SENATE BILL MO. 307

INTRODUCED BY HIMSL, S. BROWN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

January 2	8, 1981	Introduced and referred to Committee on Business and Industry.
February (9, 1981	Committee recommend bill do pass as amended. Report adopted.
Pebruary !	10, 1981	Bill printed and placed on members' desks.
February 1	11, 1981	Second reading, do pass.
February 1	12, 1981	Correctly engrossed.
February]	13, 1981	Third reading, passed. Ayes, 49; Noes, 1. Transmitted to Rouse.

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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A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE REQUIREMENT THAT DENTISTS, OSTEUPATHIC PHYSICIANS, PODIATRY EXAMINERS, OPTOMETRISTS, AND CHIROPRACTORS MUST REGISTER THEIR LICENSES IN COUNTIES WHERE THEY PRACTICE; AMENDING SECTIONS 37-4-303, 37-6-304, AND 37-10-301, MCA; AND REPEALING SECTIONS 37-4-304, 37-4-305, 37-5-306, 37-10-305, AND 37-12-306, MCA."

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WHEREAS, during the course of its sunset audits the legislative audit committee noted that licensees of several professions are required to register their licenses with the county clerk and recorder; and

17 WHEREAS, all such licensees are licensed by the state 13 and county registration serves no public purpose.

THEREFORE, it is the intent of this bill to delete county registration requirements for members of various professions.

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

Section 1. Section 37-4-303, MCA, is amended to read:

25 "37-4-303. Gertificate--to--be--registered--in--county

where--practicing----replacing Replacing lost certificate. +1)-The-certificate-under-this-chapter-entitles--the--holder to--practice--dentistry--in--eny-county-in-this-state-if-the certificate-is-first-filed-for-registration--and--registered in-the-office-of-the-county-elerk-and-recorder-of-the-county in--which--the-holder-desires-to-practicev-This-chapter-does 7 not-permit-a-holder-of-a-certificate-to-practice-in-a-county in-this--state--unless--the--certificate--has--been---first . 8 9 registered--in--the--office-of-the-clerk-and-recorder-of-the 10 countyw-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-procticew

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

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Section 2. Section 37-6-304, MCA, is amended to read: "37-6-304. Designations on license -- recording -annual renewal fee -- display. (1) A license issued under this chapter shall be designated as a "registered podiatrist's license" and may not contain any abbreviations thereof or any other designation or title, except that a statement of limitation shall be contained in the license referring to the licensee "registered podiatrist--practice limited to the foot" so as not to mislead the public with respect to his right to treat other portions of the body.

- (2) Licenses shall be recorded by the department the same as other medical licenses. The person-receiving—the license-shall—have—it—recorded—in—the—office—of—the—county clerk—in—the—county—in—which—he—residesy—and—the—record—shall—be—endorsed—an—itw—If—the—person—licensed—moves—to another—county—to—practicey—he—shall—record—the—license—in the—same—manner—in—the—county—into—which—he—movesy—and—the county—clerk—is—entitled—to—charge—and—receive—the—usual—fee for—meking—this—record*
- (3) A license renewal fee set by the board in an amount not to exceed \$25 shall be paid annually on July 1 of each year, and if not paid within 3 months, the license shall be revoked and may be reissued only on original application and payment of a fee of \$35.
- (4) Licenses shall be conspicuously displayed by podiatrists at their offices or other places of practice.*

 Section 3. Section 37-10-301, MCA, is amended to read:

 #37-10-301. Certificate required for practice -unlawful acts -- injunction. (1) It is unlawful for a person to:
- (a) practice optometry in this state unless he has first obtained a certificate of registration and-filed-it-or

1	a-certified-copy-with-the-county-elerk-and-recorderofthe
2	county-of-his-residence:

- 3 (b) sell, barter, or offer to sell or barter a4 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 a9 certificate of registration;
- 10 (a) 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;

- (f) practice optometry under a false or assumed name;
- (g) willfully make a materially false statement in an application for an examination by the department or for a certificate of registration;
 - (h) advertise by displaying a sign or by otherwise holding himself out to be an optometrist without having at the time a valid certificate of registration:
- (i) replace or duplicate ophthalmic lenses with or without a prescription or to dispense ophthalmic lenses from prescriptions without having at the time a valid certificate of registration as an optometrist; however, this subsection does not prevent an optical mechanic from doing the merely

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

- (j) take or make measurements for the purpose of fitting or adapting ophthalmic lenses to the human eye without having at the time a valid certificate of registration. A person who takes or makes measurements or uses mechanical devices for this purpose or who, in the sale of spectacles, eyeglasses, or lenses, uses in the testing of the eyes lenses other than the lenses actually sold is practicing optometry. However, this section does not apply to the prescriptions of qualified optometrists when sent to a recognized optical laboratory.
- (k) advertise at a price or stated terms of a price or as being free, the following:
 - (i) the examination or treatment of the eyes;
 - (ii) furnishing of optometrical services; or
- (iii) furnishing a lens, lenses, contact lens, contact lenses, glasses, frames, or fitting thereof. However, this subsection does not apply to advertising goggles, sunglasses, colored glasses, or occupational eye-protective devices if they are not made with refractive values and are 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.
 - that a person is violating this section or a rule issued under this chapter, it may, in addition to other remedies provided in this chapter, bring an action for injunctive relief in district court in the county where the violation occurs to enjoin the person from engaging in or continuing the violation. The department may employ legal counsel to prosecute these actions. In these actions and on notice and hearing, an order or judgment may be entered awarding a temporary restraining order or final injunction as considered proper by the judge of the district court in the 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-

Approved by Committee on Business and Industry

l	SENATE BILL NO. 307
2	INTRODUCED BY HIMSL. S. BROWN
3	BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE
6	REQUIREMENT THAT DENTISTS. OSTEOPATHIC PHYSICIANS. POBIATRY
7	EXAMENSE PODIATRISTS. OPTOMETRISTS. AND CHIROPRACTORS HUST
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
L4	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	THEREFURE, 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. Gertificatetoberegisteredincounty

1	wherepracticingreplacing Replacing lost certificate.
2	tly-The-certificate-under-this-chapter-entitlestheholder
3	topracticedentistryinony-county-en-this-state-if-the
4	certificate-is-first-filed-for-registrationandregistered
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10	eountyw-A-holder-of-a-certificate-may-proctice-in-morethan
11	one-or-in-any-number-of-counties-in-this-state-on-hoving-the
12	certificateregistered-in-each-of-the-counties-in-which-the
13	holder-desires-to-proctice*
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

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- (3) A license renewal fee set by the board in an amount not to exceed \$25 shall be paid annually on July 1 of each year, and if not paid within 3 months, the license shall be revoked and may be reissued only on original application and payment of a fee of \$35.
- (4) Licenses shall be conspicuously displayed by podiatrists at their offices or other places of practice.*

 Section 3. Section 37-10-301. MCA. is amended to read:

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

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- 3 (b) sell, barter, or offer to sell or barter a4 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;
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- (f) practice optometry under a false or assumed name;
- (g) willfully make a materially false statement in an application for an examination by the department or for a 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

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

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- fitting or adapting ophthalmic lenses to the human eye without having at the time a valid certificate of registration. A person who takes or makes measurements or uses mechanical devices for this purpose or who, in the sale of spectacles, eyeglasses, or lenses, uses in the testing of the eyes lenses other than the lenses actually sold is practicing optometry. However, this section does not apply to the prescriptions of qualified optometrists when sent to a recognized optical laboratory.
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- (iii) furnishing a lens, lenses, contact lens, contact lenses, glasses, frames, or fitting thereof. However, this subsection does not apply to advertising goggles, sunglasses, colored glasses, or occupational eye-protective devices if they are not made with refractive values and are not advertised in connection with the practice of optometry

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- (1) adapt a lens to direct, contiguous contact to the human eyeball without having at the time a valid certificate of registration as an optometrist.
- (2) When the board has reasonable cause to believe that a person is violating this section or a rule issued under this chapter, it may, in addition to other remedies provided in this chapter, bring an action for injunctive relief in district court in the county where the violation occurs to enjoin the person from engaging in or continuing the violation. The department may employ legal counsel to prosecute these actions. In these actions and on notice and hearing, an order or judgment may be entered awarding a temporary restraining order or final injunction as considered proper by the judge of the district court in the county where the violation occurred.
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2	INTRODUCED BY HIMSLY S. GROWN
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 PODIATRISTS. OPTOMETRISTS, AND CHIROPRACTORS MUST
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9	THEREFORE: it is the intent of this bill to delete
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4	Section 1. Section 37-4-303. MCA. is amended to read:

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- (2) Licenses shall be recorded by the department the same as other medical licenses. The person-receiving the license-shall-have-it-recorded-in-the-office-of--the--county clerk--in--the--county--in--which-he-residesy-and-the-record shall-be-endorsed-on-it:-If-the--person--licensed--moves--to another--eaunty--to-practice--he-shall-record-the-license-in the same manner in the county into which he moves, - and - the county-clerk-is-entitled-to-charge-and-receive-the-usual-fee for-making-this-records
- (3) A license renewal fee set by the board in an amount not to exceed \$25 shall be paid annually on July 1 of each year, and if not paid within 3 months, the license shall be revoked and may be reissued only on original application and payment of a fee of \$35.
- (4) Licenses shall be conspicuously displayed by podiatrists at their offices or other places of practice." Section 3. Section 37-10-301, MCA, is amended to read: "37-10-301. Certificate required for practice -unlawful acts -- injunction. (1) It is unlawful for a person to:
- (a) practice optometry in this state unless he has first obtained a certificate of registration and-filed-it-or

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

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- 3 (b) sell, barter, or offer to sell or barter a certificate of registration issued by the department;
- 5 (c) purchase or procure by barter a certificate of registration with intent to use it as evidence of the nolder's qualification to practice optometry;
- (d) materially alter with fraudulent intent a A 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:
 - (f) practice optometry under a false or assumed name;
- 15 (q) willfully make a materially false statement in an application for an examination by the department or for a 17 certificate of registration:
 - (h) advertise by displaying a sign or by otherwise holding himself out to be an optometrist without having at the time a valid certificate of registration:
 - (i) replace or duplicate ophthalmic lenses with or without a prescription or to dispense ophthalmic lenses from prescriptions without having at the time a valid certificate of registration as an optometrist; however, this subsection does not prevent an optical mechanic from doing the merely

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

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- fitting or adapting ophthalmic lenses to the human eye without having at the time a valid certificate of registration. A person who takes or makes measurements or uses mechanical devices for this purpose or who, in the sale of spectacles, eyeglasses, or lenses, uses in the testing of the eyes lenses other than the lenses actually sold is practicing optometry. However, this section does not apply to the prescriptions of qualified optometrists when sent to a recognized optical laboratory.
- (k) advertise at a price or stated terms of a price or as being free, the following:
 - (i) the examination or treatment of the eyes;
 - (ii) furnishing of optometrical services; or

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(iii) furnishin, a lens, lenses, contact lens, contact lenses, glasses, frames, or fitting thereof. However, this subsection does not apply to advertising goggles, sunglasses, colored glasses, or occupational eye-protective devices if they are not made with refractive values and are not advertised in connection with the practice of optometry

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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.

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- 5 (2) When the board has reasonable cause to believe that a person is violating this section or a rule issued 6 under this chapter, it may, in addition to other remedies 7 provided in this chapter, bring an action for injunctive relief in district court in the county where the violation 9 occurs to enjoin the person from engaging in or continuing 10 the violation. The department may employ legal counsel to 11 prosecute these actions. In these actions and on notice and 12 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 county where the violation occurred." 16
- 17 Saction 4. Repealer. Sections 37-4-304, 37-4-305, 18 37-5-306, 37-10-305, and 37-12-306, MCA, are repealed.

-End-

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