MINUTES OF THE HUMAN SERVICES COMMITTEE MEETING
March 13, 1981

The Human Services Committee convened at 12:30 p.m. on March 13, 1981 in Room 103 of the Capitol with CHAIRMAN BUDD GOULD presiding. All members were present with the exception of REPRESENTATIVES BARDANOUVE, BERGENE and BENNETT.

SB 137.
CHAIRMAN GOULD opened the hearing on SB 137 in the absence of SENATOR JOHNSON, who was unable to be present. The bill is to provide for the licensing of community group homes for the developmentally disabled, and to allow for the adoption of rules relating to the licensing of the homes.

PROPONENTS:
JUDITH CARLSON, deputy director of Social and Rehabilitation Services (SRS) presented written testimony favoring SB 137. (EXHIBIT I) She felt this bill would clarify the present system and put it in proper statutory language.

JAMES HILL, testifying as regional sanitarian for the Department of Health and Environmental Sciences, testified that the DHEW would be working in cooperation with the SRS concerning the standards for health and safety for these homes. (EXHIBIT II)

OPPONENTS: There were none.

QUESTIONS FROM THE COMMITTEE:

REP. SWITZER felt the group homes are doing an excellent job. He said, however, that many employees had commented on having an overwhelming amount of paper work on each patient. He wondered if this couldn't be reduced.

MS. CARLSON said she felt it was important to the progress of the patient to have adequate records, but did not want to place an undue burden on the employees.

REP. BRAND asked if the bill provided for the fire marshal to work in conjunction with the DHES and with the SRS in granting licenses for group homes.

MS. CARLSON said, after initial certification by the state fire marshal, the homes will later be certified on an annual basis.

REP. BRAND asked how the bill will change the present law. MS. CARLSON said the agencies would be doing what they are presently doing, but it will clarify their rights by passing the bill.

REP. BRAND asked about the licensing fee. MS. CARLSON said it was requested by the legal authorities. The charge is now about $25, she said, and in either case the SRS will pay the fee.

REP. BRAND asked about the language "reasonable", stated in the bill regarding fees. MS. CARLSON said she felt that $25 was "reasonable".

REP. METCALF closed the hearing on the bill.

REP. METCALF was appointed to carry the bill in the House.

SB 418.
SENATOR OSCHNER opened the hearing on SB 418. He said it was being introduced at the request of the Board of Pharmacists.

PROPONENTS:
DEL STEINER, Billings, representing the Montana Board of Pharmacists, presented written testimony including proposed amendments. (EXHIBIT III).

OPPONENTS: There were none.

QUESTIONS FROM THE COMMITTEE:
REP. BERGENE asked if continuing education would go back into the bill. MR. STEINER said that continuing education was handled in SB 390. MS. OSCHNER said the amendment would change the requirement from one to three years. He said the Human Services Chairmen in both Senate and House were in favor of the bill and then closed the hearing.

SB 310.

Due to SENATOR STEVE BROWN's inability to attend the hearing, SCOTT SECATT, opened the hearing on SB 310. He stated that the board membership would be changed and the length of time served on the board was reduced from seven to four years. He also discussed other provisions of the bill.

PROPONENTS: There were none.

OPPONENTS: There were none.

QUESTIONS FROM THE COMMITTEE: There were none.

The hearing was closed.

Following the hearings portion of the meeting, the Chairman called the members into Executive Session.

EXECUTIVE SESSION:

SB 228.
CHAIRMAN GOULD asked JUDY CARLSON, deputy director of the SRS to speak on the proposed amendments. She said the amendment on

Page 2, line 2 was submitted in error, but passed by the Senate anyway. The amendment SRS would like is that the counties would pay no more than half of the total share. For AFDC foster care, there would be 50% payment which would vary from year to year. This would conform to the budget if it is approved, she said. The "no more than" language especially pertains to expensive medical care, which would be a burden for a county to pay. She feels that SRS should negotiate in this area and perhaps pay more than half, letting the county pay less than half.

REP. SEIFERT moved that SB 228 BE CONCURRED IN.

REP. SEIFERT moved that the SRS Amendments be accepted by the committee.

RUSS JOSEPHSON read amendments to the Statement of Intent he felt were needed. REP. METCALF moved the amendments be accepted by the committee as read by legislative Researcher Russ Josephson.

A vote was PASSED on all the amendments and on the acceptance of the Statement of Intent by the committee UNANIMOUSLY.

REP. SEIFERT moved that SB 228 BE CONCURRED IN AS AMENDED.

REP. BERGENE said that she would carry the bill in the House.

SB 137.
REP. METCALF moved that SB 137 BE CONCURRED IN. The motion was seconded and passed UNANIMOUSLY. REP. METCALF will CARRY THE BILL.

SB 418.
REP. DEVLIN moved that SB 418 DO PASS.

REP. MANNING moved that the committee accept the amendments presented to the committee for consideration. That MOTION was seconded and PASSED UNANIMOUSLY. RUSS JOSEPHSON called attention to needed amendments on Page 15, line 16 and Page 17, lines 15 and 16, suggested by the Board of Pharmacists. REP. CONN moved these amendments be accepted. The MOTION PASSED UNANIMOUSLY.

REP. DEVLIN moved that SB 418, AS AMENDED BE CONCURRED IN. The MOTION was seconded and PASSED UNANIMOUSLY.

The bill will be carried by REP. NILSON.

SB 310.
REP. WINSLOW moved that SB 310 BE CONCURRED IN.

The MOTION was seconded and PASSED UNANIMOUSLY.

The bill will be carried by REP. NILSON.

CHAIRMAN GOULD announced that there would be no meeting on Monday, but that the committee's next meeting would be on Wednesday, March 18, at noon.

The Chairman also announced that the committee may be assigned to act on some interim study resolutions. He asked REP. MENAHAN if he wanted to take action on HJR 26 during this meeting. REP. MENAHAN said that he would at a later meeting.

The meeting adjourned at 1:15 p.m.

REP. BUDD GOULD, Chairman

rj

VISITORS' REGISTER

HOUSE Human Services COMMITTEE

BILL SB 137 Date 3-13-81

SPONSOR Johnson

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Judith H Carlson	~~Helena~~	SRS	X	
James L. Hill	Helena	DHES	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81

Testimony on SB 137 - To Amend the
Act Providing for Licensing of Community Group Homes for the Developmentally Disabled

The Department of Social and Rehabilitation Services requests your approval of SB 137. At the present time, because of unclear statutory authority, the Department of Health, the State Fire Marshal, and the Department of SRS have worked out a system for the licensing of community group homes for the developmentally disabled. This bill would clarify the present system and put it in proper statutory language. The Senate Public Health Committee spend alot of time working with us to make it just as clear as possible.

Under existing statute, SRS issues the licenses. We receive certifications from the Department of Health, through local public health officers, that the facility meets standards on sanitation and safety, and certifications from the state Fire Marshal on fire and life safety standards. SRS does the review of the staff and program for the group home and issues the licenses. The licenses is signed by both SRS and DHES. Under present law, SRS has the authority for rules on the administration of the homes but DHES has the authority for making the rules on licensing. In fact, what we need is for SRS to have rule-making authority for administration, standards, and licensing; DHES and the State Fire Marshal need the authority to certify facilities which meet the standards.

We are trying to be sensitive to the issue of rule-making and the Legislature's role to expressly grant rule-making authority to executive agencies. We are uncomfortable assuming any authority that has not been explicity given. Thus, the Department of Social and Rehabilitation Services encourages your positive action on this bill with its clean-up amendments.

Judith H. Carlson
Deputy Director, SRS

WITNESS STATEMENT

NAME James L. Hill BILL No. SB 137

ADDRESS Helena DATE 13 Mar. 81

WHOM DO YOU REPRESENT DHES

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

VISITORS' REGISTER

HOUSE Human Services COMMITTEE

BILL SB 418 Date 3-13-81

SPONSOR Ochsner

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Warren Arnold	RPh Great Falls	MT Board of Pharmacists	✓	
Frank J Davis	Great Falls	MT. St. Pharmaceutical Assoc	✓	
Del L. Steiner	Billings	MT Board of Pharmacists	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81

Amend Senate Bill 418; third reading (blue) copy as follows:

1. Title, line 10
Following: "37-7-401,"
Strike: "AND"
Following: "37-7-502,"
Insert: "50-32-101, 50-32-208, 50-32-209, AND 50-32-301,"

2. Page 17.
Following: line 14
Insert: attached

WITNESS STATEMENT

NAME Del L. Steiner BILL No. 418

ADDRESS Billings DATE Mar 13, 1981

WHOM DO YOU REPRESENT Montana Board of Pharmacists

SUPPORT ✓ OPPOSE _____ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

BOARD OF PHARMACISTS

DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL LICENSING

Ted Schwinden,
XXXXXXXXXXX GOVERNOR

LALONDE BUILDING
HELENA, MONTANA 59601
(406) 449-3737

STATE OF MONTANA

WARREN AMOLE, EXECUTIVE SECRETARY 510 1ST AVE. NO., SUITE 100 GREAT FALLS, MT 59401 (406) 761-5131

RE: SENATE BILL 418 AND AMENDMENTS; AN ACT TO REVISE AND CLARIFY THE BOARD OF PHARMACISTS AND THE LAWS ADMINISTERED BY THE BOARD OF PHARMACISTS.

THE INTENT OF THIS BILL AND THE AMENDMENTS IS PRIMARILY TO CLEAN UP THE LAWS ADMINISTERED BY THE BOARD OF PHARMACISTS.

TESTIMONY BY: Del L. Steiner, R.Ph.,
Member, Board of Pharmacists

We are supporting this bill and due to some confusion during the drafting procedure, I have amendments to offer at this time. These are changes that were originally proposed but were lost in the shuffle during the drafting and were not noticed until it was too late to offer them to the Senate.

Very few substantive changes have been made. Some ambiguous sections have been removed, names of publications and bureaus have been updated, and unnecessary language deleted.

Additions are few and include one on page 15, line 15 through 18. This limits the time allowed that a prescription may be refilled. The board proposed a one year limitation but this was changed to three years in the Senate.

Another addition is found on page 6 of the amendments, line 24 through 28. This adds a penalty for violating the provisions of Section 50-32-208, MCA. The present statute does not provide for a penalty and it was recommended by board counsel that this section is necessary.

I will be glad to answer any questions you may have regarding any portion of this bill and the amendments.

The Board of Pharmacists urges the passage of Senate Bill 418 and the amendments.

SENATE BILL NO. 418

INTRODUCED BY OCHSNER, ZABROCKI

BY REQUEST OF THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY THE LAW CREATING THE BOARD OF PHARMACISTS AND THE LAWS ADMINISTERED BY THE BOARD OF PHARMACISTS; AMENDING SECTIONS 2-15-1609, 37-2-101, 37-7-101, 37-7-201, 37-7-301 THROUGH 37-7-303, 37-7-311, 37-7-321, 37-7-401, AND 37-7-502, MCA."

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

Section 1. Section 2-15-1609, MCA, is amended to read:

"2-15-1609. Board of pharmacists. (1) There is a board of pharmacists.

(2) The board consists of three members appointed by the governor. The governor shall appoint the members from a list submitted annually by the Montana state pharmaceutical association. The list shall contain the names of five qualified persons for each appointment. Each member shall be a graduate of the college of pharmacy of the university of Montana or of a college or school of pharmacy ~~recognized and~~ approved accredited by ~~or a member of~~ the American ~~association of colleges of pharmacy~~ council on pharmaceutical education. Each member shall have at least 5 consecutive years of practical experience as a pharmacist immediately before his appointment. ~~However, each member may be a registered pharmacist of 15 years' practical experience and actually engaged in the practice of pharmacy.~~ A member who, during his term of office, ceases to be actively engaged in the practice of pharmacy in this state, shall be automatically disqualified from membership on the board.

(3) Each member shall serve for a term of 3 years. A member shall be removed from office by the governor on proof of malfeasance or misfeasance in office, after reasonable notice of charges against him and after a hearing.

(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 2. Section 37-2-101, MCA, is amended to read:

"37-2-101. Definitions. As used in this part, the following definitions apply:

(1) "Medical practitioner" means any person licensed by the state of Montana to engage in the practice of medicine, dentistry, osteopathy, or chiropody (podiatry) and in such practice to administer or prescribe drugs.

(2) "Drug" means any article:

(a) recognized in the official United States Pharmacopoeia ~~the official~~ National Formulary, or in any supplement to such pharmacopoeia ~~or~~ formulary;

(b) intended for use in the diagnosis, cure,

3/13 THIRD READIN amended

SENATE BILL NO. 418

INTRODUCED BY OCHSNER, ZABROCKI

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(2) "Drug" means any article:

(a) recognized in the official United States Pharmacopoeia ~~the official~~/ National Formulary, or in any supplement to such pharmacopoeia ~~or~~/ formulary;

(b) intended for use in the diagnosis, cure,

mitigation, treatment, or prevention of disease in man;

(c) intended to affect the structure or any function of the body of man;

(d) intended for use as a component of any article described in subsection (a), (b), or (c) of this subsection (2), but such term does not include any device or any components of a device.

(3) "Device" means any instrument, apparatus, or contrivance intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man;

(b) to affect the structure or any function of the body of man.

(4) "Pharmacy" means an ~~office, pharmacy, drugstore, or other~~ establishment which engages in the sale of drugs ~~at retail~~ requiring a prescription.

(5) "Community pharmacy", when used in relation to a medical practitioner, means a pharmacy situated within 10 miles of any place at which such medical practitioner maintains an office for professional practice.

~~(6)~~ "Drug company" means any person engaged in the manufacturing, processing, packaging, or distribution of drugs; but such term does not include a pharmacy.

(7) "Person" means any individual and any partnership, firm, corporation, association, or other business entity.

(8) "State" means the state of Montana or any political subdivision thereof."

Section 3. Section 37-7-101, MCA, is amended to read:

"37-7-101. Definitions. Unless the context requires otherwise, in parts 1 through 3 of this chapter the following definitions apply:

(1) "Board" means the board of pharmacists provided for in 2-15-1609.

(2) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(3) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.

(4) "Continuing education" means professional pharmaceutical postgraduate education in the following areas:

(a) the socioeconomic and legal aspects of health care;

(b) the properties and actions of drugs and dosage forms; and

(c) the etiology, characteristics, and therapeutics of the disease state.

(5) "Department" means the department of professional

and occupational licensing provided for in Title 2, chapter 15, part 16.

(6) (a) "Drug" means:

(i) articles recognized in the official United States Pharmacopoeia~~, official Homeopathic Pharmacopoeia of the United States, or official~~/ National Formulary, or a supplement to them;

(ii) articles intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(iii) articles (other than food) intended to affect the structure or function of the body of man or other animals; and

(iv) articles intended for use as a component of an article specified in subsection (i), (ii), or (iii).

(b) "Drug" does not include devices or their components, parts, or accessories.

(7) "Intern" means a natural person licensed by the department to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons ~~in a pharmacy having a pharmacist in charge~~ under the supervision of a registered and licensed pharmacist.

(8) "Medicine" means a remedial agent which has the property of curing, preventing, treating, or mitigating diseases or which is used for this purpose.

(9) "Person" includes an individual, partnership, corporation, or association.

(10) "Pharmacist" means a natural person licensed by the department to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons and who may affix to his name the term "R.Ph."

(11) "Pharmacy" means ~~a drugstore or other~~ an established place registered by the department of professional and occupational licensing, in which prescriptions, drugs requiring a prescription, medicines, chemicals, and poisons are compounded, dispensed, vended, or sold ~~at retail~~.

(12) "Poison" means a substance which, when introduced into the system, either directly or by absorption, produces violent, morbid, or fatal changes or which destroys living tissue with which it comes in contact.

(13) "Prescription" means an order given individually for the person for whom prescribed, directly from the prescriber to the furnisher or indirectly to the furnisher, by means of an order signed by the prescriber and bearing the name and address of the prescriber, his license classification, the name of the patient, the name and the quantity of the drug or drugs prescribed, the directions for use and the date of its issue. These stipulations apply to both written and telephoned prescriptions.

(14) "Wholesale" means a sale for the purpose of resale."

Section 4. Section 37-7-201, MCA, is amended to read:

"37-7-201. Organization -- powers and duties. (1) The board shall meet at least once a year to transact its business. The board shall annually elect from its members a president, vice-president, and secretary.

(2) The board shall:

(a) regulate the practice of pharmacy in this state subject to this chapter;

(b) determine the minimum equipment necessary in and for a pharmacy ~~and drug store~~;

(c) regulate, under therapeutic classification, the sale of drugs, medicines, chemicals, and poisons and their labeling;

(d) regulate the quality of drugs and medicines dispensed in this state, using the United States Pharmacopoeia ~~and the~~/ National Formulary or revisions thereof as the standards;

(e) request the department to enter and inspect, at ~~reasonable~~ times, places where drugs, medicines, chemicals, or poisons are sold, vended, given away, compounded, dispensed, or manufactured. It is a misdemeanor for a person to refuse to permit or otherwise prevent the department from entering these places and making an inspection.

(f) regulate the practice of interns under national standards;

(g) make rules for the conduct of its business;

(h) perform other duties and exercise other powers as this chapter requires;

(i) adopt and authorize the department to publish rules for carrying out and enforcing parts 1 through 3 of this chapter.

(3) The department shall:

(a) license, register, and examine, subject to 37-1-101, applicants whom the board considers qualified under this chapter;

(b) license pharmacies and certain stores under this chapter; and

(c) issue certificates of "certified pharmacy" under this chapter."

Section 5. Section 37-7-301, MCA, is amended to read:

"37-7-301. Sale of drugs or medicines unlawful except as provided. (1) It is unlawful for any person to compound, dispense, vend, or sell at retail drugs, medicines, chemicals, or poisons in any place other than a pharmacy, except as hereinafter provided.

(2) It is unlawful for any proprietor, owner, or manager of a pharmacy or any other person to permit the compounding or dispensing of prescriptions or the vending or

selling at retail of drugs, medicines, chemicals, or poisons in any pharmacy except by a registered and licensed pharmacist or by an intern ~~in the temporary absence of such pharmacist~~ registered and licensed by the department, under the supervision of a registered and licensed pharmacist.

(3) It is unlawful for any person to assume or pretend to the title of pharmacist or intern unless such person has a license as such, issued and in force pursuant to parts 1 through 3 of this chapter.

(4) It is unlawful for any person other than a licensed and registered pharmacist or a licensed and registered intern under the supervision of a licensed and registered pharmacist to compound, dispense, vend, or sell at retail drugs, medicines, chemicals, or poisons except as provided in parts 1 through 3."

Section 6. Section 37-7-302, MCA, is amended to read:

"37-7-302. Examination -- qualifications -- fees -- reciprocity. (1) The department shall give reasonable notice of examinations by mail to known applicants. The department shall record the names of persons examined, together with the grounds on which the right of each to examination was claimed, and also the names of persons registered by examination or otherwise.

(2) The fee for an examination shall be set by the board at a figure commensurate with costs, which fee may in

the discretion of the board be returned to applicants not taking the examination. On again making payment of the fee, an applicant who fails is entitled to take the next succeeding examination free of charge.

~~(3) The fee for registration by reciprocity is $200.~~

~~(4)~~(3) To be entitled to examination as a pharmacist, the applicant shall be a citizen of the United States, of good moral character, and a graduate of the school of pharmacy of the university of Montana or of a college or school of pharmacy ~~recognized and approved~~ accredited by ~~or a member of~~ the American ~~association of colleges of pharmacy~~ council on pharmaceutical education; but the applicant may not receive a registered pharmacist's license until he has complied with the internship requirements established by the board. ~~During this period, if the applicant has passed the examination, he shall be licensed as an intern only.~~

~~(5)~~(4) The board may in its discretion authorize the department to grant registration without examination to a pharmacist licensed by a board of pharmacy or a similar board of another state which accords similar recognition to licensees of this state if the requirements for registration in the other state are, in the opinion of the board, equivalent to the requirements of this chapter. The fee for registration by reciprocity is $200.

~~(6)~~(5) Every person licensed and registered under this

chapter shall receive from the department an appropriate certificate attesting the fact, which shall be conspicuously displayed at all times in his place of business. ~~If the holder is entitled to manage or conduct a pharmacy in this state for himself or another, the fact shall be set forth in the certificate.~~"

Section 7. Section 37-7-303, MCA, is amended to read:

"37-7-303. Annual renewal fee. (1) A person licensed and registered by the department shall annually pay to the department before June 30 a renewal of registration fee of $15. A default in the payment of a renewal fee ~~for a period of 30 days~~ after the date it is due increases the renewal fee to $30. It is unlawful for a person who refuses or fails to pay the renewal fee to practice pharmacy in this state. A certificate and renewal expires at the time prescribed, not later than 1 year from its date. A defaulter in a renewal fee may be reinstated within 1 year of the default without examination on payment of the arrears and compliance with the continuing education provisions of this chapter.

~~(2)~~ The board may charge an additional fee of up to $10 for such license renewal to be used in administering the continuing education provisions of this chapter."

Section 8. Section 37-7-311, MCA, is amended to read:

"37-7-311. Revocation of license issued to pharmacist or intern. The board shall revoke, ~~temporarily or~~

~~permanently~~ licenses issued by the department to a pharmacist or intern whenever the holder of the license:

(1) has obtained it by false representations or fraud;

(2) is an habitual drunkard or addicted to the use of narcotic drugs;

(3) has been convicted of a felony;

(4) has been convicted of violating the pharmacy law; or

(5) has been found by the board guilty of incompetency in the preparation of prescriptions or guilty of gross immorality affecting the discharge of his duties as a pharmacist or intern."

Section 9. Section 37-7-321, MCA, is amended to read:

"37-7-321. Store license -- certified pharmacy license -- suspension or revocation. (1) The department shall, on application on forms prescribed by the board and on the payment of an annual fee of $10, license stores other than pharmacies in which are sold ordinary household or medicinal drugs prepared in sealed packages or bottles by a manufacturer qualified under the laws of the state in which the manufacturer resides. The name and address of the manufacturer shall appear conspicuously on each package sold by the licensee. It is unlawful for a store to sell, deliver, or give away household medicinal drugs without first having secured a license and thereafter keeping it in

force by proper renewal. ~~This subsection does not prevent a vendor from selling a patent or proprietary medicine in the original package when plainly labeled or nonmedical articles usually sold by vendors.~~

(2) The board shall provide for the original certification and annual renewal by the department of every pharmacy doing business in this state. On presentation of evidence satisfactory to the board and on application on a form prescribed by the board and on the payment of an original certification fee of $100, the department shall issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to pharmacies operated by registered pharmacists ~~or registered interns~~ qualified under this chapter. The annual renewal fee for a pharmacy shall be set by the board in an amount not to exceed $50. Any default in the payment of such renewal fee ~~for a period of 30 days~~ after the date the same is due shall increase the renewal fee to the sum of $100. The license must be displayed in a conspicuous place in the pharmacy for which it is issued and expires on June 30 following the date of issue. It is unlawful for a person to conduct a pharmacy, use the word "pharmacy" to identify his business, or use the word "pharmacy" in advertising unless a license has been issued and is in effect.

(3) The board may suspend, revoke, or refuse to renew

a store or pharmacy license:

(a) obtained by false representation or fraud;

(b) when the pharmacy for which the license is issued is kept open for the transaction of business without a pharmacist in charge;

(c) when the person to whom the license is granted has been convicted of:

(i) a violation of parts 1 through 3 of this chapter;

(ii) a felony; or

(iii) a violation of the Federal Food, Drug, and Cosmetic Act ~~of June 25, 1938, (52 Stats. 1040 through 1059~~ Title 21, chapter 9, United States Code);

(d) when the person to whom the license is granted is a natural person whose pharmacist ~~or intern~~ license has been revoked; or

(e) when the store or pharmacy is conducted in violation of parts 1 through 3 of this chapter.

(4) Before a license can be revoked, the holder is entitled to a hearing by the board."

Section 10. Section 37-7-401, MCA, is amended to read:

"37-7-401. Restrictions upon sale or prescription of opiates -- coding prohibited -- refilling prescriptions. (1) It shall be unlawful for any physician to sell or give to or prescribe for any person any opium, morphine, alkaloid-cocaine, or alpha or beta eucaine or codeine or

heroin or any derivative, mixture, or preparation of any of them, except to a patient believed in good faith to require the same for medical use and in quantities proportioned to the needs of such patients.

(2) A prescription must be so written that it can be compounded by any registered pharmacist. The coding of any prescription is a violation of this section.

(3) A prescription marked "non repetatur", "non rep", or "N.R." cannot be refilled. A prescription marked to be refilled by a specified amount may be filled by any registered pharmacist the number of times marked on the prescription. A prescription not bearing any ~~limitation of~~ refill instructions may not be refilled ~~at will during the time specified~~ without first obtaining permission from the prescriber. A prescription may not be refilled for more than ~~1~~ 3 year from the date it was originally filled. ~~A prescription may not be refilled when a refill is prohibited by federal or state law.~~ No narcotic prescription may be refilled."

Section 11. Section 37-7-502, MCA, is amended to read:

"~~37-7-502~~. Definitions. As used in this part, the following definitions apply:

(1) "Bioavailability" means the extent and rate of absorption from a dosage form as reflected by the time-concentration curve of the administered drug in the

systemic circulation.

(2) "Bioequivalent" means a chemical equivalent which, when administered to the same individual in the same dosage regimen, will result in comparable bioavailability.

(3) "Brand name" means the proprietary or the registered trademark name given to a drug product by its manufacturer, labeler, or distributor and placed upon the drug, its container, label, or wrapping at the time of packaging.

(4) "Chemical equivalent" means drug products that contain the same amounts of the same therapeutically active ingredients in the same dosage forms and that meet present compendium standards.

(5) "Drug product" means a dosage form containing one or more active therapeutic ingredients along with other substances included during the manufacturing process.

(6) "Generic name" means the chemical or established name of a drug product or drug ingredient published in the latest edition of the official United States Pharmacopoeia ~~or official Homeopathic Pharmacopoeia of the United States~~/National Formulary.

(7) "Person" means an individual, firm, partnership, association, corporation, or any other entity, whether organized for profit or not.

(8) "Prescriber" means a practitioner licensed under

the professional laws of the state to administer medicine and drugs.

(9) "Present compendium standard" means the official standard for drug excipients and drug products listed in the latest revision of the United States Pharmacopoeia ~~and the~~/ National Formulary.

(10) "Product selection" means to dispense without the prescriber's express authorization a different drug product in place of the drug product prescribed.

(11) "Therapeutically equivalent" means those chemical equivalents which, when administered in the same dosage regimen, will provide essentially the same therapeutic effect as measured by the control of a symptom or a disease and/or toxicity."

Section 12. Coordination with ___Bill___ [LC 1288]. If ___Bill___ [LC 1288] introduced in the 47th Legislature is passed and approved that portion of Section 6, or any other section of this bill, that amends 37-7-302, MCA, to provide for a fee for registration by reciprocity is void and of no effect.

-End-

VISITORS' REGISTER

HOUSE Human Services COMMITTEE

BILL SB 310 Date 3-13-81

SPONSOR S. Brown

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81