

SENATE BILL NO. 427

INTRODUCED BY S. BROWN, HINSL

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

February 10, 1981	Introduced and referred to Committee on Public Health, Welfare, and Safety.
February 19, 1981	Committee recommend bill do pass as amended. Report adopted. Statement of intent attached.
February 20, 1981	Bill printed and placed on members' desks. Second reading, do pass as amended.
February 23, 1981	Correctly engrossed.
February 24, 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 12, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 14, 1981	Second reading, concurred in.
March 17, 1981	Third reading, concurred in as amended. Ayes, 85; Noes, 10.

IN THE SENATE

March 18, 1981

Returned from House with amendments.

March 19, 1981

Second reading, amendments concurred in.

March 21, 1981

Third reading, amendments concurred in. Ayes, 48; Nays, 0. Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *427*
 2 INTRODUCED BY *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 NURSING UNDER EXISTING STATUTORY AUTHORITY AND
 7 RULES AND TO GENERALLY REVISE THE LAWS RELATING TO LICENSURE
 8 OF NURSES; MODIFYING BOARD MAKEUP; PROVIDING FOR STAGGERED
 9 4-YEAR TERMS FOR BOARD MEMBERS; REVISING DEFINITIONS OF
 10 NURSING; AUTHORIZING TEMPORARY NURSING PERMITS; PROVIDING
 11 FOR A LATE RENEWAL FEE; AMENDING SECTIONS 2-8-103,
 12 2-15-1610, 37-8-102, 37-8-103, 37-8-201, 37-8-202, 37-8-301,
 13 37-8-302, 37-8-406, 37-8-407, 37-8-409, 37-8-415 THROUGH
 14 37-8-417, 37-8-431, 37-8-441, AND 37-8-442, MCA; AND
 15 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

16
 17 WHEREAS, The sunset law, sections 2-8-103 and 2-8-112,
 18 MCA, terminates the Board of Nursing and requires a
 19 performance evaluation of the Board by the Legislative Audit
 20 Committee; and

21 WHEREAS, as a result of the performance evaluation, the
 22 Legislative Audit Committee recommends that the Board of
 23 Nursing be reestablished under existing statutory authority.

24
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

4 Section 2. Section 2-8-103, MCA, is amended to read:
 5 "2-8-103. Agencies to terminate. (1) The following
 6 agencies shall terminate on July 1, 1979:

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

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

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

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

16 (2) The following agencies shall terminate on July 1,
 17 1981:

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

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

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

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

1 (e) board of cosmetologists, department of
2 professional and occupational licensing, created by
3 2-15-1626;

4 (f) board of dentists, department of professional and
5 occupational licensing, created by 2-15-1606;

6 (g) board of hearing aid dispensers, department of
7 professional and occupational licensing, created by
8 2-15-1616;

9 (h) board of massage therapists, department of
10 professional and occupational licensing, created by
11 2-15-1627;

12 (i) Montana state board of medical examiners,
13 department of professional and occupational licensing,
14 created by 2-15-1605;

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

17 ~~{k}--board-of-nursing, department of--professional--and~~
18 ~~occupational--licensing, created by 2-15-1618;~~

19 {k}{kl} board of nursing home administrators,
20 department of professional and occupational licensing,
21 created by 2-15-1611;

22 {m}{ll} board of optometrists, department of
23 professional and occupational licensing, created by
24 2-15-1612;

25 {n}{ml} board of osteopathic physicians, department of

1 professional and occupational licensing, created by
2 2-15-1607;

3 ~~{o}{ol}~~ board of pharmacists, department of
4 professional and occupational licensing, created by
5 2-15-1609;

6 ~~{p}{ol}~~ board of podiatry examiners, department of
7 professional and occupational licensing, created by
8 2-15-1608;

9 {q}{pl} board of psychologists, department of
10 professional and occupational licensing, created by
11 2-15-1617;

12 ~~{r}{ql}~~ board of radiologic technologists, department
13 of professional and occupational licensing, created by
14 2-15-1614;

15 ~~{s}{cl}~~ board of speech pathologists and audiologists,
16 department of professional and occupational licensing,
17 created by 2-15-1615;

18 {t}{sl} board of veterinarians, department of
19 professional and occupational licensing, created by
20 2-15-1618;

21 {u}{tl} board of veterans' affairs, department of
22 social and rehabilitation services, created by 2-15-2202;

23 {v}{ul} board of sanitarians, department of
24 professional and occupational licensing, created by
25 2-15-1631.

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

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

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

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

9 (d) board of livestock, department of livestock,
10 created by 2-15-3102;

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

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

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

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

19 (i) board of water and wastewater operators,
20 department of health and environmental sciences, created by
21 2-15-2105;

22 (j) board of water well contractors, department of
23 professional and occupational licensing, created by
24 2-15-1632.

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

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

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

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

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

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

9 (f) office of commissioner of insurance and the
10 insurance department, state auditor's office, created by
11 2-15-1902 and 2-15-1903;

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

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

16 (i) the board of county printing, created by
17 2-15-1102;

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

19 (k) board of physical therapy examiners, created by
20 2-15-1628.

21 ~~(5) The following agency terminates on July 1, 1987:~~
22 ~~the board of nursing, department of professional and~~
23 ~~occupational licensing, created by 2-15-1610."~~

24 Section 3. Section 2-15-1610, MCA, is amended to read:
25 "2-15-1610. Board of nursing. (1) There is a board of

1 nursing.

2 (2) The board consists of ~~eight~~ nine members appointed
3 by the governor. The members are:

4 (a) ~~five~~ four registered professional nurses; who
5 ~~constitute the board professional nursing administration~~
6 ~~At~~ at least three members one such member shall have had at
7 least ~~3~~ 5 years in administrative, teaching, or supervisory
8 experience in one or more schools of nursing and at least
9 one such member must be currently engaged in the
10 administration, supervision, or provision of direct client
11 care. Each member shall:

12 (i) be a graduate of an approved school of nursing;
13 (ii) be a licensed registered professional nurse in
14 this state;
15 (iii) have had at least 5 years' experience in nursing
16 following graduation; and
17 (iv) ~~have been actively be~~ currently engaged in the
18 practice of professional nursing and have practiced for at
19 least 3 years ~~immediately before appointment~~.

20 (b) three practical nurses ~~who constitute the~~
21 ~~board practical nursing administration~~. Each member shall:

22 (i) be a graduate of a school of practical nursing;
23 (ii) be a licensed practical nurse in this state;
24 (iii) have had at least ~~3~~ 5 years' experience as a
25 practical nurse; and

1 (iv) ~~have been actively be~~ currently engaged in the
2 practice of practical nursing and have practiced for at
3 least ~~2~~ 3 years ~~immediately before appointment~~.

4 ~~(c) two public members who are not medical~~
5 ~~practitioners or involved in the practice or employment of~~
6 ~~nursing~~.

7 (3) All members shall have been residents of this
8 state for at least 1 year before appointment and be citizens
9 of the United States.

10 ~~All members shall serve for a term of 5 years~~
11 Members shall serve staggered 4-year terms, and a member may
12 not be appointed for more than two consecutive terms. The
13 governor may remove a member from the board for neglect of a
14 duty required by law or for incompetency or unprofessional
15 or dishonorable conduct.

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

18 Section 4. Section 37-8-102, MCA, is amended to read:
19 "37-8-102. Definitions. Unless the context requires
20 otherwise, in this chapter the following definitions apply:

21 (1) "Board" means the board of nursing provided for in
22 2-15-1610 ~~with dual functions in the field of professional~~
23 ~~nursing and practical nursing. In matters relating to~~
24 ~~professional nursing, the board consists of five members. In~~
25 ~~matters relating to practical nursing, the board consists of~~

1 ~~eight members. The board of five members may for~~
 2 ~~convenience be referred to as the "board," followed by the~~
 3 ~~words "professional nursing administration," and the board~~
 4 ~~of eight members may for convenience be referred to as the~~
 5 ~~"board," followed by the words "practical nursing~~
 6 ~~administration."~~

7 (2) "Department" means the department of professional
 8 and occupational licensing provided for in Title 2, chapter
 9 15, part 16.

10 (3) "Practice of nursing" embraces two classes of
 11 nursing service and activity, as follows:

12 (a) "Practice of professional nursing" means the
 13 performance for compensation of an ~~act in the~~ observatory
 14 ~~care and counsel of the ill, injured, or infirm or in the~~
 15 ~~maintenance of health or prevention of illness of others or~~
 16 ~~in the supervision and teaching of other personnel or the~~
 17 ~~administration of medications and treatments prescribed by a~~
 18 ~~person licensed in this state to prescribe medications and~~
 19 ~~treatments requiring substantial specialized judgment and~~
 20 ~~skill and based on knowledge and application of the~~
 21 ~~principles of biological, physical, and social sciences~~
 22 services requiring substantial specialized knowledge of the
 23 biological, physical, behavioral, psychological, and
 24 sociological sciences and of nursing theory as a basis for
 25 the nursing process. The nursing process is the assessment,

1 nursing analysis, planning, nursing intervention, and
 2 evaluation in the promotion and maintenance of health; the
 3 prevention, casefinding, and management of illness, injury,
 4 or infirmity; and the restoration of optimum function. The
 5 term also includes administration, teaching, counseling,
 6 supervision, delegation, and evaluation of nursing practice
 7 and the administration of medications and treatments
 8 prescribed by physicians, dentists, osteopaths, or
 9 podiatrists authorized by state law to prescribe medications
 10 and treatments. Each registered nurse is directly
 11 accountable and responsible to the consumer for the quality
 12 of nursing care rendered. As used in this subsection (3)(a):

13 (i) "nursing analysis" is the identification of those
 14 client problems for which nursing care is indicated and may
 15 include referral to medical or community resources;

16 (ii) "nursing intervention" is the implementation of a
 17 plan of nursing care necessary to accomplish defined goals.

18 (b) "Practice of practical nursing" means the
 19 performance for compensation in ~~the care of the ill,~~
 20 ~~injured, or infirm of acts selected by and performed under~~
 21 ~~the direction of a registered professional nurse or a person~~
 22 ~~licensed in this state to prescribe medications and~~
 23 ~~treatments, and not requiring the substantial specialized~~
 24 ~~skill, judgment, and knowledge required in professional~~
 25 ~~nursing of services requiring basic knowledge of the~~

1 biological, physical, behavioral, psychological, and
 2 sociological sciences and of nursing procedures. Practical
 3 nursing practice utilizes standardized procedures leading to
 4 predictable outcomes in the observation and care of the ill,
 5 injured, and infirm; in the maintenance of health; in action
 6 to safeguard life and health; and in the administration of
 7 medications and treatments prescribed by a physician,
 8 dentist, osteopath, or podiatrist authorized by state law to
 9 prescribe medications and treatments. These services are
 10 performed under the supervision of a registered nurse or a
 11 physician, dentist, osteopath, or podiatrist authorized by
 12 state law to prescribe medications and treatments.

13 (4) "Nursing education program" means any
 14 board-approved school that prepares graduates for initial
 15 licensure under this chapter. Nursing education programs
 16 for:

17 (a) professional nursing may be a department, school,
 18 division, or other administrative unit in a senior or junior
 19 college or university;

20 (b) practical nursing may be a department, school,
 21 division, or other administrative unit in a
 22 vocational-technical center or junior college."

23 Section 5. Section 37-8-103, MCA, is amended to read:
 24 "37-8-103. Exemptions -- limitations on authority
 25 conferred. (1) No provisions of this law may be construed as

1 prohibiting:

2 (a) gratuitous nursing by friends or members of the
 3 family;

4 (b) incidental care of the sick by domestic servants
 5 or persons primarily employed as housekeepers;

6 (c) nursing assistance in the case of an emergency;

7 (d) the practice of nursing by students enrolled in
 8 approved schools of nursing or approved courses or by the
 9 graduates of such schools or courses pending the results of
 10 the first licensing examination scheduled by the board
 11 following their graduation nursing education programs;

12 (e) the practice of nursing in this state by any
 13 legally qualified nurse of another state whose engagement
 14 requires the nurse to accompany and care for a patient
 15 temporarily residing in this state during the period of one
 16 such engagement not to exceed 6 months in length, provided
 17 that person does not represent or hold herself or himself
 18 out to be a nurse licensed to practice in this state;

19 (f) the practice of any legally qualified nurse of
 20 another state who is employed by the United States
 21 government or any bureau, division, or agency thereof while
 22 in the discharge of that nurse's official duties;

23 (g) nursing or care of the sick, with or without
 24 compensation, when done in connection with the practice of
 25 the religious tenets of any well-established religion or

1 denomination by adherents thereof;

2 (h) nursing or care of a minor who is in the care of a
3 licensed foster parent, to the same extent such care may be
4 provided by a parent or guardian.

5 (2) This chapter may not be construed as conferring
6 any authority to practice medicine, surgery, or any
7 combination thereof; to confer any authority to practice any
8 of the healing arts prescribed by law to be practiced in the
9 state of Montana; or to permit any person to undertake the
10 treatment of disease by any of the methods employed in those
11 arts unless the licensee has been qualified under the
12 applicable law or laws licensing the practice of those
13 professions or healing arts in the state of Montana."

14 Section 6. Section 37-8-201, MCA, is amended to read:

15 "37-8-201. Seal -- board records public -- legal
16 counsel. (1) The board shall have a seal which shall be used
17 to authenticate its acts under each administration. The seal
18 shall have inscribed the words "Board of Nursing--Official
19 Seal" and a device or legend designated by the board.

20 (2) The records and files of the board kept by the
21 department are at all times open to public inspection.

22 (3) The attorney general is the attorney and legal
23 counsel for the board, but the department may, with the
24 approval of the attorney general, appoint additional legal
25 counsel to assist the board and department in the

1 administration and enforcement of this chapter."

2 Section 7. Section 37-8-202, MCA, is amended to read:

3 "37-8-202. Organization -- meetings -- powers and
4 duties ~~---duties---administration.~~ (1) The board ~~---practica~~
5 ~~nursing-administration~~ shall meet annually ~~in-the--month--of~~
6 ~~duty~~ and shall elect from among the eight ~~nine~~ members a
7 president and a secretary, ~~each-of-whom-is--a--professional~~
8 ~~nurse.~~ The board ~~---practica---nursing--administration~~ shall
9 hold other meetings when necessary to transact its business.
10 ~~The-board--professional-nursing-administration--shall--meet~~
11 ~~annually---in--July--and--shall--hold--other--meetings--when~~
12 ~~necessary-to-transact-its-business.~~ A majority of the board
13 ~~as-separately-constituted-for-each-administration--including~~
14 ~~in---the--majority--at--least--one--officer--of--the--board,~~
15 constitutes a quorum at any meeting ~~---however---when---sitting~~
16 ~~as--the--practica-nursing-administration--a-quorum-consists~~
17 ~~of-a-minimum--of--two--practica--nurse--members--and--three~~
18 ~~professional-nurse-members--including-one-board-officer.~~ The
19 department shall keep ~~separate--and~~ complete minutes and
20 records of the ~~respective-administration~~ meetings and rules
21 and orders promulgated by each ~~administration-of~~ the board,
22 ~~and--each--administration--shall--exercise--its---functions,~~
23 ~~powers--and--duties--exclusive-of-the-others--except-for-the~~
24 ~~identity-and-membership-provided-in-this-chapter.~~

25 (2) The board ~~under-each-administration~~ may make rules

1 necessary to enable--the--respective--administrations---to
 2 administer this chapter. The board under each administration
 3 shall prescribe curricula--and standards for schools and
 4 courses preparing persons for registration and licensure
 5 under this chapter. It shall provide for surveys of schools
 6 and courses at times it considers necessary. It shall
 7 approve schools--and--courses programs that meet the
 8 requirements of this chapter and of the board. The
 9 department shall, subject to 37-1-101, examine and issue to
 10 and renew licenses of qualified applicants. The board shall
 11 conduct hearings on charges calling for discipline of a
 12 licensee, revocation of a license, or removal of schools of
 13 nursing from the approved list. It shall cause the
 14 prosecution of persons violating this chapter and may incur
 15 necessary expenses for this.

16 (3) The board under each administration may adopt and
 17 the department shall publish forms for use by applicants and
 18 others, including license, certificate, and identity forms
 19 and other appropriate forms and publications convenient for
 20 the proper administration of this chapter, and the board may
 21 fix reasonable fees for incidental services, all within the
 22 subject matter delegated to each administration by this
 23 chapter. Forms shall make clear reference to the
 24 administration for which the form is intended.

25 (4) Unless the context requires otherwise, the powers

1 and duties enumerated in this chapter shall be exercised and
 2 performed by the board--professional nursing--administration
 3 in all matters relating to professional nurses or
 4 professional nursing education and shall be exercised and
 5 performed by the board inclusive of the practical nursing
 6 administration in all matters relating to practical nurses
 7 and practical nursing education. The officers of the board
 8 shall also be the officers of the board inclusive of the
 9 practical nursing administration.

10 (4) The board may participate in and pay fees to a
 11 national organization of state boards of nursing to assure
 12 interstate endorsement of licenses."

13 Section 8. Section 37-8-301, MCA, is amended to read:
 14 "37-8-301. Schools of nursing Nursing education
 15 programs -- application for approval. An institution
 16 desiring to conduct a school of professional or practical
 17 nursing education program in the state shall apply to the
 18 department and submit evidence that:

19 (1) it is prepared to carry out the prescribed basic
 20 professional nursing curriculum or the prescribed curriculum
 21 for practical nursing, as the case may be, and

22 (2) it is prepared to meet other standards established
 23 by this law and by the board, it is prepared to carry out an
 24 educational program that complies with the provisions of
 25 this chapter and the rules adopted by the board pursuant to

1 ~~this section. The board shall adopt rules relating to the~~
 2 ~~conduct of nursing education programs that are directed~~
 3 ~~toward insuring qualifications to practice as a professional~~
 4 ~~nurse or a practical nurse in those areas of service~~
 5 ~~specified in 37-8-102."~~

6 Section 9. Section 37-8-302, MCA, is amended to read:

7 "37-8-302. ~~Schools--of--nursing~~ Nursing education
 8 programs -- survey and approval. (1) ~~A survey of the--school~~
 9 ~~and--institution-or-institutions-with-which-the-school-is-to~~
 10 ~~be-affiliated-shall-be-made-by-the-department--which--shall~~
 11 ~~submit-a-detailed-written-report-of-the-survey-to-the-board.~~
 12 It is the duty of the department through its authorized
 13 employees or representatives to periodically survey all
 14 nursing education programs. Written reports of such surveys
 15 shall be submitted to the board. If, in the opinion of the
 16 board, the requirements for an approved school-of-nursing
 17 ~~(professional-or-practical) nursing education program~~ are
 18 met, ~~it--shall--approve-the-school-as-an-approved-school-of-~~
 19 nursing the program shall be granted initial or continuing
 20 approval.

21 (2) When ~~If~~ the board determines that an any approved
 22 school-of nursing education program is not maintaining the
 23 standards required by law and the rules established by the
 24 board, notice ~~in-writing~~ shall be given to the nursing
 25 education program specifying the defect ~~shall-be-immediately~~

1 ~~given--to--the-school~~ areas of noncompliance. A school-which
 2 program that fails to correct these conditions--to--the
 3 ~~satisfaction--of--the--board~~ areas of noncompliance within a
 4 reasonable the time designated by the board shall be removed
 5 from the list of approved ~~schools--of~~ nursing education
 6 programs."

7 Section 10. Section 37-8-406, MCA, is amended to read:

8 "37-8-406. Professional License -- professional
 9 nursing -- examination -- fee. (1) An applicant for a
 10 license to practice as a registered professional nursing
 11 nurse is required to pass a written examination in subjects
 12 the board--acting--under--the--professional--nursing
 13 administration determines necessary. A written examination
 14 may be supplemented by an oral or practical examination. On
 15 ~~successfully-passing-the-examination--the--department--shall~~
 16 ~~issue--to--the--applicant-a-license-to-practice-nursing-as-a~~
 17 ~~registered-professional-nurse.~~ The applicant shall pay a fee
 18 ~~of-\$35-at-the-time-the-application-is-submitted--which--shall~~
 19 ~~be-retained-to-the-applicant-if-the-application-is-withdrawn~~
 20 ~~not-later-than-5-days-prior-to-the-date-of-examination-or-if~~
 21 ~~the-examination-is-not-taken--subject-to--deduction--by--the~~
 22 ~~department--of-\$1-per-subject-of-the-examination-which--shall~~
 23 ~~be-retained--by--the--department.~~ The board may use any
 24 national standardized examination for professional nurse
 25 licensure identified in its rules. The passing score on such

1 ~~examination shall be established by the board in its rules.~~
 2 ~~On successfully passing the examination, an applicant shall~~
 3 ~~be issued a license to practice professional nursing.~~

4 ~~(2) The board shall establish in its rules the~~
 5 ~~requirements for rewriting the examination for those persons~~
 6 ~~failing the examination on the first writing and subsequent~~
 7 ~~writing."~~

8 Section 11. Section 37-8-407, MCA, is amended to read:

9 "37-8-407. Reciprocity Endorsement -- professional
 10 nursing. ~~(1)~~ The board--professional nursing administration
 11 may issue without examination a license to practice nursing
 12 as a registered professional nurse to an applicant who has
 13 been licensed or registered as a professional nurse under
 14 the laws of another state or territory if in the opinion of
 15 the board the applicant meets the qualifications required of
 16 registered nurses in this state at the time the applicant
 17 graduated from a school of nursing. The applicant shall pay
 18 a fee of \$35 at the time the application is submitted, which
 19 shall be returned to the applicant if the application is
 20 withdrawn not later than 5 days prior to final submission of
 21 the application to the board, subject to deduction of \$5 to
 22 be retained by the department.

23 ~~(2) An applicant may, pending licensure as a~~
 24 ~~professional nurse under subsection (1) of this section,~~
 25 ~~practice professional nursing as an employee of a health~~

1 ~~care agency for a period not longer than 3 months from the~~
 2 ~~date the department acknowledges receiving from the nurse a~~
 3 ~~completed statement on a form provided by the department~~
 4 ~~of intention to practice. The statement shall consist of an~~
 5 ~~affidavit by the nurse and an affidavit by the employer~~
 6 ~~where the nurse intends to practice professional nursing.~~
 7 ~~The affidavit of the nurse and the affidavit of the employer~~
 8 ~~shall contain the information deemed by the board necessary~~
 9 ~~for the statements.~~

10 ~~(3) Subsection (2) does not permit the nurse to~~
 11 ~~practice for more than a 3-month period or in any event~~
 12 ~~after being notified by the board through the department~~
 13 ~~that the application for a license has been denied or in all~~
 14 ~~cases after being notified by the board through the~~
 15 ~~department to cease and desist this practice. Notice shall~~
 16 ~~be given by registered or certified mail to the address of~~
 17 ~~the applicant as it appears in the statement of the~~
 18 ~~applicant."~~

19 Section 12. Section 37-8-409, MCA, is amended to read:

20 "37-8-409. Midwifery -- when professional nurse may
 21 practice. (1) A person licensed under 37-8-406 or 37-8-407
 22 who holds a certificate in nurse-midwifery from the American
 23 college of nurse-midwives may practice midwifery upon
 24 approval by the board--professional nursing administration
 25 of an amendment to her license granting a certificate of

1 nurse-midwifery. The board shall grant a certificate of
2 nurse-midwifery to a person who submits written verification
3 of certification by the American college of nurse-midwives
4 and who meets such other qualification requirements as the
5 board may prescribe.

6 (2) The board--~~professional-nursing-administration~~ may
7 give temporary approval to practice nurse-midwifery for up
8 to 4 months to a person who has taken the American college
9 of nurse-midwives national certification examination,
10 pending receipt of official notification of the results of
11 the examination."

12 Section 13. Section 37-8-415, MCA, is amended to read:

13 "37-8-415. Licensed practical nursing --
14 qualifications of applicants. An applicant for a license to
15 practice as a licensed practical nurse shall submit to the
16 department board written evidence, verified by oath, that
17 the applicant:

18 (1) has successfully completed at least an approved
19 4-year high school course of study or the equivalent as
20 determined by the office of the superintendent of public
21 instruction;

22 (2) ~~has successfully completed the prescribed~~
23 ~~curriculum in an approved school of practical nursing and~~
24 ~~holds a diploma or certificate therefrom~~ is a graduate of an
25 approved practical nursing education program that is

1 authorized to prepare persons for licensure as practical
2 nurses; and

3 (3) meets other qualification requirements the board
4 ~~acting under the practical nursing administration~~
5 prescribes in its rules."

6 Section 14. Section 37-8-416, MCA, is amended to read:

7 "37-8-416. Licensed practical nursing -- examination.
8 An applicant for a license to practice as a practical nurse
9 is required to pass a written examination in subjects as the
10 board, ~~acting under the practical nursing administration~~
11 determines. A written examination may be supplemented by an
12 oral or practical examination. ~~The board may use any~~
13 nationally standardized examination for practical nurse
14 licensure identified by the board in its rules. The passing
15 score shall be established by the board in its rules. On
16 successfully passing the examination, the department board
17 shall issue to the applicant a license to practice as a
18 licensed practical nurse."

19 Section 15. Section 37-8-417, MCA, is amended to read:

20 "37-8-417. Reciprocity Endorsement -- licensed
21 practical nursing. ~~{}~~ The board--~~practical-nursing~~
22 ~~administration~~ may issue a license to practice as a licensed
23 practical nurse, without examination, to an applicant who
24 has been licensed or registered as a licensed practical
25 nurse or person entitled to perform like services under a

1 different title under the laws of another state or territory
 2 if, in the opinion of the ~~practical-nursing-administration~~
 3 ~~board~~, the applicant meets the requirements for practical
 4 nurses in this state.

5 ~~(2)--An applicant may pending licensure as a practical~~
 6 ~~nurse under subsection (1) of this section practice~~
 7 ~~practical nursing as an employee of a health care agency for~~
 8 ~~a period of not longer than 3 months from the date the~~
 9 ~~department acknowledges receiving from the practical nurse a~~
 10 ~~completed statement on a form provided by the department~~
 11 ~~of intention to practice. The statement shall consist of an~~
 12 ~~affidavit by the practical nurse and an affidavit by the~~
 13 ~~employer where the practical nurse intends to practice~~
 14 ~~practical nursing. The affidavit of the nurse and the~~
 15 ~~affidavit of the employer shall contain the information~~
 16 ~~considered by the board necessary for the statement. This~~
 17 ~~subsection does not permit the nurse to practice for more~~
 18 ~~than a 3-month period or in any event after being notified~~
 19 ~~by the board through the department that the application for~~
 20 ~~a license has been denied or in all cases after being~~
 21 ~~notified by the board through the department to cease and~~
 22 ~~desist this practice. Notice shall be given by registered or~~
 23 ~~certified mail to the address of the applicant as it appears~~
 24 ~~in the statement of application."~~

25 Section 16. Section 37-8-431, MCA, is amended to read:

1 *37-8-431. Renewal of license. (1) The license of a
 2 person licensed under this chapter must be annually renewed.
 3 Before December 1 of each year, the department shall mail an
 4 application form for renewal of license to every person to
 5 whom a license was issued or renewed during the year. The
 6 applicant shall carefully complete and subscribe the
 7 application form and return it to the department with a
 8 renewal fee of \$10 before January 1.

9 (2) The board may increase or decrease the annual
 10 license fee so as to maintain in the earmarked revenue fund
 11 at all times an adequate amount to be used for the purpose
 12 of administering, policing, and enforcing the provisions of
 13 this chapter. On receipt of the application and fee, the
 14 department shall verify the accuracy of the application
 15 against its record and from other sources the board
 16 considers reliable and issue to the applicant a certificate
 17 of renewal for the current year beginning January 1 and
 18 expiring December 31 following. The certificate of renewal
 19 renders the holder a legal practitioner of nursing for the
 20 period stated in the certificate of renewal.

21 (3) A licensee who allows his license to lapse by
 22 failing to renew the license may be reinstated by the board
 23 on satisfactory explanation for the failure to renew license
 24 and on payment of the current renewal fee prescribed by the
 25 board.

1 (4) A person practicing nursing during the time
2 following the date his license has expired is an illegal
3 practitioner and is subject to the penalties provided for
4 violations of this chapter.

5 ~~(5) The board may establish a reasonable late fee for~~
6 ~~licensees who fail to renew their license by January 1 as~~
7 ~~required in subsection (1).~~"

8 Section 17. Section 37-8-441, MCA, is amended to read:

9 "37-8-441. Denial, revocation, or suspension of
10 license -- grounds. Only after compliance with 37-8-442, the
11 board ~~acting under the appropriate administration~~ may
12 deny, revoke, or suspend a license to practice nursing or
13 discipline a licensee on proof that the person:

14 (1) is guilty of fraud or deceit in procuring or
15 attempting to procure a license to practice nursing;

16 ~~(2) is guilty of a crime or gross immorality;~~

17 ~~(3)~~(2) is unfit or incompetent by reason of
18 negligence, habit, or other causes;

19 ~~(4)~~(3) is habitually intemperate or is addicted to the
20 use of habit-forming drugs;

21 ~~(5)~~(4) is mentally or physically incompetent;

22 ~~(6)~~(5) is guilty of unprofessional conduct;

23 ~~(7)~~(6) has willfully or repeatedly violated this
24 chapter."

25 Section 18. Section 37-8-442, MCA, is amended to read:

1 "37-8-442. Denial, revocation, or suspension of
2 license -- procedure. (1) On filing a sworn complaint in
3 writing with the board charging a person with violation of
4 37-8-441 as a ground for disciplinary action, the board
5 shall fix a time and place for a public hearing before the
6 board ~~to be convened in membership as the five-member board~~
7 ~~for professional nurses or as the eight-member board for~~
8 ~~practical nurses depending on the professional or practical~~
9 ~~status of the licensee nurse or person against whom~~
10 ~~complaint is made.~~

11 (2) If the person charged is found guilty of the
12 charges, the board may refuse to grant a license to the
13 applicant or may revoke or suspend a license issued to a
14 licensee.

15 (3) A revoked or suspended license may be reissued
16 after 1 year, in the discretion of the board."

17 NEW SECTION. Section 19. Temporary work permit. (1)
18 The board may issue a temporary work permit for a period not
19 to exceed 90 days to a registered professional nurse or
20 licensed practical nurse who is currently licensed in
21 another state, a territory of the United States, or the
22 District of Columbia and who is an applicant for licensure
23 by endorsement. Such permit is not renewable.

24 (2) The board may issue a temporary work permit to a
25 graduate of an approved nursing education program or

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1 approved practical nursing education program pending the
2 results of the first licensing examination following
3 graduation. Such permit is not renewable.

4 (3) To protect the public, the board shall adopt such
5 rules as are necessary to limit the practice of persons
6 issued temporary work permits. Such rules shall include a
7 provision that such practice be supervised by a physician,
8 dentist, osteopath, podiatrist, or registered nurse until a
9 license is issued and shall include a definition of
10 supervision.

11 Section 20. Codification instruction. Section 19 is
12 intended to be codified as an integral part of Title 37,
13 chapter 8, and the provisions of Title 37, chapter 8, apply
14 to section 19.

15 Section 21. Effective date. This act is effective on
16 passage and approval.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 427

3 Senate Public Health, Welfare and Safety Committee

4
5 A Statement of Intent is required for this bill because
6 it delegates rulemaking authority to the Board of Nursing in
7 sections 8, 10, 14, 16 and 19.

8 Section 8 grants the Board authority to adopt rules
9 relating to the conduct of nursing education programs. It is
10 the intent of the Legislature that the rules adopted relate
11 directly toward the nursing education programs insuring that
12 the qualifications of a professional nurse or a practical
13 nurse are adequate in the areas of services to be provided
14 specified in section 4.

15 Sections 10 and 14 grant rulemaking authority to the
16 Board to establish passing scores for the professional and
17 practical nurse examinations and establish requirements for
18 rewriting the examination. It is the intent of the
19 Legislature that the examination scores established be such
20 as to insure the competency of applicants for licensure to
21 protect the public health. Rules for rewriting the
22 examination must provide assurance that the competency is as
23 great as for applicants passing a first examination.

24 Section 16 authorizes the Board to establish a late
25 renewal fee. It is the intent of the Legislature that such

1 fee be sufficient to cover the additional expense incurred
2 in processing late renewals.

3 Section 19 allows the Board to grant temporary work
4 permits. It is the intent of the Legislature that such
5 permits be strictly controlled and that permittees work
6 under the direct supervision of a physician, dentist,
7 osteopath, podiatrist or professional nurse. The Board shall
8 specifically define "direct supervision".

Approved by Committee
on Public Health,
Safety and Welfare

1 SENATE BILL NO. 427

2 INTRODUCED BY S. BROWN, HIMSL

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
6 BOARD OF NURSING UNDER EXISTING STATUTORY AUTHORITY AND
7 RULES AND TO GENERALLY REVISE THE LAWS RELATING TO LICENSURE
8 OF NURSES; MODIFYING BOARD MAKEUP; PROVIDING FOR STAGGERED
9 4-YEAR TERMS FOR BOARD MEMBERS; REVISING DEFINITIONS OF
10 NURSING; AUTHORIZING TEMPORARY NURSING PERMITS; PROVIDING
11 FOR A LATE RENEWAL FEE; AMENDING SECTIONS 2-8-103,
12 2-15-1610, 37-8-102, 37-8-103, 37-8-201, 37-8-202, 37-8-301,
13 37-8-302, 37-8-406, 37-8-407, 37-8-409, 37-8-415 THROUGH
14 37-8-417, 37-8-431, 37-8-441, AND 37-8-442, MCA; AND
15 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

16
17 WHEREAS, The sunset law, sections 2-8-103 and 2-8-112,
18 MCA, terminates the Board of Nursing and requires a
19 performance evaluation of the Board by the Legislative Audit
20 Committee; and

21 WHEREAS, as a result of the performance evaluation, the
22 Legislative Audit Committee recommends that the Board of
23 Nursing be reestablished under existing statutory authority.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

4 Section 2. Section 2-8-103, MCA, is amended to read:
5 "2-8-103. Agencies to terminate. (1) The following
6 agencies shall terminate on July 1, 1979:

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

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

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

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

16 (2) The following agencies shall terminate on July 1,
17 1981:

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

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

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

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

1 (e) board of cosmetologists, department of
2 professional and occupational licensing, created by
3 2-15-1626;

4 (f) board of dentists, department of professional and
5 occupational licensing, created by 2-15-1606;

6 (g) board of hearing aid dispensers, department of
7 professional and occupational licensing, created by
8 2-15-1616;

9 (h) board of massage therapists, department of
10 professional and occupational licensing, created by
11 2-15-1627;

12 (i) Montana state board of medical examiners,
13 department of professional and occupational licensing,
14 created by 2-15-1605;

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

17 ~~{k}--board-of-nursing,-department-of--professional--and~~
18 ~~occupational--licensing,-created-by-2-15-1610;~~

19 ~~{k}~~ board of nursing home administrators,
20 department of professional and occupational licensing,
21 created by 2-15-1611;

22 ~~{l}~~ board of optometrists, department of
23 professional and occupational licensing, created by
24 2-15-1612;

25 ~~{m}~~ board of osteopathic physicians, department of

1 professional and occupational licensing, created by
2 2-15-1607;

3 ~~{n}~~ board of pharmacists, department of
4 professional and occupational licensing, created by
5 2-15-1609;

6 ~~{o}~~ board of podiatry examiners, department of
7 professional and occupational licensing, created by
8 2-15-1608;

9 ~~{p}~~ board of psychologists, department of
10 professional and occupational licensing, created by
11 2-15-1617;

12 ~~{q}~~ board of radiologic technologists, department
13 of professional and occupational licensing, created by
14 2-15-1614;

15 ~~{r}~~ board of speech pathologists and audiologists,
16 department of professional and occupational licensing,
17 created by 2-15-1615;

18 ~~{s}~~ board of veterinarians, department of
19 professional and occupational licensing, created by
20 2-15-1618;

21 ~~{t}~~ board of veterans' affairs, department of
22 social and rehabilitation services, created by 2-15-2202;

23 ~~{u}~~ board of sanitarians, department of
24 professional and occupational licensing, created by
25 2-15-1631.

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

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

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

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

9 (d) board of livestock, department of livestock,
10 created by 2-15-3102;

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

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

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

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

19 (i) board of water and wastewater operators,
20 department of health and environmental sciences, created by
21 2-15-2105;

22 (j) board of water well contractors, department of
23 professional and occupational licensing, created by
24 2-15-1632.

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

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

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

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

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

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

9 (f) office of commissioner of insurance and the
10 insurance department, state auditor's office, created by
11 2-15-1902 and 2-15-1903;

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

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

16 (i) the board of county printing, created by
17 2-15-1102;

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

19 (k) board of physical therapy examiners, created by
20 2-15-1628.

21 (5) The following agency terminates on July 1, 1987:
22 the board of nursing, department of professional and
23 occupational licensing, created by 2-15-1610."

24 Section 3. Section 2-15-1610, MCA, is amended to read:
25 "2-15-1610. Board of nursing. (1) There is a board of

1 nursing.

2 (2) The board consists of eight nine members appointed
3 by the governor. The members are:

4 (a) five four registered professional nurses; who
5 ~~constitute the board professional nursing administration.~~
6 At at least three members one such member shall have had at
7 least 3 5 years in administrative, teaching, or supervisory
8 experience in one or more schools of nursing and at least
9 one such member must be currently engaged in the
10 administration, supervision, or provision of direct client
11 care. Each member shall:

12 (i) be a graduate of an approved school of nursing;

13 (ii) be a licensed registered professional nurse in
14 this state;

15 (iii) have had at least 5 years' experience in nursing
16 following graduation; and

17 (iv) ~~have been actively~~ be currently engaged in the
18 practice of professional nursing and have practiced for at
19 least 3 5 years ~~immediately before appointment.~~

20 (b) three practical nurses ~~who constitute the~~
21 ~~board practical nursing administration.~~ Each member shall:

22 (i) be a graduate of a school of practical nursing;

23 (ii) be a licensed practical nurse in this state;

24 (iii) have had at least 3 5 years' experience as a
25 practical nurse; and

1 (iv) ~~have been actively~~ be currently engaged in the
2 practice of practical nursing and have practiced for at
3 least 2 3 5 years ~~immediately before appointment.~~

4 (c) two public members who are not medical
5 practitioners or involved in the practice OF NURSING or
6 employment of nursing.

7 (3) All members shall have been residents of this
8 state for at least 1 year before appointment and be citizens
9 of the United States.

10 ~~All members shall serve for a term of 5 years~~
11 Members shall serve staggered 4-year terms, and a member may
12 not be appointed for more than two consecutive terms. The
13 governor may remove a member from the board for neglect of a
14 duty required by law or for incompetency or unprofessional
15 or dishonorable conduct.

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

18 Section 4. Section 37-8-102, MCA, is amended to read:
19 "37-8-102. Definitions. Unless the context requires
20 otherwise, in this chapter the following definitions apply:

21 (1) "Board" means the board of nursing provided for in
22 2-15-1610 ~~with dual functions in the field of professional~~
23 ~~nursing and practical nursing. In matters relating to~~
24 ~~professional nursing, the board consists of five members. In~~
25 ~~matters relating to practical nursing, the board consists of~~

1 ~~eight members. The board of five members may, for~~
 2 ~~convenience, be referred to as the "board," followed by the~~
 3 ~~words "professional nursing administration," and the board~~
 4 ~~of eight members may, for convenience, be referred to as the~~
 5 ~~"board," followed by the words "practical nursing~~
 6 ~~administration."~~

7 (2) "Department" means the department of professional
 8 and occupational licensing provided for in Title 2, chapter
 9 15, part 16.

10 (3) "Practice of nursing" embraces two classes of
 11 nursing service and activity, as follows:

12 (a) "Practice of professional nursing" means the
 13 performance for compensation of an act in the observation,
 14 care, and counsel of the ~~ill, injured, or infirm or in the~~
 15 ~~maintenance of health or prevention of illness of others or~~
 16 ~~in the supervision and teaching of other personnel or the~~
 17 ~~administration of medications and treatments prescribed by a~~
 18 ~~person licensed in this state to prescribe medications and~~
 19 ~~treatments, requiring substantial specialized judgment and~~
 20 ~~skill and based on knowledge and application of the~~
 21 ~~principles of biotechnology, physical, and social sciences.~~
 22 services requiring substantial specialized knowledge of the
 23 biological, physical, behavioral, psychological, and
 24 sociological sciences and of nursing theory as a basis for
 25 the nursing process. The nursing process is the assessment,

1 nursing analysis, planning, nursing intervention, and
 2 evaluation in the promotion and maintenance of health; the
 3 prevention, casefinding, and management of illness, injury,
 4 or infirmity; and the restoration of optimum function. The
 5 term also includes administration, teaching, counseling,
 6 supervision, delegation, and evaluation of nursing practice
 7 and the administration of medications and treatments
 8 prescribed by physicians, dentists, osteopaths, or
 9 podiatrists authorized by state law to prescribe medications
 10 and treatments. Each registered nurse is directly
 11 accountable and responsible to the consumer for the quality
 12 of nursing care rendered. As used in this subsection (3)(a):

13 (i) "nursing analysis" is the identification of those
 14 client problems for which nursing care is indicated and may
 15 include referral to medical or community resources;

16 (ii) "nursing intervention" is the implementation of a
 17 plan of nursing care necessary to accomplish defined goals.

18 (b) "Practice of practical nursing" means the
 19 performance for compensation in the care of the ~~ill,~~
 20 ~~injured, or infirm of acts selected by and performed under~~
 21 ~~the direction of a registered professional nurse or a person~~
 22 ~~licensed in this state to prescribe medications and~~
 23 ~~treatments, and not requiring the substantial specialized~~
 24 ~~skill, judgment, and knowledge required in professional~~
 25 ~~nursing of services requiring basic knowledge of the~~

1 biological, physical, behavioral, psychological, and
 2 sociological sciences and of nursing procedures. Practical
 3 nursing practice utilizes standardized procedures leading to
 4 predictable outcomes in the observation and care of the ill,
 5 injured, and infirm; in the maintenance of health; in action
 6 to safeguard life and health; and in the administration of
 7 medications and treatments prescribed by a physician,
 8 dentist, osteopath, or podiatrist authorized by state law to
 9 prescribe medications and treatments. These services are
 10 performed under the supervision of a registered nurse or a
 11 physician, dentist, osteopath, or podiatrist authorized by
 12 state law to prescribe medications and treatments.

13 (4) "Nursing education program" means any
 14 board-approved school that prepares graduates for initial
 15 licensure under this chapter. Nursing education programs
 16 for:

17 (a) professional nursing may be a department, school,
 18 division, or other administrative unit in a senior or junior
 19 college or university;

20 (b) practical nursing may be a department, school,
 21 division, or other administrative unit in a
 22 vocational-technical center or junigr college."

23 Section 5. Section 37-8-103, MCA, is amended to read:
 24 "37-8-103. Exemptions -- limitations on authority
 25 conferred. (1) No provisions of this law may be construed as

1 prohibiting:

2 (a) gratuitous nursing by friends or members of the
 3 family;

4 (b) incidental care of the sick by domestic servants
 5 or persons primarily employed as housekeepers;

6 (c) nursing assistance in the case of an emergency;

7 (d) the practice of nursing by students enrolled in
 8 ~~approved schools of nursing or approved courses or by the~~
 9 ~~graduates of such schools or courses pending the results of~~
 10 ~~the first licensing examination scheduled by the board~~
 11 ~~following their graduation~~ nursing education programs;

12 (e) the practice of nursing in this state by any
 13 legally qualified nurse of another state whose engagement
 14 requires the nurse to accompany and care for a patient
 15 temporarily residing in this state during the period of one
 16 such engagement not to exceed 6 months in length, provided
 17 that person does not represent or hold herself or himself
 18 out to be a nurse licensed to practice in this state;

19 (f) the practice of any legally qualified nurse of
 20 another state who is employed by the United States
 21 government or any bureau, division, or agency thereof while
 22 in the discharge of that nurse's official duties;

23 (g) nursing or care of the sick, with or without
 24 compensation, when done in connection with the practice of
 25 the religious tenets of any well-established religion or

1 denomination by adherents thereof;

2 (h) nursing or care of a minor who is in the care of a
3 licensed foster parent, to the same extent such care may be
4 provided by a parent or guardian.

5 (2) This chapter may not be construed as conferring
6 any authority to practice medicine, surgery, or any
7 combination thereof; to confer any authority to practice any
8 of the healing arts prescribed by law to be practiced in the
9 state of Montana; or to permit any person to undertake the
10 treatment of disease by any of the methods employed in those
11 arts unless the licensee has been qualified under the
12 applicable law or laws licensing the practice of those
13 professions or healing arts in the state of Montana."

14 Section 6. Section 37-8-201, MCA, is amended to read:

15 "37-8-201. Seal -- board records public -- legal
16 counsel. (1) The board shall have a seal which shall be used
17 to authenticate its acts under each administration. The seal
18 shall have inscribed the words "Board of Nursing--Official
19 Seal" and a device or legend designated by the board.

20 (2) The records and files of the board kept by the
21 department are at all times open to public inspection.

22 (3) The attorney general is the attorney and legal
23 counsel for the board, but the department may, with the
24 approval of the attorney general, appoint additional legal
25 counsel to assist the board and department in the

1 administration and enforcement of this chapter."

2 Section 7. Section 37-8-202, MCA, is amended to read:

3 "37-8-202. Organization -- meetings -- powers and
4 duties ~~---doat---administration~~. (1) The board~~---practical~~
5 ~~nursing-administration~~ shall meet annually in the~~---month---of~~
6 July and shall elect from among the eight nine members a
7 president and a secretary~~---each-of-whom---is---a---professional~~
8 nurse. The board~~---practical---nursing---administration~~ shall
9 hold other meetings when necessary to transact its business.
10 ~~The board---professional-nursing-administration---shall---meet~~
11 ~~annually---in-July---and---shall---hold---other---meetings---when~~
12 ~~necessary-to-transact-its-business~~. A majority of the board
13 ~~as-separately-constituted-for-each-administration~~, including
14 ~~in---the---majority---at---least---one---officer---of---the---board~~,
15 constitutes a quorum at any meeting~~---however---when---sitting~~
16 ~~as---the---practical-nursing-administration~~, a quorum consists
17 ~~of-a-minimum---of---two---practical-nurse-members---and---three~~
18 ~~professional-nurse-members~~, including one board officer. The
19 department shall keep separate~~---and~~ complete minutes and
20 records of the respective~~---administration~~ meetings and rules
21 and orders promulgated by each~~---administration~~ of the board,
22 and~~---each---administration---shall---exercise---its---functions~~,
23 powers~~---and---duties---exclusive-of-the-others~~, except for the
24 identity and membership provided in this chapter.

25 (2) The board under each~~---administration~~ may make rules

1 necessary to enable ~~the respective administrations~~ to
 2 administer this chapter. The board under each administration
 3 shall prescribe ~~curricula~~ and standards for schools and
 4 courses preparing persons for registration and licensure
 5 under this chapter. It shall provide for surveys of schools
 6 and courses at times it considers necessary. It shall
 7 approve ~~schools~~ and ~~courses~~ programs that meet the
 8 requirements of this chapter and of the board. The
 9 department shall, subject to 37-1-101, examine and issue to
 10 and renew licenses of qualified applicants. The board shall
 11 conduct hearings on charges ~~calling~~ WHICH MAY CALL for
 12 discipline of a licensee, revocation of a license, or
 13 removal of schools of nursing from the approved list. It
 14 shall cause the prosecution of persons violating this
 15 chapter and may incur necessary expenses for this.

16 (3) The board under ~~each administration~~ may adopt and
 17 the department shall publish forms for use by applicants and
 18 others, including license, certificate, and identity forms
 19 and other appropriate forms and publications convenient for
 20 the proper administration of this chapter, and the board may
 21 fix reasonable fees for incidental services, all within the
 22 subject matter delegated to ~~each administration~~ by this
 23 chapter. ~~Forms shall make clear reference to the~~
 24 ~~administration for which the form is intended.~~

25 ~~(4) Unless the context requires otherwise, the powers~~

1 and duties enumerated in this chapter shall be exercised and
 2 performed by the board ~~professional nursing administration~~
 3 in ~~all matters relating to professional nurses or~~
 4 ~~professional nursing education and shall be exercised and~~
 5 ~~performed by the board inclusive of the practical nursing~~
 6 ~~administration in all matters relating to practical nurses~~
 7 ~~and practical nursing education. The officers of the board~~
 8 ~~shall also be the officers of the board inclusive of the~~
 9 ~~practical nursing administration.~~

10 (4) The board may participate in and pay fees to a
 11 national organization of state boards of nursing to assure
 12 interstate endorsement of licenses."

13 Section 8. Section 37-8-301, MCA, is amended to read:
 14 "37-8-301. ~~Schools of nursing~~ Nursing education
 15 programs -- application for approval. An institution
 16 desiring to conduct a ~~school of professional or practical~~
 17 nursing education program in the state shall apply to the
 18 department and submit evidence that:

19 ~~(1) it is prepared to carry out the prescribed basic~~
 20 ~~professional nursing curriculum or the prescribed curriculum~~
 21 ~~for practical nursing, as the case may be, and~~

22 ~~(2) it is prepared to meet other standards established~~
 23 ~~by this law and by the board. it is prepared to carry out an~~
 24 educational program that complies with the provisions of
 25 this chapter and the rules adopted by the board pursuant to

1 this section. The board shall adopt rules relating to the
 2 conduct of nursing education programs that are directed
 3 toward insuring qualifications to practice as a professional
 4 nurse or a practical nurse in those areas of service
 5 specified in 37-8-102."

6 Section 9. Section 37-8-302, MCA, is amended to read:

7 "37-8-302. ~~Schools---of---nursing~~ Nursing education
 8 programs -- survey and approval. (1) ~~A survey of the school~~
 9 ~~and institution or institutions with which the school is to~~
 10 ~~be affiliated shall be made by the department which shall~~
 11 ~~submit a detailed written report of the survey to the board.~~
 12 It is the duty of the department through its authorized
 13 employees or representatives to periodically survey all
 14 nursing education programs. Written reports of such surveys
 15 shall be submitted to the board. If, in the opinion of the
 16 board, the requirements for an approved school of nursing
 17 ~~{professional or practical} nursing education program~~ are
 18 met, ~~it shall approve the school as an approved school of~~
 19 nursing the program shall be granted initial or continuing
 20 approval.

21 (2) When if the board determines that an any approved
 22 school of nursing education program is not maintaining the
 23 standards required by law and the rules established by the
 24 board, notice in writing shall be given to the nursing
 25 education program specifying the defect ~~shall be immediately~~

1 ~~given to the school~~ areas of noncompliance. A school which
 2 program that fails to correct these conditions ~~to the~~
 3 ~~satisfaction of the board~~ areas of noncompliance within a
 4 reasonable the time designated by the board shall be removed
 5 from the list of approved ~~schools of nursing education~~
 6 programs."

7 Section 10. Section 37-8-406, MCA, is amended to read:

8 "37-8-406. ~~Professional~~ License -- professional
 9 nursing -- examination -- fee. (1) An applicant for a
 10 license to practice as a registered professional nursing
 11 nurse is required to pass a written examination in subjects
 12 the board ~~acting under the professional nursing~~
 13 administration determines necessary. A written examination
 14 may be supplemented by an oral or practical examination. ~~On~~
 15 ~~successfully passing the examination, the department shall~~
 16 ~~issue to the applicant a license to practice nursing as a~~
 17 ~~registered professional nurse. The applicant shall pay a fee~~
 18 ~~of \$35 at the time the application is submitted, which shall~~
 19 ~~be returned to the applicant if the application is withdrawn~~
 20 ~~not later than 5 days prior to the date of examination or if~~
 21 ~~the examination is not taken, subject to deduction by the~~
 22 ~~department of \$1 per subject of the examination which shall~~
 23 ~~be retained by the department.~~ The board may use any
 24 national standardized examination for professional nurse
 25 licensure identified in its rules. The passing score on such

1 examination shall be established by the board in its rules.
 2 On successfully passing the examination, an applicant shall
 3 be issued a license to practice professional nursing.

4 (2) The board shall establish in its rules the
 5 requirements for rewriting the examination for those persons
 6 failing the examination on the first writing and subsequent
 7 writing."

8 Section 11. Section 37-8-407, MCA, is amended to read:

9 "37-8-407. Reciprocity Endorsement -- professional
 10 nursing. ~~{1}~~ The board--professional-nursing-administration
 11 may issue without examination a license to practice nursing
 12 as a registered professional nurse to an applicant who has
 13 been licensed or registered as a professional nurse under
 14 the laws of another state or territory if in the opinion of
 15 the board the applicant meets the qualifications required of
 16 registered nurses in this state at the time the applicant
 17 graduated from a school of nursing. The applicant shall pay
 18 a fee of \$35 at the time the application is submitted, which
 19 shall be returned to the applicant if the application is
 20 withdrawn not later than 5 days prior to final submission of
 21 the application to the board, subject to deduction of \$5 to
 22 be retained by the department.

23 ~~{2}--An--applicant--may--pending--licensure--as--a~~
 24 ~~professional--nurse--under--subsection--{1}--of--this--section,~~
 25 ~~practice--professional--nursing--as--an--employee--of--a--health~~

1 ~~care--agency--for--a--period--not--longer--than--3--months--from--the~~
 2 ~~date--the--department--acknowledges--receiving--from--the--nurse--a~~
 3 ~~completed--statement--on--a--form--provided--by--the--department,~~
 4 ~~of--intention--to--practice--The--statement--shall--consist--of--an~~
 5 ~~affidavit--by--the--nurse--and--an--affidavit--by--the--employer~~
 6 ~~where--the--nurse--intends--to--practice--professional--nursing.~~
 7 ~~The--affidavit--of--the--nurse--and--the--affidavit--of--the--employer~~
 8 ~~shall--contain--the--information--deemed--by--the--board--necessary~~
 9 ~~for--the--statement.~~

10 ~~{3}--Subsection--{2}--does--not--permit--the--nurse--to~~
 11 ~~practice--for--more--than--a--3--month--period--or--in--any--event~~
 12 ~~after--being--notified--by--the--board--through--the--department~~
 13 ~~that--the--application--for--a--license--has--been--denied--or--in--all~~
 14 ~~cases---after--being--notified--by--the--board--through--the~~
 15 ~~department--to--cease--and--desist--this--practice--Notice--shall~~
 16 ~~be--given--by--registered--or--certified--mail--to--the--address--of~~
 17 ~~the--applicant--as--it--appears--in--the--statement--of--the~~
 18 ~~applicant."~~

19 Section 12. Section 37-8-409, MCA, is amended to read:

20 "37-8-409. Midwifery -- when professional nurse may
 21 practice. (1) A person licensed under 37-8-406 or 37-8-407
 22 who holds a certificate in nurse-midwifery from the American
 23 college of nurse-midwives may practice midwifery upon
 24 approval by the board--professional--nursing--administration
 25 of an amendment to her license granting a certificate of

1 nurse-midwifery. The board shall grant a certificate of
2 nurse-midwifery to a person who submits written verification
3 of certification by the American college of nurse-midwives
4 and who meets such other qualification requirements as the
5 board may prescribe.

6 (2) The board--~~professional-nursing-administration~~ may
7 give temporary approval to practice nurse-midwifery for up
8 to 4 months to a person who has taken the American college
9 of nurse-midwives national certification examination,
10 pending receipt of official notification of the results of
11 the examination."

12 Section 13. Section 37-8-415, MCA, is amended to read:

13 "37-8-415. Licensed practical nursing --
14 qualifications of applicants. An applicant for a license to
15 practice as a licensed practical nurse shall submit to the
16 department board written evidence, verified by oath, that
17 the applicant:

18 (1) has successfully completed at least an approved
19 4-year high school course of study or the equivalent as
20 determined by the office of the superintendent of public
21 instruction;

22 (2) ~~has--successfully--completed--the--prescribed~~
23 ~~curriculum--in--an--approved--school--of--practical--nursing--and~~
24 ~~holds--a--diploma--or--certificate--therefrom~~ is a graduate of an
25 approved practical nursing education program that is

1 authorized to prepare persons for licensure as practical
2 nurses; and

3 (3) ~~meets other qualification requirements the board,~~
4 ~~acting---under---the---practical---nursing---administration,~~
5 ~~prescribes~~ in its rules."

6 Section 14. Section 37-8-416, MCA, is amended to read:

7 "37-8-416. Licensed practical nursing -- examination.
8 An applicant for a license to practice as a practical nurse
9 is required to pass a written examination in subjects as the
10 ~~board, acting under the practical nursing administration,~~
11 determines. A written examination may be supplemented by an
12 oral or practical examination. The board may use any
13 nationally standardized examination for practical nurse
14 licensure identified by the board in its rules. The passing
15 score shall be established by the board in its rules. On
16 successfully passing the examination, the department board
17 shall issue to the applicant a license to practice as a
18 licensed practical nurse."

19 Section 15. Section 37-8-417, MCA, is amended to read:

20 "37-8-417. Reciprocity Endorsement -- licensed
21 practical nursing. ~~{}~~ The ~~board--practical--nursing~~
22 ~~administration~~ may issue a license to practice as a licensed
23 practical nurse, without examination, to an applicant who
24 has been licensed or registered as a licensed practical
25 nurse or person entitled to perform like services under a

1 different title under the laws of another state or territory
 2 if, in the opinion of the ~~practical-nursing-administration~~
 3 board, the applicant meets the requirements for practical
 4 nurses in this state.

5 ~~(2) An applicant may, pending licensure as a practical~~
 6 ~~nurse under subsection (1) of this section, practice~~
 7 ~~practical nursing as an employee of a health care agency for~~
 8 ~~a period of not longer than 3 months from the date the~~
 9 ~~department acknowledges receiving from the practical nurse a~~
 10 ~~completed statement on a form provided by the department~~
 11 ~~of intention to practice. The statement shall consist of an~~
 12 ~~affidavit by the practical nurse and an affidavit by the~~
 13 ~~employer where the practical nurse intends to practice~~
 14 ~~practical nursing. The affidavit of the nurse and the~~
 15 ~~affidavit of the employer shall contain the information~~
 16 ~~considered by the board necessary for the statement. This~~
 17 ~~subsection does not permit the nurse to practice for more~~
 18 ~~than a 3-month period or in any event after being notified~~
 19 ~~by the board through the department that the application for~~
 20 ~~a license has been denied or in all cases after being~~
 21 ~~notified by the board through the department to cease and~~
 22 ~~desist this practice. Notice shall be given by registered or~~
 23 ~~certified mail to the address of the applicant as it appears~~
 24 ~~in the statement of application."~~

25 Section 16. Section 37-8-431, MCA, is amended to read:

1 "37-8-431. Renewal of license. (1) The license of a
 2 person licensed under this chapter must be annually renewed.
 3 Before December 1 of each year, the department shall mail an
 4 application form for renewal of license to every person to
 5 whom a license was issued or renewed during the year. The
 6 applicant shall carefully complete and subscribe the
 7 application form and return it to the department with a
 8 renewal fee of \$10 before January 1.

9 (2) The board may increase or decrease the annual
 10 license fee so as to maintain in the earmarked revenue fund
 11 at all times an adequate amount to be used for the purpose
 12 of administering, policing, and enforcing the provisions of
 13 this chapter. On receipt of the application and fee, the
 14 department shall verify the accuracy of the application
 15 against its record and from other sources the board
 16 considers reliable and issue to the applicant a certificate
 17 of renewal for the current year beginning January 1 and
 18 expiring December 31 following. The certificate of renewal
 19 renders the holder a legal practitioner of nursing for the
 20 period stated in the certificate of renewal.

21 (3) A licensee who allows his license to lapse by
 22 failing to renew the license may be reinstated by the board
 23 on satisfactory explanation for the failure to renew license
 24 and on payment of the current renewal fee prescribed by the
 25 board.

1 (4) A person practicing nursing during the time
2 following the date his license has expired is an illegal
3 practitioner and is subject to the penalties provided for
4 violations of this chapter.

5 (5) The board may establish a reasonable late fee for
6 licensees who fail to renew their license by January 1 as
7 required in subsection (1)."

8 Section 17. Section 37-8-441, MCA, is amended to read:

9 "37-8-441. Denial, revocation, or suspension of
10 license -- grounds. Only after compliance with 37-8-442, the
11 board,--acting--under--the--appropriate--administration, may
12 deny, revoke, or suspend a license to practice nursing or
13 discipline a licensee on proof that the person:

14 (1) is guilty of fraud or deceit in procuring or
15 attempting to procure a license to practice nursing;

16 ~~(2) is guilty of a crime or gross immorality;~~

17 ~~(3) (2)~~ is unfit or incompetent by reason of
18 negligence, habit, or other causes;

19 ~~(4) (3)~~ is habitually intemperate or is addicted to the
20 use of habit-forming drugs;

21 ~~(5) (4)~~ is mentally or physically incompetent;

22 ~~(6) (5)~~ is guilty of unprofessional conduct;

23 ~~(7) (6)~~ has willfully or repeatedly violated this
24 chapter."

25 Section 18. Section 37-8-442, MCA, is amended to read:

1 "37-8-442. Denial, revocation, or suspension of
2 license -- procedure. (1) On filing a sworn complaint in
3 writing with the board charging a person with violation of
4 37-8-441 as a ground for disciplinary action, the board
5 shall fix a time and place for a public hearing before the
6 board,--to-be-convened-in-membership-as-the-five-member-board
7 for--professional--nurses--or--as-the-eight-member-board-for
8 practical-nurses,--depending-on-the-professional-or-practical
9 status-of--the--licensee,--nurse,--or--person--against--whom
10 complaint-is-made.

11 (2) If the person charged is found guilty of the
12 charges, the board may refuse to grant a license to the
13 applicant or may revoke or suspend a license issued to a
14 licensee.

15 (3) A revoked or suspended license may be reissued
16 after 1 year, in the discretion of the board."

17 NEW SECTION. Section 19. Temporary work permit. (1)
18 The board may issue a temporary work permit for a period not
19 to exceed 90 days to a registered professional nurse or
20 licensed practical nurse who is currently licensed in
21 another state, a territory of the United States, or the
22 District of Columbia and who is an applicant for licensure
23 by endorsement. Such permit is not renewable.

24 (2) The board may issue a temporary work permit to a
25 graduate of an approved nursing education program or

1 approved practical nursing education program pending the
2 results of the first licensing examination following
3 graduation. Such permit is not renewable.

4 (3) To protect the public, the board shall adopt such
5 rules as are necessary to limit the practice of persons
6 issued temporary work permits. Such rules shall include a
7 provision that such practice be supervised by a physician,
8 dentist, osteopath, podiatrist, or registered nurse until a
9 license is issued and shall include a definition of
10 supervision.

11 Section 20. Codification instruction. Section 19 is
12 intended to be codified as an integral part of Title 37,
13 chapter 8, and the provisions of Title 37, chapter 8, apply
14 to section 19.

15 Section 21. Effective date. This act is effective on
16 passage and approval.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 427

3 Senate Public Health, Welfare and Safety Committee

4
5 A Statement of Intent is required for this bill because
6 it delegates rulemaking authority to the Board of Nursing in
7 sections 8, 10, 14, 16 and 19.

8 Section 8 grants the Board authority to adopt rules
9 relating to the conduct of nursing education programs. It is
10 the intent of the Legislature that the rules adopted relate
11 directly toward the nursing education programs insuring that
12 the qualifications of a professional nurse or a practical
13 nurse are adequate in the areas of services to be provided
14 specified in section 4.

15 Sections 10 and 14 grant rulemaking authority to the
16 Board to establish passing scores for the professional and
17 practical nurse examinations and establish requirements for
18 rewriting the examination. It is the intent of the
19 Legislature that the examination scores established be such
20 as to insure the competency of applicants for licensure to
21 protect the public health. Rules for rewriting the
22 examination must provide assurance that the competency is as
23 great as for applicants passing a first examination.

24 Section 16 authorizes the Board to establish a late
25 renewal fee. It is the intent of the Legislature that such

1 fee be sufficient to cover the additional expense incurred
2 in processing late renewals.

3 Section 19 allows the Board to grant temporary work
4 permits. It is the intent of the Legislature that such
5 permits be strictly controlled and that permittees work
6 under the direct supervision of a physician, dentist,
7 osteopath, podiatrist or professional nurse. The Board shall
8 specifically define "direct supervision".

1 SENATE BILL NO. 427

2 INTRODUCED BY S. BROWN, HIMSL

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
6 BOARD OF NURSING UNDER EXISTING STATUTORY AUTHORITY AND
7 RULES AND TO GENERALLY REVISE THE LAWS RELATING TO LICENSURE
8 OF NURSES; MODIFYING BOARD MAKEUP; PROVIDING FOR STAGGERED
9 4-YEAR TERMS FOR BOARD MEMBERS; REVISING DEFINITIONS OF
10 NURSING; AUTHORIZING TEMPORARY NURSING PERMITS; PROVIDING
11 FOR A LATE RENEWAL FEE; AMENDING SECTIONS 2-8-103,
12 2-15-1610, 37-8-102, 37-8-103, 37-8-201, 37-8-202, 37-8-301,
13 37-8-302, 37-8-406, 37-8-407, 37-8-409, 37-8-415 THROUGH
14 37-8-417, 37-8-431, 37-8-441, AND 37-8-442, MCA; AND
15 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

16
17 WHEREAS, The sunset law, sections 2-8-103 and 2-8-112,
18 MCA, terminates the Board of Nursing and requires a
19 performance evaluation of the Board by the Legislative Audit
20 Committee; and

21 WHEREAS, as a result of the performance evaluation, the
22 Legislative Audit Committee recommends that the Board of
23 Nursing be reestablished under existing statutory authority.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

4 Section 2. Section 2-8-103, MCA, is amended to read:
5 "2-8-103. Agencies to terminate. (1) The following
6 agencies shall terminate on July 1, 1979:

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

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

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

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

16 (2) The following agencies shall terminate on July 1,
17 1981:

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

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

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

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

1 (e) board of cosmetologists, department of
2 professional and occupational licensing, created by
3 2-15-1626;

4 (f) board of dentists, department of professional and
5 occupational licensing, created by 2-15-1606;

6 (g) board of hearing aid dispensers, department of
7 professional and occupational licensing, created by
8 2-15-1616;

9 (h) board of massage therapists, department of
10 professional and occupational licensing, created by
11 2-15-1627;

12 (i) Montana state board of medical examiners,
13 department of professional and occupational licensing,
14 created by 2-15-1605;

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

17 ~~(k) board of nursing, department of professional and
18 occupational licensing, created by 2-15-1610;~~

19 ~~(l)(k) board of nursing home administrators,
20 department of professional and occupational licensing,
21 created by 2-15-1611;~~

22 (n)(l) board of optometrists, department of
23 professional and occupational licensing, created by
24 2-15-1612;

25 (n)(m) board of osteopathic physicians, department of

1 professional and occupational licensing, created by
2 2-15-1607;

3 ~~(o)(n)~~ board of pharmacists, department of
4 professional and occupational licensing, created by
5 2-15-1609;

6 ~~(p)(o)~~ board of podiatry examiners, department of
7 professional and occupational licensing, created by
8 2-15-1608;

9 ~~(q)(p)~~ board of psychologists, department of
10 professional and occupational licensing, created by
11 2-15-1617;

12 ~~(r)(q)~~ board of radiologic technologists, department
13 of professional and occupational licensing, created by
14 2-15-1614;

15 ~~(s)(r)~~ board of speech pathologists and audiologists,
16 department of professional and occupational licensing,
17 created by 2-15-1615;

18 ~~(t)(s)~~ board of veterinarians, department of
19 professional and occupational licensing, created by
20 2-15-1618;

21 ~~(u)(t)~~ board of veterans' affairs, department of
22 social and rehabilitation services, created by 2-15-2202;

23 ~~(v)(u)~~ board of sanitarians, department of
24 professional and occupational licensing, created by
25 2-15-1631.

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

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

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

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

9 (d) board of livestock, department of livestock,
10 created by 2-15-3102;

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

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

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

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

19 (i) board of water and wastewater operators,
20 department of health and environmental sciences, created by
21 2-15-2105;

22 (j) board of water well contractors, department of
23 professional and occupational licensing, created by
24 2-15-1632.

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

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

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

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

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

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

9 (f) office of commissioner of insurance and the
10 insurance department, state auditor's office, created by
11 2-15-1902 and 2-15-1903;

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

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

16 (i) the board of county printing, created by
17 2-15-1102;

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

19 (k) board of physical therapy examiners, created by
20 2-15-1628.

21 (5) The following agency terminates on July 1, 1987:
22 the board of nursing, department of professional and
23 occupational licensing, created by 2-15-1610."

24 Section 3. Section 2-15-1610, MCA, is amended to read:
25 "2-15-1610. Board of nursing. (1) There is a board of

1 nursing.

2 (2) The board consists of eight ~~nine~~ IEN members
3 appointed by the governor. The members are:

4 (a) ~~five~~ ~~four~~ FIVE registered professional nurses; who
5 ~~constitute the board professional nursing administration.~~
6 ~~At~~ ~~at~~ least three members ~~one such member~~ shall have had at
7 least 3 5 years in administrative, teaching, or supervisory
8 experience in one or more schools of nursing and at least
9 one such member must be currently engaged in the
10 administration, supervision, or provision of direct client
11 care. Each member shall:

12 (i) be a graduate of an approved school of nursing;
13 (ii) be a licensed registered professional nurse in
14 this state;
15 (iii) have had at least 5 years' experience in nursing
16 following graduation; and
17 (iv) ~~have been actively be currently~~ engaged in the
18 practice of professional nursing and have practiced for at
19 least 3 5 years ~~immediately before appointment.~~

20 (b) three practical nurses ~~who constitute the~~
21 ~~board practical nursing administration.~~ Each member shall:

22 (i) be a graduate of a school of practical nursing;
23 (ii) be a licensed practical nurse in this state;
24 (iii) have had at least 3 5 years' experience as a
25 practical nurse; and

1 (iv) ~~have been actively be currently~~ engaged in the
2 practice of practical nursing and have practiced for at
3 least 2 3 5 years ~~immediately before appointment.~~

4 (c) two public members who are not medical
5 practitioners or involved in the practice OF NURSING or
6 employment of nursing.

7 (3) All members shall have been residents of this
8 state for at least 1 year before appointment and be citizens
9 of the United States.

10 (4) ~~All members shall serve for a term of 5 years~~
11 Members shall serve staggered 4-year terms, and a member may
12 not be appointed for more than two consecutive terms. The
13 governor may remove a member from the board for neglect of a
14 duty required by law or for incompetency or unprofessional
15 or dishonorable conduct.

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

18 Section 4. Section 37-8-102, MCA, is amended to read:
19 "37-8-102. Definitions. Unless the context requires
20 otherwise, in this chapter the following definitions apply:

21 (1) "Board" means the board of nursing provided for in
22 2-15-1610 ~~with dual functions in the field of professional~~
23 ~~nursing and practical nursing. In matters relating to~~
24 ~~professional nursing the board consists of five members. In~~
25 ~~matters relating to practical nursing the board consists of~~

~~eight members. The board of five members may, for convenience, be referred to as the "board", followed by the words "professional nursing administration", and the board of eight members may, for convenience, be referred to as the "board", followed by the words "practical nursing administration".~~

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

(3) "Practice of nursing" embraces two classes of nursing service and activity, as follows:

(a) "Practice of professional nursing" means the ~~performance for compensation of an act in the observation, care and counsel of the ill, injured, or infirm or in the maintenance of health or prevention of illness of others or in the supervision and teaching of other personnel or the administration of medications and treatments prescribed by a person licensed in this state to prescribe medications and treatments, requiring substantial specialized judgment and skill and based on knowledge and application of the principles of biological, physical, and social sciences~~ services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment,

nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health; the prevention, casefinding, and management of illness, injury, or infirmity; and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (3)(a):

(i) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;

(ii) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals.

(b) "Practice of practical nursing" means the performance for compensation ~~in the care of the ill, injured, or infirm of acts selected by and performed under the direction of a registered professional nurse or a person licensed in this state to prescribe medications and treatments, and not requiring the substantial specialized skill, judgment, and knowledge required in professional nursing~~ of services requiring basic knowledge of the

1 biological, physical, behavioral, psychological, and
 2 sociological sciences and of nursing procedures. Practical
 3 nursing practice utilizes standardized procedures leading to
 4 predictable outcomes in the observation and care of the ill,
 5 injured, and infirm; in the maintenance of health; in action
 6 to safeguard life and health; and in the administration of
 7 medications and treatments prescribed by a physician,
 8 dentist, osteopath, or podiatrist authorized by state law to
 9 prescribe medications and treatments. These services are
 10 performed under the supervision of a registered nurse or a
 11 physician, dentist, osteopath, or podiatrist authorized by
 12 state law to prescribe medications and treatments.

13 (4) "Nursing education program" means any
 14 board-approved school that prepares graduates for initial
 15 licensure under this chapter. Nursing education programs
 16 for:

17 (a) professional nursing may be a department, school,
 18 division, or other administrative unit in a senior or junior
 19 college or university;

20 (b) practical nursing may be a department, school,
 21 division, or other administrative unit in a
 22 vocational-technical center or junior college."

23 Section 5. Section 37-8-103, MCA, is amended to read:

24 "37-8-103. Exemptions — limitations on authority
 25 conferred. (1) No provisions of this law may be construed as

1 prohibiting:

2 (a) gratuitous nursing by friends or members of the
 3 family;

4 (b) incidental care of the sick by domestic servants
 5 or persons primarily employed as housekeepers;

6 (c) nursing assistance in the case of an emergency;

7 (d) the practice of nursing by students enrolled in
 8 approved schools of nursing or approved courses -- or -- by -- the
 9 graduates -- of -- such -- schools -- or -- courses -- pending -- the -- results -- of
 10 the first licensing examination scheduled by the board
 11 following their graduation nursing education programs;

12 (e) the practice of nursing in this state by any
 13 legally qualified nurse of another state whose engagement
 14 requires the nurse to accompany and care for a patient
 15 temporarily residing in this state during the period of one
 16 such engagement not to exceed 6 months in length, provided
 17 that person does not represent or hold herself or himself
 18 out to be a nurse licensed to practice in this state;

19 (f) the practice of any legally qualified nurse of
 20 another state who is employed by the United States
 21 government or any bureau, division, or agency thereof while
 22 in the discharge of that nurse's official duties;

23 (g) nursing or care of the sick, with or without
 24 compensation, when done in connection with the practice of
 25 the religious tenets of any well-established religion or

1 denomination by adherents thereof;

2 (h) nursing or care of a minor who is in the care of a
3 licensed foster parent, to the same extent such care may be
4 provided by a parent or guardian.

5 (2) This chapter may not be construed as conferring
6 any authority to practice medicine, surgery, or any
7 combination thereof; to confer any authority to practice any
8 of the healing arts prescribed by law to be practiced in the
9 state of Montana; or to permit any person to undertake the
10 treatment of disease by any of the methods employed in those
11 arts unless the licensee has been qualified under the
12 applicable law or laws licensing the practice of those
13 professions or healing arts in the state of Montana."

14 Section 6. Section 37-8-201, MCA, is amended to read:

15 "37-8-201. Seal -- board records public -- legal
16 counsel. (1) The board shall have a seal which shall be used
17 to authenticate its acts under each administration. The seal
18 shall have inscribed the words "Board of Nursing--Official
19 Seal" and a device or legend designated by the board.

20 (2) The records and files of the board kept by the
21 department are at all times open to public inspection.

22 (3) The attorney general is the attorney and legal
23 counsel for the board, but the department may, with the
24 approval of the attorney general, appoint additional legal
25 counsel to assist the board and department in the

1 administration and enforcement of this chapter."

2 Section 7. Section 37-8-202, MCA, is amended to read:

3 "37-8-202. Organization -- meetings -- powers and
4 duties ~~--- dual ---~~ administration. (1) The board ~~practical~~
5 nursing administration shall meet annually in the month of
6 July and shall elect from among the eight ~~nine~~ TEN members a
7 president and a secretary, each of whom is a professional
8 nurse. The board ~~practical nursing administration~~ shall
9 hold other meetings when necessary to transact its business.
10 ~~The board professional nursing administration shall meet~~
11 ~~annually in July and shall hold other meetings when~~
12 ~~necessary to transact its business.~~ A majority of the board
13 ~~as separately constituted for each administration, including~~
14 ~~in the majority at least one officer of the board,~~
15 constitutes a quorum at any meeting; ~~however, when sitting~~
16 ~~as the practical nursing administration, a quorum consists~~
17 ~~of a minimum of two practical nurse members and three~~
18 ~~professional nurse members, including one board officer.~~ The
19 department shall keep separate and complete minutes and
20 records of the respective administration meetings and rules
21 and orders promulgated by each administration of the board,
22 and each administration shall exercise its functions,
23 powers, and duties exclusive of the others, except for the
24 identity and membership provided in this chapter.

25 (2) The board under each administration may make rules

1 necessary to enable ~~the respective administrations~~ to
 2 administer this chapter. The board under each administration
 3 shall prescribe curricula and standards for schools and
 4 courses preparing persons for registration and licensure
 5 under this chapter. It shall provide for surveys of schools
 6 and courses at times it considers necessary. It shall
 7 approve schools and courses programs that meet the
 8 requirements of this chapter and of the board. The
 9 department shall, subject to 37-1-101, examine and issue to
 10 and renew licenses of qualified applicants. The board shall
 11 conduct hearings on charges calling WHICH MAY CALL for
 12 discipline of a licensee, revocation of a license, or
 13 removal of schools of nursing from the approved list. It
 14 shall cause the prosecution of persons violating this
 15 chapter and may incur necessary expenses for this.

16 (3) The board under each administration may adopt and
 17 the department shall publish forms for use by applicants and
 18 others, including license, certificate, and identity forms
 19 and other appropriate forms and publications convenient for
 20 the proper administration of this chapter, and the board may
 21 fix reasonable fees for incidental services, all within the
 22 subject matter delegated to each administration by this
 23 chapter. Forms shall make clear reference to the
 24 administration for which the form is intended.

25 (4) ~~Unless the context requires otherwise, the powers~~

1 and duties enumerated in this chapter shall be exercised and
 2 performed by the board professional nursing administration
 3 in all matters relating to professional nurses or
 4 professional nursing education and shall be exercised and
 5 performed by the board inclusive of the practical nursing
 6 administration in all matters relating to practical nurses
 7 and practical nursing education. The officers of the board
 8 shall also be the officers of the board inclusive of the
 9 practical nursing administration.

10 (4) The board may participate in and pay fees to a
 11 national organization of state boards of nursing to assure
 12 interstate endorsement of licenses."

13 Section 8. Section 37-8-301, MCA, is amended to read:
 14 "37-8-301. Schools of nursing Nursing education
 15 programs -- application for approval. An institution
 16 desiring to conduct a school of professional or practical
 17 nursing education program in the state shall apply to the
 18 department and submit evidence that:

19 (1) ~~it is prepared to carry out the prescribed basic~~
 20 ~~professional nursing curriculum or the prescribed curriculum~~
 21 ~~for practical nursing, as the case may be, and~~

22 (2) ~~it is prepared to meet other standards established~~
 23 ~~by this law and by the board, it is prepared to carry out an~~
 24 ~~educational program that complies with the provisions of~~
 25 ~~this chapter and the rules adopted by the board pursuant to~~

1 ~~this section. The board shall adopt rules relating to the~~
 2 ~~conduct of nursing education programs that are directed~~
 3 ~~toward insuring qualifications to practice as a professional~~
 4 ~~nurse or a practical nurse in those areas of service~~
 5 ~~specified in 37-8-102."~~

6 Section 9. Section 37-8-302, MCA, is amended to read:

7 "37-8-302. ~~Schools of nursing~~ Nursing education
 8 programs -- survey and approval. (1) ~~A survey of the school~~
 9 ~~and institution or institutions with which the school is to~~
 10 ~~be affiliated shall be made by the department, which shall~~
 11 ~~submit a detailed written report of the survey to the board.~~
 12 It is the duty of the department through its authorized
 13 employees or representatives to periodically survey all
 14 nursing education programs. Written reports of such surveys
 15 shall be submitted to the board. If, in the opinion of the
 16 board, the requirements for an approved school ~~of nursing~~
 17 ~~(professional or practical) nursing education program~~ are
 18 met, ~~it shall approve the school as an approved school of~~
 19 nursing the program shall be granted initial or continuing
 20 approval.

21 (2) When if the board determines that on any approved
 22 school ~~of nursing education program~~ is not maintaining the
 23 standards required by law and the rules established by the
 24 board, notice ~~in writing~~ shall be given to the nursing
 25 education program specifying the defect ~~shall be immediately~~

1 ~~given to the school areas of noncompliance. A school which~~
 2 ~~program that~~ fails to correct these conditions ~~to the~~
 3 ~~satisfaction of the board areas of noncompliance~~ within a
 4 reasonable the time designated by the board shall be removed
 5 from the list of approved schools ~~of nursing education~~
 6 programs."

7 Section 10. Section 37-8-406, MCA, is amended to read:

8 "37-8-406. ~~Professional license~~ -- professional
 9 nursing -- examination -- fee. (1) An applicant for a
 10 license to practice as a registered professional nursing
 11 nurse is required to pass a written examination in subjects
 12 the board, ~~acting under the professional nursing~~
 13 ~~administration~~ determines necessary. A written examination
 14 may be supplemented by an oral or practical examination. On
 15 successfully ~~passing the examination~~, the department shall
 16 ~~issue to the applicant a license to practice nursing as a~~
 17 ~~registered professional nurse. The applicant shall pay a fee~~
 18 ~~of \$35 at the time the application is submitted, which shall~~
 19 ~~be returned to the applicant if the application is withdrawn~~
 20 ~~not later than 5 days prior to the date of examination or if~~
 21 ~~the examination is not taken, subject to deduction by the~~
 22 ~~department of \$1 per subject of the examination which shall~~
 23 ~~be retained by the department. The board may use any~~
 24 national standardized examination for professional nurse
 25 licensure identified in its rules. The passing score on such

1 examination shall be established by the board in its rules.
 2 On successfully passing the examination, an applicant shall
 3 be issued a license to practice professional nursing.

4 (2) The board shall establish in its rules the
 5 requirements for rewriting the examination for those persons
 6 failing the examination on the first writing and subsequent
 7 writing."

8 Section 11. Section 37-8-407, MCA, is amended to read:

9 "37-8-407. Reciprocity Endorsement -- professional
 10 nursing. (1) The board ~~professional nursing administration~~
 11 may issue without examination a license to practice nursing
 12 as a registered professional nurse to an applicant who has
 13 been licensed or registered as a professional nurse under
 14 the laws of another state or territory if in the opinion of
 15 the board the applicant meets the qualifications required of
 16 registered nurses in this state at the time the applicant
 17 graduated from a school of nursing. The applicant shall pay
 18 a fee of \$35 at the time the application is submitted, which
 19 shall be returned to the applicant if the application is
 20 withdrawn not later than 5 days prior to final submission of
 21 the application to the board, subject to deduction of \$5 to
 22 be retained by the department.

23 ~~(2) An applicant may, pending licensure as a~~
 24 ~~professional nurse under subsection (1) of this section,~~
 25 ~~practice professional nursing as an employee of a health~~

1 ~~care agency for a period not longer than 3 months from the~~
 2 ~~date the department acknowledges receiving from the nurse a~~
 3 ~~completed statement, on a form provided by the department,~~
 4 ~~of intention to practice. The statement shall consist of an~~
 5 ~~affidavit by the nurse and an affidavit by the employer~~
 6 ~~where the nurse intends to practice professional nursing.~~
 7 ~~The affidavit of the nurse and the affidavit of the employer~~
 8 ~~shall contain the information deemed by the board necessary~~
 9 ~~for the statement.~~

10 ~~(3) Subsection (2) does not permit the nurse to~~
 11 ~~practice for more than a 3-month period or in any event~~
 12 ~~after being notified by the board through the department~~
 13 ~~that the application for a license has been denied or in all~~
 14 ~~cases after being notified by the board through the~~
 15 ~~department to cease and desist this practice. Notice shall~~
 16 ~~be given by registered or certified mail to the address of~~
 17 ~~the applicant as it appears in the statement of the~~
 18 ~~applicant."~~

19 Section 12. Section 37-8-409, MCA, is amended to read:

20 "37-8-409. Midwifery -- when professional nurse may
 21 practice. (1) A person licensed under 37-8-406 or 37-8-407
 22 who holds a certificate in nurse-midwifery from the American
 23 college of nurse-midwives may practice midwifery upon
 24 approval by the board ~~professional nursing administration~~
 25 of an amendment to her license granting a certificate of

1 nurse-midwifery. The board shall grant a certificate of
 2 nurse-midwifery to a person who submits written verification
 3 of certification by the American college of nurse-midwives
 4 and who meets such other qualification requirements as the
 5 board may prescribe.

6 (2) The board--professional nursing administration may
 7 give temporary approval to practice nurse-midwifery for up
 8 to 4 months to a person who has taken the American college
 9 of nurse-midwives national certification examination,
 10 pending receipt of official notification of the results of
 11 the examination."

12 Section 13. Section 37-8-415, MCA, is amended to read:
 13 "37-8-415. Licensed practical nursing --
 14 qualifications of applicants. An applicant for a license to
 15 practice as a licensed practical nurse shall submit to the
 16 department board written evidence, verified by oath, that
 17 the applicant:

18 (1) has successfully completed at least an approved
 19 4-year high school course of study or the equivalent as
 20 determined by the office of the superintendent of public
 21 instruction;

22 (2) has ~~successfully completed the prescribed~~
 23 ~~curriculum in an approved school of practical nursing and~~
 24 ~~holds a diploma or certificate therefrom~~ is a graduate of an
 25 approved practical nursing education program that is

1 authorized to prepare persons for licensure as practical
 2 nurses; and

3 (3) meets other qualification requirements the board
 4 acting--under--the--practical--nursing--administration
 5 prescribes in its rules."

6 Section 14. Section 37-8-416, MCA, is amended to read:

7 "37-8-416. Licensed practical nursing -- examination.
 8 An applicant for a license to practice as a practical nurse
 9 is required to pass a written examination in subjects as the
 10 board,--acting--under--the--practical--nursing--administration
 11 determines. A written examination may be supplemented by an
 12 oral or practical examination. The board may use any
 13 nationally standardized examination for practical nurse
 14 licensure identified by the board in its rules. The passing
 15 score shall be established by the board in its rules. On
 16 successfully passing the examination, the department board
 17 shall issue to the applicant a license to practice as a
 18 licensed practical nurse."

19 Section 15. Section 37-8-417, MCA, is amended to read:

20 "37-8-417. Reciprocity Endorsement -- licensed
 21 practical nursing. ~~(1)~~ The board--practical--nursing
 22 administration may issue a license to practice as a licensed
 23 practical nurse, without examination, to an applicant who
 24 has been licensed or registered as a licensed practical
 25 nurse or person entitled to perform like services under a

1 different title under the laws of another state or territory
 2 if, in the opinion of the ~~practical nursing administration~~
 3 board, the applicant meets the requirements for practical
 4 nurses in this state.

5 ~~(2) An applicant may, pending licensure as a practical~~
 6 ~~nurse under subsection (1) of this section, practice~~
 7 ~~practical nursing as an employee of a health care agency for~~
 8 ~~a period of not longer than 3 months from the date the~~
 9 ~~department acknowledges receiving from the practical nurse a~~
 10 ~~completed statement on a form provided by the department~~
 11 ~~of intention to practice. The statement shall consist of an~~
 12 ~~affidavit by the practical nurse and an affidavit by the~~
 13 ~~employer where the practical nurse intends to practice~~
 14 ~~practical nursing. The affidavit of the nurse and the~~
 15 ~~affidavit of the employer shall contain the information~~
 16 ~~considered by the board necessary for the statement. This~~
 17 ~~subsection does not permit the nurse to practice for more~~
 18 ~~than a 3-month period or in any event after being notified~~
 19 ~~by the board through the department that the application for~~
 20 ~~a license has been denied or in all cases after being~~
 21 ~~notified by the board through the department to cease and~~
 22 ~~desist this practice. Notice shall be given by registered or~~
 23 ~~certified mail to the address of the applicant as it appears~~
 24 ~~in the statement of application."~~

25 Section 16. Section 37-8-431, MCA, is amended to read:

1 "37-8-431. Renewal of license. (1) The license of a
 2 person licensed under this chapter must be annually renewed.
 3 Before December 1 of each year, the department shall mail an
 4 application form for renewal of license to every person to
 5 whom a license was issued or renewed during the year. The
 6 applicant shall carefully complete and subscribe the
 7 application form and return it to the department with a
 8 renewal fee of \$10 before January 1.

9 (2) The board may increase or decrease the annual
 10 license fee so as to maintain in the earmarked revenue fund
 11 at all times an adequate amount to be used for the purpose
 12 of administering, policing, and enforcing the provisions of
 13 this chapter. On receipt of the application and fee, the
 14 department shall verify the accuracy of the application
 15 against its record and from other sources the board
 16 considers reliable and issue to the applicant a certificate
 17 of renewal for the current year beginning January 1 and
 18 expiring December 31 following. The certificate of renewal
 19 renders the holder a legal practitioner of nursing for the
 20 period stated in the certificate of renewal.

21 (3) A licensee who allows his license to lapse by
 22 failing to renew the license may be reinstated by the board
 23 on satisfactory explanation for the failure to renew license
 24 and on payment of the current renewal fee prescribed by the
 25 board.

1 (4) A person practicing nursing during the time
2 following the date his license has expired is an illegal
3 practitioner and is subject to the penalties provided for
4 violations of this chapter.

5 ~~(5) The board may establish a reasonable late fee for~~
6 ~~licensees who fail to renew their license by January 1 as~~
7 ~~required in subsection (1)."~~

8 Section 17. Section 37-8-441, MCA, is amended to read:
9 "37-8-441. Denial, revocation, or suspension of
10 license -- grounds. Only after compliance with 37-8-442, the
11 board, acting under the appropriate administration, may
12 deny, revoke, or suspend a license to practice nursing or
13 discipline a licensee on proof that the person:

14 (1) is guilty of fraud or deceit in procuring or
15 attempting to procure a license to practice nursing;

16 ~~(2) is guilty of a crime or gross immorality;~~

17 ~~(3)(2)~~ is unfit or incompetent by reason of
18 negligence, habit, or other causes;

19 ~~(4)(3)~~ is habitually intemperate or is addicted to the
20 use of habit-forming drugs;

21 ~~(5)(4)~~ is mentally or physically incompetent;

22 ~~(6)(5)~~ is guilty of unprofessional conduct;

23 ~~(7)(6)~~ has willfully or repeatedly violated this
24 chapter."

25 Section 18. Section 37-8-442, MCA, is amended to read:

1 "37-8-442. Denial, revocation, or suspension of
2 license -- procedure. (1) On filing a sworn complaint in
3 writing with the board charging a person with violation of
4 37-8-441 as a ground for disciplinary action, the board
5 shall fix a time and place for a public hearing before the
6 board, to be convened in membership as the five-member board
7 for professional nurses or as the eight-member board for
8 practical nurses, depending on the professional or practical
9 status of the licensee, nurse, or person against whom
10 complaint is made.

11 (2) If the person charged is found guilty of the
12 charges, the board may refuse to grant a license to the
13 applicant or may revoke or suspend a license issued to a
14 licensee.

15 (3) A revoked or suspended license may be reissued
16 after 1 year, in the discretion of the board."

17 NEW SECTION. Section 19. Temporary work permit. (1)
18 The board may issue a temporary work permit for a period not
19 to exceed 90 days to a registered professional nurse or
20 licensed practical nurse who is currently licensed in
21 another state, a territory of the United States, or the
22 District of Columbia and who is an applicant for licensure
23 by endorsement. Such permit is not renewable.

24 (2) The board may issue a temporary work permit to a
25 graduate of an approved nursing education program or

1 approved practical nursing education program pending the
2 results of the first licensing examination following
3 graduation. Such permit is not renewable.

4 {3} To protect the public, the board shall adopt such
5 rules as are necessary to limit the practice of persons
6 issued temporary work permits. Such rules shall include a
7 provision that such practice be supervised by a physician,
8 dentist, osteopath, podiatrist, or registered nurse until a
9 license is issued and shall include a definition of
10 supervision.

11 Section 20. Codification instruction. Section 19 is
12 intended to be codified as an integral part of Title 37,
13 chapter 8, and the provisions of Title 37, chapter 8, apply
14 to section 19.

15 Section 21. Effective date. This act is effective on
16 passage and approval.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 427

3 Senate Public Health, Welfare and Safety Committee

4
5 A statement of intent is required for this bill because
6 it delegates rulemaking authority to the Board of Nursing in
7 sections 7, 8, 10, 14, 16, and 19. SECTION 7 ALLOWS THE
8 BOARD OF NURSING TO APPROVE CERTAIN PROGRAMS RELATED TO
9 REGISTRATION AND LICENSURE AND THE SECTION ALSO PERMITS THE
10 BOARD TO DEFINE THE EDUCATIONAL REQUIREMENTS AND OTHER
11 QUALIFICATIONS APPLICABLE TO SPECIALTY AREAS OF NURSING. IT
12 IS THE INTENT OF THE LEGISLATURE THAT THE RULES ADOPTED BY
13 THE BOARD PURSUANT TO THESE DELEGATIONS OF RULEMAKING POWER
14 BE SUFFICIENT TO ENSURE THE COMPETENCY OF THOSE PRACTICING
15 NURSING IN MONTANA. PROGRAM APPROVAL RULES ARE INTENDED TO
16 BE AS DESCRIBED IN THE FOLLOWING PARAGRAPH. RULES CONCERNING
17 SPECIALTY AREAS SHOULD ADDRESS THE OVERALL NATURE OF THE
18 REQUIRED COURSES, THE APPROVAL OF SUCH COURSES THROUGH
19 AMERICAN NURSES' ASSOCIATION CERTIFICATION OR BY OTHER
20 MEANS, AND THE PROHIBITION OF THE USE OF A TITLE INDICATING
21 A NURSING SPECIALTY BY A PERSON NOT APPROVED BY THE BOARD AS
22 SUCH A SPECIALIST.

23 Section 8 grants the Board authority to adopt rules
24 relating to the conduct of nursing education programs. It is
25 the intent of the Legislature that the rules adopted relate

1 directly toward the nursing education programs insuring that
2 the qualifications of a professional nurse or a practical
3 nurse are adequate in the areas of services to be provided
4 specified in section 4.

5 Sections 10 and 14 grant rulemaking authority to the
6 Board to establish passing scores for the professional and
7 practical nurse examinations and establish requirements for
8 rewriting the examination. It is the intent of the
9 Legislature that the examination scores established be such
10 as to insure the competency of applicants for licensure to
11 protect the public health. Rules for rewriting the
12 examination must provide assurance that the competency is as
13 great as for applicants passing a first examination.

14 Section 16 authorizes the Board to establish a late
15 renewal fee. It is the intent of the Legislature that such
16 fee be sufficient to cover the additional expense incurred
17 in processing late renewals.

18 Section 19 allows the Board to grant temporary work
19 permits. It is the intent of the Legislature that such
20 permits be strictly controlled and that permittees work
21 under the direct supervision of a physician, dentist,
22 osteopath, podiatrist, or professional nurse. The Board
23 shall specifically define "direct supervision".

1 SENATE BILL NO. 427

2 INTRODUCED BY S. BROWN, HIMSL

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
6 BOARD OF NURSING UNDER EXISTING STATUTORY AUTHORITY AND
7 RULES AND TO GENERALLY REVISE THE LAWS RELATING TO LICENSURE
8 OF NURSES; MODIFYING BOARD MAKEUP; PROVIDING FOR STAGGERED
9 4-YEAR TERMS FOR BOARD MEMBERS; REVISING DEFINITIONS OF
10 NURSING; AUTHORIZING TEMPORARY NURSING PERMITS; PROVIDING
11 FOR A LATE RENEWAL FEE; AMENDING SECTIONS 2-8-103,
12 2-15-1610, 37-8-102, 37-8-103, 37-8-201, 37-8-202, 37-8-301,
13 37-8-302, 37-8-406, 37-8-407, 37-8-409, 37-8-415 THROUGH
14 37-8-417, 37-8-431, 37-8-441, AND 37-8-442, MCA; AND
15 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

16
17 WHEREAS, The sunset law, sections 2-8-103 and 2-8-112,
18 MCA, terminates the Board of Nursing and requires a
19 performance evaluation of the Board by the Legislative Audit
20 Committee; and

21 WHEREAS, as a result of the performance evaluation, the
22 Legislative Audit Committee recommends that the Board of
23 Nursing be reestablished under existing statutory authority.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

4 Section 2. Section 2-8-103, MCA, is amended to read:
5 "2-8-103. Agencies to terminate. (1) The following
6 agencies shall terminate on July 1, 1979:

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

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

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

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

16 (2) The following agencies shall terminate on July 1,
17 1981:

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

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

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

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

1 (e) board of cosmetologists, department of
2 professional and occupational licensing, created by
3 2-15-1626;

4 (f) board of dentists, department of professional and
5 occupational licensing, created by 2-15-1606;

6 (g) board of hearing aid dispensers, department of
7 professional and occupational licensing, created by
8 2-15-1616;

9 (h) board of massage therapists, department of
10 professional and occupational licensing, created by
11 2-15-1627;

12 (i) Montana state board of medical examiners,
13 department of professional and occupational licensing,
14 created by 2-15-1605;

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

17 ~~{k}--board-of-nursing--department-of--professional--and~~
18 ~~occupational--licensing--created-by-2-15-1618;~~

19 ~~++{k}~~ board of nursing home administrators,
20 department of professional and occupational licensing,
21 created by 2-15-1611;

22 ~~{m}{l}~~ board of optometrists, department of
23 professional and occupational licensing, created by
24 2-15-1612;

25 ~~{n}{m}~~ board of osteopathic physicians, department of

1 professional and occupational licensing, created by
2 2-15-1607;

3 ~~{o}{n}~~ board of pharmacists, department of
4 professional and occupational licensing, created by
5 2-15-1609;

6 ~~{p}{o}~~ board of podiatry examiners, department of
7 professional and occupational licensing, created by
8 2-15-1608;

9 ~~{q}{p}~~ board of psychologists, department of
10 professional and occupational licensing, created by
11 2-15-1617;

12 ~~{r}{q}~~ board of radiologic technologists, department
13 of professional and occupational licensing, created by
14 2-15-1614;

15 ~~{s}{r}~~ board of speech pathologists and audiologists,
16 department of professional and occupational licensing,
17 created by 2-15-1615;

18 ~~{t}{s}~~ board of veterinarians, department of
19 professional and occupational licensing, created by
20 2-15-1618;

21 ~~{u}{t}~~ board of veterans' affairs, department of
22 social and rehabilitation services, created by 2-15-2202;

23 ~~{v}{u}~~ board of sanitarians, department of
24 professional and occupational licensing, created by
25 2-15-1631.

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

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

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

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

9 (d) board of livestock, department of livestock,
10 created by 2-15-3102;

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

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

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

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

19 (i) board of water and wastewater operators,
20 department of health and environmental sciences, created by
21 2-15-2105;

22 (j) board of water well contractors, department of
23 professional and occupational licensing, created by
24 2-15-1632.

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

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

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

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

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

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

9 (f) office of commissioner of insurance and the
10 insurance department, state auditor's office, created by
11 2-15-1902 and 2-15-1903;

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

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

16 (i) the board of county printing, created by
17 2-15-1102;

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

19 (k) board of physical therapy examiners, created by
20 2-15-1628.

21 (5) The following agency terminates on July 1, 1987:
22 the board of nursing, department of professional and
23 occupational licensing, created by 2-15-1610."

24 Section 3. Section 2-15-1610, MCA, is amended to read:
25 "2-15-1610. Board of nursing. (1) There is a board of

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1 nursing.

2 (2) The board consists of eight ~~nine~~ ~~FEN~~ NINE members
3 appointed by the governor. The members are:

4 (a) ~~five~~ ~~four~~ ~~FIVE~~ ~~FOUR~~ registered professional
5 nurses; ~~who constitute the board professional nursing~~
6 ~~administration. At at least three members one such member~~
7 shall have had at least 3 5 years in administrative,
8 teaching, or supervisory experience in one or more schools
9 of nursing and at least one such member must be currently
10 engaged in the administration, supervision, or provision of
11 direct client care. Each member shall:

12 (i) be a graduate of an approved school of nursing;

13 (ii) be a licensed registered professional nurse in
14 this state;

15 (iii) have had at least 5 years' experience in nursing
16 following graduation; and

17 (iv) ~~have been actively~~ be currently engaged in the
18 practice of professional nursing and have practiced for at
19 least 3 5 years ~~immediately before appointment.~~

20 (b) three practical nurses ~~who constitute the~~
21 ~~board practice nursing administration.~~ Each member shall:

22 (i) be a graduate of a school of practical nursing;

23 (ii) be a licensed practical nurse in this state;

24 (iii) have had at least 3 5 years' experience as a
25 practical nurse; and

1 (iv) ~~have been actively~~ be currently engaged in the
2 practice of practical nursing and have practiced for at
3 least 2 5 years ~~immediately before appointment.~~

4 ~~(c) two public members who are not medical~~
5 ~~practitioners or involved in the practice of nursing or~~
6 ~~employment of nursing, OR ADMINISTRATORS OF MONTANA HEALTH~~
7 ~~CARE FACILITIES.~~

8 (3) All members shall have been residents of this
9 state for at least 1 year before appointment and be citizens
10 of the United States.

11 ~~All members shall serve for a term of 5 years~~
12 ~~Members shall serve staggered 4-year terms,~~ and a member may
13 not be appointed for more than two consecutive terms. The
14 governor may remove a member from the board for neglect of a
15 duty required by law or for incompetency or unprofessional
16 or dishonorable conduct.

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

19 Section 4. Section 37-8-102, MCA, is amended to read:

20 "37-8-102. Definitions. Unless the context requires
21 otherwise, in this chapter the following definitions apply:
22 (1) "Board" means the board of nursing provided for in
23 2-15-1610 ~~with dual functions in the field of professional~~
24 ~~nursing and practical nursing. In matters relating to~~
25 ~~professional nursing, the board consists of five members, in~~

1 ~~matters relating to practical nursing, the board consists of~~
 2 ~~eight members. The board of five members may, for~~
 3 ~~convenience, be referred to as the "board" followed by the~~
 4 ~~words "professional nursing administration" and the board~~
 5 ~~of eight members may, for convenience, be referred to as the~~
 6 ~~"board" followed by the words "practical nursing~~
 7 ~~administration".~~

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

11 (3) "Practice of nursing" embraces two classes of
 12 nursing service and activity, as follows:

13 (a) "Practice of professional nursing" means the
 14 performance for compensation of ~~an act in the observation~~
 15 ~~care and counsel of the ill, injured, or infirm or in the~~
 16 ~~maintenance of health or prevention of illness of others or~~
 17 ~~in the supervision and teaching of other personnel or the~~
 18 ~~administration of medications and treatments prescribed by a~~
 19 ~~person licensed in this state to prescribe medications and~~
 20 ~~treatments, requiring substantial specialized judgment and~~
 21 ~~skill and based on knowledge and application of the~~
 22 ~~principles of biological, physical, and social sciences,~~
 23 services requiring substantial specialized knowledge of the
 24 biological, physical, behavioral, psychological, and
 25 sociological sciences and of nursing theory as a basis for

1 the nursing process. The nursing process is the assessment,
 2 nursing analysis, planning, nursing intervention, and
 3 evaluation in the promotion and maintenance of health; the
 4 prevention, casefinding, and management of illness, injury,
 5 or infirmity; and the restoration of optimum function. The
 6 term also includes administration, teaching, counseling,
 7 supervision, delegation, and evaluation of nursing practice
 8 and the administration of medications and treatments
 9 prescribed by physicians, dentists, osteopaths, or
 10 podiatrists authorized by state law to prescribe medications
 11 and treatments. Each registered nurse is directly
 12 accountable and responsible to the consumer for the quality
 13 of nursing care rendered. As used in this subsection (3)(a):

14 (i) "nursing analysis" is the identification of those
 15 client problems for which nursing care is indicated and may
 16 include referral to medical or community resources;

17 (ii) "nursing intervention" is the implementation of a
 18 plan of nursing care necessary to accomplish defined goals.

19 (b) "Practice of practical nursing" means the
 20 performance for compensation ~~in the care of the ill~~
 21 ~~injured or infirm of acts selected by and performed under~~
 22 ~~the direction of a registered professional nurse or a person~~
 23 ~~licensed in this state to prescribe medications and~~
 24 ~~treatments, and not requiring the substantial specialized~~
 25 ~~skill, judgment, and knowledge required in professional~~

1 nursing of services requiring basic knowledge of the
 2 biological, physical, behavioral, psychological, and
 3 sociological sciences and of nursing procedures. Practical
 4 nursing practice utilizes standardized procedures leading to
 5 predictable outcomes in the observation and care of the ill,
 6 injured, and infirm; in the maintenance of health; in action
 7 to safeguard life and health; and in the administration of
 8 medications and treatments prescribed by a physician,
 9 dentist, osteopath, or podiatrist authorized by state law to
 10 prescribe medications and treatments. These services are
 11 performed under the supervision of a registered nurse or a
 12 physician, dentist, osteopath, or podiatrist authorized by
 13 state law to prescribe medications and treatments.

14 (4) "Nursing education program" means any
 15 board-approved school that prepares graduates for initial
 16 licensure under this chapter. Nursing education programs
 17 for:

18 (a) professional nursing may be a department, school,
 19 division, or other administrative unit in a senior or junior
 20 college or university;

21 (b) practical nursing may be a department, school,
 22 division, or other administrative unit in a
 23 vocational-technical center or junior college."

24 Section 5. Section 37-8-103, MCA, is amended to read:

25 "37-8-103. Exemptions -- limitations on authority

1 conferred. (1) No provisions of this law may be construed as
 2 prohibiting:

3 (a) gratuitous nursing by friends or members of the
 4 family;

5 (b) incidental care of the sick by domestic servants
 6 or persons primarily employed as housekeepers;

7 (c) nursing assistance in the case of an emergency;

8 (d) the practice of nursing by students enrolled in
 9 approved ~~schools-of-nursing-or-approved-courses--or--by--the~~
 10 ~~graduates--of-such-schools-or-courses-pending-the-results-of~~
 11 ~~the-first--licensing--examination--scheduled-by--the--board~~
 12 ~~following-their-graduation~~ nursing education programs;

13 (e) the practice of nursing in this state by any
 14 legally qualified nurse of another state whose engagement
 15 requires the nurse to accompany and care for a patient
 16 temporarily residing in this state during the period of one
 17 such engagement not to exceed 6 months in length, provided
 18 that person does not represent or hold herself or himself
 19 out to be a nurse licensed to practice in this state;

20 (f) the practice of any legally qualified nurse of
 21 another state who is employed by the United States
 22 government or any bureau, division, or agency thereof while
 23 in the discharge of that nurse's official duties;

24 (g) nursing or care of the sick, with or without
 25 compensation, when done in connection with the practice of

1 the religious tenets of any well-established religion or
2 denomination by adherents thereof;

3 (h) nursing or care of a minor who is in the care of a
4 licensed foster parent, to the same extent such care may be
5 provided by a parent or guardian.

6 (2) This chapter may not be construed as conferring
7 any authority to practice medicine, surgery, or any
8 combination thereof; to confer any authority to practice any
9 of the healing arts prescribed by law to be practiced in the
10 state of Montana; or to permit any person to undertake the
11 treatment of disease by any of the methods employed in those
12 arts unless the licensee has been qualified under the
13 applicable law or laws licensing the practice of those
14 professions or healing arts in the state of Montana."

15 Section 6. Section 37-8-201, MCA, is amended to read:

16 "37-8-201. Seal -- board records public -- legal
17 counsel. (1) The board shall have a seal which shall be used
18 to authenticate its acts under each administration. The seal
19 shall have inscribed the words "Board of Nursing--Official
20 Seal" and a device or legend designated by the board.

21 (2) The records and files of the board kept by the
22 department are at all times open to public inspection.

23 (3) The attorney general is the attorney and legal
24 counsel for the board, but the department may, with the
25 approval of the attorney general, appoint additional legal

1 counsel to assist the board and department in the
2 administration and enforcement of this chapter."

3 Section 7. Section 37-8-202, MCA, is amended to read:

4 "37-8-202. Organization -- meetings -- powers and
5 duties ~~---duties---administration.~~ (1) The board ~~---practical~~
6 ~~nursing-administration~~ shall meet annually in the ~~---month---of~~
7 July and shall elect from among the eight nine ~~FEN NINE~~
8 members a president and a secretary ~~---each-of-whom-is-a~~
9 professional ~~---nurse.~~ The board ~~---practical---nursing~~
10 ~~administration~~ shall hold other meetings when necessary to
11 transact its business. ~~The---board---professional---nursing~~
12 ~~administration-shall-meet-annually-in-July-and-shall-hold~~
13 ~~other-meetings-when-necessary-to-transact-its-business.~~ A
14 majority of the board ~~as---separately---constituted---for---each~~
15 ~~administration,---including---in---the---majority---at---least-one~~
16 ~~officer-of-the-board,~~ constitutes a quorum at any meeting
17 ~~however---when---sitting---as---the---practical---nursing~~
18 ~~administration-a-quorum-consists-of-a-minimum-of-two~~
19 ~~practical---nurse---members---and---three---professional---nurse~~
20 ~~members,---including-one-board-officer.~~ The department shall
21 keep separate ~~---and~~ complete minutes and records of the
22 respective ~~administration~~ meetings and rules and orders
23 promulgated by each ~~---administration-of~~ the board, ~~and-each~~
24 ~~administration-shall-exercise-its-functions,---powers,---and~~
25 ~~duties---exclusive---of-the-others---except-for-the-identity-and~~

1 membership provided in this chapter.

2 (2) The board under each administration may make rules
3 necessary to enable the respective administrations to
4 administer this chapter. The board under each administration
5 shall prescribe curricula and standards for schools and
6 courses preparing persons for registration and licensure
7 under this chapter. It shall provide for surveys of schools
8 and courses at times it considers necessary. It shall
9 approve schools and courses programs that meet the
10 requirements of this chapter and of the board. The
11 department shall, subject to 37-1-101, examine and issue to
12 and renew licenses of qualified applicants. The board shall
13 conduct hearings on charges ~~calling~~ WHICH MAY CALL for
14 discipline of a licensee, revocation of a license, or
15 removal of schools of nursing from the approved list. It
16 shall cause the prosecution of persons violating this
17 chapter and may incur necessary expenses for this.

18 (3) The board under each administration may adopt and
19 the department shall publish forms for use by applicants and
20 others, including license, certificate, and identity forms
21 and other appropriate forms and publications convenient for
22 the proper administration of this chapter, and the board may
23 fix reasonable fees for incidental services, all within the
24 subject matter delegated to each administration by this
25 chapter. ~~Forms shall make clear reference to the~~

1 administration for which the form is intended.

2 (4) ~~Unless the context requires otherwise, the powers
3 and duties enumerated in this chapter shall be exercised and
4 performed by the board professional nursing administration
5 in all matters relating to professional nurses or
6 professional nursing education and shall be exercised and
7 performed by the board inclusive of the practical nursing
8 administration in all matters relating to practical nurses
9 and practical nursing education. The officers of the board
10 shall also be the officers of the board inclusive of the
11 practical nursing administration.~~

12 (4) The board may participate in and pay fees to a
13 national organization of state boards of nursing to assure
14 interstate endorsement of licenses."

15 (5) THE BOARD OF NURSING MAY DEFINE THE EDUCATIONAL
16 REQUIREMENTS AND OTHER QUALIFICATIONS APPLICABLE TO
17 SPECIALTY AREAS OF NURSING. SPECIALTY AREAS OF NURSING ARE
18 THOSE THAT REQUIRE ADDITIONAL PROFESSIONAL EDUCATION BEYOND
19 THE BASIC NURSING DEGREE REQUIRED OF A REGISTERED NURSE,
20 WHICH ADDITIONAL EDUCATION IS OBTAINED IN COURSES OFFERED IN
21 A UNIVERSITY SETTING OR ITS EQUIVALENT AND CERTIFIED BY THE
22 AMERICAN NURSES' ASSOCIATION. SPECIALTY AREAS OF NURSING
23 INCLUDE NURSE PRACTITIONERS, NURSE-MIDWIVES, AND
24 NURSE-ANESTHETISTS.

25 Section 8. Section 37-8-301, MCA, is amended to read:

1 ~~"37-8-301. Schools--of---nursing~~ Nursing education
 2 programs -- application for approval. An institution
 3 desiring to conduct a ~~school-of-professional-or-practical~~
 4 nursing education program in the state shall apply to the
 5 department and submit evidence that:

6 ~~{1}--it-is-prepared-to-carry-out-the-prescribed--basic~~
 7 ~~professional-nursing-curriculum-or-the-prescribed-curriculum~~
 8 ~~for-practical-nursing-as-the-case-may-be-and~~

9 ~~{2}--it-is-prepared-to-meet-other-standards-established~~
 10 ~~by-this-law-and-by-the-board; it-is-prepared-to-carry-out-an~~
 11 educational program that complies with the provisions of
 12 this chapter and the rules adopted by the board pursuant to
 13 this section. The board shall adopt rules relating to the
 14 conduct of nursing education programs that are directed
 15 toward insuring qualifications to practice as a professional
 16 nurse or a practical nurse in those areas of service
 17 specified in 37-8-102."

18 Section 9. Section 37-8-302, MCA, is amended to read:

19 ~~"37-8-302. Schools---of---nursing~~ Nursing education
 20 programs -- survey and approval. (1) ~~A-survey-of-the--school~~
 21 ~~and--institution-or-institutions-with-which-the-school-is-to~~
 22 ~~be-affiliated-shall-be-made-by-the-department;--which--shall~~
 23 ~~submit-a-detailed-written-report-of-the-survey-to-the-board;~~
 24 It is the duty of the department through its authorized
 25 employees or representatives to periodically survey all

1 nursing education programs. Written reports of such surveys
 2 shall be submitted to the board. If, in the opinion of the
 3 board, the requirements for an approved ~~school-of-nursing~~
 4 ~~{professional-or-practical}~~ nursing education program are
 5 met, ~~it--shall--approve-the-school-as-an-approved-school-of~~
 6 nursing the program shall be granted initial or continuing
 7 approval.

8 (2) When if the board determines that an any approved
 9 ~~school-of~~ nursing education program is not maintaining the
 10 standards required by law and the rules established by the
 11 board, notice in writing shall be given to the nursing
 12 education program specifying the defect ~~shall-be-immediately~~
 13 ~~given--to--the-school~~ areas of noncompliance. A school ~~which~~
 14 program that fails to correct these conditions ~~--to--the~~
 15 ~~satisfaction--of--the--board~~ areas of noncompliance within a
 16 reasonable the time designated by the board shall be removed
 17 from the list of approved ~~schools--of~~ nursing education
 18 programs."

19 Section 10. Section 37-8-406, MCA, is amended to read:

20 ~~"37-8-406. Professional~~ License -- professional
 21 nursing -- examination -- fee. (1) An applicant for a
 22 license to practice as a registered professional nursing
 23 nurse is required to pass a written examination in subjects
 24 the board ~~---acting---under---the---professional---nursing~~
 25 ~~administration;~~ determines necessary. A written examination

1 may be supplemented by an oral or practical examination. ~~On~~
 2 ~~successfully passing the examination, the department shall~~
 3 ~~issue to the applicant a license to practice nursing as a~~
 4 ~~registered professional nurse. The applicant shall pay a fee~~
 5 ~~of \$35 at the time the application is submitted, which shall~~
 6 ~~be returned to the applicant if the application is withdrawn~~
 7 ~~not later than 5 days prior to the date of examination or if~~
 8 ~~the examination is not taken, subject to deduction by the~~
 9 ~~department of \$1 per subject of the examination which shall~~
 10 ~~be retained by the department. The board may use any~~
 11 ~~national standardized examination for professional nurse~~
 12 ~~licensure identified in its rules. The passing score on such~~
 13 ~~examination shall be established by the board in its rules.~~
 14 ~~On successfully passing the examination, an applicant shall~~
 15 ~~be issued a license to practice professional nursing.~~

16 (2) The board shall establish in its rules the
 17 requirements for rewriting the examination for those persons
 18 failing the examination on the first writing and subsequent
 19 writing."

20 Section 11. Section 37-8-407, MCA, is amended to read:

21 "37-8-407. Reciprocity Endorsement -- professional
 22 nursing. (1) The board--professional nursing administration
 23 may issue without examination a license to practice nursing
 24 as a registered professional nurse to an applicant who has
 25 been licensed or registered as a professional nurse under

1 the laws of another state or territory if in the opinion of
 2 the board the applicant meets the qualifications required of
 3 registered nurses in this state at the time the applicant
 4 graduated from a school of nursing. The applicant shall pay
 5 a fee of \$35 at the time the application is submitted, which
 6 shall be returned to the applicant if the application is
 7 withdrawn not later than 5 days prior to final submission of
 8 the application to the board, subject to deduction of \$5 to
 9 be retained by the department.

10 ~~(2) An applicant may, pending licensure as a~~
 11 ~~professional nurse under subsection (1) of this section,~~
 12 ~~practice professional nursing as an employee of a health~~
 13 ~~care agency for a period not longer than 3 months from the~~
 14 ~~date the department acknowledges receiving from the nurse a~~
 15 ~~completed statement on a form provided by the department~~
 16 ~~of intention to practice. The statement shall consist of an~~
 17 ~~affidavit by the nurse and an affidavit by the employer~~
 18 ~~where the nurse intends to practice professional nursing.~~
 19 ~~The affidavit of the nurse and the affidavit of the employer~~
 20 ~~shall contain the information deemed by the board necessary~~
 21 ~~for the statement.~~

22 ~~(3) Subsection (2) does not permit the nurse to~~
 23 ~~practice for more than a 3-month period or in any event~~
 24 ~~after being notified by the board through the department~~
 25 ~~that the application for a license has been denied or in all~~

1 cases---after--being--notified--by--the--board--through--the
 2 department--to--cease--and--desist--this--practice--Notice--shall
 3 be--given--by--registered--or--certified--mail--to--the--address--of
 4 the--applicant--as--it--appears--in--the--statement--of--the
 5 applicant."

6 Section 12. Section 37-8-409, MCA, is amended to read:

7 "37-8-409. Midwifery -- when professional nurse may
 8 practice. (1) A person licensed under 37-8-406 or 37-8-407
 9 who holds a certificate in nurse-midwifery from the American
 10 college of nurse-midwives may practice midwifery upon
 11 approval by the board--professional--nursing--administration
 12 of an amendment to her license granting a certificate of
 13 nurse-midwifery. The board shall grant a certificate of
 14 nurse-midwifery to a person who submits written verification
 15 of certification by the American college of nurse-midwives
 16 and who meets such other qualification requirements as the
 17 board may prescribe.

18 (2) The board--professional--nursing--administration may
 19 give temporary approval to practice nurse-midwifery for up
 20 to 4 months to a person who has taken the American college
 21 of nurse-midwives national certification examination,
 22 pending receipt of official notification of the results of
 23 the examination."

24 Section 13. Section 37-8-415, MCA, is amended to read:

25 "37-8-415. Licensed practical nursing --

1 qualifications of applicants. An applicant for a license to
 2 practice as a licensed practical nurse shall submit to the
 3 department board written evidence, verified by oath, that
 4 the applicant:

5 (1) has successfully completed at least an approved
 6 4-year high school course of study or the equivalent as
 7 determined by the office of the superintendent of public
 8 instruction;

9 (2) ~~has---successfully---completed---the---prescribed~~
 10 ~~curriculum--in--an--approved--school--of--practical--nursing--and~~
 11 ~~holds--a--diploma--or--certificate--therefrom~~ is a graduate of an
 12 approved practical nursing education program that is
 13 authorized to prepare persons for licensure as practical
 14 nurses; and

15 (3) meets other qualification requirements the board
 16 ~~acting---under---the---practical---nursing---administration~~
 17 prescribes in its rules."

18 Section 14. Section 37-8-416, MCA, is amended to read:

19 "37-8-416. Licensed practical nursing -- examination.
 20 An applicant for a license to practice as a practical nurse
 21 is required to pass a written examination in subjects as the
 22 ~~board--acting--under--the--practical--nursing--administration~~
 23 determines. A written examination may be supplemented by an
 24 oral or practical examination. The board may use any
 25 nationally standardized examination for practical nurse

1 licensure identified by the board in its rules. The passing
 2 score shall be established by the board in its rules. On
 3 successfully passing the examination, the department board
 4 shall issue to the applicant a license to practice as a
 5 licensed practical nurse."

6 Section 15. Section 37-8-417, MCA, is amended to read:

7 "37-8-417. Reciprocity Endorsement -- licensed
 8 practical nursing. ~~(1)~~ The board--practical--nursing
 9 administration may issue a license to practice as a licensed
 10 practical nurse, without examination, to an applicant who
 11 has been licensed or registered as a licensed practical
 12 nurse or person entitled to perform like services under a
 13 different title under the laws of another state or territory
 14 if, in the opinion of the ~~practical-nursing-administration~~
 15 board, the applicant meets the requirements for practical
 16 nurses in this state.

17 ~~(2)--An applicant may, pending licensure as a practical~~
 18 ~~nurse--under--subsection--(1)--of--this--section--practice~~
 19 ~~practical-nursing-as-an-employee-of-a-health-care-agency-for~~
 20 ~~a-period-of-not-longer-than--3--months--from--the--date--the~~
 21 ~~department-acknowledges-receiving-from-the-practical-nurse-a~~
 22 ~~completed--statement--on-a-form-provided-by-the-department~~
 23 ~~of-intention-to-practice--The-statement-shall-consist-of--an~~
 24 ~~affidavit--by--the--practical--nurse-and-an-affidavit-by-the~~
 25 ~~employer-where--the--practical--nurse--intends--to--practice~~

1 ~~practical-nursing--The-affidavit-of-the-nurse-and-the~~
 2 ~~affidavit-of-the-employer--shall--contain--the--information~~
 3 ~~considered--by--the--board-necessary-for-the-statement--This~~
 4 ~~subsection-does-not-permit-the-nurse-to--practice--for--more~~
 5 ~~than--a--3-month-period-or-in-any-event-after-being-notified~~
 6 ~~by-the-board-through-the-department-that-the-application-for~~
 7 ~~a-license-has-been-denied--or--in--all--cases--after--being~~
 8 ~~notified--by--the--board-through-the-department-to-cess-and~~
 9 ~~desist-this-practice--Notice-shall-be-given-by-registered-or~~
 10 ~~certified-mail-to-the-address-of-the-applicant-as-it-appears~~
 11 ~~in-the-statement-of-application."~~

12 Section 16. Section 37-8-431, MCA, is amended to read:

13 "37-8-431. Renewal of license. (1) The license of a
 14 person licensed under this chapter must be annually renewed.
 15 Before December 1 of each year, the department shall mail an
 16 application form for renewal of license to every person to
 17 whom a license was issued or renewed during the year. The
 18 applicant shall carefully complete and subscribe the
 19 application form and return it to the department with a
 20 renewal fee of \$10 before January 1.

21 (2) The board may increase or decrease the annual
 22 license fee so as to maintain in the earmarked revenue fund
 23 at all times an adequate amount to be used for the purpose
 24 of administering, policing, and enforcing the provisions of
 25 this chapter. On receipt of the application and fee, the

1 department shall verify the accuracy of the application
 2 against its record and from other sources the board
 3 considers reliable and issue to the applicant a certificate
 4 of renewal for the current year beginning January 1 and
 5 expiring December 31 following. The certificate of renewal
 6 renders the holder a legal practitioner of nursing for the
 7 period stated in the certificate of renewal.

8 (3) A licensee who allows his license to lapse by
 9 failing to renew the license may be reinstated by the board
 10 on satisfactory explanation for the failure to renew license
 11 and on payment of the current renewal fee prescribed by the
 12 board.

13 (4) A person practicing nursing during the time
 14 following the date his license has expired is an illegal
 15 practitioner and is subject to the penalties provided for
 16 violations of this chapter.

17 (5) The board may establish a reasonable late fee for
 18 licensees who fail to renew their license by January 1 as
 19 required in subsection (1)."

20 Section 17. Section 37-8-441, MCA, is amended to read:

21 "37-8-441. Denial, revocation, or suspension of
 22 license -- grounds. Only after compliance with 37-8-442, the
 23 board--acting--under--the--appropriate--administration, may
 24 deny, revoke, or suspend a license to practice nursing or
 25 discipline a licensee on proof that the person:

1 (1) is guilty of fraud or deceit in procuring or
 2 attempting to procure a license to practice nursing;

3 ~~(2) is guilty of a crime or gross immorality;~~

4 (3) (2) is unfit or incompetent by reason of
 5 negligence, habit, or other causes;

6 (4) (3) is habitually intemperate or is addicted to the
 7 use of habit-forming drugs;

8 (5) (4) is mentally or physically incompetent;

9 (6) (5) is guilty of unprofessional conduct;

10 (7) (6) has willfully or repeatedly violated this
 11 chapter."

12 Section 18. Section 37-8-442, MCA, is amended to read:

13 "37-8-442. Denial, revocation, or suspension of
 14 license -- procedure. (1) On filing a sworn complaint in
 15 writing with the board charging a person with violation of
 16 37-8-441 as a ground for disciplinary action, the board
 17 shall fix a time and place for a public hearing before the
 18 board--to-be-convened-in-membership-as-the-five-member-board
 19 for--professional--nurses--or--as-the-eight-member-board-for
 20 practical--nurses, depending on the professional or practical
 21 status of the licensee, nurse, or person against whom
 22 complaint is made.

23 (2) If the person charged is found guilty of the
 24 charges, the board may refuse to grant a license to the
 25 applicant or may revoke or suspend a license issued to a

1 licensee.

2 (3) A revoked or suspended license may be reissued
3 after 1 year, in the discretion of the board."

4 NEW SECTION. Section 19. Temporary work permit. (1)
5 The board may issue a temporary work permit for a period not
6 to exceed 90 days to a registered professional nurse or
7 licensed practical nurse who is currently licensed in
8 another state, a territory of the United States, or the
9 District of Columbia and who is an applicant for licensure
10 by endorsement. Such permit is not renewable.

11 (2) The board may issue a temporary work permit to a
12 graduate of an approved nursing education program or
13 approved practical nursing education program pending the
14 results of the first licensing examination following
15 graduation. Such permit is not renewable.

16 (3) To protect the public, the board shall adopt such
17 rules as are necessary to limit the practice of persons
18 issued temporary work permits. Such rules shall include a
19 provision that such practice be supervised by a physician,
20 dentist, osteopath, podiatrist, or registered nurse until a
21 license is issued and shall include a definition of
22 supervision.

23 Section 20. Codification instruction. Section 19 is
24 intended to be codified as an integral part of Title 37,
25 chapter 8, and the provisions of Title 37, chapter 8, apply

1 to section 19.

2 Section 21. Effective date. This act is effective on
3 passage and approval.

-End-

HUMAN SERVICES COMMITTEE OF THE HOUSE
AMENDMENTS TO SB 427
March 11, 1981

1. Page 7, line 2.

Following: "nine"

Strike: "TEN"

Insert: "NINE"

2. Page 7, line 4.

Following: "four"

Strike: "FIVE"

Insert: "FOUR"

3. Page 8, line 5.

Following: "practitioners"

Strike: "or"

Insert: ", "

4. Page 8, line 6.

Following: "nursing"

Insert: ", or administrators of Montana health care facilities"

5. Page 14, line 6.

Following: "nine"

Strike: "TEN"

Insert: "NINE"

6. Page 16.

Following: line 12

Insert: "(5) The board of nursing may define the educational requirements and other qualifications applicable to specialty areas of nursing. Specialty areas of nursing are those that require additional professional education beyond the basic nursing degree required of a registered nurse, which additional education is obtained in courses offered in a university setting or its equivalent and certified by the American Nurses' Association. Specialty areas of nursing include nurse practitioners, nurse-midwives, and nurse-anesthetists."

March 11,

19 81

HUMAN SERVICES COMMITTEE OF THE HOUSE
AMENDMENTS TO STATEMENT OF INTENT FOR SB 427

1. Page 1, line 7.
Following: "sections"
Insert: "7,"

2. Page 1.
Following: line 7
Insert: "Section 7 allows the board of nursing to approve certain programs related to registration and licensure and the section also permits the board to define the educational requirements and other qualifications applicable to specialty areas of nursing. It is the intent of the legislature that the rules adopted by the board pursuant to these delegations of rulemaking power be sufficient to ensure the competency of those practicing nursing in Montana. Program approval rules are intended to be as described in the following paragraph. Rules concerning specialty areas should address the overall nature of the required courses, the approval of such courses through American Nurses' Association certification or by other means, and the prohibition of the use of a title indicating a nursing specialty by a person not approved by the board as such a specialist."