

HOUSE BILL NO. 337

INTRODUCED BY METCALF, HAZELBAKER, O'CONNELL,
FARRIS, HEMSTAD, FABREGA

BY REQUEST OF THE BOARD OF PHARMACISTS

IN THE HOUSE

January 18, 1983	Introduced and referred to Committee on Human Services.
February 10, 1983	Committee recommend bill do pass as amended. Report adopted.
February 11, 1983	Statement of Intent attached. Bill printed and placed on members' desks.
February 12, 1983	Second reading, do pass.
February 14, 1983	Considered correctly engrossed.
February 15, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 16, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 11, 1983	Committee recommend bill be concurrent in. Report adopted.
March 14, 1983	Second reading, concurred in.
March 16, 1983	Third reading, concurred in. Ayes, 47; Noes, 0.

IN THE HOUSE

March 16, 1983

Returned to House.

March 17, 1983

Sent to enrolling.

Reported correctly enrolled.

1 *House* BILL NO. *337*
 2 INTRODUCED BY *Melcoff Walker O'Connell*
 3 *Amended* BY REQUEST OF THE BOARD OF PHARMACISTS *Farris*
 4 *Page*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LAWS RELATING TO THE BOARD OF PHARMACISTS;
 7 CHANGING THE NAME OF THE BOARD TO THE BOARD OF PHARMACY;
 8 AMENDING THE PROVISIONS ON PROFESSIONAL EDUCATION; CHANGING
 9 THE TERMS OF MEMBERS OF THE BOARD AND PROVIDING A TRANSITION
 10 TO THE LONGER TERM; ESTABLISHING QUALIFICATIONS FOR THE
 11 PUBLIC MEMBERS OF THE BOARD; CLARIFYING THE PROVISIONS ON
 12 WHAT CONSTITUTES A VIOLATION OF PHARMACY LAW RELATING TO
 13 DISCIPLINARY ACTION AGAINST PHARMACISTS; REMOVING THE
 14 REQUIREMENT FOR A REEXAMINATION FEE; AMENDING SECTIONS
 15 2-15-1843, 37-7-302, 37-7-311, AND 37-7-321, MCA; AND
 16 REPEALING SECTIONS 37-7-403 THROUGH 37-7-405, MCA."

17

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

19 NEW SECTION. Section 1. Board renamed — instructions
 20 to code commissioner. (1) The board of pharmacists provided
 21 for in 2-15-1843 is renamed the board of pharmacy.

22 (2) The code commissioner is instructed to change
 23 every reference to the "board of pharmacists" in the Montana
 24 Code Annotated and in statutes passed by the 48th
 25 legislature and approved by the governor to "board of

1 pharmacy".

2 Section 2. Section 2-15-1843, MCA, is amended to read:

3 "2-15-1843. Board of pharmacists pharmacy. (1) There
 4 is a board of pharmacists pharmacy.

5 (2) The board consists of five members appointed by
 6 the governor with the consent of the senate. Three members
 7 must be licensed pharmacists, and two members must be from
 8 the general public.

9 (a) ~~Each licensed member shall be a graduate of the~~
 10 ~~college of pharmacy must have graduated and received the~~
 11 ~~first professional undergraduate degree from the school of~~
 12 ~~pharmacy of the university of Montana or of a college or~~
 13 ~~school of from an accredited pharmacy accredited by the~~
 14 ~~American council on pharmaceutical education degree program~~
 15 ~~that has been approved by the board.~~ Each licensed member
 16 shall have at least 5 consecutive years of practical
 17 experience as a pharmacist immediately before his
 18 appointment. A licensed member who, during his term of
 19 office, ceases to be actively engaged in the practice of
 20 pharmacy in this state, shall be automatically disqualified
 21 from membership on the board.

22 (b) ~~Each public member of the board must be a resident~~
 23 ~~of the state and may not be or ever have been:~~

24 (i) ~~a member of the profession of pharmacy or the~~
 25 ~~spouse of a member of the profession of pharmacy;~~

(ii) a person having any material financial interest in the providing of pharmacy services; or

(iii) a person who has engaged in any activity directly related to the practice of pharmacy.

(3) Members shall serve staggered 3-year 5-year terms. A member may not serve consecutive terms on the board. A member shall be removed from office by the governor on proof of malfeasance or misfeasance in office, after reasonable notice of charges against him and after a hearing.

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

Section 3. Section 37-7-302, MCA, is amended to read:

"37-7-302. Examination -- qualifications -- fees -- reciprocity. (1) The department shall give reasonable notice of examinations by mail to known applicants. The department shall record the names of persons examined, together with the grounds on which the right of each to examination was claimed, and also the names of persons registered by examination or otherwise.

(2) The fee for an examination shall be set by the board at a figure commensurate with costs, which fee may in the discretion of the board be returned to applicants not taking the examination. ~~On again making payment of the fee an applicant who fails is entitled to take the next succeeding examination free of charge.~~

(3) To be entitled to examination as a pharmacist, the applicant shall be of good moral character and ~~a graduate of the school of pharmacy of the university of Montana or of a college or school of pharmacy accredited by the American council on pharmaceutical education; but the applicant may not receive a registered pharmacist's license until he has complied with the internship requirements established by the board shall have graduated and received the first professional undergraduate degree from the school of pharmacy of the university of Montana or from an accredited pharmacy degree program that has been approved by the board.~~

(4) The board may in its discretion authorize the department to grant registration without examination to a pharmacist licensed by a board of pharmacy or a similar board of another state which accords similar recognition to licensees of this state if the requirements for registration in the other state are, in the opinion of the board, equivalent to the requirements of this chapter. The fee for registration by reciprocity shall be prescribed by the board.

(5) Every person licensed and registered under this chapter shall receive from the department an appropriate certificate attesting the fact, which shall be conspicuously displayed at all times in his place of business."

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 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;

(3) has been convicted of violating the ~~pharmacy--law~~
Federal Food, Drug, and Cosmetic Act (Title 21, chapter 9, U.S.C.); chapter 2 or 7 of Title 37, chapter 9 or 10 of Title 45, or chapter 31 or 32 of Title 50, MCA; or rules adopted under such act or chapters; or

(4) has been found by the board guilty of incompetency in the preparation of prescriptions or guilty 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:

"37-7-321. Certified pharmacy license -- suspension or revocation. (1) The board shall provide for the original certification and annual renewal by the department of every pharmacy doing business in this state. On presentation of evidence satisfactory to the board and on application on a form prescribed by the board and on the payment of an original certification fee prescribed by the board, the department shall issue a license to a pharmacy as a

certified pharmacy. However, the license may be granted only to pharmacies operated by registered pharmacists qualified under this chapter. The annual renewal fee for a pharmacy shall be set by the board. Any default in the payment of such renewal fee after the date the same is due shall increase the renewal fee as prescribed by the board. The license must be displayed in a conspicuous place in the pharmacy for which it is issued and expires on June 30 following the date of issue. It is unlawful for a person to conduct a pharmacy, use the word "pharmacy" to identify his business, or use the word "pharmacy" in advertising unless a license has been issued and is in effect.

(2) The board may suspend, revoke, or refuse to renew a pharmacy license:

(a) obtained by false representation or fraud;
 (b) when the pharmacy for which the license is issued is kept open for the transaction of business without a pharmacist in charge;

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

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

(ii) a violation of the Federal Food, Drug, and Cosmetic Act (Title 21, chapter 9, ~~United--States--Code~~
U.S.C.); chapter 2 or 7 of Title 37, chapter 9 or 10 of

1 Title 45, or chapter 31 or 32 of Title 50, MCA; or rules
2 adopted under such act or chapters;

3 (d) when the person to whom the license is granted is
4 a natural person whose pharmacist license has been revoked;
5 or

6 (e) when the pharmacy is conducted in violation of
7 parts 1 through 3 of this chapter.

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

10 NEW SECTION. Section 6. Transition of terms of board
11 members. The provisions of [section 2 of this act] amending
12 2-15-1843(3), establishing 5-year staggered terms for
13 members of the board of pharmacy, apply to the terms of
14 members serving on the board on October 1, 1983. The
15 governor shall modify the terms of such board members so
16 that one term will expire annually in each of the 5
17 subsequent years.

18 NEW SECTION. Section 7. Termination date of section
19 6. Section 6 terminates on September 30, 1987.

20 NEW SECTION. Section 8. Repealer. Sections 37-7-403
21 through 37-7-405, MCA, are repealed.

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1 STATEMENT OF INTENT

2 HOUSE BILL 337

3 House Human Services Committee

4

5 A Statement of Intent is required on House Bill 337
6 because sections 2 and 3 delegate to the Board of
7 Pharmacists power to approve accredited pharmacy degree
8 programs for qualifications for appointment for licensed
9 members on the Board and for qualifications to be entitled
10 for examination as a pharmacist. It is intended that the
11 Board will approve those standards which are at least
12 equivalent to the minimum standards required by the American
13 Council on Pharmaceutical Education. The American Council on
14 Pharmaceutical Education operates as an independent
15 organization, but is recognized by the United States
16 Commissioner of Education, the Department of Health and
17 Human Services, and the Council on Postsecondary
18 Accreditation.

SECOND READING

HB337

Approved by Comm. on Human Services

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FARRIS, HEMSTAD, FABREGA

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legislature and approved by the governor to "board of pharmacy".

Section 2. Section 2-15-1843, MCA, is amended to read:

"2-15-1843. Board of pharmacists pharmacy. (1) There is a board of pharmacists pharmacy.

(2) The board consists of five members appointed by the governor with the consent of the senate. Three members must be licensed pharmacists, and two members must be from the general public.

(a) Each licensed member ~~shall be a graduate of the college of pharmacy~~ must have graduated and received the first professional undergraduate degree from the school of pharmacy of the university of Montana or of a college or school of from an accredited pharmacy accredited by the American council on pharmaceutical education degree program that has been approved by the board. Each licensed member shall have at least 5 consecutive years of practical experience as a pharmacist immediately before his appointment. A licensed member who, during his term of office, ceases to be actively engaged in the practice of pharmacy in this state shall be automatically disqualified from membership on the board.

(b) ~~Each public member of the board must be a resident of the state and may not be or ever have been;~~

(c) ~~a member of the profession of pharmacy or the~~

1 spouse of a member of the profession of pharmacy;

2 (iii) a person having any material financial interest
3 in the providing of pharmacy services; or

4 (iiii) a person who has engaged in any activity
5 directly related to the practice of pharmacy.

6 (3) Members shall serve staggered 3-year 5-year terms.

7 A member may not serve consecutive 5-YEAR terms on the
8 boards. A member shall be removed from office by the
9 governor on proof of malfeasance or misfeasance in office,
10 after reasonable notice of charges against him and after a
11 hearing.

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

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17 of examinations by mail to known applicants. The department
18 shall record the names of persons examined, together with
19 the grounds on which the right of each to examination was
20 claimed, and also the names of persons registered by
21 examination or otherwise.

22 (2) The fee for an examination shall be set by the
23 board at a figure commensurate with costs, which fee may in
24 the discretion of the board be returned to applicants not
25 taking the examination. On again making payment of the fee

1 on applicant who fails is entitled to take the next
2 succeeding examination free of charge.

3 (3) To be entitled to examination as a pharmacist, the
4 applicant shall be of good moral character and a graduate of
5 the school of pharmacy of the university of Montana or of a
6 college or school of pharmacy accredited by the American
7 council on pharmaceutical education; but the applicant may
8 not receive a registered pharmacist's license until he has
9 complied with the internship requirements established by the
10 board shall have graduated and received the first
11 professional undergraduate degree from the school of
12 pharmacy of the university of Montana or from an accredited
13 pharmacy degree program that has been approved by the board.
14 HOWEVER, NO APPLICANT MAY RECEIVE A REGISTERED PHARMACIST'S
15 LICENSE UNTIL HE HAS COMPLIED WITH THE INTERNSHIP
16 REQUIREMENTS ESTABLISHED BY THE BOARD.

17 (4) The board may in its discretion authorize the
18 department to grant registration without examination to a
19 pharmacist licensed by a board of pharmacy or a similar
20 board of another state which accords similar recognition to
21 licensees of this state if the requirements for registration
22 in the other state are, in the opinion of the board,
23 equivalent to the requirements of this chapter. The fee for
24 registration by reciprocity shall be prescribed by the
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(b) when the pharmacy for which the license is issued is kept open for the transaction of business without a pharmacist in charge;

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

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 2 or
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 4 Cosmetic Act (Title 21, chapter 9, United--States--Code
 5 U.S.C.); ~~chapter 2 or 7 of Title 37, chapter 9 or 10 of~~
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 12 parts 1 through 3 of this chapter.
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 20 governor shall modify the terms of such board members so
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1 through 37-7-405, MCA, are repealed.

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3 House Human Services Committee
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THIRD READING

AB337

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(4) The board may in its discretion authorize the department to grant registration without examination to a pharmacist licensed by a board of pharmacy or a similar board of another state which accords similar recognition to licensees of this state if the requirements for registration in the other state are, in the opinion of the board, equivalent to the requirements of this chapter. The fee for registration by reciprocity shall be prescribed by the board.

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6 Title 42, or chapter 31 or 32 of Title 50, MCA; or rules
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REFERENCE BILL

HB 337

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(2) The code commissioner is instructed to change every reference to the "board of pharmacists" in the Montana Code Annotated and in statutes passed by the 48th

legislature and approved by the governor to "board of pharmacy".

Section 2. Section 2-15-1843, MCA, is amended to read: "2-15-1843. Board of pharmacists pharmacy. (1) There is a board of pharmacists pharmacy.

(2) The board consists of five members appointed by the governor with the consent of the senate. Three members must be licensed pharmacists, and two members must be from the general public.

(a) Each licensed member ~~shall be a graduate of the college of pharmacy~~ must have graduated and received the first professional undergraduate degree from the school of pharmacy of the university of Montana or ~~of a college or school of from an accredited pharmacy~~ accredited by the American council on pharmaceutical education degree program that has been approved by the board. Each licensed member shall have at least 5 consecutive years of practical experience as a pharmacist immediately before his appointment. A licensed member who, during his term of office, ceases to be actively engaged in the practice of pharmacy in this state shall be automatically disqualified from membership on the board.

(b) ~~Each public member of the board must be a resident of the state and may not be or ever have been~~

(c) ~~a member of the profession of pharmacy or the~~

spouse of a member of the profession of pharmacy:

(iii) a person having any material financial interest in the providing of pharmacy services; or

(iiii) a person who has engaged in any activity directly related to the practice of pharmacy.

(3) Members shall serve staggered 3-year 5-year terms. A member may not serve consecutive 5-YEAR terms on the board. A member shall be removed from office by the governor on proof of malfeasance or misfeasance in office, after reasonable notice of charges against him and after a hearing.

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

Section 3. Section 37-7-302, MCA, is amended to read:

"37-7-302. Examination -- qualifications -- fees -- reciprocity. (1) The department shall give reasonable notice of examinations by mail to known applicants. The department shall record the names of persons examined, together with the grounds on which the right of each to examination was claimed, and also the names of persons registered by examination or otherwise.

(2) The fee for an examination shall be set by the board at a figure commensurate with costs, which fee may in the discretion of the board be returned to applicants not taking the examination. On again making payment of the fee,

an applicant who fails is entitled to take the next succeeding examination free of charges.

(3) To be entitled to examination as a pharmacist, the applicant shall be of good moral character and a graduate of the school of pharmacy of the university of Montana or of a college or school of pharmacy accredited by the American council on pharmaceutical education, but the applicant may not receive a registered pharmacist's license until he has complied with the internship requirements established by the board shall have graduated and received the first professional undergraduate degree from the school of pharmacy of the university of Montana or from an accredited pharmacy degree program that has been approved by the board. HOWEVER, NO APPLICANT MAY RECEIVE A REGISTERED PHARMACIST'S LICENSE UNTIL HE HAS COMPLIED WITH THE INTERNSHIP REQUIREMENTS ESTABLISHED BY THE BOARD.

(4) The board may in its discretion authorize the department to grant registration without examination to a pharmacist licensed by a board of pharmacy or a similar board of another state which accords similar recognition to licensees of this state if the requirements for registration in the other state are, in the opinion of the board, equivalent to the requirements of this chapter. The fee for registration by reciprocity shall be prescribed by the board.

1 (5) Every person licensed and registered under this
2 chapter shall receive from the department an appropriate
3 certificate attesting the fact, which shall be conspicuously
4 displayed at all times in his place of business."

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

6 "37-7-311. Revocation of license issued to pharmacist
7 or intern. The board shall revoke licenses issued by the
8 department to a pharmacist or intern whenever the holder of
9 the license:

10 (1) has obtained it by false representations or fraud;

11 (2) is an habitual drunkard or addicted to the use of
12 narcotic drugs;

13 (3) has been convicted of violating the pharmacy--~~law~~
14 ~~Federal Foods, Drugs, and Cosmetic Act (Title 21, chapter 9,~~
15 ~~U.S.C.; chapter 2, or 7, of Title 37, chapter 9, or 10, of~~
16 ~~Title 45, or chapter 31 or 32 of Title 50, MCA; or rules~~
17 ~~adopted under such act or chapters; or~~

18 (4) has been found by the board guilty of incompetency
19 in the preparation of prescriptions or guilty of gross
20 immorality affecting the discharge of his duties as a
21 pharmacist or intern."

22 Section 5. Section 37-7-321, MCA, is amended to read:

23 "37-7-321. Certified pharmacy license -- suspension or
24 revocation. (1) The board shall provide for the original
25 certification and annual renewal by the department of every

1 pharmacy doing business in this state. On presentation of
2 evidence satisfactory to the board and on application on a
3 form prescribed by the board and on the payment of an
4 original certification fee prescribed by the board, the
5 department shall issue a license to a pharmacy as a
6 certified pharmacy. However, the license may be granted only
7 to pharmacies operated by registered pharmacists qualified
8 under this chapter. The annual renewal fee for a pharmacy
9 shall be set by the board. Any default in the payment of
10 such renewal fee after the date the same is due shall
11 increase the renewal fee as prescribed by the board. The
12 license must be displayed in a conspicuous place in the
13 pharmacy for which it is issued and expires on June 30
14 following the date of issue. It is unlawful for a person to
15 conduct a pharmacy, use the word "pharmacy" to identify his
16 business, or use the word "pharmacy" in advertising unless a
17 license has been issued and is in effect.

18 (2) The board may suspend, revoke, or refuse to renew
19 a pharmacy license:

20 (a) obtained by false representation or fraud;

21 (b) when the pharmacy for which the license is issued
22 is kept open for the transaction of business without a
23 pharmacist in charge;

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

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

3 (ii) a violation of the Federal Food, Drug, and
4 Cosmetic Act (Title 21, chapter 9, United--States--Code
5 U.S.C.); ~~chapter 2 or 7 of Title 31, chapter 9 or 10 of~~
6 ~~Title 45, or chapter 31 or 32 of Title 50, MCA; or rules~~
7 ~~adopted under such act or chapters;~~

8 (d) when the person to whom the license is granted is
9 a natural person whose pharmacist license has been revoked;
10 or

11 (e) when the pharmacy is conducted in violation of
12 parts 1 through 3 of this chapter.

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

15 ~~NEW SECTION.~~ Section 6. Transition of terms of board
16 members. The provisions of [section 2 of this act] amending
17 2-15-1843(3), establishing 5-year staggered terms for
18 members of the board of pharmacy, apply to the terms of
19 members serving on the board on October 1, 1983. The
20 governor shall modify the terms of such board members so
21 that one term will expire annually in each of the 5
22 subsequent years.

23 ~~NEW SECTION.~~ Section 7. Termination date of section
24 6. Section 6 terminates on September 30, 1987.

25 ~~NEW SECTION.~~ Section 8. Repealer. Sections 37-7-403

1 through 37-7-405, MCA, are repealed.

-End-