

HOUSE BILL NO. 649

INTRODUCED BY JACK MOORE, NATHE, BENGTSON, THAYER

BY REQUEST OF THE DEPARTMENT OF COMMERCE

IN THE HOUSE

February 4, 1985	Introduced and referred to Committee on Business and Labor.
February 5, 1985	Fiscal Note requested.
February 11, 1985	Fiscal Note returned.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
February 25, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass.
	Considered correctly engrossed.
February 27, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

March 5, 1985	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 14, 1985	Committee recommend bill be concurred in as amended. Report adopted.

March 18, 1985

Second reading, concurred in.

March 20, 1985

Third reading, concurred in.
Ayes, 46; Noes, 4.

Returned to House with
amendments.

IN THE HOUSE

March 21, 1985

Received from Senate.

April 8, 1985

Second reading, amendments
concurred in.

On motion, rules suspended and
bill placed on third reading
this day.

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 649
 2 INTRODUCED BY Adair Patton Bengtson
 3 BY REQUEST OF THE DEPARTMENT OF COMMERCE
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FOR
 6 ADMINISTRATIVE PURPOSES THE LAWS RELATING TO REGULATION OF
 7 THE PRACTICE OF DENTURITRY; REQUIRING THE BOARD OF
 8 DENTURITRY TO MEET AT LEAST TWICE A YEAR; ABOLISHING THE
 9 FAIR PRACTICE COMMITTEE; PROVIDING THAT FUNDS COLLECTED BY
 10 THE BOARD MUST BE DEPOSITED TO THE STATE SPECIAL REVENUE
 11 FUND; ABOLISHING PROVISIONS FOR PAYMENT OF CLAIMS THAT ARE
 12 INCONSISTENT WITH OTHER STATE STATUTES; GIVING THE BOARD OF
 13 DENTURITRY GENERAL AND SPECIFIC RULEMAKING AUTHORITY;
 14 CLARIFYING THE BOARD'S RIGHT TO ENTER INTO RECIPROCAL
 15 RELATIONS WITH OTHER STATES AND TERRITORIES; GIVING THE
 16 BOARD ADDITIONAL AUTHORITY TO SET AND MODIFY FEES; GIVING
 17 THE BOARD AUTHORITY TO ALTER FUTURE RENEWAL DATES FOR
 18 LICENSES; GIVING THE BOARD AUTHORITY TO DEFINE BY RULE
 19 UNPROFESSIONAL CONDUCT FOR THE PURPOSE OF ESTABLISHING
 20 DISCIPLINARY CONDUCT STANDARDS; PROVIDING FOR REVIEW OF
 21 CONTESTED CASE DECISIONS OF THE BOARD IN CONFORMITY WITH THE
 22 MONTANA ADMINISTRATIVE PROCEDURE ACT; PROVIDING THE BOARD
 23 WITH AUTHORITY TO SUE TO ENJOIN THE UNLICENSED PRACTICE OF
 24 DENTURITRY; MAKING THE PROVISIONS OF TITLE 37, CHAPTER 1,
 25 AND TITLE 2, CHAPTERS 4 AND 15, APPLICABLE TO THE POWERS AND

1 DUTIES OF THE BOARD; MAKING REPORTING REQUIREMENTS OF
 2 ELDERLY ABUSE APPLICABLE TO DENTURISTS; PROVIDING FOR
 3 ADVERTISING RESTRICTIONS; AMENDING SECTIONS 7 THROUGH 11, 13
 4 THROUGH 15, 22, AND 27 OF INITIATIVE 97 AND SECTION
 5 53-5-511, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

6
 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Section 7 of Montana Initiative No. 97 is
 9 amended to read:

10 "Section 7. Board -- membership -- vacancies.
 11 (1) There is a Montana state board of denturistry. The board
 12 consists of five members to be appointed by the governor
 13 within 30 60 days of adoption of (this act). The board shall
 14 be appointed as prescribed in Section 2-15-124, except that
 15 a member need not be an attorney. Three members of the board
 16 must be denturists who have had, immediately prior to their
 17 appointment, at least 5 3 years' experience in the practice
 18 of denturistry. Two members of the board must be lay persons,
 19 one member a senior citizen representative and the other
 20 member a low income representative.

21 (2) Members of the board shall hold office for terms
 22 of 3 years each.

23 (3) Each member of the board shall hold office for his
 24 term and until his successor is duly appointed by the
 25 governor.



-2- INTRODUCED BILL
 HB 649

1 (4) The Board is attached to the department for
2 administrative purposes only as provided in 2-15-121."

3 Section 2. Section 8 of Montana Initiative No. 97 is
4 amended to read:

5 "Section 8. Officers, meetings, voting, records, ~~fair~~
6 ~~practice--committee~~. (1) The board shall elect a president,
7 secretary, and treasurer. The offices of secretary and
8 treasurer may be held by the same person. Officers of the
9 board are elected for terms of 1 year at the annual meeting
10 of the board. The same person may not hold the office of
11 president for more than 3 years in succession.

12 (2) The board must hold meetings ~~on-the-second--Friday~~
13 ~~of--December--and--the-second-Friday-of-May~~ at least twice a
14 year to conduct business and perform duties. The board may
15 meet at such other times as designated by the president or
16 by request of two or more members of the board. Meetings
17 must be held in the offices of the board. Dates and places
18 may be changed through notification by the board at least 10
19 days prior to the regular meeting date or the date
20 established for a meeting, whichever is earlier.

21 (3) A majority of the board constitutes a quorum for
22 all purposes, and the majority vote of the members voting
23 constitutes the action of the board.

24 (4) The secretary of the board must keep a complete
25 record of all of its proceedings.

1 ~~{5}--The-board-shall-appoint-a-fair-practice--committee~~
2 ~~consisting--of-three-denturists-selected-from-the-membership~~
3 ~~of-the-association-of-Montana-denturists;-This-committee-may~~
4 ~~meet-as-need-arises-and-must-file-a-written-report-with--the~~
5 ~~board-containing-its-recommendations:-"~~

6 Section 3. Section 9 of Montana Initiative No. 97 is
7 amended to read:

8 "Section 9. Compensation and expenses of board members
9 -- deposit of excess funds ---expenditure--limitations.

10 (1) Out of the funds derived from fees collected under
11 (this act) each member of the board must receive
12 compensation and travel expenses as provided for in
13 37-1-133, with the exception that dentist members of the
14 board may receive compensation for expenses only.

15 (2) Money collected ~~in-excess-of-expenses-and-salaries~~
16 ~~must-be-held~~ by the department ~~as-a-special-fund-for-meeting~~
17 ~~the--expenses--of--the--board;-the-proper-administration-of~~
18 under (this act);-and-educational-purposes-approved--by--the
19 board must be deposited in the state special revenue fund
20 for the use of the board, subject to 37-1-101(6).

21 ~~{3}--The-department-is--not--obligated--to--pay--claims~~
22 ~~which;-in--aggregate--with--claims--already-paid-exceed-the~~
23 ~~income-to-the-department--which--has--been--derived--by--the~~
24 ~~application-of-(this-act):-"~~

25 Section 4. Section 10 of Montana Initiative No. 97 is

1 amended to read:

2 "Section 10. Board powers and duties. The board has
3 the following powers and duties:

4 (1) determination of the qualifications of applicants
5 for licensure under (this act);

6 (2) administration of examinations ~~and--determination~~
7 ~~of-a-passing-grade~~ for licensure under (this act);

8 (3) collection of fees and charges prescribed in (this
9 act); and

10 (4) issuance, suspension and revocation of licenses
11 for the practice of denturtry under the conditions
12 prescribed in (this act); and

13 (5) to adopt, amend, and repeal rules necessary for
14 the implementation, continuation, and enforcement of
15 [Initiative No. 97], including but not limited to license
16 applications, form and display of licenses, license
17 examination format, criteria and grading of examinations,
18 disciplinary standards for licensees, inspection of
19 denturtry premises and facilities, and investigation of
20 complaints."

21 Section 5. Section 11 of Montana Initiative No. 97 is
22 amended to read:

23 "Section 11. Application for license. Upon application
24 and payment of the appropriate fee, the board shall issue a
25 license to practice denturtry to any applicant who meets

1 one of the following criteria and scores a passing grade on
2 the examination for licensure:

3 (1) (a) Applications for persons engaged in the
4 practice of denturtry on December 1, 1984, must be filed
5 prior to April 1, 1985, and must include the following:

6 ~~(a)(i)~~ three signed affidavits by persons other than
7 family members that the applicant has been employed in
8 denture technology for at least 5 years prior to
9 application, is able to demonstrate competency in intraoral
10 procedures, and has been a resident of the state of Montana
11 for at least 6 months prior to April 1, 1985; and

12 ~~(b)(ii)~~ documentation that the applicant has
13 successfully completed courses approved by the board in head
14 and oral anatomy and physiology, oral pathology, partial
15 denture construction and design, clinical dental technology,
16 radiology, dental laboratory technology, asepsis, clinical
17 jurisprudence, medical emergencies, and cardiopulmonary
18 resuscitation.

19 (b) Subsection (1)(a) must be applied retroactively to
20 permit qualification of license applicants initially
21 qualified and applying prior to the appointment and
22 qualification of the original board under [Initiative No.
23 97].

24 (2) Applications filed on or after April 1, 1985, must
25 include:

1 (a) documentation that the applicant has completed
 2 formal training of not less than 2 years at an educational
 3 institution accredited by a national or regional accrediting
 4 agency recognized by the Montana state board of regents, the
 5 curriculum of which includes courses in head and oral
 6 anatomy and physiology, oral pathology, microbiology,
 7 partial denture construction and design, clinical dental
 8 technology, radiology, dental laboratory technology,
 9 asepsis, clinical jurisprudence, and medical emergencies
 10 including cardiopulmonary resuscitation; and

11 (b) documentation that the applicant:

12 (i) has completed 2 years of internship under the
 13 direct supervision of a licensed dentist; or

14 (ii) has 3 years of experience as a dentist under
 15 licensure in another state or Canada.

16 (3) A dentist who has been lawfully licensed or
 17 certified by initial licensing provisions in any state or
 18 territory that maintains a standard of dentistry which is
 19 equal to that of Montana must submit a certificate from the
 20 examining body of the state or territory in which he is
 21 certified or licensed attesting to 5 years practice under
 22 the certificate of license. However, no applicant may be
 23 licensed under the provisions of (this subsection) unless
 24 the state or territory in which he is licensed or certified
 25 extends a like privilege to dentists licensed by the state

1 of Montana to practice dentistry. The board may enter into
 2 reciprocal relations with those boards--in states or
 3 territories whose laws are compatible with (this act)."

4 Section 6. Section 13 of Montana Initiative No. 97 is
 5 amended to read:

6 "Section 13. Applications and fees. (1) The board is
 7 initially entitled to charge and collect the following fees:

8 ~~(1)~~(a) \$200 application for licensing;

9 ~~(2)~~(b) \$200 for original license;

10 ~~(3)~~(c) \$200 annual license renewal fee;

11 ~~(4)~~(d) \$200 for examination or reexamination, provided

12 that if on reexamination only the written examination is
 13 required, the fee is \$100; and

14 ~~(5)~~(e) \$50 for a duplicate or replacement license or a
 15 license for a second address, provided that no dentist may
 16 hold licenses bearing more than two different addresses.

17 (2) The board may set other fees and modify the
 18 initial fees in accordance with the provisions of 37-1-134."

19 Section 7. Section 14 of Montana Initiative No. 97 is
 20 amended to read:

21 "Section 14. Licensing. (1) A After March 1, 1985, a
 22 dentist license is valid for a period of 1 year. A renewal
 23 license must be issued upon payment of the renewal fee and
 24 the submission of proof of the completion of not less than
 25 12 hours continuing education, which may include programs

1 sponsored by an educational institution, state denturist
 2 board, or a recognized denturist organization. Subject
 3 matter must be pertinent to denturistry as enumerated in
 4 (section 12(3) of this act.) Requests for approval of
 5 continuing education programs must be made to the board,
 6 providing sufficient outline of the program on which the
 7 board may base its determination. Hours pertain to clock
 8 hours actually attended by the licensee. In addition, the
 9 denturist shall submit proof that he holds a current
 10 cardiopulmonary resuscitation card. A license issued
 11 effective as of a date other than March 1 will be valid
 12 until midnight February 28 next following the date it was
 13 issued. The license shall bear on its face the address where
 14 the licensee's denturist services will be performed.

15 ~~(2) Licensure--applications--must--be--received--by--the~~
 16 ~~department--on--or--before--April--1--preceding--the--July~~
 17 ~~examination.~~ Applications must be submitted on forms
 18 approved by the board and furnished by the department. Each
 19 application must include all other documentations necessary
 20 to establish that the applicant meets the requirements for
 21 licensure and is eligible to take the licensure examination.
 22 Applications must be accompanied by the appropriate fees.
 23 ~~Applications--received--after--April--1--will--be--held--over--for~~
 24 ~~examination--the--following--year.~~

25 (3) After April 1, 1985, the board may by rule alter

1 future renewal dates for licenses under [Initiative No.
 2 97]."

3 Section 8. Section 15 of Montana Initiative 97 is
 4 amended to read:

5 "Section 15. Suspension or revocation of license.
 6 (1) The board has the power to refuse to issue a license,
 7 to suspend or revoke a license or to place a licensed person
 8 on probation for a period specified by the board, or to
 9 reprimand or censure a licensee for any of the following
 10 causes:

11 (a) conviction of a crime if that crime bears a
 12 demonstrable relationship to the practice of denturistry;

13 (b) incompetence or gross negligence in the practice
 14 of denturistry;

15 (c) fraud or misrepresentation in the practice of
 16 denturistry;

17 (d) the use of any narcotic or dangerous drug or
 18 intoxicating liquor to an extent that such use impairs the
 19 ability to conduct safely the practice of denturistry; or

20 (e) the willful violation of any provision of (this
 21 act); or

22 (f) unprofessional conduct as defined by rule of the
 23 board.

24 (2) The board or its agents may examine and inspect
 25 the place of business of any denturist at any time during

1 business hours or upon at least 72 hours notice made by U.S.
2 mail to the address of record of the dentist if the board
3 or its agents are unable to establish the regular business
4 hours. Inspections must be made to insure compliance with
5 the standards of conduct and practice set forth in
6 (section 6 of this act).

7 (3) Conditions considered by investigators to be a
8 menace to the public health must be brought to the attention
9 of the board for consideration and immediate action."

10 Section 9. Section 22 of Montana Initiative No. 97 is
11 amended to read:

12 "Section 22. Judicial review of board action. A person
13 who is aggrieved by an action of the board, in denying,
14 refusing to renew, suspending or revoking a dentist
15 license may appeal to the district court in the county in
16 which he resides. Such appeal is perfected by filing with
17 the clerk of the court, within 30 days following the action
18 of the board of which complaint is made, a notice of appeal
19 setting forth briefly the action complained of and how the
20 petitioner has been deprived of any legal rights. A copy of
21 the notice of appeal must be served upon the president or
22 secretary of the board, with notice to the attorney general
23 of the state of Montana in the manner of civil appeal, and
24 the court may sustain or reverse the action of the board or
25 direct the board to take further or other action with regard

1 ~~to the appeal~~ petition for judicial review as provided in
2 Title 2, chapter 4, part 7."

3 Section 10. Section 27 of Montana Initiative No. 97 is
4 amended to read:

5 "Section 27. Initial Board. Of the initial board, the
6 three members ~~to be appointed from nominations of the~~
7 ~~association of Montana~~ who are denturists shall serve for
8 terms of 1 year, 2 years, and 3 years respectively, as
9 designated in their appointment. Of the initial board, the
10 two lay person representatives shall serve terms of 3 and 2
11 years respectively, as designated in their appointment.
12 Thereafter, members must be appointed to the board for terms
13 of 3 years each, except that appointment to fill vacancies
14 must be for the unexpired term of such vacancy."

15 NEW SECTION. Section 11. Injunction. When it appears
16 to the board that any person, firm, or corporation is
17 violating any of the provisions of [Initiative No. 97], the
18 board may in its own name bring an action in a court of
19 competent jurisdiction for an injunction against such
20 violation, and the court may enjoin the person, firm, or
21 corporation from violation of [Initiative No. 97] without
22 regard to whether proceedings have been or may be instituted
23 before the board or whether criminal proceedings have been
24 or may be instituted.

25 NEW SECTION. Section 12. Applicability of chapter 1.

1 To the extent that they do not conflict with the provisions
2 of [Initiative No. 97], the provisions of chapter 1 of this
3 title and Title 2, chapters 4 and 15, apply to the powers
4 and duties of the department and the board.

5 Section 13. Section 53-5-511, MCA, is amended to read:

6 "53-5-511. Reports. (1) When the professionals and
7 other persons listed in subsection (3) know or have
8 reasonable cause to suspect that an older person known to
9 them in their professional or official capacities has been
10 subjected to abuse, exploitation, or neglect, they shall:

11 (a) if the older person is not a resident of a
12 long-term care facility, report the matter to:

13 (i) the department of social and rehabilitation
14 services or its local affiliate;

15 (ii) the county attorney of the county in which the
16 older person resides or in which the acts that are the
17 subject of the report occurred;

18 (b) if the older person is a resident of a long-term
19 care facility, report the matter to the long-term care
20 ombudsman appointed under the provisions of 42 U.S.C.
21 3027(a)(12) and to the department of health and
22 environmental sciences. The department shall investigate the
23 matter pursuant to its authority in 50-5-204 and, if it
24 finds any allegations of abuse, exploitation, or neglect
25 contained in the report to be substantially true, forward a

1 copy of the report to the department of social and
2 rehabilitation services and to the county attorney as
3 provided in subsection (1)(a)(ii).

4 (2) If the report required in subsection (1) involves
5 an act or omission of the department of social and
6 rehabilitation services which may be construed as abuse,
7 exploitation, or neglect, a copy of the report may not be
8 sent to the department but must be sent instead to the
9 county attorney of the county in which the older person
10 resides or in which the acts that are the subject of the
11 report occurred.

12 (3) Professionals and other persons required to report
13 are:

14 (a) a physician, resident, intern, professional or
15 practical nurse, physician's assistant, or member of a
16 hospital staff engaged in the admission, examination, care,
17 or treatment of persons;

18 (b) an osteopath, dentist, denturist, chiropractor,
19 optometrist, podiatrist, medical examiner, coroner, or any
20 other health or mental health professional;

21 (c) an ambulance attendant;

22 (d) a social worker or other employee of the state, a
23 county, or a municipality assisting an older person in the
24 application for or receipt of public assistance payments or
25 services;

1 (e) a person who maintains or is employed by a
2 roominghouse, retirement home, nursing home, group home, or
3 adult foster care home;

4 (f) an attorney, unless he acquired knowledge of the
5 facts required to be reported from a client and the
6 attorney-client privilege applies; and

7 (g) a peace officer or other law enforcement official.

8 (4) Any other person may submit a report as provided
9 in subsection (1)."

10 NEW SECTION. Section 14. Advertising restrictions.

11 (1) No person, firm, or corporation engaged in the business
12 of constructing, altering, reproducing, or repairing of any
13 denture may advertise or permit any other person, firm, or
14 corporation to advertise that service in a manner that
15 represents such a service as being performed for the public
16 by the person engaged in the business, either directly or
17 indirectly, unless licensed under [Initiative No. 97].

18 (2) No person, firm, or corporation may advertise as
19 being a dental technician or dental laboratory in any manner
20 or medium that would have the general public believe that he
21 or it is a licensed denturist under [Initiative No. 97]
22 unless licensed under [Initiative No. 97].

23 NEW SECTION. Section 15. Severability. If a part of
24 this act is invalid, all valid parts that are severable from
25 the invalid part remain in effect. If a part of this act is

1 invalid in one or more of its applications, the part remains
2 in effect in all valid applications that are severable from
3 the invalid applications.

4 NEW SECTION. Section 16. Codification instruction.
5 Sections 11, 12, and 14 are intended to be codified as an
6 integral part of Initiative No. 97 and Title 37, and the
7 provisions of Initiative No. 97 and Title 37 apply to
8 sections 11, 12, and 14.

9 NEW SECTION. Section 17. Effective date. This act is
10 effective on passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. FNN 341-85

FISCAL NOTE

Form BD-15

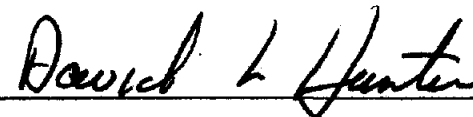
In compliance with a written request received February 5, 19 85, there is hereby submitted a Fiscal Note for House Bill 649 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

To provide for revising administrative purposes of laws relating to practice of dentistry; requiring the Board of Dentistry to meet at least twice a year; abolishing the fair practice committee; providing disposition of funds; giving board rule making authority; clarifying reciprocity; granting additional authority to the board to set fees, alter future renewal dates, define by rule unprofessional conduct; providing for review of contested cases; providing the board with authority to sue to enjoin the unlicensed practice of dentistry, making provisions of Title 37, Chapter 1, and Title 2, Chapters 4 and 15 applicable to the powers and duties of the board; making reporting requirements of elderly abuse applicable to denturists; providing for advertising restrictions amending Sections 7 through 11, 13 through 15, 22 and 27 of Initiative 97 and providing an effective date.

ASSUMPTIONS:

1. Assume 12 licensees will renew April 1st of each year.
2. Assume .10 FTE (Grade 10, step 2) in FY 86-87 plus 18 $\frac{1}{2}$ % benefits in FY 86-87.
3. Assume 5 members meet 3 times a year = 15 meeting days.
4. Assume indirect costs to Department of Commerce of \$200 per year.
5. Assume 17 hours legal at \$40 an hour or \$700 in FY 86-87.
6. Assume 6 pages rules and notices at \$14 a page per year.
7. Printing of Forms of \$300 in FY 86-87.
8. Assume budget of \$5,464 in FY 86-87 with inflationary factors added to FY 87 for personal services.
9. Assume fees commensurate with costs.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 11, 1985

FISCAL IMPACT:

On State Special Revenues:

		<u>FY 86</u>	<u>FY 87</u>
Estimated Expenditures:	Current	<u>-0-</u>	<u>-0-</u>
	Proposed	<u>\$5,464</u>	<u>\$5,464</u>
	Difference	<u>\$5,464</u>	<u>\$5,464</u>
Revenues:	Current	<u>-0-</u>	<u>-0-</u>
	Proposed	<u>\$6,000</u>	<u>\$6,000</u>
	Difference	<u>\$6,000</u>	<u>\$6,000</u>

APPROVED BY COMM. ON
BUSINESS AND LABOR

STATEMENT OF INTENT

HOUSE BILL 649

House Business and Labor Committee

This bill is for a major revision of Initiative 97, the Denturitry Practice Act. The bill delegates new authority to the new board of denturitry and clarifies some delegations of authority contained in the initiative. A statement of intent is therefore required for this bill.

It is the intent of section 1 of the bill that the governor have authority to implement staggered terms of board members during the appointing process.

It is the intent of section 4 of the bill that the board of denturitry have general authority to adopt rules for the implementation and enforcement of the act, including specific authority to adopt rules regarding license applications, license examinations, criteria for grading examinations, disciplinary standards for licensee, inspection of premises and facilities used in the practice of the profession, and investigation of complaints.

It is the intent of section 6 of the bill that the board have authority to modify fees set by the initiative and to set and modify additional fees.

It is the intent of section 7 of the bill that the board have authority to alter license renewal dates by rule.

It is the intent of section 8 of the bill that the board have authority to define "unprofessional conduct" of licensees by rule, for the purpose of establishing license discipline conduct standards.



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2 INTRODUCED BY JACK MOORE, NATHE, BENGTSON, THAYER

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

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 9 TO THE BOARD; ABOLISHING THE FAIR PRACTICE COMMITTEE;
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 15 RIGHT TO ENTER INTO RECIPROCAL RELATIONS WITH OTHER STATES
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 20 PURPOSE OF ESTABLISHING DISCIPLINARY CONDUCT STANDARDS;
 21 PROVIDING FOR REVIEW OF CONTESTED CASE DECISIONS OF THE
 22 BOARD IN CONFORMITY WITH THE MONTANA ADMINISTRATIVE
 23 PROCEDURE ACT; PROVIDING THE BOARD WITH AUTHORITY TO SUE TO
 24 ENJOIN THE UNLICENSED PRACTICE OF DENTURITRY; PROVIDING FOR
 25 SUNSET REVIEW; PROVIDING PROCEDURES FOR MAKING AND FITTING

1 PARTIAL DENTURES AND FOR MAKING X-RAYS; MAKING THE
 2 PROVISIONS OF TITLE 37, CHAPTER 1, AND TITLE 2, CHAPTERS 4
 3 AND 15, APPLICABLE TO THE POWERS AND DUTIES OF THE BOARD;
 4 MAKING REPORTING REQUIREMENTS OF ELDERLY ABUSE APPLICABLE TO
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 17 be appointed as prescribed in Section 2-15-124, except that
 18 a member need not be an attorney. ~~Three~~ TWO members of the
 19 board must be denturists who have had, immediately prior to
 20 their appointment, at least 5 3 years' experience in the
 21 practice of denturistry AND WHO ARE NOT DENTISTS. ONE MEMBER
 22 OF THE BOARD MUST BE A DENTIST LICENSED UNDER 37-4-301. Two
 23 members of the board must be lay persons, one member a
 24 senior citizen representative and the other member a low
 25 income representative.

1 (2) Members of the board shall hold office for terms
2 of 3 years each.

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6 (4) The Board is attached to the department for
7 administrative purposes only as provided in 2-15-121."

8 Section 2. Section 8 of Montana Initiative No. 97 is
9 amended to read:

10 "Section 8. Officers, meetings, voting, records, ~~fair~~
11 ~~practice--committee.~~ (1) The board shall elect a president,
12 secretary, and treasurer. The offices of secretary and
13 treasurer may be held by the same person. Officers of the
14 board are elected for terms of 1 year at the annual meeting
15 of the board. The same person may not hold the office of
16 president for more than 3 years in succession.

17 (2) The board must hold meetings ~~on-the-second--Friday~~
18 ~~of--December--and--the-second-Friday-of-May~~ at least twice a
19 year to conduct business and perform duties. The board may
20 meet at such other times as designated by the president or
21 by request of two or more members of the board. Meetings
22 must be held in the offices of the board. Dates and places
23 may be changed through notification by the board at least 10
24 days prior to the regular meeting date or the date
25 established for a meeting, whichever is earlier.

1 (3) A majority of the board constitutes a quorum for
2 all purposes, and the majority vote of the members voting
3 constitutes the action of the board.

4 (4) The secretary of the board must keep a complete
5 record of all of its proceedings.

6 ~~{5}--The-board-shall-appoint-a-fair-practice--committee~~
7 ~~consisting--of-three-denturists-selected-from-the-membership~~
8 ~~of-the-association-of-Montana-denturists;--This-committee-may~~
9 ~~meet-as-need-arises-and-must-file-a-written-report-with--the~~
10 ~~board-containing-its-recommendations;--"~~

11 Section 3. Section 9 of Montana Initiative No. 97 is
12 amended to read:

13 "Section 9. Compensation and expenses of board members
14 ~~-- deposit of excess funds ----expenditure--limitations.~~

15 (1) Out of the funds derived from fees collected under
16 (this act) each member of the board must receive
17 compensation and travel expenses as provided for in
18 37-1-133, with the exception that denturist members of the
19 board may receive compensation for expenses only.

20 (2) Money collected ~~in-excess-of-expenses-and-salaries~~
21 ~~must-be-held~~ by the department as a special fund for meeting
22 ~~the--expenses--of--the--board;--the-proper-administration-of~~
23 under (this act);--and-educational-purposes-approved--by--the
24 board must be deposited in the state special revenue fund
25 for the use of the board, subject to 37-1-101(6).

1 ~~{3}--The department is not obligated to pay claims~~
 2 ~~which, in aggregate with claims already paid exceed the~~
 3 ~~income to the department which has been derived by the~~
 4 ~~application of this act:-"~~

5 Section 4. Section 10 of Montana Initiative No. 97 is
 6 amended to read:

7 "Section 10. Board powers and duties. The board has
 8 the following powers and duties:

9 (1) determination of the qualifications of applicants
 10 for licensure under (this act);

11 (2) administration of examinations ~~and determination~~
 12 ~~of a passing grade~~ for licensure under (this act);

13 (3) collection of fees and charges prescribed in (this
 14 act); and

15 (4) issuance, suspension and revocation of licenses
 16 for the practice of dentistry under the conditions
 17 prescribed in (this act); and

18 (5) to adopt, amend, and repeal rules necessary for
 19 the implementation, continuation, and enforcement of
 20 [Initiative No. 97], including but not limited to license
 21 applications, form and display of licenses, license
 22 examination format, criteria and grading of examinations,
 23 disciplinary standards for licensees, inspection of
 24 dentistry premises and facilities, and investigation of
 25 complaints."

1 Section 5. Section 11 of Montana Initiative No. 97 is
 2 amended to read:

3 "Section 11. Application for license. Upon application
 4 and payment of the appropriate fee, the board shall issue a
 5 license to practice dentistry to any applicant who meets
 6 one of the following criteria and scores a passing grade on
 7 the examination for licensure:

8 (1) (a) Applications for persons engaged in the
 9 practice of dentistry on December 1, 1984, must be filed
 10 prior to April 1, 1985, and must include the following:

11 (a)(i) three signed affidavits by persons other than
 12 family members that the applicant has been employed in
 13 denture technology for at least 5 years prior to
 14 application, is able to demonstrate competency in intraoral
 15 procedures, and has been a resident of the state of Montana
 16 for at least 6 months prior to April 1, 1985; and

17 (b)(ii) documentation that the applicant has
 18 successfully completed courses approved by the board in head
 19 and oral anatomy and physiology, oral pathology, partial
 20 denture construction and design, clinical dental technology,
 21 radiology, dental laboratory technology, asepsis, clinical
 22 jurisprudence, medical emergencies, and cardiopulmonary
 23 resuscitation.

24 (b) Subsection (1)(a) must be applied retroactively to
 25 permit qualification of license applicants initially

1 qualified and applying prior to the appointment and
 2 qualification of the original board under [Initiative No.
 3 97].

4 (2) Applications filed on or after April 1, 1985, must
 5 include:

6 (a) documentation that the applicant has completed
 7 formal training of not less than 2 years at an educational
 8 institution accredited by a national or regional accrediting
 9 agency recognized by the Montana state board of regents, the
 10 curriculum of which includes courses in head and oral
 11 anatomy and physiology, oral pathology, microbiology,
 12 partial denture construction and design, clinical dental
 13 technology, radiology, dental laboratory technology,
 14 asepsis, clinical jurisprudence, and medical emergencies
 15 including cardiopulmonary resuscitation; and

16 (b) documentation that the applicant:

17 (i) has completed 2 years of internship under the
 18 direct supervision of a licensed denturist; or

19 (ii) has 3 years of experience as a denturist under
 20 licensure in another state or Canada.

21 (3) A denturist who has been lawfully licensed or
 22 certified by initial licensing provisions in any state or
 23 territory that maintains a standard of denturistry which is
 24 equal to that of Montana must submit a certificate from the
 25 examining body of the state or territory in which he is

1 certified or licensed attesting to 5 years practice under
 2 the certificate of license. However, no applicant may be
 3 licensed under the provisions of (this subsection) unless
 4 the state or territory in which he is licensed or certified
 5 extends a like privilege to denturists licensed by the state
 6 of Montana to practice denturistry. The board may enter into
 7 reciprocal relations with those ~~boards--in~~ states or
 8 territories whose laws are compatible with (this act)."

9 Section 6. Section 13 of Montana Initiative No. 97 is
 10 amended to read:

11 "Section 13. Applications and fees. (1) The board is
 12 initially entitled to charge and collect the following fees:

- 13 ~~(1)~~(a) \$200 application for licensing;
- 14 ~~(2)~~(b) \$200 for original license;
- 15 ~~(3)~~(c) \$200 annual license renewal fee;
- 16 ~~(4)~~(d) \$200 for examination or reexamination, provided
 17 that if on reexamination only the written examination is
 18 required, the fee is \$100; and
- 19 ~~(5)~~(e) \$50 for a duplicate or replacement license or a
 20 license for a second address, provided that no denturist may
 21 hold licenses bearing more than two different addresses.

22 (2) The board may set other fees and modify the
 23 initial fees in accordance with the provisions of 37-1-134."

24 Section 7. Section 14 of Montana Initiative No. 97 is
 25 amended to read:

1 "Section 14. Licensing. (1) A After March 1, 1985, a
 2 denturist license is valid for a period of 1 year. A renewal
 3 license must be issued upon payment of the renewal fee and
 4 the submission of proof of the completion of not less than
 5 12 hours continuing education, which may include programs
 6 sponsored by an educational institution, state denturist
 7 board, or a recognized denturist organization. Subject
 8 matter must be pertinent to denturistry as enumerated in
 9 (section 12(3) of this act.) Requests for approval of
 10 continuing education programs must be made to the board,
 11 providing sufficient outline of the program on which the
 12 board may base its determination. Hours pertain to clock
 13 hours actually attended by the licensee. In addition, the
 14 denturist shall submit proof that he holds a current
 15 cardiopulmonary resuscitation card. A license issued
 16 effective as of a date other than March 1 will be valid
 17 until midnight February 28 next following the date it was
 18 issued. The license shall bear on its face the address where
 19 the licensee's denturist services will be performed.

20 ~~(2) Licensure--applications--must--be--received--by--the~~
 21 ~~department--on--or--before--April--1--preceding--the--July~~
 22 ~~examination:~~ Applications must be submitted on forms
 23 approved by the board and furnished by the department. Each
 24 application must include all other documentations necessary
 25 to establish that the applicant meets the requirements for

1 licensure and is eligible to take the licensure examination.
 2 Applications must be accompanied by the appropriate fees.
 3 ~~Applications--received--after--April--1--will--be--held--over--for~~
 4 ~~examination--the--following--year.~~

5 (3) After April 1, 1985, the board may by rule alter
 6 future renewal dates for licenses under [Initiative No.
 7 97]."

8 Section 8. Section 15 of Montana Initiative 97 is
 9 amended to read:

10 "Section 15. Suspension or revocation of license.
 11 (1) The board has the power to refuse to issue a license,
 12 to suspend or revoke a license or to place a licensed person
 13 on probation for a period specified by the board, or to
 14 reprimand or censure a licensee for any of the following
 15 causes:

- 16 (a) conviction of a crime if that crime bears a
- 17 demonstrable relationship to the practice of denturistry;
- 18 (b) incompetence or gross negligence in the practice
- 19 of denturistry;
- 20 (c) fraud or misrepresentation in the practice of
- 21 denturistry;
- 22 (d) the use of any narcotic or dangerous drug or
- 23 intoxicating liquor to an extent that such use impairs the
- 24 ability to conduct safely the practice of denturistry; or
- 25 (e) the willful violation of any provision of (this

1 act); or

2 (f) unprofessional conduct as defined by rule of the
3 board.

4 (2) The board or its agents may examine and inspect
5 the place of business of any dentist at any time during
6 business hours or upon at least 72 hours notice made by U.S.
7 mail to the address of record of the dentist if the board
8 or its agents are unable to establish the regular business
9 hours. Inspections must be made to insure compliance with
10 the standards of conduct and practice set forth in
11 (section 6 of this act).

12 (3) Conditions considered by investigators to be a
13 menace to the public health must be brought to the attention
14 of the board for consideration and immediate action."

15 Section 9. Section 22 of Montana Initiative No. 97 is
16 amended to read:

17 "Section 22. Judicial review of board action. A person
18 who is aggrieved by an action of the board, in denying,
19 refusing to renew, suspending or revoking a dentist
20 license may ~~appeal to the district court in the county in~~
21 ~~which he resides. Such appeal is perfected by filing with~~
22 ~~the clerk of the court, within 30 days following the action~~
23 ~~of the board of which complaint is made, a notice of appeal~~
24 ~~setting forth briefly the action complained of and how the~~
25 ~~petitioner has been deprived of any legal rights. A copy of~~

1 ~~the notice of appeal must be served upon the president or~~
2 ~~secretary of the board, with notice to the attorney general~~
3 ~~of the state of Montana in the manner of civil appeal, and~~
4 ~~the court may sustain or reverse the action of the board or~~
5 ~~direct the board to take further or other action with regard~~
6 ~~to the appeal: petition for judicial review as provided in~~
7 ~~Title 2, chapter 4, part 7."~~

8 Section 10. Section 27 of Montana Initiative No. 97 is
9 amended to read:

10 "Section 27. Initial Board. Of the initial board, the
11 three members ~~to be appointed from nominations of the~~
12 ~~association of Montana who are denturists shall serve for~~
13 ~~terms of 1 year, 2 years, and 3 years respectively,~~
14 STAGGERED TERMS as designated in their appointment. Of the
15 initial board, the two lay person representatives shall
16 serve terms of 3 and 2 years respectively, as designated in
17 their appointment. Thereafter, members must be appointed to
18 the board for terms of 3 years each, except that appointment
19 to fill vacancies must be for the unexpired term of such
20 vacancy."

21 NEW SECTION. Section 11. Injunction. When it appears
22 to the board that any person, firm, or corporation is
23 violating any of the provisions of [Initiative No. 97], the
24 board may in its own name bring an action in a court of
25 competent jurisdiction for an injunction against such

1 violation, and the court may enjoin the person, firm, or
 2 corporation from violation of [Initiative No. 97] without
 3 regard to whether proceedings have been or may be instituted
 4 before the board or whether criminal proceedings have been
 5 or may be instituted.

6 NEW SECTION. Section 12. Applicability of chapter 1.
 7 To the extent that they do not conflict with the provisions
 8 of [Initiative No. 97], the provisions of chapter 1 of this
 9 title and Title 2, chapters 4 and 15, apply to the powers
 10 and duties of the department and the board.

11 Section 13. Section 53-5-511, MCA, is amended to read:

12 "53-5-511. Reports. (1) When the professionals and
 13 other persons listed in subsection (3) know or have
 14 reasonable cause to suspect that an older person known to
 15 them in their professional or official capacities has been
 16 subjected to abuse, exploitation, or neglect, they shall:

17 (a) if the older person is not a resident of a
 18 long-term care facility, report the matter to:

19 (i) the department of social and rehabilitation
 20 services or its local affiliate;

21 (ii) the county attorney of the county in which the
 22 older person resides or in which the acts that are the
 23 subject of the report occurred;

24 (b) if the older person is a resident of a long-term
 25 care facility, report the matter to the long-term care

1 ombudsman appointed under the provisions of 42 U.S.C.
 2 3027(a)(12) and to the department of health and
 3 environmental sciences. The department shall investigate the
 4 matter pursuant to its authority in 50-5-204 and, if it
 5 finds any allegations of abuse, exploitation, or neglect
 6 contained in the report to be substantially true, forward a
 7 copy of the report to the department of social and
 8 rehabilitation services and to the county attorney as
 9 provided in subsection (1)(a)(ii).

10 (2) If the report required in subsection (1) involves
 11 an act or omission of the department of social and
 12 rehabilitation services which may be construed as abuse,
 13 exploitation, or neglect, a copy of the report may not be
 14 sent to the department but must be sent instead to the
 15 county attorney of the county in which the older person
 16 resides or in which the acts that are the subject of the
 17 report occurred.

18 (3) Professionals and other persons required to report
 19 are:

20 (a) a physician, resident, intern, professional or
 21 practical nurse, physician's assistant, or member of a
 22 hospital staff engaged in the admission, examination, care,
 23 or treatment of persons;

24 (b) an osteopath, dentist, denturist, chiropractor,
 25 optometrist, podiatrist, medical examiner, coroner, or any

- 1 other health or mental health professional;
- 2 (c) an ambulance attendant;
- 3 (d) a social worker or other employee of the state, a
4 county, or a municipality assisting an older person in the
5 application for or receipt of public assistance payments or
6 services;
- 7 (e) a person who maintains or is employed by a
8 roominghouse, retirement home, nursing home, group home, or
9 adult foster care home;
- 10 (f) an attorney, unless he acquired knowledge of the
11 facts required to be reported from a client and the
12 attorney-client privilege applies; and
- 13 (g) a peace officer or other law enforcement official.
- 14 (4) Any other person may submit a report as provided
15 in subsection (1)."

16 NEW SECTION. Section 14. Advertising restrictions.
17 ~~{1}--No person, firm, or corporation engaged in the business~~
18 ~~of constructing, altering, reproducing, or repairing of any~~
19 ~~denture may advertise or permit any other person, firm, or~~
20 ~~corporation to advertise that service in a manner that~~
21 ~~represents such a service as being performed for the public~~
22 ~~by the person engaged in the business, either directly or~~
23 ~~indirectly, unless licensed under {Initiative No. 97}.~~
24 ~~{2}--No person, firm, or corporation may advertise as~~
25 ~~being a dental technician or dental laboratory in any manner~~

1 ~~or medium that would have the general public believe that he~~
2 ~~or it is a licensed denturist under {Initiative No. 97} NO~~
3 ~~PERSON MAY REPRESENT OR HOLD HIMSELF OUT TO THE PUBLIC AS A~~
4 ~~DENTURIST OR AS PRACTICING DENTURISTRY unless licensed under~~
5 ~~{Initiative No. 97}.~~

6 NEW SECTION. SECTION 15. PROCEDURE FOR MAKING AND
7 FITTING PARTIAL DENTURE. (1) PRIOR TO MAKING AND FITTING A
8 PARTIAL DENTURE, A DENTURIST SHALL:

- 9 (A) FORMULATE A STUDY MODEL OF THE INTENDED DENTURE;
10 (B) REFER THE PATIENT TO A DENTIST, TOGETHER WITH THE
11 MODEL FOR TOOTH CLEANING, MOUTH PREPARATION, AND X-RAYS, AS
12 NEEDED; AND

13 (C) MAKE THE PARTIAL DENTURE AND FIT IT TO THE
14 EXISTING TEETH AFTER THE DENTIST HAS COMPLETED THE
15 PROCEDURES LISTED IN SUBSECTION (1)(B) AND IN ACCORDANCE
16 WITH THE DENTIST'S RECOMMENDATIONS.

17 (2) A DENTURIST MAY NOT CUT, SURGICALLY REMOVE, OR
18 SURGICALLY REDUCE ANY TISSUE OR TEETH IN THE PROCESS OF
19 FITTING A PARTIAL DENTURE.

20 (3) A DENTURIST WHO MAKES OR FITS A PARTIAL DENTURE IN
21 A MANNER NOT CONSISTENT WITH THIS SECTION IS SUBJECT TO THE
22 SANCTIONS PROVIDED IN [SECTION 15 OF INITIATIVE 97].

23 NEW SECTION. SECTION 16. SUNSET REVIEW BY AUDIT
24 COMMITTEE -- PROVISIONS FOR POSSIBLE MERGER. (1) THE
25 LEGISLATIVE AUDIT COMMITTEE SHALL REVIEW THE OPERATIONS OF

1 THE BOARD OF DENTURITRY UNDER THE CRITERIA OF 2-8-112 AND
 2 2-8-113 AND THE ADDITIONAL CRITERION OF WHETHER THE BOARD
 3 HAS LICENSED A SUFFICIENT NUMBER OF DENTURISTS TO BE A
 4 VIABLE AGENCY. THE LEGISLATIVE AUDIT COMMITTEE SHALL, IF THE
 5 BOARD HAS NOT LICENSED 30 DENTURISTS WHO ARE PRACTICING IN
 6 MONTANA BY OCTOBER 1, 1986, OR IF THE BOARD HAS OTHERWISE
 7 FAILED TO DEMONSTRATE ITS FISCAL VIABILITY, AND MAY IN ANY
 8 EVENT, PREPARE A BILL FOR THE 50TH LEGISLATURE TO MERGE THE
 9 BOARD OF DENTURITRY WITH THE BOARD OF DENTISTRY.

10 (2) IF THE LEGISLATIVE AUDIT COMMITTEE PROPOSES A
 11 MERGER UNDER SUBSECTION (1), IT SHALL PROVIDE THAT THE BOARD
 12 OF DENTISTRY CONSIST OF FOUR DENTISTS, ONE DENTAL HYGIENIST,
 13 ONE DENTURIST, AND TWO LAY PERSONS, ONE OF WHOM MUST BE A
 14 SENIOR CITIZEN REPRESENTATIVE.

15 SECTION 17. SECTION 26 OF MONTANA INITIATIVE NO. 97 IS
 16 AMENDED TO READ:

17 "Section 26. Section 37-14-301, MCA, is amended to
 18 read:

19 "37-14-301. Limitation of license authority --
 20 exemptions. (1) No person may apply x-ray radiation to a
 21 person unless licensed under this chapter, with the
 22 following provisos:

23 (a) Licensure is not required for:

24 (i) a student enrolled in and attending a school or
 25 college of medicine, osteopathy, chiropody, podiatry,

1 dentistry, dental hygiene, chiropractic, or radiologic
 2 technology who applies x-ray radiation to persons under the
 3 specific direction of a person licensed to prescribe such
 4 examinations or treatment;

5 (ii) a person administering x-ray examinations related
 6 to the practice of dentistry or denturitry, PROVIDED SUCH
 7 PERSON IS CERTIFIED BY THE BOARD OF DENTISTRY AS HAVING
 8 PASSED AN EXAMINATION TESTING HIS PROFICIENCY TO ADMINISTER
 9 X-RAY EXAMINATIONS.

10 (b) Nothing in this chapter shall be construed to
 11 limit or affect in any respect the practice of their
 12 respective professions by duly licensed practitioners.

13 (2) A person licensed as a radiologic technologist may
 14 apply x-ray radiation to persons for medical, diagnostic, or
 15 therapeutic purposes under the specific direction of a
 16 person licensed to prescribe such examinations or
 17 treatments.

18 (3) A radiologic technologist licensed under this
 19 chapter may inject contrast media and radioactive isotopes
 20 (radio-nuclide material) intravenously upon request of a
 21 duly licensed practitioner. In the case of contrast media,
 22 the licensed practitioner requesting the procedure or the
 23 radiologist must be immediately available within the x-ray
 24 department. Such injections must be for diagnostic studies
 25 only and not for therapeutic purposes. The permitted

1 injections include peripheral intravenous injections but
2 specifically exclude intra-arterial or intracatheter
3 injections. An uncertified radiologic technologist or a
4 permitholder under 37-14-306 may not perform any of the
5 activities listed in this subsection."

6 NEW SECTION. Section 18. Severability. If a part of
7 this act is invalid, all valid parts that are severable from
8 the invalid part remain in effect. If a part of this act is
9 invalid in one or more of its applications, the part remains
10 in effect in all valid applications that are severable from
11 the invalid applications.

12 NEW SECTION. Section 19. Codification instruction.
13 Sections 11, 12, and 14, AND 15 are intended to be codified
14 as an integral part of Initiative No. 97 and Title 37, and
15 the provisions of Initiative No. 97 and Title 37 apply to
16 sections 11, 12, and 14, AND 15.

17 NEW SECTION. Section 20. Effective date. This act is
18 effective on passage and approval.

-End-

1 STATEMENT OF INTENT
 2 HOUSE BILL 649
 3 House Business and Labor Committee
 4

5 This bill is for a major revision of Initiative 97, the
 6 Denturitry Practice Act. The bill delegates new authority to
 7 the new board of denturitry and clarifies some delegations
 8 of authority contained in the initiative. A statement of
 9 intent is therefore required for this bill.

10 It is the intent of section 1 of the bill that the
 11 governor have authority to implement staggered terms of
 12 board members during the appointing process.

13 It is the intent of section 4 of the bill that the
 14 board of denturitry have general authority to adopt rules
 15 for the implementation and enforcement of the act, including
 16 specific authority to adopt rules regarding license
 17 applications, license examinations, criteria for grading
 18 examinations, disciplinary standards for licensee,
 19 inspection of premises and facilities used in the practice
 20 of the profession, and investigation of complaints.

21 It is the intent of section 6 of the bill that the
 22 board have authority to modify fees set by the initiative
 23 and to set and modify additional fees.

24 It is the intent of section 7 of the bill that the
 25 board have authority to alter license renewal dates by rule.

1 It is the intent of section 8 of the bill that the
 2 board have authority to define "unprofessional conduct" of
 3 licensees by rule, for the purpose of establishing license
 4 discipline conduct standards.



THIRD READING

HB 649

1 HOUSE BILL NO. 649

2 INTRODUCED BY JACK MOORE, NATHE, BENGTSON, THAYER

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FOR
 6 ADMINISTRATIVE PURPOSES THE LAWS RELATING TO REGULATION OF
 7 THE PRACTICE OF DENTURITRY; REQUIRING THE BOARD OF
 8 DENTURITRY TO MEET AT LEAST TWICE A YEAR AND ADD A DENTIST
 9 TO THE BOARD; ABOLISHING THE FAIR PRACTICE COMMITTEE;
 10 PROVIDING THAT FUNDS COLLECTED BY THE BOARD MUST BE
 11 DEPOSITED TO THE STATE SPECIAL REVENUE FUND; ABOLISHING
 12 PROVISIONS FOR PAYMENT OF CLAIMS THAT ARE INCONSISTENT WITH
 13 OTHER STATE STATUTES; GIVING THE BOARD OF DENTURITRY GENERAL
 14 AND SPECIFIC RULEMAKING AUTHORITY; CLARIFYING THE BOARD'S
 15 RIGHT TO ENTER INTO RECIPROCAL RELATIONS WITH OTHER STATES
 16 AND TERRITORIES; GIVING THE BOARD ADDITIONAL AUTHORITY TO
 17 SET AND MODIFY FEES; GIVING THE BOARD AUTHORITY TO ALTER
 18 FUTURE RENEWAL DATES FOR LICENSES; GIVING THE BOARD
 19 AUTHORITY TO DEPINE BY RULE UNPROFESSIONAL CONDUCT FOR THE
 20 PURPOSE OF ESTABLISHING DISCIPLINARY CONDUCT STANDARDS;
 21 PROVIDING FOR REVIEW OF CONTESTED CASE DECISIONS OF THE
 22 BOARD IN CONFORMITY WITH THE MONTANA ADMINISTRATIVE
 23 PROCEDURE ACT; PROVIDING THE BOARD WITH AUTHORITY TO SUE TO
 24 ENJOIN THE UNLICENSED PRACTICE OF DENTURITRY; PROVIDING FOR
 25 SUNSET REVIEW; PROVIDING PROCEDURES FOR MAKING AND FITTING

1 PARTIAL DENTURES AND FOR MAKING X-RAYS; MAKING THE
 2 PROVISIONS OF TITLE 37, CHAPTER 1, AND TITLE 2, CHAPTERS 4
 3 AND 15, APPLICABLE TO THE POWERS AND DUTIES OF THE BOARD;
 4 MAKING REPORTING REQUIREMENTS OF ELDERLY ABUSE APPLICABLE TO
 5 DENTURISTS; PROVIDING FOR ADVERTISING RESTRICTIONS; AMENDING
 6 SECTIONS 7 THROUGH 11, 13 THROUGH 15, 22, 26, AND 27 OF
 7 INITIATIVE 97 AND SECTION 53-5-511, MCA; AND PROVIDING AN
 8 IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:11 Section 1. Section 7 of Montana Initiative No. 97 is
12 amended to read:

13 "Section 7. Board -- membership -- vacancies.
 14 (1) There is a Montana state board of denturitry. The board
 15 consists of five members to be appointed by the governor
 16 within ~~30~~ 60 days of adoption of (this act). The board shall
 17 be appointed as prescribed in Section 2-15-124, except that
 18 a member need not be an attorney. ~~Three~~ TWO members of the
 19 board must be denturists who have had, immediately prior to
 20 their appointment, at least ~~5~~ 3 years' experience in the
 21 practice of denturitry AND WHO ARE NOT DENTISTS. ONE MEMBER
 22 OF THE BOARD MUST BE A DENTIST LICENSED UNDER 37-4-301. Two
 23 members of the board must be lay persons, one member a
 24 senior citizen representative and the other member a low
 25 income representative.

1 (2) Members of the board shall hold office for terms
2 of 3 years each.

3 (3) Each member of the board shall hold office for his
4 term and until his successor is duly appointed by the
5 governor.

6 (4) The Board is attached to the department for
7 administrative purposes only as provided in 2-15-121."

8 Section 2. Section 8 of Montana Initiative No. 97 is
9 amended to read:

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12 secretary, and treasurer. The offices of secretary and
13 treasurer may be held by the same person. Officers of the
14 board are elected for terms of 1 year at the annual meeting
15 of the board. The same person may not hold the office of
16 president for more than 3 years in succession.

17 (2) The board must hold meetings ~~on-the-second--Friday~~
18 ~~of--December--and--the-second-Friday-of-May~~ at least twice a
19 year to conduct business and perform duties. The board may
20 meet at such other times as designated by the president or
21 by request of two or more members of the board. Meetings
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23 may be changed through notification by the board at least 10
24 days prior to the regular meeting date or the date
25 established for a meeting, whichever is earlier.

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2 all purposes, and the majority vote of the members voting
3 constitutes the action of the board.

4 (4) The secretary of the board must keep a complete
5 record of all of its proceedings.

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9 ~~meet-as-need-arises-and-must-file-a-written-report-with--the~~
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15 (1) Out of the funds derived from fees collected under
16 (this act) each member of the board must receive
17 compensation and travel expenses as provided for in
18 37-1-133, with the exception that denturist members of the
19 board may receive compensation for expenses only.

20 (2) Money collected ~~in-excess-of-expenses-and-salaries~~
21 ~~must-be-held~~ by the department ~~as-a-special-fund-for-meeting~~
22 ~~the--expenses--of--the--board,--the-proper-administration-of~~
23 ~~under~~ (this act); ~~and-educational-purposes-approved--by--the~~
24 board must be deposited in the state special revenue fund
25 for the use of the board, subject to 37-1-101(6).

1 ~~{3}--The department is not obligated to pay claims~~
2 ~~which, in aggregate with claims already paid exceed the~~
3 ~~income to the department which has been derived by the~~
4 ~~application of {this act}:-"~~

5 Section 4. Section 10 of Montana Initiative No. 97 is
6 amended to read:

7 "Section 10. Board powers and duties. The board has
8 the following powers and duties:

9 (1) determination of the qualifications of applicants
10 for licensure under (this act);

11 (2) administration of examinations ~~and determination~~
12 ~~of a passing grade~~ for licensure under (this act);

13 (3) collection of fees and charges prescribed in (this
14 act); and

15 (4) issuance, suspension and revocation of licenses
16 for the practice of dentistry under the conditions
17 prescribed in (this act); and

18 (5) to adopt, amend, and repeal rules necessary for
19 the implementation, continuation, and enforcement of
20 {Initiative No. 97}, including but not limited to license
21 applications, form and display of licenses, license
22 examination format, criteria and grading of examinations,
23 disciplinary standards for licensees, inspection of
24 dentistry premises and facilities, and investigation of
25 complaints."

1 Section 5. Section 11 of Montana Initiative No. 97 is
2 amended to read:

3 "Section 11. Application for license. Upon application
4 and payment of the appropriate fee, the board shall issue a
5 license to practice dentistry to any applicant who meets
6 one of the following criteria and scores a passing grade on
7 the examination for licensure:

8 (1) (a) Applications for persons engaged in the
9 practice of dentistry on December 1, 1984, must be filed
10 prior to April 1, 1985, and must include the following:

11 ~~(a)(i)~~ three signed affidavits by persons other than
12 family members that the applicant has been employed in
13 denture technology for at least 5 years prior to
14 application, is able to demonstrate competency in intraoral
15 procedures, and has been a resident of the state of Montana
16 for at least 6 months prior to April 1, 1985; and

17 ~~(b)(ii)~~ documentation that the applicant has
18 successfully completed courses approved by the board in head
19 and oral anatomy and physiology, oral pathology, partial
20 denture construction and design, clinical dental technology,
21 radiology, dental laboratory technology, asepsis, clinical
22 jurisprudence, medical emergencies, and cardiopulmonary
23 resuscitation.

24 (b) Subsection (1)(a) must be applied retroactively to
25 permit qualification of license applicants initially

1 qualified and applying prior to the appointment and
 2 qualification of the original board under [Initiative No.
 3 97].

4 (2) Applications filed on or after April 1, 1985, must
 5 include:

6 (a) documentation that the applicant has completed
 7 formal training of not less than 2 years at an educational
 8 institution accredited by a national or regional accrediting
 9 agency recognized by the Montana state board of regents, the
 10 curriculum of which includes courses in head and oral
 11 anatomy and physiology, oral pathology, microbiology,
 12 partial denture construction and design, clinical dental
 13 technology, radiology, dental laboratory technology,
 14 asepsis, clinical jurisprudence, and medical emergencies
 15 including cardiopulmonary resuscitation; and

16 (b) documentation that the applicant:

17 (i) has completed 2 years of internship under the
 18 direct supervision of a licensed dentist; or

19 (ii) has 3 years of experience as a dentist under
 20 licensure in another state or Canada.

21 (3) A dentist who has been lawfully licensed or
 22 certified by initial licensing provisions in any state or
 23 territory that maintains a standard of dentistry which is
 24 equal to that of Montana must submit a certificate from the
 25 examining body of the state or territory in which he is

1 certified or licensed attesting to 5 years practice under
 2 the certificate of license. However, no applicant may be
 3 licensed under the provisions of (this subsection) unless
 4 the state or territory in which he is licensed or certified
 5 extends a like privilege to denturists licensed by the state
 6 of Montana to practice dentistry. The board may enter into
 7 reciprocal relations with those boards--in states or
 8 territories whose laws are compatible with (this act)."

9 Section 6. Section 13 of Montana Initiative No. 97 is
 10 amended to read:

11 "Section 13. Applications and fees. (1) The board is
 12 initially entitled to charge and collect the following fees:

13 ~~(1)~~(a) \$200 application for licensing;

14 ~~(2)~~(b) \$200 for original license;

15 ~~(3)~~(c) \$200 annual license renewal fee;

16 ~~(4)~~(d) \$200 for examination or reexamination, provided
 17 that if on reexamination only the written examination is
 18 required, the fee is \$100; and

19 ~~(5)~~(e) \$50 for a duplicate or replacement license or a
 20 license for a second address, provided that no dentist may
 21 hold licenses bearing more than two different addresses.

22 (2) The board may set other fees and modify the
 23 initial fees in accordance with the provisions of 37-1-134."

24 Section 7. Section 14 of Montana Initiative No. 97 is
 25 amended to read:

1 "Section 14. Licensing. (1) After March 1, 1985, a
 2 denturist license is valid for a period of 1 year. A renewal
 3 license must be issued upon payment of the renewal fee and
 4 the submission of proof of the completion of not less than
 5 12 hours continuing education, which may include programs
 6 sponsored by an educational institution, state denturist
 7 board, or a recognized denturist organization. Subject
 8 matter must be pertinent to denturistry as enumerated in
 9 (section 12(3) of this act.) Requests for approval of
 10 continuing education programs must be made to the board,
 11 providing sufficient outline of the program on which the
 12 board may base its determination. Hours pertain to clock
 13 hours actually attended by the licensee. In addition, the
 14 denturist shall submit proof that he holds a current
 15 cardiopulmonary resuscitation card. A license issued
 16 effective as of a date other than March 1 will be valid
 17 until midnight February 28 next following the date it was
 18 issued. The license shall bear on its face the address where
 19 the licensee's denturist services will be performed.

20 ~~(2) Licensure--applications--must--be--received--by--the~~
 21 ~~department--on--or--before--April--1--preceding--the--July~~
 22 ~~examination.~~ Applications must be submitted on forms
 23 approved by the board and furnished by the department. Each
 24 application must include all other documentations necessary
 25 to establish that the applicant meets the requirements for

1 licensure and is eligible to take the licensure examination.
 2 Applications must be accompanied by the appropriate fees.
 3 ~~Applications--received--after--April--1--will--be--held--over--for~~
 4 ~~examination--the--following--year.~~

5 (3) After April 1, 1985, the board may by rule alter
 6 future renewal dates for licenses under [Initiative No.
 7 97]."

8 Section 8. Section 15 of Montana Initiative 97 is
 9 amended to read:

10 "Section 15. Suspension or revocation of license.
 11 (1) The board has the power to refuse to issue a license,
 12 to suspend or revoke a license or to place a licensed person
 13 on probation for a period specified by the board, or to
 14 reprimand or censure a licensee for any of the following
 15 causes:

- 16 (a) conviction of a crime if that crime bears a
- 17 demonstrable relationship to the practice of denturistry;
- 18 (b) incompetence or gross negligence in the practice
- 19 of denturistry;
- 20 (c) fraud or misrepresentation in the practice of
- 21 denturistry;
- 22 (d) the use of any narcotic or dangerous drug or
- 23 intoxicating liquor to an extent that such use impairs the
- 24 ability to conduct safely the practice of denturistry; or
- 25 (e) the willful violation of any provision of (this

1 act); or

2 (f) unprofessional conduct as defined by rule of the
3 board.

4 (2) The board or its agents may examine and inspect
5 the place of business of any denturist at any time during
6 business hours or upon at least 72 hours notice made by U.S.
7 mail to the address of record of the denturist if the board
8 or its agents are unable to establish the regular business
9 hours. Inspections must be made to insure compliance with
10 the standards of conduct and practice set for forth in
11 (section 6 of this act).

12 (3) Conditions considered by investigators to be a
13 menace to the public health must be brought to the attention
14 of the board for consideration and immediate action."

15 Section 9. Section 22 of Montana Initiative No. 97 is
16 amended to read:

17 "Section 22. Judicial review of board action. A person
18 who is aggrieved by an action of the board, in denying,
19 refusing to renew, suspending or revoking a denturist
20 license may ~~appeal to the district court in the county in~~
21 ~~which he resides. Such appeal is perfected by filing with~~
22 ~~the clerk of the court, within 30 days following the action~~
23 ~~of the board of which complaint is made, a notice of appeal~~
24 ~~setting forth briefly the action complained of and how the~~
25 ~~petitioner has been deprived of any legal rights. A copy of~~

1 the notice of appeal must be served upon the president or
2 secretary of the board, with notice to the attorney general
3 of the state of Montana in the manner of civil appeal, and
4 the court may sustain or reverse the action of the board or
5 direct the board to take further or other action with regard
6 to the appeal. petition for judicial review as provided in
7 Title 2, chapter 4, part 7."

8 Section 10. Section 27 of Montana Initiative No. 97 is
9 amended to read:

10 "Section 27. Initial Board. Of the initial board, the
11 three members ~~to be appointed from nominations of the~~
12 ~~association of Montana who are denturists~~ shall serve for
13 ~~terms of 1 year, 2 years, and 3 years respectively,~~
14 STAGGERED TERMS as designated in their appointment. Of the
15 initial board, the two lay person representatives shall
16 serve terms of 3 and 2 years respectively, as designated in
17 their appointment. Thereafter, members must be appointed to
18 the board for terms of 3 years each, except that appointment
19 to fill vacancies must be for the unexpired term of such
20 vacancy."

21 NEW SECTION. Section 11. Injunction. When it appears
22 to the board that any person, firm, or corporation is
23 violating any of the provisions of [Initiative No. 97], the
24 board may in its own name bring an action in a court of
25 competent jurisdiction for an injunction against such

1 violation, and the court may enjoin the person, firm, or
 2 corporation from violation of [Initiative No. 97] without
 3 regard to whether proceedings have been or may be instituted
 4 before the board or whether criminal proceedings have been
 5 or may be instituted.

6 NEW SECTION. Section 12. Applicability of chapter 1.
 7 To the extent that they do not conflict with the provisions
 8 of [Initiative No. 97], the provisions of chapter 1 of this
 9 title and Title 2, chapters 4 and 15, apply to the powers
 10 and duties of the department and the board.

11 Section 13. Section 53-5-511, MCA, is amended to read:

12 "53-5-511. Reports. (1) When the professionals and
 13 other persons listed in subsection (3) know or have
 14 reasonable cause to suspect that an older person known to
 15 them in their professional or official capacities has been
 16 subjected to abuse, exploitation, or neglect, they shall:

17 (a) if the older person is not a resident of a
 18 long-term care facility, report the matter to:

19 (i) the department of social and rehabilitation
 20 services or its local affiliate;

21 (ii) the county attorney of the county in which the
 22 older person resides or in which the acts that are the
 23 subject of the report occurred;

24 (b) if the older person is a resident of a long-term
 25 care facility, report the matter to the long-term care

1 ombudsman appointed under the provisions of 42 U.S.C.
 2 3027(a)(12) and to the department of health and
 3 environmental sciences. The department shall investigate the
 4 matter pursuant to its authority in 50-5-204 and, if it
 5 finds any allegations of abuse, exploitation, or neglect
 6 contained in the report to be substantially true, forward a
 7 copy of the report to the department of social and
 8 rehabilitation services and to the county attorney as
 9 provided in subsection (1)(a)(ii).

10 (2) If the report required in subsection (1) involves
 11 an act or omission of the department of social and
 12 rehabilitation services which may be construed as abuse,
 13 exploitation, or neglect, a copy of the report may not be
 14 sent to the department but must be sent instead to the
 15 county attorney of the county in which the older person
 16 resides or in which the acts that are the subject of the
 17 report occurred.

18 (3) Professionals and other persons required to report
 19 are:

20 (a) a physician, resident, intern, professional or
 21 practical nurse, physician's assistant, or member of a
 22 hospital staff engaged in the admission, examination, care,
 23 or treatment of persons;

24 (b) an osteopath, dentist, denturist, chiropractor,
 25 optometrist, podiatrist, medical examiner, coroner, or any

1 other health or mental health professional;
 2 (c) an ambulance attendant;
 3 (d) a social worker or other employee of the state, a
 4 county, or a municipality assisting an older person in the
 5 application for or receipt of public assistance payments or
 6 services;
 7 (e) a person who maintains or is employed by a
 8 roominghouse, retirement home, nursing home, group home, or
 9 adult foster care home;
 10 (f) an attorney, unless he acquired knowledge of the
 11 facts required to be reported from a client and the
 12 attorney-client privilege applies; and
 13 (g) a peace officer or other law enforcement official.
 14 (4) Any other person may submit a report as provided
 15 in subsection (1)."

16 NEW SECTION. Section 14. Advertising restrictions.
 17 ~~{1} No person, firm, or corporation engaged in the business~~
 18 ~~of constructing, altering, reproducing, or repairing of any~~
 19 ~~denture may advertise or permit any other person, firm, or~~
 20 ~~corporation to advertise that service in a manner that~~
 21 ~~represents such a service as being performed for the public~~
 22 ~~by the person engaged in the business, either directly or~~
 23 ~~indirectly, unless licensed under {Initiative No. 97};~~
 24 ~~{2} No person, firm, or corporation may advertise as~~
 25 ~~being a dental technician or dental laboratory in any manner~~

1 ~~or medium that would have the general public believe that he~~
 2 ~~or it is a licensed denturist under {Initiative No. 97} NO~~
 3 ~~PERSON MAY REPRESENT OR HOLD HIMSELF OUT TO THE PUBLIC AS A~~
 4 ~~DENTURIST OR AS PRACTICING DENTURITRY unless licensed under~~
 5 ~~{Initiative No. 97}.~~

6 NEW SECTION. SECTION 15. PROCEDURE FOR MAKING AND
 7 FITTING PARTIAL DENTURE. (1) PRIOR TO MAKING AND FITTING A
 8 PARTIAL DENTURE, A DENTURIST SHALL:

9 (A) FORMULATE A STUDY MODEL OF THE INTENDED DENTURE;

10 (B) REFER THE PATIENT TO A DENTIST, TOGETHER WITH THE
 11 MODEL FOR TOOTH CLEANING, MOUTH PREPARATION, AND X-RAYS, AS
 12 NEEDED; AND

13 (C) MAKE THE PARTIAL DENTURE AND FIT IT TO THE
 14 EXISTING TEETH AFTER THE DENTIST HAS COMPLETED THE
 15 PROCEDURES LISTED IN SUBSECTION (1)(B) AND IN ACCORDANCE
 16 WITH THE DENTIST'S RECOMMENDATIONS.

17 (2) A DENTURIST MAY NOT CUT, SURGICALLY REMOVE, OR
 18 SURGICALLY REDUCE ANY TISSUE OR TEETH IN THE PROCESS OF
 19 FITTING A PARTIAL DENTURE.

20 (3) A DENTURIST WHO MAKES OR FITS A PARTIAL DENTURE IN
 21 A MANNER NOT CONSISTENT WITH THIS SECTION IS SUBJECT TO THE
 22 SANCTIONS PROVIDED IN [SECTION 15 OF INITIATIVE 97].

23 NEW SECTION. SECTION 16. SUNSET REVIEW BY AUDIT
 24 COMMITTEE -- PROVISIONS FOR POSSIBLE MERGER. (1) THE
 25 LEGISLATIVE AUDIT COMMITTEE SHALL REVIEW THE OPERATIONS OF

1 THE BOARD OF DENTURITRY UNDER THE CRITERIA OF 2-8-112 AND
 2 2-8-113 AND THE ADDITIONAL CRITERION OF WHETHER THE BOARD
 3 HAS LICENSED A SUFFICIENT NUMBER OF DENTURISTS TO BE A
 4 VIABLE AGENCY. THE LEGISLATIVE AUDIT COMMITTEE SHALL, IF THE
 5 BOARD HAS NOT LICENSED 30 DENTURISTS WHO ARE PRACTICING IN
 6 MONTANA BY OCTOBER 1, 1986, OR IF THE BOARD HAS OTHERWISE
 7 FAILED TO DEMONSTRATE ITS FISCAL VIABILITY, AND MAY IN ANY
 8 EVENT, PREPARE A BILL FOR THE 50TH LEGISLATURE TO MERGE THE
 9 BOARD OF DENTURITRY WITH THE BOARD OF DENTISTRY.

10 (2) IF THE LEGISLATIVE AUDIT COMMITTEE PROPOSES A
 11 MERGER UNDER SUBSECTION (1), IT SHALL PROVIDE THAT THE BOARD
 12 OF DENTISTRY CONSIST OF FOUR DENTISTS, ONE DENTAL HYGIENIST,
 13 ONE DENTURIST, AND TWO LAY PERSONS, ONE OF WHOM MUST BE A
 14 SENIOR CITIZEN REPRESENTATIVE.

15 SECTION 17. SECTION 26 OF MONTANA INITIATIVE NO. 97 IS
 16 AMENDED TO READ:

17 "Section 26. Section 37-14-301, MCA, is amended to
 18 read:

19 "37-14-301. Limitation of license authority --
 20 exemptions. (1) No person may apply x-ray radiation to a
 21 person unless licensed under this chapter, with the
 22 following provisos:

- 23 (a) Licensure is not required for:
 24 (i) a student enrolled in and attending a school or
 25 college of medicine, osteopathy, chiropody, podiatry,

1 dentistry, dental hygiene, chiropractic, or radiologic
 2 technology who applies x-ray radiation to persons under the
 3 specific direction of a person licensed to prescribe such
 4 examinations or treatment;

5 (ii) a person administering x-ray examinations related
 6 to the practice of dentistry or denturitry, PROVIDED SUCH
 7 PERSON IS CERTIFIED BY THE BOARD OF DENTISTRY AS HAVING
 8 PASSED AN EXAMINATION TESTING HIS PROFICIENCY TO ADMINISTER
 9 X-RAY EXAMINATIONS.

10 (b) Nothing in this chapter shall be construed to
 11 limit or affect in any respect the practice of their
 12 respective professions by duly licensed practitioners.

13 (2) A person licensed as a radiologic technologist may
 14 apply x-ray radiation to persons for medical, diagnostic, or
 15 therapeutic purposes under the specific direction of a
 16 person licensed to prescribe such examinations or
 17 treatments.

18 (3) A radiologic technologist licensed under this
 19 chapter may inject contrast media and radioactive isotopes
 20 (radio-nuclide material) intravenously upon request of a
 21 duly licensed practitioner. In the case of contrast media,
 22 the licensed practitioner requesting the procedure or the
 23 radiologist must be immediately available within the x-ray
 24 department. Such injections must be for diagnostic studies
 25 only and not for therapeutic purposes. The permitted

1 injections include peripheral intravenous injections but
2 specifically exclude intra-arterial or intracatheter
3 injections. An uncertified radiologic technologist or a
4 permitholder under 37-14-306 may not perform any of the
5 activities listed in this subsection."

6 NEW SECTION. Section 18. Severability. If a part of
7 this act is invalid, all valid parts that are severable from
8 the invalid part remain in effect. If a part of this act is
9 invalid in one or more of its applications, the part remains
10 in effect in all valid applications that are severable from
11 the invalid applications.

12 NEW SECTION. Section 19. Codification instruction.
13 Sections 11, 12, and 14, AND 15 are intended to be codified
14 as an integral part of Initiative No. 97 and Title 37, and
15 the provisions of Initiative No. 97 and Title 37 apply to
16 sections 11, 12, and 14, AND 15.

17 NEW SECTION. Section 20. Effective date. This act is
18 effective on passage and approval.

-End-

SENATE STANDING COMMITTEE REPORT

MARCH 13, 1985

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE BILL No. 649

THIRD reading copy BLUE)
color

GENERALLY REVISE THE LAWS GOVERNING THE PRACTICE OF DENTURITY
MOORE (BENGSTON)

Respectfully report as follows: That HOUSE BILL No. 649

be amended as follows:

1. Page 12, line 14.

Following: "appointment."

Insert: "Within 60 days after the effective date of [this act]
the governor shall replace one of the 3 denturists appointed
to the initial board with a dentist member."

Jc
~~DO PASS~~
~~XXXXXXXX~~

~~DO NOT PASS~~
~~XXXXXXXXXX~~

AND AS AMENDED
BE CONCURRED IN

Judy Jacobson
SENATOR JUDY JACOBSON

Chairman.

STATEMENT OF INTENT

HOUSE BILL 649

House Business and Labor Committee

This bill is for a major revision of Initiative 97, the Denturistry Practice Act. The bill delegates new authority to the new board of denturistry and clarifies some delegations of authority contained in the initiative. A statement of intent is therefore required for this bill.

It is the intent of section 1 of the bill that the governor have authority to implement staggered terms of board members during the appointing process.

It is the intent of section 4 of the bill that the board of denturistry have general authority to adopt rules for the implementation and enforcement of the act, including specific authority to adopt rules regarding license applications, license examinations, criteria for grading examinations, disciplinary standards for licensee, inspection of premises and facilities used in the practice of the profession, and investigation of complaints.

It is the intent of section 6 of the bill that the board have authority to modify fees set by the initiative and to set and modify additional fees.

It is the intent of section 7 of the bill that the board have authority to alter license renewal dates by rule.

It is the intent of section 8 of the bill that the board have authority to define "unprofessional conduct" of licensees by rule, for the purpose of establishing license discipline conduct standards.



1 HOUSE BILL NO. 649

2 INTRODUCED BY JACK MOORE, NATHE, BENGTSON, THAYER

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FOR
6 ADMINISTRATIVE PURPOSES THE LAWS RELATING TO REGULATION OF
7 THE PRACTICE OF DENTURITRY; REQUIRING THE BOARD OF
8 DENTURITRY TO MEET AT LEAST TWICE A YEAR AND ADD A DENTIST
9 TO THE BOARD; ABOLISHING THE FAIR PRACTICE COMMITTEE;
10 PROVIDING THAT FUNDS COLLECTED BY THE BOARD MUST BE
11 DEPOSITED TO THE STATE SPECIAL REVENUE FUND; ABOLISHING
12 PROVISIONS FOR PAYMENT OF CLAIMS THAT ARE INCONSISTENT WITH
13 OTHER STATE STATUTES; GIVING THE BOARD OF DENTURITRY GENERAL
14 AND SPECIFIC RULEMAKING AUTHORITY; CLARIFYING THE BOARD'S
15 RIGHT TO ENTER INTO RECIPROCAL RELATIONS WITH OTHER STATES
16 AND TERRITORIES; GIVING THE BOARD ADDITIONAL AUTHORITY TO
17 SET AND MODIFY FEES; GIVING THE BOARD AUTHORITY TO ALTER
18 FUTURE RENEWAL DATES FOR LICENSES; GIVING THE BOARD
19 AUTHORITY TO DEFINE BY RULE UNPROFESSIONAL CONDUCT FOR THE
20 PURPOSE OF ESTABLISHING DISCIPLINARY CONDUCT STANDARDS;
21 PROVIDING FOR REVIEW OF CONTESTED CASE DECISIONS OF THE
22 BOARD IN CONFORMITY WITH THE MONTANA ADMINISTRATIVE
23 PROCEDURE ACT; PROVIDING THE BOARD WITH AUTHORITY TO SUE TO
24 ENJOIN THE UNLICENSED PRACTICE OF DENTURITRY; PROVIDING FOR
25 SUNSET REVIEW; PROVIDING PROCEDURES FOR MAKING AND FITTING

1 PARTIAL DENTURES AND FOR MAKING X-RAYS; MAKING THE
2 PROVISIONS OF TITLE 37, CHAPTER 1, AND TITLE 2, CHAPTERS 4
3 AND 15, APPLICABLE TO THE POWERS AND DUTIES OF THE BOARD;
4 MAKING REPORTING REQUIREMENTS OF ELDERLY ABUSE APPLICABLE TO
5 DENTURISTS; PROVIDING FOR ADVERTISING RESTRICTIONS; AMENDING
6 SECTIONS 7 THROUGH 11, 13 THROUGH 15, 22, 26, AND 27 OF
7 INITIATIVE 97 AND SECTION 53-5-511, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

9

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

11 Section 1. Section 7 of Montana Initiative No. 97 is
12 amended to read:

13 "Section 7. Board -- membership -- vacancies.
14 (1) There is a Montana state board of denturistry. The board
15 consists of five members to be appointed by the governor
16 within 30 60 days of adoption of (this act). The board shall
17 be appointed as prescribed in Section 2-15-124, except that
18 a member need not be an attorney. ~~Three~~ TWO members of the
19 board must be denturists who have had, immediately prior to
20 their appointment, at least 5 3 years' experience in the
21 practice of denturistry AND WHO ARE NOT DENTISTS. ONE MEMBER
22 OF THE BOARD MUST BE A DENTIST LICENSED UNDER 37-4-301. Two
23 members of the board must be lay persons, one member a
24 senior citizen representative and the other member a low
25 income representative.

1 (2) Members of the board shall hold office for terms
2 of 3 years each.

3 (3) Each member of the board shall hold office for his
4 term and until his successor is duly appointed by the
5 governor.

6 (4) The Board is attached to the department for
7 administrative purposes only as provided in 2-15-121."

8 Section 2. Section 8 of Montana Initiative No. 97 is
9 amended to read:

10 "Section 8. Officers, meetings, voting, records, ~~fair~~
11 ~~practice--committee.~~ (1) The board shall elect a president,
12 secretary, and treasurer. The offices of secretary and
13 treasurer may be held by the same person. Officers of the
14 board are elected for terms of 1 year at the annual meeting
15 of the board. The same person may not hold the office of
16 president for more than 3 years in succession.

17 (2) The board must hold meetings ~~on the second Friday~~
18 ~~of December and the second Friday of May~~ at least twice a
19 year to conduct business and perform duties. The board may
20 meet at such other times as designated by the president or
21 by request of two or more members of the board. Meetings
22 must be held in the offices of the board. Dates and places
23 may be changed through notification by the board at least 10
24 days prior to the regular meeting date or the date
25 established for a meeting, whichever is earlier.

1 (3) A majority of the board constitutes a quorum for
2 all purposes, and the majority vote of the members voting
3 constitutes the action of the board.

4 (4) The secretary of the board must keep a complete
5 record of all of its proceedings.

6 ~~(5) The board shall appoint a fair practice committee~~
7 ~~consisting of three denturists selected from the membership~~
8 ~~of the association of Montana denturists. This committee may~~
9 ~~meet as need arises and must file a written report with the~~
10 ~~board containing its recommendations."~~

11 Section 3. Section 9 of Montana Initiative No. 97 is
12 amended to read:

13 "Section 9. Compensation and expenses of board members
14 ~~-- deposit~~ of excess funds ~~----expenditure--limitations.~~

15 (1) Out of the funds derived from fees collected under
16 (this act) each member of the board must receive
17 compensation and travel expenses as provided for in
18 37-1-133, with the exception that denturist members of the
19 board may receive compensation for expenses only.

20 (2) Money collected ~~in excess of expenses and salaries~~
21 ~~must be held~~ by the department ~~as a special fund for meeting~~
22 ~~the expenses of the board, the proper administration of~~
23 ~~under~~ (this act), ~~and educational purposes approved by the~~
24 board must be deposited in the state special revenue fund
25 for the use of the board, subject to 37-1-101(6).

1 ~~{3}--The department is not obligated to pay claims~~
 2 ~~which, in aggregate with claims already paid exceed the~~
 3 ~~income to the department which has been derived by the~~
 4 ~~application of this act.~~"

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 10 for licensure under (this act);

11 (2) administration of examinations ~~and determination~~
 12 ~~of a passing grade~~ for licensure under (this act);

13 (3) collection of fees and charges prescribed in (this
 14 act); and

15 (4) issuance, suspension and revocation of licenses
 16 for the practice of dentistry under the conditions
 17 prescribed in (this act); and

18 (5) to adopt, amend, and repeal rules necessary for
 19 the implementation, continuation, and enforcement of
 20 [Initiative No. 97], including but not limited to license
 21 applications, form and display of licenses, license
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 24 dentistry premises and facilities, and investigation of
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 6 one of the following criteria and scores a passing grade on
 7 the examination for licensure:

8 (1) (a) Applications for persons engaged in the
 9 practice of dentistry on December 1, 1984, must be filed
 10 prior to April 1, 1985, and must include the following:

11 ~~{a}{i}~~ three signed affidavits by persons other than
 12 family members that the applicant has been employed in
 13 denture technology for at least 5 years prior to
 14 application, is able to demonstrate competency in intraoral
 15 procedures, and has been a resident of the state of Montana
 16 for at least 6 months prior to April 1, 1985; and

17 ~~{b}{ii}~~ documentation that the applicant has
 18 successfully completed courses approved by the board in head
 19 and oral anatomy and physiology, oral pathology, partial
 20 denture construction and design, clinical dental technology,
 21 radiology, dental laboratory technology, asepsis, clinical
 22 jurisprudence, medical emergencies, and cardiopulmonary
 23 resuscitation.

24 (b) Subsection (1)(a) must be applied retroactively to
 25 permit qualification of license applicants initially

1 qualified and applying prior to the appointment and
 2 qualification of the original board under [Initiative No.
 3 97].

4 (2) Applications filed on or after April 1, 1985, must
 5 include:

6 (a) documentation that the applicant has completed
 7 formal training of not less than 2 years at an educational
 8 institution accredited by a national or regional accrediting
 9 agency recognized by the Montana state board of regents, the
 10 curriculum of which includes courses in head and oral
 11 anatomy and physiology, oral pathology, microbiology,
 12 partial denture construction and design, clinical dental
 13 technology, radiology, dental laboratory technology,
 14 asepsis, clinical jurisprudence, and medical emergencies
 15 including cardiopulmonary resuscitation; and

16 (b) documentation that the applicant:

17 (i) has completed 2 years of internship under the
 18 direct supervision of a licensed dentist; or

19 (ii) has 3 years of experience as a dentist under
 20 licensure in another state or Canada.

21 (3) A dentist who has been lawfully licensed or
 22 certified by initial licensing provisions in any state or
 23 territory that maintains a standard of dentistry which is
 24 equal to that of Montana must submit a certificate from the
 25 examining body of the state or territory in which he is

1 certified or licensed attesting to 5 years practice under
 2 the certificate of license. However, no applicant may be
 3 licensed under the provisions of (this subsection) unless
 4 the state or territory in which he is licensed or certified
 5 extends a like privilege to denturists licensed by the state
 6 of Montana to practice dentistry. The board may enter into
 7 reciprocal relations with those boards--in states or
 8 territories whose laws are compatible with (this act)."

9 Section 6. Section 13 of Montana Initiative No. 97 is
 10 amended to read:

11 "Section 13. Applications and fees. (1) The board is
 12 initially entitled to charge and collect the following fees:

13 +1)(a) \$200 application for licensing;

14 +2)(b) \$200 for original license;

15 +3)(c) \$200 annual license renewal fee;

16 +4)(d) \$200 for examination or reexamination, provided

17 that if on reexamination only the written examination is
 18 required, the fee is \$100; and

19 +5)(e) \$50 for a duplicate or replacement license or a
 20 license for a second address, provided that no dentist may
 21 hold licenses bearing more than two different addresses.

22 (2) The board may set other fees and modify the
 23 initial fees in accordance with the provisions of 37-1-134."

24 Section 7. Section 14 of Montana Initiative No. 97 is
 25 amended to read:

1 "Section 14. Licensing. (1) ~~A~~ After March 1, 1985, a
 2 denturist license is valid for a period of 1 year. A renewal
 3 license must be issued upon payment of the renewal fee and
 4 the submission of proof of the completion of not less than
 5 12 hours continuing education, which may include programs
 6 sponsored by an educational institution, state denturist
 7 board, or a recognized denturist organization. Subject
 8 matter must be pertinent to denturistry as enumerated in
 9 (section 12(3) of this act.) Requests for approval of
 10 continuing education programs must be made to the board,
 11 providing sufficient outline of the program on which the
 12 board may base its determination. Hours pertain to clock
 13 hours actually attended by the licensee. In addition, the
 14 denturist shall submit proof that he holds a current
 15 cardiopulmonary resuscitation card. A license issued
 16 effective as of a date other than March 1 will be valid
 17 until midnight February 28 next following the date it was
 18 issued. The license shall bear on its face the address where
 19 the licensee's denturist services will be performed.

20 (2) ~~Licensure--applications--must--be--received--by--the~~
 21 ~~department--on--or--before--April--1--preceding--the--duly~~
 22 ~~examination.~~ Applications must be submitted on forms
 23 approved by the board and furnished by the department. Each
 24 application must include all other documentations necessary
 25 to establish that the applicant meets the requirements for

1 licensure and is eligible to take the licensure examination.
 2 Applications must be accompanied by the appropriate fees.
 3 ~~Applications--received--after--April--1--will--be--held--over--for~~
 4 ~~examination--the--following--year.~~

5 (3) After April 1, 1985, the board may by rule alter
 6 future renewal dates for licenses under [Initiative No.
 7 97]."

8 Section 8. Section 15 of Montana Initiative 97 is
 9 amended to read:

10 "Section 15. Suspension or revocation of license.
 11 (1) The board has the power to refuse to issue a license,
 12 to suspend or revoke a license or to place a licensed person
 13 on probation for a period specified by the board, or to
 14 reprimand or censure a licensee for any of the following
 15 causes:

16 (a) conviction of a crime if that crime bears a
 17 demonstrable relationship to the practice of denturistry;

18 (b) incompetence or gross negligence in the practice
 19 of denturistry;

20 (c) fraud or misrepresentation in the practice of
 21 denturistry;

22 (d) the use of any narcotic or dangerous drug or
 23 intoxicating liquor to an extent that such use impairs the
 24 ability to conduct safely the practice of denturistry; or

25 (e) the willful violation of any provision of (this

1 act); or
2 (f) unprofessional conduct as defined by rule of the
3 board.

4 (2) The board or its agents may examine and inspect
5 the place of business of any dentist at any time during
6 business hours or upon at least 72 hours notice made by U.S.
7 mail to the address of record of the dentist if the board
8 or its agents are unable to establish the regular business
9 hours. Inspections must be made to insure compliance with
10 the standards of conduct and practice set for forth in
11 (section 6 of this act).

12 (3) Conditions considered by investigators to be a
13 menace to the public health must be brought to the attention
14 of the board for consideration and immediate action."

15 Section 9. Section 22 of Montana Initiative No. 97 is
16 amended to read:

17 "Section 22. Judicial review of board action. A person
18 who is aggrieved by an action of the board, in denying,
19 refusing to renew, suspending or revoking a dentist
20 license may ~~appeal to the district court in the county in~~
21 ~~which he resides. Such appeal is perfected by filing with~~
22 ~~the clerk of the court, within 30 days following the action~~
23 ~~of the board of which complaint is made, a notice of appeal~~
24 ~~setting forth briefly the action complained of and how the~~
25 ~~petitioner has been deprived of any legal rights. A copy of~~

1 ~~the notice of appeal must be served upon the president or~~
2 ~~secretary of the board, with notice to the attorney general~~
3 ~~of the state of Montana in the manner of civil appeal, and~~
4 ~~the court may sustain or reverse the action of the board or~~
5 ~~direct the board to take further or other action with regard~~
6 ~~to the appeal; petition for judicial review as provided in~~
7 ~~Title 2, chapter 4, part 7.~~

8 Section 10. Section 27 of Montana Initiative No. 97 is
9 amended to read:

10 "Section 27. Initial Board. Of the initial board, the
11 three members ~~to be appointed from nominations of the~~
12 ~~association of Montana who are denturists~~ shall serve for
13 ~~terms of 1 year, 2 years, and 3 years respectively,~~
14 STAGGERED TERMS as designated in their appointment. WITHIN
15 60 DAYS AFTER [THE EFFECTIVE DATE OF THIS ACT] THE GOVERNOR
16 SHALL REPLACE ONE OF THE THREE DENTURISTS APPOINTED TO THE
17 INITIAL BOARD WITH A DENTIST MEMBER. Of the initial board,
18 the two lay person representatives shall serve terms of 3
19 and 2 years respectively, as designated in their
20 appointment. Thereafter, members must be appointed to the
21 board for terms of 3 years each, except that appointment to
22 fill vacancies must be for the unexpired term of such
23 vacancy."

24 NEW SECTION. Section 11. Injunction. When it appears
25 to the board that any person, firm, or corporation is

1 violating any of the provisions of [Initiative No. 97], the
 2 board may in its own name bring an action in a court of
 3 competent jurisdiction for an injunction against such
 4 violation, and the court may enjoin the person, firm, or
 5 corporation from violation of [Initiative No. 97] without
 6 regard to whether proceedings have been or may be instituted
 7 before the board or whether criminal proceedings have been
 8 or may be instituted.

9 NEW SECTION. Section 12. Applicability of chapter 1.
 10 To the extent that they do not conflict with the provisions
 11 of [Initiative No. 97], the provisions of chapter 1 of this
 12 title and Title 2, chapters 4 and 15, apply to the powers
 13 and duties of the department and the board.

14 Section 13. Section 53-5-511, MCA, is amended to read:

15 "53-5-511. Reports. (1) When the professionals and
 16 other persons listed in subsection (3) know or have
 17 reasonable cause to suspect that an older person known to
 18 them in their professional or official capacities has been
 19 subjected to abuse, exploitation, or neglect, they shall:

20 (a) if the older person is not a resident of a
 21 long-term care facility, report the matter to:

22 (i) the department of social and rehabilitation
 23 services or its local affiliate;

24 (ii) the county attorney of the county in which the
 25 older person resides or in which the acts that are the

1 subject of the report occurred;

2 (b) if the older person is a resident of a long-term
 3 care facility, report the matter to the long-term care
 4 ombudsman appointed under the provisions of 42 U.S.C.
 5 3027(a)(12) and to the department of health and
 6 environmental sciences. The department shall investigate the
 7 matter pursuant to its authority in 50-5-204 and, if it
 8 finds any allegations of abuse, exploitation, or neglect
 9 contained in the report to be substantially true, forward a
 10 copy of the report to the department of social and
 11 rehabilitation services and to the county attorney as
 12 provided in subsection (1)(a)(ii).

13 (2) If the report required in subsection (1) involves
 14 an act or omission of the department of social and
 15 rehabilitation services which may be construed as abuse,
 16 exploitation, or neglect, a copy of the report may not be
 17 sent to the department but must be sent instead to the
 18 county attorney of the county in which the older person
 19 resides or in which the acts that are the subject of the
 20 report occurred.

21 (3) Professionals and other persons required to report
 22 are:

23 (a) a physician, resident, intern, professional or
 24 practical nurse, physician's assistant, or member of a
 25 hospital staff engaged in the admission, examination, care,

1 or treatment of persons;

2 (b) an osteopath, dentist, denturist, chiropractor,
3 optometrist, podiatrist, medical examiner, coroner, or any
4 other health or mental health professional;

5 (c) an ambulance attendant;

6 (d) a social worker or other employee of the state, a
7 county, or a municipality assisting an older person in the
8 application for or receipt of public assistance payments or
9 services;

10 (e) a person who maintains or is employed by a
11 roominghouse, retirement home, nursing home, group home, or
12 adult foster care home;

13 (f) an attorney, unless he acquired knowledge of the
14 facts required to be reported from a client and the
15 attorney-client privilege applies; and

16 (g) a peace officer or other law enforcement official.

17 (4) Any other person may submit a report as provided
18 in subsection (1)."

19 NEW SECTION. Section 14. Advertising restrictions.

20 ~~(i) No person, firm, or corporation engaged in the business~~
21 ~~of constructing, altering, reproducing, or repairing of any~~
22 ~~denture may advertise or permit any other person, firm, or~~
23 ~~corporation to advertise that service in a manner that~~
24 ~~represents such a service as being performed for the public~~
25 ~~by the person engaged in the business, either directly or~~

1 ~~indirectly, unless licensed under Initiative No. 97;~~

2 ~~†2) No person, firm, or corporation may advertise as~~
3 ~~being a dental technician or dental laboratory in any manner~~
4 ~~or medium that would have the general public believe that he~~
5 ~~or it is a licensed denturist under Initiative No. 97; NO~~
6 PERSON MAY REPRESENT OR HOLD HIMSELF OUT TO THE PUBLIC AS A
7 DENTURIST OR AS PRACTICING DENTURISTRY unless licensed under
8 [Initiative No. 97].

9 NEW SECTION. SECTION 15. PROCEDURE FOR MAKING AND
10 FITTING PARTIAL DENTURE. (1) PRIOR TO MAKING AND FITTING A
11 PARTIAL DENTURE, A DENTURIST SHALL:

12 (A) FORMULATE A STUDY MODEL OF THE INTENDED DENTURE;

13 (B) REFER THE PATIENT TO A DENTIST, TOGETHER WITH THE
14 MODEL FOR TOOTH CLEANING, MOUTH PREPARATION, AND X-RAYS, AS
15 NEEDED; AND

16 (C) MAKE THE PARTIAL DENTURE AND FIT IT TO THE
17 EXISTING TEETH AFTER THE DENTIST HAS COMPLETED THE
18 PROCEDURES LISTED IN SUBSECTION (1)(B) AND IN ACCORDANCE
19 WITH THE DENTIST'S RECOMMENDATIONS.

20 (2) A DENTURIST MAY NOT CUT, SURGICALLY REMOVE, OR
21 SURGICALLY REDUCE ANY TISSUE OR TEETH IN THE PROCESS OF
22 FITTING A PARTIAL DENTURE.

23 (3) A DENTURIST WHO MAKES OR FITS A PARTIAL DENTURE IN
24 A MANNER NOT CONSISTENT WITH THIS SECTION IS SUBJECT TO THE
25 SANCTIONS PROVIDED IN [SECTION 15 OF INITIATIVE 97].

1 NEW SECTION. SECTION 16. SUNSET REVIEW BY AUDIT
 2 COMMITTEE -- PROVISIONS FOR POSSIBLE MERGER. (1) THE
 3 LEGISLATIVE AUDIT COMMITTEE SHALL REVIEW THE OPERATIONS OF
 4 THE BOARD OF DENTURITRY UNDER THE CRITERIA OF 2-8-112 AND
 5 2-8-113 AND THE ADDITIONAL CRITERION OF WHETHER THE BOARD
 6 HAS LICENSED A SUFFICIENT NUMBER OF DENTURISTS TO BE A
 7 VIABLE AGENCY. THE LEGISLATIVE AUDIT COMMITTEE SHALL, IF THE
 8 BOARD HAS NOT LICENSED 30 DENTURISTS WHO ARE PRACTICING IN
 9 MONTANA BY OCTOBER 1, 1986, OR IF THE BOARD HAS OTHERWISE
 10 FAILED TO DEMONSTRATE ITS FISCAL VIABILITY, AND MAY IN ANY
 11 EVENT, PREPARE A BILL FOR THE 50TH LEGISLATURE TO MERGE THE
 12 BOARD OF DENTURITRY WITH THE BOARD OF DENTISTRY.

13 (2) IF THE LEGISLATIVE AUDIT COMMITTEE PROPOSES A
 14 MERGER UNDER SUBSECTION (1), IT SHALL PROVIDE THAT THE BOARD
 15 OF DENTISTRY CONSIST OF FOUR DENTISTS, ONE DENTAL HYGIENIST,
 16 ONE DENTURIST, AND TWO LAY PERSONS, ONE OF WHOM MUST BE A
 17 SENIOR CITIZEN REPRESENTATIVE.

18 SECTION 17. SECTION 26 OF MONTANA INITIATIVE NO. 97 IS
 19 AMENDED TO READ:

20 "Section 26. Section 37-14-301, MCA, is amended to
 21 read:

22 "37-14-301. Limitation of license authority --
 23 exemptions. (1) No person may apply x-ray radiation to a
 24 person unless licensed under this chapter, with the
 25 following provisos:

1 (a) Licensure is not required for:

2 (i) a student enrolled in and attending a school or
 3 college of medicine, osteopathy, chiropody, podiatry,
 4 dentistry, dental hygiene, chiropractic, or radiologic
 5 technology who applies x-ray radiation to persons under the
 6 specific direction of a person licensed to prescribe such
 7 examinations or treatment;

8 (ii) a person administering x-ray examinations related
 9 to the practice of dentistry or denturitry, PROVIDED SUCH
 10 PERSON IS CERTIFIED BY THE BOARD OF DENTISTRY AS HAVING
 11 PASSED AN EXAMINATION TESTING HIS PROFICIENCY TO ADMINISTER
 12 X-RAY EXAMINATIONS.

13 (b) Nothing in this chapter shall be construed to
 14 limit or affect in any respect the practice of their
 15 respective professions by duly licensed practitioners.

16 (2) A person licensed as a radiologic technologist may
 17 apply x-ray radiation to persons for medical, diagnostic, or
 18 therapeutic purposes under the specific direction of a
 19 person licensed to prescribe such examinations or
 20 treatments.

21 (3) A radiologic technologist licensed under this
 22 chapter may inject contrast media and radioactive isotopes
 23 (radio-nuclide material) intravenously upon request of a
 24 duly licensed practitioner. In the case of contrast media,
 25 the licensed practitioner requesting the procedure or the

1 radiologist must be immediately available within the x-ray
2 department. Such injections must be for diagnostic studies
3 only and not for therapeutic purposes. The permitted
4 injections include peripheral intravenous injections but
5 specifically exclude intra-arterial or intracatheter
6 injections. An uncertified radiologic technologist or a
7 permit holder under 37-14-306 may not perform any of the
8 activities listed in this subsection."

9 NEW SECTION. Section 18. Severability. If a part of
10 this act is invalid, all valid parts that are severable from
11 the invalid part remain in effect. If a part of this act is
12 invalid in one or more of its applications, the part remains
13 in effect in all valid applications that are severable from
14 the invalid applications.

15 NEW SECTION. Section 19. Codification instruction.
16 Sections 11, 12, and 14, AND 15 are intended to be codified
17 as an integral part of Initiative No. 97 and Title 37, and
18 the provisions of Initiative No. 97 and Title 37 apply to
19 sections 11, 12, and 14, AND 15.

20 NEW SECTION. Section 20. Effective date. This act is
21 effective on passage and approval.

-End-