

House Bill 717

In The House

February 11, 1981	Introduced and referred to Committee on State Administration.
February 13, 1981	Fiscal note requested.
February 18, 1981	Fiscal note returned.
February 20, 1981	Committee recommend bill do pass as amended.
February 21, 1981	Bill printed and placed on members' desks.
February 23, 1981	Second reading do pass as amended.
February 25, 1981	On motion rules suspended and bill placed on third reading this day. Third reading passed.

In The Senate

March 3, 1981	Introduced and referred to Committee on State Administration.
March 5, 1981	Rereferred to Committee on Public Health, Welfare and Safety.
March 23, 1981	Committee recommend bill not concurred.

In The House

March 24, 1981	Returned from Senate not concurred.
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HOUSE BILL NO. 717

INTRODUCED BY Winala

BY REQUEST OF

THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LICENSING LAW FOR DENTISTS AND DENTAL HYGIENISTS; TO DELETE THE BOARD EMERGENCY FUND; TO PROVIDE FOR BOARD MEMBERS TO ATTEND THE NATIONAL ASSOCIATION MEETINGS AND TO INCREASE THE COMPENSATION FOR ATTENDANCE; TO PROVIDE FOR A GENERAL RULEMAKING STATUTE FOR THE BOARD OF DENTISTRY; TO REVISE LICENSE AND EXAMINATION QUALIFICATIONS AND ANNUAL RENEWAL FEE FOR LICENSEES; TO PROVIDE AUTHORITY TO ASSESS A FINE; TO PROHIBIT A LICENSE FEE OR TAX ON DENTAL HYGIENISTS BY A LOCAL GOVERNMENT; AND TO MAKE RULEMAKING DISCRETIONARY REGARDING AUXILIARY PERSONNEL; AMENDING SECTIONS 37-4-203, 37-4-204, 37-4-301, 37-4-303, 37-4-307, 37-4-321, 37-4-402, 37-4-406, 37-4-408, MCA; AND REPEALING SECTION 37-4-403, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 37-4-203, MCA, is amended to read: "37-4-203. Compensation and expenses of board members -- disbursement of excess funds. (1) Out of the funds derived from fees collected under this chapter, each member

of the board shall be reimbursed as follows: (a) \$25 per day for each day in actual attendance at a meeting of the board; (b) expenses and travel authorized under 2-18-501 through 2-18-503. (2) Money collected in excess of expenses and salaries provided for shall be held by the department as a special fund for meeting the expenses of the board, the proper administration of this chapter, and educational purposes considered wise by the board. ~~The department, on the written request of the board, shall set aside in a separate account in the earmarked revenue fund the emergency moneys provided under 37-4-307. This account may be expended only when the board determines that an emergency exists requiring an expenditure therefrom.~~ Section 2. Section 37-4-204, MCA, is amended to read: "37-4-204. Affiliation with national association authorized -- delegate delegates -- expenses allowed. The board may affiliate with the national association as an active member, pay regular annual dues to the association, and send ~~a~~ delegate delegates to the meetings of the association. The ~~delegete~~ delegates shall be reimbursed as follows: (1) ~~\$15~~ \$25 per day for each day traveling to and from ~~e~~ meeting and while in actual attendance at a meeting of the

1 association; and
 2 (2) expenses and travel authorized under 2-18-501 and
 3 through 2-18-503; and
 4 ~~(3) --first-class-railroad-end--Pullman--fares--actually~~
 5 ~~incurred--to-and-from-his-place-of-residence-to-the-place-of~~
 6 ~~a-meeting."~~

7 NEW SECTION. Section 3. Rulemaking. The board may
 8 adopt, amend, or repeal rules necessary for the
 9 implementation, continuation, and enforcement of [Title 37,
 10 chapter 4] in accordance with the Montana Administrative
 11 Procedure Act.

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

13 "37-4-301. Examination -- qualifications -- fees --
 14 certification. (1) Applicants for licensure shall take and
 15 pass an examination in order to be licensed. The examination
 16 shall consist of a written part, a practical or clinical
 17 part, and may include an oral interview with the board
 18 which, when determined necessary by the board, the
 19 examination and interview may include questions pertaining
 20 to the practice of dentistry. The board may accept, in
 21 satisfaction of the written part, successful completion of
 22 an examination by the national board of dental examiners
 23 and, whenever the board determines necessary, successful
 24 completion of a board examination in jurisprudence. The
 25 board may accept, in satisfaction of the practical part,

1 successful completion of an examination by a
 2 board-designated regional testing service.

3 (2) Acceptance by the board of such written and
 4 practical examination shall be conditioned on evidence that
 5 the examination is sufficiently thorough to test the fitness
 6 of the applicant to practice dentistry. It shall include,
 7 written in the English language, questions on anatomy,
 8 histology, physiology, chemistry, pharmacology and
 9 therapeutics, metallurgy, pathology, bacteriology,
 10 anesthesia, operative and surgical dentistry, prosthetic
 11 dentistry, prophylaxis, orthodontics and endodontics, and
 12 any additional subjects pertaining to dental service.

13 (3) The board has the right to administer its own
 14 examination in lieu of acceptance of the national board
 15 written examination and a regional testing service practical
 16 examination. The board is authorized to make rules governing
 17 any such examination procedures.

18 (4) Applicants for licensure shall submit an
 19 application, which shall include, when required:

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

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

24 (c) three affidavits of good moral character;

25 (d) certificate of graduation from a board-approved

1 dental school;

2 ~~(e) copies of all other state licenses that have been~~
3 ~~held by the applicant;~~

4 ~~(f) names and mailing addresses of all the dental~~
5 ~~societies in which the applicant has held membership;~~

6 ~~(g) an examination fee commensurate with costs and~~
7 ~~set by the board;~~

8 ~~(h) a licensure fee commensurate with costs and set~~
9 ~~by the board;~~

10 ~~(i) a recent photograph of the applicant.~~

11 (5) Applications must be submitted no less than 20
12 days prior to the board interview and jurisprudence
13 examination.

14 ~~(6) Applicants may not take the jurisprudence~~
15 ~~examination or the oral interview without first having~~
16 ~~completed all other parts of the examination.~~

17 (7)(6) Examination results will be accepted for a
18 period of time as set by board rule. An applicant failing to
19 pass his first examination, if otherwise qualified, may take
20 a subsequent examination upon payment of a fee commensurate
21 with costs and set by the board.

22 (8)(7) The board is authorized to adopt necessary and
23 reasonable rules governing application procedures.

24 (9) ~~The board may in its discretion permit a dental~~
25 ~~student who has successfully completed his junior year in a~~

1 ~~recognized dental school and who files proof satisfactory to~~
2 ~~the board that he has the preliminary education described in~~
3 ~~this section to take a written examination in the subjects~~
4 ~~he has completed. Satisfactory grades secured shall be~~
5 ~~credited on the final examination of the student. The board~~
6 ~~shall require a fee commensurate with costs and set by the~~
7 ~~board for this examination, which shall apply on the final~~
8 ~~examination taken by the applicant."~~

9 Section 5. Section 37-4-303, MCA, is amended to read:

10 "37-4-303. Certificate to be registered in county
11 where practicing ----- replacing Replacing lost certificate.
12 (1) The certificate under this chapter entitles the holder
13 to practice dentistry in any county in this state if the
14 certificate is first filed for registration and registered
15 in the office of the county clerk and recorder of the county
16 in which the holder desires to practice. This chapter does
17 not permit a holder of a certificate to practice in a county
18 in this state unless the certificate has been first
19 registered in the office of the clerk and recorder of the
20 county. A holder of a certificate may practice in more than
21 one or in any number of counties in this state on having the
22 certificate registered in each of the counties in which the
23 holder desires to practice.

24 (2) The department shall, on proof satisfactory to the
25 board of the loss of a certificate issued under this

1 chapter, issue a duplicate certificate, and shall charge a
 2 fee of \$10 shall be charged for issuing the certificate set
 3 by the board commensurate with the administrative cost of
 4 issuing a duplicate certificate."

5 Section 6. Section 37-4-307, MCA, is amended to read:

6 "37-4-307. Annual renewal fee ~~---absent registered~~
 7 dentist -- default active, inactive status -- authority to
 8 impose registration fees. (1) A Every licensed dentist
 9 practicing within this state shall annually pay to the
 10 department before March 1, as a each year an annual renewal
 11 fee for the year, a sum set by the board and not to
 12 exceed \$50. The renewal fee shall be set by the board
 13 commensurate with costs but may not exceed:

14 (a) \$50 for dentists on active status, as defined by
 15 the rules of the board; and

16 (b) \$25 for dentists on inactive status, as defined by
 17 the rules of the board. The board may increase or decrease
 18 the annual renewal fee to maintain in the earmarked revenue
 19 fund at all times an amount to be known as the emergency
 20 fund to be used for the purpose of administering, policing,
 21 and enforcing this chapter. The emergency fund shall be
 22 maintained at an approximate level of \$2,500. Notice of the
 23 change in the amount of renewal fees shall be given to each
 24 dentist registered in this state by the department.

25 (2) If a registered dentist absents himself from the

1 state for a period of 1 or more years or does not engage in
 2 active practice within this state, he may continue his
 3 license in good standing by a payment set by the board each
 4 year, not to exceed \$25, or at the discretion of the board,
 5 he may be reinstated on the payment of a fee of \$25 for each
 6 year's absence. The payment of the annual payments renewal
 7 fee shall be made prior to March 1 of each year, and a
 8 receipt or certificate shall be issued by the department. A
 9 reasonable late fee charge not to exceed \$10 may be required
 10 if the annual renewal fee is not paid before March 1.

11 (3) (a) The board may reclassify an active status
 12 license to inactive status for a licensee who furnishes
 13 satisfactory evidence that he has discontinued the actual
 14 practice of dentistry because of physical disability or
 15 retirement resulting from advanced age.

16 (b) An individual who wishes to maintain his Montana
 17 license but does not maintain a resident practice shall be
 18 licensed in the inactive status.

19 (c) Application to convert an inactive status license
 20 to an active status license shall be made in accordance with
 21 rules of the board and with the submission of the renewal
 22 fee prescribed for such license. If more than 1 year has
 23 expired since the license was inactivated, satisfactory
 24 evidence of competence must be submitted to the board before
 25 an active status license may be issued.

1 ~~(3)~~(4) In case of default in payment of the annual
2 renewal fee by a dentist licensee, his license shall be
3 revoked by the board, on

4 (a) The board shall give the licensee 30 days' notice
5 given to the delinquent of the time and place of considering
6 the revocation of its proposed revocation action. * The
7 notice shall be sent by registered or certified letter
8 addressed to the last-known address of the party failing to
9 comply with this requirement as the address appears on the
10 records of the department constitutes sufficient notice of
11 revocation of license but no licensee and shall contain a
12 statement of when and where the board meeting considering
13 the revocation is to be held.

14 (b) If the licensee pays the renewal fee, plus a
15 reasonable late fee set by the board, not to exceed \$10,
16 prior to the time set for revocation, the license may not be
17 revoked for nonpayment if the dentist notified pays the
18 renewal fee plus a late payment penalty of \$10 before or at
19 the time fixed for consideration of revocation. The
20 department may maintain in the name of this state a suit to
21 collect renewal fees and penalties applicable and to recover
22 from the delinquent dentist the cost of the action,
23 including reasonable attorneys' fees.

24 (c) A license revoked for nonpayment of the renewal
25 fee may be reinstated within 5 years of revocation if:

1 (i) renewal fees are paid for each year they were
2 unpaid, plus a late penalty of \$10 for each year;

3 (ii) the applicant produces evidence satisfactory to
4 the board of good standing with the dentistry regulatory
5 agencies of the jurisdictions in which he has engaged in the
6 active practice of dentistry since the last payment of a
7 renewal fee under this chapter; and

8 (iii) the applicant produces evidence satisfactory to
9 the board of good character and competence.

10 (5) Every dentist shall give the board notice of any
11 change of name, address, or status within 30 days of the
12 change.

13 ~~(4)~~(6) No license fee or tax may be imposed on
14 dentists by a municipality or any other subdivision of the
15 state."

16 Section 7. Section 37-4-321, MCA, is amended to read:

17 "37-4-321. Grounds for disciplinary proceedings --
18 range of sanctions. (1) For any of the grounds enumerated in
19 subsection (2) the the board may take one or more of the
20 following actions:

21 (a) censure;

22 (b) prescribe probation;

23 (c) suspend or a license;

24 (d) revoke any a license issued under this chapter for
25 any of the following causes:

1 ~~(e) prohibit relicensure for a period not to exceed 2~~
2 ~~years; and~~

3 ~~(f) assess a fine not to exceed \$200.~~

4 ~~(1) The following are grounds for disciplinary~~
5 ~~action by the board:~~

6 (a) conviction of a felony or misdemeanor when the
7 sentence imposed is imprisonment in the state prison. A
8 certified copy of the conviction record from the district
9 court imposing the sentence is conclusive evidence.

10 (b) physical or mental incompetence;

11 (c) gross malpractice or repeated malpractice;

12 (d) unprofessional conduct, as defined by rule of
13 the board; or

14 (e) violation of any of the provisions of this
15 chapter or rules or orders of the board."

16 Section 8. Section 37-4-402, MCA, is amended to read:

17 "37-4-402. License -- examination. (1) The department
18 may issue licenses for the practice of dental hygiene to
19 qualified applicants to be known as dental hygienists.

20 (2) Except as provided in subsections (1), (2), and

21 (3) of 37-4-404, no person may engage in the practice of
22 dental hygiene or practice as a dental hygienist in this
23 state until he has passed an examination approved by the
24 board under rules it considers proper and has been issued a
25 license by the department.

1 (3) Applicants for licensure shall take and pass an
2 examination in order to be licensed. The examination shall
3 consist of a written part, a practical or clinical part, and
4 may include an oral interview with the boards, when
5 determined necessary by the board. The examination and
6 interview which may include questions pertaining to the
7 practice of dental hygiene. The board may accept, in
8 satisfaction of the written part, successful completion of
9 an examination by the national board of dental examiners
10 and, whenever the board determines necessary, successful
11 completion of a board examination in jurisprudence. The
12 board may accept, in satisfaction of the practical part,
13 successful completion of an examination by a
14 board-designated regional testing service.

15 (4) The board has the right to administer its own
16 examination in lieu of acceptance of the national board
17 written examination and a regional testing service practical
18 examination. The board is authorized to make rules governing
19 any such examination procedures.

20 (5) Applicants for licensure shall submit an
21 application, which shall include, when required:

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

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

1 (c) two affidavits of good moral character;
 2 (d) certificate of graduation from a board-approved
 3 dental hygiene school;
 4 ~~(e) copies of all other state licenses which have been~~
 5 ~~held by the applicant;~~
 6 ~~(f) names and mailing addresses of all dental hygiene~~
 7 ~~societies in which the applicant has held membership;~~
 8 ~~(e)(g) an examination fee commensurate with costs and~~
 9 ~~set by the board;~~
 10 ~~(f)(h) a licensure fee commensurate with costs and set~~
 11 ~~by the board;~~
 12 ~~(g)(i) a recent photograph of the applicant.~~
 13 (6) Applications must be submitted no less than 20
 14 days prior to the board ~~interview~~ and jurisprudence
 15 examination.
 16 (7) Examination results will be accepted for a period
 17 of time as set by board rule. An applicant failing to pass
 18 his first examination, if otherwise qualified, may take a
 19 subsequent examination on payment of a fee commensurate with
 20 costs and set by the board.
 21 (8) The board is authorized to adopt necessary and
 22 reasonable rules governing application procedures."
 23 Section 9. Section 37-4-406, MCA, is amended to read:
 24 "37-4-406. Annual renewal fee -- revocation of
 25 license. (1) ~~Before March 1 of each year,~~ a Every licensed

1 dental hygienist shall pay ~~to the department~~ an annual
 2 renewal fee to the board. ~~The renewal fee shall be set by~~
 3 ~~the board,~~ commensurate with costs but shall not exceed
 4 \$25;
 5 (a) \$25 for dental hygienists on active status, as
 6 defined by rules of the board; and
 7 (b) \$15 for dental hygienists on inactive status, as
 8 defined by rules of the board.
 9 (2) Payment of the annual renewal fee shall be made
 10 prior to March 1 each year. The board shall issue a receipt
 11 or certificate as evidence of payment.
 12 (3) In case of default of in payment of the renewal
 13 fee by any licensee the board may, after hearing and on
 14 shall revoke his license.
 15 (a) The board shall give the licensee 30 days' notice
 16 revoke the license of the hygienist in default, but the of
 17 its proposed revocation action. The notice shall be sent by
 18 registered mail to the last known address of the licensee
 19 and shall contain a statement of when and where the board
 20 meeting considering the revocation is to be held.
 21 (b) The payment of the renewal fee on or before the
 22 time of hearing set for revocation, with an additional sum a
 23 reasonable late fee set by the board, not to exceed \$10,
 24 excuses the default, and the license may not be revoked. The
 25 department may collect the fee by suit.

1 (4) A license revoked for nonpayment of the renewal
 2 fee may be reinstated within 5 years of revocation if:

3 (a) renewal fees are paid for each year they were
 4 unpaid, plus a late penalty of \$10 for each year;

5 (b) the applicant produces evidence satisfactory to
 6 the board of good standing with the dental hygiene
 7 regulatory agencies of the jurisdictions in which he has
 8 engaged in the active practice of dental hygiene since the
 9 last payment of a renewal fee under this chapter; and

10 (c) the applicant produces evidence satisfactory to
 11 the board of good character and competence.

12 (5) Every dental hygienist shall give the board notice
 13 of any change in name, address, or status within 30 days of
 14 the change.

15 ~~(2)~~(6) The board may likewise revoke or suspend the
 16 license of a dental hygienist for violating this chapter.

17 (7) No license fee or tax may be imposed on dental
 18 hygienists by a municipality or any other subdivision of the
 19 state."

20 Section 10. Section 37-4-408, MCA, is amended to read:

21 "37-4-408. Auxiliary personnel -- employment, duties,
 22 and limitations. The board ~~shall~~ may, within the limitations
 23 of this chapter, adopt rules which define the qualifications
 24 and outline the tasks of any unlicensed auxiliary personnel
 25 to be employed by any licensed dentist in his office, except

1 that nothing herein shall be construed to allow the board by
 2 rule to provide for delegation by a licensed dentist to any
 3 such auxiliary personnel any of the duties prohibited to
 4 dental hygienists under 37-4-401 or a prophylaxis. The
 5 performance of intraoral tasks by dental auxiliaries, as
 6 permitted by board rules, shall be under the direct
 7 supervision of the licensed dentist employing such
 8 personnel."

9 Section 11. Repealer. Section 37-4-403, MCA, is
 10 repealed.

11 Section 12. Codification instruction. Section 3 is
 12 intended to be codified as an integral part of Title 37,
 13 chapter 4, and the provisions of Title 37, chapter 4, apply
 14 to that section.

15 Section 13. Coordination instruction. (1) If
 16 Bill [LC 1290] introduced in the 47th legislature is
 17 passed and approved, sections 1 and 2, or such other
 18 sections of this act that amend sections 37-4-203 and
 19 37-4-204, are void and of no effect.

20 (2) If Bill [LC 1288] introduced in the 47th
 21 legislature is passed and approved, sections 6 and 9, or
 22 such other sections of this act that amend sections 37-4-307
 23 and 37-4-406, are void and of no effect.

-End-

STATE OF MONTANA

REQUEST NO. 76-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 14, 19 81, there is hereby submitted a Fiscal Note for HOUSE BILL 717 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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 to generally revise and clarify the licensing law for dentists and dental hygienists; to delete the board emergency fund; to provide for board members to attend the national association meetings and to increase the compensation for attendance; to provide for a general rulemaking statute for the Board of Dentistry; to revise license and examination qualifications and annual renewal fee for licensees; to provide authority to assess a fine; to prohibit a license fee or tax on dental hygienists by a local government; and to make rulemaking discretionary regarding auxiliary personnel; amending Sections 37-4-203, 37-4-204, 37-4-301, 37-4-303, 37-4-307, 37-4-321, 37-4-402, 37-4-406, 37-4-407, MCA; and repealing Section 37-4-403, MCA."

ASSUMPTIONS:

1. Deleting emergency funds may provide additional funds for current level.
2. Assume 2 board members will attend out-of-state meetings
3. Assume 489 active dentists, 288 inactive dentists
4. Assume 213 licensed active hygienists, 20 inactive hygienists.
5. Assume 25 licensees will pay a late fee.
6. Assume 1 additional board meeting for rulemaking to enact this legislation.
7. Assume additional file cabinet and supplies needed for set up in FY 82 only.
8. Assume additional administrative help in FY 82 for set up.

FISCAL IMPACT:

	FY 82		FY 83	
	Current Level	Proposed	Current Level	Proposed
Revenue	\$28,000	\$40,525	\$28,000	\$40,525
Expenditures	\$26,949	\$31,976	\$30,039	\$33,339
Total	<u>\$ 1,051</u>	<u>\$ 8,549</u>	<u>\$ 2,039</u>	<u>\$ 7,186</u>

These revenues and expenditures would occur within the Board of Dentist's ear marked account.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-81

1 STATEMENT OF INTENT

2 HOUSE BILL 717

3 STATE ADMINISTRATION COMMITTEE
4

5 A Statement of Intent is required because section 3
6 delegates to the Board of Dentistry power to make rules for
7 the implementation, continuation, and enforcement of all
8 sections within Title 37, chapter 4. This provision is
9 intended as a backup to the various provisions giving the
10 Board rulemaking authority over portions of the chapter as
11 are found in 37-4-301 (examination criteria for dental
12 license), 37-4-307 (dentist license fees), 37-4-321
13 (defining unprofessional conduct), 37-4-402 (examination
14 criteria for dental hygienist license), 37-4-406 (hygienist
15 license fees), and 37-4-408 (scope of duties of dental
16 assistants). Section 3 grants the Board the authority to
17 interpret or implement other parts of the chapter that are
18 not covered by existing delegations. The Board shall be
19 bound by statements of intent adopted in 1979 for these
20 other sections and may not use section 3 for rulemaking
21 authority when a more specific delegation suffices.

Approved by Committee
on State Administration

1 HOUSE BILL NO. 717
2 INTRODUCED BY WINSLOW
3 BY REQUEST OF
4 THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
7 CLARIFY THE LICENSING LAW FOR DENTISTS AND DENTAL
8 HYGIENISTS; TO DELETE THE BOARD EMERGENCY FUND; TO PROVIDE
9 FOR BOARD MEMBERS TO ATTEND THE NATIONAL ASSOCIATION
10 MEETINGS AND TO INCREASE THE COMPENSATION FOR ATTENDANCE; TO
11 PROVIDE FOR A GENERAL RULEMAKING STATUTE FOR THE BOARD OF
12 DENTISTRY; TO REVISE LICENSE AND EXAMINATION QUALIFICATIONS
13 AND ANNUAL RENEWAL FEE FOR LICENSEES; ~~TO PROVIDE AUTHORITY~~
14 ~~TO ASSESS A FINE;~~ TO PROHIBIT A LICENSE FEE OR TAX ON DENTAL
15 HYGIENISTS BY A LOCAL GOVERNMENT; TO SPECIFY PROCEDURES THAT
16 MAY NOT BE DELEGATED TO DENTAL HYGIENISTS; AND TO MAKE
17 RULEMAKING DISCRETIONARY REGARDING AUXILIARY PERSONNEL;
18 AMENDING SECTIONS 37-4-203, 37-4-204, 37-4-301, 37-4-303,
19 37-4-307, 37-4-321, 37-4-401, 37-4-402, 37-4-406, 37-4-408,
20 MCA; AND REPEALING SECTION 37-4-403, MCA."
21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
23 Section 1. Section 37-4-203, MCA, is amended to read:
24 "37-4-203. Compensation and expenses of board members
25 -- disbursement of excess funds. (1) Out of the funds

1 derived from fees collected under this chapter, each member
2 of the board shall be reimbursed as follows:
3 (a) \$25 per day for each day in actual attendance at a
4 meeting of the board;
5 (b) expenses and travel authorized under 2-18-501
6 through 2-18-503.
7 (2) Money collected in excess of expenses and salaries
8 provided for shall be held by the department as a special
9 fund for meeting the expenses of the board, the proper
10 administration of this chapter, and educational purposes
11 considered wise by the board. ~~The department, on the written~~
12 ~~request of the board, shall set aside in a separate account~~
13 ~~in the earmarked revenue fund the emergency moneys provided~~
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16 ~~expenditure therefrom."~~
17 Section 2. Section 37-4-204, MCA, is amended to read:
18 "37-4-204. Affiliation with national association
19 authorized -- ~~delegate~~ delegates -- expenses allowed. The
20 board may affiliate with the national association as an
21 active member, pay regular annual dues to the association,
22 and send a ~~delegate~~ delegates to the meetings of the
23 association. The ~~delegate~~ delegates shall be reimbursed as
24 follows:
25 (1) ~~\$15~~ \$25 per day for each day ~~traveling to and from~~

1 ~~a-meeting-and-while~~ in actual attendance at a meeting of the
 2 association; and

3 (2) expenses and travel authorized under 2-18-501 and
 4 through 2-18-503; and,

5 ~~(3)--first-class-railroad-and--Pullman--fares--actually~~
 6 ~~incurred--to-and-from-his-place-of-residence-to-the-place-of~~
 7 ~~a-meeting;"~~

8 NEW SECTION. Section 3. Rulemaking. The board may
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 19 which, when determined necessary by the board. The
 20 examination and interview may include questions pertaining
 21 to the practice of dentistry. The board may accept, in
 22 satisfaction of the written part, successful completion of
 23 an examination by the national board of dental examiners
 24 and, whenever the board determines necessary, successful
 25 completion of a board examination in jurisprudence. The

1 board may accept, in satisfaction of the practical part,
 2 successful completion of an examination by a
 3 board-designated regional testing service.

4 (2) Acceptance by the board of such written and
 5 practical examination shall be conditioned on evidence that
 6 the examination is sufficiently thorough to test the fitness
 7 of the applicant to practice dentistry. It shall include,
 8 written in the English language, questions on anatomy,
 9 histology, physiology, chemistry, pharmacology and
 10 therapeutics, metallurgy, pathology, bacteriology,
 11 anesthesia, operative and surgical dentistry, prosthetic
 12 dentistry, prophylaxis, orthodontics and endodontics, and
 13 any additional subjects pertaining to dental service.

14 (3) The board has the right to administer its own
 15 examination in lieu of acceptance of the national board
 16 written examination and a regional testing service practical
 17 examination. The board is authorized to make rules governing
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19 (4) Applicants for licensure shall submit an
 20 application, which shall include, when required:

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

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

25 (c) three affidavits of good moral character;

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

3 (e) copies of all other state licenses that have been
4 held by the applicant;

5 (f) names and mailing addresses of all the dental
6 societies in which the applicant has held membership;

7 ~~(g)~~(g) an examination fee commensurate with costs and
8 set by the board;

9 ~~(h)~~(h) a licensure fee commensurate with costs and set
10 by the board;

11 ~~(i)~~(i) a recent photograph of the applicant.

12 (5) Applications must be submitted no less than 20
13 days prior to the board interview--and jurisprudence
14 examination.

15 ~~(6) Applicants may not take the jurisprudence~~
16 ~~examination or the oral interview without first having~~
17 ~~completed all other parts of the examination.~~

18 ~~(7)~~(6) Examination results will be accepted for a
19 period of time as set by board rule. An applicant failing to
20 pass his first examination, if otherwise qualified, may take
21 a subsequent examination upon payment of a fee commensurate
22 with costs and set by the board.

23 ~~(8)~~(7) The board is authorized to adopt necessary and
24 reasonable rules governing application procedures.

25 ~~(9) The board may in its discretion permit a dental~~

1 ~~student who has successfully completed his junior year in a~~
2 ~~recognized dental school and who files proof satisfactory to~~
3 ~~the board that he has the preliminary education described in~~
4 ~~this section to take a written examination in the subjects~~
5 ~~he has completed. Satisfactory grades secured shall be~~
6 ~~credited on the final examination of the student. The board~~
7 ~~shall require a fee commensurate with costs and set by the~~
8 ~~board for this examination, which shall apply on the final~~
9 ~~examination taken by the applicant."~~

10 Section 5. Section 37-4-303, MCA, is amended to read:

11 "37-4-303. Certificate--to--be--registered--in--county
12 where--practicing-----replacing Replacing lost certificate.
13 ~~(1) The certificate under this chapter entitles the holder~~
14 ~~to practice dentistry in any county in this state if the~~
15 ~~certificate is first filed for registration and registered~~
16 ~~in the office of the county clerk and recorder of the county~~
17 ~~in which the holder desires to practice. This chapter does~~
18 ~~not permit a holder of a certificate to practice in a county~~
19 ~~in this state unless the certificate has been first~~
20 ~~registered in the office of the clerk and recorder of the~~
21 ~~county. A holder of a certificate may practice in more than~~
22 ~~one or in any number of counties in this state on having the~~
23 ~~certificate registered in each of the counties in which the~~
24 ~~holder desires to practice.~~

25 ~~(2) The department shall, on proof satisfactory to the~~

1 board of the loss of a certificate issued under this
 2 chapter, issue a duplicate certificate, and shall charge a
 3 fee of \$10 shall be charged for issuing the certificate set
 4 by the board commensurate with the administrative cost of
 5 issuing a duplicate certificate."

6 Section 6. Section 37-4-307, MCA, is amended to read:

7 "37-4-307. Annual renewal fee ~~---absent registered~~
 8 dentist -- default active, inactive status -- authority to
 9 impose registration fees. (1) A Every licensed dentist
 10 practicing within this--state shall annually pay to--the
 11 department--before March 1--as a each year an annual renewal
 12 fee for the year--a sum set by to the board and--not--to
 13 exceed--\$50. The renewal fee shall be set by the board
 14 commensurate with costs but may not exceed:

15 (a) \$50 for dentists on active status, as defined by
 16 the rules of the board; and

17 (b) \$25 for dentists on inactive status, as defined by
 18 the rules of the board. The board may increase or decrease
 19 the annual renewal fee to maintain in the earmarked--revenue
 20 fund--at all times an amount, to be known as the emergency
 21 fund, to be used for the purpose of administering, policing,
 22 and enforcing this chapter. The emergency fund shall be
 23 maintained--at an approximate level of \$2,500. Notice of the
 24 change in the amount of renewal fees shall be given to--each
 25 dentist registered in this state by the department.

1 (2) ~~If--a--registered dentist absents himself from the~~
 2 ~~state for a period of 1 or more years or does not engage--in~~
 3 ~~active--practice--within--this--state--he may continue his~~
 4 ~~license in good standing by a payment set by the board--each~~
 5 ~~year--not to exceed \$25--or at the discretion of the board,~~
 6 ~~he may be reinstated on the payment of a fee of \$25 for each~~
 7 ~~year's absence. The Payment of the annual payments renewal~~
 8 ~~fee shall be made prior to March 1 of each year, and a~~
 9 ~~receipt or certificate shall be issued by the department. A~~
 10 ~~reasonable late fee charge not to exceed \$10 may be required~~
 11 ~~if the annual renewal fee is not paid before March 1.~~

12 (3) (a) The board may reclassify an active status
 13 license to inactive status for a licensee who furnishes
 14 satisfactory evidence that he has discontinued the actual
 15 practice of dentistry because of physical disability or
 16 retirement resulting from advanced age.

17 (b) An individual who wishes to maintain his Montana
 18 license but does not maintain a resident practice shall be
 19 licensed in the inactive status.

20 (c) Application to convert an inactive status license
 21 to an active status license shall be made in accordance with
 22 rules of the board and with the submission of the renewal
 23 fee prescribed for such license. If more than 1 year has
 24 expired since the license was inactivated, satisfactory
 25 evidence of competence must be submitted to the board before

1 an active status license may be issued.

2 ~~{3}{4}~~ In case of default in payment of the annual
3 renewal fee by a dentist licensee, his license shall be
4 revoked by the board, on

5 (a) The board shall give the licensee 30 days' notice
6 ~~given to the delinquent of the time and place of considering~~
7 ~~the revocation of its proposed revocation action. A The~~
8 ~~notice shall be sent by registered or certified letter~~
9 ~~addressed to the last-known address of the party failing to~~
10 ~~comply with this requirement, as the address appears on the~~
11 ~~records of the department, constitutes sufficient notice of~~
12 ~~revocation of license, but no licensee and shall contain a~~
13 ~~statement of when and where the board meeting considering~~
14 ~~the revocation is to be held.~~

15 (b) If the licensee pays the renewal fee, plus a
16 reasonable late fee set by the board, not to exceed \$10,
17 prior to the time set for revocation, the license may not be
18 revoked, for nonpayment if the dentist notified pays the
19 renewal fee plus a late payment penalty of \$10 before or at
20 the time fixed for consideration of revocation. The
21 department may maintain in the name of this state a suit to
22 collect renewal fees and penalties applicable and to recover
23 from the delinquent dentist the cost of the action
24 including reasonable attorneys' fees.

25 (c) A license revoked for nonpayment of the renewal

1 fee may be reinstated within 5 years of revocation if:

2 (i) renewal fees are paid for each year they were
3 unpaid, plus a late penalty of \$10 for each year;

4 (ii) the applicant produces evidence satisfactory to
5 the board of good standing with the dentistry regulatory
6 agencies of the jurisdictions in which he has engaged in the
7 active practice of dentistry since the last payment of a
8 renewal fee under this chapter; and

9 (iii) the applicant produces evidence satisfactory to
10 the board of good character and competence.

11 (5) Every dentist shall give the board notice of any
12 change of name, address, or status within 30 days of the
13 change.

14 ~~{4}{6}~~ No license fee or tax may be imposed on
15 dentists by a municipality or any other subdivision of the
16 state."

17 Section 7. Section 37-4-321, MCA, is amended to read:

18 "37-4-321. Grounds for disciplinary proceedings --
19 range of sanctions. (1) For any of the grounds enumerated in
20 subsection (2) The the board may take one or more of the
21 following actions:

22 (a) censure;

23 (b) prescribe probation;

24 (c) suspend or a license;

25 (d) revoke any a license issued under this chapter for

1 ~~any of the following causes; AND~~

2 ~~(e) prohibit relicensure for a period not to exceed 2~~

3 ~~years; and~~

4 ~~(f) assess a fine not to exceed \$200.~~

5 ~~(1)(2) The following are grounds for disciplinary~~

6 ~~action by the board:~~

7 ~~(a) conviction of a felony or misdemeanor when the~~

8 ~~sentence imposed is imprisonment in the state prison. A~~

9 ~~certified copy of the conviction record from the district~~

10 ~~court imposing the sentence is conclusive evidence;†~~

11 ~~(2)(b) physical or mental incompetence;~~

12 ~~(3)(c) gross malpractice or repeated malpractice;~~

13 ~~(4)(d) unprofessional conduct, as defined by rule of~~

14 ~~the board; or~~

15 ~~(5)(e) violation of any of the provisions of this~~

16 ~~chapter or rules or orders of the board."~~

17 SECTION 8. SECTION 37-4-401, MCA, IS AMENDED TO READ:

18 "37-4-401. Practice of dental hygiene. The practice of

19 dental hygiene is the doing by one person for a direct or

20 indirect consideration, with respect to the teeth of another

21 person, an act for service, educational, therapeutic,

22 prophylactic, or preventive in nature, as the board in

23 writing defines and authorizes. However, this section does

24 not allow the board or a licensed dentist to delegate any of

25 the following duties:

1 (1) diagnosis, treatment planning, and prescription

2 for drugs, medications, or work authorizations;

3 (2) surgical procedures on hard and soft tissues;

4 (3) restorative, prosthetic, orthodontic, and other

5 procedures which require the knowledge and skill of a

6 dentist;

7 (4) ~~prescription for drugs, medications, or work~~

8 authorizations ~~administration of local anesthesia or~~

9 induction of nitrous oxide analgesia."

10 Section 9. Section 37-4-402, MCA, is amended to read:

11 "37-4-402. License -- examination. (1) The department

12 may issue licenses for the practice of dental hygiene to

13 qualified applicants to be known as dental hygienists.

14 (2) Except as provided in subsections (1), (2), and

15 (3) of 37-4-404, no person may engage in the practice of

16 dental hygiene or practice as a dental hygienist in this

17 state until he has passed an examination approved by the

18 board under rules it considers proper and has been issued a

19 license by the department.

20 (3) Applicants for licensure shall take and pass an

21 examination in order to be licensed. The examination shall

22 consist of a written part, a practical or clinical part, and

23 may include an oral interview with the board, when

24 determined necessary by the board. The examination and

25 interview which may include questions pertaining to the

1 practice of dental hygiene. The board may accept, in
 2 satisfaction of the written part, successful completion of
 3 an examination by the national board of dental examiners
 4 and, whenever the board determines necessary, successful
 5 completion of a board examination in jurisprudence. The
 6 board may accept, in satisfaction of the practical part,
 7 successful completion of an examination by a
 8 board-designated regional testing service.

9 (4) The board has the right to administer its own
 10 examination in lieu of acceptance of the national board
 11 written examination and a regional testing service practical
 12 examination. The board is authorized to make rules governing
 13 any such examination procedures.

14 (5) Applicants for licensure shall submit an
 15 application, which shall include, when required:

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

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

20 (c) two affidavits of good moral character;

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

23 (e) copies of all other state licenses which have been
 24 held by the applicant;

25 (f) names and mailing addresses of all dental hygiene

1 societies in which the applicant has held membership;

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

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

6 (g)(i) a recent photograph of the applicant.

7 (6) Applications must be submitted no less than 20
 8 days prior to the board interview--and jurisprudence
 9 examination.

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

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

17 Section 10. Section 37-4-406, MCA, is amended to read:

18 *37-4-406. Annual renewal fee -- revocation of
 19 license. (1) ~~Before March 1 of each year, a~~ Every licensed
 20 dental hygienist shall pay ~~to the department~~ an annual
 21 renewal fee to the board. The renewal fee shall be set by
 22 the board, commensurate with costs but shall not to exceed
 23 \$25.;

24 (a) \$25 for dental hygienists on active status, as
 25 defined by rules of the board; and

1 (b) \$15 for dental hygienists on inactive status, as
2 defined by rules of the board.

3 (2) Payment of the annual renewal fee shall be made
4 prior to March 1 each year. The board shall issue a receipt
5 or certificate as evidence of payment.

6 (3) In case of default of in payment, of the renewal
7 fee by any licensee the board may--after--hearing--and--on
8 shall revoke his license.

9 (a) The board shall give the licensee 30 days' notice
10 revoke--the--license--of--the--hygienist--in--default--but--the
11 of its proposed revocation action. The notice shall be sent by
12 registered mail to the last known address of the licensee
13 and shall contain a statement of when and where the board
14 meeting considering the revocation is to be held.

15 (b) The payment of the renewal fee on or before the
16 time of hearing set for revocation, with an additional sum a
17 reasonable late fee set by the board, not to exceed \$10,
18 excuses the default, and the license may not be revoked. The
19 department may collect the fee by suit.

20 (4) A license revoked for nonpayment of the renewal
21 fee may be reinstated within 5 years of revocation if:

22 (a) renewal fees are paid for each year they were
23 unpaid, plus a late penalty of \$10 for each year;

24 (b) the applicant produces evidence satisfactory to
25 the board of good standing with the dental hygiene

1 regulatory agencies of the jurisdictions in which he has
2 engaged in the active practice of dental hygiene since the
3 last payment of a renewal fee under this chapter; and

4 (c) the applicant produces evidence satisfactory to
5 the board of good character and competence.

6 (5) Every dental hygienist shall give the board notice
7 of any change in name, address, or status within 30 days of
8 the change.

9 (6) The board may likewise revoke or suspend the
10 license of a dental hygienist for violating this chapter.

11 (7) No license fee or tax may be imposed on dental
12 hygienists by a municipality or any other subdivision of the
13 state."

14 Section 11. Section 37-4-408, MCA, is amended to read:
15 "37-4-408. Auxiliary personnel -- employment, duties,
16 and limitations. The board shall may, within the limitations
17 of this chapter, adopt rules which define the qualifications
18 and outline the tasks of any unlicensed auxiliary personnel
19 to be employed by any licensed dentist in his office, except
20 that nothing herein shall be construed to allow the board by
21 rule to provide for delegation by a licensed dentist to any
22 such auxiliary personnel any of the duties prohibited to
23 dental hygienists under 37-4-401 or a prophylaxis. The
24 performance of intraoral tasks by dental auxiliaries, as
25 permitted by board rules, shall be under the direct

1 supervision of the licensed dentist employing such
2 personnel."

3 Section 12. Repealer. Section 37-4-403, MCA, is
4 repealed.

5 Section 13. Codification instruction. Section 3 is
6 intended to be codified as an integral part of Title 37,
7 chapter 4, and the provisions of Title 37, chapter 4, apply
8 to that section.

9 Section 14. Coordination instruction. (1) If
10 ___Bill___ [LC 1290] introduced in the 47th legislature is
11 passed and approved, sections 1 and 2, or such other
12 sections of this act that amend sections 37-4-203 and
13 37-4-204, are void and of no effect.

14 (2) If ___Bill___ [LC 1288] introduced in the 47th
15 legislature is passed and approved, sections 6 and 9, or
16 such other sections of this act that amend sections 37-4-307
17 and 37-4-406, are void and of no effect.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 717

3 STATE ADMINISTRATION COMMITTEE

4

5 A Statement of Intent is required because section 3
6 delegates to the Board of Dentistry power to make rules for
7 the implementation, continuation, and enforcement of all
8 sections within Title 37, chapter 4. This provision is
9 intended as a backup to the various provisions giving the
10 Board rulemaking authority over portions of the chapter as
11 are found in 37-4-301 (examination criteria for dental
12 license), 37-4-307 (dentist license fees), 37-4-321
13 (defining unprofessional conduct), 37-4-402 (examination
14 criteria for dental hygienist license), 37-4-406 (hygienist
15 license fees), and 37-4-408 (scope of duties of dental
16 assistants). Section 3 grants the Board the authority to
17 interpret or implement other parts of the chapter that are
18 not covered by existing delegations. The Board shall be
19 bound by statements of intent adopted in 1979 for these
20 other sections and may not use section 3 for rulemaking
21 authority when a more specific delegation suffices.

1 HOUSE BILL NO. 717
 2 INTRODUCED BY WINSLOW
 3 BY REQUEST OF
 4 THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 7 CLARIFY THE LICENSING LAW FOR DENTISTS AND DENTAL
 8 HYGIENISTS; TO DELETE THE BOARD EMERGENCY FUND; TO PROVIDE
 9 FOR BOARD MEMBERS TO ATTEND THE NATIONAL ASSOCIATION
 10 MEETINGS AND TO INCREASE THE COMPENSATION FOR ATTENDANCE; TO
 11 PROVIDE FOR A GENERAL RULEMAKING STATUTE FOR THE BOARD OF
 12 DENTISTRY; TO REVISE LICENSE AND EXAMINATION QUALIFICATIONS
 13 AND ANNUAL RENEWAL FEE FOR LICENSEES; ~~TO PROVIDE AUTHORITY~~
 14 ~~TO ASSESS A FINE;~~ TO PROHIBIT A LICENSE FEE OR TAX ON DENTAL
 15 ~~HYGIENISTS BY A LOCAL GOVERNMENT; TO SPECIFY PROCEDURES THAT~~
 16 ~~MAY NOT BE DELEGATED TO DENTAL HYGIENISTS;~~ AND TO MAKE
 17 RULEMAKING DISCRETIONARY REGARDING AUXILIARY PERSONNEL;
 18 AMENDING SECTIONS 37-4-203, 37-4-204, 37-4-301, 37-4-303,
 19 37-4-307, 37-4-321, ~~37-4-401,~~ 37-4-402, 37-4-406, 37-4-408,
 20 MCA; AND REPEALING SECTION 37-4-403, MCA."
 21
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 23 Section 1. Section 37-4-203, MCA, is amended to read:
 24 "37-4-203. Compensation and expenses of board members
 25 -- disbursement of excess funds. (1) Out of the funds

1 derived from fees collected under this chapter, each member
 2 of the board shall be reimbursed as follows:
 3 (a) \$25 per day for each day in actual attendance at a
 4 meeting of the board;
 5 (b) expenses and travel authorized under 2-18-501
 6 through 2-18-503.
 7 (2) Money collected in excess of expenses and salaries
 8 provided for shall be held by the department as a special
 9 fund for meeting the expenses of the board, the proper
 10 administration of this chapter, and educational purposes
 11 considered wise by the board. ~~The department, on the written~~
 12 ~~request of the board, shall set aside in a separate account~~
 13 ~~in the earmarked revenue fund the emergency moneys provided~~
 14 ~~under 37-4-307. This account may be expended only when the~~
 15 ~~board determines that an emergency exists requiring an~~
 16 ~~expenditure therefrom."~~
 17 Section 2. Section 37-4-204, MCA, is amended to read:
 18 "37-4-204. Affiliation with national association
 19 authorized -- delegate delegates -- expenses allowed. The
 20 board may affiliate with the national association as an
 21 active member, pay regular annual dues to the association,
 22 and send ~~a~~ delegate delegates to the meetings of the
 23 association. The delegate delegates shall be reimbursed as
 24 follows:
 25 (1) ~~\$15~~ \$25 per day for each day ~~traveling to and from~~

1 ~~a meeting and while~~ in actual attendance at a meeting of the
 2 association; and

3 (2) expenses and travel authorized under 2-18-501 and
 4 through 2-18-503; and

5 ~~(3) first-class railroad and Pullman fares actually~~
 6 ~~incurred to and from his place of residence to the place of~~
 7 ~~a meeting."~~

8 NEW SECTION. Section 3. Rulemaking. The board may
 9 adopt, amend, or repeal rules necessary for the
 10 implementation, continuation, and enforcement of [Title 37,
 11 chapter 4] in accordance with the Montana Administrative
 12 Procedure Act.

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

14 "37-4-301. Examination -- qualifications -- fees --
 15 certification. (1) Applicants for licensure shall take and
 16 pass an examination in order to be licensed. The examination
 17 shall consist of a written part, a practical or clinical
 18 part, and may include an oral interview with the board
 19 which, when determined necessary by the board. The
 20 examination and interview may include questions pertaining
 21 to the practice of dentistry. The board may accept, in
 22 satisfaction of the written part, successful completion of
 23 an examination by the national board of dental examiners
 24 and, whenever the board determines necessary, successful
 25 completion of a board examination in jurisprudence. The

1 board may accept, in satisfaction of the practical part,
 2 successful completion of an examination by a
 3 board-designated regional testing service.

4 (2) Acceptance by the board of such written and
 5 practical examination shall be conditioned on evidence that
 6 the examination is sufficiently thorough to test the fitness
 7 of the applicant to practice dentistry. It shall include,
 8 written in the English language, questions on anatomy,
 9 histology, physiology, chemistry, pharmacology and
 10 therapeutics, metallurgy, pathology, bacteriology,
 11 anesthesia, operative and surgical dentistry, prosthetic
 12 dentistry, prophylaxis, orthodontics and endodontics, and
 13 any additional subjects pertaining to dental service.

14 (3) The board has the right to administer its own
 15 examination in lieu of acceptance of the national board
 16 written examination and a regional testing service practical
 17 examination. The board is authorized to make rules governing
 18 any such examination procedures.

19 (4) Applicants for licensure shall submit an
 20 application, which shall include, when required:

- 21 (a) certification of successful completion of the
- 22 national board written examination;
- 23 (b) certification of successful completion of a
- 24 regional board practical examination;
- 25 (c) three affidavits of good moral character;

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

3 (e) copies of all other state licenses that have been
4 held by the applicant;

5 (f) names and mailing addresses of all the dental
6 societies in which the applicant has held membership;

7 ~~(g)~~ (g) an examination fee commensurate with costs and
8 set by the board;

9 ~~(h)~~ (h) a licensure fee commensurate with costs and set
10 by the board;

11 ~~(i)~~ (i) a recent photograph of the applicant.

12 (5) Applications must be submitted no less than 20
13 days prior to the board interview and jurisprudence
14 examination.

15 ~~(6) Applicants may not take the jurisprudence~~
16 ~~examination or the oral interview without first having~~
17 ~~completed all other parts of the examination.~~

18 ~~(7)~~ (6) Examination results will be accepted for a
19 period of time as set by board rule. An applicant failing to
20 pass his first examination, if otherwise qualified, may take
21 a subsequent examination upon payment of a fee commensurate
22 with costs and set by the board.

23 ~~(8)~~ (7) The board is authorized to adopt necessary and
24 reasonable rules governing application procedures.

25 ~~(9) The board may in its discretion permit a dental~~

1 student who has successfully completed his junior year in a
2 recognized dental school and who files proof satisfactory to
3 the board that he has the preliminary education described in
4 this section to take a written examination in the subjects
5 he has completed. Satisfactory grades secured shall be
6 credited on the first examination of the student. The board
7 shall require a fee commensurate with costs and set by the
8 board for this examination, which shall apply on the final
9 examination taken by the applicant."

10 Section 5. Section 37-4-303, MCA, is amended to read:

11 "37-4-303. Certificate to be registered in county
12 where practicing replacing Replacing lost certificate.
13 (1) The certificate under this chapter entitles the holder
14 to practice dentistry in any county in this state if the
15 certificate is first filed for registration and registered
16 in the office of the county clerk and recorder of the county
17 in which the holder desires to practice. This chapter does
18 not permit a holder of a certificate to practice in a county
19 in this state unless the certificate has been first
20 registered in the office of the clerk and recorder of the
21 county. A holder of a certificate may practice in more than
22 one or in any number of counties in this state on having the
23 certificate registered in each of the counties in which the
24 holder desires to practice.

25 (2) The department shall, on proof satisfactory to the

1 board of the loss of a certificate issued under this
 2 chapter, issue a duplicate certificate, and shall charge a
 3 fee of \$10 shall be charged for issuing the certificate set
 4 by the board commensurate with the administrative cost of
 5 issuing a duplicate certificate."

6 Section 6. Section 37-4-307, MCA, is amended to read:

7 "37-4-307. Annual renewal fee ~~---absent-registered~~
 8 ~~dentist -- default active, inactive status -- authority to~~
 9 ~~impose registration fees. (1) A Every licensed dentist~~
 10 ~~practicing within this--state shall annually pay to--the~~
 11 ~~department--before March--by as a each year an annual renewal~~
 12 ~~fee for the year--a sum set by to the board and--not--to~~
 13 ~~exceed--\$50. The renewal fee shall be set by the board~~
 14 ~~commensurate with costs but may not exceed:~~

15 (a) \$50 for dentists on active status, as defined by
 16 the rules of the board; and

17 (b) \$25 for dentists on inactive status, as defined by
 18 the rules of the board. The board may increase or decrease
 19 the annual renewal fee to maintain in the earmarked--revenue
 20 fund--at--all--times an amount, to be known as the emergency
 21 fund, to be used for the purpose of administering, policing,
 22 and enforcing this chapter. The emergency fund shall be
 23 maintained--at an approximate level of \$2,500. Notice of the
 24 change in the amount of renewal fees shall be given to--each
 25 dentist registered in this state by the departments

1 (2) ~~if--a--registered dentist absents himself from the~~
 2 ~~state for a period of 1 or more years or does not engage--in~~
 3 ~~active--practice within this state--he may continue his~~
 4 ~~license in good standing by a payment set by the board--each~~
 5 ~~year--not to exceed \$25, or at the discretion of the board,~~
 6 ~~he may be reinstated on the payment of a fee of \$25 for each~~
 7 ~~year's absence. The Payment of the annual payments renewal~~
 8 ~~fee shall be made prior to March 1 of each year, and a~~
 9 ~~receipt or certificate shall be issued by the department. A~~
 10 ~~reasonable late fee charge not to exceed \$10 may be required~~
 11 ~~if the annual renewal fee is not paid before March 1.~~

12 (3) (a) The board may reclassify an active status
 13 license to inactive status for a licensee who furnishes
 14 satisfactory evidence that he has discontinued the actual
 15 practice of dentistry because of physical disability or
 16 retirement resulting from advanced age.

17 (b) An individual who wishes to maintain his Montana
 18 license but does not maintain a resident practice shall be
 19 licensed in the inactive status.

20 (c) Application to convert an inactive status license
 21 to an active status license shall be made in accordance with
 22 rules of the board and with the submission of the renewal
 23 fee prescribed for such license. If more than 1 year has
 24 expired since the license was inactivated, satisfactory
 25 evidence of competence must be submitted to the board before

1 an active status license may be issued.

2 ~~{3}~~(4) In case of default in payment of the annual
3 renewal fee by a dentist licensee, his license shall be
4 revoked by the board, on

5 (a) The board shall give the licensee 30 days' notice
6 given to the delinquent of the time and place of considering
7 the revocation of its proposed revocation action. A The
8 notice shall be sent by registered or certified letter
9 addressed to the last-known address of the party failing to
10 comply with this requirement, as the address appears on the
11 records of the department, constitutes sufficient notice of
12 revocation of license, but no licensee and shall contain a
13 statement of when and where the board meeting considering
14 the revocation is to be held.

15 (b) If the licensee pays the renewal fee, plus a
16 reasonable late fee set by the board, not to exceed \$10,
17 prior to the time set for revocation, the license may not be
18 revoked, for nonpayment if the dentist notified pays the
19 renewal fee plus a late payment penalty of \$10 before or at
20 the time fixed for consideration of revocation. The
21 department may maintain in the name of this state a suit to
22 collect renewal fees and penalties applicable and to recover
23 from the delinquent dentist the cost of the action,
24 including reasonable attorneys' fees.

25 (c) A license revoked for nonpayment of the renewal

1 fee may be reinstated within 5 years of revocation if:

2 (i) renewal fees are paid for each year they were
3 unpaid, plus a late penalty of \$10 for each year;

4 (ii) the applicant produces evidence satisfactory to
5 the board of good standing with the dentistry regulatory
6 agencies of the jurisdictions in which he has engaged in the
7 active practice of dentistry since the last payment of a
8 renewal fee under this chapter; and

9 (iii) the applicant produces evidence satisfactory to
10 the board of good character and competence.

11 (5) Every dentist shall give the board notice of any
12 change of name, address, or status within 30 days of the
13 change.

14 ~~{4}~~(6) No license fee or tax may be imposed on
15 dentists by a municipality or any other subdivision of the
16 state."

17 Section 7. Section 37-4-321, MCA, is amended to read:

18 "37-4-321. Grounds for disciplinary proceedings --
19 range of sanctions. (1) For any of the grounds enumerated in
20 subsection (2) the the board may take one or more of the
21 following actions:

22 (a) censure;

23 (b) prescribe probation;

24 (c) suspend or a license;

25 (d) revoke any a license issued under this chapter for

1 any-of-the-following-causes; AND
 2 (e) prohibit relicensure for a period not to exceed 2
 3 years; and
 4 ~~(f) assess a fine not to exceed \$200.~~
 5 (1)(2) The following are grounds for disciplinary
 6 action by the board:
 7 (a) conviction of a felony or misdemeanor when the
 8 sentence imposed is imprisonment in the state prison. A
 9 certified copy of the conviction record from the district
 10 court imposing the sentence is conclusive evidence;†
 11 (2)(b) physical or mental incompetence;
 12 (3)(c) gross malpractice or repeated malpractice;
 13 (4)(d) unprofessional conduct, as defined by rule of
 14 the board; or
 15 (5)(e) violation of any of the provisions of this
 16 chapter or rules or orders of the board."
 17 ~~SECTION 8. SECTION 37-4-401, MCA, IS AMENDED TO READ:~~
 18 ~~"37-4-401. Practice of dental hygiene. The practice~~
 19 ~~of dental hygiene is the doing by one person for a direct or~~
 20 ~~indirect consideration, with respect to the teeth of another~~
 21 ~~person, an act or service, educational, therapeutic~~
 22 ~~prophylactic or preventive in nature, as the board in~~
 23 ~~writing defines and authorizes. However, this section does~~
 24 ~~not allow the board or a licensed dentist to delegate any of~~
 25 ~~the following duties:~~

1 (1) ~~diagnosis, treatment, planning, and prescription~~
 2 ~~for drugs, medications, or work authorization;~~
 3 (2) ~~surgical procedures on hard and soft tissues;~~
 4 (3) ~~restorative, prosthetic, orthodontic, and other~~
 5 ~~procedures which require the knowledge and skill of a~~
 6 ~~dentist;~~
 7 (4) ~~prescription for drugs, medications, or work~~
 8 ~~authorizations administration of local anesthetic or~~
 9 ~~induction of nitrous oxide analgesia."~~
 10 Section 8. Section 37-4-402, MCA, is amended to read:
 11 "37-4-402. License -- examination. (1) The department
 12 may issue licenses for the practice of dental hygiene to
 13 qualified applicants to be known as dental hygienists.
 14 (2) Except as provided in subsections (1), (2), and
 15 (3) of 37-4-404, no person may engage in the practice of
 16 dental hygiene or practice as a dental hygienist in this
 17 state until he has passed an examination approved by the
 18 board under rules it considers proper and has been issued a
 19 license by the department.
 20 (3) Applicants for licensure shall take and pass an
 21 examination in order to be licensed. The examination shall
 22 consist of a written part, a practical or clinical part, and
 23 may include an oral interview with the board, when
 24 determined necessary by the board. The examination and
 25 interview which may include questions pertaining to the

1 practice of dental hygiene. The board may accept, in
 2 satisfaction of the written part, successful completion of
 3 an examination by the national board of dental examiners
 4 and, whenever the board determines necessary, successful
 5 completion of a board examination in jurisprudence. The
 6 board may accept, in satisfaction of the practical part,
 7 successful completion of an examination by a
 8 board-designated regional testing service.

9 (4) The board has the right to administer its own
 10 examination in lieu of acceptance of the national board
 11 written examination and a regional testing service practical
 12 examination. The board is authorized to make rules governing
 13 any such examination procedures.

14 (5) Applicants for licensure shall submit an
 15 application, which shall include, when required:

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

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

20 (c) two affidavits of good moral character;

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

23 (e) copies of all other state licenses which have been
 24 held by the applicant;

25 (f) names and mailing addresses of all dental hygiene

1 societies in which the applicant has held membership;

2 ~~(g)(q)~~ an examination fee commensurate with costs and
 3 set by the board;

4 ~~(ff)(h)~~ a licensure fee commensurate with costs and set
 5 by the board;

6 ~~(gt)(i)~~ a recent photograph of the applicant.

7 (6) Applications must be submitted no less than 20
 8 days prior to the board interview--and jurisprudence
 9 examination.

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

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

17 Section 9. Section 37-4-406, MCA, is amended to read:

18 "37-4-406. Annual renewal fee -- revocation of
 19 license. (1) ~~Before-March-1-of-each-year-a~~ Every licensed
 20 dental hygienist shall pay to the department an annual
 21 renewal fee to the board. The renewal fee shall be set by
 22 the board, commensurate with costs but shall not to exceed
 23 \$25.;

24 (a) \$25 for dental hygienists on active status, as
 25 defined by rules of the board; and

1 (b) \$15 for dental hygienists on inactive status, as
2 defined by rules of the board.

3 (2) Payment of the annual renewal fee shall be made
4 prior to March 1 each year. The board shall issue a receipt
5 or certificate as evidence of payment.

6 (3) In case of default of in payment of the renewal
7 fee by any licensee the board may, after hearing and on
8 shall revoke his license.

9 (a) The board shall give the licensee 30 days' notice
10 revoke the license of the hygienist in default; but--the of
11 its proposed revocation action. The notice shall be sent by
12 registered mail to the last known address of the licensee
13 and shall contain a statement of when and where the board
14 meeting considering the revocation is to be held.

15 (b) The payment of the renewal fee on or before the
16 time of hearing set for revocation, with an additional sum a
17 reasonable late fee set by the board, not to exceed \$10,
18 excuses the default, and the license may not be revoked. The
19 department may collect the fee by suits

20 (4) A license revoked for nonpayment of the renewal
21 fee may be reinstated within 5 years of revocation if:

22 (a) renewal fees are paid for each year they were
23 unpaid, plus a late penalty of \$10 for each year;

24 (b) the applicant produces evidence satisfactory to
25 the board of good standing with the dental hygiene

1 regulatory agencies of the jurisdictions in which he has
2 engaged in the active practice of dental hygiene since the
3 last payment of a renewal fee under this chapter; and

4 (c) the applicant produces evidence satisfactory to
5 the board of good character and competence.

6 (5) Every dental hygienist shall give the board notice
7 of any change in name, address, or status within 30 days of
8 the change.

9 (2)(6) The board may likewise revoke or suspend the
10 license of a dental hygienist for violating this chapter.

11 (7) No license fee or tax may be imposed on dental
12 hygienists by a municipality or any other subdivision of the
13 state."

14 Section 10. Section 37-4-408, MCA, is amended to read:
15 "37-4-408. Auxiliary personnel -- employment, duties,
16 and limitations. The board shall ~~may~~, within the limitations
17 of this chapter, adopt rules which define the qualifications
18 and outline the tasks of any unlicensed auxiliary personnel
19 to be employed by any licensed dentist in his office, except
20 that nothing herein shall be construed to allow the board by
21 rule to provide for delegation by a licensed dentist to any
22 such auxiliary personnel any of the duties prohibited to
23 dental hygienists under 37-4-401 or a prophylaxis. The
24 performance of intraoral tasks by dental auxiliaries, as
25 permitted by board rules, shall be under the direct

1 supervision of the licensed dentist employing such
2 personnel."

3 Section 11. Repealer. Section 37-4-403, MCA, is
4 repealed.

5 Section 12. Codification instruction. Section 3 is
6 intended to be codified as an integral part of Title 37,
7 chapter 4, and the provisions of Title 37, chapter 4, apply
8 to that section.

9 Section 13. Coordination instruction. (1) If
10 ___Bill___ [LC 1290] introduced in the 47th legislature is
11 passed and approved, sections 1 and 2, or such other
12 sections of this act that amend sections 37-4-203 and
13 37-4-204, are void and of no effect.

14 (2) If ___Bill___ [LC 1288] introduced in the 47th
15 legislature is passed and approved, sections 6 and 9, or
16 such other sections of this act that amend sections 37-4-307
17 and 37-4-406, are void and of no effect.

-End-