

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
March 27, 1981

The Human Services Committee convened at 12:30 p.m. in Room 103 of the Capitol with CHAIRMAN BUDD GOULD presiding. All members were present except REPRESENTATIVES BARDANOUE and MENAHAN.

There being no hearings scheduled for the day, the CHAIRMAN called the committee into Executive Session.

EXECUTIVE SESSION

SENATE BILL 480

REP. BENNETT MOVED that SB 480 BE CONCURRED IN. He reported to the committee that the subcommittee had met and come up with compromise language to please both factions dealing with the bill. Basically, it will state that both groups, the audiologists and the hearing aid dispensers, will be under the control of the board of hearing aid dispensers. RUSS JOSEPHSON, legal counsel for the committee, will write the final language in regard to this. Other minor amendments were offered (see attached committee report). Audiologists would have to pay the required fee and show the board their audiologist licenses, but would not have to obtain trainee licenses or to take examinations, in order to obtain a license as a hearing aid dispenser. Audiologists would still be required to have a permanent place of business.

RUSS JOSEPHSON asked for the consensus of the committee regarding quorum requirements. CHAIRMAN GOULD and other members felt there was no problem, because of the "open meeting" laws, and administrative rules.

RUSS JOSEPHSON also asked about page 11, lines 8 and 10 where "temporary" should be stricken, and "trainee" inserted. REP. DEVLIN SO MOVED. The motion was seconded and PASSED UNANIMOUSLY.

RUSS JOSEPHSON read the Statement of Intent. REP. KEYSER MOVED that it be accepted by the committee. The motion was seconded and PASSED UNANIMOUSLY.

RUSS JOSEPHSON then asked about possible clarification of the title. REP. BENNETT MOVED that in the title, line 12 the words "EXEMPTING AUDIOLOGISTS FROM LICENSURE;" be stricken. The motion was seconded and PASSED UNANIMOUSLY.

REP. BENNETT moved that the other amendments proposed in subcommittee be accepted (they are included in the attached Standing Committee Report EXHIBIT I). The motion was seconded and PASSED UNANIMOUSLY. REP. BENNETT's motion of As Amended Be Concurred In.

The meeting adjourned at 12:52.

A handwritten signature in cursive script, appearing to read "Budd Gould", is written above a horizontal line.

BUDD GOULD, CHAIRMAN

rj

STANDING COMMITTEE REPORT

March 27, 1981

Journal

SPEAKER

MR.

HUMAN SERVICES

We, your committee on.....

SENATE

480

SENATE
having had under consideration Bill No. 480

"AN ACT TO REESTABLISH THE BOARD OF HEARING AID DISPENSERS UNDER EXISTING STATUTORY AUTHORITY AND RULES; TO GENERALLY REVISE AND CLARIFY THE OPERATIONS OF THE BOARD; REMOVING AN AUDIOLOGIST FROM THE BOARD; ADDING A PUBLIC MEMBER TO THE BOARD; CHANGING A TEMPORARY LICENSE TO A TRAINEE LICENSE AND PROVIDING GUIDELINES FOR ITS ISSUANCE; PROVIDING THAT FEES CHARGED BY THE BOARD ARE TO BE COMMENSURATE WITH BOARD ADMINISTRATIVE COSTS; AMENDING SECTIONS 2-8-103, 2-15-1616, 37-16-102, 37-16-201, 37-16-202, 37-16-301, 37-16-402, 37-16-405, 37-16-407, 37-16-408, AND 37-16-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 480

Third reading copy be amended as follows:

1. Title, line 12.
Following: "COSTS"
Strike: "EXEMPTING AUDIOLOGISTS FROM LICENSURE:"
2. Title, line 13.
Following: "37-16-102"
Strike: "37-16-103"
3. Page 8, line 23 through line 11 of page 9.
Following: line 22
Strike: Section 5 in its entirety
ReNUMBER: subsequent sections

(continued)

AND AS AMENDED, BE CONCURRED IN

XXXXXXXXXX

March 27, 1981

HUMAN SERVICES COMMITTEE OF THE HOUSE
Amendments to SB 480
page 2

4. Page 11, line 8.

Following: line 7

Strike: "temporary"

Insert: "trainee"

5. Page 11, line 10.

Following: line 9

Strike: "temporary"

Insert: "trainee"

6. Page 11, line 25.

Following: "school"

Strike: "or"

Insert: ", "

7. Page 12, line 2.

Following: "application"

Insert: ", or that he holds a current license as an audiologist under
Title 37, chapter 15"

8. Page 14, line 7.

Following: "board."

Insert: "(7) A person licensed as an audiologist under the provisions
of Title 37, chapter 15, is exempt from the trainee license and examina-
tion requirements of this chapter."

STATEMENT OF INTENT

SENATE BILL 480

Senate Public Health, Welfare, and Safety Committee

A statement of intent is required for this bill because it grants rulemaking authority to the Board of Hearing Aid Dispensers. It is the intent of Section 9 that the Board adopt rules for the purpose of establishing the conditions under which a break in the training of a hearing aid dispenser would require application for a new training license.

1 SENATE BILL NO. 480

2 INTRODUCED BY HEALY, HAFEEY, STIMATZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
5 BOARD OF HEARING AID DISPENSERS UNDER EXISTING STATUTORY
6 AUTHORITY AND RULES; TO GENERALLY REVISE AND CLARIFY THE
7 OPERATIONS OF THE BOARD; REMOVING AN AUDIOLOGIST FROM THE
8 BOARD; ADDING A PUBLIC MEMBER TO THE BOARD; CHANGING A
9 TEMPORARY LICENSE TO A TRAINEE LICENSE AND PROVIDING
10 GUIDELINES FOR ITS ISSUANCE; PROVIDING THAT FEES CHARGED BY
11 THE BOARD ARE TO BE COMMENSURATE WITH BOARD ADMINISTRATIVE
12 COSTS; EXEMPTING AUDIOLOGISTS FROM LICENSURE; AMENDING
13 SECTIONS 2-8-103, 2-15-1616, 37-16-102, 37-16-103,
14 37-16-201, 37-16-202, 37-16-301, 37-16-402, 37-16-405,
15 37-16-407, 37-16-408, AND 37-16-412, MCA; AND PROVIDING AN
16 IMMEDIATE EFFECTIVE DATE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Reestablishment. The board of hearing aid
20 dispensers is reestablished for 6 years pursuant to 2-8-122
21 with its existing statutory authority and rules.

22 Section 2. Section 2-8-103, MCA, is amended to read:
23 "2-8-103. Agencies to terminate. (1) The following
24 agencies shall terminate on July 1, 1979:

25 (a) board of abstracters, department of professional

1 and occupational licensing, created by 2-15-1643;
2 (b) board of real estate, department of professional
3 and occupational licensing, created by 2-15-1642;
4 (c) state board of warm air heating, ventilation, and
5 air conditioning, department of professional and
6 occupational licensing, created by 2-15-1656;
7 (d) board of institutions, department of institutions,
8 created by 2-15-2303.
9 (2) The following agencies shall terminate on July 1,
10 1981:
11 (a) commission for human rights, department of labor
12 and industry, created by 2-15-1706;
13 (b) board of athletics, department of professional and
14 occupational licensing, created by 2-15-1661;
15 (c) board of barbers, department of professional and
16 occupational licensing, created by 2-15-1625;
17 (d) board of chiropractors, department of professional
18 and occupational licensing, created by 2-15-1613;
19 (e) board of cosmetologists, department of
20 professional and occupational licensing, created by
21 2-15-1626;
22 (f) board of dentists, department of professional and
23 occupational licensing, created by 2-15-1606;
24 (g) ~~board of hearing aid dispensers, department of~~
25 ~~professional and occupational licensing, created by~~

1 2-15-1616;
2 ~~ttt~~gg board of massage therapists, department of
3 professional and occupational licensing, created by
4 2-15-1627;
5 ~~ttt~~hh Montana state board of medical examiners,
6 department of professional and occupational licensing,
7 created by 2-15-1605;
8 ~~ttt~~ii board of morticians, department of professional
9 and occupational licensing, created by 2-15-1619;
10 ~~ttt~~jj board of nursing, department of professional
11 and occupational licensing, created by 2-15-1610;
12 ~~ttt~~kk board of nursing home administrators,
13 department of professional and occupational licensing,
14 created by 2-15-1611;
15 ~~ttt~~ll board of optometrists, department of
16 professional and occupational licensing, created by
17 2-15-1612;
18 ~~ttt~~mm board of osteopathic physicians, department of
19 professional and occupational licensing, created by
20 2-15-1607;
21 ~~ttt~~nn board of pharmacists, department of
22 professional and occupational licensing, created by
23 2-15-1609;
24 ~~ttt~~oo board of podiatry examiners, department of
25 professional and occupational licensing, created by

1 2-15-1608;
2 ~~ttt~~pp board of psychologists, department of
3 professional and occupational licensing, created by
4 2-15-1617;
5 ~~ttt~~qq board of radiologic technologists, department
6 of professional and occupational licensing, created by
7 2-15-1614;
8 ~~ttt~~rr board of speech pathologists and audiologists,
9 department of professional and occupational licensing,
10 created by 2-15-1615;
11 ~~ttt~~ss board of veterinarians, department of
12 professional and occupational licensing, created by
13 2-15-1618;
14 ~~ttt~~tt board of veterans' affairs, department of
15 social and rehabilitation services, created by 2-15-2202;
16 ~~ttt~~uu board of sanitarians, department of
17 professional and occupational licensing, created by
18 2-15-1631.
19 (3) The following units of state government shall
20 terminate on July 1, 1983:
21 (a) board of aeronautics, department of community
22 affairs, created by 2-15-1103;
23 (b) state board of hail insurance, department of
24 agriculture, created by 2-15-3003;
25 (c) board of horse racing, department of professional

1 and occupational licensing, created by 2-15-1662;
2 (d) board of livestock, department of livestock,
3 created by 2-15-3102;
4 (e) board of milk control, department of business
5 regulation, created by 2-15-1802;
6 (f) board of oil and gas conservation, department of
7 natural resources and conservation, created by 2-15-3303;
8 (g) Montana outfitters council, department of fish,
9 wildlife, and parks, created by 2-15-3403;
10 (h) public service commission, department of public
11 service regulation, created by 69-1-102;
12 (i) board of water and wastewater operators,
13 department of health and environmental sciences, created by
14 2-15-2105;
15 (j) board of water well contractors, department of
16 professional and occupational licensing, created by
17 2-15-1632.
18 (4) The following agencies terminate on July 1, 1985:
19 (a) the board of public accountants, created by
20 2-15-1641;
21 (b) the board of architects, created by 2-15-1651;
22 (c) state banking board, department of business
23 regulation, created by 2-15-1803;
24 (d) the state electrical board, created by 2-15-1654;
25 (e) the board of professional engineers and land

1 surveyors, created by 2-15-1653;
2 (f) office of commissioner of insurance and the
3 insurance department, state auditor's office, created by
4 2-15-1902 and 2-15-1903;
5 (g) office of the securities commissioner, state
6 auditor's office, created by 2-15-1901;
7 (h) the board of landscape architects, created by
8 2-15-1652;
9 (i) the board of county printing, created by
10 2-15-1102;
11 (j) the board of plumbers, created by 2-15-1655;
12 (k) board of physical therapy examiners, created by
13 2-15-1628.
14 (5) The following agency terminates on July 1, 1987:
15 board of hearing aid dispensers, department of professional
16 and occupational licensing, created by 2-15-1616."
17 Section 3. Section 2-15-1616, MCA, is amended to read:
18 "2-15-1616. Board of hearing aid dispensers. (1) There
19 is a board of hearing aid dispensers.
20 (2) (a) The board consists of five members appointed
21 by the governor. The members are:
22 ~~that~~ (i) one member appointed from a list submitted by
23 the Montana academy of oto-ophthalmology. This member shall
24 hold or be eligible for a certificate of qualification from
25 the American board of otolaryngology.

1 ~~(b) one member appointed from a list submitted by the~~
 2 ~~Montana speech and hearing association. This member shall~~
 3 ~~hold or be eligible for a certificate of clinical competence~~
 4 ~~in audiology from the American speech and hearing~~
 5 ~~association.~~

6 ~~(c)(iii) three members appointed from a list submitted~~
 7 ~~by the Montana hearing aid dealers' society. These members~~
 8 ~~shall have been qualified dispensers and fitters of hearing~~
 9 ~~aids for at least 5 years before their appointment to the~~
 10 ~~board.~~

11 ~~(iii) one public member who is not in the hearing~~
 12 ~~health care field.~~

13 ~~(d)(b) one alternate member shall be appointed~~
 14 ~~from each of the three lists categories to serve when a~~
 15 ~~regular member cannot attend a scheduled meeting.~~

16 (3) Each member shall serve for a term of 3 years. A
 17 member may not be reappointed within 1 year after the
 18 expiration of his second consecutive full term. If a vacancy
 19 occurs on the board, the governor shall appoint a person
 20 from the same list category as the member whose term was not
 21 completed.

22 (4) The board is allocated to the department for
 23 administrative purposes only as prescribed in 2-15-121."

24 Section 4. Section 37-16-102, MCA, is amended to read:
 25 "37-16-102. Definitions. Unless the context requires

1 otherwise, in this chapter the following definitions apply:
 2 (1) "Board" means the board of hearing aid dispensers
 3 provided for in 2-15-1616.

4 (2) "Department" means the department of professional
 5 and occupational licensing provided for in Title 2, chapter
 6 15, part 16.

7 (3) "License" means a regular or temporary license
 8 license.

9 (4) "Hearing aid" means an instrument or device
 10 designed for or represented as aiding or improving defective
 11 human hearing and parts, attachments, or accessories of the
 12 instrument or device.

13 (5) "Practice of dispensing and fitting hearing aids" means the evaluation or measurement of the powers or range of human hearing by means of an audiometer and a visual examination of the ear and canal or by any other means devised and the consequent selection, adaption, or sale of hearing aids intended to compensate for hearing loss, including eyeglass hearing aids and their fittings, and the making of an impression of the ear and the subsequent selection of a proper ear mold, but does not include batteries, cords, or accessories."

23 SECTION 5. SECTION 37-16-103, MCA, IS AMENDED TO READ:
 24 "37-16-103. Exemptions. (1) This chapter does not
 25 apply to a person who is a physician licensed to practice by

1 the state board of medical examiners.

2 (2) This chapter does not apply to a person while he
3 is engaged in the practice of fitting hearing aids if his
4 practice is part of the academic curriculum of an accredited
5 institution of higher education or part of a program
6 conducted by a public agency or by a charitable or nonprofit
7 organization which is primarily supported by voluntary
8 contributions, unless they sell hearing aids.

9 (3) This chapter does not apply to a person who is
10 licensed to practice as an audiologist by the board of
11 speech pathologists and audiologists."

12 Section 6. Section 37-16-201, MCA, is amended to read:
13 "37-16-201. Meetings -- quorum -- organization. (1)
14 The board shall meet at least once each year at a place and
15 time determined by the chairman and at other times and
16 places specified by the chairman to carry out this chapter.
17 Three members ~~including either the otolaryngologist or the~~
18 ~~audiologist~~ constitute a quorum.

19 (2) Members of the board shall annually designate one
20 member to serve as chairman and another member to serve as
21 secretary-treasurer."

22 Section 7. Section 37-16-202, MCA, is amended to read:
23 "37-16-202. Powers and duties. The powers and duties
24 of the board are to:

25 (1) license persons who apply and are qualified to

1 practice the fitting of hearing aids:

2 (2) establish a procedure to act as a grievance board
3 to receive, investigate, and mediate complaints from any
4 source concerning the activities of persons licensed under
5 this chapter or their agents, whether licensed or not;
6 (3) suspend or revoke licenses under this chapter;
7 (4) designate the time and place for examining
8 applicants for license and supervise and administer the
9 examination;

10 (5) adopt rules necessary to carry out this chapter;
11 (6) require the periodic inspection and calibration of
12 audiometric testing equipment and carry out periodic
13 inspections of facilities of persons who practice the
14 fitting or selling of hearing aids;

15 (7) prepare examinations required by the chapter;
16 (8) initiate legal action to enjoin from operation a
17 person or corporation engaged in the sale and fitting of
18 hearing aids in this state who is not licensed under this
19 chapter."

20 Section 8. Section 37-16-301, MCA, is amended to read:

21 "37-16-301. Permanent place of business in state
22 necessary -- exception -- records -- notice. (1) A person
23 who obtains a license to dispense hearing aids as a business
24 must have a permanent place of business in this state that
25 will be opened to serve the public, having the necessary

1 testing, fitting, and hearing aid accessories needed by the
2 hard-of-hearing public in the wearing of hearing aids.

3 (2) Subsection (1) of this section does not apply to
4 persons who obtain a license as salespeople representing a
5 licensed hearing aid dispenser.

6 (3) The department shall keep a record of the places
7 of practice of persons who hold regular licenses or
8 temporary licenses. A notice required to be given by the
9 board or department to a person who holds a regular or
10 temporary license may be given by mailing it to him at the
11 address last given by him to the department.

12 (4) All licensed dispensers shall notify the board of
13 any change of address within 30 days of the change. A
14 trainee shall notify the board of any change of address
15 within 10 days of the change."

16 Section 9. Section 37-16-402, MCA, is amended to read:

17 "37-16-402. Application -- qualifications -- fee. An
18 applicant for a license shall pay a fee of \$50 fixed by the
19 board and commensurate with the costs of processing and
20 administering his application and related functions of the
21 board and shall show to the satisfaction of the board that
22 he:

23 (1) is a person of good moral character;

24 (2) has an education equivalent to a 4-year course in
25 an accredited high school or has continuously engaged in the

1 practice of fitting and dispensing hearing aids during the 3
2 years preceding the date of application;

3 (3) is free of contagious or infectious disease."

4 Section 10. Section 37-16-405, MCA, is amended to
5 read:

6 "37-16-405. Temporary trainee license. (1) An
7 applicant who fulfills the requirements of 37-16-402 and who
8 has not previously applied to take the examination under
9 37-16-403 may apply to the department board for a temporary
10 trainee license.

11 (2) On receiving an application under subsection (1)
12 of this section, accompanied by a fee of \$25 fixed by the
13 board and commensurate with the cost of administering the
14 license and related functions of the board, the department
15 board shall issue a temporary trainee license which entitles
16 the applicant to practice -- the -- fitting -- and -- dispensing -- of
17 hearing -- aids -- for -- a -- period -- ending -- 30 -- days -- after -- the
18 conclusion of the next examination given after the date -- of
19 issue -- engage in a 6-month training period during which he
20 shall:

21 (a) work for a period of 30 days under the direct
22 control of a hearing aid dispenser during which the trainee
23 may not in any way fit a hearing aid or test a customer;

24 (b) after the completion of the period provided for in
25 subsection (2)(a), work for a period of 60 days during which

1 he may do the testing necessary for proper selection and
 2 fitting of a hearing aid and make necessary impressions, but
 3 the delivery and final fitting of the hearing aid must be
 4 made by his supervisor; and

5 (c) work for the balance of the training period during
 6 which he may engage in all activities allowed a licensed
 7 hearing aid dispenser, but while under supervision of a
 8 licensed hearing aid dispenser.

9 (3) The training period must consist of a continuous
 10 6-month term. Any break in training requires application for
 11 another trainee license under such rules as the board may
 12 prescribe.

13 †††(4) No temporary trainee license may be issued by
 14 the department board unless the applicant shows to the
 15 satisfaction of the board that he is or will be supervised
 16 and trained by a person who holds a valid license issued
 17 under this chapter.

18 †††(5) If a person who holds a temporary trainee
 19 license does not take the next examination given after the
 20 date--of--issue completion of his training period, the
 21 temporary trainee license may not be renewed except for a
 22 good cause shown to the satisfaction of the board.

23 †††(6) If a person who holds a temporary trainee
 24 license takes and fails to pass the next examination given
 25 after the date-of--issue completion of his training period,

1 the board may authorize the department to renew the
 2 temporary trainee license for a period ending 30 days after
 3 the results of the next examination given after the dates of
 4 renewal are announced. In no event may more than two
 5 renewals be permitted. The fee for renewal is \$30 shall be
 6 set by the board commensurate with the cost of administering
 7 the license and related functions of the board."

8 Section 11. Section 37-16-407, MCA, is amended to
 9 read:

10 "37-16-407. Renewal of license -- fee. A person who
 11 practices the fitting of hearing aids shall annually pay to
 12 the department a fee not to exceed \$80 as set by the board
 13 for a renewal of his license. The fee shall be fixed by the
 14 board to be commensurate with board costs in administering
 15 licensure and related board functions. The fee shall be
 16 increased 10% for each month or major portion thereof that
 17 the payment of the renewal fee is delayed after the
 18 expiration date. The maximum fee for a delayed renewal
 19 shall not exceed twice the normal renewal fee as set by the
 20 board. A person applying for renewal whose license was
 21 suspended for failure to renew is not required to submit to
 22 an examination as a condition of renewal for a 3-year period
 23 after suspension."

24 Section 12. Section 37-16-408, MCA, is amended to
 25 read:

1 "37-16-408. Deposit of fees. Fees collected by--the
2 department under this chapter shall be deposited in the
3 earmarked revenue fund for the use of the board, subject to
4 appropriations and 37-1-101(6)."

5 Section 13. Section 37-16-412, MCA, is amended to
6 read:

7 "37-16-412. Revocation, suspension, or denial --
8 notice and hearing. No license issued under this chapter may
9 be suspended, revoked, denied, or renewal denied without
10 notice and opportunity for a hearing as provided under the
11 Montana Administrative Procedure Act."

12 Section 14. Effective date. This act is effective on
13 passage and approval.

-End-