

HOUSE BILL NO. 867

INTRODUCED BY G. OBLANDER, S. FITZPATRICK, J. ETCHART, E. BUTTREY, S. KLAKKEN, G.
NIKOLAKAKOS, C. SPRUNGER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE MEDICAL ASSISTANCE PROGRAM; ESTABLISHING A MEDICAL ASSISTANCE PROGRAM FOR LICENSEES UNDER THE BOARD OF CHIROPRACTORS AND THE BOARD OF VETERINARY MEDICINE; ESTABLISHING A FEE TO FUND THE PROGRAM; AND AMENDING SECTIONS 37-1-131, 37-2-202, 37-2-316, AND 37-12-201, MCA."

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

NEW SECTION. Section 1. Rehabilitation. (1) The board shall establish a medical assistance program to assist licensees who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness. The program must provide for assistance to licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward rehabilitation.

(2) The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state.

(3) For the purposes of funding this medical assistance program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

Section 2. Section 37-1-131, MCA, is amended to read:

"37-1-131. Duties of boards -- quorum required. (1) Under the active supervision of the state as described in 37-1-121(1)(d), a quorum of each board within the department shall:

(a) (i) set and enforce standards and adopt and enforce rules governing the licensing, certification,

1 registration, and conduct of the members of the particular profession or occupation within the board's

2 jurisdiction; and

3 (ii) apply the standards and rules referred to in subsection (1)(a)(i) in a manner that does not
4 discriminate against any person licensed by the board with regard to how the standards and rules are applied to
5 other persons licensed by the board and that does not restrain trade or competition unless necessary to protect
6 public health and safety;

7 (b) except as provided in 37-1-321, sit in judgment in hearings for the suspension, revocation, or
8 denial of a license of an actual or potential member of the particular profession or occupation within the board's
9 jurisdiction. The hearings must be conducted by a hearings examiner when required under 37-1-121.

10 (c) suspend, revoke, or deny a license of a person who the board determines, after a hearing as
11 provided in subsection (1)(b), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing
12 of the workers' compensation system in violation of the provisions of Title 39, chapter 71;

13 (d) take disciplinary action against the license of a person in a medical assistance program under
14 chapter 3, 4, 7, ~~or 8, 12, or 18~~ if, in the period under contract, the licensee has on three separate occasions
15 returned to the use of a prohibited or proscribed substance. The requirements of this subsection (1)(d) may not
16 be construed as affecting the rights of an employer to evaluate, discipline, or discharge an employee.

17 (e) pay to the department the board's pro rata share of the assessed costs of the department
18 under 37-1-101(6);

19 (f) consult with the department before the board initiates a program expansion, under existing
20 legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs
21 associated with the proposed program expansion. The board may not expand a program if the board does not
22 have adequate money and appropriation authority available.

23 (2) A board, board panel, or subcommittee convened to conduct board business must have a
24 majority of its members, which constitutes a quorum, present to conduct business.

25 (3) A board that requires continuing education or continued state, regional, or national certification
26 for licensees shall require licensees reactivating an expired license to submit proof of meeting the requirements
27 of this subsection for the renewal cycle.

28 (4) The board under the active supervision of the state as described in 37-1-121(1)(d) or the

1 department program may:

2 (a) establish the qualifications of applicants to take the licensure examination;

3 (b) determine the standards, content, type, and method of examination required for licensure or
4 reinstatement of a license, the acceptable level of performance for each examination, and the standards and
5 limitations for reexamination if an applicant fails an examination;

6 (c) examine applicants for licensure at reasonable places and times as determined by the board or
7 enter into contracts with third-party testing agencies to administer examinations; and

8 (d) request that the applicant make a personal appearance before the board for nonroutine license
9 applications as defined by the board.

10 (5) A board shall adopt rules governing the provision of public notice as required by 37-1-311."
11

12 **Section 3.** Section 37-2-202, MCA, is amended to read:

13 **"37-2-202. Confidentiality of medical assistance program information -- health care**

14 **information.** (1) The proceedings and records of a medical assistance program created in chapter 3, 4, 7, ~~or 8,~~
15 12, or 18 relating to a licensee who has received or is receiving assistance from the medical assistance
16 program:

17 (a) are confidential and are considered to be proceedings and records of a professional standards
18 review committee under 37-2-201; and

19 (b) are not subject to discovery or introduction into evidence in any administrative or judicial
20 proceeding other than a disciplinary proceeding against the licensee before the applicable licensing board. If
21 the proceedings and records are introduced into evidence in a disciplinary proceeding, the introduced materials
22 are public unless otherwise protected by law.

23 (2) Any health care information, as defined in 50-16-803, that is maintained by a health care
24 provider in the provision of health care services to a licensee participating in a medical assistance program
25 provided for in chapter 3, 4, 7, ~~or 8,~~ 12, or 18 is subject to discovery from the licensee or the health care
26 provider and to introduction into evidence in an administrative or judicial proceeding as may otherwise be
27 allowed by law."
28

1 **Section 4.** Section 37-2-316, MCA, is amended to read:

2 **"37-2-316. Assistance program audits.** (1) In each 10-year period, the medical assistance programs
3 provided for in chapters 3, 4, 7, ~~and 8,~~ 12, and 18 must be audited for performance objectives as determined by
4 each licensing board in chapters 3, 4, 7, ~~and 8,~~ 12, and 18 at least twice, as provided in subsections (2) and (3).

5 (2) Licensing boards in chapters 3, 4, 7, ~~and 8,~~ 12, and 18 shall jointly contract and pay for an
6 external audit of the relevant assistance program once every 5 years. The department shall assess the costs to
7 each licensing board in chapters 3, 4, 7, ~~and 8,~~ 12, and 18 for the external audit over a corresponding period.

8 (3) The department shall arrange for an internal audit midway through the subsequent 5-year
9 period and shall assess costs to the licensing boards in chapters 3, 4, 7, ~~and 8,~~ 12, and 18 for the internal audit,
10 budgeting over the corresponding period."

11
12 **Section 5.** Section 37-12-201, MCA, is amended to read:

13 **"37-12-201. Organization of board -- powers and duties.** The board shall:

14 (1) elect annually a president, vice president, and secretary-treasurer from its membership;

15 (2) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming
16 within the scope of the board;

17 (3) make a schedule of minimum educational requirements that are without prejudice, partiality, or
18 discrimination as to the different schools of chiropractic;

19 (4) adopt rules necessary for the implementation, administration, continuation, and enforcement of
20 this chapter. The rules must address but are not limited to license applications, the display of licenses, and the
21 registration of interns and preceptors.

22 (5) make determinations of the qualifications of applicants under this chapter; ~~and~~

23 (6) certify that a chiropractor who meets the standards that the board by rule adopts is a qualified
24 evaluator for purposes of 39-71-711; and

25 (7) (a) establish a medical assistance program to assist licensees who are found to be physically
26 or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other
27 drug or substance or by mental illness or chronic physical illness. The program must provide for assistance to
28 licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward

1 rehabilitation.

2 (b) The board shall ensure that a licensee who is required or volunteers to participate in the
3 medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed
4 to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a
5 qualified treatment program outside the state unless the board finds that there is no qualified treatment program
6 in this state.

7 (c) For the purposes of funding this medical assistance program, the board shall adjust the
8 renewal fee to be commensurate with the cost of the program."

10 NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an
11 integral part of Title 37, chapter 18, part 2, and the provisions of Title 37, chapter 18, part 2, apply to [section 1].

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