

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By Senator Tom Hager, on February 8, 1989,
at 12:30 p.m.

ROLL CALL

Members Present: Senators Tom Hager, Chairman; Tom
Rasmussen, J. D. Lynch, Matt Himsl, Bill Norman, Harry
H. McLane, Bob Pipinich

Members Excused: None

Members Absent: None

Staff Present: Tom Gomez, Legislative Council

Announcements/Discussion: Chairman Hager announced that the
committee would take Executive Action on several bills.

EXECUTIVE ACTION ON SENATE BILL 63

Chairman Hager called for action on SB 63: He stated that
SB 63 would allow the Board of Medical Examiners to
hire an Executive Secretary.

Discussion: It was stated that the Board advised they have
enough money so that the cost will be absorbed by the
Board of Medical Examiners.

Recommendation and Vote: Senator McLane moved that SB 63 DO
PASS. Senators in favor, 5; 2 absent during vote.

EXECUTIVE ACTION ON SENATE BILL 212

Chairman Hager called for action on SB 212: He advised that
this bill directed the State Fire Marshal to adopt
rules for permitting liquified petroleum to be
installed below grade.

Discussion: Senator Pipinich stated that some problems
could evolve. It was stated that most people who have
anything to do with fighting fires are opposed to it.

Recommendation and Vote: Senator McLane moved that SB 212
DO NOT PASS. Senators in favor, 5; opposed, 1. (1
absent during vote).

EXECUTIVE ACTION ON SENATE BILL 133

Chairman Hager called for action on SB 133: Senator Hager informed the committee that this bill, regarding the Naturopathic Health Care Practice Act, was taken to the Rules Committee. He stated that no action could be taken because of the Sunrise Audit.

Discussion: None

Recommendation and Vote: A motion was made by Senator Himsl to TABLE SB 133 for reasons stated by the Chairman. Senators in favor, 6; opposed, 0.

EXECUTIVE ACTION ON SENATE BILL 187

Chairman Hager called for action on SB 187: This bill would generally revise the licensure of the practice of Psychology.

Discussion: None

Recommendation and Vote: Senator McLane moved that SB 187 BE TABLED. Senators in favor, 6; opposed 0.

Chairman Hager recessed the meeting until 1:00 p.m

Meeting called to order:

Chairman Hager called for action on SB 295: This bill provides limited civil liability to a person who provides assistance in response to release of hazardous substance. Senator Hager stated he would entertain a motion that the amendments be adopted on SB 295.

Discussion: None

Recommendation and Vote: Senator McLane made a motion that the amendments be adopted. Senators in favor, 4; opposed 0. A motion was made by Senator Himsl that SB 295 DO PASS AS AMENDED. Senators in favor, 4; opposed 0.

HEARING ON SENATE BILL 323

Presentation and Opening Statement by Sponsor: Senator Eleanor Vaughn, Senate District #1, stated that this bill is an act to require the Department of Health and

Environmental Sciences to assess a late fee for delinquent license renewals from food establishments and related businesses, and amending certain sections. The late fee is \$25.00 and must be redeposited in the State General Fund. She stated this bill would have little impact on the majority of businesses; it will have effect on the delinquent parties. It is believed the modest penalty would encourage the filing of licenses in a timely manner.

List of Testifying Proponents and What Group they Represent:

James M. Peterson. Department of Health and Environmental Sciences

List of Testifying Opponents and What Group They Represent:

None

Testimony:

James M. Peterson, Chief of the Food and Consumer Safety Bureau, Department of Health and Environmental Sciences, stated the Bureau is responsible for the licensing laws being impacted in this proposal. He asked that the committee favorably consider this bill. His written testimony was read and submitted to the committee. (Exhibit #1).

Questions From Committee Members:

Senator Norman questioned the effective date of the bill. Mr. Peterson stated they would like to make it effective January 1, 1990. This would allow them to inform all business appropriately.

Senator Hager stated that the late fee is \$25.00, which is about 80% of the cost of the license and seemed rather high. Mr. Peterson stated they arrived at an amount which would be significant but not exorbitant. Senator Hager also inquired about those businesses which do not operate year round. He wondered if the business did not open until April, would it be considered delinquent. Mr. Peterson stated they have those type facilities identified, and they will not be affected. In response to a query from Senator McLane, Mr. Peterson advised of the procedure if businesses would not pay the penalty fee.

Senator Hager asked if the committee should see fit to drop the late fee to \$5.00 or \$10.00 what the reaction would be. Mr. Peterson stated it would just be the judgement

of the committee if they thought a lesser fee would be in order.

Closing by Sponsor: Senator Vaughn stated that she was in favor of changing the effective date, and she felt that if the late fee was lowered too much, it would not accomplish what is necessary and would cost too much to administer. She recommended favorable consideration of SB 323.

DISPOSITION OF SENATE BILL 323

Discussion: None

Amendments: A motion was made that the amendments be adopted. Motion accepted unanimously.

Recommendation and Vote: A motion was made that SB 323 DO PASS AS AMENDED. Senators in favor 7, opposed 0.

HEARING ON SENATE BILL 124

Presentation and Opening Statement by Sponsor: Senator Tom Rasmussen opened the hearing on this bill. Senator Tom Hager, Senate District 48, advised that SB 124 was introduced at the request of people with whom he served on the board of a nursing home in Billings. It grew out of a case where an aids patient was refused entry into a nursing home, and was finally accepted into a nursing home in Billings where he remained until he died. He stated that he does not wish to see just one or two places in the state which will accept aids patients. Since the disease is part of our culture now, we must learn to deal with it.

List of Testifying Proponents and What Group they Represent:

Ellen Leahy, Missoula Health Department
Tondy Baumgartner, Missoula Community Hospital
"K.B.", Missoula Aids Task Force
Brenda Nordlund, Montana Women's Lobby
Marie Bousquet, Administrator, St. John's Lutheran Home, Billings, Montana
Robert Johnson, Montana Public Health Association
Jim Ahern, Montana Hospital Association
Rose Hughes, Montana Health Care Association
Barbara Booher, Montana Nurses Association
Mary Beth Frideres, Montana Aids Coalition

List of Testifying Opponents and What Group they Represent:

None

Testimony:

Ellen Leahy informed the committee that it was the Missoula community that turned away the individual to whom Senator Hager referred. She stated she has a fear this sort of thing will repeat itself. Based on her experience in Public Health and work with aids patients, she stated she can attest that there is no reason that this should occur. She stated that the type of interaction should be considered when dealing with diseases. When the aids virus is considered, it is known that it is sexually spread and based on the activity that takes place in a nursing you can see that it poses no risk for the other patients or their families. Health care workers protect themselves from the aids virus by following universal precautions. She believes there are no dangers in admitting an aids patient to a long-term care facility, but there are obvious consequences from excluding such individuals from a facility. She believes Montana would be going in the right direction by passing SB 124. She submitted her written testimony. (Exhibit #1).

Tondy Baumgardner stated she is a medical social worker, and was personally involved in placing the individual in a nursing home in Billings. She tried to place him in a facility in Missoula, but could not. She also met with negative response in other places in western Montana. She stated that they are Medicare and Medicaid facilities and she believes they are discriminating and not accepting certain patients that should be accepted.

"K.B." advised that he supports SB 124. He informed that he is infected with the aids virus which will and does require medical attention. He requests passage of this bill since he does not want to be refused Medicaid and Medicare supported facilities in the future.

Brenda Nordlund stated that the Montana Women's Lobby endorses measures to prevent the human and economic loss relating to aids. She set forth their position in written testimony which was read and submitted to the committee. (Exhibit #2).

Marie Bousquet, representing St. John's Lutheran Home, Billings, stated this was the facility that accepted the patient who was mentioned today. She read and submitted her written testimony to the committee.

(Exhibit #3).

Bob Johnson stated he is President of the Montana Public Health Association. He stated they would like to lend their support to the passage of SB 124. He added there is no public health or medical reason for discrimination of aids patients in any medical facility. All long-term care facilities in the state, by the nature of their license, have to be prepared to handle people with aids.

Jim Ahern, President of the Montana Hospital Association, stated that group would support the bill and urged its passage.

Rose Hughes, Executive Director of the Montana Health Care Association, stated that long-term care facilities, by law, are not to discriminate against a patient solely on the basis of diagnosis, be it aids or some other disease. She wonders where the enforcement is, since they are not complying with current law. She suggested that the committee consider an amendment which she distributed (Exhibit #4), which suggests changing the terminology from "long-term care facility" to "health care facility". She also furnished an information sheet, attached to Exhibit #4.

Barbara Booher, Executive Director for the Montana Nursing Association, stated that the Registered Nurses are very much in support of SB 124 and they wished to thank Senator Hager for presenting it.

Mary Beth Frideres of the Montana Aids Coalition stated that one of the tasks of her organization is to fight discrimination toward the people infected with the aids virus and they stand in favor of passage of SB 124. She feels this will send a very clear message that the way to get over the fear of this infection is with information. She stated that what needs to be done in care facilities is to teach people how to care for people with this infection. She stated there is no concern to other patients within the facility, with proper precautions.

Questions from Committee Members:

Senator Norman asked what the response was when the long-term care licensing facility was informed of the refusal to take the patient in question. Ms. Baumgardner stated the agencies she contacted said they

would look into it.

John Patrick, SRS, stated they are not the licensing agency. He stated his department did contact two or three facilities in Missoula. They indicated their admission policy did not preclude admitting aids patients, but either they did not have a bed available or were unable to admit that particular patient.

Senator Rasmussen asked if aids are treated the same way other infectious diseases are treated. Ellen Leahy responded they are treated according to the way that particular virus spreads, and then that is compared to the type of interaction they expect from someone who may be infected and those who are not. There would not be any exclusion concerns in the health care facility. She said there are certain types of isolation called universal precautions and they are put forth by the Center for Disease Control. Health care workers are to protect themselves from any patient's blood or body fluids.

Senator Himsl asked if some hospitals might refuse an aids patient because their staff is not trained in this area. Rose Hughes stated that more education than training needs to be done in the facilities in dealing with this disease. There may be some fear on the part of health care workers, but those fears may be unfounded. As far as training, she believes the facilities are able to handle these types of patients, if the universal precautions are in place. It should be understood that some aids patients require certain care that a facility may not be able to offer.

Senator Lynch asked what happens if a fellow patient does not wish to share a room with an aids victim because of fear. Rose Hughes stated that a facility does not base its admission decisions based on unfounded fears of staff or other patients. A facility would evaluate whether or not either patient in that room had some communicable disease, but they would have an obligation to serve the person being admitted. Marie Bousquet, Administrator of St. John's Lutheran Home, added that it was very important that they educate their other residents and staff so that prior to receiving the aids patient they were prepared.

Closing Comments by Sponsor: Senator Hager stated that this was a difficult bill to handle. He believes it is time to move to the point where the emphasis is put on not

the "A" but the "ID " - immune deficiency. A person who suffers from this does not die from it - he dies from something his body cannot fight off because he has this immune deficiency. He recognized that the staff and the residents of the home would naturally be concerned, but maybe the aids patient should be even more concerned since he does not have the ability to fight off infections. He asked that the committee amend and pass SB 124.

DISPOSITION OF SENATE BILL 124

Discussion: None

Amendments and Votes: Senator Lynch moved to amend SB 124 with the amendments suggested by the Montana Health Care Association. Motion passed unanimously.

Recommendation and Vote: Motion made by Senator Lynch that SB 124 DO PASS AS AMENDED. MOTION PASSED UNANIMOUSLY.

HEARING ON SENATE BILL 289

Presentation and Opening Statement by Sponsor: Senator Tom Hager, Senate District #48, advised that SB 289 would allow a county lease of a county nursing home to go beyond five years.

List of Testifying Proponents and What Group They Represent:

Beverly Peterson, President of the Board of Directors, Lutheran Retirement Home, Inc., Billings

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Beverly Peterson stated they do business as St. John's Lutheran Home in Billings, which is a non-profit, church affiliated corporation made up of twenty-one congregations in Billings and the southcentral area of Montana. She read and presented her written testimony to the committee (Exhibit #1).

Questions from Committee Members:

Senator Hims1 stated that there is really no choice - they have to have this in order to upgrade the facility to the standard. Ms. Peterson stated that was correct.

Closing Comments by Sponsor: None

DISPOSITION OF SENATE BILL 289

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator McLane made a MOTION THAT SB 289 DO PASS. Motion passed unanimously.

HEARING ON SENATE BILL 299

Chairman Hager announced that the committee heard testimony both for and against SB 299 on February 6, 1989, and that he believed the sponsor of the bill should have an opportunity to speak today.

Presentation and Opening Statement by Sponsor: Dorothy Eck, Senate District #40, stated she is sponsor of this consumer bill. She believes there is much clarification in the bill. She stated that the complaints filed with the Board of Hearing Aid Dispensers have been greater than with any other of the Boards.

List of Testifying Proponents and What Group They Represent:

Mary Lou Garrett, Board of Hearing Aid Dispensers
Lee Micken, M.A., Chairman, Board of Hearing Aid
Dispensers (Written testimony)

List of Testifying Opponents and What Group They Represent:

Jim Durkin, Self
David Evans, Montana Hearing Aid Society
Don Banderred, Hearing Aid Institute
Steve Wilson, Helena Hearing Aid Service

Testimony:

Mary Lou Garrett stated that she was requested by Senator Hager to be here on behalf of the Department and of the Board members. She read and presented to the committee a letter from Lee Micken, Chairman of the Board, who is currently in Mexico. As an audiologist and hearing aid dispenser, Ms. Micken endorsed passage of the bill. (Exhibit #1).

Jim Durkin advised that he believed that the Board of Hearing Aid Dispensers have in-house ability to

presently handle this problem, if it is indeed a problem.

David Evans, Secretary of the Montana Hearing Aid Society, stated he is appearing in opposition to SB 299. He believes the present laws are adequate. He stated the effect of the bill would be to eliminate licensed hearing aid dispensers from doing business in Montana. He read and presented his written testimony (Exhibit #2), which includes letters and documents to establish his position.

Don Banderred, Owner of Hearing Aid Institute, which he stated is a Montana small business. He furnished the committee with copies of a newsletter put out by his institute (Exhibit #3). He stated he employs 60 people and is opposed to this bill. According to his testimony, the sponsors of this bill consist of two dispensing audiologists who are on the board; a doctor who is on the board who dispenses himself, and one hearing aid dispenser who voted against this bill. He believes this bill finds their competition using their board-member powers against non-audiologist hearing aid dealers. It is his contention that there is no basis for the complaint problem that has been mentioned. He stated that they have complied with one of the most stringent hearing aid laws already in effect. He believes the Board is one-sided, and that SB 299 would be a tremendous blow to small business in Montana, and to the elderly hard of hearing.

Steve Wilson stated he is licensed in the state of Montana as a trainee and is the manager of the Helena Hearing Aid Service and represents Kalispell Hearing. He stated out of nine offices in western Montana he believed they had one complaint in the last two years against Miracle Ear, and the disposition of that complaint would speak for itself. He stated that he has been through extensive training in order to dispense hearing aids. He believes that the state needs dispensers working in the field to provide this service to Montanans.

Questions From Committee Members:

Senator Lynch asked Senator Eck why there should be an immediate effective date. She stated it probably would be wise not to have an immediate effective date since it is important to have the codes published before the bill goes into effect. The reason for the immediate effective date was that the Board could start taking action sooner on some of the complaints.

Senator Hims1 asked what was meant by a "related device".
Senator Eck stated she understands there are a number of related devices such as listening devices for telephones and attachments for TVs.

Senator Hims1 also asked why the Board must establish minimum requirements for the form of bills and receipts, as noted in Section 3 (4). Senator Eck assumed that had to do with some of the other provisions in the act where they require that the vendor relay to the purchaser that a medical examination might be warranted. Ms. Garrett advised that the Food and Drug Administration requires that anyone being sold a hearing aid must sign a statement that says that they have been advised to seek medical attention. That waiver has become a part of the contract. What they are now asking is a separate receipt to honor the Food and Drug Administration requirement.

Senator Lynch asked that if the complaints are pretty widespread. Ms. Garrett stated that the complaints she sees are from the same people over and over. The majority of complaints allege that the aid does not do what the buyer was told it would do.

Senator Hager asked what Ms. Garrett means by "repeats". She stated that means repeat complaints against licensees.

Senator Rasmussen asked if the proponents really felt that there are many of problems with the law as it stands, and that there is a need for this drastic revision of our state law. Mr. Ben Handel stated that he believes this bill sets minimum standards and it would seem that a dispenser would want to push towards this degree of professionalism.

Senator McLane asked if anyone could respond to the statement that this bill would put three-fourths of the hearing aid people out of business. No one responded.

Senator Hims1 inquired of Ms. Garrett as to the nature of the complaints - financial or physical. She advised that often a customer will be without an aid, without financial remuneration, and no satisfaction, which may go as long as one to two years.

Senator Norman questioned why the Board does not have rule-making authority to regulate the complaints. Senator Hims1 stated that there must have been a statement of

intent to give them the normal powers of a board.

Senator asked what is the composition of the Board. Ms. Garrett informed that two are hearing aid dispensers; one member an audiologist; one member a medical doctor, and one member of the public.

Closing Statement by Sponsor: Senator Eck stated that the purpose of Boards is to provide some accountability. She does not believe the purpose of this bill is to put responsible dealers out of business. She believes that specific areas of the bill could be looked at, discussed, and determine whether the Board can do it by rule or whether some additional tightening-up procedures are called for.

EXECUTIVE ACTION ON SENATE BILL 26

Senator Hager called for action on Senate Bill 26: Senator Hager advised that a Statement of Intent would be attached to Senate Bill 26, which was reported out on February 6, 1989.

Discussion: The committee reviewed the Statement of Intent. Senator Himsel asked who composed the statement. Tom Gomez, Legislative Council, advised that the original drafter of Senate Bill 26 prepared the Statement of Intent with discussions with Senator Cecil Weeding, the primary sponsor of the bill.

Recommendation and Vote: Senator Norman made a motion that the Statement of Intent be attached to Senate Bill 26. Senators in favor, 7; opposed 0.

REQUEST FOR RESOLUTION

John Delano advised that he represented the Montana Community Foundation. He stated their goal is to have this committee adopt a Resolution. He introduced the President of their Board, David L. Auer from Billings.

David Auer briefly told that Community Foundations are generally new to Montana and are driven by donors. Most Foundations receive 90% of their money from wills, trusts, etc. after they gain recognition. They are a useful tool for people to leave something in their community as a lasting legacy, with income to be used for whatever purpose may be needed. He advised that some threshold is necessary before they become productive. The Foundation is a source of capital that is not usually available to the state, and he believes government cannot take care of all the charitable

problems in the state and this represents a chance for the private sector to take care of some problems. A copy of the Resolution was submitted (Exhibit #1).

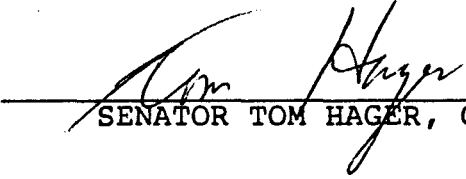
Senator Hager stated that it is necessary to ask for a committee resolution.

Senator Norman expressed concerns that there might be a shadow over whatever action is taken regarding a resolution.

Senator Lynch made a motion that a Joint Resolution, if possible, be requested or Senate Resolution as prepared by the Montana Community Foundation be requested. Senators in favor of Motion, 7; opposed 0.

ADJOURNMENT

Adjournment At: 3:00 p.m.



SENATOR TOM HAGER, Chairman

TH/dq

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SENATE STANDING COMMITTEE REPORT

February 8, 1989

HR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration SB 63 (first reading copy -- white), respectfully report that SB 63 do pass.

DO PASS

Signed: _____

Tom Hager
Thomas O. Hager, Chairman

J.C. 89
2/9/89
10:00

SENATE STANDING COMMITTEE REPORT

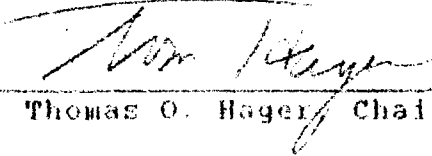
February 8, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration SB 212 (first reading copy -- white), respectfully report that SB 212 do not pass.

DO NOT PASS

Signed: _____


Thomas O. Hager, Chairman

4/10
3/9/89
1:05
p.m.

SENATE STANDING COMMITTEE REPORT

February 9, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration SB 295 (first reading copy -- white), respectfully report that SB 295 be amended and as so amended do pass:

1. Page 2, line 14.

Following: line 13

Insert: "(3) For purposes of this section, the following definitions apply:

(a) "Hazardous substance" means any material or substance that is designated as hazardous by state or federal law, rule, or regulation.

(b) "Release" means any spill, leakage, seepage, or other emission of a hazardous substance.

(c) "Remedial action" includes the investigation, monitoring, cleanup, restoration, abatement, removal, replacement, or other action necessary or appropriate to respond to an actual or threatened release of a hazardous substance."

2. Page 2, line 16.

Strike: "75"

Insert: "27"

Strike: "10"

Insert: "1"

3. Page 2, line 17.

Strike: "75"

Insert: "27, chapter 1, part 7,"

AND AS AMENDED DO PASS

Signed: _____

Tom Hager
Thomas O. Hager, Chairman

4/11
2/9/89
10:00

SENATE STANDING COMMITTEE REPORT

February 13, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration SB 323 (first reading copy -- white), respectfully report that SB 323 be amended and as so amended do pass:

1. Title, line 12.

Following: "HCA;"

Insert: "AND"

2. Title, line 13.

Following: "INSTRUCTION"

Strike: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 3, lines 24 through 25.

Strike: section 6 in its entirety

AND AS AMENDED DO PASS

Signed: _____

Tom Hager
Thomas O. Hager, Chairman

4/12/89
12:40
P.M.

SENATE STANDING COMMITTEE REPORT

February 13, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration SB 124 (first reading copy -- white), respectfully report that SB 124 be amended and as so amended do pass:

1. Title, line 4.
Following: second "A"
Strike: "LONG-TERM"
Insert: "HEALTH"

2. Page 1, line 16.
Following: "A"
Strike: "long-term"
Insert: "health"

AND AS AMENDED DO PASS

Signed: _____

Tom Hager
Thomas O. Hager, Chairman

4/11/89
2114 159
9:56
9:00 am.

SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration SB 289 (first reading copy -- white), respectfully report that SB 289 do pass.

DO PASS

Signed: _____

Tom Hager
Thomas O. Hager, Chairman

*Y.O. 189
2/10/89
12:30 P.M.*

SENATE STANDING COMMITTEE REPORT

page 1 of 11
February 13, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration SB 26 (first reading copy -- white), respectfully report that SB 26 be amended and as so amended do pass:

1. Title, lines 4 through 13.

Following: the second "AN ACT" on line 4

Strike: remainder of line 4 through line 13 in its entirety

Insert: "PROVIDING FOR APPROVAL OF PHYSICIAN ASSISTANTS-CERTIFIED, REGULATING THE PRACTICE OF PHYSICIAN ASSISTANTS-CERTIFIED, INCLUDING PRESCRIBING AND DISPENSING AUTHORITY, BILLING PROCEDURES, AND LOCUM TENENS PRACTICE; AMENDING SECTIONS 33-22-111, 37-3-103, 37-7-401, 37-20-101 THROUGH 37-20-104, 37-20-202, 37-20-301 THROUGH 37-20-303, AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

2. Page 1, line 15.

Following: line 14

Insert: "

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 4 and 13] grant or extend rulemaking authority to the board of medical examiners in order to implement the provisions of this bill.

At a minimum, it is intended that the rules address the following topics:

(1) authorization for prescribing, dispensing, and administering drugs by a physician assistant-certified, including the extent and limitations of the prescribing and dispensing authority, required recordkeeping, and refilling of prescriptions; and

(2) considerations pertinent to approval of locum tenens utilization plans."

3. Pages 1 through 27.

Strike: everything following the enacting clause

Insert: "NEW SECTION. Section 1. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the Montana state board of medical examiners established in 2-15-1841.

(2) "Locum tenens" means the temporary provision of services within the scope of practice of a physician assistant-certified.

(3) "Physician assistant-certified" means a member of a health care team, approved by the board, who provides medical services that may include examination, diagnosis, prescription of medications, and treatment, as approved by the board, under the supervision of a physician licensed by the board.

(4) "Protocol" means the proper relationship between a physician assistant-certified and other health care practitioners and the manner of their interaction.

NEW SECTION. Section 2. Qualifications for physician assistant-certified. A person may not be approved as a physician assistant-certified in this state unless he:

(1) is of good moral character;

(2) is a graduate of a physician assistant training program approved by the American medical association's committee on allied health education and accreditation;

(3) has taken and successfully passed an examination recognized by the national commission on the certification of physician assistants;

(4) holds a current certificate from the national commission on the certification of physician assistants; and

(5) has submitted to the board detailed information on his history, education, and experience.

NEW SECTION. Section 3. Physician assistant-certified as agent of supervising physician. (1) In establishing protocol, a physician assistant-certified must be considered the agent of the supervising physician with regard to all duties delegated to the physician assistant-certified under the utilization plan. A health care provider shall consider the instructions of a physician assistant-certified as being the instructions of the supervising physician as long as the instructions concern the duties delegated to the physician assistant-certified under the utilization plan.

(2) The supervising physician and the physician assistant-certified are responsible for making available a copy of the approved utilization plan to all other health care practitioners with whom they reasonably believe they will interact on a regular basis.

(3) Nothing in this chapter may be construed to conflict with the provisions of 37-3-322.

NEW SECTION. Section 4. Prescribing and dispensing authority -- discretion of supervising physician on limitation of authority. (1) A physician assistant-certified may prescribe, dispense, and administer drugs to the extent authorized by the board by rule, by the utilization plan, or both. The prescribing, dispensing, and administration of drugs are also subject to the authority of the supervising physician, and the supervising physician in his discretion may impose additional limitations on the prescribing and dispensing authority granted by the board.

(2) All dispensing activities allowed by this section must comply with 37-2-104 and with packaging and labeling guidelines developed by the board of pharmacy under Title 37, chapter 7.

(3) The prescribing and dispensing authority granted a physician assistant-certified may include the following:

(a) Prescribing, dispensing, and administration of Schedule III drugs listed in 50-32-226, Schedule IV drugs listed in 50-32-229, and Schedule V drugs listed in 50-32-232, is authorized.

(b) Prescribing, dispensing, and administration of Schedule II drugs listed in 50-32-224 may be authorized for limited periods not to exceed 48 hours.

(c) Records on the dispensing and administration of scheduled drugs must be kept.

(d) A physician assistant-certified shall maintain registration with the federal drug enforcement administration.

(e) Drugs dispensed by a physician assistant-certified must be prepackaged by a licensed pharmacist, except that samples provided by a pharmaceutical company representative may be dispensed.

(f) Prescriptions written by physician assistants-certified must comply with regulations relating to prescription requirements adopted by the board of pharmacy.

(g) The board shall adopt rules regarding the refilling of prescriptions written by physician assistants-certified.

NEW SECTION. Section 5. Billing. A supervising physician or an institution where services were delivered may bill for physician assistant-certified services.

NEW SECTION. Section 6. Liaison to the board. The Montana academy of physician assistants shall elect one person to serve as a nonvoting liaison to the board to represent the interests of physician assistants.

NEW SECTION. Section 7. Coverage required for services provided by physician assistants-certified. An insurer, health service corporation, or any employee health and welfare fund that provides accident or health insurance benefits to residents of this state shall provide, in group and individual insurance contracts, coverage for health services provided by a physician assistant-certified, as normally covered by contracts for services supplied by a physician, if health care services that the physician assistant-certified is approved to perform are covered by the contract.

Section 8. Section 37-3-103, MCA, is amended to read:

"37-3-103. Exemptions from licensing requirements. (1) This chapter does not prohibit or require a license with respect to any of the following acts:

(a) the gratuitous rendering of services in cases of emergency or catastrophe;

(b) the rendering of services in this state by a physician lawfully practicing medicine in another state or territory. However, if the physician does not limit the services to an occasional case or if he has any established or regularly used hospital connections in this state or maintains or is provided with, for his regular use, an office or other place for rendering the services, he must possess a license to practice medicine in

this state.

(c) the practice of dentistry under the conditions and limitations defined by the laws of this state;

(d) the practice of podiatry under the conditions and limitations defined by the laws of this state;

(e) the practice of optometry under the conditions and limitations defined by the laws of this state;

(f) the practice of osteopathy under the conditions and limitations defined in chapter 5 of this title for those doctors of osteopathy who do not receive a physician's certificate under this chapter;

(g) the practice of chiropractic under the conditions and limitations defined by the laws of this state;

(h) the practice of Christian Science, with or without compensation, and ritual circumcisions by rabbis;

(i) the performance by commissioned medical officers of the armed forces of the United States, of the United States public health service, or of the United States veterans' administration of their lawful duties in this state as officers;

(j) the rendering of nursing services by registered or other nurses in the lawful discharge of their duties as nurses or of midwife services by registered nurse-midwives under the supervision of a licensed physician;

(k) the rendering of services by interns or resident physicians in a hospital or clinic in which they are training, subject to the conditions and limitations of this chapter. The board may require a resident physician to be licensed if he otherwise engages in the practice of medicine in the state of Montana.

(l) the rendering of services by a physical therapist, technician, or other paramedical specialist under the appropriate amount and type of supervision of a person licensed under the laws of this state to practice medicine, but this exemption does not extend the scope of a paramedical specialist;

(m) the rendering of services by a ~~physician's assistant~~ physician assistant-certified in accordance with Title 37, chapter 26;

(n) the practice by persons licensed under the laws of this state to practice a limited field of the healing arts, and not specifically designated, under the conditions and limitations defined by law; and

(o) the execution of a death sentence pursuant to 46-19-103.

(2) Licensees referred to in subsection (1) of this section who are licensed to practice a limited field of healing arts shall confine themselves to the field for which they are licensed or registered and to the scope of their respective licenses and, with the exception of those licensees who hold a medical degree, may not use the title "M.D." or any word or abbreviation to indicate or to induce others to believe that they are engaged in the diagnosis or

treatment of persons afflicted with disease, injury, or defect of body or mind except to the extent and under the conditions expressly provided by the law under which they are licensed."

Section 9. Section 37-20-101, MCA, is amended to read:

"~~37-20-101. Qualifications of supervising physician and physicians' assistants~~ physician assistant-certified. (1) Each supervising physician named in the utilization plan required by 37-20-301 shall:

(a) possess a current, unrestricted license to practice medicine in this state;

(b) submit a statement to the Montana state board of medical examiners that, in his opinion, the ~~assistant~~ physician assistant-certified to be employed is of good character and is both mentally and physically able to perform the duties of a ~~physician's assistant~~ physician assistant-certified described in the utilization plan;

(c) submit a statement to the board that he will exercise supervision over the ~~physician's assistant~~ physician assistant-certified in accordance with any rules adopted by the board and will retain professional and legal responsibility for the care and treatment of his patients; and

(d) submit detailed information to the board regarding the physician's professional background, medical education, internship and residency, continuing education received, membership in state and national medical associations, hospital and staff privileges, and such other information as the board may require.

~~(2) Except as provided in subsection (3), each physician's assistant~~ Each physician assistant-certified named in the utilization plan required by 37-20-301 shall:

~~(a) be of good character;~~

~~(b) be a graduate of a physician's assistant training program approved by the American medical association;~~

~~(c) have taken an examination recognized by the national commission on physicians' assistants and received a score satisfactory to the board;~~

~~(d) hold a current certification by the national commission on physicians' assistants; and~~

~~(e) submit to the board detailed information on the applicant's history, education, and experience and such other information as the board may require.~~

~~(3) In lieu of the requirements of subsections (2)(b), (2)(c), and (2)(d) the physician's assistant may be a graduate of an approved medical school as defined in 37-3-102 and pass an examination approved by the board~~ meet the criteria for licensure as a physician assistant-certified as provided in [section 2]."

Section 10. Section 37-20-102, MCA, is amended to read:

"37-20-102. Insurance requirement. ~~No physician's assistant~~ A physician assistant-certified may not perform any service unless he has insurance from liability for his errors, omissions, or actions to the limits required by the hospital's governing authority."

Section 11. Section 37-20-103, MCA, is amended to read:

"37-20-103. Limitations on authority conferred -- exception. Except as provided in 37-10-102, nothing in this chapter may be construed to authorize a ~~physician's assistant~~ physician assistant-certified to perform those functions and duties specifically delegated by law to persons licensed as optometrists as defined under Title 37, chapter 10."

Section 12. Section 37-20-104, MCA, is amended to read:

"37-20-104. Penalty -- enforcement. (1) Any person who employs a ~~physician's assistant~~ physician assistant-certified or holds himself out to be a ~~qualified physician's assistant~~ physician assistant-certified without the approval of the Montana state board of medical examiners is guilty of a misdemeanor and is punishable as provided in 46-18-212.

(2) In addition to seeking any criminal penalty available under this section, the board may withdraw its approval of any utilization plan previously approved which is applicable to any supervising physician or ~~physician's assistant~~ physician assistant-certified who:

- (a) acts in violation of this section;
- (b) obtained the approval of the board by fraud;
- (c) acts in a manner contrary to the terms of the utilization plan; or
- (d) violates any of the applicable provisions of this chapter or rules of the board adopted thereunder.

(3) The board may enforce the provisions of this section by the remedy of injunction."

Section 13. Section 37-20-202, MCA, is amended to read:

"37-20-202. Adoption of rules. The board of medical examiners shall adopt administrative rules to implement the provisions of this chapter that:

- (1) address the issues of supervision and direction limitations and requirements;
- (2) address the issue of protocols for interaction of medical personnel with differing responsibilities;
- (3) specify that a physician may not utilize more than one ~~physician's assistant~~ physician assistant-certified unless he can demonstrate to the board the ability to supervise more than one assistant adequately; and

(4) address other considerations pertinent to the approval of ~~physicians' assistants~~ physician assistant-certified utilization plans and locum tenens utilization plans, and the health care needs of the public."

Section 14. Section 37-20-301, MCA, is amended to read:

"37-20-301. Utilization plan required -- contents -- approval. (1) ~~No~~ A physician, office, firm, state institution, or professional service corporation may not employ or make use of the services of a ~~physician's assistant~~ physician assistant-certified in the practice of medicine, as defined in 37-3-102, and ~~no~~ physician's assistant a physician assistant-certified may not be employed or practice as a ~~physician's assistant~~ physician assistant-certified unless the assistant physician assistant-certified:

(a) is supervised by a licensed physician; ~~and unless such employment or use~~

(b) has been approved by the Montana state board of medical examiners; ~~in a~~ and

(c) has received board approval of a ~~physician's assistant~~ physician assistant-certified utilization plan.

(2) A ~~physician's assistant~~ physician assistant-certified utilization plan must set forth in detail the following information:

(a) the name and qualifications of the supervising physician and the ~~physician's assistant~~ name and license number of the physician assistant-certified, as provided in 37-20-101;

(b) the nature and location of the physician's medical practice;

(c) the duties to be delegated to the ~~physician's assistant~~ physician assistant-certified and the location in which those duties are to be performed;

(d) the name and qualifications of a second physician meeting the requirements of 37-20-101 to serve in the place of the supervising physician in the event that the supervising physician is unable to supervise the ~~physician's assistant~~ physician assistant-certified temporarily; and

(e) ~~such other information as the board may consider~~ necessary guidelines describing the intended availability of the supervising or alternate physician for consultation by the physician assistant-certified; and

(f) other information the board may consider necessary.

(3) The board shall approve the utilization plan if it finds that the duties to be delegated to the ~~physician's assistant~~ physician assistant-certified are:

(a) assigned by the supervising physician;

(b) within the scope of the training, knowledge, experience, and practice of the supervisory physician; and

(c) within the scope of the training, knowledge, education, and experience of the ~~physician's assistant~~ physician assistant-certified.

(4) A supervising physician and a physician assistant-certified may submit a new or additional utilization plan to the board for approval without reestablishing the criteria set out in [section 2], as long as the information requirements of subsection (2) have been met and the appropriate fee provided for in 37-20-302(1) has been paid.

(5) A utilization plan may provide that a physician assistant-certified be allowed to furnish services on a locum tenens basis at a location other than the physician assistant-certified's primary place of practice for a period not to exceed 30 calendar days. A locum tenens utilization plan may be approved by a single board member."

Section 15. Section 37-20-302, MCA, is amended to read:

"37-20-302. Utilization plan approval fee -- renewal of approval -- renewal fee. (1) Every physician, office, firm, or professional service corporation proposing to employ a ~~physician's assistant~~ physician assistant-certified shall pay to the board a utilization plan approval fee in an amount set by the board, not exceeding \$50. Payment must be made when the utilization plan is submitted to the board and is not refundable. (2) Approval of every ~~physician's assistant~~ physician assistant-certified utilization plan expires 1 year from the date of approval and is invalid thereafter. The department of commerce shall notify each physician, office, firm, or professional corporation and ~~physician's assistant~~ physician assistant-certified named in a utilization plan of the date of expiration of board approval at least 1 month prior to the expiration of approval.

(3) Renewal of approval shall be granted by the board under such circumstances as would justify original approval of a utilization plan and upon payment by the employing physician, office, firm, or professional service corporation of a renewal fee in an amount to be set by the board, not to exceed \$50.

(4) Every physician, office, firm, or professional service corporation proposing to employ a physician assistant-certified on a locum tenens basis shall pay to the board a locum tenens utilization plan fee in an amount set by the board, not to exceed \$50.

~~(4)~~(5) Fees received by the department must be deposited in the state special revenue fund for use by the board in the administration of this chapter, subject to 37-1-101(6)."

Section 16. Section 37-20-303, MCA, is amended to read:

"37-20-303. Exemptions from approval requirement. This chapter does not require the approval of a ~~physician's assistant~~ physician assistant-certified utilization plan or locum tenens utilization plan with respect to any acts within the professional competence of a person licensed under the provisions of Title 37, chapters 3 through 17, 31, or 32."

Section 17. Section 37-7-401, MCA, is amended to read:

"37-7-401. Restrictions upon sale or prescription of opiates -- coding prohibited -- refilling prescriptions. (1) It shall be unlawful for any physician or physician assistant-certified to sell or give to or prescribe for any person any opium, morphine, alkaloid-cocaine, or alpha or beta eucaine or codeine or heroin or any derivative, mixture, or preparation of any of them, except to a patient believed in good faith to require the same for medical use and in quantities proportioned to the needs of such patients.

(2) A prescription must be so written that it can be compounded by any registered pharmacist. The coding of any prescription is a violation of this section.

(3) A prescription marked "non repetatur", "non rep", or "N.R." cannot be refilled. A prescription marked to be refilled by a specified amount may be filled by any registered pharmacist the number of times marked on the prescription. A prescription not bearing any refill instructions may not be refilled without first obtaining permission from the prescriber. A prescription may not be refilled for more than 3 years from the date it was originally filled. No narcotic prescription may be refilled."

Section 18. Section 33-22-111, MCA, is amended to read:

"33-22-111. Policies to provide for freedom of choice of practitioners -- professional practice not enlarged. (1) All policies of disability insurance, including individual, group, and blanket policies, and all policies insuring the payment of compensation under the Workers' Compensation Act shall provide the insured shall have full freedom of choice in the selection of any duly licensed physician, physician assistant-certified, dentist, osteopath, chiropractor, optometrist, chiropodist, psychologist, licensed social worker, licensed professional counselor, or nurse specialist as specifically listed in 37-8-202 for treatment of any illness or injury within the scope and limitations of his practice. Whenever such policies insure against the expense of drugs, the insured shall have full freedom of choice in the selection of any duly licensed and registered pharmacist.

(2) Nothing in this section shall be construed as enlarging the scope and limitations of practice of any of the licensed professions enumerated in subsection (1); nor shall this section be construed as amending, altering, or repealing any statutes relating to the licensing or use of hospitals."

Section 19. Section 53-6-101, MCA, is amended to read:

"53-6-101. Definition of medical assistance. (1) The definition of medical assistance shall include:

(a) inpatient hospital services;
(b) outpatient hospital services;
(c) other laboratory and x-ray services;
(d) skilled nursing home services;
(e) physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled nursing home, or elsewhere; and

(f) services provided by nurse specialists, as specifically listed in 37-8-202(5), within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider; and

(g) services provided by physician assistants-certified within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider.

(2) It may also include, although not necessarily limited to, the following:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy and other related services;

(f) clinic services;

(g) services provided by social workers licensed under Title 37, chapter 22;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) any additional medical service of aid allowable under or provided by the federal Social Security Act."

NEW SECTION. Section 20. Codification instruction. (1) [Sections 1 through 6] are intended to be codified as an integral part of Title 37, chapter 20, and the provisions of Title 37, chapter 20, apply to [sections 1 through 6].

(2) [Section 7] is intended to be codified as an integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 7].

NEW SECTION. Section 21. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 22. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 23. Effective date. [This act] is effective on passage and approval."

AND AS AMENDED DO PASS

Signed: *Thomas O. Hager*
Thomas O. Hager, Chairman

Statement of Intent adopted.

*T. C.
2/13/89
12:15
p.m.*

SB 295
2/8/89

Amendments to Senate Bill No. 295
First Reading Copy

Requested by Senator Tom Hager
For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
February 8, 1989

1. Page 2, line 14.

Following: line 13

Insert: "(3) For purposes of this section, the following definitions apply:

(a) "Hazardous substance" means any material or substance that is designated as hazardous by state or federal law, rule, or regulation.

(b) "Release" means any spill, leakage, seepage, or other emission of a hazardous substance.

(c) "Remedial action" includes the investigation, monitoring, cleanup, restoration, abatement, removal, replacement, or other action necessary or appropriate to respond to an actual or threatened release of a hazardous substance."

2. Page 2, line 16.

Strike: "75"

Insert: "27"

Strike: "10"

Insert: "1"

3. Page 2, line 17.

Strike: "75"

Insert: "27, chapter 1, part 7,"

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 2/8/89
BILL NO. SA 323

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

TESTIMONY
on
SENATE BILL 323

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ASSESS A LATE FEE FOR DELINQUENT LICENSE RENEWALS FOR FOOD ESTABLISHMENTS, HOTELS, MOTELS, TOURIST HOMES, RETIREMENT HOMES, ROOMINGHOUSES, CAMPGROUNDS, TRAILER COURTS, WORK CAMPS, AND YOUTH CAMPS; AMENDING SECTIONS 50-50-205, 50-51-204, AND 50-52-202, MCA; PROVIDING A COORDINATION INSTRUCTION; AND PROVIDING AN EFFECTIVE DATE."

The Food and Consumer Safety Bureau is responsible for the administration of three license laws covering food purveyors, public accommodations, and trailer courts/campgrounds. The bureau licensed 7,556 establishments in 1988.

All licenses expire on December 31 following the date of issue and all licensees are notified by letter in early November that their license will expire and they are provided information on renewal.

Most businesses respond in a timely manner. However, between 1,200 - 1,700 remain delinquent as late as February.

To enforce the license laws and bring delinquent licensees into compliance, the department must:

- A. Commit significant staff time to the resolution of the delinquent license problem.
- B. Identify delinquent business through special computer record scans and print second renewal notice forms for each delinquent business.

- C. Mail the second notice to each delinquent establishment. As was noted, this may require between 1,200 and 1,700 letters.
- D. Following adequate response time to the second renewal notice, those licensees still delinquent are sent certified renewal letters and/or receive direct phone calls.

The licensing laws provide that failure to be properly licensed is a misdemeanor and, upon conviction, violators shall be: (1) fined not less than \$50 nor more than \$100 for the first offence; (2) fined not less than \$75 or more than \$200 for the second offence; fined not less than \$200 and imprisonment for not more than 90 days for the third and subsequent offenses.

Because failure to license is a misdemeanor, complaints must be filed in the county where the violation occurred. The costs and administrative activities associated with filing complaints in the many counties involved in the 1200 - 1700 delinquencies precludes this process as a viable solution. It is, however, appropriate for the very few adamant violators.

The current method of dealing administratively with these delinquencies is time consuming and costly. The department believes this bill contains sufficient penalty to encourage timely renewal of licenses, will only impact those licensees who disregard the licensing laws, and will significantly reduce the costs associated with delinquent licenses.

DHES asks that the Committee favorably consider this bill.

Thank you.

James M. Peterson, Chief
Food and Consumer Safety Bureau
Phone extension: 5309

SB 323

2/8/89

Amendments to Senate Bill No. 323
First Reading Copy

For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
February 8, 1989

1. Title, line 12.

Following: "MCA;"

Insert: "AND"

2. Title, line 13.

Following: "INSTRUCTION"

Strike: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 3, lines 24 through 25.

Strike: section 6 in its entirety



CITY-COUNTY HEALTH DEPARTMENT

SENATE HEALTH & WELFARE
EXHIBIT NO. _____
DATE 2/8/89
BILL NO. SB 124

February 8, 1989

Senator Tom Hager, Chairman
Public Health Committee
Montana Senate
Capital
Helena, MT 59620

Dear Senator Hager,

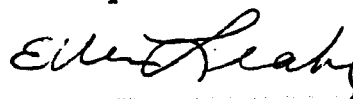
I am writing in support of SB 124 as introduced. As a local public health official who deals directly with AIDS patients and related issues and policies, I can attest that there is no public health consideration which would make it necessary to exclude a person from a long-term care facility solely because that person is infected with the AIDS virus (HIV).

Because the AIDS virus is spread by sexual and bloodborne routes, the type of contact that takes place among residents in an extended care facility poses no risk of transmission. Even medical treatments that could involve a patient's blood pose no risk for other patients and minimal risk to health care workers who are expected to practice the universal precautions set forth by the Centers for Disease Control to protect themselves against pathogens that may be present in any patient's blood.

While there is no danger in admitting AIDS virus infected patients to long-term care facilities, the exclusion of such patients creates a significant societal liability. I recently witnessed a situation in Missoula in which a young man was refused admittance to a nursing home for the very reason he needed care - he had AIDS. Consequently, he was sent to a nursing home in Billings to die. This type of discrimination serves only to deprive persons of necessary care and creates an unnecessary problem for which society must find and fund a solution.

I urge the legislature to pass SB 124 or the problem will likely repeat itself in keeping with the growing number of the AIDS epidemic. Thank you for your consideration of this testimony. Please contact if I can provide further information.

Sincerely


Ellen Leahy, R.N., M.N.
Acting Health Officer

MONTANA WOMEN'S LOBBYIST FUND

P.O. Box 1099

Helena, MT 59624

406/449-7917

Testimony in Support of SB 124
Before Senate Public Health Committee
February 8, 1989

SENATE HEALTH & WELFARE
EXHIBIT NO. 9
DATE 2/8/89
BILL NO. #124

Mr. Chairman and members of the committee,

My name is Brenda Nordlund and I appear on behalf of the Montana Women's Lobby in support of SB 124.

Montana Women's Lobby endorses measures to prevent the human and economic loss relating to AIDS. We support the adoption of a strong and comprehensive state-level AIDS policy including:

1. Provision for adequate resources and funding for prevention, education and direct care;
2. Opposition to mandatory testing;
3. Provisions for informed consent, adequate counseling and confidentiality in conjunction with HIV antibody testing; and
4. Protection for infected and high risk individuals from discrimination.

By prohibiting HIV-related condition discrimination in health care facilities, we are taking one step to assure that those who desperately need care, will not be shut out, because of fear, ignorance or a misguided sense of invulnerability.

Like it or not, the people that will be protected by this bill are not strangers, but our sons and daughters, our uncles and aunts, our brothers and sisters. They are the people who need to be close to caring families and support systems as they struggle to survive in the face of a momentarily insurmountable disease. We must voice our intolerance of discriminatory practices against AIDS victims, whether in workplace, our schools or the admissions office of a health care facility.

Montana Women's Lobby applauds Senator Hager's sponsorship of SB 124 and urges a "do pass" recommendation from this committee.

TESTIMONY IN SUPPORT OF SB 124

2-8-89

3
SENATE HEALTH & WELFARE
EXHIBIT NO. 3
DATE 2/8/89
BILL NO. 124

I am testifying in support of Senate Bill 124 which would prohibit long term care facilities from refusing to admit persons with AIDS.

Thirty cases of AIDS have been diagnosed in the State of Montana. During this past year, I have received five requests for the admission of AIDS victims to my facility. Of the five referrals I received, I was only able to admit one of them. The others either went home to be cared by family members or died before a nursing home bed became available. The hospital personnel involved in placing these people have frequently expressed their frustrations with placing these people in long term care facilities. The reason most commonly given to them for not accepting placement has been " my facility is not prepared to care for them ". The one person I admitted came to my facility from Missoula as there were no nursing home beds available to him in that area. Even though this patient had little family support, his mother did live in Missoula and he had to be transferred to Billings where he died alone. This type of transfer should be done only as a last resort not because it is the only avenue open to him.

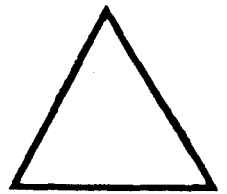
There are Federal regulations that touch on this subject. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against qualified handicapped persons in programs or activities receiving Federal financial assistance. Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving Federal financial assistance must be kept in mind because figures have shown that the incidence of AIDS in some of the minority groups is greater then that of the population as a whole. Due to this, refusing to care for AIDS victims could be considered discriminatory. Those facilities participating in the Medicaid program have a contract stating "any policy by the Contractor[nursing home] limiting the types of care which the Contractor is able to provide, may not violate Federal or

State laws prohibiting discrimination against the handicapped, nor may the Contractor discriminate on the basis of diagnosis". Although these regulations make it difficult to refuse to admit AIDS victims, it does allow facilities not prepared to care for these people to refuse these admissions until they become prepared.

The affect of AIDS is devestating. It is necessary for the staff, residents and family members of the long term care facility to be educated as to the disease, how it is transmitted, the symptoms, and how to care for a person with AIDS. Without this training a facility could not properly care for these individuals. A facility that continues to delay this training could continue delaying the admission of persons with AIDS. Refusal to admit someone should not be because the facility has failed to prepare, but because it truly can not provide the type of care needed. Passage of this bill would cause long term care facilities to become prepared for this type of service allowing those suffering from AIDS to be cared for in a facility close to family and friends. Therefore I urge you to vote in favor of SB 124.

Marie Bousquet, Administrator
St. John's Lutheran Home - Billings Heights
1415 Yellowstone River Road
Billings, Mt. 59105
[406] 245-9330

MONTANA
HEALTH
CARE
ASSOCIATION



SENATE PUBLIC HEALTH COMMITTEE
February 8, 1989

36 South Last Chance Gulch, Suite A
Helena, Montana 59601
406-443-2876

SENATE BILL NO. 124

Proposed amendment:

1. Amend page 1, line 16, as follows:

Delete: "long-term"

Insert: "health"

SENATE HEALTH & WELFARE
EXHIBIT NO. 4
DATE 2/8/89
BILL NO. SB 124

New section (2) will then read:

"(2) (a) A ~~long-term~~ health care facility may not refuse to admit a person to the facility solely because the person has an HIV-related condition."

An Affiliate of

ahca

American Health Care Association

50-5-103. Rules and standards — accreditation by joint commission. (1) The department shall promulgate and adopt rules and minimum standards for implementation of parts 1 through 4.

(2) Any facility covered by this chapter shall comply with the state and federal requirements relating to construction, equipment, and fire and life safety.

(3) The department shall extend a reasonable time for compliance with rules for parts 1 through 4 after adoption.

(4) Any hospital that furnishes written evidence, including the recommendation for future compliance statements to the department of its accreditation granted by the joint commission on accreditation of hospitals, is eligible for licensure in the state for the accreditation period and may not be subjected to an inspection by the department, except that the department may inspect any licensed health care facility to answer specific complaints made in writing by any person against the facility when such complaints pertain to licensing requirements. Inspection by the department upon such complaint shall be limited to the specific area or condition of the health care facility to which the complaint pertains.

History: En. Sec. 171, Ch. 197, L. 1967; amd. Sec. 22, Ch. 366, L. 1969; amd. Sec. 3, Ch. 448, L. 1973; amd. Sec. 74, Ch. 349, L. 1974; R.C.M. 1947, 69-5213; amd. Sec. 2, Ch. 347, L. 1979; amd. Sec. 2, Ch. 432, L. 1981.

Cross-References

Adoption and publication of rules — Montana Administrative Procedure Act, Title 2, ch. 4, part 3.

State Fire Marshal, Title 50, ch. 3.

Fire protection equipment, Title 50, ch. 39.

Building construction standards, Title 50, ch. 60.

50-5-104. Certain exemptions for spiritual healing institution. Parts 1 through 3 and rules and standards adopted by the department may not authorize the supervision, regulation, or control of care or treatment of persons in any home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination. However, a license is required and the minimum standards referred to in 50-5-103(2) apply.

History: En. Sec. 175, Ch. 197, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 69-5217(2); amd. Sec. 3, Ch. 347, L. 1979.

Cross-References

Freedom of religion, Art. II, sec. 5, Mont. Const.

50-5-105. Discrimination prohibited. (1) All phases of the operation of a health care facility shall be without discrimination against anyone on the basis of race, creed, religion, color, national origin, sex, age, marital status, physical or mental handicap, or political ideas.

(2) No person who operates a facility may discriminate among the patients of licensed physicians. The free and confidential professional relationship between a licensed physician and patient shall continue and remain unaffected.

History: En. Sec. 175, Ch. 197, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 69-5217(1); amd. Sec. 4, Ch. 347, L. 1979.

Cross-References

Individual dignity, Art. II, sec. 4, Mont. Const.
Doctor-patient privilege, 26-1-805.

Privileges, Rules 501 through 505, Montana Rules of Evidence (see Title 26, ch. 10).

Freedom from discrimination provided, 49-1-102.

Discrimination in public accommodations prohibited, 49-2-304.

Confidentiality of health care information, Title 50, ch. 16, part 5.

50-5-106. (Temporary) Records and reports required of health care facilities — confidentiality. Health care facilities shall keep records and make reports as required by the department. Before February 1 of each year, every licensed health care facility shall submit an annual report for the preceding calendar year to the department. The report shall be on forms and contain information specified by the department. Information received by the department or board through reports, inspections, or provisions of parts 1 and 2 may not be disclosed in a way which would identify patients. A department employee who discloses information which would identify a patient shall be dismissed from employment and subject to the provisions of 45-7-401 and 50-16-551, unless the disclosure was authorized in writing by the patient, his guardian, or his agent in accordance with Title 50, chapter 16, part 5. Information and statistical reports from health care facilities which are considered necessary by the department for health planning and resource development activities will be made available to the public and the health planning agencies within the state. Applications by health care facilities for certificates of need and any information relevant to review of these applications, pursuant to part 3, shall be accessible to the public.

50-5-106. (Effective July 1, 1989) Records and reports required of health care facilities — confidentiality. Health care facilities shall keep records and make reports as required by the department. Before February 1 of each year, every licensed health care facility shall submit an annual report for the preceding calendar year to the department. The report shall be on forms and contain information specified by the department. Information received by the department or board through reports, inspections, or provisions of parts 1 and 2 may not be disclosed in a way which would identify patients. A department employee who discloses information which would identify a patient shall be dismissed from employment and subject to the provisions of 45-7-401 and 50-16-551, unless the disclosure was authorized in writing by the patient, his guardian, or his agent in accordance with Title 50, chapter 16, part 5. Information and statistical reports from health care facilities which are considered necessary by the department for health planning and resource development activities will be made available to the public and the health planning agencies within the state.

History: En. Sec. 176, Ch. 197, L. 1967; R.C.M. 1947, 69-5218; amd. Sec. 5, Ch. 347, L. 1979; amd. Sec. 13, Ch. 329, L. 1983; amd. Sec. 26, Ch. 632, L. 1987.

Compiler's Comments

1987 Amendment: In fifth sentence inserted references to 50-16-551 and Title 50, chapter 16, part 5.

Effective Date of 1983 Amendment: Section 9, Ch. 477, L. 1987, amended the effective date of

the amendment of this section by Ch. 329, L. 1983, to provide a delayed effective date of July 1, 1989.

Cross-References

Confidentiality of health care information, Title 50, ch. 16, part 5.

50-5-107. Unlawful use of word nursing. It is unlawful for any facility operating in this state to use the word "nursing" in its name, signs, advertising, etc., unless that facility does in fact provide 24-hour nursing care by licensed nurses.

History: En. 69-5203.1 by Sec. 2, Ch. 448, L. 1973; R.C.M. 1947, 69-5203.1.

NAME: KB DATE: 2/8/89

ADDRESS: 1542 54th W SENATE HEALTH & WELFARE

PHONE: 593-10348 DATE: 2/8/89

REPRESENTING WHOM? Missoula AIDS Taskforce BILL NO. SB 124

APPEARING ON WHICH PROPOSAL: SB124

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

COMMENT: I was raised in MT and have moved back to Montana for support for I am infected w/ AIDS virus. I support SB124 strongly for down the road hopefully a long road I will need medical attention and by passing this I cannot be refused medicaid & Medicare supported facilities

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY IN SUPPORT FOR SB 289
2-8-89

1

SENATE HEALTH & WELFARE
EXHIBIT NO. _____
DATE 2/8/89
BILL NO. SB 289

I am testifying in support of SB 289. On January 1, 1988 Lutheran Retirement Home, Inc./ dba/ St. John's Lutheran Home of Billings entered into agreement with Yellowstone County to lease the Yellowstone County Nursing Home located at 1415 Yellowstone River Road, Billings. The lease agreement is for a period of five years and St. John's operates the facility as a satellite to its Rimrock Road facility.

The terms of the lease require that St. John's maintain the premises, keep it in good order and make all repairs necessary. It also requires St. John's to make capital improvement expenditures of at least \$150,000.00 during the five year period of the lease. In addition, Montana State law requires that a building must be brought up to current codes when a new lease situation occurs.

During 1988 as we investigated the needs for capital improvements, we found that the improvements which were necessary to bring the facility up to codes would far exceed the \$150,000.00 required by the lease. It will cost approximately \$450,000.00 to make the mandated health and safety improvements and other renovation we feel are necessary for upgrading the facility.

St. John's Lutheran Home is willing to make this commitment and we are in the process of developing plans and securing financing for the project.

The Board of Directors have been negotiating with the Yellowstone County Commissioners for approval of our plans and have requested an extension of the lease in order to allow us sufficient time to recoup the money we will have invested in the project. Present state statutes prevent the Commissioners from extending the lease beyond the five year period.

We, of St. John's, feel that our willingness to invest this amount of money in a county owned facility is an act of good faith and an indication that we are intentional about the ministry being done at St. John's-Heights. We also feel that this investment will help both Yellowstone County and the State of Montana. We are, though, concerned that we are able to protect our investment since we have no guarantee that at the end of this five year period we will be awarded another five year lease. Authorizing the Yellowstone County Commissioners to enter into lease agreements of more than five

years makes interfacing of public and private sectors a greater possibility, allows private sector money to be invested with little or no risk, and in some cases results in better administration of facilities.

The Yellowstone County Commissioners and the Board of Directors of St. John's have worked closely together to develop an innovative approach to providing quality long term care for the elderly and others in need of such care. Passage of SB 289 will support this endeavor. I urge passage of SB 289.

Beverly Peterson, President Board of Directors
Lutheran Retirement Home, Inc.
3940 Rimrock Road
Billings, MT 59102
(406)656-2710

①

SENATE HEALTH & WELFARE
EXHIBIT NO. _____
DATE 2/8/89
BILL NO. SB 289

As an audiologist and hearing aid dispenser I wholeheartedly recommend passage of this bill. Although I am chairman of the Board of Hearing Aid dispensers, I would like to submit this as personal testimony.

FACT #1: The number of complaints (not the percentage) originating from consumers of hearing aid services in Montana is the third highest of any group licensed under the Department of Commerce, even though the number of licensees is the second smallest. In no way can this bill be construed to provide anything but positive steps towards changing this unfortunate historical pattern. We cannot legislate morality, but we can strengthen the present statute so that consumers can make informed choices and have reasonable protection from abusive sales practices. The bill will also provide an avenue for upgrading the training and supervision of persons entering the field of hearing aid dispensing. This can have only a positive effect on our professional image and the service we provide.

FACT #2: Section 11, which insures the consumer the right to cancel a purchase under certain conditions, is a critical component of this bill. The only reason this requirement did not become Federal Law after a few years ago was that it was determined that most states had statutes which already provided for that type of protection. Montana does not.

FACT #3: There are now ten other states which mandate 30-day rescission privileges for consumers. I personally contacted, at random, half of their state's regulatory agencies, and without exception all of them reported a dramatic decrease in abusive practices, without penalizing the ethical dealer in any way.

I ask that you please make a conscious decision based on the facts presented here, and not on emotional rhetoric to pass this bill in the best interest of protecting Montana consumers.

Lee E. Micken

Lee E. Micken, M.A.
Chairman
Board of Hearing Aid Dispensers

3

DATE: February 8, 1989

TO: Senator Tom Hager, Chairman, Public Health, Welfare, and Safety Committee.

SENATE HEALTH & WELFARE

FROM: David E. Evans, Secretary of the Montana Hearing Aid Society.

EXHIBIT NO. 2

SUBJECT: Statement of Opposition to SB 299.

DATE 2/8/89

BILL NO. SB 299

The Montana Hearing Aid Society is a professional organization composed of Montana licensed hearing aid dispensers. The present members of the society are all Montana residents, doing business in Montana as hearing aid dispensers. Together, they account for the majority of hearing aid fittings made in the state and provide almost all of the in-home services and fittings available. SB 299 is primarily designed to effect these dispensers and to limit or eliminate their ability to provide in-home hearing aid services to the people of Montana. The ultimate effect of the bill would be to force them out of business, leaving the industry to dispensing audiologists who presently do a minority of the business, but control the Board of Hearing Aid Dispensers and proposed this legislation.

Letters and documents attached to this statement will help to establish this position and show the true motivation behind this legislation.

Specific problems with the legislation are so numerous as to render it totally unworkable. These problems include:

1.) The addition of the term "related devices" to hearing aids. Page 3, line 1 and 2 throughout the bill. "Related devices" can include everything from batteries to amplified telephone handsets which are presently sold in most drug and discount stores, telephone stores, electronics stores, etc., and for which there is absolutely no need for regulation.

2.) Page 3, line 18, Section 4. Requires that a licensed dispenser be made responsible for actions of other licensed dispensers. Most dispensers function as independent contractors and, by virtue of being licensed by the state, are presumed competent. This not only changes the relationship, it creates a subclass of licensee and forces one licensee into a position where he can be held responsible and lose his livelihood over the actions of another fully licensed individual for whom he cannot realistically be responsible.

3.) Page 4, line 12. The Board wants to establish, by rule, staffing and equipment of an office. Present law requires an office to have adequate equipment to serve the public. This section gives the Board free reign to impose unrealistic standards on branch offices in order to make growth and expansion of a business impractical.

4.) Page 4, Section 3. The effect of adding "and related devices" to hearing aids would now require a complete purchase agreement including warranty, license numbers, etc., for any related device such as a package of batteries. This is obviously unworkable considering where these items are sold.

5.) Page 6, line 20 would allow the Board to establish minimum requirements for the form of bills and receipts. This is an unnecessary extension of authority.

6.) Page 7, line 20. A three failure limit on the exam could force sale of small family businesses by denying a license to an heir who may be able to pass the test later. It

serves to close the business opportunity to people who may fail a test due to stress or personal problems. The item is arrogant and unreasonable.

7.) Page 8, line 14. The requirement for 300 hours of direct supervision in a 6 month period is unnecessary and designed to pose problems for out of office dispensers. Most companies have adequate training programs dictated by simple economic reality. Poorly trained dispensers are not effective, cause problems, and will not pass the practical exam at the end of their training period. The Board's attempt to require direct physical presence of a supervisor is simply an attempt to make training in-home dispensers excessively difficult to cut down on their numbers.

8.) Page 10, line 6. It is internally inconsistent for the bill to require that a dispenser be licensed for one year before becoming a sponsor. When a person is issued a license to dispense hearing aids, they are considered competent to perform all functions of a hearing aid dispenser, or they should not get the license. Sponsorship of a trainee is a function of a hearing aid dispenser, and this is an attempt to create a class system of licenses and restrict business growth.

9.) Page 10, line 8. The requirement on only 2 trainees at one time serves only to restrict business growth. The trainee period is one year, of which, only a limited portion requires direct supervision, even with this proposed legislation. Many trainees will not complete their training, as in any field. This proposal simply prevents a small business from establishing an efficient and ongoing training program.

10.) Page 15, line 24. The New Section 10. The Board wants authority to order restitution. This is a contractual matter and not within the proper authority of this type of Board. If a dispenser has been found guilty of violating the law or rules, the consumer has adequate cause to seek a refund in a court of law, which can also provide penalties and refund the court costs. Expanding this authority to the Board is usurping the authority of the courts.

11.) Page 16, line 9. The New Section 11. Providing for 30 day right to cancel.

This provision is neither necessary nor workable as related to in-home sales and will effectively eliminate in-home hearing help in Montana or make it prohibitively expensive.

A hearing aid is a custom made instrument requiring personalized fitting and adjustment. This is a considerable expense to the dealer, especially if the dealer is also the manufacturer, as some in Montana are. A great deal of importance must be given to proper counseling and accurately representing and demonstrating what a hearing aid will do. If this is not properly done, then the hearing aid has been misrepresented and a fraud has been committed. This allows the consumer to get a refund in court.

If the hearing aid has been properly represented, it is not proper to expose the dealer to demands for a full refund on a product which is custom made, at considerable expense, and of no use to anyone else. Many patients will return aids needing only simple adjustments, or because they hear about a different brand, style, or price. There is no other product in the health care field — glasses, dentures, medical services, etc.— that is subject to this requirement.

The only possible result of this will be to drive up overall costs to patients who need in-home care or force hearing aid services into low overhead in-office-only situations.

12.) Page 17, line 16. New Section 12. This section on testing procedures is wide open to abuse. The current law provides for use of appropriate testing procedures. This proposal gives the Board authority to establish minimum testing procedures. Ideas and equipment that are practical in an office setting are not necessary or practical in a customer's home. By the simple act of requiring pure tone testing in a sound insulated room, the entire in-home area of service, and all non-audiologist dispensers in Montana, would be eliminated.

The Board of Hearing Aid Dispensers has established that they are hostile to the non-audiologist dispensers in Montana and that they want to eliminate hearing aid dealers except themselves.

The composition of the Board is as follows:

Lee E. Micken - Audiologist, helped write this bill.

Douglas E. Rehder - Audiologist, helped write this bill.

Wilson Higgs - MD, has dispensing audiologist associate.

Byron Randall - Hearing Aid Dispenser, on record as Montana Hearing Aid Society member, opposes this bill.

Attached is a complaint filed against Mr. Douglas Rehder, Member of the Board of Hearing Aid Dispensers, for using this position to disparage non-audiologist competitors by sending out newsletters stating in part "Professionally, I feel it is not possible to do the appropriate testing and fitting of a custom made hearing aid in an individual's home."

Also attached are copies of complaints filed against Board Members Douglas Rehder, Lee Micken, and Board Member Dr. Wilson Higgs' associate, Milia Bredscheid, for advertising defamatory to non-audiologist dispensers.

A copy of the Montana Hearing Aid Society position on this legislation and membership roster is also attached.

This is an example of self serving legislation, proposed by people who do a minority of the business, but dominate the Board of Hearing Aid Dispensers. The legislation is wrapped in the mantle of consumer protection when, in fact, it is designed to restrict service and competition and force out of business many honest business people. This legislation can only harm the hearing impaired public of Montana.

On behalf of the Montana Hearing Aid Society and the people of Montana, I urge you to vote against SB 299.

DE

September 27, 1988

Montana Hearing Aid Society
P.O. Box 1702
Great Falls, MT 59403

Board of Hearing Aid Dispensers
Department of Commerce
1424 Ninth Avenue
Helena, MT 59620-0407

Re: Proposed legislation to change the Statutes and Rules Regulating
the Practice of Hearing Aid Dispensing in Montana.

Dear Board of Hearing Aid Dispensers:

The Montana Hearing Aid Society held its scheduled meeting on
September 24, 1988. Membership present constituted a quorum.

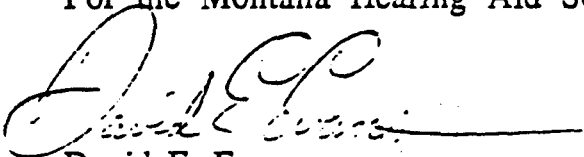
In accordance with the Board of Hearing Aid Dispensers letter
of September 15, 1988 the draft legislation proposed by the Board
was carefully reviewed. It is the opinion of the members of the
Montana Hearing Aid Society that the proposed legislation is
unnecessary and not in the best interests of the hearing aid industry
or consumers in Montana. It shall be the official position of the
Montana Hearing Aid Society to oppose all portions of this proposed
legislation. The Montana Hearing Aid Society feels that the Board of
Hearing Aid Dispensers has adequate power and authority under the
present law to carry out its legitimate function. The vote in support
of this position was unanimous.

The members of the society are very concerned with the
consumer complaints that are directed to the Board and feel that the
Montana Hearing Aid Society can and must take action on the
problem on a voluntary basis.

The society proposes to the Board that the Board forward all
complaints against society members to the Montana Hearing Aid
Society Ethics Committee. The Ethics Committee will investigate the
complaint and attempt to arrange a voluntary settlement between
the person filing the complaint and the dealer. A full report will be
provided to the Board by the MHAS Ethics Committee. All

settlements will be subject to final approval by the Board of Hearing Aid Dispensers and the Board will retain all of its present power and authority. The decision of the society members to voluntarily work with the Board and each other to resolve the complaint problem was unanimous.

For the Montana Hearing Aid Society

A handwritten signature in cursive script, appearing to read "David E. Evans", with a long horizontal flourish extending to the right.

David E. Evans
Secretary

MONTANA HEARING AID SOCIETY - MEMBERSHIP October 1988

<u>FIRST NAME</u>	<u>LAST NAME</u>	<u>ADDRESS</u>	<u>CITY</u>	<u>ZIP</u>	<u>PHONE</u>
Gary	Baker	Rt 1, Box 1213B	Hardin, MT	59034	727-7269
Jule	Blalock	632 34th Ave NE	Gt. Falls, MT	59404	761-1366
Dale	Bolz	240 1st Ave W	Kalispell, MT	59901	752-8800
✓ Betty	Carpenter	P.O. Box 6098	Gt. Falls, MT	59401	761-4128
Virginia	Dennison	1100 E. Or #10	Kalispell, MT	59901	752-8800
Barbara	Dougherty	Box 507	Columbia Fls., MT	59912	892-1703
Bob	Dougherty	Box 507	Columbia Fls., MT	59912	892-1703
✓ David	Evans	3301 14th Ave S	Gt. Falls, MT	59405	727-7269
John	Faure	175 Brook Dr	Kalispell, MT	59901	752-1234
William	Fowler	1135 Strand	Missoula, MT	59801	721-9066
Joyce	Hale	1118 Marcia	Butte, MT	59701	782-6728
Roger	Hale	1118 Marcia	Butte, MT	59701	782-6728
✓ Walter	Hopkins	725 1st Ave N	Gt. Falls, MT	59401	727-7269
✓ John	Lofms	725 1st Ave N	Gt. Falls, MT	59401	727-7269
✓ Reg	McCutcheon	P.O. Box 176	Victor, MT	59875	642-6631
✓ Leslie	Miller	240 1st Ave W	Kalispell, MT	59901	752-8800
Jeri	Newman	403 B Jefferson	Belgrade, MT	59714	388-4842
✓ Jim	Odom	P.O. Box 232	Stevensville, MT	59870	777-3880
Byron	Randall	128 2nd St. E	Kalispell, MT	59901	755-5077
✓ LaVern	Richard	307 N. 4th St.	Hamilton, MT	59840	363-5212
W.T.	Senger	730 E Main Ste 202	Billings, MT	59107	245-6030
✓ Don	VanDeRiet	725 1st Ave N	Gt. Falls, MT	59401	727-7269

BOARD OF HEARING AID DISPENSERS

1424 9th Avenue

Helena, Montana 59620

(406)444-5433

COMPLAINT

Date July 5/1988

Complaint Against Douglas Rehd
(Give Dealers name,
firm name and address)

Date of purchase _____ Price _____

Was purchase made by cash
or contract? _____

Provide details _____

Enclose a copy of sales agreement or contract. Describe your complaint
in full detail, providing dates. If service for your aid is part of
this complaint, give information about dealer calls, services rendered
centers and etc. Use back of this form if necessary.

Enclosed is a copy of Rocky Mountain
Hearing & Speech Services dated 11/1987

Action requested of board Was complaint and letter
enclosed.

I, William Deale

CERTIFY UNDER PENALTY OF PERJURY to the truth and accuracy of all state-
ments made on this form, including all statements or documents attached
hereto.

Name William Deale
Address 1135 Strand
City Missoula

Montana Hearing Aid Society
William V. Fowler
1135 Strand
Missoula, MT 59801

July 5, 1988

Board of Hearing Aid Dispensers
Department of Commerce
1424 Ninth Avenue
Helena, MT 59620-0407

Re: Complaint against Board of Hearing Aid Dispensers member
Douglas E. Rehder

Upon his appointment to the Board of Hearing Aid Dispensers in August of 1987, one of Mr. Rehder's first actions was to specifically violate section 37-16-411 (10) of the statutes and rules regulating the practice of Hearing Aid Dispensing in Montana.

In his November 1987 Newsletter (copy attached), Mr. Rehder included a section on Door-to-Door sales and contracts. In this section he states his opinion that it is not possible to do the appropriate testing and fitting of custom made hearing aids in the home. In view of the fact that he made this statement immediately following the paragraph announcing his appointment to the Board of Hearing Aid Dispensers, he has intentionally given his personal bias a very official connotation that is unjustified and falsely disparaging of his competitors business methods. This is a direct violation of the above quoted section of statutes and rules.

Mr. Rehder goes on to state that salespeople are going around telling people one thing verbally but that the contract says something else. This is again falsely disparaging the business methods of his competitors and falsely imputes to them dishonest conduct.

In several places in this newsletter, Mr. Rehder refers to an unacceptably high or ever growing amount of consumer abuse that exists in

the hearing aid industry. At no time does he give any specific reference or justification for this except to imply that it is a result of his competitors not doing business exactly the same way that he does. Once again this is a violation of section 34-16-411 (10) of the statutes and rules that specifically forbids falsely disparaging the business practices of competitors.

The purpose of the Board of Hearing Aid Dispensers is not, and never has been, to promote the interest of a particular dispenser or group of dispensers at the expense of other lawfully licensed dispensers. For a member of the Board to use his position to promote his own business practices and disparage the practices of his competitors in any way, much less in a published newsletter, is an ethical violation of such magnitude that it can only be resolved by Mr. Rehder's resignation or removal from the Montana Board of Hearing Aid Dispensers. Following his removal from the Board, action should be taken against his license for unethical conduct both for the specific violations cited under section 37-16-411 (10) and for using his appointed position on the Board for personal gain.

This complaint is filed on behalf of the majority of the Members of the Montana Hearing Aid Society, and it is requested that the Society be informed at least (2) two weeks in advance of, and included in, all discussions, meetings and conference calls related to this complaint.

Sincerely,

A handwritten signature in cursive script that reads "William V. Fowler". The signature is written in black ink and extends across the width of the page.

William V. Fowler
President
Montana Hearing Aid Society

dlo



Rocky Mountain Hearing & Speech Services

Audiologist

Hearing Aid Dispenser

Speech Pathologist

Suite 360 1537 Avenue D 245-6893

Billings, MT 59102

Douglas E Rehder, M.A., CCC-AISP

EAR NEWS

November 1987

Greetings:

This is our sixth, and somewhat overdue, issue of "Ear News". We again will be touching on a few items that I hope are of interest to all of you. Most importantly, for those of you who haven't already heard, Danette (Bunny) and her husband Doug Cerise are the proud parents of a baby boy. Tyler Douglas was born on February 12, 1987. Needless to say, baby Tyler is keeping Mom and Dad very busy. Oh, the joys of parenthood!

WE WISH YOU ALL A HAPPY HOLIDAY SEASON!!!!!!

BOARD APPOINTMENT

I am quite pleased and proud to announce that this last August I was appointed by the Governor of the State of Montana, Ted Schwinden, to serve for a three year term on the Montana Board of Hearing Aid Dispensers. The purpose of this Board is to insure the best possible consumer protectionism in the area of hearing and hearing aid sales. I will do my utmost to serve the hearing impaired in the state of Montana. It is through this position that I have become aware of some of the abuses that have taken place in the past in regard to the selling of hearing aids in the state of Montana. Although the present law does take steps to insure some degree of consumer protection, it is apparently inadequate in light of the amount of consumer abuse that exists. Unfortunately, this appointment will take me out of the office periodically for meetings in Helena. Danette will always be here to serve you in my absence. The next three years should prove to be quite interesting and hopefully productive.

DOOR-TO-DOOR SALES AND CONTRACTS

We do not fit/sell hearing aids on a door-to-door basis. Never have and never will. Professionally I feel it is not possible to do the appropriate testing and fitting of a custom-made hearing aid in an individual's home. However, many people continue to buy hearing aids from the door-to-door salesperson. If you have a friend who is going to do this, please caution them that they should thoroughly and completely read the Purchase Agreement/Contract before signing the contract. There appears to be an ever growing increase in con-

Handwritten initials

September 27, 1988

Montana Hearing Aid Society
P.O. Box 1702
Great Falls, MT 59403

Board of Hearing Aid Dispensers
Department of Commerce
1424 Ninth Avenue
Helena, MT 59620-0407

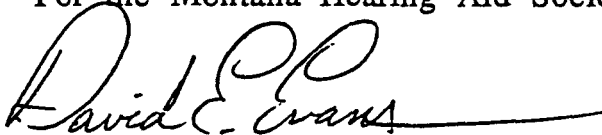
Re: Montana Hearing Aid Society: complaint against Board of Hearing Aid Dispensers member Douglas Rehder.

Dear Board of Hearing Aid Dispensers:

The complaint filed against Douglas Rehder by William Fowler on behalf of the Montana Hearing Aid Society was discussed at the September 24, 1988 society meeting. The complaint, the progress of the investigation and Mr. Rehder's reply were examined.

A resolution was passed unanimously (17-0) to inform the Board of Hearing Aid Dispensers that the complaint does in fact represent the position of the Montana Hearing Aid Society and that the MHAS members fully concur with the substance of the complaint and the actions recommended.

For the Montana Hearing Aid Society,



David E. Evans
Secretary

Enclosure: Minutes of MHAS meeting of 9-24-88

cc: Chuck Hauge - Licensing Board Investigator

BOARD OF HEARING AID DISPENSERS

1424 9th Avenue

Helena, Montana 59620

(406) 444-3433

COMPLAINT

Date October 14, 1988

Complaint Against Douglas E. Rehder
(Give Dealers name,
firm name and address) 1537 Ave. D Suite 360
Billings MT 59102

Date of purchase _____ Price _____

Was purchase made by cash
or contract? _____

Provide details _____

Note: This same complaint was filed against Board Member Lee Micken, Associate of Board member Melia Briedscheid and Audiologist Pat M. Ingals. Only one copy is enclosed To cut down the paper.

Enclose a copy of sales agreement or contract. Describe your complaint in full detail, providing dates. If service for your aid is part of this complaint, give information about dealer calls, services rendered centers and etc. Use back of this form if necessary.

See Attached Letter
.....
.....
.....
.....
.....

Action requested of board Revocation of license to dispense hearing aids, Removal from Board of Hearing Aid Dispensers
.....
.....

I, David E. Evans

CERTIFY UNDER PENALTY OF PERJURY to the truth and accuracy of all statements made on this form, including all statements or documents attached hereto.

Name David E. Evans
Address 725 1st Ave. N.
City Great Falls MT 59401

BOARD OF HEARING AID DISPENSERS

1424 9th Avenue

Helena, Montana 59620

(406) 244-3433

COMPLAINT

Date October 14, 1988

Complaint Against Lee E. Micken
(Give Dealers name,
firm name and address) Medical Arts Hearing Center
300 N. Wilson, Suite 603 F
Bozeman MT 59715

Date of purchase _____ Price _____

Was purchase made by cash
or contract? _____

Provide details _____

Enclose a copy of sales agreement or contract. Describe your complaint in full detail, providing dates. If service for your aid is part of this complaint, give information about dealer calls, services rendered centers and etc. Use back of this form if necessary.

See Attached Letter
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Action requested of board Revocation of license to dispense hearing aids, Removal from Board of Hearing Aid Dispensers.

I, David E. Evans

CERTIFY UNDER PENALTY OF PERJURY to the truth and accuracy of all statements made on this form, including all statements or documents attached hereto.

Name David E. Evans

Address 725 1st Ave. N.

City Great Falls MT 59401

COMPLAINT

Date October 14, 1988

Complaint Against Melia Briedscheid
(Give Dealers name,
firm name and address) Medical Arts Hearing Services
210 Sunnyview Ln. #101, Kalispell MT 59901-3191

Date of purchase _____ Price _____

Was purchase made by cash
or contract? _____

Provide details _____

Enclose a copy of sales agreement or contract. Describe your complaint
in full detail, providing dates. If service for your aid is part of
this complaint, give information about dealer calls, services rendered
centers and etc. Use back of this form if necessary.

See Attached Letter

Action requested of board Revocation of license to dispense hearing
aids. Stop the practice of Negative advertising.

I, David E. Evans

CERTIFY UNDER PENALTY OF PERJURY to the truth and accuracy of all state-
ments made on this form, including all statements or documents attached
hereto.

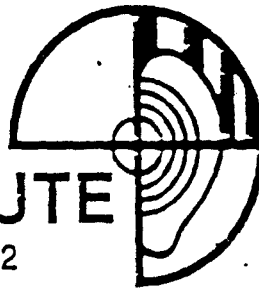
Name David E. Evans

Address 725 1st Ave. N.

City Great Falls MT 59401

HEARING AID INSTITUTE

525 FIRST AVENUE NORTH / P. O. BOX 1702
GREAT FALLS, MT 59403
727-7269 / 1-800-331-6009



October 14, 1988

Board of Hearing Aid Dispensers
1424 Ninth Avenue
Helena, MT 59620-0407

Re: Complaint against Hearing Aid Dispenser Douglas E. Rehder.

Dear Board of Hearing Aid Dispensers:

In the October 1988 issue of Rural Montana, Douglas E. Rehder caused to be published an advertisement that specifically violates section 37-16-411(10) of the Statutes and Rules Regulating the Practice of Hearing Aid Dispensing in Montana.

The advertisement states in part: "Unfortunately many in the hearing field are focused on selling hearing aids and will make outlandish claims of restoring perfect hearing to sell more instruments."

To make outlandish claims to sell more hearing aids is to make false representation to induce a sale which is not only unethical but clearly illegal. This advertisement is therefore accusing unspecified competitors of unethical and illegal conduct without any basis or proof.

Douglas E. Rehder specifically violated section 37-16-411(10), by falsely imputing dishonorable conduct to competitors by claiming that they will make outlandish claims to sell more instruments. This has directly harmed Hearing Aid Institute and all non-audiologist dispensers by damaging their public image and base of customer confidence.

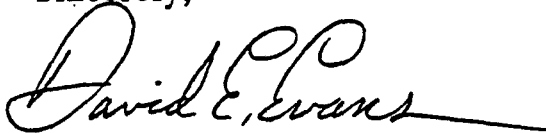
OFFICES IN

Billings • Missoula • Kalispell • Butte

Douglas E. Rehder specifically violated section 37-16-411(10) by falsely disparaging the business methods of competitors by claiming that sales oriented dispensers will make outlandish claims to sell more instruments. This has directly harmed Hearing Aid Institute and all non-audiologist dispensers by damaging their public image and base of customer confidence.

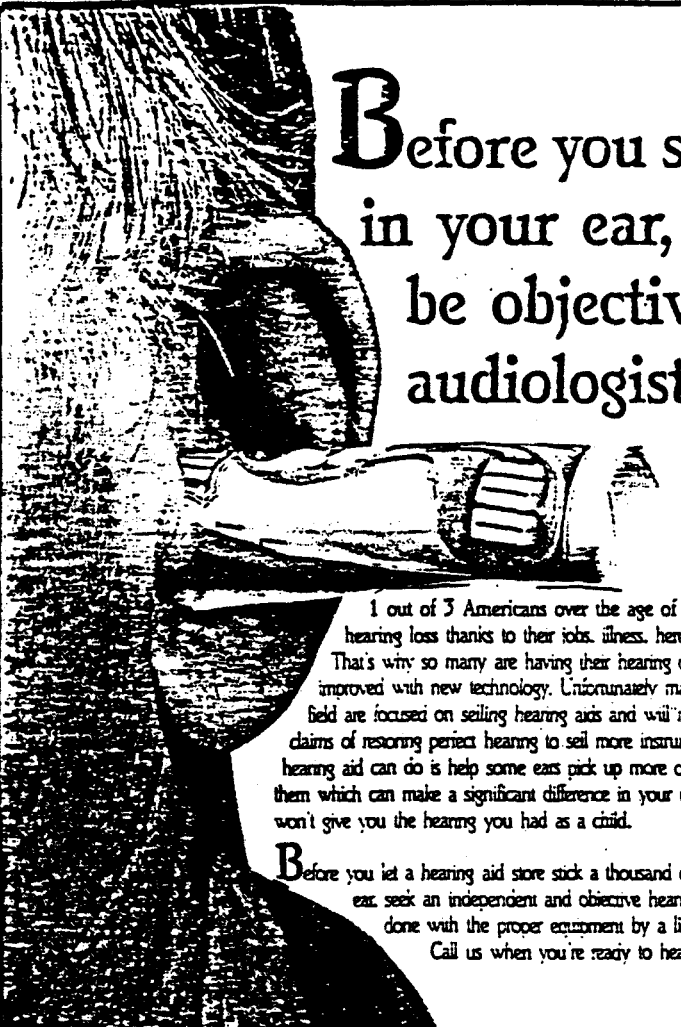
This type of conduct is grounds for action against the perpetrators license under section 37-16-411 and such action is hereby requested. In addition Douglas E. Rehder is a member of the Board of Hearing Aid Dispensers and as such is charged with upholding and enforcing the Statutes and Rules. For a member of the Board to publically profess this type of bias is absolutely intolerable. For them to be so consumed by it as to violate the law is worse. It is hereby requested that Douglas E. Rehder immediately resign or be removed as a member of the Board of Hearing Aid Dispensers.

Sincerely,

A handwritten signature in cursive script that reads "David E. Evans". The signature is written in dark ink and has a long, sweeping underline that extends to the right.

David E. Evans
General Manager
Hearing Aid Institute

dlo



Before you stick as much as \$1000
in your ear, should your hearing
be objectively tested by an
audiologist?

1 out of 3 Americans over the age of 50 have some hearing loss thanks to their jobs, illness, heredity, or just aging. That's why so many are having their hearing checked and often improved with new technology. Unfortunately many in the hearing field are focused on selling hearing aids and will make outlandish claims of restoring perfect hearing to sell more instruments. All a hearing aid can do is help some ears pick up more of the sounds around them which can make a significant difference in your quality of life but won't give you the hearing you had as a child.

Before you let a hearing aid store stick a thousand dollar device in your ear, seek an independent and objective hearing examination done with the proper equipment by a licensed audiologist. Call us when you're ready to hear the real story.

DOUGLAS E. REHDER, MA, CCCA/SP
1577 Ave. D, Suite 360
Billings, MT 59102
(406) 245-6893 or 1-800-227-3181

Board
Member

LEE E. MICKEN, MA, CCCA
Medical Arts Hearing Center
300 N. Wilson, Suite 607 F
Bozeman, MT 59715
(406) 586-0914

Board
member

PAT M. INGALLS, MS, CCCA
Highlands Hearing Center
1369 Harrison Ave.
Butte, MT 59701
(406) 723-6600

MELIA BIEDSCHEID, CCCA/SP
Medical Arts Hearing Services
210 Surawynne Ln., #101
Kalispell, MT 59901-3191
(406) 752-1014

Employed
By Board
member

Kalispell Hearing Aid Center

MONTANA MIRACLE EAR

"NEXT TO THE POST OFFICE"

240 - 1ST AVENUE WEST - KALISPELL, MT 59901
(406) 752-8800

Miracle-Ear®

Miracle-Ear Center
A Franchise of
Dahlberg Electronics, Inc.

128 2nd St. East
Kalispell, MT 59901

October 28, 1988

Board of Hearing Aid Dispensers
Helena, Montana

This is a formal complaint against these advertisers because it is in violation of MCA 37-16-411 (10), 170G-4.06 F.T.C. (21) (25B) (26).

This advertisement may connote that: 1. We are not "objective" in our testing; 2. We are making "outlandish claims" to our clients; 3. We do not have "the proper equipment" to test hearing for a hearing aid fitting; and 4. We don't tell the "real story".

Two of these advertisers are on the State Board of Hearing Aid Dispensers and obviously know the state laws and regulations. A third advertiser is employed by a member of the Board of Hearing Aid Dispensers.

We hereby request: 1. A written explanation; 2. A printed public retraction and apology and; 3. Discipline by the Board of Hearing Aid Dispensers.

Dale A. Bolz

Burton J. Dougherty

Virginia Rannison

John D. Newman

Dee Selkirk

Leslie Miller

K B Asworth

Jeri D. Newman
Deborah L. Selkirk

Antonio C. Adrignone

Jim [unclear]
Randi Miller

John B. Faure

al c near

D L [unclear]

Robert E. Dougherty President, Montana Hearing Aid Assoc.

Kalispell Hearing Aid Center

 MONTANA MIRACLE EAR

"NEXT TO THE POST OFFICE"

240 - 1ST AVENUE WEST - KALISPELL, MT 59801

(406) 752-0800

December 15, 1988

Mr. W. James Kembel, Administrator
Department of Commerce
Business Regulation Division
1424 Ninth Avenue
Helena, MT 59620-0407

RE: Your November 16, 1988, letter

Dear Mr. Kembel:

Thank you for your letter, but the subject still needs to be addressed. There is a flagrant violation of not only Montana Statute MCA 37-16-411 (10), but also Federal Trade Commission Trade Practice Rules for the Hearing Aid Industry. A copy of each is enclosed for your files. The FTC Code is 170G 4.06 (24), (25b), (26).

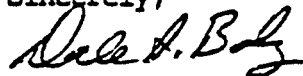
Not only was the advertisement in question in the October Rural Montana, but it was again placed in the November and December issues. Copies of each are also enclosed. This publication serves approximately 300,000 Montanans, as it's front page advertises.

What was the purpose of the ads? The ads are clearly meant to make audiologists, portrayed by the advertisers, look good, and make hearing aid dispensers look bad. It is a vicious, malicious, premeditated attack. How can the public determine which dispensers are good or bad if the general connotation is bad. It casts a negative light on hearing aid dispensers. The advertisers dislike, disrespect, and contempt for hearing aid dispensers is clear in the tenor of the ad. It additionally puts into question the audiologists' objective ability to serve on the Board of Hearing Aid Dispensers. The advertisers obviously know there is regulation against defaming or disparaging competitors. Especially those on the Board who are supposed to be exemplary due to their appointment. Doug Rehder has previously sent out other defaming material to hearing impaired people through the mail, which the Board of Hearing Aid Dispensers should already be aware of. Since they serve in an exemplary capacity, they should carry a heavier judgment.

Allowing the December issue to be published is an outrage.

Again, I hereby request: 1. A written explanation; 2. A printed public retraction and apology and; 3. Discipline by the Board of Hearing Aid Dispensers.

Sincerely,



Dale A. Bolz, Board Certified
National Board for Certification in Hearing Instrument Sciences

xc Board of HAD; Gov. Ted Schwinden/Stan Stephens

THE HEARING HERALD

FEBRUARY & MARCH 1989 SENATE HEALTH & WELFARE

HEARING AID INSTITUTE, INC.

EXHIBIT NO. 3

PATIENT DATE 2/8/89
OF THE MONTH BILL SB 299

Patient of the month is a feature of the Hearing Herald. In every issue we will feature a picture and short article about one of our patients and the benefits they have received from better hearing. If you or someone you know would like to be featured in this section please let us know by calling 1-800-331-6009 and asking for Gayla. Read on and get to know our patient of the month.

Lexington, Oklahoma, October 3, 1909, Richard Hart made his entrance into a troubled world. It is fortunate that he would prove to have such great resilience, adaptability, and a spirit to achieve.

By the time Richard was 36 years old, he had survived: being the only boy with three older sisters, numerous moves, two world wars, and the great depression. Richard was only 17 when his father was killed in an accident with a team of runaway horses and a sleigh. The brightest spot in this drama was his marriage to Luella Merz.

As a youngster, Richard spent much of his time on ranches in the West Tulsa and Omulgee, Oklahoma, areas. In 1919, the Hart family moved to Montana, ranching near McAllister and, later, dairy farming in the beautiful Gallatin Valley. In spite of his farm and ranch experience, Richard had a fondness for baking, and he developed these skills while working at a bakery in Belgrade.

When tragedy struck with the sudden death of his father, Richard and his mother sold the dairy and purchased the Primrose Baker in Townsend. The business was beginning to grow until the stock market crash in 1929.



At this point, Richard moved to Spokane, Washington, seeking any kind of work, but hoping for a job as a baker. Jobs were scarce; and, although he was not of legal age, Richard decided to have his mother sign a waiver for his enlistment in the Army. The recruiter had assured him that for his first duty station he would see Hawaii. Unfortunately, when the Army discovered that Richard was skilled in typing and shorthand, what he saw was the base at Spokane where they desperately needed clerks.

At this point it would have been difficult for Private First Class Hart to imagine that, by 1955, he would retire as a Lt. Colonel—a lofty dream for a young man whose main motivation was to have the assurance of three square meals a day.

Richard was so busy trying to establish himself that he was 27 years old before he thought about marriage. Luella Merz, from the Wolf Creek and Helena area, was the lady who changed a confirmed bachelor into a devoted husband through

cont. page 2



Did Not Testify

SB 299
2/8/89

SENATE HEALTH & WELFARE

EXHIBIT NO. _____

DATE 2/8/89

BILL NO. SB 299

February 7, 1989

Senator Tom Hager
Public Health, Welfare and
Safety Committee

RE: SB 299

Dear Senator Hager:

I was fit with hearing aids for both ears in my home. I had needed hearing help for several years but never got around to getting it. The hearing aids help very much and I could not get along without them. The person who tested me from Hearing Aid Institute did a very good job and they have always given excellent service.

I am very pleased with my hearing aids and would probably never have gotten help if someone had not come to me in my home. Please vote against SB 299 as it would make good hearing services in the home much harder or more expensive to get.

Sincerely,


Stan King

Amendments to Senate Bill No. 26
First Reading Copy

Requested by Senator Cecil Weeding
For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
February 10, 1989

1. Title, lines 4 through 13.

Following: the second "AN ACT" on line 4

Strike: remainder of line 4 through line 13 in its entirety

Insert: "PROVIDING FOR APPROVAL OF PHYSICIAN ASSISTANTS-CERTIFIED; REGULATING THE PRACTICE OF PHYSICIAN ASSISTANTS-CERTIFIED, INCLUDING PRESCRIBING AND DISPENSING AUTHORITY, BILLING PROCEDURES, AND LOCUM TENENS PRACTICE; AMENDING SECTIONS 33-22-111, 37-3-103, 37-7-401, 37-20-101 THROUGH 37-20-104, 37-20-202, 37-20-301 THROUGH 37-20-303, AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

2. Page 1, line 15.

Following: line 14

Insert: " STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 4 and 13] grant or extend rulemaking authority to the board of medical examiners in order to implement the provisions of this bill.

At a minimum, it is intended that the rules address the following topics:

(1) authorization for prescribing, dispensing, and administering drugs by a physician assistant-certified, including the extent and limitations of the prescribing and dispensing authority, required recordkeeping, and refilling of prescriptions; and

(2) considerations pertinent to approval of locum tenens utilization plans."

3. Pages 1 through 27.

Strike: everything following the enacting clause

Insert: "NEW SECTION. Section 1. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the Montana state board of medical examiners established in 2-15-1841.

(2) "Locum tenens" means the temporary provision of services within the scope of practice of a physician assistant-certified.

(3) "Physician assistant-certified" means a member of a health care team, approved by the board, who provides medical services that may include examination, diagnosis, prescription of medications, and treatment, as approved by the board, under the supervision of a physician licensed by the board.

(4) "Protocol" means the proper relationship between a

physician assistant-certified and other health care practitioners and the manner of their interaction.

NEW SECTION. Section 2. **Qualifications for physician assistant-certified.** A person may not be approved as a physician assistant-certified in this state unless he:

- (1) is of good moral character;
- (2) is a graduate of a physician assistant training program approved by the American medical association's committee on allied health education and accreditation;
- (3) has taken and successfully passed an examination recognized by the national commission on the certification of physician assistants;
- (4) holds a current certificate from the national commission on the certification of physician assistants; and
- (5) has submitted to the board detailed information on his history, education, and experience.

NEW SECTION. Section 3. **Physician assistant-certified as agent of supervising physician.** (1) In establishing protocol, a physician assistant-certified must be considered the agent of the supervising physician with regard to all duties delegated to the physician assistant-certified under the utilization plan. A health care provider shall consider the instructions of a physician assistant-certified as being the instructions of the supervising physician as long as the instructions concern the duties delegated to the physician assistant-certified under the utilization plan.

(2) The supervising physician and the physician assistant-certified are responsible for making available a copy of the approved utilization plan to all other health care practitioners with whom they reasonably believe they will interact on a regular basis.

(3) Nothing in this chapter may be construed to conflict with the provisions of 37-3-322.

NEW SECTION. Section 4. **Prescribing and dispensing authority -- discretion of supervising physician on limitation of authority.** (1) A physician assistant-certified may prescribe, dispense, and administer drugs to the extent authorized by the board by rule, by the utilization plan, or both. The prescribing, dispensing, and administration of drugs are also subject to the authority of the supervising physician, and the supervising physician in his discretion may impose additional limitations on the prescribing and dispensing authority granted by the board.

(2) All dispensing activities allowed by this section must comply with 37-2-104 and with packaging and labeling guidelines developed by the board of pharmacy under Title 37, chapter 7.

(3) The prescribing and dispensing authority granted a physician assistant-certified may include the following:

(a) Prescribing, dispensing, and administration of Schedule III drugs listed in 50-32-226, Schedule IV drugs listed in 50-32-229, and Schedule V drugs listed in 50-32-232, is authorized.

(b) Prescribing, dispensing, and administration of Schedule II drugs listed in 50-32-224 may be authorized for limited periods not to exceed 48 hours.

(c) Records on the dispensing and administration of scheduled drugs must be kept.

(d) A physician assistant-certified shall maintain registration with the federal drug enforcement administration.

(e) Drugs dispensed by a physician assistant-certified must be prepackaged by a licensed pharmacist, except that samples provided by a pharmaceutical company representative may be dispensed.

(f) Prescriptions written by physician assistants-certified must comply with regulations relating to prescription requirements adopted by the board of pharmacy.

(g) The board shall adopt rules regarding the refilling of prescriptions written by physician assistants-certified.

NEW SECTION. Section 5. Billing. A supervising physician or an institution where services were delivered may bill for physician assistant-certified services.

NEW SECTION. Section 6. Liaison to the board. The Montana academy of physician assistants shall elect one person to serve as a nonvoting liaison to the board to represent the interests of physician assistants.

NEW SECTION. Section 7. Coverage required for services provided by physician assistants-certified. An insurer, health service corporation, or any employee health and welfare fund that provides accident or health insurance benefits to residents of this state shall provide, in group and individual insurance contracts, coverage for health services provided by a physician assistant-certified, as normally covered by contracts for services supplied by a physician, if health care services that the physician assistant-certified is approved to perform are covered by the contract.

Section 8. Section 37-3-103, MCA, is amended to read:

"37-3-103. Exemptions from licensing requirements. (1) This chapter does not prohibit or require a license with respect to any of the following acts:

(a) the gratuitous rendering of services in cases of emergency or catastrophe;

(b) the rendering of services in this state by a physician lawfully practicing medicine in another state or territory. However, if the physician does not limit the services to an occasional case or if he has any established or regularly used hospital connections in this state or maintains or is provided with, for his regular use, an office or other place for rendering the services, he must possess a license to practice medicine in this state.

(c) the practice of dentistry under the conditions and limitations defined by the laws of this state;

(d) the practice of podiatry under the conditions and limitations defined by the laws of this state;

(e) the practice of optometry under the conditions and limitations defined by the laws of this state;

(f) the practice of osteopathy under the conditions and limitations defined in chapter 5 of this title for those doctors of osteopathy who do not receive a physician's certificate under this chapter;

(g) the practice of chiropractic under the conditions and limitations defined by the laws of this state;

(h) the practice of Christian Science, with or without

compensation, and ritual circumcisions by rabbis;

(i) the performance by commissioned medical officers of the armed forces of the United States, of the United States public health service, or of the United States veterans' administration of their lawful duties in this state as officers;

(j) the rendering of nursing services by registered or other nurses in the lawful discharge of their duties as nurses or of midwife services by registered nurse-midwives under the supervision of a licensed physician;

(k) the rendering of services by interns or resident physicians in a hospital or clinic in which they are training, subject to the conditions and limitations of this chapter. The board may require a resident physician to be licensed if he otherwise engages in the practice of medicine in the state of Montana.

(l) the rendering of services by a physical therapist, technician, or other paramedical specialist under the appropriate amount and type of supervision of a person licensed under the laws of this state to practice medicine, but this exemption does not extend the scope of a paramedical specialist;

(m) the rendering of services by a ~~physician's assistant~~ physician assistant-certified in accordance with Title 37, chapter 20;

(n) the practice by persons licensed under the laws of this state to practice a limited field of the healing arts, and not specifically designated, under the conditions and limitations defined by law; and

(o) the execution of a death sentence pursuant to 46-19-103.

(2) Licensees referred to in subsection (1) of this section who are licensed to practice a limited field of healing arts shall confine themselves to the field for which they are licensed or registered and to the scope of their respective licenses and, with the exception of those licensees who hold a medical degree, may not use the title "M.D." or any word or abbreviation to indicate or to induce others to believe that they are engaged in the diagnosis or treatment of persons afflicted with disease, injury, or defect of body or mind except to the extent and under the conditions expressly provided by the law under which they are licensed."

Section 9. Section 37-20-101, MCA, is amended to read:

"~~37-20-101. Qualifications of supervising physician and physicians' assistants~~ 37-20-101. Qualifications of supervising physician and physician assistant-certified. (1) Each supervising physician named in the utilization plan required by 37-20-301 shall:

(a) possess a current, unrestricted license to practice medicine in this state;

(b) submit a statement to the Montana state board of medical examiners that, in his opinion, the ~~assistant physician~~ assistant-certified to be employed is of good character and is both mentally and physically able to perform the duties of a ~~physician's assistant~~ physician assistant-certified described in the utilization plan;

(c) submit a statement to the board that he will exercise supervision over the ~~physician's assistant~~ physician assistant-

certified in accordance with any rules adopted by the board and will retain professional and legal responsibility for the care and treatment of his patients; and

(d) submit detailed information to the board regarding the physician's professional background, medical education, internship and residency, continuing education received, membership in state and national medical associations, hospital and staff privileges, and such other information as the board may require.

~~(2) Except as provided in subsection (3), each physician's assistant~~ Each physician assistant-certified named in the utilization plan required by 37-20-301 shall—

~~(a) be of good character;~~

~~(b) be a graduate of a physician's assistant training program approved by the American medical association;~~

~~(c) have taken an examination recognized by the national commission on physicians' assistants and received a score satisfactory to the board;~~

~~(d) hold a current certification by the national commission on physicians' assistants; and~~

~~(e) submit to the board detailed information on the applicant's history, education, and experience and such other information as the board may require.~~

~~(3) In lieu of the requirements of subsections (2)(b), (2)(c), and (2)(d) the physician's assistant may be a graduate of an approved medical school as defined in 37-3-102 and pass an examination approved by the board~~ meet the criteria for licensure as a physician assistant-certified as provided in [section 2]."

Section 10. Section 37-20-102, MCA, is amended to read:

"37-20-102. Insurance requirement. No physician's assistant A physician assistant-certified may not perform any service unless he has insurance from liability for his errors, omissions, or actions to the limits required by the hospital's governing authority."

Section 11. Section 37-20-103, MCA, is amended to read:

"37-20-103. Limitations on authority conferred -- exception. Except as provided in 37-10-102, nothing in this chapter may be construed to authorize a physician's assistant physician assistant-certified to perform those functions and duties specifically delegated by law to persons licensed as optometrists as defined under Title 37, chapter 10."

Section 12. Section 37-20-104, MCA, is amended to read:

"37-20-104. Penalty -- enforcement. (1) Any person who employs a physician's assistant physician assistant-certified or holds himself out to be a qualified physician's assistant physician assistant-certified without the approval of the Montana state board of medical examiners is guilty of a misdemeanor and is punishable as provided in 46-18-212.

(2) In addition to seeking any criminal penalty available under this section, the board may withdraw its approval of any utilization plan previously approved which is applicable to any supervising physician or physician's assistant physician assistant-certified who:

(a) acts in violation of this section;

(b) obtained the approval of the board by fraud;

(c) acts in a manner contrary to the terms of the utilization plan; or

(d) violates any of the applicable provisions of this chapter or rules of the board adopted thereunder.

(3) The board may enforce the provisions of this section by the remedy of injunction."

Section 13. Section 37-20-202, MCA, is amended to read:

"37-20-202. Adoption of rules. The board of medical examiners shall adopt administrative rules to implement the provisions of this chapter that:

(1) address the issues of supervision and direction limitations and requirements;

(2) address the issue of protocols for interaction of medical personnel with differing responsibilities;

(3) specify that a physician may not utilize more than one ~~physician's assistant~~ physician assistant-certified unless he can demonstrate to the board the ability to supervise more than one assistant adequately; and

(4) address other considerations pertinent to the approval of ~~physicians' assistants~~ physician assistant-certified utilization plans and locum tenens utilization plans, and the health care needs of the public."

Section 14. Section 37-20-301, MCA, is amended to read:

"37-20-301. Utilization plan required -- contents -- approval. (1) ~~No~~ A physician, office, firm, state institution, or professional service corporation may not employ or make use of the services of a ~~physician's assistant~~ physician assistant-certified in the practice of medicine, as defined in 37-3-102, and ~~no physician's assistant~~ a physician assistant-certified may not be employed or practice as a ~~physician's assistant~~ physician assistant-certified unless the ~~assistant~~ physician assistant-certified:

(a) is supervised by a licensed physician; and unless such employment or use

(b) has been approved by the Montana state board of medical examiners; in a and

(c) has received board approval of a physician's assistant physician assistant-certified utilization plan.

(2) A ~~physician's assistant~~ physician assistant-certified utilization plan must set forth in detail the following information:

(a) the name and qualifications of the supervising physician and the ~~physician's assistant~~ name and license number of the physician assistant-certified, as provided in 37-20-101;

(b) the nature and location of the physician's medical practice;

(c) the duties to be delegated to the ~~physician's assistant~~ physician assistant-certified and the location in which those duties are to be performed;

(d) the name and qualifications of a second physician meeting the requirements of 37-20-101 to serve in the place of the supervising physician in the event that the supervising physician is unable to supervise the ~~physician's assistant~~ physician assistant-certified temporarily; and

(e) ~~such other information as the board may consider~~

necessary guidelines describing the intended availability of the supervising or alternate physician for consultation by the physician assistant-certified; and

(f) other information the board may consider necessary.

(3) The board shall approve the utilization plan if it finds that the duties to be delegated to the ~~physician's assistant~~ physician assistant-certified are:

- (a) assigned by the supervising physician;
- (b) within the scope of the training, knowledge, experience, and practice of the supervisory physician; and
- (c) within the scope of the training, knowledge, education, and experience of the ~~physician's assistant~~ physician assistant-certified.

(4) A supervising physician and a physician assistant-certified may submit a new or additional utilization plan to the board for approval without reestablishing the criteria set out in [section 2], as long as the information requirements of subsection (2) have been met and the appropriate fee provided for in 37-20-302(1) has been paid.

(5) A utilization plan may provide that a physician assistant-certified be allowed to furnish services on a locum tenens basis at a location other than the physician assistant-certified's primary place of practice for a period not to exceed 30 calendar days. A locum tenens utilization plan may be approved by a single board member."

Section 15. Section 37-20-302, MCA, is amended to read:

"37-20-302. Utilization plan approval fee -- renewal of approval -- renewal fee. (1) Every physician, office, firm, or professional service corporation proposing to employ a ~~physician's assistant~~ physician assistant-certified shall pay to the board a utilization plan approval fee in an amount set by the board, not exceeding \$50. Payment must be made when the utilization plan is submitted to the board and is not refundable.

(2) Approval of every ~~physician's assistant~~ physician assistant-certified utilization plan expires 1 year from the date of approval and is invalid thereafter. The department of commerce shall notify each physician, office, firm, or professional corporation and ~~physician's assistant~~ physician assistant-certified named in a utilization plan of the date of expiration of board approval at least 1 month prior to the expiration of approval.

(3) Renewal of approval shall be granted by the board under such circumstances as would justify original approval of a utilization plan and upon payment by the employing physician, office, firm, or professional service corporation of a renewal fee in an amount to be set by the board, not to exceed \$50.

(4) Every physician, office, firm, or professional service corporation proposing to employ a physician assistant-certified on a locum tenens basis shall pay to the board a locum tenens utilization plan fee in an amount set by the board, not to exceed \$50.

~~(4)~~(5) Fees received by the department must be deposited in the state special revenue fund for use by the board in the administration of this chapter, subject to 37-1-101(6)."

Section 16. Section 37-20-303, MCA, is amended to read:

"37-20-303. Exemptions from approval requirement. This chapter does not require the approval of a ~~physician's assistant~~ physician assistant-certified utilization plan or locum tenens utilization plan with respect to any acts within the professional competence of a person licensed under the provisions of Title 37, chapters 3 through 17, 31, or 32."

Section 17. Section 37-7-401, MCA, is amended to read:

"37-7-401. Restrictions upon sale or prescription of opiates -- coding prohibited -- refilling prescriptions. (1) It shall be unlawful for any physician or physician assistant-certified to sell or give to or prescribe for any person any opium, morphine, alkaloid-cocaine, or alpha or beta eucaine or codeine or heroin or any derivative, mixture, or preparation of any of them, except to a patient believed in good faith to require the same for medical use and in quantities proportioned to the needs of such patients.

(2) A prescription must be so written that it can be compounded by any registered pharmacist. The coding of any prescription is a violation of this section.

(3) A prescription marked "non repetatur", "non rep", or "N.R." cannot be refilled. A prescription marked to be refilled by a specified amount may be filled by any registered pharmacist the number of times marked on the prescription. A prescription not bearing any refill instructions may not be refilled without first obtaining permission from the prescriber. A prescription may not be refilled for more than 3 years from the date it was originally filled. No narcotic prescription may be refilled."

Section 18. Section 33-22-111, MCA, is amended to read:

"33-22-111. Policies to provide for freedom of choice of practitioners -- professional practice not enlarged. (1) All policies of disability insurance, including individual, group, and blanket policies, and all policies insuring the payment of compensation under the Workers' Compensation Act shall provide the insured shall have full freedom of choice in the selection of any duly licensed physician, physician assistant-certified, dentist, osteopath, chiropractor, optometrist, chiropodist, psychologist, licensed social worker, licensed professional counselor, or nurse specialist as specifically listed in 37-8-202 for treatment of any illness or injury within the scope and limitations of his practice. Whenever such policies insure against the expense of drugs, the insured shall have full freedom of choice in the selection of any duly licensed and registered pharmacist.

(2) Nothing in this section shall be construed as enlarging the scope and limitations of practice of any of the licensed professions enumerated in subsection (1); nor shall this section be construed as amending, altering, or repealing any statutes relating to the licensing or use of hospitals."

Section 19. Section 53-6-101, MCA, is amended to read:

"53-6-101. Definition of medical assistance. (1) The definition of medical assistance shall include:

- (a) inpatient hospital services;
- (b) outpatient hospital services;
- (c) other laboratory and x-ray services;

- (d) skilled nursing home services;
- (e) physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled nursing home, or elsewhere; and
- (f) services provided by nurse specialists, as specifically listed in 37-8-202(5), within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider; and
- (g) services provided by physician assistants-certified within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider.

(2) It may also include, although not necessarily limited to, the following:

- (a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;
- (b) home health care services;
- (c) private-duty nursing services;
- (d) dental services;
- (e) physical therapy and other related services;
- (f) clinic services;
- (g) services provided by social workers licensed under Title 37, chapter 22;
- (h) prescribed drugs, dentures, and prosthetic devices;
- (i) eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;
- (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
- (k) any additional medical service or aid allowable under or provided by the federal Social Security Act."

NEW SECTION. Section 20. Codification instruction. (1) [Sections 1 through 6] are intended to be codified as an integral part of Title 37, chapter 20, and the provisions of Title 37, chapter 20, apply to [sections 1 through 6].

(2) [Section 7] is intended to be codified as an integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 7].

NEW SECTION. Section 21. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 22. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 23. Effective date. [This act] is effective on passage and approval."

SENATE HEALTH & WELFARE

EXHIBIT NO. _____

DATE 2/8/89 -

BILL NO. _____
FOUNDATION

*Request for
Resolution*

RESOLUTION IN SUPPORT OF THE MONTANA COMMUNITY FOUNDATION

A RESOLUTION SUPPORTING AND COMMENDING PHILANTHROPIC ACTIVITIES IN MONTANA; SUPPORTING THE NEWLY FORMED MONTANA COMMUNITY FOUNDATION AS A UNIQUE AND EFFECTIVE MEANS FOR BETTERING MONTANA'S COMMUNITIES; ENCOURAGING MONTANA'S CORPORATE AND PRIVATE CITIZENS AND OTHER FOUNDATIONS TO GIVE THEIR SUPPORT TO THE MONTANA COMMUNITY FOUNDATION AND TO MEET THE CHALLENGE GRANTS AWARDED TO THE MONTANA COMMUNITY FOUNDATION

WHEREAS, the citizens of Montana have a strong tradition of contributing generously to worth-while charitable and philanthropic causes which improve their communities, their state and the lives of individuals; and

WHEREAS, since 1980, government support of charitable institutions and organizations has been decreased by some \$30 billion; and

WHEREAS, while charitable giving by private individuals, corporations and foundations in the United States has increased dramatically, need has also increased during this same period; and

WHEREAS, government neither can nor should meet all needs, nor does it have the financial means to provide a lasting fund for future needs; and

WHEREAS, Community Foundations are an American creation and the fastest growing sector of philanthropy today, with over 300 of them in communities all across the United States, with assets of over \$4 billion; and

WHEREAS, Community Foundations are tax-exempt organizations formed to attract endowment funds and distribute their earnings for community betterment, respond to changing needs, provide a convenient vehicle for donors to implement their charitable goals, invest the contributions wisely and provide the means to apply resources in an effective, flexible and lasting way; and

WHEREAS, Community Foundations augment the effectiveness of existing charitable organizations and have proven to be a positive benefit, because they work in cooperation, not competition, with other charitable organizations; and

WHEREAS, The Montana Community Foundation has been formed on the eve of our state's centennial celebration, by a diverse group of civic-minded Montanans; and

WHEREAS, The Montana Community Foundation will stimulate the establishment of endowments to serve communities now and for the future and address community needs by providing leadership and resources through a unique statewide focus and mission; and

WHEREAS, the earnings of these endowments will be distributed by the volunteer Board of Directors, composed of community leaders representing various sectors, for community needs, including, but not limited to the areas of education, arts and culture, social services, economic development, health, and the environment; and

WHEREAS, The Montana Community Foundation has received generous challenge grants from the McKnight Foundation for \$1.5 million and the Northwest Area Foundation for \$500,000, which must be matched by \$3.5 million from the Montana Community Foundation by July 1, 1991; and

WHEREAS, We express appreciation to The Northwest Area Foundation for a grant of \$250,000 for operating funds until July 1, 1991, and to the Charles Stewart Mott Foundation for a grant of \$70,000 for start-up and operating costs to help the Montana Community Foundation achieve this initial \$3.5 million fund raising goal; and

WHEREAS, Significant support has been provided by the national Council on Foundations, with a special thanks owed to former Executive Director of the Council, Eugene Struckoff, now Executive Director of the Community Foundation of the Greater Baltimore Area and Special Consultant to the Council, whose vision, advice and tireless efforts on behalf of the Montana Community Foundation are of immeasurable benefit;

NOW, THEREFORE BE IT RESOLVED, that during this year of celebration of Montana's first century of statehood, we commend all Montanans who support generously our state's philanthropic and charitable organizations, and urge them to redouble their efforts in the coming years to help ensure a bright second hundred years for our state, our communities and our citizens; and

BE IT FURTHER RESOLVED, that we support the Montana Community Foundation and its goal of improving Montana communities through private voluntary contributions; and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the 200 largest foundations in the United States in terms of total assets; and

BE IT FINALLY RESOLVED, that we urge Montanans to meet the challenge grants of the McKnight and Northwest Area Foundations by contributing to the Montana Community Foundation.

SENATE HEALTH & WELFARE

EXHIBIT NO. 7

DATE 2/2/89

BILL NO. Request for
Resolution

MISSION STATEMENT
OF THE
MONTANA COMMUNITY FOUNDATION

Adopted January 29, 1988

The Montana Community Foundation (the Foundation) is a steward through which private assets entrusted to us by donors are invested to meet the challenges of contemporary life. We are committed to respecting the trust and intent of our donors, while maintaining our integrity and responsiveness as a community foundation.

We seek to protect and enhance the unique resources of Montana-- its people and their needs, its diversity of culture, its richness of artistic creation and appreciation, and the beauty and quality of its land, air, and water--so that these resources may be enjoyed now and in the future.

We are committed to equality of opportunity and justice for all Montanans. We seek to enhance human dignity by providing support for community members to participate actively in determining the course of their lives and the life of their community.

We seek to establish mutual trust, respect, and communication between the Foundation, its grantees, and the communities they serve. We will respond to creative ideas of organizations and individuals as they address the opportunities and challenges of changing community needs.

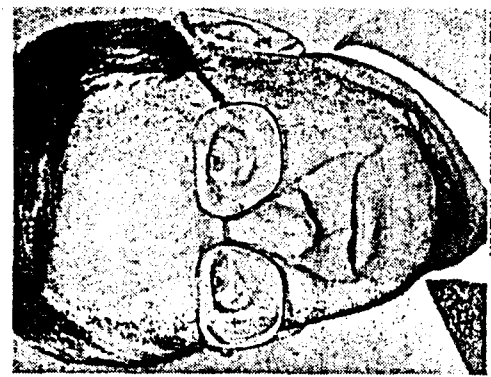
We are committed to using the resources entrusted to us for funding the highest quality projects throughout Montana, recognizing that issues are often complex, interdependent, and changing. We will seek out new and creative approaches to solving problems as well as methods that are tried and effective.

We recognize that the process of change and enhancement involves cooperation among individuals, groups, and institutions. We will be a catalyst in this process as a leader in the Montana philanthropic community.

Citizens Form a Statewide Foundation to Serve Montana's Scattered Populace

After trying since 1981 to set up a community foundation in Billings, Mont., local citizens by this year had amassed only about \$350,000—not enough to justify even the hiring of an executive director. At that rate, recalls David L. Auer, a local businessman, "we realized we wouldn't reach the magic figure for a long time."

Although the city has 100,000 residents and is home to several small foundations and corporation offices, the local economy remains depressed, so the citizens elected not to launch a major fund drive in Billings. Instead, Mr. Auer says, they decided to merge their efforts with those under way in a couple of other cities, broadening their definition of "community" to include all of Montana's 800,000 inhabitants.



David L. Auer: One goal is to build endowments for Montana's non-profit institutions.

With seed money from the Northwest Area Foundation and the Charles Stewart Mott Foundation, the group convened leaders from seven Montana cities to wrestle with the question, "How

do you structure yourself to serve the rural population in a state of such a large size but with so few people?" Their answer was the Montana Community Foundation, which is now organizing to assess needs and to tap resources in every part of the state. Because of Montana's large size, economic diversity, and strong regional pride, the foundation's seven constituent regions will play major roles in deciding how to raise and spend money in their areas. Overall direction will be provided by the statewide board.

Mr. Auer is chairman of both the Billings and the Montana community foundations, which will be formally merged on Jan. 1. The expanded group has now hired an executive director, Raymond E. Dore, who began working in September from an office in Helena. "We want to be a true statewide foundation, but with the recognition that we don't all think the same," says Mr. Dore,

and other groups, that cannot operate efficiently, Mr. Dore notes. "It may be attractive to them to come under our umbrella," he says, to benefit from pooled investments and lower expenses. Those funds, in turn, can help meet the community foundation's matching requirement.

Stable Source of Funds

Montana's needs, Mr. Dore adds, are considerable. Agriculture, forestry, and mining have been severely depressed since 1980, and this past summer's forest fires may curb tourism, the state's other major industry. Economic development is particularly needed on the state's Indian reservations. "We have our work cut out for us," he declares.

One of Mr. Auer's long-term goals is to develop a more stable source of operating funds for the state's non-profit institutions. "If a new hospital or theater is needed, we build it," he observes. "But there are many wealthy

ranchers whose wealth escapes or is dissipated and doesn't go into endowments." By approaching well-to-do citizens in small towns for gifts in the \$100,000 to \$200,000 range, he says, the Montana Community Foundation may be able to help towns endow funds to meet what they consider to be their most pressing needs.

In addition to conducting more conventional fund-raising activities, the foundation hopes to receive about \$3-million for a rural scholarship fund next year in connection with Montana's centennial, which is being marked by a reenactment of a great cattle drive. Organizers plan for several thousand cowboys to drive up to Billings, where the animals will be sold at auction.

In his grant-seeking visits to foundations in other states, Mr. Auer reports, "we've had an excellent reception. There's a feeling that rural America needs some help." —S.G.G.

City-Based Funds Find New Ways to Help Rural Groups

Continued from Page 13
central part of the foundation's program. Grants so far have included \$1.2-million to North Carolina A&T State University in Greensboro to develop civic leadership in poor rural communities and \$830,000 to the National Governors' Association to establish a rural and agricultural-policy program.

Kellogg's giving under the new program totaled \$10.7-million in the past fiscal year, or about 7 percent of its annual income.

formed boards in the state's six non-metropolitan regions.

Trying to Lower Barriers

Placing the grant-making bodies closer to the communities they are intended to serve, he says, encourages people who would never make the trip to the Twin Cities to apply for grants. "McKnight never would get the number of requests in Minneapolis that six offices throughout the state" have received, he adds.

from obtaining foundation support. Those groups generally find it less intimidating to seek support from their rural neighbors than from urban professionals, for one thing. And the foundation tries "to eliminate grantismanship as a game people play," he says, so that ideas scribbled on the back of envelopes have as good a chance of winning support as those in glossy folders.

Not all foundations are equipped for such a decentralized approach.

makers." This criterion tends to favor intermediary organizations and groups involved in policy studies or other activities of more than parochial interest and excludes many groups that do an excellent job serving their own communities.

"If we're not working on small-farm preservation or land retirement, that's not because we don't feel they're important issues," Mr. Collins says, echoing a sentiment expressed by several other grant makers. "It's just that we can't do everything."

Foundation, notes that it is difficult for most foundations to keep their attention focused on rural issues between periodic, much-publicized farm crises. "When their attention is drawn to it by trauma, it rarely produces good philanthropy," he says, since such sporadic giving tends to deal with symptoms rather than with structural problems.

Yet precisely because resources for rural grant making are so limited, Mr. Strange observes, the quality of the grants is high.

Community foundations taking on new responsibilities

(EDITOR'S NOTE: Community foundations, for a long time the quiet arms of philanthropy, are coming of age and providing funds for more serious projects than ever before. The Hartford Foundation is a prime example of the change in size and activity.)

By DEAN GOLEMESKI
The Associated Press

HARTFORD, Conn. — When the Ford Foundation decided to lend a helping hand to AIDS patients and their families, it found that even with its billions of dollars, it couldn't handle the project alone. It sought the help of much smaller community foundations, non-profit organizations that are emerging as key players in philanthropic work in this country.

"In the last five years, community foundations have come of age and are being recognized for their potential and what they're doing," said R. Malcolm Saller, director of the Hartford Foundation for Public Giving.

Since the first community foundation was founded by bankers in Cleveland in 1914, many of the organizations have been content to fund such activities as planting flowers or supporting the local symphony.

But increasingly, community foundations are being called on to tackle more serious issues, such as AIDS, a trend their leaders attribute in part to the Reagan administration's eight years promoting volunteerism and reducing federal spending on social services.

The result is that community foundations now make up the smallest, but fastest growing fraction of the Council on Foundations, a Washington, D.C.-based group that represents most of the nation's foundations.

There are now about 325 community foundations, and another 20 have been proposed and are in various stages of organization, accord-

ing to council officials.

The combined assets of those groups are estimated at about \$4 billion, and they made grants totaling about \$300 million last year.

Ford, meanwhile, has assets of about \$5.5 billion, and made grants totaling \$204 million in 1987, said Joanne B. Scanlan, who directs the council's effort to bolster community foundations.

"For a long time, community foundations have been kind of a quiet type of philanthropy," Scanlan said. "Over time, partly because assets have built up and partly because community foundations have started working together and

promoting themselves, a lot more private foundations have started working with them."

The Hartford Foundation is recognized as a leader among community foundations in both its size and activity. Its assets of roughly \$125 million make it the sixth largest in the nation, while it does out about \$6 million annually to various Hartford-area projects.

The wealthiest of the community foundations in the country is in New York, followed by foundations in Cleveland, Chicago, Boston, San Francisco and Hartford.

New York's community foundation has assets of about \$500 million,

while Cleveland's has about \$450 million in assets, Scanlan said.

Every foundation is organized under federal tax guidelines as a non-profit organization.

Unlike the United Way, which must solicit funds each year to give money to specific groups, community foundations have endowments from which they draw earnings to fund their grant programs.

The foundations rely on donations from individuals and corporations to continue expanding their endowments.

A donor can have a long-term impact, since it is the interest on a gift and not the donation itself that

is spent from year to year, said Tom Smith, the Council on Foundations' public affairs director.

"It's more than a one-time gift, because what a community foundation does is it pools those funds, and your money can go farther," Smith said.

Connecticut has 19 community foundations, most of them very small in comparison to Hartford's, which is the state's largest. Waterbury established the state's first community foundation in 1923, followed by Hartford in 1925.

The Hartford Foundation's recent experience exemplifies what is happening to community founda-

tions around the country, particularly in terms of demand.

Applications to the foundation were up 28 percent this year compared to last, and the amount of money requested was up 70 percent in the past eight years, the foundation has given out \$34 million in the past four decades.

Senate Health: Wa
Exhibit 1
2/8/81
Request for
Resolution

MONTANA COMMUNITY FOUNDATION

Background Information

WHAT IS A COMMUNITY FOUNDATION?

The community foundation is a tax-exempt organization formed to attract and distribute gifts of capital to charitable agencies for community betterment. It represents cooperative investment and administration of gifts and bequest from many donors that together can have substantial, constructive, community impact.

HOW DOES A COMMUNITY FOUNDATION SERVE?

A Community Foundation -

- Responds to the changing charitable needs of an area by attracting a permanent endowment for grant making by its Board of Trustees to charitable agencies for activities that benefit its area
- Helps donors to implement their charitable objectives for the community
- Provides a convenient vehicle for giving and thereby increases the numbers and kinds of givers in a community
- Invest the contributions of its donors wisely to yield a good rate of tax-free return for charity

The MONTANA
COMMUNITY
FOUNDATION

DATE

BILL NO.

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
James M. Peterson	Dept. of Health & Env. Sc.	SB 323	X	
Bob Cooper	MNA	SB 124	X	
David E. Evans	Montana Hearing Aid Society	SB 299		X
Don Van De Riet	HEARING AID INSTITUTE	SB 299		X
STEVEN W.G. Wilson	Helena Hearing Aid Service	SB 299		X
Liane Jones	MT Women's Lobby	SB 124	X	
Sandra R. Hale	MT Women's Lobby	SB 124	X	
Jody Baumgartner	Missoula Community Hospital	SB 124	X	
Ellen Lecky	Missoula Health Dept.	SB 124	X	
KB	Missoula AIDS Task Force	SB 124	X	
LeAnn Lewis	Deleena A.C.R.	SB-299	X	
Robert Johnson	MT. Public Health Assoc	SB-124		
Bill Pratt	MT Arts Council <small>MT COMMUNITY FOUN.</small>	Resolution	X	
Rose Hughes	MT. Health Care Assn	SB 124		Amend
Mary Beth Frideres	Montana AIDS Coalition	SB 124	X	
Brenda Nordlund	Ut Women's Lobby	SB 124	X	
Maie Bonsquet	St. John's Lutheran Home - Bldg Hts	SB 124	X	
Beverly Peterson	St. John's Lutheran Home - Bldg	SB 289	X	
Mary Lou Garrett	Bd of Hearing Aid Dis	SB 299	X	
Susan Talbot	Montana Community Foundation			
Timmy Adams	Montana Senior Citizens Assn	SB 299	X	
Joy & Doc	MT. Community Found.	SB 124	X	
"	"	SB 289	X	

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/8/89 Bill No. #63 Time 12:35

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN		
SEN. LYNCH		
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Made by McLane to do pass
Motion passed
5 present - yes
2 absent

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/8/89 Bill No. # 212 Time 2:40 P.M.

NAME	YES	NO
SEN. TOM HAGER		X
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	absent	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Senator Mc Lane *made motion*
26 *6-4*
DO NOT PASS *Note 5-1*

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/8/89 Bill No. 133 Time _____

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	<i>absent</i>	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan D. Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Motion by Himsl to table
SB 133 the bill for reasons stated by
Chairman
to in favor.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/8/89 Bill No. #187 Time _____

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	absent	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Mc Lane moved to table #187
all in favor.
6-0

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/8/89 Bill No. #295 Time _____

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	—	
SEN. LYNCH	—	
SEN. HIMSL	X	
SEN. NORMAN		
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Motion by Himsl that the
bill do pass as amended.

4 - in favor
3 absent

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/8/89 Bill No. SB 323 Time _____

NAME	YES	NO
<i>DO PASS AS AMENDED</i>		
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

L. Sullivan
Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: THAT AMENDMENTS BE ADOPTED. MOTION
ACCEPTED UNANIMOUSLY;
A MOTION THAT SB 323 DO PASS
AS AMENDED. In favor 7, opposed 0.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/8/89 Bill No. SB 124 Time _____

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Sen. Lynch moved to amend
SB 124 with the amendments suggested
by Mont. Health Care Assoc. Motion Passed
Unanimously

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/8/89 Bill No. 124 Time _____

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Motion made to Do PASS
AS AMENDED.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/8/89 Bill No. SB 289 Time _____

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Sen. McLane made a motion
that SB 289 DO PASS.
MOTION PASSED UNANIMOUSLY.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/8/89 Bill No. #26 Time 2:45

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Statement of Intent be attached to
✓ SB 26

Senators in favor 7, opposed 0.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Request for Resolution

Date 2/8/89 Bill No. _____ Time _____

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Senator Lynch made motion
to request a Resolution, as submitted
by Montana Community Foundation
In favor 7, opposed 0.