

SENATE BILL NO. 26

INTRODUCED BY WEEDING, ABRAMS, VAUGHN, JENKINS,  
YELLOWTAIL, DARKO, RAPP-SVRCEK, BECK,  
STICKNEY, GERVAIS, GIACOMETTO, CAMPBELL,  
HANSON, KASTEN, PETERSON, DEBRUYCKER

IN THE SENATE

JANUARY 2, 1989

INTRODUCED AND REFERRED TO COMMITTEE  
ON PUBLIC HEALTH, WELFARE & SAFETY.

FIRST READING.

JANUARY 4, 1989

ON MOTION BY CHIEF SPONSOR, SENATORS  
ABRAMS, VAUGHN, JENKINS, YELLOWTAIL,  
RAPP-SVRCEK, AND BECK AND REPRESENTATIVES  
DARKO, STICKNEY, GERVAIS, GIACOMETTO,  
CAMPBELL, M. HANSON, KASTEN, PETERSON,  
AND DEBRUYCKER ADDED AS SPONSORS.

FEBRUARY 10, 1989

COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

FEBRUARY 11, 1989

ON MOTION, REREFERRED TO COMMITTEE  
ON RULES.

FEBRUARY 13, 1989

COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.  
STATEMENT OF INTENT ADOPTED.

FEBRUARY 14, 1989

PRINTING REPORT.

FEBRUARY 15, 1989

SECOND READING, DO PASS AS AMENDED.

FEBRUARY 16, 1989

ENGROSSING REPORT.

FEBRUARY 17, 1989

THIRD READING, PASSED.  
AYES, 49; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 17, 1989

INTRODUCED AND REFERRED TO COMMITTEE  
ON HUMAN SERVICES & AGING.

FEBRUARY 20, 1989

FIRST READING.

MARCH 2, 1989

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 4, 1989

SECOND READING, CONCURRED IN.

MARCH 6, 1989

THIRD READING, CONCURRED IN.  
AYES, 91; NOES, 2.

RETURNED TO SENATE.

IN THE SENATE

MARCH 7, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 26

INTRODUCED BY WEEDING

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LICENSURE OF PHYSICIAN ASSISTANTS-CERTIFIED; PROVIDING FOR A PHYSICIAN ASSISTANT-CERTIFIED ON THE BOARD OF MEDICAL EXAMINERS; REGULATING THE PRACTICE OF PHYSICIAN ASSISTANTS-CERTIFIED, INCLUDING PRESCRIBING/DISPENSING AUTHORITY, BILLING PROCEDURES, AND LOCUM TENENS PRACTICE; AMENDING SECTIONS 2-15-1841, 33-22-111, 37-3-103, 37-7-401, 37-8-102, 37-20-101 THROUGH 37-20-104, 37-20-202, 37-20-301 THROUGH 37-20-303, AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1. Definitions.** As used in this chapter, the following definitions apply:

(1) "Board" means the Montana state board of medical examiners established in 2-15-1841.

(2) "Locum tenens" means the temporary provision of services within the scope of practice of a physician assistant-certified.

(3) "Physician assistant-certified" means a member of the health care team, licensed by the board, who through academic and clinical education is qualified to provide

medical services, including examination, diagnosis, prescription of medications, and treatment under the supervision of a physician licensed by the board.

(4) "Protocol" means the proper relationship between a physician assistant-certified and other health care practitioners and the manner of their interaction.

(5) "Supervision" means the opportunity or ability of a licensed physician to provide or exercise control and direction over the services of a physician assistant-certified. Except as provided in [section 4(3)], the constant physical presence of the supervising physician is not required so long as the supervising physician and the physician assistant-certified are or can be easily in contact with each other by radio, telephone, or other telecommunication.

**Section 2. Licensing.** The board shall issue two forms of license for qualified physician assistants-certified:

(1) the physician assistant-certified license, which must be signed by the president of the board and which is subject to annual renewal; and

(2) the physician assistant-certified temporary license, which may be signed by any board member and which is subject to specifications and limitations imposed by the board.

**Section 3. Qualifications** for physician

1 assistant-certified license. A person may not be granted a  
2 physician assistant-certified license in this state unless  
3 he:

- 4 (1) is of good moral character;
- 5 (2) is a graduate of a physician assistant training  
6 program approved by the American medical association's  
7 committee on allied health education and accreditation;
- 8 (3) has taken and successfully passed an examination  
9 recognized by the national commission on the certification  
10 of physician assistants;
- 11 (4) holds a current certificate from the national  
12 commission on the certification of physician assistants; and
- 13 (5) has submitted to the board detailed information on  
14 his history, education, and experience.

15 **Section 4. Conditions of physician assistant-certified**  
16 **temporary license.** (1) A physician assistant-certified  
17 temporary license may be granted when:

- 18 (a) an applicant has met the requirements for  
19 licensure as a physician assistant-certified, except for  
20 having taken the examination of the national commission on  
21 the certification of physician assistants, and is scheduled  
22 for the next examination; or
- 23 (b) an applicant has met all requirements for  
24 licensure as a physician assistant-certified but is awaiting  
25 the next scheduled meeting of the board.

1 (2) A temporary license is valid only until the  
2 results of the examination specified in subsection (1)(a)  
3 are available or until the board meets, depending on the  
4 reason for temporary licensure.

5 (3) Supervision of a physician assistant-certified  
6 practicing under a temporary license must be in person,  
7 continual, and direct.

8 (4) Violation, during the time of temporary licensure,  
9 of any law regulating the practice of physician  
10 assistants-certified constitutes a basis for denial of a  
11 physician assistant-certified license.

12 (5) A physician assistant-certified seeking temporary  
13 licensure must be interviewed by one board member, who may  
14 sign the temporary license.

15 **Section 5. Fees.** Fees for initial licensure, annual  
16 license renewal, and temporary licensure of physician  
17 assistants-certified are to be established by the board by  
18 rule. Such fees must be commensurate with costs but may not  
19 exceed \$150 per license.

20 **Section 6. Physician assistant-certified as agent of**  
21 **supervising physician.** In establishing protocol, a licensed  
22 health care practitioner who would normally be obligated to  
23 carry out the instructions of a licensed physician is  
24 professionally obligated to carry out the instructions of a  
25 physician assistant-certified unless there is reasonable

1 cause to believe that the instructions given are not in the  
2 best interest of patient care and are not within the scope  
3 of practice of the physician assistant-certified and the  
4 supervising physician.

5 **Section 7. Prescribing and dispensing authority --**  
6 discretion of supervising physician on limitation of  
7 authority. (1) A physician assistant-certified may  
8 prescribe, dispense, and administer drugs as defined in  
9 37-7-101, as well as the scheduled drugs enumerated in  
10 subsection (3) of this section, under the delegated  
11 authority of a supervising physician, subject to the  
12 discretion of the supervising physician as to any  
13 limitations on the prescribing and dispensing authority.

14 (2) All dispensing activities allowed by this section  
15 must comply with 37-2-104 and with packaging and labeling  
16 guidelines developed by the board of pharmacy under Title  
17 37, chapter 7.

18 (3) Criteria for the prescribing and dispensing  
19 authority granted a physician assistant-certified include  
20 the following:

21 (a) Prescribing, dispensing, and administration of  
22 Schedule III drugs listed in 50-32-226, Schedule IV drugs  
23 listed in 50-32-229, and Schedule V drugs listed in  
24 50-32-232, is authorized.

25 (b) Prescribing, dispensing, and administration of

1 Schedule II drugs listed in 50-32-224 is authorized for  
2 limited periods not to exceed 48 hours.

3 (c) Records on the dispensing and administration of  
4 scheduled drugs must be kept.

5 (d) A physician assistant-certified shall maintain  
6 registration with the federal drug enforcement  
7 administration.

8 (e) Drugs dispensed by a physician assistant-certified  
9 must be prepackaged by a licensed pharmacist, except that  
10 samples provided by a pharmaceutical company representative  
11 may be dispensed.

12 (f) Prescriptions written by physician  
13 assistants-certified must comply with regulations relating  
14 to prescription requirements adopted by the board of  
15 pharmacy and must contain:

16 (i) the name, business address, and telephone number  
17 of the supervising physician;

18 (ii) the name, business address, and telephone number  
19 of the physician assistant-certified;

20 (iii) the physician assistant-certified's federal drug  
21 enforcement administration registration number for scheduled  
22 drugs; and

23 (iv) the signature of the physician  
24 assistant-certified.

25 (g) A prescription written by a physician

1 assistant-certified may not be refilled for more than 1 year  
2 from the date it was originally filled.

3 **Section 8. Billing.** (1) A supervising physician or an  
4 institution where services were delivered may bill for  
5 physician assistant-certified services.

6 (2) All claims for services rendered by a physician  
7 assistant-certified must contain:

8 (a) the names of the supervising physician and the  
9 physician assistant-certified; and

10 (b) the signature of the physician  
11 assistant-certified.

12 **Section 9. Coverage required for services provided by**  
13 **physician assistants-certified.** A health service corporation  
14 shall provide, in group and individual insurance contracts,  
15 coverage for health services provided by a physician  
16 assistant-certified, as normally covered by contracts for  
17 services supplied by a physician, if health care services  
18 that the physician assistant-certified is licensed to  
19 perform are covered by the contract.

20 **Section 10.** Section 2-15-1841, MCA, is amended to  
21 read:

22 **"2-15-1841. Board of medical examiners.** (1) There is a  
23 Montana state board of medical examiners.

24 (2) The board consists of ~~10~~ 11 members appointed by  
25 the governor with the consent of the senate. Appointments

1 made when the legislature is not in session may be confirmed  
2 at the next session.

3 (3) The members are:

4 (a) five members having the degree of doctor of  
5 medicine;

6 (b) one member having the degree of doctor of  
7 osteopathy;

8 (c) one member who is a licensed podiatrist;

9 (d) one member who is a licensed nutritionist; and

10 (e) one member who is a licensed physician  
11 assistant-certified; and

12 (f) two members of the general public who are not  
13 medical practitioners.

14 (4) The members having the degree of doctor of  
15 medicine may not be from the same county. Each member shall  
16 be a citizen of the United States. Each member, except for  
17 public members, shall have been licensed and shall have  
18 practiced medicine or dietetics-nutrition or been a licensed  
19 physician assistant-certified in this state for at least 5  
20 years and shall have been a resident of this state for at  
21 least 5 years, except that:

22 (a) for 5 years after October 1, 1987, the number of  
23 years of licensure required for the nutritionist member is  
24 no greater than the number of years this act has been in  
25 effect; and

(b) for 5 years after October 1, 1989, the number of years of licensure required for the physician assistant-certified member is no greater than the number of years this act has been in effect.

(5) One member of the board must be a supervising physician who is currently supervising a physician assistant-certified.

(6) The member who is a licensed physician assistant-certified may vote only on issues that affect the licensure, discipline, and regulation of physician assistants-certified. The presence of the physician assistant-certified may be counted to establish a quorum only for board action on issues related to physician assistants-certified.

+5+(7) The member who is a licensed nutritionist may vote only on issues that affect the licensure and regulation of nutritionists.

+6+(8) Members shall serve staggered 4-year terms. A term commences on September 1 of each year of appointment. A member may, upon notice and hearing, be removed by the governor for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

+7+(9) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

**Section 11.** Section 37-3-103, MCA, is amended to read:

**\*37-3-103. Exemptions from licensing requirements.** (1) This chapter does not prohibit or require a license with respect to any of the following acts:

(a) the gratuitous rendering of services in cases of emergency or catastrophe;

(b) the rendering of services in this state by a physician lawfully practicing medicine in another state or territory. However, if the physician does not limit the services to an occasional case or if he has any established or regularly used hospital connections in this state or maintains or is provided with, for his regular use, an office or other place for rendering the services, he must possess a license to practice medicine in this state.

(c) the practice of dentistry under the conditions and limitations defined by the laws of this state;

(d) the practice of podiatry under the conditions and limitations defined by the laws of this state;

(e) the practice of optometry under the conditions and limitations defined by the laws of this state;

(f) the practice of osteopathy under the conditions and limitations defined in chapter 5 of this title for those doctors of osteopathy who do not receive a physician's certificate under this chapter;

(g) the practice of chiropractic under the conditions and limitations defined by the laws of this state;

(h) the practice of Christian Science, with or without compensation, and ritual circumcisions by rabbis;

(i) the performance by commissioned medical officers of the armed forces of the United States, of the United States public health service, or of the United States veterans' administration of their lawful duties in this state as officers;

(j) the rendering of nursing services by registered or other nurses in the lawful discharge of their duties as nurses or of midwife services by registered nurse-midwives under the supervision of a licensed physician;

(k) the rendering of services by interns or resident physicians in a hospital or clinic in which they are training, subject to the conditions and limitations of this chapter. The board may require a resident physician to be licensed if he otherwise engages in the practice of medicine in the state of Montana.

(l) the rendering of services by a physical therapist, technician, or other paramedical specialist under the appropriate amount and type of supervision of a person licensed under the laws of this state to practice medicine, but this exemption does not extend the scope of a paramedical specialist;

(m) the rendering of services by a physician's assistant physician assistant-certified in accordance with

Title 37, chapter 20;

(n) the practice by persons licensed under the laws of this state to practice a limited field of the healing arts, and not specifically designated, under the conditions and limitations defined by law; and

(o) the execution of a death sentence pursuant to 46-19-103.

(2) Licensees referred to in subsection (1) of this section who are licensed to practice a limited field of healing arts shall confine themselves to the field for which they are licensed or registered and to the scope of their respective licenses and, with the exception of those licensees who hold a medical degree, may not use the title "M.D." or any word or abbreviation to indicate or to induce others to believe that they are engaged in the diagnosis or treatment of persons afflicted with disease, injury, or defect of body or mind except to the extent and under the conditions expressly provided by the law under which they are licensed."

**Section 12.** Section 37-20-101, MCA, is amended to read:

**"37-20-101. Qualifications of supervising physician and ~~physicians--assistants~~ physician assistant-certified.**

(1) Each supervising physician named in the utilization plan required by 37-20-301 shall:



(a) possess a current, unrestricted license to practice medicine in this state;

(b) submit a statement to the Montana state board of medical examiners that, in his opinion, the assistant physician assistant-certified to be employed is of good character and is both mentally and physically able to perform the duties of a physician's assistant physician assistant-certified described in the utilization plan;

(c) submit a statement to the board that he will exercise supervision over the physician's assistant physician assistant-certified in accordance with any rules adopted by the board and will retain professional and legal responsibility for the care and treatment of his patients; and

(d) submit detailed information to the board regarding the physician's professional background, medical education, internship and residency, continuing education received, membership in state and national medical associations, hospital and staff privileges, and such other information as the board may require.

(2) ~~Except as provided in subsection (3), each physician's assistant~~ Each physician assistant-certified named in the utilization plan required by 37-20-301 shall:  
 (a) ~~be of good character;~~  
 (b) ~~be a graduate of a physician's assistant training~~

~~program approved by the American medical association;~~

~~(c) have taken an examination recognized by the national commission on physicians' assistants and received a score satisfactory to the board;~~

~~(d) hold a current certification by the national commission on physicians' assistants; and~~

~~(e) submit to the board detailed information on the applicant's history, education, and experience and such other information as the board may require.~~

~~(3) In lieu of the requirements of subsections (2)(b), (2)(c), and (2)(d) the physician's assistant may be a graduate of an approved medical school as defined in 37-3-102 and pass an examination approved by the board meeting the criteria for licensure as a physician assistant-certified as provided in [section 3]."~~

**Section 13.** Section 37-20-102, MCA, is amended to read:

"37-20-102. Insurance requirement. No physician's assistant physician assistant-certified may perform any service unless he has insurance from liability for his errors, omissions, or actions to the limits required by the hospital's governing authority."

**Section 14.** Section 37-20-103, MCA, is amended to read:

"37-20-103. Limitations on authority conferred --

exception. Except as provided in 37-10-102, nothing in this chapter may be construed to authorize a physician's assistant physician assistant-certified to perform those functions and duties specifically delegated by law to persons licensed as optometrists as defined under Title 37, chapter 10."

**Section 15.** Section 37-20-104, MCA, is amended to read:

"37-20-104. Penalty -- enforcement. (1) Any person who employs a physician's-----assistant physician assistant-certified or holds himself out to be a qualified physician's--assistant physician assistant-certified without the approval of the Montana state board of medical examiners is guilty of a misdemeanor and is punishable as provided in 46-18-212.

(2) In addition to seeking any criminal penalty available under this section, the board may withdraw its approval of any utilization plan previously approved which is applicable to any supervising physician or physician's assistant physician assistant-certified who:

- (a) acts in violation of this section;
- (b) obtained the approval of the board by fraud;
- (c) acts in a manner contrary to the terms of the utilization plan; or
- (d) violates any of the applicable provisions of this

chapter or rules of the board adopted thereunder.

(3) The board may enforce the provisions of this section by the remedy of injunction."

**Section 16.** Section 37-20-202, MCA, is amended to read:

"37-20-202. Adoption of rules. The board of medical examiners shall adopt administrative rules to implement the provisions of this chapter that:

(1) address the issues of supervision and direction limitations and requirements;

(2) address the issue of protocols for interaction of medical personnel with differing responsibilities;

(3) specify that a physician may not utilize more than one physician's--assistant physician assistant-certified unless he can demonstrate to the board the ability to supervise more than one assistant adequately; and

(4) address other considerations pertinent to the licensing of physician assistants-certified, approval of physicians'-----assistants physician assistant-certified utilization plans and locum tenens utilization plans, and the health care needs of the public; and

(5) specify, by standardized form, duties involved in the practice of a physician assistant-certified."

**Section 17.** Section 37-20-301, MCA, is amended to read:

"37-20-301. Utilization plan required -- contents -- approval. (1) No physician, office, firm, state institution, or professional service corporation may employ-or make use of the services of a physician's--assistant physician assistant-certified in the practice of medicine, as defined in 37-3-102, and no physician's--assistant physician assistant-certified may be---employed practice as a physician's--assistant physician assistant-certified unless the assistant physician assistant-certified:

(a) is supervised by a licensed physician; and--unless such-employment-or-use

(b) has been approved licensed by the Montana state board of medical examiners; in-a and

(c) has received board approval of a physician's assistant physician assistant-certified utilization plan.

(2) A physician's-----assistant physician assistant-certified utilization plan must set forth in detail the following information:

(a) the name and qualifications of the supervising physician and the physician's--assistant name and license number of the physician assistant-certified, as provided in 37-20-101;

(b) the nature and location of the physician's medical practice;

(c) the any duties, in addition to those contained in

the standardized form required by 37-20-202(5), to be delegated to the physician's----assistant physician assistant-certified and the location in which those duties are to be performed;

(d) the name and qualifications of a second physician meeting the requirements of 37-20-101 to serve in the place of the supervising physician in the event that the supervising physician is unable to supervise the physician's assistant physician assistant-certified temporarily; and

(e) such--other--information-as-the-board-may-consider necessary guidelines describing the intended availability of the supervising or alternate physician for consultation by the physician assistant-certified.

(3) The board shall approve the utilization plan if it finds that the duties to be delegated to the physician's assistant physician assistant-certified are:

(a) assigned by the supervising physician;

(b) within the scope of the training, knowledge, experience, and practice of the supervisory physician; and

(c) within the scope of the training, knowledge, education, and experience of the physician's--assistant physician assistant-certified.

(4) A physician assistant-certified may submit a new or additional utilization plan to the board for approval without reestablishing the licensing criteria set out in

1 [section 3], as long as the information requirements of  
 2 subsection (2) have been met and the appropriate fee  
 3 provided for in 37-20-302(1) has been paid.

4 (5) A utilization plan may provide that a physician  
 5 assistant-certified be allowed to furnish services on a  
 6 locum tenens basis at a location other than the physician  
 7 assistant-certified's primary place of practice for a period  
 8 not to exceed 30 calendar days. A locum tenens utilization  
 9 plan may be approved by a single board member."

10 **Section 18.** Section 37-20-302, MCA, is amended to  
 11 read:

12 "37-20-302. Utilization plan approval fee -- renewal  
 13 of approval -- renewal fee. (1) Every physician, office,  
 14 firm, or professional service corporation proposing to  
 15 employ a physician's-assistant physician assistant-certified  
 16 shall pay to the board a utilization plan approval fee in an  
 17 amount set by the board, not exceeding \$50. Payment must be  
 18 made when the utilization plan is submitted to the board and  
 19 is not refundable.

20 (2) Approval of every physician's-assistant physician  
 21 assistant-certified utilization plan expires 1 year from the  
 22 date of approval and is invalid thereafter. The department  
 23 of commerce shall notify each physician, office, firm, or  
 24 professional corporation and physician's-assistant physician  
 25 assistant-certified named in a utilization plan of the date

1 of expiration of board approval at least 1 month prior to  
 2 the expiration of approval.

3 (3) Renewal of approval shall be granted by the board  
 4 under such circumstances as would justify original approval  
 5 of a utilization plan and upon payment by the employing  
 6 physician, office, firm, or professional service corporation  
 7 of a renewal fee in an amount to be set by the board, not to  
 8 exceed \$50.

9 (4) Every physician, office, firm, or professional  
 10 service corporation proposing to employ a physician  
 11 assistant-certified on a locum tenens basis shall pay to the  
 12 board a locum tenens utilization plan fee in an amount set  
 13 by the board, not to exceed \$50.

14 ~~(4)~~(5) Fees received by the department must be  
 15 deposited in the state special revenue fund for use by the  
 16 board in the administration of this chapter, subject to  
 17 37-1-101(6)."

18 **Section 19.** Section 37-20-303, MCA, is amended to  
 19 read:

20 "37-20-303. Exemptions from approval requirement. This  
 21 chapter does not require the approval of a physician's  
 22 assistant physician assistant-certified utilization plan or  
 23 locum tenens utilization plan with respect to any acts  
 24 within the professional competence of a person licensed  
 25 under the provisions of Title 37, chapters 3 through 17, 31,

1 or 32."

2 **Section 20.** Section 37-7-401, MCA, is amended to read:

3 "37-7-401. Restrictions upon sale or prescription of  
4 opiates -- coding prohibited -- refilling prescriptions. (1)  
5 It shall be unlawful for any physician or physician  
6 assistant-certified to sell or give to or prescribe for any  
7 person any opium, morphine, alkaloid-cocaine, or alpha or  
8 beta eucaine or codeine or heroin or any derivative,  
9 mixture, or preparation of any of them, except to a patient  
10 believed in good faith to require the same for medical use  
11 and in quantities proportioned to the needs of such  
12 patients.

13 (2) A prescription must be so written that it can be  
14 compounded by any registered pharmacist. The coding of any  
15 prescription is a violation of this section.

16 (3) A prescription marked "non repetatur", "non rep",  
17 or "N.R." cannot be refilled. A prescription marked to be  
18 refilled by a specified amount may be filled by any  
19 registered pharmacist the number of times marked on the  
20 prescription. A prescription not bearing any refill  
21 instructions may not be refilled without first obtaining  
22 permission from the prescriber. A prescription may not be  
23 refilled for more than 3 years from the date it was  
24 originally filled. No narcotic prescription may be  
25 refilled."

1 **Section 21.** Section 37-8-102, MCA, is amended to read:

2 "37-8-102. Definitions. Unless the context requires  
3 otherwise, in this chapter the following definitions apply:

4 (1) "Board" means the board of nursing provided for in  
5 2-15-1844.

6 (2) "Department" means the department of commerce  
7 provided for in Title 2, chapter 15, part 18.

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

10 (a) "Practice of professional nursing" means the  
11 performance for compensation of services requiring  
12 substantial specialized knowledge of the biological,  
13 physical, behavioral, psychological, and sociological  
14 sciences and of nursing theory as a basis for the nursing  
15 process. The nursing process is the assessment, nursing  
16 analysis, planning, nursing intervention, and evaluation in  
17 the promotion and maintenance of health; the prevention,  
18 casefinding, and management of illness, injury, or  
19 infirmity; and the restoration of optimum function. The term  
20 also includes administration, teaching, counseling,  
21 supervision, delegation, and evaluation of nursing practice  
22 and the administration of medications and treatments  
23 prescribed by physicians, physician assistants-certified,  
24 dentists, osteopaths, or podiatrists authorized by state law  
25 to prescribe medications and treatments. Each registered

nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (3)(a):

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

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

(b) "Practice of practical nursing" means the performance for compensation of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. Practical nursing practice utilizes standardized procedures leading to predictable outcomes in the observation and care of the ill, injured, and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments prescribed by a physician, physician assistant-certified, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, physician assistant-certified, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.

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

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

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

**Section 22.** Section 33-22-111, MCA, is amended to read:

"33-22-111. Policies to provide for freedom of choice of practitioners -- professional practice not enlarged. (1) All policies of disability insurance, including individual, group, and blanket policies, and all policies insuring the payment of compensation under the Workers' Compensation Act shall provide the insured shall have full freedom of choice in the selection of any duly licensed physician, physician assistant-certified, dentist, osteopath, chiropractor, optometrist, chiropodist, psychologist, licensed social worker, licensed professional counselor, or nurse specialist as specifically listed in 37-8-202 for treatment of any illness or injury within the scope and limitations of his practice. Whenever such policies insure against the expense

1 of drugs, the insured shall have full freedom of choice in  
2 the selection of any duly licensed and registered  
3 pharmacist.

4 (2) Nothing in this section shall be construed as  
5 enlarging the scope and limitations of practice of any of  
6 the licensed professions enumerated in subsection (1); nor  
7 shall this section be construed as amending, altering, or  
8 repealing any statutes relating to the licensing or use of  
9 hospitals."

10 **Section 23.** Section 53-6-101, MCA, is amended to read:

11 "53-6-101. Definition of medical assistance. (1) The  
12 definition of medical assistance shall include:

- 13 (a) inpatient hospital services;
- 14 (b) outpatient hospital services;
- 15 (c) other laboratory and x-ray services;
- 16 (d) skilled nursing home services;
- 17 (e) physicians' services, whether furnished in the  
18 office, the patient's home, a hospital, a skilled nursing  
19 home, or elsewhere; and

20 (f) services provided by nurse specialists, as  
21 specifically listed in 37-8-202(5), within the scope of  
22 their practice and that are otherwise directly reimbursed as  
23 allowed under department rule to an existing provider; and

24 (g) services provided by physician  
25 assistants-certified within the scope of their practice and

1 that are otherwise directly reimbursed as allowed under  
2 department rule to an existing provider.

3 (2) It may also include, although not necessarily  
4 limited to, the following:

5 (a) medical care or any other type of remedial care  
6 recognized under state law, furnished by licensed  
7 practitioners within the scope of their practice as defined  
8 by state law;

9 (b) home health care services;

10 (c) private-duty nursing services;

11 (d) dental services;

12 (e) physical therapy and other related services;

13 (f) clinic services;

14 (g) services provided by social workers licensed under  
15 Title 37, chapter 22;

16 (h) prescribed drugs, dentures, and prosthetic  
17 devices;

18 (i) eyeglasses prescribed by a physician skilled in  
19 diseases of the eye or by an optometrist, whichever the  
20 individual may select;

21 (j) other diagnostic, screening, preventive,  
22 rehabilitative, chiropractic, and osteopathic services;

23 (k) any additional medical service or aid allowable  
24 under or provided by the federal Social Security Act."

25 **Section 24.** Codification instruction. (1) [Sections 1

1 through 8] are intended to be codified as an integral part  
2 of Title 37, chapter 20, and the provisions of Title 37,  
3 chapter 20, apply to [sections 1 through 8].

4 (2) [Section 9] is intended to be codified as an  
5 integral part of Title 33, chapter 30, part 10, and the  
6 provisions of Title 33, chapter 30, part 10 apply to  
7 [section 9].

8 **Section 25. Extension of authority.** Any existing  
9 authority to make rules on the subject of the provisions of  
10 [this act] is extended to the provisions of [this act].

11 **Section 26. Severability.** If a part of [this act] is  
12 invalid, all valid parts that are severable from the invalid  
13 part remain in effect. If a part of [this act] is invalid  
14 in one or more of its applications, the part remains in  
15 effect in all valid applications that are severable from the  
16 invalid applications.

17 **Section 27. Effective date.** [Sections 2, 5, 10, 17,  
18 and this section] are effective on passage and approval.

-End-



RE-REFERRED AND  
APPROVED BY COMMITTEE  
ON RULES

SENATE BILL NO. 26

INTRODUCED BY WEEDING, ABRAMS, VAUGHN, JENKINS,

YELLOWTAIL, DARKO, RAPP-SVRCEK, BECK,

STICKNEY, GERVAIS, GIACOMETTO, CAMPBELL,

HANSON, KASTEN, PETERSON, DEBRUYCKER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LICENSURE  
OF PHYSICIAN ASSISTANTS CERTIFIED; PROVIDING FOR A PHYSICIAN  
ASSISTANT CERTIFIED ON THE BOARD OF MEDICAL EXAMINERS;  
REGULATING THE PRACTICE OF PHYSICIAN ASSISTANTS CERTIFIED;  
INCLUDING PRESCRIBING/DISPENSING AUTHORITY; BILLING  
PROCEDURES; AND LOCUM TENENS PRACTICE; AMENDING SECTIONS  
2-15-1841, 33-22-111, 37-3-103, 37-7-401, 37-8-102,  
37-20-101 THROUGH 37-20-104, 37-20-202, 37-20-301 THROUGH  
37-20-303, AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE  
EFFECTIVE DATE. PROVIDING FOR APPROVAL OF PHYSICIAN  
ASSISTANTS CERTIFIED; REGULATING THE PRACTICE OF PHYSICIAN  
ASSISTANTS CERTIFIED, INCLUDING PRESCRIBING AND DISPENSING  
AUTHORITY, BILLING PROCEDURES, AND LOCUM TENENS PRACTICE;  
AMENDING SECTIONS 33-22-111, 37-3-103, 37-7-401, 37-20-101  
THROUGH 37-20-104, 37-20-202, 37-20-301 THROUGH 37-20-303,  
AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because  
[sections 4 and 13] grant or extend rulemaking authority to  
the board of medical examiners in order to implement the  
provisions of this bill.

At a minimum, it is intended that the rules address the  
following topics:

(1) authorization for prescribing, dispensing, and  
administering drugs by a physician assistant-certified,  
including the extent and limitations of the prescribing and  
dispensing authority, required recordkeeping, and refilling  
of prescriptions; and

(2) considerations pertinent to approval of locum  
tenens utilization plans.

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Definitions. As used in this  
chapter, the following definitions apply:

(1) "Board" means the Montana state board of medical  
examiners established in 2-15-1841.

(2) "Locum tenens" means the temporary provision of  
services within the scope of practice of a physician  
assistant-certified.

(3) "Physician assistant-certified" means a member of

a health care team, approved by the board, who provides medical services that may include examination, diagnosis, prescription of medications, and treatment, as approved by the board, under the supervision of a physician licensed by the board.

(4) "Protocol" means the proper relationship between a physician assistant-certified and other health care practitioners and the manner of their interaction.

**NEW SECTION. Section 2. Qualifications for physician assistant-certified.** A person may not be approved as a physician assistant-certified in this state unless he:

(1) is of good moral character;

(2) is a graduate of a physician assistant training program approved by the American medical association's committee on allied health education and accreditation;

(3) has taken and successfully passed an examination recognized by the national commission on the certification of physician assistants;

(4) holds a current certificate from the national commission on the certification of physician assistants; and

(5) has submitted to the board detailed information on his history, education, and experience.

**NEW SECTION. Section 3. Physician assistant-certified as agent of supervising physician.** (1) In establishing protocol, a physician assistant-certified must be considered

the agent of the supervising physician with regard to all duties delegated to the physician assistant-certified under the utilization plan. A health care provider shall consider the instructions of a physician assistant-certified as being the instructions of the supervising physician as long as the instructions concern the duties delegated to the physician assistant-certified under the utilization plan.

(2) The supervising physician and the physician assistant-certified are responsible for making available a copy of the approved utilization plan to all other health care practitioners with whom they reasonably believe they will interact on a regular basis.

(3) Nothing in this chapter may be construed to conflict with the provisions of 37-3-322.

**NEW SECTION. Section 4. Prescribing and dispensing authority -- discretion of supervising physician on limitation of authority.** (1) A physician assistant-certified may prescribe, dispense, and administer drugs to the extent authorized by the board by rule, by the utilization plan, or both. The prescribing, dispensing, and administration of drugs are also subject to the authority of the supervising physician, and the supervising physician in his discretion may impose additional limitations on the prescribing and dispensing authority granted by the board.

(2) All dispensing activities allowed by this section

1 must comply with 37-2-104 and with packaging and labeling  
2 guidelines developed by the board of pharmacy under Title  
3 37, chapter 7.

4 (3) The prescribing and dispensing authority granted a  
5 physician assistant-certified may include the following:

6 (a) Prescribing, dispensing, and administration of  
7 Schedule III drugs listed in 50-32-226, Schedule IV drugs  
8 listed in 50-32-229, and Schedule V drugs listed in  
9 50-32-232, is authorized.

10 (b) Prescribing, dispensing, and administration of  
11 Schedule II drugs listed in 50-32-224 may be authorized for  
12 limited periods not to exceed 48 hours.

13 (c) Records on the dispensing and administration of  
14 scheduled drugs must be kept.

15 (d) A physician assistant-certified shall maintain  
16 registration with the federal drug enforcement  
17 administration.

18 (e) Drugs dispensed by a physician assistant-certified  
19 must be prepackaged by a licensed pharmacist, except that  
20 samples provided by a pharmaceutical company representative  
21 may be dispensed.

22 (f) Prescriptions written by physician  
23 assistants-certified must comply with regulations relating  
24 to prescription requirements adopted by the board of  
25 pharmacy.

1 (g) The board shall adopt rules regarding the  
2 refilling of prescriptions written by physician  
3 assistants-certified.

4 NEW SECTION. **Section 5. Billing.** A supervising  
5 physician or an institution where services were delivered  
6 may bill for physician assistant-certified services.

7 NEW SECTION. **Section 6. Liaison to the board.** The  
8 Montana academy of physician assistants shall elect one  
9 person to serve as a nonvoting liaison to the board to  
10 represent the interests of physician assistants.

11 NEW SECTION. **Section 7. Coverage** required for  
12 services provided by physician assistants-certified. An  
13 insurer, health service corporation, or any employee health  
14 and welfare fund that provides accident or health insurance  
15 benefits to residents of this state shall provide, in group  
16 and individual insurance contracts, coverage for health  
17 services provided by a physician assistant-certified, as  
18 normally covered by contracts for services supplied by a  
19 physician, if health care services that the physician  
20 assistant-certified is approved to perform are covered by  
21 the contract.

22 **Section 8.** Section 37-3-103, MCA, is amended to read:  
23 "37-3-103. Exemptions from licensing requirements. (1)  
24 This chapter does not prohibit or require a license with  
25 respect to any of the following acts:

1 (a) the gratuitous rendering of services in cases of  
2 emergency or catastrophe;

3 (b) the rendering of services in this state by a  
4 physician lawfully practicing medicine in another state or  
5 territory. However, if the physician does not limit the  
6 services to an occasional case or if he has any established  
7 or regularly used hospital connections in this state or  
8 maintains or is provided with, for his regular use, an  
9 office or other place for rendering the services, he must  
10 possess a license to practice medicine in this state.

11 (c) the practice of dentistry under the conditions and  
12 limitations defined by the laws of this state;

13 (d) the practice of podiatry under the conditions and  
14 limitations defined by the laws of this state;

15 (e) the practice of optometry under the conditions and  
16 limitations defined by the laws of this state;

17 (f) the practice of osteopathy under the conditions  
18 and limitations defined in chapter 5 of this title for those  
19 doctors of osteopathy who do not receive a physician's  
20 certificate under this chapter;

21 (g) the practice of chiropractic under the conditions  
22 and limitations defined by the laws of this state;

23 (h) the practice of Christian Science, with or without  
24 compensation, and ritual circumcisions by rabbis;

25 (i) the performance by commissioned medical officers

1 of the armed forces of the United States, of the United  
2 States public health service, or of the United States  
3 veterans' administration of their lawful duties in this  
4 state as officers;

5 (j) the rendering of nursing services by registered or  
6 other nurses in the lawful discharge of their duties as  
7 nurses or of midwife services by registered nurse-midwives  
8 under the supervision of a licensed physician;

9 (k) the rendering of services by interns or resident  
10 physicians in a hospital or clinic in which they are  
11 training, subject to the conditions and limitations of this  
12 chapter. The board may require a resident physician to be  
13 licensed if he otherwise engages in the practice of medicine  
14 in the state of Montana.

15 (l) the rendering of services by a physical therapist,  
16 technician, or other paramedical specialist under the  
17 appropriate amount and type of supervision of a person  
18 licensed under the laws of this state to practice medicine,  
19 but this exemption does not extend the scope of a  
20 paramedical specialist;

21 (m) the rendering of services by a physician's  
22 assistant physician assistant-certified in accordance with  
23 Title 37, chapter 20;

24 (n) the practice by persons licensed under the laws of  
25 this state to practice a limited field of the healing arts,

1 and not specifically designated, under the conditions and  
2 limitations defined by law; and

3 (o) the execution of a death sentence pursuant to  
4 46-19-103.

5 (2) Licensees referred to in subsection (1) of this  
6 section who are licensed to practice a limited field of  
7 healing arts shall confine themselves to the field for which  
8 they are licensed or registered and to the scope of their  
9 respective licenses and, with the exception of those  
10 licensees who hold a medical degree, may not use the title  
11 "M.D." or any word or abbreviation to indicate or to induce  
12 others to believe that they are engaged in the diagnosis or  
13 treatment of persons afflicted with disease, injury, or  
14 defect of body or mind except to the extent and under the  
15 conditions expressly provided by the law under which they  
16 are licensed."

17 **Section 9.** Section 37-20-101, MCA, is amended to read:

18 "37-20-101. Qualifications of supervising physician  
19 and ~~physicians'--assistants~~ physician assistant-certified.

20 (1) Each supervising physician named in the utilization plan  
21 required by 37-20-301 shall:

22 (a) possess a current, unrestricted license to  
23 practice medicine in this state;

24 (b) submit a statement to the Montana state board of  
25 medical examiners that, in his opinion, the assistant

1 physician assistant-certified to be employed is of good  
2 character and is both mentally and physically able to  
3 perform the duties of a ~~physician's--assistant~~ physician  
4 assistant-certified described in the utilization plan;

5 (c) submit a statement to the board that he will  
6 exercise supervision over the ~~physician's---assistant~~  
7 physician assistant-certified in accordance with any rules  
8 adopted by the board and will retain professional and legal  
9 responsibility for the care and treatment of his patients;  
10 and

11 (d) submit detailed information to the board regarding  
12 the physician's professional background, medical education,  
13 internship and residency, continuing education received,  
14 membership in state and national medical associations,  
15 hospital and staff privileges, and such other information as  
16 the board may require.

17 (2) ~~Except---as---provided---in---subsection---(3),--each~~  
18 ~~physician's--assistant~~ Each physician assistant-certified  
19 named in the utilization plan required by 37-20-301 shall:

20 ~~(a)--be-of-good-character;~~

21 ~~(b)--be-a-graduate-of-a-physician's-assistant--training~~  
22 ~~program-approved-by-the-American-medical-association;~~

23 ~~(c)--have---taken---an---examination---recognized---by---the~~  
24 ~~national-commission-on-physicians'-assistants-and-received-a~~  
25 ~~score-satisfactory-to-the-board;~~

(d) hold a current certification by the national commission on physicians' assistants; and

(e) submit to the board detailed information on the applicant's history, education, and experience and such other information as the board may require;

(3) in lieu of the requirements of subsections (2)(b), (2)(c), and (2)(d) the physician's assistant may be a graduate of an approved medical school as defined in 37-3-102 and pass an examination approved by the board meet the criteria for licensure as a physician assistant-certified as provided in [section 2]."

**Section 10.** Section 37-20-102, MCA, is amended to read:

"37-20-102. Insurance requirement. No physician's assistant A physician assistant-certified may not perform any service unless he has insurance from liability for his errors, omissions, or actions to the limits required by the hospital's governing authority."

**Section 11.** Section 37-20-103, MCA, is amended to read:

"37-20-103. Limitations on authority conferred -- exception. Except as provided in 37-10-102, nothing in this chapter may be construed to authorize a physician's assistant physician assistant-certified to perform those functions and duties specifically delegated by law to

persons licensed as optometrists as defined under Title 37, chapter 10."

**Section 12.** Section 37-20-104, MCA, is amended to read:

"37-20-104. Penalty -- enforcement. (1) Any person who employs a physician's-----assistant physician assistant-certified or holds himself out to be a qualified physician's-assistant physician assistant-certified without the approval of the Montana state board of medical examiners is guilty of a misdemeanor and is punishable as provided in 46-18-212.

(2) In addition to seeking any criminal penalty available under this section, the board may withdraw its approval of any utilization plan previously approved which is applicable to any supervising physician or physician's assistant physician assistant-certified who:

(a) acts in violation of this section;

(b) obtained the approval of the board by fraud;

(c) acts in a manner contrary to the terms of the utilization plan; or

(d) violates any of the applicable provisions of this chapter or rules of the board adopted thereunder.

(3) The board may enforce the provisions of this section by the remedy of injunction."

**Section 13.** Section 37-20-202, MCA, is amended to

1 read:

2 "37-20-202. Adoption of rules. The board of medical  
3 examiners shall adopt administrative rules to implement the  
4 provisions of this chapter that:

5 (1) address the issues of supervision and direction  
6 limitations and requirements;

7 (2) address the issue of protocols for interaction of  
8 medical personnel with differing responsibilities;

9 (3) specify that a physician may not utilize more than  
10 one physician's--assistant physician assistant-certified  
11 unless he can demonstrate to the board the ability to  
12 supervise more than one assistant adequately; and

13 (4) address other considerations pertinent to the  
14 approval of physicians'-----assistants physician  
15 assistant-certified utilization plans and locum tenens  
16 utilization plans, and the health care needs of the public."

17 **Section 14.** Section 37-20-301, MCA, is amended to  
18 read:

19 "37-20-301. Utilization plan required -- contents --  
20 approval. (1) No A physician, office, firm, state  
21 institution, or professional service corporation may not  
22 employ or make use of the services of a physician's  
23 assistant physician assistant-certified in the practice of  
24 medicine, as defined in 37-3-102, and no--physician's  
25 assistant a physician assistant-certified may not be

1 employed or practice as a physician's-assistant physician  
2 assistant-certified unless the assistant physician  
3 assistant-certified:

4 (a) is supervised by a licensed physician; and-unless  
5 such-employment-or-use

6 (b) has been approved by the Montana state board of  
7 medical examiners; in-a and

8 (c) has received board approval of a physician's  
9 assistant physician assistant-certified utilization plan.

10 (2) A physician's-----assistant physician  
11 assistant-certified utilization plan must set forth in  
12 detail the following information:

13 (a) the name and qualifications of the supervising  
14 physician and the physician's--assistant name and license  
15 number of the physician assistant-certified, as provided in  
16 37-20-101;

17 (b) the nature and location of the physician's medical  
18 practice;

19 (c) the duties to be delegated to the physician's  
20 assistant physician assistant-certified and the location in  
21 which those duties are to be performed;

22 (d) the name and qualifications of a second physician  
23 meeting the requirements of 37-20-101 to serve in the place  
24 of the supervising physician in the event that the  
25 supervising physician is unable to supervise the physician's

assistant physician assistant-certified temporarily; and

(e) such other information as the board may consider necessary guidelines describing the intended availability of the supervising or alternate physician for consultation by the physician assistant-certified; and

(f) other information the board may consider necessary.

(3) The board shall approve the utilization plan if it finds that the duties to be delegated to the physician's assistant physician assistant-certified are:

(a) assigned by the supervising physician;

(b) within the scope of the training, knowledge, experience, and practice of the supervisory physician; and

(c) within the scope of the training, knowledge, education, and experience of the physician's--assistant physician assistant-certified.

(4) A supervising physician and a physician assistant-certified may submit a new or additional utilization plan to the board for approval without reestablishing the criteria set out in [section 2], as long as the information requirements of subsection (2) have been met and the appropriate fee provided for in 37-20-302(1) has been paid.

(5) A utilization plan may provide that a physician assistant-certified be allowed to furnish services on a

locum tenens basis at a location other than the physician assistant-certified's primary place of practice for a period not to exceed 30 calendar days. A locum tenens utilization plan may be approved by a single board member."

**Section 15.** Section 37-20-302, MCA, is amended to read:

"37-20-302. Utilization plan approval fee -- renewal of approval -- renewal fee. (1) Every physician, office, firm, or professional service corporation proposing to employ a physician's-assistant physician assistant-certified shall pay to the board a utilization plan approval fee in an amount set by the board, not exceeding \$50. Payment must be made when the utilization plan is submitted to the board and is not refundable.

(2) Approval of every physician's-assistant physician assistant-certified utilization plan expires 1 year from the date of approval and is invalid thereafter. The department of commerce shall notify each physician, office, firm, or professional corporation and physician's-assistant physician assistant-certified named in a utilization plan of the date of expiration of board approval at least 1 month prior to the expiration of approval.

(3) Renewal of approval shall be granted by the board under such circumstances as would justify original approval of a utilization plan and upon payment by the employing



1 physician, office, firm, or professional service corporation  
2 of a renewal fee in an amount to be set by the board, not to  
3 exceed \$50.

4 (4) Every physician, office, firm, or professional  
5 service corporation proposing to employ a physician  
6 assistant-certified on a locum tenens basis shall pay to the  
7 board a locum tenens utilization plan fee in an amount set  
8 by the board, not to exceed \$50.

9 ~~††~~(5) Fees received by the department must be  
10 deposited in the state special revenue fund for use by the  
11 board in the administration of this chapter, subject to  
12 37-1-101(6)."

13 **Section 16.** Section 37-20-303, MCA, is amended to  
14 read:

15 "37-20-303. Exemptions from approval requirement. This  
16 chapter does not require the approval of a ~~physician's~~  
17 assistant physician assistant-certified utilization plan or  
18 locum tenens utilization plan with respect to any acts  
19 within the professional competence of a person licensed  
20 under the provisions of Title 37, chapters 3 through 17, 31,  
21 or 32."

22 **Section 17.** Section 37-7-401, MCA, is amended to read:

23 "37-7-401. Restrictions upon sale or prescription of  
24 opiates -- coding prohibited -- refilling prescriptions. (1)  
25 It shall be unlawful for any physician or physician

1 assistant-certified to sell or give to or prescribe for any  
2 person any opium, morphine, alkaloid-cocaine, or alpha or  
3 beta eucaine or codeine or heroin or any derivative,  
4 mixture, or preparation of any of them, except to a patient  
5 believed in good faith to require the same for medical use  
6 and in quantities proportioned to the needs of such  
7 patients.

8 (2) A prescription must be so written that it can be  
9 compounded by any registered pharmacist. The coding of any  
10 prescription is a violation of this section.

11 (3) A prescription marked "non repetatur", "non rep",  
12 or "N.R." cannot be refilled. A prescription marked to be  
13 refilled by a specified amount may be filled by any  
14 registered pharmacist the number of times marked on the  
15 prescription. A prescription not bearing any refill  
16 instructions may not be refilled without first obtaining  
17 permission from the prescriber. A prescription may not be  
18 refilled for more than 3 years from the date it was  
19 originally filled. No narcotic prescription may be  
20 refilled."

21 **Section 18.** Section 33-22-111, MCA, is amended to  
22 read:

23 "33-22-111. Policies to provide for freedom of choice  
24 of practitioners -- professional practice not enlarged. (1)  
25 All policies of disability insurance, including individual,

group, and blanket policies, and all policies insuring the payment of compensation under the Workers' Compensation Act shall provide the insured shall have full freedom of choice in the selection of any duly licensed physician, physician assistant-certified, dentist, osteopath, chiropractor, optometrist, chiropodist, psychologist, licensed social worker, licensed professional counselor, or nurse specialist as specifically listed in 37-8-202 for treatment of any illness or injury within the scope and limitations of his practice. Whenever such policies insure against the expense of drugs, the insured shall have full freedom of choice in the selection of any duly licensed and registered pharmacist.

(2) Nothing in this section shall be construed as enlarging the scope and limitations of practice of any of the licensed professions enumerated in subsection (1); nor shall this section be construed as amending, altering, or repealing any statutes relating to the licensing or use of hospitals."

**Section 19.** Section 53-6-101, MCA, is amended to read:

"53-6-101. Definition of medical assistance. (1) The definition of medical assistance shall include:

- (a) inpatient hospital services;
- (b) outpatient hospital services;
- (c) other laboratory and x-ray services;

(d) skilled nursing home services;

(e) physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled nursing home, or elsewhere; and

(f) services provided by nurse specialists, as specifically listed in 37-8-202(5), within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider; and

(g) services provided by physician assistants-certified within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider.

(2) It may also include, although not necessarily limited to, the following:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy and other related services;

(f) clinic services;

(g) services provided by social workers licensed under Title 37, chapter 22;

1 (h) prescribed drugs, dentures, and prosthetic  
2 devices;

3 (i) eyeglasses prescribed by a physician skilled in  
4 diseases of the eye or by an optometrist, whichever the  
5 individual may select;

6 (j) other diagnostic, screening, preventive,  
7 rehabilitative, chiropractic, and osteopathic services;

8 (k) any additional medical service or aid allowable  
9 under or provided by the federal Social Security Act."

10 NEW SECTION. **Section 20.** Codification instruction.

11 (1) [Sections 1 through 6] are intended to be codified as an  
12 integral part of Title 37, chapter 20, and the provisions of  
13 Title 37, chapter 20, apply to [sections 1 through 6].

14 (2) [Section 7] is intended to be codified as an  
15 integral part of Title 33, chapter 22, part 1, and the  
16 provisions of Title 33, chapter 22, part 1, apply to  
17 [section 7].

18 NEW SECTION. **Section 21.** Extension of authority. Any  
19 existing authority to make rules on the subject of the  
20 provisions of [this act] is extended to the provisions of  
21 [this act].

22 NEW SECTION. **Section 22.** Severability. If a part of  
23 [this act] is invalid, all valid parts that are severable  
24 from the invalid part remain in effect. If a part of [this  
25 act] is invalid in one or more of its applications, the part

1 remains in effect in all valid applications that are  
2 severable from the invalid applications.

3 NEW SECTION. **Section 23.** Effective date. [This act]  
4 is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB026, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an Act entitled: " An Act providing for licensure of physician assistants-certified; providing for a physician assistant-certified on the Board of Medical Examiners; regulating the practice of physician assistants-certified, including prescribing/dispensing authority, billing procedures, and locum tenens practice; amending Sections 2-15-1841, 33-22-111, 37-3-103, 37-7-401, 37-8-102, 37-20-101 through 37-20-104, 37-20-202, 37-20-301 through 37-20-303, and 53-6-101, MCA; and providing an immediate effective date."

ASSUMPTIONS:

Assumptions used in obtaining cost estimates for the Department of Social and Rehabilitation Services:

1. There will be no savings to the medicaid program assuming PA's will be reimbursed at the current rate (80% of physician rates) and assuming the number of services rendered by PA's remains at the current level.
2. The change in medicaid billing will require programming changes to the computerized provider reimbursement system (MMIS).
3. Implementation is July 1, 1989.

Assumptions used in obtaining cost estimates for the Department of Commerce.

4. Assume there will be 6 board meetings per year each lasting 2 days.
5. Assume that the board member will need to travel 350 miles/meeting to attend the 6 meetings.
6. Assume there will be 5 pages of rules.
7. Assume that the work load of the Professional and Occupational Licensing Bureau is such that no additional duties can be assumed with the current level of funding and staffing.
8. Assume the additional duties will include checking the license of the supervising physician, process utilization plans, process supervising physician's required submittal, etc.
9. Assume that the board budget used here is that of OBPP for FY90 and FY91.
10. Assume the bureau overhead is equal to 41% of the board's budget.
11. Assume there will be 19 licensees.

Assumptions used in obtaining cost estimates for the Department of Health and Environmental Sciences.

12. Assume passage of this bill will increase the scope of practice and will promote the establishment of Medicaid Assistance Facilities and Rural Health Clinics. Assume providers will be established in Jordan, Ekalaka, and West Yellowstone during FY90. Assume it would be reasonable to anticipate that at least three additional M.A.F and Rural Health Clinics will be established during 1991.
13. Each licensure/certification survey will take 2 surveyor's time for two days plus travel time.

*Ray Shackleford*

*2/4/89*

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

*Cecil Weeding*

*2/6/89*

CECIL WEEDING, PRIMARY SPONSOR

DATE

Fiscal Note for SB026, as introduced

**SB 26**

Fiscal Note Request, SB026 as introduced

Form BD-15

Page 2

14. Survey and certification of rural health clinics will be supported 50% Medicare and 50% General Fund. Medicaid Assistance facilities licensure will be funded through General Fund during FY90, but may be funded at a 50% level by Medicare and 50% General Fund during FY91 if the demonstration project sponsored by the Montana Hospital Association is fully funded.

FISCAL IMPACT:

FY90

FY91

Expenditures:

SRS

|                 |          |      |
|-----------------|----------|------|
| Operating Costs | \$60,000 | \$ 0 |
|-----------------|----------|------|

Department of Commerce

|                   |     |     |
|-------------------|-----|-----|
| Personal Services | 600 | 600 |
|-------------------|-----|-----|

|                 |       |       |
|-----------------|-------|-------|
| Operating Costs | 2,251 | 1,757 |
|-----------------|-------|-------|

Department of Health and Environmental Sciences

|                   |       |       |
|-------------------|-------|-------|
| Personal Services | 1,488 | 2,976 |
|-------------------|-------|-------|

|                 |     |       |
|-----------------|-----|-------|
| Operating Costs | 691 | 2,073 |
|-----------------|-----|-------|

|       |          |          |
|-------|----------|----------|
| Total | \$65,030 | \$ 7,406 |
|-------|----------|----------|

Funding:

SRS

|              |          |      |
|--------------|----------|------|
| General Fund | \$15,000 | \$ 0 |
|--------------|----------|------|

|               |        |  |
|---------------|--------|--|
| Federal Funds | 45,000 |  |
|---------------|--------|--|

Department of Commerce

|               |       |       |
|---------------|-------|-------|
| State Special | 2,851 | 2,357 |
|---------------|-------|-------|

Department of Health and Environmental Sciences

|              |       |       |
|--------------|-------|-------|
| General Fund | 1,619 | 2,524 |
|--------------|-------|-------|

|               |     |       |
|---------------|-----|-------|
| Federal Funds | 560 | 2,525 |
|---------------|-----|-------|

Total

|              |          |          |
|--------------|----------|----------|
| General Fund | \$16,619 | \$ 2,524 |
|--------------|----------|----------|

|               |       |       |
|---------------|-------|-------|
| State Special | 2,851 | 2,357 |
|---------------|-------|-------|

|               |        |       |
|---------------|--------|-------|
| Federal Funds | 45,560 | 2,525 |
|---------------|--------|-------|

|             |          |          |
|-------------|----------|----------|
| Total Funds | \$65,030 | \$ 7,406 |
|-------------|----------|----------|

Revenue:

Department of Commerce

|                               |          |          |
|-------------------------------|----------|----------|
| License Fees: (State Special) | \$ 2,851 | \$ 2,851 |
|-------------------------------|----------|----------|

Department of Health and Environmental Sciences

Facility License Fees

|              |    |    |
|--------------|----|----|
| General Fund | 30 | 60 |
|--------------|----|----|

|               |    |    |
|---------------|----|----|
| Federal Funds | 30 | 60 |
|---------------|----|----|

|       |          |          |
|-------|----------|----------|
| Total | \$ 2,911 | \$ 2,911 |
|-------|----------|----------|

Net General Fund Impact:

|            |            |
|------------|------------|
| (\$16,589) | (\$19,053) |
|------------|------------|

SB 26

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB026, on second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an Act entitled: " An Act providing for licensure of physician assistants-certified; providing for a physician assistant-certified on the Board of Medical Examiners; regulating the practice of physician assistants-certified, including prescribing/dispensing authority, billing procedures, and locum tenens practice; amending Sections 2-15-1841, 33-22-111, 37-3-103, 37-7-401, 37-8-102, 37-20-101 through 37-20-104, 37-20-202, 37-20-301 through 37-20-303, and 53-6-101, MCA; and providing an immediate effective date."

ASSUMPTIONS:

Assumptions used in obtaining cost estimates for the Department of Social and Rehabilitation Services:

1. It is not possible to estimate the potential fiscal impact (cost or savings) to the medicaid program. There is no information available to determine how many physician's assistants (PA's) will do their own billing; what kind of procedures those PA's will provide; and how many services PA's will provide.
2. The change in medicaid billing will require programming changes to the computerized provider reimbursement system (MMIS).
3. Implementation is July 1, 1989.

Assumptions used in obtaining cost estimates for the Department of Commerce.

4. Assume there will be 6 board meetings per year each lasting 2 days.
5. Assume that the board member will need to travel 350 miles/meeting to attend the 6 meetings.
6. Assume there will be 5 pages of rules.
7. Assume that the work load of the Professional and Occupational Licensing Bureau is such that no additional duties can be assumed with the current level of funding and staffing.
8. Assume the additional duties will include checking the license of the supervising physician, process utilization plans, process supervising physician's required submittal, etc.
9. Assume that the board budget used here is that of OBPP for FY90 and FY91.
10. Assume the bureau overhead is equal to 41% of the board's budget.
11. Assume there will be 19 licensees.

Ray Shackelford      2/20/89  
RAY SHACKLEFORD, BUDGET DIRECTOR      DATE  
OFFICE OF BUDGET AND PROGRAM PLANNING

Weeding      2/30/89  
CECIL WEEDING, PRIMARY SPONSOR      DATE

Fiscal Note for SB026, on second reading

**SB 26**

Fiscal Note Request, SB026, on second reading

Form BD-15

Page 2

FISCAL IMPACT:

Expenditures:

SRS

|                        | <u>FY90</u>  | <u>FY91</u>  |
|------------------------|--------------|--------------|
| Operating Costs        | \$60,000     | \$ 0         |
| Department of Commerce |              |              |
| Personal Services      | 600          | 600          |
| Operating Costs        | <u>2,251</u> | <u>1,757</u> |
| Total                  | \$62,851     | \$ 2,357     |

Funding:

SRS

|                        |               |          |
|------------------------|---------------|----------|
| General Fund           | \$15,000      | \$ 0     |
| Federal Funds          | 45,000        |          |
| Department of Commerce |               |          |
| State Special          | 2,851         | 2,357    |
| Total                  |               |          |
| General Fund           | \$15,000      | \$ 0     |
| State Special          | 2,851         | 2,357    |
| Federal Funds          | <u>45,000</u> | <u>0</u> |
| Total Funds            | \$62,851      | \$ 2,357 |

Revenue:

Department of Commerce

|                               |          |          |
|-------------------------------|----------|----------|
| License Fees: (State Special) | \$ 2,851 | \$ 2,851 |
|-------------------------------|----------|----------|

Net General Fund Impact: (\$15,000)

SB 26

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Revised Fiscal Note for SB026, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an Act entitled: " An Act providing for licensure of physician assistants-certified; providing for a physician assistant-certified on the Board of Medical Examiners; regulating the practice of physician assistants-certified, including prescribing/dispensing authority, billing procedures, and locum tenens practice; amending Sections 2-15-1841, 33-22-111, 37-3-103, 37-7-401, 37-8-102, 37-20-101 through 37-20-104, 37-20-202, 37-20-301 through 37-20-303, and 53-6-101, MCA; and providing an immediate effective date."

ASSUMPTIONS:

Assumptions used in obtaining cost estimates for the Department of Social and Rehabilitation Services:

1. There will be no savings to the medicaid program assuming PA's will be reimbursed at the current rate (80% of physician rates) and assuming the number of services rendered by PA's remains at the current level.
2. The change in medicaid billing will require programming changes to the computerized provider reimbursement system (MMIS).
3. Implementation is July 1, 1989.

Assumptions used in obtaining cost estimates for the Department of Commerce.

4. Assume there will be 6 board meetings per year each lasting 2 days.
5. Assume that the board member will need to travel 350 miles/meeting to attend the 6 meetings.
6. Assume there will be 5 pages of rules.
7. Assume that the work load of the Professional and Occupational Licensing Bureau is such that no additional duties can be assumed with the current level of funding and staffing.
8. Assume the additional duties will include checking the license of the supervising physician, process utilization plans, process supervising physician's required submittal, etc.
9. Assume that the board budget used here is that of OBPP for FY90 and FY91.
10. Assume the bureau overhead is equal to 41% of the board's budget.
11. Assume there will be 19 licensees.

Assumptions used in obtaining cost estimates for the Department of Health and Environmental Sciences.

12. Assume passage of this bill will increase the scope of practice and will promote the establishment of Medicaid Assistance Facilities and Rural Health Clinics. Assume providers will be established in Jordan, Ekalaka, and West Yellowstone during FY90. Assume it would be reasonable to anticipate that at least three additional M.A.F and Rural Health Clinics will be established during 1991.
13. Each licensure/certification survey will take 2 surveyor's time for two days plus travel time.

*Ray Shackleford*

*2/9/89*

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

*Cecil Weeding*

*2/9/89*

CECIL WEEDING, PRIMARY SPONSOR

DATE

Revised Fiscal Note for SB026, as introduced

*SB 26*



Revised Fiscal Note Request, SB026 as introduced  
Form BD-15  
Page 2

14. Survey and certification of rural health clinics will be supported 50% Medicare and 50% General Fund. Medicaid Assistance facilities licensure will be funded through General Fund during FY90, but may be funded at a 50% level by Medicare and 50% General Fund during FY91 if the demonstration project sponsored by the Montana Hospital Association is fully funded.

| <u>FISCAL IMPACT:</u>                           | <u>FY90</u>       | <u>FY91</u>       |
|---|-------------------|-------------------|
| <u>Expenditures:</u>                            |                   |                   |
| SRS   |                   |                   |
| Operating Costs                                 | \$60,000          | \$ 0              |
| Department of Commerce                          |                   |                   |
| Personal Services                               | 600               | 600               |
| Operating Costs                                 | 2,251             | 1,757             |
| Department of Health and Environmental Sciences |                   |                   |
| Personal Services                               | 1,488             | 2,976             |
| Operating Costs                                 | 691               | 2,073             |
| Total   | <u>\$65,030</u>   | <u>\$ 7,406</u>   |
| <u>Funding:</u>                                 |                   |                   |
| SRS   |                   |                   |
| General Fund                                    | \$15,000          | \$ 0              |
| Federal Funds                                   | 45,000            |                   |
| Department of Commerce                          |                   |                   |
| State Special                                   | 2,851             | 2,357             |
| Department of Health and Environmental Sciences |                   |                   |
| General Fund                                    | 1,619             | 2,524             |
| Federal Funds                                   | 560               | 2,525             |
| Total   |                   |                   |
| General Fund                                    | \$16,619          | \$ 2,524          |
| State Special                                   | 2,851             | 2,357             |
| Federal Funds                                   | <u>45,560</u>     | <u>2,525</u>      |
| Total Funds                                     | <u>\$65,030</u>   | <u>\$ 7,406</u>   |
| <u>Revenue:</u>                                 |                   |                   |
| Department of Commerce                          |                   |                   |
| License Fees: (State Special)                   | \$ 2,851          | \$ 2,851          |
| Department of Health and Environmental Sciences |                   |                   |
| Facility License Fees                           |                   |                   |
| General Fund                                    | 30                | 60                |
| Federal Funds                                   | <u>30</u>         | <u>60</u>         |
| Total   | <u>\$ 2,911</u>   | <u>\$ 2,911</u>   |
| <u>Net General Fund Impact:</u>                 | <u>(\$16,589)</u> | <u>(\$ 2,464)</u> |

SB 26

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB026, on second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an Act entitled: " An Act providing for licensure of physician assistants-certified; providing for a physician assistant-certified on the Board of Medical Examiners; regulating the practice of physician assistants-certified, including prescribing/dispensing authority, billing procedures, and locum tenens practice; amending Sections 2-15-1841, 33-22-111, 37-3-103, 37-7-401, 37-8-102, 37-20-101 through 37-20-104, 37-20-202, 37-20-301 through 37-20-303, and 53-6-101, MCA; and providing an immediate effective date."

ASSUMPTIONS:

Assumptions used in obtaining cost estimates for the Department of Social and Rehabilitation Services:

1. It is not possible to estimate the potential fiscal impact (cost or savings) to the medicaid program. There is no information available to determine how many physician's assistants (PA's) will do their own billing; what kind of procedures those PA's will provide; and how many services PA's will provide.
2. The change in medicaid billing will require programming changes to the computerized provider reimbursement system (MMIS).
3. Implementation is July 1, 1989.

Assumptions used in obtaining cost estimates for the Department of Commerce.

4. Assume there will be 6 board meetings per year each lasting 2 days.
5. Assume that the board member will need to travel 350 miles/meeting to attend the 6 meetings.
6. Assume there will be 5 pages of rules.
7. Assume that the work load of the Professional and Occupational Licensing Bureau is such that no additional duties can be assumed with the current level of funding and staffing.
8. Assume the additional duties will include checking the license of the supervising physician, process utilization plans, process supervising physician's required submittal, etc.
9. Assume that the board budget used here is that of OBPP for FY90 and FY91.
10. Assume the bureau overhead is equal to 41% of the board's budget.
11. Assume there will be 19 licensees.

*Ray Shackelford*

*2/20/89*

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

*Weeding*

*2/20/89*

CECIL WEEDING, PRIMARY SPONSOR

DATE

Fiscal Note for SB026, on second reading

*Corrected Color*

*SB 26 - 2nd  
Reading*

Fiscal Note Request, SB026, on second reading  
Form BD-15  
Page 2

| <u>FISCAL IMPACT:</u>           | <u>FY90</u>   | <u>FY91</u>  |
|---------------------------------|---------------|--------------|
| <u>Expenditures:</u>            |               |              |
| SRS                             |               |              |
| Operating Costs                 | \$60,000      | \$ 0         |
| Department of Commerce          |               |              |
| Personal Services               | 600           | 600          |
| Operating Costs                 | <u>2,251</u>  | <u>1,757</u> |
| Total                           | \$62,851      | \$ 2,357     |
| <u>Funding:</u>                 |               |              |
| SRS                             |               |              |
| General Fund                    | \$15,000      | \$ 0         |
| Federal Funds                   | 45,000        |              |
| Department of Commerce          |               |              |
| State Special                   | 2,851         | 2,357        |
| Total                           |               |              |
| General Fund                    | \$15,000      | \$ 0         |
| State Special                   | 2,851         | 2,357        |
| Federal Funds                   | <u>45,000</u> | <u>0</u>     |
| Total Funds                     | \$62,851      | \$ 2,357     |
| <u>Revenue:</u>                 |               |              |
| Department of Commerce          |               |              |
| License Fees: (State Special)   | \$ 2,851      | \$ 2,851     |
| <u>Net General Fund Impact:</u> | (\$15,000)    |              |

SB 26 - 2nd  
Reading

## SENATE BILL NO. 26

INTRODUCED BY WEEDING, ABRAMS, VAUGHN, JENKINS,  
 YELLOWTAIL, DARKO, RAPP-SVRCEK, BECK,  
 STICKNEY, GERVAIS, GIACOMETTO, CAMPBELL,  
 HANSON, KASTEN, PETERSON, DEBRUYCKER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LICENSURE  
 OF PHYSICIAN ASSISTANTS CERTIFIED; PROVIDING FOR A PHYSICIAN  
 ASSISTANT CERTIFIED ON THE BOARD OF MEDICAL EXAMINERS;  
 REGULATING THE PRACTICE OF PHYSICIAN ASSISTANTS CERTIFIED;  
 INCLUDING PRESCRIBING/DISPENSING AUTHORITY; BILLING  
 PROCEDURES; AND LOCUM TENENS PRACTICE; AMENDING SECTIONS  
 2-15-1841, 33-22-111, 37-3-103, 37-7-401, 37-8-102,  
 37-20-101 THROUGH 37-20-104, 37-20-202, 37-20-301 THROUGH  
 37-20-303, AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE  
 EFFECTIVE DATE. PROVIDING FOR APPROVAL OF PHYSICIAN  
 ASSISTANTS CERTIFIED; REGULATING THE PRACTICE OF PHYSICIAN  
 ASSISTANTS CERTIFIED, INCLUDING PRESCRIBING AND DISPENSING  
 AUTHORITY, BILLING PROCEDURES, AND LOCUM TENENS PRACTICE;  
 AMENDING SECTIONS 33-22-111, 37-3-103, 37-7-401, 37-20-101  
 THROUGH 37-20-104, 37-20-202, 37-20-301 THROUGH 37-20-303,  
 AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
 DATES."

STATEMENT OF INTENT



A statement of intent is required for this bill because  
 [sections 4 and 13] grant or extend rulemaking authority to  
 the board of medical examiners in order to implement the  
 provisions of this bill.

At a minimum, it is intended that the rules address the  
 following topics:

(1) authorization for prescribing, dispensing, and  
 administering drugs by a physician assistant-certified,  
 including the extent and limitations of the prescribing and  
 dispensing authority, required recordkeeping, and refilling  
 of prescriptions; and

(2) considerations pertinent to approval of locum  
 tenens utilization plans.

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. **Section 1.** Definitions. As used in this  
 chapter, the following definitions apply:

(1) "Board" means the Montana state board of medical  
 examiners established in 2-15-1841.

(2) "Locum tenens" means the temporary provision of  
 services within the scope of practice of a physician  
 assistant-certified.

(3) "Physician assistant-certified" means a member of

1 a health care team, approved by the board, who provides  
2 medical services that may include examination, diagnosis,  
3 prescription of medications, and treatment, as approved by  
4 the board, under the supervision of a physician licensed by  
5 the board.

6 (4) "Protocol" means the proper relationship between a  
7 physician assistant-certified and other health care  
8 practitioners and the manner of their interaction.

9 NEW SECTION. **Section 2. Qualifications for physician**  
10 **assistant-certified.** A person may not be approved as a  
11 physician assistant-certified in this state unless he:

12 (1) is of good moral character;

13 (2) is a graduate of a physician assistant training  
14 program approved by the American medical association's  
15 committee on allied health education and accreditation;

16 (3) has taken and successfully passed an examination  
17 recognized by the national commission on the certification  
18 of physician assistants;

19 (4) holds a current certificate from the national  
20 commission on the certification of physician assistants; and

21 (5) has submitted to the board detailed information on  
22 his history, education, and experience.

23 NEW SECTION. **Section 3. Physician assistant-certified**  
24 **as agent of supervising physician.** (1) In establishing  
25 protocol, a physician assistant-certified must be considered

1 the agent of the supervising physician with regard to all  
2 duties delegated to the physician assistant-certified under  
3 the utilization plan. A health care provider shall consider  
4 the instructions of a physician assistant-certified as being  
5 the instructions of the supervising physician as long as the  
6 instructions concern the duties delegated to the physician  
7 assistant-certified under the utilization plan.

8 (2) The supervising physician and the physician  
9 assistant-certified are responsible for making available a  
10 copy of the approved utilization plan to all other health  
11 care practitioners with whom they reasonably believe they  
12 will interact on a regular basis.

13 (3) Nothing in this chapter may be construed to  
14 conflict with the provisions of 37-3-322.

15 NEW SECTION. **Section 4. Prescribing and dispensing**  
16 **authority -- discretion of supervising physician on**  
17 **limitation of authority.** (1) A physician assistant-certified  
18 may prescribe, dispense, and administer drugs to the extent  
19 authorized by the board by rule, by the utilization plan, or  
20 both. The prescribing, dispensing, and administration of  
21 drugs are also subject to the authority of the supervising  
22 physician, and the supervising physician in his discretion  
23 may impose additional limitations on the prescribing and  
24 dispensing authority granted by the board.

25 (2) All dispensing activities allowed by this section

1 must comply with 37-2-104 and with packaging and labeling  
2 guidelines developed by the board of pharmacy under Title  
3 37, chapter 7.

4 (3) The prescribing and dispensing authority granted a  
5 physician assistant-certified may include the following:

6 (a) Prescribing, dispensing, and administration of  
7 Schedule III drugs listed in 50-32-226, Schedule IV drugs  
8 listed in 50-32-229, and Schedule V drugs listed in  
9 50-32-232, is authorized.

10 (b) Prescribing, dispensing, and administration of  
11 Schedule II drugs listed in 50-32-224 may be authorized for  
12 limited periods not to exceed 48 hours.

13 (c) Records on the dispensing and administration of  
14 scheduled drugs must be kept.

15 (d) A physician assistant-certified shall maintain  
16 registration with the federal drug enforcement  
17 administration.

18 (e) Drugs dispensed by a physician assistant-certified  
19 must be prepackaged by a licensed pharmacist, except that  
20 samples provided by a pharmaceutical company representative  
21 may be dispensed.

22 (f) Prescriptions written by physician  
23 assistants-certified must comply with regulations relating  
24 to prescription requirements adopted by the board of  
25 pharmacy.

1 (g) The board shall adopt rules regarding the  
2 refilling of prescriptions written by physician  
3 assistants-certified.

4 NEW SECTION. **Section 5. Billing.** A supervising  
5 physician or an institution where services were delivered  
6 may bill for physician assistant-certified services.

7 NEW SECTION. **Section 6. Liaison to the board.** The  
8 Montana academy of physician assistants shall elect one  
9 person to serve as a nonvoting liaison to the board to  
10 represent the interests of physician assistants.

11 NEW SECTION. **Section 7. Coverage required for**  
12 **services provided by physician assistants-certified.** An  
13 insurer, health service corporation, or any employee health  
14 and welfare fund that provides accident or health insurance  
15 benefits to residents of this state shall provide, in group  
16 and individual insurance contracts, coverage for health  
17 services provided by a physician assistant-certified, as  
18 normally covered by contracts for services supplied by a  
19 physician, if health care services that the physician  
20 assistant-certified is approved to perform are covered by  
21 the contract.

22 **Section 8.** Section 37-3-103, MCA, is amended to read:  
23 "37-3-103. **Exemptions from licensing requirements.** (1)  
24 This chapter does not prohibit or require a license with  
25 respect to any of the following acts:

1 (a) the gratuitous rendering of services in cases of  
2 emergency or catastrophe;

3 (b) the rendering of services in this state by a  
4 physician lawfully practicing medicine in another state or  
5 territory. However, if the physician does not limit the  
6 services to an occasional case or if he has any established  
7 or regularly used hospital connections in this state or  
8 maintains or is provided with, for his regular use, an  
9 office or other place for rendering the services, he must  
10 possess a license to practice medicine in this state.

11 (c) the practice of dentistry under the conditions and  
12 limitations defined by the laws of this state;

13 (d) the practice of podiatry under the conditions and  
14 limitations defined by the laws of this state;

15 (e) the practice of optometry under the conditions and  
16 limitations defined by the laws of this state;

17 (f) the practice of osteopathy under the conditions  
18 and limitations defined in chapter 5 of this title for those  
19 doctors of osteopathy who do not receive a physician's  
20 certificate under this chapter;

21 (g) the practice of chiropractic under the conditions  
22 and limitations defined by the laws of this state;

23 (h) the practice of Christian Science, with or without  
24 compensation, and ritual circumcisions by rabbis;

25 (i) the performance by commissioned medical officers

1 of the armed forces of the United States, of the United  
2 States public health service, or of the United States  
3 veterans' administration of their lawful duties in this  
4 state as officers;

5 (j) the rendering of nursing services by registered or  
6 other nurses in the lawful discharge of their duties as  
7 nurses or of midwife services by registered nurse-midwives  
8 under the supervision of a licensed physician;

9 (k) the rendering of services by interns or resident  
10 physicians in a hospital or clinic in which they are  
11 training, subject to the conditions and limitations of this  
12 chapter. The board may require a resident physician to be  
13 licensed if he otherwise engages in the practice of medicine  
14 in the state of Montana.

15 (l) the rendering of services by a physical therapist,  
16 technician, or other paramedical specialist under the  
17 appropriate amount and type of supervision of a person  
18 licensed under the laws of this state to practice medicine,  
19 but this exemption does not extend the scope of a  
20 paramedical specialist;

21 (m) the rendering of services by a physician's  
22 assistant physician assistant-certified in accordance with  
23 Title 37, chapter 20;

24 (n) the practice by persons licensed under the laws of  
25 this state to practice a limited field of the healing arts,

1 and not specifically designated, under the conditions and  
2 limitations defined by law; and

3 (o) the execution of a death sentence pursuant to  
4 46-19-103.

5 (2) Licensees referred to in subsection (1) of this  
6 section who are licensed to practice a limited field of  
7 healing arts shall confine themselves to the field for which  
8 they are licensed or registered and to the scope of their  
9 respective licenses and, with the exception of those  
10 licensees who hold a medical degree, may not use the title  
11 "M.D." or any word or abbreviation to indicate or to induce  
12 others to believe that they are engaged in the diagnosis or  
13 treatment of persons afflicted with disease, injury, or  
14 defect of body or mind except to the extent and under the  
15 conditions expressly provided by the law under which they  
16 are licensed."

17 **Section 9.** Section 37-20-101, MCA, is amended to read:

18 "37-20-101. Qualifications of supervising physician  
19 and ~~physicians--assistants~~ physician assistant-certified.

20 (1) Each supervising physician named in the utilization plan  
21 required by 37-20-301 shall:

22 (a) possess a current, unrestricted license to  
23 practice medicine in this state;

24 (b) submit a statement to the Montana state board of  
25 medical examiners that, in his opinion, the assistant

1 physician assistant-certified to be employed is of good  
2 character and is both mentally and physically able to  
3 perform the duties of a ~~physician's-assistant~~ physician  
4 assistant-certified described in the utilization plan;

5 (c) submit a statement to the board that he will  
6 exercise supervision over the ~~physician's--assistant~~  
7 physician assistant-certified in accordance with any rules  
8 adopted by the board and will retain professional and legal  
9 responsibility for the care and treatment of his patients;  
10 and

11 (d) submit detailed information to the board regarding  
12 the physician's professional background, medical education,  
13 internship and residency, continuing education received,  
14 membership in state and national medical associations,  
15 hospital and staff privileges, and such other information as  
16 the board may require.

17 (2) ~~Except--as--provided--in--subsection---(3),--each~~  
18 ~~physician's--assistant~~ Each physician assistant-certified  
19 named in the utilization plan required by 37-20-301 shall:

20 ~~(a)--be-of-good-character;~~

21 ~~(b)--be-a-graduate-of-a-physician's-assistant-training~~  
22 ~~program-approved-by-the-American-medical-association;~~

23 ~~(c)--have--taken--an--examination--recognized--by--the~~  
24 ~~national-commission-on-physicians--assistants-and-received-a~~  
25 ~~score-satisfactory-to-the-board;~~



(d) hold a current certification by the national commission on physicians' assistants; and

(e) submit to the board detailed information on the applicant's history, education, and experience and such other information as the board may require.

(3) in lieu of the requirements of subsections (2)(b) and (2)(c), and (2)(d) the physician's assistant may be a graduate of an approved medical school as defined in 37-3-102 and pass an examination approved by the board meet the criteria for licensure APPROVAL as a physician assistant-certified as provided in [section 2]."

**Section 10.** Section 37-20-102, MCA, is amended to read:

"37-20-102. Insurance requirement. No physician's assistant A physician assistant-certified may not perform any service unless he has insurance from liability for his errors, omissions, or actions to the limits required by the hospital's governing authority."

**Section 11.** Section 37-20-103, MCA, is amended to read:

"37-20-103. Limitations on authority conferred -- exception. Except as provided in 37-10-102, nothing in this chapter may be construed to authorize a physician's assistant physician assistant-certified to perform those functions and duties specifically delegated by law to

persons licensed as optometrists as defined under Title 37, chapter 10."

**Section 12.** Section 37-20-104, MCA, is amended to read:

"37-20-104. Penalty -- enforcement. (1) Any person who employs a physician's-----assistant physician assistant-certified or holds himself out to be a qualified physician's--assistant physician assistant-certified without the approval of the Montana state board of medical examiners is guilty of a misdemeanor and is punishable as provided in 46-18-212.

(2) In addition to seeking any criminal penalty available under this section, the board may withdraw its approval of any utilization plan previously approved which is applicable to any supervising physician or physician's assistant physician assistant-certified who:

(a) acts in violation of this section;

(b) obtained the approval of the board by fraud;

(c) acts in a manner contrary to the terms of the utilization plan; or

(d) violates any of the applicable provisions of this chapter or rules of the board adopted thereunder.

(3) The board may enforce the provisions of this section by the remedy of injunction."

**Section 13.** Section 37-20-202, MCA, is amended to

1 read:

2 \*37-20-202. Adoption of rules. The board of medical  
3 examiners shall adopt administrative rules to implement the  
4 provisions of this chapter that:

5 (1) address the issues of supervision and direction  
6 limitations and requirements;

7 (2) address the issue of protocols for interaction of  
8 medical personnel with differing responsibilities;

9 (3) specify that a physician may not utilize more than  
10 one physician's--assistant physician assistant-certified  
11 unless he can demonstrate to the board the ability to  
12 supervise more than one assistant adequately; and

13 (4) address other considerations pertinent to the  
14 approval of physicians'-----assistants physician  
15 assistant-certified utilization plans and locum tenens  
16 utilization plans, and the health care needs of the public."

17 **Section 14.** Section 37-20-301, MCA, is amended to  
18 read:

19 "37-20-301. Utilization plan required -- contents --  
20 approval. (1) No A physician, office, firm, state  
21 institution, or professional service corporation may not  
22 employ or make use of the services of a physician's  
23 assistant physician assistant-certified in the practice of  
24 medicine, as defined in 37-3-102, and no---physician's  
25 assistant a physician assistant-certified may not be

1 employed or practice as a physician's--assistant physician  
2 assistant-certified unless the assistant physician  
3 assistant-certified;

4 (a) is supervised by a licensed physician; and--unless  
5 such-employment-or-use

6 (b) has been approved by the Montana state board of  
7 medical examiners; in-a and

8 (c) has received board approval of a physician's  
9 assistant physician assistant-certified utilization plan.

10 (2) A physician's-----assistant physician  
11 assistant-certified utilization plan must set forth in  
12 detail the following information:

13 (a) the name and qualifications of the supervising  
14 physician and the physician's--assistant name and license  
15 APPROVAL number of the physician assistant-certified, as  
16 provided in 37-20-101;

17 (b) the nature and location of the physician's medical  
18 practice;

19 (c) the duties to be delegated to the physician's  
20 assistant physician assistant-certified and the location in  
21 which those duties are to be performed;

22 (d) the name and qualifications of a second physician  
23 meeting the requirements of 37-20-101 to serve in the place  
24 of the supervising physician in the event that the  
25 supervising physician is unable to supervise the physician's

1 assistant physician assistant-certified temporarily; and

2 (e) such--other--information-as-the-board-may-consider  
3 necessary guidelines describing the intended availability of  
4 the supervising or alternate physician for consultation by  
5 the physician assistant-certified; and

6 (f) other information the board may consider  
7 necessary.

8 (3) The board shall approve the utilization plan if it  
9 finds that the duties to be delegated to the physician's  
10 assistant physician assistant-certified are:

11 (a) assigned by the supervising physician;

12 (b) within the scope of the training, knowledge,  
13 experience, and practice of the supervisory physician; and

14 (c) within the scope of the training, knowledge,  
15 education, and experience of the physician's--assistant  
16 physician assistant-certified.

17 (4) A supervising physician and a physician  
18 assistant-certified may submit a new or additional  
19 utilization plan to the board for approval without  
20 reestablishing the criteria set out in [section 2], as long  
21 as the information requirements of subsection (2) have been  
22 met and the appropriate fee provided for in 37-20-302(1) has  
23 been paid.

24 (5) A utilization plan may provide that a physician  
25 assistant-certified be allowed to furnish services on a

1 locum tenens basis at a location other than the physician  
2 assistant-certified's primary place of practice for a period  
3 not to exceed 30 calendar days. A locum tenens utilization  
4 plan may be approved by a single board member."

5 **Section 15.** Section 37-20-302, MCA, is amended to  
6 read:

7 "37-20-302. Utilization plan approval fee -- renewal  
8 of approval -- renewal fee. (1) Every physician, office,  
9 firm, or professional service corporation proposing to  
10 employ a physician's-assistant physician assistant-certified  
11 shall pay to the board a utilization plan approval fee in an  
12 amount set by the board, not exceeding \$50. Payment must be  
13 made when the utilization plan is submitted to the board and  
14 is not refundable.

15 (2) Approval of every physician's-assistant physician  
16 assistant-certified utilization plan expires 1 year from the  
17 date of approval and is invalid thereafter. The department  
18 of commerce shall notify each physician, office, firm, or  
19 professional corporation and physician's-assistant physician  
20 assistant-certified named in a utilization plan of the date  
21 of expiration of board approval at least 1 month prior to  
22 the expiration of approval.

23 (3) Renewal of approval shall be granted by the board  
24 under such circumstances as would justify original approval  
25 of a utilization plan and upon payment by the employing

physician, office, firm, or professional service corporation of a renewal fee in an amount to be set by the board, not to exceed \$50.

(4) Every physician, office, firm, or professional service corporation proposing to employ a physician assistant-certified on a locum tenens basis shall pay to the board a locum tenens utilization plan fee in an amount set by the board, not to exceed \$50.

~~(4)~~(5) Fees received by the department must be deposited in the state special revenue fund for use by the board in the administration of this chapter, subject to 37-1-101(6)."

**Section 16.** Section 37-20-303, MCA, is amended to read:

"37-20-303. Exemptions from approval requirement. This chapter does not require the approval of a physician's assistant physician assistant-certified utilization plan or locum tenens utilization plan with respect to any acts within the professional competence of a person licensed under the provisions of Title 37, chapters 3 through 17, 31, or 32."

**Section 17.** Section 37-7-401, MCA, is amended to read:

"37-7-401. Restrictions upon sale or prescription of opiates -- coding prohibited -- refilling prescriptions. (1) It shall be unlawful for any physician or physician

assistant-certified to sell or give to or prescribe for any person any opium, morphine, alkaloid-cocaine, or alpha or beta eucaine or codeine or heroin or any derivative, mixture, or preparation of any of them, except to a patient believed in good faith to require the same for medical use and in quantities proportioned to the needs of such patients.

(2) A prescription must be so written that it can be compounded by any registered pharmacist. The coding of any prescription is a violation of this section.

(3) A prescription marked "non repetatur", "non rep", or "N.R." cannot be refilled. A prescription marked to be refilled by a specified amount may be filled by any registered pharmacist the number of times marked on the prescription. A prescription not bearing any refill instructions may not be refilled without first obtaining permission from the prescriber. A prescription may not be refilled for more than 3 years from the date it was originally filled. No narcotic prescription may be refilled."

**Section 18.** Section 33-22-111, MCA, is amended to read:

"33-22-111. Policies to provide for freedom of choice of practitioners -- professional practice not enlarged. (1) All policies of disability insurance, including individual,

1 group, and blanket policies, and all policies insuring the  
 2 payment of compensation under the Workers' Compensation Act  
 3 shall provide the insured shall have full freedom of choice  
 4 in the selection of any duly licensed physician, physician  
 5 assistant-certified, dentist, osteopath, chiropractor,  
 6 optometrist, chiropodist, psychologist, licensed social  
 7 worker, licensed professional counselor, or nurse specialist  
 8 as specifically listed in 37-8-202 for treatment of any  
 9 illness or injury within the scope and limitations of his  
 10 practice. Whenever such policies insure against the expense  
 11 of drugs, the insured shall have full freedom of choice in  
 12 the selection of any duly licensed and registered  
 13 pharmacist.

14 (2) Nothing in this section shall be construed as  
 15 enlarging the scope and limitations of practice of any of  
 16 the licensed professions enumerated in subsection (1); nor  
 17 shall this section be construed as amending, altering, or  
 18 repealing any statutes relating to the licensing or use of  
 19 hospitals."

20 **Section 19.** Section 53-6-101, MCA, is amended to read:

21 "53-6-101. Definition of medical assistance. (1) The  
 22 definition of medical assistance shall include:

- 23 (a) inpatient hospital services;
- 24 (b) outpatient hospital services;
- 25 (c) other laboratory and x-ray services;

1 (d) skilled nursing home services;

2 (e) physicians' services, whether furnished in the  
 3 office, the patient's home, a hospital, a skilled nursing  
 4 home, or elsewhere; and

5 (f) services provided by nurse specialists, as  
 6 specifically listed in 37-8-202(5), within the scope of  
 7 their practice and that are otherwise directly reimbursed as  
 8 allowed under department rule to an existing provider; and  
 9 (g) services provided by physician  
 10 assistants-certified within the scope of their practice and  
 11 that are otherwise directly reimbursed as allowed under  
 12 department rule to an existing provider.

13 (2) It may also include, although not necessarily  
 14 limited to, the following:

15 (a) medical care or any other type of remedial care  
 16 recognized under state law, furnished by licensed  
 17 practitioners within the scope of their practice as defined  
 18 by state law;

19 (b) home health care services;

20 (c) private-duty nursing services;

21 (d) dental services;

22 (e) physical therapy and other related services;

23 (f) clinic services;

24 (g) services provided by social workers licensed under  
 25 Title 37, chapter 22;

1 (h) prescribed drugs, dentures, and prosthetic  
2 devices;

3 (i) eyeglasses prescribed by a physician skilled in  
4 diseases of the eye or by an optometrist, whichever the  
5 individual may select;

6 (j) other diagnostic, screening, preventive,  
7 rehabilitative, chiropractic, and osteopathic services;

8 (k) any additional medical service or aid allowable  
9 under or provided by the federal Social Security Act."

10 NEW SECTION. Section 20. Codification instruction.

11 (1) [Sections 1 through 6] are intended to be codified as an  
12 integral part of Title 37, chapter 20, and the provisions of  
13 Title 37, chapter 20, apply to [sections 1 through 6].

14 (2) [Section 7] is intended to be codified as an  
15 integral part of Title 33, chapter 22, part 1, and the  
16 provisions of Title 33, chapter 22, part 1, apply to  
17 [section 7].

18 NEW SECTION. Section 21. Extension of authority. Any  
19 existing authority to make rules on the subject of the  
20 provisions of [this act] is extended to the provisions of  
21 [this act].

22 NEW SECTION. Section 22. Severability. If a part of  
23 [this act] is invalid, all valid parts that are severable  
24 from the invalid part remain in effect. If a part of [this  
25 act] is invalid in one or more of its applications, the part

1 remains in effect in all valid applications that are  
2 severable from the invalid applications.

3 NEW SECTION. Section 23. Effective date---[This--act]  
4 is DATES. (1) [SECTIONS 3, 4, 6, AND 13 AND THIS SECTION]  
5 ARE effective on passage and approval.

6 (2) [SECTIONS 1, 2, 5, 7 THROUGH 12, AND 14 THROUGH  
7 22] ARE EFFECTIVE OCTOBER 1, 1989.

-End-

## SENATE BILL NO. 26

INTRODUCED BY WEEDING, ABRAMS, VAUGHN, JENKINS,  
YELLOWTAIL, DARKO, RAPP-SVRCEK, BECK,  
STICKNEY, CERVAIS, GIACOMETTO, CAMPBELL,  
HANSON, KASTEN, PETERSON, DEBRUYCKER

A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROVIDING FOR LICENSURE~~  
~~OF PHYSICIAN ASSISTANTS CERTIFIED; PROVIDING FOR A PHYSICIAN~~  
~~ASSISTANT CERTIFIED ON THE BOARD OF MEDICAL EXAMINERS;~~  
~~REGULATING THE PRACTICE OF PHYSICIAN ASSISTANTS CERTIFIED,~~  
~~INCLUDING PRESCRIBING/DISPENSING AUTHORITY; BILLING~~  
~~PROCEDURES; AND LOCUM TENENS PRACTICE; AMENDING SECTIONS~~  
~~2-15-1841, 33-22-111, 37-3-103, 37-7-401, 37-8-102,~~  
~~37-20-101 THROUGH 37-20-104, 37-20-202, 37-20-301 THROUGH~~  
~~37-20-303, AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE~~  
~~EFFECTIVE DATE.~~ PROVIDING FOR APPROVAL OF PHYSICIAN  
ASSISTANTS CERTIFIED; REGULATING THE PRACTICE OF PHYSICIAN  
ASSISTANTS CERTIFIED, INCLUDING PRESCRIBING AND DISPENSING  
AUTHORITY, BILLING PROCEDURES, AND LOCUM TENENS PRACTICE;  
AMENDING SECTIONS 33-22-111, 37-3-103, 37-7-401, 37-20-101  
THROUGH 37-20-104, 37-20-202, 37-20-301 THROUGH 37-20-303,  
AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
DATES."

STATEMENT OF INTENT



A statement of intent is required for this bill because  
[sections 4 and 13] grant or extend rulemaking authority to  
the board of medical examiners in order to implement the  
provisions of this bill.

At a minimum, it is intended that the rules address the  
following topics:

(1) authorization for prescribing, dispensing, and  
administering drugs by a physician assistant-certified,  
including the extent and limitations of the prescribing and  
dispensing authority, required recordkeeping, and refilling  
of prescriptions; and

(2) considerations pertinent to approval of locum  
tenens utilization plans.

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Definitions. As used in this  
chapter, the following definitions apply:

(1) "Board" means the Montana state board of medical  
examiners established in 2-15-1841.

(2) "Locum tenens" means the temporary provision of  
services within the scope of practice of a physician  
assistant-certified.

(3) "Physician assistant-certified" means a member of

1 a health care team, approved by the board, who provides  
2 medical services that may include examination, diagnosis,  
3 prescription of medications, and treatment, as approved by  
4 the board, under the supervision of a physician licensed by  
5 the board.

6 (4) "Protocol" means the proper relationship between a  
7 physician assistant-certified and other health care  
8 practitioners and the manner of their interaction.

9 NEW SECTION. Section 2. Qualifications for physician  
10 assistant-certified. A person may not be approved as a  
11 physician assistant-certified in this state unless he:

12 (1) is of good moral character;

13 (2) is a graduate of a physician assistant training  
14 program approved by the American medical association's  
15 committee on allied health education and accreditation;

16 (3) has taken and successfully passed an examination  
17 recognized by the national commission on the certification  
18 of physician assistants;

19 (4) holds a current certificate from the national  
20 commission on the certification of physician assistants; and

21 (5) has submitted to the board detailed information on  
22 his history, education, and experience.

23 NEW SECTION. Section 3. Physician assistant-certified  
24 as agent of supervising physician. (1) In establishing  
25 protocol, a physician assistant-certified must be considered

1 the agent of the supervising physician with regard to all  
2 duties delegated to the physician assistant-certified under  
3 the utilization plan. A health care provider shall consider  
4 the instructions of a physician assistant-certified as being  
5 the instructions of the supervising physician as long as the  
6 instructions concern the duties delegated to the physician  
7 assistant-certified under the utilization plan.

8 (2) The supervising physician and the physician  
9 assistant-certified are responsible for making available a  
10 copy of the approved utilization plan to all other health  
11 care practitioners with whom they reasonably believe they  
12 will interact on a regular basis.

13 (3) Nothing in this chapter may be construed to  
14 conflict with the provisions of 37-3-322.

15 NEW SECTION. Section 4. Prescribing and dispensing  
16 authority -- discretion of supervising physician on  
17 limitation of authority. (1) A physician assistant-certified  
18 may prescribe, dispense, and administer drugs to the extent  
19 authorized by the board by rule, by the utilization plan, or  
20 both. The prescribing, dispensing, and administration of  
21 drugs are also subject to the authority of the supervising  
22 physician, and the supervising physician in his discretion  
23 may impose additional limitations on the prescribing and  
24 dispensing authority granted by the board.

25 (2) All dispensing activities allowed by this section



1 must comply with 37-2-104 and with packaging and labeling  
2 guidelines developed by the board of pharmacy under Title  
3 37, chapter 7.

4 (3) The prescribing and dispensing authority granted a  
5 physician assistant-certified may include the following:

6 (a) Prescribing, dispensing, and administration of  
7 Schedule III drugs listed in 50-32-226, Schedule IV drugs  
8 listed in 50-32-229, and Schedule V drugs listed in  
9 50-32-232, is authorized.

10 (b) Prescribing, dispensing, and administration of  
11 Schedule II drugs listed in 50-32-224 may be authorized for  
12 limited periods not to exceed 48 hours.

13 (c) Records on the dispensing and administration of  
14 scheduled drugs must be kept.

15 (d) A physician assistant-certified shall maintain  
16 registration with the federal drug enforcement  
17 administration.

18 (e) Drugs dispensed by a physician assistant-certified  
19 must be prepackaged by a licensed pharmacist, except that  
20 samples provided by a pharmaceutical company representative  
21 may be dispensed.

22 (f) Prescriptions written by physician  
23 assistants-certified must comply with regulations relating  
24 to prescription requirements adopted by the board of  
25 pharmacy.

1 (g) The board shall adopt rules regarding the  
2 refilling of prescriptions written by physician  
3 assistants-certified.

4 NEW SECTION. **Section 5.** Billing. A supervising  
5 physician or an institution where services were delivered  
6 may bill for physician assistant-certified services.

7 NEW SECTION. **Section 6.** Liaison to the board. The  
8 Montana academy of physician assistants shall elect one  
9 person to serve as a nonvoting liaison to the board to  
10 represent the interests of physician assistants.

11 NEW SECTION. **Section 7.** Coverage required for  
12 services provided by physician assistants-certified. An  
13 insurer, health service corporation, or any employee health  
14 and welfare fund that provides accident or health insurance  
15 benefits to residents of this state shall provide, in group  
16 and individual insurance contracts, coverage for health  
17 services provided by a physician assistant-certified, as  
18 normally covered by contracts for services supplied by a  
19 physician, if health care services that the physician  
20 assistant-certified is approved to perform are covered by  
21 the contract.

22 **Section 8.** Section 37-3-103, MCA, is amended to read:

23 **"37-3-103. Exemptions from licensing requirements. (1)**  
24 **This chapter does not prohibit or require a license with**  
25 **respect to any of the following acts:**

1 (a) the gratuitous rendering of services in cases of  
2 emergency or catastrophe;

3 (b) the rendering of services in this state by a  
4 physician lawfully practicing medicine in another state or  
5 territory. However, if the physician does not limit the  
6 services to an occasional case or if he has any established  
7 or regularly used hospital connections in this state or  
8 maintains or is provided with, for his regular use, an  
9 office or other place for rendering the services, he must  
10 possess a license to practice medicine in this state.

11 (c) the practice of dentistry under the conditions and  
12 limitations defined by the laws of this state;

13 (d) the practice of podiatry under the conditions and  
14 limitations defined by the laws of this state;

15 (e) the practice of optometry under the conditions and  
16 limitations defined by the laws of this state;

17 (f) the practice of osteopathy under the conditions  
18 and limitations defined in chapter 5 of this title for those  
19 doctors of osteopathy who do not receive a physician's  
20 certificate under this chapter;

21 (g) the practice of chiropractic under the conditions  
22 and limitations defined by the laws of this state;

23 (h) the practice of Christian Science, with or without  
24 compensation, and ritual circumcisions by rabbis;

25 (i) the performance by commissioned medical officers

1 of the armed forces of the United States, of the United  
2 States public health service, or of the United States  
3 veterans' administration of their lawful duties in this  
4 state as officers;

5 (j) the rendering of nursing services by registered or  
6 other nurses in the lawful discharge of their duties as  
7 nurses or of midwife services by registered nurse-midwives  
8 under the supervision of a licensed physician;

9 (k) the rendering of services by interns or resident  
10 physicians in a hospital or clinic in which they are  
11 training, subject to the conditions and limitations of this  
12 chapter. The board may require a resident physician to be  
13 licensed if he otherwise engages in the practice of medicine  
14 in the state of Montana.

15 (l) the rendering of services by a physical therapist,  
16 technician, or other paramedical specialist under the  
17 appropriate amount and type of supervision of a person  
18 licensed under the laws of this state to practice medicine,  
19 but this exemption does not extend the scope of a  
20 paramedical specialist;

21 (m) the rendering of services by a physician's  
22 assistant physician assistant-certified in accordance with  
23 Title 37, chapter 20;

24 (n) the practice by persons licensed under the laws of  
25 this state to practice a limited field of the healing arts,

1 and not specifically designated, under the conditions and  
2 limitations defined by law; and

3 (o) the execution of a death sentence pursuant to  
4 46-19-103.

5 (2) Licensees referred to in subsection (1) of this  
6 section who are licensed to practice a limited field of  
7 healing arts shall confine themselves to the field for which  
8 they are licensed or registered and to the scope of their  
9 respective licenses and, with the exception of those  
10 licensees who hold a medical degree, may not use the title  
11 "M.D." or any word or abbreviation to indicate or to induce  
12 others to believe that they are engaged in the diagnosis or  
13 treatment of persons afflicted with disease, injury, or  
14 defect of body or mind except to the extent and under the  
15 conditions expressly provided by the law under which they  
16 are licensed."

17 **Section 9.** Section 37-20-101, MCA, is amended to read:

18 **"37-20-101. Qualifications of supervising physician**  
19 **and physicians<sup>1</sup>--assistants physician assistant-certified.**

20 (1) Each supervising physician named in the utilization plan  
21 required by 37-20-301 shall:

22 (a) possess a current, unrestricted license to  
23 practice medicine in this state;

24 (b) submit a statement to the Montana state board of  
25 medical examiners that, in his opinion, the assistant

1 physician assistant-certified to be employed is of good  
2 character and is both mentally and physically able to  
3 perform the duties of a ~~physician's-assistant~~ physician  
4 assistant-certified described in the utilization plan;

5 (c) submit a statement to the board that he will  
6 exercise supervision over the ~~physician's--assistant~~  
7 physician assistant-certified in accordance with any rules  
8 adopted by the board and will retain professional and legal  
9 responsibility for the care and treatment of his patients;  
10 and

11 (d) submit detailed information to the board regarding  
12 the physician's professional background, medical education,  
13 internship and residency, continuing education received,  
14 membership in state and national medical associations,  
15 hospital and staff privileges, and such other information as  
16 the board may require.

17 (2) ~~Except--as--provided--in--subsection---(3),--each~~  
18 ~~physician's--assistant~~ Each physician assistant-certified  
19 named in the utilization plan required by 37-20-301 shall:  
20 (a)--be-of-good-character;  
21 (b)--be--a-graduate-of-a-physician's-assistant-training  
22 program-approved-by-the-American-medical-association;  
23 (c)--have--taken--an--examination--recognized--by--the  
24 national-commission-on-physicians<sup>1</sup>-assistants-and-received-a  
25 score-satisfactory-to-the-board;

(d) hold a current certification by the national commission on physicians' assistants; and

(e) submit to the board detailed information on the applicant's history, education, and experience and such other information as the board may require;

(3) in lieu of the requirements of subsections (2)(b), (2)(c), and (2)(d) the physician's assistant may be a graduate of an approved medical school as defined in 37-3-102 and pass an examination approved by the board meet the criteria for licensure APPROVAL as a physician assistant-certified as provided in [section 2]."

**Section 10.** Section 37-20-102, MCA, is amended to read:

"37-20-102. Insurance requirement. No physician's assistant A physician assistant-certified may not perform any service unless he has insurance from liability for his errors, omissions, or actions to the limits required by the hospital's governing authority."

**Section 11.** Section 37-20-103, MCA, is amended to read:

"37-20-103. Limitations on authority conferred -- exception. Except as provided in 37-10-102, nothing in this chapter may be construed to authorize a physician's assistant physician assistant-certified to perform those functions and duties specifically delegated by law to

persons licensed as optometrists as defined under Title 37, chapter 10."

**Section 12.** Section 37-20-104, MCA, is amended to read:

"37-20-104. Penalty -- enforcement. (1) Any person who employs a physician's assistant physician assistant-certified or holds himself out to be a qualified physician's assistant physician assistant-certified without the approval of the Montana state board of medical examiners is guilty of a misdemeanor and is punishable as provided in 46-18-212.

(2) In addition to seeking any criminal penalty available under this section, the board may withdraw its approval of any utilization plan previously approved which is applicable to any supervising physician or physician's assistant physician assistant-certified who:

- (a) acts in violation of this section;
- (b) obtained the approval of the board by fraud;
- (c) acts in a manner contrary to the terms of the utilization plan; or
- (d) violates any of the applicable provisions of this chapter or rules of the board adopted thereunder.

(3) The board may enforce the provisions of this section by the remedy of injunction."

**Section 13.** Section 37-20-202, MCA, is amended to

1 read:

2 \*37-20-202. Adoption of rules. The board of medical  
3 examiners shall adopt administrative rules to implement the  
4 provisions of this chapter that:

5 (1) address the issues of supervision and direction  
6 limitations and requirements;

7 (2) address the issue of protocols for interaction of  
8 medical personnel with differing responsibilities;

9 (3) specify that a physician may not utilize more than  
10 one physician's--assistant physician assistant-certified  
11 unless he can demonstrate to the board the ability to  
12 supervise more than one assistant adequately; and

13 (4) address other considerations pertinent to the  
14 approval of physicians'-----assistants physician  
15 assistant-certified utilization plans and locum tenens  
16 utilization plans, and the health care needs of the public."

17 **Section 14.** Section 37-20-301, MCA, is amended to  
18 read:

19 \*37-20-301. Utilization plan required -- contents --  
20 approval. (1) No A physician, office, firm, state  
21 institution, or professional service corporation may not  
22 employ or make use of the services of a physician's  
23 assistant physician assistant-certified in the practice of  
24 medicine, as defined in 37-3-102, and no---physician's  
25 assistant a physician assistant-certified may not be

1 employed or practice as a physician's--assistant physician  
2 assistant-certified unless the assistant physician  
3 assistant-certified:

4 (a) is supervised by a licensed physician; and--unless  
5 such-employment-or-use

6 (b) has been approved by the Montana state board of  
7 medical examiners; in-a and

8 (c) has received board approval of a physician's  
9 assistant physician assistant-certified utilization plan.

10 (2) A physician's-----assistant physician  
11 assistant-certified utilization plan must set forth in  
12 detail the following information:

13 (a) the name and qualifications of the supervising  
14 physician and the physician's--assistant name and license  
15 APPROVAL number of the physician assistant-certified, as  
16 provided in 37-20-101;

17 (b) the nature and location of the physician's medical  
18 practice;

19 (c) the duties to be delegated to the physician's  
20 assistant physician assistant-certified and the location in  
21 which those duties are to be performed;

22 (d) the name and qualifications of a second physician  
23 meeting the requirements of 37-20-101 to serve in the place  
24 of the supervising physician in the event that the  
25 supervising physician is unable to supervise the physician's

assistant physician assistant-certified temporarily; and

(e) such--other--information-as-the-board-may-consider necessary guidelines describing the intended availability of the supervising or alternate physician for consultation by the physician assistant-certified; and

(f) other information the board may consider necessary.

(3) The board shall approve the utilization plan if it finds that the duties to be delegated to the physician's assistant physician assistant-certified are:

(a) assigned by the supervising physician;

(b) within the scope of the training, knowledge, experience, and practice of the supervisory physician; and

(c) within the scope of the training, knowledge, education, and experience of the physician's--assistant physician assistant-certified.

(4) A supervising physician and a physician assistant-certified may submit a new or additional utilization plan to the board for approval without reestablishing the criteria set out in [section 2], as long as the information requirements of subsection (2) have been met and the appropriate fee provided for in 37-20-302(1) has been paid.

(5) A utilization plan may provide that a physician assistant-certified be allowed to furnish services on a

locum tenens basis at a location other than the physician assistant-certified's primary place of practice for a period not to exceed 30 calendar days. A locum tenens utilization plan may be approved by a single board member."

**Section 15.** Section 37-20-302, MCA, is amended to read:

"37-20-302. Utilization plan approval fee -- renewal of approval -- renewal fee. (1) Every physician, office, firm, or professional service corporation proposing to employ a physician's-assistant physician assistant-certified shall pay to the board a utilization plan approval fee in an amount set by the board, not exceeding \$50. Payment must be made when the utilization plan is submitted to the board and is not refundable.

(2) Approval of every physician's-assistant physician assistant-certified utilization plan expires 1 year from the date of approval and is invalid thereafter. The department of commerce shall notify each physician, office, firm, or professional corporation and physician's-assistant physician assistant-certified named in a utilization plan of the date of expiration of board approval at least 1 month prior to the expiration of approval.

(3) Renewal of approval shall be granted by the board under such circumstances as would justify original approval of a utilization plan and upon payment by the employing

physician, office, firm, or professional service corporation of a renewal fee in an amount to be set by the board, not to exceed \$50.

(4) Every physician, office, firm, or professional service corporation proposing to employ a physician assistant-certified on a locum tenens basis shall pay to the board a locum tenens utilization plan fee in an amount set by the board, not to exceed \$50.

{4}(5) Fees received by the department must be deposited in the state special revenue fund for use by the board in the administration of this chapter, subject to 37-1-101(6)."

**Section 16.** Section 37-20-303, MCA, is amended to read:

"37-20-303. **Exemptions from approval requirement.** This chapter does not require the approval of a physician's assistant physician assistant-certified utilization plan or locum tenens utilization plan with respect to any acts within the professional competence of a person licensed under the provisions of Title 37, chapters 3 through 17, 31, or 32."

**Section 17.** Section 37-7-401, MCA, is amended to read:

"37-7-401. **Restrictions upon sale or prescription of opiates -- coding prohibited -- refilling prescriptions.** (1) It shall be unlawful for any physician or physician

assistant-certified to sell or give to or prescribe for any person any opium, morphine, alkaloid-cocaine, or alpha or beta eucaine or codeine or heroin or any derivative, mixture, or preparation of any of them, except to a patient believed in good faith to require the same for medical use and in quantities proportioned to the needs of such patients.

(2) A prescription must be so written that it can be compounded by any registered pharmacist. The coding of any prescription is a violation of this section.

(3) A prescription marked "non repetatur", "non rep", or "N.R." cannot be refilled. A prescription marked to be refilled by a specified amount may be filled by any registered pharmacist the number of times marked on the prescription. A prescription not bearing any refill instructions may not be refilled without first obtaining permission from the prescriber. A prescription may not be refilled for more than 3 years from the date it was originally filled. No narcotic prescription may be refilled."

**Section 18.** Section 33-22-111, MCA, is amended to read:

"33-22-111. **Policies to provide for freedom of choice of practitioners -- professional practice not enlarged.** (1) All policies of disability insurance, including individual,

1 group, and blanket policies, and all policies insuring the  
 2 payment of compensation under the Workers' Compensation Act  
 3 shall provide the insured shall have full freedom of choice  
 4 in the selection of any duly licensed physician, physician  
 5 assistant-certified, dentist, osteopath, chiropractor,  
 6 optometrist, chiropodist, psychologist, licensed social  
 7 worker, licensed professional counselor, or nurse specialist  
 8 as specifically listed in 37-8-202 for treatment of any  
 9 illness or injury within the scope and limitations of his  
 10 practice. Whenever such policies insure against the expense  
 11 of drugs, the insured shall have full freedom of choice in  
 12 the selection of any duly licensed and registered  
 13 pharmacist.

14 (2) Nothing in this section shall be construed as  
 15 enlarging the scope and limitations of practice of any of  
 16 the licensed professions enumerated in subsection (1); nor  
 17 shall this section be construed as amending, altering, or  
 18 repealing any statutes relating to the licensing or use of  
 19 hospitals."

20 **Section 19.** Section 53-6-101, MCA, is amended to read:

21 "53-6-101. Definition of medical assistance. (1) The  
 22 definition of medical assistance shall include:

- 23 (a) inpatient hospital services;
- 24 (b) outpatient hospital services;
- 25 (c) other laboratory and x-ray services;

1 (d) skilled nursing home services;

2 (e) physicians' services, whether furnished in the  
 3 office, the patient's home, a hospital, a skilled nursing  
 4 home, or elsewhere; and

5 (f) services provided by nurse specialists, as  
 6 specifically listed in 37-8-202(5), within the scope of  
 7 their practice and that are otherwise directly reimbursed as  
 8 allowed under department rule to an existing provider; and

9 (g) services provided by physician  
 10 assistants-certified within the scope of their practice and  
 11 that are otherwise directly reimbursed as allowed under  
 12 department rule to an existing provider.

13 (2) It may also include, although not necessarily  
 14 limited to, the following:

15 (a) medical care or any other type of remedial care  
 16 recognized under state law, furnished by licensed  
 17 practitioners within the scope of their practice as defined  
 18 by state law;

19 (b) home health care services;

20 (c) private-duty nursing services;

21 (d) dental services;

22 (e) physical therapy and other related services;

23 (f) clinic services;

24 (g) services provided by social workers licensed under  
 25 Title 37, chapter 22;



(h) prescribed drugs, dentures, and prosthetic devices;

(i) eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) any additional medical service or aid allowable under or provided by the federal Social Security Act."

**NEW SECTION. Section 20. Codification instruction.**

(1) [Sections 1 through 6] are intended to be codified as an integral part of Title 37, chapter 20, and the provisions of Title 37, chapter 20, apply to [sections 1 through 6].

(2) [Section 7] is intended to be codified as an integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 7].

**NEW SECTION. Section 21. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

**NEW SECTION. Section 22. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part

remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 23. Effective date.** ~~[This act]~~ is DATES. (1) [SECTIONS 3, 4, 6, AND 13 AND THIS SECTION] ARE effective on passage and approval.  
(2) [SECTIONS 1, 2, 5, 7 THROUGH 12, AND 14 THROUGH 22] ARE EFFECTIVE OCTOBER 1, 1989.

-End-