

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By Senator Dorothy Eck, Chair, on January 20, 1993, at 1:00 p.m.

ROLL CALL

Members Present:

Sen. Dorothy Eck, Chair (D)
Sen. Eve Franklin, Vice Chair (D)
Sen. Chris Christiaens (D)
Sen. Tom Hager (R)
Sen. Terry Klampe (D)
Sen. Kenneth Mesaros (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: None.

Members Absent: None.

Staff Present: Susan Fox, Legislative Council
Laura Turman, Committee Secretary

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

Committee Business Summary:

Hearing: SB 152, SB 165, HB 28
Executive Action: HB 28, SB 152, SB 89

HEARING ON SB 152

Opening Statement by Sponsor:

Sen. Eve Franklin, Senate District 17, said she presents SB 152 on behalf of the Speech Pathologist professionals across the state of Montana. The Speech Pathologists want to have what they do exactly stand in law for the public, consumers and their professional membership.

Proponents' Testimony:

Diedre Cranmer, public school speech language pathologist in Helena and President-elect of the Montana Speech Language and

Hearing Association (MSHA), defined three areas which speech pathologists would like to include in their scope. The first is oral-motor rehabilitation which evaluates and facilitates facial, lip and tongue mobility and control. Second, cognitive retraining, evaluating and facilitating memory, attention, reasoning, processing, judgement and other language impairment areas resulting from stroke or head injury. Third, disphagia therapy which includes procedures for evaluating and facilitating swallowing and feeding disorders. These are the three areas they would like to include in the definition of speech pathologists.

Rosemary Harrison, owner of a private practice in speech pathology in Missoula, and the legislative co-chair for the Montana Speech and Hearing Association, said that because speech pathologists are the primary providers of the services mentioned, they want this included in the law. She said speech pathologists have extensive training in these areas, and there are continuing education workshops all around the United States to bring professionals up to date.

Sandy Meech, Great Falls public schools and the immediate past president of the Montana Speech and Hearing Association, said following academic training for oral-motor rehabilitation, cognitive retraining, and disphagia therapy speech pathologists take up a one-year clinical fellowship during which an individual can be certified. Speech pathologists are evaluated in these three areas, they practice and are tested on them, so they would like to include them in their scope of practice.

Michelle Shue, practicing speech pathologist in Billings, said that she estimates that 2-3 hours per week were spent in the hospital setting on oral-motor rehabilitation for children. In comparison, for adults with neurological impairments, the bulk of her time as a private practitioner of speech pathology is spent on oral-motor rehabilitation and disphagia therapy.

Beth Jackson-Johnson, speech language pathologist and member of MSHA, said that not only are speech pathologists trained in the areas mentioned in SB 152, but they are relied upon to perform these functions and to plan treatments for all populations based on their diagnosis.

Mona Jamison, representing the Montana Association of Speech Pathologists and Audiologists, said she urges the Committee to support SB 152, and she is available for questions.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Christiaens asked who had been providing these services

until now. Rosemary Harrison said the speech pathologists have always provided these services, and many times they are provided in conjunction with occupational therapists in a hospital setting.

Sen. Christiaens asked if occupational therapists provided some parts of the three additional areas asked to be included in the speech pathologists' scope of practice. Ms. Harrison said occupational therapists did, but in a team setting.

Mona Jamison said for clarification that speech pathologists have always been providing these services, they are the primary care givers trained and tested in these areas. The speech pathologists will not oppose this part of the occupational therapy bill which will appear before the Committee at a later date. The reason for this bill is a concern for specificity in this scope of practice, for those who are the primary care providers.

Sen. Mesaros asked Rosemary Harrison who else worked in these areas besides occupational therapists. Rosemary Harrison said that no one else worked in these areas. Ms. Harrison said that speech pathologists have a good relationship with occupational therapists.

Sen. Towe asked what speech language pathology had to do with swallowing. Beth Jackson-Johnson said the speech pathologist has been deemed the expert in the swallowing and dysphasia primarily because the same anatomy involved in swallowing is also involved in speech production. It is very often the case that speech disorders are accompanied by a swallowing disorder or dysphasia problem, and these can all be worked on simultaneously.

Sen. Towe asked Beth Jackson-Johnson about the meaning of the word "facilitating". Ms. Jackson-Johnson said it is not surgery. Facilitating means building up a system of muscles.

Sen. Towe asked Ms. Jackson-Johnson about cognitive retraining, if speech pathologists did the same type of work as psychiatrists. Beth Jackson-Johnson said no, that psychiatrists typically refer to speech pathologists to assist in processing different types of stimuli. Communication and cognition are very difficult to separate, and communication specialists or speech pathologists are often called in as thinking skills training experts.

Sen. Towe asked if there was a line of demarkation between what a speech pathologist can do and what a psychiatrist should do. Ms. Jackson-Johnson said that psychiatrists and psychologists typically are part of the diagnostic process, and they work as a team with speech pathologists on a plan for facilitory techniques or treatment strategies to retrain cognition.

Sen. Rye asked Beth Jackson-Johnson for the definition of

"tinnitus". Ms. Jackson-Johnson said it was ringing in the ears.

Sen. Rye asked for the definition of "tympanometry". Ms. Jackson-Johnson said it was the testing of the muscles in the inner ear.

Sen. Rye asked for the definition of "logopedics". Ms. Jackson-Johnson said it was the mastering of words, vocabulary.

Closing by Sponsor:

Sen. Franklin said clearly the speech pathologists want to protect their profession and head-off any future confusion, and she asks the Committee to support their efforts.

HEARING ON SB 165

Opening Statement by Sponsor:

Sen. John Hertel, Senate District 15, said he was glad to introduce SB 165 at the request of the Department of Commerce. He said that this bill does important things for the public, and those who need x-rays for medical reasons. Sen. Hertel said the existing law is vague and the purpose of SB 165 is to make sure that qualified individuals are doing the x-rays, and that they are familiar with updated procedures and equipment. SB 165 spells out requirements for a technician who wants to enter this field. SB 165 also creates a radiologic technologist inspector position to inspect procedures and licenses to insure the operator's compliance with the radiologic licensing law.

Proponents' Testimony:

Jim Winter, Chairman of the Board of Radiology Technology, said creating an inactive status will create a category of persons who don't need to pay the licensing fee. He said SB 165 will give the Board the authority to hire an inspector for technicians in x-ray facilities because currently there is no program to insure that operators are complying with the law. The primary purpose for this inspector is to insure public safety. The Board has earmarked funds from licensing fees to fund this contracted service, and at a future time, if higher licensing fees are required, members of the Montana Society of Radiologic Technologists have no disagreements with that.

Robin Anderson, member of the State Board of Radiologic Technologists, said most radiologic technologists in hospitals are licensed while most radiologic technologists in small clinics are allowed permits after instruction and tests have been taken. These permits can be limited to a certain type of x-ray. Therefore it is important for public health that an individual

producing ionizing radiation have a permit. She said that a large part of radiologic technologists taking a leave of absence are women on maternity leave, and the absence is a short one.

Steve Meloy, Bureau Chief of the Professional Occupation Bureau which houses the Board of Radiologic Technologists, said the Department of Commerce supports SB 165 because the earmarked reserves which have accumulated over the years will be reduced. He said he would answer questions regarding the fiscal note.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Chairman Eck asked Steve Meloy about the fiscal note. Mr. Meloy went over the fiscal note. (Exhibit #1). He said that \$30,000.00 would go towards contracting, and \$7000.00 would be for overhead expenses.

Sen. Klampe asked Lance Melton if the Department of Commerce was capable of doing inspections of x-ray facilities. Mr. Melton said currently the law states that inspections can be done by the Board of Radiologic Technicians, the Department of Commerce or the Department of Health and Environmental Science. He said there are no qualified staff in the Department of Commerce to do the inspections at this time.

Chairman Eck asked if the inspections would be contracted. Mr. Melton said that was his understanding.

Sen. Christiaens asked about the Department of Health's requirement that every x-ray location in the state be inspected annually. Sen. Christiaens asked if the Department of Health's budget could be adjusted accordingly.

Steve Meloy said the concern of the Board of Radiologic Technicians is checking the licenses of the individuals running the x-ray machines. If the Board of Health has the expertise and the interest in checking licenses, that is fine with the Board of Radiologic Technicians.

Chairman Eck asked how detailed the inspections of x-ray facilities would be. Robin Anderson said that the request was not to check the radiographic equipment, but to check the permits and state licenses of those individuals operating the equipment.

Chairman Eck asked Ms. Anderson if procedures would be inspected. Ms. Anderson said no.

Sen. Mesaros asked about the language on Page 3, Line 11 stating

that inspection of equipment may take place during business hours. Jim Winter said that his interpretation of that language meant that inspectors may inspect facilities with x-ray equipment during business hours. So, the license of the individual operating the x-ray machine may be inspected during business hours.

Sen. Mesaros asked Mr. Winter if the intent was to inspect the individuals actually running the equipment. Mr. Winter said SB 165 gives the authority to send an inspector into the facility where there is x-ray equipment.

Sen. Towe asked Mr. Winter if his primary concern was that the individuals operating the equipment have a license. Mr. Winter said that was correct, or if the individual has a permit, it specifies what type of x-rays that individual may take.

Sen. Towe asked why there was no statement of intent to SB 165 if rule-making was involved. Lance Melton said that was a requirement of the Legislative Council's Office.

Susan Fox, Legislative Council, said because SB 165 includes making new rules, there could be a statement of intent.

Sen. Towe said that SB 165 expands rule-making authority, and he would request a statement of intent.

Chairman Eck asked Jim Winters what qualifications were necessary for a two-hour inspection. Mr. Winters said the inspector first asks to see the permit of the individual operating the x-ray machine. Permits are issued for categories of x-rays, so the inspector would then check to see if the x-rays matched the permit issued.

Sen. Towe asked if the Department of Health could do that inspection. Mr. Winters said the Department of Health inspects the x-ray equipment, and the inspector of the operators of the equipment probably isn't knowledgeable of the equipment.

Chairman Eck said she was concerned about the equipment not being inspected regularly. Jim Winters said that the manufacturers of the equipment check it every six months.

Sen. Towe asked about the difference between a radiologist and a radiologic technologist. Mr. Winters said that a radiologist is a medical doctor, whereas a technologist has completed a 24-month program. The radiological technologist cannot read the x-rays. The radiologist reads and gives interpretations of the x-rays.

Sen. Towe asked Steve Meloy about the fiscal note regarding the Board of Radiologic Technologist's excess funds of \$37,000. Mr. Meloy said the funds can only be spent on what the funds were appropriated for.

Sen. Towe asked Mr. Meloy if when the balance ran out, would licensing fees be increased. Mr. Meloy said the Board had no problems with fee increases if the funds were to go to inspections.

Lance Melton said the difference in fees for Fiscal Year 1994 and Fiscal Year 1995 would total 0. After two years, licensing fees would be increased to pay for the costs of the inspections.

Closing by Sponsor:

Sen. Hertel said he would provide a new statement of intent for SB 165. He said it that for public safety, it is important that this bill pass.

HEARING ON HB 28

Opening Statement by Sponsor:

Rep. Stella Jean Hansen, Missoula, said the purpose of HB 28 is to remove the oral interview which is now required for licensure of sanitarians. She said it is difficult to structure an oral exam that is not open to litigation.

Proponents' Testimony:

Sen. Terry Klampe, Missoula, said he had personal experience with taking the oral exam, and that removing the oral examination from the requirements of licensure is justified because it is too subjective. Also, money that is currently spent on travel and the cost to the Board to give the exams will be saved.

Mitzi Schwab, Department of Health and Environmental Sciences and a registered sanitarian, said she supports the passage of HB 28.

Lance Melton, legal counsel, said he supports HB 28, and is available to answer questions from the Committee.

Helena Lee, Administrative Assistant, Board of Sanitarians, said she is available to answer questions from the Committee.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Rep. Hansen said that the Board of Sanitariums has the authority to bring in an individual for an interview, but that the oral examination in question should have never been put in the code.

EXECUTIVE ACTION ON HB 28

Motion/Vote:

Sen. Klampe moved that HB 28 be CONCURRED IN. The motion carried unanimously. Sen. Klampe will carry the bill on the Senate Floor.

EXECUTIVE ACTION ON SB 152

Motion/Vote:

Sen. Christiaens moved that SB 152 DO PASS. The motion carried unanimously. Sen. Franklin will carry SB 152 on the Senate Floor.

EXECUTIVE ACTION ON SB 89

Motion:

Sen. Towe moved the amendments to SB 89.

Discussion:

Sen. Towe went over the amendments. (Exhibit #2)

Vote:

The motion carried unanimously.

Motion:

Sen. Towe moved that SB 89 DO PASS as amended.

Discussion:

Sen. Klampe asked for clarification regarding the 10-mile rule of pharmacists for distributing drugs.

Sen. Franklin said Bonnie Tippy dropped her opposition to the current language regarding that issue. Sen. Towe said Ms. Tippy

agreed with him on this issue.

Susan Fox went over the two options discusses in the Committee hearing of SB 89. Sen. Klampe asked about an amendment choosing the second of the two options.

Substitute Motion:

Sen. Christiaens moved that SB 89 pass for the day.

Discussion:

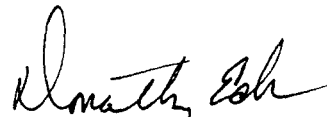
Sen. Christiaens said the substitute motion would allow the members of the Committee to clarify the amendments offered regarding the dispensing of drugs by a pharmacist.

Vote:

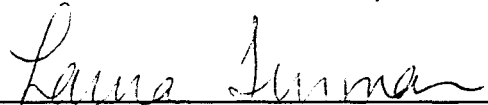
Motion carried unanimously.

ADJOURNMENT

Adjournment: Chairman Eck adjourned the hearing.



SENATOR DOROTHY ECK, Chair



LAURA TURMAN, Secretary

DE/LT

ROLL CALL

SENATE COMMITTEE Public Health DATE 1-20-93

[illegible]


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 20, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 28 (first reading copy -- white), respectfully report that House Bill No. 28 be concurred in.

Signed: 
Dorothy Eck, Chair

 Amd. Coord.
Sec. of Senate

151437SC.San


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 20, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration Senate Bill No. 152 (first reading copy - white), respectfully report that Senate Bill No. 152 do pass.

Signed: *Dorothy Eck*
Dorothy Eck, Chair

 Amd. Coord.
Sec. of Senate

151436SC.San

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 26, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration Senate Bill No. 89 (first reading copy -- white), respectfully report that Senate Bill No. 89 be amended as follows and as so amended do pass.

Signed: 
Senator Dorothy Eck, Chair

That such amendments read:

1. Page 7, line 8.

Following: "board"

Insert: "regarding evaluation or enforcement of discipline of a licensee"

2. Page 15, line 16.

Strike: "scheduled drugs"

Insert: "addictive substances"

-END-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

DATE 1-20-93

BILL NO. SB165

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0165, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act adding an inactive status Radiologic Technologist License and creating a Radiologic Technologist Inspector position.

ASSUMPTIONS:

1. There will be 1,000 establishments needing inspection requiring 2 hours per inspection charged at \$15 per hour. These inspections will be handled by a contract person.
2. The work load of the POL Bureau Administrative Service Pool will be increased by 25% of an FTE as a result of the addition of this service. This work will be handled by a Grade 9 position.
3. Current law is based on Executive Budget for FY94 and FY95, including any approved modified levels.
4. For the FY94 and FY95 budget period the board will draw down its cash balance before any adjustments are made to the current fee structure.

FISCAL IMPACT:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Personal Services	1,495	1,495	0	1,495	1,495	0
Operating Expenses	20,090	57,395	37,305	18,877	56,182	37,305
Capital Outlay	500	500	0	500	500	0
Total	22,085	59,390	37,305	20,872	58,177	37,305
<u>Revenues:</u>						
License Fees (02)	31,000	31,000	0	31,000	31,000	0
<u>Net Impact:</u>						
License Account	8,915	(28,390)	(37,305)	10,128	(27,177)	(37,305)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The license fees of the board may need to increase after FY95, however the safety benefit of persons involved in the X-ray process will increase.

David Lewis 1-19-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

John R. Hertel 1-20-93

JOHN R. HERTEL, PRIMARY SPONSOR DATE

Fiscal Note for SB0165, as introduced

Amendments to Senate Bill No. 89
First Reading Copy

Requested by Sen. Towe
For the Committee on Public Health, Welfare, and Safety

Prepared by Susan B. Fox
January 19, 1993

1. Page 7, line 8.

Following: "board"

Insert: "regarding evaluation or enforcement of discipline of a
licensee"

2. Page 15, line 16.

Strike: "scheduled drugs"

Insert: "addictive substances"

DATE Jan. 20-1993

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 152, SB 165, HB 28

Name	Representing	Bill No.	Check One	
			Support	Oppose
Mona Jameson	MASHA-lobbyist	152	✓	
Grumley Stinson	MSHA	152	✓	
Jim Winter	Board of Radiology	165	✓	
Robin Anderson	Board of Rad. Tech.	165	✓	
Burke Ry	Speech Path.	152	✓	
Sandy Meach	MSHA	152	✓	
Elizabeth Johnson	MSHA	152	✓	
Michelle Shue	MSHA	152	✓	
Izidre Charnes	MSHA	152	✓	
Mitzel Schwab	DRES	HB28	✓	
Helena Lee	Bd of Sen	HB28	✓	
Steve Meloy	Commerce info			
Carol Graves	Commerce Rad. Tech. info	165		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY