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As of: June 7, 2016 (2:58pm)

LC3903

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act requiring the department of labor and industry to notify licensing boards of potential anticompetitive actions and of antitrust liability; amending section 37-1-101, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

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

"37-1-101. Duties of department. In addition to the provisions of 2-15-121, the department shall:

(1) establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, receiving and processing routine applications for licenses as defined by a board, issuing and renewing routine licenses as defined by a board, disciplining licensees, setting administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board meetings and hearings, and filing;

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

(3) make arrangements and provide facilities in Helena for all meetings, hearings, and examinations of each board or

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elsewhere in the state if requested by the board;

(4) contract for or administer and grade examinations required by each board;

(5) investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board or a program within the department;

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

(7) adopt rules setting administrative fees and expiration, renewal, and termination dates for licenses;

(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's board after a finding of reasonable cause by a screening panel of the board pursuant to 37-1-307(1)(d);

(9) (a) provide notice to the board and to the appropriate legislative interim committee when a board cannot operate in a cost-effective manner;

(b) suspend all duties under this title related to the board except for services related to renewal of licenses;

(c) review the need for a board and make recommendations to the legislative interim committee with monitoring responsibility for the boards for legislation revising the board's operations to achieve fiscal solvency; and

(d) notwithstanding 2-15-121, recover the costs by one-time charges against all licensees of the board after providing notice and meeting the requirements under the Montana Administrative

Procedure Act;

(10) monitor a board's cash balances to ensure that the balances do not exceed two times the board's annual appropriation level and adjust fees through administrative rules when necessary. [This subsection does not apply to the board of public accountants, except that the department may monitor the board's cash balances.]

(11) establish policies and procedures to set fees for administrative services, as provided in 37-1-134, commensurate with the cost of the services provided. Late penalty fees may be set without being commensurate with the cost of services provided.

(12) adopt uniform rules for all boards and department programs to comply with the public notice requirements of 37-1-311 and 37-1-405. The rules may require the posting of only the licensee's name and the fact that a hearing is being held when the information is being posted on a publicly available website prior to a decision leading to a suspension or revocation of a license or other final decision of a board or the department.

(13) (a) advise a board if the department considers a pending board action to be:

(i) potentially anticompetitive either for other licensees of the board or for individuals in another profession; and

(ii) not necessary to meet policies of protecting public health and safety; and

(b) inform a board that if the board takes an action against

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the advice of the department under subsection (13)(a) the board members are individually liable and that the state action immunity doctrine does not apply." (Bracketed language terminates September 30, 2019--sec. 10, Ch. 427, L. 2015.)

{*Internal References to 37-1-101:*

2-15-121 x 37-1-131 x 37-3-314 x 37-4-202 x
37-4-327 x 37-6-305 x 37-7-309 x 37-7-324 x
37-8-432 x 37-9-306 x 37-10-203 x 37-11-203 x
37-12-308 x 37-15-310 x 37-16-408 x 37-18-308 x
37-19-307 x 37-28-305 x 37-31-324 x 37-47-306 x
37-47-325 x 37-47-325 x 37-51-204 x 37-51-311 x
37-51-321 x 37-54-112 x 37-60-320 x 37-65-307 x
37-66-309 x 37-67-317 x 37-69-304 x 37-69-306 x
37-69-308 x}

NEW SECTION. **Section 2.** {standard} **Effective date.** [This act] is effective on passage and approval.

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