

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Orders: By Chairman Dorothy Eck, on March 8, 1991, at
3:20 p.m.

ROLL CALL

Members Present:

Dorothy Eck, Chairman (D)
Eve Franklin, Vice Chairman (D)
James Burnett (R)
Thomas Hager (R)
Judy Jacobson (D)
Bob Pipinich (D)
David Rye (R)
Thomas Towe (D)

Members Excused: None.

Staff Present: Tom Gomez (Legislative Council)
Christine Mangiantini (Committee Secretary)

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion:

HEARING ON HOUSE BILL 410

Presentation and Opening Statement by Sponsor:

Representative Cobb said this bill clarifies that the certificate of need requirement does not apply to offices of private physicians, dentists or other health care professionals. The certificate of need is basically used for health care facilities when they add a wing or new equipment, they have to show a need. It was understood this requirement did not apply to physicians or dentists. On page 4 the bill clarifies this issue. The definition of health care facility did not include a private physician. See Exhibit #1 which was presented to the committee.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Towe asked how this change would affect a clinic.

The chairman recognized Mike Craig, Health Planning division, Department of Health. He said they administer the certificate of need program. If a clinic for out-patient services is what you are referring to it would not be subject to review. But they would require licensure.

Closing by Sponsor:

Representative Cobb closed by thanking the committee for the hearing and said he would find a Senate sponsor for the bill.

HEARING ON HOUSE BILL 413

Presentation and Opening Statement by Sponsor:

Representative Mary Ellen Connelly opened by saying this measure was a simple, clean-up bill for the Board of Denturists. On page 3, line 4, the bill changes the internship period from two years to one year, most states who license denturists do not require any internship. On page 4, lines 8 - 11, allows the Board of Dentistry or a nationally recognized denturist organization who has a continuing educational program to approve the continuing education courses. On page 5, lines 8 and 9, it allows the denturists to work in certain areas, like flabby gum tissue alignments.

Proponents' Testimony:

The first witness to testify was Mr. Ron Olson, president of the Denturist Association of Montana. See Exhibit #2 for a copy of his testimony.

The second witness was Roland D. Pratt, lobbyist for the Denturist Association of Montana. See Exhibit #3 for a copy of his testimony.

Testimony was also submitted by Mr. John Mateskon, vice-president of the Denturist Association of Montana. See Exhibit #4 for a copy of his testimony.

Opponents' Testimony:

The first witness to testify was Michele Kiesling, representing the Board of Dentistry. See Exhibit #5 for a copy of her testimony. She said they would support the bill if the committee adopted her proposed amendment.

The second witness was Roger Tippy, representing the Montana Dental Association. He said the organization wanted to be on record as concurring with the concerns of the state board. In the House hearing they expressed concern with sections 3 and 4 and felt that the committee took the proper action, leaving existing law to govern section 4 and changing section 3 to deal with tissue preparation. The House committee was working under a time constraint trying to work out the amendment on section 2 and left it somewhat vague. There is currently not a mandatory continuing education requirement. It has been under study for a number of years. If it is mandated for the dentists and the hygienists there would be procedures worked out by the board for the professional associations to have some role in continuing education approval. It is already mandated for the denturists. The amendment by Ms. Kiesling would allow all groups to be treated the same. He said they support the bill with the amendment.

Questions From Committee Members:

Senator Towe asked Representative Connelly if she had problems with the proposed amendment.

Representative Connelly said she did because it was not in the amendments presented in the House. She said dentists are not required to have continuing education where the denturists are required to maintain continuing education. This has to be a board recognized organization.

Senator Towe said he did not understand what a 'board recognized denturist organization' met.

Representative Connelly said there is a national organization that administers the education courses and most are held out-of-state because so few people are in Montana. They want to bring the courses into Montana, administer them within the state and have them recognized by the Board.

Senator Towe said the Board can pass a resolution recognizing all of the courses of a particular organization. He said you do not need the bill.

The chairman recognized Mr. Pratt who said what he was suggesting was exactly what the statement said. The national organization has a continuing education council. All the state board would have to do is recognize the organization. That is all they are asking. In the House hearing there were five courses presented as being approved by the State Dental Board. We reviewed those and assumed those courses were approved for people practicing outside of Montana.

Senator Towe asked if they were afraid that the Board of Dentistry would not recognize what the denturists wanted.

Mr. Pratt said it is more past history, not fear. If that portion is excluded it reverts back to the present law. That is where the problem is.

The chairman recognized Michele Kiesling who said she could not speak for the whole board but said her feeling were that she would like to review courses on an individual basis versus a blanket approval.

Senator Towe said there was probably a national denturist association with a committee that designates continuing education and they asked the board to approve every course advised by the committee, would the board have a problem with that.

The chairman recognized Bob Verdon, legal counsel for the Board of Dentistry who said it might be appropriate but would require another amendment to the current statutes because they currently require continuing education courses to deal with specific subjects.

Chairman Eck asked if the national denturist organization had the approval of the U.S. Department of Education.

Mr. Olson said they do not.

Senator Hager asked how many denturists were licensed in the state.

Mr. Pratt said he thought there were 13, one practices in Washington, one in Canada. It would be easier to bring the courses to Montana. The expense is high. If we could access the schools that are national it would be an economic savings.

Chairman Eck asked if there were any training programs on video or cassette.

Ms. Kiesling said the board committee on continuing education has been looking at video presentations that would be considered acceptable continuing education credit. The Board has tabled consideration because of financial problems. She said the Board wants continuing education for dentists and hygienists and the statute already requires that for denturists. Some dentists do need mandatory continuing education and certification for general anesthesia.

Senator Towe asked Roger Tippy if the Board of Dentistry recognized the Board of Denturists' continuing education committee recommendations.

Mr. Tippy said he understood that the House committee amendment allowed the Board to recognize the Montana Denturists Association or the national association on this blanket basis. If they started abusing it, he said he would expect revocation by the Board of Dentistry.

Mr. Tippy continued by saying the Board is not convinced that under this wording it gives them authority.

Closing by Sponsor:

Representative Connelly closed by asking the committee to work on clarification language. She thanked the committee for a good hearing.

HEARING ON HOUSE BILL 445

Presentation and Opening Statement by Sponsor:

Representative Jim Rice who said this measure pertained to the certificate of need procedures. This bill has consensus and should not cause a heated debate. The bill would eliminate the Sunset provisions of the certificate of need (CON) law. The CON statute will expire on July 1, 1991. If this bill is passed the sunset would be repealed and the CON will continue to operate as it is currently administered. Montana has had a CON law since 1975. The purpose is to ensure that new or expanded health care facilities are justified and needed by requiring administrative review and approval prior to construction. During calendar year 1990 the state received 70 letters of intent from facilities or groups initiating the process of health care facility expansion. Of those, 12 were referred to projects that did not need review, 19 withdrew from the process and the remaining 39 proposals represented \$25 million in capital expenditures. CON fulfills the function of weeding out unnecessary facilities. Two years ago the Department of Health received five different requests from a small city in Montana for permission to build nursing home facilities. Wyoming eliminated the CON process in 1987, the tremendous growth in facilities and the stress to the state budget forced the state to reinstitute CON three years later.

Proponents' Testimony:

The first witness to testify was Mike Craig, a resource witness from the Department of Health and Environmental Sciences. He said they administer the Certificate of Need Program. See Exhibit #6 for an explanation of the program guidelines.

The second witness was Nancy Ellery, administrator of the Medicaid division of the Department of Social and Rehabilitation Services. She said Medicaid pays for about 62 percent of the nursing home beds in Montana. Any action taken that would increase the supply of the nursing home beds would have an impact on the Medicaid budget.

The third witness was Rose Hughes, executive director of the Montana Health Care Association. See Exhibit #7 for a copy of her testimony. The Certificate of Need discourages over-bedding in nursing homes.

The fourth witness was Jean Johnson, executive director of the Montana Association of Homes for the Aging. She said they represent retirement, nursing and personal care facilities. Although retirement is not under the Certificate of Need process the nursing homes and the personal care facilities are included. These facilities are not currently Medicaid reimbursed but in October, 1994 the federal government intends to authorize the reimbursement.

The fifth witness was Ann Bellwood, executive director of the Rocky Mountain Treatment Center, an in-patient chemical dependency and addiction facility in Great Falls. She said this is important for the chemical dependency program. They have the same kinds of economic problems as nursing homes, caused from over-bedding. As the number of beds increase in the state and the utilization drops there is a pressure to increase prices.

The sixth witness was Richard Dye, representing Health Marketing West in Billings, a health care management firm. He said they support the bill and urged passage.

The seventh witness was Alvin Svalstad, representing the American Association of Retired Persons. See Exhibit # 8 for a copy of his testimony.

Opponents' Testimony:

The first witness to testify against the bill was Jim Aherns, representing the Montana Hospital Association. He said they are opposed to the bill and said that 10 states do not have Certificate of Need programs. In the last two years, CON was eliminated for hospitals and there has not been the rash of building that people predicted. He said we lose one hospital a year. Hospitals have joined together and formed specialized units. At times market forces work. He said the Glendive Hospital recently paid \$4,250.00 in a CON application fee that was uncontested. He said they have no quarrel with reasonable fees. St. Vincent's Hospital said they filed a CON last November and expect approval in May. He said many hospitals report similar delays. He suggested a review of the process.

Questions From Committee Members:

Senator Burnett asked Mr. Aherns why the lengthy approval application process.

Mr. Aherns said he did not know why.

The chairman recognized Mike Craig who said they subject the applications to a batch cycle process in the event that other facilities or services wish to submit competing applications. It allows the department to open up the process to public comment. He said it is normally a four to six month period for completion of an application.

Senator Burnett said he was on the hospital board in Red Lodge and they applied for six swing beds and it took at least eight months.

Senator Rye asked Representative Rice why hospitals and medical facilities are the exception to basic economics. Usually if there is more of something the price drops.

Representative Rice said the problem with nursing homes is that the care is expensive and the dollars are very short. In nursing homes, two-thirds of the beds are Medicaid beds, paid for by the state. Wyoming found out they could not write the check when they abolished the CON program. He said it is a way to control the state budget so it does not get out of hand.

Senator Hager said most of the proponents are representing agencies that have beds. He said he had a discussion with someone in Billings who was trying to establish a home health care service, which would lower costs. He has to go through a certificate of need process. He said Rose Hughes, in her testimony, stated that the CON would protect customers from high costs, duplication of facilities.

The chairman recognized Rose Hughes who said there are home health agency services in Billings. If another one opens you have two agencies serving the same groups of people. Health care is not a free market, so much is regulated. In most instances when duplicated health services are offered you are spreading a similar number of patients around to a greater number of services. The overhead associated with the services is fixed. Home health agencies have come in and supported this type of legislation.

Senator Hager said the service that is contemplated is not provided at the present time.

The chairman recognized Dale Taliferro, representing the Department of Health and Environmental Sciences. He said it is a new service, not currently available and has applied under the Home Health License category. We are proposing at the hearing, to create a special license for limited home health services. There are two or three specialties. If he is approved he will be able to handle all the business very easily. Mr. Taliferro continued by saying he was somewhat puzzled by the claims of expense regarding the CON review process. To plan a business of that scale, the department requires evidence that is nothing greater than normal planning.

Senator Towe said the bill repeals the Sunset provided in the laws of 1989, there is also reference to the laws of 1987 and 1983. He said in 1989 the Legislature repealed a Sunset that was replaced in 1987.

Representative Rice said that was correct.

Senator Hager said no one ever liked CON very well but passed those bills because of necessity, it was done two years at a time.

Senator Towe asked if the exclusion of acute hospital care that came in 1989 is what allowed St. Vincent's to implement their heart specialty division, even though Esauconess also has a heart specialty unit.

Mr. Aherns said that was correct. Hospital and acute care services are not regulated by CON. Heart surgery is acute care. The services are regulated.

Chairman Eck asked Mike Craig about the levels of services.

Mike Craig said the types of services that are reviewable with the exception of acute care services of hospitals, are services that wish to be licensed as health facilities. The licensing process has much to do with cost reimbursements. By offering an assessment and technical feasibility studies the state can help in the prudent and progressive growth of the health care industry.

Chairman Eck asked if personal care attendants for handicapped persons is included in home health or home care services.

Mr. Craig said it could be both. It depends on who is offering the service and how they are licensed. A personal care home is subject to CON review. These types of facilities offer non skilled care services. The needs of the people living at the facility are basic, everyday maintenance needs with grooming, bathing, meals and other. If they need medical services, the person operating the facility can enter into a third party arrangement with a home health agency for a nurse to maintain the medical services under the supervision of a physician.

Chairman Eck asked if they license retirement facilities.

Mr. Craig said they did not. Retirement facilities are licensed in the Food and Consumer Safety Bureau.

Closing by Sponsor:

Representative Rice closed by thanking the committee for a good hearing. He said the bill repealed the Sunset provisions previously enacted. He said CON is working and the burden should be on those who opposed CON to prove their opposition.

HEARING ON HOUSE BILL 521

Presentation and Opening Statement by Sponsor:

Representative Ed Dolesal said this is a straightforward bill that allows the Department of Institutions to assist interested agencies and organizations in developing education and prevention programs for chemical dependency. The main change is on page 3, the last three lines. It inserts into the duties and responsibilities of the department clarification language for actions they are already performing.

Proponents' Testimony:

The first witness was Darryl L. Bruno, Administrator of the Alcohol and Drug Abuse division of the Department of Institutions. See Exhibit #9 for a copy of his remarks.

The second witness was Melissa Kaiser, representing the Montana Communities In Action. See Exhibit #10 for a copy of her remarks.

The third witness was Doug Fisher, Abuse Prevention Coordinator for the Department of Justice. He said he works with the Department of Institutions and that HB 521 simply legitimizes their on-going efforts.

The fourth witness was Mike Rupert, president of Chemical Dependency Programs in Montana and executive director of the Boyd Andrew Chemical Dependency Center in Helena. He said they are in support of the bill. He said prevention is a big push on the federal level and there are many specialized grants to meet the needs in this area. He said the minor change in the law will further enhance their ability to derive federal funds.

Opponents' Testimony:

None.

Questions From Committee Members:

Chairman Eck asked about the DARE program and wanted to know about the coordination between the departments on these programs.

Mr. Fisher said the State of Montana currently receives approximately \$5 million in prevention funding through the Department of Health, Department of Institutions, Office of Public Instruction and the Montana Board of Crime Control. The Department of Institutions has been at the forefront of the programs.

Mr. Bruno said federal agencies are receiving federal funds for drug abuse. Their funding is derived from the Department of Health and Human Services, Office of Substance Abuse Prevention. It is important to coordinate the activities. Nine projects were awarded under one program last year. The committee was comprised of representatives from the Department of Health, the Department of Family Services, the Office of Public Instruction and other agencies.

Closing by Sponsor:

Representative Dolezal closed by saying Mr. Bruno has done a good job explaining the need for the legislation. This portion of the Department of Institutions is vitally needed. The legislation clarifies what they have been doing and makes it easier for them to receive more federal grants.

EXECUTIVE ACTION ON HOUSE BILL 521

Motion:

Senator Towe moved concurrence on HB 521.

Discussion:

None.

Amendments, Discussion, and Votes:

Senator Franklin said she would carry the bill.

Recommendation and Vote:

There being no objections the motion for concurrence carried.

EXECUTIVE ACTION ON HOUSE BILL 445

Motion:

Senator Jacobson moved concurrence.

Discussion:

None.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

Senators' Burnett, Hager and Rye voted against concurrence. The five remaining members voted 'aye'. The motion for concurrence carried.

EXECUTIVE ACTION ON HOUSE BILL 413

Motion:

Senator Towe moved adoption of the amendment denoted in Exhibit #11.

Discussion:

Senator Towe explained the amendment.

Amendments, Discussion, and Votes:

There being no objection the motion carried.

Recommendation and Vote:

Senator Towe moved concurrence as amended. There being no objections the motion carried. Senator Hager said he would carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 410

Motion:

Senator Towe moved concurrence.

Discussion:

Senator Hager said this bill exempted another group from the Certificate of Need process.

Senator Towe said the physicians should be exempt. The clinic's should also be excluded.

Amendments, Discussion, and Votes:

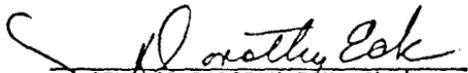
None.

Recommendation and Vote:

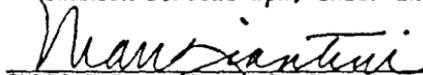
There being no objections the motion carried.

ADJOURNMENT

Adjournment At: 4:52 p.m.



SENATOR DOROTHY ECK, Chairman



CHRISTINE MANGIANTANI, Secretary

DE/cm

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 445 (third reading copy -- blue), respectfully report that House Bill No. 445 be concurred in.

Signed:

Dorothy Eck
Dorothy Eck, Chairman

JM 3-9-91
Ad. Coord.
SP 3-4-91 8:35
Sec. of Senate

POOR COPY

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 521 (third reading copy -- blue), respectfully report that House Bill No. 521 be concurred in.

Signed: _____

Borothy Eck
Borothy Eck, Chairman

MA 3-9-91
Ad. Coord.

SB 3.9.91 4:35
Sec. of Senate

510824BC.8j1

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1991

HR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 413 (third reading copy as amended in blue), respectfully report that House Bill No. 413 be amended and as so amended be concurred in:

1. Page 4, lines 11 and 12.

Following: "recognized" on line 11

Strike: remainder of line 11 through "both" on line 12

Insert: ". The board may approve, in one action, all the courses presented by a particular organization if the board is satisfied that the courses presented by that organization meet the requirements of this section"

Signed: _____

Dorothy Eck
Dorothy Eck, Chairman

3/9/91
Asst. Coord.

SP 991 11/275
Sec. of Senate

POOR COPY

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 410 (third reading copy, as amended -- blue), respectfully report that House Bill No. 410 be concurred in.

Signed: _____

Dorothy Eck
Dorothy Eck, Chairman

JA 3-9-91
Ad. Coord.

SB 3-9-91 3:25
Sec. of Senate

5108188C.SJI

SENATE COMMITTEE ON WELFARE
L. H. NO. 2
DATE 3/8/91
BILL NO. HB 413

HB 413

Testimony - Ron Olson

Senate Public Health Committee

March 8, 1991

Madame Chairperson and members of the committee for the record my name is Ron Olson, I am the President of the Denturist Association of Montana, and also a director of the National Association of Denturist and am in private practice in Billings.

To day I am here to ask your support for HB 413 .

HB 413 would change the internship that is now required from 2 years to 1 year. We feel that after 2 years of academic study, requiring an additional 2 years is more of a deterrent than a help and will lessen the possibility of an internship being used as a cheap labor device.

HB 413 will change the manner in which Continuing Education is approved for our relicensure requirement. In the past when the Board of Dentistry would not approve any out of state CE courses we were forced to bring in outside clinicians at a very high cost to our members. We learn not only by participating in the courses but by association with other denturists. We have had members who have traveled to meetings outside of Montana that have been sponsored by national and international denturist organizations and they are the only attendees that have not received Continuing Education credits for these classes. We feel this is wrong and should be corrected.

Also we want to make it clear that we can treat patients with loose and flabby tissue. The use of tissue conditioner over a period of time can measurably increase wear ability and comfort to the patients. If surgery is required, the patient is referred to a oral surgeon.

I would like to thank the committee for its time and ask that you support HB 413.

HB 413

H BILL NO. 413

Testimony - Roland D Pratt

Senate Public Health Committee

March 8, 1991

Madame Chairperson and members of the committee for the record my name is Roland D Pratt and I am the Lobbyist for the Denturist Association of Montana.

I would like to address a few of the points contained in HB 413.

First, I feel we have agreement that a 1 year internship when added to the prior education is adequate for the preparation of the individual denturist.

Secondly, I would like to point out that Denturist are the only licensees that the Board of Dentistry supervises that have a Continuing Education requirement for relicensure. Another point I would like to make is that it is also the only board that I am aware of that does not recognize the CE approval of other organization that offer courses that are pertinent to the profession that they are governing. At the present time the only courses approved are those that are conducted within the state and are available only to Montana licensees. Needless to say this cost is very high when you have to bring speakers and equipment to Montana. We do not think this is fair nor cost effective. I would also like to point out that

Finally, the section on tissue conditioners has been covered adequately by Mr Olson.

Thank you and I would ask for your support for HB 413.

HB 413

EXHIBIT NO. 4DATE 3/8Testimony - John Mateskon, H BILL NO. 413

Senate Public Health Committee

March 8, 1991

Madame Chairperson and members of the committee for the record my name is John Mateskon, I am Vice President, Denturist Association of Montana and I am in private practice in Bozeman.

I am here today to ask for your support for HB 413.

I would like to point out one area of concern for our organization and that is the continuing education provision of this bill. The reason for this section is because of the Board of Dentistry history of not approving out of state Continuing Education courses for our licensees. During the hearing in the House a list of 5 courses approved by the Board was presented, but upon investigating these courses it was found that they were approved for people who at the time were practicing out of state. We feel that there are many outstanding courses that are important to our people from not only the educational point of view but also from the professional interrelationships that we gain from meeting with denturists from other areas. I would also like to point out that we are required by law to have 12 hours of Continuing Education for relicensure so as you can see this is a very important issue to us.

Therefore for these reasons I would like to thank you for your time and ask for your support for HB 413.

Exhibit 5
3/8/91
HB 413

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 8 day of March, 1991.

Name: Michèle Kesting

Address: 1610 Florence, Helena

Telephone Number: 443-3825

Representing whom?
Board of Dentistry

Appearing on which proposal?
HB 413

Do you: Support? Amend? Oppose?

Comments:
Would support Bill if amended that
contains education credit approval is
done by my Board of Dentistry

DEPARTMENT OF COMMERCE
PUBLIC SAFETY DIVISION

SENATE HEALTH & WELFARE

EXHIBIT NO. 5

DATE 3/8

HB NO. 413

STAN STEPHENS, GOVERNOR

111 N. JACKSON

STATE OF MONTANA

HELENA, MONTANA 59620-0407

BOARD OF DENTISTRY

March 8, 1991

To: Senate Public Health, Welfare and Safety

From: Montana State Board of Dentistry

RE: HB 413

Chairperson Eck and Committee Members, my name is Michele Kiesling. I am the Dental Hygiene member of the State Board of Dentistry, and I am here today on behalf of the Board to express the Board's concern with this bill as it is presently written.

Section 2 of House Bill 413 would allow a private organization to approve continuing education credits for licensure even if the credit had been denied by the Board of Dentistry. The granting and renewal of licensure is solely the responsibility of the Board of Dentistry and that authority cannot be delegated to any other body. The Board of Dentistry requests the deletion of the following words contained in lines 10 through 12: "and may also be made by a board recognized dentist organization, or both." Thus, the amendment would read, "Approval of acceptable hours of continuing education must be made by the board." If this amendment is adopted, the Board of Dentistry will support House Bill No. 413 as amended.

I ask that you please consider the aforementioned concern when you are making your decisions about House Bill No. 413. Thank you.

MONTANA CERTIFICATE OF NEED

Certificate of Need is administered through the DHES Health Planning Program. Certificate of Need primarily affects nursing homes, ambulatory surgery facilities, home health agencies, medical assistance facilities, personal care facilities, inpatient mental health centers, rehabilitation facilities and chemical dependency facilities. Under present law, Certificate of Need does not apply to hospitals unless they are proposing any of the services specifically listed above.

The primary rationale behind Certificate of Need is that the public has a right to be informed about and express their views prior to health care providers' incurring financial obligations that will affect the consumer pocketbook. This is particularly relevant when large capital expenditures are being made. Certificate of Need creates a process where health facilities must submit an application prior to initiation of most new or expanded health services and allows for public input into the decision helping to determine if the new or expanded service is necessary, affordable, and desirable.

During the Certificate of Need review process, Health Planning will analyze the application based on specific criteria which are cited in Montana Codes and the Administrative Rules. The existence of Certificate of Need and fair administration of the review criteria results in prudent and rational growth of Montana's health care industry and encourages the following:

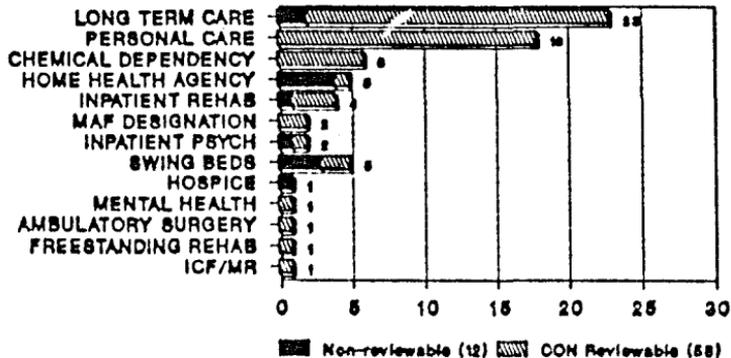
- 1) development based on local community health care needs;
- 2) evaluation of manpower needs for new or expanded services or facilities;
- 3) evaluation of financial feasibility of a proposal in order to ensure future viability;
- 4) public input and participation in the development of health services;
- 5) development of cost effective strategies through review of alternative similar services; and,
- 6) development of health services that are affordable and accessible.

During calendar year 1990, Health Planning considered 70 Letters of Intent (LOI) to initiate or expand health services. Twelve of the LOI's referred to projects determined as not being reviewable under Certificate of Need. Of the 58 projects that were reviewable, 19 either withdrew from the process or had their files closed due to inaction.

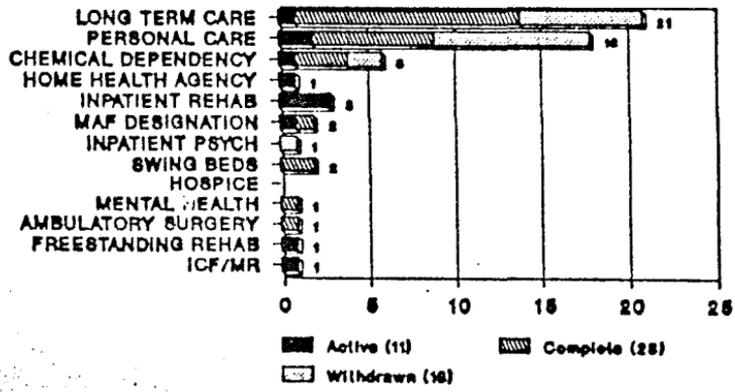
The 39 proposals that have either completed the review process or are still active represent \$24,973,367 in total capital expenditures. The other 19 reviewable projects that were withdrawn from consideration represent \$10,876,000 in capital expenditures that were ultimately not incurred.

DATE 3/8/91
H PILL NO 445

HEALTH CARE PROPOSALS FACILITIES/SERVICES 1990



STATUS OF CON REVIEWABLE PROPOSALS 1990



Ex. 6
3/8/91
HB 445

Health care proposals which ARE reviewable under Montana's Certificate of Need:

- 1) nursing home (long term care) services;
- 2) personal care (sometimes known as assisted living, board and care, or residential care);
- 3) hospital swing beds;
- 4) home health agencies;
- 5) inpatient chemical dependency;
- 6) ambulatory surgery;
- 7) inpatient psychiatric services;
- 8) inpatient mental health services;
- 9) residential treatment facilities (there is currently a moratorium on the issuance of Certificates of Need for new residential facilities until after October 1, 1991, as outlined in the bill);
- 10) intermediate care facilities for the mentally retarded;
- 11) inpatient rehabilitation services;
- 12) health maintenance organizations (if an inpatient facility or an increase in bed capacity is proposed);
- 13) a change in bed capacity through the increase of beds or relocation of existing beds to another facility;
- 14) medical assistance facility;
- 15) any proposed capital expenditure by any person or health care facility if expenditures exceed \$1,500,000 (for construction of health care facilities; and,
- 16) a Letter of Intent is necessary for the acquisition or change of ownership of a health service or health facility.

Ex. 6
3/8/91
HB 445

Health care proposals which ARE NOT reviewable under Montana's Certificate of Need:

- 1) the private practice offices of physicians and dentists;
- 2) hospital services not included in the outline of reviewable services or facilities above;
- 3) 10 bed or 10% rule (the number of beds involved in a facility's intent to expand is 10 or 10% or less of the licensed beds, whichever figure is smaller, in any 2-year period);
- 4) out-patient services (chemical dependency, mental health, rehabilitation, others);
- 5) adult foster care (services similar to personal care, but restricted to 4 beds or less);
- 6) rural health clinics;
- 7) health care facilities authorized under the long range building program (Title 17, chapter 5, part 4, and Title 18, chapter 2, part 1, MCA) or other health care facilities authorized by the legislature which are specifically exempted in the enabling language; and,
- 8) hospice (unless the creation of hospice beds results in the increase of beds in a facility where those beds would already be CON reviewable).

MONTANA
**HEALTH
CARE** 
ASSOCIATION

36 S Last Chance Gulch, Suite A - Helena, Montana 59601
Telephone (406) 443-2676 FAX (406) 443-4614

SENATE HEALTH & WELFARE
EXHIBIT NO. 7
DATE ~~40~~ 3/8/91
H BILL NO. 445

TESTIMONY OF MONTANA HEALTH CARE ASSOCIATION

BEFORE THE

SENATE PUBLIC HEALTH COMMITTEE

March 8, 1991

HOUSE BILL 445 - CERTIFICATE OF NEED

For the record, I am Rose Hughes, Executive Director of the Montana Health Care Association, an association representing about 76 skilled and intermediate care facilities throughout the state of Montana. Included in our membership are county and religious-affiliated facilities, private for-profit facilities, and facilities co-located with hospitals.

The Montana Health Care Association supports House Bill 445, which continues the certificate of need process, because it believes that the State of Montana, and we as health care providers, have an obligation to the people of Montana to use its very limited health care resources wisely. Health planning and certificate of need are the only protection the state has in place to protect consumers from the high costs associated with unnecessary investment in health care facilities, duplication of

Testimony - page 2

health services, and the high price that accompanies excess capacity and duplication.

Forty states have a certificate of need process in place. Of the ten states without certificate of need, five have imposed a moratorium on nursing home construction.

The experience of states without health planning has been the expansion of health services of all types--but particularly of nursing home beds and psychiatric and specialty hospitals. When this happens, consumers are pushed to consume more health services than they need, and the cost of those services goes up.

It should be noted that such expansion has a profound effect on state Medicaid programs, which pay a substantial portion of total nursing home costs. It also affects private consumers of health care and the citizens and businesses who pay health insurance premiums.

Too, nursing homes must operate at high occupancy levels if they are to survive. Medicaid payments account for 62% of all of our revenue. These payments currently cover only about 85% the actual costs of providing care. Even with substantial increases being considered during this legislative session, the cost shift from Medicaid to other payers will be about \$8.50 per patient day. This is true with well-occupied facilities. If occupancy were to drop substantially due to overbedding, the cost per day of care would increase substantially since facilities experience many fixed costs which will have to be paid even though the

Ex. 7

3/8/91

HB 445

Testimony - page 3

facilities aren't full. These costs will be spread over fewer patients, leading to higher costs, and exacerbating an already difficult situation.

We believe the certificate of need process works to assure that there are sufficient beds for those who need them and to discourage overbedding. This not only protects our health care facilities, but also the patients they serve.

House Bill 445 simply removes the sunset provision of our current certificate of need law and allows the process to continue in its current form. I urge your support of House Bill 445 and appreciate the opportunity to present our views to you. I will be available to answer any questions you may have.

Ex. 7a
3-8-91
HB 445

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 8th day of March, 1991.

Name: Richard Ope

Address: Health & Marketing West
3203 3rd Ave N - suite 305
Billings MT 59101

Telephone Number: 406/259-9034

Representing whom? Health & Marketing West

Appearing on which proposal?
Bill 445

Do you: Support? Amend? Oppose?

Comments:
We represent, as a health care management firm,
nursing homes in Laurel and Bayernon and contracted
facilities (nursing home/hospital) in Chateau and Shilley -
We urge you to support this bill -



SENATE HEALTH & WELFARE

EXHIBIT NO. 8

DATE 3/8/91

#BILL NO. 445

MONTANA STATE LEGISLATIVE COMMITTEE

CHAIRMAN
Mrs. Molly L. Munro
4922 6th Avenue South
Great Falls, MT 59405
(406) 727-5604

VICE CHAIRMAN
Mr. Fred Patten
1700 Knight
Helena, MT 59601
(406) 443-2696

SECRETARY
Mrs. Dorothy Fitzpatrick
Box 174
Sunburst, MT 59462
(406) 937-2451
(406) 937-6789

MARCH 9, 1991

TO: HOUSE HUMAN SERVICE COMMITTEE.

FROM: ALVIN SWALITAO, - AMERICAN ASSOCIATION OF RETIRED PERSONS

RE: HB #445 - AN ACT INDEFINITELY EXTENDING THE CERTIFICATE OF NEED LAW BY
REPEALING THE EXPIRATION DATE OF THE LAW.

THE AMERICAN ASSOCIATION OF RETIRED PERSONS SUPPORT THIS BILL. THE CERTIFICATE OF NEED PROCESS HAS BEEN ADOPTED IN MONTANA AS A PLANNING TOOL TO REVIEW THE BUILDING OF NEW HEALTH CARE FACILITIES. SCHEDULED TO SUNSET IN 1985 THE C.O. PROCESS WAS GIVEN A TWO YEAR EXTENSION BY THE 1987 LEGISLATURE AND WAS UP FOR RENEWAL AGAIN IN 1989. THE BILL WAS AMENDED EXCLUDING HOSPITALS BUT NOT NURSING HOMES. HB 445 WILL INDEFINITELY EXTEND THE CERTIFICATE OF NEED PROCESS AS IT IS NOW IN EFFECT.

THE MONTANA A.A.R.P. STATE LEGISLATIVE COMMITTEE STRONGLY SUPPORTS THIS BILL. WE URGE YOU TO SUPPORT HB 445!

DEPARTMENT OF INSTITUTIONS

Copy for
SENATE HEALTH & WELFARE
EXHIBIT NO 9
DATE 3/8/91
H 1330 11TH AVENUE
52

STAN STEPHENS, GOVERNOR



STATE OF MONTANA

(408) 444-3030

HELENA, MONTANA 59620-1301

TESTIMONY HB 521

3/8/91

Darryl L. Bruno, Administrator Alcohol and Drug Abuse Division

As we are well aware, alcohol and other drug abuse is a problem which effects nearly every citizen of Montana. Age is no guarantee of innocence, or wisdom, when it comes to the problems of alcohol and other drug abuse. The Department of Institutions Alcohol and Drug Abuse Division (ADAD) is the single state agency which serves as the point of contact for all alcohol and drug programs developed by the federal Department of Health and Human services. These programs cover the complete continuum of care from prevention to treatment and aftercare. As the designated single state agency, individuals, communities and governmental agencies in Montana look to the Department of Institutions for assistance and expertise. The Department has been assisting public and private agencies and organizations with prevention activities since the inception of the Alcohol and Drug Abuse Division in 1975.

Current legislative duties under 53-24-204 include :

- a. approving and evaluating treatment facilities (currently 34 PROGRAMS 64
- b. planning for chemical dependency services.
- c. certifying chemical dependency counselors and court school instructors.
- d. distributing state and federal funds.
- e. developing treatment and court school standards.

The activities of the Department include working with communities and with state approved treatment programs as they develop local prevention programs. We are also involved in working with other state agencies and with private non-profits in improving the base of knowledge and expertise on which Montana's communities can draw.

The role of ADAD and community programs regarding prevention activities has increased. We are the administering state agency of two major prevention grants from the Office of substance Abuse prevention (OSAP).

- 1. Community Youth Activity Block Grant \$93,000 in Fy 91.
- 2. Community Youth Activity Demonstration Grant \$457,000 to 9 communities in Fy 91 .

In addition we are required to ensure that at least 20% of the ADMS block grant or about \$380,000 each year is spent by state approved treatment programs on prevention/early intervention activities. In fy 91 almost \$1,000,000 will be distributed by our office to community organizations to be expended strictly on prevention or early intervention activities.

The ADAD does not directly provide prevention services in communities. ADAD believes in the importance of a community based approach. Through a combination of the county planning process, response to requests for technical assistance sessions and active support of local prevention efforts , the department efforts , are designed to meet the needs the community has identified. The students receiving drug and alcohol prevention education in the school must be met with a community that supports drug free activities for youth. Prevention does not work unless the community educates parents, community leaders, social service agencies, business leaders and all other sections of the community. Expertise is required to "give guidance" when a community begins to react to specific problems or events rather than developing proactive integrated strategies.

Ex. #9
3/18/91
HG 521

Long term planning is important to give perspective and direction to activities, otherwise communities efforts become narrowly focused and one sided. In this way, The activities of the Office of Public Instruction, Department of Justice, Department of Health and the Department of Institutions in prevention complements each other, providing more assurance that prevention strategies utilized will be effective. Research indicates that no single approach works, instead there is a need for multiple reinforcing strategies.

In addition, the Department has been actively involved in developing approaches and activities to raise community awareness of the problem of alcohol and other drug abuse; for example the Montana Red Ribbon Campaign, sponsoring public meetings and maintaining a film library. We have also actively supported community based prevention efforts through both the Community Youth Activity Prevention Block grant and the Community Youth Activity Prevention Demonstration grant. These Federally funded programs have encouraged communities through out Montana to take an active role in planning prevention programs which are community based and which develop the capacity of local people to develop healthy communities.

Adding subsection (k) to the powers and duties of the Department is acknowledgment of what the Department is doing and is expected to do by communities and citizens of Montana. Prevention is implied throughout the law as part of the recognized continuum of alcohol and other drug abuse services. The addition of subsection (k) specifically recognizes the role of prevention in the full spectrum of alcohol and other drug abuse services.

The department has not asked the legislature for any additional funding . The prevention activities of the Department will continue to be funded with earmarked alcohol tax money included in the Alcohol and Drug Abuse Division's operations budget which includes operation costs and approximately .50 FTE for prevention activities. The ALcohol Drug and Mental Health Services Federal Block Grant which provides funds for states has mandated for several years that prevention be included in those services. This money is contracted with community alcohol and drug treatment programs which are approved by the State to provide rehabilitation and prevention of alcohol and drug abuse. These activities are developed as part of the county planning process. A prevention position at the Division is also funded through the Community Youth Activity Demonstration Project Grant. Also the department will continue to seek out all federal funds for prevention when they can be used for activities and programs that benefit the communities

Prevention Involvement of Montana Department of Institutions:
Statewide:

Montana Red Ribbon Campaign

Funds support mailing of public information, staff time is provided including planning the rally in Helena, and staff time supports activities of the National Federation of Parents affiliate in Montana; Montana Communities in Action for Drug Free Youth.

Montana Caring for Kids

Caring for Kids is a statewide conference bringing youth and adults together to learn new strategies, discuss regional prevention efforts and share information. This effort is supported through staff time, funds for facilitator training and other support activities. This year the Department was the primary sponsor of the conference. Over 500 adults and youth from 42 communities participated.

Ex. 9
3/8/91
HB 521

Montana Communities in Action for Drug Free Youth
The State affiliate of the National Parents Federation for Drug Free Youth has received support in the form of meeting space, logistical support, staff time for meetings and technical assistance.

Film Library

The Department maintains a resource library of both films and video tapes. This service is available through the Department of Health and Environmental Sciences. There are 100 items in the library. Most of the requests come from treatment programs community organizations and schools.

Technical Assistance:

Inservice training for preparation of Federal Office of Substance Abuse Prevention has been provided for the Community Partnership Grants was provided in Billings and Helena.

Consultations are provided on an ongoing basis to communities which are developing projects. This includes suggestions for funding, assistance

Training in the Technology of Prevention, a community based prevention strategy, was provided to individuals active in each of the states five health planning regions.

Workshops on Prevention for Parents were provided in the Five Health planning regions through a contract with Montana Communities in Action for Drug Free Youth.

Support of Direct Services:

Through the CYAP Demonstration grant the Department has provided support for:

youth training in prevention, self esteem issues, and refusal skills;

parent training in parenting, sexual abuse, and recognition of substance abuse;

development of local activity programs to provide alternatives to youthful substance abuse;

development of local partnerships to improve collaboration among service providers, youth recreation efforts, educators and volunteers.

Through State Approved Treatment programs:

Assessment and evaluation as part of early intervention

Involvement in local efforts at prevention planning, including service on community boards, working with schools and providing presentations.

Providing services to communities including presentations to schools, training to other community agencies on substance abuse and support for programs of other agencies as consultants on substance abuse issues.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 8 day of March, 1991.

Name: Melissa Kaiser

Address: 533 Hillsdale
Helena MT 59601

Telephone Number: 449-2538

Representing whom?

MT. Communities In Action

Appearing on which proposal?

H.B. 521

Do you: Support? Amend? Oppose?

Comments:

I have worked with Department of Inst. Prevention Program for 3 1/2 years.
Their Prevention resource library has been a source of
information to hundreds of MT. Communities
Their personnel is dedicated and hard working. They have
never turned down a request for information.
Please see the other attached comments.

Montana Communities in Action

For Drug Free Youth, Inc.

SENATE HEALTH & WELFARE

EXHIBIT NO. 10

DATE 3/3

H BILL NO. 521

TO: COMMITTEE MEMBERS

FROM: MONTANA COMMUNITIES IN ACTION
TREASURER, MELISA KAISER

Melisa

RE: BILL # 521 REINSTATEMENT OF PREVENTION AS A DUTY OF DEPARTMENT OF INSTITUTIONS.

MONTANA COMMUNITIES IN ACTION WOULD LIKE TO EXPRESS THEIR SUPPORT IN REINSTATING PREVENTION INTO THE DUTIES OF THE DEPARTMENT OF INSTITUTIONS.

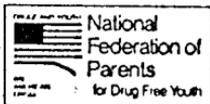
THE PREVENTION WORK DONE BY THE DOI HAS BEEN INVALUABLE TO MCA AND OTHER PREVENTION BASED PROGRAMS THROUGHOUT THE STATE. THE NEWSLETTER REACHES HUNDREDS OF MONTANANS ON A REGULAR BASIS. TRAINING OPPORTUNITIES SUCH AS THE RECENT "CARING FOR KIDS CONFERENCE" HAVE PROVEN QUITE SUCCESSFUL. THE ONGOING DIRECTION AND SUPPORT ARE VERY NECESSARY FOR OUR STATEWIDE NETWORK.

THANK YOU FOR YOUR SUPPORT OF THIS BILL.

Montana Communities in Action

For Drug Free Youth, Inc.
1100 4th Street South
Great Falls, Montana 59405
(406) 453-7665

An affiliate member of the



Red Ribbon Campaign O

1245 Park Garden Road
Great Falls, MT 59404
(406) 453-7665

Amendments to House Bill No. 413
Third Reading Copy

H BILL NO. 413

Requested by Senator Tom Towe
For the Senate Public Health, Welfare, and Safety CommitteePrepared by Tom Gomez
March 9, 1991

1. Page 4, lines 11 and 12.

Following: "~~recognized~~" on line 11

Strike: remainder of line 11 through "both" on line 12

Insert: ". The board may approve, in one action, all the courses presented by a particular organization if the board is satisfied that the courses presented by that organization meet the requirements of this section"

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 03/08/91 H Bill No. 521 Time 4:45 p.m.

| NAME | YES | NO |
|------------------|-----|----|
| SENATOR BURNETT | X | |
| SENATOR FRANKLIN | X | |
| SENATOR HAGER | X | |
| SENATOR JACOBSON | X | |
| SENATOR PIPINICH | X | |
| SENATOR RYE | X | |
| SENATOR TOWE | X | |
| SENATOR ECK | X | |
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Secretary _____

Chairman _____

Motion: Senator Towe moved concurrence of HB 521. There
being no objection the motion carried.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 03/08/91 H Bill No. 445 Time 4:46 p.m.

| NAME | YES | NO |
|------------------|-----|----|
| SENATOR BURNETT | | X |
| SENATOR FRANKLIN | X | |
| SENATOR HAGER | | X |
| SENATOR JACOBSON | X | |
| SENATOR PIPINICH | X | |
| SENATOR RYE | | X |
| SENATOR TOWE | X | |
| SENATOR ECK | X | |
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Secretary

Chairman

Motion: Senator Jacobson moved to pass HB 445. There being
no objection the motion carried.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 03/08/91 H Bill No. 413 Time 4:49 P.M.

| <u>NAME</u> | <u>YES</u> | <u>NO</u> |
|------------------|------------|-----------|
| SENATOR BURNETT | X | |
| SENATOR FRANKLIN | X | |
| SENATOR HAGER | X | |
| SENATOR JACOBSON | X | |
| SENATOR PIPINICH | X | |
| SENATOR RYE | X | |
| SENATOR TOWE | X | |
| SENATOR ECK | X | |
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Secretary

Chairman

Motion: Senator Towe moved to pass HB 413 as amended.

There being no objection the motion carried.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 03/08/91 H Bill No. 413 Time 4:50 p.m.

| NAME | YES | NO |
|------------------|-----|----|
| SENATOR BURNETT | X | |
| SENATOR FRANKLIN | X | |
| SENATOR HAGER | X | |
| SENATOR JACOBSON | X | |
| SENATOR PIPINICH | X | |
| SENATOR RYE | X | |
| SENATOR TOWE | X | |
| SENATOR ECK | X | |
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Secretary

Chairman

Motion: Senator Towe moved concurrence of the measure as amended.

There being no objections the motion carried.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 03/08/91 H Bill No. 410 Time 4:50 P.M.

| NAME | YES | NO |
|------------------|-----|----|
| SENATOR BURNETT | X | |
| SENATOR FRANKLIN | X | |
| SENATOR HAGER | X | |
| SENATOR JACOBSON | X | |
| SENATOR PIPINICH | X | |
| SENATOR RYE | X | |
| SENATOR TOWE | X | |
| SENATOR ECK | X | |
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Secretary _____

Chairman _____

Motion: Senator Towe moved concurrence of HB 410.

There being no objection the motion carried.

