

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

MARCH 20, 1981

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

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

Many visitors were also in attendance. (See attachment.)

CONSIDERATION OF HOUSE BILL 80: Representative Paul Pistoria of district 39, sponsor of House Bill 80, gave a brief resume of the bill. This bill is an act to remove the bond requirement for persons who are protective payees for recipients of public assistance. This bill was requested by the Department of SRS. This act removes the bonding requirement for persons who receive public assistance funds on behalf of (1) a child or (2) a person who by reason of a physical or mental condition is unable to manage his own funds.

The statement of intent outlines the proposed procedure for assuring that the person, known as the protective payee, will properly administer the funds in a manner that is in the best interest of the child.

Judith, Carlson, deputy director of the Department of Social and Rehabilitative Services, stated that the department fully supports this bill. The bill amends the section of law on the use of protective payees for recipients of public assistance. A protective payee is one who is designated to receive the monthly check on behalf of another person. What kinds of situations require a protective payee? First an ADC mother or father who is unable to handle her own funds - she may be mentally retarded, mentally ill, or have some other problem which results in clear evidence that her children are not receiving the benefit of the ADC check. Second, any ADC recipient who is required to participate in the WIN program, a mandatory work-training program for most ADC recipients, but who chooses not to participate. In these instances the mother's needs are removed from the grant but payment for the needs of the children can be made to a protective payee. Third, an applicant who refuses to cooperate with the child support enforcement program must also have her needs removed from the grant and a protective payee named for the children.

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In any of the before mentioned instances, the county welfare department must find a protective payee. At the present time our law requires that a bond be posted in an amount six times the amount of the grant. This costs an average of \$25 for the friendly neighbor, relative or community volunteer who is willing to assume this major responsibility. As a result, county welfare departments have a difficult time finding people who are willing to assume the responsibility. It does not seem fair to require this additional burden for someone taking on such a major volunteer responsibility. Mrs. Carlson stated that SRS urges favorable consideration of this bill.

With no further proponents, Chairman Hager called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Judy Carlson stated that this has been an administrative procedure with which to certify that SRS money was being handled properly. However, there is still a check on the money from SRS.

Representative Pistoria by thanking the Committee for their time and consideration.

DISPOSITION OF HOUSE BILL 80: A motion was made by Senator Halligan that House Bill 80 BE CONCURRED IN. Motion carried.

A motion was made by Senator Halligan that the Statement of Intent for HB 80 be adopted and concurred in. Motion carried.

CONSIDERATION OF HOUSE BILL 686: Representative Jean McLane of district 72, chief sponsor of HB 686, gave a brief resume of the bill. This bill is an act to allow for licensure of residential care facilities and providing for an immediate effective date. This act establishes the licensure requirements for residential care facilities. The purpose section describes the facilities as alternatives to institutional living for elderly individuals and handicapped children and adults. It also limits the use of supplemental social security income funds to assure that recipients of SSI are not residing in substandard facilities.

Section 2 provides definitions of "protective oversight" and "residential care facility". Protective oversight includes 24-hour responsibility for the resident. "Residential facility" means the providing of room, board, and protective oversight. The definition also stipulates that no more than 15 persons shall reside in the facility - this provision should really appear in Section 3 in which the standards for residential facilities are outlined.

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Section 4 states that the person operating a residential care facility must also comply with applicable licensing laws governing health care facilities.

Judy Carlson, deputy director of SRS, stated that her department supports this bill as amended. Mrs. Carlson offered more amendments to the bill. Although the department of Health and Environmental Sciences originated the bill, the Department of SRS is now the prime department with authority under the bill. SRS would willingly accept that authority because it will allow a wider range of facilities to be licensed in a consistent manner. The amendments offered today would make the language nearly identical with the language in SB 137 which this Committee heard earlier this session. It places all licensing authority for group day care in non-health care facility in SRS. At the same time, the Department of HES, and the State Fire Marshall recommend standards relating to health and safety, and health officials and the Fire Marshall do the actual certification of facilities for health and safety.

SB 137 dealt with community homes for the developmentally disabled. This bill deals with residential care of the elderly and disabled who need some supervision but not medical attention on a regular basis. This bill also deals with residential care for recovering mental patients who live in transition homes. HB 686 is voluntary in this sense. If a facility wants to provide care for persons who receive SSI, they must be licensed. If a facility provides residential care to no SSI recipients, they would not require a license. The reason being that federal law requires that states insure health and safety as well as the civil rights, of person receiving SSI who live in group facilities. The state must prove to the federal government that facilities housing SSI recipients are certified as meeting certain standards. At the present time SRS has been meeting that law through use of the Health Department's rooming house licensing definitions. But SRS has been dissatisfied with that procedure because it is geared more to persons with no special requirements other than shelter.

This bill would bring about consistency in some of the licensure laws on group care. It will make the program more understandable to the public, to facility operators, and to SRS. It will allow SRS to streamline procedures and eliminate confusion. It will assure Montana citizens who need special care that their personal safety and social needs are attended to. SRS urged support of the bill.

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Doug Olsen from the DHES stood in support of the bill and explained the amendments.

With no further proponents, Chairman Hager called on the opponents. Hearing none, the meeting was opened to a question and answer period.

Senator Halligan asked whether or not this bill would license rooming houses. They will not be licensed under this bill.

Senator Olson asked if both the Department of Health and the Department of SRS have met and agree to the proposed amendments. This has been done, and both sides do agree.

Representative McLane closed and asked the Committee to please be kind to the bill.

CONSIDERATION OF HOUSE BILL 726: Representative John Vincent of district 78, gave a brief resume of the bill. This bill is an act to allow certified school employees to administer a prescribed medicine to a student if the trustees of the school district have established a written policy that included certain conditions for the administration of prescribed medicines.

Section 1 - a certified school employee may administer a prescribed medicine but only if the school district have a written policy as prescribed in the act.

The nurse or certified employee is not liable for civil damages as long as they administer the medicine according to the written instructions of the physician.

Section 2 - The establishment of policy on the administration of medicine. The policy must include the following conditions:

(1) a written statement must be prepared by the physicians certifying that the medicine must be taken during the school hours as well as providing all other pertinent information required for the administration of the medicine.

(2) The parent must deliver his written permission to the school as well as the medicine and the doctor's written statement.

(3) the medicine must be stored in a safe and secure place outside of the classroom until the parent picks it up.

(4) the school must be sure that the student or any other student will not have possession of the medicine.

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Representative Vincent stated that this is strictly permissive legislation.

Diane Thomas-Rupert, representing the Bozeman Public Schools, stood in support of the bill. She stated that in the Bozeman area they have a big problem as there are 21 students which need medication during the school day and they do not have a school nurse of any kind. There seems to be a large disagreement as to whether or not the teachers can legally administer medicine. This bill would be a permissive bill and make it so the teachers or administrators can administer medication if they so desire.

A letter was read from the Montana School Boards Association in support of this bill. (See attachments.)

With no further proponents, Chairman Hager called on the opponents.

Judy Olson, executive director of the Montana Nurses' Association, stated that her group is opposed to the bill. The administration of medications is a nursing function defined in the Nurse Practice Act, which was written for the protection of the public. Giving medication bears the responsibility of assuring the correct drug, the correct dose, and the knowledge of drug action and side-effects.

Certified school employees are not qualified to administer medication. The exclusion from liability of these school employees addressed in this bill does not protect the public, only the employee. Nurses are licensed to administer medications and are liable for their actions.

According to this bill, school trustees often with no medical background would be writing the policy and procedure for the administration of these medications. It is the position of the MNA that if this legislation is going to pass such as this, it should be done by persons knowledgeable about medications. Mrs. Olson then urged the Committee to not Concur on this bill.

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Joyce Coombe, representing the School Nurse Interest Group, stood in opposition to the bill. The giving of medications should be done by a person knowledgeable about the drugs and about possible side effects and reactions; or at the very least the medication should be given under the supervision of a person knowledgeable about medications. Mrs. Coombe offered some suggestions which she felt would improve the bill a great deal. (See attachments.)

Alice Armstrong of Helena stated that teachers do not want to have the responsibility of giving medications to students. She stated that perhaps the medications could be given at other times than during school hours. Therefore, the parents would be the one responsible for giving the medications.

Shauna Thomas, representing the Montana Federation of Teachers, stated that she supported the offered amendments, otherwise, she was in opposition to the bill.

Dave Sexton, representing the Montana Education Association, stood in opposition to the bill.

Alberta Paxton, school nursing director from Butte, stated that the only certified personnel in Montana School are teachers who are qualified to teach and are not qualified under the Nursing Practice Act of Montana to administer medications, and to observe the child for adverse reactions to the medications. There is no protection in this bill for teachers who would be in violation of the Nursing Act of Montana, which is already an existing law. Mrs. Paxton turned in written testimony to the record. (See attachments) Mrs. Paxton stated that this bill is redundant and asked that it be killed.

With no further opponents, the meeting was opened to a question and answer period from the Committee.

Senator Halligan asked why the opponents did not testify at the hearing which was held in the House Committee. They replied that they were not aware of the bill at that time.

Senator Himsel asked whether or not this bill would include injections. Representative Vincent replied that it would not.

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Senator Johnson asked whether or not school administrators support this bill. Representative Vincent replied that the administrators are very much in favor of this bill.

Senator Norman asked what constitutes a "certified school employee". Representative Vincent stated that all teachers, superintendents, principals, and vice principals are "certified school employees".

Senator Norman then asked about the liability clause in the bill which would exempt all employees administering medication to be exempt from liability. Representative Vincent stated that three different attorney check on this and stated that this would cover the school employees just fine. Senator Norman then stated that he did not think that the Legislature could legislate liability for anyone.

Senator Berg asked about keeping the medication in a safe and secure place. This should be no problem for the principal.

Senator Berg stated that it is a known fact that kids sometimes share their medicine with other kids.

With no further questions Representative Vincent closed. He stated that everyone is very concerned about the safety and the problem of medication for the students. The doctor must send a written note to school to explain that it is necessary for the student to receive medication during school hours and also how the medication is to be administered. He then stated that he doubts that the teacher would be asked to be the one to administer the medication, however, each school district may be different. He stated that the most likely person to administer the medication would be either the principal or vice principal. Do keep in mind that this is permissive legislation and not mandatory legislation. Bozeman needs some help right away for their problem.

DISPOSITION OF SENATE BILL 431: This bill is an act to control litter in Montana and provide for the recycling of certain materials and products. Senator Hager, chief sponsor, of the bill went through each section of the proposed bill and explained the reasoning.

Senator Johnson asked whether or not this bill was patterned after the Washington State law. It was patterned after Washington law.

A motion was made by Senator Halligan that Section 8 be struck

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from the bill.

Senator Berg stated that perhaps this part would not be workable in the bill. All members voted "yes" except Senator Johnson who voted "no". Motion carried.

A motion was made by Senator Johnson that the bill, SB 431, receive a DO PASS, as amended recommendation from the Committee. Motion carried unanimously.

ANNOUNCEMENTS: The next meeting of the Public Health, Welfare and Safety Committee will be held on Monday, March 23, at 12:30 in Room 410 to consider HOUSE BILLS 566, 577, and 671.

ADJOURN: With no further business the meeting was adjourned.



CHAIRMAN, SENATOR TOM HAGER

eg

ROLL CALL

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date March 20

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

Each day attach to minutes.

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
June B. Linn	SAS	LSB	✓	
Gloria R. Armstrong	July	726	✓ MSA	✓
Joyce Coombe	State School Nurse Int. Group	726		✓
Robert E. Pactor	Superintendent, Sch. Dist. #4	726		✓
Diane Thomas - Rep. at	Brute Mt. Dist. Sch. Bd. Pres.	726	✓	
Shauna Thomas	Mont. Fed. Schrs	726		✓

(Please leave prepared statement with a

HOUSE BILL 80

Introduced by Representative Pistoria

By Request of the Department of Social and Rehabilitation Services

This act removes the bonding requirement for persons who receive public assistance funds on behalf of (1) a child or (2) a person who by reason of a physical or mental condition is unable to manage his own funds.

The statement of intent outlines the proposed procedure for assuring that the person, known as the protective payee, will properly administer the funds in a manner that is in the best interest of the child.

The statement of intent does need some amendments to "clean-up" some drafting errors.

NAME: JUDITH H CARLSON DATE: 3/20/81

ADDRESS: 111 NO SANDERS

PHONE: 9-5622

REPRESENTING WHOM? SRS

APPEARING ON WHICH PROPOSAL: HB 80

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: STATEMENT SUBMITTED

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Testimony on H.B. 80 - An Act to Remove
the Bond Requirement for Persons who are Protective Payees for Recipients
of Public Assistance

The Department of SRS fully supports passage of this bill. The bill amends the section of law on the use of protective payees for recipients of public assistance. A protective payee is one who is designated to receive the monthly check on behalf of another person. What kinds of situations require a protective payee? First, an ADC mother (or father) who is unable to handle her own funds - she may be mentally retarded, mentally ill, or have some other problem which results in clear evidence that her children are not receiving the benefit of the ADC check. Second, any ADC recipient who is required to participate in the WIN program, a mandatory work-training program for most ADC recipients, but who chooses not to participate. In these instances the mother's needs are removed from the grant but payment for the needs of the children can be made to a protective payee. Third, an applicant who refuses to cooperate with the child support enforcement program must also have her needs removed from the grant and a protective payee named for the children.

In any of the above three instances, the county welfare department must find a protective payee. At the present time our law requires that a bond be posted in an amount six times the amount of the grant. This costs an average of \$25 for the friendly neighbor, relative or community volunteer who is willing to assume this major responsibility. As a result, county welfare departments have a difficult time finding people who are willing to assume the responsibility. It does not seem fair to require this additional burden for someone taking on such a major volunteer responsibility.

The Department of Social and Rehabilitation Services urges your favorable consideration of this bill.

HOUSE BILL 686

Introduced by Representative McLane

This act establishes the licensure requirements for residential care facilities . The purpose section describes the facilities as alternatives to institutional living for elderly individuals and handicapped children and adults. It also limits the use of supplemental social security income funds to assure that recipients of SSI are not residing in substandard facilities.

Section 2 provides definitions of "protective oversight" and "residential care facility". Protective oversight includes 24-hour responsibility for the resident. "Residential facility" means the providing of room, board, and protective oversight. The definition also stipulates that no more than 15 persons shall reside in the facility - this provision should really appear in Section 3 in which the standards for residential facilities are outlined.

Section 4 states that the person operating a residential care facility must also comply with applicable licensing laws governing health care facilities.

NAME: LUDITH H CARLSON DATE: 3/20/81

ADDRESS: 111 N SANDERS

PHONE: 9-5622

REPRESENTING WHOM? SRS

APPEARING ON WHICH PROPOSAL: HB 686

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: STATEMENT SUBMITTED

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Testimony on HB 686
An Act to Allow for Licensure of Residential Care Facilities

The Department of Social and Rehabilitation Services supports this bill as amended by the House and with further amendments as offered today. Although the Department of Health and Environmental Sciences originated the bill, which Representative McLane graciously agreed to sponsor, the Department of SRS is now the prime department with authorities under the bill. We would willingly accept that authority because it will allow a wider range of facilities to be licensed in a consistent manner. The amendments offered today make the language nearly identical with the language in S.B. 137 which this committee struggled with earlier in the session. It places all licensing authority for group care in a non-health care facility in SRS. At the same time, the Department of Health and the State Fire Marshal recommend standards relating to health and safety, and health officials and the Fire Marshal do the actual certification of facilities for health and safety.

S.B. 137 dealt with community homes for the developmentally disabled. This bill deals with residential care of the elderly and disabled who need some supervision but not medical attention on a regular basis. This bill also deals with residential care for recovering mental patients who live in transition homes. H.B. 868 is voluntary in this sense. If a facility wants to provide care for persons who receive SSI, Supplemental Security Income, they must be licensed. If a facility provides residential care to no SSI recipients, they would not require a license. The reason for that is this. The federal law, through what is known as the Keys amendment to the Social Security Act, requires states to insure the health and safety,

as well as the civil rights, of persons receiving SSI who live in group facilities. The state must prove to the federal government that facilities housing SSI recipients are certified as meeting certain standards. At the present time we have been meeting that law through use of the Health Department's roominghouse licensing definitions. But we have been dissatisfied with that procedure because it is geared more to persons with no special requirements other than shelter.

We urge your support for this bill which will bring about consistency to some of our licensure laws on group care. It will make the program more understandable to the public, to facility operators, and to our own staff. It will allow us to streamline our procedures and eliminate confusion. It will assure our Montana citizens who need special care that their personal safety and social needs are attended to.

Judith H. Carlson
Deputy Director, SRS

HOUSE BILL 726

Introduced by Representative Vincent

This act would allow certified school employees to administer a prescribed medicine to a student if the trustees of the school district have established a written policy that includes certain conditions for the administration of prescribed medicines.

Section 1 - a certified school employee may administer a prescribed medicine but only if the school district has a written policy as prescribed in the act.

The nurse or certified employee is not liable for civil damages as long as they administer the medicine according to the written instructions of the physician.

Section 2 - The establishment of policy on the administration of medicine. The policy must include the following conditions:

- (1) a written statement must be prepared by the physicians certifying that the medicine must be taken during the school hours as well as providing all other pertinent information required for the administration of the medicine.
- (2) the parent must deliver his written permission to the school as well as the medicine and the doctor's written statement.
- (3) the medicine must be stored in a safe and secure place outside of the classroom until the parent picks it up.
- (4) the school must be sure that the student or any other student will not have possession of the medicine.

NAME: Liane Thomas-Rugert DATE: 3-20-81

ADDRESS: 404 West Main Bozeman, mt

PHONE: 586-8211

REPRESENTING WHOM? Bozeman Public Schools

APPEARING ON WHICH PROPOSAL: 726

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

**S
A
M** School Administrators of Montana

501 North Sanders
Helena, MT 59601
(406) 442-2510

March 20, 1981

TO: Tom Hager, Chairman
Senate Public Health Committee

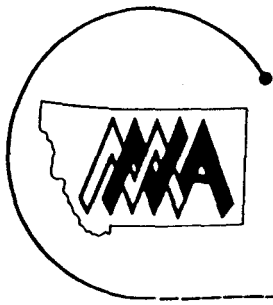
FROM: Jesse W. Long, Executive Secretary
School Administrators of Montana

RE: H.B. 726 - An act to allow certified school employees to administer a prescribed medicine to a student if the trustees of the school district have established a written policy that includes certain conditions for the administration of prescribed medicines.

School Administrators of Montana speak in favor of H.B. 726.

During the House Committee hearing we spoke in opposition to this legislation. However, after further study and deliberation, the Legislative Committee of the School Administrators now wish to speak in support of this bill.

The assurances of an established district policy, which has been carefully structured, will provide adequate protection for personnel administering the medications, as well as protection for the student.



Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59604

TESTIMONY IN OPPOSITION TO HB 726:

My name is Judy Olson, Executive Director of the Montana Nurses' Association. The Montana Nurses' Association is opposed to House Bill 726.

The administration of medications is a nursing function defined in the Nurse Practice Act, which was written to protect the public. Giving medications bears the responsibility of assuring the correct drug, the correct dose, and the knowledge of drug action and side-effects.

Certified school employees are not qualified to administer medications. The exclusion from liability of these school employees addressed in this bill does not protect the public, only the employee. Nurses are licensed to administer medications and are liable for their actions.

Also, according to this bill, school trustees often with no medical background would be writing the policy and procedure for the administration of these medications. It is the position of the MNA that if this legislation is going to pass a law that is an exception to the Nurse Practice Act, the regulations to administer this law should at least be done by persons knowledgeable about medications.

We urge this Committee to recommend a "do not pass" for House Bill 726. Thank you.

NAME: Joyce Coombs DATE: 3/20/81

ADDRESS: 7 Cedar Lake Dr Butte, mt

PHONE: 494-5870

REPRESENTING WHOM? ^{State} Sch Nurse Interest Group

APPEARING ON WHICH PROPOSAL: 726

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

COMMENTS: Please see prepared statement.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY ON HOUSE BILL 726:

The Montana School Nurse Interest Group opposes House Bill No. 726. The giving of medications should be done by a person knowledgeable about the drugs and about possible side effects and reactions; or at the very least the medication should be given under the supervision of a person knowledgeable about medications.

However, because we realize that some school districts do not have a school nurse or a public health nurse available to do this, we do have some suggested amendments that would help solve the problem addressed by this bill which would build in some safety features for the students if the Committee does decide to pass this bill out of Committee.

1. Section 1, line 14, strike the remainder of line 14 after "if" and all of lines 15 and 16 and add, "a written school policy has been established that conforms to the provisions of (section 2)."
2. Section 1, subsection 2 — We question the necessity for this section. Can the legislature limit the liability? The licensed nurse in the school is liable for her actions under the Nurse Practice Act.
3. Section 2, line 4, after the word "district" add the words, "in cooperation with the Board of Nursing and in compliance with the Nurse Practice Act."

We believe that the school trustees should have the assistance of someone who is knowledgeable about the giving of medications and about the current laws relating to this area of nursing. When the legislature dealt with a similar problem in a bill authorizing houseparents of the developmentally disabled to give medications, the Department of SRS was directed to work with the Board of Nursing in developing the rules and regs. We believe that this bill deals with the same type of issue and should also have the input and expertise of the Board of Nursing.

4. Section 2, subsection 1, line 9, and subsection 2, line 18, refers to the "physician" prescribing. We have dealt with this problem in the proposed revision to the Nurse Practice Act and were required to also include "dentists, osteopaths, or podiatrists authorized by state law to prescribe medications."
5. Subsection 3 of Section 2, line 20, refers to "school employee." In every other part of the bill, the person authorized to administer medications is the "certified school employee." We assume that the certified school employee refers only to a teacher. Is it the intent of this bill to authorize only teachers to give medications, or to also authorize other school employees to give medications?

NAME: Alice ARMSTRONG DATE: 7-20/81

ADDRESS: 3919 country club ave

PHONE: 412-7538

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: 726

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Thomas Thomas DATE: 3-20-81

ADDRESS: PO Box 1246 Selma

PHONE: 442-2123

REPRESENTING WHOM? Mont. Assn. of Teachers

APPEARING ON WHICH PROPOSAL: NE 726

DO YOU: SUPPORT? _____ AMEND? ✓2 OPPOSE? ✓1

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Alberta Eva Pastor DATE: 3/20/81
ADDRESS: 13 East Fremont St. Butte, Montana 59701
PHONE: 792-3353 - Home 792-8315 - Ext 65 (Bus)
REPRESENTING WHOM? Superintendent, School District #1
Butte, Montana
APPEARING ON WHICH PROPOSAL: H. B 726
DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS:

Prepared statement - left with
Secretary of the day.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

HOUSE BILL NO. 726

INTRODUCED BY VINCENT

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW CERTIFIED

SCHOOL EMPLOYEES TO ADMINISTER A PRESCRIBED MEDICINE TO A

STUDENT IF THE TRUSTEES OF THE SCHOOL DISTRICT HAVE

ESTABLISHED A WRITTEN POLICY THAT INCLUDES CERTAIN

CONDITIONS FOR THE ADMINISTRATION OF PRESCRIBED MEDICINES."

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

Section 1. Administration of prescribed medicine by certified school employees. (1) A certified school employee may administer a prescribed medicine to the student for whom it is prescribed if the trustees of the school district have established a written school district policy that conforms to the provisions of [section 2].

(2) A school nurse or certified school employee who in good faith administers a prescribed medicine to a student pursuant to the provisions of [section 2] and in compliance with the written instructions of the physician who prescribed the medicine is not liable in a tort action for civil damages as a result of the administration except for an act or omission constituting gross negligence or willful or wanton misconduct.

(3) For the purposes of [this act], "certified school

employee" means a school employee who is certified under the provisions of Title 20, chapter 4, part 1.

Section 2. Establishment of policy on administration of medicine. The trustees of a school district may establish a written policy and procedure to allow a certified school employee of the district to administer a prescribed medicine to a student for whom medicine is prescribed, providing that the policy includes the following conditions:

(1) the physician who prescribes the medicine must indicate by written statement that the medicine must be taken during school hours for the desired result and the statement must include all other pertinent information that may be required for the proper administration of the prescribed medicine;

(2) the parent or guardian must give written permission for the administration of the prescribed medicine at school and must deliver in person the permission, the physician's statement, and the prescribed medicine to the school employee who will be administering the medicine;

(3) the school employee who administers the prescribed medicine must store the medicine, when not being administered, in a safe AND SECURED place within the school, other than a classroom until the parent or guardian claims any unused portion; and

(4) at no time may any school employee allow the

TESTIMONY IN OPPOSITION TO

HOUSE BILL 726

DATE: 3/20/81

IN OPPOSITION TO HOUSE BILL 726:

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW CERTIFIED SCHOOL EMPLOYEES TO ADMINISTER A PRESCRIBED MEDICINE TO A STUDENT IF THE TRUSTEES OF THE SCHOOL DISTRICT HAVE ESTABLISHED A WRITTEN POLICY THAT INCLUDES CERTAIN CONDITIONS FOR THE ADMINISTRATION OF PRESCRIBED MEDICINES."

SUBMITTED by and PREPARED by:

Alberta Eva Paxton

Alberta Eva Paxton, R.N. III

School Nursing Director

School District # 1

Butte, Montana

REPRESENTING SUPERINTENDENT

1. "BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA - SECTION 1, LINE 2 SPECIFIES THAT CERTIFIED SCHOOL EMPLOYEES MAY ADMINISTER A PRESCRIBED MEDICINE -----."

RATIONALE -

The only certified personnel in Montana Schools are teachers who are qualified to teach and are not qualified under the Nursing Practice Act of Montana to administer medications, and to observe the child for adverse reactions to the medications. There is no protection in this bill for teachers who would be in violation of the Nursing Act of Montana, which is already an existing law.

2. LINE 14, SECTION 1 and LINE 4, SECTION 2 - " IF THE TRUSTEE OF THE SCHOOL DISTRICT HAVE ESTABLISHED A WRITTEN SCHOOL DISTRICT POLICY THAT CONFORMS TO PROVISIONS OF (SECTION 2) AND LINE 3 THRU LINE 8 OF SECTION 2.

RATIONALE -

These lines are in violation of the Montana Nursing Practice Act, Section 66-143 - R.C.M. 1947. The persons qualified to make written policies for the administration of medications are the Executive Secretary of the Board of Nursing and the Montana Board of Professional Nursing. This bill places responsibilities on the trustees for the interpretation of the Nursing Practice Act of Montana which is the law at the present time. The authority for the interpretation of this law is with the Board of Nursing.

3. UNCOVERED AREAS OF THIS BILL:

- A. There is nothing in this bill that protects the student who may have a reaction to the drug.
- B. There is nothing in this bill that assures the parent that the certified school person is qualified to identify a drug that may have been placed in the wrong bottle or other container to be given at school.
- C. There is nothing in this bill to reassure all concerned with the prescribing and administering of the drug that is a medically prescribed drug that has been ordered and is under the supervision of someone qualified to prescribe medicine.
- D. In areas that have no school nurses, rules and regulations can be worked out by the trustees of the school with the cooperation of the Board of Nursing so that students will receive their medications safely. This has been done for the residents in Group Homes for the Handicapped and Mentally Retarded. A similar plan can be developed for the school children. This would assure the parent, students, and school personnel that the medications given were correct and that the students were being monitored for adverse reactions. We need to work with the present law for administration of medications and to develop plans to meet the needs of the student safely. Another law would only add confusion.

THEREFORE:

IT IS REQUESTED THAT THIS REDUNDANT BILL BE KILLED IN COMMITTEE!

DATE: 3-20-81

AEP/ns