

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By **CHAIRMAN JIM BURNETT**, on March 13, 1995, at 3:15 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. Mike Sprague (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Terry Klampe (D)

Members Excused: Sen. Arnie A. Mohl (R)

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: HB 539, HB 504, HB 557
Executive Action: None

{Tape: 1; Side: 1}

HEARING ON HB 539

Opening Statement by Sponsor:

REP. LOREN SOFT, HD 12, Billings, passed out a technical amendment to HB 539 requested by the Department of Revenue.
EXHIBIT 1. He read the current youth access to tobacco products statute (16-11-305). He said a person who violates the statute may be punished by a civil penalty of \$100.00, a second violation within one year is a civil penalty of \$200.00, a third violation is a civil penalty of \$300.00 if 2 violations occurred in the 2-year period prior to the violation, a fourth violation is a civil penalty of \$500.00 if 3 or more violations occurred within the 2-year period prior to the violation. He said this has not been enforced anytime in the last 2 years since it was instituted because it was a good bill, but had not teeth for enforcement.

He said there are 434,000 annual deaths from smoking which are more deaths than those from alcohol, car accidents, fires, AIDS, drugs, suicides, homicides, etc. 75% of those who use tobacco start using before age 18. The National Institute on Drug Abuse states tobacco is a gateway drug for illicit drug use. Each year, more than 1 million young people will begin smoking. Three million under 18 years of age will consume 947 million packs of cigarettes and 56 million containers of smokeless tobacco, which amounts to \$1.26 billion in illegal tobacco product sales annually to kids. Because of the Federal mandate, all states ban the sale of tobacco products to minors, but it isn't working.

He said this is a health care bill and quoted some figures from the Department of SRS. In 1993, the cost to Medicaid in Montana was over \$10 million for smoking-related illnesses for all ages. HB 539 is an education and compliance bill, which includes community involvement and empowerment. Because kids are involved, there is positive peer model input into the process. The Montana Teen Institute was established to develop tomorrow's leaders who wanted to help stop minors from getting involved in tobacco and other drugs.

He said this is a companion bill to HB 457, and described the parts of HB 539, what the bill will do, and the amendment.

Proponents' Testimony:

Rick Bender, Roundup, said 6 years ago he was diagnosed with oral cancer because of his use of smokeless tobacco. He started using it at age 12, and used it for 14 years before the diagnosis of cancer. He said he fell victim of and believed all of the advertising by sports celebrities, and at that time, it was not illegal to sell tobacco products to anyone under 18 years of age. Had there been a law at that time, he may not have started using tobacco products. He said the medical expenses for his cancer treatment was \$107,000, driving him to bankruptcy. He lost his house and a lot of the toys he had accumulated. He told of emotional problems his family has gone through during this time. He strongly supports the passage of HB 539 and getting teens involved.

Jennifer Brannon, Leader of Helena High School MTI, spoke from her written testimony. **EXHIBIT 2**. She quoted some of the figures from a survey her group had conducted in Helena regarding the purchase of tobacco products by children under 18 years of age. She showed how many packs of cigarettes her group was able to easily purchase in Helena.

Tim Solomon, Sheriff, Hill County, said the current law is not effective because the lack of enforcement and funding for officers to enforce the law. He spoke in favor of HB 539 because teens will be helping with the enforcement and the Department of Corrections has offered help.

Nancy Walker spoke with an Artificial Larynx (a mechanical voice amplifier) saying at age 8 she tried cigarettes for the first

time, fooled around with cigarettes at age 13, and was smoking in earnest at age 16. Her entire family smokes. In 1989, she was diagnosed with oral, vocal cord and neck cancer, and had to have her vocal cords removed in an 8-hour surgery. Both her father and grandfather died of cancer, her mother died of stroke related to addiction, and she lost her fiancé to a smoking-related death. She said she can't do anything about those who have passed away or anything for herself, but she wants to help young people by speaking to groups about the life-threatening dangers of smoking. She has a 16-year old son who smokes, and has had no trouble buying cigarettes in Great Falls. She urged passage of HB 539.

Gina Buss, Skyview High School, Billings, said students shouldn't be able to smoke and they pass the fumes onto non-smoking students. In the survey she did, 75% of the cigarettes she tried to purchase were sold to her.

Christy Young, Program Coordinator and Youth Advisor, Health Committee, a Havre-based prevention organization, said they support HB 539. The group did a survey in Havre and their purchase rate for cigarettes was 50% from stores and 100% from vending machines. They were 13 and 15-year olds, not 17-year olds who did the purchasing.

Barbara Booher, representing the Montana Nurses Association, said the Association fully supports HB 539 and urged its passage.

Beta Lovitt, representing the Montana Medical Association, spoke briefly in support of HB 539. She said this is an important health care bill and urged its passage.

Evangelina Duke, Billings, said she is 10 years old and in the 6th grade. She said she is not impressed by those who smoke and those who think they will fit in if they smoke are wrong. It is not necessary to smoke or take drugs to be popular.

Holly Cummings, Missoula, said she works with Missoula merchants in tobacco and alcohol sale training, and they would like to be educated about tobacco sale laws before any fines are imposed. She urged the passage of HB 539.

Rachael Long, Helena High School, related some personal experiences with family members who smoke. She said she has asthma and can't visit her grandmother because she smokes. She urged the Committee's support of the bill.

Brenda Shalman, MTI Advisor, Skyview High School, Billings, said read her written testimony in support HB 539. **EXHIBIT 3.**

Charles Brooks, representing Bill Stevens and the Montana Food Distributors Association, said he is a former chief operating officer of 5 large retail stores in the State. He has not used tobacco since he was a youth. He said the retailers are concerned about the ease with which teenagers are able to purchase tobacco

products, and before there were laws restricting tobacco sales to minors, he had very strict rules for his stores about the sales because he felt very strongly about the issue. He said HB 539 is an appropriate approach to this problem, and the statistics given show there is a major problem. He said they support the amendment to place a penalty on the clerk who sells tobacco to youth, and they support the bill as amended. **EXHIBIT 4.**

Mary McCue, representing the Montana Dental Association, said tobacco use is a significant issue for the Dental Association. They support HB 539 and always will support legislation regarding the education of people about tobacco addiction.

Kerry Campbell, American Lung Association, spoke in support of HB 539. She said she had seen 2 teens purchase tobacco products in Helena, and when she questioned the clerk, the clerk said the law against tobacco sales is stupid and if he didn't sell it to them, they would go elsewhere and buy it. She said merchants need to be educated about the law and assure that clerks do not sell tobacco products to youth under 18 years of age.

John McCray, American Lung Association, said they support HB 539.

Mamie Flinn, Director, Montana Communities in Action, a State-wide non-profit organization, said their organization assists communities in developing programs aimed at reducing high risk youth behaviors, such as tobacco use. They strongly support this Legislation.

Marsha Armstrong, Department of Corrections and Human Services, said they support HB 539. They encourage prevention and see HB 539 as a prevention component. **EXHIBIT 4.**

Charlotte Maharg, Supervisor, Business Tax area, Department of Revenue, said they support HB 539 with the amendments because it provides a defined mechanism for lines of responsibility to enforce the law. She said the current law is unclear and is practically unenforceable.

Jenny Watson, a Helena High School Junior, said HB 539 needs to be passed for her generation and future generations. She said it is easy for youth to purchase tobacco products.

Steve Yeakel, representing Montana Council Maternal and Child Health, said HB 539 is a big part of the Montana Children's agenda and strongly support its passage.

Robert Watson, a Helena High school Sophomore, said he is in favor of HB 539. He spoke of the health risks of using tobacco products.

Stephanie Quayle, Bozeman High School Freshman, said she has seen her friends easily buy tobacco products, and supports the passage of HB 539.

Bill Devine, Community and Program Coordinator, Center for Adolescent Development, said it provides the technical training for the Montana Teen Institute and Teens in Partnership. He said there are thousands of Montana youth who support the passage of HB 539.

Mona Jamison, representing American Lung Association of Montana, said this bill has nothing to do with adults exercising their choice to smoke if they so choose, but is only addressing minors, under 18 years of age. They support the amendment offered. She said the Tobacco Institute and Phillip Morris (**EXHIBIT 5**) fully support this bill as amended and urged the Committee's support. She said the existing enforcement mechanism, which relies on prosecution by the County Attorney, does not work. This bill puts in place an enforcement mechanism that is more realistic and emphasizes education, both to the owner of the establishment and the clerk who sells the product. The owner has a number of chances to understand the nature of the statute, what the violations are, and the importance of compliance. They believe the amendments will give a realistic statute and enable the law currently on the books to actually work. **EXHIBIT 6.**

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR MOHL asked how it can be controlled where teenagers may be selling tobacco products in retail establishments.

Mona Jamison said the amendment imposes a \$25.00 fee against the clerk who sold tobacco products to anyone under 18 years of age, regardless the age of the clerk. With this, the owner of the store is not the only who bears the responsibility.

SENATOR MOHL asked if teenagers will be allowed to sell tobacco products.

Mona Jamison said yes. That way there would be no interference with business practices if the age of the seller is not mandated.

SENATOR BENEDICT asked for clarification of which amendment is being referred to, the long (**EXHIBIT 6**) which has been accepted by the Sponsor and others, or the short amendment (**EXHIBIT 1**), and if the long amendment is not passed then the short amendment needs to be passed.

Mona Jamison said the long amendment takes place of the short amendment.

SENATOR SPRAGUE said he has a problem with the bill because it doesn't penalize the student for trying to buy tobacco products. In the past when a minor was caught buying alcohol or tobacco products they were punished, but now buying seems to be everyone else's problem why a child bought the cigarettes, or is tempting

the law or his masculinity. Why doesn't this bill address the child who is defying the law.

REP. SOFT said they wanted to focus on the education and health aspects. Even though the minor is in violation of the law, they wanted to hold the deterrence on the purchase of the product, and let the store owners know what violations of the law entails.

SENATOR SPRAGUE said, as he reads the bill, it's a cumulative effort on the store. Assuming the store owner isn't in the store 24 hours a day, then he has to delegate responsibility to the employees. He asked if this is a cumulative amount of citations, and if a store that has been in business for a short time is better off than one that has been in business a long time.

REP. SOFT deferred to **Mona Jamison**, and that was one of the reasons for the amendment to assess the clerk for illegally selling tobacco products. The clerk is assessed \$25.00, but it also sends a message to the store owner to talk with the clerk about the violation of the law.

Mona Jamison referred to page 3, lines 8 and 9. They added a section that specifically addresses this concern. Two years from the first violation, if there are no further violations, then a violation at that point is considered a first. She referred to another bill that was on 3rd reading which addresses the possession of tobacco products by minors.

SENATOR SPRAGUE said laws have been on the books that minors could not buy cigarettes and law enforcement says the law is not enforceable, and asked if it will be more enforceable now because income is generated.

Tim Solomon said many laws are not enforceable, mostly due to a lack of manpower. Law enforcement probably looked at this as a minor offence and is not high on the list as an emergency.

SENATOR SPRAGUE said no one encourages or condones smoking, but businesses are so busy covering their rears, and delegating that responsibility to someone else. He asked if this was a situation where an employer is always accessible as opposed to chasing a criminal who is hard to get, and if this is the proper way to do this.

Tim Solomon said he thinks it is. He said law enforcement is not always present when alcohol or tobacco products are purchased, and they don't want to run a sting operation against stores as have been done with alcohol purchases by minors.

SENATOR KLAMPE asked **Jennifer Brannon** if she testified she was in a group of students who tried to purchase cigarettes, and how many times did they go, how many times did they get the cigarettes, and how old is she.

Jennifer Brannon said went to 8 stores and was able to purchase cigarettes, another student, who is a freshman, went one time and was able to purchase cigarettes. She said she is 17 years old.

SENATOR MOHL asked about the amounts of fines, and why will the law be more enforceable now than before.

Tim Solomon said it will be more enforceable because there's a different group helping law enforcement. There have been many volunteers and teens willing to help, and the Department of Corrections has offered help with paper work. He said there aren't enough law enforcement officers to enforce this law by themselves.

SENATOR ECK asked about 100% availability of cigarettes from vending machines and how is this issue to be addressed.

Mona Jamison said there is a section in the Youth Access law not being amended which makes it clear vending machines have to be under the visual sight of the cash register or where a person selling is located. The license that would be suspended for 3 months on the 6th violation and 1 year on the 7th is the cigarette license, but is not the license to do business. She referred to page 1 of HB 539, line 19.

SENATOR SPRAGUE said that is reassuring.

{Tape: 1; Side: 2}

Closing by Sponsor:

REP. SOFT thanked the students who came from Missoula, Havre, Bozeman, Billings and Helena to speak for HB 539. He said this is an education, compliance, and health bill and asked the Committee to give the students a chance for this plan to work.

HEARING ON HB 557

Opening Statement by Sponsor:

REP. JON ELLINGSON, HD 65, Missoula, said HB 557 is a modest regulatory measure to allow the Department of Health and Environmental Sciences and local boards of health to establish regulations for sanitation in the practice of tattooing, which most other states already have. Montana is one of the few states that does not have such rules. He said this is a public health bill and addresses only public health issues.

The tattooing industry supports this Legislation because they realize in the absence of regulation there is serious public health risk, and this risk can tarnish the reputation of the tattooing industry. The public health issue, in the absence of regulations, is the spread of communicable diseases, particularly hepatitis and HIV. He discussed portions of page 2 and 4 of the

bill, saying the Department of Health and Environmental Sciences will be allowed to adopt and enforce minimum sanitation requirements for tattooing, and allows local Boards to provide for the regulation, as necessary, the practice of tattooing.

Proponents' Testimony:

Beta Lovitt, representing the Montana Medical Association, said this legislation is overdue because it is a situation that raises concerns about public health and safety. She said other professions where needles puncture the skin are bound by regulations that control their sanitation, with safeguards in place to guarantee there is no health risk. She urged the Committee's support of this bill.

John Halseth, Physician, Public Health Officer, Great Falls and Cascade County, said some problems had occurred in Cascade County because there is no control over tattoo parlors. He said people who are tattooed risk being inoculated with hepatitis B, other hepatitis sub species, and HIV. He said he supports the bill and amendments.

Maureen Cleary Schwinden said she is the mother of a 16-year old boy who is determined to get a tattoo and is concerned about the health aspects of tattooing. She said she had talked with the operators of several tattoo parlors in Helena, and was surprised there were no regulations for sanitation for these businesses.

Robert J. Rosini, Bozeman, said he has been tattooing for 42 years, and is associated with the Alliance of Tattoo Artists, which was started with the help of OSHA to control what HB 557 is trying to do. He passed out a packet of information. **EXHIBIT 7.** and talked about the information presented.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR MOHL referring to page 4, he asked why the license requirement was taken out of the bill.

REP. ELLINGSON said the licensing requirement was removed by the Business and Labor Committee because they didn't think it was appropriate for local Boards to be in the business of going through the formal license procedure for the local tattoo artists. They thought registration of the artists was sufficient.

SENATOR MOHL said he thinks licensing should be included to help recover some of the funding necessary to inspect these businesses and there would be better control. He said if businesses do not comply, they would lose their license, which would be the control measure. He asked **REP. ELLINGSON** if he would object to licensing.

REP. ELLINGSON said he objects to the licensing being included because there are questions to be answered. If there is licensing, should it be by state or local boards, and if by the state, then would a Board of Tatoo Artists need to be created to establish licensing standards.

SENATOR KLAMPE asked what OSHA's involvement at the present time.

REP. ELLINGSON deferred to Robert Rosini who said they are pushing for world-wide sterilization requirements.

Dr. John Halseth said he wants to make sure that places that puncture the skin are doing a proper job of sterilization, tattooing is a potential source for the spread of communicable disease, and he would like to prevent that.

SENATOR BURNETT asked if regulation by the State Board of Health or the County Health Officer be sufficient.

Dr. Halseth said the State Board of Health would be in control and would instruct the local board of health to enforce.

Closing by Sponsor:

REP. ELLINGSON said this bill provides some modest regulatory control over the practice of tattooing. This is an important public health issue and Montana should not wait until there is an identifiable outbreak of hepatitis, HIV or other communicable disease that is traceable to one particular tatoo artist before imposing some sanitary regulations on this industry. He urged the Committee's favorable consideration of HB 557.

HEARING ON HB 504

Opening Statement by Sponsor:

REP. JOHN COBB, HD 50, Augusta, said HB 504 governs the Department of SRS and Department of Labor to adopt rules for Personal Assistants. He read the Statement of Intent regarding the employment of a Personal Assistant and Plan of Care. He referred to the Fiscal Note saying only 30-50 people could participate in this self-directed program. EXHIBIT 8.

Proponents' Testimony:

Barbara Larson, representing Coalition of Montanans Concerned with Disabilities, handed out copies of the amendments and some information about the bill. EXHIBIT 9 She read her written testimony in support of HB 504. EXHIBIT 10. She distributed arguments prepared for REP. COBB to clarify some issues that were raised before House Health Committee. EXHIBIT 11.

Mike Mayer, Missoula, spoke from his written testimony in support of HB 504. **EXHIBIT 12.**

Melissa Case read testimony from Kathy Babel from Glendive. **EXHIBIT 13.**

Shari Anderson, Montana Advocacy Program, said they support HB 504. She presented written testimony. **EXHIBIT 14.**

Nancy Ellery, Administrator, Medicaid Services Division, SRS, presented copies of her written testimony. **EXHIBIT 15.** She said they support this bill with the amendments.

Russ Cater, Chief Legal Counsel, Department of SRS, discussed the amendments. He said it is not the intent of this bill for the disabled person to be labeled as an employer, but the Personal Assistant would be the employee of another program or another contractor. The amendments clarify this issue. He said the Department has had a Personal Care component of its Medicaid program for several years, but 7-8 years ago, the Department began having problems with the way these Personal Assistants were treated for purposes of the wage laws. Some Personal Assistants thought they should be employees of SRS, but it was never the intent of the Department to employ Personal Assistants.

Opponents' Testimony:

Barbara Booher, Executive Director, Montana Nurses Association, said the Nurses Association has concern for the safety of the client directing nursing care by the Personal Assistant. They support patient self-determination to the extent possible. She said the questions they had regarding the employment status have been addressed by SRS in the amendments and the Association does not now oppose HB 504, but wants to monitor or take a neutral position on the bill.

Questions From Committee Members and Responses:

SENATOR KLAMPE asked about the reference to the Plan of Care approved by a physician, contained in the Statement of Intent, and where it appears in the bill.

REP. COBB deferred to **Barbara Larson** who referred to page 3, line 23, and page 4, lines 2-5.

SENATOR KLAMPE said when referring to the Health care professionals, a medical social worker is included in the list. He asked if a medical social worker was capable of developing a plan of care.

Barbara Larson said as stated in the definition, it is a medical social worker who works as a member of the case management team for purposes of home and community-based services. The case

management team is made up of a social worker and a Registered Nurse, both of whom may assess the client's needs.

SENATOR KLAMPE asked if as a member of the team, the social worker can do that.

Barbara Larson said yes.

REP. COBB said a Plan of Care needed to be made and presented to the Committee for approval.

SENATOR FRANKLIN said the teaching aspect should be included in the Plan of Care and asked if there was a program in place called the Self-directed Model.

Mike Mayer said it is in the Westmont program but it really doesn't give a person the control and supervision over the Personal Care Assistant.

SENATOR FRANKLIN asked how the decisions are made to determine who will participate in the self-directed model.

Mike Mayer said that needs to be worked out with the Department.

SENATOR ECK referring to the amendment, she asked about a Personal Assistant being an employee of an entity willing to provide that service, and what the entity is likely to be.

Melissa Case said she is not sure what the intention was and deferred to **Barbara Larson**.

Barbara Larson said it could be any agency which is currently set up to provide temporary employment services, like a home-health agency that may provide direct care.

Closing by Sponsor:


REP. COBB said he likes the amendments and they seem to work out any disagreements at this time.

ADJOURNMENT

Adjournment: 5:10 PM



SENATOR JIM BURNETT, Chairman



KAROLYN SIMPSON, Secretary

JB/ks

MONTANA SENATE
1995 LEGISLATURE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

ROLL CALL

DATE _____

3/13/95

[illegible]

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Amendments to House Bill No. 539
Third Reading Copy

Requested by Rep. Soft
For the Committee on Public Health, Welfare and Safety

Prepared by David S. Niss
March 9, 1995

1. Page 4, lines 4 through 10.
Strike: subsection 6 in its entirety

Renumber: subsequent subsections

March 12, 1995

MY NAME IS BRENDA SCHELM AND I AM THE ADVISOR OF THE SKYVIEW HIGH SCHOOL MTI GROUP AND A LEADER OF THE HEIGHTS ROPERS 4-H CLUB IN BILLINGS MONTANA.

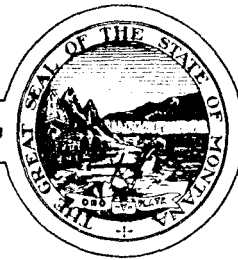
MY MTI GROUP HAS TAKEN PART IN THE TOBACCO SURVEY IN THE BILLINGS COMMUNITY. THE CHILDREN WERE FROM THE AGES OF 14-17 AND WERE ABLE TO PURCHASE TOBACCO PRODUCTS 60% OF THE TIME WHICH IS A VERY HIGH PERCENTAGE. IN ONE PARTICULAR CASE THE CASHIER TOLD THE STUDENT TO COME BACK IN A LITTLE WHILE BECAUSE HER BOSS WAS THERE BUT SHE WOULD SELL TO HIM LATER.

THE PURCHASE OF TOBACCO PRODUCTS NEEDS TO BE MORE CLOSELY MONITORED AND ENFORCED. IT IS A COMMUNITY WIDE PROBLEM AND THEREFORE I THINK WILL TAKE A COMMUNITY WIDE APPROACH TO THE EDUCATION. THIS BILL IS ASKING FOR COMMUNITY INVOLVEMENT AND COMMUNITY EDUCATION. PART OF EDUCATION IS AWARENESS AND I FEEL AT THIS POINT IN TIME MANY OF OUR COMMUNITIES ARE UNAWARE OF THE HIGH USE AND ABUSE OF TOBACCO PRODUCTS. AS AN EDUCATOR IN THE BILLINGS COMMUNITY I HAVE SEEN A STEADY INCREASE OF TOBACCO USE AMONG THE TEENAGE GROUP. WE NEED TO WAKE UP AND TAKE A STAND TO GET THE POINT ACROSS BEFORE THEY GET HOOKED RATHER THAN TREATMENT AFTER THE FACT.

I STRONGLY AGREE WITH THE PASSAGE OF THIS BILL AND ENCOURAGE YOU AS LEGISLATORS TO ALSO SAY YES TO THIS MESSAGE WE ARE TRYING TO SEND TO OUR COMMUNITIES AS WELL AS THE BUSINESSES THAT SERVE US.

DEPARTMENT OF CORRECTIONS
AND HUMAN SERVICES

SENATE HEALTH & WELFARE
BILL NO. 4
DATE 3/13/98
BILL NO. HB 539



MARC RACICOT, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930
FAX: (406) 444-4920

PO BOX 201301
HELENA, MONTANA 59620-1301

The Department of Corrections and the Human Services wholeheartedly supports HB 539.

Tobacco is a gateway drug and if we can prevent youth having access to tobacco we may prevent the early onset of use. Studies have shown that punitive measures alone are not effective with education it is more effective. HB 539 provides education to the merchant and clerks.

This is a federal requirement that we actively participate in random unannounced surveys. This legislation will help us achieve that requirement.

Respectfully Submitted
Marcia Armstrong

SENATE HEALTH & WELFARE

EXHIBIT

5

DATE

3/13/95

BILL NO.

HB 539



**We want you to know
where we stand.**

To open, pull here. 

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Amendments to House Bill No. 539
Third Reading Copy

For the Committee on Public Health, Welfare and Safety

Prepared by David S. Niss
March 10, 1995

1. Page 3, line 9.

Strike: "this section"

Insert: "subsection (2)"

2. Page 3, line 22.

Strike: "this section"

Insert: "subsection (2) and this subsection"

3. Page 3, line 28.

Following: "ASSESSMENT"

Insert: "against the owner of the establishment"

4. Page 4, line 3.

Strike: "SECTION"

Insert: "subsection"

5. Page 4, lines 4 through 10.

Strike: subsection (6) in its entirety

Insert: "(6) In addition to the penalty provided for in subsection (2), a first and subsequent violation of 16-11-305(1) or 16-11-307 is punishable by an assessment of a tobacco education fee of \$25 against the employee who sold the tobacco product if the employee is not the owner of the establishment. The tobacco education fee must be assessed and collected by the department of corrections and human services. Within 30 days of the alleged violation, notice of assessment pursuant to this subsection must be made by the department of corrections and human services by certified letter addressed to the employee. The notice of assessment must provide an opportunity for a hearing pursuant to the provisions of the Montana Administrative Procedure Act. Within 30 days from the date on which the notice of assessment was mailed, the employee shall notify the department of corrections and human services that the employee objects to the assessment and requests a hearing pursuant to this subsection."

EXHIBIT NO 7

DATE 3/13/95

BILL NO HB 557

MEMBERSHIP LEVELS

PATRON-\$20.00

OPEN TO ANYONE WHO SUPPORTS GOALS OF A.P.T.I

SUPPORTING-\$50.00

A COLLECTOR OF TATTOOS
A MEMBER IN AN ACADEMIC RESEARCH FIELD

ASSOCIATE-NONARTIST-\$125.00

CLOSELY ALLIED WITH THE TATTOO COMMUNITY
(PUBLISHERS, PHOTOGRAPHERS, SUPPLIERS, OR,
MANAGERS OF TATTOO STUDIOS)
*PDTT COURSE RECOMMENDED

ASSOCIATE TATTOOIST-\$125.00

CURRENTLY APPRENTICING WITH A PROFESSIONAL
TATTOOIST OR SELF TAUGHT WITH A PROFESSIONAL
SPONSOR
*PDTT COURSE REQUIRED

PROFESSIONAL-\$150.00

FULL TIME OCCUPATION AS A TATTOOIST WITH THREE
(3) YEARS MINIMUM EXPERIENCE IN AN ESTABLISHED
LOCATION
MUST PROVIDE TRADE REFERENCES
MUST PROVIDE BUSINESS REFERENCES
*PDTT COURSE REQUIRED*PDTT-"PREVENTING DISEASE TRANSMISSION IN
TATTOOING" WILL BE PRESENTED IN VARIOUS
LOCATIONS THROUGHOUT THE COUNTRY AT A ONE
TIME FEE OF \$125.00 FOR MEMBERS OF A.P.T AND
\$300.00 TO NON-MEMBERS.OPEN TO THE PROFESSIONAL AND ASSOCIATE
LEVELS ONLY. MEMBERS ARE REQUIRED TO
COMPLETE SEMINAR WITHIN A TWO (2) YEAR PERIOD
AFTER INITIAL APPLICATION.THE PDTT COURSE WAS DESIGNED IN 1988 TO
EDUCATE HEALTH CARE WORKERS (INCLUDING
TATTOOISTS) IN THE PREVENTION OF INFECTION
AND THE IMPLEMENTATION OF PROFESSIONAL
STANDARDS.THE PROGRAM WAS SPECIFICALLY REDESIGNED IN
1991-92 FOR THE NEEDS OF THE TATTOOIST AND IS
THE STANDARD FOR A.P.T. MEMB
SINCE THE 1991 BLOODBORNE PATH
RULE, A.P.T., INC. HAS DESIGNED THIS M
TATTOOISTS.THE ALLIANCE OF PROFESSIONAL TATTOO
IS COMMITTED TO THE PROMOTION C
TATTOOING!FOR MORE INFORMATION ABOUT A.P.T., INC. ASK
YOUR ARTIST FOR AN APPLICATION OR WRITE US:A.P.T. INC.
P.O. BOX 1735
GLEN BURNIE, MD 21060
(410)-768-1963
TAD/FAX 24 HOURSThe original of this document is stored at
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Street, Helena, MT 59620-1201. The phone
number is 444-2694.

COMPLIMENTS OF:

MONTANA STATE DIR
R. Rosini
406.585.0034MAIN OFFICE:
THE ALLIANCE OF PROFESSIONAL
TATTOOISTS, INC.
P.O. BOX 1735
GLEN BURNIE, MD 21060**EVERYTHING YOU
ALWAYS WANTED TO
ASK
BUT WERE AFRAID
TO KNOW****WHO? WHAT? WHERE?
WHEN? WHY?****THE
ALLIANCE OF PROFESSIONAL
TATTOOISTS, INC.****NON PROFIT ORGANIZATION
DESIGNED TO PRESERVE
THE ART OF
TATTOOING
THROUGH EDUCATION
AND
POSITIVE APPROACH****WARNING!!
PLEASE WEAR SUNGLASSES
BEFORE READING-
THE TRUTH
IS LIGHT!**

THE ALLIANCE OF PROFESSIONAL TATTOOISTS, INC. ANSWERS YOUR QUESTIONS ABOUT WHO,WHAT,WHERE,WHEN AND WHY!

WHO IS A.P.T.?

YOU!! The tattooist, your associates and clientele, even your mom can join A.P.T.! Anyone that loves tattoos and the **art of tattooing** is eligible to become a member of our rapidly growing organization. A.P.T. has five categories to choose from, one surely to fit your level of interest and support.(see *inside flap*)

WHAT IS A.P.T.?

The Alliance of Professional Tattooists, Inc. is a **professional standards** organization offering continuing education to artists. We offer accurate and up-to-date information about communicable diseases through our seminars. We are also interested in the **preservation of tattooing as an artform**. We monitor legislative activity to *prevent our art from being over-regulated, controlled or banned*. We believe in keeping in **keeping the art of tattooing safe and legal** through education, knowledge and awareness. We offer reliable information to tattoo lovers about safe tattoo practices to ensure your health!

WHERE IS A.P.T.?

Everywhere! We count members in the United States as well as Canada and Europe. A.P.T. has spread *worldwide* in a very short time.

A.P.T. is an idea whose time has come for interested parties on a global level. Headquartered in Maryland, we service the world of

of our tattooed community. We are now at the point of establishing state chapters in your area with state directors to assist you in helping to promote our goals!

WHEN IS A.P.T.?

NOW! Established in March, 1992 and officially incorporated in June of 1992 as a non-profit organization {*under IRS code-sec. 501 c-6*} your contributions, fees and educational materials are **tax deductible!**

WHY IS A.P.T.?

The Alliance of Professional Tattooists, Inc. was established to preserve our **rights to continue to create art albeit** in a safe manner.

With the widespread misconceptions about tattooing and HIV/HBV transmission it was necessary to create an organization whose purpose is to educate not only tattooists, but the general public as well and **dispel myths and rumors** that are *perceived* as fact.

Our success has been phenomenal and continues to grow as word spreads of our activities in helping **artists to continue in their work through knowledge, education and activism**.

The Alliance of Professional Tattooists, Inc. does **not** initiate legislation. We believe that **education is the key for success** in a *self regulating* industry whose artists are **competent professionals** that believe in the achievement of goals for **self growth and prosperity**

The Alliance of Professional Tattooists, Inc. is an active organization that does not accept fees or grants from government agencies. We are self supporting through our membership, seminars

and contributions from within our communities.

The Alliance of Professional Tattooists, Inc. is blind in regard to sex, age, race, creed, level of ability or studio affiliation.

Our advisors include *medical, legal and financial* professionals who have pledged to facilitate our goals by providing vast resource materials available to our membership.



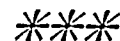
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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0504 as introduced

ENRIT NO. 8

DATE 3/13/95

BILL NO. HB 504

DESCRIPTION OF PROPOSED LEGISLATION:

A bill requiring the Department of Social and Rehabilitation Services (SRS) and the Department of Labor and Industry (DOLI) to adopt rules governing the use of a personal assistant by a person with a disability.

ASSUMPTIONS:


1. There are currently 30 persons who participate in the Montana Medicaid self-directed personal assistant program. Of these individuals, 30% (9) have three visits per week and 10% (3) have one visit per month. The remaining 60% do not require skilled nursing intervention and would not be affected by this legislation. This service is estimated to cost \$67.51 per visit.
2. According to WestMont, it is estimated that this legislation would increase the number of persons participating in the self-directed program to 50.
3. For the purposes of this fiscal note, it is assumed that the number of visits would increase to 40% (20) receiving three visits per week and 20% (10) receiving one service per month.
4. The functions now performed by a Registered Nurse will be performed by a personal care attendant. This cost is estimated at \$11.03 per hour. Each visit requires one hour.
5. In summary, currently there are 1,440 visits per year at \$67.51 a visit, or a Medicaid annual cost of \$97,200. In the 1997 biennium, there will be 3,240 visits per year at \$11.03 a visit, or \$35,700 annual cost, with a cost savings of \$61,500 a year. And the federal government will share in approximately 70% of the program cost.

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
SRS cost savings:		
Benefits	(61,500)	(61,500)

Funding:

General Fund (01)	(18,600)	(19,100)
Federal special revenue (03)	(42,900)	(42,400)
Total	(61,500)	(61,500)

 2-15-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOHN COBB, PRIMARY SPONSOR DATE

Fiscal Note for HB0504, as introduced

HB 504

EXHIBIT NO. 9
DATE 3/13/95
BILL NO. HB 504

Amendment to House Bill #504

1. Page 1, line 15.

Following: "disability"

Insert: ", or an immediately involved representative, such as a parent or guardian,"

Page 1, line 17.

Following: "as"

Insert: "though the person was"

Following: "employer"

Insert: ", for the purpose of selection, management and supervision"

Page 1, lines 17 and 18.

Following: "assistant" on line 17

Strike: "in making the decisions of who to employ, terms of employment, length of employment, and other matters."

Page 1, line 18.

Following: "matters."

Insert: ", although the personal assistant is the employee of another."

Page 1, line 19.

Following: "as"

Strike: "an"

Insert: "though that person was the"

Page 1, line 27.

Following: "disability"

Insert: ", or an immediately involved person, such as a parent or guardian,"

Page 1, line 28.

Following: "as"

Strike: "an"

Insert: "though the person was the"

Following: "employer"

Strike: "in the employment"

Insert: ", for the purpose of selection, management and supervision"

Following: "assistant"

Insert: ", although the personal assistant is the employee of another"

2. Page 2.

Following: line 22

Insert: "(3) The department is not required to provide personal care services as part of the medicaid program in a self-directed service model as described in this section unless the personal assistant is an employee of an entity willing to provide the protections guaranteed to workers under existing labor laws, including but not limited to payment of workers' compensation and unemployment insurance premiums.

(4) This section does not prohibit the department from determining the amount, scope and duration of

personal assistant services provided under the Montana medicaid program nor does this section mandate personal assistant services.

(5) Medical and related liability for personal care services provided pursuant to this section rests with the person directing the services."

Page 2.

Strike: line 23 in its entirety

Page 4, lines 11 and 12.

Strike: section 4 in its entirety

-End-



*Coalition of Montanans
Concerned with Disabilities*

P.O. Box 5679
Missoula, MT 59806
(406) 721-0694

SENATE HEALTH & WELFARE
EXHIBIT NO. 10
DATE 3/13/95
BILL NO. HB 504

March 10, 1995

Chairman Jim Burnett
Senate Committee on Public Health, Welfare and Safety
Capitol Station
Helena, MT 59620

RE: House Bill No. 504: Personal Assistance Reform Bill

Dear Chairman Burnett and Members of the Committee:

The intent of this legislation is to make available to people with disabilities who require personal assistance services (PAS) the option of directing their own care through a self directed service model which recognizes the consumer as employer. The bill as amended would also allow a family member or guardian, "immediately involved representative", to assume the responsibility for directing PAS should the individual with the disability not have the capacity to direct his/her own care. Further, this legislation will promote cost savings in the Medicaid-funded personal assistance service program through two primary mechanisms. First, persons participating in the self directed program will not require the oversight, supervision, and control by a medically-oriented provider agency, as is currently practiced in the PAS program administered by West Mont. Lower administrative and nursing intervention costs will provide cost savings. Second, the act will allow personal assistants to perform routine health maintenance activities, judged by a physician or health care professional to be safe for that individual to receive, to be performed by a personal assistant rather than by licensed nurses as required by current state law. Personal assistant wages are considerably lower than those of LPN's or RN's, which translates into additional money saved.

It is important that committee members understand a few key issues in considering this legislation. First, the self directed service model is not designed to meet the needs of all people currently receiving personal assistance services in the state of Montana. It is targeted for those individuals who have the capacity and the desire to direct their own services to do so without the intrusion in their daily life imposed by an outside agency. For these individuals, this legislation opens the door for increased independence, dignity, and freedom from unnecessary bureaucracy and intervention in their day to day lives. On the other hand, it is well recognized that many individuals have neither the skills, nor the desire to participate in a self directed program. This bill would do nothing to

prevent such individuals from receiving the current, more medically-oriented personal assistance services through an agency-based model, as currently seen in the West Mont program.

Second, it is important to understand that the self directed personal assistance model, while not a medical model, does address a fundamental need to insure that the basic health and safety needs of participants are met. Some health care professionals may argue that without ongoing nurse supervision and extensive training of personal assistants that individuals' health will be jeopardized. This is not the case. The major protection against this occurrence lies in the definition of health maintenance activities as defined in the legislation. On page four, lines 14 - 13, the bill clearly spells out that "health maintenance activities" to be performed by personal assistants are those activities in the opinion of the physician or other health care professional for the person with a disability that could be performed by the person if the person were physically capable and if the procedure can be safely performed in the home. Also, on page one in the statement of intent for HB 504, the legislation reads (lines 20 - 23) that before a person with a disability would be allowed to act as an employer, the person must also have a plan of care approved by a physician or health care professional, stating what aspects of the disabled person's care the personal assistant may be assigned. In short, only those health maintenance activities which the health care professional and the consumer agree on which may be safely performed will be included under the tasks which personal assistants may provide.

Third, consumer responsibility is a key concept in a self directed personal assistance service model. The bill as amended would require that, "medical and related liability for personal care services provided pursuant to this section (Sec. 2) rests with the person directing the services." Further, the administrative rules to be adopted by the Department of Social & Rehabilitation Services and the Department of Labor should provide avenues for consumers to receive training in management of personal assistants if the consumer is in need of such support, and should in addition provide for assistance in the training of personal assistants if necessary. Once trained, however, consumers are responsible for ensuring that their personal assistants work as directed and perform to their satisfaction. The consumers, not a provider agency are responsible for ensuring that their needs are met.

Fourth, it should be noted that many other states have established self directed personal assistance programs which recognize the consumer as employer of personal assistants as opposed to an agency-based model. Kansas, South Dakota, California, Oregon, and New York are among the states which have successfully implemented self directed services.

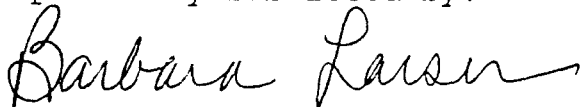
The National Council on Independent Living (NCIL), in its position on personal assistance services, recognizes key features of the model which is being suggested for Montana. The following are quotes from the NCIL position paper.

- * "The PAS users choice, direction and control in selecting, training, scheduling and supervising their personal assistants must be maximized in all management options."
- * "All models must be non-medicalized and community based to the greatest extent possible."
- * "State issues such as medical and nursing practices acts and personal assistants registry acts must be resolved so that health-related tasks such as medication dispensation and injection and catheterization can be performed by unlicensed personal assistants under the direct control and supervision of PAS users when that is the choice."

Further, HB 504 reflects the recommendations for a self directed personal assistance service program which were developed in the fall of 1994 by the Missoula work group established by Montana Department of Social and Rehabilitation Services in order to obtain feedback on reform of Montana's personal assistance service program. Copies of both the working group recommendations and the NCIL position statement of personal assistance services are attached.

In closing, the Coalition of Montanans Concerned with Disabilities urges you to pass HB 504 with amendments as submitted on the attached page. The amendments reflect clarification and "fine tuning" developed in conjunction with the Department of Social and Rehabilitation Service and the Department of Labor and Industry.

Respectfully submitted by:



Barbara Larsen,
Coalition of Montanans Concerned with Disabilities

Feb. 17, 1995

Prepared for Representative Cobb

Re: Arguments for second reading for H.B. 504

Q: Will this bill make every person with a disability responsible for managing thier personal assistant services (PAS)?

A: Self directed PAS is not designed to meet the needs of all people currently receiving PAS in the state of Montana. It is targeted for those individuals who have the desire and capacity to direct their own services to do so without the intrusion in their daily life imposed by an outside medically oriented agency. This bill would not prevent persons from selecting PAS through an agency directed model currently seen in the West Mont program.

Q: Who will make the decision of whether a person could use this model of services, and have tasks done by a non-licensed personal assistant (PA)?

A: In the Statement of Intent, page 1, line 17 through 19 states "before a person with a disability would be allowed to act as an employer, the person must have a plan of care approved by a physician or healthcare professional, stating what aspects of the disabled person's care the personal assistant may be assigned. The act would allow personal assistants (PA) to perform routine health maintenance activities, judged by a physician or health care professional to be safe for that individual to receive, to be performed by the personal assistant rather than by licensed nurses as required by current state law. Refer to page 3, line 30 through line 3 on the top of page 4.

Q: Since these tasks fall under the regulation of the Nurse Practices Act, and require that the person preforming the task to recieve training to do those tasks, how will PA providers be trained to insure that the procedure is being done safely?

A: During the Committee hearing, we heard from persons with disabilities, who stated that during their rehabilitation, they and their family members were taught to do these procedures. Given the nature of disability and the current rules governing Medicaid funded PAS, all persons with disabilities have one on one relationship with their Physician, with a reassessment annually. This Physician can order services such as PAS as well as home health nursing services, occupational therapy, etc., that currently provide training on these procedures in a persons homes as a part of "transition services" for purposes of patient teaching. This bill allows for that mechanism of training and partnership between the "health care professional", the person with the disability, and the PA. ongoing training would be the responsibility of the persons with the disability, either to seek more assistance personally or engage the help of the "health care professional". For the population that this act is intended to serve, these procedures are routine in nature and if a medical intervention were needed, they can arrange for that intervention by seeking out medical services.

Q: How can it be argued that by exempting these PAS when providing these tasks at the direction of a person with a disability, will save money, if the person is put at risk?

A: Only those health maintenance activities which the Physician, health care professional and consumer agree on, which can be safely performed will be included under the tasks that the PA can perform. Personal assistant (PA) wages are considerably lower than those nursing services provided through an agency. The unit rate of PAS is approx. \$11.00 per hour vs. \$60.00 to \$80.00 per visit charged by and nursing service agency.

Q: Who will assume the liability if the PA performs a task wrong?

A: This bill (through amendment) recognizes that the person directing his/her PAS has the liability and responsibility to ensure that their needs are met. Once trained, consumers of PAS are responsible for ensuring that their personal assistants work as directed and performed to their satisfaction.

Q: Was the Board of Nursing involved in developing this bill?

A: Not directly. The group(s) requesting this legislation have sent copies of the bill to the the Board of Nursing, but they have not gotten any direct feed back on the bill. In testimony during the committee hearing, Paul Peterson stated his experience in trying to address issues important to the disabled community through the nursing delegation bill passed last session. His experience was that the Board of Nursing did not return phone calls, taking several calls to receive copies of the rules adopted for delegation of nursing tasks. Comments that were submitted by him were not responded to in that rule making process. It should be noted that during the committee hearing the Board of Nursing provided neutral testimony.

Q: How will this bill improve current PAS being provided in Montana?

A: In the past the turnover of PAs in the current agency directed model has been 400%. This has improved to about 100%. In a self directed model, recognizing the consumer as though they were the employer, the person directing their care would be allowed to personally recruit, interview, select and manage their PA services. This has been proven to increase the longevity in the person retaining the PAS in in their home. Consumer responsibility is a key concept in a self directed PAS model.

Q: Have there been other groups study this method of delivering PAS?

A: The National Council on Independent Living, in it's position on PAS, recognizes key features of the model which is being suggested for Montana. The following quotes from the NCIL position paper:

"The PAS users choice, direction and control in selecting, training, scheduling and supervising their PAS must be maximized in all management options"

"All models must be non-medicalized and community based to the

greatest extent possible."

"State issues such as medical and nursing practices acts and personal assistants registry acts must be resolved so that health-related tasks such as medication dispensation and injections and catheterization can be performed by unlicensed PA under the direct control and supervision of PAS users when that is the choice."

In 1994, the Department of SRS established a working group of consumers and professionals to obtain feedback on reform of Montana's PAS. HB 504 reflects their recommendations.

Q: Has this model of consumer directed services with exemptions from nurse practice acts, being done in other states?

A: Yes, Kansas, Oregon, South Dakota, California, and New York have successfully implemented self directed services with exemptions from their nurse practice acts.

Q: Under this bill, how will the rights of worker's be protected under Montana labor law?

A: H.B. 504 creates a partnership between the person directing their own PAS and a Fiscal Agent representing the rights and protections of personal assistants (PA) under Montana labor law. The Fiscal agent would delegate authority to the person directing the services for day to day management of the services in a persons home. The Fiscal Agent would be responsible for billing Medicaid for services, paying the attendant wages and necessary withholdings for taxes, social security, worker's comp., etc..

DATE 3/13/95BILL NO. HB 504

March 13, 1995

Mike Mayer
2370 Village Square
Missoula, MT 59801

Chairman Jim Burnett
Senate Public Health, Welfare and Safety Committee
Capitol Station
Helena, MT 59620

Dear Chairman Burnett and Members of the Committee:

I appreciate the opportunity to submit written testimony for your consideration.

I urge you to pass House Bill 504 because I feel that it does much to enhance the independence of Montanans with disabilities who require personal assistance services. I am quadriplegic and have been utilizing personal assistance services for the past 18 years. I am not a Medicaid recipient, and have no other insurance coverage for my personal assistance services, so I pay for my services out of my own pocket. I am considered by the Internal Revenue Service to be a household employer, employing domestic servants. As such, I am responsible for not only the recruitment, training, management, and supervision of my personal assistants, I also have the responsibility for withholding and paying taxes, filing payroll reports, and other administrative tasks.

I am very thankful that I have the ability to manage my own personal assistants and that I am not forced to participate in the Medicaid-funded personal assistance program as it currently exists in this state. Individuals on that system have little or no control over selecting, training, or managing their own personal assistants. House Bill 504 would allow those individuals on Medicaid who receive personal assistance services the same option to manage their own day to day care. People who have the desire and the ability to manage their own services must be given the opportunity to do so. By allowing them to direct their own personal assistance services, the state of Montana will realize cost savings in addition to allowing them more independence and dignity in their day to day routine.

Imagine if you will a situation in which you require assistance but have virtually no control over selecting who comes into your home to help you with very personal and intimate tasks such as bathing, personal hygiene, bowel and bladder care, and other daily functions. How would you feel if you were unable not only to select who comes into your home, but also to control when and how certain tasks are performed. A person should not have to give up such basic rights simply because the state is paying for the

services. The self directed service system which HB 504 would establish would allow other Montanans who receive Medicaid funding the option of being in charge of their daily lives.

I know that certain health care professionals, most probably licensed nurses, will come before this committee and argue that people with disabilities will be put in jeopardy if there is not ongoing nurse supervision and extensive training and certification of personal assistants. They will probably argue that certain tasks, such as bowel and bladder care, wound care, and other basic procedures should only be performed by licensed nurses. They will cite a medical need for requiring ongoing nurse supervision and/or restriction of certain tasks to the realm of licensed nurses only.

This argument does not hold water. Montana's current nurse practice act allows for gratuitous nursing performed by friends or members of the family. As long as friends or family members work without pay, they can provide virtually any nursing service or procedure without restriction or limitation by the nurse practice act. If it were simply a matter of medical necessity, it seems logical that the nurse practice act would not allow any specialized procedures to be done by persons other than licensed nurses. Since the nurse practice act currently allows friends and family members to perform the type of tasks which HB 504 is recommending, it makes perfect sense that trained personal assistants be allowed to do these same procedures at the direction of a person with a disability.

In over 18 years of directing my own personal assistance services, I have never had medical complications resulting from the services which personal assistants do for me, including basic wound care and assistance with bowel care. I take the responsibility for training my assistants, based on training which was give to me during my rehabilitation program years ago. I also have the option of securing a doctor or nurse to assist with training if the need should arise.

In closing, I thank you for the opportunity to provide testimony and encourage you to vote yes this important piece of legislation.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mike Mayer", with a stylized, cursive script.

Mike Mayer

Barb Larson

Fax 243 2349

EXHIBIT NO. 13

DATE 3/13/95

BILL NO. HB 504

I would like to give written testimony to encourage the passing of HB 504.

My name is Kathy Babel and I live in Glendive, MT. My son Shane is 18 years old and receives personal assistance care via the Physical Waiver program from Montana Medicaid. His care plan is implemented by the contracting agent (West Mont).

Shane has Cerebral Palsy and is quadriplegic. He requires total physical care. He requires someone to feed him, dress him, put him in his wheelchair and sometimes when it's his manual chair, even push him to where he's going. Now if that isn't enough he also takes medications 3x a day, is incontinent and requires a bowel management program.

Shane knows what meds he takes. He knows the amounts, the color and the words that need to appear on the label. He also knows how these meds are supposed to taste. He knows when and how often he needs to take these meds. He also knows when to raise or lower the dose. He also knows if new RX is needed to meet his physical needs.

Shane knows when his bowel management needs to occur. He has developed his own schedule.

He knows how to train people to assist him. He has learned to know his own body and what he needs to be as comfortable as possible. He took CPR in 8th grade and got a provisional card. He was able to direct one of his classmates through all the steps and met the class requirements. When he has been in the hospital he unfortunately had to give instructions to medical staff on how to meet his needs.

The current PAS program certainly does not allow Shane to control his life in any true sense. His bowel program is at the convenience of the nurse, not his. He is not sick. He develops a very close relationship with his physician and does not need nor want weekly interventions (intrusions) by medical staff in his home.

I do not believe that Shane is any different than many of the individuals in Montana requiring Personal assistance services. It is difficult for the world to realize that persons with severe physical disabilities can really be independent. It would be so easy continue giving lip service but still mandating that medical personnel are needed to allow disabled individuals to live on their own. We must all STAND UP AND SHOW OUR DISABLED PEERS THAT WE REALLY MEAN IT WHEN WE SAY YOU CAN STAND ON YOUR OWN FEET. YOU DO NOT NEED TO LIVE IN INSTITUTIONS. YOU CAN LIVE IN YOUR OWN HOME AND CHOOSE WHO ASSISTS YOU WITH YOUR DAILY PERSONAL NEEDS. IN FACT WE NEED TO ENCOURAGE THIS INDEPENDENCE. IT IS THEIR RIGHT AND OUR RESPONSIBILITY.

The current Self Directed PAS is noting but mere lip service. The only benefit is that the aide and person can have each others phone numbers and have direct contact when aide is sick. Hiring is a joke and there is no fiscal responsibility whatsoever. It only gets the contractor off the hook for not scheduling or making sure someone is available to provide services.

I encourage you to pass HB 504. Passing this bill will also save Medicaid \$\$\$\$. Disabled individuals do not want to spend any more \$\$\$ than is needed. This gives them the opportunity to assist in a costs saving in their care plan. I do not believe that it will put any nurse out of work or any Home Health agency out of business.

I thank you.

APPENDIX

PERIODIC STATEMENT

FORM 1000

VIOLATION 1SP/6

NCIL

NATIONAL COUNCIL

ON

INDEPENDENT LIVING

POSITION ON

**PERSONAL ASSISTANCE
SERVICES**

The original of this document is stored at
the Historical Society at 225 North Roberts
Street, Helena, MT 59620-1201. The phone
number is 444-2694.

**TESTIMONY OF THE DEPARTMENT OF SOCIAL AND
REHABILITATION SERVICES BEFORE THE
SENATE PUBLIC HEALTH AND SAFETY COMMITTEE
(Re: HB 504)**

The Department supports HB 504, with amendments. House Bill 504 provides direction to both the Department of Social and Rehabilitation Services and the Department of Labor to develop rules governing personal assistant services, specifically relating to a self-directed service model. It also requests that persons with a disability who direct their own care be exempted from the nurse practice act.

The Department has been working closely with a group of individuals with disabilities to develop a self-directed program which incorporates the national trend of empowering a person with a disability to arrange for and direct the use of a personal care attendant. The creation of this program would provide Montanans with a disability the opportunity to take control of very personal services, which is in line with promoting self sufficiency and preserving dignity.

The Department, as they have in the past, is willing to work with the Department of Labor to establish guidelines for this 'consumer as the employer' model of care. The Department is dedicated to developing this program with respect to protection and safety of the consumer, caregiver and the community.

By allowing individuals to be exempt from the Nurse Practice Act, we are returning the control of these very personal services, back to the consumer. A person with a disability, is currently not able to oversee such activities of daily living without the intervention of a skilled nurse. A person without a disability has control over these types of tasks. The Department supports the exemption of self directed participants from the Nurse Practice Act.

On behalf of the Department of Social and Rehabilitation Services, I urge you to pass HB 504, with amendments.

DATE 3/13/95SENATE COMMITTEE ON Public HealthBILLS BEING HEARD TODAY: HB 504, 557, 539

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Nancy Davis-Walker	"Voice" Against Smoking	539	✓	
RICHARD L. BENDER	NO SNMIR	539	✓	
Bob Edwards	MTI ALA	539	✓	
Devon Wachter	MTI ALA	539	✓	
Robert Watson	MTI ALA	539	✓	
Jennifer Fitter	" ALA	539	✓	
Jennifer Brannon	Leader of MTI ALA Tobacco free Montana	539	✓	
Marcia Armstrong	Dept. Corrections & Human Services	539	✓	
Kim Beland	Hill County Sher. H	539	✓	
Krista Young	HELP Committee, Havre	539	✓	
Rachael DeLoz	MTI ALA	539	✓	
Mona Jamison	Ames Lung Ass ^{of mt}	539	✓	
Charles R. Brooks	MT. Food Dist Assoc	539	✓	
Theresa Helser MD	Mont. Med. Ass	557	✓	

Becki Andersen

Nursing

539

✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/13/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: HB 504, 557, 539

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Russ CATER	SRS	HB 504	X	
Mamie Flinn	MCA	HB 504	✓	
Page Dringman	Philip Morris	539	✓	
Bill Devin	Center for Adolescent Devel	539	✓	
Toni Jensen	Am Lung Assoc	539	✓	
Bambi Trohen	Mt. Nurses Assoc	HB 539	✓	
Kerry Campbell	American Lung Assoc	HB 539	✓	
Cindy Hayden	American Lung Assoc	HB 539	✓	
Evangelina Duke	Yellowstone H-H Self Student	HB 539	✓	
Daphne Ewans	MCCHD	HB 539	✓	
Megan Cumming	Stearnsville High	HB 539	✓	
Hony Cumming	MCCHD	HB 539	✓	
Char Maharg	DOR	HB 539		
Gina Beuss	Billings MTI	HB 539	✓	

Brenda Schelm

VISITOR REGISTER

HB 539

Nancy Eller

SRS

HB 504

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-13-95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: H.B. 504

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Barbara Larsen	Coalition of Montanans Concerned with Disability	504	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sherrin Anderson	MT Advocacy Program	504	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mike Mayhew	Coalition of Montanans	504	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Coalition of Montanans			
	Disability			
Wang Elley	SRS	504	<input checked="" type="checkbox"/>	<input type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY