

SENATE BILL NO. 89

INTRODUCED BY JACOBSON
BY REQUEST OF THE DEPARTMENT OF COMMERCE

IN THE SENATE

JANUARY 6, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY. FIRST READING.
JANUARY 27, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 28, 1993	PRINTING REPORT. SECOND READING, DO PASS.
JANUARY 29, 1993	ENGROSSING REPORT. THIRD READING, PASSED. AYES, 47; NOES, 0. TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING. FIRST READING.
FEBRUARY 11, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 2, 1993	SECOND READING, CONCURRED IN.
MARCH 5, 1993	THIRD READING, CONCURRED IN. AYES, 95; NOES, 4.
MARCH 6, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 8, 1993	SENT TO ENROLLING. REPORTED CORRECTLY ENROLLED.
MARCH 10, 1993	SIGNED BY PRESIDENT.

SIGNED BY SPEAKER.

MARCH 11, 1993

DELIVERED TO GOVERNOR.

MARCH 16, 1993

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

MARCH 18, 1993

SECOND READING, GOVERNOR'S AMENDMENTS
CONCURRED IN.

MARCH 19, 1993

THIRD READING, GOVERNOR'S AMENDMENTS
CONCURRED IN.

IN THE HOUSE

APRIL 1, 1993

SECOND READING, GOVERNOR'S AMENDMENTS
CONCURRED IN.

APRIL 2, 1993

THIRD READING, GOVERNOR'S AMENDMENTS
CONCURRED IN.

IN THE SENATE

APRIL 5, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 89
 2 INTRODUCED BY J. Jackson
 3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 6 LAWS ADMINISTERING THE MONTANA STATE BOARD OF MEDICAL
 7 EXAMINERS; ADDING A LICENSED PHYSICIAN ASSISTANT-CERTIFIED
 8 MEMBER TO THE BOARD; ALLOWING THE IMPAIRED PROFESSIONALS
 9 PROGRAM TO ADDRESS THE NEEDS OF PHYSICIANS DERIVING FROM
 10 MENTAL OR CHRONIC PHYSICAL ILLNESS; MAKING THE REQUIREMENT
 11 FOR PERSONAL APPEARANCE BY A PHYSICIAN APPLICANT FOR
 12 LICENSURE DISCRETIONARY; AMENDING THE DEFINITION OF
 13 "UNPROFESSIONAL CONDUCT"; AMENDING THE OBLIGATION TO REPORT
 14 INCOMPETENCE OR UNPROFESSIONAL CONDUCT; REVOKING THE
 15 LIABILITY INSURANCE REQUIREMENT FOR PHYSICIAN
 16 ASSISTANTS-CERTIFIED WHO WORK IN HOSPITALS; AMENDING
 17 PHYSICIAN ASSISTANTS-CERTIFIED PRACTICE STATUTES TO IMPROVE
 18 CLARITY AND ORGANIZATION; PROHIBITING PRACTICE AS A
 19 PHYSICIAN ASSISTANT-CERTIFIED PRIOR TO LICENSURE; REPLACING
 20 THE TERM "CERTIFICATE" WITH "LICENSE" WITH RESPECT TO
 21 PHYSICIAN ASSISTANTS-CERTIFIED; ALLOWING THE BOARD TO ISSUE
 22 CERTAIN FORMS OF LICENSURE TO PHYSICIAN
 23 ASSISTANTS-CERTIFIED; REVOKING THE REQUIREMENT THAT DRUGS
 24 DISPENSED BY A PHYSICIAN ASSISTANT-CERTIFIED BE PREPACKAGED
 25 BY A LICENSED PHARMACIST; ALLOWING CERTAIN PERSONS AND

1 ENTITIES TO BILL FOR PHYSICIAN ASSISTANT-CERTIFIED SERVICES;
 2 AMENDING SECTIONS 2-15-1841, 37-3-203, 37-3-305, 37-3-322,
 3 37-3-323, 37-3-401, 37-20-104, 37-20-202, 37-20-301,
 4 37-20-302, 37-20-402, 37-20-404, AND 37-20-405, MCA;
 5 REPEALING SECTION 37-20-102, MCA; AND PROVIDING AN IMMEDIATE
 6 EFFECTIVE DATE."

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

9 **Section 1.** Section 2-15-1841, MCA, is amended to read:

10 "2-15-1841. Board of medical examiners. (1) There is a
 11 Montana state board of medical examiners.

12 (2) The board consists of ~~10~~ 11 members appointed by
 13 the governor with the consent of the senate. Appointments
 14 made when the legislature is not in session may be confirmed
 15 at the next session.

16 (3) The members are:

17 (a) five members having the degree of doctor of
 18 medicine;

19 (b) one member having the degree of doctor of
 20 osteopathy;

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

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

23 (e) one member who is a licensed physician
 24 assistant-certified; and

25 ~~(e)}~~(f) two members of the general public who are not

1 medical practitioners.

2 (4) The members having the degree of doctor of medicine
3 may not be from the same county. Each member ~~shall~~ must be a
4 citizen of the United States. Each member, except for public
5 members, ~~shall~~ must have been licensed and ~~shall~~ must have
6 practiced medicine or dietetics-nutrition in this state for
7 at least 5 years and ~~shall~~ must have been a resident of this
8 state for at least 5 years, ~~except that for 5 years after~~
9 ~~October 1, 1987, the number of years of licensure required~~
10 ~~for the nutritionist member is no greater than the number of~~
11 ~~years this act has been in effect.~~

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

15 (6) The member who is a licensed physician
16 assistant-certified may vote only on issues that affect the
17 licensure and regulation of physician assistants-certified.

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

23 (8) The board is allocated to the department for
24 administrative purposes only as prescribed in 2-15-121."

25 **Section 2.** Section 37-3-203, MCA, is amended to read:

1 "37-3-203. Powers and duties. The board may:

2 (1) adopt rules necessary or proper to carry out parts
3 1 through 3 of this chapter; the rules ~~shall~~ must be fair,
4 impartial, and nondiscriminatory;

5 (2) hold hearings and take evidence in matters relating
6 to the exercise and performance of the powers and duties
7 vested in the board;

8 (3) aid the county attorneys of this state in the
9 enforcement of parts 1 through 3 of this chapter and the
10 prosecution of persons, firms, associations, or corporations
11 charged with violations of parts 1 through 3 of this
12 chapter;

13 (4) establish a program to assist and rehabilitate
14 licensed physicians who are found to be physically or
15 mentally impaired by habitual intemperance or the excessive
16 use of narcotic addictive drugs, alcohol, or any other drug
17 or substance or by mental or chronic physical illness;

18 (5) select an executive secretary to be hired by the
19 department to:

20 (a) provide services to the board in connection with
21 the board's duties under this chapter;

22 (b) assist in prosecution and matters of license
23 discipline under this chapter; and

24 (c) administer the board's affairs; and

25 (6) fund additional staff, hired by the department, to

1 administer the provisions of this chapter, by increasing
2 license fees as necessary."

3 **Section 3.** Section 37-3-305, MCA, is amended to read:

4 "37-3-305. **Qualifications for licensure.** (1) No A
5 person may not be granted a physician's certificate license
6 to practice medicine in this state unless he the person:

7 (a) is of good moral character, as determined by the
8 board;

9 (b) is a graduate of an approved medical school as
10 defined in 37-3-102;

11 (c) has completed an approved internship of at least 1
12 year or, in the opinion of the board, has had experience or
13 training which that is at least the equivalent of 1 year
14 internship;

15 (d) has had a completed application file reviewed by a
16 board member and, in the discretion of the board member, has
17 made a personal appearance before the board unless-such
18 appearance-has-been-specifically-waived-by-the-board; and

19 (e) is able to communicate, in the opinion of the
20 board, in the English language.

21 (2) The board may authorize the department to issue the
22 license subject to terms of probation or other conditions or
23 limitations set by the board or may refuse a license if the
24 applicant has committed unprofessional conduct or is
25 otherwise unqualified.

1 (3) No A person may not be granted a temporary license
2 to practice medicine in this state unless he the person:

3 (a) is of good moral character, as determined by the
4 board;

5 (b) is a graduate of an approved medical school as
6 defined in 37-3-102;

7 (c) has completed an approved internship of at least 1
8 year or, in the opinion of the board, has had experience or
9 training which that is at least the equivalent of 1 year
10 internship;

11 (d) has made a personal appearance before at least one
12 member of the board; and

13 (e) is able, in the opinion of the board, to
14 communicate in the English language."

15 **Section 4.** Section 37-3-322, MCA, is amended to read:

16 "37-3-322. **Unprofessional conduct.** As used in this
17 chapter, "unprofessional conduct" means:

18 (1) resorting to fraud, misrepresentation, or deception
19 in applying for or in securing a license or in taking the
20 examination provided for in this chapter;

21 (2) performing abortion contrary to law;

22 (3) obtaining a fee or other compensation, either
23 directly or indirectly, by the misrepresentation that a
24 manifestly incurable disease, injury, or condition of a
25 person can be cured;

1 (4) employing abusive billing practices;

2 (5) directly or indirectly giving or receiving a fee,
3 commission, rebate, or other compensation for professional
4 services not actually rendered. This prohibition does not
5 preclude the legal functioning of lawful professional
6 partnerships, corporations, or associations.

7 (6) willful disobedience of the rules or an order of
8 the board;

9 (7) conviction of an offense involving moral turpitude
10 or conviction of a felony involving moral turpitude, and the
11 judgment of the conviction, unless pending on appeal, is
12 conclusive evidence of unprofessional conduct;

13 (8) commission of an act of sexual abuse, misconduct,
14 or exploitation related to the licensee's practice of
15 medicine;

16 (9) administering, dispensing, or prescribing a
17 narcotic or hallucinatory drug, as defined by the federal
18 food and drug administration or successors, otherwise than
19 in the course of legitimate or reputable professional
20 practice;

21 (10) conviction or violation of a federal or state law
22 regulating the possession, distribution, or use of a
23 narcotic or hallucinatory drug, as defined by the federal
24 food and drug administration, and the judgment of
25 conviction, unless pending on appeal, is conclusive evidence

1 of unprofessional conduct;

2 (11) habitual intemperance or excessive use of narcotic
3 addictive drugs, alcohol, or any other drug or substance to
4 the extent that the use impairs the user physically or
5 mentally;

6 (12) conduct unbecoming a person licensed to practice
7 medicine or detrimental to the best interests of the public
8 as defined by rule of the board;

9 (13) conduct likely to deceive, defraud, or harm the
10 public;

11 (14) making a false or misleading statement regarding
12 the licensee's skill or the effectiveness or value of the
13 medicine, treatment, or remedy prescribed by the licensee or
14 at the licensee's direction in the treatment of a disease or
15 other condition of the body or mind;

16 (15) resorting to fraud, misrepresentation, or deception
17 in the examination or treatment of a person or in billing or
18 reporting to a person, company, institution, or
19 organization;

20 (16) use of a false, fraudulent, or deceptive statement
21 in any document connected with the practice of medicine;

22 (17) practicing medicine under a false or assumed name;

23 (18) testifying in court on a contingency basis;

24 (19) conspiring to misrepresent or willfully
25 misrepresenting medical conditions improperly to increase or

1 decrease a settlement, award, verdict, or judgment;

2 (20) aiding or abetting in the practice of medicine by a
3 person not licensed to practice medicine or a person whose
4 license to practice medicine is suspended;

5 (21) allowing another person or organization to use the
6 licensee's license to practice medicine;

7 (22) malpractice or negligent practice;

8 (23) except as provided in this subsection, practicing
9 medicine as the partner, agent, or employee of or in joint
10 venture with a person who does not hold a license to
11 practice medicine within this state; however, this does not
12 prohibit:

13 (a) the incorporation of an individual licensee or
14 group of licensees as a professional service corporation
15 under Title 35, chapter 4;

16 (b) a single consultation with or a single treatment by
17 a person or--persons licensed to practice medicine and
18 surgery in another state or territory of the United States
19 or foreign country; or

20 (c) practicing medicine as the partner, agent, or
21 employee of or in joint venture with a hospital, medical
22 assistance facility, or other licensed health care provider.

23 However:

24 (i) the partnership, agency, employment, or joint
25 venture must be evidenced by a written agreement containing

1 language to the effect that the relationship created by the
2 agreement may not affect the exercise of the physician's
3 independent judgment in the practice of medicine;

4 (ii) the physician's independent judgment in the
5 practice of medicine must in fact be unaffected by the
6 relationship; and

7 (iii) the physician may not be required to refer any
8 patient to a particular provider or supplier or take any
9 other action the physician determines not to be in the
10 patient's best interest.

11 (24) willfully or negligently violating the
12 confidentiality between physician and patient, except as
13 required by law;

14 (25) failing to report to the board any adverse
15 judgment, settlement, or award arising from a medical
16 liability claim related to acts or conduct similar to acts
17 or conduct that would constitute grounds for action as
18 defined in this section;

19 (26) failing to transfer pertinent and necessary medical
20 records to another physician when requested to do so by the
21 subject patient or by the patient's legally designated
22 representative;

23 (27) failing to furnish to the board or its
24 investigators or representatives information legally
25 requested by the board;

(28) failing to cooperate with a lawful investigation conducted by the board;

(29) violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate parts 1 through 3 of this chapter or the rules authorized by them;

(30) having been subject to disciplinary action of another state or jurisdiction against a license or other authorization to practice medicine, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section. A certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct.

(31) any other act, whether specifically enumerated or not, ~~which~~ that, in fact, constitutes unprofessional conduct."

Section 5. Section 37-3-323, MCA, is amended to read:

"37-3-323. Revocation or suspension of license -- probation -- fine -- disposition of fine. (1) The board may make an investigation whenever it is brought to its attention that there is reason to suspect that a person having a license or certificate to practice medicine in this state:

(a) is mentally or physically unable to safely engage

in the practice of medicine, has procured his a license to practice medicine by fraud or misrepresentation or through mistake, has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent, or has a condition ~~which~~ that impairs ~~his the person's~~ intellect or judgment to the extent that it incapacitates ~~him~~ the person for the safe performance of professional duties;

(b) has been guilty of unprofessional conduct;

(c) has practiced medicine ~~while-his-license-was~~ with a suspended or revoked license;

(d) has had his a license to practice medicine suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(e) while under probation has violated its terms.

(2) The investigation ~~shall~~ must be for the purpose of determining the probability of the existence of these conditions or the commission of these offenses and may include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and scrutinize the hospital records and reports of a licensee as part of the examination, and ~~copies of these-shall~~ must be released to

the board on written request. If the board has reasonable cause to believe that this probability exists, the department shall mail to the person person's at-his last address of record with the department a specification of the charges ~~against-him~~, together with a written notice of the time and place of the hearing on such the charges, advising him that he the person may be present in-person and may be represented by counsel if ~~he-so-desires~~ the person wants to offer evidence and be heard in ~~his~~ the person's own defense. The time fixed for the hearing may not be less than 30 days from the date of mailing the notice.

(3) A person, including a member of the board, may file a written complaint with the department against a person having a license to practice medicine in this state charging him that person with the commission of any of the offenses set forth in 37-3-322 or with any of the offenses or conditions set forth in subsection (1) of this section, ~~which--complaint--shall.~~ The complaint must set forth a specification of the charges. When the complaint is filed, the department shall mail a copy to the person accused at his the person's last address of record with the department, together with a written citation of the time and place of the hearing on it.

(4) At the hearing, the board shall adopt a resolution finding him the accused guilty or not guilty of the matters

charged. If the board finds that the offenses or conditions referred to in 37-3-322 or subsection (1) of this section do not exist with respect to the person or if he the person is found not guilty, the board shall dismiss the charges or complaint. If the board finds that the offenses or conditions referred to in 37-3-322 or in subsection (1) of this section do exist and the person is found guilty, the board shall:

(a) revoke ~~his~~ the person's license;

(b) suspend ~~his~~ the person's right to practice for a period not exceeding 1 year;

(c) suspend its judgment of revocation on the terms and conditions to be determined by the board;

(d) place ~~him~~ the person on probation;

(e) impose a fine, not to exceed \$500 an incident; or

(f) take any other action in relation to disciplining ~~him~~ the person as the board in its discretion considers proper.

(5) In a case of revocation, suspension, or probation, the department shall enter in its records the facts of the action and of subsequent action of the board with respect to it.

(6) On the expiration of the term of suspension, the licensee ~~shall~~ must be reinstated by the board if he the suspended person furnishes the board with evidence that he

1 the person is then of good moral character and conduct, and
 2 is restored to good health, and ~~that he~~ has not practiced
 3 medicine in this state during the term of suspension. If the
 4 evidence fails to establish to the satisfaction of the board
 5 that the holder is then of good moral character and conduct
 6 or restored to good health or if the evidence shows he the
 7 person has practiced medicine in this state during the term
 8 of suspension, the board shall revoke the license, using the
 9 ~~at-a-hearing-with~~ notice and the hearing procedure provided
 10 in subsection ~~(1)~~ (2) of ~~this section~~. The revocation is
 11 final and absolute.

12 (7) If a person holding a license to practice medicine
 13 under this chapter is by a final order or adjudication of a
 14 court of competent jurisdiction adjudged to be mentally
 15 incompetent or seriously mentally ill or addicted to the use
 16 of narcotics scheduled drugs, his the person's license may
 17 be suspended by the board. The suspension continues until
 18 the licensee is found or adjudged by the court to be
 19 restored to reason or cured or until he the person is
 20 discharged as restored to reason or cured and his the
 21 person's professional competence has been proven to the
 22 satisfaction of the board.

23 (8) A fine imposed under this section must be deposited
 24 in the general fund.

25 (9) The remedies and method of enforcement of this

1 part, as provided for in this section, are concurrent and in
 2 addition to the other remedies provided in this part."

3 **Section 6.** Section 37-3-401, MCA, is amended to read:

4 **"37-3-401. Report of incompetence or unprofessional**
 5 **conduct.** (1) Notwithstanding any provision of state law
 6 dealing with confidentiality, each licensed physician,
 7 professional standards review organization, and the Montana
 8 medical association or any component society thereof of the
 9 association shall and any other person may report to the
 10 ~~state board of medical examiners~~ any information such that
 11 the physician, organization, association, society, or person
 12 has which that appears to show that a physician is:

13 (a) medically incompetent;

14 (b) mentally or physically unable to safely engage in
 15 the practice of medicine; or

16 (c) guilty of unprofessional conduct.

17 (2) (a) Information that relates to possible physical
 18 or mental impairment connected to habitual intemperance or
 19 excessive use of addictive drugs, alcohol, or any other drug
 20 or substance by a licensee or to other mental or chronic
 21 physical illness of a licensee may be reported to the
 22 appropriate personnel of the program established by the
 23 board under 37-3-203(4), in lieu of reporting directly to
 24 the board.

25 (b) The program personnel referred to in subsection

(2)(a) shall report to the board the identity of a licensee and all facts and documentation in their possession if:

(i) the licensee fails or refuses to comply with a reasonable request that the licensee undergo a mental, physical, or chemical dependency evaluation or a combination of evaluations;

(ii) the licensee fails or refuses to undergo a reasonable course of treatment that they recommend, including reasonable aftercare;

(iii) the licensee fails or refuses to satisfactorily complete a reasonable evaluation, a course of treatment, or aftercare;

(iv) the licensee's condition creates a risk of harm to the licensee, a patient, or others; or

(v) they are in possession of information that appears to show that the licensee has or is otherwise engaged in unprofessional conduct.

†2†(3) This section applies to professional standards review organizations only to the extent that such the organizations are not prohibited from disclosing such information under federal law."

Section 7. Section 37-20-104, MCA, is amended to read:

"37-20-104. ~~Penalty-----enforcement~~ Title and practice.

(1) Any A person who employs a physician assistant-certified or holds himself out to be the public that the person is a

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,---in---the---manner set---out---in-subsection-(3)---and-after-notice-and-opportunity for---hearing,---discipline---any---supervising---physician---or 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. Prior to being issued a license and receiving approval of a utilization plan, a physician assistant-certified may not engage in the practice of medicine in this state, even under the supervision of a licensed physician.~~

~~(3)---If-the-board-finds-that-the---supervising---physician or---the---physician---assistant-certified---has---violated---any provision-of-subsection-(2),---the-board-may:~~

~~(a)---revoke-his-license-or-approval,---as-applicable;~~

~~(b)---suspend-his-right-to-practice-for-a-period---not---to exceed-1-year;~~

~~(c)---suspend---its---judgment---of---revocation-on-terms-and~~

~~conditions-determined-by-the-board;~~

~~(d)--place-him-on-probation;~~

~~(e)--impose--a--fine--not--to--exceed--\$500--for---each~~

~~violation;-or~~

~~(f)--take-other-action-it-considers-proper-~~

~~(4)(3)~~ The board may enforce the provisions of this section by the remedy of injunction."

NEW SECTION. **Section 8.** Disciplinary action. (1) The Montana state board of medical examiners may, after notice and opportunity for hearing, discipline a supervising physician or physician assistant-certified who:

(a) acts in violation of this section;

(b) obtains approval of the board by fraud;

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

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

(2) If the board finds that the supervising physician or the physician assistant-certified has violated any provision specified in subsection (1), the board may:

(a) revoke the person's license or approval;

(b) suspend the person's right to practice for a period not exceeding 1 year;

(c) suspend its judgment of revocation on terms and conditions determined by the board;

(d) place the person on probation;

(e) impose a fine, not to exceed \$500 for each violation; or

(f) take other action it considers proper.

Section 9. 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 assistant-certified unless he---can the physician is able to demonstrate to the board the ability to supervise more than one assistant adequately;

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

(5) address physician assistant training in Montana; and

(6) set forth grounds for disciplinary action."

NEW SECTION. **Section 10.** Licensing of physician assistants-certified. The Montana state board of medical

examiners may issue the following two forms of physician assistant-certified licenses under its seal:

(1) a permanent license, signed by the president and subject to annual renewal; and

(2) a temporary license, signed by any member of the board and subject to specifications and limitations imposed by the board.

Section 11. Section 37-20-301, MCA, is amended to read:

"37-20-301. Utilization plan required -- contents -- approval. (1) A physician, office, firm, state institution, or professional service corporation may not employ or make use of the services of a physician assistant-certified in the practice of medicine, as defined in 37-3-102, and a physician assistant-certified may not be employed or practice as a physician assistant-certified unless the physician assistant-certified:

(a) is supervised by a licensed physician;

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

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

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

(a) the name and qualifications of the supervising physician, as provided in 37-20-101, and the name and

~~approval~~ license number of the physician assistant-certified;

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

(c) the ~~duties-to-be-delegated-to~~ scope of practice of the physician assistant-certified and the location-in--which those--duties--are--to--be--performed locations where the physician assistant-certified will practice;

(d) the name and qualifications of a second physician meeting the requirements of 37-20-101 to ~~serve-in-the--place of--the~~ act as an alternate supervising physician in the ~~event-that-the-supervising-physician-is-unable-to--supervise the-physician-assistant-certified-temporarily~~ absence of the primary supervising physician;

(e) 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~~ practice of the physician assistant-certified ~~are~~ is:

(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,

1 education, and experience of the physician
2 assistant-certified.

3 (4) A supervising physician and a physician
4 assistant-certified may submit a new or additional
5 utilization plan to the board for approval without
6 reestablishing the criteria set out in 37-20-402, as so long
7 as the information requirements of subsection (2) have been
8 met and the appropriate fee provided for in 37-20-302(1) has
9 been paid.

10 (5) A utilization plan may provide that a physician
11 assistant-certified be allowed to furnish services on a
12 locum tenens basis at a location other than the physician
13 assistant-certified's primary place of practice. A locum
14 tenens utilization plan may be approved by a single board
15 member."

16 **Section 12.** Section 37-20-302, MCA, is amended to read:

17 "37-20-302. Utilization plan approval fee -- renewal of
18 approval license -- renewal fee. (1) ~~Every--physician~~
19 ~~office,--firm,--or--professional--service--corporation--proposing~~
20 ~~to--employ--a--physician--assistant--certified--shall--pay--to--the~~
21 ~~board--a~~ A utilization plan approval fee must be paid in an
22 amount set by the board. Payment must be made when the
23 utilization plan is submitted to the board and is not
24 refundable.

25 (2) ~~Every--physician,--office,--firm,--or--professional~~

1 ~~service--corporation--proposing--to--employ--a--physician~~
2 ~~assistant--certified--on--a--locum--tenens--basis--shall--pay--to--the~~
3 ~~board--a--locum--tenens--utilization--plan--fee--in--an--amount--set~~
4 ~~by--the--board~~ A locum tenens utilization plan approval fee
5 must be paid in an amount set by the board.

6 (3) A certificate license issued under this part must
7 be renewed annually, on a date set by the board.

8 (4) A certificate license renewal fee set by the board
9 must be paid at the time the certificate license is renewed.

10 (5) The department shall mail a renewal notice no later
11 than 60 days prior to the renewal date set by the board
12 under subsection (3). A certified letter addressed to the
13 delinquent ~~certificate--holder's~~ licensee's last-known
14 address as it appears on the records of the department
15 constitutes notice of intent to revoke the certificate
16 license.

17 (6) If the annual renewal fee is not paid on or before
18 the renewal date set by the board under subsection (3), the
19 board may revoke the certificate license after giving 30
20 days' notice to the certificate--holder licensee. A
21 certificate license may not be revoked for nonpayment of a
22 renewal fee if the certificate--holder licensee pays the
23 annual renewal fee plus a penalty prescribed by the board on
24 or before the date fixed for revocation.

25 (7) 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 13. Section 37-20-402, MCA, is amended to read:

"37-20-402. Criteria for ~~approval--of~~ licensing a physician assistant-certified. A person may not be ~~approved~~ licensed as a physician assistant-certified in this state unless ~~he~~ the person:

(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~~ the person's history, education, and experience."

Section 14. Section 37-20-404, MCA, is amended to read:

"37-20-404. 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 must comply with 37-2-104 and with packaging and labeling guidelines developed by the board of pharmacy under Title 37, chapter 7.

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

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

(b) Prescribing, dispensing, and administration of Schedule II drugs listed in 50-32-224 may be authorized for limited periods not to exceed ~~48~~ 72 hours.

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

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

~~(e)--Drugs--dispensed-by-a-physician-assistant-certified must-be-prepackaged-by-a-licensed--pharmacist--except--that samples--provided-by-a-pharmaceutical-company-representative~~

1 ~~may-be-dispensed:~~

2 ~~(f)(e)~~ Prescriptions written by physician
3 assistants-certified must comply with regulations relating
4 to prescription requirements adopted by the board of
5 pharmacy.

6 ~~(g)(f)~~ The board shall adopt rules regarding the
7 refilling of prescriptions written by physician
8 assistants-certified."

9 **Section 15.** Section 37-20-405, MCA, is amended to read:

10 "37-20-405. Billing. A supervising physician, office,
11 firm, or an institution, where services--were--delivered or
12 other entity may bill for physician assistant-certified
13 services."

14 NEW SECTION. **Section 16.** Repealer. Section 37-20-102,
15 MCA, is repealed.

16 NEW SECTION. **Section 17.** Codification instruction.
17 [Sections 8 and 10] are intended to be codified as an
18 integral part of Title 37, chapter 20, and the provisions of
19 Title 37, chapter 20, apply to [sections 8 and 10].

20 NEW SECTION. **Section 18.** Effective date. [This act] is
21 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 SB0089, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill generally revises the laws administering the Board of Medical Examiners, amending sections related to physicians assistants, impaired professionals, unprofessional conduct, liability insurance and adds a licensed physician-certified member to the board.

ASSUMPTIONS:

1. The Board of Medical Examiners will have 6 board meetings per year, each lasting 2 days, and the cost per board member will be \$1,400, based on current experience.
2. One additional member will be added to the board.
3. License fees will not have to be raised to cover the costs of an additional board member because current fees are providing adequate revenue to cover the increased cost.
4. The net impact will be a \$1,400 per year decrease in the board's current cash balance.

FISCAL IMPACT:

	FY94			FY95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Personal Services	79,633	80,533	900	81,105	82,005	900
Operating Expenses	336,176	336,676	500	333,759	334,259	500
Equipment	0	0	0	0	0	0
TOTAL	415,809	417,209	1,400	414,864	416,264	1,400
<u>Revenue:</u> Fees	346,000	346,000	0	346,000	346,000	0
<u>Net Impact:</u>	(69,809)	(71,209)	(1,400)	(68,864)	(70,264)	(1,400)

David Lewis 1-11-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Judy Jacobson 1/12/93
 JUDY JACOBSON, PRIMARY SPONSOR DATE
 SB 89

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

SENATE BILL NO. 89

INTRODUCED BY JACOBSON

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS ADMINISTERING THE MONTANA STATE BOARD OF MEDICAL EXAMINERS; ADDING A LICENSED PHYSICIAN ASSISTANT-CERTIFIED MEMBER TO THE BOARD; ALLOWING THE IMPAIRED PROFESSIONALS PROGRAM TO ADDRESS THE NEEDS OF PHYSICIANS DERIVING FROM MENTAL OR CHRONIC PHYSICAL ILLNESS; MAKING THE REQUIREMENT FOR PERSONAL APPEARANCE BY A PHYSICIAN APPLICANT FOR LICENSURE DISCRETIONARY; AMENDING THE DEFINITION OF "UNPROFESSIONAL CONDUCT"; AMENDING THE OBLIGATION TO REPORT INCOMPETENCE OR UNPROFESSIONAL CONDUCT; REVOKING THE LIABILITY INSURANCE REQUIREMENT FOR PHYSICIAN ASSISTANTS-CERTIFIED WHO WORK IN HOSPITALS; AMENDING PHYSICIAN ASSISTANTS-CERTIFIED PRACTICE STATUTES TO IMPROVE CLARITY AND ORGANIZATION; PROHIBITING PRACTICE AS A PHYSICIAN ASSISTANT-CERTIFIED PRIOR TO LICENSURE; REPLACING THE TERM "CERTIFICATE" WITH "LICENSE" WITH RESPECT TO PHYSICIAN ASSISTANTS-CERTIFIED; ALLOWING THE BOARD TO ISSUE CERTAIN FORMS OF LICENSURE TO PHYSICIAN ASSISTANTS-CERTIFIED; REVOKING THE REQUIREMENT THAT DRUGS DISPENSED BY A PHYSICIAN ASSISTANT-CERTIFIED BE PREPACKAGED BY A LICENSED PHARMACIST; ALLOWING CERTAIN PERSONS AND

ENTITIES TO BILL FOR PHYSICIAN ASSISTANT-CERTIFIED SERVICES; AMENDING SECTIONS 2-15-1841, 37-3-203, 37-3-305, 37-3-322, 37-3-323, 37-3-401, 37-20-104, 37-20-202, 37-20-301, 37-20-302, 37-20-402, 37-20-404, AND 37-20-405, MCA; REPEALING SECTION 37-20-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-15-1841, MCA, is amended to read:

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

(2) The board consists of ~~10~~ 11 members appointed by the governor with the consent of the senate. Appointments made when the legislature is not in session may be confirmed at the next session.

(3) The members are:

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

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

(c) one member who is a licensed podiatrist;

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

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

~~(f)~~ (f) two members of the general public who are not



1 medical practitioners.

2 (4) The members having the degree of doctor of medicine
3 may not be from the same county. Each member ~~shall~~ must be a
4 citizen of the United States. Each member, except for public
5 members, ~~shall~~ must have been licensed and ~~shall~~ must have
6 practiced medicine or dietetics-nutrition in this state for
7 at least 5 years and ~~shall~~ must have been a resident of this
8 state for at least 5 years; ~~except that for 5 years after~~
9 ~~October 1, 1987, the number of years of licensure required~~
10 ~~for the nutritionist member is no greater than the number of~~
11 ~~years this act has been in effect.~~

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

15 (6) The member who is a licensed physician
16 assistant-certified may vote only on issues that affect the
17 licensure and regulation of physician assistants-certified.

18 ~~(6)(7)~~ Members shall serve staggered 4-year terms. A
19 term commences on September 1 of each year of appointment. A
20 member may, upon notice and hearing, be removed by the
21 governor for neglect of duty, incompetence, or
22 unprofessional or dishonorable conduct.

23 ~~(7)(8)~~ The board is allocated to the department for
24 administrative purposes only as prescribed in 2-15-121."

25 **Section 2.** Section 37-3-203, MCA, is amended to read:

1 "37-3-203. Powers and duties. The board may:

2 (1) adopt rules necessary or proper to carry out parts
3 1 through 3 of this chapter; the rules ~~shall~~ must be fair,
4 impartial, and nondiscriminatory;

5 (2) hold hearings and take evidence in matters relating
6 to the exercise and performance of the powers and duties
7 vested in the board;

8 (3) aid the county attorneys of this state in the
9 enforcement of parts 1 through 3 of this chapter and the
10 prosecution of persons, firms, associations, or corporations
11 charged with violations of parts 1 through 3 of this
12 chapter;

13 (4) establish a program to assist and rehabilitate
14 licensed physicians who are found to be physically or
15 mentally impaired by habitual intemperance or the excessive
16 use of narcotic addictive drugs, alcohol, or any other drug
17 or substance or by mental or chronic physical illness;

18 (5) select an executive secretary to be hired by the
19 department to:

20 (a) provide services to the board in connection with
21 the board's duties under this chapter;

22 (b) assist in prosecution and matters of license
23 discipline under this chapter; and

24 (c) administer the board's affairs; and

25 (6) fund additional staff, hired by the department, to

1 administer the provisions of this chapter, by increasing
2 license fees as necessary."

3 **Section 3.** Section 37-3-305, MCA, is amended to read:

4 "37-3-305. Qualifications for licensure. (1) No A
5 person may not be granted a physician's certificate license
6 to practice medicine in this state unless he the person:

7 (a) is of good moral character, as determined by the
8 board;

9 (b) is a graduate of an approved medical school as
10 defined in 37-3-102;

11 (c) has completed an approved internship of at least 1
12 year or, in the opinion of the board, has had experience or
13 training which that is at least the equivalent of 1 year
14 internship;

15 (d) has had a completed application file reviewed by a
16 board member and, in the discretion of the board member, has
17 made a personal appearance before the board unless-such
18 appearance-has-been-specifically-waived-by-the-board; and

19 (e) is able to communicate, in the opinion of the
20 board, in the English language.

21 (2) The board may authorize the department to issue the
22 license subject to terms of probation or other conditions or
23 limitations set by the board or may refuse a license if the
24 applicant has committed unprofessional conduct or is
25 otherwise unqualified.

1 (3) No A person may not be granted a temporary license
2 to practice medicine in this state unless he the person:

3 (a) is of good moral character, as determined by the
4 board;

5 (b) is a graduate of an approved medical school as
6 defined in 37-3-102;

7 (c) has completed an approved internship of at least 1
8 year or, in the opinion of the board, has had experience or
9 training which that is at least the equivalent of 1 year
10 internship;

11 (d) has made a personal appearance before at least one
12 member of the board; and

13 (e) is able, in the opinion of the board, to
14 communicate in the English language."

15 **Section 4.** Section 37-3-322, MCA, is amended to read:

16 "37-3-322. Unprofessional conduct. As used in this
17 chapter, "unprofessional conduct" means:

18 (1) resorting to fraud, misrepresentation, or deception
19 in applying for or in securing a license or in taking the
20 examination provided for in this chapter;

21 (2) performing abortion contrary to law;

22 (3) obtaining a fee or other compensation, either
23 directly or indirectly, by the misrepresentation that a
24 manifestly incurable disease, injury, or condition of a
25 person can be cured;

- 1 (4) employing abusive billing practices;
- 2 (5) directly or indirectly giving or receiving a fee,
- 3 commission, rebate, or other compensation for professional
- 4 services not actually rendered. This prohibition does not
- 5 preclude the legal functioning of lawful professional
- 6 partnerships, corporations, or associations.
- 7 (6) willful disobedience of the rules or an order of
- 8 the board REGARDING EVALUATION OR ENFORCEMENT OF DISCIPLINE
- 9 OF A LICENSEE;
- 10 (7) conviction of an offense involving moral turpitude
- 11 or conviction of a felony involving moral turpitude, and the
- 12 judgment of the conviction, unless pending on appeal, is
- 13 conclusive evidence of unprofessional conduct;
- 14 (8) commission of an act of sexual abuse, misconduct,
- 15 or exploitation related to the licensee's practice of
- 16 medicine;
- 17 (9) administering, dispensing, or prescribing a
- 18 narcotic or hallucinatory drug, as defined by the federal
- 19 food and drug administration or successors, otherwise than
- 20 in the course of legitimate or reputable professional
- 21 practice;
- 22 (10) conviction or violation of a federal or state law
- 23 regulating the possession, distribution, or use of a
- 24 narcotic or hallucinatory drug, as defined by the federal
- 25 food and drug administration, and the judgment of

- 1 conviction, unless pending on appeal, is conclusive evidence
- 2 of unprofessional conduct;
- 3 (11) habitual intemperance or excessive use of narcotic
- 4 addictive drugs, alcohol, or any other drug or substance to
- 5 the extent that the use impairs the user physically or
- 6 mentally;
- 7 (12) conduct unbecoming a person licensed to practice
- 8 medicine or detrimental to the best interests of the public
- 9 as defined by rule of the board;
- 10 (13) conduct likely to deceive, defraud, or harm the
- 11 public;
- 12 (14) making a false or misleading statement regarding
- 13 the licensee's skill or the effectiveness or value of the
- 14 medicine, treatment, or remedy prescribed by the licensee or
- 15 at the licensee's direction in the treatment of a disease or
- 16 other condition of the body or mind;
- 17 (15) resorting to fraud, misrepresentation, or deception
- 18 in the examination or treatment of a person or in billing or
- 19 reporting to a person, company, institution, or
- 20 organization;
- 21 (16) use of a false, fraudulent, or deceptive statement
- 22 in any document connected with the practice of medicine;
- 23 (17) practicing medicine under a false or assumed name;
- 24 (18) testifying in court on a contingency basis;
- 25 (19) conspiring to misrepresent or willfully

1 misrepresenting medical conditions improperly to increase or
2 decrease a settlement, award, verdict, or judgment;

3 (20) aiding or abetting in the practice of medicine by a
4 person not licensed to practice medicine or a person whose
5 license to practice medicine is suspended;

6 (21) allowing another person or organization to use the
7 licensee's license to practice medicine;

8 (22) malpractice or negligent practice;

9 (23) except as provided in this subsection, practicing
10 medicine as the partner, agent, or employee of or in joint
11 venture with a person who does not hold a license to
12 practice medicine within this state; however, this does not
13 prohibit:

14 (a) the incorporation of an individual licensee or
15 group of licensees as a professional service corporation
16 under Title 35, chapter 4;

17 (b) a single consultation with or a single treatment by
18 a person or--persons licensed to practice medicine and
19 surgery in another state or territory of the United States
20 or foreign country; or

21 (c) practicing medicine as the partner, agent, or
22 employee of or in joint venture with a hospital, medical
23 assistance facility, or other licensed health care provider.

24 However:

25 (i) the partnership, agency, employment, or joint

1 venture must be evidenced by a written agreement containing
2 language to the effect that the relationship created by the
3 agreement may not affect the exercise of the physician's
4 independent judgment in the practice of medicine;

5 (ii) the physician's independent judgment in the
6 practice of medicine must in fact be unaffected by the
7 relationship; and

8 (iii) the physician may not be required to refer any
9 patient to a particular provider or supplier or take any
10 other action the physician determines not to be in the
11 patient's best interest.

12 (24) willfully or negligently violating the
13 confidentiality between physician and patient, except as
14 required by law;

15 (25) failing to report to the board any adverse
16 judgment, settlement, or award arising from a medical
17 liability claim related to acts or conduct similar to acts
18 or conduct that would constitute grounds for action as
19 defined in this section;

20 (26) failing to transfer pertinent and necessary medical
21 records to another physician when requested to do so by the
22 subject patient or by the patient's legally designated
23 representative;

24 (27) failing to furnish to the board or its
25 investigators or representatives information legally

requested by the board;

(28) failing to cooperate with a lawful investigation conducted by the board;

(29) violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate parts 1 through 3 of this chapter or the rules authorized by them;

(30) having been subject to disciplinary action of another state or jurisdiction against a license or other authorization to practice medicine, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section. A certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct.

(31) any other act, whether specifically enumerated or not, which that, in fact, constitutes unprofessional conduct."

Section 5. Section 37-3-323, MCA, is amended to read:

"37-3-323. Revocation or suspension of license -- probation -- fine -- disposition of fine. (1) The board may make an investigation whenever it is brought to its attention that there is reason to suspect that a person having a license or certificate to practice medicine in this state:

(a) is mentally or physically unable to safely engage in the practice of medicine, has procured his a license to practice medicine by fraud or misrepresentation or through mistake, has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent, or has a condition which that impairs his the person's intellect or judgment to the extent that it incapacitates him the person for the safe performance of professional duties;

(b) has been guilty of unprofessional conduct;

(c) has practiced medicine while-his-license-was with a suspended or revoked license;

(d) has had his a license to practice medicine suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(e) while under probation has violated its terms.

(2) The investigation ~~shall~~ must be for the purpose of determining the probability of the existence of these conditions or the commission of these offenses and may include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and scrutinize the hospital records and reports of a licensee as part of the

1 examination, and copies of ~~these shall~~ must be released to
 2 the board on written request. If the board has reasonable
 3 cause to believe that this probability exists, the
 4 department shall mail to the person person's at ~~his~~ last
 5 address of record with the department a specification of the
 6 charges ~~against him~~, together with a written notice of the
 7 time and place of the hearing on such the charges, advising
 8 him that he the person may be present ~~in-person~~ and may be
 9 represented by counsel if he ~~so desires~~ the person wants to
 10 offer evidence and be heard in his the person's own defense.
 11 The time fixed for the hearing may not be less than 30 days
 12 from the date of mailing the notice.

13 (3) A person, including a member of the board, may file
 14 a written complaint with the department against a person
 15 having a license to practice medicine in this state charging
 16 him that person with the commission of any of the offenses
 17 set forth in 37-3-322 or with any of the offenses or
 18 conditions set forth in subsection (1) of this section,
 19 ~~which complaint shall~~. The complaint must set forth a
 20 specification of the charges. When the complaint is filed,
 21 the department shall mail a copy to the person accused at
 22 his the person's last address of record with the department,
 23 together with a written citation of the time and place of
 24 the hearing on it.

25 (4) At the hearing, the board shall adopt a resolution

1 finding him the accused guilty or not guilty of the matters
 2 charged. If the board finds that the offenses or conditions
 3 referred to in 37-3-322 or subsection (1) of this section do
 4 not exist with respect to the person or if he the person is
 5 found not guilty, the board shall dismiss the charges or
 6 complaint. If the board finds that the offenses or
 7 conditions referred to in 37-3-322 or in subsection (1) of
 8 this section do exist and the person is found guilty, the
 9 board shall:

10 (a) revoke his the person's license;

11 (b) suspend his the person's right to practice for a
 12 period not exceeding 1 year;

13 (c) suspend its judgment of revocation on the terms and
 14 conditions to be determined by the board;

15 (d) place him the person on probation;

16 (e) impose a fine, not to exceed \$500 an incident; or

17 (f) take any other action in relation to disciplining
 18 him the person as the board in its discretion considers
 19 proper.

20 (5) In a case of revocation, suspension, or probation,
 21 the department shall enter in its records the facts of the
 22 action and of subsequent action of the board with respect to
 23 it.

24 (6) On the expiration of the term of suspension, the
 25 licensee ~~shall~~ must be reinstated by the board if he the

1 suspended person furnishes the board with evidence that he
 2 the person is then of good moral character and conduct, and
 3 is restored to good health, and that he has not practiced
 4 medicine in this state during the term of suspension. If the
 5 evidence fails to establish to the satisfaction of the board
 6 that the holder is then of good moral character and conduct
 7 or restored to good health or if the evidence shows he the
 8 person has practiced medicine in this state during the term
 9 of suspension, the board shall revoke the license, using the
 10 at--a-hearing-with notice and the hearing procedure provided
 11 in subsection ~~{1}~~ (2) of ~~this--section~~. The revocation is
 12 final and absolute.

13 (7) If a person holding a license to practice medicine
 14 under this chapter is by a final order or adjudication of a
 15 court of competent jurisdiction adjudged to be mentally
 16 incompetent or seriously mentally ill or addicted to the use
 17 of narcotics ~~scheduled-drugs~~ ADDICTIVE SUBSTANCES, his the
 18 person's license may be suspended by the board. The
 19 suspension continues until the licensee is found or adjudged
 20 by the court to be restored to reason or cured or until he
 21 the person is discharged as restored to reason or cured and
 22 his the person's professional competence has been proven to
 23 the satisfaction of the board.

24 (8) A fine imposed under this section must be deposited
 25 in the general fund.

1 (9) The remedies and method of enforcement of this
 2 part, as provided for in this section, are concurrent and in
 3 addition to the other remedies provided in this part."

4 **Section 6.** Section 37-3-401, MCA, is amended to read:

5 "37-3-401. Report of incompetence or unprofessional
 6 conduct. (1) Notwithstanding any provision of state law
 7 dealing with confidentiality, each licensed physician,
 8 professional standards review organization, and the Montana
 9 medical association or any component society thereof of the
 10 association shall and any other person may report to the
 11 state board of ~~medical-examiners~~ any information such that
 12 the physician, organization, association, society, or person
 13 has which that appears to show that a physician is:

- 14 (a) medically incompetent;
- 15 (b) mentally or physically unable to safely engage in
- 16 the practice of medicine; or
- 17 (c) guilty of unprofessional conduct.

18 (2) (a) Information that relates to possible physical
 19 or mental impairment connected to habitual intemperance or
 20 excessive use of addictive drugs, alcohol, or any other drug
 21 or substance by a licensee or to other mental or chronic
 22 physical illness of a licensee may be reported to the
 23 appropriate personnel of the program established by the
 24 board under 37-3-203(4), in lieu of reporting directly to
 25 the board.

(b) The program personnel referred to in subsection (2)(a) shall report to the board the identity of a licensee and all facts and documentation in their possession if:

(i) the licensee fails or refuses to comply with a reasonable request that the licensee undergo a mental, physical, or chemical dependency evaluation or a combination of evaluations;

(ii) the licensee fails or refuses to undergo a reasonable course of treatment that they recommend, including reasonable aftercare;

(iii) the licensee fails or refuses to satisfactorily complete a reasonable evaluation, a course of treatment, or aftercare;

(iv) the licensee's condition creates a risk of harm to the licensee, a patient, or others; or

(v) they are in possession of information that appears to show that the licensee has or is otherwise engaged in unprofessional conduct.

(2)(3) This section applies to professional standards review organizations only to the extent that such the organizations are not prohibited from disclosing such information under federal law."

Section 7. Section 37-20-104, MCA, is amended to read:

"37-20-104. Penalty-----enforcement Title and practice.

(1) Any A person who employs a physician assistant-certified

or holds himself out to be the public that the person is a 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,---in---the---manner set---out---in-subsection-(3)---and---after---notice---and---opportunity for---hearing,---discipline---any---supervising---physician---or 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. Prior to being issued a license and receiving approval of a utilization plan, a physician assistant-certified may not engage in the practice of medicine in this state, even under the supervision of a licensed physician.

(3)---if-the-board-finds-that-the---supervising---physician or---the---physician---assistant-certified---has---violated---any provision-of-subsection-(2);---the-board-may:

(a)---revoke-his-license-or-approval,---as-applicable;

(b)---suspend-his-right-to-practice-for-a-period---not---to exceed-1-year;

~~(c) suspend its judgment of revocation on terms and conditions determined by the board;~~
~~(d) place him on probation;~~
~~(e) impose a fine, not to exceed \$500 for each violation; or~~
~~(f) take other action it considers proper;~~
 (4) (3) The board may enforce the provisions of this section by the remedy of injunction."

NEW SECTION. Section 8. Disciplinary action. (1) The Montana state board of medical examiners may, after notice and opportunity for hearing, discipline a supervising physician or physician assistant-certified who:

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

(2) If the board finds that the supervising physician or the physician assistant-certified has violated any provision specified in subsection (1), the board may:

- (a) revoke the person's license or approval;
- (b) suspend the person's right to practice for a period not exceeding 1 year;
- (c) suspend its judgment of revocation on terms and

- conditions determined by the board;
- (d) place the person on probation;
- (e) impose a fine, not to exceed \$500 for each violation; or
- (f) take other action it considers proper.

Section 9. 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 assistant-certified unless he can the physician is able to demonstrate to the board the ability to supervise more than one assistant adequately;
- (4) address other considerations pertinent to the approval of physician assistant-certified utilization plans and locum tenens utilization plans, and the health care needs of the public;
- (5) address physician assistant training in Montana; and
- (6) set forth grounds for disciplinary action."

NEW SECTION. Section 10. Licensing of physician

1 assistants-certified. The Montana state board of medical
2 examiners may issue the following two forms of physician
3 assistants-certified licenses under its seal:

- 4 (1) a permanent license, signed by the president and
5 subject to annual renewal; and
- 6 (2) a temporary license, signed by any member of the
7 board and subject to specifications and limitations imposed
8 by the board.

9 **Section 11.** Section 37-20-301, MCA, is amended to read:

10 "37-20-301. Utilization plan required -- contents --
11 approval. (1) A physician, office, firm, state institution,
12 or professional service corporation may not employ or make
13 use of the services of a physician assistant-certified in
14 the practice of medicine, as defined in 37-3-102, and a
15 physician assistant-certified may not be employed or
16 practice as a physician assistant-certified unless the
17 physician assistant-certified:

- 18 (a) is supervised by a licensed physician;
 - 19 (b) ~~has--been-approved~~ is licensed by the Montana state
20 board of medical examiners; and
 - 21 (c) has received board approval of a physician
22 assistant-certified utilization plan.
- 23 (2) A physician assistant-certified utilization plan
24 must set forth in detail the following information:
- 25 (a) the name and qualifications of the supervising

1 physician, as provided in 37-20-101, and the name and
2 approval license number of the physician
3 assistant-certified;

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

6 (c) the ~~duties-to-be-delegated-to~~ scope of practice of
7 the physician assistant-certified and the ~~location-in--which~~
8 ~~those--duties--are--to--be--performed~~ locations where the
9 physician assistant-certified will practice;

10 (d) the name and qualifications of a second physician
11 meeting the requirements of 37-20-101 to ~~serve-in-the--place~~
12 ~~of--the~~ act as an alternate supervising physician in the
13 ~~event-that-the-supervising-physician-is-unable-to--supervise~~
14 ~~the-physician-assistant-certified-temporarily~~ absence of the
15 primary supervising physician;

16 (e) necessary guidelines describing the intended
17 availability of the supervising or alternate physician for
18 consultation by the physician assistant-certified; and

19 (f) other information the board may consider necessary.

20 (3) The board shall approve the utilization plan if it
21 finds that the ~~duties-to-be-delegated--to~~ practice of the
22 physician assistant-certified are is:

- 23 (a) assigned by the supervising physician;
- 24 (b) within the scope of the training, knowledge,
25 experience, and practice of the supervisory physician; and

(c) within the scope of the training, knowledge, education, and experience of the 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 37-20-402, as so 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. A locum tenens utilization plan may be approved by a single board member."

Section 12. Section 37-20-302, MCA, is amended to read:

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

(2) ~~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~~ A locum tenens utilization plan approval fee must be paid in an amount set by the board.

(3) A certificate license issued under this part must be renewed annually, on a date set by the board.

(4) A certificate license renewal fee set by the board must be paid at the time the certificate license is renewed.

(5) The department shall mail a renewal notice no later than 60 days prior to the renewal date set by the board under subsection (3). A certified letter addressed to the delinquent certificate--holder's licensee's last-known address as it appears on the records of the department constitutes notice of intent to revoke the certificate license.

(6) If the annual renewal fee is not paid on or before the renewal date set by the board under subsection (3), the board may revoke the certificate license after giving 30 days' notice to the certificate--holder licensee. A certificate license may not be revoked for nonpayment of a renewal fee if the certificate--holder licensee pays the annual renewal fee plus a penalty prescribed by the board on or before the date fixed for revocation.

(7) 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 13. Section 37-20-402, MCA, is amended to read:

"37-20-402. Criteria for approval--of licensing a physician assistant-certified. A person may not be approved licensed as a physician assistant-certified in this state unless he the person:

(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 the person's history, education, and experience."

Section 14. Section 37-20-404, MCA, is amended to read:

"37-20-404. 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 must comply with 37-2-104 and with packaging and labeling guidelines developed by the board of pharmacy under Title 37, chapter 7.

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

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

(b) Prescribing, dispensing, and administration of Schedule II drugs listed in 50-32-224 may be authorized for limited periods not to exceed ~~48~~ 72 hours.

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

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

~~(e)--Drugs--dispensed-by-a-physician-assistant-certified must-be-prepackaged-by-a-licensed--pharmacist,--except--that~~

1 ~~samples--provided-by-a-pharmaceutical-company-representative~~
2 ~~may-be-dispensed.~~

3 (f)(e) Prescriptions written by physician
4 assistants-certified must comply with regulations relating
5 to prescription requirements adopted by the board of
6 pharmacy.

7 (g)(f) The board shall adopt rules regarding the
8 refilling of prescriptions written by physician
9 assistants-certified."

10 **Section 15.** Section 37-20-405, MCA, is amended to read:

11 "37-20-405. **Billing.** A supervising physician, office,
12 firm, or-an institution, ~~where-services--were--delivered or~~
13 other entity may bill for physician assistant-certified
14 services."

15 NEW SECTION. **Section 16. Repealer.** Section 37-20-102,
16 MCA, is repealed.

17 NEW SECTION. **Section 17. Codification** instruction.
18 [Sections 8 and 10] are intended to be codified as an
19 integral part of Title 37, chapter 20, and the provisions of
20 Title 37, chapter 20, apply to [sections 8 and 10].

21 NEW SECTION. **Section 18. Effective date.** [This act] is
22 effective on passage and approval.

-End-

SENATE BILL NO. 89

INTRODUCED BY JACOBSON

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS ADMINISTERING THE MONTANA STATE BOARD OF MEDICAL EXAMINERS; ADDING A LICENSED PHYSICIAN ASSISTANT-CERTIFIED MEMBER TO THE BOARD; ALLOWING THE IMPAIRED PROFESSIONALS PROGRAM TO ADDRESS THE NEEDS OF PHYSICIANS DERIVING FROM MENTAL OR CHRONIC PHYSICAL ILLNESS; MAKING THE REQUIREMENT FOR PERSONAL APPEARANCE BY A PHYSICIAN APPLICANT FOR LICENSURE DISCRETIONARY; AMENDING THE DEFINITION OF "UNPROFESSIONAL CONDUCT"; AMENDING THE OBLIGATION TO REPORT INCOMPETENCE OR UNPROFESSIONAL CONDUCT; REVOKING THE LIABILITY INSURANCE REQUIREMENT FOR PHYSICIAN ASSISTANTS-CERTIFIED WHO WORK IN HOSPITALS; AMENDING PHYSICIAN ASSISTANTS-CERTIFIED PRACTICE STATUTES TO IMPROVE CLARITY AND ORGANIZATION; PROHIBITING PRACTICE AS A PHYSICIAN ASSISTANT-CERTIFIED PRIOR TO LICENSURE; REPLACING THE TERM "CERTIFICATE" WITH "LICENSE" WITH RESPECT TO PHYSICIAN ASSISTANTS-CERTIFIED; ALLOWING THE BOARD TO ISSUE CERTAIN FORMS OF LICENSURE TO PHYSICIAN ASSISTANTS-CERTIFIED; REVOKING THE REQUIREMENT THAT DRUGS DISPENSED BY A PHYSICIAN ASSISTANT-CERTIFIED BE PREPACKAGED BY A LICENSED PHARMACIST; ALLOWING CERTAIN PERSONS AND

ENTITIES TO BILL FOR PHYSICIAN ASSISTANT-CERTIFIED SERVICES; AMENDING SECTIONS 2-15-1841, 37-3-203, 37-3-305, 37-3-322, 37-3-323, 37-3-401, 37-20-104, 37-20-202, 37-20-301, 37-20-302, 37-20-402, 37-20-404, AND 37-20-405, MCA; REPEALING SECTION 37-20-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-15-1841, MCA, is amended to read:

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

(2) The board consists of ~~10~~ 11 members appointed by the governor with the consent of the senate. Appointments made when the legislature is not in session may be confirmed at the next session.

(3) The members are:

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

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

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

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INTRODUCED BY JACOBSON

BY REQUEST OF THE DEPARTMENT OF COMMERCE

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(3) The members are:

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

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

(c) one member who is a licensed podiatrist;

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

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

~~(e)}~~(f) two members of the general public who are not



1 medical practitioners.

2 (4) The members having the degree of doctor of medicine
3 may not be from the same county. Each member ~~shall~~ must be a
4 citizen of the United States. Each member, except for public
5 members, ~~shall~~ must have been licensed and ~~shall~~ must have
6 practiced medicine or dietetics-nutrition in this state for
7 at least 5 years and ~~shall~~ must have been a resident of this
8 state for at least 5 years; ~~except that for 5 years after~~
9 ~~October 17, 1987, the number of years of licensure required~~
10 ~~for the nutritionist member is no greater than the number of~~
11 ~~years this act has been in effect.~~

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

15 (6) The member who is a licensed physician
16 assistant-certified may vote only on issues that affect the
17 licensure and regulation of physician assistants-certified.

18 ~~(6)(7)~~ Members shall serve staggered 4-year terms. A
19 term commences on September 1 of each year of appointment. A
20 member may, upon notice and hearing, be removed by the
21 governor for neglect of duty, incompetence, or
22 unprofessional or dishonorable conduct.

23 ~~(7)(8)~~ The board is allocated to the department for
24 administrative purposes only as prescribed in 2-15-121."

25 **Section 2.** Section 37-3-203, MCA, is amended to read:

1 ***37-3-203. Powers and duties.** The board may:

2 (1) adopt rules necessary or proper to carry out parts
3 1 through 3 of this chapter; the rules ~~shall~~ must be fair,
4 impartial, and nondiscriminatory;

5 (2) hold hearings and take evidence in matters relating
6 to the exercise and performance of the powers and duties
7 vested in the board;

8 (3) aid the county attorneys of this state in the
9 enforcement of parts 1 through 3 of this chapter and the
10 prosecution of persons, firms, associations, or corporations
11 charged with violations of parts 1 through 3 of this
12 chapter;

13 (4) establish a program to assist and rehabilitate
14 licensed physicians who are found to be physically or
15 mentally impaired by habitual intemperance or the excessive
16 use of narcotic addictive drugs, alcohol, or any other drug
17 or substance or by mental or chronic physical illness;

18 (5) select an executive secretary to be hired by the
19 department to;

20 (a) provide services to the board in connection with
21 the board's duties under this chapter;

22 (b) assist in prosecution and matters of license
23 discipline under this chapter; and

24 (c) administer the board's affairs; and

25 (6) fund additional staff, hired by the department, to

administer the provisions of this chapter, by increasing license fees as necessary."

Section 3. Section 37-3-305, MCA, is amended to read:

"37-3-305. Qualifications for licensure. (1) No A person may not be granted a physician's certificate license to practice medicine in this state unless he the person:

(a) is of good moral character, as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved internship of at least 1 year or, in the opinion of the board, has had experience or training which that is at least the equivalent of 1 year internship;

(d) has had a completed application file reviewed by a board member and, in the discretion of the board member, has made a personal appearance before the board unless-such appearance-has-been-specifically-waived-by-the-board; and

(e) is able to communicate, in the opinion of the board, in the English language.

(2) The board may authorize the department to issue the license subject to terms of probation or other conditions or limitations set by the board or may refuse a license if the applicant has committed unprofessional conduct or is otherwise unqualified.

(3) No A person may not be granted a temporary license to practice medicine in this state unless he the person:

(a) is of good moral character, as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved internship of at least 1 year or, in the opinion of the board, has had experience or training which that is at least the equivalent of 1 year internship;

(d) has made a personal appearance before at least one member of the board; and

(e) is able, in the opinion of the board, to communicate in the English language."

Section 4. Section 37-3-322, MCA, is amended to read:

"37-3-322. Unprofessional conduct. As used in this chapter, "unprofessional conduct" means:

(1) resorting to fraud, misrepresentation, or deception in applying for or in securing a license or in taking the examination provided for in this chapter;

(2) performing abortion contrary to law;

(3) obtaining a fee or other compensation, either directly or indirectly, by the misrepresentation that a manifestly incurable disease, injury, or condition of a person can be cured;

- 1 (4) employing abusive billing practices;
- 2 (5) directly or indirectly giving or receiving a fee,
- 3 commission, rebate, or other compensation for professional
- 4 services not actually rendered. This prohibition does not
- 5 preclude the legal functioning of lawful professional
- 6 partnerships, corporations, or associations.
- 7 (6) willful disobedience of the rules or an order of
- 8 the board REGARDING EVALUATION OR ENFORCEMENT OF DISCIPLINE
- 9 OF A LICENSEE;
- 10 (7) conviction of an offense involving moral turpitude
- 11 or conviction of a felony involving moral turpitude, and the
- 12 judgment of the conviction, unless pending on appeal, is
- 13 conclusive evidence of unprofessional conduct;
- 14 (8) commission of an act of sexual abuse, misconduct,
- 15 or exploitation related to the licensee's practice of
- 16 medicine;
- 17 (9) administering, dispensing, or prescribing a
- 18 narcotic or hallucinatory drug, as defined by the federal
- 19 food and drug administration or successors, otherwise than
- 20 in the course of legitimate or reputable professional
- 21 practice;
- 22 (10) conviction or violation of a federal or state law
- 23 regulating the possession, distribution, or use of a
- 24 narcotic or hallucinatory drug, as defined by the federal
- 25 food and drug administration, and the judgment of

- 1 conviction, unless pending on appeal, is conclusive evidence
- 2 of unprofessional conduct;
- 3 (11) habitual intemperance or excessive use of narcotic
- 4 addictive drugs, alcohol, or any other drug or substance to
- 5 the extent that the use impairs the user physically or
- 6 mentally;
- 7 (12) conduct unbecoming a person licensed to practice
- 8 medicine or detrimental to the best interests of the public
- 9 as defined by rule of the board;
- 10 (13) conduct likely to deceive, defraud, or harm the
- 11 public;
- 12 (14) making a false or misleading statement regarding
- 13 the licensee's skill or the effectiveness or value of the
- 14 medicine, treatment, or remedy prescribed by the licensee or
- 15 at the licensee's direction in the treatment of a disease or
- 16 other condition of the body or mind;
- 17 (15) resorting to fraud, misrepresentation, or deception
- 18 in the examination or treatment of a person or in billing or
- 19 reporting to a person, company, institution, or
- 20 organization;
- 21 (16) use of a false, fraudulent, or deceptive statement
- 22 in any document connected with the practice of medicine;
- 23 (17) practicing medicine under a false or assumed name;
- 24 (18) testifying in court on a contingency basis;
- 25 (19) conspiring to misrepresent or willfully

misrepresenting medical conditions improperly to increase or decrease a settlement, award, verdict, or judgment;

(20) aiding or abetting in the practice of medicine by a person not licensed to practice medicine or a person whose license to practice medicine is suspended;

(21) allowing another person or organization to use the licensee's license to practice medicine;

(22) malpractice or negligent practice;

(23) except as provided in this subsection, practicing medicine as the partner, agent, or employee of or in joint venture with a person who does not hold a license to practice medicine within this state; however, this does not prohibit:

(a) the incorporation of an individual licensee or group of licensees as a professional service corporation under Title 35, chapter 4;

(b) a single consultation with or a single treatment by a person or--persons licensed to practice medicine and surgery in another state or territory of the United States or foreign country; or

(c) practicing medicine as the partner, agent, or employee of or in joint venture with a hospital, medical assistance facility, or other licensed health care provider. However:

(i) the partnership, agency, employment, or joint

venture must be evidenced by a written agreement containing language to the effect that the relationship created by the agreement may not affect the exercise of the physician's independent judgment in the practice of medicine;

(ii) the physician's independent judgment in the practice of medicine must in fact be unaffected by the relationship; and

(iii) the physician may not be required to refer any patient to a particular provider or supplier or take any other action the physician determines not to be in the patient's best interest.

(24) willfully or negligently violating the confidentiality between physician and patient, except as required by law;

(25) failing to report to the board any adverse judgment, settlement, or award arising from a medical liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section;

(26) failing to transfer pertinent and necessary medical records to another physician when requested to do so by the subject patient or by the patient's legally designated representative;

(27) failing to furnish to the board or its investigators or representatives information legally

requested by the board;

(28) failing to cooperate with a lawful investigation conducted by the board;

(29) violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate parts 1 through 3 of this chapter or the rules authorized by them;

(30) having been subject to disciplinary action of another state or jurisdiction against a license or other authorization to practice medicine, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section. A certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct.

(31) any other act, whether specifically enumerated or not, which that, in fact, constitutes unprofessional conduct."

Section 5. Section 37-3-323, MCA, is amended to read:

"37-3-323. Revocation or suspension of license -- probation -- fine -- disposition of fine. (1) The board may make an investigation whenever it is brought to its attention that there is reason to suspect that a person having a license or certificate to practice medicine in this state:

(a) is mentally or physically unable to safely engage in the practice of medicine, has procured his a license to practice medicine by fraud or misrepresentation or through mistake, has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent, or has a condition which that impairs his the person's intellect or judgment to the extent that it incapacitates him the person for the safe performance of professional duties;

(b) has been guilty of unprofessional conduct;

(c) has practiced medicine ~~while-his-license-was~~ with a suspended or revoked license;

(d) has had his a license to practice medicine suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(e) while under probation has violated its terms.

(2) The investigation ~~shall~~ must be for the purpose of determining the probability of the existence of these conditions or the commission of these offenses and may include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and scrutinize the hospital records and reports of a licensee as part of the

1 examination, and copies of these shall must be released to
 2 the board on written request. If the board has reasonable
 3 cause to believe that this probability exists, the
 4 department shall mail to the person person's at--his last
 5 address of record with the department a specification of the
 6 charges against--him, together with a written notice of the
 7 time and place of the hearing on such the charges, advising
 8 him that he the person may be present in-person and may be
 9 represented by counsel if he-so-desires the person wants to
 10 offer evidence and be heard in his the person's own defense.
 11 The time fixed for the hearing may not be less than 30 days
 12 from the date of mailing the notice.

13 (3) A person, including a member of the board, may file
 14 a written complaint with the department against a person
 15 having a license to practice medicine in this state charging
 16 him that person with the commission of any of the offenses
 17 set forth in 37-3-322 or with any of the offenses or
 18 conditions set forth in subsection (1) of this section,
 19 which-complaint--shall. The complaint must set forth a
 20 specification of the charges. When the complaint is filed,
 21 the department shall mail a copy to the person accused at
 22 his the person's last address of record with the department,
 23 together with a written citation of the time and place of
 24 the hearing on it.

25 (4) At the hearing, the board shall adopt a resolution

1 finding him the accused guilty or not guilty of the matters
 2 charged. If the board finds that the offenses or 'conditions
 3 referred to in 37-3-322 or subsection (1) of this section do
 4 not exist with respect to the person or if he the person is
 5 found not guilty, the board shall dismiss the charges or
 6 complaint. If the board finds that the offenses or
 7 conditions referred to in 37-3-322 or in subsection (1) of
 8 this section do exist and the person is found guilty, the
 9 board shall:

10 (a) revoke his the person's license;

11 (b) suspend his the person's right to practice for a
 12 period not exceeding 1 year;

13 (c) suspend its judgment of revocation on the terms and
 14 conditions to be determined by the board;

15 (d) place him the person on probation;

16 (e) impose a fine, not to exceed \$500 an incident; or

17 (f) take any other action in relation to disciplining
 18 him the person as the board in its discretion considers
 19 proper.

20 (5) In a case of revocation, suspension, or probation,
 21 the department shall enter in its records the facts of the
 22 action and of subsequent action of the board with respect to
 23 it.

24 (6) On the expiration of the term of suspension, the
 25 licensee shall must be reinstated by the board if he the

1 suspended person furnishes the board with evidence that he
 2 the person is then of good moral character and conduct, and
 3 is restored to good health, and that he has not practiced
 4 medicine in this state during the term of suspension. If the
 5 evidence fails to establish to the satisfaction of the board
 6 that the holder is then of good moral character and conduct
 7 or restored to good health or if the evidence shows he the
 8 person has practiced medicine in this state during the term
 9 of suspension, the board shall revoke the license, using the
 10 at--a-hearing-with notice and the hearing procedure provided
 11 in subsection ~~{1}~~ (2) of ~~this--~~section. The revocation is
 12 final and absolute.

13 (7) If a person holding a license to practice medicine
 14 under this chapter is by a final order or adjudication of a
 15 court of competent jurisdiction adjudged to be mentally
 16 incompetent or seriously mentally ill or addicted to the use
 17 of narcotics ~~scheduled-drugs~~ ADDICTIVE SUBSTANCES, his the
 18 person's license may be suspended by the board. The
 19 suspension continues until the licensee is found or adjudged
 20 by the court to be restored to reason or cured or until he
 21 the person is discharged as restored to reason or cured and
 22 his the person's professional competence has been proven to
 23 the satisfaction of the board.

24 (8) A fine imposed under this section must be deposited
 25 in the general fund.

1 (9) The remedies and method of enforcement of this
 2 part, as provided for in this section, are concurrent and in
 3 addition to the other remedies provided in this part."

4 **Section 6.** Section 37-3-401, MCA, is amended to read:

5 "37-3-401. Report of incompetence or unprofessional
 6 conduct. (1) Notwithstanding any provision of state law
 7 dealing with confidentiality, each licensed physician,
 8 professional standards review organization, and the Montana
 9 medical association or any component society thereof of the
 10 association shall and any other person may report to the
 11 state board of medical examiners any information such that
 12 the physician, organization, association, society, or person
 13 has which that appears to show that a physician is:

- 14 (a) medically incompetent;
- 15 (b) mentally or physically unable to safely engage in
- 16 the practice of medicine; or
- 17 (c) guilty of unprofessional conduct.

18 (2) (a) Information that relates to possible physical
 19 or mental impairment connected to habitual intemperance or
 20 excessive use of addictive drugs, alcohol, or any other drug
 21 or substance by a licensee or to other mental or chronic
 22 physical illness of a licensee may be reported to the
 23 appropriate personnel of the program established by the
 24 board under 37-3-203(4), in lieu of reporting directly to
 25 the board.

(b) The program personnel referred to in subsection (2)(a) shall report to the board the identity of a licensee and all facts and documentation in their possession if:

(i) the licensee fails or refuses to comply with a reasonable request that the licensee undergo a mental, physical, or chemical dependency evaluation or a combination of evaluations;

(ii) the licensee fails or refuses to undergo a reasonable course of treatment that they recommend, including reasonable aftercare;

(iii) the licensee fails or refuses to satisfactorily complete a reasonable evaluation, a course of treatment, or aftercare;

(iv) the licensee's condition creates a risk of harm to the licensee, a patient, or others; or

(v) they are in possession of information that appears to show that the licensee has or is otherwise engaged in unprofessional conduct.

†2†(3) This section applies to professional standards review organizations only to the extent that such the organisations are not prohibited from disclosing such information under federal law."

Section 7. Section 37-20-104, MCA, is amended to read:

"37-20-104. Penalty-----enforcement Title and practice.

(1) Any A person who employs a physician assistant-certified

or holds himself out to be the public that the person is a 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,---in---the---manner set---out---in-subsection-†3†---and---after-notice-and-opportunity for---hearing,---discipline---any---supervising---physician---or 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. Prior to being issued a license and receiving approval of a utilization plan, a physician assistant-certified may not engage in the practice of medicine in this state, even under the supervision of a licensed physician.

†3†---if-the-board-finds-that-the---supervising---physician or---the---physician---assistant-certified---has---violated---any provision-of-subsection-†2†,---the-board-may:

†a†---revoke-his-license-or-approval-as-applicable;

†b†---suspend-his-right-to-practice-for-a-period---not---to exceed-1-year;

~~{c}--suspend--its--judgment--of--revocation-on-terms-and
conditions-determined-by-the-board;
{d}--place-him-on-probation;
{e}--impose--a--fine--not--to--exceed--\$500--for--each
violation;-or~~

~~{f}--take-other-action-it-considers-proper-~~

~~{4}{3}~~ The board may enforce the provisions of this section by the remedy of injunction."

NEW SECTION. **Section 8. Disciplinary action.** (1) The Montana state board of medical examiners may, after notice and opportunity for hearing, discipline a supervising physician or physician assistant-certified who:

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

(2) If the board finds that the supervising physician or the physician assistant-certified has violated any provision specified in subsection (1), the board may:

- (a) revoke the person's license or approval;
- (b) suspend the person's right to practice for a period not exceeding 1 year;
- (c) suspend its judgment of revocation on terms and

conditions determined by the board;

(d) place the person on probation;

(e) impose a fine, not to exceed \$500 for each violation; or

(f) take other action it considers proper.

Section 9. 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 assistant-certified unless he---can the physician is able to demonstrate to the board the ability to supervise more than one assistant adequately;

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

(5) address physician assistant training in Montana; and

(6) set forth grounds for disciplinary action."

NEW SECTION. **Section 10.** Licensing of physician

1 assistants-certified. The Montana state board of medical
2 examiners may issue the following two forms of physician
3 assistants-certified licenses under its seal:

4 (1) a permanent license, signed by the president and
5 subject to annual renewal; and

6 (2) a temporary license, signed by any member of the
7 board and subject to specifications and limitations imposed
8 by the board.

9 **Section 11.** Section 37-20-301, MCA, is amended to read:

10 "37-20-301. Utilization plan required -- contents --
11 approval. (1) A physician, office, firm, state institution,
12 or professional service corporation may not employ or make
13 use of the services of a physician assistant-certified in
14 the practice of medicine, as defined in 37-3-102, and a
15 physician assistant-certified may not be employed or
16 practice as a physician assistant-certified unless the
17 physician assistant-certified:

18 (a) is supervised by a licensed physician;

19 (b) ~~has--been-approved~~ is licensed by the Montana state
20 board of medical examiners; and

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

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

25 (a) the name and qualifications of the supervising

1 physician, as provided in 37-20-101, and the name and
2 approval license number of the physician
3 assistant-certified;

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

6 (c) the ~~duties-to-be-delegated-to~~ scope of practice of
7 the physician assistant-certified and the ~~location-in-which~~
8 ~~those--duties--are--to--be--performed~~ locations where the
9 physician assistant-certified will practice;

10 (d) the name and qualifications of a second physician
11 meeting the requirements of 37-20-101 to ~~serve-in-the--place~~
12 ~~of--the~~ act as an alternate supervising physician in the
13 ~~event-that-the-supervising-physician-is-unable-to--supervise~~
14 ~~the-physician-assistant-certified-temporarily~~ absence of the
15 primary supervising physician;

16 (e) necessary guidelines describing the intended
17 availability of the supervising or alternate physician for
18 consultation by the physician assistant-certified; and

19 (f) other information the board may consider necessary.

20 (3) The board shall approve the utilization plan if it
21 finds that the ~~duties-to-be-delegated--to~~ practice of the
22 physician assistant-certified are is:

23 (a) assigned by the supervising physician;

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

(c) within the scope of the training, knowledge, education, and experience of the 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 37-20-402, 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. A locum tenens utilization plan may be approved by a single board member."

Section 12. Section 37-20-302, MCA, is amended to read:

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

(2) Every--physician, officer,--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 A locum tenens utilization plan approval fee must be paid in an amount set by the board.

(3) A certificate license issued under this part must be renewed annually, on a date set by the board.

(4) A certificate license renewal fee set by the board must be paid at the time the certificate license is renewed.

(5) The department shall mail a renewal notice no later than 60 days prior to the renewal date set by the board under subsection (3). A certified letter addressed to the delinquent certificate--holder's licensee's last-known address as it appears on the records of the department constitutes notice of intent to revoke the certificate license.

(6) If the annual renewal fee is not paid on or before the renewal date set by the board under subsection (3), the board may revoke the certificate license after giving 30 days' notice to the certificate--holder licensee. A certificate license may not be revoked for nonpayment of a renewal fee if the certificate--holder licensee pays the annual renewal fee plus a penalty prescribed by the board on or before the date fixed for revocation.

(7) 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 13. Section 37-20-402, MCA, is amended to read:

"37-20-402. Criteria for approval--of licensing a physician assistant-certified. A person may not be approved licensed as a physician assistant-certified in this state unless he the person:

(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 the person's history, education, and experience."

Section 14. Section 37-20-404, MCA, is amended to read:

"37-20-404. 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 must comply with 37-2-104 and with packaging and labeling guidelines developed by the board of pharmacy under Title 37, chapter 7.

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

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

(b) Prescribing, dispensing, and administration of Schedule II drugs listed in 50-32-224 may be authorized for limited periods not to exceed 48 72 hours.

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

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

~~(e)--Drugs--dispensed-by-a-physician-assistant-certified must-be-prepackaged-by-a-licensed--pharmacist--except--that~~

~~samples--provided-by-a-pharmaceutical-company-representative
may-be-dispensed-~~

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

~~(g)(f)~~ The board shall adopt rules regarding the refilling of prescriptions written by physician assistants-certified."

Section 15. Section 37-20-405, MCA, is amended to read:

"37-20-405. Billing. A supervising physician, office, firm, or an institution, where services--were--delivered or other entity may bill for physician assistant-certified services."

NEW SECTION. Section 16. Repealer. Section 37-20-102, MCA, is repealed.

NEW SECTION. Section 17. Codification instruction. [Sections 8 and 10] 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 8 and 10].

NEW SECTION. Section 18. Effective date. [This act] is effective on passage and approval.

-End-

GOVERNOR'S AMENDMENTS TO
SENATE BILL NO. 89
(REFERENCE COPY)
March 16, 1993

1. Page 7, line 7.
Following "disobedience of"
Insert: "(a)"
Following "rules"
Insert "adopted by the board;"
Following "or"
Insert "(b)"

-End-

Gov. Amendment
SB 89

1 SENATE BILL NO. 89

2 INTRODUCED BY JACOBSON

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
6 LAWS ADMINISTERING THE MONTANA STATE BOARD OF MEDICAL
7 EXAMINERS; ADDING A LICENSED PHYSICIAN ASSISTANT-CERTIFIED
8 MEMBER TO THE BOARD; ALLOWING THE IMPAIRED PROFESSIONALS
9 PROGRAM TO ADDRESS THE NEEDS OF PHYSICIANS DERIVING FROM
10 MENTAL OR CHRONIC PHYSICAL ILLNESS; MAKING THE REQUIREMENT
11 FOR PERSONAL APPEARANCE BY A PHYSICIAN APPLICANT FOR
12 LICENSURE DISCRETIONARY; AMENDING THE DEFINITION OF
13 "UNPROFESSIONAL CONDUCT"; AMENDING THE OBLIGATION TO REPORT
14 INCOMPETENCE OR UNPROFESSIONAL CONDUCT; REVOKING THE
15 LIABILITY INSURANCE REQUIREMENT FOR PHYSICIAN
16 ASSISTANTS-CERTIFIED WHO WORK IN HOSPITALS; AMENDING
17 PHYSICIAN ASSISTANTS-CERTIFIED PRACTICE STATUTES TO IMPROVE
18 CLARITY AND ORGANIZATION; PROHIBITING PRACTICE AS A
19 PHYSICIAN ASSISTANT-CERTIFIED PRIOR TO LICENSURE; REPLACING
20 THE TERM "CERTIFICATE" WITH "LICENSE" WITH RESPECT TO
21 PHYSICIAN ASSISTANTS-CERTIFIED; ALLOWING THE BOARD TO ISSUE
22 CERTAIN FORMS OF LICENSURE TO PHYSICIAN
23 ASSISTANTS-CERTIFIED; REVOKING THE REQUIREMENT THAT DRUGS
24 DISPENSED BY A PHYSICIAN ASSISTANT-CERTIFIED BE PREPACKAGED
25 BY A LICENSED PHARMACIST; ALLOWING CERTAIN PERSONS AND

1 ENTITIES TO BILL FOR PHYSICIAN ASSISTANT-CERTIFIED SERVICES;
2 AMENDING SECTIONS 2-15-1841, 37-3-203, 37-3-305, 37-3-322,
3 37-3-323, 37-3-401, 37-20-104, 37-20-202, 37-20-301,
4 37-20-302, 37-20-402, 37-20-404, AND 37-20-405, MCA;
5 REPEALING SECTION 37-20-102, MCA; AND PROVIDING AN IMMEDIATE
6 EFFECTIVE DATE."
7

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

9 Section 1. Section 2-15-1841, MCA, is amended to read:

10 "2-15-1841. Board of medical examiners. (1) There is a
11 Montana state board of medical examiners.12 (2) The board consists of ~~10~~ 11 members appointed by
13 the governor with the consent of the senate. Appointments
14 made when the legislature is not in session may be confirmed
15 at the next session.

16 (3) The members are:

17 (a) five members having the degree of doctor of
18 medicine;19 (b) one member having the degree of doctor of
20 osteopathy;

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

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

23 (e) one member who is a licensed physician
24 assistant-certified; and25 (f) two members of the general public who are not

1 medical practitioners.

2 (4) The members having the degree of doctor of medicine
3 may not be from the same county. Each member shall must be a
4 citizen of the United States. Each member, except for public
5 members, shall must have been licensed and shall must have
6 practiced medicine or dietetics-nutrition in this state for
7 at least 5 years and shall must have been a resident of this
8 state for at least 5 years, ~~except that for 5 years after~~
9 ~~October 1, 1987, the number of years of licensure required~~
10 ~~for the nutritionist member is no greater than the number of~~
11 ~~years this act has been in effect.~~

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

15 (6) The member who is a licensed physician
16 assistant-certified may vote only on issues that affect the
17 licensure and regulation of physician assistants-certified.

18 ~~(6)(7)~~ Members shall serve staggered 4-year terms. A
19 term commences on September 1 of each year of appointment. A
20 member may, upon notice and hearing, be removed by the
21 governor for neglect of duty, incompetence, or
22 unprofessional or dishonorable conduct.

23 ~~(7)(8)~~ The board is allocated to the department for
24 administrative purposes only as prescribed in 2-15-121."

25 **Section 2.** Section 37-3-203, MCA, is amended to read:

1 "37-3-203. Powers and duties. The board may:

2 (1) adopt rules necessary or proper to carry out parts
3 1 through 3 of this chapter; the rules shall must be fair,
4 impartial, and nondiscriminatory;

5 (2) hold hearings and take evidence in matters relating
6 to the exercise and performance of the powers and duties
7 vested in the board;

8 (3) aid the county attorneys of this state in the
9 enforcement of parts 1 through 3 of this chapter and the
10 prosecution of persons, firms, associations, or corporations
11 charged with violations of parts 1 through 3 of this
12 chapter;

13 (4) establish a program to assist and rehabilitate
14 licensed physicians who are found to be physically or
15 mentally impaired by habitual intemperance or the excessive
16 use of narcotic addictive drugs, alcohol, or any other drug
17 or substance or by mental or chronic physical illness;

18 (5) select an executive secretary to be hired by the
19 department to:

20 (a) provide services to the board in connection with
21 the board's duties under this chapter;

22 (b) assist in prosecution and matters of license
23 discipline under this chapter; and

24 (c) administer the board's affairs; and

25 (6) fund additional staff, hired by the department, to

1 administer the provisions of this chapter, by increasing
2 license fees as necessary."

3 **Section 3.** Section 37-3-305, MCA, is amended to read:

4 "37-3-305. **Qualifications for licensure.** (1) No A
5 person may not be granted a physician's certificate license
6 to practice medicine in this state unless he the person:

7 (a) is of good moral character, as determined by the
8 board;

9 (b) is a graduate of an approved medical school as
10 defined in 37-3-102;

11 (c) has completed an approved internship of at least 1
12 year or, in the opinion of the board, has had experience or
13 training which that is at least the equivalent of 1 year
14 internship;

15 (d) has had a completed application file reviewed by a
16 board member and, in the discretion of the board member, has
17 made a personal appearance before the board unless such
18 appearance has been specifically waived by the board; and

19 (e) is able to communicate, in the opinion of the
20 board, in the English language.

21 (2) The board may authorize the department to issue the
22 license subject to terms of probation or other conditions or
23 limitations set by the board or may refuse a license if the
24 applicant has committed unprofessional conduct or is
25 otherwise unqualified.

1 (3) No A person may not be granted a temporary license
2 to practice medicine in this state unless he the person:

3 (a) is of good moral character, as determined by the
4 board;

5 (b) is a graduate of an approved medical school as
6 defined in 37-3-102;

7 (c) has completed an approved internship of at least 1
8 year or, in the opinion of the board, has had experience or
9 training which that is at least the equivalent of 1 year
10 internship;

11 (d) has made a personal appearance before at least one
12 member of the board; and

13 (e) is able, in the opinion of the board, to
14 communicate in the English language."

15 **Section 4.** Section 37-3-322, MCA, is amended to read:

16 "37-3-322. **Unprofessional conduct.** As used in this
17 chapter, "unprofessional conduct" means:

18 (1) resorting to fraud, misrepresentation, or deception
19 in applying for or in securing a license or in taking the
20 examination provided for in this chapter;

21 (2) performing abortion contrary to law;

22 (3) obtaining a fee or other compensation, either
23 directly or indirectly, by the misrepresentation that a
24 manifestly incurable disease, injury, or condition of a
25 person can be cured;

(4) employing abusive billing practices;

(5) directly or indirectly giving or receiving a fee, commission, rebate, or other compensation for professional services not actually rendered. This prohibition does not preclude the legal functioning of lawful professional partnerships, corporations, or associations.

(6) willful disobedience of:

(A) the rules ADOPTED BY THE BOARD; or

(B) an order of the board REGARDING EVALUATION OR ENFORCEMENT OF DISCIPLINE OF A LICENSEE;

(7) conviction of an offense involving moral turpitude or conviction of a felony involving moral turpitude, and the judgment of the conviction, unless pending on appeal, is conclusive evidence of unprofessional conduct;

(8) commission of an act of sexual abuse, misconduct, or exploitation related to the licensee's practice of medicine;

(9) administering, dispensing, or prescribing a narcotic or hallucinatory drug, as defined by the federal food and drug administration or successors, otherwise than in the course of legitimate or reputable professional practice;

(10) conviction or violation of a federal or state law regulating the possession, distribution, or use of a narcotic or hallucinatory drug, as defined by the federal

food and drug administration, and the judgment of conviction, unless pending on appeal, is conclusive evidence of unprofessional conduct;

(11) habitual intemperance or excessive use of narcotic addictive drugs, alcohol, or any other drug or substance to the extent that the use impairs the user physically or mentally;

(12) conduct unbecoming a person licensed to practice medicine or detrimental to the best interests of the public as defined by rule of the board;

(13) conduct likely to deceive, defraud, or harm the public;

(14) making a false or misleading statement regarding the licensee's skill or the effectiveness or value of the medicine, treatment, or remedy prescribed by the licensee or at the licensee's direction in the treatment of a disease or other condition of the body or mind;

(15) resorting to fraud, misrepresentation, or deception in the examination or treatment of a person or in billing or reporting to a person, company, institution, or organization;

(16) use of a false, fraudulent, or deceptive statement in any document connected with the practice of medicine;

(17) practicing medicine under a false or assumed name;

(18) testifying in court on a contingency basis;

1 (19) conspiring to misrepresent or willfully
2 misrepresenting medical conditions improperly to increase or
3 decrease a settlement, award, verdict, or judgment;

4 (20) aiding or abetting in the practice of medicine by a
5 person not licensed to practice medicine or a person whose
6 license to practice medicine is suspended;

7 (21) allowing another person or organization to use the
8 licensee's license to practice medicine;

9 (22) malpractice or negligent practice;

10 (23) except as provided in this subsection, practicing
11 medicine as the partner, agent, or employee of or in joint
12 venture with a person who does not hold a license to
13 practice medicine within this state; however, this does not
14 prohibit:

15 (a) the incorporation of an individual licensee or
16 group of licensees as a professional service corporation
17 under Title 35, chapter 4;

18 (b) a single consultation with or a single treatment by
19 a person or--persons licensed to practice medicine and
20 surgery in another state or territory of the United States
21 or foreign country; or

22 (c) practicing medicine as the partner, agent, or
23 employee of or in joint venture with a hospital, medical
24 assistance facility, or other licensed health care provider.

25 However:

1 (i) the partnership, agency, employment, or joint
2 venture must be evidenced by a written agreement containing
3 language to the effect that the relationship created by the
4 agreement may not affect the exercise of the physician's
5 independent judgment in the practice of medicine;

6 (ii) the physician's independent judgment in the
7 practice of medicine must in fact be unaffected by the
8 relationship; and

9 (iii) the physician may not be required to refer any
10 patient to a particular provider or supplier or take any
11 other action the physician determines not to be in the
12 patient's best interest.

13 (24) willfully or negligently violating the
14 confidentiality between physician and patient, except as
15 required by law;

16 (25) failing to report to the board any adverse
17 judgment, settlement, or award arising from a medical
18 liability claim related to acts or conduct similar to acts
19 or conduct that would constitute grounds for action as
20 defined in this section;

21 (26) failing to transfer pertinent and necessary medical
22 records to another physician when requested to do so by the
23 subject patient or by the patient's legally designated
24 representative;

25 (27) failing to furnish to the board or its

investigators or representatives information legally requested by the board;

(28) failing to cooperate with a lawful investigation conducted by the board;

(29) violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate parts 1 through 3 of this chapter or the rules authorized by them;

(30) having been subject to disciplinary action of another state or jurisdiction against a license or other authorization to practice medicine, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section. A certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct.

(31) any other act, whether specifically enumerated or not, which that, in fact, constitutes unprofessional conduct."

Section 5. Section 37-3-323, MCA, is amended to read:

"37-3-323. Revocation or suspension of license -- probation -- fine -- disposition of fine. (1) The board may make an investigation whenever it is brought to its attention that there is reason to suspect that a person having a license or certificate to practice medicine in this

state:

(a) is ~~mentally~~ or physically unable to safely engage in the practice of medicine, has procured ~~his~~ a license to practice medicine by fraud or misrepresentation or through mistake, has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent, or has a condition which that impairs ~~his~~ the person's intellect or judgment to the extent that it incapacitates ~~him~~ the person for the safe performance of professional duties;

(b) has been guilty of unprofessional conduct;

(c) has practiced medicine ~~while-his-license-was~~ with a suspended or revoked license;

(d) has had ~~his~~ a license to practice medicine suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(e) while under probation has violated its terms.

(2) The investigation ~~shall~~ must be for the purpose of determining the probability of the existence of these conditions or the commission of these offenses and may include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and scrutinize the hospital

1 records and reports of a licensee as part of the
 2 examination, and copies of these shall must be released to
 3 the board on written request. If the board has reasonable
 4 cause to believe that this probability exists, the
 5 department shall mail to the person person's at his last
 6 address of record with the department a specification of the
 7 charges against him, together with a written notice of the
 8 time and place of the hearing on such the charges, advising
 9 him that he the person may be present in-person and may be
 10 represented by counsel if he so desires the person wants to
 11 offer evidence and be heard in his the person's own defense.
 12 The time fixed for the hearing may not be less than 30 days
 13 from the date of mailing the notice.

14 (3) A person, including a member of the board, may file
 15 a written complaint with the department against a person
 16 having a license to practice medicine in this state charging
 17 him that person with the commission of any of the offenses
 18 set forth in 37-3-322 or with any of the offenses or
 19 conditions set forth in subsection (1) of this section,
 20 which--complaint--shall. The complaint must set forth a
 21 specification of the charges. When the complaint is filed,
 22 the department shall mail a copy to the person accused at
 23 his the person's last address of record with the department,
 24 together with a written citation of the time and place of
 25 the hearing on it.

1 (4) At the hearing, the board shall adopt a resolution
 2 finding him the accused guilty or not guilty of the matters
 3 charged. If the board finds that the offenses or conditions
 4 referred to in 37-3-322 or subsection (1) of this section do
 5 not exist with respect to the person or if he the person is
 6 found not guilty, the board shall dismiss the charges or
 7 complaint. If the board finds that the offenses or
 8 conditions referred to in 37-3-322 or in subsection (1) of
 9 this section do exist and the person is found guilty, the
 10 board shall:

- 11 (a) revoke his the person's license;
- 12 (b) suspend his the person's right to practice for a
 13 period not exceeding 1 year;
- 14 (c) suspend its judgment of revocation on the terms and
 15 conditions to be determined by the board;
- 16 (d) place him the person on probation;
- 17 (e) impose a fine, not to exceed \$500 an incident; or
- 18 (f) take any other action in relation to disciplining
 19 him the person as the board in its discretion considers
 20 proper.

21 (5) In a case of revocation, suspension, or probation,
 22 the department shall enter in its records the facts of the
 23 action and of subsequent action of the board with respect to
 24 it.

25 (6) On the expiration of the term of suspension, the

licensee ~~shall~~ must be reinstated by the board if he the
~~suspended person~~ furnishes the board with evidence that he
~~the person~~ is then of good moral character and conduct, and
 is restored to good health, and ~~that he~~ has not practiced
 medicine in this state during the term of suspension. If the
 evidence fails to establish to the satisfaction of the board
 that the holder is then of good moral character and conduct
 or restored to good health or if the evidence shows he the
~~person~~ has practiced medicine in this state during the term
 of suspension, the board shall revoke the license, using the
~~at-a-hearing-with~~ notice and the hearing procedure provided
 in subsection ~~(1)~~ (2) of this section. The revocation is
 final and absolute.

(7) If a person holding a license to practice medicine
 under this chapter is by a final order or adjudication of a
 court of competent jurisdiction adjudged to be mentally
 incompetent or seriously mentally ill or addicted to the use
 of narcotics ~~scheduled drugs~~ ADDICTIVE SUBSTANCES, his the
~~person's~~ license may be suspended by the board. The
 suspension continues until the licensee is found or adjudged
 by the court to be restored to reason or cured or until he
~~the person~~ is discharged as restored to reason or cured and
 his the person's professional competence has been proven to
 the satisfaction of the board.

(8) A fine imposed under this section must be deposited

in the general fund.

(9) The remedies and method of enforcement of this
 part, as provided for in this section, are concurrent and in
 addition to the other remedies provided in this part."

Section 6. Section 37-3-401, MCA, is amended to read:

"37-3-401. Report of incompetence or unprofessional
 conduct. (1) Notwithstanding any provision of state law
 dealing with confidentiality, each licensed physician,
 professional standards review organization, and the Montana
 medical association or any component society thereof of the
association shall and any other person may report to the
 state board of medical examiners any information such that
the physician, organization, association, society, or person
 has which that appears to show that a physician is:

(a) medically incompetent;

(b) mentally or physically unable to safely engage in
 the practice of medicine; or

(c) guilty of unprofessional conduct.

(2) (a) Information that relates to possible physical
or mental impairment connected to habitual intemperance or
excessive use of addictive drugs, alcohol, or any other drug
or substance by a licensee or to other mental or chronic
physical illness of a licensee may be reported to the
appropriate personnel of the program established by the
board under 37-3-203(4), in lieu of reporting directly to

1 the board.

2 (b) The program personnel referred to in subsection
3 (2)(a) shall report to the board the identity of a licensee
4 and all facts and documentation in their possession if:

5 (i) the licensee fails or refuses to comply with a
6 reasonable request that the licensee undergo a mental,
7 physical, or chemical dependency evaluation or a combination
8 of evaluations;

9 (ii) the licensee fails or refuses to undergo a
10 reasonable course of treatment that they recommend,
11 including reasonable aftercare;

12 (iii) the licensee fails or refuses to satisfactorily
13 complete a reasonable evaluation, a course of treatment, or
14 aftercare;

15 (iv) the licensee's condition creates a risk of harm to
16 the licensee, a patient, or others; or

17 (v) they are in possession of information that appears
18 to show that the licensee has or is otherwise engaged in
19 unprofessional conduct.

20 {2}(3) This section applies to professional standards
21 review organizations only to the extent that such the
22 organizations are not prohibited from disclosing such
23 information under federal law."

24 **Section 7.** Section 37-20-104, MCA, is amended to read:

25 **"37-20-104. Penalty---enforcement Title and practice.**

1 (1) Any A person who employs a physician assistant-certified
2 or holds himself out to be the public that the person is a
3 physician assistant-certified without the approval of the
4 Montana state board of medical examiners is guilty of a
5 misdemeanor and is punishable as provided in 46-18-212.

6 (2) ~~In--addition--to--seeking--any--criminal--penalty~~
7 ~~available--under--this-section,--the-board-may,--in-the-manner~~
8 ~~set-out-in-subsection-(3)--and-after-notice--and--opportunity~~
9 ~~for--hearing,--discipline--any--supervising--physician--or~~
10 ~~physician-assistant-certified-who:~~

11 ~~(a)--acts-in-violation-of-this-section;~~

12 ~~(b)--obtained-the-approval-of-the-board-by-fraud;~~

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

15 ~~(d)--violates--any--of-the-applicable-provisions-of-this~~
16 ~~chapter-or-rules-of-the-board-adopted-thereunder. Prior to~~
17 ~~being issued a license and receiving approval of a~~
18 ~~utilization plan, a physician assistant-certified may not~~
19 ~~engage in the practice of medicine in this state, even under~~
20 ~~the supervision of a licensed physician.~~

21 ~~(3)--if--the--board-finds-that-the-supervising-physician~~
22 ~~or--the--physician--assistant-certified--has--violated--any~~
23 ~~provision-of-subsection-(2)--the-board-may:~~

24 ~~(a)--revoke-his-license-or-approval-as-applicable;~~

25 ~~(b)--suspend-his--right-to-practice-for-a-period-not-to~~

1 ~~exceed-1-year;~~

2 ~~(c)--suspend-its-judgment-of--revocation--on--terms--and~~
3 ~~conditions-determined-by-the-board;~~

4 ~~(d)--place-him-on-probation;~~

5 ~~(e)--impose---a--fine--not--to--exceed--\$500--for--each~~
6 ~~violation;-or~~

7 ~~(f)--take-other-action-it-considers-proper;~~

8 ~~(4)(3)~~ The board may enforce the provisions of this
9 section by the remedy of injunction."

10 NEW SECTION. Section 8. Disciplinary action. (1) The
11 Montana state board of medical examiners may, after notice
12 and opportunity for hearing, discipline a supervising
13 physician or physician assistant-certified who:

14 (a) acts in violation of this section;

15 (b) obtains approval of the board by fraud;

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

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

20 (2) If the board finds that the supervising physician
21 or the physician assistant-certified has violated any
22 provision specified in subsection (1), the board may:

23 (a) revoke the person's license or approval;

24 (b) suspend the person's right to practice for a period
25 not exceeding 1 year;

1 (c) suspend its judgment of revocation on terms and
2 conditions determined by the board;

3 (d) place the person on probation;

4 (e) impose a fine, not to exceed \$500 for each
5 violation; or

6 (f) take other action it considers proper.

7 **Section 9.** Section 37-20-202, MCA, is amended to read:

8 **"37-20-202. Adoption of rules.** The board of medical
9 examiners shall adopt administrative rules to implement the
10 provisions of this chapter that:

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

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

15 (3) specify that a physician may not utilize more than
16 one physician assistant-certified unless he--can the
17 physician is able to demonstrate to the board the ability to
18 supervise more than one assistant adequately;

19 (4) address other considerations pertinent to the
20 approval of physician assistant-certified utilization plans
21 and locum tenens utilization plans, and the health care
22 needs of the public;

23 (5) address physician assistant training in Montana;
24 and

25 (6) set forth grounds for disciplinary action."

NEW SECTION. Section 10. Licensing of physician assistants-certified. The Montana state board of medical examiners may issue the following two forms of physician assistants-certified licenses under its seal:

(1) a permanent license, signed by the president and subject to annual renewal; and

(2) a temporary license, signed by any member of the board and subject to specifications and limitations imposed by the board.

Section 11. Section 37-20-301, MCA, is amended to read:

"37-20-301. Utilization plan required -- contents -- approval. (1) A physician, office, firm, state institution, or professional service corporation may not employ or make use of the services of a physician assistant-certified in the practice of medicine, as defined in 37-3-102, and a physician assistant-certified may not be employed or practice as a physician assistant-certified unless the physician assistant-certified:

(a) is supervised by a licensed physician;

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

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

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

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

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

(c) ~~the duties-to-be-delegated-to~~ scope of practice of the physician assistant-certified and ~~the location-in-which those-duties-are-to-be-performed~~ locations where the physician assistant-certified will practice;

(d) the name and qualifications of a second physician meeting the requirements of 37-20-101 to ~~serve-in-the-place of-the~~ act as an alternate supervising physician in the ~~event--that-the-supervising-physician-is-unable-to-supervise the-physician-assistant-certified-temporarily~~ absence of the primary supervising physician;

(e) 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~~ practice of the physician assistant-certified are ~~is~~:

(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 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 37-20-402, as so 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. A locum tenens utilization plan may be approved by a single board member."

Section 12. Section 37-20-302, MCA, is amended to read:

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

refundable.

(2) ~~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~~ A locum tenens utilization plan approval fee must be paid in an amount set by the board.

(3) A certificate license issued under this part must be renewed annually, on a date set by the board.

(4) A certificate license renewal fee set by the board must be paid at the time the certificate license is renewed.

(5) The department shall mail a renewal notice no later than 60 days prior to the renewal date set by the board under subsection (3). A certified letter addressed to the delinquent certificate--holder's licensee's last-known address as it appears on the records of the department constitutes notice of intent to revoke the certificate license.

(6) If the annual renewal fee is not paid on or before the renewal date set by the board under subsection (3), the board may revoke the certificate license after giving 30 days' notice to the certificate--holder licensee. A certificate license may not be revoked for nonpayment of a renewal fee if the certificate--holder licensee pays the annual renewal fee plus a penalty prescribed by the board on

or before the date fixed for revocation.

(7) 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 13. Section 37-20-402, MCA, is amended to read:

"37-20-402. Criteria for ~~approval~~ of licensing a physician assistant-certified. A person may not be approved licensed as a physician assistant-certified in this state unless ~~he~~ the person:

(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 the person's history, education, and experience."

Section 14. Section 37-20-404, MCA, is amended to read:

"37-20-404. 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 must comply with 37-2-104 and with packaging and labeling guidelines developed by the board of pharmacy under Title 37, chapter 7.

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

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

(b) Prescribing, dispensing, and administration of Schedule II drugs listed in 50-32-224 may be authorized for limited periods not to exceed ~~48~~ 72 hours.

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

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

~~(e)--Drugs-dispensed-by-a-physician--assistant-certified~~

1 ~~must--be--prepackaged--by-a-licensed-pharmacist--except-that~~
2 ~~samples-provided-by-a-pharmaceutical-company--representative~~
3 ~~may-be-dispensed.~~

4 {f}{e} Prescriptions written by physician
5 assistants-certified must comply with regulations relating
6 to prescription requirements adopted by the board of
7 pharmacy.

8 {g}{f} The board shall adopt rules regarding the
9 refilling of prescriptions written by physician
10 assistants-certified."

11 **Section 15.** Section 37-20-405, MCA, is amended to read:

12 "37-20-405. Billing. A supervising physician, office,
13 firm, or--an institution, where-services-were-delivered or
14 other entity may bill for physician assistant-certified
15 services."

16 **NEW SECTION. Section 16. Repealer.** Section 37-20-102,
17 MCA, is repealed.

18 **NEW SECTION. Section 17. Codification instruction.**
19 [Sections 8 and 10] are intended to be codified as an
20 integral part of Title 37, chapter 20, and the provisions of
21 Title 37, chapter 20, apply to [sections 8 and 10].

22 **NEW SECTION. Section 18. effective date.** [This act] is
23 effective on passage and approval.

-End-