

MINUTES OF THE MEETING  
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE  
MONTANA STATE SENATE

March 9, 1987

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on March 9, 1987, at 1 P.M. in Room 410 of the State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF H.B. 196: Rep. Joan Miles, District # 45, sponsor of H.B. 196, stated that the purpose of the bill is simply to extend the jurisdiction of the Medical-Legal Panel to include dentists. The Medical Legal Panel was created ten years ago to discourage legal suits that don't have merit. The dentists will fund their portion of the the review panel.

PROPOSERS: Roger Tippy, Montana Dental Association, stated that this is a simple bill to extend the jurisdiction of the Medical-Legal Panel and that it was drafted with the advice and consent of both doctors and dentists and the legal association.

John Ahlman, Sec.-Treas., Montana Dental Association, stated that he has followed the work of the Medical-Legal Panel in their settling of disputes, that he has surveyed 454 dental members in the state, and that the members are requesting that they be included under the jurisdiction of this panel.

DISCUSSION OF H.B. 196: Sen. Himsl: Does this panel include the denturists?

Mr. Tippy: No.

Sen. Himsl: Is the assessment made by the panel made to the Board of Dentistry?

Mr. Tippy: Each individual dentist would be assessed. Also, a board may license a number of professions but they are not always subject to the jurisdiction of the Medical-Legal Panel.

Rep. Miles closed by stating that this is a bill that the groups involved have cooperated on and all are agreed to; the dentists are also in agreement with the reasonable fee.

ACTION ON H.B. 196: Sen. McLane moved that H.B. 196 BE CONCURRED IN. The vote in favor was unanimous. Sen. McLane will carry the bill.

CONSIDERATION OF HOUSE BILL NO. 364: Rep. Dorothy Bradley, District # 79, sponsor of H.B. 364, stated that the purpose of the bill is to merge the Board of Dentistry with the Board of Dentistry. The bill comes to the legislature at the request of the legislative audit committee.

The bill removes one dentist from the board, reducing their number from five to four, while it adds one denturist to the board. The dentists are concerned about the loss of the one dentist because of the work that each often does in licensing new dentists.

The laws passed by the 1985 session as a result of the Dentistry initiative on the 1984 ballot state that the two boards will be merged if there are fewer than thirty licensed denturists in the state by 1987. At present, there are twelve to eighteen licensed denturists in the state, with only twelve in active practice. The likelihood that thirty denturists will be practicing in Montana seems unlikely.

practicing in Montana seems unlikely. In comparing this bill with boards of dentistry and denturity in five other western states, four of those states regulate the industry through merged boards. Denturists have a concern over being crowded out without a separate board; but the merged board of osteopathy and podiatry can serve as an example. The poditrist is now the president of the board, so they feel neither crowded out nor mistreated. The bill does not change the ten pages of statutes dealing with denturity and corresponds to the agreement made two years ago.

PROPOSERS TO H.B. 364: Rep. Bruce Simon, District # 91, testified that the bill deals with the problems of variance boards. The practice of denturity will not be done away with by this bill and they will have a representative on the Board of Dentistry. The legislative audit committee did study the Board of Denturity because there were a number of irregularities that were coming to their attention concerning the operation of the Board of Denturity. That report can be checked with the legislative auditor's office. These two groups do need to make an effort to get along with one another.

Dr. Robert B. Cotner, Columbia Falls and member of the Board of Dentistry, stated that they are in favor of the bill but that they would like to see the fifth dentist member restored to the board in order for the dentists on the board to be able to fulfill their responsibilities to the Western Regional Examining Board. This board meets ten times a year to examine candidates for dentistry or dental hygienists and four dentists would have a difficult time meeting this obligation. Exhibit # 1.

Rhonda Zook, Montana Dental Hygienists Association, offered an amendment to H.B. 364 requesting a second hygienist on the board. According to the numbers of hygienists in the state, two hygienist members would better represent their concerns and protect the consumer. Exhibit # 2.

Roger Tippy, Montana Dental Association, stated that they support H.B. 364. He testified that there never would have been thirty denturists in the state of Montana and that in the state of Arizona with its large elderly population, the demand keeps only thirty denturists in business. Most dental laboratories have done business much as they always have with dentists and strive to maintain a good relationship with them. Payment is far more reliable that way. Not all senior citizen organizations feel threatened by the merger of the two boards, and the HB 364 should stand as it now is and changes should be determined from the workload over the next two years. The suit in Great Falls needs to be more carefully looked at as to whether it presents a true situation. Exhibit # 3.

Dr. John Lohman, Sec.-Treas., Montana Dental Association, stated that they support the recommendations of the audit committee and believe that the groups can operate successfully under the Board of Dentistry. Exhibit # 4.

OPPOSERS TO H.B. 364: Tom Ryan, Montana Senior Citizens, gave a summary of the background of the Denturity board set up by the 1985 legislature.

He also stated that that legislation contained Catch 22 type provisions which spelled the demise of the Board of Dentistry. During his own period as a state employee, a team of auditors made audits; but in this case, only one auditor made the audit and the recommendations. He stated further that the ADA seems to be orchestrating this bill, and he speaks out for the protection of the rising number of elderly on fixed incomes who need the less expensive services provided by the denturists. Exhibit # 5.

Lee Wiser, Livingston, MT, stated that the merger provisions needed to be in the 1985 legislation and that he favors H.B. 364 but that he would like there to be another professional administrator who governs their work. This would help each group in governing its own profession to some degree. The unbiased group who could serve in this capacity is the professional liability insurance actuaries, who deal with factual statistics. The cost of malpractice insurance for Montana denturists dropped last year 39%. Exhibit # 6.

Ron Brown, Great Falls, stated that I-97 was put on the ballot in 1985 to guarantee to Montanans a freedom of choice in dental care and to give denturists the chance to practice with the public directly and cut out the excessive middleman profit. Denturists hoped to establish a new industry in the state and create new jobs. However, Rep. Moore's amendments in 1985 to establish a sunset clause has effectively blocked the growth of the industry. This sunset clause discourages out-of-state qualified denturists from moving to Montana. The six-month residency requirement is also terribly discouraging to many denturists to consider setting up practice here. This industry should have the right to regulate itself; and a separate board gives them and the state's citizens a freedom of choice. Exhibit # 7.

Elsie Latham Lee, President, Montana Senior Citizens Ass., stated that they oppose H.B. 364 because the professions need to have equitable protection. The MSCA would support amendments allowing the professions to govern themselves. Exhibit # 8.

Robert Vavas, dental laboratory technician, Great Falls, stated that the denturists knew that the dentists would set the number of denturists who would need to be licensed at too high a number, and that has happened. They will now be able to assume control over the denturists. He fears that the Board of Dentistry will set licensing qualifications that will make it impossible for future denturists to practice, as has happened in Maine and Colorado. He proposed amendments for a more represented board that would allow the profession of dentistry to continue. Testimony also included a letter from a boycotted denturist, the lawsuit filed by the board of dentistry against denturist Dave Comer, etc. Exhibit # 9.

Joel Brand, Umet Trans Union, stated that the denturists should not be stifled by any other board and that the consumer should be kept in mind when considering legislation.

DISCUSSION OF H.B. 364: Sen. Jacobson: Did we go deeply into the audit? Does anyone want copies of the audit? A number of us were proponents of the bill as written.

John Northey, Legislative Audit Office, discussed the legislative audit report and stated that the bill is self-explanatory from that report. This audit was treated as a routine audit and it raised some questions about the board having all applicants meet qualifications, questions of proper routine, and questions of proper fees. The audit office then reported back to the legislature as required.

Sen. Jacobson: You have touched on the problem of the audit and found some concerns with it.

Sen. Rassmussen: If this fails, are there any other sunset provisions?

Mr. Northey: No. The denturist law will remain on the books and the board will remain, as well. If the bill passes, the practice of denturity remains, but the denturity board does not. But other boards function as complete units and represent different factions of a profession.

Sen. Eck: When we had the split between LPN's and RN's, the LPN's had a mini board initially; they now function as a full board and act on all issues.

Sen. Hims1: Are there denturists licensed who don't practice here?

Lisa Casman: Yes, there are denturists who do that so that they can practice in a region.

Sen. Hims1: And there is an assessment against all denturists, not just those practicing in that state?

Ms. Casman: Yes.

Sen. Williams: How many denturists are practicing in the state?

Sen. Eck: Twelve.

Tom Ryan: The AARP is neither pro nor con on the bill and feels that there is nothing in the bill that couldn't be worked out.

Rep. Bradley closed by stating that there was nothing by the legislative audit committee and that the audit was done according to professional standards. Her recommendation was made after hearing from the public, as well, and she considers the bill fair to all groups.

ACTION ON HOUSE BILL NO. 752: Karen Renne explained the amendments to H.B. 752. The section dealing with the dangerous patient is being deleted because another bill in the Senate deals with this issue in a more thorough way. P. 14, Line 2 provides for a patient to see his/her own records or to be provided a copy of records and to receive those records in other than business hours. Line 22 strikes the criminal penalty because it is too easy for the number of providers to make an honest mistake. The third section of amendments deal with the chemically dependent person's records and brings this person into line with the current code. This amendment also includes the mental health patient's records.

Sen. Eck: Could you explain the need for the institutional review board in Line 17?

Mr. Leary: Montana does not have big requests for research projects to be reviewed, so there are no project review boards in hospitals now. This board would cover any requests for information by providing for flexible boards.

Sen. Rassmussen moved that the Montana Nurses Association amendments receive a do pass.

Sen. Himsl: There is quite a difference in the relationship that these amendments propose.

Sen. Eck: Yes, these amendments say that the patient must be asked.

Karen Renne: That applies if the requestor is an intimate family member or another health care provider.

Sen. Eck: This provides added privacy for the patient.

Karen Renne: The provisions on the top of page 11 also protect patient privacy unless there is a compelling state interest.

The question was called for the MNA amendments. The amendments received a 9-1 vote in favor. Sen. Hager voted no.

Sen. Jacobson moved that the amendments proposed by the Montana Medical Association receive a do pass.

Sen. Jacobson: There are three provisions for penalties in this bill. This amendment eliminates the criminal penalty that is the first one listed. It is not fair to impose such a penalty when there are so many instances in which information may be legally disclosed. We haven't proved the need for so strong a penalty, and we can correct that in two years, if we need it.

The motion to remove the criminal penalty received a unanimous DO PASS.

The third set of amendments proposed by the mental health centers clarifies the procedures that take precedence. Sen. McLane moved that the amendments receive a DO PASS. The amendments passed unanimously.

The final amendment concerned the institutional review board. Sen. Eck stated that since there are no institutional review boards, institutions would have to establish them if someone came in and asked to do research.

Mr. Leary: We do get requests for statistical information from various organizations. When the hospital gets requests from non bona fide organizations they are inclined to say no. They are equipped, however, to set up review committees quickly to review legitimate requests for information. It is usually possible to blot out patients' names on records.

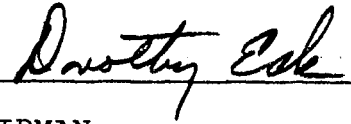
Sen. McLane moved the passage of the bill as amended. The bill received a unanimous BE CONCURRED IN AS AMENDED. Sen. McLane will carry the bill.

ACTION ON H.B. 536: Sen. Hager moved that H.B. 536 BE CONCURRED IN. The motion carried unanimously. Sen. Hager will carry the bill.

SENATE PUBLIC HEALTH, WELFARE  
AND SAFETY COMMITTEE  
MARCH 9, 1987  
Page 6

FURTHER CONSIDERATION OF H.B. 471: The committee discussed the  
amendments on naturopathic accreditation.

The meeting adjourned at 2:50 P.M.

A handwritten signature in cursive script, reading "Dorothy Esk", is written over a horizontal line.

CHAIRMAN

ROLL CALL

Public Health, Welfare and Safety COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-9-87

NAME	PRESENT	ABSENT	EXCUSED
Dorothy Eck	X		
Bill Norman	X		
Bob Williams	X		
Darryl Meyer	X		
Eleanor Vaughn	X		
Tom Rasmussen	X		
Judy Jacobson	X		
Harry H. "Doc" McLane	X		
Matt Himsl	X		
Tom Hager	X		

Each day attach to minutes.

DATE 3-9-87

COMMITTEE ON State Public Health

# VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)



**FAMILY DENTAL GROUP**

**10 THREE MILE DRIVE**

**KALISPELL, MONTANA 59901**

**PHONE 755-7890**

SENATE HEALTH & WELFARE

EXHIBIT

DATE

BILL NO.

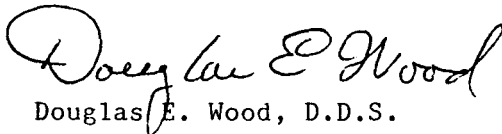
6 March 1987

Dear Senator,

As a member of the Board of Dentistry from 1977 to 1982 I strongly feel that the board needs five dentists as board members in order to properly perform the needed functions of examining candidates for a license to practice, perform investigations and to handle those matters before the board where their education and experience are needed.

For the public good, the board needs the depth that five dentists provide as opposed to four. Since the Board of Dentistry is self supporting through license fees, there is no savings to the general fund by reducing the number of dentists. I know from personal experience that the work load and the time out of the office is heavy with five dentist on the board. With four dentists it will be too heavy and many good dentists will have to refuse to serve if asked by the governor to be a board member. In turn, the public will not receive the protection they need if the Board of Dentistry is not as effective as it should be.

Yours Truly,

  
Douglas E. Wood, D.D.S.

DEW/bjt

**FAMILY DENTAL GROUP**

**10 THREE MILE DRIVE**

**KALISPELL, MONTANA 59901**

**PHONE 755-7890**

SENATE HEALTH & WELFARE

EXHIBIT

DATE

BILL NO.

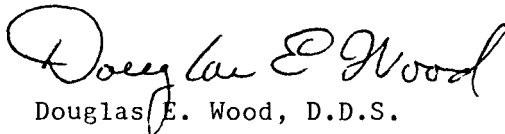
6 March 1987

Dear Senator,

As a member of the Board of Dentistry from 1977 to 1982 I strongly feel that the board needs five dentists as board members in order to properly perform the needed functions of examining candidates for a license to practice, perform investigations and to handle those matters before the board where their education and experience are needed.

For the public good, the board needs the depth that five dentists provide as opposed to four. Since the Board of Dentistry is self supporting through license fees, there is no savings to the general fund by reducing the number of dentists. I know from personal experience that the work load and the time out of the office is heavy with five dentist on the board. With four dentists it will be too heavy and many good dentists will have to refuse to serve if asked by the governor to be a board member. In turn, the public will not receive the protection they need if the Board of Dentistry is not as effective as it should be.

Yours Truly,

  
Douglas E. Wood, D.D.S.

DEW/bjt

## DENTAL HYGIENISTS PRACTICING FOR THE PATIENTS' PROFIT

What is a Dental Hygienist? Dental Hygienists are a group of concerned professionals dedicated to providing educational, clinical, and therapeutic oral health services to the public.

What qualifications do Hygienists possess? Dental Hygienists graduate with an Associate Degree or a Bachelor Degree from accredited colleges and universities. After graduation hygienists must take and pass the National Dental Hygiene Board Examination, a regional clinical examination and a Montana written examination. They have been thoroughly educated, tested, licensed and have been found qualified to practice dental hygiene.

What does a Dental Hygienist actually do? Montana Dental Hygienists provide treatment and education to prevent oral diseases such as cavities and periodontal disease (gum disease). A few of their routinely performed functions are:

- \*Removal of plaque, stain and calculus both above and below the gum line.

- \*Application of cavity-preventive agents such as fluorides and dental sealants.

- \*Plaque control instruction and development of personal oral hygiene programs for home care.

- \*Exposure and processing of dental x-rays.

- \*Placement of temporary fillings, periodontal dressings, removal of sutures and polishing of silver fillings.

- \*Provide nutritional information.

- \*Oral cancer and blood pressure screening.

- \*Root planning and gum curettage.

- \*Administration of local anesthetics.

SENATE HEALTH & WELFARE

EXHIBIT NO. 2

DATE 3-9-87

BILL NO. HB 364

LICENSED in MONTANA

Dental Hygienist 355

Dentist 821

Denturist 18

LICENSED and RESIDING  
in MONTANA

Dental Hygienist 250

Dentist 512

Denturist 12

The above data was  
compiled as of 12-1-86.



# Montana Dental Hygienists' Association

Amendment to House Bill 364  
Proposed by the Montana  
Dental Hygienists' Association

The bill as it reads now.

Section 2-15-1842.

(2) The board consists of four dentists, one denturist, one dental hygienist, and two lay persons, one of whom must be a senior citizen.

The bill as it would read with our proposed amendment.

(2) The board consists of four dentists, one denturist, TWO dental hygienist, and two lay persons, one of whom must be a senior citizen.

Following is a list of people to contact if you have further questions regarding this amendment.

Patti Conroy R.D.H. Legislative Chairperson MDHA  
2525 Silver Spur Trail  
Billings, MT 59105  
252-2336hm 252-4200 wk

Rhonda Owens-Zook R.D.H. Legislative Committee MDHA  
1525 Boston Road  
Helena, MT 59601  
443-0437 hm 442-2727 wk

Peggy Newman R.D.H. Legislative Committee MDHA  
Box 1455  
Columbia Falls, MT 59912  
892-3113 hm

**ROGER TIPPY***Attorney At Law*

BOX 543

CAPITOL 1 CENTER

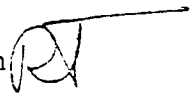
208 N. MONTANA

HELENA, MONTANA 59624

(406) 442-4451

DATE: March 9, 1987

TO: Senate Public Health Committee

FROM: Roger Tippy, Lobbyist, Montana Dental Association 

RE: House Bill 364

Points in favor of HB 364:

1. There never would have been 30 denturists setting up shop in Montana under any circumstances. The dental laboratories have for the most part elected to continue operating as they did before, dealing with dentists and not with the public.
2. In Arizona, a state with a good denturistry law and over 2 million people, the demand keeps about 30 denturists in business. With 800,000 people in Montana, it stands to reason that 12 or 13 denturists are as many as the market will support.
3. The restructuring of Montana's regulatory scheme from the Idaho model (separate board) to the Arizona model (dental board) is not seen by all seniors' organizations as a threat to senior interests which needs to be opposed.
4. The balance of the Board of Dentistry resulting under HB 364 should be left as is, under the House-passed bill, for now. Any further changes should be determined as a result of board workload over the next two years and addressed by the 1989 session.

RT:ah

# Montana Dental Association

P. O. Box 513

Butte, Montana 59703

Phone (406) 782-9333

Constituent: AMERICAN DENTAL ASSOCIATION

March 9, 1987

SENATE HEALTH & WELFARE  
EXHIBIT NO 4  
DATE 3-9-87  
BILL NO 364

TO: Public Health, Welfare and Safety Committee  
Montana Legislature

FROM: John W. Lohman, D.D.S., Secretary-Treasurer  
Montana Dental Association

Dear Madam Chairman and Committee Members:

I am Dr. John Lohman from Butte. I am Secretary-Treasurer and Director of the Montana Dental Association representing 452 members, which is over 95% of the dentists in Montana.

We support the recommendations of the Audit Committee as to the merger of the Board of Denturistry into the Board of Dentistry, which would then administer the provisions of the denturistry law. We believe that denturists can operate successfully under the supervision of the Board of Dentistry, as they do in Arizona. Passage of HB 364 would usher in a level of harmony missing for several years in this area.

## Officers — 1986-1987

President  
Donald O. Nordstrom, D.D.S.  
3817 Stephens  
Missoula, MT 59801

President Elect  
Leonard L. Dailey, D.D.S.  
2703 11th Avenue No.  
Billings, MT 59101

1st Vice-President  
Lorence R. Flynn, D.D.S.  
414 Hilltop Ave.  
Kalispell, MT 59901

2nd Vice-President  
Roger L. Kiesling, D.D.S.  
121 No. Last Chance Gulch  
Helena, MT 59601

Secretary-Treasurer  
John W. Lohman, D.D.S.  
P.O. Box 513  
Butte, MT 59703

I am Tom Ryan, one of the thousands of Senior Citizens, who advocated a ~~vote~~ yes on Initiative 97. We disapproved the passage of HB 649 in the 1985 Legislature. That bill started out as a housekeeping measure to implement the details required by the Department of Commerce licensing bureau.

By the time the bill come out of the Legislative Council and the Committee on Business and Labor, it contained language advocated by the dentists and seemingly orchestrated by the American Dental Association.

It contained provisions similar to that contained in laws passed in Maine and Arizona. That language spelled the demise of Denturity in the State of Maine and were it not for a court decision the same thing would have occurred in Arizona.

The methods advocated by the American Dental Association writes into law the Sunset Provision following a questionable audit. This makes it appear that a rift exists between the auditors and the denturists.

I was a state employee charged with overseeing a small group of people to implement a state program. Usually the auditors came in for a period of time and worked in teams. There was no team audit in this case.

Audit exceptions are usually brought to the attention of the party involved. If there appeared to be problems in fiscal accountability or in performance it was usually found that the problems could be resolved.

In this present situation the discrepancies were handed to the Attorney General's Office and almost simultaneously given to



the press where bylines on newspaper articles did not entirely agree with the body of the article.

The releases made it appear that the Auditors and the Denturist's Board were having a great confrontation that could only be resolved by the implementation of the Sunset Clause. I submit to you that HB 649, as carried by Representative Colonel Jack Moore, created a no win Catch 22 situation and was not a Department of Commerce housekeeping measure.

The American Dental Association orchestrated HB 649 and it is my candid opinion that ~~the~~ ADA is orchestrating HB 364 ~~the~~ way it came to this committee from the House of Representatives. Individual attempts <sup>to amend</sup> by Representative Loren Jenkins and Representative Paul Pistori were not accepted.

I can honestly be accused of having a conflict of interest because I speak out for the only thing in Montana that seems to be growing except <sup>state</sup> debt, bankruptcies and foreclosures. And that is the accurately predicted growing population of the elderly—  
Actuarial prognostications do not deny this.

Those folks on \$400.00 social security checks are proud and dignified and seek out ways to meet their obligations. Reasonable dental costs as denturity provides, helps them.

I hope you will give this bill a do pass recommendation after amending it in committee.

I have been told by some members of the house <sup>who vote</sup> that the house would probably accede to the wishes of the Senate.

DATE 3-9-87

BILL NO. HB364

ROBERT F. BOBO, D.M.D.

522 EAST SOUTHERN AVE

PHOENIX, ARIZONA 85040

Telephone 256-1022 (602) 268-1112

December 14, 1986

Brent:

Tom Everitt told me of your telephone conversation with him a few days ago and asked me to write you.

He tells me that the dentists there in Montana are seeking to introduce a bill that would do away with your Board of Dentistry and place the denturists under the regulation of the dental board, and that the denturist would be offered a Denturists Advisory Panel comparable to that of Arizona.

It seems that the dentists are somewhat content with the way things have developed in Arizona and wish much the same for other states.

Well, there may be certain factors that should be revealed in the promotion of the benefits of the Arizona experience.

Let me tell you of the way it is.

The Panel (5 denturists) was the result of one particular statute, ARS 32-1295 C which reads:

"In all matters relating to discipline and certifying of denturists and the giving and grading of examinations, the board shall, by rule and regulations, provide for receiving the assistance and advice of denturists who have been previously certified pursuant to this chapter."

It was only after the board attempted to discipline a denturist without complying with this statute that the Denturist Association of Arizona took the board to court and the board was forced to let the Panel be set up:

This is strictly an advisory panel that has no strong place in the scheme of things. Though I was instrumental in the formation of the Panel, I must shamefully admit that it is basically a failure--not due to the denturists but due to the dentists on the board, the appointees in the office of the board, the "legal advice" from the fledgling attorneys from the attorney general's office that are prone to give the board whatever "advice" the board may desire.

The Panel for the most part is ignored with only token input when disciplinary actions are being considered against denturists.

In the opinion of both Tom and myself, for you and the other denturists to accept anything like that which exists in Arizona would be sheer folly.

Ron Brown,  
3215 - 6 Ave. No.,  
Great Falls, MT 59401

SENATE HEALTH & WELFARE

EXHIBIT NO. 7

DATE 3-9-87

BILL NO. 364

Three years ago, I and several thousand other Montana voters were avid proponents of Initiative 97 and got it on the ballot by a vary comfortable margin. Once on the ballot, I-97 was VOTED in by a VERY large majority. This majority did not vote for what it eventually became, mainly through the efforts of Representative Jack Moore (District 36) during the 1985 legislative assembly.

I was particularly partial to I-97 because it not only gave ALL citizens of Montana a 'Freedom of Choice in Dental Care', but also reflected some of my personal feelings of what freedom means. In this case, it means the absolute right to practice 'Free Enterprise' and the right to profit from it. In this regard, the denturist movement was a simple case of many Dental Laboratory Technicians wanting to get out from under the heavy-ruling thumb and price dictating practices of the dental proffession which held them captive. They wanted only to serve the public directly and responsibly, at a lower cost, and cut out the excessive profits made from their work by the middlemen. The result of this was to also establish a badly needed new industry within our state and create new jobs. To this end, however, the amendments produced by Representative Moore effectively blocked any real growth potential by insrting a 'Sunset' clause which the public did not vote for. So long as this clause remains in effect, it will be impossible for the Denturist industry to grow much beyond what it already has. How can it? It will take years of training to produce any in-state denturists so this is pretty much out of the question for now. The only other alternative is to bring in qualified out-of-state denturists but this too is impractical with this 'Sunset' clause in effect.

Consider this scenario: You are actually a qualified denturist, living and working in Utah as a Dental Lab. Technician. You want to move to Montana and set up a practice of denturity. BUT - before you can even apply for a license, you must establish a six (6) months residency. How do you earn a living during this period? Then - if you do or can, the whole shebang may fall down around your ears within a year and a half, at most. You have already sacrificed your technician business in Utah, your family is with you, the people you hired are out of a job and you still owe on your expensive

equipment that is required. Now - with all those negative possibilities to think about, would you really consider moving to Montana? Of course you wouldn't and neither will anyone else.

Then there is the problem of requiring a dentist be assigned to sit on the Board of Denturity. Under the circumstances, this is almost the equivalent of assigning Gorbachev a seat on President Reagans cabinet. This should not be. It has always been the consensus that any industry has the right to regulate itself. Unless or until it is proven, beyond doubt, that it can not. The Board of Denturity has never been given this chance.

Despite these restrictions however, the few denturists we do have, have proven beyond doubt that they can become a viable new industry and valuable asset to the State of Montana and are truly giving many citizens a real 'Freedom of Choice in Dental Care.

Therefore, I stongly urge this commitee to unanimously reject HB 364.

MADAME CHAIRMAN, MEMBERS OF THE COMMITTEE. MY NAME IS ROBERT VAVAS. I AM A DENTAL LABORATORY TECHNICIAN IN GREAT FALLS AS VICE-PRESIDENT, RECORDING-SECRETARY OF THE DENTAL LABORATORY ASSOCIATION OF MONTANA DURING THE 1984 I-97 CAMPAIGN, I WAS IN DIRECT CONTACT WITH BOTH THE EXECUTIVE DIRECTOR AND THE CAMPAIGN MANAGER OF THE MONTANA DENTAL ASSOCIATION.

DURING THE CAMPAIGN WE HAD MANY CONVERSATIONS ABOUT WHAT THE DENTAL ASSOCIATION WOULD DO IF THE INITIATIVE SHOULD PASS.

FIRST, THE NUMBER OF DENTURISTS TO BE LICENSED IN THE FIRST TWO YEARS WOULD BE SET AT A NUMBER HIGH ENOUGH, UNKNOWN AT THIS TIME BY THE DENTURISTS, THAT IT WOULD BE IMPOSSIBLE TO ACHIEVE. THIS WAS HELPED ALONG THE WAY BY THE ECONOMIC BOYCOTTING OF SEVERAL DENTAL LABORATORIES IN THE STATE WHO ATTENDED IDAHO STATE UNIVERSITY CLASSES AND BY THREATENING THAT ANY DENTAL LABORATORY TECHNICIAN WHO SUPPORTED THE DENTURISTS WOULD BE TREATED IN THE SAME MANNER AND RUN OUT OF STATE. BY THIS DIRECT THREAT TO THEIR LIVELIHOOD MANY OF MY COLLEAGUES WERE SCARED AWAY FROM THE INITIAL LICENSING.

SECOND, KNOWING THAT THE BOARD OF DENTURITRY WOULD BE AUDITED IN TWO YEARS AND KNOWING THAT THE AUDIT COMMITTEE WOULD HAVE TO INTRODUCE LEGISLATION TO MERGE THE BOARDS, SOLELY BECAUSE THERE WERE NOT THIRTY DENTURISTS LICENSED IN THE TWO YEAR PERIOD, THEY WOULD THEN HAVE CONTROL OF THE PROFESSION OF DENTURITRY.

THIRD, ONCE THEY HAD THE CONTROL OF THE PROFESSION THEY WOULD MAKE IT AS DIFFICULT AS POSSIBLE FOR THE DENTURISTS TO OPERATE THEIR PRACTICE. THEY WOULD THEN INTRODUCE LEGISLATION TO CHANGE THE LICENSING QUALIFICATIONS AND EDUCATIONAL REQUIREMENTS THAT WOULD MAKE IT IMPOSSIBLE FOR FUTURE APPLICANTS TO BE LICENSED.

THIS TYPE OF LEGISLATION HAS BEEN ADOPTED IN MAINE AND COLORADO TO CONTROL THE PROFESSION OF DENTURITRY, BY THE BOARD OF DENTISTRY. IN

THESE TWO STATES THERE IS NOT ONE DENTURIST IN PRACTICE TODAY.  
JUST AS I WAS TOLD, I WILL TELL YOU. THE ULTIMATE GOAL IS TO  
CONTROL AND EVENTUALLY DESTROY THE PROFESSION OF DENTURITRY IN THE  
STATE OF MONTANA. AS HB364 STANDS THE STATE DENTAL BOARD HAS THE  
CONTROL OF THE PROFESSION THAT THE EXECUTIVE DIRECTOR AND I TALKED  
ABOUT TWO YEARS AGO. WITH THIS TYPE OF BOARD CONTROL THE PROFESSION  
OF DENTURITRY IS LIVING ON BORROWED TIME.  
AS WAS STATED IN A NEWS CONFERENCE, AFTER THE PASSING OF I-97,  
"WE HAVE NO INTENTION OF COOPERATING WITH THE DENTURISTS." IT IS  
MY OPINION AND I HAVE NO REASON TO BELIEVE ANY DIFFERENTLY THAT THIS  
STATEMENT IS AS TRUE TODAY AS IT WAS TWO YEARS AGO.  
I AM NOT ENTIRELY AGAINST THE MERGER OF THE TWO BOARDS, BUT I  
FEEL THAT A MORE FAIR AND EQUITABLE MERGER MUST BE MET IN ORDER  
TO PROTECT THE PROFESSION.

### **Denturists plan to offer olive branch**

HELENA (AP) — Denturists will try to mend fences with dentists following passage of an initiative that allows denturists to sell false teeth directly to the public, Lee Wiser, a Livingston denturist, said Wednesday.

Dentists, he explained, "can work without us, but we can't work without them," he said.

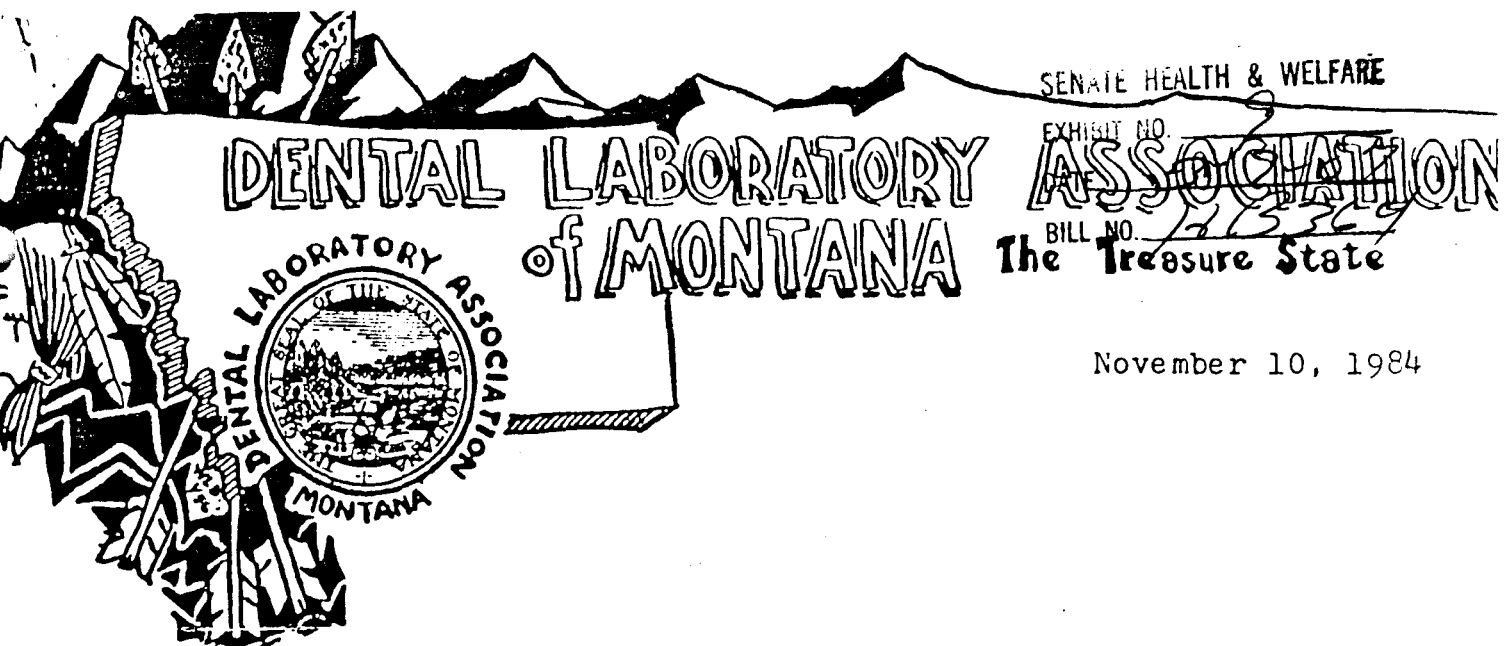
However, dentists may not be in a cooperative mood, said Dr. John Lohman, an official of the Montana Dental Association. Denturists will "have to clean up their act as far as I'm concerned."

He predicted passage of the initiative will "come back to haunt" voters. "Voters never got accurate information" on what the measure would allow denturists to do, Lohman said.

He suggested dentists would testify before the Legislature in support of any attempts to throw out the new law.

Wiser contended that dentists will not be able to persuade lawmakers to change the law.

He said dentists falsely stated during the campaign that the new law would endanger the public health, such as allowing denturists to set up their own radiation safety standards for X-rays.



November 10, 1984

Dear Fellow Technicians,

Congratulations on a job well done! The denturists know they've been to Montana. And, they sure as the devil know that they've been in a fight.

Almost half of the state voted 'No' on I-97 and you can bet that half of those that voted yes were either misinformed or not informed at all. Of course the 'fiscal note' on the ballot probably persuaded a few. Nothing like helping the uninformed along!

All is not lost! We will head them off at the pass. Although you must decide for yourselves what direction you choose to go, please consider the fact that the denturists need a board and they need lots of dental technicians to take their test so they can finance their board.

I have no doubt that Lee Wiser hasn't started trying to make amends already with the technicians of Montana, just for this reason.

However, you have until April 1, 1985. You might want to consider this. Also consider that Legislature will be addressing the flaws in I-97 Jan 1, 1985. We have good reason to believe we haven't lost yet!

You're a heck of a bunch of technicians. We sure gave the outside interests a run for their money, and not in vain. For, the closeness of the battle is in our favor. Denturists walked away with their Initiatives in all the other states, but not Montana! We have much to be proud of! We lost the battle, but we may win the war.

Sincerely Yours,

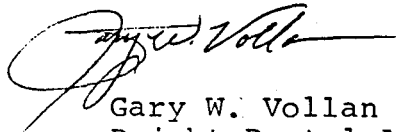
The Pres. *Sam*

January 29, 1987

To Whom It May Concern:

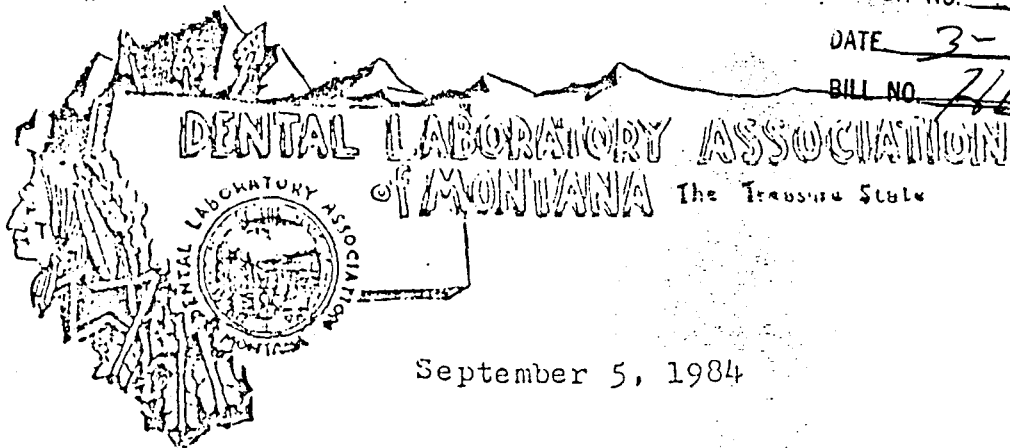
During the time of processing Montana's Initiative 97, I was working in my commercial dental laboratory. I decided to take the two week continued education courses for denturist at Idaho State University. After completing the two week course I returned to business at my dental laboratory. After a period of time I noticed a decrease in my case load. I made several attempts to acquire new accounts but this proved to be unsuccessful. I was unable to continue on with plans on becoming a licensed denturist because of my financial situation. I found it necessary to leave the area and seek employment outside the state.

Sincerely,



Gary W. Vollan  
Bright Dental Arts Laboratory





September 5, 1984

Dear Members,

For those of you that attended our annual business meeting, I'd like to personally thank you for supporting our much needed association. For those of you who were unable to attend, we missed you and believe me you missed an exciting meeting! A real eye opener!

The heat is on!! We are in an intense situation, no doubt about it. However, we must remain true to our purpose and each other. Denturism seems to be a wide and pleasant road. But, not all things are as they appear. It could end in your destruction. We've already seen examples of this.

We need to move forward with our plans. Plans go wrong when there are few, but many active members can make our plans a success.

So far we have experienced strong tactics against us. But, our association would be a poor sort if we do not withstand the pressure of adversity. All we can do is keep on keeping on and taking advantage of our opportunities to have our own separate identity and protect our jobs.

Please send in your \$100.00 contributions as soon as possible for our September ad. Send them to Ed Kralicek, Capital Dental Lab 734 Helena Avenue, Helena, Montana 59601. Thanks!

By the way, just for the record, Dave Comer was waiting for us at the Park Plaza when our meeting returned. He attended our luncheon. He sat at our head table. He refused to leave. It is all too bad that it had to be a Montana dental technician.

Respectfully Yours,

*Larry Michaelson*  
Larry Michaelson, Pres.  
DLAM

9  
3-2-82  
HB 364

## PROPOSED AMMENDMENT FOR HB 364

## DENTAL RELATED HEALTH PROFESSIONS BOARD

## COMPOSITION:

- 2 DENTISTS
- 2 DENTAL HYGIENISTS
- 2 DENTURISTS
- 3 LAYPERSONS:
  - 1 Senior Citizen Representative
  - 1 Low Income Representative
  - 1 Consumer Representative

## BOARD OPERATION:

1. All members would participate in all Board related discussions.
2. When a vote is required for any one profession, only that profession and the laypersons could vote. This would give the laypersons the majority vote for each profession.
3. This configuration permits the laypersons to maintain autonomy for all three professions.

## BENEFITS:

1. Three individual Boards will be represented with equality.
2. The three professions will maintain self-autonomy.
3. By a majority, laypersons will control all three Boards.
4. There will be input from six dental-related health professionals and laypersons representing the public.
5. Badly needed avenues of communications, between the professions, would be opened by the elimination of secrecy.
6. This unification of the professions removes any chance of leverage of one profession over another, thereby, truly serving the people of Montana.

## FISCAL SAVINGS:

This concept reduces the costs of the current method of administering these professions by utilizing 9 Board members in lieu of the current 12.

(over)

Dave Comer  
1219 2nd Avenue South  
Great Falls, MT 59405  
(406) 761-8033

SENATE HEALTH & WELFARE

EXHIBIT NO. 9

DATE. 3-9-87  
HB 364

March 9, 1987

My name is Dave Comer. I'm a denturist in Great Falls. I'm against House Bill 364 as it now stands. I've passed out copies of a lawsuit filed against me by one member of the State Board of Dentistry and a state dental examiner. He's suing me for "illegal competition." I find it impossible to believe this member would have my best interests at heart. I strongly favor the proposed Dental Related Health Professional Board that gives equal representation to the public, the denturists, the hygienists, and the dentists. This board would be fair to everyone and I urge you to amend this bill to include such a board.

*Dave Comer*

MAY 8 1984

SENATE HEALTH & WELFARE  
EXHIBIT NO. 7

DATE 3-9-84

BILL NO. HB 364

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MONTANA  
3 GREAT FALLS DIVISION

4 DAVID L. COMER,

Plaintiff,

5 v.

6 JOHN T. NOONAN, et al

Defendants.

7 ANSWER AND COUNTERCLAIM

FILE NO. CV-84-274-GF

8 COMES NOW the defendant JOHN T. NOONAN (hereinafter "Noonan")  
9 and for his Answer to the Complaint on file herein admits, denies  
10 and alleges as follows:

11 FIRST DEFENSE

12 The Complaint fails to state a claim upon which relief can  
13 be granted.

14 SECOND DEFENSE

15 The Court lacks jurisdiction of the subject matter of this  
16 law suit.

17 THIRD DEFENSE

18 I.

19 Defendant Noonan admits:

- 20 a) That the plaintiff resides in Montana;  
21 b) That the plaintiff, prior to the filing of this  
22 law suit, has taken education and performed work re-  
23 lating to making and repairing dentures;  
24 c) The allegations of paragraph 4. and 6. of the  
25 Complaint;  
26 d) That Noonan has in the past, from time to time, en-  
27 gaged the services of the plaintiff and Noonan alleges  
28 that he has paid to the plaintiff all statements or

Over  
\$94

1 bills submitted to him by plaintiff ~~DATE~~ such work. 9-86

2 II.

3 Noonan denies all remaining allegations in the Complaint.

4 FOURTH DEFENSE

5 At the time the plaintiff established his practice as a  
6 denturist in Great Falls, Montana, his activities were specifi-  
7 cally illegal by reason of applicable Montana Statutes. For the  
8 Court to grant the plaintiff relief based on his wrongful and  
9 illegal activities would be grossly inequitable and an abuse  
10 of the legal system by the plaintiff.

11 FIFTH DEFENSE

12 The plaintiff has dealt with this defendant on the basis  
13 of dishonesty and deceit. Specifically, the plaintiff purchased  
14 a building next door to that housing defendant Noonan's denistry  
15 practice based on the representation that the plaintiff intended  
16 to use the building as a residence. Defendant Noonan believes  
17 and alleges that the plaintiff's intention at the time he pur-  
18 chased the building was to open an illegal and wrongful denturist  
19 practice adjacent to the location of defendant Noonan's Office  
20 and to create and establish an unlawful competition between him-  
21 self and defendant Noonan. After purchasing the building from  
22 defendant Noonan and co-defendant Nelson based on these repre-  
23 sentations, the plaintiff did, in fact, open an illegal and  
24 wrongful denturist practice and established himself in unlawful  
25 competition with defendant Noonan and co-defendant Nelson. The  
26 plaintiff comes to Court with unclean hands and to the extent  
27 that he does or may seek equity, he should be denied all relief.  
28

DATE 3-8-87FILE NO. 443364COUNTERCLAIM

For his counterclaim against the plaintiff, defendant Noonan alleges as follows:

1. To the extent applicable, Noonan realleges the matters set forth in the Answer above.

2. Prior to the filing of the Complaint herein, Noonan performed professional dental services on the plaintiff and a female acquaintance of his for which services the plaintiff agreed to pay.

3. The said services were worth the reasonable value of One Hundred Twenty-One Dollars (\$121.00).

4. Although the plaintiff has been billed for these services by Noonan, he has failed to pay.

WHEREFORE, defendant Noonan prays as follows:

1. That the Complaint of the plaintiff herein be dismissed and that the plaintiff be denied all relief.

2. That Noonan recover from the plaintiff judgment in the sum of One Hundred Twenty-One Dollars (\$121.00).

3. For this defendant's costs and disbursements incurred herein.

4. For such other and further relief as the Court shall deem proper.

DATED this 6th day of May, 1985.

SMITH, BAILLIE & WALSH  
Executive Plaza Bldg., Suite  
121 Fourth Street North, Box 2  
Great Falls, MT 59403-2227  
Attorneys for Defendant Noonan

BY [Signature]  
JAMES R. WALSH

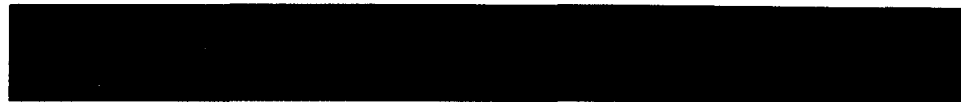
DATE 3-9-87

BILL NO. HB 364

\*\*\*\*\*  
 \* REALIZING THAT THE LEGISLATURE HAS HEARD MANY UNTRUTHS ABOUT \*  
 \* DENTURIST EDUCATION AND TRAINING, THIS PAMPHLET HAS BEEN PREPARED \*  
 \* TO CLARIFY THESE MISCONCEPTIONS, USING DENTISTRY'S OWN RESEARCH \*  
 \* MATERIAL. DOCUMENTATION WILL BE PRESENTED DURING COMMITTEE HEAR- \*  
 \* INGS TO SUBSTANTIATE ANY AND ALL STATEMENTS MADE HEREIN. \*  
 \*\*\*\*\*

## REMOVABLE DENTURE PROSTHETICS (FORMAL TRAINING - CLOCK HOURS)

### MINIMUM



DENTURIST



DENTIST

<u>0</u>	<u>400</u>	<u>800</u>	<u>1200</u>	<u>1600</u>
<u>HOURS OF INSTRUCTION</u>		<u>MINIMUM</u>		
DENTURIST (A)		1280		
DENTIST (B)		77		

(A) Denturist licensees after April 1, 1985 completing dental related educational programs of not less than two years in the United States Armed Forces and additional denturist training at Idaho State University or the American Institute of Pathological Sciences, or both. The military dental health schools are accredited as educational institutions by the Southern Conference of Colleges and Schools, which is an accrediting agency recognized by the Montana State Board of Regents meeting the requirements of 37-29-303 (2) MCA.

(B) Figures compiled from "Dental Education in the United States 1976". This study was done by the Council on Dental Education of the American Dental Association in cooperation with the American Association of Dental Schools. Of the 60 dental schools these groups accredit, 58 responded. Graduates of these schools are allowed to be examined for licensure in every state. Dental educators report that training in removable prosthetics has declined further since this report was first published. (See last page)

"37-4-302. RECOGNITION OF DENTAL SCHOOLS. In determining what shall constitute a recognized dental college or school and/or recognized school of dental hygiene, the board shall be guided by the standards, canons, and practices required for such recognition by the council on dental education of the American dental association."

NOTE: A dentist can be licensed in Montana with as little as 77 hours formal training in dentures and without a clinical examination for dentures (Documented by the Western Regional Examining Board who administer the clinical examinations for Dentistry). This condition could appear as negligence in court, leaving Montana's general fund vulnerable as the "deep pocket" in litigation.

**REMOVABLE PARTIAL DENTURES  
(FORMAL TRAINING - CLOCK HOURS)**

**MINIMUM**



**DENTURIST**



**DENTIST**

<u>0</u>	<u>75</u>	<u>150</u>	<u>225</u>	<u>300</u>
----------	-----------	------------	------------	------------

<u>HOURS OF INSTRUCTION</u>	<u>MINIMUM</u>
-----------------------------	----------------

DENTURIST (A)	245
---------------	-----

DENTIST (B)	8
-------------	---

(A) Explanation is the same as (A) under REMOVABLE DENTURE PROSTHETICS (front page).

(B) compiled from a study by the University of Iowa, College of Dentistry appearing in the November 1984, Journal of Prosthetic Dentistry, with 51 out of 60 dental schools in the United States participating.

NOTE: A dentist can be licensed in Montana with as little as 8 hours formal training in partial dentures and without a clinical practical examination. (Documented by the Western Regional Examining Board who administer the clinical practical examinations for Dentistry.)

**CLINICAL ORAL PATHOLOGY  
(FORMAL TRAINING - CLOCK HOURS)**

**MINIMUM**



**DENTURIST**



**DENTIST**

<u>0</u>	<u>25</u>	<u>50</u>	<u>75</u>	<u>100</u>
----------	-----------	-----------	-----------	------------

<u>HOURS OF INSTRUCTION</u>	<u>MINIMUM</u>
-----------------------------	----------------

DENTURIST (A)	72
---------------	----

DENTIST (B)	30
-------------	----

(A) Explanation is the same as (A) under REMOVABLE DENTURE PROSTHETICS (front page).

(B) Explanation is the same as (B) under REMOVABLE DENTURE PROSTHETICS (front page).



# RADIOLOGY (FORMAL TRAINING - CLOCK HOURS)

## MINIMUM



DENTURIST



DENTIST

<u>0</u>	<u>25</u>	<u>50</u>	<u>75</u>	<u>100</u>
----------	-----------	-----------	-----------	------------

<u>HOURS OF INSTRUCTION</u>	<u>MINIMUM</u>
-----------------------------	----------------

DENTURIST (A)	72
---------------	----

DENTIST (B)	19
-------------	----

- (A) Explanation is the same as (A) under REMOVABLE DENTURE PROSTHETICS (front page).  
 (B) Explanation is the same as (B) under REMOVABLE DENTURE PROSTHETICS (front page).

NOTE: A dentist can be licensed in Montana with as little as 19 hours training and no practical examination for licensure for x-rays. That Dentist could then supervise a dental assistant with zero hours of formal training taking x-rays on Montanans. The Montana Dental Board claims acceptance of the National Dental Boards as an x-ray examination. The National Boards are used to evaluate training received in dental school and are examinations in theory and are not practical examinations. Scenario: A Dental Hygienist takes the National Dental Hygiene Boards, including questions on x-rays, but is also required to take a practical examination for x-rays to be licensed in Montana and then be supervised by a dentist who has not taken a practical examination for x-rays.

\* \* \* \* \*

## MALPRACTICE

\* \* \* \* \*

OPINION DIFFERS BETWEEN OPPONENTS AND PROPONENTS REGARDING THE QUALITY OF CARE DELIVERED BY DENTURISTS. FORTUNATELY, AN INDEPENDENT THIRD PARTY EXISTS. THESE INDIVIDUALS ARE EXPERTS IN THE AREAS CONCERNING SAFETY. THAT UNBIASED GROUP IS THE PROFESSIONAL LIABILITY INSURANCE ACTUARIES AS THEY DEAL WITH FACTUAL STATISTICS NOT RHETORIC.

AT THE SAME TIME IN MONTANA, THE STATE WITH THE BROADEST SCOPE OF PRACTICE FOR DENTURISTS, MALPRACTICE INSURANCE DROPPED 39%. THE COST OF MALPRACTICE INSURANCE IN MONTANA FELL FROM \$165.00 LAST YEAR TO \$100.00 THIS YEAR FOR \$1,000,000 COVERAGE. ACCORDING TO INSURANCE COSTS, THERE IS MORE RISK IN DRIVING TO YOUR APPOINTMENT THAN HAVING THE DENTURE-RELATED PROCEDURES PERFORMED BY A QUALIFIED LICENSED. *DENTURIST*

\* \* \* \* \*

**DENTAL EDUCATORS SPEAK OUT  
ON  
THE QUALITY OF DENTURE EDUCATION IN DENTAL SCHOOLS**

1. "Although graduates would be licensed to provide prosthodontic treatment, they would lack clinical experience in this discipline." Journal of Prosthetic Dentistry, January 1984, David N. Firtell, D.D.S., et al, authors.
2. "It is a sad state of affairs when dental educators tacitly admit that technicians are more skilled and can produce better results than those that dental students can be trained to perform. If this is the case, than why not let technicians perform intraoral procedures, too? No wonder denturists are gaining credibility in the eyes of the public." Reprinted in Dental Lab Review, September 1984, from an original article from The Academy of General Dentistry's publication AGD Impact, William W. Howard, D.M.D., author.
3. "The trend at many dental schools has been to decrease the emphasis on prosthodontic curriculum and allow increased exposure to preventive dentistry. ....However, educators in prosthodontics have expressed concern about the recent dental school graduate's ability to provide adequate prosthodontic care for patients." The Journal of Prosthetic Dentistry, October 1984, Thomas D. Taylor D.D.S., et al authors.
4. ...."it appears that the typical dental school may be failing to prepare future dentists adequately to diagnose and devise a treatment plan for removable prostheses...As a dental educator, I can personally attest to the perceived decrease in emphasis that removable prosthodontics is receiving in the dental school curriculum during the past decade. Ultimately, if these trends are not reversed, we will witness a marked decline in the quality of treatment rendered to our patients who require removable prosthesis." Quintessence of Dental Technology, April 1985, Robert P. Renner, D.D.S., Editor.
5. "Nevertheless, the more removable prosthodontic treatment dental students complete while in dental school, the better able they will be to treat these types of patients in practice. It appears to the authors that in some regions this experience is too low." The Journal of Prosthetic Dentistry, August 1982, H. W. Herring, D.M.D., et al authors.
6. "All dental educators stated that partial denture design is the dentist's responsibility, while 77.9% of dental technicians reported that they design most or all of the removable partial dentures fabricated in their laboratories. ....If it is assumed that partial denture design is the dentist's responsibility, it appears that prosthodontic education is failing to prepare dentists adequately for the task." The Journal of Prosthetic Dentistry, November 1984, Thomas D. Taylor, D.D.S., et al, authors.
7. "The overall decrease in curriculum emphasis on removable prosthodontics during the past 15 years at 33 of the 50 responding dental schools can only serve to compound the problems alluded to in parts I and II of this study. It appears that educators are loosing ground in the task of providing adequate preparation for dental graduates in the field of removable prosthodontics." The Journal of Prosthetic Dentistry, November 1984, Thomas D. Taylor, D.D.S., M.S.D., et al, authors.

8.16.709 REBATE AND SPLIT FEES (1) Dentists shall not accept or tender "rebates" or "split fees". (History: Sec. 37-4-321 (4), MCA; IMP, Sec. 37-4-321 (4), MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., C. 274, L. 1981, Eff. 7/1/81.)

8.16.710 EDUCATION (1) The privilege of dentists to be accorded professional status rests primarily in the knowledge, skill and experience with which they serve their patients and society. All dentists, therefore, have the obligation of keeping their knowledge and skill current. (History: Sec. 37-4-321 (4), MCA; IMP, Sec. 37-4-321 (4), MCA; NEW 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., C. 274, L. 1981, Eff. 7/1/81.)

8.16.711 GOVERNMENT OF A PROFESSION (1) Every profession owes society the responsibility to regulate itself. Such regulation is achieved largely through the influence of the professional societies. All dentists, therefore, have the dual obligation of making themselves a part of a professional society and of observing its rules and ethics. (History: Sec. 37-4-321 (4), MCA; IMP, Sec. 37-4-321 (4), MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., C. 274, L. 1981, Eff. 7/1/81.)

8.16.712 RESEARCH AND DEVELOPMENT (1) Dentists have the obligation of making the results and benefits of their investigative efforts available to all when they are useful in safeguarding or promoting the health of the public. (History: Sec. 37-4-321 (4), MCA; IMP, Sec. 37-4-321 (4), MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., C. 274, L. 1981, Eff. 7/1/81.)

8.16.713 DEVICES AND THERAPEUTIC METHODS (1) Except for formal investigative studies, dentists shall be obliged to prescribe, dispense or promote only those devices, drugs and other agents whose complete formulae are available to the dental profession. Dentists shall have the further obligation of not holding out as exclusive any device, agent, method or technique. (History: Sec. 37-4-321 (4), MCA; IMP, Sec. 37-4-321 (4), MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., C. 274, L. 1981, Eff. 7/1/81.)

8.16.714 PATENTS AND COPYRIGHTS (1) Patents and copyrights may be secured by dentists provided that such patents and copyrights shall not be used to restrict research or practice. (History: Sec. 37-4-321 (4), MCA; IMP, Sec. 37-4-321 (4), MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., C. 274, L. 1981, Eff. 7/1/81.)

8.16.715 PROFESSIONAL ANNOUNCEMENT (1) In order to

(3) A dentist may not use statistical data on past services performed or patients served in order to imply expertise, predict future success, imply low prices, or customer satisfaction. Great care should also be exercised in the use of any statements from patients. The rules of the board clearly prohibits the use of any testimonial or endorsement by a patient of another dentist. Use of a testimonial or endorsement by a patient of record, while not specifically addressed by board rules, is also prohibited in that it will imply in a manner not objectively verifiable, that the advertising dentist performs professional services in a manner superior to other dentists."

Auth: 37-4-205, MCA Imp: 37-4-502, MCA

This rule is advisory only, but may be a correct interpretation of the law, Ch. 637, L. 1983.

"VI. QUALITY OF SERVICE (1) The quality of dental services are difficult to accurately measure and any statements concerning the quality of services rendered tend to be misleading and are likely to create unjustified expectations on the part of the patient. Because of this high probability of misleading the public in the assertion of quality of service, the board broadly construes those rules dealing with this area. A dentist should not claim any superiority in the manner that he performs his professional services nor should he disparage directly or impliedly the professional competence or practice of any other dentist. This would include any endorsements or testimonials by a patient of the dentist contained in an advertisement. Additionally, it is presumed to be misleading for a dentist to claim to perform services in a superior manner based on the use of an appliance, drug, formula, material, medicine, method, or system of dentistry or pain reduction which is in general use or is available for use by another dentist.

(2) In general, subjective terms that describe either the nature of the practice or quality of services offered are difficult to verify objectively. An example of such terms is 'gentle dentistry'. Subjective terms such as this could be misleading to the public and, therefore, should not be used.

(3) There is also strong potential for misleading the public in the use of any guarantee, warranty, certification, assurance or words of similar import in connection with assertions of the quality, length of life, or usefulness of any dental service or dental appliance. Any representations concerning the absolute or comparative painlessness, degree of pain, or relief from pain is also presumed misleading, as is any promise concerning the beauty or naturalness of a patient's teeth following treatment.

(4) As noted above, a dentist is also limited in his use of statistical data on past dental services or patients served in attempting to imply a superiority of expertise, predict

Should the complaint indicate possible cause for disciplinary action the Board then will either contract with the Association Peer Review Group making said group employees of the Board and responsible directly to it, or in the alternative will contract with individual dentists who may be outside the Association Peer Review structure where the need for specialized attention presents itself.

2. COMPLAINTS, DISCIPLINARY DELAYS. (see page 28, Sunset Performance Review) In general response to the review findings, the Board would point out that upon its determination that further investigation should be made and/or as a result thereof a disciplinary action should be commenced, the matter has been in the past and is now referred to the Board's legal counsel. All programing and orchestration of the events in the contested case process has been said counsel's responsibility and effected upon his recommendations, and for the most part, at the time intervals which said counsel structured for the Board. While it may be said that the Board has responsibility for its employees, by the same token it is entitled to some extent to rely on their integrity and responsibility.

In specific response to the time lapses apparent in the chronological sequence of events outlined in the review concerning two complaints, the Board would only add that the events and the intervening time periods can only speak for themselves. The Board would further take the position that said complaints are not exemplary of the average contested case proceeding and would further add that in one case, the matter was intensely contested. The Board finally concludes in this respect that where hindsight would indicate that greater Board aggression would in part remedy the extraordinary time lapse, that Board counsel has been and will be instructed to pursue in just such fashion.

Responding specifically to the case in point regarding the anonymous complaint, the Board would point out that determinations to pursue the same are always a matter of judgement call and proper determination thereof is more easily made on hindsight. We would argue that in another instance, an anonymous complaint may very well have proved out to lack any authenticity.

3. DENTURISM (page 31, Sunset Performance Review) The review states that Montana's Board has indicated they would not prefer statutory recognition for the independent practice of denturists. The Board would add that the reason for this position stems solely out of its concern that the recipient public and the consumer of dentures receive the highest standard of care and service. Such service as now offered by denturism and denturists as we now know them, do not appear to provide such quality standard of care.

Ron Brown,  
3215 - 6 Ave. No.,  
Great Falls, MT 59401

SENATE HEALTH & WELFARE  
EXHIBIT NO. 7  
DATE 3-8-87  
BILL NO. HB364

Three years ago, I and several thousand other Montana voters were avid proponents of Initiative 97 and got it on the ballot by a vary comfortable margin. Once on the ballot, I-97 was VOTED in by a VERY large majority. This majority did not vote for what it eventually became, mainly through the efforts of Representative Jack Moore (District 36) during the 1985 legislative assembly.

I was particularly partial to I-97 because it not only gave ALL citizens of Montana a 'Freedom of Choice in Dental Care', but also reflected some of my personal feelings of what freedom means. In this case, it means the absolute right to practice 'Free Enterprise' and the right to profit from it. In this regard, the denturist movement was a simple case of many Dental Laboratory Technicians wanting to get out from under the heavy-ruling thumb and price dictating practices of the dental proffession which held them captive. They wanted only to serve the public directly and responsibly, at a lower cost, and cut out the excessive profits made from their work by the middlemen. The result of this was to also establish a badly needed new industry within our state and create new jobs. To this end, however, the amendments produced by Representative Moore effectively blocked any real growth potential by insrting a 'Sunset' clause which the public did not vote for. So long as this clause remains in effect, it will be impossible for the Denturist industry to grow much beyond what it already has. How can it? It will take years of training to produce any in-state denturists so this is pretty much out of the question for now. The only other alternative is to bring in qualified out-of-state denturists but this too is impractical with this 'Sunset' clause in effect.

Consider this scenario: You are actually a qualified denturist, living and working in Utah as a Dental Lab. Technician. You want to move to Montana and set up a practice of denturity. BUT - before you can even apply for a license, you must establish a six (6) months residency. How do you earn a living during this period? Then - if you do or can, the whole shebang may fall down around your ears within a year and a half, at most. You have already sacrificed your technician business in Utah, your family is with you, the people you hired are out of a job and you still owe on your expensive

equipment that is required. Now - with all those negative possibilities to think about, would you really consider moving to Montana? Of course you wouldn't and neither will anyone else.

Then there is the problem of requiring a dentist be assigned to sit on the Board of Denturity. Under the circumstances, this is almost the equivalent of assigning Gorbachev a seat on President Reagan's cabinet. This should not be. It has always been the consensus that any industry has the right to regulate itself. Unless or until it is proven, beyond doubt, that it can not. The Board of Denturity has never been given this chance.

Despite these restrictions however, the few denturists we do have, have proven beyond doubt that they can become a viable new industry and valuable asset to the State of Montana and are truly giving many citizens a real 'Freedom of Choice in Dental Care.

Therefore, I strongly urge this committee to unanimously reject HB 364.

# Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624



SENATE HEALTH & WELFARE

EXHIBIT NO. 8

DATE 3-9-87

BILL NO. HB-364

443-5341

9 March 1987

Madam Chairman and Committee members,

I am Elsie Latham Lee, President of MSCA. We oppose HB # 364 in its present form. The merged board needs to have equitable protection between the professions, that can be established with the Denturists voting on Denturists issues and the Dentists voting on Dental issues. HB 364 isn't equitable but can be ammended to be equitable by having each profession govern themselves.

The Montana Senior Citizens would support this. MSCA wanted Denturists to be able to practice in Montana so people can afford to pay for dentures. We would like to see this business remain in Montana.

Thank you!

*Elsie Latham Lee*



1 bills submitted to him by plaintiff

2 II.

3 Noonan denies all remaining allegations in the Complaint.

4 FOURTH DEFENSE

5 At the time the plaintiff established his practice as a  
6 denturist in Great Falls, Montana, his activities were specifi-  
7 cally illegal by reason of applicable Montana Statutes. For the  
8 Court to grant the plaintiff relief based on his wrongful and  
9 illegal activities would be grossly inequitable and an abuse  
10 of the legal system by the plaintiff.

11 FIFTH DEFENSE

12 The plaintiff has dealt with this defendant on the basis  
13 of dishonesty and deceit. Specifically, the plaintiff purchased  
14 a building next door to that housing defendant Noonan's denistry  
15 practice based on the representation that the plaintiff intended  
16 to use the building as a residence. Defendant Noonan believes  
17 and alleges that the plaintiff's intention at the time he pur-  
18 chased the building was to open an illegal and wrongful denturist  
19 practice adjacent to the location of defendant Noonan's Office  
20 and to create and establish an unlawful competition between him-  
21 self and defendant Noonan. After purchasing the building from  
22 defendant Noonan and co-defendant Nelson based on these repre-  
23 sentations, the plaintiff did, in fact, open an illegal and  
24 wrongful denturist practice and established himself in unlawful  
25 competition with defendant Noonan and co-defendant Nelson. The  
26 plaintiff comes to Court with unclean hands and to the extent  
27 that he does or may seek equity, he should be denied all relief.  
28

DATE 3-9-85FILE NO. 463364COUNTERCLAIM

For his counterclaim against the plaintiff, defendant Noonan alleges as follows:

1. To the extent applicable, Noonan realleges the matters set forth in the Answer above.

2. Prior to the filing of the Complaint herein, Noonan performed professional dental services on the plaintiff and a female acquaintance of his for which services the plaintiff agreed to pay.

3. The said services were worth the reasonable value of One Hundred Twenty-One Dollars (\$121.00).

4. Although the plaintiff has been billed for these services by Noonan, he has failed to pay.

WHEREFORE, defendant Noonan prays as follows:

1. That the Complaint of the plaintiff herein be dismissed and that the plaintiff be denied all relief.

2. That Noonan recover from the plaintiff judgment in the sum of One Hundred Twenty-One Dollars (\$121.00).

3. For this defendant's costs and disbursements incurred herein.

4. For such other and further relief as the Court shall deem proper.

DATED this 6th day of May, 1985.

SMITH, BAILLIE & WALSH  
Executive Plaza Bldg., Suite 2  
121 Fourth Street North, Box 2  
Great Falls, MT 59403-2227  
Attorneys for Defendant Noonan

BY James R. Walsh  
JAMES R. WALSH

# STANDING COMMITTEE REPORT

March 9,

19 87

MR. PRESIDENT

We, your committee on SENATE PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE BILL No. 196

BLUE reading copy ( THIRD )  
color

**EXTENDING JURISDICTION OF MEDICAL-LEGAL PANEL TO DENTISTS**

**MILES (RASMUSSEN)**

Respectfully report as follows: That HOUSE BILL No. 196

BE CONCURRED IN

DO PASS

DO NOT PASS

DOROTHY ECK

Chairman.

# STANDING COMMITTEE REPORT

SCRB752

.....March 7,..... 1987.....

MR. PRESIDENT

Public Health, Welfare, and Safety

We, your committee on.....

House Bill

752

having had under consideration..... No.....

third

blue

reading copy (.....)

color

## UNIFORM HEALTH CARE INFORMATION ACT

Respectfully report as follows: That.....House Bill..... No. 752.....

### BE AMENDED AS FOLLOWS:

1. Title, line 5.

Following: "50-15-704,"

insert: "53-11-166,"

2. Page 5, lines 18 through 20.

Following: "years"

Strike: remainder of line 18 through "(2)" on line 20

3. Page 6, line 12.

Following: "who"

Insert: "has provided a written assurance that the  
information obtained will not be improperly disclosed  
and who"

4. Page 9, line 1.

Strike: "unless"

Insert: "if"

5. Page 9, following line 1.

Strike: "not"

6. Page 9, lines 3 through 6.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

~~EXCISE~~

~~EXCISE~~

.....  
CONTINUED

Chairman.

March 9,

87

19.....

7. Page 9, line 11.

Following: "practice,"

Strike: "unless"

Insert: "if"

8. Page 9, line 12.

Following: "provider"

Strike: "not"

9. Page 9, line 25.

Following: "iron"

Strike: "redisclosure"

Insert: "improper disclosure"

10. Page 11, line 1.

Following: "information,"

Strike: "unless"

Insert: "if"

11. Page 11, line 2.

Following: "provider"

Strike: "not"

12. Page 14, line 12.

Following: "hours"

Strike: "and"

Insert: "or"

13. Page 21, lines 16 through 22.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

14. Page 25, following line 4.

Insert: "Section 28. Section 53-21-166, MCA," is amended  
to read:

"53-21-166. Records to be confidential -- excep-  
tions. All information obtained and records prepared in  
the course of providing any services under this part to  
individuals under any provision of this part shall be  
confidential and privileged matter. Such Except as  
provided in [sections 1 through 25] information and  
records may be disclosed only:

(1) in communications between qualified profes-  
sional persons in the provision of services or appro-  
priate referrals;

CONTINUED

March 9,

1957

(2) when the recipient of services designates persons to whom information or records may be released, provided that if a recipient of services is a ward and his guardian or conservator designates in writing persons to whom records or information may be disclosed, such designation shall be valid in lieu of the designation by the recipient; except that nothing in this section shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(3) to the extent necessary to make claims on behalf of a recipient of aid, insurance, or medical assistance to which he may be entitled;

(4) for research if the department has promulgated rules for the conduct of research; such rules shall include but not be limited to the requirement that all researchers must sign an oath of confidentiality;

(5) to the courts as necessary to the administration of justice;

(6) to persons authorized by an order of court, after notice and opportunity for hearing to the person to whom the record or information pertains and the custodian of the record or information pursuant to the rules of civil procedure;

(7) to members of the mental disabilities board of visitors or their agents when necessary to perform their functions as set out in 53-21-104."

Renumber: subsequent sections

BE CONCURRED IN AS AMENDED

Senator ERL

# STANDING COMMITTEE REPORT

MARCH 9

19 87

MR. PRESIDENT

We, your committee on SENATE PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE BILL No. 536

BLUE reading copy ( THIRD )  
color

**EXEMPT NONPROFIT ORGANIZATIONS FROM LICENSING OF FOOD ESTABLISHMENTS**

**DEVLIN ( HAGER )**

Respectfully report as follows: That HOUSE BILL No. 536

BE CONCURRED IN

DO PASS

DO NOT PASS

DOROTHY ECK

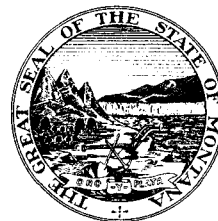
Chairman.

**State of Montana**  
**Office of the Legislative Auditor**  
**Sunset Performance Audit**  
**DEPARTMENT OF COMMERCE**  
**BOARD OF DENTURITRY**

Chapter 548, Laws of Montana, 1985, requires a sunset review of the board. This review provides information to assist the Legislature in making the decision to terminate, modify, or continue the board.

This report presents several areas for legislative consideration including:

- The fiscal viability of board operations including the number of licensees.
- Concerns with the examination process for administering X-rays.
- Requirements needed to complete partial dentures.



Direct comments/inquiries to:  
Office of the Legislative Auditor  
Room 135, State Capitol  
Helena, Montana 59620



## **PERFORMANCE AUDITS**

Performance audits conducted by the Office of the Legislative Auditor are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy. In performing the audit work, the audit staff uses audit standards set forth by the United States General Accounting Office.

Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, statistics, economics, computer science, and engineering.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of four members of the Senate and four members of the House of Representatives.

### **LEGISLATIVE AUDIT COMMITTEE**

Senator Judy Jacobson, Chairman

Senator Dave Fuller

Senator Pat Goodover

Senator Tom Keating

Representative John Cobb, Vice-Chairman

Representative Dorothy Bradley

Representative Roland Kennerly

Representative Bruce Simon

SUNSET PERFORMANCE REVIEW

BOARD OF DENTURITRY  
DEPARTMENT OF COMMERCE

December 1986

Report Number 86P-48

Members of the audit staff involved in this audit were: Jim Nelson, supervisor; and Angie Grove, staff auditor. Additional information on the audit can be obtained by contacting the Office of the Legislative Auditor (406) 444-3122.

STATE OF MONTANA

Office of the Legislative Auditor

STATE CAPITOL  
HELENA, MONTANA 59620  
406/444-3122

DEPUTY LEGISLATIVE AUDITORS:

JAMES GILLET  
FINANCIAL-COMPLIANCE AUDITS

JIM PELLEGRINI  
PERFORMANCE AUDITS

LEGAL COUNSEL:

JOHN W. NORTHEY



SCOTT A. SEACAT  
LEGISLATIVE AUDITOR

December 1986

The Legislative Audit Committee  
of the Montana Legislature:

This is our sunset performance review of the Board of Denturistry. The 1985 Legislature passed Chapter 548 which asks the Legislative Audit Committee to determine if the Board of Denturistry has licensed 30 denturists by October 1, 1986, or if the Board has established fiscal viability. This chapter also requires operations of the board be reviewed under criteria of the Sunset Law. There are no formal recommendations in the report since the responsibility for such recommendations lies with the Audit Committee.

Since 30 denturists were not licensed as required, the Legislative Audit Committee must introduce a bill to the 50th Legislature to merge the Board of Denturistry with the Board of Dentistry. In addition, the Legislative Audit Committee can introduce a bill based on the sunset provisions which provide for continuing, modifying, or terminating the Board of Denturistry.

We wish to express our appreciation to the members of the Board and to the staff of the department for their assistance during the review.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott A. Seacat", with a long, sweeping flourish extending to the right.

Scott A. Seacat  
Legislative Auditor

## TABLE OF CONTENTS

	<u>Page</u>
List of Illustrations	iii
Appointive and Administrative Officials	iv

### CHAPTER I INTRODUCTION

Report Objectives	1
Management Memorandum	2
Denturistry Profession	2

### CHAPTER II BOARD OF DENTURITRY

Board Membership and Goals	3
Licensing Requirements and Services Allowed	4
Fees	5
Other States	5
Board of Dentistry	8

### CHAPTER III ACTUAL BOARD OPERATIONS

Application Procedures	10
Conclusion	11
Examination Procedures	11
Conclusion	11
Establishing Fees	12
Conclusion	12

## TABLE OF CONTENTS (Continued)

	<u>Page</u>
Complaint Procedures	12
Conclusion	14
Inspections	14
Conclusion	14

## CHAPTER IV AREAS FOR LEGISLATIVE CONSIDERATION

Fiscal Viability	15
Other Areas For Legislative Consideration	16
Partial Dentures	16
X-Ray Examination	17
Legislative Audit Committee Action	18

## LIST OF ILLUSTRATIONS

<u>No.</u>		<u>Page</u>
1	Other States Denturistry Provisions	6
2	Other States Required Licensure Criteria	7
3	Other States Denturist Licensing Fees	8
4	Type of Complaints Received	13
5	Projected Revenues and Expenditures	16

APPOINTIVE AND ADMINISTRATIVE OFFICIALS

BOARD OF DENTURITRY

		<u>TERM EXPIRES</u>
Brent Kandarian President	Kalispell	1-11-87
Lee Wiser Secretary/Treasurer	Livingston	1-11-88
Gayle Roset, D.D.S.	Billings	1-11-89
Henry Siderius (Senior Citizen)	Kalispell	1-11-88
Elsie Fox (Low Income)	Miles City	1-11-87

DEPARTMENT OF COMMERCE

Keith Colbo, Director

Shirley Miller, Bureau Chief

Mary Lou Garret, Administrative Assistant

# CHAPTER I

## INTRODUCTION

This sunset review addresses state regulation of denturists by the Board of Denturitry -- a state board administratively attached to the Department of Commerce. The department provides support to the board in the form of secretarial, legal, budgeting, and accounting services.

### REPORT OBJECTIVES

The 1985 Legislature passed Chapter 548 which requires a sunset review of the Board of Denturitry be performed by the Legislative Audit Committee. The Committee is to determine if the Board of Denturitry has licensed 30 denturists who are practicing in the state by October 1, 1986, or if the Board has established fiscal viability. If either of these situations does not exist, the law mandates that the Committee prepare a bill for the 50th Legislature to merge the Board of Denturitry with the Board of Dentistry. Chapter 548 also requires operations of the Board be reviewed under criteria of sections 2-8-112 and 2-8-113, MCA (the Sunset Law).

The sunset process addresses the following questions:

- a) Is there a duplication of effort between the Board of Denturitry and other agencies or programs?
- b) Do procedures followed by the Board of Denturitry adequately ensure the public health, safety, and welfare?
- c) Is fiscal viability of the Board of Denturitry strong enough to ensure continued operations?
- d) Is the board in compliance with state laws and rules?

We did not specifically examine the need for the Board. Under the Sunset Law, the Legislative Audit Committee has the option of introducing a bill which could provide for continuing, modifying, or terminating the Board.



## MANAGEMENT MEMORANDUM

During the audit, we issued a management memorandum to the Department of Commerce. The memorandum addressed issues which are not included in the audit report. These issues are related to documentation of examinations and documentation of continuing education courses.

## DENTURITRY PROFESSION

Denturistry is a profession described as making, fitting, altering, or repairing a denture and furnishing the denture directly to a person. In the past, this service was generally provided in part by a dentist and in part by a dental laboratory. The dentist dealt directly with the person requiring the service, while the dental laboratory technician constructed the denture. The dentist did impressions and actually fitted the denture.

Currently, denturistry allows denturists to perform many of the steps of the service. Consequently, denturists can provide their service directly to the public.

## CHAPTER II

### BOARD OF DENTURITRY

This chapter describes the Board of Denturitry and its operations. Comparisons with other states and the Board of Dentistry are also included to provide criteria to measure the Board's activities.

#### BOARD MEMBERSHIP AND GOALS

A Board of Denturitry was appointed by the Governor in January, 1985. The Board has five members. Membership includes two licensed denturists, one licensed dentist, and two public members. Board members serve three-year terms and perform several statutory duties, including:

1. determine applicants' qualifications for licensure;
2. administer examinations for licensure;
3. collect fees and charges;
4. issue, suspend, and revoke licenses; and
5. adopt, amend, and repeal rules necessary for implementation, continuation, and enforcement of applicable laws.

In order to meet its goal of providing freedom in choice of denture services to the public by granting licenses to only those qualified candidates, the Board established the following objectives:

- assure the public that denture services are performed by licensed denturists;
- investigate complaints received;
- proctor examinations;
- issue licenses to qualified candidates; and
- monitor continuing education programs for licensees.

## LICENSING REQUIREMENTS AND SERVICES ALLOWED

In order to become licensed as a denturist in the state of Montana, certain statutory requirements have to be met. These requirements included initial applicant provisions and eligibility criteria.

The initial license provision allowed applicants with three signed affidavits verifying 5 years of experience in denture technology, documentation of approved courses, and six months of residency in Montana prior to April 1, 1985, to become licensed. After the April deadline applicants were required to have at least two years of formal training, and two years of internship under a licensed denturist or three years licensed experience in another state or Canada. Formal training must be offered by an educational institution accredited by a national or regional accrediting agency approved by the Montana Board of Regents. Montana law also allows licensing by reciprocity agreements with other states. To date, there have been no licenses granted through reciprocity.

Since creation in January, 1985, the Board of Dentistry has licensed 18 denturists. This includes 12 licensees who were initially licensed. Of the 18, twelve licensees reside and practice within the state of Montana.

As outlined in the law, services to be performed by denturists are primarily making and repairing of dentures. The restrictions on these services occur in several areas, such as immediate dentures, X-rays, and partial dentures. Immediate dentures, those dentures constructed prior to extraction of teeth and requiring immediate insertion, can only be inserted by a dentist. This is because a denturist is not allowed to extract teeth. A denturist is prohibited by law from taking X-rays unless he takes a test from the Board of Dentistry. Finally, there are restrictions on constructing partial dentures which require patients to be referred to a dentist for mouth preparation, teeth cleaning, and X-rays, as needed. (Further information on the latter two restrictions is outlined in the Fourth chapter of this report.)

## FEES

In order to support the cost of an administering board, the board must establish fees associated with the licensing process. The Board of Denturitry has authority to set fees and has established the following charges:

-- Application for licensure	\$ 200
-- Original license	\$ 200
-- Annual renewal	\$ 500
-- Examination or reexamination	\$ 200
-- Replacement or duplicate license	\$ 50
-- Inactive or out-of state renewal	\$ 200

## OTHER STATES

There are five other states which allow non-dentists to provide removable denture care to patients. These states are Arizona, Colorado, Idaho, Maine, and Oregon. Each state has differing licensure requirements, services allowed, and governing bodies. For example, the state of Idaho is the only other state which has a separate Board of Denturitry. All other states established control with their existing dental board. Some states have advisory boards which can provide input on decisions dealing with denturitry.

Education and internship criteria also vary between states. Differences are explained by differing roles of the denturist. In Idaho, Oregon, and Montana the denturist is allowed to have an independent practice. Other states require the denturist to work under direct supervision of a dentist. The various degrees of practice are reflected in different licensing requirements. The following two tables summarize various requirements for other states and for Montana.

OTHER STATES DENTURITRY PROVISIONS

	<u>Arizona</u>	<u>Colorado</u>	<u>Idaho</u>	<u>Maine</u>	<u>Oregon</u>	<u>Montana</u>
Year Enacted	1978	1979	1982	1977	1978	1984
Dentist Supervision	Yes	Yes	No	Yes	No	No
Regulatory Board	Dental	Dental	Denturist	Dental	Dental	Denturist
Services Allowed*	C/P	C	C **	C	C	C/P
Number of Licensees	27	0 ***	29	0	118	18

---

\* C=complete dentures; C/P= complete and partial dentures

\*\* Also allows repairs on partial dentures.

\*\*\* Colorado does not require dental auxiliaries (denturists) to be licensed.

Source: Compiled by the Office of Legislative Auditor

Illustration #1

## OTHER STATES REQUIRED LICENSURE CRITERIA

<u>Arizona</u>	a) High school graduate
	b) Hold diploma from denture technology school accredited by Dental Examining Board
	c) Pass examination
<u>Colorado</u>	No licensing or certifying requirements
<u>Idaho</u>	a) Two years of training at educational institution
	b) Two years of internship under licensed denturist or dentist
	c) Pass examination
<u>Maine</u>	a) Two years of training in denture technology program approved by the Dental Board
	b) Pass examination
<u>Montana</u>	a) Two years of formal training in denture technology programs approved by national or regional accrediting agency recognized by the Montana Board of Regents
	b) Two years internship under a licensed denturist or three years experience as a licensed denturist in another state or Canada.
	c) Pass examination
<u>Oregon</u>	a) Completion of a training course approved by the Dental Board
	b) Two years experience in the field of denturistry
	c) Pass examination

Source: Compiled by the Office of Legislative Auditor

Illustration #2

An other area which was compared was fees charged for licensure. The chart below demonstrates how Montana fees relate to those in other states. (Colorado is not included because there is no licensure and therefore no fees are charged.) Differences in requirements and independence of denturists is illustrated in the wide range of fees charged.

<u>OTHER STATES DENTURIST LICENSING FEES</u>					
<u>TYPE OF FEE</u>	<u>Arizona</u>	<u>Idaho</u>	<u>Maine</u>	<u>Oregon</u>	<u>Montana</u>
Examination	\$ 125	\$ 200	\$ 25	\$ 250	\$ 200
Original License	0	200	0	250	200
Renewal License	50	200	5	250	500

Source: Compiled by the Office of Legislative Auditor  
Illustration #3

#### BOARD OF DENTISTRY

During this audit, we compared Board of Denturitry functions and role with those of the Board of Dentistry. This allowed any duplication of effort to be noted between the two boards.

Dentistry is a profession involved with prevention, diagnosis, and treatment of oral diseases and disorders with primary emphasis on health of the teeth. Several occupations are involved in this profession; dentists, dental hygienists, and dental assistants.

All of these providers are monitored by the Board of Dentistry. The Board is comprised of seven members; including five dentists, one dental hygienist, and one public member. The Board of Dentistry can establish and enforce rules for licensure; conduct hearings for revocation; deny or suspend a license; and proctor examinations.

The relationship between the two Boards was reviewed through board meeting minutes, interviews, and examination of files. This review found little interaction has taken place between the Boards since the Board of Denturitry was created. There have been referrals of complaints between the Boards and the exchange of application

procedures for X-ray examinations. Even though both Boards regulate dental care, there is no evidence of duplication between these Boards.



## CHAPTER III

### ACTUAL BOARD OPERATIONS

The primary function of the Board of Dentistry is to ensure the health and safety of the public through the licensing process. This process includes several steps: approving applicants for examinations, authorizing examinations, establishing fees, resolving complaints, and ensuring facility inspections are performed. To determine adequacy of the Board's procedures and to ensure compliance with applicable laws, we tested each of these areas.

### APPLICATION PROCEDURES

To apply for licensure in the state of Montana, an applicant must complete a form which is available from the Department of Commerce. This form requires background information such as dentistry school attended, employer with which dentistry experience was gained, other state licenses currently held, and if a dentist license has ever been denied. Along with this form an applicant must also submit all other documents necessary to establish all requirements have been met. The requirements of education and internship can be substantiated by school transcripts and letters of reference.

We examined files for each person who applied for licensure since the creation of the Board. Qualifications documented in files were compared to requirements in the law to test compliance. We found 31 individuals have applied to the Board for licensure and 18 of these have been licensed. Documentation in department files indicate five of 18 do not meet all required criteria.

Non-compliance exists in two areas. The requirement of two years of internship under a licensed dentist has not been met by four of the six licensees who were not initially licensed. Four licensees also have not met the education requirement of two years of formal training. (Three licensees did not meet both of the requirements.)

## Conclusion

Some applicants not meeting all qualifications have been licensed. Therefore, the Board has not followed the statutory requirements related to licensure qualifications.

In addition, 30 denturists were not licensed before October 1, 1986, as required by Chapter 548. Only 18 have been licensed. Therefore, the Legislative Audit Committee is required to introduce a bill to merge this Board with the Board of Dentistry.

With only four states having licensing provisions, applicants have been limited in their opportunities for internship. Idaho has expanded the internship requirement to allow gaining experience under a licensed dentist or denturist.

Non-compliance with the education requirement resulted from Board decisions during the licensing process. Applicants were unable to meet the requirements due to the lack of any training programs offered throughout the United States. Currently, two year programs for this profession are only available in Canada. Interviews with board administrative staff in other states revealed several training programs are currently being developed.

## EXAMINATION PROCEDURES

The denturistry examination in Montana is comprised of three parts; a written section, a practical section, and an oral section. Each part is given separately and the examination is given over the course of two days. As stated in the law, examinations must be held on the second Monday in July. Additional examinations can be held. Files at the department revealed examinations did not take place on the designated date. Examinations were given at varied times and at various locations, often to accommodate an applicant. This does not appear to be an efficient practice.

## Conclusion

The past examination process was not in compliance with the law and has not provided efficient licensing procedures for denturistry within the state.

To address these inconsistencies, the Board has adopted new rules that set dates and a location for the examinations in the future. These rules require examinations be held on the third Friday and Saturday of January of each year, in addition to the second Monday in July. The rules also set the permanent location of the examination site in Helena.

### ESTABLISHING FEES

Board duties include the setting or modifying of fees for licensure. Under this authority, the Board has changed the amount charged for the annual renewal fee and established a charge for inactive and out-of-state licensees. The renewal fee, originally set at \$200, is currently set at \$500. The Board of Dentistry voted to change this fee at a meeting held in July, 1985. At this time, correspondence to applicants and licensees outlined this as the new level required. The new fee of \$500 was then applied to licensees applying for renewal at the end of 1985. Administrative rules outlining the change in fees were not certified by the Secretary of State until September, 1986 and were not in effect until October, 1986. As a result, higher fees were being charged before rule approval was obtained.

The same procedures were followed for the enforcement of the inactive and out-of-state fees. Correspondence was sent and fees charged that had not been included in the rules.

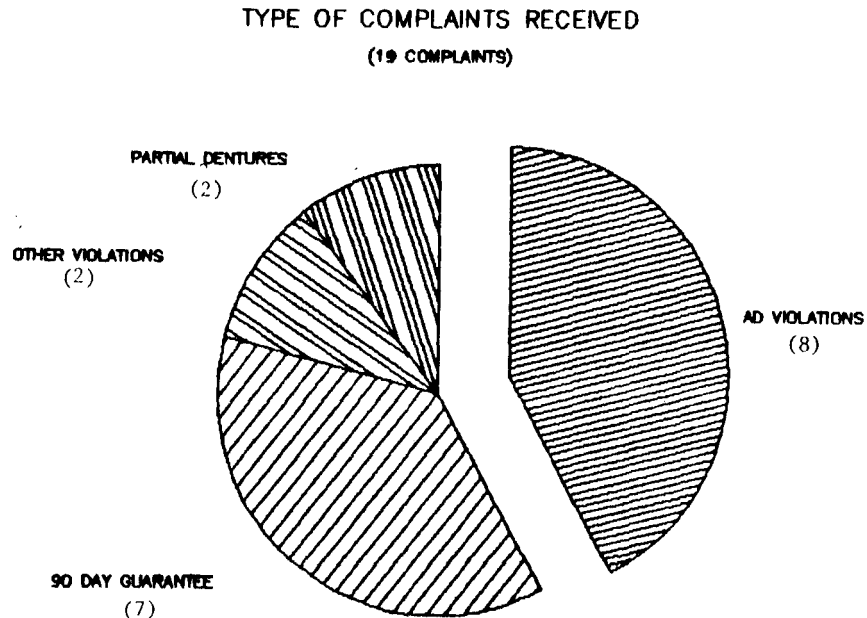
### Conclusion

The change in fees could have been challenged by those being charged. There was non-compliance with the rules because new fees were being charged and received before rule changes were adopted.

### COMPLAINT PROCEDURES

In two years of operation, the Board of Dentistry has received 19 complaints. These complaints have originated from several areas; eight were filed by dentists, five from denturists, five from the public and one was filed by the Board of Dentistry. Board action has

depended on the type and circumstances of each. The following chart demonstrates the types and numbers of complaints received.



Source: Compiled by The Office of Legislative Auditor

Illustration #4

The advertising complaints are those dealing with misleading advertising (for example, denturists advertising as dentists). Several of these complaints stem from telephone book listings which listed the professions under the wrong heading. Other types of complaints relate to a 90-day guarantee specified in the law, which states all denturist services are unconditionally guaranteed for 90 days. The Board of Denturistry has enforced this requirement and required refunds in these cases.

Partial denture complaints have resulted from differing interpretations of this law between dentists and denturists, as to when and if patients must be referred to a dentist. (Further discussion on this subject is in Chapter Four.) Complaints in this area have been resolved by requiring a refund.

Other complaints received have been against the Board of Denturistry and its members for possible violation of the open meeting law and invasion of privacy. Both complaints were resolved through Board actions.

### Conclusion

After reviewing the actions taken and timeliness in resolving these complaints, we determined the Board's procedures are adequate. The majority of complaints are resolved within one to two months. The longest time taken to close any case has been nine months, because of pending court decisions. Disciplinary actions included requiring refunds of money, enforcing the 90-day guarantee, and preventing fraudulent advertising. Follow-up on these cases has been performed promptly by department staff.

### INSPECTIONS

In order to ensure public health, the Board of Dentistry has required that a dentist's facilities be inspected by a designated inspector. Inspections are done to determine the sanitary conditions of the facility and if standards outlined in the law are met. Standards required include three separate rooms, availability of a sterilization unit and cold disinfectant, use of germicidal soap, adequacy of records for each patient, denture materials meeting American Dental Association standards, and properly identified dentures.

### Conclusion

Inspections have been performed by department staff at every licensed dentist facility throughout the state. Forms used by the investigator are signed by the dentist or office staff and the investigator. Problems which are identified are reported to the applicable licensee and follow-up visits are performed.

## CHAPTER IV

### AREAS FOR LEGISLATIVE CONSIDERATION

This chapter defines the options available to the state for regulating denturists. It also addresses problem areas which have been identified by our review and which may require legislative consideration.

#### FISCAL VIABILITY

To determine the fiscal viability of the Board of Dentistry as required in Chapter 548, we reviewed historical data on Board revenues and expenditures. The Board is financed from an account in the earmarked revenue fund. Expenditures include department expenses and board member expenses. Department expenses consist of staff salaries, legal services, materials, and telephone costs. Board members receive \$50 per day compensation when conducting board business and are reimbursed for travel expenses. Board members who are denturists are required by law to be reimbursed for expenses only, with no daily compensation.

For fiscal year 1985-86, we found the Board was appropriated \$5,464 but actual expenditures were \$5,899. The cause of the over-expenditure of appropriation was the cost of legal fees that were required to resolve issues that arose the first year. At that time, boards requiring Department of Commerce legal services were charged approximately \$ 39 an hour for services. To eliminate this problem and to encourage the boards to utilize legal services, department personnel changed this fee system. Legal services are now set at an annual rate rather than an hourly fee.

#### Conclusion

Presuming no unforeseen costs, fiscal viability for fiscal years 1986-87 and 1987-88 appears to be adequate and thus meets the requirements in the law. Based on the number of licensees and the fees charged, revenue generated appears adequate for operation of the Board while expenditures will be decreasing. It appears licensing fees

are commensurate with board costs. The following information outlines projections for the next fiscal year.

#### PROJECTED REVENUES AND EXPENDITURES

Fiscal Year 1986-87:

BEGINNING FUND BALANCE		\$ 2,639
Projected Revenues		
Application/Original license	\$ 2,000	
Renewal Fees	<u>5,500</u>	
Total Projected Revenue		7,500
Projected Expenses:		
Department Overhead Costs	\$ 5,289	
Board Expenses*	<u>1,998</u>	
Total Projected Expenses		<u>(7,289)</u>
ENDING FUND BALANCE		\$ 2,850

\* Includes travel expenses for all board members for two meetings, even though current denturist members do not ask for reimbursement.

Source: Compiled by the Office of Legislative Auditor

Illustration #5

Figures available at the Department of Commerce project revenues for fiscal years 1987-88 and 1988-89 as \$ 7,000 each year. This along with appropriations comparable to amounts received in the past two years, indicates Board operations will be adequately funded in the future.

#### OTHER AREAS FOR LEGISLATIVE CONSIDERATION

Our review identified two statutory provisions which are being interpreted differently by the denturistry and dentistry professions. These areas deal with denturists making partial dentures and taking X-rays. The following information outlines the concerns in each area.

##### Partial Dentures

Section 37-29-403, MCA, establishes the procedure for making and fitting a partial denture. It requires that prior to making and fitting

the partial, the denturist shall formulate a study model of the intended denture and refer the patient to a dentist for tooth cleaning, mouth preparation, and X-rays, as needed. After the dentist has completed his work, the denturist can make the partial denture. We interviewed members from both professions to determine how this section was implemented. We found a wide discrepancy between the two interpretations.

Denturists interviewed stated partial dentures were frequently made with no referral to a dentist. This was allowed based on the phrase "as needed" which was determined to mean the decision of referral is up to the denturist. Therefore, if the denturist did not identify a need for those services which are to be completed by a dentist, such as mouth preparation, or X-rays, then no referral was made.

On the other hand, dentists and their staff stated no partial dentures should be made without a referral to a dentist. They view the intent of the law to require referrals for all patients receiving partial dentures. This directly contradicts the position of the denturists.

The Board of Dentistry has not specifically addressed this problem. At one point, an Attorney General's opinion was to be sought to clarify the law, but at a later meeting this decision was rescinded. Our staff legal counsel interprets the law as requiring referral to a dentist before any partial denture is made. If this is the case, denturists are in non-compliance with the law and the Board is not taking appropriate action to address this problem.

#### X-Ray Examinations

State laws applicable to X-rays used in dentistry and dentistry require a licensing examination for denturists which has been approved by the Board of Dentistry. We found an examination has been developed for denturists by the Board of Dentistry and several members of the Board of Dentistry have been sent information on the application procedures for this examination. This examination will be administered by Board of Dentistry staff. The Board of Dentistry has



voted to accept the National board exam for dentists to satisfy X-ray qualification requirements. In addition, dental hygienists also use their own Regional board examination with approval of the Board of Dentistry. Consequently, there are three different examinations given within dental occupations for taking X-rays. The denturists' examination is the only test actually administered by Board of Dentistry staff.

Board of Denturitry members indicated different levels of knowledge are tested on each of these examinations. No denturist has requested to take the designated X-ray examination. Denturists indicated they would like to change the separate examination requirement.

During our audit, we noted the licensing examination for denturists has questions addressing radiology and requires applicants to evaluate X-rays. Interviews with members of the Board of Dentistry indicate these questions have not been reviewed by their board. As a result, denturists are required to be tested in this area twice. This issue needs to be addressed by the two Boards or further addressed by the legislature to avoid any further conflict or future non-compliance.

#### LEGISLATIVE AUDIT COMMITTEE ACTION

Chapter 548, Laws of 1985, requires the Legislative Audit Committee to propose the merger of the Board of Denturitry with the Board of Dentistry because there were not 30 licensees by October 1, 1986. In addition, the Legislative Audit Committee can introduce a bill based on the Sunset provisions which provide for continuing, modifying, or terminating the Board of Denturitry.