

HOUSE BILL NO. 233

INTRODUCED BY BENNETT

IN THE HOUSE

January 17, 1979	Introduced and referred to Committee on Human Services.
February 15, 1979	Intent statement attached. Committee recommend bill do pass. Report adopted.
February 16, 1979	Printed and placed on members' desks.
February 17, 1979	Motion pass consideration.
February 19, 1979	Second reading, do pass.
February 20, 1979	Considered correctly engrossed.
February 21, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 22, 1979	Introduced and referred to Committee on Public Health, Welfare, and Safety.
March 9, 1979	Committee recommend bill be concurred in. Report adopted.
March 12, 1979	Motion pass consideration.
March 13, 1979	Second reading, concurred in.
March 15, 1979	Third reading, concurred in.

IN THE HOUSE

March 16, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 293
2 INTRODUCED BY H. Bennett

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE BOARD OF
5 DENTISTS TO ESTABLISH EXAMINATION STANDARDS AND PROCEDURES
6 AND TO ESTABLISH EXAMINATION, LICENSE, RENEWAL, AND
7 REINSTATEMENT FEES FOR DENTISTS AND DENTAL HYGIENISTS
8 COMMENSURATE WITH COSTS OR WITHIN CERTAIN LIMITS; TO
9 ESTABLISH CERTAIN REQUIREMENTS FOR APPLICATIONS FOR
10 LICENSURE; TO INCREASE THE LATE RENEWAL FEE FROM \$3 TO \$10;
11 TO PERMIT JURISPRUDENCE EXAMINATIONS TO BE GIVEN AND
12 REGIONAL TESTING SERVICES TO BE UTILIZED; AND TO EXEMPT BONA
13 FIDE FACULTY MEMBERS PERFORMING DENTAL PROCEDURES IN A
14 TEACHING FUNCTION AND TO EXEMPT STUDENTS PERFORMING DENTAL
15 PROCEDURES IN AN ASSIGNED TEACHING CURRICULUM FROM CERTAIN
16 REQUIREMENTS; AMENDING SECTIONS 37-4-103, 37-4-301,
17 37-4-307, 37-4-402, AND 37-4-406, MCA."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 37-4-103, MCA, is amended to read:
21 "37-4-103. Exemptions. (1) A dental laboratory or
22 dental technician is not practicing dentistry under this
23 chapter when engaged in the construction, making,
24 alteration, or repairing of bridges, crowns, dentures, or
25 other prosthetic appliances, surgical appliances, or

1 orthodontic appliances if the casts, models, or impressions
2 on which the work is constructed have been made by a
3 regularly licensed and practicing dentist and the crowns,
4 bridges, dentures, prosthetic appliances, surgical
5 appliances, or orthodontic appliances are returned to the
6 dentist on whose order the work was constructed.

7 (2) Section 37-4-101(2) and part 5 of this chapter do
8 not apply to a legally qualified physician or surgeon or to
9 a dental surgeon of the United States army, navy, public
10 health service, or veterans' bureau or to a legal
11 practitioner of another state making a clinical
12 demonstration before a dental society, convention, or
13 association of dentists or to a licensed dental hygienist
14 performing an act authorized under 37-4-401 or 37-4-405.

15 ~~(3) Nothing in this chapter prevents a bona fide~~
16 ~~faculty member of a school, college, or department of a~~
17 ~~university recognized and approved by the board from~~
18 ~~performing dental procedures necessary to his teaching~~
19 ~~functions. Nothing in this chapter prevents students from~~
20 ~~performing dental procedures under the supervision of a bona~~
21 ~~fide instructor of a school, college, or department of a~~
22 ~~university recognized and approved by the board, provided~~
23 ~~such dental procedures are a part of the assigned teaching~~
24 ~~curriculum."~~

25 Section 2. Section 37-4-301, MCA, is amended to read:

1 "37-4-301. Examination -- qualifications -- fees --
 2 certification. (1) ~~The board shall make rules governing~~
 3 ~~examinations for a license to practice dentistry in this~~
 4 ~~state. The examinations are open to an applicant meeting the~~
 5 ~~requirements of this chapter. The board shall also provide~~
 6 ~~by rule, reasonable notice of the time and place where~~
 7 ~~examinations are held. An examination shall be held at least~~
 8 once a year. Applicants for licensure shall take and pass an
 9 examination in order to be licensed. The examination shall
 10 consist of a written part, a practical or clinical part, and
 11 an oral interview with the board which may include questions
 12 pertaining to the practice of dentistry. The board may
 13 accept, in satisfaction of the written part, successful
 14 completion of an examination by the national board of dental
 15 examiners and, whenever the board determines necessary,
 16 successful completion of a board examination in
 17 jurisprudence. The board may accept, in satisfaction of the
 18 practical part, successful completion of an examination by a
 19 board-designated regional testing service.

20 (2) ~~The examination shall be practical in character~~
 21 ~~and sufficiently thorough to test the fitness of the~~
 22 ~~applicant to practice dentistry. Acceptance by the board of~~
 23 ~~such written and practical examination shall be conditioned~~
 24 ~~on evidence that the examination is sufficiently thorough to~~
 25 ~~test the fitness of the applicant to practice dentistry. It~~

1 shall include, written in the English language, questions on
 2 anatomy, histology, physiology, chemistry, pharmacology and
 3 therapeutics, metallurgy, pathology, bacteriology,
 4 anesthesia, operative and surgical dentistry, prosthetic
 5 dentistry, prophylaxis, orthodontics and endodontics, and
 6 any additional subjects pertaining to dental service. The
 7 written examination may be supplemented by oral
 8 examinations. Demonstration of the applicant's skill in
 9 operative and prosthetic dentistry is also required. The
 10 examination shall be conducted under oath or affirmation by
 11 the department, subject to 37-1-101, and any member of the
 12 board may administer the oath or affirmation. The board may
 13 recognize a certificate granted by the national board of
 14 dental examiners instead of or subject to the examinations
 15 the board requires.

16 (3) A person desiring to practice dentistry in this
 17 state shall file in his full name an application for
 18 examination with the department at least 20 days before the
 19 date set by the board for the commencement of the
 20 examination. At the time of making the application the
 21 applicant shall:

- 22 (a) pay to the department a fee of \$50;
- 23 (b) furnish the department with at least three
 24 affidavits of good moral character satisfactory to the
 25 board;

1 ~~(c) present to the department his diploma or~~
 2 ~~satisfactory evidence of having graduated from a recognized~~
 3 ~~dental school or college which has been approved by the~~
 4 ~~board; and~~

5 ~~(d) furnish the department a recent photograph of the~~
 6 ~~applicant. The board has the right to administer its own~~
 7 ~~examination in lieu of acceptance of the national board~~
 8 ~~written examination and a regional testing service practical~~
 9 ~~examination. The board is authorized to make rules governing~~
 10 ~~any such examination procedures.~~

11 (4) Applicants ~~successfully passing the examination~~
 12 ~~shall be registered as licensed dentists in the department~~
 13 ~~register and on payment of an additional \$15 shall receive a~~
 14 ~~certificate signed by the members of the board in a form~~
 15 ~~prescribed by the board. for licensure shall submit an~~
 16 ~~application, which shall include, when required:~~

17 ~~(a) certification of successful completion of the~~
 18 ~~national board written examination;~~

19 ~~(b) certification of successful completion of a~~
 20 ~~regional board practical examination;~~

21 ~~(c) three affidavits of good moral character;~~

22 ~~(d) certificate of graduation from a board-approved~~
 23 ~~dental school;~~

24 ~~(e) an examination fee commensurate with costs and set~~
 25 ~~by the board;~~

1 ~~(f) a licensure fee commensurate with costs and set by~~
 2 ~~the board;~~

3 ~~(g) a recent photograph of the applicant.~~

4 (5) ~~An applicant failing to pass his first~~
 5 ~~examination, if otherwise qualified, may take subsequent~~
 6 ~~examinations on payment of the fee of \$25 for each~~
 7 ~~examination. Applications must be submitted no less than 20~~
 8 ~~days prior to the board interview and jurisprudence~~
 9 ~~examination.~~

10 (6) ~~Examination papers of an applicant shall be~~
 11 ~~retained 2 years by the department and may then be destroyed~~
 12 ~~and while so retained are open to inspection only by board~~
 13 ~~members, the applicant, some person appointed by the~~
 14 ~~applicant to examine them, or by a court of competent~~
 15 ~~jurisdiction in a proceeding where the question of the~~
 16 ~~contents of the papers is properly involved. Applicants may~~
 17 ~~not take the jurisprudence examination or the oral interview~~
 18 ~~without first having completed all other parts of the~~
 19 ~~examination.~~

20 (7) ~~The board may in its discretion permit a dental~~
 21 ~~student who has successfully completed his junior year in a~~
 22 ~~recognized dental school and who files proof satisfactory to~~
 23 ~~the board that he has the preliminary education described in~~
 24 ~~this section to take a written examination in the subjects~~
 25 ~~he has completed. Satisfactory grades secured shall be~~

1 ~~credited on the final examination of the student. The board~~
 2 ~~shall require a fee of \$50 for this examination, which shall~~
 3 ~~apply on the final examination taken by the applicant.~~
 4 Examination results will be accepted for a period of time as
 5 set by board rule. An applicant failing to pass his first
 6 examination, if otherwise qualified, may take a subsequent
 7 examination upon payment of a fee commensurate with costs
 8 and set by the board.

9 (8) The board is authorized to adopt necessary and
 10 reasonable rules governing application procedures.

11 (9) The board may in its discretion permit a dental
 12 student who has successfully completed his junior year in a
 13 recognized dental school and who files proof satisfactory to
 14 the board that he has the preliminary education described in
 15 this section to take a written examination in the subjects
 16 he has completed. Satisfactory grades secured shall be
 17 credited on the final examination of the student. The board
 18 shall require a fee commensurate with costs and set by the
 19 board for this examination, which shall apply on the final
 20 examination taken by the applicant."

21 Section 3. Section 37-4-307, MCA, is amended to read:

22 "37-4-307. Annual license renewal fee -- absent
 23 registered dentist -- default. (1) A licensed dentist
 24 practicing within this state shall annually pay to the
 25 department before March 1, as a license renewal fee for the

1 year, the a sum of ~~\$10~~ set by the board and not to exceed
 2 \$50. The board may increase or decrease the annual license
 3 renewal fee to maintain in the earmarked revenue fund at all
 4 times an amount, to be known as the emergency fund, to be
 5 used for the purpose of administering, policing, and
 6 enforcing this chapter. The emergency fund shall be
 7 maintained at an approximate level of \$2,500. Notice of the
 8 change in the amount of license renewal fees shall be given
 9 to each dentist registered in this state by the department.

10 (2) If a registered dentist absents himself from the
 11 state for a period of 1 or more years or does not engage in
 12 active practice within this state, he may continue his
 13 license in good standing by the a payment of ~~\$10~~ set by the
 14 board each year, not to exceed \$25, or at the discretion of
 15 the board, he may be reinstated on the payment of a fee of
 16 ~~\$10~~ \$25 for each year's absence. The annual payments shall
 17 be made prior to March 1 of each year, and a receipt or
 18 certificate shall be issued by the department.

19 (3) In case of default in payment of the annual
 20 license renewal fee by a dentist, his license shall be
 21 revoked by the board on 30 days' notice given to the
 22 delinquent of the time and place of considering the
 23 revocation. A registered or certified letter addressed to
 24 the last-known address of the party failing to comply with
 25 this requirement, as the address appears on the records of

1 the department, constitutes sufficient notice of revocation
 2 of license, but no license may be revoked for nonpayment if
 3 the dentist notified pays the license renewal fee plus a
 4 late payment penalty of \$3 10 before or at the time fixed
 5 for consideration of revocation. The department may maintain
 6 in the name of this state a suit to collect license renewal
 7 fees and penalties applicable and to recover from the
 8 delinquent dentist the cost of the action, including
 9 reasonable attorneys' fees.

10 (4) No license fee or tax may be imposed on dentists
 11 by a municipality or any other subdivision of the state."

12 Section 4. Section 37-4-402, MCA, is amended to read:

13 "37-4-402. License -- examination. (1) The department
 14 may issue licenses for the practice of dental hygiene to
 15 qualified applicants to be known as dental hygienists.

16 (2) Except as provided in subsections (1), (2), and
 17 (3) of 37-4-404, no person may engage in the practice of
 18 dental hygiene or practice as a dental hygienist in this
 19 state until he has passed an examination approved by the
 20 board under rules it considers proper and has been issued a
 21 license by the department.

22 (3) ~~A candidate for examination as a dental hygienist~~
 23 ~~shall file in his full name an application for examination~~
 24 ~~with the department at least 20 days before the date set by~~
 25 ~~the board for the commencement of the examination and at the~~

1 ~~time of making the application shall pay the department a~~
 2 ~~fee of \$20. The applicant shall also furnish satisfactory~~
 3 ~~proof that he is of good moral character and has earned a~~
 4 ~~diploma or certificate from a school of dental hygiene~~
 5 ~~offering a course of study recognized and approved by the~~
 6 ~~board. Applicants for licensure shall take and pass an~~
 7 ~~examination in order to be licensed. The examination shall~~
 8 ~~consist of a written part, a practical or clinical part, and~~
 9 ~~an oral interview with the board which may include questions~~
 10 ~~pertaining to the practice of dental hygiene. The board may~~
 11 ~~accept, in satisfaction of the written part, successful~~
 12 ~~completion of an examination by the national board of dental~~
 13 ~~examiners and, whenever the board determines necessary,~~
 14 ~~successful completion of a board examination in~~
 15 ~~jurisprudence. The board may accept, in satisfaction of the~~
 16 ~~practical part, successful completion of an examination by a~~
 17 ~~board-designated regional testing service.~~

18 (4) ~~The board shall make uniform rules governing the~~
 19 ~~matter of examinations for a license to practice dental~~
 20 ~~hygiene in this state which examinations are open to an~~
 21 ~~applicant meeting the requirements of this chapter and~~
 22 ~~shall also provide in its rules for giving reasonable notice~~
 23 ~~of the time and place where examinations are held. has the~~
 24 ~~right to administer its own examination in lieu of~~
 25 ~~acceptance of the national board written examination and a~~

1 regional testing service practical examination. The board
 2 is authorized to make rules governing any such examination
 3 procedures.

4 ~~(5) The board may recognize a certificate granted by~~
 5 ~~the national board of dental hygiene examiners instead of an~~
 6 ~~examination the board requires. Applicants for licensure~~
 7 shall submit an application, which shall include, when
 8 required:

9 (a) certification of successful completion of the
 10 national board written examination;

11 (b) certification of successful completion of a
 12 regional board practical examination;

13 (c) two affidavits of good moral character;

14 (d) certificate of graduation from a board-approved
 15 dental hygiene school;

16 (e) an examination fee commensurate with costs and set
 17 by the board;

18 (f) a licensure fee commensurate with costs and set by
 19 the board;

20 (g) a recent photograph of the applicant.

21 ~~(6) An applicant failing to pass his first examination~~
 22 ~~may, if otherwise qualified, take subsequent examinations on~~
 23 ~~payment of the fee of \$20 for each examination. Applications~~
 24 must be submitted no less than 20 days prior to the board
 25 interview and jurisprudence examination.

1 (7) Examination results will be accepted for a period
 2 of time as set by board rule. An applicant failing to pass
 3 his first examination, if otherwise qualified, may take a
 4 subsequent examination on payment of a fee commensurate with
 5 costs and set by the board.

6 (8) The board is authorized to adopt necessary and
 7 reasonable rules governing application procedures."

8 Section 5. Section 37-4-406, MCA, is amended to read:

9 "37-4-406. Annual ~~license~~ renewal fee -- revocation of
 10 license. (1) Before March 1 of each year, a licensed dental
 11 hygienist shall pay to the department a license renewal fee
 12 ~~of \$3 set by the board, not to exceed \$25.~~ In default of
 13 payment, the board may, after hearing and on 30 days'
 14 notice, revoke the license of the hygienist in default; but
 15 the payment of the renewal fee on or before the time of
 16 hearing, with an additional sum ~~fixed~~ set by the board, not
 17 ~~exceeding \$3 to exceed \$10,~~ excuses the default. The
 18 department may collect the fee by suit.

19 (2) The board may likewise revoke or suspend the
 20 license of a dental hygienist for violating this chapter."

-End-

1 STATEMENT OF INTENT RE: HB 233

2
3
4 A statement of intent is required for HB 233 because
5 the bill amends sections 37-4-301, 37-4-402, and 37-4-404,
6 MCA, to give the Board of Dentists rulemaking authority
7 regarding examination and application procedures for
8 dentists and dental hygienists. The following explains the
9 intent of the Legislature regarding the rulemaking authority
10 granted by this bill.

11 Sections 37-4-301 and 37-4-402 give the Board of
12 Dentists the right to administer their own exams for
13 dentists and hygienists, respectively. The rulemaking
14 authority delegates power to the Board for making rules for
15 running its own examinations. This is intended to be a
16 continuation of existing authority, and rules now in effect
17 may not have to be substantially revised.

18 In addition, section 37-4-301 gives the Board power to
19 set the examination and licensure fees for dentists. These
20 are to be "commensurate with cost" and it is intended that
21 the Board publish data on the actual costs of examination in
22 the notice of proposed rulemaking.

23 Sections 37-4-301 and 37-4-402, MCA, give the Board of
24 Dentists the authority to make rules for application
25 procedures for dentists and hygienists, respectively. It is

1 intended that these rules would cover routine matters not
2 provided for in the statute.

3 Sections 37-4-307 and 37-4-406, MCA, require licensed
4 dentists and hygienists, respectively, to pay an annual
5 renewal fee that is set by the Board. It is intended that
6 these fees, as established through administrative rules,
7 should not exceed during the next biennium, \$20 to \$25 for
8 dentists and \$10 for hygienists. These fees, as required by
9 statute, are for the purpose of maintaining an emergency
10 fund that is used for administering and enforcing the
11 statutes relating to dentistry and dental hygiene. If,
12 during the next biennium, some unforeseen, complex legal
13 proceeding arises involving the Board, the fees intended for
14 this biennium would be increased to defray such additional
15 costs.

16 First adopted by the HOUSE COMMITTEE ON HUMAN SERVICES
17 on February 15, 1979.

1 HOUSE BILL NO. 233

2 INTRODUCED BY BENNETT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE BOARD OF
5 DENTIST TO ESTABLISH EXAMINATION STANDARDS AND PROCEDURES
6 AND TO ESTABLISH EXAMINATION, LICENSE, RENEWAL, AND
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8 COMMENSURATE WITH COSTS OR WITHIN CERTAIN LIMITS; TO
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10 LICENSURE; TO INCREASE THE LATE RENEWAL FEE FROM \$3 TO \$10;
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13 FIDE FACULTY MEMBERS PERFORMING DENTAL PROCEDURES IN A
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1 orthodontic appliances if the casts, models, or impressions
2 on which the work is constructed have been made by a
3 regularly licensed and practicing dentist and the crowns,
4 bridges, dentures, prosthetic appliances, surgical
5 appliances, or orthodontic appliances are returned to the
6 dentist on whose order the work was constructed.

7 (2) Section 37-4-101(2) and part 5 of this chapter do
8 not apply to a legally qualified physician or surgeon or to
9 a dental surgeon of the United States army, navy, public
10 health service, or veterans' bureau or to a legal
11 practitioner of another state making a clinical
12 demonstration before a dental society, convention, or
13 association of dentists or to a licensed dental hygienist
14 performing an act authorized under 37-4-401 or 37-4-405.

15 ~~(3) Nothing in this chapter prevents a bona fide~~
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17 ~~university recognized and approved by the board from~~
18 ~~performing dental procedures necessary to his teaching~~
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 9 examination in order to be licensed. The examination shall
 10 consist of a written part, a practical or clinical part, and
 11 an oral interview with the board which may include questions
 12 pertaining to the practice of dentistry. The board may
 13 accept, in satisfaction of the written part, successful
 14 completion of an examination by the national board of dental
 15 examiners and, whenever the board determines necessary,
 16 successful completion of a board examination in
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 18 practical part, successful completion of an examination by a
 19 board-designated regional testing service.
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 21 ~~and sufficiently thorough to test the fitness of the~~
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1 shall include, written in the English language, questions on
 2 anatomy, histology, physiology, chemistry, pharmacology and
 3 therapeutics, metallurgy, pathology, bacteriology,
 4 anesthesia, operative and surgical dentistry, prosthetic
 5 dentistry, prophylaxis, orthodontics and endodontics, and
 6 any additional subjects pertaining to dental service. The
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 8 ~~examinations. Demonstration of the applicant's skill in~~
 9 ~~operative and prosthetic dentistry is also required. The~~
 10 ~~examination shall be conducted under oath or affirmation by~~
 11 ~~the department subject to 37-1-101, and any member of the~~
 12 ~~board may administer the oath or affirmation. The board may~~
 13 ~~recognize a certificate granted by the national board of~~
 14 ~~dental examiners instead of or subject to the examinations~~
 15 ~~the board requires.~~
 16 (3) A person desiring to practice dentistry in this
 17 state shall file in his full name an application for
 18 examination with the department at least 28 days before the
 19 date set by the board for the commencement of the
 20 examinations. At the time of making the application the
 21 applicant shall
 22 (a) pay to the department a fee of \$50;
 23 (b) furnish the department with at least three
 24 affidavits of good moral character satisfactory to the
 25 board.

(c) present to the department his diploma or satisfactory evidence of having graduated from a recognized dental school or college which has been approved by the board; and

(d) furnish the department a recent photograph of the applicant. The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing any such examination procedures.

(4) Applicants successfully passing the examination shall be registered as licensed dentists in the department register and on payment of an additional \$15 shall receive a certificate signed by the members of the board in a form prescribed by the board. for licensure shall submit an application which shall include, when required:

(a) certification of successful completion of the national board written examination;

(b) certification of successful completion of a regional board practical examination;

(c) three affidavits of good moral character;

(d) certificate of graduation from a board-approved dental school;

(e) an examination fee commensurate with costs and set by the board;

(f) a licensure fee commensurate with costs and set by the board;

(g) a recent photograph of the applicant.

(5) An applicant failing to pass his first examination, if otherwise qualified, may take subsequent examinations on payment of the fee of \$25 for each examination. Applications must be submitted no less than 20 days prior to the board interview and jurisprudence examination.

(6) Examination papers of an applicant shall be retained 2 years by the department and may then be destroyed and while so retained are open to inspection only by board members, the applicant, some person appointed by the applicant to examine them, or by a court of competent jurisdiction in a proceeding where the question of the contents of the papers is properly involved. Applicants may not take the jurisprudence examination or the oral interview without first having completed all other parts of the examination.

(7) The board may in its discretion permit a dental student who has successfully completed his junior year in a recognized dental school and who files proof satisfactory to the board that he has the preliminary education described in this section to take a written examination in the subjects he has completed. Satisfactory grades secured shall be

1 ~~credited on the final examination of the student. The board~~
 2 ~~shall require a fee of \$50 for this examination, which shall~~
 3 ~~apply on the final examination taken by the applicants~~
 4 Examination results will be accepted for a period of time as
 5 set by board rule. An applicant failing to pass his first
 6 examination, if otherwise qualified, may take a subsequent
 7 examination upon payment of a fee commensurate with costs
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 10 reasonable rules governing application procedures.

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 12 student who has successfully completed his junior year in a
 13 recognized dental school and who files proof satisfactory to
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 16 he has completed. Satisfactory grades secured shall be
 17 credited on the final examination of the student. The board
 18 shall require a fee commensurate with costs and set by the
 19 board for this examination, which shall apply on the final
 20 examination taken by the applicant."

21 Section 3. Section 37-4-307, MCA, is amended to read:

22 "37-4-307. Annual license renewal fee -- absent
 23 registered dentist -- default. (1) A licensed dentist
 24 practicing within this state shall annually pay to the
 25 department before March 1, as a license renewal fee for the

1 year, the ~~a sum of \$10 set by the board and not to exceed~~
 2 ~~\$50.~~ The board may increase or decrease the annual license
 3 renewal fee to maintain in the earmarked revenue fund at all
 4 times an amount, to be known as the emergency fund, to be
 5 used for the purpose of administering, policing, and
 6 enforcing this chapter. The emergency fund shall be
 7 maintained at an approximate level of \$2,500. Notice of the
 8 change in the amount of license renewal fees shall be given
 9 to each dentist registered in this state by the department.

10 (2) If a registered dentist absents himself from the
 11 state for a period of 1 or more years or does not engage in
 12 active practice within this state, he may continue his
 13 license in good standing by the a payment of ~~\$10 set by the~~
 14 ~~board each year, not to exceed \$25,~~ or at the discretion of
 15 the board, he may be reinstated on the payment of a fee of
 16 ~~\$10 \$25~~ for each year's absence. The annual payments shall
 17 be made prior to March 1 of each year, and a receipt or
 18 certificate shall be issued by the department.

19 (3) In case of default in payment of the annual
 20 license renewal fee by a dentist, his license shall be
 21 revoked by the board on 30 days' notice given to the
 22 delinquent of the time and place of considering the
 23 revocation. A registered or certified letter addressed to
 24 the last-known address of the party failing to comply with
 25 this requirement, as the address appears on the records of

1 the department, constitutes sufficient notice of revocation
 2 of license, but no license may be revoked for nonpayment if
 3 the dentist notified pays the license renewal fee plus a
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 5 for consideration of revocation. The department may maintain
 6 in the name of this state a suit to collect license renewal
 7 fees and penalties applicable and to recover from the
 8 delinquent dentist the cost of the action, including
 9 reasonable attorneys' fees.

10 (4) No license fee or tax may be imposed on dentists
 11 by a municipality or any other subdivision of the state."

12 Section 4. Section 37-4-402, MCA, is amended to read:
 13 "37-4-402. License -- examination. (1) The department
 14 may issue licenses for the practice of dental hygiene to
 15 qualified applicants to be known as dental hygienists.

16 (2) Except as provided in subsections (1), (2), and
 17 (3) of 37-4-404, no person may engage in the practice of
 18 dental hygiene or practice as a dental hygienist in this
 19 state until he has passed an examination approved by the
 20 board under rules it considers proper and has been issued a
 21 license by the department.

22 (3) A candidate for examination as a dental hygienist
 23 shall file in his full name an application for examination
 24 with the department at least 20 days before the date set by
 25 the board for the commencement of the examination and at the

1 time of making the application shall pay the department a
 2 fee of \$20. The applicant shall also furnish satisfactory
 3 proof that he is of good moral character and has earned a
 4 diploma or certificate from a school of dental hygiene
 5 offering a course of study recognized and approved by the
 6 board. Applicants for licensure shall take and pass an
 7 examination in order to be licensed. The examination shall
 8 consist of a written part, a practical or clinical part, and
 9 an oral interview with the board which may include questions
 10 pertaining to the practice of dental hygiene. The board may
 11 accept, in satisfaction of the written part, successful
 12 completion of an examination by the national board of dental
 13 examiners and, whenever the board determines necessary,
 14 successful completion of a board examination in
 15 jurisprudence. The board may accept, in satisfaction of the
 16 practical part, successful completion of an examination by a
 17 board-designated regional testing service.

18 (4) The board shall make uniform rules governing the
 19 matter of examinations for a license to practice dental
 20 hygiene in this state which examinations are open to an
 21 applicant meeting the requirements of this chapter and
 22 shall also provide in its rules for giving reasonable notice
 23 of the time and place where examinations are held. has the
 24 right to administer its own examination in lieu of
 25 acceptance of the national board written examination and a

1 regional testing service practical examination. The board
2 is authorized to make rules governing any such examination
3 procedures.

4 (5) ~~The board may recognize a certificate granted by~~
5 ~~the national board of dental hygiene examiners instead of an~~
6 ~~examination the board requires.~~ Applicants for licensure
7 shall submit an application which shall include, when
8 required:

9 (a) certification of successful completion of the
10 national board written examination;

11 (b) certification of successful completion of a
12 regional board practical examination;

13 (c) two affidavits of good moral character;

14 (d) certificate of graduation from a board-approved
15 dental hygiene school;

16 (e) an examination fee commensurate with costs and set
17 by the board;

18 (f) a licensure fee commensurate with costs and set by
19 the board;

20 (g) a recent photograph of the applicant;

21 (6) ~~An applicant failing to pass his first examination~~
22 ~~may, if otherwise qualified, take subsequent examinations on~~
23 ~~payment of the fee of \$20 for each examination.~~ Applications
24 must be submitted no less than 20 days prior to the board
25 interview and jurisprudence examination.

1 (7) Examination results will be accepted for a period
2 of time as set by board rule. An applicant failing to pass
3 his first examination, if otherwise qualified, may take a
4 subsequent examination on payment of a fee commensurate with
5 costs and set by the board.

6 (8) The board is authorized to adopt necessary and
7 reasonable rules governing application procedures."

8 Section 5. Section 37-4-406, MCA, is amended to read:

9 "37-4-406. Annual license renewal fee -- revocation of
10 license. (1) Before March 1 of each year, a licensed dental
11 hygienist shall pay to the department a license renewal fee
12 of \$3 set by the board, not to exceed \$25. In default of
13 payment, the board may, after hearing and on 30 days'
14 notice, revoke the license of the hygienist in default; but
15 the payment of the renewal fee on or before the time of
16 hearing, with an additional sum fixed set by the board, not
17 exceeding \$3 to exceed \$10, excuses the default. The
18 department may collect the fee by suit.

19 (2) The board may likewise revoke or suspend the
20 license of a dental hygienist for violating this chapter."

-End-

1 STATEMENT OF INTENT RE: HB 233

2
3
4 A statement of intent is required for HB 233 because
5 the bill amends sections 37-4-301, 37-4-402, and 37-4-404,
6 MCA, to give the Board of Dentists rulemaking authority
7 regarding examination and application procedures for
8 dentists and dental hygienists. The following explains the
9 intent of the Legislature regarding the rulemaking authority
10 granted by this bill.

11 Sections 37-4-301 and 37-4-402 give the Board of
12 Dentists the right to administer their own exams for
13 dentists and hygienists, respectively. The rulemaking
14 authority delegates power to the Board for making rules for
15 running its own examinations. This is intended to be a
16 continuation of existing authority, and rules now in effect
17 may not have to be substantially revised.

18 In addition, section 37-4-301 gives the Board power to
19 set the examination and licensure fees for dentists. These
20 are to be "commensurate with cost" and it is intended that
21 the Board publish data on the actual costs of examination in
22 the notice of proposed rulemaking.

23 Sections 37-4-301 and 37-4-402, MCA, give the Board of
24 Dentists the authority to make rules for application
25 procedures for dentists and hygienists, respectively. It is

1 intended that these rules would cover routine matters not
2 provided for in the statute.

3 Sections 37-4-307 and 37-4-406, MCA, require licensed
4 dentists and hygienists, respectively, to pay an annual
5 renewal fee that is set by the Board. It is intended that
6 these fees, as established through administrative rules,
7 should not exceed during the next biennium, \$20 to \$25 for
8 dentists and \$10 for hygienists. These fees, as required by
9 statute, are for the purpose of maintaining an emergency
10 fund that is used for administering and enforcing the
11 statutes relating to dentistry and dental hygiene. If,
12 during the next biennium, some unforeseen, complex legal
13 proceeding arises involving the Board, the fees intended for
14 this biennium would be increased to defray such additional
15 costs.

16 First adopted by the HOUSE COMMITTEE ON HUMAN SERVICES
17 on February 15, 1979.

HB 233

1 HOUSE BILL NO. 233

2 INTRODUCED BY BENNETT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE BOARD OF
5 DENTISTS TO ESTABLISH EXAMINATION STANDARDS AND PROCEDURES
6 AND TO ESTABLISH EXAMINATION, LICENSE, RENEWAL, AND
7 REINSTATEMENT FEES FOR DENTISTS AND DENTAL HYGIENISTS
8 COMMENSURATE WITH COSTS OR WITHIN CERTAIN LIMITS; TO
9 ESTABLISH CERTAIN REQUIREMENTS FOR APPLICATIONS FOR
10 LICENSURE; TO INCREASE THE LATE RENEWAL FEE FROM \$3 TO \$10;
11 TO PERMIT JURISPRUDENCE EXAMINATIONS TO BE GIVEN AND
12 REGIONAL TESTING SERVICES TO BE UTILIZED; AND TO EXEMPT BONA
13 FIDE FACULTY MEMBERS PERFORMING DENTAL PROCEDURES IN A
14 TEACHING FUNCTION AND TO EXEMPT STUDENTS PERFORMING DENTAL
15 PROCEDURES IN AN ASSIGNED TEACHING CURRICULUM FROM CERTAIN
16 REQUIREMENTS; AMENDING SECTIONS 37-4-103, 37-4-301,
17 37-4-307, 37-4-402, AND 37-4-406, MCA."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 37-4-103, MCA, is amended to read:

21 "37-4-103. Exemptions. (1) A dental laboratory or
22 dental technician is not practicing dentistry under this
23 chapter when engaged in the construction, making,
24 alteration, or repairing of bridges, crowns, dentures, or
25 other prosthetic appliances, surgical appliances, or

1 orthodontic appliances if the casts, models, or impressions
2 on which the work is constructed have been made by a
3 regularly licensed and practicing dentist and the crowns,
4 bridges, dentures, prosthetic appliances, surgical
5 appliances, or orthodontic appliances are returned to the
6 dentist on whose order the work was constructed.

7 (2) Section 37-4-101(2) and part 5 of this chapter do
8 not apply to a legally qualified physician or surgeon or to
9 a dental surgeon of the United States army, navy, public
10 health service, or veterans' bureau or to a legal
11 practitioner of another state making a clinical
12 demonstration before a dental society, convention, or
13 association of dentists or to a licensed dental hygienist
14 performing an act authorized under 37-4-401 or 37-4-405.

15 ~~(3) Nothing in this chapter prevents a bona fide~~
16 ~~faculty member of a school, college, or department of a~~
17 ~~university recognized and approved by the board from~~
18 ~~performing dental procedures necessary to his teaching~~
19 ~~functions. Nothing in this chapter prevents students from~~
20 ~~performing dental procedures under the supervision of a bona~~
21 ~~fide instructor of a school, college, or department of a~~
22 ~~university recognized and approved by the board, provided~~
23 ~~such dental procedures are a part of the assigned teaching~~
24 ~~curriculum."~~

25 Section 2. Section 37-4-301, MCA, is amended to read:

1 "37-4-301. Examination -- qualifications -- fees --
 2 certification. (1) ~~The board shall make rules governing~~
 3 ~~examinations for a license to practice dentistry in this~~
 4 ~~state the examinations are open to an applicant meeting the~~
 5 ~~requirements of this chapter. The board shall also provide~~
 6 ~~by rule, reasonable notice of the time and place where~~
 7 ~~examinations are held. An examination shall be held at least~~
 8 ~~once a year.~~ Applicants for licensure shall take and pass an
 9 examination in order to be licensed. The examination shall
 10 consist of a written part, a practical or clinical part, and
 11 an oral interview with the board which may include questions
 12 pertaining to the practice of dentistry. The board may
 13 accept, in satisfaction of the written part, successful
 14 completion of an examination by the national board of dental
 15 examiners and, whenever the board determines necessary,
 16 successful completion of a board examination in
 17 jurisprudence. The board may accept, in satisfaction of the
 18 practical part, successful completion of an examination by a
 19 board-designated regional testing service.

20 (2) ~~The examination shall be practiced in character~~
 21 ~~and sufficiently thorough to test the fitness of the~~
 22 ~~applicant to practice dentistry. Acceptance by the board of~~
 23 ~~such written and practical examination shall be conditioned~~
 24 ~~on evidence that the examination is sufficiently thorough to~~
 25 ~~test the fitness of the applicant to practice dentistry. It~~

1 shall include, written in the English language, questions on
 2 anatomy, histology, physiology, chemistry, pharmacology and
 3 therapeutics, metallurgy, pathology, bacteriology,
 4 anesthesia, operative and surgical dentistry, prosthetic
 5 dentistry, prophylaxis, orthodontics and endodontics, and
 6 any additional subjects pertaining to dental service. The
 7 written examination may be supplemented by oral
 8 examinations. Demonstration of the applicant's skill in
 9 operative and prosthetic dentistry is also required. The
 10 examination shall be conducted under oath or affirmation by
 11 the department subject to 37-1-101 and any member of the
 12 board may administer the oath or affirmations. The board may
 13 recognize a certificate granted by the national board of
 14 dental examiners instead of or subject to the examinations
 15 the board requires.

16 (3) A person desiring to practice dentistry in this
 17 state shall file, in his full name, an application for
 18 examination with the department at least 20 days before the
 19 date set by the board for the commencement of the
 20 examinations. At the time of making the application the
 21 applicant shall

- 22 (a) pay to the department a fee of \$50;
- 23 (b) furnish the department with at least three
- 24 affidavits of good moral character satisfactory to the
- 25 board;

1 (c) present to the department his diploma or
 2 satisfactory evidence of having graduated from a recognized
 3 dental school or college which has been approved by the
 4 board; and

5 (d) furnish the department a recent photograph of the
 6 applicant. The board has the right to administer its own
 7 examination in lieu of acceptance of the national board
 8 written examination and a regional testing service practical
 9 examination. The board is authorized to make rules governing
 10 any such examination procedures.

11 (4) Applicants successfully passing the examination
 12 shall be registered as licensed dentists in the department
 13 register and on payment of an additional \$15 shall receive a
 14 certificate signed by the members of the board in a form
 15 prescribed by the board. For licensure shall submit an
 16 application which shall include, when required:

17 (a) certification of successful completion of the
 18 national board written examination;

19 (b) certification of successful completion of a
 20 regional board practical examination;

21 (c) three affidavits of good moral character;

22 (d) certificate of graduation from a board approved
 23 dental school;

24 (e) an examination fee commensurate with costs and set
 25 by the board;

1 (f) a licensure fee commensurate with costs and set by
 2 the board;

3 (g) a recent photograph of the applicant;

4 (5) An applicant failing to pass his first
 5 examination if otherwise qualified may take subsequent
 6 examinations on payment of the fee of \$25 for each
 7 examination. Applications must be submitted no less than 20
 8 days prior to the board interview and jurisprudence
 9 examination.

10 (6) Examination papers of an applicant shall be
 11 retained 2 years by the department and may then be destroyed
 12 and while so retained are open to inspection only by board
 13 members, the applicant, some person appointed by the
 14 applicant to examine them, or by a court of competent
 15 jurisdiction in a proceeding where the question of the
 16 contents of the papers is property involved. Applicants may
 17 not take the jurisprudence examination or the oral interview
 18 without first having completed all other parts of the
 19 examination.

20 (7) The board may in its discretion permit a dental
 21 student who has successfully completed his junior year in a
 22 recognized dental school and who files proof satisfactory to
 23 the board that he has the preliminary education described in
 24 this section to take a written examination in the subjects
 25 he has completed satisfactory grades secured shall be

1 credited on the final examination of the student. The board
 2 shall require a fee of \$50 for this examination, which shall
 3 apply on the final examination taken by the applicant.
 4 Examination results will be accepted for a period of time as
 5 set by board rules. An applicant failing to pass his first
 6 examination, if otherwise qualified, may take a subsequent
 7 examination upon payment of a fee commensurate with costs
 8 and set by the board.

9 (8) The board is authorized to adopt necessary and
 10 reasonable rules governing application procedures.

11 (9) The board may in its discretion permit a dental
 12 student who has successfully completed his junior year in a
 13 recognized dental school and who files proof satisfactory to
 14 the board that he has the preliminary education described in
 15 this section to take a written examination in the subjects
 16 he has completed. Satisfactory grades secured shall be
 17 credited on the final examination of the student. The board
 18 shall require a fee commensurate with costs and set by the
 19 board for this examination, which shall apply on the final
 20 examination taken by the applicant."

21 Section 3. Section 37-4-307, MCA, is amended to read:

22 "37-4-307. Annual license renewal fee -- absent
 23 registered dentist -- default. (1) A licensed dentist
 24 practicing within this state shall annually pay to the
 25 department before March 1, as a license renewal fee for the

1 year, the a sum of \$10 set by the board and not to exceed
 2 \$50. The board may increase or decrease the annual license
 3 renewal fee to maintain in the earmarked revenue fund at all
 4 times an amount, to be known as the emergency fund, to be
 5 used for the purpose of administering, policing, and
 6 enforcing this chapter. The emergency fund shall be
 7 maintained at an approximate level of \$2,500. Notice of the
 8 change in the amount of license renewal fees shall be given
 9 to each dentist registered in this state by the department.

10 (2) If a registered dentist absents himself from the
 11 state for a period of 1 or more years or does not engage in
 12 active practice within this state, he may continue his
 13 license in good standing by the a payment of \$10 set by the
 14 board each year, not to exceed \$25, or at the discretion of
 15 the board, he may be reinstated on the payment of a fee of
 16 \$10 \$25 for each year's absence. The annual payments shall
 17 be made prior to March 1 of each year, and a receipt or
 18 certificate shall be issued by the department.

19 (3) In case of default in payment of the annual
 20 license renewal fee by a dentist, his license shall be
 21 revoked by the board on 30 days' notice given to the
 22 delinquent of the time and place of considering the
 23 revocation. A registered or certified letter addressed to
 24 the last-known address of the party failing to comply with
 25 this requirement, as the address appears on the records of

1 the department, constitutes sufficient notice of revocation
 2 of license, but no license may be revoked for nonpayment if
 3 the dentist notified pays the license ~~renewal~~ fee plus a
 4 late payment penalty of \$3 ~~10~~ before or at the time fixed
 5 for consideration of revocation. The department may maintain
 6 in the name of this state a suit to collect license ~~renewal~~
 7 fees and penalties applicable and to recover from the
 8 delinquent dentist the cost of the action, including
 9 reasonable attorneys' fees.

10 (4) No license fee or tax may be imposed on dentists
 11 by a municipality or any other subdivision of the state."

12 Section 4. Section 37-4-402, MCA, is amended to read:

13 "37-4-402. License -- examination. (1) The department
 14 may issue licenses for the practice of dental hygiene to
 15 qualified applicants to be known as dental hygienists.

16 (2) Except as provided in subsections (1), (2), and
 17 (3) of 37-4-404, no person may engage in the practice of
 18 dental hygiene or practice as a dental hygienist in this
 19 state until he has passed an examination approved by the
 20 board under rules it considers proper and has been issued a
 21 license by the department.

22 (3) ~~A candidate for examination as a dental hygienist~~
 23 ~~shall file in his full name an application for examination~~
 24 ~~with the department at least 20 days before the date set by~~
 25 ~~the board for the commencement of the examination and at the~~

1 time of making the application shall pay the department a
 2 fee of \$20. The applicant shall also furnish satisfactory
 3 proof that he is of good moral character and has earned a
 4 diploma or certificate from a school of dental hygiene
 5 offering a course of study recognized and approved by the
 6 board. Applicants for licensure shall take and pass an
 7 examination in order to be licensed. The examination shall
 8 consist of a written part, a practical or clinical part, and
 9 an oral interview with the board which may include questions
 10 pertaining to the practice of dental hygiene. The board may
 11 accept, in satisfaction of the written part, successful
 12 completion of an examination by the national board of dental
 13 examiners and, whenever the board determines necessary,
 14 successful completion of a board examination in
 15 jurisprudence. The board may accept, in satisfaction of the
 16 practical part, successful completion of an examination by a
 17 board-designated regional testing service.

18 (4) The board shall make uniform rules governing the
 19 matter of examinations for a license to practice dental
 20 hygiene in this state, which examinations are open to an
 21 applicant meeting the requirements of this chapter, and
 22 shall also provide in its rules for giving reasonable notice
 23 of the time and place where examinations are held, has the
 24 right to administer its own examination in lieu of
 25 acceptance of the national board written examination and a

1 regional testing service practical examination. The board
 2 is authorized to make rules governing any such examination
 3 procedures.

4 (5) ~~The board may recognize a certificate granted by~~
 5 ~~the national board of dental hygiene examiners instead of an~~
 6 ~~examination the board requires.~~ Applicants for licensure
 7 shall submit an application, which shall include, when
 8 required:

9 (a) certification of successful completion of the
 10 national board written examination;

11 (b) certification of successful completion of a
 12 regional board practical examination;

13 (c) two affidavits of good moral character;

14 (d) certificate of graduation from a board-approved
 15 dental hygiene school;

16 (e) an examination fee commensurate with costs and set
 17 by the board;

18 (f) a licensure fee commensurate with costs and set by
 19 the board;

20 (g) a recent photograph of the applicant.

21 (6) ~~An applicant failing to pass his first examination~~
 22 ~~may, if otherwise qualified, take subsequent examinations on~~
 23 ~~payment of the fee of \$20 for each examination.~~ Applications
 24 must be submitted no less than 20 days prior to the board
 25 interview and jurisprudence examination.

1 (7) Examination results will be accepted for a period
 2 of time as set by board rule. An applicant failing to pass
 3 his first examination, if otherwise qualified, may take a
 4 subsequent examination on payment of a fee commensurate with
 5 costs and set by the board.

6 (8) The board is authorized to adopt necessary and
 7 reasonable rules governing application procedures."

8 Section 5. Section 37-4-406, MCA, is amended to read:

9 "37-4-406. Annual license renewal fee -- revocation of
 10 license. (1) Before March 1 of each year, a licensed dental
 11 hygienist shall pay to the department a license renewal fee
 12 of ~~\$3~~ set by the board, not to exceed \$25. In default of
 13 payment, the board may, after hearing and on 30 days'
 14 notice, revoke the license of the hygienist in default; but
 15 the payment of the renewal fee on or before the time of
 16 hearing, with an additional sum fixed set by the board, not
 17 exceeding ~~\$3~~ to exceed \$10, excuses the default. The
 18 department may collect the fee by suit.

19 (2) The board may likewise revoke or suspend the
 20 license of a dental hygienist for violating this chapter."

-End-