

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By CHAIRMAN BOHARSKI, on February 8, 1993, at

ROLL CALL

Members Present:

Rep. Bill Boharski, Chair (R)
Rep. Bruce Simon, Vice Chair (R)
Rep. Stella Jean Hansen, Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Tim Dowell (D)
Rep. Duane Grimes (R)
Rep. Brad Molnar (R)
Rep. Tom Nelson (R)
Rep. Sheila Rice (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Carolyn Squires (D)
Rep. Bill Strizich (D)

Members Excused: Rep. Russell

Members Absent: None

Staff Present: David Niss, Legislative Council
Alyce Rice, Committee Secretary

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

Committee Business Summary:

Hearing: HB 391, SB 187, SB 89
Executive Action: None

HEARING ON HB 391

Opening Statement by Sponsor:

REP. BOB GERVAIS, House District 9, Browning, said HB 391 clarifies the exclusion from income of Indian Self-determination and Education Assistance Act funds paid in installments.

Proponents' Testimony:

Leonard Guardipee, Blackfeet Education, said Native American students' scholarship funds are being considered income for public assistance and social services purposes, whereas, other kinds of financial aid offered by financial aid offices are exempt from income consideration.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. SIMON asked Leonard Guardipee if fee waivers granted Native Americans were considered income. Mr. Guardipee said fee waivers are considered part of the established need, but are not considered income for social services or public assistance purposes. REP. SIMON asked Mr. Guardipee if there were other grants students might receive with no obligation to pay. Mr. Guardipee said yes, there are a number of other grants; for instance, the Pell Grant, Basic Education Opportunity Grant, Supplemental Educational Opportunity Grant, and the Student Incentive Grant. These are grants not subject to income consideration.

REP. SIMON asked David Niss, Legal Counsel, if the Act referred to in the bill would apply to all students who receive education assistance or only to Native Americans. Mr. Niss said it depends on the terms of the federal Act, which he is not familiar with. REP. SIMON asked Mr. Guardipee if the Act applied to all races or only to Native American students. Mr. Guardipee said his main concern was the Native American students, but thought it would apply to other students. REP. SIMON asked Mr. Niss to research the Act to determine if it applied to all students.

CHAIRMAN BOHARSKI asked Mr. Guardipee if a non-Indian could receive funds under Public Law 93-638. Mr. Guardipee said the 93-638 grants are awarded through the Bureau of Indian Affairs and non-Indian students are not eligible. CHAIRMAN BOHARSKI asked Mr. Guardipee if the funds would be counted against a Native American student's supplemental security income. Mr. Guardipee said to his knowledge, there has never been a conflict between the scholarship grants and eligibility for Social Security.

CHAIRMAN BOHARSKI asked REP. GERVAIS what programs would be involved in the exclusion of income eligibility under Public Law 93-638 funds. REP. GERVAIS said self-determination education grants are usually paid in a lump sum. If the grants are paid in a lump sum they are not subject to income eligibility. However, many students, after receiving the lump sum grant, didn't return to school. The lump sum payment was changed to a monthly payment to counteract this problem. The monthly payment was considered income for public assistance and social services purposes. CHAIRMAN BOHARSKI said usually when a lump sum payment is received and it is countable income, the government spreads it

out over a number of months. **CHAIRMAN BOHARSKI** asked **REP. GERVAIS** if the students were being declared ineligible for the month the lump sum payment was received. **REP. GERVAIS** said students were not penalized when they received a lump sum payment.

REP. SIMON asked **REP. GERVAIS** if the purpose of the bill is to allow students to receive the grants and also receive public assistance. **REP. GERVAIS** said the purpose of the bill is to allow students who receive grant funds, also to be eligible to receive food stamps. Grant funds are for tuition and books, not food.

REP. SIMON asked Penny Robb, Family Assistance Division, Social Rehabilitation Services, to explain regulations pertaining to public assistance and Public Law 93-638 funds. **Ms. Robb** said HB 391 intends to exclude from public assistance accountability the funds received under Public Law 93-638. Information the department received from federal authorities states that the funds are not excludable even if the committee takes action to pass the bill. There is a state policy in AFDC that states educational income can be excluded as complimentary assistance if it is meant for a purpose that the AFDC grant does not cover. Under the Food Stamp Program, the funds would be countable income when received. The reason the lump sum funds were not accountable in the past, is the Food Stamp Program policy that states if an amount of money is received once, and not expected to be received again, it is considered a non-recurring lump sum. Therefore, it is treated as a resource in the month received, and not as income. If the funds are paid in monthly installments, they are considered accountable income. If the bill is passed, the funds would still count against food stamps, but will probably be excluded from AFDC, after verification that the intent is to attend school.

CHAIRMAN BOHARSKI asked **Leonard Guardipee** if the funds came in the form of a check that could be cashed and spent for something other than school. **Mr. Guardipee** said the funds are sent to the college financial office and dispensed to the student in the form of a check.

REP. BARNHART asked **REP. GERVAIS** if the bill would accomplish everything it was intended to after hearing all the discussion that has taken place. **REP. GERVAIS** said there is confusion between the federal and state regulations and he didn't know.

Closing by Sponsor:

REP. GERVAIS said he learned a lot during the hearing. There is inconsistency from county to county. The one consistency he found was that state departments always look for a way that something can't be done, rather than a way to do it.

HEARING ON SB 187

Opening Statement by Sponsor:

SEN. DOROTHY ECK, Senate District 40, Bozeman, said SB 187 renames the State Youth Services Council and the Youth Services Advisory Council. The councils are renamed State Family Services Council, and Family Services Advisory Council. The intent is to clarify the responsibilities of the two councils.

Proponents' Testimony:

Richard Kirstein, Administrator, Field Services Division, Department of Family Services (DFS), said the role of the local council and state advisory council has become critical as a vehicle for designing and supporting new strategies. SB 187 requires the presiding officer of each local council to serve on the umbrella state council to ensure an equitable voice from each region in the state. A member of the local council must have knowledge of Native American issues. SB 187 aids the continuance of the local and state councils.

Joan-Nell Macfadden, Chair, Family Services Advisory Council (FSAC), Department of Family Services (DFS), said the council is asking to become a permanent council, to be allowed to have up to thirteen members with expertise in children and families, and to be allowed to exclude the need for two of the local members to be named by the district court judges. The state council will have five local chairs and others with expertise in particular areas relating to children and families. If passed, the bill will become effective July 1, 1993. DFS has had several directors and the local and state councils have been in existence almost since the beginning of DFS. The councils were originally under the Department of Justice. At that time, the state council was made up of members with a variety of expertise about youth issues, but not as representatives of the local councils. There was a local state council process to develop a joint council in department grass roots planning for services to families. This planning process needs to be reactivated. Since the last session, local state councils have met, but the focus on the state level out of necessity, was primarily on juvenile detention centers. On April 15, 1992, the Family Services Advisory Council was created. The former Board of Crime Control has been renamed the Youth Justice Council. The council will work primarily with juvenile correction issues. Making this council permanent will give stability to this group in the planning process across the state for youth and families. FSAC urged support of HB 187.

Paulette Kohman, Executive Director, Montana Council for Maternal and Child Health, said every department should have an advisory board that represents people from across the state, with local regional advisory boards attached to it. Including the communities in the management of the department on a statewide

basis is extremely important and should be continued.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. BOHLINGER asked **Sen. Eck** why chemically dependent youth and domestic violence issues were struck from the bill under the area of knowledge and experience criteria. **SEN. ECK** said the list of stricken language was attached to the Youth Services Advisory Council which deals with juvenile problems. A number of those issues will be discussed by the Family Services Advisory Council as well. She had no objection to adding any of the stricken language referred to, back into the bill.

CHAIRMAN BOHARSKI asked **Mr. Kirstein** why the legislation states how many members are on the local council but not on the state council. **Mr. Kerstein** said the number of members on the state council is shown on page 5 of the bill.

CHAIRMAN BOHARSKI asked **Joan-Nell Mcfadden** how many members are currently on the State Youth Services Council. **Ms. Mcfadden** said there are twelve members on the state council. There is a limit of nineteen members. **CHAIRMAN BOHARSKI** said he was concerned about expanding the number of people on the council because it would cost more money. The fiscal note states there is no fiscal impact but if more people are added it will cost more.

Closing by Sponsor:

SEN. ECK said the members of the state council will include county officials and there will be no compensation for those officials. There is no fiscal impact because the membership of the council will be about the same as it is presently. The councils serve a good purpose.

HEARING ON SB 89

Opening Statement by Sponsor:

SEN. JUDY JACOBSON, Senate District 36, Butte, said SB 89 generally revises the laws administering the Montana State Board of Medical Examiners. The bill adds a licensed physician assistant to the board. The physician assistants and Board of Medical Examiners feel this will be a positive move for them. The physician assistants would only vote on the issues that pertained to them. The bill prohibits practice as a physician assistant prior to licensure, and revokes the requirement that drugs dispensed by a physician assistant be prepackaged by a

drugs dispensed by a physician assistant be prepackaged by a licensed pharmacist which has been found to be expensive and cumbersome. The bill also addresses physician impairment. **EXHIBITS 1 and 2.**

Proponents' Testimony:

Esther Larson, Licensed Physician, Board of Medical Examiners, said SB 89 would make the statutes more workable, increase efficiency, increase public care and protection, and increase compliance with the statutes. At an international conference on treating the handicapped physician, statistics presented by various groups indicated addiction treatment for physicians is more successful than for the general public. There is a good recovery rate and a very low relapse rate.

Jim Reid, Physician Assistant, Chairman, Physicians' Advisory Committee, Board of Medical Examiners, said the language and terminology of the bill was unanimously approved by the Board of Medical Examiners. The bill expands the board's disciplinary authority. The bill also replaces the term certificate with license. This does not establish a new licensing category, and therefore, is not subject to sunrise review. Two categories of licensing, permanent and temporary, are provided for in the bill. This change will allow the board to bring physician assistants into the state under a temporary license until all criteria are met for permanent licensure.

Randy Spear, Montana Academy of Physician Assistants, said SB 89 streamlines the regulatory process. He asked the committee to support SB 89. **Exhibit 3.**

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. SAYLES asked **Randy Spear** how many physician assistants are in Montana. **Mr. Spear** replied at the present time there are approximately sixty physician assistants in Montana. **Rep. Sayles** asked **Mr. Spear** if physician assistants are equally distributed in rural and urban areas. **Mr. Spear** said seventy percent of physician assistants are in the rural areas and seventy percent of physicians are in the urban areas.

REP. SQUIRES asked **Pat England, Board of Medical Examiners,** what priority the board has given the part of the bill that addresses impaired physicians. **Ms. England** said the Professional Assistance Program that deals with impaired physicians and dentists has been in place since 1985 for physicians and 1989 for dentists. The program has been very effective. Current statutes require that any licensed physician shall, and any other person may, report directly to the Board of Medical Examiners any

evidence that a physician may be impaired. SB 89 would allow the report to be made directly to the Professional Assistance Program. If the physician fails to cooperate with the recommendation for evaluation and treatment, a report will be submitted to the Board of Examiners. The purpose is to place a psychological barrier between the board and the program which will enhance voluntary participation in the program.

REP. SIMON asked **Mr. Spear** how much schooling is needed to become a physician assistant, and if a bachelor degree is required. **Mr. Spear** said it takes two years. There are baccalaureate, certificate and masters programs. A bachelor degree is not required. **REP. SIMON** asked **Mr. Spear** if a high school graduate could become a physician assistant in two years. **Mr. Spear** said a prerequisite is prior health care experience. The majority of people that apply for the programs are nurses and respiratory therapists.

CHAIRMAN BOHARSKI asked **Mr. Reid** why "or other entity" was added under the billing section of the bill, and why the change was made revoking the requirement that drugs dispensed by a physician assistant be prepackaged by a licensed pharmacist. **Mr. Reid** said the statute created in 1981 and amended in 1989 provided that a health care facility or supervising physician may bill for physician assistant services. At the present time, there are physician assistants who are employed by counties and own the health care facility. There are also physician assistants who are employed by private health care organizations, physicians, and hospitals. The existing language as amended in 1989, was too limiting. For instance, until recently, Medicaid didn't issue physician assistant provider numbers. The numbers were issued to the physician. If a physician assistant worked in a satellite clinic; was the sole health provider in a county, and the supervising physician was in another community, with no employment relationship between the two, Medicaid paid to the tax identification number of the physician. This became a problem because the physician had no financial tie to the physician assistant's practice. The change will allow the physician assistant to bill directly.

Mr. Reid said when the concept of physician assistants prescribing pharmaceuticals was introduced in 1989, it was felt it would be appropriate to protect the pharmacists' interests and to ensure their involvement in the dispensing of medications prescribed by physician assistants. Since that time it has become obvious to the physician assistants and the Board of Pharmacy, that it is more of a burden on pharmacists than a protection, to require prepackaging of all medications dispensed by physician assistants. The pharmacists also found they were put in a position of packaging all medication, but did not have the opportunity to counsel the patient when dispensing occurred. As a result they didn't feel they were able to provide a full service to the patient and preferred to counsel the dispensing provider. The Board of Pharmacy concurs.

CHAIRMAN BOHARSKI asked Mr. Reid if a physician assistant can prescribe any medication a physician can. Mr. Reid said with one exception; that being thrombolitics, which is the drug category of TPA, and emanates streptokinase used in acute myocardial infarction.

Closing by Sponsor:

SEN. JACOBSON said the role of physician assistants is changing, particularly in the rural states. There has also been changes in the Montana Professional Assistance Program. It used to be very difficult for a physician to report a colleague whom they felt had a drug problem, because the only recourse at that point was to take their livelihood away from them. The program has made physicians more comfortable in reporting their colleagues, and has made physicians with a problem more comfortable in seeking help. SEN. JACOBSON asked the committee to support SB 89.

ADJOURNMENT

Adjournment: 5:05 p.m.

Wm E Boharski

WILLIAM BOHARSKI, Chair

Alyce Rice

ALYCE RICE, Secretary

WB/ar

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING

COMMITTEE

ROLL CALL

DATE 2-8-93

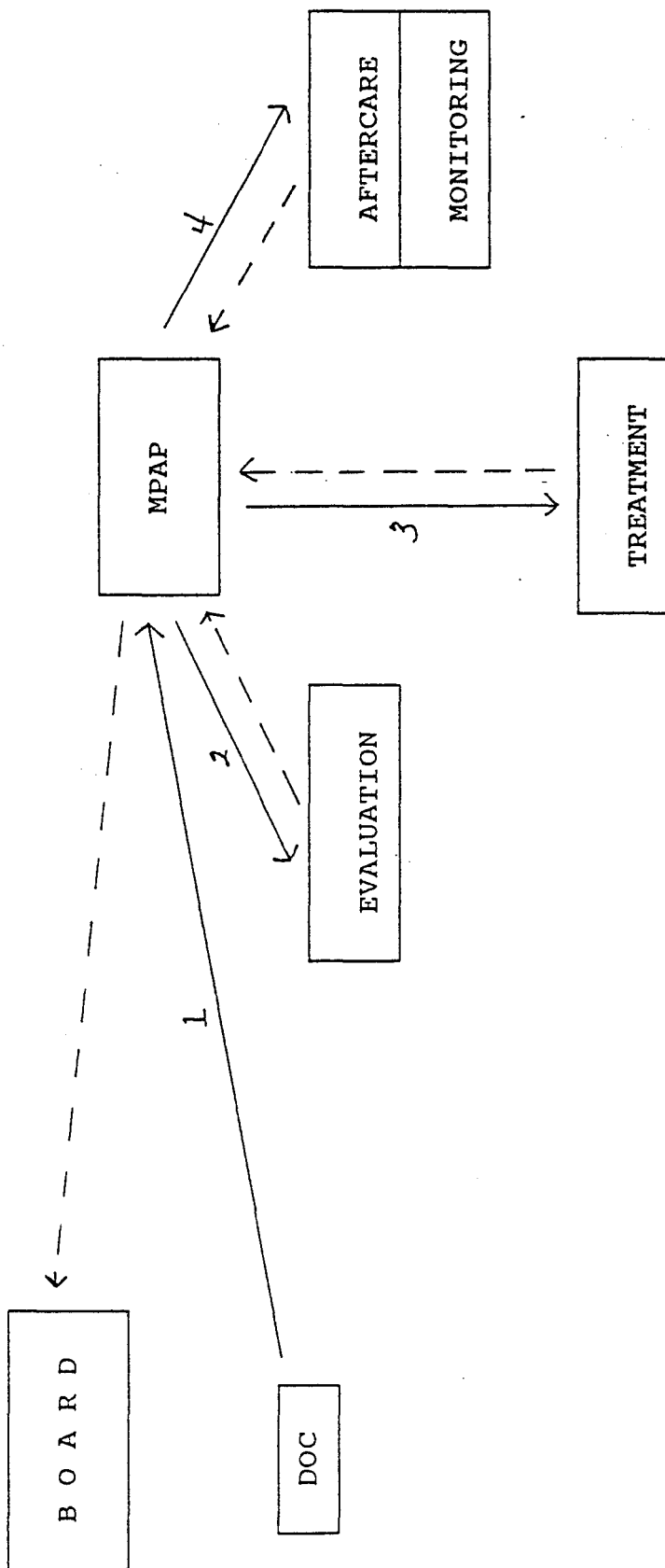
NAME	PRESENT	ABSENT	EXCUSED
REP. BILL BOHARSKI, CHAIRMAN	✓		
REP. BRUCE SIMON, VICE CHAIRMAN	✓		
REP. STELLA JEAN HANSEN, V. CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. ELLEN BERGMAN	✓		
REP. JOHN BOHLINGER	✓		
REP. TIM DOWELL	✓		
REP. DUANE GRIMES	✓		
REP. BRAD MOLNAR	✓		
REP. TOM NELSON	✓		
REP. SHEILA RICE	✓		
REP. ANGELA RUSSELL			✓
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. CAROLYN SQUIRES	✓		
REP. BILL STRIZICH	✓		

EXHIBIT 1

DATE 2-8-93

SB 89

REPORT TO MPAP -- NON-COMPLIANCE



—> = report
- -> = report back

Fig. 7

EXHIBIT 1
DATE 2-8-93
SB 89

EXHIBIT 2

DATE 2-8-93

SB 89

MONTANA PROFESSIONAL ASSISTANCE PROGRAM

WHEN YOU NEED
A HELPING HAND



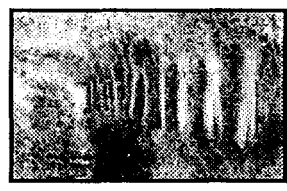
CONFIDENTIAL, CARING HELP
FOR PHYSICIANS AND DENTISTS
(406) 443-7052

Montana Professional Assistance Program
2021 Eleventh Avenue, Suite 19
Helena, MT 59601

BULK RATE
U.S. POSTAGE
PAID
Helena, MT 59601
Permit No. 221

MPAP is a non-profit organization. Financial support of the program is provided by a special assessment on Medical and Dental license fees. MPAP operates in affiliation with the Montana Board of Medical Examiners, the Montana Board of Dentistry, Montana Medical Association and Montana Dental Association. MPAP wants to especially recognize the financial and in-kind service support received from the Montana Medical Association and the Montana Dental Association.

Our program has an ongoing commitment to provide educational programs and workshops to promote personal and professional wellness for all Montana Physicians, Dentists and their families. Donations by individuals, clinics, hospitals, and other entities are always welcome and encouraged to help promote educational activities of the program. Please write or call for further information.



**MONTANA PROFESSIONAL
ASSISTANCE PROGRAM**
2021 Eleventh Avenue, Suite 19
Helena, Montana 59601
406-443-7052



YOU MAY NEED OUR HELP

"Help me, I'm in pain!" As physicians and dentists, we frequently hear this cry from our patients in our offices or in the hospital. Who hears our cry for help? On occasion, physicians, dentists and their families can suffer pain and be in need of help.

As professional healers, we continue to push our physical and mental capacities beyond our limits. We often work in a state of sustained stress. Despite our professional training, or perhaps because of it, we are prone to certain "occupational hazards" of physical and emotional stress, long hours, irregular sleep, and constant fatigue. We may then become apt candidates for drug and/or alcohol dependency, depression or other forms of impairment that can affect our practice and our families.

WHY PROFESSIONALS NEED HELP

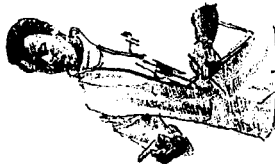
Because of professional pride, most of us are reluctant to admit that we need help or that we are experiencing difficulties in coping with our practices as the insidious disease of addiction and/or psychological impairment become obvious to others. In effect, we ignore our own physical and emotional needs. Most of us don't have to look too far to find one or more of our colleagues, or perhaps ourselves, who have a significant chance of becoming, or are in fact impaired.

Family members, significant others, office staff, and/or hospital administrators become confused about how to deal with the situation; this confusion all too often sets up a conspiracy of silence, threatening not only the depressed or chemically dependent person's life but the lives of his or her patients.

WHEN DOES A PROFESSIONAL NEED HELP?

You may need our help if you can answer "yes" to any of the following questions:

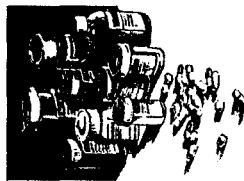
1. Are you experiencing problems coping with patients or with the normal stress of a busy practice?
2. Do you become easily depressed, angry or abusive?
3. Do you drink more than a moderate amount or drink out of control when you do drink?
4. Do you self prescribe any mood altering drugs?
5. Are you experiencing any sexual problems — impotency or affairs?
6. Do you find yourself slowing down or over-tired?
7. Do you constantly place work ahead of personal and family needs?
8. Are you experiencing financial or legal problems, malpractice suit, divorce or DUI?



THERE IS HOPE!

MPAP Consists of a group of physicians and dentists who are concerned about the health and well-being of our colleagues. Participants in the program work with other professionals who have experienced problems similar to their own, and learn that there are others facing difficulties who can and do recover. The program offers information and assistance in:

1. **Intervention**
Members of the program will go to the troubled professional and offer him/her appropriate treatment and a program of recovery.
2. **Referral**
We refer to treatment programs known to be skilled in dealing with health professionals.
3. **After Care**
MPAP offers follow-up and help for the professional and his/her family with professional groups and relapse prevention education and monitoring.
4. **Drug Testing**
MPAP keeps records of random testing to help the practitioner verify his/her recovery.
5. **Advocacy**
The program advocates for the participant with Licensing Boards, Insurance Companies, Hospital Committees and other governing agencies.



IT'S UP TO YOU

If you feel that you or one of your colleagues needs help, please break the "conspiracy of silence" and call us. We can help confidentially. We know that you, personally, may not know what to do; but we do. We can help in the majority of the cases. Calls are answered by trained MPAP staff personnel during the usual working hours and by answering machine at other times; all calls will be returned by the next working day and are handled in strict confidence.

The number
to remember is:
(406) 443-7052

FACT SHEET -- SENATE BILL NO. 89

INTRODUCED BY SENATOR JACOBSON

AN ACT GENERALLY REVISING THE LAWS ADMINISTERING THE MONTANA STATE BOARD OF MEDICAL EXAMINERS

Elements which pertain to Physician Assistants -- Certified (PA-Cs) include:

- * **Was drafted by the Board of Medical Examiners and the PA Advisory Committee with the Board's full consent.**
- * **Adds a PA-C to the Board of Medical Examiners.** This proposal was introduced by the Board's attorney and approved unanimously.
- * **Expands the Board's disciplinary authority over physician assistants and supervising physicians.** This gives the Board a broader choice of disciplinary options.
- * **Revokes the liability insurance requirement for PA-Cs working in hospitals.** This requirement is not required of any other medical provider and is not integral to the Board's charge to protect the public. A mechanism exists at the hospital credentialing level to address this issue.
- * **Replaces the term "certificate" with "license".** PA-Cs are currently regulated as licensed professionals and meet the criteria defining "license" in 2-4-102(5) MCA. The Office of the Legislative Auditor has reviewed the proposed language and has indicated that, as amendments to current licensing laws, the proposed language does not require Sunrise review. This is not an effort to secure independent practice.
- * **Authorizes the Board to issue permanent licenses and temporary licenses.** This clarifies the Board's authority while facilitating the timely licensure of PAs seeking to practice in Montana.
- * **Revokes the requirement that drugs dispensed by a PA be prepackaged by a licensed pharmacist.** Pharmacists have agreed this requirement is not necessary.
- * **Clarifies billing authority for PA-C services.** Removes site specificity to allow billing authority regardless of where services were delivered.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. HB 391
DATE 2-8-93 SPONSOR(S) Rep. Lewis

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Leonard Guadipet Community, Inc.	Blackfeet Education	391	

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

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

Human Services

COMMITTEE

BILL NO. SB89

DATE 2-8-93

SPONSOR(S) Senator Jackson

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

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

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. SB187
DATE 2-8-93 SPONSOR(S) Senator Eck

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jan-Pill Macfadden	DFS St. Council	X	
Richard Kerstner	DFS	X	

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