

Client name Walter Clapp
Form Montana Licensing Reform Task Force
Matter Walter Clapp - Rules
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Montana Licensing Reform Task Force

This Task Force was created pursuant to Executive Order 1-2026 on January 29, 2026.

Purpose of the Licensing Reform Task Force

The Task Force shall provide the Governor with recommendations and strategies for the State of Montana to reform the professional occupational licensing system for the purposes of:

- identifying and removing burdens and barriers faced by licensees that are not necessary to protect the public; and
- improving access to and availability of professional services for citizens across Montana, including rural communities.

In developing recommendations and strategies, the Task Force shall seek input from Montana citizens, legislators, Montana associations whose members are licensed occupational professionals, professional licensing boards, relevant state agencies, advisory groups and researchers focused on occupational licensing, and other appropriate stakeholders as determined by the Task Force.

Public Record

Please note that all information received through this form is public record.

Which committee would you like to receive your comment?

Full Task Force
Health Care Subcommittee
Construction Subcommittee
Barriers Subcommittee
Sunset Review Subcommittee

We want to hear from you!

We would like to receive any comments you would like the Task Force, or one of its subcommittees, to review. In addition, we are specifically looking for feedback for:

1. Specific topics a committee or the task force should consider, and
2. Specific people or organizations you think the task force should hear from.

Do you have a general comment or a specific person or topic for the Task Force to hear from?

General comment

What are your comments?

As a Red Lodge based Civil Litigator, I write on behalf of professionals in Montana, and consumers of our broken healthcare system. I know time is precious, so I have kept this short.

Our current Department of Labor and Industry practices of legislating, executing, and adjudicating licensing standards and claims are unconstitutional for at least four reasons. I urge you to consider these factors as you dig into the hard work of licensing reform.

*First, I turn your attention to the Supreme Court's recent decision in *S.E.C. v. Jarskey*, 603 U.S. 109 (2024). In *Jarskey*, the Supreme Court ruled that the S.E.C.'s enforcement of fines without a jury trial violated our fundamental right to a Jury Trial. That was under the U.S. Constitution. The Montana Constitution is more protective of our right to a Jury trial. Today, evidence is considered on licensing decisions not by a Jury, but by an Administrative Law Judge, usually a executive branch lawyer who lunches with the DOLI attorneys daily. The introduction of evidence on appeal requires "good cause."*

*Second, I turn your attention to *West Virginia v. EPA*, 597 U.S. 697 and *Loper Bright Enters v. Raimondo*, 603 U.S. 369, which further indicate the U.S. approach of clawing back of legislative authority which has been delegated to executive agencies.*

*Third, I turn your attention to *In the Matter of Austin Miles Knudsen*, 2025 MT 304. There, the Montana Supreme Court dismissed disciplinary proceedings against an attorney by the Commission on Practice for due process violations.*

Fourth, I turn your attention to Article III, Section 1 of the Montana Constitution which states: "The power of the government of this state is divided into three distinct branches-legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted."

Since World War II, America and her States's legislatures have consistently delegated legislative power to executive agencies. And the U.S. Supreme Court blessed this efficient bargain with Chevron deference. No more. A Board of Pharmacy can no longer be staffed with incumbent competitors who legislate, execute, and adjudicate a license.

I presently have confidential litigation challenging these laws in the 13th Judicial District Court. With appropriate protections, I can share more information of the details of my client's case, and the clear analog to Kafka's "The Trial" which our Constitutions protect against.
