

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 12, 1987

The thirty-third meeting of the Business and Industry Committee was called to order by Chairman Allen C. Kolstad on Thursday, March 12, 1987, at 10 a.m. in Room 410 of the Capitol.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE BILL NO. 823: Rep. Carolyn Squires, House District 58, Missoula, sponsor, said the bill would revise the laws relating to group disability insurance. This bill would make the health coverage for disabilities complete. Section 1 of the bill covers newborns, she told the committee. She explained the bill, section by section. She introduced Robert Throssell from the State Auditor's Office, who provided some clarification of the issue.

PROPOSERS: Robert Throssell, State Auditor's Office, submitted written testimony, EXHIBIT 1, and said that HB 823 was amendments to the existing health insurance law to provide for the same coverage that is provided for by individual policies. He went through his testimony with the committee.

Judith Carlson, Montana Chapter, National Association of Social Workers, complimented the auditor's office for responding to consumer complaints and strongly supported Rep. Squires' bill which would close the loophole for mental health services and provide equal treatment for insurers.

Holly Kaleczyc, representing the Montana Psychological Association, said they were very much in support of Rep. Squires' bill. She also appeared representing the Montana Mental Health Association for Joy McGrath and submitted written testimony. (EX. 2)

Mike Murray, Chemical Dependency Programs throughout the state of Montana, asked for support of the bill. He said they find, more and more, in their treatment programs, Montana residents who receive dependency treatment and the burden of paying for those treatments falls on the family rather than on the employer who is from out of state.

Steve Waldron, representing Montana's community Mental Health Centers, said he too, would like to compliment the auditor's office for responding to the consumer complaints which have been taken care of in this bill. It is an issue of fairness; it is unfair that some group insurance plans don't have to provide the coverage that most others do. He urged the committee to concur in the bill.

Margaret Crowley, Mental Health Centers in western Montana, urged support of HB 823.

Frank Lane, Eastern Montana Mental Health Centers, urged support of the bill.

John Nesbo, Mental Health Center in Billings, urged support of HB 823.

Dick Hruska, Director of the Mental Health Center in Great Falls, urged support of the bill.

David Briggs, Executive Director of the Mental Health Center in Helena, also urged support of HB 823.

Harold Gerke, Montana Mental Health Council, strongly urged the committee's support of HB 823.

W.V. Thibodeau, Vice Chairman of the Western Montana Mental Health Board, urged support of this legislation.

OPPONENTS: Tom Hopgood, representing the Health Insurance Association of America, said the Association opposed the bill. He said they had problems with sections 4 and 5 which would impose a requirement of extra care of correality on the mandated coverages for alcoholism, mental illness and drug addiction that are presently contained in the law. Mandatory coverage means that even though a person may not want or may not need or may not be able to afford that type of coverage, they have it. Unfortunately, this type of coverage is relatively expensive and even if he doesn't want it or need it he has to pay for it. He said it was the basic position of the Association that if a person, or a group, wants a basic type policy for its employees, it ought to be able to do that. On the other hand, it should be able to go out and get a more expensive type as well. They opposed making this type of coverage mandatory when it was introduced several sessions ago and they still oppose it. They felt that HB 823 takes a bad situation and makes it worse. He said they felt it was a bad bill, and at least sections 4 and 5 should not become law.

DISCUSSION OF HOUSE BILL NO. 823: Chairman Kolstad asked for committee questions. Sen. Williams asked Mr. Waldron what it would do to the bill if sections 4 and 5 were removed. He said there would still be some group plans that wouldn't have to meet Montana's mandated benefits and he didn't understand the concern over this covering non-Montana residents. It clearly says, on page 4, "to Montana residents". He said regulation of insurance is a state responsibility and the state can't regulate plans in other states. He also pointed out when the mandated law was passed, Blue Shield sent a letter out to all recipients of services saying they were going to expand their services to include mandated mental health and alcohol benefits and the premiums would not be raised. He did not think requiring the companies to provide these mandated coverages would cost so much they would not operate in the state.

Sen. Williams asked Mr. Waldron if he felt there would be no increase in premiums. Mr. Waldron replied that he knew of one company that provided the mandated coverage and their premiums did not increase one single cent because of those mandated benefits.

Sen. Boylan asked Mr. Hopgood why representatives of business weren't at the hearing to oppose the bill. Mr. Hopgood said the bill was introduced shortly before the transmittal deadline and his group did not even have knowledge of the bill before it came to the Senate and that was why they weren't involved in it in the House. As to the cost, he said, that mandatory coverage imposes on people an increase - a single person would increase \$8.54 per year, a family would increase \$21.57.

Sen. Weeding asked Mr. Hopgood if he had any language that would take care of the out-of-state employees he referred to in sections 4 and 5. Mr. Hopgood said he didn't have any prepared but he could do that and have it ready for the committee the following day.

Sen. Boylan asked how many states have this type of coverage. Mr. Waldron said he did not have the number but there were a number of states that do have this. Roger McGlenn, Independent Insurance Agents Association, said that the language in the bill comes from Massachusetts but he did not know the number of states.

Mr. Waldron said, because there is a mandated insurance law that covers most group claims in the state, people come in to the office for services and they say they have insurance and they receive the treatment; in the meantime the office is billing the insurance office and 30 days later they get a notice from the insurance company that they are not covered. This mandated coverage applies to group plans only. The client ends up being unhappy with the service provider and the insurance company.

Mr. Trossell of the Auditor's Office said, by law, they do not have the right to regulate health rates so he didn't have any basic figures or information on what the increase would be. He said the reason the bill was proposed was the number of people that this bill affects is very small. He said, currently, Blue Shield writes 70% of the premium business in the state so that 70% are already covered.

There being no further questions, Rep. Squires closed her presentation on HB 823, and said there was no opposition in the House. She said that since 70% of the people are already covered, this bill would close the loophole.

CONSIDERATION OF HOUSE BILL NO. 165: Rep. Jan Brown, House District 46, Helena, chief sponsor, said when the bill was first drafted they tried to amend the different sections of law,

but the House committee couldn't understand it very well, so they had the drafter redo the bill. The bill provides that a pharmacist is not liable for action taken as a member of a peer review committee and said that page 2, line 22 states what the bill provides. The pharmacists have a peer review committee so if a pharmacist gets into trouble with drugs or alcohol, their peers can help them before the problem gets to the point where their license is revoked. It was rereferred from the House Business and Labor Committee to the Judiciary Committee to see if it was already covered in any sections of the law. She said it was not already covered and it passed the House 99-0.

PROPOSERS: Robert H. Likewise, Executive Director of the Montana State Pharmaceutical Association, said they wished to go on record as supporting HB 165. He read his written testimony to the committee (EXHIBITS 3 and 4) He said the peer review committee was formed to help those pharmacists with chemical dependency problems, The purpose is to identify the problem early, protect the public and control and rehabilitate the pharmacist. He urged support of HB 165.

Robert J. Campbell, member of the peer review committee, said he was the legal advisor to the Montana State Pharmaceutical Association and a graduate of a school of pharmacy and a school of law. He believed that HB 165 is a good bill. He stated the three goals of the committee which are explained in his written testimony (EXHIBIT 5). He felt this was a step to improve the pharmacists' ability to regulate themselves and said a lot of professions are using this concept already.

OPPOSERS: There were no opposers.

DISCUSSION OF HOUSE BILL NO. 165: Chairman Kolstad called for questions from members of the committee. Sen. Thayer asked how many people were involved in the peer review process. Mr. Likewise replied there is a chairman, the executive director of the MSPA, one representative from the MSPA board of directors, one representative from MSHP, one from the staff of the School of Pharmacy in Missoula, and ten members located geographically throughout the state to provide intervention and referral services. (See Exhibit 5)

Sen. Thayer asked if somebody had been threatened with a personal liability suit that prompted this legislation. Mr. Likewise replied that no one had been threatened and said a number of states already have this process in place.

Sen. Weeding referred to Mr. Campbell's statement that most of the professions have something like this and asked if it was customary that it be totally in-house. Mr. Campbell responded that the committee was restricted to pharmacists at this time; they are the ones that are bound by the Pharmaceutical Association rules and have the training.

He said they could certainly refer the person to other qualified therapists to follow up on the initial contact. This bill would prevent retaliation by a pharmacist, or his family, who did not appreciate the intervention and help. He said if there is cooperation the system works but they need to have the full support of the state; then they would have no fear of doing this.

Chairman Kolstad asked if the bill should pass would it be reflected on their liability insurance rates. Mr. Likewise replied that it probably would not. He said he doubted very seriously if it would have any effect on those rates.

Sen. Neuman asked how large a problem this was - pharmacists taking their own drugs. Mr. Likewise said that statistics have shown that approximately 10% of the population is at risk for chemical dependency, and that could be either drugs or alcohol. If that would follow through, that would mean 60 pharmacists in the state were at risk - that doesn't mean that 60 pharmacists are involved - it means that percentage would be at risk.

There being no further questions, Rep. Brown closed her presentation on HB 165.

DISPOSITION OF HOUSE BILL NO. 165: Sen. Thayer MOVED HB 165 BE CONCURRED IN, seconded by Sen. Walker. The MOTION CARRIED UNANIMOUSLY.

CONSIDERATION OF HOUSE BILL NO. 499: Rep. Jack Sands, House District 90, Billings, chief sponsor, said the purpose of the bill is to prohibit a lender from disclosing credit insurance information to a replacing insurer regardless of when it obtained the information. The lender disclosure prohibition of the bill is limited to the disclosure of credit insurance information for the purpose of replacing the credit insurance. The lender disclosure prohibition of HB 499 merely prevents the dissemination of private financial information to credit insurance companies unless the borrower has consented in writing. The bill was requested by the State Auditor.

PROPOSERS: Kathy Irigoin, State Auditor's Office, appeared as a proponent of the bill and submitted written testimony. (EXHIBIT 6)

OPPOSERS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 499: Chairman Kolstad called for questions from the committee. Sen. Neuman asked if there was a penalty as he did not see it in the bill. Ms. Irigoin said there is a general penalty provision in the insurance code in the first chapter. However, she said they had no jurisdiction over the lenders but they could impose a \$500 fine on anybody violating the insurance code. She said they would

probably have to go after the insurance company that got the information.

Sen. Neuman pointed out to Ms. Irigoin if HB 240 should pass that would go up to \$25,000. She replied that is only for violation of the insurance code by an insurance company.

There being no further questions from the committee, Rep. Sands closed his presentation of HB 499.

DISPOSITION OF HOUSE BILL NO. 499: Sen. Weeding MOVED HB 499 BE CONCURRED IN, seconded by Sen. Hager. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE SESSION:

DISPOSITION OF HOUSE BILL NO. 240: Chairman Kolstad noted that HB 240 had been held over several days to determine what was to be done with it.

Sen. Walker asked Randy Gray, as Mr. Robischon said, that putting sections 7 and 8 would be a duplication of services as it was covered in other sections, if that was correct. He replied that was their opinion; that 7 and 8 were included in #6.

Sen. Neuman MOVED THAT HB 240 BE CONCURRED IN, seconded by Sen. Boylan. Sen. Neuman felt if the amendments were adopted it would turn the bill back to the current law and nothing would be accomplished. Sen. Weeding asked that it be entered into the minutes that the committee understood sections 7 and 8 are already covered in section 6, therefore, sections 7 and 8 were considered unnecessary.

Sen. Williams asked Mr. Gray what it would do to the bill if only section 7 was added. Mr. Hoyt replied that when the bill was first introduced in the House there were only four of the 14 subparts of the fair claims practices act covered by the bill. They felt those four subparts covered by this bill were the most outrageous conduct that insurance agents could engage in. Now, as the bill has come out of the House, they added two more sections. He said that each time a new section of the fair claims practices act is added in, it detracts from the basic purpose of the bill.

Mr. John Hoyt was asked to respond to this and he said that Mr. Robischon had testified that subsection 7 and 8 were actually included in the other subsections that are in the present bill. If that was true, 7 and 8 were unnecessary; however, if that is the case, why did they oppose sections 7 and 8. He said there was something inconsistent with that position concerning those sections. He said they had proposed some amendments which had met with opposition and suggested a compromise; that the amendments they had proposed not be passed but that subsection 7 be reinserted into the bill.

Mr. Hoyt said because that is an important section, he would like the secretary to note that the proponents of this bill have stated, and take the position, that the evil described in sections 7 and 8 are encompassed in the other four remaining out of the 14. He said they want a system that would work and a system that is fair. He said they hope that everybody can get together and live under rules that are rules of decency, good judgment, good business, good people and good environment.

Sen. Thayer asked Mr. Gray to respond to Mr. Hoyt's statement that if sections 7 and 8 are already covered why are they opposing them in the bill. Mr. Gray responded that each of the 14 provisions in the fair claims practices act are essentially a matter of degree and section 7 is already covered by section 6. He said it was their position that what needs to be done with the bill is to restrict the application of the bill to as few sections as possible, but include in those sections the worst kinds of conduct. They felt they have gone beyond that with six of the sections included where they started out with four.

Discussion followed concerning proposed amendments regarding the addition of sections 7 and 8 to the bill.

The question being called, the MOTION CARRIED UNANIMOUSLY with eight members present. The two absent members will be allowed the opportunity to vote on the bill, however, it would not change the outcome of the vote.

DISPOSITION OF HOUSE BILL NO. 417: Chairman Kolstad stated there were proposed amendments to the bill. The amendments were distributed to the committee members on March 11, 1987 along with a letter from Patrick Melby, which was shown as Exhibit 3 for that day.

For purposes of discussion, Sen. Neuman MOVED HB 417 BE CONCURRED IN, seconded by Sen. McLane.

Mr. Melby was requested to explain the proposed amendments. Mr. Melby said their first amendment submitted at the hearing was page 4, line 15, following "5%". The purpose of that amendment was to make it very clear that a manufacturer of Montana made products had to have both preferences in order to get the contract. The second amendment, he said, was attached to his letter (Exhibit 3 on 3/11/87) that was prepared on behalf of Norther School Supply and Johnson Controls, which would expand the definition of "resident" to include a foreign corporation that maintained a place of business in the state and who paid property taxes, directly or indirectly, and which employed up to 10 bonafide residents of the state. He said this was quite a departure from the bill as it was originally introduced.

Sen. Thayer MOVED ADOPTION OF THE FIRST AMENDMENT, seconded by Sen. Meyer. The MOTION CARRIED UNANIMOUSLY.

Sen. Thayer MOVED ADOPTION OF THE SECOND AMENDMENT, seconded by Sen. Boylan.

Sen. Thayer commented that Mr. Melby had said they were not opposed to the amendment. Mr. Melby said they were not personally opposed to the amendment but he was concerned that there would have been opposition to it had it been included in the bill originally. Sen. Thayer spoke in favor of the motion as they are trying to attract out-of-state businesses to come into Montana and companies that have done business in the state for a long time, employing people and paying taxes, should deserve some kind of fair treatment, however, he didn't know how legal that would be.

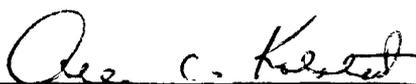
Sen. Neuman spoke against the amendment and said it would do away with the Montana preference and said he might be more comfortable with it if it said five or six years rather than one year. He felt it would include chain stores and give them the same preference. Mr. Melby said this would put K-Mart on the same footing as Columbia Paint and Columbia Chemical, who are manufacturers, as a local resident bidder.

Sen. Neuman said he would like to talk to a few other people as he felt it was a pretty significant change. He said the one year seemed kind of short.

Chairman Kolstad agreed with Sen. Neuman and felt that was a good suggestion; to talk to some of the other people connected with this bill. Sen. Neuman pointed out that the revenue transmittal deadline was coming up on the following Monday and felt they could wait until after that to take further action on the bill.

Sen. Thayer WITHDREW HIS MOTION TO ADOPT THE SECOND AMENDMENT, and Sen. Boylan withdrew his second. Sen. Neuman then WITHDREW HIS ORIGINAL MOTION TO CONCUR IN HB 417.

The next meeting for the Business & Industry Committee was set for Friday, March 13, 1987. There being no further business before the committee, the meeting adjourned at 11:25 a.m.



SEN. ALLEN C. KOLSTAD, CHAIRMAN

ROLL CALL

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/12/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

DATE

3/12/87

COMMITTEE ON

Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
JUDITH H CARLSON	NASW, MT CAPITOL	823	X	
Robert J. Campbell	Self-Advisor to MSPHA	773 165	X	
Steve Waldron	Mental Health Centers	823	X	
John L. Neely	Mental Health Center - Billings	823	X	
Janet L. Lurie	Mont. M. H. Council	823	X	
David Briggs	Mental Health - Helena	825	X	
Margaret Crowley	Mental Health Center	823	X	
V. Thibodeau	Mental Health Center	823	X	
Blair Hoover	MENTAL HEALTH CENTER - GT. FALLS	823	X	
Dick Hruska	✓ ✓ ✓ ✓	823	X	
Ramona Turnbull	✓ ✓ ✓ ✓	823	X	
Leads Mangual	✓ ✓ - -	823	X	
Frank J. Lane	Western Mount MHA	823	/	
Don L. Groom	Health Ins Assoc. of America	823		X
Mike Murray	Chemical Dependency Program of MT	823	X	
ROBERT THOSSELL	STATE AUDITOR	823	X	
Holly Kaleyac	MT Psychological Assoc MT Mental Health Assoc	823	X	
Robert H. Lewis	MSPHA	HB165	X	
Bill Warfield	mental Health Services Inc. (Board Chm.)	823	X	
Bob White	WESTERN STATES INS	240 240	X	
Roger McGlenn	INDEPENDENT INS. AGENTS ASSOC OF MT	240	X	
Carly Gray	State Farm + NAII	240	✓	
Kathy Irigoin	State Auditor's Office	240 499	X	
Blair Hoover	Am Ins Ass'n	240	X	
Bonnie L. Trapp	Alliance of Am Insurers	240	X	
John C. Hoyt				X

(Please leave prepared statement with Secretary)

Written Testimony In Support of House Bill 823
Senate Business and Industry Committee March 12, 1987
By Robert R. Throssell, Chief Legal Counsel
State Auditor and Commissioner of Insurance

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

HOUSE BILL NO. 823

DATE 3-12-87

BILL NO. HB 823

House Bill 823 was introduced at the request of the State Auditor by Representative Squires, House District 58. The bill passed the House of Representatives unanimously without amendment. It is an Act to Generally Revise The Law Relating to Group Disability Insurance. It amends various existing sections of group disability insurance law. The purpose of these amendments is to clarify the coverage under group insurance policies that is available to residents of this State.

Section 1 of the bill amends 33-22-504, MCA, which mandates newborn infant coverage. In the 1981 session the Legislature amended Section 33-22-301, MCA, of the code which provides coverage for newborns under individual policies of disability insurance. This amendment specified that the newborn infant of a child of the insured was covered upon proper notification to the insurer.

Most group policies provide coverage for the children of the insured. As such, the newborn of a child has been considered a person in the insured group. To avoid the possibility of coverage being denied, Section 1 of this bill eliminates the language "person in the insured group", and substitutes "covered under the policy". In this manner the newborn infant of a child of a person who is part of a group disability policy will be automatically covered upon proper notification to the insurer.

Section 2 amends Section 33-22-508, MCA, the statute granting conversion rights. Currently the right to convert to an individual policy exists when the member ceases to be part of the group because of the termination of his employment or as a result of his employer discontinuing business. The proposed change would include a third occurrence in the situation of the employer discontinuing the group disability insurance policy and does not provide for any other group disability insurance or plan.

This bill in no way changes the types of policies that an insurer must offer to a person wishing to convert. The only change is that a new condition for triggering the conversion rights is placed in the statute. Also a restriction is placed on the conversion right that the employer must not offer any other group disability insurance. This limitation will prevent an employer from dropping group coverage to force a member of the group with high medical expenses off the plan and then providing new group coverage for which that person would not qualify. This type of adverse selection is not fair to the employee or the insurer who must offer the individual policy.

Section 3 of the bill amends Section 33-22-509, MCA, which provides for the inclusion of preexisting conditions when conversion takes place. Section 3 includes as a preexisting condition the pregnancy of the insured, the insured's spouse or dependents covered by the group contract at the time of conversion. This additional language makes it clear that pregnancy is a preexisting condition that must be included as part of the conversion right.

Sections 4, 5 and 6 of the bill deal with the mandated coverage for mental illness, alcoholism and drug addiction. As the law is currently written, coverage for mental illness, alcoholism and drug addiction must be made a part of all group policies delivered or issued for delivery in this state. The terms delivered or issued for delivery are specific insurance terminology referring to the place where the contract is actually delivered to the purchaser or where the insured produces the document for issuance to the insured. With group policies that does not necessarily mean a policy is actually issued or issued for delivery in this state.

A multi-state employer with headquarters in another state may, as part of its agreement with its employees, purchase group disability insurance. The insurer would issue for delivery the policy in its home state. The employer, who under a group insurance policy is the insured, is also located in another state. All that employees of the company who reside in Montana will receive is a certificate briefly outlining their coverage. Under insurance law they are not considered the insureds and therefore are not issued or delivered a policy. The result is that Montana residents who happen to work for a multi-state company do not receive the mandated mental illness, alcoholism and drug addiction coverage that the statute specifies.

The proposed changes address the issued or issued for delivery question by making the mandated mental illness, alcoholism and drug addiction coverage apply to residents of this state. As such, any group contract which is entered into must include this coverage for Montana residents.

The other situation that the changes address is that of an employer under federal law operating a self-funded insurance program. The state of Montana cannot mandate that the employer make available the mental illness, alcoholism or drug addiction coverages if the employer is following federal law. Federal law does not have a corresponding mandated coverage provision. This bill attempts to address the situations where an employer operating a self-funded program purchases umbrella or excess limits coverage from an insurer. Any insurer who is selling disability policies is regulated by the state of Montana and

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 3-12-87

BILL NO. H.B. 823

would be mandated to provide the mental illness, alcoholism and drug addiction coverages. Since the insurer at the excess level must provide these coverages, the benefits of the mandated coverages would be available to employees.

The proposed changes will not guarantee that all Montanans will receive the protection of the mandated benefits. There will still be situations where an employer operating under federal law can avoid making these mandated coverages available. There is nothing the state can do to preempt Federal law from allowing this to occur. The changes proposed by the bill are an attempt to make mandated coverage of mental illness, alcoholism and drug addiction available to the largest number of Montana residents.

In summary House Bill 823 is a clarification of the existing laws of the State of Montana regarding group disability insurance coverage. The various sections of the bill modify existing statute in an effort to provide the same protections to all Montanans a majority of the citizens currently enjoy.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3-12-87
BILL NO. H.B. 823

NAME: Holly Kaleczyc DATE: 3/12

ADDRESS: 520 Monroe, Helena, MT 59601

PHONE: 443-7736

REPRESENTING WHOM? MT Psychological Assoc
MT Mental Health Assoc (for Joy McGrath)

APPEARING ON WHICH PROPOSAL: HB 823

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS:

(1) MT Psychological Association & MT Mental Health Assoc. urges this committee to adopt HB823 to close a technical loophole which has continued to place serious hardship on MT consumers.

MT employees should have equal opportunity to good insurance ~~coverage~~ coverage.

Out of state insurance companies should fall under same regulations as MT insurance companies.

Thank you ✓

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 3-12-87
BILL NO. HB 823

Montana State Pharmaceutical Association

Incorporated

P.O. BOX 4718

HELENA, MONTANA 59604

TELEPHONE 406-449-3843

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 3-12-87

BILL NO. HB 165

Re: HB 165

From: Montana State Pharmaceutical Association

Date: March 12, 1987

Mr. Chairman, Members of the Committee, for the record I am Robert H. Likewise, the Executive Director for the Montana State Pharmaceutical Association. The pharmacists of Montana would like to go on record as supporting HB 165.

To aid this committee in determining the reason of the bill, I would like to offer a brief explanation of the peer review committee and it's functions.

The peer review committee was formed for the purpose of helping those pharmacists with a chemical dependency problem. By chemical dependency I am referring to an alcohol and/or prescription drug problem. The purpose of the committee is to identify cases of pharmacists impairment early, protect the public and control and rehabilitate the impaired pharmacist. If the individual recognizes that the problem exists, the intervener helps, encourages and guides this individual into a treatment program. However, if the impaired individual will not accept the fact that a problem exists then the case must be referred to the Board of Pharmacy.

The Montana Pharmacy law states in section 37-7-311,
"The Board (referring to the Board of Pharmacy) shall revoke
the licenses issued by the department to a pharmacist or
intern whenever the holder of the license:.....(2) is a
habitual drunkard or addicted to the use of narcotic drugs."

The pharmacists of Montana ask that this committee
give this bill every consideration to provide nonliability for
the members of the peer review committee while acting in
good faith and within the rules (copy attached) of the
association.

IN SUMMARY

- The Montana Pharmacists Rehabilitation Committee is a voluntary, non-coercive program designed to help pharmacists with conditions or problems that are potentially threatening to professional performance.
- Early recognition and treatment are essential to assure that a pharmacist receives necessary support and help while personal, financial, mental and physical resources are intact.
- Services provided through the Rehabilitation Committee are intended to be in the best interest of the pharmacist and the public.
- The pharmacist's right to continue or to re-enter professional practice after successful intervention adn/or treatment will be preserved and facilitated.
- All information regarding an impaired pharmacist is guaranteed confidentiality.

COMMITTEE ON PHARMACISTS REHABILITATION



PHARMACISTS HELPING PHARMACISTS



Montana State Pharmaceutical Association

P.O. Box 4718 • Helena • Montana, 59604

SEVERE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 3-12-87

FILE NO. HB 125

THE NEED FOR SUCH A COMMITTEE HAS BEEN ESTABLISHED NATIONALLY

Many other states including Texas, Iowa, Washington, Maryland and others have committees in place or forming, to aid pharmacists with alcohol or chemical dependency problems. Montana can be amongst the first dozen states to offer this assistance to pharmacists and their families. Using the accepted statistic of one person in ten having a chemical dependency problem, and applying to pharmacy, then we may expect about sixty pharmacists in Montana are at risk.

CAN THESE PHARMACISTS BE HELPED?

Yes! Unfortunately, however, such abuses or conditions may be ignored, even though they are treatable. This Committee is establishing a program to encourage and assure the early recognition and treatment of any condition that is a potential or actual threat to a pharmacist's ability to practice with reasonable skill and safety.

THIS PROJECT OF THE MONTANA STATE PHARMACEUTICAL ASSOCIATION addresses the problems that pharmacists may experience in their personal or professional life that affect their ability to maintain credibility with the public. The pharmacist should hold the health and safety of patients to be of first consideration and should render to each patient the full measure of professional ability as an essential health practitioner. The profession must identify cases of pharmacists' impairment early, protect the public and control and rehabilitate the impaired pharmacist. Too much time and expense has gone into the development of a pharmacist to allow the loss of his/her service without a concerted effort being made to rehabilitate.

ASSISTANCE MAY BE OBTAINED BY CONTACTING the office of the Montana State Pharmaceutical Association, telephone number, 449-3843 from 8 to 12 AM, Monday through Friday. After hours a taped message may be left and a response will be made as soon as possible.

CALL FOR ASSISTANCE ABOUT AN IMPAIRED PHARMACIST may come from the pharmacist who recognizes the problem or from a family member, an employer, a work associate or any other concerned person. When a person other than the impaired pharmacist reports an impairment, identity will be necessary to minimize "crank" or vindictive calls. However, the reporting person's name will remain in strict confidence.

FOLLOWING A CALL FOR ASSISTANCE the staff person will contact the Committee member in the area of the state where the allegedly impaired pharmacist resides. The Committee team will determine whether or not a problem exists. If there is no apparent impairment the staff person will be so notified and the case will be closed. If there is an apparent problem, the Committee team will meet with the impaired pharmacist, urging acknowledgement of the problem, agreement to seek treatment in an approved facility and render any assistance requested by the impaired pharmacist or immediate family member.

THE COMMITTEE TEAM will be composed of pharmacists who have received professional training in intervention methods. The team will follow the progress of treatment and give support and encouragement as needed. Upon completion of the program, assistance, if requested will be offered to return the pharmacist to employment if employment was affected.

IN THE EVENT THE IMPAIRED PHARMACIST DENIES ANY ILLNESS and refuses to seek evaluation or treatment after repeated contacts by committee members, or after acknowledgement the impaired pharmacist fails to follow through with evaluation and prescribed treatment, the chairman of the Committee will contact the pharmacist, urging assistance. If this is refused the case will be referred to the Pharmacists Rehabilitation Executive Committee, composed of the Committee Chairman, the MSPA President and the Association's Legal Council. The Executive Committee, without knowledge of the impaired pharmacists identity will decide on the action to be taken in order to protect the public health and wellbeing. This may include reporting to the Montana Board of Pharmacy. Montana Pharmacy law states in Section 37-7-311, "The Board shall revoke the licenses issued by the department to a pharmacist or intern whenever the holder of the license: - - (2) is an habitual drunkard (alcoholic) or addicted to the use of narcotic drugs (controlled substances); - - . Note words in brackets and underlined were added by this Committee, as we believe the law should be modified. In all cases the person who reports an impaired pharmacist shall remain anonymous if so desired.

THE COMMITTEE ON PHARMACISTS REHABILITATION

This committee is a project of the Montana State Pharmaceutical Association to help pharmacist whose health and/or professional effectiveness has been impaired by the disease of chemical dependency. The ethics of our profession state the pharmacist is to hold the health and safety of those served to be of first consideration. The profession therefore must identify cases of impairment, to protect the public, and to assist the affected pharmacist in rehabilitation and recovery from the active state of the disease. In this effort, as a committee, we serve both the public and the individual pharmacist.

GOALS OF THE COMMITTEE ARE

First to intervene in the disease of chemical dependency where it appears to be causing a pharmacist personal and/or professional dysfunction.

Second to encourage the impaired pharmacist to seek professional help.

Third to assist the impaired pharmacist's entry into an appropriate professional treatment model: To support and aid in the continuum of care for up to two years.

Fourth to report to the Montana Board of Pharmacy any established case of impairment in a pharmacist who repeatedly resists appropriate action to correct the impairment.

COMMITTEE COMPOSITION

- A Chairman (Preferably with experience in the area of chemical dependency.)
- The Executive Director of MSPA.
- One representative from the MSPA Board of Directors.

- One representative from MSHP.
- One representative from the staff of the School of Pharmacy, University of Montana.
- Ten MSPA members located geographically throughout the state, to provide intervention and referral services.

The committee as a whole will meet at least biannually to review policy and procedures for achieving committee goals. Regional meetings for training of interveners will be scheduled as needed.

POLICY AND PROCEDURES

1. This is a voluntary reporting program and the reporting parties will be expected to identify themselves and give specific examples of why they believe an impairment exists. This is to minimize "crank" calls. The reporting persons names will remain strictly confidential. However, the intervention procedure will be greatly assisted if the reporting person is willing to work with the interveners. The key to a successful intervention is that the numerous concerned persons have undisputable data to present during the intervention.

2. Calls for assistance with an impaired pharmacist will come from a variety of sources. (1) The impaired pharmacist who admits to the problem and is seeking help. (2) Fellow pharmacists, employers, family or friends. (3) The medical profession. (4) The State Board of Pharmacy. (5) By the committee. (Note) The committee, in this manner, can be a resource for the Board of Pharmacy to assist with the appropriate re-entry of the pharmacist into the profession if a suspension has been involved.

3. The MSPA Executive Director's phone number will serve as the helpline number on calls for assistance. Following the call the

Executive Director or appropriate staff members will contact a committee/intervener in the geographic area to serve the caller; by contacting the reporting party personally to evaluate the needs and concerns relative to proceeding with an intervention. The intervention will only proceed if there is sufficient objective data available to indicate an impairment exists. The intervention will then be facilitated by a team of 2 pharmacist interveners who have received professional training in confronting impaired pharmacists. (An interveners handbook of guidelines is to be provided for interveners.)

4. Upon intervention, if the pharmacist acknowledges the impairment and a need for assistance to deal with the chemical dependency, then arrangements will be made by the interveners for the pharmacist's referral to an appropriate evaluation or treatment facility. The interveners also will make periodic contacts during and after evaluation or treatment, to assist when needed and to monitor the pharmacist's progress. When it appears the disease is in a state of remission and no further impairment occurs, the case will be closed by the committee 2 years from the date of intervention. If the impairment re-occurs, the process will be repeated.

5. In the event impairment is apparent and the pharmacist denies the illness and refuses to seek professional evaluation or treatment after repeated contacts by interveners, or after acknowledging impairment, fails to follow through with professional help, the committee chairman will be advised by the interveners. The committee chairman will then contact the impaired pharmacist encouraging action to correct the impairment. If the impaired pharmacist continues to resist help, the case will be referred to the Pharmacist Rehabilitation Executive

Committee, composed of the Committee Chairman, the MSPA President and the Association's legal council. The Executive Committee, without knowledge of the impaired pharmacists identity will decide on the action to be taken in order to protect the public health and wellbeing. The role of the committee ends at this point unless requested by the state board to re-enter the case.

6. This service may also be extended to pharmacy school students if aid in this area is requested from an administrator or member of the faculty of the University of Montana.

7. To insure confidentiality, all cases reported to this committee will be assigned case numbers and only be referred to by that number during any committee case discussion. In this manner, only the person assigning the case, the chairman and the interveners acting on it will have the pharmacists name.

8. This committee will make its resources available to assist any pharmacist who feels a member of their family needs evaluation or treatment. Additionally, as chemical dependency adversely effects those closest to the dependent person, the committee will also assist, when requested, any family members towards the appropriate professional or community help.

9. This committee endorses the disease concept of chemical dependency and will consequently refer its cases only to professionals and programs of that philosophy. Professionals and programs also need to be certified by the State of Montana or the State of their location for the evaluation and/or treatment of chemical dependency.

WRITTEN TESTIMONY OF STATE AUDITOR'S OFFICE
HOUSE BILL 499
March 10, 1987

I. Background

The statute being amended by HB 499 prohibits lenders from disclosing credit insurance information obtained other than at the time of making a loan unless the lender obtains prior written consent of the borrower. The statute being amended permits a lender to disclose credit insurance information, without obtaining the borrower's prior written consent, if the lender obtained the information at the time of making the loan. A lender obtains the majority of a person's credit insurance information at the time of making a loan. The present law, therefore, permits a lender to disclose to a replacing insurer the majority of a person's credit insurance information without obtaining the person's prior written consent.

II. Purpose

The purpose of HB 499 is to prohibit a lender from disclosing credit insurance information to a replacing insurer regardless of when it obtained the information. The lender disclosure prohibition of HB 499 is limited to the disclosure of credit insurance information for the purpose of replacing the credit insurance. The lender disclosure prohibition of HB 499 merely prevents the dissemination of private financial information to credit insurance companies unless the borrower has consented in writing.

STANDING COMMITTEE REPORT

MARCH 12, 1937

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 165

THIRD reading copy (BLUE)
color

JAM BROWN (THAYER)

PHARMACISTS NOT LIABLE FOR PEER REVIEW

Respectfully report as follows: That HOUSE BILL No. 165

BE CONCURRED IN

~~100 H 368~~

~~100 H 368~~

.....
ALLEN C. KOLSTAD, Chairman.

STANDING COMMITTEE REPORT

MARCH 12, 19 37

MR. PRESIDENT

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **HOUSE BILL** No. **240**

THIRD reading copy (BLUE)
color

THOMAS (NEUMAN)

REVISE LAW RELATING TO INSURANCE BAD FAITH CLAIMS

Respectfully report as follows: That **HOUSE BILL** No. **240**

BE CONCURRED IN

~~XXXXXXXX~~
~~DO NOT PASS~~

~~XXXXXXXXXXXX~~
~~DO NOT PASS~~

.....
ALLEN C. KOLSTAD,

Chairman.

STANDING COMMITTEE REPORT

MARCH 12, 19 87

MR. PRESIDENT

BUSINESS AND INDUSTRY

We, your committee on

having had under consideration..... **HOUSE BILL** No. **499**

THIRD reading copy (BLUE)
color

SANDS (WEEDING)

PROHIBIT DISCLOSURE OF LOAN INFORMATION INVOLVING CREDIT INSURANCE

Respectfully report as follows: That..... **HOUSE BILL** No. **499**

BE CONCURRED IN

~~XXXXXX~~

~~DO NOT PASS~~

.....
ALLEN C. ROLSTAD, Chairman.