

1 *House* BILL NO. *395* *Justice*
 2 INTRODUCED BY *Meloy Holmes Huenich Bradley*
 3 *Draper*

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS
 5 4-412, 15-2006, 41-1429, 40-3329, 62-508, 66-112, 66-403.1,
 6 66-510, 66-913, 66-1036, 66-1038, 66-1240, 66-1312, 66-1504,
 7 66-1834, 66-1937, 66-2115, 66-2210, 66-2345, 66-2509,
 8 66-2610, 66-2714, 66-3017, 66-3209, 75-6010, AND 93-2027,
 9 R.C.M. 1947, TO PROVIDE THAT A PERSON CONVICTED OF A CRIME
 10 AND IS NO LONGER UNDER STATE SUPERVISION IS RESTORED THE
 11 RIGHT TO PRACTICE ANY OCCUPATION REQUIRING STATE LICENSING;
 12 AND TO PROVIDE THAT A PERSON APPLYING FOR SUCH A LICENSE
 13 SHALL NOT BE DENIED A LICENSE BECAUSE OF A PREVIOUS
 14 CONVICTION."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 17 Section 1. Section 4-412, R.C.M. 1947, is amended to
 18 read as follows:

19 "4-412. Persons disqualified for license. (1) No
 20 license shall be issued by the board to:

- 21 1+ (a) A person who has been convicted of being the
- 22 keeper or is keeping a house of ill fame.
- 23 2+ (b) A person who has been convicted of pandering or
- 24 other crime or misdemeanor opposed to decency and morality,
- 25 under the laws of the federal government or any state of the

1 United States.
 2 3+ (c) A person whose license issued under this act
 3 has been revoked for cause.

4 4+ (d) A person who at the time of application for
 5 renewal of any license issued hereunder would not be
 6 eligible for such license upon a first application.

7 5+ (e) A person who is not qualified or whose premises
 8 do not conform to the provisions of this act, or with the
 9 rules and regulations promulgated by the board.

10 6+ (f) A person who is not a citizen of the United
 11 States and who has not been a resident of the state of
 12 Montana for at least one (1) year immediately preceding the
 13 filing of the application for license.

14 7+ (g) A person who is not the owner and operator of
 15 the business.

16 (2) The board may not refuse to issue, refuse to
 17 renew, suspend, or revoke a license on the grounds of a past
 18 criminal conviction once state supervision of the offender
 19 has terminated."

20 Section 2. Section 15-2006, R.C.M. 1947, is amended to
 21 read as follows:

22 "15-2006. Registration of broker-dealers, salesmen,
 23 and investment advisers. (1) It is unlawful for any person
 24 to transact business in this state as a broker-dealer or
 25 salesman, except in transactions exempt under section

1 15-2014, unless he is registered under this act. It is
 2 unlawful for any person to transact business in this state
 3 as an investment adviser unless (1) he is so registered
 4 under this act, or (2) he is registered as a broker-dealer
 5 under this act, or (3) his only clients in this state are
 6 investment companies as defined in the Investment Company
 7 Act of 1940 or insurance companies.

8 (2) A broker-dealer, salesman, acting as agents for an
 9 issuer or issuers or acting as agents for a broker-dealer in
 10 the sale of securities for an issuer or issuers or
 11 investment adviser may apply for registration by filing with
 12 the commissioner an application in such form as the
 13 commissioner shall prescribe and payment of the fee
 14 prescribed in section 15-2016. Except for persons in the
 15 employ of brokerage firms governed by the regulations of the
 16 securities and exchange commission, all salesmen must be
 17 legal residents of this state and must have actually resided
 18 in this state for a period of at least one (1) year next
 19 prior to the date of application for registration. Salesmen
 20 shall also file with the commissioner a bond of a surety
 21 company duly authorized to transact business in this state.
 22 Said bond to be in the sum of five thousand dollars
 23 (\$5,000.00), payable to the state of Montana, and
 24 conditioned upon the faithful compliance with the provisions
 25 of this act, and shall provide that upon failure to so

1 comply the salesman shall be liable to any and all persons
 2 who may suffer loss by reason thereof.

3 (3) The application shall contain whatever information
 4 the commissioner requires.

5 (4) If no denial order is in effect and no proceeding
 6 is pending under subdivision (8) of this section,
 7 registration becomes effective at noon of the thirtieth
 8 (30th) day after an application is filed. The commissioner
 9 may specify an earlier effective date and he may by order
 10 defer the effective date for an additional sixty (60) days;
 11 the effective day after the filing of any amendment shall be
 12 noon of the thirtieth (30th) day thereafter unless otherwise
 13 accelerated by the commissioner.

14 (5) Registration of a broker-dealer, salesman or
 15 investment adviser shall be effective until the first (1st)
 16 day of March next following such registration and may be
 17 renewed as hereinafter provided. The registration of a
 18 salesman is not effective during any period when he is not
 19 associated with an issuer or a registered broker-dealer
 20 specified in his application. When a salesman begins or
 21 terminates a connection with an issuer or registered
 22 broker-dealer, the salesman and the issuer or broker-dealer
 23 shall promptly notify the commissioner.

24 (6) Registration of a broker-dealer, salesman or
 25 investment adviser may be renewed by filing with the

1 commissioner prior to the expiration thereof an application
 2 containing such information as the commissioner may require
 3 to indicate any material change in the information contained
 4 in the original application or any renewal application for
 5 registration as a broker-dealer, salesman or investment
 6 adviser filed with the commissioner by the applicant,
 7 payment of the prescribed fee and, in the case of a
 8 broker-dealer, a financial statement showing the financial
 9 condition of such broker-dealer as of a date within ninety
 10 (90) days. A registered broker-dealer or investment adviser
 11 may file an application for registration of a successor, to
 12 become effective upon approval of the commissioner.

13 (7) Every registered broker-dealer and investment
 14 adviser shall make and keep such accounts and other records,
 15 except with respect to securities exempt under section
 16 15-2013 (1), as may be prescribed by the commissioner. All
 17 records so required shall be preserved for three (3) years
 18 unless the commissioner prescribes otherwise for particular
 19 types of records. All the records of a registered
 20 broker-dealer or investment adviser are subject at any time
 21 or from time to time to such reasonable periodic, special or
 22 other examinations, within or without this state, by
 23 representatives of the commissioner, as the commissioner
 24 deems necessary or appropriate in the public interest or for
 25 the protection of investors.

1 (8) The commissioner may by order deny, suspend, or
 2 revoke registration of any broker-dealer, salesman, or
 3 investment adviser if he finds that the order is in the
 4 public interest and that the applicant or registrant or, in
 5 the case of a broker-dealer or investment adviser, any
 6 partner, officer, or director:

7 (a) has filed an application for registration under
 8 this section which, as of its effective date, or as of any
 9 date after filing in the case of an order denying
 10 effectiveness, was incomplete in any material respect or
 11 contained any statement which was, in the light of the
 12 circumstances under which it was made, false or misleading
 13 with respect to any material fact;

14 (b) has willfully violated or willfully failed to
 15 comply with any provision of this act or a predecessor act
 16 or any rule or order under this act or a predecessor act;

17 (c) has been convicted of any misdemeanor involving a
 18 security or any aspect of the securities business, or any
 19 felony;

20 (d) is permanently or temporarily enjoined by any
 21 court of competent jurisdiction from engaging in or
 22 continuing any conduct or practice involving any aspect of
 23 the securities business;

24 (e) is the subject of an order of the commissioner
 25 denying, suspending, or revoking registration as a

1 broker-dealer, salesman, or investment adviser;

2 (f) is the subject of an order entered within the past
3 five (5) years by the securities administrator of any other
4 state or by the federal securities and exchange commission
5 denying or revoking registration as a broker-dealer or
6 salesman, or the substantial equivalent of those terms as
7 defined in this act, or is the subject of an order of the
8 federal securities and exchange commission suspending or
9 expelling him from a national securities exchange or
10 national securities association registered under the
11 Securities Exchange Act of 1934, or is the subject of a
12 United States post office fraud order; but (a) the
13 commissioner may not institute a revocation or suspension
14 proceeding under this clause more than one (1) year from the
15 date of the order relied on, and (b) he may not enter any
16 order under this clause on the basis of an order unless that
17 order was based on facts which would currently constitute a
18 ground for an order under this section;

19 (g) has engaged in dishonest or unethical practices in
20 the securities business;

21 (h) is insolvent, either in the sense that his
22 liabilities exceed his assets or in the sense that he cannot
23 meet his obligations as they mature; but the commissioner
24 may not enter an order against a broker-dealer or investment
25 adviser under this clause without a finding of insolvency as

1 to the broker-dealer or investment adviser; or

2 (i) has not complied with a condition imposed by the
3 commissioner under subdivision (8) of this section, or is
4 not qualified on the basis of such factors as training,
5 experience, or knowledge of the securities business; or

6 (j) has failed to pay the proper filing fee; but the
7 commissioner may enter only a denial order under this
8 clause, and he shall vacate any such order when the
9 deficiency has been corrected. The commissioner may by order
10 summarily postpone or suspend registration pending final
11 determination of any proceeding under this section.

12 (9) Upon the entry of the order under subdivision (8)
13 of this section, the commissioner shall promptly notify the
14 applicant or registrant, as well as the employer or
15 prospective employer if the applicant or registrant is a
16 salesman, that it has been entered and of the reasons
17 therefor and that if requested by the applicant or
18 registrant within fifteen (15) days after the receipt of the
19 commissioner's notification the matter will be promptly set
20 down for hearing. If no hearing is requested within fifteen
21 (15) days and none is ordered by the commissioner, the order
22 will remain in effect until it is modified or vacated by the
23 commissioner. If a hearing is requested or ordered, the
24 commissioner, after notice of and opportunity for hearing,
25 may affirm, modify or vacate the order.

1 (10) If the commissioner finds that any registrant or
 2 applicant for registration is no longer in existence or has
 3 ceased to do business as a broker-dealer, investment adviser
 4 or salesman, or is subject to an adjudication of mental
 5 incompetence or to the control of a committee, conservator,
 6 or guardian, or cannot be located after reasonable search,
 7 the commissioner may by order cancel the registration or
 8 application.

9 (11) The right to a license revoked or suspended
 10 because of a criminal conviction is restored by termination
 11 of state supervision of the offender and any person applying
 12 for a license shall not be denied a license because of a
 13 previous criminal conviction."

14 Section 3. Section 41-1429, R.C.M. 1947, is amended to
 15 read as follows:

16 "41-1429. Grounds for denial, suspension, or
 17 revocation of license. (1) The director may by order deny,
 18 suspend or revoke the license of any employment agency if he
 19 finds that the applicant or licensee:

20 ~~(1)~~ (a) Was previously the holder of a license issued
 21 under this act, which was revoked for cause and never
 22 reissued by the director, or which license was suspended for
 23 cause and the terms of the suspension have not been
 24 fulfilled;

25 ~~(2)~~ (b) Has been found guilty of any felony within the

1 past five (5) years involving moral turpitude, or for any
 2 misdemeanor concerning fraud or conversion, or suffering any
 3 judgment in any civil action involving willful fraud,
 4 misrepresentation or conversion;

5 ~~(3)~~ (c) Has made a false statement of a material fact
 6 in his application or in any data attached thereto;

7 ~~(4)~~ (d) Has violated any provisions of this act, or
 8 failed to comply with any rule or regulation issued by the
 9 director pursuant to this act.

10 (2) The right to a license revoked or suspended
 11 because of a criminal conviction is restored by termination
 12 of state supervision of the offender and any person applying
 13 for a license shall not be denied a license because of a
 14 previous criminal conviction."

15 Section 4. Section 40-3329, R.C.M. 1947, is amended to
 16 read as follows:

17 "40-3329. Suspension, revocation, refusal of license.

18 (1) The commissioner may suspend for not more than twelve
 19 (12) months, or may revoke or refuse to continue any license
 20 issued under this chapter or any surplus line agent license
 21 if, after hearing held on not less than twenty (20) days
 22 advance notice by registered mail of such hearing and of the
 23 charges against the licensee given as provided in section
 24 40-2711 (3) to the licensee and to the insurers represented
 25 (as to an agent) or to the appointing agent (as to a

1 solicitor), he finds that as to the licensee any one or more
2 of the following causes exist:

3 (a) For any cause for which issuance of the license
4 could have been refused had it then existed and been known
5 to the commissioner.

6 (b) For obtaining or attempting to obtain any such
7 license through misrepresentation or fraud.

8 (c) For violation of or noncompliance with any
9 applicable provision of this code, or for willful violation
10 of any lawful rule, regulation, or order of the
11 commissioner.

12 (d) For misappropriation or conversion to his own use,
13 or illegal withholding, of moneys or property belonging to
14 policyholders, or insurer, or beneficiaries, or others and
15 received in conduct of business under the license.

16 (e) Conviction, by final judgment, of a felony
17 involving moral turpitude.

18 (f) If in the conduct of his affairs under the license
19 the licensee has used fraudulent or dishonest practices, or
20 has shown himself to be incompetent, untrustworthy or a
21 source of injury and loss to the public.

22 (2) The license of a firm or corporation may be
23 suspended, revoked or refused also for any of such causes as
24 relate to any individual designated in the license to
25 exercise its powers.

1 (3) The right to a license revoked or suspended
2 because of a criminal conviction is restored by termination
3 of state supervision of the offender and any person applying
4 for a license shall not be denied a license because of a
5 previous criminal conviction."

6 Section 5. Section 62-508, R.C.M. 1947, is amended to
7 read as follows:

8 "62-508. Penalty for violations of law--power of
9 board. (1) A person holding a race meet, and an owner,
10 trainer, or jockey participating in a race meet, without
11 first being licensed under this chapter, and a person
12 willfully violating this chapter is guilty of a misdemeanor.

13 (2) The board may:

14 (a) exclude from any and all race courses in this
15 state, any person whom the board deems detrimental to the
16 best interests of racing; and

17 (b) suspend or revoke any license issued by the board
18 to any person or assess a fine, not to exceed five hundred
19 dollars (\$500), against any person who violates any of the
20 provisions of this act or any rule, regulation or order of
21 the board.

22 (c) The board shall promulgate regulations
23 implementing this act, including the right to a hearing for
24 individuals against whom action is taken or proposed herein.

25 (3) It is lawful to conduct race meets at a race track

1 or otherwise, at any time during the week.

2 (4) The right to a license revoked or suspended
3 because of a criminal conviction is restored by termination
4 of state supervision of the offender and any person applying
5 for a license shall not be denied a license because of a
6 previous criminal conviction."

7 Section 6. Section 66-112, R.C.M. 1947, is amended to
8 read as follows:

9 "66-112. Revocation of certificate. (1) The board may
10 revoke a certificate if proof satisfactory to the board is
11 presented of the following: (a) The certificate was obtained
12 through fraud or misrepresentation; (b) The holder of the
13 certificate has been found guilty by the board or by a court
14 of justice of fraud or deceit in his professional practice
15 or has been convicted of a felony by a court of justice and
16 is still under state supervision; (c) The holder of the
17 certificate has been found guilty by the board of gross
18 incompetency or of recklessness in the planning or
19 construction of buildings; (d) The holder of the certificate
20 has been found guilty by the board of any of the following
21 acts which constitute unprofessional conduct: (i) Willful
22 departure in a material respect from approved plans or
23 specifications without the consent of the owner or his
24 authorized representative; (ii) Willful violation of the
25 building codes of this state or a political subdivision;

1 (iii) Aiding or abetting an unlicensed person to violate or
2 evade this act; or (iv) Sealing or signing plans or
3 specifications not prepared under his direct supervision and
4 control; or (e) The holder of the certificate has violated
5 standards of professional conduct adopted by the board.

6 (2) A certificate may not be revoked until the party
7 holding the certificate is given notice and an opportunity
8 for a hearing.

9 (3) If the board's findings and conclusions are
10 adverse to the accused, his certificate stands revoked and
11 annulled at the expiration of thirty (30) days from the
12 final decision adverse to the party.

13 (4) The right to a license revoked or suspended
14 because of a criminal conviction is restored by termination
15 of state supervision of the offender and any person applying
16 for a license shall not be denied a license because of a
17 previous criminal conviction."

18 Section 7. Section 66-403.1, R.C.M. 1947, is amended
19 to read as follows:

20 "66-403.1. Refusal to issue, renew, or suspend
21 licenses--hearing. The board may, after notice and
22 opportunity for a hearing, either refuse to issue or renew,
23 or may suspend or revoke a barbershop, or barber school or
24 college license for any one or combination of the following
25 causes:

1 (1) The violation of any of the provisions of
2 subdivisions (a) through (e) of subsection 11 of section
3 66-403, subsection 12 of section 66-403, and section 66-405;

4 (2) Conviction of a felony, shown by a certified copy
5 of the record of the court of conviction;

6 (3) Gross malpractice or gross incompetency;

7 (4) Continued practice by a person knowingly having an
8 infectious or contagious disease;

9 (5) Advertising by means of knowingly false or
10 deceptive statements;

11 (6) Advertising, practicing, or attempting to practice
12 under a trade name other than one's own;

13 (7) Habitual drunkenness or addiction to the use of
14 morphine, cocaine, or other habit-forming drugs;

15 (8) The commission of any of the offenses described in
16 section 66-409.

17 The right to a license revoked or suspended because of
18 a criminal conviction is restored by termination of state
19 supervision of the offender and any person applying for a
20 license shall not be denied a license because of a previous
21 criminal conviction."

22 Section 8. Section 66-510, R.C.M. 1947, is amended to
23 read as follows:

24 "66-510. Refusal and revocation of license--
25 proceedings--reinstatement. (1) The board may revoke or

1 refuse to grant a license to practice chiropractic in this
2 state, or may cause a licensee's name to be removed from the
3 records in the office of the clerk and recorder in this
4 state on the following grounds: The employment of fraud or
5 deception in applying for a license or in passing an
6 examination under this act; practice of chiropractic under a
7 false or assumed name or the impersonation of another
8 practitioner of like or different name; conviction of a
9 crime involving moral turpitude; or habitual intemperance in
10 the use of alcohol, narcotics, or stimulants to such an
11 extent as to incapacitate him for the performance of his
12 professional duties. A person who is a licensee, or an
13 applicant for a license to practice chiropractic, against
14 whom grounds for revoking or refusing a license is presented
15 to the board with a view of having the board revoke or
16 refuse to grant a license, shall have notice and a hearing
17 before the board in respecting the guilt or innocence of the
18 person.

19 (2) The board may within two (2) years of the refusal,
20 revocation, or cancellation of registration under this
21 section, by a majority vote, authorize the department to
22 issue a new license or grant a license to the person
23 affected, restoring him to or conferring on him the rights
24 and privileges of the practice of chiropractic. A person to
25 whom these rights and privileges have been restored shall

1 pay to the department the sum of fifty dollars (\$50) on
2 issuance of a new license.

3 (3) The right to a license revoked or suspended
4 because of a criminal conviction is restored by termination
5 of state supervision of the offender and any person applying
6 for a license shall not be denied a license because of a
7 previous criminal conviction."

8 Section 9. Section 66-913, R.C.M. 1947, is amended to
9 read as follows:

10 "66-913. Revocation or suspension of license--
11 grounds--conviction of crime--renting or loaning
12 license--unprofessional conduct--proceedings for revocation
13 or suspension. (1) A dentist may have his license revoked or
14 suspended by the board for any of the following reasons:

15 (a) Conviction of a felony or misdemeanor involving
16 moral turpitude, in which case the record of conviction or a
17 copy certified by the clerk of the court or by the judge in
18 whose court the conviction is had is conclusive evidence.

19 (b) For renting, loaning, or attempting to rent or
20 loan to a person his license for the practice of dentistry
21 or his diploma of graduation from a dental college, school,
22 or course to be used as a license or diploma of the person.

23 (c) For permitting a dental hygienist, under his
24 personal supervision to do an act or perform an operation
25 other than those defined and authorized under section

1 66-921.

2 (d) For permitting unlicensed auxiliary personnel to
3 perform duties or tasks other than those which may be
4 specifically authorized by the board.

5 (e) For unprofessional conduct, gross ignorance or
6 inefficiency in his profession, habitual intemperance, or
7 gross immorality.

8 (2) Unprofessional conduct consists of employing what
9 are known as "cappers" or "steerers" to obtain business;
10 obtaining a fee by fraud or misrepresentation; willfully
11 betraying professional secrets; employing, directly or
12 indirectly, a student or a suspended or unlicensed dentist
13 to perform operations in the practice of dentistry, treat
14 lesions of the human teeth or jaws, or correct malimposed
15 formations; making use of advertising statements of a
16 character tending to deceive or mislead the public;
17 advertising prices; advertising professional superiority, or
18 performance of professional services in a superior manner;
19 advertising by means of a large display, glaring light sign,
20 or other sign or device containing the representation of a
21 tooth, teeth, bridgework, or a portion of the human head;
22 advertising over television or radio; employing or making
23 use of advertising solicitors or publicity press agents;
24 advertising free dental work or free examination;
25 advertising to guarantee dental service or to perform a

1 dental operation painlessly; advertising by sign or printed
2 advertisements under the name of a corporation, company,
3 association, or trade name.

4 (3) The right to a license revoked or suspended
5 because of a criminal conviction is restored by termination
6 of state supervision of the offender and any person applying
7 for a license shall not be denied a license because of a
8 previous criminal conviction.

9 ~~(3)~~ (4) Proceedings under this section may be taken by
10 the board on its initial motion, for matters in its
11 knowledge, or may be taken on the information of another.
12 However, if the informant is a member of the board, the
13 other members of the board constitute the board for the
14 purpose of determining the truth of the charge or
15 accusation. Accusations must be in writing, verified by some
16 party familiar with the facts charged, and three (3) copies
17 must be filed with the department. On receiving the
18 accusation the board shall, if it considers the accusation
19 sufficient, make an order setting it for hearing, and
20 requiring the accused to appear and answer the charge or
21 accusation at the hearing.

22 ~~(4)~~ (5) The accused must appear at the time appointed
23 in the order and answer the charges and make his defense
24 unless for sufficient cause, on the accused's application or
25 the board's order, the board assigns another day for that

1 purpose.

2 ~~(5)~~ (6) If the accused does not appear the board may
3 proceed and determine the accusation in his absence. If the
4 accused confesses the accusation or refuses to answer the
5 charge, or if on hearing the board finds the charge or
6 accusation true, it may make an order either revoking the
7 license of the accused or suspending it for a fixed period.
8 The board and the accused may have the benefit of counsel,
9 and the board shall have the power to administer oaths, take
10 depositions of witnesses in the manner provided by law in
11 civil cases, and to issue subpoenas for the attendance of
12 witnesses and the production of papers, books, accounts,
13 documents and testimony in any inquiry, investigation,
14 hearing, or proceeding in this state. The subpoena shall be
15 issued over the signature of the secretary of the board and
16 the seal, and in the name of this state.

17 ~~(6)~~ (7) On revocation or suspension of a license the
18 fact shall be noted on the records of the department and the
19 license shall be marked canceled on the date of its
20 revocation, or suspended, as the case may be. The department
21 shall, on order of suspension or revocation being entered,
22 transmit to the county recorder in which the license of the
23 licensee affected by the judgment is registered and
24 recorded, a copy of the order, certified by the secretary of
25 the board, for record, and it shall be registered in the

1 same manner and in the same book in which the registration
2 of the certificate to practice dentistry is kept."

3 Section 10. Section 66-1036, R.C.M. 1947, is amended
4 to read as follows:

5 "66-1036. Refusal of license. (1) If the board
6 determines that an applicant for a license to practice
7 medicine does not possess the qualifications or character
8 required by this act or that he has committed unprofessional
9 conduct, it shall refrain from authorizing the department to
10 issue a license. The department shall mail to the applicant,
11 at his last address of record with the department, written
12 notification of the board's decision together with notice of
13 a time and place of a hearing before the board. If the
14 applicant without cause fails to appear at the hearing, or
15 if after hearing, the board determines he is not entitled to
16 a license, the board shall refuse to grant the license.

17 (2) The board may not refuse to issue a license on the
18 grounds of a past criminal conviction if the applicant is no
19 longer under state supervision."

20 Section 11. Section 66-1033, R.C.M. 1947, is amended
21 to read as follows:

22 "66-1038. Revocation or suspension of license--
23 probation. (1) The board may, when it has been brought to
24 its attention that there is reason to suspect that a person
25 having a license or certificate to practice medicine in this

1 state:

2 (a) Is mentally or physically unable, safely, to
3 engage in the practice of medicine, or has procured his
4 license to practice medicine by fraud or misrepresentation
5 or through mistake, or has been declared incompetent by a
6 court of competent jurisdiction and thereafter has not been
7 lawfully declared competent, or when a condition exists
8 which impairs his intellect or judgment to the extent that
9 it incapacitates him for the safe performance of
10 professional duties;

11 (b) Has been guilty of unprofessional conduct;

12 (c) Has practiced medicine while his license was
13 suspended or revoked; or

14 (d) Has, while under probation, violated its terms;
15 make an investigation, including requiring the person to
16 submit to a physical examination or a mental examination or
17 both by a physician or physicians selected by the board when
18 it appears in the best interests of the public that this
19 evaluation be secured, to determine the probability of the
20 existence of these conditions or the commission of these
21 offenses. The board may examine and scrutinize the hospital
22 records and reports of a licensee as part of the examination
23 and copies of these shall be released to the board on
24 written request. If the board has reasonable cause to
25 believe that this probability exists, the department shall

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

9 (2) A person, including a member of the board, may
 10 file a sworn complaint with the department against a person
 11 having a license to practice medicine in this state, charging
 12 him with the commission of any of the offenses set forth in
 13 section 66-1037, or subsection one (1) of this section,
 14 which complaint shall set forth a specification of the
 15 charges. When the complaint is filed, the department shall
 16 mail a copy to the person accused, at his last address of
 17 record with the department, together with a written citation
 18 of the time and place of the hearing on it.

19 (3) At the hearing the board shall adopt a resolution
 20 finding him guilty or not guilty of the matters charged. If
 21 the board finds that the conditions referred to in section
 22 66-1037, or subsection (1) of this section do not exist with
 23 respect to the person or if he is found not guilty, the
 24 board shall dismiss the charges or complaint, but if the
 25 board does find that the conditions referred to in section

1 66-1037 or in subsection (1) of this section do exist and
 2 the person is found guilty, the board shall:

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

11 (4) The department in cases of revocation, suspension,
 12 or probation shall enter in its records the facts of the
 13 action, and of subsequent action of the board with respect
 14 to it.

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

1 procedure provided in subsection (1) of this section. The
2 revocation is final and absolute.

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

13 (7) The right to a license revoked or suspended
14 because of a criminal conviction is restored by termination
15 of state supervision of the offender and any person applying
16 for a license shall not be denied a license because of a
17 previous criminal conviction."

18 Section 12. Section 66-1240, R.C.M. 1947, is amended
19 to read as follows:

20 "66-1240. Grounds for discipline. The board, acting
21 under the appropriate administration, may deny, revoke or
22 suspend a license to practice nursing or discipline a
23 licensee on proof that the person:

24 (1) Is guilty of fraud or deceit in procuring or
25 attempting to procure a license to practice nursing

1 however, the right to a license revoked or suspended
2 because of a criminal conviction is restored by termination
3 of state supervision of the offender and any person applying
4 for a license shall not be denied a license because of a
5 previous criminal conviction;

6 (2) Is guilty of a crime or gross immorality;

7 (3) Is unfit or incompetent by reason of negligence,
8 habit, or other causes;

9 (4) Is habitually intemperate or is addicted to the
10 use of habit-forming drugs;

11 (5) Is mentally or physically incompetent;

12 (6) Is guilty of unprofessional conduct;

13 (7) Has willfully or repeatedly violated this act; but
14 only after compliance with section 66-1241."

15 Section 13. Section 66-1312, R.C.M. 1947, is amended
16 to read as follows:

17 "66-1312. Revocation of certificate for cause.

18 (1) The board may revoke a certificate of registration for
19 conviction of crime, but the right to the certificate is
20 restored by termination of state supervision of the
21 offender. The board may also revoke any certificate for

22 habitual drunkenness, contagious or infectious disease,
23 gross immorality, gross ignorance or inefficiency in his

24 profession, or unprofessional conduct. Unprofessional
25 conduct includes obtaining a fee by fraud or

1 misrepresentation; employing directly or indirectly a
 2 suspended or unlicensed optometrist to perform work covered
 3 by this act; directly or indirectly accepting employment to
 4 practice optometry from a person not having a valid
 5 certificate of registration as an optometrist, or accepting
 6 employment to practice optometry from a company or
 7 corporation, or accepting employment to practice optometry
 8 for a company or corporation; permitting another to use his
 9 certificate of registration; soliciting or sending a
 10 solicitor from house to house; treatment or advice in which
 11 untruthful or improbable statements are made; professing to
 12 cure disease; advertising in which ambiguous or misleading
 13 statements are made; or the use in advertising of the
 14 expression "eye specialist" or "specialist on eyes" in
 15 connection with the name of an optometrist. This act does
 16 not prohibit legitimate or truthful advertising by a
 17 registered optometrist. Before a certificate is revoked,
 18 the holder shall be given a notice and an opportunity for a
 19 hearing."

20 Section 14. Section 66-1504, R.C.M. 1947, is amended
 21 to read as follows:

22 "66-1504. Powers of board and department. (1) The
 23 board shall annually elect from its members a president,
 24 vice-president, and secretary.

25 (2) The board shall:

1 (a) Regulate the practice of pharmacy in this state
 2 subject to this act;

3 (b) Determine the minimum equipment necessary in and
 4 for a pharmacy and drug store;

5 (c) Regulate under therapeutic classification, the
 6 sale of drugs, medicines, chemicals, and poisons and their
 7 labeling;

8 (d) Regulate the quality of drugs and medicines
 9 dispensed in this state, using the United States
 10 pharmacopoeia and the national formulary, or revisions
 11 thereof, as the standards;

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

18 (f) Regulate the practice of interns under national
 19 standards;

20 (g) Revoke temporarily or permanently, licenses issued
 21 by the department to a pharmacist or intern whenever the
 22 holder of the license has obtained it by false
 23 representations or fraud, is an habitual drunkard or
 24 addicted to the use of narcotic drugs, has been convicted of
 25 a felony, has been convicted of violating the pharmacy law,

1 or has been found guilty by the board, of incompetency in
2 the preparation of prescriptions or guilty of gross
3 immorality affecting the discharge of his duties as a
4 pharmacist or assistant.

5 (n) Make rules for the conduct of its business.

6 (i) Perform other duties and exercise other powers as
7 this act requires.

8 (j) Adopt and authorize the department to publish
9 rules for carrying out and enforcing this act.

10 (3) The department shall license, register, and
11 examine, subject to section 82A-1603, applicants whom the
12 board considers qualified under this act; license pharmacies
13 and certain stores under this act; and issue certificates of
14 "certified pharmacy" under this act.

15 (4) The right to a license revoked or suspended
16 because of a criminal conviction is restored by termination
17 of state supervision of the offender and any person applying
18 for a license shall not be denied a license because of a
19 previous criminal conviction."

20 Section 15. Section 66-1834, R.C.M. 1947, is amended
21 to read as follows:

22 "66-1834. Revocation or suspension of certificate, or
23 registration or license. (1) After notice and hearing as
24 provided in section 24 [66-1836] of this act, the board may
25 revoke, or may suspend any certificate issued under section

1 7 [66-1819] of this act, or any registration granted under
2 section 8 [66-1820] of this act, or may revoke, suspend or
3 refuse to renew any license issued under section 21
4 [66-1833] of this act, or may censure the holder of any such
5 license, for any one or any combination of the following
6 causes:

7 (a) Fraud or deceit in obtaining a certificate as
8 certified public accountant, or in obtaining a license to
9 practice public accounting under this act;

10 (b) Dishonesty, fraud or gross negligence in the
11 practice of public accounting;

12 (c) Violation of any of the provisions of section 26
13 [66-1838] of this act;

14 (d) Violation of a rule of professional conduct
15 promulgated by the board under the authority granted by this
16 act;

17 (e) Conviction of a felony under the laws of any state
18 or of the United States;

19 (f) Conviction of any crime, an element of which is
20 dishonesty or fraud, under the laws of any state or of the
21 United States;

22 (g) Cancellation, revocation, suspension, or refusal
23 to renew authority to practice as a certified public
24 accountant or a public accountant by any other state, for
25 any cause other than failure to pay an annual registration

1 fee in such other state;

2 (h) Suspension or revocation of the right to practice
3 before any state or federal agency;

4 (i) Failure of a certificate holder or licensed
5 accountant to obtain an annual license under section 21
6 [66-1833], within either (a) three (3) years from the
7 expiration date of the license to practice last obtained or
8 renewed by said certificate holder or registrant, or (b)
9 three (3) years from the date upon which the certificate
10 holder or licensed accountant was granted his certificate or
11 registration, unless such failure shall have been excused by
12 the board pursuant to the provisions of section 21
13 [66-1833].

14 (2) The right to any certificate, registration or
15 license, revoked or suspended under the provisions of
16 section (1) (e) or (1) (f), is restored by termination of
17 state supervision of the offender and any person applying
18 for a license, certificate, or registration shall not be
19 denied a license because of a previous criminal conviction."

20 Section 16. Section 66-1937, R.C.M. 1947, is amended
21 to read as follows:

22 "66-1937. Grounds for refusal--suspension or
23 revocation of license. The board may, on its own motion, and
24 shall, on the sworn complaint in writing of a person,
25 investigate the actions of a real estate broker or a real

1 estate salesman, subject to sections 82A-1603 and 82A-1604,
2 and may revoke or suspend a license issued under this act
3 when the broker or salesman has been found guilty by a
4 majority of the board of any of the following practices:

5 (1) Intentionally misleading, untruthful, or
6 inaccurate advertising, whether printed or by radio,
7 display, or other nature, which advertising in any material
8 particular or in any material way misrepresents any
9 property, terms, values, policies, or services of the
10 business conducted;

11 (2) Making any false promises of a character likely to
12 influence, persuade, or induce;

13 (3) Pursuing a continued and flagrant course of
14 misrepresentation, or making false promises through agents
15 or salesman, or any medium of advertising, or otherwise;

16 (4) Use of the term "realtor" by a person not
17 authorized to do so, or using another trade name or insignia
18 of membership in a real estate organization of which the
19 licensee is not a member;

20 (5) Failing to account for or to remit money coming
21 into his possession belonging to others;

22 (6) Accepting, giving, or charging an undisclosed
23 commission, rebate, or profit on expenditures made for a
24 principal;

25 (7) Acting in a dual capacity of broker and

1 undisclosed principal in a transaction;

2 (8) Guaranteeing, authorizing, or permitting a person

3 to guarantee future profits which may result from the resale

4 of real property;

5 (9) Offering real property for sale or lease without

6 the knowledge and consent of the owner or his authorized

7 agent or on terms other than those authorized by the owner

8 or his authorized agent;

9 (10) Inducing a party to a contract of sale or lease

10 to break the contract for the purpose of substituting a new

11 contract with another principal;

12 (11) Accepting employment or compensation for

13 appraising real property contingent on the reporting of a

14 predetermined value or issuing an appraisal report on real

15 property in which he has an undisclosed interest;

16 (12) Negotiating a sale, exchange, or lease of real

17 property directly with an owner or lessee if he knows that

18 the owner has a written outstanding contract in connection

19 with the property, granting an exclusive agency to another

20 broker;

21 (13) Soliciting, selling, or offering for sale real

22 property by conducting lotteries for the purpose of

23 influencing a purchaser or prospective purchaser of real

24 property;

25 (14) Representing or attempting to represent a real

1 estate broker, other than the employer, without the express

2 knowledge or consent of the employer;

3 (15) Failing voluntarily to furnish a copy of a

4 written instrument to a party executing it at the time of

5 its execution;

6 (16) Paying a commission in connection with a real

7 estate sale or transaction to a person who is not licensed

8 as a real estate broker or real estate salesman under this

9 act;

10 (17) Intentionally violating a rule adopted by the

11 board in the interests of the public and in conformity with

12 this act;

13 (18) Failing, if a salesman, to place, as soon after

14 receipt as is practicably possible, in the custody of his

15 registered broker, deposit money or other money entrusted to

16 him as salesman by a person;

17 (19) Demonstrating his unworthiness or incompetency to

18 act as a broker or salesman; or

19 (20) Conviction of a felony. The right to a license

20 revoked or suspended because of a criminal conviction

21 is restored by termination of state supervision of the

22 offender and any person applying for a license shall

23 not be denied a license because of a previous criminal

24 conviction."

25 Section 17. Section 66-2115, R.C.M. 1947, is amended

1 to read as follows:

2 "66-2115. Regulation of abstracters--violations. (1)
 3 The board may cancel and revoke a certificate of
 4 registration issued to a person under this act for a
 5 violation of this act, or on a conviction of the holder of
 6 the certificate of a crime involving moral turpitude, or if
 7 the board finds the holder to be guilty of habitual
 8 carelessness or inattention to business or of fraudulent
 9 practices. The board may also cancel and revoke a
 10 certificate of authority issued to a person, firm, or
 11 corporation under this act for failure to furnish the bond
 12 or other securities required by section 66-2113, or new or
 13 additional bonds the board considers necessary, or for
 14 failure to maintain indices and abstract records, or for
 15 failure to have in charge of the business a registered
 16 abstracter, or for violation of this act.

17 (2) On a verified complaint being filed with the
 18 department charging the holder of a certificate of
 19 registration with a violation of any of the provisions of
 20 subsection (1) of this section the board shall require the
 21 holder of the certificate to appear before it on a day fixed
 22 by the board, to show cause why the certificate should not
 23 be canceled.

24 (3) The right to a certificate of registration revoked
 25 or suspended because of a criminal conviction is restored by

1 termination of state supervision of the offender and any
 2 person applying for a certificate of registration shall not
 3 be denied a certificate because of a previous criminal
 4 conviction."

5 Section 18. Section 66-2210, R.C.M. 1947, is amended
 6 to read as follows:

7 "66-2210. Refusal, suspension, and revocation of
 8 license and certificate. (1) The board may either refuse to
 9 grant a license or refuse to grant a certificate of
 10 registration or suspend or revoke a license and certificate
 11 of registration on any of the following grounds:

- 12 (a) Fraud or deception in procuring the license.
 13 (b) The publication or use of an untruthful or
 14 improper statement, or representation with the view of
 15 deceiving the public, or a client or customer in connection
 16 with the practice of veterinary medicine.
 17 (c) The conviction of a felony as shown by a certified
 18 copy of the record of the court of conviction.
 19 (d) Habitual intemperance in the use of intoxicating
 20 liquors, or habitual addiction to the use of morphine,
 21 cocaine, or other habit-forming drugs, or conviction of a
 22 violation of a federal or state law relating to narcotic
 23 drugs.

24 (e) Immoral, unprofessional, or dishonorable conduct
 25 manifestly disqualifying the licensee from practicing

1 veterinary medicine.

2 (f) Gross malpractice, including failure to furnish to
3 the board, on written application by it, a report or
4 information relating thereto.

5 (g) The employment of unlicensed persons to perform
6 work which under this chapter can lawfully be done only by
7 persons licensed to practice veterinary medicine.

8 (n) Fraud or dishonest conduct in applying or
9 reporting diagnostic biological tests or in issuing health
10 certificates.

11 (i) Failure to keep one's premises in a clean and
12 sanitary condition.

13 (j) Violation of this act or of the rules or orders of
14 the board.

15 (k) Revocation by proper authorities for any of the
16 above reasons of a license issued by another state.

17 (2) The board may neither refuse to issue a license or
18 certificate of registration nor suspend or revoke a license
19 and certificate of registration for any cause, unless the
20 person accused has been given notice and a public hearing by
21 the board.

22 (3) The right to a license or certificate of
23 registration revoked or suspended because of a criminal
24 conviction is restored by termination of state supervision
25 of the offender and any person applying for a license or

1 certificate of registration shall not be denied a license or
2 certificate of registration because of a previous criminal
3 conviction."

4 Section 19. Section 66-2345, R.C.M. 1947, is amended
5 to read as follows:

6 "66-2345. Revocation of registration--
7 hearings--reissuance of certificate. (1) The board may
8 revoke, reprimand, suspend, or refuse to renew the
9 certificate of a registrant found guilty of:

10 (a) Fraud or deceit in obtaining a certificate of
11 registration;

12 (b) Gross negligence, incompetency, or misconduct in
13 the practice of engineering or land surveying as a
14 registered professional engineer or land surveyor;

15 (c) A felony; or

16 (d) Failure of a land surveyor to comply with the
17 Corner Recordation Act.

18 (2) Any person may make charges of fraud, deceit,
19 gross negligence, incompetency, or misconduct against a
20 registrant. The charges shall be made by affidavit, and
21 subscribed and sworn to by the person making them, and filed
22 with the department.

23 (3) Charges, unless dismissed by the board as
24 unfounded or trivial, shall be heard by the board within
25 three (3) months after the date on which they were made.

1 (4) If, after hearing, four (4) or more members of the
2 board vote in favor of sustaining the charges, the board
3 shall reprimand, suspend, refuse to renew, or revoke the
4 certificate of registration of the registered professional
5 engineer or land surveyor.

6 (5) The board, for reasons it considers sufficient,
7 may reissue a certificate of registration to a person whose
8 certificate has been revoked, if four (4) or more members of
9 the board vote in favor of the reissuance. A new certificate
10 of registration, to replace a certificate revoked, lost,
11 destroyed, or mutilated, may be issued by the department,
12 subject to the rules of the board, and a charge of three
13 dollars (\$3) shall be made for the issuance.

14 The right to a certificate revoked or suspended because
15 of a criminal conviction is restored by termination of state
16 supervision of the offender and any person applying for a
17 certificate shall not be denied a certificate because of a
18 previous criminal conviction."

19 Section 20. Section 66-2509, R.C.M. 1947, is amended
20 to read as follows:

21 "66-2509. Refusal to issue or renew license--grounds.

22 (1) The board, after due notice and hearing, may refuse to
23 license any applicant, and may refuse to renew the license
24 of any licensed person:

25 ~~(1)~~ (a) Who is habitually intoxicated or who is

1 addicted to the use of narcotic drugs;

2 ~~(2)~~ (b) Who has been convicted of violating any state
3 or federal narcotic law;

4 ~~(3)~~ (c) Who is, in the judgment of the board, guilty
5 of immoral or unprofessional conduct;

6 ~~(4)~~ (d) Who has been convicted of any crime involving
7 moral turpitude;

8 ~~(5)~~ (e) Who is guilty, in the judgment of the board,
9 of gross negligence in his practice as a physical therapist;

10 ~~(6)~~ (f) Who has obtained or attempted to obtain
11 registration by fraud or material misrepresentation;

12 ~~(7)~~ (g) Who has been declared insane by a court of
13 competent jurisdiction and has not thereafter been lawfully
14 declared sane;

15 ~~(8)~~ (h) Who has treated or undertaken to treat
16 ailments of human beings otherwise than by physical therapy,
17 or who has undertaken to practice physical therapy
18 independent of prescription from a person who holds an
19 unlimited license to practice medicine and surgery in the
20 state of Montana and other states and territories.

21 (2) The right to a license revoked or suspended
22 because of a criminal conviction is restored by termination
23 of state supervision of the offender and any person applying
24 for a license shall not be denied a license because of a
25 previous criminal conviction."

1 Section 21. Section 66-2610, R.C.M. 1947, is amended
2 to read as follows:

3 "66-2610. Revocation and suspension. (1) A license
4 issued under this act may be suspended or revoked by the
5 board, in cases other than failure of a licensee to renew
6 the license, after notice and hearing, in the event the
7 licensee has violated a condition of the bond maintained by
8 him as a prerequisite to issuance of the license, for the
9 practice of fraud or deceit in obtaining a license, for
10 gross negligence, incompetence, conviction of a felony, or
11 violating the requirements of this act. Any person may make
12 complaint against a licensee. Complaints shall be in
13 writing, signed by the complainant, and must specify the
14 charges against the licensee. The board, on its own motion,
15 or on receipt of a complaint, shall hold a hearing on
16 charges.

17 (2) A person bringing the complaint has the burden of
18 proof and must appear in person. A unanimous vote of the
19 board is required in order to revoke or suspend a license.
20 If a suspension is directed by the board, it may not be for
21 a period in excess of one (1) year.

22 (3) The right to a license revoked or suspended
23 because of a criminal conviction is restored by termination
24 of state supervision of the offender and any person applying
25 for a license shall not be denied a license because of a

1 previous criminal conviction."

2 Section 22. Section 66-2714, R.C.M. 1947, is amended
3 to read as follows:

4 "66-2714. Refusal to grant, suspension and revocation
5 of mortician's and funeral director's license. (1) The
6 board may refuse to grant, may suspend, or may revoke a
7 mortician's or funeral director's license for any of the
8 following reasons:

9 ~~(1)~~ (a) If the applicant or licensee obtained the
10 license by fraud or misrepresentation, either in the
11 application for the license, or in passing the examination.

12 ~~(2)~~ (b) If the applicant or licensee has been
13 convicted of a felony.

14 ~~(3)~~ (c) If the applicant or licensee has violated any
15 section of this act or any rule or regulation of the state,
16 district, or local board of health governing the disposition
17 of dead human bodies, or any rule of the board regulating
18 the professions of mortuary science or funeral directing, or
19 the operation of a mortuary.

20 ~~(4)~~ (d) If the licensee has participated in any scheme
21 in the nature of a burial association or burial certificate
22 plan which does not properly protect the rights of the
23 public, or where there is any element of fraud, or where
24 there is contained any agreement or provision that deprives
25 heirs, next of kin, or any other authorized person freedom

1 of choice as to the services or merchandise used in
2 connection with a funeral, or the freedom of choice as to
3 which funeral directors or morticians shall be employed.

4 (2) The right to a license revoked or suspended
5 because of a criminal conviction is restored by termination
6 of state supervision of the offender and any person applying
7 for a license shall not be denied a license because of a
8 previous criminal conviction."

9 Section 23. Section 66-3017, R.C.M. 1947, is amended
10 to read as follows:

11 "66-3017. Revocation or suspension for cause. Any
12 person registered under this act may have his license
13 revoked or suspended for a fixed period to be determined by
14 the board for any of the following causes:

15 (1) Being convicted of a felony. The record of the
16 conviction or a certified copy from the clerk of the court
17 where the conviction occurred or by the judge of the court,
18 shall be sufficient evidence to warrant revocation or
19 suspension, ~~provided that the person has not been pardoned~~
20 ~~by a governor or the president of the United States.~~

21 The right to a license revoked or suspended because of
22 a criminal conviction is restored by termination of state
23 supervision of the offender and any person applying for a
24 license shall not be denied a license because of a previous
25 criminal conviction.

1 (2) By securing a license under this act through fraud
2 or deceit or false statements.

3 (3) For the personal use of a false name or alias in
4 the practice of his profession, with fraudulent intent.

5 (4) For violating any of the provisions of this act.

6 (5) For obtaining any fee or making any sale by fraud
7 or misrepresentation.

8 (6) Knowingly employing directly or indirectly any
9 suspended or unlicensed person to perform any work covered
10 by this act.

11 (7) Using or causing or promoting the use of any
12 advertising matter, promotional literature, testimonial,
13 guarantee, warranty, label, brand, insignia or any other
14 representation however disseminated or published, which is
15 improbable, misleading, deceptive, or untruthful.

16 (8) Representing that the services or advice, of a
17 person licensed to practice medicine, or possessing
18 certification as an audiologist, will be used or made
19 available in the selection, fitting, adjustment, maintenance
20 or repair of hearing aids when that is not true, or using
21 the terms "doctor," "clinic," "state registered," or other
22 like words, abbreviations or symbols which tend to connote
23 the medical profession when that use is not accurate. The
24 term "hearing center" shall be discontinued in accordance
25 with the code of ethics of the National Hearing Aid Society.

1 (9) Permitting another to use his license or
2 certificate.

3 (10) To defame competitors by falsely imputing to them
4 dishonorable conduct, inability to perform contracts,
5 questionable credit standing, or by other false
6 representations, or falsely to disparage the products of
7 competitors in any respect, or their business methods,
8 selling prices, values, credit terms, policies or services.

9 (11) To obtain information concerning the business of
10 a competitor by bribery of an employee or agent of such
11 competitor, by false or misleading statements or
12 representations, by the impersonation of one in authority,
13 or by any other lawful means.

14 (12) To directly or indirectly give, or offer to give,
15 or permit or cause to be given money or anything of value to
16 any person who advises another in a professional capacity as
17 an inducement to influence others to purchase or contract to
18 purchase products sold or offered for sale by a hearing aid
19 dispenser, or to influence persons to refrain from dealing
20 in the products of competitors.

21 (13) Unethical conduct or gross incompetence or
22 negligence in the performance of his duties, including
23 repeated failure to make indicated medical referrals of his
24 customers.

25 (14) Selling a hearing aid to a person who has not

1 been given tests utilizing appropriate established
2 procedures and instrumentation in fitting of hearing aids,
3 except in cases of selling replacement hearing aids."

4 Section 24. Section 66-3209, R.C.M. 1947, is amended
5 to read as follows:

6 "66-3209. Grounds for refusal or revocation of
7 license--hearing. (1) A license applied for, or issued under
8 this act, may be refused or revoked by the board on proof
9 that the person to whom the license was issued:

10 (a) Has been convicted of a felony;

11 (b) Has been guilty of fraud or deceit in securing the
12 license or a renewal; or

13 (c) Is using a narcotic or an alcoholic beverage to an
14 extent that the use impairs his ability to perform the work
15 of a professional psychologist with safety to the public; or

16 (d) Has been guilty of unprofessional conduct as
17 defined by the code of ethics published by the American
18 Psychological Association.

19 (2) The board may not revoke or refuse to issue or
20 renew a license for any cause, other than failure to pay
21 fees, unless the person is given notice and opportunity for
22 a hearing before the board.

23 (3) The right to a license revoked or suspended
24 because of a criminal conviction is restored by termination
25 of state supervision of the offender and any person applying

1 for a license shall not be denied a license because of a
 2 previous criminal conviction."

3 Section 25. Section 75-6010, R.C.M. 1947, is amended
 4 to read as follows:

5 "75-6010. Suspension, revocation and denial--appeals.
 6 The board of education shall have the power and authority to
 7 suspend or revoke the teacher certificate of any person for
 8 any of the following reasons:

9 (1) Any reason that would have required or authorized
 10 the denial of the teacher certificate to such person if it
 11 had been known at the time such certificate was issued;

12 (2) By reason of incompetency, immorality,
 13 intemperance, physical inability, or conviction of a felony
 14 under state law; or

15 (3) By reason of the failure of the certificate holder
 16 to comply with the terms of any contract between such holder
 17 and the trustees of a district without the consent of the
 18 trustees in writing or without good cause. Such breach of
 19 contract shall constitute unprofessional conduct.

20 Whenever a substantial reason for the suspension or
 21 revocation of the teacher certificate of any person is
 22 brought to the attention of the board of education, it shall
 23 afford the person an opportunity to defend himself and his
 24 qualifications against the charge before the board. The
 25 superintendent of public instruction shall give a thirty

1 (30) day written notification to any person when the board
 2 of education intends to consider the suspension or
 3 revocation of his certificate. The board of education shall
 4 implement an investigation of the reasons for the suspension
 5 or revocation charge and then, if the investigation warrants
 6 further action, conduct a hearing in the manner provided by
 7 board of education policies.

8 After a full investigation and proper hearing, the
 9 board of education may suspend or revoke the person's
 10 teacher certificate, except that in cases of a first
 11 violation under subsection (3) above, the maximum penalty
 12 shall not be more than a suspension of the person's
 13 certificate for the current school fiscal year and the
 14 ensuing school fiscal year.

15 Whenever the superintendent of public instruction
 16 denies the issuance or the renewal of a teacher certificate
 17 to a person, he may appeal the denial to the board of
 18 education. The appeal shall be heard in the same manner
 19 provided for in this section for suspension or revocation
 20 and in accordance with the policies of the board of
 21 education. The decision of the board of education shall be
 22 final.

23 The right to a teacher certificate revoked or suspended
 24 because of a criminal conviction is restored by termination
 25 of state supervision of the offender and any person applying

1 for a teacher certificate shall not be denied a license
2 because of a previous criminal conviction."

3 Section 26. Section 93-2027, R.C.M. 1947, is amended
4 to read as follows:

5 "93-2027. Conviction of crime. In case of the
6 conviction of an attorney and counselor of a felony or
7 misdemeanor, involving moral turpitude, the clerk of the
8 court in which such conviction is had shall, within thirty
9 days thereafter, transmit to the supreme court a certified
10 copy of the record of conviction.

11 The right to a license to practice law revoked or
12 suspended because of a criminal conviction is restored by
13 termination of state supervision of the offender and any
14 person applying for a license to practice law shall not be
15 denied such a license because of a previous criminal
16 conviction."

-End-

HB 395

Approved by Committee
on Judiciary

HOUSE BILL NO. 395

INTRODUCED BY MELOY, HOLMES, HUENNEKENS,

BRADLEY, JAMES MOORE, DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS
4-412, 15-2006, ~~40-3329~~, 41-1429, ~~40-3329~~, 62-508, 66-112,
66-403.1, 66-510, 66-913, 66-1036, 66-1036, 66-1240,
66-1312, 66-1504, 66-1834, 66-1937, 66-2115, 66-2210,
66-2345, 66-2509, 66-2610, 66-2714, 66-3017, 66-3209, AND
75-6010, ~~AND 93-2027~~, R.C.M. 1947, TO PROVIDE THAT A PERSON
CONVICTED OF A CRIME AND ~~IS~~ NO LONGER UNDER STATE
SUPERVISION ~~IS RESTORED THE RIGHT TO PRACTICE ANY OCCUPATION~~
~~REQUIRING STATE LICENSING, AND TO PROVIDE THAT A PERSON~~
~~APPLYING FOR SUCH A LICENSE SHALL NOT BE DENIED A LICENSE~~
BECAUSE OF A PREVIOUS CONVICTION."

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

Section 1. Section 4-412, R.C.M. 1947, is amended to
read as follows:

"4-412. Persons disqualified for license. (1) No
license shall be issued by the board to:

~~4-~~(a) A person who has been convicted of being the
keeper or is keeping a house of ill fame.

~~2-~~(b) A person who has been convicted of pandering or
other crime or misdemeanor opposed to decency and morality,

under the laws of the federal government or any state of the
United States.

~~3-~~(c) A person whose license issued under this act
has been revoked for cause.

~~4-~~(d) A person who at the time of application for
renewal of any license issued hereunder would not be
eligible for such license upon a first application.

~~5-~~(e) A person who is not qualified or whose premises
do not conform to the provisions of this act, or with the
rules and regulations promulgated by the board.

~~6-~~(f) A person who is not a citizen of the United
States and who has not been a resident of the state of
Montana for at least one (1) year immediately preceding the
filing of the application for license.

~~7-~~(g) A person who is not the owner and operator of
the business.

~~(2) The board may not refuse to issue, refuse to
renew, suspend, or revoke a license on the grounds of a past
original conviction once state supervision of the offender
has terminated.~~

(2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

Section 2. Section 15-2006, R.C.M. 1947, is amended to
read as follows:

SECOND READING

1 *15-2006. Registration of broker-dealers, salesmen,
 2 and investment advisers. (1) It is unlawful for any person
 3 to transact business in this state as a broker-dealer or
 4 salesman, except in transactions exempt under section
 5 15-2014, unless he is registered under this act. It is
 6 unlawful for any person to transact business in this state
 7 as an investment adviser unless (1) he is so registered
 8 under this act, or (2) he is registered as a broker-dealer
 9 under this act, or (3) his only clients in this state are
 10 investment companies as defined in the Investment Company
 11 Act of 1940 or insurance companies.

12 (2) A broker-dealer, salesman, acting as agents for an
 13 issuer or issuers or acting as agents for a broker-dealer in
 14 the sale of securities for an issuer or issuers or
 15 investment adviser may apply for registration by filing with
 16 the commissioner an application in such form as the
 17 commissioner shall prescribe and payment of the fee
 18 prescribed in section 15-2016. Except for persons in the
 19 employ of brokerage firms governed by the regulations of the
 20 securities and exchange commission, all salesmen must be
 21 legal residents of this state and must have actually resided
 22 in this state for a period of at least one (1) year next
 23 prior to the date of application for registration. Salesmen
 24 shall also file with the commissioner a bond of a surety
 25 company duly authorized to transact business in this state.

1 Said bond to be in the sum of five thousand dollars
 2 (\$5,000.00), payable to the state of Montana, and
 3 conditioned upon the faithful compliance with the provisions
 4 of this act, and shall provide that upon failure to so
 5 comply the salesman shall be liable to any and all persons
 6 who may suffer loss by reason thereof.

7 (3) The application shall contain whatever information
 8 the commissioner requires.

9 (4) If no denial order is in effect and no proceeding
 10 is pending under subdivision (8) of this section,
 11 registration becomes effective at noon of the thirtieth
 12 (30th) day after an application is filed. The commissioner
 13 may specify an earlier effective date and he may by order
 14 defer the effective date for an additional sixty (60) days;
 15 the effective day after the filing of any amendment shall be
 16 noon of the thirtieth (30th) day thereafter unless otherwise
 17 accelerated by the commissioner.

18 (5) Registration of a broker-dealer, salesman or
 19 investment adviser shall be effective until the first (1st)
 20 day of March next following such registration and may be
 21 renewed as hereinafter provided. The registration of a
 22 salesman is not effective during any period when he is not
 23 associated with an issuer or a registered broker-dealer
 24 specified in his application. When a salesman begins or
 25 terminates a connection with an issuer or registered

1 broker-dealer, the salesman and the issuer or broker-dealer
2 shall promptly notify the commissioner.

3 (6) Registration of a broker-dealer, salesman or
4 investment adviser may be renewed by filing with the
5 commissioner prior to the expiration thereof an application
6 containing such information as the commissioner may require
7 to indicate any material change in the information contained
8 in the original application or any renewal application for
9 registration as a broker-dealer, salesman or investment
10 adviser filed with the commissioner by the applicant,
11 payment of the prescribed fee and, in the case of a
12 broker-dealer, a financial statement showing the financial
13 condition of such broker-dealer as of a date within ninety
14 (90) days. A registered broker-dealer or investment adviser
15 may file an application for registration of a successor, to
16 become effective upon approval of the commissioner.

17 (7) Every registered broker-dealer and investment
18 adviser shall make and keep such accounts and other records,
19 except with respect to securities exempt under section
20 15-2013 (1), as may be prescribed by the commissioner. All
21 records so required shall be preserved for three (3) years
22 unless the commissioner prescribes otherwise for particular
23 types of records. All the records of a registered
24 broker-dealer or investment adviser are subject at any time
25 or from time to time to such reasonable periodic, special or

1 other examinations, within or without this state, by
2 representatives of the commissioner, as the commissioner
3 deems necessary or appropriate in the public interest or for
4 the protection of investors.

5 (8) The commissioner may by order deny, suspend, or
6 revoke registration of any broker-dealer, salesman, or
7 investment adviser if he finds that the order is in the
8 public interest and that the applicant or registrant or, in
9 the case of a broker-dealer or investment adviser, any
10 partner, officer, or director:

11 (a) has filed an application for registration under
12 this section which, as of its effective date, or as of any
13 date after filing in the case of an order denying
14 effectiveness, was incomplete in any material respect or
15 contained any statement which was, in the light of the
16 circumstances under which it was made, false or misleading
17 with respect to any material fact;

18 (b) has willfully violated or willfully failed to
19 comply with any provision of this act or a predecessor act
20 or any rule or order under this act or a predecessor act;

21 (c) has been convicted of any misdemeanor involving a
22 security or any aspect of the securities business, or any
23 felony;

24 (d) is permanently or temporarily enjoined by any
25 court of competent jurisdiction from engaging in or

1 continuing any conduct or practice involving any aspect of
 2 the securities business;

3 (e) is the subject of an order of the commissioner
 4 denying, suspending, or revoking registration as a
 5 broker-dealer, salesman, or investment adviser;

6 (f) is the subject of an order entered within the past
 7 five (5) years by the securities administrator of any other
 8 state or by the federal securities and exchange commission
 9 denying or revoking registration as a broker-dealer or
 10 salesman, or the substantial equivalent of those terms as
 11 defined in this act, or is the subject of an order of the
 12 federal securities and exchange commission suspending or
 13 expelling him from a national securities exchange or
 14 national securities association registered under the
 15 Securities Exchange Act of 1934, or is the subject of a
 16 United States post office fraud order; but (a) the
 17 commissioner may not institute a revocation or suspension
 18 proceeding under this clause more than one (1) year from the
 19 date of the order relied on, and (b) he may not enter any
 20 order under this clause on the basis of an order unless that
 21 order was based on facts which would currently constitute a
 22 ground for an order under this section;

23 (g) has engaged in dishonest or unethical practices in
 24 the securities business;

25 (h) is insolvent, either in the sense that his

1 liabilities exceed his assets or in the sense that he cannot
 2 meet his obligations as they mature; but the commissioner
 3 may not enter an order against a broker-dealer or investment
 4 adviser under this clause without a finding of insolvency as
 5 to the broker-dealer or investment adviser; or

6 (i) has not complied with a condition imposed by the
 7 commissioner under subdivision (8) of this section, or is
 8 not qualified on the basis of such factors as training,
 9 experience, or knowledge of the securities business; or

10 (j) has failed to pay the proper filing fee; but the
 11 commissioner may enter only a denial order under this
 12 clause, and he shall vacate any such order when the
 13 deficiency has been corrected. The commissioner may by order
 14 summarily postpone or suspend registration pending final
 15 determination of any proceeding under this section.

16 (9) Upon the entry of the order under subdivision (8)
 17 of this section, the commissioner shall promptly notify the
 18 applicant or registrant, as well as the employer or
 19 prospective employer if the applicant or registrant is a
 20 salesman, that it has been entered and of the reasons
 21 therefor and that if requested by the applicant or
 22 registrant within fifteen (15) days after the receipt of the
 23 commissioner's notification the matter will be promptly set
 24 down for hearing. If no hearing is requested within fifteen
 25 (15) days and none is ordered by the commissioner, the order

1 will remain in effect until it is modified or vacated by the
 2 commissioner. If a hearing is requested or ordered, the
 3 commissioner, after notice of and opportunity for hearing,
 4 may affirm, modify or vacate the order.

5 (10) If the commissioner finds that any registrant or
 6 applicant for registration is no longer in existence or has
 7 ceased to do business as a broker-dealer, investment adviser
 8 or salesman, or is subject to an adjudication of mental
 9 incompetence or to the control of a committee, conservator,
 10 or guardian, or cannot be located after reasonable search,
 11 the commissioner may by order cancel the registration or
 12 application.

13 ~~(11) The right to a license revoked or suspended~~
 14 ~~because of a criminal conviction is restored by termination~~
 15 ~~of state supervision of the offender and any person applying~~
 16 ~~for a license shall not be denied a license because of a~~
 17 ~~previous criminal conviction.~~

18 (11) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 19 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 20 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

21 Section 3. Section 41-1429, N.C.M. 1947, is amended to
 22 read as follows:

23 *41-1429. Grounds for denial, suspension, or
 24 revocation of license. (1) The director may by order deny,
 25 suspend or revoke the license of any employment agency if he

1 finds that the applicant or licensee:

2 ~~(1) (a)~~ Was previously the holder of a license issued
 3 under this act, which was revoked for cause and never
 4 reissued by the director, or which license was suspended for
 5 cause and the terms of the suspension have not been
 6 fulfilled;

7 ~~(2) (b)~~ Has been found guilty of any felony ~~within~~
 8 ~~the past five (5) years~~ involving moral turpitude, or for
 9 any misdemeanor concerning fraud or conversion, or suffering
 10 any judgment in any civil action involving willful fraud,
 11 misrepresentation or conversion;

12 ~~(3) (c)~~ Has made a false statement of a material fact
 13 in his application or in any data attached thereto;

14 ~~(4) (d)~~ Has violated any provisions of this act, or
 15 failed to comply with any rule or regulation issued by the
 16 director pursuant to this act.

17 ~~(2) The right to a license revoked or suspended~~
 18 ~~because of a criminal conviction is restored by termination~~
 19 ~~of state supervision of the offender and any person applying~~
 20 ~~for a license shall not be denied a license because of a~~
 21 ~~previous criminal conviction.~~

22 (2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 23 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 24 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

25 Section 4. Section 40-3329, N.C.M. 1947, is amended to

1 read as follows:

2 *40-3329. Suspension, revocation, refusal of license.

3 (1) The commissioner may suspend for not more than twelve
 4 (12) months, or may revoke or refuse to continue any license
 5 issued under this chapter or any surplus line agent license
 6 if, after hearing held on not less than twenty (20) days
 7 advance notice by registered mail of such hearing and of the
 8 charges against the licensee given as provided in section
 9 40-2711 (3) to the licensee and to the insurers represented
 10 (as to an agent) or to the appointing agent (as to a
 11 solicitor), he finds that as to the licensee any one or more
 12 of the following causes exist:

13 (a) For any cause for which issuance of the license
 14 could have been refused had it then existed and been known
 15 to the commissioner.

16 (b) For obtaining or attempting to obtain any such
 17 license through misrepresentation or fraud.

18 (c) For violation of or noncompliance with any
 19 applicable provision of this code, or for willful violation
 20 of any lawful rule, regulation, or order of the
 21 commissioner.

22 (d) For misappropriation or conversion to his own use,
 23 or illegal withholding, of moneys or property belonging to
 24 policyholders, or insurer, or beneficiaries, or others and
 25 received in conduct of business under the license.

1 (e) Conviction, by final judgment, of a felony
 2 involving moral turpitude.

3 (1) If in the conduct of his affairs under the license
 4 the licensee has used fraudulent or dishonest practices, or
 5 has shown himself to be incompetent, untrustworthy or a
 6 source of injury and loss to the public.

7 (2) The license of a firm or corporation may be
 8 suspended, revoked or refused also for any of such causes as
 9 relate to any individual designated in the license to
 10 exercise its powers.

11 ~~(2) The right to a license revoked or suspended~~
 12 ~~because of a original conviction is restored by termination~~
 13 ~~of state supervision of the offender and any person applying~~
 14 ~~for a license shall not be denied a license because of a~~
 15 ~~previous original conviction.~~

16 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 17 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 18 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

19 Section 5. Section 62-508, R.C.M. 1947, is amended to
 20 read as follows:

21 *62-508. Penalty for violations of law — power of
 22 board. (1) A person holding a race meet, and an owner,
 23 trainer, or jockey participating in a race meet, without
 24 first being licensed under this chapter, and a person
 25 willfully violating this chapter is guilty of a misdemeanor.

1 (2) The board may:

2 (a) exclude from any and all race courses in this
3 state, any person whom the board deems detrimental to the
4 best interests of racing; and

5 (b) suspend or revoke any license issued by the board
6 to any person or assess a fine, not to exceed five hundred
7 dollars (\$500), against any person who violates any of the
8 provisions of this act or any rule, regulation or order of
9 the board.

10 (c) The board shall promulgate regulations
11 implementing this act, including the right to a hearing for
12 individuals against whom action is taken or proposed herein.

13 (3) It is lawful to conduct race meets at a race track
14 or otherwise, at any time during the week.

15 ~~(4) The right to a license revoked or suspended~~
16 ~~because of a criminal conviction is restored by termination~~
17 ~~of state supervision of the offender and any person applying~~
18 ~~for a license shall not be denied a license because of a~~
19 ~~previous criminal conviction.~~

20 (4) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
21 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
22 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION.

23 Section 6. Section 66-112, R.C.S. 1947, is amended to
24 read as follows:

25 "66-112. Revocation of certificate. (1) The board may

1 revoke a certificate if proof satisfactory to the board is
2 presented of the following: (a) The certificate was obtained
3 through fraud or misrepresentation; (b) The holder of the
4 certificate has been found guilty by the board or by a court
5 of justice of fraud or deceit in his professional practice
6 or has been convicted of a felony by a court of justice ~~and~~
7 ~~is still under state supervision;~~ (c) The holder of the
8 certificate has been found guilty by the board of gross
9 incompetency or of recklessness in the planning or
10 construction of buildings; (d) The holder of the certificate
11 has been found guilty by the board of any of the following
12 acts which constitute unprofessional conduct: (i) Willful
13 departure in a material respect from approved plans or
14 specifications without the consent of the owner or his
15 authorized representative; (ii) Willful violation of the
16 building codes of this state or a political subdivision;
17 (iii) Aiding or abetting an unlicensed person to violate or
18 evade this act; or (iv) Sealing or signing plans or
19 specifications not prepared under his direct supervision and
20 control; or (e) The holder of the certificate has violated
21 standards of professional conduct adopted by the board.

22 (2) A certificate may not be revoked until the party
23 holding the certificate is given notice and an opportunity
24 for a hearing.

25 (3) If the board's findings and conclusions are

1 adverse to the accused, his certificate stands revoked and
2 annulled at the expiration of thirty (30) days from the
3 final decision adverse to the party.

4 ~~(4) The right to a license revoked or suspended
5 because of a criminal conviction is restored by termination
6 of state supervision of the offender and any person applying
7 for a license shall not be denied a license because of a
8 previous criminal conviction.~~

9 (4) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
10 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
11 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

12 Section 7. Section 66-403.1, R.C.M. 1947, is amended
13 to read as follows:

14 "66-403.1. Refusal to issue or renew, or suspension of
15 licenses — hearing. The board may, after notice and
16 opportunity for a hearing, either refuse to issue or renew,
17 or may suspend or revoke a barbershop, or barber school or
18 college license for any one or combination of the following
19 causes:

20 (1) The violation of any of the provisions of
21 subdivisions (a) through (e) of subsection 11 of section
22 66-403, subsection 12 of section 66-403, and section 66-405;

23 (2) Conviction of a felony, shown by a certified copy
24 of the record of the court of conviction;

25 (3) Gross malpractice or gross incompetency;

1 (4) Continued practice by a person knowingly having an
2 infectious or contagious disease;

3 (5) Advertising by means of knowingly false or
4 deceptive statements;

5 (6) Advertising, practicing, or attempting to practice
6 under a trade name other than one's own;

7 (7) habitual drunkenness or addiction to the use of
8 morphine, cocaine, or other habit-forming drugs;

9 (8) The commission of any of the offenses described in
10 section 66-409.

11 ~~The right to a license revoked or suspended because of
12 a criminal conviction is restored by termination of state
13 supervision of the offender and any person applying for a
14 license shall not be denied a license because of a previous
15 criminal conviction. A PERSON NO LONGER UNDER STATE
16 SUPERVISION FOR A PREVIOUS CONVICTION WHO APPLIES FOR A
17 LICENSE MAY NOT BE DENIED A LICENSE BECAUSE OF A PREVIOUS
18 CONVICTION."~~

19 Section 8. Section 66-510, R.C.M. 1947, is amended to
20 read as follows:

21 "66-510. Refusal and revocation of license —
22 proceedings — reinstatement. (1) The board may revoke or
23 refuse to grant a license to practice chiropractic in this
24 state, or may cause a licensee's name to be removed from the
25 records in the office of the clerk and recorder in this

1 state on the following grounds: The employment of fraud or
 2 deception in applying for a license or in passing an
 3 examination under this act; practice of chiropractic under a
 4 false or assumed name or the impersonation of another
 5 practitioner of like or different name; conviction of a
 6 crime involving moral turpitude; or habitual intemperance in
 7 the use of alcohol, narcotics, or stimulants to such an
 8 extent as to incapacitate him for the performance of his
 9 professional duties. A person who is a licensee, or an
 10 applicant for a license to practice chiropractic, against
 11 whom grounds for revoking or refusing a license is presented
 12 to the board with a view of having the board revoke or
 13 refuse to grant a license, shall have notice and a hearing
 14 before the board in respecting the guilt or innocence of the
 15 person.

16 (2) The board may within two (2) years of the refusal,
 17 revocation, or cancellation of registration under this
 18 section, by a majority vote, authorize the department to
 19 issue a new license or grant a license to the person
 20 affected, restoring him to or conferring on him the rights
 21 and privileges of the practice of chiropractic. A person to
 22 whom these rights and privileges have been restored shall
 23 pay to the department the sum of fifty dollars (\$50) on
 24 issuance of a new license.

25 ~~(3) The right to a license revoked or suspended~~

1 ~~because of a criminal conviction is restored by termination~~
 2 ~~of state supervision of the offender and any person applying~~
 3 ~~for a license shall not be denied a license because of a~~
 4 ~~previous criminal conviction.~~

5 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 6 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 7 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

8 Section 9. Section 66-913, R.C.M. 1947, is amended to
 9 read as follows:

10 "66-913. Revocation or suspension of license —
 11 grounds — conviction of crime — renting or loaning license
 12 — unprofessional conduct — proceedings for revocation or
 13 suspension. (1) A dentist may have his license revoked or
 14 suspended by the board for any of the following reasons:

15 (a) Conviction of a felony or misdemeanor involving
 16 moral turpitude, in which case the record of conviction or a
 17 copy certified by the clerk of the court or by the judge in
 18 whose court the conviction is had is conclusive evidence.

19 (b) For renting, loaning, or attempting to rent or
 20 loan to a person his license for the practice of dentistry
 21 or his diploma of graduation from a dental college, school,
 22 or course to be used as a license or diploma of the person.

23 (c) For permitting a dental hygienist, under his
 24 personal supervision to do an act or perform an operation
 25 other than those defined and authorized under section

1 66-921.

2 (d) For permitting unlicensed auxiliary personnel to
3 perform duties or tasks other than those which may be
4 specifically authorized by the board.

5 (e) For unprofessional conduct, gross ignorance or
6 inefficiency in his profession, habitual intemperance, or
7 gross immorality.

8 (2) Unprofessional conduct consists of employing what
9 are known as "cappers" or "steerers" to obtain business;
10 obtaining a fee by fraud or misrepresentation; willfully
11 betraying professional secrets; employing, directly or
12 indirectly, a student or a suspended or unlicensed dentist
13 to perform operations in the practice of dentistry, treat
14 lesions of the human teeth or jaws, or correct malimposed
15 formations; making use of advertising statements of a
16 character tending to deceive or mislead the public;
17 advertising prices; advertising professional superiority, or
18 performance of professional services in a superior manner;
19 advertising by means of a large display, glaring light sign,
20 or other sign or device containing the representation of a
21 tooth, teeth, bridgework, or a portion of the human head;
22 advertising over television or radio; employing or making
23 use of advertising solicitors or publicity press agents;
24 advertising free dental work or free examination;
25 advertising to guarantee dental service or to perform a

1 dental operation painlessly; advertising by sign or printed
2 advertisements under the name of a corporation, company,
3 association, or trade name.

4 ~~(2) The right to a license revoked or suspended~~
5 ~~because of a criminal conviction is restored by termination~~
6 ~~of state supervision of the offender and any person applying~~
7 ~~for a license shall not be denied a license because of a~~
8 ~~previous criminal conviction.~~

9 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
10 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
11 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION.

12 (3) (9) Proceedings under this section may be taken
13 by the board on its initial motion, for matters in its
14 knowledge, or may be taken on the information of another.
15 However, if the informant is a member of the board, the
16 other members of the board constitute the board for the
17 purpose of determining the truth of the charge or
18 accusation. Accusations must be in writing, verified by some
19 party familiar with the facts charged, and three (3) copies
20 must be filed with the department. On receiving the
21 accusation the board shall, if it considers the accusation
22 sufficient, make an order setting it for hearing, and
23 requiring the accused to appear and answer the charge or
24 accusation at the hearing.

25 (4) (5) The accused must appear at the time appointed

1 in the order and answer the charges and make his defense
 2 unless for sufficient cause, on the accused's application or
 3 the board's order, the board assigns another day for that
 4 purpose.

5 ~~(b)~~ (d) If the accused does not appear the board may
 6 proceed and determine the accusation in his absence. If the
 7 accused confesses the accusation or refuses to answer the
 8 charge, or if on hearing the board finds the charge or
 9 accusation true, it may make an order either revoking the
 10 license of the accused or suspending it for a fixed period.
 11 The board and the accused may have the benefit of counsel,
 12 and the board shall have the power to administer oaths, take
 13 depositions of witnesses in the manner provided by law in
 14 civil cases, and to issue subpoenas for the attendance of
 15 witnesses and the production of papers, books, accounts,
 16 documents and testimony in any inquiry, investigation,
 17 hearing, or proceeding in this state. The subpoena shall be
 18 issued over the signature of the secretary of the board and
 19 the seal, and in the name of this state.

20 ~~(c)~~ (7) On revocation or suspension of a license the
 21 fact shall be noted on the records of the department and the
 22 license shall be marked canceled on the date of its
 23 revocation, or suspended, as the case may be. The department
 24 shall, on order of suspension or revocation being entered,
 25 transmit to the county recorder in which the license of the

1 licensee affected by the judgment is registered and
 2 recorded, a copy of the order, certified by the secretary of
 3 the board, for record, and it shall be registered in the
 4 same manner and in the same book in which the registration
 5 of the certificate to practice dentistry is kept."

6 Section 10. Section 66-1036, R.C.M. 1947, is amended
 7 to read as follows:

8 "66-1036. Refusal of license. (1) If the board
 9 determines that an applicant for a license to practice
 10 medicine does not possess the qualifications or character
 11 required by this act or that he has committed unprofessional
 12 conduct, it shall refrain from authorizing the department to
 13 issue a license. The department shall mail to the applicant,
 14 at his last address of record with the department, written
 15 notification of the board's decision together with notice of
 16 a time and place of a hearing before the board. If the
 17 applicant without cause fails to appear at the hearing, or
 18 if after hearing, the board determines he is not entitled to
 19 a license, the board shall refuse to grant the license.

20 ~~(2) The board may not refuse to issue a license on the~~
 21 ~~grounds of a past criminal conviction if the applicant is no~~
 22 ~~longer under state supervision.~~

23 (2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 24 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 25 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

1 Section 11. Section 66-1038, H.C.M. 1967, is amended
2 to read as follows:

3 "66-1038. Revocation or suspension of license—
4 probation. (1) The board may, when it has been brought to
5 its attention that there is reason to suspect that a person
6 having a license or certificate to practice medicine in this
7 state:

8 (a) Is mentally or physically unable, safely, to
9 engage in the practice of medicine, or has procured his
10 license to practice medicine by fraud or misrepresentation
11 or through mistake, or has been declared incompetent by a
12 court of competent jurisdiction and thereafter has not been
13 lawfully declared competent, or when a condition exists
14 which impairs his intellect or judgment to the extent that
15 it incapacitates him for the safe performance of
16 professional duties;

17 (b) Has been guilty of unprofessional conduct;

18 (c) Has practiced medicine while his license was
19 suspended or revoked; or

20 (d) Has, while under probation, violated its terms;
21 make an investigation, including requiring the person to
22 submit to a physical examination or a mental examination or
23 both by a physician or physicians selected by the board when
24 it appears in the best interests of the public that this
25 evaluation be secured, to determine the probability of the

1 existence of these conditions or the commission of these
2 offenses. The board may examine and scrutinize the hospital
3 records and reports of a licensee as part of the examination
4 and copies of these shall be released to the board on
5 written request. If the board has reasonable cause to
6 believe that this probability exists, the department shall
7 mail to the person, at his last address of record with the
8 department, a specification of the charges against him,
9 together with a written citation of the time and place of
10 the hearing on it, advising him that he may be present in
11 person, and by counsel if he so desires, to offer evidence
12 and be heard in his defense. The time fixed for the hearing
13 shall not be less than thirty (30) days from the date of
14 mailing the notice.

15 (2) A person, including a member of the board, may
16 file a sworn complaint with the department against a person
17 having a license to practice medicine in this state,
18 charging him with the commission of any of the offenses set
19 forth in section 66-1037, or subsection one (1) of this
20 section, which complaint shall set forth a specification of
21 the charges. When the complaint is filed, the department
22 shall mail a copy to the person accused, at his last address
23 of record with the department, together with a written
24 citation of the time and place of the hearing on it.

25 (3) At the hearing the board shall adopt a resolution

1 finding him guilty or not guilty of the matters charged. If
 2 the board finds that the conditions referred to in section
 3 66-1037, or subsection (1) of this section do not exist with
 4 respect to the person or if he is found not guilty, the
 5 board shall dismiss the charges or complaint, but if the
 6 board does find that the conditions referred to in section
 7 66-1037 or in subsection (1) of this section do exist and
 8 the person is found guilty, the board shall:

- 9 (a) Revoke his license;
 - 10 (b) Suspend his right to practice for a period not
 - 11 exceeding one (1) year;
 - 12 (c) Suspend its judgment of revocation on the terms
 - 13 and conditions to be determined by the board;
 - 14 (d) Place him on probation; or
 - 15 (e) Take any other action in relation to disciplining
 - 16 him as the board in its discretion considers proper.
- 17 (4) The department in cases of revocation, suspension,
 18 or probation shall enter in its records the facts of the
 19 action, and of subsequent action of the board with respect
 20 to it.
- 21 (5) On the expiration of the term of suspension, the
 22 licensee shall be reinstated by the board, if he furnishes
 23 the board with evidence that he is then of good moral
 24 character and conduct and restored to good health and that
 25 he has not practiced medicine in this state during the term

1 of suspension. If the evidence fails to establish to the
 2 satisfaction of the board that the holder is then of good
 3 moral character and conduct or if not restored to good
 4 health or if the evidence shows he has practiced medicine in
 5 this state during the term of suspension, the board shall
 6 revoke the license at a hearing, with notice and the
 7 procedure provided in subsection (1) of this section. The
 8 revocation is final and absolute.

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

19 ~~(7) The right to a license revoked or suspended~~
 20 ~~because of a criminal conviction is restored by termination~~
 21 ~~of state supervision of the offender and any person applying~~
 22 ~~for a license shall not be denied a license because of a~~
 23 ~~previous criminal conviction.~~

24 (7) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 25 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE

1 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

2 Section 12. Section 66-1240, R.C.M. 1947, is amended
3 to read as follows:

4 "66-1240. Grounds for discipline. The board, acting
5 under the appropriate administration, may deny, revoke or
6 suspend a license to practice nursing or discipline a
7 licensee on proof that the person:

8 (1) Is guilty of fraud or deceit in procuring or
9 attempting to procure a license to practice nursing;
10 ~~however, the right to a license revoked or suspended because~~
11 ~~of a previous conviction is restored by termination of state~~
12 ~~supervision of the offender and any person applying for a~~
13 ~~license shall not be denied a license because of a previous~~
14 ~~original conviction;~~

15 (2) Is guilty of a crime or gross immorality;
16 (3) Is unfit or incompetent by reason of negligence,
17 habit, or other causes;

18 (4) Is habitually intemperate or is addicted to the
19 use of habit-forming drugs;

20 (5) Is mentally or physically incompetent;

21 (6) Is guilty of unprofessional conduct;

22 (7) Has willfully or repeatedly violated this act; but
23 only after compliance with section 66-1241.

24 A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
25 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE

1 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

2 Section 13. Section 66-1312, R.C.M. 1947, is amended
3 to read as follows:

4 "66-1312. Revocation of certificate for cause. ~~411~~ The
5 board may revoke a certificate of registration for
6 conviction of crime, ~~but the right to the certificate is~~
7 ~~restored by termination of state supervision of the~~
8 ~~offender. The board may also revoke any certificate for~~
9 habitual drunkenness, contagious or infectious disease,
10 gross immorality, gross ignorance or inefficiency in his
11 profession, or unprofessional conduct. Unprofessional
12 conduct includes obtaining a fee by fraud or
13 misrepresentation; employing directly or indirectly a
14 suspended or unlicensed optometrist to perform work covered
15 by this act; directly or indirectly accepting employment to
16 practice optometry from a person not having a valid
17 certificate of registration as an optometrist, or accepting
18 employment to practice optometry from a company or
19 corporation, or accepting employment to practice optometry
20 for a company or corporation; permitting another to use his
21 certificate of registration; soliciting or sending a
22 solicitor from house to house; treatment or advice in which
23 untruthful or improbable statements are made; professing to
24 cure disease; advertising in which ambiguous or misleading
25 statements are made; or the use in advertising of the

1 expression "eye specialist" or "specialist on eyes" in
 2 connection with the name of an optometrist. PROVIDED,
 3 HOWEVER, A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 4 PREVIOUS CONVICTION WHO APPLIES FOR A CERTIFICATE MAY NOT BE
 5 DENIED A CERTIFICATE BECAUSE OF A PREVIOUS CONVICTION. This
 6 act does not prohibit legitimate or truthful advertising by
 7 a registered optometrist. Before a certificate is revoked,
 8 the holder shall be given a notice and an opportunity for a
 9 hearing."

10 Section 14. Section 66-1504, R.C.M. 1947, is amended
 11 to read as follows:

12 "66-1504. Powers of board and department. (1) The
 13 board shall annually elect from its members a president,
 14 vice-president, and secretary.

15 (2) The board shall:

16 (a) Regulate the practice of pharmacy in this state
 17 subject to this act;

18 (b) Determine the minimum equipment necessary in and
 19 for a pharmacy and drug store;

20 (c) Regulate under therapeutic classification, the
 21 sale of drugs, medicines, chemicals, and poisons and their
 22 labeling;

23 (d) Regulate the quality of drugs and medicines
 24 dispensed in this state, using the United States
 25 pharmacopoeia and the national formulary, or revisions

1 thereof, as the standards;

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

8 (f) Regulate the practice of interns under national
 9 standards;

10 (g) Revoke temporarily or permanently, licenses issued
 11 by the department to a pharmacist or intern whenever the
 12 holder of the license has obtained it by false
 13 representations or fraud, is an habitual drunkard or
 14 addicted to the use of narcotic drugs, has been convicted of
 15 a felony, has been convicted of violating the pharmacy law,
 16 or has been found guilty by the board, of incompetency in
 17 the preparation of prescriptions or guilty of gross
 18 immorality affecting the discharge of his duties as a
 19 pharmacist or assistant.

20 (h) Make rules for the conduct of its business.

21 (i) Perform other duties and exercise other powers as
 22 this act requires.

23 (j) Adopt and authorize the department to publish
 24 rules for carrying out and enforcing this act.

25 (3) The department shall license, register, and

1 examine, subject to section 22A-1603, applicants whom the
2 board considers qualified under this act; license pharmacies
3 and certain stores under this act; and issue certificates of
4 "certified pharmacy" under this act.

5 ~~(4) The right to a license revoked or suspended
6 because of a criminal conviction is restored by termination
7 of state supervision of the offender and any person applying
8 for a license shall not be denied a license because of a
9 previous criminal conviction.~~

10 (4) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
11 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
12 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

13 Section 15. Section 66-1834, R.C.M. 1947, is amended
14 to read as follows:

15 "66-1834. Revocation or suspension of certificate, or
16 registration or license. (1) After notice and hearing as
17 provided in section 24 [66-1836] of this act, the board may
18 revoke, or may suspend any certificate issued under section
19 7 [66-1819] of this act, or any registration granted under
20 section 8 [66-1820] of this act, or may revoke, suspend or
21 refuse to renew any license issued under section 21
22 [66-1833] of this act, or may censure the holder of any such
23 license, for any one or any combination of the following
24 causes:

25 (a) Fraud or deceit in obtaining a certificate as

1 certified public accountant, or in obtaining a license to
2 practice public accounting under this act;

3 (b) Dishonesty, fraud or gross negligence in the
4 practice of public accounting;

5 (c) Violation of any of the provisions of section 26
6 [66-1836] of this act;

7 (d) Violation of a rule of professional conduct
8 promulgated by the Board under the authority granted by this
9 act;

10 (e) Conviction of a felony under the laws of any state
11 or of the United States;

12 (f) Conviction of any crime, an element of which is
13 dishonesty or fraud, under the laws of any state or of the
14 United States;

15 (g) Cancellation, revocation, suspension, or refusal
16 to renew authority to practice as a certified public
17 accountant or a public accountant by any other state, for
18 any cause other than failure to pay an annual registration
19 fee in such other state;

20 (h) Suspension or revocation of the right to practice
21 before any state or federal agency;

22 (i) Failure of a certificate holder or licensed
23 accountant to obtain an annual license under section 21
24 [66-1833], within either (a) three (3) years from the
25 expiration date of the license to practice last obtained or

1 renewed by said certificate holder or registrant, or (b)
 2 three (3) years from the date upon which the certificate
 3 holder or licensed accountant was granted his certificate or
 4 registration, unless such failure shall have been excused by
 5 the board pursuant to the provisions of section 21
 6 [66-1833].

7 ~~(2) The right to any certificate, registration or~~
 8 ~~license, revoked or suspended under the provisions of~~
 9 ~~section (1) (c) or (1) (f), is restored by termination of~~
 10 ~~state supervision of the offender and any person applying~~
 11 ~~for a license, certificate, or registration shall not be~~
 12 ~~denied a license because of a previous criminal conviction.~~

13 (2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 14 PREVIOUS CONVICTION WHO APPLIES FOR A CERTIFICATE,
 15 REGISTRATION, OR LICENSE MAY NOT BE DENIED A CERTIFICATE,
 16 REGISTRATION, OR LICENSE BECAUSE OF A PREVIOUS CONVICTION."

17 Section 16. Section 66-1937, R.C.K. 1947, is amended
 18 to read as follows:

19 "66-1937. Grounds for refusal—suspension or
 20 revocation of license. The board may, on its own motion, and
 21 shall, on the sworn complaint in writing of a person,
 22 investigate the actions of a real estate broker or a real
 23 estate salesman, subject to sections 82A-1603 and 82A-1604,
 24 and may revoke or suspend a license issued under this act
 25 when the broker or salesman has been found guilty by a

1 majority of the board of any of the following practices:

2 (1) Intentionally misleading, untruthful, or
 3 inaccurate advertising, whether printed or by radio,
 4 display, or other nature, which advertising in any material
 5 particular or in any material way misrepresents any
 6 property, terms, values, policies, or services of the
 7 business conducted;

8 (2) Making any false promises of a character likely to
 9 influence, persuade, or induce;

10 (3) Pursuing a continued and flagrant course of
 11 misrepresentation, or making false promises through agents
 12 or salesman, or any medium of advertising, or otherwise;

13 (4) Use of the term "realtor" by a person not
 14 authorized to do so, or using another trade name or insignia
 15 of membership in a real estate organization of which the
 16 licensee is not a member;

17 (5) Failing to account for or to remit money coming
 18 into his possession belonging to others;

19 (6) Accepting, giving, or charging an undisclosed
 20 commission, rebate, or profit on expenditures made for a
 21 principal;

22 (7) Acting in a dual capacity of broker and
 23 undisclosed principal in a transaction;

24 (8) Guaranteeing, authorizing, or permitting a person
 25 to guarantee future profits which may result from the resale

1 of real property;

2 (9) Offering real property for sale or lease without
3 the knowledge and consent of the owner or his authorized
4 agent or on terms other than those authorized by the owner
5 or his authorized agent;

6 (10) Inducing a party to a contract of sale or lease to
7 break the contract for the purpose of substituting a new
8 contract with another principal;

9 (11) Accepting employment or compensation for
10 appraising real property contingent on the reporting of a
11 predetermined value or issuing an appraisal report on real
12 property in which he has an undisclosed interest;

13 (12) Negotiating a sale, exchange, or lease of real
14 property directly with an owner or lessee if he knows that
15 the owner has a written outstanding contract in connection
16 with the property, granting an exclusive agency to another
17 broker;

18 (13) Soliciting, selling, or offering for sale real
19 property by conducting lotteries for the purpose of
20 influencing a purchaser or prospective purchaser of real
21 property;

22 (14) Representing or attempting to represent a real
23 estate broker, other than the employer, without the express
24 knowledge or consent of the employer;

25 (15) Failing voluntarily to furnish a copy of a written

1 instrument to a party executing it at the time of its
2 execution;

3 (16) Paying a commission in connection with a real
4 estate sale or transaction to a person who is not licensed
5 as a real estate broker or real estate salesman under this
6 act;

7 (17) Intentionally violating a rule adopted by the
8 board in the interests of the public and in conformity with
9 this act;

10 (18) Failing, if a salesman, to place, as soon after
11 receipt as is practicably possible, in the custody of his
12 registered broker, deposit money or other money entrusted to
13 him as salesman by a person;

14 (19) Demonstrating his unworthiness or incompetency to
15 act as a broker or salesman; or

16 (20) Conviction of a felony. ~~The right to a license~~
17 ~~revoked or suspended because of a criminal conviction is~~
18 ~~restored by termination of state supervision of the offender~~
19 ~~and any person applying for a license shall not be denied a~~
20 ~~license because of a previous criminal conviction. A PERSON~~
21 ~~NO LONGER UNDER STATE SUPERVISION FOR A PREVIOUS CONVICTION~~
22 ~~WHO APPLIES FOR A LICENSE MAY NOT BE DENIED A LICENSE~~
23 ~~BECAUSE OF A PREVIOUS CONVICTION."~~

24 Section 17. Section 66-2115, R.C.M. 1947, is amended
25 to read as follows:

1 "66-2115. Regulation of abstracters — violations. (1)
 2 The board may cancel and revoke a certificate of
 3 registration issued to a person under this act for a
 4 violation of this act, or on a conviction of the holder of
 5 the certificate of a crime involving moral turpitude, or if
 6 the board finds the holder to be guilty of habitual
 7 carelessness or inattention to business or of fraudulent
 8 practices. The board may also cancel and revoke a
 9 certificate of authority issued to a person, firm, or
 10 corporation under this act for failure to furnish the bond
 11 or other securities required by section 66-2113, or new or
 12 additional bonds the board considers necessary, or for
 13 failure to maintain indices and abstract records, or for
 14 failure to have in charge of the business a registered
 15 abstracter, or for violation of this act.

16 (2) On a verified complaint being filed with the
 17 department charging the holder of a certificate of
 18 registration with a violation of any of the provisions of
 19 subsection (1) of this section the board shall require the
 20 holder of the certificate to appear before it on a day fixed
 21 by the board, to show cause why the certificate should not
 22 be canceled.

23 ~~(3) The right to a certificate of registration revoked~~
 24 ~~or suspended because of a criminal conviction is restored by~~
 25 ~~termination of state supervision of the offender and any~~

1 ~~person applying for a certificate of registration shall not~~
 2 ~~be denied a certificate because of a previous criminal~~
 3 ~~conviction.~~

4 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 5 PREVIOUS CONVICTION WHO APPLIES FOR A CERTIFICATE MAY NOT BE
 6 DENIED A CERTIFICATE BECAUSE OF A PREVIOUS CONVICTION."

7 Section 18. Section 66-2210, R.C.M. 1947, is amended
 8 to read as follows:

9 "66-2210. Refusal, suspension, and revocation of
 10 license and certificate. (1) The board may either refuse to
 11 grant a license or refuse to grant a certificate of
 12 registration or suspend or revoke a license and certificate
 13 of registration on any of the following grounds:

- 14 (a) Fraud or deception in procuring the license.
- 15 (b) The publication or use of an untruthful or
- 16 improper statement, or representation with the view of
- 17 deceiving the public, or a client or customer in connection
- 18 with the practice of veterinary medicine.

19 (c) The conviction of a felony as shown by a certified
 20 copy of the record of the court of conviction.

21 (d) Habitual intemperance in the use of intoxicating
 22 liquors, or habitual addiction to the use of morphine,
 23 cocaine, or other habit-forming drugs, or conviction of a
 24 violation of a federal or state law relating to narcotic
 25 drugs.

1 (e) Immoral, unprofessional, or dishonorable conduct
2 manifestly disqualifying the licensee from practicing
3 veterinary medicine.

4 (f) Gross malpractice, including failure to furnish to
5 the board, on written application by it, a report or
6 information relating thereto.

7 (g) The employment of unlicensed persons to perform
8 work which under this chapter can lawfully be done only by
9 persons licensed to practice veterinary medicine.

10 (h) Fraud or dishonest conduct in applying or
11 reporting diagnostic biological tests or in issuing health
12 certificates.

13 (i) Failure to keep one's premises in a clean and
14 sanitary condition.

15 (j) Violation of this act or of the rules or orders of
16 the board.

17 (k) Revocation by proper authorities for any of the
18 above reasons of a license issued by another state.

19 (2) The board may neither refuse to issue a license or
20 certificate of registration nor suspend or revoke a license
21 and certificate of registration for any cause, unless the
22 person accused has been given notice and a public hearing by
23 the board.

24 ~~(l) The right to a license or certificate of~~
25 ~~registration revoked or suspended because of a criminal~~

1 ~~conviction is restored by termination of state supervision~~
2 ~~of the offender and any person applying for a license or~~
3 ~~certificate of registration shall not be denied a license or~~
4 ~~certificate of registration because of a previous criminal~~
5 ~~conviction.~~

6 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
7 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE OR CERTIFICATE
8 MAY NOT BE DENIED A LICENSE OR CERTIFICATE BECAUSE OF A
9 PREVIOUS CONVICTION."

10 Section 19. Section 66-2345, R.C.H. 1947, is amended
11 to read as follows:

12 "66-2345. Revocation of registration — hearings —
13 reissuance of certificate. (1) The board may revoke,
14 reprimand, suspend, or refuse to renew the certificate of a
15 registrant found guilty of:

16 (a) Fraud or deceit in obtaining a certificate of
17 registration;

18 (b) Gross negligence, incompetency, or misconduct in
19 the practice of engineering or land surveying as a
20 registered professional engineer or land surveyor;

21 (c) A felony; or

22 (d) Failure of a land surveyor to comply with the
23 Corner Recordation Act.

24 (2) Any person may make charges of fraud, deceit,
25 gross negligence, incompetency, or misconduct against a

1 registrant. The charges shall be made by affidavit, and
 2 subscribed and sworn to by the person making them, and filed
 3 with the department.

4 (3) Charges, unless dismissed by the board as
 5 unfounded or trivial, shall be heard by the board within
 6 three (3) months after the date on which they were made.

7 (4) If, after hearing, four (4) or more members of the
 8 board vote in favor of sustaining the charges, the board
 9 shall reprimand, suspend, refuse to renew, or revoke the
 10 certificate of registration of the registered professional
 11 engineer or land surveyor.

12 (5) The board, for reasons it considers sufficient,
 13 may reissue a certificate of registration to a person whose
 14 certificate has been revoked, if four (4) or more members of
 15 the board vote in favor of the reissuance. A new certificate
 16 of registration, to replace a certificate revoked, lost,
 17 destroyed, or mutilated, may be issued by the department,
 18 subject to the rules of the board, and a charge of three
 19 dollars (13) shall be made for the issuance.

20 ~~The right to a certificate revoked or suspended because~~
 21 ~~of a criminal conviction is restored by termination of state~~
 22 ~~supervision of the offender and any person applying for a~~
 23 ~~certificate shall not be denied a certificate because of a~~
 24 ~~previous criminal conviction.~~

25 (6) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A

1 PREVIOUS CONVICTION WHO APPLIES FOR A CERTIFICATE MAY NOT BE
 2 DENIED A CERTIFICATE BECAUSE OF A PREVIOUS CONVICTION."

3 Section 20. Section 66-2509, R.C.M. 1947, is amended
 4 to read as follows:

5 "66-2509. Refusal to issue or renew license —
 6 grounds. (1) The board, after due notice and hearing, may
 7 refuse to license any applicant, and may refuse to renew the
 8 license of any licensed person:

9 ~~(1)~~ (a) Who is habitually intoxicated or who is
 10 addicted to the use of narcotic drugs;

11 ~~(2)~~ (b) Who has been convicted of violating any state
 12 or federal narcotic law;

13 ~~(3)~~ (c) Who is, in the judgment of the board, guilty
 14 of immoral or unprofessional conduct;

15 ~~(4)~~ (d) Who has been convicted of any crime involving
 16 moral turpitude;

17 ~~(5)~~ (e) Who is guilty, in the judgment of the board,
 18 of gross negligence in his practice as a physical therapist;

19 ~~(6)~~ (f) Who has obtained or attempted to obtain
 20 registration by fraud or material misrepresentation;

21 ~~(7)~~ (g) Who has been declared insane by a court of
 22 competent jurisdiction and has not thereafter been lawfully
 23 declared sane;

24 ~~(8)~~ (h) Who has treated or undertaken to treat
 25 ailments of human beings otherwise than by physical therapy,

1 or who has undertaken to practice physical therapy
 2 independent of prescription from a person who holds an
 3 unlimited license to practice medicine and surgery in the
 4 state of Montana and other states and territories.

5 ~~(2) The right to a license revoked or suspended~~
 6 ~~because of a criminal conviction is restored by termination~~
 7 ~~of state supervision of the offender and any person applying~~
 8 ~~for a license shall not be denied a license because of a~~
 9 ~~previous criminal conviction.~~

10 (2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 11 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 12 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

13 Section 21. Section 66-2610, R.C.M. 1947, is amended
 14 to read as follows:

15 "66-2610. Revocation and suspension. (1) A license
 16 issued under this act may be suspended or revoked by the
 17 board, in cases other than failure of a licensee to renew
 18 the license, after notice and hearing, in the event the
 19 licensee has violated a condition of the bond maintained by
 20 him as a prerequisite to issuance of the license, for the
 21 practice of fraud or deceit in obtaining a license, for
 22 gross negligence, incompetence, conviction of a felony, or
 23 violating the requirements of this act. Any person may make
 24 complaint against a licensee. Complaints shall be in
 25 writing, signed by the complainant, and must specify the

1 charges against the licensee. The board, on its own motion,
 2 or on receipt of a complaint, shall hold a hearing on
 3 charges.

4 (2) A person bringing the complaint has the burden of
 5 proof and must appear in person. A unanimous vote of the
 6 board is required in order to revoke or suspend a license.
 7 If a suspension is directed by the board, it may not be for
 8 a period in excess of one (1) year.

9 ~~(2) The right to a license revoked or suspended~~
 10 ~~because of a criminal conviction is restored by termination~~
 11 ~~of state supervision of the offender and any person applying~~
 12 ~~for a license shall not be denied a license because of a~~
 13 ~~previous criminal conviction.~~

14 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 15 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 16 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

17 Section 22. Section 66-2714, R.C.M. 1947, is amended
 18 to read as follows:

19 "66-2714. Refusal to grant, suspension and revocation
 20 of mortician's and funeral director's license. (1) The
 21 board may refuse to grant, may suspend, or may revoke a
 22 mortician's or funeral director's license for any of the
 23 following reasons:

24 ~~(4)~~ (a) If the applicant or licensee obtained the
 25 license by fraud or misrepresentation, either in the

1 application for the license, or in passing the examination.

2 ~~(2) (b)~~ If the applicant or licensee has been
3 convicted of a felony.

4 ~~(3) (c)~~ If the applicant or licensee has violated any
5 section of this act or any rule or regulation of the state,
6 district, or local board of health governing the disposition
7 of dead human bodies, or any rule of the board regulating
8 the professions of mortuary science or funeral directing, or
9 the operation of a mortuary.

10 ~~(4) (d)~~ If the licensee has participated in any
11 scheme in the nature of a burial association or burial
12 certificate plan which does not properly protect the rights
13 of the public, or where there is any element of fraud, or
14 where there is contained any agreement or provision that
15 deprives heirs, next of kin, or any other authorized person
16 freedom of choice as to the services or merchandise used in
17 connection with a funeral, or the freedom of choice as to
18 which funeral directors or morticians shall be employed.

19 ~~(1) The right to a license revoked or suspended~~
20 ~~because of a criminal conviction is restored by termination~~
21 ~~of state supervision of the offender and any person applying~~
22 ~~for a license shall not be denied a license because of a~~
23 ~~previous criminal conviction.~~

24 (2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
25 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE

1 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

2 Section 23. Section 66-3017, R.C.M. 1947, is amended
3 to read as follows:

4 "66-3017. Revocation or suspension for cause. Any
5 person registered under this act may have his license
6 revoked or suspended for a fixed period to be determined by
7 the board for any of the following causes:

8 (1) Being convicted of a felony. The record of the
9 conviction or a certified copy from the clerk of the court
10 where the conviction occurred or by the judge of the court,
11 shall be sufficient evidence to warrant revocation or
12 suspension, ~~provided that the person has not been pardoned~~
13 ~~by a governor or the president of the United States. The~~
14 ~~right to a license revoked or suspended because of a~~
15 ~~criminal conviction is restored by termination of state~~
16 ~~supervision of the offender and any person applying for a~~
17 ~~license shall not be denied a license because of a previous~~
18 ~~criminal conviction.~~

19 A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
20 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
21 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION.

22 (2) By securing a license under this act through fraud
23 or deceit or false statements.

24 (3) For the personal use of a false name or alias in
25 the practice of his profession, with fraudulent intent.

1 (4) For violating any of the provisions of this act.

2 (5) For obtaining any fee or making any sale by fraud
3 or misrepresentation.

4 (6) Knowingly employing directly or indirectly any
5 suspended or unlicensed person to perform any work covered
6 by this act.

7 (7) Using or causing or promoting the use of any
8 advertising matter, promotional literature, testimonial,
9 guarantee, warranty, label, brand, insignia or any other
10 representation however disseminated or published, which is
11 improbable, misleading, deceptive, or untruthful.

12 (8) Representing that the services or advice, of a
13 person licensed to practice medicine, or possessing
14 certification as an audiologist, will be used or made
15 available in the selection, fitting, adjustment, maintenance
16 or repair of hearing aids when that is not true, or using
17 the terms "doctor," "clinic," "state registered," or other
18 like words, abbreviations or symbols which tend to connote
19 the medical profession when that use is not accurate. The
20 term "hearing center" shall be discontinued in accordance
21 with the code of ethics of the National Hearing Aid Society.

22 (9) Permitting another to use his license or
23 certificate.

24 (10) To defame competitors by falsely imputing to them
25 dishonorable conduct, inability to perform contracts,

1 questionable credit standing, or by other false
2 representations, or falsely to disparage the products of
3 competitors in any respect, or their business methods,
4 selling prices, values, credit terms, policies or services.

5 (11) To obtain information concerning the business of a
6 competitor by bribery of an employee or agent of such
7 competitor, by false or misleading statements or
8 representations, by the impersonation of one in authority,
9 or by any other lawful means.

10 (12) To directly or indirectly give, or offer to give,
11 or permit or cause to be given money or anything of value to
12 any person who advises another in a professional capacity as
13 an inducement to influence others to purchase or contract to
14 purchase products sold or offered for sale by a hearing aid
15 dispenser, or to influence persons to refrain from dealing
16 in the products of competitors.

17 (13) Unethical conduct or gross incompetence or
18 negligence in the performance of his duties, including
19 repeated failure to make indicated medical referrals of his
20 customers.

21 (14) Selling a hearing aid to a person who has not been
22 given tests utilizing appropriate established procedures and
23 instrumentation in fitting of hearing aids, except in cases
24 of selling replacement hearing aids."

25 Section 24. Section 66-3209, R.C.M. 1947, is amended

1 to read as follows:

2 "66-3209. Grounds for refusal or revocation of license
3 — hearing. (1) A license applied for, or issued under this
4 act, may be refused or revoked by the board on proof that
5 the person to whom the license was issued:

- 6 (a) Has been convicted of a felony;
- 7 (b) Has been guilty of fraud or deceit in securing the
8 license or a renewal; or
- 9 (c) Is using a narcotic or an alcoholic beverage to an
10 extent that the use impairs his ability to perform the work
11 of a professional psychologist with safety to the public; or
- 12 (d) Has been guilty of unprofessional conduct as
13 defined by the code of ethics published by the American
14 Psychological Association.

15 (2) The board may not revoke or refuse to issue or
16 renew a license for any cause, other than failure to pay
17 fees, unless the person is given notice and opportunity for
18 a hearing before the board.

19 ~~(3) The right to a license revoked or suspended~~
20 ~~because of a criminal conviction is restored by termination~~
21 ~~of state supervision of the offender and any person applying~~
22 ~~for a license shall not be denied a license because of a~~
23 ~~previous criminal conviction.~~

24 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
25 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE

1 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

2 Section 25. Section 75-6010, K.C.H. 1947, is amended
3 to read as follows:

4 "75-6010. Suspension, revocation and denial —
5 appeals. The board of education shall have the power and
6 authority to suspend or revoke the teacher certificate of
7 any person for any of the following reasons:

- 8 (1) Any reason that would have required or authorized
9 the denial of the teacher certificate to such person if it
10 had been known at the time such certificate was issued;
- 11 (2) By reason of incompetency, immorality,
12 intemperance, physical inability, or conviction of a felony
13 under state law; or
- 14 (3) By reason of the failure of the certificate holder
15 to comply with the terms of any contract between such holder
16 and the trustees of a district without the consent of the
17 trustees in writing or without good cause. Such breach of
18 contract shall constitute unprofessional conduct.

19 Whenever a substantial reason for the suspension or
20 revocation of the teacher certificate of any person is
21 brought to the attention of the board of education, it shall
22 afford the person an opportunity to defend himself and his
23 qualifications against the charge before the board. The
24 superintendent of public instruction shall give a thirty
25 (30) day written notification to any person when the board

1 of education intends to consider the suspension or
 2 revocation of his certificate. The board of education shall
 3 implement an investigation of the reasons for the suspension
 4 or revocation charge and then, if the investigation warrants
 5 further action, conduct a hearing in the manner provided by
 6 board of education policies.

7 After a full investigation and proper hearing, the
 8 board of education may suspend or revoke the person's
 9 teacher certificate, except that in cases of a first
 10 violation under subsection (3) above, the maximum penalty
 11 shall not be more than a suspension of the person's
 12 certificate for the current school fiscal year and the
 13 ensuing school fiscal year.

14 Whenever the superintendent of public instruction
 15 denies the issuance or the renewal of a teacher certificate
 16 to a person, he may appeal the denial to the board of
 17 education. The appeal shall be heard in the same manner
 18 provided for in this section for suspension or revocation
 19 and in accordance with the policies of the board of
 20 education. The decision of the board of education shall be
 21 final.

22 ~~The right to a teacher certificate revoked or suspended~~
 23 ~~because of a criminal conviction is restored by termination~~
 24 ~~of state supervision of the offender and any person applying~~
 25 ~~for a teacher certificate shall not be denied a teacher~~

1 ~~certificate because of a previous criminal conviction. A~~
 2 ~~PERSON NO LONGER UNDER STATE SUPERVISION FOR A PREVIOUS~~
 3 ~~CONVICTION WHO APPLIES FOR A TEACHER CERTIFICATE MAY NOT BE~~
 4 ~~DENIED A TEACHER CERTIFICATE BECAUSE OF A PREVIOUS~~
 5 ~~CONVICTION."~~

6 Section 26. Section 43 2027, K.C.S. 1947, is amended
 7 to read as follows:

8 ~~43 2027. Conviction of crime. In case of the~~
 9 ~~conviction of an attorney and counselor of a felony or~~
 10 ~~misdemeanor, involving moral turpitude, the clerk of the~~
 11 ~~court in which such conviction is had shall, within thirty~~
 12 ~~days thereafter, transmit to the supreme court a certified~~
 13 ~~copy of the record of conviction.~~

14 ~~The right to a license to practice law revoked or~~
 15 ~~suspended because of a criminal conviction is restored by~~
 16 ~~termination of state supervision of the offender and any~~
 17 ~~person applying for a license to practice law shall not be~~
 18 ~~denied such a license because of a previous criminal~~
 19 ~~conviction."~~

-End-

HOUSE BILL NO. 395

INTRODUCED BY MELOY, HOLMERS, BURNHEKENS,

BRADLEY, JAMES MOORE, DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS 4-412, 15-2006, ~~40-3329~~, 41-1429, ~~40-3329~~, 62-508, 66-112, 66-403.1, 66-510, 66-913, 66-1036, 66-1038, 66-1240, 66-1312, 66-1504, 66-1834, 66-1937, 66-2115, 66-2210, 66-2345, 66-2509, 66-2610, 66-2714, 66-3017, 66-3209, ~~AND~~ 75-6010, ~~AND 92-2027~~, R.C.M. 1947, TO PROVIDE THAT A PERSON CONVICTED OF A CRIME AND IS NO LONGER UNDER STATE SUPERVISION ~~IS RESTORED THE RIGHT TO PRACTICE ANY OCCUPATION REQUIRING STATE LICENSING; AND TO PROVIDE THAT A PERSON APPLYING FOR SUCH A LICENSE SHALL NOT BE DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."~~

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

Section 1. Section 4-412, R.C.M. 1947, is amended to read as follows:

"4-412. Persons disqualified for license. (1) No license shall be issued by the board to:

4-(a) A person who has been convicted of being the keeper or is keeping a house of ill fame.

2-(b) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality,

1 under the laws of the federal government or any state of the
2 United States.

3 ~~3-(c)~~ A person whose license issued under this act
4 has been revoked for cause.

5 ~~4-(d)~~ A person who at the time of application for
6 renewal of any license issued hereunder would not be
7 eligible for such license upon a first application.

8 ~~5-(e)~~ A person who is not qualified or whose premises
9 do not conform to the provisions of this act, or with the
10 rules and regulations promulgated by the board.

11 ~~6-(f)~~ A person who is not a citizen of the United
12 States and who has not been a resident of the state of
13 Montana for at least one (1) year immediately preceding the
14 filing of the application for license.

15 ~~7-(g)~~ A person who is not the owner and operator of
16 the business.

17 ~~(2) The board may not refuse to issue, refuse to~~
18 ~~renew, suspend, or revoke a license on the grounds of a past~~
19 ~~original conviction once state supervision of the offender~~
20 ~~has terminated.~~

21 (2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
22 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
23 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

24 Section 2. Section 15-2006, R.C.M. 1947, is amended to
25 read as follows:

THIRD READING

1 *15-2006. Registration of broker-dealers, salesmen,
2 and investment advisers. (1) It is unlawful for any person
3 to transact business in this state as a broker-dealer or
4 salesman, except in transactions exempt under section
5 15-2014, unless he is registered under this act. It is
6 unlawful for any person to transact business in this state
7 as an investment adviser unless (1) he is so registered
8 under this act, or (2) he is registered as a broker-dealer
9 under this act, or (3) his only clients in this state are
10 investment companies as defined in the Investment Company
11 Act of 1940 or insurance companies.

12 (2) A broker-dealer, salesman, acting as agents for an
13 issuer or issuers or acting as agents for a broker-dealer in
14 the sale of securities for an issuer or issuers or
15 investment adviser may apply for registration by filing with
16 the commissioner an application in such form as the
17 commissioner shall prescribe and payment of the fee
18 prescribed in section 15-2016. Except for persons in the
19 employ of brokerage firms governed by the regulations of the
20 securities and exchange commission, all salesmen must be
21 legal residents of this state and must have actually resided
22 in this state for a period of at least one (1) year next
23 prior to the date of application for registration. Salesmen
24 shall also file with the commissioner a bond of a surety
25 company duly authorized to transact business in this state.

1 Said bond to be in the sum of five thousand dollars
2 (\$5,000.00), payable to the state of Montana, and
3 conditioned upon the faithful compliance with the provisions
4 of this act, and shall provide that upon failure to so
5 comply the salesman shall be liable to any and all persons
6 who may suffer loss by reason thereof.

7 (3) The application shall contain whatever information
8 the commissioner requires.

9 (4) If no denial order is in effect and no proceeding
10 is pending under subdivision (8) of this section,
11 registration becomes effective at noon of the thirtieth
12 (30th) day after an application is filed. The commissioner
13 may specify an earlier effective date and he may by order
14 defer the effective date for an additional sixty (60) days;
15 the effective day after the filing of any amendment shall be
16 noon of the thirtieth (30th) day thereafter unless otherwise
17 accelerated by the commissioner.

18 (5) Registration of a broker-dealer, salesman or
19 investment adviser shall be effective until the first (1st)
20 day of March next following such registration and may be
21 renewed as hereinafter provided. The registration of a
22 salesman is not effective during any period when he is not
23 associated with an issuer or a registered broker-dealer
24 specified in his application. When a salesman begins or
25 terminates a connection with an issuer or registered

1 broker-dealer, the salesman and the issuer or broker-dealer
2 shall promptly notify the commissioner.

3 (6) Registration of a broker-dealer, salesman or
4 investment adviser may be renewed by filing with the
5 commissioner prior to the expiration thereof an application
6 containing such information as the commissioner may require
7 to indicate any material change in the information contained
8 in the original application or any renewal application for
9 registration as a broker-dealer, salesman or investment
10 adviser filed with the commissioner by the applicant,
11 payment of the prescribed fee and, in the case of a
12 broker-dealer, a financial statement showing the financial
13 condition of such broker-dealer as of a date within ninety
14 (90) days. A registered broker-dealer or investment adviser
15 may file an application for registration of a successor, to
16 become effective upon approval of the commissioner.

17 (7) Every registered broker-dealer and investment
18 adviser shall make and keep such accounts and other records,
19 except with respect to securities exempt under section
20 15-2013 (1), as may be prescribed by the commissioner. All
21 records so required shall be preserved for three (3) years
22 unless the commissioner prescribes otherwise for particular
23 types of records. All the records of a registered
24 broker-dealer or investment adviser are subject at any time
25 or from time to time to such reasonable periodic, special or

1 other examinations, within or without this state, by
2 representatives of the commissioner, as the commissioner
3 deems necessary or appropriate in the public interest or for
4 the protection of investors.

5 (8) The commissioner may by order deny, suspend, or
6 revoke registration of any broker-dealer, salesman, or
7 investment adviser if he finds that the order is in the
8 public interest and that the applicant or registrant or, in
9 the case of a broker-dealer or investment adviser, any
10 partner, officer, or director:

11 (a) has filed an application for registration under
12 this section which, as of its effective date, or as of any
13 date after filing in the case of an order denying
14 effectiveness, was incomplete in any material respect or
15 contained any statement which was, in the light of the
16 circumstances under which it was made, false or misleading
17 with respect to any material fact;

18 (b) has willfully violated or willfully failed to
19 comply with any provision of this act or a predecessor act
20 or any rule or order under this act or a predecessor act;

21 (c) has been convicted of any misdemeanor involving a
22 security or any aspect of the securities business, or any
23 felony;

24 (d) is permanently or temporarily enjoined by any
25 court of competent jurisdiction from engaging in or

1 continuing any conduct or practice involving any aspect of
2 the securities business;

3 (e) is the subject of an order of the commissioner
4 denying, suspending, or revoking registration as a
5 broker-dealer, salesman, or investment adviser;

6 (f) is the subject of an order entered within the past
7 five (5) years by the securities administrator of any other
8 state or by the federal securities and exchange commission
9 denying or revoking registration as a broker-dealer or
10 salesman, or the substantial equivalent of those terms as
11 defined in this act, or is the subject of an order of the
12 federal securities and exchange commission suspending or
13 expelling him from a national securities exchange or
14 national securities association registered under the
15 Securities Exchange Act of 1934, or is the subject of a
16 United States post office fraud order; but (a) the
17 commissioner may not institute a revocation or suspension
18 proceeding under this clause more than one (1) year from the
19 date of the order relied on, and (b) he may not enter any
20 order under this clause on the basis of an order unless that
21 order was based on facts which would currently constitute a
22 ground for an order under this section;

23 (g) has engaged in dishonest or unethical practices in
24 the securities business;

25 (h) is insolvent, either in the sense that his

1 liabilities exceed his assets or in the sense that he cannot
2 meet his obligations as they mature; but the commissioner
3 may not enter an order against a broker-dealer or investment
4 adviser under this clause without a finding of insolvency as
5 to the broker-dealer or investment adviser; or

6 (i) has not complied with a condition imposed by the
7 commissioner under subdivision (8) of this section, or is
8 not qualified on the basis of such factors as training,
9 experience, or knowledge of the securities business; or

10 (j) has failed to pay the proper filing fee; but the
11 commissioner may enter only a denial order under this
12 clause, and he shall vacate any such order when the
13 deficiency has been corrected. The commissioner may by order
14 summarily postpone or suspend registration pending final
15 determination of any proceeding under this section.

16 (9) Upon the entry of the order under subdivision (8)
17 of this section, the commissioner shall promptly notify the
18 applicant or registrant, as well as the employer or
19 prospective employer if the applicant or registrant is a
20 salesman, that it has been entered and of the reasons
21 therefor and that if requested by the applicant or
22 registrant within fifteen (15) days after the receipt of the
23 commissioner's notification the matter will be promptly set
24 down for hearing. If no hearing is requested within fifteen
25 (15) days and none is ordered by the commissioner, the order

1 will remain in effect until it is modified or vacated by the
 2 commissioner. If a hearing is requested or ordered, the
 3 commissioner, after notice of and opportunity for hearing,
 4 may affirm, modify or vacate the order.

5 (10) If the commissioner finds that any registrant or
 6 applicant for registration is no longer in existence or has
 7 ceased to do business as a broker-dealer, investment adviser
 8 or salesman, or is subject to an adjudication of mental
 9 incompetence or to the control of a committee, conservator,
 10 or guardian, or cannot be located after reasonable search,
 11 the commissioner may by order cancel the registration or
 12 application.

13 ~~(11) The right to a license revoked or suspended~~
 14 ~~because of a criminal conviction is restored by termination~~
 15 ~~of state supervision of the offender and any person applying~~
 16 ~~for a license shall not be denied a license because of a~~
 17 ~~previous criminal conviction.~~

18 (11) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 19 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 20 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

21 Section 3. Section 41-1429, R.C.M. 1947, is amended to
 22 read as follows:

23 "41-1429. Grounds for denial, suspension, or
 24 revocation of license. (1) The director may by order deny,
 25 suspend or revoke the license of any employment agency if he

1 finds that the applicant or licensee:

2 ~~(1) (a)~~ Was previously the holder of a license issued
 3 under this act, which was revoked for cause and never
 4 reissued by the director, or which license was suspended for
 5 cause and the terms of the suspension have not been
 6 fulfilled;

7 ~~(2) (b)~~ Has been found guilty of any felony within
 8 ~~the past five (5) years~~ involving moral turpitude, or for
 9 any misdemeanor concerning fraud or conversion, or suffering
 10 any judgment in any civil action involving willful fraud,
 11 misrepresentation or conversion;

12 ~~(3) (c)~~ Has made a false statement of a material fact
 13 in his application or in any data attached thereto;

14 ~~(4) (d)~~ Has violated any provisions of this act, or
 15 failed to comply with any rule or regulation issued by the
 16 director pursuant to this act.

17 ~~(2) The right to a license revoked or suspended~~
 18 ~~because of a criminal conviction is restored by termination~~
 19 ~~of state supervision of the offender and any person applying~~
 20 ~~for a license shall not be denied a license because of a~~
 21 ~~previous criminal conviction.~~

22 (2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 23 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 24 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

25 Section 4. Section 40-3329, R.C.M. 1947, is amended to

1 read as follows:

2 "40-3329. Suspension, revocation, refusal of license.

3 (1) The commissioner may suspend for not more than twelve
 4 (12) months, or may revoke or refuse to continue any license
 5 issued under this chapter or any surplus line agent license
 6 if, after hearing held on not less than twenty (20) days
 7 advance notice by registered mail of such hearing and of the
 8 charges against the licensee given as provided in section
 9 40-2711 (3) to the licensee and to the insurers represented
 10 (as to an agent) or to the appointing agent (as to a
 11 solicitor), he finds that as to the licensee any one or more
 12 of the following causes exist:

13 (a) For any cause for which issuance of the license
 14 could have been refused had it then existed and been known
 15 to the commissioner.

16 (b) For obtaining or attempting to obtain any such
 17 license through misrepresentation or fraud.

18 (c) For violation of or noncompliance with any
 19 applicable provision of this code, or for willful violation
 20 of any lawful rule, regulation, or order of the
 21 commissioner.

22 (d) For misappropriation or conversion to his own use,
 23 or illegal withholding, of moneys or property belonging to
 24 policyholders, or insurer, or beneficiaries, or others and
 25 received in conduct of business under the license.

1 (e) Conviction, by final judgment, of a felony
 2 involving moral turpitude.

3 (f) If in the conduct of his affairs under the license
 4 the licensee has used fraudulent or dishonest practices, or
 5 has shown himself to be incompetent, untrustworthy or a
 6 source of injury and loss to the public.

7 (2) The license of a firm or corporation may be
 8 suspended, revoked or refused also for any of such causes as
 9 relate to any individual designated in the license to
 10 exercise its powers.

11 ~~(2) The right to a license revoked or suspended~~
 12 ~~because of a original conviction is restored by termination~~
 13 ~~of state supervision of the offender and any person applying~~
 14 ~~for a license shall not be denied a license because of a~~
 15 ~~previous original conviction.~~

16 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 17 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 18 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

19 Section 5. Section 62-508, B.C.N. 1947, is amended to
 20 read as follows:

21 "62-508. Penalty for violations of law — power of
 22 board. (1) A person holding a race meet, and an owner,
 23 trainer, or jockey participating in a race meet, without
 24 first being licensed under this chapter, and a person
 25 willfully violating this chapter is guilty of a misdemeanor.

(2) The board may:

(a) exclude from any and all race courses in this state, any person whom the board deems detrimental to the best interests of racing; and

(b) suspend or revoke any license issued by the board to any person or assess a fine, not to exceed five hundred dollars (\$500), against any person who violates any of the provisions of this act or any rule, regulation or order of the board.

(c) The board shall promulgate regulations implementing this act, including the right to a hearing for individuals against whom action is taken or proposed herein.

(3) It is lawful to conduct race meets at a race track or otherwise, at any time during the week.

~~(4) The right to a license revoked or suspended because of a original conviction is restored by termination of state supervision of the offender and any person applying for a license shall not be denied a license because of a previous criminal conviction.~~

(4) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION.

Section 6. Section 66-112, R.C.B. 1947, is amended to read as follows:

"66-112. Revocation of certificate. (1) The board may

revoke a certificate if proof satisfactory to the board is presented of the following: (a) The certificate was obtained through fraud or misrepresentation; (b) The holder of the certificate has been found guilty by the board or by a court of justice of fraud or deceit in his professional practice or has been convicted of a felony by a court of justice ~~and is still under state supervision~~; (c) The holder of the certificate has been found guilty by the board of gross incompetency or of recklessness in the planning or construction of buildings; (d) The holder of the certificate has been found guilty by the board of any of the following acts which constitute unprofessional conduct: (i) Willful departure in a material respect from approved plans or specifications without the consent of the owner or his authorized representative; (ii) Willful violation of the building codes of this state or a political subdivision; (iii) Aiding or abetting an unlicensed person to violate or evade this act; or (iv) Sealing or signing plans or specifications not prepared under his direct supervision and control; or (e) The holder of the certificate has violated standards of professional conduct adopted by the board.

(2) A certificate may not be revoked until the party holding the certificate is given notice and an opportunity for a hearing.

(3) If the board's findings and conclusions are

1 adverse to the accused, his certificate stands revoked and
 2 annulled at the expiration of thirty (30) days from the
 3 final decision adverse to the party.

4 ~~(4) The right to a license revoked or suspended~~
 5 ~~because of a criminal conviction is restored by termination~~
 6 ~~of state supervision of the offender and any person applying~~
 7 ~~for a license shall not be denied a license because of a~~
 8 ~~previous criminal conviction.~~

9 (4) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 10 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 11 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

12 Section 7. Section 66-403.1, R.C.M. 1947, is amended
 13 to read as follows:

14 "66-403.1. Refusal to issue or renew, or suspension of
 15 licenses — hearing. The board may, after notice and
 16 opportunity for a hearing, either refuse to issue or renew,
 17 or may suspend or revoke a barbershop, or barber school or
 18 college license for any one or combination of the following
 19 causes:

20 (1) The violation of any of the provisions of
 21 subdivisions (a) through (e) of subsection 11 of section
 22 66-403, subsection 12 of section 66-403, and section 66-405;

23 (2) Conviction of a felony, shown by a certified copy
 24 of the record of the court of conviction;

25 (3) Gross malpractice or gross incompetency;

1 (4) Continued practice by a person knowingly having an
 2 infectious or contagious disease;

3 (5) Advertising by means of knowingly false or
 4 deceptive statements;

5 (6) Advertising, practicing, or attempting to practice
 6 under a trade name other than one's own;

7 (7) Habitual drunkenness or addiction to the use of
 8 morphine, cocaine, or other habit-forming drugs;

9 (8) The commission of any of the offenses described in
 10 section 66-409.

11 ~~The right to a license revoked or suspended because of~~
 12 ~~a criminal conviction is restored by termination of state~~
 13 ~~supervision of the offender and any person applying for a~~
 14 ~~license shall not be denied a license because of a previous~~
 15 ~~criminal conviction. A PERSON NO LONGER UNDER STATE~~
 16 ~~SUPERVISION FOR A PREVIOUS CONVICTION WHO APPLIES FOR A~~
 17 ~~LICENSE MAY NOT BE DENIED A LICENSE BECAUSE OF A PREVIOUS~~
 18 ~~CONVICTION."~~

19 Section 8. Section 66-510, R.C.M. 1947, is amended to
 20 read as follows:

21 "66-510. Refusal and revocation of license —
 22 proceedings — reinstatement. (1) The board may revoke or
 23 refuse to grant a license to practice chiropractic in this
 24 state, or may cause a licensee's name to be removed from the
 25 records in the office of the clerk and recorder in this

1 state on the following grounds: The employment of fraud or
 2 deception in applying for a license or in passing an
 3 examination under this act; practice of chiropractic under a
 4 false or assumed name or the impersonation of another
 5 practitioner of like or different name; conviction of a
 6 crime involving moral turpitude; or habitual intemperance in
 7 the use of alcohol, narcotics, or stimulants to such an
 8 extent as to incapacitate him for the performance of his
 9 professional duties. A person who is a licensee, or an
 10 applicant for a license to practice chiropractic, against
 11 whom grounds for revoking or refusing a license is presented
 12 to the board with a view of having the board revoke or
 13 refuse to grant a license, shall have notice and a hearing
 14 before the board in respecting the guilt or innocence of the
 15 person.

16 (2) The board may within two (2) years of the refusal,
 17 revocation, or cancellation of registration under this
 18 section, by a majority vote, authorize the department to
 19 issue a new license or grant a license to the person
 20 affected, restoring him to or conferring on him the rights
 21 and privileges of the practice of chiropractic. A person to
 22 whom these rights and privileges have been restored shall
 23 pay to the department the sum of fifty dollars (\$50) on
 24 issuance of a new license.

25 ~~(3) The right to a license revoked or suspended~~

1 ~~because of a original conviction is restored by termination~~
 2 ~~of state supervision of the offender and any person applying~~
 3 ~~for a license shall not be denied a license because of a~~
 4 ~~previous original conviction.~~

5 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 6 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 7 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

8 Section 9. Section 66-913, R.C.M. 1947, is amended to
 9 read as follows:

10 "66-913. Revocation or suspension of license —
 11 grounds — conviction of crime — renting or loaning license
 12 — unprofessional conduct — proceedings for revocation or
 13 suspension. (1) A dentist may have his license revoked or
 14 suspended by the board for any of the following reasons:

15 (a) Conviction of a felony or misdemeanor involving
 16 moral turpitude, in which case the record of conviction or a
 17 copy certified by the clerk of the court or by the judge in
 18 whose court the conviction is had is conclusive evidence.

19 (b) For renting, loaning, or attempting to rent or
 20 loan to a person his license for the practice of dentistry
 21 or his diploma of graduation from a dental college, school,
 22 or course to be used as a license or diploma of the person.

23 (c) For permitting a dental hygienist, under his
 24 personal supervision to do an act or perform an operation
 25 other than those defined and authorized under section

1 66-921.

2 (d) For permitting unlicensed auxiliary personnel to
3 perform duties or tasks other than those which may be
4 specifically authorized by the board.

5 (e) For unprofessional conduct, gross ignorance or
6 inefficiency in his profession, habitual intemperance, or
7 gross immorality.

8 (2) Unprofessional conduct consists of employing what
9 are known as "cappers" or "steerers" to obtain business;
10 obtaining a fee by fraud or misrepresentation; willfully
11 betraying professional secrets; employing, directly or
12 indirectly, a student or a suspended or unlicensed dentist
13 to perform operations in the practice of dentistry, treat
14 lesions of the human teeth or jaws, or correct maloccluded
15 formations; making use of advertising statements of a
16 character tending to deceive or mislead the public;
17 advertising prices; advertising professional superiority, or
18 performance of professional services in a superior manner;
19 advertising by means of a large display, glaring light sign,
20 or other sign or device containing the representation of a
21 tooth, teeth, bridgework, or a portion of the human head;
22 advertising over television or radio; employing or making
23 use of advertising solicitors or publicity press agents;
24 advertising free dental work or free examination;
25 advertising to guarantee dental service or to perform a

1 dental operation painlessly; advertising by sign or printed
2 advertisements under the name of a corporation, company,
3 association, or trade name.

4 ~~(3) The right to a license revoked or suspended~~
5 ~~because of a criminal conviction is restored by termination~~
6 ~~of state supervision of the offender and any person applying~~
7 ~~for a license shall not be denied a license because of a~~
8 ~~previous criminal conviction.~~

9 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
10 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
11 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION.

12 ~~(4) (4)~~ Proceedings under this section may be taken
13 by the board on its initial motion, for matters in its
14 knowledge, or may be taken on the information of another.
15 However, if the informant is a member of the board, the
16 other members of the board constitute the board for the
17 purpose of determining the truth of the charge or
18 accusation. Accusations must be in writing, verified by some
19 party familiar with the facts charged, and three (3) copies
20 must be filed with the department. On receiving the
21 accusation the board shall, if it considers the accusation
22 sufficient, make an order setting it for hearing, and
23 requiring the accused to appear and answer the charge or
24 accusation at the hearing.

25 ~~(4) (5)~~ The accused must appear at the time appointed

1 in the order and answer the charges and make his defense
2 unless for sufficient cause, on the accused's application or
3 the board's order, the board assigns another day for that
4 purpose.

5 ~~(5)~~ (6) If the accused does not appear the board may
6 proceed and determine the accusation in his absence. If the
7 accused confesses the accusation or refuses to answer the
8 charge, or if on hearing the board finds the charge or
9 accusation true, it may make an order either revoking the
10 license of the accused or suspending it for a fixed period.
11 The board and the accused may have the benefit of counsel,
12 and the board shall have the power to administer oaths, take
13 depositions of witnesses in the manner provided by law in
14 civil cases, and to issue subpoenas for the attendance of
15 witnesses and the production of papers, books, accounts,
16 documents and testimony in any inquiry, investigation,
17 hearing, or proceeding in this state. The subpoena shall be
18 issued over the signature of the secretary of the board and
19 the seal, and in the name of this state.

20 ~~(6)~~ (7) On revocation or suspension of a license the
21 fact shall be noted on the records of the department and the
22 license shall be marked canceled on the date of its
23 revocation, or suspended, as the case may be. The department
24 shall, on order of suspension or revocation being entered,
25 transmit to the county recorder in which the license of the

1 licensee affected by the judgment is registered and
2 recorded, a copy of the order, certified by the secretary of
3 the board, for record, and it shall be registered in the
4 same manner and in the same book in which the registration
5 of the certificate to practice dentistry is kept."

6 Section 10. Section 66-1036, R.C.M. 1947, is amended
7 to read as follows:

8 "66-1036. Refusal of license. (1) If the board
9 determines that an applicant for a license to practice
10 medicine does not possess the qualifications or character
11 required by this act or that he has committed unprofessional
12 conduct, it shall refrain from authorizing the department to
13 issue a license. The department shall mail to the applicant,
14 at his last address of record with the department, written
15 notification of the board's decision together with notice of
16 a time and place of a hearing before the board. If the
17 applicant without cause fails to appear at the hearing, or
18 if after hearing, the board determines he is not entitled to
19 a license, the board shall refuse to grant the license.

20 ~~(2) The board may not refuse to issue a license on the~~
21 ~~grounds of a past criminal conviction if the applicant is no~~
22 ~~longer under state supervision.~~

23 (2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
24 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
25 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

1 Section 11. Section 66-1038, R.C.M. 1947, is amended
2 to read as follows:

3 "66-1038. Revocation or suspension of license—
4 probation. (1) The board may, when it has been brought to
5 its attention that there is reason to suspect that a person
6 having a license or certificate to practice medicine in this
7 state:

8 (a) Is mentally or physically unable, safely, to
9 engage in the practice of medicine, or has procured his
10 license to practice medicine by fraud or misrepresentation
11 or through mistake, or has been declared incompetent by a
12 court of competent jurisdiction and thereafter has not been
13 lawfully declared competent, or when a condition exists
14 which impairs his intellect or judgment to the extent that
15 it incapacitates him for the safe performance of
16 professional duties;

17 (b) Has been guilty of unprofessional conduct;

18 (c) Has practiced medicine while his license was
19 suspended or revoked; or

20 (d) Has, while under probation, violated its terms;
21 make an investigation, including requiring the person to
22 submit to a physical examination or a mental examination or
23 both by a physician or physicians selected by the board when
24 it appears in the best interests of the public that this
25 evaluation be secured, to determine the probability of the

1 existence of these conditions or the commission of these
2 offenses. The board may examine and scrutinize the hospital
3 records and reports of a licensee as part of the examination
4 and copies of these shall be released to the board on
5 written request. If the board has reasonable cause to
6 believe that this probability exists, the department shall
7 mail to the person, at his last address of record with the
8 department, a specification of the charges against him,
9 together with a written citation of the time and place of
10 the hearing on it, advising him that he may be present in
11 person, and by counsel if he so desires, to offer evidence
12 and be heard in his defense. The time fixed for the hearing
13 shall not be less than thirty (30) days from the date of
14 mailing the notice.

15 (2) A person, including a member of the board, may
16 file a sworn complaint with the department against a person
17 having a license to practice medicine in this state,
18 charging him with the commission of any of the offenses set
19 forth in section 66-1037, or subsection one (1) of this
20 section, which complaint shall set forth a specification of
21 the charges. When the complaint is filed, the department
22 shall mail a copy to the person accused, at his last address
23 of record with the department, together with a written
24 citation of the time and place of the hearing on it.

25 (3) At the hearing the board shall adopt a resolution

1 finding him guilty or not guilty of the matters charged. If
 2 the board finds that the conditions referred to in section
 3 66-1037, or subsection (1) of this section do not exist with
 4 respect to the person or if he is found not guilty, the
 5 board shall dismiss the charges or complaint, but if the
 6 board does find that the conditions referred to in section
 7 66-1037 or in subsection (1) of this section do exist and
 8 the person is found guilty, the board shall:

- 9 (a) Revoke his license;
- 10 (b) Suspend his right to practice for a period not
 11 exceeding one (1) year;
- 12 (c) Suspend its judgment of revocation on the terms
 13 and conditions to be determined by the board;
- 14 (d) Place him on probation; or
- 15 (e) Take any other action in relation to disciplining
 16 him as the board in its discretion considers proper.

17 (4) The department in cases of revocation, suspension,
 18 or probation shall enter in its records the facts of the
 19 action, and of subsequent action of the board with respect
 20 to it.

21 (5) On the expiration of the term of suspension, the
 22 licensee shall be reinstated by the board, if he furnishes
 23 the board with evidence that he is then of good moral
 24 character and conduct and restored to good health and that
 25 he has not practiced medicine in this state during the term

1 of suspension. If the evidence fails to establish to the
 2 satisfaction of the board that the holder is then of good
 3 moral character and conduct or if not restored to good
 4 health or if the evidence shows he has practiced medicine in
 5 this state during the term of suspension, the board shall
 6 revoke the license at a hearing, with notice and the
 7 procedure provided in subsection (1) of this section. The
 8 revocation is final and absolute.

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

19 ~~(7) The right to a license revoked or suspended~~
 20 ~~because of a original conviction is restored by termination~~
 21 ~~of state supervision of the offender and any person applying~~
 22 ~~for a license shall not be denied a license because of a~~
 23 ~~previous original conviction.~~

24 (7) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 25 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE

1 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

2 Section 12. Section 66-1240, R.C.M. 1947, is amended
3 to read as follows:

4 "66-1240. Grounds for discipline. The board, acting
5 under the appropriate administration, may deny, revoke or
6 suspend a license to practice nursing or discipline a
7 licensee on proof that the person:

- 8 (1) Is guilty of fraud or deceit in procuring or
9 attempting to procure a license to practice nursing;
10 ~~however, the right to a license revoked or suspended because~~
11 ~~of a criminal conviction is restored by termination of state~~
12 ~~supervision of the offender and any person applying for a~~
13 ~~license shall not be denied a license because of a previous~~
14 ~~criminal conviction;~~

- 15 (2) Is guilty of a crime or gross immorality;
16 (3) Is unfit or incompetent by reason of negligence,
17 habit, or other causes;
18 (4) Is habitually intemperate or is addicted to the
19 use of habit-forming drugs;
20 (5) Is mentally or physically incompetent;
21 (6) Is guilty of unprofessional conduct;
22 (7) Has willfully or repeatedly violated this act; but
23 only after compliance with section 66-1241.

24 A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
25 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE

1 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

2 Section 13. Section 66-1312, R.C.M. 1947, is amended
3 to read as follows:

4 "66-1312. Revocation of certificate for cause. ~~(1)~~ The
5 board may revoke a certificate of registration for
6 conviction of crime, ~~but the right to the certificate is~~
7 ~~restored by termination of state supervision of the~~
8 ~~offender. The board may also revoke any certificate for~~
9 habitual drunkenness, contagious or infectious disease,
10 gross immorality, gross ignorance or inefficiency in his
11 profession, or unprofessional conduct. Unprofessional
12 conduct includes obtaining a fee by fraud or
13 misrepresentation; employing directly or indirectly a
14 suspended or unlicensed optometrist to perform work covered
15 by this act; directly or indirectly accepting employment to
16 practice optometry from a person not having a valid
17 certificate of registration as an optometrist, or accepting
18 employment to practice optometry from a company or
19 corporation, or accepting employment to practice optometry
20 for a company or corporation; permitting another to use his
21 certificate of registration; soliciting or sending a
22 solicitor from house to house; treatment or advice in which
23 untruthful or improbable statements are made; professing to
24 cure disease; advertising in which ambiguous or misleading
25 statements are made; or the use in advertising of the

1 expression "eye specialist" or "specialist on eyes" in
 2 connection with the name of an optometrist. PROVIDED,
 3 HOWEVER, A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 4 PREVIOUS CONVICTION WHO APPLIES FOR A CERTIFICATE MAY NOT BE
 5 DENIED A CERTIFICATE BECAUSE OF A PREVIOUS CONVICTION. This
 6 act does not prohibit legitimate or truthful advertising by
 7 a registered optometrist. Before a certificate is revoked,
 8 the holder shall be given a notice and an opportunity for a
 9 hearing."

10 Section 14. Section 66-1504, R.C.M. 1947, is amended
 11 to read as follows:

12 "66-1504. Powers of board and department. (1) The
 13 board shall annually elect from its members a president,
 14 vice-president, and secretary.

15 (2) The board shall:

16 (a) Regulate the practice of pharmacy in this state
 17 subject to this act;

18 (b) Determine the minimum equipment necessary in and
 19 for a pharmacy and drug store;

20 (c) Regulate under therapeutic classification, the
 21 sale of drugs, medicines, chemicals, and poisons and their
 22 labeling;

23 (d) Regulate the quality of drugs and medicines
 24 dispensed in this state, using the United States
 25 pharmacopoeia and the national formulary, or revisions

1 thereof, as the standards;

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

8 (f) Regulate the practice of interns under national
 9 standards;

10 (g) Revoke temporarily or permanently, licenses issued
 11 by the department to a pharmacist or intern whenever the
 12 holder of the license has obtained it by false
 13 representations or fraud, is an habitual drunkard or
 14 addicted to the use of narcotic drugs, has been convicted of
 15 a felony, has been convicted of violating the pharmacy law,
 16 or has been found guilty by the board, of incompetency in
 17 the preparation of prescriptions or guilty of gross
 18 immorality affecting the discharge of his duties as a
 19 pharmacist or assistant.

20 (h) Make rules for the conduct of its business.

21 (i) Perform other duties and exercise other powers as
 22 this act requires.

23 (j) Adopt and authorize the department to publish
 24 rules for carrying out and enforcing this act.

25 (3) The department shall license, register, and

1 examine, subject to section 82A-1603, applicants whom the
 2 board considers qualified under this act; license pharmacies
 3 and certain stores under this act; and issue certificates of
 4 "certified pharmacy" under this act.

5 ~~(4) The right to a license revoked or suspended~~
 6 ~~because of a original conviction is restored by termination~~
 7 ~~of state supervision of the offender and any person applying~~
 8 ~~for a license shall not be denied a license because of a~~
 9 ~~previous original conviction.~~

10 (4) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 11 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 12 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

13 Section 35. Section 66-1834, R.C.M. 1947, is amended
 14 to read as follows:

15 "66-1834. Revocation or suspension of certificate, or
 16 registration or license. (1) After notice and hearing as
 17 provided in section 24 [66-1836] of this act, the board may
 18 revoke, or may suspend any certificate issued under section
 19 7 [66-1819] of this act, or any registration granted under
 20 section 8 [66-1820] of this act, or may revoke, suspend or
 21 refuse to renew any license issued under section 21
 22 [66-1833] of this act, or may censure the holder of any such
 23 license, for any one or any combination of the following
 24 causes:

25 (a) Fraud or deceit in obtaining a certificate as

1 certified public accountant, or in obtaining a license to
 2 practice public accounting under this act;

3 (b) Dishonesty, fraud or gross negligence in the
 4 practice of public accounting;

5 (c) Violation of any of the provisions of section 26
 6 [66-1836] of this act;

7 (d) Violation of a rule of professional conduct
 8 promulgated by the board under the authority granted by this
 9 act;

10 (e) Conviction of a felony under the laws of any state
 11 or of the United States;

12 (f) Conviction of any crime, an element of which is
 13 dishonesty or fraud, under the laws of any state or of the
 14 United States;

15 (g) Cancellation, revocation, suspension, or refusal
 16 to renew authority to practice as a certified public
 17 accountant or a public accountant by any other state, for
 18 any cause other than failure to pay an annual registration
 19 fee in such other state;

20 (h) Suspension or revocation of the right to practice
 21 before any state or federal agency;

22 (i) Failure of a certificate holder or licensed
 23 accountant to obtain an annual license under section 21
 24 [66-1833], within either (a) three (3) years from the
 25 expiration date of the license to practice last obtained or

1 renewed by said certificate holder or registrant, or (b)
 2 three (3) years from the date upon which the certificate
 3 holder or licensed accountant was granted his certificate or
 4 registration, unless such failure shall have been excused by
 5 the board pursuant to the provisions of section 21
 6 [66-1833].

7 ~~(2) The right to any certificate, registration or~~
 8 ~~license, revoked or suspended under the provisions of~~
 9 ~~section (1) (c) or (1) (f), is restored by termination of~~
 10 ~~state supervision of the offender and any person applying~~
 11 ~~for a license, certificate, or registration shall not be~~
 12 ~~denied a license because of a previous criminal conviction.~~

13 (2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 14 PREVIOUS CONVICTION WHO APPLIES FOR A CERTIFICATE,
 15 REGISTRATION, OR LICENSE MAY NOT BE DENIED A CERTIFICATE,
 16 REGISTRATION, OR LICENSE BECAUSE OF A PREVIOUS CONVICTION."

17 Section 16. Section 66-1937, R.C.A. 1947, is amended
 18 to read as follows:

19 *66-1937. Grounds for refusal--suspension or
 20 revocation of license. The board may, on its own motion, and
 21 shall, on the sworn complaint in writing of a person,
 22 investigate the actions of a real estate broker or a real
 23 estate salesman, subject to sections 82A-1603 and 82A-1604,
 24 and may revoke or suspend a license issued under this act
 25 when the broker or salesman has been found guilty by a

1 majority of the board of any of the following practices:

2 (1) Intentionally misleading, untruthful, or
 3 inaccurate advertising, whether printed or by radio,
 4 display, or other nature, which advertising in any material
 5 particular or in any material way misrepresents any
 6 property, terms, values, policies, or services of the
 7 business conducted;

8 (2) Making any false promises of a character likely to
 9 influence, persuade, or induce;

10 (3) Pursuing a continued and flagrant course of
 11 misrepresentation, or making false promises through agents
 12 or salesman, or any medium of advertising, or otherwise;

13 (4) Use of the term "realtor" by a person not
 14 authorized to do so, or using another trade name or insignia
 15 of membership in a real estate organization of which the
 16 licensee is not a member;

17 (5) Failing to account for or to remit money coming
 18 into his possession belonging to others;

19 (6) Accepting, giving, or charging an undisclosed
 20 commission, rebate, or profit on expenditures made for a
 21 principal;

22 (7) Acting in a dual capacity of broker and
 23 undisclosed principal in a transaction;

24 (8) Guaranteeing, authorizing, or permitting a person
 25 to guarantee future profits which may result from the resale

- 1 of real property;
- 2 (9) Offering real property for sale or lease without
- 3 the knowledge and consent of the owner or his authorized
- 4 agent or on terms other than those authorized by the owner
- 5 or his authorized agent;
- 6 (10) Inducing a party to a contract of sale or lease to
- 7 break the contract for the purpose of substituting a new
- 8 contract with another principal;
- 9 (11) Accepting employment or compensation for
- 10 appraising real property contingent on the reporting of a
- 11 predetermined value or issuing an appraisal report on real
- 12 property in which he has an undisclosed interest;
- 13 (12) Negotiating a sale, exchange, or lease of real
- 14 property directly with an owner or lessee if he knows that
- 15 the owner has a written outstanding contract in connection
- 16 with the property, granting an exclusive agency to another
- 17 broker;
- 18 (13) Soliciting, selling, or offering for sale real
- 19 property by conducting lotteries for the purpose of
- 20 influencing a purchaser or prospective purchaser of real
- 21 property;
- 22 (14) Representing or attempting to represent a real
- 23 estate broker, other than the employer, without the express
- 24 knowledge or consent of the employer;
- 25 (15) Failing voluntarily to furnish a copy of a written

- 1 instrument to a party executing it at the time of its
- 2 execution;
- 3 (16) Paying a commission in connection with a real
- 4 estate sale or transaction to a person who is not licensed
- 5 as a real estate broker or real estate salesman under this
- 6 act;
- 7 (17) Intentionally violating a rule adopted by the
- 8 board in the interests of the public and in conformity with
- 9 this act;
- 10 (18) Failing, if a salesman, to place, as soon after
- 11 receipt as is practicably possible, in the custody of his
- 12 registered broker, deposit money or other money entrusted to
- 13 him as salesman by a person;
- 14 (19) Demonstrating his unworthiness or incompetency to
- 15 act as a broker or salesman; or
- 16 (20) Conviction of a felony. ~~The right to a license~~
- 17 ~~revoked or suspended because of a criminal conviction is~~
- 18 ~~restored by termination of state supervision of the offender~~
- 19 ~~and any person applying for a license shall not be denied a~~
- 20 ~~license because of a previous criminal conviction. A PERSON~~
- 21 ~~NO LONGER UNDER STATE SUPERVISION FOR A PREVIOUS CONVICTION~~
- 22 ~~WHO APPLIES FOR A LICENSE MAY NOT BE DENIED A LICENSE~~
- 23 ~~BECAUSE OF A PREVIOUS CONVICTION."~~
- 24 Section 17. Section 66-2115, R.C.M. 1947, is amended
- 25 to read as follows:

1 "66-2115. Regulation of abstracters — violations. (1)
 2 The board may cancel and revoke a certificate of
 3 registration issued to a person under this act for a
 4 violation of this act, or on a conviction of the holder of
 5 the certificate of a crime involving moral turpitude, or if
 6 the board finds the holder to be guilty of habitual
 7 carelessness or inattention to business or of fraudulent
 8 practices. The board may also cancel and revoke a
 9 certificate of authority issued to a person, firm, or
 10 corporation under this act for failure to furnish the bond
 11 or other securities required by section 66-2113, or new or
 12 additional bonds the board considers necessary, or for
 13 failure to maintain indices and abstract records, or for
 14 failure to have in charge of the business a registered
 15 abstracter, or for violation of this act.

16 (2) On a verified complaint being filed with the
 17 department charging the holder of a certificate of
 18 registration with a violation of any of the provisions of
 19 subsection (1) of this section the board shall require the
 20 holder of the certificate to appear before it on a day fixed
 21 by the board, to show cause why the certificate should not
 22 be canceled.

23 ~~(3) The right to a certificate of registration revoked~~
 24 ~~or suspended because of a criminal conviction is restored by~~
 25 ~~termination of state supervision of the offender and any~~

1 ~~person applying for a certificate of registration shall not~~
 2 ~~be denied a certificate because of a previous criminal~~
 3 ~~conviction.~~

4 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 5 PREVIOUS CONVICTION WHO APPLIES FOR A CERTIFICATE MAY NOT BE
 6 DENIED A CERTIFICATE BECAUSE OF A PREVIOUS CONVICTION."

7 Section 18. Section 66-2210, R.C.M. 1947, is amended
 8 to read as follows:

9 "66-2210. Refusal, suspension, and revocation of
 10 license and certificate. (1) The board may either refuse to
 11 grant a license or refuse to grant a certificate of
 12 registration or suspend or revoke a license and certificate
 13 of registration on any of the following grounds:

14 (a) Fraud or deception in procuring the license.
 15 (b) The publication or use of an untruthful or
 16 improper statement, or representation with the view of
 17 deceiving the public, or a client or customer in connection
 18 with the practice of veterinary medicine.

19 (c) The conviction of a felony as shown by a certified
 20 copy of the record of the court of conviction.

21 (d) Habitual intemperance in the use of intoxicating
 22 liquors, or habitual addiction to the use of morphine,
 23 cocaine, or other habit-forming drugs, or conviction of a
 24 violation of a federal or state law relating to narcotic
 25 drugs.

1 (e) Immoral, unprofessional, or dishonorable conduct
2 manifestly disqualifying the licensee from practicing
3 veterinary medicine.

4 (f) Gross malpractice, including failure to furnish to
5 the board, on written application by it, a report or
6 information relating thereto.

7 (g) The employment of unlicensed persons to perform
8 work which under this chapter can lawfully be done only by
9 persons licensed to practice veterinary medicine.

10 (h) Fraud or dishonest conduct in applying or
11 reporting diagnostic biological tests or in issuing health
12 certificates.

13 (i) Failure to keep one's premises in a clean and
14 sanitary condition.

15 (j) Violation of this act or of the rules or orders of
16 the board.

17 (k) Revocation by proper authorities for any of the
18 above reasons of a license issued by another state.

19 (2) The board may neither refuse to issue a license or
20 certificate of registration nor suspend or revoke a license
21 and certificate of registration for any cause, unless the
22 person accused has been given notice and a public hearing by
23 the board.

24 ~~(3) The right to a license or certificate of~~
25 ~~registration revoked or suspended because of a criminal~~

1 ~~conviction is restored by termination of state supervision~~
2 ~~of the offender and any person applying for a license or~~
3 ~~certificate of registration shall not be denied a license or~~
4 ~~certificate of registration because of a previous criminal~~
5 ~~conviction.~~

6 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
7 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE OR CERTIFICATE
8 MAY NOT BE DENIED A LICENSE OR CERTIFICATE BECAUSE OF A
9 PREVIOUS CONVICTION."

10 Section 19. Section 66-2345, R.C.M. 1947, is amended
11 to read as follows:

12 "66-2345. Revocation of registration — hearings —
13 reissuance of certificate. (1) The board may revoke,
14 reprimand, suspend, or refuse to renew the certificate of a
15 registrant found guilty of:

16 (a) Fraud or deceit in obtaining a certificate of
17 registration;

18 (b) Gross negligence, incompetency, or misconduct in
19 the practice of engineering or land surveying as a
20 registered professional engineer or land surveyor;

21 (c) A felony; or

22 (d) Failure of a land surveyor to comply with the
23 Corner Recordation Act.

24 (2) Any person may make charges of fraud, deceit,
25 gross negligence, incompetency, or misconduct against a

1 registrant. The charges shall be made by affidavit, and
 2 subscribed and sworn to by the person making them, and filed
 3 with the department.

4 (3) Charges, unless dismissed by the board as
 5 unfounded or trivial, shall be heard by the board within
 6 three (3) months after the date on which they were made.

7 (4) If, after hearing, four (4) or more members of the
 8 board vote in favor of sustaining the charges, the board
 9 shall reprimand, suspend, refuse to renew, or revoke the
 10 certificate of registration of the registered professional
 11 engineer or land surveyor.

12 (5) The board, for reasons it considers sufficient,
 13 may reissue a certificate of registration to a person whose
 14 certificate has been revoked, if four (4) or more members of
 15 the board vote in favor of the reissuance. A new certificate
 16 of registration, to replace a certificate revoked, lost,
 17 destroyed, or mutilated, may be issued by the department,
 18 subject to the rules of the board, and a charge of three
 19 dollars (\$3) shall be made for the issuance.

20 ~~The right to a certificate revoked or suspended because~~
 21 ~~of a criminal conviction is restored by termination of state~~
 22 ~~supervision of the offender and any person applying for a~~
 23 ~~certificate shall not be denied a certificate because of a~~
 24 ~~previous criminal conviction.~~

25 (6) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A

1 PREVIOUS CONVICTION WHO APPLIES FOR A CERTIFICATE MAY NOT BE
 2 DENIED A CERTIFICATE BECAUSE OF A PREVIOUS CONVICTION."

3 Section 20. Section 66-2509, E.C.M. 1947, is amended
 4 to read as follows:

5 "66-2509. Refusal to issue or renew license —
 6 grounds. (1) The board, after due notice and hearing, may
 7 refuse to license any applicant, and may refuse to renew the
 8 license of any licensed person:

9 (1) (a) Who is habitually intoxicated or who is
 10 addicted to the use of narcotic drugs;

11 (2) (b) Who has been convicted of violating any state
 12 or federal narcotic law;

13 (3) (c) Who is, in the judgment of the board, guilty
 14 of immoral or unprofessional conduct;

15 (4) (d) Who has been convicted of any crime involving
 16 moral turpitude;

17 (5) (e) Who is guilty, in the judgment of the board,
 18 of gross negligence in his practice as a physical therapist;

19 (6) (f) Who has obtained or attempted to obtain
 20 registration by fraud or material misrepresentation;

21 (7) (g) Who has been declared insane by a court of
 22 competent jurisdiction and has not thereafter been lawfully
 23 declared sane;

24 (8) (h) Who has treated or undertaken to treat
 25 ailments of human beings otherwise than by physical therapy,

1 or who has undertaken to practice physical therapy
 2 independent of prescription from a person who holds an
 3 unlimited license to practice medicine and surgery in the
 4 state of Montana and other states and territories.

5 ~~(2) The right to a license revoked or suspended~~
 6 ~~because of a criminal conviction is restored by termination~~
 7 ~~of state supervision of the offender and any person applying~~
 8 ~~for a license shall not be denied a license because of a~~
 9 ~~previous criminal conviction.~~

10 (2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 11 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 12 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

13 Section 21. Section 66-2610, R.C.M. 1947, is amended
 14 to read as follows:

15 "66-2610. Revocation and suspension. (1) A license
 16 issued under this act may be suspended or revoked by the
 17 board, in cases other than failure of a licensee to renew
 18 the license, after notice and hearing, in the event the
 19 licensee has violated a condition of the bond maintained by
 20 him as a prerequisite to issuance of the license, for the
 21 practice of fraud or deceit in obtaining a license, for
 22 gross negligence, incompetence, conviction of a felony, or
 23 violating the requirements of this act. Any person may make
 24 complaint against a licensee. Complaints shall be in
 25 writing, signed by the complainant, and must specify the

1 charges against the licensee. The board, on its own motion,
 2 or on receipt of a complaint, shall hold a hearing on
 3 charges.

4 (2) A person bringing the complaint has the burden of
 5 proof and must appear in person. A unanimous vote of the
 6 board is required in order to revoke or suspend a license.
 7 If a suspension is directed by the board, it may not be for
 8 a period in excess of one (1) year.

9 ~~(2) The right to a license revoked or suspended~~
 10 ~~because of a criminal conviction is restored by termination~~
 11 ~~of state supervision of the offender and any person applying~~
 12 ~~for a license shall not be denied a license because of a~~
 13 ~~previous criminal conviction.~~

14 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
 15 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
 16 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

17 Section 22. Section 66-2714, R.C.M. 1947, is amended
 18 to read as follows:

19 "66-2714. Refusal to grant, suspension and revocation
 20 of mortician's and funeral director's license. (1) The
 21 board may refuse to grant, may suspend, or may revoke a
 22 mortician's or funeral director's license for any of the
 23 following reasons:

24 ~~(1)~~ (a) If the applicant or licensee obtained the
 25 license by fraud or misrepresentation, either in the

1 application for the license, or in passing the examination.

2 ~~(2)~~ (b) If the applicant or licensee has been
3 convicted of a felony.

4 ~~(3)~~ (c) If the applicant or licensee has violated any
5 section of this act or any rule or regulation of the state,
6 district, or local board of health governing the disposition
7 of dead human bodies, or any rule of the board regulating
8 the professions of mortuary science or funeral directing, or
9 the operation of a mortuary.

10 ~~(4)~~ (d) If the licensee has participated in any
11 scheme in the nature of a burial association or burial
12 certificate plan which does not properly protect the rights
13 of the public, or where there is any element of fraud, or
14 where there is contained any agreement or provision that
15 deprives heirs, next of kin, or any other authorized person
16 freedom of choice as to the services or merchandise used in
17 connection with a funeral, or the freedom of choice as to
18 which funeral directors or morticians shall be employed.

19 ~~(2) The right to a license revoked or suspended~~
20 ~~because of a original conviction is restored by termination~~
21 ~~of state supervision of the offender and any person applying~~
22 ~~for a license shall not be denied a license because of a~~
23 ~~previous original conviction.~~

24 (2) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
25 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE

1 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

2 Section 23. Section 66-3017, H.C.H. 1947, is amended
3 to read as follows:

4 "66-3017. Revocation or suspension for cause. Any
5 person registered under this act may have his license
6 revoked or suspended for a fixed period to be determined by
7 the board for any of the following causes:

8 (1) Being convicted of a felony. The record of the
9 conviction or a certified copy from the clerk of the court
10 where the conviction occurred or by the judge of the court,
11 shall be sufficient evidence to warrant revocation or
12 suspension, ~~provided that the person has not been pardoned~~
13 ~~by a governor or the president of the United States. The~~
14 ~~right to a license revoked or suspended because of a~~
15 ~~original conviction is restored by termination of state~~
16 ~~supervision of the offender and any person applying for a~~
17 ~~license shall not be denied a license because of a previous~~
18 ~~original conviction.~~

19 A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
20 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE
21 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION.

22 (2) By securing a license under this act through fraud
23 or deceit or false statements.

24 (3) For the personal use of a false name or alias in
25 the practice of his profession, with fraudulent intent.

- 1 (4) For violating any of the provisions of this act.
- 2 (5) For obtaining any fee or making any sale by fraud
- 3 or misrepresentation.
- 4 (6) Knowingly employing directly or indirectly any
- 5 suspended or unlicensed person to perform any work covered
- 6 by this act.
- 7 (7) Using or causing or promoting the use of any
- 8 advertising matter, promotional literature, testimonial,
- 9 guarantee, warranty, label, brand, insignia or any other
- 10 representation however disseminated or published, which is
- 11 improbable, misleading, deceptive, or untruthful.
- 12 (8) Representing that the services or advice, of a
- 13 person licensed to practice medicine, or possessing
- 14 certification as an audiologist, will be used or made
- 15 available in the selection, fitting, adjustment, maintenance
- 16 or repair of hearing aids when that is not true, or using
- 17 the terms "doctor," "clinic," "state registered," or other
- 18 like words, abbreviations or symbols which tend to connote
- 19 the medical profession when that use is not accurate. The
- 20 term "hearing center" shall be discontinued in accordance
- 21 with the code of ethics of the National Hearing Aid Society.
- 22 (9) Permitting another to use his license or
- 23 certificate.
- 24 (10) To defame competitors by falsely imputing to them
- 25 dishonorable conduct, inability to perform contracts,

- 1 questionable credit standing, or by other false
- 2 representations, or falsely to disparage the products of
- 3 competitors in any respect, or their business methods,
- 4 selling prices, values, credit terms, policies or services.
- 5 (11) To obtain information concerning the business of a
- 6 competitor by bribery of an employee or agent of such
- 7 competitor, by false or misleading statements or
- 8 representations, by the impersonation of one in authority,
- 9 or by any other lawful means.
- 10 (12) To directly or indirectly give, or offer to give,
- 11 or permit or cause to be given money or anything of value to
- 12 any person who advises another in a professional capacity as
- 13 an inducement to influence others to purchase or contract to
- 14 purchase products sold or offered for sale by a hearing aid
- 15 dispenser, or to influence persons to refrain from dealing
- 16 in the products of competitors.
- 17 (13) Unethical conduct or gross incompetence or
- 18 negligence in the performance of his duties, including
- 19 repeated failure to make indicated medical referrals of his
- 20 customers.
- 21 (14) Selling a hearing aid to a person who has not been
- 22 given tests utilizing appropriate established procedures and
- 23 instrumentation in fitting of hearing aids, except in cases
- 24 of selling replacement hearing aids."

Section 24. Section 66-3209, R.C.M. 1947, is amended

1 to read as follows:

2 *66-3209. Grounds for refusal or revocation of license
3 — hearing. (1) A license applied for, or issued under this
4 act, may be refused or revoked by the board on proof that
5 the person to whom the license was issued:

- 6 (a) Has been convicted of a felony;
- 7 (b) Has been guilty of fraud or deceit in securing the
8 license or a renewal; or
- 9 (c) Is using a narcotic or an alcoholic beverage to an
10 extent that the use impairs his ability to perform the work
11 of a professional psychologist with safety to the public; or
- 12 (d) Has been guilty of unprofessional conduct as
13 defined by the code of ethics published by the American
14 Psychological Association.

15 (2) The board may not revoke or refuse to issue or
16 renew a license for any cause, other than failure to pay
17 fees, unless the person is given notice and opportunity for
18 a hearing before the board.

19 ~~(3) The right to a license revoked or suspended~~
20 ~~because of a criminal conviction is restored by termination~~
21 ~~of state supervision of the offender and any person applying~~
22 ~~for a license shall not be denied a license because of a~~
23 ~~previous criminal conviction.~~

24 (3) A PERSON NO LONGER UNDER STATE SUPERVISION FOR A
25 PREVIOUS CONVICTION WHO APPLIES FOR A LICENSE MAY NOT BE

1 DENIED A LICENSE BECAUSE OF A PREVIOUS CONVICTION."

2 Section 25. Section 75-6010, H.C.H. 1947, is amended
3 to read as follows:

4 *75-6010. Suspension, revocation and denial —
5 appeals. The board of education shall have the power and
6 authority to suspend or revoke the teacher certificate of
7 any person for any of the following reasons:

- 8 (1) Any reason that would have required or authorized
9 the denial of the teacher certificate to such person if it
10 had been known at the time such certificate was issued;
- 11 (2) By reason of incompetency, immorality,
12 intemperance, physical inability, or conviction of a felony
13 under state law; or
- 14 (3) By reason of the failure of the certificate holder
15 to comply with the terms of any contract between such holder
16 and the trustees of a district without the consent of the
17 trustees in writing or without good cause. Such breach of
18 contract shall constitute unprofessional conduct.

19 Whenever a substantial reason for the suspension or
20 revocation of the teacher certificate of any person is
21 brought to the attention of the board of education, it shall
22 afford the person an opportunity to defend himself and his
23 qualifications against the charge before the board. The
24 superintendent of public instruction shall give a thirty
25 (30) day written notification to any person when the board

1 of education intends to consider the suspension or
 2 revocation of his certificate. The board of education shall
 3 implement an investigation of the reasons for the suspension
 4 or revocation charge and then, if the investigation warrants
 5 further action, conduct a hearing in the manner provided by
 6 board of education policies.

7 After a full investigation and proper hearing, the
 8 board of education may suspend or revoke the person's
 9 teacher certificate, except that in cases of a first
 10 violation under subsection (3) above, the maximum penalty
 11 shall not be more than a suspension of the person's
 12 certificate for the current school fiscal year and the
 13 ensuing school fiscal year.

14 Whenever the superintendent of public instruction
 15 denies the issuance or the renewal of a teacher certificate
 16 to a person, he may appeal the denial to the board of
 17 education. The appeal shall be heard in the same manner
 18 provided for in this section for suspension or revocation
 19 and in accordance with the policies of the board of
 20 education. The decision of the board of education shall be
 21 final.

22 ~~The right to a teacher certificate revoked or suspended~~
 23 ~~because of a criminal conviction is restored by termination~~
 24 ~~of state supervision of the offender and any person applying~~
 25 ~~for a teacher certificate shall not be denied a teacher~~

1 ~~certificate because of a previous criminal conviction. A~~
 2 ~~PERSON NO LONGER UNDER STATE SUPERVISION FOR A PREVIOUS~~
 3 ~~CONVICTION WHO APPLIES FOR A TEACHER CERTIFICATE MAY NOT BE~~
 4 ~~DENIED A TEACHER CERTIFICATE BECAUSE OF A PREVIOUS~~
 5 ~~CONVICTION."~~

6 ~~Section 26, Section 93-2027, H.C.R. 1947, is amended~~
 7 ~~to read as follows:~~

8 ~~"93-2027. Conviction of crime. In case of the~~
 9 ~~conviction of an attorney and counselor of a felony or~~
 10 ~~misdemeanor, involving moral turpitude, the clerk of the~~
 11 ~~court in which such conviction is had shall, within thirty~~
 12 ~~days thereafter, transmit to the supreme court a certified~~
 13 ~~copy of the record of conviction.~~

14 ~~The right to a license to practice law revoked or~~
 15 ~~suspended because of a criminal conviction is restored by~~
 16 ~~termination of state supervision of the offender and any~~
 17 ~~person applying for a license to practice law shall not be~~
 18 ~~denied such a license because of a previous criminal~~
 19 ~~conviction."~~

-End-

March 20, 1975

SENATE COMMITTEE ON JUDICIARY
AMENDMENTS TO HOUSE BILL NO. 395

That House Bill No. 395, third reading, be amended as follows:

1. Amend title, lines 5 through 15.

Following: " "AN ACT"

Strike: lines 5 through 15 in their entirety

Insert: "TO PROVIDE THAT A PERSON CONVICTED OF A CRIMINAL OFFENSE WHO HAS SERVED HIS SENTENCE AND IS NO LONGER UNDER STATE SUPERVISION MAY BE GRANTED THE PRIVILEGE OF OCCUPATIONAL LICENSURE; AND DEFINING LICENSURE AS A PRIVILEGE."

2. Amend the bill, pages 1 through 52.

Strike: All of the bill following the enacting clause

Insert: "Section 1. Purpose. It is the public policy of the legislature of the state of Montana to encourage and contribute to the rehabilitation of criminal offenders and to assist them in the assumption of the responsibilities of citizenship. The legislature finds that the public is best protected when such offenders are given the opportunity to secure employment or to engage in a meaningful occupation, while the privilege of licensure must be conferred with prudence to protect the interests of the public.

Section 2. Licensure defined as privilege. It is the intent of the legislature and the declared policy of the state that occupational licensure is a privilege to be granted or revoked as a police power of the state in its protection of the public health, safety and welfare and such privilege is not a right mentioned in article II, section 28 of the Montana constitution.

Section 3. Restoration of rights to felons. Laws for the punishment of crime shall be founded on the principles of prevention and reformation and full rights shall be automatically restored upon termination of state supervision for any offense against the state.

(1) "Full rights" as referred to in this section shall not preclude the denial of a license to enter an occupation when the conferring of a license may affect the public health, safety and welfare; the granting of such license is a privilege within the police power of the state and not a right mentioned in article II, section 28 of the Montana constitution.

Section 4. Conviction not a sole basis for denial.

Criminal convictions shall not operate as an automatic bar to being licensed to enter any occupation in the state of Montana. No licensing authority shall refuse to license a person solely on the basis of a previous criminal conviction; provided, however, where a license applicant has been convicted of a criminal offense, and such criminal offense relates to the public health, safety and welfare and to the occupation for which the license is sought, the licensing agency may, after investigation, find that the applicant so convicted has not been sufficiently rehabilitated as to warrant the public trust and deny the issuance of a license.

Section 5. Statement of reasons for denial. When a licensing agency prohibits an applicant from being licensed, wholly or partially on the basis of a criminal conviction, the agency shall state explicitly in writing the reasons for the decision.

Section 6. Licensure on completion of supervision. Completion of probation or parole supervision, without any subsequent criminal conviction, shall be evidence of rehabilitation, provided, however, that the facts surrounding the situation that led to the probation or parole supervision may be considered as they relate to the occupation for which a license is sought and provided that nothing herein shall be construed to prohibit licensure of a person while he is under state supervision if the licensing agency finds insufficient evidence to preclude such licensure." "

1 HOUSE BILL NO. 395
 2 INTRODUCED BY MELOY, HOLMES, HUENNEKENS,
 3 BRADLEY, JAMES MOORE, DRISCOLL
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ~~AMENDING--SECTIONS~~
 6 ~~4-4127--15-20067~~ 40-3329, ~~41-14297-40-33297-62-5007-66-1127~~
 7 ~~66-403717--66-5107--66-9137---66-10367---66-10387---66-12407~~
 8 ~~66-13127---66-15047---66-10347--66-19377--66-21157--66-22107~~
 9 ~~66-23457-66-25097-66-26107-66-27147--66-30177--66-32097~~ AND
 10 ~~75-60107--AND-93-20277~~ R.C.M.-19477-TO-PROVIDE-THAT-A-PERSON
 11 CONVICTED--OF--A--CRIME--AND IS NO--LONGER---UNDER---STATE
 12 SUPERVISION-IS-RESTORED-THE-RIGHT-TO-PRACTICE-ANY-OCCUPATION
 13 REQUIRING--STATE--LICENSING7--AND--TO--PROVIDE-THAT-A-PERSON
 14 APPLYING-FOR-SUCH-A-LICENSE SHALL-NOT-BE--DENIED--A--LICENSE
 15 BECAUSE--OF--A-PREVIOUS-CONVICTION7 TO PROVIDE THAT A PERSON
 16 CONVICTED OF A CRIMINAL OFFENSE WHO HAS SERVED HIS SENTENCE
 17 AND IS NO LONGER UNDER STATE SUPERVISION MAY BE GRANTED THE
 18 PRIVILEGE OF OCCUPATIONAL LICENSURE; AND DEFINING LICENSURE
 19 AS A PRIVILEGE."

20
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 22 REFER TO SECOND READING

23 (Strike everything after the enacting clause and insert:)

24 Section 1. Purpose. It is the public policy of the
 25 legislature of the state of Montana to encourage and

1 contribute to the rehabilitation of criminal offenders and
 2 to assist them in the assumption of the responsibilities of
 3 citizenship. The legislature finds that the public is best
 4 protected when such offenders are given the opportunity to
 5 secure employment or to engage in a meaningful occupation,
 6 while the privilege of licensure must be conferred with
 7 prudence to protect the interests of the public.

8 Section 2. Licensure defined as privilege. It is the
 9 intent of the legislature and the declared policy of the
 10 state that occupational licensure is a privilege to be
 11 granted or revoked as a police power of the state in its
 12 protection of the public health, safety and welfare and such
 13 privilege is not a right mentioned in Article II, section 28
 14 of the Montana constitution.

15 Section 3. Restoration of rights to felons. Laws for
 16 the punishment of crime shall be founded on the principles
 17 of prevention and reformation and full rights shall be
 18 automatically restored upon termination of state supervision
 19 for any offense against the state.

20 (1) "Full rights" as referred to in this section shall
 21 not preclude the denial of a license to enter an occupation
 22 when the conferring of a license may affect the public
 23 health, safety and welfare; the granting of such license is
 24 a privilege within the police power of the state and not a
 25 right mentioned in Article II, section 28 of the Montana

1 constitution.

2 Section 4. Conviction not a sole basis for denial.
 3 Criminal convictions shall not operate as an automatic bar
 4 to being licensed to enter any occupation in the state of
 5 Montana. No licensing authority shall refuse to license a
 6 person solely on the basis of a previous criminal
 7 conviction; provided, however, where a license applicant has
 8 been convicted of a criminal offense, and such criminal
 9 offense relates to the public health, safety and welfare and
 10 to the occupation for which the license is sought, the
 11 licensing agency may, after investigation, find that the
 12 applicant so convicted has not been sufficiently
 13 rehabilitated as to warrant the public trust and deny the
 14 issuance of a license.

15 Section 5. Statement of reasons for denial. When a
 16 licensing agency prohibits an applicant from being licensed,
 17 wholly or partially on the basis of a criminal conviction,
 18 the agency shall state explicitly in writing the reasons for
 19 the decision.

20 Section 6. Licensure on completion of supervision.
 21 Completion of probation or parole supervision, without any
 22 subsequent criminal conviction, shall be evidence of
 23 rehabilitation, provided, however, that the facts
 24 surrounding the situation that led to the probation or
 25 parole supervision may be considered as they relate to the

1 occupation for which a license is sought and provided that
 2 nothing herein shall be construed to prohibit licensure of a
 3 person while he is under state supervision if the licensing
 4 agency finds insufficient evidence to preclude such
 5 licensure.

-End-