

HOUSE BILL NO. 7

INTRODUCED BY KEYSER, ERNST, O'HARA, CONROY

IN THE HOUSE

January 6, 1981	On motion by chief sponsor, Representatives Ernst, O'Hara, Conroy were added as authors to the prefiled bill.
	Introduced and referred to Committee on Public Health.
January 7, 1981	Fiscal note requested.
January 12, 1981	Fiscal note returned.
January 19, 1981	Committee recommend bill do pass as amended. Report adopted.
January 20, 1981	Bill printed and placed on members' desks.
January 24, 1981	Statement of intent attached.
January 27, 1981	Second reading, do pass as amended.
January 28, 1981	Correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 29, 1981	Introduced and referred to Committee on Public Health, Welfare, and Safety.
March 12, 1981	Committee recommend bill be concurred in as amended. Report adopted.

March 13, 1981

Second reading, concurred in  
as amended.

March 16, 1981

Third reading, concurred in  
as amended. Ayes, 48; Noes, 0.

IN THE HOUSE

March 17, 1981

Returned from Senate with  
amendments.

April 7, 1981

Second reading, amendments  
concurred in.

On motion, rules suspended  
and bill placed on third  
reading this day.

Third reading, amendments  
concurred in. Ayes, 95;  
Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1                    HOUSE    BILL NO. 7  
2    INTRODUCED BY KEYSER

3  
4    A BILL FOR AN ACT ENTITLED:    "AN ACT REGULATING THE  
5    UTILIZATION OF PHYSICIAN'S ASSISTANTS; AMENDING SECTION  
6    37-3-103, MCA."

7  
8    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9        NEW SECTION. Section 1. Duties of board of medical  
10    examiners -- compensation and expenses of members. The  
11    Montana state board of medical examiners provided for in  
12    2-15-1605 shall administer the provisions of [sections 1  
13    through 6] under such procedure as it considers advisable  
14    and may adopt reasonable rules to carry out the provisions  
15    of [sections 1 through 6]. Each member of the board shall  
16    receive the compensation and travel expenses provided for in  
17    37-3-206 while engaged in the active and necessary discharge  
18    of his duties under [sections 1 through 6].

19        NEW SECTION. Section 2. Utilization plan required --  
20    contents -- approval. (1) No physician, office, firm, or  
21    professional service corporation may employ or make use of  
22    the services of a physician's assistant in the practice of  
23    medicine, as defined in 37-3-102, and no physician's  
24    assistant may be employed as a physician's assistant unless  
25    the assistant is supervised by a licensed physician and

1    unless such employment or use has been approved by the  
2    Montana state board of medical examiners in a physician's  
3    assistant utilization plan.

4        (2) A physician's assistant utilization plan must set  
5    forth in detail the following information:

6        (a) the name and qualifications of the supervising  
7    physician and the physician's assistant, as provided in  
8    [section 3];

9        (b) the nature and location of the physician's medical  
10    practice;

11        (c) the duties to be delegated to the physician's  
12    assistant and the location in which those duties are to be  
13    performed; and

14        (d) such other information as the board may consider  
15    necessary.

16        (3) The board shall approve the utilization plan if it  
17    finds that the duties to be delegated to the physician's  
18    assistant are:

19        (a) assigned by the supervising physician;

20        (b) within the scope of the training, knowledge,  
21    experience, and practice of the supervisory physician; and

22        (c) within the scope of the training, knowledge,  
23    education, and experience of the physician's assistant.

24        NEW SECTION. Section 3. Qualifications of supervising  
25    physician and physician's assistants. (1) Each supervising

HB7

1 physician named in the utilization plan required by [section  
2 2] shall:

3 (a) possess a current, unrestricted license to practice  
4 medicine in this state;

5 (b) submit a statement to the Montana state board of  
6 medical examiners that, in his opinion, the assistant to be  
7 employed is of good character and is both mentally and  
8 physically able to perform the duties of a physician's  
9 assistant described in the utilization plan;

10 (c) submit a statement to the board that he will  
11 exercise supervision over the physician's assistant in  
12 accordance with any rules adopted by the board and will  
13 retain professional and legal responsibility for the care  
14 and treatment of his patients; and

15 (d) submit detailed information to the board regarding  
16 the physician's professional background, medical education,  
17 internship and residency, continuing education received,  
18 membership in state and national medical associations,  
19 hospital and staff privileges, and such other information as  
20 the board may require.

21 (2) Each physician's assistant named in the utilization  
22 plan required by [section 2] shall:

23 (a) be of good character;

24 (b) be a graduate of or a student in good standing in a  
25 physician's assistant training program approved by the

1 American medical association;

2 (c) have taken an examination recognized by the  
3 national commission on physician's assistants and received a  
4 score satisfactory to the board or be eligible to take the  
5 examination;

6 (d) hold a current certification by the national  
7 commission on physician's assistants or be eligible for  
8 certification; and

9 (e) submit to the board detailed information on the  
10 applicant's history, education, and experience and such  
11 other information as the board may require.

12 NEW SECTION. Section 4. Utilization plan approval fee  
13 -- renewal of approval -- renewal fee. (1) Every physician,  
14 office, firm, or professional service corporation proposing  
15 to employ a physician's assistant shall pay to the board a  
16 utilization plan approval fee in an amount set by the board,  
17 not exceeding \$50. Payment must be made when the utilization  
18 plan is submitted to the board and is not refundable.

19 (2) Approval of every physician's assistant utilization  
20 plan expires 1 year from the date of approval and is invalid  
21 thereafter. The department of professional and occupational  
22 licensing shall notify each physician, office, firm, or  
23 professional corporation and physician's assistant named in  
24 a utilization plan of the date of expiration of board  
25 approval at least 1 month prior to the expiration of

1 approval.

2 (3) Renewal of approval shall be granted by the board  
3 under such circumstances as would justify original approval  
4 of a utilization plan and upon payment by the employing  
5 physician, office, firm, or professional service corporation  
6 of a renewal fee in an amount to be set by the board, not to  
7 exceed \$50.

8 (4) Fees received by the department must be deposited  
9 in the earmarked revenue fund for use by the board in the  
10 administration of [sections 1 through 6], subject to  
11 37-1-101(6).

12 NEW SECTION. Section 5. Penalty -- enforcement. (1)  
13 Any person who employs a physician's assistant or holds  
14 himself out to be a qualified physician's assistant without  
15 the approval of the Montana state board of medical examiners  
16 is guilty of a misdemeanor and is punishable as provided in  
17 46-18-212.

18 (2) In addition to seeking any criminal penalty  
19 available under this section, the board may withdraw its  
20 approval of any utilization plan previously approved which  
21 is applicable to any supervising physician or physician's  
22 assistant who:

- 23 (a) acts in violation of this section;  
24 (b) obtained the approval of the board by fraud;  
25 (c) acts in a manner contrary to the terms of the

1 utilization plan; or

2 (d) violates any of the applicable provisions of  
3 [sections 1 through 6] or rules of the board adopted  
4 thereunder.

5 (3) The board may enforce the provisions of this  
6 section by the remedy of injunction.

7 NEW SECTION. Section 6. Exemptions from approval  
8 requirement. [This act] does not require the approval of a  
9 physician's assistant utilization plan with respect to any  
10 acts within the professional competence of a person licensed  
11 under the provisions of Title 37, chapters 3 through 17, 31,  
12 or 32.

13 Section 7. Section 37-3-103, MCA, is amended to read:

14 "37-3-103. Exemptions from licensing requirements. (1)  
15 This chapter does not prohibit or require a license with  
16 respect to any of the following acts:

17 (a) the gratuitous rendering of services in cases of  
18 emergency or catastrophe;

19 (b) the rendering of services in this state by a  
20 physician lawfully practicing medicine in another state or  
21 territory. However, if the physician does not limit the  
22 services to an occasional case or if he has any established  
23 or regularly used hospital connections in this state or  
24 maintains or is provided with, for his regular use, an  
25 office or other place for rendering the services, he must

HB 7

1 possess a license to practice medicine in this state.

2 (c) the practice of dentistry under the conditions and  
3 limitations defined by the laws of this state;

4 (d) the practice of podiatry under the conditions and  
5 limitations defined by the laws of this state;

6 (e) the practice of optometry under the conditions and  
7 limitations defined by the laws of this state;

8 (f) the practice of osteopathy under the conditions and  
9 limitations defined in chapter 5 of this title for those  
10 doctors of osteopathy who do not receive a physician's  
11 certificate under this chapter;

12 (g) the practice of chiropractic under the conditions  
13 and limitations defined by the laws of this state;

14 (h) the practice of Christian Science, with or without  
15 compensation, and ritual circumcisions by rabbis;

16 (i) the performance by commissioned medical officers of  
17 the armed forces of the United States, of the United States  
18 public health service, or of the United States veterans  
19 administration of their lawful duties in this state as  
20 officers;

21 (j) the rendering of nursing services by registered or  
22 other nurses in the lawful discharge of their duties as  
23 nurses or of midwife services by registered nurse-midwives  
24 under the supervision of a licensed physician;

25 (k) the rendering of services by interns or resident

1 physicians in a hospital or clinic in which they are  
2 training, subject to the conditions and limitations of this  
3 chapter. The board may require a resident physician to be  
4 licensed if he otherwise engages in the practice of medicine  
5 in the state of Montana.

6 (l) the rendering of services by a physical therapist  
7 technician--or--other--paramedical--specialist--under--the  
8 personal--and--responsible--direction--and--supervision--of--a  
9 person--licensed--under--the--laws--of--this--state--to--practice  
10 medicine--but--this--exemption--does--not--extend--the--scope--of--  
11 paramedical--specialist; and

12 (m) the rendering of services by a physician's  
13 assistant in accordance with [sections 1 through 6]; and

14 (n) the practice by persons licensed under the laws  
15 of this state to practice a limited field of the healing  
16 arts, and not specifically designated, under the conditions  
17 and limitations defined by law.

18 (2) Licensees referred to in subsection (1) of this  
19 section who are licensed to practice a limited field of  
20 healing arts shall confine themselves to the field for which  
21 they are licensed or registered and to the scope of their  
22 respective licenses and may not use the title "M.D." or any  
23 word or abbreviation to indicate or to induce others to  
24 believe that they are engaged in the diagnosis or treatment  
25 of persons afflicted with disease, injury, or defect of body

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1 or mind except to the extent and under the conditions  
2 expressly provided by the law under which they are  
3 licensed."

-End-

H.B. 7

STATE OF MONTANA

REQUEST NO. 23-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 7, 19 81, there is hereby submitted a Fiscal Note for House Bill 7 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act regulating the utilization of physician's assistants and providing fees.

Comments

No dollar estimate can be made for House Bill 7. The Board of Medical Examiners has no data base which can be used to estimate the number of physician's assistants.

Lyle Manley

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/10/81



STATEMENT OF INTENT

HOUSE BILL 7

House Public Health Committee

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A statement of intent is required for this bill because it delegates authority to the board of medical examiners to consider physicians' assistants utilization plans and to promulgate administrative rules in that regard.

HB 7 intends that the board of medical examiners carry out the provisions of this bill and act to provide better health care for the public. In this spirit, the bill intends for the board of medical examiners to adopt rules which will clarify the nature and limitations of the supervision of physicians' assistants by physicians. The rules adopted should address issues of direction and supervision such as proximity of the supervising physician to his assistant; the nature of the communication between the physician and the assistant, whether it must be face-to-face or whether telephone communications suffice, and under what circumstances; the questions of protocols for interaction between different health care actors, including issues of liability and the possible direction of others by physicians' assistants; and the rules adopted should give additional guidance to prospective applicants with respect to the requirements for education and experience required of

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physicians' assistants, the nature of a training program approved by the American medical association, and general information indicating the scope of utilization plans likely to be approved.  
In addition, a rule shall be promulgated to specify that a physician may not utilize more than one (1) physician's assistant unless he can demonstrate to the board the ability to supervise more than one assistant adequately.

Approved by Committee  
on Public Health,  
Safety and Welfare

HOUSE BILL NO. 7

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and may adopt reasonable rules to carry out the provisions  
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(c) the duties to be delegated to the physician's  
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performed; and

(d) such other information as the board may consider  
necessary.

(3) The board shall approve the utilization plan if it  
finds that the duties to be delegated to the physician's  
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(a) assigned by the supervising physician;

(b) within the scope of the training, knowledge,  
experience, and practice of the supervisory physician; and

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education, and experience of the physician's assistant.

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6 medical examiners that, in his opinion, the assistant to be  
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8 physically able to perform the duties of a physician's  
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10 (c) submit a statement to the board that he will  
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12 accordance with any rules adopted by the board and will  
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14 and treatment of his patients; and

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19 hospital and staff privileges, and such other information as  
20 the board may require.

21 (2) Each physician's assistant named in the  
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23 (a) be of good character;

24 (b) be a graduate of or a student in good standing in  
25 a physician's assistant training program approved by the

1 American medical association;

2 (c) have taken an examination recognized by the  
3 national commission on physician's assistants and received a  
4 score satisfactory to the board ~~or be eligible to take the~~  
5 ~~examination;~~

6 (d) hold a current certification by the national  
7 commission on physician's assistants ~~or be eligible for~~  
8 ~~certification;~~ and

9 (e) submit to the board detailed information on the  
10 applicant's history, education, and experience and such  
11 other information as the board may require.

12 ~~NEW SECTION.~~ Section 4. Utilization plan approval fee  
13 -- renewal of approval -- renewal fee. (1) Every physician,  
14 office, firm, or professional service corporation proposing  
15 to employ a physician's assistant shall pay to the board a  
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17 not exceeding \$50. Payment must be made when the utilization  
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22 and occupational licensing shall notify each physician,  
23 office, firm, or professional corporation and physician's  
24 assistant named in a utilization plan of the date of  
25 expiration of board approval at least 1 month prior to the

1 expiration of approval.

2 (3) Renewal of approval shall be granted by the board  
 3 under such circumstances as would justify original approval  
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 5 physician, office, firm, or professional service corporation  
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 7 exceed \$50.

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 9 in the earmarked revenue fund for use by the board in the  
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 16 is guilty of a misdemeanor and is punishable as provided in  
 17 46-18-212.

18 (2) In addition to seeking any criminal penalty  
 19 available under this section, the board may withdraw its  
 20 approval of any utilization plan previously approved which  
 21 is applicable to any supervising physician or physician's  
 22 assistant who:

- 23 (a) acts in violation of this section;
- 24 (b) obtained the approval of the board by fraud;
- 25 (c) acts in a manner contrary to the terms of the

1 utilization plan; or

2 (d) violates any of the applicable provisions of  
 3 [sections 1 through 6] or rules of the board adopted  
 4 thereunder.

5 (3) The board may enforce the provisions of this  
 6 section by the remedy of injunction.

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13 Section 7. Section 37-3-103, MCA, is amended to read:

14 "37-3-103. Exemptions from licensing requirements. (1)  
 15 This chapter does not prohibit or require a license with  
 16 respect to any of the following acts:

17 (a) the gratuitous rendering of services in cases of  
 18 emergency or catastrophe;

19 (b) the rendering of services in this state by a  
 20 physician lawfully practicing medicine in another state or  
 21 territory. However, if the physician does not limit the  
 22 services to an occasional case or if he has any established  
 23 or regularly used hospital connections in this state or  
 24 maintains or is provided with, for his regular use, an  
 25 office or other place for rendering the services, he must

1 possess a license to practice medicine in this state.  
 2 (c) the practice of dentistry under the conditions and  
 3 limitations defined by the laws of this state;  
 4 (d) the practice of podiatry under the conditions and  
 5 limitations defined by the laws of this state;  
 6 (e) the practice of optometry under the conditions and  
 7 limitations defined by the laws of this state;  
 8 (f) the practice of osteopathy under the conditions  
 9 and limitations defined in chapter 5 of this title for those  
 10 doctors of osteopathy who do not receive a physician's  
 11 certificate under this chapter;  
 12 (g) the practice of chiropractic under the conditions  
 13 and limitations defined by the laws of this state;  
 14 (h) the practice of Christian Science, with or without  
 15 compensation, and ritual circumcisions by rabbis;  
 16 (i) the performance by commissioned medical officers  
 17 of the armed forces of the United States, of the United  
 18 States public health service, or of the United States  
 19 veterans administration of their lawful duties in this state  
 20 as officers;  
 21 (j) the rendering of nursing services by registered or  
 22 other nurses in the lawful discharge of their duties as  
 23 nurses or of midwife services by registered nurse-midwives  
 24 under the supervision of a licensed physician;  
 25 (k) the rendering of services by interns or resident

1 physicians in a hospital or clinic in which they are  
 2 training, subject to the conditions and limitations of this  
 3 chapter. The board may require a resident physician to be  
 4 licensed if he otherwise engages in the practice of medicine  
 5 in the state of Montana.  
 6 (1) the rendering of services by a physical therapist,  
 7 technician, or other paramedical specialist under the  
 8 personal and responsible direction and supervision of a  
 9 person licensed under the laws of this state to practice  
 10 medicine, but this exemption does not extend the scope of a  
 11 paramedical specialist, TECHNICIANS, OR OTHER PARAMEDICAL  
 12 SPECIALIST UNDER THE APPROPRIATE AMOUNT AND TYPE OF  
 13 SUPERVISION OF A PERSON LICENSED UNDER THE LAWS OF THIS  
 14 STATE TO PRACTICE MEDICINE, BUT THIS EXEMPTION DOES NOT  
 15 EXTEND THE SCOPE OF A PARAMEDICAL SPECIALIST; and  
 16 (m) the rendering of services by a physician's  
 17 assistant in accordance with [sections 1 through 6]; and  
 18 (n) the practice by persons licensed under the laws  
 19 of this state to practice a limited field of the healing  
 20 arts, and not specifically designated, under the conditions  
 21 and limitations defined by law.  
 22 (2) Licensees referred to in subsection (1) of this  
 23 section who are licensed to practice a limited field of  
 24 healing arts shall confine themselves to the field for which  
 25 they are licensed or registered and to the scope of their

1    respective licenses and may not use the title "M.D." or any  
2    word or abbreviation to indicate or to induce others to  
3    believe that they are engaged in the diagnosis or treatment  
4    of persons afflicted with disease, injury, or defect of body  
5    or mind except to the extent and under the conditions  
6    expressly provided by the law under which they are  
7    licensed."

8        ~~NEW\_SECTION.~~ Section 8. Exemption from liability. No  
9    hospital or health care facility shall be liable for the  
10   errors, omissions, or actions of a physician's assistant.

11       ~~NEW\_SECTION.~~ Section 9. That both a primary and  
12   secondary medical doctor be listed with the board of medical  
13   examiners to allow for backup supervision, in case of  
14   absence of the primary medical doctor.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 7

3 House Human Services Committee  
4

5 A statement of intent is required for this bill because  
6 it delegates authority to the board of medical examiners to  
7 consider physicians' assistants utilization plans and to  
8 promulgate administrative rules in that regard.

9 H<sub>0</sub> 7 intends that the board of medical examiners carry  
10 out the provisions of this bill and act to provide better  
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14 physicians' assistants by physicians. The rules adopted  
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(b) the nature and location of the physician's medical  
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(c) the duties to be delegated to the physician's  
assistant and the location in which those duties are to be  
performed; and

~~(D) THE NAME AND QUALIFICATIONS OF A SECOND PHYSICIAN  
MEETING THE REQUIREMENTS OF [SECTION 3] TO SERVE IN THE  
PLACE OF THE SUPERVISING PHYSICIAN IN THE EVENT THAT THE  
SUPERVISING PHYSICIAN IS UNABLE TO SUPERVISE THE PHYSICIAN'S  
ASSISTANT TEMPORARILY; AND~~

~~(E)~~ such other information as the board may  
consider necessary.

(3) The board shall approve the utilization plan if it  
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 5 physician and physician's assistants. (1) Each supervising  
 6 physician named in the utilization plan required by [section  
 7 2] shall:

8 (a) possess a current, unrestricted license to  
 9 practice medicine in this state;

10 (b) submit a statement to the Montana state board of  
 11 medical examiners that, in his opinion, the assistant to be  
 12 employed is of good character and is both mentally and  
 13 physically able to perform the duties of a physician's  
 14 assistant described in the utilization plan;

15 (c) submit a statement to the board that he will  
 16 exercise supervision over the physician's assistant in  
 17 accordance with any rules adopted by the board and will  
 18 retain professional and legal responsibility for the care  
 19 and treatment of his patients; and

20 (d) submit detailed information to the board regarding  
 21 the physician's professional background, medical education,  
 22 internship and residency, continuing education received,  
 23 membership in state and national medical associations,  
 24 hospital and staff privileges, and such other information as  
 25 the board may require.

1 (2) Each physician's assistant named in the  
 2 utilization plan required by [section 2] shall:

3 (a) be of good character;

4 (b) be a graduate of ~~or-a-student-in-good-standing-in~~  
 5 a physician's assistant training program approved by the  
 6 American medical association;

7 (c) have taken an examination recognized by the  
 8 national commission on physician's assistants and received a  
 9 score satisfactory to the board ~~or-be-eligible-to--take--the~~  
 10 ~~examination;~~

11 (d) hold a current certification by the national  
 12 commission on physician's assistants ~~or--be--eligible--for~~  
 13 ~~certification;~~ and

14 (e) submit to the board detailed information on the  
 15 applicant's history, education, and experience and such  
 16 other information as the board may require.

17 NEW SECTION. Section 4. Utilization plan approval fee  
 18 -- renewal of approval -- renewal fee. (1) Every physician,  
 19 office, firm, or professional service corporation proposing  
 20 to employ a physician's assistant shall pay to the board a  
 21 utilization plan approval fee in an amount set by the board,  
 22 not exceeding \$50. Payment must be made when the utilization  
 23 plan is submitted to the board and is not refundable.

24 (2) Approval of every physician's assistant  
 25 utilization plan expires 1 year from the date of approval

1 and is invalid thereafter. The department of professional  
 2 and occupational licensing shall notify each physician,  
 3 office, firm, or professional corporation and physician's  
 4 assistant named in a utilization plan of the date of  
 5 expiration of board approval at least 1 month prior to the  
 6 expiration of approval.

7 (3) Renewal of approval shall be granted by the board  
 8 under such circumstances as would justify original approval  
 9 of a utilization plan and upon payment by the employing  
 10 physician, office, firm, or professional service corporation  
 11 of a renewal fee in an amount to be set by the board, not to  
 12 exceed \$50.

13 (4) Fees received by the department must be deposited  
 14 in the earmarked revenue fund for use by the board in the  
 15 administration of [sections 1 through 6], subject to  
 16 37-1-101(6).

17 NEW SECTION. Section 5. Penalty -- enforcement. (1)  
 18 Any person who employs a physician's assistant or holds  
 19 himself out to be a qualified physician's assistant without  
 20 the approval of the Montana state board of medical examiners  
 21 is guilty of a misdemeanor and is punishable as provided in  
 22 46-18-212.

23 (2) In addition to seeking any criminal penalty  
 24 available under this section, the board may withdraw its  
 25 approval of any utilization plan previously approved which

1 is applicable to any supervising physician or physician's  
 2 assistant who:

- 3 (a) acts in violation of this section;
- 4 (b) obtained the approval of the board by fraud;
- 5 (c) acts in a manner contrary to the terms of the  
 6 utilization plan; or
- 7 (d) violates any of the applicable provisions of  
 8 [sections 1 through 6] or rules of the board adopted  
 9 thereunder.

10 (3) The board may enforce the provisions of this  
 11 section by the remedy of injunction.

12 NEW SECTION. Section 6. Exemptions from approval  
 13 requirement. [This act] does not require the approval of a  
 14 physician's assistant utilization plan with respect to any  
 15 acts within the professional competence of a person licensed  
 16 under the provisions of Title 37, chapters 3 through 17, 31,  
 17 or 32.

18 Section 7. Section 37-3-103, MCA, is amended to read:

19 "37-3-103. Exemptions from licensing requirements. (1)  
 20 This chapter does not prohibit or require a license with  
 21 respect to any of the following acts:

- 22 (a) the gratuitous rendering of services in cases of  
 23 emergency or catastrophe;
- 24 (b) the rendering of services in this state by a  
 25 physician lawfully practicing medicine in another state or

1 territory. However, if the physician does not limit the  
 2 services to an occasional case or if he has any established  
 3 or regularly used hospital connections in this state or  
 4 maintains or is provided with, for his regular use, an  
 5 office or other place for rendering the services, he must  
 6 possess a license to practice medicine in this state.

7 (c) the practice of dentistry under the conditions and  
 8 limitations defined by the laws of this state;

9 (d) the practice of podiatry under the conditions and  
 10 limitations defined by the laws of this state;

11 (e) the practice of optometry under the conditions and  
 12 limitations defined by the laws of this state;

13 (f) the practice of osteopathy under the conditions  
 14 and limitations defined in chapter 5 of this title for those  
 15 doctors of osteopathy who do not receive a physician's  
 16 certificate under this chapter;

17 (g) the practice of chiropractic under the conditions  
 18 and limitations defined by the laws of this state;

19 (h) the practice of Christian Science, with or without  
 20 compensation, and ritual circumcisions by rabbis;

21 (i) the performance by commissioned medical officers  
 22 of the armed forces of the United States, of the United  
 23 States public health service, or of the United States  
 24 veterans administration of their lawful duties in this state  
 25 as officers;

1 (j) the rendering of nursing services by registered or  
 2 other nurses in the lawful discharge of their duties as  
 3 nurses or of midwife services by registered nurse-midwives  
 4 under the supervision of a licensed physician;

5 (k) the rendering of services by interns or resident  
 6 physicians in a hospital or clinic in which they are  
 7 training, subject to the conditions and limitations of this  
 8 chapter. The board may require a resident physician to be  
 9 licensed if he otherwise engages in the practice of medicine  
 10 in the state of Montana.

11 (l) the rendering of services by a physical therapist  
 12 technician ~~or other paramedical specialist under the~~  
 13 ~~personal and responsible direction and supervision of a~~  
 14 ~~person licensed under the laws of this state to practice~~  
 15 ~~medicine but this exemption does not extend the scope of a~~  
 16 ~~paramedical specialist, TECHNICIAN, OR OTHER PARAMEDICAL~~  
 17 ~~SPECIALIST UNDER THE APPROPRIATE AMOUNT AND TYPE OF~~  
 18 ~~SUPERVISION OF A PERSON LICENSED UNDER THE LAWS OF THIS~~  
 19 ~~STATE TO PRACTICE MEDICINE, BUT THIS EXEMPTION DOES NOT~~  
 20 ~~EXTEND THE SCOPE OF A PARAMEDICAL SPECIALIST; and~~

21 (m) ~~the rendering of services by a physician's~~  
 22 ~~assistant in accordance with [sections 1 through 6]; and~~

23 (n) the practice by persons licensed under the laws  
 24 of this state to practice a limited field of the healing  
 25 arts, and not specifically designated, under the conditions

1 and limitations defined by law.

2 (2) Licensees referred to in subsection (1) of this  
 3 section who are licensed to practice a limited field of  
 4 healing arts shall confine themselves to the field for which  
 5 they are licensed or registered and to the scope of their  
 6 respective licenses and may not use the title "M.D." or any  
 7 word or abbreviation to indicate or to induce others to  
 8 believe that they are engaged in the diagnosis or treatment  
 9 of persons afflicted with disease, injury, or defect of body  
 10 or mind except to the extent and under the conditions  
 11 expressly provided by the law under which they are  
 12 licensed."

13 NEW SECTION. SECTION 8. EXEMPTION FOR PRIOR PRACTICE.  
 14 A PHYSICIAN'S ASSISTANT WHO MEETS THE REQUIREMENTS OF  
 15 SUBSECTION (2) OF [SECTION 3] WHO HAS BEEN EMPLOYED FOR 3  
 16 YEARS ON [THE EFFECTIVE DATE OF THIS ACT] BY A PHYSICIAN  
 17 LICENSED IN MONTANA, IS NOT REQUIRED TO FILE A UTILIZATION  
 18 PLAN REQUIRED BY [SECTION 2] AND MAY CONTINUE TO PRACTICE  
 19 WITH THE PHYSICIAN WHO EMPLOYS HIM, PROVIDED HOWEVER, THAT A  
 20 UTILIZATION PLAN MUST BE APPROVED IF THE PHYSICIAN'S  
 21 ASSISTANT WISHES TO WORK FOR ANOTHER PHYSICIAN.

22 NEW SECTION. SECTION 9. EXEMPTION FROM LIABILITY. NO  
 23 HOSPITAL OR HEALTH CARE FACILITY SHALL BE LIABLE FOR THE  
 24 ERRORS, OMISSIONS, OR ACTIONS OF A PHYSICIAN'S ASSISTANT.

25 NEW SECTION. SECTION 10. ADOPTION OF RULES. THE

1 BOARD OF MEDICAL EXAMINERS SHALL ADOPT ADMINISTRATIVE RULES  
 2 TO IMPLEMENT THE PROVISIONS OF [SECTIONS 1 THROUGH 9] AND  
 3 SHALL:

4 (1) ADDRESS THE ISSUES OF SUPERVISION AND DIRECTION  
 5 LIMITATIONS AND REQUIREMENTS;

6 (2) ADDRESS THE ISSUE OF PROTOCOLS FOR INTERACTION OF  
 7 MEDICAL PERSONNEL WITH DIFFERING RESPONSIBILITIES;

8 (3) SPECIFY THAT A PHYSICIAN MAY NOT UTILIZE MORE THAN  
 9 ONE PHYSICIAN'S ASSISTANT UNLESS HE CAN DEMONSTRATE TO THE  
 10 BOARD THE ABILITY TO SUPERVISE MORE THAN ONE ASSISTANT  
 11 ADEQUATELY; AND

12 (4) ADOPT RULES ADDRESSING OTHER CONSIDERATIONS  
 13 PERTINENT TO THE APPROVAL OF PHYSICIANS' ASSISTANTS  
 14 UTILIZATION PLANS AND THE HEALTH CARE NEEDS OF THE PUBLIC.

15 NEW SECTION. SECTION 11. SEVERABILITY. IF A PART OF  
 16 THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM  
 17 THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS  
 18 INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS  
 19 IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM  
 20 THE INVALID APPLICATIONS.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 7

3 House Human Services Committee  
4

5 A statement of intent is required for this bill because  
6 it delegates authority to the board of medical examiners to  
7 consider physicians' assistants utilization plans and to  
8 promulgate administrative rules in that regard.

9 Hb 7 intends that the board of medical examiners carry  
10 out the provisions of this bill and act to provide better  
11 health care for the public. In this spirit, the bill intends  
12 for the board of medical examiners to adopt rules which will  
13 clarify the nature and limitations of the supervision of  
14 physicians' assistants by physicians. The rules adopted  
15 should address issues of direction and supervision such as  
16 proximity of the supervising physician to his assistant; the  
17 nature of the communication between the physician and the  
18 assistant, whether it must be face-to-face or whether  
19 telephone communications suffice, and under what  
20 circumstances; the questions of protocols for interaction  
21 between different health care actors, including issues of  
22 liability and the possible direction of others by  
23 physicians' assistants; and the rules adopted should give  
24 additional guidance to prospective applicants with respect  
25 to the requirements for education and experience required of

1 physicians' assistants, the nature of a training program  
2 approved by the American medical association, and general  
3 information indicating the scope of utilization plans likely  
4 to be approved.

5 In addition, a rule shall be promulgated to specify  
6 that a physician may not utilize more than one physician's  
7 assistant unless he can demonstrate to the board the ability  
8 to supervise more than one assistant adequately.

HOUSE BILL NO. 7

INTRODUCED BY KEYSER, ERNST, O'HARA, CONROY

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE UTILIZATION OF PHYSICIAN'S ASSISTANTS; AMENDING SECTION 37-3-103, MCA."

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

NEW SECTION. Section 1. Duties of board of medical examiners -- compensation and expenses of members. The Montana state board of medical examiners provided for in 2-15-1605 shall administer the provisions of [sections 1 through 6] under such procedure as it considers advisable and may adopt reasonable rules to carry out the provisions of [sections 1 through 6]. Each member of the board shall receive the compensation and travel expenses provided for in 37-3-206 while engaged in the active and necessary discharge of his duties under [sections 1 through 6].

NEW SECTION. Section 2. Utilization plan required -- contents -- approval. (1) No physician, office, firm, or professional service corporation may employ or make use of the services of a physician's assistant in the practice of medicine, as defined in 37-3-102, and no physician's assistant may be employed as a physician's assistant unless the assistant is supervised by a licensed physician and

unless such employment or use has been approved by the Montana state board of medical examiners in a physician's assistant utilization plan.

(2) A physician's assistant utilization plan must set forth in detail the following information:

(a) the name and qualifications of the supervising physician and the physician's assistant, as provided in [section 3];

(b) the nature and location of the physician's medical practice;

(c) the duties to be delegated to the physician's assistant and the location in which those duties are to be performed; and

~~(d) THE NAME AND QUALIFICATIONS OF A SECOND PHYSICIAN MEETING THE REQUIREMENTS OF [SECTION 3] TO SERVE IN THE PLACE OF THE SUPERVISING PHYSICIAN IN THE EVENT THAT THE SUPERVISING PHYSICIAN IS UNABLE TO SUPERVISE THE PHYSICIAN'S ASSISTANT TEMPORARILY; AND~~

~~(e) such other information as the board may consider necessary.~~

(3) The board shall approve the utilization plan if it finds that the duties to be delegated to the physician's assistant are:

(a) assigned by the supervising physician;

(b) within the scope of the training, knowledge,

1 experience, and practice of the supervisory physician; and  
 2 (c) within the scope of the training, knowledge,  
 3 education, and experience of the physician's assistant.  
 4 NOTHING IN THIS ACT SHALL BE CONSTRUED TO AUTHORIZE A  
 5 PHYSICIAN'S ASSISTANT TO PERFORM THOSE FUNCTIONS AND DUTIES  
 6 SPECIFICALLY DELEGATED BY LAW TO A PERSON LICENSED AS AN  
 7 OPTOMETRIST AS DEFINED UNDER TITLE 37, CHAPTER 10.

8 NEW SECTION. Section 3. Qualifications of supervising  
 9 physician and physician's assistants. (1) Each supervising  
 10 physician named in the utilization plan required by [section  
 11 2] shall:

12 (a) possess a current, unrestricted license to  
 13 practice medicine in this state;

14 (b) submit a statement to the Montana state board of  
 15 medical examiners that, in his opinion, the assistant to be  
 16 employed is of good character and is both mentally and  
 17 physically able to perform the duties of a physician's  
 18 assistant described in the utilization plan;

19 (c) submit a statement to the board that he will  
 20 exercise supervision over the physician's assistant in  
 21 accordance with any rules adopted by the board and will  
 22 retain professional and legal responsibility for the care  
 23 and treatment of his patients; and

24 (d) submit detailed information to the board regarding  
 25 the physician's professional background, medical education,

1 internship and residency, continuing education received,  
 2 membership in state and national medical associations,  
 3 hospital and staff privileges, and such other information as  
 4 the board may require.

5 (2) Each physician's assistant named in the  
 6 utilization plan required by [section 2] shall:

7 (a) be of good character;

8 (b) be a graduate of ~~or a student in good standing in~~  
 9 a physician's assistant training program approved by the  
 10 American medical association;

11 (c) have taken an examination recognized by the  
 12 national commission on physician's assistants and received a  
 13 score satisfactory to the board ~~or be eligible to take the~~  
 14 ~~examination;~~

15 (d) hold a current certification by the national  
 16 commission on physician's assistants ~~or be eligible for~~  
 17 ~~certification;~~ and

18 (e) submit to the board detailed information on the  
 19 applicant's history, education, and experience and such  
 20 other information as the board may require.

21 NEW SECTION. Section 4. Utilization plan approval fee  
 22 -- renewal of approval -- renewal fee. (1) Every physician,  
 23 office, firm, or professional service corporation proposing  
 24 to employ a physician's assistant shall pay to the board a  
 25 utilization plan approval fee in an amount set by the board,

1 not exceeding \$50. Payment must be made when the utilization  
2 plan is submitted to the board and is not refundable.

3 (2) Approval of every physician's assistant  
4 utilization plan expires 1 year from the date of approval  
5 and is invalid thereafter. The department of professional  
6 and occupational licensing shall notify each physician,  
7 office, firm, or professional corporation and physician's  
8 assistant named in a utilization plan of the date of  
9 expiration of board approval at least 1 month prior to the  
10 expiration of approval.

11 (3) Renewal of approval shall be granted by the board  
12 under such circumstances as would justify original approval  
13 of a utilization plan and upon payment by the employing  
14 physician, office, firm, or professional service corporation  
15 of a renewal fee in an amount to be set by the board, not to  
16 exceed \$50.

17 (4) Fees received by the department must be deposited  
18 in the earmarked revenue fund for use by the board in the  
19 administration of [sections 1 through 6], subject to  
20 37-1-101(6).

21 NEW SECTION. Section 5. Penalty -- enforcement. (1)  
22 Any person who employs a physician's assistant or holds  
23 himself out to be a qualified physician's assistant without  
24 the approval of the Montana state board of medical examiners  
25 is guilty of a misdemeanor and is punishable as provided in

1 46-18-212.

2 (2) In addition to seeking any criminal penalty  
3 available under this section, the board may withdraw its  
4 approval of any utilization plan previously approved which  
5 is applicable to any supervising physician or physician's  
6 assistant who:

7 (a) acts in violation of this section;

8 (b) obtained the approval of the board by fraud;

9 (c) acts in a manner contrary to the terms of the  
10 utilization plan; or

11 (d) violates any of the applicable provisions of  
12 [sections 1 through 6] or rules of the board adopted  
13 thereunder.

14 (3) The board may enforce the provisions of this  
15 section by the remedy of injunction.

16 NEW SECTION. Section 6. Exemptions from approval  
17 requirement. [This act] does not require the approval of a  
18 physician's assistant utilization plan with respect to any  
19 acts within the professional competence of a person licensed  
20 under the provisions of Title 37, chapters 3 through 17, 31,  
21 or 32.

22 Section 7. Section 37-3-103, MCA, is amended to read:

23 "37-3-103. Exemptions from licensing requirements. (1)  
24 This chapter does not prohibit or require a license with  
25 respect to any of the following acts:



1 (a) the gratuitous rendering of services in cases of  
2 emergency or catastrophe;

3 (b) the rendering of services in this state by a  
4 physician lawfully practicing medicine in another state or  
5 territory. However, if the physician does not limit the  
6 services to an occasional case or if he has any established  
7 or regularly used hospital connections in this state or  
8 maintains or is provided with, for his regular use, an  
9 office or other place for rendering the services, he must  
10 possess a license to practice medicine in this state.

11 (c) the practice of dentistry under the conditions and  
12 limitations defined by the laws of this state;

13 (d) the practice of podiatry under the conditions and  
14 limitations defined by the laws of this state;

15 (e) the practice of optometry under the conditions and  
16 limitations defined by the laws of this state;

17 (f) the practice of osteopathy under the conditions  
18 and limitations defined in chapter 5 of this title for those  
19 doctors of osteopathy who do not receive a physician's  
20 certificate under this chapter;

21 (g) the practice of chiropractic under the conditions  
22 and limitations defined by the laws of this state;

23 (h) the practice of Christian Science, with or without  
24 compensation, and ritual circumcisions by rabbis;

25 (i) the performance by commissioned medical officers

1 of the armed forces of the United States, of the United  
2 States public health service, or of the United States  
3 veterans administration of their lawful duties in this state  
4 as officers;

5 (j) the rendering of nursing services by registered or  
6 other nurses in the lawful discharge of their duties as  
7 nurses or of midwife services by registered nurse-midwives  
8 under the supervision of a licensed physician;

9 (k) the rendering of services by interns or resident  
10 physicians in a hospital or clinic in which they are  
11 training, subject to the conditions and limitations of this  
12 chapter. The board may require a resident physician to be  
13 licensed if he otherwise engages in the practice of medicine  
14 in the state of Montana.

15 (l) the rendering of services by a physical therapist,  
16 technician, or other paramedical specialist under the  
17 personal and responsible direction and supervision of a  
18 person licensed under the laws of this state to practice  
19 medicine, but this exemption does not extend the scope of a  
20 paramedical specialist, TECHNICIAN, OR OTHER PARAMEDICAL  
21 SPECIALIST UNDER THE APPROPRIATE AMOUNT AND TYPE OF  
22 SUPERVISION OF A PERSON LICENSED UNDER THE LAWS OF THIS  
23 STATE TO PRACTICE MEDICINE, BUT THIS EXEMPTION DOES NOT  
24 EXTEND THE SCOPE OF A PARAMEDICAL SPECIALIST; and

25 (m) the rendering of services by a physician's

1 assistant in accordance with [sections 1 through 6]; and  
 2 (m)(n) the practice by persons licensed under the laws  
 3 of this state to practice a limited field of the healing  
 4 arts, and not specifically designated, under the conditions  
 5 and limitations defined by law.

6 (2) Licensees referred to in subsection (1) of this  
 7 section who are licensed to practice a limited field of  
 8 healing arts shall confine themselves to the field for which  
 9 they are licensed or registered and to the scope of their  
 10 respective licenses and may not use the title "M.D." or any  
 11 word or abbreviation to indicate or to induce others to  
 12 believe that they are engaged in the diagnosis or treatment  
 13 of persons afflicted with disease, injury, or defect of body  
 14 or mind except to the extent and under the conditions  
 15 expressly provided by the law under which they are  
 16 licensed."

17 ~~NEW SECTION. SECTION 8. EXEMPTION FOR PRIOR PRACTICE.~~  
 18 ~~A PHYSICIAN'S ASSISTANT WHO MEETS THE REQUIREMENTS OF~~  
 19 ~~SUBSECTION (2) OF SECTION 3 WHO HAS BEEN EMPLOYED FOR 3~~  
 20 ~~YEARS ON THE EFFECTIVE DATE OF THIS ACT BY A PHYSICIAN~~  
 21 ~~LICENSED IN MONTANA IS NOT REQUIRED TO FILE A UTILIZATION~~  
 22 ~~PLAN REQUIRED BY SECTION 2 AND MAY CONTINUE TO PRACTICE~~  
 23 ~~WITH THE PHYSICIAN WHO EMPLOYS HIM PROVIDED HOWEVER THAT A~~  
 24 ~~UTILIZATION PLAN MUST BE APPROVED IF THE PHYSICIAN'S~~  
 25 ~~ASSISTANT WISHES TO WORK FOR ANOTHER PHYSICIAN.~~

1 NEW SECTION. SECTION 8. EXEMPTION FROM LIABILITY. NO  
 2 HOSPITAL OR HEALTH CARE FACILITY SHALL BE LIABLE FOR THE  
 3 ERRORS, OMISSIONS, OR ACTIONS OF A PHYSICIAN'S ASSISTANT.

4 NEW SECTION. SECTION 9. ADOPTION OF RULES. THE BOARD  
 5 OF MEDICAL EXAMINERS SHALL ADOPT ADMINISTRATIVE RULES TO  
 6 IMPLEMENT THE PROVISIONS OF [SECTIONS 1 THROUGH 9] AND  
 7 SHALL:

8 (1) ADDRESS THE ISSUES OF SUPERVISION AND DIRECTION  
 9 LIMITATIONS AND REQUIREMENTS;

10 (2) ADDRESS THE ISSUE OF PROTOCOLS FOR INTERACTION OF  
 11 MEDICAL PERSONNEL WITH DIFFERING RESPONSIBILITIES;

12 (3) SPECIFY THAT A PHYSICIAN MAY NOT UTILIZE MORE THAN  
 13 ONE PHYSICIAN'S ASSISTANT UNLESS HE CAN DEMONSTRATE TO THE  
 14 BOARD THE ABILITY TO SUPERVISE MORE THAN ONE ASSISTANT  
 15 ADEQUATELY; AND

16 (4) ADOPT RULES ADDRESSING OTHER CONSIDERATIONS  
 17 PERTINENT TO THE APPROVAL OF PHYSICIANS' ASSISTANTS  
 18 UTILIZATION PLANS AND THE HEALTH CARE NEEDS OF THE PUBLIC.

19 NEW SECTION. SECTION 10. SEVERABILITY. IF A PART OF  
 20 THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM  
 21 THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS  
 22 INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS  
 23 IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM  
 24 THE INVALID APPLICATIONS.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 7

## 3 House Human Services Committee

4

5 A statement of intent is required for this bill because  
6 it delegates authority to the board of medical examiners to  
7 consider physicians' assistants utilization plans and to  
8 promulgate administrative rules in that regard.

9 HB 7 intends that the board of medical examiners carry  
10 out the provisions of this bill and act to provide better  
11 health care for the public. In this spirit, the bill intends  
12 for the board of medical examiners to adopt rules which will  
13 clarify the nature and limitations of the supervision of  
14 physicians' assistants by physicians. The rules adopted  
15 should address issues of direction and supervision such as  
16 proximity of the supervising physician to his assistant; the  
17 nature of the communication between the physician and the  
18 assistant, whether it must be face-to-face or whether  
19 telephone communications suffice, and under what  
20 circumstances; the questions of protocols for interaction  
21 between different health care actors, including issues of  
22 liability and the possible direction of others by  
23 physicians' assistants; and the rules adopted should give  
24 additional guidance to prospective applicants with respect  
25 to the requirements for education and experience required of

1 physicians' assistants, the nature of a training program  
2 approved by the American medical association, and general  
3 information indicating the scope of utilization plans likely  
4 to be approved.

5 In addition, a rule shall be promulgated to specify  
6 that a physician may not utilize more than one physician's  
7 assistant unless he can demonstrate to the board the ability  
8 to supervise more than one assistant adequately.

## 1 HOUSE BILL NO. 7

2 INTRODUCED BY KEYSER, ERNST, O'HARA, CONROY

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE  
5 UTILIZATION OF PHYSICIAN'S ASSISTANTS; AMENDING SECTION  
6 37-3-103, MCA."7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:9 NEW SECTION. Section 1. Duties of board of medical  
10 examiners -- compensation and expenses of members. The  
11 Montana state board of medical examiners provided for in  
12 2-15-1605 shall administer the provisions of [sections 1  
13 through 6 AND 8 THROUGH 10] under such procedure as it  
14 considers advisable and may adopt reasonable rules to carry  
15 out the provisions of [sections 1 through 6 AND 8 THROUGH  
16 10]. Each member of the board shall receive the compensation  
17 and travel expenses provided for in 37-3-206 while engaged  
18 in the active and necessary discharge of his duties under  
19 [sections 1 through 6 AND 8 THROUGH 10].20 NEW SECTION. Section 2. Utilization plan required --  
21 contents -- approval. (1) No physician, office, firm, STATE  
22 INSTITUTION, or professional service corporation may employ  
23 or make use of the services of a physician's assistant in  
24 the practice of medicine, as defined in 37-3-102, and no  
25 physician's assistant may be employed as a physician's1 assistant unless the assistant is supervised by a licensed  
2 physician and unless such employment or use has been  
3 approved by the Montana state board of medical examiners in  
4 a physician's assistant utilization plan.5 (2) A physician's assistant utilization plan must set  
6 forth in detail the following information:7 (a) the name and qualifications of the supervising  
8 physician and the physician's assistant, as provided in  
9 [section 3];10 (b) the nature and location of the physician's medical  
11 practice;12 (c) the duties to be delegated to the physician's  
13 assistant and the location in which those duties are to be  
14 performed; and15 (D) THE NAME AND QUALIFICATIONS OF A SECOND PHYSICIAN  
16 MEETING THE REQUIREMENTS OF [SECTION 3] TO SERVE IN THE  
17 PLACE OF THE SUPERVISING PHYSICIAN IN THE EVENT THAT THE  
18 SUPERVISING PHYSICIAN IS UNABLE TO SUPERVISE THE PHYSICIAN'S  
19 ASSISTANT TEMPORARILY; AND20 ~~(d)~~ (E) such other information as the board may  
21 consider necessary.22 (3) The board shall approve the utilization plan if it  
23 finds that the duties to be delegated to the physician's  
24 assistant are:

25 (a) assigned by the supervising physician;

1 (b) within the scope of the training, knowledge,  
2 experience, and practice of the supervisory physician; and

3 (c) within the scope of the training, knowledge,  
4 education, and experience of the physician's assistant.

5 ~~NOTHING IN THIS ACT SHALL BE CONSTRUED TO AUTHORIZE A~~  
6 ~~PHYSICIAN'S ASSISTANT TO PERFORM THOSE FUNCTIONS AND DUTIES~~  
7 ~~SPECIFICALLY DELEGATED BY LAW TO A PERSON LICENSED AS AN~~  
8 ~~OPTOMETRIST AS DEFINED UNDER TITLE 37, CHAPTER 10.~~

9 NEW SECTION. Section 3. Qualifications of supervising  
10 physician and physician's assistants. (1) Each supervising  
11 physician named in the utilization plan required by [section  
12 2] shall:

13 (a) possess a current, unrestricted license to  
14 practice medicine in this state;

15 (b) submit a statement to the Montana state board of  
16 medical examiners that, in his opinion, the assistant to be  
17 employed is of good character and is both mentally and  
18 physically able to perform the duties of a physician's  
19 assistant described in the utilization plan;

20 (c) submit a statement to the board that he will  
21 exercise supervision over the physician's assistant in  
22 accordance with any rules adopted by the board and will  
23 retain professional and legal responsibility for the care  
24 and treatment of his patients; and

25 (d) submit detailed information to the board regarding

1 the physician's professional background, medical education,  
2 internship and residency, continuing education received,  
3 membership in state and national medical associations,  
4 hospital and staff privileges, and such other information as  
5 the board may require.

6 (2) ~~Each EXCEPT AS PROVIDED IN SUBSECTION (1), EACH~~  
7 ~~physician's assistant named in the utilization plan required~~  
8 ~~by [section 2] shall:~~

9 (a) be of good character;

10 (b) be a graduate of ~~or a student in good standing in~~  
11 a physician's assistant training program approved by the  
12 American medical association;

13 (c) have taken an examination recognized by the  
14 national commission on physician's assistants and received a  
15 score satisfactory to the board ~~or be eligible to take the~~  
16 ~~examination;~~

17 (d) hold a current certification by the national  
18 commission on physician's assistants ~~or be eligible for~~  
19 ~~certification;~~ and

20 (e) submit to the board detailed information on the  
21 applicant's history, education, and experience and such  
22 other information as the board may require.

23 (3) ~~IN LIEU OF THE REQUIREMENTS OF SUBSECTION (2)(B),~~  
24 ~~(2)(C), AND (2)(D), THE PHYSICIAN'S ASSISTANT MAY BE A~~  
25 ~~GRADUATE OF AN APPROVED MEDICAL SCHOOL AS DEFINED IN~~

1 37-3-102 AND PASS AN EXAMINATION APPROVED BY THE BOARD.

2 NEW SECTION. Section 4. Utilization plan approval fee  
3 -- renewal of approval -- renewal fee. (1) Every physician,  
4 office, firm, or professional service corporation proposing  
5 to employ a physician's assistant shall pay to the board a  
6 utilization plan approval fee in an amount set by the board,  
7 not exceeding \$50. Payment must be made when the utilization  
8 plan is submitted to the board and is not refundable.

9 (2) Approval of every physician's assistant  
10 utilization plan expires 1 year from the date of approval  
11 and is invalid thereafter. The department of professional  
12 and occupational licensing shall notify each physician,  
13 office, firm, or professional corporation and physician's  
14 assistant named in a utilization plan of the date of  
15 expiration of board approval at least 1 month prior to the  
16 expiration of approval.

17 (3) Renewal of approval shall be granted by the board  
18 under such circumstances as would justify original approval  
19 of a utilization plan and upon payment by the employing  
20 physician, office, firm, or professional service corporation  
21 of a renewal fee in an amount to be set by the board, not to  
22 exceed \$50.

23 (4) Fees received by the department must be deposited  
24 in the earmarked revenue fund for use by the board in the  
25 administration of [sections 1 through 6 AND 8 THROUGH 10].

1 subject to 37-1-101(6).

2 NEW SECTION. Section 5. Penalty -- enforcement. (1)  
3 Any person who employs a physician's assistant or holds  
4 himself out to be a qualified physician's assistant without  
5 the approval of the Montana state board of medical examiners  
6 is guilty of a misdemeanor and is punishable as provided in  
7 46-18-212.

8 (2) In addition to seeking any criminal penalty  
9 available under this section, the board may withdraw its  
10 approval of any utilization plan previously approved which  
11 is applicable to any supervising physician or physician's  
12 assistant who:

13 (a) acts in violation of this section;

14 (b) obtained the approval of the board by fraud;

15 (c) acts in a manner contrary to the terms of the  
16 utilization plan; or

17 (d) violates any of the applicable provisions of  
18 [sections 1 through 6 AND 8 THROUGH 10] or rules of the  
19 board adopted thereunder.

20 (3) The board may enforce the provisions of this  
21 section by the remedy of injunction.

22 NEW SECTION. Section 6. Exemptions from approval  
23 requirement. [~~This act~~] ~~does~~ [SECTIONS 1 THROUGH 6 AND 8  
24 THROUGH 10] ~~do~~ not require the approval of a physician's  
25 assistant utilization plan with respect to any acts within

1 the professional competence of a person licensed under the  
2 provisions of title 37, chapters 3 through 17, 31, or 32.

3 Section 7. Section 37-3-103, MCA, is amended to read:

4 \*37-3-103. Exemptions from licensing requirements. (1)  
5 This chapter does not prohibit or require a license with  
6 respect to any of the following acts:

7 (a) the gratuitous rendering of services in cases of  
8 emergency or catastrophe;

9 (b) the rendering of services in this state by a  
10 physician lawfully practicing medicine in another state or  
11 territory. However, if the physician does not limit the  
12 services to an occasional case or if he has any established  
13 or regularly used hospital connections in this state or  
14 maintains or is provided with, for his regular use, an  
15 office or other place for rendering the services, he must  
16 possess a license to practice medicine in this state.

17 (c) the practice of dentistry under the conditions and  
18 limitations defined by the laws of this state;

19 (d) the practice of podiatry under the conditions and  
20 limitations defined by the laws of this state;

21 (e) the practice of optometry under the conditions and  
22 limitations defined by the laws of this state;

23 (f) the practice of osteopathy under the conditions  
24 and limitations defined in chapter 5 of this title for those  
25 doctors of osteopathy who do not receive a physician's

1 certificate under this chapter;

2 (g) the practice of chiropractic under the conditions  
3 and limitations defined by the laws of this state;

4 (h) the practice of Christian Science, with or without  
5 compensation, and ritual circumcisions by rabbis;

6 (i) the performance by commissioned medical officers  
7 of the armed forces of the United States, of the United  
8 States public health service, or of the United States  
9 veterans administration of their lawful duties in this state  
10 as officers;

11 (j) the rendering of nursing services by registered or  
12 other nurses in the lawful discharge of their duties as  
13 nurses or of midwife services by registered nurse-midwives  
14 under the supervision of a licensed physician;

15 (k) the rendering of services by interns or resident  
16 physicians in a hospital or clinic in which they are  
17 training, subject to the conditions and limitations of this  
18 chapter. The board may require a resident physician to be  
19 licensed if he otherwise engages in the practice of medicine  
20 in the state of Montana.

21 (l) the rendering of services by a physical therapist,  
22 technician, or other paramedical specialist under the  
23 personal and responsible direction and supervision of a  
24 person licensed under the laws of this state to practice  
25 medicine, but this exemption does not extend the scope of a

1 ~~paramedical specialist, TECHNICIAN, OR OTHER PARAMEDICAL~~  
 2 ~~SPECIALIST UNDER THE APPROPRIATE AMOUNT AND TYPE OF~~  
 3 ~~SUPERVISION OF A PERSON LICENSED UNDER THE LAWS OF THIS~~  
 4 ~~STATE TO PRACTICE MEDICINE, BUT THIS EXEMPTION DOES NOT~~  
 5 ~~EXTEND THE SCOPE OF A PARAMEDICAL SPECIALIST; and~~

6 ~~(m) the rendering of services by a physician's~~  
 7 ~~assistant in accordance with [sections 1 through 6 AND 8~~  
 8 ~~THROUGH 10]; and~~

9 ~~(n) the practice by persons licensed under the laws~~  
 10 ~~of this state to practice a limited field of the healing~~  
 11 ~~arts, and not specifically designated, under the conditions~~  
 12 ~~and limitations defined by law.~~

13 (2) licensees referred to in subsection (1) of this  
 14 section who are licensed to practice a limited field of  
 15 healing arts shall confine themselves to the field for which  
 16 they are licensed or registered and to the scope of their  
 17 respective licenses and, WITH THE EXCEPTION OF THOSE  
 18 LICENSEES WHO HOLD A MEDICAL DEGREE, may not use the title  
 19 "M.D." or any word or abbreviation to indicate or to induce  
 20 others to believe that they are engaged in the diagnosis or  
 21 treatment of persons afflicted with disease, injury, or  
 22 defect of body or mind except to the extent and under the  
 23 conditions expressly provided by the law under which they  
 24 are licensed."

25 ~~NEW SECTION. SECTION 8. EXEMPTION FOR PRIOR PRACTICE.~~

1 ~~A PHYSICIAN'S ASSISTANT WHO MEETS THE REQUIREMENTS OF~~  
 2 ~~SUBSECTION (2) OF SECTION 3 WHO HAS BEEN EMPLOYED FOR 3~~  
 3 ~~YEARS ON THE EFFECTIVE DATE OF THIS ACT BY A PHYSICIAN~~  
 4 ~~LICENSED IN MONTANA IS NOT REQUIRED TO FILE A UTILIZATION~~  
 5 ~~PLAN REQUIRED BY SECTION 21 AND MAY CONTINUE TO PRACTICE~~  
 6 ~~WITH THE PHYSICIAN WHO EMPLOYS HIM PROVIDED HOWEVER THAT A~~  
 7 ~~UTILIZATION PLAN MUST BE APPROVED IF THE PHYSICIAN'S~~  
 8 ~~ASSISTANT WISHES TO WORK FOR ANOTHER PHYSICIAN.~~

9 ~~NEW SECTION. SECTION 8. EXEMPTION FROM LIABILITY. NO~~  
 10 ~~HOSPITAL OR HEALTH CARE FACILITY SHALL BE LIABLE FOR THE~~  
 11 ~~ERRORS, OMISSIONS, OR ACTIONS OF A PHYSICIAN'S ASSISTANT,~~  
 12 ~~INSURANCE REQUIREMENT. NO PHYSICIAN'S ASSISTANT MAY PERFORM~~  
 13 ~~ANY SERVICE UNLESS HE HAS INSURANCE FROM LIABILITY FOR HIS~~  
 14 ~~ERRORS, OMISSIONS, OR ACTIONS TO THE LIMITS REQUIRED BY THE~~  
 15 ~~HOSPITAL'S GOVERNING AUTHORITY.~~

16 ~~NEW SECTION. Section 9. Adoption of rules. The board~~  
 17 ~~of medical examiners shall adopt administrative rules to~~  
 18 ~~implement the provisions of [sections 1 through 9 6 AND 8~~  
 19 ~~THROUGH 10] AND SHALL THAT:~~

20 ~~(1) ADDRESS THE ISSUES OF SUPERVISION AND DIRECTION~~  
 21 ~~LIMITATIONS AND REQUIREMENTS;~~

22 ~~(2) ADDRESS THE ISSUE OF PROTOCOLS FOR INTERACTION OF~~  
 23 ~~MEDICAL PERSONNEL WITH DIFFERING RESPONSIBILITIES;~~

24 ~~(3) SPECIFY THAT A PHYSICIAN MAY NOT UTILIZE MORE THAN~~  
 25 ~~ONE PHYSICIAN'S ASSISTANT UNLESS HE CAN DEMONSTRATE TO THE~~



1 BOARD THE ABILITY TO SUPERVISE MORE THAN ONE ASSISTANT  
2 ADEQUATELY; AND

3 (4) ~~ADOPT~~ ~~---RULES---~~ ~~ADDRESSING~~ ADDRESS ~~OTHER~~  
4 CONSIDERATIONS PERTINENT TO THE APPROVAL OF PHYSICIANS'  
5 ASSISTANTS UTILIZATION PLANS AND THE HEALTH CARE NEEDS OF  
6 THE PUBLIC.

7 NEW SECTION. SECTION 10. LIMITATIONS ON AUTHORITY  
8 CONFERRED -- EXCEPTION. EXCEPT AS PROVIDED IN 37-10-102,  
9 NOTHING IN THIS ACT MAY BE CONSTRUED TO AUTHORIZE A  
10 PHYSICIAN'S ASSISTANT TO PERFORM THOSE FUNCTIONS AND DUTIES  
11 SPECIFICALLY DELEGATED BY LAW TO PERSONS LICENSED AS  
12 OPTOMETRISTS AS DEFINED UNDER TITLE 37, CHAPTER 10.

13 NEW SECTION. SECTION 11. SEVERABILITY. IF A PART OF  
14 THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM  
15 THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS  
16 INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS  
17 IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM  
18 THE INVALID APPLICATIONS.

-End-

March 13, 1981

SENATE COMMITTEE OF THE WHOLE

Proposed amendments to House Bill 7, third reading copy, as follows:

1. Page 1, line 13.  
Following: "6"  
Insert: "and 8 through 10"
2. Page 1, line 15.  
Following: "6"  
Insert: "and 8 through 10"
3. Page 1, line 18.  
Following: "6"  
Insert: "and 8 through 10"
4. Page 5, line 19.  
Following: "6"  
Insert: "and 8 through 10"
5. Page 6, line 17.  
Following: "["  
Strike: "This act"  
Insert: "Sections 1 through 6 and 8 through 10"
6. Page 9, line 1.  
Following: "6"  
Insert: "and 8 through 10"
7. Page 10, line 6.  
Following: "THROUGH"  
Strike: "9"  
Insert: "6 and 8 through 10"

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

That House Bill No. 7 be amended as follows:

1. Page 1, line 20.

Following: "firm,"

Insert: "state institution,"

2. Page 3, lines 4 through 7

Strike: "NOTHING IN THIS ACT SHALL BE CONSTRUED TO AUTHORIZE  
A PHYSICIAN'S ASSISTANT TO PERFORM THOSE FUNCTIONS AND  
DUTIES SPECIFICALLY DELEGATED BY LAW TO A PERSON LICENSED  
AS AN OPTOMETRIST AS DEFINED UNDER TITLE 37, CHAPTER 10."

3. Page 4, line 5.

Following: "(2)"

Strike: "Each"

Insert: "Except as provided in subsection (3), each"

4. Page 4.

Following: line 20

Insert: "(3) In lieu of the requirements of subsection (2)  
(b), (2) (c), and (2) (d) the physician's assistant may  
be a graduate of an approved medical school as defined in  
37-3-102 and pass an examination approved by the board."

5. Page 9, line 10.

Following: "licenses and"

Insert: ", with the exception of those licensees who hold  
a medical degree,"

6. Page 10, lines 1 through 3.

Following: "8."

Strike: remainder of lines 1 through 3.

Insert: "Insurance requirement. No physician's assistant may  
perform any service unless he has insurance from liability  
for his errors, omissions, or actions to the limits required  
by the hospital's governing authority "

7. Page 10, lines 6 and 7.

Following: "9 "

Strike: "AND SHALL"

Insert: "that"

8. Page 10, line 16.

Following: "(4)"

Strike: "ADOPT RULES ADDRESSING"

Insert: "address"

9. Page 10.

Following: line 18.

Insert: "Section 10. Limitations on authority conferred --  
exception. Except as provided in 37-10-102, nothing in  
this act may be construed to authorize a physician's  
assistant to perform those functions and duties specifi-  
cally delegated by law to persons licensed as optometrists  
as defined under Title 37, chapter 10."

Renumber: subsequent section