



GOOD MORAL CHARACTER ANALYSIS

Barriers Subcommittee

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Introduction

There are 45 separate statutory sections in the Montana Code Annotated (MCA) that impose a *good moral character* requirement. See *Appendix A*.

The requirement spans a wide array of occupations, including:

- law enforcement and public safety
- *medical and health-care professions*
- financial and fiduciary roles
- educators and correctional instructors
- *licensed trades and technical professions*
- *transportation and explosives-related occupations*
- lobbying and *appraisal-related entities*

Statutory use of “good moral character” broadly ties to public protection, trustworthiness, safety, and professional ethics. Most statutes pair moral character determinations with: fingerprint-based background checks, criminal history reviews, sworn affidavits or references, or discretion of licensing boards or appointing authorities.

- Roles involving authority, public protection, or care for vulnerable populations most consistently require moral character (e.g., peace officers, *physicians, psychologists*, school bus drivers).
- *Boards*, commissions, sheriffs, and *agencies* are routinely empowered to *determine* whether an applicant meets the moral-character standard. There is no unified definition across statutes, allowing broad administrative interpretation.
- Many statutes allow or require review of criminal convictions, though several specify that convictions do not automatically disqualify an applicant unless tied to the duties of the profession (e.g., 39-8-203).
- Certain professions explicitly connect moral character to compliance with ethical codes (e.g., behavior analysts are required to follow an ethics code)
- The requirement appears throughout Titles 3, 5, 7, 20, 32, 37, 39, 44, 50, and 53 of the MCA, showing its use as a standard legislative tool for regulating professionals and license holders.

Overview Across the United States

A 2020 study found that the number of occupations requiring “good moral character” varies widely by state, from as few as 8 to as many as 119 per state. Occupations in heavily regulated industries are more likely to include such requirements, but even within those fields, many states do not define the term in statute. Only in accounting do most states both require and define it clearly.¹ Across states, the requirement is especially common in professions that serve vulnerable populations or involve trust - like health care, law enforcement, financial services, and educators.

State Examples:

New York: Implements a formal process to determine if applicants for licensed professions are of good moral character. This includes screening criminal history and requesting investigations by the Office of Professional Discipline.²

California: For admission to the bar, applicants must prove good moral character per Business & Professions Code §6060.³ The State Bar defines it to include honesty, fairness, candor, trustworthiness, respect for law and rights, and fiduciary duty.⁴ The process is thorough, based on self-reporting, background checks, references, and the applicant must affirmatively carry the burden of proof.⁵

Texas: Texas law applies moral character and fitness requirements for bar admission under Government Code §82.028⁶ and §82.030.⁷ The scope is strictly limited to qualities directly related to professional responsibilities and public protection; denial requires a clear, rational connection between character issues and potential harm to clients or the justice system.

Florida: For some occupations, applicants must be certified as of good moral character. Florida’s statutes define it as having a history of honesty, fairness, and respect for laws, and denial must be backed by clear and convincing evidence and must show a substantial connection to professional responsibilities.⁸

Michigan: Defines “good moral character” in its Occupational License for Former Offenders Act (MCL §338.41).⁹ Here, it means demonstrating the propensity to serve the public fairly, honestly, and openly.

¹ Elder BR, Swinney L (2020), "The good moral character requirement for occupational licensing". *Management Research Review*, Vol. 43 No. 6 pp. 717–733, doi: <https://doi.org/10.1108/MRR-03-2019-0129>

² [Rules Of The Board Of Regents: Part 28; New York Codes, Rules and Regulations, Part 28, Subpart 28-1 - Determination Of Good Moral Character For Authorization To Practice The Licensed Professions | New York Codes, Rules and Regulations | Justia](#)

³ [California Business and Professions Code section 6060 \(2025\)](#)

⁴ [Moral Character | The State Bar of California](#)

⁵ [California Bar Moral Character: Process and Requirements - LegalClarity](#)

⁶ [Texas Government Code Section 82.028 – Moral Character and Fitness of Applicant](#)

⁷ [Texas Government Code Section 82.030 \(2021\) - Board Assessment of Moral Character and Fitness :: 2021 Texas Statutes :: U.S. Codes and Statutes :: U.S. Law :: Justia](#)

⁸ [Statutes & Constitution :View Statutes : Online Sunshine](#)

⁹ [MCL - Section 338.41 - Michigan Legislature](#)

The table below compares Montana’s use of ‘good moral character’ requirements with the states listed above:

State	Definition	Process	Application
Montana	Undefined; used broadly.	Board discretion & background checks.	Inconsistent application.
New York	Defined via regulations.	Formal investigations.	Highly structured.
California	Defined for bar.	Extensive review.	Legal profession emphasis.
Texas	Tied to job duties.	Denial only if relevant.	Narrow criteria.
Florida	Statutory definition.	Clear & convincing standard.	More objective.
Michigan	Statutory definition.	Fairness-focused.	Reduces subjectivity.

Recent Legislation:

Rhode Island: Enacted RI S 2624 (2023)¹⁰ , which, among other things, removed the standard of ‘good moral character’ for Opticians

Tennessee: Enacted TN H 1859 (2023)¹¹ which provides that the licensing authority shall not use a vague term in its consideration and its notice or decision, including good moral character or character and fitness, without also providing an explanation of how a prior conviction directly relates to the applicable occupation, profession, business, or trade, if such prior conviction serves as a basis for the licensing authority’s consideration and notice or decision.

¹⁰ [Bill Resource](#)

¹¹ [Bill Resource](#)

Policy Considerations

The **good moral character** requirement is widely used across Montana’s statutory framework as a generalized suitability standard for licensure, employment, and professional oversight. It commonly supports policy objectives related to public safety, fiduciary trust, and ensuring ethical conduct. Despite its broad application, the term is not defined in statute, leading to varying interpretations among licensing bodies.

The following are policy considerations the Barriers Subcommittee could develop into a recommendation for the Licensing Reform Task Force:

- Define “good moral character” in statute or administrative rule to reduce subjective interpretation across licensing boards.
- Standardize background check and evaluation procedures for all professions requiring moral character review.
- Implement clear guidance on how criminal history should be weighed, ensuring relevance to the duties of the licensed profession.¹²
- Consider eliminating or replacing moral character language with more specific, evidence-based suitability standards where appropriate.
- Develop statewide training for licensing boards on equitable evaluation of applicants, including criteria for rehabilitation and mitigating circumstances.
- Review and update statutes periodically to ensure moral character requirements align with workforce needs and do not create unnecessary barriers to entry.

¹² The courts have determined that there needs to be a “rational connection” between the requirement for a good moral character and the licensing requirement. See: *Schwartz v. Board of Bar Examiners of New Mexico*, 353 U.S. 232, 234 (1957), where the Court “acknowledged that a state can have high qualifications or standards, but held that ‘any qualification must have a *rational connection* with the applicant’s fitness or capacity to practice law.’”

Appendix A: Summary Table of Statutes with “Good Moral Character” Requirements

The following table lists the instances of ‘good moral character’ requirements in the Montana Code Annotated. For the occupational licensing statutes, the date of enactment of the statute is included. Based on Compiler’s Comments from 1969 to present, only one profession has added the ‘good moral character’ requirement after initial enactment of the licensing qualification provisions. The remaining licenses either included the provision in the original statute or added it prior to 1969.

Statutory Citation	Occupation / Regulated Role	How “Good Moral Character” is Applied
3-10-231	Substitute justice of the peace	Substitutes must be of good moral character.
5-7-103	Lobbyists	Applicants must be adults of good moral character.
7-31-202	Public safety communications officers	Must be of good moral character as verified through background investigation.
7-32-213	Reserve officers	Must be of good moral character based on background investigation.
7-32-303	Peace officers	Good moral character required, with extensive vetting.
7-32-2104	Deputy sheriffs	Must be of good moral character.
20-10-103	School bus drivers	Must be of good moral character.
32-2-801	Mutual association management	Managers must be of good moral character and integrity.
37-3-305 (1969)	Physicians	Must be of good moral character as determined by the board.
37-4-301 (1935)	Dentists	Requires three affidavits of good moral character.
37-4-402 (1935)	Dental hygienists	Requires two affidavits of good moral character.
37-6-302 (1923)	Podiatrists	Must be of good moral character for licensure.
37-6-311 (1923)	Podiatrists	Moral character basis for denial or revocation.
37-7-302 (1895)	Pharmacists	Must be of good moral character.
37-9-301 (1969)	Nursing home administrators	Must be of good moral character.
37-10-302 (1907)	Optometrists	Applicant must be of good moral character.
37-11-303 (1961)	Physical therapists	PTs and PTAs must be of good moral character.
37-12-302 (1918)	Chiropractor	Must provide satisfactory evidence of good character and reputation.
37-13-302 (1974)	Acupuncturists	Must be of good moral character.
37-14-302, 306 (1975)	Radiologic technologists	Must be of good moral character; applies to limited permit holders.
37-17-302 (1971)	Psychologists	Must be of good moral character.
37-17-319 (2021)	Psychologist licensure by experience	Must be of good moral character.

37-17-403 (2017)	Behavior analysts	Must be of good moral character.
37-18-302 (1913)	Veterinarians	Evidence of good moral character required.
37-19-302 (1963)	Mortuary science	Must be of good moral character.
37-19-703 (1993)	Crematory operators	Operators must be of good moral character.
37-20-402 (1989)	Physician assistants	Must be of good moral character.
37-26-402 (1991)	Naturopathic physicians	Must be of good moral character.
37-27-201 (1991)	Direct-entry midwives	Must be of good moral character.
37-31-304 (1929)	Barbering/cosmetology	Must be of good moral character.
37-33-502 (2009)	Massage therapists	Must be of good moral character.
37-50-302 (1969)	Certified public accountants	Must be of good moral character.
37-50-330 (2001) ¹³	CPA firm owners	All owners must be of good moral character.
37-51-302 (1963)	Real estate brokers/salespersons	Must be of good repute.
37-54-202 (1991)	Real estate appraisers	Must be of good moral character.
37-54-503 (2011)	AMC owners	Must be of good moral character.
37-54-504 (2011)	AMC contact individuals	Must be of good moral character.
37-60-303 (1974)	Private security	Must meet character and fitness for licensure as demonstrated by a lack of unprofessional conduct.
37-67-101 (1975)	Engineer intern	Must comply with the requirements for character.
37-72-301 (1985)	Construction blasters	Must be of good moral character.
39-8-203	Professional employer organizations	Department may deny license if applicant lacks good moral character.
44-1-401	Patrol officers	Must be of good moral character.
44-4-902	Special peace officers	Requires affidavit verifying applicant's good moral character.
50-37-104 (1947)	Fireworks wholesalers	Must be of good moral character.
53-30-155	Correctional education instructors	Must be of good moral character.

¹³ The 'good moral character' requirement was amended into statute in 2017.