

SENATE BILL NO. 227

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A BILL FOR AN ACT ENTITLED: "AN ACT AN ACT ELIMINATING INDIVIDUAL BOARD SEALS, STANDARDIZING DOCUMENT AUTHENTICATION, AND CLARIFYING RESPONSIBILITIES FOR PROFESSIONAL LICENSING BOARDS; ELIMINATING REDUNDANCIES IN ORGANIZATIONAL STATUTES FOR INDIVIDUAL PROFESSIONAL LICENSING BOARDS; ELIMINATING CONFLICTING PROVISIONS IN STATUTES FOR INDIVIDUAL PROFESSIONAL LICENSING BOARDS; AMENDING SECTIONS 37-3-301, 37-10-202, 37-13-201, 37-13-304, 37-15-202, 37-18-305, 37-24-202, 37-50-201, 37-51-201, 37-66-303, AND 37-68-201, MCA; AND REPEALING SECTIONS 37-3-201, 37-4-201, 37-8-201, 37-17-201, 37-28-103, 37-31-201, AND 37-67-201, MCA."

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

Section 1. Section 37-3-301, MCA, is amended to read:

"37-3-301. License required -- kinds of licenses. (1) Before being issued a license, an applicant may not engage in the practice of medicine in this state.

(2) The department may issue two kinds of licenses under the board's seal, a physician's license and a resident license.

(3) The board shall provide guidelines by administrative rule for the practice of telemedicine by physicians.

(4) ~~A license issued by the board that has not expired prior to July 1, 2015, remains valid until renewal unless the licensee is otherwise subject to disciplinary proceedings.~~

Section 2. Section 37-10-202, MCA, is amended to read:

"37-10-202. Rulemaking power ~~-- seal.~~ (4) The board may adopt rules for the regulation, conduct,

1 supervision, and procedure governing all applicants for licensure as optometrists and the practice of optometry  
2 not inconsistent with the provisions of this chapter.

3 ~~(2) — The board shall have a common seal."~~

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5 **Section 3.** Section 37-13-201, MCA, is amended to read:

6 **"37-13-201. Powers and duties.** In addition to all other powers and duties conferred and imposed  
7 ~~upon~~on the board by this chapter, the board ~~shall~~must have and exercise the following powers and duties:

8 (1) to promulgate, under the applicable provisions of the Montana Administrative Procedure Act,  
9 rules ~~which~~that it determines to be necessary to carry out the provisions of this chapter;

10 (2) to adopt a schedule of minimum educational requirements, not inconsistent with the provisions  
11 of this chapter;

12 (3) to prescribe forms for application for examination and license;

13 (4) to prepare and supervise examination of applicants for license to practice acupuncture;

14 (5) to obtain the services of professional examination agencies in lieu of its own preparation of the  
15 examinations;

16 (6) to issue, revoke, and suspend licenses as ~~hereinafter~~provided in this chapter;

17 (7) to hold hearings, issue subpoenas, administer oaths, and take testimony and proofs  
18 concerning all matters within its jurisdiction; and

19 (8) to issue commissions to take depositions of witnesses who are sick or absent from the state;  
20 and

21 ~~(9) — to adopt a seal, which shall be affixed to all licenses issued by the board and other official~~  
22 ~~papers."~~

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24 **Section 4.** Section 37-13-304, MCA, is amended to read:

25 **"37-13-304. Issuance of certificate of license -- license fee.** All applicants successfully passing the  
26 examination required by this chapter ~~shall~~must be registered as licensed acupuncturists in the board register  
27 and, ~~upon~~on the payment of a license fee prescribed by the board, ~~shall~~must be issued a certificate of license  
28 in such a form as prescribed by the board. ~~The certificate shall bear the official seal of the board."~~

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**Section 5.** Section 37-15-202, MCA, is amended to read:

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

- (a) administer, coordinate, and enforce the provisions of this chapter;
- (b) evaluate the qualifications of each applicant for a license as issued under this chapter and supervise the examination of applicants;
- (c) conduct hearings and keep records and minutes as the board considers necessary to an orderly dispatch of business;
- (d) adopt rules, including but not limited to those governing ethical standards of practice or standards for telehealth under this chapter;
- (e) make recommendations to the governor and other state officials regarding new and revised programs and legislation related to speech-language pathology or audiology, which could be beneficial to the citizens of the state of Montana; and
- ~~(f) cause the prosecution and enjoinder of all persons violating this chapter, by the complaints of its secretary filed with the county attorney in the county where the violation took place, and incur necessary expenses for the prosecution;~~
- ~~(g) adopt a seal by which the board shall authenticate its proceedings; and~~
- ~~(h)(f) extend compact privileges as described in 37-15-401.~~
- ~~(2) Copies of the proceedings, records, and acts of the board, signed by the presiding officer or secretary of the board and stamped with the seal, are prima facie evidence of the validity of the documents.~~
- ~~(3)(2) The board may make rules that are reasonable or necessary for the proper performance of its duties and for the regulation of proceedings before it.~~
- ~~(4)(3) The department may employ persons it considers necessary to carry out the provisions of this chapter.~~
- ~~(5) The department shall prepare a report to the governor as required by law."~~

**Section 6.** Section 37-18-305, MCA, is amended to read:

**"37-18-305. License -- issuance and contents.** (1) The board shall, at the conclusion of a regular

1 examination or after investigation, if in its judgment the applicant is qualified, authorize the department to issue  
2 a license to practice veterinary medicine.

3 (2) ~~Every~~Each license granted ~~must be issued under seal and~~ must be signed by the president  
4 and secretary-treasurer of the board and must state that the licensee has given satisfactory evidence of fitness  
5 as to age, character, veterinary medical education, and other matters required by law and that after full  
6 examination, the licensee has been found qualified to practice."

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8 **Section 7.** Section 37-24-202, MCA, is amended to read:

9 **"37-24-202. Powers and duties of board.** ~~(1)~~The board shall:

10 ~~(a)~~(1) administer, coordinate, and enforce the provisions of this chapter; and

11 ~~(b)~~(2) adopt rules relating to professional licensure and the establishment of ethical standards of  
12 practice under this chapter; ~~and~~

13 ~~(c)~~ — adopt a seal by which the board shall authenticate board proceedings.

14 ~~(2)~~ — A copy of the proceedings, records, or acts of the board, signed by the presiding officer or  
15 secretary of the board and stamped with the seal, is prima facie evidence of the validity of the document."

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17 **Section 8.** Section 37-50-201, MCA, is amended to read:

18 **"37-50-201. Organization -- general General rulemaking power -- seal -- records.** ~~(1)~~The board  
19 shall elect annually a presiding officer and a secretary from its members.

20 ~~(2)~~ — The board may adopt rules for the conduct of its affairs and the administration of this chapter.

21 ~~(3)~~ — The board must have a seal that must be judicially noticed.

22 ~~(4)~~ — The department shall keep records of the board's proceedings. In a proceeding in court, civil or  
23 criminal, arising out of or founded on this chapter, copies of these records certified as correct under the seal of  
24 the board are admissible in evidence as tending to prove the content of these records."

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26 **Section 9.** Section 37-51-201, MCA, is amended to read:

27 **"37-51-201. Presiding officer -- seal -- records -- prohibition Prohibition on membership in real  
28 estate associations.** ~~(1)~~The members of the board shall elect a presiding officer from among their number.

1           (2) — The board shall adopt a seal of a design that it prescribes. Copies of records and papers kept  
 2 by the department, certified by the presiding officer, and authenticated by the seal of the board must be  
 3 received in evidence in courts with the same effect as the original. Records of the board are open to public  
 4 inspection under rules it prescribes.

5           (3) — The department:

6           (a) — shall keep a record of proceedings, transactions, communications, and official acts of the  
 7 board;

8           (b) — is custodian of the records of the board; and

9           (c) — shall perform other duties that the board, on the written request of two or more members of the  
 10 board or at other times that the presiding officer, considers necessary.

11           (4) — The presiding officer or an employee of the department hired to provide services to the board  
 12 may not be an officer or paid employee of any real estate association or group of real estate dealers or  
 13 brokers."

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15           **Section 10.** Section 37-66-303, MCA, is amended to read:

16           **"37-66-303. Licensing restricted to individuals -- partnerships -- local business licensing. (1)**

17 Certificates of licensing may be issued to natural persons only, but this chapter does not prevent a licensed  
 18 landscape architect from performing services for a corporation, firm, partnership, or association.

19           (2) Each partner in a partnership of landscape architects must be licensed to practice landscape  
 20 architecture. Subject to this requirement, a partnership of landscape architects may use a partnership name if  
 21 the name consists of:

22           (a) the names of two or more landscape architects; or

23           (b) the names of one or more landscape architects and one or more professional engineers,  
 24 architects, or planners.

25           (3) A person applying to the licensing official of any county or city for a business license to practice  
 26 landscape architecture shall, at the time of application, exhibit to the licensing official satisfactory evidence  
 27 under the seal of the board and the hand of its secretary that the applicant possesses a current registration with  
 28 the board. The license may not be granted until the evidence is presented."

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**Section 11.** Section 37-68-201, MCA, is amended to read:

**"37-68-201. ~~Organization -- meetings -- rulemaking~~ Rulemaking power -- seal.** (1) Each July, the board shall elect from its membership a president, vice president, and secretary-treasurer.

~~(2)(1)~~— The board shall meet quarterly and at other times that the board considers necessary.

~~(3)(2)~~ The board shall:

(a) — adopt rules for the administration of this chapter, for the licensing of electrical contractors, and for the examination of master, journeyman, and residential electricians;

(b) — adopt a seal;

~~(c) — provide for the prosecution and enjoinder of persons violating this chapter."~~

NEW SECTION. **Section 12. Repealer.** The following sections of the Montana Code Annotated are

repealed:

37-3-201. Organization.

37-4-201. Official seal -- organization -- subpoena power -- screening panel.

37-8-201. Seal -- board records public -- legal counsel.

37-17-201. Meetings -- expenses of members -- attorney general as board attorney -- seal.

37-28-103. Board meetings -- procedure -- seal.

37-31-201. Organization -- seal.

37-67-201. Organization -- meetings -- seal.

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