

## MINUTES

### MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

**Call to Order:** By CHAIRMAN JIM BURNETT, on January 18, 1995, at 1:05 pm.

#### ROLL CALL

**Members Present:**

Sen. James H. "Jim" Burnett, Chairman (R)  
Sen. Steve Benedict, Vice Chairman (R)  
Sen. Larry L. Baer (R)  
Sen. Sharon Estrada (R)  
Sen. Arnie A. Mohl (R)  
Sen. Mike Sprague (R)  
Sen. Dorothy Eck (D)  
Sen. Eve Franklin (D)

**Members Excused:** None

**Members Absent:** Sen. Terry Klampe (D)

**Staff Present:** Susan Fox, Legislative Council  
Karloyn Simpson, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 9  
Executive Action: SB 40

*{Tape: 1; Side: 1; Comments: recording malfunction, lost first minute.}*

#### HEARING ON SB 9

**Opening Statement by Sponsor:**

SENATOR CHUCK SWYSGOOD, SD 17, Dillon, said that SB 9 was been requested by the Radiological Board of Technologists, Department of Commerce, for licensing requirements for individuals who apply non-ionizing imaging, such as sonograms. Some rural hospitals have expressed concerns about the requirements for licensure, but those concerns have been addressed in the bill. He requested the proposed amendments be included in the bill. The amendments address the concerns that were raised by the rural hospitals related to the ability to find trained people to keep on staff. The bill provides for grandfathering those individuals currently practicing in the field, exemption requirements in

regions where there is a hardship, and continuing education requirements, and appropriate guidelines on rules to be drafted.

**Proponents' Testimony:**

**Dennis Yutani, a radiologist practicing in Glasgow, MT,** read his written testimony in support of SB 9. **EXHIBIT 1.**

**Jim Ahrens, President of the Montana Hospital Association** spoke in support of SB 9. He said there were some initial concerns expressed by some of the smaller facilities, but the amendments address those concerns. The Montana Hospital Association urges the passage of SB 9.

**Opponents' Testimony:**

**Scott Mendenhall, from Jefferson County** testified in opposition to SB 9. He said that he and his wife operate a ultrasound imaging business in Butte and go to the Deer Lodge and Anaconda hospitals. He is in favor of having standards of care for ultrasound. His wife obtained training for ultrasound at the University Hospital in Denver. After taking the board examination, she is a Registered Diagnostic Medical Sonographer. There is a national registry for sonographers. She has attended training to obtain two more certifications, which qualifies her to do OB, abdomen, cardiac and vascular ultrasounds. Because these require registry exam, there is criteria to assure professionalism. He said it is very different from being registered as a R.T., which is an entirely different procedure. Ultrasound has to do with sound waves. Seventeen states have passed legislation regulating ultrasound exams, but being a Registered Technologist for x-ray is not the same as a Registered Medical Sonographer. He said that to assure quality ultrasounds is to embrace the A.R.D.M.S. standards to requiring sonographers be registered with the national registry for Ultrasonography. He sent written testimony later. **EXHIBIT 2.**

**Questions From Committee Members and Responses:**

**SENATOR BENEDICT** asked for a definition between the ultrasound technology and x-ray.

**Lance Melton, Attorney with the Professional and Occupational Licensing Bureau, Department of Commerce,** provides legal assistance to the board of Radiologic Technologists. He said the proposed amendments, **(EXHIBIT 3)** which have been negotiated with the Montana Hospital Association and the Department of Health, address many of the concerns that Scott Mendenhall raised. The standards of the American Registry of Diagnosis Medical Sonographers have been specifically addressed. One of the methods of obtaining licensure is by being registered by the A.R.D.M.S.. When this bill was drafted, they were not aware of this society or their standards, but have been made aware through the Montana Health Care Association and have addressed those issues in the bill.

**SENATOR BENEDICT** asked whether the amendments address not having to be a licensed x-ray technician in order to perform ultrasound.

**Lance Melton** said the amendments provide for separate licensure for non-ionizing modalities and x-ray procedures. There are those who will be licensed to do x-rays on a permit level and on a license level. On the license level, many of these individuals are already doing both modalities, sonograms and x-ray procedures, so they will continue with their practice. For those who are new or have not previously been required to be licensed, they would be grandfathered in under these amendments if they can establish they have two hundred hours in applying sonograms or non-imaging modalities in the last three years. They would be granted licensure specifically for application of sonograms and other non-imaging modalities.

**SENATOR BENEDICT** asked about the new people who only want to perform ultrasounds.

**Lance Melton** said that one of the methods of obtaining A.R.D.M.S. certification is through supervised training under a licensed physician. He read item 3 of the amendments regarding one of the exemptions from licensure requirement. Training under a licensed physician is one method that can be used to obtain the required two hundred hours of training under the supervision of a licensed physician to get licensure and A.R.D.M.S. certification. Another method to obtain licensure is completing a one-year of formal course of study.

**SENATOR SPRAGUE** asked about the if the amendments covered the concerns that Scott Mendenhall expressed.

**Scott Mendenhall** referred to item 4 of the amendments, saying that the "either-or" strengthens the requirements. He said he prefers that the only way a person can perform ultrasound is to be registered by the A.R.D.M.S., which is the only true mechanism to assure quality.

**SENATOR ECK** referred to page 4, section 5 of SB 9. She said that it appears to her, that we are still talking about radiologic technology. Where in the bill does it specify that a person wouldn't have to be as qualified as a radiologic technician.

**Lance Melton** said the term Radiologic Technologist is a term used in the bill and directed attention to the definitions, page 2, line 20, subsection 8, saying that the term will no longer mean what has been traditionally meant, but will be a broader term. Line 22, Radiologic Technologist includes now someone who performs ionizing x-ray or non-imaging procedures. There is a distinction set up. With this specific license requirement, there is both license, which is a fully licensed individual who has completed the training and is able to do any activity within the scope of the definition, and a limited permit for those individuals who have not obtained as much education and training

in this area. As a result, they will be able to specific procedures for which they are trained. The board had attempted to broaden the term Radiologic Technologist to include both ionizing and non-ionizing procedures.

**SENATOR ECK** asked if broadening the term Radiologic Technologist is a widely recognized change. She also asked about safety and inspections for safety of the equipment used.

**Lance Melton** said performing equipment inspections is not within the scope of the board of Radiologic Technologists. That duty belongs to the Department of Health under the Occupational Health Bureau.

**SENATOR ECK** asked whether the terminology is generally accepted.

**Dr. Yutani** said by colloquial use that has become accepted, the X-ray Tech has all of the possibilities of doing the procedures even though it's not technically x-ray in the majority of hospitals.

**SENATOR ECK** asked about the safety of the equipment and if there will be enough inspections to ensure safety.

**Dr. Yutani** explained the differences between the term ionizing and non-ionizing. He said ionizing imaging or x-rays shoots little things through the body that have the potential of changing chromosomes and destroying cells. In theory, non-ionizing imaging does not do that so are considered safer. The problem is, both modalities are less than twenty years old, so it is not known what the long-term effects might be, but, with present knowledge, both are considered to be very safe. In terms of equipment safety, problems have to be certified by Underwriters Laboratory and the manufacturers, through the Food and Drug Administration, that their equipment is safe. Once the equipment is in hospitals or private facilities, it is up to the user to ensure that the equipment works properly. Generally, changes in quality are readily noticeable, because specific quality assurance monitoring should be done. Then, if the equipment falters, for whatever reason, the responsible thing to do is contact the appropriate repair people to have it fixed.

**SENATOR ECK** inquired about the national organizations that do the training, certification, and continuing education courses and requirements.

**Dr. Yutani** replied that the national organizations have the opportunities for people to participate in lectures, video tapes, and other means for continuing education. The complaint in Montana and other rural states is that, because we are so isolated, it's difficult to get to the training facilities.

Closing by Sponsor:

SENATOR SWYSGOOD said some of the concerns have been addressed by the bill and the amendments, but will not satisfy everybody.

EXECUTIVE ACTION ON SB 40

Motion: SENATOR BENEDICT moved SB 40 DO PASS.

Discussion: SENATOR FRANKLIN expressed concern about the access issue. She wondered if the communities really have the access to assessment. She would like to have tracking done and look at the information two years from now to see the results.

SENATOR BENEDICT said SENATOR CHRIS CHRISTIAENS had expressed similar concerns, but is in complete agreement with the bill, after he joined the advisory council and has worked with the council for two years. Every county in the state is served by the Chemical Dependency Program and have trained case workers that do the assessments. Some of the counties in eastern Montana go together, with the assessment officer spending time in each county

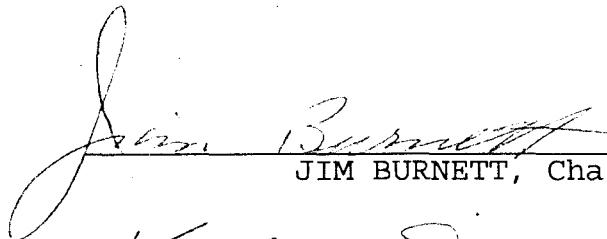
SENATOR ECK expressed concern about access. She said access can be a problem to those who have alcohol addiction, are not allowed to drive, there is no public transportation, and they live a distance from MCDC.

SENATOR BENEDICT said the situation has improved from what it was two years ago. If the assessment is positive that the individual should go to MCDC, transportation will be provided. If a person needs transportation to the assessment, there will be transportation available.

Vote: The Do Pass motion for SB 40 CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 1:40 pm

  
JIM BURNETT, Chairman

  
KAROLYN SIMPSON, Secretary

JB/ks

## PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

ROLL CALL

DATE \_\_\_\_\_

1/18/95

[illegible]

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CS-09

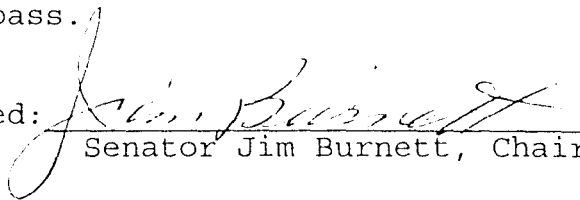
SENATE STANDING COMMITTEE REPORT


Page 1 of 1  
January 25, 1995


MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 40 (first reading copy -- white), respectfully report that SB 40 do pass.

Signed:

  
Senator Jim Burnett, Chair

 Amd. Coord.

 Sec. of Senate

221249SC:SRF



SENATE HEALTH & WELFARE

EXHIBIT NO. 1

DATE 1/18/95

BILL NO. SB 9

January 18, 1995

RE: Senate Bill 9: An act establishing criteria for governing nonionizing imaging modalities; creating a continuing competency requirement for radiologic technologists and limited permit technicians; and amending sections.....

Mr. Chairman, members of the committee. My name is Dennis Yutani, and I am a radiologist practicing in Glasgow, Montana. I am a member of the State Board of Radiologic Technologists, and I am a proponent of Senate Bill 9.

It has been 100 years since the discovery of x-rays, and its value has been proven in the field of medicine. It is common knowledge that x-rays, while important and beneficial, can be dangerous and even lethal. Hence, regulation of the practice of radiology has been developed in order to ensure protection of public health, safety, and welfare.

Advances with computers in medicine have led to new methods of imaging the human body. These techniques do not use x-rays and therefore do not cause ionizing effects that damage tissue and reproductive cells. Examples of these new imaging modalities would be ultrasound (sonograms) and magnetic resonance imaging (MRI). These two examinations have revolutionized today's medical practice. However, they require that even more diligence, knowledge, and care be utilized by the operating technologist than that required of x-ray technologists. These imaging modalities are highly "operator dependant", which means that the technologist ultimately controls and influences the quality and accuracy of every exam result. Under existing law, there is no means to regulate or supervise ultrasound or MRI technologists in Montana, so that public health, safety and welfare cannot be assured when a patient has these types of examinations.

The contents of Senate Bill 9, submitted with amendments, shall establish protocols to ensure the public health, safety and welfare is monitored and maintained during non-ionizing imaging in a fashion similar to x-ray imaging. Senate Bill 9, as amended, will also address the situation of pre-existing technicians who may not meet all of the proposed education requirements, and it will provide an alternative method of licensure to address the unique problems encountered by rural health care facilities in Montana.

Senate Bill 9 also addresses the concept of continuing education in one's professional field as a means of achieving and maintaining the highest level of competency in one's field. The requirements are modest in cost and time commitment, but they will promote continuous exposure to progress in one's medical field.

My address is c/o Deaconess Hospital, 631 Third Street South, Glasgow, MT 59230, and my phone number is 228-4351, Ext 230 (FAX : 228-4294). I would be pleased to answer any questions from the medical standpoint regarding Senate Bill 9.

SENATE HEALTH & WELFARE

EXHIBIT NO. 2

DATE 1/18/95 (Submitted  
later)

BILL NO. SB9

January 19, 1995

TO: Senator Eve Franklin

FROM: Scott Mendenhall *Scott Mendenhall*  
Sound Health Imaging

RE: Senate Bill 9

Dear Senator Franklin:

It was a pleasure to meet and visit with you last Wednesday regarding SB9. I appreciate your interest in assuring equity for Ultrasonographers in crafting legislation in order to bring about tighter control of persons performing Ultrasound exams with the ultimate goal being to achieve an acceptable quality standard of care in Montana.

As you know, we have some concerns about SB9 as it relates to Ultrasound. We feel that requiring Ultrasonographers to attain licensure as a "Radiologic Technologist" serves to completely negate their profession. This is analogous to requiring an MD to receive licensure as a Chiropractor.

Over the past couple of days, we have spoken to several registered Ultrasonographers in Montana and each is in opposition to this and has deep concerns about it. Certainly- Montana needs to address a quality standard for Ultrasonography. We believe there is a much better way than what is attempted in the current language of SB9 and the current proposed amendments.

First, contrary to testimony at last Wednesday's hearing, the term "Radiologic Technologist" is not commonly construed to mean those performing Ultrasound exams. In the industry, a Radiologic Technologist is an X-ray Tech. While we don't wish to create another governmental entity to oversee Ultrasonographers, its wrong to place them under the X-ray Tech board. The solution is to change the name of the board to: Montana Board of Diagnostic Imaging. Subcategories could then be formed for X-ray, MRI, and Ultrasound, each with its own standards for licensure and representation on the overall Board. Since each of these is a completely separate and different diagnostic procedure, it is preposterous to have the same standards for them all as SB9 would create.

As we discussed and as I testified, the national standard for Ultrasonography is the American Registry of Diagnostic Medical Sonographers (ARDMS). Do we want anything less for Montana? We believe this should be the standard but also realize there is much resistance to this and are aware of the potential problems this could create for persons across the state should such a standard be immediately imposed. Therefore we propose:

1. People having performed 2000 hours of actual Ultrasound scanning or more, could be grandfathered in providing they adhere to the ARDMS continuing education requirements; they would need to initiate registry procedures within 2 years and ultimately would need to become registered by the year 2000.
2. Trainees under the direct supervision of a licensed physician could be conditionally licensed providing that such "trainee" status not be *inperpetuity* but last for a maximum of 3 years whereupon they must initiate registry procedures and ultimately become registered within an additional 3 years.
3. Anyone currently registered with the ARDMS would be automatically licensed by the Montana Board of Diagnostic Imaging and remain so providing they maintain "Active Status" with the ARDMS.

These proposed amendments to SB9 would achieve equity for ionizing and non-ionizing procedures and would set standards pertinent to each. It also serves to achieve the goal of enhancing the quality of health care in Montana without placing unreasonable expectations on current practitioners. Over time, this should ensure that a patient anywhere in Montana who has an Ultrasound exam performed on them would be assured that they are receiving an acceptable standard of care in exchange for the expense of it. It would also assure that such exams would more likely be truly "diagnostic".

Thank you for your consideration.

PROPOSED AMENDMENTS TO SENATE BILL 9

1. Page 2, lines 4, 13, 21, 24, 26, and 29.  
Page 3, lines 7 and 22.  
Page 4, line 6.  
Strike: "ionizing"

2. Page 2, line 10.  
Following: "high-quality x-ray"  
Insert: "or simple nonionizing imaging"

3. Page 3.  
Following: line 13  
Insert: "(ii) a trainee who performs nonionizing imaging procedures on persons, operating under the specific direction and supervision of a licensed physician as part of a structured program directed toward the trainee's qualification for certification by the American Registry of Diagnostic Medical Sonographers."  
Renummer: subsequent subsections.

4. Page 4, line 10.  
Following: "approved by the board"  
Insert: "or be registered as a diagnostic medical sonographer by the American Registry of Diagnostic Medical Sonographers"

5. Page 4, line 20.  
Strike: "2,000"  
Insert: "200"

6. Page 4, line 20.  
Following: "of experience"  
Insert: "specifically"

7. Page 4, line 21.  
Following: "procedures"  
Strike: "as part of the applicant's job duties"

8. Page 5, line 4.  
Strike: "license or"

9. Page 5, line 5.  
Strike: "licensed or"

10. Title, line 8.  
Following: "37-14-305,"  
Insert: "37-14-306,"

11. Page 5.  
Following: line 5  
Insert: "Section 8. Section 37-14-306, MCA, is amended to read:  
"37-14-306. Permits. (1) The board may issue a permit to an applicant not qualifying for the issuance of a license under the provisions of this chapter but who has demonstrated,

to the satisfaction of the board, the capability of performing high-quality x-ray or nonionizing procedures without endangering public health and safety. An applicant must be required to demonstrate this capability by completion of formal classroom training that meets the standards established by rule and by means of examination. Permits issued under provisions of this section and 37-14-305 shall specify x-ray or nonionizing procedures, defined and established by rule, that may be performed by the holder. Permits shall be valid for a period not to exceed 12 months but may be renewed under the provisions established by rule.

(2) Examinations for the issuance of a permit must include a written portion and may also include practical and oral portions as established by the board. The board shall provide applicants for permits the opportunity for examination at intervals not to exceed 6 months. A nonrefundable examination fee, established by the board, must be submitted prior to examination for a permit. An applicant failing the examination must be charged a nonrefundable examination fee for any subsequent examination. An applicant failing any subsequent examination shall meet any additional eligibility requirements established by rule for reexamination.

(3) Applicants meeting minimum requirements for licensure shall be issued a temporary permit to work as a radiologic technologist. This temporary permit shall expire 15 days after the date of first opportunity for examination.

(4) The board shall issue temporary permits to unlicensed persons to perform x-ray or nonionizing procedures when adequate evidence is provided the board that such a permit is necessary because of a regional hardship or emergency condition and that such person is capable of performing x-ray or nonionizing procedures without endangering public health and safety. Temporary permits may not exceed 12 months in duration but may be renewed by reestablishing, to the board's satisfaction, evidence of continued regional hardship or emergency conditions. The required adequate evidence of regional hardship, emergency conditions, and capability to perform x-ray or nonionizing procedures without endangering public health and safety must be established by rule.

(5) Each applicant for a permit must:

- (a) be of good moral character;
- (b) be at least 18 years of age; and
- (c) not be addicted to intemperate use of alcohol or narcotic drugs."

Renumber: subsequent sections.

12. Page 5, line 13.

Following: "7 hours a year of continuing education"

Insert: "in the modalities licensed or permitted"

DATE 1/18/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 9

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Scott Mendenhall	SOUND HEALTH IMAGING	SB9		X
DENNIS S. YUTANI, MD	BOARD OF RAD TECH	SB9	X	
Jim Ahern	Mt Hospital Assoc	SB9	X	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY