

SENATE BILL NO. 121

INTRODUCED BY FRANKLIN, STRIZICH
BY REQUEST OF THE BOARD OF NURSING

IN THE SENATE

JANUARY 11, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY.
	FIRST READING.
FEBRUARY 10, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 11, 1993	PRINTING REPORT.
	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 12, 1993	SECOND READING, DO PASS.
FEBRUARY 13, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
	FIRST READING.
MARCH 13, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 18, 1993	SECOND READING, CONCURRED IN.
MARCH 24, 1993	THIRD READING, CONCURRED IN. AYES, 89; NOES, 9.
MARCH 25, 1993	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 27, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
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MARCH 29, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

MARCH 30, 1993

REPORTED CORRECTLY ENROLLED.

MARCH 31, 1993

SIGNED BY PRESIDENT.

IN THE HOUSE

APRIL 2, 1993

SIGNED BY SPEAKER.

IN THE SENATE

APRIL 5, 1993

DELIVERED TO GOVERNOR.

APRIL 9, 1993

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

APRIL 14, 1993

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

APRIL 15, 1993

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 16, 1993

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

APRIL 17, 1993

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

APRIL 20, 1993

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

IN THE SENATE

APRIL 21, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 121
2 INTRODUCED BY Franklin
3 BY REQUEST OF THE BOARD OF NURSING
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE NURSING
6 PRACTICE ACT; AUTHORIZING REGISTERED PROFESSIONAL NURSES AND
7 LICENSED PRACTICAL NURSES TO TAKE ORDERS FROM A NURSE
8 SPECIALIST WHO HAS PRESCRIPTIVE AUTHORITY; AUTHORIZING THE
9 BOARD OF NURSING TO ADOPT RULES FOR DELEGATION OF NURSING
10 TASKS TO UNLICENSED PERSONS; CHANGING THE TITLE OF THE BOARD
11 SECRETARY TO EXECUTIVE DIRECTOR; PROVIDING FOR TERMINATION
12 OF LICENSES THAT HAVE NOT BEEN RENEWED FOR 3 YEARS; AND
13 AMENDING SECTIONS 37-8-102, 37-8-103, 37-8-202, AND
14 37-8-204, MCA."

15
16 STATEMENT OF INTENT

17 A statement of intent is required for this bill because
18 it delegates to the board of nursing the authority to adopt
19 rules regarding the delegation of nursing tasks to
20 unlicensed persons.

21 The legislature intends that the board of nursing adopt
22 rules that would regulate the situations in which a licensed
23 nurse may delegate tasks to an unlicensed person. This
24 rulemaking authority is necessary in order to distinguish
25 between situations in the nursing practice when it is

1 appropriate to delegate tasks, on the one hand, and
2 situations when delegation is inappropriate due to the
3 nature of the task under consideration. It is not intended
4 that the board of nursing regulate the unlicensed
5 individuals themselves.
6

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

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

9 "37-8-102. Definitions. Unless the context requires
10 otherwise, in this chapter, the following definitions apply:

11 (1) "Board" means the board of nursing provided for in
12 2-15-1844.

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

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

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

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

25 (4) "Practice of nursing" embraces two classes of

nursing service and activity, as follows:

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

(b) "Practice of professional nursing" means the performance for compensation of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health; the prevention, casefinding, and management of illness, injury, or

infirmity; and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, nurse specialists, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (4)(b):

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

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

Section 2. Section 37-8-103, MCA, is amended to read:

"37-8-103. Exemptions -- limitations on authority conferred. (1) No provisions of this law may be construed as prohibiting:

(a) gratuitous nursing by friends or members of the family;

(b) incidental care of the sick by domestic servants or persons primarily employed as housekeepers;

(c) nursing assistance in the case of an emergency;

(d) the practice of nursing by students enrolled in

1 approved nursing education programs;

2 (e) the practice of nursing in this state by any
3 legally qualified nurse of another state whose engagement
4 requires the nurse to accompany and care for a patient
5 temporarily residing in this state during the period of one
6 such engagement not to exceed 6 months in length, provided
7 that person does not represent ~~or hold--herself--or--himself~~
8 out--to-be to the public that the person is a nurse licensed
9 to practice in this state;

10 (f) the practice of any legally qualified nurse of
11 another state who is employed by the United States
12 government or any bureau, division, or agency thereof while
13 in the discharge of that nurse's official duties;

14 (g) nursing or care of the sick, with or without
15 compensation, when done in connection with the practice of
16 the religious tenets of any well-established religion or
17 denomination by adherents thereof;

18 (h) nursing or care of a minor who is in the care of a
19 licensed foster parent, to the same extent such care may be
20 provided by a parent or guardian; and

21 (i) the execution of a death sentence pursuant to
22 46-19-103; and

23 (j) nursing tasks delegated by licensed nurses to
24 unlicensed persons according to rules adopted by the board.

25 (2) This chapter may not be construed as conferring any

1 authority to practice medicine, surgery, or any combination
2 thereof; to confer any authority to practice any of the
3 healing arts prescribed by law to be practiced in the state
4 of Montana; or to permit any person to undertake the
5 treatment of disease by any of the methods employed in those
6 arts unless the licensee has been qualified under the
7 applicable law or laws licensing the practice of those
8 professions or healing arts in the state of Montana."

9 **Section 3.** Section 37-8-202, MCA, is amended to read:

10 "37-8-202. Organization -- meetings -- powers and
11 duties. (1) The board shall meet annually and shall elect
12 from among the nine members a president and a secretary. The
13 board shall hold other meetings when necessary to transact
14 its business. A majority of the board constitutes a quorum
15 at any meeting. The department shall keep complete minutes
16 and records of the meetings and rules and orders promulgated
17 by the board.

18 (2) The board may make rules necessary to administer
19 this chapter. The board shall prescribe standards for
20 schools preparing persons for registration and licensure
21 under this chapter. It shall provide for surveys of schools
22 at times it considers necessary. It shall approve programs
23 that meet the requirements of this chapter and of the board.
24 The department shall, subject to 37-1-101, examine and issue
25 to and renew licenses of qualified applicants. The board

1 shall conduct hearings on charges that may call for
2 discipline of a licensee, revocation of a license, or
3 removal of schools of nursing from the approved list. It
4 shall cause the prosecution of persons violating this
5 chapter and may incur necessary expenses for prosecutions.

6 (3) The board may adopt and the department shall
7 publish forms for use by applicants and others, including
8 license, certificate, and identity forms and other
9 appropriate forms and publications convenient for the proper
10 administration of this chapter. The board may fix reasonable
11 fees for incidental services, within the subject matter
12 delegated by this chapter.

13 (4) The board may participate in and pay fees to a
14 national organization of state boards of nursing to ensure
15 interstate endorsement of licenses.

16 (5) (a) The board may define the educational
17 requirements and other qualifications applicable to
18 specialty areas of nursing. Specialty areas of nursing are
19 those that require additional professional education beyond
20 the basic nursing degree required of a registered nurse.
21 Additional education must be obtained in courses offered in
22 a university setting or its equivalent. The applicant must
23 be certified by a specialty area certifying body. Specialty
24 areas of nursing include nurse practitioners,
25 nurse-midwives, and nurse-anesthetists.

1 (b) The board of nursing and the board of medical
2 examiners, acting jointly, shall adopt rules regarding
3 authorization for prescriptive authority of nurse
4 specialists. If considered appropriate for a nurse
5 specialist who applies to the board for authorization,
6 prescriptive authority must be granted.

7 (6) The board shall establish a program to assist
8 licensed nurses who are found to be physically or mentally
9 impaired by habitual intemperance or the excessive use of
10 narcotic drugs, alcohol, or any other drug or substance. The
11 program must provide assistance to licensees in seeking
12 treatment for substance abuse and monitor their efforts
13 toward rehabilitation. For purposes of funding this program,
14 the board shall adjust the license fee provided for in
15 37-8-431 commensurate with the cost of the program.

16 (7) The board may adopt rules for delegation of nursing
17 tasks by licensed nurses to unlicensed persons."

18 **Section 4.** Section 37-8-204, MCA, is amended to read:

19 ~~"37-8-204. Qualifications--of--secretary: Any secretary~~
20 ~~hired---by---the---department~~ Executive director ~~--~~
21 qualifications. (1) The department shall hire an executive
22 director to provide services to the board in connection with
23 the board's duties of:

24 (a) prescribing curricula and standards for nursing
25 schools; and making surveys of and approving schools and

courses_{7i}

(b) evaluating and approving courses for affiliation of student nurses_{7i} and

(c) reviewing qualifications of applicants for licensure ~~for-the-board-shall-be.~~

(2) The executive director must be:

{1}(a) a citizen of the United States;

{2}(b) a graduate of an approved school of nursing;

{3}(c) a holder of at least a master's degree with postgraduate courses in nursing;

{4}(d) a registered professional nurse with at least 5 years' experience in teaching or administration in an approved school of nursing."

NEW SECTION. Section 5. Nonrenewal of lapsed licenses

-- termination. A lapsed license to practice nursing that is not renewed within 3 years of the most recent renewal date automatically terminates. The terminated license may not be reinstated, and a new license must be obtained by filing an application as a new applicant, paying the appropriate fee, and passing an examination.

NEW SECTION. Section 6. Codification instruction.

[Section 5] is intended to be codified as an integral part of Title 37, chapter 8, part 4, and the provisions of Title 37, chapter 8, part 4, apply to [section 5].

-End-

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

SENATE BILL NO. 121

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A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE NURSING PRACTICE ACT; AUTHORIZING REGISTERED PROFESSIONAL NURSES AND LICENSED PRACTICAL NURSES TO TAKE ORDERS FROM A NURSE SPECIALIST WHO HAS PRESCRIPTIVE AUTHORITY; AUTHORIZING THE BOARD OF NURSING TO ADOPT RULES FOR DELEGATION OF NURSING TASKS TO UNLICENSED PERSONS; CHANGING THE TITLE OF THE BOARD SECRETARY TO EXECUTIVE DIRECTOR; PROVIDING FOR TERMINATION OF LICENSES THAT HAVE NOT BEEN RENEWED FOR 3 YEARS; AND AMENDING SECTIONS 37-8-102, 37-8-103, 37-8-202, AND 37-8-204, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because it delegates to the board of nursing the authority to adopt rules regarding the delegation of nursing tasks to unlicensed persons.

The legislature intends that the board of nursing adopt rules that would regulate the situations in which a licensed nurse may delegate tasks to an unlicensed person. This rulemaking authority is necessary in order to distinguish between situations in the nursing practice when it is

appropriate to delegate tasks, on the one hand, and situations when delegation is inappropriate due to the nature of the task under consideration. It is not intended that the board of nursing regulate the unlicensed individuals themselves.

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4 requires the nurse to accompany and care for a patient
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6 such engagement not to exceed 6 months in length, provided
7 that person does not represent or hold--herself--or--himself
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9 to practice in this state;

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11 another state who is employed by the United States
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13 in the discharge of that nurse's official duties;

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15 compensation, when done in connection with the practice of
16 the religious tenets of any well-established religion or
17 denomination by adherents thereof;

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19 licensed foster parent, to the same extent such care may be
20 provided by a parent or guardian; and

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shall conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list. It shall cause the prosecution of persons violating this chapter and may incur necessary expenses for prosecutions.

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(5) (a) The board may define the educational requirements and other qualifications applicable to specialty areas of nursing. Specialty areas of nursing are those that require additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or its equivalent. The applicant must be certified by a specialty area certifying body. Specialty areas of nursing include nurse practitioners, nurse-midwives, and nurse-anesthetists, AND CLINICAL NURSE

SPECIALISTS.

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(7) The board may adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons.

(8) THE BOARD MAY FUND ADDITIONAL STAFF, HIRED BY THE DEPARTMENT, TO ADMINISTER THE PROVISIONS OF THIS CHAPTER BY INCREASING LICENSING FEES AS NECESSARY."

Section 4. Section 37-8-204, MCA, is amended to read:

"37-8-204. ~~Qualifications-of-secretary. Any--secretary hired---by---the---department~~ Executive director -- qualifications. (1) The department shall hire an executive

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22 at times it considers necessary. It shall approve programs
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24 The department shall, subject to 37-1-101, examine and issue
25 to and renew licenses of qualified applicants. The board

1 shall conduct hearings on charges that may call for
2 discipline of a licensee, revocation of a license, or
3 removal of schools of nursing from the approved list. It
4 shall cause the prosecution of persons violating this
5 chapter and may incur necessary expenses for prosecutions.

6 (3) The board may adopt and the department shall
7 publish forms for use by applicants and others, including
8 license, certificate, and identity forms and other
9 appropriate forms and publications convenient for the proper
10 administration of this chapter. The board may fix reasonable
11 fees for incidental services, within the subject matter
12 delegated by this chapter.

13 (4) The board may participate in and pay fees to a
14 national organization of state boards of nursing to ensure
15 interstate endorsement of licenses.

16 (5) (a) The board may define the educational
17 requirements and other qualifications applicable to
18 specialty areas of nursing. Specialty areas of nursing are
19 those that require additional professional education beyond
20 the basic nursing degree required of a registered nurse.
21 Additional education must be obtained in courses offered in
22 a university setting or its equivalent. The applicant must
23 be certified by a specialty area certifying body. Specialty
24 areas of nursing include nurse practitioners,
25 nurse-midwives, and nurse-anesthetists, AND CLINICAL NURSE

SPECIALISTS.

2 (b) The board of nursing and the board of medical
3 examiners, acting jointly, shall adopt rules regarding
4 authorization for prescriptive authority of nurse
5 specialists. If considered appropriate for a nurse
6 specialist who applies to the board for authorization,
7 prescriptive authority must be granted.

8 (6) The board shall establish a program to assist
9 licensed nurses who are found to be physically or mentally
10 impaired by habitual intemperance or the excessive use of
11 narcotic drugs, alcohol, or any other drug or substance. The
12 program must provide assistance to licensees in seeking
13 treatment for substance abuse and monitor their efforts
14 toward rehabilitation. For purposes of funding this program,
15 the board shall adjust the license fee provided for in
16 37-8-431 commensurate with the cost of the program.

17 (7) The board may adopt rules for delegation of nursing
18 tasks by licensed nurses to unlicensed persons.

19 (8) THE BOARD MAY FUND ADDITIONAL STAFF, HIRED BY THE
20 DEPARTMENT, TO ADMINISTER THE PROVISIONS OF THIS CHAPTER BY
21 INCREASING LICENSING FEES AS NECESSARY."

22 **Section 4.** Section 37-8-204, MCA, is amended to read:

23 "37-8-204. ~~Qualifications-of-secretary.~~ Any--secretary
24 hired----by----the----department Executive director --
25 qualifications. (1) The department shall hire an executive

1 director to provide services to the board in connection with
2 the board's duties of:

3 (a) prescribing curricula and standards for nursing
4 schools; and making surveys of and approving schools and
5 courses;

6 (b) evaluating and approving courses for affiliation of
7 student nurses; and

8 (c) reviewing qualifications of applicants for
9 licensure ~~for-the-board-shall-be~~.

10 (2) The executive director must be:

11 (1)(a) a citizen of the United States;

12 (1)(b) a graduate of an approved school of nursing;

13 (1)(c) a holder of at least a master's degree with
14 postgraduate courses in nursing;

15 (1)(d) a registered professional nurse with at least 5
16 years' experience in teaching or administration in an
17 approved school of nursing."

18 NEW SECTION. Section 5. Nonrenewal of lapsed licenses
19 -- termination. A lapsed license to practice nursing that is
20 not renewed within 3 years of the most recent renewal date
21 automatically terminates. The terminated license may not be
22 reinstated, and a new license must be obtained by filing an
23 application as a new applicant, paying the appropriate fee,
24 and passing an examination.

25 NEW SECTION. Section 6. Codification instruction.

1 [Section 5] is intended to be codified as an integral part
2 of Title 37, chapter 8, part 4, and the provisions of Title
3 37, chapter 8, part 4, apply to [section 5].

-End-

HOUSE STANDING COMMITTEE REPORT

March 13, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 121 (third reading copy -- blue) be concurred in as amended.

Signed: _____

William F. Boharski
Bill Boharski, Chair

And, that such amendments read:

Carried by: Rep. Strizich

1. Title, line 6.
Following: "ACT;"
Insert: "PROVIDING DEFINITIONS;"

2. Title, line 7.
Strike: "A"
Insert: "AN ADVANCED PRACTICE REGISTERED"

3. Title, line 8.
Strike: "SPECIALIST"

4. Page 2.
Following: line 10
Insert: "(1) "Advanced practice registered nurse" means a registered professional nurse who has completed educational requirements related to the nurse's specific practice role, in addition to basic nursing education, as specified by the board pursuant to 37-8-202(5) (a)."

Renumber: subsequent subsections

5. Page 3, lines 10 and 11.
Strike: "NURSE SPECIALIST"
Insert: "advanced practice registered nurse"

6. Page 4, line 5.
Strike: "nurse specialists"
Insert: "advanced practice registered nurses"

7. Page 4, line 10.
Strike: "(4) (b)"
Insert: "(5) (b)"

8. Page 7, line 18.
Strike: "specialty areas of nursing"
Insert: "advanced practice registered nurses"
Strike: "Specialty areas of nursing"
Insert: "Advanced practice registered nurses"

9. Page 7, line 19.
Strike: "those that require"
Insert: "nurses who must have"

10. Page 7, line 23.
Strike: "specialty area"
Following: "body"
Insert: "for advanced practice registered nurses"

11. Page 7, lines 23 and 24.
Strike: "Specialty areas of nursing"
Insert: "Advanced practice registered nurses"

12. Page 7, line 25 and page 8, line 1.
Strike: "NURSE SPECIALISTS"
Insert: "advanced practice registered nurses"

13. Page 8, lines 20 and 21.
Strike: "BY INCREASING LICENSING FEES AS NECESSARY"

-END-

March 13, 1993
Page 2 of 2

Committee Vote:
Yes 14, No 2

571212SC.Hpf

HOUSE

SB 121
571212SC.Hpf

SENATE BILL NO. 121

INTRODUCED BY FRANKLIN, STRIZICH
BY REQUEST OF THE BOARD OF NURSING

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE NURSING PRACTICE ACT; PROVIDING DEFINITIONS; AUTHORIZING REGISTERED PROFESSIONAL NURSES AND LICENSED PRACTICAL NURSES TO TAKE ORDERS FROM A AN ADVANCED PRACTICE REGISTERED NURSE SPECIALIST WHO HAS PRESCRIPTIVE AUTHORITY; AUTHORIZING THE BOARD OF NURSING TO ADOPT RULES FOR DELEGATION OF NURSING TASKS TO UNLICENSED PERSONS; CHANGING THE TITLE OF THE BOARD SECRETARY TO EXECUTIVE DIRECTOR; PROVIDING FOR TERMINATION OF LICENSES THAT HAVE NOT BEEN RENEWED FOR 3 YEARS; AND AMENDING SECTIONS 37-8-102, 37-8-103, 37-8-202, AND 37-8-204, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because it delegates to the board of nursing the authority to adopt rules regarding the delegation of nursing tasks to unlicensed persons.

The legislature intends that the board of nursing adopt rules that would regulate the situations in which a licensed nurse may delegate tasks to an unlicensed person. This rulemaking authority is necessary in order to distinguish

between situations in the nursing practice when it is appropriate to delegate tasks, on the one hand, and situations when delegation is inappropriate due to the nature of the task under consideration. It is not intended that the board of nursing regulate the unlicensed individuals themselves.

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

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

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

(1) "ADVANCED PRACTICE REGISTERED NURSE" MEANS A REGISTERED PROFESSIONAL NURSE WHO HAS COMPLETED EDUCATIONAL REQUIREMENTS RELATED TO THE NURSE'S SPECIFIC PRACTICE ROLE, IN ADDITION TO BASIC NURSING EDUCATION, AS SPECIFIED BY THE BOARD PURSUANT TO 37-8-202(5)(A).

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

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

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

(a) professional nursing may be a department, school,

division, or other administrative unit in a senior or junior college or university;

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

~~(4)~~(5) "Practice of nursing" embraces two classes of nursing service and activity, as follows:

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

(b) "Practice of professional nursing" means the performance for compensation of services requiring

substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health; the prevention, casefinding, and management of illness, injury, or infirmity; and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, nurse---specialists ADVANCED PRACTICE REGISTERED NURSES, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection ~~(4)~~(b) (5)(B):

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

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

Section 2. Section 37-8-103, MCA, is amended to read:

"37-8-103. Exemptions -- limitations on authority

1 conferred. (1) No provisions of this law may be construed as
2 prohibiting:

3 (a) gratuitous nursing by friends or members of the
4 family;

5 (b) incidental care of the sick by domestic servants or
6 persons primarily employed as housekeepers;

7 (c) nursing assistance in the case of an emergency;

8 (d) the practice of nursing by students enrolled in
9 approved nursing education programs;

10 (e) the practice of nursing in this state by any
11 legally qualified nurse of another state whose engagement
12 requires the nurse to accompany and care for a patient
13 temporarily residing in this state during the period of one
14 such engagement not to exceed 6 months in length, provided
15 that person does not represent ~~or hold herself or himself~~
16 out-to-be to the public that the person is a nurse licensed
17 to practice in this state;

18 (f) the practice of any legally qualified nurse of
19 another state who is employed by the United States
20 government or any bureau, division, or agency thereof while
21 in the discharge of that nurse's official duties;

22 (g) nursing or care of the sick, with or without
23 compensation, when done in connection with the practice of
24 the religious tenets of any well-established religion or
25 denomination by adherents thereof;

1 (h) nursing or care of a minor who is in the care of a
2 licensed foster parent, to the same extent such care may be
3 provided by a parent or guardian; and

4 (i) the execution of a death sentence pursuant to
5 46-19-103; and

6 (j) nursing tasks delegated by licensed nurses to
7 unlicensed persons according to rules adopted by the board.

8 (2) This chapter may not be construed as conferring any
9 authority to practice medicine, surgery, or any combination
10 thereof; to confer any authority to practice any of the
11 healing arts prescribed by law to be practiced in the state
12 of Montana; or to permit any person to undertake the
13 treatment of disease by any of the methods employed in those
14 arts unless the licensee has been qualified under the
15 applicable law or laws licensing the practice of those
16 professions or healing arts in the state of Montana."

17 **Section 3.** Section 37-8-202, MCA, is amended to read:

18 **"37-8-202. Organization -- meetings -- powers and**
19 **duties.** (1) The board shall meet annually and shall elect
20 from among the nine members a president and a secretary. The
21 board shall hold other meetings when necessary to transact
22 its business. A majority of the board constitutes a quorum
23 at any meeting. The department shall keep complete minutes
24 and records of the meetings and rules and orders promulgated
25 by the board.

1 (2) The board may make rules necessary to administer
 2 this chapter. The board shall prescribe standards for
 3 schools preparing persons for registration and licensure
 4 under this chapter. It shall provide for surveys of schools
 5 at times it considers necessary. It shall approve programs
 6 that meet the requirements of this chapter and of the board.
 7 The department shall, subject to 37-1-101, examine and issue
 8 to and renew licenses of qualified applicants. The board
 9 shall conduct hearings on charges that may call for
 10 discipline of a licensee, revocation of a license, or
 11 removal of schools of nursing from the approved list. It
 12 shall cause the prosecution of persons violating this
 13 chapter and may incur necessary expenses for prosecutions.

14 (3) The board may adopt and the department shall
 15 publish forms for use by applicants and others, including
 16 license, certificate, and identity forms and other
 17 appropriate forms and publications convenient for the proper
 18 administration of this chapter. The board may fix reasonable
 19 fees for incidental services, within the subject matter
 20 delegated by this chapter.

21 (4) The board may participate in and pay fees to a
 22 national organization of state boards of nursing to ensure
 23 interstate endorsement of licenses.

24 (5) (a) The board may define the educational
 25 requirements and other qualifications applicable to

1 ~~specialty-areas--of--nursing~~ ADVANCED PRACTICE REGISTERED
 2 NURSES. ~~Specialty---areas--of--nursing~~ ADVANCED PRACTICE
 3 REGISTERED NURSES are those-that--require NURSES WHO MUST
 4 HAVE additional professional education beyond the basic
 5 nursing degree required of a registered nurse. Additional
 6 education must be obtained in courses offered in a
 7 university setting or its equivalent. The applicant must be
 8 certified by a ~~specialty-area~~ certifying body FOR ADVANCED
 9 PRACTICE REGISTERED NURSES. ~~Specialty--areas--of--nursing~~
 10 ADVANCED PRACTICE REGISTERED NURSES include nurse
 11 practitioners, nurse-midwives, and nurse-anesthetists, AND
 12 CLINICAL NURSE--SPECIALISTS ADVANCED PRACTICE REGISTERED
 13 NURSES.

14 (b) The board of nursing and the board of medical
 15 examiners, acting jointly, shall adopt rules regarding
 16 authorization for prescriptive authority of nurse
 17 specialists. If considered appropriate for a nurse
 18 specialist who applies to the board for authorization,
 19 prescriptive authority must be granted.

20 (6) The board shall establish a program to assist
 21 licensed nurses who are found to be physically or mentally
 22 impaired by habitual intemperance or the excessive use of
 23 narcotic drugs, alcohol, or any other drug or substance. The
 24 program must provide assistance to licensees in seeking
 25 treatment for substance abuse and monitor their efforts

toward rehabilitation. For purposes of funding this program, the board shall adjust the license fee provided for in 37-8-431 commensurate with the cost of the program.

(7) The board may adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons.

(8) THE BOARD MAY FUND ADDITIONAL STAFF, HIRED BY THE DEPARTMENT, TO ADMINISTER THE PROVISIONS OF THIS CHAPTER BY INCREASING-LICENSING-FEES-AS-NECESSARY."

Section 4. Section 37-8-204, MCA, is amended to read:

"37-8-204. Qualifications-of-secretary: Any--secretary hired---by---the---department Executive director -- qualifications. (1) The department shall hire an executive director to provide services to the board in connection with the board's duties of:

(a) prescribing curricula and standards for nursing schools, and making surveys of and approving schools and courses;

(b) evaluating and approving courses for affiliation of student nurses; and

(c) reviewing qualifications of applicants for licensure for-the-board-shall-be;

(2) The executive director must be:

††(a) a citizen of the United States;

††(b) a graduate of an approved school of nursing;

††(c) a holder of at least a master's degree with

postgraduate courses in nursing;

††(d) a registered professional nurse with at least 5 years' experience in teaching or administration in an approved school of nursing."

NEW SECTION. Section 5. Nonrenewal of lapsed licenses -- termination. A lapsed license to practice nursing that is not renewed within 3 years of the most recent renewal date automatically terminates. The terminated license may not be reinstated, and a new license must be obtained by filing an application as a new applicant, paying the appropriate fee, and passing an examination.

NEW SECTION. Section 6. Codification instruction. [Section 5] is intended to be codified as an integral part of Title 37, chapter 8, part 4, and the provisions of Title 37, chapter 8, part 4, apply to [section 5].

-End-

OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

April 9, 1993

The Honorable Fred Van Valkenburg
President of the Senate
State Capitol
Helena MT 59620

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

Dear President Van Valkenburg and Speaker Mercer:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return Senate Bill 121, "AN ACT AMENDING THE NURSING PRACTICE ACT; PROVIDING DEFINITIONS; AUTHORIZING REGISTERED PROFESSIONAL NURSES AND LICENSED PRACTICAL NURSES TO TAKE ORDERS FROM A AN ADVANCED PRACTICE REGISTERED NURSE SPECIALIST WHO HAS PRESCRIPTIVE AUTHORITY; AUTHORIZING THE BOARD OF NURSING TO ADOPT RULES FOR DELEGATION OF NURSING TASKS TO UNLICENSED PERSONS; CHANGING THE TITLE OF THE BOARD SECRETARY TO EXECUTIVE DIRECTOR; PROVIDING FOR TERMINATION OF LICENSES THAT HAVE NOT BEEN RENEWED FOR 3 YEARS; AND AMENDING SECTIONS 37-8-102, 37-8-103, 37-8-202, AND 37-8-204, MCA," with the attached amendments.

The House of Representatives amended SB 121 during the course of its deliberations. In changing the phrase "nurse specialists" to "advance practice registered nurses," one subsection that should have been left in its original form was inadvertently amended. Senator Franklin, the sponsor of the bill, is in agreement that the phrase "clinical nurse specialist" in Section 3 is necessary for certification purposes, and therefore I urge your approval of my proposed amendment.

Sincerely,

Marc Racicot

MARC RACICOT
Governor

GOVERNOR'S AMENDMENTS TO
SENATE BILL 121
(REFERENCE COPY)
April 9, 1993

1. Page 8, lines 12-13.

Following: "CLINICAL" on line 12

Strike: "ADVANCED" on line 12 through "NURSES" on line 13

Insert: "NURSE SPECIALISTS"

*Gov. Amend
SB 121*

SENATE BILL NO. 121

INTRODUCED BY FRANKLIN, STRIZICH
BY REQUEST OF THE BOARD OF NURSING

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE NURSING PRACTICE ACT; PROVIDING DEFINITIONS; AUTHORIZING REGISTERED PROFESSIONAL NURSES AND LICENSED PRACTICAL NURSES TO TAKE ORDERS FROM A AN ADVANCED PRACTICE REGISTERED NURSE SPECIALIST WHO HAS PRESCRIPTIVE AUTHORITY; AUTHORIZING THE BOARD OF NURSING TO ADOPT RULES FOR DELEGATION OF NURSING TASKS TO UNLICENSED PERSONS; CHANGING THE TITLE OF THE BOARD SECRETARY TO EXECUTIVE DIRECTOR; PROVIDING FOR TERMINATION OF LICENSES THAT HAVE NOT BEEN RENEWED FOR 3 YEARS; AND AMENDING SECTIONS 37-8-102, 37-8-103, 37-8-202, AND 37-8-204, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because it delegates to the board of nursing the authority to adopt rules regarding the delegation of nursing tasks to unlicensed persons.

The legislature intends that the board of nursing adopt rules that would regulate the situations in which a licensed nurse may delegate tasks to an unlicensed person. This rulemaking authority is necessary in order to distinguish

between situations in the nursing practice when it is appropriate to delegate tasks, on the one hand, and situations when delegation is inappropriate due to the nature of the task under consideration. It is not intended that the board of nursing regulate the unlicensed individuals themselves.

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

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

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

(1) "ADVANCED PRACTICE REGISTERED NURSE" MEANS A REGISTERED PROFESSIONAL NURSE WHO HAS COMPLETED EDUCATIONAL REQUIREMENTS RELATED TO THE NURSE'S SPECIFIC PRACTICE ROLE, IN ADDITION TO BASIC NURSING EDUCATION, AS SPECIFIED BY THE BOARD PURSUANT TO 37-8-202(5)(A).

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

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

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

(a) professional nursing may be a department, school,

1 division, or other administrative unit in a senior or junior
2 college or university;

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

6 ~~(4)~~(5) "Practice of nursing" embraces two classes of
7 nursing service and activity, as follows:

8 (a) "Practice of practical nursing" means the
9 performance for compensation of services requiring basic
10 knowledge of the biological, physical, behavioral,
11 psychological, and sociological sciences and of nursing
12 procedures. Practical nursing practice utilizes standardized
13 procedures in the observation and care of the ill, injured,
14 and infirm; in the maintenance of health; in action to
15 safeguard life and health; and in the administration of
16 medications and treatments prescribed by a physician, NURSE
17 SPECIALIST ADVANCED PRACTICE REGISTERED NURSE, dentist,
18 osteopath, or podiatrist authorized by state law to
19 prescribe medications and treatments. These services are
20 performed under the supervision of a registered nurse or a
21 physician, nurse--specialist, dentist, osteopath, or
22 podiatrist authorized by state law to prescribe medications
23 and treatments.

24 (b) "Practice of professional nursing" means the
25 performance for compensation of services requiring

1 substantial specialized knowledge of the biological,
2 physical, behavioral, psychological, and sociological
3 sciences and of nursing theory as a basis for the nursing
4 process. The nursing process is the assessment, nursing
5 analysis, planning, nursing intervention, and evaluation in
6 the promotion and maintenance of health; the prevention,
7 casefinding, and management of illness, injury, or
8 infirmity; and the restoration of optimum function. The term
9 also includes administration, teaching, counseling,
10 supervision, delegation, and evaluation of nursing practice
11 and the administration of medications and treatments
12 prescribed by physicians, nurse--specialists ADVANCED
13 PRACTICE REGISTERED NURSES, dentists, osteopaths, or
14 podiatrists authorized by state law to prescribe medications
15 and treatments. Each registered nurse is directly
16 accountable and responsible to the consumer for the quality
17 of nursing care rendered. As used in this subsection ~~(4)~~(b)
18 ~~(5)~~(B):

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

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

24 **Section 2.** Section 37-8-103, MCA, is amended to read:

25 "37-8-103. Exemptions -- limitations on authority

conferred. (1) No provisions of this law may be construed as prohibiting:

(a) gratuitous nursing by friends or members of the family;

(b) incidental care of the sick by domestic servants or persons primarily employed as housekeepers;

(c) nursing assistance in the case of an emergency;

(d) the practice of nursing by students enrolled in approved nursing education programs;

(e) the practice of nursing in this state by any legally qualified nurse of another state whose engagement requires the nurse to accompany and care for a patient temporarily residing in this state during the period of one such engagement not to exceed 6 months in length, provided that person does not represent ~~or-hold-herself-or-himself out-to-be~~ to the public that the person is a nurse licensed to practice in this state;

(f) the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of that nurse's official duties;

(g) nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of any well-established religion or denomination by adherents thereof;

(h) nursing or care of a minor who is in the care of a licensed foster parent, to the same extent such care may be provided by a parent or guardian; and

(i) the execution of a death sentence pursuant to 46-19-103; and

(j) nursing tasks delegated by licensed nurses to unlicensed persons according to rules adopted by the board.

(2) This chapter may not be construed as conferring any authority to practice medicine, surgery, or any combination thereof; to confer any authority to practice any of the healing arts prescribed by law to be practiced in the state of Montana; or to permit any person to undertake the treatment of disease by any of the methods employed in those arts unless the licensee has been qualified under the applicable law or laws licensing the practice of those professions or healing arts in the state of Montana."

Section 3. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers and duties. (1) The board shall meet annually and shall elect from among the nine members a president and a secretary. The board shall hold other meetings when necessary to transact its business. A majority of the board constitutes a quorum at any meeting. The department shall keep complete minutes and records of the meetings and rules and orders promulgated by the board.

1 (2) The board may make rules necessary to administer
 2 this chapter. The board shall prescribe standards for
 3 schools preparing persons for registration and licensure
 4 under this chapter. It shall provide for surveys of schools
 5 at times it considers necessary. It shall approve programs
 6 that meet the requirements of this chapter and of the board.
 7 The department shall, subject to 37-1-101, examine and issue
 8 to and renew licenses of qualified applicants. The board
 9 shall conduct hearings on charges that may call for
 10 discipline of a licensee, revocation of a license, or
 11 removal of schools of nursing from the approved list. It
 12 shall cause the prosecution of persons violating this
 13 chapter and may incur necessary expenses for prosecutions.

14 (3) The board may adopt and the department shall
 15 publish forms for use by applicants and others, including
 16 license, certificate, and identity forms and other
 17 appropriate forms and publications convenient for the proper
 18 administration of this chapter. The board may fix reasonable
 19 fees for incidental services, within the subject matter
 20 delegated by this chapter.

21 (4) The board may participate in and pay fees to a
 22 national organization of state boards of nursing to ensure
 23 interstate endorsement of licenses.

24 (5) (a) The board may define the educational
 25 requirements and other qualifications applicable to

1 specialty-areas--of--nursing ADVANCED PRACTICE REGISTERED
 2 NURSES. Specialty---areas--of--nursing ADVANCED PRACTICE
 3 REGISTERED NURSES are those-that--require NURSES WHO MUST
 4 HAVE additional professional education beyond the basic
 5 nursing degree required of a registered nurse. Additional
 6 education must be obtained in courses offered in a
 7 university setting or its equivalent. The applicant must be
 8 certified by a specialty-area certifying body FOR ADVANCED
 9 PRACTICE REGISTERED NURSES. Specialty--areas--of--nursing
 10 ADVANCED PRACTICE REGISTERED NURSES include nurse
 11 practitioners, nurse-midwives, and nurse-anesthetists, AND
 12 CLINICAL NURSE--SPECIALISTS ADVANCED--PRACTICE--REGISTERED
 13 NURSES NURSE SPECIALISTS.

14 (b) The board of nursing and the board of medical
 15 examiners, acting jointly, shall adopt rules regarding
 16 authorization for prescriptive authority of nurse
 17 specialists. If considered appropriate for a nurse
 18 specialist who applies to the board for authorization,
 19 prescriptive authority must be granted.

20 (6) The board shall establish a program to assist
 21 licensed nurses who are found to be physically or mentally
 22 impaired by habitual intemperance or the excessive use of
 23 narcotic drugs, alcohol, or any other drug or substance. The
 24 program must provide assistance to licensees in seeking
 25 treatment for substance abuse and monitor their efforts

toward rehabilitation. For purposes of funding this program, the board shall adjust the license fee provided for in 37-8-431 commensurate with the cost of the program.

(7) The board may adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons.

(8) THE BOARD MAY FUND ADDITIONAL STAFF, HIRED BY THE DEPARTMENT, TO ADMINISTER THE PROVISIONS OF THIS CHAPTER BY INCREASING LICENSING FEES AS NECESSARY."

Section 4. Section 37-8-204, MCA, is amended to read:

"37-8-204. Qualifications of secretary. ~~Any--secretary hired---by---the---department~~ Executive director -- qualifications. (1) The department shall hire an executive director to provide services to the board in connection with the board's duties of:

(a) prescribing curricula and standards for nursing schools, and making surveys of and approving schools and courses;

(b) evaluating and approving courses for affiliation of student nurses; and

(c) reviewing qualifications of applicants for licensure ~~for-the-board-shall-be;~~

(2) The executive director must be:

~~†1†~~(a) a citizen of the United States;

~~†2†~~(b) a graduate of an approved school of nursing;

~~†3†~~(c) a holder of at least a master's degree with

postgraduate courses in nursing;

~~†4†~~(d) a registered professional nurse with at least 5 years' experience in teaching or administration in an approved school of nursing."

NEW SECTION. Section 5. Nonrenewal of lapsed licenses -- termination. A lapsed license to practice nursing that is not renewed within 3 years of the most recent renewal date automatically terminates. The terminated license may not be reinstated, and a new license must be obtained by filing an application as a new applicant, paying the appropriate fee, and passing an examination.

NEW SECTION. Section 6. Codification instruction. [Section 5] is intended to be codified as an integral part of Title 37, chapter 8, part 4, and the provisions of Title 37, chapter 8, part 4, apply to [section 5].

-End-