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House BILL NO. 302

INTRODUCED BY JOHN BOHLINGER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PROGRAM OF ASSISTANCE AND REHABILITATION FOR DENTISTS WHO ARE IMPAIRED BY HABITUAL INTEMPERANCE OR DRUG USE; PROVIDING FOR THE REPORTING OF IMPAIRED DENTISTS; PROVIDING FOR NOTIFICATION TO THE BOARD OF DENTISTRY OF A DENTIST FAILING TO COOPERATE WITH THE ASSISTANCE AND REHABILITATION PROGRAM; AND AUTHORIZING THE BOARD OF DENTISTRY TO COMPEL A DENTIST TO PARTICIPATE IN AN EVALUATION TO DETERMINE IMPAIRMENT."

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

NEW SECTION. Section 1. Rehabilitation program. The board shall establish a program to assist and rehabilitate licensed dentists who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness.

NEW SECTION. Section 2. Report of incompetence or unprofessional conduct. (1) Notwithstanding any provision of state law dealing with confidentiality, each licensed dentist, professional standards review organization, and the Montana dental association or any component society of the association shall and any other person may report to the board any information that the dentist, organization, association, society, or person has that appears to show that a dentist is:

- (a) medically incompetent;
- (b) mentally or physically unable to safely engage in the practice of dentistry; or
- (c) guilty of unprofessional conduct related to physical or mental impairment.

(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 [section 1] in lieu of reporting directly to the board.

(b) The program personnel referred to in subsection (2)(a) shall report to the board the identity of



1 a licensee and all facts and documentation in their possession if:

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

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

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

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

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

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

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14 **NEW SECTION. Section 3. Compelling licensee evaluation.** The board has the right to compel an
15 evaluation of a licensee, after notice to the licensee and a hearing if requested by the licensee, based on
16 information reported pursuant to [section 2]. The evaluation must be conducted at a facility authorized to
17 conduct evaluations under the program established in [section 1].

18

19 **NEW SECTION. Section 4. Immunity of person providing information.** A person, organization,
20 association, society, or health care facility that in good faith provides information to the state board of
21 dentistry pursuant to [section 2] is not subject to suit for civil damages as a result of providing the
22 information.

23

24 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 4] are intended to be
25 codified as an integral part of Title 37, chapter 4, and the provisions of Title 37, chapter 4, apply to
26 [sections 1 through 4].

27

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0302, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act requiring a program of assistance and rehabilitation for dentists who are impaired by habitual intemperance or drug use; providing for the reporting of impaired dentists; providing for notification to the Board of Dentistry of a dentist failing to cooperate with the assistance and rehabilitation program; and authorizing the Board of Dentistry to compel a dentist to participate in an evaluation to determine impairment.

ASSUMPTIONS:

1. The Board of Dentistry currently participates in a monitoring program for impaired dentists. The board will continue participating in such a program. The Executive Budget contains a biennial request for approximately \$36,000 funding for the program.

FISCAL IMPACT:

No fiscal impact.

Dave Lewis 1-24-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

John Bohlinger 1-24-97
JOHN BOHLINGER, PRIMARY SPONSOR DATE
Fiscal Note for HB0302, as introduced

HB 302

APPROVED BY COM ON
BUSINESS & LABOR

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6 INTEMPERANCE OR DRUG USE TO A REHABILITATION PROGRAM; PROVIDING FOR THE REPORTING OF
7 IMPAIRED DENTISTS; PROVIDING FOR NOTIFICATION TO THE BOARD OF DENTISTRY OF A DENTIST
8 FAILING TO COOPERATE WITH THE ~~ASSISTANCE AND REHABILITATION PROGRAM~~ REFERRAL; AND
9 AUTHORIZING THE BOARD OF DENTISTRY TO COMPEL A DENTIST TO PARTICIPATE IN AN EVALUATION
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16 FOR licensed dentists who are found to be physically or mentally impaired by habitual intemperance or the
17 excessive use of addictive drugs, alcohol, or any other drug or substance ~~or by mental illness or chronic~~
18 ~~physical illness.~~

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20 NEW SECTION. Section 2. Report of incompetence or unprofessional conduct. (1) Notwithstanding
21 any provision of state law dealing with confidentiality, each licensed dentist, professional standards review
22 organization, ~~and~~ the Montana dental association or any component society of the association ~~shall~~, and
23 any other person may report to the board any information that the dentist, organization, association,
24 society, or person has that appears to show that a dentist is:

25 (a) ~~medically incompetent;~~

26 (b) ~~mentally or physically unable to safely engage in the practice of dentistry; or~~

27 (c) ~~guilty of unprofessional conduct related to physical or mental impairment~~ PHYSICALLY OR
28 MENTALLY IMPAIRED BY HABITUAL INTEMPERANCE OR EXCESSIVE USE OF ADDICTIVE DRUGS,
29 ALCOHOL, OR ANY OTHER DRUG OR SUBSTANCE.

30 (2) (a) Information that relates to possible physical or mental impairment connected to habitual

1 intemperance or THE excessive use of addictive drugs, alcohol, or any other drug or substance by a
 2 licensee ~~or to other mental or chronic physical illness of a licensee~~ may be reported to the appropriate
 3 personnel of the program ~~established~~ ENDORSED by the board under [section 1] in lieu of reporting directly
 4 to the board.

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

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

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

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

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

14 ~~(v) they are in possession of information that appears to show that the licensee has or is engaged~~
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16 (3) This section applies to professional standards review organizations only to the extent that the
 17 organizations are not prohibited from disclosing information under federal law.

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 19 NEW SECTION. Section 3. Compelling licensee evaluation. The board has the right to compel an
 20 evaluation of a licensee, after notice to the licensee and a hearing if requested by the licensee, based on
 21 information reported pursuant to [section 2]. The evaluation must be conducted at a facility authorized to
 22 conduct evaluations under ~~the A~~ program ~~established~~ REFERRED TO in [section 1].

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 24 NEW SECTION. Section 4. Immunity of person providing information. A person, organization,
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