

SENATE BILL NO. 170

INTRODUCED BY RASMUSSEN, MCLANE, VAUGHN, LYNCH, CODY,
PAVLOVICH, HARRINGTON, STRIZICH, KADAS, DARKO, GRINDE,
GILBERT, ANDERSON, J. BROWN, HAFFEY, STRATFORD, BECK,
HOFMAN, DRISCOLL, KOLSTAD, HARPER, B. WILLIAMS, KEENAN,
HANSON, CRIPPEN, E. SMITH, SWYSGOOD, ADDY, GRADY,
MANUEL, MENAHAN, SCHYE, EUDAILY, MCCORMICK

IN THE SENATE

| | |
|-------------------|---|
| JANUARY 21, 1987 | INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY. |
| FEBRUARY 4, 1987 | COMMITTEE RECOMMEND BILL DO NOT PASS AS AMENDED. REPORT ADOPTED. ON MOTION. BILL PRINTED AND PLACED ON SECOND READING. |
| FEBRUARY 5, 1987 | PRINTING REPORT. |
| FEBRUARY 9, 1987 | SECOND READING, DO PASS. |
| FEBRUARY 10, 1987 | ENGROSSING REPORT. |
| FEBRUARY 11, 1987 | THIRD READING, PASSED. AYES, 31; NOES, 19. TRANSMITTED TO HOUSE. |

IN THE HOUSE

| | |
|-------------------|--|
| FEBRUARY 18, 1987 | INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING. |
| MARCH 24, 1987 | COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED. |
| MARCH 27, 1987 | SECOND READING, CONCURRED IN AS AMENDED. |

MARCH 30, 1987

THIRD READING, CONCURRED IN.
AYES, 70; NOES, 26.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 3, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 4, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

APRIL 7, 1987

ENROLLING REPORT.

APRIL 8, 1987

SIGNED BY PRESIDENT.

IN THE HOUSE

APRIL 9, 1987

SIGNED BY SPEAKER.

IN THE SENATE

APRIL 9, 1987

DELIVERED TO GOVERNOR.

APRIL 14, 1987

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

APRIL 15, 1987

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

ON MOTION, RULES SUSPENDED TO PLACE
BILL ON THIRD READING THIS DAY.

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

TRANSMITTED TO HOUSE.

IN THE HOUSE

APRIL 16, 1987

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

APRIL 17, 1987

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

RETURNED TO SENATE.

IN THE SENATE

APRIL 21, 1987

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

handwritten notes:
line
summary
Spink
Ladas
10
11

1 *Senate* BILL NO. *170*
 2 INTRODUCED BY *Rasmussen* *McLean* *Spink*
 3 *John H. Anderson* *Helley* *Frank* *St. James* *Reynolds* *W. Williams*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW AN OPTOMETRIST *Optometrist*
 5 TO ADMINISTER OR PRESCRIBE DRUGS TO TREAT EYE DISEASES; TO *Optometrist*
 6 REQUIRE AN OPTOMETRIST TO DEMONSTRATE COMPETENCY TO *Administer*
 7 ADMINISTER OR PRESCRIBE DRUGS TO TREAT EYE DISEASES; AND *Administer*
 8 AMENDING SECTIONS 37-2-101, 37-10-101, 37-10-103, 37-10-304, *Drugs*
 9 AND 37-10-311, MCA."
 10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 37-2-101, MCA, is amended to read:
 13 "37-2-101. Definitions. As used in this part, the *Drugs*
 14 following definitions apply:
 15 (1) "Medical practitioner" means any person licensed
 16 by the state of Montana to engage in the practice of
 17 medicine, dentistry, osteopathy, or chiropody (podiatry), or
 18 optometry and in such practice to administer or prescribe
 19 drugs.
 20 (2) "Drug" means any article:
 21 (a) recognized in the official United States
 22 Pharmacopoeia/National Formulary or in any supplement to
 23 such pharmacopoeia/formulary;
 24 (b) intended for use in the diagnosis, cure,
 25 mitigation, treatment, or prevention of disease in man;

1 (c) intended to affect the structure or any function
 2 of the body of man;
 3 (d) intended for use as a component of any article
 4 described in subsection (a), (b), or (c) of this subsection
 5 (2), but such term does not include any device or any
 6 components of a device.
 7 (3) "Device" means any instrument, apparatus, or
 8 contrivance intended:
 9 (a) for use in the diagnosis, cure, mitigation,
 10 treatment, or prevention of disease in man;
 11 (b) to affect the structure or any function of the
 12 body of man.
 13 (4) "Pharmacy" means an establishment which engages in
 14 the sale of drugs requiring a prescription.
 15 (5) "Community pharmacy", when used in relation to a
 16 medical practitioner, means a pharmacy situated within 10
 17 miles of any place at which such medical practitioner
 18 maintains an office for professional practice.
 19 (6) "Drug company" means any person engaged in the
 20 manufacturing, processing, packaging, or distribution of
 21 drugs; but such term does not include a pharmacy.
 22 (7) "Person" means any individual and any partnership,
 23 firm, corporation, association, or other business entity.
 24 (8) "State" means the state of Montana or any
 25 political subdivision thereof."

1 Section 2. Section 37-10-101, MCA, is amended to read:

2 "37-10-101. Definitions -- practice of optometry. (1)

3 The practice of optometry is the profession constituting the
4 art and science of visual care and is hereby defined to be
5 any one of the following acts:

6 (a) the optometric examination or optometric diagnosis
7 of all of those physiological or anatomical parts or
8 functions which consummate the process of human vision to
9 ascertain the presence therein of abnormal conditions or
10 functions which may be optometrically diagnosed, corrected,
11 remedied, or relieved;

12 (b) the employment of any optometric means, excluding
13 the use of surgery, for the purpose of detecting any
14 condition of the process of vision which may have any
15 significance in a complete optometric eye and vision
16 examination, including the employment and administration of
17 drugs topically applied for examination purposes, limited to
18 cycloplegics, mydriatics, topical anesthetics, dyes such as
19 fluorescein, and for emergency use only, miotics;

20 (c) the application or prescription of ophthalmic
21 lenses, contact lenses, prisms, orthoptics, visual training,
22 any physical, mechanical, or physiological therapy, and the
23 furnishing or application of any prosthetic or therapeutic
24 devices for the correction or relief of visual anomalies,
25 excluding surgery; and

1 (d) the administration, dispensation, and prescription
2 of drugs used for ocular treatment.

3 (2) Nothing in subsection (1) ~~allows--optometrists--to~~
4 ~~treat--diseases--of--the--eye~~ prohibits an optometrist from
5 removing from the eye or adnexa a foreign body that is not
6 intraocular.

7 (3) Unless the context requires otherwise, in this
8 chapter:

9 (a) "board" means the board of optometrists provided
10 for in 2-15-1846; and

11 (b) "department" means the department of commerce
12 provided for in Title 2, chapter 15, part 18."

13 Section 3. Section 37-10-103, MCA, is amended to read:

14 "37-10-103. Use of diagnostic drugs not prohibited by
15 pharmacy law. The use of drugs by a licensed optometrist ~~for~~
16 ~~examination---purposes~~ as stated in 37-10-101 is not
17 prohibited by Title 37, chapter 7."

18 Section 4. Section 37-10-304, MCA, is amended to read:

19 "37-10-304. Course in use of diagnostic and
20 therapeutic drugs required. (1) (a) In addition to the
21 requirements of 37-10-302 or 37-10-303, whichever is
22 applicable, each person desiring to commence the practice of
23 optometry shall satisfactorily complete a course prescribed
24 by the board of medical examiners with consultation and
25 approval by the board of optometrists with particular

1 emphasis on the topical application of diagnostic agents to
2 the eye for the purpose of examination of the human eye and
3 the analysis of ocular functions.

4 ~~(2)~~(b) A person presently licensed to practice
5 optometry who wishes to employ diagnostic agents must
6 satisfactorily complete a course referred to in subsection
7 (1)(a) and must pass an examination as provided in
8 subsection ~~(4)~~ (1)(d).

9 ~~(3)~~(c) The course referred to in subsection (1)(a)
10 must be conducted by an institution accredited by a regional
11 or professional accreditation organization which is
12 recognized or approved by the national commission on
13 accrediting or the United States commissioner of education.
14 The course must also be approved by the board.

15 ~~(4)~~(d) The board shall provide for an examination in
16 competency in the use of diagnostic drugs and shall issue a
17 certificate to those applicants who pass such examination.

18 (2) (a) In addition to the requirements of 37-10-302
19 or 37-10-303, whichever is applicable, each person desiring
20 to commence the practice of optometry shall:

21 (i) pass an examination, of the international
22 association of boards of examiners in optometry, on the
23 diagnosis, treatment, and management of ocular disease; or

24 (ii) take a course and pass an examination in the
25 diagnosis and treatment of ocular diseases. The course and

1 examination must be certified by a regional or professional
2 accredited organization that is recognized or approved by
3 the council on postsecondary accreditation or the United
4 States department of education.

5 (b) A person presently licensed to practice optometry
6 who wishes to employ therapeutic pharmaceutical agents must
7 meet the requirements of subsection (2)(a).

8 (c) The board shall:

9 (i) provide for an examination in competency in the
10 use of therapeutic pharmaceutical agents; and

11 (ii) issue a certificate to an applicant who passes
12 such examination."

13 Section 5. Section 37-10-311, MCA, is amended to read:

14 "37-10-311. Revocation -- unprofessional conduct. (1)

15 The board may revoke a certificate of registration for:

16 (a) physical or mental incompetence;

17 (b) gross malpractice or repeated malpractice;

18 (c) a violation of any of the provisions of this
19 chapter or rules or orders of the board; or

20 (d) unprofessional conduct.

21 (2) Unprofessional conduct includes:

22 (a) obtaining a fee by fraud or misrepresentation;

23 (b) employing, directly or indirectly, a suspended or
24 unlicensed optometrist to perform work covered by this
25 chapter;

1 (c) directly or indirectly accepting employment to
 2 practice optometry from a person not having a valid
 3 certificate of registration as an optometrist or accepting
 4 employment to practice optometry for or from a company or
 5 corporation;

6 (d) permitting another to use his certificate of
 7 registration;

8 (e) soliciting or sending a solicitor from house to
 9 house;

10 (f) treatment or advice in which untruthful or
 11 improbable statements are made;

12 (g) professing to cure nonocular disease;

13 (h) advertising in which ambiguous or misleading
 14 statements are made; or

15 (i) the use in advertising of the expression "eye
 16 specialist" or "specialist on eyes" in connection with the
 17 name of an optometrist. This chapter does not prohibit
 18 legitimate or truthful advertising by a registered
 19 optometrist.

20 (3) Before a certificate is revoked, the holder shall
 21 be given a notice and an opportunity for a hearing.

22 (4) Any optometrist convicted a second time for
 23 violation of the provisions of this chapter or whose
 24 certificate of registration or examination has been revoked
 25 a second time shall not be permitted to practice optometry

1 in this state."

2 NEW SECTION. Section 6. Extension of authority. Any
 3 existing authority of the board of optometrists to make
 4 rules on the subject of the provisions of this act is
 5 extended to the provisions of this act.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB170, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

LC0663 is an act to allow an optometrist to administer or prescribe drugs to treat eye disease, and to require an optometrist to demonstrate competency to carry out such treatment.

ASSUMPTIONS:

1. Assume that 70 optometrists would be interested in obtaining licensing to prescribe drugs.
2. Assume a hearing will be required to set the rules for implementing the program.
3. Assume certificates will cost \$100, rule filing fees will be \$250, and a hearing will cost \$1000.
4. Assume the Professional and Occupational Licensing Bureau can handle the additional load without increasing the current level staffing.
5. Since the FY86 year end cash balance was \$30,800, assume the amount that expenditures exceed income will be covered by the cash balance.
6. Assume the license fees remain the same.

FISCAL IMPACT:

| | FY88 | | Difference |
|--------------------------------|-------------|--------------|--|
| | Current Law | Proposed Law | |
| <u>Expenditures:</u> | | | |
| Earmarked Special Revenue Fund | \$ 28,217 | \$ 29,567 | \$ 1350 |
| <u>Revenues:</u> | | | |
| Earmarked Special Revenue Fund | \$ 27,925 | \$ 27,925 | \$ 0 |
| CASH BALANCE | \$ 30,508 | \$ 29,158 | \$ (1350) See assumption number 5 above. |

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

None apparent.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

If expenditures exceed revenues for an extended period of time, the program will not be able to function.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

None apparent.

David L. Hunter DATE 1/22/89
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Tom Rasmussen DATE 1-23-89
 TOM RASMUSSEN, PRIMARY SPONSOR
 Fiscal Note for SB170, as introduced.

SB 0170/02
PUBLIC HEALTH, WELFARE
& SAFETY COMMITTEE
RECOMMEND DO NOT PASS
AS AMENDED
ON MOTION, PRINTED AND
PLACED ON SECOND READING

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2 INTRODUCED BY RASMUSSEN, MCLANE, VAUGHN, LYNCH, CODY,
3 PAVLOVICH, HARRINGTON, STRIZICH, KADAS, DARKO, GRINDE,
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10 TO ADMINISTER OR PRESCRIBE DRUGS TO TREAT EYE DISEASES; TO
11 REQUIRE AN OPTOMETRIST TO DEMONSTRATE COMPETENCY TO
12 ADMINISTER OR PRESCRIBE DRUGS TO TREAT EYE DISEASES; AND
13 AMENDING SECTIONS 37-2-101, 37-10-101, 37-10-103, 37-10-304,
14 AND 37-10-311, MCA."

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

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18 "37-2-101. Definitions. As used in this part, the
19 following definitions apply:

20 (1) "Medical practitioner" means any person licensed
21 by the state of Montana to engage in the practice of
22 medicine, dentistry, osteopathy, or chiropody (podiatry), or
23 optometry and in such practice to administer or prescribe
24 drugs.

25 (2) "Drug" means any article:

1 (a) recognized in the official United States
2 Pharmacopoeia/National Formulary or in any supplement to
3 such pharmacopoeia/formulary;

4 (b) intended for use in the diagnosis, cure,
5 mitigation, treatment, or prevention of disease in man;

6 (c) intended to affect the structure or any function
7 of the body of man;

8 (d) intended for use as a component of any article
9 described in subsection (a), (b), or (c) of this subsection
10 (2), but such term does not include any device or any
11 components of a device.

12 (3) "Device" means any instrument, apparatus, or
13 contrivance intended:

14 (a) for use in the diagnosis, cure, mitigation,
15 treatment, or prevention of disease in man;

16 (b) to affect the structure or any function of the
17 body of man.

18 (4) "Pharmacy" means an establishment which engages in
19 the sale of drugs requiring a prescription.

20 (5) "Community pharmacy", when used in relation to a
21 medical practitioner, means a pharmacy situated within 10
22 miles of any place at which such medical practitioner
23 maintains an office for professional practice.

24 (6) "Drug company" means any person engaged in the
25 manufacturing, processing, packaging, or distribution of



1 drugs; but such term does not include a pharmacy.

2 (7) "Person" means any individual and any partnership,
3 firm, corporation, association, or other business entity.

4 (8) "State" means the state of Montana or any
5 political subdivision thereof."

6 Section 2. Section 37-10-101, MCA, is amended to read:

7 "37-10-101. Definitions -- practice of optometry. (1)

8 The practice of optometry is the profession constituting the
9 art and science of visual care and is hereby defined to be
10 any one of the following acts:

11 (a) the optometric examination or optometric diagnosis
12 of all of those physiological or anatomical parts or
13 functions which consummate the process of human vision to
14 ascertain the presence therein of abnormal conditions or
15 functions which may be optometrically diagnosed, corrected,
16 remedied, or relieved;

17 (b) the employment of any optometric means, excluding
18 the use of surgery, for the purpose of detecting any
19 condition of the process of vision which may have any
20 significance in a complete optometric eye and vision
21 examination, including the employment and administration of
22 drugs topically applied for examination purposes, limited to
23 cycloplegics, mydriatics, topical anesthetics, dyes such as
24 fluorescein, and for emergency use only, miotics;

25 (c) the application or prescription of ophthalmic

1 lenses, contact lenses, prisms, orthoptics, visual training,
2 any physical, mechanical, or physiological therapy, and the
3 furnishing or application of any prosthetic or therapeutic
4 devices for the correction or relief of visual anomalies,
5 excluding surgery; and

6 (d) the administration, dispensation, and prescription
7 of drugs used for ocular treatment LIMITED TO THE ANTERIOR
8 SEGMENT OF THE EYE AND ADNEXA.

9 (2) Nothing in subsection (1) ~~allows optometrists to~~
10 ~~treat diseases of the eye~~ prohibits an optometrist from
11 ~~removing from the eye or adnexa a foreign body that is not~~
12 ~~intraocular.~~

13 (3) Unless the context requires otherwise, in this
14 chapter:

15 (a) "board" means the board of optometrists provided
16 for in 2-15-1846; and

17 (b) "department" means the department of commerce
18 provided for in Title 2, chapter 15, part 18."

19 Section 3. Section 37-10-103, MCA, is amended to read:

20 "37-10-103. Use of diagnostic drugs not prohibited by
21 pharmacy law. The use of drugs by a licensed optometrist ~~for~~
22 ~~examination purposes~~ as stated in 37-10-101 is not
23 prohibited by Title 37, chapter 7."

24 Section 4. Section 37-10-304, MCA, is amended to read:

25 "37-10-304. Course in use of diagnostic and

1 therapeutic drugs required. (1) (a) In addition to the
 2 requirements of 37-10-302 or 37-10-303, whichever is
 3 applicable, each person desiring to commence the practice of
 4 optometry shall satisfactorily complete a course prescribed
 5 by the board of medical examiners with consultation and
 6 approval by the board of optometrists with particular
 7 emphasis on the topical application of diagnostic agents to
 8 the eye for the purpose of examination of the human eye and
 9 the analysis of ocular functions.

10 (2)(b) A person presently licensed to practice
 11 optometry who wishes to employ diagnostic agents must
 12 satisfactorily complete a course referred to in subsection
 13 (1)(a) and must pass an examination as provided in
 14 subsection (1)(d).

15 (3)(c) The course referred to in subsection (1)(a)
 16 must be conducted by an institution accredited by a regional
 17 or professional accreditation organization which is
 18 recognized or approved by the national commission on
 19 accrediting or the United States commissioner of education.
 20 The course must also be approved by the board.

21 (4)(d) The board shall provide for an examination in
 22 competency in the use of diagnostic drugs and shall issue a
 23 certificate to those applicants who pass such examination.

24 (2) (a) In addition to the requirements of 37-10-302
 25 or 37-10-303, whichever is applicable, each person desiring

1 to commence the practice of optometry shall:

2 (i) pass an examination, of the international
 3 association of boards of examiners in optometry, on the
 4 diagnosis, treatment, and management of ocular disease; or

5 (ii) take a course and pass an examination in the
 6 diagnosis and treatment of ocular diseases. The course and
 7 examination must be certified-by-a-regional-or-professional
 8 accredited-organization-that-is-recognized-or-approved-by
 9 the-council-on-postsecondary-accreditation-or-the-United
 10 States-department-of-education; CONDUCTED BY AN INSTITUTION
 11 ACCREDITED BY A REGIONAL OR PROFESSIONAL ACCREDITATION
 12 ORGANIZATION WHICH IS RECOGNIZED OR APPROVED BY THE NATIONAL
 13 COMMISSION ON ACCREDITING OR THE UNITED STATES COMMISSIONER
 14 OF EDUCATION. THE COURSE AND EXAMINATION MUST ALSO BE
 15 APPROVED BY THE BOARD.

16 (b) A person presently licensed to practice optometry
 17 who wishes to employ therapeutic pharmaceutical agents must
 18 meet the requirements of subsection (2)(a).

19 (c) The board shall:

20 (i) provide for an examination in competency in the
 21 use of therapeutic pharmaceutical agents; and

22 (ii) issue a certificate to an applicant who passes
 23 such examination."

24 Section 5. Section 37-10-311, MCA, is amended to read:
 25 "37-10-311. Revocation -- unprofessional conduct. (1)

1 The board may revoke a certificate of registration for:

2 (a) physical or mental incompetence;

3 (b) gross malpractice or repeated malpractice;

4 (c) a violation of any of the provisions of this

5 chapter or rules or orders of the board; or

6 (d) unprofessional conduct.

7 (2) Unprofessional conduct includes:

8 (a) obtaining a fee by fraud or misrepresentation;

9 (b) employing, directly or indirectly, a suspended or

10 unlicensed optometrist to perform work covered by this

11 chapter;

12 (c) directly or indirectly accepting employment to

13 practice optometry from a person not having a valid

14 certificate of registration as an optometrist or accepting

15 employment to practice optometry for or from a company or

16 corporation;

17 (d) permitting another to use his certificate of

18 registration;

19 (e) soliciting or sending a solicitor from house to

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21 (f) treatment or advice in which untruthful or

22 improbable statements are made;

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25 statements are made; or

1 (i) the use in advertising of the expression "eye

2 specialist" or "specialist on eyes" in connection with the

3 name of an optometrist. This chapter does not prohibit

4 legitimate or truthful advertising by a registered

5 optometrist.

6 (3) Before a certificate is revoked, the holder shall

7 be given a notice and an opportunity for a hearing.

8 (4) Any optometrist convicted a second time for

9 violation of the provisions of this chapter or whose

10 certificate of registration or examination has been revoked

11 a second time shall not be permitted to practice optometry

12 in this state."

13 NEW SECTION. Section 6. Extension of authority. Any

14 existing authority of the board of optometrists to make

15 rules on the subject of the provisions of this act is

16 extended to the provisions of this act.

-End-

1 SENATE BILL NO. 170

2 INTRODUCED BY RASMUSSEN, MCLANE, VAUGHN, LYNCH, CODY,
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4 (b) intended for use in the diagnosis, cure,
 5 mitigation, treatment, or prevention of disease in man;

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 7 of the body of man;

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3 furnishing or application of any prosthetic or therapeutic
4 devices for the correction or relief of visual anomalies,
5 excluding surgery; and

6 (d) the administration, dispensation, and prescription
7 of drugs used for ocular treatment LIMITED TO THE ANTERIOR
8 SEGMENT OF THE EYE AND ADNEXA.

9 (2) Nothing in subsection (1) ~~allows-optometrists-to~~
10 ~~treat-diseases-of-the-eye~~ prohibits an optometrist from
11 removing from the eye or adnexa a foreign body that is not
12 intraocular.

13 (3) Unless the context requires otherwise, in this
14 chapter:

15 (a) "board" means the board of optometrists provided
16 for in 2-15-1846; and

17 (b) "department" means the department of commerce
18 provided for in Title 2, chapter 15, part 18."

19 Section 3. Section 37-10-103, MCA, is amended to read:

20 "37-10-103. Use of diagnostic drugs not prohibited by
21 pharmacy law. The use of drugs by a licensed optometrist for
22 examination--purposes as stated in 37-10-101 is not
23 prohibited by Title 37, chapter 7."

24 Section 4. Section 37-10-304, MCA, is amended to read:

25 "37-10-304. Course in use of diagnostic and

1 therapeutic drugs required. (1) (a) In addition to the
 2 requirements of 37-10-302 or 37-10-303, whichever is
 3 applicable, each person desiring to commence the practice of
 4 optometry shall satisfactorily complete a course prescribed
 5 by the board of medical examiners with consultation and
 6 approval by the board of optometrists with particular
 7 emphasis on the topical application of diagnostic agents to
 8 the eye for the purpose of examination of the human eye and
 9 the analysis of ocular functions.

10 (2)(b) A person presently licensed to practice
 11 optometry who wishes to employ diagnostic agents must
 12 satisfactorily complete a course referred to in subsection
 13 (1)(a) and must pass an examination as provided in
 14 subsection (4)(1)(d).

15 (3)(c) The course referred to in subsection (1)(a)
 16 must be conducted by an institution accredited by a regional
 17 or professional accreditation organization which is
 18 recognized or approved by the national commission on
 19 accrediting or the United States commissioner of education.
 20 The course must also be approved by the board.

21 (4)(d) The board shall provide for an examination in
 22 competency in the use of diagnostic drugs and shall issue a
 23 certificate to those applicants who pass such examination.

24 (2) (a) In addition to the requirements of 37-10-302
 25 or 37-10-303, whichever is applicable, each person desiring

1 to commence the practice of optometry shall:

2 (i) pass an examination, of the international
 3 association of boards of examiners in optometry, on the
 4 diagnosis, treatment, and management of ocular disease; or
 5 (ii) take a course and pass an examination in the
 6 diagnosis and treatment of ocular diseases. The course and
 7 examination must be certified-by-a-regional-or-professional
 8 accredited-organization-that-is-recognized-or-approved-by
 9 the-council-on-postsecondary-accreditation-or-the-United
 10 States-department-of-education; CONDUCTED BY AN INSTITUTION
 11 ACCREDITED BY A REGIONAL OR PROFESSIONAL ACCREDITATION
 12 ORGANIZATION WHICH IS RECOGNIZED OR APPROVED BY THE NATIONAL
 13 COMMISSION ON ACCREDITING OR THE UNITED STATES COMMISSIONER
 14 OF EDUCATION. THE COURSE AND EXAMINATION MUST ALSO BE
 15 APPROVED BY THE BOARD.

16 (b) A person presently licensed to practice optometry
 17 who wishes to employ therapeutic pharmaceutical agents must
 18 meet the requirements of subsection (2)(a).

19 (c) The board shall:

20 (i) provide for an examination in competency in the
 21 use of therapeutic pharmaceutical agents; and
 22 (ii) issue a certificate to an applicant who passes
 23 such examination."

24 Section 5. Section 37-10-311, MCA, is amended to read:

25 "37-10-311. Revocation -- unprofessional conduct. (1)

1 The board may revoke a certificate of registration for:

2 (a) physical or mental incompetence;

3 (b) gross malpractice or repeated malpractice;

4 (c) a violation of any of the provisions of this

5 chapter or rules or orders of the board; or

6 (d) unprofessional conduct.

7 (2) Unprofessional conduct includes:

8 (a) obtaining a fee by fraud or misrepresentation;

9 (b) employing, directly or indirectly, a suspended or

10 unlicensed optometrist to perform work covered by this

11 chapter;

12 (c) directly or indirectly accepting employment to

13 practice optometry from a person not having a valid

14 certificate of registration as an optometrist or accepting

15 employment to practice optometry for or from a company or

16 corporation;

17 (d) permitting another to use his certificate of

18 registration;

19 (e) soliciting or sending a solicitor from house to

20 house;

21 (f) treatment or advice in which untruthful or

22 improbable statements are made;

23 (g) professing to cure nonocular disease;

24 (h) advertising in which ambiguous or misleading

25 statements are made; or

1 (i) the use in advertising of the expression "eye

2 specialist" or "specialist on eyes" in connection with the

3 name of an optometrist. This chapter does not prohibit

4 legitimate or truthful advertising by a registered

5 optometrist.

6 (3) Before a certificate is revoked, the holder shall

7 be given a notice and an opportunity for a hearing.

8 (4) Any optometrist convicted a second time for

9 violation of the provisions of this chapter or whose

10 certificate of registration or examination has been revoked

11 a second time shall not be permitted to practice optometry

12 in this state."

13 NEW SECTION. Section 6. Extension of authority. Any

14 existing authority of the board of optometrists to make

15 rules on the subject of the provisions of this act is

16 extended to the provisions of this act.

-End-

1 SENATE BILL NO. 170

2 INTRODUCED BY RASMUSSEN, MCLANE, VAUGHN, LYNCH, CODY,
 3 PAVLOVICH, HARRINGTON, STRIZICH, KADAS, DARKO, GRINDE,
 4 GILBERT, ANDERSON, J. BROWN, HAFHEY, STRATFORD, BECK,
 5 HOFMAN, DRISCOLL, KOLSTAD, HARPER, B. WILLIAMS, KEENAN,
 6 HANSON, CRIPPEN, E. SMITH, SWYSGOOD, ADDY, GRADY,
 7 MANUEL, MENAHAN, SCHYE, EUDAILY, MCCORMICK

8
 9 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW AN OPTOMETRIST
 10 TO ADMINISTER OR PRESCRIBE CERTAIN DRUGS TO TREAT EYE
 11 DISEASES; TO REQUIRE AN OPTOMETRIST TO DEMONSTRATE
 12 COMPETENCY TO ADMINISTER OR PRESCRIBE DRUGS TO TREAT EYE
 13 DISEASES; AND AMENDING SECTIONS 37-2-101, 37-10-101,
 14 37-10-103, 37-10-304, AND 37-10-311, MCA."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 37-2-101, MCA, is amended to read:

18 "37-2-101. Definitions. As used in this part, the
 19 following definitions apply:

20 (1) "Medical practitioner" means any person licensed
 21 by the state of Montana to engage in the practice of
 22 medicine, dentistry, osteopathy, or chiropody (podiatry), or
 23 optometry and in such practice to administer or prescribe
 24 drugs.

25 (2) "Drug" means any article:

1 (a) recognized in the official United States
 2 Pharmacopoeia/National Formulary or in any supplement to
 3 such pharmacopoeia/formulary;

4 (b) intended for use in the diagnosis, cure,
 5 mitigation, treatment, or prevention of disease in man;

6 (c) intended to affect the structure or any function
 7 of the body of man;

8 (d) intended for use as a component of any article
 9 described in subsection (a), (b), or (c) of this subsection
 10 (2), but such term does not include any device or any
 11 components of a device.

12 (3) "Device" means any instrument, apparatus, or
 13 contrivance intended:

14 (a) for use in the diagnosis, cure, mitigation,
 15 treatment, or prevention of disease in man;

16 (b) to affect the structure or any function of the
 17 body of man.

18 (4) "Pharmacy" means an establishment which engages in
 19 the sale of drugs requiring a prescription.

20 (5) "Community pharmacy", when used in relation to a
 21 medical practitioner, means a pharmacy situated within 10
 22 miles of any place at which such medical practitioner
 23 maintains an office for professional practice.

24 (6) "Drug company" means any person engaged in the
 25 manufacturing, processing, packaging, or distribution of

1 drugs; but such term does not include a pharmacy.

2 (7) "Person" means any individual and any partnership,
3 firm, corporation, association, or other business entity.

4 (8) "State" means the state of Montana or any
5 political subdivision thereof."

6 Section 2. Section 37-10-101, MCA, is amended to read:

7 "37-10-101. Definitions -- practice of optometry. (1)
8 The practice of optometry is the profession constituting the
9 art and science of visual care and is hereby defined to be
10 any one of the following acts:

11 (a) the optometric examination or optometric diagnosis
12 of all of those physiological or anatomical parts or
13 functions which consummate the process of human vision to
14 ascertain the presence therein of abnormal conditions or
15 functions which may be optometrically diagnosed, corrected,
16 remedied, or relieved;

17 (b) the employment of any optometric means, excluding
18 the use of surgery, for the purpose of detecting any
19 condition of the process of vision which may have any
20 significance in a complete optometric eye and vision
21 examination, including the employment and administration of
22 drugs topically applied for examination purposes, limited to
23 cycloplegics, mydriatics, topical anesthetics, dyes such as
24 fluorescein, and for emergency use only, miotics;

25 (c) the application or prescription of ophthalmic

1 lenses, contact lenses, prisms, orthoptics, visual training,
2 any physical, mechanical, or physiological therapy, and the
3 furnishing or application of any prosthetic or therapeutic
4 devices for the correction or relief of visual anomalies,
5 excluding surgery; and

6 (d) the administration, dispensation, and prescription
7 of ~~drugs--used--for~~ THOSE TOPICAL DRUGS, NOT INCLUDING
8 CORTICOSTEROIDS, APPROVED BY THE BOARD FOR USE IN ocular
9 treatment LIMITED TO THE ANTERIOR SEGMENT OF THE EYE AND
10 ADNEXA. GLAUCOMA MAY NOT BE TREATED.

11 (2) Nothing in subsection (1) ~~allows--optometrists--to~~
12 ~~treat--diseases--of--the--eye~~ prohibits an optometrist from
13 removing from the eye or adnexa a foreign body that is not
14 intraocular.

15 (3) Unless the context requires otherwise, in this
16 chapter:

17 (a) "board" means the board of optometrists provided
18 for in 2-15-1846; and

19 (b) "department" means the department of commerce
20 provided for in Title 2, chapter 15, part 18."

21 Section 3. Section 37-10-103, MCA, is amended to read:

22 "37-10-103. Use of ~~diagnostic~~ drugs not prohibited by
23 pharmacy law. The use of drugs by a licensed optometrist for
24 ~~examination---purposes~~ as stated in 37-10-101 is not
25 prohibited by Title 37, chapter 7."

1 Section 4. Section 37-10-304, MCA, is amended to read:

2 "37-10-304. Course in use of diagnostic and
3 therapeutic drugs required. (1) (a) In addition to the
4 requirements of 37-10-302 or 37-10-303, whichever is
5 applicable, each person desiring to commence the practice of
6 optometry shall satisfactorily complete a course prescribed
7 by the board of medical examiners with consultation and
8 approval by the board of optometrists with particular
9 emphasis on the topical application of diagnostic agents to
10 the eye for the purpose of examination of the human eye and
11 the analysis of ocular functions.

12 ~~(2)~~(b) A person presently licensed to practice
13 optometry who wishes to employ diagnostic agents must
14 satisfactorily complete a course referred to in subsection
15 (1)(a) and must pass an examination as provided in
16 subsection ~~(4)~~ (1)(d).

17 ~~(3)~~(c) The course referred to in subsection (1)(a)
18 must be conducted by an institution accredited by a regional
19 or professional accreditation organization which is
20 recognized or approved by the national commission on
21 accrediting or the United States commissioner of education.
22 The course must also be approved by the board.

23 ~~(4)~~(d) The board shall provide for an examination in
24 competency in the use of diagnostic drugs and shall issue a
25 certificate to those applicants who pass such examination.

1 (2) (a) In addition to the requirements of 37-10-302
2 or 37-10-303, whichever is applicable, each person desiring
3 to commence the practice of optometry shall:

4 (i) pass an examination, of the international
5 association of boards of examiners in optometry, on the
6 diagnosis, treatment, and management of ocular disease; or

7 (ii) take a course and pass an examination in the
8 diagnosis and, treatment, AND MANAGEMENT of ocular diseases.

9 The course and examination must be certified-by-a-regional
10 or-professional-accredited-organization-that--is--recognized
11 or-approved-by-the-council-on-postsecondary-accreditation-or
12 the--United--States-department-of-education; CONDUCTED BY AN
13 INSTITUTION ACCREDITED BY A REGIONAL OR PROFESSIONAL
14 ACCREDITATION ORGANIZATION WHICH IS RECOGNIZED OR APPROVED
15 BY THE NATIONAL COMMISSION ON ACCREDITING OR THE UNITED
16 STATES COMMISSIONER OF EDUCATION. THE COURSE AND
17 EXAMINATION MUST ALSO BE APPROVED BY THE BOARD.

18 (b) A person presently licensed to practice optometry
19 who wishes to employ therapeutic pharmaceutical agents must
20 meet the requirements of subsection (2)(a).

21 (c) The board shall:

22 (i) provide for an examination in competency in the
23 use DIAGNOSIS, TREATMENT, AND MANAGEMENT of therapeutic
24 pharmaceutical agents; and

25 (ii) issue a certificate to an applicant who passes

1 such examination."

2 Section 5. Section 37-10-311, MCA, is amended to read:

3 "37-10-311. Revocation -- unprofessional conduct. (1)

4 The board may revoke a certificate of registration for:

- 5 (a) physical or mental incompetence;
- 6 (b) gross malpractice or repeated malpractice;
- 7 (c) a violation of any of the provisions of this
- 8 chapter or rules or orders of the board; or
- 9 (d) unprofessional conduct.
- 10 (2) Unprofessional conduct includes:
- 11 (a) obtaining a fee by fraud or misrepresentation;
- 12 (b) employing, directly or indirectly, a suspended or
- 13 unlicensed optometrist to perform work covered by this
- 14 chapter;
- 15 (c) directly or indirectly accepting employment to
- 16 practice optometry from a person not having a valid
- 17 certificate of registration as an optometrist or accepting
- 18 employment to practice optometry for or from a company or
- 19 corporation;
- 20 (d) permitting another to use his certificate of
- 21 registration;
- 22 (e) soliciting or sending a solicitor from house to
- 23 house;
- 24 (f) treatment or advice in which untruthful or
- 25 improbable statements are made;

1 (g) professing to cure nonocular disease;

2 (h) advertising in which ambiguous or misleading
3 statements are made; or

4 (i) the use in advertising of the expression "eye
5 specialist" or "specialist on eyes" in connection with the
6 name of an optometrist. This chapter does not prohibit
7 legitimate or truthful advertising by a registered
8 optometrist.

9 (3) Before a certificate is revoked, the holder shall
10 be given a notice and an opportunity for a hearing.

11 (4) Any optometrist convicted a second time for
12 violation of the provisions of this chapter or whose
13 certificate of registration or examination has been revoked
14 a second time shall not be permitted to practice optometry
15 in this state."

16 NEW SECTION. SECTION 6. OPTOMETRIC OVERSIGHT
17 COMMITTEE -- MEMBERS -- DUTY TO INVESTIGATE COMPLAINTS.

18 (1) (A) THERE IS AN OPTOMETRIC OVERSIGHT COMMITTEE COMPOSED
19 OF FIVE MEMBERS. THE MEMBERS ARE:

20 (I) TWO PHYSICIANS, ONE OF WHOM MUST BE AN
21 OPHTHAMOLOGIST AND THE OTHER A MEMBER OF THE BOARD OF
22 MEDICAL EXAMINERS, WHO ARE APPOINTED BY THE BOARD OF MEDICAL
23 EXAMINERS;

24 (II) TWO OPTOMETRISTS WHO ARE MEMBERS OF THE BOARD OF
25 OPTOMETRISTS AND WHO ARE APPOINTED BY THE BOARD OF

1 OPTOMETRISTS; AND

2 (III) ONE PHARMACIST WHO IS A MEMBER OF THE BOARD OF
3 PHARMACY AND WHO IS APPOINTED BY THE BOARD OF PHARMACY.

4 (B) THE MEMBERS OF THE COMMITTEE SHALL ELECT A
5 CHAIRMAN FROM THEIR MEMBERS. MEMBERS OF THE COMMITTEE ARE
6 ENTITLED TO COMPENSATION AND TRAVEL EXPENSES AS PROVIDED FOR
7 IN 37-1-133. MEMBERS' COMPENSATION AND TRAVEL EXPENSES AND
8 COMMITTEE CLERICAL AND ADMINISTRATIVE EXPENSES MUST BE PAID
9 BY THE BOARD OF OPTOMETRISTS FROM FUNDS APPROPRIATED TO THE
10 BOARD FOR ITS ORDINARY OPERATIONS.

11 (2) A MEETING OF THE COMMITTEE MUST BE CALLED BY ANY
12 OF THE REPRESENTED BOARDS UPON RECEIPT OF A SIGNED WRITTEN
13 COMPLAINT REGARDING THE DIAGNOSIS, TREATMENT, OR MANAGEMENT
14 OF OCULAR DISEASE AS IT RELATES TO THERAPEUTIC DRUG USAGE BY
15 AN OPTOMETRIST.

16 (3) EACH OF THE REPRESENTED BOARDS SHALL UPON RECEIPT
17 OF A COMPLAINT CONCERNING THE DIAGNOSIS, TREATMENT, OR
18 MANAGEMENT OF OCULAR DISEASE BY AN OPTOMETRIST, FORWARD A
19 COPY OF THE COMPLAINT TO THE MEMBERS OF THE COMMITTEE. EACH
20 MEMBER OF THE COMMITTEE SHALL, SUBJECT TO APPLICABLE
21 CONFIDENTIALITY REQUIREMENTS, HAVE ACCESS TO ALL RECORDS
22 RELATED TO THERAPEUTIC DRUG USAGE OF THE BOARD OF
23 OPTOMETRISTS CONCERNING THE OPTOMETRIST AGAINST WHOM A
24 COMPLAINT HAS BEEN FILED.

25 (4) THE COMMITTEE MAY INVESTIGATE ANY COMPLAINT THAT

1 IT BELIEVES HAS A VALID BASIS. THE INVESTIGATION MAY
2 INCLUDE:

3 (A) REQUIRING THE COMPLAINANT, IF INJURIES HAVE BEEN
4 ALLEGED, TO SUBMIT TO A PHYSICAL EXAMINATION;

5 (B) EXAMINATION OF HOSPITAL AND OTHER MEDICAL RECORDS;

6 (C) INTERVIEWS OF THE COMPLAINANT AND THE ACCUSED
7 OPTOMETRIST; AND

8 (D) OTHER AVENUES OF INQUIRY TENDING TO PROVE OR
9 DISPROVE THE COMPLAINT BUT THAT DO NOT RAISE THE FORMALITY
10 OF THE INVESTIGATION TO THE LEVEL OF A CONTESTED CASE
11 ADMINISTRATIVE HEARING.

12 (5) BASED ON THE FINDINGS OF ITS INVESTIGATION, THE
13 COMMITTEE MAY:

14 (A) RECOMMEND TO THE BOARD OF OPTOMETRISTS THAT NO
15 FURTHER ACTION BE TAKEN REGARDING THE COMPLAINT;

16 (B) RECOMMEND TO THE BOARD OF OPTOMETRISTS THAT NO
17 ACTION BE TAKEN AGAINST THE SUBJECT OPTOMETRIST, BUT THAT
18 THE BOARD SHOULD REVIEW ITS RULES AND STATUTORY PROVISIONS
19 RELATING TO THE ADMINISTRATION OF PRESCRIPTION DRUGS BY
20 OPTOMETRISTS TO AMEND THE RULES OR PROPOSE LEGISLATION TO
21 PREVENT SIMILAR OCCURRENCES; OR

22 (C) RECOMMEND THAT THE BOARD OF OPTOMETRISTS INITIATE
23 DISCIPLINARY PROCEEDINGS.

24 (6) IF THE COMMITTEE RECOMMENDS THAT THE BOARD OF
25 OPTOMETRISTS INITIATE DISCIPLINARY PROCEEDINGS, THE BOARD

1 MUST TAKE NECESSARY ACTION TO BEGIN DISCIPLINARY
2 PROCEEDINGS.

3 (7) (A) A COPY OF THE COMMITTEE'S DECISION MUST BE
4 MAILED TO THE COMPLAINANT.

5 (B) IF THE COMMITTEE MAKES A DECISION UNDER SUBSECTION
6 (5)(B) OR (5)(C), THE BOARD OF OPTOMETRISTS SHALL RESPOND TO
7 THE COMMITTEE'S DECISION IN WRITING. THE RESPONSE MUST BE
8 ADDRESSED TO THE BOARD OF MEDICAL EXAMINERS AND THE BOARD OF
9 PHARMACY.

10 NEW SECTION. Section 7. Extension of authority. Any
11 existing authority of the board of optometrists to make
12 rules on the subject of the provisions of this act is
13 extended to the provisions of this act.

-End-

GOVERNOR'S PROPOSED AMENDMENTS TO
SENATE BILL 170
REFERENCE COPY
APRIL 14, 1987

1. Title, line 10.
Following: "CERTAIN"
Insert: "PAIN MEDICINES AND"
2. Page 4, line 5.
Strike: "and"
3. Page 4.
Following: line 5
Insert: "(d) the administration, dispensation, and prescription of
the oral analgesics codeine, propoxyphene,
hydrocodone, and dihydrocodeine, alone or in
combination with nonscheduled or nonregulated drugs;
and"
Renumber: subsequent subsection

-END-

STANDING COMMITTEE REPORT

Human Services and Aging
Committee - March 24, 1987

SB # 170
Page 2 of 2

HOUSE

MARCH 24, 1987 19

Mr. Speaker: We, the committee on HUMAN SERVICES AND AGING

report SENATE BILL NO. 170

do pass be concurred in as amended
 do not pass be not concurred in statement of intent attached

REP. R. BUDD GOULD, Chairman

1. Title, line 10.
Following: "PRESCRIBE"
Insert: "CERTAIN"

2. Page 4, line 7.
Strike: "drugs used for"
Insert: "those drugs approved by the board for use in"

3. Page 4, line 8.
Following: "ADNEXA."
Insert: "Chronic open angle glaucoma may be treated, but not other forms of glaucoma."

4. Page 6, line 6.
Following: "diagnosis"
Strike: "and"
Insert: ", "
Following: "treatment"
Insert: ", and management"

5. Page 6, line 21.
Strike: "use"
Insert: "diagnosis, treatment, and management"

6. Page 8, Following: line 12
Insert: "NEW SECTION. Section 6. Optometric oversight committee -- members -- duty to investigate complaints. (1)(a) There is an optometric oversight committee composed of five members. The members are:
(i) two physicians, one of whom must be an ophthalmologist and the other a member of the board of medical examiners, who are appointed by the board of medical examiners;
(ii) two optometrists who are members of the board of optometrists and who are appointed by the board of optometrists; and
(iii) one pharmacist who is a member of the board of pharmacy and who is appointed by the board of pharmacy.
(b) The members of the committee shall elect a chairman from their members. Members of the committee are entitled

to compensation and travel expenses as provided for in 37-1-133. Members' compensation and travel expenses and committee clerical and administrative expenses must be paid by the board of optometrists from funds appropriated to the board for its ordinary operations.

(2) A meeting of the committee must be called by any of the represented boards upon receipt of a signed written complaint regarding the diagnosis, treatment, or management of ocular disease as it relates to therapeutic drug usage by an optometrist.

(3) Each of the represented boards shall upon receipt of a complaint concerning the diagnosis, treatment, or management of ocular disease by an optometrist, forward a copy of the complaint to the members of the committee. Each member of the committee shall, subject to applicable confidentiality requirements, have access to all records related to therapeutic drug usage of the board of optometry concerning the optometrist against whom a complaint has been filed.

(4) The committee may investigate any complaint that it believes has a valid basis. The investigation may include:

- (a) requiring the complainant, if injuries have been alleged, to submit to a physical examination;
- (b) examination of hospital and other medical records;
- (c) interviews of the complainant and the accused optometrist; and
- (d) other avenues of inquiry tending to prove or disprove the complaint but that do not raise the formality of the investigation to the level of a contested case administrative hearing.

(5) Based on the findings of its investigation, the committee may:

- (a) recommend to board of optometrists that no further action be taken regarding the complaint;
- (b) recommend to the board of optometrists that no action be taken against the subject optometrist, but that the board should review its rules and statutory provisions relating to the administration of prescription drugs by optometrists to amend the rules or propose legislation to prevent similar occurrences; or
- (c) recommend that the board of optometrists initiate disciplinary proceedings.

(6) If the committee recommends that the board of optometrists initiate disciplinary proceedings, the board must take necessary action to begin disciplinary proceedings.

(7)(a) A copy of the committee's decision must be mailed to the complainant.

(b) If the committee makes a decision under subsection (5)(b) or (5)(c), the board of optometrists shall respond to the committee's decision in writing. The response must be addressed to the board of medical examiners and the board of pharmacy."

Renumber: subsequent section.

REP. JAN BROWN WILL CARRY THIS BILL IN THE HOUSE OF REPRESENTATIVES

THIRD reading copy (BLUE color)

COMMITTEE OF THE WHOLE AMENDMENT

HOUSE

3-27-87
DATE
10:00
TIME

MR. CHAIRMAN: I MOVE TO AMEND SB 170

3rd reading copy (blue) as follows:
Color

AMENDING THE HOUSE HUMAN SERVICES STANDING COMMITTEE REPORT DATED 3-24-87, WHICH AMENDED SB 170.

1) Amending Instruction No. 2 (the inserted material).

Strip: "those drugs approved by the board for use in"

Insert: "those topical drugs, not including corticosteroids, approved by the board for use in"

2) Amending Instruction No.3 (the inserted material).

Strip: "Chronic open angle glaucoma may be treated, but not other forms of glaucoma."

Insert: "Glaucoma may not be treated."

COMMITTEE OF THE WHOLE AMENDMENT

3-26-87
DATE
8:45
TIME

MR. CHAIRMAN: I MOVE TO AMEND SB 170

3rd reading copy (blue) as follows:
Color

1. Standing Committee Amendments to SB 170 of the House Human Services and Aging Committee, dated March 24, 1987, be further amended.

1. Amendment 6, New Section 6(3), last sentence.

Strike: "optometry"

Insert: "optometrists"

ADOPT

REJECT

3271000T.CW

Low Bulger
Rep. Bulger

ADOPT

REJECT

326845S.CW

J. Brown
Rep. Jan Brown

1 SENATE BILL NO. 170

2 INTRODUCED BY RASMUSSEN, MCLANE, VAUGHN, LYNCH, CODY,
 3 PAVLOVICH, HARRINGTON, STRIZICH, KADAS, DARKO, GRINDE,
 4 GILBERT, ANDERSON, J. BROWN, HAFPEY, STRATFORD, BECK,
 5 HOFMAN, DRISCOLL, KOLSTAD, HARPER, B. WILLIAMS, KEENAN,
 6 HANSON, CRIPPEN, E. SMITH, SWYSGOOD, ADDY, GRADY,
 7 MANUEL, MENAHAN, SCHYE, EUDAILY, MCCORMICK

8
 9 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW AN OPTOMETRIST
 10 TO ADMINISTER OR PRESCRIBE CERTAIN PAIN MEDICINES AND DRUGS
 11 TO TREAT EYE DISEASES; TO REQUIRE AN OPTOMETRIST TO
 12 DEMONSTRATE COMPETENCY TO ADMINISTER OR PRESCRIBE DRUGS TO
 13 TREAT EYE DISEASES; AND AMENDING SECTIONS 37-2-101,
 14 37-10-101, 37-10-103, 37-10-304, AND 37-10-311, MCA."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 37-2-101, MCA, is amended to read:

18 "37-2-101. Definitions. As used in this part, the
 19 following definitions apply:

20 (1) "Medical practitioner" means any person licensed
 21 by the state of Montana to engage in the practice of
 22 medicine, dentistry, osteopathy, or chiropody (podiatry), or
 23 optometry and in such practice to administer or prescribe
 24 drugs.

25 (2) "Drug" means any article:

1 (a) recognized in the official United States
 2 Pharmacopoeia/National Formulary or in any supplement to
 3 such pharmacopoeia/formulary;

4 (b) intended for use in the diagnosis, cure,
 5 mitigation, treatment, or prevention of disease in man;

6 (c) intended to affect the structure or any function
 7 of the body of man;

8 (d) intended for use as a component of any article
 9 described in subsection (a), (b), or (c) of this subsection
 10 (2), but such term does not include any device or any
 11 components of a device.

12 (3) "Device" means any instrument, apparatus, or
 13 contrivance intended:

14 (a) for use in the diagnosis, cure, mitigation,
 15 treatment, or prevention of disease in man;

16 (b) to affect the structure or any function of the
 17 body of man.

18 (4) "Pharmacy" means an establishment which engages in
 19 the sale of drugs requiring a prescription.

20 (5) "Community pharmacy", when used in relation to a
 21 medical practitioner, means a pharmacy situated within 10
 22 miles of any place at which such medical practitioner
 23 maintains an office for professional practice.

24 (6) "Drug company" means any person engaged in the
 25 manufacturing, processing, packaging, or distribution of

1 drugs; but such term does not include a pharmacy.

2 (7) "Person" means any individual and any partnership,
3 firm, corporation, association, or other business entity.

4 (8) "State" means the state of Montana or any
5 political subdivision thereof."

6 Section 2. Section 37-10-101, MCA, is amended to read:

7 "37-10-101. Definitions -- practice of optometry. (1)
8 The practice of optometry is the profession constituting the
9 art and science of visual care and is hereby defined to be
10 any one of the following acts:

11 (a) the optometric examination or optometric diagnosis
12 of all of those physiological or anatomical parts or
13 functions which consummate the process of human vision to
14 ascertain the presence therein of abnormal conditions or
15 functions which may be optometrically diagnosed, corrected,
16 remedied, or relieved;

17 (b) the employment of any optometric means, excluding
18 the use of surgery, for the purpose of detecting any
19 condition of the process of vision which may have any
20 significance in a complete optometric eye and vision
21 examination, including the employment and administration of
22 drugs topically applied for examination purposes, limited to
23 cycloplegics, mydriatics, topical anesthetics, dyes such as
24 fluorescein, and for emergency use only, miotics;

25 (c) the application or prescription of ophthalmic

1 lenses, contact lenses, prisms, orthoptics, visual training,
2 any physical, mechanical, or physiological therapy, and the
3 furnishing or application of any prosthetic or therapeutic
4 devices for the correction or relief of visual anomalies,
5 excluding surgery; and

6 (D) THE ADMINISTRATION, DISPENSATION, AND PRESCRIPTION
7 OF THE ORAL ANALGESICS CODEINE, PROPOXYPHENE, HYDROCODONE,
8 AND DIHYDROCODEINE, ALONE OR IN COMBINATION WITH
9 NONSCHEDULED OR NONREGULATED DRUGS; AND

10 (E) the administration, dispensation, and
11 prescription of ~~drugs-used--for~~ THOSE TOPICAL DRUGS, NOT
12 INCLUDING CORTICOSTEROIDS, APPROVED BY THE BOARD FOR USE IN
13 ocular treatment LIMITED TO THE ANTERIOR SEGMENT OF THE EYE
14 AND ADNEXA. GLAUCOMA MAY NOT BE TREATED.

15 (2) Nothing in subsection (1) ~~allows-optometrists-to~~
16 ~~treat-diseases-of-the--eye~~ prohibits an optometrist from
17 ~~removing from the eye or adnexa a foreign body that is not~~
18 ~~intraocular.~~

19 (3) Unless the context requires otherwise, in this
20 chapter:

21 (a) "board" means the board of optometrists provided
22 for in 2-15-1846; and

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

25 Section 3. Section 37-10-103, MCA, is amended to read:

1 "37-10-103. Use of diagnostic drugs not prohibited by
2 pharmacy law. The use of drugs by a licensed optometrist for
3 examination--purposes as stated in 37-10-101 is not
4 prohibited by Title 37, chapter 7."

5 Section 4. Section 37-10-304, MCA, is amended to read:

6 "37-10-304. Course in use of diagnostic and
7 therapeutic drugs required. (1) (a) In addition to the
8 requirements of 37-10-302 or 37-10-303, whichever is
9 applicable, each person desiring to commence the practice of
10 optometry shall satisfactorily complete a course prescribed
11 by the board of medical examiners with consultation and
12 approval by the board of optometrists with particular
13 emphasis on the topical application of diagnostic agents to
14 the eye for the purpose of examination of the human eye and
15 the analysis of ocular functions.

16 (2) (b) A person presently licensed to practice
17 optometry who wishes to employ diagnostic agents must
18 satisfactorily complete a course referred to in subsection
19 (1)(a) and must pass an examination as provided in
20 subsection (4) (1)(d).

21 (3) (c) The course referred to in subsection (1)(a)
22 must be conducted by an institution accredited by a regional
23 or professional accreditation organization which is
24 recognized or approved by the national commission on
25 accrediting or the United States commissioner of education.

1 The course must also be approved by the board.

2 (4) (d) The board shall provide for an examination in
3 competency in the use of diagnostic drugs and shall issue a
4 certificate to those applicants who pass such examination.

5 (2) (a) In addition to the requirements of 37-10-302
6 or 37-10-303, whichever is applicable, each person desiring
7 to commence the practice of optometry shall:

8 (i) pass an examination, of the international
9 association of boards of examiners in optometry, on the
10 diagnosis, treatment, and management of ocular disease; or

11 (ii) take a course and pass an examination in the
12 diagnosis and, treatment, AND MANAGEMENT of ocular diseases.

13 The course and examination must be certified by a regional
14 or professional accredited organization that is recognized
15 or approved by the council on postsecondary accreditation or
16 the United States department of education; CONDUCTED BY AN
17 INSTITUTION ACCREDITED BY A REGIONAL OR PROFESSIONAL
18 ACCREDITATION ORGANIZATION WHICH IS RECOGNIZED OR APPROVED
19 BY THE NATIONAL COMMISSION ON ACCREDITING OR THE UNITED
20 STATES COMMISSIONER OF EDUCATION. THE COURSE AND
21 EXAMINATION MUST ALSO BE APPROVED BY THE BOARD.

22 (b) A person presently licensed to practice optometry
23 who wishes to employ therapeutic pharmaceutical agents must
24 meet the requirements of subsection (2)(a).

25 (c) The board shall:

1 MEDICAL EXAMINERS, WHO ARE APPOINTED BY THE BOARD OF MEDICAL
2 EXAMINERS;

3 (II) TWO OPTOMETRISTS WHO ARE MEMBERS OF THE BOARD OF
4 OPTOMETRISTS AND WHO ARE APPOINTED BY THE BOARD OF
5 OPTOMETRISTS; AND

6 (III) ONE PHARMACIST WHO IS A MEMBER OF THE BOARD OF
7 PHARMACY AND WHO IS APPOINTED BY THE BOARD OF PHARMACY.

8 (B) THE MEMBERS OF THE COMMITTEE SHALL ELECT A
9 CHAIRMAN FROM THEIR MEMBERS. MEMBERS OF THE COMMITTEE ARE
10 ENTITLED TO COMPENSATION AND TRAVEL EXPENSES AS PROVIDED FOR
11 IN 37-1-133. MEMBERS' COMPENSATION AND TRAVEL EXPENSES AND
12 COMMITTEE CLERICAL AND ADMINISTRATIVE EXPENSES MUST BE PAID
13 BY THE BOARD OF OPTOMETRISTS FROM FUNDS APPROPRIATED TO THE
14 BOARD FOR ITS ORDINARY OPERATIONS.

15 (2) A MEETING OF THE COMMITTEE MUST BE CALLED BY ANY
16 OF THE REPRESENTED BOARDS UPON RECEIPT OF A SIGNED WRITTEN
17 COMPLAINT REGARDING THE DIAGNOSIS, TREATMENT, OR MANAGEMENT
18 OF OCULAR DISEASE AS IT RELATES TO THERAPEUTIC DRUG USAGE BY
19 AN OPTOMETRIST.

20 (3) EACH OF THE REPRESENTED BOARDS SHALL, UPON RECEIPT
21 OF A COMPLAINT CONCERNING THE DIAGNOSIS, TREATMENT, OR
22 MANAGEMENT OF OCULAR DISEASE BY AN OPTOMETRIST, FORWARD A
23 COPY OF THE COMPLAINT TO THE MEMBERS OF THE COMMITTEE. EACH
24 MEMBER OF THE COMMITTEE SHALL, SUBJECT TO APPLICABLE
25 CONFIDENTIALITY REQUIREMENTS, HAVE ACCESS TO ALL RECORDS

1 RELATED TO THERAPEUTIC DRUG USAGE OF THE BOARD OF
2 OPTOMETRISTS CONCERNING THE OPTOMETRIST AGAINST WHOM A
3 COMPLAINT HAS BEEN FILED.

4 (4) THE COMMITTEE MAY INVESTIGATE ANY COMPLAINT THAT
5 IT BELIEVES HAS A VALID BASIS. THE INVESTIGATION MAY
6 INCLUDE:

7 (A) REQUIRING THE COMPLAINANT, IF INJURIES HAVE BEEN
8 ALLEGED, TO SUBMIT TO A PHYSICAL EXAMINATION;

9 (B) EXAMINATION OF HOSPITAL AND OTHER MEDICAL RECORDS;

10 (C) INTERVIEWS OF THE COMPLAINANT AND THE ACCUSED
11 OPTOMETRIST; AND

12 (D) OTHER AVENUES OF INQUIRY TENDING TO PROVE OR
13 DISPROVE THE COMPLAINT BUT THAT DO NOT RAISE THE FORMALITY
14 OF THE INVESTIGATION TO THE LEVEL OF A CONTESTED CASE
15 ADMINISTRATIVE HEARING.

16 (5) BASED ON THE FINDINGS OF ITS INVESTIGATION, THE
17 COMMITTEE MAY:

18 (A) RECOMMEND TO THE BOARD OF OPTOMETRISTS THAT NO
19 FURTHER ACTION BE TAKEN REGARDING THE COMPLAINT;

20 (B) RECOMMEND TO THE BOARD OF OPTOMETRISTS THAT NO
21 ACTION BE TAKEN AGAINST THE SUBJECT OPTOMETRIST, BUT THAT
22 THE BOARD SHOULD REVIEW ITS RULES AND STATUTORY PROVISIONS
23 RELATING TO THE ADMINISTRATION OF PRESCRIPTION DRUGS BY
24 OPTOMETRISTS TO AMEND THE RULES OR PROPOSE LEGISLATION TO
25 PREVENT SIMILAR OCCURRENCES; OR

1 (C) RECOMMEND THAT THE BOARD OF OPTOMETRISTS INITIATE
2 DISCIPLINARY PROCEEDINGS.

3 (6) IF THE COMMITTEE RECOMMENDS THAT THE BOARD OF
4 OPTOMETRISTS INITIATE DISCIPLINARY PROCEEDINGS, THE BOARD
5 MUST TAKE NECESSARY ACTION TO BEGIN DISCIPLINARY
6 PROCEEDINGS.

7 (7) (A) A COPY OF THE COMMITTEE'S DECISION MUST BE
8 MAILED TO THE COMPLAINANT.

9 (B) IF THE COMMITTEE MAKES A DECISION UNDER SUBSECTION
10 (5)(B) OR (5)(C), THE BOARD OF OPTOMETRISTS SHALL RESPOND TO
11 THE COMMITTEE'S DECISION IN WRITING. THE RESPONSE MUST BE
12 ADDRESSED TO THE BOARD OF MEDICAL EXAMINERS AND THE BOARD OF
13 PHARMACY.

14 NEW SECTION. Section 7. Extension of authority. Any
15 existing authority of the board of optometrists to make
16 rules on the subject of the provisions of this act is
17 extended to the provisions of this act.

-End-