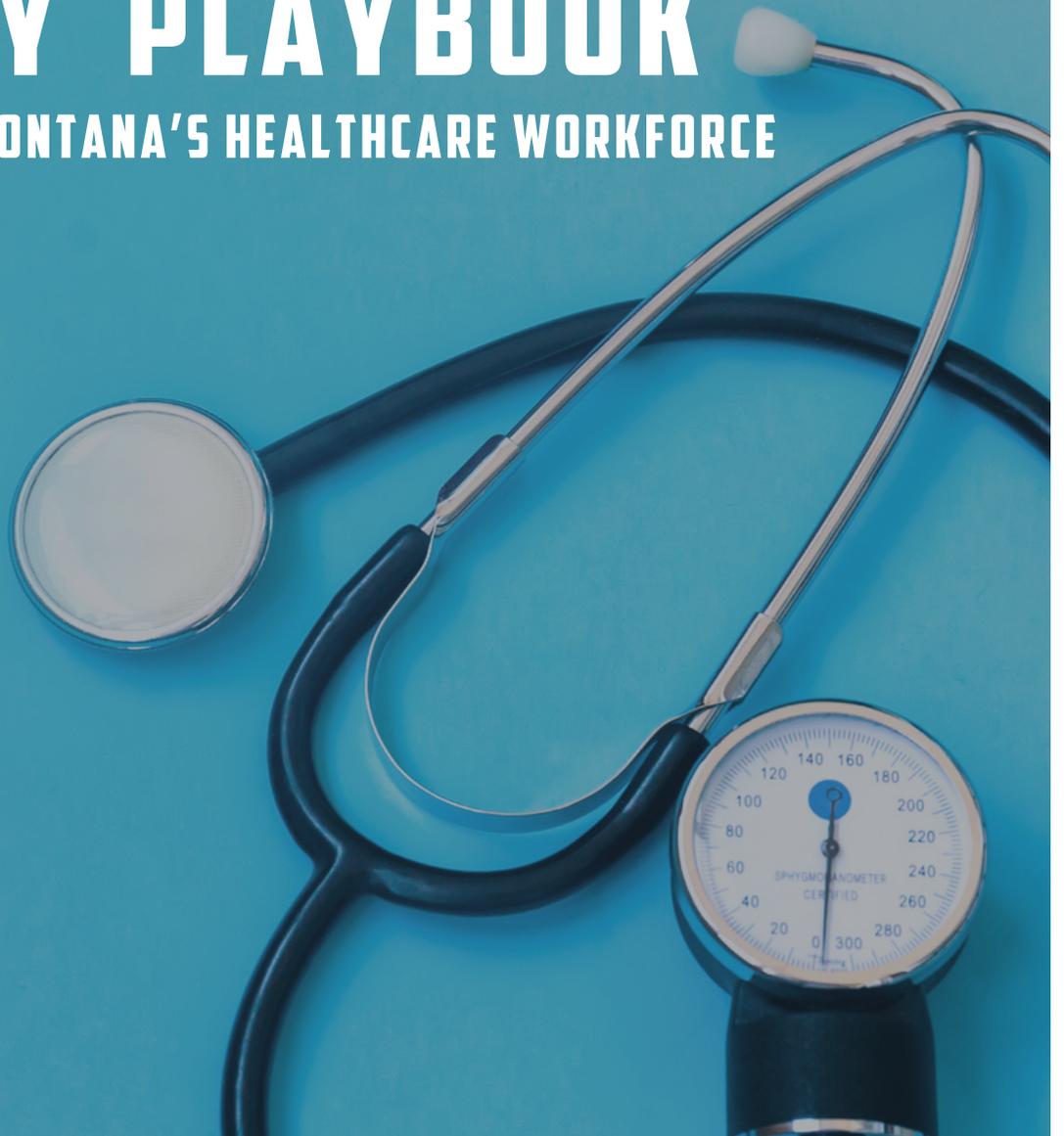




# 2022 HEALTHCARE POLICY PLAYBOOK

**BOLSTERING MONTANA'S HEALTHCARE WORKFORCE**



# OBJECTIVE:

Make Montana a destination state for healthcare, where professionals come to practice, and patients come for medical care.

## ISSUE SUMMARY

- All of Montana is designated by the federal government as “medically underserved.”<sup>1</sup>
- During COVID, Montana made “the rapid licensure, renewal of licensure, or reactivation of licensure” a top priority, temporarily waiving regulations to quickly expand our healthcare workforce.<sup>2</sup>
- With healthcare shortages persisting, policymakers should be focused on permanently reducing licensure red tape and expanding the ability of current practitioners to care for their patients.

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# REFORM #1

# UNIVERSAL LICENSURE RECOGNITION

## PROBLEM

While often implemented with safety in mind, licensure requirements can differ significantly state-to-state. This requires providers who practice in multiple states via modes like telehealth to gain unique licensure in each state, a process that can be both complex and expensive.

**Vendors that assist physicians with licensure in Montana estimate that the entire process realistically takes 3-4 months to complete.**

Currently, it takes up to 30 days for the Montana Board of Medical Examiners to process routine applications for a physician's license.<sup>3</sup> 30 days may not sound burdensome, but processing applications is only one part of the licensure journey. Preparing documentation for a routine application can be a time consuming and complicated endeavor.

Importantly, this work is done prior to the application even being submitted to the Board. Vendors that assist physicians with licensure in Montana

**Emergency regulatory flexibilities during COVID-19 allowed a streamlined process for medical professionals to become licensed to practice as long as they had a license in good standing in another state that was recognized.**

estimate that the entire process realistically takes 3-4 months to complete.<sup>4</sup>

Emergency regulatory flexibilities during COVID allowed a streamlined process for medical professionals to become licensed to practice as long as they had a license in good standing in another state that was recognized.<sup>5</sup>

Nearly 2,500 medical professionals received a temporary license under this system, with many practicing virtually.

The expiration of emergency orders means that those 2,500 licenses are now terminated, requiring out-of-state providers go through the burdensome and costly professional licensing process to continue practicing in Montana.

# REFORM #1

# UNIVERSAL LICENSURE RECOGNITION

## SOLUTIONS **OPTION #1**

**Adjust administrative rules to allow patients to receive care from providers licensed in other states via telehealth without requiring Montana licensure.**

The Gianforte Administration should revise ARM 24.156.813 to facilitate seamless telehealth across state lines for physicians:

### **24.156.813. Practice requirements for physicians using telemedicine**

“(1) Treatment of a patient who is physically located in Montana by a licensee provider using telemedicine occurs where the ~~patient~~ provider is physically located.”

This reform would resolve cross-state licensure concerns by treating telehealth from out-of-state physicians the same as patients physically traveling across state lines. Treatment would be considered to occur where the licensed doctor is, rather than where the patient is. Doctors would still be required to meet licensing standards in the state they practice in, ensuring patient safety and practitioner competency.

**LEARN MORE ABOUT THIS SOLUTION AT**  
[frontierinstitute.org/the-impact-of-one-word](https://frontierinstitute.org/the-impact-of-one-word)

# REFORM #1

# UNIVERSAL LICENSURE RECOGNITION

## SOLUTIONS **OPTION #2**

### **Make universal licensure recognition processes in place during the COVID emergency permanent.**

The Montana legislature should consider eliminating provisions which require that an applicant's "originating" state license must be equal or substantially equal to Montana's licensure requirements in order to be recognized:

#### **37.1.304. Licensure of out-of-state applicants -- reciprocity.**

(1) A board shall issue a license to practice without examination to a person licensed in another state if the board determines that:

~~(a) the other state's license standards at the time of application to this state are substantially equivalent to or greater than the standards in this state; and~~

(a) the person holds a current and valid occupational license or government certification in another state in a lawful occupation with a similar scope and standards of practice, as determined by the board in this state; and

(b) there is no reason to deny the license under the laws of this state governing the profession or occupation.

(2) The license ~~may~~ shall be issued if the applicant affirms or states in the application that the applicant has requested verification from the state or states in which the person is licensed that the person is currently licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or impairment. If the board or its screening panel finds reasonable cause to believe that the applicant falsely affirmed or stated that the applicant has requested verification from another state, the board may summarily suspend the license pending further action to discipline or revoke the license.

(3) This section does not prevent a board from entering into a reciprocity agreement with the licensing authority of another state or jurisdiction. ~~The agreement may not permit out-of-state licensees to obtain a license by reciprocity within this state if the license applicant has not met standards that are substantially equivalent to or greater than the standards required in this state as determined by the board on a case-by-case basis.~~

# REFORM #2

## EXPAND PHARMACIST PRESCRIBING

### PROBLEM

Expanding the ability of pharmacists to care for patients could play a critical role in filling the gaps in Montana's health care system, especially in rural communities. Many rural Montana counties, such as Powder River County, have no local primary care physician.<sup>6</sup> There is, however, a community pharmacy.

**“Expanding the ability of pharmacists to care for patients could play a critical role in filling the gaps in Montana's health care system, especially in rural communities.”**

Leveraging pharmacists' extensive knowledge and skillset with pharmaceutical drugs, states have begun to allow pharmacists to prescribe medications commensurate with their training. Montana already allows pharmacists to pre-scribe and administer vaccinations.<sup>7</sup>

**“Leveraging pharmacists' extensive knowledge & skillset with pharmaceutical drugs, states have begun to allow pharmacists to prescribe medications commensurate with their training.”**

Idaho has taken it a step further, authorizing pharmacists to prescribe medications for minor, non-emergency ailments that do not require a new diagnosis and can be identified with a low-risk test, such as the flu or strep throat.

Just like in Montana, there are rural communities in Idaho that may have a pharmacy but no local primary care provider. Idaho patients who require only routine prescriptions can now get them from their local pharmacy, saving an unnecessary trip to the nearest doctor's office or an expensive emergency room visit. Additionally, local community pharmacies are often open longer than doctors' offices and no appointment is needed – making care even more accessible.

## SOLUTION

**Pass legislation to allow Montana pharmacists the ability to make routine prescriptions.**

The Montana legislature should consider amending the “practice of pharmacy” to authorize pharmacists to prescribe certain minor, non-emergency prescriptions, similar to what is allowed in Idaho:

### **37.7.101. Definitions.**

38) "Practice of pharmacy" means:

(h) participating in scientific or clinical research as an investigator or in collaboration with other investigators.

(i) The prescribing of drugs, drug categories, or devices that are prescribing in accordance with the product’s federal food and drug administration approved labeling and that are limited to conditions that:

(a) Do not require a new diagnosis;

(b) Are minor and generally self-limiting;

(c) Have a test that is used to guide diagnosis or clinical decision making and are waived under the federal clinical laboratory improvement amendments of 1988; or

(d) In the professional judgment of the pharmacist, threaten the health or safety of the patient should the prescription not be immediately dispensed. In such cases, only sufficient quantity may be provided until the patient is able to be seen by another provider.

## MORE FLEXIBILITY FOR RETIRED DOCTORS

### PROBLEM

“COVID-19 emergency regulatory flexibilities temporarily allowed doctors who had retired in the last five years to quickly reactivate their licenses via an expedited process.”

COVID-19 emergency regulatory flexibilities temporarily allowed doctors who had retired in the last five years to quickly reactivate their licenses via an expedited process. Governor Bullock’s April 21, 2020 Directive stated: “Inactive, retired, or other health care professionals who have left the practice of their profession in the last five years and who have a clean disciplinary record will be allowed to reactivate their license without meeting current licensure requirements. Such individuals are a fast resource to increase the availability of health care providers.”<sup>8</sup>

Currently, retired doctors that have been inactive for more than two years may be required to pass an exam, practice under supervision or obtain additional certification in order to reactivate their license.<sup>9</sup>

These temporary reforms helped Montana’s health care system overcome our longstanding health care shortages and rapidly add workforce capacity when needed most during COVID. However, these flexibilities have now expired.

“Retired or inactive health care professionals are a fast resource to increase the availability of health care providers.”

Emergency Directive

April 21, 2020

## SOLUTION

**Adjust administrative rules to make COVID-19 flexibilities permanent, allowing doctors who have been inactive for 5 years to quickly re-activate their license.**

The Board of Medical Examiners should revise rules to allow doctors who have been inactive for five years to quickly reactivate their licensing:

### **24.156.615. Renewals**

(3) A physician with an active license who is not actively engaged in the clinical practice of medicine in this state, or who is absent from this state for a period of one or more years, may renew as an inactive licensee and pay the inactive fee listed in ARM 24.156.601.

(a) A physician seeking to renew an inactive Montana license as an active license (reactivate), and who has ceased the clinical practice of medicine in all jurisdictions for the ~~two~~ five or more years during which the license has been inactive preceding the request for reactivation, must seek reactivation pursuant to ARM 24.156.618.

### **24.156.618. Reactivation of license**

(1) A physician seeking to reactivate a Montana license, which has been inactive for the ~~two~~ five or more years preceding the request for reactivation, and who has ceased the clinical practice of medicine in all jurisdictions for the entire time during which the license has been inactive, may be required to do one or more of the following:

# REFORM #4

# FAST TRACK YOUNG DOCTORS

## PROBLEM

Like in most other states, eligibility to apply for a Montana physician's license requires successful completion of an approved post-graduate residency training program.<sup>10</sup>

Medical residency training programs are highly competitive, with limited positions available to applicants each year due to limited federal funding. In 2020, Congress added just 1000 new residency positions for the first time since 1997.

Even with expanded funding for residency spots available, strict curriculum requirements for

residency programs still make it difficult for rural state hospitals to host medical residents, diminishing opportunities to grow Montana's healthcare workforce.<sup>12</sup>

Due to these constraints on medical residency programs, over 8,000 applicants nationwide were not matched with a residency training program in 2022.<sup>13</sup>

By the time medical school students graduate, they have already received a significant amount of clinical experience and training, sometimes even exceeding that of other independent practitioners such as Nurse Practitioners (NP's).<sup>14</sup>

Due to Montana physician licensing requirements, medical graduates are not able to enter the field and treat patients in any capacity outside of an approved residency program.<sup>15</sup>



“Residency programs have specific requirements for aspiring physicians ... that are difficult to meet exclusively in rural settings.”<sup>11</sup> June 24, 2021

# REFORM #4

# FAST TRACK YOUNG DOCTORS

## SOLUTION

**The Montana legislature should consider allowing medical graduates the option to train directly under the supervision of a licensed doctor after medical school, rather than requiring enrollment in a formal residency training program.**

- Medical graduates would receive permission to practice and train under the supervision of a licensed physician as an alternative to enrolling in a formal residency program.
- Medical graduates who opt for this alternative pathway for training would still be required to have earned a medical degree from an accredited medical school and have passed the United States medical licensing examination.
- Medical graduates who train under this alternative pathway would have the same scope-of-practice that is allowed for medical residents, consistent with their training and ability.
- The Board of Medical Examiners would determine the level of training received outside of a formal residency program that would make an applicant eligible to apply for a physician's license.
- This alternative pathway for medical training would allow Montana hospitals more flexibility to train young doctors without requiring any increased government funding for residency programs.

**CONTINUES ON NEXT PAGE**

# REFORM #4

# FAST TRACK YOUNG DOCTORS

## SOLUTION CONTINUED

The legislature could consider simply revising the current license for medical residents to accommodate this alternative pathway for medical graduates:

### 37.3.307. Qualifications for licensure -- resident license.

(1) The board may authorize the department to issue a resident license to practice medicine to an applicant who:

(a) is in good standing;

(i) ~~in a Montana residency program and~~ is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state; ~~or~~

~~(ii) with an approved residency and who, in the course of an approved rotation of the applicant's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state; and~~

(b) submits an application to the department on an approved form and submits the fee set by the board, as provided in 37-3-308.

(2) A resident license may not be issued for a period that exceeds 1 year. A resident license may be renewed, at the board's discretion, for additional 1-year periods as long as the resident is in good standing ~~in an approved residency program.~~

Next, revise qualifications for physician licensure to recognize experience in lieu of participation in a formal residency program:

### 37.3.305. Qualifications for licensure.

(1) Except as provided in subsection (2), the board shall grant a physician's license to practice medicine in this state to an applicant who:

(a) is of good moral character as determined by the board;

(b) is a graduate of an approved medical school as defined in 37.3.102;

(c) has completed an approved residency program or, ~~for an applicant who graduated from medical school prior to 2000,~~ has had experience or training that the board has determined is at least the equivalent of an approved residency program;

# REFORM #5

## CLEAN UP UNNECESSARY LICENSURE

### PROBLEM

Examples abound of unnecessary licensure requirements. The Board of Hearing Aid Dispensers is a great example. The FDA now allows hearing aids to be sold over the counter. This change will increase competition, helping to reduce costs and increase access to the devices.<sup>16</sup> However, Montana law still regulates who can sell, dispense or fit a hearing aid through licensing requirements.<sup>17</sup>

Another item ripe for “clean up” would be allowing Montana naturopaths to dispense prescriptions. In 2021, the Montana legislature passed SB 374 to authorize medical practitioners to dispense the medications to patients directly from their office, rather than requiring patients make a separate trip to the pharmacy.<sup>18</sup>

This reform is helping to expand access to affordable medications across Montana.

However, the definition of medical practitioner authorized by SB 374 to dispense medicine conspicuously leaves out naturopaths.<sup>19</sup> Naturopaths are well qualified to prescribe medications, they should now be allowed to dispense medications like other practitioners. This oversight should be corrected.



# REFORM #5

## CLEAN UP UNNECESSARY LICENSURE

### SOLUTION

#### OPTION #1 ABOLISH THE BOARD OF HEARING AID DISPENSERS

The Montana legislature should consider abolishing the Board of Hearing Aid Dispensers and related licensure in Title 37 Ch. 16.

#### OPTION #2 ALLOW NATUROPATHS TO DISPENSE MEDICINE

The Montana legislature should consider including naturopaths in the definition of “medical practitioner” for the purposes of dispensing medicine:

**37-2-104. Dispensing of drugs by medical practitioners -- registration -- exceptions.**

(7) Except as provided in subsection (8), a medical practitioner registered with the board of pharmacy may not dispense drugs to an injured worker being treated pursuant to Title 39, chapter 71.

(8) For the purposes of the section, the term "medical practitioner" includes a naturopathic physician.

~~(8)~~(9) This section does not prohibit any of the following when a medical practitioner has not registered to dispense drugs or when a practitioner registered to dispense drugs is treating an injured worker pursuant to Title 39, chapter 71:

#### OPTION #3 SUPPORT GOVERNOR GIANFORTE'S LICENSURE REFORMS

**Governor Gianforte is currently conducting listening sessions with a goal of producing an entire slate of additional legislative proposals focused on:<sup>20</sup>**

1. Restructuring Board Governance
2. Modernizing Licensing Laws
3. Increasing License Mobility and Processing Efficiency

The Montana Legislature should support the licensure reforms eventually proposed by the governor.

# END NOTES

- 1 <https://mchb.tvisdata.hrsa.gov/Narratives/Overview/516d7674-64a1-4b99-940a-3f6831488695>
- 2 [https://covid19.mt.gov/\\_docs/4-21-20%20Health%20Care%20Licensing.pdf](https://covid19.mt.gov/_docs/4-21-20%20Health%20Care%20Licensing.pdf)
- 3 <https://boards.bsd.dli.mt.gov/medical-examiners/faq>
- 4 <https://blog.nomadhealth.com/how-long-does-it-take-to-get-a-physician-license-in-each-state/>
- 5 [https://covid19.mt.gov/\\_docs/bsd%20interstate%20license%20registration%20info%20sheet%20for%20employers\\_v3\\_002.pdf](https://covid19.mt.gov/_docs/bsd%20interstate%20license%20registration%20info%20sheet%20for%20employers_v3_002.pdf)
- 6 <https://www.countyhealthrankings.org/app/montana/2021/measure/factors/4/data>
- 7 [https://leg.mt.gov/bills/mca/title\\_0370/chapter\\_0070/part\\_0010/section\\_0050/0370-0070-0010-0050.html](https://leg.mt.gov/bills/mca/title_0370/chapter_0070/part_0010/section_0050/0370-0070-0010-0050.html)
- 8 [https://covid19.mt.gov/\\_docs/4-21-20%20Health%20Care%20Licensing.pdf](https://covid19.mt.gov/_docs/4-21-20%20Health%20Care%20Licensing.pdf)
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- 11 <https://montanafreepress.org/2021/06/24/tester-rural-doctor-shortage/>
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- 14 <https://jpands.org/vol26no1/snavey.pdf>
- 15 [https://leg.mt.gov/bills/mca/title\\_0370/chapter\\_0030/part\\_0030/section\\_0050/0370-0030-0030-0050.html](https://leg.mt.gov/bills/mca/title_0370/chapter_0030/part_0030/section_0050/0370-0030-0030-0050.html)
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- 20 [https://boards.bsd.dli.mt.gov/\\_docs/public-comment/letter-Strauss.pdf](https://boards.bsd.dli.mt.gov/_docs/public-comment/letter-Strauss.pdf)



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