

## Appendix A

Licensing boards' responses to questions posed by the Economic Affairs Committee for HB 525 reviews:

<p><b>Question</b></p> <p><b>1: What is the public health, safety, or welfare rationale for licensing and regulating your profession or occupation?</b></p>	<p><b><i>State Electrical Board</i></b></p>
	<p>Being a licensed electrician implies that the person has all certificates and licenses, as well as all the education and training, needed to perform aspects of wiring for, installing, and repairing electrical apparatuses, including equipment for light, heat and power. Licensed electricians protect the health of Montanans by being statutorily subject to the National Electrical Code (NEC). Their work is inspected for safety against poor installations that could cause house or building fires. Without the proper education and technical knowledge to understand the NEC, many homes and buildings would be improperly wired. Structures require proper conduit and correct size wiring, along with the correct breaker size in order to insure the wires can transmit the correct voltage. If the wiring is not properly sized, connected, or run, the safety of the home owner or occupiers of the buildings will be jeopardized.</p>
	<p><b><i>Board of Plumbers</i></b></p>
	<p>A plumber is a craftsman who specializes in installing and maintaining systems used for water, sewage, drainage, and piping. A master plumber is a plumber who has demonstrated through testing and experience that he/she has truly mastered the profession. It takes 8 years before one can test for a master plumber license. The fact is that plumbers are the first line of defense in the fight against unsafe drinking water. You may have heard the slogan: "the plumber protects the health of the nation". This slogan refers to plumbers keeping your drinking water safe by preventing contamination from sewer and other wastes that may come in contact with potable/drinking water. For example, the Centers for Disease Control documented 57 waterborne disease outbreaks from 1981 to 1998, which resulted in over 9,700 cases of illnesses caused by water that was contaminated in the water distribution systems. It was estimated that over 50% of the contamination was due to cross connection and backflow issues, easily prevented through competent plumbing practices. In other words, sewer water and other contaminants can enter into the water supply without proper safeguards that licensed plumbers are able to provide. Fewer than 10,000 cases of waterborne illness in this great nation of 300 million is minimal, thanks to a competent plumbing industry. A know but infrequently mentioned fact is that the practical absence of Typhoid fever and Cholera in our country is thanks, largely, to the plumbing industry. In addition to protecting the water supply plumbers make sure that the drainage system has the proper traps and vents to keep harmful gases, bacteria and other bugs from climbing out of the sewer system and into our homes. In contrast, 7.5% of deaths in India are attributed to water and sanitation issues and the World Health Organization has said that the SARS epidemic in the Asian countries a couple of years ago causing hundreds of deaths was spread through inadequate plumbing.</p>
	<p><b><i>Board of Professional Engineers and Professional Land Surveyors</i></b></p>
	<p>Professional engineers have a direct and immediate impact on public health, safety and welfare as they are responsible for designing the physical components of Montana's infrastructure. Likewise, professional land surveyors directly impact the public as their measurements and analysis of the ever-changing landscape allow for safe and proper development of the state. Montana's roads, buildings, communications, etc., depend on the work of these professionals. Regulation of these professions is necessary to ensure that qualified individuals perform this work ethically in the state, protecting the people of Montana.</p>

	<b><i>Board of Psychologists</i></b>
	The regulation of psychologists through licensure serves the public interest by protecting society's most vulnerable individuals, including those who struggle against suicidal ideations, major depression, those about whom questions have been raised regarding competency in relation to parenting, the ability to stand trial for a crime, those who need to sort through some major decisions in their life, or to simply be able to prove that they should remain free from institutional commitment.
	<b><i>more to come</i></b>

<b>Question</b>	<b><i>State Electrical Board</i></b>
	<p>Without licensing and regulation, anyone could perform electrical installations in Montana. With the majority of the electrical installation performed within the walls of a home or building, the occupier of the structure would not be able to tell if the electrical installation was finished properly. If the work is not properly installed or inspected, the occupiers and future occupiers of the structure could be exposed to electrocution, electrical fires or malfunctioning of the electrical system.</p> <p>The lay person does not have adequate knowledge of proper construction, wire sizing, or voltage requirements. Exposure to faulty and improper wiring compromises the health, safety, and welfare of the citizens of Montana.</p>
<b>2: If your profession is not licensed, what public protection would be lost?</b>	<b><i>Board of Plumbers</i></b>
	<p>Without licensing and regulation, anyone could perform plumbing in Montana. With the majority of the plumbing performed under the foundation of a home or building, the occupier of the structure would not be able to tell if the plumbing was done properly. If the work is not properly installed or inspected, the occupiers and future occupiers of the structure could be exposed to contaminated drinking water, wastewater, and sewer gas or mold.</p> <p>The lay person does not have adequate knowledge of proper construction, sizing, and venting of a plumbing system. Exposure to contaminated drinking water, wastewater, and sewer gas compromises the health, safety, and welfare of the citizens of Montana.</p>
	<b><i>Board of Professional Engineers and Professional Land Surveyors</i></b>
	<p>Without licensing and regulation of these professions, a great deal of public protection would be lost. Unqualified individuals would be designing structures and surveying properties that could lead to the collapse of a poorly designed building or to a boundary dispute between two property owners. The public would be unaware of any faults or mistakes in the work until it is too late.</p>
<b>2. If your profession is not licensed, what public protection would be lost?</b>	

	<b>Board of Psychologists</b>
	Licensure of psychologists is preceded by and premised upon high standards of education and lengthy periods of supervised experience. The failure to regulate those who would assume the role of psychologist would expose the public to a foreseeable and increased risk of harm from incompetence and malfeasance. Because licensed psychologists are entrusted with serving and evaluating many of the most vulnerable of our population, should licensure not be required of psychologists, it would be the emotional wellbeing and constitutional rights of the most vulnerable among us who would suffer a loss of protection. If a problem exists with a professional's treatment or actions, there would be no entity with the appropriate knowledge to review and adjudicate public complaints.

<b>Question</b>  <b>3: If a license in necessary (for health, safety, or welfare), does the profession or occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.</b>	<b>State Electrical Board</b>
	Yes, a board is necessary for health, safety, and welfare. The board was created for the protection of the people of this state from the danger of electrically caused shocks, fires and explosions. Also, to protect property from the hazards of electrically caused fires and explosions and to establish a procedure for determining where and by whom electrical installations are to be made and to assure the public that the persons making electrical installations are qualified to do so.
	<b>Board of Plumbers</b>
	Yes, a board is necessary for health, safety, and welfare.
	<b>Board of Professional Engineers and Professional Land Surveyors</b>
	Yes. Because engineering and surveying require specific education and experience, individuals with the same education and experience are the ones qualified to assess the competency of those who want to perform those services in Montana. Without the board, there would be no monitoring of the profession to ensure quality work was being performed, and the public would have no means to protect themselves against individuals performing substandard work.
<b>Board of Psychologists</b>	
Yes. A board is necessary to provide the expertise to evaluate initial licensure applicants (such as appropriate educational degree, exams administered and passed, and to ensure there are no discipline concerns) and continued monitoring of existing licensees through complaint review, continuing education requirements, etc. As required by law, the Board of Psychologists is comprised of practitioners from various areas of psychological practice (two in private practice, one in public health, one engaged in teaching of psychology) and two members must be from the general public who represent the perspective of consumers. The mix of talent on the board is the most appropriate method to deal with oversight issues.	


<b>Question</b>  <b>4: Does the board deal with unlicensed practice issues? If yes, what types of issues?</b>	<b><i>State Electrical Board</i></b>
	<p>Yes, the board deals with unlicensed practice issues. This is a very important function of the board as unlicensed practice complaints make up a good portion of a typical board meeting's work.</p> <p>The board frequently investigates and reviews information regarding unlicensed practice. Many complaints regarding unlicensed practice are initiated by homeowners who recognize, after the work is done, that the work is substandard, inefficient, or even dangerous. For example, the board has sought injunctions against people who refused to stop electrical installations without a license and whose work electrocuted a person or resulted in damage to the home. It is not uncommon for the complaining party to describe the cost involved in repairing the substandard work the unlicensed person did, ironically to save the cost of hiring a licensed person.</p>
	<b><i>Board of Plumbers</i></b>
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	<b><i>Board of Professional Engineers and Professional Land Surveyors</i></b>
<p>Yes. The handling of unlicensed practice is a critical function of the board. The licensure process ensures that professional engineers and professional land surveyors complete the proper education, experience, and examinations to perform these vitally important services in Montana.</p> <p>The board reviews a wide range of unlicensed practice complaints. Some unlicensed practice complaints involve the improper use of the title "professional engineer" or "professional land surveyor", which misleads the public to believe a person has met the stringent qualifications for licensure when, in fact, the person has not. The board also deals with more substantive unlicensed practice issues such as the possible practice of engineering by architects as well as the blatant practice of engineering or surveying by an unlicensed individual.</p>	
<b><i>Board of Psychologists</i></b>	

	<p>Occasionally, the board is alerted to the conduct of individuals who portray themselves as having appropriate education and training to address or handle issues for which they are not qualified. A great deal of personal harm may result to individuals as a result of erroneous conclusions from psychological evaluations (e.g. confinement, parenting plan recommendations, competency to stand trial) and a court's reliance upon individuals claiming to be an expert in the field of psychology is often at the root of such problems.</p>

<p><b>Question:</b></p> <p><b>5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living. What is your response?</b></p>	<p><b><i>State Electrical Board</i></b></p>
	<p>The training, education, and supervised experience currently required of individuals to qualify for licensure as an electrician is necessary to help ensure each person will be capable of providing services that meet building code safety and efficiency requirements. Licensure represents a necessary barrier to entering this profession to allow the public a certain measure of protection and confidence that the person being hired is capable.</p> <p>The board does not discriminate with regards to who may submit an application. Staff for the board will review all applications submitted.</p> <p>Assuming an individual comes from a jurisdiction in which electrical licensure is not required, staff or the board will review all the experience an applicant submits. If the applicant's experience meets the established criteria, was legally obtained, and is verifiable, either the staff or the board will approve the applicant to sit for the examination. Upon passage of the exam, the applicant will be licensed.</p>
	<p><b><i>Board of Plumbers</i></b></p>
	<p>The training, education, and supervised experience currently required of individuals to qualify for licensure as a plumber is necessary to help ensure each person will be capable of providing services that meet building code safety and efficiency requirements. Licensure represents a necessary barrier to entering this profession to allow the public a certain measure of protection and confidence that the person being hired is capable.</p> <p>The board does not discriminate with regards to who may submit an application. Staff for the board will review all applications submitted.</p> <p>Assuming an individual comes from a jurisdiction in which plumbing licensure is not required, staff or the board will review all the experience an applicant submits. If the applicant's experience meets the established criteria, was legally obtained, and is verifiable, either the staff or the board will approve the applicant to sit for the examination. Upon passage of the exam, the applicant will be licensed.</p>
	<p><b><i>Board of Professional Engineers and Professional Land Surveyors</i></b></p>

	<p>If an individual can provide sufficient proof he or she is qualified, the board will review the individual's application. There are four sets of qualifications for licensure for both professional engineers and professional land surveyors that require different combinations of education and experience. These different combinations of education and experience allow for qualified individuals from a number of backgrounds to apply to sit for the national exam or to apply for a license if the individual is licensed in another state.</p>
	<p><b><i>Board of Psychologists</i></b></p>
	<p>The safe and competent practice of psychology requires a doctoral level of education, training, and two years of professional supervised experience. To ensure the proper and necessary preparation, the law currently requires reasonable standards that do not unfairly bar any individual from earning a living.</p>

<p><b>Question:</b></p>	<p><b><i>State Electrical Board</i></b></p>
<p><b>6. How does your board monitor bias among board members toward a particular licensee, an applicant or a respondent (to unlicensed practice)?</b></p> <p><b>and</b></p>	<p>The Montana State Electrical Board consists of a five-member board appointed by the Governor with the consent of the senate, including two master electricians, one journeyman electrician, and two public members. The diversity of the board helps serve to reduce the chances that any particular board member's bias will affect how the board carries out its business. The board members understand the responsibility that comes with their appointments and the impact of their decisions. If a member determines that they may have a conflict of interest, they will immediately recuse themselves and abstain from discussion involving an applicant, agenda topic or complaint.</p> <p>The board only licenses a single profession; therefore, bias towards another profession or occupation is not an issue.</p>
<p><b>How does your board monitor bias toward a particular profession or occupation, if more than one profession or occupation is licensed by the board?</b></p>	<p><b><i>Board of Plumbers</i></b></p>
	<p>The Board of Plumbers consists of a nine-member board appointed by the Governor with the consent of the senate, including two master plumbers, two journeyman plumbers, one registered professional engineer, three representatives of the public and one representative of the Department of Environmental Quality who must have experience in the regulation of drinking water systems. The diversity of the board helps serve to reduce the chances that any particular board member's bias will affect how the board carries out its business. The board members understand the responsibility that comes with their appointments and the impact of their decisions. If a member determines they may have a conflict of interest, they will immediately recuse themselves and abstain from discussion involving an applicant, agenda topic or complaint.</p> <p>The board only licenses a single profession; therefore, bias towards another profession or occupation is not an issue.</p>
	<p><b><i>Board of Professional Engineers and Professional Land Surveyors</i></b></p>
	<p>The members of the board understand the importance and integrity that falls upon them and the impact of their decisions. If a member determines he or she has a conflict of interest, the member will immediately abstain from the complaint or topic on the agenda.</p> <p>The board is made up of five professional engineers, two land surveyors, and two public members. The makeup of the board was determined by the number of licensees in each profession. While professional engineers make up a majority of the board, all members are willing to review matters relating to both professions. Engineering and surveying are related professions, so much so that a dual license exists for professional engineer surveyors. The public members serve important roles in preventing bias towards either profession because they offer outside, independent views.</p>

	<b>Board of Psychologists</b>
	Board member training provided by the Department of Labor and Industry addresses this issue; board members are advised of the need to recuse themselves from decision-making if a conflict exists. The presiding officer and staff also monitor bias on a case-by-case basis to help ensure that the possibility or perception of bias is avoided, and a carefully guarded and liberally administered public right of participation ensures a critical review of all such decisions. Also, having a mix of public and professional members who serve together on the board is another safeguard.
	There are no other professions licensed by this board.

<b>Question:</b>  <b>7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as an oversight body?</b>	<b>State Electrical Board</b>
	The State Electrical Board does not have an association that could provide oversight at this time. Montana does have electrical unions; however, the unions' primary loyalties are to their membership and profession, not to the health, safety, and welfare of the citizens of Montana.
	<b>Board of Plumbers</b>
	The Board of Plumbers does not have an association that could provide oversight at this time. Montana does have plumbing unions; however, the unions are not in a position to regulate the industry.
	<b>Board of Professional Engineers and Professional Land Surveyors</b>
	There is a Montana Society of Engineers (MSE) and a Montana Association of Registered Land Surveyors (MARLS). Both groups keep up with activities of the board, but the main goal of the associations is to promote their professions. They do not regulate the profession or handle complaints. They rely on the board to oversee the licensees and professions. Plus, membership in these associations is not required so many licensees would not fall under the purview of the associations' oversight.
	<b>Board of Psychologists</b>
	Associations have a certain degree of overlap in their respective purposes. However, professional associations consist of members of the profession who choose to join the associations. Generally speaking, the primary mission of an association is to promote an industry, while the primary mission of a regulatory board is to protect the public. These are not separate functions not well-suited to be performed by the same entity.


<b>Question:</b>  <b>8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?</b>	<b><i>State Electrical Board</i></b>
	The State Electrical Board does not facilitate the billing of insurance claims in the same manner as many of the licensed health care boards do.
	<b><i>Board of Plumbers</i></b>
	The Board of Plumbers does not facilitate the billing of insurance claims in the same manner as many of the licensed health care boards do.
	<b><i>Board of Professional Engineers and Professional Land Surveyors</i></b>
	The Board of Professional Engineers and Professional Land Surveyors does not oversee insurance requirements or billing regulations at this time.
	<b><i>Board of Psychologists</i></b>
	Yes, insurance companies are well aware of the advantage of a licensing board being able to determine the qualifications of practitioners, so licensure through an administrative agency is a prerequisite to insurance coverage for psychological services. The board is not aware of any alternative billing method.

<b>Question:</b>  <b>9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?</b>	<b><i>State Electrical Board</i></b>
	Licensing and discipline processes frequently involve technical issues relative to electrical installations. The State Electrical Board is made up primarily of experienced and knowledgeable electricians and construction professionals. As such, the board members have a clear understanding of the qualifications of licensure and generally accepted standards of practice. Therefore, it is appropriate and wise for the board to determine that requirements of licensure and standards of care in their regulation of the electrical profession.
	<b><i>Board of Plumbers</i></b>
	Licensing and discipline processes frequently involve technical issues relative to plumbing. The Board of Plumbers is made up primarily of experienced and knowledgeable plumbers and construction professionals. As such, the board members have a clear understanding of the qualifications of licensure and generally accepted standards of practice. Therefore, it is appropriate and wise for the board to determine that requirements of licensure and standards of care in their regulation of the plumbing profession.

	<b>Board of Professional Engineers and Professional Land Surveyors</b>
	The board is made up primarily of experienced and licensed professional engineers and professional land surveyors. As such, board members have a clear understanding of the education, experience, and knowledge base needed to qualify as a professional in their respective areas of expertise. Therefore, it is appropriate and beneficial for the board to set the standards of licensing and professional practice and to enforce discipline when needed.
	One of the main responsibilities of the board is to review applications for licensure. Because the board members are licensed professionals, they have the expertise to review the experience portions of the application to determine competency whereas department staff lacks that expertise.
	As for discipline, the board understands the seriousness of violations in terms of poor design and surveys, and the board can better determine unlicensed practice based on its codes, laws, and rules.
	<b>Board of Psychologists</b>
	The board has the expertise of the psychologist members who understand the technical aspects of the profession and two public members to represent the consumer view. Both aspects are essential to effective regulation of the profession, and neither would be available to the department without the use of a board.

<b>Question:</b>  <b>10. Is there an optimum ratio between licensees, board size, or public representation?</b>	<b>State Electrical Board</b>
	The five-member State Electrical Board regulates a profession of approximately 5,000 licensed electricians and electrical contractors. The board has had no quorum issues regarding their 4 annual board meetings and the various panels and committees that are required to carry out the business of the board. Based on the work being accomplished, it appears that the current ratio between licensees, board size, and public representation is appropriate.
	<b>Board of Plumbers</b>
	The nine-member Board of Plumbers regulates a profession of approximately 1,400 plumbers. The board has had no quorum issues regarding their 4 annual board meetings and the various panels and committees that are required to carry out the business of the board. Based on the work being accomplished, it appears that the current ratio between licensees, board size, and public representation is appropriate.

	<b><i>Board of Professional Engineers and Professional Land Surveyors</i></b>
	Yes. The nine-member board relies on the knowledge of the public, those being protected, and the professionals, those doing the work, to make sound and fair decisions for license review and disciplinary processes.
	There are approximately 1,770 resident professional engineers in Montana; 3,300 nonresident professional engineers, 250 resident professional land surveyors, 185 nonresident professional land surveyors, 40 resident professional engineer surveyors, and nearly 20 nonresident professional engineer surveyors. The number of professional engineers and professional land surveyors on the board reflects the ratio of licensed professional engineers to licensed professional land surveyors in Montana.
	The mixture of professional engineers, professional land surveyors, and the public members provides for relevant discussions of the issues brought before the board.
	<b><i>Board of Psychologists</i></b>

<b>Question:</b>  <b>11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?</b>	<b><i>State Electrical Board</i></b>
	Regarding the specialized knowledge required to be an electrician, the board believes it is necessary for electricians and industry-related professionals to regulate other electricians. When circumstances dictate disciplinary action, the board members have the specialized knowledge required to fairly and impartially rule on the issues.
	<b><i>Board of Plumbers</i></b>
	Regarding the specialized knowledge required to be a plumber, the board believes it is necessary for plumbers and industry-related professionals to regulate other plumbers. When circumstances dictate disciplinary action, the board members have the specialized knowledge required to fairly and impartially rule on the issues.
	<b><i>Board of Professional Engineers and Professional Land Surveyors</i></b>
	With the specialized knowledge required for both professions, it is appropriate for the licensees themselves to regulate one another. When circumstances require disciplinary action, the board has confidence in both the compliance specialist assigned to it by the Business Standards Division and the legal staff who prosecute offenders before Department of Labor and Industry hearing examiners. The Attorney General's Office would need to hire a number of different professionals acquainted with engineering and surveying in order to provide protection for the people of Montana.
	<b><i>Board of Psychologists</i></b>


**Question 12: If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the others' practice? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?**

***State Electrical Board***

At times, the elevator, low-voltage technicians, well drillers, fire alarm installers and maintenance personnel have provided some feedback pertaining to the laws and rules of the State Electrical Board. Each time the board has been able to resolve the issues with little or no resistance. Each occupation normally understands the laws and rules of each other, thus there have been few if any practice issues between the occupations.

***Board of Plumbers***

The issue of overlapping scopes of practice has not arisen in relation to the Board of Plumbers.

***Board of Professional Engineers and Professional Land Surveyors***

Licensed professionals should not exceed their scope of practice. Such conduct is unprofessional and would be subject to discipline by the board that regulates that individual's practice. If the conduct entered into another board's area of professional expertise, then the second board would be justified in taking action for unlicensed practice. In many cases, the best course of action - and that recommended by the Board of Professional Engineers and Professional Land Surveyors - is for the individual to seek an additional license to avoid a scope of practice issue.

The board recognizes that issues such as scope of practice will arise occasionally. The board has found that when they do arise, we have been able to work cooperatively with other regulatory boards. We believe cooperation can resolve issues, and we have confidence in the strong working relationships among boards and staff within the Business Standards Division.

***Board of Psychologists***

**Question 13: Should the board have the ability to limit use of certain terminology to only a licensee?**

***State Electrical Board*** - submitted by Jack Fisher, board president

Yes. The board should have the ability to limit use of certain terminology to only a licensee. When a person holds themselves out to be an electrician, the public assumes that the person is qualified to perform electrical installations. Licensure substantiates the fact that the individual has the education, training, and experience, verified by examination, to perform electrical work. Allowing unlicensed persons the ability to advertise or otherwise represent to the public their competence or ability in the electrical field would be misleading to the public.

***Board of Plumbers*** - submitted by Tim Regan, chair of the board

Yes. The board should have the ability to limit use of certain terminology to only a licensee. When a person holds themselves out to be a plumber, the public assumes that the person is qualified to perform plumbing. Licensure substantiates the fact that the individual has the education, training, and experience, verified by examination, to perform plumbing. Allowing unlicensed persons the ability to advertise or otherwise represent to the public their competence or ability in the field of plumbing would be misleading to the public.

**Board of Professional Engineers and Professional Land Surveyors** - submitted by David Elias, presiding officer of the board

The board does not limit the use of the word engineer or surveyor. However, the distinction of being called a professional engineer or a professional land surveyor is a distinction the board protects. These titles convey to the public that the individual has met certain rigorous standards and that the individual is qualified to offer services in Montana.

**Board of Psychologists**
