

Licensing Reform Task Force

Barriers Subcommittee

SUMMARY RECOMMENDATION: PROVISIONAL LICENSURE PENDING BACKGROUND CHECK

Recommendation

The **Barriers Subcommittee** recommends that the **Licensing Reform Task Force** request development of a statutory or rule-based default process under which the **Department of Labor & Industry** or the applicable professional or occupational licensing board would issue a **provisional license** to an otherwise qualified applicant while a required background check or verification of absence of relevant criminal charges or other action is pending, unless an exception applies.

The default should apply only when the Department or board has initially determined that the applicant satisfies all other licensure requirements and should preserve authority to deny, limit, suspend, or inactivate a provisional license if later-received information shows that the applicant does not qualify or presents a public-protection concern. The recommendation builds on existing provisional licensure authority under 37-1-144, MCA, added by Chapter 279, HB 414.

Executive Order No. 1-2026 Report Elements Addressed

This recommendation supports the Executive Order's direction that the Task Force provide recommendations and strategies to reform Montana's professional occupational licensing system by:

- **Identifying and removing burdens and barriers faced by licensees that are not necessary to protect the public.** A default provisional license would reduce delay when the only remaining barrier is a pending background check or similar verification.
- **Improving access to and availability of professional services for citizens across Montana, including rural communities.** Allowing appropriate conditional practice may help qualified applicants enter the workforce sooner, including in shortage areas.
- **Evaluating whether unnecessary barriers to entry exist for applicants.** The recommendation targets a specific barrier: waiting time between completion of substantive licensure requirements and receipt of background-check results.
- **Evaluating whether existing licensing requirements contribute to workforce shortages or access constraints in rural and frontier communities.** Faster conditional entry may reduce avoidable onboarding delays while preserving final licensure review.
- **Evaluating whether licensure portability, reciprocity, or endorsement pathways could expand access to qualified professionals.** The same pending-verification issue may arise when applicants seek licensure

by endorsement, reciprocity, or substantial equivalency and are awaiting final background or disciplinary checks.

- **Aligning licensing structures with state and federal rural health transformation initiatives.** Where appropriate, default provisional licensure may support timely workforce deployment while maintaining public health and public safety protections.

Policy Assessment

Benefits

This recommendation creates a clearer, more applicant-friendly default than board-by-board discretionary review alone. It may reduce delays caused by background-check processing for applicants who have already satisfied education, examination, experience, fee, and application requirements. It also advances standardization by making provisional licensure the expected path when a background check is the only remaining item, while still allowing boards to impose time, supervision, place, or scope limits under 37-1-144, MCA.

Limitations

A default provisional license may not be appropriate for every profession, practice setting, or applicant. Some boards may identify public-protection reasons to require final background-check results before any practice begins. Federal law, compact requirements, data-use restrictions, or profession-specific statutes may also require exceptions. The Department and boards would need clear procedures for immediate limitation, inactivation, or denial if the background check later reveals disqualifying criminal, disciplinary, or other action.

Implementation Consideration

The default should include guardrails: an “otherwise qualified” finding, applicant attestation of no undisclosed criminal or disciplinary history, clear provisional license duration, board authority to impose limitations, exceptions for high-risk or externally regulated licenses, and notice to employers and applicants that provisional authority is conditional and may end if adverse information is discovered. The review should also consider the security guard onboarding issue raised during public comment at the May 8 Barriers Subcommittee meeting.

Motion

The **Barriers Subcommittee** moves to advance the recommendation requesting development of a default provisional licensure process under 37-1-144, MCA, or related statutory or rule authority, under which the Department of Labor & Industry or the applicable licensing board would issue a provisional license to an otherwise qualified applicant while a required background check or verification of absence of relevant criminal charges or other action is pending, unless prohibited by law or unless the Department or board determines that provisional practice would present an identified public-protection concern.