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. 673
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 onepracticingpodiatry \underline{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

T	notamputatetnenumanrootortoeoradministerar
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
0	ehiropodistor podiatrist, or in a sign or advertisement to
1	use the word chiropodist-or podiatrist, foot correctionist,
2	or any other term, terms, or letters indicating to the
3	public that he is holding himself out as a podiatrist or
4	foot correctionist in any manner, without first obtaining
5	from the board a license authorizing the practice of
6	podiatry in this state, except under this chapter."
7	Section 4. Section 37-6-302, MCA, is amended to read:
8	"37-6-302. Qualifications for licensure exemptions
9	from examination temporary licenses. (1) Examinations
0	shall-be-held-at-places-and-times-the-board-directs. Persons
1	who wish to begin the practice of podiatry in this state
2	shall make application, on a form authorized by the board
3	and furnished by the department, for a license to practice
4	podiatry. Thelicensemaybe-granted-to-applicants-after
5	theyhavefurnishedsatisfactoryproofofgoodmoral

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character;of-having-attained-high-school-graduation-or-its
equivalent;-of-having-at-least-4-years-or-equivalent-time-in
quarter-or-semester-hours-of-instructioninanaccredited
collegeof-podiatry-recognized-as-being-in-good-standing-by
the-board-and-have-successfully-passed-the-examination:
(2) No person may be granted a license to practice
podiatry in this state unless he:
(a) is of good moral character as determined by the
board;
(b) is a graduate of a school of podiatry approved by
the board;

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

(c) has completed at least 1 year of postgraduate

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

training or has had equivalent experience or training

18 the national board of podiatry examiners; and

approved by the board;

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- (f) has obtained a score of at least 75% on an examination administered by the board.
- 21 (3) The board may waive the requirements described in 22 subsections (2)(d) and (2)(f).

extending	the	same	recipro	cal	privi	lege	to	this	state	i f
they have	had a	valid	license	and	pract	iced	for	at	least	2
preceding	years	in tha	at state	pric	or to	filin	ıg f	or re	cipro	cal
privilege	and by	y payme	ent of a	fee	presc	ribed	l by	the	board	to
the depart	ment.									

- (3)(5) A--license-may-be-granted, at-the-discretion-of the-board-and-upon-payment-of-a-fee-prescribed-by-the--board to---the--department, --if--the--applicant--has--successfully completed-the-national-podiatry-board-examination-and--after a--personal--interview-by-the-board. The board may authorize the department to issue a temporary license to practice podiatry in appropriate cases, but no person may be granted 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

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T	to issue a license it 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-orthopedica, shoe
12	therapy, physiotherapy, roentgenology, hygieneand
13	sanitation; -ethics; and culture; -limited-in-theirscopeto
14	thetreatmentofthe-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.

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

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- (3) An applicant failing the examination and being refused a license is entitled within 6 months of the refusal to a reexamination, but one reexamination exhausts his privilege under the original examination. An additional fee shall be paid to the department for a reexamination."
- Section 6. Section 37-6-304, MCA, is amended to read: 25

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

- (2) Licenses shall be recorded by the department the 11 12 same as other medical licenses.
 - (3) A license renewal fee set by the board shall be paid annually on July 1 of each year, and-if-not-paid 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 acknowledging payment of an annual renewal fee. 18
- 19 (5) If annual renewal fees are not paid on or before October 1 of each year, the board may revoke the licensee's 20 certificate after giving 30 days' notice to the licensee. A 21 certified letter addressed to the delinquent licensee's 22 last-known address as it appears on the records of the 23 department constitutes notice of intent to revoke the 24
- certificate. No certificate may be revoked for nonpayment of 25

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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)fraudulentrepresentationinobtainingthe
15	license;
16	(b)incompetency-in-practice;
17	(c)useofuntruthfulorimprobablestatements-to
18	patients-or-in-advertisements;
19	<pre>(d)habitual-intoxication;</pre>
20	(e)unprofessional-and-immoral-conduct;-or
21	(f)selling-or-giving-away-alcoholordrugsforan
22	illegal-purpose.
23	(2)Howevery-the-board-may-authorize-the-department-to
24	grantorreissuesuchlicenseafter6-months-if-in-its

the board is that an applicant is not of good moral 2 character or has engaged in unprofessional conduct. The department shall notify the applicant of the board's intent to deny, revoke, or refuse to renew a license by mailing a letter to the applicant's last-known address stating the 7 board's intent and setting a time and place for a hearing. If the applicant fails without cause to appear at the 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; procured his license 16 (b) has fraud, 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;

have-been-remedied, to practice podiatry if the consensus of

judgment-the-act;-acts;-or--conditions--of--disqualification

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(e) has been found guilty of unprofessional conduct;

(f) has practiced podiatry while his license was

suspended or revoked;

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- 2 (g) has had his license suspended or revoked by any
 3 licensing authority for reasons other than nonpayment of
 4 fees; or
 - (h) while under probation has violated its terms.
 - (3) The investigation shall be for the purpose of determining the probability that the alleged conditions exist or that the alleged offenses were committed. The investigation may include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interest of the public that this evaluation be secured. The board may examine the hospital records and reports of a licensee as part of the examination, and copies shall be released to the board on written request. If the board has reasonable cause to believe that the alleged conditions exist or that the alleged offenses were committed, the department shall mail to the person at his last-known address a specification of the charges against him, together with a written notice of the time and place of the hearing on such charges, advising him that he may be present in person and by counsel if he so desires to offer evidence and be heard in his defense. The time fixed for the hearing may not be less than 30 days from 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.
- 1.2 (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 subsection (1) or (2) of this section do not exist with 16 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) or (2) of this section do exist or the person is found 21 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;

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of the board."

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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.

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- (7) On the expiration of the term of suspension, the licensee shall be reinstated by the board if he furnishes the board with evidence that he is then of good moral character and conduct or restored to good health and that he has not practiced podiatry in this state during the term of suspension. If the evidence fails to establish to the satisfaction of the board that the holder is then of good moral character and conduct or restored to good health or if the evidence shows he has practiced podiatry in this state during the term of suspension, the board shall revoke the license at a hearing held in accordance with the notice and procedure provided in subsection (1). The revocation is final.
- (B) If a person holding a license to practice podiatry under this chapter is by a final order or adjudication of a court of competent jurisdiction determined to be mentally

- incompetent, seriously mentally ill, or addicted to the use
 of narcotics, his license may be suspended by the board. The
 suspension continues until the licensee is found by the
 court to be restored to reason or cured or until he is
 discharged as restored to reason or cured and his
 professional competence has been proven to the satisfaction
- section 8. Section 37-6-305, MCA, is amended to read:

 "37-6-305. Deposit of moneys collected. All fees shall
 be collected by the department and deposited in the state
 special revenue fund for the use of the state board of
 podiatry-examiners, subject to 37-1-101(6)."
- used in this chapter, "unprofessional conduct" means:

 (1) resorting to fraud, misrepresentation, or

 deception in applying for or in securing a license or in

taking the examination provided for in this chapter;

NEW SECTION. Section 9. Unprofessional conduct. As

- 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;
 - (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

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

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- (6) final conviction of a violation of a federal or state law regulating the possession, distribution, or use of a narcotic or hallucinatory drug, as defined by the federal food and drug administration;
- (7) habitual intemperance or excessive use of narcotic drugs, alcohol, or any other drug or substance to the extent that the use impairs the user physically or mentally;
- (8) conduct unbecoming a person licensed to practice podiatry or detrimental to the best interest of the public;
- (9) resorting to fraud, misrepresentation, deception in the examination or treatment of a person or in billing or reporting to a person, company, institution, or organization;
- (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 person not licensed to practice medicine or a person whose 23 license to practice medicine is suspended; 24
- (13) gross malpractice or negligent practice; 25

(14) practicing podiatry as the partner, agent, or 1 employee of or in joint venture with a person who does not hold a license to practice podiatry within this state; 3 however, this does not prohibit the incorporation of an individual licensee or group of licensees as a professional service corporation under Title 35, chapter 4, nor does this apply to a single consultation with or a single treatment by 7 a person or persons licensed to practice podiatry in another state or territory of the United States or foreign country: (15) violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or

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

the rules authorized by parts 1 through 3; or

conspiring to violate parts 1 through 3 of this chapter or

- 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. Section 9 is intended to be codified as an integral part of 21 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 applies to applications for a license to practice podiatry

l 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 Coly
3	BY REQUEST OF THE BOARD OF MEDICAL EXAMINERS
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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."
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16	electrical treatment of ailments of the human foot.
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18	physician or surgeon of the foot licensed to treat ailments
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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

3	or toe but may not amputate the human foot or toe or
4	administer any anesthetic other than a local anesthetic."
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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
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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 <u>(c) has completed at least 1 year of postgraduate</u>
 13 <u>training or has had equivalent experience or training</u>
 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 <u>national board of podiatry examiners and is a diplomate of</u>
- 18 the national board of podiatry examiners; and

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- 19 (f) has obtained a score of at least 75% on an 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

- extending the same reciprocal privilege to this state if
 they have had a valid license and practiced for at least 2
 preceding years in that state prior to filing for reciprocal
 privilege and by payment of a fee prescribed by the board to
 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
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7	shall be examined in the following subjects: anatomy,
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9	pathology, physiology, therapeutics, clinical-and-orthopedie
10	podiatry orthopedics, histology, bacteriology, pharmacy,
11	neurology, surgery (minor);-podiatry;-foot-orthopedica, shoe
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3	this chapter shall be designated as a "registered
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6	statement-of-limitation-shall-be-containedinthelicense
7	referringtothelicenseeasaregistered
8	podiatristpractice-limited-tothefoot4soasnotte
9	misleadthe-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
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 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.

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October 1 of each year, the board may revoke the licensee's certificate after giving 30 days' notice to the licensee. A certified letter addressed to the delinquent licensee's last-known address as it appears on the records of the department constitutes notice of intent to revoke the certificate. No certificate may be revoked for nonpayment of

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declared competent;

J	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	<pre>fa)fraudulentrepresentationinobtainingthe</pre>
15	license;
16	<pre>(b)incompetency-in-practice;</pre>
17	<pre>(c)useofuntruthfulorimprobablestatements-to</pre>
18	patients-or-in-advertisements;
19	(d)habitual-intoxication;
20	<pre>(e)unprofessional-and-immoral-conduct;-or</pre>
21	(f)selling-or-giving-away-alcoholordrugsforan
22	illegal-purpose.
23	(2)However, -the-board-may-authorize-the-department-to
24	grantorreissuesuchlicenseafter6-months-if-in-its
25	judgment-the-acty-actsy-orconditionsofdisqualification

have-been-remedied+ to practice podiatry if the consensus of 2 the board is that an applicant is not of good moral character or has engaged in unprofessional conduct. The 3 department shall notify the applicant of the board's intent 4 to deny, revoke, or refuse to renew a license by mailing a letter to the applicant's last-known address stating the 6 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 1.0 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 in the practice of podiatry; 15 16 (b) has procured his license fraud, misrepresentation, or through error; 18 (c) has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully

performance of his professional duties;

(d) has a condition that impairs his intellect or

(e) has been found quilty of unprocessional conduct;

(f) has practiced podiatry while his license was

judgment to the extent that it incapacitates him in the safe

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suspended or revoked;

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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.

(3) The investigation shall be for the purpose of determining the probability that the alleged conditions exist or that the alleged offenses were committed. The investigation may include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interest of the public that this evaluation be secured. The board may examine the hospital records and reports of a licensee as part of the examination, and copies shall be released to the board on written request. If the board has reasonable cause to believe that the alleged conditions exist or that the alleged offenses were committed, the department shall mail to the person at his last-known address a specification of the charges against him, together with a written notice of the time and place of the hearing on such charges, advising him that he may be present in person and by counsel if he so desires to offer evidence and be heard in his defense. The time fixed for the hearing may not no less foun 30 days from 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.

(5) At the hearing the board shall adopt a resolution finding the person complained against guilty or not guilty of the matters charged. If the board finds that the offenses or conditions referred to in {section 8} or subsection (1) or (2) of this section do not exist with respect to the person complained against or if he is found not guilty, the board shall dismiss the charges or complaint. If the board finds that the offenses or conditions referred to in [section 8] or in subsection (1) or (2) of this section do exist or the person is found quilty, the board shall:

23 (a) revoke his license;

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24 (b) suspend his right to practice for a period hor 25 exceeding 1 year;

the date of mailing the notice.

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

(d) place him on probation; or

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

- incompetent, seriously mentally ill, or addicted to the use
- 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
 - 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
- Il special revenue fund for the use of the state board of
- 12 podiatry-examiners, subject to 37-1-101(6)."
- NEW SECTION. Section 9. Unprofessional conduct. As 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

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

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- (6) final conviction of a violation of a federal or state law regulating the possession, distribution, or use of a narcotic or hallucinatory drug, as defined by the federal 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 that the use impairs the user physically or mentally; 11
- (8) conduct unbecoming a person licensed to practice 12 podiatry or detrimental to the best interest of the public; 13
- (9) resorting to fraud, misrepresentation, 14 deception in the examination or treatment of a person or in 15 billing or reporting to a person, company, institution, or 16 organization; 17
- (10) testifying in court on a contingency basis; 18
- or willfully (11) conspiring to misrepresent 19 misrepresenting medical conditions to increase or decrease a 20 settlement, award, verdict, or judgment; 21
- 22 (12) aiding or abetting in the practice of medicine a person not licensed to practice medicine or a person whose 23 license to practice medicine is suspended; 24
- (13) gross malpractice or negligent practice; 25

- (14) practicing podiatry as the partner, agent, or 2 employee of or in joint venture with a person who does not hold a license to practice podiatry within this state; 3 however, this does not prohibit the incorporation of an individual licensee or group of licensees as a professional service corporation under Title 35, chapter 4, nor does this apply to a single consultation with or a single treatment by 7 a person or persons licensed to practice podiatry in another 9 state or territory of the United States or foreign country:
 - (15) violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate parts 1 through 3 of this chapter or 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. Section 9 is intended to be codified as an integral part of 21 2.2 Title 37, chapter 6, part 1, and the provisions of Title 37, 23 chapter 6, apply to section 9.
- NEW SECTION. Section 12. Applicability. 24 25 applies to applications for a license to practice podiatry

received by the board of medical examiners after September

2 30, 1987.

-End-

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1	House BILL NO. 615
2	INTRODUCED BY Cotu
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 onepracticingpodiatry 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

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	chiropodistor 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. Thelicensemaybe-granted-to-applicants-after

not--amputate--the--human--foot--or--toe--or--administer--an

they--have--furnished--satisfactory--proof--of--good---moral

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character; of-having-attained-high-school-graduation-or-its
equivalent7-of-having-at-least-4-years-or-equivalent-time-in
quarter-or-semester-hours-of-instructioninanaccredited
collegeof-podiatry-recognized-as-being-in-good-standing-by
the-board-and-have-successfully-passed-the-examination-
(2) No person may be granted a license to practice
podiatry in this state unless he:
(a) is of good moral character as determined by the
board;
(b) is a graduate of a school of podiatry approved by
the board;
(c) has completed at least 1 year of postgraduate
training or has had equivalent experience or training
approved by the board;
(d) has made a personal appearance before the board;
(e) has passed an examination administered by the
national board of podiatry examiners and is a diplomate of
the national board of podiatry examiners; and
(f) has obtained a score of at least 75% on an
examination administered by the board.
(3) The board may waive the requirements described in
subsections (2)(d) and (2)(f).
(2) A license without written examination may be

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) Alicense-may-be-granted,-at-the-discretion-of
7	the-board-and-upon-payment-of-a-fee-prescribed-by-theboard
8	tothedepartmentyiftheapplicanthassuccessfully
9	completed-the-national-podiatry-board-examination-andafter
10	apersonalinterview-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

- board;
- (b) is a graduate of a school of podiatry approved by the board;
- (c) has completed at least 1 year of postgraduate training or has had equivalent experience or training approved by the board; and
- (d) has made a personal appearance before at least one member of the board.

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

granted to podiatrists of other states maintaining equal

statutory requirements for the practice of podiatry and

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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-orthopedica, shoe
12	therapy, physiotherapy, roentgenology, hygieneand
13	sanitation;-ethics; and culture;-limited-in-theirscopeto
14	thetreatmentofthe-human-footy-andy-if-qualifiedy-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.

issue a license if the applicant has engaged in

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- (2) An examination and license fee prescribed by the board shall be paid to the department.
- (3) An applicant failing the examination and being refused a license is entitled within 6 months of the refusal to a reexamination, but one reexamination exhausts his privilege under the original examination. An additional fee shall be paid to the department for a reexamination."
- Section 6. Section 37-6-304, MCA, is amended to read: 25

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

- (2) Licenses shall be recorded by the department the same as other medical licenses.
- (3) A license renewal fee set by the board shall be paid annually on July 1 of each year, and-if-not-paid 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.
- (5) If annual renewal fees are not paid on or before October 1 of each year, the board may revoke the _licensee's certificate after giving 30 days' notice to the licensee. A 21 certified letter addressed to the delinquent licensee's last-known address as it appears on the records of the department constitutes notice of intent to revoke the 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	ta}fraudulentrepresentationinobtainingthe
15	license;
16	<pre>fb)incompetency-in-practice;</pre>
17	(c)useofuntruthfulorimprobablestatements-to
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19	<pre>fd)habitual-intoxication;</pre>
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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 department shall notify the applicant of the board's intent to deny, revoke, or refuse to renew a license by mailing a letter to the applicant's last-known address stating the 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 refuse to renew the applicant's license. 12 (2) The board may investigate whenever it is brought to its attention that a licensed podiatrist: 14 (a) is mentally or physically unable to engage safely 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;

(e) has been found guilty of unprofessional conduct;

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- 2 (g) has had his license suspended or revoked by any
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 - (3) The investigation shall be for the purpose of determining the probability that the alleged conditions exist or that the alleged offenses were committed. The investigation may include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interest of the public that this evaluation be secured. The board may examine the hospital records and reports of a licensee as part of the examination, and copies shall be released to the board on written request. If the board has reasonable cause to believe that the alleged conditions exist or that the alleged offenses were committed, the department shall mail to the person at his last-known address a specification of the charges against him, together with a written notice of the time and place of the hearing on such charges, advising him that he may be present in person and by counsel if he so desires to offer evidence and be heard in his defense. The time fixed for the hearing may not be less than 10 days from the date of mailing the notice.

- file a sworn complaint with the department against a person
 having a license to practice podiatry in this state charging
 him with the commission of any of the offenses set forth in
 [section 8] or with any of the offenses or conditions set
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 When the complaint is filed, the department shall mail a
 copy to the person complained against, at his last-known
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- 23 (a) revoke his license;

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

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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

- (d) place him on probation; or
- 4 <u>(e) take any other action in relation to disciplining</u>
 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
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- 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.
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 24 under this chapter is by a final order or adjudication of a
 25 court of competent jurisdiction determined to be mentally

- incompetent, seriously mentally ill, or addicted to the use
- of narcotics, his license may be suspended by the board. The
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- 15 (1) resorting to fraud, misrepresentation, or 16 deception in applying for or in securing a license or in
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- narcotic or hallucinatory drug, as defined by the federal food and drug administration or successors, otherwise than in the course of legitimate or reputable professional 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;

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- (7) habitual intemperance or excessive use of narcotic drugs, alcohol, or any other drug or substance to the extent 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;
 - (9) resorting to fraud, misrepresentation, or deception in the examination or treatment of a person or in billing or reporting to a person, company, institution, or organization;
 - (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;

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

- (15) violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate parts 1 through 3 of this chapter or the rules authorized by parts 1 through 3; or
- (16) any other act, whether specifically enumerated or not, which, in fact, constitutes unprofessional conduct.
- NEW SECTION. Section 10. Extension of authority. Any existing authority of the board of medical examiners to make rules on the subject of the provisions of this act is extended to the provisions of this act.
- NEW SECTION. Section 11. Codification instruction.
 Section 9 is intended to be codified as an integral part of
 Title 37, chapter 6, part 1, and the provisions of Title 37,
 chapter 6, apply to section 9.
 - NEW SECTION. Section 12. Applicability. This act applies to applications for a license to practice podiatry

1 received by the board of medical examiners after September

2 30, 1987.

-End-

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3	BY REQUEST OF THE BOARD OF MEDICAL EXAMINERS
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5	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
6	LAWS REGULATING THE PRACTICE OF PODIATRY; AMENDING SECTIONS
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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 onepracticingpodiatry 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

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1	notamputatethehumanfootortoeoradministera
2	anesthetic-other-than-local treat ailments of the human foo
3	or toe but may not amputate the human foot or toe o
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 t
9	advertise in any form or hold himself out to the public as
10	chiropodistor podiatrist, or in a sign or advertisement t
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 o
14	foot correctionist in any manner, without first obtaining
15	from the board a license authorizing the practice o
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 exemption
19	from examination temporary licenses. (1) Examination
20	shall-be-held-at-places-and-times-the-board-directs- Person
21	who wish to begin the practice of podiatry in this stat
22	shall make application, on a form authorized by the boar

and furnished by the department, for a license to practice

podiatry. The--license--may--be-granted-to-applicants-after

they--have--furnished--satisfactory--proof--of--good---moral

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characteryof-having-attained-high-school-graduation-or-its
equivalenty-of-having-at-least-4-years-or-equivalent-time-in
quarter-or-semester-hours-of-instructioninanaccredited
collegeof-podiatry-recognized-as-being-in-good-standing-by
the-board-and-have-successfully-passed-the-examination:
(2) No person may be granted a license to practice
podiatry in this state unless he:
(a) is of good moral character as determined by the
board;
(b) is a graduate of a school of podiatry approved by
the board;
(c) has completed at least 1 year of postgraduate
training or has had equivalent experience or training
approved by the board;
(d) has made a personal appearance before the board;
(e) has passed an examination administered by the
national board of podiatry examiners and is a diplomate of
the national board of podiatry examiners; and
(f) has obtained a score of at least 75% on an
examination administered by the board.
(3) The board may waive the requirements described in
subsections (2)(d) and (2)(f).
(2)(4) A license without written examination may be
granted to podiatrists of other states maintaining equal

statutory requirements for the practice of podiatry and

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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) Alicense-may-be-granted,-at-the-discretion-of
7	the-board-and-upon-payment-of-a-fee-prescribed-by-theboard
8	tothedepartment;iftheapplicanthassuccessfully
9	completed-the-national-podiatry-board-examination-andafter
10	apersonalinterview-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

(6) The board may authorize the department to issue a

temporary or permanent license subject to probation or other

conditions or limitations imposed by the board or may refuse

member of the board.

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unprofessional conduct or is otherwise unqualified."

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

"37-6-303. Examination -- subjects -- fees -
reexamination. (1) A person not exempt from examination

under 37-6-302 and desiring a license to practice podiatry

shall be examined in the following subjects: anatomy,

to issue a license if the applicant has engaged in

chemistry, dermatology, physical diagnosis, materia medica,

pathology, physiology, therapeutics, elinical-and-orthopedic podiatry orthopedics, histology, bacteriology, pharmacy,

11 neurology, surgery (minor);-podiatry;-foot-orthopedica, shoe

12 therapy, physiotherapy, roentgenology, hygiene---and

sanitation, methics, and culture, limited-in-their--scope--to

14 the--treatment--of--the-human-footy-andy-if-qualifiedy-shall

15 receive-a-license podiatric medicine. The minimum passing

score is 70% for each subject tested and an average of 75%

for all subjects tested.

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

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

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

"37-6-304. Designations on license -- recording -
annual renewal fee -- display. (1) A license issued under

this chapter shall be designated as a "registered

podiatrist's license" and-may-not-contain-any-abbreviations

thereof--or--any--other--designation-or-titley-except-that-a

statement-of-limitation-shall-be-contained--in--the--license

referring----to----the----licensee----as----a----uregistered

podiatrist--practice-limited-to--the--footu--so--as--not--to

mislead--the-public-with-respect-to-his-right-to-treat-other

portions-of-the-body or a "temporary podiatrist's license".

- (2) Licenses shall be recorded by the department the same as other medical licenses.
- (3) A license renewal fee set by the board shall be paid annually on July 1 of each year, and-if-not-paid 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.
 - October 1 of each year, the board may revoke the licensee's certificate after giving 30 days' notice to the licensee. A certified letter addressed to the delinquent licensee's last-known address as it appears on the records of the department constitutes notice of intent to revoke the 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 monpayment 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) 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	<pre>fa)fraudulentrepresentationinobtainingthe</pre>								
15	license;								
16	<pre>fb)incompetency-in-practice;</pre>								
17	(c)useofuntruthfulorimprobablestatements-to								
18	patients-or-in-advertisements;								
19	<pre>(d)habitual~intoxication;</pre>								
20	(e)unprofessional-and-immoral-conduct;-or								
21	<pre>ff)selling-or-giving-away-alcoholordrugsforan</pre>								
22	illegal-purpose.								
23	(2)However,-the-board-may-authorize-the-department-to								
24	grantorreissuesuchlicenseafter6-months-if-in-its								
25	judgment-the-acty-actsy-orconditionsofdisqualification								

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;							

have-been-remedied: to practice podiatry if the consensus of the board is that an applicant is not of good moral

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(e) has been found guilty of unprofessional conduct;

(f) has practiced podiatry while his license was

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1 suspended or revoked:

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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 alleged offenses were committed, the department shall mail 18 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

the date of mailing the notice.

- ı (4) A person, including a member of the board, may file a sworn complaint with the department against a person 2 having a license to practice podiatry in this state charging 3 him with the commission of any of the offenses set forth in 5 [section 8] or with any of the offenses or conditions set forth in subsection (1) or (2) of this section. The 6 complaint shall set forth a specification of the charges. When the complaint is filed, the department shall mail a copy to the person complained against, at his last-known address, together with a written citation of the time and 10 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 respect to the person complained against or if he is found 17 18 not quilty, the board shall dismiss the charges or complaint. If the board finds that the offenses or 19 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 quilty, the board shall:
- 23 (a) revoke his license;
- 24 (b) suspend his right to practice for a period not 25 exceeding 1 year;

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1	(c) s	uspend	its	judgment	of_	revocation	on	the	terms
2	and conditi	ons to	be de	termined	by th	ne board;			

(d) place him on probation; or

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- 4 (e) take any other action in relation to disciplining
 5 him as the board in its discretion considers proper.
 - (6) In a case of revocation, suspension, or probation, the department shall enter in its records the facts of the action and of subsequent measures taken by the board with respect to that action.
 - (7) On the expiration of the term of suspension, the licensee shall be reinstated by the board if he furnishes the board with evidence that he is then of good moral character and conduct or restored to good health and that he has not practiced podiatry in this state during the term of suspension. If the evidence fails to establish to the satisfaction of the board that the holder is then of good moral character and conduct or restored to good health or if the evidence shows he has practiced podiatry in this state during the term of suspension, the board shall revoke the license at a hearing held in accordance with the notice and procedure provided in subsection (1). The revocation is final.
 - (8) If a person holding a license to practice podiatry under this chapter is by a final order or adjudication of a court of competent jurisdiction determined to be mentally

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1 incompetent, seriously mentally ill, or addicted to the use

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- 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
- ll special revenue fund for the use of the state board of
- 12 podiatry-examiners, subject to 37-1-101(6)."
- NEW SECTION. Section 9. Unprofessional conduct. As 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
 - person can be cured;

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- 22 (3) willful disobedience of the rules of the board;
- (4) final conviction of an offense involving moralturpitude;
- 25 (5) administering, dispensing, or prescribing a

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

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

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- 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;
- (8) conduct unbecoming a person licensed to practicepodiatry or detrimental to the best interest of the public;
 - (9) resorting to fraud, misrepresentation, or deception in the examination or treatment of a person or in billing or reporting to a person, company, institution, or 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;

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25 (13) gross malpractice or negligent practice;

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

- (15) violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate parts 1 through 3 of this chapter or the rules authorized by parts 1 through 3; or
- (16) any other act, whether specifically enumerated or not, which, in fact, constitutes unprofessional conduct.
- NEW SECTION. Section 10. Extension of authority. Any existing authority of the board of medical examiners to make rules on the subject of the provisions of this act is extended to the provisions of this act.
- NEW SECTION. Section 11. Codification instruction.
 Section 9 is intended to be codified as an integral part of
 Title 37, chapter 6, part 1, and the provisions of Title 37,
 chapter 6, apply to section 9.
- NEW SECTION. Section 12. Applicability. This act applies to applications for a license to practice podiatry

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

-End-