

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

FEBRUARY 20, 1981

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman, Tom Hager on Friday, February 20, 1981 at 12:30 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present. Senators Johnson, Halligan, and Norman arrived late. Kathleen Harrington, staff researcher, was also present.

Many visitors were in attendance. (See attachments.)

CONSIDERATION OF SENATE BILL 426: Senator Matt Hims1 of Senate District 9, chief sponsor of SB 426, gave a brief resume of the bill. This bill is an act to reestablsih the Board of Optometrists under existing statutory authority and rules; providing for staggered 4-year terms for Board Members; removing restrictions against advertising; clarifying the authority to fit contact lenses; updating the grounds for revocation of a license; removing restrictions prohibiting optometrists from being employed by anyone other than a licensed optometrist; and providing an immediate effective date.

Carl Totman, representing the Board of Optometrists, stated that the Board does not think that corporate practice employment is in the interest of the people of Montana. Few, if any, corporations place the welfare of the public before a profit motify. Optometry is a personalized service not conductive to corporate proactice predicated to high volume and fast turnover. If a patient seeks vision care at a chain store, who is responsible to the patient? How does the Board protect the public. Of the fourteen changed suggested, eleven are points well taken and need no comment on the part of the Board. However, then Dr. Totman handed out suggested amendments to the bill. (See attachments.)

Dr. Paul Kathrein, a practicing optometrist from Great Falls, stated that the Montana Optometrists Association is in agreement with the legislative audit committee report concerning re-instatement of the Board of Examiners in Optometry. They agree with the majority of changes the legislative audit committee proposed. They feel that the section on contact lenses is good as it has needed further clarification to erase any doubt as to who can fit contact lenses to the people of Montana.

Dr. Kathrein handed in written testimony to the Committee.
(See attachments.)

Dr. M. F. Keller of Great Falls stated that for more than fifty years Montana has had laws prohibiting optometrist and dentist from being employed by corporations. Thirty-four other states also have this prohibition, and for good reason. Corporations are institutions primarily designed for making money for corporation heads and stockholders, as they should. A health care professions chosen aim must be to render the best service to patients. Professional honesty is a virtue that cannot be legislated. There is no place in a health profession for a "let the buyer beware" attitude. Due to the serious and technical nature of any health profession, the patient is at the mercy of the doctor. Quality vision care takes a back seat to profit in commercial optometric practices. In such a setting a practitioner is often pressured by the corporation to compromise his professional judgement to increase the corporation profits. Dr. Keller offered an amendment to the bill. (See attachments.)

Dr. Al Kautz from Billings spoke to the importance of inserting into the Optometry Law the proposed amendment that would prohibit fabrication or duplication of prescription glasses without a valid written prescription. This would be accomplished on page 8, line 24, with the addition of the words "without a valid prescription." It is the position of the Montana Optometric Association that patients have access to their written spectacle prescription, therefore, it is unnecessary to take the risk of duplicating a pair of glasses from an existing pair of glasses. He then asked the Committee to approve the amendment and pass the bill.

With no further proponents to the bill, the Chairman called on the opponents.

Phil Strobe, representing the Dispensing Opticians, stated that his organization would like to see the bill amended on page 7, line 13 and 15. He then suggested that the bill should perhaps be amended to strike all of lines 12 through 24. He stated that the law should be left as it is in Section 37-10-107. He encourage the Committee to delete (i) Section. Dispensing Opticians feel that they should have an equal right to fit contact lenses.

Patrick Burton from Butte, representing the Montana Dispensing Opticians, stated for 17 years he has fit glasses and contact lens. He then stated that 1/3 of his business is that of fitting contact lens. He proposed that the words, measure, fit, and place be removed from Section K, line 21, on page 9. Then he would be able to support the bill.

Jay Pennington of Great Falls, representing the Dispensing Opticians, stated that there nine other states which do not allow the dispensing of lens and glasses. He then stated that he would be pleased to talk to the Committee about incidents regarding non-release of prescriptions. He stated that he could show the Committee prescriptions written on slips of scratch paper, etc which are not dated or initialed.

Dr. Tom Rasmussen of Helena, representing himself and the Montana Optometric Association, read a letter from Mr. Morris Brusett and Dr. Mel Lensick of Bozeman. In the letter Dr. Lensink stated the optometrists are trained to properly apply contact lenses to the eye and to evaluate those situations when they should not be applied.

With no further opponents to the bill, Senator Himsel closed. He asked the Committee for their support in this bill. He also stated because of the proposed amendments that perhaps a small compromise is reasonable.

The meeting was then opened to a question and answer period from the Committee.

Senator Johnson asked if this bill would upset the corporations. Senator Himsel replied that there should be no restrictions on anyone. Dr. Rasmussen stated that everyone is in the business to make money.

Senator Olson asked if the opticians examine the eye for contact lenses. To which they replied, that they only measure the eye and fill the prescription of the doctor.

Senator Olson asked if Drs. Keller and Rasmussen were willing to give out prescriptions for glasses and contact lenses. They both replied that they are already doing this.

DISPOSITION OF SENATE BILL 332: This bill is an act to require the opportunity in certain circumstances for an individual to continue to participate in a group disability insurance plan if he leaves the group; to require the opportunity in certain circumstances for an individual to convert his group insurance to an individual policy if his group insurance coverage is terminated; and establishing standards and conditions for continuation of coverage and conversion; and providing for a delayed effective date.

A motion was made by Senator Halligan that SB receive a DO NOT PASS recommendation from the Committee. Motion carried with everyone voting yes except Senator Johnson who voted "no".

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DISPOSITION OF SENATE BILL 129: This bill is an act regulating conversions of group life insurance and group disability insurance and providing for continuation of group coverage under certain circumstances and providing an effective date.

The Committee then went through the gray copy of the bill.

Senator Berg stated that he was concerned that the Committee did not have enough time to study the amendments to the bill.

A motion was made, therefore, be Senator Berg that SB 129 DO NOT PASS.

Senator Johnson stated that she felt that the bill definitely has some merit and would therefore, make a substitute motion that SB 129 receive a DO PASS recommendation from the Committee. All senators voted yes except Senators Berg and Olson who voted "no" because they felt that it was unfair to pass a bill which they have not had time enough to study.

DISPOSITION OF Senate Bill 314: This bill is an act to allow family members the right to continue individual family disability insurance coverage upon the death of the named insured or the divorce, separation or annulment of marriage of the spouse from the named insured; and to establish conditions and requirements of continued coverage.

A motion was made by Senator Johnson that SB 314 DO PASS. Motion carried unanimously.

DISPOSITION OF SENATE BILL 193: This bill is an act to reestablish the Board of Radiologic Technologists under the Department of Professional and Occupational Licensing, and providing a new termination date.

Senator Johnson stated that she felt it better to have the board under someone besides the Department of Health.

A motion was made by Senator Himsl that SB 193 receive a DO NOT PASS recommendation from the Committee. He stated that he made his judgement from the legislative audit report. Motion failed. Those voting yes were: Senators Himsl, Olson, and Berg. Senators Hager, Johnson, Norman, and Halligan voted "no".

A motion was then made by Senator Johnson that SB 193 DO PASS. Motion carried. Those senators voting "yes" were Senators Hager, Johnson, Norman, and Halligan. Those senators who voted "no" were: Senators Himsl, Olson and Berg.

DISPOSITION OF SENATE BILL 425: This bill is an act to abolish the Board of Radiologic Technologists and transfer licensing and regulation of the radiologic technologists to the department of Health.

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A motion was made by Senator Halligan that Senate Bill 425 DO NOT PASS. Motion carried with Senators Hager, Johnson, Norman and Halligan voting "yes". Senators Himsl, Olson and Berg voted "no".

DISPOSITION OF SENATE BILL 195: This bill is an act to revise provisions pertaining to radiologic technologists and repealing Section 37-14-312.

A motion was made by Senator Norman that the bill be amended on page 1, lines 22 and 23; strike: "chiropractor licensed to practice in Montana"; insert: "a public member". Motion carried.

A motion was made by Senator Johnson that SE 195 DO PASS AS AMENDED, Motion carried with all senators voting "yes", except Senators Himsl and Berg.

SENATE JOINT RESOLUTION 3 DISPOSITION: This is a resolution of the House of Representative and the Senate of the State of Montana concerning continued efforts to prevent littering and promote container recycling.

A motion was made by Senator Johnson that SJR 3 DO NOT PASS. Motion carried unanimously,

The reason for the do not pass is that the Committee is passing a bill which already takes care of the problem.

DISPOSITION OF SENATE BILL 391: This bill is an act to reestablish the Board of Dentistry under existing statutory authority.

Senator Himsl made a motion that the bill DO PASS. He then explained the work of the audit Committee in studying the different aspects of the bill.

Senator Johnson stated that she was somewhat worried about dental hygienists being able to work without the direct supervision of a dentist.

Scott Secat explained that the dental hygienist act requires that they must work under the direct supervision of a dentist.

Senator Johnson then stated that she has had several letters about this problem.

A motion was made by Senator Johnson that the bill be amended on page 14, line 9 to take care of the dental hygienist. However, the motion failed.

Senator Himsl then again moved that SB 391 DO PASS. Motion carried with everyone voting "yes" except Senator Johnson who voted "no".

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DISPOSITION OF SENATE BILL 388: This bill is an act to eliminate reference to the Board of Sanitarians and providing an effective date.

A motion was made by Senator Himsl that SB 388 receive a DO PASS recommendation from the Committee. Motion failed, as everyone voted "no" except Senator Himsl who voted "yes".

A motion was made by Senator Berg that Senate Bill 388 receive a DO NOT PASS recommendation from the Committee. Motion carried with everyone voting "yes" except Senator Himsl who voted "no".

DISPOSITION OF SENATE BILL 418: This bill is an act to revise and clarify the law creating the Board of Pharmacists and the laws administered by the Board of Pharmacists.

A motion was made by Senator Norman that the bill be amended on page 15, lines 16 through 18; following: "filled."; strike: "A prescription may not be refilled when a refill is prohibited by federal or state law." Motion carried.

A motion was made by Senator Johnson to amend the bill further on page 15, line 16; following: "than"; strike: "1"; insert: "3". Motion carried.

A motion was made by Senator Berg that Senate Bill 418 receive a recommendation of DO PASS AS AMENDED from the Committee. Motion carried unanimously.

DISPOSITION OF SENATE BILL 426: This is an act to reestablish the Board of Optometrists under existing statutory authority and rules.

Senator Himsl reported that the public did not testify on this bill and they would be the ones directly effected.

A motion was made by Senator Himsl that the bill be amended on page 11, lines 6 through 10; following: line 5; insert: the stricken material in lines 6 through 10; renumber: subsequent subsections. Motion carried with everyone voting "yes" except Senator Olson who voted "no".

A motion was made by Senator Himsl that SB 426 DO PASS AS AMENDED. Motion carried with everyone voting "yes" except Senator Olson who voted "no".

The Committee recess temporarily to attend a floor session.

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Meeting reconvened at 4:15.

DISPOSITION OF SENATE BILL 426: This bill is an act to reestablish the Board of Optometrists under existing statutory authority and rules.

A motion was made by Senator Olson that the Committee reconsider their previous actions on SB 426. Motion carried with everyone voting "yes" except Senators Berg and Himsl.

The Strobe amendments were discussed.

Senator Johnson made a motion that the amendments proposed by Mr. Strobe be not accepted.

A substitute motion was made by Senator Berg that the amendments be accepted. Motion failed with Senators Hager, Olson and Berg voting "yes" and Senators Himsl, Johnson, Norman and Halligan voting "no".

A motion was made by Senator Himsl that SB 426 receive a DO PASS AS AMENDED recommendation from the Committee. Motion carried with everyone voting "yes" except Senators Olson and Berg who voted "no".

DISPOSITION OF SENATE BILL 452: This bill is an act to reestablish the Board of Barbers under existing statutory authority and rules.

A motion was made by Senator Berg that the bill be amended on page 7, line 6, to have 3 barbers and one public member on the board. Motion failed on a tie vote.

Senator Berg stated that there is a technical error on page 19, line 6 which needed to be corrected. Motion carried.

A motion was made by Senator Himsl that SB 452 DO PASS AS AMENDED. Motion carried with everyone voting "yes" except Senator Berg who voted "no".

DISPOSITION OF SENATE BILL 453: This is a bill to reestablish a board of speech pathologists, audiologists, and hearing aid dispensers.

A motion was made by Senator Halligan that SB 453 DO NOT PASS. Motion carried with everyone voting "yes" except Senator Himsl who voted "no".

DISPOSITION OF SENATE BILL 480: This bill is an act to reestablish the Board of Hearing Aid Dispensers under existing statutory authority and rules.

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Senator Olson stated that the bill needs to be amended on page 10, line 18

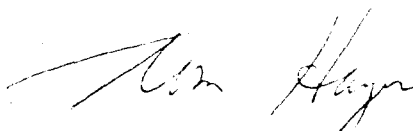
A motion was made by Senator Berg that SG 480 receive a recommendation of DO NOT PASS from the Committee. Motion carried with everyone present voting "yes" except Senators Johnson and Hager.

DISPOSITION OF SENATE JOINT RESOLUTION 17: This is a joint resolution of the Senate and the House of Representatives of the State of Montana repealing the standards adopted the the Board of Health and Environmental Sciences for fluoride on forage and directing the adoption of a new standard.

A motion was made by Senator Himsl that SJR 17 receive a DO PASS recommendation from the Committee. Motion carried unanimously.

ANNOUNCEMENTS: The next meeting of the Public Health, Welfare and Safety Committee will be held on March 4, 1981 in Room 410 of the State Capitol Building.

ADJOURN: With no further business the meeting was adjourned.



Chairman, Tom Hager

ROLL CALL

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date Jul 20

NAME	PRESENT	ABSENT	EXCUSED
Tom Hager	✓		
Matt Himsel	✓		
S. A. Olson	✓		
Jan Johnson	late		
Dr. Bill Norman	late		
Harry K. Berg	✓		
Michael Halligan	late		

Each day attach to minutes.

STANDING COMMITTEE REPORT

FEBRUARY 20

1981

MR. **PRESIDENT:**

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

having had under consideration **SENATE JOINT RESOLUTION** Bill No. **3**

Respectfully report as follows: That **SENATE JOINT RESOLUTION** Bill No. **3**

HC

~~XXXXXX~~ DO NOT PASS

STANDING COMMITTEE REPORT

.....FEBRUARY 20..... 19 31.....

MR.PRESIDENT:.....

We, your committee onPUBLIC HEALTH, WELFARE & SAFETY.....

having had under considerationSENATE..... Bill No.388.....

Respectfully report as follows: That.....SENATE..... Bill No.388.....

40

~~DO PASS~~ DO NOT PASS

STANDING COMMITTEE REPORT

FEBRUARY 20

19 80

PRESIDENT:

MR.

PUBLIC HEALTH, WELFARE & SAFETY

We, your committee on

SENATE

having had under consideration Bill No. **332**

SENATE

Respectfully report as follows: That Bill No. **332**

He

~~DO NOT PASS~~ DO NOT PASS

STANDING COMMITTEE REPORT

FEBRUARY 20

19 31

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE & SAFETY

having had under consideration SENATE Bill No. 314

Respectfully report as follows: That SENATE Bill No. 314

DO PASS

HC

STANDING COMMITTEE REPORT

FEBRUARY 20 19 81

MR. **PRESIDENT:**

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

having had under consideration **SENATE** Bill No. **425**

Respectfully report as follows: That **SENATE** Bill No. **425**

A.C.

~~XXXXXX~~ **DO NOT PASS**

STANDING COMMITTEE REPORT

FEBRUARY 20 19 81

MR. **PRESIDENT:**

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

having had under consideration **SENATE** Bill No. **193**

Respectfully report as follows: That **SENATE** Bill No. **193**

DO PASS

YHC

STANDING COMMITTEE REPORT

.....FEBRUARY 20.....19 31.....

MR.PRESIDENT:.....

We, your committee onPUBLIC HEALTH, WELFARE & SAFETY.....

having had under considerationSENATE..... Bill No.391.....

Respectfully report as follows: That.....SENATE..... Bill No.391.....

DO PASS *He.*

STANDING COMMITTEE REPORT

..... FEBRUARY 20 19 31

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE & SAFETY

having had under consideration SENATE Bill No. 195

Respectfully report as follows: That SENATE Bill No. 195,

introduced bill be amended as follows:

1. Page 1, lines 22 and 23.

Strike: "chiropractor licensed to practice in Montana"

Insert: "a public member"

AND, as amended,
DO PASS

P.C.

STANDING COMMITTEE REPORT

.....FEBRUARY 20..... 19 81.....

MR. PRESIDENT:.....

We, your committee onPUBLIC HEALTH, WELFARE & SAFETY.....

having had under considerationSENATE..... Bill No. 418.....

Respectfully report as follows: ThatSENATE..... Bill No. 418.....

introduced bill, be amended as follows:

1. Page 15, line 16.

Following: "than"

Strike: "1"

Insert: "3"

2. Page 15, lines 16 through 18.

Following: "filled."

Strike: "A prescription may not be refilled when a refill
is prohibited by federal or state law."

AND, AS AMENDED,
DO PASS

J.C.

STANDING COMMITTEE REPORT

FEBRUARY 20

19 81

MR. **PRESIDENT:**

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

having had under consideration **SENATE** Bill No. **452**

Respectfully report as follows: That **SENATE** Bill No. **452**

introduced bill be amended as follows:

1. Page 19, line 6.

Following: "chapter"

Strike: "6"

Insert: "30"

Following: "chapter"

Strike: "6"

Insert: "30"

And, as amended,

DO PASS

H.C.

STANDING COMMITTEE REPORT

FEBRUARY 20 19 81

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE & SAFETY

having had under consideration SENATE Bill No. 480

Respectfully report as follows: That SENATE Bill No. 480

do.

~~XXXXXX~~

DO NOT PASS

STANDING COMMITTEE REPORT

February 20, 19 81

MR. **PRESIDENT**

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

having had under consideration **SENATE** Bill No. **426**

Respectfully report as follows: That **SENATE** Bill No. **426**,
introduced bill, be amended as follows:

1. Page 11, lines 6 through 10.

Following: line 5

Insert: the stricken material in lines 6 through 10

Renumber: subsequent subsections

A.C.
And as so amended,

DO PASS

STANDING COMMITTEE REPORT

February 20, 1981

MR. **PRESIDENT:**

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

having had under consideration **SENATE** Bill No. **129**

Respectfully report as follows: That **SENATE** Bill No. **129**,
introduced bill, be amended as follows:

1. Page 1, line 23.

Strike: "tendered"

Insert: "paid"

2. Page 1, line 24.

Strike: "written notice"

Insert: "such termination"

3. Page 1, line 25 through page 2, line 1.

Strike: line 25, page 1, in its entirety and line 1, page 2, through
"coverage"

4. Page 2, line 5.

Following: "insurance,"

Insert: "if the group policy so provides,"

5. Page 2, line 6.

Following: "for"

~~XXXXX~~

Insert: "at the age and for the amount applied for"

(continued)

HC

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6. Page 2, line 14.

Following: ~~"termination,"~~

Insert: "less the amount of any life insurance for which such person is insured under any other group policy within 31 days after such termination,"

7. Page 2, line 25.

Following: ~~"date"~~

Strike: the remainder of the line in its entirety

Insert: "form and amount of the individual policy, to the class of risk to which such person then belongs, and to his age attained on the effective date"

8. Page 3,

Strike: line 6 in its entirety

Insert: "during his employment notwithstanding"

9. Page 3, line 12.

Strike: ~~"and he elects"~~

Insert: "for"

10. Page 3, line 22.

Following: ~~"years"~~

Strike: ~~"1 year"~~

Insert: "3 years"

11. Page 3, line 25.

Strike: ~~"in the same amount of insurance and under"~~

Insert: "subject to"

12. Page 4, line 2.

Strike: ~~"shall"~~

Insert: "may"

13. Page 4, line 3.

Following: "policy"

Strike: "shall"

Insert: "may"

14. Page 4, line 4.

Following: ~~"of,"~~

Insert: "not exceed the smaller of:"

15. Page 4, line 5.

Strike: ~~"be offered by the insurer in"~~

Insert: "(1)"

(continued)

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1981

16. Page 4, line 11.

Following: "and"

Insert: ", less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer with 31 days after such termination; and"

17. Page 4, line 12.

Following: "\$2,000"

Insert: "\$10,000"

18. Page 4, line 13 through Page 5, line 8.

Strike: section 3 in its entirety

Renumber: All subsequent sections

19. Page 5, line 11.

Following: "issued"

Insert: "or renewed after October 1, 1981"

20. Page 5, line 11.

Following: "may,"

Insert: "for a period of one year,"

21. Page 5, lines 13 and 14.

Following: "policy" on line 13

Strike: "after terminating his qualifying employment or"

22. Page 5, line 19 through page 6, line 17.

Strike: Section 5 in its entirety

Insert: "NEW SECTION. Section 4. Conversion on termination of eligibility. (1) A group disability insurance policy issued or renewed after October 1, 1981, shall contain a provision that if the insurance or any portion of it on a person, his dependents, or family members covered under the policy ceases because of termination of his employment or of his membership in the class or classes eligible for coverage under the policy, or as a result of his employer discontinuing his business, such person shall, provided he had been insured for a period of three months, be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of hospital or medical service insurance on himself, his dependents, or family members, provided application for the individual policy shall be made and the first premium tendered to the insurer within 31 days after the termination of group coverage.

(2) The individual policy, at the option of the insured, shall be on any of the forms then customarily issued by the insurer to individual policyholders with the exception of those policies whose eligibility is determined by affiliation other than by employment with a common entity.

(3) The premium on the individual policy shall be at the insurer's then customary rate applicable to the coverage of the individual policy."

(continued)

23. Page 6, line 20.
Following: "issued"
Insert: "or renewed"

24. Page 6, line 21.
Following: "after"
Strike: "July"
Insert: "October"

25. Page 6, line 21.
Following: "may,"
Insert: "for a period of one year"

26. Page 6, line 23.
Following: "contract"
Strike: remainder of line 23

27. Page 7, line 5.
Following: "contract"
Strike: "in effect"
Insert: "issued or renewed"

28. Page 7, line 6.
Strike: "July"
Insert: "October"

29. Page 7, line 10.
Following: "policy"
Insert: "or as a result of an employer discontinuing his business"

30. Page 7, line 11.
Following: "shall"
Insert: ", provided he has been insured for a period of 3 months,"

31. Page 7, lines 16, 17, and 18.
Following: "after" on line 16
Strike: all language through "pending" on line 18
Insert: "the"

32. Page 7, lines 19 and 20.
Following: "of" on line 19
Strike: "such person"
Insert: "the insured"

33. Page 7, line 21.
Following: "insurer"
Insert: "to individual policyholders with the exception of those whose eligibility is determined by their affiliation other than by employment with a particular entity"

(continued)

34. Page 7, line 22.

Following: "coverage"

Insert: "such individual policies"

35. Page 7, lines 22, 23, and 24.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

36. Page 8, lines 2 and 3.

Following: "to"

Strike: "the other members of the group and"

37. Page 8, line 11.

Following: "3"

Insert: ", "

38. Page 8, line 12.

Strike: "and"

Following: "4"

Insert: ", and 5"

39. Page 8, line 14.

Following: "3"

Strike: "and"

Insert: ", "

Following: "4"

Insert: ", and 5"

40. Page 8, line 15.

Following: "Sections"

Strike: "5 through"

Insert: "6 and"

41. Page 8, line 18.

Following: "of"

Strike: "Title 33, chapter 22, and of"

42. Page 8, line 18.

Following: "sections"

Strike: "5 through"

Insert: "6 and"

H.C.
And, as so amended,

DO PASS

STANDING COMMITTEE REPORT

FEBRUARY 20 19 81

MR. **PRESIDENT:**

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

having had under consideration **SENATE** Bill No. **453**

Respectfully report as follows: That **SENATE** Bill No. **453**

J.C.
~~XXXXXXXX~~ DO NOT PASS

STANDING COMMITTEE REPORT

..... FEBRUARY 20 19 81

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE & SAFETY

having had under consideration SENATE JOINT RESOLUTION Bill No. 17

Respectfully report as follows: That SENATE JOINT RESOLUTION Bill No. 17

DO PASS

STATE PUB. CO.
Helena, Mont.

.....
SENATOR TOM HAGER

.....
Chairman.

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Dr. Carl A Totman	Bd of Optometrists	426	✓	
Michael S. Snyder	U.O.A.	426	✓	
Dr. M. Z. Keller	Montana Optometric Assn	426	✓	
Dr. J. McBratton	Montana Optometric Assn	426	✓	
Richard D Pratt	" "	426	—	
Lynne Roach	State Optical	426	✓	
William A. Lofch	Montana Optometric Assn	426	✓	
Dr. Paul Kathrin	Montana Optometric Assn	426	✓	
Dr. Tom Rasmussen	" " "	"	✓	
Mr. Al Kautz	Montana Optometric Assn	426	✓	
ITIL STROPE	DISPENSING OPTICIANS	426		AMEND
Jay L. Penington	Dispensing Opticians	426		
Scott Senoff	Legislative Audit			

NAME: Carl A. Tishman, J.D. DATE: 2/20/81

ADDRESS: Box 477 Malta MT 59538

PHONE: 406 654 1002

REPRESENTING WHOM? Bd of Optometrists

APPEARING ON WHICH PROPOSAL: SB 426

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Copies of comments left with
SECRETARY.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

BOARD OF OPTOMETRISTS
DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL LICENSING



STATE OF MONTANA

(406) 449-3737

TESTIMONY ON SENATE BILL 426

LALONDE BUILDING
42½ NORTH MAIN
HELENA, MONTANA 59601

Date: February 20, 1981

Mr. Chairman, members of the committee:

I am Carl Totman, Doctor of Optometry, and I practice in Malta. I presently serve as Secretary of the Board of Optometrists. I should like to present the feelings of the Board of Optometrists relative to the recommendations of the Audit Committee.

Of the fourteen suggested changes, eleven are points well taken and need no comment on the part of the Board.

However, with reference to page 11, line 6 through 10:

First the Board does not think that corporate practice and/or employment is in the interest of the people of Montana. Few, if any, corporations place the welfare of the public before a profit motif. Optometry is a personalized service not conducive to corporate practice predicated to high volume and fast turnover. If a patient seeks vision care at a chain store, who is responsible to the patient? -- where does the patient seek redress? -- how does the Board protect the public?

The United States Supreme Court, in the case of Friedman vs. Rogers, ruled that the Texas statute prohibiting optometrists from practicing under a trade name.....is constitutional. In its opinion the Court stated, "Here we are concerned with a form of commercial speech that has no intrinsic meaning. A trade name conveys no information about the price and nature of the services offered by an optometrist... When information can be manipulated



BOARD OF OPTOMETRISTS
DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL LICENSING



STATE OF MONTANA

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by the users of trade names, there is a significant possibility that trade names will be used to mislead the public." It is interesting to note that the Federal Trade Commission joined this action in an effort to pre-empt state statute. It is also interesting to note the Federal Trade Commission failed in this action to pre-empt state statute.

To assure continued state regulation of this matter and also permit corporate practice, the Board proposes the following amendment:

Page 11, Line 6:

"(c) directly or indirectly accepting employment to practice optometry from a person not having a valid certificate of registration as an optometrist or for directly or indirectly accepting employment to practice optometry from other than a professional corporation as defined in Section 35-4-103, MCA."

With reference to page 8, line 12 and line 24:

Regarding the prescription for eyeglasses, eyeglasses much like therapeutic drugs are compounded from prescription. The prescription is concise and precise -- but much more, the prescription charges the licensed prescriber as being responsible for the effectiveness of the prescription. If the optometry Statutes are diluted to allow multiple duplication, then the burden of responsibility by the doctor will be lost -- the patient will

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be at the mercy of the merchant. The board will enforce the federal regulation requiring the release of the prescription to the patient; however, lense duplication should be limited to a prescription, signed by an optometrist or physician, and the prescription should remain with the patient. To guarantee the prescriber's responsibility to the patient the Board would propose the following amendment:

Page 8, line 12 -- delete "with or"

Page 8, line 24 -- add after glasses, "from a signed prescription"

With reference to Page 9, line 21:

To conclude on a positive note -- the Board fully endorses the clarification on contact lense fitting. The fitting of contact lenses has to be limited to licensed optometrists or phycicians; however, just what constitutes the actual fitting procedure has to be spelled out. If the Board is to protect the visual welfare of the public by executing its dual function of (1) regulating the profession and (2) stoppting the illegal practice of optometry; then, the statutes have to be clear and distinct as to intent and purpose. The Board believes it was the intent of the Audit Committee to make clear that contact lense fitting must be limited to optometrists and physicians.

Thank you members of the Committee.

NAME: R. PAUL KATIRBEK DATE: 20 FEB 81

ADDRESS: 3001 Carmel CT Falls

PHONE: 1-400-727-3273

REPRESENTING WHOM? Nortana Automotive Assoc

APPEARING ON WHICH PROPOSAL: SB 426

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Have prepared testimony

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Testimony

TO: Public Health Committee, Montana State Senate

Mr. Chairman and Members of the Committee:

I am Paul Kathrein, a practicing optometrist from Great Falls and currently president of the Montana Optometric Association, which includes in its membership 90% of the optometrists in Montana.

I am representing the Montana Optometric Association and we are in agreement with the legislative audit committee report concerning re-instatement of the Board of Examiners in Optometry. We are in agreement with the majority of changes the legislative audit committee is proposing.

We agree with the audit committee that the contact lens section of the Montana Optometry Act needs further clarification to erase any doubt as to who can fit contact lenses to the people of Montana. I want to emphasize that the additions being proposed do not change existing law. Only optometrists and ophthalmologists have the legal right to fit contact lenses now, and only they will be fitting contact lenses under the proposed language changes. There have been consumer complaints filed with the Board of Optometry concerning contact lens fitting by unlicensed people, namely opticians. Clarification of the present statute will allow proper resolution of these complaints.

It is the intent of the present law, and the legislative audit committee's report that only optometrists and ophthalmologists fit contact lenses in Montana.

I am requesting that this committee accept the changes in the contact lens section as presented by the legislative audit committee.

There are two areas that we feel should be changed from the auditors report:

1. The corporate employment section and
2. The duplication of prescriptions section.

My colleagues, Dr. M.F. Keller and Dr. Al Kautz, will present testimony on these changes.

Thank you for your attention.

NAME: L. 771.7 Killeen DATE: 2/20/81

ADDRESS: 519 24th St Great Falls MA

PHONE: 452-9507

REPRESENTING WHOM? Nature Orientation Assn

APPEARING ON WHICH PROPOSAL: SB 426

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

COMMENTS:

I will have prepared statement with
committee secretary

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Mr. Chairman and Members of the Committee:

I am Dr. M.F. Keller, Optometrist practicing in Great Falls and I am also representing the Montana Optometric Association..

I appear in support of the proposed amendment to S.B. 426 which deals with corporate employment of optometrists.

For more than fifty years Montana has had laws prohibiting optometrists and dentists from being employed by corporations. Thirty four other states also have this prohibition, and for good reason.

Corporations are institutions primarily designed for making money for corporation heads and stockholder, as they should. A health care professions chosen aim must be to render the best service to patients.

Professional honesty is a virtue that cannot be legislated. There is no place in a health profession for a "let the buyer beware" attitude. Due to the serious and technical nature of any health profession, the patient is at the mercy of the doctor.

Quality vision care takes a back seat to profit in commercial optometric practices. In such a setting the practitioner is often "pressured" by the corporation to compromise his professional judgement to increase the corporation profits.

You might ask why an optometrist would practice in such a setting. The biggest incentive is the instant high starting salary often in excess of \$50,000. Can you imagine the volume you would have to generate to pay this salary plus retirement and health benefits and also pay for the excessive overhead of advortising, mall locations, and still produce a needed corporate profit margins. This volume can only be accomplished by reducing the thoroughness of professional care. Obviously the public would not be best served by the health care professional whose primary interest was profit.

The dental law newly rewritten still retains an outright prohibition against a dentist being employed by a regular corporation.

The present optometry law prohibits an optometrist from being employed by any corporation or company. The language in the proposed amendment would allow an optometrist to be employed by a professional corporation, or by another optometrist.

Title 35, the Profession Corporation Act, clearly allows groups of chiropractors, dentists, medical doctors, podiatrists, veterinarians, optometrists, pharmacists, and other to practice as professional corporations.

The basis of the individual and collective concern of our association is that the consumer should receive the highest possible quality vision care.

We urge the adoption of the amendment.

SENATE BILL 426

1. Page 8, Line 24.

Following: "glasses:"

Insert: "from a valid prescription:"

2. Page 11

Following: line 5

Insert: "(c) directly or indirectly accepting employment to practice optometry from a person not having a valid certificate of registration as an optometrist or for directly or indirectly accepting employment to practice optometry from other than a professional corporation as defined in RCM 35-4-103

NAME: Al Kaut DATE: 2/20/81
ADDRESS: 300 ⁵/₇, 7th West Billings, MT 59102

PHONE: 259-9750

REPRESENTING WHOM? Mont Optometric Assn

APPEARING ON WHICH PROPOSAL: SB 426

DO YOU: SUPPORT? ✓ AMEND? ✓ OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Testimony

Mr. Chairman and Members of the Committee:

I am Al Kautz, a doctor of Optometry practicing in Billings. I am speaking to the importance of inserting into the Optometry Law the proposed amendment that would prohibit fabrication or duplication of prescription glasses without a valid written prescription. This would be accomplished on page 8 line 24 with the addition of the words "without a valid prescription."

The validity of duplication a prescription pair of glasses from an existing pair of glasses brought to mind the story of the simple sentence whispered from person to person around a room and back to its originator. We all know the story; the simple sentence was not recognizable after that trip around the room.

And so it is in glasses. Make a pair from the written prescription, then make a so called duplicate from that pair of glasses and yet a third pair from that duplicate and repeat a few more times and you would not recognize the last pair as having much relation to the original written prescription.

The Federal Trade Commission, in its study prior to its "eye glass I" directive found that complicated prescriptions would often deviate enough from the written prescription to fail laboratory tolerances when duplicated from an existing pair of glasses rather than fabricated from the written prescription.

It is also note worthy that the FTC did not try to pre-empt the law in those states that have statutes prohibiting the fabrication of prescription eye glasses without a valid written prescription.

It is the position of the Montana Optometric Association that

patients have access to their written spectacle prescription, therefore it is unnecessary to take the risk of duplicating a pair of glasses from an existing pair of glasses.

Members of the Committee, we seek your approval of the amendment.

Thank you.

NAME: Dr. L. D. Hughes DATE: 7.20.51

ADDRESS: 252 C. Washington Blvd. N.E. Wash. D.C.

PHONE: 452-2222

REPRESENTING WHOM? None

APPEARING ON WHICH PROPOSAL: S.B. 426

DO YOU: SUPPORT? ✓ AMEND? ✓ OPPOSE?

COMMENTS: The proposed amendments to the Virginia
State Constitution - the proposed deletion of
Article III - is a visual measure of the state
of this state. The state bears a special responsibility
for the high standards of its citizens. The
introduction of legislation entitled practices
would lead to a mass-produced, impersonal
and inferior kind of eye care.

Please send this to the House
committees as a do pass rec.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Patrick M. Barton DATE: 2-20-81

ADDRESS: 3100 American Ave Butte, Mont. 59701

PHONE: 494-4358

REPRESENTING WHOM? Montana Dispensing Opticians

APPEARING ON WHICH PROPOSAL: S.B. #426

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

COMMENTS: propose that words, measure, fit, place
be removed from Section K-Line 21, page
9.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John L. Pennington DATE: 2/2/59

ADDRESS: 271 4 Ave 10 E-PO Box 111

PHONE: 411-1111

REPRESENTING WHOM? Dr. Pennington, 1/1/59

APPEARING ON WHICH PROPOSAL: ST 106

DO YOU: SUPPORT? AMEND? + OPPOSE?

COMMENTS: We be pleased to talk to you about
incidents re non-release of prescriptions
Also can show you prescriptions written
on slips of scratch paper etc undated
+ initialed, but not signed by the prescribing
doctor

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Dr. Tom Rasmussen DATE: 2-20-81

ADDRESS: 1300 N. Mont. Helena

PHONE: 443-2121

REPRESENTING WHOM? Self & Mont. Optometric Assoc.

APPEARING ON WHICH PROPOSAL: SB 426

DO YOU: SUPPORT? ☒ AMEND? ☒ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



The Big Sky Country

MONTANA STATE SENATE

SEN. EVERETT R. LENSINK
1611 SO. WILLSON
BOZEMAN, MONTANA 59715

October 17, 1980

COMMITTEES:
JUDICIARY, CHAIRMAN
PUBLIC HEALTH

Morris L. Brusett
Legislative Auditor
State Capitol
Helena, MT 59601

Dear Mr. Brusett:

Thank you for your recent letter inviting my comments on the Sunset Review of the Board of Optometrists. You specifically mentioned several areas under question:

1. The dispensing and fitting of contact lenses by opticians. Contact lenses are directly applied to the most sensitive and one of the most specialized tissues in the body, the cornea. Any adverse affect on the cornea caused by a contact lens can temporarily or permanently damage the cornea and, thus, effect vision. Because of this, a high level of expertise in the fitting of contact lenses is necessary to prevent possible damage. Equally important is the matter of knowing when not to consider the application of contact lenses to the eye. There are some disease conditions wherein the wearing of contact lenses would be fraught with danger.

Optometrists are trained to properly apply contact lenses to the eye and to evaluate those situations when they should not be applied.

On the other hand, opticians are not licensed in Montana and there is no prescribed course of training to insure an optician's expertise in the area of contact lenses.

In consideration of the above, it is my opinion that optometrists voice a valid objection in opposing the fitting of contact lenses by opticians. If opticians do work with contact lenses, it is further my opinion, it should only be done under the direct supervision of a professional clearly licensed by state law to fit contact lenses (optometrists or ophthalmologists).

ADD A "SPARE PAIR" OF CONTACT LENSES TO YOUR WARDROBE...



IT'S AS EASY AS CALLING TOLL-FREE (1-800-848-7573) AND AS INEXPENSIVE AS \$39.90 A PAIR

Sound too good to be true? It's not! Through 20/20 you receive your spare pair of contact lenses that fit the same as the pair you now have. Hard lenses for **\$19.95 EACH** (\$39.90 per pair). For soft lens wearers we offer the Bausch & Lomb Soflens (polymacon) exclusively for **\$49.95 EACH** (\$99.90 per pair). Hard lenses are available in any of our 31 fashion tints (including clear) at no extra cost. (Sorry, soft lenses are available in clear only).



Why are we doing this? 20/20 Contact Lens Service is an extension of the personal philosophy of Dr. Joseph Serian, an optometrist in Columbus, Ohio. He became concerned at the number of people coming to his office wearing damaged lenses, sometimes wearing

only one lens, because they couldn't afford to replace damaged or lost lenses. In his private practice, Dr. Serian never charged patients excessively for replacement lenses, but he realized that consumers across the country were being overcharged. He created 20/20 Contact Lens Service to offer the people an alternative, enabling them to enjoy the benefits of contact lenses without the hassle and excessive expense of replacements.

All you have to do is call our **TOLL-FREE NUMBER** and we'll do the rest. Think of 20/20 as your contact lens pharmacy. We call your doctor, get your prescription and duplicate your lenses—identical in quality and fit to the ones you now have. Our lab inspects them, then we re-inspect them just like your doctor would. Our quality control procedures exceed all government, industry, and pro-

fessional standards and are backed by a **100% MONEYBACK GUARANTEE**. Within two weeks from the time we receive your prescription, your lenses arrive via first class mail, just as your doctor would receive them from the lab. It couldn't be easier or safer if you went to your own eye doctor for your spare pair, but it's a lot less expensive through 20/20.

Most of the expense for contacts should go to pay for your doctor's time for initial examination and fitting. Since none of this is necessary to replace a lost or damaged lens or to add a spare pair for fashion (or just peace of mind), you shouldn't have to pay a high price. Now you have a choice... it's your prescription and **IT'S YOUR RIGHT** to have it filled where you choose! Many people think of 20/20 as an alternative to expensive contact lens insurance.

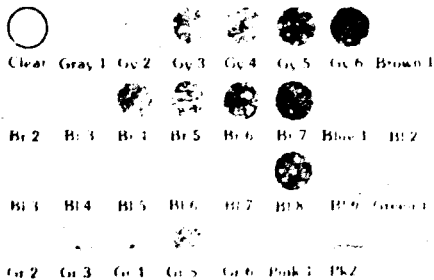
For a free full-color consumer brochure or to order, call

TOLL FREE 1-800-848-7573

or in Ohio call **1-800-282-7510**. We are open 7 days a week 9 a.m. to 10 p.m. (E.D.T.) or write:

20/20 Contact Lens Service, Inc.
P.O. Box 13270 Whitehall, Ohio 43213.

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Sept 1976

*Phil Stope
Helena*

NAME :

DATE :

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jyl Achard DATE: 2-20-87

ADDRESS: Box 1577- Billings 59103

PHONE: 252-8471

REPRESENTING WHOM? Montana Optical Dispensers Assn.

APPEARING ON WHICH PROPOSAL: SB 426

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

COMMENTS: page 8 - lines 12-24 - strike out
one line (23) counteracts previous section (12-22)

page 2 - line 21 strike word measure, but,
place, these words prohibit opticians who
are now fitting contact lenses to do so put
these people out of business.

We have fit contact lenses for over 20 years.
if this is passed what will these patents do
for car?? Economy plays a big part - it will
cost them dearly - we should have a grandfather
clause to cover these patents

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

NAME Clayton Gutman BILL No. 56426
ADDRESS West Park Plaza - mall DATE 2-20-81
WHOM DO YOU REPRESENT Montana Society of Dispensing Opticians
SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Gentlemen,

Had there been time I would have testified in support of Jay Pennington's views regarding our right to duplicate lenses. If all the optometrists were in compliance with the prescription release law, we would have no problem. But, I operate an optical shop in a mall in Billings, Montana and I daily receive complaints from shoppers who state they like my choice of eyewear product and the convenience of shopping in my store, but their optometrist did not give them a copy of their eye glass prescription. Unless this bill includes my right to duplicate their prescriptions, these consumers have no alternative but to buy from that particular optometrist.

my phone # is 1-406-252-8777

WITNESS STATEMENT

NAME Dr. J. Schied BILL No. SB 426
ADDRESS Box 1577 - Billings 59103 DATE 2-20-81
WHOM DO YOU REPRESENT Montana Optical Dispensaries Assn
SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Had I been allowed to testify, my testimony would have been similar to Mr Pat Burton, the optician from Butte. I have fit contact lenses for over 18 years - these patients need care + replaced lenses either lost, broken, or new prescriptions what now are these patients going to do??

ph 252-8471

NAME: James T. Leach DATE: 7-20-81

ADDRESS: 1211 N. 1st St.

PHONE: 602-254-1111

REPRESENTING WHOM? At. Robert Leach

APPEARING ON WHICH PROPOSAL: 5.1.1

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: 1211 N. 1st St. - 1211 N. 1st St.

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Mearl Baker DATE: 2/20-81

ADDRESS: PO 818 Bozeman Mt. 59725

PHONE: 586 4703

REPRESENTING WHOM? Optician

APPEARING ON WHICH PROPOSAL: SB 426

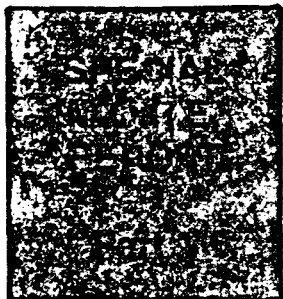
DO YOU: SUPPORT? _____ AMEND? ☒ OPPOSE? _____

COMMENTS: We feel we have the full right
to fit contact lenses & make a pair
of glasses from another pair or prescription
as well as any license doctors (O.D. or M.D.)

We feel the consumer has the right to
choose where they go & get eye care products.
We know Optometrists & M.D. are not following
the prescription release regulations in Mont.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

The Public Health Committee did not have
time to hear my report. 2-20-81- Please
accept as written. M. D. Baker, Optician



The Federal Trade Commission has emerged as probably the leading and most powerful consumer advocate for competitive advertising and commercial chainstore involvement in eyecare and eyecare products.

Recently, the FTC urged adoption of a trade rule that would lift remaining restrictions against hiring optometrists. If adopted, it would affect the majority of states with laws and/or professional rules still preventing certain eyeglass stores, chains or department stores from hiring optometrists.

Meanwhile, the FTC created "Eyeglasses I." It is a controversial ruling that may be superseded by "Eyeglasses II," a proposed law now open to public comment before initiation of formal rulemaking.

Eyeglasses I was enacted into law July 13, 1978. It requires an eye doctor to release the patient's prescription immediately after examination. Likewise, it over-ruled any state or local advertising restrictions of eye examinations and ophthalmic goods and services. This ruling resulted in a more competitive market, substantial savings for consumers and more access to eyeglasses for certain segments of the population. It also invoked the anger of several ophthalmologic and optometric associations. These eye doctors contended that, unfortunately, their least competent colleagues would be attracted to such practices, and this would endanger eye health in such mass markets of consumers.

Senator Charles Percy (R-IL), who issued the original request to the FTC in 1975 for such a ruling, stated before the Senate that consumers were paying anywhere from 25-40% more than necessary for eyeglasses and contact lenses in 1975 due to the absence of price competition. He cited such examples as senior citizens in Miami who depended on "hand-me-down" glasses from the dead. Then, there was an optometrist in Tennessee who lost his license because he delivered low-priced glasses directly to rural-area factory workers.

Percy claimed a 1966 study by the Department of Health, Education and Welfare showed that optometric services failed to reach more than half the U.S. population.

Sixteen months after the enactment of this first ruling, Albert Kramer, director of the FTC's Bureau of Consumer Protection, wrote in a letter to Percy that "our informal analysis indicates that the theorized effects of the rule are occurring . . .

► "The rule has been a factor in the growth of retail ophthalmic chains . . . aggressively moving into the market and . . . competing in price . . . already accounting for more than 25% of all prescription eyeglasses sold.

► "In the past year—July 1978 to June 1979—the unadjusted percentage price increase for eyeglasses (5.7) has been less than that for all consumer goods (11.3), durable goods (9.9) or medical care (9.3).

► "Business Week (November 5, 1979, p. 125) reported

that the FTC rule intensified competition in the soft contact lens market . . . result[ing] in lower prices for soft lenses.

► "From our contact with consumers and industry members, we learned that many consumers are obtaining their eyeglass prescriptions for the first time and now are able to shop for the price and quality of eyewear that they desire."

Although the ruling was a financial success from a consumer standpoint, the traditional ophthalmic world was incensed.

On February 6, 1980, the advertising portion of the ruling was struck from the law by the U.S. Court of Appeals for the District of Columbia Circuit (in *American Optometric Association v. FTC*, No. 78-1461).

The portion of the law that states eye doctors must still release eyeglass prescriptions to their patients remains unchanged.

The new proposed ruling, like the first one, has two parts.

In addition to the first ruling's requirement that eye doctors release prescriptions, eyeglass dispensers also must return the prescription to the patient after filling it.

But the second, and most far-reaching part of the proposed ruling, calls for the over-ruling of any state or local bans on commercial practice. These include any restrictions on: 1) employment of a licensed professional by an unlicensed person or non-professional corporation 2) practice location in a mercantile or commercial setting (i.e., shopping centers, department stores, pharmacies) 3) the number of branch offices an individual practitioner or firm may operate 4) the right of a practitioner or corporation to practice under a trade name.

The Eyeglasses II staff report by the FTC's Bureau of Consumer Protection recommends that states initiate laws to support the proposed ruling if enacted, such as prohibiting unlicensed persons from interfering in the professional judgements of licensed ophthalmologists, optometrists or sellers; providing that ophthalmic goods, services and examinations be dispensed only by licensed persons; forcing the identity of the optometrist, ophthalmologist or seller to be disclosed to the patient and

TABLE 1—FTC CLASSIFICATION OF METROPOLITAN AREAS BY ADVERTISING TYPE

	Metropolitan Areas	TYPE OF ADVERTISING		Chain Firms Present?
		Eyeglasses	Eye Examination	
MOST RESTRICTIVE CITIES	Knoxville, TN	None	None	No
	Little Rock, AR	None	None	No
	Providence, RI	None	None	No
	Columbia, SC	Non-price	None	No
	Greensboro/Highpoint/ Winston-Salem, NC	Non-price	None	No
	Milwaukee WI	Non-price	None	Yes
LEAST RESTRICTIVE CITIES	Columbus, OH	Non-price	Non-price	Yes
	Portland, OR	Non-price	Non-price	Yes
	Baltimore, MD	Price	Non-price	Yes
	Minneapolis/ St. Paul, MN	Price	Non-price	Yes
	Seattle, WA	Price	Non-price	Yes
	Washington, DC	Price	Non-price	Yes

controlling permissible compensation schemes used to pay employed optometrists or sellers.

Although the FTC has decided to leave the struck portion of the first ruling alone for a while, it released a study report in the Fall of 1980 that supported the validity of the struck rule.

The controversial study's primary aim, according to FTC attorney Christine Latsey, was to determine how costs of eyeglasses and eye examinations compare in surveyed cities. Special note was made of the cost effect of prohibiting and permitting O.D.s to advertise or practice in chain stores.

Based on 1977-1978 survey data from 12 metropolitan areas (see Table 1), the staff of the FTC's Bureau of Economics concluded that the cost of an eye examination and pair of glasses averaged \$70 in "non-restrictive" cities where advertising was allowed, compared to approximately \$95 in "restrictive" cities (see Table 2).

The controversy surrounding the report stems from a second-

ary conclusion: The overall quality of eyeglasses and prescriptions were the same whether purchased from advertising, chain-firm or non-advertising optometrists; yet, "commercial [chain] firms provided examinations of lower quality than professional [non-advertising] firms."

In answer to the roar of consternation the report evoked from optometrists, Latsey now emphasizes that determining price differences was the original (and statistically most accurate) goal of the study. She claims the terminology of the secondary finding has been misinterpreted; by the term "thoroughness," the report merely means the lengthiness of the eye examinations, not necessarily the quality.

The main pre-study criteria in choosing the 12 major metropolitan areas included an optometric population large enough and similar enough in numbers to the other areas. Advertising optometrists were chosen from newspaper and telephone directory ads.

A survey team of 19 FTC employees posing as consumers purchased 434 eye examinations and 231 pairs of glasses. People with different types of refractive conditions were chosen. Those with eye pathology were ex-

TABLE 2—FTC ESTIMATES OF AVERAGE PRICES CHARGED FOR EXAMINATIONS AND EYEGLASSES

	Cities with MOST restrictive advertising	Cities with LEAST restrictive advertising
All Optometrists	\$94.46	\$70.72
Nonadvertisers*	\$94.64	\$73.44
Advertisers	None	\$63.57
Chain Firms	None	\$61.37

*Excludes optometrists who advertise on site

cluded. The main three conditions monitored by such exams were: 1) Services for "blurred" vision. Myopic individuals aged 43-51 went to the examinations without their glasses. 2) Care for those already visually corrected to "20/20". Individuals aged 26-36 wore glasses which adequately corrected their vision problems. This tested, among other things, the extent of unnecessary prescribing. 3). Treatment of "binocular" problems. Individuals who had a vision problem that is relatively difficult to correct went for examinations wearing glasses that did not correct their problem.

The four aspects of quality surveyed were: thoroughness of the eye examination; the accuracy of the prescription; workmanship of the eyeglasses; the extent of unnecessary eyeglass prescribing.

The surveyors were trained to observe and identify a variety of tests and procedures commonly performed in a complete routine eye examination. These included the case history, eye health exam and the vision test(s). Immediately after each examination, the surveyors filled out a debriefing sheet designed in cooperation with the American Academy of Ophthalmology, the American Association of Ophthalmology, the American Optometric Association, the Opticians Association of America, the National Association of Optometrists and Opticians and other professional-member groups.

Each test or procedure was assigned a value which reflected its relative importance in the eye examination. The result was a single quality index with 100 as the maximum possible score. Each practitioner received a single summary score, ranging from zero to 100.

Overall, large chain firms were rated less thorough (51.6) than non-advertising, non-commercial optometrists in nonrestrictive cities (70.0). However, interestingly enough, non-advertising, non-commercial optometrists in restrictive cities only scored 58.8.

The Bureau of Economics suggests that because there is no competition in restricted cities, there is no incentive to provide more thorough examinations in order to attract consumers.

As the prescribed eyeglasses were received by the surveyors, a team of optometrists working with the FTC examined the accuracy of the prescription, checked the quality of the glasses and determined whether in fact the new prescription was needed.

The Bureau found that "advertising and chain-firm optometrists derive the correct prescription and produce accurate eyeglasses no less frequently than non-advertising optometrists in either restrictive or non-restrictive cities. Moreover, [they] are no more likely . . . to prescribe new eyeglasses when they are not needed."

Latsey told this magazine that one trend was found throughout the study; namely, many optometrists, regardless of practice or advertising arrangement, ne-

glected their responsibility to check the accuracy and quality of the glasses before distribution to the patient. What did they miss? "A lot of lab error," says Latsey.

The FTC Bureau of Consumer Protection observes: "The results of the Bureau of Economics study suggest that commercial practice restraints do not, for the most part, protect consumers from lower quality care. Furthermore . . . prices were significantly higher in cities where commercial practice was restricted. For the same price, consumers received a higher quality eye examination (as measured by the study) in non-restrictive [i.e., advertising permissible] cities than in restrictive markets."

Optometrists are concerned about what conclusions the public will reach from this report comparing "thoroughness" of eye examinations given by advertising, non-advertising and chain-firm optometrists.

Physicians are also concerned; many ophthalmologists are perturbed that the FTC study focused on optometrists.

The July 25, 1980, issue of *American Medical News* reported that the FTC report drew severe criticism from the American Academy of Ophthalmology (AAO).

"The commission's study appears to equate thoroughness of an optometric exam with quality, and has given the misleading impression that eye examinations are the purview of optometrists," wrote Bruce E. Spivey, MD, AAO executive vice-president, in a letter to FTC Chairman Michael Pertschuk.



Bruce E. Spivey, MD, executive vice-president, American Academy of Ophthalmology.

"In other words," continued Spivey, "is the difference or distinction between solo practitioners and chain-store optometrists important to consumers when neither are qualified by training to diagnose eye diseases?" Spivey now says he believes he reacted too rashly and angrily when he wrote Pertschuk. Now, he told this magazine, cooler heads must prevail, and the public must be advised that ophthalmologists should be consulted if eye pathology is suspected.

Latsey says the FTC will be including ophthalmologists in its next eyecare study. The topic will be a comparison of contact lens fitting skills among ophthalmologists, optometrists and opticians, comparing their relative merits in prescribing and fitting contact lenses.

Scheduled to begin at the end of 1980, such a survey ultimately will involve 18 major metropolitan areas. A team of ophthalmologists, optometrists and opticians will meet beforehand and reach a consensus on such matters as: methods to be used in the survey; criteria for judging the fit and accuracy of the contact lenses; methods of orally interviewing the person who prescribed and fitted the lenses; criteria for comparing and analyzing the findings; types of information pertinent regarding services and prices offered; how to judge quality of the lenses given to the patient; the thoroughness of the care instructions relayed to the patient; terms of any replacement policies offered; initial cost of the examination and lenses; the quality and accuracy of low-cost replacement lenses.

Is the FTC fulfilling its consumer protection role with such studies? (See box.) Does the FTC have jurisdiction to compare relative merits of three professions and release such comparisons to the public?

Objectively, these are hard questions to answer. But one thing is almost certain . . . When this latest study is released, ophthalmologists, optometrists and opticians will have a field day with it.

—by Anne Holmes Urban

Editor's Note: Part II of this report on the FTC will appear next month.

The Federal Trade Commission's involvement in the ophthalmic world is just one of its many recent activities that has evoked harsh criticism of the agency. The FTC has run into heavy flak from Congress, including severance of operating funds several times in the past three years, for "overzealous regulation."

In his acceptance speech when assuming chairmanship of the FTC on April 21, 1977, Michael Pertschuk announced he planned to turn the agency into the "best public interest law firm in the country." A lofty ideal; however, it is not in accordance with the primary purpose of the FTC.

The FTC has been dealt a few blows to its autonomy. From now on, *any* industry-wide regulations and rulings will have to pass congressional review. And some areas, such as insurance, have been declared off limits to FTC enforcement. Early in 1980, while the refunding bill stumbled through Congress, an amendment exempting professional groups from FTC jurisdiction lost in the Senate by only two votes. Meanwhile in New York federal appeals court, the American Medical Association has been appealing the FTC ruling against ethics restrictions on physician advertising.

The growing and taming of the FTC's power

rules and regulations) with the FTC Improvements Act. The act provides for a two-house veto within 90 days of

any proposed rules or regulations, plus provides congressional monitoring of proposed investigations. Last year Congress did retain the FTC's 1,784 member staff, and Congress tentatively approved a \$71 million budget for 1981—a \$5 million increase over 1980.

Kendall Fleeharty, a regulatory reform specialist for the U.S. Chamber of Commerce, comments that "Congress took away what the FTC didn't have to begin with. It is still free to do what it should be doing—providing anti-trust and consumer protection."

From 1964 until his appointment to the FTC, attorney Pertschuk was chief counsel of the Senate committee on commerce and was instrumental in drafting numerous consumer protection measures.

As for the future, eye care is going to receive more scrutiny from the FTC, officials admitted in interviews.

The FTC has requested approval from the General Accounting Office to solicit information from state boards and private associations concerning regulations on ophthalmic price advertising. It hopes to determine the effects of previous advertising on public and private actions; plus it is interested in any changes resulting from the court remand of the advertising portion of its Eyeglasses I ruling (see main story).

Depending on the results of the proposed survey, the FTC will decide when to "repromulgate the remanded rule or take action or eliminate any unwarranted burdens and limitations on ophthalmic advertising."

Before such time, state boards and private associations could be asked to supply: policy papers and other information given to licensees regarding advertising; a list of any advertisements or solicitations found to be unlawful, and why; copies of any letters sent to advertisers, potential advertisers or others concerning advertising legalities, plus any memos, board meeting transcripts or other materials concerning advertising.

—A.H.U.

Michael Pertschuk, chairman, Federal Trade Commission.



The FTC was established in 1922 to carry out two responsibilities: to enforce anti-trust laws and to enforce laws concerning unfair business practices.

Although Pertschuk claims these remain the primary goals, Congress apparently disagrees, and thus slapped some restraints on FTC investigations (and any resultant

WITNESS STATEMENT

NAME

Phil Stange

BILL No.

SB 426

ADDRESS

Holmes

DATE

2-20-81

WHOM DO YOU REPRESENT

Dispensing Opticians

SUPPORT

OPPOSE

AMEND

X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Amend

title, line 9 - delete "authorizing the authority to fit contact lens"

page 8, lines 12-24 - delete in entirety

page 9, line 21 - ~~the~~ delete now mutual - "mutual, fit, place, or"

page 10 - line 6 - delete "employ legal counsel to" and substitute "aid county attorneys of this state in enforcement of this chapter and"

This is board of medical Laminar language 37-2-203

Amendment to Senate Bill 480

1. Title, line 12
Following: "COSTS;"
Insert: "EXEMPTING AUDIOLOGIST^S FROM LICENSURE;"
2. Title, line 12
Following: "37-16-102,"
Insert: "37-16-103,"
3. Page 8, following line 21
Insert: "Section 5. Section 37-16-103, MCA, is amended to read:

"37-16-103. Exemptions. (1) This chapter does not apply to a person who is a physician licensed to practice by the state board of medical examiners.

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

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

Renumber subsequent sections.

Statement of Intent

Senate Bill 397

Senate Public Health Committee

A Statement of Intent is required for this bill because it delegates rulemaking authority to the Board of Psychologists in Section 7.

It is the intent of this bill that the Board adopt a code of ethics to define professional and unprofessional conduct by psychologists with primary emphasis being the protection of the public. The Board may adopt the code of ethics published by the American Psychological Association, and any subsequent revisions to the code may also be adopted.

First adopted by the Senate Public Health Committee on the _____ day of February, 1981.

JWN/kth

SENATE BILL 398

1. Page 7 line 21.

Following: "~~university~~"

Insert: "and have satisfactorily completed 2 academic years at a board approved college or university with the major area of study being one that would tend to prepare him for the practice of mortuary science, or have experience considered equivalent by the board"

or

Page 7, line 21.

and have satisfactorily completed 2 academic years at a board approved college or university twith the major area of study relating to the mortuary science field or experience deemed equivalent by the board of morticians.

1. Title, line 9
Following: NAME;"
Strike: "DELETING THE RAILROAD RATE REIMBURSEMENT
FOR BOARD TRAVEL; DELETING THE REQUIREMENT TO
MAINTAIN AN EMERGENCY FUND; AUTHORIZING A DENTAL
HYGIENIST TO PROVIDE SERVICES WITHOUT A DENTIST
ON THE PREMISES WITH BOARD APPROVAL; DELETING A
FELONY CONVICTION AS GROUNDS FOR DENIAL OR REVO-
CATION OF LICENSE;"
2. Title, line 15
Following: "2-15-1606,"
Insert: "AND"
Following: "37-4-101,"
Strike: "37-4-203, 37-4-204, 37-4-307, 37-4-321,
AND 37-4-405."
3. Page 10, line 10
Strike: sections 5, 6, 7, 8, and 9 in their entirety.
Renumber: subsequent section

Amendment to Senate Bill 390

1. Title, lines 8 and 9.

Following: "REQUIREMENT;" *on line 8*

Strike: "DELETING THE MANDATORY CONTINUING EDUCATION REQUIREMENTS;"

2. Title, lines 11 and 12.

Following: "MCA," *on line 11*

Strike: "REPEALING SECTIONS 37-7-304 and 37-7305, MCA;"

3. Page 10, lines 23 and 24.

Strike: section 6 in its entirety.

Renumber: subsequent section.

JWN/kry

STANDING COMMITTEE REPORT

.....FEBRUARY 16..... 1981.....
Journal

MR. PRESIDENT.....

We, your committee on.....PUBLIC HEALTH.....

having had under consideration.....Statement of Intent, Senate..... Bill No. 398.....

Respectfully report as follows: That.....Statement of Intent, Senate..... Bill No. 398.....
be adopted.

STATEMENT OF INTENT RE: SB 398

A Statement of Intent is required for this bill because it delegates rulemaking authority to the Board of Morticians in Section 6.

It is the intent of this bill that the Board adopt rules requiring mortuaries to disclose in writing to all customers a complete itemized list of all funeral costs and complete information regarding the need for embalming. Members of the public seeking the services of mortuaries are usually under a great deal of personal stress, and the rules adopted are intended to provide complete disclosure of costs and attendant legal requirements to protect the economic interest of members of the public.

First adopted by the Senate Public Health Committee on the day of February, 1981.

STANDING COMMITTEE REPORT

..... FEBRUARY 15 1981
 Journal

MR. PRESIDENT

We, your committee on PUBLIC HEALTH

having had under consideration Statement of Intent, Senate Bill No. 397

Respectfully report as follows: That Statement of Intent, Senate Bill No. 397
 be adopted.

STATEMENT OF INTENT RE: SB 397

A Statement of Intent is required for this bill because it delegates rulemaking authority to the Board of Psychologists in Section 7.

It is the intent of this bill that the Board adopt a code of ethics to define professional and unprofessional conduct by psychologists with primary emphasis being the protection of the public. The Board may adopt the code of ethics published by the American Psychological Association, and any subsequent revisions to the code may also be adopted.

First adopted by the Senate Public Health Committee on the day of February, 1981.

Amendment to

SENATE BILL NO. 452

Page 7

Section 3; Part (2); Lines 6 and 7.

Strike: Two Barbers and one public member who is not a barber.

Add: ^{3 members} Who are barbers & one public member who is not a barber

Page 8

Section 4; Part (16) No. 2, Lines 2 - 5.

Add: (2) An "Apprentice", under this chapter, is a person who receives instruction in an approved barber school or college and from a barber authorized to practice barbering in this state.

~~Page 8~~

~~Section 4, part (16) No. 3; Lines 20-22~~

~~Strike: The practice of Cosmetology by a licensed cosmetologist, including cutting the hair of any person does not constitute the practice of barbering.~~

Page 9

Section 5; Part (1) Line 3 and Line 8.

Add: For apprentice cards and
Add: Apprentice cards and

Page 10

Section 6; Part (1) Line 25

Add: Or serve or

Page 11; Line 1

Add: Attempt to Serve as a barber apprentice

Page 11

Section 7; part (1) Line 5.

Add: Apprenticeship

Strike: Certificate of registration

Part (2) Line 12, 13, 14

Add: An apprentice card to practice barbering under the immediate personal supervision of a licensed barber for the period of one year

Lines 14-15

Strike: A certificate of registration

Page 11

Section 8; part (1); Line 17

Add: Apprenticeship required application

Line 18,

Strike: application

Line 20, (1)

Add: only be serving as an apprentice barber and

Line 23, (2)

Add: Apprentice

Strike: Applicant

Page 12; part (2)(a) Line 1

Add: of apprentice

Part (3) Line 1

Add: apprentice

Line 8

Add: apprentice

Page 12

Section 8; Part (3) Lines 10, 11

Add: an apprentice barbering card which expires
2 years from the date of examination

Line 12

Strike: Certification of Registration"

Page 12

Section 9; part (1) Line 15

Add: or barber apprentice

Part (2) Line 22

Add: barber apprentice

Page 13, Part (3) Line 2 and 7

Add: or barber apprentice

Section 10, part (1) Lines 12-14

Add: (1) The fee to be paid by an apprentice for
an apprentice examination and an apprentice card
is \$25.

Lines 19 and 20

Add: (3) or barber apprentice

Page 14

Section 10; part (4)

Add: or barber apprentices

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.

INTRODUCED BY TURNAGE, NORMAN

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

"33-20-1209. Conversion on termination of eligibility.

111 The group life insurance policy shall contain a provision that if the insurance or any portion of it on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance ~~without disability or other supplementary benefits~~, provided application for the individual policy shall be made and the first premium there ~~insured~~ PAID to the insurer within 31 days after such ~~termination without notice~~ SUCH TERMINATION ~~by the insured~~

~~the insured's right of conversion and nonrenewal of~~
~~coverage~~; and provided further that:

(1) the individual policy shall, at the option of
 such person, be on any one of the forms, except including
~~but not limited to~~ term insurance, IF THE GROUP POLICY SO
PROVIDES, then customarily issued by the insurer at the age
~~and for the amount applied for~~ AT THE AGE AND FOR THE AMOUNT
APPLIED FOR and shall offer benefits at least equal to those
 under the group coverage;

(2) the individual policy shall, at the option of
 the insured, be in an amount not in excess of the amount of
 life insurance which ceases because of such termination,
~~less the amount of any life insurance for which such person~~
~~is or becomes eligible under any other group policy within~~
~~31 days after such termination~~ LESS THE AMOUNT OF ANY LIFE
INSURANCE FOR WHICH SUCH PERSON IS INSURED UNDER ANY OTHER
GROUP POLICY WITHIN 31 DAYS AFTER SUCH TERMINATION; provided
 that any amount of insurance which shall have matured on or
 before the date of such termination as an endowment payable
 to the person insured, whether in one sum or in installments
 or in the form of an annuity, shall not, for the purposes of
 this provision, be included in the amount which is
 considered to cease because of such termination; and

(3) the premium on the individual policy shall be
 at the insurer's then customary rate applicable to the form

~~and amount of the individual policy to the class of risk to~~
~~which such person then belongs and to his age attained on~~
~~the effective date of his membership in the group and the amount~~
 FORM AND AMOUNT OF THE INDIVIDUAL POLICY, TO THE CLASS OF
 RISK TO WHICH SUCH PERSON THEN BELONGS, AND TO HIS AGE
 ATTAINED ON THE EFFECTIVE DATE of the individual policy.

(2) With the consent of the employer, a person covered
 under a group life insurance policy issued to an employer or
 to the trustees of a fund established by an employer under
 33-20-1101 may continue his coverage under the group policy
~~after termination of his qualifying membership in the group~~
 DURING HIS EMPLOYMENT notwithstanding reduction of his
 regular work schedule to less than the minimum number of
 hours required for eligibility for membership. The premium
 charged for the continued coverage shall be equal to that
 charged other members of the group. Such person's coverage
 under the group will cease if he subsequently becomes
 eligible ~~and thereafter~~ FOR coverage under another group
 policy because of employment elsewhere."

Section 2. Section 33-20-1210, "CA, is amended to
 read:

"33-20-1210. Conversion on termination of policy. The
 group life insurance policy shall contain a provision that
 if the group policy terminates or is amended so as to
 terminate the insurance of any class of insured persons,

every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least 5-years ~~at least~~ 2-YEARS prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to ~~insurance under the same conditions and limitations as are provided by~~ SUBJECT TO the same conditions and limitations as are provided by 33-20-1209, except that the group policy may ~~shall~~ MAY provide that the amount of such individual policy ~~shall~~ MAY not-exceed-the-smaller-of NOT EXCEED THE SMALLER OF:

(1) ~~the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy;--less--the amount--of--any--life--insurance--for--which--he--is--or--becomes--eligible--under--any--group--policy--issued--or--reinstated--by--the same--or--another--insurer--within--31--days--after--such termination--and, LESS THE AMOUNT OF ANY LIFE INSURANCE FOR WHICH HE IS OR BECOMES ELIGIBLE UNDER ANY GROUP POLICY ISSUED OR REINSTATED BY THE SAME OR ANOTHER INSURER WITHIN 31 DAYS AFTER SUCH TERMINATION; AND~~

(2) ~~the amount of \$10,000.~~

~~Section 33-20-1209 Conversion--on--disbanding--of groups--The group disability insurance policy shall contain a provision that if the coverage under the policy ceases because of disbanding of the group, each person insured~~

1 because--of-his-employment-in-the-group-shall-be-entitled-to
 2 have-issued-to-him-by-the-insurer-without-evidence-of
 3 insurability--an-individual-policy-of-disability-insurance
 4 covering-himself-and-his-dependents-or-family-members
 5 covered-under-the-group-provided:

6 (1)--application-for-the-individual-policy-is-made-and
 7 the-first-premium-tendered-to-the-insurer-within-31-days
 8 after-written-notice-by-the-insurer-to-the-insured-of-the
 9 insured's-right-to-conversion-of-coverage-and-of-pending
 10 termination--end

11 (2)--the-individual-policy-shall-offer-benefits-at
 12 least-equal-to-those-under-the-group-coverage-terminated-by
 13 the-standing--end

14 (3)--the-premium-on-the-individual-policy-shall-be-at
 15 the-insurer's-then-customary-rate-applicable-to-the-group's
 16 existing-amount-of-individual-policy-and-the-class-of-risk
 17 of-the-person-insured-under-the-group

18 NEW SECTION. Section 3. Continuing group coverage
 19 after termination. A person covered by a group disability
 20 insurance policy issued OR RENEWED AFTER OCTOBER 1, 1981
 21 under 33-22-501(1) may, FOR A PERIOD OF ONE YEAR, with the
 22 consent of the employer or the trustees, continue coverage
 23 under group disability policy after--terminating--his
 24 qualifying-employment--or after reducing his regular work
 25 schedule to less than the minimum time required to qualify

for membership in the group, and the premium charged him shall be equal to that charged other members of the group of the same risk class.

~~Section 5. Conversion on termination of group contracts. (1) A group hospital or medical service plan contract in effect by a health service corporation after July 1, 1964, shall contain a provision that if the coverage under the contract ceases because of disbanding of the group, each person covered because of his employment in the group shall be entitled to have issued to him by the health service corporation, without evidence of insurability, an individual hospital or medical service plan contract covering himself and his dependents or family members covered under the group, provided application for the individual contract is made and the first premium tendered to the health service corporation within 30 days after written notice by the insurer to the insured of the insured's right to conversion.~~

~~(2) The individual contract shall provide benefits equal to those under the group contract terminated by the disbanding.~~

~~(3) The premium on the individual contract shall be at the insurer's then customary rates applicable to the form and the amount of the individual contract and the class of risk of the person covered but in no case more than 50~~

greater-than-the-group-premium-charged-for-like-benefits
under-the-group-contracts

NEW SECTION. SECTION 4. CONVERSION ON TERMINATION OF
ELIGIBILITY. (1) A GROUP DISABILITY INSURANCE POLICY ISSUED
OR RENEWED AFTER OCTOBER 1, 1981, SHALL CONTAIN A PROVISION
THAT IF THE INSURANCE OF ANY PORTION OF IT OF A PERSON, HIS
DEPENDENTS, OR FAMILY MEMBERS COVERED UNDER THE POLICY
CEASES BECAUSE OF TERMINATION OF HIS EMPLOYMENT OR OF HIS
MEMBERSHIP IN THE CLASS OR CLASSES ELIGIBLE FOR COVERAGE
UNDER THE POLICY, OR AS A RESULT OF HIS EMPLOYER
DISCONTINUING HIS BUSINESS, SUCH PERSON SHALL, PROVIDED HE
HAS BEEN INSURED FOR A PERIOD OF THREE MONTHS, BE ENTITLED
TO HAVE ISSUED TO HIM BY THE INSURER, WITHOUT EVIDENCE OF
INSURABILITY, AN INDIVIDUAL POLICY OF HOSPITAL OR MEDICAL
SERVICE INSURANCE ON HIMSELF, HIS DEPENDENTS, OR FAMILY
MEMBERS, PROVIDED APPLICATION FOR THE INDIVIDUAL POLICY
SHALL BE MADE AND THE FIRST PREMIUM TENDERED TO THE INSURER
WITHIN 31 DAYS AFTER THE TERMINATION OF GROUP COVERAGE.

(2) THE INDIVIDUAL POLICY SHALL, AT THE OPTION OF THE
INSURER, BE ON ANY OF THE FORMS THEN CUSTOMARILY ISSUED BY
THE INSURER TO INDIVIDUAL POLICYHOLDERS WITH THE EXCEPTION
OF THOSE POLICIES WHOSE ELIGIBILITY IS DETERMINED BY
AFFILIATION WITH A COMMON ENTITY.

(3) THE PREMIUM ON THE INDIVIDUAL POLICY SHALL BE AT
THE INSURER'S THEN CUSTOMARY RATE APPLICABLE TO THE COVERAGE

1 OF THE INDIVIDUAL POLICY.

2 NEW SECTION. Section 5. Continuing group coverage
3 after termination. A person covered by a group hospital or
4 medical service plan contract, issued OR RENEWED by a health
5 service corporation after DATE OCTOBER 1, 1981, may, FOR A
6 PERIOD OF ONE YEAR with the consent of the employer or the
7 trustees, continue coverage under the group contract after
8 ~~terminating his qualifying employment or~~ after reducing his
9 regular work schedule to less than the minimum time required
10 to qualify for membership in the group, and the premium
11 charged him shall be equal to that charged the members of
12 the group.

13 NEW SECTION. Section 6. Conversion on termination of
14 eligibility. The group hospital or medical service plan
15 contract ~~in-effect~~ ISSUED OR RENEWED by a health service
16 corporation after DATE OCTOBER 1, 1981, shall contain a
17 provision that if the insurance or any portion of it on a
18 person, his dependents, or family members covered under the
19 policy ceases because of termination of his employment or of
20 his membership in the class or classes eligible for coverage
21 under the policy OR AS A RESULT OF AN EMPLOYEE DISCONTINUING
22 HIS BUSINESS, such person shall, PROVIDED HE HAS BEEN
23 INSURED FOR A PERIOD OF 2 MONTHS, be entitled to have issued
24 to him by the insurer, without evidence of insurability, an
25 individual policy of hospital or medical service insurance

on himself, his dependents, or family members, provided application for the individual policy shall be made and the first premium tendered to the insurer within 31 days after written notice by the insurer to the insured of the insured's right of conversion and pending the termination of group coverage.

(1) The individual policy shall, at the option of such person THE INSURER, be on any of the forms then customarily issued by the insurer IN INDIVIDUAL POLICYHOLDERS WITH THE EXCEPTION OF THOSE WHOSE ELIGIBILITY IS DETERMINED BY THEIR AFFILIATION WITH A PARTICULAR ENTITY, *other than by employment*, and shall offer benefits at least equal to those under the group coverage SUCH INDIVIDUAL POLICIES.

~~that the individual policy shall, at the option of the insured, be in an amount not in excess of the amount of insurance which ceases because of such termination~~

~~(b)(2) The premium on the individual policy shall be at the insurer's then customary rate applicable to the other members of the group and the coverage of the individual policy.~~

Section 7. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the

1 invalid applications.

2 Section 8. Codification instruction. (1) Sections 3,
3 and 4, AND 5 are intended to be codified as integral parts
4 of Title 33, chapter 22, part 5, and provisions of Title 33,
5 chapter 22, apply to sections 3, and 4, AND 5.

6 (2) Sections 5-through-7 AND 6 are intended to be
7 codified as integral parts of Title 33, chapter 30, part 10,
8 and provisions of ~~Title--33--chapter--22--and--of~~ Title 33,
9 chapter 30, apply to sections 5-through-7 AND 6.

10 Section 9. Effective date. This act is effective July
11 1, 1981.

-End-

Striking this language
- KEYS CONVERSION OF LIFE INSURANCE
- STORY
- (adds existing law)

1. Page 2, line 5 and 6..
Following: "insurance" on line 5
Strike: " , IF THE GROUP POLICY SO PROVIDES, "

i.e. putting this language
into statute changes
the law from
mandatory to
optional
life coverage

2. Page 4, line 3.
Strike: "3 YEARS"
Insert: "1 YEAR"

because policies
will no longer be required to
provide for conversion
(conversion will only be available
if employer & insurance
company agree to put such
a provision in the policy)

3. Page 5, line 19.
Following: "termination."
Insert: "(1)"

4. Page 6, line 4. --
Following: line 3

Insert: "(2) A group policy delivered or issued for delivery in this state which insures employees or members for hospital, surgical, or major medical insurance on an expense incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose insurance under the group policy would otherwise terminate because of termination of employment or membership are entitled to continue the hospital, surgical, and major medical insurance coverage of that group policy for themselves and their eligible dependents, subject to all of the group policy's terms and conditions applicable to those forms of insurance and subject to the following conditions:

(a) Continuation shall be available only to an employee or member who has been continuously insured under the group policy (and for similar benefits under any group policy which it replaced) during the entire 3-month period ending with such termination.

(b) Continuation shall not be available for a person who is or could be:

(i) covered by Medicare; or

(ii) covered by any other insured or uninsured arrangement which provides hospital, surgical, or medical coverage for individuals in a group.

(3) An employee or member who wishes continuation of coverage must request such continuation in writing within the 31-day period following the later of:

(a) the date of such termination, or

(b) the date the employee is given notice of the right of continuation by either his employer or the group policyholder, but the employee or member must elect continuation within 31 days of the date of termination.

(4) An employee or member electing continuation must pay to the group policyholder or his employer, on a monthly basis in advance, the amount of contribution

This language
requires mandatory
continuation of
health insurance
upon termination
of employment
which is not
required under
current law
of SB 129

This language
specifies
how continuation
is to be
effected:
i.e., it
details certain
conditions
for
continuation

required by the policyholder or employer, but not more than the group rate for the insurance being continued under the group policy on the due date of each payment. The employee's or member's written election of continuation, together with the first contribution required to establish contributions on a monthly basis in advance, must be given to the policyholder or employer within 31 days of the date the employee's or member's insurance would otherwise terminate.

(5) Continuation of insurance under the group policy for any person shall terminate when he fails to satisfy the conditions of subsection (2)(b) or, if earlier, at the first to occur of the following:

(a) the date 6 months after the date the employee's or member's insurance under the policy would otherwise have terminated because of termination of employment or membership;

(b) If the employee or member fails to make timely payment of a required contribution, the end of the period for which contributions were made; or

(c) the date on which the group policy is terminated or, in the case of an employee, the date his employer terminates participation under the group policy.

(6) If subsection (5)(c) applies and the coverage ceasing by reason of such termination is replaced by similar coverage under another group policy, the following shall apply:

(a) The employee or member shall have the right to become covered under that other group policy for the balance of the period that he would have remained covered under the prior group policy in accordance with subsection (5) had a termination described in subsection (5)(c) not occurred.

(b) The minimum level of benefits to be provided by the other group policy shall be the applicable level of benefits of the prior group policy reduced by any benefits payable under that prior group policy.

(c) The prior group policy shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred.

(7) A notification of the continuation privilege must be included in each certificate of coverage."

enumerates conditions upon which continuation privilege ceases i.e. sets limits of continuation rather than leaving it open-ended

details an employee's rights in situation where his former employer changes insurance carrier during the employee's continuation period

limits health insurance conversion privilege which provided for in SECTION 4 of SB 129

Page 8, line 2

Following: line 1

Insert: "NEW SECTION. Section 5. Other health coverage -- limitations on issuance of converted policy. (1)

The insurer is not required to issue a converted policy covering any person if such person is or could be covered by medicare. Furthermore, the insurer is not required to issue a converted policy covering any person if:

i.e. the person can not convert from a group to an individual policy if he can obtain similar benefits from other sources such as medicare or another group policy if

(1) (a) such person is covered for similar benefits by another individual policy;

(b) such person is or could be covered for similar benefits under any arrangement of coverage for individuals in a group, whether insured or uninsured; or

(c) similar benefits are provided for or available to such person, by reason of any state or federal law; and

(2) the benefits under sources of the kind referred to in subsection (1)(a) for such person or benefits provided or available under sources of the kind referred to in subsections (1)(b) and (1)(c) for such person, together with the converted policy's benefits would result in a duplication of benefits.

NEW SECTION. Section 6. Benefit levels -- converted policy need be no greater than group policy. An insurer is not required to issue a converted policy providing benefits in excess of the hospital, surgical, or major medical insurance under the group policy from which conversion is made.

NEW SECTION. Section 7. Pre-existing conditions -- total benefits payable first policy year. The converted policy may not exclude, as a pre-existing condition, any condition covered by the group policy.

However, the converted policy may provide for a reduction of its hospital, surgical, or medical benefits by the amount of any such benefits payable under the group policy after the individual's insurance terminates thereunder. The converted policy may also provide that during the first policy year, the benefits payable under the converted policy, together with the benefits payable under the group policy, may not exceed those that would have been payable had the individual's insurance under the group policy remained in force.

NEW SECTION. Section 8. Continued group insurance upon retirement -- conversion election. If coverage would be continued under the group policy on an employee or member following his retirement prior to the time he is or could be covered by medicare, the employee or member may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had that insurance terminated at retirement.

NEW SECTION. Section 9. Medicare eligibility -- benefit reduction. The converted policy may provide for reduction or termination of coverage of any person upon his eligibility for coverage under medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

NEW SECTION. Section 10. Insured's family -- conversion entitlement. Subject to the conditions set forth in this section, the conversion privilege is also

benefits can not be denied on the ground that a condition existed before the person converted to an individual policy (without this language, benefits could be denied for pre-existing conditions)

allows conversion on Retirement

allows reduction of benefits on converted policy upon eligibility for medicare

NEW SECTION 2 provides for family members to convert from group to individual policy in following situations which are not covered by present law: (see next page)

employee
dies, surviving
spouse can
convert

in divorce,
employee's
ex-spouse
can convert

Child who
becomes
emancipated

available:

(1) to the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or if the group policy provides for continuation of dependents coverage following the employee's or member's death, at the end of such continuation;

(2) to the spouse of the employee or member upon termination of coverage of the spouse, by reason of ceasing to be a qualified family member under the group policy, while the employee or member remains insured under the group policy, including such children whose coverage under the group policy terminates at the same time; or

(3) to a child solely with respect to himself upon termination of his coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

Amendments 6.
#6 - #9
(pages 4-7)
are
identical
to above
amendments 8.
except that
these apply only
to health
service
corporations
ex. Blue Cross
and Blue Shield

Page 8, line 2.
Strike: "Section 5"
Insert: "Section 11"

Page 8, line 3.
Following: "termination."
Insert: "(1)"

Page 8, line 12.
Following: line 12
Insert: "(2) A group hospital or medical service plan contract delivered or issued for delivery in this state which insures employees or members for hospital, surgical, or major medical insurance on an expense incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose insurance under the group contract would otherwise terminate because of termination of employment or membership are entitled to continue the hospital, surgical, and major medical insurance coverage of that group contract for themselves and their eligible dependents, subject to all of the group contract's terms and conditions applicable to those forms of insurance and subject to the following conditions:

Note:
amendments
#1 - #5
apply only
to Regular
Insurance
Carriers

(a) Continuation shall be available only to an employee or member who has been continuously insured under the group contract (and for similar benefits under any group policy or contract which it replaced) during the entire 3-month period ending with such termination.

(b) Continuation shall not be available for a person who is or could be:

(i) covered by Medicare; or
(ii) covered by any other insured or uninsured arrangement which provides hospital, surgical, or medical coverage for individuals in a group.

(3) An employee or member who wishes continuation of coverage must request such continuation in writing within the 31-day period following the later of:

(a) the date of such termination, or
(b) the date the employee is given notice of the right of continuation by either his employer or the group contractholder, but the employee or member must elect continuation within 31 days of the date of termination.

(4) An employee or member electing continuation must pay to the group policyholder or his employer, on a monthly basis in advance, the amount of contribution required by the contractholder or employer, but not more than the group rate for the insurance being continued under the group policy on the due date of each payment. The employee's or member's written election of continuation, together with the first contribution required to establish contributions on a monthly basis in advance, must be given to the contractholder or employer within 31 days of the date the employee's or member's insurance would otherwise terminate.

(5) Continuation of insurance under the group policy for any person shall terminate when he fails to satisfy the conditions of subsection (2)(b) or, if earlier, at the first to occur of the following:

(a) the date 6 months after the date the employee's or member's insurance under the contract would otherwise have terminated because of termination of employment or membership;

(b) If the employee or member fails to make timely payment of a required contribution, the end of the period for which contributions were made; or

(c) the date on which the group contract is terminated or, in the case of an employee, the date his employer terminates participation under the group contract.

(6) If subsection (5)(c) applies and the coverage ceasing by reason of such termination is replaced by similar coverage under another group policy or contract, the following shall apply:

(a) The employee or member shall have the right to become covered under that other group policy or contract for the balance of the period that he would have remained covered under the prior group contract *in* accordance with subsection (5) had a termination described in subsection (5)(c) not occurred.

(b) The minimum level of benefits to be provided by the other group policy or contract shall be the applicable level of benefits of the prior group contract reduced by any benefits payable under that prior group contract.

(c) The prior group contract shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred.

(7) A notification of the continuation privilege must be included in each certificate of coverage.

9. Page 8, line 13.

Following: line 12

Insert: "NEW SECTION. Section 12. Other health coverage -- limitations on issuance of converted policy.

The health service corporation is not required to issue a converted policy covering any person if such person is or could be covered by medicare. Furthermore, the health service corporation is not required to issue a converted policy covering any person if:

(1) (a) such person is covered for similar benefits by another individual policy;

(b) such person is or could be covered for similar benefits under any arrangement of coverage for individuals in a group, whether insured or uninsured; or

(c) similar benefits are provided for or available to such person, by reason of any state or federal law; and

(2) the benefits under sources of the kind referred to in subsection (1)(a) for such person or benefits provided or available under sources of the kind referred to in subsections (1)(b) and (1)(c) for such person, together with the converted policy's benefits would result in a duplication of benefits.

NEW SECTION. Section ~~13~~¹³. Benefit levels -- converted policy need be no greater than group policy. A health service corporation is not required to issue a converted policy providing benefits in excess of the hospital, surgical, or major medical insurance under the group policy from which conversion is made.

NEW SECTION. Section 14. Pre-existing conditions -- total benefits payable first policy year. The converted contract may not exclude, as a pre-existing condition, any condition covered by the group contract.

However, the converted contract may provide for a reduction of its hospital, surgical, or medical benefits by the amount of any such benefits payable under the group policy after the individual's insurance terminates thereunder. The converted policy may also provide that during the first policy year, the benefits payable under the converted policy, together with the benefits payable under the group policy, may not exceed those that would have been payable had the individual's insurance under the group policy remained in force.

NEW SECTION. Section 15. Continued group insurance upon retirement -- conversion election. If coverage would be continued under the group contract on an employee or member following his retirement prior to the time he is or could be covered by medicare, the employee or member may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had that insurance terminated at retirement.

NEW SECTION. Section 16. Medicare eligibility -- benefit reduction. The converted policy may provide for reduction or termination of coverage of any person upon his eligibility for coverage under medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

NEW SECTION. Section 17. Insured's family -- conversion entitlement. Subject to the conditions set forth in this section, the conversion privilege is also available:

(1) to the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or if the group policy provides for continuation of dependents coverage following the employee's or member's death, at the end of such continuation;

(2) to the spouse of the employee or member upon termination of coverage of the spouse, by reason of ceasing to be a qualified family member under the group policy, while the employee or member remains insured under the group policy, including such children whose coverage under the group policy terminates at the same time; or

(3) to a child solely with respect to himself upon termination of his coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

Renumber: all subsequent sections

Revising
codification
instructions
to
incorporate
proposed
amendments

10. Page 10, line 2 and 3
Following: "3" on line 2
Strike: ", " on line 2
and "4, AND 5" on line 3
Insert: "through 10"
11. Page 10, line 5.
Following: "3"
Strike: ", 4, AND 5"
Insert: "through 10"
12. Page 10, line 6.
Following: "Sections"
Strike: "5 AND 6"
Insert: "11 through 18"
13. Page 10, line 9.
Following: "sections"
Strike: "5 and 6"
Insert: "11 through 18"

-END-