

MINUTES

MONTANA HOUSE OF REPRESENTATIVES  
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN STEVE BENEDICT, on February 3, 1993,  
at 8:00 A.M.

ROLL CALL

**Members Present:**

Rep. Steve Benedict, Chairman (R)  
Rep. Sonny Hanson, Vice Chairman (R)  
Rep. Bob Bachini (D)  
Rep. Joe Barnett (R)  
Rep. Ray Brandewie (R)  
Rep. Vicki Cocchiarella (D)  
Rep. Fritz Daily (D)  
Rep. Tim Dowell (D)  
Rep. Alvin Ellis (R)  
Rep. Stella Jean Hansen (D)  
Rep. Jack Herron (R)  
Rep. Dick Knox (R)  
Rep. Don Larson (D)  
Rep. Norm Mills (R)  
Rep. Bob Pavlovich (D)  
Rep. Bruce Simon (R)  
Rep. Carley Tuss (R)  
Rep. Doug Wagner (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Paul Verdon, Legislative Council  
Claudia Johnson, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 240, HB 304 AND HB 339  
Executive Action: HB 201, HB 237, HB 339 AND HB 358

HEARING ON HB 304

Opening Statement by Sponsor:

REP. BETTY LOU KASTEN, House District 28, Brockway, said HB 304  
is mainly to clean up language. The intent of the bill is to

make sure there isn't any double dipping by consultants that also sell insurance. HB 304 is at the request of the insurance industry, which states if a person is a consultant and receives a fee for consulting cannot receive a fee for selling insurance.

Proponents' Testimony:

Roger McGlenn, Executive Director of Independent Insurance Agents Association of Montana, said the original intent of the insurance consultant laws, in regard to compensation for their services, was to ensure that a consultant could not provide consulting services for a client, charge a fee, and then also write insurance policies for the client and receive a commission. This bill attempts to maintain this principle while clarifying the language in statute. He said the main reason for this bill is for clarification on property and casualty insurance. He informed the committee that the Independent Insurance Agents Association of Montana has a for-profit corporation called "Public Risk Management". He said this for-profit corporation provides services for unrelated business incomes to the association. The agency also writes most of the insurance for the state of Montana that is not self-insured. He gave an example of the for profit corporation. He said the corporation has provided several free services for the state. The state also asked the corporation to revamp their self-insured auto program and give advice, for which they cannot receive any compensation because they cannot write any insurance on it. Mr. McGlenn distributed written testimony explaining HB 304. EXHIBIT 1

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. SIMON asked Roger McGlenn why the bill is effective upon passage and approval? Mr. McGlenn said in today's market there are insurance agents who also have consultant's license and are not able to do both because the current law needs to be clarified.

Closing by Sponsor:

REP. KASTEN said the State Auditor, underwriters, and other insurance agencies have looked at this and asked that the statutes be clarified. She urged a do pass recommendation.

HEARING ON HB 240

Opening Statement by Sponsor:

REP. HARRIET HAYNE, House District 10, Dupuyer, said HB 240 is at the request of the Department of Commerce to cover their concerns. She said the problems are not covered by the statutes

nor the codes at this time. HB 240 applies to the dental profession which includes dentists, dental hygienists and denturists by addressing the chemically dependent members of the dental industry. HB 240 addresses the discipline of members in the profession under the direction of the Board of Dentistry. **REP. HAYNE** distributed an amendment which addresses diagnosis and x-rays.

**Proponents' Testimony:**

**Bob Verdon**, Department of Commerce, said he represents the Board of Dentistry. He said HB 240 started as two separate bills. One bill addressed the chemically dependent, and the second bill addressed the cleanup of the various statutes, but was merged by the Legislative Council. He explained what each section will do. Section 1 will set forth in statute that the board has quasi-judicial immunity for acts committed in good faith. He said that if the board is in a civil suit for any action taken in good faith, it would provide the board with protection through statute. Section 2 is intended to provide the board with a statement of legislative purpose which they do not have at this time. Sections 3, 4 and 5 provide for statutory authority for the Board of Dentistry to enter into a program to allow chemical dependency evaluations of individuals who are believed to habitually intoxicated or addicted to narcotic substances. Section 7 revamps definitions. Sections 8, 9, 10, and 11 are provisions for consistency in the codes. He said the board asked for the immediate effective date for the chemical dependency programs. **Mr. Verdon** distributed an amendment proposed by the Board of Dentistry. **EXHIBIT 3**

**Ted Beck**, Dentist in Helena, said Initiative 94 was first introduced in 1984 when the citizens of Montana decided they wanted to have denturists in the state. Prior to the 1985 Legislature, the dentists and the denturists had met to determine what would be equitable for both sides and this was drafted and enacted into law.

**Dr. Scott Erler**, State Dental Board, Missoula, said the board asked him to address section 12 of HB 240. He addressed the prohibitions for the denturists in regard to what they can do and what they are not supposed to do. **Dr. Erler** presented slides on the process of dental implants. He informed the committee that the Canadians have to be referred by a certificate from a regular medical doctor.

**SEN. TERRY KLAMPE**, D.D.S., House District 31, Florence, said he is interested in cost containment and making sure the citizens of Montana can receive health care at a reasonable cost. He stressed quality as the main issue in the dental industry.

**Dr. Victor Gordon**, Billings, said his practice deals with chronic pain which is commonly known as TMJ. He expressed gratitude for

the privilege of speaking before the committee on HB 240. He urged the committee to support this legislation.

**Colleen O'Conner, Montana Professional Assistance Program (MPAP),** said she supports HB 240. She distributed information on MPAP, a non-profit organization, which is committed to aiding the recovery of personal, professional and family health. **EXHIBIT 4**

**Bill Zepp, Executive Director Montana Dental Association,** said the association supports the adoption of HB 240 as amended. **EXHIBIT 5**

**Opponents' Testimony:**

**Chris Herbert, RDH, Registered Dental Hygienists,** distributed written testimony with proposed amendments. **EXHIBIT 6**

**Roland Pratt, lobbyist for the Denturist Association of Montana,** stated his opposition to HB 240 in its present form. He distributed written information on his concerns and changes he would like to see made to this bill. **Mr. Pratt** also read a letter from **James L. Stobie, D.D.S.** **EXHIBITS 7 & 8**

**Charles Conlan, Denturist, Butte,** wanted to be on record in opposition to HB 240. He informed the committee of the amount of education and schooling required to receive the qualifications to be a denturist; four years of college with one of those years as an intern; two years studying and working in a lab; and two years practicing under a denturist.

**Mark Rittenhouse, Denturist, Great Falls & Helena,** said he opposes HB 240 and presented written testimony. **EXHIBIT 9**

**Connie Jacques, Registered Dental Hygienist,** said she strongly opposes giving any quasi-judicial powers to the board. She said it is her opinion that this will give the board the ability to possibly abuse their rulemaking procedure. She urged the committee to give HB 240 a do not pass recommendation.

**Connie S. Jacques, RDH,** handed in written testimony of her opposition of HB 240. **EXHIBIT 21**

**Questions From Committee Members and Responses:**

**REP. PAVLOVICH** asked **Annie Bartos** if the provisions in sections 6 through 13 were approved by the Department of Commerce? **Ms. Bartos** replied they were. The department has approved this piece of legislation.

**REP. PAVLOVICH** asked **Bob Verdon** about the quasi-judicial board and why isn't there a need for an attorney on the board? **Mr. Verdon** said there are already two public members on the board. It is a nine-member board, but he said maybe they could substitute one of the lay members for an attorney member. He

said on the quasi-judicial status, the board believed it was facing prospects of litigation on a continual basis, and they wanted it set in statute that if a notion was acted on good faith in investigating complaints, they could initiate the administrative action when necessary. **REP. PAVLOVICH** asked why the board has placed a restriction on the part ownership of a dental lab? **Mr. Verdon** said the board's concern came about from a denturist who had purchased a dental practice and wanted a dentist to work in the office under the supervision of the denturist. **Mr. Verdon** said on page 11, 17 through 22, the language was intended to clarify what constitutes a lawful agreement practice, and excludes what is defined as the practice of dentistry. **REP. PAVLOVICH** asked **Mr. Verdon** if section 12 on page 15 destroys all of I-94? **Mr. Verdon** said it didn't. When I-94 passed in 1984 it gave a definition of denturist and the construction of dentures. He said section 12 indicates to him that a set of complete dentures, created by whomever, must have some written documentation that the dentures are absolutely necessary.

**REP. BACHINI** asked **Bob Verdon** if HB 240 will eliminate the denturist from practicing? **Mr. Verdon** said Section 37-29-102 (6), defines the practice of denturity as the making and fitting and altering, construction, reproducing, and repairing of a denture and the furnishing and supplying of a denture directly to a person for advising the use of a denture, giving advice, and the assistance facilitating the construction of a denture. He said there are certain matters that may concern the denturist industry, and are consistent with the Attorney General's opinions issued last year. They stated that prior referral of a partial denture patient to a dentist is not discretionary with a denturist, but it is a requirement under this section in 37-29-403 (2).

**REP. LARSON** asked **Annie Bartos** if it is normal for the many boards in the state to become quasi-judicial boards? **Ms. Bartos** said there are some boards within the Department of Commerce that are quasi-judicial boards, and are designated statutorily.

**REP. SONNY HANSON** asked **Bob Verdon** if the board would accept the committee's changes to modify the quasi-judicial board and take away the duties and powers? **Mr. Verdon** said the board is looking for the designation. If the committee feels the board is acquiring too much responsibility, more power and prerogatives because of being a quasi-judicial board, he felt that the notation of quasi-judicial in the statutes would be enough to satisfy the board and the protection against civil liability.

**REP. HANSON** asked what are the professions of the nine members on the board? **Mr. Verdon** said of the nine members there are: five members are dentists, who are appointed on a rotating basis, one dentist each year in the month of March. The first year of their five-year term, the dentist is a non-voting member to learn the details and the needs of the board; the two public members are

senior citizens; there is one denturist; and one dental hygienist.

REP. TUSS asked Dr. Conlin where the accredited school is for denturists? Dr. Conlin said they do not have an accredited school "per se" recognized by the Board of Regents. He said there is a two-year school in Oregon that trains the clinical part of denturity after the two-year course of dental laboratory technology, which is not accredited by the Board of Regents.

REP. TUSS asked if the denturists have a national licensing exam? Dr. Conlin replied he received his license here in Montana by the Board of Denturity, applied for application, took the exam and practical test. Dr. Conlin said the national is a grassroots organization and not all are licensed denturists from any particular state.

Closing by Sponsor:

REP. HAYNE closed stating the opinion by the attorney general which said that a denturist must refer a patient to a dentist prior to making a fitting or reconstructing a partial denture. She said there are only three other states with less than a majority of dentists on the board.

HEARING ON HB 339

Opening Statement by Sponsor:

REP. JERRY DRISCOLL, House District 92, Billings, said he had amendments to offer written by Paul Verdon. With the amendments, HB 339 will exempt oil refineries and public utilities from the building and electrical codes on the basic processing units in the areas of these industries that are not open to the public. He said there haven't been any inspections nor permits issued inside these industries for a number of years. The Building Codes Division and the Electrical Codes Division sent out a letter informing these industries that they will start buying permits and will have inspections in the processing units. HB 339 will place into law the past practice that has been going on for years. The bill states that these processing units can be inspected, but the amendments will not allow the divisions to force these industries to buy permits nor allow them to inspect the inside of the processing units. EXHIBITS 10

Proponents' Testimony:

Dan Edwards, International representative for Oil, Chemical and Atomic Workers International Union (OCAW), said that OCAW represents over 500 members in Montana. He said some of the members are electricians who primarily do maintenance work and install some new insulation. He said HB 339 wasn't needed, but he understood an agreement was reached out in the hallway before the committee hearing this morning. He said permits for buildings, i.e., offices, warehouses, etc. have been there and

they do not have a problem with the permits. He gave examples of the safety that already takes place in these industries and the reason this bill isn't necessary, i.e., OSHA. He said the members of OCAW do not have a problem with the amendments that are offered by REP. DRISCOLL. He requested that HB 339, if passed, be effective immediately upon approval.

**Ken Haag, P.E. Director of Public Works, Billings,** said he has been involved with HB 339 for the last year. He proposed amendments that would ensure this bill only applies to oil refineries, and to exclude the instruction of utilities that fall into certain occupancy classifications under the building codes. He said the amendments allow the utilities to practice what has been done over the last 40 years. EXHIBIT 20

**Larry Fasbender, city of Great Falls,** said Great Falls is one of the cities in Montana that is affected by HB 339 and the amendments. He said the city of Great Falls supports HB 339. He urged the committee to support this legislation.

**Ron Pletcher, Cenex Refinery, Laurel,** said that HB 339 isn't new legislation. He said it just makes official what has been the practice since the Codes were enacted years ago. EXHIBIT 12

**Leland Griffen, Refinery manager of the Montana Refining Company, Great Falls,** wanted to be on record that the Montana Refining Company supports HB 339 and the amendments.

**Fred Stiers, acting manager of Conoco Incorporated, Billings,** stated their support for HB 339 and the amendments.

**Jim Kembel, Administrator of the Public Safety Division, Department of Commerce,** said the department supports HB 339 with the amendments proposed. He said this legislation provides a solution to a problem that can't be handled administratively.

**Bill Eagan, Montana Conference of Electrical Workers (IBEW),** said that IBEW supports the bill with the amendments proposed by REP. DRISCOLL.

**Tom McNabb, Montana Technical Council,** said the council is a group of architects and engineers in Montana. He said HB 339 should only be concerned with the refineries and not the public utilities. The occupancies in the refineries are covered by the codes and are well defined, i.e., B-2 occupancy, and A occupancy under the Uniform Building Codes. Mr. McNabb said that building codes are put together to guarantee a minimum and uniform regulation of the life and safety for the people of Montana. The protection is for the public, private spaces and the work spaces that are occupied.

**Mike Harrington, Montana Power Company,** said they worked with the Department of Commerce and several of the refineries for several years and feel it impedes what the refineries want to accomplish.

He said they are agreeable to amending themselves out. He presented proposed amendments to strike public utilities.

**EXHIBIT 18**

**Ken Heikes, Billings Area Chamber of Commerce**, said on behalf of the Board of Directors of the Legislative Affairs Committee, they support HB 339 as amended.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

**REP. LARSON** asked **Tom McNabb** why other industrial complexes like the aluminum plant in Columbia Falls, Stone Container in Missoula or the refinery in East Helena are not included in this bill? **Mr. McNabb** said with the direction this bill is going, these other industries will probably come before the next legislature asking for this exemption.

Closing by Sponsor:

**REP. DRISCOLL** closed stating the amendments that were offered have been agreed upon by everyone concerned. He reiterated previous comments that HB 339 will allow the specified industries to continue their past practices.

EXECUTIVE ACTION ON HB 216

Motion: **REP. LARSON** MOVED HB 216 DO PASS.

Discussion: **REP. ELLIS** moved to adopt amendment #1. **EXHIBIT 13**

**REP. SONNY HANSON** said HB 216 does two things: 1) it eliminates the sunset provision; and 2) it extends the opportunity of the individual to file a complaint. He felt the committee should stay with the intent of the original law.

**REP. COCCHIARELLA** said the amendment takes out all of the new language, and wanted to know if the bill is dead? **Paul Verdon, Legislative Council** said there is some new language that was inserted that states "to injure or destroy competitors".

**REP. SONNY HANSON** said the termination of this bill will eliminate the sunset feature in the existing law and the bill will become permanent law.

**REP. LARSON** made a substitute motion that amendment #1 (exhibit 13) do not pass. **REP. BACHINI** called the question. Voice vote was taken. Motion carried 17 - 1 with **REP. ELLIS** voting no.

REP. PAVLOVICH moved to adopt an amendment proposed by REP. ED GRADY. Paul Verdon explained the amendment. REP. COCCHIARELLA called the question. Voice vote was taken. Motion carried 13 - 5 with REPS. SONNY HANSON, BACHINI, SIMON, MILLS AND CHAIRMAN BENEDICT voting no. EXHIBIT 19

Motion/Vote: REP. BACHINI MADE A SUBSTITUTE MOTION THAT HB 216 BE TABLED. Roll call vote was taken. Motion failed 8 - 10 with REPS. KNOX, BARNETT, BRANDEWIE, HERRON, DOWELL, TUSS, STELLA JEAN HANSEN, PAVLOVICH, COCCHIARELLA AND LARSON voting no. EXHIBIT 15

Motion/Vote: REP. PAVLOVICH MOVED HB 216 DO PASS AS AMENDED. Roll call vote was taken. Motion failed 9 - 9 with REPS. BACHINI, BARNETT, DAILY, ELLIS, MILLS, WAGNER, SIMON, SONNY HANSON AND CHAIRMAN BENEDICT voting no.

Vote: HB 216 DO NOT PASS. Motion failed 9 - 9.

EXECUTIVE ACTION ON HB 201

Motion: REP. PAVLOVICH MOVED HB 201 DO PASS.

Discussion: REP. SIMON moved to adopt an amendment proposed by Robin Young. EXHIBIT 17

The question was called. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. SIMON MOVED HB 201 DO PASS AS AMENDED. The question was called. Voice vote was taken. Motion carried unanimously.

Vote: HB 201 DO PASS AS AMENDED. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 358

Motion: REP. PAVLOVICH MOVED HB 358 DO PASS.

Discussion: REP. SONNY HANSON moved to adopt an amendment to correct an error and change "members" to "numbers" on page 1, line 16. REP. MILLS called the question. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. SIMON MOVED HB 358 DO PASS AS AMENDED. REP. BACHINI called the question. Voice vote was taken. Motion carried 15 - 3 with REPS. DAILY, STELLA JEAN HANSEN AND WAGNER voting no.

Vote: HB 358 DO PASS AS AMENDED. Motion carried 15 - 3.

EXECUTIVE ACTION ON HB 339

Motion: REP. ELLIS MOVED HB 339 DO PASS.

Discussion: Paul Verdon, Legislative Council, described the conceptual amendments. Mr. Verdon said in the title to insert "and providing an immediate effective date". On page 2, line 1, and page 3, line 5, following utilities "except any structures classified under the codes in chapters 7 & 9."

REP. COCCHIARELLA moved to adopt amendment #1. REP. SIMON called the question. Voice vote was taken. Motion carried unanimously.

REP. SONNY HANSON moved to adopt amendment #2. REP. MILLS called the question. Voice vote was taken. Motion carried unanimously.  
EXHIBIT 18

Motion/Vote: REP. COCCHIARELLA MOVED HB 339 DO PASS AS AMENDED. Voice vote was taken. Motion carried unanimously.

Vote: HB 339 DO PASS AS AMENDED. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 237

Motion: REP. BACHINI MOVED HB 237 DO PASS.

Discussion: REP. PAVLOVICH moved to adopt an amendment on page 1, line 21, to change the fee from \$50 to \$25.

REP. COCCHIARELLA said she is opposed to lowering the fee. She said there is too much disparity in the dollar amount with the people that have the \$75 permit fee for their indoor pools. The KOA didn't ask for the fee to be lowered to the \$25, just to be equally fair with the indoor pools.

REP. PAVLOVICH called the question. Voice vote was taken. Motion failed 4 - 14 with REPS. PAVLOVICH, BACHINI, DAILY AND LARSON voting aye.

Motion/Vote: REP. DAILY MOVED HB 237 DO PASS. REP. COCCHIARELLA called the question. Voice vote was taken. Motion carried 15 - 3 with REPS. DAILY, PAVLOVICH AND LARSON voting no.

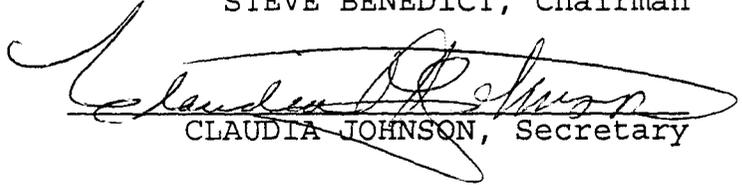
Vote: HB 237 DO PASS. Motion carried 15 - 3.

ADJOURNMENT

Adjournment: 12:55 P.M.



STEVE BENEDICT, Chairman



CLAUDIA JOHNSON, Secretary

SB/cj

HOUSE OF REPRESENTATIVES  
53RD LEGISLATURE - 1993  
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE

2-3-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HOUSE STANDING COMMITTEE REPORT

February 3, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 201 (first reading copy -- white) do pass as amended .

Signed: Steve Benedict  
Steve Benedict, Chair

And, that such amendments read:

1. Page 33, line 14.

Following: "company"

Insert: "or the Montana small business investment capital  
company"

-END-

Committee Vote:  
Yes 18, No 0.

271504SC.705

HOUSE STANDING COMMITTEE REPORT

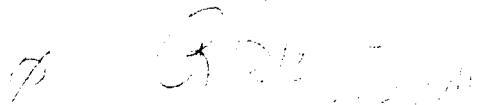
February 3, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 237 (first reading copy -- white) do pass.

Signed:   
Steve Benedict, Chair

Committee Vote:  
Yes 15, No 13.

  
271509SC.Hpt

HOUSE STANDING COMMITTEE REPORT

February 3, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 358 (first reading copy -- white) do pass as amended.

Signed:   
Steve Benedict, Chair

And, that such amendments read:

1. Page 1, line 16.  
Strike: "members"  
Insert: "numbers"

-END-

Committee Vote:  
Yes 15, No 3.

27145380.hpf

EXHIBIT 1  
DATE 2-3-93  
HB 304

WRITTEN TESTIMONY ON HOUSE BILL 304  
BEFORE THE HOUSE BUSINESS AND ECONOMIC DEVELOPMENT

Respectfully submitted by:  
Roger McGlenn, Executive Director  
Independent Insurance Agents' Association of Montana  
phone 442-9555

The original intent of the insurance consultant laws, in regards to compensation for their services, was to ensure that a consultant could not provide consulting services for a client, charge a fee, and then also write insurance policies for the client and receive a commission. This bill wishes to maintain this principle while clarifying the language in statute.

An insurance consultant must be separately licensed and may only charge a fee when it is outlined in a written memorandum, (33-17-511). In this way, an insured knows precisely what charges will be levied for specific services agreed upon in the memorandum.

Currently, there are only 50 Montana licensed consultants. Twenty-four (24) are licensed for property and casualty and twenty-six (26) are licensed for life and health. Thirty-eight (38) consultants are Montana residents and twelve (12) are non-residents.

The major reasons that the clarifications in HB-304 are being requested is primarily a property and casualty concern. More and more in today's market place, a producer who is also licensed as a consultant may sell and service one or more insurance policies to a client. The client may also be looking into self-insurance programs or other lines of insurance coverage not provided by the producer/consultant. The client may request professional advice or services which do not include the sale or service of an insurance policy that pays a commission. The consulting service requested on another line of coverage for which there is no compensation may be extensive requiring many hours of work and/or service. HB-304 would allow a consultant to enter into a written memorandum for consulting services on a line that they receive no other compensation of any kind for their professional service. This language would not prohibit the sale and service of another line of coverage to the same client receiving consulting service.

The definition of the word line as used in the bill and these comments is as follows:  
**LINE:** "A class or type of insurance (fire, marine or casualty, among others), also known as LINE OF BUSINESS."

Page 2:

As one specific example, Public Risk Insurance Management, owned by The Independent Insurance Agents Association of Montana, provides sales and service for some lines of insurance for the State of Montana. The State also self insures large lines of their risks. The State has in the past requested service in developing, or further developing, their self insured programs. Without clarification of the language in 33-17-512, Public Risk Insurance Management cannot afford to provide these services.

Another example would be if a small contractor wrote all lines, with the exception of Workers' Compensation, with a producer/consultant and wanted a potential Workers' Compensation program reviewed and recommendations made. The producer/consultant may require several hours to do a thorough review to provide a professional and sound recommendation. This clarification will allow the consultant and client to enter into a written memorandum for this service.

EXHIBIT 2  
DATE 2-3-93  
HB 240

Amendments to House Bill No. 240  
First Reading Copy

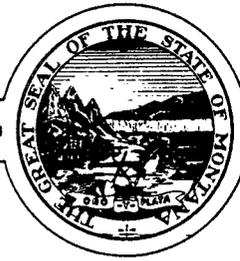
Requested by Rep. Hayne

Prepared by Sheri S. Heffelfinger  
January 20, 1993

1. Page 16, line 22.  
Following: "diagnosis"  
Strike: ", oral prophylaxis,"  
Insert: "and"
  
2. Page 16, line 23.  
Following: "preparation"  
Strike: ", and x-rays, as needed"

EXHIBIT 3  
DATE 2-3-93  
HB 240

DEPARTMENT OF COMMERCE  
PUBLIC SAFETY DIVISION



STAN STEPHENS, GOVERNOR

111 N. JACKSON

STATE OF MONTANA

HELENA, MONTANA 59620-0407

MEMORANDUM

TO: Rep. Harriet Hayne  
FROM: Robert P. Verdon, Staff Legal Counsel, Board of Dentistry  
RE: Amendments to House Bill 240  
DATE: February 1, 1993

The following are the amendments to House Bill 240 that the Board of Dentistry has determined would be appropriate:

1. Page 6, line 7.  
Following: "and may"  
Strike: "request"  
Insert: "require"
2. Page 6, lines 8 and 9.  
Following: "submit" on line 8  
Strike: remainder of line 8 through "submit" on line 9.
3. Page 6, lines 12 through 20.  
Following: "board." on line 12  
Strike: remainder of line 12 through "evaluation." on line 20.
4. Page 16, line 23.  
Following: "x-rays"  
Strike: ", as needed"

The first three amendments are designed to make the bill's provisions conform to legislation currently offered by the Board of Medical Examiners. The effect of the adoption of these two amendments would be to delete provisions allowing the Board of Dentistry to order or require a practitioner suspected of having a chemical or drug dependency to undergo a screening of bodily fluid. This obviates the need for seeking court warrants outlined in lines 12 through 20. Rather the individual suspected of having committed such malfeasance would be required to enter into physical, mental, or chemical dependency evaluations by physicians selected by the Board. Any action to suspend, revoke, or otherwise limit a license to practice under these circumstances would be subject to the same procedural protections afforded in the Montana Administrative Procedure Act.

The fourth amendment is to correct a matter that was missed in drafting. Section 37-29-403(2), MCA, was considered by the Board of Dentistry at its January and May 1992 meetings.

The deadline for proposing legislation for Department of Commerce agencies was April 10, 1992. The Board reviewed the legislation as drafted at its May meeting and asked that the Department be contacted to allow for further amendment to strike the words ", as needed" from section 37-29-403(2), MCA. I wrote a memorandum to Annie Bartos, chief legal counsel for the Department, and she phoned to say such changes would be no problem.

During the drafting stage of the legislation, however, two proposals by the Board were consolidated by the Legislative Council into one bill. In checking to determine if the bill as drafted was consistent with what the Board had proposed, I failed to note that the ", as needed" language had not been deleted. Deletion of this language is desirable because it is construed by some to mean that denturists have some discretion in the creation of partial dentures to determine whether the patient needs to be seen by a dentist. An Attorney General's opinion issued in June 1992 concluded that denturists have no such discretion and that all partial denture patients need to be seen by a dentist. This amendment to current statutory language would clear up any confusion.

# MONTANA PROFESSIONAL ASSISTANCE PROGRAM

WHEN YOU NEED  
A HELPING HAND



CONFIDENTIAL, CARING HELP  
FOR PHYSICIANS AND DENTISTS  
(406) 443-7052

Montana Professional Assistance Program  
2021 Eleventh Avenue, Suite 19  
Helena, MT 59601

EXHIBIT 4  
DATE 2-3-93  
HB 240

BULK RATE  
U.S. POSTAGE  
**PAID**  
Helena, MT 59601  
Permit No. 221

MPAP is a non-profit organization. Financial support of the program is provided by a special assessment on Medical and Dental license fees. MPAP operates in affiliation with the Montana Board of Medical Examiners, the Montana Board of Dentistry, Montana Medical Association and Montana Dental Association. MPAP wants to especially recognize the financial and in-kind service support received from the Montana Medical Association and the Montana Dental Association.

Our program has an ongoing commitment to provide educational programs and workshops to promote personal and professional wellness for all Montana Physicians, Dentists and their families. Donations by individuals, clinics, hospitals, and other entities are always welcome and encouraged to help promote educational activities of the program. Please write or call for further information.



**MONTANA PROFESSIONAL  
ASSISTANCE PROGRAM**  
2021 Eleventh Avenue, Suite 19  
Helena, Montana 59601  
406-443-7052



## YOU MAY NEED OUR HELP

"Help me, I'm in pain!" As physicians and dentists, we frequently hear this cry from our patients in our offices or in the hospital. Who hears our cry for help? On occasion, physicians, dentists and their families can suffer pain and be in need of help.

As professional healers, we continue to push our physical and mental capacities beyond our limits. We often work in a state of sustained stress. Despite our professional training, or perhaps because of it, we are prone to certain "occupational hazards" of physical and emotional stress, long hours, irregular sleep, and constant fatigue. We may then become apt candidates for drug and/or alcohol dependency, depression or other forms of impairment that can affect our practice and our families.

## WHY PROFESSIONALS NEED HELP

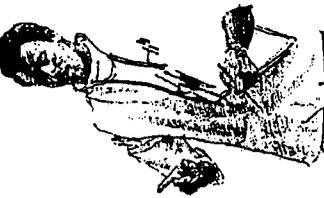
Because of professional pride, most of us are reluctant to admit that we need help or that we are experiencing difficulties in coping with our practices as the insidious disease of addiction and/or psychological impairment become obvious to others. In effect, we ignore our own physical and emotional needs. Most of us don't have to look too far to find one or more of our colleagues, or perhaps ourselves, who have a significant chance of becoming, or are in fact impaired.

Family members, significant others, office staff, and/or hospital administrators become confused about how to deal with the situation; this confusion all too often sets up a conspiracy of silence, threatening not only the depressed or chemically dependent person's life but the lives of his or her patients.

## WHEN DOES A PROFESSIONAL NEED HELP?

You may need our help if you can answer "yes" to any of the following questions:

1. Are you experiencing problems coping with patients or with the normal stress of a busy practice?
2. Do you become easily depressed, angry or abusive?
3. Do you drink more than a moderate amount or drink out of control when you do drink?
4. Do you self prescribe any mood altering drugs?
5. Are you experiencing any sexual problems — impotency or affairs?
6. Do you find yourself slowing down or over-tired?
7. Do you constantly place work ahead of personal and family needs?
8. Are you experiencing financial or legal problems, malpractice suit, divorce or DUI?



## THERE IS HOPE!

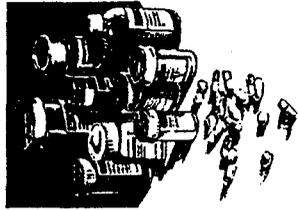
MPAP Consists of a group of physicians and dentists who are concerned about the health and well-being of our colleagues. Participants in the program work with other professionals who have experienced problems similar to their own, and learn that there are others facing difficulties who can and do recover. The program offers information and assistance in:

1. Intervention
  2. Referral
  3. After Care
  4. Drug Testing
  5. Advocacy
- Members of the program will go to the troubled professional and offer him/her appropriate treatment and a program of recovery. We refer to treatment programs known to be skilled in dealing with health professionals. MPAP offers follow-up and help for the professional and his/her family with professional groups and relapse prevention education and monitoring. MPAP keeps records of random testing to help the practitioner verify his/her recovery. The program advocates for the participant with Licensing Boards, Insurance Companies, Hospital Committees and other governing agencies.

DATE 2-3-73

MPAP's purpose is to prevent a damaged career or professional reputation by giving timely, confidential assistance and to provide insight and aid in the recovery of personal, professional and family health.

Members of MPAP accept referrals from professionals, colleagues, families of professionals, hospitals, patients, local and state Professional Practice Associations and Licensing Boards.



## IT'S UP TO YOU

If you feel that you or one of your colleagues needs help, please break the "conspiracy of silence" and call us. We can help confidentially. We know that you, personally, may not know what to do; but we do. We can help in the majority of the cases. Calls are answered by trained MPAP staff personnel during the usual working hours and by answering machine at other times; all calls will be returned by the next working day and are handled in strict confidence.

The number to remember is: (406) 443-7052



EXHIBIT 5  
DATE 2-3-93  
HB 240

**Montana Dental Association**

P.O. Box 1154 • Helena, MT 59624  
(406) 443-2061 • FAX: (406) 443-1546

Constituent: AMERICAN DENTAL ASSOCIATION

February 3, 1993

**Officers - 1992-1993**

**President**

Terry J. Zahn, D.D.S.  
690 SW Higgins Avenue  
Missoula, MT 59803

**President Elect**

James H. Johnson, D.D.S.  
2370 Avenue C  
Billings, MT 59102

**Vice-President**

Frank V. Searl, D.D.S.  
130 13th Street  
Havre, MT 59501

**Secretary-Treasurer**

Douglas S. Hadnot, D.D.S.  
Southgate Mall  
Missoula, MT 59801

**Past President**

Don A. Spurgeon, D.D.S.  
2615 16th Avenue South  
Great Falls, MT 59405

**Delegate at Large**

Roger L. Kiesling, D.D.S.  
121 N. Last Chance Gulch  
Helena, MT 59601

**Executive Director**

William E. Zepp  
P.O. Box 1154  
Helena, MT 59624

To: House Business & Economic Development Committee  
From: Bill Zepp, Executive Director  
Re: HB240

Chairperson Benedict and Members of the Committee:

My name is Bill Zepp and I am the Executive Director of the Montana Dental Association.

The Montana Dental Association, composed of 482 members representing 94% of the licensed resident dentists in the State, supports the adoption of HB240 as amended.

Thank you for your consideration and support.



EXHIBIT 6

DATE 2-3-93

HB 240

# Montana Dental Hygienists' Association

Testimony - HB 240  
February 3, 1993  
Business and Economic Development

Chairperson Benedict and Committee Members,

The Montana Dental Hygienists' Association is pleased to see that the rehabilitation program for impaired licensees will now be made available to dental hygienists. The Association chooses to address several areas of concern contained in this bill.

The Board of Dentistry is unique as we are the only board that regulates both employers and their employees. Dentists licensed in Montana out number dental hygienists by approximately 2:1, but the representation on this board is currently 5:1. As a minority, with an even smaller voice on this board, we must ask you legislators to consider our concerns. Our suggestions for amendments are attached.

1. See Page 4 - Section 4.

This section outlines the procedure for investigation of any complaint, so we find that the amended title is misleading (line 19). Further, this section (line 22) has been amended to allow for the board to refer complaints to a peer review network, which is not defined. The Dental Association has a standards review organization that is referred to as "peer review" and this wording may lead to misunderstanding. Also, if it is at the discretion of the board to choose, whose peers will be called on to investigate a complaint that is filed by a hygienist against a dentist, or vice versa. We do understand that the board may need to contract an investigator if the issue is beyond their qualifications, such as chemical dependence or mental incompetence, however this is already an accepted procedure. In an effort to avoid any conflict of interest, we believe that investigations should be conducted by a third party.

2. See Page 5 - Line 22.

The following two pages are all new language, and should be included in a "NEW SECTION" with the heading "chemically dependent or impaired condition of licensees." Following sections would be renumbered as needed.

The first sentence of this new language (line 22) states "The board may conduct an investigation if it believes that an individual... may be chemically dependent...". We question whether this means the board must have proof, or they have heard, or they suspect that a licensee may be...? The language is unclear and again undefined as to what is the appropriate procedure.

3. See Page 8 - Line 4.

The board of dentistry should be expected to comply with the Montana Administrative Procedure Act, in respect to their investigations and hearings. A licensee should be charged or a complaint should be filed prior to investigation. The request for medical records, or other evaluations should never be ordered without cause.

4. See Page 8 - New Section 5.

We support the requirement for licensees and organizations to report to the board all information indicating that a licensee is either incompetent or unprofessional. We understand that this would include complaints that are brought to the Association's peer review. However, we believe that all causes listed in 37-4-321 - Grounds for disciplinary proceedings - should be included, and similar language should be used.

We thank you for your time and consideration in these matters.

Lorrie Merrick, RDH  
MDHA President

Chris Herbert, RDH  
Legislative Chairperson

EXHIBIT 6  
DATE 2-3-93  
HB 240

MDHA Proposed Amendments to HB 240

1. Page 4, Line 19

Delete: "-- chemically dependent or impaired condition."

Page 4, Line 22

Delete: "The board, in its discretion, may refer the complaint to a peer review network. The peer review network's findings and conclusions must be referred back to the board so that the board may determine if the peer review network's findings and conclusions constitute preliminary cause to believe that a violation of 37-4-321 has occurred."

2. Page 5, Line 22

Add: " NEW SECTION. Section 5. Chemically dependent or impaired condition of licensee." Renumber all following sections.

Page 5, Line 22

Amend to read: "The board may conduct an investigation upon the receipt of a complaint alleging that an individual licensed pursuant to Title 37, chapter 4, is chemically dependent on addictive drugs, alcohol, or..."

3. Page 8, Line 4

Amend to read: "Notwithstanding any other provisions of this chapter, investigations and hearings must comply with the contested case provisions of the Montana Administrative Procedure Act."

4. Page 9 Lines 1-4

Amend to read:

- (a) physically or mentally incompetent;
- (b) guilty of malpractice;
- (c) guilty of unprofessional conduct, as defined by rule of the board; or
- (d) violating of any of the provisions of this chapter or rules or orders of the board.

EXHIBIT 1  
DATE 2-3-93  
HB 240

HB 240  
Business & Economic Development Committee  
February 3, 1993  
Testimony - Roland D Pratt

Mister Chairman 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 am hear today in opposition to HB 240 in its present form.

We have no problems with the first 5 sections of this bill but the remaining sections should be amended or they will put the Denturists out of business. They are nothing more than an attempt to destroy the provisions of I 97.

Our first objection is on page 10 lines 20-21, this restricts the Denturist form utilizing the latest techniques in dentures. Denturist cannot place implants because that is a surgical procedure but they can and do utilize implants to anchor dentures. These procedures are done in consultation with a local dentist. As a aside 2 of our members just returned for a course on implants presented by the University of Washington Dental School.

Page 11 lines 17-22 are an attempt to restrict a denturist and a dentist from having joint ownership in a dental lab. It does not restrict any other profession, businessman or company - just a denturist. These types of restrictive clauses have been found by the FTC to be anti-competitive and a restraint of trade.

On page 12 line 21 we ask "Who's peer review network?"

On page 16 lines 4-6, you must take an impression and construct the dentures prior to removal of the teeth if you want a proper fit.

Lines 9-12, these two little lines are the purpose of this bill. You cannot fit dentures with out diagnosing, evaluating and treating the temporomandibular joint. This opinion was given by the expert witness for the Board of Dentistry in a suit brought against a Denturist, in which the denturist won, and was upheld by the Montana Supreme Court. Mr Kandarian has a statement from Dr Stobie and will answer any questions you have.

Many people worked hard to pass I 97 which licensed Denturist and they are not happy that Board wishes to deny them the right to have freedom of choice in where they get their dentures and to have those dentures fit comfortably and work.

Therefore we ask that you amend HB 240 by removing Sections 6 thru 13 and amend Section 14 to reflect this action.

Thank you very much and I will be available to answer questions.

Amendments to HB 240

Page 1 Title, Line 15: Delete "Prohibiting Denturists from"  
Line 16: Delete all of line.  
Line 17: Delete all of line.  
Line 18: Delete "implants".  
Line 19: Delete all of line.  
Line 20: Delete "37-29-403".

Page 10 Line 3: Delete remained of page.  
Page 11: Delete all of page.  
Page 12: Delete all of page.  
Page 13: Delete all of page.  
Page 14: Delete all of page.  
Page 15: Delete all of page.  
Page 16: Delete all of page.  
Page 17, line 1 - 8: Delete all these lines.  
line 13 - 15: Delete all these lines

TO WHOM IT MAY CONCERN:

My name is James L. Stobie, D.D.S. I have three years of pre-dental training at Washington State University; four years of training at the University of Washington; and three years of graduate training in dentistry at the University of Texas at Houston. Since 1971, I am board certified in the specialty of prosthodontics. Prosthodontics is the specialty of dentistry that treats the replacement of missing parts in dental patients. It has three divisions: (a) maxillofacial prosthodontics involves mostly with replacement of missing parts involved in cancer surgery and trauma - involving eyes, ears, noses and missing parts of the mouth; (b) complete denture and partial denture construction; and (c) fixed prosthodontics relating to crowns and bridge work and occlusal reconstruction.

While I have practiced in all three divisions, I work primarily in the later two divisions. I am licensed to practice in the States of Washington, New Mexico and Montana. I have practiced in Montana since 1978.

On April 22, 1987, I was selected by the Montana Board of Dentistry as its expert in a suit filed against R. Brent Kandarian. I sat for a deposition conducted by Mr. Kandarian's attorney James C. Bartlett. At that time I was the only board certified prosthodontist in Montana. I had represented the Board of Dentistry in other investigations prior to April 22, 1987.

Mr. Kandarian had advertised TMJ evaluations.

At the deposition I gave the following answers and opinions:

"BARTLETT: And to you have an opinion about that ad?

ANSWER: I really don't have any objection to the listing of TMJ evaluations. I think it's within the scope of —if he's doing denture construction that he needs to evaluate the TMJ.

BARTLETT: Why would he need to do that?

ANSWER: Why would he have to do TMJ evaluation?

BARTLETT: Yes.

ANSWER: You have to evaluate if there [are] problems in the temporomandibular joint to fabrication of dentures, just as he'd have to evaluate the tissues and oral hygiene and any other thing about the patient.

BARTLETT: Do you have an opinion as to whether or not that advertisement then is practicing dentistry without a license?

ANSWER: I don't think it is, no.

BARTLETT: Do you believe that the advertisement would be permissible in order to practice dentistry? \* \* \*

ANSWER: Yes. I have no objection, or I don't feel that this is objectionable to be listing TMJ evaluations in the advertisement unless he's treating other than denture patients.

BARTLETT: As long as he's treating a patient who needs partials or full dentures, it would be permissible, in your opinion, for a dentist to advertise TMJ evaluations?

ANSWER: Yes. And, In fact, it is probably mandatory for him to evaluate the TMJ.

BARTLETT: Why do you feel it's mandatory for a dentist to do a TMJ evaluation?

ANSWER: Well, in the event that a patient had degenerative joint changes, then it would be his duty to refer that patient to somebody that could do a more definitive diagnosis of the problem, I would think.

\* \* \* \* \*

BARTLETT: You've seen Mr. Kandarian's answers to the request for admission, have you not?

ANSWER: Yes.

BARTLETT: On question number nine, he answers that in performing work for partial or full dentures it is necessary to obtain occlusion; is that correct?

ANSWER: That's correct.

BARTLETT: Then he says, "To make sure occlusion has occurred, it is appropriate and proper to conduct a TMJ evaluation." Do you agree with that?

ANSWER: Yes, I do.

BARTLETT: Then he says, "There must be contact between the teeth of the upper jaw and the lower jaw when the mouth is closed in the natural position and when the jaws are in the process of chewing." Is that correct?

ANSWER: Well, not technically. It's not necessary to have contact between the teeth of the upper jaw and the lower teeth

when the mouth is closed. In fact, in the natural relaxed position, the teeth are apart.

BARTLETT: There's a space.

ANSWER: Yes.

BARTLETT: And the only time that you really put the teeth together is when you press down; is that correct?

ANSWER: Close your jaws, yes, or you swallow, um-hum.

BARTLETT: And if you don't have occlusion correctly, when you would do that then you're going to cause —

ANSWER: Displacement of the joints, yeah.

BARTLETT: He also states in that answer, "In denturistry, there are occasions for occlusal adjustment." Is that true?

ANSWER: Yes.

BARTLETT: How does one make occlusal adjustment, physically, on the person's — inside the person's mouth?

ANSWER: Well, I'm assuming he's talking about dentures again and partial denture — He would grind upon the occlusal surfaces of those teeth on the denture or the partial.

\* \* \* \* \*

BARTLETT: Who else would have that right to make TMJ evaluations, in your opinion? What other professionals?

ANSWER: I think physicians have a responsibility in this area. I think physical therapists are making judgments in this area. chiropractors.

BARTLETT: Denturists?

ANSWER: Surely, um-hum.

\* \* \* \* \*

BARTLETT: Is it possible to fit partials or full dentures and not do a TMJ evaluation?

ANSWER: It's possible, not recommended.

BARTLETT: If a dentist or a denturists did so, fit partials or fulls without doing a TMJ evaluation, in your opinion, would that

be misfeasance or malfeasance by that individual?

ANSWER: Yes.

\* \* \* \* \*

BARTLETT: Is there a fine line between the practice of dentistry and the practice of denturistry, in your opinion, in regard to TMJ evaluations?

ANSWER: No, I don't perceive any, other than I guess I would have to qualify that to say that I would question a dentist's ability to interpret x-rays of degenerative conditions of the joint. But the common evaluations that all of us make, I would assume that there would be no distinction.

BARTLETT: As long as a dentist then is seeking functional occlusion when he's doing a partial or a full denture, he's within his own realm.

ANSWER: Yes, I agree.

I understand that this document will be presented to or read to a legislative committee considering a bill to restrict or prevent evaluations of the TMJ by denturists.

I stand by my opinions expressed above.

Dated this 29 day of January, 1993.

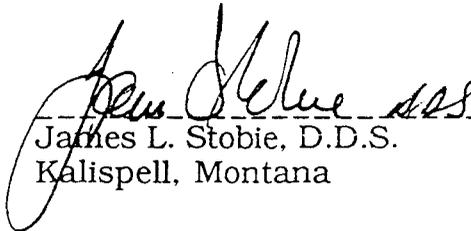
  
-----  
James L. Stobie, D.D.S.  
Kalispell, Montana

EXHIBIT 9  
DATE 2-3-93  
HB 240



**Denture Care  
Clinic**

**"Your Choice for Quality Denture Care"**

**Mark Rittenhouse, Denturist**  
2509—7th Avenue South  
Lincoln Medical Court  
Great Falls, MT 59405  
In MT. Toll Free 1-800-541-6453  
Telephone 406/453-5808

February 3, 1993

Business and Economic Development Committee  
Helena, Montana 59620

RE: House Bill 240

Dear Chairman and Committee Members:

My name is Mark Rittenhouse. I am a licensed denturist who is currently practicing in Great Falls and East Helena. Before moving to Montana, I practiced in Canada and served as a delegate to Canada's National Denturist Association. I helped to write legislation which established denturistry as a legitimate and acknowledged profession in several provinces.

In 1984, through initiative petition, Montana's voters demanded the right to receive denturists' services. At that time, a board of denturistry was established. That board has since been dissolved, due to the low number of denturists licensed in Montana. Since the board of denturistry was dissolved, denturists have been governed by the board of dentistry.

Since that time, the board of dentistry has blatantly restricted the practice of denturistry. The board of dentistry, in addition to making repeated changes to the legislation which concerns denturists, has adopted biased interpretations of the existing legislation. One of the frequent ploys used by the board of dentistry is to suggest that denturists need prescriptions, referrals, or advice from dentists before making or fitting partial dentures. This is in direct contrast to the original provision of the legislation concerning denturists.

House Bill 240 represents yet another obvious attempt by the board of dentistry to lessen the realm of the denturists' practice. It is little wonder that the denturists resist

this effort to give the board of dentistry more power to use against the profession of dentistry. The board of dentistry has adopted the position that denturists are not needed in Montana. They have used every means at their disposal to inhibit and intimidate Montana's denturists. As the board of dentistry continues its battle against the profession of dentistry, many of Montana's dentists have become increasingly concerned with the board's growing power.

Several dentists have told me personally that they were warned by the board of dentistry not to cooperate with any denturist. In spite of this, the board of dentistry continues to push for legislation which requires written prescriptions or models from dentists to denturists. Surely anyone can see that if the board of dentistry succeeds in intimidating the dentists who want to work with denturists, and then passes legislation restricting denturists from working without authorization from dentists, only one end can result--the end of dentistry as a profession.

In spite of these and other inequities, Montana's denturists have attempted to satisfy the board of dentistry's demands. Personally, I work with a dentist in East Helena twice weekly. The proximity of the dentist simplifies the task of meeting the board's increasingly complex requirements. In promoting House Bill 240, the board suggests that certain business relationships between dentists and denturists are inappropriate. It is difficult to understand how the board can attempt to restrict working relationships between dentists and denturists while pretending to promote these same relationships.

As a denturist, I realize that patients' best interests are served by professionals working together in a relationship of mutual respect. Long before the board of dentistry mandated dental prescriptions for denturists' services, I referred patients to dentists for preliminary evaluations. I refer patients to dentists continually and receive referrals equally often. I spend several hours each week talking to dentists and physicians about specific patients' needs, and working toward the best possible treatment plans. However, I believe that professional relationships must be established on a basis of equality, not legislation.

I request that this committee recognize the motivation behind the board of dentistry's attempts to curtail the practice of dentistry. Ever since Montana's voters demanded their right to choose denturists' services, the board of dentistry has chipped away at patients' rights to receive those services. Both dentists and denturists are ill-served by this power struggle. In the end, however, it is the patient who suffers most. The patient must pay for needless office visits just to satisfy bureaucracy.

I ask you not to accept House Bill 240 as it is written. Support the denturists in their fight to retain their professional integrity in the face of overwhelming prejudice. Vote in favor of House Bill 155, which reinstates the board of denturistry. I ask you to protect the rights of Montana's denturists and voters.

Sincerely,



Mark Rittenhouse,  
Licensed Denturist

EXHIBIT 9  
DATE 2-3-93  
HB 240

EXHIBIT 10  
DATE 2-3-93  
HB 339

Box 158. Whitefish. Montana 59937 (406) 862-2640



# 313

February 2, 1993

Representative Steve Benedict, Chairman  
House Business & Economic Development Committee  
Capitol Station  
Helena, MT 59620

RE: House Bill 339

Dear Representative Benedict:

As I understand HB 339, refineries and public utilities buildings would be exempt from permits and inspections.

As a Building Official I am opposed to HB 339 for several reasons.

The Building Code ( and its companion codes) is the standard which provides a minimum level of safety, health and sanitation to employees that work in a building as well as the public that visits that building. Further, "building to code" helps produce buildings that have a longer life span and therefore helps protect the owner's investment.

We know based on our experience that which is inspected is more likely to get done than that which is expected. Public safety is likely to suffer when it is to ones economic advantage to reduce or eliminate fire walls, required exits, fire sprinkler systems, etc.

The permitting and inspection process is a suitable mechanism to guide architects and engineers to design to, and contractors to build to, a uniform standard. Permitting and inspection services will help us all work to provide for public safety and preservation of capitol investments.

Sincerely,

*Jerry Quinn*  
Jerry Quinn,  
Building Official

JQ/mjc

Post-it™ brand fax transmittal memo 7671		# of pages	1
To	Steve Benedict	From	Jerry Quinn
Co.	Economic Development	Co.	City of Whitefish
Dept.		Phone #	962 2640
Fax #	444 4105	Fax #	962 5645

# The City of Kalispell

Incorporated 1892

Telephone (406)752-6600  
Fax: (406)752-6639  
PO Box 1997  
Zip 59903-1997

EXHIBIT 10  
DATE 2-3-93  
HB 339

Building Department

February 2, 1993

Douglas Rauthe  
Mayor

Bruce Williams  
City Manager

City Council  
Members:

Gary W. Nystul  
Ward I

Cliff Collins  
Ward I

Barbara Moses  
Ward II

Fred Buck  
Ward II

Jim Atkinson  
Ward III

Lauren Granmo  
Ward III

Pamela B. Kennedy  
Ward IV

M. Duane Larson  
Ward IV

Craig Kerzman  
Building Official

Brian Wood  
Zoning Administrator

Dwain Elkins  
Building Inspector

William (Bill) Muller  
Building Inspector

Representative Steve Benedict, Chairman  
House Business & Economic Development Committee  
Capitol Station  
Helena, MT 59620

Re: House Bill 339

Dear Representative Benedict:

As I understand HB 339, refineries and public utilities buildings would be exempt from permits and inspections.

As a Building Official I am opposed to HB 339 for several reasons.

The Building Code (and its companion codes) is the standard which provides a minimum level of safety, health and sanitation to employees that work in a building as well as the public that visits that building. Further, "building to code" helps produce buildings that have a longer life span and therefore helps protect the owner's investment.

We know based on our experience that that which is inspected is more likely to get done than that which is expected. Public safety is likely to suffer when it is to ones economic advantage to reduce or eliminate fire walls, required exits, fire sprinkler systems, etc.

The permitting and inspection process is a suitable mechanism to guide architects and engineers to design to, and contractors to build to, a uniform standard. Permitting and inspection services will help us all work to provide for public safety and preservation of capitol investments.

Sincerely,



Craig A. Kerzman  
Building Official



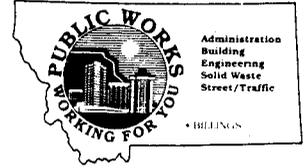
# CITY OF BILLINGS

EXHIBIT 11  
DATE 2-3-93  
HB 339

PUBLIC WORKS DEPARTMENT  
Administration Division

510 North Broadway-4th Floor  
Billings, Montana 59101  
Office (406) 657-8230  
Fax (406) 657-8252

February 2, 1993



House Business & Industry Committee  
Capital Station  
Helena, MT 59624

**RE: HOUSE BILL #339**

As Public Works Director for the City of Billings I am offering this as testimony that the City of Billings supports House Bill #339 with amendments. We would request that the committee seriously consider amendments which would provide the following:

1. The bill should be amended to assure that it only refers to oil refineries.
2. The bill should be amended to exclude only the construction on refineries and public utility facilities that do not fall into a B2 classification as defined in the uniform building code. This B2 classification includes offices, warehouses, etc.
3. The bill should be amended to provide an immediate effective date.

The provisions of the bill as amended would actually legalize what the City of Billings and the Conoco and Exxon Oil Refineries have been doing for the past number of years. History has shown that this is a very workable method of handling building permitting and inspection on the refinery grounds and that the public health, safety and welfare of the citizens of Billings and the State of Montana is not compromised by this process. The City Building Staff has met with project managers at both the Exxon and Conoco Refineries and walked through the process that both of these facilities use in developing their projects. With the exception of B2 occupancy buildings as defined above, we find that the building permit and inspection process would accomplish nothing that is not already being done by compliance with various state and federal regulations. Thus the local permitting and inspection process would prove redundant and only serve to slow up project development.

We have also worked with these refineries on previous buildings which fall into the B2 occupancy classification. We feel that we can offer a certain amount of expertise and review on these buildings which may not be covered under federal regulations. Thus we would request that these buildings remain under the provision of the building, fire, and electrical code.

EXHIBIT 11  
DATE 2-3-93  
HB 339

House Business & Industry Committee  
February 2, 1993  
Page 2

We feel strongly that these type of buildings should also be covered on public utility projects. I can point to examples of downtown office buildings for US West and regional service centers for Montana Power Company that have benefitted by local review and permitting. Since these type of facilities clearly impact the City's fire service, and ability to control buildings, they should be covered under the building codes. The proposed amendments would accomplish this.

Thank you for this opportunity to provide this testimony.

Sincerely,



Ken Haag, P.E.  
Director of Public Works

KH:tlr

Testimony of <sup>Mr. Chairman & Members of the Committee</sup> Ronald E. Pletcher, Manager, Cenex Refinery 12

EXHIBIT

DATE 2-3-93

HB 339

Comments in support of this legislation -

As many of you know, CENEX is a regional farm cooperative which has, for fifty years, owned and operated the Laurel Refinery.

HB 339 is not really "new" legislation. Instead, it simply makes official what has actually been the practice in the State of Montana since the Codes were enacted. Historically, neither the State or any city administering the state codes, has issued permits for industrial installations, other than offices and warehouses, related to process equipment in refineries. More importantly, this common practice of non-enforcement has not created a problem.

The Montana Legislature has already properly exempted installations in refineries from application of the State plumbing code. ~~The reason here is obvious, since it makes little sense to hold the complex system of piping in these plants to a standard really developed for habitable buildings.~~ It is also reasonable to extend this limitation to the state building and electrical codes. Such a limitation would be consistent with the purposes of the codes, which clearly indicate they were to regulate habitable buildings and ~~did not contemplate specialized refining installations.~~ occupied

Industrial facilities such as refineries have long utilized specific industry standards which are generally more stringent than the uniform building code and that address the highly specialized hazards of our industry. Compliance with those standards is provided by federal regulation administered by OSHA, and is continuously reviewed by insurers having millions of dollars at risk.

HB 339 will continue to allow the affected industries to respond quickly to changing circumstances in their complex facilities, and permit the continued use of their in-house skilled craftsmen, familiar with the unique hazards of these plants, to do the jobs they have always done. Failure to pass 339 will result in redundant, unnecessary regulation, with no benefit to the public and to the detriment of the affected industries and their employees.

CENEX is not opposed to amendments to this bill which <sup>would</sup> ~~could~~ retain permitting requirements in refineries for offices and warehouses, but would oppose amendments which would subject the legislation to ~~the~~ inconsistent interpretation and application of the rules which have necessitated our being ~~here today~~ <sup>here today</sup>. ~~for example, use of the term "process equipment" is too vague~~

Structures identified in Group B-2 of the 1991 UBC, i.e. offices, etc.

We would also like to recommend that this legislation become effective upon passing, removing any inequities that might arise as a result of project timing.

EXHIBIT 13  
DATE 2-3-93  
~~HB~~ 216

Amendments to House Bill No. 216  
First Reading Copy

Requested by Representative Ellis  
For the Committee on Business and Economic Development

Prepared by Paul Verdon  
February 2, 1993

1. Title, lines 5 and 6.  
Following: "LAW" on line 5  
Strike: the remainder of line 5 through "OR" on line 6  
Insert: "BY PROHIBITING THE"
2. Title, line 7.  
Following: "COST"  
Strike: "IS PRIMA FACIE EVIDENCE OF INTENT"  
Insert: "IF THE EFFECT IS"
3. Title, lines 8 and 9.  
Following: "COMPETITORS" on line 8  
Strike: remainder of line 8 through "COMPETITION" on line 9
4. Page 1, line 24.  
Page 2, line 6  
Following: "to"  
Insert: "injure or destroy competitors or to"
5. Page 3, line 23, through page 4, line 1.  
Strike: "(8)" on page 3, line 23, through "competition." on page  
4, line 1.

EXHIBIT 14  
 DATE 2-3-93  
 HB 216

HOUSE OF REPRESENTATIVES  
 53RD LEGISLATURE - 1993  
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE  
 ROLL CALL VOTE

DATE 2-3-93 BILL NO. HB 216 NUMBER \_\_\_\_\_

MOTION: Rep Sonny Hanson. Moved to adopt  
Amendment #2. In the title li 5+6  
See Exhibit 13

NAME	AYE	NO
REP. ALVIN ELLIS	✓	✓
REP. DICK KNOX		✓
REP. NORM MILLS	✓	
REP. JOE BARNETT	✓	
REP. RAY BRANDEWIE		✓
REP. JACK HERRON		✓
REP. TIM DOWELL	✓	
REP. CARLEY TUSS		✓
REP. STELLA JEAN HANSEN		✓
REP. BOB PAVLOVICH		✓
REP. VICKI COCCHIARELLA		✓
REP. FRITZ DAILY	✓	
REP. BOB BACHINI	✓	
REP. DON LARSON		✓
REP. BRUCE SIMON	✓	
REP. DOUG WAGNER	✓	
REP. SONNY HANSON, VICE CHAIRMAN		✓
REP. STEVE BENEDICT, CHAIRMAN	✓	
	9	9

EXHIBIT 15  
 DATE 2-3-93  
 HB 216

HOUSE OF REPRESENTATIVES  
 53RD LEGISLATURE - 1993  
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE  
 ROLL CALL VOTE

DATE 2-3-93 BILL NO. HB 216 NUMBER \_\_\_\_\_

MOTION: Rep Bachini Made Substitute Motion  
to table HB 216

Motion Failed 8-10

NAME	AYE	NO
REP. ALVIN ELLIS	✓	
REP. DICK KNOX		✓
REP. NORM MILLS	✓	
REP. JOE BARNETT		✓
REP. RAY BRANDEWIE		✓
REP. JACK HERRON		✓
REP. TIM DOWELL		✓
REP. CARLEY TUSS		✓
REP. STELLA JEAN HANSEN		✓
REP. BOB PAVLOVICH		✓
REP. VICKI COCCHIARELLA		✓
REP. FRITZ DAILY	✓	
REP. BOB BACHINI	✓	
REP. DON LARSON		✓
REP. BRUCE SIMON	✓	
REP. DOUG WAGNER	✓	
REP. SONNY HANSON, VICE CHAIRMAN	✓	
REP. STEVE BENEDICT, CHAIRMAN	✓	
	8	10

EXHIBIT 116  
 DATE 2-3-93  
 HB 216

HOUSE OF REPRESENTATIVES  
 53RD LEGISLATURE - 1993  
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE  
 ROLL CALL VOTE

DATE 2-3-93 BILL NO. HB 216 NUMBER \_\_\_\_\_

MOTION: Rep Pavlovich Moved HB 216 DPAA.  
Motion Failed 9-9

NAME	AYE	NO
REP. ALVIN ELLIS		✓
REP. DICK KNOX	✓	
REP. NORM MILLS		✓
REP. JOE BARNETT		✓
REP. RAY BRANDEWIE	✓	
REP. JACK HERRON	✓	
REP. TIM DOWELL	✓	
REP. CARLEY TUSS	✓	
REP. STELLA JEAN HANSEN	✓	
REP. BOB PAVLOVICH	✓	
REP. VICKI COCCHIARELLA	✓	
REP. FRITZ DAILY		✓
REP. BOB BACHINI		✓
REP. DON LARSON	✓	
REP. BRUCE SIMON		✓
REP. DOUG WAGNER		✓
REP. SONNY HANSON, VICE CHAIRMAN		✓
REP. STEVE BENEDICT, CHAIRMAN		✓
	9	9

EXHIBIT 17  
DATE 2-3-93  
HB 201

Proposed Amendment  
House Bill 201

The Montana Small Business Investment Company would like to request an amendment to House Bill 201 as follows:

Page 38, Section 26, line 14 & 15

Section 32-1-422, (2) (c), MCA,

Current language:

(c) shares of stock in a Montana capital company within limits prescribed by the Montana Capital Company Act.

Proposed language:

(c) shares of stock in a Montana capital company or the Montana small business investment capital company within limits prescribed by the Montana Capital Company Act.

Reason:

When the Montana Capital Company Act was amended during the 1991 Legislative session to create the Montana small business investment capital company, this change in the statute was inadvertently missed. The change is necessary to allow state chartered banks the same right to invest in the Montana Small Business Investment Company (MSBIC) that nationally chartered banks will have. The organizers of the MSBIC expect that a significant portion of their capital will come from investments by banks.

EXHIBIT 18  
DATE 2-3-93  
HB 339

PROPOSED AMENDMENTS TO HB 339

Page 2, line 1, following "refineries" strike "or public utilities".

Page 3, line 5, following "refineries" strike "or public utilities".

§ Title

EXHIBIT 19  
DATE 2-3-93  
HB 216

Amendments to House Bill No. 216  
First Reading Copy

Requested by Representative Grady  
For the Committee on Business and Economic Development

Prepared by Greg Petesch  
January 27, 1993

1. Page 1, line 24.  
Following: "to"  
Insert: "injure or destroy competitors or to"
  
2. Page 2, line 6.  
Following: "to"  
Insert: "injure or destroy competitors or to"

EXHIBIT 20  
DATE 2-3-93  
HB 216

**Analysis  
of the Impact  
of  
HB 538 - A Below Cost Selling Prohibition  
on  
Retail Gasoline Prices  
in Montana**

January, 1993

## Executive Summary

### The Statute

In April, 1991, the Montana legislature enacted House Bill 538, which prohibited wholesalers and retailers from selling gasoline below cost as defined in the statute. "Cost" in this context includes not only the acquisition cost of the product, but all the wholesaler's or retailer's costs incurred in the conduct of business. The law prohibits below cost sales if the effect is to injure or destroy competition or substantially lessen competition. It also exempts from this prohibition those sales "made in good faith to meet the price of a competitor .."

### Study Methodology

The impact of this statute was evaluated by comparing the movement of retail prices for unleaded regular grade gasoline in Billings, MT, with those in Cheyenne, WY. The period examined was January, 1990, through December, 1992. Since Montana's excise tax of about 21 cents per gallon is more than twice Wyoming's, which is only 9 cents per gallon, these prices were compared on an ex-tax basis. Data on a monthly basis was obtained from the Lundberg Survey.

### Study Results

Examination of the data showed that retail prices, exclusive of all taxes, declined in both cities. However, their decline in Cheyenne, WY, which is not subject to a gasoline specific below cost selling statute, was greater than their decline in Billings. Retail prices in Cheyenne, represented by self-service unleaded regular cash prices declined by 2.8 cents per gallon more than the decline experienced in Billings.

### Conclusion

While many factors may have an impact on gasoline prices, the enactment of HB 538 could be viewed as costing the motorists of the state 2.8 cents per gallon. Applied to the 329 million gallons of gasoline sold in the state in 1991, this equates to \$9 million per year in higher prices.

## Impact of Montana House Bill 538

### Background

In April, 1991, Montana enacted House Bill 538, which prohibited selling gasoline below cost at either the wholesale or retail levels.<sup>1</sup> The statute defines "cost", to include not only the acquisition cost of the gasoline to the wholesaler or retailer, but that merchant's costs incurred in the conduct of business. The statute provides a list of examples of such costs, but clearly states that it is not all inclusive.

Once costs are defined, the statute establishes which sales are prohibited. Essentially, both wholesalers and retailers are prohibited from making any sale at a price which is less than the delivered cost of the motor fuel plus the cost of doing business if the effect is to injure or destroy competition or substantially lessen competition.<sup>2</sup>

Several types of sales are exempted from this prohibition including isolated transactions, clearance sales, damaged goods sales, sales on final liquidation of the business, sales under the direction of a court, and finally, sales made in good faith to meet the price of a competitor who is selling the same or a similar product of like grade and quantity. Further, sales between wholesalers are not required to include the cost of doing business.

The statute may be enforced by either the state Department of Justice, the appropriate County Attorney or by a person injured as a result of a violation through a civil action.

### Study Methodology

To determine whether or not this statute has had an impact on the retail price of gasoline in Montana, it was first necessary to determine what pricing data is available for the state and whether or not similar data is available for a "control state" likely to experience or have experienced similar market conditions during the study period. Pricing data needed to be

---

<sup>1</sup> In a practical sense, the statute effectively excludes most refiners from its price regulation through the definition section. Refiner's delivered cost of motor fuel is defined as the refiner's posted rack price to the wholesale class of trade. Since most of the gasoline supplied by refiners in the state is sold to wholesalers at this price on an FOB basis, it would be exceedingly difficult for a refiner to violate the below cost selling prohibition.

<sup>2</sup> The statute also prohibits a wholesaler from transferring motor fuel to itself or an affiliate for sale at a retail outlet at a price lower than the price the wholesaler charges another retail motor fuel outlet that purchases like quantities within the same competitive area if the effect is to injure or destroy competition or substantially lessen competition.

available on a relatively consistent basis for a significant period of time before and after the April, 1991, enactment of the statute.

The only retail pricing data found to be consistently available in Montana was that collected from the Billings market by the Lundberg Survey, Incorporated, a well respected industry source of such data. Lundberg also collects retail pricing data in Wyoming from the Cheyenne market. This data was selected as a control against which to measure the change in Billings prices. Since Cheyenne is largely supplied from the same sources as the Billings market, any supply anomalies should have relatively the same impact on both sets of data<sup>3</sup>.

In order to make the analysis manageable, only one retail price data point was used for each month. The retail prices used were the averages collected by Lundberg for the lowest self service regular unleaded gasoline offering. Since Lundberg collects prices twice monthly in Billings, but only once per month in Cheyenne, the single Billings average price corresponding to the Cheyenne data point was used.

However, the raw data had to be adjusted to account for the large difference in state excise taxes. Wyoming's excise tax over the period was about 9 cents per gallon while Montana's was about 21 cents per gallon. In order to make the data comparable, both states' excise taxes, as well as the Federal excise tax, were subtracted from the retail observations reported by Lundberg.<sup>4</sup>

Once the data was collected, the researchers looked at the average retail prices in Billings and Cheyenne both before and after the enactment of the below cost selling prohibition. Plots of these price observations are shown in the attached chart, while a summary of the average retail prices before and after enactment of the statute is shown below:

---

<sup>3</sup> Prior to April, 1991, both Wyoming and Montana had substantially identical statutes prohibits selling any product below cost. The Wyoming statute was originally enacted in 1937 and the Montana law in 1947. Proponents of Montana HB 538 maintained that the existing statute did not provide them with adequate protection. Further, generic prohibitions such as this are not generally vigorously enforced. Thus since both pre-1991 statutes are identical, neither is likely to have had any impact on gasoline prices.

<sup>4</sup> Montana's excise tax was 21 cents per gallons between 1/1/90 and 6/30/91, 20.75 cents per gallon between 7/1/91 and 10/31/91, 20 cents per gallon between 11/1/91 and 8/31/92 and 21.4 cents per gallon between 9/1/92 and 12/31/92. Wyoming's excise tax was a constant 9.01 cents per gallon for the period 1/1/90 to 12/31/92.

EXHIBIT 20  
DATE 2-3-93  
HB 216

	<u>Retail Price Comparisons</u>		
	<u>Pre-enactment Average</u>	<u>Post-enactment Average</u>	<u>Increase/ (Decrease)</u>
Billings, MT	89.3	83.3	(6.0)
Cheyenne, WY	87.6	78.8	(8.8)

### Analysis & Conclusion

The data clearly indicates that retail prices were lower in both markets in the post-enactment period than they were in the pre-enactment period. However, the ex-tax retail prices in Cheyenne declined by 8.8 cents per gallon, a 2.8 cent per gallon or 31% greater decline in retail prices than the 6 cents per gallon drop experienced in Billings.

Thus, the data indicates that the passage of HB 538 is likely to have been at least part of the reason that Billings' retail prices were not as competitive (i.e. did not experience as sharp a decline) as did Cheyenne's. If this is the case, then Montana motorists have been paying as much as 2.8 cents per gallon (the difference between the declines in the retail prices in the two cities) more than Wyoming motorists as a result.

If this increase in costs is applied to the 329 million gallons of gasoline sold in the state in 1991, then Montana motorists paid \$9 million in higher gasoline prices as a result of House Bill 538.

DMS  
023  
1/18/92

Distributed by Exxon Co. USA  
Bill Dermott

EXHIBIT 21  
DATE 2-3-93  
HB 240

CONNIE S. JACQUES, RDH  
416 NORTH EWING  
HELENA, MONTANA 59601

---

February 3, 1993

Business and Economic Development Committee  
House of Representatives  
Montana State Legislature

RE: HB 240

For the record, my name is Connie Jacques. I am a licensed registered dental hygienist in Montana, recently retired. I have worked in the dental community since 1964, as a dental assistant (prior to college), a dental hygienist, and as an instructor of clinical skills at Carroll College for three years. I have been active in my local, state, and national dental hygiene association for several years. Today, I am here representing myself, primarily to voice a strong objection over the section in this bill which gives **quasi-judicial powers** to this Board (Board of Dentistry). In my personal opinion this would give the Board of Dentistry the ability to possibly abuse their rule making procedure. Currently, there is one area of concern that I have... namely the fact that the Board has passed rules in regard to delegating the function of "coronal polishing" to unlicensed dental assistants, which I feel is currently against Montana statute (37-4-408) of delegating a prophylaxis to auxiliaries. A prophylaxis is a function only allowed by dental hygienists, or dentists. **PLEASE SEE ENCLOSED HANDOUT, REGARDING INFORMATION ON CORONAL POLISHING VS. PROPHYLAXIS, AS OUTLINED IN THE LEGAL OPINION OF JOHN SCHONTZ, DATED NOVEMBER 4, 1992.**

I have recently filed a lengthy complaint against 'eight Montana dentists which is pending business before the Board (in regards to this rule change). My complaints have been met by the community of those in the dental association as unsubstantiated hearsay. I have been accused of harassing the dentists named in the complaint, as well as harassing the Board of Dentistry. Yet, this IS the proper avenue to evaluate and investigate legitimate complaints within the system currently in place.

My feelings about rule making in this instance are that the Board has adopted rules, which, in my opinion, and in the opinion of the legal advisors I have consulted, are in direct conflict with statute. If this Board is given quasi-judicial powers--it could open the back door to subsequent rules which unless, and until are challenged in the district courts, will also be adopted.

I would also like to voice my concern about the **proposed peer**

Jacques HB 240  
PAGE 2

**review.** In theory, it seems to streamline the work and investigation of the Board, but in reality, what it could do is relieve the board of its OBLIGATION to regulate the statutes, and hand the duty over to an un-named entity, which could be more self serving than serving the public. I believe the working of the board regarding complaints should be done by the Board--not by the dental profession associations.

As a final comment, I would like to say that I am disappointed in the slide show display, and testimony directed against the denturists. The denturists exist to serve a segment of our population who desire their services. I don't feel these people want to be dentists, only denturists. My own mother went to denturist about three years ago in Billings to get dentures, and she is totally satisfied.

In closing, it is my hope as a citizen of Montana, that this legislative body serves to listen to all parties--and that I stand before you today in all sincerity and honesty, believing that all will be treated fairly and equitably. Thank-you.

A handwritten signature in black ink that reads "Connie S. Jacques RDH". The signature is written in a cursive style with a horizontal line underneath.

Connie S. Jacques, RDH  
416 No Ewing  
Helena, MT 59601  
442-7964

STATE AUDITOR  
STATE OF MONTANA

REC'D NOV 06 1992



Andrea "Andy" Bennett  
STATE AUDITOR

COMMISSIONER OF INSURANCE  
COMMISSIONER OF SECURITIES

November 4, 1992

EXHIBIT 22  
DATE 2-3-93  
HB 240

The Montana Board of Dentistry  
Arcade Building, Lower Level  
111 North Jackson  
Helena, MT 59620

RE: Proposed amendment to ARM 8.16.602

To Whom it May Concern:

The Montana Insurance Department hereby submits comments regarding the proposed rule change to ARM 8.16.602 and asks that these comments be entered into the record.

The current rule, 8.16.602 "ALLOWABLE FUNCTIONS FOR DENTAL HYGIENISTS AND DENTAL AUXILIARIES" states under Subsection (3):

Allowable functions permitted for dental assistants practicing under the direct supervision of a licensed dentist without expanded duty training shall be the traditional duties allowed by custom and practice, including, but not limited to

Subsection (m) states:

coronal polishing at the direction of the dentist, that is not identified as, or submitted for payment as, a prophylaxis. As use herein, "coronal polishing" means a procedure limited to the removal of plaque and stain from the exposed tooth surfaces, utilizing an appropriate polishing mechanism and polishing agent. No dentist shall allow a dental assistant to practice coronal polishing until the dental assistant has successfully completed a course of instruction approved by the board. This rule will be effective July 1, 1990.

"Prophylaxis" is defined in 8.16.602(11) as

the removal of accumulated matter, deposits, accretions or stains from the natural and restored surfaces of exposed teeth which may include root planing and soft tissue curettage as ordered by the dentist.

The Montana Board of Dentistry  
Page 2  
November 4, 1992

**Comments on the proposed rule change:**

The Montana Department of Insurance has the following comments on the proposed rule:

1. The proposed rule strikes the definition for the word "coronal polishing." Since coronal polishing is not defined in the proposed rule, there may be confusion as to whether or not this procedure is actually a part of the entire "prophylaxis" procedure, which is defined in the current and proposed rules.

Therefore, the proposed rule appears to allow dentists to delegate coronal polishing to dental assistants who are not licensed as dental hygienists. This may violate the meaning and intent of 37-4-408, MCA.

2. The Department of Insurance regulates the insurance industry pursuant to Title 33, of the Montana Code Annotated. Section 33-18-401(2), MCA, provides for criminal penalties against a person who presents a false or fraudulent claim.

Dentists who bill patients or insurance companies for coronal polishing performed by a dental assistant, as if it were a prophylaxis procedure, may be prosecuted under the purview of 33-18-401(2), MCA. Dentists who bill a patient or insurance company for a prophylaxis performed by a dental assistant may likewise be prosecuted, pursuant to the same statute.

The Montana Insurance Department opposes the proposed rule change and urges the Board of Dentistry to not adopt it.

With best regards, I am

Very truly yours,

*Andrea "Andy" Bennett*

Andrea "Andy" Bennett

AB/jbh

cc: Robert Verdon, Hearings Officer  
Department of Commerce

Lorrie Merrick, R.D.H.  
Montana Dental Hygienists' Association

Ted J. Doney  
Frank C. Crowley\*  
John M. Shontz\*\*  
Albert W. Stone, of Counsel\*\*\*

Attorneys at Law

P.O. Box 1185  
314 N. Last Chance Gulch  
Helena, MT 59624  
(406) 443-7018  
Fax: (406) 449-8443

EXHIBIT 22  
DATE 2-3-93  
HB 240

LEGAL OPINION

REGARDING CHANGES TO A.R.M. 8.6.602 PROPOSED BY

THE MONTANA BOARD OF DENTISTRY

NOVEMBER 12, 1992

SUBMITTED BY:

John M. Shontz, Esq.  
Doney, Crowley & Shontz  
General Counsel for the Montana Dental  
Hygienists Association

AT THE REQUEST OF:

The Montana Dental  
Hygienists' Association

REC'D NOV 12 1992

The Montana Board of Dentistry proposes to amend A.R.M. 8.6.602.

The Montana Dental Hygienists' Association submitted the original proposed rule change to Montana Board of Dentistry with the express and limited purpose of separating and therefore clarifying the division of duties between educated, licensed dental hygienists and unlicensed dental auxiliaries. The Montana Board of Dentistry proposes to use the proposed rule change to substantially alter the permissible duties performed by dental auxiliaries; this alteration defies the intent and spirit with which the Montana Dental Hygienist's Association brought this matter to the Board of Dentistry.

The current rule is A.M.R. 8.1.602, "Allowable Functions for Dental Hygienists and Dental Auxiliaries." Subsection of the current rule reads:

Allowable functions permitted by for dental auxiliaries practicing under the direct supervision of a licensed dentist without expanded duty training shall be the traditional duties allowed by custom and practice, including but not limited to:

(m) coronal polishing at the direction of the dentists, that is not identified as, or submitted for payment as, a prophylaxis. As used herein, "coronal polishing" means a procedure limited to the removal of plaque and stain from the exposed tooth surfaces, utilizing an appropriate polishing mechanism and polishing agent. . . . "

EXHIBIT 22  
DATE 2-3-93  
HB 240

The definition of a prophylaxis is found at A.R.M.

8.16.602(10) (December 31, 1991).

(1) Prophylaxis is defined as the removal of accumulated matter, deposits, accretions or stains from the natural and restored surfaces of exposed teeth which may include root planing and soft tissue curettage as ordered by the dentist.

The Board does not propose to change the definition of a prophylaxis in its current amendments. The board does propose to strike the definition of coronal polishing from the current rule. According to the proposed rule, dental auxiliaries would be able to perform unlimited coronal polishing procedures if the Board's proposed rule becomes effective.

SUMMARY OPINION

The Board of Dentistry's proposed rule to allow dental auxiliaries to perform any coronal polishing violates Montana law. The proposed rule will be null and void if adopted by the Board.

It is also our legal opinion that the current rule also violates Montana law. The current rule is also, therefore, probably null and void.

DISCUSSION

It is long standing law in this state that administrative agencies only have the power specifically granted them by the legislature. Bell v. Dept. of Licensing, 182 Mont. 21, 22, 594

P.2d 331, \_\_\_ (1979). The Bell Court wrote. " It is fundamental in administrative law that an administrative agency or commission must exercise its rule-making authority within the grant of legislative power as expressed in the enabling statutes. Any excursion by an administrative body the legislative guidelines is treated as an usurpation of constitutional powers vested only in the major branch of government. Bell, at 22.

The Montana Board of Dentistry is not a major branch of government; it is nothing more than an administrative creature of the legislature. The Montana Board of Dentistry does not have the power to act generally in the name of the state's police powers; the health and welfare of the people of Montana.

While an argument can be raised that the board has inherent police powers to act in the best interests of the health and welfare of the people of Montana, the argument absolutely fails. The Legislature has not granted the Board the power to act in the name of the health and welfare of the people of Montana. 37-4-101ff Mont. Code Ann. The Legislature has, however, granted that specific power to the Montana Board of Medical Examiners. 37-3-202 Mont. Code Ann. (1991).

If the Legislature intended to grant inherent powers to all professional boards in Montana, it would not have specifically granted the power to one Board and to no other boards. The Legislature's specific failure to grant the Montana Board of Dentistry the power to act in name of the health and welfare of

EXHIBIT 22  
DATE 2-3-93  
# HB 240

the people of Montana in light of its specific grant of that power to the Montana Board of Medical Examiners means that the Montana Board of Dentistry has NO inherent power to act, much less legislate, in the name of the health and welfare of the people of Montana.

Furthermore, absence of specific language in the Board of Dentistry's authority from the Legislature to act in the Montana Board of Dentistry cannot promulgate administrative rules which are not strictly confined within the applicable legislative guidelines. See Bell, at 22. See also Brd. of Barbers v. Big Sky College of Barberstyling, 192 MONT. 159, 161, 626 P.2d 1219 (1981).

The Montana Legislature specifically refused to grant the Montana Board the Dentistry the authority to permit dental auxiliaries to perform prophylaxis procedures. 37 - 4 - 408 Mont. Code Ann. (1991).

The Board itself has defined coronal polishing in the current rule as, " the removal of plaque and stain from the exposed tooth surfaces... ." A.R.M. 8.16.602(m). The definition of a prophylaxis is, "the removal of deposits, accretions or stains from the natural or restored surfaces of exposed teeth... ." A.R.M. 8.16.692.(10) December, 1991.

The Board is prohibited by the legislature and therefore cannot delegate the removal of plaque and stain from the exposed

tooth surfaces to any person other than to a dentist or a dental hygienist.

We also question if coronal polishing is a "traditional duty allowed by custom and practice" performed by dental auxiliaries. The proposed new rule states that dental auxiliaries may perform coronal polishing as a traditional duty allowed by custom and practice. Proposed new rule one. We note that any dental assistant who has performed coronal polishing in the past in Montana stand, with his/her employer, in violation of 37-4-408 Mont. Code Ann. (1991).

The Board should rescind the current rule permitting dental auxiliaries to remove plaque and stain from exposed tooth surfaces. The Board should not implement its proposed rule permitting dental auxiliaries to perform coronal polishing on patients' teeth in defiance of the mandate of the Montana Legislature.

Respectfully Submitted this twelfth day of November, 1992.



John M. Shontz,  
General Counsel  
Montana Dental Hygienists' Association.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Business & Ec. COMMITTEE BILL NO. HB 339  
 DATE Feb. 3, 1993 SPONSOR(S) J. Driscoll

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Don Edwards <sup>Box 21653</sup> Billings 59104	OCAW	339		X
Ken Haag	City of Billings	339		X
Ken Heike	Billings Area Chamber	339		✓
James Kambel	DOC	339		✓
LELAND Gilchrist	Montana R.R. Co.	339		✓
John Allen	Allen Electric		✓	
FRED STIERS	CONOCO INC			✓
Ron Pletcher	Cenex			✓
Janelle Fallon	MT Petroleum Ass'n			✓
Mike Micsonz	Conoco			✓
TOM McNAB	Montana Technical Council	339	✓	
Larry Furbush	City of St. Paul			✓
Tom Czervy	EXXON	339		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.



HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Business & Eco. COMMITTEE BILL NO. HB 240  
 DATE Feb. 3, 1993 SPONSOR(S) H. Hayne

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
SCOTT ERLER DDS MSLA. MT	STATE DENTAL BOARD	240		X
Tony Klump	self	240		X
WILLIAM E. ZAPP HELENA, MT	MT DENTAL ASSOCIATION	240		X
THEODORE A. BECK, DMD HLW, MT	SELF	240		X
Chris Herbert	MT. Dental Hyg. Assoc.	240	X	
Bob Vernon / Bog DDS		240		X
Mary McCue	MT Dental A'ss'n	240		X
Richard Pratt	Dentist Assoc. MT	240	X	
Mark Rittenhouse	Dentist Association MT	240	X	
Brent Kanderian	SELF	240	X	
Chas & Condon	Self	240	X	
Steve Meloy	Commerce info.			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Business & Ed.

COMMITTEE

BILL NO. H.B. 240

DATE Feb 3, 1993 SPONSOR(S)

Hayne

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Victor Jorden DDS	a Montauk Citizen	240		X
Regina Gabriel RDH-	MDHA	240	-	
D.J. Murphy	GT FALLEN			X
ALLEN CASTELL	CITIZEN		X	
DOROTHY COMER	Denturist		X	
CONNIE JACQUES	DENTAL HYGIENIST		X sections	
Wane Comer	DENTURIST	240	X	
Mark R. Henhouse	Denturist		X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

DEPARTMENT OF COMMERCE  
DIVISION OF BUSINESS REGULATION

EXHIBIT 17  
DATE 2-4-93  
HB 155



TED SCHWINDEN, GOVERNOR

1424 6TH AVENUE

STATE OF MONTANA

(406) 444-3737

HELENA, MONTANA 59620-0407

December 17, 1986

Mr. David N. Hull  
Attorney at Law  
P.O. Box 534  
Helena, Montana 59624

Dear Mr. Hull:

In response to your letter of December 12, 1986, licensure of individuals to practice dentistry in the state of Montana, please be advised as follows:

1. The individuals in question all were issued licenses to practice dentistry some months ago.
2. None of the new licensees is presently practicing in this state.
3. All of these individuals were issued original licenses after successfully passing qualifying examinations. None were licensed by any form of reciprocity.
4. There is no motion for reconsideration of the granting of any of these licenses presently pending before the Board of Dentistry. Apparently that Board is not contemplating any action on the licenses.
5. The Board of Dentistry is not contemplating any action on the subject, as it considers the matter exempt from its practice act and beyond its jurisdiction under section 37-4-103(4), MCA. Further, since the individuals are not practicing in the state, there is no way that a question of unlicensed practice of dentistry could even be considered.
6. Neither the Business Regulation Division nor the Professional and Occupational Licensing Bureau is planning any action. There are several reasons for this. There is

no authority under the Executive Reorganization Act; under Chapter 1, Title 37, MCA; or under any other statute for them to take any remedial action. It is true that the Department lends guidance to boards on controversial matters. But, in practice, this contribution is prior to decisions by boards. In this case, the decisions were made months ago. It has not yet been conclusively established as a matter of law that the decisions were erroneous.

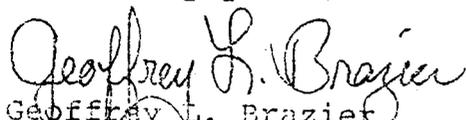
7. The Legislature may be in a position, as one of the branches of government, to enact remedial legislation. This wouldn't necessarily operate retrospectively, though. The Legislature will be considering "sunset" or reorganization of the regulation of dentistry. I'm not aware that either the Legislative Auditor or the Administrative Code Committee can accomplish anything more than this.

8. The only action that the governor can take that I am aware of is removal of board members for cause under section 2-15-124(6), MCA. In view of pending legislation and other uncertainties, the governor might not be amendable to such an extensive step at this time.

9. As to judicial branch remedies, they are not self executing. Someone with standing would have to institute some action. There is no remedy that is obvious to me at this time. The decisions in question were made some time ago. There is no party with standing to appeal. Since none of the licensees is currently practicing in Montana, the exposure of the state to the risk of liability doesn't yet exist. The licensees probably can't be judicially prevented from doing something that they aren't doing.

10. Other than what I have said, I don't know the qualifications of the individuals or what went on in Board of Dentistry deliberations. Nevertheless, this appears to me to be a political issue, more than a legal one. It is properly before the Legislature at this time.

Very truly yours,

  
Geoffrey L. Brazier  
Staff Attorney

GLB/ej

House Bill 155 ---- Some Things To Think About.

4 February 1993

4 members ---- Most all boards have an odd number of members, why an even number? I-97 required a senior citizen on the board. What happened to the senior citizen?

13 Denturists with 15 complaints per year. With two one-day meetings per year and 15 complaints to review it would take forever to take action on each complaint. There is no way 15 complaints could be reviewed and acted upon in a two-day period. The Board of Dentistry, with 9 members, has four two-day meetings and several telephone conference calls that last for 2 or 3 hours to act on 43 complaints. It costs \$137,500.00 to address their problems and this new board is going to take on 15 (1/3) of those complaints for a total operating cost of \$5300.00. It appears to me that we should move everyone controlled under the Board of Dentistry to the new Board of Denturistry and give them \$16,000.00 to do all 43 complaints.

In 1986-87 it cost \$7289.00 to run the Board of Denturistry. They had two meetings and some board members did not claim their per diem. Using today's dollars they cannot possibly run their board for \$5300.00. I would estimate more like \$10,000 to \$14,000.00 per year.

The bill calls for the fees the denurists pay to cover the cost of the board. This means each denturist will pay about \$408.00 per person for \$5300.00 (Or more properly about \$1000.00 to cover the real cost of the board). They now pay \$58.00 per year under the Board of Dentistry. What is it going to be --\$58.00, \$408.00 or \$1,000.00 to do business?

If we have a new board, who will the Governor appoint to that board? Of the 13 denturists, only one of them has not had a complaint lodged against him. Currently 7 of them have complaints pending. Some of them have more than one. With 16 complaints and 13 denturists, I make that a complaint ratio of 1.23 per denturist. With 786 dentists and 27 complaints, I make that a ratio of 0.034 complaints per dentist. Seldom has there been a time when a dentist on the Board of Dentistry has had a complaint made against him/her. Infact, I do not know of any time. If one, or more likely both, denturist(s) have pending complaints under the new board, will the dentist and two lay people act on the complaints? Perhaps the Governor could appoint all 13 denturists and have only the ones without complaints act as members of the board.

I would like to have someone explain to me why denturists have such a high complaint rate. Do they treat different types of people than dentists treat? Do they do more difficult types of treatment that causes a higher complaint rate? What is it about a denturist that causes complaints --- Education, Ethical conduct, Workmanship -- It certainly is something. The numbers do not lie.

There are only 6 states that have allowed denturists to practice and two of these states are currently without practicing denturists. If you count the population of those two states, less than 1% of the population of the U.S. has the legal opportunity to be treated by a denturist.

There are no schools that the Board of Regents have considered acceptable to train denturists. The Board of Regents is not controlled by dentists. The schools do not exist because there is not enough demand for them.

Respectfully Submitted:

Ted Beck, DMD  
Helena, MT

## Potpourri

## *Audit shows denturist board is slipshod in enforcing rules*

MONTANANS WHO RECALL the bitter struggle between dentists and denturists in the 1984 election probably were not surprised to see a renewal of that battle this week in Helena.

Voters approved an initiative two years ago allowing denturists to make and fit false teeth. Its effect has been to take some business away from dentists, who previously had the exclusive franchise for dentures in this state.

On Monday, a legislative audit concluded that the Montana Board of Dentistry had violated several rules in the dentistry law passed by the 1985 Legislature. The audit claimed that the board licensed five denturists who did not meet minimum qualifications for education and training; that it increased license fees before its rules allowed, and that it failed to enforce a requirement that all patients for partial dentures be referred to dentists for preliminary services.

The upshot was a recommendation that the denturist board be merged with the State Board of Dentistry.

Denturists oppose such a move, claiming the dentistry profession wants to drive them out of business. They plan to lobby the 1987 Legislature to retain their own board and to make some changes in the law.

Aside from the political squabble, we feel the denturist law still poses some concerns. The Legislature oversees the activities of all professional boards in Montana and its audit confirms that there are problems.

The Board of Dentistry cannot arbitrarily change some rules and ignore others. If it wants to survive as a separate entity it must exert a stronger influence for professionalism and responsibility. Performance under the law, not job-

bing, is the way to achieve that goal.

THE GREAT FALLS CITY COMMISSION has passed a revised junked vehicle ordinance that puts more teeth into neighborhood cleanup efforts, according to Neighborhood Housing Services in its monthly bulletin.

Abandoned vehicles, those that have expired licenses and/or are inoperable, may not be kept outdoors for more than 72 hours unless they are being repaired by the owner of the vehicle and the premises. Repairs may last no longer than 29 days. Storage or repair of such vehicles is permitted indoors, provided the vehicle is owned by the person who owns or rents the premises.

There have been instances of abandoned cars in full outside view for weeks and even months in Great Falls. We applaud the commission's action in helping rid the city of numerous eyesores.

MONTANA-BORN ECONOMIST Lester Thurow of the Massachusetts Institute of Technology came up with an intriguing idea during a state business seminar several months ago that we'd like to see happen.

Thurow said he'd like to see one of the state universities sponsor a contest for the best idea for a new Montana business or product. He also wants state lending institutions to get involved — because first prize in the contest would be a loan to put the concept into action.

Thurow thinks the contest, and the publicity it would engender, would not be just a symbolic gesture. It would put enterprising business people and lending agencies in closer touch with each other. We agree — it's a good idea.



# Montana Dental Hygienists' Association

Testimony - HB 155  
February 4, 1993  
Business and Economic Development

Chairperson Benedict and Committee Members,

My name is Lorrie Merrick, I am President of the Montana Dental Hygienists' Association. We are neither proponents or opponents of this Bill. However, should the Denturists be allowed to leave the Board of Dentistry, we would like the committee to consider the following.

The Board of Dentistry is unique in that we are the only Board that regulates both employers and their employees. Dentists licensed in Montana out number dental hygienists 2:1, BUT the representation on this board is currently 5:1. As a minority, with an even smaller voice on this board; I offer the following with suggestions for amendments attached.

1. Departure of the Denturists from the Board of Dentistry will eliminate 1 profession and also 1/3 of the workload on this board. The board does have the authority to contract outside help should their workload increase at any point in time.

Fiscal Year 1991: 41 complaints filed with Board of Dentistry  
11 filed against denturists  
30 filed against dentists

Fiscal Year 1992: 42 complaints filed with Board of Dentistry  
16 filed against denturists  
27 filed against dentists

At this time I would like to point out that none of these complaints were filed against dental hygienists.

2. It is important to maintain a sensitive voting balance on the board. Also, due to the departure of the denturist from the Board, and the reduced workload stemming from this departure; it would be appropriate to consider reducing the size of the board. (See page 3 for suggested amendment.)

3. We also ask the committee to reconsider the Senior Citizen clause which was added into Section I lines 15 and 16 when the denturists were brought on to this board. This clause was added to ensure that a consumer sensitive to den-

turity issues would be appointed. (See suggested amendment page 3.)

In light of the disruption of balance, the lightening of the workload, and the important contributions of the public members, we offer the attached amendments for your consideration.

We thank you for your time and consideration in these matters.

Lorrie Merrick, RDH  
MDHA President

EXHIBIT 21  
DATE 2-4-93  
HB 155

Amendments to House Bill No. 155  
First Reading Copy

Requested by Representative Pavlovich  
For the Committee on Business and Economic Development

Prepared by Paul Verdon  
February 2, 1993

1. Page 1, line 13.  
Strike: "five"  
Insert: "four"

2. Page 1, lines 15 and 16.  
Strike: ", one of whom must be a senior citizen"

Amendments to House Bill No. 279  
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon  
February 4, 1993

1. Page 8, line 23.

Strike: "An"

Insert: "(a) Except as provided in subsection (8)(b), an"

2. Page 9, line 1.

Following: "term"

Insert: "and except for a commission percentage that may be negotiated as provided in subsection (8)(b)"

3. Page 9, line 5.

Following: line 4

Insert: "(b) If at least 90 days prior to the expiration of a 10-year agency franchise agreement, the department determines that an adjustment of the commission percentage paid to the agent is in the best interests of the state, the department shall notify the agent of that determination.

(c) If the agent does not concur with the department's commission percentage adjustment, the department shall advertise for bids for the agency franchise at the adjusted commission percentage, subject to the provisions of this chapter. If bids from persons who meet the criteria provided in this chapter are received by the department for the agency franchise at the adjusted commission percentage, the agent under the existing franchise agreement has a preference right to renew the franchise agreement by concurring in the adjusted commission percentage.

(d) If the agent under the existing franchise agreement declines to exercise the preference right under subsection (8)(b)(i), the department shall enter into an agency franchise agreement as provided in this chapter with a person who accepted the adjusted commission percentage.

(e) If the agent exercises the preference right and believes the adjusted commission percentage to be inadequate or not in the best interests of the state, the agent may request an administrative hearing. The request must contain a statement of reasons why the agent believes the commission percentage to be inadequate or not in the state's best interests. The department shall grant the request for a hearing if it determines that the statement indicates evidence that the adjusted commission percentage is inadequate or not in the state's best interests. The department may, after the hearing, adjust the commission percentage if the agent shows that the commission percentage is inadequate or not in the best interests of the state. If the department increases the commission percentage rate, the department shall set forth its findings and conclusions in

writing and inform the agent and the other persons who offered to enter into an agency agreement at the adjusted commission rate."

MDHA Proposed Amendments to HB 155

The following suggested amendments will cover points #2 and #3 provided in testimony:

2 and 3. Page 1 Line 13-16

Amend to read: (2) The board consists of ~~five~~ three dentists, ~~one-of-whom-shall-serve-as-a-nonvoting-member,~~ one dental hygienist, and two public members, one whom ~~must~~ may be a senior citizen.

EXHIBIT 20  
DATE 2-4-93  
HB 155