

HOUSE BILL 482

Introduced by Peterson, et al.

1/30	Introduced
1/30	Referred to Human Services & Aging
1/31	First Reading
	Died in Committee

1 *House* BILL NO. *482*  
 2 INTRODUCED BY *Peterson Spring Bergquist*  
 3 *Albert Stephen W. Hamilton* *John* *W. H. H.*

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE DEFINITION  
 5 OF UNPROFESSIONAL CONDUCT BY PHYSICIANS TO ALLOW THE  
 6 EMPLOYMENT OF PHYSICIANS BY MEDICAL ASSISTANCE FACILITIES  
 7 AND HOSPITALS; AND AMENDING SECTION 37-3-322, MCA."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 37-3-322, MCA, is amended to read:

11 "37-3-322. Unprofessional conduct. As used in this  
 12 chapter, "unprofessional conduct" means:

- 13 (1) resorting to fraud, misrepresentation, or deception
- 14 in applying for or in securing a license or in taking the
- 15 examination provided for in this chapter;
- 16 (2) performing abortion contrary to law;
- 17 (3) obtaining a fee or other compensation, either
- 18 directly or indirectly, by the misrepresentation that a
- 19 manifestly incurable disease, injury, or condition of a
- 20 person can be cured;
- 21 (4) employing abusive billing practices;
- 22 (5) directly or indirectly giving or receiving a fee,
- 23 commission, rebate, or other compensation for professional
- 24 services not actually rendered. This prohibition does not
- 25 preclude the legal functioning of lawful professional

- 1 partnerships, corporations, or associations.
- 2 (6) willful disobedience of the rules of the board;
- 3 (7) conviction of an offense involving moral turpitude
- 4 or conviction of a felony involving moral turpitude, and the
- 5 judgment of the conviction, unless pending on appeal, is
- 6 conclusive evidence of unprofessional conduct;
- 7 (8) commission of an act of sexual abuse, misconduct,
- 8 or exploitation related to the licensee's practice of
- 9 medicine;
- 10 (9) administering, dispensing, or prescribing a
- 11 narcotic or hallucinatory drug, as defined by the federal
- 12 food and drug administration or successors, otherwise than
- 13 in the course of legitimate or reputable professional
- 14 practice;
- 15 (10) conviction or violation of a federal or state law
- 16 regulating the possession, distribution, or use of a
- 17 narcotic or hallucinatory drug, as defined by the federal
- 18 food and drug administration, and the judgment of
- 19 conviction, unless pending on appeal, is conclusive evidence
- 20 of unprofessional conduct;
- 21 (11) habitual intemperance or excessive use of narcotic
- 22 drugs, alcohol, or any other drug or substance to the extent
- 23 that the use impairs the user physically or mentally;
- 24 (12) conduct unbecoming a person licensed to practice
- 25 medicine or detrimental to the best interests of the public



1 as defined by rule of the board;

2 (13) conduct likely to deceive, defraud, or harm the  
3 public;

4 (14) making a false or misleading statement regarding  
5 the licensee's skill or the effectiveness or value of the  
6 medicine, treatment, or remedy prescribed by the licensee or  
7 at the licensee's direction in the treatment of a disease or  
8 other condition of the body or mind;

9 (15) resorting to fraud, misrepresentation, or deception  
10 in the examination or treatment of a person or in billing or  
11 reporting to a person, company, institution, or  
12 organization;

13 (16) use of a false, fraudulent, or deceptive statement  
14 in any document connected with the practice of medicine;

15 (17) practicing medicine under a false or assumed name;

16 (18) testifying in court on a contingency basis;

17 (19) conspiring to misrepresent or willfully  
18 misrepresenting medical conditions improperly to increase or  
19 decrease a settlement, award, verdict, or judgment;

20 (20) aiding or abetting in the practice of medicine by a  
21 person not licensed to practice medicine or a person whose  
22 license to practice medicine is suspended;

23 (21) allowing another person or organization to use the  
24 licensee's license to practice medicine;

25 (22) malpractice or negligent practice;

1 (23) practicing medicine as the partner, agent, or  
2 employee of or in joint venture with a person who does not  
3 hold a license to practice medicine within this state;  
4 however, this definition does not:

5 (a) prohibit the incorporation of an individual  
6 licensee or group of licensees as a professional service  
7 corporation under Title 35, chapter 47;

8 (b) prohibit the employment of a licensee by a medical  
9 assistance facility or hospital, as defined in 50-5-101,  
10 provided the employment relationship of the licensee and the  
11 medical assistance facility or hospital is evidenced by a  
12 written contract containing language to the effect that the  
13 licensee's employment relationship with the medical  
14 assistance facility or hospital may not affect the exercise  
15 of the licensee's independent judgment in the practice of  
16 medicine and provided the licensee's independent judgment in  
17 the practice of medicine is in fact unaffected by the  
18 licensee's employment relationship with the medical  
19 assistance facility or hospital; or

20 (c) nor--does-it apply to a single consultation with or  
21 a single treatment by a person or persons licensed to  
22 practice medicine and surgery in another state or territory  
23 of the United States or foreign country;

24 (24) willfully or negligently violating the  
25 confidentiality between physician and patient, except as

1 required by law;

2 (25) failing to report to the board any adverse  
3 judgment, settlement, or award arising from a medical  
4 liability claim related to acts or conduct similar to acts  
5 or conduct that would constitute grounds for action as  
6 defined in this section;

7 (26) failing to transfer pertinent and necessary medical  
8 records to another physician when requested to do so by the  
9 subject patient or by the patient's legally designated  
10 representative;

11 (27) failing to furnish to the board or its  
12 investigators or representatives information legally  
13 requested by the board;

14 (28) failing to cooperate with a lawful investigation  
15 conducted by the board;

16 (29) violating or attempting to violate, directly or  
17 indirectly, or assisting in or abetting the violation of or  
18 conspiring to violate parts 1 through 3 of this chapter or  
19 the rules authorized by them;

20 (30) having been subject to disciplinary action of  
21 another state or jurisdiction against a license or other  
22 authorization to practice medicine, based upon acts or  
23 conduct by the licensee similar to acts or conduct that  
24 would constitute grounds for action as defined in this  
25 section. A certified copy of the record of the action taken

1 by the other state or jurisdiction is evidence of  
2 unprofessional conduct.

3 (31) any other act, whether specifically enumerated or  
4 not, which, in fact, constitutes unprofessional conduct."

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