

HB 355 INTRODUCED BY HANSEN, S., ET AL.
REVISING DENTURIST LICENSING LAW

1/21 INTRODUCED
1/21 REFERRED TO STATE ADMINISTRATION
1/26 FISCAL NOTE REQUESTED
1/30 HEARING
2/02 FISCAL NOTE RECEIVED
2/04 COMMITTEE REPORT--BILL NOT PASSED
2/05 ADVERSE COMMITTEE REPORT ADOPTED

81 17

1 *House* BILL NO. 355
 2 INTRODUCED BY *Stella Jont Hansen*
 3 *Kadae Jont Hansen* *Connolly* *Member* *House*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 5 FREEDOM OF CHOICE IN DENTURE SERVICES ACT OF 1984; AMENDING
 6 SECTIONS 2-15-1855, 37-14-301, 37-29-102, 37-29-104,
 7 37-29-201, 37-29-301 THROUGH 37-29-306, 37-29-401, AND
 8 37-29-402, MCA; AND REPEALING SECTION 37-29-403, MCA."
 9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 2-15-1855, MCA, is amended to read:
 12 "2-15-1855. Board of denturistry -- membership --
 13 vacancies. (1) There is a Montana state board of denturistry.
 14 The board consists of five members to be appointed by the
 15 governor. The board shall be appointed as prescribed in
 16 2-15-124, except that a member need not be an attorney. Two
 17 members of the board must be denturists who have had,
 18 immediately prior to their appointment, at least 3 years'
 19 experience in the practice of denturistry and who are not
 20 dentists. ~~One member of the board must be a dentist licensed~~
 21 ~~under 37-4-301.~~ Three members of the board must be lay
 22 persons, one member a senior citizen representative, one
 23 member a consumer representative, and the other member a low
 24 income representative.

25 (2) Members of the board shall hold office for terms

1 of 3 years each.
 2 (3) Each member of the board shall hold office for his
 3 term and until his successor is duly appointed by the
 4 governor.
 5 (4) The board is attached to the department for
 6 administrative purposes only as provided in 2-15-121."
 7 Section 2. Section 37-14-301, MCA, is amended to read:
 8 "37-14-301. Limitation of license authority --
 9 exemptions. (1) No person may perform x-ray procedures on a
 10 person unless licensed or granted a limited permit under
 11 this chapter, with the following provisos:
 12 (a) Licensure is not required for:
 13 (i) a student enrolled in and attending a school or
 14 college of medicine, osteopathy, chiroprody, podiatry,
 15 dentistry, dental hygiene, chiropractic, or radiologic
 16 technology who applies x-ray radiation to persons under the
 17 specific direction of a person licensed to prescribe such
 18 examinations or treatment;
 19 (ii) a person administering x-ray examinations related
 20 to the practice of dentistry or denturistry, provided such
 21 person is certified by the his respective board of dentistry
 22 as having passed an examination testing his proficiency to
 23 administer x-ray examinations, prepared by the boards of
 24 dentistry and denturistry; or
 25 (iii) a person who performs only darkroom procedures



1 and is under the supervision of a licensed radiologic
2 technologist or radiologist or is able to show evidence of
3 completion of formal training in darkroom procedures as
4 established by rule.

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

8 (2) A person licensed as a radiologic technologist may
9 perform x-ray procedures on persons for medical, diagnostic,
10 or therapeutic purposes under the specific direction of a
11 person licensed to prescribe such procedures.

12 (3) A radiologic technologist licensed under this
13 chapter may inject contrast media and radioactive isotopes
14 (radio-nuclide material) intravenously upon request of a
15 duly licensed practitioner. In the case of contrast media,
16 the licensed practitioner requesting the procedure or the
17 radiologist must be immediately available within the x-ray
18 department. Such injections must be for diagnostic studies
19 only and not for therapeutic purposes. The permitted
20 injections include peripheral intravenous injections but
21 specifically exclude intra-arterial or intracatheter
22 injections. An uncertified radiologic technologist, a
23 limited permit technician under 37-14-306, or an individual
24 who is not licensed or authorized under another licensing
25 act may not perform any of the activities listed in this

1 subsection."

2 Section 3. Section 37-29-102, MCA, is amended to read:

3 "37-29-102. Definitions. As used in this chapter,
4 unless the context requires otherwise, the following
5 definitions apply:

6 (1) "Board" means the state board of dentistry
7 provided for in 2-15-1855.

8 (2) "Denture" means any removable full or partial
9 upper or lower prosthetic dental appliance to-be-worn-in-the
10 mouth or structure that replaces missing natural teeth, or
11 any other removable appliance or structure that is placed in
12 the mouth for the purpose of obtaining or restoring a
13 functional occlusion.

14 (3) "Denturist" means a person licensed under this
15 chapter to engage in the practice of dentistry.

16 (4) "Department" means department of commerce provided
17 for in Title 2, chapter 15, part 18.

18 (5) "Immediate denture" means a denture constructed
19 prior to and inserted immediately after extraction of teeth.

20 (6) "Practice of dentistry" means:

21 (a) the making, fitting, constructing, altering,
22 reproducing, or repairing of a denture and furnishing or
23 supplying of a denture directly to a person or advising the
24 use of a denture; or and

25 (b) the taking, or making, correcting, or the giving

1 of advice, assistance, or facilities respecting the taking,
 2 or making, or correcting of any impression, bite, cast, or
 3 design preparatory to or for the purpose of making,
 4 constructing, fitting, furnishing, supplying, altering,
 5 repairing, or reproducing a denture."

6 Section 4. Section 37-29-104, MCA, is amended to read:

7 "37-29-104. Health insurance policies and medical
 8 assistance to include denturist services. (1)
 9 Notwithstanding any provision of any policy of insurance
 10 covering health, whenever such policy provides for
 11 reimbursement for any service that is within the lawful
 12 scope of practice of a denturist, the insured under such
 13 policy is entitled to reimbursement for such service, at the
 14 normal rate charged by the provider, whether the service is
 15 performed by a licensed dentist or a licensed denturist.

16 (2) If medical assistance provided under Title 53,
 17 chapter 6, includes dentures as defined in 37-29-102,
 18 payments must be based on the normal rate charged by the
 19 provider."

20 Section 5. Section 37-29-201, MCA, is amended to read:

21 "37-29-201. Board powers and duties. The board has the
 22 following powers and duties:

23 (1) determination of the qualifications of applicants
 24 for licensure under this chapter;

25 (2) preparation and administration of examinations for

1 licensure under this chapter;

2 (3) collection of fees and charges prescribed in this
 3 chapter;

4 (4) issuance, suspension, and revocation of licenses
 5 for the practice of denturistry under the conditions
 6 prescribed in this chapter; and

7 (5) ~~to adopt, amend, and~~ adoption, amendment, or
 8 repeal of rules necessary for the implementation,
 9 continuation, and enforcement of this chapter, including but
 10 not limited to license applications, form and display of
 11 licenses, license examination format, criteria and grading
 12 of examinations, approval of courses and internship
 13 programs, disciplinary standards for licensees, inspection
 14 of denturistry premises and facilities, and investigation of
 15 complaints."

16 Section 6. Section 37-29-301, MCA, is amended to read:

17 "37-29-301. License to practice required. (1) After
 18 April 1, 1985, a person must hold a license for the practice
 19 of denturistry in order to perform the following acts:

20 (a) engaging or offering to engage in the practice of
 21 denturistry; or

22 (b) use in connection with his name the word or
 23 letters "denturist", "L.D.", or any other words, letters,
 24 abbreviations, or insignia implying that such person is
 25 engaged in the practice of denturistry.

1 (2) The practice of denturistry within the context of
2 this chapter requires that all laboratory work except cast
3 frame work be performed at the address shown on the
4 denturist's license."

5 Section 7. Section 37-29-302, MCA, is amended to read:

6 "37-29-302. Exceptions. The provisions of this chapter
7 do not apply to:

8 (1) a person interning under the direct supervision of
9 a licensed denturist as required by 37-29-303(2), provided
10 that no denturist may supervise more than one such person at
11 any one time;

12 (2) the practice of dentistry or medicine by persons
13 authorized to do so by the state of Montana provided they do
14 not represent themselves as denturists licensed under this
15 chapter; or

16 (3) a student of denturistry in pursuit of clinical
17 studies under a school program or internship as required by
18 37-29-303(2)."

19 Section 8. Section 37-29-303, MCA, is amended to read:

20 "37-29-303. Application for license -- qualifications
21 -- reciprocity. Upon application and payment of the
22 appropriate fee, the board shall issue a license to practice
23 denturistry to any applicant who meets one-of the following
24 criteria and scores a passing grade on the examination for
25 licensure:

1 (1) ~~{a} Applications for persons engaged in the~~
2 ~~practice of denturistry on December 17, 1984, must be filed~~
3 ~~prior to April 17, 1985, and must include the following:~~

4 ~~{i} three signed affidavits by persons other than~~
5 ~~family members that the applicant has been employed in~~
6 ~~denture technology for at least 5 years prior to~~
7 ~~application, is able to demonstrate competency in intraoral~~
8 ~~procedures, and has been a resident of the state of Montana~~
9 ~~for at least 6 months prior to April 17, 1985, and~~

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

17 ~~{b} Subsection (1)(a) must be applied retroactively to~~
18 ~~permit qualification of license applicants initially~~
19 ~~qualified and applying prior to the appointment and~~
20 ~~qualification of the original board under this chapter and~~
21 ~~section 27 of I.R.M. No. 97.~~

22 {2} Applications filed on or after April 1, 1985, must
23 include:

24 {a} documentation that the applicant has:

25 {a} completed formal training of not less than 2 years

1 at an educational institution accredited by a national or
 2 regional accrediting agency or recognized by the Montana
 3 state board of regents, the curriculum of which includes but
 4 is not limited to courses in head and oral anatomy and
 5 physiology, oral pathology, microbiology, partial denture
 6 construction and design, clinical dental technology,
 7 radiology, dental laboratory technology, asepsis, clinical
 8 jurisprudence, and medical emergencies, including
 9 cardiopulmonary resuscitation; and or

10 (b) ~~documentation that the applicant~~ completed at
 11 least 2 years in the U.S. armed forces and a course of study
 12 for a military occupational specialty in dental laboratory
 13 technology approved by the board or at least 5 years'
 14 experience in denture technology and has successfully
 15 completed:

16 (i) courses approved by the board in head and oral
 17 anatomy and physiology, oral pathology, microbiology,
 18 partial denture construction and design, clinical dental
 19 technology, radiology, dental laboratory technology,
 20 asepsis, clinical jurisprudence, and medical emergencies,
 21 including cardiopulmonary resuscitation; and

22 (ii) an examination demonstrating an equivalency to the
 23 course work required in subsection (1)(a), administered by
 24 the board; and

25 (c) ~~(i)~~ has completed 2 years of internship under the

1 direct supervision of a licensed dentist, ~~or,~~
 2 ~~(ii)~~ has 3 years of experience as a denturist under
 3 licensure in another state or Canada, or passed an
 4 internship equivalency examination administered by the
 5 board.

6 ~~(3)~~ (2) A denturist who has been lawfully licensed or
 7 certified by initial licensing provisions in any state or
 8 territory that maintains a standard of dentistry which is
 9 equal to that of Montana must submit a certificate from the
 10 examining body of the state or territory in which he is
 11 certified or licensed, attesting to 5 years' practice under
 12 the certificate of license. However, no applicant may be
 13 licensed under the provisions of this subsection unless the
 14 state or territory in which he is licensed or certified
 15 extends a like privilege to denturists licensed by the state
 16 of Montana to practice dentistry. The board may enter into
 17 reciprocal relations with those states or territories whose
 18 laws are compatible with this chapter."

19 Section 9. Section 37-29-304, MCA, is amended to read:

20 "37-29-304. ~~Applications and fees~~ Fees. (1) The board
 21 is initially entitled to charge and collect the following
 22 fees:

- 23 (a) \$200 application for licensing;
 24 (b) \$200 for original license;
 25 (c) \$200 annual license renewal fee;

1 (d) \$200 for examination or reexamination, provided
2 that if on reexamination only the written examination is
3 required, the fee is \$100; and

4 (e) \$100 for an equivalency examination; and

5 ~~(e)~~(f) \$50 for a duplicate or replacement license or a
6 license for a second address, provided that no denturist may
7 hold licenses bearing more than two different addresses.

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

10 Section 10. Section 37-29-305, MCA, is amended to
11 read:

12 "37-29-305. Examinations. The board shall administer
13 the examinations for licensure, subject to the following
14 requirements:

15 (1) Examinations must be of such character as to
16 determine the qualifications, fitness, and ability of the
17 applicant to practice denturistry. The form of the test must
18 include written and oral examinations and a practical
19 demonstration of skills.

20 (2) Examinations must be held at least annually on the
21 second Monday in July. An applicant must obtain an average
22 percentage score of 75% or better to qualify for licensure.
23 The written and practical examinations shall carry equal
24 weight. The oral examination results may adjust an average
25 score only two percentage points.

1 (3) The written examination must include coverage of
2 the following subjects:

3 (a) head and oral anatomy and physiology;

4 (b) oral pathology;

5 (c) partial denture construction and design;

6 (d) microbiology;

7 (e) radiology;

8 (f) clinical dental technology;

9 (g) dental laboratory technology;

10 (h) asepsis;

11 (i) clinical jurisprudence;

12 (j) medical emergencies.

13 (4) Applicants who fail to score at least 75%
14 average on both the written and the practical examinations
15 may, upon payment of the appropriate fee, have a second
16 opportunity to take the written or practical examinations
17 examination, or both; provided--that--all--applicants--under
18 37-29-303(i)--are--examined--on--or--before--April--17--1985.

19 (5) An equivalency examination may be administered to
20 applicants who have obtained through experience an
21 equivalent to the requirements of 37-29-303."

22 Section 11. Section 37-29-306, MCA, is amended to
23 read:

24 "37-29-306. Licensing Licenses -- continuing
25 education. (1) After March 1, 1985, a denturist license is

1 valid for a period of 1 year. A renewal license must be
 2 issued upon payment of the renewal fee and the submission of
 3 proof of the completion of not less than 12 hours of
 4 continuing education, which may include programs sponsored
 5 by an educational institution, state denturist board, or a
 6 recognized denturist organization. Subject matter must be
 7 pertinent to denturistry as enumerated in 37-29-305(3).
 8 Requests for approval of continuing education programs must
 9 be made to the board, providing sufficient outline of the
 10 program on which the board may base its determination. Hours
 11 pertain to clock hours actually attended by the licensee. In
 12 addition, the denturist shall submit proof that he holds a
 13 current cardiopulmonary resuscitation card. A license issued
 14 effective as of a date other than ~~March~~ December 1 will be
 15 valid until midnight ~~February-28~~ November 30 next following
 16 the date it was issued. The license shall bear on its face
 17 the address where the licensee's denturist services will be
 18 performed.

19 (2) Applications must be submitted on forms approved
 20 by the board and furnished by the department. Each
 21 application must include all other documentations necessary
 22 to establish that the applicant meets the requirements for
 23 licensure and is eligible to take the licensure examination.
 24 Applications must be accompanied by the appropriate fees.

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

1 future renewal dates for licenses under this chapter."

2 Section 12. Section 37-29-401, MCA, is amended to
 3 read:

4 "37-29-401. Standards of conduct and practice. Each
 5 denturist must comply with the following standards in his
 6 practice:

7 (1) There shall be at least three separate rooms:

8 (a) a reception room;

9 (b) ~~an-operatory~~ a clinical procedure room; and

10 (c) a laboratory.

11 (2) The operatory clinical procedure room must have a
 12 sink and cuspidor with running water and a disposal system.

13 (3) There must be a sterilization unit and cold
 14 disinfectant in every office to insure the protection of the
 15 public. Each denturist shall take care to use proper
 16 sterilization and sanitation techniques in all phases of his
 17 work.

18 (4) Floors, walls, ceilings, and benches must be kept
 19 in a sanitary condition.

20 (5) Every patient must have a separate and clean bib
 21 and a disposable cup.

22 (6) Every denturist shall wear a clean and
 23 professional garment.

24 (7) Every denturist shall wash his hands with
 25 germicidal or antiseptic soap and water in the presence of

1 each patient.

2 (8) Every licensed denturist must carry a current
3 cardiopulmonary resuscitation card.

4 (9) Adequate and conveniently located toilet
5 facilities must be provided within the building.

6 (10) A complete record of each patient must be kept.

7 (11) All teeth and materials used shall meet American
8 dental association standards.

9 (12) All nonmetal full dentures shall be permanently
10 identified with the first and last name of the owner at the
11 time of processing the dentures."

12 Section 13. Section 37-29-402, MCA, is amended to
13 read:

14 "37-29-402. Prohibitions. No licensed denturist may:

15 (1) extract or attempt to extract teeth;

16 (2) initially insert immediate dentures in the mouth
17 of the intended wearer;

18 (3) ~~diagnose~~ or surgically treat any abnormalities;

19 (4) recommend any prescription drug for any oral or
20 medical disease; or

21 (5) construct or fit orthodontic appliances."

22 NEW SECTION. Section 14. Repealer. Section 37-29-403,
23 MCA, is repealed.

24 NEW SECTION. Section 15. Authorization by dentist not
25 required. A denturist may provide the services described in

1 37-29-102 without referral from a dentist.

2 NEW SECTION. Section 16. Extension of authority. (1)
3 Any existing authority of the department of social and
4 rehabilitation services to make rules on the subject of
5 [section 4(2)] is extended to the provisions of [section
6 4(2)].

7 (2) Any existing authority of the board of dentistry
8 to make rules on the subject of the provisions of this act
9 is extended to the provisions of this act.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

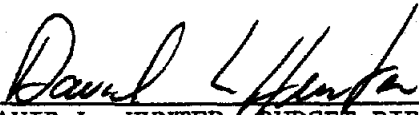
In compliance with a written request, there is hereby submitted a Fiscal Note for HB355, as introduced.

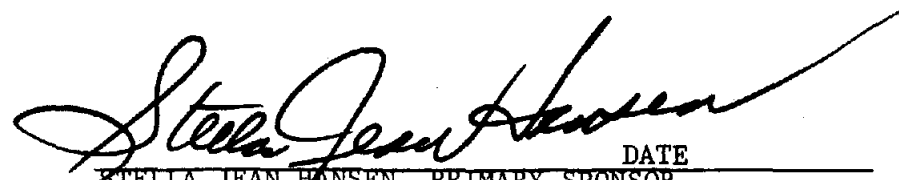
DESCRIPTION OF PROPOSED LEGISLATION:

HB355 generally revises the freedom of choice in denture services act of 1984 by: changing the composition of the five-member board of dentistry; requiring both the Board of Dentistry and the Board of Dentistry to conduct x-ray examination proficiency exams; expanding the definition of "denture" and "practice of dentistry"; changing payment rates for health insurance policies and including medical assistance payment requirements; expanding the duties of the board; changing qualifications for application for licensure and establishing equivalency provisions; establishing a fee for the equivalency examination; specifying that denturists may provide services without referral from a dentist.

ASSUMPTIONS:

1. Proposed legislation will not increase current level expenditures for the Board of Dentistry.
2. The Board of Dentistry will conduct x-ray examination proficiency tests for all currently licensed dentists, dental hygienists and dental assistants = 1,807 exams.
3. The Board of Dentistry will develop three separate levels of practical and written examinations for x-ray examination proficiency testing.
4. One extra Board of Dentistry meeting will be held to draft rules for implementation of the x-ray examination requirements.
5. Litigation costs resulting from retroactive imposition of new licensure requirements will amount to 250 hours of work at \$20/hr.
6. All dentures provided for Medicaid recipients will be provided by denturists.
7. Reimbursement will be at the 75th percentile of usual and customary charges, and rates will accommodate inflation annually.
8. There will be no federal financing participation because of conflicts with the federal Medicaid law.
9. There will be additional claims processing costs incurred by the Department of Social and Rehabilitation Services.
10. Current Medicaid reimbursement rates for denturists' services are at 67% of usual and customary charges.


DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning
DATE 2/3/87


STELLA JEAN HANSEN, PRIMARY SPONSOR
DATE _____
Fiscal Note for HB355, as introduced.

HB 355

Fiscal Note Request, HB355, as introduced.

Form BD-15

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FISCAL IMPACT:

	FY88			FY89			89 Biennium
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference	Difference
<u>Expenditures:</u>							
Board of Denturity	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Board of Dentistry	61,014	126,429	65,415	60,992	60,992	0	65,415
SRS	0	419,453	419,453	0	439,787	439,787	859,240
TOTAL	\$61,014	\$ 545,882	\$ 484,868	\$ 0	\$500,709	\$ 439,787	\$ 924,655
<u>Funding:</u>							
State Special	\$61,014	\$126,429	\$ 65,415	\$ 60,992	\$ 60,922	\$ 0	\$ 65,415
General Fund	0	419,453	419,453	0	439,787	439,787	859,240
TOTAL	\$61,014	\$545,882	\$ 484,868	\$ 0	\$439,787	\$ 439,787	\$ 724,655
<u>Revenues:</u>							
Board of Dentistry fee revenue (SSR)	\$75,940	\$141,355	\$ 65,415	\$ 75,940	\$ 75,940	\$ 0	\$ 65,415

SRS medicaid costs assume a worst case situation. For every medicaid recipient that goes to a dentist for a prescription, federal reimbursement would be received. This will lower the impact on the general fund.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

If monies for this bill are viewed as a prior resource, state and county medical program costs might be slightly reduced, because state and county medical clients may be required to avail themselves of this resource first.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Other Medicaid providers may request to be under the prevailing rate reimbursement methodology embodied in this bill. The prevailing rate increases with inflation unless specific action is taken to freeze the prevailing rate.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

This bill sets up a denture program outside the Medicaid program. Section 4 creates an obligation to provide assistance, and Section 15 effectively precludes assistance being provided through the Medicaid program, because federal Medicaid law requires that dentists do the prescribing for all dentures. The bill should be retitled so that a separate program is being established, and eligibility requirements should be indicated, even if they are to be identical to Medicaid's.

HB 355