

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

5
January 26, 1977

The seventh meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Stan Stephens at 11:00 A.M., Tuesday, January 25, in Room 405 of the State Capitol building, Helena, Montana.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE JOINT RESOLUTION 8: Senator Murray, sponsor of SJR8, presented the bill to the Committee with the following pertinent comments.

The Senator is carrying this bill at the request of some members who use acupuncture in his home district (Missoula). The purpose of the bill is not to authorize acupuncture in Montana, that has been done with previous legislation, but to merely amend the rules -- the enabling statute itself did not require that a person wishing to have acupuncture treatment had to have a physician's approval of that treatment sometime in the previous 60-day period. The provisions of the legislation put the regulation or control under the Board of Medical Exmainers and they determined that a patient could not be treated by acupuncture unless, in the preceding 60 days, a physician authorized it. All SJR8 would do is strike that provision from the administrative code so all people in Montana who are interested in acupuncture are free to do so without the concurrence of a physician.

Two persons testified in support of the bill:

Dr. Robert Tsay, Great Falls, licensed to practice acupuncture.
Ralph Rasmussen, Helena, disabled veteran.

No one testified in opposition of the resolution.

Dr. Tsay's testimony (see Exhibit "A") covered the problem being addressed by SJR8 from the standpoint of the patient, the medical doctor and the acupuncturist. As he pointed out, the Acupuncture law, passed in 1974, did not contain the restrictive language - it was added by the Medical Board in October, 1974. He called the restriction unreasonable.

Ralph Rasmussen testified strictly from a personal standpoint. As a disabled veteran, he has had years of physical problems - he believes in acupuncture - he feels the law's restrictions are an infringement on his rights as a free citizen of Montana.

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Chairman Stephens called for questions from the Committee. Senator Rasmussen: Is this common in most states, you can go to an acupuncturist without a prescription? Dr. Tsay: Yes. Senator Olson to Senator Murray: Do you have a copy of the title of the bill? It does say 60 days? Answer: Yes. Senator Stephens to Dr. Tsay: Do you find that there are numerous times when patients come to you for acupuncture treatment and after an examination, you refer the patient to another doctor? Dr. Tsay: Yes.

With no further questions or discussion on SJR8, Senator Stephens concluded the hearing on SJR8.

ACTION ON SB83: Chairman Stephens brought SB83 before the Committee for consideration and action.

Mr. Gillespie, Civil Defense Division, D.M.A., who testified January 20 in favor of SB83, presented the Committee with two proposed amendments which would give the same results (see hand-outs, Exhibits "C" and "D"). Gillespie explained that certain members of labor, Don Judge of the AFL-CIO for one, approached him following the meeting January 20, requesting an amendment (page 4, section 3, lines 1-5). Labor was afraid this would be a strike-breaking provision. Gillespie said it was not the intent of the new language to make it such a provision.

Several questions from the Committee to Mr. Gillespie followed. Senator Roberts asked what the new language would do to the Governor's power where there is a labor dispute or in cases of emergency or disaster; Senator Rasmussen asked if the Civil Defense is completely comfortable with the new language - Mr. Gillespie replied in the affirmative.

With no further discussion, Chairman Stephens asked Senator Rasmussen if he wished to move one or the other of the amendments. Senator Rasmussen: I will decline to take action on this. I would like to leave SB83 as it is now.

Senator Lee: I like the language in the amendment. I have a little trouble with the language as it is now - "of" should be "or". To which Senator Stephens asked Lee: Would you be satisfied with an amendment that simply changed the word "of" to "or"?

Senator Rasmussen, sponsor, then moved SB83 AS AMENDED, DO PASS. Motion carried unanimously.

ACTION ON SENATE BILL 105: Senator Rasmussen presented hand-out (see Exhibit "E") of proposed amendments, explaining these amendments to the Committee.

Senator Rasmussen moved amendments: motion carried unanimously.

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Senator Roberts proposed one further amendment (see Standing Committee Report, page 2, #6). Roberts moved said amendment: motion carried unanimously.

Senator Rasmussen moved SB105 AS AMENDED, DO PASS. Motion carried 6 - 2 (see Roll Call Vote #1).

ACTION ON SENATE JOINT RESOLUTION 8: Senator Roberts moved SJR8 DO PASS. Motion carried unanimously.

Senator Olson interjected a comment regarding the problem SJR8 addressed, i.e., the Board of Medical Examiners adding a stipulation to the law. Dr. Olson said: I think this is a pretty good example of a bill that the Legislature passed and a Board or a Bureau took it upon themselves to write in the intent of the law, without it being in the law. . . I was surprised to see that in the rules. I made it a special point to look it up and the Board wrote that themselves. Senator Stephens said: As Senator Olson points out, because of the 1974 bill, it makes it appear the M.D.s were attempting to obstruct the practice of acupuncture and that is not correct.

ANNOUNCEMENTS: Hearing dates have been set for SB154 and SB157 (Thursday, January 27). SJR15 and SB217 will be heard Saturday, January 29.

ADJOURNMENT: With no further business, the hearing was adjourned at 12:00 noon.



STAN STEPHENS, Chairman

ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

45th LEGISLATIVE SESSION - 1977

DATE: 1/25/97

Each day, attach to minutes.

ROLL CALL

VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

45th LEGISLATIVE SESSION - 1977.

Date 1/25/77

Bill No. 105

Time 11:50 a.m.

NAME	YES	NO
LEE, Robert	✓	LEE
RASMUSSEN, Tom	✓	RASMUSSEN
OLSON, Stuart		✓ OLSON
HIMSL, Matt	✓	HIMSL
WATT, Robert	✓	WATT
ROBERTS, Joe	✓	ROBERTS
NORMAN, Bill - V. Chm.		✓ NORMAN
STEPHENS, Stan - Chairman	✓	STEPHENS

Joyce (Kelly) Allen
Secretary

STAN STEPHENS
Chairman

Motion: Senator Rasmussen moved that SB105 AS AMENDED, DO PASS.

(include enough information on motion—put with yellow copy of committee report.)

NAME: Robert C. Tsay DATE: 4/25/77
ADDRESS: 1105 13th Street South, Great Falls, Montana.
PHONE: 761-4911

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL: SJR 8

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS : _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ralph Rasmussen DATE: 1/25

ADDRESS: 227 Wallace, Helena

PHONE: 443-4947

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: D SJR 8

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

E X H I B I T "A"

TESTIMONY

My name is Robert C. Tsay, an American citizen. I have a Medical Degree and an honorable Ph.D. and licenses to practice Acupuncture in the States of Nevada, Oregon, Montana and California.

At the present time, I am practicing Acupuncture in Great Falls. I have been there for one year and three months. So I have much more ill feelings about the medical regulation that "every patient must have a referral from a medical doctor before receiving Acupuncture treatment".

First, I have to express appreciation that the last legislature passed the Acupuncture law in 1974. The law never said that the patient needed a medical doctor's referral. This regulation was added by the Medical Board in October of 1974. Today I wouldn't say whether this regulation is discrimination or not, or whether it is anticonstitutional. Now I would like only to point out what is the result for the patient, medical doctor, and the acupuncturist concerning this regulation.

1. For the Patient: Many patients complain "I am over 18 years old, I can vote for president, why can't I get acupuncture treatments without somebody else giving me permission?". Also I know of many patients who have gone to five or six different doctors but they still can't get a doctor's permission. If you were a patient desiring acupuncture treatments, what would be your thinking of this regulation?

2. For the Medical Doctor: The medical doctor refuses to give permission to the patient because they say they don't know enough about Acupuncture. They don't want to sign anything for fear they will be responsible for the patient being treated. This I don't understand. This is my responsibility entirely. Why did the Medical Board make this regulation to bother the medical doctors themselves?

3. For the Acupuncturist: Several patients over 70 years old travel several hundred miles to my clinic for treatment. When they get there, they haven't a medical referral and they couldn't get a medical referral. For this reason, I can't relieve their suffering. They get upset and mad at me because they have come so many miles for nothing. President Abraham Lincoln's saying

E X H I B I T "B"

My name is Ralph Rasmussen. I am a disabled veteran residing in Helena. Over the past 11 years I have had a lot of surgery on my right arm and some of it did more harm than it did good because it didn't do what was intended, and the surgery precluded further therapy.

Before Montana had any licensed acupuncturists, I drove ~~the~~ approximately 700 miles down to Laramie, Wyoming to get acupuncture treatments. While they didn't help me as much as I had hoped, they didn't do me any harm either. My mother and father-in-law also drove down to Laramie for acupuncture treatments for arthritis and my father-in-law hasn't had any problem with arthritis since the treatments. It did not help my mother-in-law, but it didn't do her any harm either. I feel that it's very unfortunate that we have a law in Montana that requires people to get a prescription from a medical doctor to see an acupuncturist. I feel that this law infringes on my right as a free citizen of Montana to see an acupuncturist if I so choose.

E X H I B I T "C"

SUGGESTIONS FOR PROVISIONS

of

STANDING COMMITTEE REPORT

Submitted by

Civil Defense Division

Department of Military Affairs

January 21, 1977

Mr. President McComber:

We, your committee on PUBLIC HEALTH, having had under consideration Senate Bill No. 83 entitled "AN ACT RELATING TO CIVIL DEFENSE AND DISASTER AND EMERGENCY SERVICES PROVIDING POWERS, DUTIES AND AUTHORITY FOR PREPAREDNESS AND ASSISTANCE IN EMERGENCIES AND DISASTERS; AMENDING SECTIONS 77-2301, 77-2302, 77-2303, 77-2304, 77-2306, 77-2309, 77-2310 And 77-2311, R.C.M. 1947, AND REPEALING SECTIONS 77-2305, 77-2307 and 77-2308, R.C.M. 1947", respectfully report as follows: that Senate Bill No. 83, first reading (white), be amended as follows:

1. Amend page 4, section 3(1), line 1.

Following: "course"

Strike: "of"

Insert: "or"

2. Amend page 4, section 3(1), line 3.

Strike: "act or other laws"

Insert: "chapter"

Following: "taken"

Strike: "when necessary"

Insert: "during an emergency or disaster"

3. Amend page 4, section 3(1), line 5.

Following: "safety"

Strike: ";"

Insert: "when a labor dispute not causing the emergency or"

E X H I B I T "D"

SUGGESTIONS FOR PROVISIONS

of

STANDING COMMITTEE REPORT

Submitted by

Civil Defense Division

Department of Military Affairs

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1. Amend page 4, section 3(1), line 1 through line 5.

Strike: Line 1 through line 5 on page 4 in their entirety.

Insert: "(1) interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter may be taken during an emergency or disaster to forestall or mitigate imminent or existing danger to public health or safety when a labor dispute not causing the emergency or disaster can increase the danger;"

2. Amend page 21, section 10, line 25.

Following: "arrangements"

Strike: "or"

Insert: "of"

Following: "agreements"

Strike: "or any such agreement"

E X H I B I T "E"

Amendments to S.B. 105

Page 1

Line 17

Insert: optometric

after: the

Line 23

Insert: optometric

after: any

Page 2

Line 2

Insert: optometric

after: complete

Line 5

Strike: including

Insert: limited to

after: purposes,

DATE

1/25

COMMITTEE ON

Public Health

BILL NO. SJR8

SB83 or

SB/105

VISITOR'S REGISTER

Check One

Support Oppose

NAME	REPRESENTING	Check One	
		Support	Oppose
Art Meyer	Art Defense	SB83	✓
Robert C Tsay	SJR	SB83	✓
Chunrei Tsay	SJR	SB83	✓
(Sister) Maen			✓
Elwin Heilen			✓
Ralph Rasmussen			
Mr. & Mrs. L. C. Starker	Optometrists	SB105	✓
Laureneen O Starker	Optometrist	SB105	✓
Mrs. M. J. Starker	Optometrist	SB105	✓
Bruce Rasmussen	"	SB105	✓
Mary Meier	Corral College	—	
Janet Hutterheim	"	"	—
Musso McGregor	"	"	—
Theresa Anderson	Aledna	—	✓
Carolyn Givens	Carol Givens	—	
Jenny Younger	Ophthalmologists	SB105	✓
J. Marilyn Frankel	myself	—	?

STANDING COMMITTEE REPORT

JANUARY 25

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MR. **PRESIDENT**.....

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**.....

having had under consideration **SENATE**..... Bill No. **105**.....

Respectfully report as follows: That **SENATE**..... Bill No. **105**.....
introduced bill, be amended as follows:

1. Amend page 1, section 1, line 17.

Following: "the"

Insert: **"optometric"**

2. Amend page 1, section 1, line 23.

Following: "any"

Insert: **"optometric"**

3. Amend page 2, section 1, line 2.

Following: "complete"

Insert: **"optometric"**

4. Amend page 2, section 1, line 5.

Following: "purposes."

Strike: **"including"**

Insert: **"limited to,"**

DKW/MSX

Page 2
Sen. Bill 105

January 25, 1977

5. Amend page 3, section 3, lines 1 and 2.
Following: "optometry"
Strike: "or employ diagnostic agents"

6. Amend page 3, section 3, line 7.
Following: line 6

Insert: "(2) A person presently licensed to practice optometry
who wishes to employ diagnostic agents must satisfactorily
complete a course in pharmacology referred to in subsection
(1) and must pass an examination as provided in subsection
(4)."

Renumber: All subsequent subsections

AND, AS SO AMENDED, DO PASS

g.a

Chairman