

HOUSE BILL NO. 870

INTRODUCED BY R. JOHNSON

IN THE HOUSE

FEBRUARY 14, 1991           INTRODUCED AND REFERRED TO COMMITTEE  
                                  ON BUSINESS & ECONOMIC DEVELOPMENT.

FEBRUARY 15, 1991           FIRST READING.

FEBRUARY 20, 1991           COMMITTEE RECOMMEND BILL  
                                  DO PASS. REPORT ADOPTED.

FEBRUARY 21, 1991           PRINTING REPORT.

FEBRUARY 25, 1991           SECOND READING, DO PASS.  
  
                                  ENGROSSING REPORT.

FEBRUARY 26, 1991           THIRD READING, PASSED.  
                                  AYES, 99; NOES, 0.

                                  TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 26, 1991           INTRODUCED AND REFERRED TO COMMITTEE  
                                  ON PUBLIC HEALTH, WELFARE, & SAFETY.

                                  FIRST READING.

MARCH 28, 1991             COMMITTEE RECOMMEND BILL BE  
                                  CONCURRED IN AS AMENDED. REPORT  
                                  ADOPTED.

APRIL 3, 1991               SECOND READING, CONCURRED IN.

APRIL 4, 1991               THIRD READING, CONCURRED IN.  
                                  AYES, 50; NOES, 0.

                                  RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 10, 1991             RECEIVED FROM SENATE.  
  
                                  SECOND READING, AMENDMENTS  
                                  CONCURRED IN.

APRIL 11, 1991             THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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*Analysis* BILL NO. 870  
*Johnson*

INTRODUCED BY \_\_\_\_\_  
A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE PROCESS FOR MAKING A COMPLAINT AGAINST A PHYSICIAN OR PODIATRIST BY PROVIDING THAT THE COMPLAINT MAY BE IN WRITING RATHER THAN BY SWORN AFFIDAVIT; TO REQUIRE THE BOARD OF MEDICAL EXAMINERS TO SET A DATE FOR THE RENEWAL OF PODIATRY LICENSES; TO REQUIRE THE BOARD OF MEDICAL EXAMINERS TO PROVIDE NOTICE OF THE RENEWAL DATE FOR PODIATRY LICENSES; TO CHANGE THE DATE OF REVOCATION OF A PODIATRY LICENSE FOR FAILURE TO PAY THE LICENSE RENEWAL FEE; TO REQUIRE THE BOARD OF MEDICAL EXAMINERS TO SET A DATE FOR THE RENEWAL OF ACUPUNCTURE LICENSES; TO ELIMINATE THE REQUIREMENT THAT THE BOARD OF MEDICAL EXAMINERS PROVIDE NOTICE OF THE RENEWAL DATE FOR ACUPUNCTURE LICENSES TO LICENSED ACUPUNCTURISTS; TO CHANGE THE DATE OF REVOCATION OF AN ACUPUNCTURE LICENSE FOR FAILURE TO PAY THE LICENSE RENEWAL FEE; TO REMOVE THE LIMIT ON THE FEE THAT THE BOARD OF MEDICAL EXAMINERS MAY SET FOR APPROVAL OF PHYSICIAN ASSISTANT-CERTIFIED UTILIZATION PLANS; TO REVISE THE REQUIREMENTS AND PROCEDURES FOR THE ANNUAL RENEWAL OF PHYSICIAN ASSISTANT-CERTIFIED UTILIZATION PLANS; TO GRANT RULEMAKING AUTHORITY RELATING TO PODIATRY TO THE BOARD OF MEDICAL EXAMINERS; AND AMENDING SECTIONS 37-3-323, 37-6-304, 37-6-311, 37-13-306, AND 37-20-302, MCA."

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STATEMENT OF INTENT

A statement of intent is required for this bill because rulemaking authority is provided to the board of medical examiners to administer several licensing functions. It is the intent of the legislature that the board of medical examiners adopt rules to set: a date for annual renewal of licenses to practice podiatry or acupuncture; a date for annual renewal of the certificate issued to a physician assistant-certified; and the amount of the utilization plan approval fee. It is further the intent of the legislature that the board of medical examiners adopt rules to implement the provisions of Title 37, chapter 6, parts 1 and 3.

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

**Section 1.** 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 license to practice medicine by fraud or misrepresentation or through

1 mistake, has been declared incompetent by a court of  
 2 competent jurisdiction and thereafter has not been lawfully  
 3 declared competent, or has a condition which impairs his  
 4 intellect or judgment to the extent that it incapacitates  
 5 him for the safe performance of professional duties;

6 (b) has been guilty of unprofessional conduct;

7 (c) has practiced medicine while his license was  
 8 suspended or revoked;

9 (d) has had his license suspended or revoked by any  
 10 licensing authority for reasons other than nonpayment of  
 11 fees; or

12 (e) while under probation has violated its terms.

13 (2) The investigation shall be for the purpose of  
 14 determining the probability of the existence of these  
 15 conditions or the commission of these offenses and may  
 16 include requiring the person to submit to a physical  
 17 examination or a mental examination, or both, by a physician  
 18 or physicians selected by the board if it appears to be in  
 19 the best interests of the public that this evaluation be  
 20 secured. The board may examine and scrutinize the hospital  
 21 records and reports of a licensee as part of the  
 22 examination, and copies of these shall be released to the  
 23 board on written request. If the board has reasonable cause  
 24 to believe that this probability exists, the department  
 25 shall mail to the person at his last address of record with

1 the department a specification of the charges against him,  
 2 together with a written notice of the time and place of the  
 3 hearing on such charges, advising him that he may be present  
 4 in person and by counsel if he so desires to offer evidence  
 5 and be heard in his defense. The time fixed for the hearing  
 6 may not be less than 30 days from the date of mailing the  
 7 notice.

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

19 (4) At the hearing the board shall adopt a resolution  
 20 finding him guilty or not guilty of the matters charged. If  
 21 the board finds that the offenses or conditions referred to  
 22 in 37-3-322 or subsection (1) of this section do not exist  
 23 with respect to the person or if he is found not guilty, the  
 24 board shall dismiss the charges or complaint. If the board  
 25 finds that the offenses or conditions referred to in

1 37-3-322 or in subsection (1) of this section do exist and  
2 the person is found guilty, the board shall:

- 3 (a) revoke his license;
- 4 (b) suspend his right to practice for a period not  
5 exceeding 1 year;
- 6 (c) suspend its judgment of revocation on the terms and  
7 conditions to be determined by the board;
- 8 (d) place him on probation;
- 9 (e) impose a fine, not to exceed \$500 an incident; or
- 10 (f) take any other action in relation to disciplining  
11 him as the board in its discretion considers proper.
- 12 (5) In a case of revocation, suspension, or probation,  
13 the department shall enter in its records the facts of the  
14 action and of subsequent action of the board with respect to  
15 it.
- 16 (6) On the expiration of the term of suspension, the  
17 licensee shall be reinstated by the board if he furnishes  
18 the board with evidence that he is then of good moral  
19 character and conduct and restored to good health and that  
20 he has not practiced medicine in this state during the term  
21 of suspension. If the evidence fails to establish to the  
22 satisfaction of the board that the holder is then of good  
23 moral character and conduct or restored to good health or if  
24 the evidence shows he has practiced medicine in this state  
25 during the term of suspension, the board shall revoke the

1 license at a hearing with notice and the procedure provided  
2 in subsection (1) of this section. The revocation is final  
3 and absolute.

4 (7) If a person holding a license to practice medicine  
5 under this chapter is by a final order or adjudication of a  
6 court of competent jurisdiction adjudged to be mentally  
7 incompetent or seriously mentally ill or addicted to the use  
8 of narcotics, his license may be suspended by the board. The  
9 suspension continues until the licensee is found or adjudged  
10 by the court to be restored to reason or cured or until he  
11 is discharged as restored to reason or cured and his  
12 professional competence has been proven to the satisfaction  
13 of the board.

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

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

19 **Section 2.** Section 37-6-304, MCA, is amended to read:

20 "37-6-304. Designations on license -- recording --  
21 renewal -- display. (1) A license issued under this chapter  
22 shall ~~be~~ is designated as a "registered podiatrist's  
23 license" or a "temporary podiatrist's license".

24 (2) Licenses shall ~~must~~ must be recorded by the department  
25 the same as other medical licenses.

1 (3) Licenses must be renewed annually, on a date set by  
2 the board.

3 ~~(3)(4)~~ A license renewal fee set by the board ~~shall~~  
4 ~~must~~ be paid annually on ~~July-1-of-each-year~~ a date set by  
5 the board.

6 ~~(4)(5)~~ The department shall mail renewal notices no  
7 later than ~~May-1-of-each-year--and--shall--issue--a--receipt~~  
8 ~~acknowledging-payment-of-an-annual-renewal-fee~~ 60 days prior  
9 to the annual renewal date set by the board under subsection  
10 (3).

11 ~~(5)(6)~~ If the annual renewal fees-are fee is not paid  
12 on or before ~~October-1-of-each-year~~ the renewal date set by  
13 the board under subsection (3), the board may revoke the  
14 licensee's certificate after giving 30 days' notice to the  
15 licensee. A certified letter addressed to the delinquent  
16 licensee's last-known address as it appears on the records  
17 of the department constitutes notice of intent to revoke the  
18 certificate. No certificate may be revoked for nonpayment of  
19 a renewal fee if the licensee pays the annual renewal fee  
20 plus a penalty prescribed by the board on or before the date  
21 fixed for revocation.

22 ~~(6)(7)~~ A license revoked for nonpayment of the annual  
23 renewal fee may be reissued only on original application and  
24 payment of an additional fee prescribed by the board.

25 ~~(7)(8)~~ Licenses ~~shall~~ must be conspicuously displayed

1 by podiatrists at their offices or other places of  
2 practice."

3 **Section 3.** Section 37-6-311, MCA, is amended to read:

4 "37-6-311. Refusal or revocation of license --  
5 investigation -- reinstatement. (1) After notice and  
6 opportunity for a hearing, the board may deny, revoke, or  
7 refuse to renew a license to practice podiatry if the  
8 consensus of the board is that an applicant is not of good  
9 moral character or has engaged in unprofessional conduct.  
10 The department shall notify the applicant of the board's  
11 intent to deny, revoke, or refuse to renew a license by  
12 mailing a letter to the applicant's last-known address  
13 stating the board's intent and setting a time and place for  
14 a hearing. If the applicant fails without cause to appear at  
15 the hearing or if the board determines that the applicant is  
16 not entitled to a license, the board shall deny, revoke, or  
17 refuse to renew the applicant's license.

18 (2) The board may investigate whenever it is brought to  
19 its attention that a licensed podiatrist:

20 (a) is mentally or physically unable to engage safely  
21 in the practice of podiatry;

22 (b) has procured his license by fraud,  
23 misrepresentation, or through error;

24 (c) has been declared incompetent by a court of  
25 competent jurisdiction and thereafter has not been lawfully

1 declared competent;

2 (d) has a condition that impairs his intellect or  
3 judgment to the extent that it incapacitates him in the safe  
4 performance of his professional duties;

5 (e) has been found guilty of unprofessional conduct;

6 (f) has practiced podiatry while his license was  
7 suspended or revoked;

8 (g) has had his license suspended or revoked by any  
9 licensing authority for reasons other than nonpayment of  
10 fees; or

11 (h) while under probation has violated its terms.

12 (3) The investigation shall be for the purpose of  
13 determining the probability that the alleged conditions  
14 exist or that the alleged offenses were committed. The  
15 investigation may include requiring the person to submit to  
16 a physical examination or a mental examination, or both, by  
17 a physician or physicians selected by the board if it  
18 appears to be in the best interest of the public that this  
19 evaluation be secured. The board may examine the hospital  
20 records and reports of a licensee as part of the  
21 examination, and copies shall be released to the board on  
22 written request. If the board has reasonable cause to  
23 believe that the alleged conditions exist or that the  
24 alleged offenses were committed, the department shall mail  
25 to the person at his last-known address a specification of

1 the charges against him, together with a written notice of  
2 the time and place of the hearing on such charges, advising  
3 him that he may be present in person and by counsel if he so  
4 desires to offer evidence and be heard in his defense. The  
5 time fixed for the hearing may not be less than 30 days from  
6 the date of mailing the notice.

7 (4) A person, including a member of the board, may file  
8 a sworn written complaint with the department against a  
9 person having a license to practice podiatry in this state  
10 charging him with the commission of any of the offenses set  
11 forth in 37-6-310 or with any of the offenses or conditions  
12 set forth in subsection (1) or (2) of this section. The  
13 complaint shall set forth a specification of the charges.  
14 When the complaint is filed, the department shall mail a  
15 copy to the person complained against, at his last-known  
16 address, together with a written citation of the time and  
17 place of the hearing on the complaint.

18 (5) At the hearing the board shall adopt a resolution  
19 finding the person complained against guilty or not guilty  
20 of the matters charged. If the board finds that the offenses  
21 or conditions referred to in 37-6-310 or subsection (1) or  
22 (2) of this section do not exist with respect to the person  
23 complained against or if he is found not guilty, the board  
24 shall dismiss the charges or complaint. If the board finds  
25 that the offenses or conditions referred to in 37-6-310 or

1 in subsection (1) or (2) of this section do exist or the  
2 person is found guilty, the board shall:

- 3 (a) revoke his license;
- 4 (b) suspend his right to practice for a period not  
5 exceeding 1 year;
- 6 (c) suspend its judgment of revocation on the terms and  
7 conditions to be determined by the board;
- 8 (d) place him on probation; or
- 9 (e) take any other action in relation to disciplining  
10 him as the board in its discretion considers proper.

11 (6) In a case of revocation, suspension, or probation,  
12 the department shall enter in its records the facts of the  
13 action and of subsequent measures taken by the board with  
14 respect to that action.

15 (7) On the expiration of the term of suspension, the  
16 licensee shall be reinstated by the board if he furnishes  
17 the board with evidence that he is then of good moral  
18 character and conduct or restored to good health and that he  
19 has not practiced podiatry in this state during the term of  
20 suspension. If the evidence fails to establish to the  
21 satisfaction of the board that the holder is then of good  
22 moral character and conduct or restored to good health or if  
23 the evidence shows he has practiced podiatry in this state  
24 during the term of suspension, the board shall revoke the  
25 license at a hearing held in accordance with the notice and

1 procedure provided in subsection (1). The revocation is  
2 final.

3 (8) If a person holding a license to practice podiatry  
4 under this chapter is by a final order or adjudication of a  
5 court of competent jurisdiction determined to be mentally  
6 incompetent, seriously mentally ill, or addicted to the use  
7 of narcotics, his license may be suspended by the board. The  
8 suspension continues until the licensee is found by the  
9 court to be restored to reason or cured or until he is  
10 discharged as restored to reason or cured and his  
11 professional competence has been proven to the satisfaction  
12 of the board."

13 **Section 4.** Section 37-13-306, MCA, is amended to read:

14 "37-13-306. Annual renewal -- fee -- military  
15 exemption. (1) The license to practice acupuncture ~~shall~~  
16 ~~expire on December 31 of each calendar year and shall~~ must  
17 be renewed annually, on a date set by the board, without  
18 examination and upon request of the licensee. The request  
19 for renewal ~~shall~~ must be on forms prescribed by the board  
20 and accompanied by a renewal fee prescribed by the board.  
21 The request and fee ~~shall~~ must be in the hands of the  
22 secretary of the board not later than the expiration date of  
23 the license.

24 ~~{2}--On or before December 1 of each calendar year, the~~  
25 ~~secretary of the board shall notify each licensee by letter,~~



~~addressed to his last place of residence as the same appears on the records of the board, that his license will expire on December 31 following the date of notice unless application for renewal, accompanied by the annual renewal fee, is received by the board on or prior to that date.~~

~~(3)(2) Immediately following December 31 of each calendar year the renewal date, the secretary shall notify all licensees from whom requests for renewal, accompanied by the renewal fee, have not been received that their licenses have expired and that they will be cancelled and revoked upon the records of the board unless a request for renewal and reinstatement, accompanied by the renewal fee and an additional fee prescribed by the board, shall be is in the hands of the secretary prior to February 1 following the expiration within 30 days of the renewal date.~~

~~(4)(3) Immediately following February 1 of each calendar year If the licensee fails to renew within 30 days following the renewal date, the secretary of the board shall cancel and revoke upon its records all licenses which that have not been renewed or reinstated as provided by this chapter and shall notify the licensees whose licenses are so revoked of such the action.~~

~~(5)(4) Any A licensee who allows his license to lapse by failing to renew or reinstate the same license as herein provided in this section may subsequently reinstate the same~~

license upon good cause shown to the satisfaction of the board and upon payment of all annual renewal fees then accrued plus an additional fee prescribed by the board for each year following the cancelling of the license.

~~(6)(5) Any A person actively engaged in the military service of the United States and licensed to practice acupuncture as herein provided in this part shall is not be required to pay the annual renewal fee or make application for renewal until December 31 the renewal date of the calendar year in which he returns from military service to civilian or inactive status."~~

**Section 5.** Section 37-20-302, MCA, is amended to read:

**"37-20-302. Utilization plan approval fee -- renewal of approval -- renewal fee.** (1) Every physician, office, firm, or professional service corporation proposing to employ a physician assistant-certified shall pay to the board a utilization plan approval fee in an amount set by the board, not exceeding \$50. Payment must be made when the utilization plan is submitted to the board and is not refundable.

~~(2) Approval of every physician assistant-certified utilization plan expires 1 year from the date of approval and is invalid thereafter. The department of commerce shall notify each physician, office, firm, or professional corporation and physician assistant-certified named in a utilization plan of the date of expiration of board approval~~

1 ~~at least 1 month prior to the expiration of approval.~~

2 ~~(3) -- Renewal -- of -- approval -- shall -- be -- granted -- by -- the -- board~~  
 3 ~~under such circumstances as would justify original -- approval~~  
 4 ~~of -- a -- utilization -- plan -- and -- upon -- payment -- by -- the -- employing~~  
 5 ~~physician, office, firm, or professional service corporation~~  
 6 ~~of a renewal fee in an amount to be set by the board, not to~~  
 7 ~~exceed \$50.~~

8 ~~(4)(2)~~ Every physician, office, firm, or professional  
 9 service corporation proposing to employ a physician  
 10 assistant-certified on a locum tenens basis shall pay to the  
 11 board a locum tenens utilization plan fee in an amount set  
 12 by the board, not to exceed \$50.

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

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

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

23 (6) If the annual renewal fee is not paid on or before  
 24 the renewal date set by the board under subsection (3), the  
 25 board may revoke the certificate after giving 30 days'

1 notice to the certificate holder. A certificate may not be  
 2 revoked for nonpayment of a renewal fee if the certificate  
 3 holder pays the annual renewal fee plus a penalty prescribed  
 4 by the board on or before the date fixed for revocation.

5 ~~(5)(7)~~ Fees received by the department must be  
 6 deposited in the state special revenue fund for use by the  
 7 board in the administration of this chapter, subject to  
 8 37-1-101(6)."

9 NEW SECTION. Section 6. Rulemaking authority. The  
 10 board may adopt rules to carry out the provisions of this  
 11 chapter. Rules adopted by the board must be fair, impartial,  
 12 and nondiscriminatory.

13 NEW SECTION. Section 7. Codification instruction.  
 14 [Section 6] is intended to be codified as an integral part  
 15 of Title 37, chapter 6, part 1, and the provisions of Title  
 16 37, chapter 6, apply to [section 6].

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APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

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*House* BILL NO. 870  
*Johnson*

INTRODUCED BY \_\_\_\_\_  
A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE PROCESS FOR MAKING A COMPLAINT AGAINST A PHYSICIAN OR PODIATRIST BY PROVIDING THAT THE COMPLAINT MAY BE IN WRITING RATHER THAN BY SWORN AFFIDAVIT; TO REQUIRE THE BOARD OF MEDICAL EXAMINERS TO SET A DATE FOR THE RENEWAL OF PODIATRY LICENSES; TO REQUIRE THE BOARD OF MEDICAL EXAMINERS TO PROVIDE NOTICE OF THE RENEWAL DATE FOR PODIATRY LICENSES; TO CHANGE THE DATE OF REVOCATION OF A PODIATRY LICENSE FOR FAILURE TO PAY THE LICENSE RENEWAL FEE; TO REQUIRE THE BOARD OF MEDICAL EXAMINERS TO SET A DATE FOR THE RENEWAL OF ACUPUNCTURE LICENSES; TO ELIMINATE THE REQUIREMENT THAT THE BOARD OF MEDICAL EXAMINERS PROVIDE NOTICE OF THE RENEWAL DATE FOR ACUPUNCTURE LICENSES TO LICENSED ACUPUNCTURISTS; TO CHANGE THE DATE OF REVOCATION OF AN ACUPUNCTURE LICENSE FOR FAILURE TO PAY THE LICENSE RENEWAL FEE; TO REMOVE THE LIMIT ON THE FEE THAT THE BOARD OF MEDICAL EXAMINERS MAY SET FOR APPROVAL OF PHYSICIAN ASSISTANT-CERTIFIED UTILIZATION PLANS; TO REVISE THE REQUIREMENTS AND PROCEDURES FOR THE ANNUAL RENEWAL OF PHYSICIAN ASSISTANT-CERTIFIED UTILIZATION PLANS; TO GRANT RULEMAKING AUTHORITY RELATING TO PODIATRY TO THE BOARD OF MEDICAL EXAMINERS; AND AMENDING SECTIONS 37-3-323, 37-6-304, 37-6-311, 37-13-306, AND 37-20-302, MCA."

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STATEMENT OF INTENT

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

Section 1. 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 license to practice medicine by fraud or misrepresentation or through



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SECOND READING  
HB 870

1 mistake, has been declared incompetent by a court of  
2 competent jurisdiction and thereafter has not been lawfully  
3 declared competent, or has a condition which impairs his  
4 intellect or judgment to the extent that it incapacitates  
5 him for the safe performance of professional duties;

6 (b) has been guilty of unprofessional conduct;

7 (c) has practiced medicine while his license was  
8 suspended or revoked;

9 (d) has had his license suspended or revoked by any  
10 licensing authority for reasons other than nonpayment of  
11 fees; or

12 (e) while under probation has violated its terms.

13 (2) The investigation shall be for the purpose of  
14 determining the probability of the existence of these  
15 conditions or the commission of these offenses and may  
16 include requiring the person to submit to a physical  
17 examination or a mental examination, or both, by a physician  
18 or physicians selected by the board if it appears to be in  
19 the best interests of the public that this evaluation be  
20 secured. The board may examine and scrutinize the hospital  
21 records and reports of a licensee as part of the  
22 examination, and copies of these shall be released to the  
23 board on written request. If the board has reasonable cause  
24 to believe that this probability exists, the department  
25 shall mail to the person at his last address of record with

1 the department a specification of the charges against him,  
2 together with a written notice of the time and place of the  
3 hearing on such charges, advising him that he may be present  
4 in person and by counsel if he so desires to offer evidence  
5 and be heard in his defense. The time fixed for the hearing  
6 may not be less than 30 days from the date of mailing the  
7 notice.

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

19 (4) At the hearing the board shall adopt a resolution  
20 finding him guilty or not guilty of the matters charged. If  
21 the board finds that the offenses or conditions referred to  
22 in 37-3-322 or subsection (1) of this section do not exist  
23 with respect to the person or if he is found not guilty, the  
24 board shall dismiss the charges or complaint. If the board  
25 finds that the offenses or conditions referred to in

1 37-3-322 or in subsection (1) of this section do exist and  
2 the person is found guilty, the board shall:

- 3 (a) revoke his license;
- 4 (b) suspend his right to practice for a period not  
5 exceeding 1 year;
- 6 (c) suspend its judgment of revocation on the terms and  
7 conditions to be determined by the board;
- 8 (d) place him on probation;
- 9 (e) impose a fine, not to exceed \$500 an incident; or
- 10 (f) take any other action in relation to disciplining  
11 him as the board in its discretion considers proper.

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

16 (6) On the expiration of the term of suspension, the  
17 licensee shall be reinstated by the board if he furnishes  
18 the board with evidence that he is then of good moral  
19 character and conduct and restored to good health and that  
20 he has not practiced medicine in this state during the term  
21 of suspension. If the evidence fails to establish to the  
22 satisfaction of the board that the holder is then of good  
23 moral character and conduct or restored to good health or if  
24 the evidence shows he has practiced medicine in this state  
25 during the term of suspension, the board shall revoke the

1 license at a hearing with notice and the procedure provided  
2 in subsection (1) of this section. The revocation is final  
3 and absolute.

4 (7) If a person holding a license to practice medicine  
5 under this chapter is by a final order or adjudication of a  
6 court of competent jurisdiction adjudged to be mentally  
7 incompetent or seriously mentally ill or addicted to the use  
8 of narcotics, his license may be suspended by the board. The  
9 suspension continues until the licensee is found or adjudged  
10 by the court to be restored to reason or cured or until he  
11 is discharged as restored to reason or cured and his  
12 professional competence has been proven to the satisfaction  
13 of the board.

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

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

19 **Section 2.** Section 37-6-304, MCA, is amended to read:

20 \*37-6-304. Designations on license -- recording --  
21 renewal -- display. (1) A license issued under this chapter  
22 shall--be is designated as a "registered podiatrist's  
23 license" or a "temporary podiatrist's license".

24 (2) Licenses shall must be recorded by the department  
25 the same as other medical licenses.

1        (3) Licenses must be renewed annually, on a date set by  
2 the board.

3        ~~(3)~~(4) A license renewal fee set by the board ~~shall~~  
4 must be paid annually on ~~July 1 of each year~~ a date set by  
5 the board.

6        ~~(4)~~(5) The department shall mail renewal notices no  
7 later than ~~May 1 of each year~~ ~~and shall issue a receipt~~  
8 acknowledging payment of an annual renewal fee 60 days prior  
9 to the annual renewal date set by the board under subsection  
10 (3).

11        ~~(5)~~(6) If the annual renewal fees ~~are~~ fee is not paid  
12 on or before ~~October 1 of each year~~ the renewal date set by  
13 the board under subsection (3), the board may revoke the  
14 licensee's certificate after giving 30 days' notice to the  
15 licensee. A certified letter addressed to the delinquent  
16 licensee's last-known address as it appears on the records  
17 of the department constitutes notice of intent to revoke the  
18 certificate. No certificate may be revoked for nonpayment of  
19 a renewal fee if the licensee pays the annual renewal fee  
20 plus a penalty prescribed by the board on or before the date  
21 fixed for revocation.

22        ~~(6)~~(7) A license revoked for nonpayment of the annual  
23 renewal fee may be reissued only on original application and  
24 payment of an additional fee prescribed by the board.

25        ~~(7)~~(8) Licenses ~~shall~~ must be conspicuously displayed

1 by podiatrists at their offices or other places of  
2 practice."

3        **Section 3.** Section 37-6-311, MCA, is amended to read:

4        "37-6-311. Refusal or revocation of license --  
5 investigation -- reinstatement. (1) After notice and  
6 opportunity for a hearing, the board may deny, revoke, or  
7 refuse to renew a license to practice podiatry if the  
8 consensus of the board is that an applicant is not of good  
9 moral character or has engaged in unprofessional conduct.  
10 The department shall notify the applicant of the board's  
11 intent to deny, revoke, or refuse to renew a license by  
12 mailing a letter to the applicant's last-known address  
13 stating the board's intent and setting a time and place for  
14 a hearing. If the applicant fails without cause to appear at  
15 the hearing or if the board determines that the applicant is  
16 not entitled to a license, the board shall deny, revoke, or  
17 refuse to renew the applicant's license.

18        (2) The board may investigate whenever it is brought to  
19 its attention that a licensed podiatrist:

20        (a) is mentally or physically unable to engage safely  
21 in the practice of podiatry;

22        (b) has procured his license by fraud,  
23 misrepresentation, or through error;

24        (c) has been declared incompetent by a court of  
25 competent jurisdiction and thereafter has not been lawfully

1 declared competent;

2 (d) has a condition that impairs his intellect or  
3 judgment to the extent that it incapacitates him in the safe  
4 performance of his professional duties;

5 (e) has been found guilty of unprofessional conduct;

6 (f) has practiced podiatry while his license was  
7 suspended or revoked;

8 (g) has had his license suspended or revoked by any  
9 licensing authority for reasons other than nonpayment of  
10 fees; or

11 (h) while under probation has violated its terms.

12 (3) The investigation shall be for the purpose of  
13 determining the probability that the alleged conditions  
14 exist or that the alleged offenses were committed. The  
15 investigation may include requiring the person to submit to  
16 a physical examination or a mental examination, or both, by  
17 a physician or physicians selected by the board if it  
18 appears to be in the best interest of the public that this  
19 evaluation be secured. The board may examine the hospital  
20 records and reports of a licensee as part of the  
21 examination, and copies shall be released to the board on  
22 written request. If the board has reasonable cause to  
23 believe that the alleged conditions exist or that the  
24 alleged offenses were committed, the department shall mail  
25 to the person at his last-known address a specification of

1 the charges against him, together with a written notice of  
2 the time and place of the hearing on such charges, advising  
3 him that he may be present in person and by counsel if he so  
4 desires to offer evidence and be heard in his defense. The  
5 time fixed for the hearing may not be less than 30 days from  
6 the date of mailing the notice.

7 (4) A person, including a member of the board, may file  
8 a sworn written complaint with the department against a  
9 person having a license to practice podiatry in this state  
10 charging him with the commission of any of the offenses set  
11 forth in 37-6-310 or with any of the offenses or conditions  
12 set forth in subsection (1) or (2) of this section. The  
13 complaint shall set forth a specification of the charges.  
14 When the complaint is filed, the department shall mail a  
15 copy to the person complained against, at his last-known  
16 address, together with a written citation of the time and  
17 place of the hearing on the complaint.

18 (5) At the hearing the board shall adopt a resolution  
19 finding the person complained against guilty or not guilty  
20 of the matters charged. If the board finds that the offenses  
21 or conditions referred to in 37-6-310 or subsection (1) or  
22 (2) of this section do not exist with respect to the person  
23 complained against or if he is found not guilty, the board  
24 shall dismiss the charges or complaint. If the board finds  
25 that the offenses or conditions referred to in 37-6-310 or

1 in subsection (1) or (2) of this section do exist or the  
2 person is found guilty, the board shall:

- 3 (a) revoke his license;
- 4 (b) suspend his right to practice for a period not  
5 exceeding 1 year;
- 6 (c) suspend its judgment of revocation on the terms and  
7 conditions to be determined by the board;
- 8 (d) place him on probation; or
- 9 (e) take any other action in relation to disciplining  
10 him as the board in its discretion considers proper.

11 (6) In a case of revocation, suspension, or probation,  
12 the department shall enter in its records the facts of the  
13 action and of subsequent measures taken by the board with  
14 respect to that action.

15 (7) On the expiration of the term of suspension, the  
16 licensee shall be reinstated by the board if he furnishes  
17 the board with evidence that he is then of good moral  
18 character and conduct or restored to good health and that he  
19 has not practiced podiatry in this state during the term of  
20 suspension. If the evidence fails to establish to the  
21 satisfaction of the board that the holder is then of good  
22 moral character and conduct or restored to good health or if  
23 the evidence shows he has practiced podiatry in this state  
24 during the term of suspension, the board shall revoke the  
25 license at a hearing held in accordance with the notice and

1 procedure provided in subsection (1). The revocation is  
2 final.

3 (8) If a person holding a license to practice podiatry  
4 under this chapter is by a final order or adjudication of a  
5 court of competent jurisdiction determined to be mentally  
6 incompetent, seriously mentally ill, or addicted to the use  
7 of narcotics, his license may be suspended by the board. The  
8 suspension continues until the licensee is found by the  
9 court to be restored to reason or cured or until he is  
10 discharged as restored to reason or cured and his  
11 professional competence has been proven to the satisfaction  
12 of the board."

13 **Section 4.** Section 37-13-306, MCA, is amended to read:

14 "37-13-306. Annual renewal -- fee -- military  
15 exemption. (1) The license to practice acupuncture ~~shall~~  
16 ~~expire on December 31 of each calendar year and shall~~ must  
17 be renewed annually, on a date set by the board, without  
18 examination and upon request of the licensee. The request  
19 for renewal ~~shall~~ must be on forms prescribed by the board  
20 and accompanied by a renewal fee prescribed by the board.  
21 The request and fee ~~shall~~ must be in the hands of the  
22 secretary of the board not later than the expiration date of  
23 the license.

24 ~~(2) On or before December 1 of each calendar year, the~~  
25 ~~secretary of the board shall notify each licensee by letter,~~



1 ~~addressed to his last place of residence as the same appears~~  
 2 ~~on the records of the board, that his license will expire on~~  
 3 ~~December 31 following the date of notice unless application~~  
 4 ~~for renewal, accompanied by the annual renewal fee, is~~  
 5 ~~received by the board on or prior to that date.~~

6 ~~{3}(2)~~ Immediately following ~~December 31 of each~~  
 7 ~~calendar year the renewal date~~, the secretary shall notify  
 8 all licensees from whom requests for renewal, accompanied by  
 9 the renewal fee, have not been received that their licenses  
 10 have expired and that they will be cancelled and revoked  
 11 upon the records of the board unless a request for renewal  
 12 and reinstatement, accompanied by the renewal fee and an  
 13 additional fee prescribed by the board, ~~shall be~~ is in the  
 14 hands of the secretary ~~prior to February 1 following the~~  
 15 ~~expiration within 30 days of the renewal date.~~

16 ~~{4}(3)~~ ~~Immediately following February 1 of each~~  
 17 ~~calendar year~~ If the licensee fails to renew within 30 days  
 18 following the renewal date, the secretary of the board shall  
 19 cancel and revoke upon its records all licenses ~~which that~~  
 20 have not been renewed or reinstated as provided by this  
 21 chapter and shall notify the licensees whose licenses are so  
 22 revoked of such the action.

23 ~~{5}(4)~~ Any A licensee who allows his license to lapse  
 24 by failing to renew or reinstate the same license as herein  
 25 provided in this section may subsequently reinstate the same

1 license upon good cause shown to the satisfaction of the  
 2 board and upon payment of all annual renewal fees then  
 3 accrued plus an additional fee prescribed by the board for  
 4 each year following the cancelling of the license.

5 ~~{6}(5)~~ Any A person actively engaged in the military  
 6 service of the United States and licensed to practice  
 7 acupuncture as herein provided in this part shall ~~is~~ not be  
 8 required to pay the annual renewal fee or make application  
 9 for renewal until ~~December 31~~ the renewal date of the  
 10 calendar year in which he returns from military service to  
 11 civilian or inactive status."

12 **Section 5.** Section 37-20-302, MCA, is amended to read:

13 "37-20-302. Utilization plan approval fee -- renewal of  
 14 approval -- renewal fee. (1) Every physician, office, firm,  
 15 or professional service corporation proposing to employ a  
 16 physician assistant-certified shall pay to the board a  
 17 utilization plan approval fee in an amount set by the board,  
 18 not exceeding \$50. Payment must be made when the utilization  
 19 plan is submitted to the board and is not refundable.

20 ~~{2}~~ ~~Approval of every physician assistant-certified~~  
 21 ~~utilization plan expires 1 year from the date of approval~~  
 22 ~~and is invalid thereafter. The department of commerce shall~~  
 23 ~~notify each physician, office, firm, or professional~~  
 24 ~~corporation and physician assistant-certified named in a~~  
 25 ~~utilization plan of the date of expiration of board approval~~

1 ~~at least 1 month prior to the expiration of approval:~~

2 ~~(3) Renewal of approval shall be granted by the board~~  
 3 ~~under such circumstances as would justify original approval~~  
 4 ~~of a utilization plan and upon payment by the employing~~  
 5 ~~physician, office, firm, or professional service corporation~~  
 6 ~~of a renewal fee in an amount to be set by the board, not to~~  
 7 ~~exceed \$50.~~

8 ~~(4)(2) Every physician, office, firm, or professional~~  
 9 ~~service corporation proposing to employ a physician~~  
 10 ~~assistant-certified on a locum tenens basis shall pay to the~~  
 11 ~~board a locum tenens utilization plan fee in an amount set~~  
 12 ~~by the board, not to exceed \$50.~~

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

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

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

23 ~~(6) If the annual renewal fee is not paid on or before~~  
 24 ~~the renewal date set by the board under subsection (3), the~~  
 25 ~~board may revoke the certificate after giving 30 days'~~

1 notice to the certificate holder. A certificate may not be  
 2 revoked for nonpayment of a renewal fee if the certificate  
 3 holder pays the annual renewal fee plus a penalty prescribed  
 4 by the board on or before the date fixed for revocation.

5 ~~(5)(7) Fees received by the department must be~~  
 6 ~~deposited in the state special revenue fund for use by the~~  
 7 ~~board in the administration of this chapter, subject to~~  
 8 ~~37-1-101(6)."~~

9 NEW SECTION. Section 6. Rulemaking authority. The  
 10 board may adopt rules to carry out the provisions of this  
 11 chapter. Rules adopted by the board must be fair, impartial,  
 12 and nondiscriminatory.

13 NEW SECTION. Section 7. Codification instruction.  
 14 [Section 6] is intended to be codified as an integral part  
 15 of Title 37, chapter 6, part 1, and the provisions of Title  
 16 37, chapter 6, apply to [section 6].

-End-

1 *House* BILL NO. 870  
2 INTRODUCED BY *R. Brown*

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE PROCESS  
5 FOR MAKING A COMPLAINT AGAINST A PHYSICIAN OR PODIATRIST BY  
6 PROVIDING THAT THE COMPLAINT MAY BE IN WRITING RATHER THAN  
7 BY SWORN AFFIDAVIT; TO REQUIRE THE BOARD OF MEDICAL  
8 EXAMINERS TO SET A DATE FOR THE RENEWAL OF PODIATRY  
9 LICENSES; TO REQUIRE THE BOARD OF MEDICAL EXAMINERS TO  
10 PROVIDE NOTICE OF THE RENEWAL DATE FOR PODIATRY LICENSES; TO  
11 CHANGE THE DATE OF REVOCATION OF A PODIATRY LICENSE FOR  
12 FAILURE TO PAY THE LICENSE RENEWAL FEE; TO REQUIRE THE BOARD  
13 OF MEDICAL EXAMINERS TO SET A DATE FOR THE RENEWAL OF  
14 ACUPUNCTURE LICENSES; TO ELIMINATE THE REQUIREMENT THAT THE  
15 BOARD OF MEDICAL EXAMINERS PROVIDE NOTICE OF THE RENEWAL  
16 DATE FOR ACUPUNCTURE LICENSES TO LICENSED ACUPUNCTURISTS; TO  
17 CHANGE THE DATE OF REVOCATION OF AN ACUPUNCTURE LICENSE FOR  
18 FAILURE TO PAY THE LICENSE RENEWAL FEE; TO REMOVE THE LIMIT  
19 ON THE FEE THAT THE BOARD OF MEDICAL EXAMINERS MAY SET FOR  
20 APPROVAL OF PHYSICIAN ASSISTANT-CERTIFIED UTILIZATION PLANS;  
21 TO REVISE THE REQUIREMENTS AND PROCEDURES FOR THE ANNUAL  
22 RENEWAL OF PHYSICIAN ASSISTANT-CERTIFIED UTILIZATION PLANS;  
23 TO GRANT RULEMAKING AUTHORITY RELATING TO PODIATRY TO THE  
24 BOARD OF MEDICAL EXAMINERS; AND AMENDING SECTIONS 37-3-323,  
25 37-6-304, 37-6-311, 37-13-306, AND 37-20-302, MCA."

There are no changes in this bill,  
and will not be reprinted until  
reference copy. Please refer to  
introduced or second reading copy  
for complete text.



-2- THIRD READING  
HB 870

SENATE STANDING COMMITTEE REPORT

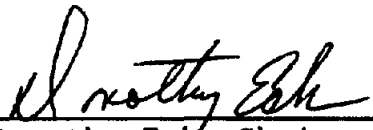
Page 1 of 1  
March 28, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 870 (third reading copy -- blue), respectfully report that House Bill No. 870 be amended and as so amended be concurred in:

1. Page 15, line 12.  
Following: "board"  
Strike: ", not to exceed \$50"

Signed: \_\_\_\_\_

  
Dorothy Eck, Chairman

*MA 3-28-91*  
Ad. Coord.

*SB 3-28 11:25*  
Sec. of Senate

SENATE  
HB 870

## 1 HOUSE BILL NO. 870

2 INTRODUCED BY R. JOHNSON

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE PROCESS  
 5 FOR MAKING A COMPLAINT AGAINST A PHYSICIAN OR PODIATRIST BY  
 6 PROVIDING THAT THE COMPLAINT MAY BE IN WRITING RATHER THAN  
 7 BY SWORN AFFIDAVIT; TO REQUIRE THE BOARD OF MEDICAL  
 8 EXAMINERS TO SET A DATE FOR THE RENEWAL OF PODIATRY  
 9 LICENSES; TO REQUIRE THE BOARD OF MEDICAL EXAMINERS TO  
 10 PROVIDE NOTICE OF THE RENEWAL DATE FOR PODIATRY LICENSES; TO  
 11 CHANGE THE DATE OF REVOCATION OF A PODIATRY LICENSE FOR  
 12 FAILURE TO PAY THE LICENSE RENEWAL FEE; TO REQUIRE THE BOARD  
 13 OF MEDICAL EXAMINERS TO SET A DATE FOR THE RENEWAL OF  
 14 ACUPUNCTURE LICENSES; TO ELIMINATE THE REQUIREMENT THAT THE  
 15 BOARD OF MEDICAL EXAMINERS PROVIDE NOTICE OF THE RENEWAL  
 16 DATE FOR ACUPUNCTURE LICENSES TO LICENSED ACUPUNCTURISTS; TO  
 17 CHANGE THE DATE OF REVOCATION OF AN ACUPUNCTURE LICENSE FOR  
 18 FAILURE TO PAY THE LICENSE RENEWAL FEE; TO REMOVE THE LIMIT  
 19 ON THE FEE THAT THE BOARD OF MEDICAL EXAMINERS MAY SET FOR  
 20 APPROVAL OF PHYSICIAN ASSISTANT-CERTIFIED UTILIZATION PLANS;  
 21 TO REVISE THE REQUIREMENTS AND PROCEDURES FOR THE ANNUAL  
 22 RENEWAL OF PHYSICIAN ASSISTANT-CERTIFIED UTILIZATION PLANS;  
 23 TO GRANT RULEMAKING AUTHORITY RELATING TO PODIATRY TO THE  
 24 BOARD OF MEDICAL EXAMINERS; AND AMENDING SECTIONS 37-3-323,  
 25 37-6-304, 37-6-311, 37-13-306, AND 37-20-302, MCA."

## 1 STATEMENT OF INTENT

2  
 3 A statement of intent is required for this bill because  
 4 rulemaking authority is provided to the board of medical  
 5 examiners to administer several licensing functions. It is  
 6 the intent of the legislature that the board of medical  
 7 examiners adopt rules to set: a date for annual renewal of  
 8 licenses to practice podiatry or acupuncture; a date for  
 9 annual renewal of the certificate issued to a physician  
 10 assistant-certified; and the amount of the utilization plan  
 11 approval fee. It is further the intent of the legislature  
 12 that the board of medical examiners adopt rules to implement  
 13 the provisions of Title 37, chapter 6, parts 1 and 3.

14  
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 **Section 1.** Section 37-3-323, MCA, is amended to read:

17 "37-3-323. Revocation or suspension of license --  
 18 probation -- fine -- disposition of fine. (1) The board may  
 19 make an investigation whenever it is brought to its  
 20 attention that there is reason to suspect that a person  
 21 having a license or certificate to practice medicine in this  
 22 state:

23 (a) is mentally or physically unable to safely engage  
 24 in the practice of medicine, has procured his license to  
 25 practice medicine by fraud or misrepresentation or through

1 mistake, has been declared incompetent by a court of  
 2 competent jurisdiction and thereafter has not been lawfully  
 3 declared competent, or has a condition which impairs his  
 4 intellect or judgment to the extent that it incapacitates  
 5 him for the safe performance of professional duties;

6 (b) has been guilty of unprofessional conduct;

7 (c) has practiced medicine while his license was  
 8 suspended or revoked;

9 (d) has had his license suspended or revoked by any  
 10 licensing authority for reasons other than nonpayment of  
 11 fees; or

12 (e) while under probation has violated its terms.

13 (2) The investigation shall be for the purpose of  
 14 determining the probability of the existence of these  
 15 conditions or the commission of these offenses and may  
 16 include requiring the person to submit to a physical  
 17 examination or a mental examination, or both, by a physician  
 18 or physicians selected by the board if it appears to be in  
 19 the best interests of the public that this evaluation be  
 20 secured. The board may examine and scrutinize the hospital  
 21 records and reports of a licensee as part of the  
 22 examination, and copies of these shall be released to the  
 23 board on written request. If the board has reasonable cause  
 24 to believe that this probability exists, the department  
 25 shall mail to the person at his last address of record with

1 the department a specification of the charges against him,  
 2 together with a written notice of the time and place of the  
 3 hearing on such charges, advising him that he may be present  
 4 in person and by counsel if he so desires to offer evidence  
 5 and be heard in his defense. The time fixed for the hearing  
 6 may not be less than 30 days from the date of mailing the  
 7 notice.

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

19 (4) At the hearing the board shall adopt a resolution  
 20 finding him guilty or not guilty of the matters charged. If  
 21 the board finds that the offenses or conditions referred to  
 22 in 37-3-322 or subsection (1) of this section do not exist  
 23 with respect to the person or if he is found not guilty, the  
 24 board shall dismiss the charges or complaint. If the board  
 25 finds that the offenses or conditions referred to in

1 37-3-322 or in subsection (1) of this section do exist and  
2 the person is found guilty, the board shall:

- 3 (a) revoke his license;  
4 (b) suspend his right to practice for a period not  
5 exceeding 1 year;  
6 (c) suspend its judgment of revocation on the terms and  
7 conditions to be determined by the board;  
8 (d) place him on probation;  
9 (e) impose a fine, not to exceed \$500 an incident; or  
10 (f) take any other action in relation to disciplining  
11 him as the board in its discretion considers proper.

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

16 (6) On the expiration of the term of suspension, the  
17 licensee shall be reinstated by the board if he furnishes  
18 the board with evidence that he is then of good moral  
19 character and conduct and restored to good health and that  
20 he has not practiced medicine in this state during the term  
21 of suspension. If the evidence fails to establish to the  
22 satisfaction of the board that the holder is then of good  
23 moral character and conduct or restored to good health or if  
24 the evidence shows he has practiced medicine in this state  
25 during the term of suspension, the board shall revoke the

1 license at a hearing with notice and the procedure provided  
2 in subsection (1) of this section. The revocation is final  
3 and absolute.

4 (7) If a person holding a license to practice medicine  
5 under this chapter is by a final order or adjudication of a  
6 court of competent jurisdiction adjudged to be mentally  
7 incompetent or seriously mentally ill or addicted to the use  
8 of narcotics, his license may be suspended by the board. The  
9 suspension continues until the licensee is found or adjudged  
10 by the court to be restored to reason or cured or until he  
11 is discharged as restored to reason or cured and his  
12 professional competence has been proven to the satisfaction  
13 of the board.

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

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

19 **Section 2.** Section 37-6-304, MCA, is amended to read:

20 "37-6-304. Designations on license -- recording --  
21 renewal -- display. (1) A license issued under this chapter  
22 ~~shall~~ is designated as a "registered podiatrist's  
23 license" or a "temporary podiatrist's license".

24 (2) Licenses ~~shall~~ must be recorded by the department  
25 the same as other medical licenses.

1       (3) Licenses must be renewed annually, on a date set by  
 2 the board.

3       ~~(3)~~(4) A license renewal fee set by the board shall  
 4 must be paid annually on July 1 of each year a date set by  
 5 the board.

6       ~~(4)~~(5) The department shall mail renewal notices no  
 7 later than ~~May 1 of each year and shall issue a receipt~~  
 8 ~~acknowledging payment of an annual renewal fee~~ 60 days prior  
 9 to the annual renewal date set by the board under subsection  
 10 (3).

11       ~~(5)~~(6) If the annual renewal fees ~~are~~ fee is not paid  
 12 on or before ~~October 1 of each year~~ the renewal date set by  
 13 the board under subsection (3), the board may revoke the  
 14 licensee's certificate after giving 30 days' notice to the  
 15 licensee. A certified letter addressed to the delinquent  
 16 licensee's last-known address as it appears on the records  
 17 of the department constitutes notice of intent to revoke the  
 18 certificate. No certificate may be revoked for nonpayment of  
 19 a renewal fee if the licensee pays the annual renewal fee  
 20 plus a penalty prescribed by the board on or before the date  
 21 fixed for revocation.

22       ~~(6)~~(7) A license revoked for nonpayment of the annual  
 23 renewal fee may be reissued only on original application and  
 24 payment of an additional fee prescribed by the board.

25       ~~(7)~~(8) Licenses shall must be conspicuously displayed

1 by podiatrists at their offices or other places of  
 2 practice."

3       **Section 3.** Section 37-6-311, MCA, is amended to read:

4       "37-6-311. Refusal or revocation of license --  
 5 investigation -- reinstatement. (1) After notice and  
 6 opportunity for a hearing, the board may deny, revoke, or  
 7 refuse to renew a license to practice podiatry if the  
 8 consensus of the board is that an applicant is not of good  
 9 moral character or has engaged in unprofessional conduct.  
 10 The department shall notify the applicant of the board's  
 11 intent to deny, revoke, or refuse to renew a license by  
 12 mailing a letter to the applicant's last-known address  
 13 stating the board's intent and setting a time and place for  
 14 a hearing. If the applicant fails without cause to appear at  
 15 the hearing or if the board determines that the applicant is  
 16 not entitled to a license, the board shall deny, revoke, or  
 17 refuse to renew the applicant's license.

18       (2) The board may investigate whenever it is brought to  
 19 its attention that a licensed podiatrist:

20       (a) is mentally or physically unable to engage safely  
 21 in the practice of podiatry;

22       (b) has procured his license by fraud,  
 23 misrepresentation, or through error;

24       (c) has been declared incompetent by a court of  
 25 competent jurisdiction and thereafter has not been lawfully



1 declared competent;

2 (d) has a condition that impairs his intellect or  
3 judgment to the extent that it incapacitates him in the safe  
4 performance of his professional duties;

5 (e) has been found guilty of unprofessional conduct;

6 (f) has practiced podiatry while his license was  
7 suspended or revoked;

8 (g) has had his license suspended or revoked by any  
9 licensing authority for reasons other than nonpayment of  
10 fees; or

11 (h) while under probation has violated its terms.

12 (3) The investigation shall be for the purpose of  
13 determining the probability that the alleged conditions  
14 exist or that the alleged offenses were committed. The  
15 investigation may include requiring the person to submit to  
16 a physical examination or a mental examination, or both, by  
17 a physician or physicians selected by the board if it  
18 appears to be in the best interest of the public that this  
19 evaluation be secured. The board may examine the hospital  
20 records and reports of a licensee as part of the  
21 examination, and copies shall be released to the board on  
22 written request. If the board has reasonable cause to  
23 believe that the alleged conditions exist or that the  
24 alleged offenses were committed, the department shall mail  
25 to the person at his last-known address a specification of

1 the charges against him, together with a written notice of  
2 the time and place of the hearing on such charges, advising  
3 him that he may be present in person and by counsel if he so  
4 desires to offer evidence and be heard in his defense. The  
5 time fixed for the hearing may not be less than 30 days from  
6 the date of mailing the notice.

7 (4) A person, including a member of the board, may file  
8 a sworn written complaint with the department against a  
9 person having a license to practice podiatry in this state  
10 charging him with the commission of any of the offenses set  
11 forth in 37-6-310 or with any of the offenses or conditions  
12 set forth in subsection (1) or (2) of this section. The  
13 complaint shall set forth a specification of the charges.  
14 When the complaint is filed, the department shall mail a  
15 copy to the person complained against, at his last-known  
16 address, together with a written citation of the time and  
17 place of the hearing on the complaint.

18 (5) At the hearing the board shall adopt a resolution  
19 finding the person complained against guilty or not guilty  
20 of the matters charged. If the board finds that the offenses  
21 or conditions referred to in 37-6-310 or subsection (1) or  
22 (2) of this section do not exist with respect to the person  
23 complained against or if he is found not guilty, the board  
24 shall dismiss the charges or complaint. If the board finds  
25 that the offenses or conditions referred to in 37-6-310 or

1 in subsection (1) or (2) of this section do exist or the  
2 person is found guilty, the board shall:

- 3 (a) revoke his license;  
4 (b) suspend his right to practice for a period not  
5 exceeding 1 year;  
6 (c) suspend its judgment of revocation on the terms and  
7 conditions to be determined by the board;  
8 (d) place him on probation; or  
9 (e) take any other action in relation to disciplining  
10 him as the board in its discretion considers proper.

11 (6) In a case of revocation, suspension, or probation,  
12 the department shall enter in its records the facts of the  
13 action and of subsequent measures taken by the board with  
14 respect to that action.

15 (7) On the expiration of the term of suspension, the  
16 licensee shall be reinstated by the board if he furnishes  
17 the board with evidence that he is then of good moral  
18 character and conduct or restored to good health and that he  
19 has not practiced podiatry in this state during the term of  
20 suspension. If the evidence fails to establish to the  
21 satisfaction of the board that the holder is then of good  
22 moral character and conduct or restored to good health or if  
23 the evidence shows he has practiced podiatry in this state  
24 during the term of suspension, the board shall revoke the  
25 license at a hearing held in accordance with the notice and

1 procedure provided in subsection (1). The revocation is  
2 final.

3 (8) If a person holding a license to practice podiatry  
4 under this chapter is by a final order or adjudication of a  
5 court of competent jurisdiction determined to be mentally  
6 incompetent, seriously mentally ill, or addicted to the use  
7 of narcotics, his license may be suspended by the board. The  
8 suspension continues until the licensee is found by the  
9 court to be restored to reason or cured or until he is  
10 discharged as restored to reason or cured and his  
11 professional competence has been proven to the satisfaction  
12 of the board."

13 **Section 4.** Section 37-13-306, MCA, is amended to read:

14 ~~"37-13-306. Annual renewal -- fee -- military~~  
15 ~~exemption. (1) The license to practice acupuncture shall~~  
16 ~~expire on December 31 of each calendar year and shall must~~  
17 ~~be renewed annually, on a date set by the board, without~~  
18 ~~examination and upon request of the licensee. The request~~  
19 ~~for renewal shall must be on forms prescribed by the board~~  
20 ~~and accompanied by a renewal fee prescribed by the board.~~  
21 ~~The request and fee shall must be in the hands of the~~  
22 ~~secretary of the board not later than the expiration date of~~  
23 ~~the license.~~

24 ~~{2}--On or before December 1 of each calendar year, the~~  
25 ~~secretary of the board shall notify each licensee by letter,~~

1 ~~addressed to his last place of residence as the same appears~~  
 2 ~~on the records of the board, that his license will expire on~~  
 3 ~~December 31 following the date of notice unless application~~  
 4 ~~for renewal, accompanied by the annual renewal fee, is~~  
 5 ~~received by the board on or prior to that date.~~

6 ~~(3)(2)~~ Immediately following ~~December 31 of each~~  
 7 ~~calendar year the renewal date~~, the secretary shall notify  
 8 all licensees from whom requests for renewal, accompanied by  
 9 the renewal fee, have not been received that their licenses  
 10 have expired and that they will be cancelled and revoked  
 11 upon the records of the board unless a request for renewal  
 12 and reinstatement, accompanied by the renewal fee and an  
 13 additional fee prescribed by the board, ~~shall be~~ is in the  
 14 hands of the secretary ~~prior to February 1 following the~~  
 15 ~~expiration~~ within 30 days of the renewal date.

16 ~~(4)(3)~~ Immediately ~~following February 1 of each~~  
 17 ~~calendar year~~ If the licensee fails to renew within 30 days  
 18 following the renewal date, the secretary of the board shall  
 19 cancel and revoke upon its records all licenses ~~which that~~  
 20 have not been renewed or reinstated as provided by this  
 21 chapter and shall notify the licensees whose licenses are so  
 22 revoked of ~~such~~ the action.

23 ~~(5)(4)~~ Any A licensee who allows his license to lapse  
 24 by failing to renew or reinstate the ~~same~~ license as herein  
 25 provided in this section may subsequently reinstate the ~~same~~

1 license upon good cause shown to the satisfaction of the  
 2 board and upon payment of all annual renewal fees then  
 3 accrued plus an additional fee prescribed by the board for  
 4 each year following the cancelling of the license.

5 ~~(6)(5)~~ Any A person actively engaged in the military  
 6 service of the United States and licensed to practice  
 7 acupuncture as herein provided in this part ~~shall~~ is not be  
 8 required to pay the annual renewal fee or make application  
 9 for renewal until ~~December 31~~ the renewal date of the  
 10 calendar year in which he returns from military service to  
 11 civilian or inactive status."

12 **Section 5.** Section 37-20-302, MCA, is amended to read:

13 "37-20-302. Utilization plan approval fee -- renewal of  
 14 approval -- renewal fee. (1) Every physician, office, firm,  
 15 or professional service corporation proposing to employ a  
 16 physician assistant-certified shall pay to the board a  
 17 utilization plan approval fee in an amount set by the board,  
 18 ~~not exceeding \$50.~~ Payment must be made when the utilization  
 19 plan is submitted to the board and is not refundable.

20 ~~(2) Approval of every physician assistant-certified~~  
 21 ~~utilization plan expires 1 year from the date of approval~~  
 22 ~~and is invalid thereafter. The department of commerce shall~~  
 23 ~~notify each physician, office, firm, or professional~~  
 24 ~~corporation and physician assistant-certified named in a~~  
 25 ~~utilization plan of the date of expiration of board approval~~

1 ~~at least 1 month prior to the expiration of approval;~~

2 ~~(3) Renewal of approval shall be granted by the board~~  
 3 ~~under such circumstances as would justify original approval~~  
 4 ~~of a utilization plan and upon payment by the employing~~  
 5 ~~physician, office, firm, or professional service corporation~~  
 6 ~~of a renewal fee in an amount to be set by the board, not to~~  
 7 ~~exceed \$50.~~

8 ~~(4)(2) Every physician, office, firm, or professional~~  
 9 ~~service corporation proposing to employ a physician~~  
 10 ~~assistant-certified on a locum tenens basis shall pay to the~~  
 11 ~~board a locum tenens utilization plan fee in an amount set~~  
 12 ~~by the board, not to exceed \$50.~~

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

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

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

23 ~~(6) If the annual renewal fee is not paid on or before~~  
 24 ~~the renewal date set by the board under subsection (3), the~~  
 25 ~~board may revoke the certificate after giving 30 days'~~

1 notice to the certificate holder. A certificate may not be  
 2 revoked for nonpayment of a renewal fee if the certificate  
 3 holder pays the annual renewal fee plus a penalty prescribed  
 4 by the board on or before the date fixed for revocation.

5 ~~(5)(7) Fees received by the department must be~~  
 6 ~~deposited in the state special revenue fund for use by the~~  
 7 ~~board in the administration of this chapter, subject to~~  
 8 ~~37-1-101(6)."~~

9 NEW SECTION. Section 6. Rulemaking authority. The  
 10 board may adopt rules to carry out the provisions of this  
 11 chapter. Rules adopted by the board must be fair, impartial,  
 12 and nondiscriminatory.

13 NEW SECTION. Section 7. Codification instruction.  
 14 {Section 6} is intended to be codified as an integral part  
 15 of Title 37, chapter 6, part 1, and the provisions of Title  
 16 37, chapter 6, apply to {section 6}.

-End-