

SENATE BILL NO. 310

INTRODUCED BY S. BROWN, HIMSL

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

January 28, 1981	Introduced and referred to Committee on Public Health, Welfare, and Safety.
February 5, 1981	Committee recommend bill do pass as amended. Report adopted.
February 6, 1981	Bill printed and placed on members' desks.
February 7, 1981	Second reading, do pass.
February 9, 1981	Correctly engrossed.
February 10, 1981	Third reading, passed. Ayes, 45; Noes, 0. Transmitted to House.

IN THE HOUSE

February 11, 1981	Introduced and referred to Committee on Human Services.
March 16, 1981	Committee recommend bill be concurred in. Report adopted.
March 21, 1981	Second reading, concurred in.
March 24, 1981	Third reading, concurred in. Ayes, 99; Noes, 0.

IN THE SENATE

March 25, 1981	Returned from House. Concurred in. Sent to enrolling.  Reported correctly enrolled.
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1 *Senate* BILL NO. *310*  
 2 INTRODUCED BY *STEVE BROWN*  
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE  
 6 BOARD OF MEDICAL EXAMINERS UNDER EXISTING STATUTORY  
 7 AUTHORITY AND RULES; ADDING PUBLIC MEMBERS TO THE BOARD;  
 8 CHANGING BOARD MEMBERS' TERMS FROM 7 TO 4 YEARS; MODIFYING  
 9 REPORTING REQUIREMENTS FOR MEDICAL MALPRACTICE CLAIMS BY  
 10 INSURERS; AMENDING SECTIONS 2-8-103, 2-15-1605, AND  
 11 37-3-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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 13 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,  
 14 MCA, terminates the Board of Medical Examiners and requires  
 15 a performance evaluation of the Board by the Legislative  
 16 Audit Committee; and

17 WHEREAS, as a result of the performance evaluation, the  
 18 Legislative Audit Committee recommends that the Board of  
 19 Medical Examiners be reestablished under existing statutory  
 20 authority.

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

23 Section 1. Reestablishment. The Montana state board of  
 24 medical examiners is reestablished for 6 years pursuant to  
 25 2-8-122 with its existing statutory authority and rules.

1 Section 2. Section 2-8-103, MCA, is amended to read:  
 2 "2-8-103. Agencies to terminate. (1) The following  
 3 agencies shall terminate on July 1, 1979:

- 4 (a) board of abstracters, department of professional  
 5 and occupational licensing, created by 2-15-1643;
- 6 (b) board of real estate, department of professional  
 7 and occupational licensing, created by 2-15-1642;
- 8 (c) state board of warm air heating, ventilation, and  
 9 air conditioning, department of professional and  
 10 occupational licensing, created by 2-15-1656;
- 11 (d) board of institutions, department of institutions,  
 12 created by 2-15-2303.

13 (2) The following agencies shall terminate on July 1,  
 14 1981:

- 15 (a) commission for human rights, department of labor  
 16 and industry, created by 2-15-1706;
- 17 (b) board of athletics, department of professional and  
 18 occupational licensing, created by 2-15-1661;
- 19 (c) board of barbers, department of professional and  
 20 occupational licensing, created by 2-15-1625;
- 21 (d) board of chiropractors, department of professional  
 22 and occupational licensing, created by 2-15-1613;
- 23 (e) board of cosmetologists, department of  
 24 professional and occupational licensing, created by  
 25 2-15-1626;

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

3 (g) board of hearing aid dispensers, department of  
4 professional and occupational licensing, created by  
5 2-15-1616;

6 (h) board of massage therapists, department of  
7 professional and occupational licensing, created by  
8 2-15-1627;

9 ~~(i) Montana state board of medical examiners,~~  
10 ~~department of professional and occupational licensing,~~  
11 ~~created by 2-15-1685;~~

12 (j)(1) board of morticians, department of professional  
13 and occupational licensing, created by 2-15-1619;

14 (k)(1) board of nursing, department of professional  
15 and occupational licensing, created by 2-15-1610;

16 (l)(k) board of nursing home administrators,  
17 department of professional and occupational licensing,  
18 created by 2-15-1611;

19 (m)(1) board of optometrists, department of  
20 professional and occupational licensing, created by  
21 2-15-1612;

22 (n)(1) board of osteopathic physicians, department of  
23 professional and occupational licensing, created by  
24 2-15-1607;

25 (o)(1) board of pharmacists, department of

1 professional and occupational licensing, created by  
2 2-15-1609;

3 (p)(1) board of podiatry examiners, department of  
4 professional and occupational licensing, created by  
5 2-15-1608;

6 (q)(1) board of psychologists, department of  
7 professional and occupational licensing, created by  
8 2-15-1617;

9 (r)(1) board of radiologic technologists, department  
10 of professional and occupational licensing, created by  
11 2-15-1614;

12 (s)(1) board of speech pathologists and audiologists,  
13 department of professional and occupational licensing,  
14 created by 2-15-1615;

15 (t)(1) board of veterinarians, department of  
16 professional and occupational licensing, created by  
17 2-15-1618;

18 (u)(1) board of veterans' affairs, department of  
19 social and rehabilitation services, created by 2-15-2202;

20 (v)(1) board of sanitarians, department of  
21 professional and occupational licensing, created by  
22 2-15-1631.

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

25 (a) board of aeronautics, department of community

1 affairs, created by 2-15-1103;  
 2 (b) state board of hail insurance, department of  
 3 agriculture, created by 2-15-3003;  
 4 (c) board of horse racing, department of professional  
 5 and occupational licensing, created by 2-15-1662;  
 6 (d) board of livestock, department of livestock,  
 7 created by 2-15-3102;  
 8 (e) board of milk control, department of business  
 9 regulation, created by 2-15-1802;  
 10 (f) board of oil and gas conservation, department of  
 11 natural resources and conservation, created by 2-15-3303;  
 12 (g) Montana outfitters council, department of fish,  
 13 wildlife, and parks, created by 2-15-3403;  
 14 (h) public service commission, department of public  
 15 service regulation, created by 69-1-102;  
 16 (i) board of water and wastewater operators,  
 17 department of health and environmental sciences, created by  
 18 2-15-2105;  
 19 (j) board of water well contractors, department of  
 20 professional and occupational licensing, created by  
 21 2-15-1632.  
 22 (4) The following agencies terminate on July 1, 1985:  
 23 (a) the board of public accountants, created by  
 24 2-15-1641;  
 25 (b) the board of architects, created by 2-15-1651;

1 (c) state banking board, department of business  
 2 regulation, created by 2-15-1803;  
 3 (d) the state electrical board, created by 2-15-1654;  
 4 (e) the board of professional engineers and land  
 5 surveyors, created by 2-15-1653;  
 6 (f) office of commissioner of insurance and the  
 7 insurance department, state auditor's office, created by  
 8 2-15-1902 and 2-15-1903;  
 9 (g) office of the securities commissioner, state  
 10 auditor's office, created by 2-15-1901;  
 11 (h) the board of landscape architects, created by  
 12 2-15-1652;  
 13 (i) the board of county printing, created by  
 14 2-15-1102;  
 15 (j) the board of plumbers, created by 2-15-1655;  
 16 (k) board of physical therapy examiners, created by  
 17 2-15-1628.  
 18 (5) The following agency terminates on July 1, 1987:  
 19 the Montana state board of medical examiners, department of  
 20 professional and occupational licensing, created by  
 21 2-15-1605."  
 22 Section 3. Section 2-15-1605, MCA, is amended to read:  
 23 "2-15-1605. Board of medical examiners. (1) There is a  
 24 Montana state board of medical examiners.  
 25 (2) The board consists of seven eight members

1 appointed by the governor with the consent of the senate.  
 2 Appointments made when the legislature is not in session may  
 3 be confirmed at the next session.

4 (3) The members are:

5 (a) ~~six~~ five members having the degree of doctor of  
 6 medicine; and

7 (b) one member having the degree of doctor of  
 8 osteopathy; and

9 ~~(c) two members of the general public who are not~~  
 10 ~~medical practitioners.~~

11 (4) The members having the degree of doctor of  
 12 medicine may not be from the same county. Each member shall  
 13 be a citizen of the United States. Each member, ~~except for~~  
 14 ~~public members,~~ shall have been licensed and shall have  
 15 practiced medicine in this state for at least 5 years and  
 16 shall have been a resident of this state for at least 5  
 17 years; ~~however, the 5-year requirement of practice and~~  
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21 (5) Each member ~~Members~~ shall serve for a ~~term of 7~~  
 22 ~~years~~ staggered 4-year terms. A term commences on September  
 23 1 of each year of appointment. A member may, upon notice  
 24 and hearing, be removed by the governor for neglect of duty,  
 25 incompetence, or unprofessional or dishonorable conduct.

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

3 Section 4. Section 37-3-402, MCA, is amended to read:

4 "37-3-402. Insurer to report to board. Any insurer  
 5 that issues or underwrites professional liability insurance  
 6 in this state to any physician licensed to practice medicine  
 7 shall report any valid claim against the insured for alleged  
 8 professional negligence to the state board of medical  
 9 examiners within 30 days after ~~receiving notice of the claim~~  
 10 ~~from the insured or any other person a final settlement or~~  
 11 ~~court decision resolving the claim in favor of the claimant.~~

12 The report required by this section shall include the name  
 13 of the insured, the name of the person making the claim, and  
 14 the reason or reasons for which the claim is made, and the  
 15 basis of the settlement or court decision."

16 Section 5. Effective date. This act is effective on  
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-End-

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 10 ~~from the insured or any other person~~ RECEIVING NOTICE OF THE  
 11 CLAIM FROM THE INSURED OR ANY OTHER PERSON. A final  
 12 settlement or court decision resolving the claim in favor of  
 13 the claimant SHALL ALSO BE REPORTED TO THE BOARD WITHIN 30  
 14 DAYS OF SUCH SETTLEMENT OR DECISION. The report required by  
 15 this section shall include the name of the insured, the name  
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 23 "2-15-1605. Board of medical examiners. (1) There is a  
 24 Montana state board of medical examiners.  
 25 (2) The board consists of seven eight members.

1 appointed by the governor with the consent of the senate.  
 2 Appointments made when the legislature is not in session may  
 3 be confirmed at the next session.

4 (3) The members are:

5 (a) ~~six~~ five members having the degree of doctor of  
 6 medicine; and

7 (b) one member having the degree of doctor of  
 8 osteopathy; and

9 (c) two members of the general public who are not  
 10 medical practitioners.

11 (4) The members having the degree of doctor of  
 12 medicine may not be from the same county. Each member shall  
 13 be a citizen of the United States. Each member, except for  
 14 public members, shall have been licensed and shall have  
 15 practiced medicine in this state for at least 5 years and  
 16 shall have been a resident of this state for at least 5  
 17 years; ~~however, the 5-year requirement of practice and~~  
 18 ~~residency shall be waived for the initial term of~~  
 19 ~~appointment of the member having the degree and license of~~  
 20 ~~doctor of osteopathy.~~

21 (5) ~~Each member~~ Members shall serve for a term of ~~7~~  
 22 years staggered 4-year terms. A term commences on September  
 23 1 of each year of appointment. A member may, upon notice  
 24 and hearing, be removed by the governor for neglect of duty,  
 25 incompetence, or unprofessional or dishonorable conduct.

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

3 Section 4. Section 37-3-402, MCA, is amended to read:

4 "37-3-402. Insurer to report to board. Any insurer  
 5 that issues or underwrites professional liability insurance  
 6 in this state to any physician licensed to practice medicine  
 7 shall report any ~~valid~~ claim against the insured for alleged  
 8 professional negligence to the state board of medical  
 9 examiners within 30 days after ~~receiving notice of the claim~~  
 10 ~~from the insured or any other person~~ RECEIVING NOTICE OF THE  
 11 CLAIM FROM THE INSURED OR ANY OTHER PERSON. @ A final  
 12 settlement or court decision resolving the claim in favor of  
 13 the claimant SHALL ALSO BE REPORTED TO THE BOARD WITHIN 30  
 14 DAYS OF SUCH SETTLEMENT OR DECISION. The report required by  
 15 this section shall include the name of the insured, the name  
 16 of the person making the claim, and the reason or reasons  
 17 for which the claim is made, and the basis of the settlement  
 18 or court decision."

19 Section 5. Effective date. This act is effective on  
 20 passage and approval.

-End-

1 SENATE BILL NO. 310

2 INTRODUCED BY S. BROWN, HIMSL

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE  
6 BOARD OF MEDICAL EXAMINERS UNDER EXISTING STATUTORY  
7 AUTHORITY AND RULES; ADDING PUBLIC MEMBERS TO THE BOARD;  
8 CHANGING BOARD MEMBERS' TERMS FROM 7 TO 4 YEARS; MODIFYING  
9 REPORTING REQUIREMENTS FOR MEDICAL MALPRACTICE CLAIMS BY  
10 INSURERS; AMENDING SECTIONS 2-8-103, 2-15-1605, AND  
11 37-3-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12  
13 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,  
14 MCA, terminates the Board of Medical Examiners and requires  
15 a performance evaluation of the Board by the Legislative  
16 Audit Committee; and

17 WHEREAS, as a result of the performance evaluation, the  
18 Legislative Audit Committee recommends that the Board of  
19 Medical Examiners be reestablished under existing statutory  
20 authority.

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

23 Section 1. Reestablishment. The Montana state board of  
24 medical examiners is reestablished for 6 years pursuant to  
25 2-8-122 with its existing statutory authority and rules.

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

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

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

6 (b) board of real estate, department of professional  
7 and occupational licensing, created by 2-15-1642;

8 (c) state board of warm air heating, ventilation, and  
9 air conditioning, department of professional and  
10 occupational licensing, created by 2-15-1656;

11 (d) board of institutions, department of institutions,  
12 created by 2-15-2303.

13 (2) The following agencies shall terminate on July 1,  
14 1981:

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

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

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

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

23 (e) board of cosmetologists, department of  
24 professional and occupational licensing, created by  
25 2-15-1626;

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

3 (g) board of hearing aid dispensers, department of  
4 professional and occupational licensing, created by  
5 2-15-1616;

6 (h) board of massage therapists, department of  
7 professional and occupational licensing, created by  
8 2-15-1627;

9 ~~(i) Montana state board of medical examiners,~~  
10 ~~department of professional and occupational licensing,~~  
11 ~~created by 2-15-1605;~~

12 (j)(1) board of morticians, department of professional  
13 and occupational licensing, created by 2-15-1619;

14 (k)(1) board of nursing, department of professional  
15 and occupational licensing, created by 2-15-1610;

16 (l)(1) board of nursing home administrators,  
17 department of professional and occupational licensing,  
18 created by 2-15-1611;

19 (m)(1) board of optometrists, department of  
20 professional and occupational licensing, created by  
21 2-15-1612;

22 (n)(1) board of osteopathic physicians, department of  
23 professional and occupational licensing, created by  
24 2-15-1607;

25 (o)(1) board of pharmacists, department of

1 professional and occupational licensing, created by  
2 2-15-1609;

3 (p)(1) board of podiatry examiners, department of  
4 professional and occupational licensing, created by  
5 2-15-1608;

6 (q)(1) board of psychologists, department of  
7 professional and occupational licensing, created by  
8 2-15-1617;

9 (r)(1) board of radiologic technologists, department  
10 of professional and occupational licensing, created by  
11 2-15-1614;

12 (s)(1) board of speech pathologists and audiologists,  
13 department of professional and occupational licensing,  
14 created by 2-15-1615;

15 (t)(1) board of veterinarians, department of  
16 professional and occupational licensing, created by  
17 2-15-1618;

18 (u)(1) board of veterans' affairs, department of  
19 social and rehabilitation services, created by 2-15-2202;

20 (v)(1) board of sanitarians, department of  
21 professional and occupational licensing, created by  
22 2-15-1631.

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

25 (a) board of aeronautics, department of community

1 affairs, created by 2-15-1103;

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

4 (c) board of horse racing, department of professional  
5 and occupational licensing, created by 2-15-1662;

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

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

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

12 (g) Montana outfitters council, department of fish,  
13 wildlife, and parks, created by 2-15-3403;

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

16 (i) board of water and wastewater operators,  
17 department of health and environmental sciences, created by  
18 2-15-2105;

19 (j) board of water well contractors, department of  
20 professional and occupational licensing, created by  
21 2-15-1632.

22 (4) The following agencies terminate on July 1, 1985:

23 (a) the board of public accountants, created by  
24 2-15-1641;

25 (b) the board of architects, created by 2-15-1651;

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

3 (d) the state electrical board, created by 2-15-1654;

4 (e) the board of professional engineers and land  
5 surveyors, created by 2-15-1653;

6 (f) office of commissioner of insurance and the  
7 insurance department, state auditor's office, created by  
8 2-15-1902 and 2-15-1903;

9 (g) office of the securities commissioner, state  
10 auditor's office, created by 2-15-1901;

11 (h) the board of landscape architects, created by  
12 2-15-1652;

13 (i) the board of county printing, created by  
14 2-15-1102;

15 (j) the board of plumbers, created by 2-15-1655;

16 (k) board of physical therapy examiners, created by  
17 2-15-1628.

18 (5) The following agency terminates on July 1, 1987:  
19 the Montana state board of medical examiners, department of  
20 professional and occupational licensing, created by  
21 2-15-1605."

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 16 of the person making the claim, and the reason or reasons  
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