

February 10, 1977

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS:

A meeting of the House Public Health, Welfare and Safety Committee was held on Thursday, February 10, 1977 upon the adjournment of the House in Room 431 of the State Capitol. All members were present, with the exception of Rep. Cooney, who was excused.

HOUSE JOINT RESOLUTION 38 was the first bill to be heard. The sponsor, Rep. Tower, explained that this was a motherhood and apple pie bill, and closed. There were no opponents. A motion was made and seconded that HJR 38 DO PASS; motion carried unanimously.

HOUSE BILL 300 was then brought up for discussion, the hearing having already been held on February 3. It was explained that the cause for much of the opposition was because of a mistake in the drafting of the measure. Larry Lloyd, Dept. of Health, had been requested by Rep. Gunderson, the sponsor, to explain some of the problems pertaining to the RT licensing law. This grandfather clause portion had become confusing, ambiguous, and had lost its meaningfulness. Mr. Lloyd then presented a copy of the original proposed bill as it was presented to the Legislative Council, and the version which they drafted, showing the marked differences. He said the opponents had very valid complaints. The intent of the bill wasn't to disqualify anyone from being able to get a license through the grandfather clause. Essentially there was an error which did not put into law the legislative intent; the proposed amendments would clear this up. Mary Lou Crawford submitted the amendments for the committee. Questions were then asked.

HOUSE BILL 529 was then heard. Rep. Lien as chief sponsor explained that this bill was introduced at the request of the Board of Professional and Occupational Licensing. The first proponent was Dr. John McCabe, M.D., Board of Medical Examiners. He said that podiatry is separate from medicine; they have their own schools, and they should be able to "do their own thing". As for the money aspect, doctors who have to register yearly with the Board pay \$20 per year, where podiatrists are only required to pay \$3. This amounts to \$35-\$50 in the treasury which has to cover all the expenses of the podiatrists. He closed by saying that they should have their own board. Dr. W. W. Wilkinson, Board of Podiatry Examiners, spoke; see prepared statement. Dr. Finley, a Helena podiatrist, objected to composing the board of only three members, and suggested that the bill be amended to provide for five.

There were no opponents to HOUSE BILL 529. Discussion took place. Rep. Holmes brought up the possibility of providing for a 5-member board, with one representative of the public seated on it. Dr. Friedl, a podiatrist from Great Falls, could see no good and no bad from this suggestion. Mr. Carney, Director of the Board of Professional and Occupational Licensing, stated that about 1/3 of all boards had outside representation. He also stated that public members are handicapped when on a board of professionals, and it really depended on the individual person. There are no lay persons on the Board of Medical Examiners. There are 15 practicing podiatrists in the state.

February 10, 1977

HOUSE BILL 490 was opened for hearing. Rep. Nathe as chief sponsor, said that he was carrying this measure at the request of the Dept. of Professional and Occupational Licensing. This bill attempts to grant to the board of Medical Examiners the right to waive personal appearances of those licensees under certain circumstances. Dr. McCabe then spoke. The situation is such that those licensed by the Board of Medical Examiners may apply for licensure at any time of the year. Under the present law, it is required that they appear at the next semi-annual meeting of the Board for a personal interview. The Board now acts thus: when a person applies for licensure he is interviewed by one member and another signs his temporary certificate. Then the applicant has to come back and be interviewed before the entire board; this interview usually only takes a few minutes. In 1976 the Board in two meetings interviewed 121 persons, who had to come to Helena from all parts of the state. If this requirement could be waived so that only questionable applicants came before the entire board it would be much more satisfactory.

There were no opponents to HOUSE BILL 490. Questions were asked. There were about five rejections of applicants in 1976, Dr. McCabe guessed. Most other states have no requirements for appearance before a Board. The sponsor then closed, giving information on the increase in numbers of applicants over the past years.

HOUSE BILL 303 was heard. The sponsor of the bill was Rep. Menahan. Rep. Holmes took over the chair for this hearing. Rep. Menahan explained that he had wanted two bills to be drawn up by the Legislative Council, but they had consolidated the two. Limiting the licenses for the people employed by the State institutions is provided in Section 1 of the bill. Section 2 was intended to be a follow-up bill in case this failed. Section 2 provides that a salary would be applied that would allow people from out-of-state to apply for the jobs. If Section 1 were amended out of the bill, it would be acceptable to the sponsor. Dr. Peter Taubengerger, M.D., Clinical Director at the Boulder River School and Hospital then spoke in favor of the bill. He said that it had been very difficult in his experience to recruit staff in institutions for the mentally handicapped who are dedicated and stay on. A presently employed doctor who does not meet the requirements should be given time to renew his institutional license based on performance, ethics, and morals, so that if an institution has a good physician, he would have time to meet the full requirements of licensure. Ron Richards, Montana Medical Assoc., then spoke, stating that association's support of the amended version of the bill. Dr. McCabe then spoke. The Board of Medical Examiners would support the bill without section 1.

February 10, 1977

Clarette LaSalle, State Personnel, spoke, stating that they aren't concerned with licensure as it relates to the bill, but as it relates to the state classification system. If these positions were exempted from the pay plan, it could set a precedent. The present salary matrix does seem inadequate for physicians not in the private sector. Rather than exempting them from the classification plan, the plan itself should be modified. Mae Nan Ellingson, Montana Student Lobby, then stated that she wished to appear on their behalf as neither a proponent nor an opponent. They want a clarifying amendment, however. The problem with the term 'state institutions' is that it is broadly construed and could be interpreted to include the University System. Student Health services are financed by student fees. Currently, for example, at MSU the top doctor receives \$31,000, and Missoula's receives \$35,000. The proposed pay scale would cause a tremendous hardship on the student's resources. She suggested adding a new subsection (10) to exclude physicians employed by student health services in the university system. It was her belief that the sponsor did not intend to include these doctors under the bill's provisions. Curt Chisholm, Assistant Director of the Dept. of Institutions, then spoke. His Dept. could not support legislation which would establish a double licensure standard; he is satisfied now that the sponsor has agreed to amend that portion of the bill. He warned the committee that increased salaries will not necessarily fix the problem. Sharon Dieziger, Montana Nurses Assoc., then spoke. She expressed reservations about the effect this legislation would have on the classification system; see prepared statement.

There were no opponents to HB 303. Discussion then took place. Dr. McCabe stated his personal feelings about the Board of Institutions. It was a horrendous mistake when the Board of Medical Examiners decided that they would give a special institution license to practice at Warm Springs. Most of these people were foreign graduates who did not understand English and they were hard to understand as a result. The Board has allowed them to take the Flex Exam repeatedly and now it is out of their hands because of the federal government. Effective January 10, 1977 those foreign graduates entering in the U.S. are ineligible to receive a visa unless they have passed parts one and two of the Board of Medical Examiners. Now we should be able to get some well-trained competent individuals on the staffs. The sponsor closed. Questions were asked.

HOUSE BILL 381 was then heard. Rep. Eudaily explained that he had introduced this bill at the request of the PTA Assoc.'s Legislative Committee. The bill will apply some safeguards for parents and children and the legislation is aimed only at theater owners. He presented some amendments which would make the bill as workable as possible. Connie Skousen, MT Congress of Parents & Teachers, then spoke. The concept for this bill was started at a PTA Council meeting and went to the Congress Convention last October and passed with a unanimous vote there. This bill would give the people a little bit more control over the environments of their children. Mr. William L. Romine, Montana Theater Owners Assoc., then spoke in support of the bill; see prepared statement. He showed the committee examples

February 10, 1977

of what a "red band" and "green band" look like - the bands are attached to all film previews in order that the theater owners can be made aware of the nature of their content.

Jan Brown, Montana Assoc. of Churchs, supports the intent of the bill. Martha L. Onishuk, a Missoula mother, also spoke up in support of this bill. Linda C. Campeau, also representing herself, pointed out an incident in which a XXX-rated preview was shown during a children's movie at a Missoula theater she had attended. Rep. Ryan then stood up as a proponent. He didn't feel the bill needed amending, because by doing this it might be weakened.

The only proponent to speak was Mr. Tom Keegan, Motion Picture Assoc. of America, Inc., see prepared statement. His industry supports the concept of this bill, but feels that the bill is unnecessary. He pointed out that the women should have complained to their county attorney and prosecuted the theaters involved. He said that similar legislation to this has been deemed unconstitutional.

The sponsor then closed. He pointed out that the Montana Criminal codes refer only to offensive sexual material. Also, he questioned why the Motion Picture Assoc. would be opposed to a measure which used their own rating system. It is obvious that there is a problem, in light of the failure of Missoula theaters to comply with the regulations put forth by the Motion Picture Association. Questions were asked by the committee members. Rep. Lynch saw many problems with the bill; for instance, the Motion Picture Assoc. could arbitrarily change the letters used to rate movies, and the law would remain as the ratings had previously read. The Motion Picture Assoc. takes into account "objectional violence" when forming their ratings. Rep. Kimble suggested incorporating into the bill an amendment to the criminal code which would include violence as one of the criteria in rating material.

The committee then went into executive session to consider the following bills:

HOUSE BILL 529 - Rep. Kimble moved to amend the bill so that the effective date would be July 1, 1978. Motion carried unanimously. Rep. Feda moved and Rep. Lynch seconded that the bill DO PASS AS AMENDED; motion carried unanimously.

Rep. Kimble then moved to reconsider action on HB 490 for purposes of discussion. Rep. Porter stated that he was worried about letting one doctor give a license to practice. He is not in favor of legislating convenience for the doctors or the candidates. Rep. Gould shamed Rep. Porter for his statements. The question was called for and the motion to reconsider failed; see roll call vote.

HOUSE BILL 257 - The subcommittee reported out that the bill DO NOT PASS. Rep. Lynch then moved that the bill DO NOT PASS. Rep. Vinger seconded the motion. Discussion took place. Rep. Harper, who was also a member of the subcommittee, stated his feeling that the bill should pass. The Question was then called for and motion carried, with Reps. Gould, Harper, Holmes and Kimble opposed.

February 10, 1977

HOUSE BILL 184 - Rep. Palmer presented the subcommittee report on the bill. Rep. Kimble moved that the proposed amendments be accepted. Rep. Lynch seconded the motion. Discussion took place. Mr. Dowling had helped the subcommittee work up the amendments. The amendments were passed out to the committee members at this time. The amendments were explained. Question was then called for and the motion carried unanimously. Rep. Kenny moved and Rep. Lynch seconded, that the bill DO PASS AS AMENDED. Motion carried.

Chairman-Rep. Wm. "Red" Menahan

Secretary