

SENATE BILL NO. 312

INTRODUCED BY HIMSL, S. BROWN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

January 28, 1981	Introduced and referred to Committee on Judiciary.
February 11, 1981	Committee recommend bill do pass. Report adopted.
February 12, 1981	Bill printed and placed on members' desks.
February 13, 1981	Second reading, do pass.
February 14, 1981	Correctly engrossed.
February 16, 1981	Third reading, passed. Ayes, 44; Noes, 3. Transmitted to House.

IN THE HOUSE

February 17, 1981	Introduced and referred to Committee on State Administration.
March 11, 1981	Committee recommend bill be concurred in. Report adopted.
March 14, 1981	Motion pass consideration.
March 21, 1981	Second reading, concurred in.
March 24, 1981	Third reading, concurred in. Ayes, 98; 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. *312*
 2 INTRODUCED BY *Steve Brown* ~~Steve 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 APPOINTMENTS BY THE GOVERNOR OF MEMBERS TO
 7 THE BOARDS OF DENTISTRY, PODIATRY EXAMINERS, PHARMACISTS,
 8 NURSING HOME ADMINISTRATORS, SPEECH PATHOLOGISTS AND
 9 AUDIOLOGISTS, HEARING AID DISPENSERS, VETERINARIANS, AND
 10 PHYSICAL THERAPISTS BE MADE FROM LISTS SUBMITTED BY PRIVATE
 11 ASSOCIATIONS; PROVIDING THAT THE GOVERNOR MAY CONSIDER
 12 NOMINEES BY LICENSEES, PRIVATE ASSOCIATIONS, AND MEMBERS OF
 13 THE PUBLIC WHEN MAKING APPOINTMENTS TO LICENSING AND
 14 REGULATORY BOARDS; AMENDING SECTIONS 2-15-1606, 2-15-1608,
 15 2-15-1609, 2-15-1611, 2-15-1615, 2-15-1616, 2-15-1618, AND
 16 2-15-1628, MCA."

17
 18 WHEREAS, during the course of the Legislative Audit
 19 Committee's review of regulatory and licensing boards under
 20 the first two sunset cycles it was noted that appointments
 21 by the Governor to some boards must be made from lists
 22 submitted by private associations; and

23 WHEREAS, requirements tying board membership to private
 24 associations have been struck down by the courts in a number
 25 of states; and

1 WHEREAS, the opportunity for members of the public and
 2 private associations to submit nominees to the Governor for
 3 board appointments is in the public interest.

4 THEREFORE, it is the Intent of this bill to delete
 5 requirements that appointments by the Governor to regulatory
 6 and licensing boards must be made from lists submitted by
 7 private associations and to provide that members of the
 8 public and private associations may submit nominees to the
 9 Governor for appointment to regulatory and licensing boards.

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 2-15-1606, MCA, is amended to read:
 13 "2-15-1606. Board of dentistry. (1) There is a board
 14 of dentistry.

15 (2) The board consists of five dentists and one dental
 16 hygienist, all appointed by the governor. ~~The Montana dental~~
 17 ~~association and the Montana dental hygienists' association~~
 18 ~~shall each present to the governor within 15 days after its~~
 19 ~~regular annual meeting a list of not less than five~~
 20 ~~candidates from which appointments for vacancies on the~~
 21 ~~board occurring during the ensuing year may be made. At all~~
 22 ~~times at least three members of the board shall be appointed~~
 23 ~~from the list of candidates submitted by the Montana dental~~
 24 ~~association and one member shall be appointed from the list~~
 25 ~~submitted by the Montana dental hygienists' association.~~

1 Each member shall be licensed to practice a dental
2 profession in this state, shall have actively practiced in
3 this state for at least 5 continuous years immediately
4 before his appointment, and shall be actively engaged in
5 practice while serving on the board. Each member shall be a
6 citizen of the United States and a resident of this state.

7 (3) Each member shall serve for a term of 5 years. The
8 governor may remove a member only for neglect or cause.

9 (4) The governor shall fill any vacancy within 30
10 days.

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

13 Section 2. Section 2-15-1608, MCA, is amended to read:

14 "2-15-1608. Board of podiatry examiners. (1) There is
15 a board of podiatry examiners.

16 (2) The board consists of three members, all of whom
17 are licensed podiatrists appointed by the governor to 3-year
18 terms ~~selected from a list of six podiatrists submitted by~~
19 ~~the Montana association of podiatrists.~~ The members shall be
20 residents of this state who have engaged in the active
21 practice of podiatry in this state for at least 2 years and
22 are of high integrity and ability. ~~The governor shall fill a~~
23 ~~vacancy on the board from the same list of podiatrists.~~

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

1 Section 3. Section 2-15-1609, MCA, is amended to read:
2 "2-15-1609. Board of pharmacists. (1) There is a board
3 of pharmacists.

4 (2) The board consists of three members appointed by
5 the governor. ~~The governor shall appoint the members from a~~
6 ~~list submitted annually by the Montana state pharmaceutical~~
7 ~~association. The list shall contain the names of five~~
8 ~~qualified persons for each appointment.~~ Each member shall be
9 a graduate of the college of pharmacy of the university of
10 Montana or of a college or school of pharmacy recognized and
11 approved by or a member of the American association of
12 colleges of pharmacy. Each member shall have at least 5
13 consecutive years of practical experience as a pharmacist
14 immediately before his appointment. However, one member may
15 be a registered pharmacist of 15 years' practical experience
16 and actually engaged in the practice of pharmacy. A member
17 who, during his term of office, ceases to be actively
18 engaged in the practice of pharmacy in this state, shall be
19 automatically disqualified from membership on the board.

20 (3) Each member shall serve for a term of 3 years. A
21 member shall be removed from office by the governor on proof
22 of malfeasance or misfeasance in office, after reasonable
23 notice of charges against him and after a hearing.

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

1 Section 4. Section 2-15-1611, MCA, is amended to read:

2 "2-15-1611. Board of nursing home administrators. (1)
3 There is a board of nursing home administrators.

4 (2) The board consists of five voting members
5 appointed by the governor. No more than two members shall be
6 nursing home administrators. One member shall represent the
7 public at large and must be 55 years of age or older at the
8 time of appointment. The other two members shall be
9 representatives of professions or institutions concerned
10 with the care of chronically ill and infirm aged patients
11 and may not be from the same profession or have a financial
12 interest in a nursing home.

13 (3) The director of the department of health and
14 environmental sciences or his designee and the director of
15 the department of social and rehabilitation services or his
16 designee are ex officio, nonvoting members of the board.

17 ~~(4) The appointee representing the public at large~~
18 ~~shall be selected by the governor. The remaining appointees~~
19 ~~shall be selected from a list of three nominees submitted~~
20 ~~for each appointee by the board of directors of the Montana~~
21 ~~nursing home association, inc.~~

22 (5) Each appointed member shall serve for a term of
23 5 years. Any vacancy occurring in the position of an
24 appointive member shall be filled by the governor for the
25 unexpired term in the same manner provided for in subsection

1 ~~(4).~~

2 ~~(6)(5)~~ Appointive members may be removed by the
3 governor only for cause.

4 ~~(7)(6)~~ The board is allocated to the department for
5 administrative purposes only as prescribed in 2-15-121."

6 Section 5. Section 2-15-1615, MCA, is amended to read:

7 "2-15-1615. Board of speech pathologists and
8 audiologists. (1) There is a board of speech pathologists
9 and audiologists.

10 (2) The board consists of five members, ~~four of whom~~
11 ~~who~~ shall:

12 (a) be appointed by the governor ~~from names submitted~~
13 ~~to him by the Montana speech and hearing association;~~

14 (b) have been residents of this state for at least 1
15 year immediately preceding their appointment; and

16 (c) have been engaged in rendering services to the
17 public, teaching, or performing research in the field of
18 speech pathology or audiology for at least 5 years
19 immediately preceding their appointment.

20 (3) At least two members of the board shall be speech
21 pathologists and at least two shall be audiologists, with
22 the remaining member to be a public member who is a consumer
23 of speech pathology or audiology services and who is not a
24 licentiate of the board or of any other board within the
25 department. All board members, except the public member,

1 shall at all times be validly licensed in speech pathology
2 or audiology.

3 ~~(4) Not less than 60 days before the end of each~~
4 ~~calendar year, the association shall recommend at least~~
5 ~~three and not more than five persons for each vacancy~~
6 ~~occurring at the end of the calendar year. In the event of~~
7 ~~a vacancy for an unexpired term, the association shall~~
8 ~~expeditiously recommend at least two and not more than three~~
9 ~~persons to fill the vacancy and the governor shall appoint~~
10 ~~one of those persons to fill the unexpired term.~~

11 ~~(5)(4)~~ Appointments shall be for 3-year terms with no
12 person eligible to serve more than two full consecutive
13 terms. Terms begin on the first day of the calendar year
14 and end on the last day of the calendar year.

15 ~~(6)(5)~~ The board is allocated to the department for
16 administrative purposes only as prescribed in 2-15-121."

17 Section 6. Section 2-15-1616, MCA, is amended to read:

18 "2-15-1616. Board of hearing aid dispensers. (1) There
19 is a board of hearing aid dispensers.

20 (2) The board consists of five members appointed by
21 the governor. The members are:

22 (a) one member appointed from a list submitted by the
23 Montana academy of oto-ophthamology. This member who shall
24 hold or be eligible for a certificate of qualification from
25 the American board of otolaryngology;

1 (b) one member appointed from a list submitted by the
2 Montana speech and hearing associations. This member who
3 shall hold or be eligible for a certificate of clinical
4 competence in audiology from the American speech and hearing
5 association;

6 (c) three members appointed from a list submitted by
7 the Montana hearing aid dealers' society. These members
8 shall who have been qualified dispensers and fitters of
9 hearing aids for at least 5 years before their appointment
10 to the board.

11 ~~(d) one alternate member shall be appointed from each~~
12 ~~of the three lists to serve when a regular member cannot~~
13 ~~attend a scheduled meeting.~~

14 (3) Each member shall serve for a term of 3 years. A
15 member may not be reappointed within 1 year after the
16 expiration of his second consecutive full term. If a vacancy
17 occurs on the board, the governor shall appoint a person
18 from the same list as the member whose term was not
19 completed.

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

22 Section 7. Section 2-15-1618, MCA, is amended to read:
23 "2-15-1618. Board of veterinarians. (1) There is a
24 board of veterinarians.

25 (2) The board consists of six members appointed by the

1 governor, five of whom shall be licensed veterinarians and
 2 one of whom shall be a public member who is a consumer of
 3 veterinary services and who shall not be a licentiate of the
 4 board or of any other board under the department of
 5 professional and occupational licensing.

6 ~~(3) The Montana state veterinary medical association~~
 7 ~~shall at each annual meeting nominate twice the number of~~
 8 ~~veterinarian board members to be appointed that year. The~~
 9 ~~names of these nominees shall be annually transmitted under~~
 10 ~~seal to the governor before July 1. The governor shall~~
 11 ~~before August 1 appoint from this list the board members to~~
 12 ~~fill the vacancies that will occur July 31. If no nominee~~
 13 ~~has the required qualifications to be on the board, the~~
 14 ~~governor may appoint any licensed and registered~~
 15 ~~veterinarian.~~

16 (4)(3) Each veterinarian member shall be a reputable
 17 licensed veterinarian who has graduated from a college
 18 authorized by law to confer degrees and have educational
 19 standards equal to those approved by the American veterinary
 20 medical association. Each veterinarian member shall have
 21 actually and legally practiced veterinary medicine in either
 22 private practice or public service in this state for at
 23 least 5 years immediately before his appointment.

24 (5)(4) Each member shall serve for a term of 5 years.
 25 The governor may, after notice and hearing, remove a member

1 for misconduct, incapacity, or neglect of duty.

2 (6)(5) The board is allocated to the department for
 3 administrative purposes only as prescribed in 2-15-121."

4 Section 8. Section 2-15-1628, MCA, is amended to read:
 5 "2-15-1628. Board of physical therapy examiners. (1)
 6 There is a board of physical therapy examiners.

7 (2) The board consists of three members appointed by
 8 the governor, upon the recommendation of the Montana chapter
 9 of the American physical therapy association, for a term of
 10 3 years.

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

16 (4) Within 30 days following July 1, 1979, the
 17 governor shall make initial appointments to the board of
 18 physical therapy examiners. He shall appoint one member each
 19 to hold office for terms of 1 year, 2 years, and 3 years,
 20 respectively. At the end of each member's appointed term, a
 21 member shall be appointed for a full 3-year term.

22 (5) Ninety days prior to the end of the board member's
 23 term of office a nominating committee comprised of members
 24 and nonmembers of the Montana chapter of the American
 25 physical therapy association shall submit to the governor a

1 ~~list of individuals qualified to serve as a member of the~~
 2 ~~boards. The list shall contain not less than three times the~~
 3 ~~number of candidates needed to fill the vacancies.~~

4 (6)(5) A vacancy on the board must be filled in the
 5 same manner as the original appointment, ~~except that the~~
 6 ~~names of qualified individuals must be submitted to the~~
 7 ~~governor upon notice of a pending vacancy or within 10 days~~
 8 ~~after a vacancy occurs.~~ These appointments may only be made
 9 for the unexpired portions of the term.

10 (7)(6) No member may be appointed for more than two
 11 consecutive terms.

12 (8)(7) The governor may remove any board member for
 13 negligence in performance of any duty required by law and
 14 for incompetence or unprofessional or dishonorable conduct.

15 (9)(8) A board member is not liable to civil action
 16 for any act performed in good faith in the execution of the
 17 duties required by Title 37, chapter 11.

18 (10)(9) The board shall provide for its organizational
 19 structure by rule, which shall include a chairman,
 20 vice-chairman, and secretary-treasurer.

21 (11)(10) The board is allocated to the department for
 22 administrative purposes only as prescribed in 2-15-121."

23 NEW SECTION. Section 9. Nominees for appointment to
 24 licensing and regulatory boards. Private associations and
 25 members of the public may submit to the governor lists of

1 nominees for appointment to professional and occupational
 2 licensing and regulatory boards. The governor may consider
 3 nominees from the lists when making appointments to such
 4 boards.

5 Section 10. Codification instruction. Section 9 is
 6 intended to be codified as an integral part of Title 37,
 7 chapter 1, and the provisions of section 9 apply to Title
 8 37.

-End-

Approved by Committee on Judiciary

1 *Steve Brown* BILL NO. *312*
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 DELETE THE
6 REQUIREMENT THAT APPOINTMENTS BY THE GOVERNOR OF MEMBERS TO
7 THE BOARDS OF DENTISTRY, PODIATRY EXAMINERS, PHARMACISTS,
8 NURSING HOME ADMINISTRATORS, SPEECH PATHOLOGISTS AND
9 AUDIOLOGISTS, HEARING AID DISPENSERS, VETERINARIANS, AND
10 PHYSICAL THERAPISTS BE MADE FROM LISTS SUBMITTED BY PRIVATE
11 ASSOCIATIONS; PROVIDING THAT THE GOVERNOR MAY CONSIDER
12 NOMINEES BY LICENSEES, PRIVATE ASSOCIATIONS, AND MEMBERS OF
13 THE PUBLIC WHEN MAKING APPOINTMENTS TO LICENSING AND
14 REGULATORY BOARDS; AMENDING SECTIONS 2-15-1606, 2-15-1608,
15 2-15-1609, 2-15-1611, 2-15-1615, 2-15-1616, 2-15-1618, AND
16 2-15-1628, MCA."

17
18 WHEREAS, during the course of the Legislative Audit
19 Committee's review of regulatory and licensing boards under
20 the first two sunset cycles it was noted that appointments
21 by the Governor to some boards must be made from lists
22 submitted by private associations; and

23 WHEREAS, requirements tying board membership to private
24 associations have been struck down by the courts in a number
25 of states; and

1 WHEREAS, the opportunity for members of the public and
2 private associations to submit nominees to the Governor for
3 board appointments is in the public interest.

4 THEREFORE, it is the intent of this bill to delete
5 requirements that appointments by the Governor to regulatory
6 and licensing boards must be made from lists submitted by
7 private associations and to provide that members of the
8 public and private associations may submit nominees to the
9 Governor for appointment to regulatory and licensing boards.

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 2-15-1606, MCA, is amended to read:
13 "2-15-1606. Board of dentistry. (1) There is a board
14 of dentistry.

15 (2) The board consists of five dentists and one dental
16 hygienist, all appointed by the governor. ~~The Montana dental~~
17 ~~association and the Montana dental hygienists' association~~
18 ~~shall each present to the governor within 15 days after its~~
19 ~~regular annual meeting a list of not less than five~~
20 ~~candidates from which appointments for vacancies on the~~
21 ~~board occurring during the ensuing year may be made. At all~~
22 ~~times at least three members of the board shall be appointed~~
23 ~~from the list of candidates submitted by the Montana dental~~
24 ~~association and one member shall be appointed from the list~~
25 ~~submitted by the Montana dental hygienists' association.~~

1 Each member shall be licensed to practice a dental
2 profession in this state, shall have actively practiced in
3 this state for at least 5 continuous years immediately
4 before his appointment, and shall be actively engaged in
5 practice while serving on the board. Each member shall be a
6 citizen of the United States and a resident of this state.

7 (3) Each member shall serve for a term of 5 years. The
8 governor may remove a member only for neglect or cause.

9 (4) The governor shall fill any vacancy within 30
10 days.

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

13 Section 2. Section 2-15-1608, MCA, is amended to read:

14 "2-15-1608. Board of podiatry examiners. (1) There is
15 a board of podiatry examiners.

16 (2) The board consists of three members, all of whom
17 are licensed podiatrists appointed by the governor to 3-year
18 terms ~~selected from a list of six podiatrists submitted by~~
19 ~~the Montana association of podiatrists.~~ The members shall be
20 residents of this state who have engaged in the active
21 practice of podiatry in this state for at least 2 years and
22 are of high integrity and ability. ~~The governor shall fill a~~
23 ~~vacancy on the board from the same list of podiatrists.~~

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

1 Section 3. Section 2-15-1609, MCA, is amended to read:
2 "2-15-1609. Board of pharmacists. (1) There is a board
3 of pharmacists.

4 (2) The board consists of three members appointed by
5 the governor. ~~The governor shall appoint the members from a~~
6 ~~list submitted annually by the Montana state pharmaceutical~~
7 ~~association. The list shall contain the names of five~~
8 ~~qualified persons for each appointment.~~ Each member shall be
9 a graduate of the college of pharmacy of the university of
10 Montana or of a college or school of pharmacy recognized and
11 approved by or a member of the American association of
12 colleges of pharmacy. Each member shall have at least 5
13 consecutive years of practical experience as a pharmacist
14 immediately before his appointment. However, one member may
15 be a registered pharmacist of 15 years' practical experience
16 and actually engaged in the practice of pharmacy. A member
17 who, during his term of office, ceases to be actively
18 engaged in the practice of pharmacy in this state, shall be
19 automatically disqualified from membership on the board.

20 (3) Each member shall serve for a term of 3 years. A
21 member shall be removed from office by the governor on proof
22 of malfeasance or misfeasance in office, after reasonable
23 notice of charges against him and after a hearing.

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

1 Section 4. Section 2-15-1611, MCA, is amended to read:

2 "2-15-1611. Board of nursing home administrators. (1)

3 There is a board of nursing home administrators.

4 (2) The board consists of five voting members
5 appointed by the governor. No more than two members shall be
6 nursing home administrators. One member shall represent the
7 public at large and must be 55 years of age or older at the
8 time of appointment. The other two members shall be
9 representatives of professions or institutions concerned
10 with the care of chronically ill and infirm aged patients
11 and may not be from the same profession or have a financial
12 interest in a nursing home.

13 (3) The director of the department of health and
14 environmental sciences or his designee and the director of
15 the department of social and rehabilitation services or his
16 designee are ex officio, nonvoting members of the board.

17 ~~(4) The appointee representing the public at large~~
18 ~~shall be selected by the governor. The remaining appointees~~
19 ~~shall be selected from a list of three nominees submitted~~
20 ~~for each appointee by the board of directors of the Montana~~
21 ~~nursing home association, inc.~~

22 (5)(4) Each appointed member shall serve for a term of
23 5 years. Any vacancy occurring in the position of an
24 appointive member shall be filled by the governor for the
25 unexpired term in the same manner provided for in subsection

1 ~~(4)~~.

2 ~~(6)~~(5) Appointive members may be removed by the
3 governor only for cause.

4 ~~(7)~~(6) The board is allocated to the department for
5 administrative purposes only as prescribed in 2-15-121."

6 Section 5. Section 2-15-1615, MCA, is amended to read:

7 "2-15-1615. Board of speech pathologists and
8 audiologists. (1) There is a board of speech pathologists
9 and audiologists.

10 (2) The board consists of five members, ~~four of whom~~
11 ~~who~~ shall:

12 (a) be appointed by the governor ~~from names submitted~~
13 ~~to him by the Montana speech and hearing association;~~

14 (b) have been residents of this state for at least 1
15 year immediately preceding their appointment; and

16 (c) have been engaged in rendering services to the
17 public, teaching, or performing research in the field of
18 speech pathology or audiology for at least 5 years
19 immediately preceding their appointment.

20 (3) At least two members of the board shall be speech
21 pathologists and at least two shall be audiologists, with
22 the remaining member to be a public member who is a consumer
23 of speech pathology or audiology services and who is not a
24 licentiate of the board or of any other board within the
25 department. All board members, except the public member,

1 shall at all times be validly licensed in speech pathology
2 or audiology.

3 ~~(4) Not less than 60 days before the end of each~~
4 ~~calendar year the association shall recommend at least~~
5 ~~three and not more than five persons for each vacancy~~
6 ~~occurring at the end of the calendar year. In the event of~~
7 ~~a vacancy for an unexpired term the association shall~~
8 ~~expeditiously recommend at least two and not more than three~~
9 ~~persons to fill the vacancy and the governor shall appoint~~
10 ~~one of those persons to fill the unexpired term.~~

11 ~~(5)(4)~~ Appointments shall be for 3-year terms with no
12 person eligible to serve more than two full consecutive
13 terms. Terms begin on the first day of the calendar year
14 and end on the last day of the calendar year.

15 ~~(6)(5)~~ The board is allocated to the department for
16 administrative purposes only as prescribed in 2-15-121."

17 Section 6. Section 2-15-1616, MCA, is amended to read:

18 "2-15-1616. Board of hearing aid dispensers. (1) There
19 is a board of hearing aid dispensers.

20 (2) The board consists of five members appointed by
21 the governor. The members are:

22 (a) one member appointed from a list submitted by the
23 Montana academy of oto-ophthalmology. This member who shall
24 hold or be eligible for a certificate of qualification from
25 the American board of otolaryngology;

1 (b) one member appointed from a list submitted by the
2 Montana speech and hearing association. This member who
3 shall hold or be eligible for a certificate of clinical
4 competence in audiology from the American speech and hearing
5 association;

6 (c) three members appointed from a list submitted by
7 the Montana hearing aid dealers' society. These members
8 shall who have been qualified dispensers and fitters of
9 hearing aids for at least 5 years before their appointment
10 to the board.

11 ~~(d) one alternate member shall be appointed from each~~
12 ~~of the three lists to serve when a regular member cannot~~
13 ~~attend a scheduled meeting.~~

14 (3) Each member shall serve for a term of 3 years. A
15 member may not be reappointed within 1 year after the
16 expiration of his second consecutive full term. If a vacancy
17 occurs on the board, the governor shall appoint a person
18 from the same list as the member whose term was not
19 completed.

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

22 Section 7. Section 2-15-1618, MCA, is amended to read:
23 "2-15-1618. Board of veterinarians. (1) There is a
24 board of veterinarians.

25 (2) The board consists of six members appointed by the

1 governor, five of whom shall be licensed veterinarians and
 2 one of whom shall be a public member who is a consumer of
 3 veterinary services and who shall not be a licentiate of the
 4 board or of any other board under the department of
 5 professional and occupational licensing.

6 ~~(3) The Montana state veterinary medical association~~
 7 ~~shall, at each annual meeting, nominate twice the number of~~
 8 ~~veterinarian board members to be appointed that year. The~~
 9 ~~names of these nominees shall be annually transmitted under~~
 10 ~~seal to the governor before duty is. The governor shall~~
 11 ~~before August 15 appoint from this list the board members to~~
 12 ~~fill the vacancies that will occur duty day. If no nominee~~
 13 ~~has the required qualifications to be on the board, the~~
 14 ~~governor may appoint any licensed and registered~~
 15 ~~veterinarian.~~

16 (4)(3) Each veterinarian member shall be a reputable
 17 licensed veterinarian who has graduated from a college
 18 authorized by law to confer degrees and have educational
 19 standards equal to those approved by the American veterinary
 20 medical association. Each veterinarian member shall have
 21 actually and legally practiced veterinary medicine in either
 22 private practice or public service in this state for at
 23 least 5 years immediately before his appointment.

24 (5)(4) Each member shall serve for a term of 5 years.
 25 The governor may, after notice and hearing, remove a member

1 for misconduct, incapacity, or neglect of duty.

2 ~~(6)(5) The board is allocated to the department for~~
 3 ~~administrative purposes only as prescribed in 2-15-121."~~

4 Section 8. Section 2-15-1628, MCA, is amended to read:

5 "2-15-1628. Board of physical therapy examiners. (1)
 6 There is a board of physical therapy examiners.

7 (2) The board consists of three members appointed by
 8 the governor upon the recommendation of the Montana chapter
 9 of the American physical therapy association for a term of
 10 3 years.

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

16 (4) Within 30 days following July 1, 1979, the
 17 governor shall make initial appointments to the board of
 18 physical therapy examiners. He shall appoint one member each
 19 to hold office for terms of 1 year, 2 years, and 3 years,
 20 respectively. At the end of each member's appointed term, a
 21 member shall be appointed for a full 3-year term.

22 ~~(5) Ninety days prior to the end of the board members~~
 23 ~~term of office a nominating committee comprised of members~~
 24 ~~and nonmembers of the Montana chapter of the American~~
 25 ~~physical therapy association shall submit to the governor a~~

~~1 list of individuals qualified to serve as a member of the~~
~~2 board. The list shall contain not less than three times the~~
~~3 number of candidates needed to fill the vacancies.~~

~~4 (6)(5) A vacancy on the board must be filled in the~~
~~5 same manner as the original appointment, except that the~~
~~6 names of qualified individuals must be submitted to the~~
~~7 governor upon notice of a pending vacancy or within 10 days~~
~~8 after a vacancy occurs. These appointments may only be made~~
~~9 for the unexpired portions of the term.~~

~~10 (7)(6) No member may be appointed for more than two~~
~~11 consecutive terms.~~

~~12 (8)(7) The governor may remove any board member for~~
~~13 negligence in performance of any duty required by law and~~
~~14 for incompetence or unprofessional or dishonorable conduct.~~

~~15 (9)(8) A board member is not liable to civil action~~
~~16 for any act performed in good faith in the execution of the~~
~~17 duties required by Title 37, chapter 11.~~

~~18 (10)(9) The board shall provide for its organizational~~
~~19 structure by rule, which shall include a chairman,~~
~~20 vice-chairman, and secretary-treasurer.~~

~~21 (11)(10) The board is allocated to the department for~~
~~22 administrative purposes only as prescribed in 2-15-121."~~

~~23 NEW SECTION. Section 9. Nominees for appointment to~~
~~24 licensing and regulatory boards. Private associations and~~
~~25 members of the public may submit to the governor lists of~~

1 nominees for appointment to professional and occupational
 2 licensing and regulatory boards. The governor may consider
 3 nominees from the lists when making appointments to such
 4 boards.

5 Section 10. Codification instruction. Section 9 is
 6 intended to be codified as an integral part of Title 37,
 7 chapter 1, and the provisions of section 9 apply to Title
 8 37.

-End-

1 *Senate* BILL NO. *312*
 2 INTRODUCED BY *Steve 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 APPOINTMENTS BY THE GOVERNOR OF MEMBERS TO
 7 THE BOARDS OF DENTISTRY, PODIATRY EXAMINERS, PHARMACISTS,
 8 NURSING HOME ADMINISTRATORS, SPEECH PATHOLOGISTS AND
 9 AUDIOLOGISTS, HEARING AID DISPENSERS, VETERINARIANS, AND
 10 PHYSICAL THERAPISTS BE MADE FROM LISTS SUBMITTED BY PRIVATE
 11 ASSOCIATIONS; PROVIDING THAT THE GOVERNOR MAY CONSIDER
 12 NOMINEES BY LICENSEES, PRIVATE ASSOCIATIONS, AND MEMBERS OF
 13 THE PUBLIC WHEN MAKING APPOINTMENTS TO LICENSING AND
 14 REGULATORY BOARDS; AMENDING SECTIONS 2-15-1606, 2-15-1608,
 15 2-15-1609, 2-15-1611, 2-15-1615, 2-15-1616, 2-15-1618, AND
 16 2-15-1628, MCA."

17
 18 WHEREAS, during the course of the Legislative Audit
 19 Committee's review of regulatory and licensing boards under
 20 the first two sunset cycles it was noted that appointments
 21 by the Governor to some boards must be made from lists
 22 submitted by private associations; and

23 WHEREAS, requirements tying board membership to private
 24 associations have been struck down by the courts in a number
 25 of states; and

1 WHEREAS, the opportunity for members of the public and
 2 private associations to submit nominees to the Governor for
 3 board appointments is in the public interest.

4 THEREFORE, it is the intent of this bill to delete
 5 requirements that appointments by the Governor to regulatory
 6 and licensing boards must be made from lists submitted by
 7 private associations and to provide that members of the
 8 public and private associations may submit nominees to the
 9 Governor for appointment to regulatory and licensing boards.

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 2-15-1606, MCA, is amended to read:
 13 "2-15-1606. Board of dentistry. (1) There is a board
 14 of dentistry.

15 (2) The board consists of five dentists and one dental
 16 hygienist, all appointed by the governor. ~~The Montana dental~~
 17 ~~association and the Montana dental hygienists' association~~
 18 ~~shall each present to the governor, within 15 days after its~~
 19 ~~regular annual meeting, a list of not less than five~~
 20 ~~candidates from which appointments for vacancies on the~~
 21 ~~board occurring during the ensuing year may be made. At all~~
 22 ~~times at least three members of the board shall be appointed~~
 23 ~~from the list of candidates submitted by the Montana dental~~
 24 ~~association and one member shall be appointed from the list~~
 25 ~~submitted by the Montana dental hygienists' association.~~

1 Each member shall be licensed to practice a dental
2 profession in this state, shall have actively practiced in
3 this state for at least 5 continuous years immediately
4 before his appointment, and shall be actively engaged in
5 practice while serving on the board. Each member shall be a
6 citizen of the United States and a resident of this state.

7 (3) Each member shall serve for a term of 5 years. The
8 governor may remove a member only for neglect or cause.

9 (4) The governor shall fill any vacancy within 30
10 days.

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

13 Section 2. Section 2-15-1608, MCA, is amended to read:

14 "2-15-1608. Board of podiatry examiners. (1) There is
15 a board of podiatry examiners.

16 (2) The board consists of three members, all of whom
17 are licensed podiatrists appointed by the governor to 3-year
18 terms ~~selected from a list of six podiatrists submitted by~~
19 ~~the Montana association of podiatrists.~~ The members shall be
20 residents of this state who have engaged in the active
21 practice of podiatry in this state for at least 2 years and
22 are of high integrity and ability. ~~The governor shall fill a~~
23 ~~vacancy on the board from the same list of podiatrists.~~

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

1 Section 3. Section 2-15-1609, MCA, is amended to read:
2 "2-15-1609. Board of pharmacists. (1) There is a board
3 of pharmacists.

4 (2) The board consists of three members appointed by
5 the governor. ~~The governor shall appoint the members from a~~
6 ~~list submitted annually by the Montana state pharmaceutical~~
7 ~~association. The list shall contain the names of five~~
8 ~~qualified persons for each appointment.~~ Each member shall be
9 a graduate of the college of pharmacy of the university of
10 Montana or of a college or school of pharmacy recognized and
11 approved by or a member of the American association of
12 colleges of pharmacy. Each member shall have at least 5
13 consecutive years of practical experience as a pharmacist
14 immediately before his appointment. However, one member may
15 be a registered pharmacist of 15 years' practical experience
16 and actually engaged in the practice of pharmacy. A member
17 who, during his term of office, ceases to be actively
18 engaged in the practice of pharmacy in this state, shall be
19 automatically disqualified from membership on the board.

20 (3) Each member shall serve for a term of 3 years. A
21 member shall be removed from office by the governor on proof
22 of malfeasance or misfeasance in office, after reasonable
23 notice of charges against him and after a hearing.

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

Section 4. Section 2-15-1611, MCA, is amended to read:

"2-15-1611. Board of nursing home administrators. (1)

There is a board of nursing home administrators.

(2) The board consists of five voting members appointed by the governor. No more than two members shall be nursing home administrators. One member shall represent the public at large and must be 55 years of age or older at the time of appointment. The other two members shall be representatives of professions or institutions concerned with the care of chronically ill and infirm aged patients and may not be from the same profession or have a financial interest in a nursing home.

(3) The director of the department of health and environmental sciences or his designee and the director of the department of social and rehabilitation services or his designee are ex officio, nonvoting members of the board.

~~(4) The appointee representing the public at large shall be selected by the governor. The remaining appointees shall be selected from a list of three nominees submitted for each appointee by the board of directors of the Montana nursing home association. In~~

~~(5) Each appointed member shall serve for a term of 5 years. Any vacancy occurring in the position of an appointive member shall be filled by the governor for the unexpired term in the same manner provided for in subsection~~

~~(4).~~

~~(5)~~ Appointive members may be removed by the governor only for cause.

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

Section 5. Section 2-15-1615, MCA, is amended to read:
"2-15-1615. Board of speech pathologists and audiologists. (1) There is a board of speech pathologists and audiologists.

(2) The board consists of five members, ~~four of whom~~ who shall:

(a) be appointed by the governor ~~from names submitted to him by the Montana speech and hearing association;~~

(b) have been residents of this state for at least 1 year immediately preceding their appointment; and

(c) have been engaged in rendering services to the public, teaching, or performing research in the field of speech pathology or audiology for at least 5 years immediately preceding their appointment.

(3) At least two members of the board shall be speech pathologists and at least two shall be audiologists, with the remaining member to be a public member who is a consumer of speech pathology or audiology services and who is not a licensee of the board or of any other board within the department. All board members, except the public member,

1 shall at all times be validly licensed in speech pathology
2 or audiology.

3 ~~(4) Not less than 60 days before the end of each~~
4 ~~calendar year the association shall recommend at least~~
5 ~~three and not more than five persons for each vacancy~~
6 ~~occurring at the end of the calendar year. In the event of~~
7 ~~a vacancy for an unexpired term the association shall~~
8 ~~expeditiously recommend at least two and not more than three~~
9 ~~persons to fill the vacancy and the governor shall appoint~~
10 ~~one of those persons to fill the unexpired term.~~

11 ~~(5)(4)~~ Appointments shall be for 3-year terms with no
12 person eligible to serve more than two full consecutive
13 terms. Terms begin on the first day of the calendar year
14 and end on the last day of the calendar year.

15 ~~(6)(5)~~ The board is allocated to the department for
16 administrative purposes only as prescribed in 2-15-121."

17 Section 6. Section 2-15-1616, MCA, is amended to read:

18 "2-15-1616. Board of hearing aid dispensers. (1) There
19 is a board of hearing aid dispensers.

20 (2) The board consists of five members appointed by
21 the governor. The members are:

22 (a) one member appointed from a list submitted by the
23 Montana academy of oto-ophthalmology. This member who shall
24 hold or be eligible for a certificate of qualification from
25 the American board of otolaryngology;

1 (b) one member appointed from a list submitted by the
2 Montana speech and hearing association. This member who
3 shall hold or be eligible for a certificate of clinical
4 competence in audiology from the American speech and hearing
5 association;

6 (c) three members appointed from a list submitted by
7 the Montana hearing aid dealers' society. These members
8 shall who have been qualified dispensers and fitters of
9 hearing aids for at least 5 years before their appointment
10 to the board.

11 ~~(d) one alternate member shall be appointed from each~~
12 ~~of the three lists to serve when a regular member cannot~~
13 ~~attend a scheduled meeting.~~

14 (3) Each member shall serve for a term of 3 years. A
15 member may not be reappointed within 1 year after the
16 expiration of his second consecutive full term. If a vacancy
17 occurs on the board, the governor shall appoint a person
18 from the same list as the member whose term was not
19 completed;

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

22 Section 7. Section 2-15-1618, MCA, is amended to read:

23 "2-15-1618. Board of veterinarians. (1) There is a
24 board of veterinarians.

25 (2) The board consists of six members appointed by the

1 governor, five of whom shall be licensed veterinarians and
 2 one of whom shall be a public member who is a consumer of
 3 veterinary services and who shall not be a licentiate of the
 4 board or of any other board under the department of
 5 professional and occupational licensing.

6 ~~{3}--The Montana state veterinary medical association~~
 7 ~~shall at each annual meeting nominate twice the number of~~
 8 ~~veterinarian board members to be appointed that year. The~~
 9 ~~names of these nominees shall be annually transmitted under~~
 10 ~~seal to the governor before July 1. The governor shall~~
 11 ~~before August 1 appoint from this list the board members to~~
 12 ~~fill the vacancies that will occur July 31. If no nominee~~
 13 ~~has the required qualifications to be on the board, the~~
 14 ~~governor may appoint any licensed and registered~~
 15 ~~veterinarians.~~

16 {4}{3} Each veterinarian member shall be a reputable
 17 licensed veterinarian who has graduated from a college
 18 authorized by law to confer degrees and have educational
 19 standards equal to those approved by the American veterinary
 20 medical association. Each veterinarian member shall have
 21 actually and legally practiced veterinary medicine in either
 22 private practice or public service in this state for at
 23 least 5 years immediately before his appointment.

24 {5}{4} Each member shall serve for a term of 5 years.
 25 The governor may, after notice and hearing, remove a member

1 for misconduct, incapacity, or neglect of duty.

2 ~~{6}{5} The board is allocated to the department for~~
 3 ~~administrative purposes only as prescribed in 2-15-121."~~

4 Section 8. Section 2-15-1628, MCA, is amended to read:
 5 "2-15-1628. Board of physical therapy examiners. (1)
 6 There is a board of physical therapy examiners.

7 (2) The board consists of three members appointed by
 8 the governor upon the recommendation of the Montana chapter
 9 of the American physical therapy association for a term of
 10 3 years.

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

16 (4) Within 30 days following July 1, 1979, the
 17 governor shall make initial appointments to the board of
 18 physical therapy examiners. He shall appoint one member each
 19 to hold office for terms of 1 year, 2 years, and 3 years,
 20 respectively. At the end of each member's appointed term, a
 21 member shall be appointed for a full 3-year term.

22 ~~{5}--Ninety days prior to the end of the board member's~~
 23 ~~term of office a nominating committee comprised of members~~
 24 ~~and nonmembers of the Montana chapter of the American~~
 25 ~~physical therapy association shall submit to the governor a~~

1 ~~list of individuals qualified to serve as a member of the~~
 2 ~~board. The list shall contain not less than three times the~~
 3 ~~number of candidates needed to fill the vacancies.~~

4 ~~(6)(5)~~ A vacancy on the board must be filled in the
 5 same manner as the original appointment, ~~except that the~~
 6 ~~names of qualified individuals must be submitted to the~~
 7 ~~governor upon notice of a pending vacancy or within 10 days~~
 8 ~~after a vacancy occurs.~~ These appointments may only be made
 9 for the unexpired portions of the term.

10 ~~(7)(6)~~ No member may be appointed for more than two
 11 consecutive terms.

12 ~~(8)(7)~~ The governor may remove any board member for
 13 negligence in performance of any duty required by law and
 14 for incompetence or unprofessional or dishonorable conduct.

15 ~~(9)(8)~~ A board member is not liable to civil action
 16 for any act performed in good faith in the execution of the
 17 duties required by Title 37, chapter 11.

18 ~~(10)(9)~~ The board shall provide for its organizational
 19 structure by rule, which shall include a chairman,
 20 vice-chairman, and secretary-treasurer.

21 ~~(11)(10)~~ The board is allocated to the department for
 22 administrative purposes only as prescribed in 2-15-121."

23 NEW SECTION. Section 9. Nominees for appointment to
 24 licensing and regulatory boards. Private associations and
 25 members of the public may submit to the governor lists of

1 nominees for appointment to professional and occupational
 2 licensing and regulatory boards. The governor may consider
 3 nominees from the lists when making appointments to such
 4 boards.

5 Section 10. Codification instruction. Section 9 is
 6 intended to be codified as an integral part of Title 37,
 7 chapter 1, and the provisions of section 9 apply to Title
 8 37.

-End-

1 SENATE BILL NO. 312

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 APPOINTMENTS BY THE GOVERNOR OF MEMBERS TO
7 THE BOARDS OF DENTISTRY, PODIATRY EXAMINERS, PHARMACISTS,
8 NURSING HOME ADMINISTRATORS, SPEECH PATHOLOGISTS AND
9 AUDIOLOGISTS, HEARING AID DISPENSERS, VETERINARIANS, AND
10 PHYSICAL THERAPISTS BE MADE FROM LISTS SUBMITTED BY PRIVATE
11 ASSOCIATIONS; PROVIDING THAT THE GOVERNOR MAY CONSIDER
12 NOMINEES BY LICENSEES, PRIVATE ASSOCIATIONS, AND MEMBERS OF
13 THE PUBLIC WHEN MAKING APPOINTMENTS TO LICENSING AND
14 REGULATORY BOARDS; AMENDING SECTIONS 2-15-1606, 2-15-1608,
15 2-15-1609, 2-15-1611, 2-15-1615, 2-15-1616, 2-15-1618, AND
16 2-15-1628, MCA."

17
18 WHEREAS, during the course of the Legislative Audit
19 Committee's review of regulatory and licensing boards under
20 the first two sunset cycles it was noted that appointments
21 by the Governor to some boards must be made from lists
22 submitted by private associations; and

23 WHEREAS, requirements tying board membership to private
24 associations have been struck down by the courts in a number
25 of states; and

1 WHEREAS, the opportunity for members of the public and
2 private associations to submit nominees to the Governor for
3 board appointments is in the public interest.

4 THEREFORE, it is the intent of this bill to delete
5 requirements that appointments by the Governor to regulatory
6 and licensing boards must be made from lists submitted by
7 private associations and to provide that members of the
8 public and private associations may submit nominees to the
9 Governor for appointment to regulatory and licensing boards.

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 2-15-1606, MCA, is amended to read:
13 "2-15-1606. Board of dentistry. (1) There is a board
14 of dentistry.

15 (2) The board consists of five dentists and one dental
16 hygienist, all appointed by the governor. ~~The Montana dental~~
17 ~~association and the Montana dental hygienists' association~~
18 ~~shall each present to the governor within 15 days after its~~
19 ~~regular annual meeting a list of not less than five~~
20 ~~candidates from which appointments for vacancies on the~~
21 ~~board occurring during the ensuing year may be made. At all~~
22 ~~times at least three members of the board shall be appointed~~
23 ~~from the list of candidates submitted by the Montana dental~~
24 ~~association and one member shall be appointed from the list~~
25 ~~submitted by the Montana dental hygienists' association.~~

1 Each member shall be licensed to practice a dental
2 profession in this state, shall have actively practiced in
3 this state for at least 5 continuous years immediately
4 before his appointment, and shall be actively engaged in
5 practice while serving on the board. Each member shall be a
6 citizen of the United States and a resident of this state.

7 (3) Each member shall serve for a term of 5 years. The
8 governor may remove a member only for neglect or cause.

9 (4) The governor shall fill any vacancy within 30
10 days.

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

13 Section 2. Section 2-15-1608, MCA, is amended to read:

14 "2-15-1608. Board of podiatry examiners. (1) There is
15 a board of podiatry examiners.

16 (2) The board consists of three members, all of whom
17 are licensed podiatrists appointed by the governor to 3-year
18 terms--selected-from-a-list-of-six-podiatrists-submitted-by
19 the-Montana-association-of-podiatrists. The members shall be
20 residents of this state who have engaged in the active
21 practice of podiatry in this state for at least 2 years and
22 are of high integrity and ability. The-governor-shall-fill-a
23 vacancy-on-the-board-from-the-same-list-of-podiatrists.

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

1 Section 3. Section 2-15-1609, MCA, is amended to read:
2 "2-15-1609. Board of pharmacists. (1) There is a board
3 of pharmacists.

4 (2) The board consists of three members appointed by
5 the governor. The-governor-shall-appoint-the-members-from-a
6 list-submitted-annually-by-the-Montana-state-pharmaceutical
7 association--The-list-shall-contain-the-names-of-five
8 qualified-persons-for-each-appointment. Each member shall be
9 a graduate of the college of pharmacy of the university of
10 Montana or of a college or school of pharmacy recognized and
11 approved by or a member of the American association of
12 colleges of pharmacy. Each member shall have at least 5
13 consecutive years of practical experience as a pharmacist
14 immediately before his appointment. However, one member may
15 be a registered pharmacist of 15 years' practical experience
16 and actually engaged in the practice of pharmacy. A member
17 who, during his term of office, ceases to be actively
18 engaged in the practice of pharmacy in this state, shall be
19 automatically disqualified from membership on the board.

20 (3) Each member shall serve for a term of 3 years. A
21 member shall be removed from office by the governor on proof
22 of malfeasance or misfeasance in office, after reasonable
23 notice of charges against him and after a hearing.

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

1 Section 4. Section 2-15-1611, MCA, is amended to read:

2 "2-15-1611. Board of nursing home administrators. (1)
3 There is a board of nursing home administrators.

4 (2) The board consists of five voting members
5 appointed by the governor. No more than two members shall be
6 nursing home administrators. One member shall represent the
7 public at large and must be 55 years of age or older at the
8 time of appointment. The other two members shall be
9 representatives of professions or institutions concerned
10 with the care of chronically ill and infirm aged patients
11 and may not be from the same profession or have a financial
12 interest in a nursing home.

13 (3) The director of the department of health and
14 environmental sciences or his designee and the director of
15 the department of social and rehabilitation services or his
16 designee are ex officio, nonvoting members of the board.

17 ~~{4}--The appointee representing the public at large
18 shall be selected by the governor. The remaining appointees
19 shall be selected from a list of three nominees submitted
20 for each appointee by the board of directors of the Montana
21 nursing home association, inc.~~

22 {5}{4} Each appointed member shall serve for a term of
23 5 years. Any vacancy occurring in the position of an
24 appointive member shall be filled by the governor for the
25 unexpired term ~~in the same manner provided for in subsection~~

1 ~~{4}~~.

2 ~~{6}~~{5} Appointive members may be removed by the
3 governor only for cause.

4 ~~{7}~~{6} The board is allocated to the department for
5 administrative purposes only as prescribed in 2-15-121."

6 Section 5. Section 2-15-1615, MCA, is amended to read:

7 "2-15-1615. Board of speech pathologists and
8 audiologists. (1) There is a board of speech pathologists
9 and audiologists.

10 (2) The board consists of five members, ~~four~~ of whom
11 who shall:

12 (a) be appointed by the governor ~~from names submitted~~
13 ~~to him by the Montana speech and hearing association;~~

14 (b) have been residents of this state for at least 1
15 year immediately preceding their appointment; and

16 (c) have been engaged in rendering services to the
17 public, teaching, or performing research in the field of
18 speech pathology or audiology for at least 5 years
19 immediately preceding their appointment.

20 (3) At least two members of the board shall be speech
21 pathologists and at least two shall be audiologists, with
22 the remaining member to be a public member who is a consumer
23 of speech pathology or audiology services and who is not a
24 licentiate of the board or of any other board within the
25 department. All board members, except the public member,

1 shall at all times be validly licensed in speech pathology
2 or audiology.

3 ~~{4}~~ Not less than 60 days before the end of each
4 calendar year the association shall recommend at least
5 three and not more than five persons for each vacancy
6 occurring at the end of the calendar year. In the event of
7 a vacancy for an unexpired term the association shall
8 expeditiously recommend at least two and not more than three
9 persons to fill the vacancy and the governor shall appoint
10 one of those persons to fill the unexpired term.

11 ~~{5}~~ {4} Appointments shall be for 3-year terms with no
12 person eligible to serve more than two full consecutive
13 terms. Terms begin on the first day of the calendar year
14 and end on the last day of the calendar year.

15 ~~{6}~~ {5} The board is allocated to the department for
16 administrative purposes only as prescribed in 2-15-121."

17 Section 6. Section 2-15-1616, MCA, is amended to read:

18 "2-15-1616. Board of hearing aid dispensers. (1) There
19 is a board of hearing aid dispensers.

20 (2) The board consists of five members appointed by
21 the governor. The members are:

22 (a) one member appointed from a list submitted by the
23 Montana academy of oto-ophthalmology. This member who shall
24 hold or be eligible for a certificate of qualification from
25 the American board of otolaryngology;

1 (b) one member appointed from a list submitted by the
2 Montana speech and hearing association. This member who
3 shall hold or be eligible for a certificate of clinical
4 competence in audiology from the American speech and hearing
5 association;

6 (c) three members appointed from a list submitted by
7 the Montana hearing aid dealers' society. These members
8 shall who have been qualified dispensers and fitters of
9 hearing aids for at least 5 years before their appointment
10 to the board.

11 ~~{d}~~ one alternate member shall be appointed from each
12 of the three lists to serve when a regular member cannot
13 attend a scheduled meeting.

14 (3) Each member shall serve for a term of 3 years. A
15 member may not be reappointed within 1 year after the
16 expiration of his second consecutive full term. If a vacancy
17 occurs on the board, the governor shall appoint a person
18 from the same list as the member whose term was not
19 completed.

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

22 Section 7. Section 2-15-1618, MCA, is amended to read:

23 "2-15-1618. Board of veterinarians. (1) There is a
24 board of veterinarians.

25 (2) The board consists of six members appointed by the

1 governor, five of whom shall be licensed veterinarians and
 2 one of whom shall be a public member who is a consumer of
 3 veterinary services and who shall not be a licentiate of the
 4 board or of any other board under the department of
 5 professional and occupational licensing.

~~(3) The Montana state veterinary medical association
 shall at each annual meeting, nominate twice the number of
 veterinarian board members to be appointed that year. The
 names of these nominees shall be annually transmitted under
 seal to the governor before July 1. The governor shall
 before August 1, appoint from this list the board members to
 fill the vacancies that will occur July 31. If no nominee
 has the required qualifications to be on the board, the
 governor may appoint any licensed and registered
 veterinarian.~~

~~(3) Each veterinarian member shall be a reputable
 licensed veterinarian who has graduated from a college
 authorized by law to confer degrees and have educational
 standards equal to those approved by the American veterinary
 medical association. Each veterinarian member shall have
 actually and legally practiced veterinary medicine in either
 private practice or public service in this state for at
 least 5 years immediately before his appointment.~~

~~(4) Each member shall serve for a term of 5 years.
 The governor may, after notice and hearing, remove a member~~

1 for misconduct, incapacity, or neglect of duty.

~~(5) The board is allocated to the department for
 administrative purposes only as prescribed in 2-15-121."~~

Section 8. Section 2-15-1628, MCA, is amended to read:
 "2-15-1628. 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 July 1, 1979, 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~~

1 ~~list of individuals qualified to serve as a member of the~~
 2 ~~board. The list shall contain not less than three times the~~
 3 ~~number of candidates needed to fill the vacancies.~~

4 ~~(6)(5)~~ A vacancy on the board must be filled in the
 5 same manner as the original appointment, except that the
 6 names of qualified individuals must be submitted to the
 7 governor upon notice of a pending vacancy or within 10 days
 8 after a vacancy occurs. These appointments may only be made
 9 for the unexpired portions of the term.

10 ~~(7)(6)~~ No member may be appointed for more than two
 11 consecutive terms.

12 ~~(8)(7)~~ The governor may remove any board member for
 13 negligence in performance of any duty required by law and
 14 for incompetence or unprofessional or dishonorable conduct.

15 ~~(9)(8)~~ A board member is not liable to civil action
 16 for any act performed in good faith in the execution of the
 17 duties required by Title 37, chapter 11.

18 ~~(10)(9)~~ The board shall provide for its organizational
 19 structure by rule, which shall include a chairman,
 20 vice-chairman, and secretary-treasurer.

21 ~~(11)(10)~~ The board is allocated to the department for
 22 administrative purposes only as prescribed in 2-15-121."

23 NEW SECTION. Section 9. Nominees for appointment to
 24 licensing and regulatory boards. Private associations and
 25 members of the public may submit to the governor lists of

1 nominees for appointment to professional and occupational
 2 licensing and regulatory boards. The governor may consider
 3 nominees from the lists when making appointments to such
 4 boards.

5 Section 10. Codification instruction. Section 9 is
 6 intended to be codified as an integral part of Title 37,
 7 chapter 1, and the provisions of section 9 apply to Title
 8 37.

-End-