

HOUSE BILL NO. 615

INTRODUCED BY CODY

BY REQUEST OF THE BOARD OF MEDICAL EXAMINERS

IN THE HOUSE

FEBRUARY 5, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON HUMAN SERVICES & AGING.

FEBRUARY 10, 1987                  COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

FEBRUARY 11, 1987                  PRINTING REPORT.

FEBRUARY 12, 1987                  SECOND READING, DO PASS.

FEBRUARY 13, 1987                  ENGROSSING REPORT.

THIRD READING, PASSED.  
AYES, 86; NOES, 4.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 16, 1987                  INTRODUCED AND REFERRED TO COMMITTEE  
ON PUBLIC HEALTH, WELFARE & SAFETY.

MARCH 12, 1987                    COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 17, 1987                    SECOND READING, CONCURRED IN.

MARCH 19, 1987                    THIRD READING, CONCURRED IN.  
AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 19, 1987                    RECEIVED FROM SENATE.

SENT TO ENROLLING.

1 House BILL NO. 615  
 2 INTRODUCED BY Cree  
 3 BY REQUEST OF THE BOARD OF MEDICAL EXAMINERS  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 6 LAWS REGULATING THE PRACTICE OF PODIATRY; AMENDING SECTIONS  
 7 37-6-101, 37-6-102, 37-6-301 THROUGH 37-6-305, AND 37-6-311,  
 8 MCA; AND PROVIDING AN APPLICABILITY DATE."  
 9

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

11 Section 1. Section 37-6-101, MCA, is amended to read:

12 "37-6-101. Definitions. Unless the context requires  
 13 otherwise, in this chapter the following definitions apply:

14 (1) "~~Chiropody~~" ~~or~~ "podiatry" "Podiatry" means the  
 15 diagnosis, medical, surgical, mechanical, manipulative, and  
 16 electrical treatment of ailments of the human foot.

17 (2) "Podiatrist" means ~~one practicing podiatry a~~  
 18 physician or surgeon of the foot licensed to treat ailments  
 19 of the foot.

20 (3) "Board" means the board of medical examiners  
 21 provided for in 2-15-1841.

22 (4) "Department" means the department of commerce  
 23 provided for in Title 2, chapter 15, part 18."

24 Section 2. Section 37-6-102, MCA, is amended to read:

25 "37-6-102. Limitation on practice. A podiatrist may

1 ~~not amputate the human foot or toe or administer an~~  
 2 ~~anesthetic other than local~~ treat ailments of the human foot  
 3 or toe but may not amputate the human foot or toe or  
 4 administer any anesthetic other than a local anesthetic."

5 Section 3. Section 37-6-301, MCA, is amended to read:

6 "37-6-301. License required for practice. It is  
 7 unlawful for a person to profess to be a podiatrist, to  
 8 practice or assume the duties incident to podiatry, or to  
 9 advertise in any form or hold himself out to the public as a  
 10 ~~chiropodist~~ ~~or~~ podiatrist, or in a sign or advertisement to  
 11 use the word ~~chiropodist~~ ~~or~~ podiatrist, foot correctionist,  
 12 or any other term, terms, or letters indicating to the  
 13 public that he is holding himself out as a podiatrist or  
 14 foot correctionist in any manner, without first obtaining  
 15 from the board a license authorizing the practice of  
 16 podiatry in this state, except under this chapter."

17 Section 4. Section 37-6-302, MCA, is amended to read:

18 "37-6-302. Qualifications for licensure -- exemptions  
 19 from examination -- temporary licenses. (1) ~~Examinations~~  
 20 ~~shall be held at places and times the board directs.~~ Persons  
 21 who wish to begin the practice of podiatry in this state  
 22 shall make application, on a form authorized by the board  
 23 and furnished by the department, for a license to practice  
 24 podiatry. ~~The license may be granted to applicants after~~  
 25 ~~they have furnished satisfactory proof of good moral~~



1 ~~character, of having attained high school graduation or its~~  
 2 ~~equivalent, of having at least 4 years or equivalent time in~~  
 3 ~~quarter or semester hours of instruction in an accredited~~  
 4 ~~college of podiatry recognized as being in good standing by~~  
 5 ~~the board and have successfully passed the examination.~~

6 (2) No person may be granted a license to practice  
 7 podiatry in this state unless he:

8 (a) is of good moral character as determined by the  
 9 board;

10 (b) is a graduate of a school of podiatry approved by  
 11 the board;

12 (c) has completed at least 1 year of postgraduate  
 13 training or has had equivalent experience or training  
 14 approved by the board;

15 (d) has made a personal appearance before the board;

16 (e) has passed an examination administered by the  
 17 national board of podiatry examiners and is a diplomate of  
 18 the national board of podiatry examiners; and

19 (f) has obtained a score of at least 75% on an  
 20 examination administered by the board.

21 (3) The board may waive the requirements described in  
 22 subsections (2)(d) and (2)(f).

23 ~~(4) A license without written examination may be~~  
 24 ~~granted to podiatrists of other states maintaining equal~~  
 25 ~~statutory requirements for the practice of podiatry and~~

1 extending the same reciprocal privilege to this state if  
 2 they have had a valid license and practiced for at least 2  
 3 preceding years in that state prior to filing for reciprocal  
 4 privilege and by payment of a fee prescribed by the board to  
 5 the department.

6 ~~(5) A license may be granted, at the discretion of~~  
 7 ~~the board and upon payment of a fee prescribed by the board~~  
 8 ~~to the department, if the applicant has successfully~~  
 9 ~~completed the national podiatry board examination and after~~  
 10 ~~a personal interview by the board. The board may authorize~~  
 11 ~~the department to issue a temporary license to practice~~  
 12 ~~podiatry in appropriate cases, but no person may be granted~~  
 13 ~~a temporary license unless he:~~

14 (a) is of good moral character as determined by the  
 15 board;

16 (b) is a graduate of a school of podiatry approved by  
 17 the board;

18 (c) has completed at least 1 year of postgraduate  
 19 training or has had equivalent experience or training  
 20 approved by the board; and

21 (d) has made a personal appearance before at least one  
 22 member of the board.

23 (6) The board may authorize the department to issue a  
 24 temporary or permanent license subject to probation or other  
 25 conditions or limitations imposed by the board or may refuse

1 to issue a license if the applicant has engaged in  
 2 unprofessional conduct or is otherwise unqualified."

3 Section 5. Section 37-6-303, MCA, is amended to read:

4 "37-6-303. Examination -- subjects -- fees --  
 5 reexamination. (1) A person not exempt from examination  
 6 under 37-6-302 and desiring a license to practice podiatry  
 7 shall be examined in the following subjects: anatomy,  
 8 chemistry, dermatology, physical diagnosis, materia medica,  
 9 pathology, physiology, therapeutics, ~~clinical and orthopedic~~  
 10 podiatry orthopedics, histology, bacteriology, pharmacy,  
 11 neurology, surgery ~~(minor)~~, ~~podiatry~~, ~~foot orthopedics~~, shoe  
 12 therapy, physiotherapy, roentgenology, ~~hygiene~~ and  
 13 ~~sanitation~~, ~~ethics~~, and ~~culture~~, ~~limited in their scope to~~  
 14 ~~the treatment of the human foot~~ and ~~if qualified~~ shall  
 15 receive a license podiatric medicine. The minimum passing  
 16 score is 70% for each subject tested and an average of 75%  
 17 for all subjects tested.

18 (2) An examination and license fee prescribed by the  
 19 board shall be paid to the department.

20 (3) An applicant failing the examination and being  
 21 refused a license is entitled within 6 months of the refusal  
 22 to a reexamination, but one reexamination exhausts his  
 23 privilege under the original examination. An additional fee  
 24 shall be paid to the department for a reexamination."

25 Section 6. Section 37-6-304, MCA, is amended to read:

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

11 (2) Licenses shall be recorded by the department the  
 12 same as other medical licenses.

13 (3) A license renewal fee set by the board shall be  
 14 paid annually on July 1 of each year, and if not paid  
 15 within 3 months, the license shall be revoked and

16 (4) The department shall mail renewal notices no later  
 17 than May 1 of each year and shall issue a receipt  
 18 acknowledging payment of an annual renewal fee.

19 (5) If annual renewal fees are not paid on or before  
 20 October 1 of each year, the board may revoke the licensee's  
 21 certificate after giving 30 days' notice to the licensee. A  
 22 certified letter addressed to the delinquent licensee's  
 23 last-known address as it appears on the records of the  
 24 department constitutes notice of intent to revoke the  
 25 certificate. No certificate may be revoked for nonpayment of

1 a renewal fee if the licensee pays the annual renewal fee  
 2 plus a penalty prescribed by the board on or before the date  
 3 fixed for revocation.

4 (6) A license revoked for nonpayment of the annual  
 5 renewal fee may be reissued only on original application and  
 6 payment of an additional fee prescribed by the board.

7 ~~(7)~~ Licenses shall be conspicuously displayed by  
 8 podiatrists at their offices or other places of practice."

9 Section 7. Section 37-6-311, MCA, is amended to read:

10 "37-6-311. Refusal or revocation of license --  
 11 investigation -- reinstatement. (1) After notice and  
 12 opportunity for a hearing, the board may deny, revoke, or  
 13 refuse to renew a license ~~for any of the following causes:~~

14 ~~(a) fraudulent representation in obtaining the~~  
 15 ~~license;~~

16 ~~(b) incompetency in practice;~~

17 ~~(c) use of untruthful or improbable statements to~~  
 18 ~~patients or in advertisements;~~

19 ~~(d) habitual intoxication;~~

20 ~~(e) unprofessional and immoral conduct; or~~

21 ~~(f) selling or giving away alcohol or drugs for an~~  
 22 ~~illegal purpose.~~

23 ~~(2) However, the board may authorize the department to~~  
 24 ~~grant or reissue such license after 6 months if in its~~  
 25 ~~judgment the act, acts, or conditions of disqualification~~

1 ~~have been remedied, to practice podiatry if the consensus of~~  
 2 ~~the board is that an applicant is not of good moral~~  
 3 ~~character or has engaged in unprofessional conduct. The~~  
 4 ~~department shall notify the applicant of the board's intent~~  
 5 ~~to deny, revoke, or refuse to renew a license by mailing a~~  
 6 ~~letter to the applicant's last-known address stating the~~  
 7 ~~board's intent and setting a time and place for a hearing.~~  
 8 ~~If the applicant fails without cause to appear at the~~  
 9 ~~hearing or if the board determines that the applicant is not~~  
 10 ~~entitled to a license, the board shall deny, revoke, or~~  
 11 ~~refuse to renew the applicant's license.~~

12 (2) The board may investigate whenever it is brought  
 13 to its attention that a licensed podiatrist:

14 (a) is mentally or physically unable to engage safely  
 15 in the practice of podiatry;

16 (b) has procured his license by fraud,  
 17 misrepresentation, or through error;

18 (c) has been declared incompetent by a court of  
 19 competent jurisdiction and thereafter has not been lawfully  
 20 declared competent;

21 (d) has a condition that impairs his intellect or  
 22 judgment to the extent that it incapacitates him in the safe  
 23 performance of his professional duties;

24 (e) has been found guilty of unprofessional conduct;

25 (f) has practiced podiatry while his license was

1 suspended or revoked;

2 (g) has had his license suspended or revoked by any  
3 licensing authority for reasons other than nonpayment of  
4 fees; or

5 (h) while under probation has violated its terms.

6 (3) The investigation shall be for the purpose of  
7 determining the probability that the alleged conditions  
8 exist or that the alleged offenses were committed. The  
9 investigation may include requiring the person to submit to  
10 a physical examination or a mental examination, or both, by  
11 a physician or physicians selected by the board if it  
12 appears to be in the best interest of the public that this  
13 evaluation be secured. The board may examine the hospital  
14 records and reports of a licensee as part of the  
15 examination, and copies shall be released to the board on  
16 written request. If the board has reasonable cause to  
17 believe that the alleged conditions exist or that the  
18 alleged offenses were committed, the department shall mail  
19 to the person at his last-known address a specification of  
20 the charges against him, together with a written notice of  
21 the time and place of the hearing on such charges, advising  
22 him that he may be present in person and by counsel if he so  
23 desires to offer evidence and be heard in his defense. The  
24 time fixed for the hearing may not be less than 30 days from  
25 the date of mailing the notice.

1 (4) A person, including a member of the board, may  
2 file a sworn complaint with the department against a person  
3 having a license to practice podiatry in this state charging  
4 him with the commission of any of the offenses set forth in  
5 [section 8] or with any of the offenses or conditions set  
6 forth in subsection (1) or (2) of this section. The  
7 complaint shall set forth a specification of the charges.  
8 When the complaint is filed, the department shall mail a  
9 copy to the person complained against, at his last-known  
10 address, together with a written citation of the time and  
11 place of the hearing on the complaint.

12 (5) At the hearing the board shall adopt a resolution  
13 finding the person complained against guilty or not guilty  
14 of the matters charged. If the board finds that the  
15 offenses or conditions referred to in [section 8] or  
16 subsection (1) or (2) of this section do not exist with  
17 respect to the person complained against or if he is found  
18 not guilty, the board shall dismiss the charges or  
19 complaint. If the board finds that the offenses or  
20 conditions referred to in [section 8] or in subsection (1)  
21 or (2) of this section do exist or the person is found  
22 guilty, the board shall:

23 (a) revoke his license;

24 (b) suspend his right to practice for a period not  
25 exceeding 1 year;

1 (c) suspend its judgment of revocation on the terms  
2 and conditions to be determined by the board;

3 (d) place him on probation; or

4 (e) take any other action in relation to disciplining  
5 him as the board in its discretion considers proper.

6 (6) In a case of revocation, suspension, or probation,  
7 the department shall enter in its records the facts of the  
8 action and of subsequent measures taken by the board with  
9 respect to that action.

10 (7) On the expiration of the term of suspension, the  
11 licensee shall be reinstated by the board if he furnishes  
12 the board with evidence that he is then of good moral  
13 character and conduct or restored to good health and that he  
14 has not practiced podiatry in this state during the term of  
15 suspension. If the evidence fails to establish to the  
16 satisfaction of the board that the holder is then of good  
17 moral character and conduct or restored to good health or if  
18 the evidence shows he has practiced podiatry in this state  
19 during the term of suspension, the board shall revoke the  
20 license at a hearing held in accordance with the notice and  
21 procedure provided in subsection (1). The revocation is  
22 final.

23 (8) If a person holding a license to practice podiatry  
24 under this chapter is by a final order or adjudication of a  
25 court of competent jurisdiction determined to be mentally

1 incompetent, seriously mentally ill, or addicted to the use  
2 of narcotics, his license may be suspended by the board. The  
3 suspension continues until the licensee is found by the  
4 court to be restored to reason or cured or until he is  
5 discharged as restored to reason or cured and his  
6 professional competence has been proven to the satisfaction  
7 of the board."

8 Section 8. Section 37-6-305, MCA, is amended to read:

9 "37-6-305. Deposit of moneys collected. All fees shall  
10 be collected by the department and deposited in the state  
11 special revenue fund for the use of the state board of  
12 podiatry-examiners, subject to 37-1-101(6)."

13 NEW SECTION. Section 9. Unprofessional conduct. As  
14 used in this chapter, "unprofessional conduct" means:

15 (1) resorting to fraud, misrepresentation, or  
16 deception in applying for or in securing a license or in  
17 taking the examination provided for in this chapter;

18 (2) obtaining a fee or other compensation, either  
19 directly or indirectly, by the misrepresentation that a  
20 manifestly incurable disease, injury, or condition of a  
21 person can be cured;

22 (3) willful disobedience of the rules of the board;

23 (4) final conviction of an offense involving moral  
24 turpitude;

25 (5) administering, dispensing, or prescribing a

1 narcotic or hallucinatory drug, as defined by the federal  
2 food and drug administration or successors, otherwise than  
3 in the course of legitimate or reputable professional  
4 practice;

5 (6) final conviction of a violation of a federal or  
6 state law regulating the possession, distribution, or use of  
7 a narcotic or hallucinatory drug, as defined by the federal  
8 food and drug administration;

9 (7) habitual intemperance or excessive use of narcotic  
10 drugs, alcohol, or any other drug or substance to the extent  
11 that the use impairs the user physically or mentally;

12 (8) conduct unbecoming a person licensed to practice  
13 podiatry or detrimental to the best interest of the public;

14 (9) resorting to fraud, misrepresentation, or  
15 deception in the examination or treatment of a person or in  
16 billing or reporting to a person, company, institution, or  
17 organization;

18 (10) testifying in court on a contingency basis;

19 (11) conspiring to misrepresent or willfully  
20 misrepresenting medical conditions to increase or decrease a  
21 settlement, award, verdict, or judgment;

22 (12) aiding or abetting in the practice of medicine a  
23 person not licensed to practice medicine or a person whose  
24 license to practice medicine is suspended;

25 (13) gross malpractice or negligent practice;

1 (14) practicing podiatry as the partner, agent, or  
2 employee of or in joint venture with a person who does not  
3 hold a license to practice podiatry within this state;  
4 however, this does not prohibit the incorporation of an  
5 individual licensee or group of licensees as a professional  
6 service corporation under Title 35, chapter 4, nor does this  
7 apply to a single consultation with or a single treatment by  
8 a person or persons licensed to practice podiatry in another  
9 state or territory of the United States or foreign country;

10 (15) violating or attempting to violate, directly or  
11 indirectly, or assisting in or abetting the violation of or  
12 conspiring to violate parts 1 through 3 of this chapter or  
13 the rules authorized by parts 1 through 3; or

14 (16) any other act, whether specifically enumerated or  
15 not, which, in fact, constitutes unprofessional conduct.

16 NEW SECTION. Section 10. Extension of authority. Any  
17 existing authority of the board of medical examiners to make  
18 rules on the subject of the provisions of this act is  
19 extended to the provisions of this act.

20 NEW SECTION. Section 11. Codification instruction.  
21 Section 9 is intended to be codified as an integral part of  
22 Title 37, chapter 6, part 1, and the provisions of Title 37,  
23 chapter 6, apply to section 9.

24 NEW SECTION. Section 12. Applicability. This act  
25 applies to applications for a license to practice podiatry



LC 1116/01

1 received by the board of medical examiners after September  
2 30, 1987.

-End-

APPROVED BY COMM. ON HUMAN SERVICES AND AGING

1 House BILL NO. 615  
2 INTRODUCED BY Craig  
3 BY REQUEST OF THE BOARD OF MEDICAL EXAMINERS  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
6 LAWS REGULATING THE PRACTICE OF PODIATRY; AMENDING SECTIONS  
7 37-6-101, 37-6-102, 37-6-301 THROUGH 37-6-305, AND 37-6-311,  
8 MCA; AND PROVIDING AN APPLICABILITY DATE."  
9

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

11 Section 1. Section 37-6-101, MCA, is amended to read:  
12 "37-6-101. Definitions. Unless the context requires  
13 otherwise, in this chapter the following definitions apply:

14 (1) "~~Chiropody~~" ~~--or--~~ "~~podiatry~~" "Podiatry" means the  
15 diagnosis, medical, surgical, mechanical, manipulative, and  
16 electrical treatment of ailments of the human foot.

17 (2) "Podiatrist" means ~~one--practicing--podiatry a~~  
18 physician or surgeon of the foot licensed to treat ailments  
19 of the foot.

20 (3) "Board" means the board of medical examiners  
21 provided for in 2-15-1841.

22 (4) "Department" means the department of commerce  
23 provided for in Title 2, chapter 15, part 18."

24 Section 2. Section 37-6-102, MCA, is amended to read:

25 "37-6-102. Limitation on practice. A podiatrist may

1 ~~not--amputate--the--human--foot--or--toe--or--administer--an~~  
2 ~~anesthetic--other--than--local~~ treat ailments of the human foot  
3 or toe but may not amputate the human foot or toe or  
4 administer any anesthetic other than a local anesthetic."

5 Section 3. Section 37-6-301, MCA, is amended to read:

6 "37-6-301. License required for practice. It is  
7 unlawful for a person to profess to be a podiatrist, to  
8 practice or assume the duties incident to podiatry, or to  
9 advertise in any form or hold himself out to the public as a  
10 ~~chiropracist--or~~ podiatrist, or in a sign or advertisement to  
11 use the word ~~chiropracist--or~~ podiatrist, foot correctionist,  
12 or any other term, terms, or letters indicating to the  
13 public that he is holding himself out as a podiatrist or  
14 foot correctionist in any manner, without first obtaining  
15 from the board a license authorizing the practice of  
16 podiatry in this state, except under this chapter."

17 Section 4. Section 37-6-302, MCA, is amended to read:

18 "37-6-302. Qualifications for licensure -- exemptions  
19 from examination -- temporary licenses. (1) ~~Examinations~~  
20 ~~shall--be--held--at--places--and--times--the--board--directs.~~ Persons  
21 who wish to begin the practice of podiatry in this state  
22 shall make application, on a form authorized by the board  
23 and furnished by the department, for a license to practice  
24 podiatry. ~~The--license--may--be--granted--to--applicants--after~~  
25 ~~they--have--furnished--satisfactory--proof--of--good--mora~~



1 ~~character,--of-having-attained-high-school-graduation-or-its~~  
 2 ~~equivalent,--of-having-at-least-4-years-or-equivalent-time-in~~  
 3 ~~quarter-or-semester-hours-of-instruction--in--an--accredited~~  
 4 ~~college--of-podiatry-recognized-as-being-in-good-standing-by~~  
 5 ~~the-board-and-have-successfully-passed-the-examination;~~

6 (2) No person may be granted a license to practice  
 7 podiatry in this state unless he:

8 (a) is of good moral character as determined by the  
 9 board;

10 (b) is a graduate of a school of podiatry approved by  
 11 the board;

12 (c) has completed at least 1 year of postgraduate  
 13 training or has had equivalent experience or training  
 14 approved by the board;

15 (d) has made a personal appearance before the board;

16 (e) has passed an examination administered by the  
 17 national board of podiatry examiners and is a diplomate of  
 18 the national board of podiatry examiners; and

19 (f) has obtained a score of at least 75% on an  
 20 examination administered by the board.

21 (3) The board may waive the requirements described in  
 22 subsections (2)(d) and (2)(f).

23 ~~(4)~~ A license without written examination may be  
 24 granted to podiatrists of other states maintaining equal  
 25 statutory requirements for the practice of podiatry and

1 extending the same reciprocal privilege to this state if  
 2 they have had a valid license and practiced for at least 2  
 3 preceding years in that state prior to filing for reciprocal  
 4 privilege and by payment of a fee prescribed by the board to  
 5 the department.

6 ~~(5)~~ A license may be granted, at the discretion of  
 7 the board and upon payment of a fee prescribed by the board  
 8 to the department, if the applicant has successfully  
 9 completed the national podiatry board examination and after  
 10 a personal interview by the board. The board may authorize  
 11 the department to issue a temporary license to practice  
 12 podiatry in appropriate cases, but no person may be granted  
 13 a temporary license unless he:

14 (a) is of good moral character as determined by the  
 15 board;

16 (b) is a graduate of a school of podiatry approved by  
 17 the board;

18 (c) has completed at least 1 year of postgraduate  
 19 training or has had equivalent experience or training  
 20 approved by the board; and

21 (d) has made a personal appearance before at least one  
 22 member of the board.

23 (6) The board may authorize the department to issue a  
 24 temporary or permanent license subject to probation or other  
 25 conditions or limitations imposed by the board or may refuse

1 to issue a license if the applicant has engaged in  
 2 unprofessional conduct or is otherwise unqualified."

3 Section 5. Section 37-6-303, MCA, is amended to read:

4 "37-6-303. Examination -- subjects -- fees --  
 5 reexamination. (1) A person not exempt from examination  
 6 under 37-6-302 and desiring a license to practice podiatry  
 7 shall be examined in the following subjects: anatomy,  
 8 chemistry, dermatology, physical diagnosis, materia medica,  
 9 pathology, physiology, therapeutics, ~~clinical and orthopedic~~  
 10 podiatry orthopedics, histology, bacteriology, pharmacy,  
 11 neurology, surgery ~~(minor)~~, ~~podiatry~~, ~~foot orthopedics~~, shoe  
 12 therapy, physiotherapy, roentgenology, ~~hygiene and~~  
 13 ~~sanitation, ethics, and culture, limited in their scope to~~  
 14 ~~the treatment of the human foot, and, if qualified, shall~~  
 15 ~~receive a license~~ podiatric medicine. The minimum passing  
 16 score is 70% for each subject tested and an average of 75%  
 17 for all subjects tested.

18 (2) An examination and license fee prescribed by the  
 19 board shall be paid to the department.

20 (3) An applicant failing the examination and being  
 21 refused a license is entitled within 6 months of the refusal  
 22 to a reexamination, but one reexamination exhausts his  
 23 privilege under the original examination. An additional fee  
 24 shall be paid to the department for a reexamination."

25 Section 6. Section 37-6-304, MCA, is amended to read:

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

11 (2) Licenses shall be recorded by the department the  
 12 same as other medical licenses.

13 (3) A license renewal fee set by the board shall be  
 14 paid annually on July 1 of each year, and if not paid  
 15 within 3 months, the license shall be revoked and

16 (4) The department shall mail renewal notices no later  
 17 than May 1 of each year and shall issue a receipt  
 18 acknowledging payment of an annual renewal fee.

19 (5) If annual renewal fees are not paid on or before  
 20 October 1 of each year, the board may revoke the licensee's  
 21 certificate after giving 30 days' notice to the licensee. A  
 22 certified letter addressed to the delinquent licensee's  
 23 last-known address as it appears on the records of the  
 24 department constitutes notice of intent to revoke the  
 25 certificate. No certificate may be revoked for nonpayment of

1 a renewal fee if the licensee pays the annual renewal fee  
2 plus a penalty prescribed by the board on or before the date  
3 fixed for revocation.

4 (6) A license revoked for nonpayment of the annual  
5 renewal fee may be reissued only on original application and  
6 payment of an additional fee prescribed by the board.

7 (4)(7) Licenses shall be conspicuously displayed by  
8 podiatrists at their offices or other places of practice."

9 Section 7. Section 37-6-311, MCA, is amended to read:

10 "37-6-311. Refusal or revocation of license --  
11 investigation -- reinstatement. (1) After notice and  
12 opportunity for a hearing, the board may deny, revoke, or  
13 refuse to renew a license ~~for any of the following causes:~~

14 ~~(a) --fraudulent--representation--in--obtaining--the~~  
15 ~~license;~~

16 ~~(b) --incompetency-in-practice;~~

17 ~~(c) --use--of--untruthful--or--improbable--statements--to~~  
18 ~~patients--or--in--advertisements;~~

19 ~~(d) --habitual--intoxication;~~

20 ~~(e) --unprofessional--and--immoral--conduct;--or~~

21 ~~(f) --selling--or--giving--away--alcohol--or--drugs--for--an~~  
22 ~~illegal--purpose;~~

23 ~~(2) --However,--the--board--may--authorize--the--department--to~~  
24 ~~grant--or--reissue--such--license--after--6--months--if--in--its~~  
25 ~~judgment--the--act,--acts,--or--conditions--of--disqualification~~

1 ~~have-been-remedied;~~ to practice podiatry if the consensus of  
2 the board is that an applicant is not of good moral  
3 character or has engaged in unprofessional conduct. The  
4 department shall notify the applicant of the board's intent  
5 to deny, revoke, or refuse to renew a license by mailing a  
6 letter to the applicant's last-known address stating the  
7 board's intent and setting a time and place for a hearing.  
8 If the applicant fails without cause to appear at the  
9 hearing or if the board determines that the applicant is not  
10 entitled to a license, the board shall deny, revoke, or  
11 refuse to renew the applicant's license.

12 (2) The board may investigate whenever it is brought  
13 to its attention that a licensed podiatrist:

14 (a) is mentally or physically unable to engage safely  
15 in the practice of podiatry;

16 (b) has procured his license by fraud,  
17 misrepresentation, or through error;

18 (c) has been declared incompetent by a court of  
19 competent jurisdiction and thereafter has not been lawfully  
20 declared competent;

21 (d) has a condition that impairs his intellect or  
22 judgment to the extent that it incapacitates him in the safe  
23 performance of his professional duties;

24 (e) has been found guilty of unprofessional conduct;

25 (f) has practiced podiatry while his license was

1 suspended or revoked;

2 (g) has had his license suspended or revoked by any  
3 licensing authority for reasons other than nonpayment of  
4 fees; or

5 (h) while under probation has violated its terms.

6 (3) The investigation shall be for the purpose of  
7 determining the probability that the alleged conditions  
8 exist or that the alleged offenses were committed. The  
9 investigation may include requiring the person to submit to  
10 a physical examination or a mental examination, or both, by  
11 a physician or physicians selected by the board if it  
12 appears to be in the best interest of the public that this  
13 evaluation be secured. The board may examine the hospital  
14 records and reports of a licensee as part of the  
15 examination, and copies shall be released to the board on  
16 written request. If the board has reasonable cause to  
17 believe that the alleged conditions exist or that the  
18 alleged offenses were committed, the department shall mail  
19 to the person at his last-known address a specification of  
20 the charges against him, together with a written notice of  
21 the time and place of the hearing on such charges, advising  
22 him that he may be present in person and by counsel if he so  
23 desires to offer evidence and be heard in his defense. The  
24 time fixed for the hearing may not be less than 30 days from  
25 the date of mailing the notice.

1 (4) A person, including a member of the board, may  
2 file a sworn complaint with the department against a person  
3 having a license to practice podiatry in this state charging  
4 him with the commission of any of the offenses set forth in  
5 [section 8] or with any of the offenses or conditions set  
6 forth in subsection (1) or (2) of this section. The  
7 complaint shall set forth a specification of the charges.  
8 When the complaint is filed, the department shall mail a  
9 copy to the person complained against, at his last-known  
10 address, together with a written citation of the time and  
11 place of the hearing on the complaint.

12 (5) At the hearing the board shall adopt a resolution  
13 finding the person complained against guilty or not guilty  
14 of the matters charged. If the board finds that the  
15 offenses or conditions referred to in [section 8] or  
16 subsection (1) or (2) of this section do not exist with  
17 respect to the person complained against or if he is found  
18 not guilty, the board shall dismiss the charges or  
19 complaint. If the board finds that the offenses or  
20 conditions referred to in [section 8] or in subsection (1)  
21 or (2) of this section do exist or the person is found  
22 guilty, the board shall:

23 (a) revoke his license;

24 (b) suspend his right to practice for a period not  
25 exceeding 1 year;

1 (c) suspend its judgment of revocation on the terms  
2 and conditions to be determined by the board;

3 (d) place him on probation; or

4 (e) take any other action in relation to disciplining  
5 him as the board in its discretion considers proper.

6 (6) In a case of revocation, suspension, or probation,  
7 the department shall enter in its records the facts of the  
8 action and of subsequent measures taken by the board with  
9 respect to that action.

10 (7) On the expiration of the term of suspension, the  
11 licensee shall be reinstated by the board if he furnishes  
12 the board with evidence that he is then of good moral  
13 character and conduct or restored to good health and that he  
14 has not practiced podiatry in this state during the term of  
15 suspension. If the evidence fails to establish to the  
16 satisfaction of the board that the holder is then of good  
17 moral character and conduct or restored to good health or if  
18 the evidence shows he has practiced podiatry in this state  
19 during the term of suspension, the board shall revoke the  
20 license at a hearing held in accordance with the notice and  
21 procedure provided in subsection (1). The revocation is  
22 final.

23 (8) If a person holding a license to practice podiatry  
24 under this chapter is by a final order or adjudication of a  
25 court of competent jurisdiction determined to be mentally

1 incompetent, seriously mentally ill, or addicted to the use  
2 of narcotics, his license may be suspended by the board. The  
3 suspension continues until the licensee is found by the  
4 court to be restored to reason or cured or until he is  
5 discharged as restored to reason or cured and his  
6 professional competence has been proven to the satisfaction  
7 of the board."

8 Section 8. Section 37-6-305, MCA, is amended to read:

9 "37-6-305. Deposit of moneys collected. All fees shall  
10 be collected by the department and deposited in the state  
11 special revenue fund for the use of the state board of  
12 podiatry-examiners, subject to 37-1-101(6)."

13 NEW SECTION. Section 9. Unprofessional conduct. As  
14 used in this chapter, "unprofessional conduct" means:

15 (1) resorting to fraud, misrepresentation, or  
16 deception in applying for or in securing a license or in  
17 taking the examination provided for in this chapter;

18 (2) obtaining a fee or other compensation, either  
19 directly or indirectly, by the misrepresentation that a  
20 manifestly incurable disease, injury, or condition of a  
21 person can be cured;

22 (3) willful disobedience of the rules of the board;

23 (4) final conviction of an offense involving moral  
24 turpitude;

25 (5) administering, dispensing, or prescribing a

1 narcotic or hallucinatory drug, as defined by the federal  
2 food and drug administration or successors, otherwise than  
3 in the course of legitimate or reputable professional  
4 practice;

5 (6) final conviction of a violation of a federal or  
6 state law regulating the possession, distribution, or use of  
7 a narcotic or hallucinatory drug, as defined by the federal  
8 food and drug administration;

9 (7) habitual intemperance or excessive use of narcotic  
10 drugs, alcohol, or any other drug or substance to the extent  
11 that the use impairs the user physically or mentally;

12 (8) conduct unbecoming a person licensed to practice  
13 podiatry or detrimental to the best interest of the public;

14 (9) resorting to fraud, misrepresentation, or  
15 deception in the examination or treatment of a person or in  
16 billing or reporting to a person, company, institution, or  
17 organization;

18 (10) testifying in court on a contingency basis;

19 (11) conspiring to misrepresent or willfully  
20 misrepresenting medical conditions to increase or decrease a  
21 settlement, award, verdict, or judgment;

22 (12) aiding or abetting in the practice of medicine a  
23 person not licensed to practice medicine or a person whose  
24 license to practice medicine is suspended;

25 (13) gross malpractice or negligent practice;

1 (14) practicing podiatry as the partner, agent, or  
2 employee of or in joint venture with a person who does not  
3 hold a license to practice podiatry within this state;  
4 however, this does not prohibit the incorporation of an  
5 individual licensee or group of licensees as a professional  
6 service corporation under Title 35, chapter 4, nor does this  
7 apply to a single consultation with or a single treatment by  
8 a person or persons licensed to practice podiatry in another  
9 state or territory of the United States or foreign country;

10 (15) violating or attempting to violate, directly or  
11 indirectly, or assisting in or abetting the violation of or  
12 conspiring to violate parts 1 through 3 of this chapter or  
13 the rules authorized by parts 1 through 3; or

14 (16) any other act, whether specifically enumerated or  
15 not, which, in fact, constitutes unprofessional conduct.

16 NEW SECTION. Section 10. Extension of authority. Any  
17 existing authority of the board of medical examiners to make  
18 rules on the subject of the provisions of this act is  
19 extended to the provisions of this act.

20 NEW SECTION. Section 11. Codification instruction.  
21 Section 9 is intended to be codified as an integral part of  
22 Title 37, chapter 6, part 1, and the provisions of Title 37,  
23 chapter 6, apply to section 9.

24 NEW SECTION. Section 12. Applicability. This act  
25 applies to applications for a license to practice podiatry



LC 1116/01

1 received by the board of medical examiners after September  
2 30, 1987.

-End-

1 House BILL NO. 615  
 2 INTRODUCED BY Cody  
 3 BY REQUEST OF THE BOARD OF MEDICAL EXAMINERS  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 6 LAWS REGULATING THE PRACTICE OF PODIATRY; AMENDING SECTIONS  
 7 37-6-101, 37-6-102, 37-6-301 THROUGH 37-6-305, AND 37-6-311,  
 8 MCA; AND PROVIDING AN APPLICABILITY DATE."  
 9

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

11 Section 1. Section 37-6-101, MCA, is amended to read:

12 "37-6-101. Definitions. Unless the context requires  
 13 otherwise, in this chapter the following definitions apply:

14 (1) "~~Chiropody~~--or--"podiatry" "Podiatry" means the  
 15 diagnosis, medical, surgical, mechanical, manipulative, and  
 16 electrical treatment of ailments of the human foot.

17 (2) "Podiatrist" means ~~one--practicing--podiatry a~~  
 18 physician or surgeon of the foot licensed to treat ailments  
 19 of the foot.

20 (3) "Board" means the board of medical examiners  
 21 provided for in 2-15-1841.

22 (4) "Department" means the department of commerce  
 23 provided for in Title 2, chapter 15, part 18."

24 Section 2. Section 37-6-102, MCA, is amended to read:

25 "37-6-102. Limitation on practice. A podiatrist may

1 ~~not--amputate--the--human--foot--or--toe--or--administer--an~~  
 2 ~~anesthetic--other--than--local~~ treat ailments of the human foot  
 3 or toe but may not amputate the human foot or toe or  
 4 administer any anesthetic other than a local anesthetic."

5 Section 3. Section 37-6-301, MCA, is amended to read:

6 "37-6-301. License required for practice. It is  
 7 unlawful for a person to profess to be a podiatrist, to  
 8 practice or assume the duties incident to podiatry, or to  
 9 advertise in any form or hold himself out to the public as a  
 10 ~~chiropodist--or~~ podiatrist, or in a sign or advertisement to  
 11 use the word ~~chiropodist--or~~ podiatrist, foot correctionist,  
 12 or any other term, terms, or letters indicating to the  
 13 public that he is holding himself out as a podiatrist or  
 14 foot correctionist in any manner, without first obtaining  
 15 from the board a license authorizing the practice of  
 16 podiatry in this state, except under this chapter."

17 Section 4. Section 37-6-302, MCA, is amended to read:

18 "37-6-302. Qualifications for licensure -- exemptions  
 19 from examination -- temporary licenses. (1) ~~Examinations~~  
 20 ~~shall-be-held-at-places-and-times-the-board-directs.~~ Persons  
 21 who wish to begin the practice of podiatry in this state  
 22 shall make application, on a form authorized by the board  
 23 and furnished by the department, for a license to practice  
 24 podiatry. ~~The--license--may--be-granted-to-applicants-after~~  
 25 ~~they--have--furnished--satisfactory--proof--of--good--moral~~



1 ~~character, of having attained high school graduation or its~~  
 2 ~~equivalent, of having at least 4 years or equivalent time in~~  
 3 ~~quarter or semester hours of instruction in an accredited~~  
 4 ~~college of podiatry recognized as being in good standing by~~  
 5 ~~the board and have successfully passed the examination.~~

6 (2) No person may be granted a license to practice  
 7 podiatry in this state unless he:

8 (a) is of good moral character as determined by the  
 9 board;

10 (b) is a graduate of a school of podiatry approved by  
 11 the board;

12 (c) has completed at least 1 year of postgraduate  
 13 training or has had equivalent experience or training  
 14 approved by the board;

15 (d) has made a personal appearance before the board;

16 (e) has passed an examination administered by the  
 17 national board of podiatry examiners and is a diplomate of  
 18 the national board of podiatry examiners; and

19 (f) has obtained a score of at least 75% on an  
 20 examination administered by the board.

21 (3) The board may waive the requirements described in  
 22 subsections (2)(d) and (2)(f).

23 ~~(2)(4) A license without written examination may be~~  
 24 ~~granted to podiatrists of other states maintaining equal~~  
 25 ~~statutory requirements for the practice of podiatry and~~

1 extending the same reciprocal privilege to this state if  
 2 they have had a valid license and practiced for at least 2  
 3 preceding years in that state prior to filing for reciprocal  
 4 privilege and by payment of a fee prescribed by the board to  
 5 the department.

6 ~~(3)(5) A license may be granted, at the discretion of~~  
 7 ~~the board and upon payment of a fee prescribed by the board~~  
 8 ~~to the department, if the applicant has successfully~~  
 9 ~~completed the national podiatry board examination and after~~  
 10 ~~a personal interview by the board. The board may authorize~~  
 11 ~~the department to issue a temporary license to practice~~  
 12 ~~podiatry in appropriate cases, but no person may be granted~~  
 13 ~~a temporary license unless he:~~

14 (a) is of good moral character as determined by the  
 15 board;

16 (b) is a graduate of a school of podiatry approved by  
 17 the board;

18 (c) has completed at least 1 year of postgraduate  
 19 training or has had equivalent experience or training  
 20 approved by the board; and

21 (d) has made a personal appearance before at least one  
 22 member of the board.

23 (6) The board may authorize the department to issue a  
 24 temporary or permanent license subject to probation or other  
 25 conditions or limitations imposed by the board or may refuse

1 to issue a license if the applicant has engaged in  
 2 unprofessional conduct or is otherwise unqualified."

3 Section 5. Section 37-6-303, MCA, is amended to read:

4 "37-6-303. Examination -- subjects -- fees --  
 5 reexamination. (1) A person not exempt from examination  
 6 under 37-6-302 and desiring a license to practice podiatry  
 7 shall be examined in the following subjects: anatomy,  
 8 chemistry, dermatology, physical diagnosis, materia medica,  
 9 pathology, physiology, therapeutics, ~~clinical and orthopedic~~  
 10 podiatry orthopedics, histology, bacteriology, pharmacy,  
 11 neurology, surgery ~~(minor)~~, ~~podiatry~~, ~~foot orthopedics~~, shoe  
 12 therapy, physiotherapy, roentgenology, ~~hygiene~~ and  
 13 ~~sanitation~~, ~~ethics~~, and ~~culture~~, ~~limited in their scope to~~  
 14 ~~the treatment of the human foot~~, and, ~~if qualified~~, shall  
 15 receive a license podiatric medicine. The minimum passing  
 16 score is 70% for each subject tested and an average of 75%  
 17 for all subjects tested.

18 (2) An examination and license fee prescribed by the  
 19 board shall be paid to the department.

20 (3) An applicant failing the examination and being  
 21 refused a license is entitled within 6 months of the refusal  
 22 to a reexamination, but one reexamination exhausts his  
 23 privilege under the original examination. An additional fee  
 24 shall be paid to the department for a reexamination."

25 Section 6. Section 37-6-304, MCA, is amended to read:

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

11 (2) Licenses shall be recorded by the department the  
 12 same as other medical licenses.

13 (3) A license renewal fee set by the board shall be  
 14 paid annually on July 1 of each year, and ~~if not paid~~  
 15 ~~within 3 months, the license shall be revoked and~~

16 (4) The department shall mail renewal notices no later  
 17 than May 1 of each year and shall issue a receipt  
 18 acknowledging payment of an annual renewal fee.

19 (5) If annual renewal fees are not paid on or before  
 20 October 1 of each year, the board may revoke the licensee's  
 21 certificate after giving 30 days' notice to the licensee. A  
 22 certified letter addressed to the delinquent licensee's  
 23 last-known address as it appears on the records of the  
 24 department constitutes notice of intent to revoke the  
 25 certificate. No certificate may be revoked for nonpayment of

1 a renewal fee if the licensee pays the annual renewal fee  
 2 plus a penalty prescribed by the board on or before the date  
 3 fixed for revocation.

4 (6) A license revoked for nonpayment of the annual  
 5 renewal fee may be reissued only on original application and  
 6 payment of an additional fee prescribed by the board.

7 ~~(4)~~(7) Licenses shall be conspicuously displayed by  
 8 podiatrists at their offices or other places of practice."

9 Section 7. Section 37-6-311, MCA, is amended to read:

10 "37-6-311. Refusal or revocation of license --  
 11 investigation -- reinstatement. (1) After notice and  
 12 opportunity for a hearing, the board may deny, revoke, or  
 13 refuse to renew a license ~~for any of the following causes:~~

14 ~~(a) fraudulent representation in obtaining the~~  
 15 ~~license;~~

16 ~~(b) incompetency in practice;~~

17 ~~(c) use of untruthful or improbable statements to~~  
 18 ~~patients or in advertisements;~~

19 ~~(d) habitual intoxication;~~

20 ~~(e) unprofessional and immoral conduct; or~~

21 ~~(f) selling or giving away alcohol or drugs for an~~  
 22 ~~illegal purpose.~~

23 ~~(2) However, the board may authorize the department to~~  
 24 ~~grant or reissue such license after 6 months if in its~~  
 25 ~~judgment the act, acts, or conditions of disqualification~~

1 ~~have been remedied to practice podiatry if the consensus of~~  
 2 ~~the board is that an applicant is not of good moral~~  
 3 ~~character or has engaged in unprofessional conduct. The~~  
 4 ~~department shall notify the applicant of the board's intent~~  
 5 ~~to deny, revoke, or refuse to renew a license by mailing a~~  
 6 ~~letter to the applicant's last-known address stating the~~  
 7 ~~board's intent and setting a time and place for a hearing.~~  
 8 ~~If the applicant fails without cause to appear at the~~  
 9 ~~hearing or if the board determines that the applicant is not~~  
 10 ~~entitled to a license, the board shall deny, revoke, or~~  
 11 ~~refuse to renew the applicant's license.~~

12 (2) The board may investigate whenever it is brought  
 13 to its attention that a licensed podiatrist:

14 (a) is mentally or physically unable to engage safely  
 15 in the practice of podiatry;

16 (b) has procured his license by fraud,  
 17 misrepresentation, or through error;

18 (c) has been declared incompetent by a court of  
 19 competent jurisdiction and thereafter has not been lawfully  
 20 declared competent;

21 (d) has a condition that impairs his intellect or  
 22 judgment to the extent that it incapacitates him in the safe  
 23 performance of his professional duties;

24 (e) has been found guilty of unprofessional conduct;

25 (f) has practiced podiatry while his license was

1 suspended or revoked;

2 (g) has had his license suspended or revoked by any  
3 licensing authority for reasons other than nonpayment of  
4 fees; or

5 (h) while under probation has violated its terms.

6 (3) The investigation shall be for the purpose of  
7 determining the probability that the alleged conditions  
8 exist or that the alleged offenses were committed. The  
9 investigation may include requiring the person to submit to  
10 a physical examination or a mental examination, or both, by  
11 a physician or physicians selected by the board if it  
12 appears to be in the best interest of the public that this  
13 evaluation be secured. The board may examine the hospital  
14 records and reports of a licensee as part of the  
15 examination, and copies shall be released to the board on  
16 written request. If the board has reasonable cause to  
17 believe that the alleged conditions exist or that the  
18 alleged offenses were committed, the department shall mail  
19 to the person at his last-known address a specification of  
20 the charges against him, together with a written notice of  
21 the time and place of the hearing on such charges, advising  
22 him that he may be present in person and by counsel if he so  
23 desires to offer evidence and be heard in his defense. The  
24 time fixed for the hearing may not be less than 30 days from  
25 the date of mailing the notice.

1 (4) A person, including a member of the board, may  
2 file a sworn complaint with the department against a person  
3 having a license to practice podiatry in this state charging  
4 him with the commission of any of the offenses set forth in  
5 [section 8] or with any of the offenses or conditions set  
6 forth in subsection (1) or (2) of this section. The  
7 complaint shall set forth a specification of the charges.  
8 When the complaint is filed, the department shall mail a  
9 copy to the person complained against, at his last-known  
10 address, together with a written citation of the time and  
11 place of the hearing on the complaint.

12 (5) At the hearing the board shall adopt a resolution  
13 finding the person complained against guilty or not guilty  
14 of the matters charged. If the board finds that the  
15 offenses or conditions referred to in [section 8] or  
16 subsection (1) or (2) of this section do not exist with  
17 respect to the person complained against or if he is found  
18 not guilty, the board shall dismiss the charges or  
19 complaint. If the board finds that the offenses or  
20 conditions referred to in [section 8] or in subsection (1)  
21 or (2) of this section do exist or the person is found  
22 guilty, the board shall:

23 (a) revoke his license;

24 (b) suspend his right to practice for a period not  
25 exceeding 1 year;

1 (c) suspend its judgment of revocation on the terms  
2 and conditions to be determined by the board;

3 (d) place him on probation; or

4 (e) take any other action in relation to disciplining  
5 him as the board in its discretion considers proper.

6 (6) In a case of revocation, suspension, or probation,  
7 the department shall enter in its records the facts of the  
8 action and of subsequent measures taken by the board with  
9 respect to that action.

10 (7) On the expiration of the term of suspension, the  
11 licensee shall be reinstated by the board if he furnishes  
12 the board with evidence that he is then of good moral  
13 character and conduct or restored to good health and that he  
14 has not practiced podiatry in this state during the term of  
15 suspension. If the evidence fails to establish to the  
16 satisfaction of the board that the holder is then of good  
17 moral character and conduct or restored to good health or if  
18 the evidence shows he has practiced podiatry in this state  
19 during the term of suspension, the board shall revoke the  
20 license at a hearing held in accordance with the notice and  
21 procedure provided in subsection (1). The revocation is  
22 final.

23 (8) If a person holding a license to practice podiatry  
24 under this chapter is by a final order or adjudication of a  
25 court of competent jurisdiction determined to be mentally

1 incompetent, seriously mentally ill, or addicted to the use  
2 of narcotics, his license may be suspended by the board. The  
3 suspension continues until the licensee is found by the  
4 court to be restored to reason or cured or until he is  
5 discharged as restored to reason or cured and his  
6 professional competence has been proven to the satisfaction  
7 of the board."

8 Section 8. Section 37-6-305, MCA, is amended to read:  
9 "37-6-305. Deposit of moneys collected. All fees shall  
10 be collected by the department and deposited in the state  
11 special revenue fund for the use of the state board of  
12 podiatry-examiners, subject to 37-1-101(6)."

13 NEW SECTION. Section 9. Unprofessional conduct. As  
14 used in this chapter, "unprofessional conduct" means:

15 (1) resorting to fraud, misrepresentation, or  
16 deception in applying for or in securing a license or in  
17 taking the examination provided for in this chapter;

18 (2) obtaining a fee or other compensation, either  
19 directly or indirectly, by the misrepresentation that a  
20 manifestly incurable disease, injury, or condition of a  
21 person can be cured;

22 (3) willful disobedience of the rules of the board;

23 (4) final conviction of an offense involving moral  
24 turpitude;

25 (5) administering, dispensing, or prescribing a

1 narcotic or hallucinatory drug, as defined by the federal  
2 food and drug administration or successors, otherwise than  
3 in the course of legitimate or reputable professional  
4 practice;

5 (6) final conviction of a violation of a federal or  
6 state law regulating the possession, distribution, or use of  
7 a narcotic or hallucinatory drug, as defined by the federal  
8 food and drug administration;

9 (7) habitual intemperance or excessive use of narcotic  
10 drugs, alcohol, or any other drug or substance to the extent  
11 that the use impairs the user physically or mentally;

12 (8) conduct unbecoming a person licensed to practice  
13 podiatry or detrimental to the best interest of the public;

14 (9) resorting to fraud, misrepresentation, or  
15 deception in the examination or treatment of a person or in  
16 billing or reporting to a person, company, institution, or  
17 organization;

18 (10) testifying in court on a contingency basis;

19 (11) conspiring to misrepresent or willfully  
20 misrepresenting medical conditions to increase or decrease a  
21 settlement, award, verdict, or judgment;

22 (12) aiding or abetting in the practice of medicine a  
23 person not licensed to practice medicine or a person whose  
24 license to practice medicine is suspended;

25 (13) gross malpractice or negligent practice;

1 (14) practicing podiatry as the partner, agent, or  
2 employee of or in joint venture with a person who does not  
3 hold a license to practice podiatry within this state;  
4 however, this does not prohibit the incorporation of an  
5 individual licensee or group of licensees as a professional  
6 service corporation under Title 35, chapter 4, nor does this  
7 apply to a single consultation with or a single treatment by  
8 a person or persons licensed to practice podiatry in another  
9 state or territory of the United States or foreign country;

10 (15) violating or attempting to violate, directly or  
11 indirectly, or assisting in or abetting the violation of or  
12 conspiring to violate parts 1 through 3 of this chapter or  
13 the rules authorized by parts 1 through 3; or

14 (16) any other act, whether specifically enumerated or  
15 not, which, in fact, constitutes unprofessional conduct.

16 NEW SECTION. Section 10. Extension of authority. Any  
17 existing authority of the board of medical examiners to make  
18 rules on the subject of the provisions of this act is  
19 extended to the provisions of this act.

20 NEW SECTION. Section 11. Codification instruction.  
21 Section 9 is intended to be codified as an integral part of  
22 Title 37, chapter 6, part 1, and the provisions of Title 37,  
23 chapter 6, apply to section 9.

24 NEW SECTION. Section 12. Applicability. This act  
25 applies to applications for a license to practice podiatry



LC 1116/01

1 received by the board of medical examiners after September  
2 30, 1987.

-End-

1 HOUSE BILL NO. 615  
 2 INTRODUCED BY CODY  
 3 BY REQUEST OF THE BOARD OF MEDICAL EXAMINERS  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 6 LAWS REGULATING THE PRACTICE OF PODIATRY; AMENDING SECTIONS  
 7 37-6-101, 37-6-102, 37-6-301 THROUGH 37-6-305, AND 37-6-311,  
 8 MCA; AND PROVIDING AN APPLICABILITY DATE."  
 9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 11 Section 1. Section 37-6-101, MCA, is amended to read:  
 12 "37-6-101. Definitions. Unless the context requires  
 13 otherwise, in this chapter the following definitions apply:  
 14 (1) "~~Chiroprody~~--or--"podiatry" "Podiatry" means the  
 15 diagnosis, medical, surgical, mechanical, manipulative, and  
 16 electrical treatment of ailments of the human foot.  
 17 (2) "Podiatrist" means ~~one practicing podiatry a~~  
 18 physician or surgeon of the foot licensed to treat ailments  
 19 of the foot.  
 20 (3) "Board" means the board of medical examiners  
 21 provided for in 2-15-1841.  
 22 (4) "Department" means the department of commerce  
 23 provided for in Title 2, chapter 15, part 18."  
 24 Section 2. Section 37-6-102, MCA, is amended to read:  
 25 "37-6-102. Limitation on practice. A podiatrist may

1 ~~not amputate the human foot or toe or administer an~~  
 2 ~~anesthetic other than local~~ treat ailments of the human foot  
 3 or toe but may not amputate the human foot or toe or  
 4 administer any anesthetic other than a local anesthetic."  
 5 Section 3. Section 37-6-301, MCA, is amended to read:  
 6 "37-6-301. License required for practice. It is  
 7 unlawful for a person to profess to be a podiatrist, to  
 8 practice or assume the duties incident to podiatry, or to  
 9 advertise in any form or hold himself out to the public as a  
 10 ~~chiroprdist~~--or podiatrist, or in a sign or advertisement to  
 11 use the word ~~chiroprdist~~--or podiatrist, foot correctionist,  
 12 or any other term, terms, or letters indicating to the  
 13 public that he is holding himself out as a podiatrist or  
 14 foot correctionist in any manner, without first obtaining  
 15 from the board a license authorizing the practice of  
 16 podiatry in this state, except under this chapter."  
 17 Section 4. Section 37-6-302, MCA, is amended to read:  
 18 "37-6-302. Qualifications for licensure -- exemptions  
 19 from examination -- temporary licenses. (1) ~~Examinations~~  
 20 ~~shall be held at places and times the board directs.~~ Persons  
 21 who wish to begin the practice of podiatry in this state  
 22 shall make application, on a form authorized by the board  
 23 and furnished by the department, for a license to practice  
 24 podiatry. ~~The license may be granted to applicants after~~  
 25 ~~they have furnished satisfactory proof of good moral~~



1 ~~character, of having attained high school graduation or its~~  
 2 ~~equivalent, of having at least 4 years or equivalent time in~~  
 3 ~~quarter or semester hours of instruction in an accredited~~  
 4 ~~college of podiatry recognized as being in good standing by~~  
 5 ~~the board and have successfully passed the examination.~~

6 (2) No person may be granted a license to practice  
 7 podiatry in this state unless he:

8 (a) is of good moral character as determined by the  
 9 board;

10 (b) is a graduate of a school of podiatry approved by  
 11 the board;

12 (c) has completed at least 1 year of postgraduate  
 13 training or has had equivalent experience or training  
 14 approved by the board;

15 (d) has made a personal appearance before the board;

16 (e) has passed an examination administered by the  
 17 national board of podiatry examiners and is a diplomate of  
 18 the national board of podiatry examiners; and

19 (f) has obtained a score of at least 75% on an  
 20 examination administered by the board.

21 (3) The board may waive the requirements described in  
 22 subsections (2)(d) and (2)(f).

23 ~~(2)(4)~~ A license without written examination may be  
 24 granted to podiatrists of other states maintaining equal  
 25 statutory requirements for the practice of podiatry and

1 extending the same reciprocal privilege to this state if  
 2 they have had a valid license and practiced for at least 2  
 3 preceding years in that state prior to filing for reciprocal  
 4 privilege and by payment of a fee prescribed by the board to  
 5 the department.

6 ~~(3)(5)~~ A license may be granted, at the discretion of  
 7 the board and upon payment of a fee prescribed by the board  
 8 to the department, if the applicant has successfully  
 9 completed the national podiatry board examination and after  
 10 a personal interview by the board. The board may authorize  
 11 the department to issue a temporary license to practice  
 12 podiatry in appropriate cases, but no person may be granted  
 13 a temporary license unless he:

14 (a) is of good moral character as determined by the  
 15 board;

16 (b) is a graduate of a school of podiatry approved by  
 17 the board;

18 (c) has completed at least 1 year of postgraduate  
 19 training or has had equivalent experience or training  
 20 approved by the board; and

21 (d) has made a personal appearance before at least one  
 22 member of the board.

23 (6) The board may authorize the department to issue a  
 24 temporary or permanent license subject to probation or other  
 25 conditions or limitations imposed by the board or may refuse

1 to issue a license if the applicant has engaged in  
 2 unprofessional conduct or is otherwise unqualified."

3 Section 5. Section 37-6-303, MCA, is amended to read:

4 "37-6-303. Examination -- subjects -- fees --  
 5 reexamination. (1) A person not exempt from examination  
 6 under 37-6-302 and desiring a license to practice podiatry  
 7 shall be examined in the following subjects: anatomy,  
 8 chemistry, dermatology, physical diagnosis, materia medica,  
 9 pathology, physiology, therapeutics, ~~clinical and orthopedic~~  
 10 podiatry orthopedics, histology, bacteriology, pharmacy,  
 11 neurology, surgery ~~(minor)~~, ~~podiatry~~, ~~foot orthopedics~~, shoe  
 12 therapy, physiotherapy, roentgenology, hygiene ~~and~~  
 13 ~~sanitation~~, ~~ethics~~, and culture, ~~limited in their scope to~~  
 14 ~~the treatment of the human foot, and, if qualified, shall~~  
 15 ~~receive a license~~ podiatric medicine. The minimum passing  
 16 score is 70% for each subject tested and an average of 75%  
 17 for all subjects tested.

18 (2) An examination and license fee prescribed by the  
 19 board shall be paid to the department.

20 (3) An applicant failing the examination and being  
 21 refused a license is entitled within 6 months of the refusal  
 22 to a reexamination, but one reexamination exhausts his  
 23 privilege under the original examination. An additional fee  
 24 shall be paid to the department for a reexamination."

25 Section 6. Section 37-6-304, MCA, is amended to read:

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

11 (2) Licenses shall be recorded by the department the  
 12 same as other medical licenses.

13 (3) A license renewal fee set by the board shall be  
 14 paid annually on July 1 of each year, ~~and if not paid~~  
 15 ~~within 3 months, the license shall be revoked and~~

16 (4) The department shall mail renewal notices no later  
 17 than May 1 of each year and shall issue a receipt  
 18 acknowledging payment of an annual renewal fee.

19 (5) If annual renewal fees are not paid on or before  
 20 October 1 of each year, the board may revoke the licensee's  
 21 certificate after giving 30 days' notice to the licensee. A  
 22 certified letter addressed to the delinquent licensee's  
 23 last-known address as it appears on the records of the  
 24 department constitutes notice of intent to revoke the  
 25 certificate. No certificate may be revoked for nonpayment of

1 a renewal fee if the licensee pays the annual renewal fee  
 2 plus a penalty prescribed by the board on or before the date  
 3 fixed for revocation.

4 (6) A license revoked for nonpayment of the annual  
 5 renewal fee may be reissued only on original application and  
 6 payment of an additional fee prescribed by the board.

7 (7) Licenses shall be conspicuously displayed by  
 8 podiatrists at their offices or other places of practice."

9 Section 7. Section 37-6-311, MCA, is amended to read:

10 "37-6-311. Refusal or revocation of license --  
 11 investigation -- reinstatement. (1) After notice and  
 12 opportunity for a hearing, the board may deny, revoke, or  
 13 refuse to renew a license for any of the following causes:

14 (a) fraudulent representation in obtaining the  
 15 license;

16 (b) incompetency in practice;

17 (c) use of untruthful or improbable statements to  
 18 patients or in advertisements;

19 (d) habitual intoxication;

20 (e) unprofessional and immoral conduct; or

21 (f) selling or giving away alcohol or drugs for an  
 22 illegal purpose.

23 (2) However, the board may authorize the department to  
 24 grant or reissue such license after 6 months if in its  
 25 judgment the act, acts, or conditions of disqualification

1 have been remedied to practice podiatry if the consensus of  
 2 the board is that an applicant is not of good moral  
 3 character or has engaged in unprofessional conduct. The  
 4 department shall notify the applicant of the board's intent  
 5 to deny, revoke, or refuse to renew a license by mailing a  
 6 letter to the applicant's last-known address stating the  
 7 board's intent and setting a time and place for a hearing.  
 8 If the applicant fails without cause to appear at the  
 9 hearing or if the board determines that the applicant is not  
 10 entitled to a license, the board shall deny, revoke, or  
 11 refuse to renew the applicant's license.

12 (2) The board may investigate whenever it is brought  
 13 to its attention that a licensed podiatrist:

14 (a) is mentally or physically unable to engage safely  
 15 in the practice of podiatry;

16 (b) has procured his license by fraud,  
 17 misrepresentation, or through error;

18 (c) has been declared incompetent by a court of  
 19 competent jurisdiction and thereafter has not been lawfully  
 20 declared competent;

21 (d) has a condition that impairs his intellect or  
 22 judgment to the extent that it incapacitates him in the safe  
 23 performance of his professional duties;

24 (e) has been found guilty of unprofessional conduct;

25 (f) has practiced podiatry while his license was

1 suspended or revoked;

2 (g) has had his license suspended or revoked by any  
3 licensing authority for reasons other than nonpayment of  
4 fees; or

5 (h) while under probation has violated its terms.

6 (3) The investigation shall be for the purpose of  
7 determining the probability that the alleged conditions  
8 exist or that the alleged offenses were committed. The  
9 investigation may include requiring the person to submit to  
10 a physical examination or a mental examination, or both, by  
11 a physician or physicians selected by the board if it  
12 appears to be in the best interest of the public that this  
13 evaluation be secured. The board may examine the hospital  
14 records and reports of a licensee as part of the  
15 examination, and copies shall be released to the board on  
16 written request. If the board has reasonable cause to  
17 believe that the alleged conditions exist or that the  
18 alleged offenses were committed, the department shall mail  
19 to the person at his last-known address a specification of  
20 the charges against him, together with a written notice of  
21 the time and place of the hearing on such charges, advising  
22 him that he may be present in person and by counsel if he so  
23 desires to offer evidence and be heard in his defense. The  
24 time fixed for the hearing may not be less than 30 days from  
25 the date of mailing the notice.

1 (4) A person, including a member of the board, may  
2 file a sworn complaint with the department against a person  
3 having a license to practice podiatry in this state charging  
4 him with the commission of any of the offenses set forth in  
5 [section 8] or with any of the offenses or conditions set  
6 forth in subsection (1) or (2) of this section. The  
7 complaint shall set forth a specification of the charges.  
8 When the complaint is filed, the department shall mail a  
9 copy to the person complained against, at his last-known  
10 address, together with a written citation of the time and  
11 place of the hearing on the complaint.

12 (5) At the hearing the board shall adopt a resolution  
13 finding the person complained against guilty or not guilty  
14 of the matters charged. If the board finds that the  
15 offenses or conditions referred to in [section 8] or  
16 subsection (1) or (2) of this section do not exist with  
17 respect to the person complained against or if he is found  
18 not guilty, the board shall dismiss the charges or  
19 complaint. If the board finds that the offenses or  
20 conditions referred to in [section 8] or in subsection (1)  
21 or (2) of this section do exist or the person is found  
22 guilty, the board shall:

23 (a) revoke his license;

24 (b) suspend his right to practice for a period not  
25 exceeding 1 year;

1 (c) suspend its judgment of revocation on the terms  
 2 and conditions to be determined by the board;

3 (d) place him on probation; or

4 (e) take any other action in relation to disciplining  
 5 him as the board in its discretion considers proper.

6 (6) In a case of revocation, suspension, or probation,  
 7 the department shall enter in its records the facts of the  
 8 action and of subsequent measures taken by the board with  
 9 respect to that action.

10 (7) On the expiration of the term of suspension, the  
 11 licensee shall be reinstated by the board if he furnishes  
 12 the board with evidence that he is then of good moral  
 13 character and conduct or restored to good health and that he  
 14 has not practiced podiatry in this state during the term of  
 15 suspension. If the evidence fails to establish to the  
 16 satisfaction of the board that the holder is then of good  
 17 moral character and conduct or restored to good health or if  
 18 the evidence shows he has practiced podiatry in this state  
 19 during the term of suspension, the board shall revoke the  
 20 license at a hearing held in accordance with the notice and  
 21 procedure provided in subsection (1). The revocation is  
 22 final.

23 (8) If a person holding a license to practice podiatry  
 24 under this chapter is by a final order or adjudication of a  
 25 court of competent jurisdiction determined to be mentally

1 incompetent, seriously mentally ill, or addicted to the use  
 2 of narcotics, his license may be suspended by the board. The  
 3 suspension continues until the licensee is found by the  
 4 court to be restored to reason or cured or until he is  
 5 discharged as restored to reason or cured and his  
 6 professional competence has been proven to the satisfaction  
 7 of the board."

8 Section 8. Section 37-6-305, MCA, is amended to read:  
 9 "37-6-305. Deposit of moneys collected. All fees shall  
 10 be collected by the department and deposited in the state  
 11 special revenue fund for the use of the state board of  
 12 podiatry-examiners, subject to 37-1-101(6)."

13 NEW SECTION. Section 9. Unprofessional conduct. As  
 14 used in this chapter, "unprofessional conduct" means:

15 (1) resorting to fraud, misrepresentation, or  
 16 deception in applying for or in securing a license or in  
 17 taking the examination provided for in this chapter;

18 (2) obtaining a fee or other compensation, either  
 19 directly or indirectly, by the misrepresentation that a  
 20 manifestly incurable disease, injury, or condition of a  
 21 person can be cured;

22 (3) willful disobedience of the rules of the board;

23 (4) final conviction of an offense involving moral  
 24 turpitude;

25 (5) administering, dispensing, or prescribing a

1 narcotic or hallucinatory drug, as defined by the federal  
2 food and drug administration or successors, otherwise than  
3 in the course of legitimate or reputable professional  
4 practice;

5 (6) final conviction of a violation of a federal or  
6 state law regulating the possession, distribution, or use of  
7 a narcotic or hallucinatory drug, as defined by the federal  
8 food and drug administration;

9 (7) habitual intemperance or excessive use of narcotic  
10 drugs, alcohol, or any other drug or substance to the extent  
11 that the use impairs the user physically or mentally;

12 (8) conduct unbecoming a person licensed to practice  
13 podiatry or detrimental to the best interest of the public;

14 (9) resorting to fraud, misrepresentation, or  
15 deception in the examination or treatment of a person or in  
16 billing or reporting to a person, company, institution, or  
17 organization;

18 (10) testifying in court on a contingency basis;

19 (11) conspiring to misrepresent or willfully  
20 misrepresenting medical conditions to increase or decrease a  
21 settlement, award, verdict, or judgment;

22 (12) aiding or abetting in the practice of medicine a  
23 person not licensed to practice medicine or a person whose  
24 license to practice medicine is suspended;

25 (13) gross malpractice or negligent practice;

1 (14) practicing podiatry as the partner, agent, or  
2 employee of or in joint venture with a person who does not  
3 hold a license to practice podiatry within this state;  
4 however, this does not prohibit the incorporation of an  
5 individual licensee or group of licensees as a professional  
6 service corporation under Title 35, chapter 4, nor does this  
7 apply to a single consultation with or a single treatment by  
8 a person or persons licensed to practice podiatry in another  
9 state or territory of the United States or foreign country;

10 (15) violating or attempting to violate, directly or  
11 indirectly, or assisting in or abetting the violation of or  
12 conspiring to violate parts 1 through 3 of this chapter or  
13 the rules authorized by parts 1 through 3; or

14 (16) any other act, whether specifically enumerated or  
15 not, which, in fact, constitutes unprofessional conduct.

16 NEW SECTION. Section 10. Extension of authority. Any  
17 existing authority of the board of medical examiners to make  
18 rules on the subject of the provisions of this act is  
19 extended to the provisions of this act.

20 NEW SECTION. Section 11. Codification instruction.  
21 Section 9 is intended to be codified as an integral part of  
22 Title 37, chapter 6, part 1, and the provisions of Title 37,  
23 chapter 6, apply to section 9.

24 NEW SECTION. Section 12. Applicability. This act  
25 applies to applications for a license to practice podiatry



HB 0615/02

1 received by the board of medical examiners after September  
2 30, 1987.

-End-