

SENATE BILL NO. 307

INTRODUCED BY HIMSL, S. BROWN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

January 28, 1981	Introduced and referred to Committee on Business and Industry.
February 9, 1981	Committee recommend bill do pass as amended. Report adopted.
February 10, 1981	Bill printed and placed on members' desks.
February 11, 1981	Second reading, do pass.
February 12, 1981	Correctly engrossed.
February 13, 1981	Third reading, passed. Ayes, 49; Noes, 1. Transmitted to House.

IN THE HOUSE

February 14, 1981	Introduced and referred to Committee on Human Services.
March 7, 1981	Committee recommend bill be concurred in and placed on consent calendar. Report adopted.
March 9, 1981	Consent calendar discussion.
March 10, 1981	Consent calendar, concurred in. Ayes, 92; Noes, 2.

IN THE SENATE

March 11, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Leah* BILL NO. *307*
 2 INTRODUCED BY *Glenn* *STEVE BROWN*
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE
 6 REQUIREMENT THAT DENTISTS, OSTEOPATHIC PHYSICIANS, PODIATRY
 7 EXAMINERS, OPTOMETRISTS, AND CHIROPRACTORS MUST REGISTER
 8 THEIR LICENSES IN COUNTIES WHERE THEY PRACTICE; AMENDING
 9 SECTIONS 37-4-303, 37-6-304, AND 37-10-301, MCA; AND
 10 REPEALING SECTIONS 37-4-304, 37-4-305, 37-5-306, 37-10-305,
 11 AND 37-12-306, MCA."
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13 WHEREAS, during the course of its sunset audits the
 14 legislative audit committee noted that licensees of several
 15 professions are required to register their licenses with the
 16 county clerk and recorder; and

17 WHEREAS, all such licensees are licensed by the state
 18 and county registration serves no public purpose.

19 THEREFORE, it is the intent of this bill to delete
 20 county registration requirements for members of various
 21 professions.
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23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 24 Section 1. Section 37-4-303, MCA, is amended to read:
 25 "37-4-303. ~~Certificate--to--be--registered--in--county~~

1 ~~where--practicing-----repealing~~ Replacing lost certificate.
 2 ~~(1)-The-certificate-under-this-chapter-entitles--the--holder~~
 3 ~~to--practice--dentistry--in--any-county-in-this-state-if-the~~
 4 ~~certificate-is-first-filed-for-registration--and--registered~~
 5 ~~in-the-office-of-the-county-clerk-and-recorder-of-the-county~~
 6 ~~in--which--the-holder-desires-to-practice--This-chapter-does~~
 7 ~~not-permit-a-holder-of-a-certificate-to-practice-in-a-county~~
 8 ~~in--this--state--unless--the--certificate--has--been--first~~
 9 ~~registered--in--the--office-of-the-clerk-and-recorder-of-the~~
 10 ~~county--A-holder-of-a-certificate-may-practice-in-more--than~~
 11 ~~one-or-in-any-number-of-counties-in-this-state-on-having-the~~
 12 ~~certificate--registered-in-each-of-the-counties-in-which-the~~
 13 ~~holder-desires-to-practice--~~

14 (2) The department shall, on proof satisfactory to the
 15 board of the loss of a certificate issued under this
 16 chapter, issue a duplicate certificate, and a fee of \$10
 17 shall be charged for issuing the certificate."

18 Section 2. Section 37-6-304, MCA, is amended to read:
 19 "37-6-304. Designations on license -- recording --
 20 annual renewal fee -- display. (1) A license issued under
 21 this chapter shall be designated as a "registered
 22 podiatrist's license" and may not contain any abbreviations
 23 thereof or any other designation or title, except that a
 24 statement of limitation shall be contained in the license
 25 referring to the licensee as a "registered

1 podiatrist--practice limited to the foot" so as not to
2 mislead the public with respect to his right to treat other
3 portions of the body.

4 (2) Licenses shall be recorded by the department the
5 same as other medical licenses. ~~the person receiving the~~
6 ~~license shall have it recorded in the office of the county~~
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8 ~~shall be endorsed on it. If the person licensed moves to~~
9 ~~another county to practice, he shall record the license in~~
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13 (3) A license renewal fee set by the board in an
14 amount not to exceed \$25 shall be paid annually on July 1 of
15 each year, and if not paid within 3 months, the license
16 shall be revoked and may be reissued only on original
17 application and payment of a fee of \$35.

18 (4) Licenses shall be conspicuously displayed by
19 podiatrists at their offices or other places of practice."

20 Section 3. Section 37-10-301, MCA, is amended to read:
21 "37-10-301. Certificate required for practice --
22 unlawful acts -- injunction. (1) It is unlawful for a person
23 to:

24 (a) practice optometry in this state unless he has
25 first obtained a certificate of registration ~~and filed it or~~

1 ~~a certified copy with the county clerk and recorder of the~~
2 ~~county of his residence;~~

3 (b) sell, barter, or offer to sell or barter a
4 certificate of registration issued by the department;

5 (c) purchase or procure by barter a certificate of
6 registration with intent to use it as evidence of the
7 holder's qualification to practice optometry;

8 (d) materially alter with fraudulent intent a
9 certificate of registration;

10 (e) use or attempt to use a certificate of
11 registration which has been purchased, fraudulently issued,
12 counterfeited, or materially altered as a valid certificate
13 of registration;

14 (f) practice optometry under a false or assumed name;

15 (g) willfully make a materially false statement in an
16 application for an examination by the department or for a
17 certificate of registration;

18 (h) advertise by displaying a sign or by otherwise
19 holding himself out to be an optometrist without having at
20 the time a valid certificate of registration;

21 (i) replace or duplicate ophthalmic lenses with or
22 without a prescription or to dispense ophthalmic lenses from
23 prescriptions without having at the time a valid certificate
24 of registration as an optometrist; however, this subsection
25 does not prevent an optical mechanic from doing the merely

1 mechanical work on an ophthalmic lens which is ordered on a
 2 prescription signed by a registered optometrist and is
 3 dispensed only by the optometrist or a person employed by
 4 the optometrist and who does so in the office of and under
 5 the direct personal supervision of an optometrist;

6 (j) take or make measurements for the purpose of
 7 fitting or adapting ophthalmic lenses to the human eye
 8 without having at the time a valid certificate of
 9 registration. A person who takes or makes measurements or
 10 uses mechanical devices for this purpose or who, in the sale
 11 of spectacles, eyeglasses, or lenses, uses in the testing of
 12 the eyes lenses other than the lenses actually sold is
 13 practicing optometry. However, this section does not apply
 14 to the prescriptions of qualified optometrists when sent to
 15 a recognized optical laboratory.

16 (k) advertise at a price or stated terms of a price or
 17 as being free, the following:

18 (i) the examination or treatment of the eyes;

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20 (iii) furnishing a lens, lenses, contact lens, contact
 21 lenses, glasses, frames, or fitting thereof. However, this
 22 subsection does not apply to advertising goggles,
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 24 devices if they are not made with refractive values and are
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1 or professional service.

2 (1) adapt a lens to direct, contiguous contact to the
 3 human eyeball without having at the time a valid certificate
 4 of registration as an optometrist.

5 (2) When the board has reasonable cause to believe
 6 that a person is violating this section or a rule issued
 7 under this chapter, it may, in addition to other remedies
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 9 relief in district court in the county where the violation
 10 occurs to enjoin the person from engaging in or continuing
 11 the violation. The department may employ legal counsel to
 12 prosecute these actions. In these actions and on notice and
 13 hearing, an order or judgment may be entered awarding a
 14 temporary restraining order or final injunction as
 15 considered proper by the judge of the district court in the
 16 county where the violation occurred."

17 Section 4. Repealer. Sections 37-4-304, 37-4-305,
 18 37-5-306, 37-10-305, and 37-12-306, MCA, are repealed.

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Approved by Committee
on Business and Industry

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7 EXAMINERS PODIATRISTS, OPTOMETRISTS, AND CHIROPRACTORS MUST
8 REGISTER THEIR LICENSES IN COUNTIES WHERE THEY PRACTICE;
9 AMENDING SECTIONS 37-4-303, 37-6-304, AND 37-10-301, MCA;
10 AND REPEALING SECTIONS 37-4-304, 37-4-305, 37-5-306,
11 37-10-305, AND 37-12-306, MCA."

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13 WHEREAS, during the course of its sunset audits the
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2 ~~{1} The certificate under this chapter entitles the holder~~
3 ~~to practice dentistry in any county in this state if the~~
4 ~~certificate is first filed for registration and registered~~
5 ~~in the office of the county clerk and recorder of the county~~
6 ~~in which the holder desires to practice. This chapter does~~
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15 board of the loss of a certificate issued under this
16 chapter, issue a duplicate certificate, and a fee of \$10
17 shall be charged for issuing the certificate."

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19 "37-6-304. Designations on license -- recording --
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21 this chapter shall be designated as a "registered
22 podiatrist's license" and may not contain any abbreviations
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24 statement of limitation shall be contained in the license
25 referring to the licensee as a "registered

1 podiatrist--practice limited to the foot" so as not to
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3 portions of the body.

4 (2) Licenses shall be recorded by the department the
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14 amount not to exceed \$25 shall be paid annually on July 1 of
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21 (i) replace or duplicate ophthalmic lenses with or
22 without a prescription or to dispense ophthalmic lenses from
23 prescriptions without having at the time a valid certificate
24 of registration as an optometrist; however, this subsection
25 does not prevent an optical mechanic from doing the merely

1 mechanical work on an ophthalmic lens which is ordered on a
 2 prescription signed by a registered optometrist and is
 3 dispensed only by the optometrist or a person employed by
 4 the optometrist and who does so in the office of and under
 5 the direct personal supervision of an optometrist;

6 (j) take or make measurements for the purpose of
 7 fitting or adapting ophthalmic lenses to the human eye
 8 without having at the time a valid certificate of
 9 registration. A person who takes or makes measurements or
 10 uses mechanical devices for this purpose or who, in the sale
 11 of spectacles, eyeglasses, or lenses, uses in the testing of
 12 the eyes lenses other than the lenses actually sold in
 13 practicing optometry. However, this section does not apply
 14 to the prescriptions of qualified optometrists when sent to
 15 a recognized optical laboratory.

16 (k) advertise at a price or stated terms of a price or
 17 as being free, the following:

- 18 (i) the examination or treatment of the eyes;
 19 (ii) furnishing of optometrical services; or
 20 (iii) furnishing a lens, lenses, contact lens, contact
 21 lenses, glasses, frames, or fitting thereof. However, this
 22 subsection does not apply to advertising goggles,
 23 sunglasses, colored glasses, or occupational eye-protective
 24 devices if they are not made with refractive values and are
 25 not advertised in connection with the practice of optometry

1 or professional service.

2 (1) adapt a lens to direct, contiguous contact to the
 3 human eyeball without having at the time a valid certificate
 4 of registration as an optometrist.

5 (2) When the board has reasonable cause to believe
 6 that a person is violating this section or a rule issued
 7 under this chapter, it may, in addition to other remedies
 8 provided in this chapter, bring an action for injunctive
 9 relief in district court in the county where the violation
 10 occurs to enjoin the person from engaging in or continuing
 11 the violation. The department may employ legal counsel to
 12 prosecute these actions. In these actions and on notice and
 13 hearing, an order or judgment may be entered awarding a
 14 temporary restraining order or final injunction as
 15 considered proper by the judge of the district court in the
 16 county where the violation occurred."

17 Section 4. Repealer. Sections 37-4-304, 37-4-305,
 18 37-5-306, 37-10-305, and 37-12-306, MCA, are repealed.

-End-