

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
February 4, 1983

The meeting of the Human Services Committee was called to order by Chairman Marjorie Hart, February 4, 1983, at 12:30 p.m. in Room 224A of the Capitol Building. All members were present except Reps. Seifert and Swift.

HOUSE BILL 404. REP. BILL HAND, sponsor, stated this bill will allow licensed practical nurses to administer drugs, medications, treatments, tests, injections, inoculations and venipuncture under certain direction and supervision (EXHIBIT 1). Suggested amendments were passed out (EXHIBIT 2).

PROPONENTS:

WILLIAM E. LEARY, president of the Montana Hospital Association, stated that during the 47th legislative session in 1981 a new Montana Nurses' Practice Act (Senate Bill 427) was passed, signed by Governor Schwinden on April 2, 1981, and became effective immediately. That legislative proposal had the full support of the Montana Nurses' Association, the Montana Medical Association, the Montana Licensed Practical Nurses Association and the Montana Hospital Association. The new definition of the practice of practical nursing currently encompassed in Montana law and more specifically the language which allows LPN's to administer medications and treatments, led several of our Montana hospitals, primarily the small rural hospitals, to begin the task of educating LPN's in the aspects of intravenous therapy. I have outlined in this bill and specify that LPN's will be able to administer venipuncture for intravenous therapy and thus give further legislative clarification to the State Board of Nursing as they develop their rules (EXHIBIT 3).

CAROL E. JASINSKI, president of the Montana Licensed Practical Nurses Association, appearing in support of the intent behind HOUSE BILL 404 and with full endorsement of the amendments presented by the Montana Hospital Association which further clarify exactly what licensed practical nurses in Montana want added to their responsibilities (EXHIBIT 4).

She introduced MR. PAUL TENDLER from Washington, D. C. who is the National Federation of Licensed Practical Nurses legislative consultant. He stated that the trend is clearly in the direction of permitting LPN's to do IV therapy and if Montana does not approve some type of legislation, it will not be keeping up with other states. He supported HOUSE BILL 404. (EXHIBIT 5)

BARBARA B. CREBO, Department of Vocational Services, Office of Public Instruction, stated that the basic training of Montana's licensed practical nurse provides sound foundation for the additional training which would be required. She recommended

training be initiated in a continuing education program to upgrade present practicing licensed practical nurses and then integrated into practical nurse programs offered at Post Secondary Vocational Technical Centers (EXHIBIT 6).

ARDIS SAGE, Director of Nurses, Deaconess Hospital, Bozeman, appeared in support of HOUSE BILL 404.

CONNIE SORRELS, Director of Nurses, St. Peter's Hospital, Helena, also appeared in favor of HOUSE BILL 404.

OPPONENTS:

JANIE CROMWELL, president of the Montana State Board of Nursing, stated that the education of an LPN does not prepare an individual for the monitoring responsibility or the making of independent judgments in treating the critical patient receiving toxic or dangerous drugs administered directly into the blood stream with resultant immediate effects or reactions. She believes an LPN has a role in carrying out the physicians "therapy" orders but it ends with the assisting role. She spoke in opposition to HOUSE BILL 404 (EXHIBIT 7).

SHARON DIEZIGER, representing the Montana Nurses' Association, spoke in opposition to HOUSE BILL 404 as amended (EXHIBIT 8).

DORIS HENSON, representing the Montana State University School of Nursing, stated the depth and breadth of university courses prepares the baccalaureate student for problem-solving and critical thinking -- skills essential to the management of today's complex patient care. I.V. therapy is a component of this complex care. Its outcomes are not predictable and therefore need the substantial specialized knowledge of the registered nurse if patient safety is to be assured (EXHIBIT 9).

JERRY LOENDORF, Montana Medical Association, opposed HOUSE BILL 404, stating that the licensed practical nurses are limited by the scope of their education. This particular amendment gives him some concern as it states that LPN's can now start I V's. It goes on to provide additional medication for intravenous fluids. When you put potent medication into the vein, it can have a very quick affect on the patient. The person monitoring that should have a particular amount of experience in the area and a certain amount of education. This is something we don't think you should have one mandate for. It is something that should be considered on a case by case basis.

HELEN LATEN, registered nurse, opposed HOUSE BILL 404.

BARBARA PINKAVA, Montana State University School of Nursing, opposed HOUSE BILL 404, and submitted her written testimony (EXHIBIT 10).

CHRISTINE L. MAGHRAK, registered nurse, opposed HOUSE BILL 404.

TERESA SULLIVAN, Director of Nursing Education, Carroll College appeared in opposition to HOUSE BILL 404.

NANCY DECLINE, Student Nurse, opposed HOUSE BILL 404.

SHELLY MYER, also opposed HOUSE BILL 404.

JANICE A. HAUGO, registered nurse, submitted written testimony (EXHIBIT 11) expressing her opposition to HOUSE BILL 404.

Additional written testimony is submitted (EXHIBIT 12).

REP. HAND, in closing, stated the letters you received were probably about the bill as it originally was introduced. He did not think they addressed the bill as it was amended. He said we have to address this fact that some of the rural areas do not have a large pool of skilled nursing help to draw on. Someone of lesser training has to do this sort of thing.

QUESTIONS:

REP. JONES: How will allowing the LPN's to administer I V's make medical care less expensive.

MR. TENDER: Since licensed practical nurses get paid less than registered nurses, you would be able to hire less registered nurses.

MR. JONES: Can you give us a figure depicting the shortage of nurses in Montana.

MR. LEARY: In Montana there was a shortage of approximately 350. Because of the recession which has driven nurses back to work, as of November 1, 1982, we had a shortage of 80 registered nurses in the State of Montana.

REP. FARRIS: I have a note stating there is a waiting list of positions in Billings and another note that says Montana does not have a shortage. Would someone from Montana please answer.

SHARON DIEZIGER: We have not felt that we have had a shortage in Montana for some time.

REP. FABREGA: I have read the bill carefully and I noticed that the definitions were broad and general. It was mentioned that it would not be done without additional education. Where are the educational requirements.

MR. LEARY: The State Board of Nursing controls the education of nurses through approval of curriculum. It would take 1 to 1-1/2 years to reschedule a curriculum to provide this additional training at Vo-tech school levels. The hospitals will, in the interim, continue with their continuing education programs to help the LPN's to meet their responsibilities.

REP. FABREGA: How can you ask me to approve that amendment without being specific as to educational requirements.

MR. LEARY: I think that your question could be proposed to the State Board of Nurses.

REP. MENAHAN: What are the differences between the job responsibilities of the licensed practical nurse and the registered nurse. He was given the answer that the registered nurse is responsible for the care of the patient and delegates what she feels is safe practice. The practical nurse is working with her all the time.

REP. MENAHAN: Are there differences in education. Does the LPN have a class in chemistry.

MARION NELSON, Vo-Tech Center, Great Falls, stated that the college courses are science courses in the course of study for the LPN that are adapted to the needs of the practical nurse. They do not have to have chemistry.

REP. MENAHAN: Would they be given credit under the university system.

MARION NELSON: No.

REP. WINSLOW: Regarding the additional training that the LPN would need, would you have to put something else aside.

BARBARA CREBO: I am recommending that we look at a continuing education program. When the rules and regulations come out, we will start looking at our practical nurses program to see if it can be expanded.

REP. WINSLOW: How would the LPN in the rural area get education.

BARBARA CREBO: It would be done at the hospitals.

REP. WINSLOW: Would that take an additional check by someone to make sure that the hospitals were giving proper training.

REP. HAND: The faculty we would be using would be physicians and registered nurses.

REP. BRAND to CAROL JASINSKI: You said your association supports this legislation. How many of your members are supporting this legislation.

CAROL JASINSKI: The majority.

REP. BRAND: The people at the Vo-tech schools, are they as highly qualified as those in the university system.

MARION NELSON: You do not have to have a masters to teach in the vo-tech system where you do have to have a masters in the university system.

REP. WINSLOW: With added criteria, is the local district going to have an added cost to the local taxpayers.

CAROL JASINSKI: The expanded education would be up to the LPN.

REP. BRAND: Would some new people have to be hired.

MR. LEARY: We do not anticipate adding any more staff to teach.

REP. BRAND: How come between the schools you cannot use the credits from one school to another. Why aren't the credits transferable.

TERESA SULLIVAN: Colleges accept credits from other accredited colleges.

REP. FABREGA: I am trying to get back to the issue of transfer of liability. I am concerned that if we look at the amendment, the registered nurse carries the liability for whatever she directs the licensed practical nurse to do and the physician carries liability for direction given the registered nurse. If we adopt these amendments, would the registered nurse who is supervising this person say "you may not do it because I don't think you are qualified" or else she is not covered by liability. If she does not want that procedure delegated to that LPN, she cannot do it.

REP. FABREGA: But then the LPN can say the law says I can do it.

PAUL TENDLER: The question of supervision as it exists now would not change if this bill were enacted. If a registered nurse chose not to have a certain LPN do a task that is not an IV, the registered nurse has the right and responsibility not to ask the LPN to do that.

REP. FABREGA: Except for the venipuncture.

PAUL TENDLER: If an LPN is permitted under law to pass medication and a registered nurse chooses not to have a particular LPN pass medication, which is permissive under the law now, she can say, "I don't want you to pass medication. I want another LPN to pass medication." It is the registered nurse's prerogative because she is the supervisor.

REP. DRISCOLL: How much additional training is required before an LPN can start I V's.

MR. LEARY: We are looking at 36 hours for I V preparation and more hours for side effects, etc., another 15 hours of continuing education.

REP. DRISCOLL: Who is going to decide how long it will take.
MR. LEARY: Each hospital provides their own continuing education. We could work on some guidelines.

REP. BROWN: Are LPN's now authorized to give injections and shots. The answer: Yes.

REP. BROWN: What does the starting of intravenous fluids mean.
Answer: Putting in the needle.

REP. HANSEN: If this bill does not pass, will it enhance or diminish the chances of an LPN being hired by a hospital.
MR. LEARY: It will have no affect.

REP. DOZIER: Will the LPN's get a raise in salary if this bill passes.
MR. LEARY: No; we have to work with our budget.

CHARMAN HART closed the hearing on HOUSE BILL 404.

HOUSE BILL 90. REP. HARPER, sponsor. This bill tries to enable humane societies in the State of Montana to use the highest preferred method which is an injection of sodium pentobarbital. This bill is enabling legislation. This is a cost-saving measure and a much more humane way to dispose of the animal.

PROPOSERS:

DR. ROBERT PAINTER, local veterinarian, supports this bill. It will allow well qualified people in the Humane Society to obtain sodium pentobarbital. As far as euthanasia, veterinarians will gladly teach any of these methods necessary for using it. This would include, primarily, the intravenous which is the safest and fastest and the least painful.

BARBARA DAHLGREN, president of Federated Humane Societies of Montana, supported HOUSE BILL 90.

MIKAL KELLNER, representing the Lewis and Clark Humane Society, said the majority of veterinarians do not want the responsibility of euthanating for shelters. Therefore, humane societies need the legal authority to purchase and use sodium pentobarbital for the purpose of euthanating injured, sick, homeless, and unwanted animals (EXHIBIT 16).

DARLENE LARSON, Billings Animal Shelter, representing the National Animal Control Association, supports HOUSE BILL 90 for the previously mentioned reasons (EXHIBIT 17).

DR. MATT E. TOMBRE, Rocky Mountain Veterinary Clinic, supported HOUSE BILL 90 (EXHIBIT 18).

JUDITH FENTON, Lewis and Clark Humane Society, supported HOUSE BILL 90 (EXHIBIT 19).

DIANE LANE, Humane Society of Gallatin Valley, supported HOUSE BILL 90 (EXHIBIT 20).

OPPONENTS:

FRANK DAVIS, registered pharmacist and Executive Director of the Montana State Pharmaceutical Association, opposed HOUSE BILL 90 for the following reasons: (1) the drug has high potential for abuse; (2) the drug has currently accepted medical use with severe restrictions; and (3) the abuse of the drug may lead to severe psychic or physical dependence. He stated pentobarbital is the second drug listed on page 163 of the Montana Pharmacy Law as a schedule II dangerous drug (EXHIBIT 21).

SHIRLEY THENNIS, Montana Nurses Association, appeared in opposition of this bill. One of her concerns was the security situation and accountability of the drug.

REP. HARPER closed saying in looking over all the literature he has never heard the suggestion of the street market of this drug. He had heard it mentioned that it could not be used to kill oneself because I V is the only way you could administer it. You would become unconscious but you would still be alive. He urged support of this bill.

QUESTIONS:

REP. WINSLOW: Why couldn't this go to the Board of Veterinarians instead of the Board of Pharmacy.

REP. HARPER: The Committee might inquire through the researcher where it should go.

REP. FABREGA TO MR. DAVIS: You suggested that the Board of Vets would be the proper board to handle it. How would it work mechanically. Would the Human Society apply to the Board of Vets to issue the permit. Then, would that permit go to the Board of Pharmacy.

FRANK DAVIS: My thoughts on this are that it probably wouldn't require a law at all if arrangements could be worked out with the veterinarian to buy this drug and use it.

REP. FABREGA: I thought you felt that the Board of Veterinarians would be in a position to license this facility.

FRANK DAVIS: I was somewhat in error that the Board of Veterinarians could arrange for a license. I think that would still have to go before the Board of Pharmacy. The Board of Veterinarians would know how to handle this.

REP. FABREGA: Would it be possible to include the Board of Veterinarians to certify with this program--if it meets with their approval and then bounce it back to the Board of Pharmacy.

FRANK DAVIS: I believe we have to keep the veterinarians involved in this.

DR. PAINTER stated if help is needed regarding the legality and whether the Board of Veterinarians or Pharmacy should be involved, he suggested checking with the lobbyist.

REP. DOZIER: How do you secure the drug.

DARLENE LARSON: It is secured in a safe with a double lock.

REP. KEYSER: Under Schedule 2 of drugs, you place the drugs in their order of potential lethality. How dangerous is this drug. You do have it placed second on the schedule.

FRANK DAVIS: The criteria for placement of drugs is written out of the federal law. There is nothing to keep you from drinking the drug or mixing it with alcohol and that is usually the way that these drugs are abused.

REP. FABREGA: How about the fact that it is not just a drug. It is already in some preparation. It is meant strictly for euthanizing animals. The pure drug would be available but how about all these preparations with other ingredients.

FRANK DAVIS: As far as I know, they don't mix anything else with sodium pentobarbital.

CHAIRMAN HART closed the hearing on HOUSE BILL 90.

HOUSE BILL 313. REP. ADDY, sponsor. This bill moves the Coordinator of Indian Affairs to the Governor's Office. The reasons for this (1) to give the coordinator more clout; (2) the office will be more effective; (3) placement in the Governor's Office will assist in crossing department lines; (4) increase effectiveness of governmental services to that population; (5) many of Montana's natural resources are on tribal lands. Direct communication now even more important between the Governor and Indians; (6) funds for Indian programs will flow through state governments; and (7) water rights and jurisdictional issues - becoming more controversial - cooperation and information flow vital between the Governor and Indian leaders.

PROPOSERS:

DAVE WANZENRIED, Governor's Office, proposed transfer. The Coordinator of Indian Affairs is becoming increasingly involved in matters of concern--not only to the native Americans but also to a number of Montanans. We would like to propose an amendment to reinstate the language that was stricken. The method of selection currently requires the Governor to solicit names from tribal councils and from it receive a list of five nominees. The over-all goal of the move is to integrate more closely the functions performed by the coordinator in the development and execution of state policy and the review of current state policy. He asked for favorable review of this bill. (EXHIBIT 22)

GEORGE SNAU, representing the FORT BELKNAP Indian Community, endorsed HOUSE BILL 313 which may allow improved communications and understanding of the State Indian issues and problems (EXHIBIT 23).

OPPONENTS:

WILLIAM YELLOWTAIL, Executive Director for the Montana Inter-tribal Policy Board, stated that the concerns he thought were important have already been addressed: (1) the matter of the selection process; (2) it is important for the tribes to feel that they have a hand in selecting the individual for whom they must work; and (3) with the transfer to the Governor's Office--I can't speak directly to that to offer an alternative but just to point out for your information that the tribes are very much concerned that the coordinator have the autonomy to serve as an objective liaison between the tribes and state government. Where the office is placed in state government is not as important as the principle involved.

REP. ADDY closed.

QUESTIONS:

REP. DRISCOLL to MR. YELLOWTAIL: On line 20, page 1, "shall serve at the pleasure of the Governor"--would it make you feel better if we put "term of office".

MR. YELLOWTAIL: I don't think so. That may be converse to the stability of the office.

REP. BROWN to REP. ADDY: Were you aware of the amendments proposed by the Fort Belknap Indians and if they are acceptable to him.

REP. ADDY: I have not seen them yet.

REP. BROWN: Were these from just the Fort Belknap community and would they be acceptable to the other Indians.

GEORGE SNAU: The amendments are just from the Fort Belknap Indians.

REP. BRAND: In your presentation you said you needed \$109,278 for 1984 and \$115,000 for 1985. What did you receive previously.

REP. BRAND: Why are you asking to take it away from the Department of Commerce.

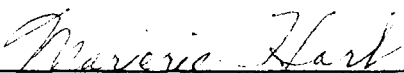
GEORGE SNAU: It is at the request of the Governor.

REP. FABREGA: The Governor is simply trying to straighten out something that wasn't workable. The Governor says to put the bookkeeping in his office.


DAVE WANZENREID: Agreed that that was what was happening.

CHAIRMAN HART closed the hearing on HOUSE BILL 313.

The meeting adjourned at 2:50 p.m.



CHAIRMAN MARJORIE HART



Secretary

Montana State Licensed Practical Nurses Association

FACT SHEET

House Bill #404 - Introduced by
Bill Hand before the Human Services
Committee.
February 4, 1983

WHY LICENSED PRACTICAL NURSES SHOULD BE ABLE TO GIVE INTERVENOUS THERAPY

1. Presently the law in Montana is unclear as to whether or not LPN's can now give intravenous (I.V.) therapy.
2. Intravenous therapy is a common procedure which is done by many health care providers, some licensed and some not.
3. There are approximately thirty-one (31) states which now recognize the LPN in the expanded role of giving I.V. therapy or permit the LPN to do one or more I.V. procedures or draw venous blood. There are six (6) states now studying the matter.
4. Of those states which now recognize the LPN in the expanded role of giving I.V. therapy or permit the LPN to do one or more procedures, requires that it be done under the supervision of another licensed individual, such as a physician, dentist or registered nurse. Montana's law would be the same.
5. Of those thirty-one (31) states, all require educational preparation, either in the form of vocational education training, continuing education, or certification or course requirement. Montana's law would be the same.
6. If Montana does not enact this legislation it will not be part of the majority and growing trend to permit LPN's to administer I.V.'s.



MHA AMENDMENT TO HOUSE BILL 404

1. On page 3, lines 7 through 19, strike all new language, beginning with "drugs" on line 7, and ending with "direction" on line 19.
2. On page 3, lines 1 through 7, reinsert all language which has been struck beginning with "medications" on line 1 and ending with "treatments" on line 7.
3. On page 3, line 2, amend by adding the language:
"Treatments, including administration of venipuncture for intravenous therapy, prescribed by..."
4. On page 3, line 7, amend by placing a period after the word "treatments." and add the following sentence: The term administration of venipuncture for intravenous therapy shall include the starting of intravenous fluids, the regulation of intravenous fluids, the changing of intravenous fluids, the addition of medications to the intravenous fluids, the discontinuance of intravenous fluids and drawing venous blood specimens.

If the above amendments are adopted, the title needs to be amended to read as follows:

"AN ACT TO ALLOW LICENSED PRACTICAL NURSES TO ADMINISTER DRUGS; MEDICATIONS; TREATMENTS; TESTS; INJECTIONS; INHALATIONS AND VENIPUNCTURE FOR INTRAVENOUS THERAPY UNDER CERTAIN DIRECTION AND SUPERVISION; DEFINING ADMINISTRATION OF VENIPUNCTURE FOR INTRAVENOUS THERAPY; AMENDING SECTION 37-8-102, MCA."

Thus the new complete definition of the practice of practical nursing contained in Section 37-8-102, MCA would read as follows:

(3) "Practice of nursing" embraces two classes of nursing service and activity, as follows:

(b) "Practice of practical nursing" means the performance for compensation of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. Practical nursing practice utilizes standardized procedures leading to predictable outcomes in the observation and care of the ill, injured, and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments, including administration of venipuncture for intravenous therapy, prescribed by a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. The term administration of venipuncture for intravenous therapy shall include the starting of intravenous fluids, the regulation of intravenous fluids, the changing of intravenous fluids, the addition of medications to the intravenous fluids, the discontinuance of intravenous fluids and drawing venous blood specimens.



Montana Hospital Association

(406) 442-1911 • P.O. BOX 5119 • HELENA, MONTANA 59604

February 4, 1983

HOUSE BILL 404

TESTIMONY OF MONTANA HOSPITAL ASSOCIATION

Presented by William E. Leary
President, MHA

Members of the Committee, for the record, I am William E. Leary, president of the Montana Hospital Association, appearing in support of the intent of House Bill 404 and to offer for your consideration amendments which will re-establish the original intent of why the hospitals in Montana have brought this issue before you. The amendments are attached.

During the 47th legislative session in 1981 a new Montana Nurses' Practice Act (Senate Bill 427) was passed, signed by Governor Schwinden on April 2, 1981, and became effective immediately. That legislative proposal had the full support of the Montana Nurses' Association, the Montana Medical Association, the Montana Licensed Practical Nurses' Association and the Montana Hospital Association. The new definition of the practice of practical nursing currently encompassed in Montana law and more specifically the language which allows LPNs to administer medications and treatments, led several of our Montana hospitals, primarily the small rural hospitals, to begin the task of educating LPNs in the aspects of intravenous therapy. The programs were offered as an option to LPNs on their staff who wished to continue improving their techniques and thus become more valuable to the patients. These training programs were conducted in the hospital setting, utilizing registered nurses and physicians. I emphasize that the hospitals were operating under the terminology of the new law which became effective April 2, 1981, without benefit of any guiding rules or guidelines developed by the State Board of Nursing.

Concern was expressed by administrators of the hospitals as to whether they could legally allow LPNs, although trained within their hospitals, to perform IV therapy without corresponding rules from the State Board of Nursing. This concern was legitimate as we previously had two Attorney Generals who had ruled on the old Nurse Practice Act that LPNs could not perform IV therapy.

The hospitals as well as some of our registered nurses and licensed practical nurses requested from the Board of Nursing a ruling or legal opinion, preferably from the Attorney General, as to whether the new Nurse Practice Act is clear enough in regard to the administration of intravenous therapy by licensed practical nurses.

The Board of Nursing did request their staff attorney, Jeff Brazier, to pursue this and on October 4th requested an opinion from the Attorney General as to who may or may not perform venipuncture and perform the administration of intravenous therapy. (Attached Exhibit 1)

Mr. Brazier in his response to the State Board of Nursing was positive in indicating that the words "medication and treatment" do encompass intravenous therapy, thus providing a direction for the State Board of Nursing in drafting the regulations. (Exhibit 2). We do not know at this time whether the State Board of Nursing wanted to continue pursuing to the Attorney General the request for his opinion, however, we do know that the Board at a meeting in November issued a statement which indicates that the new law does permit licensed practical nurses to have a role in intravenous therapy. Further, the indication is that the position of the Board is that "as no practical nursing program in the state has provided educational preparation in this function and as intravenous therapy may not always be classified as a standardized procedure with a predictable outcome, it is inappropriate for the licensed practical nurse to undertake this function today." Thus, early in December of 1982, we have arrived at a position whereby the hospitals which had trained LPNs for this function and the LPNs themselves while having received the training, were in a Catch 22 situation in that they would not be allowed to undertake the function of IV therapy until the Board of Nursing releases guidelines. While it is true that the intent of the Board is to further consider intravenous therapy functions for licensed practical nurses, we have a number of LPNs who are already trained and a significant number who would like to avail themselves of an educational program to upgrade their skills and be able to perform more worthwhile services to the patients.

A decision was made by the Montana Hospital Association that as the Board has ruled that intravenous therapy is not an appropriate procedure for licensed practical nurses today because there is no program in the state to educate the LPNs for that function and because the opinion from the Attorney General will probably be quite slow in coming, we drafted a bill for consideration of this legislature.

The bill was drafted by the Montana Hospital Association upon the request of our member hospitals and should not be considered as a fight between the licensed practical nurses and the registered nurses in Montana. As originally conceived, our bill was to clarify the fact that by law and eventually by regulation, LPNs would have the legal right to administer venipuncture for intravenous therapy. Unfortunately some laws and regulations from other states regarding the practice of practical nursing were included in our first bill and went far beyond our original intent. The amendments presented to you today will bring this bill back into the proper perspective and will do two things. It will clarify the grey area I have outlined and specify that LPNs will be able to administer venipuncture for intravenous therapy and thus give further legislative clarification to the State Board of Nursing as they develop their rules. The question of what is intravenous therapy as it relates to the licensed practical nurse needed to be defined which necessitates the adoption of amendment number 4 which gives a legislative definition for the term "administration of venipuncture for intravenous therapy". While this definition might appear to be a laundry list, it is not. It is simply clarifying what we in the hospital field and the licensed practical nurses feel is reasonable. In fact, it is limiting the LPNs to be trained only in this regard and I am sure physicians or registered nurses in the room could testify that many more treatments can be provided to patients through an all-encompassing intravenous therapy policy.

I therefore urge your strong consideration of the amendments and further encourage you to pass House Bill 404 as amended. The bill as written, without the amendments, does not get to the heart of the matter and the amendments are therefore essential to accomplish our goals.

Montana hospitals have pledged the use of their facilities and their professional personnel to conduct the necessary educational programs to upgrade the techniques for the LPNs. We stand ready to serve and only need the green light which passage of House Bill 404 as amended would provide.

BOARD OF NURSING
DEPARTMENT OF COMMERCE

EXHIBIT 1

1424 9TH AVENUE

STATE OF MONTANA

(406) 449-3737

HELENA, MONTANA 59620-0407

TO: Geoffrey L. Brazier
Staff Attorney

FROM: Phyllis McDonald, R.N. *G.M.*
Executive Secretary

Legal Log # 82-73

DATE: October 4, 1982

RE: Request for Opinion - Administration of Intravenous Therapy

The Board of Nursing continues to receive numerous inquiries and expressions of concerns in regard to the Administration of Intravenous Therapy by licensed practical nurses. In addition the Board has received information that some hospitals and other health care agencies permit the licensed practical nurse to perform intravenous therapy functions excluding inserting the I.V. needles and initiating intravenous infusions.

Through the years the Board has taken the position administering intravenous therapy is the practice of medicine or registered nursing based on the attached legal interpretations.

The Board has directed me to request your opinion and assistance as to the following:

- 1) Are the opinions of Attorney General Arnold H. Olsen (Opinion #89) and Robert L. Woodahl (July 1982) currently applicable under the definitions of nursing as revised by the 1981 Legislature.

Section 4. Section 37-8-102, MCA Definitions:

37-8-102(3)(a) . . . "Practice of professional nursing" means the performance for compensation of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis, planning, nursing intervention, and evaluation and management of illness, injury, or infirmity; and the restoration of optimum function. The term also includes administration, teaching, and the administration of medications and treatments prescribed by physicians, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (3)(a):

(i) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources.

(ii) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals.

37-8-102(3)(b) . . . "Practice of practical nursing" means the performance for compensation of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. Practical nursing practice utilizes standardized procedures leading to predictable outcomes in the observation and care of the ill, injured, and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments prescribed by a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.

2) If you find the above referenced opinions are not applicable the Board has directed an opinion be requested from the Attorney General concerning who may or may not perform venapuncture and perform the administration of intravenous therapy.

Please contact me if you need further information. Thank you for your consideration in this matter.

BOARD OF NURSING
DEPARTMENT OF COMMERCE

EXHIBIT 2



1424 5TH AVENUE

STATE OF MONTANA

(406) 449-3737

HELENA, MONTANA 59620-0407

TO: Phyllis McDonald, R.N.
Executive Secretary
Board of Nursing

FROM: Geoffrey L. Brazier *GLB*
Staff Attorney

RE: Legal Log #82-73 Opinion Request Administration of Intravenous
Therapy

DATE: October 20, 1982

QUESTION PRESENTED

"Are the opinions of Attorney General Arnold H. Olsen (Opinion #89) and Robert L. Woodahl (May 1972) currently applicable under the definition of nursing as revised by the 1981 Legislature?"

OPINION

In my opinion the Attorney Generals' opinion cited are not currently applicable under the definitions of professional and practical nursing as revised by the 1981 Legislature insofar as those opinions restrict the professions which are permitted to administer intravenous therapy solely to registered, professional nurses.

DISCUSSION

It is understood that the underlying concern which gives rise to Request for Opinion is whether licensed practical nurses have authority to administer intravenous therapy.

Like the Attorney General's opinions, this Opinion does not speak to civil or tort liability. Nor does it attempt to identify all professions licensed by the State of Montana that might be authorized to administer intravenous therapy.

In reaching my opinion I have relied upon several basic rules for statutory construction.

"In the construction of statute, the office of the judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted or to omit what has been inserted. Section 1-2-101 MCA. Taylor v Rann, 106 M 588, 80 P 2d 376; State ex rel. King v Smith, 98 M 171, 38 P 2d 274; Clark v Olsen, 96 M 417, 31 P 2d 283.

"In the construction of a statute, the intention of the legislature is to be pursued if possible. . . . Section 1-2-102 MCA. Baker Nat'l Ins. Agency v Dept. of Revenue, 175 M 9, 571 P 2d 1156.

When the terms of a statute are plain, unambiguous, direct and certain, it speaks for itself and there is no room for construction. Chmielewske v Butte & Superior Min. Co., 81 M 36, 261 P 616; State ex rel. Swart v Casne, 172 M.302, 564 P 2d 983.

In construing an amendatory act, the Legislature will be presumed to have intended to make some change in the existing law, and therefore the court should endeavor to give some effect to the amendment. Pilgeram v Haas, 118 M 431, 167 P 2d 339.

In 1956 when 26 Opinions of the Attorney General 89 was handed down the statutes defining the practices of professional nursing and practical nursing read as follows:

"A person practices professional nursing who for compensation or personal gain, performs any professional nursing services requiring the application of principles of the biological, physical or social sciences and nursing skills in the care of the sick, in the prevention of disease or in the conservation of health."

"A person practices practical nursing who for compensation or personal gain cares for selected convalescent, subacutely and chronically ill patients, and who assists the professional nurse in a term relationship, especially in the care of those more acutely ill. She provides nursing service in institutions, and in private homes where she is prepared to give household assistance when necessary. She may be employed by a private individual, a hospital or a health agency. The practical nurse works under the direct supervision of a registered nurse where such supervision is possible and obtainable, and similarly, under the direct supervision of a physician."

In 1972, when Attorney General Woodahl responded to the request of the Board of Nursing, the statutes defining the practice of professional nursing and practical nursing read as follows:

"The practice of professional nursing means the performance of for compensation of any act in the observation, care and counsel of the ill, injured or infirm, or in the maintenance of health or prevention of illness of others, or in the supervision and teaching of other personnel, or the administration of medications and treatments as prescribed by a person licensed in this state to prescribe such medications and treatments; requiring substantial specialized judgment and skill and based on knowledge and application of the principles of biological, physical and social science. The forgoing shall not be deemed to include acts of diagnosis or prescription of therapeutic or corrective measures."

"The practice of practical nursing means the performance for compensation ~~in the care of the ill, injured or infirm,~~ or acts selected by and performed under the direction of an R.N., or a person licensed in this state to prescribe such medications and treatments; and not requiring the substantial specialized skill, judgment and knowledge required in professional nursing."

Now, after enactment of the Chapter 274 of the Laws of 1981, the practices of professional nursing and practical nursing have been defined as follows:

"Practice of professional nursing means the performance for compensation of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process in the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health; the prevention, casefinding, and management of illness, injury, or infirmity; and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, dentists, osteopaths or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection:

- (i) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;
- (ii) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals."

✓ "Practice of practical nursing" means the performance for compensation of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. Practical nursing practice utilizes standardized procedures leading to predictable outcomes in the observation and care of the ill, injured, and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments prescribed by a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments." (Emphasis supplied.)

Unless the words "medication" and "treatment" are technical words that have acquired a peculiar and appropriate meaning among health care practitioners and in the law in Montana, and those words do not encompass intravenous therapy, the meaning of what is now codified as Section 37-8-102 (3) (b) MCA is plain, clear and unambiguous and should be pursued if

possible. Section 1-2-106 MCA.

To except intravenous therapy from the meaning of "administration of medications and treatments" would be to omit from the statute something that has been inserted.

- - -

It is my further and supplemental opinion that the statute as revised imposes the requirement that the administration of medications and treatments by L.P.N.'s be under the supervision of a registered nurse or a health care provider authorized by state law to prescribe medications and treatments.

BOARD OF NURSING
DEPARTMENT OF COMMERCE

1424 9TH AVENUE



STATE OF MONTANA

(406) 449-3737

HELENA, MONTANA 59620-0407

December 1, 1982

Chadwick Smith
Attorney at Law
P.O. Box 604
Helena, Montana 59624

Re: Opinion - Administration of Intravenous Therapy

Dear Mr. Smith:

Geoffrey L. Brazier, staff attorney for the Board of Nursing, has requested I forward to you a copy of his opinion concerning the applicability of the opinions of Attorney General Arnold H. Olsen and Robert L. Woodahl under the definitions of professional and practical nursing as revised by the 1981 Legislature. The underlying concern of the Board of Nursing in making this opinion request to Mr. Brazier is whether licensed practical nurses have authority to administer intravenous therapy. A copy of the rendered opinion is enclosed for your information.

During its meeting in late November, the Board gave consideration to Mr. Brazier's response of October 20, 1982. After careful study and deliberation the Board approved the following statement concerning the issue of intravenous therapy administration by the licensed practical nurse:

✓ " . . . "Upon study and legal investigation the Board of Nursing has determined the amended definition of practical nursing permits the licensed practical nurse to have a role in intravenous therapy. The position of the Board is that as no practical nursing program in this state has provided educational preparation in this function and as intravenous therapy may not always be classified as a standardized procedure with a predictable outcome it is inappropriate for the licensed practical nurse to undertake this function today. Therefore, a Board of Nursing committee has been established to develop guidelines regarding the role of the licensed practical nurse and intravenous therapy."

Smith Letter

12/1/82

Page two

The intent of the Board is to further consider intravenous therapy functions for licensed practical nurses at the next regular meeting in February.

Sincerely,

Phyllis M. McDonald, R.N.

Phyllis McDonald, R.N.
Executive Secretary

PM/bjm
Enclosure

cc: Geoffrey L. Brazier
Staff Attorney

EX 4
HB 404

*Montana State
Licensed Practical Nurses Association*

TESTIMONY BEFORE HOUSE HUMAN SERVICES COMMITTEE

Members of the Committee, for the record, I am Carol Jasinski, president of the Montana Licensed Practical Nurses Association, appearing here today on behalf of the membership of MLPNA, in support of the intent behind House Bill 404 and with full endorsement of the amendments presented by the Montana Hospital Association which further clarify exactly what licensed practical nurses in Montana want added to their responsibilities.

Before continuing on with my testimony, I would appreciate the opportunity of introducing to you Mr. Paul Tendler from Washington, D.C., who has been our conference leader over the past day and one-half as we attempted to acquaint the Montana licensed practical nurses in governmental issues, both at state and national levels. Mr. Tendler is the National Federation of Licensed Practical Nurses legislative consultant and since he has a plane to catch shortly after 2:00 p.m., I would like him to present his testimony at this time.

Members of the Committee, I appreciate your courtesy extended to Mr. Tendler and hopefully he can remain for a short time to answer questions.

In the state of Montana there are currently 2,872 licensed practical nurses recorded on file at the State Board of Nursing. Of that number, some 2,192 are considered working licensed practical nurses and we also know there are approximately 180 unemployed LPNs. All of these with some additional training could be more valuable to the patients and certainly could relieve the registered nurses from some of the technical aspects of administering nursing services to the patients in our hospitals and nursing homes. The practice of nursing in Montana hospitals has changed radically over the past several years through the evolution of team nursing and while the registered nurse does take the leadership towards developing the patient's nursing care and does supervise licensed practical nurses in the delegation of those services which the R.N. feels can be delegated, we feel there is still a significant role for an LPN to perform. That is to be of direct assistance in the administration of intravenous fluids (IVs) to the patients.



*Montana State
Licensed Practical Nurses Association*

Testimony H.B. 404/page 2

I assure you there is not an LPN in the state who will want to take on the administration of intravenous therapy without having adequate training preparation. We are encouraged that through the adoption of this law, the State Board of Nursing will recognize through the regulatory process this most important extension of an LPN.

I urge your full consideration and support of House Bill 404 as amended.
Thank you.



TESTIMONY BEFORE HOUSE HUMAN SERVICES COMMITTEE
on
HOUSE BILL 404

Madam Chairman, I am Paul Tendler, legislative consultant to the professional association for licensed practical nurses, the National Federation of Licensed Practical Nurses. For the past 9 years, I have been involved in legislative matters both on the state and national level regarding nursing issues. During this time, I have testified before various Congressional committees in Washington, D.C. and in numerous states regarding nursing matters affecting both LPNs and registered nurses. Formerly, I was an Assistant Professor at Georgetown University and now serve as an adjunct professor in both the graduate and undergraduate school.

The nursing profession is changing rapidly. The need for more health providers is growing so dramatically that there is a severe nationwide shortage of nursing personnel. Many hospitals and nursing homes are functioning without a sufficient number of nursing personnel. The urgent need for nurses has, in the 1960's and 1970's resulted in many state and federal programs to encourage individuals into the nursing profession and to provide many educational programs for nurses.

The practical nursing profession has come a long way since the early part of the 20th century when practical nurses were first being included into state nurse practice acts. The last state to include practical nurses into their Nurse Practice Act was in 1957. It was at this time that the profession gained greater status and recognition because there was now a standard of educational preparation necessary to sit for licensure.

Prior to this, practical nurses needed no formal education and were often individuals who did unskilled health care tasks as well as a variety of domestic work. Today this is no longer the case. An LPN who holds a license in any of the 50 states must graduate from a state approved school and must pass a rigorous national examination. All states require at least 1 year of vocational education preparation.

Because of the educational preparation and the licensure requirements, the practical nurse of 60 years ago has developed from an untrained person who performed relatively unskilled tasks for the sick in the home to a fully responsible, specially skilled and integral part of the health care team.

No longer do LPNs do the household chores such as cooking and cleaning along with administering unskilled health care. Now she has studied for more than a year and has both an extensive theoretical and practical training period.

After World War II, the U.S. Department of Vocational Education, in a special study, defined the duties of the practical nurse. The study also outlined the scope of knowledge the practical nurse needed and made numerous references to such terms as "judge", "recognize", "appraise", and "determine". Now all states in some form or another recognize the skills of the practical nurse to function as an integral part of the health care team and in fact, states are using the term "integral part of the health care team" as part of the definition of LPN.

The courses that the practical nursing student must successfully complete in order to graduate and sit for the licensing exam varies from state to state as it does for any profession, including medicine and law. The standards are however, that graduation must be from a state approved school.

Generally speaking, LPN students must take courses in biology, psychology and behavior sciences. More specifically, a typical practical nursing education program includes courses in anatomy, physiology, pharmacology, medical-surgical nursing, microbiology, nutrition, community health, human behavior, obstetrical nursing, pediatric nursing and psychiatric nursing.

Total hours of in-class preparation vary. Montana requires more hours than other states. Here in-class preparation is approximately 1,000 hours and approximately 700 hours for clinical training. This totals to more than 1,700 hours of educational preparation.

Just as states vary as to the courses included in the mandatory curriculum, states vary as to the scope and practice of what LPNs can do.

In regard to intravenous therapy, approximately 31 states have either recognized the expanded role of the LPN in the delivery of IV therapy or permitted the LPN to do some function of therapy ranging from starting or discontinuing IV therapy to the drawing of venous blood. There are six states which are now currently studying the matter.

The trend is clearly in the direction of permitting LPNs to do IV therapy and if Montana does not approve some type of legislation, it will not be keeping up with other states.

Those states which permit LPNs to do IV therapy require some kind of educational preparation either in the vo-tech program or through continuing education. Until IV therapy educational preparation is included in vocational education programs, LPNs received their education through continuing education programs in hospitals and vo-tech centers. All of the states which permit LPNs to do some form of IV therapy require that it be done under the supervision of a physician, dentist or registered nurse.

The theory and practice of the administration of venipuncture for intravenous therapy is now considered a common practice which many lesser skilled and unlicensed personnel are permitted to do.

In conclusion may I suggest that in considering this legislation you keep in mind that you are not breaking new ground by permitting LPNs to give IV therapy, but merely catching up to a growing majority of the states which already permit this common function.

WITNESS STATEMENT

Name Barbara D. Crebo Committee On Human Services
 Address Dept. Vocational Services Date 2/14/83
 Representing Office Public Instruction Support
 Bill No. HB 454 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Expanded role of Licensed Practical Nurse in intravenous therapy is being implemented in 31 states
2. Basic training of Montana's Licensed Practical Nurse provides sound foundation for the additional training which would be required.
3. Department of Vocational & Education Services Office of Public Instruction is committed to cooperatively developing curricula and programs which would accommodate the training needed
4. Recommend training be initiated in a continuing education program to upgrade present practicing Licensed Practical Nurses and then integrated into Practical Nurse programs offered at Post Secondary Vocational Technical Centers. Before any curriculum can be developed rules & regulations must be in place. As yet the Board of Nursing has not addressed this issue although the present law 37-9-102 MCA was

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

passed in the 47th Legislative Session

February 4, 1983

Testimony in support of House Bill 404
Presented to the House Human Service
Committee by: Barbara B. Crebo,
Health Occupation Specialist
Department of Vocational Education Services
Office of Public Instruction
Phone number: 449-3036

Pro

Representative Hart, Chairperson, and members of the Human Services Committee, I am Barbara B. Crebo, Health Occupation Education Specialist for the Vocational Education Service Department, Office of Public Instruction. Within the realm of my responsibilities is providing technical assistance to the five practical nurse programs located at our five postsecondary vocational technical centers. I am appearing before you today as a proponent for House Bill 404 as amended.

As the needs of our technological society change, the roles of our professionals must adapt to these changes and so must our educational programs. Up until the 1960's intravenous therapy was performed by the physicians, but as this treatment became used more extensively, registered nurses were trained to take over these responsibilities. Now intravenous therapy is a widely used method of treatment in our health care facilities. In many states the Licensed Practical Nurse has been trained to assume this responsibility under the supervision of a Registered Nurse or physician. A recent survey conducted by the National Association of Practical Nurse Education and Service identified 31 states which recognize the expanded role of the practical nurse or allows specific tasks performed in intravenous therapy. As a leader in health care education in our State, I support the expanded role of the Licensed Practical Nurse in Montana to include intravenous therapy.

By supporting this bill I do not wish to imply to the Committee that at the present time our Practical Nurse Program is preparing our students with the knowledge and skills necessary to perform intravenous therapy. But, it is equally important to recognize that our present curriculum does provide a sound foundation for the addition of the skills and knowledge needed to perform intravenous infusion.

In pharmacology, our students learn the classification of drugs---their generic and trade names, the average or normal dosage of a drug, the predictable reactions and counter reactions, when and how to use drug reference books, observation and reporting skills and to calculate dosages.

Also, a Licensed Practical Nurse often administers drugs or medications by injection. This means our students do learn the nursing technique of performing intradermal, intramuscular, and subcutaneous injections.

Since another responsibility of the Licensed Practical Nurse is "the observation and care of the ill, injured, and infirmed" our students are taught to care for the patient who is receiving intravenous therapy. They are taught to check the flow of the solution, to check the site of the needle, to observe for unfavorable reactions and to give safe total care to a patient receiving intravenous treatment. Basic physiology and anatomy as it relates to total health of the patient is also a part of our curriculum.

Page 2

February 4, 1983

Testimony in support of House Bill 404

I have described these areas of our practical nurse training to illustrate that in our present program our students are gaining knowledge and skills upon which we can build to make them safe practitioners in intravenous therapy.

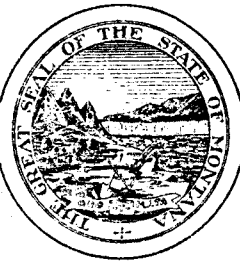
The Department of Vocational Education Services wishes to assure you that we are committed to cooperatively developing a curriculum which will prepare our graduates to be safe practitioners in this type of therapy and who can function efficiently and effectively in our health care facilities.

I now have in my office curricula which have been developed in other states to upgrade the skills of Licensed Practical Nurses in this treatment area. My recommendation is to initially develop a continuing education program which will accommodate Licensed Practical Nurses currently in the field to become proficient in intravenous therapy. In time this curricular component could be integrated into our present practical nurse program. In support of this recommendation the National Association of Practical Nurse Education and Service survey indicated that those states recognizing this expanded role provided the needed training through adult education, hospital inservice, and continuing education programs.

Thank you for the time and the opportunity to appear before your Committee in support of House Bill 404. I would be happy to visit with any of you regarding our practical nurse course of study.

Ex. 7
H.B. 404

BOARD OF NURSING
DEPARTMENT OF COMMERCE



1424 9TH AVENUE

STATE OF MONTANA

(406) 449-3737

HELENA, MONTANA 59620-0407

TO: Representative Marjorie Hart, Chairman and Members of the
Human Services Committee

DATE: February 4, 1983

RE: H.B. 404

I am Janie Cromwell, residing at 417 Travonia, Butte, Montana.
I am President of the Montana State Board of Nursing and speaking
for the majority of the Board members who are opposed to H.B. 404.

As the current definition of practical nursing clearly describes
the responsibilities and scope of practice for which the practical
nurse is licensed, the Board of Nursing believes the proposed amend-
ment is unnecessary.

Attached to this testimony, as Exhibit A, is the legal inter-
pretation of this section of the law by the Board's staff attorney
stating that the LPN has a role in the intravenous administration
of medications. As a result, the Board has issued a statement attached
as Exhibit B.

In addition, the Board believes the "shopping list" approach to
a definition of practice is inflexible and undesirable. The rapid
changes in knowledge and technology make it impossible to keep such
a listing current.

The broad definition enables the Board to adopt implementing rules
and regulations to meet changing practice. Through the use of rules
and regulations the Board can implement changes, if study and research

indicate the appropriateness and need for change. Through the use of public hearings under the Administrative Procedures Act, there is ample opportunity for public input into such roles.

The purpose of the law Title 37, Chapter 8 Nursing, is for the protection and welfare of the public. H.B. 404 does not offer that protection.

I would like to remove the cap of President of the Board of Nursing and speak briefly as the Director of Nursing in one of the largest hospitals in Montana.

As an employer of licensed practical nurses, I recognize their value in the care of the patient. I believe an LPN must work under the direction and supervision of the registered nurse and physician.

The education of an LPN does not prepare an individual for the monitoring responsibility or the making of independent judgments in treating the critical patient receiving toxic or dangerous drugs administered directly into the blood stream with resultant immediate effects or reactions. My dictionary stated that therapy is that "part of medicine which relates to the composition, application and operation of remedies." I do believe an LPN has a role in carrying out the physicians "therapy" orders but it ends with the assisting role.

I speak in opposition to H.B. 404.

BOARD OF NURSING
DEPARTMENT OF COMMERCE

1424 9TH AVENUE



STATE OF MONTANA

(406) 449-3737

HELENA, MONTANA 59620-0407

TO: Phyllis McDonald, R.N.
Executive Secretary
Board of Nursing

FROM: Geoffrey L. Brazier *GLB*
Staff Attorney

RE: Legal Log #82-73 Opinion Request Administration of Intravenous
Therapy

DATE: October 20, 1982

QUESTION PRESENTED

"Are the opinions of Attorney General Arnold H. Olsen (Opinion #89) and Robert L. Woodahl (May 1972) currently applicable under the definition of nursing as revised by the 1981 Legislature?"

OPINION

In my opinion the Attorney Generals' opinion cited are not currently applicable under the definitions of professional and practical nursing as revised by the 1981 Legislature insofar as those opinions restrict the professions which are permitted to administer intravenous therapy solely to registered, professional nurses.

DISCUSSION

It is understood that the underlying concern which gives rise to Request for Opinion is whether licensed practical nurses have authority to administer intravenous therapy.

Like the Attorney General's opinions, this Opinion does not speak to civil or tort liability. Nor does it attempt to identify all professions licensed by the State of Montana that might be authorized to administer intravenous therapy.

In reaching my opinion I have relied upon several basic rules for statutory construction.

"In the construction of statute, the office of the judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted or to omit what has been inserted. Section 1-2-101 MCA. Taylor v Rann, 106 M 588, 80 P 2d 376; State ex rel. King v Smith, 98 M 171, 38 P 2d 274; Clark v Olsen, 96 M 417, 31 P 2d 283.

"In the construction of a statute, the intention of the legislature is to be pursued if possible. . . . Section 1-2-102 MCA. Baker Nat'l Ins. Agency v Dept. of Revenue, 175 M 9, 571 P 2d 1156.

When the terms of a statute are plain, unambiguous, direct and certain, it speaks for itself and there is no room for construction. Chmielewske v Butte & Superior Min. Co., 81 M 36, 261 P 616; State ex rel. Swart v Casne, 172 M.302, 564 P.2d 983.

In construing an amendatory act, the Legislature will be presumed to have intended to make some change in the existing law, and therefore the court should endeavor to give some effect to the amendment. Pilgeram v Haas, 118 M 431, 167 P 2d 339.

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"A person practices practical nursing who for compensation or personal gain cares for selected convalescent, subacutely and chronically ill patients, and who assists the professional nurse in a term relationship, especially in the care of those more acutely ill. She provides nursing service in institutions, and in private homes where she is prepared to give household assistance when necessary. She may be employed by a private individual, a hospital or a health agency. The practical nurse works under the direct supervision of a registered nurse where such supervision is possible and obtainable, and similarly, under the direct supervision of a physician."

In 1972, when Attorney General Woodahl responded to the request of the Board of Nursing, the statutes defining the practice of professional nursing and practical nursing read as follows:

"The practice of professional nursing means the performance . . . for compensation of any act in the observation, care and counsel of the ill, injured or infirm, or in the maintenance of health or prevention of illness of others, or in the supervision and teaching of other personnel, or the administration of medications and treatments as prescribed by a person licensed in this state to prescribe such medications and treatments; requiring substantial specialized judgment and skill and based on knowledge and application of the principles of biological, physical and social science. The forgoing shall not be deemed to include acts of diagnosis or prescription of therapeutic or corrective measures."

"The practice of practical nursing means the performance for compensation in the care of the ill, injured or infirm, or acts selected by and performed under the direction of an R.N., or a person licensed in this state to prescribe such medications and treatments; and not requiring the substantial specialized skill, judgment and knowledge required in professional nursing."

Now, after enactment of the Chapter 274 of the Laws of 1981, the practices of professional nursing and practical nursing have been defined as follows:

"Practice of professional nursing means the performance for compensation of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process in the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health; the prevention, casefinding, and management of illness, injury, or infirmity; and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, dentists, osteopaths or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection:

- (i) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;
- (ii) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals."

"Practice of practical nursing" means the performance for compensation of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. Practical nursing practice utilizes standardized procedures leading to predictable outcomes in the observation and care of the ill, injured, and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments prescribed by a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments." (Emphasis supplied.)

Unless the words "medication" and "treatment" are technical words that have acquired a peculiar and appropriate meaning among health care practitioners and in the law in Montana, and those words do not encompass intravenous therapy, the meaning of what is now codified as Section 37-8-102 (3) (b) MCA is plain, clear and unambiguous and should be pursued if

possible. Section 1-2-106 MCA.

To except intravenous therapy from the meaning of "administration of medications and treatments" would be to omit from the statute something that has been inserted.

- - -

It is my further and supplemental opinion that the statute as revised imposes the requirement that the administration of medications and treatments by L.P.N.'s be under the supervision of a registered nurse or a health care provider authorized by state law to prescribe medications and treatments.

BOARD OF NURSING
DEPARTMENT OF COMMERCE

1424 9TH AVENUE

STATE OF MONTANA

(406) 449-3737

HELENA, MONTANA 59620-0407

TO: Interested Persons
FROM: The Montana Board of Nursing
DATE: December 3, 1982

During their November 20, 1982 meeting the Board of Nursing members gave consideration to the issue of intravenous therapy administration by the licensed practical nurse.

As a basis for decision-making the Board members reviewed and discussed the definition of practical nursing found in the Nurse Practice Act; the legal definition of supervision as defined in the Board of Nursing's Rules and Regulations and the opinion of the Board's staff attorney concerning the licensed practical nurse and administration of intravenous therapy.

After careful deliberation the Board members approved the following statement:

" . . . Upon study and legal investigation the Board of Nursing has determined the amended definition of practical nursing permits the licensed practical nurse to have a role in intravenous therapy. The position of the Board is that as no practical nursing program in this state has provided educational preparation in this function and as intravenous therapy may not always be classified as a standardized procedure with a predictable outcome it is inappropriate for the licensed practical nurse to undertake this function today. Therefore, a Board of Nursing committee has been established to develop guidelines regarding the role of the licensed practical nurse and intravenous therapy."

The major purpose of the Nurse Practice Act is to safeguard the public health, safety and welfare; the Board of Nursing has the responsibility to make determinations with this purpose in mind.

WITNESS STATEMENT

Name Sharon Mezgin Committee On H.H.S.
Address 3604 5th Ave So Date 2-4-83
Bk Falls, mt.
Representing Mt. Nurses Assoc. Support _____
Bill No. HB 404 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

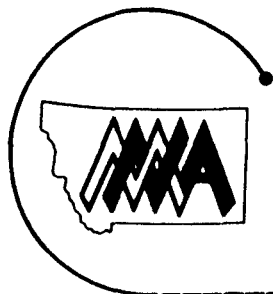
1. Written & Oral testimony

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59604

C.M.

TESTIMONY ON H.B. #404

I am Sharon Dieziger, and I represent the Montana Nurses' Association. I wish to speak in opposition to H.B. #404 as amended, amended for the 3rd time this week that we know of.

During the last legislative session the Nurse Practice Act underwent a major revision. Prior to this enactment a 2 year study preceded during which time everyone had ample opportunity to participate - including the L.P.N. Association and the Montana Hospital Association. It is disconcerting now that anyone would come in with a change in definition before the Board of Nursing has even had an opportunity to complete development of those rules and regulations needed to implement the revised Act and test it. You as a legislative body, understand above all, the labors of 4 years of concerted efforts to enact such legislation and we abhor the idea of dismantling it all the next time around.

The Nurse Practice Act must contain a definition of the practice that it seeks to regulate. The definitions should be stated in terms broad enough to permit flexibility in the utilization of nursing personnel, with accountability vested in the Registered Nurse. The "shopping list" approach to a definition of practice is inflexible and undesirable. The definition should recognize the singular element that distinguishes the nurse from other nursing personnel - the breadth and depth of educational preparation that justify entrusting overall responsibility for nursing services to the judgement of the Registered Nurse.

When the law regulates a second type of nursing practice, the definitions must differentiate between the types of practice. The definition of the second type of nursing practice should recognize the difference in the educational preparation of the practitioner. It describes the responsibilities and scope of practice for which the L.P.N.'s will be held accountable and clearly distinguishes their responsibilities and practice from that of the Registered Nurse.

The Board of Nursing includes R.N.'s, L.P.N.'s and consumers. After careful deliberation they approved the following statement on December 3, 1982. (Submitted to you as exhibit "B" by the Board of Nursing.

The statement reads:

"As a basis for decision-making the Board members reviewed and discussed the definition of practical nursing found in the Nurse Practice Act; the legal definition of supervision as defined in the Board of Nursing's Rules and Regulations and the opinion of the Board's staff attorney concerning the licensed practical nurse and administration of intravenous therapy."

After careful deliberation the Board members approve the following statement:

'..... Upon study and legal investigation the Board of Nursing has determined the amended definition of practical nursing permits the licensed practical nurse to have a role in intravenous therapy. The position of the Board is that as no practical nursing program in this state has provided educational preparation in this function and as intravenous therapy may not always be classified as a standardized procedure with a predictable outcome it is inappropriate for the licensed

practical nurse to undertake this function today. Therefore, a Board of Nursing committee has been established to develop guidelines regarding the role of the licensed practical nurse and intravenous therapy.'

The major purpose of the Nurse Practice Act is to safeguard the public health, safety and welfare; the Board of Nursing has the responsibility to make determinations with this purpose in mind. On December 1st the Board's statement and the Board Staff's attorney's opinion was forwarded to the M.H.A.

The Board of Nursing must maintain this authority. I don't believe any of you would want or intend to take on this kind of authority to delegate defined rules in the practice of nursing.

One week ago a Hospital Association representative met with representatives of the Montana Nurses' Association to discuss the bill you have before you. We initiated the discussion between both associations and we remain concerned at the inappropriateness of the Hospital Association believing they are the body that should define nursing practice in this state.

At that time we maintained this was unnecessary legislation and following that meeting we were notified that the entire original amendment was extremely modified and they would stand firm with those 2 new amendments. We believed this was a good faith effort on their part. However, we find since that time it has been amended twice again. Trusting their word, I was at the Great Falls Airport yesterday leaving for a regional meeting in Colorado when notified they had developed yet another set of amendments. I altered my travel plans rather suddenly.

It would be appropriate for the Montana Hospital Association to familiarize themselves with the National Intravenous Therapy Association which controls standards

for I.V. practice.

It is certainly apparent that we cannot address here today-standards, appropriate education, and length of education for L.P.N.'s which would conceivably mean an extra year of schooling in physiology and pharmacology. It is clear with the definition of I.V. therapy that the intent is to include all forms of I.V. therapy which includes the very young and newborn, fluid administration under pressure pumps, critical drugs, blood and blood derivative administration, administration of I.V. medication by injection or admixture, chemotherapy, swan-ganz lines directly into the aorta and arterial lines. Many of these I.V. therapy procedures are not even performed by all R.N.'s, but only those R.N.'s who have demonstrated proven skills and knowledge in those particular areas. Drawing of venous blood specimens is not even common practice amongst most R.N.'s practicing in this state and drawing of venous blood from swan-ganz catheter lines in critical care settings is a critical procedure where turning a stopcock the wrong way could mean instant death.

I cannot conceive that any licensed practical nurse would want to place her own license in jeopardy with the legal ramifications of this proposed legislation. Surely they would seek some parameters to this definition. I would also be concerned for their malpractice insurance rates.

If you choose in this legislative session to re-define the practice of L.P.N's and attach this beginning, unlimited intravenous therapy language with ^{out} accountability for education and keeping in mind that many of our practicing L.P.N's have been grand-fathered in without any formal education, then we surely cannot ask registered nurses to assume supervision and responsibility nor can the Board of Nursing begin to regulate practice of that nature.

Without consideration to preparations, education, and public safety of consumers, this becomes not a professional issue, but a patient care issue. Sometime in our own lives we will all be a patient. Exploiting the L.P.N.'s in this manner is really an injustice to them.

We thank you for this opportunity and urge you to oppose H.B. #404.

The following information is provided to assist you in comparing a 4 year professional nursing program with the one year practical nursing program as you deliberate the critical H.B. 404.

The four year collegiate education program includes two years of lower division study and two years of upper division study. I would speak to you about the upper courses. Specifically the number of classroom and clinical hours required by the collegiate nursing program at the Montana State University.

During the junior year the students are enrolled in 6 clinical courses, 18 hours of medical-surgical nursing per week, 9 hours of maternal-infant nursing, 12 hours family child nursing, 6 hours of community health nursing and 12 hours of psychiatric nursing.

During the senior year the clinical laboratory includes: 24 hours per week med-surgical nursing, 12 hours per week maternal-infant, 9 hours family child nursing, 12 hours community health and 9 of advanced psychiatric nursing. Each subject area is taught over a 10 week period of time. These labs are closely supervised with a ratio of no greater than 10.

In addition to this intensive clinical time the students average between 4-6 hours of lecture each week. The students also take courses from the university to supplement their nursing classes. These include communication skills, social sciences (i.e. medical anthropology, cultural dynamics), quantitative thinking (i.e., mathematics and logic); microbiology, the humanities and 18 hours of electives for a total of 192 university credits.

The depth and breadth of university courses prepares the baccalaureate student for problem-solving and critical thinking -- skills essential to the management of today's complex patient care.

I.V. therapy is a component of this complex care. Its outcomes are not predictable and therefore need the substantial specialized knowledge of the registered nurse if patient safety is to be assured.

We support the position of the Montana Board of Nursing and the Montana Nurse's Association that licensed practical nurses are an important part of the health care team and that their role should be defined by their licensing board.

Doris Henson, RN

WITNESS STATEMENT

Name BARBARA PINKAVA Committee On HUMAN SERVICES
 Address 719 MOUNTAIN VIEW DR Date 2/4/83
BOZEMAN
 Representing MSU SCHOOL OF NURSING Support _____
 Bill No. HB 404 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *written testimony (may also want to give oral testimony)*
- 2.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Testimony on H.B. #404

I am Barbara Pinkava, R.N., M.N. I am a nurse educator at Montana State University. On my own behalf, as a concerned citizen, I wish to speak in opposition to H.B. #404.

It is inappropriate to have introduced HB404 in the first place since the Board of Nursing is dealing with this issue through rules. I feel the authority must remain with the Board.

However, since HB404 has been introduced I feel I must express my concerns. I am interested in making every effort to safeguard the public in keeping with the philosophy of the law as stated in the Montana Nurse Practice Act.

The consumer pays an exorbitant amount for health care and has a right to the highest quality of care possible. Yet, quality of care does not have to be sacrificed as a means of cost containment, since studies indicate that primary nursing care by R.N.'s is cost accountable. From a nurse educator's point of view this begins to take on some meaning, when one looks at the differences in educational preparation. An L.P.N. by law and education is prepared to practice in standardized, predictable type care. The time frame of the program severely limits the amount of depth in theory, decision making and observational skills. Furthermore, their knowledge is general about such things as physiology and pharmacology is very basic.

On the other hand, an R.N.'s scope of knowledge and skills is broadened and more theoretical in nature. Decision making and leadership is a major emphasis. The focus is on the concept of the whole person, (biopsychosociocultural), and is incorporated into the program, rather than utilizing a "laundry list" approach which, as in HB 404, seems to indicate that the human being is viewed as a series of body parts.

Why then, given the added benefits of an R.N. with an approach such as that of primary care nursing where cost containment has been demonstrated, should we even consider that L.P.N.'s broaden their practice without the educational preparation to accompany it.

Finally, I resent the fact that as an R.N., I would have to take responsibility for the L.P.N.'s actions as stated in HB 404 - actions which exceed their educational preparation and would not work in an environment where I was forced to do so.

Submitted by,
Darlene Inkara R.N., MN
February 4, 1983

WITNESS STATEMENT

Name JANICE A. HAUGO Committee On _____
 Address S.R. Box 180 Clancy MT 59634 Date 2/4/83
 Representing Self & opposing RWR Support _____
 Bill No. 404 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. LPN's lack sufficient training (Practical & Theory) to administer I.V.'s.
2. As a nurse in an intensive care unit, I don't have time to observe an LPN to be sure she is doing her job properly.
3. If LPN's are to be given this responsibility — they should be responsible for their own actions.
4. At present, LPN's at St. Peter's hospital are not allowed to receive phone orders by physicians — this tells me they are not responsible enough to administer I.V. meds which can have such a rapid effect on a patient's health!

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Ellen Leahy, R.N., M.N. Committee On Human Services
 Address 244 South Third West, Missoula Date 2-4-83
 Representing Self as a professional nurse Support _____
 Bill No. HB 404 educator Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. The Montana State Board of Nursing, as the legal and exclusive body responsible for the practice of Nursing, opposes HB 404.
2. HB 404 is a business initiation supported by hospital associations. The consequences of HB 404, however would certainly be a human issue.
3. Refer to the Montana Nurse Practice Act - specifically the statements referring to liability and "predictable outcomes", and Section 2-15-1610 Board of Nursing.
4. Refer to prepared statement submitted by Doris Hansen, R.N., M.S.N. and MSU School of Nursing Program Guidelines.

Thank you for your attention.
 Please contact me at
 243-6515 (Missoula)
 for further information.
 E. Leahy

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Lynne Alison Picard RN MSN Committee On Health & Human Services
 Address 1961 S. 7th West Msida MA Date 2-24-83
 Representing Self - NURSE EDUCATOR Support _____
 Bill No. HB 404 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. HEALTH Issue not A LABOR Issue
2. NPNs DO have A role; defined by Board of Nursing
 ↳ N, PA, not by legislation -
3. (PN) education deals with predictable outcomes -
 JV therapy is unpredictable.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Darla Gray
1069 Lincoln Dr.
Great Falls, MT 59405
406-727-7753

January 24, 1983

Dear Representatives,

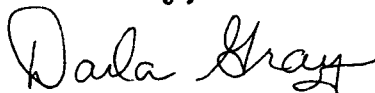
I urge you to please vote No on House Bill 404, which is a bill to change the definition of the Licensed Practical Nurse.

I am currently an L.P.N. working in a coronary care unit of a moderately sized hospital. I very much would like to expand my knowledge and abilities, but my training included very little on the knowledge of I.V. therapy, much less the art of venipuncture. This skill requires more specialized training in physiology and pharmacology beyond that which I received.

I do not feel secure in the fact of the bill's possible passing do to there are no further definition as to the fact of already existing L.P.N.'s being required to take extra training to acquire these new skills.

I believe that the Board of Nursing is the proper body to address this issue and this will assure us that it will be done in a safe and prudent manner.

Sincerely,



Darla Gray, L.P.N.

MONTANA ASSOCIATION OF HOMES FOR THE AGING

February 4, 1983

Memorandum to Members of the Human Services Committee

Re: H.B. 404

I am writing to you on behalf of the Montana Association of Homes for the Aging. Our organization opposes H.B. 404 as currently drafted. We do not believe that practical nurses have the professional training to perform administration of venipuncture for intravenous therapy and for the collection of specimens for laboratory testing. At present, three of the four vocational schools in Montana provide no instruction to their practical nursing students in intravenous therapy. Moreover, none of the schools provide practical experience in this field.

It is our understanding that the Montana State Board of Nursing is working on this issue. We further understand the Board is presently developing criteria and requirements for the education and practical training for intravenous therapy for practical nurses.

It is our firm conviction that this entire issue should be under the control of the State Board of Nursing. The State Board of Nursing has enforcement authority in this area and is the proper institution to handle it.

We further suggest that if each individual hospital plans to teach intravenous therapy to its employees who are practical nurses, the hospital must bear the expense in time and materials to teach completely the technique of intravenous therapy, including a complete understanding of the actions and reactions of that therapy.

Sincerely,



Verlin D. Buechler, Chairman
Public Policy Committee
Montana Association of Homes
for the Aging
601 South Wibaux Street
Wibaux, Montana 59353

WITNESS STATEMENT

Name Charles Briggs Committee On H. Services
 Address Helena Date 3/4/83
 Representing Governor's Office Support _____
 Bill No. H.B. 404 Oppose _____
 Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. The cost of \$56/visit for in-home services covered by this bill - the current cost for an RN visit - is too costly. By authorizing $\frac{1}{3}$ properly training LPN's cost per visit would be reduced & there also needs to be more providers available for rural areas. This legislation in concept would facilitate more in-home attendance through LPN's.
2. The bill needs proper amending to ensure proper training to provide said services by LPN's.
3. It should be noted in-home services so described requiring under present laws, RN administering sometimes reach as many as 3 visits per day. The health services cannot handle the expense as presently required.
4. The risks of allowing LPN's have been elevated by emotional concerns, which must be objectively assessed as to true proportion of danger to in-home patient - eg. what are the real percentages of risks.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

5. This bill, as stands in amending the Act, places liability solely upon the RN supervisor / Dr. / etc - this inequity needs to be addressed, as the LPN would not be held liable (eg. p. 2 lines 10-12; p. 3 lines 12-16)

VISITOR'S REGISTER

HOUSE HUMAN SERVICES

COMMITTEE

BILL HOUSE BILL 404

DATE 2-4-83

SPONSOR REP. HAND

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Sharon McQueen	St Falls	Mt. Nurses Assoc.		✓
Mindy Smith	St Falls	Dist. Nurses Assoc.		✓
Shirley Hansen	Helena	MIA		✓
Melody Brown	Helena	MIA		✓
Judy Sweet	Helena	RN Student		✓
Sharon Butler	Clancy	Interested RN		✓
Brenda Covert	Helena	RN Senior Student		✓
Mary McSherrin	Helena	RN Senior Student		✓
Lynn Engberg	Helena	Registered Nurse		✓
Jan Leishman	P.O. Box 4223 Helena	RN		X
Joy Ann P. Smith	Helena	R.N.		X
Shirley Sullivan	Helena	R.N.		X
Donella Dougherty	Helena	R.N. Student		X
Lillian LaCroix	Helena	RN		X
Mickey Barber	Bozeman	PNS	X	
Judy Farnsworth	Bozeman	RN		X
Barbara Pinkava	Bozeman	RN		X
Karen Smith	Butte	RN		X
Jeanne Dougherty	Butte	RN		X
Ann Hanna	Helena	PNS	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Name	Residence	Representing	Sup-Port	OP-POSE
Patricia Kennard	Helena	PNS	X	
CHRISTINE L. MATHRAK	BILLINGS	RN. MN.		X
Marion Nelson	Great Falls	G.F. Vo-Tech Ctr.	X	
Charlotte Hault	Helena	M.S. LPNA	X	
Michael Davis	GT Falls	PNS GT Falls	X	
Jaqueline Plum	GT Falls	PNS GT Falls	X	
Christine Valentine	GT. Falls	PNS GT. Falls	X	
Patrice Ard	GT Falls	PNS GT Falls	X	
Suzanne McGurran	Vaughn	PNS GT. FALLS	X	
Linda Wilson	Vaughn	PNS GT Falls	X	
Nancy Tubor	Gr. Falls	PNS " "	X	
Bethel Donald	Great Falls	PNS Gr. Falls	X	
Jessie Neilman	Great Falls	PNS Great Falls	X	
Fori Langendoyf	" "	" " "	X	
Judy Stinger	Great Falls	PNS Great Falls	X	
Suzanne Burgess	GT. FALLS	PNS.	X	
Linda Moncrief	GT. Falls	PNS	X	
Phyllis Krisley	GT. FALLS	PNS	X	
Doris Williams	Kalispell	SPN	X	
Margaret Anderson	East Helena	L.P. X	X	
Shirley Davis	Helena	L.P. N.	X	
Barbara Crebo	Helena	Office Public Instruction	X	
Alice Bergmeyer	Kalispell	SPN	X	
Adelle Schlabach	Kalispell	SPN	X	
Jan Hauge	Helena	RN		X
Allison Long	Bozeman	LPN - Boz	X	
Martha Grover	Bozeman	LPN - Bozeman	X	
Lore Kreis	Helena	LPN /	X	
Jani Cornwell	Butte	Bd of A & U		X
Phyllis McDonald	Helena	Bd. of Nursing		X
Barbara J. Moore	Helena	Bd of Nursing		X
Esther Robbins	Helena	MONTANA Nurses Assoc		X

VISITOR'S REGISTER

HOUSE _____

COMMITTEE _____

BILL HB 404

DATE _____

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Nancy DeKlyen SRN	Missoula	MSU MSLA CAMPUS STUDENT COUNCIL		X
Williamna Rice	Butte	CITIZENS		X
Marcie Page	Bozeman	Bozeman Deaconess Hosp	X	
Alice J. Westland	Butte	School of Nursing MSK, St. James Hosp		X
Gray & Currie	Whitehall	MSU - Center Health		X
Paula Devi	GREAT FALLS MT MT. ST. PHARM. ACSN	MT. ST. PHARM. ACSN		X
Paul Kristianson	Helena	OPI	X	
Connie Sands	Helena	R.D.		X
Richelle Meyer	Missoula	MSU MSLA Student Council & Self		X
Debra Rothman SRN	Missoula	MSU MSLA Student Council Self		X
Nancy Nolve	Helena	St. Peter's Hosp - Self		X
Brida B. Pacheco	Helena	St. Peter's Hospital		X
Jan Hauge	Helena	St. Peter's Hospital	X	X
Jeanne Robinette	Billings	Deaconess Hospital	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

Human Services
COMMITTEE

HOUSE

~~404~~ 404

COMMITTEE

BILL

HB 404

DATE

2-4-82

SPONSOR

Hand

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
William Peary	Helena	Montana Hospital	X	
Carol J. Smith	Harne	Mont LPN Assoc.	X	
Carolyn Aguirre	Missoula	MSR P.N.A	X	
Margaret A. Bostko	Dillon, MT	AA SANA ^{HOSPICE} SELF		X
Doris Henson	Missoula MT	self		X
Ellen Leahy R.N.	Missoula, MT	self/nurse educator		X
Lynne Pluard Ph.D.	Missoula MT	self/nurse educator		X
Lorraine Talbot	msla	MSR P.N.A	X	
Elizabeth Williams	Missoula MT	MSR P.N.A self	X	
Earl Williams	Ronan MT	self	X	
J. Lawson	msla	LPN		
George Hagaman	AFSCME	AFSCME	X	
Laura K. Muth	Leidy, MT	LPN	X	
Lolly Koz	Harne MT	LPN	X	
Virginia Koval	LPN Missoula	LPN	X	
Diana Mortensen	Helena	LPN		
Cindy Hilgen	Lake county Ronan	RN		X
John Truitt	Harne	RN	X	X
Kwella Hoffmann	Billings	LPN	X	
Connie Rudolph	Toplin	RN		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE Human Services

COMMITTEE

BILL HB 404

DATE 2-4-83

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Paula J. Cays	### HELENA	Self-Student Nurse		X
Connie Balison	Helena	self/student nurse		X
Cindy Trunkle	Helena	Self-Student Nurse		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE Human Services COMMITTEE

BILL House Bill 404

DATE 2-4-83

SPONSOR Rep. Hand

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Donna Small	Billings	MT. State Board of Nursing		X
Alving Burrett	Billings	MSLPN	V	
Patricia McCranie	Billings	LPN		X
Jeanette Maxwell	Helena	L.P.N.	X	
Jacqueline Hume	Haure	RPN	X	
Chief Thomas	Haure	LPN	X	
Colleen Kendree	Helena	RN (student)		X
Kathleen Mary	Helena	Student (RN)		X
Bernadette Kostiruk	Helena	student RN		X
Aline Alkey	Helena	student R.N.		X
Kimberly Gates	Helena	Student R.N.		X
Gail Camporeali	Helena	RN		X
Donna Shennott	Helena	RN		X
Charles Buff	Helena	Governor's Office		
Carol Ann Cuthbert	Haure	MontANA		X
Verlin Buckler	Webaux	MontANA		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATEMENT OF INTENT
House Bill No. 90

House Bill 90 requires a statement of intent because it requires the Board of Pharmacists to adopt rules for the sale to, and possession and use of sodium pentobarbital by, humane societies.

The Legislature contemplates that the rules should consider procedures for application by humane societies, among other things, and

1. that the limited permit should be granted only to those humane societies whose personnel have the direction of a veterinarian or other person licensed to buy, possess, and use the drug;
2. that procedures be implemented to insure adequate direction be given by such licensed person in the use of the drug, including proficiency requirements for persons administering and having access to the drug;
3. that standards for safe storage of the drug be considered;
4. that procedures for keeping accurate records of the purchase, storage, and use be kept by humane societies granted the limited permit;
5. establish standards for determining whether an entity falls within the definition of "humane society"; and
6. establish standards for determining what terms and conditions should be imposed on a permit.

Amendments to House Bill 90 (Introduced copy)

1. Page 7, line 16.
Following: "to"
Strike: "buy,"
Following: "possess"
Strike: ", "

EX 15
HB 90



TELEPHONE 549-3934

1105 CLARK FORK DR.

MISSOULA, MONTANA 59802

January 30, 1983

Legislative Committee Members
Re H. B # 90

With the passage of HB#90 we are aware that governing boards will place stringent requirements on whether or not a Humane Society would qualify for the possession of sodium pentobarbital to be used for euthanasia of unwanted animals. These requirements will include maximum storage, strict accountability of it's use, and records..... This is as it should be, and we support it 100%.

It is our feeling that each agency should apply and be rejected and or accepted on their own merits.

For years the public has placed a huge responsibility and burden on our agencies, in that according to Montana law, we must humanely destroy surplus and unwanted animals that the public has allowed to be born, because they have not cared enough to prevent them from being born in the beginning.

Whether or not we are a Humane organization or a municipal animal control agency, we must concern ourselves, with not only THAT they die, but HOW, we are are dedicated to the fact that they are entitled to a humane death.

Some Montana agencies rely, on what we refer to as mechanical methods of euthanasia, such as the high altitude chamber, carbon monoxide, and carbon dioxide, and chloroform boxes etc. Using any of those methods we have no back up method, which we feel that we are entitled to. Some agencies in this state employ a Veterinarian to euthanize the animals, this is often most inconvenient for the Veterinarian, our staff, and most of all the animal, and we do not feel that we should prevail upon the Veterinarians to do this work, plus the fact that it is more expensive than most of us can afford.

We are not a group of irresponsible people, the majority of us are long time residents of our respective communities, serving as Board members of our local organization, often handling thousands of dollars, and performing dozens of duties to serve our community and the animals in it, all with out pay. We have set standards for our organizations to be members of the Federated Humane Societies of Montana, we all have met the requirements set forth by the Internal Revenue Service, and our corporate papers are on file with the Secretary of States office in Helena. Since we meet responsibilities every bit as grave as handling a legitimate drug for the use of euthanizing animals, we feel that we could and would meet the standards set forth by the governing board related to the subject covered in HB90.

Taking the lives of innocent creatures whose only crime was being born is an awesome, horrible duty to have to perform, but since there is no other way to control the number of unwanted animals we must take care of it, and in taking care of it we feel, that these hapless creatures do have rights, and that among those rights, is a humane death, when it is with in our power to grant them that.

HB 90 will give us an alternative method to euthanize, when that is deemed necessary.

Please support this bill in this committee and present it to the Legislature.

Sincerely, Barbara Dahlgren, President Federated Humane Societies of Montana
Barbara Dahlgren
home address 834 Marshall St
Missoula, Montana 59801

"No civilization is complete which does not include the dumb & defenseless of God's creatures within the sphere of charity & mercy." Queen Victoria

Human Services Committee
Testimony in Favor of H.B. 90

I am speaking in favor of HB 90 because it is necessary that agencies responsible for the very unpleasant job of euthanasia of unwanted animals be able to do it in the most humane way possible. Sodium pentobarbital is the best and least painful method of euthanasia available.

Veterinarians use sodium pentobarbital almost exclusively because they recognize that it is the superior method of euthanasia. Presently, in Montana, only veterinarians are legally able to obtain sodium pentobarbital. Some veterinarians do put animals to sleep for humane societies, but it is costly to the society and takes time away from the veterinarian's practice. But the majority of veterinarians, understandably, do not want the responsibility of euthanating for shelters. Therefore, humane societies need the legal authority to purchase and use sodium pentobarbital for the purpose of euthanating injured, sick, homeless, and unwanted animals.

Several other states have already passed similar bills. Virginia was the first in 1971 and was followed by 13 other states: Colorado, Utah, Kansas, Michigan, New York, Connecticut, Florida, Ohio, California, Oklahoma, Illinois, Indiana, and Pennsylvania. To date there has not been one reported case of misuse of sodium pentobarbital by humane agencies.

In Montana, individual humane societies in the major cities are organized into the Federated Humane Societies of Montana. The member societies are all professional, responsible groups having the support of city and county governments and the general public. For instance, our local society, the Lewis & Clark Humane Society, runs a \$100,000 shelter on a budget of \$75,000 per year. We employ 9 people, have a membership of over 400, and work with both our city and county governments. We are expected to use the best and most humane methods of handling, housing and euthanating animals. The same is true for all humane societies in Montana.

In 1981, Montana's humane society shelters took in 32,700 animals. Of those, over 17,000 had to be put to sleep. The totals are not in for 1982, but we expect that number increased last year and will again in 1983. For the sake of the animals that must be put to sleep and for the sake of the shelter employees who must put those animals to sleep, we need to have access to the most humane method of euthanasia possible. That method is sodium pentobarbital.

We urge you to pass HB 90. Thank you.

Mikal Kellner, President
Lewis & Clark Humane Society
Helena, Montana



NATIONAL ANIMAL CONTROL ASSOCIATION
P.O. BOX 1178
Billings, MT 59103
(406) 245-8989 Ext. 227

Darlene Larson
Vice President

Testimony for Passage of HB 90

In animal welfare and control work, the act by which animals are put to death peacefully and without pain is known as euthanasia. This is an act abhorred by the general public as well as those responsible for the task. Nevertheless, it must be done. The very least that can be done is to allow the animals to be put to sleep gently, painlessly and with the least stress possible.

The American Humane Association and the Humane Society of the United States recommend injection of sodium pentobarbital, a schedule II drug. Although there is no ideal form of euthanasia, this method has the least disadvantages.

Criteria for judging methods of euthanasia are:

1. Ability to cause death without pain
2. Time required for unconsciousness and death
3. Reliability
4. Safety of personnel
5. Potential for minimizing undesirable psychological stress to animal.
6. Compatibility with objectives
7. Emotional effect on operators
8. Economics
9. Availability and potential for abuse.

There are many methods to kill an animal. When mass euthanasia is called for, the method must fit the above criteria. In 1982 the Billings Animal Shelter euthanized 4,397 animals. Many methods would be costly, dangerous and time consuming with such a large number of animals.

Methods Available

- A. Inhalants - ether, halothane, methoxyflurane, chloroform
 1. Advantages
 - a. Good for rodents and birds.
 - b. Chloroform, Halogen, and methoxy flurane are non flammable and non explosive under ordinary circumstances.
 2. Disadvantages
 - a. Occupational exposure is a health hazard.
 - b. Ether is explosive and flammable.
 - c. Chloroform in flame produces phosgene gas.
 - d. Cost is prohibitive.
- B. Nitrogen Tank
 1. Advantages
 - a. Availability
 - b. Minimal hazard to personnel.
 - c. Effective
 2. Disadvantages
 - a. Esthetically unpleasant to personnel who must watch.

A non-profit corporation representing the interests of animal control



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- b. Takes longer on young animals.
 - c. Malfunctions can occur.
 - d. Overcrowding in tank.
 - e. Frightening to animal.
 - f. Outlawed in some states.
- C. Hydrogen Cyanide
Too dangerous to be used on routine basis.
- D. Carbon Monoxide
- 1. Advantages
 - a. Painless
 - b. Animal is unaware.
 - 2. Disadvantages
 - a. Leakage dangerous to personnel.
 - b. Time consuming.
 - c. Filtering and cooling of gas necessary.
 - d. Overcrowding
- E. Carbon Dioxide
- 1. Advantages
 - a. Cheap-once facilities are constructed.
 - 2. Disadvantages
 - a. Heavier than air - climbing animals will survive.
 - b. Difficult to administer in mass euthanasia
 - c. Overcrowding
- F. Rapid decompression - high altitude chamber
- 1. Advantages
 - a. Safe for personnel.
 - b. Humane when used properly.
 - 2. Disadvantages
 - a. Malfunctioning common.
 - b. No longer manufactured - replacement parts hard to obtain.
 - c. No one in Montana to certify proper functioning on a yearly basis.
 - d. Esthetically unpleasant as operator must watch to ensure proper functioning.
 - e. Lack of understanding mechanisms.
 - f. Accidental recompression and recovery followed by another decompression.
 - g. Tolerance of immature animals.
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 - i. Bloating, bleeding, vomiting, defecation and urinating.
 - j. Pain occurs if respiratory or ear infections exist.
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NACA

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- G. Pharmacologic agents - injectable T-61.
 - 1. Advantages
 - a. Availability
 - b. Not regulated.
 - c. Quick
 - d. Esthetically more pleasant.
 - 2. Disadvantages
 - a. Must be properly injected ie. two thirds of total dosage at the rate of 0.2 ml/sec. with last third given at 1.2 ml/sec. Failure to do so results in overexcitation and convulsions.
 - b. Difficulty in restraining animal for time needed to properly introduce drug in vein.
 - c. Trained personnel required.
 - d. Intravenous route recommended.
 - e. Individual restraint required of each animal.
 - f. Cannot be given to cats intraperitoneally.
- H. Sodium Pentobarbital
 - 1. Advantages
 - a. Speed of action - works in seconds of time.
 - b. Depresses entire central nervous system.
 - c. Smooth induction of euthanasia.
 - d. Minimal discomfort to animal.
 - e. Favorable impression to observer.
 - f. Can be given intraperitoneal and intracardia routes as well as intravenously.
 - 2. Disadvantages
 - a. Schedule II drug requiring USDEA permit.
 - b. Trained personnel required.
 - c. Individual restraint of each animal.
- I. Electrocution
 - 1. Advantages
 - None
 - 2. Disadvantages
 - a. Extremely dangerous
 - b. Unpleasant
 - c. Too time consuming for mass euthanasia.
 - d. Death doesn't always occur in small animals.
- J. Gunshot
 - 1. Advantages
 - a. Instant death
 - 2. Disadvantages
 - a. Dangerous to personnel
 - b. Esthetically unpleasant
 - c. Must hit brain
 - d. Brain destroyed for rabi testing if needed.

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Vice President

Given the above methods to use, one can understand the desire of those involved in euthanizing animals wanting to use the best available.

The advantages of sodium pentobarbital far outweigh the disadvantages. In 1973 it was moved from a Schedule III to a Schedule II drug to strengthen control over an abuseable substance. Restrictions and regulations can be established to prevent abuse. Any abuse found could result in the loss of privileges to purchase this drug.

Prior to 1973 the Billings Animal Shelter used sodium pentobarbital purchased locally for over ten years. No incidents of abuse or loss occurred.

Although each animal must be individually restrained, our personnel prefer this method. The animal can be reassured during the process and less stress and fright occurs with the animal.

Similar legislation to HB 90 has been passed in fourteen states in the U.S.A.. They are as follows:

Colorado, Utah, Kansas, Michigan, New York, Connecticut, Florida, Ohio, California, Oklahoma, Illinois, Indiana, Pennsylvania and Virginia. No abuse has been identified in any of these states.

Billings and Bozeman currently use sodium pentobarbital under the license of local veterinarians. Other communities would like to use it if they could. They are unable to find veterinarians who will purchase it for them as any abuse could lead to the license being revoked for that vet.

Other methods used in Montana: high altitude chamber, nitrogen tank (recently shut down and kept for back-up), T-61 and shooting.

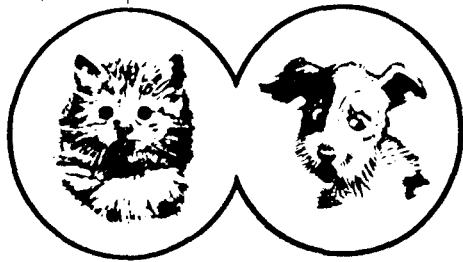
Those of us involved in this task ask for the tools to allow us the most humane, pleasant, clean and quick method of destroying the animals in our charge.

Respectfully submitted,



Darlene Larson, Superintendent of Animal Control
Billings Animal Shelter

HUMANE SOCIETY of Gallatin Valley



P.O. Box 914
2125 North Rouse

Bozeman, Montana

59715

February 3, 1983

TO: House Human Services Committee

RE: House Bill 90

On behalf of the Humane Society of Gallatin Valley and other animal shelters in Montana, I strongly encourage your support of HB90, which would enable shelters to apply for permit to purchase sodium pentobarbital for euthanasia of animals.

Animal shelters throughout the state must provide euthanasia of sick, injured, and unwanted animals as a routine public service, because members of society cannot or will not take care of them. In Bozeman alone, 1,305 animals had to be humanely destroyed by the Humane Society in 1982.

Euthanasia of animals should be done by the best method available. The method used should be quick and painless to the animal, safe for the handler, of reasonable, affordable cost, and acceptable to the public. Proper use of sodium pentobarbital is all of these.

The American Veterinary Medical Association, the American Humane Association (AHA), and the Humane Society of United States (HSUS) have all conducted extensive studies of euthanasia methods, and all concluded that injection of sodium pentobarbital is the preferred method. Use of this drug for euthanasia of animals has also been approved by the Federal Drug Enforcement Administration.

Training of animal shelter personnel in the use of the drug for euthanasia of animals is available from reliable sources. Local veterinarians in several Montana cities have already provided such training, and others have offered to do so.

The staff at the Humane Society Animal Shelter in Bozeman have been trained by a local veterinarian, who now dispenses the drug to the shelter for euthanasia purposes. Our experience with use of the drug for euthanasia has convinced us that, all aspects of euthanasia considered, it is far superior to alternative methods. Considering the cost, in 1982 our euthanasia drug expense was less than \$480 -- very reasonable.

Training of shelter personnel is also available from seminars conducted by HSUS and AHA, usually with cooperation of a School of Veterinary Medicine. Such a seminar was recently held at Colorado State University, and others are scheduled regularly.

Not all shelters in Montana are as fortunate as ours in Bozeman. Some are in areas without veterinarians. Others are unable to obtain the cooperation of a veterinarian willing to dispense sodium pentobarbital. Therefore many shelters in Montana are using other, less desirable methods of euthanasia.

FROM: Humane Society of Gallatin Valley
TO: House Human Service Committee
DATE: February 3, 1983
RE: House Bill 90

(2)

Please consider the alternative methods available, some of which are being used by shelters in Montana:

- 1.) Veterinarian administered sodium pentobarbital. Most veterinarians do not want to be responsible for mass destruction of animals at their clinics. It can be bad for their practice. Most also find it difficult to take time from their practice to do the unpleasant task at the animal shelter. Most shelters are unable to afford to pay veterinarians for daily euthanasia service, and animal shelters can receive an animal in need of euthanasia at any time of day or night.
- 2.) Shelter staff administered T61. This drug can be purchased by animal shelters. It is twice as expensive as sodium pentobarbital. Many veterinarians and animal welfare organizations are opposed to the use of this drug, because it is not certain that the drug causes narcotic unconsciousness before respiratory paralysis. T61 is also known to cause cerebral excitation and/or pain if not administered intravenously according to instructions calling for precisely timed injection.
- 3.) High Altitude Euthanasia Chamber. Except for purchase, installation, and periodic maintenance costs, use of the chamber is inexpensive. If operating properly, it is believed to cause a quick painless death to animals. However, qualified personnel with equipment necessary to test the chamber to insure proper function are few and far between. Because of strong public opposition to use of the chamber, it has been outlawed in many states, including neighboring Wyoming.
- 4.) Carbon monoxide from car exhaust. Unless the exhaust is properly filtered and cooled by special equipment before entering the compartment holding the animal, this method causes burning, suffering, and a slow death. It can also be risky for the handler. It is not favored by the public.
- 5.) Specially manufactured gas euthanasia chambers. For many years the Humane Society in Bozeman used a Nitrogen Euthanasia Unit. Although considered humane when working properly, the gas was expensive, the animals being euthanized were prone to involuntary convulsion after unconsciousness, and obtaining parts and service for the unit was difficult. Similar units have been manufactured to be used with bottled carbon monoxide, but they can cause risk of poisoning the handler if gas should escape. These units have also been outlawed in several states.
- 6.) Shooting. If the animal is shot at close range and killed instantly, this method can be considered humane. However, discharging a firearm repeatedly for the euthanasia of numerous animals creates risk of injury to the animal, handler, and others. It is also unacceptable in the public eye.

Clearly, the use of sodium pentobarbital for euthanasia of animals is the most desirable method. Passage of HB90 will enable more shelters to use this method, benefiting the shelters, the animals, and improving public opinion that strongly affects the financing of animal shelters throughout the state.

FROM: Humane Society of Gallatin Valley
TO: House Human Service Committee
DATE: February 3, 1983
RE: House Bill 90

(3)

Animal shelters can comply with necessary safety and security requirements. The Federation of Montana Humane Societies has minimum shelter standards to which all member agencies operating shelters must comply.

The Humane Society Animal Shelter in Bozeman maintains precise records regarding all animals handled and all activities. Euthanasia records include the date and time of euthanasia, identification and weight of animal, amount of drug used per animal, and name of employee administering the drug. These records are closely reviewed by staff supervisors, as are the employees using the drugs.

At least 14 states have passed legislation similar to HB90, and others will certainly do so in the future as they recognize the importance and benefit of the legislation. I sincerely hope Montana will be one of them.

Thank you for your time and consideration in the review of this proposed legislation.



Diane Lane
Executive Director

ROCKY MOUNTAIN VETERINARY CLINIC

1340 EAST MAIN
BOZEMAN, MONTANA 59715
TELEPHONE (406) 587-5518

February 3, 1983

TO: House Human Services Committee

I am writing to urge your support of HB90, which would allow Humane Societies and Animal Shelters to apply for permit to purchase sodium pentobarbital for the purpose of euthanizing unwanted and stray animals.

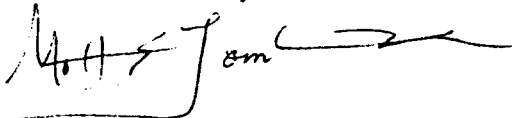
From the economic point of view, this is the most economic means of accomplishing this task. The use of this drug is also recognized to be the most humane and accepted agent for the euthanasia of animals.

Animal shelters in the state which are currently using this method are having the drug dispensed to them by a licensed veterinarian.

Unfortunately, there are some areas where veterinarians will not dispense this drug. As a result, less acceptable methods of euthanasia are used, or the shelter's cost per animal euthanized is greatly increased when the procedure is done by veterinarians. The cost is then passed on to the public and to local governments which the shelters serve.

Thank you for your time and consideration.

Matt E. Tombre, D.V.M.





Animal Shelter: 1712 East Custer Ave.
P.O. Box 274
Helena, Montana 59624
(406) 442-1660

February 4, 1983

TESTIMONY HB90

I would like to read a short letter from Phyllis Wright, Vice President, Companion Animals Division, of the Humane Society of the United States. (See copy of letter attached)

The Federal DEA (Drug Enforcement Agency) has determined that euthanasia of unwanted animals is a proper use of sodium pentobarbital. Their present policy is expressed in the following letter to Phyllis Wright. I'd like to read an excerpt from this letter. (See copy of letter attached)

Virginia passed the 1st state law allowing the use of sodium pentobarbital by Humane Societies and Animal Control Shelters in 1971. Since then this type of legislation has passed in at least 14 states. (Colorado, Utah, Kansas, Michigan, New York, Connecticut, Florida, Ohio, California, Oklahoma, Illinois, Indiana, Pennsylvania, and Virginia)

We would like to change the wording in the title of the Bill to read instead of Humane Societies, Incorporated Humane Societies and qualified Animal Control Shelters.

I would also like you to note the wording in the Colorado Bill passed in 1979 on requirements for a license which may be incorporated in our Bill or left as part of the requirements of the Board that issues the limited use permits. (See copy attached)

Cost is an important factor to all Animal Shelter operations. As non-profit organizations or municipal agencies adequate funding is always a problem. Not only is sodium pentobarbital one of the least painful and least stressful methods to euthanate animals but it is reasonable in cost. At present some of our Animal Shelters are having to pay a vet to come to the shelter to do the job at a cost of \$2.00 per animal. Anywhere from 1300 to 4000 animals are euthanated in each of our larger Montana shelters in a year. Thus the cost could be \$8000 or more as compared to not more than \$800 if shelter personnel were trained to use sodium pentobarbital. The money saved could go a long way toward financial assistance to people wishing to have animals spayed or neutered or toward educational programs. These are the only things that really help toward solving this problem of unwanted animals.

Judith Fenton, Sec.-Treas.
Federated Humane Societies of Mont.



U.S. Department of Justice

Drug Enforcement Administration

R107

Washington, D.C. 20537

AUG 18 1980

Ms. Phyllis Wright, Director
Animal Sheltering and Control
The Humane Society of
the United States
2100 L Street, Northwest
Washington, D.C. 20037

Dear Ms. Wright:

This is in reply to your correspondence dated July 22, 1980, requesting an update of our letter of March 20, 1978, which outlined the methods whereby animal shelters could obtain and use sodium pentobarbital.

DEA's policy concerning the methods whereby animal shelters can obtain and use pentobarbital sodium has not changed since our letter of March 20, 1978. Animal shelters in states without laws allowing them to purchase drugs directly can still obtain the drug through a cooperating veterinarian registered with DEA at the shelter's location.

Additionally, DEA continues to register those clinics, animal shelters or societies in those states in which the state has recognized them as being authorized to obtain and use controlled substances. Currently this type of authority has been granted by the States of Virginia, Maryland, Indiana, Washington, Utah, New Mexico, Colorado and New York.

If I can be of any further assistance to you in this matter please do not hesitate to contact me.

Sincerely,

Ronald W. Buzzeo, Chief
Compliance Division



2100 L Street, N.W.
Washington, D.C. 20037
(202) 452-1100

January 27, 1983

Ms. Judy Fenton, President
Federated Humane Societies of Montana
P.O. Box 274
Helena, MT 59624

Dear Ms. Fenton:

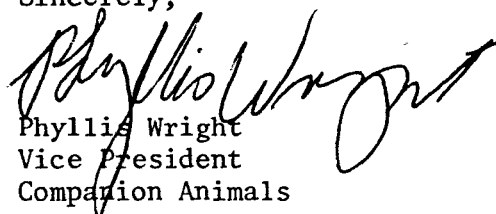
Since 1969, The Humane Society of the United States has been active in promoting legislation on the state level authorizing the purchase and use of sodium pentobarbital by incorporated humane societies and city and county animal control departments. At this time, at least twelve states have passed such legislation.

My department is in frequent contact with the U.S. Drug Enforcement Agency, and I can assure you that there have been no major problems with local organizations or departments using the drug for euthanasia.

We feel that when properly trained and certified lay people use sodium pentobarbital, a great deal of fear, stress and apprehension is eliminated for the animals.

There are over 200 animal shelters using this method, and it certainly has proven to be workable and efficient.

Sincerely,


Phyllis Wright
Vice President
Companion Animals

PW:jdf
Enclosures

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Vice Chairman

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Patricia Forkan
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Dr. John W. Grandy
*Vice President/
Wildlife and Environment*

Phyllis Wright
*Vice President/
Companion Animals*

Dr. Michael W. Fox
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October 12-15
1983 Annual Conference
Fort Worth, Texas

Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-22-408. License required - fee. (1.5) On and after July 1, 1979, a humane society which is duly registered with the secretary of state and has been in existence and in business for at least five years in the state of Colorado as a nonprofit corporation or an animal control agency which is operated by a unit of government may apply to the board for a license for the sole purpose of being authorized to purchase, possess, and administer sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals. Any society or agency so licensed shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering the drug. The board may issue a limited license to carry out the provisions of this subsection (1.5). The board shall issue such rules as it deems necessary to insure strict compliance with the provisions of this subsection (1.5) and shall develop in conjunction with the state board of veterinary medicine criteria for training individuals in the administration of the drug. The board may suspend or revoke the license upon determination that the person administering sodium pentobarbital has not demonstrated adequate knowledge required by this subsection (1.5). Nothing in this subsection (1.5) shall be construed to apply to a licensed veterinarian.

SECTION 3. 12-22-408 (4), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-22-408. License required - fee. (4) (b.5) The initial license fee for licenses issued pursuant to subsection (1.5) of this section shall be fifteen dollars. Thereafter, an annual fee of ten dollars shall be imposed, the payment of which shall accompany each application for renewal.

SECTION 4. 12-22-412, Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-22-412. Violations - penalties. (6.5) Any person who violates the provisions of section 12-22-408 (1.5) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SECTION 5. Safety clause. The general assembly hereby

WITNESS STATEMENT

Name Nikal Kellner Committee On Human Services
 Address 319 Flowerree - Skelton Date 2/4/83
 Representing Jews & Clark Human Society Support ✓
 Bill No. HB 90 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- 1.
- 2.
- 3.
- 4.

(copy attached)

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Human Services Committee
Testimony in Favor of H.B. 90

I am speaking in favor of HB 90 because it is necessary that agencies responsible for the very unpleasant job of euthanasia of unwanted animals be able to do it in the most humane way possible. Sodium pentobarbital is the best and least painful method of euthanasia available.

Veterinarians use sodium pentobarbital almost exclusively because they recognize that it is the superior method of euthanasia. Presently, in Montana, only veterinarians are legally able to obtain sodium pentobarbital. Some veterinarians do put animals to sleep for humane societies, but it is costly to the society and takes time away from the veterinarian's practice. But the majority of veterinarians, understandably, do not want the responsibility of euthanating for shelters. Therefore, humane societies need the legal authority to purchase and use sodium pentobarbital for the purpose of euthanating injured, sick, homeless, and unwanted animals.

Several other states have already passed similar bills. Virginia was the first in 1971 and was followed by 13 other states: Colorado, Utah, Kansas, Michigan, New York, Connecticut, Florida, Ohio, California, Oklahoma, Illinois, Indiana, and Pennsylvania. To date there has not been one reported case of misuse of sodium pentobarbital by humane agencies.

In Montana, individual humane societies in the major cities are organized into the Federated Humane Societies of Montana. The member societies are all professional, responsible groups having the support of city and county governments and the general public. For instance, our local society, the Lewis & Clark Humane Society, runs a \$100,000 shelter on a budget of \$75,000 per year. We employ 9 people, have a membership of over 400, and work with both our city and county governments. We are expected to use the best and most humane methods of handling, housing and euthanating animals. The same is true for all humane societies in Montana.

In 1981, Montana's humane society shelters took in 32,700 animals. Of those, over 17,000 had to be put to sleep. The totals are not in for 1982, but we expect that number increased last year and will again in 1983. For the sake of the animals that must be put to sleep and for the sake of the shelter employees who must put those animals to sleep, we need to have access to the most humane method of euthanasia possible. That method is sodium pentobarbital.

We urge you to pass HB 90. Thank you.

Mikal Kellner, President
Lewis & Clark Humane Society
Helena, Montana

WITNESS STATEMENT

Sod. Pent.

Name Darlene Larson Committee On HB 90
 Address 1156 Babcock Blvd Date 2-4-83
 Representing Billings Animal Shelter Support
National Animal Control Ass.
 Bill No. HB 90 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

- Comments: Testimony Attached
1. Criteria for judging euthanasia
 2. Alternative methods
Advantages and disadvantages
 3. Recommendations
 - 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



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 - f. Cannot be given to cats intraperitoneally.
- H. Sodium Pentobarbital
 - 1. Advantages
 - a. Speed of action - works in seconds of time.
 - b. Depresses entire central nervous system.
 - c. Smooth induction of euthanasia.
 - d. Minimal discomfort to animal.
 - e. Favorable impression to observer.
 - f. Can be given intraperitoneal and intracardia routes as well as intravenously.
 - 2. Disadvantages
 - a. Schedule II drug requiring USDEA permit.
 - b. Trained personnel required.
 - c. Individual restraint of each animal.
- I. Electrocutation
 - 1. Advantages
 - None
 - 2. Disadvantages
 - a. Extremely dangerous
 - b. Unpleasant
 - c. Too time consuming for mass euthanasia.
 - d. Death doesn't always occur in small animals.
- J. Gunshot
 - 1. Advantages
 - a. Instant death
 - 2. Disadvantages
 - a. Dangerous to personnel
 - b. Esthetically unpleasant
 - c. Must hit brain
 - d. Brain destroyed for rabi testing if needed.

A non-profit corporation representing the interests of animal control

NACA

NATIONAL ANIMAL CONTROL ASSOCIATION
P.O. BOX 1178
Billings, MT 59103
(406) 245-8989 Ext. 227

Darlene Larson
Vice President

Given the above methods to use, one can understand the desire of those involved in euthanizing animals wanting to use the best available.

The advantages of sodium pentobarbital far outweigh the disadvantages. In 1973 it was moved from a Schedule III to a Schedule II drug to strengthen control over an abuseable substance. Restrictions and regulations can be established to prevent abuse. Any abuse found could result in the loss of privileges to purchase this drug.

Prior to 1973 the Billings Animal Shelter used sodium pentobarbital purchased locally for over ten years. No incidents of abuse or loss occurred.

Although each animal must be individually restrained, our personnel prefer this method. The animal can be reassured during the process and less stress and fright occurs with the animal.

Similar legislation to HB 90 has been passed in fourteen states in the U.S.A.. They are as follows:

Colorado, Utah, Kansas, Michigan, New York, Connecticut, Florida, Ohio, California, Oklahoma, Illinois, Indiana, Pennsylvania and Virginia. No abuse has been identified in any of these states.

Billings and Bozeman currently use sodium pentobarbital under the license of local veterinarians. Other communities would like to use it if they could. They are unable to find veterinarians who will purchase it for them as any abuse could lead to the license being revoked for that vet.

Other methods used in Montana: high altitude chamber, nitrogen tank (recently shut down and kept for back-up), T-61 and shooting.

Those of us involved in this task ask for the tools to allow us the most humane, pleasant, clean and quick method of destroying the animals in our charge.

Respectfully submitted,



Darlene Larson, Superintendent of Animal Control
Billings Animal Shelter

WITNESS STATEMENT

Name DR. Matt E. Tombee Committee On Human Services
 Address Rocky Mountain Veterinary Clinic Date 2-4-83
 Representing Humane Society of Gallatin Valley Support
 Bill No. HB 90 Oppose
 Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. 

2.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

ROCKY MOUNTAIN VETERINARY CLINIC

1340 EAST MAIN
BOZEMAN, MONTANA 59715
TELEPHONE (406) 587-5518

February 3, 1983

TO: House Human Services Committee

I am writing to urge your support of HB90, which would allow Humane Societies and Animal Shelters to apply for permit to purchase sodium pentobarbital for the purpose of euthanizing unwanted and stray animals.

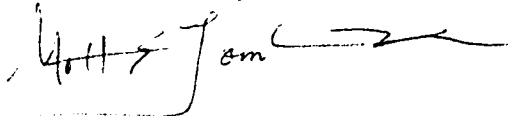
From the economic point of view, this is the most economic means of accomplishing this task. The use of this drug is also recognized to be the most humane and accepted agent for the euthanasia of animals.

Animal shelters in the state which are currently using this method are having the drug dispensed to them by a licensed veterinarian.

Unfortunately, there are some areas where veterinarians will not dispense this drug. As a result, less acceptable methods of euthanasia are used, or the shelter's cost per animal euthanized is greatly increased when the procedure is done by veterinarians. The cost is then passed on to the public and to local governments which the shelters serve.

Thank you for your time and consideration.

Matt E. Tombre, D.V.M.



WITNESS STATEMENT

Name Judith Fenlon Committee On Human Services
 Address Blue Sky Heights, Clercy, MT Date 2/4/83
 Representing Lewis & Clark Humane Soc. Support
 Bill No. HB90 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *(copy attached)*
- 2.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



Animal Shelter: 1712 East Custer Ave.
P.O. Box 274
Helena, Montana 59624
(406) 442-1660

February 4, 1983

TESTIMONY HB90

I would like to read a short letter from Phyllis Wright, Vice President, Companion Animals Division, of the Humane Society of the United States. (See copy of letter attached)

The Federal DEA (Drug Enforcement Agency) has determined that euthanasia of unwanted animals is a proper use of sodium pentobarbital. Their present policy is expressed in the following letter to Phyllis Wright. I'd like to read as excerpt from this letter. (See copy of letter attached)

Virginia passed the 1st state law allowing the use of sodium pentobarbital by Humane Societies and Animal Control Shelters in 1971. Since then this type of legislation has passed in at least 14 states. (Colorado, Utah, Kansas, Michigan, New York, Connecticut, Florida, Ohio, California, Oklahoma, Illinois, Indiana, Pennsylvania, and Virginia)

We would like to change the wording in the title of the Bill to read instead of Humane Societies, Incorporated Humane Societies and qualified Animal Control Shelters.

I would also like you to note the wording in the Colorado Bill passed in 1979 on requirements for a license which may be incorporated in our Bill or left as part of the requirements of the Board that issues the limited use permits. (See copy attached)

Cost is an important factor to all Animal Shelter operations. As non-profit organizations or municipal agencies adequate funding is always a problem. Not only is sodium pentobarbital one of the least painful and least stressful methods to euthanate animals but it is reasonable in cost. At present some of our Animal Shelters are having to pay a vet to come to the shelter to do the job at a cost of \$2.00 per animal. Anywhere from 1300 to 4000 animals are euthanated in each of our larger Montana shelters in a year. Thus the cost could be \$8000 or more as compared to not more than \$800 if shelter personnel were trained to use sodium pentobarbital. The money saved could go a long way toward financial assistance to people wishing to have animals spayed or neutered or toward educational programs. These are the only things that really help toward solving this problem of unwanted animals.

Judith Fenton, Sec.-Treas.
Federated Humane Societies of Mont.



U.S. Department of Justice
Drug Enforcement Administration

810 7

Washington, D.C. 20537

AUG 13 1980

Ms. Phyllis Wright, Director
Animal Sheltering and Control
The Humane Society of
the United States
2100 L Street, Northwest
Washington, D.C. 20037

Dear Ms. Wright:

This is in reply to your correspondence dated July 22, 1980, requesting an update of our letter of March 20, 1978, which outlined the methods whereby animal shelters could obtain and use sodium pentobarbital.

DEA's policy concerning the methods whereby animal shelters can obtain and use pentobarbital sodium has not changed since our letter of March 20, 1978. Animal shelters in states without laws allowing them to purchase drugs directly can still obtain the drug through a cooperating veterinarian registered with DEA at the shelter's location.

Additionally, DEA continues to register those clinics, animal shelters or societies in those states in which the state has recognized them as being authorized to obtain and use controlled substances. Currently this type of authority has been granted by the States of Virginia, Maryland, Indiana, Washington, Utah, New Mexico, Colorado and New York.

If I can be of any further assistance to you in this matter please do not hesitate to contact me.

Sincerely,

Ronald W. Buzzeo, Chief
Compliance Division

2100 L Street, N.W.
Washington, D.C. 20037
(202) 452-1100

January 27, 1983

Ms. Judy Fenton, President
Federated Humane Societies of Montana
P.O. Box 274
Helena, MT 59624

Dear Ms. Fenton:

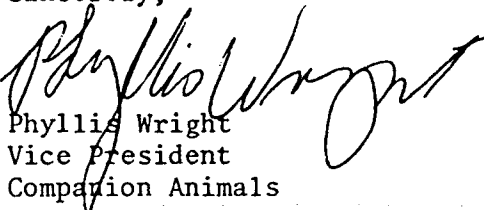
Since 1969, The Humane Society of the United States has been active in promoting legislation on the state level authorizing the purchase and use of sodium pentobarbital by incorporated humane societies and city and county animal control departments. At this time, at least twelve states have passed such legislation.

My department is in frequent contact with the U.S. Drug Enforcement Agency, and I can assure you that there have been no major problems with local organizations or departments using the drug for euthanasia.

We feel that when properly trained and certified lay people use sodium pentobarbital, a great deal of fear, stress and apprehension is eliminated for the animals.

There are over 200 animal shelters using this method, and it certainly has proven to be workable and efficient.

Sincerely,


Phyllis Wright
Vice President
Companion Animals

PW:jdf
Enclosures



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*Vice President/
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October 12-15
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Fort Worth, Texas

Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-22-408. License required - fee. (1.5) On and after July 1, 1979, a humane society which is duly registered with the secretary of state and has been in existence and in business for at least five years in the state of Colorado as a nonprofit corporation or an animal control agency which is operated by a unit of government may apply to the board for a license for the sole purpose of being authorized to purchase, possess, and administer sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals. Any society or agency so licensed shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering the drug. The board may issue a limited license to carry out the provisions of this subsection (1.5). The board shall issue such rules as it deems necessary to insure strict compliance with the provisions of this subsection (1.5) and shall develop in conjunction with the state board of veterinary medicine criteria for training individuals in the administration of the drug. The board may suspend or revoke the license upon determination that the person administering sodium pentobarbital has not demonstrated adequate knowledge required by this subsection (1.5). Nothing in this subsection (1.5) shall be construed to apply to a licensed veterinarian.

SECTION 3. 12-22-408 (4), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-22-408. License required - fee. (4) (b.5) The initial license fee for licenses issued pursuant to subsection (1.5) of this section shall be fifteen dollars. Thereafter, an annual fee of ten dollars shall be imposed, the payment of which shall accompany each application for renewal.

SECTION 4. 12-22-412, Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-22-412. Violations - penalties. (6.5) Any person who violates the provisions of section 12-22-408 (1.5) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SECTION 5. Safety clause. The general assembly hereby

WITNESS STATEMENT

Name Diane Lane Committee On Human Services
 Address Bozeman MT. Date 2-4-83
 Representing Humane Society of Gallatin Valley Support
 Bill No. HB90 Oppose _____
 Amend _____

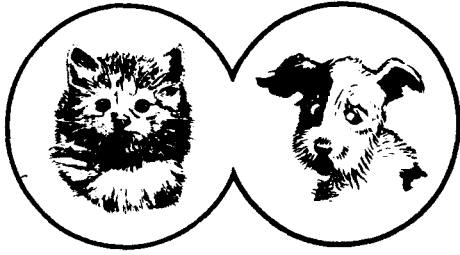
AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Animal Shelters must provide euthanasia of animals as public service. Method used should be painless to animal safe for handler, economic & acceptable to public - Sodium Pentobarbital is all of these.
2. Sodium Pen. is preferred method of euthanasia of animals: American Humane Assn, Amer. Veterinary Medical Assn, Humane Society of United States - Use of this drug for euthanasia of animals is approved by Fed. Drug Enforcement Administration.
3. Training available from veterinarians & American Humane Assn & H.S. of United States - staff at animal shelter in Bozeman has been trained by local veterinarian.
4. Experience at shelter in Bozeman using sodium pentob. dispensed by local veterinarian - economic - cost less than \$480 in '82 (1305 animals euth) - safe - precise. Records maintained - acceptable to staff & public.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

HUMANE SOCIETY of Gallatin Valley



P.O. Box 914
2125 North Rouse
Bozeman, Montana

59715

February 3, 1983

TO: House Human Services Committee

RE: House Bill 90

On behalf of the Humane Society of Gallatin Valley and other animal shelters in Montana, I strongly encourage your support of HB90, which would enable shelters to apply for permit to purchase sodium pentobarbital for euthanasia of animals.

Animal shelters throughout the state must provide euthanasia of sick, injured, and unwanted animals as a routine public service, because members of society cannot or will not take care of them. In Bozeman alone, 1,305 animals had to be humanely destroyed by the Humane Society in 1982.

Euthanasia of animals should be done by the best method available. The method used should be quick and painless to the animal, safe for the handler, of reasonable, affordable cost, and acceptable to the public. Proper use of sodium pentobarbital is all of these.

The American Veterinary Medical Association, the American Humane Association (AHA), and the Humane Society of United States (HSUS) have all conducted extensive studies of euthanasia methods, and all concluded that injection of sodium pentobarbital is the preferred method. Use of this drug for euthanasia of animals has also been approved by the Federal Drug Enforcement Administration.

Training of animal shelter personnel in the use of the drug for euthanasia of animals is available from reliable sources. Local veterinarians in several Montana cities have already provided such training, and others have offered to do so.

The staff at the Humane Society Animal Shelter in Bozeman have been trained by a local veterinarian, who now dispenses the drug to the shelter for euthanasia purposes. Our experience with use of the drug for euthanasia has convinced us that, all aspects of euthanasia considered, it is far superior to alternative methods. Considering the cost, in 1982 our euthanasia drug expense was less than \$480 -- very reasonable.

Training of shelter personnel is also available from seminars conducted by HSUS and AHA, usually with cooperation of a School of Veterinary Medicine. Such a seminar was recently held at Colorado State University, and others are scheduled regularly.

Not all shelters in Montana are as fortunate as ours in Bozeman. Some are in areas without veterinarians. Others are unable to obtain the cooperation of a veterinarian willing to dispense sodium pentobarbital. Therefore many shelters in Montana are using other, less desirable methods of euthanasia.

FROM: Humane Society of Gallatin Valley
TO: House Human Service Committee
DATE: February 3, 1983
RE: House Bill 90

(2)

Please consider the alternative methods available, some of which are being used by shelters in Montana:

- 1.) Veterinarian administered sodium pentobarbital. Most veterinarians do not want to be responsible for mass destruction of animals at their clinics. It can be bad for their practice. Most also find it difficult to take time from their practice to do the unpleasant task at the animal shelter. Most shelters are unable to afford to pay veterinarians for daily euthanasia service, and animal shelters can receive an animal in need of euthanasia at any time of day or night.
- 2.) Shelter staff administered T61. This drug can be purchased by animal shelters. It is twice as expensive as sodium pentobarbital. Many veterinarians and animal welfare organizations are opposed to the use of this drug, because it is not certain that the drug causes narcotic unconsciousness before respiratory paralysis. T61 is also known to cause cerebral excitation and/or pain if not administered intravenously according to instructions calling for precisely timed injection.
- 3.) High Altitude Euthanasia Chamber. Except for purchase, installation, and periodic maintenance costs, use of the chamber is inexpensive. If operating properly, it is believed to cause a quick painless death to animals. However, qualified personnel with equipment necessary to test the chamber to insure proper function are few and far between. Because of strong public opposition to use of the chamber, it has been outlawed in many states, including neighboring Wyoming.
- 4.) Carbon monoxide from car exhaust. Unless the exhaust is properly filtered and cooled by special equipment before entering the compartment holding the animal, this method causes burning, suffering, and a slow death. It can also be risky for the handler. It is not favored by the public.
- 5.) Specially manufactured gas euthanasia chambers. For many years the Humane Society in Bozeman used a Nitrogen Euthanasia Unit. Although considered humane when working properly, the gas was expensive, the animals being euthanized were prone to involuntary convulsion after unconsciousness, and obtaining parts and service for the unit was difficult. Similar units have been manufactured to be used with bottled carbon monoxide, but they can cause risk of poisoning the handler if gas should escape. These units have also been outlawed in several states.
- 6.) Shooting. If the animal is shot at close range and killed instantly, this method can be considered humane. However, discharging a firearm repeatedly for the euthanasia of numerous animals creates risk of injury to the animal, handler, and others. It is also unacceptable in the public eye.

Clearly, the use of sodium pentobarbital for euthanasia of animals is the most desirable method. Passage of HB90 will enable more shelters to use this method, benefiting the shelters, the animals, and improving public opinion that strongly affects the financing of animal shelters throughout the state.

FROM: Humane Society of Gallatin Valley
TO: House Human Service Committee
DATE: February 3, 1983
RE: House Bill 90

(3)

Animal shelters can comply with necessary safety and security requirements. The Federation of Montana Humane Societies has minimum shelter standards to which all member agencies operating shelters must comply.

The Humane Society Animal Shelter in Bozeman maintains precise records regarding all animals handled and all activities. Euthanasia records include the date and time of euthanasia, identification and weight of animal, amount of drug used per animal, and name of employee administering the drug. These records are closely reviewed by staff supervisors, as are the employees using the drugs.

At least 14 states have passed legislation similar to HB90, and others will certainly do so in the future as they recognize the importance and benefit of the legislation. I sincerely hope Montana will be one of them.

Thank you for your time and consideration in the review of this proposed legislation.



Diane Lane
Executive Director

Ex 21
HB.90

Montana State Pharmaceutical Association

Incorporated
P.O. BOX 6335
GREAT FALLS, MONTANA 59406
TELEPHONE 406-452-3201

Testimony in opposition to HB 90 - by Frank J. Davis, R. Ph.,
Executive Director, Montana State Pharmaceutical Association.

My testimony on this bill is not to indicate I am in opposition to a humane method of destroying unwanted, sick, homeless or injured animals. This concept I do support. My objection is based on what I would consider to be an unacceptable definition of a humane society and that this act would require the board of pharmacists to open a new category of facilities that can order, store and use Schedule II dangerous drugs.

MCA 50-32-223, Criteria for placement of drugs in Schedule II. The board shall place a drug in Schedule II if it finds that:

- (1) the drug has high potential for abuse;
- (2) the drug has currently accepted medical use with severe restrictions; and
- (3) the abuse of the drug may lead to severe psychic or physical dependence.

Pentobarbital is the second drug listed on page 163 of the Montana Pharmacy Law as a schedule II dangerous drug.

Under present law the only persons licensed to order, store or administer Schedule II dangerous drugs are practitioners or dispensers as defined in the dangerous drug act. Practitioners include physicians, dentists, veterinarians and podiatrists. Dispensers include pharmacies. To obtain a license to prescribe, dispense or administer a dangerous drug the person must be licensed by the state, registered by the Federal Controlled Substances Act of 1970 and has paid the applicable fees. This licensee must keep records and inventories as required, and maintain effective controls and procedures to guard against theft and diversion of dangerous drugs into other than legitimate medical, scientific or industrial channels.

Testimony in opposition to HB 90 - by Frank J. Davis, R. Ph.

There is at present a serious problem in the diversion of drugs of abuse from legitimate stocks, by robbery or fraud, to the street market. To open a new facility class with a definition allowing almost anyone to comply and where there are in many cases only volunteers in charge, would seem to create an easy mark for persons bent of criminally obtaining dangerous drugs. This I believe would not be in the best interest of the public.

Frank J. Davis

Suppliment to testimony by Frank J. Davis
for: The Montana State Pharmaceutical Association.

(1). In new section 2 of HB 90 on page 7, line 14, the board of phrmacists is asked to issue a "limited permit to buy, possess and use sodium pentobarital for the sole purpose of euthanizing injured, sick, homeless or unwanted domestic pets or animals."

Comment: The board does not have the power to issue a permit to buy, possess or use a dangerous drug in Montana. They can issue a license to dispense drugs. With this in hand the facility can then apply to the Drug Enforcement Administration for a license to buy dangerous drugs. An official order book of forms is supplied to be used by the facility. I understand this will only be issued when applied for by a licensed practitioner who will assume the responsibility for the purchase, storage, security and proper use of the dangerous drug. There may be states where this is handled in a somewhat different manner.

Second comment: It would seem to me that the proper agency to accomodate this issue would be the board of veterinarians and not the board of pharmacists.

Thank you,

Contact: George Frangulie
Agent in Charge
Drug Enforcement Administration
220 W. Mercer, Suite 300
Seattle, Washington 98119

VISITOR'S REGISTER

HOUSE _____ HUMAN SERVICES COMMITTEE

BILL HOUSE BILL 90

DATE 2-4-83

SPONSOR HARPER

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
<i>Ailey Harris</i>	<i>Helena</i>	<i>MNA</i>		<input checked="" type="checkbox"/>
<i>Melody Brown</i>	<i>Helena</i>	<i>MNA</i>		<input type="checkbox"/>
<i>Frank Adams</i>	<i>Great Falls</i>	<i>MT. ST. PHARM. ASSN</i>		<input checked="" type="checkbox"/>
<i>Justin Brockmeyer</i>	<i>Helena</i>	<i>L. J. Clark Hardware</i>	<input checked="" type="checkbox"/>	
<i>GP Brubaker</i>	<i>"</i>	<i>"</i>	<input checked="" type="checkbox"/>	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE Human Services

COMMITTEE

BILL HB 90

DATE 2-4-83

SPONSOR Hal Harper

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Darlene Larson	1156 Babcock Billings Mt	Billings Animal Shelter National Animal Control	✓	
Mikal Kellner	319 Flowerree Helena	Lewis & Clark Humane Society	✓	
Justine Breckner	1013 ... Helena	Lewis & Clark Humane Society	✓	
...	" "	" "	✓	
Janece Hillman	7111 ... 834 ...	Jepson & Neuman ...	✓	
Judy Fenton	Blue Sky Heights Clancy, MT	Lewis & Clark Humane Soc	✓	
Nicole Lane	416 E Apple Bozeman Mt.	Humane Society of Gallatin Valley M.A.C.H.	✓	
...	25 ... East Bank ...	City of East Bank *	✓	
...	21 ...	Ed. Co. I, S.	✓	
Dr. Bob Painter	1104 Maple St, Helena	Mont. Vet Med Ass.	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
 WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Amendments to House Bill 313

(1) Page 1

Line 18

Following Line 17

Insert: "from a list of five qualified
Indian applicants agreed upon
by"

(2) Page 1

Line 19

Following: "by"

Delete: "after consultation with"

Fort Belknap Community Council

(406) 353-2205
P.O. Box 249
Fort Belknap Agency
Harlem, Montana 59526



Fort Belknap Indian Community
(Tribal Govt.)
Fort Belknap Indian Community
(Elected to administer the affairs of the community
and to represent the Assiniboine and the Gros
Ventre Tribes of the Fort Belknap Indian
Reservation)

DATE

The tribal government of the Fort Belknap Indian Community supports the intent of House Bill 313 with the following Changes.

RECOMMENDED CHANGES:

Section 2 Section 90-11-101, MCA, is amended to read:

"90-11-101. Legislative policy. (1) Whereas, a considerable portion of the citizens of the State of Montana are members of an Indian Tribe or Indian race; and

(2) Whereas, in the course of the past 200 years these Indian citizens of the State of Montana have ceded large tracts of land to the United States of America of which the State of Montana is a part thereof and are presently living and residing upon reservations which was not ceded to the United States Government per agreement of treaty. By virtue of the fluctuating policy of the United States of America, Indian tribes have been hampered in developing sound economic policies. This fluctuating policy has ignored the distinct differences between Indian tribes within the State of Montana; and

(3) Whereas, it is hereby declared that it is the legislative policy of this state to stabilize the State's policy regarding relations with Indians and Indian tribes by fostering a coordinated relationship between State government and all tribal governments and their members, and it is therefore necessary that a State Coordinator of Indian Affairs be established so that this policy can be approached and stabilized with the cooperation of Indian Tribal Governments; and

(4) Whereas, agencies of the federal government work jointly with tribal governments in the State of Montana in order to administer the economic, social, health, education and welfare programs for Indian tribes; and

(5) Whereas, Indians who reside off reservations generally qualify for participation in federal programs; and

(6) Whereas, there are off-reservation Indians residing in the State of Montana who are within the jurisdiction of the State of Montana and are entitled to the same benefits and responsibilities as all citizens of the State of Montana, and these off-reservation Indians, in conjunction with tribal governments representing reservation Indians, require a Coordinator of Indian Affairs in order to stabilize State policy toward Indian people; and

(7) Whereas, there are programs for on-reservation Indians whose responsibility lies within the federal and tribal jurisdictions and programs for off-reservation Indians whose responsibility lies within the jurisdiction of the State of Montana and a coordinated effort between this State government and all tribal governments is necessary in order to provide the necessary services to all Indian people;

also return the check

(8) Then therefore, let it be resolved, that the Coordinator of Indian Affairs shall receive input and information from Indian Tribal Governments and off-reservation Indians in order to maintain a consistent and stable policy by the State of Montana involving relations with Indian Tribal Governments and Indian people within the State of Montana."

Fort Belknap Community Council

(406) 353-2205
P.O. Box 249
Fort Belknap Agency
Harlem, Montana 59526



Fort Belknap Indian Community
(Tribal Govt.)
Fort Belknap Indian Community
(Elected to administer the affairs of the community
and to represent the Assiniboine and the Gros
Ventre Tribes of the Fort Belknap Indian
Reservation)

DATE

HOUSE BILL 313

THE FORT BELKNAP INDIAN COMMUNITY ENDORSES HOUSE BILL 313 WHICH MAY ALLOW IMPROVED COMMUNICATIONS AND UNDERSTANDING OF THE STATE INDIAN ISSUES AND PROBLEMS. RECENT SUPPORT OF THE OFFICE OF THE STATE COORDINATOR OF INDIAN AFFAIRS HAS GREATLY ENHANCED THE INDIAN STATUS AND IS NOW FOSTERING THE COMMUNICATION NETWORK TO WORK TOWARD MORE MEANINGFUL AND LONG LASTING RELATIONS.

THE MOVING OF THE OFFICE OF THE STATE COORDINATOR OF INDIAN AFFAIRS TO AN AUTONOMOUS AGENCY, SEPARATE AND DISTINCT IN THE GOVERNOR'S OFFICE WILL ALLOW FOR:

- * COMMUNICATIONS DIRECTLY WITH INDIANS FOR THE STATE AND GOVERNOR,
- * COORDINATE ALL CONCERNS IN A CONSORTED AND EFFECTIVE MANNER,
- * PROVIDE A DIRECT LINK TO THE GOVERNOR AND LEGISLATURE ON INDIAN ISSUES AND PROBLEMS, AND,
- * ALLOW FOR THE POSSIBLE ENRICHMENT OF THE LIVES OF 37,000 INDIANS IN THE STATE OF MONTANA.

THE COORDINATOR, ALTHOUGH PHYSICALLY LOCATED IN THE OFFICE OF THE GOVERNOR, MUST BE ALLOWED A CERTAIN AMOUNT OF AUTONOMY. THE OFFICE MUST BE ABLE TO SPEAK AND ACT AS THE AUTHORITY ON INDIAN ISSUES WITH OTHER DEPARTMENTS AND THE GOVERNOR. ON THE OTHERHAND, THE COORDINATOR MUST WORK AT THE DIRECTION OF THE GOVERNOR. BY PROPER COMMUNICATION, THIS SITUATION CAN BE AVOIDED WITHOUT CONFRONTATION. AN IMPORTANT PART OF COMMUNICATION, WOULD BE MONTHLY OR QUARTERLY MEETINGS WITH THE TRIBES.

HOUSE BILL NO. 313 MAY PROVIDE A SYSTEM THAT WILL ASSIST THE INDIANS OF MONTANA TO PROMOTE, AND WHERE POSSIBLE, ASSUME CERTAIN RIGHTS, DUTIES, AND PRIVILEGES OF OTHER CITIZENS. OUR CONCERN IS TO CONTINUE TO BUILD ON THE COMMUNICATIONS AND UNDERSTANDINGS WITH THE STATE. AN OPTIMISTIC GOAL WOULD BE TO ACHIEVE A COOPERATIVE EFFORT TO ADDRESS INDIAN AND STATE ISSUES AND PROBLEMS.

IN ORDER TO PROVIDE FOR PROPER INVOLVEMENT BY THE STATE OF MONTANA, WE WOULD LIKE TO RECOMMEND A BUDGET OF \$109,287 IN FISCAL YEAR 1984, \$115,287 IN FISCAL YEAR 1985 FOR A TOTAL OF \$224, 969. THIS WILL PROVIDE THEIR STAFF MEMBERS AND ESSENTIAL OPERATING EXPENSES FOR THE OFFICE. THIS RECOMMENDED BUDGET APPEARS TO BE VERY COST EFFECTIVE, CONSIDERING THERE ARE 37,000 INDIANS RESIDING IN THE STATE. QUITE FRANKLY, THIS AVERAGES LESS THAN THREE DOLLARS PER INDIAN PER YEAR.

THE PRIMARY CONCERN IS THAT HISTORICALLY INITIATIVES AND ACTIONS HAVE BEEN TAKEN BY THE FEDERAL AND STATE GOVERNMENTS ON BEHALF OF INDIANS, WITHOUT PROPER CONSULTATION AND INDIAN INVOLVEMENT. CONSEQUENTLY, MANY PROGRAMS AND INITIATIVES WERE UNFEASIBLE AND THEREFORE DOOMED FOR FAILURE. BY HAVING PROPER EXCHANGE PERHAPS LOCALLY BASED INITIATIVES AND AGREEMENTS CAN BE CONSTRUCTED TO ALLOW FOR ENRICHMENT OF SOME 37,000 LIVES.

VISITOR'S REGISTER

HOUSE _____ HUMAN SERVICES _____ COMMITTEE

BILL _____ HOUSE BILL 313

DATE 2-4-83 _____

SPONSOR _____ ADDY _____

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
<i>Pat Fairbanks</i>	<i>Browning Mt (Cumberland Hill)</i>	<i>Self</i>		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

HOUSE BILL 90
Page 1 of 2

February 9 19 83

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration HOUSE Bill No. 90

first reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE USE OF SODIUM
PENTOBARBITAL BY HUMANE SOCIETIES TO EUTHANIZE DOMESTIC PETS AND
ANIMALS; AMENDING SECTION 50-32-101, MCA."

Respectfully report as follows: That HOUSE Bill No. 90

be amended as follows:

1. Title, line 4.

Following: "OF"

Insert: "EUTHANIZING SUBSTANCES CONTAINING"

2. Title, line 5.

Following: "BY"

Insert: "INCORPORATED"

Following: "SOCIETIES"

Insert: "AND ANIMAL CONTROL SHELTERS"

3. Title, line 6.

Following: ";

Insert: "DEFINING HUMANE SOCIETY;"

~~DPXASX~~

4. Page 3, line 22.

Following: "homeless"

Insert: ", and includes those entities commonly referred to as humane societies, incorporated humane societies, animal shelters, animal control shelters, and city and county pounds"

5. Page 7, line 13.

Following: "2."

Strike: "Sodium pentobarbital permit"

Insert: "Euthanizing substances license"

6. Page 7, line 16.

Strike: "permit"

Insert: "license"

Following: "use"

Insert: "euthanizing substances containing"

7. Page 7, line 20.

Following: "a"

Strike: "permit"

Insert: "license"

8. Page 7, line 21.

Following: "of"

Insert: "euthanizing substances containing"

AND AS AMENDED

DO PASS

STATEMENT OF INTENT ATTACHED

STANDING COMMITTEE REPORT

February 5

83

19.....

SPEAKER:

MR.

HUMAN SERVICES

We, your committee on

HOUSE

313

having had under consideration Bill No.

first

white

reading copy (.....)
color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
LAWS RELATING TO THE OFFICE OF STATE COORDINATOR OF INDIAN AFFAIRS;
AMENDING SECTIONS 2-15-1813 AND 98-11-101, MCA; AND PROVIDING
AN EFFECTIVE DATE."**

HOUSE

313

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

BE AMENDED AS FOLLOWS:

1. Page 1, line 19
Following: "by"
Strike: "after consultation with"
Insert: "from a list of five qualified Indian applicants
agreed upon by"

AND AS AMENDED

DO PASS

STANDING COMMITTEE REPORT

February 5

19 83

MR. **SPRAKER**

We, your committee on **HUMAN SERVICES**

having had under consideration **HOUSE** Bill No. **404**

first reading copy (**white**)
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW LICENSED PRACTICAL NURSES TO ADMINISTER DRUGS, MEDICATIONS, TREATMENTS, TESTS, INJECTIONS, INOCULATIONS, AND VENIPUNCTURE UNDER CERTAIN DIRECTION AND SUPERVISION; AMENDING SECTION 37-8-102, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **404**

DO NOT PASS

DO PASS