

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By **CHAIRMAN BILL BOHARSKI**, on March 3, 1993, at
3:00 P.M.

ROLL CALL

Members Present:

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

Members Excused: None

Members Absent: None

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

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

Committee Business Summary:

Hearing: SB 312, SJR 11, SB 165, SB 313
Executive Action: None

HEARING ON SB 312

Opening Statement by Sponsor:

SENATOR TOM BECK, Senate District 24, Deer Lodge, said SB 312 is
a bill to enhance resident physicians to come to Montana by
allowing them to train more than two months in a community.

Proponents' Testimony:

None

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

REP. SIMON asked SEN. BECK why the Act had a two month training limit in a community. SENATOR BECK said he didn't know.

Closing by Sponsor:

SEN. BECK asked for the committee's concurrence in SB 312.

HEARING ON SJR 11

Opening Statement by Sponsor:

SENATOR BILL WILSON, Senate District 19, Great Falls, said SJR 11 is a resolution to regulate the cost of prescription drugs. Drug costs have risen at a rate that exceeds the pace of inflation. Many senior citizens are forced to make choices between buying food, paying utilities or purchasing prescription drugs they need. The drug manufacturers continue to make huge profits while our senior citizens suffer. This message to Congress is a step in the right direction toward curtailing the high cost of prescription drugs.

Proponents' Testimony:

Ed Caplis, Montana Senior Citizens Association, urged the committee to support SJR 11.

Bonnie Tippy, Montana Pharmaceutical Association (MPA), said MPA supports SJR 11. Ms. Tippy distributed a copy of a hospital invoice that lists the unit price and retail price of pharmaceuticals. EXHIBIT 1. Ms. Tippy said pharmaceutical manufacturers do not price according to volume. They price according to classes of business. A non-profit hospital pays less than one cent for a nitroglycerin patch; a community pharmacy and mail order pharmacies pay \$1.00 per patch. The store retail price for bancap is \$309.23. The unit price is \$254.80. The unit price for a non-profit entity, for the same drug is \$18.59. A retail pharmacy would pay \$40.79 for an aerobid inhaler system, the hospital paid \$2.58. SENATOR DAVID PRYOR of Arkansas, helped put the language into the Budget Reconciliation Act of 1990 which mandates pharmaceutical

manufacturers give their very best prices to all state Medicaid programs. As a result, Montana enjoyed a 2.8 million dollar rebate in its Medicaid pharmaceutical program last year because of the differential in prices. Ms. Tippy asked the committee to support SJR 11.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

REP. NELSON asked Ms. Tippy if the drug wholesaler sold below cost to the hospital to have the drug put into circulation, so the patient will buy the drug at retail price later. In other words, it is a marketing scheme. Ms. Tippy said that is exactly right.

REP. DOWELL asked Ms. Tippy how drug wholesalers get away with pricing drugs according to classes of business. Ms. Tippy said there is no national regulation against this type of pricing.

Closing by Sponsor:

SEN. WILSON said the resolution is an important step toward helping to contain high health care costs. REP. RYAN will carry SJR 11.

HEARING ON SB 165

Opening Statement by Sponsor:

SENATOR JOHN HERTEL, Senate District 15, Moore, said SB 165 has been requested by the Department of Commerce. The bill adds an act, adding an inactive status radiologic technologist license. The purpose is to ensure there are qualified people x-raying patients. The bill also creates a radiologic technologist inspector position. The radiologic technologist inspector's responsibilities would be to inspect the procedures of licensees and permit holders at facilities having x-ray equipment to ensure that persons operating the equipment are in compliance with the radiologic technologist licensing law and are meeting other requirements that the department or the board may establish. SB 165 has a fiscal note.

Proponents' Testimony:

Jim Winter, Chairman, Board of Radiology Technology, Great Falls, said the purpose of SB 165 is to give radiologic technologists a price break on their licenses; to give the board the authority to ensure they are still current in their practices before licenses are reissued, and to create a radiologic technologist inspector position. At the present time, there is no mechanism to ensure radiologic technologists are licensed or have a permit for the specific types of diagnostic imaging they are performing.

Sandra Curtis, Member, Board of Radiology, Technology, Havre, said for public safety, a radiologic technologist inspector is needed. The bill will allow inactive radiologic technologists to pay less for licenses and allow the board to ensure to require evidence of competence before returning to active status. **Ms. Curtis** urged the committee to support HB 165.

Julie Wall, Nursing Student, Montana State University. Written testimony. EXHIBIT 2.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

REP. BOHLINGER, asked **SEN. HERTEL** if the senate had considered increasing the inspection fee to cover the fiscal note for \$28,390 in FY 1994, and \$20,177 in FY 1995. **SEN. HERTEL** said raising the fee hadn't been discussed in the Senate but it may be a possibility. **REP. BOHLINGER** suggested the Senate consider raising the fee.

REP. BARNHART asked **Jim Winter** how an inspector would determine that only qualified personnel are taking x-rays. **SEN. HERTEL** said he assumed the inspector would randomly pull x-ray envelopes check to make sure that only the exams the person is licensed to do is in the envelopes. If the technician is only licensed to x-ray chests, and the inspector pulls envelope with knee and ankle x-rays, there is a compliance problem.

REP. SIMON asked **Jim Winter** how many categories of x-rays there are. **Mr. Winter** replied there are nine categories. **REP. SIMON** asked **Mr. Winter** to estimate how many technicians are going outside the scope of what they have been trained to do. **Mr. Winter** said there is no way of knowing because presently there isn't an inspection program. **REP. SIMON** asked **Mr. Winter** how many written complaints the board has had in the past year. **Mr. Winter** said there have been two complaints. **REP. SIMON** asked **Mr. Winter** if a technician could hold a radiological license in Montana and another state at the same time, to which he replied

yes.

REP. SIMON said if a licensed radiological technician left Montana for nine months and then came back; the technician wouldn't be maintaining a residence practice. According to the bill the technician must be licensed under inactive status. He asked Lance Melton, Legal Counsel, Board of Radiological Technology, if that was correct. Mr. Melton said it is correct that the technician would be on inactive status, but would be able to return to active status without submission of evidence of competence unless he/she was gone over a year.

CHAIRMAN BOHARSKI asked Lance Melton, if a radiological technician left Montana and practiced in another state for a year and a half, then returned to Montana, would that person have to apply for an inactive license, and upon return to Montana apply for an active license. Mr. Melton said that is correct, and evidence of competence would be required. CHAIRMAN BOHARSKI said requiring a technician to change his license status when traveling out of state is against his/her constitutional right to travel. Mr. Melton said the purpose of the inactive status is to give the individual the chance to stay current in Montana and get a price break. The individual could maintain his active license, pay the normal fee, and be gone out of state for five years. CHAIRMAN BOHARSKI said in that case, the word must in line 25, page 2, should be changed to may. Mr. Melton agreed.

REP. SQUIRES asked Mr. Melton if the radiology profession has reciprocity. Mr. Melton, said to a certain extent. If the individual is registered with the American Registry of Radiology Technology there would be reciprocity.

REP. SIMON asked Mr. Melton how many states does Montana honor reciprocity with. Mr. Melton said reciprocity is determined on a case by case analysis. REP. SIMON asked Mr. Melton how many states have laws as strict or stricter than ours. Mr. Melton said he didn't know.

REP. SQUIRES asked Jim Ahrens, Montana Hospital Association, if hospitals monitor radiological technicians. Mr. Ahrens said x-ray machines are supposed to be inspected every two years. They are not. He said hospitals have to monitor the technicians frequently in order to maintain their risk against malpractice.

Closing by Sponsor:

SEN. HERTEL said SB 165 is very important. X-rays must be taken by competent individuals. He asked the committee to support SB 165.

HEARING ON SB 313

Opening Statement by Sponsor:

SENATOR TOM TOWE, Senate District 46, Billings, said SB 313 authorizes the Department of Family Services (DFS) to license in certain circumstances adult foster family care homes for more than light personal care or custodial care. At the present time, family care homes cannot care for developmentally disabled persons after they become eighteen years old. Section one of the bill authorizes any family care home to continue taking care of any developmentally disabled person after they become eighteen if they have been at the home for at least a year, even though they may need skilled nursing care. **Sen. Towe** recommended an amendment that requires an annual certificate from a physician, physician's assistant, or registered nurse, who has visited the home and can vouch for the home's appropriateness. Section 2 provides for a adult protective service teams to review the services for older persons and developmentally disabled persons. Section 3 covers reporting of abuse and neglect of older persons and developmentally disabled persons. Section 4 deals with confidentiality.

Proponents' Testimony:

Don Sekora, Program Officer, Department of Family Services (DFS). Written testimony. **EXHIBIT 3.**

Sue Jackson, Developmental Disabilities Division, Social and Rehabilitation Services (SRS), said allowing a developmentally disabled person to stay in a foster home after turning eighteen is very important to the program. Protective service teams will prevent abuse to the elderly and developmentally disabled. This bill will solve problems for SRS.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

REP. BOHLINGER asked **Don Sekora** what the funding source was for the added expense in care. **Mr. Sekora** said if the person is eligible for SSI, SRS supplements that with a \$54.75 payment. Health care needs are met through Medicaid funding.

REP. HANSEN asked **Don Sekora** if a person turns eighteen and has to leave the facility are they subjected to a waiting list to get into other homes. **Mr. Sekora** said once a service is ended the person is put into a referral system for a group home and could be put on a waiting list. In some cases, DFS tries to put them under case management and get them generic services until there is an opening for them.

REP. SMITH asked SEN. TOWE if there are skilled care foster homes in existence at the present time. SEN. TOWE said at the present time no, but SB 118 will cover that.

CHAIRMAN BOHARSKI asked John Melcher, Jr., Staff Attorney, Department of Family Services, if there is a different category of licensed juvenile foster care homes. Mr. Melcher said there are different requirements for licensure for homes caring for foster children and homes caring for adults. Youth care facilities have three categories.

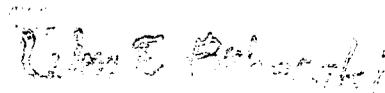
REP. SIMON asked Mr. Melcher if there are certain requirements that have to be met in order to be licensed as an adult foster care home. Mr. Melcher said there is a new set of requirements that would have to be met. REP. SIMON asked Mr. Melcher if an adult foster care home's license would be contingent upon the developmentally disabled nineteen year old staying in the home. Mr. Melcher said it is contingent. REP. SIMON asked Mr. Melcher if he was saying that the adult license would be specific to the developmentally disabled person staying in the home, and if that person leaves the license would no longer be applicable. Mr. Melcher said that is correct.

Closing by Sponsor:

SEN. TOWE asked the committee to support SB 313.

ADJOURNMENT

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



WILLIAM BOHARSKI, Chair



ALYCE RICE, Secretary

WB/ar

PHARMY ORDER 10/11/71

EXHIBIT 1
DATE 3-3-93
SFR 11

INVOICE DATE 7/23/92 INVOICE NO.

HAZARDOUS MATERIALS
CODE CLASSIFICATIONS
LISTED ON REVERSE SIDE

ECONOTONE COST PLUS ORDER M

DEPT	ITEM NUMBER	QTY	ORD UN	ITEM DESCRIPTION	STORE RETAIL	UNIT PRICE	DISC %	I D CODE	EXTENS
BE	2169829	1	EA	AEROBIO INHALER SYSTEM	76M	90.79		I KR	2.58*
BA	1615160	1	EA	ALBUTEROL SOL 3ML U/D DEY	25	31.19		I KR	12.81
BA	3653912	20	EA	ALUPENT SOL 0.4% 2.5ML U/D	25	37.43		R R	643.40
RE	3227246	1	EA	AZPACORT MDI COMPLETE	14GM	24.89		R R	21.39
RE	2701829	1	EA	AZPACORT INHALER	20GM	34.95		R R	28.84
AD	1700178	1	EA	KAON-CL-10 TAB 750MG	100	22.31		R R	18.41
AD	1195916	1	EA	LEVO-THROID TAB 300MCG	100	34.00		I KR	9.79
CA	1974146	1	EA	M-I-E.-5 CONC 10ML 2910	LYP 10	227.45		I KR	21.63
CA	1317239	1	EA	NITRCL OINT TUBE 2X	60GM	9.03		I KR	7.45
RE	1749787	1	EA	PROVENTIL INHALER REF	17GM	20.35		KR	12.54
VE	1104975	1	EA	PROVENTIL INHALER REF	17GM	18.76		KR	11.56
AD	1927441	1	EA	THEO-DUR SA TAB 300MG	500	124.14		KR	58.28
AD	2261121	1	EA	THEO-DUR SPRINK CAP 200MG	100	20.87		KR	9.80
AD	1350206	1	EA	THYROID TAB 36R	ARM	243.24		KR	20.09
RE	1793215	1	EA	TORNALATE+NEBULIZER	15ML	27.74		I KR	2.63
RE	3655229	1	EA	VANCENASE A/Q NASAL SPR	25GM	28.62		KR	17.62
RE	1330083	1	EA	VANCERIL INHALER	16.8GM	26.51		KR	16.34
RE	1791102	1	EA	VENTOLIN INHALER	17GM	20.35		KR	17.49

6 EA INTAL NEBULIZER AMP 2ML

1183839

68.63

79.84

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SUBTOTAL 1344.43

NET PAYABLE BY SIMI DUE DATE 1344.43

GROSS PAYABLE AFTER SIMI DUE DATE 1371.87

THIS INVOICE IS PAYABLE TO MCKESSON DRUG CO.

AT ABOVE ADDRESS CLAIMS MUST BE MADE WITHIN FIVE DAYS AND SHOW DATE OF INVOICE

V-P DOLLARS

INVOICE DATE 7/24/92 INVOICE NO

PAGE

HAZARDOUS MATERIALS
CODE CLASSIFICATIONS
STEDCH REVERSE SIDE

MARCOTIC

DEPT	ITEM NUMBER	QTY	ORD UN	ITEM DESCRIPTION	STORE RETAIL	UNIT PRICE	GP	I	D	CODE	EXTENS
JR	1213933	1	EA	BARCAP HC CAP	500 309.23	254.80	17.6	1	B		254.80

PAGE 1

1213933

NET PAYABLE BY SMTI DUE DATE 254.80
GROSS PAYABLE AFTER SMTI DUE DATE 259.00

MCKESSON DRUG CO.

THIS INVOICE IS PAYABLE TO
AT ABOVE ADDRESS CLAIMS MUST BE MADE WITHIN
150 DAYS AND SHOW DATE OF INVOICE

THIS IS TO CERTIFY THAT ABOVE NAMED ARTICLES ARE PROPERLY CLASSIFIED, DESCRIBED, PACKAGED,
MARKED AND LABELED TO THE MAXIMUM EXTENT INDICATED BY THE MANUFACTURER OR MANUFACTURING

CONTINUED

EXHIBIT

DATE 3/3/93

SR-11

INVOICE DATE 7/24/92

PAGE 1

HAZARDOUS MATERIALS
CODE CLASSIFICATIONS
LISTED ON REVERSE SIDE

CONDITONE COST PLUS ORDER M MARCHOTIC

ITEM NUMBER	QTY	ORD UM	ITEM DESCRIPTION	STORE RETAIL	UNIT PRICE	DISC %	D	CODE	EXTENS
1213933	1	EA	BANCAP HC CAP	309.23	18.59			KB	18.59

NET PAYABLE BY DATE

GROSS PAYABLE AFTER SIMI DUE DATE

SUBTOTAL 18.59

NET PAYABLE BY DATE 18.59

GROSS PAYABLE AFTER SIMI DUE DATE 18.97

LINES CASES PIECES 1 0

THIS INVOICE IS PAYABLE TO MCKESSON DRUG CO. AT ABOVE ADDRESS CLAIMS MUST BE MADE WITHIN FIVE DAYS AND SHOW DATE OF INVOICE

V-P DOLLARS

EXHIBIT 2
DATE 3-3-93
~~SB~~ 165

Julie Wall
3628A 9th Avenue North
Great Falls, MT 59401

TESTIMONY: SB. 165 AN ACT ADDING AN INACTIVE STATUS RADIOLOGIC TECHNOLOGIST LICENSE; CREATING A RADIOLOGIC TECHNOLOGIST INSPECTOR POSITION; AND AMENDING SECTIONS 37-14-310 AND 37-14-322, MCA. SPONSOR: John Hertel

My name is Julie Wall and I am a senior nursing student at Montana State University. I am seeking your support of Senate Bill 165, as this bill is very important to both health care workers and consumers.

If adopted, Senate Bill 165 will improve health care in the following ways:

- (1) Creation of an inactive status license allowing technologists to keep their license at a reduced fee while not employed. It is important to note that if the technologist wishes to return to work after a year or longer, he/she must prove to be competent as mandated by the State Board of Radiologic Technologists.
- (2) Appointment of an inspector to examine licenses at every x-ray facility yearly to ensure that technologists are only taking those x-rays which they are licensed to take.

I believe these to be the most important issues addressed in Senate Bill 165, as they help to ensure the safety of the health care consumer as well as providing a necessary inactive status license to workers. In essence, Senate Bill 165 provides a mechanism to assure the public that their x-rays are being performed by qualified individuals.

Thank you for your support of nursing and other health care issues.

DEPARTMENT OF FAMILY SERVICES

EXHIBIT 3DATE 3-3-93SB 313 (406) 444-5900
PL 11 (88) 44-5956

MARC RACICOT, GOVERNOR

STATE OF MONTANA

HANK HUDSON, DIRECTOR
JESSE MUNRO, DEPUTY DIRECTORPO BOX 8005
HELENA, MONTANA 59604-8005

February 12, 1993

DEPARTMENT OF FAMILY SERVICES TESTIMONY IN SUPPORT OF SB 313

Submitted by Don Sekora, Program Officer

The Department of Family Services requested SB 313 to correct an oversight contained in Section 52-3-305 of the Adult Foster Family Care Act. The Act was amended last session, making the licensing of adult foster care homes mandatory. The Act allows adult foster care homes to provide only light personal care, but does not take into consideration disabled youth requiring more than light personal care residing in youth foster care homes who turn 18 years old. Because these people require more than light personal care, the youth foster home they were residing in as a minor cannot be licensed as an adult foster care home to continue to provide for their care after their 18th birthday. Section 1 will allow a person with disabilities to remain in, and be cared for in the homes in which they have been residing without disrupting their lives with a move to a different type of home. The requirement for a physician's approval (page 2, lines 9-11) is included to assure that the home can meet the specific health needs of the person.

The remaining Sections of SB 313 amend the "Montana Elder and Developmentally Disabled Abuse Prevention Act". Section 2 of the bill amends 52-3-805 of the Act and will allow adult protective service (APS) teams to review cases of persons with developmental disabilities in addition to cases involving the aged. This too is presumed to be an oversight when the original language of this statute was drafted.

Section 2 also allows the county attorney or DFS to include additional members on an APS team, other than those specifically listed, as deemed appropriate. The department investigated 1,469 alleged incidents of abuse, neglect, and/or exploitation of the elderly and persons with developmental disabilities this past year, in which 596 cases were opened to provide protective services. Cases have become more complex and serious. Due to the complexity and serious nature of these cases, the department needs authority to involve more community professionals in assisting its staff to meet the protective service needs of the victims of abuse, neglect, and/or exploitation.

Section 3 amends 52-3-811. This amendment (page 5, lines 7-9) will make it mandatory for persons who provide services under a federal or state contract to aged persons or persons with a developmental disability to report alleged incidents of abuse, neglect, and/or exploitation to the Department of Family Services. This group of people have a great deal of contact with aged and disabled persons and therefore are in a good position to observe or become aware of possible abuse, neglect, and/or exploitation situations. The department must receive referrals to trigger an investigation and to prevent or stop abuse. Past experience shows that the sooner the department receives a report, the less intensive the services that are required to assist an alleged victim.

Section 4 of SB 313 amends 52-3-813 to allow the department to share information contained in its adult protective services records with service providers, Department of Social and Rehabilitation Services' staff, and guardianship programs when the best interest of the alleged victim will be served.

Sharing information with service providers, under certain conditions, becomes important when the provider's license may be in jeopardy because of substantiated abuse by their staff, and the provider needs to know enough information regarding the alleged abuse to make a knowledgeable decision regarding disciplinary action.

Sharing information with SRS is to aid in the provision of services to a client.

Lastly, being allowed to share information with a guardianship program is necessary to allow a program established to match guardians with incapacitated persons, access to enough information to make an informed decision regarding the appointment of a specific guardian for a specific client.

Thank you for consideration of SB 313.

