MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By **CHAIRMAN JIM BURNETT**, on March 3, 1995, at 3:28 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)
Sen. Terry Klampe (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Council
Karolyn Simpson, Committee Secretary

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

Committee Business Summary:
Hearing: HJ 4, HB 121, HB 169, SB 410
Executive Action: None

{Tape: 1; Side: 1; Comments: some testimony not understandable because of talking in the hall.}

HEARING ON HJ4

Opening Statement by Sponsor:

REP. BOB PAVLOVICH, HD 37, Butte, said he has introduced HJ 4 since he has been a Legislator in 1979. It is a request to the Federal Government for construction of a nursing home at Fort Harrison. Montana has been on the list, but the request must be made every 5 years. There are over 100,000 veterans and 150,000 families members of those veteran living in Montana. Montana is in dire need for nursing home beds in Montana. There is an 80-bed unit being build in Glendive, a 60-plus unit being built in Columbia Falls, and a home in Miles City. Every 2 years this resolution is sent to Congress, urging them to construct a nursing home at Fort Harrison.

Proponents' Testimony:

Joe Brand, State Legislative Chairman, Veterans of Foreign Wars of Montana, said this resolution came out of Interim Committee, the bill by the last session of the Legislature. They felt the lack of nursing home facilities in Montana was one of the problems for veterans. The veterans do not have a nursing home attached to a hospital in Montana. If this facility is built, it will be built beside the hospital at Fort Harrison, and will be a government facility at no cost to the taxpayers of Montana, but a cost to the taxpayers of the United States. He thinks it's the government's obligation that these facilities be built in Montana, because the Federal Government does not have one nursing home in Montana.

John Sloan said he is a former DAV service officer with 40 years of service at Fort Harrison, and former advisor to the Veterans Affairs Committee in Washington, D.C. He said 60% of the veterans in Montana live within 150 miles of Fort Harrison, and the construction of a nursing home would not cost the state of Montana anything. This facility was supposed to be built in 1979, but the date was moved back several times.

Dick Baumberger, representing the Disabled American Veterans, spoke in favor of HJ 4.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR SPRAGUE asked **Joe Brand** if he was responsible for the state tags worn by the Representatives.

Joe Brand said some Senators are wearing them, and he will give one to any who want them.

Closing by Sponsor:

REP. PAVLOVICH asked the Committee to look at the language the House had put into the bill, and accept that or return the bill to its original form. He said if HJ 4 passes out of Committee, **SENATOR PIPINICH** will carry the bill.

HEARING ON HB 121

Opening Statement by Sponsor:

REP. BRUCE SIMON, HD 18, Billings, said HB 121 allows Podiatrists to treat the ankle in addition to the foot and believes Podiatrists have the proper education and training to provide this service to the people of Montana. He made a comparison of the education between a doctor of medicine and a doctor of podiatric medicine. In Montana, doctors of podiatry cannot

perform surgery on the ankle, but have to go out of the state to perform the surgery. There are about 30 states which allow Podiatrists to perform surgery on the ankle, but Montana is not one of them. He said this is a consumer choice issue and can provide additional opportunities to access physicians they want.

Proponents' Testimony:

Loren Rogers, D.P.M., Missoula, said he is Board Certified in foot and ankle surgery, has been in Missoula for 21 years and has hospital privileges in 6 hospitals. He spoke of the history and evolution of podiatric medicine and said their level of excellence has progressed to a point where they can offer people the opportunity to have well-trained experts in the treatment of foot and ankle problems. He asked the Committee's support of HB 121.

Dr. James Clark, Great Falls, spoke about the education and training for podiatrists. He said many have done advanced training in lower extremity trauma and surgery on the foot.

Dr. Scott DeMars, Billings, President, Montana Podiatric Medical Association, said passage of this bill can attract higher quality podiatric physicians to the State. If it is passed, that doesn't mean that all podiatrists are going to start doing ankle surgery, because all are not trained to do ankle surgery. He said credentialling by the hospital where the surgeries are being done is where the individual physician will have to show he is qualified, has the training, and produce the credentials to do ankle surgery. He submitted information about the education, training, and licensure of podiatric physicians. **EXHIBIT 1.**

Dave Andrew Wolfe, Podiatric Physician practicing in Billings, spoke from written testimony in support of HB 121. **EXHIBIT 2 (see Testimony section of EXHIBIT 1)**

John Beighlie, Podiatric Physician from Missoula, said he supports HB 121 and urged the Committee to support the bill.

Peter Freund, D.P.M., Helena, asked the Committee's support of HB 121.

Opponents' Testimony:

Bill Bloemendaal, Orthopedic Surgeon, Great Falls, read his written testimony in opposition to HB 121. **EXHIBIT 3.**

Greg Tierney, Orthopedic Surgeon, Great Falls, read his written testimony in opposition to HB 121. **EXHIBIT 4.**

Lea Gorsuch, Orthopedic Surgeon, Great Falls, read her written testimony in opposition to HB 121. **EXHIBIT 5.**

Keith Bortnem, Osteopathic Physician, Great Falls, read his written testimony in opposition to HB 121. **EXHIBIT 6.**

SENATOR BURNETT relinquished the Chair to **SENATOR BENEDICT.**

Questions From Committee Members and Responses:

SENATOR KLAMPE asked if a Podiatrist could do a history and physical for someone with a fractured ankle.

David Wolfe said he has worked in a trauma center, and they do full history and physicals, but they are not internal medicine doctors and neither are orthopedic surgeons. He completes the podiatric history and physical, then has an M.D. do a history and physical. The emergency room physician at the hospital can do the history and physical for patients needing emergency ankle surgery.

SENATOR KLAMPE asked if surgery below the ankle requires a history and physical.

David Wolfe said yes, he does a full podiatric history and physical plus a medical doctor's history and physical.

SENATOR BAER said he is concerned with the prerequisite qualifications and training podiatrists receive to do the procedures lawfully permitted to do, and specifically, how far do those procedures go.

David Wolfe said he is allowed to do any soft tissue work below the knee and the bony foot in the State. But, in their training to be a good prudent physician, they have been taught by M.D.'s, D.O.'s, and D.P.M.'s to know when to quit, when to refer to a vascular surgeon, and when to refer to a neurosurgeon.

SENATOR BAER asked if there are any guidelines set by their credentials or Boards as to how far they can go, and are limitations set.

David Wolfe said he can diagnose and treat all soft tissue below the knee and the bony foot.

SENATOR BAER asked about the increased complexities of working on the ankle area.

David Wolfe said that is not true. There are foot procedures that are much more technical and difficult.

SENATOR BAER asked what percentage of ankle cases require extensive procedures outside the realm of podiatric competence.

Greg Tierney said it would vary, depending on the community. The larger communities serve as secondary referral centers for outlying areas of the state, and probably most of the ankle

problems treated by podiatrists are routine in the outlying areas.

SENATOR BAER said he is concerned about the limitations involved and how they are established by the Podiatrist Board and Medical Board, and also concerned about the competence and training required to treat all of these procedures.

Greg Tierney talked about becoming Board eligible or Board certified orthopedic surgeons, and said they have a 5-year residency, then written licensing exam, and osteopathic physicians have similar training, but have on-site examinations by osteopathic physicians. He doesn't think the podiatrists have a single Board that encompasses all of podiatric medicine, and doesn't think that their post-graduate training varies from podiatrist to podiatrist, so their training and experience varies. He said they are not concerned about podiatrists such as **Dr. Wolfe** who has expert training in the treatment of the ankle, but do not want to change the definition to all podiatrists as foot and ankle surgeons, such that those who are properly trained and credentialed can perform ankle surgery.

SENATOR FRANKLIN asked about traumatic injuries and obstacles encountered in treatment, and what are some of the non-traumatic ankle conditions that would be treated by a podiatrist.

Scott DeMars said the vast majority are traumatic injuries, such as sprains, fractures, or bone tumors. He said his training is not at the level of **Dr. Wolfe** and he won't be performing ankle surgery, unless he goes back to school for more training.

SENATOR FRANKLIN asked if podiatrists are currently under the Board of Medical Examiners, about the kind of peer review process goes on in podiatric medicine, and those who may present a threat by performing procedures beyond their scope of expertise.

Scott DeMars said the Montana Podiatric Medical Association has a peer review committee, as does the Board of Medical Examiners, and the Boards address those issues.

SENATOR MOHL asked about a bone graft for a fractured ankle having to be performed by an orthopedic surgeon, and if that was necessary for treating the foot, could a podiatrist perform that procedure.

Dr. Bloemendaal said it is possible for a bone graft to be required for the foot, but a podiatrist could not do that procedure. A podiatrist could not take a bone graft from the iliac crest for any procedure, but would have to call in an orthopedic surgeon.

SENATOR ECK said they have been told that a lot of podiatrists would not be credentialed to perform ankle surgery, but who

decides. Is it the hospital credentialling committee or the Board of Medical Examiners.

Jerry Loendorf said the Board of Medical Examiners makes a decisions as to the license, and podiatric license is issued to authorize what is authorized by the statute. There may be circumstances where limits are put on the license. A hospital controls its staff, so the surgery performed in a hospital is performed by staff credentialed by the hospital. But a hospital has no control over surgery performed out side a hospital.

SENATOR ECK asked what guarantees those who do not have the proper training will be prevented from performing ankle surgery.

Dr. Wolfe said even if the scope of practice is upgraded to include the ankle, it won't mean that all podiatrists can do ankle surgery. The hospital credentialling process limits the doctors to performing only those procedures for which they feel the individual is trained and qualified to do. Many podiatrists are not qualified to do surgery and they are screened at the hospital level.

SENATOR ECK asked about out patient surgery centers.

Dr. Wolfe said he is familiar with ones in Butte and Billings, and they use the same credentialling process as do hospitals.

SENATOR SPRAGUE asked **Dr. Wolfe** if this is really a matter of turf, how he can work on the foot when other parts of the leg are involved, and if a foot is injured whether the ankle probably is injured also.

Dr. Wolfe said that is true. He said recently he performed a reduction of a talus fracture, the bone which connects the foot and ankle. Under Montana law, he can work on this, but can't go higher because it's outside the law. He said the argument about podiatrists wanting to do knees and hips is bogus because their national association has set the limit for podiatrists at the ankle. He said they are permitted to work on the soft tissue below the knee and this tissue affects the foot, and they need to be able to work on the soft tissue to fix the foot.

SENATOR SPRAGUE asked when is there a limit and whether the knee bone is the same as the ankle.

Dr. Wolfe said they are not the same and the limit is set at the foot an ankle by their national association. They are not trained beyond the foot and ankle.

SENATOR SPRAGUE asked if they can operate on the tibia.

Dr. Wolfe said no, but they can operate on the soft tissue, the blood vessels and nerves below the knee, but, in Montana, cannot operate on any bony structure other than the foot.

Closing by Sponsor:

REP. BRUCE SIMON said there has been a good discussion, and asked the Committee to think about what may be good for the public. He said all podiatrists will not be doing ankle surgery because many are not trained to do so. Because there is a lot of education and training involved in becoming a podiatrist and doesn't think they would risk their career by doing procedures for which they are not adequately trained. These people are not asking to be orthopedic surgeons, who have more training because they work on more parts of the body, but podiatrists have specialized on just the foot. *{Tape: 1; Side: 2}* They are very well trained for their specialty, and would not perform those procedures outside their training and credentialling. Hospitals will protect themselves from lawsuits by granting credentials to those doctors whose training and experience satisfies their standards before allowing them to practice in their hospital. Those who are adequately trained will perform the allowed procedures in their medical specialties, and those who are not will not.

HEARING ON HB 169

Opening Statement by Sponsor:

REP. SCOTT ORR, HD 82, Libby, said HB 169 is not about dispensing dangerous drugs, but pharmacists cannot fill a prescription for someone whose doctor or dentist is not licensed to practice in Montana. This is especially a problem for those who live on periphery of the state and go to a doctor or dentist in a neighboring state, then cannot have a prescription for a controlled drug filled in their home town in Montana. These are drugs like codeine, Tylenol III, amphetamines, etc. This bill would allow pharmacists in Montana to be able to fill these prescriptions without having to have a duplicate prescription written by a doctor or dentist in Montana.

Proponents' Testimony:

Jim Smith, speaking on behalf of the Montana Pharmaceutical Association, spoke from his written testimony in support of HB 169, which would give Montana pharmacists the authority to fill prescriptions written by practitioners from other states. **EXHIBIT 7.**

Jim Seifert, Troy, Montana, said he lives in the N.W. corner of the State and their basic medical center is not in Montana, but is in Spokane, Washington and Couer d' Alene, Idaho. People from the Troy area go to the cancer treatment center in Couer d' Alene, have their treatment, and come home with prescriptions for antibiotics and pain pills. He can fill the antibiotic prescription but cannot fill the pain pill prescription, which is

confusing to the consumers are confused because their pharmacist in Montana cannot fill prescriptions from doctors out of state.

Jim Elliot, HD 72, Trout Creek, said he is one of those people who live on the border of Montana and Idaho, and his medical center is not Trout Creek, but is in Idaho. He relies on his orthopedic surgeon and dentist to provide him with prescriptions for pain pills for his medical condition. If he needs them to call a prescription to his pharmacist in Montana, he cannot get the out-of-state prescription filled. To get the prescription, he must go to a doctor in Montana to have another prescription written, which costs him another doctors visit.

Jerry Loendorf, representing the Montana Medical Association, said they support HB 169. People who live in Eastern Montana travel to North Dakota for medical treatment. This bill would allow them to have their prescriptions filled in Montana.

Wayne Hedman, Pharmacist, Bitterroot Drug, Hamilton, said he and the other pharmacists in the Bitterroot Valley support HB 169. The problem this bill addresses had it origins in antiquity. People from all over Montana go out of the State for many kinds of medical treatment, and come back home to Montana needing to have their prescriptions for controlled substances filled, never thinking that the present law does not allow it. He said it is time to correct this problem because there is no valid justification for continuing the regulation.

SENATOR BURNETT reassumed the Chair.

Dawn Barnes, Pharmacist, Helena, said she supports HB 169 and agrees with the previous testimony in favor. She said she would like to fill prescriptions for these people who come back from medical treatment, but the law prevents her from doing so.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR SPRAGUE asked if there would a verification problem for prescriptions written, such as not being able to read the writing, and have to call the provider.

REP. ORR said that happens now, and deferred to **Jim Seifert.**

Jim Seifert said they do this all of the time, and can fill out-of-state prescriptions for non-controlled drugs, such as antibiotics. He said they would verify prescriptions, and he will not fill a prescription if he is not comfortable with the dosage, strength, has trouble with the handwriting, or the patient looks like a character just passing through town who may have a phoney prescription. He said there would be no more problem verifying out-of-state prescriptions as those in state.

SENATOR ECK asked about those living near the Canadian border.

REP. ORR said they did not research that, but thought that international prescriptions would not be permitted.

Closing by Sponsor:

REP. ORR thanked the Committee for the hearing and made no further comments in closing.

SENATOR BURNETT relinquished the Chair to **SENATOR BENEDICT.**

HEARING ON 410

Opening Statement by Sponsor:

SENATOR BURNETT, SD 12, Luther, read his written statement. **EXHIBIT 8.**

Proponents' Testimony:

Judy Van der Hagen said she is a consumer and a taxpayer. Her husband was in Veterinary practice in Big Timber for 20 years, and now works as a Federal meat inspector. She said, because her husband worked for the Federal Government, they could not have an animal butchered at a Federal plant because of conflict of interest. They had the animal butchered at a plant in Red Lodge, which is under the state meat inspection program. She said the meat they received from the plant smelled and looked bad, and described the unsanitary and filthy conditions of the truck which delivered replacement meat. She is very concerned about how thoroughly and often the state inspected plants are inspected, and how much training the state inspectors receive. She said there is a duplication of the process and paying twice for the same thing being done by Federal and state inspectors.

Opponents' Testimony:

REP. MENAHAN said he opposes SB 410 and when the state program was re-instituted, one of the worst things that happened was going with the Federal government program, because many of the meat packing plants in Montana closed. He said many small plants were unable to meet the unreasonable demands of the Federal inspectors.

T.S. Laurens said he owns and operates a Federally inspected plant in Kalispell and a State-inspected plant in Whitefish. When the State meat inspection was reinstated in 1987, it increased the numbers of small plants because of the effect of State inspection on small business. He talked about the 4 areas that meat inspection impacts a meat processor. They are 1) start-up costs or capitol costs, and physical improvements required to meet the Federal requirements may be impossible for a small

business to meet, 2) feasibility and start up of new products in and for a small market in Montana, selling a lot of products to a few people, 3) programs that are in place requiring special services, such as reprocessing commodities from the Federal government to the school lunch program, that can cost more than its worth for the business, 4) continuing operating costs, and the biggest item is overtime. If he spends 10 minutes over the prescribed in a Federally inspected plant, he must pay overtime or be subject to a fine.

Les Graham, representing the Montana Meat Processors Association, spoke in opposition to SB 410. He said he administered the program when it was given to the Department of Livestock, and when they took over the meat inspection program, there were plants operating in Montana that weren't on the Federal inspection list.

Bob Bachini, representing Darigold, said they are in opposition to SB 410.

Mike McGinley, Beaverhead Meats, Dillon, said he opposes SB 410. He said he is satisfied with the state meat inspection program. He said **Ed Ryan, Ryan's Procession, Jordan,** also opposed SB 410. **EXHIBIT 9.**

Leonard Mingneau, L & L Meats, Malta, said he has been under both the Federal and State meat inspection programs and there are many plants that would not be in business today if they were under the Federal program. He said there are many products, such as summer sausage and meat-cheese gifts packs sold at Christmas time, can be sold from a custom plant that is under the State inspection program. He said they have had no problems with the State inspection program. **EXHIBIT 10.**

{Tape: 2; Side: 1; Comments: lost first few seconds .}

Ted Lange, representing Northern Plains Resources Council, spoke in opposition to SB 410. He said the State meat inspection program supports local marketing options for beef producers. Small packing operations provide local alternative to multi-national corporations that dominate the industry. The present State meat inspection program works well and is responsive to the needs of small businesses in Montana.

Glen Restvedt, Restvedt Meats, Ennis, said he agrees with all of the Opponents testimony and is happy with the State meat inspection program.

Cork Mortensen, Executive Secretary, Montana Board of Livestock, said, on behalf of the Board, he opposes SB 410. He said it is important that these small meat processing plants to remain in business for the local tax base, employment and wages, convenience and economic advantages of the local livestock producers, where live animals can be sold to these plants rather

than being shipped out of the state. This adds value to local livestock and assists in the local livestock producer remaining in business. The State meat inspection program is funded by 50% State General Fund monies and 50% Federal Meat inspection money.

John Bloomquist, Montana Stockgrowers, said for all of the reasons stated previously, they oppose SB 410. He said Bob Gilbert of the Montana Wool Growers also oppose this bill.

Linda Mingneau, L & L Meats, Malta, read a letter from Vicki Olson, Montana Cattlewomen opposing SB 410, and a letter from Ron Vandevanter, Vandevanter Meats, Columbia Falls, in opposition to SB 410. **EXHIBITS 11, 12, 13.**

Nancy McLaughlin, Nancy's Pasty Shop, Butte, said she supports the State meat inspection program.

Rick Cook, Ron's Meat Packing, said the 5 families who own the business decided to close their business in 1987 because of hassles dealing with the Federal government. When the State program began, everything was OK, and likes the State meat inspection program.

Jerry Dolsom, 2-J's Meats & Sausage, Great Falls, said he started his business as a regular retain meat processing plant but couldn't compete with Buttreys, Safeway and others, so he started making sausage. He said a Federal meat inspector told him he should be under the State meat inspection program because his small business didn't have the money or manpower to be under the Federal program.

Mack Curley, C & C Meats, Sheridan, said he strongly opposes SB 410. His business has been under the State program since the plant was built and they like the program.

Lyle Happel, Happel's Meat Company, Bozeman, said he opposes SB 410. He said one State meat inspector traveled to Easter Montana and inspected 13 plants in 2 1/2 days, and his question is whether the Federal government can get that efficient.

Questions From Committee Members and Responses:

SENATOR ECK said she had listened to **SENATOR BURNETT** talk about the cost of the State meat inspection program. She asked for more information that fees could not be charged for State inspections, because the Federal government would not allow it.

Cork Mortensen read a portion of the statement from the Federal Inspection Service. The provisions of the Federal law, applicable to meat and poultry, provide the cost of inspection under the Meat Inspection Act and Poultry Products Inspection Act shall be borne by the United States, except for overtime and holiday work. The legislative history of the Meat Inspection Act and the Poultry Products Inspection Act clearly shows the intent of

Congress, that the Federal and State programs under these acts are not to be financed by direct or in-direct user fees or taxes. Both the Meat Inspection Act and the Poultry Products Inspection Act intend that the Federal share funds used to finance programs shall come from appropriations out of General Revenue funds. The states must also provide for cost of their share through appropriations from General Revenue Funds. It was not the intent to preclude cooperation with State programs having a part thereof, where there is a licensing system with a nominal license fee, not exceeding $100.00

SENATOR ECK asked what would happen if the license fee was raised to $100.00, wondered if it would cover the cost, and how much is collected now.

Cork Mortensen said about $6,000 is obtained from the $25.00 license fee.

SENATOR SPRAGUE asked **Judy Van der Hagen** why she had not complained about the bad meat immediately upon discovering it.

Judy Van der Hagen said she didn't know how long they had the meat before she complained, possibly several months, but the butcher had had a heart attack and she didn't want to bother him.

SENATOR SPRAGUE asked if that situation occurred now, wouldn't it be better to call the State and get their reaction.

Judy Van der Hagen said her husband is a Federal meat inspector, and she didn't even think about calling the State.

Closing by Sponsor:

SENATOR BURNETT said he wanted to respond to **SENATOR SPRAGUE's** question. He said the State Board of Health is always responsible to check out the cleanliness of a plant. The statements that are perplexing to him, are that the State can do so much better than the Federal inspectors and thinks that is untrue. There is a FSIS directive for both Federal and State with quarterly inspections. He said he has had no problem with the Federal meat inspection system, and it doesn't make sense to have a dual inspection program. When there is a directive to look at all of the state programs to find savings that could be made, it is necessary to cut state expenditures. He said he has no problems with the meat inspection program except it costs taxpayer money out of the General Fund, and thinks the state inspection could be cut.

ADJOURNMENT

Adjournment: 5:57 PM

SENATOR JIM BURNETT, Chairman

KAROLYN SIMPSON, Secretary

JB/ks

MONTANA SENATE
1995 LEGISLATURE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

ROLL CALL DATE 3/3/95

NAME	PRESENT	ABSENT	EXCUSED
LARRY BAER	X		
SHARON ESTRADA	X		
ARNIE MOHL	X		
MIKE SPRAUGE	X		
DOROTHY ECK	X		
EVE FRANKLIN	X		
TERRY KLAMPE	X		
STEVE BENEDICT, VICE CHAIRMAN	X		
JIM BURNETT, CHAIRMAN	X		

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EXHIBIT NO. 1
DATE 3/3/95
BILL NO. HB 121

MONTANA PODIATRIC MEDICAL ASSOCIATION

HOUSE BILL 121

Montana Podiatric Medical Association
36 South Last Chance Gulch, Suite A
Helena, Montana 59601
Phone: (406) 443-1160 FAX (406) 443-4614

Prepared for the
Senate Public Health, Welfare and Safety Committee
Hearing

Friday, March 3, 1995

DECLARATION OF D. ANDREW WOLFE, D.P.M.

I, David Andrew (Andy) Wolfe, D.P.M., hereby declare:

1. I am a doctor of podiatric medicine licensed by the Board of Medical Examiners and am in active practice at 1690 Rimrock Rd., Suite L, Billings, Montana. I am a third generation Montanan and have come from a long line of health care practitioners including a dentist and two medical doctors providing service to Montanans in Columbus and Bozeman.

2. Like most doctors of podiatric medicine, I took a pre-medical curriculum in undergraduate school. I attended Carroll College and Montana State University at Bozeman and graduated from MSU participating in the University Honors Program. Other academic honors including Alpha Epsilon Delta (Pre-Medical Honor Society), Mortar Board and Phi Kappa Phi. Upon graduation I had difficulty deciding which of the three branches of medicine that I wanted to pursue. Allopathic medicine (Medical Doctor/M.D.), Osteopathic Medicine (Doctor of Osteopathy/D.O.) and Podiatric Medicine (Doctor of Podiatric Medicine/D.P.M.) all had their merits. It was at the MSU Career Center that I learned the Federal Government performed a study and rated podiatric medicine among the top ten professions to participate in the 1990's based on need. It was explained to me that there is a projected shortage of foot and ankle providers as the "baby boomers" in the American population age. Thus, I chose to become a podiatric

physician. In professional school, prospective podiatric physicians receive their curriculum at one of seven podiatric medical schools in the United States. I was fortunate in receiving a WITCHE scholarship from the State of Montana which paid for a significant portion of my tuition. The course of instruction leading to the degree of Doctor of Podiatric Medicine (D.P.M.) is four years in length. The first two years are largely devoted to classroom instruction and laboratory work in the basic medical sciences. This includes microbiology, biochemistry, pharmacology, pathology and both gross and lower extremity anatomy. These first two years of instruction are very similar to the allopathic medical schools. Some of my instructors taught the exact same classes in another nearby medical school. During the third and fourth years, as students we concentrated more on clinical courses. Although we studied some general medicine, emergency medicine and general diagnosis, this was where a podiatric education diverged with an allopathic education. We concentrated far more on the lower extremity and began to specialize. Toward the end of my fourth year, I participated in externships at large teaching hospitals. These included San Franciso General Hospital, Fifth Avenue Medical Center in Seattle, Kaiser-Vallejo Hospital and Ft. Miley Veterans Administration Hospital. Often, the orthopedic resident doctors that I worked along-side in these hospitals relied

upon my expertise in foot and ankle problems when managing lower extremity pathology. After obtaining the degree of Doctor of Podiatric Medicine (D.P.M.) and passing national board examinations, I participated in a two year surgical residency program. This post-doctorate training required me to be a resident physician at Western Medical Center. This was a major shock trauma center located in Orange County, California. The attending physicians overseeing my work and teaching me were Medical Doctors, Doctors of Osteopathy and Doctors of Podiatric Medicine. In the first year, my rotations included pathology, anesthesia, general surgery, general medicine and podiatric surgery. I assisted in many types of surgeries throughout the body including the foot and ankle. In my second year, my rotations were much more limited to the foot and ankle and the attending physicians under whom I learned were primarily podiatric surgeons and orthopedic surgeons. During both years I rotated through the emergency room treating a variety of problems including everything from ankle fractures to heart attacks and even delivering babies while under the supervision of the emergency room attending physicians. It was here I received advanced cardiac life support certification. I worked in my residency program over 120 hours a week for two years straight with no time off.

3. Upon return to my native state, I was chagrined to learn that although Montana helped finance me to become a foot and ankle specialist, I could not practice on the ankle because of an archaic practice act. This was set into place back in the days when podiatric physicians did not receive ankle training as part of their standard curriculum and practiced only on the feet. To keep my skills sharp, I have been forced to take my patients with ankle problems requiring bone surgery out of state. Not only does this pose a significant inconvenience to my patients, but revenue generated by these surgeries is going to out of state hospitals and is not supporting our own community hospitals. For those cases that are emergent and require immediate surgery, I have been forced to pass the patient off to an orthopedic surgeon. Some patients have complained that they specifically wanted a specialist and that is why they came to me. I have been forced to explain that, although I was trained to diagnose their problem and perform their surgery, I cannot legally treat them within the Montana borders at this time.

4. The Montana Podiatric Medical Association is concerned about the difficulty in attracting the most skilled and highly trained foot and ankle specialists to this state when

a podiatric physician can only practice a fraction of what they were trained to do under the existing Montana law. I know of one case in Bozeman already where an excellent surgeon passed up Montana because of our practice act.

5. To include the ankle in the practice act does not mean that every podiatric physician can perform ankle surgery. Surgeons must prove proper training for every procedure they wish to perform to the hospital credentialing committee. This written application for each of the specific surgeries the physician wishes to perform is reviewed and temporary privileges are either granted or denied based upon the findings of the credentials committee. If temporary privileges are granted, the surgeon must then perform this procedure with a proctor present for as many times as the credentials committee sees fit. At any time, if incompetence is noted, privileges to perform the surgery can be denied.

6. Inclusion of the full range of podiatric services into this state's practice act will give Montanans a chance to receive their care from a specialist and provide them a better choice of health practitioners to choose from. Increased competition for the health care dollar can only benefit the consumer requiring service. On behalf of the

DECLARATION OF D. ANDREW WOLFE, D.P.M.

Montana Podiatric Medical Association, I strongly advocate that the Practice Act for Podiatric Physicians be made current by including ankle into the scope of practice. I declare under penalty of perjury that the foregoing is true and correct.

D. ANDREW WOLFE, D.P.M.

SENATE HEALTH & WELFARE
EXHIBIT NO. 3
DATE 3/3/95
BILL NO HB 121

HOUSE BILL 121

I would like to thank the Committee for allowing me to present my views today. My name is Bill Bloemendaal and I am an orthopedic surgeon who has practiced for 34 years in Great Falls. My interest in the podiatric issue was aroused when I was informed of their intent to be licensed to perform ankle surgery.

First let me tell you that the orthopedists in Great Falls have helped the podiatrists to obtain their original hospital privleges and have worked well with them since. I am 65 years old and I have no economic interest in their ability to operate on the ankle. My interest is purely a quality issue and what is best for the patient.

In looking over my surgical statistics, I probably average three fractured ankles a month. This represents 36 ankles a year or in 34 years, I have treated approximately 1200 ankle fractures. With all my experience and training, I still have a great deal of difficulty treating certain types of ankle fractures.

To illustrate one example of the podiatric nightmare this could create, if podiatrists choose to treat ankle fractures, they would have to take them all as an orthopedist does. If an open, compound fracture-dislocation of the ankle with disruption of the articular surface comes in at 1:00 A.M., this fracture has to be treated immediately as it is an acute emergency. The podiatrist is not allowed to do a history and physical as an M.D. or D.O.. This allows for further delay in the middle of the night for another physician to come in and evaluate the patient. Secondly, some of these articular surface disruptions require bone grafts from the hip (iliac crest). Podiatrists are not allowed to take bone grafts and an orthopedist would have to be called in. This adds materially to the cost, is time consuming and results in poor patient care. When I came to Great Falls 34 years ago, there were 12 orthopedists in the State. As of 1994, there were 86 listed in the MMA directory. These needs are currently being taken care of in the orthopedic community and the above illustration is just one example of why podiatrists are improperly prepared to handle these ankle cases.

I urge the Committee, for the sake of quality care to the patient, to reject House Bill 121.

J. W. Bloemendaal

J.W. Bloemendaal, M.D.
3/3/95

EXHIBIT 3
DATE 3-3-95
HB 121

NAME Bill Bloemendaal

ADDRESS 2800 11th Ave S. Great Falls Mt.

HOME PHONE 454-1542 WORK PHONE 761-1410

REPRESENTING

APPEARING ON WHICH PROPOSAL? HB-121

DO YOU: SUPPORT _____ OPPOSE ✓ AMEND _____

COMMENTS:

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETA

SENATE HEALTH & WELFARE
EXHIBIT NO. 4
DATE 3/3/95
BILL NO. HB 121

HOUSE BILL 121

My name is Greg Tierney and I'm an orthopedic surgeon in Great Falls. You have previously received a position statement from some of us in Great Falls espousing our more extensive views on this topic and I would like to thank the committee for the opportunity to speak to you today.

The health care arena is expanding rapidly and becoming more complicated. The term physician has essentially been folded into a catch-all vernacular term of health care provider. We have seen expansion of the provision of health services by a variety of professionals including chiropractors, nurse practitioners, physician assistants, naturopath's, massage therapists, etc. with justification of their qualifications often predicated on the fact that they are licensed by their State. No one can ask you, as legislators, to recognize what constitutes appropriate training in a particular medical field. As an orthopedic surgeon, I have recognized podiatrist training in medical and surgical management of problems related to the foot, but I feel extension beyond that region essentially constitutes orthopedic surgery without undergoing the more extensive training that the specialty requires. We as orthopedists have concerns that legislative change in the definition of a care provider may give carte blanche to any and all doctors of podiatric medicine who have had inadequate or no training to represent themselves as foot and ankle physicians. Although one can argue that this can be addressed at hospital credentials committees on a local level, many DPM's lack these hospital privileges and treat patients and operate entirely out of their own offices and surgery centers which require no such credentials process. All we can ask as citizens is that your actions reflect the best interest of the public you serve and I feel as an orthopedic surgeon that recommendations to you in regards to changing licensing definitions of health care providers should rest with the Board of Medical Practice rather than with the practitioners who would most benefit from this change.

We understand the desire of properly trained health care providers to expand the scope of their practice to include areas of special interest or expertise that they may have. We only hope that this can be accomplished without opening the door to the use of a frequently unsuspecting and unknowledgable public as a training ground for this expansion.

Gregory S. Tierney, M.D.
3/3/95

NAME GREG TIERNEY M.D.

ADDRESS 534 Ida Ct, Great Falls

HOME PHONE 771-8723 WORK PHONE 761-1410

REPRESENTING

APPEARING ON WHICH PROPOSAL? HB 121

DO YOU: SUPPORT _____ OPPOSE X AMEND _____

COMMENTS:

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETA

SENATE PUBLIC HEALTH & WELFARE
EXHIBIT NO. 5
DATE 3/3/95
BILL NO. HB 121

HOUSE BILL 121

Thank you very much for the opportunity to speak. My name is Lea Gorsuch. I am an orthopedic surgeon in Great Falls, Board certified in Orthopedic Surgery with a Certificate of added qualification for Hand Surgery. As a surgeon, when my patients are faced with a difficult medical decision they will often ask me what I would do if I were faced with this same medical decision. As you decide what to recommend to Montanan's, I ask you to decide who you would recommend to operate on your child's ankle or your ankle, someone with 4 years of training or someone with a minimum of 9 years of training.

I am often asked how long it takes to become an orthopedic surgeon. I spent 4 years in medical school at Creighton University in Omaha, Nebraska, 1 year of general medical internship at Valley Medical Center in Fresno, California, 4 years in orthopedic residency training at the Mayo Clinic in Rochester, Minnesota, and 1 year at the University of Pennsylvania doing a fellowship specifically in hand surgery. In the State of Montana, there is not one Board eligible or Board certified orthopedic surgeon who has spent less than 9 years in training. Many, like myself, have spent 10 years or more in after college training.

While we have reservations at times about the podiatrists indications for surgery, that is, when to operate and when not to operate, we have nevertheless maintained a relationship which we feel benefits our patients. However, we do not think their training is sufficient to extend to the ankle. A first year orthopedic resident can be trained in the basics of technical surgery, but the judgement needed for when to operate and what type of procedure should be done is simply beyond the truncated training programs of the podiatrists. The ankle and its complexity and the complications associated with operating on an ankle are a whole different ballgame than the foot. Let me illustrate: If a podiatrist and I started college on the same day, four years later we would both graduate from college. If he then entered podiatry school and I entered medical school, 4 years later the podiatrist is licensed to operate on your foot. However, it will take another 5 years plus possibly a fellowship before the orthopedist can be licensed to operate on the foot. The American Academy of Orthopedic Surgeons feels that it takes this amount of training to turn out an orthopedic surgeon who is well versed in the indications for surgery, the ramifications of surgery, the ethics associated with surgery, as well as the technical aspects of surgery. It is unlikely that the general public is aware of this discrepancy in training. To license the two disciplines equally for ankle surgery is misleading at best. The last years of training are to a large part spent in teaching the surgeons not to allow their technical ability to extend beyond their judgement. With less than half the time spent in training, it is simply not possible for the podiatrists to have the experience and judgement of an orthopedist. We therefore urge you to reject this Bill increasing the scope of podiatry to the ankle.

Lea Gorsuch

W. Lea Gorsuch, M.D.
3/3/95

NAME W. Lee Gaasch.

ADDRESS 41 Prospect Dr., G.F. MT

HOME PHONE 761-5949 WORK PHONE 761-1410.

REPRESENTING

APPEARING ON WHICH PROPOSAL? HB 121

DO YOU: SUPPORT _____ OPPOSE ✓ AMEND _____

COMMENTS:

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETA

SENATE HEALTH & WELFARE
EXHIBIT NO. 6
DATE 3/3/95
BILL NO. HB 121

HOUSE BILL 121

Thank you for allowing me to speak to you today. My name is Keith Bortnem and I am an osteopathic physician, Board Certified to practice general orthopedic surgery.

I feel the heart of this issue is the quality of health care provided to the citizens of Montana. Quality health care can only be provided by comprehensively trained practitioners. As an osteopathic physician and surgeon, I am particularly sensitive to the issues of proper training and credentialing. Traditional orthopedic surgery programs require a minimum of nine years of post-graduate training. I am very concerned about this attempt to change the definition of podiatry to include the ankle. This opens Pandora's box to any and all doctors of podiatric medicine who have had inadequate or no training at all to represent themselves as foot and ankle physicians. You can today, with the stroke of a pen, allow anyone to do anything, so why stop at the ankle? Why not expand to the knee, the hip, the spine? I feel this presents serious safety concerns to the people of Montana.

Lastly, I feel there are some very important economic issues to evaluate when adding or deleting any component to health care delivery systems. Changes are necessary to provide improved health care, more efficient delivery, and to reduce costs. The needs of our citizens in regards to ankle care are currently being met in an expert and timely fashion. Adding alternative care providers will not improve the standard of care. Podiatry fee schedules for procedures about the foot are frequently higher than those of orthopedic surgeons. There will be more procedures being done, many unnecessary, resulting in overall increased medical costs.

I urge you as legislators making important decisions for the people of Montana to reject House Bill 121.

Thank you.

Keith D. Bortnem, D.O.
3/3/95

NAME Keith Bortnem, D.O.

ADDRESS 5301 Fox Farm Rd. Great Falls, MT 5

HOME PHONE 770-8347 WORK PHONE 761-1410

REPRESENTING _____

APPEARING ON WHICH PROPOSAL? HB 121

DO YOU: SUPPORT _____ OPPOSE X AMEND _____

COMMENTS:

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETA

SENATE PUBLIC HEALTH & WELFARE
EXHIBIT NO. 7
DATE 3/3/95
BILL NO. HB 169

MONTANA STATE PHARMACEUTICAL ASSOCIATION

PO Box 4718 • 34 West Sixth Avenue • Helena, MT 59604 • 406-449-3843 • Fax 406-443-1592

March 3, 1995

Testimony of The Montana State Pharmaceutical Association:

House Bill 169

by Jim Smith

Mr. Chairman and members of the Senate Public Health, Safety and Welfare Committee: Good morning. My name is Jim Smith. I am the Executive Director of the Montana State Pharmaceutical Association. Our Association consists of 346 Pharmacists licensed by the State of Montana, and 130 Pharmacies licensed by the State of Montana. By and large, these are family owned, small town main street businesses located in nearly every Montana community.

They stay in business by being good neighbors, by taking care of their patients, by staying open nights and weekends, by having an emergency number, by delivering prescriptions, by being conscientious health care providers, and by complying with all relevant laws and regulations that govern their profession.

An entire body of law and regulation has developed around the profession of pharmacy in Montana during the first 100-plus years of statehood. Some of these laws are today somewhat obsolete, having been eclipsed by advances in communications and technology.

The Montana Board of Pharmacy is the licensing authority for the profession in this state; and this Board has the overall responsibility to regulate the profession in order to protect the health and welfare of the Montana public. The Board of Pharmacy has been consulted on this issue; and HB 169 arises directly out of the Board's interpretation of the current law and regulations.

HB 169 addresses a statutory requirement that our association believes has become obsolete; and corrects it in order to enable pharmacists to practice their profession legally in the 1990s. Current law makes it illegal for a licensed Montana Pharmacist to fill a prescription for a Schedule (Dangerous) Drug that was written by a physician or a dentist (or any other legitimate prescriber) that does not live and practice in Montana. These prescribers do not meet the definition of 'Practictioner' found at MCA 50-32-101.

HB 169 makes one substantive change to MCA Chapter 50-32-101: amending the definition of 'Practitioner' to include a "Physician or a Dentist licensed to practice medicine or dentistry in another state.' You can see this language addition on page 4, lines 6 and 7 of HB 169.

All other changes to the existing statute in HB 169 are deletions of gender specific terms, and replacement with gender neutral terms (i.e. the change of 'warehouseman' to 'warehouse operator' on page 1, line 18; and other similar changes throughout).

This issue was brought to the attention of our Association by Jim Siefert, R.Ph., who is the owner of Kootenai Drug in Troy, MT; and by other pharmacists in Montana who have patients and customers that receive medical care (physisican visits, hospitalization) in another state; and who then return to Montana with a prescription for a Schedule drug. Jim Siefert and a few other Montana pharmacists are here today to testify in support of HB 169. They will relate their first hand experiences, and the difficulty they have in trying to serve their patients and customers, while trying to comply with the current law.

I would like to briefly mention two other relevant considerations before I close my testimony. First, individual pharmacists ave attempted to solve this problem by means other than legislation. Jim Siefert began in 1992 by asking a physician in Idaho, who treats Montana residents, to write the Board of Pharmacy requesting modification of the current law or regulation. He next hired an attorney, who initiated correspondence with the Board of Pharmacy in an attempt to resolve this through rule or policy changes.

In one letter of response from the Board of Pharmacy (attached), the following statment is found:

> "Your letter requests the Montana Board of Pharmcy to reconsider its requirements. As stated above, the Board cannot change a statute, but must enforce those the Montana Legislature puts in place. If a change is desired, it must be brought before the Legislature by the persons so desiring the change, for appropriate consideration."

Second, I have attached a partial listing of Schedule Drugs (I through V) that are the subject of this legislation. This is from a Drug Enforcement Administration Application (DEA From 224).

Thank you for the opportunity to present this testimony to you today; and for your favorable consideration of Hb 169. I'll be happy to attempt to answer any questions you may have.

APPLICATION FOR REGISTRATION
UNDER CONTROLLED SUBSTANCES ACT OF 1970

INSTRUCTIONS FOR COMPLETING FORM DEA-224 — *NOTE, this form is for new applicant only and not for renewal of registration.*

This application is for a 3 year registration period; application fee is ~~$ 60.00~~ $ 210. Checks drawn on foreign banks will not be accepted. Application fees are not refundable.

ADDRESS BLOCK - Information must be **TYPED or PRINTED.** Only 5 lines of address are allowed. The manner in which this information is placed on the application is the way your Certificate of Registration will read. Please use the street address of proposed business location (DO NOT USE P.O. BOX).

Practitioner: Line 1 - Last Name, First Name, Middle Initial, Medical Degree
Lines 2, 3, 4 and 5 - Street Address, City, State and ZIP Code

Retail Pharmacy - Hospital - Teaching Institution:

Line 1 - Name of Business or Institution
Lines 2, 3, 4 and 5 - Street Address, City, State and ZIP Code

Item 1. Business Activity - Check only one.

Retail Pharmacy: Name of pharmacy must appear in address block.

Hospital: Applicants applying for Hospital registration should chack with local State licensing authority to be sure they meet State requirements for that activity.

Practitioner: Please furnish medical degree in the space provided, next to practitioner business activity, e.g., DDS, DO, DVM, MD, etc.

Teaching Institution: Registration as a Teaching Institution authorizes purchase and possession of controlled substances for instructional purposes only. Practitioners, teaching institutions or individuals within teaching institutions desiring to conduct research with any Schedule I substance, must obtain a "Researcher" registration by submitting Form DEA-225 with applicable fee.

Item 2. Schedules - Check schedules of controlled substance you intend to handle (See Reverse side of this sheet).

Item 3. Order Forms - Check only if you intend to purchase or transfer Schedule II substances. The order form books will be issued to you upon issuance of your DEA registration number.

Item 4. State License and Signature — Federal Registration (DEA) is based upon the applicant being in compliance with applicable State and local laws. Applicants should contact the local State licensing authority prior to completing this application form. If your state requires a separate controlled substance license, please provide the number. If State licensing authority is not required, check N/A. If you have applied for State license and it has not been issued, check "Pending". Questions 4(a), (b) and (c) must be answered. If questions (b) or (c) are answered "Yes", include a statement setting forth the circumstances using the space provided on the Reverse of the application form.

Item 5. Exempt Official - Check only if your DEA registration will be affiliated with Federal, State or local government. The address on the application must be that of the affiliated Federal, State or local government. The application fee will not be required. The signature and title of your supervisor must appear on the application. You cannot exempt yourself from payment of the application fee.

MAIL ORIGINAL & 2ND COPY WITH $ 60.00 FEE TO:

Drug Enforcement Administration
Central Station
P.O. Box 28083
Washington, D.C. 20038 - 8083

NOTE: Once your DEA registration is issued a renewal application is automatically issued to you 45 days prior to your expiration date.

Title 21, United States Code, Section 827(g) requires all registrants to report any changes of professional or business address to the DEA. Notification of address changes must be made in writing to the DEA office which has jurisdiction for your registered location. (SEE REVERSE SIDE OF COPY 3 OF THE APPLICATION FORM FOR A LIST OF DEA OFFICES AND ADDRESSES).

● **RETAIN 3RD COPY FOR YOUR RECORDS** ●

EXHIBIT 1
DATE 3-3-95
HB 169

SCHEDULES OF CONTROLLED SUBSTANCES

The narcotic, depressant, stimulant and hallucinogenic drugs that are covered by the Controlled Substances Act are listed in one of five Schedules. Examples of substances in each are listed below by generic or common name and in some instances by a common trade name in parenthesis.

SCHEDULE I

Schedule I substances have no accepted medical use in the United States and have a high abuse potential. Examples include fenethylline, heroin, LAAM, LSD, marihuana, MDMA, mescaline, methaqualone and peyote.

SCHEDULE II

Schedule II drugs have a high abuse potential with severe psychic or physical dependence liability and in general, are substances that have therapeutic utility. Schedule II narcotics include morphine, codeine, fentanyl (Innovar and Sublimaze), hydromorphone (Dilaudid), levorphanol (Levo-Dromoran), meperidine (Demerol), methadone (Dolophine), oxycodone (Percodan), oxymorphone (Numorphan), opium, anileridine (Leritine) and the veterinary products etorphine hydrochloride (M 99) and diprenorphine (M50-50). Schedule II non-narcotics include amphetamine (Dexedrine), methamphetamine (Desoxyn), methylphenidate (Ritalin), phenmetrazine (Preludin), amobarbital (Amytal), pentobarbital (Nembutal), secobarbital (Seconal), phencyclidine, dronabinol in sesame oil in gelatin capsules (Marinol) and nabilone (Cesamet).

SCHEDULE III

Schedule III drugs have an abuse potential less than those in Schedules I and II. Schedule III narcotics include nalorphine (Nalline) and mixtures of limited specified quantities of codeine, dihydrocodeine, hydrocodone, morphine or opium with non-controlled active ingredients. Non-narcotics include mixtures of amobarbital, pentobarbital or secobarbital with other non-controlled medicinal ingredients; barbiturates not listed in another schedule such as aprobarbital, butabarbital, butalbital, talbutal and thiopental; glutethimide (Doriden), methyprylon (Noludar), benzphetamine (Didrex), phendimetrazine (Plegine), and the tiletamine/zolazepam veterinary combination product (Telazol).

SCHEDULE IV

Schedule IV drugs have an abuse potential less than those listed in Schedule III. Dosage forms of the narcotic dextropropoxyphene are in Schedule IV as are all forms of pentazocine (Talwin), marketed benzodiazepines including alprazolam (Xanax), chlordiazepoxide (Librium), clonazepam (Klonopin), clorazepate (Tranxene diazepam (Valium), flurazepam (Dalmane), halazepam (Paxipam), lorazepam (Ativan), midazolam (Versed), oxazepam (Serax), prazepam (Centrax), quazepam (Dormali temazepam (Restoril) and triazolam (Halcion); long acti barbiturates barbital, mephobarbital and phenobarbital; the ultra-short barbiturate methohexital (Brevital); other depressants including chloral hydrate, ethchlorvy (Placidyl), ethinamate (Valmid), meprobamate (Miltown), and paraldehyde; and the appetite suppressants diethylpropion (Tenuate), fenfluramine (Pondimin), mazindol (Sanorex) and phentermine (Ionamin); and pemoline (Cylert).

SCHEDULE V

The drugs in this schedule have an abuse potential less than those listed in Schedule IV. Buprenorphine (Buprenex) is a Schedule V narcotic as are antidiarrheal and cough suppressant preparations which contain limited specified quantities of codeine, dihydrocodeine, diphenoxylate (Lomotil), ethylmorphine or opium.

A complete listing of drugs controlled under the CSA may be found in Title 21, Code of Federal Regulations, Part 1300 to END, Sections 1308.11 through 1308.15. This publication may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

EXHIBIT 7
DATE 3-3-95
HB 169

D Harman
10-19-2

DEPARTMENT OF COMMERCE
PUBLIC SAFETY DIVISION

STAN STEPHENS, GOVERNOR

111 N. JACKSON

STATE OF MONTANA

HELENA, MONTANA 59620-0407

October 2, 1992

Dr. James R. Hill, M.D.
P.O. Box 1419
Bonners Ferry, ID 83805

RE: MONTANA BOARD OF PHARMACY CONTROLLED SUBSTANCE STATUTES

Dear Dr. Hill:

Your letter of September 21, 1992, to the Montana Board of Pharmacy has been referred to me, as legal counsel for the Board, for a response.

Your letter stated you believed the State of Montana is no longer honoring prescriptions from physicians not licensed in Montana. You further stated you felt this was an "onerous regulation," and that you did not wish to obtain a Montana license when you reside in Idaho, but treat patients from Montana.

The particular statutory sections which concern controlled substances for Montana are found at Title 50, Chapter 32, Montana Code Annotated (MCA). These statutes have been promulgated by the Montana Legislature, and have been in place since approximately 1974. No recent amendments or additions have caused a change in practice for Montana pharmacists, as you seem to believe.

Section 50-32-101 (23) MCA specifically states:

> "Practitioner" means:
> (a) a physician,...licensed, registered, or otherwise permitted to distribute, dispense or conduct research with respect to or to administer a dangerous drug in the course of professional practice or research in this state.

Section 50-32-208, MCA, goes on to state that no drugs specified in the statute may be dispensed without the prescription of a practitioner. Practitioner includes only those physicians and others licensed in Montana, as set forth above.

Since statutes are legislatively created, the Montana Board of Pharmacy has no authority to change them, nor to fail to enforce them as written.

The Board is not aware of any particular instances or complaints of Montana pharmacists filling prescriptions from physicians or other persons not licensed in Montana. If such a situation were to be brought to the Board's attention, it would merit review for possible disciplinary action, as it would be a violation of State law.

Your letter requests the Montana Board of Pharmacy to reconsider its requirements. As stated above, the Board cannot change a statute, but must enforce those the Montana Legislature puts in place. If a change is desired, it must be brought before the Legislature

by the persons so desiring the change, for appropriate consideration.

The Montana Board of Pharmacy has recently reminded all Montana pharmacist licensees of this statutory prohibition on filling controlled substance prescriptions from non-Montana licensed physicians. The Board is confident the licensees will comply, as disciplinary action may otherwise result.

Thank you for your input and participation with the Montana Board of Pharmacy. The Board hopes this information will sufficiently address your questions and concerns. Please feel free to contact the Board office if you have any further questions or comments.

Very truly yours,

Carol Grell

Carol Grell
Legal Counsel
Board of Pharmacy

CG/

cc: Warren Amole, R.Ph., Executive Director

SENATE HEALTH & WELFARE
EXHIBIT NO. 8
DATE 3/3/95
BILL NO. SB 410

TESTIMONY
SB 410

SENATE BILL 410 WAS INTRODUCED FOR ONE PURPOSE AND THAT IS TO REDUCE THE BUDGET AND NOT A CRITICISM OF THE STATE PROGRAM.

CONGRESS ENACTED THE "WHOLESOME MEAT INSPECTION PROGRAM" TO ENSURE A CLEAN AND WHOLESOME MEAT PRODUCT. CONGRESS MANDATED THE USDA AS THE VEHICLE TO PROVIDE THIS SERVICE AND MAKE RULES AND REGULATIONS.

THE USDA ALLOWED STATES TO PROVIDE THIS SERVICE, PROVIDED ITS INSPECTIONS ARE EQUAL TO OR BETTER THAN THOSE SET BY THE USDA. THE USDA WOULD SHARE THE COSTS 50/50 WITH THE STATE FOR INSTATE USE ONLY. NO INTERSTATE COMMERCE IS ALLOWED.

THE GOVERNOR'S BUDGET (PAGE C-92), LISTS GENERAL FUND FOR THE BIENNIUM @ $525,458, SPECIAL FUND $12,000 AND USDA FUNDS $537,458, A TOTAL OF $1,074,916. AN AVERAGE COST PER UNIT OF STATE INSPECTED AT MORE THAN $30,000 EACH.

THE OLD ARGUMENT THAT UNITS WOULD HAVE TO BE CLOSED IF STATE INSPECTORS WERE TERMINATED DON'T HOLD TRUE, SINCE STATE INSPECTIONS MUST BE EQUAL TO OR BETTER THAN THE FEDERAL. OTHER THAN THE 12 FTE'S STATE INSPECTORS, I DON'T BELIEVE ANY NEW JOBS HAVE BEEN PROVIDED BY STATE INSPECTIONS.

THIS PROGRAM COULD BE TERMINATED WITH VERY LITTLE INCONVENIENCE TO ANYONE, AS THE USDA WILL HAVE TO HIRE MANY INSPECTORS THAT ARE EMPLOYED BY THE STATE AT THIS TIME.

DR. NORDKE AND DR BEAUMAN ASSURED ME THAT THERE WOULD BE

ADEQUATE SERVICE PROVIDED BY THE USDA, SHOULD WE TERMINATE THE STATE'S PROGRAM. ALSO, THEY ARE INTERESTED IN THE TESTIMONY PERTAINING TO SB 410, BOTH PROPONENTS AND OPPONENTES, AND IF THERE ARE DISCREPANCIES, THEY PLAN TO FOLLOW UP ON SUCH STATEMENTS. I WILL HAVE THE SECRETARY PROVIDE THE MINUTES OF THIS HEARING TO THEM.

I WOULD ASK ANY OF YOU, BOTH OPPONENTS, PROPONENTS, AND COMMITTEE MEMBERS TO GIVE MICHAEL BIRD A CALL AND VISIT WITH HIM. HE IS THE COMPLIANCE OFFICER FOR BOTH STATE AND USDA UNITS UNDER THE INSPECTION PROGRAM. HIS OFFICE NUMBER IS (406) 657-6003; HIS HOME NUMBER IS (406) 628-6944.

DR NORDKE REFERRED ME TO DR. ARCHIBALD PARKS - 301-841-5782, WHO IS THE DIRECTOR OF ANIMAL AND HEALTH SERVICE FOR THE STATE OF MARYLAND. THAT STATE HAD FINANCIAL PROBLEMS AND TERMINATED STATE INSPECTIONS SEVERAL YEARS AGO.

THE PERSON TO TALK WITH IN THE USDA FOR FULL DETAILS IS: LINDA SWACINA, 202-720-3897 FOR WHAT THE DEPARTMENT OF AGRICULTURE WILL DO, SHOULD WE TERMINATE THE INSPECTION PROGRAM.

March 1, 1995

SENATE HEALTH & WELFARE
EXHIBIT NO. 9
DATE 3/3/95
BILL NO. SB 410

February 29, 1995

RE: Senate Bill 410 to Eliminate State Meat Inspection

The Senate Bill #410 which would eliminate state meat inspections is not responsible government. State inspection enables many small processors throughout the state to product Montana made products and they are vital assets to their surrounding communities. If Senate Bill 410 is allowed to pass, many of these small businesses would be in jeopardy. State meat inspection is good for Montana as well as the small family owned and operated business. State inspection has opened doors for new business in Montana. Lets not see them closed.

Thank You,

Ed Ryan
President
Montana Meat Processors Association

L AND L MEATS
KOUNTRY MARKET AND DELI
P. O. BOX 211
MALTA, MONTANA 59538

SENATE HEALTH & WELFARE
EXHIBIT NO. 10
DATE 3/3/95
BILL NO. SB 410

MALTA, MT

FEB 28, 1995

TO WHOM IT MAY CONCERN:

WE are writing this letter in regards to the upcoming issue regarding the discontinuence of the STATE MEAT INSPECTION PROGRAM RE S enate bill # 410. This would be a real letriment to the program now in effect in Montana. It would pose a real hardship to those involved in the inspection program as it now stands.To discontinue the program would be devastating to many, forcing small businesses to close their doors and also put many now St the inspectors out of work, and as we all know Montana can hardly afford this.There are now 155 plants in Montanaright now and only 35 are federal what does this tell you! The program as it is now is working quite well. so why not leave it alone. To quote an old adage"IF IT AIN'T BROKE DON'T FIX IT." PLEASE VOTE AGAINST THIS. As members of the MMPA we urge your support of this letter and as business owners we beg you to consider the effect this would have on the state of MOntana's economy. This program is now 50/50 funded. Thank you very much for your time, see you in Helena.

Sincerly,
Leonard& linda Mingreau
Owners& Operators
L & L MEATS, KOUNTRY MKT & DELI
BOARD MEMBERS MMPA

Leonard Mingreau
Linda Mingreau

SENATE HEALTH & WELFARE
EXHIBIT NO. 11
DATE 3/3/95
BILL NO. SB 410

NAME LINDA MINGUEHL

ADDRESS BOX 211 MALTA

HOME PHONE 654-2722 WORK PHONE 654-2661

REPRESENTING C & L MEATS

APPEARING ON WHICH PROPOSAL? SB 410

DO YOU: SUPPORT _____ OPPOSE X AMEND _____

COMMENTS:

My question to Mr Bermudez is what is the reasoning behind this bill? what does he feel it will accomplish? I feel he owes the Meat industry an explanation And my closing comment is why was this not presented to the Ag committee where it belongs

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

SENATE HEALTH & WELFARE
EXHIBIT NO 12
DATE 3/3/95
BILL NO SB 410

March 2, 1995

In Reference to S.B. 410

Dear Committee:

I am opposed to S.B. 410. It would undo a lot of good that the State Meat Inspection does for the State. I was on the MT Beef Council at the this program was put into place. It has done what it was set up to do, Value Added, within our state. Why do we want to close down small shops and have to send our product out of state to be processed. A lot of work went into getting this program into line and working and I hate to see that work and the good these small shops go by the wayside.

State meat inspection is costing very little to the tax payer as it operated by user fees. I also understand that it is one of the few departments that stay within its budget. Please Kill S,B, 410 as it is not in the good of the people of our large state of MT. We need the employment these shops provide the the state and also the services to the public.

Thank you,

Vicki Olson

Vicki Olson
Box 1623
Malta, MT 59538

SENATE
EXHIBIT NO. 13
DATE 3/3/95
BILL NO. SB 410

To concerned legislators regarding Senate bill 410

I am against dropping inspection for state plants. I currently own a business that is part state inspection and part federal inspection. I see the differences in the two programs every day. The federal program is aimed at the real big plants. All regulations and actions of the agency are are geared toward big business and the bureaucracy that always comes with anything the federal government does. The state program is more hands on, and you feel like there here to try and help your business not put you out of business which is what the feds make you feel like. In this state there is no big processing or slaughter plants. this is a state of small plants that if the state inspection program is dropped a lot of these plants will ether have to close or operate as custom exempt plants. A custom exempt plant does not hardly have any inspection, which would lead to more product handled without any inspection. Please vote against Senate Bill 410

Vandevanter Meats Inc.
180 Trap Road
Columbia Falls, MT 59912
406-892-5643

Ron Vandevanter
Owner, President

DATE 3/3/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: HJ 4, HB 121, HB 169, SB 410

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Michael J McGinley	Beaverhead Meats	SB 410		X
MAC-ZETTA-CARELLI	C & C Meats	SB 410		X
Herbert Winsor	Self (Veteran)	HJ 4	X	
John Sloan	Veterans	HJ 4	X	
Herb Ballou	M.O.P.H.	HJ 4	—	
T.S LAURENS	STAMPEDE PACK WHITEFISH CUSTOM	SB 410		X
Dick Baumberger	DAV	HJR 4	✓	
Judy van der Hagen		SB 410	✓	
Scott DeMars	MPMA	HB121	✓	
Bill Wells	Self	SB 410		X
Loren Rogers DPM	~~HB 121~~ Self Montana Podiatric Med. Assn	HB121	✓	
Sue Weingartner		HB121	✓	
JOHN BEIGHLE	MONTANA PODIATRIC ASSOC.	HB 121	✓	
D.A. Wallace DPM	SELF	HB121	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/3/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: HJ 4, HB 121, HB 169, SB 410

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Name	Representing	Bill No.	Check One: Support	Check One: Oppose
TED ROTTENBUR	Roberts Packing	410		X
Jim Clough	Montana Podiatric Med. Assn	121	X	
Jean K. Johnson	See rEW	410		X
Joe Brand	rEW	HJ4	X	
PETER A. FREUND	MT Podiatry	121	X	
John Bloomquist	Mt. Stockgrowers	410		X
Cork Mortensen	Board of Livestock	410		X
Scott ORR	HD 82	169	X	
M Leon Good	Podiatrists	121	X	
Doug Hendrickson Assoc	Pharmacist	169	X	
Nancy McLaughlin	Nancy's Family Shop	410		X
Jim Elliott	HD 72	169	X	
KENNINE L JOHNSON	OPI	410		
Ted Lange	NPRL	410		X

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SENATE COMMITTEE ON Public Health

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Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Jess Graham	MT Farm Bureau MT Farm Union	410		✓
" "	MT. Dairymen ASSN MT. Dairy Foods ASSN			
Bob Bachini	Country Classic Dairies INC Darigold	410		✓

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SENATE COMMITTEE ON Public Health

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Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Jim Smith	Mt. Rt Assoc	169	X	
Greg Tierney		HB 121		X
Lea Gonsuch		HB 121		X
Keith Bertram		HB 121		X
Jim Seifert	Pharmacist	169	X	
Marcella Barnhill	Pharmacist	169	X	
Bill Bloemendaal		HB 121		X
Glenn Restvedt	Retail Meat Business	SB 410		X
Wayne A. Hedman	Pharmacist	169	X	
Jerry Dolson	2-J's Meat & Sausage	SB 410		X
Linda Mungeam	C&L MEATS	SB 410		X
Leonard Mungeam	C&L MEATS	SB 410		X
Thomas R. McCay	C & C MEATS	SB 410		X
Lyle Hoppel	Hoppel's Clean-Cut Meats	SB 410		X

VISITOR REGISTER

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REGISTER.F10