

HOUSE BUSINESS AND INDUSTRY COMMITTEE

March 16, 1981

SUMMARIES OF BILLS -

SENATE BILL 392 -

Introduced by Senators Steve Brown and Hims1 by request of the Legislative Audit Committee, revises the law to terminate the Board of Podiatry Examiners on July 1, 1981. This bill gives the responsibility for examining podiatrists to the Board of Medical Examiners and deletes the minimum test score requirements. Penalty for violations under present law is a fine of not more than \$1,000 and a jail term of up to two years, or both, but under this bill penalty would be a fine of between \$250 and \$1,000 and a jail term of from 90 days to one year, or both.

SENATE BILL 452 -

Introduced by Senators Hims1 and Steve Brown, re-establishes the Board of Barbers but changes membership from three barbers to two barbers and one non-barber. The bill strikes the statutory provision for apprentices and exempts the practice of cosmetology from the definition of barbering. The bill also abolishes the authority of the Board of Barbers to establish minimum prices for barber work. The bill abolishes the requirement that a student of a barber school, after nine months attendance, must apply for an apprenticeship card and work one year under the supervision of a licensed barber. The bill allows a person to receive a certificate of registration as a barber after passing an examination. The apprenticeship requirement is stricken. The bill mandates annual inspections of barber shops and barber schools, amends the present law to allow barber colleges to charge for services and to remove the prohibition of a felon getting a barber's license, and allows for reciprocity on barber licensing with other states.

HOUSE BUSINESS AND INDUSTRY COMMITTEE

Rep. Jay Fabrega called the committee to order on March 16, 1981, at 8:00 a.m., in room 129, Capitol Building. All members of the committee were present. Bills to be heard were SB 452 and 392.

SENATE BILL 392 -

SENATOR STEVE BROWN, District 15, Lewis and Clark County, was co-sponsor for SB 392 and introduced this bill by request of the Legislative Audit Committee as a result of studies done during the interim on sunset reviews of various boards. The recommendation for the Board of Podiatry Examiners was that it transferred to the Board of Medical Examiners. There are 20 licensed podiatrists living in Montana. The original recommendation of the audit committee was that one member of the Board of Medical Examiners be a licensed podiatrist, but that was stricken in the Senate. SB 392 would transfer the board to the Board of Medical Examiners, but would not allow a podiatrist to be on the board. Other amendments have to do with making a change in penalty for violations.

TED DONEY, attorney in private practice in Helena, representing the Montana Podiatry Association, was contacted by the Association shortly after the bill was passed in the Senate and asked him to help them. They don't want the board back - their position is that they are willing to have their board abolished, but they do want to have one member of the Medical Examiners Board be a podiatrist. Amendments on the second page of EXHIBIT A contain definition of podiatry. They are not arguing re-insertion of Section 1 in this bill, they just want to add a podiatrist to the Board of Medical Examiners.

DR. ROBERT PHILLIPS, Phillips Podiatry Clinic, Great Falls, feels that by 1990 the practice of podiatry will be in great demand and there won't be enough doctors to serve the public's demands. Today's graduate of the school of podiatry is much different from years ago because of standards imposed by the podiatrists themselves. He feels podiatrists need to have some say so in the regulatory procedures of their profession. He strongly recommends that the amendment to SB 392 be unanimously approved. He stated it is not logical to not have a podiatrist on the Board of Medical Examiners. Qualifications for podiatrists are the same as for medical schools, and the pre-medical courses are the same as for other medical students.

The bill contains a reciprocity agreement with other states and a license from another state would qualify them to practice in Montana. This qualification may set a standard of knowledge, but not of ethics and should be evaluated according to normal standards. There are some who have never taken the examination and are an embarrassment to the profession. They want a fully qualified member on the Board. Now is not the time to minimize their professional standards.

Many operations now performed by podiatrists are standard medical practice operations and under control of their men. Because of this, they are asking that statutory laws of Montana say they are also physicians and surgeons of the foot. They would not be changing their practice or field

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of therapy, but the law spells out what it has always allowed them to practice, but they also want it definitely stated in the law that they are physicians and surgeons. Forrest Anderson, when Attorney General, issued an opinion that podiatrists may legally prescribe drugs as part of their profession, but they have been practicing without a law otherwise. See EXHIBIT B. Research work being done on sports injuries is being done by the podiatry profession with an end result being prevention of injuries.

DR. LAUREN ROGERS, reiterated the positions put forth before saying he would like to maintain at least one member on this board for representation to more or less watch our position in the overall position of the Medical Board in the state. A podiatrist could give good counsel to the Board on areas of our expertise. It is not the position of the podiatrists to impose their philosophies on the board, but to offer guidance. California's board is composed of lay people and each small group of medical people are included. There is a lay majority on this board now. The Medical Board feels that we would be diluting their position, but he does not feel that one member would be a dilution position since they have a lot to offer that a lay person does not have. Osteopaths are represented and they are a lot smaller group than podiatrists. He feels people making judgments on other people who aren't thoroughly versed in that particular area seems a bit presumptuous, and the amendment to include the podiatry amendment on the bill should be reenacted, and the methods of upgrading the law of podiatry in the state should be accepted.

JERRY LOENDORF, Montana Medical Association, supports the bill. He supports the amendment to put a podiatrist on the Board of Medical Examiners because of the sunseting of the Board of Podiatrists. No medical doctors or other specialties are represented on that board - there are many other types of medical representations that do not have a representative on that board. He thinks the procedure now where the person appointed by the governor, whatever specialty he happens to work in, is fine. Testimony said podiatry school is very similar to medical school, but the qualifications in law are very much different. The board does a substantial amount of discipline. They don't want to further fragment the board. He proposed this first amendment be adopted and concur in the second one.

The second amendment purports to amend 37-6-102, but doesn't put in existing language, and if adopted that language would have to be included. The two don't fit well together.

The third amendment is to allow qualification for insurance to which they have no objection, but have some opposition about the wording of 'physician and surgeon'. The law makes delineation now and if we start calling them all by the same name, the purpose is defeated. If the purpose has to do with insurance, could only be done by an amendment to the insurance code.

JIM PELLEGRINI, Legislative Auditor's office, reported the legislative audit committee held hearings and review 22 other boards after which it was recommended the Board of Podiatry be sunsetted and put under the Board of Medical Examiners. The Board of Podiatrists was created in 1977 - prior to

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that they were regulated by the Board of Medical Examiners and then by another board made up of 3 podiatrists, 3 physicians and one lay person on the Board of Podiatrists. The staffing for the board represented 2% of one full FTE, and collected approximately \$1,000 in revenue - and now have a fund balance of about \$1400. The Board has licensed 9 new podiatrists. At the present time, there are 20 in the state. There was one complaint before the Board and that was referred to the Medical Board involving unnecessary surgery. The sunseting recommendation was arrived at somewhat because it was not felt that the \$1,000 annual revenue was adequate and that the regulation be given to the Medical Examiners.

QUESTIONS -

Rep. Andreason asked about the second proposed amendment regarding administration of drugs since there is quite a bit of difference in the background training between a podiatrist and a doctor. The only limitation is that podiatrists can administer only local anesthetics, and have to operate only within the scope of their training. Loendorf said part of the existing law must be included. Doney said this was a typist error in not including subsection 2. This amendment inserts in the statute what is already being practiced. In answer to Rep. Andreason's further question as to whether it was overstepping bounds in the surgeon of the foot description, Doney said both amendments are verbatim from the statutes. The second amendment is also putting into law what is already in current practice. This amendment will recognize by statute that that is the case and insure people that insurance companies will be more willing to cover surgeon of the foot who don't cover for this type of insurance because it isn't in the law now.

Dr. Phillips said all members of the board have graduated in some field of medicine and are MDs. He feels the definition setting forth a qualification for a podiatrist to have a high school education is embarrassing. Podiatry schools require the same qualifications as do other medical schools. Insurance companies should have to pay podiatrists the same as to any other discipline for the same procedures. He felt that the lack of one person representing a strong new concept of medical practice would not be beneficial.

In answer to Rep. Metcalf's question why the minimum requirements for a license were not left in the bill, the sponsor said it was thought the requirements should be set by rule rather than locked into law.

Rep. Schultz asked if podiatrists accept Blue Cross or Blue Shield payments and Dr. Phillips said those organizations will not accept them at the present time in their contracts.

Mr. Loendorf told Rep. Fabrega that podiatry and medical practice are very separate and distinct areas in medical practice although there is some overlap in all medical practices.

Mr. Pellegrini said the audit committee, because of the unbalanced problem and the small number of podiatrists, thought it better to have the Board of Podiatrists be included in the Board of Medical Examiners and to put one member of the podiatry profession on the board.

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Senator Brown closed saying one of the concerns of the legislative audit committee was that the revenue generated by the Board of Podiatry was not sufficient for expenses of a board and would be quickly used up, so that is why it was decided to have one member on the board. There are no easy answers to this kind of disputes and he has to support it and has no problem with it. .

Dealing with practice - one thing is to make sure that the issue of amputation is covered here and that may really be at the heart of the practice of podiatry. When you abolish a board, it is not intended that they have no representation at all. He definitely thinks there needs to be regulation and that is one reason they recommended adding one member.

SENATE BILL 452 -

SENATOR MATT HIMSL, District #9, Flathead County, co-sponsor of SB 452, introduced it at the request of the Legislative Audit Committee. The committee recommends that the Board of Barbers be reestablished for six years. Section 3 changes the makeup of the board to one public member and two barbers since the whole idea of a license is to protect the public. Section 4 removes the reference to the licensing category of the apprentice. The practice of cosmetology does not constitute barbering. Cosmetologists couldn't cut hair unless it was a secondary function to the primary purpose. This removes that. Section 5 repeals minimum prices for all barbering services - union agreements do this. The board supported repealing this authority. Section 5 allows hiring of an inspector at a salary rather than at \$30 per day. Section 6 requires a person to have a certificate of registration before practicing barbering. Section 7 allows an individual who has successfully completed barber school to operate or manage a barbershop after taking an examination given by the board. By repealing the apprenticeship requirement a person right out of barber school could open and manage a barbershop. A temporary certificate allows opening of a shop until completion of licensing and inspection has been done. Eighty percent of the shops were not inspected and so this requirement was included.

Section 13 repeals the statute that does not permit schools to charge patrons for services when in practice they are charging to cover their costs. Section 14 removes felony conviction as grounds for denial of a license. Section 15 sets out reciprocity with other state licensed barbers if the licensing is commensurate with Montana's.

See Senator Himsl's statement attached for further explanation. EX. C.

HARRY M. OLSON, retired barber, supports and recommends the amendments proposed. He thinks that adding a public member to the board would be a protection to the public. There are from 20 to 40 applicants and if you have ever been to an examination, you would find that these people are really pushed to get the work done. If it came to a tie vote, the board wouldn't know if the applicant is able to do the work required for a barbershop, so he wants the apprenticeship program reinstated. He feels it is a great loss when it is deleted. In the process of cutting hair, a person is dealing with the public, meeting the public - he needs the association of a licensed

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person for a year. Apprentices don't feel this way. He would like to have the apprenticeship program reinstated into law.

CHARLES EATINGER, Montana State Association of Barbers secretary, has had a barbershop in Helena for 22 years and is in favor of SB 452 and the proposed amendments. He left five petitions signed by barbers in Bozeman, Kalispell, Great Falls, Helena, EXHIBITS D; and letters from Lawrence M. Sandretto, Red Lodge, President of the State Board of Barbers, and Wylie W. Nelson, Billings, supporting SB 452 and its amendments, EXHIBITS E.

JAMES W. ALLEN, presently secretary of the State Barber Board, thinks there should be three barbers on the board instead of two, and that a minimum of one year of supervision under a journeyman barber is necessary. See his testimony EXHIBIT F.

DON ANDERSON, Stanford, former member of the committee, went through this and has a little knowledge of what goes on. He doesn't think any of those present have had this experience. You do work and it is rewarding. When you go to these tests, you have the future of these master barbers in your hands. He is in favor of an apprenticeship program as he feels a person right out of school hasn't had enough average hair cutting experience on regular tapered hair cuts. He thinks barbers right out of school will not succeed in barbershops of their own. Everybody has to learn more. He goes to several seminars every year. The members of California's board are barbers, not public members as stated by Senator Himsel. The barber board was established in 1929 and is still needed today more than before because this business has become so complex. There is a definite need for three practicing barbers on the board. He recommends 3 members be barbers and one member be a public member.

DON HAWKINSON, Butte, Montana, supports SB 452. He owns both a barber shop and beauty salon in Butte. He is past Vice President of the Barber Board. He speaks on behalf of three barbers being on the board. He is in favor of the apprenticeship program because there is a lot more to be learned because of more demand from the public for hair styling, hair coloring, permanents, etc. in addition to regular hair cutting. It is a training program when hiring people right out of school. In his shop if a person doesn't do a good job, he is not kept on. Chain hair styling businesses are being set up on every corner in America today. Supply dealers are the only ones making money - just like MacDonald's. The apprenticeship program is working right into their hands.

Twenty years ago there wasn't a barber college and now there are 20 to 40 people taking the exams. Three persons are needed on the board and one public member is fine. There is more need for three persons to be on the board for inspection purposes since only about 75-80% of the shops are being inspected.

The cosmetologists have a manager-operator program which is the same as the apprenticeship program under another name. You might have taken that away from them, but they still have it.

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PATRICK D. GINNETY, President of Montana Association of Barbers, would like the amendments considered as a foundation for a start. He recommends three barbers on the board.

HARRY T. SAURMAN, Montana Barber College, sees these students and knows their ability, and he doesn't feel they are ready to go out on their own and work with the public. He has been through all the state board exams and they are very busy and are having a hard time covering it all. Need three barbers on the board.

BILL GRAVES, Vice President on the Montana Barber's Board, supports SB 452.

DEL CRABTREE, Belgrade, MT, Third Vice President of the Barber Association of the State, agrees with everything that has been said in support of SB 452.

JIM PELLEGRINI, Legislative Auditor's office, said the Board of Barbers went through the same processes as the Board of Podiatrists. The committee recommended there be 3 members on the board staffed by .3 FTE. This board collects approximately \$18,000 a year and expends \$13,000 and has a current fund balance of almost \$17,000. At the present time there are about 300 barbershops licensed and 671 barbers. There are about 40 new shops, apprentices and new barbers although the number of licenses do remain relatively constant. There are presently three barber schools.

The complaints brought before the board in the last 7 years have numbered 31, 22 of which have been brought by barbers, three by the board, and the remainder by the students and apprentices. The board sent letters saying to desist. Only licensed barbers can do certain things. Barbers were exempt from the cosmetology law, but cosmetologists were not exempted.

There had been deficiencies noted on inspections, and it was thought that yearly inspections were adequate. Apprenticeship is needed and it is in. At the present time an apprentice must pass an exam and at the end of that apprenticeship period he can take a master barber's exam. This apprenticeship seems to be restrictive since only a licensed barber can own a shop. There had been no reciprocity agreement with other states. The unconstitutional price setting was not being enforced by the board, and schools were not able to charge.

BUTTE BARBERS UNION #635 left letters for the committee members, EXHIBIT G; supports SB 452 with the apprentice program included, three barbers and one public member to be on the board. They also do not think the practice of cosmetology should include the right to cut men's hair and infringe on the barbers trade without proper schooling and having a barber's license.

QUESTIONS -

Mr. Olson advised Rep. Robbins that the inspector is paid out of funds acquired by the board. He also said apprentices are paid 70-75%

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of their earnings, depending on the barber shop he is working in. The only thing that he has to do in this year or two of apprenticeship is take advantage of the chance to acquire a following which he doesn't have when he comes out of school. In order to do this, he has to be in someplace where he can get in contact with the public. An apprentice is really a detriment to a shop, but when they get on their own, they are an asset to the shop where they had been. There are no apprentices unable to find a place to go - generally there are more shops than apprentices.

Rep. Wallin asked about deficiencies found by inspections. Mr. Pellegrini said letters were sent by the board to those shops that were found to have specific deficiencies and upon reinspection the problems had been taken care of. A copy of any deficiencies is posted along with the rules in a deficient barbershop after it is signed and given to the barber

Senator Himsl said the state board does the inspecting although in some counties, the public health officer makes the inspections. The board can hire an inspector as they so choose. The state is divided up into 3 sections, and if a shop is to be inspected in a distant place, a registered barber can be appointed to inspect there. They inspect for sanitation, sterilization of equipment, ventilation and heating for the public's benefit, lighting, tools used, floors, sinks, mirrors, toilets, rest room facilities, clippers which have to be sanitized in a certain way, etc.

Rep. Ellerd asked about the objection in the Butte Barbers Union #635 letter to subsection (3) on page 8 of the bill. Mr. Olson answered that the barbers really do oppose this particular paragraph, but this hasn't been brought up at this time because they don't want to make this any more complicated than it is. In the course of schooling, the cosmetologist has 125 hours of hair cutting and shaping and the rest of the 2,000 hours in school is permanent waves. When it comes to barbering, a student spends 900-1000 hours of that time in hair cutting and so they are more qualified to do short shaped hair cutting.

Rep. Harper said the barbers are opposed to removing the apprenticeship programs because they won't have the say over how much experience a person should have. Is there any other way they can make any other minimal requirements for the application? Does this do away with any present requirements for any experience? Mr. Pellegrini said it would do away with the experience of one year with a registered barber, and there would be only one type of license. The market place is the appropriate place to make the decision that a person is not qualified.

All three members of the board give the exam and each one grades each hair cut. There are four exams a year. After 1500 hours, a person takes the apprenticeship exam, and after a year's experience under a registered barber, a master barber's exam can be taken. The test can be taken again if it isn't passed. In 1978-79 97% of the apprentice applicants passed the test and 93% of the barbers taking the test passed. The master barber's test is more comprehensive and requires much more, and if taken right out of school 97% would not pass.


Rep. Harper asked if the apprenticeship program is necessary if a person graduates from a barber school. Mr. Saurman thinks the experience with a master barber will help a person in bookkeeping, management, sanitation, meeting the public. A school teaches how to cut hair, but there are a lot of other things that are involved that a school cannot teach.

Mr. Allen said there are other things involved in the operation of a barbershop. The student learns about the use of other materials in school and has very little practice. Without supervision, he could possibly do damage to the public. You can distinguish between a master barber and an apprentice through their licenses as they are a different color, or can ask.

Senator Hims1 closed saying he thinks we are becoming more scientific than the market place knows. The audit board reached the 3 member decision, but if the board wants to pay for more members, they might be able to afford it. The cosmetologists have removed that manager-operator designation and they will be under one license and the committee felt there was no reason that the barber board structure should not be the same. They felt it was a restriction on the entry into the field to have a ratio of 1-1 for apprentice program. The question of whether there is consumer protection in this system or is there a restriction of entry into the field. The record shows a decrease in the number of barbers to be 100 during the period of 1974-78. This is partly due to styling which is required, less barber services, and also the price which has driven people away from barbershops. They are pricing themselves out of the market and into the home. Barbers operating at reduced prices are getting the business - this hasn't been policed very well.

He didn't want to overemphasize this but wanted to be practical about it. The question is whether the public is served better by the board or is it otherwise.

Meeting adjourned at 10:15 a.m.


REP. W. J. FABREGA, CHAIRMAN


Jo Lahti, Secretary

VISITORS' REGISTER

HOUSE COMMITTEE

LL

Date _____

ONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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HOUSE BUSINESS AND INDUSTRY
COMMITTEE
Proposed Amendments
by
Montana Podiatry Association
to
S.B. 392

Amend S.B. 392, Senate Third Reading Copy, as follows:

1. Title, line 8.
Following: "EXAMINERS;"
Insert: "ADDING A PODIATRIST TO THE BOARD OF
MEDICAL EXAMINERS: STATUTORILY AUTHORIZING A
PODIATRIST TO ADMINISTER DRUGS: CLARIFYING THE
USE OF TITLES BY A PODIATRIST;"
2. Title, line 11.
Following: "37-6-101,"
Insert: "37-6-102, 37-6-301,"
3. Page 3.
Following: line 5
Insert: "Section 1. Section 2-15-1605, MCA, is amended
to read:
"2-15-1605. Board of medical examiners. (1) There
is a Montana state board of medical examiners.
(2) The board consists of ~~seven~~ eight members
appointed by the governor with the consent of the
senate. Appointments made when the legislature is
not in session may be confirmed at the next session.
(3) The members are:
(a) six members having the degree of doctor of
medicine; and
(b) one member having the degree of doctor of
osteopathy; and
(c) one member who is a licensed podiatrist.
(4) The members having the degree of doctor of
medicine may not be from the same county. Each member
shall be a citizen of the United States. Each member
shall have been licensed and shall have practiced medicine
in this state for at least 5 years and shall have been a
resident of this state for at least 5 years; however, the
5-year requirement of practice and residency shall be
waived for the initial term of appointment of the member
having the degree and license of doctor of osteopathy.
(5) Each member shall serve for a term of 7 years.
A term commences on September 1 of each year of appoint-
ment. A member may, upon notice and hearing, be removed
by the governor for neglect of duty, incompetence, or
unprofessional or dishonorable conduct.
(6) The board is allocated to the department for
administrative purposes only as prescribed in 2-15-121."

Renumber: all subsequent sections.

4. Page 3.

Following: line 17

Insert: "Section 3. Section 37-6-102, MCA, is amended to read:

"37-6-102. Limitation Additional designations -- administration of drugs -- limitation on practice. (1) A licensed podiatrist may administer and prescribe drugs in accordance with 37-2-101 as a "medical practitioner".

Section 4. Section 37-6-301, MCA, is amended to read:

37-6-301. License required for practice -- use of titles. It is unlawful for a person to profess to be a podiatrist, to practice or assume the duties incident to podiatry, or to advertise in any form or hold himself out to the public as a chirepedist-or podiatrist, or in a sign or advertisement to use the word chirepedist-or podiatrist, foot correctionist, physician and surgeon of the foot, or any other term, terms, or letters indicating to the public that he is holding himself out as a podiatrist or foot correctionist in any manner, without first obtaining from the board a license authorizing the practice of podiatry in this state, except under this chapter." "

Renumber: all subsequent sections.



Montana State Board of Pharmacy

EMIL SCHOENHOLZER, SECRETARY
STAPLETON BUILDING P. O. BOX 2034
BILLINGS, MONTANA

VOLUME 29

Opinion No. 33

MEDICINE; Chiropodist: prescription of drugs - CHIROPODIST; May prescribe drugs- PHARMACY; Chiropodist may prescribe drugs for the treatment of the human foot - Sections 66-601, 66-602, 66-604, 66-606, and 66-1007, Revised Codes of Montana, 1947 - Chapter 2, Laws of 1923 - Chapter 218, Laws of 1939

HOLD: Chiropodists licensed under the laws of this state may legally prescribe drugs as a part of their professional treatment. However, the right to administer or prescribe drugs is limited to the direct treatment of an ailment of the human foot.

Mr. Emil Schoenholzer, Secretary
Montana State Board of Pharmacy
P. O. Box 2034
Billings, Montana

December 28, 1961

Dear Mr. Schoenholzer:

You have requested my opinion on the following question:
May a licensed practitioner of chiropody legally prescribe drugs as part of his professional treatment?

This question has never been decided by our Supreme Court and the decisions from other jurisdictions shed little light on the interpretation of the Montana law because of a diversity of statutory definitions, requirements and prohibitions. In many jurisdictions, by statute or decision, the practice of chiropody is classified or defined as a field of "drugless healing" similar to our statutory definition of the practices of osteopathy, chiropractic and optometry. The practice of chiropody has not been so restricted by our statutes.

Regulation of chiropody or podiatry, as a branch of the healing arts, commenced in Montana with the enactment of Chapter 2, Laws of 1923. That act was revised by Chapter 218, Laws of 1939, codified as sections 66-601 through 66-611, RCM, 1947. Section 66-601, RCM, 1947, defines chiropody as:



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EMIL SCHOENHOLZER, SECRETARY
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Chiropody (sometimes called podiatry) shall, for the purpose of this act, mean the diagnosis, medical, surgical, mechanical, manipulative and electrical treatment of ailments of the human foot. A chiropodist shall mean one practicing chiropody. (Emphasis added).

The practice of chiropody is further defined by these statutory provisions: Section 66-602, RCM, 1947, provides in part:

...No chiropodist shall amputate the human foot or toe or toes, or administer any anesthetic other than local.

Section 66-605, RCM, 1947, provides in part:

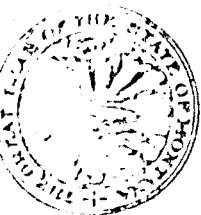
Every license issued hereunder shall be designated as "registered chiropodist's license" and shall not contain any abbreviations thereof, nor any other designation nor title except that a statement of limitation shall be contained in said license referring to the licensee as "registered chiropodist - practice limited to the foot," so as not to mislead the public in regard to their right to treat other portions of the body(Emphasis added)

Collectively these statutory provisions limit the scope of the practice of chiropody. Chiropodists may prescribe medical treatment. However, such treatment is expressly limited to the human foot and excludes amputation or the administration of general anesthetics. The question then is whether the term "medical treatment" includes the right to prescribe drugs. When construing statutes to determine legislative intent our Supreme Court, in the case of Great Northern Utilities Co. v. Public Service Commission, 88 Mont. 180, 206, 293 Pac.294, said:

The intention of the Legislature must be inferred from the plain meaning of the words. This rule must be first resorted to before resort should be had to other rules.

The plain meaning of the word "medical" as stated in "The New Century Dictionary" is "pertaining or relating to the science of medicine or the practice or study of medicine." "Medicine" is defined by the same reference as:

The art or science of restoring or preserving health or due physical condition, as by means



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of drugs, surgical operations or appliances, manipulations, etc; esp., the art or science of treating disease with drugs or curative substances;...

It is evident then, that the statutes authorize chiropodists to use and prescribe drugs for the treatment of the human foot. This interpretation is also supported by section 66-605, RCM, 1947, which presupposes the legal use of drugs by chiropodists in that it provides a penalty for their illegal use.

If there is a prohibition against the prescription of drugs by chiropodists, it must come from a statute not codified under Chapter 6, Title 66, Revised Codes of Montana, 1947. The prohibition against the practice of medicine is contained in section 66-1007, RCM, 1947, which provides in part:

Any person practicing medicine or surgery within this state without first having obtained a certificate to practice, as provided by law, and after his certificate to practice has been revoked, or contrary to the provisions of this article, shall...be guilty of a misdemeanor,...

(2) Any person shall be regarded as practicing within the meaning of this article who shall...recommend, prescribe, or direct, for the use of any person, any drug, medicine, appliance, apparatus, or other agency,...for the cure, relief, or palliation of any ailment of disease of the mind or body, or for the cure or relief of any wound, fracture, or bodily injury, or other deformity, after having received, or with the intent of receiving therefor, either directly or indirectly, any bonus, gift, or compensation;...

In the case of State v. Bain, 130 Mont. 90, 97, 295 Pac.26 241, our Supreme Court held that this statute precluded the practice of physiotherapy in Montana, as physiotherapists, at that time, were not authorized by statute to practice their profession and as a consequence did not possess the required certificate. As the statute prohibits certain acts only when the individual performing those acts is doing so without a certificate to practice, and as chiropodists when licensed have a certificate to practice, the statute has no application to the question here under consideration.



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P. O. BOX 2034

BILLINGS, MONTANA

Therefore, it is my opinion that chiropodists licensed under the laws of this state may legally prescribe drugs as a part of their professional treatment. However, the right to administer or prescribe drugs is limited to the direct treatment of an ailment of the human foot.

Very truly yours,

FORREST H. ANDERSON
Attorney General

A:ABC:ep

COPY.

~~EXPLANATION OF SENATE BILL 452~~
~~REESTABLISHING THE BOARD OF BARBERS AND~~
~~REVISING THE BARBER STATUTES~~
 (SPONSORED BY SENATOR MATT HIMSL)

As a result of the sunset performance audit and subsequent public hearing, the Legislative Audit Committee recommends that the Board of Barbers be reestablished. Sections 1 and 2 reestablish the board for six years as required by the sunset law.

~~Section 3 changes the makeup of the 3-member board by removing a barber member and replacing that member with a public member.~~

~~Section 4 removes reference to the license category of apprentice and adds an exemption to the barber law. The added exemption notes that the practice of cosmetology, including the cutting of hair, does not constitute barbering. Current statutes state that cutting hair, shaving or trimming a beard, or shampooing the hair of a male person, constitute barbering. Cosmetologists are presently performing these tasks. This amendment would allow licensed cosmetologists to perform these functions and not violate the barbering laws.~~

Section 5 repeals all board authority to set minimum prices for barber services. The board noted that such practices reduce competition and the board does not enforce the statute. The board has also removed from its rules any reference to the minimum price setting function in cities and towns. During the public hearing on the sunset review, the board supported repealing this authority.

Section 5 also allows the Department of Professional and Occupational Licensing to hire an inspector for the board at a salary rather than at \$30 per day. This change is necessary if examined in conjunction with an amendment in Section 11 of this bill, which requires the board to inspect each barbershop, school, or college annually.

Sections 6, 7, 8, 9, 10, and 16 remove reference to the one-year barber apprenticeship requirement. These amendments would, in effect, allow an individual who has successfully completed barber school and passed the board's registered barber examination to operate or manage a barbershop. Currently, there are two licenses and two examinations - apprentice and registered barber. No person may operate, manage, or conduct a barbershop or school without a registered barber license. An apprentice must work under the one-to-one supervision of a registered barber. Repealing the apprenticeship program removes the distinction between the two licenses and would create only one type of license. A licensee, after completing the 2,000 hour education program and passing an examination, would have the option to open a shop or work for another licensee. Thus, there would be no regulatory delays in allowing a person to enter into barbershop operation. A similar type of amendment, removing the cosmetologist one-year experience

requirement, was recommended in the Audit Committee bill on the Board of Cosmetologists.

Section 11 of the bill requires the board to make annual inspections of shops and schools, and grants the board the authority to allow new shops to operate under a temporary permit until completion of initial licensure inspection. During 1978-79, 85 percent of shops were not inspected. In those that were inspected by the board members, some sanitary and equipment deficiencies were found. Therefore, to insure compliance, annual inspections should be required since the only reason to license barbers is to protect the health of the public.

Section 13 repeals a statute that does not permit schools to charge patrons for barber services. The board does not enforce the statute and schools are currently charging patrons in order to cover some of the costs of services.

Section 14 removes conviction of any felony as grounds for disciplinary action. There already exists a general statute which requires that the conviction must be related to the individual's profession in order for the conviction to be used as grounds for denial or revocation of a license.

Section 15 allows for reciprocity licensing of registered barbers. Currently, there is no authority for granting reciprocity. This section would allow barbers from other states to obtain licensure without examination if the board finds the licensure standards of that state are at least equivalent to Montana's.

Exhibit A
Butte Barbers Union #635
c/o Dan Henderson
525 So. Main St.
Butte, Montana 59701

To The Business and Industry Committee
Capital Building
Helena, Montana 59601

Dear Sirs:

In regards to Senate Bill 452, Butte Barbers Union Local 635 would like the following changes made.

#1. In regard to the apprentice program, we would like to keep the apprenticeship as originally written in State Law. If the apprenticeship program is abandoned it will result in a deterioration of the trade, because a new Barber just receives fundamentals in school and needs the added learning time that an apprenticeship provides. We feel that this is in the best interests of the General Public.

#2. As to the members of the Board of Barbers, we feel that the public would be best served with a Board consisting of 3 Barbers and one public member. We feel that it would take the majority of 3 Barbers to pass an applicant on their testing for a license for the practice of Barbering.

#3. We also feel that the words "the practice of Cosmetology including the cutting of hair of any person does not constitute the Practice of Barbering." should be struck out. In effect this wording entitles Cosmetologists the right to cut mens hair and infringe on the Barbers Trade without sufficient schooling and without benefit of a Barbers License.

This recommendation was made at our last Union meeting on March 4, 1981 and was passed on the floor unanimously.

Thank you for your consideration in this matter.

The Officers and Members
of Butte Barbers Union #635

Dan Henderson
Secretary - Secretary

THE SIGNATURES ON THIS PETITION ARE LOANED BY BARBERS IN THE
STATE OF MONTANA WHO SUPPORT THE AMENDMENT TO SENATE BILL
#452 STATING:

1. ☒ Three Barbers and one public member making
a four man board.
2. To have apprenticeship program reinstated
as it was written.
3. To strike out that the Practice of Cosmetology
by a Licensed Cosmetologist including
cutting the hair of any person does not
constitute the practice of Barbering.

Richard F. Riley

Lawrence Olson

Les Houser

John A. Martin

William A. Shaw

we the Barbers of Kalispell, mont. are
in full support of #B452 with the
amendments.

11-81 Jerome O Belstad - J-J Barber Shop. Kalispell, mt
" Tina Murray - " "
11-81 William E. Hennings - Hennings Barber Shop Kalispell
" " " " " "
1-81 Samuel L. Housh. N.W.Co. Kalispell, mt.
1-81 Jeannie G. McFarland N.W.M.Co. Kalispell, mt.
1-81 Helmy Sue Brown - West Mt. Hair Co. Kalispell, mt.
1-81 Race Park - Hair & Hair
" " " " " "
1-81 " " " " " "
1-81 " " " " " "
1-81 (Alma) Anna Miller - Kings Barbers, Kalispell
1-81 Alan Keatfoll - Montpel Barber Shop, Kalispell
1-81 Troy Barry - Barry Barber Shop Kalispell
1-81 " " " " " "
1-81 QuAnna Rolandson
1-81 Lane McCreedy " " " "
1-81 Randy R. Lane Kings Hair Kalispell
1-81 Cam Crowley Kings Hair Kalispell, mt.
1-81 Lon Kelly Kings Hair Kalispell, mt.
11-81 Wilbur P. Carter J-J Barber Shop Kalispell, mt.

Chairman Bld. & C. Com.
and
Mr. Jerry Metcalf

We are in favor of Senate
Bill 452 as amended, the Barber
of Helson

Charles J. Estinger

Frank L. Rogers

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

W. W. C. Lee

June 10, 1908
Mrs Abel Harper

The Barber of Helena are in favor
of Senate Bill 452 with the amendments

Charles S. Ethington

Charles L. Sprague

George E. Cook

Frank Boone

John H. Hume

George E. Cook

Wright Allen

George E. Cook

Ken Granby

John H. Hume

Clyde Schellert

Donald H. Ewing

John H. Hume

Bob Grover

Jim Burger

James S. Connelley

Gene Hannon

James A. Kelly

Will D. Baker

THE BARBERS FROM DORMAN ARE IN SUPPORT
OF THE ASSOCIATION AND THE BARBER BOARD FOR
THE AMENDMENTS

John E. Wynn
John E. Crabtree
Richard Lindgren
Virgil Kesner
Stan C. Van Antwerp
HARRY DAVIES
Kenneth E. McAfee
Eric Rash
Mozakur
Frank Wade
Wanda Clark
R. R. Hering
M. J. H. Hering

1. SO WE CAN HAVE THREE BARBERS ON THE BOARD WITH THE PUBLIC MEMBER
2. TO HAVE THE APPRENTICESHIP PROGRAM REINSTITUTED AS IT WAS WRITTEN.
3. TO STRIKE OUT THAT THE PRACTICE OF COSMETOLOGY BY A LICENSED COSMETOLOGIST INCLUDING CUTTING THE HAIR OF ANY PERSON DOES NOT CONSTITUTE THE PRACTICE OF BARBERING.

Red Lodge Mt.
Mar. 13, 1981

Business & Industry Committee
Helena, Montana

Dear Chairman and Members:

I would like to go on record to support the passage of Senate Bill #452 for the reestablishing of the State Board of Barbers. I would like the Committee to consider the amendments to the bill by the State Association of Barbers and Beauticians, as these would be in the best interest of the public.

Sincerely yours,
Lawrence M. Sandretto
President of the State Board
of Barbers

Wyllie W. Nelson
2610 Phyllis Lane #16
Billings, Montana 59102
March 12, 1981

The Honorable Harrison G. Pagg
House of Representatives
Capitol Building
Helena, Montana 59601

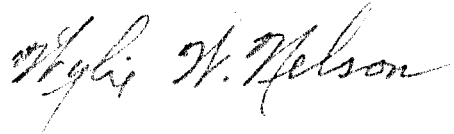
Dear Representative Pagg:

It is my understanding that Senate Bill 452 is very much in contrast to the Law and best interest of the Barbers of the State of Montana. Being a barber of long standing in this state and a resident of Billings, I would like to ask you to please support the wishes of the Barbers, The Montana State Association of Barbers and the Barber Board.

The law that we have been operating under has served us very well for many years. At this time, any changes would only foul it up and cause problems with which we would not be able to cope.

Trusting that you will take this message under advisement and that you and your colleagues in the House and Senate will give this your utmost consideration.

Very truly yours,



Wyllie W. Nelson

TO: HONORABLE JIM THORNTON, CHAIRMAN
SENATE
MR. CHAIRMAN, AND MEMBERS
OF THE COMMITTEE, MY NAME IS
JAMES W. ALLEN, SECRETARY OF THE
STATE BARBER BOARD. I AM HERE TO
SPEAK IN FAVOR OF SB. 452; HOWEVER,
I PROPOSE TWO AMENDMENTS:

1. THIS BILL REDUCES THE NUMBER OF
BARBERS ON THE BARBER BOARD FROM THREE
TO TWO. IN MY OPINION, DUE TO THE PRACTICAL
TESTING OF THE BARBERS, A MINIMUM OF
THREE BARBERS ON THE BOARD ARE NEEDED.
2. THIS BILL AS WORDED WILL ALLOW A
PERSON AFTER COMPLETION OF ^{1500 HRS.} ~~ONE YEAR~~ OF
BARBER SCHOOLING TO OPEN A BARBER SHOP.
I RECOMMEND A MINIMUM OF ONE YEAR
OF SUPERVISION UNDER A JOURNEYMAN
BARBER PRIOR TO EXAMINATION. James W. Allen

Butte Barbers Union #635
c/o Dan Henderson
525 So. Main St.
Butte, Montana 59701

To The Business and Industry Committee
Capital Building
Helena, Montana 59601

Dear Sirs:

In regards to Senate Bill 452, Butte Barbers Union Local 635 would like the following changes made.

#1. In regard to the apprentice program, we would like to keep the apprenticeship as originally written in State Law. If the apprenticeship program is abandoned it will result in a deterioration of the trade, because a new Barber just receives fundamentals in school and needs the added learning time that an apprenticeship provides. We feel that this is in the best interests of the General Public.

#2. As to the members of the Board of Barbers, we feel that the public would be best served with a Board consisting of 3 Barbers and one public member. We feel that it would take the majority of 3 Barbers to pass an applicant on their testing for a license for the practice of Barbering.

#3. We also feel that the words "the practice of Cosmetology including the cutting of hair of any person does not constitute the Practice of Barbering." should be struck out. In effect this wording entitles Cosmetologists the right to cut mens hair and infringe on the Barbers Trade without sufficient schooling and without benefit of a Barbers License.

This recommendation was made at our last Union meeting on March 4, 1981 and was passed on the floor unanimously.

Thank you for your consideration in this matter.

The Officers and Members
of Butte Barbers Union #635

Dan Henderson
Secretary

NAME James McMill BILL No. SB 451
ADDRESS 2726 Gargold Highway, Mait DATE 12/16/71
WHOM DO YOU REPRESENT Montana State Barber Board
SUPPORT / OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

~~Amended~~
Amended:

NAME Alan W. Wadsworth BILL NO. SB 452
ADDRESS Box 188 Stoughton Mt. DATE 3-16-51
WHOM DO YOU REPRESENT Baird
SUPPORT X OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Joe Benham BILL No. 413-15
ADDRESS 2400 1st St. S.W. Albuquerque DATE 3-1-61
WHOM DO YOU REPRESENT Benham
SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME Patricia McManis BILL NO. 452
ADDRESS 807 W. Main DATE 3/16/81
WHOM DO YOU REPRESENT Michigan State Bar Board President
SUPPORT / OPPOSE / AMEND /

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Henry T. Gammeter BILL No. SA 982
ADDRESS 1024 Sycamore St DATE 3/1/81
WHOM DO YOU REPRESENT Public
SUPPORT ✓ OPPOSE AMEND 2

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

VISITORS' REGISTER

HOUSE

COMMITTEE

LI 4/1/6
SPONSOR 1

Date 3/10

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME JOE CRIVELLO BILL No. 100-10000
ADDRESS Box 489, Belvidere, Ill. DATE 10-21
WHOM DO YOU REPRESENT Senators
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Harry M. Cron BILL No. 56751
ADDRESS 2020 Eastman St. Helms DATE 3/16/81
WHOM DO YOU REPRESENT Bulbas
SUPPORT ✓ OPPOSE AMEND 1

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME C. R. R. & E. J. R. BILL No. 1000
ADDRESS 1625 78th St. N.W. DATE 11/1/61
WHOM DO YOU REPRESENT Washington State Teachers Assn.
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

AMENDMENTS PROPOSED BY REP. MANNING TO SENATE BILL 452 -

1. Title, lines 10 and 11.

Following: "BARBERSHOPS;" on line 10

Strike: the remainder of line 10 through "REQUIREMENTS;" on line 11

2. Title, lines 15 and 16.

Following: "37-30-203," on line 15

Strike: the remainder of line 15 through "37-30-307," on line 16

3. Page 7, lines 6 and 7.

Following: "members" on line 6

Strike: "two"

Insert: "three"

4. Page 8, following line 5.

Insert: "(2) An "apprentice", under this chapter, is a person who receives instruction in an approved barber school or college and from a barber authorized to practice barbering in this state."

Renumber: subsequent subsections

5. Page 9, line 3.

Following: "and"

Insert: "for apprentice cards and"

6. Page 9, line 8.

Following: "and"

Insert: "apprentice cards and"

7. Page 10, line 24 through page 14, line 18.

Strike: Sections 6, 7, 8, 9, and 10 in their entirety

Renumber: subsequent sections.

1 SENATE BILL NO. 452

2 INTRODUCED BY HIMSL, S. BROWN

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE

6 BOARD OF BARBERS UNDER EXISTING STATUTORY AUTHORITY AND

7 RULES; REVISING BOARD MAKEUP; EXEMPTING COSMETOLOGISTS FROM

8 PROHIBITIONS UNDER BARBERING LAWS; GIVING THE BOARD

9 AUTHORITY TO GRANT TEMPORARY LICENSES TO BARBERSHOPS;

10 REQUIRING ANNUAL INSPECTIONS OF BARBERSHOPS;(ELIMINATING

11 BARBER APPRENTICESHIP REQUIREMENTS;) AUTHORIZING RECIPROCAL

12 LICENSING; DELETING PRICE-SETTING PROVISIONS; DELETING

13 CRIMINAL CONVICTION AS GROUNDS FOR DENIAL OR REVOCATION OF A

14 LICENSE; AMENDING SECTIONS 2-8-103, 2-15-1625, 37-30-101,

15 37-30-203, (37-30-301 THROUGH 37-30-303, 37-30-306,

16 37-30-307,) 37-30-403, 37-30-404, 37-30-422, AND 37-30-425,

17 MCA; REPEALING SECTIONS 37-30-304 AND 37-30-305, MCA; AND

18 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

19

20 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,

21 MCA, terminates the Board of Barbers and requires a

22 performance evaluation of the Board by the Legislative Audit

23 Committee; and

24 WHEREAS, as a result of the performance evaluation, the

25 Legislative Audit Committee recommends that the Board of

1 Barbers be reestablished under existing statutory authority.

2

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

4 Section 1. Reestablishment. The board of barbers is

5 reestablished for 6 years pursuant to 2-18-122 with its

6 existing statutory authority and rules.

7 Section 2. Section 2-8-103, MCA, is amended to read:

8 "2-8-103. Agencies to terminate. (1) The following

9 agencies shall terminate on July 1, 1979:

10 (a) board of abstracters, department of professional

11 and occupational licensing, created by 2-15-1643;

12 (b) board of real estate, department of professional

13 and occupational licensing, created by 2-15-1642;

14 (c) state board of warm air heating, ventilation, and

15 air conditioning, department of professional and

16 occupational licensing, created by 2-15-1656;

17 (d) board of institutions, department of institutions,

18 created by 2-15-2303.

19 (2) The following agencies shall terminate on July 1,

20 1981:

21 (a) commission for human rights, department of labor

22 and industry, created by 2-15-1706;

23 (b) board of athletics, department of professional and

24 occupational licensing, created by 2-15-1661;

25 (c) board of--barbers--department-of-professional-and

1 ~~occupational licensing created by 2-15-1625;~~

2 ~~the~~ board of chiropractors, department of
3 professional and occupational licensing, created by
4 2-15-1613;

5 ~~the~~ board of cosmetologists, department of
6 professional and occupational licensing, created by
7 2-15-1626;

8 ~~the~~ board of dentists, department of professional
9 and occupational licensing, created by 2-15-1606;

10 ~~the~~ board of hearing aid dispensers, department of
11 professional and occupational licensing, created by
12 2-15-1616;

13 ~~the~~ board of massage therapists, department of
14 professional and occupational licensing, created by
15 2-15-1627;

16 ~~the~~ Montana state board of medical examiners,
17 department of professional and occupational licensing,
18 created by 2-15-1605;

19 ~~the~~ board of morticians, department of professional
20 and occupational licensing, created by 2-15-1619;

21 ~~the~~ board of nursing, department of professional
22 and occupational licensing, created by 2-15-1610;

23 ~~the~~ board of nursing home administrators,
24 department of professional and occupational licensing,
25 created by 2-15-1611;

1 ~~the~~ board of optometrists, department of
2 professional and occupational licensing, created by
3 2-15-1612;

4 ~~the~~ board of osteopathic physicians, department of
5 professional and occupational licensing, created by
6 2-15-1607;

7 ~~the~~ board of pharmacists, department of
8 professional and occupational licensing, created by
9 2-15-1609;

10 ~~the~~ board of podiatry examiners, department of
11 professional and occupational licensing, created by
12 2-15-1608;

13 ~~the~~ board of psychologists, department of
14 professional and occupational licensing, created by
15 2-15-1617;

16 ~~the~~ board of radiologic technologists, department
17 of professional and occupational licensing, created by
18 2-15-1614;

19 ~~the~~ board of speech pathologists and audiologists,
20 department of professional and occupational licensing,
21 created by 2-15-1615;

22 ~~the~~ board of veterinarians, department of
23 professional and occupational licensing, created by
24 2-15-1618;

25 ~~the~~ board of veterans' affairs, department of

1 the board of barbers, department of professional and
 2 occupational licensing, created by 2-15-1625."

3 Section 3. Section 2-15-1625, MCA, is amended to read:
 4 "2-15-1625. Board of barbers. (1) There is a board of
 5 barbers.

6 (2) The board consists of ~~three~~ ^{three} members ~~(two)~~ ^{two} barbers
 7 and ~~one public member who is not a barber~~ appointed by the
 8 governor. Each ~~barber~~ member shall be a practicing barber
 9 who has been a barber in this state for at least 5 years
 10 immediately before his appointment.

11 (3) Each member shall serve for a term of 3 years. The
 12 governor may remove a member for cause.

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

15 Section 4. Section 37-30-101, MCA, is amended to read:

16 "37-30-101. Definitions -- practice of barbering. (1)
 17 Unless the context requires otherwise, as used in this
 18 chapter the following definitions apply:

19 (a) "Barbershop" means a place where a person carries
 20 on, engages in, practices, or causes to be carried on,
 21 engaged in, or practiced the business of barbering.

22 (b) "Board" means the board of barbers provided for in
 23 2-15-1625.

24 (c) "Department" means the department of professional
 25 and occupational licensing provided for in Title 2, chapter

1 15, part 16.

2 (2) ~~An apprentice, under this chapter, is a person~~
 3 ~~who receives instruction in an approved barber school or~~
 4 ~~college and from a barber authorized to practice barbering~~
 5 ~~in this state.~~

6 (2) Any one or any combination of the following
 7 practices, when done upon the human body for tonsorial
 8 purposes and not for the treatment of disease or physical or
 9 mental ailments and when done for payment, either directly
 10 or indirectly, constitutes the practice of barbering:

11 (a) shaving or trimming the beard;

12 (b) cutting the hair;

13 (c) giving facial or scalp massage or treatment with
 14 oils, creams, lotions, or other preparations, either by hand
 15 or mechanical appliances;

16 (d) singeing or shampooing the hair or applying hair
 17 tonic, or dyeing the hair of male persons;

18 (e) applying cosmetic preparations, antiseptics,
 19 powders, oils, lotions to scalp, face, or neck.

20 (3) The practice of cosmetology by a licensed
 21 cosmetologist, including cutting the hair of any person,
 22 does not constitute the practice of barbering."

23 Section 5. Section 37-30-203, MCA, is amended to read:

24 "37-30-203. Powers and duties of board and department
 25 -- conducting examinations -- rulemaking -- hiring of

1 social and rehabilitation services, created by 2-15-2202;
 2 ~~(v)~~(u) board of sanitarians, department of
 3 professional and occupational licensing, created by
 4 2-15-1631.
 5 (3) The following units of state government shall
 6 terminate on July 1, 1983:
 7 (a) board of aeronautics, department of community
 8 affairs, created by 2-15-1103;
 9 (b) state board of hail insurance, department of
 10 agriculture, created by 2-15-3003;
 11 (c) board of horse racing, department of professional
 12 and occupational licensing, created by 2-15-1662;
 13 (d) board of livestock, department of livestock,
 14 created by 2-15-3102;
 15 (e) board of milk control, department of business
 16 regulation, created by 2-15-1802;
 17 (f) board of oil and gas conservation, department of
 18 natural resources and conservation, created by 2-15-3303;
 19 (g) Montana outfitters council, department of fish,
 20 wildlife, and parks, created by 2-15-3403;
 21 (h) public service commission, department of public
 22 service regulation, created by 69-1-102;
 23 (i) board of water and wastewater operators,
 24 department of health and environmental sciences, created by
 25 2-15-2105;

1 (j) board of water well contractors, department of
 2 professional and occupational licensing, created by
 3 2-15-1632.
 4 (4) The following agencies terminate on July 1, 1985:
 5 (a) the board of public accountants, created by
 6 2-15-1641;
 7 (b) the board of architects, created by 2-15-1651;
 8 (c) state banking board, department of business
 9 regulation, created by 2-15-1803;
 10 (d) the state electrical board, created by 2-15-1654;
 11 (e) the board of professional engineers and land
 12 surveyors, created by 2-15-1653;
 13 (f) office of commissioner of insurance and the
 14 insurance department, state auditor's office, created by
 15 2-15-1902 and 2-15-1903;
 16 (g) office of the securities commissioner, state
 17 auditor's office, created by 2-15-1901;
 18 (h) the board of landscape architects, created by
 19 2-15-1652;
 20 (i) the board of county printing, created by
 21 2-15-1102;
 22 (j) the board of plumbers, created by 2-15-1655;
 23 (k) board of physical therapy examiners, created by
 24 2-15-1628.
 25 (5) The following agency terminates on July 1, 1987:

1 inspectors ~~price agreements~~. (1) The department shall,
 2 subject to 37-1-101, conduct practical examinations of
 3 applicants for ~~apprentice cards~~ *for apprentice cards and* ~~and~~ *for* certificates of
 4 registration to practice as registered barbers not less than
 5 four times a year at times and places the board determines.
 6 The examinations shall cover the fundamentals of barbering,
 7 dermatology, and ~~sanitation~~ *sanitation and* ~~the department shall issue~~
 8 ~~apprentice cards and~~ *apprentice cards and* certificates of registration.

9 (2) The board may adopt rules for the administration
 10 of this chapter.

11 (3) A person hired by the department to make an
 12 inspection of a barbershop, school, or college shall be
 13 recommended by the board. He shall receive \$30-per-day ~~a~~
 14 ~~salary~~ plus travel expenses as provided for in 2-18-501
 15 through 2-18-503, as amended.

16 (4) ~~the board may approve price agreements~~
 17 ~~establishing minimum prices for barber work which are signed~~
 18 ~~and submitted to the board by an organized group or groups~~
 19 ~~of at least 75% of the barbers in a city or town if the~~
 20 ~~board after ascertaining by investigations and proofs as~~
 21 ~~the situation permits and requires finds that the price~~
 22 ~~agreement is just and with best protect the public health~~
 23 ~~and safety by affording a sufficient minimum price for~~
 24 ~~barber work to enable the barbers to furnish modern and~~
 25 ~~healthful services and appliances to minimize the danger to~~

1 the public health incident to this work. Under this chapter
 2 a city or town includes the territory within its legal
 3 limits and the territory adjacent to it and lying within 3
 4 miles of its legal limits in determining whether a price
 5 agreement is just and with best protect the public health
 6 and safety the board shall consider all conditions
 7 affecting the barber business in its relation to the public
 8 health and safety.

9 (5) in determining reasonable minimum prices the
 10 board shall consider the necessary cost incurred in the city
 11 or town to maintain a barbershop in a clean healthful and
 12 sanitary conditions.

13 (6) After making an investigation the board shall by
 14 order fix the minimum price for work usually performed in a
 15 barbershop in the city or town in which the price agreement
 16 has been signed. The board may on the petition of 50% of
 17 the barbers of the city or town readjust the minimum
 18 prices and the new prices must be approved by 75% of the
 19 barbers in the city or town.

20 (7) This section does not apply to students who have
 21 been enrolled less than 9 months in a barber college in this
 22 state or who are not apprentice barbers.

23 [Section 6. Section 37-30-301, MCA, is amended to read:
 24 "37-30-301. Certificate required. A person may not
 25 practice or attempt to practice barbering or serve or

1 attempt--to--serve--as--a--barber--apprentice unless he first
 2 receives from the department a certificate of registration."
 3 Section 7. Section 37-30-302, MCA, is amended to read:
 4 "37-30-302. Barber school curriculum approval --
 5 application for apprenticeship certificate of registration.
 6 (1) A school or college of barbering may not be approved by
 7 the board unless it teaches the curriculum of the
 8 standardized schools approved by the national education
 9 council of barber examiners.
 10 (2) Students of schools or colleges may, after
 11 attending the schools for a period of 9 months, make
 12 application to the department for an apprenticeship-card-to
 13 practice-barbering-under-the-immediate-personal--supervision
 14 of--a--licensed-barber-for-the-period-of-1-year a certificate
 15 of registration."

16 Section 8. Section 37-30-303, MCA, is amended to read:
 17 "37-30-303. Apprenticeship--required-----application
 18 Application -- examination. (1) A person is qualified to
 19 receive a certificate of registration to practice barbering
 20 only by serving--as--an-apprentice-barber-and successfully
 21 passing an examination conducted by the department, subject
 22 to 37-1-101, to determine his fitness to practice barbering.
 23 (2) An apprentice applicant must file with the
 24 department an application setting forth the following
 25 information:

1 (a) full name and age of of-apprentice;
 2 (b) name and place of approved barber school;
 3 (c) dates of attendance at approved barber school;
 4 (d) whether the applicant received a certificate of
 5 graduation from an approved barber school; and
 6 (e) other information the board considers necessary.
 7 (3) An apprentice applicant must successfully pass an
 8 apprentice examination conducted by the department, subject
 9 to 37-1-101, and pay to the department the required fee. The
 10 department shall then issue an apprentice-barbering-card
 11 which-expires--2--years--from--the--date--of--examination a
 12 certificate of registration."

13 Section 9. Section 37-30-306, MCA, is amended to read:
 14 "37-30-306. Communicable disease -- physician's
 15 certificate required. (1) A barber or-barber-apprentice may
 16 not receive a certificate of registration or renewal until
 17 he has presented to the board of barbers a physician's
 18 certificate showing him to be free of physical ailments that
 19 would tend to endanger the health of the public. A person
 20 practicing barbering without a certificate of registration
 21 is guilty of a violation of this chapter.

22 (2) It is unlawful for a barber--barber-apprentice or
 23 student of barbering to practice the occupation of a barber
 24 or do barber work while he has an infectious, contagious, or
 25 communicable disease that would endanger the health of the

1 public.

2 (3) If a barber ~~or-barber-apprentice~~, after securing
3 his certificate, contracts a communicable, infectious, or
4 contagious disease endangering the public health, the board
5 of barbers shall revoke or suspend his certificate of
6 registration until the board has satisfactory proof that the
7 barber ~~or-barber-apprentice~~ is no longer afflicted with the
8 communicable, infectious, or contagious disease."

9 Section 10. Section 37-30-307, MCA, is amended to
10 read:

11 "37-30-307. Fees -- handicapped persons exempted --
12 other fees prohibited. ~~†††--The--fee--to--be--paid--by--an~~
13 ~~apprentice--for--an-apprentice-examination-and-an-apprentice~~
14 ~~card-is-\$25.~~

15 ~~†††11~~ The fee to be paid by an applicant for an
16 examination to determine his fitness to receive a
17 certificate of registration to practice barbering is \$20 and
18 for the issuance of the certificate an additional \$10.

19 ~~††12~~ A person registered as a barber ~~or--barber~~
20 ~~apprentice~~ shall, before July 1 of each year, pay a license
21 fee, set by the board in an amount not to exceed \$15 and
22 based on clerical and administrative costs, for the renewal
23 of his certificate of registration. If a barber fails to
24 have the certificate renewed before July 1 of each year, the
25 barber shall on renewal of the certificate of registration

1 pay a penalty of \$10 in addition to the regular renewal fee.
2 If a certificate of registration is not renewed within 1
3 year after the date of expiration, the barber is not
4 entitled to have the certificate of registration renewed or
5 a new certificate of registration issued without first
6 applying for and taking the examination and paying the fees
7 provided for in this section.

8 ~~†††13~~ However, physically handicapped persons trained
9 for the barber profession by the department of social and
10 rehabilitation services and certified by that department as
11 having successfully completed a 9-month course in a
12 reputable barber college are not required to pay fees and
13 are for a period of 1 year immediately following their
14 training exempt from all except the sanitary provisions of
15 this chapter.

16 ~~†††14~~ No other or additional license or fee may be
17 imposed on barbers ~~or-barber-apprentices~~ by a municipality
18 or other subdivision of this state."]

19 Section ~~11~~⁶ Section 37-30-403, MCA, is amended to
20 read:

21 "37-30-403. Facilities required for licensure --
22 inspection. (1) Before a license is issued to conduct a
23 barbershop, school, or college in this state, the
24 barbershop, school, or college must be inspected by the
25 department and approved by the board and shall meet the

1 following requirements:

2 (a) It must have both hot and cold running water
3 connected with the city water supply. In villages or towns
4 where running water is not available, hot-water tanks shall
5 have not less than a 2-gallon capacity with gravity
6 pressure. Wastewater shall be disposed of through some
7 system carrying it away from the building. This shall be
8 done by sewer connections or in a manner meeting the
9 requirements of the department of health and environmental
10 sciences rules, city ordinances, and having the approval of
11 the city or village board of health, as required by law.

12 (b) The headrest of a barber chair must be equipped so
13 that each customer will be supplied with a clean, fresh
14 paper or towel.

15 (c) It must have a closed cabinet for each chair, to
16 keep instruments in when not in use, and must have proper
17 sterilization equipment for immersing instruments before use
18 on each customer.

19 (d) It must have a sufficient number of towels so that
20 each customer will be served with a clean, laundered towel.

21 (e) It must be well-lighted, well-ventilated, and kept
22 in a clean, orderly, and sanitary condition at all times.

23 (f) It must pay to the department the required fee.

24 (2) Barbershops, barber schools, or colleges shall be
25 open for inspection during business hours, to members of the

1 department.

2 (3) The board shall inspect annually each barbershop,
3 school, or college to determine compliance with statutory
4 requirements and board rules. The board may suspend or
5 revoke the license of any barbershop, school, or college
6 that violates statutory requirements or board rules.

7 (4) The board may grant a temporary license to a
8 barbershop, school, or college until such time as the
9 initial inspection is completed."

10 Section 12. Section 37-30-404, MCA, is amended to
11 read:

12 "37-30-404. Barber schools -- operator -- license fee
13 ---patrons. (1) A barber school or college operating in this
14 state must have in charge a person who has had 10 years'
15 continuous experience as a barber.

16 (2) The owner of the school or college shall first
17 secure a permit to operate granted by the board and issued
18 by the department, on payment of an annual license fee of
19 \$50, and shall keep the permit prominently displayed.

20 (3) The owner shall, before commencing business, file
21 with the secretary of state a bond to this state, which
22 shall be approved by the attorney general, in the sum of
23 \$2,000, conditioned on the faithful compliance of the barber
24 school or college with this chapter and the payment of
25 judgments that may be obtained against the school, college,

1 or owner on account of fraud, misrepresentation, or deceit
2 practiced by them or by their agents.

3 ~~f47--Barber--schools--or-barber-colleges-may-not-charge~~
4 ~~patrons-for-barbering-services-and-materials-rendered~~
5 ~~f57(4)~~ All barber schools or colleges shall keep
6 prominently displayed a substantial sign as a barber school
7 or barber college.

8 ~~f67(5)~~ On receiving students, all barber schools or
9 colleges shall immediately apply to the department for
10 student permits on blank forms prescribed by the board."

11 Section 13. Section 37-30-422, MCA, is amended to
12 read:

13 "37-30-422. Maintenance of sanitary conditions.
14 Barbershops, barber schools, and barber colleges shall be
15 operated and maintained in a sanitary condition in order to
16 preserve the public health and prevent the spread of
17 disease. The board of barbers and in consultation with the
18 department of health and environmental sciences may adopt
19 rules to preserve the public health and prevent the spread
20 of disease."

21 Section 14. Section 37-30-425, MCA, is amended to
22 read:

23 "37-30-425. Refusal, suspension, or revocation of
24 license. The board may, after notice and opportunity for a
25 hearing, either refuse to issue or renew or may suspend or

1 revoke a barbershop or barber school or college license for
2 any one or combination of the following causes:

3 (1) the violation of any of the provisions of
4 37-30-303; 37-30-403, except subsection (1)(f); 37-30-412;
5 37-30-413; and 37-30-421;

6 ~~f27--conviction--of-a-felony--shown-by-a-certified-copy~~
7 ~~of-the-record-of-the-court-of-conviction~~

8 ~~f37(2)~~ gross malpractice or gross incompetency;

9 ~~f47(3)~~ continued practice by a person knowingly having
10 an infectious or contagious disease;

11 ~~f57(4)~~ advertising by means of knowingly false or
12 deceptive statements;

13 ~~f67(5)~~ advertising, practicing, or attempting to
14 practice under a trade name other than one's own;

15 ~~f77(6)~~ habitual drunkenness or addiction to the use of
16 morphine, cocaine, or other habit-forming drugs;

17 ~~f87(7)~~ the commission of any of the offenses described
18 in 37-30-203."

19 NEW SECTION. Section 15. Admission of licensee from
20 other state. The department may issue, at the board's
21 discretion, a barber's license without examination to a
22 person who holds a current license as a barber from another
23 jurisdiction if the board finds that the standards for
24 licensure in the other jurisdiction are at least
25 substantially equivalent to those prevailing in this state

1 and that the applicant is otherwise qualified.

2 Section 16. Repealer. Sections 37-30-304 and
3 37-30-305, MCA, are repealed.

4 Section 17. Codification instruction. Section 15 is
5 intended to be codified as an integral part of Title 37,
6 chapter 6 30, and the provisions of Title 37, chapter 6 30,
7 apply to section 15.

8 Section 18. Effective date. This act is effective on
9 passage and approval.

-End-