

CHAPTER NO. 491.

HOUSE BILL NO. 571

INTRODUCED BY MENAHAN

IN THE HOUSE

February 5, 1979	Introduced and referred to Committee on State Administration.
February 21, 1979	Intent statement attached. Committee recommend bill do pass as amended. Report adopted. Printed and placed on members' desks.
February 22, 1979	Second reading, do pass. Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Public Health, Welfare, and Safety.
March 15, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 17, 1979	Motion pass consideration.
March 19, 1979	Second reading, concurred in.
March 22, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 22, 1979	Returned from second house. Concurred in as amended.
March 23, 1979	On motion, consideration passed until the 71st Legislative Day.
March 29, 1979	Second reading, amendments adopted.
March 30, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

1 House BILL NO. 571
 2 INTRODUCED BY Members By Request

3
 4 A BILL FOR AN ACT ENTITLED: *AN ACT CREATING A BOARD OF
 5 PHYSICAL THERAPY EXAMINERS AND GENERALLY REVISING THE
 6 PHYSICAL THERAPY LAWS; AMENDING SECTIONS 2-8-103, 37-11-101,
 7 37-11-103, 37-11-201, 37-11-202, 37-11-301, 37-11-303,
 8 37-11-307 THROUGH 37-11-309, AND 37-11-321, MCA; AND
 9 PROVIDING AN EFFECTIVE DATE.*

10
 11 WHEREAS, the practice of physical therapy within the
 12 state of Montana is a privilege granted by legislative
 13 authority and is not a right of individuals; and

14 WHEREAS, it is necessary and in the best interests of
 15 the health, safety, and welfare of the people of Montana to
 16 provide laws covering the granting of licenses and their
 17 regulation so that the public may be protected from the
 18 unprofessional, unauthorized, or unqualified practice of
 19 physical therapy and to license only competent physical
 20 therapists to practice physical therapy.

21
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 NEW SECTION. Section 1. Board of physical therapy
 24 examiners. (1) There is a board of physical therapy
 25 examiners.

1 (2) The board consists of three members appointed by
 2 the governor, upon the recommendation of the Montana chapter
 3 of the American physical therapy association, for a term of
 4 3 years.

5 (3) Each member must have been a resident of Montana
 6 and a practicing physical therapist for the 3 years
 7 preceding appointment to the board, but need not be a member
 8 of the Montana chapter of the American physical therapy
 9 association.

10 (4) Within 30 days following [the effective date of
 11 this act], the governor shall make initial appointments to
 12 the board of physical therapy examiners. He shall appoint
 13 one member each to hold office for terms of 1 year, 2 years,
 14 and 3 years, respectively. At the end of each member's
 15 appointed term, a member shall be appointed for a full
 16 3-year term.

17 (5) Ninety days prior to the end of the board member's
 18 term of office the Montana chapter of the American physical
 19 therapy association shall submit to the governor a list of
 20 individuals qualified to serve as a member of the board.
 21 The list shall contain not less than three times the number
 22 of candidates needed to fill the vacancies.

23 (6) A vacancy on the board must be filled in the same
 24 manner as the original appointment, except that the names of
 25 qualified individuals must be submitted to the governor upon

1 notice of a pending vacancy or within 10 days after a
2 vacancy occurs. These appointments may only be made for the
3 unexpired portions of the term.

4 (7) No member may be appointed for more than two
5 consecutive terms.

6 (8) The governor may remove any board member for
7 negligence in performance of any duty required by law and
8 for incompetence or unprofessional or dishonorable conduct.

9 (9) A board member is not liable to civil action for
10 any act performed in good faith in the execution of the
11 duties required by Title 35, chapter 11.

12 (10) The board shall provide for its organizational
13 structure by rule, which shall include a chairman,
14 vice-chairman, and secretary-treasurer.

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

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

18 "2-8-103. Agencies to terminate. (1) The following
19 agencies shall terminate on July 1, 1979:

20 (a) board of abstracters, department of professional
21 and occupational licensing, created by 2-15-1643;

22 (b) board of public accountants, department of
23 professional and occupational licensing, created by
24 2-15-1641;

25 (c) board of architects, department of professional

1 and occupational licensing, created by 2-15-1651;

2 (d) state banking board, department of business
3 regulation, created by 2-15-1803;

4 (e) state electrical board, department of professional
5 and occupational licensing, created by 2-15-1654;

6 (f) board of professional engineers and land
7 surveyors, department of professional and occupational
8 licensing, created by 2-15-1653;

9 (g) office of commissioner of insurance and the
10 insurance department, state auditor's office, created by
11 2-15-1902 and 2-15-1903;

12 (h) office of the investment commissioner, state
13 auditor's office, created by 2-15-1901;

14 (i) board of landscape architects, department of
15 professional and occupational licensing, created by
16 2-15-1652;

17 (j) board of county printing, department of community
18 affairs, created by 2-15-1102;

19 (k) board of plumbers, department of professional and
20 occupational licensing, created by 2-15-1655;

21 (l) board of real estate, department of professional
22 and occupational licensing, created by 2-15-1642;

23 (m) state board of warm air heating, ventilation, and
24 air conditioning, department of professional and
25 occupational licensing, created by 2-15-1656;

1 (n) board of institutions, department of institutions,
2 created by 2-15-2303.

3 (2) The following agencies shall terminate on July 1,
4 1981:

5 (a) commission for human rights, department of labor
6 and industry, created by 2-15-1706;

7 (b) board of athletics, department of professional and
8 occupational licensing, created by 2-15-1661;

9 (c) board of barbers, department of professional and
10 occupational licensing, created by 2-15-1625;

11 (d) board of chiropractors, department of professional
12 and occupational licensing, created by 2-15-1613;

13 (e) board of cosmetologists, department of
14 professional and occupational licensing, created by
15 2-15-1626;

16 (f) board of dentists, department of professional and
17 occupational licensing, created by 2-15-1606;

18 (g) board of hearing aid dispensers, department of
19 professional and occupational licensing, created by
20 2-15-1616;

21 (h) board of massage therapists, department of
22 professional and occupational licensing, created by
23 2-15-1627;

24 (i) Montana state board of medical examiners,
25 department of professional and occupational licensing,

1 created by 2-15-1605;

2 (j) board of morticians, department of professional
3 and occupational licensing, created by 2-15-1619;

4 (k) board of nursing, department of professional and
5 occupational licensing, created by 2-15-1610;

6 (l) board of nursing home administrators, department
7 of professional and occupational licensing, created by
8 2-15-1611;

9 (m) board of optometrists, department of professional
10 and occupational licensing, created by 2-15-1612;

11 (n) board of osteopathic physicians, department of
12 professional and occupational licensing, created by
13 2-15-1607;

14 (o) board of pharmacists, department of professional
15 and occupational licensing, created by 2-15-1609;

16 (p) board of podiatry examiners, department of
17 professional and occupational licensing, created by
18 2-15-1608;

19 (q) board of psychologists, department of professional
20 and occupational licensing, created by 2-15-1617;

21 (r) board of radiologic technologists, department of
22 professional and occupational licensing, created by
23 2-15-1614;

24 (s) board of speech pathologists and audiologists,
25 department of professional and occupational licensing,

1 created by 2-15-1615;

2 (t) board of veterinarians, department of professional
3 and occupational licensing, created by 2-15-1618;

4 (u) board of veterans' affairs, department of social
5 and rehabilitation services, created by 2-15-2202.

6 (3) The following units of state government shall
7 terminate on July 1, 1983:

8 (a) board of aeronautics, department of community
9 affairs, created by 2-15-1103;

10 (b) state board of hail insurance, department of
11 agriculture, created by 2-15-3003;

12 (c) board of horseracing, department of professional
13 and occupational licensing, created by 2-15-1662;

14 (d) board of livestock, department of livestock,
15 created by 2-15-3102;

16 (e) board of milk control, department of business
17 regulation, created by 2-15-1802;

18 (f) board of oil and gas conservation, department of
19 natural resources and conservation, created by 2-15-3303;

20 (g) Montana outfitters council, department of fish and
21 game, created by 2-15-3403;

22 (h) public service commission, department of public
23 service regulation, created by 69-1-102;

24 (i) board of sanitarians, department of professional
25 and occupational licensing, created by 2-15-1631;

1 (j) board of water and wastewater operators,
2 department of health and environmental sciences, created by
3 2-15-2105;

4 (k) board of water well contractors, department of
5 professional and occupational licensing, created by
6 2-15-1632.

7 (4) The following unit of state government shall
8 terminate on July 1, 1985: board of physical therapy
9 examiners, created by [section 1]."

10 Section 3. Section 37-11-101, MCA, is amended to read:
11 "37-11-101. Definitions. Unless the context requires
12 otherwise, in this chapter the following definitions apply:
13 (1) "Physical therapy" means the evaluation,
14 treatment, and instruction of a bodily or mental condition
15 of a person human beings to detect, assess, prevent,
16 correct, alleviate, and limit physical disability, bodily
17 malfunction and pain, injury, and any bodily or mental
18 conditions by the use of the ~~physical, chemical, and other~~
19 ~~properties of heat, light, water, electricity, massage and~~
20 ~~therapeutic exercise including physical rehabilitation~~
21 procedures therapeutic exercise and rehabilitative
22 procedures for the purpose of preventing, correcting, or
23 alleviating a physical or mental disability.

24 (2) "Physical therapist" or "physiotherapist" means a
25 person who practices physical therapy.

1 (3) "Physical therapy student" or "physical therapy
 2 intern" means an individual enrolled in an accredited
 3 physical therapy curriculum and who, as part of his
 4 professional, educational, and clinical training, is
 5 practicing in a physical therapy setting under the
 6 direction, guidance, and observation of a licensed physical
 7 therapist.

8 (4) "Physical therapy assistant" means a person who is
 9 a graduate of an accredited curriculum approved by the board
 10 and who assists a physical therapist in the practice of
 11 physical therapy and whose activities require an
 12 understanding of physical therapy.

13 (5) "Physical therapy aide" means a person who aides
 14 in the practice of physical therapy and whose activities
 15 require on-the-job training and supervision by a licensed
 16 physical therapist who must be available for periodic checks
 17 during any procedure or treatment involving a patient.

18 (6) "Board" means the Montana--state board of
 19 medical physical therapy examiners provided for in 2-15-1605
 20 [section 1].

21 (7) "Department" means the department of
 22 professional and occupational licensing provided for in
 23 Title 2, chapter 15, part 16.

24 (8) "Hearing" means the adjudicative proceeding
 25 concerning the issuance, denial, suspension, or revocation

1 of a license, after which the appropriate action toward an
 2 applicant or licensee is to be determined by the board."

3 NEW SECTION. Section 4. Physical therapy -- practiced
 4 under referral -- treatment. (1) Physical therapy is
 5 practiced under referral from physicians, osteopaths,
 6 dentists, and podiatrists and includes the administration,
 7 interpretation, and evaluation of tests and measurements of
 8 bodily functions and structures, the establishment and
 9 modification of treatment, and consultative, educational,
 10 and other advisory services, and instruction and supervision
 11 of supportive personnel.

12 (2) Treatment employs, for therapeutic effects,
 13 physical measures, activities and devices, for preventive
 14 and therapeutic purposes, exercises, rehabilitative
 15 procedures, massage, mobilization, and physical agents
 16 including but not limited to mechanical devices, heat, cold,
 17 air, light, water, electricity, and sound.

18 NEW SECTION. Section 5. Equivalent terms. "Physical
 19 therapy practitioner", "physical therapy specialist",
 20 "physiotherapy practitioner", or "manual therapists" are
 21 equivalent terms, and any derivation of the above or any
 22 letters implying the above are equivalent terms; any
 23 reference to any one of them in this chapter includes the
 24 others but does not include certified corrective therapists
 25 or massage therapists.

1 ~~NEW SECTION.~~ Section 6. Supervision of physical
2 therapist assistants. A physical therapist assistant must
3 practice under the direct supervision of a licensed physical
4 therapist who is responsible for and participates in a
5 patient's care.

6 Section 7. Section 37-11-103, MCA, is amended to read:

7 "37-11-103. Restrictions on scope of practice. ~~††~~
8 Nothing in this chapter shall be construed as authorizing a
9 physical therapist, whether licensed or not, to practice
10 medicine, osteopathy, or chiropractic, dentistry, or
11 podiatry; nor shall Title 37, chapter 11, be construed to
12 limit or regulate any other business or profession or any
13 services rendered or performed in connection with physical
14 therapy.

15 ~~†† The use of roentgen rays and radium for diagnostic~~
16 ~~and therapeutic purposes and the use of electricity for~~
17 ~~surgical purposes, including cauterization, are not~~
18 ~~authorized under the term "physical therapy" as used in this~~
19 ~~chapter.~~

20 Section 8. Section 37-11-201, MCA, is amended to read:

21 "37-11-201. Rulemaking General powers -- rulemaking
22 power -- records. (1) The board may:
23 (a) adopt rules to carry this chapter into effect; and
24 (b) grant, suspend, and revoke licenses;
25 (c) issue subpoenas requiring the attendance of

1 witnesses or the production of books and papers; and
2 (d) take any other disciplinary action necessary to
3 protect the public.

4 (2) The board shall:

5 (a) examine applicants for licenses twice a year at
6 reasonable places and times determined by the board;

7 (b) review the qualifications of applicants who are
8 approved for examination for licensure; and

9 (c) conduct written examinations that measure the
10 qualifications of individual applicants along with any oral
11 or practical examinations when determined by the board to be
12 appropriate.

13 ~~††~~(3) The department shall keep a record of the
14 board's proceedings under this chapter and a register of
15 persons licensed under it. The register shall show the name
16 of every living licensed physical therapist, his last-known
17 place of business, last-known place of residence, and the
18 date and number of his license and certificate as a licensed
19 physical therapist.

20 ~~††~~(4) The department shall, during the month of April
21 every year in which the renewal of licenses is required,
22 compile a list of licensed physical therapists authorized to
23 practice physical therapy in the state and shall mail, upon
24 request, a copy of that list to the superintendent of every
25 known hospital and every person licensed to practice

1 medicine and surgery in the state. An interested person in
2 the state is entitled to obtain a copy of the list on
3 application to the department and payment of an amount not
4 in excess of the cost of the list so furnished.

5 (5) The department may change addresses and surnames
6 on the licensee's records only on the specific written
7 request by the individual licensee."

8 Section 9. Section 37-11-202, MCA, is amended to read:
9 "37-11-202. Investigation and report of violations.

10 (1) The board shall:

11 (a) investigate every supposed alleged violation of
12 this chapter coming to its notice; and ~~shall~~

13 (b) report to the proper authority all cases that, in
14 the judgment of the board, warrant prosecution;

15 (c) formulate a written complaint process for the use
16 in reporting alleged violations;

17 (d) assist the proper county attorney or the attorney
18 general in the prosecution of all persons who violate any
19 provision of Title 37, chapter 11.

20 (2) The attorney general shall serve as attorney for
21 the board."

22 NEW SECTION. Section 10. Travel expense -- deposit of
23 fees. (1) Each board member shall be reimbursed for travel
24 expenses as provided for in 2-18-501 through 2-18-503 for
25 each day actually engaged in the duties of his office.

1 (2) All fees collected by the department shall be
2 deposited in the earmarked revenue account for the use of
3 the board, subject to 37-1-101(6). The department shall keep
4 an accurate account of funds received and expenditures made
5 from the account.

6 (3) The board of medical examiners shall transfer
7 funds in the earmarked revenue account collected after
8 January 1, 1979, which were derived from the examination and
9 licensure or relicensure of physical therapists in this
10 state to the earmarked account designated as the "physical
11 therapist account".

12 Section 11. Section 37-11-301, MCA, is amended to
13 read:

14 "37-11-301. Unauthorized representation as licensed
15 therapist. A person who is not licensed under this chapter
16 as a physical therapist or whose license has been suspended
17 or revoked or whose license has lapsed and has not been
18 revived who uses in connection with his name the words or
19 letters "L.P.T.", "Licensed Physical Therapist", "P.T.",
20 "Physical Therapist", "R.P.T.", "Registered Physical
21 Therapist", or any other letters, words, or insignia
22 indicating or implying that he is a licensed physical
23 therapist or who in any way, orally or in writing or in
24 print or by sign, directly or by implication, represents
25 himself as a physical therapist shall be guilty of a

1 misdemeanor."

2 Section 12. Section 37-11-303, MCA, is amended to
3 read:

4 "37-11-303. Qualifications of applicants for license.
5 To be eligible for a license as a physical therapist, an
6 applicant must:

7 (1) be of good moral character and at least 18 years
8 of age;

9 (2) have graduated from a an accredited school of
10 physical therapy approved by the ~~council of medical~~
11 ~~education and hospitals of the American medical association~~
12 board;

13 (3) either:

14 (a) pass to the satisfaction of the board an
15 examination to determine his fitness for practice as a
16 physical therapist; or

17 (b) be entitled to a license without examination under
18 37-11-307."

19 Section 13. Section 37-11-307, MCA, is amended to
20 read:

21 "37-11-307. Applicants licensed in other states. The
22 board may, in its discretion, authorize the department to
23 register license as a physical therapist, without
24 examination, on the payment of the required fee, not to
25 exceed \$100, as established by the board, an applicant for

1 license who is a physical therapist licensed under the laws
2 of another state or territory if the requirements for a
3 license for physical therapists in the state or territory in
4 which the applicant was licensed were at the date of his
5 license substantially equal to the requirements in force in
6 this state. However, the board may require a written, oral,
7 or practical examination."

8 Section 14. Section 37-11-308, MCA, is amended to
9 read:

10 "37-11-308. Annual renewal of license -- fee. A
11 licensed physical therapist shall, during January, apply to
12 the department for a renewal of his license and pay a fee of
13 \$5 not to exceed \$50 which shall be set by board rule. A
14 license that is not renewed before April every year
15 automatically lapses. The board may, in its discretion,
16 revive and renew a lapsed license on the payment of all past
17 unpaid renewal fees or a late renewal fee."

18 Section 15. Section 37-11-309, MCA, is amended to
19 read:

20 "37-11-309. Temporary license. (1) On payment to the
21 department of a fee of ~~\$10~~ not to exceed \$100 which shall be
22 set by board rule and the submission of a written
23 application on forms provided by it, the department shall
24 issue, without examination, a temporary license to practice
25 physical therapy in this state for a period not to exceed 1

1 year to a person who meets the qualifications set forth in 37-11-303, on submission by the person of evidence satisfactory to the board that he is in this state on a temporary basis to assist in a case of medical emergency or to engage in a special physical therapy project.

(2) On the submission of a written application on forms provided by it, the department shall issue a temporary license to a person who has applied for a license under this chapter and who is, in the judgment of the board, eligible to take the examination provided for in 37-11-303. This temporary license is available to an applicant only with respect to his first application for a license under 37-11-307, or to a foreign-trained physical therapist, and the license expires when the board makes a final determination with respect to the application."

NEW SECTION. Section 16. Foreign-trained applicants. The foreign-trained physical therapist applicant's transcripts will be evaluated by the board. The board will compare the applicant's transcript to the standards set by the American physical therapy association. If the applicant's professional education credit hours are approved by the board, and the school the applicant attended was approved by the American physical therapy association at the time the applicant attended, the applicant is eligible for a temporary license prior to examination.

1 Section 17. Section 37-11-321, MCA, is amended to
2 read:

3 "37-11-321. Refusal to issue or renew license. The
4 board, after due notice and hearing, may refuse to license
5 any applicant, and may refuse to renew, may suspend, may
6 revoke or take lesser disciplinary action on the license of
7 any licensed person who:

8 (1) is habitually intoxicated or is addicted to the
9 use of narcotic drugs;

10 (2) has been convicted of violating any state or
11 federal narcotic law, subject to chapter 1, part 2 of this
12 title;

13 (3) is, in the judgment of the board, guilty of
14 immoral or unprofessional conduct as defined by board rule;

15 (4) has been convicted of any crime involving moral
16 turpitude, subject to chapter 1, part 2 of this title;

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

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

21 (7) has been declared to be seriously mentally ill by
22 a court of competent jurisdiction and has not thereafter
23 been released from treatment and declared not to be
24 seriously mentally ill;

25 (8) has treated or undertaken to treat ailments of

1 human beings otherwise than by physical therapy; or
 2 ~~(9) has undertaken to practice physical therapy~~
 3 ~~independent of prescription from a person who holds an~~
 4 ~~unlimited license to practice medicine and surgery in~~
 5 ~~Montana and other states and territories.~~

6 (9) is guilty, in the judgement of the boards of
 7 conduct unbecoming a person licensed as a physical therapist
 8 or of conduct detrimental to the best interests of the
 9 public; or

10 (10) has practiced physical therapy beyond the scope
 11 and limitation of his training and education."

12 **NEW SECTION.** Section 18. Display of license. Each
 13 licensee shall display his original license or an official
 14 duplicate issued by the department and a renewal certificate
 15 in a conspicuous place in the principal office where he
 16 practices physical therapy. A reproduction displayed in lieu
 17 of the above is not authorized unless such reproduction is
 18 signed and notarized by a notary public.

19 Section 19. Saving clause. A license to practice
 20 physical therapy issued prior to the effective date of this
 21 act remains in effect for the period of its validity but
 22 upon expiration may be renewed only in accordance with this
 23 act.

24 Section 20. Codification. (1) Section 1 is intended to
 25 be codified as an integral part of Title 2, chapter 15, part

1 16, and the provisions contained in Title 2, chapter 15,
 2 part 16, apply to section 1.

3 (2) Sections 4 through 6, 10, 16, and 18 are intended
 4 to be codified as an integral part of Title 37, chapter 11,
 5 and the provisions contained in Title 37, chapter 11, apply
 6 to sections 4 through 6, 10, 16, and 18.

7 Section 21. Effective date. This act is effective on
 8 passage and approval.

-End-

1 STATEMENT OF INTENT RE: HB 571

2
3
4 House Bill 571 creates a Board of Physical Therapists.
5 The board would be allowed rulemaking authority.

6 It is the intent of the legislature that any rules
7 adopted by the board be limited to:

8 1. establishing minimum state requirements and
9 educational standards for those persons practicing physical
10 therapy in Montana;

11 2. assuring physicians practicing in any branch of
12 medicine, hospitals, and employing agencies that the persons
13 practicing physical therapy are qualified; and

14 3. protecting persons needing physical therapy from
15 fraudulent physical therapists by establishing licensing
16 requirements which ensure that only competent physical
17 therapists practice in Montana.

18 First adopted by the HOUSE COMMITTEE ON STATE
19 ADMINISTRATION on February 19, 1979.

HB 571

Approved by Committee
on State Administration

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INTRODUCED BY MENAHAN, BY REQUEST

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WHEREAS, the practice of physical therapy within the
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The list shall contain not less than three times the number
of candidates needed to fill the vacancies.

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qualified individuals must be submitted to the governor upon

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9 (9) A board member is not liable to civil action for
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10 insurance department, state auditor's office, created by
11 2-15-1902 and 2-15-1903;

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17 (j) board of county printing, department of community
18 affairs, created by 2-15-1102;

19 (k) board of plumbers, department of professional and
20 occupational licensing, created by 2-15-1655;

21 (l) board of real estate, department of professional
22 and occupational licensing, created by 2-15-1642;

23 (m) state board of warm air heating, ventilation, and
24 air conditioning, department of professional and
25 occupational licensing, created by 2-15-1656;

1 (n) board of institutions, department of institutions,
2 created by 2-15-2303.

3 (2) The following agencies shall terminate on July 1,
4 1981:

5 (a) commission for human rights, department of labor
6 and industry, created by 2-15-1706;

7 (b) board of athletics, department of professional and
8 occupational licensing, created by 2-15-1661;

9 (c) board of barbers, department of professional and
10 occupational licensing, created by 2-15-1625;

11 (d) board of chiropractors, department of professional
12 and occupational licensing, created by 2-15-1613;

13 (e) board of cosmetologists, department of
14 professional and occupational licensing, created by
15 2-15-1626;

16 (f) board of dentists, department of professional and
17 occupational licensing, created by 2-15-1606;

18 (g) board of hearing aid dispensers, department of
19 professional and occupational licensing, created by
20 2-15-1616;

21 (h) board of massage therapists, department of
22 professional and occupational licensing, created by
23 2-15-1627;

24 (i) Montana state board of medical examiners,
25 department of professional and occupational licensing,

1 created by 2-15-1605;

2 (j) board of morticians, department of professional
3 and occupational licensing, created by 2-15-1619;

4 (k) board of nursing, department of professional and
5 occupational licensing, created by 2-15-1610;

6 (l) board of nursing home administrators, department
7 of professional and occupational licensing, created by
8 2-15-1611;

9 (m) board of optometrists, department of professional
10 and occupational licensing, created by 2-15-1612;

11 (n) board of osteopathic physicians, department of
12 professional and occupational licensing, created by
13 2-15-1607;

14 (o) board of pharmacists, department of professional
15 and occupational licensing, created by 2-15-1609;

16 (p) board of podiatry examiners, department of
17 professional and occupational licensing, created by
18 2-15-1608;

19 (q) board of psychologists, department of professional
20 and occupational licensing, created by 2-15-1617;

21 (r) board of radiologic technologists, department of
22 professional and occupational licensing, created by
23 2-15-1614;

24 (s) board of speech pathologists and audiologists,
25 department of professional and occupational licensing,

1 created by 2-15-1615;

2 (t) board of veterinarians, department of professional
3 and occupational licensing, created by 2-15-1618;

4 (u) board of veterans' affairs, department of social
5 and rehabilitation services, created by 2-15-2202.

6 (3) The following units of state government shall
7 terminate on July 1, 1983:

8 (a) board of aeronautics, department of community
9 affairs, created by 2-15-1103;

10 (b) state board of hail insurance, department of
11 agriculture, created by 2-15-3003;

12 (c) board of horseracing, department of professional
13 and occupational licensing, created by 2-15-1662;

14 (d) board of livestock, department of livestock,
15 created by 2-15-3102;

16 (e) board of milk control, department of business
17 regulation, created by 2-15-1802;

18 (f) board of oil and gas conservation, department of
19 natural resources and conservation, created by 2-15-3303;

20 (g) Montana outfitters council, department of fish and
21 game, created by 2-15-3403;

22 (h) public service commission, department of public
23 service regulation, created by 69-1-102;

24 (i) board of sanitarians, department of professional
25 and occupational licensing, created by 2-15-1631;

1 (j) board of water and wastewater operators,
2 department of health and environmental sciences, created by
3 2-15-2105;

4 (k) board of water well contractors, department of
5 professional and occupational licensing, created by
6 2-15-1632.

7 ~~(4) The following unit of state government shall~~
8 ~~terminate on July 1, 1985: board of physical therapy~~
9 ~~examiners, created by [section 1]."~~

10 Section 3. Section 37-11-101, MCA, is amended to read:

11 "37-11-101. Definitions. Unless the context requires
12 otherwise, in this chapter the following definitions apply:

13 (i) "Physical therapy" means the evaluation,
14 treatment, and instruction of ~~e-body or--mental--condition~~
15 ~~of--a--person~~ human beings to detect, assess, prevent,
16 correct, alleviate, and limit physical disability, bodily
17 malfunction and pain, injury, and any bodily or mental
18 conditions by the use of ~~the-physical-chemical--and--other~~
19 ~~properties--of-heat-light-water-electricity-massage-and~~
20 ~~therapeutic--exercise--including--physical--rehabilitation~~
21 procedures therapeutic exercise and rehabilitative
22 procedures for the purpose of preventing, correcting, or
23 alleviating a physical or mental disability.

24 (2) "Physical therapist" or "physiotherapist" means a
25 person who practices physical therapy.

1 (3) "Physical therapy student" or "physical therapy
 2 intern" means an individual enrolled in an accredited
 3 physical therapy curriculum and who, as part of his
 4 professional, educational, and clinical training, is
 5 practicing in a physical therapy setting under the
 6 direction, guidance, and observation of a licensed physical
 7 therapist.

8 (4) "Physical therapy assistant" means a person who is
 9 a graduate of an accredited curriculum approved by the board
 10 and who assists a physical therapist in the practice of
 11 physical therapy and whose activities require an
 12 understanding of physical therapy.

13 (5) "Physical therapy aide" means a person who aides
 14 AIDS in the practice of physical therapy and whose
 15 activities require on-the-job training and supervision by a
 16 licensed physical therapist who must be available for
 17 periodic checks during any procedure or treatment involving
 18 a patient.

19 †3†161 "Board" means the Montana--state board of
 20 medice† physical therapy examiners provided for in 2-15-1605
 21 [section 1].

22 †4†171 "Department" means the department of
 23 professional and occupational licensing provided for in
 24 Title 2, chapter 15, part 16.

25 (8) "Hearing" means the adjudicative proceeding

1 concerning the issuance, denial, suspension, or revocation
 2 of a license, after which the appropriate action toward an
 3 applicant or licensee is to be determined by the board."

4 NEW SECTION. Section 4. Physical therapy -- practiced
 5 under referral -- treatment. (1) Physical therapy is
 6 practiced under referral from physicians, osteopaths,
 7 dentists, and podiatrists and includes the administration,
 8 interpretation, and evaluation of tests and measurements of
 9 bodily functions and structures, the establishment and
 10 modification of treatment, and consultative, educational,
 11 and other advisory services, and instruction and supervision
 12 of supportive personnel.

13 (2) Treatment employs, for therapeutic effects,
 14 physical measures, activities and devices, for preventive
 15 and therapeutic purposes, exercises, rehabilitative
 16 procedures, massage, mobilization, and physical agents
 17 including but not limited to mechanical devices, heat, cold,
 18 air, light, water, electricity, and sound.

19 NEW SECTION. Section 5. Equivalent terms. "Physical
 20 therapy practitioner", "physical therapy specialist",
 21 "physiotherapy practitioner", or "manual therapists" are
 22 equivalent terms, and any derivation of the above or any
 23 letters implying the above are equivalent terms; any
 24 reference to any one of them in this chapter includes the
 25 others but does not include certified corrective therapists

1 or massage therapists.

2 NEW SECTION. Section 6. Supervision of physical
3 therapist assistants. A physical therapist assistant must
4 practice under the direct supervision of a licensed physical
5 therapist who is responsible for and participates in a
6 patient's care.

7 Section 7. Section 37-11-103, MCA, is amended to read:

8 ~~"37-11-103. Restrictions on scope of practice. {1}~~
9 ~~Nothing in this chapter shall be construed as authorizing a~~
10 ~~physical therapist, whether licensed or not, to practice~~
11 ~~medicine, osteopathy, or chiropractic, dentistry, or~~
12 ~~podiatry; nor shall Title 37, chapter 11, be construed to~~
13 ~~limit or regulate any other business or profession or any~~
14 ~~services rendered or performed in connection with physical~~
15 ~~therapy.~~

16 ~~{2}--The use of roentgen rays and radium for diagnostic~~
17 ~~and therapeutic purposes and the use of electricity for~~
18 ~~surgical purposes, including authorization, are not~~
19 ~~authorized under the term "physical therapy" as used in this~~
20 ~~chapter."~~

21 Section 8. Section 37-11-201, MCA, is amended to read:

22 ~~"37-11-201. Retaining general powers -- rulemaking~~
23 ~~power -- records. {1} The board may:~~
24 ~~(a) adopt rules to carry this chapter into effect; and~~
25 ~~(b) grant, suspend, and revoke licenses;~~

1 ~~(c) issue subpoenas requiring the attendance of~~
2 ~~witnesses or the production of books and papers; and~~
3 ~~(d) take any other disciplinary action necessary to~~
4 ~~protect the public.~~

5 ~~{2} The board shall:~~

6 ~~(a) examine applicants for licenses twice a year at~~
7 ~~reasonable places and times determined by the board;~~
8 ~~(b) review the qualifications of applicants who are~~
9 ~~approved for examination for licensure; and~~

10 ~~(c) conduct written examinations that measure the~~
11 ~~qualifications of individual applicants along with any oral~~
12 ~~or practical examinations when determined by the board to be~~
13 ~~appropriate.~~

14 ~~{2}{3} The department shall keep a record of the~~
15 ~~board's proceedings under this chapter and a register of~~
16 ~~persons licensed under it. The register shall show the name~~
17 ~~of every living licensed physical therapist, his last-known~~
18 ~~place of business, last-known place of residence, and the~~
19 ~~date and number of his license and certificate as a licensed~~
20 ~~physical therapist.~~

21 ~~{3}{4} The department shall, during the month of April~~
22 ~~every year in which the renewal of licenses is required,~~
23 ~~compile a list of licensed physical therapists authorized to~~
24 ~~practice physical therapy in the state and shall mail, upon~~
25 ~~request, a copy of that list to the superintendent of every~~

1 known hospital and every person licensed to practice
2 medicine and surgery in the state. An interested person in
3 the state is entitled to obtain a copy of the list on
4 application to the department and payment of an amount not
5 in excess of the cost of the list so furnished.

6 ~~(5) The department may change addresses and surnames~~
7 ~~on the licensee's records only on the specific written~~
8 ~~request by the individual licensee."~~

9 Section 9. Section 37-11-202, MCA, is amended to read:

10 "37-11-202. Investigation and report of violations.

11 (1) The board shall:

12 (a) investigate every supposed ~~alleged~~ violation of
13 this chapter coming to its notice; ~~and shall~~

14 (b) report to the proper authority all cases that, in
15 the judgment of the board, warrant prosecution;

16 (c) ~~formulate a written complaint process for the use~~
17 ~~in reporting alleged violations;~~

18 (d) ~~assist the proper county attorney or the attorney~~
19 ~~general in the prosecution of all persons who violate any~~
20 ~~provision of Title 37, chapter 11.~~

21 (2) ~~The attorney general shall serve as attorney for~~
22 ~~the board."~~

23 ~~NEW SECTION.~~ Section 10. Travel expense -- deposit of
24 fees. (1) Each board member shall be reimbursed for travel
25 expenses as provided for in 2-18-501 through 2-18-503 for

1 each day actually engaged in the duties of his office.

2 (2) All fees collected by the department shall be
3 deposited in the earmarked revenue account for the use of
4 the board, subject to 37-1-101(6). The department shall keep
5 an accurate account of funds received and expenditures made
6 from the account.

7 (3) The board of medical examiners shall transfer
8 funds in the earmarked revenue account collected after
9 January 1, 1979, which were derived from the examination and
10 licensure or relicensure of physical therapists in this
11 state to the earmarked account designated as the "physical
12 therapist account".

13 Section 11. Section 37-11-301, MCA, is amended to
14 read:

15 "37-11-301. Unauthorized representation as licensed
16 therapist. A person who is not licensed under this chapter
17 as a physical therapist or whose license has been suspended
18 or revoked or whose license has lapsed and has not been
19 revived who uses in connection with his name the words or
20 letters "L.P.T.", "Licensed Physical Therapist", "P.L.T.",
21 "Physical Therapist", "B.P.T.", "Registered Physical
22 Therapist", or any other letters, words, or insignia
23 indicating or implying that he is a licensed physical
24 therapist or who in any way, orally or in writing or in
25 print or by sign, directly or by implication, represents

1 himself as a physical therapist shall be guilty of a
2 misdemeanor."

3 Section 12. Section 37-11-303, MCA, is amended to
4 read:

5 "37-11-303. Qualifications of applicants for license.
6 To be eligible for a license as a physical therapist, an
7 applicant must:

8 (1) be of good moral character and at least 18 years
9 of age;

10 (2) have graduated from ~~a~~ an accredited school of
11 physical therapy approved by the ~~council---of---medical~~
12 ~~education---and---hospitals---of---the---American---medical---association~~
13 board;

14 (3) either:

15 (a) pass to the satisfaction of the board an
16 examination to determine his fitness for practice as a
17 physical therapist; or

18 (b) be entitled to a license without examination under
19 37-11-307."

20 Section 13. Section 37-11-307, MCA, is amended to
21 read:

22 "37-11-307. Applicants licensed in other states. The
23 board may, in its discretion, authorize the department to
24 register license as a physical therapist, without
25 examination, on the payment of the required fee, not to

1 exceed \$100, as established by the board, an applicant for
2 license who is a physical therapist licensed under the laws
3 of another state or territory if the requirements for a
4 license for physical therapists in the state or territory in
5 which the applicant was licensed were at the date of his
6 license substantially equal to the requirements in force in
7 this state. However, the board may require a written, oral,
8 or practical examination."

9 Section 14. Section 37-11-308, MCA, is amended to
10 read:

11 "37-11-308. Annual renewal of license -- fee. A
12 licensed physical therapist shall, during January, apply to
13 the department for a renewal of his license and pay a fee of
14 \$5 not to exceed \$50 which shall be set by board rule. A
15 license that is not renewed before April every year
16 automatically lapses. The board may, in its discretion,
17 revive and renew a lapsed license on the payment of all past
18 unpaid renewal fees or a late renewal fee."

19 Section 15. Section 37-11-309, MCA, is amended to
20 read:

21 "37-11-309. Temporary license. (1) On payment to the
22 department of a fee of ~~\$10~~ not to exceed \$100 which shall be
23 set by board rule and the submission of a written
24 application on forms provided by it, the department shall
25 issue, without examination, a temporary license to practice

1 physical therapy in this state for a period not to exceed 1
 2 year to a person who meets the qualifications set forth in
 3 37-11-303, on submission by the person of evidence
 4 satisfactory to the board that he is in this state on a
 5 temporary basis to assist in a case of medical emergency or
 6 to engage in a special physical therapy project.

7 (2) On the submission of a written application on
 8 forms provided by it, the department shall issue a temporary
 9 license to a person who has applied for a license under this
 10 chapter and who is, in the judgment of the board, eligible
 11 to take the examination provided for in 37-11-303. This
 12 temporary license is available to an applicant only with
 13 respect to his first application for a license under
 14 37-11-307, ~~or to a foreign-trained physical therapist,~~ and
 15 the license expires when the board makes a final
 16 determination with respect to the application."

17 NEW SECTION. Section 16. Foreign-trained applicants.
 18 The foreign-trained physical therapist applicant's
 19 transcripts will be evaluated by the board. The board will
 20 compare the applicant's transcript to the standards set by
 21 the American physical therapy association. If the
 22 applicant's professional education credit hours are approved
 23 by the board, and the school the applicant attended was
 24 approved by the American physical therapy association at the
 25 time the applicant attended, the applicant is eligible for a

1 temporary license prior to examination.

2 Section 17. Section 37-11-321, MCA, is amended to
 3 read:

4 *37-11-321. Refusal to issue or renew license. The
 5 board, after due notice and hearing, may refuse to license
 6 any applicant, and ~~AND~~ may refuse to renew, ~~may suspend, may~~
 7 ~~revoke, or take lesser disciplinary action on~~ the license of
 8 any licensed person who:

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

11 (2) has been convicted of violating any state or
 12 federal narcotic law, subject to chapter 1, part 2 of this
 13 title;

14 (3) is, in the judgment of the board, guilty of
 15 immoral or unprofessional conduct ~~as defined by board rule;~~

16 (4) has been convicted of any crime involving moral
 17 turpitude, subject to chapter 1, part 2 of this title;

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

20 (6) has obtained or attempted to obtain ~~registration~~
 21 ~~licensure~~ by fraud or material misrepresentation;

22 (7) has been declared to be seriously mentally ill by
 23 a court of competent jurisdiction and has not thereafter
 24 been released from treatment ~~and declared not to be~~
 25 ~~seriously mentally ill;~~

1 (8) has treated or undertaken to treat ailments of
 2 human beings otherwise than by physical therapy; or
 3 ~~(9) has undertaken to practice physical therapy~~
 4 ~~independent of prescription from a person who holds an~~
 5 ~~unlimited license to practice medicine and surgery in~~
 6 ~~Montana and other states and territories;~~
 7 (9) is guilty, in the judgement of the boards, of
 8 conduct unbecoming a person licensed as a physical therapist
 9 or of conduct detrimental to the best interests of the
 10 public; or
 11 (10) has practiced physical therapy beyond the scope
 12 and limitation of his training and education."
 13 **NEW SECTION.** Section 18. Display of license. Each
 14 licensee shall display his original license or an official
 15 duplicate issued by the department and a renewal certificate
 16 in a conspicuous place in the principal office where he
 17 practices physical therapy. A reproduction displayed in lieu
 18 of the above is not authorized unless such IHE reproduction
 19 is signed and notarized by a notary public.
 20 Section 19. Saving clause. A license to practice
 21 physical therapy issued prior to the effective date of this
 22 act remains in effect for the period of its validity but
 23 upon expiration may be renewed only in accordance with this
 24 act.
 25 Section 20. Codification. (1) Section 1 is intended to

1 be codified as an integral part of Title 2, chapter 15, part
 2 16, and the provisions contained in Title 2, chapter 15,
 3 part 16, apply to section 1.
 4 (2) Sections 4 through 6, 10, 16, and 18 are intended
 5 to be codified as an integral part of Title 37, chapter 11,
 6 and the provisions contained in Title 37, chapter 11, apply
 7 to sections 4 through 6, 10, 16, and 18.
 8 ~~Section 21. Effective date. This act is effective on~~
 9 ~~passage and approval.~~

-End-

1 STATEMENT OF INTENT RE: HB 571

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19

House Bill 571 creates a Board of Physical Therapists.
The board would be allowed rulemaking authority.

It is the intent of the legislature that any rules
adopted by the board be limited to:

1. establishing minimum state requirements and
educational standards for those persons practicing physical
therapy in Montana;
2. assuring physicians practicing in any branch of
medicine, hospitals, and employing agencies that the persons
practicing physical therapy are qualified; and
3. protecting persons needing physical therapy from
fraudulent physical therapists by establishing licensing
requirements which ensure that only competent physical
therapists practice in Montana.

First adopted by the HOUSE COMMITTEE ON STATE
ADMINISTRATION on February 19, 1979.

HB 571

1 HOUSE BILL NO. 571

2 INTRODUCED BY MENAHAN, BY REQUEST

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF
5 PHYSICAL THERAPY EXAMINERS AND GENERALLY REVISING THE
6 PHYSICAL THERAPY LAWS; AMENDING SECTIONS 2-8-103, 37-11-101,
7 37-11-103, 37-11-201, 37-11-202, 37-11-301, 37-11-303,
8 37-11-307 THROUGH 37-11-309, AND 37-11-321, MCA+--AND
9 ~~PROVIDING-AN-EFFECTIVE-DATE.~~"

10
11 WHEREAS, the practice of physical therapy within the
12 state of Montana is a privilege granted by legislative
13 authority and is not a right of individuals; and

14 WHEREAS, it is necessary and in the best interests of
15 the health, safety, and welfare of the people of Montana to
16 provide laws covering the granting of licenses and their
17 regulation so that the public may be protected from the
18 unprofessional, unauthorized, or unqualified practice of
19 physical therapy and to license only competent physical
20 therapists to practice physical therapy.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 ~~NEW SECTION.~~ Section 1. Board of physical therapy
24 examiners. (1) There is a board of physical therapy
25 examiners.

1 (2) The board consists of three members appointed by
2 the governor, upon the recommendation of the Montana chapter
3 of the American physical therapy association, for a term of
4 3 years.

5 (3) Each member must have been a resident of Montana
6 and a practicing physical therapist for the 3 years
7 preceding appointment to the board, but need not be a member
8 of the Montana chapter of the American physical therapy
9 association.

10 (4) Within 30 days following [the effective date of
11 this act], the governor shall make initial appointments to
12 the board of physical therapy examiners. He shall appoint
13 one member each to hold office for terms of 1 year, 2 years,
14 and 3 years, respectively. At the end of each member's
15 appointed term, a member shall be appointed for a full
16 3-year term.

17 (5) Ninety days prior to the end of the board member's
18 term of office the Montana chapter of the American physical
19 therapy association shall submit to the governor a list of
20 individuals qualified to serve as a member of the board.
21 The list shall contain not less than three times the number
22 of candidates needed to fill the vacancies.

23 (6) A vacancy on the board must be filled in the same
24 manner as the original appointment, except that the names of
25 qualified individuals must be submitted to the governor upon

1 notice of a pending vacancy or within 10 days after a
2 vacancy occurs. These appointments may only be made for the
3 unexpired portions of the term.

4 (7) No member may be appointed for more than two
5 consecutive terms.

6 (8) The governor may remove any board member for
7 negligence in performance of any duty required by law and
8 for incompetence or unprofessional or dishonorable conduct.

9 (9) A board member is not liable to civil action for
10 any act performed in good faith in the execution of the
11 duties required by Title 35 3I, chapter 11.

12 (10) The board shall provide for its organizational
13 structure by rule, which shall include a chairman,
14 vice-chairman, and secretary-treasurer.

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

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

18 *2-8-103. Agencies to terminate. (1) The following
19 agencies shall terminate on July 1, 1979:

20 (a) board of abstracters, department of professional
21 and occupational licensing, created by 2-15-1643;

22 (b) board of public accountants, department of
23 professional and occupational licensing, created by
24 2-15-1641;

25 (c) board of architects, department of professional

1 and occupational licensing, created by 2-15-1651;

2 (d) state banking board, department of business
3 regulation, created by 2-15-1803;

4 (e) state electrical board, department of professional
5 and occupational licensing, created by 2-15-1654;

6 (f) board of professional engineers and land
7 surveyors, department of professional and occupational
8 licensing, created by 2-15-1653;

9 (g) office of commissioner of insurance and the
10 insurance department, state auditor's office, created by
11 2-15-1902 and 2-15-1903;

12 (h) office of the investment commissioner, state
13 auditor's office, created by 2-15-1901;

14 (i) board of landscape architects, department of
15 professional and occupational licensing, created by
16 2-15-1652;

17 (j) board of county printing, department of community
18 affairs, created by 2-15-1102;

19 (k) board of plumbers, department of professional and
20 occupational licensing, created by 2-15-1655;

21 (l) board of real estate, department of professional
22 and occupational licensing, created by 2-15-1642;

23 (m) state board of warm air heating, ventilation, and
24 air conditioning, department of professional and
25 occupational licensing, created by 2-15-1656;

1 (n) board of institutions, department of institutions,
2 created by 2-15-2303.

3 (2) The following agencies shall terminate on July 1,
4 1981:

5 (a) commission for human rights, department of labor
6 and industry, created by 2-15-1706;

7 (b) board of athletics, department of professional and
8 occupational licensing, created by 2-15-1661;

9 (c) board of barbers, department of professional and
10 occupational licensing, created by 2-15-1625;

11 (d) board of chiropractors, department of professional
12 and occupational licensing, created by 2-15-1613;

13 (e) board of cosmetologists, department of
14 professional and occupational licensing, created by
15 2-15-1626;

16 (f) board of dentists, department of professional and
17 occupational licensing, created by 2-15-1606;

18 (g) board of hearing aid dispensers, department of
19 professional and occupational licensing, created by
20 2-15-1616;

21 (h) board of massage therapists, department of
22 professional and occupational licensing, created by
23 2-15-1627;

24 (i) Montana state board of medical examiners,
25 department of professional and occupational licensing,

1 created by 2-15-1605;

2 (j) board of morticians, department of professional
3 and occupational licensing, created by 2-15-1619;

4 (k) board of nursing, department of professional and
5 occupational licensing, created by 2-15-1610;

6 (l) board of nursing home administrators, department
7 of professional and occupational licensing, created by
8 2-15-1611;

9 (m) board of optometrists, department of professional
10 and occupational licensing, created by 2-15-1612;

11 (n) board of osteopathic physicians, department of
12 professional and occupational licensing, created by
13 2-15-1607;

14 (o) board of pharmacists, department of professional
15 and occupational licensing, created by 2-15-1609;

16 (p) board of podiatry examiners, department of
17 professional and occupational licensing, created by
18 2-15-1608;

19 (q) board of psychologists, department of professional
20 and occupational licensing, created by 2-15-1617;

21 (r) board of radiologic technologists, department of
22 professional and occupational licensing, created by
23 2-15-1614;

24 (s) board of speech pathologists and audiologists,
25 department of professional and occupational licensing,

1 created by 2-15-1615;

2 (t) board of veterinarians, department of professional
3 and occupational licensing, created by 2-15-1618;

4 (u) board of veterans' affairs, department of social
5 and rehabilitation services, created by 2-15-2202.

6 (3) The following units of state government shall
7 terminate on July 1, 1983:

8 (a) board of aeronautics, department of community
9 affairs, created by 2-15-1103;

10 (b) state board of hail insurance, department of
11 agriculture, created by 2-15-3003;

12 (c) board of horseracing, department of professional
13 and occupational licensing, created by 2-15-1662;

14 (d) board of livestock, department of livestock,
15 created by 2-15-3102;

16 (e) board of milk control, department of business
17 regulation, created by 2-15-1802;

18 (f) board of oil and gas conservation, department of
19 natural resources and conservation, created by 2-15-3303;

20 (g) Montana outfitters council, department of fish and
21 game, created by 2-15-3403;

22 (h) public service commission, department of public
23 service regulation, created by 69-1-102;

24 (i) board of sanitarians, department of professional
25 and occupational licensing, created by 2-15-1631;

1 (j) board of water and wastewater operators,
2 department of health and environmental sciences, created by
3 2-15-2105;

4 (k) board of water well contractors, department of
5 professional and occupational licensing, created by
6 2-15-1632.

7 ~~(4) The following unit of state government shall~~
8 ~~terminate on July 1, 1983: board of physical therapy~~
9 ~~examiners, created by [section 1]."~~

10 Section 3. Section 37-11-101, MCA, is amended to read:
11 "37-11-101. Definitions. Unless the context requires
12 otherwise, in this chapter the following definitions apply:
13 (1) "Physical therapy" means the evaluation,
14 treatment, and instruction of ~~a bodily or mental~~ condition
15 ~~of a person~~ human beings to detect, assess, prevent,
16 correct, alleviate, and limit physical disability, bodily
17 malfunction and pain, injury, and any bodily or mental
18 conditions by the use of the ~~physical, chemical, and other~~
19 ~~properties of heat, light, water, electricity, massage, and~~
20 ~~therapeutic exercise including physical rehabilitation~~
21 procedures, therapeutic exercise and rehabilitative
22 procedures for the purpose of preventing, correcting, or
23 alleviating a physical or mental disability.

24 (2) "Physical therapist" or "physiotherapist" means a
25 person who practices physical therapy.

1 (3) "Physical therapy student" or "physical therapy
 2 intern" means an individual enrolled in an accredited
 3 physical therapy curriculum and who, as part of his
 4 professional, educational, and clinical trainings, is
 5 practicing in a physical therapy setting under the
 6 direction, guidance, and observation of a licensed physical
 7 therapist.

8 (4) "Physical therapy assistant" means a person who is
 9 a graduate of an accredited curriculum approved by the board
 10 and who assists a physical therapist in the practice of
 11 physical therapy and whose activities require an
 12 understanding of physical therapy.

13 (5) "Physical therapy aide" means a person who aides
 14 AIDS in the practice of physical therapy and whose
 15 activities require on-the-job training and supervision by a
 16 licensed physical therapist who must be available for
 17 periodic checks during any procedure or treatment involving
 18 a patient.

19 (3) (6) "Board" means the Montana--state board of
 20 medical physical therapy examiners provided for in 2-15-1609
 21 [section 1].

22 (4) (7) "Department" means the department of
 23 professional and occupational licensing provided for in
 24 Title 2, chapter 15, part 16.

25 (8) "Hearing" means the adjudicative proceeding

1 concerning the issuance, denial, suspension, or revocation
 2 of a license, after which the appropriate action toward an
 3 applicant or licensee is to be determined by the board."

4 NEW SECTION. Section 4. Physical therapy -- practiced
 5 under referral -- treatment. (1) Physical therapy is
 6 practiced under referral from physicians, osteopaths,
 7 dentists, and podiatrists and includes the administration,
 8 interpretation, and evaluation of tests and measurements of
 9 bodily functions and structures, the establishment and
 10 modification of treatment, and consultative, educational,
 11 and other advisory services, and instruction and supervision
 12 of supportive personnel.

13 (2) Treatment employs, for therapeutic effects,
 14 physical measures, activities and devices, for preventive
 15 and therapeutic purposes, exercises, rehabilitative
 16 procedures, massage, mobilization, and physical agents
 17 including but not limited to mechanical devices, heat, cold,
 18 air, light, water, electricity, and sound.

19 NEW SECTION. Section 5. Equivalent terms. "Physical
 20 therapy practitioner", "physical therapy specialist",
 21 "physiotherapy practitioner", or "manual therapists" are
 22 equivalent terms, and any derivation of the above or any
 23 letters implying the above are equivalent terms; any
 24 reference to any one of them in this chapter includes the
 25 others but does not include certified corrective therapists

1 or massage therapists.

2 NEW SECTION. Section 6. Supervision of physical
3 therapist assistants. A physical therapist assistant must
4 practice under the direct supervision of a licensed physical
5 therapist who is responsible for and participates in a
6 patient's care.

7 Section 7. Section 37-11-103, MCA, is amended to read:

8 "37-11-103. Restrictions on scope of practice. ††
9 Nothing in this chapter shall be construed as authorizing a
10 physical therapist, whether licensed or not, to practice
11 medicine, osteopathy, or chiropractic, dentistry, or
12 podiatry; nor shall Title 37, chapter 11, be construed to
13 limit or regulate any other business or profession or any
14 services rendered or performed in connection with physical
15 therapy.

16 ~~†2†--The use of roentgen rays and radium for diagnostic~~
17 ~~and therapeutic purposes and the use of electricity for~~
18 ~~surgical purposes, including coagulation, are not~~
19 ~~authorized under the term "physical therapy" as used in this~~
20 ~~chapter."~~

21 Section 8. Section 37-11-201, MCA, is amended to read:

22 "37-11-201. Rulemaking General powers -- rulemaking
23 power -- records. (1) The board may:
24 (a) adopt rules to carry this chapter into effect; and
25 (b) grant, suspend, and revoke licenses;

1 (c) issue subpoenas requiring the attendance of
2 witnesses or the production of books and papers; and

3 (d) take any other disciplinary action necessary to
4 protect the public.

5 (2) The board shall:

6 (a) examine applicants for licenses twice a year at
7 reasonable places and times determined by the board;

8 (b) review the qualifications of applicants who are
9 approved for examination for licensure; and

10 (c) conduct written examinations that measure the
11 qualifications of individual applicants along with any oral
12 or practical examinations when determined by the board to be
13 appropriate.

14 ~~†2†(3)~~ The department shall keep a record of the
15 board's proceedings under this chapter and a register of
16 persons licensed under it. The register shall show the name
17 of every living licensed physical therapist, his last-known
18 place of business, last-known place of residence, and the
19 date and number of his license and certificate as a licensed
20 physical therapist.

21 ~~†3†(4)~~ The department shall, during the month of April
22 every year in which the renewal of licenses is required,
23 compile a list of licensed physical therapists authorized to
24 practice physical therapy in the state and shall mail, upon
25 request, a copy of that list to the superintendent of every

1 known hospital and every person licensed to practice
2 medicine and surgery in the state. An interested person in
3 the state is entitled to obtain a copy of the list on
4 application to the department and payment of an amount not
5 in excess of the cost of the list so furnished.

6 ~~(5) The department may change addresses and surnames
7 on the licensee's records only on the specific written
8 request by the individual licensee.~~

9 Section 9. Section 37-11-202, MCA, is amended to read:

10 "37-11-202. Investigation and report of violations.

11 (1) The board shall:

12 (a) investigate every supposed ~~alleged~~ violation of
13 this chapter coming to its notice; and ~~shall~~

14 (b) report to the proper authority all cases that, in
15 the judgment of the board, warrant prosecution;

16 (c) ~~formulate a written complaint process for the use
17 in reporting alleged violations;~~

18 (d) ~~assist the proper county attorney or the attorney
19 general in the prosecution of all persons who violate any
20 provision of Title 37, chapter 11.~~

21 (2) ~~The attorney general shall serve as attorney for
22 the board.~~

23 **NEW SECTION.** Section 10. Travel expense -- deposit of
24 fees. (1) Each board member shall be reimbursed for travel
25 expenses as provided for in 2-18-501 through 2-18-503 for

1 each day actually engaged in the duties of his office.

2 (2) All fees collected by the department shall be
3 deposited in the earmarked revenue account for the use of
4 the board, subject to 37-1-101(6). The department shall keep
5 an accurate account of funds received and expenditures made
6 from the account.

7 (3) The board of medical examiners shall transfer
8 funds in the earmarked revenue account collected after
9 January 1, 1979, which were derived from the examination and
10 licensure or relicensure of physical therapists in this
11 state to the earmarked account designated as the "physical
12 therapist account".

13 Section 11. Section 37-11-301, MCA, is amended to
14 read:

15 "37-11-301. Unauthorized representation as licensed
16 therapist. A person who is not licensed under this chapter
17 as a physical therapist or whose license has been suspended
18 or revoked or whose license has lapsed and has not been
19 revived who uses in connection with his name the words or
20 letters "L.P.T.", "Licensed Physical Therapist", "~~PaIa~~
21 "~~Physical Therapist~~", "~~R.PaI.~~", "~~Registered Physical~~
22 "~~Therapist~~", or any other letters, words, or insignia
23 indicating or implying that he is a licensed physical
24 therapist or who in any way, orally or in writing or in
25 print or by sign, directly or by implication, represents

1 himself as a physical therapist shall be guilty of a
2 misdemeanor."

3 Section 12. Section 37-11-303, MCA, is amended to
4 read:

5 "37-11-303. Qualifications of applicants for license.
6 To be eligible for a license as a physical therapist, an
7 applicant must:

8 (1) be of good moral character and at least 18 years
9 of age;

10 (2) have graduated from a an accredited school of
11 physical therapy approved by the ~~council~~ of medical
12 ~~education and hospitals of the American medical association~~
13 board;

14 (3) either:

15 (a) pass to the satisfaction of the board an
16 examination to determine his fitness for practice as a
17 physical therapist; or

18 (b) be entitled to a license without examination under
19 37-11-307."

20 Section 13. Section 37-11-307, MCA, is amended to
21 read:

22 "37-11-307. Applicants licensed in other states. The
23 board may, in its discretion, authorize the department to
24 register license as a physical therapist, without
25 examination, on the payment of the required fee, not to

1 exceed \$100; as established by the board, an applicant for
2 license who is a physical therapist licensed under the laws
3 of another state or territory if the requirements for a
4 license for physical therapists in the state or territory in
5 which the applicant was licensed were at the date of his
6 license substantially equal to the requirements in force in
7 this state. However, the board may require a written, oral,
8 or practical examination."

9 Section 14. Section 37-11-308, MCA, is amended to
10 read:

11 "37-11-308. Annual renewal of license -- fee. A
12 licensed physical therapist shall, during January, apply to
13 the department for a renewal of his license and pay a fee of
14 \$5 not to exceed \$50 which shall be set by board rule. A
15 license that is not renewed before April every year
16 automatically lapses. The board may, in its discretion,
17 revive and renew a lapsed license on the payment of all past
18 unpaid renewal fees or a late renewal fee."

19 Section 15. Section 37-11-309, MCA, is amended to
20 read:

21 "37-11-309. Temporary license. (1) On payment to the
22 department of a fee of ~~\$10~~ not to exceed \$100 which shall be
23 set by board rule and the submission of a written
24 application on forms provided by it, the department shall
25 issue, without examination, a temporary license to practice

1 physical therapy in this state for a period not to exceed 1
 2 year to a person who meets the qualifications set forth in
 3 37-11-303, on submission by the person of evidence
 4 satisfactory to the board that he is in this state on a
 5 temporary basis to assist in a case of medical emergency or
 6 to engage in a special physical therapy project.

7 (2) On the submission of a written application on
 8 forms provided by it, the department shall issue a temporary
 9 license to a person who has applied for a license under this
 10 chapter and who is, in the judgment of the board, eligible
 11 to take the examination provided for in 37-11-303. This
 12 temporary license is available to an applicant only with
 13 respect to his first application for a license under
 14 37-11-307, ~~or to a foreign-trained physical therapist,~~ and
 15 the license expires when the board makes a final
 16 determination with respect to the application."

17 NEW SECTION. Section 16. Foreign-trained applicants.
 18 The foreign-trained physical therapist applicant's
 19 transcripts will be evaluated by the board. The board will
 20 compare the applicant's transcript to the standards set by
 21 the American physical therapy association. If the
 22 applicant's professional education credit hours are approved
 23 by the board, and the school the applicant attended was
 24 approved by the American physical therapy association at the
 25 time the applicant attended, the applicant is eligible for a

1 temporary license prior to examination.

2 Section 17. Section 37-11-321, MCA, is amended to
 3 read:

4 "37-11-321. Refusal to issue or renew license. The
 5 board, after due notice and hearing, may refuse to license
 6 any applicant, and ~~AND~~ may refuse to renew, ~~may suspend, may~~
 7 ~~revoke, or take lesser disciplinary action on~~ the license of
 8 any licensed person who:

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

11 (2) has been convicted of violating any state or
 12 federal narcotic law, subject to chapter 1, part 2 of this
 13 title;

14 (3) is, in the judgment of the board, guilty of
 15 immoral or unprofessional conduct ~~as defined by board rule;~~

16 (4) has been convicted of any crime involving moral
 17 turpitude, subject to chapter 1, part 2 of this title;

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

20 (6) has obtained or attempted to obtain registration
 21 licensure by fraud or material misrepresentation;

22 (7) has been declared to be seriously mentally ill by
 23 a court of competent jurisdiction and has not thereafter
 24 been released from treatment ~~and declared not to be~~
 25 ~~seriously mentally ill;~~

1 (8) has treated or undertaken to treat ailments of
2 human beings otherwise than by physical therapy; or

3 ~~(9) has undertaken to practice physical therapy~~
4 ~~independent of prescription from a person who holds an~~
5 ~~unlimited license to practice medicine and surgery in~~
6 ~~Montana and other states and territories.~~

7 ~~(9) is guilty, in the judgement of the boards, of~~
8 ~~conduct unbecoming a person licensed as a physical therapist~~
9 ~~or of conduct detrimental to the best interests of the~~
10 ~~public; or~~

11 ~~(10) has practiced physical therapy beyond the scope~~
12 ~~and limitation of his training and education."~~

13 **NEW SECTION.** Section 18. Display of license. Each
14 licensee shall display his original license or an official
15 duplicate issued by the department and a renewal certificate
16 in a conspicuous place in the principal office where he
17 practices physical therapy. A reproduction displayed in lieu
18 of the above is not authorized unless such **INE** reproduction
19 is signed and notarized by a notary public.

20 Section 19. Saving clause. A license to practice
21 physical therapy issued prior to the effective date of this
22 act remains in effect for the period of its validity but
23 upon expiration may be renewed only in accordance with this
24 act.

25 Section 20. Codification. (1) Section 1 is intended to

1 be codified as an integral part of Title 2, chapter 15, part
2 16, and the provisions contained in Title 2, chapter 15,
3 part 16, apply to section 1.

4 (2) Sections 4 through 6, 10, 16, and 18 are intended
5 to be codified as an integral part of Title 37, chapter 11,
6 and the provisions contained in Title 37, chapter 11, apply
7 to sections 4 through 6, 10, 16, and 18.

8 Section 21. ~~Effective date.~~ This act is effective on
9 passage and approval.

-End-

1 STATEMENT OF INTENT RE: HB 571

2

3

4 House Bill 571 creates a Board of Physical Therapists.

5 The board would be allowed rulemaking authority.

6 It is the intent of the legislature that any rules

7 adopted by the board be limited to:

8 1. establishing minimum state requirements and
9 educational standards for those persons practicing physical
10 therapy in Montana;

11 2. assuring physicians practicing in any branch of
12 medicine, hospitals, and employing agencies that the persons
13 practicing physical therapy are qualified; and

14 3. protecting persons needing physical therapy from
15 fraudulent physical therapists by establishing licensing
16 requirements which ensure that only competent physical
17 therapists practice in Montana.

18 First adopted by the HOUSE COMMITTEE ON STATE
19 ADMINISTRATION on February 19, 1979.

HB 571

HOUSE BILL NO. 571
INTRODUCED BY MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF PHYSICAL THERAPY EXAMINERS AND GENERALLY REVISING THE PHYSICAL THERAPY LAWS; AMENDING SECTIONS 2-8-103, 37-11-101, 37-11-103, 37-11-201, 37-11-202, 37-11-301, 37-11-303, 37-11-307 THROUGH 37-11-309, AND 37-11-321, MCA;--AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the practice of physical therapy within the state of Montana is a privilege granted by legislative authority and is not a right of individuals; and

WHEREAS, it is necessary and in the best interests of the health, safety, and welfare of the people of Montana to provide laws covering the granting of licenses and their regulation so that the public may be protected from the unprofessional, unauthorized, or unqualified practice of physical therapy and to license only competent physical therapists to practice physical therapy.

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

NEW SECTION. Section 1. Board of physical therapy examiners. (1) There is a board of physical therapy examiners.

(2) The board consists of three members appointed by the governor, upon the recommendation of the Montana chapter of the American physical therapy association, for a term of 3 years.

(3) Each member must have been a resident of Montana and a practicing physical therapist for the 3 years preceding appointment to the board, but need not be a member of the Montana chapter of the American physical therapy association.

(4) Within 30 days following [the effective date of this act], the governor shall make initial appointments to the board of physical therapy examiners. He shall appoint one member each to hold office for terms of 1 year, 2 years, and 3 years, respectively. At the end of each member's appointed term, a member shall be appointed for a full 3-year term.

(5) Ninety days prior to the end of the board member's term of office ~~A NOMINATING COMMITTEE COMPRISED OF MEMBERS AND NONMEMBERS~~ OF the Montana chapter of the American physical therapy association shall submit to the governor a list of individuals qualified to serve as a member of the board. The list shall contain not less than three times the number of candidates needed to fill the vacancies.

(6) A vacancy on the board must be filled in the same manner as the original appointment, except that the names of

1 qualified individuals must be submitted to the governor upon
2 notice of a pending vacancy or within 10 days after a
3 vacancy occurs. These appointments may only be made for the
4 unexpired portions of the term.

5 (7) No member may be appointed for more than two
6 consecutive terms.

7 (8) The governor may remove any board member for
8 negligence in performance of any duty required by law and
9 for incompetence or unprofessional or dishonorable conduct.

10 (9) A board member is not liable to civil action for
11 any act performed in good faith in the execution of the
12 duties required by Title 35 11, chapter 11.

13 (10) The board shall provide for its organizational
14 structure by rules, which shall include a chairman,
15 vice-chairman, and secretary-treasurer.

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

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

19 "2-8-103. Agencies to terminate. (1) The following
20 agencies shall terminate on July 1, 1979:

21 (a) board of abstracters, department of professional
22 and occupational licensing, created by 2-15-1643;

23 (b) board of public accountants, department of
24 professional and occupational licensing, created by
25 2-15-1641;

1 (c) board of architects, department of professional
2 and occupational licensing, created by 2-15-1651;

3 (d) state banking board, department of business
4 regulation, created by 2-15-1803;

5 (e) state electrical board, department of professional
6 and occupational licensing, created by 2-15-1654;

7 (f) board of professional engineers and land
8 surveyors, department of professional and occupational
9 licensing, created by 2-15-1653;

10 (g) office of commissioner of insurance and the
11 insurance department, state auditor's office, created by
12 2-15-1902 and 2-15-1903;

13 (h) office of the investment commissioner, state
14 auditor's office, created by 2-15-1901;

15 (i) board of landscape architects, department of
16 professional and occupational licensing, created by
17 2-15-1652;

18 (j) board of county printing, department of community
19 affairs, created by 2-15-1102;

20 (k) board of plumbers, department of professional and
21 occupational licensing, created by 2-15-1655;

22 (l) board of real estate, department of professional
23 and occupational licensing, created by 2-15-1642;

24 (m) state board of warm air heating, ventilation, and
25 air conditioning, department of professional and

1 occupational licensing, created by 2-15-1656;
 2 (n) board of institutions, department of institutions,
 3 created by 2-15-2303.
 4 (2) The following agencies shall terminate on July 1,
 5 1981:
 6 (a) commission for human rights, department of labor
 7 and industry, created by 2-15-1706;
 8 (b) board of athletics, department of professional and
 9 occupational licensing, created by 2-15-1661;
 10 (c) board of barbers, department of professional and
 11 occupational licensing, created by 2-15-1625;
 12 (d) board of chiropractors, department of professional
 13 and occupational licensing, created by 2-15-1613;
 14 (e) board of cosmetologists, department of
 15 professional and occupational licensing, created by
 16 2-15-1626;
 17 (f) board of dentists, department of professional and
 18 occupational licensing, created by 2-15-1606;
 19 (g) board of hearing aid dispensers, department of
 20 professional and occupational licensing, created by
 21 2-15-1616;
 22 (h) board of massage therapists, department of
 23 professional and occupational licensing, created by
 24 2-15-1627;
 25 (i) Montana state board of medical examiners,

1 department of professional and occupational licensing,
 2 created by 2-15-1605;
 3 (j) board of morticians, department of professional
 4 and occupational licensing, created by 2-15-1619;
 5 (k) board of nursing, department of professional and
 6 occupational licensing, created by 2-15-1610;
 7 (l) board of nursing home administrators, department
 8 of professional and occupational licensing, created by
 9 2-15-1611;
 10 (m) board of optometrists, department of professional
 11 and occupational licensing, created by 2-15-1612;
 12 (n) board of osteopathic physicians, department of
 13 professional and occupational licensing, created by
 14 2-15-1607;
 15 (o) board of pharmacists, department of professional
 16 and occupational licensing, created by 2-15-1609;
 17 (p) board of podiatry examiners, department of
 18 professional and occupational licensing, created by
 19 2-15-1608;
 20 (q) board of psychologists, department of professional
 21 and occupational licensing, created by 2-15-1617;
 22 (r) board of radiologic technologists, department of
 23 professional and occupational licensing, created by
 24 2-15-1614;
 25 (s) board of speech pathologists and audiologists,

1 department of professional and occupational licensing,
 2 created by 2-15-1615;
 3 (t) board of veterinarians, department of professional
 4 and occupational licensing, created by 2-15-1618;
 5 (u) board of veterans' affairs, department of social
 6 and rehabilitation services, created by 2-15-2202.
 7 (3) The following units of state government shall
 8 terminate on July 1, 1983:
 9 (a) board of aeronautics, department of community
 10 affairs, created by 2-15-1103;
 11 (b) state board of hail insurance, department of
 12 agriculture, created by 2-15-3003;
 13 (c) board of horseracing, department of professional
 14 and occupational licensing, created by 2-15-1662;
 15 (d) board of livestock, department of livestock,
 16 created by 2-15-3102;
 17 (e) board of milk control, department of business
 18 regulation, created by 2-15-1802;
 19 (f) board of oil and gas conservation, department of
 20 natural resources and conservation, created by 2-15-3303;
 21 (j) Montana outfitters council, department of fish and
 22 game, created by 2-15-3403;
 23 (h) public service commission, department of public
 24 service regulation, created by 69-1-102;
 25 (i) board of sanitarians, department of professional

1 and occupational licensing, created by 2-15-1631;
 2 (j) board of water and wastewater operators,
 3 department of health and environmental sciences, created by
 4 2-15-2105;
 5 (k) board of water well contractors, department of
 6 professional and occupational licensing, created by
 7 2-15-1632.
 8 ~~(4) The following unit of state government shall~~
 9 ~~terminate on July 1, 1983; board of physical therapy~~
 10 ~~examiners created by (section 1)A"~~
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 19 conditions by the use of the ~~physical, chemical, and other~~
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 25 (2) "Physical therapist" or "physiotherapist" means a

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22 ~~[section 1].~~

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12 and other advisory services, and instruction and supervision
13 of supportive personnel.

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20 ~~NEW SECTION.~~ Section 5. Equivalent terms. "Physical
21 therapy practitioner", "physical therapy specialist",
22 "physiotherapy practitioner", or "manual therapists" are
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2 ~~(c) issue subpoenas requiring the attendance of~~
3 ~~witnesses or the production of books and papers; and~~
4 ~~(d) take any other disciplinary action necessary to~~
5 ~~protect the public.~~

6 (2) The board shall:

7 (a) examine applicants for licenses twice a year at
8 reasonable places and times determined by the board;

9 (b) review the qualifications of applicants who are
10 approved for examination for licensure; and

11 (c) conduct written examinations that measure the
12 qualifications of individual applicants along with any oral
13 or practical examinations when determined by the board to be
14 appropriate.

15 ††(3) The department shall keep a record of the
16 board's proceedings under this chapter and a register of
17 persons licensed under it. The register shall show the name
18 of every living licensed physical therapist, his last-known
19 place of business, last-known place of residence, and the
20 date and number of his license and certificate as a licensed
21 physical therapist.

22 ††(4) The department shall, during the month of April
23 every year in which the renewal of licenses is required,
24 compile a list of licensed physical therapists authorized to
25 practice physical therapy in the state and shall mail _____

1 ~~request;~~ a copy of that list to the superintendent of every
 2 known hospital and every person licensed to practice
 3 medicine and surgery in the state. An interested person in
 4 the state is entitled to obtain a copy of the list on
 5 application to the department and payment of an amount not
 6 in excess of the cost of the list so furnished.

7 ~~(5) The department may change addresses and surnames~~
 8 ~~on the licensee's records only on the specific written~~
 9 ~~request by the individual licensee."~~

10 Section 9. Section 37-11-202, MCA, is amended to read:

11 "37-11-202. Investigation and report of violations.

12 (1) The board shall:

13 (a) investigate every supposed alleged violation of
 14 this chapter coming to its notice; and shall

15 (b) report to the proper authority all cases that, in
 16 the judgment of the board, warrant prosecution;

17 (c) ~~formulate a written complaint process for the use~~
 18 ~~in reporting alleged violations;~~

19 (d) ~~assist the proper county attorney or the attorney~~
 20 ~~general in the prosecution of all persons who violate any~~
 21 ~~provision of Title 37, Chapter 11.~~

22 (2) ~~The attorney general shall serve as attorney for~~
 23 ~~the boards."~~

24 NEW SECTION. Section 10. Travel expense -- deposit of
 25 fees. (1) Each board member shall be reimbursed for travel

1 expenses as provided for in 2-18-501 through 2-18-503 for
 2 each day actually engaged in the duties of his office.

3 (2) All fees collected by the department shall be
 4 deposited in the earmarked revenue account for the use of
 5 the board, subject to 37-1-101(6). The department shall keep
 6 an accurate account of funds received and expenditures made
 7 from the account.

8 (3) The board of medical examiners shall transfer
 9 funds in the earmarked revenue account collected after
 10 January 1, 1979, which were derived from the examination and
 11 licensure or relicensure of physical therapists in this
 12 state to the earmarked account designated as the "physical
 13 therapist account".

14 Section 11. Section 37-11-301, MCA, is amended to
 15 read:

16 "37-11-301. Unauthorized representation as licensed
 17 therapist. A person who is not licensed under this chapter
 18 as a physical therapist or whose license has been suspended
 19 or revoked or whose license has lapsed and has not been
 20 revived who uses in connection with his name the words or
 21 letters "L.P.T.", "Licensed Physical Therapist", "P.T.",
 22 "Physical Therapist", "R.P.T.", "Registered Physical
 23 Therapist" or any other letters, words, or insignia
 24 indicating or implying that he is a licensed physical
 25 therapist or who in any way, orally or in writing or in

1 print or by sign, directly or by implication, represents
2 himself as a physical therapist shall be guilty of a
3 misdemeanor."

4 Section 12. Section 37-11-303, MCA, is amended to
5 read:

6 "37-11-303. Qualifications of applicants for license.
7 To be eligible for a license as a physical therapist, an
8 applicant must:

9 (1) be of good moral character and at least 18 years
10 of age;

11 (2) have graduated from an accredited school of
12 physical therapy approved by the council---of---medical
13 education---and-hospitals-of-the-American-medical-association
14 board;

15 (3) either:

16 (a) pass to the satisfaction of the board an
17 examination to determine his fitness for practice as a
18 physical therapist; or

19 (b) be entitled to a license without examination under
20 37-11-307."

21 Section 13. Section 37-11-307, MCA, is amended to
22 read:

23 "37-11-307. Applicants licensed in other states. The
24 board may, in its discretion, authorize the department to
25 register license as a physical therapist, without

1 examination, on the payment of the required fee, not to
2 exceed \$100, as established by the board, an applicant for
3 license who is a physical therapist licensed under the laws
4 of another state or territory if the requirements for a
5 license for physical therapists in the state or territory in
6 which the applicant was licensed were at the date of his
7 license substantially equal to the requirements in force in
8 this state. However, the board may require a written, oral,
9 or practical examination."

10 Section 14. Section 37-11-308, MCA, is amended to
11 read:

12 "37-11-308. Annual renewal of license -- fee. A
13 licensed physical therapist shall, during January, apply to
14 the department for a renewal of his license and pay a fee of
15 \$5 not to exceed \$50 which shall be set by board rule. A
16 license that is not renewed before April every year
17 automatically lapses. The board may, in its discretion,
18 revive and renew a lapsed license on the payment of all past
19 unpaid renewal fees or a late renewal fee."

20 Section 15. Section 37-11-309, MCA, is amended to
21 read:

22 "37-11-309. Temporary license. (1) On payment to the
23 department of a fee of \$10 not to exceed \$100 which shall be
24 set by board rule and the submission of a written
25 application on forms provided by it, the department shall

1 issue, without examination, a temporary license to practice
 2 physical therapy in this state for a period not to exceed 1
 3 year to a person who meets the qualifications set forth in
 4 37-11-303, on submission by the person of evidence
 5 satisfactory to the board that he is in this state on a
 6 temporary basis to assist in a case of medical emergency or
 7 to engage in a special physical therapy project.

8 (2) On the submission of a written application on
 9 forms provided by it, the department shall issue a temporary
 10 license to a person who has applied for a license under this
 11 chapter and who is, in the judgment of the board, eligible
 12 to take the examination provided for in 37-11-303. This
 13 temporary license is available to an applicant only with
 14 respect to his first application for a license under
 15 37-11-307, ~~or to a foreign-trained physical therapist,~~ and
 16 the license expires when the board makes a final
 17 determination with respect to the application."

18 NEW SECTION. Section 16. Foreign-trained applicants.
 19 The foreign-trained physical therapist applicant's
 20 transcripts will be evaluated by the board. The board will
 21 compare the applicant's transcript to the standards set by
 22 the American physical therapy association. If the
 23 applicant's professional education credit hours are approved
 24 by the board, and the school the applicant attended was
 25 approved by the American physical therapy association at the

1 time the applicant attended, the applicant is eligible for a
 2 temporary license prior to examination.

3 Section 17. Section 37-11-321, MCA, is amended to
 4 read:

5 "37-11-321. Refusal to issue or renew license. The
 6 board, after due notice and hearing, may refuse to license
 7 any applicant, and AND may refuse to renew, ~~may suspend, may~~
 8 ~~revoke, or take lesser disciplinary action on~~ the license of
 9 any licensed person who:

10 (1) is habitually intoxicated or is addicted to the
 11 use of narcotic drugs;

12 (2) has been convicted of violating any state or
 13 federal narcotic law, subject to chapter 1, part 2 of this
 14 title;

15 (3) is, in the judgment of the board, guilty of
 16 immoral or unprofessional conduct as defined by board rule;

17 (4) has been convicted of any crime involving moral
 18 turpitude, subject to chapter 1, part 2 of this title;

19 (5) is guilty, in the judgment of the board, of gross
 20 negligence in his practice as a physical therapist;

21 (6) has obtained or attempted to obtain registration
 22 licensure by fraud or material misrepresentation;

23 (7) has been declared to be seriously mentally ill by
 24 a court of competent jurisdiction and has not thereafter
 25 been released from treatment and declared not to be

1 seriously mentally ill;
 2 (8) has treated or undertaken to treat ailments of
 3 human beings otherwise than by physical therapy; or
 4 ~~(9) has undertaken to practice physical therapy~~
 5 ~~independent of prescription from a person who holds an~~
 6 ~~unlimited license to practice medicine and surgery in~~
 7 ~~Montana and other states and territories;~~
 8 (9) is guilty, in the judgement of the board, of
 9 conduct unbecoming a person licensed as a physical therapist
 10 or of conduct detrimental to the best interests of the
 11 public; or
 12 (10) has practiced physical therapy beyond the scope
 13 and limitation of his training and education."
 14 NEW SECTION. Section 18. Display of license. Each
 15 licensee shall display his original license or an official
 16 duplicate issued by the department and a renewal certificate
 17 in a conspicuous place in the principal office where he
 18 practices physical therapy. A reproduction displayed in lieu
 19 of the above is not authorized unless such THE reproduction
 20 is signed and notarized by a notary public.
 21 Section 19. Saving clause. A license to practice
 22 physical therapy issued prior to the effective date of this
 23 act remains in effect for the period of its validity but
 24 upon expiration may be renewed only in accordance with this
 25 act.

1 Section 20. Codification. (1) Section 1 is intended to
 2 be codified as an integral part of Title 2, chapter 15, part
 3 16, and the provisions contained in Title 2, chapter 15,
 4 part 16, apply to section 1.
 5 (2) Sections 4 through 6, 10, 16, and 18 are intended
 6 to be codified as an integral part of Title 37, chapter 11,
 7 and the provisions contained in Title 37, chapter 11, apply
 8 to sections 4 through 6, 10, 16, and 18.
 9 ~~Section 21. Effective date. This act is effective on~~
 10 ~~passage and approval.~~

-End-

March 15, 1979

SENATE STANDING COMMITTEE REPORT
(Public Health, Welfare & Safety)

That House Bill No. 571 be amended as follows:

1. Page 2, line 18.

Following: "office"

Insert: "a nominating committee comprised of members and non-members
of"