

1 House BILL NO. 124  
 2 INTRODUCED BY Murphy Dassinger  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION  
 5 66-1038, R.C.M. 1947, TO ALLOW THE BOARD OF MEDICAL  
 6 EXAMINERS TO REVOKE OR SUSPEND A LICENSE TO PRACTICE  
 7 MEDICINE AND SURGERY WHEN THE HOLDER OF THE LICENSE HAS HAD  
 8 HIS LICENSE REVOKED OR SUSPENDED BY ANOTHER JURISDICTION."

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 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 66-1038, R.C.M. 1947, is amended to  
 12 read as follows:

13 "66-1038. Revocation or suspension of license--  
 14 probation. (1) The board may, when it has been brought to  
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 16 having a license or certificate to practice medicine in this  
 17 state:

18 (a) Is mentally or physically unable, safely, to engage  
 19 in the practice of medicine, or has procured his license to  
 20 practice medicine by fraud or misrepresentation or through  
 21 mistake, or has been declared incompetent by a court of  
 22 competent jurisdiction and thereafter has not been lawfully  
 23 declared competent, or when a condition exists which impairs  
 24 his intellect or judgment to the extent that it  
 25 incapacitates him for the safe performance of professional

1 duties;  
 2 (b) Has been guilty of unprofessional conduct;  
 3 (c) Has practiced medicine while his license was  
 4 suspended or revoked; ~~or~~  
 5 (d) Has had his license suspended or revoked by any  
 6 licensing authority for reasons other than nonpayment of  
 7 fees; or  
 8 ~~(d)~~ (e) Has, while under probation, violated its terms;  
 9 make an investigation, including requiring the person to  
 10 submit to a physical examination or a mental examination or  
 11 both by a physician or physicians selected by the board when  
 12 it appears in the best interests of the public that this  
 13 evaluation be secured, to determine the probability of the  
 14 existence of these conditions or the commission of these  
 15 offenses. The board may examine and scrutinize the hospital  
 16 records and reports of a licensee as part of the examination  
 17 and copies of these shall be released to the board on  
 18 written request. If the board has reasonable cause to  
 19 believe that this probability exists, the department shall  
 20 mail to the person, at his last address of record with the  
 21 department, a specification of the charges against him,  
 22 together with a written citation of the time and place of  
 23 the hearing on it, advising him that he may be present in  
 24 person, and by counsel if he so desires, to offer evidence  
 25 and be heard in his defense. The time fixed for the hearing

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1 shall not be less than thirty (30) days from the date of  
2 mailing the notice.

3 (2) A person, including a member of the board, may file  
4 a sworn complaint with the department against a person  
5 having a license to practice medicine in this state,  
6 charging him with the commission of any of the offenses set  
7 forth in section 66-1037, or subsection one (1) of this  
8 section, which complaint shall set forth a specification of  
9 the charges. When the complaint is filed, the department  
10 shall mail a copy to the person accused, at his last address  
11 of record with the department, together with a written  
12 citation of the time and place of the hearing on it.

13 (3) At the hearing the board shall adopt a resolution  
14 finding him guilty or not guilty of the matters charged. If  
15 the board finds that the conditions referred to in section  
16 66-1037, or subsection (1) of this section do not exist with  
17 respect to the person or if he is found not guilty, the  
18 board shall dismiss the charges or complaint, but if the  
19 board does find that the conditions referred to in section  
20 66-1037 or in subsection (1) of this section do exist and  
21 the person is found guilty, the board shall:

22 (a) Revoke his license;

23 (b) Suspend his right to practice for a period not  
24 exceeding one (1) year;

25 (c) Suspend its judgment of revocation on the terms and

1 conditions to be determined by the board;

2 (d) Place him on probation; or

3 (e) Take any other action in relation to disciplining  
4 him as the board in its discretion considers proper.

5 (4) The department in cases of revocation, suspension,  
6 or probation shall enter in its records the facts of the  
7 action, and of subsequent action of the board with respect  
8 to it.

9 (5) On the expiration of the term of suspension, the  
10 licensee shall be reinstated by the board, if he furnishes  
11 the board with evidence that he is then of good moral  
12 character and conduct and restored to good health and that  
13 he has not practiced medicine in this state during the term  
14 of suspension. If the evidence fails to establish to the  
15 satisfaction of the board that the holder is then of good  
16 moral character and conduct or if not restored to good  
17 health or if the evidence shows he has practiced medicine in  
18 this state during the term of suspension, the board shall  
19 revoke the license at a hearing, with notice and the  
20 procedure provided in subsection (1) of this section. The  
21 revocation is final and absolute.

22 (6) If a person holding a license to practice medicine  
23 under this act is, by a final order or adjudication of a  
24 court of competent jurisdiction, adjudged to be mentally  
25 incompetent or insane, or addicted to the use of narcotics,

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1 his license may be suspended by the board. The suspension  
2 continues until the licensee is found or adjudged by the  
3 court to be restored to reason or cured, or until he is  
4 discharged as restored to reason or cured and his  
5 professional competence has been proven to the satisfaction  
6 of the board."

-End-

A.B. 124

Approved by Committee  
on Public Health, Welfare  
& Safety

House BILL NO. 124

INTRODUCED BY

Murphy Dassinger

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 66-1038, R.C.M. 1947, TO ALLOW THE BOARD OF MEDICAL EXAMINERS TO REVOKE OR SUSPEND A LICENSE TO PRACTICE MEDICINE AND SURGERY WHEN THE HOLDER OF THE LICENSE HAS HAD HIS LICENSE REVOKED OR SUSPENDED BY ANOTHER JURISDICTION."

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

Section 1. Section 66-1038, R.C.M. 1947, is amended to read as follows:

"66-1038. Revocation or suspension of license-- probation. (1) The board may, when it has been brought to its attention that there is reason to suspect that a person having a license or certificate to practice medicine in this state:

(a) Is mentally or physically unable, safely, to engage in the practice of medicine, or has procured his license to practice medicine by fraud or misrepresentation or through mistake, or has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent, or when a condition exists which impairs his intellect or judgment to the extent that it incapacitates him for the safe performance of professional

duties;

(b) Has been guilty of unprofessional conduct;

(c) Has practiced medicine while his license was suspended or revoked; ~~or~~

(d) Has had his license suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

~~(d)~~ (e) Has, while under probation, violated its terms; make an investigation, including requiring the person to submit to a physical examination or a mental examination or both by a physician or physicians selected by the board when it appears in the best interests of the public that this evaluation be secured, to determine the probability of the existence of these conditions or the commission of these offenses. The board may examine and scrutinize the hospital records and reports of a licensee as part of the examination and copies of these shall be released to the board on written request. If the board has reasonable cause to believe that this probability exists, the department shall mail to the person, at his last address of record with the department, a specification of the charges against him, together with a written citation of the time and place of the hearing on it, advising him that he may be present in person, and by counsel if he so desires, to offer evidence and be heard in his defense. The time fixed for the hearing

SECOND READING

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1 shall not be less than thirty (30) days from the date of  
2 mailing the notice.

3 (2) A person, including a member of the board, may file  
4 a sworn complaint with the department against a person  
5 having a license to practice medicine in this state,  
6 charging him with the commission of any of the offenses set  
7 forth in section 66-1037, or subsection one (1) of this  
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9 the charges. When the complaint is filed, the department  
10 shall mail a copy to the person accused, at his last address  
11 of record with the department, together with a written  
12 citation of the time and place of the hearing on it.

13 (3) At the hearing the board shall adopt a resolution  
14 finding him guilty or not guilty of the matters charged. If  
15 the board finds that the conditions referred to in section  
16 66-1037, or subsection (1) of this section do not exist with  
17 respect to the person or if he is found not guilty, the  
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24 exceeding one (1) year;

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1 conditions to be determined by the board;

2 (d) Place him on probation; or

3 (e) Take any other action in relation to disciplining  
4 him as the board in its discretion considers proper.

5 (4) The department in cases of revocation, suspension,  
6 or probation shall enter in its records the facts of the  
7 action, and of subsequent action of the board with respect  
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10 licensee shall be reinstated by the board, if he furnishes  
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20 procedure provided in subsection (1) of this section. The  
21 revocation is final and absolute.

22 (6) If a person holding a license to practice medicine  
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24 court of competent jurisdiction, adjudged to be mentally  
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HB 124

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