporating
15 in any title or description of services or functions that the person directly or indirectly performs the words
16 "audiologist", "audiology", "audiometrist", "audiometry", "audiological", "audiometrics", "hearing clinician",
17 "hearing clinic", "hearing therapist", "hearing therapy", "hearing center", "hearing aid audiologist", or any
18 similar title or description of services.

19 (4) "Audiology aide" means any person meeting the minimum requirements established by the
20 board of speech-language pathologists and audiologists who works directly under the supervision of a
21 licensed audiologist.

22 (5) "Board" means the board of speech-language pathologists and audiologists provided for in
23 2-15-1849.

24 (6) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

25 (7) "Practice of audiology" means rendering or offering to render a service in audiology to
26 individuals or groups of individuals who have or are suspected of having hearing disorders. These services
27 include:

28 (a) prevention, identification, measurement, testing, evaluation, prediction, consultation,
29 habilitation, rehabilitation, instruction, and research;

30 (b) participating in hearing conservation and hearing aid and assistive listening device evaluation,

1 prescription, preparation, dispensing, and orientation;

2 (c) fabricating ear molds;

3 (d) providing auditory training and speech reading;

4 (e) conducting tests of vestibular function;

5 (f) evaluating tinnitus;

6 (g) planning, directing, conducting, or supervising programs that render or offer to render a service
7 in audiology; and

8 (h) speech or language screening, limited to a pass/fail determination.

9 (8) "Practice of speech-language pathology" means rendering or offering to render a service in
10 speech-language pathology to individuals or groups of individuals who have or are suspected of having
11 communication disorders. These services include:

12 (a) prevention, identification, measurement, testing, evaluation, prediction, consultation,
13 habilitation, and rehabilitation;

14 (b) determining the need for augmentative communication systems and providing training in the
15 use of these systems;

16 (c) planning, directing, conducting, or supervising programs that render or offer to render a service
17 in speech-language pathology;

18 (d) nondiagnostic pure-tone air conduction, tympanometry, and acoustic reflex screening, limited
19 to a pass/fail determination;

20 (e) aural rehabilitation, which includes services and procedures for facilitating adequate receptive
21 and expressive communication in individuals with hearing impairment;

22 (f) oral motor rehabilitation, which includes services and procedures for evaluating and facilitating
23 face, lip, and tongue mobility and control;

24 (g) cognitive retraining, which includes services and procedures for evaluating and facilitating
25 memory, attention, reasoning, processing, judgment, and other related areas in individuals with language
26 impairment resulting from head injury, stroke, or other insult; and

27 (h) dysphagia therapy, which includes services and procedures for evaluating and facilitating
28 swallowing and feeding in those individuals with swallowing disorders.

29 (9) "Speech-language pathologist" means a person who practices speech-language pathology and
30 who meets the qualifications set forth in this chapter. A person represents to the public that the person is

1 a speech-language pathologist by incorporating in any title or description of services or functions that the
 2 person directly or indirectly performs the words "speech pathologist", "speech pathology", "speech
 3 correctionist", "speech corrections", "speech therapist", "speech therapy", "speech clinician", "speech
 4 clinic", "language pathologist", "language pathology", "voice therapist", "voice therapy", "voice
 5 pathologist", "voice pathology", "logopedist", "logopedics", "communicologist", "communicology",
 6 "aphasiologist", "aphasiology", "phoniatriest", "language therapist", "language clinician", or any similar title
 7 or description of services or functions.

8 (10) "Speech-language pathology aide" means a person meeting the minimum requirements
 9 established by the board who works directly under the supervision of a licensed speech-language
 10 pathologist.

11 ~~(11) "Unethical conduct" means:~~

12 ~~(a) the obtaining of a fee by fraud or misrepresentation;~~

13 ~~(b) employing, directly or indirectly, any suspended or unlicensed person to perform any work~~
 14 ~~covered by this chapter unless that person assumes the legal status of a supervised aide; or~~

15 ~~(c) using or causing or promoting the use of any advertising matter, promotional literature,~~
 16 ~~testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated~~
 17 ~~or published, which is misleading, deceiving, improbable, or untruthful."~~

18

19 **Section 57.** Section 37-15-202, MCA, is amended to read:

20 **"37-15-202. Powers and duties of board and department.** (1) The board shall:

21 (a) administer, coordinate, and enforce the provisions of this chapter;

22 (b) evaluate the qualifications of each applicant for a license as issued under this chapter and
 23 supervise the examination of ~~such~~ applicants;

24 ~~(c) investigate persons engaging in practices which allegedly violate the provisions of this chapter;~~

25 ~~(d) (c)~~ (c) conduct hearings and keep records and minutes as the board considers necessary to an
 26 orderly dispatch of business;

27 ~~(e) (d)~~ (d) adopt rules, including but not limited to those governing ethical standards of practice under
 28 this chapter;

29 ~~(f) (e)~~ (e) make recommendations to the governor and other state officials regarding new and revised
 30 programs and legislation related to speech-language pathology or audiology which could be beneficial to

1 the citizens of the state of Montana;

2 ~~(g)~~ (f) cause the prosecution and enjoinder of all persons violating this chapter, by the complaints
3 of its secretary filed with the county attorney in the county where the violation took place, and incur
4 necessary expenses therefor;

5 ~~(h)~~ (g) adopt a seal by which the board shall authenticate its proceedings.

6 (2) Copies of the proceedings, records, and acts of the board, signed by the ~~chairman~~ presiding
7 officer or secretary of the board and stamped with the seal, ~~shall be~~ are prima facie evidence of the validity
8 of ~~such~~ the documents.

9 (3) The board may make rules which are reasonable or necessary for the proper performance of
10 its duties and for the regulation of proceedings before it.

11 (4) The department may employ persons it considers necessary to carry out the provisions of this
12 chapter.

13 (5) The department shall prepare a report to the governor as required by law."
14

15 **Section 58.** Section 37-15-308, MCA, is amended to read:

16 "**37-15-308. Renewal.** (1) Each licensed speech-language pathologist or audiologist shall pay to
17 the board the fee for the renewal of ~~his~~ the license according to rules adopted by the department.

18 (2) The department shall notify each person licensed under this chapter relative to the date of
19 expiration of ~~his~~ the license and the amount of the renewal fee. This notice must be mailed to each licensed
20 speech-language pathologist or audiologist at least 1 month before the expiration of the license.

21 (3) Renewal may be made at any time during the 60 days prior to the expiration date by application
22 therefor. ~~A renewal application must be accompanied with documentation satisfactory to the board that~~
23 ~~the applicant has fulfilled his continuing educational requirements as provided in 37-15-309.~~

24 (4) Failure on the part of any licensed person to pay the renewal fee by the expiration date does
25 not deprive ~~him~~ the person of the right to renew ~~his~~ the license, but the fee ~~shall~~ must be increased 10%
26 for each month that the payment of the renewal fee is delayed after the expiration date. The maximum fee
27 for delayed renewal ~~shall~~ may not exceed twice the normal renewal fee.

28 (5) Application for renewal following a lapse of 1 year or more ~~shall be~~ is subject to review by the
29 board, and the applicant may be requested to complete an examination successfully if the board so
30 determines.

1 (6) A suspended license is subject to expiration and may be renewed as provided in this section,
 2 but ~~such the~~ renewal does not entitle the licensee, while the license remains suspended, to engage in the
 3 licensed activity or in any other activity or conduct which violates the order or judgment by which the
 4 license was suspended.

5 (7) A license revoked on disciplinary grounds is subject to expiration, and it may not be renewed.
 6 If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement
 7 fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the
 8 date on which it is reinstated plus the delinquency fee, if any, accrued at the time of its revocation.

9 (8) A person who fails to renew ~~his a~~ license within 2 years after its expiration may not renew it,
 10 and it may not be restored, reissued, or reinstated ~~thereafter, but such a~~ However, the person may reapply
 11 for and obtain a new license if ~~he~~ the person meets the requirements of this chapter."
 12

13 **Section 59.** Section 37-16-202, MCA, is amended to read:

14 **"37-16-202. Powers and duties.** The powers and duties of the board are to:

15 (1) license persons who apply and are qualified to practice the fitting of hearing aids;

16 ~~(2) establish a procedure to act as a grievance board to receive, investigate, and mediate~~
 17 ~~complaints from any source concerning the activities of persons licensed under this chapter or their agents,~~
 18 ~~whether licensed or not;~~

19 ~~(3)~~ (2) suspend or revoke licenses under this chapter;

20 ~~(4)~~ (3) designate the time and place for examining applicants for license and supervise and
 21 administer the examination;

22 ~~(5)~~ (4) adopt rules necessary to carry out this chapter;

23 ~~(6)~~ (5) require the periodic inspection and calibration of audiometric testing equipment and carry
 24 out periodic inspections of facilities of persons who practice the fitting or selling of hearing aids;

25 ~~(7)~~ (6) prepare examinations required by the chapter;

26 ~~(8)~~ (7) initiate legal action to enjoin from operation a person or corporation engaged in the sale,
 27 dispensing, or fitting of hearing aids in this state who is not licensed under this chapter;

28 ~~(9)~~ (8) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304,
 29 37-16-402, 37-16-403, 37-16-405, 37-16-407, and 37-16-408, 37-16-411, and 37-16-414. Rules adopted
 30 by the board may include but are not limited to rules defining the term "related devices" and other rules

1 necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-403, 37-16-405,
 2 37-16-407, and 37-16-408, ~~37-16-411, and 37-16-414.~~"

3

4 **Section 60.** Section 37-16-301, MCA, is amended to read:

5 **"37-16-301. Permanent place of business in state necessary -- records -- notice -- designation of**
 6 **licensee in charge.** (1) A person who is actively engaged in dispensing hearing aids and related devices as
 7 a business must have a permanent place of business in this state that will be opened to serve the public,
 8 having the necessary testing, fitting, and hearing aid accessories needed by the hard-of-hearing public in
 9 the wearing of hearing aids and related devices. All licensed hearing aid dispensers shall identify their
 10 permanent place of business in all advertising public notices and in all consumer correspondence, both
 11 written and verbal. More than one hearing aid dispenser licensee may work from a permanent place of
 12 business.

13 (2) The department shall keep a record of the places of practice of persons who hold regular
 14 licenses or trainee licenses. A notice required to be given by the board or department to a person who holds
 15 a regular or trainee license may be given by mailing it to ~~him~~ the person at the address last given ~~by him~~
 16 to the department.

17 (3) All licensed hearing aid dispensers shall notify the board of any change of address within 30
 18 days of the change. A trainee shall notify the board of any change of address within 10 days of the change.

19 (4) (a) When licensed hearing aid dispensers and trainees work at the same permanent place of
 20 business, the licensed hearing aid dispenser shall designate one licensed dispenser as the person in charge.
 21 There must be one licensed dispenser in charge at a permanent place of business.

22 (b) The licensed hearing aid dispenser in charge of a permanent place of business:

23 (i) is responsible and accountable under the disciplinary authority of the board for the conduct of
 24 trainees using that permanent place of business; and

25 (ii) has custody and control of the business records of that permanent place of business and is
 26 responsible for producing the records during an investigation conducted by the ~~board~~ department."

27

28 **Section 61.** Section 37-16-407, MCA, is amended to read:

29 **"37-16-407. Renewal of license -- fee -- ~~inactive status.~~** (1) A person who practices the fitting of
 30 hearing aids and related devices shall annually pay to the department a fee as set by the board for a

1 renewal of his the license. The fee must be fixed by the board to be commensurate with board costs in
 2 administering licensure and related board functions. The fee must be increased 10% for each month or
 3 major portion ~~thereof~~ of a month that the payment of the renewal fee is delayed after the expiration date.
 4 The maximum fee for a delayed renewal may not exceed twice the normal renewal fee as set by the board.
 5 A person applying for renewal whose license was suspended for failure to renew is required to submit to
 6 the examinations described in 37-16-403 as a condition of renewal for a 3-year period after suspension.

7 ~~(2) Each applicant for license renewal shall submit evidence showing completion of 4 hours of~~
 8 ~~continuing education completed during the preceding 12 months. The requirements of the continuing~~
 9 ~~education programs are to be determined by the board by rule.~~

10 ~~(3) (a) The board may set standards and fees for issuing licenses that designate inactive status.~~

11 ~~(b) An inactive licensee may be reinstated to active practice if he:~~

12 ~~(i) applies for reinstatement;~~

13 ~~(ii) pays a fee set by the board; and~~

14 ~~(iii) produces proof satisfactory to the board of completion of the continuing education~~
 15 ~~requirements established by the board."~~

16

17 **Section 62.** Section 37-17-202, MCA, is amended to read:

18 **"37-17-202. Powers.** (1) The board may make reasonable and necessary rules for the proper
 19 performance of its duties and for the regulation of proceedings before it.

20 (2) In addition to the other powers and duties set forth, the board may:

21 (a) revoke and suspend licenses;

22 (b) conduct hearings upon complaints concerning persons licensed under this chapter;

23 (c) cause the prosecution and enjoinder of all persons violating this chapter, by the complaint of
 24 its secretary signed with the county attorney, in the county where the violation took place and incur
 25 necessary expenses ~~therefor~~ for the prosecution; and

26 (d) study and review new developments in research, training, and the practice of psychology and
 27 make recommendations to the governor and other state officials regarding new and revised programs and
 28 legislation related to psychology which could be beneficial to the citizens of the state of Montana;

29 ~~(e) adopt rules for the administration of a continuing education program, including but not limited~~
 30 ~~to accrediting education programs and establishing the number of hours of continuing education required~~

1 ~~for license renewal."~~

2
3 **Section 63.** Section 37-17-306, MCA, is amended to read:

4 **"37-17-306. Annual renewal.** (1) The license expires on ~~January 1 following~~ the date of its
5 ~~issuance or renewal and is invalid thereafter set by department rule.~~ The department shall notify each
6 person licensed under this chapter relative to the date of the expiration ~~of his license~~ and the amount of
7 ~~his~~ the renewal fee. This notice ~~shall~~ must be mailed to each licensed psychologist at ~~his~~ the licensee's
8 listed address at least 1 month before the expiration of the license.

9 (2) Renewal may be made by application during the 60 days prior to the expiration date. Failure
10 on the part of a person licensed to pay ~~his~~ the renewal fee by the expiration date does not deprive ~~him~~ the
11 person of the right to renew ~~his license~~, but the fee ~~shall~~ must be increased 10% for each month or major
12 portion ~~thereof~~ of a month that the payment of the renewal fee is delayed after the expiration date. The
13 maximum fee for delayed renewal may not exceed twice the normal renewal fee. Application for renewal
14 following a lapse of 1 year or more will be subject to review by the board, and the applicant may be
15 requested to complete an examination successfully if the board so determines.

16 ~~(3) The board may charge an additional fee for license renewal to be used for administering the~~
17 ~~continuing education program established in 37-17-318."~~

18
19 **Section 64.** Section 37-17-307, MCA, is amended to read:

20 **"37-17-307. Fees -- deposit of fees.** (1) The department shall collect the following fees, none of
21 which is refundable:

22 (a) application fee;

23 (b) examination fee, an amount commensurate with the charge of the professional examination
24 service and administrative costs of the department and as set by the board;

25 (c) certificate fee;

26 (d) renewal fee, ~~including an amount sufficient to cover the costs of administering the continuing~~
27 ~~education program.~~

28 ~~(2) Renewal certificates shall be secured annually and dated January 2.~~

29 ~~(3) (2)~~ Fees received by the department ~~shall~~ must be deposited in the state special revenue fund
30 for the use of the board, subject to 37-1-101(6)."

1 **Section 65.** Section 37-18-202, MCA, is amended to read:

2 "**37-18-202. Powers of board and department -- examinations** ~~—prosecutions~~. (1) The board may
3 adopt rules and orders necessary for the performance of its duties, including but not limited to:

- 4 (a) ~~development of continuing professional education requirements and exceptions therefrom;~~
5 **(b)** prescribing of forms for application for examination and license; and
6 **(c)** (b) preparation of examinations.

7 (2) The department shall, subject to 37-1-101, supervise the examination of applicants for license
8 to practice veterinary medicine, obtain the services of professional examination agencies instead of its own
9 preparation of examinations, and grant and revoke licenses.

10 ~~(3) The department may employ attorneys, subject to the approval of the attorney general, to assist
11 county attorneys in prosecutions brought under this chapter in the respective district courts of the state
12 or to assist the attorney general in representing the board before the supreme court."~~

13

14 **Section 66.** Section 37-18-303, MCA, is amended to read:

15 "**37-18-303. Examination -- temporary permit pending examination.** (1) Subject to 37-1-101, the
16 board shall by means of examination, either oral, written, or practical or a combination of oral, written, or
17 practical as the board determines, ascertain the professional qualifications for license of applicants under
18 this part. ~~An investigation under reciprocity arrangements may replace examination for licensees from other
19 states under 37-18-304.~~ The department shall issue a license to all who are found to be, in the judgment
20 of the board, competent to practice. A license may not be issued to a person who is not found by the
21 examination or investigation to be competent and qualified.

22 (2) The examination ~~shall~~ must be held when determined necessary by the board, but not less
23 frequently than once each year at a time and place specified by the board. The examination ~~shall~~ must
24 cover theory and practice, pharmacology and therapeutics, animal sanitation, surgery, communicable
25 diseases, and other subjects chosen by the board which are ordinarily included in the curriculum of a school
26 of veterinary medicine recognized and approved by the American veterinary medical association.

27 (3) The department shall consecutively number applications received, note on each the disposition
28 made of it, and preserve them for reference and shall number consecutively licenses issued.

29 (4) ~~Applicants must~~ An applicant is required to achieve a grade of 70% in order to obtain a license.
30 An applicant who has failed an examination may apply to be reexamined at a subsequent examination and

1 shall pay another application fee commensurate with the costs of the examinations and set by the board
2 and shall take another complete examination in all subjects.

3 ~~(5) An applicant for examination may, in the discretion of the board, be given a temporary permit
4 to practice veterinary medicine prior to taking the examination if the applicant is employed by and working
5 under the supervision of and in the same office with a veterinarian licensed under this part. The temporary
6 permit is valid only until the date of the next examination. Under no circumstances may a second temporary
7 permit be issued to the same person. A temporary permit may not be issued to a person who has failed an
8 examination given under this section."~~

9
10 **Section 67.** Section 37-18-305, MCA, is amended to read:

11 **"37-18-305. License -- issuance and contents.** (1) The board shall, at the conclusion of a regular
12 examination or after investigation, ~~under the reciprocity arrangements of 37-18-304~~ if in its judgment the
13 applicant is qualified, authorize the department to issue a license to practice veterinary medicine.

14 (2) Every license granted ~~shall~~ must be issued under seal and ~~shall~~ must be signed by the president
15 and secretary-treasurer of the board and ~~shall~~ must state that the licensee has given satisfactory evidence
16 of fitness as to age, character, veterinary medical education, and other matters required by law and that
17 after full examination, ~~or investigation under reciprocity arrangements,~~ he the licensee has been found
18 qualified to practice."

19
20 **Section 68.** Section 37-18-307, MCA, is amended to read:

21 **"37-18-307. Renewal -- fee -- continuing education -- automatic renewal for military personnel.** (1)
22 A person licensed to practice veterinary medicine in this state shall procure a certificate of registration from
23 the department annually on or before November 1 ~~annually~~ his the date set by department rule certificate
24 of registration. The certificate ~~shall~~ must be issued by the department on the payment of a fee fixed by the
25 board and on presentation of evidence satisfactory to the board that the licensee ~~has complied with~~
26 ~~continuing education requirements established by the board~~ qualifies for renewal. ~~The board may waive,~~
27 ~~relax, or suspend continuing education requirements or particular program requirements for applicants who~~
28 ~~cannot fulfill these requirements because of individual hardship. New licensees who secure licenses by~~
29 ~~examination shall be granted a renewal the first year without attending the educational programs. The~~
30 ~~certificate is prima facie evidence of the right of the holder to practice veterinary medicine in this state~~

1 ~~during the time for which it is issued.~~

2 (2) Failure of a person licensed to procure a certificate of registration on or before November 1,
 3 ~~annually, the date set by department rule~~ constitutes a forfeiture of the license held by the person. A person
 4 who has ~~thus~~ forfeited ~~his~~ the license may have it restored ~~to him~~ by making written application for
 5 restoration within 1 year of the forfeiture, setting forth the reasons for failure to procure the certificate of
 6 registration at the time specified and accompanied by payment of the registration fee provided for in this
 7 section and an additional restoration fee as the board requires ~~and by presentation of evidence satisfactory~~
 8 ~~to the board that he has fulfilled all continuing education requirements to the date of application for~~
 9 ~~restoration.~~ The person making application for restoration of license within 1 year of its forfeiture is not
 10 required to submit to examination.

11 (3) Notwithstanding any other provisions in this chapter, a person licensed who enters or is called
 12 to active duty by a branch of the armed services of the United States is entitled to receive automatic
 13 registration of ~~his~~ the license during the period of ~~his~~ active duty with the armed services. However, within
 14 1 year after release or discharge from duty in the armed services ~~he~~ the person shall procure a certificate
 15 of renewal from the department and pay the regular fee. Failure to procure the certificate of renewal within
 16 1 year after release or discharge is the equivalent of a failure to procure a certificate of registration before
 17 November 1 of any year, and the same forfeiture and restoration requirements apply.

18 (4) A person licensed shall at all times have ~~his~~ the person's residence and office address on file
 19 with the department."
 20

21 **Section 69.** Section 37-19-301, MCA, is amended to read:

22 "**37-19-301. Funeral director's license -- renewal -- fee.** The practice of funeral directing by anyone
 23 who does not hold a funeral director's license or a mortician's license issued by the department is
 24 prohibited. A person licensed to practice funeral directing on June 1, 1963, is entitled to an annual renewal
 25 of ~~his~~ the license on payment of a renewal fee to the department on ~~July 1 of each year~~ or before the date
 26 set by department rule. The amount of the annual renewal license fee ~~shall~~ must be set by the board. A
 27 funeral director's license may not be issued to a person who is not licensed by the board of embalmers and
 28 funeral directors to practice funeral directing on June 1, 1963."
 29

30 **Section 70.** Section 37-19-306, MCA, is amended to read:

1 **"37-19-306. Annual renewal of mortician's license -- fee -- suspension for nonrenewal.** (1) The
2 annual license fee for a mortician's license must be postmarked on or before ~~July 1 of the assessment year~~
3 the date set by department rule. The amount of the annual renewal fee ~~shall~~ must be set by the board.

4 (2) Failure to pay the annual renewal fee results in automatic suspension of the license. The license
5 may be reinstated by the payment of unpaid renewal fees plus a penalty prescribed by the board."

6
7 **Section 71.** Section 37-19-401, MCA, is amended to read:

8 **"37-19-401. License required -- display of license -- renewal -- penalty for late renewal.** (1) An
9 operating mortuary must be licensed by the board. The license must be displayed in a conspicuous place.

10 (2) A mortuary license expires on ~~June 30 of each year~~ the date set by department rule and may
11 be renewed upon payment of a fee set by the board.

12 (3) The board may set a penalty for late renewal of a mortuary license."

13
14 **Section 72.** Section 37-19-702, MCA, is amended to read:

15 **"37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal.** (1) A
16 person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture,
17 voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and
18 facilities for the cremation of human remains and that conducts cremations must be licensed by the board,
19 beginning July 1, 1993. The license must be displayed in a conspicuous place in the crematory facility.

20 (2) A crematory license expires on ~~June 30 of each year~~ the date set by department rule and may
21 be renewed upon payment of a fee set by the board, which includes the cost of annual inspection. If a
22 crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection
23 of both a mortuary facility under 37-19-403 and a crematory facility.

24 (3) The board may set a penalty fee for late renewal of a license.

25 (4) A person in charge of a licensed crematory facility must be licensed as a crematory operator
26 by the board. A person employed by a licensed crematory facility must be licensed as a crematory
27 technician by the board. The license must be displayed in a conspicuous place in the crematory facility.

28 (5) Crematory operator and crematory technician licenses expire on ~~June 30 of each year~~ the date
29 set by department rule and may be renewed upon payment of a fee set by the board. On-the-job training
30 must be provided to a crematory technician at the time of employment."

1 **Section 73.** Section 37-20-302, MCA, is amended to read:

2 **"37-20-302. Utilization plan approval fee -- renewal of license -- renewal fee.** (1) A utilization plan
3 approval fee must be paid in an amount set by the board. Payment must be made when the utilization plan
4 is submitted to the board and is not refundable.

5 (2) A locum tenens utilization plan approval fee must be paid in an amount set by the board.

6 (3) A license issued under this part must be renewed annually, on a date set by the ~~board~~
7 department.

8 (4) A license renewal fee set by the board must be paid at the time the license is renewed.

9 (5) The department shall mail a renewal notice no later than 60 days prior to the renewal date ~~set~~
10 ~~by the board under subsection (3)~~. A certified letter addressed to the delinquent licensee's last-known
11 address as it appears on the records of the department constitutes notice of intent to revoke the license.

12 (6) If the annual renewal fee is not paid on or before the renewal date ~~set by the board under~~
13 ~~subsection (3)~~, the board may revoke the license after giving 30 days' notice to the licensee. A license may
14 not be revoked for nonpayment of a renewal fee if the licensee pays the annual renewal fee plus a penalty
15 prescribed by the board on or before the date fixed for revocation.

16 (7) Fees received by the department must be deposited in the state special revenue fund for use
17 by the board in the administration of this chapter, subject to 37-1-101(6)."

18

19 **Section 74.** Section 37-20-403, MCA, is amended to read:

20 **"37-20-403. Physician assistant-certified as agent of supervising physician.** (1) In establishing
21 protocol, a physician assistant-certified must be considered the agent of the supervising physician with
22 regard to all duties delegated to the physician assistant-certified under the utilization plan. A health care
23 provider shall consider the instructions of a physician assistant-certified as being the instructions of the
24 supervising physician as long as the instructions concern the duties delegated to the physician
25 assistant-certified under the utilization plan.

26 (2) The supervising physician and the physician assistant-certified are responsible for making
27 available a copy of the approved utilization plan to all other health care practitioners with whom they
28 reasonably believe they will interact on a regular basis.

29 ~~(3) Nothing in this chapter may be construed to conflict with the provisions of 37-3-322."~~

30

1 **Section 75.** Section 37-22-304, MCA, is amended to read:

2 "**37-22-304. Renewal of license.** (1) An application for renewal of an existing license must be made
3 ~~within 60 days after the expiration of the license is timely, and the rights and privileges of the applicant~~
4 ~~during that period remain in effect on or before the date set by department rule.~~

5 (2) Application for renewal must be made upon a form provided by the department. A renewal
6 license must be issued upon payment of a renewal fee set by the board and upon submitting proof of
7 ~~completion of continuing education requirements;~~ qualification for renewal.

8 (3) ~~An individual may renew a license in the manner provided in subsection (2) within 1 year of~~
9 ~~the expiration date of the license. An applicant for renewal shall provide the board with proof that the~~
10 ~~applicant has satisfied the continuing education requirements of the board for the year for which the license~~
11 ~~is to be renewed.~~

12 ~~(4)~~ The renewal fee is increased by 10% for each month or part of a month that the renewal is
13 delayed ~~after the 60 day period provided in subsection (1).~~ The maximum fee for delayed renewal may not
14 exceed twice the normal renewal fee.

15 ~~(5)~~ (4) A license not renewed within 1 year following its expiration date terminates automatically."
16

17 **Section 76.** Section 37-23-103, MCA, is amended to read:

18 "**37-23-103. Powers and duties of board.** (1) The board shall:

19 (a) recommend amendments to this chapter to the governor or the legislature, or both;

20 (b) recommend prosecutions for violations of 37-23-311 to the attorney general or appropriate
21 county attorneys, or both;

22 (c) annually publish a list of the names and addresses of all persons who are licensed professional
23 counselors;

24 ~~(d) establish requirements for continuing education that are conditions of license renewal;~~

25 ~~(e)~~ meet to perform the duties described in this section;

26 ~~(f)~~ (e) adopt rules that set professional and ethical standards for licensed professional counselors
27 ~~which that~~ are based on national standards and ~~such~~ other rules as may be reasonably necessary for the
28 administration of this chapter; and

29 ~~(g)~~ (f) distribute a copy of the professional and ethical standards to each licensed professional
30 counselor.

1 (2) The board may adopt rules governing the issuance of certificates of special competence in
 2 particular areas of practice as a licensed professional counselor. The board shall establish criteria for each
 3 particular area for which a certificate is issued."

4
 5 **Section 77.** Section 37-23-202, MCA, is amended to read:

6 **"37-23-202. (Temporary) Licensure requirements.** (1) An applicant for licensure must have
 7 satisfactorily completed:

8 (a) a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester
 9 hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from
 10 an institution accredited to offer a graduate program in counseling;

11 (b) 2,000 hours of counseling practice supervised by a licensed professional counselor or licensed
 12 member of an allied mental health profession, at least half of which was postdegree. The applicant must
 13 have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

14 (c) and passed an examination prepared and administered by:

15 (i) the board, based on a national examination approved by the board;

16 (ii) the national board of certified counselors; or

17 (iii) the national academy of certified clinical mental health counselors; and

18 (d) an application form and process prescribed by the board.

19 (2) The board shall provide by rule for licensure:

20 ~~(a)~~ of a person who possesses a minimum 45 semester hour graduate degree that is primarily
 21 related to counseling and that is from an institution accredited to offer a graduate program in counseling,
 22 by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a)
 23 in counseling courses in an approved program within a period of 5 years; ~~and~~

24 ~~(b) of a person who possesses a license or certification as a professional counselor from an agency~~
 25 ~~located in another state whose requirements are less than the requirements of this chapter, by:~~

26 ~~(i) crediting past clinical experience in psychotherapy and counseling; and~~

27 ~~(ii) recommending additional education or experience necessary to fulfill the requirements of this~~
 28 ~~chapter.~~

29 **37-23-202. (Effective July 1, 1996) Licensure requirements.** (1) An applicant for licensure must
 30 have satisfactorily completed:

1 (a) a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester
 2 hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from
 3 an institution accredited to offer a graduate program in counseling;

4 (b) 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed
 5 member of an allied mental health profession, at least half of which was postdegree. The applicant must
 6 have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

7 (c) and passed an examination prepared and administered by:

8 (i) the board, based on a national examination approved by the board;

9 (ii) the national board of certified counselors; or

10 (iii) the national academy of certified clinical mental health counselors; and

11 (d) an application form and process prescribed by the board.

12 (2) The board shall provide by rule for licensure:

13 ~~(a) of a person who possesses a minimum 45 semester hour graduate degree that is primarily~~
 14 ~~related to counseling and that is from an institution accredited to offer a graduate program in counseling,~~
 15 ~~by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a)~~
 16 ~~in counseling courses in an approved program within a period of 5 years; and~~

17 ~~(b) of a person who possesses a license or certification as a professional counselor from an agency~~
 18 ~~located in another state whose requirements are less than the requirements of this chapter, by:~~

19 ~~(i) crediting past clinical experience in psychotherapy and counseling; and~~

20 ~~(ii) recommending additional education or experience necessary to fulfill the requirements of this~~
 21 ~~chapter."~~

22
 23 **Section 78.** Section 37-23-205, MCA, is amended to read:

24 **"37-23-205. Renewal of license.** (1) A license may be issued for no longer than 1 year. The ~~board~~
 25 department may adopt rules to provide for annual renewal of an existing license.

26 (2) An application for renewal of an existing license must be made within 60 days after on or
 27 before the expiration of the license is timely, and the rights and privileges of the applicant during that period
 28 remain in effect date set by department rule.

29 (3) Application for renewal must be made upon a form provided by the department. A renewal
 30 license must be issued upon payment of a renewal fee set by the board and upon submitting proof of

1 ~~completion of continuing education requirements established by the board~~ qualification for renewal.

2 (4) ~~An individual may renew a license in the manner provided in subsection (3) within 1 year of~~
3 ~~the expiration date of the license. An applicant for renewal shall provide the board with proof that the~~
4 ~~applicant has satisfied the continuing education requirements of the board for the year for which the license~~
5 ~~is to be renewed.~~

6 (5) ~~The renewal fee is increased by 10% for each month or part of a month that the renewal is~~
7 ~~delayed after the 60 day period provided in subsection (2). The maximum fee for delayed renewal may not~~
8 ~~exceed twice the normal renewal fee.~~

9 (6) (5) ~~A license not renewed within 1 year following its expiration date terminates automatically."~~

10
11 **Section 79.** Section 37-24-202, MCA, is amended to read:

12 **"37-24-202. Powers and duties of board.** (1) The board shall:

13 (a) administer, coordinate, and enforce the provisions of this chapter;

14 (b) evaluate the qualifications of applicants for licensure under this chapter and approve and
15 supervise the examination of ~~such~~ applicants;

16 (c) ~~investigate persons engaging in practices that allegedly violate the provisions of this chapter;~~

17 (d) ~~adopt rules relating to professional licensure and the establishment of ethical standards of~~
18 ~~practice under this chapter;~~

19 (e) (d) ~~conduct hearings and keep records and minutes as the board considers necessary to carry~~
20 ~~out its functions; and~~

21 (f) (e) ~~adopt a seal by which the board shall authenticate its proceedings.~~

22 (2) A copy of the proceedings, records, or acts of the board, signed by the ~~chairman~~ presiding
23 officer or secretary of the board and stamped with the seal, is prima facie evidence of the validity of ~~such~~
24 the document.

25 (3) The department may employ persons it considers necessary to carry out the provisions of this
26 chapter."

27
28 **Section 80.** Section 37-24-308, MCA, is amended to read:

29 **"37-24-308. Renewal of license — inactive status.** (1) ~~Each license issued under this chapter is~~
30 ~~subject to annual renewal on the date set by department rule~~ upon the payment of a renewal fee and

1 expires unless renewed in the manner prescribed by the rules of the board. The board may provide for the
 2 late renewal of a license upon the payment of a late fee in accordance with its rules, but ~~no~~ a late renewal
 3 of a license may not be granted more than 5 years after its expiration.

4 ~~(2) Upon request, the board may grant inactive status to a licensee who:~~

5 ~~(a) does not practice as an occupational therapist or an occupational therapy assistant; and~~

6 ~~(b) does not hold himself out as an occupational therapist or an occupational therapy assistant."~~

7
 8 **Section 81.** Section 37-25-307, MCA, is amended to read:

9 **"37-25-307. Renewal of license —~~continuing education~~.** (1) An application for renewal of license
 10 must be made annually on a date set by the ~~board~~ department.

11 (2) A renewal license must be issued when the applicant submits proof that requirements for
 12 ~~continuing education~~ continued licensure have been met and pays a renewal fee set by the board
 13 commensurate with costs.

14 (3) An additional fee may be imposed on applications for renewal received by the board more than
 15 30 days after the annual renewal date."

16
 17 **Section 82.** Section 37-26-201, MCA, is amended to read:

18 **"37-26-201. Powers and duties of board.** The board shall:

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

20 (2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301,
 21 that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are
 22 consistent with the education provided by approved naturopathic medical colleges;

23 (3) adopt rules prescribing the time, place, content, and passing requirements of the licensure
 24 examination, which may be composed of part or all of the national naturopathic physicians licensing
 25 examination;

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

28 (5) adopt rules that set nonrefundable fees, commensurate with costs, for application, examination,
 29 licensure, and other administrative services;

30 (6) approve naturopathic medical colleges as defined in 37-26-103;

1 ~~(7) adopt rules for the investigation of complaints against naturopathic physicians, for hearings on~~
 2 ~~complaints, and to impose disciplinary action against naturopathic physicians found to be in violation of this~~
 3 ~~chapter;~~

4 ~~(8) investigate individuals falsely claiming to be naturopathic physicians and act in cooperation with~~
 5 ~~county attorneys to enforce the provisions of this chapter;~~

6 ~~(9) adopt rules that establish, approve, and routinely review a continuing education curriculum and~~
 7 ~~accreditation for naturopathic physicians that is required for license renewal;~~

8 ~~(10) (7) issue certificates of specialty practice; and~~

9 ~~(11) issue temporary licenses as provided for in 37-26-403; and~~

10 ~~(12) (8) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited~~
 11 ~~scope of practice of naturopathic medicine, which may exclude the use of minor surgery or the legend~~
 12 ~~drugs allowed under 37-26-301."~~

13
 14 **Section 83.** Section 37-26-403, MCA, is amended to read:

15 **"37-26-403. Application for licensure -- examination -- temporary license.** (1) A person who desires
 16 a license to practice naturopathic medicine in Montana shall apply to the department in the manner and
 17 form prescribed by the board. The application must be accompanied by the license fees, the application
 18 fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses
 19 the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the ~~board~~
 20 department may make an independent investigation to determine whether the applicant possesses the
 21 necessary qualifications and whether the applicant has committed unprofessional conduct that would be
 22 basis for licensure denial. At the board's request, the applicant shall provide necessary authorizations for
 23 the release of records and information pertinent to the ~~board's~~ department's investigation.

24 (2) A person who applies for licensure but who has not passed a licensure examination prescribed
 25 or endorsed by the board shall apply to the board for authorization to take the prescribed licensure
 26 examination. The application for examination must be accompanied by the examination fee. If the board
 27 finds that all other qualifications for licensure except that of examination have been met, the board shall
 28 authorize the applicant to take the licensure examination.

29 ~~(3) A person who has actively engaged in the practice of naturopathic medicine in Montana prior~~
 30 ~~to April 1, 1991, and who is a graduate of an approved naturopathic medical college may continue to~~

1 ~~practice naturopathic medicine until the board reviews his qualifications if he applies to and receives from~~
 2 ~~the department a temporary license by October 1, 1991. The department shall issue a temporary license~~
 3 ~~to a qualified applicant. The board shall, within 6 months of October 1, 1991, review the qualifications of~~
 4 ~~each temporary licensee and either authorize the department to issue a license to a person qualified under~~
 5 ~~37-26-402 or 37-26-404 or extend the temporary license for a term of no more than 1 year to allow the~~
 6 ~~practitioner to pass the prescribed examination. A person who is not a graduate of an approved~~
 7 ~~naturopathic medical college may not be granted a temporary license."~~

8
 9 **Section 84.** Section 37-27-105, MCA, is amended to read:

10 **"37-27-105. General powers and duties of board -- rulemaking authority.** (1) The board shall:

11 (a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform
 12 the duties described in this section; and

13 (b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within
 14 the scope of the board's duties.

15 (2) The board shall have the authority to administer and enforce all the powers and duties granted
 16 statutorily or adopted administratively.

17 (3) The board shall adopt rules to administer this chapter. The rules must include but are not limited
 18 to:

19 (a) the development of a license application and examination, criteria for and grading of
 20 examinations, and establishment of examination and license fees commensurate with actual costs;

21 (b) the issuance of a provisional license to midwives who filed the affidavit required by section 2,
 22 Chapter 493, Laws of 1989;

23 (c) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements
 24 that, at a minimum, meet the standards established in 37-27-201;

25 (d) the development of eligibility criteria for client screening by direct-entry midwives in order to
 26 achieve the goal of providing midwifery services to women during low-risk pregnancies;

27 (e) the development of procedures for the issuance, renewal, suspension, and revocation, ~~and~~
 28 ~~reciprocity~~ of licenses;

29 (f) the adoption of disciplinary standards for licensees;

30 ~~(g) the establishment of investigatory and hearing procedures for processing complaints received~~

1 ~~by the board;~~

2 ~~(h) the establishment of continuing education requirements of at least 14 hours annually for license~~
3 ~~renewal for direct-entry midwives;~~

4 ~~(i) (g)~~ the development of standardized informed consent and reporting forms;

5 ~~(j) (h)~~ the adoption of ethical standards for licensed direct-entry midwives;

6 ~~(k) (i)~~ the adoption of supporting documentation requirements for primary birth attendants; and

7 ~~(l) (j)~~ the establishment of criteria limiting an apprenticeship that, at a minimum, meets the
8 standards established in 37-27-201."

9

10 **Section 85.** Section 37-28-201, MCA, is amended to read:

11 **"37-28-201. License required -- exceptions -- respiratory care not the practice of medicine.** (1)
12 Except as otherwise provided in this chapter, a person may not practice respiratory care or represent
13 ~~himself to be~~ to the public that the person is a respiratory care practitioner unless ~~he is licensed or granted~~
14 ~~a temporary permit under the provisions of 37-28-201 through 37-28-203 and 37-28-206~~ this chapter.

15 (2) This chapter does not prohibit:

16 (a) the practice of respiratory care that is an integral part of study by a student respiratory care
17 practitioner;

18 (b) self-care by a patient or the gratuitous care by a friend or family member who does not ~~hold~~
19 ~~himself out~~ purport to be a respiratory care practitioner; or

20 (c) respiratory care rendered in the course of an emergency.

21 (3) ~~Nothing in this~~ This chapter is not intended to limit, preclude, or interfere with the practice of
22 other persons and health care providers licensed by the appropriate agencies of the state of Montana.

23 (4) ~~Nothing in this~~ This chapter may not be construed to permit the practice of medicine."
24

25 **Section 86.** Section 37-28-202, MCA, is amended to read:

26 **"37-28-202. Licensing requirements -- examination -- fees.** (1) To be eligible for licensure by the
27 board as a respiratory care practitioner, the applicant shall:

28 (a) submit to the board an application fee in an amount established by the board and a written
29 application on a form provided by the board demonstrating that the applicant has completed:

30 (i) high school or the equivalent; and

1 (ii) a respiratory care educational program accredited or provisionally accredited by the American
 2 medical association's committee on allied health education and accreditation in collaboration with the joint
 3 review committee for respiratory therapy education or their successor organizations; and

4 (b) pass an examination prescribed by the board, ~~unless the examination requirement is waived~~
 5 ~~under subsection (2)~~. The board may use the entry-level examination written by the national board for
 6 respiratory care or another examination that satisfies the standards of the national commission for health
 7 certifying agencies or the commission's equivalent.

8 (2) ~~The board may issue a license to practice respiratory care to an applicant without requiring him~~
 9 ~~to pass an examination if the applicant:~~

10 (a) ~~is currently licensed to practice respiratory care under the laws of another state, territory, or~~
 11 ~~country if the board considers the qualifications for licensure to be equivalent to those required in this state;~~

12 ~~or~~

13 (b) ~~holds credentials, conferred by the national board for respiratory care, as a certified respiratory~~
 14 ~~therapy technician or a registered respiratory therapist and affirms under oath that his credentials have not~~
 15 ~~been suspended or revoked.~~

16 (3) ~~A person holding a license to practice respiratory care in this state may use the title "respiratory~~
 17 ~~care practitioner" and the abbreviation "RCP".~~

18
 19 **Section 87.** Section 37-28-203, MCA, is amended to read:

20 "**37-28-203. Renewal of license -- application and fee.** (1) A respiratory care practitioner's license
 21 expires ~~annually on May 1~~ on the date set by department rule.

22 (2) A licensee may renew a license by:

23 (a) filing an application with the board on a form approved by the board; and

24 (b) paying a renewal fee in an amount established by the board; ~~and~~

25 (c) ~~documenting the completion of the continuing education requirements prescribed by the board.~~

26 (3) ~~An application for renewal of a license made within 90 days after expiration of the license is~~
 27 ~~timely, and the rights and privileges of the applicant remain in effect during that period."~~

28
 29 **Section 88.** Section 37-29-201, MCA, is amended to read:

30 "**37-29-201. Board powers and duties.** The board has the following powers and duties:

1 (1) determination of the qualifications of applicants for licensure under this chapter;

2 (2) administration of examinations for licensure under this chapter;

3 (3) collection of fees and charges prescribed in this chapter;

4 (4) issuance, suspension, and revocation of licenses for the practice of dentistry under the
5 conditions prescribed in this chapter; and

6 (5) to adopt, amend, and repeal rules necessary for the implementation, continuation, and
7 enforcement of this chapter, including but not limited to license applications, form and display of licenses,
8 license examination format, criteria and grading of examinations, disciplinary standards for licensees, and
9 inspection of dentistry premises and facilities, ~~and investigation of complaints.~~"

10
11 **Section 89.** Section 37-29-303, MCA, is amended to read:

12 **"37-29-303. Application for license.** Upon application and payment of the appropriate fee, the
13 board shall issue a license to practice dentistry to any applicant who meets ~~one of~~ the following criteria
14 and scores a passing grade on the examination for licensure:

15 ~~(1) (a) Applications for persons engaged in the practice of dentistry on December 1, 1984, must
16 be filed prior to April 1, 1985, and must include the following:~~

17 ~~(i) three signed affidavits by persons other than family members that the applicant has been
18 employed in denture technology for at least 5 years prior to application, is able to demonstrate competency
19 in intraoral procedures, and has been a resident of the state of Montana for at least 6 months prior to April
20 1, 1985; and~~

21 ~~(ii) documentation that the applicant has successfully completed courses approved by the board
22 in head and oral anatomy and physiology, oral pathology, partial denture construction and design, clinical
23 dental technology, radiology, dental laboratory technology, asepsis, clinical jurisprudence, medical
24 emergencies, and cardiopulmonary resuscitation.~~

25 ~~(b) Subsection (1)(a) must be applied retroactively to permit qualification of license applicants
26 initially qualified and applying prior to the appointment and qualification of the original board under this
27 chapter and section 27 of I.M. No. 97.~~

28 ~~(2) Applications filed on or after April 1, 1985, must include:~~

29 ~~(a) (1) documentation that the applicant has completed formal training of not less than 2 years at
30 an educational institution accredited by a national or regional accrediting agency recognized by the Montana~~

1 state board of regents, the curriculum of which includes courses in head and oral anatomy and physiology,
 2 oral pathology, microbiology, partial denture construction and design, clinical dental technology, radiology,
 3 dental laboratory technology, asepsis, clinical jurisprudence, and medical emergencies, including
 4 cardiopulmonary resuscitation; and

5 ~~(b)~~ (2) documentation that the applicant:

6 ~~(i)~~ (a) has completed 1 year of internship under the direct supervision of a licensed dentist; or

7 ~~(ii)~~ (b) has 3 years of experience as a dentist under licensure in another state or Canada.

8 ~~(3) A dentist who has been lawfully licensed or certified by initial licensing provisions in any state~~
 9 ~~or territory that maintains a standard of dentistry which is equal to that of Montana must submit a~~
 10 ~~certificate from the examining body of the state or territory in which he is certified or licensed, attesting~~
 11 ~~to 5 years' practice under the certificate of license. However, no applicant may be licensed under the~~
 12 ~~provisions of this subsection unless the state or territory in which he is licensed or certified extends a like~~
 13 ~~privilege to dentists licensed by the state of Montana to practice dentistry. The board may enter into~~
 14 ~~reciprocal relations with those states or territories whose laws are compatible with this chapter."~~

15
 16 **Section 90.** Section 37-29-306, MCA, is amended to read:

17 "**37-29-306. Licensing.** (1) ~~After March 1, 1985, a~~ A dentist license is valid for a period of 1 year
 18 and expires on the date set by department rule. A renewal license must be issued upon timely payment of
 19 the renewal fee and the submission of proof of ~~the completion of not less than 12 hours of continuing~~
 20 ~~education, which may include programs sponsored by an educational institution, state dentist licensing~~
 21 ~~board, or a recognized dentist organization. Subject matter must be pertinent to dentistry as enumerated~~
 22 ~~in 37-29-305(3). Approval of acceptable hours of continuing education must be made by the board. The~~
 23 ~~board may approve, in one action, all the courses presented by a particular organization if the board is~~
 24 ~~satisfied that the courses presented by that organization meet the requirements of this section. Hours~~
 25 ~~pertain to clock hours actually attended by the licensee~~ continued qualification for licensure. In addition,
 26 the dentist shall submit proof that ~~he~~ the dentist holds a current cardiopulmonary resuscitation card.
 27 ~~A license issued effective as of a date other than March 1 will be valid until midnight February 28 next~~
 28 ~~following the date it was issued.~~ The license shall must bear on its face the address where the licensee's
 29 dentist services will be performed.

30 (2) Applications must be submitted on forms approved by the board and furnished by the

1 department. Each application must include all other documentations necessary to establish that the
2 applicant meets the requirements for licensure and is eligible to take the licensure examination. Applications
3 must be accompanied by the appropriate fees.

4 ~~(3) After April 1, 1985, the board may by rule alter future renewal dates for licenses under this~~
5 ~~chapter."~~

6
7 **Section 91.** Section 37-29-403, MCA, is amended to read:

8 **"37-29-403. Procedure for making and fitting partial denture.** (1) Prior to making and fitting a
9 partial denture, a denturist shall:

10 (a) formulate a study model of the intended denture;

11 (b) refer the patient to a dentist, together with the model for tooth cleaning, mouth preparation,
12 and x-rays, as needed; and

13 (c) make the partial denture and fit it to the existing teeth after the dentist has completed the
14 procedures listed in subsection (1)(b) and in accordance with the dentist's recommendations.

15 (2) A denturist may not cut, surgically remove, or surgically reduce any tissue or teeth in the
16 process of fitting a partial denture.

17 ~~(3) A denturist who makes or fits a partial denture in a manner not consistent with this section is~~
18 ~~subject to the sanctions provided in 37-29-311."~~

19
20 **Section 92.** Section 37-30-301, MCA, is amended to read:

21 **"37-30-301. Certificate required.** ~~(1) Except as provided in subsection (2), a~~ A person may not
22 practice or attempt to practice barbering unless ~~he~~ the person first receives from the department a
23 certificate of registration.

24 ~~(2) The board may authorize the department to grant a temporary certificate to any person qualified~~
25 ~~to take the examination required by 37-30-305 who pays a temporary certification fee prescribed by the~~
26 ~~board. A person holding a temporary certificate may engage in the practice of barbering under the~~
27 ~~supervision of a certified barber for a period of 90 days or until the next examination scheduled by the~~
28 ~~board, whichever is longer."~~

29
30 **Section 93.** Section 37-30-305, MCA, is amended to read:

1 "37-30-305. **Examination.** Except as provided in ~~37-30-309~~ by rules adopted under [section 20]
 2 to implement [section 4], an applicant for a barber's certificate of registration ~~must shall~~ apply to the
 3 department to take the examination for a barber's certificate of registration."
 4

5 **Section 94.** Section 37-31-322, MCA, is amended to read:

6 "**37-31-322. ~~Renewal —continuing education -- delinquency fee.~~** (1) Licenses and certificates may
 7 not be issued for ~~no~~ longer than 1 year unless otherwise provided by department rule. Licenses and
 8 certificates expire on ~~December 31 unless otherwise provided by rule or the date set by department rule~~
 9 and may be renewed ~~for the next year or renewal period~~. Licenses and certificates may be renewed by
 10 application made ~~prior to December 31 of each year, unless otherwise provided,~~ on or before the renewal
 11 date and by the payment of a required renewal fee. Expired licenses and certificates may be renewed under
 12 rules made by the board, but the right to renew an expired license or certificate terminates after 10 years
 13 of nonpayment. ~~The board may provide by rule for a change in the renewal date and renewal period for the~~
 14 ~~manager operator and salon owner category.~~ The renewal fee may not exceed twice the fee for a 2-year
 15 renewal or three times the fee for a 3-year renewal and must be as set by the board.

16 ~~(2) In addition to the foregoing requirements for renewal, persons applying for the renewal of~~
 17 ~~licenses to teach cosmetology must have fulfilled the following additional requirements:~~

18 ~~(a) During each year, an active teacher, either full time or part time, must have successfully~~
 19 ~~completed 15 hours' professional teacher training at a school approved by the board.~~

20 ~~(b) A person holding a license to teach cosmetology but not actively engaged either full time or~~
 21 ~~part time in teaching cosmetology or manicuring during the preceding year may renew the license by paying~~
 22 ~~the required fee. A person holding a license to teach cosmetology but not actively engaged in teaching~~
 23 ~~cosmetology or manicuring either full time or part time for the preceding year or longer and wishing to~~
 24 ~~resume active teaching of cosmetology or manicuring must successfully complete 30 hours' professional~~
 25 ~~teacher training at a school approved by the board before resuming active teaching. However, the foregoing~~
 26 ~~provisions do not prevent the board, under rules it adopts, from permitting a person who holds a license~~
 27 ~~to teach cosmetology and who is not actively engaged either full time or part time in teaching cosmetology~~
 28 ~~or manicuring from teaching as a substitute for an active teacher.~~

29 ~~(3) (2)~~ A fee prescribed by the board must be charged, in addition to other fees fixed by law, for
 30 renewal applications of licenses and certificates made after December 31 of each year or other

1 predetermined renewal deadline."

2

3 **Section 95.** Section 37-32-305, MCA, is amended to read:

4 **"37-32-305. Fees -- renewal -- deposit of moneys collected.** (1) The fee for an original electrologist
5 license ~~shall~~ must be set by the board. The renewal ~~shall be~~ is automatic, unless revoked or suspended for
6 cause, and the renewal fee ~~shall~~ must be set by the board.

7 (2) The fee for an original electrologist salon license ~~shall~~ fee must be the same as that for
8 cosmetology salons. The renewal fee ~~shall~~ must be the same as that for cosmetology salons.

9 (3) ~~All licenses~~ A license issued under this chapter ~~expire~~ expires on ~~December 31 and shall the~~
10 date set by department rule and may be renewed annually. Failure to renew ~~on or before December 31 shall~~
11 ~~cause~~ subjects the licensee to a late renewal fee prescribed by the board to be added to the regular renewal
12 fee. The right to renew by payment of the late renewal fee expires after 3 years of nonpayment.

13 (4) All fees or ~~moneys~~ money collected by the department under this chapter ~~shall~~ must be
14 deposited in the state special revenue fund for the use of the board in administration of the chapter."

15

16 **Section 96.** Section 37-34-201, MCA, is amended to read:

17 **"37-34-201. Powers and duties of the board -- rulemaking authority.** (1) The board shall:

18 (a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform
19 the duties described in this section; and

20 (b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within
21 the scope of the board's duties.

22 (2) The board has the authority to administer and enforce all the powers and duties granted
23 statutorily or adopted administratively.

24 (3) The board shall adopt rules to administer this chapter. The rules must include but are not limited
25 to:

26 (a) the development of a license application procedure and acceptable certifications for each
27 category of license;

28 (b) the establishment of license fees commensurate with actual costs;

29 (c) the establishment of criteria for educational requirements that, at a minimum, meet the
30 standards set forth in 37-34-303;

1 (d) the development of procedures for the issuance, renewal, suspension, revocation, and
2 reciprocity of licenses;

3 (e) the adoption of disciplinary standards for licensees;

4 (f) the establishment of ~~investigatory and hearing procedures for processing complaints received~~
5 ~~by the board; and~~

6 (g) ~~the establishment of continuing education requirements of at least 14 hours annually for license~~
7 ~~renewal for clinical laboratory practitioners; and~~

8 ~~(h)~~ a requirement that the supervisor of a clinical laboratory technician be accessible at all times
9 that testing is being performed by the technician in order to provide onsite, telephonic, or electronic
10 consultation."

11
12 **Section 97.** Section 37-34-305, MCA, is amended to read:

13 **"37-34-305. Licensure application procedures.** (1) An applicant shall submit an application for a
14 license to the board upon the forms prescribed and furnished by the board and shall pay an application fee
15 set by the board.

16 (2) Upon receipt of the application and fee, the board shall issue a license for a clinical laboratory
17 scientist, a clinical laboratory specialist, or a clinical laboratory technician to any person who meets the
18 qualifications specified by the board as set forth in rules adopted by the board pursuant to 37-34-201 and
19 37-34-303.

20 (3) A license issued under this chapter must be renewed ~~by May 1 of each year~~ on or before the
21 date set by department rule.

22 (4) Except for the assessment provided in 37-1-101(6), money paid for application, license, and
23 license renewal fees must be deposited in the state special revenue fund for use by the board."

24
25 **Section 98.** Section 37-40-203, MCA, is amended to read:

26 **"37-40-203. Rulemaking power.** (1) The board may adopt rules, consistent with the purposes of
27 this chapter, as it considers necessary.

28 (2) The board's rulemaking and hearing functions ~~shall~~ must be in accordance with the Montana
29 Administrative Procedure Act. The board shall adopt rules:

30 (a) establishing standards of professional conduct in order to maintain a high standard of integrity,

1 dignity, and competency in the profession of sanitarian, including competency in specific fields of
 2 sanitation;

3 (b) governing the conduct of matters before the board;

4 (c) governing educational equivalency requirements, as provided in 37-40-302, for registration of
 5 sanitarians; and

6 ~~(d) prescribing requirements for continuing education to be met by registered sanitarians in order
 7 to maintain their professional knowledge and competence and as a condition to continuing in the practice
 8 of the profession of sanitarian; and~~

9 ~~(e) defining qualifications for sanitarian-in-training status for issuance of the initial annual permit."~~

10

11 **Section 99.** Section 37-40-304, MCA, is amended to read:

12 **"37-40-304. Fees -- renewal.** (1) An applicant for a license shall pay a fee set by the board in an
 13 amount commensurate with examination and administrative costs.

14 (2) A registered sanitarian may renew ~~his~~ the license by paying an annual fee and meeting
 15 qualifications set by the board ~~and submitting proof of continuing education as prescribed by the board.~~

16 (3) Renewal fees are due ~~July 1 of~~ on or before the renewal year date set by department rule. If
 17 the renewal fee is not paid, the license expires. Licenses which have lapsed for failure to pay renewal fees
 18 may be reissued under rules adopted by the board."

19

20 **Section 100.** Section 37-47-307, MCA, is amended to read:

21 **"37-47-307. Investigation of applicant -- issuance or denial of license.** (1) ~~The board~~ department
 22 shall investigate each applicant for an outfitter's or professional guide's license, ~~and~~ The board shall
 23 determine the applicant's qualifications.

24 (2) The board may deny or refuse to issue any new license or to renew any previous license if the
 25 applicant does not meet the qualifications stated in this section. In the event that any application for license
 26 is denied or refused, the board shall immediately notify the applicant, setting forth in the notice the grounds
 27 upon which the denial or refusal is based.

28 (3) Final decision as to issuance of renewal licenses must be made not later than 30 days from the
 29 date of receipt of the completed application for renewal and not later than 90 days from the date of receipt
 30 of a completed application for a new license.

1 (4) A licensee in good standing is entitled to a new license for the ensuing license year upon
 2 complying with the provisions of this chapter and renewal deadlines and fees imposed by rule of the board
 3 and completing an application for license renewal on a form provided by the board."
 4

5 **Section 101.** Section 37-50-203, MCA, is amended to read:

6 **"37-50-203. Rules of the board.** (1) The board may adopt ~~such~~ rules, consistent with the purposes
 7 of this chapter, as it considers necessary.

8 (2) The board shall adopt:

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

12 (b) rules of procedure governing the conduct of matters before the board;

13 (c) rules governing education requirements, as provided in 37-50-305, for issuance of the
 14 certificate of a certified public accountant and the license for licensed public accountant;

15 ~~(d) rules prescribing requirements for continuing education to be met by certified public accountants
 16 and licensed public accountants, in order to maintain their professional knowledge and competence, as a
 17 condition to continuing in the practice of public accounting. In issuing rules and individual orders regarding
 18 continuing education, the board in its discretion:~~

19 ~~(i) may, among other things, use or rely upon guidelines and pronouncements of recognized
 20 educational and professional associations;~~

21 ~~(ii) may prescribe the content, duration, and organization of courses; and~~

22 ~~(iii) shall take into account the accessibility to applicants of such continuing education as it may
 23 require and any impediments to interstate practice of public accounting that may result from differences
 24 in such requirements in other states;~~

25 ~~(e) rules governing partnerships and corporations practicing public accounting, including but not
 26 limited to rules concerning their style, name, title, and affiliation with any other organization and
 27 establishing reasonable standards with respect to professional liability insurance and unimpaired capital and
 28 prescribing joint and several liability for torts relating to professional services for shareholders of any ~~such~~
 29 corporation failing to comply with ~~such~~ the standards;~~

30 ~~(f) internal rules considered necessary to initiate and conduct investigations and protect the~~

1 ~~confidences of the client of any certified public accountant or licensed public accountant subjected to board~~
2 ~~disciplinary proceedings;~~

3 ~~(g) (e)~~ rules defining requirements for accounting experience, not exceeding 2 years, for issuance
4 of the initial annual permit; and

5 ~~(h) (f)~~ rules to enforce the provisions of this chapter, ~~the~~ The purpose of which the rules shall must
6 be to provide for the monitoring of the profession of public accounting and to maintain the quality of the
7 accounting profession."

8
9 **Section 102.** Section 37-50-314, MCA, is amended to read:

10 **"37-50-314. Annual permit required -- display.** (1) ~~No~~ A person may not engage in the practice of
11 public accounting in this state ~~unless he holds~~ without a current annual permit issued by the department.
12 An annual permit to engage in the practice of public accounting in this state ~~shall~~ must be issued by the
13 department to a person who holds a current certificate as a certified public accountant or license as a
14 licensed public accountant and complies with the requirements of this chapter.

15 ~~(2) After the expiration of the 3-year period immediately following the effective date of a board rule~~
16 ~~establishing continuing education requirements, each application for renewal of a permit by a person who~~
17 ~~has held his certificate or license for 3 years or more must be accompanied or supported by evidence~~
18 ~~satisfactory to the board of fulfillment of such requirements during the 3-year period immediately preceding~~
19 ~~the application.~~

20 ~~(3) The board may in its discretion waive the requirement stated in subsection (2) if the applicant~~
21 ~~agrees to follow a particular program or schedule of continuing education agreeable to the board.~~

22 ~~(4) The board may relax or suspend continuing education requirements for an applicant who~~
23 ~~certifies that he does not intend to engage in the practice of public accounting and for an applicant who~~
24 ~~cannot fulfill the requirement due to individual hardship.~~

25 ~~(5) Subject to subsections (3) and (4), the board may revoke, suspend, or refuse to renew the~~
26 ~~permit of an applicant who fails to furnish evidence of having met the continuing education requirements~~
27 ~~established by the board.~~

28 ~~(6) (2)~~ The current annual permit to engage in the practice of public accounting must be
29 prominently displayed for public inspection."
30

1 **Section 103.** Section 37-50-317, MCA, is amended to read:

2 "**37-50-317. Certificate, license, and permit expiration -- renewal fees.** (1) Certificates, licenses,
3 and permits issued by the board expire on ~~December 31 of each year~~ the date set by department rule.

4 (2) Certificates and licenses must be renewed by the department upon payment of the annual
5 renewal fee and upon compliance with requirements prescribed by the board.

6 (3) Permits must be renewed by the department upon payment of the annual renewal fee and upon
7 compliance with the ~~continuing education~~ requirements prescribed by the board."

8

9 **Section 104.** Section 37-51-204, MCA, is amended to read:

10 "**37-51-204. Educational programs and ~~continuing education.~~** (1) The board may, subject to
11 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or
12 institutes and incur necessary expenses in this connection.

13 (2) The board may assist libraries and educational institutions in sponsoring studies and programs
14 for the purpose of raising the standards of the real estate business and the competency of licensees.

15 ~~(3) The board may prescribe by rule continuing education requirements for all licensees, not to~~
16 ~~exceed 15 classroom or equivalent hours in any 2-year period, including proof of conformance, but except~~
17 ~~as provided in 37-51-302 the board may not require examination of licensees."~~

18

19 **Section 105.** Section 37-51-306, MCA, is amended to read:

20 "**37-51-306. Transactions with nonresidents and with nonlicensed brokers or salesmen --**
21 **reciprocity -- consent to legal process.** (1) A licensed broker may not employ or compensate, directly or
22 indirectly, a person for performing the acts regulated by this chapter who is not a licensed broker or
23 licensed salesman. However, a licensed broker may pay a commission to a licensed broker of another state
24 if the nonresident broker has not conducted and does not conduct in this state a service for which a fee,
25 compensation, or commission is paid. ~~This subsection does not limit the next subsection.~~

26 ~~(2) A person who is licensed as a broker or a salesman in another state may obtain a license as~~
27 ~~a broker or as a salesman in this state by complying with this chapter and with the rules of the board.~~
28 ~~However, this section applies only to licensees of other states that offer the same privileges to the licensees~~
29 ~~of this state. A nonresident licensee need not maintain a place of business in this state. The board may:~~

30 ~~(a) authorize the department to license a nonresident without examination if he files with the~~

1 ~~department an authorized or certified copy of the license issued in another state and pays to the department~~
 2 ~~the same license fee as is required for obtaining a license in this state;~~

3 ~~(b) refuse to authorize the department to issue a license to an applicant who is not a resident of~~
 4 ~~this state; and~~

5 ~~(c) enter into reciprocal agreements with other states.~~

6 ~~(3)~~ A nonresident licensee shall file an irrevocable written consent that legal actions arising out of
 7 a commenced or completed transaction may be commenced against the nonresident licensee in a county
 8 of this state that may be appropriate and designated by Title 25, chapter 2, part 1. The consent must
 9 provide that service of summons in this action may be served on the department for and on behalf of the
 10 nonresident licensee, and this service is sufficient to give the court jurisdiction over the licensee conducting
 11 a transaction in a county. The consent must be acknowledged and, if made by a corporation, must be
 12 authenticated by its seal."

13
 14 **Section 106.** Section 37-51-311, MCA, is amended to read:

15 **"37-51-311. Fees -- deposit of fees.** ~~(1)~~ The fees prescribed by the board shall must be charged
 16 by the department and paid into the state special revenue fund for the use of the board, subject to
 17 37-1-101(6).

18 ~~(2) The board shall charge an annual fee from a licensee who wishes to be placed in an inactive~~
 19 ~~status. A licensee who is placed in an inactive status by the board and who has paid the required fee need~~
 20 ~~not pay any fee assessed by the board for the purpose of funding the real estate recovery account during~~
 21 ~~the period the licensee remains in inactive status."~~

22
 23 **Section 107.** Section 37-53-211, MCA, is amended to read:

24 **"37-53-211. Approval or disapproval of application or registration.** (1) Registration of a timeshare
 25 offering is effective upon written notice of approval of the application by the board or upon the passage
 26 of 30 calendar days after filing of a completed application if not approved or denied prior to that time.

27 (2) The board may issue an order, ~~subject to 37-53-503,~~ denying, suspending, or revoking any
 28 application or registration if the board finds that the order is in the public interest and that:

29 (a) the application or registration is incomplete or contains a statement that is false or misleading
 30 with respect to any material fact;

1 (b) any provision of this chapter or any rule or order lawfully issued under this chapter has been
2 violated;

3 (c) the activities of the developer include or would include activities that are illegal; or

4 (d) the timeshare offering has worked or would tend to work a fraud on purchasers.

5 (3) The board shall promptly notify the applicant or registrant of any order denying, suspending,
6 or revoking registration and of the applicant's or registrant's right to request a hearing within 20 days of
7 receipt of notification. If the applicant or registrant does not request a hearing, the order remains in effect
8 until the board modifies or vacates it."

9
10 **Section 108.** Section 37-53-302, MCA, is amended to read:

11 **"37-53-302. Denial, suspension, or revocation of license or application.** The board may by an
12 order, ~~subject to 37-53-503,~~ deny, suspend, or revoke a timeshare salesperson's or timeshare broker's
13 license or application for license if the board finds that the order is in the public interest and that the
14 applicant or licensee:

15 (1) has filed an application for licensure and personal disclosure statement as a timeshare
16 salesperson or timeshare broker that is incomplete in any material respect or contains any statement that
17 is, in the light of the circumstances under which it was made, false or misleading with respect to any
18 material fact;

19 (2) has violated or failed to comply with any provision of this chapter, rules adopted under this
20 chapter, or Title 37, chapter 51;

21 (3) has been convicted of a felony involving theft, fraud, or any consumer protection statute or a
22 felony involving moral turpitude and related to the occupation of timeshare salesperson or timeshare broker;

23 (4) is permanently or temporarily enjoined by a court from engaging in or continuing any conduct
24 or practice involving an aspect of the timeshare business;

25 (5) has engaged in dishonest or unethical practices in the timeshare business; or

26 (6) has not complied with any condition imposed by the board or is not qualified on the basis of
27 knowledge of the timeshare industry or this chapter."

28
29 **Section 109.** Section 37-54-105, MCA, is amended to read:

30 **"37-54-105. Powers and duties of board.** The board shall:

- 1 (1) adopt rules to implement and administer the provisions of this chapter;
- 2 (2) establish and collect fees commensurate with the costs of licensure and certification and
3 renewal of a license or certificate;
- 4 (3) make available application forms for licensure and certification within 15 days of the first
5 meeting of the board;
- 6 (4) establish minimum requirements for education, experience, and examination for licensure and
7 certification as set out by the appraisal qualification board of the appraisal foundation;
- 8 (5) receive applications for examination from qualified applicants, prescribe and administer
9 examinations to qualified applicants, and determine the acceptable level of performance on examinations;
- 10 (6) receive and review applications for licensure and certification and issue licenses and certificates;
- 11 (7) review periodically the standards for development and communication of appraisals and adopt
12 rules explaining and interpreting the standards;
- 13 (8) retain all applications and other records submitted to it;
- 14 (9) maintain a registry of the names and addresses of licensees and certificate holders;
- 15 (10) establish disciplinary procedures for reprimand, suspension, or revocation of a license and
16 certificate;
- 17 (11) adopt by rule standards of professional appraisal practice in this state;
- 18 (12) reprimand, suspend, revoke, or refuse to renew the license or certificate of a person who has
19 violated the standards established for licensed and certified real estate appraisers; and
- 20 (13) ~~establish criteria for courses and seminars consistent with the continuing education~~
21 ~~requirements set out in 37-54-210 and 37-54-310; and~~
- 22 (14) perform other duties necessary to implement this chapter."

23

24 **Section 110.** Section 37-54-210, MCA, is amended to read:

25 **"37-54-210. License renewal —~~continuing education requirements.~~** (1) A real estate appraiser's
26 license expires on ~~March 31 following the date of issuance or renewal and is invalid thereafter~~ the date set
27 by department rule.

28 (2) A licensee may renew a license, ~~other than a temporary permit issued under 37-54-406,~~ by
29 filing an application with the board on a form approved by the board, paying a renewal fee prescribed by
30 the board, and meeting all requirements of this ~~section~~ chapter.

1 (3) In renewing a license, the board shall ~~assure~~ ensure that the licensee has a working knowledge
2 of:

- 3 (a) current real estate appraisal theories; and
4 (b) practices and techniques that will enable the licensee to provide competent independent
5 appraisal service under the authority of the license.

6 ~~(4) An application for renewal must include evidence satisfactory to the board that within the
7 3-year period immediately following the date of issuance of the license and within each 3-year period
8 thereafter, the licensee has completed at least 45 classroom hours of instruction in courses or seminars
9 approved by the board, at least 15 hours of which must be related to standards of professional appraisal
10 practice. Continuing education hours must be credited to the 3-year period during which the instruction
11 occurred and may not be carried over to a subsequent 3-year period."~~

12
13 **Section 111.** Section 37-54-211, MCA, is amended to read:

14 **"37-54-211. Late renewal of license.** (1) A license that is not renewed within 1 year of the most
15 recent renewal date automatically terminates. A licensee may renew the license within the 1-year period
16 from the date of most recent renewal by:

- 17 (a) filing with the board an application for late renewal on a form approved by the board;
18 (b) satisfying the ~~continuing education~~ requirements of ~~37-54-210~~ continued licensure; and
19 (c) paying a late renewal fee prescribed by the board.

20 (2) The board may refuse to renew a license if the licensee has continued to perform independent
21 appraisal services as a licensed real estate appraiser following expiration of the license."
22

23 **Section 112.** Section 37-54-302, MCA, is amended to read:

24 **"37-54-302. Certification process -- fees.** (1) An application for examination for certification,
25 original certification, or renewal of certification must be made in writing to the board on forms approved
26 by the board.

27 (2) A fee established by the board by rule must accompany the application.

28 (3) When an applicant files an application for original certification or renewal of certification, the
29 applicant shall sign a pledge ~~that he will~~ to comply with the standards of professional appraisal practice
30 established for certified real estate appraisers under 37-54-403. ~~He shall also~~ and affirm that ~~he the~~

1 applicant understands the types of misconduct for which disciplinary action may be initiated ~~against him~~
2 under 37-54-402.

3 (4) To be eligible for original certification as a real estate appraiser, an applicant shall:

4 (a) specify the class or classes of certification for which the applicant is applying and provide
5 evidence satisfactory to the board that ~~he~~ the applicant has the education required for the class or classes
6 of certification for which ~~he is applying~~ application is made; and

7 (b) pass an examination prescribed by the board.

8 (5) A certificate issued under 37-54-305 must bear the signatures or facsimile signatures of the
9 members of the board and a certificate number assigned by the board."
10

11 **Section 113.** Section 37-54-310, MCA, is amended to read:

12 **"37-54-310. Renewal of certificate —~~continuing education requirements.~~** (1) A certificate issued
13 under 37-54-305 expires on ~~March 31 following the date of issuance or renewal and is invalid thereafter~~
14 the date set by department rule.

15 (2) A certificate may be renewed upon payment of a renewal fee and by meeting all requirements
16 for renewal.

17 ~~(3) (a) The certificate holder shall produce evidence satisfactory to the board that during the 3-year~~
18 ~~period immediately following the date of issuance of the certificate, and during each 3-year period~~
19 ~~thereafter, the certified real estate appraiser has:~~

20 ~~(i) completed at least 45 classroom hours of instruction in courses or seminars approved by the~~
21 ~~board, at least 15 hours of which must be related to standards of professional appraisal practice;~~

22 ~~(ii) completed an education program determined by the board to be equivalent to the courses and~~
23 ~~seminars approved under subsection (3)(a)(i); or~~

24 ~~(iii) participated, other than as a student, in an education program approved by the board that~~
25 ~~relates to the theory and technique of real property appraisal.~~

26 ~~(b) Continuing education hours must be credited to the 3-year period during which the instruction~~
27 ~~occurred and may not be carried over to a subsequent 3-year period.~~

28 ~~(4) (3)~~ (3) An applicant for renewal shall state the class of certification previously held and presently
29 sought."
30

1 **Section 114.** Section 37-54-311, MCA, is amended to read:

2 **"37-54-311. Late renewal of certificate.** (1) A certificate that is not renewed within 1 year of the
3 most recent renewal date automatically terminates. A certificate holder may renew the certificate within
4 the 1-year period from the date of most recent renewal by:

5 (a) filing with the board an application for late renewal on a form approved by the board;

6 (b) satisfying the ~~continuing education~~ requirements ~~of 37-54-310~~ set by law; and

7 (c) paying a late renewal fee prescribed by the board.

8 (2) The board may refuse to renew a certificate if the certificate holder has continued to perform
9 independent appraisal services in this state following expiration of the certificate."

10

11 **Section 115.** Section 37-60-202, MCA, is amended to read:

12 **"37-60-202. Rulemaking power.** The board shall adopt and enforce rules:

13 (1) specifying the form of and procedure to be used in granting, denying, suspending, or revoking
14 any license or identification card;

15 (2) fixing the qualifications of resident managers, qualifying agents, licensees, and holders of
16 identification cards, in addition to those prescribed in this chapter, necessary to promote and protect the
17 public welfare;

18 (3) establishing, in accordance with 37-1-134, application and examination fees for original or
19 renewal licenses and identification cards, and providing for refunding of any ~~such~~ fees;

20 (4) prohibiting the establishment of branch offices of any licensee, except a proprietary security
21 organization, without approval by the board, establishing qualification requirements and license fees for
22 those offices;

23 (5) for the certification of private investigator and private security guard training programs,
24 including the certification of firearms training programs and firearms instructors;

25 (6) for the approval of weapons;

26 (7) requiring the maintenance of records;

27 (8) requiring licensees to file ~~such an~~ an insurance policy or proof of financial responsibility as the
28 board considers necessary with the board; and

29 ~~(9) defining "unprofessional conduct" for the purposes of removal from the board and suspension~~
30 ~~or revocation of licenses and identification cards;~~

1 ~~(10) establishing the expiration and renewal periods for licenses and identification cards;~~

2 ~~(11) for the temporary employment of persons without the required licenses or identification cards;~~

3 ~~(12) providing for the issuance of probationary and temporary licenses for contract security~~
4 ~~companies and private investigators;~~

5 ~~(13)~~ (9) providing for the issuance of probationary identification cards for private investigators who
6 do not meet the requirements for age, employment experience, and written examination; ~~and~~

7 ~~(14) providing for the application of administrative fines and penalties for minor infractions of this~~
8 ~~chapter and supporting rules."~~

9
10 **Section 116.** Section 37-60-301, MCA, is amended to read:

11 **"37-60-301. License required.** (1) Except as provided in 37-60-105, it is unlawful for any person
12 to act as or perform the duties as defined in 37-60-101 of a contract security company or proprietary
13 security organization, a private investigator, or a private security guard without having first obtained a
14 license from the board. Those persons licensed on April 18, 1983, shall retain their current licensure status
15 and ~~must~~ shall renew their licenses on the renewal date as prescribed by the ~~board~~ department.

16 (2) It is unlawful for any unlicensed person to act as, pretend to be, or represent ~~himself to the~~
17 public that the person as being is licensed as a private investigator, a contract security company, a
18 proprietary security organization, or a private security guard.

19 (3) A person who knowingly engages an unlicensed private investigator, private security guard,
20 or contract security company is guilty of a misdemeanor punishable under 37-60-411."

21
22 **Section 117.** Section 37-60-312, MCA, is amended to read:

23 **"37-60-312. Annual renewal.** (1) Licenses and identification cards issued under this chapter expire
24 at midnight on the dates prescribed by ~~the board~~ department rule if not, in each instance, renewed. To
25 renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire,
26 apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

27 (2) The board may refuse to renew a license or identification card for any reason for which it could
28 refuse to grant an original application or suspend or revoke any license or identification card ~~under~~
29 ~~37-60-324."~~

1 **Section 118.** Section 37-60-411, MCA, is amended to read:

2 "**37-60-411. Penalties -- investigation -- enforcement -- review.** (1) Any person who violates any
3 of the provisions of this chapter or who conspires with another person to violate any of the provisions of
4 this chapter relating to licensure is guilty of a misdemeanor punishable by a fine of not more than \$1,000,
5 or by imprisonment of not more than 1 year, or by both such fine and imprisonment.

6 (2) The board shall:

7 (a) gather evidence of violations of this chapter, and of any rule established pursuant to this
8 chapter, by persons engaged in a business subject to licensure under this chapter who fail to obtain
9 licenses; and

10 (b) furnish that evidence to prosecuting officers of any county or city.

11 (3) The prosecuting officer of any county or city shall prosecute all violations of this chapter
12 occurring within ~~his~~ the prosecutor's jurisdiction.

13 ~~(4) (a) If upon investigation the board considers it appropriate, it may issue a citation to a licensee.~~

14 ~~The citation may contain:~~

15 ~~(i) an order of abatement fixing a reasonable time for abatement of the violation; and~~

16 ~~(ii) assessment of an administrative fine in an amount not to exceed \$500 for each violation of this~~
17 ~~chapter.~~

18 ~~(b) A citation or fine assessment must inform the licensee that if he contests the finding of a~~
19 ~~violation, a review by the board may be requested in accordance with the Montana Administrative~~
20 ~~Procedure Act. If a review is not requested pursuant to this section, payment of the fine does not constitute~~
21 ~~an admission of the violation charged.~~

22 ~~(c) If the licensee neither requests a review nor pays the assessed fine within 20 days of notice~~
23 ~~of the citation, the board shall suspend the license of such person 30 days after the notice of citation.~~

24 ~~(d) All fines collected pursuant to this section must be deposited in the state special revenue fund~~
25 ~~for use of the board."~~

26

27 **Section 119.** Section 37-65-306, MCA, is amended to read:

28 "**37-65-306. Annual renewal -- fee -- ~~continuing education.~~** (1) A licensed architect in this state
29 who desires to continue the practice of ~~his~~ the profession shall annually, ~~during the month of July, during~~
30 ~~the time he continues in this practice~~ on or before the renewal date set by department rule:

1 ~~(a) (1)~~ pay to the department a reasonable fee as prescribed by the board; and

2 ~~(b) (2)~~ present evidence to the board of ~~compliance with any continuing education requirements~~
3 ~~imposed by the board~~ continued qualification for licensure.

4 ~~(2) (a) The board may by rule prescribe continuing education requirements for license renewal. If~~
5 ~~the board prescribes continuing education requirements, the rules shall provide for the method of~~
6 ~~compliance, such as:~~

7 ~~(i) attendance at approved classroom or seminar type instruction programs; or~~

8 ~~(ii) passing an examination.~~

9 ~~(b) If classroom or seminar type instruction is required, the board shall by rule:~~

10 ~~(i) make determinations as to approved programs; and~~

11 ~~(ii) prescribe the number of hours required for compliance.~~

12 ~~(c) If an examination is required, the board shall by rule prescribe:~~

13 ~~(i) the subjects of the examination; and~~

14 ~~(ii) the grade required to pass the examination."~~

15

16 **Section 120.** Section 37-66-307, MCA, is amended to read:

17 "**37-66-307. Annual renewal -- withdrawal -- deposit of fees.** (1) Certification of licensure or
18 renewal of registration ~~expire~~ expires on the last day of June following their ~~issuance or renewal date set~~
19 by department rule. Renewal may be effected ~~during the month of June~~ on or before the renewal date by
20 payment to the department of the required fee. The board shall issue current renewal registration to each
21 landscape architect promptly upon payment of the annual renewal registration fee.

22 (2) Any registrant in good standing, upon ceasing to practice landscape architecture, ~~may suspend~~
23 ~~his license by giving~~ shall give written notice to the board, and the board shall suspend the license.
24 ~~Thereafter, he~~ The person may resume practice upon payment of the then-current fee and upon approval
25 by the board.

26 (3) All fees received under the provisions of this chapter ~~shall~~ must be deposited in the state special
27 revenue fund by the department. The ~~moneys~~ money collected ~~shall~~ must be used by the department to
28 carry out the purpose, duties, and responsibilities of the chapter, subject to 37-1-101(6)."

29

30 **Section 121.** Section 37-67-202, MCA, is amended to read:

1 **"37-67-202. Rulemaking and subpoena power.** ~~(1) The board shall have the power to may adopt~~
 2 ~~and amend all rules, including rules of procedure, not inconsistent with the constitution and laws of this~~
 3 ~~state, which may be~~ reasonably necessary for the proper performance of its duties and the regulation of
 4 the proceedings before it.

5 ~~(2) In carrying into effect the provisions of this chapter, the board, under the hand of its chairman~~
 6 ~~and the seal of the board, may subpoena witnesses and compel their attendance and also may require the~~
 7 ~~production of books, papers, documents, etc., in a case involving the revocation of registration or practicing~~
 8 ~~or offering to practice without registration. Any member of the board may administer oaths or affirmations~~
 9 ~~to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued or shall~~
 10 ~~refuse to testify or produce any books, papers, or documents, the board may present its petition to the~~
 11 ~~district court setting forth the facts, and thereupon such court shall, in a proper case, issue its subpoena~~
 12 ~~to such person requiring his attendance before such authority and there to testify or to produce such books,~~
 13 ~~papers, and documents as may be deemed necessary and pertinent by the board. Any person failing or~~
 14 ~~refusing to obey the subpoena or order of the court may be proceeded against in the same manner as for~~
 15 ~~refusal to obey any other subpoena or order of said court."~~

16
 17 **Section 122.** Section 37-67-320, MCA, is amended to read:

18 **"37-67-320. Practice by partnerships and corporations.** (1) The practice of or offer to practice
 19 engineering or land surveying by registered professional engineers or registered professional land surveyors
 20 organized as a partnership or incorporated as a professional corporation under the provisions of the
 21 professional corporations law of this state or under the provisions of a similar law of any other state is
 22 permitted in this state if all the partners of the partnership or each officer and shareholder of the
 23 professional corporation are registered under or exempt from this chapter.

24 (2) The practice of or offer to practice engineering or land surveying by a partnership other than
 25 one provided for in subsection (1) or by a corporation, other than a professional corporation, is permitted
 26 in this state if:

27 (a) all officers, employees, and agents of a partnership or corporation who will perform the practice
 28 of engineering or land surveying within this state for the partnership or corporation are registered under this
 29 chapter;

30 (b) each person in responsible charge of the activities of a partnership or corporation, which

1 activities constitute the practice of engineering or land surveying, is a professional engineer or professional
2 land surveyor registered in this state or a person authorized to practice engineering or land surveying as
3 provided in this chapter;

4 (c) the partnership or corporation has been issued a certificate of authorization by the board as
5 provided in subsection (3);

6 (d) the partnership or corporation is jointly and severally responsible with and for the conduct or
7 acts of its agents, employees, or officers concerning any professional engineering or land surveying services
8 performed or to be executed in this state; an individual practicing engineering or land surveying is not
9 relieved of the responsibility for ~~his~~ the individual's conduct or acts performed by reason of ~~his~~ the
10 individual's employment by or relationship with the partnership or corporation; and

11 (e) all final drawings, specifications, plans, reports, or other engineering or land surveying papers
12 or documents involving the practice of engineering or land surveying, when issued, are dated and bear the
13 seals and signatures of the professional engineers or professional land surveyors registered under this
14 chapter by whom or under whose responsible charge they were prepared.

15 (3) A partnership or corporation desiring a certificate of authorization or the renewal ~~thereof~~ of a
16 certificate shall file a written application with the board listing the names and addresses of all partners of
17 the partnership or officers and directors of the corporation and the names and addresses of all employees
18 who are registered to practice engineering or land surveying in this state and who are or will be in
19 responsible charge of any engineering or land surveying in this state by the partnership or corporation,
20 together with any other information the board requires. Upon the receipt of an application and of a fee in
21 an amount established by the board for the initial certificate or biennial renewal ~~thereof~~, the board shall
22 issue to the partnership or corporation a certificate of authorization or a renewal ~~thereof~~, ~~which certificate~~
23 ~~of authorization~~ that may not be transferred. If the board finds an error in an application or that facts exist
24 which would entitle the board to suspend or revoke a certificate if issued to the applicant, the board shall
25 deny the application. If a change occurs in the information submitted on the application of a partnership
26 or corporation within the term of the authorization, the partnership or corporation shall file with the board
27 a written report listing the change within 30 days after the change occurs. The provisions of this chapter
28 concerning issuance, expiration, renewal, and reissuance of certificates of registration of individuals, except
29 for 37-67-315(2), apply to certificates of authorization issued to partnerships and corporations under this
30 subsection. Partnerships or corporations are subject to disciplinary proceedings and penalties and the board

1 may reprimand them or revoke, suspend, or refuse to renew their certificates of authorization for cause in
 2 the same manner and to the same extent as provided in ~~37-67-331~~ Title 37, chapter 1. "Registrant" and
 3 ~~"certificate of registration" in 37-67-331 include~~ includes any partnership or corporation holding a certificate
 4 of authorization issued under this subsection, and "certificate of registration" includes ~~to such~~ the certificate
 5 of authorization."

6
 7 **Section 123.** Section 37-68-201, MCA, is amended to read:

8 **"37-68-201. Organization -- meetings -- quorum -- rulemaking power -- seal.** (1) Each July, the
 9 board shall elect from its membership a president, ~~vice-president~~ vice president, and secretary-treasurer.

10 (2) The board shall meet quarterly and at ~~such~~ other times it considers necessary.

11 (3) A majority of the members of the board shall constitute a quorum for transaction of business.

12 (4) The board may:

13 (a) adopt rules for the administration of this chapter, for the licensing of electrical contractors, ~~for~~
 14 ~~continuing education~~, and for the examination and licensing of master and journeymen electricians;

15 (b) adopt a seal;

16 (c) cause the prosecution and enjoinder of persons violating this chapter."

17
 18 **Section 124.** Section 37-68-310, MCA, is amended to read:

19 **"37-68-310. License renewal every three years.** Licenses of residential electricians, journeyman
 20 electricians, or master electricians, unless they have been suspended or revoked by the board, must be
 21 renewed for a period of 3 years by the department on application for renewal made to the department ~~prior~~
 22 ~~to July 15 of the year in which the prior license expired~~ on or before the renewal date set by department
 23 rule and on the payment of a renewal fee. If application for renewal is not made ~~prior to July 15 on or~~
 24 before the renewal date, an additional fee prescribed by ~~the~~ board rule must be paid ~~because of the~~
 25 ~~delinquency in renewal. All applications for renewal must be made prior to August 15 of the year in which~~
 26 ~~the prior license expired, otherwise the license is forfeited and the applicant is required to pass the~~
 27 ~~examination and pay the fees required of applicants for original licenses."~~

28
 29 **Section 125.** Section 37-68-312, MCA, is amended to read:

30 **"37-68-312. Electrical contractor's license -- application -- issuance -- fees -- renewal.** Each

1 electrical contractor shall, ~~on or before July 1 of the year in which the prior license expired~~ the date set by
 2 department rule, file with the department an application in writing for each firm operated by the electrical
 3 contractor in this state ~~to obtain a~~ for renewal of the license. A license may not be issued or renewed until
 4 the applicant meets the licensure requirements and has paid to the department a license fee set by the
 5 board for each firm operated by the electrical contractor. Licenses must bear the date of ~~issue~~ issuance or
 6 renewal. ~~Each original license expires on the July 1 that is subsequent to the date of issuance, as~~
 7 ~~determined by the board. An electrical contractor licensed under this chapter is entitled to have a~~ A license
 8 must be renewed for the ensuing a 3-year period by upon payment to the department of the license fee on
 9 or before the renewal date of expiration of the license and by and upon meeting the requirements set by
 10 ~~the board rule.~~"

11

12 **Section 126.** Section 37-71-212, MCA, is amended to read:

13 **"37-71-212. Investigation of applicant -- issuance of license.** ~~‡ The department shall be the duty~~
 14 ~~of the department to investigate and determine the~~ a license applicant's fitness to act in the capacity of
 15 public contractor ~~as defined in this chapter, and no~~ may not issue a license shall be issued to such applicant
 16 ~~until the expiration of 10 days from and after the filing of such~~ the application. The license ~~so issued in~~
 17 ~~pursuance of the first application shall entitle the licensee to act as a public contractor within this state,~~
 18 ~~subject to the limitations of such license, until the expiration of the then current calendar year~~ must be
 19 renewed each year on or before the renewal date set by department rule."

20

21 **Section 127.** Section 37-71-213, MCA, is amended to read:

22 **"37-71-213. Renewal -- waiting period after cancellation.** (1) Any license issued under the
 23 provisions of this chapter may be renewed for each successive calendar year by obtaining from the
 24 department a certificate of renewal thereof. For the purpose of obtaining ~~such a~~ a certificate of renewal, the
 25 licensee shall file with the department an application ~~therefor~~, stating the field of contracting and class of
 26 license applied for and containing at least the same information as that required in the application for the
 27 original license. The application for ~~such certificate of~~ renewal must be made to the department on or before
 28 ~~March 1 of each successive calendar year, and such renewal certificate shall be good for the then current~~
 29 ~~calendar year~~ the renewal date set by department rule.

30 (2) At the time of filing the application for a certificate of renewal, the applicant shall pay to the

1 department a license fee equal to 50% of the license fee for the original license, provided that if any
 2 applicant for a certificate of renewal shall apply for a renewal under a different field or class from the
 3 license ~~theretofore~~ issued to him the applicant, ~~such the~~ new license ~~shall~~ may be issued only upon the
 4 same showing and under the same terms and conditions and upon payment of the same fee required for
 5 the issuance of an original license.

6 (3) All certificates of renewal ~~wherein~~ in which the applicant does not apply for a change in the
 7 field or class of license ~~shall~~ must be issued by the department to the applicant ~~forthwith~~ when the
 8 application is filed and the license renewal fee is paid.

9 (4) After cancellation of a license, ~~such the~~ licensee ~~shall~~ may not be relicensed during the current
 10 calendar year in which the offense was committed."

11
 12 **NEW SECTION. Section 128. Repealer.** Sections 37-3-322, 37-4-306, 37-4-321, 37-4-323,
 13 37-4-324, 37-4-404, 37-5-303, 37-5-304, 37-5-311, 37-6-310, 37-7-203, 37-7-304, 37-7-305, 37-7-311,
 14 37-7-607, 37-7-608, 37-7-710, 37-8-407, 37-8-417, 37-8-430, 37-8-433, 37-8-441, 37-8-442, 37-9-303,
 15 37-9-311, 37-10-204, 37-10-303, 37-10-308, 37-10-311, 37-11-202, 37-11-307, 37-11-309, 37-11-320,
 16 37-11-321, 37-12-303, 37-12-321, 37-13-305, 37-13-311, 37-13-312, 37-13-313, 37-13-314,
 17 37-14-304, 37-14-321, 37-15-305, 37-15-309, 37-15-321, 37-16-406, 37-16-411, 37-16-414,
 18 37-17-304, 37-17-311, 37-17-318, 37-18-304, 37-18-311, 37-19-305, 37-19-311, 37-19-312,
 19 37-19-316, 37-19-404, 37-20-409, 37-22-306, 37-22-311, 37-22-312, 37-23-204, 37-23-207,
 20 37-23-211, 37-23-212, 37-24-305, 37-24-307, 37-24-309, 37-25-306, 37-26-404, 37-26-408,
 21 37-26-409, 37-26-410, 37-27-213, 37-27-216, 37-28-206, 37-28-210, 37-28-301, 37-29-311,
 22 37-29-312, 37-29-313, 37-29-321, 37-30-306, 37-30-309, 37-30-502, 37-31-306, 37-31-307,
 23 37-31-332, 37-32-303, 37-32-310, 37-34-304, 37-34-306, 37-34-308, 37-40-303, 37-40-311,
 24 37-47-341, 37-47-342, 37-47-343, 37-47-346, 37-50-321, 37-50-322, 37-50-336, 37-51-206,
 25 37-51-321, 37-51-322, 37-51-604, 37-51-606, 37-53-501, 37-53-502, 37-53-503, 37-54-401,
 26 37-54-402, 37-54-406, 37-54-417, 37-60-212, 37-60-307, 37-60-308, 37-60-321, 37-60-322,
 27 37-62-101, 37-62-102, 37-62-201, 37-62-202, 37-62-203, 37-62-204, 37-62-205, 37-62-206,
 28 37-62-207, 37-62-208, 37-62-209, 37-62-212, 37-62-213, 37-62-301, 37-62-302, 37-62-303,
 29 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323, 37-67-312, 37-67-313,
 30 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309, 37-69-320, 37-69-322, 39-5-101,

APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

1 HOUSE BILL NO. 518

2 INTRODUCED BY TUSS, HERTEL, HARPER, PAVLOVICH, LARSON, MILLS, MCGEE, FORBES,
3 BENEDICT, ANDERSON, ECK, BARTLETT, COCCHIARELLA, SQUIRES, WELDON, BECK, MASOLO

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING UNIFORM PROCEDURES FOR THE LICENSING,
6 DISCIPLINE, AND GENERAL REGULATION OF PROFESSIONS AND OCCUPATIONS REGULATED BY
7 LICENSING BOARDS ADMINISTRATIVELY ATTACHED TO THE DEPARTMENT OF COMMERCE;
8 ELIMINATING THE STATE LICENSE REQUIREMENT FOR EMPLOYMENT AGENCIES AND POLYGRAPH
9 EXAMINERS; AMENDING SECTIONS 37-1-101, 37-1-121, 37-1-131, 37-3-309, 37-3-313, 37-3-323,
10 37-3-403, 37-4-307, 37-4-402, 37-4-406, 37-5-307, 37-6-302, 37-6-303, 37-6-304, 37-6-311, 37-7-101,
11 37-7-302, 37-7-303, 37-7-321, 37-7-606, 37-8-409, 37-8-431, 37-9-101, 37-9-203, 37-9-302, 37-9-304,
12 37-9-305, 37-10-304, 37-11-303, 37-11-304, 37-11-308, 37-12-201, 37-12-307, 37-12-322, 37-13-306,
13 37-15-102, 37-15-202, 37-15-308, 37-16-202, 37-16-301, 37-16-407, 37-17-202, 37-17-306,
14 37-17-307, 37-18-202, 37-18-303, 37-18-305, 37-18-307, 37-19-301, 37-19-306, 37-19-401,
15 37-19-702, 37-20-302, 37-20-403, 37-22-304, 37-23-103, 37-23-202, 37-23-205, 37-24-202,
16 37-24-308, 37-25-307, 37-26-201, 37-26-403, 37-27-105, 37-28-201, 37-28-202, 37-28-203,
17 37-29-201, 37-29-303, 37-29-306, 37-29-403, 37-30-301, 37-30-305, 37-31-322, 37-32-305,
18 37-34-201, 37-34-305, 37-40-203, 37-40-304, 37-47-307, 37-50-203, 37-50-314, 37-50-317,
19 37-51-204, 37-51-306, 37-51-311, 37-53-211, 37-53-302, 37-54-105, 37-54-210, 37-54-211,
20 37-54-302, 37-54-310, 37-54-311, 37-60-202, 37-60-301, 37-60-312, 37-60-411, 37-65-306,
21 37-66-307, 37-67-202, 37-67-320, 37-68-201, 37-68-310, 37-68-312, 37-71-212, AND 37-71-213,
22 MCA; REPEALING SECTIONS 37-3-322, 37-4-306, 37-4-321, 37-4-323, 37-4-324, 37-4-404, 37-5-303,
23 37-5-304, 37-5-311, 37-6-310, 37-7-203, 37-7-304, 37-7-305, 37-7-311, 37-7-607, 37-7-608, 37-7-710,
24 37-8-407, 37-8-417, 37-8-430, 37-8-433, 37-8-441, 37-8-442, 37-9-303, 37-9-311, 37-10-204,
25 37-10-303, 37-10-308, 37-10-311, 37-11-202, 37-11-307, 37-11-309, 37-11-320, 37-11-321,
26 37-12-303, 37-12-321, 37-13-305, 37-13-311, 37-13-312, 37-13-313, 37-13-314, 37-14-304,
27 37-14-321, 37-15-305, 37-15-309, 37-15-321, 37-16-406, 37-16-411, 37-16-414, 37-17-304,
28 37-17-311, 37-17-318, 37-18-304, 37-18-311, 37-19-305, 37-19-311, 37-19-312, 37-19-316,
29 37-19-404, 37-20-409, 37-22-306, 37-22-311, 37-22-312, 37-23-204, 37-23-207, 37-23-211,
30 37-23-212, 37-24-305, 37-24-307, 37-24-309, 37-25-306, 37-26-404, 37-26-408, 37-26-409,

1 37-26-410, 37-27-213, 37-27-216, 37-28-206, 37-28-210, 37-28-301, 37-29-311, 37-29-312,
 2 37-29-313, 37-29-321, 37-30-306, 37-30-309, 37-30-502, 37-31-306, 37-31-307, 37-31-332,
 3 37-32-303, 37-32-310, 37-34-304, 37-34-306, 37-34-308, 37-40-303, 37-40-311, 37-47-341,
 4 37-47-342, 37-47-343, 37-47-346, 37-50-321, 37-50-322, 37-50-336, 37-51-206, 37-51-321,
 5 37-51-322, 37-51-604, 37-51-606, 37-53-302, 37-53-501, 37-53-502, 37-53-503, 37-54-401,
 6 37-54-402, 37-54-406, 37-54-417, 37-60-212, 37-60-307, 37-60-308, 37-60-321, 37-60-322,
 7 37-62-101, 37-62-102, 37-62-201, 37-62-202, 37-62-203, 37-62-204, 37-62-205, 37-62-206,
 8 37-62-207, 37-62-208, 37-62-209, 37-62-212, 37-62-213, 37-62-301, 37-62-302, 37-62-303,
 9 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323, 37-67-312, 37-67-313,
 10 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309, 37-69-320, 37-69-322, 39-5-101,
 11 39-5-102, 39-5-103, 39-5-104, 39-5-105, 39-5-201, 39-5-202, 39-5-203, 39-5-204, 39-5-205, 39-5-206,
 12 39-5-207, 39-5-208, 39-5-209, 39-5-301, 39-5-302, 39-5-303, 39-5-304, 39-5-305, 39-5-306, 39-5-307,
 13 39-5-308, 39-5-309, 39-5-310, 39-5-311, 39-5-312, 39-5-401, 39-5-402, 39-5-403, 39-5-404, 39-5-405,
 14 AND 39-5-406, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

15

16

STATEMENT OF INTENT

17

18

19

20

21

22

A statement of intent is necessary for this bill because, although the bill deletes numerous grants of rulemaking authority in numerous sections of Title 37, the bill contains a single section allowing professional and occupational licensing boards to adopt rules. The purpose of replacing the numerous rulemaking authority grants with a single grant, as is the purpose with the rest of the bill, is to standardize the law in an attempt to reduce the number of rules and reduce variations in the rules from occupation to occupation.

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The legislature takes note of the large number of bills proposed by and affecting professional and occupational licensing boards in Montana. A uniform licensing and disciplinary process needs to be established to permit the department of commerce and administratively attached licensing boards to administer the professional and occupational regulatory programs in a manner that is responsive to the public's needs. The public interest will be served by establishing uniform administrative provisions for these regulated professions and occupations that are designed to reduce the number of statutes and rules and variations in statutes and rules between professions or occupations and to promote public awareness of and access to the regulation of professions and occupations. It is the intent of the legislature to strengthen

1 and consolidate disciplinary and licensure procedures for the licensed professions and occupations by
 2 providing a uniform disciplinary, licensing, and regulatory act, with standardized procedures for regulation,
 3 the purpose of which is to assure the public of the adequacy of competence and conduct in the regulated
 4 professions and occupations.

5 The rules should provide for adequate due process for licensed persons involved in disciplinary
 6 proceedings.

7

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

9

10 NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through ~~20~~ 19] is to establish
 11 uniform guidelines for the licensing and regulation of professions and occupations under the jurisdiction of
 12 professional and occupational licensing boards governed by [sections 1 through ~~20~~ 19].

13

14 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through ~~20~~ 19], the following
 15 definitions apply:

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

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

20 (3) "Department" means the department of commerce.

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

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

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

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

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

30 (d) whether a board should seek an injunction.

1 (6) "License" means permission granted under a chapter of this title to engage in or practice at a
2 specific level in a profession or occupation, regardless of the specific term, such as permit, certificate,
3 recognition, or registration, used for the permission.

4 (7) "Profession" or "occupation" means a profession or occupation regulated by a board.
5

6 **NEW SECTION. Section 3. Scope.** [Sections 1 through ~~20~~ 19] govern the licensure, the practice
7 and unauthorized practice, and the discipline of professions and occupations governed by this title unless
8 otherwise provided by statutes relating to a specific board and the profession or occupation it regulates.
9

10 **NEW SECTION. Section 4. Licensure of out-of-state applicants.** A board shall issue a license to
11 practice without examination to a person licensed in another state if the board determines that the other
12 state's license standards at the time of application to this state are substantially equivalent to the standards
13 in this state and that there is no reason to deny the license under the laws of this state governing the
14 profession or occupation. The license may not be issued until the board receives verification from the state
15 or states in which the person is licensed that the person is currently licensed and is not subject to pending
16 charges or final disciplinary action for unprofessional conduct or impairment.
17

18 **NEW SECTION. Section 5. Temporary practice permits.** (1) A board shall issue a temporary
19 practice permit to a person licensed in another state that has licensing standards substantially equivalent
20 to those of this state if the board determines that there is no reason to deny the license under the laws of
21 this state governing the profession or occupation. The person may practice under the permit until a license
22 is granted or until a notice of proposal to deny a license is issued. The permit may not be issued until the
23 board receives verification from the state or states in which the person is licensed that the person is
24 currently licensed and is not subject to pending charges or final disciplinary action for unprofessional
25 conduct or impairment.

26 (2) A board shall issue a temporary practice permit to a person seeking licensure in this state who
27 has met all licensure requirements other than passage of the licensing examination. The permit is valid until
28 the person either fails the first license examination for which the person is eligible following issuance of the
29 permit or passes the examination and is granted a license.
30

1 NEW SECTION. Section 6. Continuing education. A board may require licensees to participate in
2 flexible, cost-efficient, effective, and geographically accessible continuing education.

3
4 NEW SECTION. Section 7. Board authority. (1) A board may:

5 (a) hold hearings as provided in [sections 1 through ~~20~~ 19];
6 (b) issue subpoenas and administer oaths in connection with investigations and disciplinary
7 proceedings under [sections 1 through ~~20~~ 19]. SUBPOENAS MUST BE RELEVANT TO THE COMPLAINT,
8 ISSUED BY A MAJORITY VOTE OF BOARD MEMBERS NOT SERVING ON THE SCREENING PANEL
9 DESCRIBED IN SUBSECTION (1)(E), AND SIGNED BY THE PRESIDING OFFICER OF THE BOARD.

10 Subpoenas may be enforced as provided in 2-4-104.

11 (c) authorize depositions and other discovery procedures under the Montana Rules of Civil
12 Procedure in connection with an investigation, hearing, or proceeding held under [sections 1 through ~~20~~
13 19];

14 (d) compel attendance of witnesses and the production of documents. Subpoenas may be
15 enforced as provided in 2-4-104.

16 (e) ~~assign board members to a department~~ ESTABLISH A screening panel that determines whether
17 there is reasonable cause to believe that a licensee has violated a statute or rule justifying disciplinary
18 proceedings. The assigned board members may not subsequently participate in a hearing of the case. The
19 final decision on the case must be made by a majority of the board members who did not serve on the
20 screening panel for the case.

21 (f) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license
22 holder, impose a sanction provided by this chapter.

23 (2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the
24 purpose of obtaining confidential criminal justice information regarding its licensees and license applicants.

25
26 ~~NEW SECTION. Section 8. Department authority.~~ The department may:

27 (1) ~~employ investigative, administrative, clerical, and legal staff necessary to administer [sections~~
28 ~~1 through 20];~~

29 (2) ~~conduct investigations and inspections, issue subpoenas for the attendance of witnesses and~~
30 ~~the production of documents, administer oaths, and take depositions in the course of conducting~~

1 ~~investigations and inspections. Subpoenas may be enforced as provided in 2-4-104.~~

2 ~~(3) establish a screening panel composed of department employees designated by the department~~
 3 ~~and board members designated by a board before which a complaint is submitted under [section 9]. The~~
 4 ~~designated employees may provide only technical assistance, information, and advice. The board members~~
 5 ~~on the screening panel shall determine by majority vote whether an investigation is necessary and whether~~
 6 ~~there is reasonable cause to believe that a licensee or license applicant has committed unprofessional~~
 7 ~~conduct or has failed to qualify for licensure.~~

8 ~~(4) issue a notice to and pursue action, before the person's licensing board, against a person after~~
 9 ~~a finding of reasonable cause under subsection (3).~~

10
 11 **NEW SECTION. Section 8. Unprofessional conduct -- complaint -- investigation -- immunity.** (1)

12 A person, government, or private entity may submit a written complaint to the department charging a
 13 licensee or license applicant with a violation of [sections 1 through ~~20~~ 19] and specifying the grounds for
 14 the complaint.

15 (2) If the department receives a written complaint or otherwise obtains information that a licensee
 16 or license applicant may have committed a violation of [sections 1 through ~~20~~ 19], the department may,
 17 WITH THE CONCURRENCE OF A MEMBER OF THE SCREENING PANEL ESTABLISHED IN [SECTION 7],
 18 investigate to determine whether there is reasonable cause to believe that the licensee or license applicant
 19 has committed the violation. A person or private entity, but not a government entity, filing a complaint
 20 under this section in good faith is immune from suit in a civil action related to the filing or contents of the
 21 complaint.

22
 23 **NEW SECTION. Section 9. Notice -- request for hearing.** (1) If a reasonable cause determination
 24 is made pursuant to [section 8] that a violation of [sections 1 through ~~20~~ 19] has occurred, a notice must
 25 be prepared by department legal staff and served on the alleged violator by certified mail to the current
 26 address on file with the board.

27 (2) A licensee or license applicant shall give the board the licensee's or applicant's current address
 28 and any change of address within 30 days of the change.

29 (3) The notice must state that the licensee or license applicant may request a hearing to contest
 30 the charge or charges. A request for a hearing must be in writing and received in the offices of the

1 department within 20 days after service of the notice. Failure to request a hearing constitutes a default
 2 on the charge or charges, and the board may enter a decision on the basis of the facts available to it.

3
 4 **NEW SECTION. Section 10. Hearing -- adjudicative procedures.** The procedures in Title 2, chapter
 5 4, governing adjudicative proceedings before agencies; ~~the Montana Rules of Civil Procedure; and the~~
 6 ~~Montana Rules of Evidence~~ govern a hearing under [sections 1 through ~~20~~ 19]. A board has all the powers
 7 and duties granted by Title 2, chapter 4.

8
 9 **NEW SECTION. Section 11. Findings of fact -- order -- report.** (1) If the board decides, following
 10 a hearing or on default, that a violation of [sections 1 through ~~20~~ 19] occurred, the department shall
 11 prepare and serve the board's findings of fact and an order as provided in Title 2, chapter 4. If the licensee
 12 or license applicant is found not to have violated [sections 1 through ~~20~~ 19], the department shall prepare
 13 and serve the board's findings of fact and an order of dismissal of the charges.

14 (2) The department may report the issuance of a notice and final order to:

- 15 (a) the person or entity who brought to the department's attention information that resulted in the
 16 initiation of the proceeding;
- 17 (b) appropriate public and private organizations that serve the profession or occupation; and
- 18 (c) the public.

19
 20 **NEW SECTION. Section 12. Sanctions -- stay -- costs -- stipulations.** (1) Upon a decision that
 21 a licensee or license applicant has violated [sections 1 through ~~20~~ 19] or is unable to practice with
 22 reasonable skill and safety due to a physical or mental condition or upon stipulation of the parties as
 23 provided in subsection (3), the board may issue an order providing for one or any combination of the
 24 following sanctions:

- 25 (a) revocation of the license;
- 26 (b) suspension of the license for a fixed or indefinite term;
- 27 (c) restriction or limitation of the practice;
- 28 (d) satisfactory completion of a specific program of remedial education or treatment;
- 29 (e) monitoring of the practice by a supervisor approved by the disciplining authority;
- 30 (f) censure or reprimand, either public or private;

- 1 (g) compliance with conditions of probation for a designated period of time;
- 2 (h) payment of a fine not to exceed \$1,000 for each violation. Fines must be deposited in the state
3 general fund.
- 4 (i) denial of a license application;
- 5 (j) refund of costs and fees billed to and collected from a consumer.

6 (2) A sanction may be totally or partly stayed by the board. To determine which sanctions are
7 appropriate, the board shall first consider the sanctions that are necessary to protect or compensate the
8 public. Only after the determination has been made may the board consider and include in the order any
9 requirements designed to rehabilitate the licensee or license applicant.

10 (3) The licensee or license applicant may enter into a stipulated agreement resolving potential or
11 pending charges that includes one or more of the sanctions in this section. The stipulation is an informal
12 disposition for the purposes of 2-4-603.

13 ~~(4) A board may, following a final decision resulting in discipline, recover all of the board's~~
14 ~~reasonable costs of the proceeding from the disciplined person if the board finds that the licensee or license~~
15 ~~applicant acted in bad faith in challenging the disciplinary action. Costs recovered must be deposited in~~
16 ~~the board's state special revenue account.~~

17 ~~(5)~~(4) A licensee shall surrender a suspended or revoked license to the board within 24 hours after
18 receiving notification of the suspension or revocation by mailing it or delivering it personally to the board.

19

20 **NEW SECTION. Section 13. Appeal.** A person who is disciplined or denied a license may appeal
21 the decision to the district court as provided in Title 2, chapter 4.

22

23 **NEW SECTION. Section 14. Reinstatement.** A licensee whose license has been suspended or
24 revoked under [sections 1 through ~~20~~ 19] may petition the board for reinstatement after an interval set by
25 the board in the order. The board may hold a hearing on the petition and may deny the petition or order
26 reinstatement and impose terms and conditions as provided in [section ~~43~~ 12]. The board may require the
27 successful completion of an examination as a condition of reinstatement and may treat a licensee whose
28 license has been revoked or suspended as a new applicant for purposes of establishing the requisite
29 qualifications of licensure.

30

1 **NEW SECTION. Section 15. Enforcement of fine.** (1) If payment of a fine is included in an order
2 and timely payment is not made as directed in the order, the board may enforce the order for payment in
3 the district court of the first judicial district.

4 (2) In a proceeding for enforcement of an order of payment of a fine, the order is conclusive proof
5 of the validity of the order of payment and the terms of payment.

6
7 **NEW SECTION. Section 16. Unprofessional conduct.** The following is unprofessional conduct for
8 a licensee or license applicant governed by this chapter:

9 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or
10 committed during the course of the person's practice or involving violence, use or sale of drugs, fraud,
11 deceit, or theft, whether or not an appeal is pending;

12 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating
13 to licensure or certification;

14 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or
15 assisting in securing a license or license renewal or in taking an examination required for licensure;

16 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the
17 licensee knows or reasonably ought to know contains a false or misleading statement;

18 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the
19 conduct of the profession or occupation;

20 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local
21 government employee or official for the purpose of influencing the employee or official to circumvent a
22 federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

23 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against
24 a licensee by a state, province, territory, or Indian tribal government or the federal government, whether
25 the action is on appeal, under judicial review, or has been satisfied.

26 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;

27 (9) revealing confidential information obtained as the result of a professional relationship without
28 the prior consent of the recipient of services, except as authorized or required by law;

29 (10) addiction to or dependency on a habit-forming drug or controlled substance as defined in Title
30 50, chapter 32, as a result of illegal use of the drug or controlled substance;

1 (11) use of a habit-forming drug or controlled substance as defined in Title 50, chapter 32, to the
2 extent that the use impairs the user physically or mentally;

3 (12) having a physical or mental disability that renders the licensee or license applicant unable to
4 practice the profession or occupation with reasonable skill and safety;

5 (13) engaging in conduct in the course of one's practice while suffering from a contagious or
6 infectious disease involving serious risk to public health or without taking adequate precautions, including
7 but not limited to informed consent, protective gear, or cessation of practice;

8 (14) misappropriating property or funds from a client or workplace or failing to comply with a board
9 rule regarding the accounting and distribution of a client's property or funds;

10 (15) interference with an investigation or disciplinary proceeding by willful misrepresentation of
11 facts, by the use of threats or harassment against or inducement to a client or witness to prevent them
12 from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment
13 against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal
14 action from being filed, prosecuted, or completed;

15 (16) assisting in the unlicensed practice of a profession or occupation or allowing another person
16 or organization to practice or offer to practice by use of the licensee's license;

17 (17) failing to report the institution of or final action on a malpractice action, including a final
18 decision on appeal, against the licensee or of an action against the licensee by a:

19 (a) peer review committee;

20 (b) professional association; or

21 (c) local, state, federal, territorial, provincial, or Indian tribal government;

22 (18) engaging in or soliciting sexual conduct with a client during the existence of or during the 6
23 months following the end of a professional or occupational relationship with the client that involves giving
24 health care to or a fiduciary responsibility toward the client or, if a psychotherapeutic relationship existed
25 with the client, at any time during or after the existence of the professional relationship;

26 (19) conduct that does not meet the generally accepted standards of practice. A certified copy of
27 a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving
28 an act or omission occurring during the scope and course of the practice is conclusive evidence of but is
29 not needed to prove conduct that does not meet generally accepted standards.

30

1 **NEW SECTION. Section 17. Practice without license -- investigation of complaint -- injunction --**
 2 **penalties.** (1) The department shall investigate complaints concerning practice by an unlicensed person
 3 of a profession or occupation for which a license is required by this title. ~~In the investigation of the com-~~
 4 ~~plaints, the department has the powers specified in [section 8].~~

5 (2) A board may file an action to enjoin a person from practicing, without a license, a profession
 6 or occupation for which a license is required by this title.

7
 8 **NEW SECTION. Section 18. Violation of injunction -- penalty.** A person who violates an injunction
 9 issued under [section ~~48~~ 17] shall pay a civil penalty, as determined by the court, of not more than
 10 ~~\$25,000~~ \$5,000. Fifty percent of the penalty must be deposited in the general fund of the county in which
 11 the injunction is issued, and 50% must be deposited in the state general fund.

12
 13 **NEW SECTION. Section 19. Rules.** A board may adopt rules:

14 (1) under the guidelines of [section 6], regarding continuing education and establishing the number
 15 of hours required each year, the methods of obtaining education, education topics, and carrying over hours
 16 to subsequent years;

17 (2) regarding practice limitations for temporary practice permits issued under [section 5] and
 18 designed to ensure adequate supervision of the practice until all qualifications for licensure are met and a
 19 license is granted;

20 (3) regarding qualifications for inactive license status that may require compliance with stated
 21 continuing education requirements and may limit the number of years a person may remain on inactive
 22 status without having to reestablish qualifications for licensure;

23 (4) regarding maintenance and safeguarding of client funds or property possessed by a licensee
 24 and requiring the funds or property to be maintained separately from the licensee's funds and property; and

25 (5) defining acts of unprofessional conduct, in addition to those contained in [section ~~47~~ 16], that
 26 constitute a threat to public health, safety, or welfare and that are inappropriate to the practice of the
 27 profession or occupation.

28
 29 **Section 20.** Section 37-1-101, MCA, is amended to read:

30 **"37-1-101. Duties of department.** In addition to the provisions of 2-15-121, the department of

1 commerce shall ~~may~~:

2 (1) provide all the administrative, legal, and clerical services needed by the boards within the
3 department, including corresponding, taking applications for licenses, issuing and denying licenses granted
4 by the boards, renewing licenses, disciplining licensees, registering, taking minutes of board meetings and
5 hearings, and filing;

6 (2) standardize and keep in Helena all official records of the boards;

7 (3) make arrangements and provide facilities in Helena for the meetings, hearings, and examinations
8 of each board or elsewhere in the state if requested by the board;

9 (4) administer and grade examinations required by each board or by law for licensing, unless the
10 board determines that experts or professionals are necessary to administer or grade a particular
11 examination;

12 (5) ~~at the request of a board~~, investigate complaints received by the department of illegal or
13 unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the
14 department;

15 (6) assess the costs of the department to the boards on an equitable basis as determined by the
16 department;

17 (7) adopt rules ~~establishing expiration dates of licenses for barbers, barbershops, professional~~
18 ~~engineers, professional land surveyors, nursing home administrators, optometrists, plumbers, social~~
19 ~~workers, speech language pathologists, audiologists, and radiologic technologists~~ setting expiration,
20 renewal, and termination dates for licenses."

21

22 **Section 21.** Section 37-1-121, MCA, is amended to read:

23 "**37-1-121. Duties of director.** In addition to ~~his~~ the powers and duties under 2-15-112 and
24 2-15-121, the director of commerce shall:

25 (1) at the request of a party, appoint an impartial legal counsel hearing examiner to conduct
26 hearings before each board within the department whenever any board holds a contested case hearing.
27 The ~~legal counsel appointed shall see that~~ hearing examiner shall conduct hearings ~~are conducted~~ in a
28 proper and legal manner.

29 (2) ~~whenever the department conducts an investigation of a complaint of illegal or unethical~~
30 ~~conduct of a member of a particular profession or occupation as prescribed in 37-1-101(5) and if requested~~

1 ~~by the appropriate board, appoint an impartial member of that profession or occupation to assist the~~
 2 ~~department in its investigation. The member so appointed may not be a member of the board having~~
 3 ~~jurisdiction over the particular profession or occupation.~~

4 ~~(3)(2)~~ hire all personnel to perform the administrative, legal, and clerical functions of the
 5 department for the boards. Boards within the department do not have ~~no~~ authority to hire personnel.

6 ~~(4)(3)~~ approve all contracts and expenditures by boards within the department. ~~No~~ A board within
 7 the department may not enter into a contract or expend funds without the approval of the director."

8
 9 **Section 22.** Section 37-1-131, MCA, is amended to read:

10 **"37-1-131. Duties of boards.** Each board within the department shall:

11 (1) set and enforce standards and rules governing the licensing, certification, registration, and
 12 conduct of the members of the particular profession or occupation within its jurisdiction;

13 (2) sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual
 14 or potential member of the particular profession or occupation within its jurisdiction. The hearings ~~shall~~
 15 must be conducted by ~~legal counsel~~ a hearing examiner when required under 37-1-121(1).

16 (3) suspend, revoke, or deny a license of a person who the board determines, after a hearing as
 17 provided in subsection (2), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing
 18 of the workers' compensation system in violation of the provisions of Title 39, chapter 71 or 72;

19 (4) pay to the department its pro rata share of the assessed costs of the department under
 20 37-1-101(6);

21 (5) consult with the department before the board initiates a program expansion, under existing
 22 legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs
 23 associated with the proposed program expansion. The board may not expand a program if the board does
 24 not have adequate money and appropriation authority available."

25
 26 **Section 23.** Section 37-3-309, MCA, is amended to read:

27 **"37-3-309. Application for license.** (1) A person desiring a license to practice medicine shall make
 28 application to the department, verified by oath and in a form prescribed by the board. The application ~~shall~~
 29 must be accompanied by the license fee and documents, affidavits, and certificates necessary to establish
 30 that the applicant possesses the qualifications prescribed by this chapter apart from an examination required

1 by the board. The burden of proof is on the applicant, but the ~~board~~ department may make an independent
 2 investigation to determine whether the applicant possesses the qualifications and whether the applicant has
 3 committed unprofessional conduct. ~~At the board's request, the~~ The applicant shall provide necessary
 4 authorizations for the release of records and information pertinent to the ~~board's information~~ department's
 5 inquiry.

6 (2) An applicant for a license on the basis of an examination shall file ~~his~~ the application at least
 7 60 days prior to the announced date of the examination. If the applicant is not at the time of filing ~~his~~ the
 8 application a graduate of but is then in attendance at an approved medical school, ~~he~~ the applicant shall
 9 submit to the department, instead of a diploma or other required evidence of graduation, a written
 10 statement from the dean or other authorized representative of the approved medical school that the
 11 applicant will receive ~~his~~ a diploma at the end of the then-current school term. The applicant may not be
 12 granted a certificate until ~~he~~ the applicant has filed with the department ~~his~~ a diploma or other acceptable
 13 evidence of graduation from the approved medical school and has complied with the requirements of
 14 subsection (1) ~~of this section, and no.~~ A license may not be issued ~~to him~~ until ~~he~~ the applicant has
 15 satisfied the board that ~~he~~ the applicant has completed at least 1 year of an approved internship or its
 16 equivalent and has otherwise met the requirements for the issuance of a license under this chapter."
 17

18 **Section 24.** Section 37-3-313, MCA, is amended to read:

19 **"37-3-313. Annual registration fees -- failure to pay -- limiting authority to impose registration fees.**

20 (1) In addition to the license fees required of applicants, a licensed physician actively practicing medicine
 21 in this state shall pay each year to the department an annual registration fee as prescribed by the board.
 22 ~~If a person licensed to practice medicine absents himself from the state for a period of 1 or more years or~~
 23 ~~does not engage in active practice in this state, he may continue his license in good standing by payment~~
 24 ~~each year of a fee prescribed by the board or, at the discretion of the board, he may be reinstated on the~~
 25 ~~payment of a fee prescribed by the board for each year of absence or inactive practice.~~

26 (2) The annual payments for registration ~~shall~~ must be made prior to April 1, and a receipt
 27 acknowledging payment of the annual registration fee ~~shall~~ must be issued by the department. The
 28 department shall mail registration notices at least 60 days before the registration is due.

29 (3) In case of default in the payment of the annual registration fee by a person licensed to practice
 30 medicine who is actively practicing medicine in this state, ~~his~~ the underlying certificate to practice medicine

1 may be revoked by the board on 30 days' notice given to the delinquent of the time and place of
2 considering the revocation. A registered or certified letter addressed to the last-known address of the
3 person failing to comply with the requirements of annual registration, as the address appears on the records
4 of the department, constitutes sufficient notice of intention to revoke ~~his~~ the underlying certificate. ~~No~~ A
5 certificate may not be revoked for nonpayment if the person authorized to practice medicine, and notified,
6 pays the annual registration fee before or at the time fixed for consideration of revocation, together with
7 a delinquency penalty prescribed by the board. The department may collect the dues by an action at law.

8 (4) ~~No~~ A registration or license fee may not be imposed on a licensee under this chapter by a
9 municipality or any other subdivision of the state."

10
11 **Section 25.** Section 37-3-323, MCA, is amended to read:

12 "**37-3-323. Revocation or suspension of license** ~~—probation—fine—disposition of fine.~~ (1) The
13 ~~board~~ department may make an investigation whenever it is brought to its attention that there is reason to
14 suspect that a person having a license or certificate to practice medicine in this state:

15 (a) is mentally or physically unable to safely engage in the practice of medicine, has procured a
16 license to practice medicine by fraud or misrepresentation or through mistake, has been declared
17 incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent,
18 or has a condition that impairs the person's intellect or judgment to the extent that it incapacitates the
19 person for the safe performance of professional duties;

20 (b) has been guilty of unprofessional conduct;

21 (c) has practiced medicine with a suspended or revoked license;

22 (d) has had a license to practice medicine suspended or revoked by any licensing authority for
23 reasons other than nonpayment of fees; or

24 (e) while under probation has violated its terms.

25 (2) The investigation must be for the purpose of determining the probability of the existence of
26 these conditions or the commission of these offenses and may, upon order of the board, include requiring
27 the person to submit to a physical examination or a mental examination, or both, by a physician or
28 physicians selected by the board if it appears to be in the best interests of the public that this evaluation
29 be secured. The board may examine and scrutinize the hospital records and reports of a licensee as part
30 of the examination, and copies must be released to the board on written request. ~~If the board has~~

1 ~~reasonable cause to believe that this probability exists, the department shall mail to the person's last~~
2 ~~address of record with the department a specification of the charges, together with a written notice of the~~
3 ~~time and place of the hearing on the charges, advising that the person may be present and may be~~
4 ~~represented by counsel if the person wants to offer evidence and be heard in the person's own defense.~~
5 ~~The time fixed for the hearing may not be less than 30 days from the date of mailing the notice.~~

6 ~~(3) A person, including a member of the board, may file a written complaint with the department~~
7 ~~against a person having a license to practice medicine in this state charging that person with the~~
8 ~~commission of any of the offenses set forth in 37-3-322 or with any of the offenses or conditions set forth~~
9 ~~in subsection (1) of this section. The complaint must set forth a specification of the charges. When the~~
10 ~~complaint is filed, the department shall mail a copy to the person accused at the person's last address of~~
11 ~~record with the department, together with a written citation of the time and place of the hearing on it.~~

12 ~~(4) At the hearing, the board shall adopt a resolution finding the accused guilty or not guilty of the~~
13 ~~matters charged. If the board finds that the offenses or conditions referred to in 37-3-322 or subsection~~
14 ~~(1) of this section do not exist with respect to the person or if the person is found not guilty, the board shall~~
15 ~~dismiss the charges or complaint. If the board finds that the offenses or conditions referred to in 37-3-322~~
16 ~~or in subsection (1) of this section do exist and the person is found guilty, the board shall:~~

17 ~~(a) revoke the person's license;~~

18 ~~(b) suspend the person's right to practice for a period not exceeding 1 year;~~

19 ~~(c) suspend its judgment of revocation on the terms and conditions to be determined by the board;~~

20 ~~(d) place the person on probation;~~

21 ~~(e) impose a fine, not to exceed \$500 an incident; or~~

22 ~~(f) take any other action in relation to disciplining the person as the board in its discretion considers~~
23 ~~proper.~~

24 ~~(5) In a case of revocation, suspension, or probation, the department shall enter in its records the~~
25 ~~facts of the action and of subsequent action of the board with respect to it.~~

26 ~~(6) On the expiration of the term of suspension, the licensee must be reinstated by the board if the~~
27 ~~suspended person furnishes the board with evidence that the person is then of good moral character and~~
28 ~~conduct, is restored to good health, and has not practiced medicine in this state during the term of~~
29 ~~suspension. If the evidence fails to establish to the satisfaction of the board that the holder is then of good~~
30 ~~moral character and conduct or restored to good health or if the evidence shows the person has practiced~~

1 ~~medicine in this state during the term of suspension, the board shall revoke the license, using the notice~~
 2 ~~and hearing procedure provided in subsection (2). The revocation is final and absolute.~~

3 ~~(7)(3)~~ If a person holding a license to practice medicine under this chapter is by a final order or
 4 adjudication of a court of competent jurisdiction adjudged to be mentally incompetent or seriously mentally
 5 ill or addicted to the use of addictive substances, the person's license may be suspended by the board.
 6 The suspension continues until the licensee is found or adjudged by the court to be restored to reason or
 7 cured or until the person is discharged as restored to reason or cured and the person's professional
 8 competence has been proven to the satisfaction of the board.

9 ~~(8) A fine imposed under this section must be deposited in the general fund.~~

10 ~~(9) The remedies and method of enforcement of this part, as provided for in this section, are~~
 11 ~~concurrent and in addition to the other remedies provided in this part."~~

12

13 **Section 26.** Section 37-3-403, MCA, is amended to read:

14 **"37-3-403. Report of prohibition or limitation on practice by hospital.** Each hospital or health care
 15 facility ~~which~~ that prohibits or limits the privilege of a physician to practice medicine within that facility shall
 16 report ~~such~~ the action to the state board of medical examiners within 30 days after the action is taken if
 17 ~~the action is based in whole or in part upon the commission of one or more of the offenses or the existence~~
 18 ~~of one or more of the conditions set forth in 37-3-322 or 37-3-323(1).~~ The report shall must include the
 19 reason or reasons for the prohibition or limitation."

20

21 **Section 27.** Section 37-4-307, MCA, is amended to read:

22 **"37-4-307. Annual renewal fee -- default ~~active, inactive status~~ ~~continuing education~~ -- local**
 23 **fees prohibited.** (1) Every licensed dentist shall pay each year a renewal fee to the board. The renewal
 24 fee must be set by the board commensurate with costs. Notice of the change in the amount of renewal
 25 fees must be given to each dentist registered in this state by the department.

26 (2) Payment of the annual renewal fee must be made ~~prior to March 1~~ of each year on or before
 27 the date set by department rule, and a license renewal must be issued by the department. A reasonable
 28 late fee ~~is~~ must be required by the department if the annual renewal fee is not timely paid ~~before March 1~~.

29 ~~(3) The board may adopt rules governing requirements for demonstrating continued competency~~
 30 ~~for license renewal.~~

1 ~~(4) (a) The board may reclassify an active status license to inactive status for a licensee who~~
 2 ~~furnishes satisfactory evidence that the licensee has discontinued the actual practice of dentistry because~~
 3 ~~of physical disability or retirement.~~

4 ~~(b) An individual who wishes to maintain a Montana license but does not maintain a resident~~
 5 ~~practice must be licensed in the inactive status.~~

6 ~~(c) Application to convert an inactive status license to an active status license must be made in~~
 7 ~~accordance with rules of the board. The application to convert to active status must accompany the~~
 8 ~~submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license~~
 9 ~~was inactivated, satisfactory evidence of competence must be submitted to the board before an active~~
 10 ~~status license may be issued.~~

11 ~~(5) (a)(3) (a)~~ In case of default in payment of the annual renewal fee by a licensee, ~~his~~ the license
 12 must be revoked by the board. The board shall give the licensee 30 days' notice of its proposed revocation
 13 action. The notice must be sent by certified letter addressed to the last-known address of the licensee and
 14 must contain a statement of the time and place of the meeting at which the revocation will be considered.

15 (b) If the licensee pays the renewal fee, plus a reasonable late fee set by the board, prior to the
 16 time set for revocation, the license may not be revoked.

17 (c) A license revoked for nonpayment of the renewal fee may be reinstated within 5 years of
 18 revocation if:

- 19 (i) renewal fees are paid for each year they were unpaid, plus a late penalty fee for each year;
 20 (ii) the applicant produces evidence, satisfactory to the board, of good standing with the dentistry
 21 regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dentistry
 22 since the last payment of a renewal fee under this chapter; and
 23 (iii) the applicant produces evidence, satisfactory to the board, of good character and competence.

24 ~~(6)(4) Every~~ Each dentist shall give the board notice of any change in name, address, or status
 25 within 30 days of the change.

26 ~~(7)(5) No~~ A unit of local government, including those exercising self-government powers, may not
 27 impose a license fee on a dentist licensed under this chapter."

28
 29 **Section 28.** Section 37-4-402, MCA, is amended to read:

30 "**37-4-402. License -- examination.** (1) The department may issue licenses for the practice of

1 dental hygiene to qualified applicants to be known as dental hygienists.

2 (2) Except as provided in ~~37-4-404~~ by rules adopted under [section 20 19], ~~no~~ a person may not
3 engage in the practice of dental hygiene or practice as a dental hygienist in this state until ~~he~~ the person
4 has passed an examination approved by the board under rules it considers proper and has been issued a
5 license by the department.

6 (3) Applicants for licensure shall take and pass an examination in order to be licensed. The
7 examination shall consist of a written part and a practical or clinical part. The board may accept, in
8 satisfaction of the written part, successful completion of an examination by the national board of dental
9 examiners and, whenever the board determines necessary, successful completion of a board examination
10 in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an
11 examination by a board-designated regional testing service.

12 (4) The board has the right to administer its own examination in lieu of acceptance of the national
13 board written examination and a regional testing service practical examination. The board is authorized to
14 make rules governing ~~any such~~ examination procedures.

15 (5) Applicants for licensure shall submit an application, which ~~shall~~ must include, when required:

- 16 (a) certification of successful completion of the national board written examination;
17 (b) certification of successful completion of a regional board practical examination;
18 (c) two affidavits of good moral character;
19 (d) certificate of graduation from a board-approved dental hygiene school;
20 (e) an examination fee commensurate with costs and set by the board;
21 (f) a licensure fee commensurate with costs and set by the board;
22 (g) a recent photograph of the applicant; and
23 (h) copies of all other state licenses that are held by the applicant.

24 (6) Applications must be submitted no less than 20 days prior to the jurisprudence examination.
25 Applicants may not take the jurisprudence examination without first having completed and passed all other
26 parts of the examination.

27 (7) Examination results will be accepted for a period of time as set by board rule. An applicant
28 failing to pass ~~his~~ the first examination, if otherwise qualified, may take a subsequent examination on
29 payment of a fee commensurate with costs and set by the board.

30 (8) The board is authorized to adopt necessary and reasonable rules governing application

1 procedures."

2

3 **Section 29.** Section 37-4-406, MCA, is amended to read:

4 **"37-4-406. Annual renewal fee -- default ~~— active, inactive status — continuing education~~ --**
 5 **revocation of license -- local fees prohibited.** (1) ~~Every~~ Each licensed dental hygienist shall pay each year
 6 a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. ~~The~~
 7 ~~renewal must be for either active or inactive status, as defined by rules of the board.~~

8 (2) Payment of the annual renewal fee must be made ~~prior to March 1 of each year~~ on or before
 9 the date set by department rule, and a license renewal must be issued by the department. A reasonable
 10 late fee ~~is~~ must be required if the annual renewal fee is not timely paid ~~before March 1.~~

11 ~~(3) The board may adopt rules governing requirements for demonstrating continued competency~~
 12 ~~for license renewal.~~

13 ~~(4) (a) The board may reclassify an active status license to inactive status for a licensee who~~
 14 ~~furnishes satisfactory evidence that the licensee has discontinued the actual practice of dental hygiene~~
 15 ~~because of physical disability or retirement.~~

16 ~~(b) An individual who wishes to maintain a Montana license but does not maintain a resident~~
 17 ~~practice must be licensed in the inactive status.~~

18 ~~(c) Application to convert an inactive status license to an active status license must be made in~~
 19 ~~accordance with rules of the board. The application to convert to active status must accompany the~~
 20 ~~submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license~~
 21 ~~was inactivated, satisfactory evidence of competence must be submitted to the board before an active~~
 22 ~~status license may be issued.~~

23 ~~(5)~~(3) In case of default in payment of the renewal fee by any licensee, the board must revoke the
 24 license.

25 (a) The board shall give the licensee 30 days' notice of its proposed revocation action. The notice
 26 must be sent by certified mail to the last-known address of the licensee and must contain a statement of
 27 the time and place of the meeting at which the revocation will be considered.

28 (b) The payment of the renewal fee on or before the time set for revocation, with a reasonable late
 29 fee set by the board, excuses the default.

30 (c) A license revoked for nonpayment of the renewal fee may be reinstated within 5 years of

1 revocation if:

2 (i) renewal fees are paid for each year they were unpaid, plus a late penalty for each year;

3 (ii) the applicant produces evidence, satisfactory to the board, of good standing with the dental
4 hygiene regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice
5 of dental hygiene since the last payment of a renewal fee under this chapter; and

6 (iii) the applicant produces evidence, satisfactory to the board, of good character and competence.

7 ~~(6)~~(4) ~~Every~~ Each dental hygienist shall give the board notice of any change in name, address, or
8 status within 30 days of the change.

9 ~~(7)~~(5) The board may, after a hearing, revoke or suspend the license of a dental hygienist for
10 violating this chapter.

11 ~~(8)~~(6) ~~No~~ A unit of local government, including those exercising self-government powers, may not
12 impose a license fee on a dental hygienist licensed under this chapter."

13

14 **Section 30.** Section 37-5-307, MCA, is amended to read:

15 **"37-5-307. Renewal fee.** (1) A person holding a certificate to practice under this chapter and who
16 is in active practice in this state shall, on or before April 1 of each year the date set by department rule,
17 pay a renewal fee prescribed by the board to the department, ~~and a person holding a certificate to practice~~
18 ~~under this chapter who is not in active practice shall before April 1 of each year pay a renewal fee~~
19 ~~prescribed by the board to the department. The~~ At least 2 weeks before the renewal date, the department
20 shall ~~before March 15 of each year~~ send a notice to each person holding a valid certificate to practice
21 under this chapter and from whom a fee is due stating that the fee is due.

22 (2) The certificate to practice under this chapter automatically becomes void when the renewal fee
23 is not paid at the time named. However, the board may reinstate a practitioner whose certificate has lapsed
24 on payment of back renewal fees or on payment of a maximum fee prescribed by the board if the lapsed
25 fees exceed the maximum fee."

26

27 **Section 31.** Section 37-6-302, MCA, is amended to read:

28 **"37-6-302. Qualifications for licensure -- exemptions from examination -- temporary licenses.** (1)

29 ~~Persons~~ A person who ~~wish~~ wishes to begin the practice of podiatry in this state shall make application,
30 on a form authorized by the board and furnished by the department, for a license to practice podiatry.

1 (2) ~~No~~ A person may not be granted a license to practice podiatry in this state unless he the
 2 person:

3 (a) is of good moral character as determined by the board;

4 (b) is a graduate of a school of podiatry approved by the board;

5 (c) has completed at least 1 year of postgraduate training or has had equivalent experience or
 6 training approved by the board;

7 (d) has made a personal appearance before the board;

8 (e) has passed an examination administered by the national board of podiatry examiners and is a
 9 diplomate of the national board of podiatry examiners; and

10 (f) has obtained a score of at least 75% on an examination administered by the board.

11 (3) The board may waive the requirements described in subsections (2)(d) and (2)(f).

12 ~~(4) A license without written examination may be granted to podiatrists of other states maintaining~~
 13 ~~equal statutory requirements for the practice of podiatry and extending the same reciprocal privilege to this~~
 14 ~~state if they have had a valid license and practiced for at least 2 preceding years in that state prior to filing~~
 15 ~~for reciprocal privilege and by payment of a fee prescribed by the board to the department.~~

16 ~~(5) The board may authorize the department to issue a temporary license to practice podiatry in~~
 17 ~~appropriate cases, but no person may be granted a temporary license unless he:~~

18 ~~(a) is of good moral character as determined by the board;~~

19 ~~(b) is a graduate of a school of podiatry approved by the board;~~

20 ~~(c) has completed at least 1 year of postgraduate training or has had equivalent experience or~~
 21 ~~training approved by the board; and~~

22 ~~(d) has made a personal appearance before at least one member of the board.~~

23 ~~(6) The board may authorize the department to issue a temporary or permanent license subject to~~
 24 ~~probation or other conditions or limitations imposed by the board or may refuse to issue a license if the~~
 25 ~~applicant has engaged in unprofessional conduct or is otherwise unqualified."~~

26

27 **Section 32.** Section 37-6-303, MCA, is amended to read:

28 "**37-6-303. Examination -- subjects -- fees -- reexamination.** (1) A person who is not exempt from
 29 examination ~~under 37-6-302~~ and desiring who desires a license to practice podiatry ~~shall~~ must be examined
 30 in the following subjects: anatomy, chemistry, dermatology, physical diagnosis, materia medica, pathology,

1 physiology, therapeutics, orthopedics, histology, bacteriology, pharmacy, neurology, surgery, shoe therapy,
 2 physiotherapy, roentgenology, and podiatric medicine. The minimum passing score is 70% for each subject
 3 tested and an average of 75% for all subjects tested.

4 (2) An examination and license fee prescribed by the board ~~shall~~ must be paid to the department.

5 (3) An applicant failing the examination and being refused a license is entitled within 6 months of
 6 the refusal to a reexamination, but one reexamination exhausts ~~his~~ the privilege under the original
 7 examination. An additional fee ~~shall~~ must be paid to the department for a reexamination."

8
 9 **Section 33.** Section 37-6-304, MCA, is amended to read:

10 **"37-6-304. Designations on license -- recording -- renewal -- display.** (1) A license issued under
 11 this chapter is designated as a "registered podiatrist's license" or a "temporary podiatrist's license".

12 (2) Licenses must be recorded by the department the same as other medical licenses.

13 (3) Licenses must be renewed annually, on a date set by the ~~board~~ department.

14 (4) A license renewal fee set by the board must be paid annually on a date set by the ~~board~~
 15 department.

16 (5) The department shall mail renewal notices no later than 60 days prior to the annual renewal
 17 date ~~set by the board under subsection (3)~~.

18 (6) If the annual renewal fee is not paid on or before the renewal date ~~set by the board under~~
 19 ~~subsection (3)~~, the board may revoke the licensee's certificate after giving 30 days' notice to the licensee.
 20 A certified letter addressed to the delinquent licensee's last-known address as it appears on the records of
 21 the department constitutes notice of intent to revoke the certificate. ~~No~~ A certificate may not be revoked
 22 for nonpayment of a renewal fee if the licensee pays the annual renewal fee plus a penalty prescribed by
 23 the board on or before the date fixed for revocation.

24 (7) A license revoked for nonpayment of the annual renewal fee may be reissued only on original
 25 application and payment of an additional fee prescribed by the board.

26 (8) Licenses must be conspicuously displayed by podiatrists at their offices or other places of
 27 practice."

28
 29 **Section 34.** Section 37-6-311, MCA, is amended to read:

30 **"37-6-311. Refusal or revocation of license -- investigation -- reinstatement.** (1) After notice and

1 opportunity for a hearing, the board may deny, revoke, or refuse to renew a license to practice podiatry
 2 if the consensus of the board is that an applicant is not of good moral character or has engaged in
 3 unprofessional conduct. ~~The department shall notify the applicant of the board's intent to deny, revoke,~~
 4 ~~or refuse to renew a license by mailing a letter to the applicant's last known address stating the board's~~
 5 ~~intent and setting a time and place for a hearing. If the applicant fails without cause to appear at the~~
 6 ~~hearing or if the board determines that the applicant is not entitled to a license, the board shall deny,~~
 7 ~~revoke, or refuse to renew the applicant's license.~~

8 (2) The ~~board~~ department may investigate whenever it is brought to its attention that a licensed
 9 podiatrist:

- 10 (a) is mentally or physically unable to engage safely in the practice of podiatry;
 11 (b) has procured ~~his~~ the license by fraud, misrepresentation, or through error;
 12 (c) has been declared incompetent by a court of competent jurisdiction and thereafter has not been
 13 lawfully declared competent;
 14 (d) has a condition that impairs ~~his~~ the licensee's intellect or judgment to the extent that it
 15 incapacitates ~~him~~ the licensee in the safe performance of ~~his~~ professional duties;
 16 (e) has been found guilty of unprofessional conduct;
 17 (f) has practiced podiatry while ~~his~~ the license was suspended or revoked;
 18 (g) has had ~~his~~ the license suspended or revoked by any licensing authority for reasons other than
 19 nonpayment of fees; or
 20 (h) while under probation has violated its terms.

21 (3) The investigation ~~shall~~ must be for the purpose of determining the probability that the alleged
 22 conditions exist or that the alleged offenses were committed. ~~The~~ Upon order of the board, the
 23 investigation may include requiring the person to submit to a physical examination or a mental examination,
 24 or both, by a physician or physicians selected by the board if it appears to be in the best interest of the
 25 public that this evaluation be secured. The board may examine the hospital records and reports of a
 26 licensee as part of the examination, and copies shall be released to the board on written request. ~~If the~~
 27 ~~board has reasonable cause to believe that the alleged conditions exist or that the alleged offenses were~~
 28 ~~committed, the department shall mail to the person at his last known address a specification of the charges~~
 29 ~~against him, together with a written notice of the time and place of the hearing on such charges, advising~~
 30 ~~him that he may be present in person and by counsel if he so desires to offer evidence and be heard in his~~

1 ~~defense. The time fixed for the hearing may not be less than 30 days from the date of mailing the notice.~~

2 ~~(4) A person, including a member of the board, may file a written complaint with the department~~
3 ~~against a person having a license to practice podiatry in this state charging him with the commission of any~~
4 ~~of the offenses set forth in 37-6-310 or with any of the offenses or conditions set forth in subsection (1)~~
5 ~~or (2) of this section. The complaint shall set forth a specification of the charges. When the complaint is~~
6 ~~filed, the department shall mail a copy to the person complained against, at his last known address,~~
7 ~~together with a written citation of the time and place of the hearing on the complaint.~~

8 ~~(5) At the hearing the board shall adopt a resolution finding the person complained against guilty~~
9 ~~or not guilty of the matters charged. If the board finds that the offenses or conditions referred to in~~
10 ~~37-6-310 or subsection (1) or (2) of this section do not exist with respect to the person complained against~~
11 ~~or if he is found not guilty, the board shall dismiss the charges or complaint. If the board finds that the~~
12 ~~offenses or conditions referred to in 37-6-310 or in subsection (1) or (2) of this section do exist or the~~
13 ~~person is found guilty, the board shall:~~

14 ~~(a) revoke his license;~~

15 ~~(b) suspend his right to practice for a period not exceeding 1 year;~~

16 ~~(c) suspend its judgment of revocation on the terms and conditions to be determined by the board;~~

17 ~~(d) place him on probation; or~~

18 ~~(e) take any other action in relation to disciplining him as the board in its discretion considers~~
19 ~~proper.~~

20 ~~(6) In a case of revocation, suspension, or probation, the department shall enter in its records the~~
21 ~~facts of the action and of subsequent measures taken by the board with respect to that action.~~

22 ~~(7) On the expiration of the term of suspension, the licensee shall be reinstated by the board if he~~
23 ~~furnishes the board with evidence that he is then of good moral character and conduct or restored to good~~
24 ~~health and that he has not practiced podiatry in this state during the term of suspension. If the evidence~~
25 ~~fails to establish to the satisfaction of the board that the holder is then of good moral character and conduct~~
26 ~~or restored to good health or if the evidence shows he has practiced podiatry in this state during the term~~
27 ~~of suspension, the board shall revoke the license at a hearing held in accordance with the notice and~~
28 ~~procedure provided in subsection (1). The revocation is final.~~

29 ~~(8)(4) If a person holding a license to practice podiatry under this chapter is by a final order or~~
30 ~~adjudication of a court of competent jurisdiction determined to be mentally incompetent, seriously mentally~~

1 ill, or addicted to the use of narcotics, ~~his~~ the license may be suspended by the board. The suspension
 2 continues until the licensee is found by the court to be restored to reason or cured or until ~~he~~ the licensee
 3 is discharged as restored to reason or cured and ~~his~~ the licensee's professional competence has been
 4 proven to the satisfaction of the board."

5
 6 **Section 35.** Section 37-7-101, MCA, is amended to read:

7 **"37-7-101. Definitions.** Unless the context requires otherwise, in parts 1 through 3 of this chapter,
 8 the following definitions apply:

9 (1) "Board" means the board of pharmacy provided for in 2-15-1843.

10 (2) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained
 11 through the process of the science and art of chemistry, whether of organic or inorganic origin.

12 (3) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and
 13 commerce, exclusive of the practices of medicine and pharmacy.

14 ~~(4) "Continuing education" means professional pharmaceutical postgraduate education in the~~
 15 ~~following areas:~~

16 ~~(a) the socioeconomic and legal aspects of health care;~~

17 ~~(b) the properties and actions of drugs and dosage forms; and~~

18 ~~(c) the etiology, characteristics, and therapeutics of the disease state.~~

19 ~~(5)~~(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part
 20 18.

21 ~~(6)~~ ~~(a)~~(5) (a) "Drug" means:

22 (i) articles recognized in the official United States Pharmacopoeia/National Formulary or a
 23 supplement ~~to them~~;

24 (ii) articles intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in ~~man~~
 25 people or other animals;

26 (iii) articles, ~~{other than food},~~ intended to affect the structure or function of the body of ~~man~~ an
 27 individual or other ~~animals~~ animal; and

28 (iv) articles intended for use as a component of an article specified in subsection (i), (ii), or (iii).

29 (b) "Drug" does not include devices or their components, parts, or accessories.

30 ~~(7)~~(6) "Intern" means a natural person licensed by the department to prepare, compound, dispense,

1 and sell drugs, medicines, chemicals, and poisons under the supervision of a registered and licensed
2 pharmacist.

3 ~~(8)~~(7) "Medicine" means a remedial agent which has the property of curing, preventing, treating,
4 or mitigating diseases or which is used for this purpose.

5 ~~(9)~~(8) "Person" includes an individual, partnership, corporation, or association.

6 ~~(10)~~(9) "Pharmacist" means a natural person licensed by the department to prepare, compound,
7 dispense, and sell drugs, medicines, chemicals, and poisons and who may affix to ~~his~~ the person's name
8 the term "R.Ph.".

9 ~~(11)~~(10) "Pharmacy" means an established place registered by the department of commerce in
10 which prescriptions, drugs requiring a prescription, medicines, chemicals, and poisons are compounded,
11 dispensed, vended, or sold.

12 ~~(12)~~(11) "Pharmacy technician or auxiliary" means an individual who assists a pharmacist in the
13 practice of pharmacy pursuant to an approved utilization plan.

14 ~~(13)~~(12) "Poison" means a substance which, when introduced into the system, either directly or
15 by absorption, produces violent, morbid, or fatal changes or which destroys living tissue with which it
16 comes in contact.

17 ~~(14)~~(13) "Prescription" means an order given individually for the person for whom prescribed,
18 directly from the prescriber to the furnisher or indirectly to the furnisher, by means of an order signed by
19 the prescriber and bearing the name and address of the prescriber, ~~his~~ the prescriber's license classification,
20 the name of the patient, the name and the quantity of the drug or drugs prescribed, the directions for use
21 and the date of its issue. These stipulations apply to both written and telephoned prescriptions.

22 ~~(15)~~(14) "Utilization plan" means a plan under which a pharmacist may use the services of a
23 pharmacy technician or auxiliary in the practice of pharmacy to perform tasks that:

- 24 (a) do not require the exercise of the pharmacist's independent professional judgment; and
25 (b) are verified by the pharmacist.

26 ~~(16)~~(15) "Wholesale" means a sale for the purpose of resale."
27

28 **Section 36.** Section 37-7-302, MCA, is amended to read:

29 **"37-7-302. Examination -- qualifications -- fees -- reciprocity.** (1) The department shall give
30 reasonable notice of examinations by mail to known applicants. The department shall record the names

1 of persons examined, together with the grounds on which the right of each to examination was claimed,
2 and also the names of persons registered by examination or otherwise.

3 (2) The fee for an examination ~~shall~~ must be set by the board at a figure commensurate with costs,
4 ~~which.~~ The fee may in the discretion of the board be returned to applicants not taking the examination.

5 (3) To be entitled to examination as a pharmacist, the applicant ~~shall~~ must be of good moral
6 character and ~~shall~~ must have graduated and received the first professional undergraduate degree from the
7 school of pharmacy of the university of Montana or from an accredited pharmacy degree program that has
8 been approved by the board. However, ~~no~~ an applicant may not receive a registered pharmacist's license
9 until ~~he~~ the applicant has complied with the internship requirements established by the board.

10 ~~(4) The board may in its discretion authorize the department to grant registration without~~
11 ~~examination to a pharmacist licensed by a board of pharmacy or a similar board of another state which~~
12 ~~accords similar recognition to licensees of this state if the requirements for registration in the other state~~
13 ~~are, in the opinion of the board, equivalent to the requirements of this chapter. The fee for registration by~~
14 ~~reciprocity shall be prescribed by the board.~~

15 ~~(5)~~(4) ~~Every~~ Each person licensed and registered under this chapter ~~shall~~ must receive from the
16 department an appropriate certificate attesting the fact, which ~~shall~~ must be conspicuously displayed at all
17 times in ~~his~~ the place of business."

18

19 **Section 37.** Section 37-7-303, MCA, is amended to read:

20 **"37-7-303. Annual renewal fee.** ~~(1)~~ A person licensed and registered by the department shall
21 annually pay to the department on or before June 30 the date set by department rule a renewal of
22 registration fee prescribed by the board. A default in the payment of a renewal fee after the date it is due
23 increases the renewal fee as prescribed by the board. It is unlawful for a person who refuses or fails to
24 pay the renewal fee to practice pharmacy in this state. A certificate and renewal expires at the time
25 prescribed, not later than 1 year from its date. A defaulter in a renewal fee may be reinstated within 1 year
26 of the default without examination on payment of the arrears and compliance with ~~the continuing education~~
27 ~~provisions of this chapter~~ other requirements prescribe by law.

28 ~~(2) The board may charge an additional fee for such license renewal to be used in administering~~
29 ~~the continuing education provisions of this chapter."~~

30

1 **Section 38.** Section 37-7-321, MCA, is amended to read:

2 "**37-7-321. Certified pharmacy license** ~~—suspension or revocation.~~ (1) The board shall provide
3 for the original certification and annual renewal by the department of every pharmacy doing business in this
4 state. On presentation of evidence satisfactory to the board and on application on a form prescribed by
5 the board and on the payment of an original certification fee prescribed by the board, the department shall
6 issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to
7 pharmacies operated by registered pharmacists qualified under this chapter. The annual renewal fee for
8 a pharmacy ~~shall~~ must be set by the board. Any default in the payment of ~~such~~ the renewal fee after the
9 date the same is due ~~shall increase~~ increases the renewal fee as prescribed by the board. The license must
10 be displayed in a conspicuous place in the pharmacy for which it is issued and expires on ~~June 30 following~~
11 ~~the date of issue~~ the date set by department rule. It is unlawful for a person to conduct a pharmacy, use
12 the word "pharmacy" to identify ~~his~~ the business, or use the word "pharmacy" in advertising unless a
13 license has been issued and is in effect.

14 (2) The board may ~~suspend, revoke,~~ impose discipline or deny or refuse to renew a pharmacy
15 license:

16 ~~(a) obtained by false representation or fraud;~~

17 ~~(b) when the pharmacy for which the license is issued is kept open for the transaction of business~~
18 ~~without a pharmacist in charge;~~

19 ~~(c) when the person to whom the license is granted has been convicted of:~~

20 ~~(i) a violation of parts 1 through 3 of this chapter; or~~

21 ~~(ii) a violation of the Federal Food, Drug, and Cosmetic Act (Title 21, chapter 9, U.S.C.); chapter~~
22 ~~2 or 7 of Title 37, chapter 9 or 10 of Title 45, or chapter 31 or 32 of Title 50, MCA; or rules adopted under~~
23 ~~such act or chapters;~~

24 ~~(d) when the person to whom the license is granted is a natural person whose pharmacist license~~
25 ~~has been revoked; or~~

26 ~~(e) when the pharmacy is conducted in violation of parts 1 through 3 of this chapter.~~

27 ~~(3) Before a license can be revoked, the holder is entitled to a hearing by the board for reasons~~
28 ~~specified in and subject to conditions specified in Title 37, chapter 1."~~

29
30 **Section 39.** Section 37-7-606, MCA, is amended to read:

1 **"37-7-606. Issuance of licenses.** The license for wholesale drug distributors is effective ~~from April~~
 2 ~~1 to March 31 of the following year~~ during the 12-month period specified by department rule. An
 3 application for renewal of a license must be mailed to each licensee ~~on or before March 1~~ at least 30 days
 4 prior to the renewal date, and if the renewal application and the fee are not mailed by ~~March 31~~ the renewal
 5 date, the license is void upon its expiration date."

6
 7 **Section 40.** Section 37-8-409, MCA, is amended to read:

8 **"37-8-409. Midwifery -- when professional nurse may practice.** ~~(1)~~ A person licensed under
 9 ~~37-8-406 or 37-8-407~~ this chapter who holds a certificate in nurse-midwifery from the American college
 10 of nurse-midwives may practice midwifery upon approval by the board of an amendment to ~~her~~ the license
 11 granting a certificate of nurse-midwifery. The board shall grant a certificate of nurse-midwifery to a person
 12 who submits written verification of certification by the American college of nurse-midwives and who meets
 13 ~~such~~ other qualification requirements as the board may prescribe.

14 ~~(2) The board may give temporary approval to practice nurse midwifery for up to 4 months to a~~
 15 ~~person who has taken the American college of nurse midwives national certification examination, pending~~
 16 ~~receipt of official notification of the results of the examination."~~

17
 18 **Section 41.** Section 37-8-431, MCA, is amended to read:

19 **"37-8-431. Renewal of license.** (1) The license of a person licensed under this chapter must be
 20 annually renewed on the date set by department rule. ~~Before December 1 of each year~~ At least 30 days
 21 prior to the renewal date, the department shall mail an application form for renewal of license to ~~every~~ each
 22 person to whom a license was issued or renewed during the year. The applicant shall carefully complete
 23 and subscribe the application form and return it to the department with a renewal fee prescribed by the
 24 board on or before January 1 the renewal date.

25 (2) The board may increase or decrease the annual license fee so as to maintain in the state special
 26 revenue fund at all times an adequate amount to be used for the purpose of administering, policing, and
 27 enforcing the provisions of Title 37, chapter 1, and this chapter. On receipt of the application and fee, the
 28 department shall verify the accuracy of the application against its record and from other sources the board
 29 considers reliable and issue to the applicant a certificate of renewal ~~for the current year beginning January~~
 30 ~~1 and expiring December 31 following.~~ The certificate of renewal renders the holder a legal practitioner of

1 nursing for the period stated in the certificate of renewal.

2 (3) A licensee who allows ~~his~~ the license to lapse by failing to renew the license may be reinstated
3 by the board on satisfactory explanation for the failure to renew license and on payment of the current
4 renewal fee prescribed by the board.

5 (4) A person practicing nursing during the time following the date ~~his~~ the license has expired is an
6 illegal practitioner and is subject to the penalties provided for violations of this chapter.

7 (5) The board may establish a reasonable late fee for licensees who fail to renew their license by
8 ~~January 1 as required in subsection (1)~~ the renewal date."

9

10 **Section 42.** Section 37-9-101, MCA, is amended to read:

11 **"37-9-101. Definitions.** Unless the context requires otherwise, in this chapter, the following
12 definitions apply:

13 (1) "Board" means the board of nursing home administrators provided for in 2-15-1845.

14 (2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

15 ~~(3) "Inactive nursing home administrator" means an individual who has been licensed in this state
16 as a nursing home administrator and whose license has not been revoked or suspended but who is not
17 actively engaged in nursing home administration.~~

18 ~~(4)~~ (3) "Long-term care facility" means any skilled nursing facility, nursing home, or intermediate
19 care facility as defined for licensing purposes under state law or the rules for long-term care facilities of the
20 department of health and environmental sciences, whether proprietary or nonprofit, including facilities
21 owned or administered by the state or a political subdivision.

22 ~~(5)~~ (4) "Nursing home administrator" means a person who administers, manages, supervises, or is
23 in general administrative charge of a long-term care facility, whether the individual has an ownership
24 interest in the facility and whether ~~his~~ the individual's functions and duties are shared with one or more
25 other individuals."

26

27 **Section 43.** Section 37-9-203, MCA, is amended to read:

28 **"37-9-203. Duties of board.** The board shall:

29 (1) develop, impose, and enforce standards ~~which~~ that must be met by individuals in order to
30 register and receive a license as a nursing home administrator, designed to ensure that nursing home

1 administrators are individuals of good character and otherwise suitable and, by training or experience in the
2 field of institutional administration, are qualified to serve as nursing home administrators;

3 (2) develop and apply appropriate techniques, including examination and investigation, for
4 determining whether individuals meet the standards;

5 (3) authorize the department to register and issue licenses to individuals, after application of the
6 techniques, determined to meet the standards;

7 (4) establish and implement procedures designed to ensure that individuals registered and licensed
8 as nursing home administrators will, during the period that they serve, comply with the requirements of the
9 standards;

10 (5) conduct a continuing study and investigation of nursing home administrators within the state
11 with a view to the improvement of the standards imposed for the licensing of administrators and of
12 procedures and methods for the enforcement of the standards with respect to nursing home administrators;

13 ~~(6) conduct or cause to be conducted one or more courses of instruction and training sufficient to~~
14 ~~meet the requirements of this chapter and make provisions for the conduct of these courses and their~~
15 ~~accessibility to residents of this state, unless it finds that there are a sufficient number of courses~~
16 ~~conducted by others within this state to meet the needs of the state; instead, the board may approve~~
17 ~~courses conducted within and outside of this state sufficient to meet the education and training~~
18 ~~requirements of this chapter;~~

19 ~~(7) prescribe or approve continuing education courses."~~

20

21 **Section 44.** Section 37-9-302, MCA, is amended to read:

22 **"37-9-302. Department to license pursuant to board rules -- nontransferability -- temporary permit.**

23 (1) The department shall register and license nursing home administrators under the rules adopted by the
24 board.

25 (2) A nursing home administrator's registration and license is not transferable and is valid until
26 surrendered for cancellation, suspended, or revoked for violation of this chapter or any other laws or rules
27 relating to the proper administration and management of a long-term care facility.

28 ~~(3) If the board determines that preliminary qualifications set forth in 37-9-301 will have been met~~
29 ~~before the next examination, it may authorize the department to issue a temporary permit for a period of~~
30 ~~180 days or until the scores of the next examination are announced. No temporary permit may be issued~~

1 ~~to an applicant after the date of the first examination for which he is eligible."~~

2
3 **Section 45.** Section 37-9-304, MCA, is amended to read:

4 **"37-9-304. Fees.** (1) Each person who applies for licensure, whether by waiver, examination, or
5 reciprocity, shall pay a fee prescribed by the board at the time of application.

6 (2) Each person licensed as a nursing home administrator shall pay a license fee in an amount fixed
7 by the board. A license ~~shall expire~~ expires each year on a date set by department rule ~~of the department~~
8 and ~~shall~~ must be renewable annually upon timely payment of the license fee.

9 ~~(3) Each person registered as an inactive nursing home administrator shall be required to pay a~~
10 ~~registration fee in the amount fixed by the board. An inactive registration shall expire each year on a date~~
11 ~~established by rule of the department and shall be renewable annually upon timely payment of the inactive~~
12 ~~registration fee.~~

13 ~~(4)~~ (3) The fee for issuing a duplicate license ~~shall~~ must be fixed by the board."
14

15 **Section 46.** Section 37-9-305, MCA, is amended to read:

16 **"37-9-305. Renewal of registration and license.** ~~Every~~ Each holder of a nursing home
17 administrator's registration and license shall renew it annually by payment of the required fee for the next
18 subsequent year prior to the expiration date of ~~his~~ the currently valid registration and license. Renewals of
19 registrations or licenses ~~shall~~ must be granted as a matter of course, ~~providing the holder has completed~~
20 ~~a continuing education course prescribed or approved by the board;~~ ~~however~~ However, if the board finds,
21 after due notice and hearing, that the applicant has acted or failed to act in ~~such~~ a manner or under
22 circumstances ~~as that~~ that would constitute grounds for ~~suspension or revocation of a registration and license~~
23 discipline, it ~~shall~~ may not issue the renewal."
24

25 **Section 47.** Section 37-10-304, MCA, is amended to read:

26 **"37-10-304. Course in use of diagnostic and therapeutic drugs required.** (1) (a) In addition to the
27 requirements of 37-10-302 ~~or 37-10-303, whichever is applicable~~, each person desiring to commence the
28 practice of optometry shall satisfactorily complete a course prescribed by the board of medical examiners
29 with consultation and approval by the board of optometrists with particular emphasis on the topical
30 application of diagnostic agents to the eye for the purpose of examination of the human eye and the

1 analysis of ocular functions.

2 (b) A person presently licensed to practice optometry who wishes to employ diagnostic agents
3 must satisfactorily complete a course referred to in subsection (1)(a) and must pass an examination as
4 provided in subsection (1)(d).

5 (c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by
6 a regional or professional accreditation organization which is recognized or approved by the national
7 commission on accrediting or the United States commissioner of education. The course must also be
8 approved by the board.

9 (d) The board shall provide for an examination in competency in the use of diagnostic drugs and
10 shall issue a certificate to those applicants who pass ~~such~~ the examination.

11 (2) (a) ~~In addition to the requirements of 37-10-302 or 37-10-303, whichever is applicable, each~~
12 Each person desiring to commence the practice of optometry shall:

13 (i) pass an examination, of the international association of boards of examiners in optometry, on
14 the diagnosis, treatment, and management of ocular disease; or

15 (ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular
16 diseases. The course and examination must be conducted by an institution accredited by a regional or
17 professional accreditation organization which is recognized or approved by the national commission on
18 accrediting or the United States commissioner of education. The course and examination must also be
19 approved by the board.

20 (b) A person presently licensed to practice optometry who wishes to employ therapeutic
21 pharmaceutical agents must meet the requirements of subsection (2)(a).

22 (c) The board shall:

23 (i) provide for an examination in competency in the diagnosis, treatment, and management of
24 therapeutic pharmaceutical agents; and

25 (ii) issue a certificate to an applicant who passes ~~such~~ the examination."
26

27 **Section 48.** Section 37-11-303, MCA, is amended to read:

28 **"37-11-303. Qualifications of applicants for license.** To be eligible for a license as a physical
29 therapist, an applicant must:

30 (1) be of good moral character and at least 18 years of age;

1 (2) have graduated from an accredited school of physical therapy approved by the board; and

2 (3) ~~either:~~

3 ~~(a) pass to the satisfaction of the board a written examination prescribed by the board and, if~~
4 ~~considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical~~
5 ~~therapist; or~~

6 ~~(b) be entitled to a license without examination under 37-11-307."~~

7
8 **Section 49.** Section 37-11-304, MCA, is amended to read:

9 **"37-11-304. Application for examination -- fee.** (1) ~~Unless entitled to a license under 37-11-307,~~
10 ~~a~~ A person who desires to be licensed as a physical therapist shall apply to the department in writing, on
11 a form furnished by the department. He and shall:

12 (a) embody in that application evidence under oath, satisfactory to the board, of ~~his possessing~~
13 having the qualifications preliminary to the examination required by 37-11-303; and

14 (b) pay to the department at the time of filing ~~his~~ the application a fee as established by the board
15 by rule. The fee must be commensurate with the cost of the examination and its administration and must
16 be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

17 (2) Anyone failing to pass the required examination on ~~his~~ the first attempt is entitled to sit for a
18 second examination and, if ~~he fails~~ the second examination is failed, to sit for a third examination."

19
20 **Section 50.** Section 37-11-308, MCA, is amended to read:

21 **"37-11-308. Annual renewal of license -- fee.** A licensed physical therapist shall, ~~during January~~
22 on or before the date set by department rule, apply to the department for a renewal of ~~his~~ the license and
23 pay a fee ~~which shall be set by board rule~~. A license that is not renewed before ~~April every year~~ the renewal
24 date automatically lapses. The board may, in its discretion, revive and renew a lapsed license on the
25 payment of all past unpaid renewal fees or a late renewal fee."

26
27 **Section 51.** Section 37-12-201, MCA, is amended to read:

28 **"37-12-201. Organization of board -- meetings -- powers and duties.** (1) The board shall elect
29 annually a president, vice president, and secretary-treasurer from its membership.

30 (2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at

1 times and places as a majority of the board designates. A majority of the board constitutes a quorum.

2 (3) The board shall:

3 (a) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming
4 within the scope of the board;

5 (b) adopt a seal that must be affixed to licenses issued;

6 (c) make a schedule of minimum educational requirements, which are without prejudice, partiality,
7 or discrimination, as to the different schools of chiropractic;

8 (d) adopt rules necessary for the implementation, administration, continuation, and enforcement
9 of this chapter. The rules must address but are not limited to license applications, form and display of
10 license, license examination format, criteria for and grading of examinations, disciplinary standards for
11 licensees, and the registration of interns and preceptors.

12 ~~(e) investigate complaints;~~

13 ~~(f) (e)~~ make determinations of the qualifications of applicants under this chapter;

14 ~~(g) (f)~~ administer the examination for licensure under this chapter;

15 ~~(h) (g)~~ establish and collect fees, fines, and charges as provided in this chapter;

16 ~~(i) (h)~~ issue, suspend, or revoke licenses under the conditions prescribed in this chapter; and

17 ~~(j) (i)~~ certify that a chiropractor who meets the standards that the board by rule adopts is a qualified
18 evaluator for purposes of 39-71-711.

19 (4) The department shall keep a record of the proceedings of the board, which ~~shall~~ must at all
20 times be open to public inspection."

21

22 **Section 52.** Section 37-12-307, MCA, is amended to read:

23 **"37-12-307. Annual renewal of license -- fees -- ~~continuing education~~ -- inactive status.** ~~(4) A~~
24 license expires on ~~September 1 of each year~~ the date set by department rule and ~~shall~~ must be renewed
25 by the department on payment of a renewal fee, as set by the board, and the presentation of evidence
26 satisfactory to the board that the licensee, ~~in the year preceding the application for renewal, attended and~~
27 ~~successfully completed a postgraduate educational program for chiropractors approved by the board~~
28 qualifies for renewal. All applicants for renewal who have not paid the renewal fee ~~prior to October 1 of~~
29 ~~each year~~ on or before the renewal date shall pay an additional late fee prescribed by the board.

30 ~~(2) The board shall by rule set standards for inactive status. It shall charge an annual fee for a~~

1 ~~license placed on inactive status.~~

2 ~~(3) An inactive license may be reinstated to active status upon payment of a fee and completion~~
 3 ~~of the continuing education requirements set by the board."~~

4

5 **Section 53.** Section 37-12-322, MCA, is amended to read:

6 **"37-12-322. Investigation of complaints — ~~discipline of licensees — revocation or suspension of~~**
 7 **license.** (1) The ~~board~~ department may make an investigation whenever it is brought to its attention that
 8 there is reason to suspect that a person licensed to practice chiropractic:

9 (a) has a mental or physical condition such that ~~he~~ the person is unable to safely engage in the
 10 practice of chiropractic;

11 (b) has been declared incompetent or seriously mentally ill by a court of competent jurisdiction and
 12 thereafter has not been declared competent or released from supervision;

13 (c) has procured ~~his~~ the license through mistake;

14 (d) has been guilty of unprofessional conduct;

15 (e) has practiced chiropractic while ~~his~~ the license was suspended or revoked;

16 (f) has while under probation violated its terms.

17 (2) The investigation ~~shall~~ must be for the purpose of determining the probability of the existence
 18 of these conditions or the commission of these offenses and may, upon order of the board, include requiring
 19 the person to submit to a physical or mental examination, or both, by a physician or physicians selected
 20 by the board if it appears to be in the best interests of the public that this evaluation be secured. The board
 21 may examine the hospital records and reports of the licensee as part of the examination, and copies of
 22 these ~~shall~~ must be released to the board on written request. ~~If the board has reasonable cause to believe~~
 23 ~~that this probability exists, the department shall mail to the person at his last address of record with the~~
 24 ~~department, a specification of the charges against him, together with a written notice of the time and place~~
 25 ~~of the hearing on such charges, advising him that he may be present in person and with counsel if he so~~
 26 ~~desires to offer evidence and be heard in his defense. The time fixed for hearing may not be less than 30~~
 27 ~~days from the date of mailing the notice.~~

28 ~~(3) Any person, including a member of the board, may file a sworn complaint with the department~~
 29 ~~against a licensed chiropractor charging him with any of the offenses or conditions set forth in 37-12-321~~
 30 ~~or subsection (1) of this section, which complaint shall set forth a specification of the charges. When the~~

1 ~~complaint has been filed, the board may make an investigation as provided by this section or may proceed~~
 2 ~~to hearing. The department shall mail a copy of the complaint to the person charged, together with notice~~
 3 ~~of hearing as provided in subsection (2) of this section.~~

4 ~~(4) After the hearing, the board shall adopt a resolution finding that the offenses charged have or~~
 5 ~~have not been committed or that the conditions charged do or do not exist. If the finding is in the negative,~~
 6 ~~the board shall dismiss the charges. If the finding is in the affirmative, the board shall:~~

7 ~~(a) revoke the license;~~

8 ~~(b) suspend the licensee's right to practice for a period not to exceed 1 year;~~

9 ~~(c) suspend its judgment of revocation on terms and conditions determined by the board;~~

10 ~~(d) place the licensee on probation;~~

11 ~~(e) fine the licensee in an amount not to exceed \$500 for each incident; or~~

12 ~~(f) take any other disciplinary action which the board in its discretion considers proper.~~

13 ~~(5) In cases of revocation, suspension, or probation, the department shall record the facts of the~~
 14 ~~case and all actions of the board in relation thereto.~~

15 ~~(6) On the expiration of a term of suspension, the licensee shall be reinstated by the board if he~~
 16 ~~furnishes evidence, satisfactory to the board, that he is then of good moral character and conduct or~~
 17 ~~restored to good health and that he has not practiced chiropractic during the term of suspension. If the~~
 18 ~~evidence fails to establish such facts to the satisfaction of the board, the board shall proceed to hearing~~
 19 ~~on revocation with notice as provided in subsection (2) of this section.~~

20 ~~(7) Following a final determination resulting in any disciplinary action taken by the board under~~
 21 ~~subsection (4), the board may recover from the disciplined party all reasonable costs of any proceeding,~~
 22 ~~not to exceed \$1,000, incurred for the purpose of the disciplinary action. Fines and costs recovered must~~
 23 ~~be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6)."~~

24
 25 **Section 54.** Section 37-13-306, MCA, is amended to read:

26 **"37-13-306. Annual renewal -- fee -- military exemption.** (1) The license to practice acupuncture
 27 must be renewed annually, on a date set by the ~~board~~ department, without examination and upon request
 28 of the licensee. The request for renewal must be on forms prescribed by the board and accompanied by
 29 a renewal fee prescribed by the board. The request and fee must be in the hands of the secretary of the
 30 board not later than the expiration date of the license.

1 (2) Immediately following the renewal date, the secretary shall notify all licensees from whom
2 requests for renewal, accompanied by the renewal fee, have not been received that their licenses have
3 expired and that they will be cancelled and revoked upon the records of the board unless a request for
4 renewal and reinstatement, accompanied by the renewal fee and an additional fee prescribed by the board,
5 is in the hands of the secretary within 30 days of the renewal date.

6 (3) If the licensee fails to renew within 30 days following the renewal date, the secretary of the
7 board shall cancel and revoke upon its records all licenses that have not been renewed or reinstated as
8 provided by this chapter and shall notify the licensees whose licenses are revoked of the action.

9 (4) A licensee who allows ~~his~~ the license to lapse by failing to renew or reinstate the license as
10 provided in this section may subsequently reinstate the license upon good cause shown to the satisfaction
11 of the board and upon payment of all annual renewal fees then accrued plus an additional fee prescribed
12 by the board for each year following the cancelling of the license.

13 (5) A person actively engaged in the military service of the United States and licensed to practice
14 acupuncture as provided in this part is not required to pay the annual renewal fee or make application for
15 renewal until the renewal date of the calendar year in which ~~he~~ the person returns from military service to
16 civilian or inactive status."

17
18 **Section 55.** Section 37-15-102, MCA, is amended to read:

19 **"37-15-102. Definitions.** As used in this chapter, the following definitions apply:

20 (1) "ASHA" means the American speech-language and hearing association.

21 (2) "Association" means the Montana speech-language and hearing association.

22 (3) "Audiologist" means a person who practices audiology and who meets the qualifications set
23 forth in this chapter. A person represents to the public that the person is an audiologist by incorporating
24 in any title or description of services or functions that the person directly or indirectly performs the words
25 "audiologist", "audiology", "audiometrist", "audiometry", "audiological", "audiometrics", "hearing clinician",
26 "hearing clinic", "hearing therapist", "hearing therapy", "hearing center", "hearing aid audiologist", or any
27 similar title or description of services.

28 (4) "Audiology aide" means any person meeting the minimum requirements established by the
29 board of speech-language pathologists and audiologists who works directly under the supervision of a
30 licensed audiologist.

1 (5) "Board" means the board of speech-language pathologists and audiologists provided for in
2 2-15-1849.

3 (6) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

4 (7) "Practice of audiology" means rendering or offering to render a service in audiology to
5 individuals or groups of individuals who have or are suspected of having hearing disorders. These services
6 include:

7 (a) prevention, identification, measurement, testing, evaluation, prediction, consultation,
8 habilitation, rehabilitation, instruction, and research;

9 (b) participating in hearing conservation and hearing aid and assistive listening device evaluation,
10 prescription, preparation, dispensing, and orientation;

11 (c) fabricating ear molds;

12 (d) providing auditory training and speech reading;

13 (e) conducting tests of vestibular function;

14 (f) evaluating tinnitus;

15 (g) planning, directing, conducting, or supervising programs that render or offer to render a service
16 in audiology; and

17 (h) speech or language screening, limited to a pass/fail determination.

18 (8) "Practice of speech-language pathology" means rendering or offering to render a service in
19 speech-language pathology to individuals or groups of individuals who have or are suspected of having
20 communication disorders. These services include:

21 (a) prevention, identification, measurement, testing, evaluation, prediction, consultation,
22 habilitation, and rehabilitation;

23 (b) determining the need for augmentative communication systems and providing training in the
24 use of these systems;

25 (c) planning, directing, conducting, or supervising programs that render or offer to render a service
26 in speech-language pathology;

27 (d) nondiagnostic pure-tone air conduction, tympanometry, and acoustic reflex screening, limited
28 to a pass/fail determination;

29 (e) aural rehabilitation, which includes services and procedures for facilitating adequate receptive
30 and expressive communication in individuals with hearing impairment;

1 (f) oral motor rehabilitation, which includes services and procedures for evaluating and facilitating
2 face, lip, and tongue mobility and control;

3 (g) cognitive retraining, which includes services and procedures for evaluating and facilitating
4 memory, attention, reasoning, processing, judgment, and other related areas in individuals with language
5 impairment resulting from head injury, stroke, or other insult; and

6 (h) dysphagia therapy, which includes services and procedures for evaluating and facilitating
7 swallowing and feeding in those individuals with swallowing disorders.

8 (9) "Speech-language pathologist" means a person who practices speech-language pathology and
9 who meets the qualifications set forth in this chapter. A person represents to the public that the person is
10 a speech-language pathologist by incorporating in any title or description of services or functions that the
11 person directly or indirectly performs the words "speech pathologist", "speech pathology", "speech
12 correctionist", "speech corrections", "speech therapist", "speech therapy", "speech clinician", "speech
13 clinic", "language pathologist", "language pathology", "voice therapist", "voice therapy", "voice
14 pathologist", "voice pathology", "logopedist", "logopedics", "communicologist", "communicology",
15 "aphasiologist", "aphasiology", "phoniatrist", "language therapist", "language clinician", or any similar title
16 or description of services or functions.

17 (10) "Speech-language pathology aide" means a person meeting the minimum requirements
18 established by the board who works directly under the supervision of a licensed speech-language
19 pathologist.

20 ~~(11) "Unethical conduct" means:~~

21 ~~(a) the obtaining of a fee by fraud or misrepresentation;~~

22 ~~(b) employing, directly or indirectly, any suspended or unlicensed person to perform any work~~
23 ~~covered by this chapter unless that person assumes the legal status of a supervised aide; or~~

24 ~~(c) using or causing or promoting the use of any advertising matter, promotional literature,~~
25 ~~testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated~~
26 ~~or published, which is misleading, deceiving, improbable, or untruthful."~~

27
28 **Section 56.** Section 37-15-202, MCA, is amended to read:

29 **"37-15-202. Powers and duties of board and department.** (1) The board shall:

30 (a) administer, coordinate, and enforce the provisions of this chapter;

1 (b) evaluate the qualifications of each applicant for a license as issued under this chapter and
 2 supervise the examination of ~~such~~ applicants;

3 ~~(c) investigate persons engaging in practices which allegedly violate the provisions of this chapter;~~

4 ~~(d)~~ (c) conduct hearings and keep records and minutes as the board considers necessary to an
 5 orderly dispatch of business;

6 ~~(e)~~ (d) adopt rules, including but not limited to those governing ethical standards of practice under
 7 this chapter;

8 ~~(f)~~ (e) make recommendations to the governor and other state officials regarding new and revised
 9 programs and legislation related to speech-language pathology or audiology which could be beneficial to
 10 the citizens of the state of Montana;

11 ~~(g)~~ (f) cause the prosecution and enjoinder of all persons violating this chapter, by the complaints
 12 of its secretary filed with the county attorney in the county where the violation took place, and incur
 13 necessary expenses therefor;

14 ~~(h)~~ (g) adopt a seal by which the board shall authenticate its proceedings.

15 (2) Copies of the proceedings, records, and acts of the board, signed by the ~~chairman~~ presiding
 16 officer or secretary of the board and stamped with the seal, ~~shall be~~ are prima facie evidence of the validity
 17 of ~~such~~ the documents.

18 (3) The board may make rules which are reasonable or necessary for the proper performance of
 19 its duties and for the regulation of proceedings before it.

20 (4) The department may employ persons it considers necessary to carry out the provisions of this
 21 chapter.

22 (5) The department shall prepare a report to the governor as required by law."
 23

24 **Section 57.** Section 37-15-308, MCA, is amended to read:

25 **"37-15-308. Renewal.** (1) Each licensed speech-language pathologist or audiologist shall pay to
 26 the board the fee for the renewal of ~~his~~ the license according to rules adopted by the department.

27 (2) The department shall notify each person licensed under this chapter relative to the date of
 28 expiration of ~~his~~ the license and the amount of the renewal fee. This notice must be mailed to each licensed
 29 speech-language pathologist or audiologist at least 1 month before the expiration of the license.

30 (3) Renewal may be made at any time during the 60 days prior to the expiration date by application

1 therefor. A renewal application ~~must be accompanied with documentation satisfactory to the board that~~
 2 ~~the applicant has fulfilled his continuing educational requirements as provided in 37-15-309.~~

3 (4) Failure on the part of any licensed person to pay the renewal fee by the expiration date does
 4 not deprive ~~him~~ the person of the right to renew ~~his~~ the license, but the fee ~~shall~~ must be increased 10%
 5 for each month that the payment of the renewal fee is delayed after the expiration date. The maximum fee
 6 for delayed renewal ~~shall~~ may not exceed twice the normal renewal fee.

7 (5) Application for renewal following a lapse of 1 year or more ~~shall be~~ is subject to review by the
 8 board, and the applicant may be requested to complete an examination successfully if the board so
 9 determines.

10 (6) A suspended license is subject to expiration and may be renewed as provided in this section,
 11 but ~~such~~ the renewal does not entitle the licensee, while the license remains suspended, to engage in the
 12 licensed activity or in any other activity or conduct which violates the order or judgment by which the
 13 license was suspended.

14 (7) A license revoked on disciplinary grounds is subject to expiration, and it may not be renewed.
 15 If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement
 16 fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the
 17 date on which it is reinstated plus the delinquency fee, if any, accrued at the time of its revocation.

18 (8) A person who fails to renew ~~his~~ a license within 2 years after its expiration may not renew it,
 19 and it may not be restored, reissued, or reinstated ~~thereafter;~~ but such a However, the person may reapply
 20 for and obtain a new license if ~~he~~ the person meets the requirements of this chapter."

21
 22 **Section 58.** Section 37-16-202, MCA, is amended to read:

23 "**37-16-202. Powers and duties.** The powers and duties of the board are to:

24 (1) license persons who apply and are qualified to practice the fitting of hearing aids;

25 ~~(2) establish a procedure to act as a grievance board to receive, investigate, and mediate~~
 26 ~~complaints from any source concerning the activities of persons licensed under this chapter or their agents,~~
 27 ~~whether licensed or not;~~

28 ~~(3)~~ (2) suspend or revoke licenses under this chapter;

29 ~~(4)~~ (3) designate the time and place for examining applicants for license and supervise and
 30 administer the examination;

1 ~~(5)~~ (4) adopt rules necessary to carry out this chapter;

2 ~~(6)~~ (5) require the periodic inspection and calibration of audiometric testing equipment and carry

3 out periodic inspections of facilities of persons who practice the fitting or selling of hearing aids;

4 ~~(7)~~ (6) prepare examinations required by the chapter;

5 ~~(8)~~ (7) initiate legal action to enjoin from operation a person or corporation engaged in the sale,

6 dispensing, or fitting of hearing aids in this state who is not licensed under this chapter;

7 ~~(9)~~ (8) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304,

8 37-16-402, 37-16-403, 37-16-405, 37-16-407, and 37-16-408, ~~37-16-411, and 37-16-414~~. Rules adopted

9 by the board may include but are not limited to rules defining the term "related devices" and other rules

10 necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-403, 37-16-405,

11 37-16-407, and 37-16-408, ~~37-16-411, and 37-16-414~~."

12

13 **Section 59.** Section 37-16-301, MCA, is amended to read:

14 "**37-16-301. Permanent place of business in state necessary -- records -- notice -- designation of**

15 **licensee in charge.** (1) A person who is actively engaged in dispensing hearing aids and related devices as

16 a business must have a permanent place of business in this state that will be opened to serve the public,

17 having the necessary testing, fitting, and hearing aid accessories needed by the hard-of-hearing public in

18 the wearing of hearing aids and related devices. All licensed hearing aid dispensers shall identify their

19 permanent place of business in all advertising public notices and in all consumer correspondence, both

20 written and verbal. More than one hearing aid dispenser licensee may work from a permanent place of

21 business.

22 (2) The department shall keep a record of the places of practice of persons who hold regular

23 licenses or trainee licenses. A notice required to be given by the board or department to a person who holds

24 a regular or trainee license may be given by mailing it to ~~him~~ the person at the address last given ~~by him~~

25 to the department.

26 (3) All licensed hearing aid dispensers shall notify the board of any change of address within 30

27 days of the change. A trainee shall notify the board of any change of address within 10 days of the change.

28 (4) (a) When licensed hearing aid dispensers and trainees work at the same permanent place of

29 business, the licensed hearing aid dispenser shall designate one licensed dispenser as the person in charge.

30 There must be one licensed dispenser in charge at a permanent place of business.

1 (b) The licensed hearing aid dispenser in charge of a permanent place of business:

2 (i) is responsible and accountable under the disciplinary authority of the board for the conduct of
3 trainees using that permanent place of business; and

4 (ii) has custody and control of the business records of that permanent place of business and is
5 responsible for producing the records during an investigation conducted by the ~~board~~ department."

6
7 **Section 60.** Section 37-16-407, MCA, is amended to read:

8 "**37-16-407. Renewal of license -- fee -- ~~inactive status.~~** (1) A person who practices the fitting of
9 hearing aids and related devices shall annually pay to the department a fee as set by the board for a
10 renewal of his the license. The fee must be fixed by the board to be commensurate with board costs in
11 administering licensure and related board functions. The fee must be increased 10% for each month or
12 major portion ~~thereof~~ of a month that the payment of the renewal fee is delayed after the expiration date.
13 The maximum fee for a delayed renewal may not exceed twice the normal renewal fee as set by the board.
14 A person applying for renewal whose license was suspended for failure to renew is required to submit to
15 the examinations described in 37-16-403 as a condition of renewal for a 3-year period after suspension.

16 ~~(2) Each applicant for license renewal shall submit evidence showing completion of 4 hours of~~
17 ~~continuing education completed during the preceding 12 months. The requirements of the continuing~~
18 ~~education programs are to be determined by the board by rule.~~

19 ~~(3) (a) The board may set standards and fees for issuing licenses that designate inactive status.~~

20 ~~(b) An inactive licensee may be reinstated to active practice if he:~~

21 ~~(i) applies for reinstatement;~~

22 ~~(ii) pays a fee set by the board; and~~

23 ~~(iii) produces proof satisfactory to the board of completion of the continuing education~~
24 ~~requirements established by the board."~~

25
26 **Section 61.** Section 37-17-202, MCA, is amended to read:

27 "**37-17-202. Powers.** (1) The board may make reasonable and necessary rules for the proper
28 performance of its duties and for the regulation of proceedings before it.

29 (2) In addition to the other powers and duties set forth, the board may:

30 (a) revoke and suspend licenses;

1 (b) conduct hearings upon complaints concerning persons licensed under this chapter;

2 (c) cause the prosecution and enjoinder of all persons violating this chapter, by the complaint of
3 its secretary signed with the county attorney, in the county where the violation took place and incur
4 necessary expenses ~~therefor~~ for the prosecution; and

5 (d) study and review new developments in research, training, and the practice of psychology and
6 make recommendations to the governor and other state officials regarding new and revised programs and
7 legislation related to psychology which could be beneficial to the citizens of the state of Montana;

8 ~~(e) adopt rules for the administration of a continuing education program, including but not limited
9 to accrediting education programs and establishing the number of hours of continuing education required
10 for license renewal."~~

11

12 **Section 62.** Section 37-17-306, MCA, is amended to read:

13 "**37-17-306. Annual renewal.** (1) The license expires on ~~January 1 following~~ the date of its
14 ~~issuance or renewal and is invalid thereafter~~ set by department rule. The department shall notify each
15 person licensed under this chapter relative to the date of the expiration ~~of his license~~ and the amount of
16 ~~his~~ the renewal fee. This notice ~~shall~~ must be mailed to each licensed psychologist at ~~his~~ the licensee's
17 listed address at least 1 month before the expiration of the license.

18 (2) Renewal may be made by application during the 60 days prior to the expiration date. Failure
19 on the part of a person licensed to pay ~~his~~ the renewal fee by the expiration date does not deprive ~~him~~ the
20 person of the right to renew ~~his license~~, but the fee ~~shall~~ must be increased 10% for each month or major
21 portion ~~thereof~~ of a month that the payment of the renewal fee is delayed after the expiration date. The
22 maximum fee for delayed renewal may not exceed twice the normal renewal fee. Application for renewal
23 following a lapse of 1 year or more will be subject to review by the board, and the applicant may be
24 requested to complete an examination successfully if the board so determines.

25 ~~(3) The board may charge an additional fee for license renewal to be used for administering the
26 continuing education program established in 33-17-318."~~

27

28 **Section 63.** Section 37-17-307, MCA, is amended to read:

29 "**37-17-307. Fees -- deposit of fees.** (1) The department shall collect the following fees, none of
30 which is refundable:

- 1 (a) application fee;
- 2 (b) examination fee, an amount commensurate with the charge of the professional examination
3 service and administrative costs of the department and as set by the board;
- 4 (c) certificate fee;
- 5 (d) renewal fee, ~~including an amount sufficient to cover the costs of administering the continuing~~
6 ~~education program.~~
- 7 ~~(2) Renewal certificates shall be secured annually and dated January 2.~~
- 8 ~~(3)~~ (2) Fees received by the department shall must be deposited in the state special revenue fund
9 for the use of the board, subject to 37-1-101(6)."

10

11 **Section 64.** Section 37-18-202, MCA, is amended to read:

12 **"37-18-202. Powers of board and department -- examinations -- ~~prosecutions.~~** (1) The board may
13 adopt rules and orders necessary for the performance of its duties, including but not limited to:

- 14 ~~(a) development of continuing professional education requirements and exceptions therefrom;~~
15 ~~(b)~~ prescribing of forms for application for examination and license; and
16 ~~(c)~~ (b) preparation of examinations.

17 (2) The department shall, subject to 37-1-101, supervise the examination of applicants for license
18 to practice veterinary medicine, obtain the services of professional examination agencies instead of its own
19 preparation of examinations, and grant and revoke licenses.

20 ~~(3) The department may employ attorneys, subject to the approval of the attorney general, to assist~~
21 ~~county attorneys in prosecutions brought under this chapter in the respective district courts of the state~~
22 ~~or to assist the attorney general in representing the board before the supreme court."~~

23

24 **Section 65.** Section 37-18-303, MCA, is amended to read:

25 **"37-18-303. Examination -- temporary permit pending examination.** (1) Subject to 37-1-101, the
26 board shall by means of examination, either oral, written, or practical or a combination of oral, written, or
27 practical as the board determines, ascertain the professional qualifications for license of applicants under
28 this part. ~~An investigation under reciprocity arrangements may replace examination for licensees from other~~
29 ~~states under 37-18-304.~~ The department shall issue a license to all who are found to be, in the judgment
30 of the board, competent to practice. A license may not be issued to a person who is not found by the

1 examination or investigation to be competent and qualified.

2 (2) The examination ~~shall~~ must be held when determined necessary by the board, but not less
3 frequently than once each year at a time and place specified by the board. The examination ~~shall~~ must
4 cover theory and practice, pharmacology and therapeutics, animal sanitation, surgery, communicable
5 diseases, and other subjects chosen by the board which are ordinarily included in the curriculum of a school
6 of veterinary medicine recognized and approved by the American veterinary medical association.

7 (3) The department shall consecutively number applications received, note on each the disposition
8 made of it, and preserve them for reference and shall number consecutively licenses issued.

9 (4) ~~Applicants must~~ An applicant is required to achieve a grade of 70% in order to obtain a license.
10 An applicant who has failed an examination may apply to be reexamined at a subsequent examination and
11 shall pay another application fee commensurate with the costs of the examinations and set by the board
12 and shall take another complete examination in all subjects.

13 ~~(5) An applicant for examination may, in the discretion of the board, be given a temporary permit~~
14 ~~to practice veterinary medicine prior to taking the examination if the applicant is employed by and working~~
15 ~~under the supervision of and in the same office with a veterinarian licensed under this part. The temporary~~
16 ~~permit is valid only until the date of the next examination. Under no circumstances may a second temporary~~
17 ~~permit be issued to the same person. A temporary permit may not be issued to a person who has failed an~~
18 ~~examination given under this section."~~

19

20 **Section 66.** Section 37-18-305, MCA, is amended to read:

21 **"37-18-305. License -- issuance and contents.** (1) The board shall, at the conclusion of a regular
22 examination or after investigation, ~~under the reciprocity arrangements of 37-18-304~~ if in its judgment the
23 applicant is qualified, authorize the department to issue a license to practice veterinary medicine.

24 (2) Every license granted ~~shall~~ must be issued under seal and ~~shall~~ must be signed by the president
25 and secretary-treasurer of the board and ~~shall~~ must state that the licensee has given satisfactory evidence
26 of fitness as to age, character, veterinary medical education, and other matters required by law and that
27 after full examination, ~~or investigation under reciprocity arrangements,~~ he the licensee has been found
28 qualified to practice."

29

30 **Section 67.** Section 37-18-307, MCA, is amended to read:

1 **"37-18-307. Renewal -- fee -- continuing education -- automatic renewal for military personnel. (1)**

2 A person licensed to practice veterinary medicine in this state shall procure a certificate of registration from
 3 the department annually on or before November 1 ~~annually~~ his the date set by department rule ~~certificate~~
 4 ~~of registration~~. The certificate ~~shall~~ must be issued by the department on the payment of a fee fixed by the
 5 board and on presentation of evidence satisfactory to the board that the licensee ~~has complied with~~
 6 ~~continuing education requirements established by the board~~ qualifies for renewal. The board ~~may waive,~~
 7 ~~relax, or suspend continuing education requirements or particular program requirements for applicants who~~
 8 ~~cannot fulfill those requirements because of individual hardship. New licensees who secure licenses by~~
 9 ~~examination shall be granted a renewal the first year without attending the educational programs. The~~
 10 ~~certificate is prima facie evidence of the right of the holder to practice veterinary medicine in this state~~
 11 ~~during the time for which it is issued.~~

12 (2) Failure of a person licensed to procure a certificate of registration on or before ~~November 1,~~
 13 ~~annually,~~ the date set by department rule constitutes a forfeiture of the license held by the person. A person
 14 who has ~~thus~~ forfeited ~~his~~ the license may have it restored ~~to him~~ by making written application for
 15 restoration within 1 year of the forfeiture, setting forth the reasons for failure to procure the certificate of
 16 registration at the time specified and accompanied by payment of the registration fee provided for in this
 17 section and an additional restoration fee as the board requires ~~and by presentation of evidence satisfactory~~
 18 ~~to the board that he has fulfilled all continuing education requirements to the date of application for~~
 19 ~~restoration~~. The person making application for restoration of license within 1 year of its forfeiture is not
 20 required to submit to examination.

21 (3) Notwithstanding any other provisions in this chapter, a person licensed who enters or is called
 22 to active duty by a branch of the armed services of the United States is entitled to receive automatic
 23 registration of ~~his~~ the license during the period of ~~his~~ active duty with the armed services. However, within
 24 1 year after release or discharge from duty in the armed services ~~he~~ the person shall procure a certificate
 25 of renewal from the department and pay the regular fee. Failure to procure the certificate of renewal within
 26 1 year after release or discharge is the equivalent of a failure to procure a certificate of registration before
 27 November 1 of any year, and the same forfeiture and restoration requirements apply.

28 (4) A person licensed shall at all times have ~~his~~ the person's residence and office address on file
 29 with the department."
 30

1 **Section 68.** Section 37-19-301, MCA, is amended to read:

2 **"37-19-301. Funeral director's license -- renewal -- fee.** The practice of funeral directing by anyone
3 who does not hold a funeral director's license or a mortician's license issued by the department is
4 prohibited. A person licensed to practice funeral directing on June 1, 1963, is entitled to an annual renewal
5 of ~~his~~ the license on payment of a renewal fee to the department on ~~July 1 of each year~~ or before the date
6 set by department rule. The amount of the annual renewal license fee ~~shall~~ must be set by the board. A
7 ~~funeral director's license may not be issued to a person who is not licensed by the board of embalmers and~~
8 ~~funeral directors to practice funeral directing on June 1, 1963.~~"

9

10 **Section 69.** Section 37-19-306, MCA, is amended to read:

11 **"37-19-306. Annual renewal of mortician's license -- fee -- suspension for nonrenewal.** (1) The
12 annual license fee for a mortician's license must be postmarked on or before July 1 of the assessment year
13 the date set by department rule. The amount of the annual renewal fee ~~shall~~ must be set by the board.

14 (2) Failure to pay the annual renewal fee results in automatic suspension of the license. The license
15 may be reinstated by the payment of unpaid renewal fees plus a penalty prescribed by the board."

16

17 **Section 70.** Section 37-19-401, MCA, is amended to read:

18 **"37-19-401. License required -- display of license -- renewal -- penalty for late renewal.** (1) An
19 operating mortuary must be licensed by the board. The license must be displayed in a conspicuous place.

20 (2) A mortuary license expires on ~~June 30 of each year~~ the date set by department rule and may
21 be renewed upon payment of a fee set by the board.

22 (3) The board may set a penalty for late renewal of a mortuary license."

23

24 **Section 71.** Section 37-19-702, MCA, is amended to read:

25 **"37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal.** (1) A
26 person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture,
27 voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and
28 facilities for the cremation of human remains and that conducts cremations must be licensed by the board,
29 beginning July 1, 1993. The license must be displayed in a conspicuous place in the crematory facility.

30 (2) A crematory license expires on ~~June 30 of each year~~ the date set by department rule and may

1 be renewed upon payment of a fee set by the board, which includes the cost of annual inspection. If a
2 crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection
3 of both a mortuary facility under 37-19-403 and a crematory facility.

4 (3) The board may set a penalty fee for late renewal of a license.

5 (4) A person in charge of a licensed crematory facility must be licensed as a crematory operator
6 by the board. A person employed by a licensed crematory facility must be licensed as a crematory
7 technician by the board. The license must be displayed in a conspicuous place in the crematory facility.

8 (5) Crematory operator and crematory technician licenses expire on ~~June 30 of each year~~ the date
9 set by department rule and may be renewed upon payment of a fee set by the board. On-the-job training
10 must be provided to a crematory technician at the time of employment."

11
12 **Section 72.** Section 37-20-302, MCA, is amended to read:

13 **"37-20-302. Utilization plan approval fee -- renewal of license -- renewal fee.** (1) A utilization plan
14 approval fee must be paid in an amount set by the board. Payment must be made when the utilization plan
15 is submitted to the board and is not refundable.

16 (2) A locum tenens utilization plan approval fee must be paid in an amount set by the board.

17 (3) A license issued under this part must be renewed annually, on a date set by the ~~board~~
18 department.

19 (4) A license renewal fee set by the board must be paid at the time the license is renewed.

20 (5) The department shall mail a renewal notice no later than 60 days prior to the renewal date ~~set~~
21 ~~by the board under subsection (3)~~. A certified letter addressed to the delinquent licensee's last-known
22 address as it appears on the records of the department constitutes notice of intent to revoke the license.

23 (6) If the annual renewal fee is not paid on or before the renewal date ~~set by the board under~~
24 ~~subsection (3)~~, the board may revoke the license after giving 30 days' notice to the licensee. A license may
25 not be revoked for nonpayment of a renewal fee if the licensee pays the annual renewal fee plus a penalty
26 prescribed by the board on or before the date fixed for revocation.

27 (7) Fees received by the department must be deposited in the state special revenue fund for use
28 by the board in the administration of this chapter, subject to 37-1-101(6)."

29
30 **Section 73.** Section 37-20-403, MCA, is amended to read:

1 **"37-20-403. Physician assistant-certified as agent of supervising physician.** (1) In establishing
 2 protocol, a physician assistant-certified must be considered the agent of the supervising physician with
 3 regard to all duties delegated to the physician assistant-certified under the utilization plan. A health care
 4 provider shall consider the instructions of a physician assistant-certified as being the instructions of the
 5 supervising physician as long as the instructions concern the duties delegated to the physician
 6 assistant-certified under the utilization plan.

7 (2) The supervising physician and the physician assistant-certified are responsible for making
 8 available a copy of the approved utilization plan to all other health care practitioners with whom they
 9 reasonably believe they will interact on a regular basis.

10 ~~(3) Nothing in this chapter may be construed to conflict with the provisions of 37-3-322."~~

11
 12 **Section 74.** Section 37-22-304, MCA, is amended to read:

13 **"37-22-304. Renewal of license.** (1) An application for renewal of an existing license must be made
 14 ~~within 60 days after the expiration of the license is timely, and the rights and privileges of the applicant~~
 15 ~~during that period remain in effect~~ on or before the date set by department rule.

16 (2) Application for renewal must be made upon a form provided by the department. A renewal
 17 license must be issued upon payment of a renewal fee set by the board and upon submitting proof of
 18 ~~completion of continuing education requirements~~ qualification for renewal.

19 ~~(3) An individual may renew a license in the manner provided in subsection (2) within 1 year of~~
 20 ~~the expiration date of the license. An applicant for renewal shall provide the board with proof that the~~
 21 ~~applicant has satisfied the continuing education requirements of the board for the year for which the license~~
 22 ~~is to be renewed.~~

23 ~~(4) The renewal fee is increased by 10% for each month or part of a month that the renewal is~~
 24 ~~delayed after the 60-day period provided in subsection (1).~~ The maximum fee for delayed renewal may not
 25 exceed twice the normal renewal fee.

26 ~~(5) (4) A license not renewed within 1 year following its expiration date terminates automatically."~~

27
 28 **Section 75.** Section 37-23-103, MCA, is amended to read:

29 **"37-23-103. Powers and duties of board.** (1) The board shall:

30 (a) recommend amendments to this chapter to the governor or the legislature, or both;

1 (b) recommend prosecutions for violations of 37-23-311 to the attorney general or appropriate
2 county attorneys, or both;

3 (c) annually publish a list of the names and addresses of all persons who are licensed professional
4 counselors;

5 ~~(d) establish requirements for continuing education that are conditions of license renewal;~~

6 ~~(e)~~ meet to perform the duties described in this section;

7 ~~(f)~~ (e) adopt rules that set professional and ethical standards for licensed professional counselors
8 ~~which that~~ are based on national standards and ~~such~~ other rules as may be reasonably necessary for the
9 administration of this chapter; and

10 ~~(g)~~ (f) distribute a copy of the professional and ethical standards to each licensed professional
11 counselor.

12 (2) The board may adopt rules governing the issuance of certificates of special competence in
13 particular areas of practice as a licensed professional counselor. The board shall establish criteria for each
14 particular area for which a certificate is issued."

15
16 **Section 76.** Section 37-23-202, MCA, is amended to read:

17 **"37-23-202. (Temporary) Licensure requirements.** (1) An applicant for licensure must have
18 satisfactorily completed:

19 (a) a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester
20 hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from
21 an institution accredited to offer a graduate program in counseling;

22 (b) 2,000 hours of counseling practice supervised by a licensed professional counselor or licensed
23 member of an allied mental health profession, at least half of which was postdegree. The applicant must
24 have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

25 (c) and passed an examination prepared and administered by:

26 (i) the board, based on a national examination approved by the board;

27 (ii) the national board of certified counselors; or

28 (iii) the national academy of certified clinical mental health counselors; and

29 (d) an application form and process prescribed by the board.

30 (2) The board shall provide by rule for licensure:

1 ~~(a)~~ of a person who possesses a minimum 45 semester hour graduate degree that is primarily
 2 related to counseling and that is from an institution accredited to offer a graduate program in counseling,
 3 by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a)
 4 in counseling courses in an approved program within a period of 5 years; ~~and~~

5 ~~(b) of a person who possesses a license or certification as a professional counselor from an agency~~
 6 ~~located in another state whose requirements are less than the requirements of this chapter, by:~~

7 ~~(i) crediting past clinical experience in psychotherapy and counseling; and~~

8 ~~(ii) recommending additional education or experience necessary to fulfill the requirements of this~~
 9 ~~chapter.~~

10 **37-23-202. (Effective July 1, 1996) Licensure requirements.** (1) An applicant for licensure must
 11 have satisfactorily completed:

12 (a) a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester
 13 hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from
 14 an institution accredited to offer a graduate program in counseling;

15 (b) 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed
 16 member of an allied mental health profession, at least half of which was postdegree. The applicant must
 17 have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

18 (c) and passed an examination prepared and administered by:

19 (i) the board, based on a national examination approved by the board;

20 (ii) the national board of certified counselors; or

21 (iii) the national academy of certified clinical mental health counselors; and

22 (d) an application form and process prescribed by the board.

23 (2) The board shall provide by rule for licensure:

24 ~~(a)~~ of a person who possesses a minimum 45 semester hour graduate degree that is primarily
 25 related to counseling and that is from an institution accredited to offer a graduate program in counseling,
 26 by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a)
 27 in counseling courses in an approved program within a period of 5 years; ~~and~~

28 ~~(b) of a person who possesses a license or certification as a professional counselor from an agency~~
 29 ~~located in another state whose requirements are less than the requirements of this chapter, by:~~

30 ~~(i) crediting past clinical experience in psychotherapy and counseling; and~~

1 ~~(ii) recommending additional education or experience necessary to fulfill the requirements of this~~
2 ~~chapter.~~"

3
4 **Section 77.** Section 37-23-205, MCA, is amended to read:

5 "**37-23-205. Renewal of license.** (1) A license may be issued for no longer than 1 year. The ~~board~~
6 department may adopt rules to provide for annual renewal of an existing license.

7 (2) An application for renewal of an existing license must be made within 60 days after on or
8 before the expiration of the license is timely, and the rights and privileges of the applicant during that period
9 remain in effect date set by department rule.

10 (3) Application for renewal must be made upon a form provided by the department. A renewal
11 license must be issued upon payment of a renewal fee set by the board and upon submitting proof of
12 ~~completion of continuing education requirements established by the board~~ qualification for renewal.

13 ~~(4) An individual may renew a license in the manner provided in subsection (3) within 1 year of~~
14 ~~the expiration date of the license. An applicant for renewal shall provide the board with proof that the~~
15 ~~applicant has satisfied the continuing education requirements of the board for the year for which the license~~
16 ~~is to be renewed.~~

17 ~~(5) The renewal fee is increased by 10% for each month or part of a month that the renewal is~~
18 ~~delayed after the 60-day period provided in subsection (2). The maximum fee for delayed renewal may not~~
19 ~~exceed twice the normal renewal fee.~~

20 ~~(6) (5)~~ A license not renewed within 1 year following its expiration date terminates automatically."

21
22 **Section 78.** Section 37-24-202, MCA, is amended to read:

23 "**37-24-202. Powers and duties of board.** (1) The board shall:

24 (a) administer, coordinate, and enforce the provisions of this chapter;

25 (b) evaluate the qualifications of applicants for licensure under this chapter and approve and
26 supervise the examination of ~~such~~ applicants;

27 ~~(c) investigate persons engaging in practices that allegedly violate the provisions of this chapter;~~

28 ~~(d)~~ adopt rules relating to professional licensure and the establishment of ethical standards of
29 practice under this chapter;

30 ~~(e)~~ (d) conduct hearings and keep records and minutes as the board considers necessary to carry

1 out its functions; and

2 ~~(f)~~ (e) adopt a seal by which the board shall authenticate its proceedings.

3 (2) A copy of the proceedings, records, or acts of the board, signed by the ~~chairman~~ presiding
4 officer or secretary of the board and stamped with the seal, is prima facie evidence of the validity of ~~such~~
5 the document.

6 (3) The department may employ persons it considers necessary to carry out the provisions of this
7 chapter."

8

9 **Section 79.** Section 37-24-308, MCA, is amended to read:

10 **"37-24-308. Renewal of license —~~inactive status.~~** ~~(1)~~ Each license issued under this chapter is
11 subject to annual renewal on the date set by department rule upon the payment of a renewal fee and
12 expires unless renewed in the manner prescribed by the rules of the board. The board may provide for the
13 late renewal of a license upon the payment of a late fee in accordance with its rules, but ~~no~~ a late renewal
14 of a license may not be granted more than 5 years after its expiration.

15 ~~(2) Upon request, the board may grant inactive status to a licensee who:~~

16 ~~(a) does not practice as an occupational therapist or an occupational therapy assistant; and~~

17 ~~(b) does not hold himself out as an occupational therapist or an occupational therapy assistant."~~

18

19 **Section 80.** Section 37-25-307, MCA, is amended to read:

20 **"37-25-307. Renewal of license —~~continuing education.~~** (1) An application for renewal of license
21 must be made annually on a date set by the ~~board~~ department.

22 (2) A renewal license must be issued when the applicant submits proof that requirements for
23 ~~continuing education~~ continued licensure have been met and pays a renewal fee set by the board
24 commensurate with costs.

25 (3) An additional fee may be imposed on applications for renewal received by the board more than
26 30 days after the annual renewal date."

27

28 **Section 81.** Section 37-26-201, MCA, is amended to read:

29 **"37-26-201. Powers and duties of board.** The board shall:

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

1 (2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301,
 2 that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are
 3 consistent with the education provided by approved naturopathic medical colleges;

4 (3) adopt rules prescribing the time, place, content, and passing requirements of the licensure
 5 examination, which may be composed of part or all of the national naturopathic physicians licensing
 6 examination;

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

9 (5) adopt rules that set nonrefundable fees, commensurate with costs, for application, examination,
 10 licensure, and other administrative services;

11 (6) approve naturopathic medical colleges as defined in 37-26-103;

12 ~~(7) adopt rules for the investigation of complaints against naturopathic physicians, for hearings on~~
 13 ~~complaints, and to impose disciplinary action against naturopathic physicians found to be in violation of this~~
 14 ~~chapter;~~

15 ~~(8) investigate individuals falsely claiming to be naturopathic physicians and act in cooperation with~~
 16 ~~county attorneys to enforce the provisions of this chapter;~~

17 ~~(9) adopt rules that establish, approve, and routinely review a continuing education curriculum and~~
 18 ~~accreditation for naturopathic physicians that is required for license renewal;~~

19 ~~(10) (7) issue certificates of specialty practice; and~~

20 ~~(11) issue temporary licenses as provided for in 37-26-403; and~~

21 ~~(12) (8) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited~~
 22 ~~scope of practice of naturopathic medicine, which may exclude the use of minor surgery or the legend~~
 23 ~~drugs allowed under 37-26-301."~~

24
 25 **Section 82.** Section 37-26-403, MCA, is amended to read:

26 **"37-26-403. Application for licensure -- examination -- temporary license.** (1) A person who desires
 27 a license to practice naturopathic medicine in Montana shall apply to the department in the manner and
 28 form prescribed by the board. The application must be accompanied by the license fees, the application
 29 fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses
 30 the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the board

1 department may make an independent investigation to determine whether the applicant possesses the
 2 necessary qualifications and whether the applicant has committed unprofessional conduct that would be
 3 basis for licensure denial. At the board's request, the applicant shall provide necessary authorizations for
 4 the release of records and information pertinent to the ~~board's~~ department's investigation.

5 (2) A person who applies for licensure but who has not passed a licensure examination prescribed
 6 or endorsed by the board shall apply to the board for authorization to take the prescribed licensure
 7 examination. The application for examination must be accompanied by the examination fee. If the board
 8 finds that all other qualifications for licensure except that of examination have been met, the board shall
 9 authorize the applicant to take the licensure examination.

10 ~~(3) A person who has actively engaged in the practice of naturopathic medicine in Montana prior
 11 to April 1, 1991, and who is a graduate of an approved naturopathic medical college may continue to
 12 practice naturopathic medicine until the board reviews his qualifications if he applies to and receives from
 13 the department a temporary license by October 1, 1991. The department shall issue a temporary license
 14 to a qualified applicant. The board shall, within 6 months of October 1, 1991, review the qualifications of
 15 each temporary licensee and either authorize the department to issue a license to a person qualified under
 16 37-26-402 or 37-26-404 or extend the temporary license for a term of no more than 1 year to allow the
 17 practitioner to pass the prescribed examination. A person who is not a graduate of an approved
 18 naturopathic medical college may not be granted a temporary license."~~

19
 20 **Section 83.** Section 37-27-105, MCA, is amended to read:

21 **"37-27-105. General powers and duties of board -- rulemaking authority.** (1) The board shall:

22 (a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform
 23 the duties described in this section; and

24 (b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within
 25 the scope of the board's duties.

26 (2) The board shall have the authority to administer and enforce all the powers and duties granted
 27 statutorily or adopted administratively.

28 (3) The board shall adopt rules to administer this chapter. The rules must include but are not limited
 29 to:

30 (a) the development of a license application and examination, criteria for and grading of

1 examinations, and establishment of examination and license fees commensurate with actual costs;

2 (b) the issuance of a provisional license to midwives who filed the affidavit required by section 2,
3 Chapter 493, Laws of 1989;

4 (c) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements
5 that, at a minimum, meet the standards established in 37-27-201;

6 (d) the development of eligibility criteria for client screening by direct-entry midwives in order to
7 achieve the goal of providing midwifery services to women during low-risk pregnancies;

8 (e) the development of procedures for the issuance, renewal, suspension, and revocation, ~~and~~
9 ~~reciprocity~~ of licenses;

10 (f) the adoption of disciplinary standards for licensees;

11 ~~(g) the establishment of investigatory and hearing procedures for processing complaints received~~
12 ~~by the board;~~

13 ~~(h) the establishment of continuing education requirements of at least 14 hours annually for license~~
14 ~~renewal for direct entry midwives;~~

15 ~~(i)~~ (g) the development of standardized informed consent and reporting forms;

16 ~~(j)~~ (h) the adoption of ethical standards for licensed direct-entry midwives;

17 ~~(k)~~ (i) the adoption of supporting documentation requirements for primary birth attendants; and

18 ~~(l)~~ (j) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the
19 standards established in 37-27-201."

20
21 **Section 84.** Section 37-28-201, MCA, is amended to read:

22 "**37-28-201. License required -- exceptions -- respiratory care not the practice of medicine.** (1)
23 Except as otherwise provided in this chapter, a person may not practice respiratory care or represent
24 ~~himself to be to the public that the person is~~ a respiratory care practitioner unless ~~he is licensed or granted~~
25 ~~a temporary permit under the provisions of 37-28-201 through 37-28-203 and 37-28-206~~ this chapter.

26 (2) This chapter does not prohibit:

27 (a) the practice of respiratory care that is an integral part of study by a student respiratory care
28 practitioner;

29 (b) self-care by a patient or the gratuitous care by a friend or family member who does not ~~hold~~
30 ~~himself out~~ purport to be a respiratory care practitioner; or

1 (c) respiratory care rendered in the course of an emergency.

2 (3) ~~Nothing in this~~ This chapter is not intended to limit, preclude, or interfere with the practice of
3 other persons and health care providers licensed by the appropriate agencies of the state of Montana.

4 (4) ~~Nothing in this~~ This chapter may not be construed to permit the practice of medicine."
5

6 **Section 85.** Section 37-28-202, MCA, is amended to read:

7 "**37-28-202. Licensing requirements -- examination -- fees.** (1) To be eligible for licensure by the
8 board as a respiratory care practitioner, the applicant shall:

9 (a) submit to the board an application fee in an amount established by the board and a written
10 application on a form provided by the board demonstrating that the applicant has completed:

11 (i) high school or the equivalent; and

12 (ii) a respiratory care educational program accredited or provisionally accredited by the American
13 medical association's committee on allied health education and accreditation in collaboration with the joint
14 review committee for respiratory therapy education or their successor organizations; and

15 (b) pass an examination prescribed by the board, ~~unless the examination requirement is waived~~
16 ~~under subsection (2).~~ The board may use the entry-level examination written by the national board for
17 respiratory care or another examination that satisfies the standards of the national commission for health
18 certifying agencies or the commission's equivalent.

19 (2) ~~The board may issue a license to practice respiratory care to an applicant without requiring him~~
20 ~~to pass an examination if the applicant:~~

21 ~~(a) is currently licensed to practice respiratory care under the laws of another state, territory, or~~
22 ~~country if the board considers the qualifications for licensure to be equivalent to those required in this state;~~
23 ~~or~~

24 ~~(b) holds credentials, conferred by the national board for respiratory care, as a certified respiratory~~
25 ~~therapy technician or a registered respiratory therapist and affirms under oath that his credentials have not~~
26 ~~been suspended or revoked.~~

27 ~~(3)~~ A person holding a license to practice respiratory care in this state may use the title "respiratory
28 care practitioner" and the abbreviation "RCP".
29

30 **Section 86.** Section 37-28-203, MCA, is amended to read:

1 **"37-28-203. Renewal of license -- application and fee.** (1) A respiratory care practitioner's license
2 expires ~~annually on May 1~~ on the date set by department rule.

3 (2) A licensee may renew a license by:

4 (a) filing an application with the board on a form approved by the board; and

5 (b) paying a renewal fee in an amount established by the board; ~~and~~

6 ~~(c) documenting the completion of the continuing education requirements prescribed by the board.~~

7 ~~(3) An application for renewal of a license made within 90 days after expiration of the license is~~
8 ~~timely, and the rights and privileges of the applicant remain in effect during that period."~~

9
10 **Section 87.** Section 37-29-201, MCA, is amended to read:

11 **"37-29-201. Board powers and duties.** The board has the following powers and duties:

12 (1) determination of the qualifications of applicants for licensure under this chapter;

13 (2) administration of examinations for licensure under this chapter;

14 (3) collection of fees and charges prescribed in this chapter;

15 (4) issuance, suspension, and revocation of licenses for the practice of dentistry under the
16 conditions prescribed in this chapter; and

17 (5) to adopt, amend, and repeal rules necessary for the implementation, continuation, and
18 enforcement of this chapter, including but not limited to ~~license applications~~, form and display of licenses,
19 license examination format, criteria and grading of examinations, disciplinary standards for licensees, and
20 inspection of dentistry premises and facilities, ~~and investigation of complaints."~~

21
22 **Section 88.** Section 37-29-303, MCA, is amended to read:

23 **"37-29-303. Application for license.** Upon application and payment of the appropriate fee, the
24 board shall issue a license to practice dentistry to any applicant who meets ~~one of~~ the following criteria
25 and scores a passing grade on the examination for licensure:

26 ~~(1) (a) Applications for persons engaged in the practice of dentistry on December 1, 1984, must~~
27 ~~be filed prior to April 1, 1985, and must include the following:~~

28 ~~(i) three signed affidavits by persons other than family members that the applicant has been~~
29 ~~employed in denture technology for at least 5 years prior to application, is able to demonstrate competency~~
30 ~~in intraoral procedures, and has been a resident of the state of Montana for at least 6 months prior to April~~

1 ~~1, 1985; and~~

2 ~~(ii) documentation that the applicant has successfully completed courses approved by the board~~
 3 ~~in head and oral anatomy and physiology, oral pathology, partial denture construction and design, clinical~~
 4 ~~dental technology, radiology, dental laboratory technology, asepsis, clinical jurisprudence, medical~~
 5 ~~emergencies, and cardiopulmonary resuscitation.~~

6 ~~(b) Subsection (1)(a) must be applied retroactively to permit qualification of license applicants~~
 7 ~~initially qualified and applying prior to the appointment and qualification of the original board under this~~
 8 ~~chapter and section 27 of I.M. No. 97.~~

9 ~~(2) Applications filed on or after April 1, 1985, must include:~~

10 ~~(a) (1) documentation that the applicant has completed formal training of not less than 2 years at~~
 11 ~~an educational institution accredited by a national or regional accrediting agency recognized by the Montana~~
 12 ~~state board of regents, the curriculum of which includes courses in head and oral anatomy and physiology,~~
 13 ~~oral pathology, microbiology, partial denture construction and design, clinical dental technology, radiology,~~
 14 ~~dental laboratory technology, asepsis, clinical jurisprudence, and medical emergencies, including~~
 15 ~~cardiopulmonary resuscitation; and~~

16 ~~(b) (2) documentation that the applicant:~~

17 ~~(i) (a) has completed 1 year of internship under the direct supervision of a licensed dentist; or~~

18 ~~(ii) (b) has 3 years of experience as a dentist under licensure in another state or Canada.~~

19 ~~(3) A dentist who has been lawfully licensed or certified by initial licensing provisions in any state~~
 20 ~~or territory that maintains a standard of dentistry which is equal to that of Montana must submit a~~
 21 ~~certificate from the examining body of the state or territory in which he is certified or licensed, attesting~~
 22 ~~to 5 years' practice under the certificate of license. However, no applicant may be licensed under the~~
 23 ~~provisions of this subsection unless the state or territory in which he is licensed or certified extends a like~~
 24 ~~privilege to dentists licensed by the state of Montana to practice dentistry. The board may enter into~~
 25 ~~reciprocal relations with those states or territories whose laws are compatible with this chapter."~~

26

27 **Section 89.** Section 37-29-306, MCA, is amended to read:

28 "**37-29-306. Licensing.** (1) ~~After March 1, 1985, a~~ A dentist license is valid for a period of 1 year
 29 and expires on the date set by department rule. A renewal license must be issued upon timely payment of
 30 the renewal fee and the submission of proof of ~~the completion of not less than 12 hours of continuing~~

1 education, which may include programs sponsored by an educational institution, state denturist licensing
 2 board, or a recognized denturist organization. Subject matter must be pertinent to denturistry as enumerated
 3 in ~~37-29-305(3)~~. Approval of acceptable hours of continuing education must be made by the board. The
 4 board may approve, in one action, all the courses presented by a particular organization if the board is
 5 satisfied that the courses presented by that organization meet the requirements of this section. Hours
 6 pertain to clock hours actually attended by the licensee continued qualification for licensure. In addition,
 7 the denturist shall submit proof that he the denturist holds a current cardiopulmonary resuscitation card.
 8 A license issued effective as of a date other than March 1 will be valid until midnight February 28 next
 9 following the date it was issued. The license shall must bear on its face the address where the licensee's
 10 denturist services will be performed.

11 (2) Applications must be submitted on forms approved by the board and furnished by the
 12 department. Each application must include all other documentations necessary to establish that the
 13 applicant meets the requirements for licensure and is eligible to take the licensure examination. Applications
 14 must be accompanied by the appropriate fees.

15 ~~(3) After April 1, 1985, the board may by rule alter future renewal dates for licenses under this~~
 16 ~~chapter."~~

17

18 **Section 90.** Section 37-29-403, MCA, is amended to read:

19 **"37-29-403. Procedure for making and fitting partial denture.** (1) Prior to making and fitting a
 20 partial denture, a denturist shall:

21 (a) formulate a study model of the intended denture;

22 (b) refer the patient to a dentist, together with the model for tooth cleaning, mouth preparation,
 23 and x-rays, as needed; and

24 (c) make the partial denture and fit it to the existing teeth after the dentist has completed the
 25 procedures listed in subsection (1)(b) and in accordance with the dentist's recommendations.

26 (2) A denturist may not cut, surgically remove, or surgically reduce any tissue or teeth in the
 27 process of fitting a partial denture.

28 ~~(3) A denturist who makes or fits a partial denture in a manner not consistent with this section is~~
 29 ~~subject to the sanctions provided in 37-29-311."~~

30

1 **Section 91.** Section 37-30-301, MCA, is amended to read:

2 "**37-30-301. Certificate required.** ~~(1) Except as provided in subsection (2), a~~ A person may not
3 practice or attempt to practice barbering unless ~~he~~ the person first receives from the department a
4 certificate of registration.

5 ~~(2) The board may authorize the department to grant a temporary certificate to any person qualified~~
6 ~~to take the examination required by 37-30-305 who pays a temporary certification fee prescribed by the~~
7 ~~board. A person holding a temporary certificate may engage in the practice of barbering under the~~
8 ~~supervision of a certified barber for a period of 90 days or until the next examination scheduled by the~~
9 ~~board, whichever is longer."~~

10

11 **Section 92.** Section 37-30-305, MCA, is amended to read:

12 "**37-30-305. Examination.** Except as provided ~~in 37-30-309~~ by rules adopted under [section 20
13 19] to implement [section 4], an applicant for a barber's certificate of registration ~~must~~ shall apply to the
14 department to take the examination for a barber's certificate of registration."

15

16 **Section 93.** Section 37-31-322, MCA, is amended to read:

17 "**37-31-322. Renewal** ~~—continuing education -- delinquency fee.~~ (1) Licenses and certificates may
18 ~~not~~ be issued for ~~no~~ longer than 1 year unless otherwise provided by department rule. Licenses and
19 certificates expire on ~~December 31 unless otherwise provided by rule or~~ the date set by department rule
20 and may be renewed for the next year or renewal period. Licenses and certificates may be renewed by
21 application made ~~prior to December 31 of each year, unless otherwise provided,~~ on or before the renewal
22 date and by the payment of a required renewal fee. Expired licenses and certificates may be renewed under
23 rules made by the board, but the right to renew an expired license or certificate terminates after 10 years
24 of nonpayment. ~~The board may provide by rule for a change in the renewal date and renewal period for the~~
25 ~~manager operator and salon owner category.~~ The renewal fee may not exceed twice the fee for a 2-year
26 renewal or three times the fee for a 3-year renewal and must be as set by the board.

27 ~~(2) In addition to the foregoing requirements for renewal, persons applying for the renewal of~~
28 ~~licenses to teach cosmetology must have fulfilled the following additional requirements:~~

29 ~~(a) During each year, an active teacher, either full time or part time, must have successfully~~
30 ~~completed 15 hours' professional teacher training at a school approved by the board.~~

1 ~~(b) A person holding a license to teach cosmetology but not actively engaged either full time or~~
 2 ~~part time in teaching cosmetology or manicuring during the preceding year may renew the license by paying~~
 3 ~~the required fee. A person holding a license to teach cosmetology but not actively engaged in teaching~~
 4 ~~cosmetology or manicuring either full time or part time for the preceding year or longer and wishing to~~
 5 ~~resume active teaching of cosmetology or manicuring must successfully complete 30 hours' professional~~
 6 ~~teacher training at a school approved by the board before resuming active teaching. However, the foregoing~~
 7 ~~provisions do not prevent the board, under rules it adopts, from permitting a person who holds a license~~
 8 ~~to teach cosmetology and who is not actively engaged either full time or part time in teaching cosmetology~~
 9 ~~or manicuring from teaching as a substitute for an active teacher.~~

10 ~~(3) (2)~~ A fee prescribed by the board must be charged, in addition to other fees fixed by law, for
 11 renewal applications of licenses and certificates made after December 31 of each year or other
 12 predetermined renewal deadline."

13
 14 **Section 94.** Section 37-32-305, MCA, is amended to read:

15 "**37-32-305. Fees -- renewal -- deposit of moneys collected.** (1) The fee for an original electrologist
 16 license ~~shall~~ must be set by the board. The renewal ~~shall be~~ is automatic, unless revoked or suspended for
 17 cause, and the renewal fee ~~shall~~ must be set by the board.

18 (2) The fee for an original electrologist salon license ~~shall~~ fee must be the same as that for
 19 cosmetology salons. The renewal fee ~~shall~~ must be the same as that for cosmetology salons.

20 (3) ~~All licenses~~ A license issued under this chapter ~~expire~~ expires on ~~December 31 and shall the~~
 21 ~~date set by department rule and may~~ be renewed annually. Failure to renew ~~on or before December 31 shall~~
 22 ~~cause~~ subjects the licensee to a late renewal fee prescribed by the board to be added to the regular renewal
 23 fee. The right to renew by payment of the late renewal fee expires after 3 years of nonpayment.

24 (4) All fees or ~~moneys~~ money collected by the department under this chapter ~~shall~~ must be
 25 deposited in the state special revenue fund for the use of the board in administration of the chapter."

26
 27 **Section 95.** Section 37-34-201, MCA, is amended to read:

28 "**37-34-201. Powers and duties of the board -- rulemaking authority.** (1) The board shall:

29 (a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform
 30 the duties described in this section; and

1 (b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within
2 the scope of the board's duties.

3 (2) The board has the authority to administer and enforce all the powers and duties granted
4 statutorily or adopted administratively.

5 (3) The board shall adopt rules to administer this chapter. The rules must include but are not limited
6 to:

7 (a) the development of a license application procedure and acceptable certifications for each
8 category of license;

9 (b) the establishment of license fees commensurate with actual costs;

10 (c) the establishment of criteria for educational requirements that, at a minimum, meet the
11 standards set forth in 37-34-303;

12 (d) the development of procedures for the issuance, renewal, suspension, revocation, and
13 reciprocity of licenses;

14 (e) the adoption of disciplinary standards for licensees;

15 (f) the establishment of ~~investigatory and hearing procedures for processing complaints received~~
16 ~~by the board; and~~

17 (g) ~~the establishment of continuing education requirements of at least 14 hours annually for license~~
18 ~~renewal for clinical laboratory practitioners; and~~

19 ~~(h) a requirement that the supervisor of a clinical laboratory technician be accessible at all times~~
20 ~~that testing is being performed by the technician in order to provide onsite, telephonic, or electronic~~
21 ~~consultation."~~

22

23 **Section 96.** Section 37-34-305, MCA, is amended to read:

24 **"37-34-305. Licensure application procedures.** (1) An applicant shall submit an application for a
25 license to the board upon the forms prescribed and furnished by the board and shall pay an application fee
26 set by the board.

27 (2) Upon receipt of the application and fee, the board shall issue a license for a clinical laboratory
28 scientist, a clinical laboratory specialist, or a clinical laboratory technician to any person who meets the
29 qualifications specified by the board as set forth in rules adopted by the board pursuant to 37-34-201 and
30 37-34-303.

1 (3) A license issued under this chapter must be renewed ~~by May 1 of each year~~ on or before the
2 date set by department rule.

3 (4) Except for the assessment provided in 37-1-101(6), money paid for application, license, and
4 license renewal fees must be deposited in the state special revenue fund for use by the board."
5

6 **Section 97.** Section 37-40-203, MCA, is amended to read:

7 "**37-40-203. Rulemaking power.** (1) The board may adopt rules, consistent with the purposes of
8 this chapter, as it considers necessary.

9 (2) The board's rulemaking and hearing functions ~~shall~~ must be in accordance with the Montana
10 Administrative Procedure Act. The board shall adopt rules:

11 (a) establishing standards of professional conduct in order to maintain a high standard of integrity,
12 dignity, and competency in the profession of sanitarian, including competency in specific fields of
13 sanitation;

14 (b) governing the conduct of matters before the board;

15 (c) governing educational equivalency requirements, as provided in 37-40-302, for registration of
16 sanitarians; and

17 ~~(d) prescribing requirements for continuing education to be met by registered sanitarians in order~~
18 ~~to maintain their professional knowledge and competence and as a condition to continuing in the practice~~
19 ~~of the profession of sanitarian; and~~

20 ~~(e) defining qualifications for sanitarian-in-training status for issuance of the initial annual permit."~~
21

22 **Section 98.** Section 37-40-304, MCA, is amended to read:

23 "**37-40-304. Fees -- renewal.** (1) An applicant for a license shall pay a fee set by the board in an
24 amount commensurate with examination and administrative costs.

25 (2) A registered sanitarian may renew ~~his~~ the license by paying an annual fee and meeting
26 qualifications set by the board ~~and submitting proof of continuing education as prescribed by the board.~~

27 (3) Renewal fees are due ~~July 1 of~~ on or before the renewal ~~year~~ date set by department rule. If
28 the renewal fee is not paid, the license expires. Licenses which have lapsed for failure to pay renewal fees
29 may be reissued under rules adopted by the board."
30

1 **Section 99.** Section 37-47-307, MCA, is amended to read:

2 **"37-47-307. Investigation of applicant -- issuance or denial of license.** (1) The ~~board~~ department
3 shall investigate each applicant for an outfitter's or professional guide's license, ~~and~~ The board shall
4 determine the applicant's qualifications.

5 (2) The board may deny or refuse to issue any new license or to renew any previous license if the
6 applicant does not meet the qualifications stated in this section. In the event that any application for license
7 is denied or refused, the board shall immediately notify the applicant, setting forth in the notice the grounds
8 upon which the denial or refusal is based.

9 (3) Final decision as to issuance of renewal licenses must be made not later than 30 days from the
10 date of receipt of the completed application for renewal and not later than 90 days from the date of receipt
11 of a completed application for a new license.

12 (4) A licensee in good standing is entitled to a new license for the ensuing license year upon
13 complying with the provisions of this chapter and renewal deadlines and fees imposed by rule of the board
14 and completing an application for license renewal on a form provided by the board."

15

16 **Section 100.** Section 37-50-203, MCA, is amended to read:

17 **"37-50-203. Rules of the board.** (1) The board may adopt ~~such~~ rules, consistent with the purposes
18 of this chapter, as it considers necessary.

19 (2) The board shall adopt:

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

23 (b) rules of procedure governing the conduct of matters before the board;

24 (c) rules governing education requirements, as provided in 37-50-305, for issuance of the
25 certificate of a certified public accountant and the license for licensed public accountant;

26 ~~(d) rules prescribing requirements for continuing education to be met by certified public accountants~~
27 ~~and licensed public accountants, in order to maintain their professional knowledge and competence, as a~~
28 ~~condition to continuing in the practice of public accounting. In issuing rules and individual orders regarding~~
29 ~~continuing education, the board in its discretion:~~

30 ~~(i) may, among other things, use or rely upon guidelines and pronouncements of recognized~~

1 educational and professional associations;

2 (ii) ~~may prescribe the content, duration, and organization of courses; and~~

3 (iii) ~~shall take into account the accessibility to applicants of such continuing education as it may~~
 4 ~~require and any impediments to interstate practice of public accounting that may result from differences~~
 5 ~~in such requirements in other states;~~

6 (e) rules governing partnerships and corporations practicing public accounting, including but not
 7 limited to rules concerning their style, name, title, and affiliation with any other organization and
 8 establishing reasonable standards with respect to professional liability insurance and unimpaired capital and
 9 prescribing joint and several liability for torts relating to professional services for shareholders of any ~~such~~
 10 corporation failing to comply with ~~such~~ the standards;

11 (f) ~~internal rules considered necessary to initiate and conduct investigations and protect the~~
 12 ~~confidences of the client of any certified public accountant or licensed public accountant subjected to board~~
 13 ~~disciplinary proceedings;~~

14 (g) ~~(e)~~ rules defining requirements for accounting experience, not exceeding 2 years, for issuance
 15 of the initial annual permit; and

16 (h) ~~(f)~~ rules to enforce the provisions of this chapter, ~~the~~ The purpose of ~~which~~ the rules ~~shall~~ must
 17 be to provide for the monitoring of the profession of public accounting and to maintain the quality of the
 18 accounting profession."

19

20 **Section 101.** Section 37-50-314, MCA, is amended to read:

21 **"37-50-314. Annual permit required -- display.** (1) ~~No~~ A person may not engage in the practice of
 22 public accounting in this state ~~unless he holds~~ without a current annual permit issued by the department.
 23 An annual permit to engage in the practice of public accounting in this state ~~shall~~ must be issued by the
 24 department to a person who holds a current certificate as a certified public accountant or license as a
 25 licensed public accountant and complies with the requirements of this chapter.

26 (2) ~~After the expiration of the 3-year period immediately following the effective date of a board rule~~
 27 ~~establishing continuing education requirements, each application for renewal of a permit by a person who~~
 28 ~~has held his certificate or license for 3 years or more must be accompanied or supported by evidence~~
 29 ~~satisfactory to the board of fulfillment of such requirements during the 3-year period immediately preceding~~
 30 ~~the application.~~

1 ~~(3) The board may in its discretion waive the requirement stated in subsection (2) if the applicant~~
2 ~~agrees to follow a particular program or schedule of continuing education agreeable to the board.~~

3 ~~(4) The board may relax or suspend continuing education requirements for an applicant who~~
4 ~~certifies that he does not intend to engage in the practice of public accounting and for an applicant who~~
5 ~~cannot fulfill the requirement due to individual hardship.~~

6 ~~(5) Subject to subsections (3) and (4), the board may revoke, suspend, or refuse to renew the~~
7 ~~permit of an applicant who fails to furnish evidence of having met the continuing education requirements~~
8 ~~established by the board.~~

9 ~~(6) (2)~~ (2) The current annual permit to engage in the practice of public accounting must be
10 prominently displayed for public inspection."

11
12 **Section 102.** Section 37-50-317, MCA, is amended to read:

13 **"37-50-317. Certificate, license, and permit expiration -- renewal fees.** (1) Certificates, licenses,
14 and permits issued by the board expire on ~~December 31 of each year~~ the date set by department rule.

15 (2) Certificates and licenses must be renewed by the department upon payment of the annual
16 renewal fee and upon compliance with requirements prescribed by the board.

17 (3) Permits must be renewed by the department upon payment of the annual renewal fee and upon
18 compliance with the ~~continuing education~~ requirements prescribed by the board."

19
20 **Section 103.** Section 37-51-204, MCA, is amended to read:

21 **"37-51-204. Educational programs and continuing education.** (1) The board may, subject to
22 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or
23 institutes and incur necessary expenses in this connection.

24 (2) The board may assist libraries and educational institutions in sponsoring studies and programs
25 for the purpose of raising the standards of the real estate business and the competency of licensees.

26 ~~(3) The board may prescribe by rule continuing education requirements for all licensees, not to~~
27 ~~exceed 15 classroom or equivalent hours in any 2-year period, including proof of conformance, but except~~
28 ~~as provided in 37-51-302 the board may not require examination of licensees."~~

29
30 **Section 104.** Section 37-51-306, MCA, is amended to read:

1 **"37-51-306. Transactions with nonresidents and with nonlicensed brokers or salesmen –**
 2 **reciprocity -- consent to legal process.** (1) A licensed broker may not employ or compensate, directly or
 3 indirectly, a person for performing the acts regulated by this chapter who is not a licensed broker or
 4 licensed salesman. However, a licensed broker may pay a commission to a licensed broker of another state
 5 if the nonresident broker has not conducted and does not conduct in this state a service for which a fee,
 6 compensation, or commission is paid. ~~This subsection does not limit the next subsection.~~

7 ~~(2) A person who is licensed as a broker or a salesman in another state may obtain a license as~~
 8 ~~a broker or as a salesman in this state by complying with this chapter and with the rules of the board.~~
 9 ~~However, this section applies only to licensees of other states that offer the same privileges to the licensees~~
 10 ~~of this state. A nonresident licensee need not maintain a place of business in this state. The board may:~~

11 ~~(a) authorize the department to license a nonresident without examination if he files with the~~
 12 ~~department an authorized or certified copy of the license issued in another state and pays to the department~~
 13 ~~the same license fee as is required for obtaining a license in this state;~~

14 ~~(b) refuse to authorize the department to issue a license to an applicant who is not a resident of~~
 15 ~~this state; and~~

16 ~~(c) enter into reciprocal agreements with other states.~~

17 ~~(3)~~ A nonresident licensee shall file an irrevocable written consent that legal actions arising out of
 18 a commenced or completed transaction may be commenced against the nonresident licensee in a county
 19 of this state that may be appropriate and designated by Title 25, chapter 2, part 1. The consent must
 20 provide that service of summons in this action may be served on the department for and on behalf of the
 21 nonresident licensee, and this service is sufficient to give the court jurisdiction over the licensee conducting
 22 a transaction in a county. The consent must be acknowledged and, if made by a corporation, must be
 23 authenticated by its seal."

24
 25 **Section 105.** Section 37-51-311, MCA, is amended to read:

26 **"37-51-311. Fees -- deposit of fees.** ~~(1)~~ The fees prescribed by the board shall must be charged
 27 by the department and paid into the state special revenue fund for the use of the board, subject to
 28 37-1-101(6).

29 ~~(2) The board shall charge an annual fee from a licensee who wishes to be placed in an inactive~~
 30 ~~status. A licensee who is placed in an inactive status by the board and who has paid the required fee need~~

1 ~~not pay any fee assessed by the board for the purpose of funding the real estate recovery account during~~
2 ~~the period the licensee remains in inactive status."~~

3
4 **Section 106.** Section 37-53-211, MCA, is amended to read:

5 **"37-53-211. Approval or disapproval of application or registration.** (1) Registration of a timeshare
6 offering is effective upon written notice of approval of the application by the board or upon the passage
7 of 30 calendar days after filing of a completed application if not approved or denied prior to that time.

8 (2) The board may issue an order, ~~subject to 37-53-503,~~ denying, suspending, or revoking any
9 application or registration if the board finds that the order is in the public interest and that:

10 (a) the application or registration is incomplete or contains a statement that is false or misleading
11 with respect to any material fact;

12 (b) any provision of this chapter or any rule or order lawfully issued under this chapter has been
13 violated;

14 (c) the activities of the developer include or would include activities that are illegal; or

15 (d) the timeshare offering has worked or would tend to work a fraud on purchasers.

16 (3) The board shall promptly notify the applicant or registrant of any order denying, suspending,
17 or revoking registration and of the applicant's or registrant's right to request a hearing within 20 days of
18 receipt of notification. If the applicant or registrant does not request a hearing, the order remains in effect
19 until the board modifies or vacates it."

20
21 **Section 107.** Section 37-53-302, MCA, is amended to read:

22 **"37-53-302. Denial, suspension, or revocation of license or application.** The board may by an
23 order, ~~subject to 37-53-503,~~ deny, suspend, or revoke a timeshare salesperson's or timeshare broker's
24 license or application for license if the board finds that the order is in the public interest and that the
25 applicant or licensee:

26 (1) has filed an application for licensure and personal disclosure statement as a timeshare
27 salesperson or timeshare broker that is incomplete in any material respect or contains any statement that
28 is, in the light of the circumstances under which it was made, false or misleading with respect to any
29 material fact;

30 (2) has violated or failed to comply with any provision of this chapter, rules adopted under this

1 chapter, or Title 37, chapter 51;

2 (3) has been convicted of a felony involving theft, fraud, or any consumer protection statute or a
3 felony involving moral turpitude and related to the occupation of timeshare salesperson or timeshare broker;

4 (4) is permanently or temporarily enjoined by a court from engaging in or continuing any conduct
5 or practice involving an aspect of the timeshare business;

6 (5) has engaged in dishonest or unethical practices in the timeshare business; or

7 (6) has not complied with any condition imposed by the board or is not qualified on the basis of
8 knowledge of the timeshare industry or this chapter."

9

10 **Section 108.** Section 37-54-105, MCA, is amended to read:

11 "**37-54-105. Powers and duties of board.** The board shall:

12 (1) adopt rules to implement and administer the provisions of this chapter;

13 (2) establish and collect fees commensurate with the costs of licensure and certification and
14 renewal of a license or certificate;

15 (3) make available application forms for licensure and certification within 15 days of the first
16 meeting of the board;

17 (4) establish minimum requirements for education, experience, and examination for licensure and
18 certification as set out by the appraisal qualification board of the appraisal foundation;

19 (5) receive applications for examination from qualified applicants, prescribe and administer
20 examinations to qualified applicants, and determine the acceptable level of performance on examinations;

21 (6) receive and review applications for licensure and certification and issue licenses and certificates;

22 (7) review periodically the standards for development and communication of appraisals and adopt
23 rules explaining and interpreting the standards;

24 (8) retain all applications and other records submitted to it;

25 (9) maintain a registry of the names and addresses of licensees and certificate holders;

26 (10) establish disciplinary procedures for reprimand, suspension, or revocation of a license and
27 certificate;

28 (11) adopt by rule standards of professional appraisal practice in this state;

29 (12) reprimand, suspend, revoke, or refuse to renew the license or certificate of a person who has
30 violated the standards established for licensed and certified real estate appraisers; and

1 ~~(13) establish criteria for courses and seminars consistent with the continuing education~~
 2 ~~requirements set out in 37-54-210 and 37-54-310; and~~

3 ~~(14) perform other duties necessary to implement this chapter."~~

4
 5 **Section 109.** Section 37-54-210, MCA, is amended to read:

6 "**37-54-210. License renewal** ~~—continuing education requirements.~~ (1) A real estate appraiser's
 7 license expires on ~~March 31 following the date of issuance or renewal and is invalid thereafter~~ the date set
 8 by department rule.

9 (2) A licensee may renew a license, ~~other than a temporary permit issued under 37-54-406,~~ by
 10 filing an application with the board on a form approved by the board, paying a renewal fee prescribed by
 11 the board, and meeting all requirements of this ~~section~~ chapter.

12 (3) In renewing a license, the board shall ~~assure~~ ensure that the licensee has a working knowledge
 13 of:

14 (a) current real estate appraisal theories; and

15 (b) practices and techniques that will enable the licensee to provide competent independent
 16 appraisal service under the authority of the license.

17 ~~(4) An application for renewal must include evidence satisfactory to the board that within the~~
 18 ~~3-year period immediately following the date of issuance of the license and within each 3-year period~~
 19 ~~thereafter, the licensee has completed at least 45 classroom hours of instruction in courses or seminars~~
 20 ~~approved by the board, at least 15 hours of which must be related to standards of professional appraisal~~
 21 ~~practice. Continuing education hours must be credited to the 3-year period during which the instruction~~
 22 ~~occurred and may not be carried over to a subsequent 3-year period."~~

23
 24 **Section 110.** Section 37-54-211, MCA, is amended to read:

25 "**37-54-211. Late renewal of license.** (1) A license that is not renewed within 1 year of the most
 26 recent renewal date automatically terminates. A licensee may renew the license within the 1-year period
 27 from the date of most recent renewal by:

28 (a) filing with the board an application for late renewal on a form approved by the board;

29 (b) satisfying the ~~continuing education~~ requirements ~~of 37-54-210~~ for continued licensure; and

30 (c) paying a late renewal fee prescribed by the board.

1 (2) The board may refuse to renew a license if the licensee has continued to perform independent
2 appraisal services as a licensed real estate appraiser following expiration of the license."

3
4 **Section 111.** Section 37-54-302, MCA, is amended to read:

5 **"37-54-302. Certification process -- fees.** (1) An application for examination for certification,
6 original certification, or renewal of certification must be made in writing to the board on forms approved
7 by the board.

8 (2) A fee established by the board by rule must accompany the application.

9 (3) When an applicant files an application for original certification or renewal of certification, the
10 applicant shall sign a pledge ~~that he will~~ to comply with the standards of professional appraisal practice
11 established for certified real estate appraisers under 37-54-403. ~~He shall also~~ and affirm that ~~he~~ the
12 applicant understands the types of misconduct for which disciplinary action may be initiated ~~against him~~
13 under 37-54-402.

14 (4) To be eligible for original certification as a real estate appraiser, an applicant shall:

15 (a) specify the class or classes of certification for which the applicant is applying and provide
16 evidence satisfactory to the board that ~~he~~ the applicant has the education required for the class or classes
17 of certification for which ~~he is applying~~ application is made; and

18 (b) pass an examination prescribed by the board.

19 (5) A certificate issued under 37-54-305 must bear the signatures or facsimile signatures of the
20 members of the board and a certificate number assigned by the board."

21
22 **Section 112.** Section 37-54-310, MCA, is amended to read:

23 **"37-54-310. Renewal of certificate —~~continuing education requirements.~~** (1) A certificate issued
24 under 37-54-305 expires on ~~March 31 following the date of issuance or renewal and is invalid thereafter~~
25 the date set by department rule.

26 (2) A certificate may be renewed upon payment of a renewal fee and by meeting all requirements
27 for renewal.

28 ~~(3) (a) The certificate holder shall produce evidence satisfactory to the board that during the 3 year~~
29 ~~period immediately following the date of issuance of the certificate, and during each 3 year period~~
30 ~~thereafter, the certified real estate appraiser has:~~

1 ~~(i) completed at least 45 classroom hours of instruction in courses or seminars approved by the~~
 2 ~~board, at least 15 hours of which must be related to standards of professional appraisal practice;~~

3 ~~(ii) completed an education program determined by the board to be equivalent to the courses and~~
 4 ~~seminars approved under subsection (3)(a)(i); or~~

5 ~~(iii) participated, other than as a student, in an education program approved by the board that~~
 6 ~~relates to the theory and technique of real property appraisal.~~

7 ~~(b) Continuing education hours must be credited to the 3 year period during which the instruction~~
 8 ~~occurred and may not be carried over to a subsequent 3 year period.~~

9 ~~(4) (3) An applicant for renewal shall state the class of certification previously held and presently~~
 10 ~~sought."~~

11
 12 **Section 113.** Section 37-54-311, MCA, is amended to read:

13 **"37-54-311. Late renewal of certificate.** (1) A certificate that is not renewed within 1 year of the
 14 most recent renewal date automatically terminates. A certificate holder may renew the certificate within
 15 the 1-year period from the date of most recent renewal by:

- 16 (a) filing with the board an application for late renewal on a form approved by the board;
 17 (b) satisfying the ~~continuing education requirements of 37-54-310~~ set by law; and
 18 (c) paying a late renewal fee prescribed by the board.

19 (2) The board may refuse to renew a certificate if the certificate holder has continued to perform
 20 independent appraisal services in this state following expiration of the certificate."

21
 22 **Section 114.** Section 37-60-202, MCA, is amended to read:

23 **"37-60-202. Rulemaking power.** The board shall adopt and enforce rules:

24 (1) specifying the form of and procedure to be used in granting, denying, suspending, or revoking
 25 any license or identification card;

26 (2) fixing the qualifications of resident managers, qualifying agents, licensees, and holders of
 27 identification cards, in addition to those prescribed in this chapter, necessary to promote and protect the
 28 public welfare;

29 (3) establishing, in accordance with 37-1-134, application and examination fees for original or
 30 renewal licenses and identification cards, and providing for refunding of any ~~such~~ fees;

1 (4) prohibiting the establishment of branch offices of any licensee, except a proprietary security
2 organization, without approval by the board, establishing qualification requirements and license fees for
3 those offices;

4 (5) for the certification of private investigator and private security guard training programs,
5 including the certification of firearms training programs and firearms instructors;

6 (6) for the approval of weapons;

7 (7) requiring the maintenance of records;

8 (8) requiring licensees to file ~~such an~~ insurance policy or proof of financial responsibility as the
9 board considers necessary with the board; and

10 ~~(9) defining "unprofessional conduct" for the purposes of removal from the board and suspension~~
11 ~~or revocation of licenses and identification cards;~~

12 ~~(10) establishing the expiration and renewal periods for licenses and identification cards;~~

13 ~~(11) for the temporary employment of persons without the required licenses or identification cards;~~

14 ~~(12) providing for the issuance of probationary and temporary licenses for contract security~~
15 ~~companies and private investigators;~~

16 ~~(13)~~ (9) providing for the issuance of probationary identification cards for private investigators who
17 do not meet the requirements for age, employment experience, and written examination; ~~and~~

18 ~~(14) providing for the application of administrative fines and penalties for minor infractions of this~~
19 ~~chapter and supporting rules."~~

20
21 **Section 115.** Section 37-60-301, MCA, is amended to read:

22 **"37-60-301. License required.** (1) Except as provided in 37-60-105, it is unlawful for any person
23 to act as or perform the duties as defined in 37-60-101 of a contract security company or proprietary
24 security organization, a private investigator, or a private security guard without having first obtained a
25 license from the board. Those persons licensed on April 18, 1983, shall retain their current licensure status
26 and ~~must~~ shall renew their licenses on the renewal date as prescribed by the ~~board~~ department.

27 (2) It is unlawful for any unlicensed person to act as, pretend to be, or represent himself to the
28 public that the person as being is licensed as a private investigator, a contract security company, a
29 proprietary security organization, or a private security guard.

30 (3) A person who knowingly engages an unlicensed private investigator, private security guard,

1 or contract security company is guilty of a misdemeanor punishable under 37-60-411."

2
3 **Section 116.** Section 37-60-312, MCA, is amended to read:

4 **"37-60-312. Annual renewal.** (1) Licenses and identification cards issued under this chapter expire
5 at midnight on the dates prescribed by ~~the board~~ department rule if not, in each instance, renewed. To
6 renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire,
7 apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

8 (2) The board may refuse to renew a license or identification card for any reason for which it could
9 refuse to grant an original application or suspend or revoke any license or identification card ~~under~~
10 ~~37-60-324.~~"

11
12 **Section 117.** Section 37-60-411, MCA, is amended to read:

13 **"37-60-411. Penalties -- investigation -- enforcement -- review.** (1) Any person who violates any
14 of the provisions of this chapter or who conspires with another person to violate any of the provisions of
15 this chapter relating to licensure is guilty of a misdemeanor punishable by a fine of not more than \$1,000,
16 ~~or~~ by imprisonment of not more than 1 year, or by both ~~such~~ fine and imprisonment.

17 (2) The board shall:

18 (a) gather evidence of violations of this chapter, and of any rule established pursuant to this
19 chapter, by persons engaged in a business subject to licensure under this chapter who fail to obtain
20 licenses; and

21 (b) furnish that evidence to prosecuting officers of any county or city.

22 (3) The prosecuting officer of any county or city shall prosecute all violations of this chapter
23 occurring within ~~his~~ the prosecutor's jurisdiction.

24 ~~(4) (a) If upon investigation the board considers it appropriate, it may issue a citation to a licensee.~~
25 ~~The citation may contain:~~

26 ~~(i) an order of abatement fixing a reasonable time for abatement of the violation; and~~

27 ~~(ii) assessment of an administrative fine in an amount not to exceed \$500 for each violation of this~~
28 ~~chapter.~~

29 ~~(b) A citation or fine assessment must inform the licensee that if he contests the finding of a~~
30 ~~violation, a review by the board may be requested in accordance with the Montana Administrative~~

1 Procedure Act. If a review is not requested pursuant to this section, payment of the fine does not constitute
 2 an admission of the violation charged.

3 ~~(c) If the licensee neither requests a review nor pays the assessed fine within 20 days of notice~~
 4 ~~of the citation, the board shall suspend the license of such person 30 days after the notice of citation.~~

5 ~~(d) All fines collected pursuant to this section must be deposited in the state special revenue fund~~
 6 ~~for use of the board."~~

7

8 **Section 118.** Section 37-65-306, MCA, is amended to read:

9 **"37-65-306. Annual renewal -- fee —~~continuing education.~~** ~~(1)~~ A licensed architect in this state
 10 who desires to continue the practice of his the profession shall annually, ~~during the month of July, during~~
 11 ~~the time he continues in this practice~~ on or before the renewal date set by department rule:

12 ~~(a) (1)~~ pay to the department a reasonable fee as prescribed by the board; and

13 ~~(b) (2)~~ present evidence to the board of ~~compliance with any continuing education requirements~~
 14 ~~imposed by the board~~ continued qualification for licensure.

15 ~~(2) (a) The board may by rule prescribe continuing education requirements for license renewal. If~~
 16 ~~the board prescribes continuing education requirements, the rules shall provide for the method of~~
 17 ~~compliance, such as:~~

18 ~~(i) attendance at approved classroom or seminar type instruction programs; or~~

19 ~~(ii) passing an examination.~~

20 ~~(b) If classroom or seminar type instruction is required, the board shall by rule:~~

21 ~~(i) make determinations as to approved programs; and~~

22 ~~(ii) prescribe the number of hours required for compliance.~~

23 ~~(c) If an examination is required, the board shall by rule prescribe:~~

24 ~~(i) the subjects of the examination; and~~

25 ~~(ii) the grade required to pass the examination."~~

26

27 **Section 119.** Section 37-66-307, MCA, is amended to read:

28 **"37-66-307. Annual renewal -- withdrawal -- deposit of fees.** (1) Certification of licensure or
 29 renewal of registration ~~expire~~ expires on the last day of June following their issuance or renewal date set
 30 by department rule. Renewal may be effected ~~during the month of June~~ on or before the renewal date by

1 payment to the department of the required fee. The board shall issue current renewal registration to each
2 landscape architect promptly upon payment of the annual renewal registration fee.

3 (2) Any registrant in good standing, upon ceasing to practice landscape architecture, ~~may suspend~~
4 ~~his license by giving~~ shall give written notice to the board, and the board shall suspend the license.
5 ~~Thereafter, he~~ The person may resume practice upon payment of the then-current fee and upon approval
6 by the board.

7 (3) All fees received under the provisions of this chapter ~~shall~~ must be deposited in the state special
8 revenue fund by the department. The ~~moneys~~ money collected ~~shall~~ must be used by the department to
9 carry out the purpose, duties, and responsibilities of the chapter, subject to 37-1-101(6)."

10
11 **Section 120.** Section 37-67-202, MCA, is amended to read:

12 "**37-67-202. Rulemaking and subpoena power.** (1) The board ~~shall have the power to~~ may adopt
13 ~~and amend all rules, including rules of procedure, not inconsistent with the constitution and laws of this~~
14 ~~state, which may be~~ reasonably necessary for the proper performance of its duties and the regulation of
15 the proceedings before it.

16 (2) ~~In carrying into effect the provisions of this chapter, the board, under the hand of its chairman~~
17 ~~and the seal of the board, may subpoena witnesses and compel their attendance and also may require the~~
18 ~~production of books, papers, documents, etc., in a case involving the revocation of registration or practicing~~
19 ~~or offering to practice without registration. Any member of the board may administer oaths or affirmations~~
20 ~~to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued or shall~~
21 ~~refuse to testify or produce any books, papers, or documents, the board may present its petition to the~~
22 ~~district court setting forth the facts, and thereupon such court shall, in a proper case, issue its subpoena~~
23 ~~to such person requiring his attendance before such authority and there to testify or to produce such books,~~
24 ~~papers, and documents as may be deemed necessary and pertinent by the board. Any person failing or~~
25 ~~refusing to obey the subpoena or order of the court may be proceeded against in the same manner as for~~
26 ~~refusal to obey any other subpoena or order of said court."~~

27
28 **Section 121.** Section 37-67-320, MCA, is amended to read:

29 "**37-67-320. Practice by partnerships and corporations.** (1) The practice of or offer to practice
30 engineering or land surveying by registered professional engineers or registered professional land surveyors

1 organized as a partnership or incorporated as a professional corporation under the provisions of the
2 professional corporations law of this state or under the provisions of a similar law of any other state is
3 permitted in this state if all the partners of the partnership or each officer and shareholder of the
4 professional corporation are registered under or exempt from this chapter.

5 (2) The practice of or offer to practice engineering or land surveying by a partnership other than
6 one provided for in subsection (1) or by a corporation, other than a professional corporation, is permitted
7 in this state if:

8 (a) all officers, employees, and agents of a partnership or corporation who will perform the practice
9 of engineering or land surveying within this state for the partnership or corporation are registered under this
10 chapter;

11 (b) each person in responsible charge of the activities of a partnership or corporation, which
12 activities constitute the practice of engineering or land surveying, is a professional engineer or professional
13 land surveyor registered in this state or a person authorized to practice engineering or land surveying as
14 provided in this chapter;

15 (c) the partnership or corporation has been issued a certificate of authorization by the board as
16 provided in subsection (3);

17 (d) the partnership or corporation is jointly and severally responsible with and for the conduct or
18 acts of its agents, employees, or officers concerning any professional engineering or land surveying services
19 performed or to be executed in this state; an individual practicing engineering or land surveying is not
20 relieved of the responsibility for ~~his~~ the individual's conduct or acts performed by reason of ~~his~~ the
21 individual's employment by or relationship with the partnership or corporation; and

22 (e) all final drawings, specifications, plans, reports, or other engineering or land surveying papers
23 or documents involving the practice of engineering or land surveying, when issued, are dated and bear the
24 seals and signatures of the professional engineers or professional land surveyors registered under this
25 chapter by whom or under whose responsible charge they were prepared.

26 (3) A partnership or corporation desiring a certificate of authorization or the renewal ~~thereof~~ of a
27 certificate shall file a written application with the board listing the names and addresses of all partners of
28 the partnership or officers and directors of the corporation and the names and addresses of all employees
29 who are registered to practice engineering or land surveying in this state and who are or will be in
30 responsible charge of any engineering or land surveying in this state by the partnership or corporation,

1 together with any other information the board requires. Upon the receipt of an application and of a fee in
 2 an amount established by the board for the initial certificate or biennial renewal ~~thereof~~, the board shall
 3 issue to the partnership or corporation a certificate of authorization or a renewal ~~thereof, which certificate~~
 4 ~~of authorization~~ that may not be transferred. If the board finds an error in an application or that facts exist
 5 which would entitle the board to suspend or revoke a certificate if issued to the applicant, the board shall
 6 deny the application. If a change occurs in the information submitted on the application of a partnership
 7 or corporation within the term of the authorization, the partnership or corporation shall file with the board
 8 a written report listing the change within 30 days after the change occurs. The provisions of this chapter
 9 concerning issuance, expiration, renewal, and reissuance of certificates of registration of individuals, except
 10 for 37-67-315(2), apply to certificates of authorization issued to partnerships and corporations under this
 11 subsection. Partnerships or corporations are subject to disciplinary proceedings and penalties and the board
 12 may reprimand them or revoke, suspend, or refuse to renew their certificates of authorization for cause in
 13 the same manner and to the same extent as provided in ~~37-67-331~~ Title 37, chapter 1. "Registrant" and
 14 ~~"certificate of registration" in 37-67-331 include~~ includes any partnership or corporation holding a certificate
 15 of authorization issued under this subsection, and "certificate of registration" includes ~~to such the~~ certificate
 16 of authorization."

17
 18 **Section 122.** Section 37-68-201, MCA, is amended to read:

19 **"37-68-201. Organization -- meetings -- quorum -- rulemaking power -- seal.** (1) Each July, the
 20 board shall elect from its membership a president, ~~vice president~~ vice president, and secretary-treasurer.

21 (2) The board shall meet quarterly and at ~~such~~ other times it considers necessary.

22 (3) A majority of the members of the board shall constitute a quorum for transaction of business.

23 (4) The board may:

24 (a) adopt rules for the administration of this chapter, for the licensing of electrical contractors, ~~for~~
 25 ~~continuing education~~, and for the examination and licensing of master and journeyman electricians;

26 (b) adopt a seal;

27 (c) cause the prosecution and enjoinder of persons violating this chapter."

28
 29 **Section 123.** Section 37-68-310, MCA, is amended to read:

30 **"37-68-310. License renewal every three years.** Licenses of residential electricians, journeyman

1 electricians, or master electricians, unless they have been suspended or revoked by the board, must be
 2 renewed for a period of 3 years by the department on application for renewal made to the department ~~prior~~
 3 ~~to July 15 of the year in which the prior license expired~~ on or before the renewal date set by department
 4 rule and on the payment of a renewal fee. If application for renewal is not made ~~prior to July 15~~ on or
 5 before the renewal date, an additional fee prescribed by ~~the board~~ rule must be paid ~~because of the~~
 6 ~~delinquency in renewal. All applications for renewal must be made prior to August 15 of the year in which~~
 7 ~~the prior license expired, otherwise the license is forfeited and the applicant is required to pass the~~
 8 ~~examination and pay the fees required of applicants for original licenses."~~

9
 10 **Section 124.** Section 37-68-312, MCA, is amended to read:

11 **"37-68-312. Electrical contractor's license -- application -- issuance -- fees -- renewal.** Each
 12 electrical contractor shall, on or before July 1 of the year in which the prior license expired the date set by
 13 department rule, file with the department an application in writing for each firm operated by the electrical
 14 contractor in this state ~~to obtain a~~ for renewal of the license. A license may not be issued or renewed until
 15 the applicant meets the licensure requirements and has paid to the department a license fee set by the
 16 board for each firm operated by the electrical contractor. Licenses must bear the date of ~~issue~~ issuance or
 17 renewal. ~~Each original license expires on the July 1 that is subsequent to the date of issuance, as~~
 18 ~~determined by the board. An electrical contractor licensed under this chapter is entitled to have a~~ A license
 19 must be renewed for the ensuing a 3-year period by upon payment to the department of the license fee on
 20 or before the renewal date of expiration of the license and by and upon meeting the requirements set by
 21 the board rule."

22
 23 **Section 125.** Section 37-71-212, MCA, is amended to read:

24 **"37-71-212. Investigation of applicant -- issuance of license.** ~~† The department shall be the duty~~
 25 ~~of the department to~~ investigate and determine ~~the~~ a license applicant's fitness to act in the capacity of
 26 public contractor ~~as defined in this chapter, and no~~ may not issue a license shall be issued to such applicant
 27 ~~until the expiration of 10 days from and after the filing of such~~ the application. The license ~~so issued in~~
 28 ~~pursuance of the first application shall entitle the licensee to act as a public contractor within this state,~~
 29 ~~subject to the limitations of such license, until the expiration of the then current calendar year~~ must be
 30 renewed each year on or before the renewal date set by department rule."

1 **Section 126.** Section 37-71-213, MCA, is amended to read:

2 "**37-71-213. Renewal -- waiting period after cancellation.** (1) Any license issued under the
3 provisions of this chapter may be renewed for each successive calendar year by obtaining from the
4 department a certificate of renewal thereof. For the purpose of obtaining ~~such a~~ certificate of renewal, the
5 licensee shall file with the department an application ~~therefor~~, stating the field of contracting and class of
6 license applied for and containing at least the same information as that required in the application for the
7 original license. The application for ~~such certificate of~~ renewal must be made to the department on or before
8 ~~March 1 of each successive calendar year, and such renewal certificate shall be good for the then current~~
9 ~~calendar year~~ the renewal date set by department rule.

10 (2) At the time of filing the application for a certificate of renewal, the applicant shall pay to the
11 department a license fee equal to 50% of the license fee for the original license, provided that if any
12 applicant for a certificate of renewal shall apply for a renewal under a different field or class from the
13 license ~~therebefore~~ issued to him the applicant, ~~such the~~ new license ~~shall~~ may be issued only upon the
14 same showing and under the same terms and conditions and upon payment of the same fee required for
15 the issuance of an original license.

16 (3) All certificates of renewal ~~wherein in which~~ the applicant does not apply for a change in the
17 field or class of license ~~shall~~ must be issued by the department to the applicant ~~forthwith~~ when the
18 application is filed and the license renewal fee is paid.

19 (4) After cancellation of a license, ~~such the~~ licensee ~~shall~~ may not be relicensed during the current
20 calendar year in which the offense was committed."
21

22 **NEW SECTION. Section 127. Repealer.** Sections 37-3-322, 37-4-306, 37-4-321, 37-4-323,
23 37-4-324, 37-4-404, 37-5-303, 37-5-304, 37-5-311, 37-6-310, 37-7-203, 37-7-304, 37-7-305, 37-7-311,
24 37-7-607, 37-7-608, 37-7-710, 37-8-407, 37-8-417, 37-8-430, 37-8-433, 37-8-441, 37-8-442, 37-9-303,
25 37-9-311, 37-10-204, 37-10-303, 37-10-308, 37-10-311, 37-11-202, 37-11-307, 37-11-309, 37-11-320,
26 37-11-321, 37-12-303, 37-12-321, 37-13-305, 37-13-311, 37-13-312, 37-13-313, 37-13-314,
27 37-14-304, 37-14-321, 37-15-305, 37-15-309, 37-15-321, 37-16-406, 37-16-411, 37-16-414,
28 37-17-304, 37-17-311, 37-17-318, 37-18-304, 37-18-311, 37-19-305, 37-19-311, 37-19-312,
29 37-19-316, 37-19-404, 37-20-409, 37-22-306, 37-22-311, 37-22-312, 37-23-204, 37-23-207,
30 37-23-211, 37-23-212, 37-24-305, 37-24-307, 37-24-309, 37-25-306, 37-26-404, 37-26-408,

1 37-26-409, 37-26-410, 37-27-213, 37-27-216, 37-28-206, 37-28-210, 37-28-301, 37-29-311,
 2 37-29-312, 37-29-313, 37-29-321, 37-30-306, 37-30-309, 37-30-502, 37-31-306, 37-31-307,
 3 37-31-332, 37-32-303, 37-32-310, 37-34-304, 37-34-306, 37-34-308, 37-40-303, 37-40-311,
 4 37-47-341, 37-47-342, 37-47-343, 37-47-346, 37-50-321, 37-50-322, 37-50-336, 37-51-206,
 5 37-51-321, 37-51-322, 37-51-604, 37-51-606, 37-53-501, 37-53-502, 37-53-503, 37-54-401,
 6 37-54-402, 37-54-406, 37-54-417, 37-60-212, 37-60-307, 37-60-308, 37-60-321, 37-60-322,
 7 37-62-101, 37-62-102, 37-62-201, 37-62-202, 37-62-203, 37-62-204, 37-62-205, 37-62-206,
 8 37-62-207, 37-62-208, 37-62-209, 37-62-212, 37-62-213, 37-62-301, 37-62-302, 37-62-303,
 9 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323, 37-67-312, 37-67-313,
 10 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309, 37-69-320, 37-69-322, 39-5-101,
 11 39-5-102, 39-5-103, 39-5-104, 39-5-105, 39-5-201, 39-5-202, 39-5-203, 39-5-204, 39-5-205, 39-5-206,
 12 39-5-207, 39-5-208, 39-5-209, 39-5-301, 39-5-302, 39-5-303, 39-5-304, 39-5-305, 39-5-306, 39-5-307,
 13 39-5-308, 39-5-309, 39-5-310, 39-5-311, 39-5-312, 39-5-401, 39-5-402, 39-5-403, 39-5-404, 39-5-405,
 14 and 39-5-406, MCA, are repealed.

15
 16 **NEW SECTION. Section 128. Codification instruction.** [Sections 1 through ~~20~~ 19] are intended
 17 to be codified as an integral part of Title 37, chapter 1.

18
 19 **NEW SECTION. SECTION 129. COORDINATION INSTRUCTION.** (1) IF SENATE BILL NO. 95 IS
 20 PASSED AND APPROVED AND IF IT INCLUDES A SECTION THAT AMENDS 37-16-202, THEN [SECTION
 21 58 OF THIS ACT], AMENDING 37-16-202, IS VOID.

22 (2) IF SENATE BILL NO. 95 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION THAT
 23 AMENDS 37-16-406, THEN THE PORTION OF [SECTION 127] THAT REPEALS 37-16-406 IS VOID.

24 (3) IF SENATE BILL NO. 171 IS PASSED AND APPROVED AND IF IT INCLUDES SECTIONS THAT
 25 AMEND 37-11-307 AND 37-11-309, THEN THE PORTION OF [SECTION 127] THAT REPEALS 37-11-307
 26 AND 37-11-309 IS VOID.

27
 28 **NEW SECTION. Section 130. Severability.** If a part of [this act] is invalid, all valid parts that
 29 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
 30 applications, the part remains in effect in all valid applications that are severable from the invalid

1 applications.

2

3 NEW SECTION. Section 131. Saving clause. [This act] does not affect rights and duties that
4 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
5 section].

6

7 NEW SECTION. Section 132. Applicability. [This act] applies to licenses applied for, complaints
8 submitted, and proceedings begun after [the effective date of this section].

9

10 NEW SECTION. Section 133. Effective dates. (1) Except as provided in subsection (2), [this act]
11 is effective October 1, 1995.

12 (2) [Sections ~~20, 21~~ 19, 20, and this section] are effective on passage and approval for the
13 purpose of drafting rules that will be adopted on or after October 1, 1995, and are effective for all other
14 purposes on October 1, 1995.

15

-END-

1 HOUSE BILL NO. 518

2 INTRODUCED BY TUSS, HERTEL, HARPER, PAVLOVICH, LARSON, MILLS, MCGEE, FORBES,
3 BENEDICT, ANDERSON, ECK, BARTLETT, COCCHIARELLA, SQUIRES, WELDON, BECK, MASOLO

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING UNIFORM PROCEDURES FOR THE LICENSING,
6 DISCIPLINE, AND GENERAL REGULATION OF PROFESSIONS AND OCCUPATIONS REGULATED BY
7 LICENSING BOARDS ADMINISTRATIVELY ATTACHED TO THE DEPARTMENT OF COMMERCE;
8 ELIMINATING THE STATE LICENSE REQUIREMENT FOR EMPLOYMENT AGENCIES AND POLYGRAPH
9 EXAMINERS; AMENDING SECTIONS 37-1-101, 37-1-121, 37-1-131, 37-3-309, 37-3-313, 37-3-323,

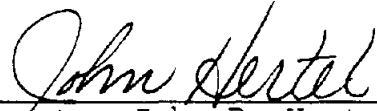
THERE ARE NO CHANGES IN THIS BILL AND IT WILL
NOT BE REPRINTED. PLEASE REFER TO SECOND
READING COPY (YELLOW) FOR COMPLETE TEXT.

SENATE STANDING COMMITTEE REPORT

Page 1 of 5
March 22, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 518 (third reading copy -- blue), respectfully report that HB 518 be amended as follows and as so amended be concurred in.

Signed: 
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 9.

Following: ";"

Insert: "ELIMINATING THE HERITAGE OF MONTANA ENTERPRISE ACT;"

Following: "SECTIONS"

Insert: "17-7-502,"

2. Title, line 22.

Following: "SECTIONS"

Insert: "20-26-1401, 20-26-1402, 20-26-1403, 20-26-1404, 20-26-1407, 20-26-1408, 20-26-1409, 20-26-1410, 20-26-1411,"

3. Page 3, line 5.

Strike: "should"

Insert: "must"

4. Page 4, line 8.

Following: "regulates."

Insert: "The provisions of this chapter must be construed to supplement the statutes relating to a specific board and the profession it regulates. The method for initiating and judging a disciplinary proceeding, specified in [section 7(1)(e)], must be used by a board in all disciplinary proceedings involving licensed professionals."

5. Page 6, line 24.

Strike: "8"

Insert: "7"

6. Page 6, line 25.


Following: "violator"


Insert: ". The notice may be served"

7. Page 6, line 26.

Following: "board"

Insert: "or by other means authorized by the Montana Rules of


Amd. Coord.
21
Sec. of Senate


Senator Carrying Bill

HB 518
SENATE
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Civil Procedure"

8. Page 7, line 1.

Strike: "service"

Insert: "the licensee's receipt"

9. Page 7, line 6.

Following: "Evidence"

Insert: "; the Montana Rules of Civil Procedure; and the Montana Rules of Evidence"

10. Page 7, line 9.

Following: "decides"

Insert: "by a preponderance of the evidence"

11. Page 9, line 24.

Strike: ", whether"

Insert: "if"

12. Page 9, line 25.

Following: "is"

Insert: "not"

13. Page 10, lines 22 through 25.

Strike: subsection (18) in its entirety

Renumber: subsequent subsection

14. Page 11, line 28.

Insert: " **Section 20.** Section 17-7-502, "MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106;

17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101;
17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709;
19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606;
19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361;
~~20-26-1403~~; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409;
23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206;
32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321;
39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150;
53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507;
75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;
80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220;
85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and
90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.) "

Renumber: subsequent sections

15. Page 12, line 20.

Strike: "."

Insert: ";"

16. Page 12, line 21.

Insert: "(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's licensing board after a finding of reasonable cause by a screening panel of the board pursuant to [section 7(1)(e)]."

17. Page 70, lines 24 and 25.

Strike: "The" on line 24 through "licensees" on line 25

Insert: "Except as provided in 37-51-302, the board may not require examinations of licensees"

18. Page 84, line 22.

Following: "Sections"

Insert: "20-26-1401, 20-26-1402, 20-26-1403, 20-26-1404, 20-26-

1407, 20-26-1408, 20-26-1409, 20-26-1410, 20-26-1411,"

19. Page 85, line 20.

Following: "37-16-202"

Insert: "and 37-16-407"

20. Page 85, line 21.

Strike: "58"

Insert: "59"

Following: "VOID"

Insert: "and [section 61 of this act], amending 37-16-407, is
void"

21. Page 85, line 22.

Strike: "A SECTION"

Insert: "sections"

22. Page 85, line 23.

Strike: "AMENDS"

Insert: "amend"

Strike: "127"

Insert: "128"

23. Page 85, line 23 in two places.

Following: "37-16-406"

Insert: "and 37-16-411"

24. Page 85, line 25.

Strike: "AND"

Insert: ", "

Following: "37-11-309,"

Insert: "37-11-320, and 37-11-321,"

Strike: "127"

Insert: "128"

25. Page 85, line 26.

Strike: "AND"

Insert: ", "

Following: "37-11-309"

Insert: ", 37-11-320, and 37-11-321"

26. Page 85, line 27.

Insert: "(4) If House Bill No. 148 is passed and approved and if
it includes sections that amend 37-67-312, 37-67-313, and
37-67-331, then the portion of [section 128] that repeals
37-67-312, 37-67-313, and 37-67-331 is void.

(5) If House Bill No. 196 is passed and approved and if it
includes sections that amend 37-47-341 and 37-47-343, then the

portion of [section 128] that repeals 37-47-341 and 37-47-343 is void.

(6) If Senate Bill No. 224 is passed and approved and if it contains a section that amends 37-51-321, then the portion of [section 128] that repeals 37-51-321 is void."

27. Page 86, line 12.

Strike: "20"

Insert: "21"

-END-

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 29, 1995 12:24 pm

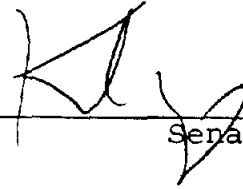
Mr. Chairman: I move to amend HB 518 (third reading copy -- blue).

ADOPT

V.V.

REJECT

Signed: _____



Senator Klampe

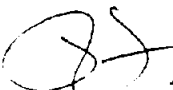
That such amendments read:

1. Page 4, lines 10, 18, 26.
Strike: "shall"
Insert: "may"

-END-

HB 518

SENATE



Amd. Coord.

1 HOUSE BILL NO. 518

2 INTRODUCED BY TUSS, HERTEL, HARPER, PAVLOVICH, LARSON, MILLS, MCGEE, FORBES,
3 BENEDICT, ANDERSON, ECK, BARTLETT, COCCHIARELLA, SQUIRES, WELDON, BECK, MASOLO

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING UNIFORM PROCEDURES FOR THE LICENSING,
6 DISCIPLINE, AND GENERAL REGULATION OF PROFESSIONS AND OCCUPATIONS REGULATED BY
7 LICENSING BOARDS ADMINISTRATIVELY ATTACHED TO THE DEPARTMENT OF COMMERCE;
8 ELIMINATING THE STATE LICENSE REQUIREMENT FOR EMPLOYMENT AGENCIES AND POLYGRAPH
9 EXAMINERS; ELIMINATING THE HERITAGE OF MONTANA ENTERPRISE ACT; AMENDING SECTIONS
10 17-7-502, 37-1-101, 37-1-121, 37-1-131, 37-3-309, 37-3-313, 37-3-323, 37-3-403, 37-4-307, 37-4-402,
11 37-4-406, 37-5-307, 37-6-302, 37-6-303, 37-6-304, 37-6-311, 37-7-101, 37-7-302, 37-7-303, 37-7-321,
12 37-7-606, 37-8-409, 37-8-431, 37-9-101, 37-9-203, 37-9-302, 37-9-304, 37-9-305, 37-10-304,
13 37-11-303, 37-11-304, 37-11-308, 37-12-201, 37-12-307, 37-12-322, 37-13-306, 37-15-102,
14 37-15-202, 37-15-308, 37-16-202, 37-16-301, 37-16-407, 37-17-202, 37-17-306, 37-17-307,
15 37-18-202, 37-18-303, 37-18-305, 37-18-307, 37-19-301, 37-19-306, 37-19-401, 37-19-702,
16 37-20-302, 37-20-403, 37-22-304, 37-23-103, 37-23-202, 37-23-205, 37-24-202, 37-24-308,
17 37-25-307, 37-26-201, 37-26-403, 37-27-105, 37-28-201, 37-28-202, 37-28-203, 37-29-201,
18 37-29-303, 37-29-306, 37-29-403, 37-30-301, 37-30-305, 37-31-322, 37-32-305, 37-34-201,
19 37-34-305, 37-40-203, 37-40-304, 37-47-307, 37-50-203, 37-50-314, 37-50-317, 37-51-204,
20 37-51-306, 37-51-311, 37-53-211, 37-53-302, 37-54-105, 37-54-210, 37-54-211, 37-54-302,
21 37-54-310, 37-54-311, 37-60-202, 37-60-301, 37-60-312, 37-60-411, 37-65-306, 37-66-307,
22 37-67-202, 37-67-320, 37-68-201, 37-68-310, 37-68-312, 37-71-212, AND 37-71-213, MCA;
23 REPEALING SECTIONS 20-26-1401, 20-26-1402, 20-26-1403, 20-26-1404, 20-26-1407, 20-26-1408,
24 20-26-1409, 20-26-1410, 20-26-1411, 37-3-322, 37-4-306, 37-4-321, 37-4-323, 37-4-324, 37-4-404,
25 37-5-303, 37-5-304, 37-5-311, 37-6-310, 37-7-203, 37-7-304, 37-7-305, 37-7-311, 37-7-607, 37-7-608,
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 11 37-62-303, 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323, 37-67-312,
 12 37-67-313, 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309, 37-69-320,
 13 37-69-322, 39-5-101, 39-5-102, 39-5-103, 39-5-104, 39-5-105, 39-5-201, 39-5-202, 39-5-203,
 14 39-5-204, 39-5-205, 39-5-206, 39-5-207, 39-5-208, 39-5-209, 39-5-301, 39-5-302, 39-5-303, 39-5-304,
 15 39-5-305, 39-5-306, 39-5-307, 39-5-308, 39-5-309, 39-5-310, 39-5-311, 39-5-312, 39-5-401, 39-5-402,
 16 39-5-403, 39-5-404, 39-5-405, AND 39-5-406, MCA; AND PROVIDING EFFECTIVE DATES AND AN
 17 APPLICABILITY DATE."

18

19

STATEMENT OF INTENT

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A statement of intent is necessary for this bill because, although the bill deletes numerous grants of rulemaking authority in numerous sections of Title 37, the bill contains a single section allowing professional and occupational licensing boards to adopt rules. The purpose of replacing the numerous rulemaking authority grants with a single grant, as is the purpose with the rest of the bill, is to standardize the law in an attempt to reduce the number of rules and reduce variations in the rules from occupation to occupation.

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30

The legislature takes note of the large number of bills proposed by and affecting professional and occupational licensing boards in Montana. A uniform licensing and disciplinary process needs to be established to permit the department of commerce and administratively attached licensing boards to administer the professional and occupational regulatory programs in a manner that is responsive to the public's needs. The public interest will be served by establishing uniform administrative provisions for these

1 HOUSE BILL NO. 518

2 INTRODUCED BY TUSS, HERTEL, HARPER, PAVLOVICH, LARSON, MILLS, MCGEE, FORBES,
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4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING UNIFORM PROCEDURES FOR THE LICENSING,
6 DISCIPLINE, AND GENERAL REGULATION OF PROFESSIONS AND OCCUPATIONS REGULATED BY
7 LICENSING BOARDS ADMINISTRATIVELY ATTACHED TO THE DEPARTMENT OF COMMERCE;
8 ELIMINATING THE STATE LICENSE REQUIREMENT FOR EMPLOYMENT AGENCIES AND POLYGRAPH
9 EXAMINERS; ELIMINATING THE HERITAGE OF MONTANA ENTERPRISE ACT; AMENDING SECTIONS
10 17-7-502, 37-1-101, 37-1-121, 37-1-131, 37-3-309, 37-3-313, 37-3-323, 37-3-403, 37-4-307, 37-4-402,
11 37-4-406, 37-5-307, 37-6-302, 37-6-303, 37-6-304, 37-6-311, 37-7-101, 37-7-302, 37-7-303, 37-7-321,
12 37-7-606, 37-8-409, 37-8-431, 37-9-101, 37-9-203, 37-9-302, 37-9-304, 37-9-305, 37-10-304,
13 37-11-303, 37-11-304, 37-11-308, 37-12-201, 37-12-307, 37-12-322, 37-13-306, 37-15-102,
14 37-15-202, 37-15-308, 37-16-202, 37-16-301, 37-16-407, 37-17-202, 37-17-306, 37-17-307,
15 37-18-202, 37-18-303, 37-18-305, 37-18-307, 37-19-301, 37-19-306, 37-19-401, 37-19-702,
16 37-20-302, 37-20-403, 37-22-304, 37-23-103, 37-23-202, 37-23-205, 37-24-202, 37-24-308,
17 37-25-307, 37-26-201, 37-26-403, 37-27-105, 37-28-201, 37-28-202, 37-28-203, 37-29-201,
18 37-29-303, 37-29-306, 37-29-403, 37-30-301, 37-30-305, 37-31-322, 37-32-305, 37-34-201,
19 37-34-305, 37-40-203, 37-40-304, 37-47-307, 37-50-203, 37-50-314, 37-50-317, 37-51-204,
20 37-51-306, 37-51-311, 37-53-211, 37-53-302, 37-54-105, 37-54-210, 37-54-211, 37-54-302,
21 37-54-310, 37-54-311, 37-60-202, 37-60-301, 37-60-312, 37-60-411, 37-65-306, 37-66-307,
22 37-67-202, 37-67-320, 37-68-201, 37-68-310, 37-68-312, 37-71-212, AND 37-71-213, MCA;
23 REPEALING SECTIONS 20-26-1401, 20-26-1402, 20-26-1403, 20-26-1404, 20-26-1407, 20-26-1408,
24 20-26-1409, 20-26-1410, 20-26-1411, 37-3-322, 37-4-306, 37-4-321, 37-4-323, 37-4-324, 37-4-404,
25 37-5-303, 37-5-304, 37-5-311, 37-6-310, 37-7-203, 37-7-304, 37-7-305, 37-7-311, 37-7-607, 37-7-608,
26 37-7-710, 37-8-407, 37-8-417, 37-8-430, 37-8-433, 37-8-441, 37-8-442, 37-9-303, 37-9-311,
27 37-10-204, 37-10-303, 37-10-308, 37-10-311, 37-11-202, 37-11-307, 37-11-309, 37-11-320,
28 37-11-321, 37-12-303, 37-12-321, 37-13-305, 37-13-311, 37-13-312, 37-13-313, 37-13-314,
29 37-14-304, 37-14-321, 37-15-305, 37-15-309, 37-15-321, 37-16-406, 37-16-411, 37-16-414,
30 37-17-304, 37-17-311, 37-17-318, 37-18-304, 37-18-311, 37-19-305, 37-19-311, 37-19-312,

1 37-19-316, 37-19-404, 37-20-409, 37-22-306, 37-22-311, 37-22-312, 37-23-204, 37-23-207,
 2 37-23-211, 37-23-212, 37-24-305, 37-24-307, 37-24-309, 37-25-306, 37-26-404, 37-26-408,
 3 37-26-409, 37-26-410, 37-27-213, 37-27-216, 37-28-206, 37-28-210, 37-28-301, 37-29-311,
 4 37-29-312, 37-29-313, 37-29-321, 37-30-306, 37-30-309, 37-30-502, 37-31-306, 37-31-307,
 5 37-31-332, 37-32-303, 37-32-310, 37-34-304, 37-34-306, 37-34-308, 37-40-303, 37-40-311,
 6 37-47-341, 37-47-342, 37-47-343, 37-47-346, 37-50-321, 37-50-322, 37-50-336, 37-51-206,
 7 37-51-321, 37-51-322, 37-51-604, 37-51-606, ~~37-53-302~~, 37-53-501, 37-53-502, 37-53-503,
 8 37-54-401, 37-54-402, 37-54-406, 37-54-417, 37-60-212, 37-60-307, 37-60-308, 37-60-321,
 9 37-60-322, 37-62-101, 37-62-102, 37-62-201, 37-62-202, 37-62-203, 37-62-204, 37-62-205,
 10 37-62-206, 37-62-207, 37-62-208, 37-62-209, 37-62-212, 37-62-213, 37-62-301, 37-62-302,
 11 37-62-303, 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323, 37-67-312,
 12 37-67-313, 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309, 37-69-320,
 13 37-69-322, 39-5-101, 39-5-102, 39-5-103, 39-5-104, 39-5-105, 39-5-201, 39-5-202, 39-5-203,
 14 39-5-204, 39-5-205, 39-5-206, 39-5-207, 39-5-208, 39-5-209, 39-5-301, 39-5-302, 39-5-303, 39-5-304,
 15 39-5-305, 39-5-306, 39-5-307, 39-5-308, 39-5-309, 39-5-310, 39-5-311, 39-5-312, 39-5-401, 39-5-402,
 16 39-5-403, 39-5-404, 39-5-405, AND 39-5-406, MCA; AND PROVIDING EFFECTIVE DATES AND AN
 17 APPLICABILITY DATE."

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STATEMENT OF INTENT

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A statement of intent is necessary for this bill because, although the bill deletes numerous grants of rulemaking authority in numerous sections of Title 37, the bill contains a single section allowing professional and occupational licensing boards to adopt rules. The purpose of replacing the numerous rulemaking authority grants with a single grant, as is the purpose with the rest of the bill, is to standardize the law in an attempt to reduce the number of rules and reduce variations in the rules from occupation to occupation.

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The legislature takes note of the large number of bills proposed by and affecting professional and occupational licensing boards in Montana. A uniform licensing and disciplinary process needs to be established to permit the department of commerce and administratively attached licensing boards to administer the professional and occupational regulatory programs in a manner that is responsive to the public's needs. The public interest will be served by establishing uniform administrative provisions for these

1 regulated professions and occupations that are designed to reduce the number of statutes and rules and
 2 variations in statutes and rules between professions or occupations and to promote public awareness of
 3 and access to the regulation of professions and occupations. It is the intent of the legislature to strengthen
 4 and consolidate disciplinary and licensure procedures for the licensed professions and occupations by
 5 providing a uniform disciplinary, licensing, and regulatory act, with standardized procedures for regulation,
 6 the purpose of which is to assure the public of the adequacy of competence and conduct in the regulated
 7 professions and occupations.

8 The rules ~~should~~ **MUST** provide for adequate due process for licensed persons involved in
 9 disciplinary proceedings.

10

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

12

13 **NEW SECTION. Section 1. Purpose.** The purpose of [sections 1 through ~~20~~ 19] is to establish
 14 uniform guidelines for the licensing and regulation of professions and occupations under the jurisdiction of
 15 professional and occupational licensing boards governed by [sections 1 through ~~20~~ 19].

16

17 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through ~~20~~ 19], the following
 18 definitions apply:

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

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

23 (3) "Department" means the department of commerce.

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

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

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

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

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

3 (d) whether a board should seek an injunction.

4 (6) "License" means permission granted under a chapter of this title to engage in or practice at a
5 specific level in a profession or occupation, regardless of the specific term, such as permit, certificate,
6 recognition, or registration, used for the permission.

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

8
9 **NEW SECTION. Section 3. Scope.** [Sections 1 through ~~20~~ 19] govern the licensure, the practice
10 and unauthorized practice, and the discipline of professions and occupations governed by this title unless
11 otherwise provided by statutes relating to a specific board and the profession or occupation it regulates.
12 **THE PROVISIONS OF THIS CHAPTER MUST BE CONSTRUED TO SUPPLEMENT THE STATUTES RELATING**
13 **TO A SPECIFIC BOARD AND THE PROFESSION IT REGULATES. THE METHOD FOR INITIATING AND**
14 **JUDGING A DISCIPLINARY PROCEEDING, SPECIFIED IN [SECTION 7(1)(E)], MUST BE USED BY A BOARD**
15 **IN ALL DISCIPLINARY PROCEEDINGS INVOLVING LICENSED PROFESSIONALS.**

16
17 **NEW SECTION. Section 4. Licensure of out-of-state applicants.** A board ~~shall~~ **MAY** issue a license
18 to practice without examination to a person licensed in another state if the board determines that the other
19 state's license standards at the time of application to this state are substantially equivalent to the standards
20 in this state and that there is no reason to deny the license under the laws of this state governing the
21 profession or occupation. The license may not be issued until the board receives verification from the state
22 or states in which the person is licensed that the person is currently licensed and is not subject to pending
23 charges or final disciplinary action for unprofessional conduct or impairment.

24
25 **NEW SECTION. Section 5. Temporary practice permits.** (1) A board ~~shall~~ **MAY** issue a temporary
26 practice permit to a person licensed in another state that has licensing standards substantially equivalent
27 to those of this state if the board determines that there is no reason to deny the license under the laws of
28 this state governing the profession or occupation. The person may practice under the permit until a license
29 is granted or until a notice of proposal to deny a license is issued. The permit may not be issued until the
30 board receives verification from the state or states in which the person is licensed that the person is

1 currently licensed and is not subject to pending charges or final disciplinary action for unprofessional
2 conduct or impairment.

3 (2) A board ~~shall~~ MAY issue a temporary practice permit to a person seeking licensure in this state
4 who has met all licensure requirements other than passage of the licensing examination. The permit is valid
5 until the person either fails the first license examination for which the person is eligible following issuance
6 of the permit or passes the examination and is granted a license.

7

8 NEW SECTION. Section 6. Continuing education. A board may require licensees to participate in
9 flexible, cost-efficient, effective, and geographically accessible continuing education.

10

11 NEW SECTION. Section 7. Board authority. (1) A board may:

12 (a) hold hearings as provided in [sections 1 through ~~20~~ 19];

13 (b) issue subpoenas and administer oaths in connection with investigations and disciplinary
14 proceedings under [sections 1 through ~~20~~ 19]. SUBPOENAS MUST BE RELEVANT TO THE COMPLAINT,
15 ISSUED BY A MAJORITY VOTE OF BOARD MEMBERS NOT SERVING ON THE SCREENING PANEL
16 DESCRIBED IN SUBSECTION (1)(E), AND SIGNED BY THE PRESIDING OFFICER OF THE BOARD.
17 Subpoenas may be enforced as provided in 2-4-104.

18 (c) authorize depositions and other discovery procedures under the Montana Rules of Civil
19 Procedure in connection with an investigation, hearing, or proceeding held under [sections 1 through ~~20~~
20 19];

21 (d) compel attendance of witnesses and the production of documents. Subpoenas may be
22 enforced as provided in 2-4-104.

23 (e) ~~assign board members to a department~~ ESTABLISH A screening panel that determines whether
24 there is reasonable cause to believe that a licensee has violated a statute or rule justifying disciplinary
25 proceedings. The assigned board members may not subsequently participate in a hearing of the case. The
26 final decision on the case must be made by a majority of the board members who did not serve on the
27 screening panel for the case.

28 (f) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license
29 holder, impose a sanction provided by this chapter.

30 (2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the

1 purpose of obtaining confidential criminal justice information regarding its licensees and license applicants.

2
3 ~~NEW SECTION. Section 8. Department authority. The department may:~~

4 ~~(1) employ investigative, administrative, clerical, and legal staff necessary to administer [sections~~
5 ~~1 through 20];~~

6 ~~(2) conduct investigations and inspections, issue subpoenas for the attendance of witnesses and~~
7 ~~the production of documents, administer oaths, and take depositions in the course of conducting~~
8 ~~investigations and inspections. Subpoenas may be enforced as provided in 2-4-104.~~

9 ~~(3) establish a screening panel composed of department employees designated by the department~~
10 ~~and board members designated by a board before which a complaint is submitted under [section 9]. The~~
11 ~~designated employees may provide only technical assistance, information, and advice. The board members~~
12 ~~on the screening panel shall determine by majority vote whether an investigation is necessary and whether~~
13 ~~there is reasonable cause to believe that a licensee or license applicant has committed unprofessional~~
14 ~~conduct or has failed to qualify for licensure.~~

15 ~~(4) issue a notice to and pursue action, before the person's licensing board, against a person after~~
16 ~~a finding of reasonable cause under subsection (3).~~

17
18 NEW SECTION. Section 8. Unprofessional conduct -- complaint -- investigation -- immunity. (1)

19 A person, government, or private entity may submit a written complaint to the department charging a
20 licensee or license applicant with a violation of [sections 1 through ~~20~~ 19] and specifying the grounds for
21 the complaint.

22 (2) If the department receives a written complaint or otherwise obtains information that a licensee
23 or license applicant may have committed a violation of [sections 1 through ~~20~~ 19], the department may,
24 WITH THE CONCURRENCE OF A MEMBER OF THE SCREENING PANEL ESTABLISHED IN [SECTION 7],
25 investigate to determine whether there is reasonable cause to believe that the licensee or license applicant
26 has committed the violation. A person or private entity, but not a government entity, filing a complaint
27 under this section in good faith is immune from suit in a civil action related to the filing or contents of the
28 complaint.

29
30 NEW SECTION. Section 9. Notice -- request for hearing. (1) If a reasonable cause determination

1 is made pursuant to [section ~~8~~ 7] that a violation of [sections 1 through ~~20~~ 19] has occurred, a notice must
 2 be prepared by department legal staff and served on the alleged violator. THE NOTICE MAY BE SERVED
 3 by certified mail to the current address on file with the board OR BY OTHER MEANS AUTHORIZED BY THE
 4 MONTANA RULES OF CIVIL PROCEDURE.

5 (2) A licensee or license applicant shall give the board the licensee's or applicant's current address
 6 and any change of address within 30 days of the change.

7 (3) The notice must state that the licensee or license applicant may request a hearing to contest
 8 the charge or charges. A request for a hearing must be in writing and received in the offices of the
 9 department within 20 days after ~~service~~ THE LICENSEE'S RECEIPT of the notice. Failure to request a
 10 hearing constitutes a default on the charge or charges, and the board may enter a decision on the basis of
 11 the facts available to it.

12

13 NEW SECTION. Section 10. Hearing -- adjudicative procedures. The procedures in Title 2, chapter
 14 4, governing adjudicative proceedings before agencies; ~~the Montana Rules of Civil Procedure; and the~~
 15 ~~Montana Rules of Evidence; THE MONTANA RULES OF CIVIL PROCEDURE; AND THE MONTANA RULES~~
 16 OF EVIDENCE govern a hearing under [sections 1 through ~~20~~ 19]. A board has all the powers and duties
 17 granted by Title 2, chapter 4.

18

19 NEW SECTION. Section 11. Findings of fact -- order -- report. (1) If the board decides BY A
 20 PREPONDERANCE OF THE EVIDENCE, following a hearing or on default, that a violation of [sections 1
 21 through ~~20~~ 19] occurred, the department shall prepare and serve the board's findings of fact and an order
 22 as provided in Title 2, chapter 4. If the licensee or license applicant is found not to have violated [sections
 23 1 through ~~20~~ 19], the department shall prepare and serve the board's findings of fact and an order of
 24 dismissal of the charges.

25 (2) The department may report the issuance of a notice and final order to:

26 (a) the person or entity who brought to the department's attention information that resulted in the
 27 initiation of the proceeding;

28 (b) appropriate public and private organizations that serve the profession or occupation; and

29 (c) the public.

30

1 NEW SECTION. **Section 12. Sanctions -- stay -- costs -- stipulations.** (1) Upon a decision that
 2 a licensee or license applicant has violated [sections 1 through ~~20~~ 19] or is unable to practice with
 3 reasonable skill and safety due to a physical or mental condition or upon stipulation of the parties as
 4 provided in subsection (3), the board may issue an order providing for one or any combination of the
 5 following sanctions:

6 (a) revocation of the license;

7 (b) suspension of the license for a fixed or indefinite term;

8 (c) restriction or limitation of the practice;

9 (d) satisfactory completion of a specific program of remedial education or treatment;

10 (e) monitoring of the practice by a supervisor approved by the disciplining authority;

11 (f) censure or reprimand, either public or private;

12 (g) compliance with conditions of probation for a designated period of time;

13 (h) payment of a fine not to exceed \$1,000 for each violation. Fines must be deposited in the state
 14 general fund.

15 (i) denial of a license application;

16 (j) refund of costs and fees billed to and collected from a consumer.

17 (2) A sanction may be totally or partly stayed by the board. To determine which sanctions are
 18 appropriate, the board shall first consider the sanctions that are necessary to protect or compensate the
 19 public. Only after the determination has been made may the board consider and include in the order any
 20 requirements designed to rehabilitate the licensee or license applicant.

21 (3) The licensee or license applicant may enter into a stipulated agreement resolving potential or
 22 pending charges that includes one or more of the sanctions in this section. The stipulation is an informal
 23 disposition for the purposes of 2-4-603.

24 ~~(4) A board may, following a final decision resulting in discipline, recover all of the board's~~
 25 ~~reasonable costs of the proceeding from the disciplined person if the board finds that the licensee or license~~
 26 ~~applicant acted in bad faith in challenging the disciplinary action. Costs recovered must be deposited in~~
 27 ~~the board's state special revenue account.~~

28 ~~(5)~~(4) A licensee shall surrender a suspended or revoked license to the board within 24 hours after
 29 receiving notification of the suspension or revocation by mailing it or delivering it personally to the board.

30

1 **NEW SECTION. Section 13. Appeal.** A person who is disciplined or denied a license may appeal
2 the decision to the district court as provided in Title 2, chapter 4.

3
4 **NEW SECTION. Section 14. Reinstatement.** A licensee whose license has been suspended or
5 revoked under [sections 1 through ~~20~~ 19] may petition the board for reinstatement after an interval set by
6 the board in the order. The board may hold a hearing on the petition and may deny the petition or order
7 reinstatement and impose terms and conditions as provided in [section ~~13~~ 12]. The board may require the
8 successful completion of an examination as a condition of reinstatement and may treat a licensee whose
9 license has been revoked or suspended as a new applicant for purposes of establishing the requisite
10 qualifications of licensure.

11
12 **NEW SECTION. Section 15. Enforcement of fine.** (1) If payment of a fine is included in an order
13 and timely payment is not made as directed in the order, the board may enforce the order for payment in
14 the district court of the first judicial district.

15 (2) In a proceeding for enforcement of an order of payment of a fine, the order is conclusive proof
16 of the validity of the order of payment and the terms of payment.

17
18 **NEW SECTION. Section 16. Unprofessional conduct.** The following is unprofessional conduct for
19 a licensee or license applicant governed by this chapter:

20 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or
21 committed during the course of the person's practice or involving violence, use or sale of drugs, fraud,
22 deceit, or theft, whether or not an appeal is pending;

23 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating
24 to licensure or certification;

25 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or
26 assisting in securing a license or license renewal or in taking an examination required for licensure;

27 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the
28 licensee knows or reasonably ought to know contains a false or misleading statement;

29 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the
30 conduct of the profession or occupation;

1 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local
2 government employee or official for the purpose of influencing the employee or official to circumvent a
3 federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

4 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against
5 a licensee by a state, province, territory, or Indian tribal government or the federal government, ~~whether~~
6 IF the action is NOT on appeal, under judicial review, or has been satisfied.

7 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;

8 (9) revealing confidential information obtained as the result of a professional relationship without
9 the prior consent of the recipient of services, except as authorized or required by law;

10 (10) addiction to or dependency on a habit-forming drug or controlled substance as defined in Title
11 50, chapter 32, as a result of illegal use of the drug or controlled substance;

12 (11) use of a habit-forming drug or controlled substance as defined in Title 50, chapter 32, to the
13 extent that the use impairs the user physically or mentally;

14 (12) having a physical or mental disability that renders the licensee or license applicant unable to
15 practice the profession or occupation with reasonable skill and safety;

16 (13) engaging in conduct in the course of one's practice while suffering from a contagious or
17 infectious disease involving serious risk to public health or without taking adequate precautions, including
18 but not limited to informed consent, protective gear, or cessation of practice;

19 (14) misappropriating property or funds from a client or workplace or failing to comply with a board
20 rule regarding the accounting and distribution of a client's property or funds;

21 (15) interference with an investigation or disciplinary proceeding by willful misrepresentation of
22 facts, by the use of threats or harassment against or inducement to a client or witness to prevent them
23 from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment
24 against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal
25 action from being filed, prosecuted, or completed;

26 (16) assisting in the unlicensed practice of a profession or occupation or allowing another person
27 or organization to practice or offer to practice by use of the licensee's license;

28 (17) failing to report the institution of or final action on a malpractice action, including a final
29 decision on appeal, against the licensee or of an action against the licensee by a:

30 (a) peer review committee;

1 (b) professional association; or

2 (c) local, state, federal, territorial, provincial, or Indian tribal government;

3 ~~(18) engaging in or soliciting sexual conduct with a client during the existence of or during the 6~~
 4 ~~months following the end of a professional or occupational relationship with the client that involves giving~~
 5 ~~health care to or a fiduciary responsibility toward the client or, if a psychotherapeutic relationship existed~~
 6 ~~with the client, at any time during or after the existence of the professional relationship;~~

7 ~~(19)~~(18) conduct that does not meet the generally accepted standards of practice. A certified copy
 8 of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action
 9 involving an act or omission occurring during the scope and course of the practice is conclusive evidence
 10 of but is not needed to prove conduct that does not meet generally accepted standards.

11

12 **NEW SECTION. Section 17. Practice without license -- investigation of complaint -- injunction --**
 13 **penalties.** (1) The department shall investigate complaints concerning practice by an unlicensed person
 14 of a profession or occupation for which a license is required by this title. ~~In the investigation of the com-~~
 15 ~~plaints, the department has the powers specified in [section 8].~~

16 (2) A board may file an action to enjoin a person from practicing, without a license, a profession
 17 or occupation for which a license is required by this title.

18

19 **NEW SECTION. Section 18. Violation of injunction -- penalty.** A person who violates an injunction
 20 issued under [section ~~48~~ 17] shall pay a civil penalty, as determined by the court, of not more than
 21 ~~\$25,000~~ \$5,000. Fifty percent of the penalty must be deposited in the general fund of the county in which
 22 the injunction is issued, and 50% must be deposited in the state general fund.

23

24 **NEW SECTION. Section 19. Rules.** A board may adopt rules:

25 (1) under the guidelines of [section 6], regarding continuing education and establishing the number
 26 of hours required each year, the methods of obtaining education, education topics, and carrying over hours
 27 to subsequent years;

28 (2) regarding practice limitations for temporary practice permits issued under [section 5] and
 29 designed to ensure adequate supervision of the practice until all qualifications for licensure are met and a
 30 license is granted;

1 (3) regarding qualifications for inactive license status that may require compliance with stated
 2 continuing education requirements and may limit the number of years a person may remain on inactive
 3 status without having to reestablish qualifications for licensure;

4 (4) regarding maintenance and safeguarding of client funds or property possessed by a licensee
 5 and requiring the funds or property to be maintained separately from the licensee's funds and property; and

6 (5) defining acts of unprofessional conduct, in addition to those contained in [section ~~47~~ 16], that
 7 constitute a threat to public health, safety, or welfare and that are inappropriate to the practice of the
 8 profession or occupation.

9
 10 **SECTION 20. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

11 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 12 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
 13 without the need for a biennial legislative appropriation or budget amendment.

14 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
 15 with both of the following provisions:

16 (a) The law containing the statutory authority must be listed in subsection (3).

17 (b) The law or portion of the law making a statutory appropriation must specifically state that a
 18 statutory appropriation is made as provided in this section.

19 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
 20 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
 21 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410;
 22 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409;
 23 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513;
 24 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; ~~20-26-1403~~; 20-26-1503;
 25 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402;
 26 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504;
 27 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205;
 28 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416;
 29 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331;
 30 90-7-220; 90-9-306; and 90-14-107.

1 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 2 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 3 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 4 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
 5 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
 6 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
 7 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
 8 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
 9 July 1, 1995.)"

10
 11 **Section 21.** Section 37-1-101, MCA, is amended to read:

12 **"37-1-101. Duties of department.** In addition to the provisions of 2-15-121, the department of
 13 commerce ~~shall~~ may:

14 (1) provide all the administrative, legal, and clerical services needed by the boards within the
 15 department, including corresponding, taking applications for licenses, issuing and denying licenses granted
 16 by the boards, renewing licenses, disciplining licensees, registering, taking minutes of board meetings and
 17 hearings, and filing;

18 (2) standardize and keep in Helena all official records of the boards;

19 (3) make arrangements and provide facilities in Helena for the meetings, hearings, and examinations
 20 of each board or elsewhere in the state if requested by the board;

21 (4) administer and grade examinations required by each board or by law for licensing, unless the
 22 board determines that experts or professionals are necessary to administer or grade a particular
 23 examination;

24 (5) ~~at the request of a board,~~ investigate complaints received by the department of illegal or
 25 unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the
 26 department;

27 (6) assess the costs of the department to the boards on an equitable basis as determined by the
 28 department;

29 (7) adopt rules ~~establishing expiration dates of licences for barbers, barbershops, professional~~
 30 ~~engineers, professional land surveyors, nursing home administrators, optometrists, plumbers, social~~

1 ~~workers, speech language pathologists, audiologists, and radiologic technologists~~ setting expiration,
2 renewal, and termination dates for licenses;

3 (8) ISSUE A NOTICE TO AND PURSUE AN ACTION AGAINST A LICENSED INDIVIDUAL, AS A
4 PARTY, BEFORE THE LICENSED INDIVIDUAL'S LICENSING BOARD AFTER A FINDING OF REASONABLE
5 CAUSE BY A SCREENING PANEL OF THE BOARD PURSUANT TO [SECTION 7(1)(E)]."

6
7 **Section 22.** Section 37-1-121, MCA, is amended to read:

8 "37-1-121. **Duties of director.** In addition to ~~his~~ the powers and duties under 2-15-112 and
9 2-15-121, the director of commerce shall:

10 (1) at the request of a party, appoint an impartial legal-counsel hearing examiner to conduct
11 hearings before each board within the department whenever any board holds a contested case hearing.
12 ~~The legal-counsel appointed shall see that~~ hearing examiner shall conduct ~~hearings are conducted~~ in a
13 proper and legal manner.

14 ~~(2) whenever the department conducts an investigation of a complaint of illegal or unethical~~
15 ~~conduct of a member of a particular profession or occupation as prescribed in 37-1-101(5) and if requested~~
16 ~~by the appropriate board, appoint an impartial member of that profession or occupation to assist the~~
17 ~~department in its investigation. The member so appointed may not be a member of the board having~~
18 ~~jurisdiction over the particular profession or occupation.~~

19 ~~(3)(2)~~ hire all personnel to perform the administrative, legal, and clerical functions of the
20 department for the boards. Boards within the department do not have ~~no~~ authority to hire personnel.

21 ~~(4)(3)~~ approve all contracts and expenditures by boards within the department. ~~No~~ A board within
22 the department may not enter into a contract or expend funds without the approval of the director."

23
24 **Section 23.** Section 37-1-131, MCA, is amended to read:

25 "37-1-131. **Duties of boards.** Each board within the department shall:

26 (1) set and enforce standards and rules governing the licensing, certification, registration, and
27 conduct of the members of the particular profession or occupation within its jurisdiction;

28 (2) sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual
29 or potential member of the particular profession or occupation within its jurisdiction. The hearings ~~shall~~
30 must be conducted by ~~legal-counsel~~ a hearing examiner when required under 37-1-121(1).

1 (3) suspend, revoke, or deny a license of a person who the board determines, after a hearing as
 2 provided in subsection (2), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing
 3 of the workers' compensation system in violation of the provisions of Title 39, chapter 71 or 72;

4 (4) pay to the department its pro rata share of the assessed costs of the department under
 5 37-1-101(6);

6 (5) consult with the department before the board initiates a program expansion, under existing
 7 legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs
 8 associated with the proposed program expansion. The board may not expand a program if the board does
 9 not have adequate money and appropriation authority available."

10
 11 **Section 24.** Section 37-3-309, MCA, is amended to read:

12 **"37-3-309. Application for license.** (1) A person desiring a license to practice medicine shall make
 13 application to the department, verified by oath and in a form prescribed by the board. The application ~~shall~~
 14 must be accompanied by the license fee and documents, affidavits, and certificates necessary to establish
 15 that the applicant possesses the qualifications prescribed by this chapter apart from an examination required
 16 by the board. The burden of proof is on the applicant, but the ~~board~~ department may make an independent
 17 investigation to determine whether the applicant possesses the qualifications and whether the applicant has
 18 committed unprofessional conduct. ~~At the board's request, the~~ The applicant shall provide necessary
 19 authorizations for the release of records and information pertinent to the ~~board's information~~ department's
 20 inquiry.

21 (2) An applicant for a license on the basis of an examination shall file ~~his~~ the application at least
 22 60 days prior to the announced date of the examination. If the applicant is not at the time of filing ~~his~~ the
 23 application a graduate of but is then in attendance at an approved medical school, ~~he~~ the applicant shall
 24 submit to the department, instead of a diploma or other required evidence of graduation, a written
 25 statement from the dean or other authorized representative of the approved medical school that the
 26 applicant will receive ~~his~~ a diploma at the end of the then-current school term. The applicant may not be
 27 granted a certificate until ~~he~~ the applicant has filed with the department ~~his~~ a diploma or other acceptable
 28 evidence of graduation from the approved medical school and has complied with the requirements of
 29 subsection (1) ~~of this section, and no.~~ A license may not be issued ~~to him~~ until ~~he~~ the applicant has
 30 satisfied the board that ~~he~~ the applicant has completed at least 1 year of an approved internship or its

1 equivalent and has otherwise met the requirements for the issuance of a license under this chapter."
 2

3 **Section 25.** Section 37-3-313, MCA, is amended to read:

4 **"37-3-313. Annual registration fees -- failure to pay -- limiting authority to impose registration fees.**

5 (1) In addition to the license fees required of applicants, a licensed physician actively practicing medicine
 6 in this state shall pay each year to the department an annual registration fee as prescribed by the board.
 7 ~~If a person licensed to practice medicine absents himself from the state for a period of 1 or more years or~~
 8 ~~does not engage in active practice in this state, he may continue his license in good standing by payment~~
 9 ~~each year of a fee prescribed by the board or, at the discretion of the board, he may be reinstated on the~~
 10 ~~payment of a fee prescribed by the board for each year of absence or inactive practice.~~

11 (2) The annual payments for registration shall ~~shall~~ must be made prior to April 1, and a receipt
 12 acknowledging payment of the annual registration fee shall ~~shall~~ must be issued by the department. The
 13 department shall mail registration notices at least 60 days before the registration is due.

14 (3) In case of default in the payment of the annual registration fee by a person licensed to practice
 15 medicine who is actively practicing medicine in this state, his ~~his~~ the underlying certificate to practice medicine
 16 may be revoked by the board on 30 days' notice given to the delinquent of the time and place of
 17 considering the revocation. A registered or certified letter addressed to the last-known address of the
 18 person failing to comply with the requirements of annual registration, as the address appears on the records
 19 of the department, constitutes sufficient notice of intention to revoke his ~~his~~ the underlying certificate. ~~No A~~
 20 certificate may not be revoked for nonpayment if the person authorized to practice medicine, and notified,
 21 pays the annual registration fee before or at the time fixed for consideration of revocation, together with
 22 a delinquency penalty prescribed by the board. The department may collect the dues by an action at law.

23 (4) ~~No A~~ registration or license fee may not be imposed on a licensee under this chapter by a
 24 municipality or any other subdivision of the state."
 25

26 **Section 26.** Section 37-3-323, MCA, is amended to read:

27 **"37-3-323. Revocation or suspension of license —~~probation — fine — disposition of fine.~~** (1) The
 28 ~~board~~ department may make an investigation whenever it is brought to its attention that there is reason to
 29 suspect that a person having a license or certificate to practice medicine in this state:

30 (a) is mentally or physically unable to safely engage in the practice of medicine, has procured a

1 license to practice medicine by fraud or misrepresentation or through mistake, has been declared
2 incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent,
3 or has a condition that impairs the person's intellect or judgment to the extent that it incapacitates the
4 person for the safe performance of professional duties;

5 (b) has been guilty of unprofessional conduct;

6 (c) has practiced medicine with a suspended or revoked license;

7 (d) has had a license to practice medicine suspended or revoked by any licensing authority for
8 reasons other than nonpayment of fees; or

9 (e) while under probation has violated its terms.

10 (2) The investigation must be for the purpose of determining the probability of the existence of
11 these conditions or the commission of these offenses and may, upon order of the board, include requiring
12 the person to submit to a physical examination or a mental examination, or both, by a physician or
13 physicians selected by the board if it appears to be in the best interests of the public that this evaluation
14 be secured. The board may examine and scrutinize the hospital records and reports of a licensee as part
15 of the examination, and copies must be released to the board on written request. ~~If the board has~~
16 ~~reasonable cause to believe that this probability exists, the department shall mail to the person's last~~
17 ~~address of record with the department a specification of the charges, together with a written notice of the~~
18 ~~time and place of the hearing on the charges, advising that the person may be present and may be~~
19 ~~represented by counsel if the person wants to offer evidence and be heard in the person's own defense.~~
20 ~~The time fixed for the hearing may not be less than 30 days from the date of mailing the notice.~~

21 ~~(3) A person, including a member of the board, may file a written complaint with the department~~
22 ~~against a person having a license to practice medicine in this state charging that person with the~~
23 ~~commission of any of the offenses set forth in 37-3-322 or with any of the offenses or conditions set forth~~
24 ~~in subsection (1) of this section. The complaint must set forth a specification of the charges. When the~~
25 ~~complaint is filed, the department shall mail a copy to the person accused at the person's last address of~~
26 ~~record with the department, together with a written citation of the time and place of the hearing on it.~~

27 ~~(4) At the hearing, the board shall adopt a resolution finding the accused guilty or not guilty of the~~
28 ~~matters charged. If the board finds that the offenses or conditions referred to in 37-3-322 or subsection~~
29 ~~(1) of this section do not exist with respect to the person or if the person is found not guilty, the board shall~~
30 ~~dismiss the charges or complaint. If the board finds that the offenses or conditions referred to in 37-3-322~~

1 ~~or in subsection (1) of this section do exist and the person is found guilty, the board shall:~~

2 ~~(a) revoke the person's license;~~

3 ~~(b) suspend the person's right to practice for a period not exceeding 1 year;~~

4 ~~(c) suspend its judgment of revocation on the terms and conditions to be determined by the board;~~

5 ~~(d) place the person on probation;~~

6 ~~(e) impose a fine, not to exceed \$500 an incident; or~~

7 ~~(f) take any other action in relation to disciplining the person as the board in its discretion considers~~

8 ~~proper.~~

9 ~~(5) In a case of revocation, suspension, or probation, the department shall enter in its records the~~
10 ~~facts of the action and of subsequent action of the board with respect to it.~~

11 ~~(6) On the expiration of the term of suspension, the licensee must be reinstated by the board if the~~
12 ~~suspended person furnishes the board with evidence that the person is then of good moral character and~~
13 ~~conduct, is restored to good health, and has not practiced medicine in this state during the term of~~
14 ~~suspension. If the evidence fails to establish to the satisfaction of the board that the holder is then of good~~
15 ~~moral character and conduct or restored to good health or if the evidence shows the person has practiced~~
16 ~~medicine in this state during the term of suspension, the board shall revoke the license, using the notice~~
17 ~~and hearing procedure provided in subsection (2). The revocation is final and absolute.~~

18 ~~(7)(3) If a person holding a license to practice medicine under this chapter is by a final order or~~
19 ~~adjudication of a court of competent jurisdiction adjudged to be mentally incompetent or seriously mentally~~
20 ~~ill or addicted to the use of addictive substances, the person's license may be suspended by the board.~~
21 ~~The suspension continues until the licensee is found or adjudged by the court to be restored to reason or~~
22 ~~cured or until the person is discharged as restored to reason or cured and the person's professional~~
23 ~~competence has been proven to the satisfaction of the board.~~

24 ~~(8) A fine imposed under this section must be deposited in the general fund.~~

25 ~~(9) The remedies and method of enforcement of this part, as provided for in this section, are~~
26 ~~concurrent and in addition to the other remedies provided in this part."~~

27
28 **Section 27.** Section 37-3-403, MCA, is amended to read:

29 **"37-3-403. Report of prohibition or limitation on practice by hospital.** Each hospital or health care
30 facility ~~which~~ that prohibits or limits the privilege of a physician to practice medicine within that facility shall

1 report ~~such~~ the action to the state board of medical examiners within 30 days after the action is taken if
 2 the action is based in whole or in part upon the commission of one or more of the offenses or the existence
 3 of one or more of the conditions set forth in ~~37-3-322 or 37-3-323(1)~~. The report shall must include the
 4 reason or reasons for the prohibition or limitation."

5

6 **Section 28.** Section 37-4-307, MCA, is amended to read:

7 **"37-4-307. Annual renewal fee -- default ~~— active, inactive status — continuing education~~ -- local**
 8 **fees prohibited.** (1) Every licensed dentist shall pay each year a renewal fee to the board. The renewal
 9 fee must be set by the board commensurate with costs. Notice of the change in the amount of renewal
 10 fees must be given to each dentist registered in this state by the department.

11 (2) Payment of the annual renewal fee must be made ~~prior to March 1~~ of each year on or before
 12 the date set by department rule, and a license renewal must be issued by the department. A reasonable
 13 late fee ~~is~~ must be required by the department if the annual renewal fee is not timely paid ~~before March 1~~.

14 ~~(3) The board may adopt rules governing requirements for demonstrating continued competency~~
 15 ~~for license renewal.~~

16 ~~(4) (a) The board may reclassify an active status license to inactive status for a licensee who~~
 17 ~~furnishes satisfactory evidence that the licensee has discontinued the actual practice of dentistry because~~
 18 ~~of physical disability or retirement.~~

19 ~~(b) An individual who wishes to maintain a Montana license but does not maintain a resident~~
 20 ~~practice must be licensed in the inactive status.~~

21 ~~(c) Application to convert an inactive status license to an active status license must be made in~~
 22 ~~accordance with rules of the board. The application to convert to active status must accompany the~~
 23 ~~submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license~~
 24 ~~was inactivated, satisfactory evidence of competence must be submitted to the board before an active~~
 25 ~~status license may be issued.~~

26 ~~(5) (a)(3) (a)~~ In case of default in payment of the annual renewal fee by a licensee, his the license
 27 must be revoked by the board. The board shall give the licensee 30 days' notice of its proposed revocation
 28 action. The notice must be sent by certified letter addressed to the last-known address of the licensee and
 29 must contain a statement of the time and place of the meeting at which the revocation will be considered.

30 (b) If the licensee pays the renewal fee, plus a reasonable late fee set by the board, prior to the

1 time set for revocation, the license may not be revoked.

2 (c) A license revoked for nonpayment of the renewal fee may be reinstated within 5 years of
3 revocation if:

4 (i) renewal fees are paid for each year they were unpaid, plus a late penalty fee for each year;

5 (ii) the applicant produces evidence, satisfactory to the board, of good standing with the dentistry
6 regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dentistry
7 since the last payment of a renewal fee under this chapter; and

8 (iii) the applicant produces evidence, satisfactory to the board, of good character and competence.

9 ~~(6)(4)~~ Every Each dentist shall give the board notice of any change in name, address, or status
10 within 30 days of the change.

11 ~~(7)(5)~~ No A unit of local government, including those exercising self-government powers, may not
12 impose a license fee on a dentist licensed under this chapter."

13

14 **Section 29.** Section 37-4-402, MCA, is amended to read:

15 "**37-4-402. License -- examination.** (1) The department may issue licenses for the practice of
16 dental hygiene to qualified applicants to be known as dental hygienists.

17 (2) Except as provided ~~in 37-4-404 by rules adopted under [section 20 19]~~, no a person may not
18 engage in the practice of dental hygiene or practice as a dental hygienist in this state until ~~he~~ the person
19 has passed an examination approved by the board under rules it considers proper and has been issued a
20 license by the department.

21 (3) Applicants for licensure shall take and pass an examination in order to be licensed. The
22 examination shall consist of a written part and a practical or clinical part. The board may accept, in
23 satisfaction of the written part, successful completion of an examination by the national board of dental
24 examiners and, whenever the board determines necessary, successful completion of a board examination
25 in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an
26 examination by a board-designated regional testing service.

27 (4) The board has the right to administer its own examination in lieu of acceptance of the national
28 board written examination and a regional testing service practical examination. The board is authorized to
29 make rules governing ~~any such~~ examination procedures.

30 (5) Applicants for licensure shall submit an application, which ~~shall~~ must include, when required:

- 1 (a) certification of successful completion of the national board written examination;
 2 (b) certification of successful completion of a regional board practical examination;
 3 (c) two affidavits of good moral character;
 4 (d) certificate of graduation from a board-approved dental hygiene school;
 5 (e) an examination fee commensurate with costs and set by the board;
 6 (f) a licensure fee commensurate with costs and set by the board;
 7 (g) a recent photograph of the applicant; and
 8 (h) copies of all other state licenses that are held by the applicant.

9 (6) Applications must be submitted no less than 20 days prior to the jurisprudence examination.
 10 Applicants may not take the jurisprudence examination without first having completed and passed all other
 11 parts of the examination.

12 (7) Examination results will be accepted for a period of time as set by board rule. An applicant
 13 failing to pass ~~his~~ the first examination, if otherwise qualified, may take a subsequent examination on
 14 payment of a fee commensurate with costs and set by the board.

15 (8) The board is authorized to adopt necessary and reasonable rules governing application
 16 procedures."
 17

18 **Section 30.** Section 37-4-406, MCA, is amended to read:

19 **~~"37-4-406. Annual renewal fee -- default -- active, inactive status -- continuing education --~~**
 20 **~~revocation of license -- local fees prohibited. (1) Every~~ Each licensed dental hygienist shall pay each year**
 21 **a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. ~~The~~**
 22 **~~renewal must be for either active or inactive status, as defined by rules of the board.~~**

23 (2) Payment of the annual renewal fee must be made ~~prior to March 1 of each year~~ on or before
 24 the date set by department rule, and a license renewal must be issued by the department. A reasonable
 25 late fee ~~is~~ must be required if the annual renewal fee is not timely paid ~~before March 1.~~

26 ~~(3) The board may adopt rules governing requirements for demonstrating continued competency~~
 27 ~~for license renewal.~~

28 (4) ~~(a) The board may reclassify an active status license to inactive status for a licensee who~~
 29 ~~furnishes satisfactory evidence that the licensee has discontinued the actual practice of dental hygiene~~
 30 ~~because of physical disability or retirement.~~

1 ~~(b) An individual who wishes to maintain a Montana license but does not maintain a resident~~
 2 ~~practice must be licensed in the inactive status.~~

3 ~~(c) Application to convert an inactive status license to an active status license must be made in~~
 4 ~~accordance with rules of the board. The application to convert to active status must accompany the~~
 5 ~~submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license~~
 6 ~~was inactivated, satisfactory evidence of competence must be submitted to the board before an active~~
 7 ~~status license may be issued.~~

8 ~~(5)(3)~~ In case of default in payment of the renewal fee by any licensee, the board must revoke the
 9 license.

10 (a) The board shall give the licensee 30 days' notice of its proposed revocation action. The notice
 11 must be sent by certified mail to the last-known address of the licensee and must contain a statement of
 12 the time and place of the meeting at which the revocation will be considered.

13 (b) The payment of the renewal fee on or before the time set for revocation, with a reasonable late
 14 fee set by the board, excuses the default.

15 (c) A license revoked for nonpayment of the renewal fee may be reinstated within 5 years of
 16 revocation if:

17 (i) renewal fees are paid for each year they were unpaid, plus a late penalty for each year;

18 (ii) the applicant produces evidence, satisfactory to the board, of good standing with the dental
 19 hygiene regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice
 20 of dental hygiene since the last payment of a renewal fee under this chapter; and

21 (iii) the applicant produces evidence, satisfactory to the board, of good character and competence.

22 ~~(6)(4)~~ Every Each dental hygienist shall give the board notice of any change in name, address, or
 23 status within 30 days of the change.

24 ~~(7)(5)~~ The board may, after a hearing, revoke or suspend the license of a dental hygienist for
 25 violating this chapter.

26 ~~(8)(6)~~ No A unit of local government, including those exercising self-government powers, may not
 27 impose a license fee on a dental hygienist licensed under this chapter."

28
 29 **Section 31.** Section 37-5-307, MCA, is amended to read:

30 **"37-5-307. Renewal fee.** (1) A person holding a certificate to practice under this chapter and who

1 is in active practice in this state shall, ~~on or before April 1 of each year~~ the date set by department rule,
 2 pay a renewal fee prescribed by the board to the department, ~~and a person holding a certificate to practice~~
 3 ~~under this chapter who is not in active practice shall before April 1 of each year pay a renewal fee~~
 4 ~~prescribed by the board to the department. The~~ At least 2 weeks before the renewal date, the department
 5 shall ~~before March 15 of each year~~ send a notice to each person holding a valid certificate to practice
 6 under this chapter and from whom a fee is due stating that the fee is due.

7 (2) The certificate to practice under this chapter automatically becomes void when the renewal fee
 8 is not paid at the time named. However, the board may reinstate a practitioner whose certificate has lapsed
 9 on payment of back renewal fees or on payment of a maximum fee prescribed by the board if the lapsed
 10 fees exceed the maximum fee."

11

12 **Section 32.** Section 37-6-302, MCA, is amended to read:

13 **"37-6-302. Qualifications for licensure -- exemptions from examination -- temporary licenses.** (1)
 14 ~~Persons~~ A person who ~~wish~~ wishes to begin the practice of podiatry in this state shall make application,
 15 on a form authorized by the board and furnished by the department, for a license to practice podiatry.

16 (2) ~~No~~ A person may not be granted a license to practice podiatry in this state unless ~~he~~ the
 17 person:

18 (a) is of good moral character as determined by the board;

19 (b) is a graduate of a school of podiatry approved by the board;

20 (c) has completed at least 1 year of postgraduate training or has had equivalent experience or
 21 training approved by the board;

22 (d) has made a personal appearance before the board;

23 (e) has passed an examination administered by the national board of podiatry examiners and is a
 24 diplomate of the national board of podiatry examiners; and

25 (f) has obtained a score of at least 75% on an examination administered by the board.

26 (3) The board may waive the requirements described in subsections (2)(d) and (2)(f).

27 ~~(4) A license without written examination may be granted to podiatrists of other states maintaining~~
 28 ~~equal statutory requirements for the practice of podiatry and extending the same reciprocal privilege to this~~
 29 ~~state if they have had a valid license and practiced for at least 2 preceding years in that state prior to filing~~
 30 ~~for reciprocal privilege and by payment of a fee prescribed by the board to the department.~~

1 ~~(5) The board may authorize the department to issue a temporary license to practice podiatry in~~
 2 ~~appropriate cases, but no person may be granted a temporary license unless he:~~

3 ~~(a) is of good moral character as determined by the board;~~

4 ~~(b) is a graduate of a school of podiatry approved by the board;~~

5 ~~(c) has completed at least 1 year of postgraduate training or has had equivalent experience or~~
 6 ~~training approved by the board; and~~

7 ~~(d) has made a personal appearance before at least one member of the board.~~

8 ~~(6) The board may authorize the department to issue a temporary or permanent license subject to~~
 9 ~~probation or other conditions or limitations imposed by the board or may refuse to issue a license if the~~
 10 ~~applicant has engaged in unprofessional conduct or is otherwise unqualified."~~

11
 12 **Section 33.** Section 37-6-303, MCA, is amended to read:

13 **"37-6-303. Examination -- subjects -- fees -- reexamination.** (1) A person who is not exempt from
 14 examination ~~under 37-6-302~~ and desiring who desires a license to practice podiatry ~~shall~~ must be examined
 15 in the following subjects: anatomy, chemistry, dermatology, physical diagnosis, materia medica, pathology,
 16 physiology, therapeutics, orthopedics, histology, bacteriology, pharmacy, neurology, surgery, shoe therapy,
 17 physiotherapy, roentgenology, and podiatric medicine. The minimum passing score is 70% for each subject
 18 tested and an average of 75% for all subjects tested.

19 (2) An examination and license fee prescribed by the board ~~shall~~ must be paid to the department.

20 (3) An applicant failing the examination and being refused a license is entitled within 6 months of
 21 the refusal to a reexamination, but one reexamination exhausts ~~his~~ the privilege under the original
 22 examination. An additional fee ~~shall~~ must be paid to the department for a reexamination."

23
 24 **Section 34.** Section 37-6-304, MCA, is amended to read:

25 **"37-6-304. Designations on license -- recording -- renewal -- display.** (1) A license issued under
 26 this chapter is designated as a "registered podiatrist's license" or a "temporary podiatrist's license".

27 (2) Licenses must be recorded by the department the same as other medical licenses.

28 (3) Licenses must be renewed annually, on a date set by the ~~board~~ department.

29 (4) A license renewal fee set by the board must be paid annually on a date set by the ~~board~~
 30 department.

1 (5) The department shall mail renewal notices no later than 60 days prior to the annual renewal
2 date ~~set by the board under subsection (3).~~

3 (6) If the annual renewal fee is not paid on or before the renewal date ~~set by the board under~~
4 ~~subsection (3)~~, the board may revoke the licensee's certificate after giving 30 days' notice to the licensee.
5 A certified letter addressed to the delinquent licensee's last-known address as it appears on the records of
6 the department constitutes notice of intent to revoke the certificate. ~~No~~ A certificate may not be revoked
7 for nonpayment of a renewal fee if the licensee pays the annual renewal fee plus a penalty prescribed by
8 the board on or before the date fixed for revocation.

9 (7) A license revoked for nonpayment of the annual renewal fee may be reissued only on original
10 application and payment of an additional fee prescribed by the board.

11 (8) Licenses must be conspicuously displayed by podiatrists at their offices or other places of
12 practice."
13

14 **Section 35.** Section 37-6-311, MCA, is amended to read:

15 **"37-6-311. Refusal or revocation of license -- investigation — reinstatement.** (1) After notice and
16 opportunity for a hearing, the board may deny, revoke, or refuse to renew a license to practice podiatry
17 if the consensus of the board is that an applicant is not of good moral character or has engaged in
18 unprofessional conduct. ~~The department shall notify the applicant of the board's intent to deny, revoke,~~
19 ~~or refuse to renew a license by mailing a letter to the applicant's last known address stating the board's~~
20 ~~intent and setting a time and place for a hearing. If the applicant fails without cause to appear at the~~
21 ~~hearing or if the board determines that the applicant is not entitled to a license, the board shall deny,~~
22 ~~revoke, or refuse to renew the applicant's license.~~

23 (2) The ~~board~~ department may investigate whenever it is brought to its attention that a licensed
24 podiatrist:

25 (a) is mentally or physically unable to engage safely in the practice of podiatry;

26 (b) has procured ~~his~~ the license by fraud, misrepresentation, or through error;

27 (c) has been declared incompetent by a court of competent jurisdiction and thereafter has not been
28 lawfully declared competent;

29 (d) has a condition that impairs ~~his~~ the licensee's intellect or judgment to the extent that it
30 incapacitates ~~him~~ the licensee in the safe performance of ~~his~~ professional duties;

1 (e) has been found guilty of unprofessional conduct;

2 (f) has practiced podiatry while ~~his~~ the license was suspended or revoked;

3 (g) has had ~~his~~ the license suspended or revoked by any licensing authority for reasons other than
4 nonpayment of fees; or

5 (h) while under probation has violated its terms.

6 (3) The investigation ~~shall~~ must be for the purpose of determining the probability that the alleged
7 conditions exist or that the alleged offenses were committed. ~~The~~ Upon order of the board, the
8 investigation may include requiring the person to submit to a physical examination or a mental examination,
9 or both, by a physician or physicians selected by the board if it appears to be in the best interest of the
10 public that this evaluation be secured. The board may examine the hospital records and reports of a
11 licensee as part of the examination, and copies shall be released to the board on written request. ~~If the~~
12 ~~board has reasonable cause to believe that the alleged conditions exist or that the alleged offenses were~~
13 ~~committed, the department shall mail to the person at his last known address a specification of the charges~~
14 ~~against him, together with a written notice of the time and place of the hearing on such charges, advising~~
15 ~~him that he may be present in person and by counsel if he so desires to offer evidence and be heard in his~~
16 ~~defense. The time fixed for the hearing may not be less than 30 days from the date of mailing the notice.~~

17 ~~(4) A person, including a member of the board, may file a written complaint with the department~~
18 ~~against a person having a license to practice podiatry in this state charging him with the commission of any~~
19 ~~of the offenses set forth in 37-6-310 or with any of the offenses or conditions set forth in subsection (1)~~
20 ~~or (2) of this section. The complaint shall set forth a specification of the charges. When the complaint is~~
21 ~~filed, the department shall mail a copy to the person complained against, at his last known address,~~
22 ~~together with a written citation of the time and place of the hearing on the complaint.~~

23 ~~(5) At the hearing the board shall adopt a resolution finding the person complained against guilty~~
24 ~~or not guilty of the matters charged. If the board finds that the offenses or conditions referred to in~~
25 ~~37-6-310 or subsection (1) or (2) of this section do not exist with respect to the person complained against~~
26 ~~or if he is found not guilty, the board shall dismiss the charges or complaint. If the board finds that the~~
27 ~~offenses or conditions referred to in 37-6-310 or in subsection (1) or (2) of this section do exist or the~~
28 ~~person is found guilty, the board shall:~~

29 ~~(a) revoke his license;~~

30 ~~(b) suspend his right to practice for a period not exceeding 1 year;~~

1 ~~(c) suspend its judgment of revocation on the terms and conditions to be determined by the board;~~
 2 ~~(d) place him on probation; or~~
 3 ~~(e) take any other action in relation to disciplining him as the board in its discretion considers~~
 4 ~~proper.~~

5 ~~(6) In a case of revocation, suspension, or probation, the department shall enter in its records the~~
 6 ~~facts of the action and of subsequent measures taken by the board with respect to that action.~~

7 ~~(7) On the expiration of the term of suspension, the licensee shall be reinstated by the board if he~~
 8 ~~furnishes the board with evidence that he is then of good moral character and conduct or restored to good~~
 9 ~~health and that he has not practiced podiatry in this state during the term of suspension. If the evidence~~
 10 ~~fails to establish to the satisfaction of the board that the holder is then of good moral character and conduct~~
 11 ~~or restored to good health or if the evidence shows he has practiced podiatry in this state during the term~~
 12 ~~of suspension, the board shall revoke the license at a hearing held in accordance with the notice and~~
 13 ~~procedure provided in subsection (1). The revocation is final.~~

14 ~~(8)(4)~~ If a person holding a license to practice podiatry under this chapter is by a final order or
 15 adjudication of a court of competent jurisdiction determined to be mentally incompetent, seriously mentally
 16 ill, or addicted to the use of narcotics, ~~his~~ the license may be suspended by the board. The suspension
 17 continues until the licensee is found by the court to be restored to reason or cured or until ~~he~~ the licensee
 18 is discharged as restored to reason or cured and ~~his~~ the licensee's professional competence has been
 19 proven to the satisfaction of the board."

20

21 **Section 36.** Section 37-7-101, MCA, is amended to read:

22 **"37-7-101. Definitions.** Unless the context requires otherwise, in parts 1 through 3 of this chapter,
 23 the following definitions apply:

24 (1) "Board" means the board of pharmacy provided for in 2-15-1843.

25 (2) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained
 26 through the process of the science and art of chemistry, whether of organic or inorganic origin.

27 (3) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and
 28 commerce, exclusive of the practices of medicine and pharmacy.

29 ~~(4) "Continuing education" means professional pharmaceutical postgraduate education in the~~
 30 ~~following areas:~~

1 ~~(a) the socioeconomic and legal aspects of health care;~~

2 ~~(b) the properties and actions of drugs and dosage forms; and~~

3 ~~(c) the etiology, characteristics, and therapeutics of the disease state.~~

4 ~~(6)(4)~~ "Department" means the department of commerce provided for in Title 2, chapter 15, part
5 18.

6 ~~(6)(a)(5)~~ (a) "Drug" means:

7 (i) articles recognized in the official United States Pharmacopoeia/National Formulary or a
8 supplement to them;

9 (ii) articles intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in ~~man~~
10 people or other animals;

11 (iii) articles, ~~{other than food}~~, intended to affect the structure or function of the body of ~~man~~ an
12 individual or other ~~animals~~ animal; and

13 (iv) articles intended for use as a component of an article specified in subsection (i), (ii), or (iii).

14 (b) "Drug" does not include devices or their components, parts, or accessories.

15 ~~(7)(6)~~ "Intern" means a natural person licensed by the department to prepare, compound, dispense,
16 and sell drugs, medicines, chemicals, and poisons under the supervision of a registered and licensed
17 pharmacist.

18 ~~(8)(7)~~ "Medicine" means a remedial agent which has the property of curing, preventing, treating,
19 or mitigating diseases or which is used for this purpose.

20 ~~(9)(8)~~ "Person" includes an individual, partnership, corporation, or association.

21 ~~(10)(9)~~ "Pharmacist" means a natural person licensed by the department to prepare, compound,
22 dispense, and sell drugs, medicines, chemicals, and poisons and who may affix to ~~his~~ the person's name
23 the term "R.Ph."

24 ~~(11)(10)~~ "Pharmacy" means an established place registered by the department of commerce in
25 which prescriptions, drugs requiring a prescription, medicines, chemicals, and poisons are compounded,
26 dispensed, vended, or sold.

27 ~~(12)(11)~~ "Pharmacy technician or auxiliary" means an individual who assists a pharmacist in the
28 practice of pharmacy pursuant to an approved utilization plan.

29 ~~(13)(12)~~ "Poison" means a substance which, when introduced into the system, either directly or
30 by absorption, produces violent, morbid, or fatal changes or which destroys living tissue with which it

1 comes in contact.

2 ~~(14)~~(13) "Prescription" means an order given individually for the person for whom prescribed,
3 directly from the prescriber to the furnisher or indirectly to the furnisher, by means of an order signed by
4 the prescriber and bearing the name and address of the prescriber, ~~his~~ the prescriber's license classification,
5 the name of the patient, the name and the quantity of the drug or drugs prescribed, the directions for use
6 and the date of its issue. These stipulations apply to both written and telephoned prescriptions.

7 ~~(15)~~(14) "Utilization plan" means a plan under which a pharmacist may use the services of a
8 pharmacy technician or auxiliary in the practice of pharmacy to perform tasks that:

9 (a) do not require the exercise of the pharmacist's independent professional judgment; and

10 (b) are verified by the pharmacist.

11 ~~(16)~~(15) "Wholesale" means a sale for the purpose of resale."

12

13 **Section 37.** Section 37-7-302, MCA, is amended to read:

14 **"37-7-302. Examination -- qualifications -- fees -- reciprocity.** (1) The department shall give
15 reasonable notice of examinations by mail to known applicants. The department shall record the names
16 of persons examined, together with the grounds on which the right of each to examination was claimed,
17 and also the names of persons registered by examination or otherwise.

18 (2) The fee for an examination ~~shall~~ must be set by the board at a figure commensurate with costs,
19 ~~which.~~ The fee may in the discretion of the board be returned to applicants not taking the examination.

20 (3) To be entitled to examination as a pharmacist, the applicant ~~shall~~ must be of good moral
21 character and ~~shall~~ must have graduated and received the first professional undergraduate degree from the
22 school of pharmacy of the university of Montana or from an accredited pharmacy degree program that has
23 been approved by the board. However, ~~no~~ an applicant may not receive a registered pharmacist's license
24 until ~~he~~ the applicant has complied with the internship requirements established by the board.

25 ~~(4) The board may in its discretion authorize the department to grant registration without~~
26 ~~examination to a pharmacist licensed by a board of pharmacy or a similar board of another state which~~
27 ~~accords similar recognition to licensees of this state if the requirements for registration in the other state~~
28 ~~are, in the opinion of the board, equivalent to the requirements of this chapter. The fee for registration by~~
29 ~~reciprocity shall be prescribed by the board.~~

30 ~~(5)~~(4) ~~Every~~ Each person licensed and registered under this chapter ~~shall~~ must receive from the

1 department an appropriate certificate attesting the fact, which ~~shall~~ must be conspicuously displayed at all
2 times in ~~his~~ the place of business."

3
4 **Section 38.** Section 37-7-303, MCA, is amended to read:

5 **"37-7-303. Annual renewal fee.** ~~(1)~~ A person licensed and registered by the department shall
6 annually pay to the department on or before June 30 the date set by department rule a renewal of
7 registration fee prescribed by the board. A default in the payment of a renewal fee after the date it is due
8 increases the renewal fee as prescribed by the board. It is unlawful for a person who refuses or fails to
9 pay the renewal fee to practice pharmacy in this state. A certificate and renewal expires at the time
10 prescribed, not later than 1 year from its date. A defaulter in a renewal fee may be reinstated within 1 year
11 of the default without examination on payment of the arrears and compliance with ~~the continuing education~~
12 ~~provisions of this chapter~~ other requirements prescribe by law.

13 ~~(2) The board may charge an additional fee for such license renewal to be used in administering~~
14 ~~the continuing education provisions of this chapter."~~

15
16 **Section 39.** Section 37-7-321, MCA, is amended to read:

17 **"37-7-321. Certified pharmacy license —~~suspension or revocation.~~** (1) The board shall provide
18 for the original certification and annual renewal by the department of every pharmacy doing business in this
19 state. On presentation of evidence satisfactory to the board and on application on a form prescribed by
20 the board and on the payment of an original certification fee prescribed by the board, the department shall
21 issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to
22 pharmacies operated by registered pharmacists qualified under this chapter. The annual renewal fee for
23 a pharmacy ~~shall~~ must be set by the board. Any default in the payment of ~~such~~ the renewal fee after the
24 date the same is due ~~shall increase~~ increases the renewal fee as prescribed by the board. The license must
25 be displayed in a conspicuous place in the pharmacy for which it is issued and expires on ~~June 30 following~~
26 ~~the date of issue~~ the date set by department rule. It is unlawful for a person to conduct a pharmacy, use
27 the word "pharmacy" to identify ~~his~~ the business, or use the word "pharmacy" in advertising unless a
28 license has been issued and is in effect.

29 (2) The board may ~~suspend, revoke,~~ impose discipline or deny or refuse to renew a pharmacy
30 license-

- 1 ~~(a) obtained by false representation or fraud;~~
- 2 ~~(b) when the pharmacy for which the license is issued is kept open for the transaction of business~~
3 ~~without a pharmacist in charge;~~
- 4 ~~(c) when the person to whom the license is granted has been convicted of:~~
- 5 ~~(i) a violation of parts 1 through 3 of this chapter; or~~
- 6 ~~(ii) a violation of the Federal Food, Drug, and Cosmetic Act (Title 21, chapter 9, U.S.C.); chapter~~
7 ~~2 or 7 of Title 37, chapter 9 or 10 of Title 45, or chapter 31 or 32 of Title 50, MCA; or rules adopted under~~
8 ~~such act or chapters;~~
- 9 ~~(d) when the person to whom the license is granted is a natural person whose pharmacist license~~
10 ~~has been revoked; or~~
- 11 ~~(e) when the pharmacy is conducted in violation of parts 1 through 3 of this chapter.~~
- 12 ~~(3) Before a license can be revoked, the holder is entitled to a hearing by the board for reasons~~
13 ~~specified in and subject to conditions specified in Title 37, chapter 1."~~

14

15 **Section 40.** Section 37-7-606, MCA, is amended to read:

16 "**37-7-606. Issuance of licenses.** The license for wholesale drug distributors is effective ~~from April~~
17 ~~1 to March 31 of the following year~~ during the 12-month period specified by department rule. An
18 application for renewal of a license must be mailed to each licensee ~~on or before March 1~~ at least 30 days
19 prior to the renewal date, and if the renewal application and the fee are not mailed by ~~March 31~~ the renewal
20 date, the license is void upon its expiration date."

21

22 **Section 41.** Section 37-8-409, MCA, is amended to read:

23 "**37-8-409. Midwifery -- when professional nurse may practice.** ~~{}~~ A person licensed under
24 ~~37-8-406 or 37-8-407~~ this chapter who holds a certificate in nurse-midwifery from the American college
25 of nurse-midwives may practice midwifery upon approval by the board of an amendment to ~~her~~ the license
26 granting a certificate of nurse-midwifery. The board shall grant a certificate of nurse-midwifery to a person
27 who submits written verification of certification by the American college of nurse-midwives and who meets
28 ~~such~~ other qualification requirements as the board may prescribe.

29 ~~(2) The board may give temporary approval to practice nurse midwifery for up to 4 months to a~~
30 ~~person who has taken the American college of nurse-midwives national certification examination, pending~~

1 ~~receipt of official notification of the results of the examination."~~

2
3 **Section 42.** Section 37-8-431, MCA, is amended to read:

4 **"37-8-431. Renewal of license.** (1) The license of a person licensed under this chapter must be
5 annually renewed on the date set by department rule. ~~Before December 1 of each year~~ At least 30 days
6 prior to the renewal date, the department shall mail an application form for renewal of license to ~~every~~ each
7 person to whom a license was issued or renewed during the year. The applicant shall carefully complete
8 and subscribe the application form and return it to the department with a renewal fee prescribed by the
9 board on or before January 1 the renewal date.

10 (2) The board may increase or decrease the annual license fee so as to maintain in the state special
11 revenue fund at all times an adequate amount to be used for the purpose of administering, policing, and
12 enforcing the provisions of Title 37, chapter 1, and this chapter. On receipt of the application and fee, the
13 department shall verify the accuracy of the application against its record and from other sources the board
14 considers reliable and issue to the applicant a certificate of renewal ~~for the current year beginning January~~
15 ~~1 and expiring December 31 following.~~ The certificate of renewal renders the holder a legal practitioner of
16 nursing for the period stated in the certificate of renewal.

17 (3) A licensee who allows ~~his~~ the license to lapse by failing to renew the license may be reinstated
18 by the board on satisfactory explanation for the failure to renew license and on payment of the current
19 renewal fee prescribed by the board.

20 (4) A person practicing nursing during the time following the date ~~his~~ the license has expired is an
21 illegal practitioner and is subject to the penalties provided for violations of this chapter.

22 (5) The board may establish a reasonable late fee for licensees who fail to renew their license by
23 ~~January 1 as required in subsection (1)~~ the renewal date."

24
25 **Section 43.** Section 37-9-101, MCA, is amended to read:

26 **"37-9-101. Definitions.** Unless the context requires otherwise, in this chapter, the following
27 definitions apply:

28 (1) "Board" means the board of nursing home administrators provided for in 2-15-1845.

29 (2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

30 ~~(3) "Inactive nursing home administrator" means an individual who has been licensed in this state~~

1 ~~as a nursing home administrator and whose license has not been revoked or suspended but who is not~~
 2 ~~actively engaged in nursing home administration.~~

3 ~~(4)~~ (3) "Long-term care facility" means any skilled nursing facility, nursing home, or intermediate
 4 care facility as defined for licensing purposes under state law or the rules for long-term care facilities of the
 5 department of health and environmental sciences, whether proprietary or nonprofit, including facilities
 6 owned or administered by the state or a political subdivision.

7 ~~(5)~~(4) "Nursing home administrator" means a person who administers, manages, supervises, or is
 8 in general administrative charge of a long-term care facility, whether the individual has an ownership
 9 interest in the facility and whether ~~his~~ the individual's functions and duties are shared with one or more
 10 other individuals."

11

12 **Section 44.** Section 37-9-203, MCA, is amended to read:

13 **"37-9-203. Duties of board.** The board shall:

14 (1) develop, impose, and enforce standards ~~which~~ that must be met by individuals in order to
 15 register and receive a license as a nursing home administrator, designed to ensure that nursing home
 16 administrators are individuals of good character and otherwise suitable and, by training or experience in the
 17 field of institutional administration, are qualified to serve as nursing home administrators;

18 (2) develop and apply appropriate techniques, including examination and investigation, for
 19 determining whether individuals meet the standards;

20 (3) authorize the department to register and issue licenses to individuals, after application of the
 21 techniques, determined to meet the standards;

22 (4) establish and implement procedures designed to ensure that individuals registered and licensed
 23 as nursing home administrators will, during the period that they serve, comply with the requirements of the
 24 standards;

25 (5) conduct a continuing study and investigation of nursing home administrators within the state
 26 with a view to the improvement of the standards imposed for the licensing of administrators and of
 27 procedures and methods for the enforcement of the standards with respect to nursing home administrators;

28 ~~(6) conduct or cause to be conducted one or more courses of instruction and training sufficient to~~
 29 ~~meet the requirements of this chapter and make provisions for the conduct of these courses and their~~
 30 ~~accessibility to residents of this state, unless it finds that there are a sufficient number of courses~~

1 ~~conducted by others within this state to meet the needs of the state; instead, the board may approve~~
 2 ~~courses conducted within and outside of this state sufficient to meet the education and training~~
 3 ~~requirements of this chapter;~~

4 ~~(7) prescribe or approve continuing education courses."~~

5
 6 **Section 45.** Section 37-9-302, MCA, is amended to read:

7 **"37-9-302. Department to license pursuant to board rules -- nontransferability -- temporary permit.**

8 (1) The department shall register and license nursing home administrators under the rules adopted by the
 9 board.

10 (2) A nursing home administrator's registration and license is not transferable and is valid until
 11 surrendered for cancellation, suspended, or revoked for violation of this chapter or any other laws or rules
 12 relating to the proper administration and management of a long-term care facility.

13 ~~(3) If the board determines that preliminary qualifications set forth in 37-9-301 will have been met~~
 14 ~~before the next examination, it may authorize the department to issue a temporary permit for a period of~~
 15 ~~180 days or until the scores of the next examination are announced. No temporary permit may be issued~~
 16 ~~to an applicant after the date of the first examination for which he is eligible."~~

17
 18 **Section 46.** Section 37-9-304, MCA, is amended to read:

19 **"37-9-304. Fees.** (1) Each person who applies for licensure, whether by waiver, examination, or
 20 reciprocity, shall pay a fee prescribed by the board at the time of application.

21 (2) Each person licensed as a nursing home administrator shall pay a license fee in an amount fixed
 22 by the board. A license ~~shall expire~~ expires each year on a date set by department ~~rule of the department~~
 23 and ~~shall~~ must be renewable annually upon timely payment of the license fee.

24 ~~(3) Each person registered as an inactive nursing home administrator shall be required to pay a~~
 25 ~~registration fee in the amount fixed by the board. An inactive registration shall expire each year on a date~~
 26 ~~established by rule of the department and shall be renewable annually upon timely payment of the inactive~~
 27 ~~registration fee.~~

28 (4) ~~(3)~~ The fee for issuing a duplicate license ~~shall~~ must be fixed by the board."
 29

30 **Section 47.** Section 37-9-305, MCA, is amended to read:

1 ~~"37-9-305. Renewal of registration and license. Every~~ Each holder of a nursing home
 2 administrator's registration and license shall renew it annually by payment of the required fee for the next
 3 subsequent year prior to the expiration date of ~~his~~ the currently valid registration and license. Renewals of
 4 registrations or licenses ~~shall~~ must be granted as a matter of course, ~~providing the holder has completed~~
 5 ~~a continuing education course prescribed or approved by the board;~~ ~~however~~ However, if the board finds,
 6 after due notice and hearing, that the applicant has acted or failed to act in ~~such~~ a manner or under
 7 circumstances ~~as that~~ would constitute grounds for ~~suspension or revocation of a registration and license~~
 8 discipline, it ~~shall~~ may not issue the renewal."

9

10 **Section 48.** Section 37-10-304, MCA, is amended to read:

11 ~~"37-10-304. Course in use of diagnostic and therapeutic drugs required. (1) (a) In addition to the~~
 12 ~~requirements of 37-10-302 or 37-10-303, whichever is applicable,~~ each person desiring to commence the
 13 practice of optometry shall satisfactorily complete a course prescribed by the board of medical examiners
 14 with consultation and approval by the board of optometrists with particular emphasis on the topical
 15 application of diagnostic agents to the eye for the purpose of examination of the human eye and the
 16 analysis of ocular functions.

17 (b) A person presently licensed to practice optometry who wishes to employ diagnostic agents
 18 must satisfactorily complete a course referred to in subsection (1)(a) and must pass an examination as
 19 provided in subsection (1)(d).

20 (c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by
 21 a regional or professional accreditation organization which is recognized or approved by the national
 22 commission on accrediting or the United States commissioner of education. The course must also be
 23 approved by the board.

24 (d) The board shall provide for an examination in competency in the use of diagnostic drugs and
 25 shall issue a certificate to those applicants who pass ~~such~~ the examination.

26 ~~(2) (a) In addition to the requirements of 37-10-302 or 37-10-303, whichever is applicable,~~ each
 27 Each person desiring to commence the practice of optometry shall:

28 (i) pass an examination, of the international association of boards of examiners in optometry, on
 29 the diagnosis, treatment, and management of ocular disease; or

30 (ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular

1 diseases. The course and examination must be conducted by an institution accredited by a regional or
 2 professional accreditation organization which is recognized or approved by the national commission on
 3 accrediting or the United States commissioner of education. The course and examination must also be
 4 approved by the board.

5 (b) A person presently licensed to practice optometry who wishes to employ therapeutic
 6 pharmaceutical agents must meet the requirements of subsection (2)(a).

7 (c) The board shall:

8 (i) provide for an examination in competency in the diagnosis, treatment, and management of
 9 therapeutic pharmaceutical agents; and

10 (ii) issue a certificate to an applicant who passes ~~such~~ the examination."

11
 12 **Section 49.** Section 37-11-303, MCA, is amended to read:

13 **"37-11-303. Qualifications of applicants for license.** To be eligible for a license as a physical
 14 therapist, an applicant must:

15 (1) be of good moral character and at least 18 years of age;

16 (2) have graduated from an accredited school of physical therapy approved by the board; and

17 (3) ~~either:~~

18 ~~(a)~~ pass to the satisfaction of the board a written examination prescribed by the board and, if
 19 considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical
 20 therapist; ~~or~~

21 ~~(b) be entitled to a license without examination under 37-11-307."~~

22
 23 **Section 50.** Section 37-11-304, MCA, is amended to read:

24 **"37-11-304. Application for examination -- fee.** (1) ~~Unless entitled to a license under 37-11-307,~~
 25 a A person who desires to be licensed as a physical therapist shall apply to the department in writing, on
 26 a form furnished by the department. ~~He~~ and shall:

27 (a) embody in that application evidence under oath, satisfactory to the board, of ~~his possessing~~
 28 having the qualifications preliminary to the examination required by 37-11-303; and

29 (b) pay to the department at the time of filing ~~his~~ the application a fee as established by the board
 30 by rule. The fee must be commensurate with the cost of the examination and its administration and must

1 be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

2 (2) Anyone failing to pass the required examination on ~~his~~ the first attempt is entitled to sit for a
3 second examination and, if ~~he fails~~ the second examination is failed, to sit for a third examination."

4

5 **Section 51.** Section 37-11-308, MCA, is amended to read:

6 **"37-11-308. Annual renewal of license -- fee.** A licensed physical therapist shall, ~~during January~~
7 on or before the date set by department rule, apply to the department for a renewal of ~~his~~ the license and
8 pay a fee ~~which shall be set by board rule~~. A license that is not renewed before ~~April every year~~ the renewal
9 date automatically lapses. The board may, in its discretion, revive and renew a lapsed license on the
10 payment of all past unpaid renewal fees or a late renewal fee."

11

12 **Section 52.** Section 37-12-201, MCA, is amended to read:

13 **"37-12-201. Organization of board -- meetings -- powers and duties.** (1) The board shall elect
14 annually a president, vice president, and secretary-treasurer from its membership.

15 (2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at
16 times and places as a majority of the board designates. A majority of the board constitutes a quorum.

17 (3) The board shall:

18 (a) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming
19 within the scope of the board;

20 (b) adopt a seal that must be affixed to licenses issued;

21 (c) make a schedule of minimum educational requirements, which are without prejudice, partiality,
22 or discrimination, as to the different schools of chiropractic;

23 (d) adopt rules necessary for the implementation, administration, continuation, and enforcement
24 of this chapter. The rules must address but are not limited to license applications, form and display of
25 license, license examination format, criteria for and grading of examinations, disciplinary standards for
26 licensees, and the registration of interns and preceptors.

27 ~~(e) investigate complaints;~~

28 ~~(f)~~ (e) make determinations of the qualifications of applicants under this chapter;

29 ~~(g)~~ (f) administer the examination for licensure under this chapter;

30 ~~(h)~~ (g) establish and collect fees, fines, and charges as provided in this chapter;

1 (+) (h) issue, suspend, or revoke licenses under the conditions prescribed in this chapter; and

2 (+) (i) certify that a chiropractor who meets the standards that the board by rule adopts is a qualified
3 evaluator for purposes of 39-71-711.

4 (4) The department shall keep a record of the proceedings of the board, which shall must at all
5 times be open to public inspection."

6
7 **Section 53.** Section 37-12-307, MCA, is amended to read:

8 "**37-12-307. Annual renewal of license -- fees** ~~—continuing education—inactive status.~~ (1) A
9 license expires on ~~September 1 of each year~~ the date set by department rule and shall must be renewed
10 by the department on payment of a renewal fee, as set by the board, and the presentation of evidence
11 satisfactory to the board that the licensee, ~~in the year preceding the application for renewal, attended and~~
12 ~~successfully completed a postgraduate educational program for chiropractors approved by the board~~
13 qualifies for renewal. All applicants for renewal who have not paid the renewal fee ~~prior to October 1 of~~
14 ~~each year~~ on or before the renewal date shall pay an additional late fee prescribed by the board.

15 ~~(2) The board shall by rule set standards for inactive status. It shall charge an annual fee for a~~
16 ~~license placed on inactive status.~~

17 ~~(3) An inactive license may be reinstated to active status upon payment of a fee and completion~~
18 ~~of the continuing education requirements set by the board."~~

19
20 **Section 54.** Section 37-12-322, MCA, is amended to read:

21 "**37-12-322. Investigation of complaints** ~~—discipline of licensees—revocation or suspension of~~
22 ~~license.~~ (1) The ~~board~~ department may make an investigation whenever it is brought to its attention that
23 there is reason to suspect that a person licensed to practice chiropractic:

24 (a) has a mental or physical condition such that ~~he~~ the person is unable to safely engage in the
25 practice of chiropractic;

26 (b) has been declared incompetent or seriously mentally ill by a court of competent jurisdiction and
27 thereafter has not been declared competent or released from supervision;

28 (c) has procured ~~his~~ the license through mistake;

29 (d) has been guilty of unprofessional conduct;

30 (e) has practiced chiropractic while ~~his~~ the license was suspended or revoked;

1 (f) has while under probation violated its terms.

2 (2) The investigation ~~shall~~ must be for the purpose of determining the probability of the existence
3 of these conditions or the commission of these offenses and may, upon order of the board, include requiring
4 the person to submit to a physical or mental examination, or both, by a physician or physicians selected
5 by the board if it appears to be in the best interests of the public that this evaluation be secured. The board
6 may examine the hospital records and reports of the licensee as part of the examination, and copies of
7 these ~~shall~~ must be released to the board on written request. ~~If the board has reasonable cause to believe~~
8 ~~that this probability exists, the department shall mail to the person at his last address of record with the~~
9 ~~department, a specification of the charges against him, together with a written notice of the time and place~~
10 ~~of the hearing on such charges, advising him that he may be present in person and with counsel if he so~~
11 ~~desires to offer evidence and be heard in his defense. The time fixed for hearing may not be less than 30~~
12 ~~days from the date of mailing the notice.~~

13 ~~(3) Any person, including a member of the board, may file a sworn complaint with the department~~
14 ~~against a licensed chiropractor charging him with any of the offenses or conditions set forth in 37-12-321~~
15 ~~or subsection (1) of this section, which complaint shall set forth a specification of the charges. When the~~
16 ~~complaint has been filed, the board may make an investigation as provided by this section or may proceed~~
17 ~~to hearing. The department shall mail a copy of the complaint to the person charged, together with notice~~
18 ~~of hearing as provided in subsection (2) of this section.~~

19 ~~(4) After the hearing, the board shall adopt a resolution finding that the offenses charged have or~~
20 ~~have not been committed or that the conditions charged do or do not exist. If the finding is in the negative,~~
21 ~~the board shall dismiss the charges. If the finding is in the affirmative, the board shall:~~

22 ~~(a) revoke the license;~~

23 ~~(b) suspend the licensee's right to practice for a period not to exceed 1 year;~~

24 ~~(c) suspend its judgment of revocation on terms and conditions determined by the board;~~

25 ~~(d) place the licensee on probation;~~

26 ~~(e) fine the licensee in an amount not to exceed \$500 for each incident; or~~

27 ~~(f) take any other disciplinary action which the board in its discretion considers proper.~~

28 ~~(5) In cases of revocation, suspension, or probation, the department shall record the facts of the~~
29 ~~case and all actions of the board in relation thereto.~~

30 ~~(6) On the expiration of a term of suspension, the licensee shall be reinstated by the board if he~~

1 ~~furnishes evidence, satisfactory to the board, that he is then of good moral character and conduct or~~
 2 ~~restored to good health and that he has not practiced chiropractic during the term of suspension. If the~~
 3 ~~evidence fails to establish such facts to the satisfaction of the board, the board shall proceed to hearing~~
 4 ~~on revocation with notice as provided in subsection (2) of this section.~~

5 ~~(7) Following a final determination resulting in any disciplinary action taken by the board under~~
 6 ~~subsection (4), the board may recover from the disciplined party all reasonable costs of any proceeding,~~
 7 ~~not to exceed \$1,000, incurred for the purpose of the disciplinary action. Fines and costs recovered must~~
 8 ~~be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6)."~~

9
 10 **Section 55.** Section 37-13-306, MCA, is amended to read:

11 **"37-13-306. Annual renewal -- fee -- military exemption.** (1) The license to practice acupuncture
 12 must be renewed annually, on a date set by the ~~board~~ department, without examination and upon request
 13 of the licensee. The request for renewal must be on forms prescribed by the board and accompanied by
 14 a renewal fee prescribed by the board. The request and fee must be in the hands of the secretary of the
 15 board not later than the expiration date of the license.

16 (2) Immediately following the renewal date, the secretary shall notify all licensees from whom
 17 requests for renewal, accompanied by the renewal fee, have not been received that their licenses have
 18 expired and that they will be cancelled and revoked upon the records of the board unless a request for
 19 renewal and reinstatement, accompanied by the renewal fee and an additional fee prescribed by the board,
 20 is in the hands of the secretary within 30 days of the renewal date.

21 (3) If the licensee fails to renew within 30 days following the renewal date, the secretary of the
 22 board shall cancel and revoke upon its records all licenses that have not been renewed or reinstated as
 23 provided by this chapter and shall notify the licensees whose licenses are revoked of the action.

24 (4) A licensee who allows ~~his~~ the license to lapse by failing to renew or reinstate the license as
 25 provided in this section may subsequently reinstate the license upon good cause shown to the satisfaction
 26 of the board and upon payment of all annual renewal fees then accrued plus an additional fee prescribed
 27 by the board for each year following the cancelling of the license.

28 (5) A person actively engaged in the military service of the United States and licensed to practice
 29 acupuncture as provided in this part is not required to pay the annual renewal fee or make application for
 30 renewal until the renewal date of the calendar year in which ~~he~~ the person returns from military service to

1 civilian or inactive status."

2

3 **Section 56.** Section 37-15-102, MCA, is amended to read:

4 **"37-15-102. Definitions.** As used in this chapter, the following definitions apply:

5 (1) "ASHA" means the American speech-language and hearing association.

6 (2) "Association" means the Montana speech-language and hearing association.

7 (3) "Audiologist" means a person who practices audiology and who meets the qualifications set
8 forth in this chapter. A person represents to the public that the person is an audiologist by incorporating
9 in any title or description of services or functions that the person directly or indirectly performs the words
10 "audiologist", "audiology", "audiometrist", "audiometry", "audiological", "audiometrics", "hearing clinician",
11 "hearing clinic", "hearing therapist", "hearing therapy", "hearing center", "hearing aid audiologist", or any
12 similar title or description of services.

13 (4) "Audiology aide" means any person meeting the minimum requirements established by the
14 board of speech-language pathologists and audiologists who works directly under the supervision of a
15 licensed audiologist.

16 (5) "Board" means the board of speech-language pathologists and audiologists provided for in
17 2-15-1849.

18 (6) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

19 (7) "Practice of audiology" means rendering or offering to render a service in audiology to
20 individuals or groups of individuals who have or are suspected of having hearing disorders. These services
21 include:

22 (a) prevention, identification, measurement, testing, evaluation, prediction, consultation,
23 habilitation, rehabilitation, instruction, and research;

24 (b) participating in hearing conservation and hearing aid and assistive listening device evaluation,
25 prescription, preparation, dispensing, and orientation;

26 (c) fabricating ear molds;

27 (d) providing auditory training and speech reading;

28 (e) conducting tests of vestibular function;

29 (f) evaluating tinnitus;

30 (g) planning, directing, conducting, or supervising programs that render or offer to render a service

1 in audiology; and

2 (h) speech or language screening, limited to a pass/fail determination.

3 (8) "Practice of speech-language pathology" means rendering or offering to render a service in
4 speech-language pathology to individuals or groups of individuals who have or are suspected of having
5 communication disorders. These services include:

6 (a) prevention, identification, measurement, testing, evaluation, prediction, consultation,
7 habilitation, and rehabilitation;

8 (b) determining the need for augmentative communication systems and providing training in the
9 use of these systems;

10 (c) planning, directing, conducting, or supervising programs that render or offer to render a service
11 in speech-language pathology;

12 (d) nondiagnostic pure-tone air conduction, tympanometry, and acoustic reflex screening, limited
13 to a pass/fail determination;

14 (e) aural rehabilitation, which includes services and procedures for facilitating adequate receptive
15 and expressive communication in individuals with hearing impairment;

16 (f) oral motor rehabilitation, which includes services and procedures for evaluating and facilitating
17 face, lip, and tongue mobility and control;

18 (g) cognitive retraining, which includes services and procedures for evaluating and facilitating
19 memory, attention, reasoning, processing, judgment, and other related areas in individuals with language
20 impairment resulting from head injury, stroke, or other insult; and

21 (h) dysphagia therapy, which includes services and procedures for evaluating and facilitating
22 swallowing and feeding in those individuals with swallowing disorders.

23 (9) "Speech-language pathologist" means a person who practices speech-language pathology and
24 who meets the qualifications set forth in this chapter. A person represents to the public that the person is
25 a speech-language pathologist by incorporating in any title or description of services or functions that the
26 person directly or indirectly performs the words "speech pathologist", "speech pathology", "speech
27 correctionist", "speech corrections", "speech therapist", "speech therapy", "speech clinician", "speech
28 clinic", "language pathologist", "language pathology", "voice therapist", "voice therapy", "voice
29 pathologist", "voice pathology", "logopedist", "logopedics", "communicologist", "communicology",
30 "aphasiologist", "aphasiology", "phoniatrist", "language therapist", "language clinician", or any similar title

1 or description of services or functions.

2 (10) "Speech-language pathology aide" means a person meeting the minimum requirements
3 established by the board who works directly under the supervision of a licensed speech-language
4 pathologist.

5 ~~(11) "Unethical conduct" means:~~

6 ~~(a) the obtaining of a fee by fraud or misrepresentation;~~

7 ~~(b) employing, directly or indirectly, any suspended or unlicensed person to perform any work~~
8 ~~covered by this chapter unless that person assumes the legal status of a supervised aide; or~~

9 ~~(c) using or causing or promoting the use of any advertising matter, promotional literature,~~
10 ~~testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated~~
11 ~~or published, which is misleading, deceiving, improbable, or untruthful."~~

12

13 **Section 57.** Section 37-15-202, MCA, is amended to read:

14 **"37-15-202. Powers and duties of board and department.** (1) The board shall:

15 (a) administer, coordinate, and enforce the provisions of this chapter;

16 (b) evaluate the qualifications of each applicant for a license as issued under this chapter and
17 supervise the examination of ~~such~~ applicants;

18 ~~(c) investigate persons engaging in practices which allegedly violate the provisions of this chapter;~~

19 ~~(d)~~ (c) conduct hearings and keep records and minutes as the board considers necessary to an
20 orderly dispatch of business;

21 ~~(e)~~ (d) adopt rules, including but not limited to those governing ethical standards of practice under
22 this chapter;

23 ~~(f)~~ (e) make recommendations to the governor and other state officials regarding new and revised
24 programs and legislation related to speech-language pathology or audiology which could be beneficial to
25 the citizens of the state of Montana;

26 ~~(g)~~ (f) cause the prosecution and enjoinder of all persons violating this chapter, by the complaints
27 of its secretary filed with the county attorney in the county where the violation took place, and incur
28 necessary expenses therefor;

29 ~~(h)~~ (g) adopt a seal by which the board shall authenticate its proceedings.

30 (2) Copies of the proceedings, records, and acts of the board, signed by the ~~chairman~~ presiding

1 ~~officer~~ or secretary of the board and stamped with the seal, ~~shall be~~ are prima facie evidence of the validity
2 of ~~such the~~ documents.

3 (3) The board may make rules which are reasonable or necessary for the proper performance of
4 its duties and for the regulation of proceedings before it.

5 (4) The department may employ persons it considers necessary to carry out the provisions of this
6 chapter.

7 (5) The department shall prepare a report to the governor as required by law."
8

9 **Section 58.** Section 37-15-308, MCA, is amended to read:

10 **"37-15-308. Renewal.** (1) Each licensed speech-language pathologist or audiologist shall pay to
11 the board the fee for the renewal of ~~his the~~ license according to rules adopted by the department.

12 (2) The department shall notify each person licensed under this chapter relative to the date of
13 expiration of ~~his the~~ license and the amount of the renewal fee. This notice must be mailed to each licensed
14 speech-language pathologist or audiologist at least 1 month before the expiration of the license.

15 (3) Renewal may be made at any time during the 60 days prior to the expiration date by application
16 therefor. ~~A renewal application must be accompanied with documentation satisfactory to the board that~~
17 ~~the applicant has fulfilled his continuing educational requirements as provided in 37-15-309.~~

18 (4) Failure on the part of any licensed person to pay the renewal fee by the expiration date does
19 not deprive ~~him the person~~ of the right to renew ~~his the~~ license, but the fee ~~shall~~ must be increased 10%
20 for each month that the payment of the renewal fee is delayed after the expiration date. The maximum fee
21 for delayed renewal ~~shall~~ may not exceed twice the normal renewal fee.

22 (5) Application for renewal following a lapse of 1 year or more ~~shall be~~ is subject to review by the
23 board, and the applicant may be requested to complete an examination successfully if the board so
24 determines.

25 (6) A suspended license is subject to expiration and may be renewed as provided in this section,
26 but ~~such the~~ renewal does not entitle the licensee, while the license remains suspended, to engage in the
27 licensed activity or in any other activity or conduct which violates the order or judgment by which the
28 license was suspended.

29 (7) A license revoked on disciplinary grounds is subject to expiration, and it may not be renewed.
30 If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement

1 fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the
2 date on which it is reinstated plus the delinquency fee, if any, accrued at the time of its revocation.

3 (8) A person who fails to renew his a license within 2 years after its expiration may not renew it,
4 and it may not be restored, reissued, or reinstated ~~thereafter, but such a~~ However, the person may reapply
5 for and obtain a new license if ~~he~~ the person meets the requirements of this chapter."

6
7 **Section 59.** Section 37-16-202, MCA, is amended to read:

8 "**37-16-202. Powers and duties.** The powers and duties of the board are to:

9 (1) license persons who apply and are qualified to practice the fitting of hearing aids;

10 ~~(2) establish a procedure to act as a grievance board to receive, investigate, and mediate~~
11 ~~complaints from any source concerning the activities of persons licensed under this chapter or their agents,~~
12 ~~whether licensed or not;~~

13 ~~(3)~~ (2) suspend or revoke licenses under this chapter;

14 ~~(4)~~ (3) designate the time and place for examining applicants for license and supervise and
15 administer the examination;

16 ~~(5)~~ (4) adopt rules necessary to carry out this chapter;

17 ~~(6)~~ (5) require the periodic inspection and calibration of audiometric testing equipment and carry
18 out periodic inspections of facilities of persons who practice the fitting or selling of hearing aids;

19 ~~(7)~~ (6) prepare examinations required by the chapter;

20 ~~(8)~~ (7) initiate legal action to enjoin from operation a person or corporation engaged in the sale,
21 dispensing, or fitting of hearing aids in this state who is not licensed under this chapter;

22 ~~(9)~~ (8) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304,
23 37-16-402, 37-16-403, 37-16-405, 37-16-407, and 37-16-408, ~~37-16-411, and 37-16-414.~~ Rules adopted
24 by the board may include but are not limited to rules defining the term "related devices" and other rules
25 necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-403, 37-16-405,
26 37-16-407, and 37-16-408, ~~37-16-411, and 37-16-414."~~

27
28 **Section 60.** Section 37-16-301, MCA, is amended to read:

29 "**37-16-301. Permanent place of business in state necessary -- records -- notice -- designation of**
30 **licensee in charge.** (1) A person who is actively engaged in dispensing hearing aids and related devices as

1 a business must have a permanent place of business in this state that will be opened to serve the public,
 2 having the necessary testing, fitting, and hearing aid accessories needed by the hard-of-hearing public in
 3 the wearing of hearing aids and related devices. All licensed hearing aid dispensers shall identify their
 4 permanent place of business in all advertising public notices and in all consumer correspondence, both
 5 written and verbal. More than one hearing aid dispenser licensee may work from a permanent place of
 6 business.

7 (2) The department shall keep a record of the places of practice of persons who hold regular
 8 licenses or trainee licenses. A notice required to be given by the board or department to a person who holds
 9 a regular or trainee license may be given by mailing it to ~~him~~ the person at the address last given ~~by him~~
 10 to the department.

11 (3) All licensed hearing aid dispensers shall notify the board of any change of address within 30
 12 days of the change. A trainee shall notify the board of any change of address within 10 days of the change.

13 (4) (a) When licensed hearing aid dispensers and trainees work at the same permanent place of
 14 business, the licensed hearing aid dispenser shall designate one licensed dispenser as the person in charge.
 15 There must be one licensed dispenser in charge at a permanent place of business.

16 (b) The licensed hearing aid dispenser in charge of a permanent place of business:

17 (i) is responsible and accountable under the disciplinary authority of the board for the conduct of
 18 trainees using that permanent place of business; and

19 (ii) has custody and control of the business records of that permanent place of business and is
 20 responsible for producing the records during an investigation conducted by the ~~board~~ department."

21

22 **Section 61.** Section 37-16-407, MCA, is amended to read:

23 "**37-16-407. Renewal of license -- fee** ~~-- inactive status.~~ (1) A person who practices the fitting of
 24 hearing aids and related devices shall annually pay to the department a fee as set by the board for a
 25 renewal of ~~his~~ the license. The fee must be fixed by the board to be commensurate with board costs in
 26 administering licensure and related board functions. The fee must be increased 10% for each month or
 27 major portion ~~thereof~~ of a month that the payment of the renewal fee is delayed after the expiration date.
 28 The maximum fee for a delayed renewal may not exceed twice the normal renewal fee as set by the board.
 29 A person applying for renewal whose license was suspended for failure to renew is required to submit to
 30 the examinations described in 37-16-403 as a condition of renewal for a 3-year period after suspension.

1 ~~(2) Each applicant for license renewal shall submit evidence showing completion of 4 hours of~~
 2 ~~continuing education completed during the preceding 12 months. The requirements of the continuing~~
 3 ~~education programs are to be determined by the board by rule.~~

4 ~~(3) (a) The board may set standards and fees for issuing licenses that designate inactive status.~~

5 ~~(b) An inactive licensee may be reinstated to active practice if he:~~

6 ~~(i) applies for reinstatement;~~

7 ~~(ii) pays a fee set by the board; and~~

8 ~~(iii) produces proof satisfactory to the board of completion of the continuing education~~
 9 ~~requirements established by the board."~~

10
 11 **Section 62.** Section 37-17-202, MCA, is amended to read:

12 **"37-17-202. Powers.** (1) The board may make reasonable and necessary rules for the proper
 13 performance of its duties and for the regulation of proceedings before it.

14 (2) In addition to the other powers and duties set forth, the board may:

15 (a) revoke and suspend licenses;

16 (b) conduct hearings upon complaints concerning persons licensed under this chapter;

17 (c) cause the prosecution and enjoinder of all persons violating this chapter, by the complaint of
 18 its secretary signed with the county attorney, in the county where the violation took place and incur
 19 necessary expenses ~~therefor~~ for the prosecution; and

20 (d) study and review new developments in research, training, and the practice of psychology and
 21 make recommendations to the governor and other state officials regarding new and revised programs and
 22 legislation related to psychology which could be beneficial to the citizens of the state of Montana;

23 ~~(e) adopt rules for the administration of a continuing education program, including but not limited~~
 24 ~~to accrediting education programs and establishing the number of hours of continuing education required~~
 25 ~~for license renewal."~~

26
 27 **Section 63.** Section 37-17-306, MCA, is amended to read:

28 **"37-17-306. Annual renewal.** (1) The license expires on ~~January 1 following~~ the date of its
 29 ~~issuance or renewal and is invalid thereafter~~ set by department rule. The department shall notify each
 30 person licensed under this chapter relative to the date of the expiration ~~of his license~~ and the amount of

1 ~~his~~ the renewal fee. This notice ~~shall~~ must be mailed to each licensed psychologist at ~~his~~ the licensee's
2 listed address at least 1 month before the expiration of the license.

3 (2) Renewal may be made by application during the 60 days prior to the expiration date. Failure
4 on the part of a person licensed to pay ~~his~~ the renewal fee by the expiration date does not deprive ~~him~~ the
5 person of the right to renew ~~his license~~, but the fee ~~shall~~ must be increased 10% for each month or major
6 portion ~~thereof~~ of a month that the payment of the renewal fee is delayed after the expiration date. The
7 maximum fee for delayed renewal may not exceed twice the normal renewal fee. Application for renewal
8 following a lapse of 1 year or more will be subject to review by the board, and the applicant may be
9 requested to complete an examination successfully if the board so determines.

10 ~~(3) The board may charge an additional fee for license renewal to be used for administering the~~
11 ~~continuing education program established in 33-17-318."~~

12
13 **Section 64.** Section 37-17-307, MCA, is amended to read:

14 "**37-17-307. Fees -- deposit of fees.** (1) The department shall collect the following fees, none of
15 which is refundable:

- 16 (a) application fee;
17 (b) examination fee, an amount commensurate with the charge of the professional examination
18 service and administrative costs of the department and as set by the board;
19 (c) certificate fee;
20 (d) renewal fee, ~~including an amount sufficient to cover the costs of administering the continuing~~
21 ~~education program.~~

22 ~~(2) Renewal certificates shall be secured annually and dated January 2.~~

23 ~~(3)~~ (2) Fees received by the department ~~shall~~ must be deposited in the state special revenue fund
24 for the use of the board, subject to 37-1-101(6)."

25
26 **Section 65.** Section 37-18-202, MCA, is amended to read:

27 "**37-18-202. Powers of board and department -- examinations -- ~~prosecutions~~.** (1) The board may
28 adopt rules and orders necessary for the performance of its duties, including but not limited to:

- 29 (a) ~~development of continuing professional education requirements and exceptions therefrom;~~
30 ~~(b)~~ prescribing of forms for application for examination and license; and

1 ~~(e)~~ (b) preparation of examinations.

2 (2) The department shall, subject to 37-1-101, supervise the examination of applicants for license
3 to practice veterinary medicine, obtain the services of professional examination agencies instead of its own
4 preparation of examinations, and grant and revoke licenses.

5 ~~(3) The department may employ attorneys, subject to the approval of the attorney general, to assist
6 county attorneys in prosecutions brought under this chapter in the respective district courts of the state
7 or to assist the attorney general in representing the board before the supreme court."~~

8

9 **Section 66.** Section 37-18-303, MCA, is amended to read:

10 **"37-18-303. Examination -- temporary permit pending examination.** (1) Subject to 37-1-101, the
11 board shall by means of examination, either oral, written, or practical or a combination of oral, written, or
12 practical as the board determines, ascertain the professional qualifications for license of applicants under
13 this part. ~~An investigation under reciprocity arrangements may replace examination for licensees from other
14 states under 37-18-304.~~ The department shall issue a license to all who are found to be, in the judgment
15 of the board, competent to practice. A license may not be issued to a person who is not found by the
16 examination or investigation to be competent and qualified.

17 (2) The examination ~~shall~~ must be held when determined necessary by the board, but not less
18 frequently than once each year at a time and place specified by the board. The examination ~~shall~~ must
19 cover theory and practice, pharmacology and therapeutics, animal sanitation, surgery, communicable
20 diseases, and other subjects chosen by the board which are ordinarily included in the curriculum of a school
21 of veterinary medicine recognized and approved by the American veterinary medical association.

22 (3) The department shall consecutively number applications received, note on each the disposition
23 made of it, and preserve them for reference and shall number consecutively licenses issued.

24 ~~(4) Applicants must~~ An applicant is required to achieve a grade of 70% in order to obtain a license.
25 An applicant who has failed an examination may apply to be reexamined at a subsequent examination and
26 shall pay another application fee commensurate with the costs of the examinations and set by the board
27 and shall take another complete examination in all subjects.

28 ~~(5) An applicant for examination may, in the discretion of the board, be given a temporary permit
29 to practice veterinary medicine prior to taking the examination if the applicant is employed by and working
30 under the supervision of and in the same office with a veterinarian licensed under this part. The temporary~~

1 ~~permit is valid only until the date of the next examination. Under no circumstances may a second temporary~~
 2 ~~permit be issued to the same person. A temporary permit may not be issued to a person who has failed an~~
 3 ~~examination given under this section."~~

4
 5 **Section 67.** Section 37-18-305, MCA, is amended to read:

6 **"37-18-305. License -- issuance and contents.** (1) The board shall, at the conclusion of a regular
 7 examination or after investigation, ~~under the reciprocity arrangements of 37-18-304~~ if in its judgment the
 8 applicant is qualified, authorize the department to issue a license to practice veterinary medicine.

9 (2) Every license granted ~~shall~~ must be issued under seal and ~~shall~~ must be signed by the president
 10 and secretary-treasurer of the board and ~~shall~~ must state that the licensee has given satisfactory evidence
 11 of fitness as to age, character, veterinary medical education, and other matters required by law and that
 12 after full examination, ~~or investigation under reciprocity arrangements, he~~ the licensee has been found
 13 qualified to practice."

14
 15 **Section 68.** Section 37-18-307, MCA, is amended to read:

16 **"37-18-307. Renewal -- fee -- continuing education -- automatic renewal for military personnel.** (1)
 17 A person licensed to practice veterinary medicine in this state shall procure a certificate of registration from
 18 the department annually on or before November 1 ~~annually his~~ the date set by department rule ~~certificate~~
 19 ~~of registration~~. The certificate ~~shall~~ must be issued by the department on the payment of a fee fixed by the
 20 board and on presentation of evidence satisfactory to the board that the licensee ~~has complied with~~
 21 ~~continuing education requirements established by the board~~ qualifies for renewal. ~~The board may waive,~~
 22 ~~relax, or suspend continuing education requirements or particular program requirements for applicants who~~
 23 ~~cannot fulfill these requirements because of individual hardship. New licensees who secure licenses by~~
 24 ~~examination shall be granted a renewal the first year without attending the educational programs. The~~
 25 ~~certificate is prima facie evidence of the right of the holder to practice veterinary medicine in this state~~
 26 ~~during the time for which it is issued.~~

27 (2) Failure of a person licensed to procure a certificate of registration on or before November 1,
 28 ~~annually,~~ the date set by department rule constitutes a forfeiture of the license held by the person. A person
 29 who has ~~thus~~ forfeited ~~his~~ the license may have it restored ~~to him~~ by making written application for
 30 restoration within 1 year of the forfeiture, setting forth the reasons for failure to procure the certificate of

1 registration at the time specified and accompanied by payment of the registration fee provided for in this
 2 section and an additional restoration fee as the board requires ~~and by presentation of evidence satisfactory~~
 3 ~~to the board that he has fulfilled all continuing education requirements to the date of application for~~
 4 ~~restoration.~~ The person making application for restoration of license within 1 year of its forfeiture is not
 5 required to submit to examination.

6 (3) Notwithstanding any other provisions in this chapter, a person licensed who enters or is called
 7 to active duty by a branch of the armed services of the United States is entitled to receive automatic
 8 registration of ~~his~~ the license during the period of ~~his~~ active duty with the armed services. However, within
 9 1 year after release or discharge from duty in the armed services ~~he~~ the person shall procure a certificate
 10 of renewal from the department and pay the regular fee. Failure to procure the certificate of renewal within
 11 1 year after release or discharge is the equivalent of a failure to procure a certificate of registration before
 12 November 1 of any year, and the same forfeiture and restoration requirements apply.

13 (4) A person licensed shall at all times have ~~his~~ the person's residence and office address on file
 14 with the department."
 15

16 **Section 69.** Section 37-19-301, MCA, is amended to read:

17 "**37-19-301. Funeral director's license -- renewal -- fee.** The practice of funeral directing by anyone
 18 who does not hold a funeral director's license or a mortician's license issued by the department is
 19 prohibited. A person licensed to practice funeral directing on June 1, 1963, is entitled to an annual renewal
 20 of ~~his~~ the license on payment of a renewal fee to the department on ~~July 1 of each year~~ or before the date
 21 set by department rule. The amount of the annual renewal license fee ~~shall~~ must be set by the board. A
 22 ~~funeral director's license may not be issued to a person who is not licensed by the board of embalmers and~~
 23 ~~funeral directors to practice funeral directing on June 1, 1963."~~
 24

25 **Section 70.** Section 37-19-306, MCA, is amended to read:

26 "**37-19-306. Annual renewal of mortician's license -- fee -- suspension for nonrenewal.** (1) The
 27 annual license fee for a mortician's license must be postmarked on or before ~~July 1 of the assessment year~~
 28 the date set by department rule. The amount of the annual renewal fee ~~shall~~ must be set by the board.

29 (2) Failure to pay the annual renewal fee results in automatic suspension of the license. The license
 30 may be reinstated by the payment of unpaid renewal fees plus a penalty prescribed by the board."

1 **Section 71.** Section 37-19-401, MCA, is amended to read:

2 **"37-19-401. License required -- display of license -- renewal -- penalty for late renewal.** (1) An
3 operating mortuary must be licensed by the board. The license must be displayed in a conspicuous place.

4 (2) A mortuary license expires on ~~June 30 of each year~~ the date set by department rule and may
5 be renewed upon payment of a fee set by the board.

6 (3) The board may set a penalty for late renewal of a mortuary license."
7

8 **Section 72.** Section 37-19-702, MCA, is amended to read:

9 **"37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal.** (1) A
10 person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture,
11 voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and
12 facilities for the cremation of human remains and that conducts cremations must be licensed by the board,
13 beginning July 1, 1993. The license must be displayed in a conspicuous place in the crematory facility.

14 (2) A crematory license expires on ~~June 30 of each year~~ the date set by department rule and may
15 be renewed upon payment of a fee set by the board, which includes the cost of annual inspection. If a
16 crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection
17 of both a mortuary facility under 37-19-403 and a crematory facility.

18 (3) The board may set a penalty fee for late renewal of a license.

19 (4) A person in charge of a licensed crematory facility must be licensed as a crematory operator
20 by the board. A person employed by a licensed crematory facility must be licensed as a crematory
21 technician by the board. The license must be displayed in a conspicuous place in the crematory facility.

22 (5) Crematory operator and crematory technician licenses expire on ~~June 30 of each year~~ the date
23 set by department rule and may be renewed upon payment of a fee set by the board. On-the-job training
24 must be provided to a crematory technician at the time of employment."
25

26 **Section 73.** Section 37-20-302, MCA, is amended to read:

27 **"37-20-302. Utilization plan approval fee -- renewal of license -- renewal fee.** (1) A utilization plan
28 approval fee must be paid in an amount set by the board. Payment must be made when the utilization plan
29 is submitted to the board and is not refundable.

30 (2) A locum tenens utilization plan approval fee must be paid in an amount set by the board.

1 (3) A license issued under this part must be renewed annually, on a date set by the ~~board~~
2 department.

3 (4) A license renewal fee set by the board must be paid at the time the license is renewed.

4 (5) The department shall mail a renewal notice no later than 60 days prior to the renewal date ~~set~~
5 ~~by the board under subsection (3)~~. A certified letter addressed to the delinquent licensee's last-known
6 address as it appears on the records of the department constitutes notice of intent to revoke the license.

7 (6) If the annual renewal fee is not paid on or before the renewal date ~~set by the board under~~
8 ~~subsection (3)~~, the board may revoke the license after giving 30 days' notice to the licensee. A license may
9 not be revoked for nonpayment of a renewal fee if the licensee pays the annual renewal fee plus a penalty
10 prescribed by the board on or before the date fixed for revocation.

11 (7) Fees received by the department must be deposited in the state special revenue fund for use
12 by the board in the administration of this chapter, subject to 37-1-101(6)."

13
14 **Section 74.** Section 37-20-403, MCA, is amended to read:

15 **"37-20-403. Physician assistant-certified as agent of supervising physician.** (1) In establishing
16 protocol, a physician assistant-certified must be considered the agent of the supervising physician with
17 regard to all duties delegated to the physician assistant-certified under the utilization plan. A health care
18 provider shall consider the instructions of a physician assistant-certified as being the instructions of the
19 supervising physician as long as the instructions concern the duties delegated to the physician
20 assistant-certified under the utilization plan.

21 (2) The supervising physician and the physician assistant-certified are responsible for making
22 available a copy of the approved utilization plan to all other health care practitioners with whom they
23 reasonably believe they will interact on a regular basis.

24 ~~(3) Nothing in this chapter may be construed to conflict with the provisions of 37-3-322."~~

25
26 **Section 75.** Section 37-22-304, MCA, is amended to read:

27 **"37-22-304. Renewal of license.** (1) An application for renewal of an existing license must be made
28 within 60 days after the expiration of the license is timely, and the rights and privileges of the applicant
29 during that period remain in effect on or before the date set by department rule.

30 (2) Application for renewal must be made upon a form provided by the department. A renewal

1 license must be issued upon payment of a renewal fee set by the board and upon submitting proof of
 2 ~~completion of continuing education requirements~~ qualification for renewal.

3 ~~(3) An individual may renew a license in the manner provided in subsection (2) within 1 year of~~
 4 ~~the expiration date of the license. An applicant for renewal shall provide the board with proof that the~~
 5 ~~applicant has satisfied the continuing education requirements of the board for the year for which the license~~
 6 ~~is to be renewed.~~

7 ~~(4)~~ The renewal fee is increased by 10% for each month or part of a month that the renewal is
 8 delayed ~~after the 60 day period provided in subsection (1)~~. The maximum fee for delayed renewal may not
 9 exceed twice the normal renewal fee.

10 ~~(5)~~ (4) A license not renewed within 1 year following its expiration date terminates automatically."
 11

12 **Section 76.** Section 37-23-103, MCA, is amended to read:

13 **"37-23-103. Powers and duties of board.** (1) The board shall:

14 (a) recommend amendments to this chapter to the governor or the legislature, or both;

15 (b) recommend prosecutions for violations of 37-23-311 to the attorney general or appropriate
 16 county attorneys, or both;

17 (c) annually publish a list of the names and addresses of all persons who are licensed professional
 18 counselors;

19 ~~(d) establish requirements for continuing education that are conditions of license renewal;~~

20 ~~(e)~~ meet to perform the duties described in this section;

21 ~~(f)~~ (e) adopt rules that set professional and ethical standards for licensed professional counselors
 22 ~~which that~~ are based on national standards and ~~such~~ other rules as may be reasonably necessary for the
 23 administration of this chapter; and

24 ~~(g)~~ (f) distribute a copy of the professional and ethical standards to each licensed professional
 25 counselor.

26 (2) The board may adopt rules governing the issuance of certificates of special competence in
 27 particular areas of practice as a licensed professional counselor. The board shall establish criteria for each
 28 particular area for which a certificate is issued."
 29

30 **Section 77.** Section 37-23-202, MCA, is amended to read:

1 **"37-23-202. (Temporary) Licensure requirements.** (1) An applicant for licensure must have
2 satisfactorily completed:

3 (a) a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester
4 hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from
5 an institution accredited to offer a graduate program in counseling;

6 (b) 2,000 hours of counseling practice supervised by a licensed professional counselor or licensed
7 member of an allied mental health profession, at least half of which was postdegree. The applicant must
8 have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

9 (c) and passed an examination prepared and administered by:

10 (i) the board, based on a national examination approved by the board;

11 (ii) the national board of certified counselors; or

12 (iii) the national academy of certified clinical mental health counselors; and

13 (d) an application form and process prescribed by the board.

14 (2) The board shall provide by rule for licensure:

15 ~~(a) of a person who possesses a minimum 45 semester hour graduate degree that is primarily~~
16 ~~related to counseling and that is from an institution accredited to offer a graduate program in counseling,~~
17 ~~by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a)~~
18 ~~in counseling courses in an approved program within a period of 5 years; and~~

19 ~~(b) of a person who possesses a license or certification as a professional counselor from an agency~~
20 ~~located in another state whose requirements are less than the requirements of this chapter, by:~~

21 ~~(i) crediting past clinical experience in psychotherapy and counseling; and~~

22 ~~(ii) recommending additional education or experience necessary to fulfill the requirements of this~~
23 ~~chapter.~~

24 **37-23-202. (Effective July 1, 1996) Licensure requirements.** (1) An applicant for licensure must
25 have satisfactorily completed:

26 (a) a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester
27 hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from
28 an institution accredited to offer a graduate program in counseling;

29 (b) 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed
30 member of an allied mental health profession, at least half of which was postdegree. The applicant must

1 have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

2 (c) and passed an examination prepared and administered by:

3 (i) the board, based on a national examination approved by the board;

4 (ii) the national board of certified counselors; or

5 (iii) the national academy of certified clinical mental health counselors; and

6 (d) an application form and process prescribed by the board.

7 (2) The board shall provide by rule for licensure:

8 ~~(a) of a person who possesses a minimum 45 semester hour graduate degree that is primarily~~
 9 ~~related to counseling and that is from an institution accredited to offer a graduate program in counseling,~~
 10 ~~by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a)~~
 11 ~~in counseling courses in an approved program within a period of 5 years; and~~

12 ~~(b) of a person who possesses a license or certification as a professional counselor from an agency~~
 13 ~~located in another state whose requirements are less than the requirements of this chapter, by:~~

14 ~~(i) crediting past clinical experience in psychotherapy and counseling; and~~

15 ~~(ii) recommending additional education or experience necessary to fulfill the requirements of this~~
 16 ~~chapter."~~

17

18 **Section 78.** Section 37-23-205, MCA, is amended to read:

19 **"37-23-205. Renewal of license.** (1) A license may be issued for no longer than 1 year. The ~~board~~
 20 ~~department~~ may adopt rules to provide for annual renewal of an existing license.

21 (2) An application for renewal of an existing license must be made within 60 days after on or
 22 before the expiration of the license is timely, and the rights and privileges of the applicant during that period
 23 remain in effect date set by department rule.

24 (3) Application for renewal must be made upon a form provided by the department. A renewal
 25 license must be issued upon payment of a renewal fee set by the board and upon submitting proof of
 26 ~~completion of continuing education requirements established by the board~~ qualification for renewal.

27 (4) ~~An individual may renew a license in the manner provided in subsection (3) within 1 year of~~
 28 ~~the expiration date of the license. An applicant for renewal shall provide the board with proof that the~~
 29 ~~applicant has satisfied the continuing education requirements of the board for the year for which the license~~
 30 ~~is to be renewed.~~

1 ~~(5)~~ The renewal fee is increased by 10% for each month or part of a month that the renewal is
 2 delayed ~~after the 60-day period provided in subsection (2).~~ The maximum fee for delayed renewal may not
 3 exceed twice the normal renewal fee.

4 ~~(6)~~ (5) A license not renewed within 1 year following its expiration date terminates automatically."
 5

6 **Section 79.** Section 37-24-202, MCA, is amended to read:

7 **"37-24-202. Powers and duties of board.** (1) The board shall:

8 (a) administer, coordinate, and enforce the provisions of this chapter;

9 (b) evaluate the qualifications of applicants for licensure under this chapter and approve and
 10 supervise the examination of ~~such~~ applicants;

11 ~~(c) investigate persons engaging in practices that allegedly violate the provisions of this chapter;~~

12 ~~(d)~~ adopt rules relating to professional licensure and the establishment of ethical standards of
 13 practice under this chapter;

14 ~~(e)~~ (d) conduct hearings and keep records and minutes as the board considers necessary to carry
 15 out its functions; and

16 ~~(f)~~ (e) adopt a seal by which the board shall authenticate its proceedings.

17 (2) A copy of the proceedings, records, or acts of the board, signed by the ~~chairman~~ presiding
 18 officer or secretary of the board and stamped with the seal, is prima facie evidence of the validity of ~~such~~
 19 the document.

20 (3) The department may employ persons it considers necessary to carry out the provisions of this
 21 chapter."
 22

23 **Section 80.** Section 37-24-308, MCA, is amended to read:

24 **"37-24-308. Renewal of license —inactive status.** ~~(1)~~ Each license issued under this chapter is
 25 subject to annual renewal on the date set by department rule upon the payment of a renewal fee and
 26 expires unless renewed in the manner prescribed by the rules of the board. The board may provide for the
 27 late renewal of a license upon the payment of a late fee in accordance with its rules, but ~~no~~ a late renewal
 28 of a license may not be granted more than 5 years after its expiration.

29 ~~(2) Upon request, the board may grant inactive status to a licensee who:~~

30 ~~(a) does not practice as an occupational therapist or an occupational therapy assistant; and~~

1 ~~(b) does not hold himself out as an occupational therapist or an occupational therapy assistant."~~

2

3 **Section 81.** Section 37-25-307, MCA, is amended to read:

4 **"37-25-307. Renewal of license —~~continuing education~~.** (1) An application for renewal of license
5 must be made annually on a date set by the ~~board~~ department.

6 (2) A renewal license must be issued when the applicant submits proof that requirements for
7 ~~continuing education~~ continued licensure have been met and pays a renewal fee set by the board
8 commensurate with costs.

9 (3) An additional fee may be imposed on applications for renewal received by the board more than
10 30 days after the annual renewal date."

11

12 **Section 82.** Section 37-26-201, MCA, is amended to read:

13 **"37-26-201. Powers and duties of board.** The board shall:

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

15 (2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301,
16 that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are
17 consistent with the education provided by approved naturopathic medical colleges;

18 (3) adopt rules prescribing the time, place, content, and passing requirements of the licensure
19 examination, which may be composed of part or all of the national naturopathic physicians licensing
20 examination;

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

23 (5) adopt rules that set nonrefundable fees, commensurate with costs, for application, examination,
24 licensure, and other administrative services;

25 (6) approve naturopathic medical colleges as defined in 37-26-103;

26 ~~(7) adopt rules for the investigation of complaints against naturopathic physicians, for hearings on~~
27 ~~complaints, and to impose disciplinary action against naturopathic physicians found to be in violation of this~~
28 ~~chapter;~~

29 ~~(8) investigate individuals falsely claiming to be naturopathic physicians and act in cooperation with~~
30 ~~county attorneys to enforce the provisions of this chapter;~~

1 ~~(9) adopt rules that establish, approve, and routinely review a continuing education curriculum and~~
 2 ~~accreditation for naturopathic physicians that is required for license renewal;~~

3 ~~(10) (7) issue certificates of specialty practice; and~~

4 ~~(11) issue temporary licenses as provided for in 37-26-403; and~~

5 ~~(12) (8) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited~~
 6 ~~scope of practice of naturopathic medicine, which may exclude the use of minor surgery or the legend~~
 7 ~~drugs allowed under 37-26-301."~~

8
 9 **Section 83.** Section 37-26-403, MCA, is amended to read:

10 **"37-26-403. Application for licensure -- examination -- temporary license.** (1) A person who desires
 11 a license to practice naturopathic medicine in Montana shall apply to the department in the manner and
 12 form prescribed by the board. The application must be accompanied by the license fees, the application
 13 fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses
 14 the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the ~~board~~
 15 department may make an independent investigation to determine whether the applicant possesses the
 16 necessary qualifications and whether the applicant has committed unprofessional conduct that would be
 17 basis for licensure denial. At the board's request, the applicant shall provide necessary authorizations for
 18 the release of records and information pertinent to the ~~board's~~ department's investigation.

19 (2) A person who applies for licensure but who has not passed a licensure examination prescribed
 20 or endorsed by the board shall apply to the board for authorization to take the prescribed licensure
 21 examination. The application for examination must be accompanied by the examination fee. If the board
 22 finds that all other qualifications for licensure except that of examination have been met, the board shall
 23 authorize the applicant to take the licensure examination.

24 ~~(3) A person who has actively engaged in the practice of naturopathic medicine in Montana prior~~
 25 ~~to April 1, 1991, and who is a graduate of an approved naturopathic medical college may continue to~~
 26 ~~practice naturopathic medicine until the board reviews his qualifications if he applies to and receives from~~
 27 ~~the department a temporary license by October 1, 1991. The department shall issue a temporary license~~
 28 ~~to a qualified applicant. The board shall, within 6 months of October 1, 1991, review the qualifications of~~
 29 ~~each temporary licensee and either authorize the department to issue a license to a person qualified under~~
 30 ~~37-26-402 or 37-26-404 or extend the temporary license for a term of no more than 1 year to allow the~~

1 ~~practitioner to pass the prescribed examination. A person who is not a graduate of an approved~~
 2 ~~naturopathic medical college may not be granted a temporary license."~~

3

4 **Section 84.** Section 37-27-105, MCA, is amended to read:

5 **"37-27-105. General powers and duties of board -- rulemaking authority.** (1) The board shall:

6 (a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform
 7 the duties described in this section; and

8 (b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within
 9 the scope of the board's duties.

10 (2) The board shall have the authority to administer and enforce all the powers and duties granted
 11 statutorily or adopted administratively.

12 (3) The board shall adopt rules to administer this chapter. The rules must include but are not limited
 13 to:

14 (a) the development of a license application and examination, criteria for and grading of
 15 examinations, and establishment of examination and license fees commensurate with actual costs;

16 (b) the issuance of a provisional license to midwives who filed the affidavit required by section 2,
 17 Chapter 493, Laws of 1989;

18 (c) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements
 19 that, at a minimum, meet the standards established in 37-27-201;

20 (d) the development of eligibility criteria for client screening by direct-entry midwives in order to
 21 achieve the goal of providing midwifery services to women during low-risk pregnancies;

22 (e) the development of procedures for the issuance, renewal, suspension, and revocation, ~~and~~
 23 ~~reciprocity~~ of licenses;

24 (f) the adoption of disciplinary standards for licensees;

25 ~~(g) the establishment of investigatory and hearing procedures for processing complaints received~~
 26 ~~by the board;~~

27 ~~(h) the establishment of continuing education requirements of at least 14 hours annually for license~~
 28 ~~renewal for direct-entry midwives;~~

29 ~~(g)~~ (g) the development of standardized informed consent and reporting forms;

30 ~~(h)~~ (h) the adoption of ethical standards for licensed direct-entry midwives;

1 ~~(k)~~ (i) the adoption of supporting documentation requirements for primary birth attendants; and
 2 ~~(l)~~ (j) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the
 3 standards established in 37-27-201."

4
 5 **Section 85.** Section 37-28-201, MCA, is amended to read:

6 "**37-28-201. License required -- exceptions -- respiratory care not the practice of medicine.** (1)
 7 Except as otherwise provided in this chapter, a person may not practice respiratory care or represent
 8 ~~himself to be~~ to the public that the person is a respiratory care practitioner unless ~~he is licensed or granted~~
 9 ~~a temporary permit~~ under the provisions of ~~37-28-201 through 37-28-203 and 37-28-206~~ this chapter.

10 (2) This chapter does not prohibit:

11 (a) the practice of respiratory care that is an integral part of study by a student respiratory care
 12 practitioner;

13 (b) self-care by a patient or the gratuitous care by a friend or family member who does not ~~hold~~
 14 ~~himself out~~ purport to be a respiratory care practitioner; or

15 (c) respiratory care rendered in the course of an emergency.

16 (3) ~~Nothing in this~~ This chapter is not intended to limit, preclude, or interfere with the practice of
 17 other persons and health care providers licensed by the appropriate agencies of the state of Montana.

18 (4) ~~Nothing in this~~ This chapter may not be construed to permit the practice of medicine."
 19

20 **Section 86.** Section 37-28-202, MCA, is amended to read:

21 "**37-28-202. Licensing requirements -- examination -- fees.** (1) To be eligible for licensure by the
 22 board as a respiratory care practitioner, the applicant shall:

23 (a) submit to the board an application fee in an amount established by the board and a written
 24 application on a form provided by the board demonstrating that the applicant has completed:

25 (i) high school or the equivalent; and

26 (ii) a respiratory care educational program accredited or provisionally accredited by the American
 27 medical association's committee on allied health education and accreditation in collaboration with the joint
 28 review committee for respiratory therapy education or their successor organizations; and

29 (b) pass an examination prescribed by the board, ~~unless the examination requirement is waived~~
 30 ~~under subsection (2)~~. The board may use the entry-level examination written by the national board for

1 respiratory care or another examination that satisfies the standards of the national commission for health
2 certifying agencies or the commission's equivalent.

3 (2) ~~The board may issue a license to practice respiratory care to an applicant without requiring him
4 to pass an examination if the applicant:~~

5 ~~(a) is currently licensed to practice respiratory care under the laws of another state, territory, or
6 country if the board considers the qualifications for licensure to be equivalent to those required in this state;~~

7 ~~or~~

8 ~~(b) holds credentials, conferred by the national board for respiratory care, as a certified respiratory
9 therapy technician or a registered respiratory therapist and affirms under oath that his credentials have not
10 been suspended or revoked.~~

11 ~~(3) A person holding a license to practice respiratory care in this state may use the title "respiratory
12 care practitioner" and the abbreviation "RCP".~~

13

14 **Section 87.** Section 37-28-203, MCA, is amended to read:

15 **"37-28-203. Renewal of license -- application and fee.** (1) A respiratory care practitioner's license
16 expires ~~annually on May 1~~ on the date set by department rule.

17 (2) A licensee may renew a license by:

18 (a) filing an application with the board on a form approved by the board; and

19 (b) paying a renewal fee in an amount established by the board; ~~and~~

20 ~~(c) documenting the completion of the continuing education requirements prescribed by the board.~~

21 ~~(3) An application for renewal of a license made within 90 days after expiration of the license is
22 timely, and the rights and privileges of the applicant remain in effect during that period."~~

23

24 **Section 88.** Section 37-29-201, MCA, is amended to read:

25 **"37-29-201. Board powers and duties.** The board has the following powers and duties:

26 (1) determination of the qualifications of applicants for licensure under this chapter;

27 (2) administration of examinations for licensure under this chapter;

28 (3) collection of fees and charges prescribed in this chapter;

29 (4) issuance, suspension, and revocation of licenses for the practice of dentistry under the
30 conditions prescribed in this chapter; and

1 (5) to adopt, amend, and repeal rules necessary for the implementation, continuation, and
2 enforcement of this chapter, including but not limited to ~~license applications~~, form and display of licenses,
3 license examination format, criteria and grading of examinations, disciplinary standards for licensees, and
4 inspection of dentistry premises and facilities, ~~and investigation of complaints.~~"

5
6 **Section 89.** Section 37-29-303, MCA, is amended to read:

7 **"37-29-303. Application for license.** Upon application and payment of the appropriate fee, the
8 board shall issue a license to practice dentistry to any applicant who meets ~~one~~ of the following criteria
9 and scores a passing grade on the examination for licensure:

10 ~~(1) (a) Applications for persons engaged in the practice of dentistry on December 1, 1984, must~~
11 ~~be filed prior to April 1, 1985, and must include the following:~~

12 ~~(i) three signed affidavits by persons other than family members that the applicant has been~~
13 ~~employed in denture technology for at least 5 years prior to application, is able to demonstrate competency~~
14 ~~in intraoral procedures, and has been a resident of the state of Montana for at least 6 months prior to April~~
15 ~~1, 1985; and~~

16 ~~(ii) documentation that the applicant has successfully completed courses approved by the board~~
17 ~~in head and oral anatomy and physiology, oral pathology, partial denture construction and design, clinical~~
18 ~~dental technology, radiology, dental laboratory technology, asepsis, clinical jurisprudence, medical~~
19 ~~emergencies, and cardiopulmonary resuscitation.~~

20 ~~(b) Subsection (1)(a) must be applied retroactively to permit qualification of license applicants~~
21 ~~initially qualified and applying prior to the appointment and qualification of the original board under this~~
22 ~~chapter and section 27 of I.M. No. 97.~~

23 ~~(2) Applications filed on or after April 1, 1985, must include:~~

24 ~~(a) (1) documentation that the applicant has completed formal training of not less than 2 years at~~
25 ~~an educational institution accredited by a national or regional accrediting agency recognized by the Montana~~
26 ~~state board of regents, the curriculum of which includes courses in head and oral anatomy and physiology,~~
27 ~~oral pathology, microbiology, partial denture construction and design, clinical dental technology, radiology,~~
28 ~~dental laboratory technology, asepsis, clinical jurisprudence, and medical emergencies, including~~
29 ~~cardiopulmonary resuscitation; and~~

30 ~~(b) (2) documentation that the applicant:~~

- 1 ~~(i)~~ (a) has completed 1 year of internship under the direct supervision of a licensed dentist; or
 2 ~~(ii)~~ (b) has 3 years of experience as a dentist under licensure in another state or Canada.

3 ~~(3) A dentist who has been lawfully licensed or certified by initial licensing provisions in any state
 4 or territory that maintains a standard of dentistry which is equal to that of Montana must submit a
 5 certificate from the examining body of the state or territory in which he is certified or licensed, attesting
 6 to 5 years' practice under the certificate of license. However, no applicant may be licensed under the
 7 provisions of this subsection unless the state or territory in which he is licensed or certified extends a like
 8 privilege to dentists licensed by the state of Montana to practice dentistry. The board may enter into
 9 reciprocal relations with those states or territories whose laws are compatible with this chapter."~~

10

11 **Section 90.** Section 37-29-306, MCA, is amended to read:

12 "**37-29-306. Licensing.** (1) ~~After March 1, 1985, a~~ A dentist license is valid for a period of 1 year
 13 and expires on the date set by department rule. A renewal license must be issued upon timely payment of
 14 the renewal fee and the submission of proof of ~~the completion of not less than 12 hours of continuing~~
 15 ~~education, which may include programs sponsored by an educational institution, state dentist licensing~~
 16 ~~board, or a recognized dentist organization. Subject matter must be pertinent to dentistry as enumerated~~
 17 ~~in 37-29-306(3). Approval of acceptable hours of continuing education must be made by the board. The~~
 18 ~~board may approve, in one action, all the courses presented by a particular organization if the board is~~
 19 ~~satisfied that the courses presented by that organization meet the requirements of this section. Hours~~
 20 ~~pertain to clock hours actually attended by the licensee~~ continued qualification for licensure. In addition,
 21 the dentist shall submit proof that ~~he~~ the dentist holds a current cardiopulmonary resuscitation card.
 22 A license issued effective as of a date other than March 1 will be valid until midnight February 28 next
 23 following the date it was issued. The license shall must bear on its face the address where the licensee's
 24 dentist services will be performed.

25 (2) Applications must be submitted on forms approved by the board and furnished by the
 26 department. Each application must include all other documentations necessary to establish that the
 27 applicant meets the requirements for licensure and is eligible to take the licensure examination. Applications
 28 must be accompanied by the appropriate fees.

29 ~~(3) After April 1, 1985, the board may by rule alter future renewal dates for licenses under this~~
 30 ~~chapter."~~

1 **Section 91.** Section 37-29-403, MCA, is amended to read:

2 "**37-29-403. Procedure for making and fitting partial denture.** (1) Prior to making and fitting a
3 partial denture, a denturist shall:

4 (a) formulate a study model of the intended denture;

5 (b) refer the patient to a dentist, together with the model for tooth cleaning, mouth preparation,
6 and x-rays, as needed; and

7 (c) make the partial denture and fit it to the existing teeth after the dentist has completed the
8 procedures listed in subsection (1)(b) and in accordance with the dentist's recommendations.

9 (2) A denturist may not cut, surgically remove, or surgically reduce any tissue or teeth in the
10 process of fitting a partial denture.

11 ~~(3) A denturist who makes or fits a partial denture in a manner not consistent with this section is~~
12 ~~subject to the sanctions provided in 37-29-311."~~

13

14 **Section 92.** Section 37-30-301, MCA, is amended to read:

15 "**37-30-301. Certificate required.** ~~(1) Except as provided in subsection (2), a~~ A person may not
16 practice or attempt to practice barbering unless ~~he~~ the person first receives from the department a
17 certificate of registration.

18 ~~(2) The board may authorize the department to grant a temporary certificate to any person qualified~~
19 ~~to take the examination required by 37-30-305 who pays a temporary certification fee prescribed by the~~
20 ~~board. A person holding a temporary certificate may engage in the practice of barbering under the~~
21 ~~supervision of a certified barber for a period of 90 days or until the next examination scheduled by the~~
22 ~~board, whichever is longer."~~

23

24 **Section 93.** Section 37-30-305, MCA, is amended to read:

25 "**37-30-305. Examination.** Except as provided in ~~37-30-309~~ by rules adopted under [section 20
26 19] to implement [section 4], an applicant for a barber's certificate of registration ~~must~~ shall apply to the
27 department to take the examination for a barber's certificate of registration."

28

29 **Section 94.** Section 37-31-322, MCA, is amended to read:

30 "**37-31-322. Renewal ~~—continuing education~~ -- delinquency fee.** (1) Licenses and certificates may

1 ~~not~~ be issued for ~~no~~ longer than 1 year unless otherwise provided by department rule. Licenses and
 2 certificates expire on ~~December 31 unless otherwise provided by rule or the date set by department rule~~
 3 and may be renewed for the next year or renewal period. Licenses and certificates may be renewed by
 4 application made ~~prior to December 31 of each year, unless otherwise provided,~~ on or before the renewal
 5 date and by the payment of a required renewal fee. Expired licenses and certificates may be renewed under
 6 rules made by the board, but the right to renew an expired license or certificate terminates after 10 years
 7 of nonpayment. ~~The board may provide by rule for a change in the renewal date and renewal period for the~~
 8 ~~manager operator and salon owner category.~~ The renewal fee may not exceed twice the fee for a 2-year
 9 renewal or three times the fee for a 3-year renewal and must be as set by the board.

10 ~~(2) In addition to the foregoing requirements for renewal, persons applying for the renewal of~~
 11 ~~licenses to teach cosmetology must have fulfilled the following additional requirements:~~

12 ~~(a) During each year, an active teacher, either full time or part time, must have successfully~~
 13 ~~completed 15 hours' professional teacher training at a school approved by the board.~~

14 ~~(b) A person holding a license to teach cosmetology but not actively engaged either full time or~~
 15 ~~part time in teaching cosmetology or manicuring during the preceding year may renew the license by paying~~
 16 ~~the required fee. A person holding a license to teach cosmetology but not actively engaged in teaching~~
 17 ~~cosmetology or manicuring either full time or part time for the preceding year or longer and wishing to~~
 18 ~~resume active teaching of cosmetology or manicuring must successfully complete 30 hours' professional~~
 19 ~~teacher training at a school approved by the board before resuming active teaching. However, the foregoing~~
 20 ~~provisions do not prevent the board, under rules it adopts, from permitting a person who holds a license~~
 21 ~~to teach cosmetology and who is not actively engaged either full time or part time in teaching cosmetology~~
 22 ~~or manicuring from teaching as a substitute for an active teacher.~~

23 ~~(3) (2)~~ A fee prescribed by the board must be charged, in addition to other fees fixed by law, for
 24 renewal applications of licenses and certificates made after December 31 of each year or other
 25 predetermined renewal deadline."

26

27 **Section 95.** Section 37-32-305, MCA, is amended to read:

28 "**37-32-305. Fees -- renewal -- deposit of moneys collected.** (1) The fee for an original electrologist
 29 license shall must be set by the board. The renewal shall be is automatic, unless revoked or suspended for
 30 cause, and the renewal fee shall must be set by the board.

1 (2) The fee for an original electrologist salon license ~~shall~~ fee must be the same as that for
2 cosmetology salons. The renewal fee ~~shall~~ must be the same as that for cosmetology salons.

3 (3) ~~All licenses~~ A license issued under this chapter ~~expire~~ expires on ~~December 31 and shall the~~
4 date set by department rule and may be renewed annually. Failure to renew ~~on or before December 31 shall~~
5 cause subjects the licensee to a late renewal fee prescribed by the board to be added to the regular renewal
6 fee. The right to renew by payment of the late renewal fee expires after 3 years of nonpayment.

7 (4) All fees or ~~moneys~~ money collected by the department under this chapter ~~shall~~ must be
8 deposited in the state special revenue fund for the use of the board in administration of the chapter."

9
10 **Section 96.** Section 37-34-201, MCA, is amended to read:

11 **"37-34-201. Powers and duties of the board -- rulemaking authority.** (1) The board shall:

12 (a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform
13 the duties described in this section; and

14 (b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within
15 the scope of the board's duties.

16 (2) The board has the authority to administer and enforce all the powers and duties granted
17 statutorily or adopted administratively.

18 (3) The board shall adopt rules to administer this chapter. The rules must include but are not limited
19 to:

20 (a) the development of a license application procedure and acceptable certifications for each
21 category of license;

22 (b) the establishment of license fees commensurate with actual costs;

23 (c) the establishment of criteria for educational requirements that, at a minimum, meet the
24 standards set forth in 37-34-303;

25 (d) the development of procedures for the issuance, renewal, suspension, revocation, and
26 reciprocity of licenses;

27 (e) the adoption of disciplinary standards for licensees;

28 (f) the establishment of ~~investigatory and hearing procedures for processing complaints received~~
29 by the board; and

30 ~~(g) the establishment of continuing education requirements of at least 14 hours annually for license~~

1 ~~renewal for clinical laboratory practitioners; and~~

2 ~~(h)~~ a requirement that the supervisor of a clinical laboratory technician be accessible at all times
3 that testing is being performed by the technician in order to provide onsite, telephonic, or electronic
4 consultation."

5

6 **Section 97.** Section 37-34-305, MCA, is amended to read:

7 **"37-34-305. Licensure application procedures.** (1) An applicant shall submit an application for a
8 license to the board upon the forms prescribed and furnished by the board and shall pay an application fee
9 set by the board.

10 (2) Upon receipt of the application and fee, the board shall issue a license for a clinical laboratory
11 scientist, a clinical laboratory specialist, or a clinical laboratory technician to any person who meets the
12 qualifications specified by the board as set forth in rules adopted by the board pursuant to 37-34-201 and
13 37-34-303.

14 (3) A license issued under this chapter must be renewed ~~by May 1 of each year~~ on or before the
15 date set by department rule.

16 (4) Except for the assessment provided in 37-1-101(6), money paid for application, license, and
17 license renewal fees must be deposited in the state special revenue fund for use by the board."

18

19 **Section 98.** Section 37-40-203, MCA, is amended to read:

20 **"37-40-203. Rulemaking power.** (1) The board may adopt rules, consistent with the purposes of
21 this chapter, as it considers necessary.

22 (2) The board's rulemaking and hearing functions ~~shall~~ must be in accordance with the Montana
23 Administrative Procedure Act. The board shall adopt rules:

24 (a) establishing standards of professional conduct in order to maintain a high standard of integrity,
25 dignity, and competency in the profession of sanitarian, including competency in specific fields of
26 sanitation;

27 (b) governing the conduct of matters before the board;

28 (c) governing educational equivalency requirements, as provided in 37-40-302, for registration of
29 sanitarians; and

30 ~~(d) prescribing requirements for continuing education to be met by registered sanitarians in order~~

1 ~~to maintain their professional knowledge and competence and as a condition to continuing in the practice~~
 2 ~~of the profession of sanitarian; and~~

3 ~~(e) defining qualifications for sanitarian-in-training status for issuance of the initial annual permit."~~

4
 5 **Section 99.** Section 37-40-304, MCA, is amended to read:

6 **"37-40-304. Fees -- renewal.** (1) An applicant for a license shall pay a fee set by the board in an
 7 amount commensurate with examination and administrative costs.

8 (2) A registered sanitarian may renew ~~his~~ the license by paying an annual fee and meeting
 9 qualifications set by the board ~~and submitting proof of continuing education as prescribed by the board.~~

10 (3) Renewal fees are due ~~July 1 of~~ on or before the renewal ~~year~~ date set by department rule. If
 11 the renewal fee is not paid, the license expires. Licenses which have lapsed for failure to pay renewal fees
 12 may be reissued under rules adopted by the board."

13
 14 **Section 100.** Section 37-47-307, MCA, is amended to read:

15 **"37-47-307. Investigation of applicant -- issuance or denial of license.** (1) The ~~board~~ department
 16 shall investigate each applicant for an outfitter's or professional guide's license, ~~and~~ The board shall
 17 determine the applicant's qualifications.

18 (2) The board may deny or refuse to issue any new license or to renew any previous license if the
 19 applicant does not meet the qualifications stated in this section. In the event that any application for license
 20 is denied or refused, the board shall immediately notify the applicant, setting forth in the notice the grounds
 21 upon which the denial or refusal is based.

22 (3) Final decision as to issuance of renewal licenses must be made not later than 30 days from the
 23 date of receipt of the completed application for renewal and not later than 90 days from the date of receipt
 24 of a completed application for a new license.

25 (4) A licensee in good standing is entitled to a new license for the ensuing license year upon
 26 complying with the provisions of this chapter and renewal deadlines and fees imposed by rule of the board
 27 and completing an application for license renewal on a form provided by the board."

28
 29 **Section 101.** Section 37-50-203, MCA, is amended to read:

30 **"37-50-203. Rules of the board.** (1) The board may adopt ~~such~~ rules, consistent with the purposes

1 of this chapter, as it considers necessary.

2 (2) The board shall adopt:

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

6 (b) rules of procedure governing the conduct of matters before the board;

7 (c) rules governing education requirements, as provided in 37-50-305, for issuance of the
8 certificate of a certified public accountant and the license for licensed public accountant;

9 ~~(d) rules prescribing requirements for continuing education to be met by certified public accountants
10 and licensed public accountants, in order to maintain their professional knowledge and competence, as a
11 condition to continuing in the practice of public accounting. In issuing rules and individual orders regarding
12 continuing education, the board in its discretion:~~

13 ~~(i) may, among other things, use or rely upon guidelines and pronouncements of recognized
14 educational and professional associations;~~

15 ~~(ii) may prescribe the content, duration, and organization of courses; and~~

16 ~~(iii) shall take into account the accessibility to applicants of such continuing education as it may
17 require and any impediments to interstate practice of public accounting that may result from differences
18 in such requirements in other states;~~

19 ~~(e) rules governing partnerships and corporations practicing public accounting, including but not
20 limited to rules concerning their style, name, title, and affiliation with any other organization and
21 establishing reasonable standards with respect to professional liability insurance and unimpaired capital and
22 prescribing joint and several liability for torts relating to professional services for shareholders of any such
23 corporation failing to comply with such the standards;~~

24 ~~(f) internal rules considered necessary to initiate and conduct investigations and protect the
25 confidences of the client of any certified public accountant or licensed public accountant subjected to board
26 disciplinary proceedings;~~

27 ~~(g) (e) rules defining requirements for accounting experience, not exceeding 2 years, for issuance
28 of the initial annual permit; and~~

29 ~~(h) (f) rules to enforce the provisions of this chapter, the The purpose of which the rules shall must
30 be to provide for the monitoring of the profession of public accounting and to maintain the quality of the~~

1 accounting profession."

2

3 **Section 102.** Section 37-50-314, MCA, is amended to read:

4 **"37-50-314. Annual permit required -- display.** (1) ~~No~~ A person may not engage in the practice of
5 public accounting in this state ~~unless he holds~~ without a current annual permit issued by the department.
6 An annual permit to engage in the practice of public accounting in this state ~~shall~~ must be issued by the
7 department to a person who holds a current certificate as a certified public accountant or license as a
8 licensed public accountant and complies with the requirements of this chapter.

9 ~~(2) After the expiration of the 3-year period immediately following the effective date of a board rule~~
10 ~~establishing continuing education requirements, each application for renewal of a permit by a person who~~
11 ~~has held his certificate or license for 3 years or more must be accompanied or supported by evidence~~
12 ~~satisfactory to the board of fulfillment of such requirements during the 3-year period immediately preceding~~
13 ~~the application.~~

14 ~~(3) The board may in its discretion waive the requirement stated in subsection (2) if the applicant~~
15 ~~agrees to follow a particular program or schedule of continuing education agreeable to the board.~~

16 ~~(4) The board may relax or suspend continuing education requirements for an applicant who~~
17 ~~certifies that he does not intend to engage in the practice of public accounting and for an applicant who~~
18 ~~cannot fulfill the requirement due to individual hardship.~~

19 ~~(5) Subject to subsections (3) and (4), the board may revoke, suspend, or refuse to renew the~~
20 ~~permit of an applicant who fails to furnish evidence of having met the continuing education requirements~~
21 ~~established by the board.~~

22 ~~(6)~~ (2) The current annual permit to engage in the practice of public accounting must be
23 prominently displayed for public inspection."

24

25 **Section 103.** Section 37-50-317, MCA, is amended to read:

26 **"37-50-317. Certificate, license, and permit expiration -- renewal fees.** (1) Certificates, licenses,
27 and permits issued by the board expire on ~~December 31 of each year~~ the date set by department rule.

28 (2) Certificates and licenses must be renewed by the department upon payment of the annual
29 renewal fee and upon compliance with requirements prescribed by the board.

30 (3) Permits must be renewed by the department upon payment of the annual renewal fee and upon

1 compliance with the ~~continuing education~~ requirements prescribed by the board."

2

3 **Section 104.** Section 37-51-204, MCA, is amended to read:

4 **"37-51-204. Educational programs and ~~continuing education~~.** (1) The board may, subject to
5 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or
6 institutes and incur necessary expenses in this connection.

7 ~~(2) The board may assist libraries and educational institutions in sponsoring studies and programs~~
8 ~~for the purpose of raising the standards of the real estate business and the competency of licensees~~
9 EXCEPT AS PROVIDED IN 37-51-302, THE BOARD MAY NOT REQUIRE EXAMINATIONS OF LICENSEES.

10 ~~(3) The board may prescribe by rule continuing education requirements for all licensees, not to~~
11 ~~exceed 15 classroom or equivalent hours in any 2 year period, including proof of conformance, but except~~
12 ~~as provided in 37-51-302 the board may not require examination of licensees."~~

13

14 **Section 105.** Section 37-51-306, MCA, is amended to read:

15 **"37-51-306. Transactions with nonresidents and with nonlicensed brokers or salesmen --**
16 **reciprocity -- consent to legal process.** (1) A licensed broker may not employ or compensate, directly or
17 indirectly, a person for performing the acts regulated by this chapter who is not a licensed broker or
18 licensed salesman. However, a licensed broker may pay a commission to a licensed broker of another state
19 if the nonresident broker has not conducted and does not conduct in this state a service for which a fee,
20 compensation, or commission is paid. ~~This subsection does not limit the next subsection.~~

21 ~~(2) A person who is licensed as a broker or a salesman in another state may obtain a license as~~
22 ~~a broker or as a salesman in this state by complying with this chapter and with the rules of the board.~~
23 ~~However, this section applies only to licensees of other states that offer the same privileges to the licensees~~
24 ~~of this state. A nonresident licensee need not maintain a place of business in this state. The board may:~~

25 ~~(a) authorize the department to license a nonresident without examination if he files with the~~
26 ~~department an authorized or certified copy of the license issued in another state and pays to the department~~
27 ~~the same license fee as is required for obtaining a license in this state;~~

28 ~~(b) refuse to authorize the department to issue a license to an applicant who is not a resident of~~
29 ~~this state; and~~

30 ~~(c) enter into reciprocal agreements with other states.~~

1 ~~(3)~~ A nonresident licensee shall file an irrevocable written consent that legal actions arising out of
 2 a commenced or completed transaction may be commenced against the nonresident licensee in a county
 3 of this state that may be appropriate and designated by Title 25, chapter 2, part 1. The consent must
 4 provide that service of summons in this action may be served on the department for and on behalf of the
 5 nonresident licensee, and this service is sufficient to give the court jurisdiction over the licensee conducting
 6 a transaction in a county. The consent must be acknowledged and, if made by a corporation, must be
 7 authenticated by its seal."

8
 9 **Section 106.** Section 37-51-311, MCA, is amended to read:

10 "**37-51-311. Fees -- deposit of fees.** ~~(1)~~ The fees prescribed by the board shall must be charged
 11 by the department and paid into the state special revenue fund for the use of the board, subject to
 12 37-1-101(6).

13 ~~(2) The board shall charge an annual fee from a licensee who wishes to be placed in an inactive~~
 14 ~~status. A licensee who is placed in an inactive status by the board and who has paid the required fee need~~
 15 ~~not pay any fee assessed by the board for the purpose of funding the real estate recovery account during~~
 16 ~~the period the licensee remains in inactive status."~~

17
 18 **Section 107.** Section 37-53-211, MCA, is amended to read:

19 "**37-53-211. Approval or disapproval of application or registration.** (1) Registration of a timeshare
 20 offering is effective upon written notice of approval of the application by the board or upon the passage
 21 of 30 calendar days after filing of a completed application if not approved or denied prior to that time.

22 (2) The board may issue an order, ~~subject to 37-53-503,~~ denying, suspending, or revoking any
 23 application or registration if the board finds that the order is in the public interest and that:

24 (a) the application or registration is incomplete or contains a statement that is false or misleading
 25 with respect to any material fact;

26 (b) any provision of this chapter or any rule or order lawfully issued under this chapter has been
 27 violated;

28 (c) the activities of the developer include or would include activities that are illegal; or

29 (d) the timeshare offering has worked or would tend to work a fraud on purchasers.

30 (3) The board shall promptly notify the applicant or registrant of any order denying, suspending,

1 or revoking registration and of the applicant's or registrant's right to request a hearing within 20 days of
2 receipt of notification. If the applicant or registrant does not request a hearing, the order remains in effect
3 until the board modifies or vacates it."

4
5 **Section 108.** Section 37-53-302, MCA, is amended to read:

6 **"37-53-302. Denial, suspension, or revocation of license or application.** The board may by an
7 order, ~~subject to 37-53-503,~~ deny, suspend, or revoke a timeshare salesperson's or timeshare broker's
8 license or application for license if the board finds that the order is in the public interest and that the
9 applicant or licensee:

10 (1) has filed an application for licensure and personal disclosure statement as a timeshare
11 salesperson or timeshare broker that is incomplete in any material respect or contains any statement that
12 is, in the light of the circumstances under which it was made, false or misleading with respect to any
13 material fact;

14 (2) has violated or failed to comply with any provision of this chapter, rules adopted under this
15 chapter, or Title 37, chapter 51;

16 (3) has been convicted of a felony involving theft, fraud, or any consumer protection statute or a
17 felony involving moral turpitude and related to the occupation of timeshare salesperson or timeshare broker;

18 (4) is permanently or temporarily enjoined by a court from engaging in or continuing any conduct
19 or practice involving an aspect of the timeshare business;

20 (5) has engaged in dishonest or unethical practices in the timeshare business; or

21 (6) has not complied with any condition imposed by the board or is not qualified on the basis of
22 knowledge of the timeshare industry or this chapter."

23
24 **Section 109.** Section 37-54-105, MCA, is amended to read:

25 **"37-54-105. Powers and duties of board.** The board shall:

26 (1) adopt rules to implement and administer the provisions of this chapter;

27 (2) establish and collect fees commensurate with the costs of licensure and certification and
28 renewal of a license or certificate;

29 (3) make available application forms for licensure and certification within 15 days of the first
30 meeting of the board;

- 1 (4) establish minimum requirements for education, experience, and examination for licensure and
 2 certification as set out by the appraisal qualification board of the appraisal foundation;
- 3 (5) receive applications for examination from qualified applicants, prescribe and administer
 4 examinations to qualified applicants, and determine the acceptable level of performance on examinations;
- 5 (6) receive and review applications for licensure and certification and issue licenses and certificates;
- 6 (7) review periodically the standards for development and communication of appraisals and adopt
 7 rules explaining and interpreting the standards;
- 8 (8) retain all applications and other records submitted to it;
- 9 (9) maintain a registry of the names and addresses of licensees and certificate holders;
- 10 (10) establish disciplinary procedures for reprimand, suspension, or revocation of a license and
 11 certificate;
- 12 (11) adopt by rule standards of professional appraisal practice in this state;
- 13 (12) reprimand, suspend, revoke, or refuse to renew the license or certificate of a person who has
 14 violated the standards established for licensed and certified real estate appraisers; and
- 15 ~~(13) establish criteria for courses and seminars consistent with the continuing education~~
 16 ~~requirements set out in 37-54-210 and 37-54-310; and~~
- 17 ~~(14) perform other duties necessary to implement this chapter."~~

18

19 **Section 110.** Section 37-54-210, MCA, is amended to read:

20 **"37-54-210. License renewal — ~~continuing education requirements.~~** (1) A real estate appraiser's
 21 license expires on ~~March 31 following the date of issuance or renewal and is invalid thereafter~~ the date set
 22 by department rule.

23 (2) A licensee may renew a license, ~~other than a temporary permit issued under 37-54-406,~~ by
 24 filing an application with the board on a form approved by the board, paying a renewal fee prescribed by
 25 the board, and meeting all requirements of this ~~section~~ chapter.

26 (3) In renewing a license, the board shall ~~ensure~~ ensure that the licensee has a working knowledge
 27 of:

28 (a) current real estate appraisal theories; and

29 (b) practices and techniques that will enable the licensee to provide competent independent
 30 appraisal service under the authority of the license.

1 ~~(4) An application for renewal must include evidence satisfactory to the board that within the~~
 2 ~~3 year period immediately following the date of issuance of the license and within each 3 year period~~
 3 ~~thereafter, the licensee has completed at least 45 classroom hours of instruction in courses or seminars~~
 4 ~~approved by the board, at least 15 hours of which must be related to standards of professional appraisal~~
 5 ~~practice. Continuing education hours must be credited to the 3 year period during which the instruction~~
 6 ~~occurred and may not be carried over to a subsequent 3 year period."~~

7

8 **Section 111.** Section 37-54-211, MCA, is amended to read:

9 "**37-54-211. Late renewal of license.** (1) A license that is not renewed within 1 year of the most
 10 recent renewal date automatically terminates. A licensee may renew the license within the 1-year period
 11 from the date of most recent renewal by:

12 (a) filing with the board an application for late renewal on a form approved by the board;

13 (b) satisfying the ~~continuing education~~ requirements ~~of 37-54-210~~ for continued licensure; and

14 (c) paying a late renewal fee prescribed by the board.

15 (2) The board may refuse to renew a license if the licensee has continued to perform independent
 16 appraisal services as a licensed real estate appraiser following expiration of the license."

17

18 **Section 112.** Section 37-54-302, MCA, is amended to read:

19 "**37-54-302. Certification process -- fees.** (1) An application for examination for certification,
 20 original certification, or renewal of certification must be made in writing to the board on forms approved
 21 by the board.

22 (2) A fee established by the board by rule must accompany the application.

23 (3) When an applicant files an application for original certification or renewal of certification, the
 24 applicant shall sign a pledge ~~that he will~~ to comply with the standards of professional appraisal practice
 25 established for certified real estate appraisers under 37-54-403. ~~He shall also~~ and affirm that ~~he~~ the
 26 applicant understands the types of misconduct for which disciplinary action may be initiated ~~against him~~
 27 under 37-54-402.

28 (4) To be eligible for original certification as a real estate appraiser, an applicant shall:

29 (a) specify the class or classes of certification for which the applicant is applying and provide
 30 evidence satisfactory to the board that ~~he~~ the applicant has the education required for the class or classes

1 of certification for which ~~he is applying~~ application is made; and

2 (b) pass an examination prescribed by the board.

3 (5) A certificate issued under 37-54-305 must bear the signatures or facsimile signatures of the
4 members of the board and a certificate number assigned by the board."

5
6 **Section 113.** Section 37-54-310, MCA, is amended to read:

7 "**37-54-310. Renewal of certificate** ~~—continuing education requirements.~~ (1) A certificate issued
8 under 37-54-305 expires on ~~March 31 following the date of issuance or renewal and is invalid thereafter~~
9 the date set by department rule.

10 (2) A certificate may be renewed upon payment of a renewal fee and by meeting all requirements
11 for renewal.

12 ~~(3) (a) The certificate holder shall produce evidence satisfactory to the board that during the 3-year~~
13 ~~period immediately following the date of issuance of the certificate, and during each 3-year period~~
14 ~~thereafter, the certified real estate appraiser has:~~

15 ~~(i) completed at least 45 classroom hours of instruction in courses or seminars approved by the~~
16 ~~board, at least 15 hours of which must be related to standards of professional appraisal practice;~~

17 ~~(ii) completed an education program determined by the board to be equivalent to the courses and~~
18 ~~seminars approved under subsection (3)(a)(i); or~~

19 ~~(iii) participated, other than as a student, in an education program approved by the board that~~
20 ~~relates to the theory and technique of real property appraisal.~~

21 ~~(b) Continuing education hours must be credited to the 3-year period during which the instruction~~
22 ~~occurred and may not be carried over to a subsequent 3-year period.~~

23 ~~(4)~~ (3) An applicant for renewal shall state the class of certification previously held and presently
24 sought."

25
26 **Section 114.** Section 37-54-311, MCA, is amended to read:

27 "**37-54-311. Late renewal of certificate.** (1) A certificate that is not renewed within 1 year of the
28 most recent renewal date automatically terminates. A certificate holder may renew the certificate within
29 the 1-year period from the date of most recent renewal by:

30 (a) filing with the board an application for late renewal on a form approved by the board;

1 (b) satisfying the ~~continuing education~~ requirements of ~~37-54-310~~ set by law; and

2 (c) paying a late renewal fee prescribed by the board.

3 (2) The board may refuse to renew a certificate if the certificate holder has continued to perform
4 independent appraisal services in this state following expiration of the certificate."

5
6 **Section 115.** Section 37-60-202, MCA, is amended to read:

7 **"37-60-202. Rulemaking power.** The board shall adopt and enforce rules:

8 (1) specifying the form of and procedure to be used in granting, denying, suspending, or revoking
9 any license or identification card;

10 (2) fixing the qualifications of resident managers, qualifying agents, licensees, and holders of
11 identification cards, in addition to those prescribed in this chapter, necessary to promote and protect the
12 public welfare;

13 (3) establishing, in accordance with 37-1-134, application and examination fees for original or
14 renewal licenses and identification cards, and providing for refunding of any ~~such~~ fees;

15 (4) prohibiting the establishment of branch offices of any licensee, except a proprietary security
16 organization, without approval by the board, establishing qualification requirements and license fees for
17 those offices;

18 (5) for the certification of private investigator and private security guard training programs,
19 including the certification of firearms training programs and firearms instructors;

20 (6) for the approval of weapons;

21 (7) requiring the maintenance of records;

22 (8) requiring licensees to file ~~such an~~ insurance policy or proof of financial responsibility as the
23 board considers necessary with the board; and

24 ~~(9) defining "unprofessional conduct" for the purposes of removal from the board and suspension~~
25 ~~or revocation of licenses and identification cards;~~

26 ~~(10) establishing the expiration and renewal periods for licenses and identification cards;~~

27 ~~(11) for the temporary employment of persons without the required licenses or identification cards;~~

28 ~~(12) providing for the issuance of probationary and temporary licenses for contract security~~
29 ~~companies and private investigators;~~

30 ~~(13)~~ (9) providing for the issuance of probationary identification cards for private investigators who

1 do not meet the requirements for age, employment experience, and written examination; ~~and~~
 2 ~~(14) providing for the application of administrative fines and penalties for minor infractions of this~~
 3 ~~chapter and supporting rules."~~

4
 5 **Section 116.** Section 37-60-301, MCA, is amended to read:

6 **"37-60-301. License required.** (1) Except as provided in 37-60-105, it is unlawful for any person
 7 to act as or perform the duties as defined in 37-60-101 of a contract security company or proprietary
 8 security organization, a private investigator, or a private security guard without having first obtained a
 9 license from the board. Those persons licensed on April 18, 1983, shall retain their current licensure status
 10 and ~~must~~ shall renew their licenses on the renewal date as prescribed by the ~~board~~ department.

11 (2) It is unlawful for any unlicensed person to act as, pretend to be, or represent himself to the
 12 public that the person is ~~as being~~ is licensed as a private investigator, a contract security company, a
 13 proprietary security organization, or a private security guard.

14 (3) A person who knowingly engages an unlicensed private investigator, private security guard,
 15 or contract security company is guilty of a misdemeanor punishable under 37-60-411."

16
 17 **Section 117.** Section 37-60-312, MCA, is amended to read:

18 **"37-60-312. Annual renewal.** (1) Licenses and identification cards issued under this chapter expire
 19 at midnight on the dates prescribed by ~~the board~~ department rule if not, in each instance, renewed. To
 20 renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire,
 21 apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

22 (2) The board may refuse to renew a license or identification card for any reason for which it could
 23 refuse to grant an original application or suspend or revoke any license or identification card ~~under~~
 24 ~~37-60-321."~~

25
 26 **Section 118.** Section 37-60-411, MCA, is amended to read:

27 **"37-60-411. Penalties -- investigation -- enforcement -- review.** (1) Any person who violates any
 28 of the provisions of this chapter or who conspires with another person to violate any of the provisions of
 29 this chapter relating to licensure is guilty of a misdemeanor punishable by a fine of not more than \$1,000,
 30 ~~or~~ by imprisonment of not more than 1 year, ~~or~~ by both ~~such~~ fine and imprisonment.

1 (2) The board shall:

2 (a) gather evidence of violations of this chapter, and of any rule established pursuant to this
3 chapter, by persons engaged in a business subject to licensure under this chapter who fail to obtain
4 licenses; and

5 (b) furnish that evidence to prosecuting officers of any county or city.

6 (3) The prosecuting officer of any county or city shall prosecute all violations of this chapter
7 occurring within ~~his~~ the prosecutor's jurisdiction.

8 ~~(4) (a) If upon investigation the board considers it appropriate, it may issue a citation to a licensee.
9 The citation may contain:~~

10 ~~(i) an order of abatement fixing a reasonable time for abatement of the violation; and~~

11 ~~(ii) assessment of an administrative fine in an amount not to exceed \$500 for each violation of this
12 chapter.~~

13 ~~(b) A citation or fine assessment must inform the licensee that if he contests the finding of a
14 violation, a review by the board may be requested in accordance with the Montana Administrative
15 Procedure Act. If a review is not requested pursuant to this section, payment of the fine does not constitute
16 an admission of the violation charged.~~

17 ~~(c) If the licensee neither requests a review nor pays the assessed fine within 20 days of notice
18 of the citation, the board shall suspend the license of such person 30 days after the notice of citation.~~

19 ~~(d) All fines collected pursuant to this section must be deposited in the state special revenue fund
20 for use of the board."~~

21

22 **Section 119.** Section 37-65-306, MCA, is amended to read:

23 **"37-65-306. Annual renewal -- fee —~~continuing education.~~** ~~(1)~~ A licensed architect in this state
24 who desires to continue the practice of his the profession shall annually, ~~during the month of July, during~~
25 ~~the time he continues in this practice~~ on or before the renewal date set by department rule:

26 ~~(a)~~ (1) pay to the department a reasonable fee as prescribed by the board; and

27 ~~(b)~~ (2) present evidence to the board of ~~compliance with any continuing education requirements~~
28 ~~imposed by the board~~ continued qualification for licensure.

29 ~~(2) (a) The board may by rule prescribe continuing education requirements for license renewal. If
30 the board prescribes continuing education requirements, the rules shall provide for the method of~~

1 ~~compliance, such as:~~

2 ~~(i) attendance at approved classroom or seminar type instruction programs; or~~

3 ~~(ii) passing an examination.~~

4 ~~(b) If classroom or seminar type instruction is required, the board shall by rule:~~

5 ~~(i) make determinations as to approved programs; and~~

6 ~~(ii) prescribe the number of hours required for compliance.~~

7 ~~(c) If an examination is required, the board shall by rule prescribe:~~

8 ~~(i) the subjects of the examination; and~~

9 ~~(ii) the grade required to pass the examination."~~

10

11 **Section 120.** Section 37-66-307, MCA, is amended to read:

12 **"37-66-307. Annual renewal -- withdrawal -- deposit of fees.** (1) Certification of licensure or
13 renewal of registration ~~expire~~ expires on the ~~last day of June following their issuance or renewal date set~~
14 by department rule. Renewal may be effected ~~during the month of June on or before the renewal date~~ by
15 payment to the department of the required fee. The board shall issue current renewal registration to each
16 landscape architect promptly upon payment of the annual renewal registration fee.

17 (2) Any registrant in good standing, upon ceasing to practice landscape architecture, ~~may suspend~~
18 his license by giving ~~shall give~~ written notice to the board, and the board shall suspend the license.
19 ~~Thereafter, he~~ The person may resume practice upon payment of the then-current fee and upon approval
20 by the board.

21 (3) All fees received under the provisions of this chapter ~~shall~~ must be deposited in the state special
22 revenue fund by the department. The ~~moneys~~ money collected ~~shall~~ must be used by the department to
23 carry out the purpose, duties, and responsibilities of the chapter, subject to 37-1-101(6)."

24

25 **Section 121.** Section 37-67-202, MCA, is amended to read:

26 **"37-67-202. Rulemaking and subpoena power.** (1) ~~The board shall have the power to~~ may adopt
27 ~~and amend all rules, including rules of procedure, not inconsistent with the constitution and laws of this~~
28 ~~state, which may be~~ reasonably necessary for the proper performance of its duties and the regulation of
29 the proceedings before it.

30 (2) ~~In carrying into effect the provisions of this chapter, the board, under the hand of its chairman~~

1 ~~and the seal of the board, may subpoena witnesses and compel their attendance and also may require the~~
2 ~~production of books, papers, documents, etc., in a case involving the revocation of registration or practicing~~
3 ~~or offering to practice without registration. Any member of the board may administer oaths or affirmations~~
4 ~~to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued or shall~~
5 ~~refuse to testify or produce any books, papers, or documents, the board may present its petition to the~~
6 ~~district court setting forth the facts, and thereupon such court shall, in a proper case, issue its subpoena~~
7 ~~to such person requiring his attendance before such authority and there to testify or to produce such books,~~
8 ~~papers, and documents as may be deemed necessary and pertinent by the board. Any person failing or~~
9 ~~refusing to obey the subpoena or order of the court may be proceeded against in the same manner as for~~
10 ~~refusal to obey any other subpoena or order of said court."~~

11
12 **Section 122.** Section 37-67-320, MCA, is amended to read:

13 **"37-67-320. Practice by partnerships and corporations.** (1) The practice of or offer to practice
14 engineering or land surveying by registered professional engineers or registered professional land surveyors
15 organized as a partnership or incorporated as a professional corporation under the provisions of the
16 professional corporations law of this state or under the provisions of a similar law of any other state is
17 permitted in this state if all the partners of the partnership or each officer and shareholder of the
18 professional corporation are registered under or exempt from this chapter.

19 (2) The practice of or offer to practice engineering or land surveying by a partnership other than
20 one provided for in subsection (1) or by a corporation, other than a professional corporation, is permitted
21 in this state if:

22 (a) all officers, employees, and agents of a partnership or corporation who will perform the practice
23 of engineering or land surveying within this state for the partnership or corporation are registered under this
24 chapter;

25 (b) each person in responsible charge of the activities of a partnership or corporation, which
26 activities constitute the practice of engineering or land surveying, is a professional engineer or professional
27 land surveyor registered in this state or a person authorized to practice engineering or land surveying as
28 provided in this chapter;

29 (c) the partnership or corporation has been issued a certificate of authorization by the board as
30 provided in subsection (3);

1 (d) the partnership or corporation is jointly and severally responsible with and for the conduct or
 2 acts of its agents, employees, or officers concerning any professional engineering or land surveying services
 3 performed or to be executed in this state; an individual practicing engineering or land surveying is not
 4 relieved of the responsibility for ~~his~~ the individual's conduct or acts performed by reason of ~~his~~ the
 5 individual's employment by or relationship with the partnership or corporation; and

6 (e) all final drawings, specifications, plans, reports, or other engineering or land surveying papers
 7 or documents involving the practice of engineering or land surveying, when issued, are dated and bear the
 8 seals and signatures of the professional engineers or professional land surveyors registered under this
 9 chapter by whom or under whose responsible charge they were prepared.

10 (3) A partnership or corporation desiring a certificate of authorization or the renewal ~~thereof~~ of a
 11 certificate shall file a written application with the board listing the names and addresses of all partners of
 12 the partnership or officers and directors of the corporation and the names and addresses of all employees
 13 who are registered to practice engineering or land surveying in this state and who are or will be in
 14 responsible charge of any engineering or land surveying in this state by the partnership or corporation,
 15 together with any other information the board requires. Upon the receipt of an application and of a fee in
 16 an amount established by the board for the initial certificate or biennial renewal ~~thereof~~, the board shall
 17 issue to the partnership or corporation a certificate of authorization or a renewal ~~thereof~~, ~~which certificate~~
 18 ~~of authorization that~~ may not be transferred. If the board finds an error in an application or that facts exist
 19 which would entitle the board to suspend or revoke a certificate if issued to the applicant, the board shall
 20 deny the application. If a change occurs in the information submitted on the application of a partnership
 21 or corporation within the term of the authorization, the partnership or corporation shall file with the board
 22 a written report listing the change within 30 days after the change occurs. The provisions of this chapter
 23 concerning issuance, expiration, renewal, and reissuance of certificates of registration of individuals, except
 24 for 37-67-315(2), apply to certificates of authorization issued to partnerships and corporations under this
 25 subsection. Partnerships or corporations are subject to disciplinary proceedings and penalties and the board
 26 may reprimand them or revoke, suspend, or refuse to renew their certificates of authorization for cause in
 27 the same manner and to the same extent as provided in ~~37-67-331~~ Title 37, chapter 1. "Registrant" and
 28 ~~"certificate of registration" in 37-67-331 include~~ includes any partnership or corporation holding a certificate
 29 of authorization issued under this subsection, and "certificate of registration" includes to such the certificate
 30 of authorization."

1 **Section 123.** Section 37-68-201, MCA, is amended to read:

2 "**37-68-201. Organization -- meetings -- quorum -- rulemaking power -- seal.** (1) Each July, the
3 board shall elect from its membership a president, ~~vice-president~~ vice president, and secretary-treasurer.

4 (2) The board shall meet quarterly and at ~~such~~ other times it considers necessary.

5 (3) A majority of the members of the board shall constitute a quorum for transaction of business.

6 (4) The board may:

7 (a) adopt rules for the administration of this chapter, for the licensing of electrical contractors, ~~for~~
8 ~~continuing education~~, and for the examination and licensing of master and journeymen electricians;

9 (b) adopt a seal;

10 (c) cause the prosecution and enjoinder of persons violating this chapter."
11

12 **Section 124.** Section 37-68-310, MCA, is amended to read:

13 "**37-68-310. License renewal every three years.** Licenses of residential electricians, journeyman
14 electricians, or master electricians, unless they have been suspended or revoked by the board, must be
15 renewed for a period of 3 years by the department on application for renewal made to the department ~~prior~~
16 ~~to July 15 of the year in which the prior license expired~~ on or before the renewal date set by department
17 rule and on the payment of a renewal fee. If application for renewal is not made ~~prior to July 15 on or~~
18 ~~before the renewal date~~, an additional fee prescribed by the board rule must be paid ~~because of the~~
19 ~~delinquency in renewal. All applications for renewal must be made prior to August 15 of the year in which~~
20 ~~the prior license expired, otherwise the license is forfeited and the applicant is required to pass the~~
21 ~~examination and pay the fees required of applicants for original licenses."~~

22

23 **Section 125.** Section 37-68-312, MCA, is amended to read:

24 "**37-68-312. Electrical contractor's license -- application -- issuance -- fees -- renewal.** Each
25 electrical contractor shall, on or before July 1 of the year in which the prior license expired the date set by
26 department rule, file with the department an application in writing for each firm operated by the electrical
27 contractor in this state ~~to obtain a~~ for renewal of the license. A license may not be issued or renewed until
28 the applicant meets the licensure requirements and has paid to the department a license fee set by the
29 board for each firm operated by the electrical contractor. Licenses must bear the date of ~~issue~~ issuance or
30 renewal. ~~Each original license expires on the July 1 that is subsequent to the date of issuance, as~~

1 ~~determined by the board. An electrical contractor licensed under this chapter is entitled to have a A license~~
 2 ~~must be renewed for the ensuing a 3-year period by upon payment to the department of the license fee on~~
 3 ~~or before the renewal date of expiration of the license and by and upon meeting the requirements set by~~
 4 ~~the board rule."~~

5

6 **Section 126.** Section 37-71-212, MCA, is amended to read:

7 **"37-71-212. Investigation of applicant -- issuance of license.** ~~† The department shall be the duty~~
 8 ~~of the department to investigate and determine the a license applicant's fitness to act in the capacity of~~
 9 ~~public contractor as defined in this chapter, and no may not issue a license shall be issued to such applicant~~
 10 ~~until the expiration of 10 days from and after the filing of such the application. The license se issued in~~
 11 ~~pursuance of the first application shall entitle the licensee to act as a public contractor within this state,~~
 12 ~~subject to the limitations of such license, until the expiration of the then current calendar year must be~~
 13 ~~renewed each year on or before the renewal date set by department rule."~~

14

15 **Section 127.** Section 37-71-213, MCA, is amended to read:

16 **"37-71-213. Renewal -- waiting period after cancellation.** (1) Any license issued under the
 17 provisions of this chapter may be renewed for each successive calendar year by obtaining from the
 18 department a certificate of renewal thereof. For the purpose of obtaining ~~such a~~ certificate of renewal, the
 19 licensee shall file with the department an application ~~therefor~~, stating the field of contracting and class of
 20 license applied for and containing at least the same information as that required in the application for the
 21 original license. The application for ~~such certificate of~~ renewal must be made to the department on or before
 22 ~~March 1 of each successive calendar year, and such renewal certificate shall be good for the then current~~
 23 ~~calendar year the renewal date set by department rule.~~

24 (2) At the time of filing the application for a certificate of renewal, the applicant shall pay to the
 25 department a license fee equal to 50% of the license fee for the original license, provided that if any
 26 applicant for a certificate of renewal shall apply for a renewal under a different field or class from the
 27 license ~~therefore~~ issued to him the applicant, ~~such the~~ new license shall may be issued only upon the
 28 same showing and under the same terms and conditions and upon payment of the same fee required for
 29 the issuance of an original license.

30 (3) All certificates of renewal ~~wherein in which~~ the applicant does not apply for a change in the

1 field or class of license ~~shall~~ must be issued by the department to the applicant ~~forthwith~~ when the
 2 application is filed and the license renewal fee is paid.

3 (4) After cancellation of a license, ~~such~~ the licensee ~~shall~~ may not be relicensed during the current
 4 calendar year in which the offense was committed."
 5

6 NEW SECTION. Section 128. Repealer. Sections 20-26-1401, 20-26-1402, 20-26-1403,
 7 20-26-1404, 20-26-1407, 20-26-1408, 20-26-1409, 20-26-1410, 20-26-1411, 37-3-322, 37-4-306,
 8 37-4-321, 37-4-323, 37-4-324, 37-4-404, 37-5-303, 37-5-304, 37-5-311, 37-6-310, 37-7-203, 37-7-304,
 9 37-7-305, 37-7-311, 37-7-607, 37-7-608, 37-7-710, 37-8-407, 37-8-417, 37-8-430, 37-8-433, 37-8-441,
 10 37-8-442, 37-9-303, 37-9-311, 37-10-204, 37-10-303, 37-10-308, 37-10-311, 37-11-202, 37-11-307,
 11 37-11-309, 37-11-320, 37-11-321, 37-12-303, 37-12-321, 37-13-305, 37-13-311, 37-13-312,
 12 37-13-313, 37-13-314, 37-14-304, 37-14-321, 37-15-305, 37-15-309, 37-15-321, 37-16-406,
 13 37-16-411, 37-16-414, 37-17-304, 37-17-311, 37-17-318, 37-18-304, 37-18-311, 37-19-305,
 14 37-19-311, 37-19-312, 37-19-316, 37-19-404, 37-20-409, 37-22-306, 37-22-311, 37-22-312,
 15 37-23-204, 37-23-207, 37-23-211, 37-23-212, 37-24-305, 37-24-307, 37-24-309, 37-25-306,
 16 37-26-404, 37-26-408, 37-26-409, 37-26-410, 37-27-213, 37-27-216, 37-28-206, 37-28-210,
 17 37-28-301, 37-29-311, 37-29-312, 37-29-313, 37-29-321, 37-30-306, 37-30-309, 37-30-502,
 18 37-31-306, 37-31-307, 37-31-332, 37-32-303, 37-32-310, 37-34-304, 37-34-306, 37-34-308,
 19 37-40-303, 37-40-311, 37-47-341, 37-47-342, 37-47-343, 37-47-346, 37-50-321, 37-50-322,
 20 37-50-336, 37-51-206, 37-51-321, 37-51-322, 37-51-604, 37-51-606, 37-53-501, 37-53-502,
 21 37-53-503, 37-54-401, 37-54-402, 37-54-406, 37-54-417, 37-60-212, 37-60-307, 37-60-308,
 22 37-60-321, 37-60-322, 37-62-101, 37-62-102, 37-62-201, 37-62-202, 37-62-203, 37-62-204,
 23 37-62-205, 37-62-206, 37-62-207, 37-62-208, 37-62-209, 37-62-212, 37-62-213, 37-62-301,
 24 37-62-302, 37-62-303, 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323,
 25 37-67-312, 37-67-313, 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309,
 26 37-69-320, 37-69-322, 39-5-101, 39-5-102, 39-5-103, 39-5-104, 39-5-105, 39-5-201, 39-5-202,
 27 39-5-203, 39-5-204, 39-5-205, 39-5-206, 39-5-207, 39-5-208, 39-5-209, 39-5-301, 39-5-302, 39-5-303,
 28 39-5-304, 39-5-305, 39-5-306, 39-5-307, 39-5-308, 39-5-309, 39-5-310, 39-5-311, 39-5-312, 39-5-401,
 29 39-5-402, 39-5-403, 39-5-404, 39-5-405, and 39-5-406, MCA, are repealed.
 30

1 NEW SECTION. Section 129. Codification instruction. [Sections 1 through ~~20~~ 19] are intended
2 to be codified as an integral part of Title 37, chapter 1.

3

4 NEW SECTION. SECTION 130. COORDINATION INSTRUCTION. (1) IF SENATE BILL NO. 95 IS
5 PASSED AND APPROVED AND IF IT INCLUDES A SECTION THAT AMENDS 37-16-202 AND 37-16-407,
6 THEN [SECTION ~~58~~ 59 OF THIS ACT], AMENDING 37-16-202, IS VOID AND [SECTION 61 OF THIS ACT],
7 AMENDING 37-16-407, IS VOID.

8 (2) IF SENATE BILL NO. 95 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION
9 SECTIONS THAT AMENDS AMEND 37-16-406 AND 37-16-411, THEN THE PORTION OF [SECTION ~~127~~
10 128] THAT REPEALS 37-16-406 AND 37-16-411 IS VOID.

11 (3) IF SENATE BILL NO. 171 IS PASSED AND APPROVED AND IF IT INCLUDES SECTIONS THAT
12 AMEND 37-11-307 AND, 37-11-309, 37-11-320, AND 37-11-321, THEN THE PORTION OF [SECTION ~~127~~
13 128] THAT REPEALS 37-11-307 AND, 37-11-309, 37-11-320, AND 37-11-321 IS VOID.

14 (4) IF HOUSE BILL NO. 148 IS PASSED AND APPROVED AND IF IT INCLUDES SECTIONS THAT
15 AMEND 37-67-312, 37-67-313, AND 37-67-331, THEN THE PORTION OF [SECTION 128] THAT REPEALS
16 37-67-312, 37-67-313, AND 37-67-331 IS VOID.

17 (5) IF HOUSE BILL NO. 196 IS PASSED AND APPROVED AND IF IT INCLUDES SECTIONS THAT
18 AMEND 37-47-341 AND 37-47-343, THEN THE PORTION OF [SECTION 128] THAT REPEALS 37-47-341
19 AND 37-47-343 IS VOID.

20 (6) IF SENATE BILL NO. 224 IS PASSED AND APPROVED AND IF IT CONTAINS A SECTION THAT
21 AMENDS 37-51-321, THEN THE PORTION OF [SECTION 128] THAT REPEALS 37-51-321 IS VOID.

22

23 NEW SECTION. Section 131. Severability. If a part of [this act] is invalid, all valid parts that
24 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
25 applications, the part remains in effect in all valid applications that are severable from the invalid
26 applications.

27

28 NEW SECTION. Section 132. Saving clause. [This act] does not affect rights and duties that
29 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
30 section].

1 **NEW SECTION.** **Section 133. Applicability.** [This act] applies to licenses applied for, complaints
2 submitted, and proceedings begun after [the effective date of this section].

3

4 **NEW SECTION.** **Section 134. Effective dates.** (1) Except as provided in subsection (2), [this act]
5 is effective October 1, 1995.

6 (2) [Sections ~~20, 21~~ 19, 20 21, and this section] are effective on passage and approval for the
7 purpose of drafting rules that will be adopted on or after October 1, 1995, and are effective for all other
8 purposes on October 1, 1995.

9

-END-