MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By Rep. Angela Russell, Chair, on February 8, 1991, at 3:10 p.m.

ROLL CALL

Members Present:

Angela Russell, Chair (D) Tim Whalen, Vice-Chairman (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) Sheila Rice (D) Wilbur Spring (R) Carolyn Squires (D) Jessica Stickney (D) Bill Strizich (D) Rolph Tunby (R)

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 SB 90

Presentation and Opening Statement by Sponsor:

SEN. JERGESON, Senate District 8, Chinook, stated that the bill has three main provisions: licensing by credential; accrediting agency; and general supervision. The reason he was interested in this legislation was because of the issue of general supervision.

Proponents' Testimony:

REP. BOB GILBERT, self, stated that he supports SB 90.

SEN. JIM BURNETT stated that when the dentists leave the office, the dental hygienists have to stop work. He supports SB 90.

Patti Conroy, Montana Dental Hygienist Association, submitted written testimony. EXHIBIT 1

Chris Herbert, President, Montana Dental Hygienist Association, submitted written testimony. EXHIBIT 2 & 3

Donna Durham, Montana Dental Hygienist Association, read testimony from Carrie Jarland-Fixen, Dental Hygienist. EXHIBIT 4

Dr. Joel Mae, D.D.S., President, Montana Academy General Dentistry, (MAGD), stated that he supports the general supervision concept. There is no question that this bill has become more of a political question than a clinical question. MAGD is a focused group and is dedicated to promoting dental education and promoting quality care for the general public. MAGD does not get involved, politically in very many instances and this issue might be a first for their academy. MAGD is based primarily on what we can do on a clinical level and how to protect the quality level of care. There is a shortage of dental hygienists in Montana and most of the schools are closed. A large number of hygienists that are active only work part time. There is only one commission authorized to a credit dental and dental hygiene programs and that is in Bozeman. Each supervising dentist has the opportunity to determine whether he or she needs general supervision in practice. For most of us, general supervision will not mean eight hour days or 40 hour weeks. There will be hygienists practicing in the absence of the dentists.

Mike Stephens, Montana Nurses Association, stated that this bill will offer many individuals to work easily in the practice in this profession. The training and professional education, like nurses, is extensive. There is no reason why these individuals should not be able to work under general supervision in order to provide their services to the people of Montana.

Opponents' Testimony:

Dr. John Noonan, D.D.S., P.C., submitted written testimony.
EXHIBIT 5

Don Spurgeon, D.D.S., submitted written testimony. EXHIBIT 6

William Zepp, Executive Director, Montana Dental Association, submitted written testimony. EXHIBIT 7

Mary McCue, Montana Dental Association, submitted written testimony and letters in regards to SB 90. EXHIBIT 8 & 9

Carol M. McGuire, R.D.H., submitted written testimony. EXHIBIT 10

David H. Swanson, D.D.S., submitted written testimony. EXHIBIT

Questions From Committee Members:

REP. TUNBY stated that if a dentist is comfortable with giving the hygienist a little authority then he could do it, and if he isn't comfortable then he won't do it. Dr. Noonan stated that he will find that everyone will be comfortable if this legislation passes. People that have offices 20 to 50 miles away will be using hygienists when the dentist isn't there.

REP. TUNBY asked if a patient had ever had a heart attack while he was being treated by him. Dr. Noonan stated that he has been working for thirty years and he has had two patients have heart attacks while in his chair and probably have three to four epileptic seizures every year.

REP. TUNBY asked if this occurs during the dental procedure or when the hygienist was doing their work. Dr. Noonan stated that one epileptic seizure happened under the hygienist. It doesn't matter where they occurred, they would have occurred at that time anyway. He doesn't think a young hygienist alone can handle that type of situation.

REP. CROMLEY asked Ms. Conroy to assess the need for general supervision of patients of record. Ms. Conroy stated that the problem with patients of record, as suggested by the Montana Dental Association, is when a dentist has taken a long lunch hour or has a meeting and comes back later in the afternoon, and if a hygienist has a patient at 1:00 and that patient is a new patient, then that hygienist would be unable to start work with that patient until the dentist arrives at the office.

REP. CROMLEY asked if there is danger for the hygienists that one dentist might have offices in multiple towns. Ms. Conroy stated that she has never heard of a dentist who has satellite practices for their own hygienist. She doubts that this would hurt the hygienist.

REP. STRIZICH asked what is the relative importance of these quota requirements of the statute, particularly to the vocational technical project in Great Falls. Brady Vardamin, Deputy Commission, Vocational Technical Education, stated that on January 31, 1991, the Board of Regents passed a series of resolutions with regard to dental hygiene education in the state. We feel that it is inappropriate for us to comment with regard to various sections of this bill. With regard to education and the program that we proposed to develop in Great Falls, we will not field a program that is not moving steadily along the track of accreditation. There is a dental assisting program, which is one year.

REP. SQUIRES asked how many times has the accreditation standard

program changed. Ms. Herbert stated the accrediting body has not changed, but the name of the body has changed three times in the last 12 years.

REP. JOHNSON asked how many dental hygienists are in the State of Montana. Ms. Herbert stated that at the last count, there were 257.

REP. JOHNSON asked why do only 30% of the dental hygienists belong to the Dental Hygienists Association (DHA). Ms. Herbert stated that the Association membership is entirely separate from the hygienists regulatory board. DHA is a professional association. It is a choice that you may join if you wish. DHA requires an annual membership fee and there are certain benefit.

REP. JOHNSON asked how do the other 70% feel about the general supervision addition. Ms. Herbert stated that 88% of the hygienist licensed and residing who responded to our survey said that they were in support of general supervision. There are a large percentage of hygienists who want to see the bill enacted.

REP. JOHNSON asked how are dental hygienists compensated. Ms. Herbert stated that hygienists can be paid by the hour, by the patient, or by commission. She said she is paid on salary.

REP. JOHNSON asked if the dentist wasn't in the office, would the hygienist suffer a loss of income. Ms. Herbert stated that most hygienists are not on salary and if a dentist is out of the office for a period of time, it will be considered unpaid vacation.

Closing by Sponsor:

SEN. JERGESON stated that there are several issues that have to be addressed. There was concern in the Senate Public Health Committee over allowing hygienists to provide local anesthetic with general supervision. That concern of the dentists was addressed. Local anesthetic can only be applied under direct The issue of accreditation is important because supervision. accreditation of dental hygiene schools will guarantee that these people have the professional training to recognize the problems that will arise from time to time. The Montana Dental Hygienists Association and hygienists who don't belong to the Association are satisfied with the accrediting agency. The Department of Education recognizes that it will be the only accreditating agency and there will be no problem with referencing that particular commission. The dentist has the responsibility to make sure that the hygienist is qualified and is licensed. This bill will be good for the dentists and the hygienists.

HEARING ON HB 445

Presentation and Opening Statement by Sponsor:

REP. JIM RICE, House District 43, Helena, stated that this bill eliminates the sunset provisions of our Certificate of Need (CON) If this bill is passed the sunset provision will be repealed and the certificate of need law will continue operation as it does now. Montana has had CON law since 1975. The purpose of the law is to ensure that new or expanded health care facilities are, in fact, justified and needed by requiring state review and approval of the proposed facility prior to its construction. Health care costs are rising, resources are limited and CON helps us assure that those limited dollars are not spent on unnecessary services. CON is important in weeding out project that are not necessary. This bill does not effect just the nursing homes, although that is a big part of it. applies to a variety of health services. One of the more notable exceptions that CON offers is general hospital services, which were taken out in 1987.

Informational Testimony:

Charles Largoness, Department of Social and Rehabilitative Services, submitted written testimony. EXHIBIT 12

Nancy Ellery, Department of Social and Rehabilitative Services, submitted written testimony. EXHIBIT 13

Proponents' Testimony:

Rose Hughes, Executive Director, Montana Health Care Association, submitted written testimony. EXHIBIT 14

John Shontz, Mental Health Care Association of Montana (MHCAM), stated that MHCAM represents consumer to the mental health services across the state.

Pat Melby, Rimrock Foundation, submitted written testimony for David W. Cunningham. EXHIBIT 15

Diane Dowling, AARP, submitted written testimony. EXHIBIT 16

Mona Jamison, Rocky Mountain Treatment Center (RMTC) and Codependency Treatment Facility, Great Falls, stated that RMTC is covered under this law and has recently expanded to have another facility located at Grass Range. The CON law determines whether or not there is a need for the facility and the proposed number of beds. When the Department of Health and Environmental Sciences (DHES) applies the CON process and makes a determination on those criteria in addition to many others that are enumerated in the CON statute, the result is low health care costs. Even if RMTC were to be denied an application to open up a facility or expand, this is where health care planning belongs.

Jean Johnson, Executive Director, Montana Association of Homes for the Aging, stated that the Association represent retirement facilities, personal care facilities and nursing homes.

Bill McClain, Parkview Convalescence Center, Billings and Valley Convalescence Manner, Lewistown, stated that he has one of three partnerships in Parkview Deaconess. Parkview went through the CON process several years ago. The CON process is time consuming and is an expensive process to go through. Another significant aspect of the CON is when you go to finance a project, one of the first things the financial institution will ask you is "does your state have a certificate of need process"? With the failure of savings and loans, financial institutions are taking a closer look at projects that they finance. CON has a significant value to whether the financial institutions are willing to finance that project.

Richard Oge, Vice President, HMW, stated that they operate nursing homes in Laurel and Bozeman and a combination of facilities, hospitals and nursing homes. They support this bill.

Steve Brown, Blue Cross & Blue Shield (BCBS), stated that BCBS supports HB 445 and emphasizes strong CON laws.

Opponents' Testimony:

Jim Ahrens, Montana Hospital Association (MHA), stated that MHA opposes CON. Hospitals are already there. It is important to remember that in the last several years there has been a CON for acute care services.

Questions From Committee Members: None

Closing by Sponsor:

REP. RICE stated that this can be revisited by any Legislature if someone wants to bring the bill in to terminate it or sunset it. We shouldn't have to come back every two years to discuss another sunset provision that is in the law. We should put it in law and then change it later if necessary.

EXECUTIVE ACTION ON HB 445

Motion: REP. J. RICE MOVED HB 445 DO PASS.

Motion: REP. SQUIRES moved to amend HB 445. EXHIBIT 17

Discussion:

REP. DOWELL stated that he opposes the amendment. If a problem does arise in the future, we will deal with it when it comes.

REP. BOHARSKI asked if the amendment is changing the date. REP. SQUIRES said yes.

REP. WHALEN stated the he opposes the amendment. When you are talking about the facilities that are being built, you are talking about having to attract substantial amounts of capital to

build these facilities and then fund them over a long period of time. Its hard to see where you are when you have continual sunset, whereas if it becomes a permanent part of the law then there is something to rely on. This issue can be revisited any time, but the question is who is going to bear the burden and who will be bringing the issue forth. The burden has been placed enough on the advocates of CON and it is time to place a burden on those who oppose the CON law to come forth with reasons why it is not appropriate.

<u>Vote:</u> Motion on the amendment failed 19-1 with REP. SQUIRES voting aye.

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON SB 66

Motion: REP. LEE MOVED SB 66 BE CONCURRED IN.

Discussion:

REP. TUNBY stated that we would be better off with the naturopaths licensed than not licensed.

Motion: REP. LEE moved to amend SB 66.

Page 6.

Following: line 11

Insert: "(d) perform specific adjustments or

manipulations of the spinal column, as defined in

37-12-101; or"

Renumber: subsequent subsections

Discussion:

REP. LEE stated that the amendment says "to perform specific adjustments or manipulations". We aren't covering those general things. The naturopaths have some training in spinal manipulation, but not nearly the amount that is required.

REP. HANSEN stated that she opposes the amendment. The naturopaths claim they do not do this kind of manipulation. The naturopaths send the patients to chiropractors or doctors to do this. The naturopaths would not like this in the bill, because it limits their abilities to treat their patients.

REP. DOWELL stated that it is a fairly common practice for health care providers to refer patients to other health care professionals in the medical field. He opposes the amendment.

REP. HANSEN stated that this amendment would clear up what a person in the medical practice can or cannot do.

REP. WHALEN stated that in all of the health care fields there is

some overlap in practice. If the concern is consumer protection, the ultimate consumer protection is the malpractice lawsuit.

Vote: Motion carried. EXHIBIT 18

Motion: REP. LEE moved to amend SB 66. EXHIBIT 19

Discussion:

REP. LEE stated that the amendments removed from the bill any references to the ability to use drugs or surgery of any kind.

REP. JOHNSON stated that if we are going to license the naturopaths to do anything, they ought to be able to be licensed to do what their practice has trained them to do.

REP. DOWELL stated that for many years people have chosen to go to naturopaths for childbirth services, and people will continue to do that. If we take away the tools that make that process safe and the procedures that create a safe environment for both the mother and baby, we would be doing for serious disservice to the public. He opposes the amendments.

REP. TUNBY stated that he opposes the amendments.

REP. BOHARSKI stated that he doesn't think the amendments would "qut" the bill.

REP. DOWELL stated that the whole intent of this bill will provide the opportunity of protection for the naturopaths.

REP. HANSEN asked if he trusts a licensing board to adopt the correct rules. REP. LEE said yes.

REP. WHALEN stated that he opposes the amendments. The amendments seem to tie the hands of the naturopaths.

Motion: REP. JOHNSON MADE A SUBSTITUTE MOTION TO AMEND SB 66. EXHIBIT 20, which gives them the authority to use oxytocin, which is the last half of 3, last three words of 4, and last three words of 6.

Discussion:

REP. JOHNSON asked what would happen if we allowed the naturopaths to practice the way they are right now. They are coming to us and telling us what they do currently and nobody stops that. Anyone that wants to go to the naturopaths goes to them. Now we are going to reduce their practice. The naturopaths are simply asking to be able to practice they way they are currently, which doesn't give any protection at all. Licensing does not raise the status of businesses, it protects the consumer.

- REP. SQUIRES stated that pitocin is an extremely dangerous type of medication that if not administered properly can rupture the uterus by the severe infractions of that particular drug. There are a lot more problems that can result from the use of the drug.
- REP. WHALEN stated that they wouldn't be using pitocin in the home if they had admitting privileges in a hospital, but that is probably not going to happen in our lifetime. This boils down to training. The ultimate consumer protection is that if somebody is negligent in the handling of this drug, they will pay for it with a lawsuit.
- REP. J. RICE stated that the committee should vote on the last three words of amendment 3; the last three words on amendment 4; and the last three words in amendment 6. We have to break those amendments in half because those are the authorizing provisions.
- David Niss stated that in paragraph 3, if we move all of the amendments except the questioned language regarding the drug, then are we striking, for example, "emergency medicines" or not. REP. J. RICE said we are not.
- REP. J. RICE stated that if you vote "yes", you will be voting to adopt all of the proposed amendments on the sheet, with the exception of numbers 3, 4 and 6 dealing with oxytocin, which we have separated out and would be acceptable. David Niss stated that we are not deleting emergency medicines in this.
- REP. RUSSELL stated that the committee can either keep oxytocin in or out.
- REP. TUNBY stated that natural childbirth isn't the only time the naturopaths use oxytocin. Dr. Dunn stated that only the naturopaths who have had special training and have great competency use this.
- REP. BOHARSKI stated that the committee needs to vote on this and then get this subject out of the way. It is very clear what REP. JOHNSON wants to do.

Vote: Motion carried unanimously.

Motion: REP. JOHNSON moved to amend SB 66.

Discussion:

- REP. JOHNSON stated that he wants to put "oxytocin into the amendments (numbers 3, 4, and 6) that were just adopted.
- REP. J. RICE stated that the committee deleted "emergency medicine" and all the other language and separated out the issue of oxytocin. Now REP. JOHNSON wants the language dealing with oxytocin back in to authorize the naturopaths to use that medicine.

REP. SQUIRES stated by voting against this motion, we won't be taking away that privilege.

REP. BECKER stated that she is opposed to home births.

David Niss stated that in paragraph 3, 4 and 6 the amendment would insert oxytocin.

Vote: Motion carried. EXHIBIT 21

Motion: REP. STICKNEY moved to amend SB 66. EXHIBIT 22

Discussion:

REP. STICKNEY stated that the purpose of the amendments really go in terms of all medical personnel so the doctors don't start signing prescription drugs to make money for their own benefit. The protection is for the small community if they do not have a drug store. Obviously the naturopaths do have things that are linked to their profession that they do sell and make a profit from, and those drugs are probably not available in other stores.

REP. WHALEN stated that it is his understanding that the amendments the committee just adopted limit these health care practitioners down to a very limited type of homeopathic, therapeutic substances that they could use in their practice, with the exception of oxytocin, which is used in one specialized circumstance. Naturopathic physicians are not oriented toward drug therapy, except in very limited circumstances.

Vote: Motion carried. EXHIBIT 23

Motion: REP. WHALEN moved to amend SB 66.

Page 6, lines 4 through 6, Strike: natural therapeutic substances

Discussion:

REP. STICKNEY stated that if the naturopaths are going to be able to dispense and sell drugs, then they should go by the same rules like other health care professionals. REP. WHALEN stated that the difference between a drug and something that occurs in nature is that a drug can be patented. Therefore, the sale of a drug can be restricted, but you can have something that occurs from nature such as vitamins.

REP. J. RICE stated that "natural therapeutic substances" are not defined in the bill. REP. WHALEN said that it doesn't have to be defined in the bill to have any meaning. A natural therapeutic substance could be anything from vitamins to herbs.

Jerome Loendorf, Montana Medical Association, stated that the purpose of the amendment is to fill the conflicts of interest. A

conflict of interest can occur if you prescribe something and then sell it, whether it is a drug or a natural therapeutic substance.

REP. WHALEN stated that we are restricting the naturopaths further than anyone of us could go. If we want the naturopaths to turn around and sell the drugs for as much money as they wanted to we could do that. Right now we are saying the naturopaths cannot.

REP. STICKNEY stated that you are not applying for a license to practice medicine and that is the difference. REP. WHALEN stated that he knows the legal difference between something that occurs in nature and a drug patented under law.

David Niss stated that the motion is to delete the language "any natural therapeutic substances".

Vote: Motion carried. EXHIBIT 24

Motion: REP. MESSMORE moved to amend SB 66.

Page 6, line 23.

Strike: "immunization,"

Discussion:

REP. MESSMORE stated that children need immunization.

REP. DOWELL stated that he agrees, but by removing this it isn't going to be encouraging to take their children elsewhere to get immunization.

Mr. Loendorf stated that immunizations are needed long before children are six years old.

Vote: Motion carried. EXHIBIT 25

Motion: REP. SQUIRES moved to amend SB 66.

Discussion:

REP. SQUIRES stated that the naturopaths have the capability of picking a group of five physicians. She suggested that the Montana Medical Association pick five physicians, and have the Governor pick an individual.

REP. DOWELL stated that naturopaths are a very valid group of health care providers.

REP. JOHNSON stated that he has served on the Medical Examiners Board for the past 15 months, but you can't serve in the Legislature and serve on the board too. The board has considered having the naturopathic part of the part of the Board of Medical HOUSE HUMAN SERVICES & AGING COMMITTEE February 8, 1991 Page 12 of 12

Examiners on more than one occasion, but it isn't possible the way it is set up right now. It is not just the naturopaths that need a board. To have 13 or 14 on a board is absolutely ridiculous and it is financially difficult.

REP. SQUIRES WITHDREW HER MOTION.

Motion/Vote: REP. WHALEN MOVED SB 66 BE CONCURRED IN AS AMENDED.
Motion carried. EXHIBIT 26

ADJOURNMENT

Adjournment: 8:00 p.m.

NGELA RUSSELL, Chair

Jeanne Krumm/, Secretary

AR/jck

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL

DATE	2-8-91	

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

3/1/21 10:10

HOUSE STANDING COMMITTEE REPORT

February 11, 1991 Page 1 of 1

Mr. Speaker: We, the committee on <u>Human Services and Aging</u> report that <u>House Bill 445</u> (first reading copy -- white) do pass.

Signed: Angela Russell, Chairman

HOUSE STANDING COMMITTEE REPORT

February 11, 1991 Page 1 of 2

Mr. Speaker: We, the committee on <u>Human Services and Aging</u> report that <u>Senate Bill 66</u> (third reading copy -- blue) be concurred in as amended.

Signed:
Angela Russell, Chairman

And, that such amendments read:

1. Page 4, line 9. Strike: "major"

2. Page 4, line 11. Following: line 10 Strike: subsection (6) in its entirety renumber: subsequent subsections

3. Page 5, line 4.

Strike: "emergency medicines Insert: "oxytocin (pitocin)"

5. Page 6, line 11. Strike: "or"

6. Page 6.

Following: line 11

7. Page 6, line 16. Following: "prescribe"

Strike: the remainder of line 16, and line 17 through "37-2-104"

8. Page 6, line 21. Strike: "AND"

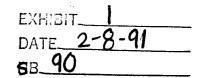
9. Page 6, line 22. Following: "antibiotics"
Insert: ", and exytocin (pitecin)"

10. Page 6, line 23. Strike: "immunizations,"

11. Page 7. Following: line 10

Insert: "(4) Except as hereinafter provided by this subsection. it is unlawful for a naturopath to engage, directly or indirectly, in the dispensing of any drugs that a naturopath is authorized to prescribe by subsection (2) of this section. If the place where a naturopath maintains an office for the practice of naturopathy is more than 10 miles from a place of business which sells and dispenses the drugs a naturopath may prescribe under subsection (2) of this section, then, to the extent such drugs are not available within 10 miles of the naturopath's office, the naturopath may sell such drugs that are unavailable."

12. Page 13, line 11. Following: "surgery," Strike: "natural antibiotics,"





Montana Dental Hygienists' Association

Patti J. Conroy RDH MDHA Legislative Chair Billings, Montana

Madam Chair and Members, I offer the following information for your consideration, and I request your support for SB 90.

RECOGNITION OF ACCREDITED DENTAL AND DENTAL HYGIENE SCHOOLS

- 1. Current statute out of date
 - The agency responsible for setting educational standards has been through name changes four times.
 - Montana statute has been changed to keep up with these name changes.
 - The one constant factor has been that all of these agencies had to be authorized by the USDOE and COPA, to accredit dental and dental hygiene schools.

2. Purpose for Change

- USDOE and COPA language would not require any future statutory changes. Licensees would be required to have graduated from an accredited program.
- Proposed language does not affect list of programs now approved for licensure.
- Any CODA accredited program automatically falls under the USDOE and COPA.
- 3. Each profession should have the right to set their own preferred wording for educational requirements.
 - All other Montana health professionals have this right.
 - MDHA prefers general terminology (USDOE & COPA), MDA prefers specific (CODA). Both sets of wording refer to the same agency.
- 4. MDHA simply wishes to assure that licensees come from accredited programs.
 - We prefer wording which is general enough to eliminate the need to update the statute in the future.

LICENSURE BY CREDENTIALS

- 1. Public Safety is Assured
 - Same requirements as other applicants plus a minimum number of required hours of practice, and clinical exam must meet standards set by the Board of Dentistry.
- 2. Common Licensing Procedure for Other Health Professions
 - Almost all health professionals in Montana have this method of licensing available. (See attached)
 - 31 states recognize licensure by credentials for dental hygienists.

GENERAL SUPERVISION

- 1. Dentist chooses type of supervision preferred
 - Responsibility lies with the supervising dentist- he chooses which patients, which services, and when, NOT the Board of Dentistry.
 - The dentist will determine what treatment, if any, will be given by a hygienist in his absence.
- 2. Comparison to other health professionals
 - Education (Associate, Baccalaureate, and Master degrees), similar in length and depth to that of Registered Nurses. Many required courses are exactly the same. (See attached)
 - Nurses are not restricted by direct supervision requirements
 - No direct supervision requirements exist for other Montana health professionals with similar length of education and licensing requirements.
- 3. Americans have enjoyed the benefits of general supervision for up to 70 years.
 - 25 states have general supervision allowable in all practice settings. (See map)
 - Most western states have general supervision in all settings (See map)
 - Every state that participates in WREB (Western Regional Examining Board) has general supervision in all settings EXCEPT Montana.
- 4. General supervision is a safe and efficient use of dental hygienists.
 - Montana Board of Dentistry indicates no complaints against hygienists who practice under general supervision.
 - Recognition of medical and dental emergencies and training in Basic Life Support are requirements in dental hygiene education.
 - Liability- no increase in insurance premiums for dentists or dental hygienists who utilize general supervision. The insurance company which carries most dental hygienists' liability insurance reports no complaints relating to general supervision and thus charges very low premiums, attesting to it's safety.
 - A survey of state Boards of Dentistry revealed no complaints on record for dental hygienists practicing under general supervision.
- 5. Beneficial to public, dentists, and dental hygienists
 - Increased access to care- more hours available for dental hygiene services- not restricted to dentists' work hours. (Dentists average 30 hours per week- see survey)
 - Red tape eliminated for approval for institutions from Board of Dentistry.
 - Flexibility for dentists and dental hygienists
 - Stability and predictability in employment arrangements

DATE 2-8-91 SB 90

Montana Health Professionals Licensed by Credentials

Physicians (37-3-306 MCA)

Nurses (37-8-407)

Physical Therapists (37-11-307)

Radiologic Therapists and Audiologists (37-24-305)

Occupational Therapists (37-24-305)

Nutritionists (37-24-305)

Osteopaths (37-5-303)

Chiropractors (37-12-305)

Acupuncturists (37-13-305)

Hearing Aid Dispensers (37-16-406)

Psychologists (37-17-304)

Dieticians (37-21-302)

Social Workers (37-22-301)

Professional Counselors (37-23-204)

COMPARISON OF DENTAL HYGIENE AND NURSING EDUCATION

EXHIBIT 1 DATE 2-8-91 SB 90

Course	Nursing	Dental Hygiene
Chemistry	8 semester credits	8 semester credits
Writing	6	6
Sociology	3	3
Psychology	6	6
History	6	3
Ethics	3	3
Anatomy and Physiology	8	8 (plus 2- Head ~ Neck) (plus 2-Dental Anatom)
Critical Thinking	3	3
Communication	3	3
Nutrition	3	3
Microbiology	4	4 (plus 2- Histology & Embryology)
Theology	6	6
Statistics	3	3
Literature	3	3
Research	2	2
Art	3	3
Community Health	7	4
Intro to Nursing (Principles of Dental Hygiene)	5	5
Nursing Assessment (Pathology & Pharmacology)	3	6
Patient Health (Principles of Dental Hygiene)	10	11
Nursing Care (Clinical Dental Hygiene, Perio)	21	25
Practicum	7	2 Rotations (plus 2-Practi Manageme

^{*} Last five areas - focus is on clinical aspects of each profession (Dental Hygiene in narentheses).

^{*} Taken from course curriculums for nursing and dental hydiene programs offerred at Carroll College 1989.



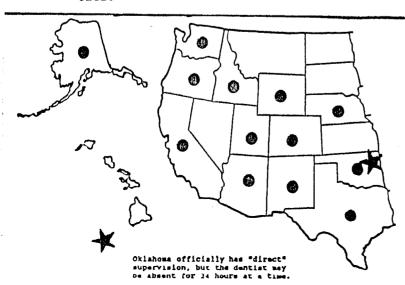
Montana Dental Hygienists' 1550 Chation

SENATE BILL 90 WILL

- 1.)- Give dentists the option of providing dental hygiene services under "general" supervision. (EXCEPT ANESTHESIA)
- 2.)- Give dental hygienists currently licensed in another state the ability to be licensed in Montana without another exam. See back of sheet.
- 3.) Identify the correct accrediting authorities for dental schools and dental hygiene schools. See back of Sheet.

1.) GENERAL SUPERVISION

- is NOW LEGAL in institutional settings (at MSU, UM, Boulder River Hospital, for example),
- means that, the dentist who owns the office rather than the Legislature or the Board of Dentistry will decide what the hygienist can do when the dentist is gone (will be like the doctor's office).
- Dental hygiene education requirements are comparable to that of Registered Nurses.
- The majority of dentists responding to a 1990 State of Montana (Health Department) survey supported general supervision.
- Most western states permit general supervision in all practice settings. SEE MAP. 25 states have general supervision. General supervision has existed in some states for up to 70 years.
- No history of complaints exists against Montana dental hygienists in providing services under general supervision at MSU, UM, Boulder River School and Montana nursing homes.
- Liability insurance premiums for dentists around the Country are the same under general or direct supervision.
- 95% of Montana's dental hygienists OPPOSE independent practice for dental hygienists.
- Dental hygienists are educated to handle office emergencies.



Western States where Dental Hygienists work in the dentist's office under general supervision.

2.) Licensure by Credentials

- Alleviates the need to travel out of state to take the currently accepted practical examination.
- 31 states recognize licensure by credentials for dental hygienists.
- Majority of Montana health professionals are able to obtain licensure by credentials (examples: Physicians, Nurses, Physical Therapists, Radiology Technologists, Speech Therapists, Audiologist, Nutritionists, Psychologists, etc...)
- Carroll College Dental Hygiene Program is now closed; Montana currently has no program.

3.) Dental and Dental Hygiene Education

- Current statute is out of date. The Agency listed is not an accrediting body.
- The United States Department of Education (USDOE) and the Council on Post-Secondary Accreditation (COPA), approve all agencies which provide institutional accreditation as well as agencies which provide specialized program accreditation.
- To ensure public safety, Montana statute should provide that licenses must be granted only to graduates of accredited educational programs.
- The current agency recognized by USDOE and COPA to accredit dental and dental hygiene programs is the American Dental Association's Commission on Dental Accreditation (CODA).
- This proposed terminology (USDOE and COPA) is similar to that found in Montana statute for other health professions (example: Nutritionists).
- Dentists prefer ADA CODA terminology, Hygienists prefer USDOE and COPA terminology; each profession would have its preferred terminology.

QUESTIONS:

EXHIBIT_	2
DATE Z	-8-91
63.90	



Montana Dental Hygienists' Association

Rep. Russell and Committee Members, Senate Bill 90

The Montana Dental Hygienists' Association has a very high participation, which includes member and non-member hygienists in meetings, newsletters and on committees. We have received letters and contributions from hygienists to support this legislation. Some are included in your packets. Before the start of the Legislative Session, our Association surveyed all licensed hygienists in Montana with the following results:

88% Supported General Supervision

86% Supported Licensure by Credentials

95% Opposed Independent Practice for hygienists. Please note the letter attached that we sent you in November regarding this issue.

RECOGNITION OF DENTAL AND DENTAL HYGIENE SCHOOLS

It is MDHA's goal to maintain a level of professional quality that is a result of an established accreditation process. The current statute uses wording that is vague (guided by...) and leaves it up to the Board of Dentistry to evaluate each program. We believe that the statute should require that licensees MUST be graduates of an accredited school of Dental Hygiene.

The current statute identifies an organization that is not an accrediting agency (CODE).

In the bill, it states that the board shall recognize only those dental hygiene schools accredited by the authorized body as designated by USDOE and COPA. This agency is CODA, or the Commission on Dental Accreditation.

The Dental Association stated that they preferred the specific reference to CODA at the Board of Dentistry meeting in December, so we changed the bill to include their preference for their profession.

CODA is a committee of the American Dental Association. CODA is currently revising the accrediting standards for dental hygiene schools. It is CODA/ADA that recommends that these standards be reduced. The dental hygienists have recommended that they be increased to meet with the current practice demands of hygienists.

This change will not effect the current accreditation process, nor will it effect the list of dental or dental hygiene schools currently accepted by the Board of Dentistry for licensure in Montana.

The Board of Regents proposal for a dental hygiene program calls for an accredited program and is strongly supported by MDHA.

LICENSURE BY CREDENTIALS

There is need to provide a reasonable means of licensure for hygienists, while maintaining a high accredited standard. With the closure of the Carroll College Dental Hygiene Program, the state is now without a resource for new hygienists. We believe that this change will encourage hygienists to move into Montana.

With that closure, we have also lost our clinical examining site. Licensure now requires travel to another state to be examined, which is very costly and time consuming. Letters of testimony from out of state hygienists are included in your packets.

We amended the specific criteria required for licensure, after obtaining input from MDA and the Board of Dentistry at their meeting in December.

GENERAL SUPERVISION

General supervision is currently allowed in many institutions such as MSU, UM, military sites, and Indian Health Service dental clinics. The list of institutions is attached.

In practice, dentists in Montana are asking dental hygienists to practice under general supervision in private offices. Hygienists have indicated to me that they are not comfortable breaking the law. A recent survey of hygienists revealed that 46% of them had been asked at one time of another to practice with the dentist out of the office in a non-emergency situation.

MDHA obtained a legal opinion of the current statute. Direct Supervision does not allow the dentist to leave the office while the hygienist sees patients. The dentist down the hall in another practice cannot be the supervisor: please note the attached MDA testimony from 1981 on this issue.

A survey done by the Montana State Department of Health and Human Services, reported that a majority of the dentists in the state support General Supervision of dental hygienists. Individual letters of support from dentists are included.

This section has been worded very carefully to eliminate any possibility of independent or <u>unsupervised</u> practice. This bill make its legal for the DENTIST, as the leader of the dental team, to determine what the hygienist can or cannot do in his practice. The Association responded to concerns raised in the Senate concerning the administration of local anesthesia under general supervision; the Senate appropriately amended the bill to allow hygienists to deliver local anesthesia only under the direct supervision of the dentist.

The only liability risk that we see is in hygienists continuing to allow this to happen without legal support. Senate Bill 90 will assure that professional liability in the face of the actual practice is protected. The level of service or quality of care will not be affected by this change. THANK YOU.

DATE 2-8-91 SB 90

LEGAL OPINION EXHIBIT "A" December 12, 1990

This list notes the institutions in Montana granted (by the Montana Board of Dentistry) the right to have dental hygiene services delivered under general supervision. This list odes NOT include the several federal locations which are exempt from state law and offer Montanans dental hygiene services under general supervision.

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DATE PERMISSION GRANTED

Montana Development Center (Boulder River School)

August 31, 1978

Emanuel Lutheran Home (Kalisell)

February 27, 1979

Dental Health Bureau (MDHES)

January 1, 1989(sic)

Eastmont

(Glendive)

February 1, 1985

St. John's Lutheran Home

November 26, 1986

(Billings)

January 1, 1989

Montana State University

March 21, 1989

Gallatin County Resthome Mountain View Care Center

Bozeman Care Center

March 29, 1989

University of Montana (Missoula)

DATE 2-8-91 58 90

P. O. Box 513

Butte, Montana 59701

Phone (406) 792-933:

Constituent: AMERICAN DENTAL ASSOCIATION

TO: MONTANA SENATE PUBLIC HEALTH COMMITTEE

FROM: Donald R. Erickson, D.D.S., President, Montana Dental Association

SUBJECT: SB391 - Montana Dental Fractice Act

Section 3, Section 2-15-1606, MCA. Sub Section (2) line 6 adds "one public member" - the MDA questions the duties a lay person would perform on a professional examination Board, and wonders if those services performed would justify the extra expense to the Board of Dentistry. These expenses are paid totally by the examinees and licensees, not general funds. These costs should be controlled as much as possible so as to not prevent potential examinees from taking the examination nor cause older dentists to not maintain their license. Either of these possibilities would adversely affect the patient consumer, as these costs are ultimately paid by the patient.

Section 9. The MIA recommends deletion of Section 9 of SB391. This section of the Dental Practice Act was changed only 2 years ago to permit unsupervised dental hygiene practice in nursing homes and institutions, provided prior approval of type of alternate supervision was asked for and given by the Board of Dentistry. This change was permitted because of the different nature of care necessary in these facilities, and the fact that there was "on premises" nursing care in case of emergencies. This would not be true of this proposed law change. It is still too soon to evaluate how well this change has worked, as it is relatively untested.

Proponents claim a "need for a change", however it seems entirely an economic need for the Dentist or hygienist who wants the income while the Dentist is not at the office because of golf or fishing or ??? There is no need or any increased benefit to the patient, while it does decrease the safety and welfare of the patient.

Proponents claim adequate supervision would be done by the Dentist down the hall, upstairs or in a reasonable proximity. However, present law 37-4-405 requires (1) "on the premises" presence of the Dentist, rules section 40.14.603 (7) states "the Dentist shall assume responsibility and liability for all auxiliaries" and (8) that no Dentist may supervise more auxiliaries than . . . consistent with the protection of health, welfare and safety of the patient.

The proposed change would require a review by the Board of <u>each</u> request and a description of the type of supervision necessary. The MDA suggests that this would not be practical and would result in much confusion to the profession, and it would be impossible for the Board to rule on so many varied situations.

The MDM believes that direct supervision, i.e., "on the premises", is necessary for the safety and welfare of the patient, especially today with so many medically compromised patients. It is not reasonable to expect the hygienist, with minimal dental and medical training, to evaluate and treat these patients or provide necessary emergency care, nor is it reasonable to believe the "proxy" Dentist down the hall could adequately supervise.



Montana Dental Hygienists' Association

November 12, 1990

Representative Angela Russell Montana House of Representatives P.O. Box 333 Lodge Grass, Montana 59050

Dear Representative Russell,

The Montana Dental Hygienists' Association wishes to express our congratulations on your election to Montana's 52nd Legislative Assembly. We look forward to meeting and working with you to enhance the quality of health care for the citizens of Montana.

We anticipate that a variety of health care issues will be placed before the Legislature. Among these issues is a bill to allow dental hygienists the opportunity to provide dental hygiene services without the necessity of having the dentist on the premises at all times (general supervision). Montana dental hygienists may currently practice under general supervision only in public or private institutions, hospitals, extended care facilities, schools and public health departments.

We are concerned that some folks are uncomfortable in supporting general supervision for dental hygienists in private practice settings, because they fear it is a step toward dental hygienists opening their own dental practices in the future. We would like to assure you that the Montana Dental Hygienists Association has no intention of pursuing independent practice for dental hygienists. In fact, a recent survey, conducted by the Montana Dental Hygienists' Association, of all licensed and residing dental hygienists in Montana, disclosed that 95% of the respondents OPPOSE INDEPENDENT PRACTICE for dental hygienists.

Our sincere hope is to work together with you to increase the access to, and quality of, oral health care for the citizens of Montana.

Our congratulations,

Chris Herbert, RDH MDHA President

Patti J. Conroy RDH MDHA Legislative Chairman

Exhibit 3 contains 40 letters supporting SB 90; a legal opinion from Doney, Crowley, & Shontz; and a descriptive summary of the 1990 survey of Montana dentists from DHES. The originals are stored at the Montana Historical Society, 225 North Roberts, Helena, MT 59601. (Phone 406-444-4775)

EXHIBIT 4

DATE 2-8-91

\$18 90

February 7, 1991

Legislative Committee Human Services and Aging:

I am a dental hygienist currently working under general supervision at the Montana State University Dental Clinic and also under direct supervision in a private practice.

General supervision would give us the opportunity to continue patient care should the Doctor be called away in an emergency. This could also free the Doctor to attend meetings, seminars etc. without compromising or limiting the hygiene time. General supervision could also eliminate the inconvenience to the patient of having to reschedule and would allow the hygienist to maintain her schedule.

Currently under direct supervision I would see the patient, obtain or update the medical history, take X-rays and perform the prophylaxis before the Doctor does the examination.

Under general supervision at MSU, with the doctors permission, I follow the same procedure of obtaining or updating the medical history, take X-rays and perform the prophylaxis. These patients often are scheduled for examinations at a later date.

I believe the patients in my care receive the same treatment under general supervision as they would under direct supervision.

In closing, I would like to ask your support of Senate Bill 90.

Sincerely,

Carrie Jarland-Fixen

Carrie Garland-Fixen

EXHIBIT DATE 2-8-4 T, D.D.S., P.C. ET SOUTH EXHIBIT DATE 2-8-4 SR 90

JOHN T. NOONAN, D.D.S., P.C. 114 - 13th Street South Great Falls. Montana 59405

TELEPHONE: (406) 453-1495

February 8, 1991

Madam Chairman and Committee Members,

I'm Dr. John Noonan from Great Falls. I have practiced dentistry there since 1962. I am the current president of the Board of Dentistry.

I would like to speak to you today of Senate Bill #90. This bill contains three amendments which directly affect the Board.

Section 37-4-302 which deals with accrediation of dental hygiene schools.

Section 37-4-404 permits the Board of Dentistry to establish within the parameters set by statute the number of practice hours required for licensure of dental hygenists by credentials.

Section 37-4-405 which is to ensure that it is up to the discretion of the supervising dentist and not the board to determine if a hygienst is to perform the duties referred to in that section under general or direct supervision.

At Board of Dentistry meetings in Oct., Dec. and Jan. we asked that we have input into the hygiene legislation and recieved assurance that we would. The first we knew of the content of the bill was when it was introduced to the Senate. When we finally saw the bill we had a telephone vote and the vote was 5 to 1 not to support the legislation with the decenting vote coming from the hygiene member. Be that as it may I would like to direct the rest of my testimoney to "Section 37-4-405" dealing with general supervision.

This ammendment would allow a hygienist who is right out of school, with no experience or a hygienist who has laid off to have a family for ten or twelve years and has returned to the profession, to enter an office setting or a resthome setting to treat dibilatated, at risk people without the supervision of a dentist or his assistance if an emergency occurred.

It is not uncommon that a dental office experiences a patient having a heart attack or a siezure. This is a difficult situation for a dentist and his staff, much less a hygienist by herself with little or no experience along these lines.

It is not a fair situation to place a hygienist in and it is certainly a risk to the people Montana.

With the passage of direct supervision of hygienists we will see dentists with multiple offices in different cities having hygienists working in their offices when they are fifty or seventy miles away. If this bill is passed, these things will happen. There is no need for general supervision among the hygienist, they work for dentists on that dentists patients and he should be present when they are treated.

You as legislators have the responsibility and obligation to protect the Montana public. I ask that you send a do not pass recommendation to the house on Senate bill 90.

Respectfully yours,

John T. Noonan D.D.S.

President, Board of Dentistry



DATE 7-8-91 BB 90

Montana Dental Association

Constituent: AMERICAN DENTAL ASSOCIATION

P.O. Box 281 • Helena, MT 59624 • (406) 443-2061

TO:

Members of the House Human Services and Aging Committee

FROM:

Don Spurgeon, D.D.S.

RE:

General Supervision of Dental Hygienists

Madame Chairperson, members of the Human Services and Aging Committee, my name is Don Spurgeon. I am a practicing general dentist in Great Falls and President-Elect of the Montana Dental Association. I am here to testify that I personally, as well as, the Montana Dental Association and American Dental Association oppose the general supervision of dental hygienists.

As a health profession, dentistry is committed to improving the health of the American people by providing the public with the highest quality comprehensive dental care. Comprehensive dental care must include the inseparable components of (1) dental and medical history, (2) examination, (3) diagnosis, (4) treatment planning, (5) treatment services and (6) health maintenance. Dental preventive procedures are an integral part of the comprehensive practice of dentistry and should be rendered in accordance with the needs of the patient as determined by a diagnosis and treatment plan developed and executed by the dentist.

The dentist is ultimately responsible for patient care. In carrying out that responsibility, the dentist may delegate to staff personnel certain patient care functions for which the staff personnel have been trained. Appropriate functions may be delegated to dental hygienists in order to improve the availability of dental services with assurance of quality under the direct, or personal supervision of a dentist. The delegated procedures are limited to those that the dental hygienist can perform with minimal potential for adverse consequences.

The issue from my point of view is two-fold:

- 1. Adequacy of training and expertise for patient evaluation and diagnosis in an unsupervised setting.
- 2. Competency to manage medical emergencies related or unrelated to the dental services provided in an unsupervised setting.

The Montana state law does not allow hygienists to diagnosis, treatment plan or prescribe. Dental treatment of any kind <u>cannot</u> be properly represed without evaluation and diagnosis of the patient's

oral condition. Hygiene services are superficially invasive (causing bleeding in most patients and introducing bacteria into bloodstream) and should not be delivered to patients with a number of medical conditions (heart murmurs, heart or joint prostheses, blood disorders, organ transplants, bleeding disorders, etc.) without careful evaluation by a dentist and sometimes supplemented by consultation with a physician. Surgical and dental procedures, (which includes dental prophylaxis or cleaning) commonly cause a transient bacteremia (bacteria in the blood stream). This bacteria may lodge damaged or abnormal heart valves resulting in bacterial Therefore, a regiment of antibotics is absolutely endocarditis. necessary for these patients before the treatment is begun. hygienists cannot prescribe and are not trained to prescribe antibiotics. Bear in mind that the scope of dental hygiene goes beyond the "polishing of teeth and includes invasive procedures such as deep scaling and subgingival curettage.

Dental hygiene education is not adequate preparation for the responsibility to patient welfare necessary in a general supervision setting. Hygienists typically have two years of post high school training. Even baccalaureate programs in dental hygiene provide only two years of hygiene course work, with the rest of the program consisting of general studies. Hygiene courses are at the college freshman and sophomore level. Hygiene training is in sharp contrast to dental education. Dentists receive four years of graduate level education after completion of 3-4 years of undergraduate study.

Secondly, the potential for medical emergencies in the dental office is constantly increasing as dentulous patients (people with their own natural teeth) are living longer, taking more medications, and living with chronic debilitating diseases. The unsupervised practitioner must be capable of managing an emergency beyond the simple ability to administer CPR (cardiopulmonary resuscitation). Dental hygienists again cannot diagnose the medical condition in the emergency or provide drugs as needed. As I stated previously, the services that are being delivered are not "cosmetic" services, but <u>invasive</u> procedures which may produce patient anxiety and may precipitate a medical emergency.

Therefore, general supervision of dental hygienists is not acceptable because it fails to protect the health of the public.

- Any patient to be treated by a dental hygienist must first become a patient of record of a dentist. A patient of record is defined as one who:
 - a. has been examined by the dentist;
 - b. has had a medical and dental history completed and evaluated by the dentist;
 - c. has had his/her oral condition diagnosed and a treatment plan developed by the dentist.
- 2. The dentist must provide to the dental hygienist authorization to perform clinical dental hygiene services for that patient of record.
- 3. The dentist shall examine the patient following performance

DATE 7-8-91

of clinical services by the dental hygienist, within a reasonable time depending on the nature of service provided, the needs of the patient, and the professional judgement of the dentist.

Dentists, dental hygienists and other dental staff members, working together, have greatly enhanced preventive dental care available to the American public. Adequate dental supervision and coordination of treatment are essential to the high quality of American oral health care. General supervision of dental hygienists would reduce the quality of oral health care and seriously increase risks to the patient. Any such attempts to fragment the delivery of dental services are contrary to the public interest.



DATE 2-8-91 58 90

Montana Dental Association

Constituent: AMERICAN DENTAL ASSOCIATION

P.O. Box 281 • Helena, MT 59624 • (406) 443-2061

TO: Members of the House Human Services and Aging Committee

FROM: William E. Zepp, Executive Director

RE: Accreditation of Dental Hygiene Education Programs

The accreditation process is unique to the system of higher education in the United States. Despite the fact that there is no national system of education, it is important to point out that most, if not all, states and territories have statutory or regulatory jurisdiction over education. Yet, among states, educational priority and educational quality differ. Also, authority and responsibility for education among states are exercised in an inconsistent and independent manner. For these and other reasons, the need to establish and retain nationally acceptable standards of educational quality in both the private and public education communities evolved.

Two kinds of accreditation are prevalent: institutional accreditation and specialized or programmatic accreditation. Institutional accreditation is granted through nationally recognized regional accrediting associations, such as the Northwest Association of Schools and Colleges which includes all members of the Montana University System, as well as the majority of the private colleges and secondary schools in Montana. Programmatic accreditation is granted through nationally recognized accrediting agencies, such as the Commission on Dental Accreditation, and its counterparts in the fields of law, forestry, and engineering to name but a few.

The Commission on Dental Accreditation is recognized by the dental profession as the accrediting agency charged with the responsibility and authority for evaluating and accrediting dental and dental related programs. The Commission also exercises its responsibility and authority through recognition granted to it by the Council on Postsecondary Accreditation (COPA) and the U.S. Office of Education (USDOE). Each of these agencies has purview over all accrediting bodies in the United States. Each periodically reviews, evaluates, and publicly designates those accrediting bodies established as reliable authorities to conduct accreditation programs in institutions of higher education or in specific professions or occupational disciplines. Each of these agencies has published criteria or provisions and procedures with which all recognized accrediting agencies must comply. CODA is recognized by both COPA and USDOE. To document the Commission's status as a recognized accrediting agency,

a letter from the Secretary of Education confirming the Commission's rerecognition from 1989 to 1984 is attached. Five years is the maximum period for which recognition is granted.

CODA is comprised of 20 members, representing the various communities of interest that are involved in or directly affected by commission's accreditation program. Four commission members nominated by the ADA Board of Trustees and are elected by the ADA House of Delegates. In addition, four commission members are selected by the American Association of Dental Schools (AADS) and four are selected by the American Association of Dental Examiners (AADE). These 12 commission members also serve in a dual role as members of the Council on Dental Education (CDE), the policy-recommending body to the ADA House of Delegates on all pertinent matters relating to education. The other eight commission members are composed of three individuals representing the occupational disciplines of dental assisting, dental hygiene, and dental laboratory technology -- each selected by his or her respective organization, two specialty representatives, one student member and two public members.

The American Dental Hygienists Association is dissatisfied with their representation on the Commission and desires to serve as the accreditation group for dental hygiene programs. The attempt to acquire this responsibility has been rejected on two occasions by the Council on Postsecondary Accreditation. Although both USDOE and COPA have historically opposed the proliferation of accrediting agencies, such attempts might be made again in the future and would be supported by broad statutory language such as that proposed by the Montana Dental Hygienists Association.

Elimination of the reference to CODA would be similar to the Montana University System eliminating reference to the Northwest Association of Schools and Colleges in their policies or materials; more analogous might be the UM Forestry School eliminating reference to the Society of American Foresters Committee on Accreditation. Recognized accreditation agencies are necessary to provide continuity, consistency of standards, and overall quality control in academic institutions.

For these reasons, statutory language that specifies the Commission on Dental Accreditation as the recognized accrediting body would seem the best approach to assure that the accreditation process serves its intended purpose for the people of Montana. This position has the total support of the Montana Dental Association, the Montana Board of Dental Examiners, and Board of Regents of the Montana University System. A letter to this effect is included with this testimony from Commissioner of Higher Education John Hutchinson. Brady Vardeman, Deputy Commissioner for Vocational Technical Education, is present in the audience today and would be happy to respond to committee questions regarding this issue. Thank you for your attention and consideration.

DATE 2-8-91 SB 90

Typy & MCue

ATTORNEYS AT LAW

1215 Eleventh Avenue P.O.Box 543 Helena, Montana 59624 406·442·4448 FAX 406·442-8018

Roger Tippy MaryKelly MUue

February 8, 1991

Re: Senate Bill 90

--- The Montana Dental Association opposes this bill for two reasons:

- (1) It would permit dental hygienists to work under general supervision which is not acceptable to the Montana Dental Association because it fails to protect the dental health of the public. Dentists believe hygienists are a vital part of the dental team -- they are not trained to be primary health care providers. This bill would allow hygienists to treat patients who have not been examined by a dentist. MDA members believe that supervision and coordination of treatment by a dentist are essential to the high quality of oral health care; unsupervised practice reduces that quality and seriously increases risks to the patient. Although dental emergencies are rare, they do happen. hygienists, working alone, may be called on to handle emergency situations for which they are not adequately trained. dentist, with 8 years of training, is the best person to handle these emergencies and should be on the premises. The two years hygienists spend in training are mainly spent learning techniques of cleaning teeth with the understanding that the dentist will be present during the procedure. This training does not presume the ability to coordinate comprehensive oral health care.
- (2) The second reason we oppose this bill relates to the language in sections I and 3 dealing with accreditation of dental hygiene programs. The bill as presently written poses the danger of overlapping and possibly competing accrediting agencies. This may fragment the accreditation process and will not serve the public interest. For this reason, the MDA is opposed to the addition of this language.

In conclusion, I want you to know that members of the MDA are not categorically opposed to any change in the dental hygienists practice act as the evolution of the statutes clearly show. But dentists object to the hygienists urging significant changes in laws that affect the way dentists practice dentistry. The MDA and public have not requested these changes in the practice act and they are definitely not for the benefit of the public.



Montana Dental Association

P.O. Box 281 • Helena, MT 59624 • (406) 443-2061

Constituent: AMERICAN DENTAL ASSOCIATION

A RESOLUTION OF CONCERN TO THE MEMBERS OF THE 1991 HOUSE OF REPRESENTATIVES

WHEREAS, the health, welfare and safety of the citizens of the State of Montana are the foremost concerns of the dental community and the Montana Dental Association; and

WHEREAS, the dentists of the State of Montana are trained professionals, responsible for the care of their patients and the direct supervision of the entire dental auxiliary staff, including hygienists; and

WHEREAS, legislation has been introduced by the Montana Dental Hygiene Association to lessen accreditation requirements for schools of dental hygiene by removing reference to the Commission on Dental Accreditation, alter certification requirements for practice in the State of Montana, and eliminate direct supervision by the dental professionals which will jeopardize the quality of care available to the citizens of Montana.

THEREFORE BE IT RESOLVED THAT The Board of Directors and the Executive Committee of the Montana Dental Association are adamantly opposed to Senate Bill 90 and urge the members of the Senate to defeat this bill in the interests of all citizens of the State of Montana.

2615 16th Avenue South

Great Falls, MT 59405

2370 Avenue C

Billings MT 59102

	JAN 205	
J. Samuel Butte	Stroeher, DDS	

Terry J. Zahn, DDS Missoula

Roger L. Kiesling, DDS Helena

Jerry R. Golphenee, DDS

William D. Brennick, DDS Butte

Roger E. Bisson, DDS Helena

Roymond Willes D.O.S.

Raymond W. White, DDS

Lewistown

Robert W. Barelman, DDS Wolf Point

Don A. Spurgeon, DDS Great Falls

James H. Johnson, DDS Billings

Kirk B. Stetson

Kirk B. Stetson, DDS Helena

Douglas S. Hadnot, DDS Missoula

Romas Bally DDS Ronald J. Berkhof, DDS Great Falls

a Plandlet D.M.D.

Lawrence P. Pendleton, DMD Bozeman

Timothy H. Pfistor, DDS Billings

Jerry D. Martin, DDS Chester

COMPARISON OF DENTAL EDUCATION AND DENTAL HYGIENE INSTRUCTION

Predoctoral Dental

Post-secondary Education

Generally eight years of study, usually consisting of four years of coilege followed by four years of post-graduate dental education.

Scope & Depth of Coursework

Scope and depth of course content are at graduate level and build on a broad background in the basic and social sciences, including chemistry, biology, anatomy, physiology, physics and psychology at the college and graduate level.

Educated and examined in comprehensive

Terminal Clinical Competencies

dental patient care as follows:

- Assessment of the patient's general, oral and dental health and diagnosis of oral disease and oral sequelae of diseases
- Interpretation of oral and dental radiographs and other diagnostic tests
- Assessing and managing treatment needs of medically compromised patients
- Treatment planning and case presentation
- Preventive services and patient education (nearly all dental hygiene functions fall in this category)
- Pharmacology and therapeutics; management of related complications (e.g., anesthesia, pain management and antibiotic therapy
- Prevention and management of dental and medical emergencies (e.g., shock, aspiration, allergic reactions, heart attack)
- Prevention, diagnosis and management of:
 - periodontal disorders
 - restorative procedures
 - endodontic disorders
 - oral surgical procedures
 - orthodontic abnormalities prosthetic procedures

Dental Hygiene

Generally two years post-high school study leading to an associate degree or certificate. Only a small percentage of those practicing have a baccalaureate degree in dental hygiene, which usually includes only two years of hygiene instruction and two years of liberal arts education.

Scope and depth of course content are at coilege undergraduate level; basic and social science courses are generally at introductory survey level.

Trained to perform the following clinical dental hygiene procedures and health education functions:

- Performing prophylaxis
- Exposing radiographs
- Applying topical fluorides
- Basic life support (CPR)
- Oral health education and preventive counseling
- May also be trained in application of pit and fissure sealants, root planing. placement of dressings, and similar functions.

Summary

Dentists are educated to assume responsibility for comprehensively managing the complete oral health needs of their patients. Dentists render preventive, diagnostic and therapeutic services, including management of the care of medically compromised patients.

Dental hygiene functions are a defined. narrow portion of comprehensive dental care.

All dental hygiene functions are reversible.

All dental hygiene functions are taught with the understanding that they will be performed under direct, indirect or personal supervision of a dentist.



UNITED STATES DEPARTMENT OF EDUCATION THE SECRETARY

EXHIBIT 9

DATE 2.8-91

88-90

Ĵ

Dr. Mario Santangelo
Secretary
Commission on Dental
Accreditation
American Dental Association
211 East Chicago Avenue
Chicago, Illinois 60611

Dear Dr. Santangelo:

At its meeting on June 27-28, 1989, the National Advisory Committee on Accreditation and Institutional Eligibility recommended that I renew recognition of the Commission on Dental Accreditation of the American Dental Association for a period of five years in accordance with 20 U.S.C. 1141(a) and other legislation.

I concur with the recommendation of the National Advisory Committee. For a period of five years from the date of this letter, I shall continue to list the Commission on Dental Accreditation of the American Dental Association as a nationally recognized accrediting agency for the accreditation and preaccreditation (Accreditation Eligible) of programs leading to the DDS or DND degree, advance general dentistry and specialty programs, general practice residency programs and programs in dental hygiene, dental assisting and dental laboratory technology.

Please convey my best wishes to the members of the Commission on Dental Accreditation.

Sincerely,

Lauro F. Cavazos





THE MONTANA UNIVERSITY SYSTEM

EXHIBIT 4 DATE 2-8-91 \$:890

33 SOUTH LAST CHANCE GULCH HELENA, MONTANA 59620-2602 (406) 444-6570

COMMISSIONER OF HIGHER EDUCATION

February 6, 1991

Representative Angela Russell
Chairperson, House Committee on Human Services
and Aging
State Capitol Building
Helena, Montana

Dear Representative Russell:

My staff and I have reviewed with great interest SB 90, a bill which proposes a number of changes relative to the education and practice of dental hygienists in this state.

Only last week, the Board of Regents of Higher Education designated the Great Falls Vocational-Technical Center as the public postsecondary institution in Montana to continue in the development of a two-year associate degree program in dental hygiene. This is an area of keen interest to us.

Although we feel it would not be appropriate for us to comment on several of the provisions or proposed amendments to SB 90, we continue to be concerned about that portion of the bill which deals with the accreditation of dental hygiene programs. We believe that it is of great importance to specifically reference the official accrediting body in Montana statute so that program planners, faculty, and all other involved and/or interested persons have a clear understanding of the one agency with which they must interact relative to the varied responsibilities inherent to the accreditation process. Both the U.S. Department of Education and the Council on Postsecondary Accreditation have designated the Commission on Dental Accreditation as this official accrediting body, and therefore we urge that CODA be so referenced in Montana law.

Thank you for this opportunity to comment.

Sincerely,

Am/M. Auluusor John M. Hutchinson

Commissioner of Higher Education

c: Deputy Commissioner Vardemann Lisa Casman, Board of Dentistry Chris Herbert, Montana Dental Hygienists' Association Bill Zepp, Montana Dental Association



DATE 2-8-91 58 90

Montana Dental Association

Constituent: AMERICAN DENTAL ASSOCIATION

P.O. Box 281 • Helena, MT 59624 • (406) 443-2061

February 8, 1991

TO:

Members of the House Human Services and Aging Committee

Angela Russell, Chairperson

FROM:

William E. Zepp, Executive Director

Montana Dental Association

RE:

Dental Hygiene Education Program

On January 31, 1991, the Board of Regents of the Montana University System approved the continuation of a planning study to reestablish a dental hygiene education program in the state of Montana. Based on recommendations received from an independent hygiene consultant, Ms. Sherry Burke, the Regents have designated Great Falls Vocational Technical Center as the public institution to undertake this planning.

The staff of the Commissioner of Higher Education presented four major recommendations to the Board concerning the development of a new program. The fourth item should be of particular interest in the matter before the Committee, and reads as follows:

"That planning efforts are to include those steps necessary and appropriate to accreditation of this program by the Commission on Dental Accreditation of the American Dental Association."

EXGHIBIT 9

DATE 2-8-91

58 90

SUMMARY AND CONCLUSIONS

SURVEY

You have been told that a recent survey indicated that 44% of Montana dentists responding favored general supervision.

This question was #51 of a 55 question survey taken by Dr. Ed Lawler of the Department of Health and Environmental Sciences. The question was the sole query regarding the topic of supervision; the three previous questions addressed fees and payment plans, the following two questions spoke to office overhead and profits.

Question 51 reads as follows:

"Do you feel that dental hygienists should be granted the right to practice their profession under general supervision, as defined by the State Board, of a dentist?"

No definition of general supervision was provided; the only definition referenced was to come from the State Board, not MDHA legislation. We do not feel that this question was presented with enough clarification to provide accurate data. We are being asked to change the law on the basis of one poorly phrased, undefined survey question.

The Ninth District Dental Society of Billings, representing approximately 100 or 20% of the Montana dentists, completed a telephone survey defining general supervision as it is in SB90. The results as of this morning were 54 against general supervision and 2 in favor.

PETITIONS

You have been told that many dentists in the State support SB90 and have signed petitions to indicate this support. In reality, the Hygiene Association initially distributed three petitions; one regarding licensure by credentials, one regarding general supervision, and one regarding accreditation. At some point in the fall, the accreditation information was attached to the licensure by credentials petition. At no time were the petitions presented as one, or dentists verbally informed that only one bill was being drafted. Many dentists are favorable to licensure by credentials; however in supporting licensure by credentials they are being identified as supportive of the entire bill.

REPRESENTATION

You have been told that the MDHA represents a significant percentage of Montana hygienists. The Hygiene Association and their national affiliate, the ADHA, have adamantly refused to release membership numbers or a membership roster, despite requests from the Montana Dental Association, the Montana Board of Dental Examiners, and others. The last official count that I am aware of was 46, including two out-of-state hygienists, reported to the ADHA in the fall of 1989. Since early December, I have heard "fifty or sixty", "probably seventy-five", and "around 140", all from hygienists. Their numbers are as closely guarded as the contents of their bill.

ABUSE OF SUPERVISION REGULATION

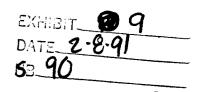
You have heard that abuse of the current supervision regulation is rampant and that the law must be adjusted to reflect reality. Surveys indicate that only 53% of Montana dentists even employ a hygienist in their office. In addition, the Board of Dentistry has received no complaints regarding abuses of the supervision regulation -- and the Board must honor and record anonymous complaints as well. If staff members are being compromised or patients neglected, the mechanism for reporting such situations and applying punitive restraints now exists.

CONCLUSION

Major changes such as those proposed by SB90 should be made to protect or benefit the public, not to provide convenience for the dental profession or dental staff members, and certainly not to further the political interests of a vocal minority. How can it possibly benefit the public when the trained dental professional does not have to provide them with even a cursory examination? Indeed, when the trained dental professional does not even have to be on site?

The Montana Dental Association has not sought these changes; the Montana Board of Dental Examiners opposes these changes; and the general public has not requested these changes. The changes are self serving for the leadership of the MDHA, and should not be considered further.

ROBERT A. NEILL, D.D.S. MOUNTAIN VISTA CLINIC 800 WEST PLATINUM BUTTE, MONTANA 59701 TELEPHONE 723-8070



February 8, 1991

TO: Members of the House Human Services and Aging Committee

FROM: Robert A. Neill, D.D.S. RG.N.

SB90 should <u>not</u> be passed! As a member of the House Human Services and Aging Committee, you are entrusted by Montana citizens to protect their health and safety.

I have practiced Dentistry in Montana for twelve years. I have found that dental hygienists are a vital part of the dental team. I have also found (and this is supported by national statistics) that most hygienists stay in practice an average of only three to five years and most do not belong to the Hygiene Associations. I fully support organized Dentistry but I cannot support the Montana Dental Hygiene Association (MDHA) if they pursue bills such as this (SB90) which are not in the best interest of public safety.

The people pushing this bill (SB90) do not represent the desires of the majority of hygienists. These people are a minority who are looking for autonomy in dentistry - trying to dismember the dental team at the expense of public safety for their own gain. These people promised to let dentists and the Board of Dentistry see this bill before the legislative session began. Obviously they went back on their word and popped this on you in an attempt to ram this bill through without concern for public safety. I would now take you through some of the specific problems involved:

SECTION 1

The proposed change here takes dental hygiene out from under the auspices of the Commission on Dental Accreditation (CODA), allowing accreditation by some unknown body. CODA is a specialized accrediting body recognized by the Council On Post-Secondary Accreditation and also by the United States Department of Education. Dental hygienists should remain under CODA or you will lose control of how a hygienist is trained. CODA protects Americans' safety.

SECTION 2

The proposed change would allow general supervision of dental hygienists, including their administration of local anesthesia agents. This would allow a hygienist to clean teeth and give anesthetic without a dentist being present!

ROBERT A. NEILL, D.D.S.

MOUNTAIN VISTA CLINIC 800 WEST PLATINUM BUTTE, MONTANA 59701

TELEPHONE 723-6070

Page 2.

EATE 2-8-91 \$13.90

I might add that my own hygienist (who is certified to give anesthetic) is not allowed to give anesthesia to patients even in my presence.

A hygienist can practice hygiene with two years post-high school training for an associate degree. A dental hygiene program prepares its graduates to perform functions within a narrow spectrum of total patient care under the direct supervision of a dentist. These functions include health education and preventive services. The hygienist is not prepared to make diagnoses, assess treatment needs or perform remedial or restorative functions, with or without the doctor present. The hygienist is not trained in clinical pharmacology, which is essential to the treatment of medically compromised patients.

A dentist has eight years (plus) of post high-school medical and dental training to receive a Doctor of Dental Surgery degree. It would not be prudent to have a hygienist alone with patients if the following were to occur:

- * an instrument or needle breaks in the patient's mouth
- * the patient chokes, swallows or aspirates a foreign object while in the dental chair (example: the patient's crown (cap) is pulled off during scaling (cleaning) and flips into the patient's airway or: a child throws up while lying back and aspirates vomitus
- * the patient suffers anaphylactic shock where death can occur within minutes
- * the patient suffers other medical problems such as:
 - -insulin shock or diabetic coma
 - -syncope (fainting)
 - -hyperventilation
 - -heart attack
 - -stroke and many others...

NOTE: many of our patients are elderly due to the shift in the population of America, thus many have medical problems.

Again - a dental team with the dentist who has advanced medical training, as the leader, can best handle these life-threatening emergencies if they do occur.

ROBERT A. NEILL, D.D.S. MOUNTAIN VISTA CLINIC 800 WEST PLATINUM BUTTE, MONTANA 59701

EXHIBIT **9** 9

DATE **2-8-91**★B **9**0

TELEPHONE 723-6070

Page 3.

SECTION 3

This again fails to mention the Commission on Dental Accreditation (CODA) and leaves accreditation to some authorized body.

SECTION 4

This would allow hygienists to practice alone with knowledge of the dentists and I refer back to section 2 problems. I might note that unsupervised practice would allow my hygienist to treat patients while I am away, thus to MY ECONOMIC GAIN. This is MOT SAFE - THE DOCTOR SHOULD BE PRESENT.

SECTION 5

I find it interesting that this minority of vocal hygienists pushing this bill also want to confine dental assistants' responsibilities while trying to expand their own. Assistants already are under direct supervision and cannot treat patients without a doctor present. Assistants cannot perform a prophylaxis (cleaning), only a rubber cup polish - with a doctor present.

The people pushing this bill are a minority of vocal hygienists.

They want autonomy, breaking up the dental team at the expense of patient health and safety. If they want autonomy, I recommend they apply to Dental School and with much more training - become a doctor.

An analogy would be to allow flight attendants to fly airplanes because they desire more autonomy. One can make the analogy in many other areas.

Please protect Montanans and Americans by denying SB90.

I sincerely thank you for the chance to educate you in the deeper issues involved in this very important matter. Please feel free to call upon me if you desire further information.

CC: Bill Zepp, Executive Director, Montana Dental Association

DATE 2-8-91

221 Garland St.
Kalispell, MT 59901
January 30, 1991

Montana House of Representatives Committee on State Administration Capitol Station Helena, Montana 59620

Dear Committee Members,

I urge your support of Senate Bill 90 which will allow all dental hygineists in Montana to practice under General Supervision with the consent of the employer-dentist. This is not a new practice nationwide, nor is it new to the state of Montana. Hygienists at the University of Montana, Montana State University, Boulder River School and Hospital, and numerous other institutions are presently practicing dental hygiene under this type of agreement. Presently, however, each request must be approved individualy by the Board of Dentistry. In the approximately 10 years that this has been happening in Montana, there has never been a complaint filed regarding this method of practice.

With regard to the change in language of the accreditation of dental hygiene schools, we need to maintain our present standards of education without having to change the practice act every time the accrediting agency changes its name. The proposed change will not change any educational standards, but will assign the U.S. Department of Education and the Commission on Post-Secondary Accreditation as the umbrella agencies.

I have served for several years as a designated examiner for the Western Regional Board Exams for dental hygienists, and I feel that the changes to allow licensure by credentials is a very valid alternative to the traditional board exams for the hygienists who have been actively practicing, and who can provide to the board the criteria which will assure them of the competance of the applicant. Board exams are expensive to administer and to take. They are still necessary in many situations, however, without a facility in this state to administer the exams, this change will hopefully allow more mobility of my colleagues from other states.

I hope that you, also, can support Senate Bill 90.

Sincerely, Caral M. M. Suire

Carol M.McGuire, R.D.H.

EXHIDIT 11
DATE 7-8-91
BB 90

DAVID H. SWANSON, D.D.S. P.O. BOX D (219 EAST 2ND STREET) LIBBY, MONTANA 59923

TELEPHONE 293-7768

January 31, 1991

State Administration Committee House of Representatives Capital Station Helena, MT. 59620

To whom it may concern:

I am writing in support of SB90 which would allow for general supervision of hygienists. At present, there are certain inequities allowing hygienists to practice in certain extended care facilities, but not in others, or in a private practice setting under general supervivion. This has the effect of worsening the extant manpower shortage. By allowing the hygienist to work when the dentist is away from the office increases the number of working hours for the hygienist and keeps dental fees from escalating as rapidly because of greater office efficiency. In my experience working with four different full or part-time hygienists over the past fifteen years, they have all been very capable and responsible professionals.

Sincerely,

David H. Swanson, D.D.S.

Health care proposals which ARE reviewable under Montana's Certificate of Need:

- 1) nursing home (long term care) services;
- 2) personal care (sometimes known as assisted living, board and care, or residential care);
- hospital swing beds;
- 4) home health agencies;
- 5) inpatient chemical dependency;
- 6) ambulatory surgery;
- 7) inpatient psychiatric services;
- 8) inpatient mental health services;
- 9) residential treatment facilities (there is currently a moratorium on the issuance of Certificates of Need for new residential treatment facilities until after October 1, 1991, as outlined in 50-5-317(2));
- 10) intermediate care facilities for the mentally retarded;
- 11) inpatient rehabilitation services;
- 12) health maintenance organizations (if an inpatient facility or an increase in bed capacity is proposed);
- 13) a change in bed capacity through the increase of beds or relocation of existing beds to another facility;
- 14) medical assistance facility;
- 15) any proposed capital expenditure by any person or health care facility if expenditures exceed \$1,500,000 (for construction of health care facilities; and,
- 16) a Letter of Intent is necessary for the acquisition or change of ownership of a health service or health facility.

Health care proposals which ARE NOT reviewable under Montana's Certificate of Need:

- 1) the private practice offices of physicians and dentists;
- 2) hospital services not included in the outline of reviewable services or facilities above;
- 3) 10 bed or 10% rule (the number of beds involved in a facility's intent to expand is 10 or 10% or less of the licensed beds, whichever figure is smaller, in any 2-year period);
- 4) out-patient services (chemical dependency, mental health, rehabilitation, others);
- 5) adult foster care (services similar to personal care, but restricted to 4 beds or less);
- 6) rural health clinics;
- 7) health care facilities authorized under the long range building program (Title 17, chapter 5, part 4, and Title 18, chapter 2, part 1, MCA) or other health care facilities authorized by the legislature which are specifically exempted in the enabling language; and,
- 8) hospice (unless the creation of hospice beds results in the increase of beds in a facility where those beds would already be CON reviewable).

MONTANA CERTIFICATE OF

Certificate of Need is administered through the DHES Health Planning Program. Certificate of Need primarily affects nursing homes, ambulatory surgery facilities, home health agencies, medical assistance facilities, personal care facilities, inpatient mental health centers, rehabilitation facilities and chemical dependency facilities. Under present law, Certificate of Need does not apply to hospitals unless they are proposing any of the services specifically listed above.

The primary rationale behind Certificate of Need is that the public has a right to be informed about and express their views prior to health care providers' incurring financial obligations that will affect the consumer pocketbook. This is particularly relevant when large capital expenditures are being made. Certificate of Need creates a process where health facilities must submit an application prior to initiation of most new or expanded health services and allows for public input into the decision helping to determine if the new or expanded service is necessary, affordable, and desireable.

During the Certificate of Need review process, Health Planning will analyze the application based on specific criteria which are cited in Montana Codes and the Administrative Rules. The existence of Certificate of Need and fair administration of the review criteria results in prudent and rational growth of Montana's health care industry and encourages the following:

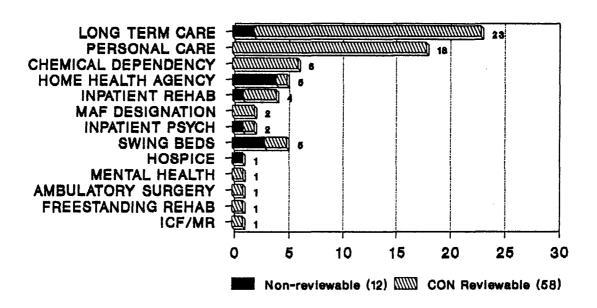
- 1) development based on local community health care needs;
- 2) evaluation of manpower needs for new or expanded services or facilities;
- 3) evaluation of financial feasibility of a proposal in order to ensure future viability;
- 4) public input and participation in the development of health services;
- 5) development of cost effective strategies through review of alternative similar services; and,
- 6) development of health services that are affordable and accessible.

During calendar year 1990, Health Planning considered 70 Letters of Intent (LOI) to initiate or expand health services. Twelve of the LOI's referred to projects determined as not being reviewable under Certificate of Need. Of the 58 projects that were reviewable, 19 either withdrew from the process or had their files closed due to inaction.

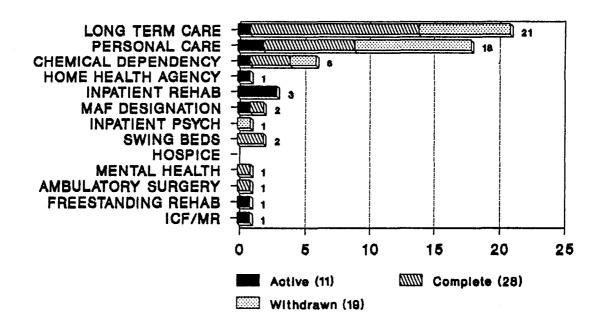
The 39 proposals that have either completed the review process or are still active represent \$24,973,367 in total capital expenditures. The other 19 reviewable projects that were withdrawn from consideration represent \$10,876,000 in capital expenditures that were ultimately not incurred.

Ex. 13 2-8-9/ HB 445

HEALTH CARE PROPOSALS FACILITIES/SERVICES 1990



STATUS OF CON REVIEWABLE PROPOSALS 1990



HEALTH CARE

DATE 2-8-91 HB 445

36 S. Last Chance Gulch, Suite A · Helena, Montana 59601 Telephone (406) 443-2876 · FAX (406) 443-4614

TESTIMONY OF MONTANA HEALTH CARE ASSOCIATION BEFORE THE

HOUSE HUMAN SERVICES AND AGING COMMITTEE
February 8, 1991

HOUSE BILL 445 - CERTIFICATE OF NEED

For the record, I am Rose Hughes, Executive Director of the Montana Health Care Association, an association representing about 76 skilled and intermediate care facilities throughout the state of Montana. Included in our membership are county and religious-affiliated facilities, private for-profit facilities, and facilities co-located with hospitals.

The Montana Health Care Association supports House Bill 445, which continues the certificate of need process, because it believes that the State of Montana, and we as health care providers, have an obligation to the people of Montana to use its very limited health care resources wisely. Health planning and certificate of need are the only protection the state has in place to protect consumers from the high costs associated with unnecessary investment in health care facilities, duplication of

Testimony - page 2

health services, and the high price that accompanies excess capacity and duplication.

Forty states have a certificate of need process in place.

Of the ten states without certificate of need, five have imposed a moratorium on nursing home construction.

The experience of states without health planning has been the expansion of health services of all types—but particularly of nursing home beds and psychiatric and specialty hospitals. When this happens, consumers are pushed to consume more health services than they need, and the cost of those services goes up.

It should be noted that such expansion has a profound effect on state Medicaid programs, which pay a substantial portion of total nursing home costs. It also affects private consumers of health care and the citizens and businesses who pay health insurance premiums.

Too, nursing homes <u>must</u> operate at high occupancy levels if they are to survive. Medicaid payments account for 62% of all of our revenue. These payments currently cover only about 85% the actual costs of providing care. Even with substantial increases being considered during this legislative session, the cost shift from Medicaid to other payers will be about \$8.50 per patient day. This is true with well-occupied facilities. If occupancy were to drop substantially due to overbedding, the cost per day of care would increase substantially since facilities experience many fixed costs which will have to be paid even though the

Testimony - page 3

facilities aren't full. These costs will be spread over fewer patients, leading to higher costs, and exacerbating an already difficult situation.

We believe the certificate of need process works to assure that there are sufficient beds for those who need them and to discourage overbedding. This not only protects our health care facilities, but also the patients they serve.

House Bill 445 simply removes the sunset provision of our current certificate of need law and allows the process to continue in its current form. I urge your support of House Bill 445 and appreciate the opportunity to present our views to you. I will be available to answer any questions you may have.



Leading Quality Addiction Treatment in the Northern Rockies February 7, 1991

TESTIMONY ON HOUSEBILL 445

CONTINUATION OF CON

David W. Cunningham, Chief Executive Officer

We are here today to support legislation for the continuation of Certificate of Need. We believe the Certificate of Need is the one mechanism devised to-date that assures appropriate expansion in development of our scarce healthcare resources. Because the Certificate of Need procedures require a healthcare organization to develop plans in a specified manner, it assures appropriate input from all community resources as well as lending credibility to the organization developing new healthcare programs and/or physical plant.

Contrary to popular opinion, any costs associated with planning are more than offset by costs associated with unforeseen problems which can occur from unbridled healthcare expansion in a non-regulated environment. New cost containment trends now being proposed at both the Federal and State levels, suggest that Certificate of Need should be reapplied to all sectors of the healthcare industry.

Problem trends in healthcare delivery are reflected currently in the Montana Business Quarterly of Winter, 1990, titled, "Montana's Changing Healthcare Sector". Here the report indicates that major changes have taken shape in Montana's healthcare industry. This report indicates that numbers of licensed beds have declined over 6% from 1977 through 1987. More startling is the fact that the total number of inpatient days over the same period has slumped by nearly 25%. Likewise, numbers of hospital admissions has declined over 20%. A final comparison indicates a major concern for all Montanan's, that is---"run away healthcare costs". This article indicates that Montana hospital operating costs have risen in the same period by 75%. The major reasons for this cost rise have been huge operating increases as well as substantial declines in hospital utilization. In summary, the Montana Business Quarterly suggests that Montanan's are in the midst of a healthcare crisis.

For over twenty years our community-owned non-profit center has provided care to patients and families utilizing sliding fee scales, payment contracts and allocations of free care. In other words, our goal is to help those who need help whether financially able or not. This has meant that state government has not been unduly burdened by public patients who cannot pay for their care. We have been able to do this because Montana has regulated our healthcare environment thus assuring that only needed beds are built and that center's like ours can serve a mix of patients--those able to pay and those not able to pay.

Ex. 15 2-8-91 HB 445

The unchecked duplication of expensive healthcare services, which results when there is no regulation, costs the consumer in the end. Costs in chemical dependency treatment are <u>not</u> reduced by competition, they are increased because of the lowered utilization imposed by overbedding.

The cost of care in Montana today is a bargain when compared with any other states. We think protecting that bargain makes sense and we are asking you to do just that when your retain CON.



EXHIBIT 16 5 DATE 2-8-91 HB 445

Bringing lifetimes of experience and leadership to serve all generations.

MONTANA STATE LEGISLATIVE COMMITTEE

CHAIRMAN Mr. Fred Patten 1700 Knight Helena, MT 59601 (406) 443-3696

VICE CHAIRMAN Mr. Paul Stengel Route 2, Box 3040 Miles City, MT 59301 (406) 232-0016

SECRETARY Mrs. Dorothy Fitzpatrick Box 174 Sunburst, MT 59482 (406) 937-2451

February 8, 1991

TO: House Committee on Human Services and Aging

From: Diana Dowling - American Association of Retired Persons

Re: HB 445 - AN ACT INDEFINITELY EXTENDING THE CERTIFICATE OF NEED LAW BY REPEALING THE EXPIRATION DATE OF THE

LAW.

I am Diana Dowling, testifying as a member of the State Legislative Committee of the American Association of Retired Persons. The AARP supports House Bill 445. The AARP has continually supported the certificate of need process, believing it reduces duplication of services and prevents dilution of local resources. The Association believes that the system, especially after being streamlined by amendments in the past few legislative sessions, is working well. The Association believes that quality care is most important and that the certificate of need process should continue.

The Montana AARP State Legislative Committee strongly supports HB 445 as one means to help contain health care costs and insure quality care.

Thank you.

Amendments to House Bill No. 445 First Reading Copy

Requested by Rep. Squires
For the Committee on Human Services and Aging

Prepared by David S. Niss February 8, 1991

1. Title, line 4.

Strike: "INDEFINITELY"

2. Title, line 5. Following: "LAW"

Insert: "UNTIL JULY 1, 1993"

Strike: "THE"

Insert: "PREVIOUS"
Strike: "DATE"
Insert: "DATES"

3. Title, line 6. Following: "LAW"

Insert: "AND ENACTING A NEW EXPIRATION DATE"

Following: the semicolon

Insert: "AMENDING SECTION 50-5-106, MCA;"

Following: "REPEALING"

Insert: "50-5-301, 50-5-302, 50-5-304 THROUGH 50-5-310, 50-5-316,

50-5-317, MCA"

4. Page 1.

Following: the enacting clause

Insert: " Section 1. Section 50-5-106, MCA, is amended to read: "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, 1991) 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."

Renumber: subsequest sections

5. Page 1, line 11.
Following: "Repealer."
Strike: "Section"
Insert: "(1) Sections 50-5-301, 50-5-302, 50-5-304 through 50-5-310, 50-5-316, 50-5-317, MCA are repealed.
(2) Sections 2 and"

6. Page 1, line 14.
Following: "date."
Strike: "[This act]"
Insert: "(1) [Section 2(2)]"

7. Page 1.

Following: line 15

Insert: "(2) [Sections 1 and 2(1)] are effective July 1, 1993."

EXHIBIT 18	
DATE 2-8-91	•
SB 66	-

HOUSE OF REPRESENTATIVES

HUMAN SERVICES COMMITTEE

DATE	2-8-91	BILL NO.	SB 66	NUMBER_	1
MOTION:	Rep.	Lees annend	iment		

NAME	AVE	NO.
NAME	AYE	NO
REP. TIM WHALEN, VICE-CHAIRMAN		/
REP. ARLENE BECKER		V
REP. WILLIAM BOHARSKI	/	
REP. JAN BROWN		V
REP. BRENT CROMLEY	V	
REP. TIM DOWELL		V
REP. PATRICK GALVIN		1
REP. STELLA JEAN HANSEN		~
REP. ROYAL JOHNSON		~
REP. BETTY LOU KASTEN		
REP. THOMAS LEE	V	
REP. CHARLOTTE MESSMORE	~	
REP. JIM RICE	V	
REP. SHEILA RICE		
REP. WILBUR SPRING		~
REP. CAROLYN SQUIRES	/	
REP. JESSICA STICKNEY	V	
REP. BILL STRIZICH	V	
REP. ROLPH TUNBY	✓	
REP. ANGELA RUSSELL, CHAIR		V
TOTAL	10	9

Amendments to Senate Bill No. 66 Third Reading Copy

Requested by Rep. Lee
For the Committee on Human Services and Aging

Prepared by David S. Niss February 8, 1991

1. Page 3, line 23 through line 10 on page 4.

Following: line 22

Strike: subsection (5) in its entirety

renumber: subsequent subsections

2. Page 5, lines 4 and 5.
Strike: "ophthalmic" on line 4 through "surgery, " on line 5

3. Page 5, lines 20 through 22. Following: line 19 Strike: subsection (11) in its entirety

4. Page 6, lines 9through 11. Strike: "except" on line 9 through "10 through 19]" on line 11

5. Page 6, line 23.
Strike: "immunizations, topical drugs,"

6. Page 7, line 2.
Following: "contraception,"
Insert: "and"

7. Page 7, line 3.
Strike: ", and minor surgery"

8. Page 13, lines 10 through 12.
Strike: ", which" on line 10 through "[section 4]" on line 12

2-8-91 58 66

Proposed Amendments to Senate Bill 66 by Montana Association of Naturopathic Physcians

- 1. Page 4, line 9, delete "major";
- 2. Page 4, line 11, delete lines 11 through 15 and renumber following subsections accordingly;
- 3. Page 5, line 4, delete "emergency medicines" and insert in lieu thereof "oxytocin (pitocin)";
- 4. Page 6, lines 4 through 6, delete "those natural therapeutic substances and drugs authorized by subsection (2) or [section 10(2)]" and insert in lieu thereof "for whole gland thyroid, homeopathic preparations, and oxytocin (pitocin)";
- 5. Page 6, line 21, delete "AND";
- 6. Page 6, line 22, following "antibiotics insert ", and oxytocin (pitocin)".

EXHIBIT_21	-
DATE 2-8-91	
SR 66	

HOUSE OF REPRESENTATIVES

HUMAN SERVICES COMMITTEE

DATE	2-8-91	BILL NO.	SB 66	NUMBER	2	
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NAME	AYE	NO
REP. TIM WHALEN, VICE-CHAIRMAN	\	
REP. ARLENE BECKER	/	·
REP. WILLIAM BOHARSKI		/
REP. JAN BROWN	ン	
REP. BRENT CROMLEY	\	
REP. TIM DOWELL	1	
REP. PATRICK GALVIN	/	
REP. STELLA JEAN HANSEN	/	
REP. ROYAL JOHNSON	>	
REP. BETTY LOU KASTEN		レ
REP. THOMAS LEE		
REP. CHARLOTTE MESSMORE		/
REP. JIM RICE		/
REP. SHEILA RICE		
REP. WILBUR SPRING		V
REP. CAROLYN SQUIRES		V
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REP. ANGELA RUSSELL, CHAIR		
TOTAL	10	9

EXHIBIT 22 DATE 2891 5866

AMEND SENATE BILL 66, THIRD READING COPY

1. Page 6, line 16

Following: "prescribe"

Delete: the remainder of line 16, and line 17 through

"37-2-104,"

2. Page 7

Following line 10,

Insert:

"(4) Except as hereinafter provided by this subsection, it is unlawful for a naturopath to engage, directly or indirectly, in the dispensing of any natural therapeutic substances or drugs that a naturopath is authorized to prescribe by subsection (2) of this section. If the place where a naturopath maintains an office for the practice of naturopathy is more than 10 miles from a place of business which sells and dispenses the natural substances and drugs a naturopath may prescribe under subsection (2) of this section, then, to the extent such substances and drugs are not available within 10 miles of the naturopath's office, the naturopath may sell such substances or drugs that are unavailable."

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HOUSE OF REPRESENTATIVES

HUMAN SERVICES COMMITTEE

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NAME	AYE	NO
REP. TIM WHALEN, VICE-CHAIRMAN		/
REP. ARLENE BECKER	✓	
REP. WILLIAM BOHARSKI	V	
REP. JAN BROWN		/
REP. BRENT CROMLEY	/	
REP. TIM DOWELL		/
REP. PATRICK GALVIN		V
REP. STELLA JEAN HANSEN		
REP. ROYAL JOHNSON		/
REP. BETTY LOU KASTEN	V	
REP. THOMAS LEE	/	
REP. CHARLOTTE MESSMORE	V	
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REP. SHEILA RICE		
REP. WILBUR SPRING	<u> </u>	
REP. CAROLYN SQUIRES	V	
REP. JESSICA STICKNEY	V	
REP. BILL STRIZICH	/	
REP. ROLPH TUNBY	V	
REP. ANGELA RUSSELL, CHAIR		/
TOTAL	12	9

HOUSE OF REPRESENTATIVES

HUMAN SERVICES COMMITTEE

DUID	2-8-91	BILL NO.		NUMBER_	4
MOTION:	Rep wh	alen's am	endment		

NAME	AYE	NO
REP. TIM WHALEN, VICE-CHAIRMAN	ン	
REP. ARLENE BECKER	\	
REP. WILLIAM BOHARSKI		/
REP. JAN BROWN	\	
REP. BRENT CROMLEY	ン	
REP. TIM DOWELL	\	
REP. PATRICK GALVIN	V	
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REP. JESSICA STICKNEY		V
REP. BILL STRIZICH	/	
REP. ROLPH TUNBY	/	
REP. ANGELA RUSSELL, CHAIR	/	
TOTAL	14	3

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HOUSE OF REPRESENTATIVES

HUMAN SERVICES COMMITTEE

DATE _	2-8-91	BILL NO.	SB 66	NUMBER	5	
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NAME	AYE	NO
REP. TIM WHALEN, VICE-CHAIRMAN	V	
REP. ARLENE BECKER	V	
REP. WILLIAM BOHARSKI	V	
REP. JAN BROWN		
REP. BRENT CROMLEY	V	
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REP. JIM RICE	V	
REP. SHEILA RICE		
REP. WILBUR SPRING	V	
REP. CAROLYN SQUIRES	V	
REP. JESSICA STICKNEY	V	
REP. BILL STRIZICH	<u> </u>	
REP. ROLPH TUNBY	V	
REP. ANGELA RUSSELL, CHAIR		
TOTAL	15	3

SB 66²⁻⁸⁻⁹¹

HOUSE OF REPRESENTATIVES

HUMAN SERVICES COMMITTEE

DATE	2-8-91	BILL NO.	5B 66	NUMBER_	6
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NAME	AYE	NO
REP. TIM WHALEN, VICE-CHAIRMAN	V	
REP. ARLENE BECKER	V	
REP. WILLIAM BOHARSKI		
REP. JAN BROWN	✓	
REP. BRENT CROMLEY		
REP. TIM DOWELL	V	
REP. PATRICK GALVIN		
REP. STELLA JEAN HANSEN	V	
REP. ROYAL JOHNSON	V	
REP. BETTY LOU KASTEN		V
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REP. BILL STRIZICH	V	
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him Andwan	MDHA and self	X	
Mary Lon abbott	self		
1509 Living Ston and Helena	self	X	
Don Spurgeon	MONTANA DENTAL ASSOCIATION		<u> </u>
2615 16th Ave S. Great Fulb	MDA & Self		X
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R.A.NEILL ODS. 800 W. Platinum, Butte, Mt. 59201	SEIF		X
Box 466 caryon cr, mt 59633	moita	X	
Jackie Sampson 1426 Big Heen Rd HEJENA Mt SUCOI	DELF	χ	
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Rose Heighes	MT. Health Care	V	
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Steve Brown	Blue Cross-Blue Shield	X	
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