

SENATE BILL NO. 391

INTRODUCED BY HIMSL, S. BROWN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

February 7, 1981	Introduced and referred to Committee on Public Health, Welfare and Safety.
February 20, 1981	Committee recommend bill do pass. Report adopted.
February 21, 1981	Bill printed and placed on members' desks.
February 23, 1981	Second reading, do pass.
February 24, 1981	Correctly engrossed.
February 25, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on Human Services.
March 20, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1981	Second reading, concurred in.
March 28, 1981	Third reading, concurred in as amended. Ayes, 90; Noes, 4.

IN THE SENATE

March 30, 1981

Returned from House with amendments.

April 3, 1981

Second reading, amendments concurred in.

April 6, 1981

Third reading, amendments concurred in. Ayes, 47; Noes, 1. Sent to enrolling.

Reported correctly enrolled.

1 *Sen. Steve Brown* BILL NO. *391*
 2 INTRODUCED BY *Steve Brown* *STEVE BROWN*

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
 6 BOARD OF DENTISTRY UNDER EXISTING STATUTORY AUTHORITY AND
 7 RULES; ADDING A PUBLIC MEMBER TO THE BOARD; DELETING THE
 8 REQUIREMENT THAT BOARD APPOINTMENTS BE MADE FROM ASSOCIATION
 9 LISTS; CORRECTING AN ERRONEOUS BOARD NAME; DELETING THE
 10 RAILROAD RATE REIMBURSEMENT FOR BOARD TRAVEL; DELETING THE
 11 REQUIREMENT TO MAINTAIN AN EMERGENCY FUND; AUTHORIZING A
 12 DENTAL HYGIENIST TO PROVIDE SERVICES WITHOUT A DENTIST ON
 13 THE PREMISES WITH BOARD APPROVAL; DELETING A FELONY
 14 CONVICTION AS GROUNDS FOR DENIAL OR REVOCATION OF LICENSE;
 15 AMENDING SECTIONS 2-8-103, 2-15-1606, 37-4-101, 37-4-203,
 16 37-4-204, 37-4-307, 37-4-321, AND 37-4-405, MCA; AND
 17 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

18
 19 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
 20 MCA, terminates the Board of Dentistry and requires a
 21 performance evaluation of the Board by the Legislative Audit
 22 Committee; and

23 WHEREAS, as a result of the performance evaluation the
 24 Legislative Audit Committee recommends that the Board of
 25 Dentistry be reestablished under existing statutory

1 authority.

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

4 Section 1. Reestablishment. The board of dentistry is
 5 reestablished for 6 years pursuant to 2-8-122 with its
 6 existing statutory authority and rules.

7 Section 2. Section 2-8-103, MCA, is amended to read:
 8 "2-8-103. Agencies to terminate. (1) The following
 9 agencies shall terminate on July 1, 1979:

10 (a) board of abstracters, department of professional
 11 and occupational licensing, created by 2-15-1643;

12 (b) board of real estate, department of professional
 13 and occupational licensing, created by 2-15-1642;

14 (c) state board of warm air heating, ventilation, and
 15 air conditioning, department of professional and
 16 occupational licensing, created by 2-15-1656;

17 (d) board of institutions, department of institutions,
 18 created by 2-15-2303.

19 (2) The following agencies shall terminate on July 1,
 20 1981:

21 (a) commission for human rights, department of labor
 22 and industry, created by 2-15-1706;

23 (b) board of athletics, department of professional and
 24 occupational licensing, created by 2-15-1661;

25 (c) board of barbers, department of professional and

1 occupational licensing, created by 2-15-1625;
 2 (d) board of chiropractors, department of professional
 3 and occupational licensing, created by 2-15-1613;
 4 (e) board of cosmetologists, department of
 5 professional and occupational licensing, created by
 6 2-15-1626;
 7 ~~(f) board of dentists, department of professional and~~
 8 ~~occupational licensing, created by 2-15-1606;~~
 9 (g)(f) board of hearing aid dispensers, department of
 10 professional and occupational licensing, created by
 11 2-15-1616;
 12 (h)(g) board of massage therapists, department of
 13 professional and occupational licensing, created by
 14 2-15-1627;
 15 (i)(h) Montana state board of medical examiners,
 16 department of professional and occupational licensing,
 17 created by 2-15-1605;
 18 (j)(i) board of morticians, department of professional
 19 and occupational licensing, created by 2-15-1619;
 20 (k)(j) board of nursing, department of professional
 21 and occupational licensing, created by 2-15-1610;
 22 (l)(k) board of nursing home administrators,
 23 department of professional and occupational licensing,
 24 created by 2-15-1611;
 25 (m)(l) board of optometrists, department of

1 professional and occupational licensing, created by
 2 2-15-1612;
 3 (n)(m) board of osteopathic physicians, department of
 4 professional and occupational licensing, created by
 5 2-15-1607;
 6 (o)(n) board of pharmacists, department of
 7 professional and occupational licensing, created by
 8 2-15-1609;
 9 (p)(o) board of podiatry examiners, department of
 10 professional and occupational licensing, created by
 11 2-15-1608;
 12 (q)(p) board of psychologists, department of
 13 professional and occupational licensing, created by
 14 2-15-1617;
 15 (r)(q) board of radiologic technologists, department
 16 of professional and occupational licensing, created by
 17 2-15-1614;
 18 (s)(r) board of speech pathologists and audiologists,
 19 department of professional and occupational licensing,
 20 created by 2-15-1615;
 21 (t)(s) board of veterinarians, department of
 22 professional and occupational licensing, created by
 23 2-15-1618;
 24 (u)(t) board of veterans' affairs, department of
 25 social and rehabilitation services, created by 2-15-2202;

1 ~~(v) (u)~~ board of sanitarians, department of
 2 professional and occupational licensing, created by
 3 2-15-1631.

4 (3) The following units of state government shall
 5 terminate on July 1, 1983:

6 (a) board of aeronautics, department of community
 7 affairs, created by 2-15-1103;

8 (b) state board of hail insurance, department of
 9 agriculture, created by 2-15-3003;

10 (c) board of horse racing, department of professional
 11 and occupational licensing, created by 2-15-1662;

12 (d) board of livestock, department of livestock,
 13 created by 2-15-3102;

14 (e) board of milk control, department of business
 15 regulation, created by 2-15-1802;

16 (f) board of oil and gas conservation, department of
 17 natural resources and conservation, created by 2-15-3303;

18 (g) Montana outfitters council, department of fish,
 19 wildlife, and parks, created by 2-15-3403;

20 (h) public service commission, department of public
 21 service regulation, created by 69-1-102;

22 (i) board of water and wastewater operators,
 23 department of health and environmental sciences, created by
 24 2-15-2105;

25 (j) board of water well contractors, department of

1 professional and occupational licensing, created by
 2 2-15-1632.

3 (4) The following agencies terminate on July 1, 1985:

4 (a) the board of public accountants, created by
 5 2-15-1641;

6 (b) the board of architects, created by 2-15-1651;

7 (c) state banking board, department of business
 8 regulation, created by 2-15-1803;

9 (d) the state electrical board, created by 2-15-1654;

10 (e) the board of professional engineers and land
 11 surveyors, created by 2-15-1653;

12 (f) office of commissioner of insurance and the
 13 insurance department, state auditor's office, created by
 14 2-15-1902 and 2-15-1903;

15 (g) office of the securities commissioner, state
 16 auditor's office, created by 2-15-1901;

17 (h) the board of landscape architects, created by
 18 2-15-1652;

19 (i) the board of county printing, created by
 20 2-15-1102;

21 (j) the board of plumbers, created by 2-15-1655;

22 (k) board of physical therapy examiners, created by
 23 2-15-1628.

24 ~~(5) The following agency terminates on July 1, 1987:~~
 25 ~~board of dentistry, department of professional and~~

1 occupational licensing, created by 2-15-1606."

2 Section 3. Section 2-15-1606, MCA, is amended to read:

3 "2-15-1606. Board of dentistry. (1) There is a board
4 of dentistry.

5 (2) The board consists of five dentists, and one
6 dental hygienist, and one public member, all appointed by
7 the governor. ~~The Montana dental association and the Montana
8 dental hygienists' association shall each present to the
9 governor, within 15 days after its regular annual meeting, a
10 list of not less than five candidates from which
11 appointments for vacancies on the board occurring during the
12 ensuing year may be made. At all times at least three
13 members of the board shall be appointed from the list of
14 candidates submitted by the Montana dental association and
15 one member shall be appointed from the list submitted by the
16 Montana dental hygienists' association.~~ Each licensed member
17 shall be licensed to practice a dental profession in this
18 state, shall have actively practiced in this state for at
19 least 5 continuous years immediately before his appointment,
20 and shall be actively engaged in practice while serving on
21 the board. Each member shall be a citizen of the United
22 States and a resident of this state.

23 (3) Each member shall serve for a term of 5 years. The
24 governor may remove a member only for neglect or cause.

25 (4) The governor shall fill any vacancy within 30

1 days.

2 (5) The board is allocated to the department for
3 administrative purposes only as prescribed in 2-15-121."

4 Section 4. Section 37-4-101, MCA, is amended to read:

5 "37-4-101. Definitions -- practice of dentistry. (1)
6 Unless the context requires otherwise, in this chapter the
7 following definitions apply:

8 (a) "Board" means the board of ~~dentists~~ dentistry
9 provided for in 2-15-1606.

10 (b) "Department" means the department of professional
11 and occupational licensing provided for in Title 2, chapter
12 15, part 16.

13 (2) A person is "practicing dentistry" under this
14 chapter if he:

15 (a) performs, attempts, advertises to perform, causes
16 to be performed by the patient or any other person, or
17 instructs in the performance of dental operations, oral
18 surgery, or dental service of any kind gratuitously or for a
19 salary, fee, money, or other remuneration paid or to be
20 paid, directly or indirectly, to himself, any other person,
21 or agency;

22 (b) is a manager, proprietor, operator, or conductor
23 of a place where dental operations, oral surgery, or dental
24 services are performed;

25 (c) directly or indirectly, by any means or method,

1 furnishes, supplies, constructs, reproduces, or repairs a
2 prosthetic denture, bridge, appliance, or other structure to
3 be worn in the human mouth;

4 (d) places the appliance or structure in the human
5 mouth or attempts to adjust it;

6 (e) advertises to the public, by any method, to
7 furnish, supply, construct, reproduce, or repair a
8 prosthetic denture, bridge, appliance, or other structure to
9 be worn in the human mouth;

10 (f) diagnoses, professes to diagnose, prescribes for,
11 professes to prescribe for, treats, or professes to treat
12 disease, pain, deformity, deficiency, injury, or physical
13 condition of human teeth, jaws, or adjacent structures;

14 (g) extracts or attempts to extract human teeth or
15 corrects, attempts, or professes to correct malpositions of
16 teeth or of the jaws;

17 (h) gives or professes to give interpretations or
18 readings of dental roentgenograms;

19 (i) administers an anesthetic of any nature in
20 connection with a dental operation;

21 (j) uses the words "dentist", "dental surgeon", "oral
22 surgeon", the letters "D.D.S.", "D.M.D.", or any other
23 words, letters, title, or descriptive matter which in any
24 way represents him as being able to diagnose, treat,
25 prescribe, or operate for any disease, pain, deformity,

1 deficiency, injury, or physical condition of human teeth,
2 jaws, or adjacent structures;

3 (k) states, advertises, or permits to be stated or
4 advertised, by sign, card, circular, handbill, newspaper,
5 radio, or otherwise, that he can perform or will attempt to
6 perform dental operations or render a diagnosis in
7 connection therewith; or

8 (l) engages in any of the practices included in the
9 curricula of recognized dental colleges."

10 Section 5. Section 37-4-203, MCA, is amended to read:

11 *37-4-203. Compensation and expenses of board members
12 -- disbursement of excess funds. (1) Out of the funds
13 derived from fees collected under this chapter, each member
14 of the board shall be reimbursed as follows:

15 (a) \$25 per day for each day in actual attendance at a
16 meeting of the board;

17 (b) expenses and travel authorized under 2-18-501
18 through 2-18-503.

19 (2) Money collected in excess of expenses and salaries
20 provided for shall be held by the department as a special
21 fund for meeting the expenses of the board, the proper
22 administration of this chapter, and educational purposes
23 considered wise by the board. ~~The department, on the written~~
24 ~~request of the board, shall set aside in a separate account~~
25 ~~in the earmarked revenue fund the emergency moneys provided~~

1 under--37-4-307--This account may be expended only when the
2 board determines that an emergency exists requiring an
3 expenditure therefrom."

4 Section 6. Section 37-4-204, MCA, is amended to read:

5 "37-4-204. Affiliation with national association
6 authorized -- delegate -- expenses allowed. The board may
7 affiliate with the national association as an active member,
8 pay regular annual dues to the association, and send a
9 delegate to the meetings of the association. The delegate
10 shall be reimbursed as follows:

11 (1) \$15 per day for each day traveling to and from a
12 meeting and while in actual attendance at a meeting; and

13 (2) expenses and travel authorized under 2-18-501 and
14 2-18-503 and.

15 (3) first class railroad and Pullman fares actually
16 incurred to and from his place of residence to the place of
17 a meeting."

18 Section 7. Section 37-4-307, MCA, is amended to read:

19 "37-4-307. Annual renewal fee -- absent registered
20 dentist -- default. (1) A licensed dentist practicing within
21 this state shall annually pay to the department before March
22 1, as a renewal fee for the year, a sum set by the board and
23 not to exceed \$50. The board may increase or decrease the
24 annual renewal fee to maintain in the earmarked revenue fund
25 at all times an amount to be known as the emergency fund

1 to be used for the purpose of administering, policing and
2 enforcing this chapter. The emergency fund shall be
3 maintained at an approximate level of \$2,500. Notice of the
4 change in the amount of renewal fees shall be given to each
5 dentist registered in this state by the department.

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

15 (3) In case of default in payment of the annual
16 renewal fee by a dentist, his license shall be revoked by
17 the board on 30 days' notice given to the delinquent of the
18 time and place of considering the revocation. A registered
19 or certified letter addressed to the last-known address of
20 the party failing to comply with this requirement, as the
21 address appears on the records of the department,
22 constitutes sufficient notice of revocation of license, but
23 no license may be revoked for nonpayment if the dentist
24 notified pays the renewal fee plus a late payment penalty of
25 \$10 before or at the time fixed for consideration of

1 revocation. The department may maintain in the name of this
2 state a suit to collect renewal fees and penalties
3 applicable and to recover from the delinquent dentist the
4 cost of the action, including reasonable attorneys' fees.

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

7 Section 8. Section 37-4-321, MCA, is amended to read:

8 "37-4-321. Grounds for disciplinary proceedings --
9 range of sanctions. The board may censure, prescribe
10 probation, suspend, or revoke any license issued under this
11 chapter for any of the following causes:

12 ~~{1}--conviction--of--a--felony--or--misdemeanor--when--the~~
13 ~~sentence--imposed--is--imprisonment--in--the--state--prison--A~~
14 ~~certified--copy--of--the--conviction--record--from--the--district~~
15 ~~court--imposing--the--sentence--is--conclusive--evidence;~~

16 {2}{1} physical or mental incompetence;

17 {3}{2} gross malpractice or repeated malpractice;

18 {4}{3} unprofessional conduct, as defined by rule of
19 the board; or

20 {5}{4} violation of any of the provisions of this
21 chapter or rules or orders of the board."

22 Section 9. Section 37-4-405, MCA, is amended to read:

23 "37-4-405. Dental hygienist to practice under
24 supervision of licensed dentist. (1) A licensed dental
25 hygienist may practice in the office of a licensed and

1 actively practicing dentist, in a public or private
2 institution, under a board of health, or in a public clinic
3 authorized by the board but may not practice except under
4 the direct personal supervision of a licensed dentist;
5 however, the dental hygienist may give instruction in oral
6 hygiene without the supervision of a licensed dentist in a
7 public or private institution or hospital or extended care
8 facility or under a board of health or in a public clinic
9 authorized by the board.

10 (2) The board may, in lieu of the direct supervision
11 requirement set forth in subsection (1), permit a licensed
12 dental hygienist to provide clinical dental hygiene services
13 to a public or private institution, a hospital, or extended
14 care facility, or a school or public health program after a
15 review by the board of a request for such service and a
16 description of the type of supervision necessary is made by
17 the board. For the purposes of this section "supervision"
18 is defined as follows:

19 (a) "direct supervision" means the supervision of
20 those tasks and procedures that do not require the dentist
21 in the room where performed but require his presence on the
22 premises and availability for prompt consultation and
23 treatment; and

24 (b) "general supervision" means those tasks and
25 procedures that do not require the presence of a dentist on

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1 the premises but shall remain under the dentist's directive
2 order, control, responsibility, and evaluation."'

3 Section 10. Effective date. This act is effective on
4 passage and approval.

-End-

Approved by the committee on
Public Health, Welfare and Safety

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2 INTRODUCED BY *Shimel* *STEVE BROWN*

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

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7 RULES; ADDING A PUBLIC MEMBER TO THE BOARD; DELETING THE
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19 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
20 MCA, terminates the Board of Dentistry and requires a
21 performance evaluation of the Board by the Legislative Audit
22 Committee; and

23 WHEREAS, as a result of the performance evaluation the
24 Legislative Audit Committee recommends that the Board of
25 Dentistry be reestablished under existing statutory

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

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16 auditor's office, created by 2-15-1901;

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16 to be performed by the patient or any other person, or
17 instructs in the performance of dental operations, oral
18 surgery, or dental service of any kind gratuitously or for a
19 salary, fee, money, or other remuneration paid or to be
20 paid, directly or indirectly, to himself, any other person,
21 or agency;

22 (b) is a manager, proprietor, operator, or conductor
23 of a place where dental operations, oral surgery, or dental
24 services are performed;

25 (c) directly or indirectly, by any means or method,

1 furnishes, supplies, constructs, reproduces, or repairs a
2 prosthetic denture, bridge, appliance, or other structure to
3 be worn in the human mouth;

4 (d) places the appliance or structure in the human
5 mouth or attempts to adjust it;

6 (e) advertises to the public, by any method, to
7 furnish, supply, construct, reproduce, or repair a
8 prosthetic denture, bridge, appliance, or other structure to
9 be worn in the human mouth;

10 (f) diagnoses, professes to diagnose, prescribes for,
11 professes to prescribe for, treats, or professes to treat
12 disease, pain, deformity, deficiency, injury, or physical
13 condition of human teeth, jaws, or adjacent structures;

14 (g) extracts or attempts to extract human teeth or
15 corrects, attempts, or professes to correct malpositions of
16 teeth or of the jaw;

17 (h) gives or professes to give interpretations or
18 readings of dental roentgenograms;

19 (i) administers an anesthetic of any nature in
20 connection with a dental operation;

21 (j) uses the words "dentist", "dental surgeon", "oral
22 surgeon", the letters "D.D.S.", "D.M.D.", or any other
23 words, letters, title, or descriptive matter which in any
24 way represents him as being able to diagnose, treat,
25 prescribe, or operate for any disease, pain, deformity,

1 deficiency, injury, or physical condition of human teeth,
2 jaws, or adjacent structures;

3 (k) states, advertises, or permits to be stated or
4 advertised, by sign, card, circular, handbill, newspaper,
5 radio, or otherwise, that he can perform or will attempt to
6 perform dental operations or render a diagnosis in
7 connection therewith; or

8 (l) engages in any of the practices included in the
9 curricula of recognized dental colleges."

10 Section 5. Section 37-4-203, MCA, is amended to read:

11 "37-4-203. Compensation and expenses of board members
12 -- disbursement of excess funds. (1) Out of the funds
13 derived from fees collected under this chapter, each member
14 of the board shall be reimbursed as follows:

15 (a) \$25 per day for each day in actual attendance at a
16 meeting of the board;

17 (b) expenses and travel authorized under 2-18-501
18 through 2-18-503.

19 (2) Money collected in excess of expenses and salaries
20 provided for shall be held by the department as a special
21 fund for meeting the expenses of the board, the proper
22 administration of this chapter, and educational purposes
23 considered wise by the board. ~~The department, on the written~~
24 ~~request of the board, shall set aside in a separate account~~
25 ~~in the earmarked revenue fund the emergency moneys provided~~

1 under ~~37-4-307~~. This account may be expended only when the
2 board determines that an emergency exists requiring an
3 expenditure therefrom."

4 Section 6. Section 37-4-204, MCA, is amended to read:

5 "37-4-204. Affiliation with national association
6 authorized -- delegate -- expenses allowed. The board may
7 affiliate with the national association as an active member,
8 pay regular annual dues to the association, and send a
9 delegate to the meetings of the association. The delegate
10 shall be reimbursed as follows:

11 (1) \$15 per day for each day traveling to and from a
12 meeting and while in actual attendance at a meeting; and

13 (2) expenses and travel authorized under 2-18-501 and
14 2-18-503; and

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

18 Section 7. Section 37-4-307, MCA, is amended to read:

19 "37-4-307. Annual renewal fee -- absent registered
20 dentist -- default. (1) A licensed dentist practicing within
21 this state shall annually pay to the department before March
22 1, as a renewal fee for the year, a sum set by the board and
23 not to exceed \$50. ~~The board may increase or decrease the~~
24 ~~annual renewal fee to maintain in the earmarked revenue fund~~
25 ~~at all times an amount to be known as the emergency fund.~~

1 to be used for the purpose of administering, policing, and
2 enforcing this chapter. The emergency fund shall be
3 maintained at an approximate level of \$2,500. Notice of the
4 change in the amount of renewal fees shall be given to each
5 dentist registered in this state by the department.

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

15 (3) In case of default in payment of the annual
16 renewal fee by a dentist, his license shall be revoked by
17 the board on 30 days' notice given to the delinquent of the
18 time and place of considering the revocation. A registered
19 or certified letter addressed to the last-known address of
20 the party failing to comply with this requirement, as the
21 address appears on the records of the department,
22 constitutes sufficient notice of revocation of license, but
23 no license may be revoked for nonpayment if the dentist
24 notified pays the renewal fee plus a late payment penalty of
25 \$10 before or at the time fixed for consideration of

1 revocation. The department may maintain in the name of this
2 state a suit to collect renewal fees and penalties
3 applicable and to recover from the delinquent dentist the
4 cost of the action, including reasonable attorneys' fees.

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

7 Section 8. Section 37-4-321, MCA, is amended to read:

8 "37-4-321. Grounds for disciplinary proceedings --
9 range of sanctions. The board may censure, prescribe
10 probation, suspend, or revoke any license issued under this
11 chapter for any of the following causes:

12 ~~(1) conviction of a felony or misdemeanor when the~~
13 ~~sentence imposed is imprisonment in the state prison. A~~
14 ~~certified copy of the conviction record from the district~~
15 ~~court imposing the sentence is conclusive evidence;~~

16 (2)(1) physical or mental incompetence;

17 (3)(2) gross malpractice or repeated malpractice;

18 (4)(3) unprofessional conduct, as defined by rule of
19 the board; or

20 (5)(4) violation of any of the provisions of this
21 chapter or rules or orders of the board."

22 Section 9. Section 37-4-405, MCA, is amended to read:

23 "37-4-405. Dental hygienist to practice under
24 supervision of licensed dentist. (1) A licensed dental
25 hygienist may practice in the office of a licensed and

1 actively practicing dentist, in a public or private
2 institution, under a board of health, or in a public clinic
3 authorized by the board but may not practice except under
4 the direct personal supervision of a licensed dentist;
5 however, the dental hygienist may give instruction in oral
6 hygiene without the supervision of a licensed dentist in a
7 public or private institution or hospital or extended care
8 facility or under a board of health or in a public clinic
9 authorized by the board.

10 (2) The board may, in lieu of the direct supervision
11 requirement set forth in subsection (1), permit a licensed
12 dental hygienist to provide clinical dental hygiene services
13 to a public or private institution, a hospital, or extended
14 care facility, or a school or public health program after a
15 review by the board of a request for such service and a
16 description of the type of supervision necessary is made by
17 the board. For the purposes of this section "supervision"
18 is defined as follows:

19 (a) "direct supervision" means the supervision of
20 those tasks and procedures that do not require the dentist
21 in the room where performed but require his presence on the
22 premises and availability for prompt consultation and
23 treatment; and

24 (b) "general supervision" means those tasks and
25 procedures that do not require the presence of a dentist on

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1 the premises but shall remain under the dentist's directive
2 order, control, responsibility, and evaluation."

3 Section 10. Effective date. This act is effective on
4 passage and approval.

-End-

1 *Steve Brown* BILL NO. 391
 2 INTRODUCED BY *Steve Brown* STEVE BROWN

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
 6 BOARD OF DENTISTRY UNDER EXISTING STATUTORY AUTHORITY AND
 7 RULES; ADDING A PUBLIC MEMBER TO THE BOARD; DELETING THE
 8 REQUIREMENT THAT BOARD APPOINTMENTS BE MADE FROM ASSOCIATION
 9 LISTS; CORRECTING AN ERRONEOUS BOARD NAME; DELETING THE
 10 RAILROAD RATE REIMBURSEMENT FOR BOARD TRAVEL; DELETING THE
 11 REQUIREMENT TO MAINTAIN AN EMERGENCY FUND; AUTHORIZING A
 12 DENTAL HYGIENIST TO PROVIDE SERVICES WITHOUT A DENTIST ON
 13 THE PREMISES WITH BOARD APPROVAL; DELETING A FELONY
 14 CONVICTION AS GROUNDS FOR DENIAL OR REVOCATION OF LICENSE;
 15 AMENDING SECTIONS 2-8-103, 2-15-1606, 37-4-101, 37-4-203,
 16 37-4-204, 37-4-307, 37-4-321, AND 37-4-405, MCA; AND
 17 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

18
 19 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
 20 MCA, terminates the Board of Dentistry and requires a
 21 performance evaluation of the Board by the Legislative Audit
 22 Committee; and

23 WHEREAS, as a result of the performance evaluation the
 24 Legislative Audit Committee recommends that the Board of
 25 Dentistry be reestablished under existing statutory

1 authority.

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

4 Section 1. Reestablishment. The board of dentistry is
 5 reestablished for 6 years pursuant to 2-8-122 with its
 6 existing statutory authority and rules.

7 Section 2. Section 2-8-103, MCA, is amended to read:
 8 *2-8-103. Agencies to terminate. (1) The following
 9 agencies shall terminate on July 1, 1979:

10 (a) board of abstracters, department of professional
 11 and occupational licensing, created by 2-15-1643;

12 (b) board of real estate, department of professional
 13 and occupational licensing, created by 2-15-1642;

14 (c) state board of warm air heating, ventilation, and
 15 air conditioning, department of professional and
 16 occupational licensing, created by 2-15-1656;

17 (d) board of institutions, department of institutions,
 18 created by 2-15-2303.

19 (2) The following agencies shall terminate on July 1,
 20 1981:

21 (a) commission for human rights, department of labor
 22 and industry, created by 2-15-1706;

23 (b) board of athletics, department of professional and
 24 occupational licensing, created by 2-15-1661;

25 (c) board of barbers, department of professional and

1 occupational licensing, created by 2-15-1625;
 2 (d) board of chiropractors, department of professional
 3 and occupational licensing, created by 2-15-1613;
 4 (e) board of cosmetologists, department of
 5 professional and occupational licensing, created by
 6 2-15-1626;
 7 ~~(f) board of dentists, department of professional and~~
 8 ~~occupational licensing, created by 2-15-1606;~~
 9 (g)(f) board of hearing aid dispensers, department of
 10 professional and occupational licensing, created by
 11 2-15-1616;
 12 (h)(g) board of massage therapists, department of
 13 professional and occupational licensing, created by
 14 2-15-1627;
 15 (i)(h) Montana state board of medical examiners,
 16 department of professional and occupational licensing,
 17 created by 2-15-1605;
 18 (j)(i) board of morticians, department of professional
 19 and occupational licensing, created by 2-15-1619;
 20 (k)(j) board of nursing, department of professional
 21 and occupational licensing, created by 2-15-1610;
 22 (l)(k) board of nursing home administrators,
 23 department of professional and occupational licensing,
 24 created by 2-15-1611;
 25 (m)(l) board of optometrists, department of

1 professional and occupational licensing, created by
 2 2-15-1612;
 3 (n)(m) board of osteopathic physicians, department of
 4 professional and occupational licensing, created by
 5 2-15-1607;
 6 (o)(n) board of pharmacists, department of
 7 professional and occupational licensing, created by
 8 2-15-1609;
 9 (p)(o) board of podiatry examiners, department of
 10 professional and occupational licensing, created by
 11 2-15-1608;
 12 (q)(p) board of psychologists, department of
 13 professional and occupational licensing, created by
 14 2-15-1617;
 15 (r)(q) board of radiologic technologists, department
 16 of professional and occupational licensing, created by
 17 2-15-1614;
 18 (s)(r) board of speech pathologists and audiologists,
 19 department of professional and occupational licensing,
 20 created by 2-15-1615;
 21 (t)(s) board of veterinarians, department of
 22 professional and occupational licensing, created by
 23 2-15-1618;
 24 (u)(t) board of veterans' affairs, department of
 25 social and rehabilitation services, created by 2-15-2202;

1 ~~(v)~~(u) board of sanitarians, department of
2 professional and occupational licensing, created by
3 2-15-1631.

4 (3) The following units of state government shall
5 terminate on July 1, 1983:

6 (a) board of aeronautics, department of community
7 affairs, created by 2-15-1103;

8 (b) state board of hail insurance, department of
9 agriculture, created by 2-15-3003;

10 (c) board of horse racing, department of professional
11 and occupational licensing, created by 2-15-1662;

12 (d) board of livestock, department of livestock,
13 created by 2-15-3102;

14 (e) board of milk control, department of business
15 regulation, created by 2-15-1802;

16 (f) board of oil and gas conservation, department of
17 natural resources and conservation, created by 2-15-3303;

18 (g) Montana outfitters council, department of fish,
19 wildlife, and parks, created by 2-15-3403;

20 (h) public service commission, department of public
21 service regulation, created by 69-1-102;

22 (i) board of water and wastewater operators,
23 department of health and environmental sciences, created by
24 2-15-2105;

25 (j) board of water well contractors, department of

1 professional and occupational licensing, created by
2 2-15-1632.

3 (4) The following agencies terminate on July 1, 1985:

4 (a) the board of public accountants, created by
5 2-15-1641;

6 (b) the board of architects, created by 2-15-1651;

7 (c) state banking board, department of business
8 regulation, created by 2-15-1803;

9 (d) the state electrical board, created by 2-15-1654;

10 (e) the board of professional engineers and land
11 surveyors, created by 2-15-1653;

12 (f) office of commissioner of insurance and the
13 insurance department, state auditor's office, created by
14 2-15-1902 and 2-15-1903;

15 (g) office of the securities commissioner, state
16 auditor's office, created by 2-15-1901;

17 (h) the board of landscape architects, created by
18 2-15-1652;

19 (i) the board of county printing, created by
20 2-15-1102;

21 (j) the board of plumbers, created by 2-15-1655;

22 (k) board of physical therapy examiners, created by
23 2-15-1628.

24 (5) The following agency terminates on July 1, 1987:
25 board of dentistry, department of professional and

1 occupational licensing, created by 2-15-1606."

2 Section 3. Section 2-15-1606, MCA, is amended to read:

3 "2-15-1606. Board of dentistry. (1) There is a board
4 of dentistry.

5 (2) The board consists of five dentists, and one
6 dental hygienist, and one public member, all appointed by
7 the governor. ~~The Montana dental association and the Montana~~
8 ~~dental hygienists' association shall each present to the~~
9 ~~governor within 15 days after its regular annual meeting a~~
10 ~~list of not less than five candidates from which~~
11 ~~appointments for vacancies on the board occurring during the~~
12 ~~ensuing year may be made. At all times at least three~~
13 ~~members of the board shall be appointed from the list of~~
14 ~~candidates submitted by the Montana dental association and~~
15 ~~one member shall be appointed from the list submitted by the~~
16 ~~Montana dental hygienists' association.~~ Each licensed member
17 shall be licensed to practice a dental profession in this
18 state, shall have actively practiced in this state for at
19 least 5 continuous years immediately before his appointment,
20 and shall be actively engaged in practice while serving on
21 the board. Each member shall be a citizen of the United
22 States and a resident of this state.

23 (3) Each member shall serve for a term of 5 years. The
24 governor may remove a member only for neglect or cause.

25 (4) The governor shall fill any vacancy within 30

1 days.

2 (5) The board is allocated to the department for
3 administrative purposes only as prescribed in 2-15-121."

4 Section 4. Section 37-4-101, MCA, is amended to read:

5 "37-4-101. Definitions -- practice of dentistry. (1)
6 Unless the context requires otherwise, in this chapter the
7 following definitions apply:

8 (a) "Board" means the board of ~~dentists~~ dentistry
9 provided for in 2-15-1606.

10 (b) "Department" means the department of professional
11 and occupational licensing provided for in Title 2, chapter
12 15, part 16.

13 (2) A person is "practicing dentistry" under this
14 chapter if he:

15 (a) performs, attempts, advertises to perform, causes
16 to be performed by the patient or any other person, or
17 instructs in the performance of dental operations, oral
18 surgery, or dental service of any kind gratuitously or for a
19 salary, fee, money, or other remuneration paid or to be
20 paid, directly or indirectly, to himself, any other person,
21 or agency;

22 (b) is a manager, proprietor, operator, or conductor
23 of a place where dental operations, oral surgery, or dental
24 services are performed;

25 (c) directly or indirectly, by any means or method,

1 furnishes, supplies, constructs, reproduces, or repairs a
2 prosthetic denture, bridge, appliance, or other structure to
3 be worn in the human mouth;

4 (d) places the appliance or structure in the human
5 mouth or attempts to adjust it;

6 (e) advertises to the public, by any method, to
7 furnish, supply, construct, reproduce, or repair a
8 prosthetic denture, bridge, appliance, or other structure to
9 be worn in the human mouth;

10 (f) diagnoses, professes to diagnose, prescribes for,
11 professes to prescribe for, treats, or professes to treat
12 disease, pain, deformity, deficiency, injury, or physical
13 condition of human teeth, jaws, or adjacent structures;

14 (g) extracts or attempts to extract human teeth or
15 corrects, attempts, or professes to correct malpositions of
16 teeth or of the jaw;

17 (h) gives or professes to give interpretations or
18 readings of dental roentgenograms;

19 (i) administers an anesthetic of any nature in
20 connection with a dental operation;

21 (j) uses the words "dentist", "dental surgeon", "oral
22 surgeon", the letters "D.D.S.", "D.M.D.", or any other
23 words, letters, title, or descriptive matter which in any
24 way represents him as being able to diagnose, treat,
25 prescribe, or operate for any disease, pain, deformity,

1 deficiency, injury, or physical condition of human teeth,
2 jaws, or adjacent structures;

3 (k) states, advertises, or permits to be stated or
4 advertised, by sign, card, circular, handbill, newspaper,
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6 perform dental operations or render a diagnosis in
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8 (l) engages in any of the practices included in the
9 curricula of recognized dental colleges."

10 Section 5. Section 37-4-203, MCA, is amended to read:

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12 -- disbursement of excess funds. (1) Out of the funds
13 derived from fees collected under this chapter, each member
14 of the board shall be reimbursed as follows:

15 (a) \$25 per day for each day in actual attendance at a
16 meeting of the board;

17 (b) expenses and travel authorized under 2-18-501
18 through 2-18-503.

19 (2) Money collected in excess of expenses and salaries
20 provided for shall be held by the department as a special
21 fund for meeting the expenses of the board, the proper
22 administration of this chapter, and educational purposes
23 considered wise by the board. ~~The department, on the written~~
24 ~~request--of-the-board, shall set aside in a separate account~~
25 ~~in the earmarked revenue fund the emergency moneys--provided~~

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 3 ~~expenditure therefrom.~~

4 Section 6. Section 37-4-204, MCA, is amended to read:

5 "37-4-204. Affiliation with national association
 6 authorized -- delegate -- expenses allowed. The board may
 7 affiliate with the national association as an active member,
 8 pay regular annual dues to the association, and send a
 9 delegate to the meetings of the association. The delegate
 10 shall be reimbursed as follows:

11 (1) \$15 per day for each day traveling to and from a
 12 meeting and while in actual attendance at a meeting; and

13 (2) expenses and travel authorized under 2-18-501 and
 14 2-18-503; and

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 17 ~~a meeting."~~

18 Section 7. Section 37-4-307, MCA, is amended to read:

19 "37-4-307. Annual renewal fee -- absent registered
 20 dentist -- default. (1) A licensed dentist practicing within
 21 this state shall annually pay to the department before March
 22 1, as a renewal fee for the year, a sum set by the board and
 23 not to exceed \$50. ~~The board may increase or decrease the~~
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 2 ~~enforcing this chapter. The emergency fund shall be~~
 3 ~~maintained at an approximate level of \$2,500.~~ Notice of the
 4 change in the amount of renewal fees shall be given to each
 5 dentist registered in this state by the department.

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

15 (3) In case of default in payment of the annual
 16 renewal fee by a dentist, his license shall be revoked by
 17 the board on 30 days' notice given to the delinquent of the
 18 time and place of considering the revocation. A registered
 19 or certified letter addressed to the last-known address of
 20 the party failing to comply with this requirement, as the
 21 address appears on the records of the department,
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 23 no license may be revoked for nonpayment if the dentist
 24 notified pays the renewal fee plus a late payment penalty of
 25 \$10 before or at the time fixed for consideration of

1 revocation. The department may maintain in the name of this
2 state a suit to collect renewal fees and penalties
3 applicable and to recover from the delinquent dentist the
4 cost of the action, including reasonable attorneys' fees.

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

7 Section 8. Section 37-4-321, MCA, is amended to read:

8 "37-4-321. Grounds for disciplinary proceedings --
9 range of sanctions. The board may censure, prescribe
10 probation, suspend, or revoke any license issued under this
11 chapter for any of the following causes:

12 ~~{1}--conviction--of--a--felony--or--misdemeanor--when--the~~
13 ~~sentence--imposed--is--imprisonment--in--the--state--prison--A~~
14 ~~certified--copy--of--the--conviction--record--from--the--district~~
15 ~~court--imposing--the--sentence--is--conclusive--evidence;~~

16 {2}{1} physical or mental incompetence;

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18 {4}{3} unprofessional conduct, as defined by rule of
19 the board; or

20 {5}{4} violation of any of the provisions of this
21 chapter or rules or orders of the board."

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6 hygiene without the supervision of a licensed dentist in a
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11 requirement set forth in subsection (1), permit a licensed
12 dental hygienist to provide clinical dental hygiene services
13 to a public or private institution, a hospital, or extended
14 care facility, or a school or public health program after a
15 review by the board of a request for such service and a
16 description of the type of supervision necessary is made by
17 the board. For the purposes of this section "supervision"
18 is defined as follows:

19 (a) "direct supervision" means the supervision of
20 those tasks and procedures that do not require the dentist
21 in the room where performed but require his presence on the
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23 treatment; and

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25 procedures that do not require the presence of a dentist on

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1 the premises but shall remain under the dentist's directive
2 order, control, responsibility, and evaluation."

3 Section 10. Effective date. This act is effective on
4 passage and approval.

-End-

1 SENATE BILL NO. 391

2 INTRODUCED BY HIMSL, S. BROWN

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
6 BOARD OF DENTISTRY UNDER EXISTING STATUTORY AUTHORITY AND
7 RULES; ADDING A PUBLIC MEMBER TO THE BOARD; DELETING THE
8 REQUIREMENT THAT BOARD APPOINTMENTS BE MADE FROM ASSOCIATION
9 LISTS; CORRECTING AN ERRONEOUS BOARD NAME; DELETING THE
10 RAILROAD RATE REIMBURSEMENT FOR BOARD TRAVEL; DELETING THE
11 REQUIREMENT TO MAINTAIN AN EMERGENCY FUND; AUTHORIZING A
12 DENTAL HYGIENIST TO PROVIDE CERTAIN SERVICES WITHOUT A
13 DENTIST ON THE PREMISES ~~WITH-BOARD-APPROVAL~~ DURING BRIEF
14 EMERGENCIES; DELETING A FELONY CONVICTION AS GROUNDS FOR
15 DENIAL OR REVOCATION OF LICENSE; AMENDING SECTIONS 2-8-103,
16 2-15-1606, 37-4-101, 37-4-203, 37-4-204, 37-4-307, 37-4-321,
17 AND 37-4-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
18 DATE."

19
20 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
21 MCA, terminates the Board of Dentistry and requires a
22 performance evaluation of the Board by the Legislative Audit
23 Committee; and

24 WHEREAS, as a result of the performance evaluation the
25 Legislative Audit Committee recommends that the Board of

1 Dentistry be reestablished under existing statutory
2 authority.

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

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12 and occupational licensing, created by 2-15-1643;

13 (b) board of real estate, department of professional
14 and occupational licensing, created by 2-15-1642;

15 (c) state board of warm air heating, ventilation, and
16 air conditioning, department of professional and
17 occupational licensing, created by 2-15-1656;

18 (d) board of institutions, department of institutions,
19 created by 2-15-2303.

20 (2) The following agencies shall terminate on July 1,
21 1981:

22 (a) commission for human rights, department of labor
23 and industry, created by 2-15-1706;

24 (b) board of athletics, department of professional and
25 occupational licensing, created by 2-15-1661;

1 (c) board of barbers, department of professional and
2 occupational licensing, created by 2-15-1625;

3 (d) board of chiropractors, department of professional
4 and occupational licensing, created by 2-15-1613;

5 (e) board of cosmetologists, department of
6 professional and occupational licensing, created by
7 2-15-1626;

8 ~~(f) board of dentists, department of professional and
9 occupational licensing, created by 2-15-1606;~~

10 (g)(f) board of hearing aid dispensers, department of
11 professional and occupational licensing, created by
12 2-15-1616;

13 (h)(g) board of massage therapists, department of
14 professional and occupational licensing, created by
15 2-15-1627;

16 (i)(h) Montana state board of medical examiners,
17 department of professional and occupational licensing,
18 created by 2-15-1605;

19 (j)(i) board of morticians, department of professional
20 and occupational licensing, created by 2-15-1619;

21 (k)(j) board of nursing, department of professional
22 and occupational licensing, created by 2-15-1610;

23 (l)(k) board of nursing home administrators,
24 department of professional and occupational licensing,
25 created by 2-15-1611;

1 (m)(l) board of optometrists, department of
2 professional and occupational licensing, created by
3 2-15-1612;

4 (n)(m) board of osteopathic physicians, department of
5 professional and occupational licensing, created by
6 2-15-1607;

7 (o)(n) board of pharmacists, department of
8 professional and occupational licensing, created by
9 2-15-1609;

10 (p)(o) board of podiatry examiners, department of
11 professional and occupational licensing, created by
12 2-15-1608;

13 (q)(p) board of psychologists, department of
14 professional and occupational licensing, created by
15 2-15-1617;

16 (r)(q) board of radiologic technologists, department
17 of professional and occupational licensing, created by
18 2-15-1614;

19 (s)(r) board of speech pathologists and audiologists,
20 department of professional and occupational licensing,
21 created by 2-15-1615;

22 (t)(s) board of veterinarians, department of
23 professional and occupational licensing, created by
24 2-15-1618;

25 (u)(t) board of veterans' affairs, department of

1 social and rehabilitation services, created by 2-15-2202;
 2 ~~†~~(u) board of sanitarians, department of
 3 professional and occupational licensing, created by
 4 2-15-1631.
 5 (3) The following units of state government shall
 6 terminate on July 1, 1983:
 7 (a) board of aeronautics, department of community
 8 affairs, created by 2-15-1103;
 9 (b) state board of hail insurance, department of
 10 agriculture, created by 2-15-3003;
 11 (c) board of horse racing, department of professional
 12 and occupational licensing, created by 2-15-1662;
 13 (d) board of livestock, department of livestock,
 14 created by 2-15-3102;
 15 (e) board of milk control, department of business
 16 regulation, created by 2-15-1802;
 17 (f) board of oil and gas conservation, department of
 18 natural resources and conservation, created by 2-15-3303;
 19 (g) Montana outfitters council, department of fish,
 20 wildlife, and parks, created by 2-15-3403;
 21 (h) public service commission, department of public
 22 service regulation, created by 69-1-102;
 23 (i) board of water and wastewater operators,
 24 department of health and environmental sciences, created by
 25 2-15-2105;

1 (j) board of water well contractors, department of
 2 professional and occupational licensing, created by
 3 2-15-1632.
 4 (4) The following agencies terminate on July 1, 1985:
 5 (a) the board of public accountants, created by
 6 2-15-1641;
 7 (b) the board of architects, created by 2-15-1651;
 8 (c) state banking board, department of business
 9 regulation, created by 2-15-1803;
 10 (d) the state electrical board, created by 2-15-1654;
 11 (e) the board of professional engineers and land
 12 surveyors, created by 2-15-1653;
 13 (f) office of commissioner of insurance and the
 14 insurance department, state auditor's office, created by
 15 2-15-1902 and 2-15-1903;
 16 (g) office of the securities commissioner, state
 17 auditor's office, created by 2-15-1901;
 18 (h) the board of landscape architects, created by
 19 2-15-1652;
 20 (i) the board of county printing, created by
 21 2-15-1102;
 22 (j) the board of plumbers, created by 2-15-1655;
 23 (k) board of physical therapy examiners, created by
 24 2-15-1628.
 25 (5) The following agency terminates on July 1, 1987:

1 ~~board of dentistry, department of professional and~~
2 ~~occupational licensing, created by 2-15-1606."~~

3 Section 3. Section 2-15-1606, MCA, is amended to read:

4 "2-15-1606. Board of dentistry. (1) There is a board
5 of dentistry.

6 (2) The board consists of five dentists, and one
7 dental hygienist, and one public member, all appointed by
8 the governor. ~~The Montana dental association and the Montana~~
9 ~~dental hygienists' association shall each present to the~~
10 ~~governor, within 15 days after its regular annual meeting, a~~
11 ~~list of not less than five candidates from which~~
12 ~~appointments for vacancies on the board occurring during the~~
13 ~~ensuing year may be made. At all times at least three~~
14 ~~members of the board shall be appointed from the list of~~
15 ~~candidates submitted by the Montana dental association and~~
16 ~~one member shall be appointed from the list submitted by the~~
17 ~~Montana dental hygienists' association. Each licensed member~~
18 shall be licensed to practice a dental profession in this
19 state, shall have actively practiced in this state for at
20 least 5 continuous years immediately before his appointment,
21 and shall be actively engaged in practice while serving on
22 the board. Each member shall be a citizen of the United
23 States and a resident of this state.

24 (3) Each member shall serve for a term of 5 years. The
25 governor may remove a member only for neglect or cause.

1 (4) The governor shall fill any vacancy within 30
2 days.

3 (5) The board is allocated to the department for
4 administrative purposes only as prescribed in 2-15-121."

5 Section 4. Section 37-4-101, MCA, is amended to read:

6 "37-4-101. Definitions -- practice of dentistry. (1)
7 Unless the context requires otherwise, in this chapter the
8 following definitions apply:

9 (a) "Board" means the board of dentists dentistry
10 provided for in 2-15-1606.

11 (b) "Department" means the department of professional
12 and occupational licensing provided for in Title 2, chapter
13 15, part 16.

14 (2) A person is "practicing dentistry" under this
15 chapter if he:

16 (a) performs, attempts, advertises to perform, causes
17 to be performed by the patient or any other person, or
18 instructs in the performance of dental operations, oral
19 surgery, or dental service of any kind gratuitously or for a
20 salary, fee, money, or other remuneration paid or to be
21 paid, directly or indirectly, to himself, any other person,
22 or agency;

23 (b) is a manager, proprietor, operator, or conductor
24 of a place where dental operations, oral surgery, or dental
25 services are performed;

1 (c) directly or indirectly, by any means or method,
2 furnishes, supplies, constructs, reproduces, or repairs a
3 prosthetic denture, bridge, appliance, or other structure to
4 be worn in the human mouth;

5 (d) places the appliance or structure in the human
6 mouth or attempts to adjust it;

7 (e) advertises to the public, by any method, to
8 furnish, supply, construct, reproduce, or repair a
9 prosthetic denture, bridge, appliance, or other structure to
10 be worn in the human mouth;

11 (f) diagnoses, professes to diagnose, prescribes for,
12 professes to prescribe for, treats, or professes to treat
13 disease, pain, deformity, deficiency, injury, or physical
14 condition of human teeth, jaws, or adjacent structures;

15 (g) extracts or attempts to extract human teeth or
16 corrects, attempts, or professes to correct malpositions of
17 teeth or of the jaw;

18 (h) gives or professes to give interpretations or
19 readings of dental roentgenograms;

20 (i) administers an anesthetic of any nature in
21 connection with a dental operation;

22 (j) uses the words "dentist", "dental surgeon", "oral
23 surgeon", the letters "D.D.S.", "D.M.D.", or any other
24 words, letters, title, or descriptive matter which in any
25 way represents him as being able to diagnose, treat,

1 prescribe, or operate for any disease, pain, deformity,
2 deficiency, injury, or physical condition of human teeth,
3 jaws, or adjacent structures;

4 (k) states, advertises, or permits to be stated or
5 advertised, by sign, card, circular, handbill, newspaper,
6 radio, or otherwise, that he can perform or will attempt to
7 perform dental operations or render a diagnosis in
8 connection therewith; or

9 (l) engages in any of the practices included in the
10 curricula of recognized dental colleges."

11 Section 5. Section 37-4-203, MCA, is amended to read:

12 "37-4-203. Compensation and expenses of board members
13 -- disbursement of excess funds. (1) Out of the funds
14 derived from fees collected under this chapter, each member
15 of the board shall be reimbursed as follows:

16 (a) \$25 per day for each day in actual attendance at a
17 meeting of the board;

18 (b) expenses and travel authorized under 2-18-501
19 through 2-18-503.

20 (2) Money collected in excess of expenses and salaries
21 provided for shall be held by the department as a special
22 fund for meeting the expenses of the board, the proper
23 administration of this chapter, and educational purposes
24 considered wise by the board. ~~the department, on the written~~
25 ~~request--of-the-board, shall set aside in a separate account~~

1 in-the-earmarked-revenue-fund-the-emergency-moneys--provided
 2 under--37-4-307--this-account-may-be-expended-only-when-the
 3 board-determines--that--an--emergency--exists--requiring--an
 4 expenditure-therefrom."

5 Section 6. Section 37-4-204, MCA, is amended to read:

6 "37-4-204. Affiliation with national association
 7 authorized -- delegate -- expenses allowed. The board may
 8 affiliate with the national association as an active member,
 9 pay regular annual dues to the association, and send a
 10 delegate to the meetings of the association. The delegate
 11 shall be reimbursed as follows:

12 (1) \$15 per day for each day traveling to and from a
 13 meeting and while in actual attendance at a meeting; and

14 (2) expenses and travel authorized under 2-18-501 and
 15 2-18-503+and_

16 (3)--first-class-railroad-and--Pullman--fares--actually
 17 incurred--to-and-from-his-place-of-residence-to-the-place-of
 18 a-meeting."

19 Section 7. Section 37-4-307, MCA, is amended to read:

20 "37-4-307. Annual renewal fee -- absent registered
 21 dentist -- default. (1) A licensed dentist practicing within
 22 this state shall annually pay to the department before March
 23 1, as a renewal fee for the year, a sum set by the board and
 24 not to exceed \$50. ~~The board may increase--or--decrease--the~~
 25 ~~annual-renewal-fee-to-maintain-in-the-earmarked-revenue-fund~~

1 at--all--times-an-amount--to-be-known-as-the-emergency-fund
 2 to-be-used-for-the-purpose-of-administering--policing--and
 3 enforcing--this--chapter--the--emergency--fund--shall--be
 4 maintained-at-an-approximate-level-of-\$2,500. Notice of the
 5 change in the amount of renewal fees shall be given to each
 6 dentist registered in this state by the department.

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

16 (3) In case of default in payment of the annual
 17 renewal fee by a dentist, his license shall be revoked by
 18 the board on 30 days' notice given to the delinquent of the
 19 time and place of considering the revocation. A registered
 20 or certified letter addressed to the last-known address of
 21 the party failing to comply with this requirement, as the
 22 address appears on the records of the department,
 23 constitutes sufficient notice of revocation of license, but
 24 no license may be revoked for nonpayment if the dentist
 25 notified pays the renewal fee plus a late payment penalty of

1 \$10 before or at the time fixed for consideration of
 2 revocation. The department may maintain in the name of this
 3 state a suit to collect renewal fees and penalties
 4 applicable and to recover from the delinquent dentist the
 5 cost of the action, including reasonable attorneys' fees.

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

8 Section 8. Section 37-4-321, MCA, is amended to read:

9 "37-4-321. Grounds for disciplinary proceedings --
 10 range of sanctions. The board may censure, prescribe
 11 probation, suspend, or revoke any license issued under this
 12 chapter for any of the following causes:

13 ~~{1}--conviction--of--a--felony--or--misdemeanor--when--the~~
 14 ~~sentence--imposed--is--imprisonment--in--the--state--prison--A~~
 15 ~~certified--copy--of--the--conviction--record--from--the--district~~
 16 ~~court--imposing--the--sentence--is--conclusive--evidence}~~

17 {2}{1} physical or mental incompetence;

18 {3}{2} gross malpractice or repeated malpractice;

19 {4}{3} unprofessional conduct, as defined by rule of
 20 the board; or

21 {5}{4} violation of any of the provisions of this
 22 chapter or rules or orders of the board."

23 Section 9. Section 37-4-405, MCA, is amended to read:

24 "37-4-405. Dental hygienist to practice under
 25 supervision of licensed dentist. (1) A licensed dental

1 hygienist may practice in the office of a licensed and
 2 actively practicing dentist, in a public or private
 3 institution, under a board of health, or in a public clinic
 4 authorized by the board but may not practice except under
 5 the direct personal supervision of a licensed dentist;
 6 however, the dental hygienist may give instruction in oral
 7 hygiene without the supervision of a licensed dentist in a
 8 public or private institution or hospital or extended care
 9 facility or under a board of health or in a public clinic
 10 authorized by the board.

11 (2) The board may, in lieu of the direct supervision
 12 requirement set forth in subsection (1), permit a licensed
 13 dental hygienist to provide clinical dental hygiene services
 14 ~~to a public or private institution, a hospital, or extended~~
 15 ~~care facility, or a school or public health program TO A~~
 16 ~~PUBLIC OR PRIVATE INSTITUTION, A HOSPITAL OR EXTENDED CARE~~
 17 ~~FACILITY, OR A SCHOOL OR PUBLIC HEALTH PROGRAM~~ after a
 18 review by the board of a request for such service and a
 19 description of the type of supervision necessary is made by
 20 the board. For the purposes of this section "supervision"
 21 is defined as follows:

22 (a) "direct supervision" means the supervision of
 23 those tasks and procedures that do not require the dentist
 24 in the room where performed but require his presence on the
 25 premises and availability for prompt consultation and

1 treatment; and

2 (b) "general supervision" means those tasks and
3 procedures that do not require the presence of a dentist on
4 the premises but shall remain under the dentist's directive
5 order, control, responsibility, and evaluation.

6 (3) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
7 SECTION, A DENTAL HYGIENIST MAY CONTINUE PERFORMING TASKS
8 AND PROCEDURES REQUIRING DIRECT SUPERVISION IF:

9 (A) THE SUPERVISING DENTIST REQUIRED TO BE ON THE
10 PREMISES HAS BEEN CALLED OUT OF THE OFFICE BRIEFLY FOR AN
11 EMERGENCY; AND

12 (B) BOTH THE HYGIENIST AND THE PATIENT CONSENT."

13 Section 10. Effective date. This act is effective on
14 passage and approval.

-End-

HUMAN SERVICES COMMITTEE OF THE HOUSE
Amendments to SB 391

1. Title, line 12.

Following: "PROVIDE"

Insert: "CERTAIN"

2. Title, line 13.

Following: "PREMISES"

Strike: "WITH BOARD APPROVAL"

Insert: "DURING BRIEF EMERGENCIES"

3. Page 14, lines 13 and 14.

Reinsert: all stricken language

4. Page 15, line 2.

Following: "evaluation."

Insert: "(3) Notwithstanding any other provisions of this section,
a dental hygienist may continue performing tasks and procedures
requiring direct supervision if:

- (a) the supervising dentist required to be on the premises has
been called out of the office briefly for an emergency;
and
- (b) both the hygienist and the patient consent.