

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

MARCH 9, 1983

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman, Tom Hager on Wednesday, March 9, 1983 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present. Woody Wright, Staff attorney, was also present.

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

CONSIDERATION OF HOUSE BILL 182: Representative Cal Winslow of House District 65, the chief sponsor, of House Bill 182 gave a brief resume of the bill. This bill is an act to generally revise and clarify the licensing law of physical therapists; allowing the board to adopt continuing education requirements; and providing an effective date.

Jerome Connolly, chairman of the physical therapy board, stood in support of the bill. He handed out a two page documentation to the Committee for their review. The first page had to do with why HB 182 is necessary. The second page was the proposed amendments to the bill. See exhibit 1.

Tom Larsen a registered physical therapist from Butte, stood in support of the bill. He stated that he feels that the reciprocity clause is most important.

Bob Nichol, a physical therapist from Billings, stood in support of the bill. Mr. Nichol handed in written testimony. See exhibit 2.

Joe Luckin, a p.t. from Great Falls, stated that the Board of Directors of the Montana Chapter of American Physical Therapist stated their support of the bill including the continuing education section as long as the statement of intent remains.

Kristianne B. Wilson of Billings stood in support of the bill, she stated that she especially liked the reciprocity and foreign trained sections.

Carrie Gajdosick of Missoula stood in support of the bill, and stated that she liked the section in regards to continuing education especially.

Esther Bengtson of House District 49 stood in support of the bill.

PUBLIC HEALTH
PAGE TWO
MARCH 9, 1983

Jan Delaney of Bozeman stood in support of the bill, particularly the continuing education portion and also the reciprocity section. The Montana Chapter of the American Physical Therapy Association has established a task force to investigate the implications of mandatory continuing education.

Barbara Reed of Butte stood in support of the bill. She also stated the need for the reciprocity section.

Diane Allen of Billings stood in support of the bill and more particularly the section in regards to continuing education.

Susan Mathers of Butte stood in support of the bill.

Clarisse Landry of Missoula stood in support of the bill.

Loren Wright of Red Lodge stood in support of the bill.

Barry Olson representing himself as a pt and also all of the Community Hospital therapist in Missoula stood in support of the bill.

Ken Rutledge, lobbyist for the Montana Hospital Association, stood and stated that his group has a great concern of how this will effect the employer. He offered amendments to the bill to cover the same. See exhibit 3.

With no further proponents to the bill, the meeting was opened to the opponents.

Paul Anders, who operates a health and fitness club, stood in opposition to the bill. He stated that his concern was with the definition of physical therapist.

Bob Denman of the Helena YMCA, stood in opposition to the bill. He, too, stated that his concern is with the definition of physical therapist.

Bob Antonick, a physical therapist from Townsend, stated his displeasure with the bill. He read from the minutes of the board meeting. He stated that there has been very little communication between the board and the physical therapist of this state. This bill was the work of Mr. Connolly the chairman of the board and was not studied enough. Section 6 would be hard to do in the rural settings and Montana is a very rural state. There is a big difference between the problems of the small town and that of the large cities. The board does not understand the needs or roles of the rural areas. Four states at the present time have continuing education. Most physical therapist try to keep current and they do not need the legislature

PUBLIC HEALTH
MARCH 9, 1983
PAGE THREE

telling them to do so. Mr. Antonick asked the committee to at least strike section 6 of the bill and better if they could kill the entire bill.

Cheryl Hansen, a physical therapist from Helena, stood in opposition to the bill. She stated that three people on a board should not be able to decide who has to go to school for continuing education. This bill needs more input from the physical therapist of our state.

Curt Hansen of Helena stood in opposition to the bill. He spoke against the continuing education section.

Laura Brown, a physical therapist assistant, stood in opposition to the bill. She handed in written testimony for the Committee to review. See exhibit 4.

Stanley Andrzejek, a pt from Great Falls, stood in opposition to the bill. He asked the Committee to give HB 182 a Do Not Pass recommendation.

Gordon Jones of Helena, stood in opposition to the bill.

Ellen Murphy of Helena stated that she would like to have clarification of the definition of physical therapy. As a massage therapist, certified by the American Massage Therapy Association, she would like to be assured that her practice is not under the jurisdiction of the Board of Physical Therapy.

Dick Barto a physical therapist stood in opposition to section 6 of the bill.

Terri Pietz of Capitol Courts in Helena stood in opposition to the bill. She stated that she would like to see a more clear definition of the word physical therapist.

Mr. Tom Meagher, owner and operator of the Physical Therapy Clinic in Helena handed in written testimony to the Committee stating his opposition to the bill. See exhibit 5.

With no further opposition to the bill. The meeting was opened to a question and answer period from the Committee.

Senator Marbut asked Representative Winslow about the definition section in the codes and suggested that perhaps these people stating their concerns have something to be concerned about.

Senator Marbut asked Mr. Connolly if it is true that there are four states with continuing education at this time.

PUBLIC HEALTH
PAGE FOUR
MARCH 9, 1983

Mr. Connolly replied that this is true.

Senator Norman asked if the Board can demand continuing education at this time for physical therapist on its own. Mr. Connolly stated that they can already do this.

Senator Stephens asked who is an unauthorized person in the field of physical therapy. Only licensed physical therapist should be able to use those words after his or her name.

Senator Stephen stated that there appears to be a great conflict in the physical therapy organization and perhaps the group should get their act together.

Senator Hager asked Mr. Connolly if they have a Montana Chapter of physical therapist. Mr. Connolly replied that they do.

Senator Hager asked if the physical therapist have an annual meeting or was it here today.

Senator Hager asked about the cost of continued education.

Representative Winslow closed. He stated that he feels that the continued education is very necessary. In a survey taken recently 139 persons stated that continued education would improve the quality of therapy in Montana, 30 persons stated that they did not think it would make any difference. There are approximately 180 therapist in the state at this time. Representative Winslow stated that the most important part of the bill is the section having to do with reciprocity. He asked for concurrence on this bill from the Committee.

CONSIDERATION OF HOUSE JOINT RESOLUTION 20: Representative Bob Marks is the chief sponsor of HJR 20, however, he could not attend the hearing, and Representative Gene Donaldson presented the resolution for Mr. Marks.

HJR 20 is a joint resolution of the Senate and the House of Representatives of the State of Montana requesting the Department of Health and Environmental Sciences to review the rules adopted under the Montana sanitation in subdivisions law; requesting the Department to amend or repeal those rules which are inconsistent with the purposes of that act; requesting the Department to adopt rules to minimize the cost of review of subdivision proposals; and requesting the review of rules to be completed by July 1, 1984.

Dennis Rehberg, representing the Montana Association of Realtors, stood in support of the bill.

PUBLIC HEALTH
PAGE FIVE
MARCH 9, 1983

William M. Spilker, representing himself of Helena, stood in support of the bill. He stated that this resolution requests the Department of Health to rewrite rules and regulations of sanitation in subdivision law with an idea of avoiding duplication, burdensome, and costly review process. The rules and regulations presently go beyond the scope and intent of the act. It is being administered as a land use bill instead of a health and safety act.

Ralph Knoss of Helena stood in support of the bill. He stated that he would like to see this with the local authorities instead of the state on small subdivisions.

Chet Dreher, representing himself, stood in support of the bill. He handed in written testimony to the Committee for their review which told of the personal experiences of he and his wife in regards to this matter.

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

Representative Donaldson asked for favorable consideration of this bill in his closing remarks.

DISPOSITION OF HOUSE JOINT RESOLUTION 20:

A motion was made by Senator Jacobson that HJR 20 receive a BE CONCURRED IN recommendation from the Committee. Motion carried. Senator Himsl stated that he would carry the bill on the floor of the Senate.

DISCUSSION ON HOUSE BILL 322:

Senator Marbut reviewed some proposed amendments on House Bill 322.

Senator Marbut moved to amend the bill on page 1, line 19, Strike "but not limited to". Motion failed.

Senator Christiaens questioned whether air ambulances and quick response units are paid by the county or are voluntary.

Senator Marbut made a motion that the bill be amended on page 1, line 20, to strike: "air or". Motion failed with everyone voting "no" with the exception of Senator Marbut.

Senator Hager announced that the Committee would take action on this bill at a later date to give everyone more time to review it.

PUBLIC HEALTH
PAGE SIX
MARCH 9, 1983

A motion was made by Senator Marbut that the bill be amended on page 2, line 3, Motion carried. See Roll Call Vote Sheet.

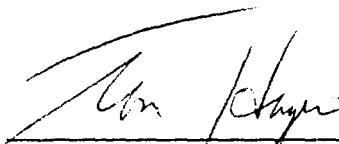
DISPOSITION OF HOUSE BILL 299:

Senator Norman asked if there is adverse relation between this bill and SJR 34 of last session. This is not the case.

A motion was made by Senator Christiaens that House Bill 299 Be Concurred In, Motion carried. Senator Norman stated that he would carry this bill on the floor of the Senate.

ANNOUNCEMENTS: The next meeting of the Public Health, Welfare and Safety Committee will be held on Friday, March 11, 1983 in Room 410 of the State Capitol Building to consider House Bills 337, 420, and 604.

ADJOURN: With no further business the meeting was adjourned.


CHAIRMAN TOM HAGER

eg

ROLL CALL

PUBLIC HEALTH, WELFARE, SAFETY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/9/8

[illegible]

BILL _____

VISITORS' REGISTER

DATE _____

Please note bill no.

NAME

REPRESENTING

BILL #

(check one)

SUPPORT

OPPOSE

Louise Brown	Physical Therapy Assistant	182		✓
Dorothy Jones	Phy Therapist	182		✓
Richard Bacton	Physical Therapist	182		✓
Bob Antonek	Physical Therapist	182		✓
Stanley A. Andryjek	Physical Therapist	182		
Robert Klemm	YMCA Helena	182		✓
Chet Dreher	self		✓	✓
Tom Murphy	Self	182		✓
Thom Connolly	Board of PT Exam	HB 182	✓	
Thomas H. Furr	Board of P.T. Exam	HB 182	✓	
Brenda Sebastian	Centerville School	HB 182		
Traci Young	Centerville School	HB 182		
Frank Underwood	Centerville School	HB 182		
Wendy Larson	Centerville School	HB 182		
Dianna Allen	Physical Therapist	HB 182	✓	
Don Delaney	P.T.	HB 182	✓	
Bob Meier	Physical Therapist	HB 182	✓	
Ellen Murphy	Massage Therapist	SB 182		✓
Cheryl Hanson	Physical Therapist	HB 182		
Kirk Hanson	Physical Therapist	HB 182		✓
BILL SPILKER	SELF	HB 182	✓	
Prudence Wilson	Physical Therapist	HB 182	✓	
Lorin R. Wright	Physical Therapist	HB 182	✓	
Ralph A. Kross	Self	HB 182	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

✓
Co. & Hilbert

FACT SHEET

WHY IS HB 182 NECESSARY ?

- 37-11-203 This is language which affected the transition of physical therapy licensing funds from the Board of Medical Examiners to the Board of Physical Therapy Examiners upon its creation and is no longer necessary.
- 37-11-301 Up until now, the Board has had no power to take action against anyone unlicensed and practicing physical therapy unless they actually represented themselves to be a registered or licensed physical therapist. This amendment strengthens that provision and protects the public by assuring that physical therapy must be performed by a person duly qualified and licensed in accordance with this act.
- 37-11-304 A recent photograph needs to be included in the application so the Board can ascertain the individual sitting for the examination is the individual represented in the application. The Board was notified in 1981 by the Legislative Council that this must be required by statute rather than rule.
- 37-11-307 The Board has had difficulty determining, even with the assistance of legal counsel, the definition of "substantially equal" and "at the date of license." In order to more clearly and effectively interpret and enact the statute, the Board desires to replace such language with the language contained in HB 182 and the Registry amendment. The replacement language more clearly states that the standards shall be at least equal and that this determination shall be made at the time the applicant was tested. HB 182 and its amendment recognizes both the Professional Examination Service (PES) exam which is currently administered in this state and the American Registry exam which was administered in other states as late as 1972.
- 37-11-310 The foreign-trained section must be changed as the American Physical Therapy Association does not perform the function described in the current statute. This was erroneously enacted in 1979 and went undiscovered until recently when foreign-trained applications were received.
- Section 6 This provision enables, but does not require, the Board to enact mandatory continuing education for relicensure. Several professions within the state currently are required to participate in continuing professional education. This would enable the Board to enact mandatory continuing professional education, following proper notice and hearing in an attempt to protect the public by assurance that all physical therapists will have attempted to remain current in the developments in the profession. This cannot be done prior to July, 1985.

March 2, 1983

AMENDMENTS TO HB 182
Proposed by sponsor

1. Page 3, Line 25: Strike AND AFTER JUNE 30, 1985
2. Registry amendment--to be inserted prior to the last sentence of section 37-11-307 which begins with "However".

Those applicants who have been licensed in another state or territory by examination other than that examination recognized under this chapter may be considered for licensure by the board if the requirements for physical therapy license in the state or territory in which the applicant was tested were at least equal to those requirements in force in this state at that time.

- - - - -

If the above amendments are enacted as proposed section 37-11-307 will read as follows:

37-11-307. Applicants licensed in other states. The board may, in its discretion, authorize the department to license as a physical therapist, without examination, on the payment of the required fee as established by the board, an applicant for license who is a physical therapist licensed under the laws of another state or territory, if the applicant has met the same requirements as applicants licensed by examination under this chapter. Those applicants who have been licensed in another state or territory by examination other than that examination recognized under this chapter may be considered for licensure by the board if the requirements for physical therapy license in the state or territory in which the applicant was tested were at least equal to those requirements in force in this state at that time. However, the Board may require a written, oral, or practical examination or may require continued study or refresher courses.

Just
I'm Bob Nicol, a physical therapist from Billings and have the dubious distinction of being the oldest practicing physical therapist in Montana, having practiced for over 31 years. I graduated from physical therapist school in 1951 and at that time the only board exam given was the National Registry Exam. Passage of the exam gave you the title of "registered physical therapist". About 1965 the Professional Exam Service came on the scene and the PES and the National Registry exam were both used as qualifying exams for physical therapists and this went on for about 7 years. A graduating therapist could take either exam and become registered. The National Registry dropped out of the picture about 1972 and since then the PES is the exam that is used.

In our state licensing law, section 37-11-307, the section on licensure by reciprocity, has been interpreted so many ways that we felt it is necessary to amend that section and better define the qualifications for licensure by reciprocity. The state Board of Physical Therapists examiners has had some problem with this section as the only exam allowed for reciprocity now is the PES.

The board has presented the amendment you have before you, to allow ^{both} the National Registry and the PES to be used in licensing by reciprocity.

This amendment was presented in the House hearing and not one word of dissent was noted, ~~and it was passed in the full House and~~ then the legislative counsel decided the amendment was not necessary and threw it out, so the bill came to you without the amendment to this section. Possibly the lawyer didn't know there was two qualifying exams that have been used.

The board has had 3 legal opinions on this section and each one interpreted it differently. Thus, we feel this amendment should be enacted to clarify this section. Therapists that have become qualified by the National Registry will be practicing for ~~about~~ at least 20 more years so this clarification is necessary to allow them to come into Montana by reciprocity for employment.

Juan Bde Nival, Billings

The new section on continuing education is being added at this time by the P.T. Board to give them the power to implement mandatory continuing education for continued licensure. The board does not intend to implement this at this time and the section was amended by the House Committee to not have it take effect before June 30, 1985.

This section has become very controversial among some PTs in this state. I feel that therapists should avail themselves of continuing education and keep themselves up on new aspects of the profession. Many PTs. do this on their own, but also there are those that probably do not.

Whether mandatory requirements are the answer is debatable but I know of no other way to insure that the profession as a whole keep themselves informed. Certainly voluntary attendance and study is best, but will that accomplish what is necessary?

I feel this section should be added to our licensing law.

NAME: Zoe O'Sullivan
Carrie Dayditch DATE: 3/9/83
ADDRESS: 156 18th Ave NE
233 E Central Missoula
PHONE: 728-0272

REPRESENTING WHOM? ~~MT~~ MT Chapter of American Physical Therapy Association
APPEARING ON WHICH PROPOSAL: Bill 182

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: Board of directors of Montana
Chapter of American Physical Therapy
Association supports HB Bill 182 including
Continuing education section as long as
Statement of Intent remains.

116-160

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Christanne B. Wilson

DATE: 3/8/82

ADDRESS: RR # 1 Shepherd Montana

PHONE: 373-6215

REPRESENTING WHOM? myself

APPEARING ON WHICH PROPOSAL: HB 187

DO YOU: SUPPORT? X AMEND? Board OPPOSE? amendments.

COMMENTS:

Support amendment of Registry reciprocity
and foreign-trained therapist.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Carmi Gajdosik DATE: 3-9-83

ADDRESS: 233 E Central Missouri

PHONE: 728-6272

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: HP 182

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jon Delaney DATE: 3/9/83

ADDRESS: P.O. Box 1852 Bozeman, MT. 59715

PHONE: 587-0370

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: _____

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

COMMENTS: I am in support of HB 182 - particularly continuing
ed. portion and section on reciprocity.

The MT. Chapter of the American Physical Therapy Assoc.
has established a task force to investigate the implications
of mandatory continuing education.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: DIANNE ALLEN DATE: 3-9-83

ADDRESS: 926 CRIST DRIVE BILLINGS, MT. 59105

PHONE: 248-1460

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: HB 182

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

COMMENTS: I feel continuing education is vital to
those practicing as physical therapists in Mont.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

Clarisse Landry

DATE : _____

2/9/83

ADDRESS :

420

Woodford

Missoula, MT

—

PHONE :

721-1564

REPRESENTING WHOM?

SELF

Σ C.

unity

Hosp. P. T.


7.

APPEARING ON WHICH PROPOSAL:

HB 182

DO YOU:

SUPPORT?



AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Barry Olson DATE: 3/9/83

ADDRESS: 2623 Cardinal Dr.

PHONE: 251-2078

REPRESENTING WHOM? Self and Community Hospital Therapists - Missol.

APPEARING ON WHICH PROPOSAL: H.B 182

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Missoula Community Hospital Rehabilitation Center

GRANT M. WINN, EXECUTIVE DIRECTOR

MIC 2829 FORT MISSOULA ROAD, MISSOULA, MONTANA 59801
MIC MISSOULA COMMUNITY MEDICAL CENTER (406) 728-4100

3/9/83

We, the undersigned, are in support of HB 182.

Donna Vinnedge RPT
Sarah Neuse RPT

Diane Dhoefst RPT

Carol Barnes RPT

Diana A. Vulcan RPT

Paul E. Nevin RPT

Joyce Dorgan, RPT

Jim Nulsen RPT

Barry Olson RPT

Ken Rutledge
Exhibit 3

Mr. Chairman:

I move to amend Section 6 of House Bill 182 by inserting the following language on page 5, line 1 following the period(.).

"The costs associated with meeting such continuing education requirements shall not be construed to be a financial obligation of the licensee's employer, either with respect to any tuition costs of continuing education courses or with respect to any time or travel expenses which are required to meet such continuing education requirements."

~~Amendment to Statement of Intent:~~

~~(8) Licensee's employer is not responsible for the costs associated with meeting the continuing education requirements.~~

NAME :

DATE : _____

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Laura Brown DATE: 3/9/83

ADDRESS: 1 Century Ct.

PHONE: 442-3608

REPRESENTING WHOM? Physical Therapy Assistants

APPEARING ON WHICH PROPOSAL: House Bill #182

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

COMMENTS: Please see attached statement

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

March 4, 1983

Dear

Regarding House Bill #182, Section 2, Line 5, Page 2, which states, "No person may practice physical therapy in this State unless he is licensed in accordance with this chapter".

As a graduate Physical Therapy Assistant I must object to this statement because it will end my career in physical therapy, as there is no licensing law for assistants in Montana. The Board of Physical Therapy Examiners is unfair in making this requirement which will affect assistants and aides when there is no way for us to become licensed.

I graduated from an accredited two year Physical Therapy Assistant school in 1974 and at that time, I inquired about licensing in Montana, and was told that there were no licensing requirements for assistants and that if I would have taken the exam in California it would not be honored in Montana, so I did not become licensed at that time.

Physical Therapists should know that Assistants are required to work under the supervision of a licensed Physical Therapist. This bill will create a problem for most therapy departments if they have to hire only licensed physical therapists, as it will be a tremendous cost increase which in turn will increase patient care costs ~~and~~ ^{that} will have to be absorbed through the patient's bill.

At this point, this bill would jeprodise my career and my education due to a poorly written statement. I would request that this committee either strike this statement from Section 2 or reccomend to the Senate that bill #182 do not pass.

Sincerely;

Laura G. Brown

Laura G. Brown
Physical Therapy Assistant

NAME: Ellen Murphy DATE: 3-9-83

ADDRESS: 770 Broadway Helena

PHONE: _____

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: SB 182

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

COMMENTS: I would like clarification of the
definition of physical therapy. As a massage
therapist, certified by the American Massage
Therapy Association, I want assurance that
my practice is not under the jurisdiction
of the Board of Physical Therapy Examiners.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Physical Therapy Clinic

104 East 6th Ave.
Helena, Montana 59601

Thomas K. Meagher, R.P.T.
(406) 442-8141

TO: SENATE PUBLIC HEALTH, WELFARE, AND SAFETY COMMITTEE

FROM: THOMAS K. MEAGHER, R.P.T.

DATE: MARCH 9, 1983

RE: H.B. 182

For the record, my name is Tom Meagher. I own and operate the Physical Therapy Clinic here in Helena, Montana. I am speaking in opposition to House Bill 182.

The problems that I see with this proposed legislation are as follows:

1. This bill, to my knowledge, was first brought to the attention to us practitioners in January of this year. It was apparently drafted by the Board of Physical Therapy Examiners and introduced by Representative Winslow and Bengtson. I worry about the closeness of the Board and a professional association because the bill was discussed only with this association. It was not until the non-association physical therapists requested a Board hearing that further input into the bill ensued.

There is not any agreement at all amongst among the body of physical therapists at large in Montana that this bill is appropriate or necessary.

2. Section 2. 37-11-301 (lines 5-7):

"No person may practice physical therapy in this state unless he is licensed in accordance with this chapter."

Because the definition of "physical therapy" (37-11-101, MCA) is very broad:

"Physical therapy means the evaluation, treatment, and instruction of human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any bodily or mental conditions by the use of therapeutic exercise and rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental disability."

this provision will enable the Board to assume jurisdiction over not only those persons who they should legitimately have jurisdiction over; i.e., licensed physical therapists and people holding themselves out to the public as such, but also persons who do not think of themselves as, or hold themselves out to be, physical therapists. For example, physical education teachers in our school systems, athletic trainers, massage therapists, and various health club personnel, all perform some functions which are included in the "practice of physical therapy" under the broad statutory definition. ~~We~~ do not feel it was our intention in setting up our board to subject these people to the board's jurisdiction and require physical therapy licensing of these people. ~~We~~ further do not feel that such an approach serves the public who need and utilize the services of these types of people.

Further, some question arises as to whether this provision in fact conflicts with other definitions in our practice act for our own various support people--assistants, aides, etc., and might preclude even these people from performing activities encompassed in the definition of "physical therapy."

This provision should either be stricken from the bill or clarified.

2. NEW SECTION. Section 6. This section provides for mandatory continuing education. A House amendment delaying operation of this provision until June 30, 1985 makes it more palatable, but ~~we~~ still question the wisdom of including this provision in the bill at all.

Mandatory continuing education often leads to increased costs to therapists, their employers, and the consuming public without improving the quality of service offered to the public. Mandatory continuing education requirements often include provisions for mandated types of education which do not necessarily apply to all persons in the profession. ~~We~~ favor allowing therapists to decide for themselves the frequency and type of educational programs they wish to attend, based on the type of practice in which they are engaged. The current Board rules already require that we avail ourselves of appropriate continuing education programs to maintain our competency in our profession. ~~We~~ feel this is enough.

In summary, I feel that the Senate has more pressing matters than House Bill 182 to expend your valuable time on at this point. And further, since section 6 of this bill has been delayed until June of 1985, I see nothing else in the bill that can't wait until then for further discussion.

I might point out that I was the primary drafter of House Bill No. 571 of the 1979 session which formed, amongst other things, the Board of Physical Therapy Examiners. At that time we had only about one page of "Rules". Now we have this entire yellow booklet of "Rules" and "Ethics" to live by. I would like to put this honorable Senate Committee on notice that we think together on this important matter over during this next two years and work toward turning the tide from a climate of over-regulation to de-regulation regarding the Physical Therapy profession in Montana.

Please consider a "Do Not Pass" in this committee on House Bill 182.

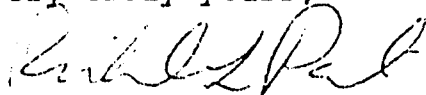
THANK YOU



Finally, I was asked to comment on Section 2 of House Bill 182. This section would amend Section 37-11-301, MCA, to provide that it is unlawful to practice physical therapy in the State of Montana without a license from the board. While I am not in a position to express an opinion with respect to whether this is or is not a desirable end, it is a wholesale change in the scope of the physical therapy practice act. The present statute simply subjects a physical therapist to the licensing and control by the board if such person intends to be held out as a L.P.T., licensed physical therapist, P.T., physical therapist, R.P.T., registered physical therapist, or the like. If one does not hold himself out as a physical therapist or a licensed physical therapist, there is no restriction upon one's performance of functions which are included within the general definition of physical therapy. This section of House Bill 182, however, would make it illegal to perform any of such functions without a license from the board. There would certainly seem to be a potential for subjecting persons who do not normally think of themselves as physical therapists to the licensure and control of the Board of Physical Therapy Examiners.

I hope that my opinion with respect to the proposed amendments and the suggested revisions to the same will be of assistance to you: If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,

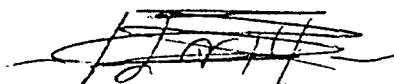


Richard L. Parish

RLP:mw

11

Attorney
Helena, Montana



NAME: William M. Spilker DATE: March 9, 1983

ADDRESS: 801 HARRISON, HELENA MT

PHONE: 442-0564 or 443-7070

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: HIR 20

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: 1. Request Health to Rewrite
Rules and Regs of SANITATION IN
SUBDIVISION LAW WITH IDEA
OF AVOIDING DUPLICATION,
BURDENSOME AND COSTLY REVIEW
PROCESSES.
2. Rules and Regs presently
go beyond scope and intent
of Act. It is BEING ~~USED~~ ADMINISTERED
AS A LAND USE BILL INSTEAD
HEALTH AND SAFETY ACT.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: CHET DREHER

DATE: 9 Mar 83

ADDRESS: 1962 Colorado Gulch, Helena

PHONE: 443-2698

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: HJR 20

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

COMMENTS: Support revision of rules

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

CHRONOLOGY OF
SECURING APPROVAL
FOR AN OCCASIONAL SALE

A tract of five acres in the
SW 1/4, Sec. 12, T9N, R5W,
Colorado Gulch, Lewis and Clark
County, Helena, Montana

Owned by Vera L. Dreher
1962 Colorado Gulch
Helena, MT 59601

- 30 Septemebr 1981 Test holes dug to depth of seven feet at each of two sites of proposed drain fields.
- 25-26 October 1981 Percolation test performed on site.
- 27 October 1981 Application filed with Lewis and Clark County Health Department; \$25 fee paid.
- 11 Novemeber 1981 Site checked by Will Selser, L & C County Sanitarian, okayed, application forwarded to subdivision Bureau, DHES.
- 1 December 1981 Letter dated 27 November 1981 received from Joseph Strasko, Subdivision Bureau, DHES, requiring additional information:
1. Topo map indicates slope at site is greater than 2%. Explain.
 2. Lot layout does not indicate distance of proposed drain field from proposed well.
 3. Provide detailed soils information.
 4. Provide \$30 review fee.
 5. Provide copy of COS.
 6. Provide hydrogeological study of entire quarter section. Proposed parcel, plus others on nearby properties, creates six parcels. When six or more parcels are created tests shall be conducted to determine yield and maximum drawdown of well, etc, etc.
- 1 December 1981 Phone call from Chet Dreher, husband of Vera, to Strasko asking if drilling an acceptable well would suffice instead of hydrogeological study. Strasko said "No."
- 1-4 December 1981 Calls made by Dreher to Lowell Hanson, engineer and Max Blotz, Hydrometrics, to get estimates for

page two

chronology of
securing approval
for an occasional sale

hydrogeological study. Guesstimates ran from \$200 - \$2,000. Hanson, surveyor of Dreher tract, doubted need for study but doubted DHES would back down. Max Blotz agreed to do study but stated he could not begin until February 1982.

5 December 1982

Letter from Dreher to Strasko asking that he drop hydrogeological requirement because:

1. Financial hardship.
2. First subdivision of land.
3. Two of parcels Strasko cited as subdivided on other nearby ownerships are in fact remainders and are only parcels by virtue of being remainders of less than 20 acres, a statutory description.
4. The hydrogeological study would require permission of owners of land not belonging to Dreher.
5. While Dreher would be required to fund the study, benefits would accrue to others.

Dreher asked that if request to drop hydrogeological study was not granted, Strasko furnish information on administrative appeal process.

15 January 1982

After 41 days Strasko replies to Dreher refusing to drop hydrogeological requirement. Enclosed was copy of Jim Sparing well log from parcel nearest tract under consideration. Well was drilled to depth of 268 feet. Static level was 20 feet below surface. The drill tool was raised to the 250 foot level and air was blown into the bottom of the hole for one hour producing 6 gpm. Strasko interpreted this to mean the well had been pumped down from the 20 foot static level to the 250 foot level after one hour and therefore the well was marginal by DHES standards. He notified Dreher she should contact Ms. Paulette Duncan to implement appeal. Dreher learned that next Board meeting would take place at the end of January.

18 January 1982

Letter from Dreher to Duncan, DHES, requesting appeal be scheduled for her at "earliest possible date."

4 February 1982

Letter bearing that date but postmarked 8 February, well past Board meeting, sent from DHES Counsel Frank C. Crowley, to Dreher outlining appeal procedure. Crowley, in response to query from Dreher said, "The Department cannot advise you whether you

chronology of
securing approval
for an occasional sale

should retain...an attorney. I would only say that parties contesting Department action are normally represented by attorney's familiar with the State Administrative Procedures Act."

- 19 February 1982 Dreher phones Max Blotz, Hydrometrics. Blotz to be at Dreher property on 26 February 82.
- 19 February 1982 Chet Dreher talked by phone with Wes Lindsay, owner of firm that drilled Sparing well. Dreher read Strasko's interpretation of well-log to Lindsay. Lindsay stated interpretation was incorrect. Well was not pumped with casing full. The 6 gpm represented the recovery rate and the well would easilly meet 8 gpm over a two-hour period, the DHES minimum. Lindsay stated that they are drilling to meet the requirements of lending institutions, not DHES.
- 23 February 1982 Attorney Bill Romine contacted by Dreher to seek advice on appeal. Should hydrogeological study be cancelled and appeal process be pursued? Advised she write Dr. Drynan, DHES Director, in last-ditch effort.
- 24 February 1982 Letter from Dreher to DHES director reviewing all of above but stressing the faulty interpretation of well-log and time-lag involved in dealing with DHES. Dreher asked for his intervention but no response was ever recieved.
- 26 February 1982 Max Blotz, Hydrometrics visits property and reviews file. Secures permission from Herb Buckley to test his well which lies within 1/4 section to be studied. Confused by Strasko's claim re number of subdivisions and asks Dreher to request clarification. There are eight seperate ownerships and as many as 11 parcels within area. Blots to return next week to conduct study.
- 26 February 1982 Dreher writes Strasko requesting clarification on ownerships he's interested in having studied.
- 3 March 1982 Strasko writes Dreher describing lots. Also requests he be called and meeting be set up for him to make on-site evaluation.
- 4 March 1982 Above letter recieved, call made to Strasko and meeting set up for next day for Strasko to view site.
- 4 March 1982 Romine advises against appeal. May lose appeal and have to do study in addition to paying his fee.

chronology of
securing approval
for an occasional sale

5 March 1982 Strasko meets Dreher, goes to site, approves slope, soils and drain-field locus.

11 March 1982 Blotz and Joseph V. Baglio, Jr. conduct drawdown test on well owned by Bob and Leslie Kellogg. Blotz also gets permission to test Sparing well. Blizzard halts operations after Kellogg test.

12 March 1982 Baglio returns and conducts test on Sparing well, which produces 10 1/2 gpm (not the 6 gpm that Strasko read into the log) and then conducts test on well owned by Herb and Carlee Buckley. After reconnoitering land Baglio borrowed aerial photography of area from Dreher and departs.

24 March 1982 Baglio delivers study to Dreher. Water okay.

25 March 1982 Dreher sends report to Strako.

1 April 1982 Dreher receives permission from DHES to sell tract.

ELAPSED TIME:
FIVE MONTHS

CONCLUSIONS: The system works too slowly. Time to DHES is a commodity that only counts toward retirement.

The appeal process is so cumbersome and costly it can only be of use to corporate giants or wealthy individuals.

Drawdown tests are dubious since pump-size is not taken into account, line-size, etc.

Work done by the county is duplicated by the state.

Statute and rules beyond the ken of those without LLD.

The Administrative Procedures Act stinks.

DHES employees not fully conversant with well-drilling techniques.

The Subdivision and Platting Act stinks.

The \$615 I have to pay to Hydrometrics has bought nothing. We still don't know if there's water under the parcel.

Subdivision employees of DHES are intransigent and arrogant.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 322:

1. Page 1, line 19.

Strike: "but are not limited to"

NO

2. Page 1, line 20.

Strike: "air or ~~surface~~"

3. Page 2, line 3.

Strike: "hospital emergency rooms"

Insert: "non-ambulance services to provide patient care at the scene of an accident or other medical emergency until an ambulance arrives"

SENATE COMMITTEE PUBLIC HEALTH, WELFARE, AND SAFETY

Date MARCH 9, 1983 HOUSE Bill No. 322 Time

NAME	YES	NO
SENATOR TOM HAGER	✓	
SENATOR REED MARBUT	✓	
SENATOR MATT HIMSL	✓	
SENATOR STAN STEPHENS	absent	
SENATOR CHRIS CHRISTIAENS		✓
SENATOR JUDY JACOBSON	✓	
SENATOR BILL NORMAN		✓

Glenn Leavelle
Secretary

Tom Hager
Chairman

Motion: A motion was made by Senator Marbut that HB 322 be
amended on Page 2, line 3. Strike: "hospital emergency rooms" and
Insert: "non-ambulance services to provide patient care at
the scene of an accident or other medical emergency until an
ambulance arrives". Motion carried.
 (include enough information on motion--put with yellow copy of
 committee report.)

STANDING COMMITTEE REPORT

.....MARCH 9..... 19 83.....

MR. PRESIDENT:.....

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

having had under consideration HOUSE..... Bill No. 299.....

J. BROWN (NORMAN)

Respectfully report as follows: That HOUSE..... Bill No. 299.....

~~NOT~~ BE CONCURRED IN

STANDING COMMITTEE REPORT

MARCH 9

19 83

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE JOINT RESOLUTION Bill No. 20

MARKS (HIMSL)

Respectfully report as follows: That HOUSE JOINT RESOLUTION Bill No. 20

~~XXXXXX~~ BE CONCURRED IN

J/C