MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By **CHAIRMAN BILL BOHARSKI**, on March 5, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Bill Boharski, Chairman (R)
Rep. Bruce Simon, Vice Chairman (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. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Strizich (D)

Members Excused: Rep. Squires

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: SB 121, SB 120
Executive Action: SB 312

HEARING ON SB 121

Opening Statement by Sponsor:

EVE FRANKLIN, Senate District 17, Great Falls, said SB 121 is being presented on behalf of the Board of Nursing. The bill authorizes registered professional nurses and licensed practical nurses to take orders from a nurse specialist who has prescriptive authority. It authorizes the Board of Nursing to

adopt rules for delegation of nursing tasks to unlicensed persons; changes the title of the board secretary to executive director; and provides for termination of licenses that have not been renewed for three years. The bill also provides spending authority for the Board of Nursing to investigate a backlog of about 80 cases of licensure complaints. There is a significant number of complaints the board hasn't investigated because it doesn't have the authority to spend approximately $500,000 in special revenue funds obtained through licensure fees.

Proponents' Testimony:

Dianne Wickham, Executive Secretary, Board of Nursing, said nurse specialists are advanced practice nurses, nurse practitioners, nurse mid-wives, and nurse anesthetists. They have prescriptive authority. The bill clarifies that nurses can take orders from nurse specialists. By 1995 all new nurse specialists will be required to have master's degrees. The change in the title of board secretary to executive secretary is in keeping with the national trend. The provision for termination of licenses that have not been renewed for three years is an attempt to ensure competency in the nursing profession.

Barbara Booher, Executive Director, Montana Nurses' Association. Written testimony. **EXHIBIT 1.**

Steven Shapiro, Attorney, Townsend, said he is in private practice now after representing various state agencies. His last position was with the Department of Commerce from 1990 to 1992 as a senior attorney with the Professional Licensing Bureau. He was also counsel to the Board of Nursing. The Board of Nursing is very active and progressive, and is doing something about the problems and needs of its profession. **Mr. Shapiro** said he wrote the original draft of SB 121. One of the important functions of the board is the policing of its own profession. The proposed amendments to the bill will authorize the Board of Nursing to spend money it already has, which is special revenue money from licensure. **Mr. Shapiro** urged the committee to pass SB 121 with its amendments.

Robert Runkel, Director, Special Education, Office of Public Instruction (OPI) said OPI supports SB 121. OPI is mainly interested in the portion of the bill that authorizes the board the authority to establish regulations that delegate certain nursing tasks. The office has worked cooperatively with the Board of Nursing the past two years in addressing mutual concerns regarding the health and safety of students in public school. The passage of SB 121 will help to ensure that health needs of students are appropriately addressed. OPI has also participated with the Board of Nursing in drafting a set of rules to implement SB 121, pending its passage. **EXHIBIT 2. Mr. Runkel** urged the committee to support SB 121.

Beda Lovitt, Montana Medical Association (MMA), supports SB 121

and urges passage.

Stacy Riley, Montana Federation of Teachers, and Montana Federation of Health Care supported SB 121.

Opponents' Testimony:

Marion Nelson, Montana Licensed Practical Nurse's Association. Written testimony. **EXHIBIT 3.**

Informational Testimony:

None

Questions From Committee Members and Responses:

REP. SIMON asked **Ms. Wickham** if clinical nurse specialist is defined in the code. **Ms. Wickham** said clinical nurse specialist is defined as nurse specialist in part 37-8-202, subsection 5, of the code. **REP. SIMON** asked **Ms. Wickham** if nurse practitioners, nurse mid-wives, and anesthetists must have master's degrees. **Ms. Wickham** said in July 1995 they will all be required to have a master's degree. Montana will grandfather in those who are already licensed in the state. **REP. SIMON** asked **Ms. Wickham** who is requiring the master's degree. **Ms. Wickham** said the Board of Nursing will require the master's degree. **REP. SIMON** asked **Ms. Wickham** what effect that will have on some of the nurse practitioner education programs in the state. **Ms. Wickham** said there is only one in the state, and it is in Billings.

REP. GRIMES asked **SEN. FRANKLIN** asked what the fiscal impact of the bill would be. **SEN. FRANKLIN** said the board would be using approximately $100,000 per year of their special revenue.

REP. SAYLES asked **SEN. FRANKLIN** to respond to **Ms. Nelson's** concerns about the delegation of nursing tasks by licensed nurses to unlicensed persons. **SEN. FRANKLIN** said she understood **Ms. Nelson's** concerns, but it has been made very clear in the rule making that delegation of nursing tasks will not be in acute care settings such as hospitals, clinics, physician offices, surgery centers or nursing homes. Many times the licensed practical nurse will be the health provider who will be doing the delegating so there won't be loss of control.

REP. SAYLES asked **Ms. Nelson** if she was satisfied with **SEN. FRANKLIN'S** comments, to which she replied yes.

REP. SMITH asked **SEN. FRANKLIN** who would monitor the distribution of medications. **SEN. FRANKLIN** said the registered nurses would make the assessment of an individual's capability to distribute medication, and under what circumstances the individual should or shouldn't have that responsibility.

REP. SIMON asked **Ms. Wickham** what level of prescriptive authority

nurse specialists have. **Ms. Wickham** said nurse specialists have prescriptive authority based on a statute passed four years ago. They can prescribed whatever is appropriate within their area of practice.

REP. SIMON said page three and four of the bill refer to nurse specialists. Other parts of the bill refer to specialty areas of nursing, which include nurse practitioners, mid-wives, anesthetists, and clinical nurse specialists. The terminology is confusing. There should be some definitions in the law that address what these terminologies mean. **REP. SIMON** asked **Ms. Wickham** for her comments. **Ms. Wickham** said she could understand the confusion and agreed that the terminologies should be defined.

CHAIRMAN BOHARSKI asked **Ms. Wickham** who is in charge of hiring the staff of the Board of Nursing. **Ms. Wickham** said the Department of Commerce hires the staff. **CHAIRMAN BOHARSKI** asked **Ms. Wickham** if the department asked for additional investigators from the appropriations subcommittee. **Ms. Wickham** said the department requested an investigator for the Licensing Bureau, but not specifically for the Board of Nursing. **CHAIRMAN BOHARSKI** asked **Ms. Wickham** if the board would have the authority to circumvent the appropriations subcommittee if HB 121 passes, and hire as many FTEs as the board feels is necessary. **Ms. Wickham** said the board would still have to go through appropriations for the money.

Closing by Sponsor:

SEN. FRANKLIN said it was not the intent of the Board of Nursing to undercut licensed practical nurses. It is important to nurses that people who are a danger to the public not be permitted to practice. **SEN. FRANKLIN** said she would be open to discussing the clarification issue of the clinical nurse specialty with **REP. SIMON**. **REP. STRIZICH** will carry SB 121.

HEARING ON SB 120

Opening Statement by Sponsor:

REP. FRANKLIN, Senate District 17, Great Falls, said SB 120 was proposed by the Department of Corrections and Human Services in an effort to update its documentation process. The bill addresses treatment and discharge of patients admitted to a mental health facility, revises the requirements governing the establishment and periodic review of patient treatment plans, the keeping of patient records, and the development of individualized discharge plans.

Proponents' Testimony:

Dan Anderson, Administrator, Mental Health Division, Department

of Corrections and Human Services. Written testimony. **EXHIBIT 4.**

Ed Amberg, Director of Program Development and Evaluation, Montana State Hospital. Written testimony. **EXHIBIT 5.**

Kelly Moorse, Executive Director, Office of the Governor, Mental Disabilities Board of Visitors. Written testimony. **EXHIBIT 6.**

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

REP. SMITH asked **Mr. Amberg** who the professional person on the treatment team would be who would not be primarily responsible for the patient's treatment plan. **Mr. Amberg** said he or personnel from other treatment units in the hospital not directly involved in the patient's treatment, would provide the independent evaluation of the patient's treatment requirements. **REP. SMITH** asked **Mr. Amberg** if there would be an impact on staff and budgets, due to the increase in documentation. **Mr. Amberg** said he didn't foresee a significant change. **REP. SMITH** asked **Mr. Amberg** if there had been an increase in the patient/staff ratio. **Mr. Amberg** said there has been an increase in staffing. The hospital has gone from two psychiatrists to seven; most of the clinical psychology positions have been filled; and all social worker positions have been filled. The ratio has also improved because there are seventy to eighty less patients than there were a year ago.

REP. BOHLINGER referred to page 9 of the bill that states patients must have an individualized discharge plan developed within ten days of admission and an anticipated discharge date. **REP. BOHLINGER** asked **Mr. Amberg** if it is possible to make an evaluation within 10 days as to how long a patient will be in the hospital. **Mr. Amberg** said the criteria for the discharge plan is from standards used nation-wide in mental health facilities. Estimating the length of stay is not easy to do but it gives the hospital a target to work toward in notifying community mental health care providers so there will be vacancies available.

REP. SIMON asked **Mr. Anderson** the shortest amount of time a patient can stay at the hospital, to which he replied one day.

CHAIRMAN BOHARSKI asked **Mr. Anderson** if it was the intent of the Senate to have the treatment team do all of the reevaluations that start on the bottom of page 4, subsection 4. **Mr. Anderson** said it is the intent to have the treatment team responsible for

those reevaluations.

Closing by Sponsor:

SEN. FRANKLIN said **REP. SMITH** would carry SB 120.

EXECUTIVE ACTION ON SB 312

Motion/Vote : **REP. RUSSELL MOVED SB 312 BE CONCURRED IN.** Voice vote was taken. Motion carried unanimously. **REP. SMITH** will carry SB 312.

ADJOURNMENT

Adjournment: The hearing adjourned at 4:55 p.m.

Wm E Boharski

BILL BOHARSKI, Chair

Alyce Rice

ALYCE RICE, Secretary

WB/ar

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL **DATE** 3-5-93

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	✓		

HOUSE STANDING COMMITTEE REPORT

March 8, 1993

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 312 (third reading copy -- blue) be concurred in .

Signed: Wm E Boharski

Bill Boharski, Chair

Carried by: Rep. Smith

Committee Vote:
Yes 11, No 2.

EXHIBIT 1
DATE 3-5-93
SB 121

Montana Nurses' Association

P.O. Box 5718 • Helena, Montana 59604 • 442-6710

TIMONY ON SB121 to amend the Nurse Practice Act before House
an Services Committee.

My name is Barbara Booher and I am the Executive Director for
Montana Nurses' Association. We ask that you support SB121
roduced by Senator Franklin.

Specifically, we support the change allowing LPN's and other
s to administer medications prescribed by nurse specialists.
specialists provide safe health care in a variety of settings
ntana - hospitals, birth centers, clinics, nursing homes and
e care settings, to name a few. With this legislation, nurse
alists with prescriptive authority in Montana would be allowed
se their advanced skills to provide needed care to Montanans.

Additionally, we support the change allowing nursing tasks to
legated to unlicensed personnel, according to rules adopted by
Board of Nursing. A large task force, composed of
esentatives from home health and hospice groups, school nurses,
home organizations, prisons and educational settings came
her to identify and address problems related to unlicensed
sons performing nursing tasks. That group will work to develop
ecessary rules, if this legislation is passed.

Finally, we support authorizing the Board of Nursing to
ze funds from license fees to fund additional staff for the
se of complaint investigation. This funding would not take
s from the general fund to address this important need.

Please pass SB121. Thank you.

EXHIBIT 2
DATE 3-5-93
SB 121

DRAFT

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ADMINISTRATIVE RULES
DELEGATION OF NURSING TASKS

DRAFT 4
October 1992

New Subchapter

I. Purpose

1) Every nurse is accountable as an individual for practicing according to the statutes and rules for nursing in Montana. Each nurse is responsible and accountable for the nature and quality of all nursing care provided under her/his direction.

2) A licensed nurse may delegate specific nursing task to unlicensed persons in accordance with these rules. Delegating of nursing tasks to unlicensed persons will be task specific, patient specific, and unlicensed person delegatee specific.

3) Nursing tasks which may be delegated in accordance with this section are:

a) administration of medications.

II. Definitions - The following words and terms as used in this chapter have the following meanings.

1) Activities of daily living - The daily routine non-skilled activities performed for grooming, toileting, and ambulation such as bathing, dressing, grooming, routine hair and skin care, meal preparation, feeding, exercising, toileting, transfer/ambulation, and assistance with self-administered medications.

2) Assign - Giving to another person a task within the person's area of service and activity.

3) Delegatee - The person receiving the delegation.

4) Delegation - Transferring to a competent individual the authority to perform a selected nursing task in a selected situation from the delegator's practice.

5) Delegator - The person making the delegation.

6) Supervision - The provision of guidance by a qualified nurse for the accomplishment of a nursing task or activity with initial direction of the task or activity

EXHIBIT 2
DATE 3/5/93
SB 121

DRAFT

of an individual remains the responsibility and accountability of the nurse.

7) Unlicensed person - Any individual who is not a currently licensed nurse or does not have a license to perform skills usually performed by nurses. These individuals function in a complimentary or assistive role to the licensed nurse in providing direct patient care or carrying out common nursing functions.

III. Where a Nurse-Patient Relationship Exists, Tasks Which May Be Routinely Assigned

1) By way of example, but not in limitation, the following tasks are ones that may be within the scope of sound nursing practice to be assigned to an unlicensed person. Assignment is determined by the licensed nurse if in her/his nursing judgement the health and welfare of the patient would be protected and the task could safely be assigned to an unlicensed person. Changes in the patient's condition may require that tasks assigned may need to be changed when they can no longer be safely performed by an unlicensed person.

a) Non-invasive and non-sterile treatments unless otherwise prohibited in this section.

b) The collecting, reporting, and documentation of data including but not limited to:

i) vital signs, height, weight, intake and output.

ii) changes from baseline data established by the nurse.

iii) environmental situations.

iv) patient or family comments relating to the patient's care.

v) behaviors related to the plan of care.

c) Ambulation, positioning, and turning.

d) Personal hygiene and elimination.

e) Feeding, cutting up of food, or placing of meal trays.

f) Socialization activities.

g) Activities of daily living.

DRAFT

h) Assisting with self-administration of medications where the following acts are used:

i) verbal suggestions, prompting, reminding, gesturing, or providing a written guide for self-administering medications.

ii) handing a prefilled, labeled medication holder, labeled unit dose container, syringe, or original marked, labeled container from the pharmacy to the patient.

iii) opening the lid of the above container for the patient.

iv) guiding the hand of the patient to self-administer the medication.

v) holding and assisting the patient in drinking fluid to assist in the swallowing of oral medications.

IV. Criteria for Delegation - Delegation of nursing tasks to unlicensed persons shall comply with the following criteria:

1) The nursing task to be delegated must be within the area of responsibility and scope of practice of the nurse delegating the act.

2) The nursing task must be one that a reasonable, prudent nurse would find is within the scope of sound nursing judgment to delegate.

3) The nursing task must be one that, in the opinion of the delegating nurse, can be properly and safely performed by the unlicensed person involved without jeopardizing the patient's welfare.

4) The nursing task delegated by the nurse must not require the unlicensed person to exercise nursing judgment or intervention except in an emergency situation.

5) When delegating a nursing task to an unlicensed individual the nurse shall:

a) Make an initial assessment of the patient's nursing care needs before delegating the task.

b) Either instruct the unlicensed person in the delegated task or verify the unlicensed person's competency to perform the nursing task for that patient.

EXHIBIT 2
DATE 3/5/93
SB 121

DRAFT

c) Supervise the performance of the delegated nursing task in accordance with ARM _____.

d) Be accountable and responsible for the delegated task.

e) Evaluate the performance of the delegated task.

f) Document the unlicensed person's competency in performing the task, teaching, supervision, evaluation, and outcome on the patient record.

6) The nursing task delegated by the nurse must be a specific task for a specific patient to a specific unlicensed delegatee in the specific setting.

7) Delegated nursing tasks may not be transferred from one unlicensed delegatee to another, from one patient to another, or from one nursing task to another. The entire process in this section must be carried out for each nursing task, patient and delegatee.

V. Supervision

1) The degree of required supervision by the nurse of the unlicensed person shall be determined by the nurse after an evaluation of appropriate factors involved including but not limited to the following:

a) The stability of the condition of the patient.

b) Training and capability of the unlicensed person to whom the nursing task is delegated.

c) The nature of the nursing task being delegated.

d) The proximity and availability of the nurse to the unlicensed person when the nursing task will be performed.

2) The delegating nurse or another qualified nurse shall be readily available either in person or by telecommunication.

3) Unless otherwise provided in this section or indicated by the situation, the nurse responsible for nursing care of the patient shall make a supervisory visit at least monthly to:

a) Evaluate the patient's health status.

b) Evaluate the performance of the delegated nursing task.

DRAFT

c) Determine whether goals are being met.

d) Determine the appropriateness of continuing delegation of the task.

VI. Nursing Functions

1) The following nursing functions require nursing knowledge, judgment, and skill and may not be delegated:

a) The initial nursing assessment or intervention.

b) Development of the nursing diagnosis.

c) The establishment of the nursing care goal.

d) Development of the nursing care plan.

e) Evaluation of the patient's progress, or lack of progress toward goal achievement.

f) Any nursing intervention that requires nursing knowledge, judgment, and skill.

VII. Nursing Tasks That May Be Delegated

1) Administration of medication is a nursing function. As such, the nurse retains full responsibility for medication administration.

2) The nurse may delegate administration of medication tasks in accordance with this section.

3) The following activities related to medication administration may NOT be delegated except as provided in ARM _____ of this chapter.

a) calculation of any medication dose.

b) administration of medications by injection route.

c) administration of medications used for intermittent positive pressure breathing or other methods involving medication inhalation treatments.

d) administration of medications by way of a tube inserted in a cavity of the body.

4) Administration of medication may only be delegated by the nurse as provided in this section ARM _____ and when limited to:

EXHIBIT 2
DATE 3/5/93
SB 121

DRAFT

a) pharmacy or authorized prescriber prepared medication via inhalant dispenser.

b) oral medication taken from a prefilled labeled medication holder, labeled unit dose container, or original marked and labeled container from the pharmacy for the patient.

c) oral medication from (ii) above that needs to be measured for liquid medication or a tablet broken for administration provided the nurse has calculated the dose.

d) suppository medication taken from an original marked and labeled unit dose wrapper from the pharmacy for the patient.

VIII. Nursing Tasks That May Not Be Delegated

1) By way of example, but not in limitation, the following are nursing tasks that are not within the scope of sound nursing judgment to delegate to an unlicensed person.

a) Sterile procedures involving a wound or an anatomical site which could potentially become infected.

b) Non-sterile procedures such as dressing or cleansing penetrating wound or deep burns.

c) Invasive procedures such as inserting tubes in a body cavity or instilling or inserting substances into an indwelling tube.

DRAFT

d) Care of broken skin other than minor abrasions or cuts generally classified as requiring only first aid treatment.

e) Removing tubes or other foreign materials.

IX. Patient Health Teaching and Health Counseling

1) It is the responsibility of the nurse to promote patient education and to involve the patient and significant others in implementation of health goals.

2) Unlicensed individuals may provide information to the patient; however, ultimate responsibility for patient health teaching and health counseling reside with the professional nurse as it relates to nursing and nursing services.

DRAFT

X. Liability

1) The delegating nurse is responsible for delegating appropriately and to a competent delegatee. The delegating nurse will be liable for the act of delegating and for the supervision provided.

2) Delegatees are accountable for accepting the delegation and for his/her own actions in carrying out the act and may be liable for his/her actions.

XI. Settings Where Delegating is Not Authorized

1) Delegation of nursing tasks by nurses to unlicensed persons shall not occur in the following settings:

   a) Acute care settings such as hospitals, clinics, physician offices, surgery centers, etc.

   b) Nursing homes.

EXHIBIT 3
DATE 3-5-93
SB 121

Montana LPN Association
P.O. Box 6964
Great Falls, MT 59406
Marion H. Nelson, Executive Director

(406) 453-6029
(406) 454-3141

March 5, 1993

TO: Montana House of Representatives Human Services Committee
RE: S.B.121, Amending the Nurse Practice Act
FROM: The Montana Licensed Practical Nurses Association

The Montana LPN Association supports S.B.121 except for the additions to the nurse practice act which pertain to delegation of nursing tasks by licensed nurses to unlicensed persons.

The Association realizes there are some instances when this practice would be advantageous. But they also consider some of the problems which could arise. Three of these problems are:

(1) The loss of control over nursing practice. (The Board of Nursing currently is two years behind in practice complaint investigation. With the delegation of nursing tasks opening another practice area to be controlled, the Board of Nursing would have much difficulty enforcing the rules and regulations pertaining to this proposed law.)

(2) The use of certified nurse attendants to give care currently given by licensed practical nurses. (Under this provision the charge nurse in long-term care facilities, could teach the nurse attendant to give medications, as well as other nursing tasks. It would be very difficult, if not impossible, for the licensed nurse to assure that the nursing process is being applied to all clients/patients if this practice were followed.)

(3) The practice problems from state to state. (Currently the practice of delegation of nursing tasks to unlicensed persons is being proposed across the United States. The reason for this proposed practice is the nursing shortage. Currently in Montana, as well

as elsewhere, there is not the acute shortage of LPNs that was experienced a few years ago. The National Council of State Boards of Nursing, The National Federation of Licensed Practical Nurses, and The American Nurses Association are opposing this type of practice legislation. These national organizations believe this proposed legislation will adversely impact the public's health, safety and welfare. If Montana passes this proposal and other states do not, then the problem arises of informing licensed and unlicensed health care providers of their expected and legal functions. This, too, could cause the Board of Nursing more enforcement duties.)

The Montana Licensed Practical Nurses Association urges you to consider the information and amend S.B.121 by deleting the delegation of nursing tasks by licensed nurses to unlicensed persons.

Marion H. Nelson
Executive Director
Montana Licensed Practical Nurses Association

EXHIBIT 4
DATE 3-5-93
SB 120

Testimony on SB 120

Dan Anderson, Administrator
Mental Health Division
Department of Corrections and Human Services

The Mental Health Division has been working over the past several years to improve the quality of inpatient and outpatient services which are provided to adults with serious mental illness through our public mental health system. One of our most important projects has been an attempt to clearly focus the role of the Montana State Hospital Warm Springs Program within the mental health system and to assure that the services we're providing at Warm Springs meet the treatment needs of those individuals who are appropriately served in an inpatient environment. We have looked very critically at our treatment planning process at the State Hospital and have paid particular attention to it since Judge McCarter's ruling in the Ihler lawsuit which included her instructions to improve the quality of those treatment plans.

State law describes what must be included in treatment plans at the State Hospital. Those laws were originally enacted in 1975 and, with the exception of minor amendments, have not been substantially reviewed since then. What we are attempting to accomplish in SB 120 is to update the language in the requirements for treatment planning to eliminate some aspects of treatment plan review which we feel are redundant and unnecessary. We also want to highlight the importance of the discharge plan as part of the clinical record at the State Hospital. I would like to take a few minutes to discuss some of the more significant changes.

Starting on the bottom of page 2 and continuing on pages 3 and 4, 3 subsections are deleted and replaced with 2 new subsections. The new language is taken from Joint Commission on Accreditation of Health Care Organizations standards in its description of how treatment plans should be reviewed within mental health facilities. Subsection 4, starting on line 23 of page 3 describes much more explicitly than in current law the occasions on which treatment plans must be reviewed by the professional person.

This legislation also eliminates the requirement that the treatment plan be independently reviewed by a professional person other than the professional person responsible for supervising the plan. This requirement goes beyond Joint Commission standards and is an inefficient use of our professional staff. We believe

there is adequate supervision of professional staff and also an adequate quality assurance program to assure that there is oversight of professional decisions made by our staff. In addition, a Senate amendment on page 4, lines 9-11 will assure that our treatment teams have at least one additional professional person.

Part of the language deleted at the bottom of page 2 is the requirement that there be an aftercare plan as part of the treatment plan. SB 120 proposes to move language dealing with discharge or aftercare plans to a new section which begins on page 9 of the bill. This section describes the requirement that there be a discharge plan and the minimum requirements for what must be included in that plan. This change, we believe, gives proper emphasis to the importance of the discharge plan and, by removing the discharge plan from the treatment plan, makes the treatment plan more focused.

On page 7 of the bill, lines 10, 11 and 12, the language provides that when the professional person reviews the treatment plan, he or she makes recommendations for changes but does not necessarily direct the changes. We use treatment teams at the State Hospital. Consequently, it is important that, while a professional person should take the lead in supervising the treatment plan, he or she must consult with colleagues before making modifications to the treatment plan. Also on pages 7 and 8, language is changed which describes the kinds of progress notes and contact notes that must be kept. The new language is taken directly from the Joint Commission requirements. This significantly updates the requirements we have for record keeping.

In summary, SB 120 significantly updates the State Hospital's treatment and discharge planning requirements. The Department believes these changes will support our effort to provide effective treatment at the State Hospital while minimizing unnecessary paperwork.

I urge the Committee to give a do pass recommendation to SB 120.

EXHIBIT 5
DATE 3-5-93
SB 120

Testimony on SB 120

Ed Amberg
Director of Program Development and Evaluation
Montana State Hospital

Senate Bill 120 revises several areas of Montana's Statutes pertaining to medical records, treatment plans, discharge plans, and treatment review procedures for patients admitted to inpatient mental health facilities.

The major provisions of existing statutes in this area were enacted in 1975. There have been relatively few modifications made since that time. The 1975 statutes were based on standards established through litigation in other states on the care and treatment of persons with serious mental illness in public institutions. Since that time professional standards, such as those established by the *Joint Commission for Accreditation of Health Care Organizations*, have evolved, establishing specific guidelines for the provision of mental health treatment services. Senate Bill 120 is an attempt to merge Montana's statutory requirements for the provision of mental health treatment services with professional standards used across the country.

In considering this bill, perhaps it would be helpful to think of the delivery of mental health treatment as a systematic process. It begins with an assessment of the patient to identify needs, problems, and treatment recommendations; the treatment plan is then established for the patient; then the treatment plan is implemented and the patient's response is documented; the plan is

then reviewed to determine whether it is working; and then finally when problems are sufficiently resolved, the patient is discharged with a referral made to an individual or agency that will provide aftercare services. The whole focus of treatment is to attempt to alleviate symptoms and resolve problems so that the patient can function with a greater degree of independence. This bill will help us accomplish this objective because it more clarifies procedures for developing, implementing, and reviewing treatment and discharge plans.

Of particular importance in the bill is *Page 2, line 24* which removes the requirement that each patient have an aftercare plan as part of his *treatment plan*. We feel that each patient should have a comprehensive discharge plan, separate from the treatment plan. The requirements for the discharge plan are described on *page 9*. Our intention in separating the discharge plan from the treatment plan is to elevate the status of discharge planning and ensure that more attention is devoted to it.

Changes indicated on *pages 3 and 4*, improve language relating to the development of the treatment plan and identify key clinical events that will trigger a review of the plan. It also clarifies that a review of the treatment plan should be conducted by members of a multi-disciplinary team rather than an individual clinician. This will help to ensure input into the patient's treatment program from a broader base of professionals, rather than just one individual.

On *page 7, beginning at line 22*, language is removed requiring weekly summaries of the patient's progress along the treatment plan and a weekly summary of the patient's work activities. We feel the substituted language requiring documentation of the implementation of the treatment plan; all treatment provided to the patient; the chronology of the patient's clinical course; and a description of changes in the patient's condition to be much more appropriate and practical. The focus for documentation will be more clearly based on the patient's clinical needs and response to treatment rather than at calendar-driven intervals.

I hope that you will give this bill your careful consideration. This bill updates standards for the provision of professional mental health services included in our mental health statutes. There are no costs involved, and no changes in services. It is simply an effort to bring our clinical procedures more in line with those used in other facilities across the country.

EXHIBIT 5
DATE 3/5/93
SB 120

EXHIBIT 6
DATE 3-5-93
SB 120

OFFICE OF THE GOVERNOR
MENTAL DISABILITIES BOARD OF VISITORS

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March 5, 1993

Representative Boharski, Chairman
House Human Services and Aging Committee
State Capitol
Helena, MT 59620

RE: SB 120

Representative Boharski and Members of the Committee:

For the record, my name is Kelly Moorse and I am the Executive Director of the Board of Visitors. The Board, an advocate for persons who are mentally disabled, reviews patient care and treatment at Montana State Hospital, the Center for the Aged and the community mental health centers.

The historical context of the bill I feel provides an important reference for the committee. The foundation of this legislation was based on a landmark mental health case known as Wyatt v. Stickney, which established a constitutional right to treatment for people confined against their will in state mental institutions and facilities which serve people with developmental disabilities. The court defined the minimum standards for treatment, patient protection for environment, rights and other intrusive measures. Within the past year, the Wyatt Consultants Committee, advocates, consumers and family members participated in drafting revisions to the standards set by the Wyatt decision. The defendants initiated the revision process because that wanted to see the standards more consistent with the Joint Commission on the Accreditation of Health Organizations (JCAHO) standards. On May 14, 1992, the court accepted revisions, in the following areas: consumer involvement,treatment planning, discharge planning, utilization review, seclusion and restraint, electroconvulsive therapy, and quality assurance.

Our Board and staff have reviewed and support the changes proposed by Senate Bill 120. We feel these proposed changes to treatment planning and discharge planning are in line with the recent revisions made to the Wyatt standards.

We urge your support of SB 120. Thank you.

Sincerely,

Kelly Moorse
Executive Director

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. SB 121

DATE 3/5/93 SPONSOR(S) Franklin

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Dianne Wickham	MT. State Board of Nursing	✓	
Robert Runkel	OPI	✓	
Beda Lovitt	Mt. Medical Assoc	✓	
Marion H. Nelson	MT LPN Assoc		✓
Tom Stapleton	self	✓	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Human Services COMMITTEE BILL NO. SB120

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Dan Andera	DCHS - MH	SB120	
Ed Anderson	Montana State Hosp.	SB120	

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HOUSE OF REPRESENTATIVES
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Human Services COMMITTEE BILL NO. SB 120

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Kelly Moore	Board of Visitor	✓	

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