

HOUSE BILL NO. 699

INTRODUCED BY WINSLOW

BY REQUEST OF THE DEPARTMENT OF COMMERCE
BOARD OF DENTISTRY

IN THE HOUSE

February 9, 1983	Introduced and referred to Committee on Human Services.
February 16, 1983	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
February 18, 1983	Bill printed and placed on members' desks.
February 19, 1983	Second reading, do pass.
February 21, 1983	Considered correctly engrossed.
February 22, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 18, 1983	Committee recommend bill be concurrent in. Report adopted.
March 21, 1983	Second reading, concurred in.
March 23, 1983	Third reading, concurred in. Ayes, 50; Noes, 0.

IN THE HOUSE

March 23, 1983

Returned to House.

March 24, 1983

Sent to enrolling.

Reported correctly enrolled.

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 2 INTRODUCED BY Wendler
 3 BY REQUEST OF THE DEPARTMENT OF COMMERCE
 4 BOARD OF DENTISTRY
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 7 CLARIFY THE LICENSING LAWS FOR DENTISTS AND DENTAL
 8 HYGIENISTS; ALLOWING MORE THAN ONE BOARD MEMBER TO ATTEND
 9 THE NATIONAL ASSOCIATION MEETINGS; PROVIDING A GENERAL
 10 RULEMAKING STATUTE FOR THE BOARD; REVISING LICENSE AND
 11 EXAMINATION QUALIFICATIONS AND PROVIDING FOR CONTINUED
 12 COMPETENCY FOR ANNUAL LICENSE RENEWAL; REVISING THE
 13 DEFINITION OF THE PRACTICE OF DENTAL HYGIENE; DELETING THE
 14 TEMPORARY LICENSE PROVISION FOR DENTAL HYGIENISTS;
 15 PROHIBITING A LICENSE FEE OR BUSINESS TAX ON DENTAL
 16 HYGIENISTS BY A LOCAL GOVERNMENT AND CLARIFYING THE SIMILAR
 17 PROHIBITION FOR DENTISTS; AND MAKING RULEMAKING
 18 DISCRETIONARY REGARDING AUXILIARY PERSONNEL; AMENDING
 19 SECTIONS 37-4-204, 37-4-301, 37-4-307, 37-4-401, 37-4-402,
 20 37-4-404, 37-4-406, AND 37-4-408, MCA; AND PROVIDING AN
 21 EFFECTIVE DATE."
 22
 23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 24 Section 1. Section 37-4-204, MCA, is amended to read:
 25 "37-4-204. Affiliation with national association

1 authorized -- ~~delegate delegates~~. The board may affiliate
 2 with the national association as an active member, pay
 3 regular annual dues to the association, and send ~~a--delegate~~
 4 ~~delegates~~ to the meetings of the association."
 5 NEW SECTION. Section 2. Rulemaking. The board may
 6 adopt, amend, or repeal rules necessary for the
 7 implementation, continuation, and enforcement of this
 8 chapter in accordance with the Montana Administrative
 9 Procedure Act.
 10 Section 3. Section 37-4-301, MCA, is amended to read:
 11 "37-4-301. Examination -- qualifications -- fees --
 12 certification. (1) Applicants for licensure shall take and
 13 pass an examination in order to be licensed. The examination
 14 shall consist of a written part, a practical or clinical
 15 part, and an oral interview with the board which may include
 16 questions pertaining to the practice of dentistry. The board
 17 may accept, in satisfaction of the written part, successful
 18 completion of an examination by the national board of dental
 19 examiners and, whenever the board determines necessary,
 20 successful completion of a board examination in
 21 jurisprudence. The board may accept, in satisfaction of the
 22 practical part, successful completion of an examination by a
 23 board-designated regional testing service.
 24 (2) Acceptance by the board of such written and
 25 practical examination shall be conditioned on evidence that

1 the examination is sufficiently thorough to test the fitness
2 of the applicant to practice dentistry. It shall include,
3 written in the English language, questions on anatomy,
4 histology, physiology, chemistry, pharmacology and
5 therapeutics, metallurgy, pathology, bacteriology,
6 anesthesia, operative and surgical dentistry, prosthetic
7 dentistry, prophylaxis, orthodontics, ~~periodontics~~ and
8 endodontics, and any additional subjects pertaining to
9 dental service.

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

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

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

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

21 (c) three affidavits of good moral character;

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

24 (e) an examination fee commensurate with costs and set
25 by the board;

1 (f) a licensure fee commensurate with costs and set by
2 the board;

3 (g) a recent photograph of the applicant; and

4 ~~(h) copies of all other state licenses that are held~~
5 ~~by the applicant.~~

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

9 (6) Applicants may not take the jurisprudence
10 examination or the oral interview without first having
11 completed and passed all other parts of the examination.

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

17 (8) The board is authorized to adopt necessary and
18 reasonable rules governing application procedures.

19 ~~(9) The board may in its discretion permit a dental~~
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21 ~~recognized dental school and who files proof satisfactory to~~
22 ~~the board that he has the preliminary education described in~~
23 ~~this section to take a written examination in the subjects~~
24 ~~he has completed. Satisfactory grades secured shall be~~
25 ~~credited on the final examination of the student. The board~~

~~shall require a fee commensurate with costs and set by the board for this examination which shall apply on the final examination taken by the applicants"~~

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

"37-4-307. Annual renewal fee -- ~~absent--registered dentist--- default --active, inactive status -- continuing education -- limit on local authority to license.~~ (1) * Every licensed dentist practicing within this state shall annually pay to the department before March 1, -- ~~as a~~ each year a renewal fee for the year -- ~~a sum set by~~ in the board. ~~The renewal fee must be set by the board commensurate with costs.~~ Notice of the change in the amount of renewal fees shall ~~must~~ be given to each dentist registered in this state by the department.

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

(3) The board may adopt rules governing requirements for demonstrating continued competency for license renewal.

(4) (a) The board may reclassify an active status license to inactive status for a licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dentistry because of physical disability or retirement.

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

(c) Application to convert an inactive status license to an active status license must be made in accordance with rules of the board. The application to convert to active status must accompany the submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license was inactivated, satisfactory evidence of competence must be submitted to the board before an active status license may be issued.

~~(3)(5)~~ In case of default in payment of the annual renewal fee by a dentist licensee, his license shall ~~must~~ be revoked by the board.

(a) The board shall give the licensee 30 days' notice given to the delinquent of the time and place of considering the revocation of its proposed revocation action. A registered or lbe notice must be sent by certified

letter addressed to the last-known address of the party failing to comply with this requirement as the address appears on the records of the department constitutes sufficient notice of revocation of license, but no licensee and must contain a statement of the time and place of the meeting at which the revocation will be considered.

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

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

(i) renewal fees are paid for each year they were unpaid, plus a late penalty fee for each year;

(ii) the applicant produces evidence satisfactory to the boards of good standing with the dentistry regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dentistry since the last payment of a renewal fee under this chapter; and

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

(6) Every dentist shall give the board notice of any change in name, address, or status within 30 days of the change.

(7) No unit of local government, including those exercising self-government powers, may impose a license fee or business tax may be imposed on dentists by a municipality or any other subdivision of the state a dentist licensed under this chapter."

Section 5. Section 37-4-401, MCA, is amended to read:

"37-4-401. Practice of dental hygiene. The practice of dental hygiene is the doing by one person for a direct or indirect consideration with respect to the teeth of another person an act or service services, performed by a licensed preventive oral health practitioner known as a dental hygienist, that are educational, therapeutic, prophylactic, or preventive procedures in nature, as the board in writing defines and authorizes. However, this section does not allow the board or a licensed dentist to delegate any of the following duties:

- (1) diagnosis, treatment planning, and prescription;
- (2) surgical procedures on hard and soft tissues other than root planing and subgingival curettage;
- (3) restorative, prosthetic, orthodontic, and other

1 procedures which require the knowledge and skill of a
2 dentist;

3 (4) prescription for drugs, medications, or work
4 authorizations."

5 Section 6. Section 37-4-402, MCA, is amended to read:

6 "37-4-402. License -- examination. (1) The department
7 may issue licenses for the practice of dental hygiene to
8 qualified applicants to be known as dental hygienists.

9 (2) Except as provided in subsections (1), (2), and
10 (3) of 37-4-404, no person may engage in the practice of
11 dental hygiene or practice as a dental hygienist in this
12 state until he has passed an examination approved by the
13 board under rules it considers proper and has been issued a
14 license by the department.

15 (3) Applicants for licensure shall take and pass an
16 examination in order to be licensed. The examination shall
17 consist of a written part, a practical or clinical part, and
18 an oral interview with the board which may include questions
19 pertaining to the practice of dental hygiene. The board may
20 accept, in satisfaction of the written part, successful
21 completion of an examination by the national board of dental
22 examiners and, whenever the board determines necessary,
23 successful completion of a board examination in
24 jurisprudence. The board may accept, in satisfaction of the
25 practical part, successful completion of an examination by a

1 board-designated regional testing service.

2 (4) The board has the right to administer its own
3 examination in lieu of acceptance of the national board
4 written examination and a regional testing service practical
5 examination. The board is authorized to make rules
6 governing any such examination procedures.

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

9 (a) certification of successful completion of the
10 national board written examination;

11 (b) certification of successful completion of a
12 regional board practical examination;

13 (c) two affidavits of good moral character;

14 (d) certificate of graduation from a board-approved
15 dental hygiene school;

16 (e) an examination fee commensurate with costs and set
17 by the board;

18 (f) a licensure fee commensurate with costs and set by
19 the board;

20 (g) a recent photograph of the applicant;

21 ~~(h) copies of all other state licenses that are held~~
22 ~~by the applicant.~~

23 (6) Applications must be submitted no less than 20
24 days prior to the board interview and jurisprudence
25 examination. ~~Applicants may not take the jurisprudence~~

1 ~~examination or the oral interview without first having~~
2 ~~completed and passed all other parts of the examination.~~

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

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

10 Section 7. Section 37-4-404, MCA, is amended to read:

11 "37-4-404. Admission of dental hygienists from other
12 states -- reciprocity. (1) On the payment of a fee
13 prescribed by the board and after satisfactory practical
14 examination demonstrating his proficiency, a dental
15 hygienist may be granted a license to practice dental
16 hygiene in this state without being required to take an
17 examination in theory if he:

18 (a) has been lawfully licensed to practice in another
19 state or territory which has and maintains a standard for
20 the practice of dental hygiene which, in the opinion of the
21 board, is equal to that at the time maintained in this
22 state;

23 (b) has been lawfully and continuously engaged in the
24 practice of dental hygiene for a period of 1 year or more
25 immediately before filing his application to practice in

1 this state; and

2 (c) deposits in person with the department an attested
3 certificate from the examining board of the state or
4 territory in which he is registered or licensed, certifying
5 to the fact of his registration and license and of his being
6 a person of good moral character and of professional
7 attainments.

8 (2) ~~Except as provided in subsection (3) of this~~
9 ~~section, no~~ license may be issued without an examination
10 in theory to the applicant unless the state or territory
11 from which the certificate has been granted extends a like
12 privilege to engage in the practice of dental hygiene to
13 dental hygienists licensed by this state who have moved to
14 the other state.

15 (3) ~~A dental hygienist who has been lawfully licensed~~
16 ~~to practice in another state or territory not having~~
17 ~~reciprocity with this state but which has and maintains a~~
18 ~~standard for the practice of dental hygiene which in the~~
19 ~~opinion of the board is equal to that at the time~~
20 ~~maintained in this state and who deposits in person with the~~
21 ~~department an attested certificate from the examining board~~
22 ~~of the state or territory in which he is registered or~~
23 ~~licensed, certifying to the fact of his registration and~~
24 ~~license and his being a person of good moral character and~~
25 ~~of professional attainments, may, on the payment of a fee as~~

1 prescribed-by-the-board--be--granted--a--temporary--license
 2 authorizing--the--person-to-practice-dental-hygiene-from-the
 3 time-of-the-granting-of-the-license-until-the--time--of--the
 4 next--regular--examination--for--dental--hygiene--set-by-the
 5 board--No-additional-fee-for-the-examination-may-be-charged-

6 (4)(3) The board may enter into reciprocity agreements
 7 with other states or territories, the standards of which as
 8 to the practice of dental hygiene are, in the opinion of the
 9 board, equal to those of this state."

10 Section 8. Section 37-4-406, MCA, is amended to read:

11 "37-4-406. Annual renewal fee -- default -- active
 12 inactive status -- continuing education -- revocation of
 13 license. (1) Before-March-1-of-each-year-a Every licensed
 14 dental hygienist shall pay to-the-department each year a
 15 renewal fee set-by to the board. The renewal fee must be set
 16 by the board commensurate with costs. The renewal must be
 17 for either active or inactive status, as defined by rules of
 18 the board.

19 (2) Payment of the annual renewal fee must be made
 20 prior to March 1 of each year, and a license renewal must be
 21 issued by the department. A reasonable late fee is required
 22 if the annual renewal fee is not paid before March 1.

23 (3) The board may adopt rules governing requirements
 24 for demonstrating continued competency for license renewal.

25 (4) (a) The board may reclassify an active status

1 license to inactive status for a licensee who furnishes
 2 satisfactory evidence that the licensee has discontinued the
 3 actual practice of dental hygiene because of physical
 4 disability or retirement.

5 (b) An individual who wishes to maintain a Montana
 6 license but does not maintain a resident practice must be
 7 licensed in the inactive status.

8 (c) Application to convert an inactive status license
 9 to an active status license must be made in accordance with
 10 rules of the board. The application to convert to active
 11 status must accompany the submission of the renewal fee
 12 prescribed for such license. If more than 1 year has passed
 13 since the license was inactivated, satisfactory evidence of
 14 competence must be submitted to the board before an active
 15 status license may be issued.

16 (5) In case of default of in payment of the renewal
 17 fee by any licensee, the board may--after--hearing--and--on
 18 must revoke the license.

19 (a) The board shall give the licensee 30 days' notice
 20 to revoke the license of the hygienist in default, but the of
 21 its proposed revocation action. The notice must be sent by
 22 certified mail to the last known address of the licensee and
 23 must contain a statement of the time and place of the
 24 meeting at which the revocation will be considered.

25 (b) The payment of the renewal fee on or before the

1 time of hearing set for revocation, with an additional sum a
 2 reasonable late fee set by the board, excuses the default.
 3 The department may collect the fee by suit.

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

6 ~~(i) renewal fees are paid for each year they were~~
 7 ~~unpaid, plus a late penalty for each year;~~

8 ~~(ii) the applicant produces evidence satisfactory to~~
 9 ~~the board of good standing with the dental hygiene~~
 10 ~~regulatory agencies of any jurisdiction in which the~~
 11 ~~applicant has engaged in the active practice of dental~~
 12 ~~hygiene since the last payment of a renewal fee under this~~
 13 ~~chapter; and~~

14 ~~(iii) the applicant produces evidence satisfactory to~~
 15 ~~the board of good character and competence.~~

16 ~~(d) Every dental hygienist shall give the board notice~~
 17 ~~of any change in name, address, or status within 30 days of~~
 18 ~~the change.~~

19 ~~(2)(7) The board may likewise, after a hearing, revoke~~
 20 ~~or suspend the license of a dental hygienist for violating~~
 21 ~~this chapter.~~

22 ~~(8) No unit of local government, including those~~
 23 ~~exercising self-government powers, may impose a license fee~~
 24 ~~or business tax on a dental hygienist licensed under this~~
 25 ~~chapter."~~

1 Section 9. Section 37-4-408, MCA, is amended to read:

2 "37-4-408. Auxiliary personnel -- employment, duties,
 3 and limitations. The board shall may, within the limitations
 4 of this chapter, adopt rules which define the qualifications
 5 and outline the tasks of any unlicensed auxiliary personnel
 6 to be employed by any licensed dentist in his office, except
 7 that nothing herein shall be construed to allow the board by
 8 rule to provide for delegation by a licensed dentist to any
 9 such auxiliary personnel any of the duties prohibited to
 10 dental hygienists under 37-4-401 or a prophylaxis. The
 11 performance of intraoral tasks by all dental auxiliaries, as
 12 permitted by board rules, shall be under the direct
 13 supervision of the licensed dentist employing such
 14 personnel."

15 ~~NEW SECTION.~~ Section 10. Codification instruction.
 16 Section 2 is intended to be codified as an integral part of
 17 Title 37, chapter 4, and the provisions of Title 37, chapter
 18 4, apply to section 2.

19 ~~NEW SECTION.~~ Section 11. Effective date. This act is
 20 effective July 1, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 375-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 11, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 699 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 699 generally revises and clarifies the licensing laws for dentists and dental hygienists; allows more than one board member to attend the national association meetings; provides a general rulemaking statute for the board; revises license and examination qualifications and provides for continued competency for annual license renewal; revises the definition of the practice of dental hygiene; deletes the temporary license provision for dental hygienists; prohibits a license fee or business tax on dental hygienists by a local government and clarifies the similar prohibition for dentists; makes rulemaking discretionary regarding auxiliary personnel; amends sections 37-4-204, 37-4-301, 37-4-307, 37-4-401, 37-4-402, 37-4-404, 37-4-406, and 37-4-408, MCA; and provides an effective date."

ASSUMPTIONS:

- 1) More than one person has attended meetings in the past and currently. This bill just clarifies that they are now all called delegates.

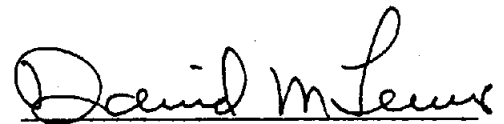
FISCAL IMPACT:

It appears there is no fiscal impact.

LOCAL IMPACT:

House Bill 699 prohibits licensure by local governments. However, few if any, local governments now license dentists.

FISCAL IMPACT 13:N/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-16-83

Approved by Comm. On Human Services

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22 practical part, successful completion of an examination by a
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24 (2) Acceptance by the board of such written and
25 practical examination shall be conditioned on evidence that

1 the examination is sufficiently thorough to test the fitness
2 of the applicant to practice dentistry. It shall include,
3 written in the English language, questions on anatomy,
4 histology, physiology, chemistry, pharmacology and
5 therapeutics, metallurgy, pathology, bacteriology,
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(2) ~~if a registered dentist absents himself from the state for a period of two or more years or does not engage in active practice within this state, he may continue his license in good standing by a payment set by the board each year or at the discretion of the board he may be reinstated on the payment of a fee prescribed by the board for each year's absence. The~~ payment of the annual payments shall renewal fee must be made prior to March 1 of each year, and a receipt or certificate shall ~~license renewal must~~ be issued by the department. A reasonable late fee is required if the annual renewal fee is not paid before March 1.

(3) The board may adopt rules governing requirements for demonstrating continued competency for license renewal.
(4) (a) The board may reclassify an active status license to inactive status for a licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dentistry because of physical disability or retirement.

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(c) Application to convert an inactive status license to an active status license must be made in accordance with rules of the board. The application to convert to active status must accompany the submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license was inactivated, satisfactory evidence of competence must be submitted to the board before an active status license may be issued.

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

(a) ~~on~~ The board shall give the licensee 30 days' notice given to the delinquent of the time and place of considering the revocation of its proposed revocation action. A registered or The notice must be sent by certified

1 letter addressed to the last-known address of the party
 2 ~~failing to comply with this requirement as the address~~
 3 ~~appears on the records of the department constitutes~~
 4 ~~sufficient notice of revocation of license but no licensee~~
 5 ~~and must contain a statement of the time and place of the~~
 6 ~~meeting at which the revocation will be considered.~~

7 (b) If the licensee pays the renewal fee, plus a
 8 reasonable late fee set by the board prior to the time set
 9 for revocation, the license may not be revoked for
 10 nonpayment if the dentist notified pays the renewal fee plus
 11 a late payment penalty prescribed by the board before or at
 12 the time fixed for consideration of revocation. The
 13 department may maintain in the name of this state a suit to
 14 collect renewal fees and penalties applicable and to recover
 15 from the delinquent dentist the cost of the action,
 16 including reasonable attorneys' fees.

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

19 (i) renewal fees are paid for each year they were
 20 unpaid, plus a late penalty fee for each year;

21 (iii) the applicant produces evidence, satisfactory to
 22 the board, of good standing with the dentistry regulatory
 23 agencies of any jurisdiction in which the applicant has
 24 engaged in the active practice of dentistry since the last
 25 payment of a renewal fee under this chapter; and

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

3 (d) Every dentist shall give the board notice of any
 4 change in name, address, or status within 30 days of the
 5 change.

6 (4)171 No unit of local government, including those
 7 exercising self-government powers, may impose a license fee
 8 or business tax may be imposed on dentists by a municipality
 9 or any other subdivision of the state a dentist licensed
 10 under this chapter."

11 Section 5. Section 37-4-401, MCA, is amended to read:

12 "37-4-401. Practice of dental hygiene. The practice of
 13 dental hygiene is the doing by one person for a direct or
 14 indirect consideration with respect to the teeth of another
 15 person on act or service services, performed by a licensed
 16 preventive oral health practitioner known as a dental
 17 hygienist, that are educational, therapeutic, prophylactic,
 18 or preventive procedures in nature, as the board in writing
 19 defines and authorizes. However, this section does not allow
 20 the board or a licensed dentist to delegate any of the
 21 following duties:

22 (1) diagnosis, treatment planning, and prescription;

23 (2) surgical procedures on hard and soft tissues other
 24 than root planing and subgingival curettage;

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

1 procedures which require the knowledge and skill of a
2 dentist;

3 (4) prescription for drugs, medications, or work
4 authorizations."

5 Section 6. Section 37-4-402, MCA, is amended to read:

6 "37-4-402. License -- examination. (1) The department
7 may issue licenses for the practice of dental hygiene to
8 qualified applicants to be known as dental hygienists.

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

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

15 (3) Applicants for licensure shall take and pass an
16 examination in order to be licensed. The examination shall
17 consist of a written part, a practical or clinical part, and
18 an oral interview with the board which may include questions
19 pertaining to the practice of dental hygiene. The board may
20 accept, in satisfaction of the written part, successful
21 completion of an examination by the national board of dental
22 examiners and, whenever the board determines necessary,
23 successful completion of a board examination in
24 jurisprudence. The board may accept, in satisfaction of the
25 practical part, successful completion of an examination by a

1 board-designated regional testing service.

2 (4) The board has the right to administer its own
3 examination in lieu of acceptance of the national board
4 written examination and a regional testing service practical
5 examination. The board is authorized to make rules
6 governing any such examination procedures.

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

9 (a) certification of successful completion of the
10 national board written examination;

11 (b) certification of successful completion of a
12 regional board practical examination;

13 (c) two affidavits of good moral character;

14 (d) certificate of graduation from a board-approved
15 dental hygiene school;

16 (e) an examination fee commensurate with costs and set
17 by the board;

18 (f) a licensure fee commensurate with costs and set by
19 the board;

20 (g) a recent photograph of the applicant;

21 ~~(h) copies of all other state licenses that are held~~
22 ~~by the applicant.~~

23 (6) Applications must be submitted no less than 20
24 days prior to the board interview and jurisprudence
25 examination. ~~Applicants may not take the jurisprudence~~

1 ~~examination or the oral interview without first having~~
2 ~~completed and passed all other parts of the examination.~~

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

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

10 Section 7. Section 37-4-404, MCA, is amended to read:

11 "37-4-404. Admission of dental hygienists from other
12 states -- reciprocity. (1) On the payment of a fee
13 prescribed by the board and after satisfactory practical
14 examination demonstrating his proficiency, a dental
15 hygienist may be granted a license to practice dental
16 hygiene in this state without being required to take an
17 examination in theory if he:

18 (a) has been lawfully licensed to practice in another
19 state or territory which has and maintains a standard for
20 the practice of dental hygiene which, in the opinion of the
21 board, is equal to that at the time maintained in this
22 state;

23 (b) has been lawfully and continuously engaged in the
24 practice of dental hygiene for a period of 1 year or more
25 immediately before filing his application to practice in

1 this state; and

2 (c) deposits in person with the department an attested
3 certificate from the examining board of the state or
4 territory in which he is registered or licensed, certifying
5 to the fact of his registration and license and of his being
6 a person of good moral character and of professional
7 attainments.

8 (2) ~~Except as provided in subsection (3) of this~~
9 ~~section, no~~ license may be issued without an examination
10 in theory to the applicant unless the state or territory
11 from which the certificate has been granted extends a like
12 privilege to engage in the practice of dental hygiene to
13 dental hygienists licensed by this state who have moved to
14 the other state.

15 (3) ~~A dental hygienist who has been lawfully licensed~~
16 ~~to practice in another state or territory not having~~
17 ~~reciprocity with this state but which has and maintains a~~
18 ~~standard for the practice of dental hygiene which in the~~
19 ~~opinion of the board is equal to that at the time~~
20 ~~maintained in this state and who deposits in person with the~~
21 ~~department an attested certificate from the examining board~~
22 ~~of the state or territory in which he is registered or~~
23 ~~licensed, certifying to the fact of his registration and~~
24 ~~license and his being a person of good moral character and~~
25 ~~of professional attainments, may, on the payment of a fee as~~

prescribed by the board be granted a temporary license authorizing the person to practice dental hygiene from the time of the granting of the license until the time of the next regular examination for dental hygiene set by the board. No additional fee for the examination may be charged.

(4)(2) The board may enter into reciprocity agreements with other states or territories, the standards of which as to the practice of dental hygiene are, in the opinion of the board, equal to those of this state."

Section 8. Section 37-4-406, MCA, is amended to read:

"37-4-406. Annual renewal fee -- default -- active, inactive status -- continuing education -- revocation of license. (1) Before March 1 of each year, every licensed dental hygienist shall pay to the department each year a renewal fee set by the board. The renewal fee must be set by the board commensurate with costs. The renewal must be for either active or inactive status, as defined by rules of the board.

(2) Payment of the annual renewal fee must be made prior to March 1 of each year, and a license renewal must be issued by the department. A reasonable late fee is required if the annual renewal fee is not paid before March 1.

(3) The board may adopt rules governing requirements for demonstrating continued competency for license renewal.

(4) (a) The board may reclassify an active status

license to inactive status for a licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dental hygiene because of physical disability or retirement.

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

(c) Application to convert an inactive status license to an active status license must be made in accordance with rules of the board. The application to convert to active status must accompany the submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license was inactivated, satisfactory evidence of competence must be submitted to the board before an active status license may be issued.

(5) In case of default of in payment of the renewal fee by any licensee, the board may, after hearing and on must revoke the license.

(a) The board shall give the licensee 30 days' notice to revoke the license of the hygienist in default but the of its proposed revocation action. The notice must be sent by certified mail to the last known address of the licensee and must contain a statement of the time and place of the meeting at which the revocation will be considered.

(b) The payment of the renewal fee on or before the

1 time of hearing set for revocation, with an additional sum a
 2 reasonable late fee set by the board, excuses the default.
 3 The department may collect the fee by suit.

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

6 (i) renewal fees are paid for each year they were
 7 unpaid, plus a late penalty for each year;

8 (ii) the applicant produces evidence satisfactory to
 9 the board of good standing with the dental hygiene
 10 regulatory agencies of any jurisdiction in which the
 11 applicant has engaged in the active practice of dental
 12 hygiene since the last payment of a renewal fee under this
 13 chapter; and

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

16 (d) Every dental hygienist shall give the board notice
 17 of any change in name, address, or status within 30 days of
 18 the change.

19 (2)(7) The board may likewise after a hearing, revoke
 20 or suspend the license of a dental hygienist for violating
 21 this chapter.

22 (B) No unit of local government, including those
 23 exercising self-government powers, may impose a license fee
 24 or business tax on a dental hygienist licensed under this
 25 chapter."

1 Section 9. Section 37-4-408, MCA, is amended to read:
 2 "37-4-408. Auxiliary personnel -- employment, duties,
 3 and limitations. The board shall may, within the limitations
 4 of this chapter, adopt rules which define the qualifications
 5 and outline the tasks of any unlicensed auxiliary personnel
 6 to be employed by any licensed dentist in his office, except
 7 that nothing herein shall be construed to allow the board by
 8 rule to provide for delegation by a licensed dentist to any
 9 such auxiliary personnel any of the duties prohibited to
 10 dental hygienists under 37-4-401 or a prophylaxis. The
 11 performance of intraoral tasks by all dental auxiliaries, as
 12 permitted by board rules, shall be under the direct
 13 supervision of the licensed dentist employing such
 14 personnel."

15 NEW SECTION. Section 10. Codification instruction.
 16 Section 2 is intended to be codified as an integral part of
 17 Title 37, chapter 4, and the provisions of Title 37, chapter
 18 4, apply to section 2.

19 NEW SECTION. Section 11. Effective date. This act is
 20 effective July 1, 1983.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 699

3 House Human Services Committee

4

5 A Statement of Intent is required because Section 2
6 delegates to the Board of Dentistry power to make rules for
7 the implementation, continuation, and enforcement of all
8 sections within Title 37, chapter 4. This provision is
9 intended as a backup to the various provisions giving the
10 Board rulemaking authority over portions of the chapter as
11 are found in 37-4-301 (examination criteria for dental
12 license), 37-4-307 (dentist license fees), 37-4-321
13 (defining unprofessional conduct), 37-4-402 (examination
14 criteria for dental hygienist license), 37-4-406 (hygienist
15 license fees), and 37-4-408 (scope of duties of dental
16 assistants). This is consistent with authority delegated to
17 most other professional licensing boards. Section 2 grants
18 the Board the authority to interpret or implement other
19 parts of the chapter that are not covered by existing
20 delegation. The Board shall be bound by statements of intent
21 adopted in 1979 for these other sections and may not use
22 Section 2 for rulemaking authority when a more specific
23 delegation suffices.

24 Sections 4 and 8 give the Board authority to adopt
25 rules imposing a demonstration of continued competency for

1 license renewal. The Board is not required to adopt such
2 rules. It is contemplated that a study will be conducted to
3 review other existing program designs in determining a
4 viable means of demonstrating continued competency.

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7 the implementation, continuation, and enforcement of all
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9 intended as a backup to the various provisions giving the
10 Board rulemaking authority over portions of the chapter as
11 are found in 37-4-301 (examination criteria for dental
12 license), 37-4-307 (dentist license fees), 37-4-321
13 (defining unprofessional conduct), 37-4-402 (examination
14 criteria for dental hygienist license), 37-4-406 (hygienist
15 license fees), and 37-4-408 (scope of duties of dental
16 assistants). This is consistent with authority delegated to
17 most other professional licensing boards. Section 2 grants
18 the Board the authority to interpret or implement other
19 parts of the chapter that are not covered by existing
20 delegation. The Board shall be bound by statements of intent
21 adopted in 1979 for these other sections and may not use
22 Section 2 for rulemaking authority when a more specific
23 delegation suffices.

24 Sections 4 and 8 give the Board authority to adopt
25 rules imposing a demonstration of continued competency for

1 license renewal. The Board is not required to adopt such
2 rules. It is contemplated that a study will be conducted to
3 review other existing program designs in determining a
4 viable means of demonstrating continued competency.

HOUSE BILL NO. 699

INTRODUCED BY WINSLOW

BY REQUEST OF THE DEPARTMENT OF COMMERCE

BOARD OF DENTISTRY

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LICENSING LAWS FOR DENTISTS AND DENTAL HYGIENISTS; ALLOWING MORE THAN ONE BOARD MEMBER TO ATTEND THE NATIONAL ASSOCIATION MEETINGS; PROVIDING A GENERAL RULEMAKING STATUTE FOR THE BOARD; REVISING LICENSE AND EXAMINATION QUALIFICATIONS AND PROVIDING FOR CONTINUED COMPETENCY FOR ANNUAL LICENSE RENEWAL; REVISING THE DEFINITION OF THE PRACTICE OF DENTAL HYGIENE; DELETING THE TEMPORARY LICENSE PROVISION FOR DENTAL HYGIENISTS; PROHIBITING A LICENSE FEE OR--BUSINESS--FAX ON DENTAL HYGIENISTS BY A LOCAL GOVERNMENT AND CLARIFYING THE SIMILAR PROHIBITION FOR DENTISTS; AND MAKING RULEMAKING DISCRETIONARY REGARDING AUXILIARY PERSONNEL; AMENDING SECTIONS 37-4-204, 37-4-301, 37-4-307, 37-4-401, 37-4-402, 37-4-404, 37-4-406, AND 37-4-408, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 37-4-204, MCA, is amended to read:

"37-4-204. Affiliation with national association

authorized -- ~~delegate delegates~~. The board may affiliate with the national association as an active member, pay regular annual dues to the association, and send ~~a--delegate~~ delegates to the meetings of the association."

NEW SECTION. Section 2. Rulemaking. The board may adopt, amend, or repeal rules necessary for the implementation, continuation, and enforcement of this chapter in accordance with the Montana Administrative Procedure Act.

Section 3. Section 37-4-301, MCA, is amended to read:

"37-4-301. Examination -- qualifications -- fees -- certification. (1) Applicants for licensure shall take and pass an examination in order to be licensed. The examination shall consist of a written part, a practical or clinical part, and an oral interview with the board which may include questions pertaining to the practice of dentistry. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.

(2) Acceptance by the board of such written and practical examination shall be conditioned on evidence that

the examination is sufficiently thorough to test the fitness of the applicant to practice dentistry. It shall include, written in the English language, questions on anatomy, histology, physiology, chemistry, pharmacology and therapeutics, metallurgy, pathology, bacteriology, anesthesia, operative and surgical dentistry, prosthetic dentistry, prophylaxis, orthodontics, periodontics and endodontics, and any additional subjects pertaining to dental service.

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

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

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

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

(c) three affidavits of good moral character;

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

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

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

(g) a recent photograph of the applicant; and
(h) copies of all other state licenses that are held by the applicant.

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

(6) Applicants may not take the jurisprudence examination or the oral interview without first having completed and passed all other parts of the examination.

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

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

~~(9) The board may in its discretion permit a dental student who has successfully completed his junior year in a recognized dental school and who files proof satisfactory to the board that he has the preliminary education described in this section to take a written examination in the subjects he has completed. Satisfactory grades secured shall be credited on the final examination of the students. The board~~

shall require a fee commensurate with costs and set by the board for this examination, which shall apply on the final examination taken by the applicants."

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

"37-4-307. Annual renewal fee -- absent--registered dentist--- default -- active, inactive status -- continuing education -- limit on local authority to license. (1) * Every licensed dentist practicing within this state shall annually pay to the department before March 1, as a each year, a renewal fee for the year, a sum set by to the board. The renewal fee must be set by the board commensurate with costs. Notice of the change in the amount of renewal fees shall must be given to each dentist registered in this state by the department.

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

(3) The board may adopt rules governing requirements for demonstrating continued competency for license renewal.

(4) (a) The board may reclassify an active status license to inactive status for a licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dentistry because of physical disability or retirement.

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

(c) Application to convert an inactive status license to an active status license must be made in accordance with rules of the board. The application to convert to active status must accompany the submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license was inactivated, satisfactory evidence of competence must be submitted to the board before an active status license may be issued.

(3)(5) In case of default in payment of the annual renewal fee by a dentist licensee, his license shall must be revoked by the board.

(a) on The board shall give the licensee 30 days' notice given to the delinquent of the time and place of considering the revocation of its proposed revocation action. A registered or The notice must be sent by certified

1 letter addressed to the last-known address of the party
 2 failing to comply with this requirement, as the address
 3 appears on the records of the department constitutes
 4 sufficient notice of revocation of license but no licensee
 5 and must contain a statement of the time and place of the
 6 meeting at which the revocation will be considered.

7 (b) If the licensee pays the renewal fee plus a
 8 reasonable late fee set by the board prior to the time set
 9 for revocation, the license may not be revoked for
 10 nonpayment if the dentist notified pays the renewal fee plus
 11 a late payment penalty prescribed by the board before or at
 12 the time fixed for consideration of revocation. The
 13 department may maintain in the name of this state a suit to
 14 collect renewal fees and penalties applicable and to recover
 15 from the delinquent dentist the cost of the action
 16 including reasonable attorneys' fees.

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

19 (i) renewal fees are paid for each year they were
 20 unpaid, plus a late penalty fee for each year;

21 (ii) the applicant produces evidence satisfactory to
 22 the board of good standing with the dentistry regulatory
 23 agencies of any jurisdiction in which the applicant has
 24 engaged in the active practice of dentistry since the last
 25 payment of a renewal fee under this chapter; and

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

3 (6) Every dentist shall give the board notice of any
 4 change in name, address, or status within 30 days of the
 5 change.

6 (7) No unit of local government, including those
 7 exercising self-government powers, may impose a license fee
 8 or business tax may be imposed on dentists by a municipality
 9 or any other subdivision of the state a dentist licensed
 10 under this chapter."

11 Section 5. Section 37-4-401, MCA, is amended to read:

12 "37-4-401. Practice of dental hygiene. The practice of
 13 dental hygiene is the doing by one person for a direct or
 14 indirect consideration with respect to the teeth of another
 15 person on set or service services, performed by a licensed
 16 preventive oral health practitioner known as a dental
 17 hygienist, that are educational, therapeutic, prophylactic,
 18 or preventive procedures in nature, as the board in writing
 19 defines and authorizes. However, this section does not allow
 20 the board or a licensed dentist to delegate any of the
 21 following duties:

- 22 (1) diagnosis, treatment planning, and prescription;
- 23 (2) surgical procedures on hard and soft tissues other
 24 than root planning and subgingival curettage;
- 25 (3) restorative, prosthetic, orthodontic, and other

1 procedures which require the knowledge and skill of a
2 dentist;

3 (4) prescription for drugs, medications, or work
4 authorizations."

5 Section 6. Section 37-4-402, MCA, is amended to read:

6 "37-4-402. License -- examination. (1) The department
7 may issue licenses for the practice of dental hygiene to
8 qualified applicants to be known as dental hygienists.

9 (2) Except as provided in subsections (1), (2), and
10 (3) of 37-4-404, no person may engage in the practice of
11 dental hygiene or practice as a dental hygienist in this
12 state until he has passed an examination approved by the
13 board under rules it considers proper and has been issued a
14 license by the department.

15 (3) Applicants for licensure shall take and pass an
16 examination in order to be licensed. The examination shall
17 consist of a written part, a practical or clinical part, and
18 an oral interview with the board which may include questions
19 pertaining to the practice of dental hygiene. The board may
20 accept, in satisfaction of the written part, successful
21 completion of an examination by the national board of dental
22 examiners and, whenever the board determines necessary,
23 successful completion of a board examination in
24 jurisprudence. The board may accept, in satisfaction of the
25 practical part, successful completion of an examination by a

1 board-designated regional testing service.

2 (4) The board has the right to administer its own
3 examination in lieu of acceptance of the national board
4 written examination and a regional testing service practical
5 examination. The board is authorized to make rules
6 governing any such examination procedures.

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

9 (a) certification of successful completion of the
10 national board written examination;

11 (b) certification of successful completion of a
12 regional board practical examination;

13 (c) two affidavits of good moral character;

14 (d) certificate of graduation from a board-approved
15 dental hygiene school;

16 (e) an examination fee commensurate with costs and set
17 by the board;

18 (f) a licensure fee commensurate with costs and set by
19 the board;

20 (g) a recent photograph of the applicant;

21 ~~(h) copies of all other state licenses that are held~~
22 ~~by the applicant.~~

23 (6) Applications must be submitted no less than 20
24 days prior to the board interview and jurisprudence
25 examination. ~~Applicants may not take the jurisprudence~~

1 ~~examination or the oral interview without first having~~
2 ~~completed and passed all other parts of the examination.~~

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

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

10 Section 7. Section 37-4-404, MCA, is amended to read:

11 "37-4-404. Admission of dental hygienists from other
12 states -- reciprocity. (1) On the payment of a fee
13 prescribed by the board and after satisfactory practical
14 examination demonstrating his proficiency, a dental
15 hygienist may be granted a license to practice dental
16 hygiene in this state without being required to take an
17 examination in theory if he:

18 (a) has been lawfully licensed to practice in another
19 state or territory which has and maintains a standard for
20 the practice of dental hygiene which, in the opinion of the
21 board, is equal to that at the time maintained in this
22 state;

23 (b) has been lawfully and continuously engaged in the
24 practice of dental hygiene for a period of 1 year or more
25 immediately before filing his application to practice in

1 this state; and

2 (c) deposits in person with the department an attested
3 certificate from the examining board of the state or
4 territory in which he is registered or licensed, certifying
5 to the fact of his registration and license and of his being
6 a person of good moral character and of professional
7 attainments.

8 (2) ~~Except as provided in subsection (3) of this~~
9 ~~section, no license may be issued without an examination~~
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14 ~~the other state.~~

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16 ~~to practice in another state or territory not having~~
17 ~~reciprocity with this state but which has and maintains a~~
18 ~~standard for the practice of dental hygiene which, in the~~
19 ~~opinion of the board, is equal to that at the time~~
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21 ~~department an attested certificate from the examining board~~
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24 ~~license and his being a person of good moral character and~~
25 ~~of professional attainments, may, on the payment of a fee of~~

~~prescribed by the board, be granted a temporary license authorizing the person to practice dental hygiene from the time of the granting of the license until the time of the next regular examination for dental hygiene set by the board. No additional fee for the examination may be charged.~~

(4)(3) The board may enter into reciprocity agreements with other states or territories, the standards of which as to the practice of dental hygiene are, in the opinion of the board, equal to those of this state."

Section 8. Section 37-4-406, MCA, is amended to read:

"37-4-406. Annual renewal fee -- default -- active, inactive status -- continuing education -- revocation of license. (1) Before March 1 of each year, a Every licensed dental hygienist shall pay to the department each year a renewal fee set by to the board. The renewal fee must be set by the board commensurate with costs. The renewal must be for either active or inactive status, as defined by rules of the board.

(2) Payment of the annual renewal fee must be made prior to March 1 of each year, and a license renewal must be issued by the department. A reasonable late fee is required if the annual renewal fee is not paid before March 1.

(3) The board may adopt rules governing requirements for demonstrating continued competency for license renewal.

(4) (a) The board may reclassify an active status

license to inactive status for a licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dental hygiene because of physical disability or retirement.

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

(c) Application to convert an inactive status license to an active status license must be made in accordance with rules of the board. The application to convert to active status must accompany the submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license was inactivated, satisfactory evidence of competence must be submitted to the board before an active status license may be issued.

(5) In case of default of in payment of the renewal fee by any licensee, the board may, after hearing and on must revoke the license.

(a) The board shall give the licensee 30 days' notice, revoke the license of the hygienist in default, but the of its proposed revocation action. The notice must be sent by certified mail to the last known address of the licensee and must contain a statement of the time and place of the meeting at which the revocation will be considered.

(b) The payment of the renewal fee on or before the

~~time of hearing set for revocation, with an additional sum a~~
~~reasonable late fee set by the board, excuses the default.~~
~~The department may collect the fee by suit.~~

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

~~(i) renewal fees are paid for each year they were~~
~~unpaid, plus a late penalty for each year;~~

~~(ii) the applicant produces evidence satisfactory to~~
~~the board of good standing with the dental hygiene~~
~~regulatory agencies of any jurisdiction in which the~~
~~applicant has engaged in the active practice of dental~~
~~hygiene since the last payment of a renewal fee under this~~
~~chapter; and~~

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

~~(d) Every dental hygienist shall give the board notice~~
~~of any change in name, address, or status within 30 days of~~
~~the change.~~

~~(2)(i) The board may likewise, after a hearing, revoke~~
~~or suspend the license of a dental hygienist for violating~~
~~this chapter.~~

~~(3) No unit of local government, including those~~
~~exercising self-government powers, may impose a license fee~~
~~or business tax on a dental hygienist licensed under this~~
~~chapter."~~

Section 9. Section 37-4-408, MCA, is amended to read:

"37-4-408. Auxiliary personnel -- employment, duties,
 and limitations. The board ~~shall~~ may, within the limitations
 of this chapter, adopt rules which define the qualifications
 and outline the tasks of any unlicensed auxiliary personnel
 to be employed by any licensed dentist in his office, except
 that nothing herein shall be construed to allow the board by
 rule to provide for delegation by a licensed dentist to any
 such auxiliary personnel any of the duties prohibited to
 dental hygienists under 37-4-401 or a prophylaxis. The
 performance of intraoral tasks by all dental auxiliaries, as
 permitted by board rules, shall be under the direct
 supervision of the licensed dentist employing such
 personnel."

NEW SECTION. Section 10. Codification instruction.
 Section 2 is intended to be codified as an integral part of
 Title 37, chapter 4, and the provisions of Title 37, chapter
 4, apply to section 2.

NEW SECTION. Section 11. Effective date. This act is
 effective July 1, 1983.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 699

3 House Human Services Committee

4

5 A Statement of Intent is required because Section 2
6 delegates to the Board of Dentistry power to make rules for
7 the implementation, continuation, and enforcement of all
8 sections within Title 37, chapter 4. This provision is
9 intended as a backup to the various provisions giving the
10 Board rulemaking authority over portions of the chapter as
11 are found in 37-4-301 (examination criteria for dental
12 license), 37-4-307 (dentist license fees), 37-4-321
13 (defining unprofessional conduct), 37-4-402 (examination
14 criteria for dental hygienist license), 37-4-406 (hygienist
15 license fees), and 37-4-408 (scope of duties of dental
16 assistants). This is consistent with authority delegated to
17 most other professional licensing boards. Section 2 grants
18 the Board the authority to interpret or implement other
19 parts of the chapter that are not covered by existing
20 delegation. The Board shall be bound by statements of intent
21 adopted in 1979 for these other sections and may not use
22 Section 2 for rulemaking authority when a more specific
23 delegation suffices.

24 Sections 4 and 8 give the Board authority to adopt
25 rules imposing a demonstration of continued competency for

1 license renewal. The Board is not required to adopt such
2 rules. It is contemplated that a study will be conducted to
3 review other existing program designs in determining a
4 viable means of demonstrating continued competency.

HOUSE BILL NO. 699

INTRODUCED BY WINSLOW

BY REQUEST OF THE DEPARTMENT OF COMMERCE

BOARD OF DENTISTRY

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LICENSING LAWS FOR DENTISTS AND DENTAL HYGIENISTS; ALLOWING MORE THAN ONE BOARD MEMBER TO ATTEND THE NATIONAL ASSOCIATION MEETINGS; PROVIDING A GENERAL RULEMAKING STATUTE FOR THE BOARD; REVISING LICENSE AND EXAMINATION QUALIFICATIONS AND PROVIDING FOR CONTINUED COMPETENCY FOR ANNUAL LICENSE RENEWAL; REVISING THE DEFINITION OF THE PRACTICE OF DENTAL HYGIENE; DELETING THE TEMPORARY LICENSE PROVISION FOR DENTAL HYGIENISTS; PROHIBITING A LICENSE FEE OR--BUSINESS--TAX ON DENTAL HYGIENISTS BY A LOCAL GOVERNMENT AND CLARIFYING THE SIMILAR PROHIBITION FOR DENTISTS; AND MAKING RULEMAKING DISCRETIONARY REGARDING AUXILIARY PERSONNEL; AMENDING SECTIONS 37-4-204, 37-4-301, 37-4-307, 37-4-401, 37-4-402, 37-4-404, 37-4-406, AND 37-4-408, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 37-4-204, MCA, is amended to read:

"37-4-204. Affiliation with national association

authorized -- ~~delegete delegates~~. The board may affiliate with the national association as an active member, pay regular annual dues to the association, and send ~~a--delegete~~ delegates to the meetings of the association."

~~NEW SECTION.~~ Section 2. Rulemaking. The board may adopt, amend, or repeal rules necessary for the implementation, continuation, and enforcement of this chapter in accordance with the Montana Administrative Procedure Act.

Section 3. Section 37-4-301, MCA, is amended to read:

"37-4-301. Examination -- qualifications -- fees -- certification. (1) Applicants for licensure shall take and pass an examination in order to be licensed. The examination shall consist of a written part, a practical or clinical part, and an oral interview with the board which may include questions pertaining to the practice of dentistry. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.

(2) Acceptance by the board of such written and practical examination shall be conditioned on evidence that

the examination is sufficiently thorough to test the fitness of the applicant to practice dentistry. It shall include, written in the English language, questions on anatomy, histology, physiology, chemistry, pharmacology and therapeutics, metallurgy, pathology, bacteriology, anesthesia, operative and surgical dentistry, prosthetic dentistry, prophylaxis, orthodontics, ~~periodontics~~ and endodontics, and any additional subjects pertaining to dental service.

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

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

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

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

(c) three affidavits of good moral character;

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

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

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

(g) a recent photograph of the applicant; and
~~(h) copies of all other state licenses that are held by the applicant.~~

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

(6) Applicants may not take the jurisprudence examination or the oral interview without first having completed and passed all other parts of the examination.

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

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

~~(9) The board may in its discretion permit a dental student who has successfully completed his junior year in a recognized dental school and who files proof satisfactory to the board that he has the preliminary education described in this section to take a written examination in the subjects he has completed. Satisfactory grades secured shall be credited on the final examination of the student. The board~~

1 ~~shall require a fee commensurate with costs and set by the~~
 2 ~~board for this examination, which shall apply on the first~~
 3 ~~examination taken by the applicants.~~

4 Section 4. Section 37-4-307, MCA, is amended to read:
 5 "37-4-307. Annual renewal fee -- ~~absent--registered~~
 6 ~~dentist--- default -- active, inactive status -- continuing~~
 7 ~~education -- limit on local authority to license.~~ (1) A
 8 Every licensed dentist ~~practicing within this state~~ shall
 9 annually pay to the department before March 1, as a ~~each~~
 10 ~~year~~ a renewal fee for the year as set by to the board.
 11 The renewal fee must be set by the board commensurate with
 12 costs. Notice of the change in the amount of renewal fees
 13 shall must be given to each dentist registered in this state
 14 by the department.

15 (2) ~~If a registered dentist absents himself from the~~
 16 ~~state for a period of 1 or more years or does not engage in~~
 17 ~~active practice within this state, he may continue his~~
 18 ~~license in good standing by a payment set by the board each~~
 19 ~~year or at the discretion of the board, he may be reinstated~~
 20 ~~on the payment of a fee prescribed by the board for each~~
 21 ~~year's absence. The payment of the annual payments shall~~
 22 ~~renewal fee must be made prior to March 1 of each year, and~~
 23 ~~a receipt or certificate shall license renewal must be~~
 24 ~~issued by the department. A reasonable late fee is required~~
 25 ~~if the annual renewal fee is not paid before March 1.~~

1 (3) ~~The board may adopt rules governing requirements~~
 2 ~~for demonstrating continued competency for license renewal.~~
 3 (4) (a) ~~The board may reclassify an active status~~
 4 ~~license to inactive status for a licensee who furnishes~~
 5 ~~satisfactory evidence that the licensee has discontinued the~~
 6 ~~actual practice of dentistry because of physical disability~~
 7 ~~or retirement.~~

8 (b) ~~An individual who wishes to maintain a Montana~~
 9 ~~license but does not maintain a resident practice must be~~
 10 ~~licensed in the inactive status.~~

11 (c) ~~Application to convert an inactive status license~~
 12 ~~to an active status license must be made in accordance with~~
 13 ~~rules of the board. The application to convert to active~~
 14 ~~status must accompany the submission of the renewal fee~~
 15 ~~prescribed for such license. If more than 1 year has passed~~
 16 ~~since the license was inactivated, satisfactory evidence of~~
 17 ~~competence must be submitted to the board before an active~~
 18 ~~status license may be issued.~~

19 (3)(5) In case of default in payment of the annual
 20 renewal fee by a dentist licensee, his license shall must be
 21 revoked by the board.

22 (a) on the board shall give the licensee 30 days'
 23 notice given to the delinquent of the time and place of
 24 considering the revocation of its proposed revocation
 25 action. A registered or the notice must be sent by certified

letter addressed to the last-known address of the party
 failing to comply with this requirement as the address
 appears on the records of the department constitutes
 sufficient notice of revocation of license but no licensee
 and must contain a statement of the time and place of the
 meeting at which the revocation will be considered.

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

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

(i) renewal fees are paid for each year they were
 unpaid, plus a late penalty fee for each year;

(ii) the applicant produces evidence satisfactory to
 the board of good standing with the dentistry regulatory
 agencies of any jurisdiction in which the applicant has
 engaged in the active practice of dentistry since the last
 payment of a renewal fee under this chapter; and

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

(6) Every dentist shall give the board notice of any
 change in name, address, or status within 30 days of the
 change.

(4)(I) No unit of local government, including those
 exercising self-government powers, may impose a license fee
 or business tax may be imposed on dentists by a municipality
 or any other subdivision of the state a dentist licensed
 under this chapter."

Section 5: Section 37-4-401, MCA, is amended to read:

"37-4-401. Practice of dental hygiene. The practice of
 dental hygiene is the doing by one person for a direct or
 indirect consideration with respect to the teeth of another
 person on set or service services, performed by a licensed
 preventive oral health practitioner known as a dental
 hygienist that are educational, therapeutic, prophylactic,
 or preventive procedures in nature, as the board in writing
 defines and authorizes. However, this section does not allow
 the board or a licensed dentist to delegate any of the
 following duties:

(1) diagnosis, treatment planning, and prescription;

(2) surgical procedures on hard and soft tissues other
 than root planing and subgingival curettage;

(3) restorative, prosthetic, orthodontic, and other

1 procedures which require the knowledge and skill of a
2 dentist;

3 (4) prescription for drugs, medications, or work
4 authorizations."

5 Section 6. Section 37-4-402, MCA, is amended to read:

6 "37-4-402. License -- examination. (1) The department
7 may issue licenses for the practice of dental hygiene to
8 qualified applicants to be known as dental hygienists.

9 (2) Except as provided in subsections (1), (2), and
10 (3) of 37-4-404, no person may engage in the practice of
11 dental hygiene or practice as a dental hygienist in this
12 state until he has passed an examination approved by the
13 board under rules it considers proper and has been issued a
14 license by the department.

15 (3) Applicants for licensure shall take and pass an
16 examination in order to be licensed. The examination shall
17 consist of a written part, a practical or clinical part, and
18 an oral interview with the board which may include questions
19 pertaining to the practice of dental hygiene. The board may
20 accept, in satisfaction of the written part, successful
21 completion of an examination by the national board of dental
22 examiners and, whenever the board determines necessary,
23 successful completion of a board examination in
24 jurisprudence. The board may accept, in satisfaction of the
25 practical part, successful completion of an examination by a

1 board-designated regional testing service.

2 (4) The board has the right to administer its own
3 examination in lieu of acceptance of the national board
4 written examination and a regional testing service practical
5 examination. The board is authorized to make rules
6 governing any such examination procedures.

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

9 (a) certification of successful completion of the
10 national board written examination;

11 (b) certification of successful completion of a
12 regional board practical examination;

13 (c) two affidavits of good moral character;

14 (d) certificate of graduation from a board-approved
15 dental hygiene school;

16 (e) an examination fee commensurate with costs and set
17 by the board;

18 (f) a licensure fee commensurate with costs and set by
19 the board;

20 (g) a recent photograph of the applicant;

21 ~~but copies of all other state licenses that are held~~
22 ~~by the applicant.~~

23 (6) Applications must be submitted no less than 20
24 days prior to the board interview and jurisprudence
25 examination. ~~Applicants may not take the jurisprudence~~

~~examination or the oral interview without first having
completed and passed all other parts of the examination.~~

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

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

Section 7. Section 37-4-404, MCA, is amended to read:

"37-4-404. Admission of dental hygienists from other states -- reciprocity. (1) On the payment of a fee prescribed by the board and after satisfactory practical examination demonstrating his proficiency, a dental hygienist may be granted a license to practice dental hygiene in this state without being required to take an examination in theory if he:

(a) has been lawfully licensed to practice in another state or territory which has and maintains a standard for the practice of dental hygiene which, in the opinion of the board, is equal to that at the time maintained in this state;

(b) has been lawfully and continuously engaged in the practice of dental hygiene for a period of 1 year or more immediately before filing his application to practice in

this state; and

(c) deposits in person with the department an attested certificate from the examining board of the state or territory in which he is registered or licensed, certifying to the fact of his registration and license and of his being a person of good moral character and of professional attainments.

(2) Except as provided in subsection (3) of this section, no license may be issued without an examination in theory to the applicant unless the state or territory from which the certificate has been granted extends a like privilege to engage in the practice of dental hygiene to dental hygienists licensed by this state who have moved to the other state.

(3) A dental hygienist who has been lawfully licensed to practice in another state or territory not having reciprocity with this state but which has and maintains a standard for the practice of dental hygiene which, in the opinion of the board, is equal to that at the time maintained in this state and who deposits in person with the department an attested certificate from the examining board of the state or territory in which he is registered or licensed, certifying to the fact of his registration and license and his being a person of good moral character and of professional attainments, may, on the payment of a fee as

~~prescribed by the board, be granted a temporary license authorizing the person to practice dental hygiene from the time of the granting of the license until the time of the next regular examination for dental hygiene set by the board. No additional fee for the examination may be charged.~~

(4)(3) The board may enter into reciprocity agreements with other states or territories, the standards of which as to the practice of dental hygiene are, in the opinion of the board, equal to those of this state."

Section 8. Section 37-4-406, MCA, is amended to read:

"37-4-406. Annual renewal fee -- default -- active inactive status -- continuing education -- revocation of license. (1) Before March 1 of each year, ~~Every~~ licensed dental hygienist shall pay to the department each year a renewal fee set by to the board. The renewal fee must be set by the board commensurate with costs. The renewal must be for either active or inactive status, as defined by rules of the board.

(2) Payment of the annual renewal fee must be made prior to March 1 of each year, and a license renewal must be issued by the department. A reasonable late fee is required if the annual renewal fee is not paid before March 1.

(3) The board may adopt rules governing requirements for demonstrating continued competency for license renewal.

(4) (a) The board may reclassify an active status

license to inactive status for a licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dental hygiene because of physical disability or retirement.

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

(c) Application to convert an inactive status license to an active status license must be made in accordance with rules of the board. The application to convert to active status must accompany the submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license was inactivated, satisfactory evidence of competence must be submitted to the board before an active status license may be issued.

(5) In case of default of in payment of the renewal fee by any licensee, the board may, after hearing and on must revoke the license.

(a) The board shall give the licensee 30 days' notice, revoke the license of the hygienist in default, but the of its proposed revocation action. The notice must be sent by certified mail to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the revocation will be considered.

(b) The payment of the renewal fee on or before the

time of hearing set for revocation, with an additional sum a reasonable late fee set by the board, excuses the default. The department may collect the fee by suit.

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

~~(i) renewal fees are paid for each year they were unpaid, plus a late penalty for each year;~~

~~(ii) the applicant produces evidence satisfactory to the board of good standing with the dental hygiene regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dental hygiene since the last payment of a renewal fee under this chapter; and~~

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

~~(d) Every dental hygienist shall give the board notice of any change in name, address, or status within 30 days of the change.~~

~~(2) (i) The board may likewise, after a hearing, revoke or suspend the license of a dental hygienist for violating this chapter.~~

~~(8) No unit of local government, including those exercising self-government powers, may impose a license fee or business tax on a dental hygienist licensed under this chapter."~~

Section 9. Section 37-4-408, MCA, is amended to read:

"37-4-408. Auxiliary personnel -- employment, duties, and limitations. The board shall ~~may~~, within the limitations of this chapter, adopt rules which define the qualifications and outline the tasks of any unlicensed auxiliary personnel to be employed by any licensed dentist in his office, except that nothing herein shall be construed to allow the board by rule to provide for delegation by a licensed dentist to any such auxiliary personnel any of the duties prohibited to dental hygienists under 37-4-401 or a prophylaxis. The performance of intraoral tasks by all dental auxiliaries, as permitted by board rules, shall be under the direct supervision of the licensed dentist employing such personnel."

~~NEW SECTION.~~ Section 10. Codification instruction. Section 2 is intended to be codified as an integral part of Title 37, chapter 4, and the provisions of Title 37, chapter 4, apply to section 2.

~~NEW SECTION.~~ Section 11. Effective date. This act is effective July 1, 1983.

-End-