SENATE BILL NO. 407

INTRODUCED BY S. BROWN, HIMSL

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

Pebruary 9, 1981	Introduced and referred to Committee on Judiciary.			
February 14, 1981	Committee recommend bill do pass. Report adopted.			
February 16, 1981	Statement of intent attached.			
	Bill printed and placed on members' desks.			
February 18, 1981	Second reading, do pass.			
Pebruary 19, 1981	Correctly engrossed.			
February 20, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.			
IN THE HOUSE				
Pebruary 21, 1981	Introduced and referred to Committee on State Adminis- tration.			
March 12, 1981	Committee recommend bill be concurred in. Report adopted.			
March 14, 1981	Motion pass consideration.			
March 21, 1981	Second reading, concurred in.			
March 24, 1981	Third reading, concurred in. Ayes, 91; Noes, 7.			

IN THE SENATE

March 25, 1981

Returned from House. Concurred in. Sent to enrolling.

Reported correctly enrolled.

LC 1293/01

1	Stender BILL NO. 407
2	INTRODUCED BY TELE BROWN Hims
3	BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO SPECIFY THE
6	DISCIPLINARY AUTHORITY OF LICENSING BOARDS IN THE DEPARTMENT
7	OF PROFESSIONAL AND OCCUPATIONAL LICENSING."
3	
9	WHEREAS, during its sunset review of licensing boards,
10	the Legislative Audit Committee noted that disciplinary
11	authority of some boards over licensees is not specified in
12	the law and that consequently some boards are hesitant to
13	take disciplinary action against licensees.
14	THEREFORE, it is the intent of this act to specify the
15	disciplinary authority of the boards allocated to the
16	Department of Professional and Occupational Licensing.
17	
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
19	Section 1. Disciplinary authority of boards
20	injunctions. (1) Each licensing board allocated to the
21	department has the authority, in addition to any other
2 2	penalty or disciplinary action provided by law, to adopt
23	rules specifying grounds for disciplinary action and rules
24	providing for:
25	(a) revocation of a license;

1 (b) suspension of its judgment of revocation on terms 2 and conditions determined by the board; 3 (c) suspension of the right to practice for a period not exceeding 1 year; 4 (d) placing a licensee on probation; 5 (e) reprimand or censure of a licensee; or 6 7 (f) taking any other action in relation to 8 disciplining a licensee as the board in its discretion 9 considers proper. (2) Any disciplinary action by a board shall be 10 11 conducted as a contested case hearing under the provisions 12 of the Montana Administrative Procedure Act. 13 (3) Notwithstanding any other provision of law, a 14 board may maintain an action to enjoin a person from 15 engaging in the practice of the occupation or profession 16 regulated by the board until a license to practice is 17 procured. A person who has been enjoined and who violates 18 the injunction is punishable for contempt of court. 19 Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 37, 20 21 chapter 1, part 1.

-End-



47th Legislature

.....

LC 1293/01

SECOND READING

SB-107

Approved by Committee on Judiciary

BILL NO. 407
INTRODUCED BY TELE DROWN chims
BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
A BILL FOR AN ACT ENTITLED: MAN ACT TO SPECIFY THE
DISCIPLINARY AUTHORITY OF LICENSING BOARDS IN THE DEPARTMENT
OF PROFESSIONAL AND OCCUPATIONAL LICENSING."
WHEREAS, during its sunset review of licensing boards,
the Legislative Audit Committee noted that disciplinary
authority of some boards over licensees is not specified in
the law and that consequently some boards are hesitant to
take disciplinary action against licensees.
THEREFORE, it is the intent of this act to specify the
disciplinary authority of the boards allocated to the
Department of Professional and Occupational Licensing.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
Section 1. Disciplinary authority of boards
injunctions. (1) Each licensing board allocated to the
department has the authority, in addition to any other
penalty or disciplinary action provided by law, to adopt
rules specifying grounds for disciplinary action and rules
providing for:
(a) revocation of a license;

1 (b) suspension of its judgment of revocation on terms 2 and conditions determined by the board; 3 (c) suspension of the right to practice for a period 4 not exceeding 1 year; (d) placing a licensee on probation; 5 6 (e) reprimand or censure of a licensee; or 7 (f) taking any other action in relation to disciplining a licensee as the board in its discretion 8 considers proper. 9 {2} Any disciplinary action by a board shall be 10 conducted as a contested case hearing under the provisions 11 of the Montana Administrative Procedure Act. 12 (3) Notwithstanding any other provision of law, a 13 board may maintain an action to enjoin a person from 14 engaging in the practice of the occupation or profession 15 regulated by the board until a license to practice is 16 procured. A person who has been enjoined and who violates 17 the injunction is punishable for contempt of court. 18 Section 2. Codification Instruction. Section 1 is 19 20 intended to be codified as an integral part of Title 37, 21 chapter 1, part 1. -End-

-2-

4

SB 407

1 STATEMENT OF INTENT 2 SENATE BILL 407 3 Senate Judiciary Committee

5 SB 407 requires a statement of intent because it grants 6 each licensing board allocated to the Department of 7 Professional and Decupational Licensing the authority to 8 adopt specifying grounds for disciplinary action and the 9 type of action that may be taken.

10 Each board adopting new substantive or procedural rules under SB 407 is to specify both the grounds upon which each 11 12 type of disciplinary action may be taken, and the procedure to be used for each action. Each board using a disciplinary 13 14 action not specified in subsection (1)(a) through (e) but 15 considered proper under (1)(f) must also state in the rule 16 the grounds upon which disciplinary action may be taken and 17 the applicable procedure.

18 No rule shall specify disciplinary action for failure 19 to renew any license or certificate, pay any fee or 20 participate in any program of continuing education unless 21 the renewal, fee or participation is required by statute. 22 Rules authorized by both SB 407 and by other provisions 23 of law and previously adopted under such other provisions 24 need not be readopted under SB 407.

> Please insert in yellow copy of Senate bill 407

4

1	STATEMENT OF INTENT
2	SENATE BILL 407

3 Senate Judiciary Committee

5 SB 407 requires a statement of intent because it grants 6 each licensing board allocated to the Department of 7 Professional and Occupational Licensing the authority to 8 adopt specifying grounds for disciplinary action and the 9 type of action that may be taken.

10 Each board adopting new substantive or procedural rules 11 under SB 497 is to specify both the grounds upon which each 12 type of disciplinary action may be taken, and the procedure 13 to be used for each action. Each board using a disciplinary 14 action not specified in subsection (1)(a) through (e) but 15 considered proper under (1)(f) must also state in the rule 16 the grounds upon which disciplinary action may be taken and 17 the applicable procedure.

18 No rule shall specify disciplinary action for failure 19 to renew any license or certificate, pay any fee or 20 participate in any program of continuing education unless 21 the renewal, fee or participation is required by statute.

Rules authorized by both SB 407 and by other provisions
of law and previously adopted under such other provisions
need not be readopted under SB 407.

ende BILL NO. 407 1 Z INTRODUCED BY BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE 3 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO SPECIFY THE DISCIPLINARY AUTHORITY OF LICENSING BOARDS IN THE DEPARTMENT 6 7 OF PROFESSIONAL AND OCCUPATIONAL LICENSING." 8 WHEREAS, during its sunset review of licensing boards, 9 10 the Legislative Audit Committee noted that disciplinary authority of some boards over licensees is not specified in 11 the law and that consequently some boards are hesitant to 12 13 take disciplinary action against licensees. THEREFORE, it is the intent of this act to specify the 14 15 disciplinary authority of the boards allocated to the Department of Professional and Occupational Licensing. 16 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 18 Section 1. Disciplinary authority of boards --19 20 injunctions. (1) Each licensing board allocated to the department has the authority, in addition to any other 21 penalty or disciplinary action provided by law, to adopt 22 rules specifying grounds for disciplinary action and rules 23 24 providing for:

25 (a) revocation of a license;

(b) suspension of its judgment of revocation on terms
 and conditions determined by the board;

3 (c) suspension of the right to practice for a period

4 not exceeding 1 year;

6

5 (d) placing a licensee on probation;

(e) reprimand or censure of a licensee; or

7 (f) taking any other action in relation to
8 disciplining a licensee as the board in its discretion
9 considers proper.

(2) Any disciplinary action by a board shall be
 conducted as a contested case hearing under the provisions
 of the Montana Administrative Procedure Act.

13 (3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person from 15 engaging in the practice of the occupation or profession 16 regulated by the board until a license to practice is 17 procured. A person who has been enjoined and who violates 18 the injunction is punishable for contempt of court.

Section 2. Codification instruction. Section 1 is
 intended to be codified as an integral part of Title 37.
 chapter 1, part 1.

-End-

---- THIRD READING

5B 407

,

1	STATEMENT OF INTENT
Z	SENATE BILL 407
3	Senate Judiciary Committee
4	
5	S8 407 requires a statement of intent because it grants
6	each licensing board allocated to the Department of
7	Professional and Occupational Licensing the authority to
8	adopt specifying grounds for disciplinary action and the
9	type of action that may be taken.
10	Each board adopting new substantive or procedural rules
11	under SB 407 is to specify both the grounds upon which each
12	type of disciplinary action may be taken, and the procedure
13	to be used for each action. Each board using a disciplinary
14	action not specified in subsections (1)(a) through (e) but
15	considered proper under (1)(f) must also state in the rule
16	the grounds upon which disciplinary action may be taken and
17	the applicable procedure.
18	No rule shall specify disciplinary action for failure
19	to renew any license or certificate, pay any fee or
20	participate in any program of continuing education unless
21	the renewal, fee or participation is required by statute.
22	Rules authorized by both S8 407 and by other provisions
23	of law and previously adopted under such other provisions
24	need not b∈ readopted under SB 407.

\$

.

SB 0407/02

1	SENATE BILL NO. 407	1	(b) suspension of its judgment of revocation on terms
2	INTRODUCED BY S. BROWN, HIMSL	2	and conditions determined by the board;
3	BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE	3	(c) suspension of the right to practice for a period
4		4	not exceeding 1 year;
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO SPECIFY THE	5	(d) placing a licensee on probation;
6	DISCIPLINARY AUTHORITY OF LICENSING BOARDS IN THE DEPARTMENT	6	(e) reprimand or censure of a licensee; or
7	OF PROFESSIONAL AND OCCUPATIONAL LICENSING."	7	(f) taking any other action in relation to
8		8	disciplining a licensee as the board in its discretion
9	WHEREAS, during its sunset review of licensing boards,	9	considers proper.
10	the Legislative Audit Committee noted that disciplinary	10	(2) Any disciplinary action by a board shall be
11	authority of some boards over licensees is not specified in	11	conducted as a contested case hearing under the provisions
12	the law and that consequently some boards are hesitant to	12	of the Montana Administrative Procedure Act.
13	take disciplinary action against licensees.	13	(3) Notwithstanding any other provision of law, a
14	THEREFORE, it is the intent of this act to specify the	14	board may maintain an action to enjoin a person from
15	disciplinary authority of the boards allocated to the	15	engaging in the practice of the occupation or profession
16	Department of Professional and Occupational Licensing.	16	regulated by the board until a license to practice is
17		17	procured. A person who has been enjoined and who violates
18	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	18	the injunction is punishable for contempt of court.
19	Section 1. Disciplinary authority of boards	19	Section Z. Codification instruction. Section 1 is
20	injunctions. (1) Each licensing board allocated to the	20	intended to be codified as an integral part of Title 37,
21	department has the authority, in addition to any other	21	chapter L+ part L+
22	penalty or disciplinary action provided by law, to adopt		-End-
23	rules specifying grounds for disciplinary action and rules		
24	providing for:		
25	(a) revocation of a license;		

-2-

58 407

REFERENCE BILL