

HOUSE BILL NO. 65
INTRODUCED BY MATTHEWS
BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING DENTISTRY; AND DENTAL HYGIENE; ~~AND DENTURITRY~~ LAWS; EXCLUDING STUDENTS OF AN ACCREDITED DENTAL HYGIENE PROGRAM FROM LICENSING REQUIREMENTS WHILE PERFORMING SUPERVISED FREE DENTAL HYGIENE SERVICES; EXCLUDING STUDENTS OF AN ACCREDITED PROGRAM WHO ARE SEEKING A D.D.S. OR D.M.D. DEGREE FROM LICENSING REQUIREMENTS IF THEY ARE PRACTICING DENTISTRY WHILE SUPERVISED AND WITHOUT CHARGE; EXCLUDING DENTAL RESIDENTS IN ADVANCED EDUCATION PROGRAMS FROM LICENSING REQUIREMENTS WHILE PERFORMING FREE CLINICAL SERVICES WITHIN THE ADVANCED EDUCATION PROGRAM; ~~PROVIDING AN EXEMPTION FOR STUDENTS OF AN ACCREDITED INSTITUTION WHILE PROVIDING SUPERVISED DENTURITRY SERVICES WITHOUT CHARGE~~; ALLOWING CERTAIN NONPRACTICING AND RETIRED DENTISTS; AND DENTAL HYGIENISTS; ~~AND DENTURISTS~~ TO PROVIDE SERVICES FOR INDIGENT AND UNINSURED PERSONS IN UNDERSERVED OR CRITICAL NEED AREAS AND WAIVING THEIR RENEWAL AND LATE FEES; PROVIDING RULEMAKING AUTHORITY PERTAINING TO VOLUNTEER DENTISTS; AND DENTAL HYGIENISTS; ~~AND DENTURISTS~~; AMENDING SECTION 37-4-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 37-4-103, MCA, is amended to read:

"37-4-103. Exemptions. (1) A dental laboratory or dental technician is not practicing dentistry under this chapter when engaged in the construction, making, alteration, or repairing of bridges, crowns, dentures, or other prosthetic appliances, surgical appliances, or orthodontic appliances if the casts, models, or impressions on which the work is constructed have been made by a regularly licensed and practicing dentist and the crowns, bridges, dentures, prosthetic appliances, surgical appliances, or orthodontic appliances are returned to the dentist on whose order the work was constructed.

(2) Section 37-4-101(2) and part 5 of this chapter do not apply to a legally qualified physician or surgeon or to a dental surgeon of the United States army, navy, public health service, or veterans' bureau or to a legal

practitioner of another state making a clinical demonstration before a dental society, convention, or association of dentists or to a licensed dental hygienist performing an act authorized under 37-4-401 or 37-4-405.

(3) This chapter does not prevent a bona fide faculty member of a school, college, or department of a university recognized and approved by the board from performing dental procedures necessary to the faculty member's teaching functions. This chapter does not prevent students from performing dental procedures under the supervision of a bona fide instructor of a school, college, or department of a university recognized and approved by the board if the dental procedures are a part of the assigned teaching curriculum.

(4) This chapter does not prohibit or require a license with respect to the practice of dentistry under the conditions and limitations defined by Title 37, chapter 29. None of the regulations contained in this chapter apply to a person engaged in the lawful practice of dentistry.

(5) This chapter does not require the licensure of or prohibit the personal representative of the estate of a deceased dentist or the personal representative of a disabled dentist from contracting with a dentist to manage the dental practice at an establishment where dental operations, oral surgery, or dental services are provided if the personal representative in either case complies with the provisions of 37-4-104.

(6) Section 37-4-101(2)(b) does not prevent a licensee from entering into a contract with or being employed by the following clinics:

- (a) university clinics for the purpose of providing dental care to registered students;
- (b) correctional facilities for the purpose of providing dental care to inmates; and
- (c) federally funded community health centers, migrant health care centers, or programs for health services for the homeless established pursuant to the Public Health Service Act, 42 U.S.C. 254b.

(7) A clinic that employs or otherwise contracts with a dentist under subsection (6) may not:

- (a) govern the clinical sufficiency, suitability, reliability, or efficacy of a particular service, product, process, or activity as it relates to the delivery of dental care; or
- (b) preclude or otherwise restrict a dentist's ability to exercise independent professional judgment over all qualitative and quantitative aspects of the delivery of dental care.

(8) This chapter does not require licensure of the following individuals while engaged in the practice of dentistry, as provided in 37-4-101:

(a) students of an accredited commission on dental accreditation (CODA) dental hygiene program or school who are candidates for a dental hygiene degree and who practice dental hygiene without pay in strict conformity with the laws and rules of this state, under the direct personal supervision of a demonstrator or teacher who is a faculty member of an accredited CODA dental hygiene program or school;

(b) students of an accredited CODA program or school who are candidates for a D.D.S. or D.M.D. degree and who practice dentistry without pay in strict conformity with the laws and rules of this state, under the direct personal supervision of a demonstrator or teacher who is a faculty member of a CODA dental program or school; or

(c) dental residents who have received a D.D.S. or D.M.D. degree from a CODA accredited school and who are engaged in advanced education in dentistry at a dental school, hospital, or public health facility that offers the type of advanced program designed to meet accreditation requirements established by CODA. A dental resident may perform all clinical services within the advanced education program in which the dental resident is enrolled if the services are provided by the sponsoring institution and are authorized by the program supervisor. A dental resident who is not licensed in Montana may not engage in private practice or assess fees for clinical services rendered."

NEW SECTION. Section 2. Volunteer work -- licensure -- fee waiver -- rules. (1) A retired or nonpracticing dentist or dental hygienist ~~whose license has been lapsed for 5 years or less~~ may apply for a license to practice dentistry or dental hygiene for the purpose of providing services to indigent or uninsured patients in underserved or critical need areas. AN APPLICANT FOR LICENSURE UNDER THIS SUBSECTION (1) MAY BE REQUIRED BY THE BOARD TO ESTABLISH THAT THE APPLICANT IS COMPETENT TO PRACTICE BEFORE THE BOARD GRANTS THE APPLICANT A LICENSE.

(2) It is not within the scope of a license issued to a dentist or dental hygienist under this section to provide services for remuneration.

(3) If a person is eligible for licensure under the provisions of subsection (1) and the person applies for a license prior to July 1, 2004, the person's renewal fees and late fees accrued since the person's license lapsed are waived. The board may adopt rules providing that renewal fees and late fees or a portion of those fees may be waived for eligible persons applying for licensure under this section after July 1, 2004.

(4) The board may adopt rules setting forth licensing requirements, fees, and other rules necessary to implement any other provisions of this section.

~~NEW SECTION. Section 3. Student practice.~~ The license requirements of this chapter do not apply to students engaged in formal training at an educational institution accredited by a national or regional accrediting agency that is recognized by the Montana board of regents if the students are practicing dentistry without pay in strict conformity with the laws and rules of this state, under the direct personal supervision of an instructor who

is a faculty member of the accredited educational institution.

~~NEW SECTION. Section 4. Volunteer work -- licensure -- fee waiver -- rules. (1) A retired or nonpracticing dentist whose license has been lapsed for 5 years or less may apply for a license to practice dentistry for the purpose of providing services to indigent or uninsured patients in underserved or critical need areas.~~

~~(2) It is not within the scope of a license issued to a dentist under this section to provide services for remuneration.~~

~~(3) If a person is eligible for licensure under the provisions of subsection (1) and the person applies for a license prior to July 1, 2004, the person's renewal fees and late fees accrued since the person's license lapsed are waived. The board may adopt rules providing that renewal fees and late fees or a portion of those fees may be waived for eligible persons applying for licensure under this section after July 1, 2004.~~

~~(4) The board may adopt rules setting forth licensing requirements, fees, and other rules necessary to implement any other provisions of this section.~~

NEW SECTION. Section 3. Codification instruction. (1) [Section 2] is intended to be codified as an integral part of Title 37, chapter 4, and the provisions of Title 37, chapter 4, apply to [section 2].

~~(2) [Sections 3 and 4] are intended to be codified as an integral part of Title 37, chapter 29, and the provisions of Title 37, chapter 29, apply to [sections 3 and 4].~~

NEW SECTION. Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 5. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 2003.

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