SENATE BILL NO. 390

INTRODUCED BY HIMSL, S. BROWN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

February 7, 1981	Introduced and referred to Committee on Public Health, Welfare and Safety.
February 19, 1981	Committee recommend bill do pass. Report adopted.
February 20, 1981	Bill printed and placed on members' desks.
February 21, 1981	Second reading, do pass.
February 24, 1981	Correctly engrossed.
February 25, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.
IN THE HO	DUSE
March 3, 1981	Introduced and referred to Committee on Human Services.
March 23, 1981	Committee recommend bill be concurred in as amended. Report aodpted.
March 26, 1981	Second reading, concurred in as amended.
March 28, 1981	Third reading, concurred in as amended. Ayes, 91; Noes,

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IN THE SENATE

March 30, 1981

April 3, 1981

April 6, 1981

Returned from House with amendments.

Second reading, amendments concurred in.

Third reading, amendments concurred in. Ayes, 49; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

5 BILL NO. 390 1 1 2 2 INTRODUCED BY з SY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE 3 4 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE 5 5 BOARD OF PHARMACISTS UNDER EXISTING STATUTORY AUTHORITY AND 6 6 RULES: ADDING A PUBLIC MEMBER TO THE BOARD; DELETING THE 7 7 STORE LICENSE REQUIREMENT: DELETING THE MANDATORY CONTINUING 8 а EDUCATION - REQUIREMENT: DELETING FREENY CONVECTION AS GROUND 9 9 12 FOR DEFIXE OR REVECATION OF LICENSE; AMENDING SECTIONS 10 λí 11 SECTIONS 07-7-304 AND 37-7-305, MCA; AND PROVIDING AN 12 12 13 CFFECTIVE DATE." 13 14 14 WHEREAS, the sunset law, sections 2-3-103 and 2-8-112, 15 15 MCA, terminates the Board of Pharmacists and requires a 16 16 performance evaluation of the Board by the Legislative Audit 17 17 18 18 Committee: and 19 WHEREAS, as a result of the performance evaluation, the 19 20 20 Legislative Audit Committee recommends that the Board of Pharmacists be reestablished under existing statutory 21 21 22 22 authority. 23 23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 24 24 25 25 Section 1. Reestablishment. The board of pharmacists

is reestablished for 6 years pursuant to 2-8-122 with its existing statutory authority and rules. Section 2. Section 2-8-103, MCA, is amended to read: *2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979: (a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643; (b) board of real estate, department of professional and occupational licensing, created by 2-15-1642; (c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656; (d) board of institutions, department of institutions, created by 2-15-2303. (2) The following agencies shall terminate on July 1, 1981: (a) commission for human rights, department of labor and industry, created by 2-15-1706; (b) board of athletics, department of professional and occupational licensing, created by 2-15-1661; (c) board of barbers, department of professional and occupational licensing, created by 2-15-1625; (d) board of chiropractors, department of professional and occupational licensing, created by 2-15-1613; (e) board cosmetologists. of. department of INTRODUCED BILL

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professional and occupational licensing, created by 1 1 to;--board-of-pharmacistay-department--of--professional 2 2-15-1626: end-occupational-licensingy-created-by-2-15-1689; 2 (f) board of dentists, department of professional and 3 follol board of podiatry examiners, department of 3 occupational licensing, created by 2-15-1606; 4 professional and occupational licensing, created 4 5 (g) board of hearing aid dispensers, department of 2-15-1608: 5 professional and occupational licensing, created by 6 psychologists, department 6 fation totard of 2-15-1616; 7 7 professional and occupational licensing, created 8 massage therapists, department of (h) board of a 2-15-1617: 9 professional and occupational licensing, created by 9 tri(a) board of radiologic technologists, department 10 2-15-1627; 10 of professional and occupational licensing, created by 11 (i) Montana state board of medical examiners. 2-15-1614; 11 department of professional and occupational licensing, 12 (s)(r) board of speech pathologists and audiologists, 12 13 created by 2-15-1605; 13 department of professional and occupational licensing, (i) board of morticians, department of professional 14 created by 2-15-1615; 14 15 and occupational licensing, created by 2-15-1619; veterinarians, 15 (tt) board of 16 (k) board of nursing, department of professional and 16 professional and occupational licensing, created occupational licensing, created by 2-15-1610; 17 2-15-1618; 17 18 (1) board of nursing home administrators, department of veterans' affairs, department of 18 feiti board 19 of professional and occupational licensing, created by social and rehabilitation services, created by 2-15-2202; 19 20 2-15-1611: sanitarians. 20 ttill board of 21 (m) board of optometrists, department of professional 21 professional and occupational licensing, created by and occupational licensing, created by 2-15-1612; 22 2-15-1631. 22 23 (n) board of osteopathic physicians, department of 23 (3) The following units of state government shall professional and occupational licensing, created by 24 terminate on July 1, 1983: 24 (a) board of aeronautics, department of community 25 2-15-1607: 25

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1	affairs, created by 2-15-1103;	1	(c) state banking board, department of business
2	(b) state board of hall insurance, department of	2 re	gulation, created by 2-15-1803;
з	agriculture, created by 2-15-3003;	3	(d) the state electrical board, created by 2-15-1654;
4	(c) board of horse racing, department of professional	4	(e) the board of professional engineers and land
5	and occupational licensing, created by 2-15-1662;	5 su	rveyors, created by 2-15-1653;
6	(d) board of livestock, department of livestock,	ప	(f) office of commissioner of Insurance and the
т	created by 2-15-3102;	7 in	surance department, state auditor's office, created by
8	(e) board of milk control, department of business	8 2-	15-1902 and 2-15-1903;
9	regulation, created by 2-15-1802;	9	(g) office of the securities commissioner, state
10	(f) board of oil and gas conservation, department of	10 au	ditor's office, created by 2-15-1901;
11	natural resources and conservation, created by 2-15-3303;	11	(h) the board of landscape architects, created by
12	(g) Montana outfitters council, department of fish,	12 2-	15-1652;
13	wildlife, and parks, created by 2-15-3403;	13	(i) the board of county printing, created by
14	(h) public service commission, department of public	14 2-	15-1102;
15	service regulation, created by 69-1-102;	15	(j) the board of plumbers, created by 2-15-1655;
10	(i) board of water and wastewater operators,	16	(k) board of physical therapy examiners, created by
17	department of health and environmental sciences, created by	17 2-	15-1628.
18	2-15-2105;	18	<pre>[5] The following agency terminates on July 1, 1987:</pre>
19	(j) board of water well contractors, department of	19 <u>th</u>	e_board_of_pharmacistsdepartment_of_professional_and
20	professional and occupational licensing, created by	20 <u>oc</u>	cupational licensings_created_by_2-15-1609s*
21	2-15-1632.	21	Section 3. Section 2-15-1609, MCA, is amended to read:
22	(4) The following agencies terminate on July 1, 1985:	22	"2-15-1609• Board of pharmacists• (1) There is a board
23	(a) the board of public accountants, created by	23 of	pharmacists.
24	2-15-1641;	24	(2) The board consists of three four members appointed
25	(b) the board of architects, created by 2-15-1651;	25 by	the governor. The-governorshallappointthemembers

1 from---e--list--submitted--ennually--by--the--Montana--state Z phormaceutical-associationy-The-list-shall-contain-the-names з of--five--quolified--persons--for--each--appointments Ihree 4 members_must_be_licensed_pharmacists.and_one_member_must_be 5 from the general public. Each licensed member shall be a 6 graduate of the college of pharmacy of the university of 7 Montana or of a college or school of charmacy recognized and 8 approved by or a member of the American association of 9 colleges of pharmacy. Each licensed member shall have at 10 least 5 consecutive years of practical experience as a 11 pharmacist immediately before his appointment. However, one 12 member may be a registered pharmacist of 15 years' practical 13 experience and actually engaged in the practice of pharmacy. 14 A licensed member who, during his term of office, ceases to 15 be actively engaged in the practice of pharmacy in this 1ó state, shall be automatically disgualified from membership 17 on the board.

18 (3) Each-member <u>Hembers</u> shall serve for-a--term--of--3 years staggered 3-year_terms. A member shall be removed from 0 office by the governor on proof of malfeasance or 21 misfeasance in office, after reasonable notice of charges 22 against him and after a hearing.

23 (4) The board is allocated to the department for
24 administrative purposes only as prescribed in 2-15-121."
25 Section 4. Section 37-7-311, MCA, is amended to read:

1 "37-7-311. Revocation of license issued to pharmacist 2 or intern. The board shall revoke, temporarily or 3 permanently. licenses issued by the department to 3 pharmacist or intern whenever the holder of the license: 4 (1) has obtained it by false representations or fraud: 5 (2) is an habitual drunkard or addicted to the use of 6 7 narcotic drugs; 8 f3)--has-been-convicted-of-a-felonyt Q f4+131 has been convicted of violating the pharmacy 10 law; or 11 f5t(4) has been found by the board guilty of 12 incompetency in the preparation of prescriptions or guilty 13 of gross immorality affecting the discharge of his duties as 14 a pharmacist or intern." 15 Section 5. Section 37-7-321, MCA, is amended to read: 16 "37-7-321. Store---license----certified Certified pharmacy license -- suspension or revocation. flt--the 17 18 department--shally-on-application-on-forms-prescribed-by-the 19 board-and-on-the-payment-of-an-annual-fee--of--\$10+--license 20 stores--other--than--pharmacies--in--which-are-sold-ordinary household-or-medicinal-drugs-pressred-in-sealed-packages--or 21 22 bottles--by--a--manufacturer-qualified-under-the-laws-of-the 23 state-in--which--che--manufacturer--residesy--The--name--and 24 address--of--the--manufacturer-shall-appear-conspicuously-on

25 each-package-sold-by-the-licenseev--it--is--unlawful--for--a

store--to--selly--delivery--or-give-sway-household-medicinal
 drugs-without-first-having-secured-a-license-and--thereafter
 keeping--it-in-force-by-proper-renewalx-This-subsection-does
 not-prevent-a-vendor-from-selling-a--patent--or--proprietary
 medicine--in--the--original--package-when-plainly-labeled-or
 nonmedicel-articles-usually-sold-by-vendors*

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(2)(1) The board shall provide for the original 7 8 certification and annual renewal by the department of every pharmacy doing business in this state. On presentation of 9 10 evidence satisfactory to the board and on application on a 11 form prescribed by the board and on the payment of an original certification fee of \$100, the department shall 12 issue a license to a pharmacy as a certified pharmacy. 13 However, the license may be granted only to pharmacies 14 15 operated by registered pharmacists or registered interns gualified under this chapter. The annual renewal fee for a 16 17 pharmacy shall be set by the board in an amount not to exceed \$50. Any default in the payment of such renewal fee 18 for a period of 30 days after the date the same is due shall 19 increase the renewal fee to the sum of \$100. The license 20 21 must be displayed in a conspicuous place in the pharmacy for 22 which it is issued and expires on June 30 following the date 23 of issue. It is unlawful for a person to conduct a pharmacy, use the word "pharmacy" to identify his business, or use the 24 word "pharmacy" in advertising unless a license has been 25

1	issued and is in effect.
2	(3)[2] The board may suspend, revoke, or refuse to
3	renew a store-or pharmacy license:
4	(a) obtained by false representation or fraud;
5	(b) when the pharmacy for which the license is issued
6	is kept open for the transaction of business without a
7	pharmacist in charge;
8	(c) when the person to whom the license is granted has
9	been convicted of:
10	(i) a violation of parts 1 through 3 of this chapter;
11	or.
12	tii)-o-felonyi-or
13	<pre>tiit?(ii) a violation of the Federal Food, Drug, and</pre>
14	Cosmetic Act of June 25, 1938, (52 Stats. 1040 through
15	1059);
16	(d) when the person to whom the license is granted is
17	a natural person whose pharmacist or intern license has been
18	revoked; or
19	(e) when the store-or pharmacy is conducted in
20	violation of parts 1 through 3 of this chapter.
21	(4)(3) Before a license can be revoked, the holder is
22	entitled to a hearing by the board.*
23	Section 6. Repealer. Sections 37-7-304 and 37-7-305,
24	MCA, are repealed.
25	Section 7. Effective date. This act is effective on

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1 passage and approval.

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Approved by the committee on Public Health, Welfare & Safety

1	BILL NO. 390
2	INTRODUCED BY Stime THEVE 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 PHARMACISTS UNDER EXISTING STATUTORY AUTHORITY AND
7	RULES; ADDING A PUBLIC MEMBER TO THE BOARD; DELFTING THE
6	STORE LICENSE REQUIREMENT; DELETING THE MANDATORY CONTINUING
9	EDUCATION REQUIREMENT; DELETING FELONY CONVICTION AS GROUDE
10	FOR DENIAL OR REVOCATION OF LICENSE; AMENDING SECTIONS
11	2-3-103, 2-15-1609, 37-7-311, AND 37-7-321, MCA; REPEALING
1?	SECTIONS 37-7-304 AND 37-7-305, MCA; AND PROVIDING AN
13	SPRECTIVE DATE."
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15	WHEREAS, the sunset law, sections 2-3-103 and 2-8-112,
16	MCA, terminates the Board of Pharmacists and requires a
17	performance evaluation of the Board by the Legislative Audit
18	Committee; and
19	WHEREAS, as a result of the performence evaluation, the
20	Legislative Audit Committee recommends that the Board of
21	Pharmacists be reestablished under existing statutory
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24	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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8	(b) board of real estate, department of professional
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10	(c) state board of warm air heating, ventilation, and
11	air conditioning, department of professional and
12	occupational licensing, created by 2-15-1656;
13	(d) board of institutions, department of institutions,
14	created by 2-15-2303.
15	(2) The following agencies shall terminate on July 1,
16	1981:
17	(a) commission for human rights, department of labor
18	and industry, created by 2-15-1706;
19	(b) board of athletics, department of professional and
20	occupational licensing, created by 2-15-1661;
21	(c) board of barbers, department of professional and
22	occupational licensing, created by 2-15-1625;
23	(d) board of chiropractors, department of professional
24	and occupational licensing, created by 2-15-1613;
25	(e) board of cosmetologists, department of

-2- SECOND READING SB 390

professional and occupational licensing, created by	1	{o}-~board-of~pharmacistsy~departmentofprofessional
2-15-1626;	2	and-occupational-licensingy-created-by-2-15-1609t
(f) board of dentists, department of professional and	3	<pre>{p}(0) board of podiatry examiners, department of</pre>
occupational licensing, created by 2-15-1606;	4	professional and occupational licensing, created by
(g) board of hearing aid dispensers, department of	5	2-15-1608;
professional and occupational licensing, created by	6	<pre>fqt(p) board of psychologists, department of</pre>
2-15-1616;	7	professional and occupational licensing, created by
(h) board of massage therapists, department of	8	2-15-1617;
professional and occupational licensing, created by	9	<pre>(r)(g) board of radiologic technologists, department</pre>
2-15-1627;	10	of professional and occupational licensing, created by
(i) Montana state board of medical examiners,	11	2-15-1614;
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(j) board of morticians, department of professional	14	created by 2-15-1615;
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(k) board of nursing, department of professional and	16	professional and occupational licensing, created by
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(1) board of nursing home administrators, department	18	<pre>(u)(1) board of veterans* affairs, department of</pre>
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from---a--list--submitted--cnnually--by--the--Hontana--state 1 2 pharmaceutical-essociationy-The-list-shall-contain-the-names 3 of--five--qualified--persons--for--each--appointmenty Ibree 4 members must be licensed pharmacists, and one member must be 5 from the general public. Each licensed member shall be a graduate of the college of pharmacy of the university of 6 7 Montana or of a college or school of pharmacy recognized and approved by or a member of the American association of 8 9 colleges of pharmacy. Each licensed member shall have at 10 least 5 consecutive years of practical experience as a pharmacist immediately before his appointment. However, one 11 member may be a registered pharmacist of 15 years' practical 12 experience and actually engaged in the practice of pharmacy. 13 14 A licensed member who, during his term of office, ceases to 15 be actively engaged in the practice of pharmacy in this 16 state, shall be automatically disqualified from membership 17 on the board.

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store--to--selly--delivery--or-give-away-household-medicinal
 drugs-without-first-having-secured-a-license-and--thereafter
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1 passage and approval.

-End-

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-2- THIRD READING

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1	professional and occupational licensing, created by	1	to;boord-of-pharmac;sts;-departmentofprofessional
2	2-15-1626;	2	and-occupations?~?icensingy-created-by~2-15-1689\$
3	(f) board of dentists, department of professional and	3	<pre>tpjiol board of podiatry examiners, department of</pre>
4	occupational licensing, created by 2-15-1606;	4	professional and occupational licensing, created by
5	(g) board of hearing aid dispensers, department of	5	2-15-1608;
6	professional and occupational licensing, created by	6	type board of psychologists, department of
7	2-15-1616;	7	professional and occupational licensing, created by
8	(h) board of massage therapists, department of	8	2-15-1617;
9	professional and occupational licensing, created by	9	(rt[g] board of radiologic technologists, department
10	2-15-1627;	10	of professional and occupational licensing, created by
11	(i) Montana state board of medical examiners,	11	2-15-1614;
12	department of professional and occupational licensing,	12	<pre>fat(r) board of speech pathologists and audiologists,</pre>
13	created by 2-15-1605;	13	department of professional and occupational licensing,
14	(j) board of morticians, department of professional	14	created by 2-15-1615;
15	and occupational licensing, created by 2-15-1619;	15	(t)[s] board of veterinarians, department of
16	(k) board of nursing, department of professional and	16	professional and occupational licensing, created by
17	occupational licensing, created by 2-15-1610;	17	2-15-1618;
18	(1) board of nursing home administrators, department	18	<pre>fuj(t) board of veterans* affairs, department of</pre>
19	of professional and occupational licensing, created by	19	social and rehabilitation services, created by 2-15-2202;
20	2-15-1611;	20	<pre>tv)(u) board of sanitarians, department of</pre>
	🛫 🕼 board :### optometrists, department of professional	21	professional and occupational licensing, created by
22	and occupational licensing, created by 2-15-1612;	22	2-15-1631-
23	(n) board of osteopathic physicians, department of	23	(3) The following units of state government shall
24	professional and occupational licensing, created by	24	terminate on July I# 1983:
25	2-15-1607;	25	(a) board of aeronautics, department of community

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1	affairs, created by 2-15-1103;	1	(c) state banking board, department of business
2	(b) state board of hall insurance, department of	2	regulation, created by 2-15-1803;
3	agriculture, created by 2-15-3003;	3	(d) the state electrical board, created by 2-15-1654;
4	(c) board of horse racing, department of professional	4	(e) the board of professional engineers and land
5	and occupational licensing, created by 2-15-1662;	5	surveyors, created by 2-15-1653;
6	(d) board of livestock, department of livestock,	6	(f) office of commissioner of insurance and the
7	created by 2-15-3102;	7	insurance department, state auditor's office, created by
8	(e) board of milk control, department of business	8	2-15-1902 and 2-15-1903;
9	regulation, created by 2-15-1802;	9	(g) office of the securities commissioner, state
10	(f) board of oil and gas conservation, department of	10	auditor's office, created by 2-15-1901;
11	natural resources and conservation, created by 2-15-3303;	11	<pre>(h) the board of landscape architects, created by</pre>
12	(g) Montana outfitters council, department of fish,	12	2-15-1652;
13	wildlife, and parks, created by 2-15-3403;	13	(i) the board of county printing, created by
14	(h) public service commission, department of public	14	2-15-1102;
15	service regulation, created by 69-1-102;	15	(j) the board of plumbers, created by 2-15-1655;
16	(i) board of water and wastewater operators,	16	(k) board of physical therapy examiners, created by
17	department of health and environmental sciences, created by	17	2-15-1628.
18	2-15-2105;	18	151_The_following_agency_terminates_on_july_1.1987:
19	(j) board of water well contractors, department of	19	the board of pharmacists, department of professional and
20	professional and occupational licensing, created by	20	occupational_licensings_created_by_2-15-1609s*
21	2-15-1632.	21	Section 3. Section 2-15-1609, MCA, is amended to read:
22	(4) The following agencies terminate on July 1, 1985:	22	"2-15-1609. Board of pharmacists. (1) There is a board
23	(a) the board of public accountants, created by	23	of pharmacists.
24	2-15-1641;	24	(2) The board consists of three four members appointed
25	(b) the board of architects, created by 2-15-1651;	25	by the governor. The-governorshallappointthemembers
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1 z phormaceutical-associations-The-list-shall-contain-the-assos of--five--qualified--persons--for--each--appointmenty Three 3 members must be licensed obarmacists, and one member must be 4 5 from the general public. Each licensed member shall be a 6 graduate of the college of pharmacy of the university of 7 Montana or of a college or school of pharmacy recognized and 8 approved by or a member of the American association of 9 colleges of pharmacy. Each licensed member shall have at 10 least 5 consecutive years of practical experience as a 11 pharmacist immediately before his appointment. However, one 12 member may be a registered pharmacist of 15 years* practical 13 experience and actually engaged in the practice of pharmacv-14 A licensed member who, during his term of office, ceases to 15 be actively engaged in the practice of pharmacy in this 16 state, shall be automatically disgualified from membership 17 on the board.

18 (3) Each-member Members shall serve for-a-term-of-3 19 years staggered 3-year terms. A member shall be removed from 20 office by the governor on proof of malfeasance or 21 A23. misseasance in office, after reasonable notice of charges 22 against him and after a hearing.

23 (4) The board is allocated to the department for
24 administrative purposes only as prescribed in 2-15-121."
25 Section 4. Section 37-7-311, MCA, is amended to read:

#37-7-311. Revocation of license issued to pharmacist or intern. The board shall revoke, temporarily or nermanently. licenses issued by the department to a pharmacist or intern whenever the holder of the license: (1) has obtained it by false representations or fraud; (2) is an habitual drunkard or addicted to the use of narcotic drugs; 131-has-been-convicted-of-a-felonyt ++++(3) has been convicted of violating the pharmacy law; or +5+141 has been found by the board guilty of incompetency in the preparation of prescriptions or quilty of gross immorality affecting the discharge of his duties as a pharmacist or intern." Section 5. Section 37-7-321, MCA, is amended to read: pharmacy license -- suspension or revocation. (1)-The department--shally-on-application-on-forma-prescribed-by-the board-and-on-the-payment-of-an-annual-fee--of--\$18+--license stores--other--then--phermetics--in--which-ere-sold-ordinery

- 21 household-or-medicinal-drugs-prepared-in-sealed-packages-or
- 22 bottles-by--e-manufacturer-qualified-under-the-laws-of-the
- 23 state-in--which--the--manufacturer--residese--The--name--and
- 24 oddress-of--the--manufacturer-shall-appear-conspicuously-on
- 25 each-package-sold-by-the-lieenseev-it--is--anlowful--for--a

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 1
 store-to--setty--defivery-or-give-away-household-medicinal

 2
 drugs-without-first-having-secured-a-license-ond--thereafter

 3
 keeping--it-in-force-by-proper-renewaly-This-subsection-does

 4
 not-prevent-a-vendor-from-setting-a--patent--or--proprietary

 5
 medicine--in--the--original--package-when-plainly-labeled-or

 6
 nonmedical-articles-usually-sold-by-vendorsy

+2+111 The board shall provide for the original 7 certification and annual renewal by the department of every 8 9 pharmacy doing business in this state. On presentation of 10 evidence satisfactory to the board and on application on a 11 form prescribed by the board and on the payment of an 12 original certification fee of \$100, the department shall issue a license to a pharmacy as a certified pharmacy. 13 However, the license may be granted only to pharmacies 14 15 operated by registered pharmacists or registered interns 16 qualified under this chapter. The annual renewal fee for a 17 pharmacy shall be set by the board in an amount not to exceed \$50. Any default in the payment of such renewal fee 18 for a period of 30 days after the date the same is due shall 19 increase the renewal fee to the sum of \$100. The license 20 must be displayed in a conspicuous place in the pharmacy for 21 22 which it is issued and expires on June 30 following the date 23 of issue. It is unlawful for a person to conduct a pharmacy, use the word "pharmacy" to identify his business, or use the 24 25 word "pharmacy" in advertising unless a license has been

issued and is in effect.
 t3)(2) The board may suspend, revoke, or refuse to

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3 renew a store-or pharmacy license:

(a) obtained by false representation or fraud;

5 (b) when the pharmacy for which the license is issued 6 is kept open for the transaction of business without a 7 pharmacist in charge;

8 (c) when the person to whom the license is granted has
9 been convicted of:

10 (i) a violation of parts 1 through 3 of this chapter;
11 or

12 tit)-s-fetonyt-or

13 <u>tiii)</u> a violation of the Federal Food. Drug, and 14 Cosmetic Act of June 25, 1938, (52 Stats. 1040 through 15 1059);

16 (d) when the person to whom the license is granted is
17 a natural person whose pharmacist or intern license has been
18 revoked; cr

(e) when the store--or pharmacy is conducted in
violation of parts 1 through 3 of this chapter.

21 (47(3) Before a license can be revoked, the holder is 22 entitled to a hearing by the board."

23Section 6. Repealer. Sections 37-7-304 and 37-7-305.24MCA, are repealed.

25 Section 7. Effective date. This act is effective on

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passage and approval. 1

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1	SENATE BILL NO. 390	1	is reestablished for 6 years pursuant to 2-8-122 with its
2	INTRODUCED BY HIMSL, S. BROWN	2	existing statutory authority and rules.
3	BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE	3	Section 2. Section 2-8-103, MCA, is amended to read:
4		4	"2-8-103. Agencies to terminate. (1) The following
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE	5	agencies shall terminate on July 1, 1979:
6	BOARD OF PHARMACISTS UNDER EXISTING STATUTORY AUTHORITY AND	6	(a) board of abstracters, department of professional
7	RULES; ADDING A-PUBLIG-MEMBER IND PUBLIC MEMBERS TO THE	7	and occupational licensing, created by 2-15-1643;
8	BOARD; DELETING THE STORE LICENSE REQUIREMENT; DELETING-THE	8	(b) board of real estate, department of professional
9	HANBATORY-CONTINUING-EDUCATION-REQUIREMENT+ DELETING FELONY	9	and occupational licensing, created by 2-15-1642;
10	CONVICTION AS GROUND FOR DENIAL OR REVOCATION OF LICENSE;	10	(c) state board of warm air heating, ventilation, and
11	AMENUING SECTIONS 2-8-103, 2-15-1609, 37-7-311, AND	11	air conditioning, department of professional and
12	37-7-321+ MCA; REPEALINGSEGTIONS37-7-304-AND-37-7-305+	12	accupational licensing, created by 2+15-1656;
13	MEAT AND PROVIDING AN EFFECTIVE DATE."	13	(d) board of institutions, department of institutions,
14		14	created by 2-15-2303.
15	WHEREAS, the sunset law, sections 2+0-103 and 2-0-112,	15	(2) The following agencies shall terminate on July 1.
16	MCA, terminates the Board of Pharmacists and requires a	16	1981:
17	performance evaluation of the Board by the Legislative Audit	17	(a) commission for human rights, department of labor
18	Committee; and	18	and industry, created by 2+15-1706;
19	WHEREAS, as a result of the performance evaluation, the	19	(b) board of athletics, department of professional and
20	Legislative Audit Committee recommends that the Board of	20	occupational lacensing, created by 2-15-1661;
21	Pharmacists be reestablished under existing statutory	21	(c) board of barbers, department of professional and
22	authority.	22	occupational licensing, created by 2-15-1625;
23		23	(d) board of chiropractors, department of professional
24	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	24	and occupational licensing, created by 2-15-1613;
25	Section 1. Reestablishment. The board of pharmacists	25	(e) board of cosmetologists, department of
			-2- Se 390

REFERENCE BILL

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1 professional and occupational licensing, created by 1 2 2-15-1626: 2 3 (f) board of dentists, department of professional and 3 occupational licensing, created by 2-15-1606; 4 4 5 (g) board of hearing aid dispensers, department of 5 6 professional and occupational licensing, created by 6 7 2-15-1616: 7 В (h) board of massage therapists, department 8 of 9 professional and occupational licensing, created by 9 10 2-15-1627: 10 11 (i) Montana state board 11 of medical examiners. department of professional and occupational licensing, 12 12 created by 2-15-1605; 13 13 14 (i) board of morticians, department of professional 14 15 and occupational licensing, created by 2-15-1619; 15 16 (k) board of nursing, department of professional and 16 17 occupational licensing, created by 2-15-1610; 17 18 (1) board of nursing home administrators, department 18 19 of professional and occupational licensing, created by 19 2-15-1611; 20 20 21 (m) board of optometrists, department of professional 21 22 and occupational licensing, created by 2-15-1612; 22 23 (n) board of osteopathic physicians, department of 23 24 professional and occupational licensing, created by 24 2-15-1607; 25 25

to)--board--of--pharmacistsv-department-of-professional and-occupational-licensingy-created-by-2-15-1609t tot(o) board of podiatry examiners, department of professiona) and occupational licensing, created by 2-15-1608: of psychologists. department of tet(p) board professional and occupational licensing, created by 2-15-1617: fr+(g) board of radiologic technologists, department of professional and occupational licensing, created by 2-15-1614: (s)(r) board of speech pathologists and audiologists. department of professional and occupational licensing. created by 2-15-1615; tty(s) board of veterinarians, department of professional and occupational licensing, created by 2-15-1618: tut(t) board of veterans' affairs, department of social and rehabilitation services, created by 2-15-2202; (v) board of sanitarians, department of professional and occupational licensing, created by 2-15-1631. (3) The following units of state government shall terminate on July 1, 1983:

5 (a) board of aeronautics, department of community

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1	affairs, created by 2-15-1103;	1	(c) state banking board+ department of business
2	(b) state board of hail insurance, department of	2 regul	ation, created by 2-15-1803;
3	agriculture, created by 2-15-3003;	3	(d) the state electrical board, created by 2-15-1654;
4	(c) board of horse racing, department of professional	4	(e) the board of professional engineers and land
5	and occupational licensing, created by 2-15-1662;	5 surve	eyors, created by 2-15-1653;
6	(d) board of livestock, department of livestock,	6	(f) office of commissioner of insurance and the
7	created by 2-15-3102;	7 insur	rance department, state auditor's office, created by
8	(e) board of milk control, department of business	8 2-15-	-1902 and 2-15-1903;
9	regulation, created by 2-15-1802;	9	(g) office of the securities commissioner, state
LO	(f) board of oil and gas conservation, department of	10 audit	tor's office, created by 2-15-1901;
11	natural resources and conservation, created by 2-15-3303;	11	(h) the board of landscape architects, created by
12	(g) Montana outfitters council+ department of fish+	12 2-15-	-1652;
13	wildlife, and parks, created by 2-15-3403;	13	(i) the board of county printing, created by
14	(h) public service commission, department of public	14 2-15-	-1102;
15	service regulation, created by 69-1-102;	15	(j) the board of plumbers, created by 2-15-1655;
16	(i) board of water and wastewater operators,	16	(k) board of physical therapy examiners, created by
17	department of health and environmental sciences, created by	17 2-15-	-1628 -
18	2-15-2105;	18	(5) The following agency terminates on July 1, 1987:
19	(j) board of water well contractors, department of	19 <u>the t</u>	poard of pharmacists, department of professional and
20	professional and occupational licensing, created by	20 <u>occup</u>	pational licensing, created by 2-15-1609."
21	2-15-1632.	21	Section 3. Section 2-15-1609, MCA, is amended to read:
22	(4) The following agencies terminate on July 1, 1985:	22	#2-15-1609. Board of pharmacists. (1) There is a board
23	(a) the board of public accountants, created by	23 of ph	narmacists.
24	2-15-1641;	24	(2) The board consists of three <u>four FIVE</u> members
25	(b) the board of architects, created by 2-15-1651;		nted by the governor. The governor-shallappointthe

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1	membersfrom-a-list-submitted-annually-by-the-Montana-state
2	pharmaceutical-association=-The-list-shall-contain-the-names
3	offivequalifiedpersonsforeachappointment+ <u>Three</u>
4	members must be licensed pharmacists, and one-member TWO
5	MEMBERS must be from the general public. Each licensed
6	member shall be a graduate of the college of pharmacy of the
7	university of Montana or of a college or school of pharmacy
8	recognized and approved by or a member of the American
9	association of colleges of pharmacy. Each <u>licensed</u> member
10	shall have at least 5 consecutive years of practical
11	experience as a pharmacist immediately before his
12	appointment. However, one member may be a registered
13	pharmacist of 15 years' practical experience and actually
14	engaged in the practice of pharmacy. A <u>licensed</u> member who,
15	during his term of office, ceases to be actively engaged in
16	the practice of pharmacy in this state, shall be
17	automatically disqualified from membership on the board.

18 (3) Each--member Members shall serve for-a-term-of-3 19 years staggered 3-year terms. A member shall be removed from 20 office by the governor on proof of malfeasance or misfeasance in office, after reasonable notice of charges 21 22 against him and after a hearing.

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

25 Section 4. Section 37-7-311, MCA, is amended to read:

1	"37-7~311. Revocation of license issued to pharmacist
2	or intern. The board shall revoke, temporarily or
3	permanently, licenses issued by the department to a
4	pharmacist or intern whenever the nolder of the license:
5	(1) has obtained it by false representations or fraud;
6	(2) is an habitual drunkard or addicted to the use of
7	narcotic drugs;
8	t3;has-been-convicted-of-o-fetony;
9	<pre>t4t(3) has been convicted of violating the pharmacy</pre>
10	law; or
11	15][4] has been found by the board guilty of
12	incompetency in the preparation of prescriptions or guilty
13	of gross immorality affecting the discharge of his duties as
14	a pharmacist or intern."
15	Section 5. Section 37-7-321, MCA, is amended to read:
16	"37-7-321. Storelicensecertified <u>Certified</u>
17	pharmacy license suspension or revocation. (1)The
18	deportment-shally-on-application-on-forms-prescribed-bythe
19	boardandonthe-payment-of-an-annual-fee-of-\$10+-license
20	stores-other-than-pharmaciesinwhicharesoldordinary
21	householdor-medicinal-drugs-prepared-in-scoled-packages-or
22	bottles-by-a-monufacturer-qualified-under-thelawsofthe
23	stateinwhichthemonufacturerresidesaThename-and
24	address-of-the-monufacturer-shallappearconspicuouslyon
25	eachpackagesoldbythelicenseev-It-is-unlawful-for-a

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1 store-to-setty-delivery-or--give--away--household--medicinal drugs--without-first-having-secured-a-license-and-thereafter 3 keeping-it-in-force-by-proper-renewalx-This-subsection--does 4 not--prevent--a--vendor-from-setting-a-patent-or-proprietary 5 medicine-in-the-original-package--when--plainly--labeled--or 6 nonmedical-articles-usually-sold-by-vendorsw

7 (2)(1) The board shall provide for the original 8 certification and annual renewal by the department of every 9 pharmacy doing business in this state. On presentation of 10 evidence satisfactory to the board and on application on a form prescribed by the board and on the payment of an 11 12 original certification fee of \$100, the department shall 13 issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to pharmacies 14 15 operated by registered pharmacists or registered interns 16 qualified under this chapter. The annual renewal fee for a 17 pharmacy shall be set by the board in an amount not to 18 exceed \$50. Any default in the payment of such renewal fee for a period of 30 days after the date the same is due shall 19 increase the renewal fee to the sum of \$100+ The license 20 21 must be displayed in a conspicuous place in the pharmacy for 22 which it is issued and expires on June 30 following the date of issue. It is unlawful for a person to conduct a pharmacy. 23 use the word "pharmacy" to identify his business, or use the 24 word "pharmacy" in advertising unless a license has been 25

1 issued and is in effect.

2	(3)[2] The board may suspend, revoke, or refuse to
3	renew a store-or pharmacy license:
4	(a) obtained by false representation or fraud;
5	(b) when the pharmacy for which the license is issued
6	is kept open for the transaction of business without a
7	pharmacist in charge:
8	(c) when the person to whom the license is granted has
9	been convicted of:
10	(i) a violation of parts 1 through 3 of this chapter;
11	or
12	tii)-a-felonyt-ar
13	{iii} a violation of the Federal Food, Drug, and
14	Cosmetic Act of June 25, 1938, (52 Stats, 1040 through
15	1059];
16	(d) when the person to whom the license is granted is
17	a natural person whose pharmacist or intern license has been
18	revoked; of
19	(e) when the storeor pharmacy is conducted in
20	violation of parts 1 through 3 of this chapter.
21	(4)[3] Before a license can be revoked, the holder is
22	entitled to a hearing by the board."
23	Section-6RepeaterSections-37-7-304-and37-7-305-
24	MCAv-are-repeated#

25 Section 6. Effective date. This act is effective on

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l passage and approval.

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House amendments to Senate Bill 390:

1. Title, line 7. Following: "ADDING" Strike: "A PUBLIC MEMBER" Insert: "TWO PUBLIC MEMBERS" 2. Page 6, line 24. Following: "three" Strike: "four" Insert: "five" 3. Page 7, line 4. Following: "and" Strike: "one" Insert: "two" Strike: "member" Insert: "members"

HUMAN SERVICES COMMITTEE OF THE HOUSE AMENDMENTS TO THIRD READING COPY OF SB 390 March 19, 1981 1. Title, line 8. Following: "REQUIREMENT;" Strike: "DELETING THE MANDATORY CONTINUING" 2. Title, line 9. Following: line 8 Strike: "EDUCATION REQUIREMENT;" 3. Title, line ll. Following: "MCA;" Strike: "REPEALING" 4. Title, line 12. Following: line ll Strike: "SECTIONS 37-7-304 AND 37-7-305, MCA;" 5. Page 7, line 4. Following: "and" Strike: "one member" "two members" Insert: 6. Page 10, lines 23 and 24.

Strike: section 6 in its entirety Renumber: subsequent section