

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By Rep. Angela Russell, Chair, on January 18, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Angela Russell, Chair (D)
Tim Whalen, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Jan Brown (D)
Brent Cromley (D)
Tim Dowell (D)
Patrick Galvin (D)
Stella Jean Hansen (D)
Royal Johnson (R)
Betty Lou Kasten (R)
Thomas Lee (R)
Charlotte Messmore (R)
Jim Rice (R)
Wilbur Spring (R)
Carolyn Squires (D)
Jessica Stickney (D)
Bill Strizich (D)
Rolph Tunby (R)

Members Excused: Rep. Sheila Rice

Staff Present: David Niss, Legislative Council
Jeanne Krumm, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 111

Presentation and Opening Statement by Sponsor:

REP. DOROTHY CODY, House District 20, stated that when this bill was submitted last legislative session there was a mistake, instead of stating "board", it read "boards". That had to be changed because when nurse specialists for prescriptive authority they should only have to apply to one board instead of two. Every time "board" is referred to in this bill, it means the Board of Nursing. The Board of Nursing is defined unless otherwise specified.

Proponents' Testimony:

Cathy Caniparoli, Montana Nurse Practitioner State Interest Group, submitted written testimony. EXHIBIT 1 & 2

Jim Reid, Physician Assistant, submitted written testimony. EXHIBIT 3

Jan Leishman, Registered Nurse, submitted written testimony. EXHIBIT 4

Opponents' Testimony: None

Closing by Sponsor:

REP. CODY stated that David Niss pointed out the problem of it reading boards instead of "board". One rule is that there shall be a prescriptive authority committee composed of three members from the Board of Nursing, one of whom will be registered nurses, one position from the Board of Medical Examiners and one pharmacist from the Board of Pharmacies.

EXECUTIVE ACTION ON HB 111

Motion/Vote: REP. MESSMORE moved HB 111 DO PASS. Motion carried with REP. KASTEN voting no.

HEARING ON HB 176

Presentation and Opening Statement by Sponsor:

REP. THOMAS NELSON, House District 95, stated the purpose of HB 176 is to increase the fee for obtaining certified birth and death certificates and for filing certain instruments required by the law with the County Clerk and Recorder. The clerk's office work is not related to any special tax need but it is related to fees. The proposed fee is an increase from \$2 to \$5 for a birth or death certificate. The Clerk & Records Office provides an average of 1,100 birth and death certificates per month.

Proponents' Testimony:

Gordon Morris, Executive Director, Montana Association of Counties, stated it is a straightforward request to increase the fee to provide service to the public. The service was never intended to be provided at taxpayer expense.

Mike Stephen, Montana Association of Clerk & Records, stated the cost of doing business with the counties continues to increase. The Clerk and Records Office maintains perfect records and then must be able to efficiently reproduce these copies for the public. He submitted testimony. EXHIBIT 5 & 6

Joe Tropila, Montana Association of Clerks & Records, stated

HOUSE HUMAN SERVICES & AGING COMMITTEE

January 18, 1991

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the clerks and recorders need a fee increase for selective services. Increases are needed due to inflation and to a lack of local funding for counties. This bill has no effective date. We request the inclusion of July 1, 1991 as an effective date.

Questions From Committee Members:

REP. KASTEN asked if these fees were increased last session. Mr. Tropila said the fee for birth and death certificates was raised from \$2 to \$3 by the Legislature.

REP. BECKER asked if birth and death certificates are the items most requested by the public. Mr. Tropila stated no, not as numerous as the requests for records of mortgages, deeds, etc.

Closing by Sponsor: REP. NELSON closed on HB 176.

EXECUTIVE ACTION ON HB 176

Motion: REP. STICKNEY MOVED HB 176 DO PASS.


Motion/Vote: REP. STICKNEY moved to amend HB 176 to include an effective date of July 1, 1991. Motion carried with REP. KASTEN voting no.

Motion/Vote: REP. STICKNEY MADE A SUBSTITUTE MOTION THAT HB 176 DO PASS AS AMENDED. Motion carried 19-1 with REP. KASTEN voting no.

ADJOURNMENT

Adjournment: 3:30 p.m.


ANGELA RUSSELL, Chair


Jeanne Krumm, Secretary

AR/jck

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL

DATE 1-18-91

NAME	PRESENT	ABSENT	EXCUSED
REP. ANGELA RUSSELL, CHAIR	✓		
REP. TIM WHALEN, VICE-CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI	✓		
REP. JAN BROWN	✓		
REP. BRENT CROMLEY	✓		
REP. TIM DOWELL	✓		
REP. PATRICK GALVIN	✓		
REP. STELLA JEAN HANSEN	✓		
REP. ROYAL JOHNSON	✓		
REP. BETTY LOU KASTEN	✓		
REP. THOMAS LEE	✓		
REP. CHARLOTTE MESSMORE	✓		
REP. JIM RICE	✓		
REP. SHEILA RICE			✓
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		
REP. JESSICA STICKNEY	✓		
REP. BILL STRIZICH	✓		
REP. ROLPH TUNBY	✓		

HOUSE STANDING COMMITTEE REPORT

January 18, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging
report that House Bill 111 (first reading copy -- white) do
pass.

Signed: _____
Angela Russell, Chairman

HOUSE STANDING COMMITTEE REPORT

January 18, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 176 (first reading copy -- white) do pass as amended .

Signed: _____
Angela Russell, Chairman

And, that such amendments read:

1. Page 3.

Following: line 15

Insert: " NEW SECTION. Section 1. {standard} Effective date.
[This act] is effectibe July 1, 1991."

EXHIBIT 1
DATE 1-18-91
HB 111

My name is Cathy Caniparoli, Great Falls and I am here to offer testimony in support of HB 111. I am representing the 60 members of the Montana Nurse Practitioner State Interest Group. There are approximately 105 nurse practitioners in Montana who have received a copy of Draft #9 and progress reports about the development of rules and regulations for prescriptive authority.

We support this legislation because it clarifies the respective roles of the Board of Nursing and the Board of Medical Examiners in the area of prescriptive authority for nurse specialists. It will also allow the Board of Nursing, Board of Pharmacy and the Board of Medical Examiners to continue their work on Draft #9 of the rules and regulations. The process of rules development has allowed all the groups involved to become more familiar with each other and the role of the nurse specialist. This will increase the safety of the consumer who utilizes the services of nurse specialists in Montana.

You have in your packet a copy of Draft #9, a letter of support for this legislation from the Board of Medical Examiners and testimony. Thank you for your consideration of this legislation and urge your support of H.B. 111.

1/15/90

October 1990

PROPOSED RULES TO IMPLEMENT
NURSE SPECIALIST PRESCRIPTIVE AUTHORITY

New Subchapter

- I. Prescriptive Authority for Nurse Specialists. (1) This subchapter shall be known and may be cited as the Nurse Specialist Prescriptive Authority Rules.
- (2) A Nurse Specialist granted prescriptive authority by the Board of Nursing may prescribe and dispense drugs pursuant to applicable state and federal laws.
- (3) Prescriptive authority permits the Nurse Specialist to use prescription drugs in the prevention of illness, the restoration of health and/or the maintenance of health.
- (4) (a) The Board of Nursing shall provide the Board of Pharmacy with an annual list of Nurse Specialists with prescribing authority and their titles.
- (b) The Board of Nursing shall promptly forward to the Board of Pharmacy the names and titles of Nurse Specialists added to or deleted from the annual list.
- (c) The Board of Pharmacy shall be notified in a timely manner when the prescriptive authority of a Nurse Specialist is terminated, suspended, or reinstated.
- II. Definitions. The following definitions apply in and for this subchapter.
- (1) "Accrediting organization" is that professional organization which establishes standards and criteria for approved continuing education programs.
- (2) "Certifying body" is a national certifying organization which examines and validates credentials of Nurse Specialists and which has been approved by the Board as a certifying agency for Nurse Specialist recognition. A list of certifying agencies approved by the Board is available from the Board office.
- (3) "Committee" refers to the Prescriptive Authority Committee, as defined in section (ARM III_____).
- (4) "Dispensing" is as defined in 37-2-104 M.C.A.

(5) "Drug" is a substance defined by section 37-7-101(6), M.C.A.

(6) "Nurse Specialist" is a registered nurse recognized by the Board to practice as a Nurse Specialist pursuant to 37-8-202(5)(a) M.C.A. and ARM 8.32.305.

(7) "Prescription" is an order for a drug, as defined by section 37-7-101(13), M.C.A., or any medicines, devices or treatments, including controlled substances listed in Schedule II-V, as defined by federal law in the Code of Federal Regulations Title 21, section 1306.

(8) "Prescriptive Authority" is the power to issue written or verbal prescriptions.

(9) "Referral physician" is a physician licensed by the state of Montana who has agreed to collaborate with and receive referrals from the Nurse Specialist.

III.

Prescriptive Authority Committee. There shall be a Prescriptive Authority Committee. (1) The Committee shall be composed of three members of the Board of Nursing, two of whom shall be RNs, one physician from the Board of Medical Examiners and one pharmacist from the Board of Pharmacy.

(a) The Committee may retain consultants as necessary.

(b) The Committee members shall select a chairman and a secretary.

(c) Meetings shall be conducted according to Roberts Rules of Order. Minutes shall be recorded and maintained by the Board of Nursing.

(d) Meetings shall be conducted in a fashion which protects the individuals' constitutional right to privacy.

(2) The Committee shall review all complaints charging inappropriate use of Prescriptive Authority and shall recommend action to the Board of Nursing.

(3) The Committee's recommendations may be adopted or rejected by the Board of Nursing.

(a) If the recommendation is adopted by the Board of Nursing, the Board shall use the Advisory Committee's findings and recommendations in determining appropriate action, in accordance with (ARM IX).

(b) If the recommendation is rejected by the Board of Nursing, the reasons for rejection shall be given in writing to the Committee.

IV. Initial Application Requirements for Prescriptive Authority.

(1) The Nurse Specialist shall submit a completed application provided by the Board of Nursing, and a non-refundable fee.

(a) The application shall include evidence of completion of a minimum of 15 contact hours of education in pharmacology and/or the clinical management of drug therapy which has been obtained within a three-year period immediately prior to the date the application is received at the Board office. Six of the 15 contact hours must have been obtained within one year immediately prior to the date the application is received at the Board office.

(b) The application shall include a copy of the original certification document from the Nurse Specialist's certifying body.

(c) The application shall include, in accordance with ARM (VII), a method of referral and documentation in client records.

(d) The application shall include, in accordance with ARM (VIII), a method of quality assurance used to evaluate the Nurse Specialist's practice.

(2) The Board of Nursing may deny the application on one or more of the following grounds:

- (i) the applicant is not recognized as a Nurse Specialist,
- (ii) the applicant submitted an incomplete application,
- (iii) the applicant has not met the requirements contained in ARM [IV(1)(a)], or
- (iv) the applicant's license has been impaired by disciplinary action pursuant to Title 37, Chapter 8.

(3) The Board of Nursing shall have discretion to delay action on an application for Prescriptive Authority as long as:

- (i) the applicant is under investigation for possible disciplinary action, or
- (ii) pending disciplinary action exists which has not yet been resolved in a final order or a dismissal of action.

V. Prescribing Practices.

(1) Prescriptions shall comply with all applicable state and federal laws.

(2) All prescriptions shall comply with the following criteria:

- (a) Name, title, address and phone number of the Nurse Specialist who is prescribing.
- (b) Name and address of client.
- (c) Date of prescription.
- (d) The full name of the drug, dosage, route and directions for its use.
- (e) Number of refills.
- (f) Expiration date of prescriptive authority.
- (g) Signature of prescriber on written prescription.
- (h) DEA number of the prescriber, *IF APPLICABLE*.

(3) Records of all prescriptions shall be documented in client records.

(4)(a) The Nurse Specialist with prescriptive authority who wishes to prescribe Schedule II-V drugs shall comply with federal Drug Enforcement Administration requirements prior to prescribing controlled substances.

(b) The Nurse Specialist shall immediately file a copy of his or her DEA registration and number with the Board of Nursing.

(c) The Board of Nursing shall maintain current records of all Nurse Specialists with DEA registration and numbers.

(d) In an emergency situation, Schedule II drugs may be phoned in to the pharmacist pursuant to 21 C.F.R. 1306.11(d)(1)(2)(3)(4).

(5) A Nurse Specialist shall not delegate the prescribing or dispensing of drugs to any other person.

(6) A Nurse Specialist may administer local anesthetics.

(7) A Nurse Specialist with prescriptive authority who also possesses inpatient care privileges shall practice pursuant to a written agreement between the agency and the Nurse Specialist which is consistent with the rules, regulations and guidelines set forth in 37-8-202(5) M.C.A., 37-2-104 M.C.A., ARMs 8.32.301 - 8.32.303, and this Subchapter. The Nurse Specialist shall file the written agreement and revision thereof with the Board of Nursing.

VI. Special Limitations related to the Prescribing of Controlled Substances.

(1) A Nurse Specialist shall not prescribe controlled substances for self or for members of the Nurse Specialist's immediate family.

(2) A Nurse Specialist shall not provide controlled substances or prescription drugs for other than therapeutic purposes.

(3) A prescription for Schedule II drugs shall not exceed the quantity necessary for forty eight (48) hours. Prescriptions for Schedule III-V drugs shall not exceed the quantity necessary for thirty four (34) days.

(4) A Nurse Specialist shall, within 30 days, record in the client record his or her evaluation of the effectiveness of controlled substances prescribed.

(5) A Nurse Specialist shall not prescribe refills of controlled substances unless the refill prescription is in writing and bears the signature of both the Nurse Specialist and a referral physician.

VII. Method of Referral. (1) A Nurse Specialist with prescriptive authority shall have a referral process and a method for documentation of referral in the client records. Said referral method must be approved by the Board of Nursing prior to issuance of prescriptive authority.

(2) A Nurse Specialist shall immediately file with the Board of Nursing any proposed change in the method for referral or client record documentation. Any change shall be subject to approval by the Board of Nursing.

VIII. Quality Assurance of Nurse Specialist Practice. A Nurse Specialist with prescriptive authority shall submit a method of quality assurance for evaluation of the Nurse Specialist's practice. The quality assurance method must be approved by the Board of Nursing prior to issuance of prescriptive authority.

(2) The quality assurance method shall include the following elements:

- (a) use of standards which apply to the Nurse Specialist's area of practice,
- (b) concurrent or retrospective review of the practice,
- (c) use of preestablished criteria,

(d) written evaluation of review with steps for corrective action if indicated and follow-up.

(3) A Nurse Specialist shall immediately file with the Board of Nursing any proposed change in the quality assurance method. Any change shall be subject to approval by the Board of Nursing.

- IX. Grounds for Termination of Prescriptive Authority and/or License Disciplinary Action. (1) A violation of this Subchapter is grounds for termination of prescriptive authority.
(2) A violation of this Subchapter is unprofessional conduct, subject to license disciplinary action as provided for in Title 37, Chapter 8, M.C.A.
(3) A licensee charged with violating this Subchapter shall be provided notice and a hearing pursuant to the Montana Administrative Procedures Act.
- X. Termination of Prescriptive Authority. (1) The Board of Nursing may terminate a Nurse Specialist's prescriptive authority when one or more of the following criteria apply:
(a) the Nurse Specialist has not met the requirements for renewal of prescriptive authority in accordance with this Subchapter,
(b) the Nurse Specialist has not met requirements necessary to maintain Nurse Specialist recognition,
(c) the Nurse Specialist has not complied with the requirements for referral or quality assurance methods,
(d) the Nurse Specialist has prescribed outside the Nurse Specialist's scope of practice, has prescribed for other than therapeutic purposes, or has otherwise violated the provisions of the Prescriptive Authority Rules contained in this Subchapter,
(e) the Nurse Specialist has violated any state or federal law or regulations applicable to prescriptions,
(f) the Nurse Specialist has violated the Nurse Practice Act or nursing regulations contained in 37-8-441 M.C.A., 37-8-443 M.C.A., ARM 8.32.413(2), or this Subchapter.
- (2) A Nurse Specialist whose prescriptive authority has terminated shall not prescribe until the Nurse Specialist has received written notice from the Board of Nursing that his or her prescriptive authority has been reinstated by the Board.
- (3) The Board of Nursing shall promptly notify the

Board of Pharmacy of any termination of prescriptive authority.

XI. Renewal of Prescriptive Authority. (1) The Nurse Specialist's prescriptive authority shall expire on December 31st of even numbered years.

(2) To renew prescriptive authority, the Nurse Specialist shall submit to the Board of Nursing:

(a) a completed renewal application and a non-refundable fee.

(b) documentation of accredited pharmacological continuing education completed during the two year period immediately preceding the renewal application. Continuing education shall be from:

(i) study provided by advanced formal education, or

(ii) continuing education seminars or programs approved by certifying bodies.

(c) A minimum of six contact hours of continuing education in pharmacology or pharmacology management is required during the two year period immediately preceding the effective date of the prescriptive authority renewal. The continuing education shall be approved by a professional accrediting organization.

(3) If a Nurse Specialist fails to renew prescriptive authority prior to the expiration date of that authority, the Nurse Specialist's prescriptive authority shall be automatically suspended until renewal is completed and the Nurse Specialist has received written notice that the prescriptive authority has been reinstated.

(a) The Nurse Specialist whose prescriptive authority is suspended shall not prescribe until the Nurse Specialist has received written notice from the Board of Nursing that his or her prescriptive authority has been reinstated by the Board of Nursing.

(b) The Board of Nursing shall promptly notify the Board of Pharmacy of any suspension of prescriptive authority.



Montana Academy of Physician Assistants

A Constituent Chapter of the American Academy of Physician Assistants

January 18, 1991
Proponent for HB111

EXHIBIT 3
DATE 1-18-91
HB 111

Madam Chairman and members of the committee,

I am Jim Reid, a physician assistant, representing the Montana Academy of Physician Assistants.

As you may recall, both physician assistants and nurse specialists gained statutory language authorizing them to prescribe medications in the last session. Since then the Board of Medical Examiners and the Montana Academy of Physician Assistants have worked together closely to develop and implement a prescribing plan for physician assistants. PAs all across Montana are now prescribing medications safely and efficaciously.

Nurse specialists on the other hand have so far been unable to come to agreement with the Board of Medical Examiners on regulations to govern their prescribing practices. MAPA representatives have attended many of the meetings held between the board of medical examiners and nurse specialists. We have reviewed their draft regulations and one point is frighteningly apparent to us. Nurse specialists absolutely refuse to provide for any degree of regular, ongoing physician oversight of their prescriptive practice. Draft #9 of their proposed rules does not provide for physician oversight and it appears to us that it is for this reason that the board of medical examiners has not approved draft #9. The nurse specialists' stance on physician oversight cannot

be accepted if public well being is to be protected. Prescribing medications is a privilege previously reserved only for physicians. As midlevel providers gain this privilege, there must be provision for physician oversight. Neither nurse practitioners nor physician assistants have didactic and clinical educations comparable to that of physicians. It therefore stands to reason that they should not have the same prescriptive authority as physicians, without some degree of physician oversight.

HB111 removes the requirement that nurse specialists apply for prescriptive authority to both the board of nursing and the board of medical examiners. This is a time and effort saving change that we endorse. The additional burden that would be placed upon the board of medical examiners, however much overstated by nurse specialists, is unnecessary. What is absolutely necessary however, is that the board of medical examiners retain rule making authority for nurse specialist prescribing as it was granted, with deliberate intent, by the 1989 legislature. Only then will there be any possibility for ongoing physician oversight designed into whatever system is eventually adopted. Without that provision, the public well-being is not being adequately protected.

On those premises I urge you to give HB111 as it is currently written, a favorable report. I also urge you to closely scrutinize any amendment that would remove the board of medical examiners from the process.

Submitted by: Jim Reid, PA-C
1020 N. 27th St, Suite 205
Billings, MT 59101
406-255-8443

EXHIBIT 4
DATE 1-18-91
HB 111

January 18, 1991

House Human Services Committee
Montana House of Representatives
Helena, Montana 59601

RE: HB 111

I offer testimony in support of HB 111.

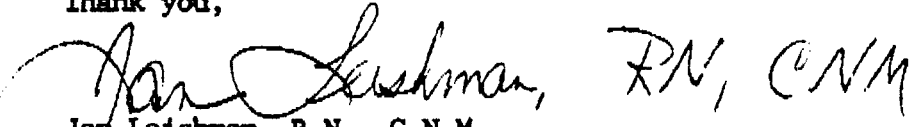
I am a Certified Nurse-Midwife (CNM) who has practiced in Gallatin County for seven and a half years. Certified Nurse-Midwives are registered nurses with advanced training in nurse-midwifery. We are licensed in Montana as a registered nurse-nurse specialist.

I support this bill because it will simplify obtaining prescriptions from Certified Nurse-Midwives for consumers. It increases the accountability of the Certified Nurse-Midwife for the prescription medications she utilizes with clients. This bill offers the hope of increasing the availability of physicians who would be willing to collaborate with Certified Nurse-Midwives; thereby making maternity care, and women's health care more available to Montana.

Certified Nurse-Midwives are currently prescribing drugs for clients; when they are indicated. This bill does not create a new 'duty' for nurse-midwives; but clarifies and simplifies the mechanism by which prescription are currently issued by Nurse-Midwives. The advanced training required for Certified Nurse-Midwives includes course material on prescription drugs.

I urge support of HB 111.

Thank you,


Jan Leishman, R.N., C.N.M.
Registered Nurse, Certified Nurse-Midwife
1833 Alaska South
Belgrade, MT 59714

BIRTH AND DEATH CERTIFICATE FEES

EXHIBIT 5
DATE 1-18-91
HB 176

ALABAMA	\$5.00
ALASKA	\$5.00
CALIFORNIA	BIRTH \$11.00 DEATH \$ 7.00
COLORADO	\$6.00
DELAWARE	\$5.00
IDAHO	\$6.00
ILLINOIS	\$15.00
IOWA	\$6.00
KANSAS	\$6.00
LOUISIANA	BIRTH \$8.00 DEATH \$5.00
MAINE	\$5.00
MICHIGAN	\$10.00
MINNESOTA	BIRTH \$11.00 DEATH \$ 8.00
MISSISSIPPI	BIRTH \$10.00 DEATH \$ 5.00
NEVADA	\$6.00
NEW MEXICO	\$10.00
NEW YORK	\$10.00
NORTH CAROLINA	\$5.00
NORTH DAKOTA	BIRTH \$7.00 DEATH \$5.00
OHIO	\$7.00
OREGON	\$8.00
UTAH	BIRTH \$10.00 DEATH \$ 7.00
WASHINGTON	\$11.00

Yellowstone County "fixed" note to by Jan Nelson
① Average of 1100 birth/death
certificates per year

$$= 13,200 \text{ per year} \times \$2.00 \text{ increase} = \$26,400$$

② Other documents, which must be
retained on file

$$7,500 \text{ per year} \times \$3.00 \text{ increase} \quad 22,500$$

\$ 48,900

VISITORS' REGISTER

Human Services & Aging COMMITTEE

BILL NO. HB 111

DATE 11/8/91

SPONSOR Cordery

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Human Services & Aging COMMITTEE

BILL NO. HB 176

DATE 1-18-91

SPONSOR Rep. T. Nelson

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.