

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN STEVE BENEDICT, on February 4, 1993,
at 8:00 A.M.

ROLL CALL

Members Present:

Rep. Steve Benedict, Chairman (R)
Rep. Sonny Hanson, Vice Chairman (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Ray Brandewie (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Alvin Ellis (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (X)
Rep. Doug Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon, Legislative Council
Claudia Johnson, Committee Secretary

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

Committee Business Summary:

Hearing: HB 155, HB 279, AND HB 311
Executive Action: HB 155, HB 269, HB 279, HB 304, HB 305
AND HB 311

EXECUTIVE ACTION ON HB 269

Motion: REP. LARSON MOVED HB 269 DO PASS.

Discussion: REP. LARSON said HB 269 will revise the law concerning a change in the holder of a gambling operator's license on a premises with a video gambling machine, and provide that the permit for the machine is valid for the remainder of the year for which it was issued. He said HB 269 will provide that the new operator may not be charged a fee for the remainder of the permit year.

REP. LARSON moved to amend HB 269. EXHIBIT 1

REP. SONNY HANSON asked REP. LARSON about page 2, line 2, that after changes, he would take out "the permit remains valid for the remainder of the permit year". REP. LARSON said it is a processing fee to be used when the names are changed. REP. BRANDEWIE called the question. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. LARSON MOVED HB 269 DO PASS AS AMENDED. REP. BRANDEWIE called the question. Voice vote was taken. Motion carried unanimously.

Vote: HB 269 DO PASS AS AMENDED. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 304

Motion: REP. BRANDEWIE MOVED HB 304 DO PASS

Discussion: CHAIRMAN BENEDICT informed the committee that HB 304 is REP. KASTEN'S bill and is an act clarifying compensation for an insurance consultant.

Motion/Vote: The question was called. Voice vote was taken. Motion carried unanimously.

Vote: HB 304 DO PASS. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 305

Motion: REP. COCCHIARELLA MOVED HB 305 DO PASS.

Discussion: REP. PAVLOVICH said if HB 305 is passed out of the committee, it will take away protection for the people that are in the business already with a lot of money invested. He said that maybe the license should be based on the per capita of the city.

REP. SONNY HANSON said HB 305 will only take away the requirement to show need. The people who want to start a limousine service still have to go through the PSC and prove financial viability.

He said the PSC can turn anyone down if these people do not have all the other requirements.

REP. BRANDEWIE said the reason limousine service is regulated through the PSC, is because there is only so much business out there.

REP. BACHINI said HB 305 is not a good bill. He said if the regulation is taken away, there will be a lot of little businesses coming into the state without having to show need to receive a permit.

REP. ELLIS said he supports HB 305.

REP. LARSON said the limousine service is not a natural monopoly. He said there is a distinct difference between a need for the service and a desire for the service. He said the bill is on track and should be passed to take government out of regulation.

REP. SIMON said he is against HB 305. It is just another form of the government micro-managing a business that should not be involved in government.

REP. MILLS said he is in favor of HB 305.

REP. DAILY supports HB 305.

REP. BRANDEWIE moved to adopt an amendment proposed by REP. KADAS. The question was called. Voice vote was taken. Motion carried unanimously. EXHIBIT 2

REP. WAGNER moved to adopt an amendment on page 2, line 7, to change the number 9 to 13 passengers because of the stretch limos that are arriving in Montana. REP. BRANDEWIE called the question. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. COCCHIARELLA MOVED HB 305 DO PASS AS AMENDED. REP. MILLS called the question. Roll call vote was taken. Motion carried 10 to 8 with REPS. BRANDEWIE, HERRON, DOWELL, TUSS, PAVLOVICH, BACHINI, SIMON, WAGNER voting no. EXHIBIT 3

Vote: HB 305 DO PASS AS AMENDED. Motion carried 10 - 8.

HEARING ON HB 279

Opening Statement by Sponsor:

REP. BOB GILBERT, House District 22, Sidney, said HB 279 is an act establishing forms for liquor agency store franchise agreements. He said currently the liquor store agencies operate under Title 18, which requires by law that every agreement be bid every three years, and is done by drawing a name out of a hat. He said the state has certain requirements of a liquor store operator, i.e., modification to the building, the size of the

building, etc. He said the new agreement in HB 279 will be effective for 10 years, and renewed every 10 years, if the requirements of the agency liquor store agreements are met. HB 279 will require the agent to maintain the comprehensive liability insurance, and the insurance and security required by the Department of Revenue. He said the department and the agent may get together during the middle of the 10-year agreement to discuss rates, insurance and security requirements. An agreement may be terminated by mutual agreement of both parties, or by the department if they find the agent in violation following a public hearing.

Proponents' Testimony:

Mike Grunow, representing the Montana Agency Liquor Store Association (MALSA), said that HB 279 will return the language back to the original way of handling the agency liquor stores. He urged the committee for a do pass recommendation. EXHIBIT 4

Tim Dalin, MALSA, East Helena Liquor Store, asked the committee to support HB 279.

Margaret Nelson, Victor Liquor Store, said HB 279 will save the department numerous costs in finding a new qualified agent, and will save the legislature time and money which can be spent on more important issues. EXHIBIT 5

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. HERRON asked REP. GILBERT in case of a death of an agent, is the store let out for re-bids or does it stay in the family?

REP. GILBERT said an agent may assign an agency franchise agreement to a person upon approval of the department, and the department would be named the agent.

REP. LARSON asked Gary Blewett, Bureau Chief of Liquor Division, Department of Revenue, to explain about renegotiating commissions? Mr. Blewett said the way HB 279 is drafted, there are two issues that are to be renegotiated every five years: 1) commission rate; and 2) insurance conditions.

Closing by Sponsor:

REP. GILBERT said one of the most frequent questions asked is, what happens to existing agency stores? On page 10, (12), it says they can be converted. On page 11 and 12, it says an existing agency agreement terminates after the effective date of this act, or before it is converted into an agency liquor store it is automatically extended until the franchise agreement is signed for six months from the effective date. He said this bill

is for rural Montana. It is important to keep these businesses operating to keep the communities alive. He hoped the committee would find it in their power to pass HB 279.

HEARING ON HB 311

Opening Statement by Sponsor:

REP. KARYL WINSLOW, House District 97, Billings, said the purpose of HB 311 is to prohibit the issuance of retail liquor licenses to establishments within 2,500 feet of a state or federal highway if more than 30 percent of the alcoholic beverages to be consumed on the premises will be consumed by persons not residing within a 25-mile radius of the establishment. She said this approach is another way of dealing with the problems of drunk driving. She read her testimony. EXHIBIT 6

Proponents' Testimony:

Bill Fleiner, Board member of the Montana Sheriffs and Peace Officers Association, said the establishments that sit along the roads lessens the ability of an individual to be able to take advantage of those particular programs that promote the responsible use of alcohol, i.e., designated drivers, friends don't let friends drink and drive,

Opponents' Testimony:

Mark Staples, Montana Tavern Association, said HB 311 came about because of the Travel Lodge in Billings and a lack of responsiveness or accountability of a deliberative public body to the overwhelming opinion of a local area about a local proposal. He said the Travel Lodge case is still in the courts. HB 311 will move every place that serves liquor off the road to 2,500 feet, which is one-half mile. Mr. Staples said HB 311 came about because of good intent, but the practical application is out of the question. There is a grandfather clause to cover all of the places of businesses already in place.

Roger Tippy, Montana Beer and Wine Wholesalers Association, said the association tracks, month by month, the figures supplied by the Department of Revenue of the volume of beer and wine sold. He said it is clear that beer and wine sales will be double in June and July in comparison to January and February sales. The fluctuation of the tourists between the summer and winter months correlates to the total of beer and wine sold for those months. The best way to focus on the problem drinker is with HB 157, currently in the Judiciary Committee, which will take away a person's car on a third offense DUI.

REP. DON LARSON, House District 65, Seeley Lake, said HB 311 will grandfather about 1,600 licensees already in place along the

highways. He said this bill is unenforceable. HB 311 will force the highway patrolmen to turn off of the highway to patrol these places of businesses to mark the parked cars. **REP. LARSON** said he would be able to file a harassment suit against the patrolmen for coming onto his property and harassing his customers. He urged the committee to not vote for HB 311.

Questions From Committee Members and Responses:

None

Closing by Sponsor:

REP. WINSLOW closed by informing the committee the reason for HB 311. When the Flying J Travel Plaza was getting ready to open they said they would not have a liquor license. A few days after opening, they applied for the paperwork to process a liquor license. She said the zoning commissioners were against the liquor license, but the county commissioners approved the application for the liquor license. She said HB 311 is not motivated by this incident alone. She said the awareness came about from information of truck stops having liquor licenses, and she wants to prevent situations occurring where people drive back onto the highway after patronizing these places of business.

HEARING ON HB 155

Opening Statement by Sponsor:

REP. BOB PAVLOVICH, House District 70, Butte, said HB 155 will create the Board of Denturity. **REP. PAVLOVICH** said he is on the audit committee who meets four or five times a year. He explained the provision for a sunrise report. He said to create a board, \$1,000 has to be given up front and a review of the whys, wheres, etc., for a board. The denturists wanted to create a board under the Board of Preventative Health Care. He said the practice of denturists became legal with the passing of I-97 in 1984. **REP. PAVLOVICH** was chairman of the House Business and Economic committee in 1985. He said there was a stipulation placed on that legislation that there would be at least 30 members in the state of Montana. If there weren't that many denturists, that part of the bill would be sunrised, and then it would fall under the Board of Dentistry, which it did, because there are only 13 denturists in Montana. **EXHIBIT 7**

Proponents' Testimony:

Roland Pratt, lobbyist for the Denturists Association of Montana, distributed written testimony. He said the board will consists of: two denturists; one dentist; and one public member; these board members will be subject to all of the provisions of the Montana Administrative Procedures Act under the department rules. **Mr. Pratt** said there wouldn't be any general fund monies used, because each board is mandated by 37-1-134 to set fees

commensurate with costs, so the administration and the provisions of the present denturity law will stay the same. **EXHIBIT 8**

Brent Kandarian, Licensed denturist in Kalispell, asked that the committee please separate these two professions of dentists and denturists and let them be responsible for their own actions and licensees. **EXHIBIT 9**

Ron Olson, Licensed denturist in Billings, and denturist member on the Board of Dentistry, said the people of this state deserve the knowledge and the expertise of this profession. He said denturists have been practicing in Canada for the past 35 years. He distributed written testimony. **EXHIBIT 10**

Charles Conlan, Licensed denturist in Butte, gave a synopsis of the education of a denturist required under Montana law:
1) receives four years of specialized education; 2) required to intern for one year before an examination which consists of a practical, oral and written competency test; 3) requires two years of education in dental lab technology and denture fabric; 4) learning the anatomy and ABC's of denture technology; the construction, design of dentures and partials; and 5) two years of denturity college which consists of clinical education; oral pathology and microbiology and the anatomy and physiology and aspects of radiology, clinical jurisprudence.

Doug Campbell, President of the Montana Senior Citizens Association, Missoula, said the senior citizens have been in support of independence for the denturists since 1984. He urged a do pass recommendation.

Rob Carnahan, Denturist Association of Montana, Missoula, said he feels strongly that the denturists become a more viable profession. He said the only way to do this is through education.

Opponents' Testimony:

Jack Traxler, Montana State Board of Dentistry, presented written testimony which said when he was on the board most of their time was directed towards complaints filed against denturists.
EXHIBIT 11

Mary McCue, lobbyist for the Montana Dental Association (MDA), stated their opposition to HB 155 because during the previous period that denturists were permitted by the Montana Legislature to be entirely self-regulating, their regulatory board did not protect the public safety during their licensing process.
EXHIBITS 12 and 13

Dr. John T. Noonan, D.D.S., Montana Board of Dentistry, stated his opposition to HB 155. He distributed written testimony.
EXHIBIT 14

Bill Zepp, Executive Director, Montana Dental Association MDA, distributed written testimony in opposition to HB 155. **EXHIBIT 15**

Ted Beck, D.M.D., Helena, distributed information to the committee stating his opposition to HB 155. **EXHIBITS 16, 17, 18 AND 19**

Lorrie Merrick, President of the Montana Dental Hygienists Association, distributed information, and stated she was neither a proponent nor an opponent of HB 155. **EXHIBIT 20**

Questions From Committee Members and Responses:

REP. TUSS asked **Jack Traxler** what action has been taken by the Board of Dentistry against the denturists to prevent further complaints that have been filed against them? **Mr. Noonan** said the board sends out investigators who monitor the complaints and make decisions by reprimanding or revoking their license if necessary. **REP. TUSS** re-directed the question to **Bob Verdon**. **Mr. Verdon** said the board has sought an attorney general's opinion on two notices that have been placed in abeyance. He said the board had a meeting last week in regard to the notices and they voted for disciplinary action against several denturists. **Mr. Verdon** said there will be four more notices to be sent out in the near future against denturists to be discharged.

REP. LARSON asked **Bob Verdon** about the complaints that have been received by the board in the last two years. What are the complaints about, types and nature of the denturists and the dentists? **Mr. Verdon** said there have been approximately 40 complaints filed in the last two years against denturists. They range from excessive billing, i.e., billing an insurance company two times; failed to refund money to a patient that was not satisfied with their dentures, which the statutes states the unconditional guarantee if the request was made in 90 days; the patients' dentures not fitting so they could eat, and not informed they had to see a dentist, etc. **REP. LARSON** wanted to know about complaints against the dentists. **Mr. Verdon** said the board receives complaints about workmanship, professional competence, the dentists' accessibility to the drugs used on patients, surgical practice is way below standards, malpractice, etc.

REP. HERRON asked **Bill Zepp** how many states allow denturists? **Mr. Zepp** said currently there are a total of five states that allow the practice of denturity. Out of the five states, the state of Maine has never licensed a denturist. The other states that have practicing denturists are: Arizona has 17 active denturists; Idaho has 20 active licenses; Montana has 13 active licenses; and Oregon has 115 active licenses, for a total of 173 denturists in the United States.

CHAIRMAN BENEDICT asked **Lorrie Merrick** what her opinion is on HB 155 with her being a no-ponent? **Ms. Merrick** said the Dental Hygienists' Association is neither a proponent nor an opponent of HB 155. If the denturists are allowed to leave the Board of Dentistry, the association would like the committee to consider the following: The Board of Dentistry is unique in that they are the only board that regulates both employers and their employees. She said the dentists licensed in Montana outnumber dental hygienists 2:1, but currently the representation on the board is 5:1. She proposed amendments which are listed in her written testimony. **EXHIBIT 20**

Closing by Sponsor:

REP. PAVLOVICH closed by informing the committee if HB 155 is passed out of committee, the sunrise law will be taken off. He offered an amendment which will strike the number of members on the board from five to four and insert one of the members must be a senior citizen. **EXHIBIT 21**

EXECUTIVE ACTION ON HB 311

Motion: **REP. PAVLOVICH** MOVED HB 311 BE TABLED.

Discussion: None

Motion/Vote: **REP. MILLS** called the question. Voice vote was taken. Motion carried 17 - 1 with **REP. LARSON** voting no.

Vote: HB 311 BE TABLED. Motion carried 17 - 1.

EXECUTIVE ACTION ON HB 279

Motion: **REP. PAVLOVICH** MOVED HB 279 DO PASS.

Discussion: **REP. HERRON** wanted to know if an agent passed away during the middle of the 10-year contract with the state would his/her widow be able to continue the contract until the 10-year contract is up? **REP. LARSON** replied that an agent's estate may transfer the license with the approval of the department.

REP. MILLS said he had a problem with continued renewability after every 10 years. He wanted to know how the state will ever receive a higher bid? **CHAIRMAN BENEDICT** said the department has the opportunity to review the agents every five years to re-negotiate.

REP. SIMON said he was concerned with the 10-year contracts. He felt the department should re-negotiate every five years to alter the agreement and change the agent's commissions.

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

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REP. BRANDEWIE said after the 10-year contract, the department does not have to agree to anything the agent does.

REP. ELLIS moved to adopt a conceptual amendment. He would like the amendment to say that an agent would have the opportunity to meet any competitive bid after their first 10-year contract was up with the liquor agency. EXHIBIT 22

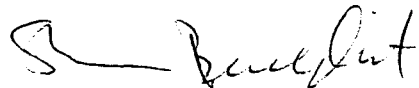
The question was called. Voice vote was taken. Motion carried 13 - 5 with REPS. STELLA JEAN HANSEN, PAVLOVICH, DAILY, DOWELL AND SONNY HANSON voting no.

Motion/Vote: REP. DAILY MOVED HB 279 DO PASS AS AMENDED. Voice vote was taken. Motion carried unanimously.

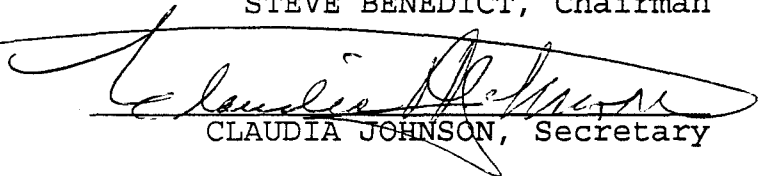
Vote: HB 279 DO PASS AS AMENDED. Motion carried 18 - 0.

ADJOURNMENT

Adjournment: 10:35 A.M.



STEVE BENEDICT, Chairman



CLAUDIA JOHNSON, Secretary

SB/cj

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE

2-4-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993

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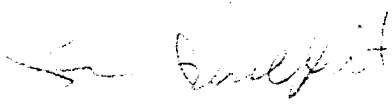
HOUSE STANDING COMMITTEE REPORT

February 4, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 304 (first reading copy -- white) do pass .

Signed: _____


Steve Benedict, Chair

Committee Vote:

Yes 10, No 0.

201156SC.RB.S

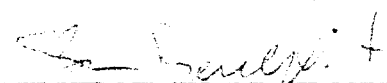
HOUSE STANDING COMMITTEE REPORT

February 4, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 305 (first reading copy -- white) do pass as amended .

Signed: _____


Steve Benedict, Chair

And, that such amendments read:

1. Page 2, line 5.

Strike: "carrier"

Insert: "vehicle"

2. Page 2, line 7.

Strike: "nine"

Insert: "13"

3. Page 2, line 14.

Strike: "automobile"

Insert: "limousine"

Committee Vote:

Yes 14, No 2.

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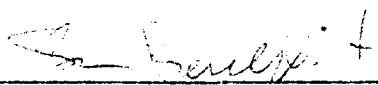
HOUSE STANDING COMMITTEE REPORT

February 4, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 305 (first reading copy -- white) do pass as amended .

Signed: _____


Steve Benedict, Chair

And, that such amendments read:

1. Page 2, line 5.

Strike: "carrier"

Insert: "vehicle"

2. Page 2, line 7.

Strike: "nine"

Insert: "13"

3. Page 2, line 14.

Strike: "automobile"

Insert: "limousine"

Committee Vote:

Yes 16, No 8.

231154SC.Hss

HOUSE STANDING COMMITTEE REPORT

February 5, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 279 (first reading copy -- white) do pass as amended .

Signed: _____
Steve Benedict, Chair

And, that such amendments read:

1. Page 8, line 23.

Strike: "An"

Insert: "(a) Except as provided in subsection (8) (b), an"

2. Page 9, line 1.

Following: "term"

Insert: "and except for a commission percentage that may be negotiated as provided in subsection (8) (b) "

3. Page 9, line 5.

Following: line 4

Insert: "(b) If at least 90 days prior to the expiration of a 10-year agency franchise agreement, the department determines that an adjustment of the commission percentage paid to the agent is in the best interests of the state, the department shall notify the agent of that determination.

(c) If the agent does not concur with the department's commission percentage adjustment, the department shall advertise for bids for the agency franchise at the adjusted commission percentage, subject to the provisions of this chapter. If bids from persons who meet the criteria provided in this chapter are received by the department for the agency franchise at the adjusted commission percentage, the agent under the existing franchise agreement has a preference right to renew the franchise agreement by concurring in the adjusted commission percentage.

(d) If the agent under the existing franchise agreement declines to exercise the preference right under subsection (8) (b) (i), the department shall enter into an agency franchise agreement as provided in this chapter with a person who accepted the adjusted commission percentage.

(e) If the agent exercises the preference right and believes the adjusted commission percentage to be inadequate or not in the best interests of the state, the agent may request an administrative hearing. The request must contain a statement of reasons why the agent believes the commission percentage to be inadequate or not in the state's best interests. The department shall grant the request for a hearing if it determines that the statement indicates evidence that the adjusted commission percentage is inadequate or not in the state's best interests. The department may, after the hearing, adjust the commission percentage if the agent shows that the commission percentage is inadequate or not in the best interests of the state. If the department increases the commission percentage rate, the department shall set forth its findings and conclusions in writing and inform the agent and the other persons who offered to enter into an agency agreement at the adjusted commission rate."

-END-

HOUSE STANDING COMMITTEE REPORT

February 4, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 269 (first reading copy -- white) do pass as amended .

Signed: _____

Steve Benedict, Chair

And, that such amendments read:

1. Title, line 7.

Following: "PROVIDING"

Strike: "THAT"

Insert: "CONDITIONS UNDER WHICH"

2. Title, lines 9 and 10.

Strike: line 9 in its entirety and line 10 through "YEAR"

Insert: "FOR A MACHINE TRANSFER PROCESSING FEE"

3. Page 1, line 20.

Following: "(2)"

Insert: "(a)"

4. Page 1, line 25.

Following: "expires."

Insert: "(b)"

5. Page 2, line 2.

Following: "changes"

Insert: "during the first quarter of the permit year and the new operator has received an operator's license and if a machine transfer processing fee of \$25 per machine is paid to the department"

6. Page 2, lines 3 through 5.

Following: "year" on line 3

Strike: remainder of line 3, line 4 in its entirety through "year" on line 5

7. Page 2, line 7.

Following: "(2)"

Insert: "(a) and 100% of the machine transfer processing fee collected under subsection (2) (b)"

Committee Vote:

Yes 18, No 2.

2811508C.Hsc

8. Page 2, line 8.

Following: "balance"

Insert: "of the fee collected under subsection (2)(a)"

February 4, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 269 (first reading copy -- white) do pass as amended.

Signed: _____

Steve Benedict, Chair

And, that such amendments read:

1. Title, line 7.

Following: "PROVIDING"

Strike: "THAT"

Insert: "CONDITIONS UNDER WHICH"

2. Title, lines 9 and 10.

Strike: line 9 in its entirety and line 10 through "YEAR"

Insert: "FOR A MACHINE TRANSFER PROCESSING FEE"

3. Page 1, line 20.

Following: "(2)"

Insert: "(a)"

4. Page 1, line 25.

Following: "expires."

Insert: "(b)"

5. Page 2, line 2.

Following: "changes"

Insert: "during the first quarter of the permit year and the new operator has received an operator's license and if a machine transfer processing fee of \$25 per machine is paid to the department"

6. Page 2, lines 3 through 5.

Following: "year" on line 3

Strike: remainder of line 3, line 4 in its entirety through "year" on line 5

7. Page 2, line 7.

Following: "(2)"

Insert: "(a) and 100% of the machine transfer processing fee collected under subsection (2) (b)"

Committee Vote:

Yes 18, No 2.

281150SC.Hss

February 4, 1993
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8. Page 2, line 8.

Following: "balance"

Insert: "of the fee collected under subsection (2) (a) "

281150SC.Hss

EXHIBIT 2
DATE 2-4-93
HB 305

Amendments to House Bill No. 305
First Reading Copy

Requested by Representative Kadas
For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 2, 1993

1. Page 2, line 5.
Strike: "carrier"
Insert: "vehicle"
2. Page 2, line 7.
Strike: "nine"
Insert: "13"
3. Page 2, line 14.
Strike: "automobile"
Insert: "limousine"

EXHIBIT 3
DATE 2-4-93
HB 305

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
ROLL CALL VOTE

DATE 2-4-93 BILL NO. HB 305 NUMBER _____
MOTION: Rep Cocchiarella Moved HB 305
DPAA.
Motion Carried 10-8

NAME	AYE	NO
REP. ALVIN ELLIS	✓	
REP. DICK KNOX	✓	
REP. NORM MILLS	✓	
REP. JOE BARNETT	✓	
REP. RAY BRANDEWIE		✓
REP. JACK HERRON		✓
REP. TIM DOWELL		✓
REP. CARLEY TUSS		✓
REP. STELLA JEAN HANSEN	✓	
REP. BOB PAVLOVICH		✓
REP. VICKI COCCHIARELLA	✓	
REP. FRITZ DAILY	✓	
REP. BOB BACHINI		✓
REP. DON LARSON	✓	
REP. BRUCE SIMON		✓
REP. DOUG WAGNER		✓
REP. SONNY HANSON, VICE CHAIRMAN	✓	
REP. STEVE BENEDICT, CHAIRMAN	✓	
	10	8

EXHIBIT 4
DATE 2-4-93
HB 279

Members. House Business Committee
Montana Legislature
Capital Station
Helena, Montana 59620

RE: HB 279; Establishing Agency Franchise system:

Dear Committee member:

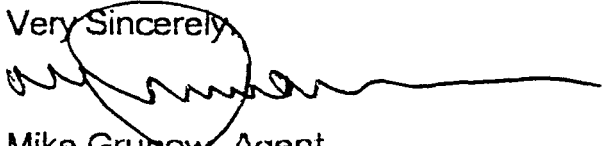
My name is Mike Grunow and I have been the agent in LoLo. Montana for the past 14 years. I also represent the MONTANA AGENCY LIQUOR STORE ASSOCIATION. [MALSA]

I would like to urge you to lend your support for HB279. sponsored by Representative Bob Gilbert, for several important reasons.

1. This bill will define the Agency System for we agents and give us the ability to plan for the future and amortize our investments without the agony and uncertainty we have experienced in the past few years and legislative sessions.
2. It will have no affect on the Montana Tavern Association or the current quota system.
3. It will have no affect on the state liquor store employees or the state-run liquor stores.
4. HB279 will clarify the Agency Liquor System and provide protection for the State of Montana in the areas of liability and bonding.

As you all are aware, the Montana Legislature has repeatedly mandated, by wide margins, that privatization of the liquor business in Montana does not serve the best interests of this state. Also, the liquor agents in this state have made large investments and provided many jobs in our communities, and all of this has been based on the "good faith" of the State of Montana and the legislature. I feel that it is now time to support and pass HB279 in order to define and clarify our Agency System, for the sake of all of the agents, as-well-as the State of Montana.

Very Sincerely,



Mike Grunow, Agent
LoLo Agency Liquor Store
LoLo, Montana 59847

Mr. Taxation Committee Chairman & members of the committee:

I am Margaret Nelson agent for State Liquor Agency, #172,
located in Victor.

I am a PROPONENT to HB279 for the following reasons:

The Agency Franchise Agreement is designed to be
advantagous to the State of Montana, in that contracts will
be for a period of 10 years and renewed every 10 years
thereafter if the requirements of the agency franchise
agreement have been performed satisfactorily, thus;

#1. Saving the Department of Revenue numerous costs in
finding a new qualified agent.

#2. Saving the legislature time and money which can be
well spent on more important issues.

-Year after year the subject of privitization is brought up.

-This bill is designed to relieve the Department of Revenue,
Liquor Division of further responsibility to the tax payers of
the State of Montana and to continue the state in a program,
which has proved to make money for the State of Montana, at a
minimal cost.

-Net income to the State of Montana has been over \$4, mil. the
past few years. This does not include excise taxes, license
taxes, beer & wine taxes for an additional revenue income of
almost \$14, mil.

Respectively submitted,

Margaret Nelson
P.O. Box 670
Victor, MT. 59875
642-3805

EXHIBIT 6
DATE 2-4-93
HB 311

KAROL WINSLOW
H.D. 97 - HB 311

HB 311 is what I would like to refer to as a common sense bill. The purpose of the bill is to prohibit those establishments that cater to the highway traveler from being able to buy a liquor license. The reason for me to suggest such legislation should be clear. Great effort has been made to enact and enforce D.U.I. laws in recent years because we know that drinking and driving don't mix. This legislation is another approach toward dealing with the problem of drunk driving.

Public awareness has led to an understanding of the effects alcohol impaired drivers have on society. Accidents, injuries, and deaths carry costs that all of us must bear. Studies and estimates vary. However, associated costs account for anywhere between \$50 billion to \$150 billion dollars in the U.S. and we attempt to counter these costs by spending another \$10 billion dollars annually in drug and alcohol prevention. Conventional approaches to dealing with both prevention and abuse tend to focus on everything from education to treatment to incarceration. There have been positive results from a combination of efforts. Nationally there has been a decline in alcohol related traffic fatalities. However, the percentage of accidents, injuries, and death occurring as a result of drunk drivers is still high. 1992 statistics prepared by a traffic injury research foundation indicated that 46% of all fatally injured drivers in the U.S. tested positive for alcohol. Of those drivers, 78% had blood alcohol concentrations over 0.15 percent and a driver with that blood alcohol level is 200 times more likely to involved in a fatal crash than the average non-drinking driver. Automobile accidents

are still the leading cause of death by injury in the U.S. Alcohol plays a major factor in those accidents. The public recognizes the problem.

In 1989 a federal law went into effect that requires a warning be displayed on alcoholic beverage containers. In part, that warning states that "consumption of alcoholic beverages impairs your ability to drive a car or operate machinery. Numerous approaches have been taken to protect the driving public and take the alcohol impaired driver off the road. The most obvious is that we have increased the penalty and included in that penalty a jail sentence. But in addition, bar owners, the alcohol beverage industry, and citizens groups work together to provide alternative transportation to the drinking public. Each of us has probably seen programs in our communities that encourage people who drink to take a taxi home. There is a basic recognition by everyone that the way to rectify the problem is to take the drinking driver off the road.

What HB 311 does is attempt to deny access to the individual who is driving down the road, pulls off at a travel plaza, goes into the lounge at the travel plaza, has a couple of drinks, gets back in his car and drives impaired down the road to injure or kill an innocent victim who has made the mistake of being in the wrong place at the wrong time. Nationally, the trend is for tavern owners and their associations to encourage legislators to limit or eliminate the liability they incur as a result of serving alcohol. Even in this session we have seen legislation introduced which would ease the liability of the tavern owner. I contend that the

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server of alcohol has a responsibility to the community in which they operate their business and should be held accountable. I realize that there are bar owners on this committee and you probably have established ways in which to deal with a patron who has had too much to drink. As a bar owner you probably have a sense of responsibility to the members of your community. You probably have in place some sort of "Call a Cab" program and my guess is that on occasion you have probably taken home one of your customers who has had a few too many.

In addition, I also realize that there are people on this committee who like to go out to a bar for a drink or two once in awhile. Because of our viability as elected officials, we are probably more aware than most of the embarrassment and public scorn that could result in a drunk driving offense. But even the less visible community member doesn't want his name in the local paper for DUI. He or she must work and do business in that community and local social stigma surrounds a DUI violation.

But consider the highway traveler. He or she does not reside in our community. They do not live with the pressure of having to maintain an acceptable working and social reputation. Their roots are somewhere else and they're just passing down the road. The travel plaza is just a stop on their travel itinerary. A couple of drinks and they're back on the road. Back on the road to injure my daughter, your husband, your wife, my best friend, etc. They were just passing through.

While the travel plaza who buys property as close as possible to the interstate probably hires some local help, their interests

are not in Montana. Their headquarters are in places like Texas, California, and Utah. Do you think they care about what happens to my family or yours? Their corporate lawyers do their bargaining for them. They bargain for a good location next to the highway. Then they bargain for a good price on the land. They sit down with the community and bargain over what they have to offer. And then after they have gotten everything they want, they apply for a liquor license with the State of Montana and the State of Montana assists them in bargaining with our lives. This bill respectfully requests the State of Montana to deny access to liquor licenses to those establishments whose primary source of business is the highway traveler.

As I stated earlier, the basic premise of the legislation is simple. However, when the Legislative Council had to draft the bill, we had to come up with some sort of guideline that would limit who the legislation affected. I wasn't after the bar owner in Worden or Huntley or Pompeys Pillar. I didn't want to get the local bar who serves as a social meeting place for members of their community. The council knew what I meant and I knew what I meant but there had to be physical guidelines. There are two parts to establishing who this bill seeks to limit. First, 2500 feet is about 1/2 mile off the road. Most travel plaza's are not going to locate 1/2 mile from the highway. The second criteria may seem to be a little more confusing at first glance. However, we believe that if more than 30% of the alcoholic beverages consumed are consumed by people living outside 25 mile radius of the establishment, we have just identified the average customer of a

travel plaza.

I know that the Montana Tavern Owners are here as opponents of this bill. I have discussed it with them and realize that they are concerned about the little guy who wants to open a bar between Shepherd and Billings, as an example. A state highway connects the two so the first criteria applies. But that still does not stop that person from obtaining a liquor license because chances are they will be able to prove that their customers reside within a twenty-five mile radius.

On the other hand, a travel plaza may attempt to locate within 2500 feet of a highway. Let's use I-90 as an example. In fact, lets use the Billings area as an example. Between Casper and Billings, numerous signs can be seen soliciting the highway drivers to use a certain travel plaza establishment. A huge flashing light can be seen over a half mile away advertising specials and inviting the highway driver to pull off for gas, a meal, or groceries. At any given hour on any given day the parking lot is filled with license plates that indicate drivers who are from Florida to Alaska and Wibaux to Kalispell. Such an establishment would have a difficult time proving to the Revenue Department that their business does not cater to the highway driver.

This bill makes sense because drunk driving doesn't make sense and licensing establishments to sell alcohol to the highway traveler makes even less sense. If you believe as I do that drunk drivers should be kept off the road, then your do pass motion will be a step in that direction.

Legislative Audit Committee

State of Montana

Report to the Legislature

December 1992

Sunrise Report -- 1993 Biennium

Summary of Sunrise Proposals for the Licensure of:

- ▶ Crematoriums and Crematory Technicians
- ▶ Clinical Laboratory Science Practitioners
- ▶ Property Managers
- ▶ Denturists

Direct comments/inquiries to:
Office of the Legislative Auditor
Room 135, State Capitol
Helena, Montana 59620

93SP-11

Legislative Audit Committee

Montana State Legislature

Room 135, State Capitol
Helena, MT 59620
(406) 444-3122

SENATE MEMBERS

Senator Greg Jergeson, Chair
Senator Eve Franklin
Senator Lorents Grosfield
Senator Tom Keating

HOUSE MEMBERS

Representative John Cobb, Vice-Chair
Representative Larry Grinde
Representative Mike Kadas
Representative Robert Pavlovich

December 1992

The 53rd Montana State Legislature:

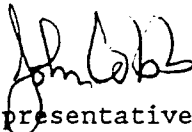
This report is in response to the Sunrise law which requires the Legislative Audit Committee to evaluate qualifying proposals to establish new professional or occupational licensing programs. The Committee must also review proposals to transfer licensing programs between existing licensing boards. During the 1993 Biennium, the Committee evaluated proposals to establish licensing programs for crematoriums and crematory technicians, clinical laboratory science practitioners, and property managers. The Committee also evaluated a proposal to transfer the regulation of denturists from the Board of Dentistry to the Alternative Health Care Board.

Section 2-8-203, MCA, requires the Committee to report to the legislature on its recommendations as to whether each of the professions or occupations should be licensed by the state. The Committee is to include in the report its estimates of the costs of each licensing program and a schedule of fees to recover these costs. The Committee's recommendations are shown on page 2. The Committee's estimates for costs and fees are shown on page 3.

Respectively submitted,



Senator Greg Jergeson, Chairman
Legislative Audit Committee



Representative John Cobb, Vice Chairman
Legislative Audit Committee

Legislative Audit Committee
SUNRISE -- 1993 BIENNIUM

EXHIBIT 7
DATE 2-4-93
HB 155

Introduction

The intent of the Sunrise Law (Chapter 266, Laws of Montana 1987) was to improve the legislature's ability to evaluate the need for new professional and occupational licensing programs. Under this law, the Legislative Audit Committee is required to evaluate any qualifying proposal to: 1) establish a new licensing board; 2) add another occupation or profession to an existing board; 3) consolidate any existing licensing boards; or 4) transfer a licensing program between existing licensing boards.

In order for a proposal to qualify for review, the applicant must submit the proposal in the form of a report to the Legislative Audit Committee at least 180 days before the start of the legislative session. The report must provide information to the Committee related to the need for licensure and how the proposed board will operate. For consolidation or transfer proposals the report must describe the benefits of the proposal. Each proposal must include an application fee.

After the Legislative Audit Committee receives the completed report and application fee, the Committee will hold a public meeting to consider the report. The Committee hears testimony from the applicant and any other interested parties. The Committee considers information presented in the applicant's report and testimony given at the public hearing to make its recommendation as to whether the profession or occupation should be licensed. For consolidation or transfer proposals the Committee can recommend the legislature adopt the proposal or adopt some modification of the proposal. Section 2-8-203, MCA, requires the Committee to make its recommendation in a report to the legislature for its next regular session. The report must also include an estimate of the cost to the state for each of the licensing programs along with a proposed schedule of fees that will recover the costs of each program.

Public Hearings

On October 19, 1992, the Legislative Audit Committee heard testimony concerning proposals to license crematoriums and crematory technicians and clinical laboratory science practitioners. On November 20, 1992, the Committee heard testimony concerning a proposal to license property managers and a proposal to transfer regulation of denturists to the Alternative Health Care Board. The Committee voted on its recommendations for the first two proposals at its November meeting. Final Committee action related to Sunrise was taken at the Committee's meeting on December 21, 1992.

The following is a summary of Committee action and recommendations for the four professions which went through the Sunrise process

during the 1993 biennium. Also presented are the Committee's estimates on projected costs for each of the licensing proposals and the estimated fees to cover those costs.

Clinical Laboratory Science Practitioners

A motion was made by Senator Svrcek to recommend licensure for clinical laboratory science practitioners. The motion carried with a unanimous vote.

Crematoriums and Crematory Technicians

A motion was made by Representative Pavlovich to recommend licensure for crematoriums and crematory technicians. The motion carried with a 7 - 0 vote and one abstention.

Denturists

A motion was made by Representative Pavlovich to not recommend the transfer of regulation of denturists from the Board of Dentistry to the Alternative Health Care Board. The motion carried with a unanimous vote.

Committee discussion after this motion indicated the applicant may bring other alternatives before the 1993 Legislature.

Property Managers

A motion was made by Representative Kadas to recommend licensure for property managers. The motion carried with a unanimous vote.

Licensing Program Costs and Fees

The Committee and the Department of Commerce reviewed the cost information provided by the applicants. The Committee believes the final figures are reasonable estimates of the yearly costs for the new licensing programs. To cover the costs of these new programs, the applicants and department staff estimated the necessary licensing fees. The Committee believes the fees presented in the following chart are reasonable and will comply with section 37-1-134, MCA, which requires fees to be commensurate with costs.

SUNRISE PROPOSALS -- PROJECTED EXPENDITURES AND REVENUES

Profession	-----Expenditures-----		-----Revenues-----					
	1st Year	2nd Year	Fee Types	Fee Amounts	No of 1st yr	Amount 1st yr	No of 2nd Yr	Amount 2nd Yr
*****	*****	*****	*****	*****	*****	*****	*****	*****
Clinical	\$27,615	\$25,700	Application	\$35	900	\$31,500	10	\$350
Laboratory			License	\$10	900	\$9,000	10	\$100
Practitioners			Temp. Permit	\$100	10	\$1,000	10	\$1,000
			Renewal	\$30	0	\$0	900	\$27,000
			Late Renewal	\$30	0	\$0	50	\$1,500
					Total	\$41,500		\$29,950

Crematoriums	\$1,932 *	\$1,632 *	Crematory App	\$100	13	\$1,300	0	\$0
			Crematory Renew	\$100	0	\$0	13	\$1,300
			Technician App	\$60	5	\$300	0	\$0
			Technician Renew	\$60	0	\$0	5	\$300
					Total	\$1,600		\$1,600

Property	\$19,958 *	\$7,293 *	Applic & Exam	\$40	250	\$10,000	30	\$1,200
Managers			License	\$40	250	\$10,000	30	\$1,200
			Renewal	\$20	0	\$0	250	\$5,000
					Total	\$20,000		\$7,400

* Additional costs for licensing a new profession under an existing board

Note: Denturists are not shown since the Legislative Audit Committee did not recommend a change in the regulation of denturists.

EXHIBIT 7
DATE 2-4-93
HB 155

HB155

Business & Economic Development Committee

February 4, 1993

Testimony - Roland D Pratt

Mr Chairman and members of the committee for the record my name is Roland D Pratt and I am the Lobbyist for the Denturists Association of Montana and am here in support of HB 155.

I would like to give you a little history on why we are here with this bill. In 1984 many groups including the Senior Citizens and the AARP pass I 97 which allowed Denturists to be licensed in Montana. During the 1985 legislative session the enabling legislation was pass with an amendment which said if there were not 30 Denturists licensed by 1987 they must be Sunset and placed under the Board of Dentistry. There was not 30 licensed so the Audit Committee had no choice but to placed the Denturists under the Board of Dentistry. It has been a struggle to maintain Denturistry as a profession ever since.

Some examples of rules and regulations that are very disruptive to a Denturist is that they cannot insert an Immediate denture in a patients mouth until 4 weeks after the last tooth is extracted but a dentist can do it immediately.(Addendum 1) Others are contained in HB 240.

Another point is that a Denturist must have 12 hours of Continuing Education for relicensure. Because of problems in receiving approval of courses conducted by the National Denturist Association and Out of State Dental Schools we introduced and pass legislation during the 1991 session to correct the problem. Needless to say we are still having a problem.

This bill will not change the provisions or administration of the present Denturistry law but will restore the intent of I 97 which was to give the citizens of Montana a choice in the denture field. Presently Montana has the highest scope of practice of any of the states that license Denturist and we want to keep it that way.

The Board will consist of 2 Denturists, 1 Dentist and 1 Public Member and will be subject to all the provisions of the Administrative Procedures Act and the Departments rules. Also there will not be any General Fund money because each board is required by law(37-1-134) to set fees commensurate with costs.
(Addendum 2)

One last point is that during the Sunrise Hearing one of the Audit Committee members asked both Dentistry Board members who testified if they had or would refer a patient to a Denturist and both said No and yet these are the people who are regulating the profession. We do not think that under the present situation that the best interests of the citizens of Montana are being served. Therefore we ask for your approval of HB 155.
Thank you and I will be available for questions.

POL BUREAU
PUBLIC SAFETY DIVISION
DEPARTMENT OF COMMERCE

PROPOSED LEGISLATION CONCERNING THE DENTURIST LICENSING
ALTERNATIVE COST STUDIES

BOARD ALTERNATIVE

Assumptions:

1. Assume 4 board members
2. Assume 2 board meetings per year
3. Assume 1 day meetings
4. Assume 13 licensees and 15 complaints per year

Costs:

Personal Services 4 bd mem x 2 mtgs x 2 days x \$50/day =	800
Operating Expenses	
Other Services	500
Supplies & Materials	100
Communications	200
Travel	1,000
Rent	50
Other Expenses	<u>2,650</u>
Total Operating	4,500
TOTAL BUDGET	5,300

Fees:

\$5,300/13 licensees = \$400 per licensee.

DEPARTMENT ALTERNATIVE

Assumptions:

1. Assume contract assistance for advising staff at \$50 per hour
2. Assume 13 licensees and 15 complaints
3. Assume 2 hours advice needed per complaint, from a dentist and denturist
4. Assume Bureau over head costs will be \$2,700

Total Costs:

Operating Expenses

Other Services \$50/hr x 15 comp x 2 hrs/comp x 2 advisers =	3,000
Supplies & Materials	100
Communications	200
Other Expenses	<u>2,700</u>
TOTAL OPERATING EXPENSES	6,000
TOTAL BUDGET	6,000

Fees:

\$6,000/13 licensees = \$470 per licensee.

"8.17.808 PRIOR REFERRAL FOR PARTIAL DENTURES

(1) The board of dentistry interprets 37-29-403(1)(b), MCA, to mean that all patients requesting or requiring partial dentures or a relined patients shall be referred to a dentist to determine what is needed prior to the dentist starting his services."

Auth: Sec. 37-1-131, 37-29-201, MCA; IMP, Sec. 37-29-403, MCA

REASON: This proposed amendment will clarify the need for a prior referral of the patient to a dentist before the dentist provides a relined service.

3. The rules proposed for repeal are 8.17.101, 8.17.201, 8.17.202, 8.17.401, 8.17.402, 8.17.701, 8.17.703, 8.17.802, and 8.17.804 through 8.17.807.

The reason for repeal of 8.17.101, 201 and 202 is that Chapter 524, Laws of 1987 merged the Board of Dentistry and the Board of Dentistry. Therefore, these five rules are now repetitious of 37-4-202, MCA and ARM 8.16.101, 201 and 202.

The Board is proposing to repeal 8.17.701 because the standardized licenses issued by the Bureau automatically identify the licensee, license number, board name, date of issuance and practice area; and renewal license specifications in subsection (2) unduly repeat 37-29-306, MCA, and is otherwise redundant and unnecessary.

The proposed repeal of 8.17.703 is necessary because procedures for reinstatement of the license are now proposed under 8.17.702(6) and because requiring an interview before the Board in (2) is an improper extension of authority and in direct conflict with 37-29-313, MCA.

The Board is proposing to repeal 8.17.802 because it partly unduly repeats 37-29-311, MCA, and is an extension of legislative authority.

The repeal of 8.17.804 through 8.17.807 is necessary because complaint procedures are handled in accordance with the Montana Administrative Procedure Act. These rules are redundant and unnecessary.

4. The proposed new rules will read as follows:

"I INSERT IMMEDIATE DENTURES (1) The board of dentistry interprets the prohibition on denturists placing and inserting immediate dentures, contained in ~~37-29-402(2)~~, MCA, to mean a denturist may not insert a denture in the mouth of the intended wearer within four weeks of the date of the final extraction of teeth."

Auth: Sec. 37-1-131, 37-29-201, MCA; IMP, Sec. 37-29-402, MCA

REASON: The Board is proposing this new rule on inserting immediate dentures to clarify that the word "initially" means four weeks from the date of the last extracted tooth. The public will be protected by the rule because within four weeks the patient's oral cavity should be healed and the dentist will not be inserting a denture over an open wound.

EXHIBIT 8
DATE 2/4/93



COMPLETE AND IMMEDIATE DENTURE DIAGNOSIS AND CONSTRUCTION

January 30, 1993

EXHIBIT 8

Course Schedule

DATE 2-4-93

HB 155

8:00-8:30am	Registration/Coffee and pastries
8:30-9:45	Interim Immediate Dentures: Indications (interim vs. conventional), construction, followup (Dr. Charles Bolender)
9:45-10:15	Break
10:15-11:00	Construction of Conventional Immediate Dentures: Mouth preparation, impressions, jaw relations and try-in, overdenture options (Dr. Brian Toolson)
11:00-11:30	Nutrition issues to address with patients receiving immediate dentures (Ms. Mary Faine)
11:30-12:00n	Choosing the Correct Type of Denture for a Patient: Audience participation with casts, photos, and x-rays (Dr. James Brudvik)
12:00-1:15pm	Lunch ^{Red Lounge} (participants on their own)
1:15-2:15	Aspects of Complete Denture Construction: Jaw relations, try-in and tooth position, delivery and follow-up, special problems (Dr. Brian Toolson)
2:15-2:30	Two methods to box impressions (Dr. Darunee NaBadalung)
2:30-2:45	Break
2:45-3:45	Implant-Supported Overdentures: Patient selection, implant location, retention devices, construction details (Dr. Jeff Rubenstein)
3:45-4:30	Esthetics for Complete Dentures: alternative techniques for recording jaw relations on difficult patients (Dr. James Brudvik)
4:30pm	Adjourn

Instructors:

Dr. James Brudvik is Professor and Director of the Graduate Prosthodontic Program. He is a Diplomate of the American Board of Prosthodontics, has contributed to several textbooks, and has published many research papers on many aspects of Prosthodontics.

Dr. Jeff Rubenstein is Assistant Professor and Director of the Maxillofacial Clinic, and a Diplomate of the American Board of Prosthodontics. He developed his experience in implant dentistry at Harvard School of Dental Medicine and is now engaged in clinical and laboratory studies of implants.

Ms. Mary Faine is Assistant Professor in Prosthodontics at the University of Washington. She received her MS in Nutrition from the UW and teaches nutrition in the dental curriculum.

Dr. Charles Bolender is Professor of Prosthodontics at the University of Washington. He was Chairman of the Department for 25 years and was the first Distinguished Professor selected by the Washington Dental Service Foundation. Dr. Bolender is a co-author of a recently published text, *Boucher's Prosthodontic Treatment for Edentulous Patients*.

Dr. Brian Toolson is Associate Professor and Director of Prosthodontic courses in complete and immediate dentures. He has received frequent recognition as Instructor of the Year at the University of Washington School of Dentistry.

Dr. Darunee NaBadalung received her DDS from the University of Texas, and is a diplomate of the American Board of Prosthodontics. Dr. NaBadalung is an Assistant Professor in the Department of Prosthodontics at the University of Washington.

EXHIBIT 8

DATE 2-4-93

HB 155

MEDICAL SERVICES

46.12.605

(9) Prosthodontics include:

(a) complete maxillary denture, acrylic, plus necessary adjustment - 369.60 when provided by a dentist (code 05110) or 184.80 when provided by a denturist (code Z0110);

(b) complete mandibular denture, acrylic, plus necessary adjustment - 369.60 when provided by a dentist (code 05120) or 184.80 when provided by a denturist (code Z0111);

(c) acrylic maxillary partial denture with cast chrome clasps and rests replacing at least 4 posterior teeth plus adjustments - 286.00 when provided by a dentist (code 05211) or 146.00 when provided by a denturist (code Z0012);

(d) acrylic mandibular partial denture with cast chrome clasps and rests replacing at least 4 posterior teeth plus adjustments - 286.00 when provided by a dentist (code 05212) or 146.00 when provided by a denturist (code Z0013);

(e) maxillary cast chrome partial denture, acrylic saddles, clasps and rests, replacing at least one anterior tooth and any number of posterior teeth, plus adjustments - 357.50 when provided by a dentist (code 05213) or 178.75 when provided by a denturist (code Z0114);

(f) mandibular cast chrome partial denture, acrylic saddles, clasps and rests replacing at least one anterior tooth and any number of posterior teeth plus adjustments - 357.50 when provided by a dentist (code 05214) or 178.75 when provided by a denturist (code Z0115);

(g) replacement for maxillary dentures of between 5 and 10 years old - 121.55 when provided by a dentist (code 05710) or 60.78 when provided by a denturist (code Z0125);

(h) replacement for mandibular dentures of between 5 and 10 years old - 121.55 when provided by a dentist (code 05711) or 60.78 when provided by a denturist (code Z0126).

(10) Relines and repairs include:

(a) cured resin reline, lower - 95.10 when provided by a dentist (code 05751) or 47.55 when provided by a denturist (code Z0116);

(b) cured resin reline, upper - 95.10 when provided by a dentist (code 05760) or 47.55 when provided by a denturist (code Z0117);

(c) broken denture repair, no teeth, metal involved - 42.24 when provided by a dentist (code 05610) or 21.12 when provided by a denturist (code Z0118);

(d) denture adjustment - only where dentist or denturist did not make dentures - 8.58 when provided by a dentist (code 05410) or 4.29 when provided by a denturist (code Z0119);

(e) replacing broken tooth on denture, first tooth - 26.40 when provided by a dentist (code 05520) or 13.20 when provided by a denturist (code Z0120);

(f) each additional tooth after procedure (e) and (g) - 7.15 when provided by a dentist (code 05640) or 3.58 when provided by a denturist (code Z0121);

SOCIAL AND
REHABILITATION SERVICES

(g) adding teeth to partial to replace extracted natural teeth, first tooth - 35.75 when provided by a dentist (code 05650) or 17.88 when provided by a denturist (code 20122);

(h) replacing clasp, new clasp (dentists - code 05680; denturists - code 20123) - 50.05;

(i) repairing (welding or soldering) palatal bars, lingual bars, metal connectors, etc. on chrome partials - 92.95 when provided by a dentist (code 05620) or 46.48 when provided by a denturist (code 20124);

(j) jumping of maxillary denture - 121.55 when provided by a dentist (code 05710) or 60.78 when provided by a denturist (code 20125);

(k) jumping of mandibular denture - 121.55 when provided by a dentist (code 05711) or 60.78 when provided by a denturist (code 20126);

(l) placing name on new, full or partial dentures - 11.00 when provided by a dentist (code 20096) or 5.50 when provided by a denturist (code 20127).

(11) Pontics and abutment teeth include:

(a) (code 06210) - steele's facing type - 357.50 for complete bridge and abutment teeth;

(b) (code 06240) - ceramic, pontic and abutment teeth - 357.50 for complete bridge and abutment teeth;

(c) (code 06250) - cured acrylic, laboratory processed, veneer, pontic and crowned abutment teeth (complete bridge) - 357.50 for complete bridge and abutment teeth.

(12) Repairs include:

(a) 06930 - recement bridge - 14.30;

(b) 02920 - recement crown - 7.15;

(c) 06890 - porcelain facing - 28.60;

(d) 20070 - replace broken steele's facing, post intact - 24.20;

(e) 029560 - steel post or dowel with amalgam buildup - 28.60;

(f) 20072 - replace broken steele's facing, post broken - 35.75.

(13) Oral surgery includes:

(a) 07520 - I and D of abscess extra-oral - 55.00;

(b) 07110 - removal of tooth (includes shaping of ridge bone) - 17.40;

(c) 07220 - surgical removal of tooth, soft tissue impaction - 35.75;

(d) 07230 - surgical removal of tooth, partial bone impaction - 64.35;

(e) 07240 - surgical removal of tooth, complete bone impaction - 107.25;

(f) 07320 - alveolectomy, not in conjunction with extractions, per quadrant - 35.75;

Committee Members,

My name is Brent Kandarian and I am a practicing denturist in Kalispell. I would like to make two points to this Committee that I believe are relevant to any decision you make.


The first point I want to make is that denturists are not dentists. We have never claimed to be dentists, yet we are regulated by our only competitor, the Dental Board. Chiropractors are not regulated by the medical board, yet they both serve the public for health services. What is it that makes it so necessary, that only the Dental Board can correct? Even the Federal Trade Commission has said there is a direct conflict of interest in having the denturists controlled by the Dental Board.

Please separate these two professions and let them be responsible for their own actions and licensees.

My second point is that there will be no new denturists coming to Montana as long as the dental board controls us. Many inquiries have come to many of us regarding this issue. Aspiring denturists do not trust the Dental Board because of dentistry's long standing attacks on denturists. The opposition to Initiative 97 was a good example of how far the opposition will go to stretch the truth. I can attest to my feelings towards the Board of Dentistry as I have been embroiled in a 7-year, ongoing lawsuit with the board. I have won every court hearing, even the Supreme Court in Montana sided with me on **all issues**. The unjust part of this entire matter is that the Board doesn't care if it is involved in a law suit because there is no money out of the individual board member's pockets. They can make any kind of decision they want and not be held accountable except through the legal system which is a long drawn-out process and very expensive. That's absurd in this day and age. We need additional denturists in this state. Too many areas in Montana are not being served by denturists and until we regulate ourselves, within the state statutes, there will be no new denturists coming here.

Initiative 97 was designed to help the people of Montana with a lower cost and quality alternative denture care delivery system. Unfortunately, through dental lobbying, the Initiative is losing what it was designed to create. By reinstating the board of denturity, approving **House Bill 155**, we can start increasing denturist services to more people in more areas of Montana.

Sincerely,


Brent Kandarian, Denturist

February 4, 1993

EXHIBIT 10
DATE 2-4-93
HB 155

Business & Economic Development Committee
Chairman, Mr. Steve Benedict

RE: HB 155 - Proponent

Mr. Chairman and Committee,

Thank you for this opportunity to speak this morning on behalf of the denturists of Montana and around the world.

I believe it is very appropriate that this hearing is before you, ladies and gentlemen of the Business & Economic Development Committee. Denturistry became legal in Montana December 1, 1984 by the vote of the people of Montana. They are the same people who voted for you and for "Freedom of Choice in Denture Care." A committee such as this should be very interested in keeping this profession alive.

The people of this state deserve the knowledge and the expertise of this profession. If you ask dentists if they like doing dentures, most will quickly inform you that it certainly is a difficult practice.


Dentistry is a profession involved with the prevention, diagnosis and treatment of oral diseases and disorders with primary emphasis in the health of the teeth and mouth. Denturistry is involved with replacement of missing teeth such as dentures whether full or partial and relining and repairing as such. WE DO NOT DIAGNOSE OR TREAT ABNORMALITIES. These are referred to the proper specialists.

We are trained to recognize oral cancer and other diseases. Since we have been licensed, we require ourselves to have 12 hours of continuing education each year as well as CPR training for every denturist yearly. The dentists have YET to even begin their continuing education requirements, and how long have they been licensed in Montana?

As to complaints, yes, there are and there will always be complaints. We now live in a society where people are constantly challenging and questioning the workmanship and judgement of ALL PROFESSIONS. A Board's response is to be fair to all parties. Very few complaints of denturists involve gross negligence and many are very petty but time consuming.

The relationship of a dentist and denturist is competitive. Therefore, working together on the same Board is not workable. I, myself, resent the regulation of my profession by the Board of Dentistry because I do not believe we are a profession that is a threat to the public. If we are "self-serving" as the MDA has stated in print, it is only to serve against a strong and much more powerful dental monopoly. Canadians have had denturists for 35 years and many provinces have their own boards. It only came through constant battle.

I would like to see the Board of Denturistry reestablished that would allow the denturists of Montana to move ahead and fulfill this law in response to our obligation to the public. This will result in benefit to the consumer.

Thank you,
Ron Olson, LD 
Member, Board of Dentistry

736 Fifth Avenue
Helena, Montana 59601
November 17, 1992

Legislative Auditor
State of Montana
Helena, Montana 59620

Dear Sir:

I have been asked by Ron Olson, chairman of the Montana Denturists to give you my opinion regarding the denturists' request to become affiliated with the Alternate Health Care Board, or to be granted independence from the Board of Dentistry.

I was recently a member of the Board of Dentistry as a public member. While serving there I had the opportunity to observe the workings of both the Board of Dentistry and the denturists' group. I came to believe that this combination worked to the disadvantage of both groups.

There seemed to be an attitude of hostility on the part of each group toward the other. Whether the licensing of denturists should ever have happened is moot, because they have been licensed. Some of the practices granted to the denturists (particularly pertaining to the placing of partials) by the legislature have caused disputes between the dentists and the denturists. The Board found that most of their time at meetings was taken up with the consideration of problems arising out of the practice of dentistry. Complaints came both from patients and from dentists. Dentists felt an obligation to deal with the seeming shortcomings of denturists.

For the above reasons, I believe that the welfare of the public would best be served by a separation of the two groups.

Sincerely yours,



Fern Flanagan
Former member of Board
of Dentistry

EX-10
11/18 2/4/93
HB 155

November 14, 1992

To: Audit Committee

From: Elsie Fox

I have been closely associated with the Montana denturist situation. I feel it necessary to convey some of my thoughts to you. I was appointed to the Board of Dentistry following the passage of the initiative that authorized the licensing of denturists in 1985. Following that I became a member of the Board of Dentistry when the denturist's Board was absorbed by the Board of Dentistry, and remained on that Board until March of 1992.

As a result of my experiences on the Board of Dentistry, I urge you to put the denturists under an Alternate Health Care Board.

The main reason for this is that the two professions are competitors, particularly as far as the dentists are concerned. Therefore, it is a case of the fox guarding the chickens. Many times in the course of events on the Board, I felt constrained to plead to the dentists to remember that we were supposed to act as a body -- not as partisans. The same was true of the other public member of the Board.

In passing the denturists initiative it was made clear that the people of Montana wanted a choice in relation to purchasing dentures. As the situation is made more difficult for the denturists and more of them leave the profession, it narrows this choice.

Thanking you for your consideration,

Sincerely,
Elsie Fox
Elsie Fox

Elsie Fox
P. O. Box 222
Miles City, Mt. 59301
Phone 232-1841

2-4-93
H3 155

AUDIT COMMITTEE HEARING.....November 20, 1992.....Helena, MT.....
submitted by Ron Olson

When I was appointed by the Governor to the Board of Dentistry as the denturist member, I did feel it was an honor and a responsibility and challenge. What I didn't expect, however, was that I would be the center of attention and that the dentist members would be consumed with this great responsibility to police and diminish the activity of denturists in Montana. There has been a disproportionate amount of time spent in dealing with denturist rules, law interpretation and complaints in comparison to serious dentists' matters and no progress has been made in the interest of the consumer. The Federal Trade Commission (FTC) has determined that there is a restraint of trade by the Board of Dentistry against denturistry.

IT IS A FACT: The people of Montana voted for "Freedom of Choice in Denture Care" with Initiative 97, and this became law December 1, 1984.

The Board of Dentistry is presenting legislation to "define" the practice of denturistry in our state. The motive behind this is to change the law for which the people voted and to restrict our practice more and more.

Because our relationship is competitive, working together on the same Board is unworkable. Case in point: physicians & chiropractors and ophthalmologists & optometrists are not on the same Board.

We are requesting that we be transferred to the Allied Health Care Board or have our own Board reinstated. Rather than continually fighting largely unfounded threats and petty scrutiny, I would like to see a Board established that would allow the denturists of Montana to move ahead and fulfill this law in response to our obligation to the people. This can only result in benefit to the consumer.


Sincerely,


EXHIBIT 10
DATE 2-4-93
HB 155



Billings' Only Denturists

THE PROTECTION RACKET

YOU, the consumer, are losing your freedoms... Yes, the freedom to make a choice. Initiative 97, which was voted into law December 1, 1984, allowed you to make a choice whether you go to a dentist or to a denturist for your dentures or partial dentures. Now, in the name of protection, the Board of Dentistry, is using the power of government to limit their competition (the denturists), and you know the reason why (\$\$\$).

The Montana Dental Association handed out a letter to the legislators with this quote, "They (denturists) must remain under the purview of the Board of Dentistry to insure that the public health is protected."

House Bill 240, which the dentists support, has provisions that will hamper our services to the public along with the rules that have already been imposed on the denturists.

House Bill 155 will restore the Board of Denturistry so we may govern ourselves and operate within our original law (I-97).

The Federal Trade Commission (FTC) has determined that there is a restraint of trade by the Board of Dentistry against denturists in Montana.

Denturists pose NO threat to the people of Montana. We do not do any ~~invasive~~ ^{surgical} procedures or work on natural teeth.

Freedom is the freedom to make decisions! Every law (and there are now thousands) and every rule (and there are now millions) represent a loss of your decision making ability.

EXHIBIT 10
DATE 2-4-93
HB 155

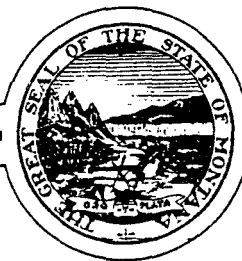
actively practicing licensees of the Board of Dentistry. However, in fiscal year 1991, 27% of the total complaints acted on by the Board of Dentistry were directed to denturists. Only three of those complaints were filed by dentists. In fiscal year 1992, 37% of the complaints were from the 1.5% of active licensees, namely denturists. Only four of these complaints were originated by dentists. Thus, in a two-year time period, thirteen licensees (1.5%) generated 32% of the complaints for the Board of Dentistry to act on.

When you study these numbers, they should alarm you as they do me. The Board of Dentistry attempts to ensure that denturists practice as indicated and allowed by law. This provides for the protection of the citizenry of Montana. An involvement and relationship between denturistry and dentistry has been established legally by statute. It is a necessary relationship and governance should remain under one board.

Thank you for your attention.

DEPARTMENT OF COMMERCE
PUBLIC SAFETY DIVISION

EXHIBIT 11
DATE 2-4-93
HB 155



STAN STEPHENS, GOVERNOR

111 N. JACKSON

STATE OF MONTANA

HELENA, MONTANA 59620-0407

February 4, 1993

To: Members of the House Business and Economic Development
Committee

From: Mr. Jack Traxler

Montana State Board of Dentistry

Re: HB 155, A bill to establish a separate Board of Denturitry

Representative Benedict and members of the Committee:

My name is Mr. Jack Traxler from Missoula. I am a Public Member of the State Board of Dentistry. I am here as a member of the Board, but also as a Senior Citizen of Montana.

I have a few words, Mr. Chairman and members of the Committee. In the time I have spent on the Board of Dentistry, a great deal of the Board's time and effort has been directed towards complaints filed against denturists. These complaints have been related to violations of statutes and rules that legally regulate the denturists. There has been some talk as of late that some rule changes are being made to restrict the practice of denturity. The rule changes are in actuality a clarification of areas of the practice of denturity to allow the denturists to practice in the bounds of the law as intended. I, as a board member and indeed, as a senior citizen in the state of Montana want to make certain that our denturists practice within the limits of the law. The people of Montana deserve to be protected and before you, I express my great concern that they will not be protected if a separate self-regulated Board of Denturitry is established.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Business & Economics

COMMITTEE

BILL NO.

HB 155

DATE

2-4-93

SPONSOR(S)

Rep. B. Paulovich

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Mark Littlehouse	Denturist Association	155		X
ROB CARNATHAN	DENTURIST ASSOC. MT.	155		X
For Olson	Denturist Ass MT	155		X
Paul Comer	Denturist	155		X
ALLEN CASTOEL	DENTURIST	155		X
ED Capli	MSCA			
Lornimermer	Montana Dental Hygienists Assoc. MDTA	155		
Judge Thibault	dental hygiene - self	155		
Steve Meloy	info only	155		
Roland D Pratt	Denturist Assoc. MT	155		X ✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Business & Ec. COMMITTEE BILL NO. HB 155
 DATE Feb 4, 1993 SPONSOR(S) D. Pavlovich

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
TED BECK, Helena	Self	155	X	
Lavonne Olson		155		X
DOROTHY LOMER	DENTURISTS			X
DAVE LOMER	DENTURISTS			X
Jack Traxler	MEMBER Board of Dentists		X	
Jack Nason	Board of Dentistry		X	
WILLIAM E. ZIPP, Helena	MONTANA DENTAL ASSOCIATION	155	X	
Mary McCue	" "	155	X	
Donis Forkin	Col. Falls Mt. 59912	155		X
Doug Campbell	MSCA	155		X
Oliver Campbell	MSCA	155		X
Brent Kundersen	Self	155		X
CHAS COLLAN	Self	155		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
 ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Tippy & McCue

ATTORNEYS AT LAW

EXHIBIT 12
DATE 2-4-93
HB 155

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

Roger Tippy
Mary Kelly McCue

February 4, 1993

TO: Chairperson Benedict and Committee Members
House Business and Economic Development Committee

FROM: Mary McCue
Lobbyist
Montana Dental Association

RE: House Bill 155 --- Creating a Board of Denturitry

I represent the Montana Dental Association (MDA) as lobbyist and legal counsel. The Association is opposed to House Bill 155 which would recreate a board of denturitry. The MDA opposes this bill in part because, during the previous period that denturists were permitted by the Montana Legislature to be entirely self-regulating, their regulatory board did not protect the public safety during their licensing process.

In determining whether the recreation of such a board would promote the health and safety of the Montana public, you have the benefit of examining the history of actual board operations when this board previously existed.

A Board of Denturitry was first appointed by the governor in 1985. In 1987 the board was merged with the Board of Dentistry because it had not licensed the requisite number of 30 denturists by October 1, 1986.

At that time, the Office of the Legislative Auditor conducted a sunset review to address state regulation of denturists to that point. The Legislative Auditor examined the Board of Denturitry's files to determine the adequacy of the board's procedures and ensure compliance with applicable laws.

The audit showed that the board did not follow the statutory requirements related to licensure and had licensed persons who did not meet all the qualifications for licensure. Eighteen applicants had been licensed by that time; twelve were "grandfathered". Of the remaining six licensees, five did not meet the requirements for licensure. Non-compliance existed in two areas. The requirement of two years of internship under a licensed denturist had not been met by four of the six licensees. And four licensees also had not met the education requirement of two years of formal training.

House Bill 155
February 4, 1993
Page 2

The audit also revealed that the examination process used by the board did not comply with the law and had not provided efficient licensing procedures. The board also permitted new fees to be charged and received before appropriate rule changes were adopted.

As evidenced by this audit, the members of this occupation have shown themselves incapable of ensuring the public health when allowed to regulate themselves. Because this bill to recreate a Board of Denturitry did not undergo the scrutiny of the sunrise process as required by law, we urge you to table it in this committee.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. HB 279
DATE Feb. 4, 1993 SPONSOR(S) B. Gilbert
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
W. D. Hill Helena	B & W Hill Inc	✓	
MIKE GRUNDW	MALSA	✓	
Mark Kokoubt	MALSA	✓	
Margaret Nelson	MALSA - Self	✓	
Tim Dalin	MALSA	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

State of Montana

JUN 16 1989

Office of the Legislative Auditor

Sunset Performance Audit

DEPARTMENT OF COMMERCE

BOARD OF DENTURITRY

Chapter 548, Laws of Montana, 1985, requires a sunset review of the board. This review provides information to assist the Legislature in making the decision to terminate, modify, or continue the board.

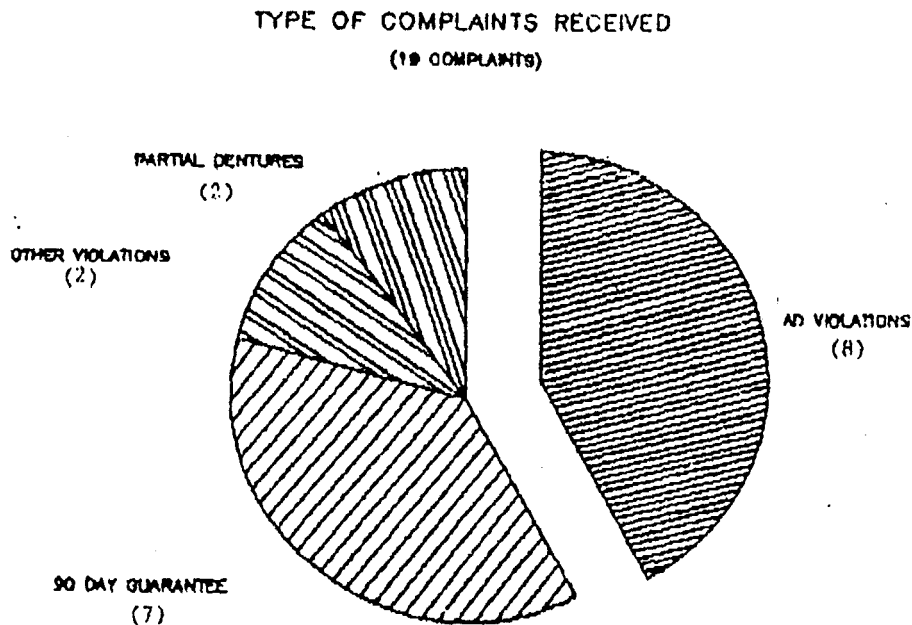
This report presents several areas for legislative consideration including:

- The fiscal viability of board operations including the number of licensees.
- Concerns with the examination process for administering X-rays.
- Requirements needed to complete partial dentures.



Direct comments/inquiries to:
Office of the Legislative Auditor
Room 135, State Capitol
Helena, Montana 59620

depended on the type and circumstances of each. The following chart demonstrates the types and numbers of complaints received.



Source: Compiled by The Office of Legislative Auditor
Illustration #4

The advertising complaints are those dealing with misleading advertising (for example, denturists advertising as dentists). Several of these complaints stem from telephone book listings which listed the professions under the wrong heading. Other types of complaints relate to a 90-day guarantee specified in the law, which states all denturist services are unconditionally guaranteed for 90 days. The Board of Denturistry has enforced this requirement and required refunds in these cases.

Partial denture complaints have resulted from differing interpretations of this law between dentists and denturists, as to when and if patients must be referred to a dentist. (Further discussion on this subject is in Chapter Four.) Complaints in this area have been resolved by requiring a refund.

Other complaints received have been against the Board of Denturistry and its members for possible violation of the open meeting law and invasion of privacy. Both complaints were resolved through Board actions.

Conclusion

After reviewing the actions taken and timeliness in resolving these complaints, we determined the Board's procedures are adequate. The majority of complaints are resolved within one to two months. The longest time taken to close any case has been nine months, because of pending court decisions. Disciplinary actions included requiring refunds of money, enforcing the 90-day guarantee, and preventing fraudulent advertising. Follow-up on these cases has been performed promptly by department staff.

INSPECTIONS

In order to ensure public health, the Board of Dentistry has required that a dentist's facilities be inspected by a designated inspector. Inspections are done to determine the sanitary conditions of the facility and if standards outlined in the law are met. Standards required include three separate rooms, availability of a sterilization unit and cold disinfectant, use of germicidal soap, adequacy of records for each patient, denture materials meeting American Dental Association standards, and properly identified dentures.

Conclusion

Inspections have been performed by department staff at every licensed dentist facility throughout the state. Forms used by the investigator are signed by the dentist or office staff and the investigator. Problems which are identified are reported to the applicable licensee and follow-up visits are performed.

CHAPTER III

ACTUAL BOARD OPERATIONS

The primary function of the Board of Dentistry is to ensure the health and safety of the public through the licensing process. This process includes several steps: approving applicants for examinations, authorizing examinations, establishing fees, resolving complaints, and ensuring facility inspections are performed. To determine adequacy of the Board's procedures and to ensure compliance with applicable laws, we tested each of these areas.

APPLICATION PROCEDURES

To apply for licensure in the state of Montana, an applicant must complete a form which is available from the Department of Commerce. This form requires background information such as dentistry school attended, employer with which dentistry experience was gained, other state licenses currently held, and if a dentist license has ever been denied. Along with this form an applicant must also submit all other documents necessary to establish all requirements have been met. The requirements of education and internship can be substantiated by school transcripts and letters of reference.

We examined files for each person who applied for licensure since the creation of the Board. Qualifications documented in files were compared to requirements in the law to test compliance. We found 31 individuals have applied to the Board for licensure and 18 of these have been licensed. Documentation in department files indicate five of 18 do not meet all required criteria.

Non-compliance exists in two areas. The requirement of two years of internship under a licensed dentist has not been met by four of the six licensees who were not initially licensed. Four licensees also have not met the education requirement of two years of formal training. (Three licensees did not meet both of the requirements.)

Conclusion

Some applicants not meeting all qualifications have been licensed. Therefore, the Board has not followed the statutory requirements related to licensure qualifications.

In addition, 30 denturists were not licensed before October 1, 1986, as required by Chapter 548. Only 18 have been licensed. Therefore, the Legislative Audit Committee is required to introduce a bill to merge this Board with the Board of Dentistry.

With only four states having licensing provisions, applicants have been limited in their opportunities for internship. Idaho has expanded the internship requirement to allow gaining experience under a licensed dentist or denturist.

Non-compliance with the education requirement resulted from Board decisions during the licensing process. Applicants were unable to meet the requirements due to the lack of any training programs offered throughout the United States. Currently, two year programs for this profession are only available in Canada. Interviews with board administrative staff in other states revealed several training programs are currently being developed.

EXAMINATION PROCEDURES

The denturistry examination in Montana is comprised of three parts; a written section, a practical section, and an oral section. Each part is given separately and the examination is given over the course of two days. As stated in the law, examinations must be held on the second Monday in July. Additional examinations can be held. Files at the department revealed examinations did not take place on the designated date. Examinations were given at varied times and at various locations, often to accommodate an applicant. This does not appear to be an efficient practice.

Conclusion

The past examination process was not in compliance with the law and has not provided efficient licensing procedures for denturistry within the state.

To address these inconsistencies, the Board has adopted new rules that set dates and a location for the examinations in the future. These rules require examinations be held on the third Friday and Saturday of January of each year, in addition to the second Monday in July. The rules also set the permanent location of the examination site in Helena.

ESTABLISHING FEES

Board duties include the setting or modifying of fees for licensure. Under this authority, the Board has changed the amount charged for the annual renewal fee and established a charge for inactive and out-of-state licensees. The renewal fee, originally set at \$200, is currently set at \$500. The Board of Dentistry voted to change this fee at a meeting held in July, 1985. At this time, correspondence to applicants and licensees outlined this as the new level required. The new fee of \$500 was then applied to licensees applying for renewal at the end of 1985. Administrative rules outlining the change in fees were not certified by the Secretary of State until September, 1986 and were not in effect until October, 1986. As a result, higher fees were being charged before rule approval was obtained.

The same procedures were followed for the enforcement of the inactive and out-of-state fees. Correspondence was sent and fees charged that had not been included in the rules.

Conclusion

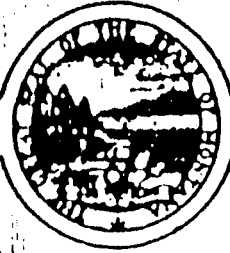
The change in fees could have been challenged by those being charged. There was non-compliance with the rules because new fees were being charged and received before rule changes were adopted.

COMPLAINT PROCEDURES

In two years of operation, the Board of Dentistry has received 19 complaints. These complaints have originated from several areas; eight were filed by dentists, five from denturists, five from the public and one was filed by the Board of Dentistry. Board action has

DEPARTMENT OF COMMERCE
PUBLIC SAFETY DIVISION

EXHIBIT 14
DATE 2-4-93
FILE 155



STAN STEPHENS, GOVERNOR

111 N. JACKSON

STATE OF MONTANA

HELENA, MONTANA 59620-0407

BOARD OF DENTISTRY

February 4, 1993

To: Members of the House Business and Economic Development
Committee

From: Dr. John (Jack) T. Noonan, D.D.S.
Montana State Board of Dentistry

RE: HB 155 A BILL TO ESTABLISH A SEPARATE BOARD OF DENTURITRY

Representative Benedict and members of the Committee:

My name is Jack Noonan and I am a member of the State Board of Dentistry. The Board of Dentistry is charged with the regulation of dentists, hygienists, and denturists to insure the protection of the dental health of the citizens of Montana. The practice of denturistry demands continual professional oversight, which is appropriately provided by the Board of Dentistry.

The Board of Dentistry feels that the practice of denturistry cannot be self-regulated, under any circumstance, in order to best protect the interest of the citizens of Montana. The majority of denturists licensed in the State of Montana have not met any educational requirements. In fact, it was reported in the Sunset Performance Audit, performed by the Legislative Audit Committee, that only two or three denturists actually passed their own examination. Since the denturists who have received their licenses without passing their exam were licensed under another board, then-Attorney General Greely ruled that the licenses could not be revoked by the Board of Dentistry. The denturists have generated a significant body of complaints, with all complaints involving workmanship in whole or in part. This is significant in that denturists essentially produce a product, rather than provide a service.

Now you may have heard statements such as excessive complaints are brought against denturists by the dental profession. Let me set forth some facts. There are currently thirteen (13) denturists licensed by the State of Montana, eleven (11) of which are actively practicing denturists in the State, representing only 1.5% of the

actively practicing licensees of the Board of Dentistry. However, in fiscal year 1991, 27% of the total complaints acted on by the Board of Dentistry were directed to denturists. Only three of those complaints were filed by dentists. In fiscal year 1992, 37% of the complaints were from the 1.5% of active licensees, namely denturists. Only four of these complaints were originated by dentists. Thus, in a two-year time period, thirteen licensees (1.5%) generated 32% of the complaints for the Board of Dentistry to act on.

When you study these numbers, they should alarm you as they do me. The Board of Dentistry attempts to ensure that denturists practice as indicated and allowed by law. This provides for the protection of the citizenry of Montana. An involvement and relationship between denturistry and dentistry has been established legally by statute. It is a necessary relationship and governance should remain under one board.

Thank you for your attention.



EXHIBIT 15
DATE 2-4-93
HB 155

Montana Dental Association

P.O. Box 1154 • Helena, MT 59624
(406) 443-2061 • FAX: (406) 443-1546

Constituent: AMERICAN DENTAL ASSOCIATION

February 4, 1993

Officers - 1992-1993

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690 SW Higgins Avenue
Missoula, MT 59803

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121 N. Last Chance Gulch
Helena, MT 59601

Executive Director

William E. Zepp
P.O. Box 1154
Helena, MT 59624

To: House Business & Economic Committee
From: Bill Zepp, Executive Director
Re: HB155

Chairperson Benedict and Members of the Committee:

My name is Bill Zepp and I am the Executive Director of the Montana Dental Association. The Montana Dental Association is composed of 94% of the licensed resident dentists in the State.

The MDA wishes to go on record as opposing the establishment of a Board of Dentistry to regulate the thirteen denturists currently licensed by the State of Montana. It is essential that professional oversight be applied to the practice of dentistry. This oversight is most logically and competently provided by the Board of Dentistry. Under the supervision and regulation of the Board of Dentistry, the denturists of Montana are able to provide those products allowable since the 1984 initiative and the resultant ballot measure. The consolidation of the Board of Dentistry with the Board of Dentistry has in no way altered their scope of practice. The intent of these measures remains the same.

Testimony presented to you today has made reference to the 1986 Sunset Performance Audit, conducted by the Office of the Legislative Auditor indicating situations of non-compliance in the areas of licensure, education and examinations. When the Board of Dentistry previously existed it did not comply with its own established regulations. This situation is not exclusive to Montana; of the 173 denturists in the four states with active practitioners, virtually all were grandfathered in regard to licensure and educational requirements.

Dr. Gayle Roset of Billings served as the dentist member of the Board of Denturitry until its consolidation with the Board of Dentistry. In preparing testimony on HB 364 to be presented to the State Administration Committee of the 1987 Montana Legislature, Dr. Roset analyzed the background and educational credentials of the most recent fifteen applicants for licensure to the Board of Denturitry. Of these fifteen applicants, five were approved for a Montana license. None of the fifteen applicants met the minimum requirements for licensure, including the five licensed. Dr. Roset also noted that two applicants who were denied licensure had equivalent or better credentials than three others who were approved. An analysis of the fifteen applications revealed that none of the fifteen applicants met the requirement of two years of training, the then requirement of two years of internship, the requirement of three years of licensure, or the five year licensure requirement for reciprocity. Please understand me correctly: none of the applicants met any of these requirements, yet five individuals were approved for licensure by the Board of Denturitry.

You have also heard testimony from the Board of Dentistry indicating an inordinate number of complaints involving licensed denturists. In the past two years, fully 1/3 of the complaints heard by the Board of Dentistry originated from 1.1% of the licensees.

The history of denturitry in Montana has been one of loopholes, exceptions, and technicalities. The majority of the current licensees were either grandfathered or approved while not meeting the established criteria. Then Attorney General Greely ruled that while these licenses were indeed issued to persons who had not met the statutory requirements, the individual licensees would not be held accountable for the errors of the licensing board, the Board of Denturitry. The Denturists Association of Montana entered the Sunrise process before the Legislative Audit Committee this fall with a proposal to join the Alternative Health Care Board. After the Legislative Audit Committee rejected this proposal, HB155 was drafted and never subjected to the Sunrise process. This issue was raised before the House Rules Committee and resulted in the decision to allow the bill to be heard here.

In conclusion, the Montana Dental Association feels that the sole reason for this proposal is to remove the practicing denturists of Montana from the much needed professional oversight and regulation of the Board of Dentistry.

Thank you very much for your attention and consideration.

EXHIBIT 16
DATE 2-4-93
HB 155

HOUSE OF REPRESENTATIVES

WITNESS STATEMENT

PLEASE PRINT

NAME DR. TED BECK BILL NO. HB 155

ADDRESS 277 W. Lyndale, HM DATE 2/4/93

WHOM DO YOU REPRESENT? SELF

SUPPORT _____ OPPOSE X AMEND _____

COMMENTS: (a) Statements made
(b) 4 handout,

(a) written thoughts on HB 155

(b) Letter from Idaho State Univ

(c) Letter from State Attorney

Comm Dept

(d) Newspaper Article



Idaho State University
Pocatello, Idaho
83209-0009

EXHIBIT 16
DATE 2-4-93
HE 155

Idaho Dental Education Program
Campus Box 8100

Area Code 208
Telephone 238 1289
3289

September 7, 1984

Ted Beck, D.M.D.
227 West Lyndale
Box 4327
Helena, Montana 59601

Dear Dr. Beck:

In response to your questions concerning the course held at ISU, I will try to answer them as best I can. I have received a copy of the article by Frank Brisendine as printed in the Independent Record. As a member of the faculty of the course mentioned by Mr. Brisendine, I feel able to comment on his interpretation of the course.

The course which was given at Idaho State University this last summer was a two week workshop, meant to introduce potential legal providers to the body of knowledge necessary for safe and efficacious treatment of edentulous patients. Treatment which could be based upon scientific principles and not on handmedown hearsay.

It should be obvious that a single two week course cannot approximate the eight years (average) of undergraduate and graduate professional education involved in a Dentist's training. The dental education process is based upon proven scientific data and is constantly updated and revised. To equate a single two week course and five years of repetition of skills which were never learned properly, with the dental education is absurd. To state that it is superior, is ludicrous.

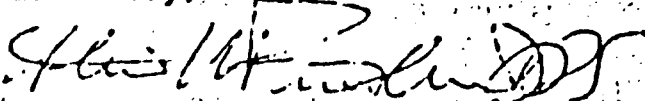
The individual courses presented were not equivalent to dental school courses in content, length or in expected levels of performance. The courses were designed to whet the "educational appetite" of the denturists. We were trying to help them develop

an appreciation for the education they should have (and presently do not possess) for the treatment of patients. The courses were definitely not designed to be an all encompassing education for the denturists. The performance level expected on the examination for successful completion of the course was minimal and far below that expected of dental students. The examination was administered as much for our information as it was to evaluate the denturists.

As you are aware the practice of Denturistry is legal in Idaho via the initiative process. The philosophy that we have adopted is that the educational level of these direct care providers must be raised to heights which are compatible with the responsibility they have assumed. Soon there will be an established program to grant the Bachelor of Science in Denturistry. At this level the Denturists will have adequate training and background to practice their profession. They will also be integrated with the rest of the dental care team and not be on the opposite sides of the fence.

I certainly hope that this will answer your questions and clarify the coursework presented to the Denturists at Idaho State University. If there are any further questions, please do not hesitate to call or write.

Sincerely,



Steven W. Friedrichsen, D.D.S.
Director, I.D.E.P.9F