

HOUSE BILL 697

IN THE HOUSE

February 9, 1979	Introduced and referred to Committee on Judiciary.
February 15, 1979	Committee recommend bill, do pass.
February 17, 1979	Second reading, do pass.
February 19, 1979	Considered correctly engrossed. Third reading, passed.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Judiciary.
March 10, 1979	Committee recommend bill, as amended.
March 13, 1979	Second reading, indefinitely postponed.

IN THE HOUSE

March 14, 1979	Returned from the Senate, indefintely postponed.
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1 *House* BILL NO. *697*
 2 INTRODUCED BY *Ray Kelly, Dennis Ramsey, [unclear]*
 3 *[unclear]*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY
 5 THE PROCEDURE FOR REVOCATION OR SUSPENSION OF MEDICAL
 6 LICENSES AND TO PROVIDE VENUE IN LEWIS AND CLARK COUNTY;
 7 AMENDING SECTION 37-3-323, MCA."

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

10 Section 1. Section 37-3-323, MCA, is amended to read:

11 "37-3-323. Revocation or suspension of license —
 12 probation. (1) The board may make an investigation whenever
 13 it is brought to its attention that there is reason to
 14 suspect that a person having a license or certificate to
 15 practice medicine in this state:

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

24 (b) has been guilty of unprofessional conduct;

25 (c) has practiced medicine while his license was

suspended or revoked;

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

(e) while under probation has violated its terms.

(2) The investigation shall be for the purpose of
 determining the probability of the existence of these
 conditions or the commission of these offenses and may
 include requiring the person to submit to a physical
 examination or a mental examination, or both, by a physician
 or physicians selected by the board if it appears to be in
 the best interests of the public that this evaluation be
 secured.

(3) The board may examine and scrutinize the hospital
 records and reports of a licensee as part of the examination
 investigation, and copies of these shall be released to the
 board on written request. If the board has reasonable cause
 to believe that this probability exists, the department
 shall mail to the person at his last address of record with
 the department a specification of the charges against him,
 together with a written notice of the time and place of the
 hearing on such charges, advising him that he may be present
 in person and by counsel if he so desires to offer evidence
 and be heard in his defense. The time fixed for the hearing
 may not be less than 30 days from the date of mailing the

1 notice. ~~The venue for the hearing is in Lewis and Clark~~
2 ~~county.~~

3 ~~(3)(4)~~ A person, including a member of the board, may
4 file a sworn complaint with the department against a person
5 having a license to practice medicine in this state charging
6 him with the commission of any of the offenses set forth in
7 37-3-322 or with any of the offenses or conditions set forth
8 in subsection (1) of this section, which complaint shall set
9 forth a specification of the charges. When the complaint is
10 filed, the department shall mail a copy to the person
11 accused at his last address of record with the department,
12 together with a written citation of the time and place of
13 the hearing on it.

14 ~~(4)(5)~~ At the hearing the board shall adopt a
15 resolution finding him guilty or not guilty of the matters
16 charged. If the board finds that the offenses or conditions
17 referred to in 37-3-322 or subsection (1) of this section do
18 not exist with respect to the person or if he is found not
19 guilty, the board shall dismiss the charges or complaint. If
20 the board finds that the offenses or conditions referred to
21 in 37-3-322 or in subsection (1) of this section do exist
22 and the person is found guilty, the board shall:

23 (a) revoke his license;

24 (b) suspend his right to practice for a period not
25 exceeding 1 year;

1 (c) suspend its judgment of revocation on the terms
2 and conditions to be determined by the board;

3 (d) place him on probation; or

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

6 ~~(5)(6)~~ In a case of revocation, suspension, or
7 probation, the department shall enter in its records the
8 facts of the action and of subsequent action of the board
9 with respect to it.

10 ~~(6)(7)~~ On the expiration of the term of suspension,
11 the licensee shall be reinstated by the board if he
12 furnishes the board with evidence that he is then of good
13 moral character and conduct and restored to good health and
14 that he has not practiced medicine in this state during the
15 term of suspension. If the evidence fails to establish to
16 the satisfaction of the board that the holder is then of
17 good moral character and conduct or restored to good health
18 or if the evidence shows he has practiced medicine in this
19 state during the term of suspension, the board shall revoke
20 the license at a hearing with notice and the procedure
21 provided in subsection (1) of this section. The revocation
22 is final and absolute.

23 ~~(7)(8)~~ If a person holding a license to practice
24 medicine under this chapter is by a final order or
25 adjudication of a court of competent jurisdiction adjudged

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

-End-

HB 697

1 *House* BILL NO. *697*
 2 INTRODUCED BY *Don Keady, Dennis Ramsey, [Signature]*

3
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 12 the best interests of the public that this evaluation be
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 19 shall mail to the person at his last address of record with
 20 the department a specification of the charges against him,
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 22 hearing on such charges, advising him that he may be present
 23 in person and by counsel if he so desires to offer evidence
 24 and be heard in his defense. The time fixed for the hearing
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1 notice. The venue for the hearing is in Lewis and Clark
2 county.

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25 exceeding 1 year;

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2 and conditions to be determined by the board;

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4 (e) take any other action in relation to disciplining
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8 facts of the action and of subsequent action of the board
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3 suspended by the board. The suspension continues until the
4 licensee is found or adjudged by the court to be restored to
5 reason r cured or until he is discharged as restored to
6 reason or cured and his professional competence has been
7 proven to the satisfaction of the board."

-End-

HB 697

March 10, 1979

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 697 be amended as follows:

1. Title, line 6.

Following: "PROVIDE"

Insert: "FOR"

Following: "VENUE"

Strike: "IN LEWIS AND CLARK COUNTY"

2. Page 3, lines 1 and 2.

Following: "hearing"

Strike: "is in Lewis and Clark county"

Insert: "shall be in the county of residence of the practitioner
unless the practitioner and the board agree otherwise"