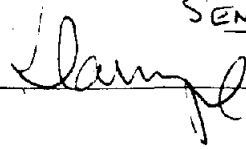


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SENATE BILL NO. 368

INTRODUCED BY



A BILL FOR AN ACT ENTITLED: "AN ACT DECLARING THE LEGISLATIVE PURPOSE IN REGULATING THE PRACTICE OF DENTURITRY; REVISING THE DEFINITION OF DENTURE; PROHIBITING A DENTURIST FROM MANAGING, OPERATING, CONDUCTING, OR BEING A PROPRIETOR OF A DENTAL CLINIC OR OFFICE; PROHIBITING A DENTURIST FROM DIAGNOSING, EVALUATING, OR TREATING TEMPOROMANDIBULAR DISORDERS; REQUIRING A DENTURIST TO REFER A PARTIAL DENTURE PATIENT TO A DENTIST BEFORE CONSTRUCTING OR FITTING A PARTIAL DENTURE; PROHIBITING A DENTURIST FROM PRESCRIBING IMMEDIATE DENTURES; PROVIDING FOR DISCIPLINARY PROCEDURES AND SANCTIONS FOR A DENTURIST; AMENDING SECTIONS 37-29-102, 37-29-103, 37-29-302, 37-29-303, 37-29-305, 37-29-401, 37-29-402, AND 37-29-403, MCA; AND REPEALING SECTION 37-29-412, MCA."

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

NEW SECTION. Section 1. Purpose. The legislature finds and declares that the practice of denturistry is a privilege granted pursuant to legislative authority and not a natural right of individuals. In the interest of protecting the health, safety, and welfare of the people of Montana, the legislature considers it necessary to enact laws to regulate the granting of denturistry licenses in order to prevent the unprofessional, improper, unauthorized, and unqualified practice of denturistry.

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

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

(1) "Board" means the state board of dentistry provided for in 2-15-1842.

(2) "Dental implant" means a metal anchor that is surgically placed into living bone and soft tissue and that provides structural support for a dental prosthesis.

~~(2)(3)~~ "Denture" means ~~any~~ a removable full ~~or partial~~ upper or lower ~~prosthetic~~ acrylic dental prosthesis ~~appliance~~ that is to be worn in the mouth and that replaces missing teeth.

~~(3)(4)~~ "Denturist" means a person licensed under this chapter to engage in the practice of

1 denturistry.

2 ~~(4)~~(5) "Department" means department of commerce provided for in Title 2, chapter 15, part 18.

3 ~~(5)~~(6) "Immediate denture" means a denture constructed prior to and inserted immediately after
4 extraction of teeth.

5 (7) "Partial denture" means a removable acrylic or acrylic and cast metal dental prosthesis that is
6 supported by the teeth or a combination of teeth and soft tissue and that replaces missing teeth.

7 ~~(6)~~(8) "Practice of denturistry" means:

8 (a) the making, fitting, constructing, altering, reproducing, or repairing of a denture and the
9 furnishing or supplying of a denture directly to a person or advising the use of a denture who is without
10 teeth; or

11 (b) ~~the taking or making or the giving of advice, assistance, or facilities respecting the taking or~~
12 ~~making of any impression, bite, cast, or design preparatory to or for the purpose of making, constructing,~~
13 ~~fitting, furnishing, supplying, altering, repairing, or reproducing a denture~~ the designing, constructing,
14 fitting, altering, or repairing of a partial denture and the furnishing or supplying of a partial denture directly
15 to a person who is partially without teeth; or

16 (c) the construction, fitting, altering, or repairing of an immediate denture, subject to the provisions
17 of 37-29-402(2)."

18

19 **Section 3.** Section 37-29-103, MCA, is amended to read:

20 "**37-29-103. Association with dentists permitted.** A licensed denturist may enter into any lawful
21 agreement authorized by board rule with a dentist regarding fees, compensation, and business association."
22

23

24 **Section 4.** Section 37-29-302, MCA, is amended to read:

25 "**37-29-302. Exceptions.** The provisions of this chapter do not apply to:

26 (1) a person interning under the direct supervision of a licensed denturist as required by
27 ~~37-29-303(2), provided that no.~~ A denturist may not supervise more than one such person at any one
28 time;

29 (2) the practice of dentistry or medicine by persons authorized to do so by the state of Montana;
30 or

(3) a student of denturistry in pursuit of clinical studies under a school program or internship as

1 required by 37-29-303(2)."

2

3 **Section 5.** Section 37-29-303, MCA, is amended to read:

4 **"37-29-303. Application for license.** Upon application and payment of the appropriate fee, the
5 board shall issue a license to practice dentistry to any applicant who meets one of the following criteria
6 and scores a passing grade on the examination for licensure:

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

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

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

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

20 ~~(2)(1)~~ Applications filed on or after April 1, 1985, must include:

21 (a) documentation that the applicant has completed formal training of not less than 2 years at an
22 educational institution that is accredited by a national or regional accrediting agency the commission on
23 dental accreditation or its successor and recognized by the Montana state board of regents, the curriculum
24 of which includes courses in head and oral anatomy and physiology, oral pathology, microbiology, partial
25 denture construction and design, clinical dental technology, radiology, dental laboratory technology,
26 asepsis, clinical jurisprudence, and medical emergencies, including cardiopulmonary resuscitation; and

27 (b) documentation that the applicant:

28 (i) has completed 1 year of internship under the direct supervision of a licensed dentist; or

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

30 ~~(3)(2)~~ A dentist who has been lawfully licensed or certified by initial licensing provisions in any

1 state or territory that maintains a standard of dentistry ~~which~~ that is equal to that of Montana ~~must~~ shall
2 submit a certificate from the examining body of the state or territory in which ~~he~~ the dentist is certified
3 or licensed, attesting to 5 years' practice under the certificate of license. However, ~~an~~ an applicant may
4 not be licensed under the provisions of this subsection unless the state or territory in which ~~he~~ the applicant
5 is licensed or certified extends a like privilege to dentists licensed by the state of Montana to practice
6 dentistry. The board may enter into reciprocal relations with those states or territories whose laws are
7 compatible with this chapter."

8

9 **Section 6.** Section 37-29-305, MCA, is amended to read:

10 "**37-29-305. Examinations.** The board shall administer the examinations for licensure, subject to
11 the following requirements:

12 (1) Examinations must ~~be of such character as to~~ determine the qualifications, fitness, and ability
13 of the applicant to practice dentistry. The form of the test must include written and oral examinations and
14 a practical demonstration of skills.

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

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

20 (a) head and oral anatomy and physiology;

21 (b) oral pathology;

22 (c) partial denture construction and design;

23 (d) microbiology;

24 (e) radiology;

25 (f) clinical dental technology;

26 (g) dental laboratory technology;

27 (h) asepsis;

28 (i) clinical jurisprudence;

29 (j) medical emergencies.

30 (4) Applicants who fail to score a 75% average on the written and practical examinations may,

1 upon payment of the appropriate fee, have a second opportunity to take the written or practical
 2 examinations, or both, ~~provided that all applicants under 37-29-303(1) are examined on or before April 1,~~
 3 ~~1985."~~

4
 5 **Section 7.** Section 37-29-401, MCA, is amended to read:

6 "37-29-401. **Standards of conduct and practice.** Each dentist ~~must~~ shall comply with the
 7 following standards in ~~his~~ the dentist's practice:

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

9 ~~(a) a reception room;~~

10 ~~(b) an operatory room; and~~

11 ~~(c) a laboratory.~~

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

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

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

17 ~~(5) Every patient must have a separate and clean bib and a disposable cup.~~

18 ~~(6) Every dentist shall wear a clean and professional garment.~~

19 ~~(7) Every dentist shall wash his hands with germicidal or antiseptic soap and water in the~~
 20 ~~presence of each patient.~~

21 ~~(8)~~ (1) Every Each licensed dentist ~~must~~ shall carry a current cardiopulmonary resuscitation card.

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

23 ~~(10)~~ (2) A complete record of each patient must be kept.

24 ~~(11)~~ (3) All teeth and materials used ~~shall~~ must meet American dental association standards.

25 ~~(12)~~ (4) All nonmetal full dentures ~~shall~~ must be permanently identified with the first and last name
 26 of the owner at the time of processing the dentures.

27 (5) The standard of care for a dentist who treats a denture, partial denture, or immediate denture
 28 patient must be the same as for a dentist.

29 (6) The guidelines provided by the centers for disease control and prevention must be the standard
 30 of care used by a dentist for infection control."

1 **Section 8.** Section 37-29-402, MCA, is amended to read:

2 "**37-29-402. Prohibitions.** ~~No~~ A licensed denturist may not:

3 (1) extract or attempt to extract teeth;

4 (2) ~~initially prescribe or initially insert immediate dentures in the mouth of the intended wearer or~~
5 ~~delegate the insertion to another, including the patient, or resume postsurgical treatment before adequate~~
6 ~~healing has occurred as determined by the treating dentist whose responsibility for immediate dentures is~~
7 ~~limited to care during the healing period, after which responsibility for the immediate dentures is the~~
8 ~~denturist's;~~

9 (3) diagnose; ~~or~~

10 (4) treat any abnormalities, except that a licensed denturist may apply tissue conditioning agents;

11 ~~(4)(5)~~ recommend any prescription drug for any oral or medical disease; ~~or~~

12 ~~(5)(6)~~ construct, ~~or fit, or adjust~~ orthodontic appliances, including orthotic appliances and splints;

13 (7) diagnose, evaluate, or treat temporomandibular joint syndrome or temporal mandibular joint
14 dysfunction;

15 (8) construct, reproduce, make, fit, or place dental prostheses on dental implants; or

16 (9) engage in the practice of dentistry as defined in 37-4-101 by being a manager, proprietor,
17 operator, or conductor of a dental clinic or office."

18
19 **Section 9.** Section 37-29-403, MCA, is amended to read:

20 "**37-29-403. Procedure for making and fitting partial denture -- responsibility.** (1) (a) Prior to
21 making and fitting a partial denture, a denturist shall:

22 ~~(a) formulate a study model of the intended denture;~~

23 ~~(b)(i) refer the patient to a dentist, together with the model for tooth cleaning, mouth preparation,~~
24 ~~and x-rays, as needed for diagnosis and treatment of the natural teeth and supporting structures; and~~

25 ~~(b)(ii) make the partial denture and fit it to the existing teeth after the dentist has completed the~~
26 ~~procedures listed in subsection (1)(b) (1)(a) and in accordance with the dentist's recommendations.~~

27 (b) The dentist's responsibility is limited to those procedures listed in subsection (1)(a)(i).

28 (c) The denturist is responsible for the design, construction, supervision, and adjustment of the
29 partial denture.

30 (2) A denturist may not cut, surgically remove, or surgically reduce any tissue or teeth in the

1 process of fitting a partial denture.

2 (3) A denturist who makes or fits a partial denture in a manner not consistent with this section is
3 subject to the sanctions provided in 37-29-311."

4
5 **NEW SECTION. Section 10. Grounds for disciplinary proceedings -- sanctions -- recovery of costs.**

6 (1) The board may revoke any license or censure, place on probation, or suspend any person licensed
7 under this chapter and may also impose a fine of not more than \$5,000 for each incident for any of the
8 following:

- 9 (a) malpractice or negligence;
- 10 (b) unprofessional conduct as defined by the board by rule; or
- 11 (c) a violation of any provision of this chapter or rules or orders of the board.

12 (2) The board may recover the reasonable costs of a proceeding against a licensee that is based
13 on any of the grounds described in subsection (1) and that results in disciplinary action being taken against
14 the licensee.

15
16 **NEW SECTION. Section 11. Procedure for investigations -- sanctions -- denial of license.** (1)

17 Upon receipt of a complaint or upon its own motion, the board shall determine whether the matters alleged
18 warrant investigation and may cause investigation to be made. If the board finds preliminary cause for
19 imposing the sanctions listed in [section 10], it may do so in accordance with the provisions of the Montana
20 Administrative Procedure Act. If the board finds that the evidence obtained does not justify the imposition
21 of sanctions, it shall notify the licensee and the complaining party and may not take further action.

22 (2) If the board finds that the evidence obtained does not warrant suspension or revocation of a
23 license but does warrant other sanctions, it may:

- 24 (a) issue a public or private decree of censure; or
- 25 (b) impose a period of probation with terms and conditions appropriately adapted under the
26 circumstances of the particular case.

27 (3) Before a sanction of censure or probation becomes effective, the licensee is entitled to an
28 opportunity for a contested case hearing to the same extent that an opportunity for hearing is afforded prior
29 to suspension or revocation of a license.

30 (4) In addition to its authority to impose sanctions, the board may deny an application for a license

1 for any of the following reasons:

2 (a) failure to meet the relevant requirements of this chapter;

3 (b) making any untrue or fraudulent statement in support of the application; or

4 (c) any of the grounds set forth in [section 10].

5

6 **NEW SECTION. Section 12. Repealer.** Section 37-29-412, MCA, is repealed.

7

8 **NEW SECTION. Section 13. Codification instruction.** (1) [Section 1] is intended to be codified
9 as an integral part of Title 37, chapter 29, part 1, and the provisions of Title 37, chapter 29, part 1, apply
10 to [section 1].

11 (2) [Sections 10 and 11] are intended to be codified as an integral part of Title 37, chapter 29, part
12 4, and the provisions of Title 37, chapter 29, part 4, apply to [sections 10 and 11].

13

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0368, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:


An act declaring the legislative purpose in regulating the practice of dentistry; revising the definition of denture; prohibiting a dentist from managing, operating, conducting, or being a proprietor of a dental clinic or office; prohibiting a dentist from diagnosing, evaluating, or treating temporomandibular disorders; requiring a dentist to refer a partial denture patient to a dentist before constructing or fitting a partial denture; prohibiting a dentist from prescribing immediate dentures; providing for disciplinary procedures and sanctions for a dentist.

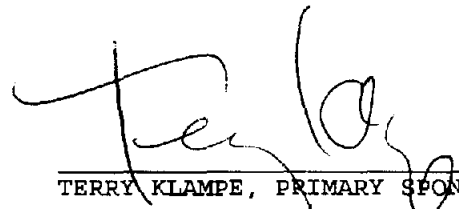
ASSUMPTIONS:

1. The bill affects the practice of dentistry. Costs for rule-making and license discipline are contained in the Executive Budget recommendation for the 1997 Biennium.

FISCAL IMPACT:

None.

 2-17-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2-17-95
TERRY KLAMPE, PRIMARY SPONSOR DATE
Fiscal Note for SB0368, as introduced
SB 368