

Unofficial Draft Copy

As of: June 29, 2006 (10:02am)

LC7799

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing a procedure for creating a new professional or occupational licensing board or program; requiring a letter of intent to accompany a bill draft request for a new professional or occupational licensing board or program; providing that a letter of intent may be submitted when adding professions or occupations to existing licensing boards; providing for an advance fiscal note to determine the costs of a new or expanded board."

WHEREAS, licensing boards or programs provide for self-regulation by professions or occupations and are authorized by the state through its role of protecting public health, safety, or welfare or providing for the common good; and

WHEREAS, documentation regarding the rationale for licensing a profession or occupation is helpful for legislators to use in determining whether the potential increase in cost to the public and limitation on competition is outweighed by the prospective protection of public health, safety, or welfare or provision for the common good; and

WHEREAS, advance information on costs better serves both potential licensees and legislators in determining the cost of a board or a program.

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

NEW SECTION. **Section 1. Purpose.** It is the intent of the legislature to:

(1) only exercise the police power of the state through the establishment of licensing boards when regulation of a profession or occupation serves the health, welfare, safety, or common good of the state's residents;

(2) recognize those professions or occupations that require specialized skill or training; and

(3) provide the public with a means to determine whether practitioners have met competency standards and to complain if the competency is suspect.

NEW SECTION. **Section 2. Intent to license new board.** (1) Except as provided in [section 3], a bill draft request to create a licensing board must include a letter of intent not exceeding 1,000 words that address the criteria in subsections (2) and (3).

(2) The letter of intent must contain the following descriptions:

(a) how licensing would protect and benefit the public and, in particular, how the unregulated practice of the profession or occupation would pose a hazard to public health, safety, welfare, or the common good;

(b) the extent of practitioners' autonomy, as indicated by the degree of independent judgment that a practitioner must exercise or the extent of skill or experience required in making

the independent judgment;

(c) the distinguishable scope of practice;

(d) the overlap or shared practices with an existing, licensed occupation or profession;

(e) the degree, if any, to which licensing would restrict entry into the profession or occupation for reasons other than public health, safety, welfare, or the common good;

(f) the specialized skills or training required for the profession;

(g) the proposed qualifications for licensure;

(h) whether a grandfather clause would be provided to existing practitioners and whether those eligible for the grandfather clause would be required to meet proposed qualifications at a certain time;

(i) a list of other states that license the profession or occupation;

(j) regulatory alternatives other than licensing that are available to the practitioners of the profession or occupation; and

(k) previous efforts, if any, to regulate the profession or occupation.

(3) In order to help in the determination of licensing costs, the letter of intent must contain a good faith effort to answer the following questions:

(a) how many licensees are anticipated, including the number of practitioners in Montana; and

(b) what is the proposed makeup of the licensing board?

(4) For the purposes of this section, a letter of intent is a public record.

NEW SECTION. **Section 3. Intent to combine profession or occupation with existing board.** (1) A bill draft request that proposes to license a profession or occupation by combining that profession or occupation with an existing board must contain a letter of intent if one of the following conditions applies:

(a) the profession or occupation to be licensed falls under the supervisory authority of a profession or occupation with an existing board; or

(b) the profession or occupation to be licensed has an overlapping scope of practice or dual licensure with a profession or occupation under an existing board.

(2) A letter of intent to combine with an existing board must contain responses to the questions provided in [section 3].

(3) A letter of intent under this section is a public record.

NEW SECTION. **Section 4. Advance fiscal note for new or expanded licensing board.** (1) A bill draft request for a new or expanded licensing board or program automatically triggers a request to the department of labor and industry for an advance fiscal note under the process described in subsection 2.

(2) The department of labor and industry shall notify the budget director of the advance fiscal note request and shall provide to the budget director an advance fiscal note:

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- (a) within 6 business days of a request made:
 - (i) during a legislative session, as provided in 5-4-203; or
 - (ii) at the start of a legislative session; or
- (b) within 30 business days at any time not listed in subsection 2(a).

NEW SECTION. Section 5. {standard} Codification

instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 2, chapter 8, and the provisions of Title 2, chapter 8, apply to [sections 1 through 4].

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