

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

February 10, 1977

The fourteenth meeting of the Public Health, Welfare and Safety Committee was called to order in Room 405 of the State Capitol Building on Thursday, February 10, 1977, at approximately 11:00 A.M.

ROLL CALL: All members were present, with the exception of Senator Lee, who was excused.

CONSIDERATION OF SENATE BILL 331: Chairman Stephens turned the meeting over to Senator Lensink, sponsor of SB331. The Bozeman Legislator explained his bill as an attempt to permit opticians to perform mechanical work on an optometric lens ordered on a prescription signed by a registered optometrist, regardless of who ordered the prescription. At the present time, the optometry law does not allow an optometrist to give a prescription and have it released for filling by an optician. The present proscription against an optometrist giving an optician the work does not apply to physicians and surgeons; there is an exclusionary clause. The Senator said this bill is with the complete agreement of the optometrists if the bill is considered with the amendment which he will have typed up and presented to the Committee. The amendment is necessary in considering the bill because of a drafting error by the Legislative Council. What the amendment would do is strike out the current law and insert it as it was agreed and intended to do in the first place.

The only witness for this bill, Phil Strobe, lobbyist for the Montana Optician Association, spoke to the Committee, further explaining the intent of the bill - saying that SB331, without Senator's amendment, would be offensive to his group. He added that what the proposed amendment does, is to comply with the agreement of January 8 which his people had with all interested parties.

As further explanation in answer to a question from the Committee, Strobe said there are 17 Sections relating to the optometric law; it was the desire of the parties that they amend 1316 rather than 1302. In drafting, the bill amended the wrong Section. 1302 applies to optometrists and the people who work under him - 1316 is the exclusionary clause.

Proponents having presented their side, there being no opponents, Chairman Stephens turned to questions from the Committee.

Senator Rasmussen, in looking at the bill and amendment, said he would like to offer an amendment, i.e., "spectacle lens" so there would be no confusion regarding contacts. Another amendment offered by the Senator was: "written prescription" because it was the Senator's understanding that a pharmacist could not fill a prescription without a written prescription in his file.

After Mr. Strobe answered Senator Rasmussen that his people would have no quarrel with the latter amendment but would have some problems with the former,

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Senator Stephens asked the parties with the amendments to work with Mr. Taylor, the Committee's researcher, to bring the amendments back to the Committee for action. With that, the Chairman continued the hearing until some future time.

CONSIDERATION OF SENATE BILL 346: The Committee next considered Senator Thomas' bill. The Senator from Great Falls presented his bill, with the explanation that it would amend 66-151,6 which has to do with physicians reporting drug abuse to the County Attorney. The amendment would add to the section of the law to the effect that when a person is terminally ill that the physician who is giving the drug dose to this individual does not have to report this individual to the County Attorney. The Senator said this is the Montana Medical Association's bill, to give physicians a defense when its medically necessary.

In support of the bill, J. T. Leondorf, Montana Medical Association representative, further explained the law as it is now and what the Association hopes to do by amending. Leondorf said that the present law was passed in 1921 because "they" were smoking opium over in Butte. He feels that the law should be repealed but until that is done, this amendment should relieve the physicians' concern over this problem. Leondorf said under the present definition set forth in this act, even a cancer patient would be described as a habitual user and should be reported.

No opponents being present, Chairman Stephens turned to questions from the Committee. Senator Roberts' contention was that, with this language in the proposed bill, the repealing was already taken care of. Senator Himsl asked what the federal requirements were under the Drug Control Abuse Act - to which Leondorf said the laws had been changed a lot in the last 5 to 6 years and he was vague about them, even to the question of whether or not the Harrison Drug Act would still cover this problem --the federal laws define "drug addict" differently than in our state laws. Under the present law, a complaint would be filed in District Court against the person - the judge then makes the decision as to whether that person should be institutionalized. It's really a civil commitment proceeding, although you can go criminally under the Dangerous Drug Act if you wanted to pursue the habitual user. If the physician fails to report within 48 hours, he is charged with a misdemeanor. Senator Olson asked if this state law would conform with the federal laws, and then again referred to the Harrison Drug Act - Leondorf's contention was that only applies to the federal laws, not the state law of reporting. Senator Olson said the physician gets his narcotic license from the federal government, not the state.

The question taking some time was the question of what is considered "medically necessary" as stated in the bill - also, who, representing which state authority, would be responsible for determining "medically necessary". Additionally, Senator Roberts said he thought, from the prosecutor's standpoint, they have everything they need under Title 54. To Senator Olson's question of what precipitated the proposed bill, Leondorf said a doctor wrote to ask what the law meant. The question was raised as to which takes precedence: this law or the law preserving the doctor-patient relationship. It was made clear this law would not absolve the doctor from federal laws.

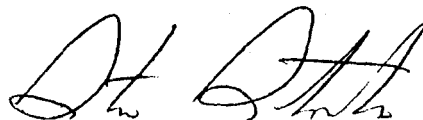
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ACTION ON SENATE BILL 346: Senator Watt, observing that the intent of the bill seemed okay, albeit slightly messed up, made a motion of DO PASS. On a roll call vote, motion carried, 4 to 3, with one Senator absent.

ACTION ON SENATE BILL 331: Senator Lensink again addressed the Committee with his proposed bill and amendments. Following a short discussion of same, Senator Watt made a motion that the bill AS AMENDED, DO PASS - motion carried unanimously.

Chairman Stephens asked the Committee to wait to take action on SB221 to give the Committee Secretary time to contact the Radiologic Technologists Board for further input after the Board's meeting February 9.

ADJOURNMENT: With no further business at this time, Chairman Stephens adjourned the meeting at 12:05 P.M.

A handwritten signature in dark ink, appearing to read 'Stan Stephens', is written above a horizontal line.

STAN STEPHENS, Chairman

ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

45th LEGISLATIVE SESSION - 1977

DATE: 2/10/77

[illegible]

R O L L C A L L

VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

45th LEGISLATIVE SESSION - 1977.

Date 2/10 Bill No. 331 Time 10:00

NAME S:	YES	NO
LEE, Robert	<i>h/</i>	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: MOTION MADE BY SENATOR WATT - AS AMENDED, DO PASS

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

ROLL CALL

VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

45th LEGISLATIVE SESSION - 1977.

Date 2/10 Bill No. 346 Time 11:45

NAME S:	YES	NO
LEE, Robert	<i>l. f. a. c. c.</i>	LEE
RASMUSSEN, Tom	<i>✓</i>	RASMUSSEN
OLSON, Stuart		<i>✓</i> OLSON
HIMSL, Matt		<i>✓</i> HIMSL
WATT, Robert	<i>✓</i>	WATT
ROBERTS, Joe	<i>✓</i>	ROBERTS
NORMAN, Bill - V. Chm.	<i>✓</i>	NORMAN
STEPHENS, Stan - Chairman		<i>✓</i> STEPHENS

Joyce (Kelly) Allen
Secretary

STAN STEPHENS
Chairman

Motion: MOTION BY SENATOR WATT - DO PASS

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

Feb. 10

T E S T I F Y I N G

SUPPORT,
OPPOSE OR
AMEND?

NAME :

REPRESENTING:

ON BILL #

(Please leave any prepared statement with Secretary)

Jerome Tandy	Mt. Red arms	346	Support
Calvin Wright	Mt Optometric Assoc	331	
Phil Stope	Mt Opticians ass	331	AS AMENDED By SAWHENSINK

STANDING COMMITTEE REPORT

.....FEBRUARY 10..... 19 77.....

MR. PRESIDENT.....

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

having had under consideration SENATE..... Bill No. 331.....

Respectfully report as follows: That SENATE..... Bill No. 331.....
introduced bill, be amended as follows:

1. Amend title, line 7.

Following: "SECTION"

Strike: "66-1302"

Insert: "66-1316"

2. Amend the bill, pages 1 through 4.

Strike: all of the bill following the enacting clause

Insert: "Section 1. Section 66-1316, R.C.M. 1947, is amended to read as follows:

"66-1316. (3169) Act not to apply to physicians, and surgeons, opticians, officers of the armed forces, and certain other persons. Nothing in this act shall be construed to apply to physicians and surgeons authorized to practice under the laws of the state of Montana nor to an optician performing the required mechanical work under an order or prescription signed by a duly licensed physician, or surgeon or optometrist, nor to commissioned officers of the armed forces of the United States performing functions of this act ~~in~~ in the line of their regular duty, nor to persons who sell spectacles or eyeglasses without attempting to traffic upon assumed skill in adapting them to the eye."

AND, AS SO AMENDED, DO PASS.

STANDING COMMITTEE REPORT

FEBRUARY 10

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MR. **PRESIDENT**

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

having had under consideration **SENATE** Bill No. **346**

Respectfully report as follows: That **SENATE** Bill No. **346**
introduced bill

DO PASS

