CHAPTER NO. 493

HOUSE BILL NO. 585

INTRODUCED BY GOULD, HARRINGTON, BENNETT

IN THE HOU	JSE
February 6, 1979	Introduced and referred to Committee on Human Services.
February 15, 1979	Intent statement attached.
	Committee recommend bill do pass as amended. Report adopted.
February 17, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass.
February 21, 1979	Considered correctly engrossed.
	Third reading, passed. Transmitted to second house.
IN THE SEN	ATE
February 22, 1979	Introduced and referred to Committee on Public Health, Welfare, and Safety.
March 9, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 12, 1979	Second reading, concurred in.

IN THE HOUSE

March 16, 1979

Returned from second house. March 17, 1979 Concurred in as amended.

Third reading, concurred in

as amended.

March 19, 1979	On motion, consideration passed for the day.
March 20, 1979	On motion, consideration passed until the 71st Legislative Day.
March 29, 1979	Second reading, amendments adopted.
March 30, 1979	Third reading, amendments adopted. Sent to enrolling.
	Reported correctly enrolled.

1	House BILL NO. 585
2	INTRODUCED BY Hamen Burnet
3	•
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
5	DISCIPLINARY POWERS OF THE BOARD OF DENTISTS; AMENDING
6	LINITATIONS ON DENTAL ADVERTISING AND ORAL HYGIENE;
7	REQUIRING IDENTIFICATION OF DENTURES; AMENDING SECTIONS
8	37-4-321 THROUGH 37-4-323. AND 37-4-405. MCA.*
9	
0	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1	Section 1. Section 37-4-321, MCA, is amended to read:
2	*37-4-321. Revocationorsuspensionoflicense
3	unprofessional-conduct Grounds for disciplinary proceedings
4	range_of_sanctions. (1)-A-dentist-may-have his license
5	revoked-or-suspended-by-the-board-for-any-ofthefollowing
6	reasons*
7	fe}convictionofafelony-or-misdemeanor-involving
8	more: turp: tude: in-which-case-the-record-of-conviction-ar-a
9	copy-certified-by-the-clerk-of-the-court-or-by-the-judgein
0	whose-court-the-conviction-is-had-is-conclusive-evidence;
1	(b)rentingy-loaningy-or-attempting-to-rent-or-loan-to
2	apersonhislicense-for-the-practice-of-dentistry-or-his
3	diplome-of-graduation-fromadentalcollagevschoolvor
4	course-to-be-used-as-a-license-or-diploma-of-the-persons
5	(c) permittingadental-hygienist-under-his-personal

•	aspervision to do an act or periors an operation other than
2	those-defined-and-authorized-under-37-4-401-or-37-4-405;
3	(d)permittingunliconsedauxiliarypersonnalt o
4	perform-duties-ortesksotherthenthosewhichmaybe
5	specifically-authorized-by-the-board;
6	{e}unprofessionalconductygrossignoranceor
7	inefficiency-in-his-professionyhabitualintemperanceyor
8	gross-immorali tyw
9	(2)Umprofessionel-conduct-consists-of +
10	to)emptoyingwhatereknownascoppersor
11	"st eerers"-to-obtain-businass
12	(b)obtaining-a-fee-by-fraud-or-misrepresentation;
13	te}willfully-betraying-professional-secrets;
14	(d)employings-directly-or-indirectlys-a-student-or a
15	suspended-or-unlicensed-dentist-to-perform-operations-in-the
16	procticeofdentistry;-treat-lesions-of-the-human-teeth-or
17	jausy-or-correct-malimposed-formations;
18	{e}makinguseofadvertisi ng statementsof a
19	choracter-tending-to-deceive-or-mislead-the-publics
20	(f)advertising-prices ;
21	(g)advertisingprofessionalsuperiorityo r
22	parformanca-of-professional-services-in-asuperiormanner;
23	(h)advartisingbyaccns-of-a-lorge-displayv-glari ng
24	lightsignsorathersignordavicecontainingthe

1	of-the-human-hoods
2	<pre>fi)advertising-over-television-or-radia;</pre>
3	tj}emptoying-or-making-usa-of-advertisingsolicitors
4	or-publicity-press-agents;
5	(k)advertisingfree-dental-work-or-free-exemination;
6	(1)advertising-toguarantesdentalserviceor to
7	perform-a-dental-aperation-painlessly:
8	(m)advertisingbysignorprintedadvertisements
9	under-the-ness-of-e-corporationcompanyassociationor
10	%rede-newer The board may censures prescribe probations
11	suspends or revoke any license issued under this chapter for
12	any of the following causes:
13	111 conviction of a felony or misdemeanor when the
14	sequence iscoved is imprisonment in the state prison. A
15	certified copy of the conviction record from the district
16	court imposing the sentence is conclusive evidence:
17	121 physical infirmity or mental incompetence:
18	(3) gross malpractice or requated malpractice:
19	141 unprofessional conducts as defined by rule of the
20	boardi_or
21	(5) yiolation of any of the provisions of this chapter
22	or rules or orders of the board."
23	Section 2. Section 37-4-322, MCA, is amended to read:
24	#37-4-322. When publishing professional cards not
25	unprofessional conduct. (1) It shall not be considered

unprofessional for a dentist to place in any newspaper or publication, subject to the limitations stated hereafter, a card bearing his name only: together with his degree or the 3 word "dentist" and giving office location, hours, and telephone numbers. If he limits his practice to a specialty he may so announce it or he may announce his absence from or return to practice in the same manner. Such professional-card-or-announcement-shall-not-be--run--in--any newspaper--or-publication-in-excess-of-five-issues-following 10 the-opening-of-his-office-by-c--newly--licensed--dentist--or 11 following--the--change--of-location-of-a-dentist-s-office-or 12 efter-limiting-his-proctice-to--a--specialty--or--efter--the 13 absenting--of--a--dentist-from-his-proctice-or-following-his 14 return--to--the--practice--of--dentistry----Such---cord---or 15 announcement -- shall -- not -- be-sere-than-2-columns-in-width-or 16 more-than-3-inches-in-depth-17

(2) The -publishing of -professional --cards---or ennouncements in -violation of these limitations shall be considered unprofessional. A dentist may publish a list of his fees, but such listing must include full and complete information stating if the published fee is minimum, maximum, or usual and whether or not any additional charges may be made for the services published. All announcements or publications must be done in a professional manner that will in no way coerce or confuse the public."

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LC 1603/01 LC 1603/01

Section 3. Section 37-4-323, MCA, is amended to read:
#37-4-323. Revocationorsuspensionoflicense
procedure Procedure for investigation sanctions. (+)
Proceedingsunder-37-4-321-may-be-taken-by-the-board-on-its
initiol-motion-for-matters-in-its-knowledge-or-may-betaken
onthe-information-of-anotherHawevery-if-the-informant-is
o-member-of-theboardytheothermembersoftheboard
constitutetheboardforthepurpose-of-determining-the
truth-of-the-charge-or-accusationu-Accusationsmustbein
writingverifiedbysomepartyfamiliar-with-the-facts
chargedy-and-three-copies-must-be-filed-with-the-department-
On-receiving-the-accusation-the-board-shall-v-if-it-considers
the-accusation-sufficienty-makeanordersettingitfor
hearingandrequiring-the-accused-to-appear-and-answer-the
charge-or-accusation-at-the hearing.

(2)--The-occused-must-appear-at-the-time-appointed--in
the-order--and--answer--the--charges--and--make-his-defense
unlessy-for-sufficient-causey-on-the--accused*s--application
or-the-board*s-ordery-the-board-assigns-another-day-for-that
purposey

(3)--if--the--accused--does--not--appears-the-board-may proceed-and-determine-the-accusation-in-his-absences-if--the accused--confesses--the--accusation-or-refuses-to-answer-the charge-or-if-on--hearing--the--board--finds--the--charge--or accusation--trues--it--may-make-an-order-either-revoking-the

the-board-and-the-accused-may-have the-benefit of counsely and the-board-shell-have the power-to-administer anthony take depositions of witnesses in the manner provided by least and the production of papersy booksy accountsy documentsy and the production of papersy booksy accountsy documentsy and tastisony in any inquiry investigationy hearingy or proceeding in this states. The subpoons shall be issued over the signature of the secretary of the board and the seal and in the name of this states.

(+)--On-revocation-or-suspension-of-a-licenser-the-fact
shell-be-noted-on-the-records-of-the-department-and—the
license-shell-be-worked-"conceled" (on-the-date-of-its
revocation)--or--suspended"--as-the-case-may-bes---The
department-shelly-on-order-of-suspension-or-revocation-being
enteredy-transmit--to-the-county-clerk-and-recorder-of-the
county-in-which-the-license-of-the-licensee-affected-by--the
judgment--is-registered-and-recorded-a-copy-of-the-ordery
certified-by-the-secretary-of-the-boordy-for-recordy-and--it
shell--be-registered-in-the-same-manner-and-in-the-same-book
in-which-the-registered-in-the-same-manner-and-in-the-same-book
dentistry--is--kepts (1) Upon receipt of a complaint or upon
its own motion the board shall determine whether the matters
alleged warrant investigation and may cause investigation to
be mades of the board finds preliminary cause for imposing

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1	the sanctions listed in 37-4-321, it may do so in accordance
2	with the provisions of the Montana Administrative Procedura
3	Acta If the board finds that the evidence obtained does not
4	justify the imposition of sanctions, it must so notify the
5	licenses concerned and the complaining party and take no
6	further action.
7	(2) If the board finds that the evidence obtained does
8	not warrant suspension or revocation of a license but does
9	warrant other sanctions, it may either:
10	ial issue a public or private decree of censure: or
11	(b) impose a probation with terms and conditions
12	appropriately adapted under the circumstances of the
13	particular case.
14	(3) The licenses is entitled to an opportunity for a
15	contested case hearing before a sanction of censure or
16	probation becomes effective to the same extent an
17	opportunity for hearing is afforded prior to suspension or
18	revocation
19	14) In addition to its authority to impose sanctions:
20	the board may deny an application for a license for any of
21	the following reasons:
22	(a) failure to meet the relevant requirements of Title
23	37. chapter 4:
24	1b) making any untrue or fraudulent statement in

ì	(c) any of the grounds set forth in 37-4-321 for
2	suspension or revocation of a license."
3	Section 4. Section 37-4-405. MCA. is amended to read:
4	#37-4-405. Dental hygienist to practice under
5	supervision of licensed dentist. [1] A licensed dental
6	hygienist may practice in the office of a licensed and
7	actively practicing dentist, in a public or private
8	institution, under a board of health, or in a public clinic
9	authorized by the board but may not practice except under
10	the direct personal supervision of a licensed dentist;
11	however: the demtal hygienist may give instruction in dental
12	oral hygiene without the supervision of a licensed dentist
13	in a public or private institution or hospital or extended
14	care facility or under a board of health or in a public
15	clinic authorized by the board.
6	12) The board mays in lieu of the direct supervision
7	requirement set forth in subsection (1), permit a licensed
8	dental hygienist to provide clinical dental hygiene services
9	to a public or private institution, a hospital or extended
20	care facility, or a school or public health program after a
1	review by the board of a request for such service and a
22	description of the type of supervision necessary is made by
3	the boards For the purposes of this section "supervision" is
24	defined as follows:
.5	(a) "direct supervision" means the supervision of

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support of the application; or

1	those tasks and procedures that do not require the dentise
2	in the room where performed but require his presence on the
3	premises and availability for prompt consultation and
4	treatment: and
5	(b) "general Supervision" means those tasks and
6	procedures that do not require the presence of a dentist or
7	the premises but shall remain under the dentist's directive
8	order, control, responsibility, and evaluation."
9	MEW_SECTION. Section 5. Identification of dentures.
10	All nonmetal full dentures shall be permanently identified
11	with the first and last name of the owner at the time of
12	processing the dentures.

-End-

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1 on February 15, 1979.

STATEMENT OF INTENT RE: HS 585

A statement of intent is required for this bill because it grants rulemaking authority to the Board of Dentists for the purpose of defining unprofessional conduct.

Section 1 of the bill deletes a fairly specific list of types of unprofessional conduct by a dentist and allows the Board of Dentists to adopt a rule defining unprofessional conduct. It is the Legislature's intent that the Board's rule would reinstate some of the statutory examples, but would not adopt the present law's ban on advertising. The board may prohibit only so much advertising as the courts would let a state prohibit. This is intended to comply with court orders issued at the behest of the FTC in Louisiana and other states.

Sections 1 and 3 also set up a range of sanctions that the Board may impose on any dentist or dental hygienist whose conduct constitutes grounds for sanctions. This is intended to expand the Board's powers on the less stringent end of the scale, by adding censure and probation to the revocation and suspension powers the Board now has. Often a problem can be corrected with such milder sanctions when efforts to suspend or revoke might be counterproductive.

First adopted by the HOUSE COMMITTEE ON HUMAN SERVICES.

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HB 585

46th Legislature HB 0585/02

Approved by Comm. On Human Services

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2	INTRODUCED BY GOULD, HARRINGTON, BENNETT
3	
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5	DISCIPLINARY POWERS OF THE BOARD OF DENTISTS; AMENDING
6	LIMITATIONS ON DENTAL APVERTISING AND ORAL HYGIENE;
7	REQUIRING IDENTIFICATION OF DENTURES; AMENDING SECTIONS
в	37-4-321 THROUGH 37-4-323, AND 37-4-405, MCA.*
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0	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
.1	Section 1. Section 37-4-321. MCA: is amended to read:
2	#37-4-321. Revocationorsuspensionoflicense
3	unprofessionel-conduct <u>Grounds for disciplinary_proceedings</u>
.4	rangeofsanctions+ ft)-A-dentist-may-have-his-license
.5	revoked-or-suspended-by-the-board-for-any-ofthefollowing
6	reasons*
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8.	moral-turpitudein-which-case-the-record-of-conviction-or-a
9	copy-certified-by-the-clerk-of-the-court-or-by-the-judgein
0	whose-court-the-conviction-is-had-is-conclusive-evidence;
21	<pre>fbjrentingv-loaningv-or-attempting-to-rent-or-loan-to</pre>
22	apersonhislicense-for-the-practice-of-dentistry-or-his
23	dipioma-of-graduat ion-fromadentalcoll egevschoolvor
4	course-to-be-used-as-a-license-or-diploma-of-the-person;
5	felnegmithingdestal-businessbisneges-sl

1	supervision-to-do-an-act-or-perform-an-operation-otherthan
2	those-defined-and-authorized-under-37-4-481-or-37-4-485;
3	tdpermittingunlicensedauxiliarypersonnelto
4	perform-duties-ortosksotherthonthosewhichmaybe
5	specifically-suthorized-by-the-boards
6	telunprofessionalconductygrossiqnoranceor
7	inefficiency-in-his-professionyhabitualintemperanceyor
8	gross-immorelity:
9	{2}Unprofessional-conduct-consists-aft
10	tajemployingwhatareknownascappersor
11	#stacrars#-to-obtain-business;
12	<pre>fb)obtaining-a-fee-by-fraud-or-misrepresentation;</pre>
13	{c}willfully-betraying-professional-secrets;
14	<pre>fd?employingv-directly-or-indirectlyv-e-student-ora</pre>
15	suspended-or-unlicensed-dentist-to-perform-operations-in-the
16	practiceofdentistrytreat-lesions-of-the-human-teeth-or
17	jewsy-or-correct-melimposed-formations;
18	tejmakinguseofadvertisingstatementsofa
19	character-tending-to-deceive-or-mistead-the-publics
20	tf)advertising-pricest
21	tg)sdvertisingprofessionalsuperiorityor
22	performance-of-professional-services-in-asuperiormannert
23	thiadvertisingbymeans-of-a-lorge-disploygloring
24	lightsignyorothersignordevicecontainingthe
25	representationofa-toothy-teathy-bridgeworky-or-a-portion

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1	of-the-human-head+
2	fitadvertising-over-television-or-radia;
3	<pre>fjj==amploying=or=making=use-of=advartising=-solicitors</pre>
4	or-publicity-press-agents;
5	<pre>fkjadvertisingfree-dental-work-or-free-examination;</pre>
6	(}advertising-toguarantee dentalserviceorto
7	perform-s-dental-operation-painlessly:
8	tm;advertisingbysignorprintedadvertisements
9	ander-the-name-of-a-corporationycompanyyassociationyor
10	trade-name. The board may censure prescribe probations
11	suspends or revoke any license issued under this chapter for
12	any of the following causes:
13	ill conviction of a felony or misdemeanor when the
14	Sentence imposed is imprisonment in the state prison. A
15	certified copy of the conviction record from the district
16	court imposing the sentence is conclusive evidence:
17	121 Physical infirmity or mental incompetence:
18	131 gross malpractice or repeated malpractice:
19	141 unprofessional conducts as defined by rule of the
20	beardior
21	151 violation of any of the provisions of this chapter
22	or_rules_or_orders_of_the_board.**
23	Section 2. Section 37-4-322, MCA, is amended to read:
24	#37-4-322. When publishing professional cards not
25	unprofessional conduct. (1) It shall not be considered

unprofessional for a dentist to place in any newspaper or publication, subject to the limitations stated hereafter, a card bearing his name only, together with his degree or the word "dentist" and giving office location, hours, and telephone numbers. If he limits his practice to a specialty he may so announce it or he may announce his absence from or his return to practice in the same manner. Such professional-card-or-announcement-shall-not-be--run--in--any newspaper--or-publication-in-excess-of-five-issues-following the-opening-of-his-office-by-a--newly--licensed--dentist--of following--the--change--of-location-of-a-dentist-s-office-or after-limiting-his-practice-to--s-specialty--or--ofter--the absenting--of--o--dentist-from-his-practice-or-following-his return--to--the--practice--of--dentistry----Such---cord---or announcement--shall--not--be-more-than-2-columns-in-width-of more-than-3-inches-in-depths

(2) The--publishing--of--professional--cords---or onnouncements--in--violation-of--these-limitations-shall be considered-unprofessional- A dentist may publish a list of his fees, but such listing must include full and complete information stating if the published fee is minimum, maximum, or usual and whether or not any additional charges may be made for the services published. All announcements or publications must be done in a professional manner that will in no way coerce or confuse the public."

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HB 585

HR 0585/02

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HR 0585/02

Section 3. Section 37-4-323, MCA, is amended to read:
M37-4-323. Revocation-orsuspensionofficense
procedure Procedure for investigation sanctions- +++
Proceed Ageunder-37-4-322-may-be-taken-by-the-board-on-ita
initie: potron-for-matters-in-ita-knowledge-or-may-betaken
onthe-ir-ormotion-of-anathers-Howevery-if-the-informant-is
armemberrofreks-rhodsdyrr eherrotharr-memb ar s-rofr-the rr bo ard
constitutethehoardforthepurpose-of-determining-the
truth-of-the-charge-or-accusationAccusationsmustbein
writingvverifiedbysomeportyfamilior-with-the-facts
chargedy-and-three-copies-must-ba-filed-with-the-department«
en-receiving-the-accusation-the-board-shallv-if-it-considers
thewaccusation-sufficienty-makeanordersettingitfor
hearingandrequiring-the-accused-to-appror-and-answer-the
charge-or-sccus otion-at-tho-haori ngv

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the - order - answer - the - charges - and - make - his - defense unless - for - sufficient - cause - on - the - accused - a - application or - the - board - s - order - the - board - assigns - another - day - for - that purposes

(3)--if--the--occused--does--not--appeary-the-hoard-may proceed-and-determine-the-accusation-in-his-absencev-if--the eccused--confesses--the--accusation-or-refuses-to-answer-the charge-or-if-on--hearing--the--board--finds--the--charge-or-accusation--truey--it--may-make-an-order-either-revoking-the

ticense-of-the-occused-or-suspending-it-for-a-fixed-periods
The-board-and-the-occused-may-have-the-benefit-of-counsely
and-the-board-shall-have-the-power-to-administer-oathay-take
depositions-of-witnesses-in-the-manner-provided-by-law-in
civit-cosesy-and-issue-subpoenas-for-the-attendance-of
witnesses-and-the-production-of-papersy-booksy-secountsy
documentsy-and-testimony-in-eny-inquiry-investigationy
hearingy-or-proceeding-in-this-states-The-subpoena-shall-be
issued-over-the-signature-of-the-secretary-of-the-board-and
the-seal-and-in-the-nome-of-this-states

the --Bn-revocation or suspension of a licensey-the-fact shall determine whether the suspension of the suspension or receipt of a complaint or upon its own motion the board finds preliminary cause investigation to per made.

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1	the sanctions listed in 37-4-321. it may do so in accordance
2	with the provisions of the Montana Administrative Procedure
3	Acta If the board finds that the evidence obtained does not
4	justify the imposition of sanctions: it must so notify the
5	licenses concerned and the complaining party and take no
6	further_action.
7	(2) If the board finds that the evidence obtained does
8	not warrant suspension or revocation of a license but does
9	warrant_other_sanctions: it_may_either:
10	(a) issue a public or private decree of censure; or
11	(b) impose a probation with terms and conditions
12	appropriately adapted under the circumstances of the
13	particular_case.
14	(3) The licensee is entitled to an opportunity for a
15	contested case bearing before a sanction of censure or
16	probation becomes effective to the same extent an
17	opportunity for bearing is afforded prior to suspension or
18	revocation.
19	(4) In addition to its authority to impose sanctions:
20	the board may deny an application for a license for any of
21	the following reasons:
22	fal failure to meet the relevant requirements of little
23	37: chapter 4:
24	(b) making any untrue or fraudulent statement in
25	support of the application; or

1	(c) any of the grounds set forth in 37-4-321 for
2	suspension or revocation of a license."
3	Section 4. Section 37-4-405, MCA, is amended to read:
4	*37-4-405. vental hygienist to practice under
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7	actively practicing dentist, in a public or private
8	institution, under a board of health, or in a public clinic
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10	the direct personal supervision of a licensed dentist;
	·
11	however, the dental hygienist may give instruction in dental
12	oral hygiene without the supervision of a licensed dentist
13	in a public or private institution <u>or hospital or extended</u>
14	care facility or under a board of health or in a public
15	clinic authorized by the board.
16	(2) The board may in lieu of the direct supervision
17	requirement set forth in subsection (1) permit a licensed
18	dental hygienist to provide clinical dental hygiene serviles
19	to a public or private institution, a hospital or extended
20	care facilitys or a school or public health program after a
21	review by the board of a request for such service and a
22	description of the type of supervision necessary is made by
23	the boards For the purposes of this section "supervision" is
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25	(a) "direct supervision" means the supervision of

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HB 0585/02

1 those tasks and procedures that do not require the dentist 2 in the room where performed but require his presence on the 3 premises and availability for prompt consultation and 4 treatment: and 5 ib "general supervision" means those tasks and procedures that do not require the presence of a dentist on 7 the premises but shall remain under the dentist's directive orger: control: responsibility: and evaluation.* NEW_SECTION. Section 5. Identification of dentures. 10 All nonmetal full dentures shall be permanently identified 11 with the first and last name of the owner at the time of 12 processing the dentures.

-End-

1 on February 15, 1979.

STATEMENT OF INTENT RE: HB 585

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First adopted by the HOUSE COMMITTEE ON HUMAN SERVICES.

H8 585

1	HOUSE BILL NO. 585
2	INTRODUCED BY GOULD. HARRINGTON. BENNETT
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
5	DISCIPLINARY POWERS OF THE BOARD OF DENTISTS; AMENDING
6	LIMITATIONS ON DENTAL ADVERTISING AND ORAL HYGIENE;
7	REQUIRING IDENTIFICATION OF DENTURES; AMENDING SECTIONS
8	37-4-321 THROUGH 37-4-323, AND 37-4-405, MCA.
9	
0	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1	Section 1. Section 37-4-321, MCA, is amended to read:
2	#37-4-321. Revocationorsuspensionoflicense
.3	unprofessional-conduct <u>Grounds for disciplinary_proceedings</u>
.4	rangeofsanctions. ti)-A-dentist-may-have-his-license
.5	revoked-or-suspended-by-the-board-for-any-ofthefollowing
.6	reasons*
.7	(a)convictionofafatony-or-misdemeanor-involving
8	moral-turpitu dev-in-which-case-the-record-of-convi ction-or-a
9	copy-certified-by-the-clark-of-the-court-or-by-the-judgein
0	whose-court-the-conviction-is-had-is-conclusive-evidences
21	<pre>tb}rentingy-loaningy-or-attempting-to-rent-or-loan-ta</pre>
22	epersonhislicense-for-the-practice-of-dentistry-or-his
23	diploma-of-graduation-fromadentalcollegeschoolvor
≥4	course-to-be-used-as-a-license-or-diplosa-of-the-persont
	(-)

1	supervision-to-do-an-act-or-perform-an-operation-atherthen
2	those-defined-and-authorized-under-37-4-401-or-37-4-405;
3	td;permittingunlicensedauxiliarypersonneltd
4	perform-duties-ortosksetherthenthosewhichmeybe
5	specifically-authorized-by-the-board;
6	te)unprofessionalconductygrossiqnaranceor
7	inefficiency-in-his-professionyhabituelintemperanceyor
8	gross-immoratity:
9	{2}Unprofessional-conduct-consists-of+
10	ta)employingwhataraknownasEcoppers#or
11	#steerers#-to-obtoin-business;
12	{b}obtaining-a-fee-by-fraud-or-misrepresentation;
13	{c}willfully-betraying-professional-secrets;
14	tdyemployingdirectly-or-indirectlya-student-ora
15	suspended-or-unlicensed-dentist-to-perform-operations-in-the
16	practiceofdentistrytreat-lesions-of-the-human-teeth-or
17	jawsy-or-correct-matimposad-formations:
18	fe)mokinguseofadvertisingstatementsofa
19	character-tending-to-deceive-or-mistead-the-public;
20	tftadvertising-pricest
21	tgjadvertisingprafassionalsuperiorityor
22	performance-of-professional-services-in-asuperiormanner:
23	th)odvertisingbymeans-of-a-large-displayv-glaring
24	lightsignyorothersignordevicecontainingthe
25	representationofa-toothy-teathy-bridgeworky-or-a-portion

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1	of-the-human-head;
2	fitadvertising-over-television-or-radio;
3	tj)employing-or-making-use-of-advertisingsolicitors
4	or-publicity-press-agents:
5	(k)advertisingfree-dentsi-work-or-free-examination;
6	ffjadvertising-toguaranteedentalserviceorto
7	perform-a-dental-operation-painlessiy:
8	<pre>fm)advertisingbysignorprintedadvertisements</pre>
9	under-the-name-of-a-corporationycompanyyassociationyor
10	tredsname. The board may censure: prescribe probation:
11	suspends or revoke any license issued under this chapter for
12	any of the following causes:
13	(11) conviction of a felony or wisdemeanor when the
14	sentence imposed is imprisonment in the state prison. A
15	certified copy of the conviction record from the district
16	court imposing the sentence is conclusive evidence:
17	121 physical infirmity or mental incompetence:
18	(3) gross maioractics or repeated maloractics:
19	141 unprofessional conducts as defined by rule of the
20	postd:_or
21	151 yiolation of any of the provisions of this chapter
22	or_rules_or_orders_of_the_board.**
23	Section 2. Section 37-4-322, MCA, is amended to read:
24	#37-4-322. When publishing professional cards not
25	unprofessional conduct. (1) It shall not be considered

unprofessional for a dentist to place in any newspaper or publication, subject to the limitations stated hereafter, a 2 card bearing his name only, together with his degree or the word "dentist" and giving office location, hours, and telephone numbers. If he limits his practice to a specialty he may so announce it or he may announce his absence from or return to practice in the same manner. Such professional-card-or-announcement-shall-not-be--run--in--ony newspaper--or-publication-in-excess-of-five-issues-following 10 the-opening-of-his-office-by-a--newly--licensed--dentist--or 11 following--the--change--of-location-of-s-dentistis-office-or 12 ofter-limiting-his-practice-to--a--specialty--or--after--the 13 absenting--of--a--dentist-from-his-practice-or-following-his return--to--the--practice--of--dantistry----Such---card---or 14 15 announcement--shall--not--be-more-than-2-columns-in-width-or 16 more-thon-3-inches-in-depth-

(2) The---publishing---of---professional---cords----or ennouncements--in--violation--of--these-limitations-shall-be considered-unprofessional--- A dentist may publish a list of his fees, but such listing must include full and complete information stating if the published fee is minimum; maximum, or usual and whether or not any additional charges may be made for the services published, All announcements or publications must be done in a professional manner that will in no way coerce or confuse the publica."

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-4- HB 585

Section 3. Section 37-4-323; MCA; is amended to read:
#37-4-323. Revocationorsuspensionoflicense
procedure <u>Procedure for investigation == sanctions</u> . +++
Proceedingsunder-37-4-321-may-be-taken-by-the-board-on-its
initial-motion-for-matters-in-its-knowledge-or-may-betaken
onthe-information-of-anotherHowevery-if-the-informant-is
a-member-of-theboardythaotharmambarsofthaboard
constitutetheboardforthepurpose-of-determining-the
truth-of-the-charge-or-accusotion=-Accusationsmustbein
writingvverifiedbysomepartyfamiliar-with-the-facts
chargedy-and-thrae-copies -must-be-fil ed-with-the-departmentw
Bn-receiving-the-accusation-the-board-shallv-if-it-considers
the-accusation-sufficienty-makeanordersettingitfor
hearingandrequiring-the-accused-to-appear-and-answer-the
charge-or-accusation-at-the-hearing*

R

the-order-and-answer-the-charges-and-make-his-defense unlessy-for-sufficient-causay-on-the-accused*s-application or-the-board*s-ordery-the-board-assigns-another-day-for-thot purposes

-5-

ticense-of-the-accused-or-suspending-it-for-a-fixed--periodw
The--board--and-the-accused-may-have-the-benefit-of-counsely
and-the-board-shall-have-the-power-to-administer-oathsy-take
depositions-of-witnesses-in-the-manner-provided--by--law--in
elvil--casesy--and--issue--subpoenas--for--the-attendance-of
witnesses-and-the-production--of--popersy--booksy--accountsy
documentsy--and--testimony--in--any--inquiryy-investigationy
hearingy-or-proceeding-in-this-statew-The-subpoena-shall--be
issued--over-the-signature-of-the-secratary-of-the-board-and
the-seal-and-in-the-name-af-this-statew

the noted on the records of the department on the date of the revocation or suspension of a department on the date of the revocation of the date of the revocation of the department of the date of the revocation of the department of the county of the department of the order of the department of the d

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1	the sanctions listed in 37-4-321, it may do so in accordance
2	with the provisions of the Montana Administrative Procedure
3	Acta If the board finds that the evidence obtained does not
4	justify the legosition of sanctions: it must so notify the
5	licensee concerned and the complaining party and take no
6	further_actiona
7	[2] If the board finds that the evidence obtained does
8	not_warrant_suspension_or_revocation_of_a_license_but_doms
9	warrant other sanctions, it may either:
10	(al issue a public or private decree of censure: or
11	(b) impose a probation with terms and conditions
12	appropriately adapted under the circumstances of the
13	particular_case.
14	(3) The licenses is entitled to an opportunity for a
15	contested case bearing before a sanction of censure or
16	probation becomes effective to the same extent an
17	opportunity for bearing is afforded prior to suspension or
18	revocation.
19	16) In addition to its authority to impose sanctions.
20	the board may deny an application for a license for any of
15	the following reasons:
22	fal failure to meet the relevant requirements of Title
23	37. chaprer 4:
24	(b) making any untrue or fraudulent statement in
25	support of the application; or

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ic) any of the grounds set forth in 37-4-321 for 1 suspension or revocation of a license." 2 Section 4. Section 37-4-405, MCA, is amended to read: 3 hygienist to practice under #37-4-405. Dental supervision of licensed dentist. [1] A licensed dental hygienist may practice in the office of a licensed and actively practicing dentist, in a public or private institution, under a board of health, or in a public clinic authorized by the board but may not practice except under the direct personal supervision of a licensed dentist; 10 11 however, the dental hygienist may give instruction in dental oral hygiene without the supervision of a licensed dentist 12 in a public or private institution or hospital or extended 13 care facility or under a board of health or in a public 14 15 clinic authorized by the board. (2) The hoard may in lieu of the direct supervision 16 requirement set forth in subsection (1). permit a licensed 17 18 dental hygienist to provide clinical dental hygiene services to a public or private institutions a hospital or extended 19 20 care facility, or a school or public health program after a 21 review by the board of a request for such service and a 22 description of the type of supervision necessary is made by the board. For the purposes of this section "supervision" is 23 defined as follows: 24 25 (a) "direct supervision" means the supervision of

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1	those tasks and procedures that do not require the dentis
2	in_the_room_where_performed_but_require_bis_presence_on_th
3	premises and availability for prompt consultation an
4	treatment: and
5	(b) "general supervision" means those tasks an
6	procedures that do not require the presence of a dentist o
7	the premises but shall remain under the dentist's directive
8	orders controls responsibilitys and evaluations*
9	NEW_SECTION. Section 5. Identification of dentures
10	All nonmetal full dentures shall be permanently identifie
11	with the first and last name of the owner at the time o
12	processing the dentures.

-End-

STATEMENT OF INTENT RE: HB 585

A statement of intent is required for this bill because it grants rulemaking authority to the Board of Pentists for the purpose of defining unprofessional conduct.

Section 1 of the bill deletes a fairly specific list of types of unprofessional conduct by a dentist and allows the Board of Dentists to adopt a rule defining unprofessional conduct. It is the Legislature's intent that the Board's rule would reinstate some of the statutory examples, but would not adopt the present law's ban on advertising. The Board may prohibit only so much advertising as the courts would let a state prohibit. This is intended to comply with court orders issued at the behest of the FTC in Louisiana and other states.

Sections 1 and 3 also set up a range of sanctions that the Board may impose on any dentist or dental hygienist whose conduct constitutes grounds for sanctions. This is intended to expand the Board's powers on the lass stringent end of the scale, by adding censure and probation to the revocation and suspension powers the Board now has. Often a problem can be corrected with such milder sanctions when efforts to suspend or revoke might be counterproductive.

First adopted by the HOUSE COMMITTEE ON HUMAN SLRVICES.

1 on February 15, 1979.

HB 585

- Z -

46th Legislature

1	HOUSE BILL NO. 585
2	INTRODUCED BY GOULD. HARRINGTON. BENNETT
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
5	DISCIPLINARY POWERS OF THE BOARD OF DENTISTS; AMENDING
6	LIMITATIONS ON DENTAL ADVERTISING AND ORAL HYGIENE;
7	REQUIRING IDENTIFICATION OF DENTURES; AMENDING SECTIONS
в	37-4-321 THROUGH 37-4-323, AND 37-4-405, MCA.M
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 37-4-321, MCA, is amended to read:
12	#37-4-321. Revocationorsuspensionoflicense
13	unprefessional-conduct <u>Grounds for disciplinary proceedings</u>
14	<pre> range of sanctions. fly-A-dentist-may-have-his-license</pre>
15	revoked-or-suspended-by-the-board-for-any-ofthefollowing
16	reasons*
17	ta)convictionofafelony-or-misdemeanor-involving
18	moral-turpitudev-in-which-case-the-record-of-conviction-or-a
19	copy-certified-by-the-clerk-of-the-court-or-by-the-judgein
20	whose-court-the-conviction-is-had-is-conclusive-evidence;
21	(b)rentingloaning-or-attempting-to-rent-or-loan-to
22	apersonhislicense-for-the-proctice-of-dentistry-or-his
23	diploma-of-graduation-fromadentalcollegevschoolvor
24	course-to-be-used-as-a-license-or-diploms-of-the-persont
25	<pre>fe}permittingadental-hygienist-under-his-personal</pre>

2	those-defined-and-authorized-under-37-4-481-or-37-4-485+
3	td}permittingunlicensedauxiliarypersonnelto
4	perform-duties-ortasksotherthanthosewhichmaybr
5	specifically-authorized-by-the-boards
6	te}unprofessionalconductvgrossignoranceor
7	inafficiency-in-his-professionhabitualintemperanceor
8	gross-immorality:
9	t2}Unprofessional-conduct-consists-of+
0	ta}employingwhatareknownas#coppers#or
1	"steerers"-to-obtain-businesst
2	th:obtaining-a-fee-by-fraud-or-misrepresentations
3	tc)willfully-betraying-professional-secrets;
4	{d}employingdirectly-or-indirectlya-student-ora
5	suspended-or-unlicensed-dentist-to-parform-operations-in-the
6	procticeofdentistrytreat-lesions-of-the-humon-teeth-or
7	jswsor-correct-molimposed-formations:
8	te)makinguseafadvertisingstatementsofa
9	character-tending-to-deceive-or-mislead-the-publict
0	tf)advertising-pricest
ı	tg}advertésingprofessionalsuperiorityor
2	performance-of-professional-services-in-asuperiormonnert
3	th}advertisingbymeans-of-a-targe-displayv-glaring
4	łightsignyorothersignordevicecontainingthe
5	representationofa-toothy-teethy-bridgeworky-or-a-portion

supervision-to-do-an-act-or-perform-an-operation-other--than

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1	of-the-human-headt
2	fitadvertising-over-television-or-radiot
3	tjtempłoying-or-making-use-of-advertisingsoficitors
4	or-publicity-press-agentst
5	<pre>tkjadvertisingfree-dental-work-or-free-examinations</pre>
6	{+}advert+sing-toguaranteedentalserv+ceorto
7	perform-a-dental-operation-pointesstyt
8	{m}advertisinghysignorprintedadvertisements
9	under-the-name-of-a-corporationcompanyassociationar
10	tradename. <u>The board may censure, prescribe probation</u> .
11	suspends or revoke any license issued under this chapter for
12	any of the following causes:
13	(1) conviction of a felony or misdemeanor when the
14	sentence imposed is imprisonment in the state prison. A
15	certified copy of the conviction record from the district
16	court imposing the sentence is conclusive evidence:
17	(21 physical infirmity or mental incompetence:
18	(3) gross malpractice or repeated malpractice;
19	151 unprofessional conducts as defined by rule of the
20	board:_or
21	15) violation of any of the provisions of this chapter
27	or_rules_or_orders_of_the_boarde*
23	Section 2. Section 37-4-322, MCA, is amended to read:
24	#37-4-322. When publishing professional cards not
25	unprofessional conduct. (1) It shall not be considered

unprofessional for a dentist to place in any newspaper or publication, subject to the limitations stated hereafter, a card bearing his name only, together with his degree or the word "dentist" and giving office location, hours, and telephone numbers. If he limits his practice to a specialty he may so announce it or he may announce his absence from or return to practice in the same manner. Such professional-card-or-announcement-shall-not-be--run--in--ony newspaper--or-publication-in-excess-of-five-issues-following the-opening-of-hig-office-by-a--newly--licensed--dentist--or following--the--change--of-location-of-s-dentist4s-office-or after-limiting-his-practice-to-a--specialty--or--after--the absenting--of--a--dentist-from-his-practice-or-following-his return-to-the--practice--of--dentistry---Such---card---or ennouncement -- shell -- not -- be-more-than-2-columns-in-width-or more-than-3-inches-in-depths

ennouncements—in—violation—of—these—limitations—shall—be considered—unprofessional—A dentist max publish a list of his fees but such listing must include full and complete information—stating—if—the—published—fee_is—minimums maximums—or usual and whether or not any additional charges may be made for the services published. All announcements or publications must be done in a professional manner that will in no may coerce or confuse the publica.

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Section 3. Section 37-4-323, MCA, is amended to read:
#37-4-323. Revocation-or-suspension-oflicense
procedure <u>Procedure for investigation == sanstions</u> . (1)
Proceedingsunder-37-4-321-may-be-taken-by-the-board-on-its
initial-motion-for-matters-in-its-knowledge-or-may-betaken
onthe-information-of-anothers-Howevers-if-the-informant-is
a-member-of-theboardytheothermembersoftheboard
constitutetheboardforthepurpose-of-determining-the
truth-of-the-charge-or-accusation»-Accusationsmustbein
writingverifiedbysomepartyfamiliar-with-the-facts
${\tt chargedy-and-three-copies-must-be-fited-with-the-departmentw}$
Bn-receiving-the-accusation-the-board-shally-if-it-considers
the-accusation-sufficienty-makeonordersettingitfor
hearingandrequiring-the-accused-to-appear-and-answer-the
charge-or-accusation-at-the-hearing:

t2)--The-accused-must-appear-at-the-time--appointed--in
the--order--and--answer--the--charges--and--make-his-defense
unlessy-for-sufficient-causey-on-the--accused*s--application
or-the-board*s-ordery-the-board-assigns-another-day-for-that
purposes

(3)--if--the--accused--does--not--appears-the-board-may proceed-and-determine-the-accusation-in-his-shaences-if--the accused--confesses--the--accusation-or-refuses-to-answer-the charge-or-if-on--hearing--the--board--finds--the--charge--or accusation--trues--it--may-make-an-order-either-revoking-the

ticense-of-the-accused-or-suspending-it-for-a-fixed--periods

The-board--and-the-accused-may-have-the-benefit-of-counsels

and-the-board-shall-have-the-power-to-administer-oathsy-take

depositions-of-witnesses-in-the-manner-provided--by--law--in

civil--casesy--and--issue--subpoenas--for--the-attendance-of

witnesses-and-the-production--of--papersy--booksy--occountsy

documentsy--and--testimony--in--any--inquiryy-investigationy

heoringy-or-proceeding-in-this-statey-The-subpoena-shall--be

issued--over-the-signature-af-the-secretary-of-the-board--nd

the-seal-and-in-the-name-of-this-statey

this-Un-revocation-or-suspension-of-a-ticensey-the-fact
shall-be-noted-on-the-records-of-the-department-and-the
ticense-shall-be-marked-=canceled=-ton-the-date-of-its
revocation;--or-=suspended=v--os--the-case-may--bev---The
department-shally-on-order-of-suspension-or-revocation-being
enteredy--transmit--to--the-county-clerk-and-recorder-of-the
county-in-which-the-license-of-the-license-affected-by--the
judgment--is--registered--and--recorded-s-copy-of-the-ordery
certified-by-the-secretary-of-the-boardy-for-recordy-and--it
shall--be-registered-in-the-same-manner-and-in-the-same-book
in-which-the-registration-of--the--certificate--to--proctice
dentistry--is--kepty [1]_Upon_receipt_of_a_complaint_or_upon
its_own_motion_the_board_shall_determine_whether_the_matters
alleged_warrant_investigation_and_may_cause_investigation_to
be_mades_If_the_board_finds_preliminary_cause_for_imposing

1	the sanctions listed in 37-4-321. it may do so in accordance
2	with the provisions of the Montana Administrative Procedure
3	Act. If the board finds that the evidence obtained does _oot
4	justify the imposition of sanctions lit must so notify the
5	licensee_concerned_and_the_complaining_party_and_take_no
6	further_action.
7	121_If the board_finds_that_the_evidence_obtained_does
8	<u>not_warrant_suspension_or_revocation_of_a_license_but_does</u>
9	warrant_other_sanctions:_it_way_cither:
10	(a) issue a public or private decree of censure: or
11	(b) impose a probation with terms and conditions
12	appropriately adapted under the circumstances of the
13	particular_case.
14	(3) The licensee is untitled to an opportunity for a
15	contested_case_bearing_before_a_sanction_of_censure_or
16	probation becomes effective to the same extent an
17	opportunity for hearing is afforded prior to suspension or
18	CEXOCATION.
19	141 In addition to its authority to impose sanctions.
20	the board may deny an application for a license for any of
21	the following reasons:
22	fal failure to meet the relevant requirements of little
23	37chapter_4:
24	(b) making any untrue or fraudulent statement in
25	support of the application; or

1	(c) any of the grounds set forth in 37-4-321 for
2	suspension or revocation of a licenses"
3	Section 4. Section 37-4-405, MCA, is amended to read
4	#37-4-405. Dental hygienist to practice under
5	supervision of licensed dentist. (1) A licensed denta
6	hygienist may practice in the office of a licensed and
7	actively practicing dentist, in a public or private
8	institution, under a board of health, or in a public clinic
9	authorized by the board but may not practice except unde
10	the direct personal supervision of a licensed dentist
11	however, the dental hygienist may give instruction in denta
12	gral hygiene without the supervision of a licensed dentis
13	in a public or private institution or hospital or extende
14	care facility or under a board of health or in a publi
15	clinic authorized by the board.
16	(2) The board may in lieu of the direct supervisio
17	requirement set forth in subsection (1) permit a license
10	dental hygienist to provide clinical dental hygiene service
19	to a public or private institution, a hospital or extende
20	care facility: or a school or public health program after
21	review by the board of a request for such service and
22	description of the type of supervision necessary is made b
23	the board. For the purposes of this section "supervision" i
24	defined as follows:
25	(a) "direct supervision" means the supervision o

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1	those tasks and procedures that do not require the dentist
2	in the room where performed but require his presence on the
3	premises and availability for prompt consultation and
4	treatment: and
5	1bl "general supervision" means those tasks and
6	procedures that do not require the presence of a dentist on
7	the premises but shall remain under the dentist's directive
9	order: centrol: responsibility: and evaluation."
9	NEW SECTION. Section 5. Identification of dentures.
0	All nonmetal full dentures shall be permanently identified
1	with the first and last name of the owner at the time of
2	processing the dentures.
3	SECTION 6. SEVERABILITY. IF A PART OF THIS ACT IS
4	INVALID: ALL VALID PARIS THAT ARE SEVERABLE FROM THE INVALID
5	PART REBAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN
6	ONE_DR_HORE_DE_IIS_APPLICATIONS: INE_PART_REMAINS_IN_EFFECT
7	IN ALL YALID APPLICATIONS THAT ARE SEVERABLE FROM THE
8	INVALID APPLICATIONS.

-End-

March 9, 1979

SENATE STANDING COMMITTEE REPORT (Public Health, Welfare & Safety)

That House Bill No. 585 be amended as follows:

1. Page 9, line 13. Following: line 12

Insert: "Section 6. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."