

March 10, 1977

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS:

A meeting of the House Public Health, Welfare and Safety Committee was held on Thursday, March 10, 1977 at 10:00 a.m. in Room 431 of the State Capitol. All members were present with the exception of Reps. Palmer, Colburn, Gould, Harper and Kimble, who were excused.

SENATE BILL 331 was the first bill to be heard. Senator Lensink was the sponsor. He explained the bill. Present law does not allow an optometrist to write a prescription and have it filled by an optician outside of his office. This bill would make this legal. At present, the only outside prescriptions that can be filled are those filled out by physicians. Senator Rasmussen then spoke up as a proponent of the bill. There have been some disagreements in the past years in this area, but they have been ironed out. The Montana Optometric Association supports this bill.

There were no opponents to SENATE BILL 331. Questions were asked. Rep. Kenny pointed out that some opticians who were opposed to this bill had contacted him.

The committee then went into executive session. SENATE JOINT RESOLUTION 8 was considered. Rep. Cooney moved that it BE CONCURRED IN. Rep. Wyrick seconded the motion. Rep. Lynch expressed problems with the bill. Laws on this matter were written to protect the client. Unless a person goes to a physician first, it might not be determined whether he has a genuine problem. Rep. Holmes suggested some amendments, which Dr. Malee (Board of Medical Examiners) had concurred in. The amendments would direct the Board to consider setting up some sort of weekly reporting system. Rep. Menahan commented that chiropractors were in the same sort of category, and they don't have to be referred by a physician. Rep. Cooney spoke up in support of the profession of acupuncture, and described a case in Anaconda where an acupuncturist had been forced to relocate in another state after the current law was implemented. Rep. Kenny commented that all the bill is doing is making it more convenient for the people who do not live in Missoula (where there are four acupuncturists who are also M.D.'s) to receive treatment. Rep. Wyrick stated that we should have the privilege of free choice in the matter. Rep. Holmes then moved acceptance of her amendment. Further discussion took place. Rep. Porter stated that he didn't think the amendment added a great deal to the resolution. He then spoke on the resolution. It is poor legislation; our job is to protect the public. This is a relatively new science in this country. We are just in the right place; let's see these people perform longer and if there is merit to the profession, then other M.D.'s will receive similar training. Rep. Cooney stressed

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that Montana's licensure standards were some of the toughest in the nation, so the state already has a handle on the profession. Rep. Lynch stated that to "open the door now and put the teeth in later" is the wrong way to go about this. Rep. Holmes then spoke. There have been two problems expressed with the resolution. (1) Quality of treatment. The present standards for licensure take care of this. (2) The problem that even though the person may be a good acupuncturist, he might miss a diagnosis. The proposed amendment would take care of those occasions. The question was then called for and the motion to amend the resolution failed. Rep. Lynch then made a substitute motion for the original motion that the resolution BE NOT CONCURRED IN. Rep. Porter seconded the motion. Discussion. Rep. Holmes stressed that passage of this resolution would merely enable the Board of Medical Examiners to make their own rules pertaining to the licensure, which would limit or control the acupuncture profession. Rep. Lynch disagreed. "You are taking away the requirement that a physician recommend the patient to an acupuncturist." Question was then called for and the substitute motion carried; see roll call vote.

SENATE BILL 310 was then heard. The sponsor was Senator Roberts. After consulting with the Dept. of Health, he was concerned about the problem about reviewing applications falling within the minor subdivision classification. Many people have had problems with the "occasional sale" provision, where the sanitary restrictions have to be reviewed by the Dept. of Health. Many times because of the sheer number of these sales, they would get hung up in the process of review for three or four months. He would like to have the local governments do these reviews and that is essentially what the bill does. There is also an increase in the charge for review of these lots, from \$5 to \$25.

Ed Casne, Chief of the Subdivision Bureau of the Dept. of Health then spoke. He thinks that this bill goes far towards accomplishing what they want to see done within the Sanitation Subdivision Act. He apologized for the time it has taken for his bureau to perform this function. At present, his staff is very small. This bill will allow them to give more review authority to the county governments. They will still sign off on the approval of the subdivisions, but that has to be done within 10 days. The purpose for the proposed fee increase is to pay the local governments for their review. At present they are responsible for reviewing subdivisions by law, but they are not paid anything. He then handed out a paper completed by the Subdivision Bureau, stating their point of view. He doesn't feel the law was intended to allow someone to lay their water and sewer lines before applying for subdivision approval. An amendment was suggested as follows:

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Amend page 4, line 11, after "subdivision" insert "including a certificate of survey". Steve Brown, attorney for the Dept. of Health, had suggested that this material be reinserted; it had been amended out in the Senate. If this material is not amended back in, court litigations will have to resolve the problem. He also suggested an additional amendment. If SB 226 passes, he is going to lose \$60,000 in review fees. He is going to have to gut his staff. There are two alternatives open to him; (1) increase the fees, or (2) go to general fund money. He has been informed that it will be hard to get general fund money.

Cliff Christian, Montana Assoc. of Realtors, then spoke. He is in support of the bill, minus any amendments. The general fund can afford to give that bureau \$60,000, in his opinion. Only a letter has been written thus far in attempts to receive this funding. He stressed that it is much easier to raise the fees than to ask for money.

There were no opponents to SENATE BILL 310. Discussion then took place. Rep. Feda asked Mr. Christian why he objected to the amendment. Mr. Christian replied that sometimes only small pieces of land are being bought, and they will have no facilities on them, and this would require them to have a certificate of survey. Mr. Casne then said that the items Mr. Christian was referring to were both exempted. Rep. Lynch then directed his comments at Mr. Casne. "You don't want SB 226 to pass because your staff will be cut. At the same time, you want money to make up for the loss in case SB 226 does pass. However, if this bill passes and SB 226 passes, you will have the problem Mr. Christian addresses." Mr. Casne replied that the exemption concerning adjustment of lot lines is already in the law; eminent domain covers it. The exemption in SB 226 is only a reworded version of the existing law. He supported the need for a legal staff in his bureau. If SB 226 passes, he won't need another engineer, but regardless he will need another secretary. Rep. Lynch then addressed Mr. Christian, asking him if he felt that those things were exempted under the present law. Mr. Christian said that they were being reviewed by the Dept. of Health right now. The chairman then interrupted and asked the committee members if they felt this bill should be handled by this committee, since its companion bill SB 226 was in the Natural Resources Committee. It was resolved to have this bill also moved to that committee. The hearing was closed.

SENATE BILL 269 was then heard. The sponsor was Senator Blaylock. Arthur W. Clarkson opened; see prepared statement.

There were no opponents to SB 269. Questions were asked. The licensing fee has not been determined for the labs. It is a

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certification rather than a licensure, also. The Senate amended the bill to remove the civil penalty clause. Mr. Clarkson suggested to remove Section 69-4908 from the statutes, also, because it created a duplication. The committee attorney, Mr. Pyfer, concurred in this suggestion. The hearing was closed.

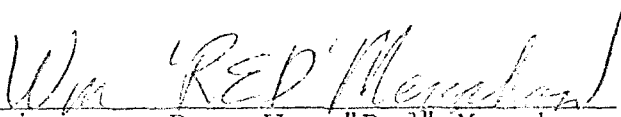
The committee then went into executive session.

SENATE BILL 83 was acted on. The amendments which had been submitted by the governor's office were discussed. Rep. Porter then moved acceptance of the amendments; motion carried with Reps. Stobie, Feda and Wyrick opposed. Rep. Porter then moved that SB 83 BE CONCURRED IN AS AMENDED; Rep. Gunderson seconded the motion. Motion carried with Rep. Stobie opposed. Rep. Porter agreed to carry the bill on the floor.

SENATE BILL 331 was then acted on. Rep. Lynch moved and Rep. Cooney seconded that the bill BE CONCURRED IN. Mr. Pyfer then commented. Everything in the original bill was stricken, following the enacting clause, in the Senate. The original bill only struck the last part of an entire section of the law. There are some problems concerning the entire matter, as a result of the Senate's actions. Rep. Lynch then moved to defer action on this bill. Motion carried.

SENATE BILL 269 was considered. Rep. Feda moved and Rep. Lynch seconded to amend the bill by striking Section 69-4908 in its entirety, and AS SO AMENDED BE CONCURRED IN. Motion carried unanimously. Rep. Metcalf agreed to carry this bill.

The meeting was adjourned.

  
Chairman - Rep. Wm. "Red" Menahan

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Secretary