

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE
MONTANA STATE SENATE

FEBRUARY 19, 1981

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Tom Hager on Thursday, February 19, 1981 in Room 415 at 12:30 of the State Capitol Building.

ROLL CALL: All members were present. Senators Norman and Johnson arrived late. Kathleen Harrington, staff researcher, was also present.

Many, many visitors were also in attendance. (See attachments.)

CONSIDERATION OF SENATE BILL 129: Senator Jean Turnage the sponsor of SB 129, handed out new amendments to SB 129 which he felt would be agreeable with more people. He stated that he would meet at a later date with the Committee, in case they had any questions regarding the new amendments.

CONSIDERATION OF SENATE BILL 452: Senator Matt Hims1 of Senate District 9, chief sponsor of SB 452, gave a brief resume of the bill. This bill is an act to reestablish the Board of Barbers under existing statutory authority and rules; revising the board makeup; exempting cosmetologists from prohibitions under barbering laws; giving the board authority to grant temporary licenses to barbershops; requiring annual inspections of barbershops; eliminating barber apprenticeship requirements; authorizing reciprocal licensing; deleting price-setting provisions; deleting criminal conviction as grounds for denial or revocation of a license; and providing an immediate effective date.

Senator Hims1 stated that 85% of the shops in the state were not inspected during the last year.

There were no proponents to the bill.

The hearing was then opened to the opponents.

Gary Lucht, representing the Big Sky College of Barber Styling, stated that he would like to see the bill amended to include three barbers on the board.

Pat Ginnaty, president of the Montana State Association for Barbers, would also like to see the bill amended to include three barbers on the board.

Don Anderson, representing the Board of Barbers stated that

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three board members are definitely needed.

Harry Olson of Helena, himself a retire barber, stated that he would like to see the bil amended to include three barbers and also change the apprentice laws.

Jim Allen the present secretary to the Board of Barbers, stated that barbers are also dealing with the health of the public in the fact that they sometimes use caustic solutions for straightening hair.

With no further oppoenents to the bill. The meeting was opened to a question and answer period from the Committee.

Senator Himsl asked if only Board Members are allowed to give the test. This seems to be the case at the present time.

Senator Himsl closed. He stated that there are three people on the board, however, one of them is a public member.

CONSIDERATION OF SENATE BILL 388: Senator Matt Himsl of Senate District 9, chief sponsor of SB 388, gave a brief resume of the bill. This bill is an act to eliminate reference to the Board of Sanitarians, and providing an effective date.

Ninety-two percent of the sanitarians work for either the local or the state department of health. There are 125 registered sanitarians in the state.

Chairman Hager called on the proponents. Hearing none, he then called on the opponents.

James Peterson, representing the Board of Sanitarians, stated that it is his judgement that elimination of the Board of Sanitarians will do sever damage to public health protection in Montana by permitting totally unqualified persons to make inspections, require corrections and generally prescribe health conditions. There is no benefit to the citizens of the state of Montana to business and industry with whom the sanitarians works, nor to the employing industries or governmental agencies to remove all requirements, to remove all qualifications, and to permit anyone to assume the legal authorities and responsibilities of a sanitarian. The reduction in public health protection would be unacceptable to all. Mr. Peterson handed out written testimony to the Committee. (See attachments.)

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Vernon Sloulin, representing the Montana Department of Health and Environmental Sciences, stated that the DHES has experienced a great deal of benefit in administration of public health laws through qualified sanitarians. The department has supported registration of sanitarians since passage of the law in 1959. This is a very worthwhile registration.

Peter Frazier, representing the Montana Environmental Health Association, stated that currently there are 64 registered sanitarians working at the local level in 30 health jurisdictions covering all 56 counties in Montana. In addition there are a number of registered sanitarians working in the private sector of various chain stores, land developers, and others as well as several registered sanitarians working for the State Health Department.

A sanitarians activities are essential to the preservation of high quality health. The Board of Sanitarians is a must. The total budget for the Board for the fiscal year 1980 was \$2,784. None of this budget came from public tax monies. The Board is totally self-sufficient, operating entirely on testing and license fees from members of the sanitarians profession.

Tom Barger, a registered sanitarian, stated that sanitarians have not tried to limit their profession except to the extent that knowledgeable and competent people are hired and minimum amount of working knowledge be acquired and maintained. The Board of Sanitarians should not be sunsetted, but perhaps an updating of standards is necessary. Qualifications are necessary.

Donald Pizzini, Health Officer for the City-County Health Department of Cascade County, stated that the two major functions of sanitarians are the enforcement of state and local laws and regulations and provisions of public health education. Both aspects are highly technical and complex in nature. If this bill passes there will be 56 different levels of community health. In addition, state laws and regulations passed by the Legislature will no longer be uniformly implemented and administered.

Ronny Anderson, representing Buttrey Food Stores, stated that the Sanitarians Registration Act significantly enhances the public health, safety, and welfare of Montana's citizens by requiring that qualified individuals are hired to assure the wholesomeness and safety of the foods consumed by Montanans.

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The criteria for registration under the current Sanitarians Registration Act helps insure that the individual charged with these responsibilities has this proficiency. Mr. Anderson then urged a DO NOT PASS recommendation on the bill.

There were no questions from the Committee.

Senator Himsl closed. He stated that Board of Sanitarians only handled 4 complaints last year. This bill does not eliminate sanitarians only the Board of Sanitarians and puts them under the jurisdiction of someone else. He asked the Committee to keep the Legislative Auditor's report in mind when they take action on the bill.

CONSIDERATION OF SENATE JOINT RESOLUTION 17: Senator Judy Jacobson of Senate District 42, chief sponsor of SJR 17, gave a brief resume of the bill. This is a resolution of the Senate and the House of Representatives of the State of Montana repealing the standards adopted by the Board of Health and Environmental Sciences for fluoride on forage and directing the adoption of a new standard.

Senator Jacobson stated that this resolution is to repeal the Foliage Fluoride Standard of 20 micrograms per gram yearly, adopted and stayed by the Board of Health and raise it to 35 micrograms per gram yearly any one month not to exceed 50 micrograms per gram.

Stauffer Chemical has spent 1.16 million on Fluoride Abatement, 6.89 million on Particulate and Visible omissions. Anaconda Aluminum, 40 million, however, there were other benefits to this process such as 15% - 20% energy savings, better efficiency and others.

Stauffer Chemical began these pollution control programs in 1968 and fluoride control programs in November 1978 -- through June 1979. Anaconda Aluminum's Sumitomo process 1976 - 1980. The department of Health is just completing a study of these levels. Although this data is preliminary and not official it does appear to support the claim of Stauffer Chemical that, given present technology they cannot, at this time, meet the standard of 20 micrograms per gram.

The Board asked the Department to study the fluoride issue including data costs of compliance, etc., and report back at the next board meeting. The next meeting is Scheduled for February 20 with 4 new members out of a 7 member board.

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If the board were to desire a new fluoride standard, it would adopt the standard under the Montana Administrative Procedures Act. The time period could not exceed 6 months and would require public hearings and the like. It would also take another 2 months to develop the new standard, reasons for adoption, and so forth.

From all evidence both Stauffer Chemical Company and the ranchers and residents of Ramsey have been done a disservice by leaving them in limbo with no standards. The evidence points to the fact that the original recommendation by the Department of Health was reasonable and substantiated. The ranchers and residents of Ramsey never meant to close Stauffer Chemical Company, but rather want to protect their cattle and their homes with the best standards possible.

Senator Steve Brown of Senate District 15 stated that the important thing to remember is that this is not a public health standard, but rather a public welfare standard and economic impact must be considered. The Board of Health's original recommendation provides the greatest degree practicable to prevent injury to plant and animals. This resolution has been endorsed by the Select Committee on Economic Problems appointed by the Legislative Council.

Tony Shoonen stated that he supports the resolution reluctantly as he does not want to close down Stauffer Chemical, just have something that they can all live with. There has been no noticeable improvement in 15 years.

Phil Smith of Melrose stood in support of the bill.

Joe Peterson of Ramsey stood in support of the bill and stated that he would like to see it improved to make it better for everyone involved.

Ray Tillman, representing Stauffer Chemical, stood in support of the bill.

With no further proponents, the meeting was then opened to the opponents.

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Hal Robbins, chief of the Air Quality Bureau, stated that he was speaking on behalf of the Department of Health and Environmental Sciences.

SJR 17 tends to place the Department in a precarious position. The Department certainly does not object to adopting a different fluoride in forage standard than is currently on the books, although not enforced by an order of the Board of Health. The Department proposed the 35/50 value that is now a part of this resolution. This was one of several recommendations from various witnesses and parties. The Department will present the fluoride issue of the new board members at their first meeting. The Department's reservations come from that fact which requires the Board to adopt a specific number such as the 35/50 value. This specific value may unfairly lock the cattle or chemical industry into something that is not easily changed. This would allow little flexibility. Mr. Robbins then requested that the Committee remove the portions in the resolution that mandate an adoption of a specific value.

Lester Loble II, representing the Tri-County Anti-Pollution Association, stated his group is well aware of the economics of fluoride pollution. They have seen what it does to their cattle and horse herds. The difficulty is that the economic results are not as dramatic as in the case of Anaconda. The results are the same though. The economic losses are in smaller bites, but the total could be just as large.

The Tri-County Anti-Pollution Association supports the fluoride standard in or on forage of a monthly average of 20 parts per million. It is the position of the Association, however, that this standard be applied in a fashion analogous to EPA Class I and II air quality areas.

There is no question that it is more expensive to retro-fit an existing installation representing a large capital investment to meet a 20 parts per million standard. However, these same problems do not face a potential investor wishing to begin operations in Montana. Accordingly, the Association recommends that the present standards as promulgated be maintained in all areas except those areas containing operating plants with fluoride emissions.

Karen Zackheim of Twin Bridges stated that she is opposed to SJR 17 for two reasons: First, the resolution undermines proper consideration of the fluoride forage standard. The second reason for opposing the resolution is that it would require the Board to adopt a 35 ppm annual average and a 50 ppm monthly forage fluoride standard. There is ample evidence that such

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a standard would not protect the cattle around Silver Bow from Fluorosis. Miss Zackheim stated that she believes that the Board of Health is the appropriate body to set fluoride standards that will be fair to ranchers and reasonable for industry.

Dr. Paul Bisonnette, a vet from Deer Lodge, stated that the Board of Health must adopt standards which are feasible for both the ranchers and industry. He suggested that perhaps a 30/40 formula would be feasible.

Marlin Gilman stood in opposition to the resolution.

Richard Stefel stated that he was standing in opposition reluctantly. That perhaps the emissions could be reduced by adding more scrubbers. Mr. Stefel felt that the intent of the resolution forces action by the Department of Health and that they would be tied to certain standards. The choice should be left to the officials.

Steve Doherty, representing the Northern Plains Resource Council, stated that SJR 17 is a good attempt to deal with the issue of the fluoride standards. It is straight and directly to the point. It does not attempt to hide its intent and effect. To that degree it is good.

However, SJR 17 should not pass for the following reasons:

- 1) The numbers cited in the bill appear to be too low to adequately protect the livestock industry in the vicinity of a fluoride emitting source.
- 2) Perhaps the most important reason is the the issue of numbers is a complex one. It would not do justice to the industries or to the surrounding landowners for a hasty decision to be made. The pressure packed halls of the Legislature should not make the decision.
- 3) The Board of Health has stayed emforcement of the fluoride standard. It is meeting very soon to review the standard it has adopted. The sustem is working. There is no need to change it.

With no further opponents, Senator Jacobson closed. She stated that she urged the Committee to adopte the standards set forth in the resolution. Mrs. Jacobson quoted an article from the Montana Standard of Wednesday, November 18th.

"Hal Robbins, Chief of the Health Department's Air Quality

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Bureau, said Tuesday that his agency would probably recommend the same fluoride standard that it suggested to the board about a year ago.

Robbins stated that he plans to ask the board to delay action on fluorides until a good sampling protocol is developed. "We may be talking over a year," he said.

Dr. Bartlett was quoted as saying the board basically has three options.

- 1) Accept the fluoride standard set last summer.
- 2) Accept the standard to reflect the board's intention of making the standard apply only during the growing season."

Senator Jacobson stated that the first is unacceptable because it cannot be met.

The second is not acceptable to the ranchers because of the vagueness of the definition of growing season. This year has been unusual and cattle have been grazing long after what might have been termed the growing season.

The third option to adopt the department's recommendation would involve according to Dr. Bartlett, going through the state's rule-making process again. Under that process, notice must be given and hearings must be held. Time involved could be two years. She then urged the Committee's approval of the resolution.

The meeting was then opened to a question and answer period from the Committee.

CONSIDERATION OF SENATE BILL 418: Senator Donald Ochner of Senate District 26, chief sponsor of SB 418, gave a brief resume of the bill. This bill is an act to revise and clarify the law creating the Board of Pharmacists and laws administered by the Board of Pharmacists.

This bill was introduced at the request of the Department of Professional and Occupation Licensing.

Section (1) - members of the Board of Pharmacists must be graduates of a college of pharmacy accredited by the American Council on Pharmaceutical Education. The provision that one member may be a registered pharmacist of 15 years practical experience is eliminated.

Section (2) - the United States Pharmacopoeia and the National Formulary are now combined into one volume and should appear that way in the codes now. This change also appears in Section (3) - 37-7-101(6)(i) - and an amendment is needed to change the word "them" to "it" to reflect the single volume.

Also in Section (2) the definition of pharmacy is amended to delete words that are archaic or unnecessary and adds that a pharmacy is where "prescription" drugs are sold.

Section (4) - amends the definition of "intern" to specify that the intern is "under the supervision of a registered and licensed pharmacist". The old language was not clear on that point. Section (4) also deletes "drug store" under the definition of "pharmacy".

Section (5) - again specifies that an intern must be "registered and licensed by the department and under the supervision of a registered and licensed pharmacist" in order to dispense prescriptions.

Section (6) - rearranges 37-7-302 to properly place the fee for registration by reciprocity with other material relating to the subject.

Section (7) - deletes a 30-day grace period for renewal of the annual registration fee.

Section (8) - deletes words that confuse the meaning of revoke.

Section (9) - deletes unnecessary language in subsection (1) of 37-7-321. Also language is deleted that would allow a license to be granted to a pharmacy operated by a registered intern.

Section (10) - specifies that a prescription not bearing any refill instructions may not be refilled without first obtaining permission from the prescriber. Any prescription may not be refilled for more than one year from the date it was originally filled.

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Warren Able, representing the Board of Pharmacist, stood in support of the bill. He stated that SB 418 will help clarify the existing law.

Frank Davis, representing the Montana State Pharmaceutical Association, stated the the Association supported in a vote of 4-1 the new section starting on line 15, page 15, "A prescription may not be refilled for more than one (1) year from the date it was originally filled."

With no further proponents, the chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Ochner closed by asking the Committee for favorable consideration on this bill.

CONSIDERTION OF SENATE BILL 480: Senator Jack Healy of Senate District 44, chief sponsor of SB 480, gave a brief resume of the bill. This bill is an act to reestablsih the Board of Hearing Aid Dispensers under existing statutory authority.

In section 3 an audiologist is removed from the board and a public member is added.

In section 4 "trainee" license replaces temporary license. There is also an addition to the practice of dispensing and fitting hearing aids which is "and the subsequent selection of a proper ear molds."

Section 5 deletes reference to otolaryngologist and audiologist in constituting a quorum.

Section 6 adds supervision and administration of the examination to the duties of the board.

In section 7 board notification of change of address by a licensed dispenser or trainee is required.

In section 8 the license fee is changed from \$50 to a figure set by the board.

In section 9 a temporary license is changed to a trainee license and guidelines are provided for its issuance.

Section 10 - the fee for renewal will be set by the board.

Section 11 - allows appropriations from the board's fund.

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John Sweeney, representing the Hearing Aid Dispensers, stood in support of the bill. He stated that this law was passed by the Legislature in 1969. Mr. Sweeney stated that there is no need for audiologists on their board.

Robert Jurick of Billings stated that the Board should be left as it and that it will be just as effective as before.

Barbara Going, representing the Beltone Hearing Aid Service, stated that she supports this bill. The deletions, corrections, and additions to the H.A.D. law are necessary to enable the Board to work more effectively and best serve the needs of the hard of hearing public.

The audiologist position on the board had long since lost its effectiveness. Most dealers are knowledgeable in audiology due to the continuing education they obtain through their parent hearing aid companies or courses offered through the National Hearing Aid Dealers Society. They do not have a hearing aid dealer on the board of speech pathologists and audiologists and do not feel they need to have a representative on the hearing aid board.

Mrs. Going stated that she would like to make continuing education mandatory for hearing aid dealers in compliance with the new standards being set by N.H.A.D.S.

With no further proponents, Chairman Hager called on the opponents.

Merle DeVoe representing the Board of Speech Pathologist and Audiologists, stated that he would like to see an audiologists on the board.

With no further opponents, the meeting was opened to a question and answer period from the Committee.

Senator Healy closed and asked the Committee for favorable consideration of this bill.

CONSIDERTAIION OF SENATE BILL 453: Scott Secat of the Legislative Auditor's Office presented the bill being as the sponsor, Senator Hims1 was called away to another meeting.

This bill is an act to create a Boad of Speech Pathologists, Audiologists, and Hearing Aid Technologists to replace the existing boards of hearing aid dispensers and speech pathologists and audiologists, which are terminated.

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Chairman Hager called on the proponents. Hearing none, he called on the opponents.

Shirley Devoe, representing the Board of Speech Pathologists and Audiologists, stood in opposition to the bill. She stated that SB 453 as developed did not include input from the Boards nor was there sufficient time for review. The bill as drafted, seems to be a last minutes cut and paste attempt to create a new board, using bits and pieces of the two existing laws. SB 453 thus legislates two groups with a history of antagonism to function as one compatible group. The two Boards and professions, although somewhat interrelated provide a completely different service to two completely separate consumer groups, and to two separate categories of licensees.

Judy Ray, representing herself as a member of the Montana Deaconess Med. Center director of speech pathology, read a letter from Christie Deck, president of the Montana Speech, Language, and Hearing Association. (See attachments.)

Marilyn Pearson, representing the Montana University at Missoula, stood in opposition to the bill and handed in a petition from the Department of Communication Sciences requesting a do not pass on this bill. (See attachments.)

Jack Sweeney from Butte stood in opposition to the bill.

Merle DeVoe stood in opposition to the bill and handed out a list of 8 different reasons as to why he was opposed to the bill. (See attachments.)

Barbara Going from Great Falls stood in opposition to the bill. Mrs. Going stated that these two professions are not related at all and therefore, should not be placed on the same board. (See attachments.)

Christian Grover, an audiologist and also a hearing aid dispenser, stood in opposition to the bill. He also stated that the two fields are different.

With no further opponents, the meeting was opened to a question and answer period from the Committee.

Scott Secat closed by saying that you are dealing with hearing and hearing impairment in this bill and that they should be together on one board.

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ANNOUNCEMENTS: The next meeting of the Public Health, Welfare and Safety will be held on Friday, February 20, 1981 at 12:30 in Room 410 to consider Senate Bill 426.

ADJOURN: With no further business the meeting was adjourned.



CHAIRMAN, TOM HAGER

eg

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
James M. Peterson	BOARD of Sanitarian	SB 388		X
PETER M. FRASIER	Mont. Bur. Health Assoc.	SB 388		X
James I. Slawson	Board of Sanitarian	SB 388		X
Kenneth B. Reed	Board of Sanitarian	SB 388		X
John [unclear]	Mont. Bur. Health Assoc.	SB 388		X
Edward E. Johnson	Sanitarian Association	SB 388		X
James [unclear]	Mont. Bur. Health Assoc.	SB 388		X
James [unclear]	Board of Sanitarian	SB 388		X
James [unclear]	Board of Sanitarian	SB 388		X
RV [unclear]	St. Joseph's Hospital	SB 17	X	
Hal Robbins	Mont. Dept of Health	SB 17		
Will [unclear]		SB 17		
Richard [unclear]	SB 17	SB 17		no comment

Striking this language
requires conversion of life insurance
as existing
(LAW)

- 1. Page 2, line 5 and 6.
Following: "insurance" on line 5
Strike: ", IF THE GROUP POLICY SO PROVIDES,"

i.e. putting this language into statute changes the law from mandatory to optional life coverage

- 2. Page 4, line 3.
Strike: "3 YEARS"
Insert: "1 YEAR"
- 3. Page 5, line 19.
Following: "termination."
Insert: "(1)"

because policies will no longer be required to provide for conversion (conversion will only be available if employer & insurance company agree to put such a provision in the policy)

- 4. Page 6, line 4.
Following: line 3
Insert: "(2) A group policy delivered or issued for delivery in this state which insures employees or members for hospital, surgical, or major medical insurance on an expense incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose insurance under the group policy would otherwise terminate because of termination of employment or membership are entitled to continue the hospital, surgical, and major medical insurance coverage of that group policy for themselves and their eligible dependents, subject to all of the group policy's terms and conditions applicable to those forms of insurance and subject to the following conditions:

this language requires mandatory continuation of health insurance p.v termination of employment which is not required under current law SB 129

(a) Continuation shall be available only to an employee or member who has been continuously insured under the group policy (and for similar benefits under any group policy which it replaced) during the entire 3-month period ending with such termination.

(b) Continuation shall not be available for a person who is or could be:
(i) covered by Medicare; or
(ii) covered by any other insured or uninsured arrangement which provides hospital, surgical, or medical coverage for individuals in a group.

(3) An employee or member who wishes continuation of coverage must request such continuation in writing within the 31-day period following the later of:

(a) the date of such termination, or
(b) the date the employee is given notice of the right of continuation by either his employer or the group policyholder, but the employee or member must elect continuation within 31 days of the date of termination.

(4) An employee or member electing continuation must pay to the group policyholder or his employer, on a monthly basis in advance, the amount of contribution

this language specifies conditions to be effected: e.g. it details certain conditions for continuation

required by the policyholder or employer, but not more than the group rate for the insurance being continued under the group policy on the due date of each payment. The employee's or member's written election of continuation, together with the first contribution required to establish contributions on a monthly basis in advance, must be given to the policyholder or employer within 31 days of the date the employee's or member's insurance would otherwise terminate.

(5) Continuation of insurance under the group policy for any person shall terminate when he fails to satisfy the conditions of subsection (2)(b) or, if earlier, at the first to occur of the following:

(a) the date 6 months after the date the employee's or member's insurance under the policy would otherwise have terminated because of termination of employment or membership;

(b) If the employee or member fails to make timely payment of a required contribution, the end of the period for which contributions were made; or

(c) the date on which the group policy is terminated or, in the case of an employee, the date his employer terminates participation under the group policy.

(6) If subsection (5)(c) applies and the coverage ceasing by reason of such termination is replaced by similar coverage under another group policy, the following shall apply:

(a) The employee or member shall have the right to become covered under that other group policy for the balance of the period that he would have remained covered under the prior group policy in accordance with subsection (5) had a termination described in subsection (5)(c) not occurred.

(b) The minimum level of benefits to be provided by the other group policy shall be the applicable level of benefits of the prior group policy reduced by any benefits payable under that prior group policy.

(c) The prior group policy shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred.

(7) A notification of the continuation privilege must be included in each certificate of coverage."

Enumerates conditions upon which continuation privilege ceases i.e. sets limits of continuation rather than leaving it pen-ended

Details an employees' rights in situation where his former employer changes insurance carrier during the employee's continuation period

Limits health insurance conversion privilege which provided for SECTION 4 of SB 129

Page 8, line 2

Following: line 1

Insert: "NEW SECTION. Section 5. Other health coverage -- limitations on issuance of converted policy. (1)

The insurer is not required to issue a converted policy covering any person if such person is or could be covered by medicare. Furthermore, the insurer is not required to issue a converted policy covering any person if:

i.e. the person can not convert from a group to an individual policy if he can obtain similar benefits from other sources such as medicare or another group policy if

- (1) (a) such person is covered for similar benefits by another individual policy;
- (b) such person is or could be covered for similar benefits under any arrangement of coverage for individuals in a group, whether insured or uninsured; or
- (c) similar benefits are provided for or available to such person, by reason of any state or federal law; and
- (2) the benefits under sources of the kind referred to in subsection (1)(a) for such person or benefits provided or available under sources of the kind referred to in subsections (1)(b) and (1)(c) for such person, together with the converted policy's benefits would result in a duplication of benefits.

NEW SECTION. Section 6. Benefit levels -- converted policy need be no greater than group policy. An insurer is not required to issue a converted policy providing benefits in excess of the hospital, surgical, or major medical insurance under the group policy from which conversion is made.

NEW SECTION. Section 7. Pre-existing conditions -- total benefits payable first policy year. The converted policy may not exclude, as a pre-existing condition, any condition covered by the group policy.

However, the converted policy may provide for a reduction of its hospital, surgical, or medical benefits by the amount of any such benefits payable under the group policy after the individual's insurance terminates thereunder. The converted policy may also provide that during the first policy year, the benefits payable under the converted policy, together with the benefits payable under the group policy, may not exceed those that would have been payable had the individual's insurance under the group policy remained in force.

NEW SECTION. Section 8. Continued group insurance upon retirement -- conversion election. If coverage would be continued under the group policy on an employee or member following his retirement prior to the time he is or could be covered by medicare, the employee or member may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had that insurance terminated at retirement.

NEW SECTION. Section 9. Medicare eligibility -- benefit reduction. The converted policy may provide for reduction or termination of coverage of any person upon his eligibility for coverage under medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

NEW SECTION. Section 10. Insured's family -- conversion entitlement. Subject to the conditions set forth in this section, the conversion privilege is also

see preceding page

benefits can not be denied on the ground that a condition existed before the person converted to an individual policy (without this language, benefits could be denied for pre-existing conditions)

allows conversion on retirement

allows reduction of benefits on converted policy upon eligibility for medicare

NEW SECTION provides for family members to convert from group to individual policy in following situations which are not covered by present law: (see next page)

employee dies, surviving spouse can convert

in divorce, employee's ex-spouse can convert

child who becomes emancipated

available:

(1) to the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or if the group policy provides for continuation of dependents coverage following the employee's or member's death, at the end of such continuation;

(2) to the spouse of the employee or member upon termination of coverage of the spouse, by reason of ceasing to be a qualified family member under the group policy, while the employee or member remains insured under the group policy, including such children whose coverage under the group policy terminates at the same time; or

(3) to a child solely with respect to himself upon termination of his coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

Amendments 6. #6 - #9 (pages 4-7) are identical to above amendments 8. except that these apply only to health service corporations (ex. Blue Cross and Blue Shield)

6. Page 8, line 2.
Strike: "Section 5"
Insert: "Section 11"

7. Page 8, line 3.
Following: "termination."
Insert: "(1)"

8. Page 8, line 12.
Following: line 12
Insert: "(2) A group hospital or medical service plan contract delivered or issued for delivery in this state which insures employees or members for hospital, surgical, or major medical insurance on an expense incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose insurance under the group contract would otherwise terminate because of termination of employment or membership are entitled to continue the hospital, surgical, and major medical insurance coverage of that group contract for themselves and their eligible dependents, subject to all of the group contract's terms and conditions applicable to those forms of insurance and subject to the following conditions:

(a) Continuation shall be available only to an employee or member who has been continuously insured under the group contract (and for similar benefits under any group policy or contract which it replaced) during the entire 3-month period ending with such termination.

(b) Continuation shall not be available for a person who is or could be:

[Note: amendments #1 - #5 apply only to regular insurance carriers]

(i) covered by Medicare; or
(ii) covered by any other insured or uninsured arrangement which provides hospital, surgical, or medical coverage for individuals in a group.

(3) An employee or member who wishes continuation of coverage must request such continuation in writing within the 31-day period following the later of:

(a) the date of such termination, or
(b) the date the employee is given notice of the right of continuation by either his employer or the group contractholder, but the employee or member must elect continuation within 31 days of the date of termination.

(4) An employee or member electing continuation must pay to the group policyholder or his employer, or a monthly basis in advance, the amount of contribution required by the contractholder or employer, but not more than the group rate for the insurance being continued under the group policy on the due date of each payment. The employee's or member's written election of continuation, together with the first contribution required to establish contributions on a monthly basis in advance, must be given to the contractholder or employer within 31 days of the date the employee's or member's insurance would otherwise terminate.

(5) Continuation of insurance under the group policy for any person shall terminate when he fails to satisfy the conditions of subsection (2)(b) or, if earlier, at the first to occur of the following:

(a) the date 6 months after the date the employee's or member's insurance under the contract would otherwise have terminated because of termination of employment or membership;

(b) If the employee or member fails to make timely payment of a required contribution, the end of the period for which contributions were made; or

(c) the date on which the group contract is terminated or, in the case of an employee, the date his employer terminates participation under the group contract.

(6) If subsection (5)(c) applies and the coverage ceasing by reason of such termination is replaced by similar coverage under another group policy or contract, the following shall apply:

(a) The employee or member shall have the right to become covered under that other group policy or contract for the balance of the period that he would have remained covered under the prior group contract in accordance with subsection (5) had a termination described in subsection (5)(c) not occurred.

(b) The minimum level of benefits to be provided by the other group policy or contract shall be the applicable level of benefits of the prior group contract reduced by any benefits payable under that prior group contract.

(c) The prior group contract shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred.

(7) A notification of the continuation privilege must be included in each certificate of coverage.

9. Page 8, line 13.

Following: line 12

Insert: "NEW SECTION. Section 12. Other health coverage -- limitations on issuance of converted policy.

The health service corporation is not required to issue a converted policy covering any person if such person is or could be covered by medicare. Furthermore, the health service corporation is not required to issue a converted policy covering any person if:

(1) (a) such person is covered for similar benefits by another individual policy;

(b) such person is or could be covered for similar benefits under any arrangement of coverage for individuals in a group, whether insured or uninsured; or

(c) similar benefits are provided for or available to such person, by reason of any state or federal law; and

(2) the benefits under sources of the kind referred to in subsection (1)(a) for such person or benefits provided or available under sources of the kind referred to in subsections (1)(b) and (1)(c) for such person, together with the converted policy's benefits would result in a duplication of benefits.

NEW SECTION. Section ~~13~~^{13c}. Benefit levels -- converted policy need be no greater than group policy. A health service corporation is not required to issue a converted policy providing benefits in excess of the hospital, surgical, or major medical insurance under the group policy from which conversion is made.

NEW SECTION. Section 14. Pre-existing conditions -- total benefits payable first policy year. The converted contract may not exclude, as a pre-existing condition, any condition covered by the group contract.

However, the converted contract may provide for a reduction of its hospital, surgical, or medical benefits by the amount of any such benefits payable under the group policy after the individual's insurance terminates thereunder. The converted policy may also provide that during the first policy year, the benefits payable under the converted policy, together with the benefits payable under the group policy, may not exceed those that would have been payable had the individual's insurance under the group policy remained in force.

NEW SECTION. Section 15. Continued group insurance upon retirement -- conversion election. If coverage would be continued under the group contract on an employee or member following his retirement prior to the time he is or could be covered by medicare, the employee or member may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had that insurance terminated at retirement.

NEW SECTION. Section 16. Medicare eligibility -- benefit reduction. The converted policy may provide for reduction or termination of coverage of any person upon his eligibility for coverage under medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

NEW SECTION. Section 17. Insured's family -- conversion entitlement. Subject to the conditions set forth in this section, the conversion privilege is also available:

(1) to the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or if the group policy provides for continuation of dependents coverage following the employee's or member's death, at the end of such continuation;

(2) to the spouse of the employee or member upon termination of coverage of the spouse, by reason of ceasing to be a qualified family member under the group policy, while the employee or member remains insured under the group policy, including such children whose coverage under the group policy terminates at the same time; or

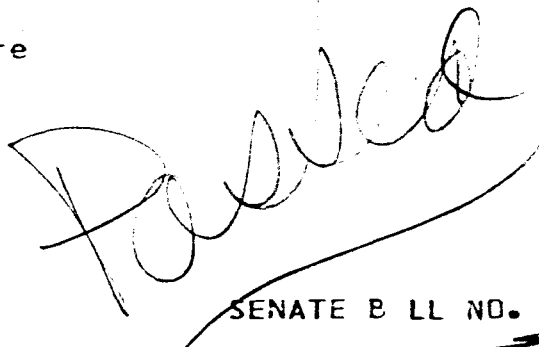
(3) to a child solely with respect to himself upon termination of his coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

Renumber: all subsequent sections

vising
codification
instructions
to
incorporate
proposed
amendments

10. Page 10, line 2 and 3
Following: "3" on line 2
Strike: ", " on line 2
and "4, AND 5" on line 3
Insert: "through 10"
11. Page 10, line 5.
Following: "3"
Strike: ", 4, AND 5"
Insert: "through 10"
12. Page 10, line 6.
Following: "Sections"
Strike: "5 AND 6"
Insert: "11 through 18"
13. Page 10, line 9.
Following: "sections"
Strike: "5 and 6"
Insert: "11 through 18"

-END-



SENATE BILL NO. 129

INTRODUCED BY TURNAGE, NORMAN

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A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING CONVERSIONS OF GROUP LIFE INSURANCE AND GROUP DISABILITY INSURANCE AND PROVIDING FOR CONTINUATION OF GROUP COVERAGE UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 33-20-1209 AND 33-20-1210, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-20-1209, MCA, is amended to read:

"33-20-1209. Conversion on termination of eligibility.
(1) The group life insurance policy shall contain a provision that if the insurance or any portion of it on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance ~~without--disability--or--other--supplementary benefits,~~ provided application for the individual policy shall be made and the first premium paid ~~tendered~~ PAID to the insurer within 31 days after such-termination ~~written notice~~ ~~SUCH TERMINATION by-the-insurer-to-the-insured-of~~

1 ~~the insured's right of conversion and pending termination of~~
2 ~~coverage,~~ and provided further that:

3 ~~(1)(a)~~ the individual policy shall, at the option of
4 such person, be on any one of the forms, except including
5 but not limited to term insurance, IF THE GROUP POLICY SO
6 PROVIDES, then customarily issued by the insurer ~~at the age~~
7 ~~and for the amount applied for~~ AT THE AGE AND FOR THE AMOUNT
8 APPLIED FOR and shall offer benefits at least equal to those
9 under the group coverage;

10 ~~(2)(b)~~ the individual policy shall, at the option of
11 the insured, be in an amount not in excess of the amount of
12 life insurance which ceases because of such termination,
13 ~~less the amount of any life insurance for which such person~~
14 ~~is or becomes eligible under any other group policy within~~
15 31 days after such termination, LESS THE AMOUNT OF ANY LIFE
16 INSURANCE FOR WHICH SUCH PERSON IS INSURED UNDER ANY OTHER
17 GROUP POLICY WITHIN 31 DAYS AFTER SUCH TERMINATION, provided
18 that any amount of insurance which shall have matured on or
19 before the date of such termination as an endowment payable
20 to the person insured, whether in one sum or in installments
21 or in the form of an annuity, shall not, for the purposes of
22 this provision, be included in the amount which is
23 considered to cease because of such termination; and

24 ~~(3)(c)~~ the premium on the individual policy shall be
25 at the insurer's then customary rate applicable to the form

1 ~~end-amount-of-the individual-policy-to-the-class-of-risk-to~~
2 ~~which--such--person-then-belongs,-and-to-his-age-attained-on~~
3 ~~the-effective-date: other-members-of-the-group-and-the-amount~~
4 FORM AND AMOUNT OF THE INDIVIDUAL POLICY, TO THE CLASS OF
5 RISK TO WHICH SUCH PERSON THEN BELONGS, AND TO HIS AGE
6 ATTAINED ON THE EFFECTIVE DATE of the individual policy.

7 (2) With the consent of the employer, a person covered
8 under a group life insurance policy issued to an employer or
9 to the trustees of a fund established by an employer under
10 33-20-1101 may continue his coverage under the group policy
11 ~~after-termination-of-his-qualifying-employment-or-after~~
12 DURING HIS EMPLOYMENT NOTWITHSTANDING reduction of his
13 regular work schedule to less than the minimum number of
14 hours required for eligibility for membership. The premium
15 charged for the continued coverage shall be equal to that
16 charged other members of the group. Such person's coverage
17 under the group will cease if he subsequently becomes
18 eligible and--he--effects FOR coverage under another group
19 policy because of employment elsewhere."

20 Section 2. Section 33-20-1210, MCA, is amended to
21 read:

22 "33-20-1210. Conversion on termination of policy. The
23 group life insurance policy shall contain a provision that
24 if the group policy terminates or is amended so as to
25 terminate the insurance of any class of insured persons,

1 every person insured thereunder at the date of such
 2 termination whose insurance terminates and who has been so
 3 insured for at least 5-years ~~1-year~~ 2 YEARS prior to such
 4 termination date shall be entitled to have issued to him by
 5 the insurer an individual policy of life insurance, subject
 6 to ~~in-the-same-amount-of-insurance-and-under~~ SUBJECT TO the
 7 same conditions and limitations as are provided by
 8 33-20-1209, except that the group policy may ~~shall~~ MAY
 9 provide that the amount of such individual policy ~~shall~~ MAY
 10 ~~not-exceed-the-smaller-of:~~ NOT EXCEED THE SMALLER OF:

11 ~~(1) be-offered-by-the-insurer-in~~ the amount of the
 12 person's life insurance protection ceasing because of the
 13 termination or amendment of the group policy, ~~less--the~~
 14 ~~amount--of--any--life--insurance--for--which--he--is--or--becomes~~
 15 ~~eligible-under-any-group-policy-issued-or-reinstated-by--the~~
 16 ~~same--or--another--insurer--within--31--days--after--such~~
 17 ~~termination; and, LESS THE AMOUNT OF ANY LIFE INSURANCE FOR~~
 18 ~~WHICH HE IS OR BECOMES ELIBIBLE UNDER ANY GROUP POLICY~~
 19 ~~ISSUED OR REINSTATED BY THE SAME OR ANOTHER INSURER WITHIN~~
 20 ~~31 DAYS AFTER SUCH TERMINATION; AND~~

21 ~~(2) \$2,000 \$10,000."~~

22 ~~NEW-SECTION:~~ Section-3,--Conversion--on--disbanding-of
 23 groups--The-group-disability-insurance-policy-shall--contain
 24 a--provision--that--if--the-coverage-under-the-policy-ceases
 25 because-of-disbanding-of--the--groupy--each--person--insured

1 because--of-his-employment-in-the-group-shall-be-entitled-to
 2 have-issued-to-him--by--the--insurer--without--evidence--of
 3 insurability--on--an--individual-policy-of-disability-insurance
 4 covering--himself--and--his--dependents--or--family--members
 5 covered-under-the-group-provided:

6 (1)--application--for--the--individual-policy-is-made-and
 7 the-first-premium-tendered-to-the--insurer--within--31--days
 8 after--written--notice--by--the--insurer--to--the--insured--of--the
 9 insured's-right-to-conversion-of--coverage--and--of--pending
 10 termination; and

11 (2)--the--individual--policy--shall--offer--benefits-at
 12 least-equal-to-those-under-the-group-coverage-terminated--by
 13 the-disbanding; and

14 (3)--the--premium--on--the--individual-policy-shall-be-at
 15 the-insurer's-then-customary-rates-applicable-to-the-group's
 16 existing-amount-of-individual-policy-and-the-class--of--risk
 17 of-the-person-insured-under-the-group.

18 NEW SECTION. Section 3. Continuing group coverage
 19 after termination. A person covered by a group disability
 20 insurance policy issued OR RENEWED AFTER OCTOBER 1, 1981
 21 under 33-22-501(1) may, FOR A PERIOD OF ONE YEAR, with the
 22 consent of the employer or the trustees, continue coverage
 23 under group disability policy after--terminating--his
 24 qualifying--employment--or after reducing his regular work
 25 schedule to less than the minimum time required to qualify

1 for membership in the group, and the premium charged him
 2 shall be equal to that charged other members of the group of
 3 the same risk class.

4 ~~NEW SECTION~~ Section 5--Conversion-on-termination--of
 5 group--contracts--(1)--A--group-hospital-or-medical-service
 6 plan-contract-in-effect--by--a--health--service--corporation
 7 after--July--1y--1981y--shall--contain--a--provision--that--if--the
 8 coverage--under--the--contract--ceases--because--of--disbanding--of
 9 the--groupy--each--person--covered--because--of--his--employment--in
 10 the--group--shall--be--entitled--to--have--issued--to--him--by--the
 11 health--service--corporationy--written--evidence--of
 12 insurabilityy--on--individual--hospital--or--medical--service--plan
 13 contract--covering--himself--and--his--dependents--or--family
 14 members--covered--under--the--groupy--provided--application--for
 15 the--individual--contract--is--made--and--the--first--premium
 16 tendered--to--the--health--service--corporation--within--31--days
 17 after--written--notice--by--the--insurer--to--the--insured--of--the
 18 insured's--right--to--conversion.

19 (2)--The--individual--contract--shall--provide--benefits
 20 equal--to--those--under--the--group--contract--terminated--by--the
 21 disbanding.

22 (3)--The--premium--on--the--individual--contract--shall--be--at
 23 the--insurer's--then--customary--rates--applicable--to--the--form
 24 and--the--amount--of--the--individual--contract--and--the--class--of
 25 risk--of--the--person--covered--but--in--no--case--more--than--5%

1 greater-than-the-group-premium--charged--for--like--benefits
 2 under-the-group-contracts

3 NEW SECTION. SECTION 4. CONVERSION ON TERMINATION OF
 4 ELIGIBILITY. (1) A GROUP DISABILITY INSURANCE POLICY ISSUED
 5 OR RENEWED AFTER OCTOBER 1, 1981, SHALL CONTAIN A PROVISION
 6 THAT IF THE INSURANCE OR ANY PORTION OF IT ON A PERSON, HIS
 7 DEPENDENTS, OR FAMILY MEMBERS COVERED UNDER THE POLICY
 8 CEASES BECAUSE OF TERMINATION OF HIS EMPLOYMENT OR OF HIS
 9 MEMBERSHIP IN THE CLASS OR CLASSES ELIGIBLE FOR COVERAGE
 10 UNDER THE POLICY, OR AS A RESULT OF HIS EMPLOYER
 11 DISCONTINUING HIS BUSINESS, SUCH PERSON SHALL, PROVIDED HE
 12 HAS BEEN INSURED FOR A PERIOD OF THREE MONTHS, BE ENTITLED
 13 TO HAVE ISSUED TO HIM BY THE INSURER, WITHOUT EVIDENCE OF
 14 INSURABILITY, AN INDIVIDUAL POLICY OF HOSPITAL OR MEDICAL
 15 SERVICE INSURANCE ON HIMSELF, HIS DEPENDENTS, OR FAMILY
 16 MEMBERS, PROVIDED APPLICATION FOR THE INDIVIDUAL POLICY
 17 SHALL BE MADE AND THE FIRST PREMIUM TENDERED TO THE INSURER
 18 WITHIN 31 DAYS AFTER THE TERMINATION OF GROUP COVERAGE.

19 (2) THE INDIVIDUAL POLICY SHALL, AT THE OPTION OF THE
 20 ^{INSURED}INSURER, BE ON ANY OF THE FORMS THEN CUSTOMARILY ISSUED BY
 21 THE INSURER TO INDIVIDUAL POLICYHOLDERS WITH THE EXCEPTION
 22 OF THOSE POLICIES ^{which require that applicants show evidence of good health,} ~~WHOSE ELIGIBILITY IS DETERMINED BY~~
 23 ~~AFFILIATION WITH A COMMON ENTITY.~~

24 (3) THE PREMIUM ON THE INDIVIDUAL POLICY SHALL BE AT
 25 THE INSURER'S THEN CUSTOMARY RATE APPLICABLE TO THE COVERAGE

1 OF THE INDIVIDUAL POLICY.

2 NEW SECTION. Section 5. Continuing group coverage
3 after termination. A person covered by a group hospital or
4 medical service plan contract, issued OR RENEWED by a health
5 service corporation after ~~July~~ OCTOBER 1, 1981, may, FOR A
6 PERIOD OF ONE YEAR with the consent of the employer or the
7 trustees, continue coverage under the group contract after
8 ~~terminating--his-qualifying-employment-or~~ after reducing his
9 regular work schedule to less than the minimum time required
10 to qualify for membership in the group, and the premium
11 charged him shall be equal to that charged the members of
12 the group.

13 NEW SECTION. Section 6. Conversion on termination of
14 eligibility. The group hospital or medical service plan
15 contract ~~in-effect~~ ISSUED OR RENEWED by a health service
16 corporation after ~~July~~ OCTOBER 1, 1981, shall contain a
17 provision that if the insurance or any portion of it on a
18 person, his dependents, or family members covered under the
19 policy ceases because of termination of his employment or of
20 his membership in the class or classes eligible for coverage
21 under the policy OR AS A RESULT OF AN EMPLOYER DISCONTINUING
22 HIS BUSINESS, such person shall, PROVIDED HE HAS BEEN
23 INSURED FOR A PERIOD OF 3 MONTHS, be entitled to have issued
24 to him by the insurer, without evidence of insurability, an
25 individual policy of hospital or medical service insurance

1 on himself, his dependents, or family members, provided
 2 application for the individual policy shall be made and the
 3 first premium tendered to the insurer within 31 days after
 4 ~~written notice by the insurer to the insured of the~~
 5 ~~insured's right of conversion and pending~~ THE termination of
 6 group coverage.

7 (1) The individual policy shall, at the option of such
 8 person THE INSURER, be on any of the forms then customarily
 9 issued by the insurer TO INDIVIDUAL POLICYHOLDERS WITH THE
 10 ~~EXCEPTION OF THOSE WHOSE ELIGIBILITY IS DETERMINED BY THEIR~~
 11 ~~AFFILIATION WITH A PARTICULAR ENTITY,~~ and shall offer
 12 ~~benefits at least equal to those under the group coverage~~
 13 ~~SUCH INDIVIDUAL POLICIES.~~

policies which require that applicants show evidence of good health

14 ~~(2) The individual policy shall, at the option of the~~
 15 ~~insured, be in an amount not in excess of the amount of~~
 16 ~~insurance which ceases because of such termination.~~

17 (3)(2) The premium on the individual policy shall be
 18 at the insurer's then customary rate applicable to the other
 19 members of the group and the coverage of the individual
 20 policy.

21 Section 7. Severability. If a part of this act is
 22 invalid, all valid parts that are severable from the invalid
 23 part remain in effect. If a part of this act is invalid in
 24 one or more of its applications, the part remains in effect
 25 in all valid applications that are severable from the

1 invalid applications.

2 Section 8. Codification instruction. (1) Sections 3₁
3 and 4₁ AND 5 are intended to be codified as integral parts
4 of Title 33, chapter 22, part 5, and provisions of Title 33,
5 chapter 22, apply to sections 3₁ and 4₁ AND 5.

6 (2) Sections ~~5-through-7~~ 5 AND 6 are intended to be
7 codified as integral parts of Title 33, chapter 30, part 10,
8 and provisions of ~~Title--33, chapter--22, and of~~ Title 33,
9 chapter 30, apply to sections ~~5-through-7~~ 5 AND 6.

10 Section 9. Effective date. This act is effective July
11 1, 1981.

-End-

NAME: GARY LUCHT DATE: 2-19-81

ADDRESS: 600 KENSINGTON AVE. MISSOULA

PHONE: 721-5588

REPRESENTING WHOM? P. SKY COLLEGE OF BARBER-STYLING

APPEARING ON WHICH PROPOSAL: SB 452

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: 3 - BARBERS AND ONE
PUBLIC BOARD MEMBER

NAME: Patrick D Binnaty DATE: 2/19

ADDRESS: 802 W Main Newstown

PHONE: 538 3901

REPRESENTING WHOM? President
Montana ~~State~~ Assn For Barber

APPEARING ON WHICH PROPOSAL: 452

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

For Barber of Board

* apprentice

NAME: James M. Peterson DATE: 19 FEB 81

ADDRESS: 709 LOGAN HELENA, MT. 59601

PHONE: 442-4214

REPRESENTING WHOM? BOARD of SANITARIANS

APPEARING ON WHICH PROPOSAL: SB 388

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: IT IS my judgement that elimination

of the Board of Sanitarians will do severe damage
to public health protection in Montana by permitting
totally unqualified persons to make investigations,
require corrections and generally prescribe health
conditions.

Written testimony provided.

SENATE BILL 388

Mr. Chairman and members of the Senate Public Health Committee:

My name is James Peterson. I am a registered sanitarian and a member of the Board of Sanitarians. It is on behalf of the board that I am presenting these remarks in opposition to Senate Bill 388.

The Montana Board of Sanitarians came into existence in 1959 for the purpose of protecting public health by:

1. Determining the demands of the sanitarian profession and then developing and enforcing minimum standards for sanitarian registration.
2. Using appropriate methods and examinations to determine whether applicants meet those standards.
3. Authorizing the issue of a registration license, suspending or revoking licenses, and annually renewing licenses of registered sanitarians.

The Board of Sanitarians has followed these procedures since 1959 as the registered sanitarian's responsibilities have grown to the highly complex and technical world of today. The Board of Sanitarians believes that now, more than ever before, sanitarians must have specific qualifications, must exhibit their basic competency through application, review and testing and must perform as a professional on the job.

We can see no benefit to the citizens of Montana, to the businesses and industry with whom the sanitarian works, nor to the employing industries or governmental agencies to remove all requirements, to remove all qualifications, and to permit anyone - anyone at all - to assume the legal authorities and responsibilities of a sanitarian. We believe the reduction in public health protection would be unacceptable to all.

Considering items of special interest determined by the Board of Sanitarians, the registered sanitarians themselves, and the Legislative Audit review, we would like to offer the following. The page numbers after each item refer to pages in the audit report.

COMMENTS REGARDING THE SUNSET REVIEW
OF THE BOARD OF SANITARIANS

1. Pre-employment Examination and Probationary Certification (Page 10 & 13)

HB 685 would eliminate this procedure. Prospective sanitarians would be required to pass the full professional registration examination before employment.

2. Pass-fail Ratio (Page 11)

The academic requirements necessary before an application for registration can be made effectively eliminates most individuals who would fail the examination--thus, the pass percentage seems high.

3. Exemptions to Registration (Page 15 & 16)

A. Academic activities -

Persons qualified to teach at the college and university level are already academically qualified and are not actually performing as sanitarians.

B. Sanitary engineers, public health engineers, registered engineers, etc.

Persons graduating as engineers have qualifications for their profession and have their own registration procedures. These persons do not usually perform as sanitarians but deal with a limited area.

C. Public Health Officers

50-2-116 MCA requires a health officer to be a physician or a person with a master's degree in public health or equivalent thus these persons more than meet academic requirements. They also don't perform as sanitarians.

D. Federal employees

These individuals are qualified by other standards and do not perform as sanitarians.

4. Department of Health Authority (Page 17)

Although the department works very closely with sanitarians on the day-to-day applications of rules and laws, it has no authority to register the profession.

Also, the department does not want the assignment and feels peer review is better.

5. Conflict with the Department of Health (Page 20)

The problem developed when the state instituted its new classification system. The Department placed two persons in the sanitarian classification even though one managed the confined feed-lot program and the other was a soils scientist.

Because they had the title "sanitarian" the Board had no choice but to request registration.

The problem has been resolved by proper job classification procedures.

6. Lack of Complaints to the Board

The board is charged with establishing qualifications, testing applicants and issuing registration certificates. It can only take disciplinary action for specific causes listed in HB 685 (Page 9).

Only limited complaints concerning these causes have been brought to the boards attention.

Other complaints, dealing with the sanitarian's application of laws and rules are the responsibility of the Department of Health and the local health agency. Only if the problems relate to incompetence, misconduct, gross negligence etc. would the board become involved.

7. Department of Health Authority (Page 22)

Discussed under item 4.

8. Educational Requirements (Page 22 & 23)

HB 685 amends the educational requirements to bring the relationship of academic background and the requirements of the job into direct focus. Montana State University currently has 15 persons in the environmental health degree program.

10. Standards of Conduct (Page 24)

The Board of Sanitarians plans to adopt standards through its rule-making authority.

11. Continuing Education (Page 24)

The Board of Sanitarians plans to institute a continuing education component.

The actual requirements will be developed through an action committee of field sanitarians and with the participation of the Montana Environmental Health Association.

Senate Bill 386 provides the authorization for continuing education.

In conclusion, the Board of Sanitarians recommends the committee vote against Senate Bill 388. The points just raised, together with other testimony you will receive, indicates broad-based support. The industry we work with, the county commissioners who hire most of our profession, the local boards of health and health officer for whom we work, and the members of the profession themselves are all opposed to Senate Bill 388.

We respectfully urge you to cast your vote with these concerned people and protect public health in Montana by voting against Senate Bill 388.

Thank you.

NAME: VERNON E. SLOOLIN DATE: 2/19/81

ADDRESS: HELENA

PHONE: 449-2408

REPRESENTING WHOM? MONT. DEPT. HEALTH & ENV. SCES.

APPEARING ON WHICH PROPOSAL: S.R. 388

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: THE DNES HAS EXPERIENCED
A GREAT DEAL OF BENEFIT IN
ADMINISTRATION OF PUBLIC HEALTH
LAWS THROUGH QUALIFIED
SANITARIANS. THE DEPT. HAS
SUPPORTED REG. OF SANITARIANS
SINCE PASSAGE OF THE LAW
IN 1959.

Testimony on SB 388

By: Peter M. Frazier, R.S.

Mr. Chairman and committee members, my name is Pete Frazier. I am a Registered Sanitarian and currently the President of the Montana Environmental Health Association, which represents a majority of the more than one hundred (100) registered sanitarians throughout the State of Montana. For the past ten (10) years I have been employed with the City-County Health Department in Great Falls and currently hold the position of Environmental Health Coordinator for that Department. On behalf of the Montana Environmental Health Association I appreciate the opportunity to testify on SB 388.

Currently there are sixty four (64) registered sanitarians working at the local level in 30 health jurisdictions covering all 56 counties throughout Montana. In addition there are a number of registered sanitarians working in the private sector of various chain stores, land developers, etc., as well as several registered sanitarians working for the State Health Department.

I believe it is important to briefly explain exactly what a Sanitarian is and what he does, since the 'term' sanitarian has little meaning to the average citizen, yet every day the services the registered sanitarian performs greatly influences the health and well-being of each and every citizen in Montana. The Registered Sanitarian occupies a most important and unique position in the work of public health protection. He is the first line professional, usually a multi-discipline generalist, who carries the tremendous responsibility as primary inspection, evaluator, advisor, educator and enforcer in public health prevention and correction matters. The propriety of his actions is critical to the development and maintenance of a healthful and safe environment.

The food we eat, the water we drink, and the schools our children attend are all inspected for compliance with Montana Public Health Regulations by the registered sanitarian. In addition motels, hotels, trailer courts, and swimming pools are inspected by registered sanitarians for the protection of the public health.

The Sanitarian has long been considered a responsible professional by the Montana Legislature. Many laws, including those dealing with food, public accommodations, and trailer courts specifically name sanitarians as the persons to carry out the provisions of the law. It seems a reasonable assumption that the lawmakers believed that registration requirements qualified and justified the specific inclusion of the sanitarian in these laws.

Because the Sanitarian's activities are essential to the preservation of high quality health, it is essential the sanitarian be well qualified. A Registered Sanitarian is much more than a robot, who by rote reads regulations, mechanically marks a form, and walks away. He is a professional who must be properly educated and qualified in order to make educated decisions concerning public health matters. Unqualified individuals making wrong decisions, or no decisions would be extremely costly to a business or individual and, in turn, to the consumer. The sanitarian at the local level is the right hand of local government in most matters of public health. Through the sanitarians' actions or inactions legal indemnities may occur against local or state government. Unqualified sanitarians in the field may significantly increase such actions and thus affect the cost of service to the public, as well as jeopardize public health.

Because of what I have just discussed, it is the feeling of all the sanitarians throughout Montana as well as a number of Boards of County Commissioners, several of the industries that are inspected by sanitarians, and several attorneys, land surveyors and soil scientists that the Board of Sanitarians is imperative. Registration of Sanitarians is the simplest and most effective method to assure the availability of qualified, competent individuals to deal with the complex problems associated with food, water, housing, and land sanitation. The educational requirements to be a Registered Sanitarian are necessary for a basic knowledge that is needed by a sanitarian in order that the individual can make intelligent and valid evaluations of conditions which have the potential of causing disease. Such quality evaluation is a necessary precursor to the formulation of recommendations which will prove effective in alleviating conditions detrimental to public health. The educational requirements are also necessary in order for the sanitarian to understand and interpret to the public the reasoning behind public health laws and regulations.

The Board of Sanitarians is not a State agency but rather is an independent board attached to the Department of Professional and Occupational Licensing for Administrative purpose only. The total budget for the Board of Sanitarians for fiscal year 1980 was \$2,784. None of this budget came from public tax monies. The Board is totally self-sufficient, operating entirely on testing and license fees from members of the sanitarian profession.

There have been comments made in the past that should there be no Board of Sanitarians that the registration of sanitarians would automatically be performed by the State Department of Health and Environmental Sciences. However, this is not true. The State Department of Health and Environmental Sciences has no legal authority to perform this function. Without the Board of Sanitarians there will be no sanitarian registration within the State of Montana and, thus, no control over who provides these extremely important preventative public health services, with regard to the individual's knowledge qualifications and competence. I, therefore, urge this committee to kill SB 388. The Montana Environmental Health Association believes that only qualified and Registered Sanitarians should be entrusted with the protection of public health in the areas of their responsibility. To place the health and safety in the hands of anyone less qualified would be retrogressive and not in the best interest of the citizens of Montana.

I have provided to each of you an inventory list of letters concerning the need for a Board of Sanitarians, from a wide range of individuals and professionals, including Board of County Commissioners, Cities, Doctors, a Legislator, Planning Boards, Local Boards of Health, Lawyers, Engineers, Surveyors, Food Service and Hotel-Motel Operators, the Local Health Officers Association, and others. In addition, I have provided to the Chairman of this committee copies of all letters submitted to the Legislative Audit Committee and recent letters of support, should you desire to review them.

Should you have any questions I would be happy to answer them.

Thank you.

Inventory Letters Supporting Need for Board of Sanitarians

County Commissioners

Big Horn
Broadwater
Hill
Jefferson
Judith Basin
Madison
Petroleum
Toole
Valley
Lake
Cascade

Cities

Billings
Lewistown

Medical Doctors

Robert C. Arfman, M.D.
Robert R. Whiting, Jr., M.D.

Legislator

Rep. Gene Frater, House Dist. #10, Billings, Mt.

Planning Boards

Judith Basin City-County Planning Board

Boards of Health

Butte Silver Bow
Big Horn County Health Board
Missoula City-County Board of Health
Cascade City-County Board of Health

Attorneys

William A. Spoja, Jr., Lewistown
Law offices of Church, Harris, Johnson & Williams, Great Falls, Mt.

Professional Individuals & Businesses

James L. Hahn, Land Surveyor
Donald M. Erb, Soil Scientist
Tom Astle, Jr., Land Surveyor
Sage Engineers & Land Planners, Inc.
Sanderson, Stewart, Gaston Engineering, Inc.
Treftz & Associates, Land Surveyors & Engineers

Industry & Establishment Operators

Curtis D. Langendorff, Chairman, Great Falls Food Service Assoc.
Kenneth E. Hickel, Owner, Ponderosa Inn, Billings
F. Jack Anderson, V.Pres. & General Manager, Northern Hotel, Billings
Klaus H. Schuhbauer, Owner, Trail Dust Inn, Billings
Ron Anderson, R.S. and William Robinson, R.S., Industry Sanitarians,
Buttreys, Great Falls, Montana

State Department of Health & Environmental Sciences

John W. Bartlett, Deputy Director

Association

Montana Local Health Officers' Assoc.
David A. Feffer, Chairman

Testimony provided at Legislative Audit Committee Hearing

Gary Lee Watt, R.S.
James M. Peterson, R.S.
Lawrence Wallace, R.S.

Individuals' Letters

Bill DeCou, R.S., Missoula
Malcolm D. Winter, M.D., Custer Co. Hlth. Officer, Miles City
Stephen Hamann, R.S., Miles City
Larry D. Mitchell, R.S., Helena
Sue Cozzans, R.S., Billings
Gary Bradshaw, R.S., Billings
Louis Ladas, R.S., Billings
Ted Kylander, R.S., Billings
James U. Neely, R.S., Billings
Don McLean, R.S., Butte
Edward Grove, R.S., Sidney
Kenneth B. Read, R.S., Missoula
Pete Frazier, R.S., Great Falls
Samuel R. Kalafat, R.S., Great Falls
Paul J. Gans, Health Officer, Lewistown
Robert Childers, R.S., Lewistown
Steven Isaacson, R.S., Lewistown
Duane L. Robertson, R.S., Helena
John C. Geach, R.S., Helena
James E. Leiter, R.S., Helena
Vic R. Andersen, R.S., Helena
Jerry Cormier, R.S., Billings

NAME: Tom Barger, R.S. DATE: 2/19/81

ADDRESS: 1414 Jackson Mslk, MT. 59801

PHONE: 721-2467

REPRESENTING WHOM? Myself

APPEARING ON WHICH PROPOSAL: S.B. #388

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: Sanitarians have not tried to limit their profession except to the extent that knowledgeable and competent people are hired and a minimum amount of working knowledge be acquired and maintained.

The Board of Sanitarians should not be sunsetted but an updating of standards is necessary.

CITY-COUNTY HEALTH DEPARTMENT

1130 - 17TH AVE. SOUTH
GREAT FALLS, MONTANA 59405

BOARD OF HEALTH
COUNTY COMMISSIONER
MAYOR
SUPERINTENDENT CITY SCHOOLS
REPRESENTATIVE MEDICAL SOCIETY
REPRESENTATIVE DENTAL SOCIETY

PHONE 761-6700
EXT 530

February 18, 1981

SUBJECT: Bill HB388

Montana Senate
Public Health Committee

Dear Members:

My name is Donald Pizzini, Health Officer for the City-County Health Department in Cascade County. I have been in this position since 1973.

I am here today representing myself as a local health officer and also as a representative for the Montana Association of local Health Departments in opposition to HB388.

You may or may not know Sections 50-2-101 through 50-2-124 MCA, deal with the duties and responsibilities of local Boards of Health and local health officers. One of the responsibilities of local boards is to employ a health officer and other necessary staff. However, the employment of other necessary staff is usually delegated to the health officer. The two major categories of professional employees hired by local health departments are public health nurses and public health sanitarians.

Regarding public health sanitarians, the two major functions of a sanitarian are the enforcement of State and local laws and regulations and the provision of public health education. Both aspects are highly technical and complex in nature, requiring a broad knowledge and understanding of the sciences and public relations. For example, some of the roles of a sanitarian require the investigation of food and water-borne illnesses; the investigation, history and culturing of communicable diseases; the bacteriological analysis of water; the educational programming of public restaurants, day care homes, schools, etc; the investigation, interpretation, education and enforcement of water supplies, sewage treatment systems, public establishment; the investigation and follow-up of community problems, i.e. PCB, chemical spills, air, water and radiation hazards, insect and vector problems, and safety hazards; the review of plans, inspections, education and interpretation and enforcement of public eating establishments; the on-site visits, compilation of maps, well logs and other requirements for the early approval of sanitary requirements within subdivisions; and the community education for effective preventive health concerns.

Page 2

February 18, 1981

SUBJECT: Bill HB388

Montana Senate
Public Health Committee

These and the other responsibilities of a sanitarian mandate the need for certified or licensed personnel within this area of public service.

If this Committee feels that local government can effectively control this level of service with performance criteria, then in my opinion, Montana may be establishing 56 different levels of community health. In addition, State laws and regulations passed by the Legislature will no longer be uniformly implemented and administered.

This Committee is charged with public health concerns of the State of Montana. I feel the public health issues can best be met and resolved through properly licensed and experienced professional sanitarians. The sections of law proposed to be repealed by HB388 are the very sections which would guarantee the citizens of Montana the level of public health to which they are accustomed and demand.

I wish to thank you for this opportunity to appear before you and encourage your "do not pass" vote on HB388.



DIVISION OF JEWEL COMPANIES, INC.
601 SIXTH STREET S.W.
GREAT FALLS, MONTANA 59403

AREA CODE 406
761-3401

P.O. BOX 5008

February 19, 1981

Testimony Opposing S.B. 388

Chairman and Committee Members:

My name is Ronny A. Andersen. I have been employed for nine years as the Director of Sanitation and Safety for Buttrey Food Stores Division, Jewel Companies Incorporated, Great Falls, Montana, and I am currently registered under the Sanitarian Registration Act. My job responsibilities include developing and implementing quality assurance, food protection, and general sanitation programs in retail food stores and distribution facilities in our seven state market area, to include monitoring and insuring compliance with the various local, state, and federal food safety regulations. My comments in opposition of S.B. 388 are therefore limited to the food safety scope of a registered sanitarian's responsibilities.

The following testimony in opposition to S.B. 388 is respectfully offered for your consideration.

The Sanitarian Registration Act in my opinion significantly enhances the public health, safety, and welfare of Montana's citizens by requiring that qualified individuals are hired to assure the wholesomeness and safety of the foods consumed by Montanans. The complexity of the causative factors of food borne illness and its preventative measures necessitates that one be proficient in the basic concepts of food protection and sanitary principles, if he or she is to be able to identify situations or practices in food establishments which may lead to a food borne illness outbreak. Regulations provide the sanitarian with a tool to mandate certain requirements which will reduce the likelihood of a food borne illness, but the sanitarian must be able to interpret these regulations and correlate them with observed situations or practices in a food establishment which might lead to such a food borne illness. If one is not qualified to do this, such situations or practices will very likely go uncorrected and the safety of the consumer will not be assured. The criteria for registration under the current Sanitarians Registration Act helps insure that the individual charged with these responsibilities has this proficiency.

In my opinion the Sanitarian Registration Act does not have the effect of directly or indirectly increasing the costs of any goods or services involved in the operation of a food establishment. A conscientious food operator will strive to comply with the letter and the intent of the sanitary food regulations applicable to his operation, and will design, construct, and maintain the facility and equipment in compliance with those regulations, integrating the required specifications into his operational design. The sanitarian, through the plan approval process, and through pre-opening, and subsequent inspections, is responsible to insure that these specifications are met.

The operator must rely on the proficiency of the sanitarian to define these specifications as they relate to his particular plan, equipment, structure, or current operation. The sanitarian must be able to correlate the specifications required in the regulation to the potential food safety hazards which might be associated with a particular food operation. If the sanitarian does not have the background that will enable him to understand the food safety hazards that might be associated with the operation, arbitrary specifications, based on misinterpretation of the regulations, may be required that are costly or counterproductive and serve no useful purpose. Additionally, during the plan approval, construction, and pre-opening inspection process, interpretations may vary if not based on sound food protection concepts and sanitary principles, necessitating costly plan, equipment, and/or construction changes or construction delays. The qualified sanitarian through his knowledge can assist the operator in complying with the regulations at the minimum cost and in a manner most efficient to the productivity of the operation. The converse is true of an unqualified sanitarian. Since costs of operating a business are necessarily passed on to the consumer, the Sanitarian Registration Act, by requiring proficiency, helps reduce, or at least hold down such operating costs.

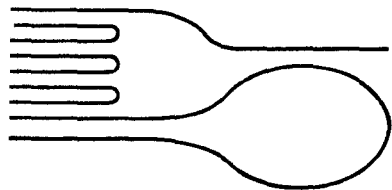
I hope my comments have been of assistance to the committee and I urge a do not pass recommendation on this bill.

Sincerely,

A handwritten signature in cursive script that reads "Ronny A. Andersen". The signature is written in dark ink and is positioned above the printed name.

Ronny A. Andersen, R.S.

February 17, 1981



Mr. Tom Hager, Chairman
Senate Public Health Committee
Montana State Legislature
Helena, Montana

Dear Mr. Hager and Members of the Senate Public Health
Committee:

My name is Roger L. Anderson. I am the President of the newly-formed Montana Restaurant Association representing 100 foodservice operators throughout the State of Montana. I am also the President and Owner of Robbie's Restaurant, Inc. located in Holiday Village Mall in Great Falls.

The Montana Restaurant Association is opposed to Senate Bill No. 388.

The Montana Restaurant Association was formed to protect, to promote, and to improve the foodservice industry throughout Montana.

The State Board of Sanitarians by requiring Foodservice Health Inspectors to have a minimum of a bachelor's degree in environmental health or its equivalent from an accredited university or college and pass an examination greatly helps foodservice operators "improve" upon their operating practices.

The Montana Restaurant Association wholeheartly supports the upgrading of the quality of Sanitarians in Montana and we are extremely concerned about the lack of professionalism that would result from the non-registration and non-certification of Sanitarians. At the same time we would like to see further efforts made beyond the registration and certification to continually upgrade and improve the quality of inspections that the Foodservice Industry is receiving at the present time.

If you have any questions about this matter, please feel free to contact me at any time.

With kind regards, I am

Sincerely yours,

Roger L. Anderson
President

Montana Restaurant Association
761-7160 or 452-3564

Inventory Letters Supporting Need for Board of Sanitarians

County Commissioners

Big Horn
Broadwater
Hill
Jefferson
Judith Basin
Madison
Petroleum
Toole
Valley
Lake
Cascade

Cities

Billings
Lewistown

Medical Doctors

Robert C. Arfman, M.D.
Robert R. Whiting, Jr., M.D.

Legislator

Rep. Gene Frater, House Dist. #10, Billings, Mt.

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State Department of Health & Environmental Sciences

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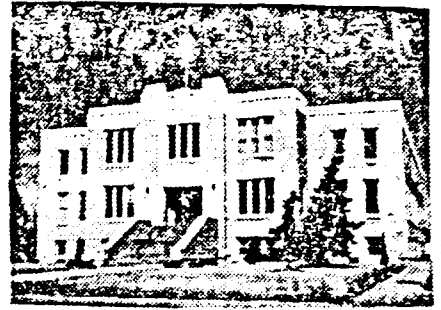
Testimony provided at Legislative Audit Committee Hearing

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James M. Peterson, R.S.
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Pete Frazier, R.S., Great Falls
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Paul J. Gans, Health Officer, Lewistown
Robert Childers, R.S., Lewistown
Steven Isaacson, R.S., Lewistown
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John C. Geach, R.S., Helena
James E. Leiter, R.S., Helena
Vic R. Andersen, R.S., Helena
Jerry Cormier, R.S., Billings

BIG HORN COUNTY



HARDIN, MONTANA

P. O. Box H
(406) 665-1506

RECEIVED

MAR 13 1980

MONTANA LEGISLATIVE AUDITOR

March 12, 1980

Office of the Legislative Auditor
State Capitol
Helena, Montana 59601

ATTENTION: Morris L. Brusett, C.P.A.
Legislative Auditor

Dear Mr. Brusett:

In reference made to your letter dated February 29, 1980, concerning an invitation to address the questions posed in the Sunset Laws relative to the Board of Sanitarians.

1. The absence of regulation would significantly harm or endanger the public health, safety and welfare.
2. There is a reasonable relationship between the exercise of the state's police power and the protection of the public's health, safety and welfare.
3. The regulation does not effect directly or indirectly the increasing costs of any goods or services involved.
4. The increase in cost is not harmful to the public than the harm which could result from the absence of regulation.
5. All facets of the regulatory process are designed solely for the purpose of, and have as their primary effect, the protection of the public.

The Board of County Commissioners support and feel that it is imperative that the Board of Sanitarians and the registration act continue to exist to insure that only qualified individuals be allowed to work in this profession.

Morris L. Brusett
March 12, 1980
Page Two

Very truly yours,

BOARD OF COUNTY COMMISSIONERS
BIG HORN COUNTY, MONTANA

Chairman

Member

AS/dlj

TESTIMONY

The Hill County Board of Health, Hill County Commissioners and Hill County Health Officer, wish to make this testimony in favor of the Board of Sanitarians.

We feel that:

1. The absence of this regulation would lead to severe problems which we feel would, to a very great degree, endanger the public health, safety and welfare.
2. There is a definite and direct relationship between the exercise of the State's police power and the protection of the public's health, safety and welfare.
3. We know of no other less restrictive method of regulation available, which could adequately protect the public. Nor do we envision any future alternatives.
4. The regulation does have the effect of increasing the costs of goods and services in the initial stages, but to a very limited degree. And after the initial stages, the regulation has the effect of actually lowering these costs.
5. The initial increase in cost is far less harmful to the public. than the alternative situations.
6. We believe that the vast majority of facets of the regulatory process are designed solely for the purpose of, and have as their primary effect, the protection of the public. With few if any exceptions.

Sincerely,

Am. Zorse

Arthur Rambo

Raymond Patrick

David Henderson
Hill County Health Officer

John G. Kelly

Martha Gene Dow

Raymond Patrick
Hill County Health Board

Am. Zorse

Arthur Rambo
Hill County Commissioners

Kenneth A. Hull R.S. 3/18/50
Hill County Sanitarian

Roberta Lerner RN
Hill County Nurse

Address:
Hill County Courthouse
300 - 4th

BROADWATER COUNTY

Board of County Commissioners

TOWNSEND, MONTANA

March 12, 1980

RECEIVED
MAR 21 1980
MONTANA LEGISLATIVE AUDITOR

Morris L. Brussett, C.P.A., Legislative Auditor
Office of the Legislative Auditor
State Capitol
Helena Montana 59601

We, the Board of Commissioners of Broadwater County, wish to express our support for the continuation of the Board of Sanitarians and the Registration Act.

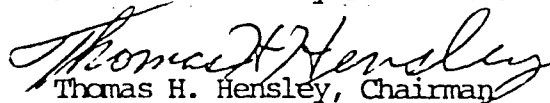
The termination of the regulation would endanger the public's health, safety and welfare. We feel that a registered sanitarian is a measure of quality control in the environmental health field on the county level.

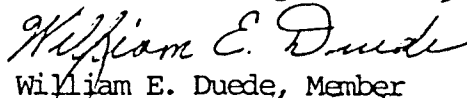
Having operated without a sanitarian for many years, we feel that some criteria is necessary to select a qualified sanitarian. We know that we are not qualified to establish the criteria.

We sincerely feel that the increased cost to the public is offset by the protection of the public health, safety and welfare that they receive by having a qualified professional working for them.

With the increase in population, the added burden to the State, would be overwhelming without support on the county level.

Sincerely,
Broadwater County Board of Commissioners.


Thomas H. Hensley, Chairman


William E. Duede, Member


Irvin G. Riis, Member

COMMISSIONERS:
Vincent M. Capp, Chairman, Whitehall
Leslie J. Sodorff, Clancy
Delbert M. Bullock, Basin

JEFFERSON COUNTY
CLERK and RECORDER

Boulder, Montana 59632

JOANNE P. McFARLANE
County Clerk and Recorder
CARLA MATLACK
Deputy

March 4, 1980

RECEIVED

MAR 07 1980

MONTANA LEGISLATIVE AUDITOR

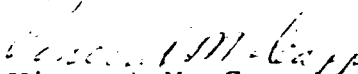
Morris L. Brussett, C.P.A., Legislative Auditor
Office of the Legislative Auditor
State Capitol
Helena, Montana 59601

We, the Board of Jefferson County Commissioners, wish to express our support for the continuation of the Board of Sanitarians and the Registration Act. We feel that termination of the regulation would definitely endanger the public's health, safety and welfare. A registered sanitarian is a measure of quality control in the environmental health field on the county level. We sincerely feel that the increased cost to the public is offset by the protection of the public health, safety and welfare they receive by having a qualified professional working for them.

With the many legal liabilities now encountered by counties in the public health area, we feel the necessity to have a qualified person to help regulate this area of county government for the protection of Jefferson County. Thank you for giving us the opportunity to express our feelings. If we may be of further assistance please contact us.

Sincerely,

Jefferson County Commissioners


Vincent M. Capp


Les Sodorff


Delbert Bullock

RECEIVED

MAR 13 1980

MONTANA LEGISLATIVE AUDITOR

March 10, 1980

Morris L. Brusett, C.P.A.
Legislative Auditor
State Capitol
Helena, Montana 59601

Dear Mr. Brusett:

This letter is to offer testimony in support of continuation of the Board of Sanitarians.

I feel that if the Board is abolished, in many instances unqualified persons could practice as sanitarians without the education and proficiency that is now required by the Board. This would present a very real danger to the public.

The Board, by use of it's police power, has insured educational and proficiency standards are established and complied with by the practicing sanitarians. This provides the public with sanitarians capable of working in the broad area of environmental health, and has done much to upgrade the profession.

The regulation of sanitarians does affect the cost of the counties providing environmental health services, however this cost is more than offset by the increased efficiency of the qualified sanitarians. It is difficult to equate cost of services with the quality of public health protection provided. Historically, these services have resulted in a decided upgrading in the quality of life. Given competent personnel this trend should continue.

The increase in cost due to the Boards duties is truly minimal when compared to the many benefits derived by the public by their actions.

I feel the regulatory process is a well designed and effective tool for protection of the public.

Sincerely,


COUNTY COMMISSIONER
JUDITH BASIN COUNTY

March 11, 1980

Legislative Audit Committee
Office of the Legislative Auditor
State Capitol
Helena, MT 59601

RECEIVED

MAR 18 1980

MONTANA LEGISLATIVE AUDITOR

Dear Sirs,

The Madison County Commission has considered the issue of sunseting the Sanitaricians Registration Act in light of the six questions posed in the sunset law. These questions and our answers to them are as follows:

A. Would the absence of regulation significantly harm or endanger the public health, safety, or welfare?

YES. We feel that the sanitarian should be an expert in the control of various environmental factors that can affect human health. There is potentially a large population at risk from such environmental hazards as food poisoning, sewage contamination, and various types of spills or transportation accidents. Therefore, a sanitarian who didn't know how to spot dangerous food handling practices in a restaurant for instance, or didn't know what to do about food products spilled in a truck wreck, might very well endanger the public health, safety, and welfare.

B. Is there a reasonable relationship between the exercise of the state's police power and the protection of the public's health, safety, or welfare?

YES. Obviously, requiring prospective sanitarians to prove they are qualified to practice has the effect of preventing people who are not qualified from practicing. While there have been questions raised about a sanitarian's continuing competence once he or she has been licensed, we believe that initially weeding out those people without the background or ability to function properly, greatly reduces our likelihood of having an incompetent sanitarian.

C. Is there another less restrictive method of regulation available which could adequately protect the public?

NO. It has apparently been suggested that closer supervision of local sanitarians by the State Health Department could adequately replace sanitarian registration requirements. It is our belief, however, that even if the State Health Department spent much more money on supervision and training, they would not be able to control the situation as well as the Board of Sanitaricians does right now. As we see it, without registration the only two ways to prevent incompetent sanitarians from practicing would be 1) training them to be sure they were competent, or, 2) Proving that they were incompetent, so they could be fired. Both of these are after-the-fact approaches. The present system, on the other hand, requires that prospective sanitarians bear most of the cost of their training themselves, and then prove their ability before they can practice.

D. Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

NO. This is a complicated question, but taking each aspect separately, we believe the following:

Sanitarian Services

It has been suggested that requiring sanitarians to be licensed increases the cost of their services. While this is true, it is only because the license requirement increases the quality of their services. Adequate sanitarian services are not going to cost any less if the license requirement is dropped. It will merely become possible for this county to provide inadequate services. Since this defeats the whole purpose of having a sanitarian, it is our opinion that it would waste more money than it would save. In addition, dropping the license requirement would make it more difficult for us to hire a qualified sanitarian, since we would have to make our own investigation into the qualifications of each applicant.

Goods and Services Affected by Health Regulations

It might also be argued that dropping the license requirement would reduce the cost of those goods and services, such as food service, which are regulated by the health laws, since less qualified sanitarians would presumably be less effective in enforcing these laws. It has been our experience, however, that incompetence on the part of the regulating officials tends to increase the cost of the regulations. If the regulations are too costly, they should be changed!

E. Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?

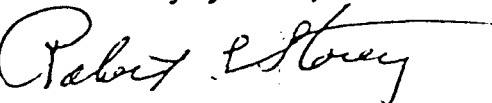
NO. It is our opinion that the regulation reduces the overall cost of providing sanitarian services, as well as increasing the protection of the public's health, safety, and welfare.

F. Are all facets of the regulatory process designed solely for the purpose of, and have as their primary effect, the protection of the public?

YES. The process is currently quite simple, and its primary effect certainly is the protection of the public. In fact, increasing the complexity of the process with a continuing education requirement for license renewal might increase the public's protection. Another beneficial change would be a provision for substituting actual field experience for some of the educational requirements.

For the reasons listed above, the Madison County Commission OPPOSES sunsetting the Sanitarians Registration Act.

Sincerely yours,



Robert L. Storey
Chief Executive
Madison County Courthouse
Virginia City, MT 59755
843-5444

COUNTY OF PETROLEUM

WINNETT, MONTANA 59087

March 12, 1980

PATRICIA WEINGART, CHAIRMAN
BRENDAN J. MURPHY, COMMISSIONER
KENNETH WELTER, COMMISSIONER

Mr. Morris L. Brusett
CPA
Legislative Auditor
State Capitol
Helena, Montana 59601

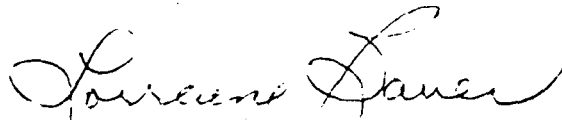
Dear Mr. Brusett:

I feel that the standards we have set for our Sanitation would not be lowered in any way.

Our present Sanitation is doing a fine job for our 1st District and we require that they have a license to do so.

I would like to continue along this line with our high standards.

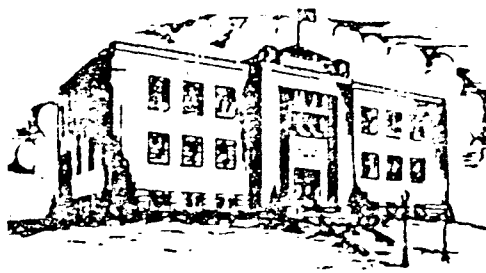
Sincerely yours,



Lorraine Bauer, Petroleum
County Manager

lb

JOHN G. NESBO, Chairman
TOM SHERRARD, Commissioner
JOSEPH G. GOTTFRIED, Commissioner
V. KALBFLEISCH, Attorney
ELIZABETH MUNSON, Clerk and Recorder
JOHN L. BROOKS, Sheriff



VIVIAN S. HALL, Clerk of Court
MARY E. WESTERMARK, Treasurer
EARL O. BONDERUD, Assessor
JANICE E. BAILEY, Co. Supt.
RONALD W. FLECK, M.D., Coroner
P.J. JACQUEMART, Public Administrator
JAMES C. FARRAR, Justice of the Peace

COUNTY OF TOOLE

SHELBY, MONTANA

RECEIVED

MAR 14 1980

March 11, 1980

MONTANA LEGISLATIVE AUDITOR

Tom Sherrard, Chairman
Joe Gottfried, Commissioner
John H. ...
Toole County Courthouse
Shelby, Montana 59874

Subject: ...
Office of Legislative Auditor
State Capital
Helena, Montana 59601

Mr. Morris L. Brusett, Legislative Auditor:

We are writing a comment in reference to the performance review by the Legislative Audit Committee of the Board of Sanitarians.

The public health, safety, and welfare could very well be endangered by the non-existence of a board of regulation and thus not providing a system for properly screening and selecting duly qualified personnel that have specialized knowledge in many areas that directly and indirectly protect and assist the public. Qualified and authoritative sanitarians are necessary to assist us in our duties as elected officials and to provide and assist the citizens of Toole County through proper management of their environment for the benefit and protection of all.

We notice that from our relationship as provider and regulator for the citizens of Toole County, there is a just equilibrium of regulatory versus beneficiary facets as is possible. The general public does benefit from the regulations that are now in effect and are enforced. The protection from disease and hazards is of primary concern for us as representatives of the people of Toole County.

The proper and adequate protection through the present system with qualified sanitarians can have certain restriction but the benefits that prevail through those "restrictions" or regulations provide and assist for the majority of our citizens.

Although a few minimal costs can be directly increased as the result of regulation of sanitation it is dispersed overall and these benefits far exceed the cost both directly and indirectly.

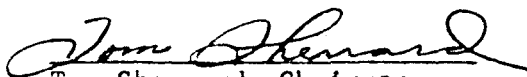
(con)

The cost of the restriction, benefits, and services is quite minimal in respect and consideration to the public and less harmful than the ensuing cost, hazards, and chaos that could be created without any regulations. We see that if individual people or consorted groups were to be handling the tasks of providing for the many highly specialized required areas to be handled with probable lack of co-ordination and more expense from the many new facets and the likelihood of benefits being considerably reduced.

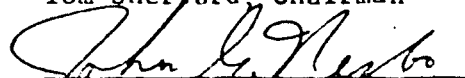
The regulatory process for the board of sanitarians and their role in providing and assisting the citizens of Montana and Toole County is for the protection of everyone, for the benefit of their Health safety, and welfare.

We hope these comments are beneficial to the Audit Committee and provide an understanding in regards to our views toward the Board of Sanitarians. There may always be areas for improvement of the regulatory process as needs are seen, and qualifications can be more delineated as determined by the Audit Committee, but the need for the service is here and it is being provided for at this time.

Sincerely,



Tom Sherrard, Chairman


John Nesbo, Commissioner

cc; jp
cc
kb

VALLEY COUNTY HEALTH DEPARTMENT

COURTHOUSE

Glasgow, Montana 59230

March 10, 1980

State of Montana
Office of the Legislative Auditor
State Capitol
Helena, Montana 59601

RECEIVED

MAR 14 1980

MONTANA LEGISLATIVE AUDITOR

RE: Sunset Review of Sanitarians Registration Act

Dear Sir:

This letter expresses our views and concerns concerning the current Board of Sanitarians. We are uniformly and strongly supportive of the continuing existence of the Board of Sanitarians and the registration act.

Following is our written testimony that focuses on the 6 questions posed in the sunset law.

- A. Absence of the regulation could endanger public health, safety or welfare by the lack of uniformity which would endanger local control and enforcement that is possible and also might generate enforcement conflicts between state and local levels.
- B. There is a reasonable relationship between the exercise of the states police power and the protection of the public because access is hampered by distances that exist and these can be overcome by using local authority in conjunction with State Enforcement.
- C. In order to maintain statewide integrity we would either need to continue the present system or develop a parallel system, thus it is more logical to keep the present Board of Sanitarians.
- D.&E. Any affect to increase cost services is offset by protection of the public's welfare. This is particularly important in rural areas in that it provides uniform standard minimum requirements to insure the public's protection.
- F. Regulations while maybe producing both beneficial and harmful effects in any one case provide in total an effective means in assuring public safety.

In conclusion we feel that there is a need to have qualified individuals working in environmental health that are also state standardized.

Sincerely,

Howard Cornell
Chairman, Valley Co. Commissioners

D. J. H. 100
Valley County Health Officer

LAKE COUNTY, MONTANA

COUNTY COMMISSIONERS

DON CORRIGAN
Polson

WESLEY W. LEISHMAN
St Ignatus

WILSON A. BURLEY
Ronan

TREASURER

MARJORIE D. KNAUS

CLERK AND RECORDER
ETHEL M. HARDING

ASSESSOR
WILL TIDDY



POLSON, MONTANA 59860

SHERIFF AND CORONER
GLENN FRAME

CLERK OF COURT
ETHEL HARRISON JAMES

SUPERINTENDENT OF SCHOOLS
GLENNADENE FERRELL

COUNTY ATTORNEY
RICHARD P. HEINZ

JUSTICES OF THE PEACE
VIRGINIA MALLORY
Polson

CHARLES C. MEYER
Ronan

December 22, 1980

Board of Sanitarians
% Jim Peterson
Food & Consumer Safety Bureau
State Dept. of Health & Environmental Sciences
Old Board of Health Bldg.
Helena, MT 59601

RE: Proposed legislation to Sunset the Board of Sanitarians

Dear Mr. Peterson:

The Board of County Commissioners of Lake County, Montana would like to go on record in opposition to any legislation which would Sunset the Board of Sanitarians. The board's function in administering registration has advanced the field of Public Sanitation and provided competent and professional people to work in the public health field.

In Western Montana we are proud of our clean waters and air and feel that reliable and competent people are needed if our county is to remain in its relatively unpolluted state.

Please feel free to contact us if our support is needed in the upcoming legislation session.

Wes Leishman, Chairman

W.A. (Bill) Burley

Don Corrigan

WHEREAS, the 1977 Legislature provided that licensing boards and agencies be reviewed on a periodic basis to determine the need for their continued existence under the "Sunset Law," and,

WHEREAS, the Board of Sanitarians will be abolished effective July 1, 1981, unless specific legislation is adopted by the 1981 Legislature for the continuance of the Board of Sanitarians; and

WHEREAS, specific legislation has been prefiled with the 1981 legislature calling for the continuance of the Board of Sanitarians and specific educational requirements for the registration of individuals in order to practice as a Registered Sanitarian in the State of Montana; and,

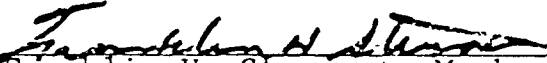
WHEREAS, it has been determined that the Board of Sanitarians and the registration of individuals practicing as sanitarians is vitally necessary to assure the availability of qualified, competent individuals to deal with the complex programs associated with food, water, housing, and land sanitation and to assure that the best possible public health protection and service is provided to the residents of Cascade County and the State of Montana,

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS OF Cascade, County, Montana does hereby strongly support and recommend to the 1981 Legislature that the Board of Sanitarians and requirements for registration of individuals practicing as Sanitarians be continued.

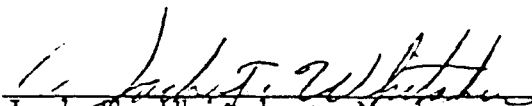
BOARD OF COUNTY COMMISSIONERS OF
CASCADE COUNTY, MONTANA



Lawrence W. Fasbender, Chairman



Franklin H. Steyaert, Member



Jack T. Whitaker, Member



CITY OF BILLINGS

March 11, 1980

RECEIVED
MAR 13 1980
MONTANA LEGISLATIVE AUDITOR

CITY ADMINISTRATOR'S OFFICE

220 NORTH 27TH STREET
P. O. BOX 1178
BILLINGS, MONTANA 59103
PHONE (406) 248-7511

Morris L. Brusett, C.P.A.
Legislative Auditor
State Capitol
Helena, Montana 59601

IN RE: SUNSET REVIEW OF SANITARIANS REGISTRATION ACT

Dear Mr. Brusett:

Please submit the following testimony in favor of the Sanitarians Registration Act at the Public Hearing scheduled for March 17, 1980.

Testimony for the six (6) pertinent questions posed in the Sunset Law are:

- A. If such an act is eliminated, this could have an adverse affect on the health, welfare and safety of the citizens of Montana.
- B. Without the Sanitarians Registration Act there would be no assurance of qualified and trained individuals to administer the laws, rules and regulations that pertain to public health.
- C. No, as this type of public health safeguard should be uniform statewide and mandated by State Law.
- D. The Registration Act does not apply itself to direct expenditures to businesses or private individuals only indirectly through compensation for well qualified and trained personnel to work in the field of Public Health. The compensation is not that great.
- E. Since monetarily the Registration Act does call for compensation for well qualified and trained personnel, the cost is minimal for the harm that could result in the absence of regulations.
- F. Yes, as the Registration Act for Sanitarians certainly does apply itself favorably for the protection of public health, welfare and safety.

Respectfully submitted,

Al Thelen
City Administrator

CECIL HOWE
FRANK "BUD" KAMP
First Ward Aldermen
WALTER WRIGHT
C. WILBUR LINDSTRAND
Second Ward Aldermen
ROBERT H. GREEN
LVIN HECKFORD
Third Ward Aldermen
JOHANNA McGUIRE
City Treasurer
T. D. "SAM" TURNER
City Judge
THOMAS EVANS
Building Official

CITY OF LEWISTOWN

312 4th AVENUE SOUTH — LEWISTOWN, MONTANA 59457 — (406) 538-8768

ROBERT E. LaFOUNTAIN, MAYOR

March 14, 1980

ROBERT L. KNOPP
City Attorney
RUSSELL L. DUNNINGTON
Assistant Police Chief
SONNY MOLINE
Fire Chief
LOYD BOWEN
Supt. of Operations
PATRICIA G. BERG
City Clerk
MARJORY J. KELLER
Water Clerk
EDWARD F. BERGER
Recreation Director

MORRIS L. BRUSETT
Legislative Auditor
State Capitol
Helena, MT 59601

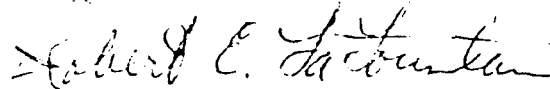
Dear Mr. Brusett:

This letter is written in support of continuation of the requirement of sanitarian registration in Montana.

The possibility is good that without a good system of registration of sanitarians there would be a resulting deterioration of quality within that profession. Such deterioration could correspondingly result in lower health standards and sanitation enforcement difficulties and inconsistencies.

Sincerely,

CITY OF LEWISTOWN



Robert E. LaFountain
Mayor

REL/pgb

BIG HORN HEALTH CORP.

Robert C. Arfman, M.D.
619 W. Division
Hardin, Montana 59034

Area Code 406
Telephone 665-3201

March 11, 1980

Morris L. Brusett, C.P.A.
Office of the Legislative Auditors
State Capitol
Helena, Montana 59601

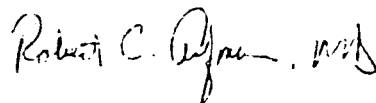
RECEIVED
MAR 13 1980
MONTANA LEGISLATIVE AUDITOR

Dear Mr. Brusett,

As County Medical Officer of Big Horn County I am submitting this letter as testimony in support of the Sanitariums Registration Act. I feel that the absence of regulations would not be to the benefit of the population at large since it would prevent strict regulation for certifying Sanitariums. I think like any professional group, people practicing in community health should be monitored and regulations should exist to maintain a certain competency. I do not feel that regulations and a Board of some sort governing these regulations would increase the costs of any goods and services involved, on the contrary I believe less problems will exist and would probably not affect costs in general. I think the facets of the regulatory process are designed for the purpose of protecting the public.

I cannot stress strongly enough the need for adequate regulation of somebody in the Public Health field in order to maintain the highest level of competency necessary to protect the public.

Sincerely,



Robert C. Arfman, M.D.

RCA/pf1

HARDIN CLINIC

619 WEST DIVISION
HARDIN, MONTANA 59034
AREA CODE 406
TELEPHONE 665-2205

R. WHITING, JR., M. D.
DANIEL J. GEBHARDT, M. D.
PETER TAUBENBERGER, M. D.

11 March 1980

RECEIVED

MAR 13 1980

Montana Board of Sanitarians
Helena, Montana 59601

MONTANA LEGISLATIVE AUDITOR

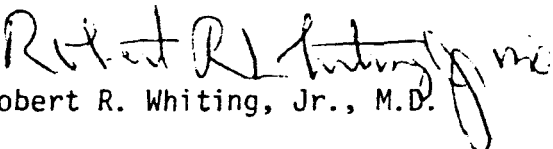
Dear Sirs:

I would like to offer my whole hearted support in opposition to terminating the Sunset Law which would cause termination of the Board of Sanitarians on July 1, 1981.

I feel that with the specialization and areas in which sanitarians now work, such as water quality, vector, vector control, solid waste management, food protection, and water supply, to name a few, that the board of sanitarians provide a real service in seeing that people are properly qualified in order to function in these various roles to protect the public health.

If this were left to local counties and other agencies without a board to insure quality individuals as sanitarians, I believe the quality of individual and the profession and the service provided by these people would deteriorate. I hope that the work of the Board of Sanitarians will be allowed to continue to provide us with quality people necessary to properly protect the public health of the State of Montana in so many areas.

Sincerely,


Robert R. Whiting, Jr., M.D.



The Big Sky Country

MONTANA SENATE HOUSE OF REPRESENTATIVES

REP. GENE FRATES
1601 BITTERROOT DRIVE
BILLINGS, MONTANA 59101
PH. 259-1329

HOUSE HUMAN SERVICES COMMITTEE
VICE CHAIRMAN
BUSINESS & INDUSTRY
HIGHWAYS & TRANSPORTATION

March 11, **RECEIVED**

MAR 12 1980

MONTANA LEGISLATIVE CLERK

Morris L. Brusett, C.P.A.
Legislative Auditor
State Capitol
Helena, Montana 59601

Reference to: Sunset Review of Board of Sanitarians and
Sanitarians Registration Act

Dear Mr. Brusett:

I submit the following, in favor of the Board of Sanitarians and the Sanitarians Registration Act, to be presented to the Legislative Audit Committee at the public meeting on March 17, 1980.

- A. Yes. The absence of regulations, and Registered Sanitarians, would be very detrimental to the public's health, safety and welfare.
- B. Yes, because without enactment of the regulations, there would be no qualified personnel, on the local levels, to relate the regulations, rules and laws, enacted by the State Legislature, to the general public in every phase of environmental and public health.
- C. Not to my knowledge. Laws are set by Legislation which takes qualified personnel to interpret and administer to the public. This must be uniform throughout the State.
- D. The Registration Act does have an effect on costs for services rendered, but since Legislative laws are in effect governing the largest majority of a Sanitarians occupation, then qualified personnel must be able to assist the taxpayer in understanding the law and the cost is minimal.
- E. In my opinion no. It would be very harmful to the public's health, safety and welfare without the regulation.

Morris L. Brusett, C.P.A., Con't.
Legislative Auditor
March 11, 1980

Page 2

F. I firmly believe that the regulatory process, as established at the present time, it solely for the purpose of protecting the public because all laws must have the same three basic elements, "Health, Safety and Welfare."

Respectfully submitted,

Gene Frates
Gene Frates, Representative
House District #60
1601 Bitterroot Drive
Billings, Montana 59101

GF:nh

Judith Basin City-County Planning Board

STANFORD, MONTANA 59479

March 11, 1980

Morris L. Brusett

Legislative Auditor

State Capitol

Helena, Montana 59601

RECEIVED

MAR 12 1980

MONTANA LEGISLATIVE BUREAU

Dear Mr. Brusett:

The Judith Basin City-County Planning Board would like to voice its support of the continuation of the Board of Sanitarians. We feel their service is of great importance in our county as well as our community of Stanford. There are many times when our office is in need of a qualified person to help us with sanitation problems we are trying to deal with, our current ones being solid waste disposal and pollution problems in Raynesford. We need someone with the educational background to support our programs and give suggestions and advise. From time to time it is also necessary to turn to these able persons to help us apply for needed funding when a sanitation problem is involved.

Sincerely,

Irvin J. Larson
Irvin J. Larson, Chairman

IL:dc

BUTTE-SILVER BOW HEALTH DEPARTMENT

220 NORTH ALASKA

BUTTE, MONTANA 59701

March 13, 1980

RECEIVED

MAR 14 1980

MONTANA LEGISLATIVE AUDITOR



Morris L. Brusett, C.P.A.
Legislative Auditor
Office of the Legislative Auditor
State Capital
Helena, Montana 59601

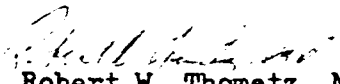
Dear Sir:

At a recent meeting of the Butte-Silver Bow Board of Health a resolution was passed unanimously urging the continuation of the Board of Sanitarians and the Registration Act that presently exists.

It is felt that the Act ensures the employment of competent and trained individuals in a highly technical field. The Sanitarians Registration Act is designed solely to ensure Public Health, Safety and Welfare. These objectives are being met without any adverse effect on the cost of any good or services. The financing of this Board is completely supported through Registration Fees paid by the Professional Sanitarians.

The Sanitarians Registration Act has been effective for the past twenty years and we strongly urge its continuance.

Sincerely,


Robert W. Thometz, M.D.
Chairman
Butte-Silver Bow Board of Health

RWT:mp

Hardin, Montana
March 10, 1980

State of Montana
Office of the Legislative Auditor
Atten: Morris L. Brusett
State Capitol
Helena, Montana 59601

RECEIVED

MAR 11 1980

MONTANA LEGISLATIVE AUDITOR

Dear Sir:

Reference is made to your letter dated February 29, 1980 regarding an invitation to address the questions posed in the Sunset Law relative to the Board of Sanitarians.

A.
The lack of adequately trained personnel would create a serious problem for the County of Big Horn and City of Hardin in particular. The health, safety and welfare of all of our residents would be endangered if proper supervision is not practiced in our area. We have a problem with some of our Taverns, Restaurants and refuse in general. Proper housing continues to be a problem also and a facet that should be fully supervised.

B.
It is my belief that there is a reasonable relationship between the power of the State and the protection of the public's health, safety and welfare.

C.
At the present time there is not a less restrictive method of regulation for the public protection.

D.
The regulation may cause a cost increase to a small degree in goods and services. In my opinion this small additional cost is more than offset by the added protection afforded to the public.

E.
Any small cost increase is beneficial to the public's welfare.

F.
It is easy to understand that not all laws, rules and regulations are not designed solely for the protection of the public however it is my belief that Board of Sanitarians was created in good judgement and is a benefit to the public and should be maintained.

Very truly yours,

Virginia W. Lundberg

Virginia W. Lundberg
Chairperson
Big Horn County Health Board

Missoula City-County Health Department

OFFICE MEMO

TO: Jim Peterson
FROM: Cliff Foy/mf
SUBJECT: Enclosed Resolution

301 WEST ALDER
MISSOULA, MONTANA 59801
PHONE 721-5700

DATE: December 31, 1980

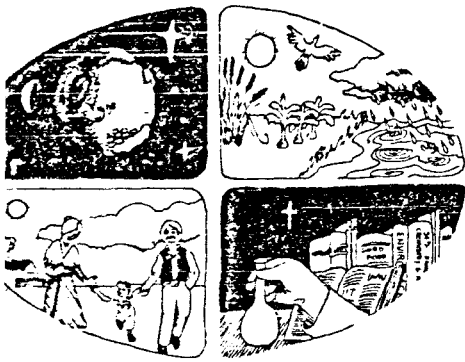
The Board of Health recently passed this resolution. Will you please direct it to the right people? Thank you.

CF:mzc

RECEIVED

JAN 05 1981

MONTANA DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES
FOOD & CONSUMER SAFETY BUREAU



...MAKING A DIFFERENCE ...

RESOLUTION

WHEREAS; the 1977 Legislature provided that the Board of Sanitarians be reviewed to determine the need for its continued existence; and,
WHEREAS; the Board of Sanitarians will be dissolved unless specific legislation is adopted for the continuance of the Board, and,
WHEREAS; the Board of Sanitarians has adopted requirements for the registration of sanitarians, and,
WHEREAS; the Missoula City-County Board of Health has determined that the Board of Sanitarians is vitally necessary to assure the availability of qualified, competent individuals to deal with the complex programs of food, water and shelter sanitation and to provide the best possible service to the residents of this County,
NOW, THEREFORE, BE IT RESOLVED that the Missoula City-County Board of Health does hereby strongly support and recommend to the 1981 Legislature that the Board of Sanitarians and requirements for the registration of sanitarians be continued.

Marilyn M. Rusoff

Marilyn Rusoff, Chairman

Missoula City-County Board of Health

December 17, 1980

MISSOULA CITY-COUNTY HEALTH DEPARTMENT
301 WEST ALDER STREET MISSOULA, MT 59801
TELEPHONE 721-5700

CITY-COUNTY HEALTH DEPARTMENT

1130 - 17TH AVE. SOUTH

GREAT FALLS, MONTANA 59405

BOARD OF HEALTH

COUNTY COMMISSIONER
MAYOR
SUPERINTENDENT CITY SCHOOLS
REPRESENTATIVE MEDICAL SOCIETY
REPRESENTATIVE DENTAL SOCIETY

PHONE 761-6700
EXT. 540

RECEIVED

JAN 09 1981

MONTANA DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES
FOOD & CONSUMER SAFETY BUREAU

Mr. Jim Peterson, R.S.
Montana Board of Sanitarians
Food & Consumer Safety Bureau
Montana Department of Health
& Environmental Sciences
Helena, Montana 59620

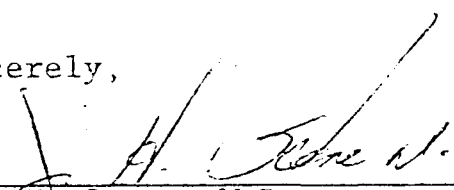
Dear Mr. Peterson:

It has recently come to my attention that the Legislative Audit Committee has recommended that the Board of Sanitarians be "sunsetting" and that legislation has already been drafted and will be introduced in the 1981 legislative session calling for the abolishment of this Board effective on July 1, 1981. This knowledge concerns me immensely. It is imperative that individuals working as Sanitarians in Cascade County and throughout the State of Montana have the proper knowledge, education, and experience to make the often difficult decisions necessary while working in the complex programs of food, water, shelter, and land sanitation. Without the current procedures of testing and registering individuals prior to entering the field of public health sanitation there would be no control as to the competence of the individuals providing public health protection to the citizens of the State. This could have a drastic effect on the public health services being provided.

It is my understanding that a committee of public health professionals has already drafted legislation to be introduced in the upcoming legislative session calling for the continuance of the Board of Sanitarians, including specific educational requirements for the testing and registration of individuals, in order to practice as a Registered Sanitarian in the State of Montana. I want to take this opportunity to indicate my support and the support of the City-County Board of Health in Cascade County for this legislation. This Board urges the 1981 legislature to continue the Board of Sanitarians and requirements for registration of individuals practicing as sanitarians.

If I can be of further assistance to you please feel free to contact me.

Sincerely,



John H. Stone, M.D.
Chairman
City-County Board of Health

JHS/kl

F E R G U S C O U N T Y
S T A T E O F M O N T A N A

Lewistown, Montana 59457

March 13, 1980

Morris L. Brusett, CPA
Legislative Auditor
State Capitol
Helena, Montana 59601

RECEIVED

MAR 14 1980

MONTANA LEGISLATIVE AUDITOR

Dear Mr. Brusett:

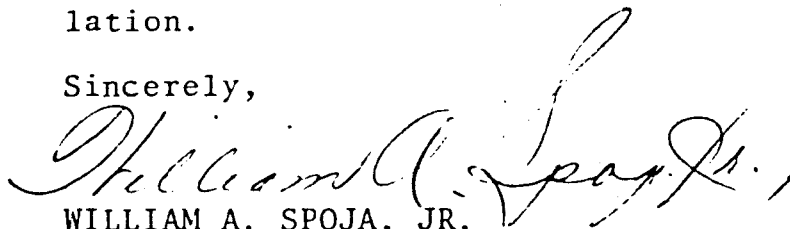
The following is offered in support of the continuation of the Board of Sanitarians.

As Fergus County Attorney, it is my experience that the Sanitarians come under a great deal of personal and professional pressure. For this reason, I believe that a strongly independent professional group must be maintained. To permit any other result would result in great harm to the people of Montana, for the standard of protection they now know would probably be eroded from maintenance of cleanliness in restaurants to maintenance of proper sewage disposals from the multitude of septic tank systems existing in Montana - and a myriad of things in between those two.

Because of the rather special problems which the Sanitarians encounter, I believe that a Board dealing with their problems alone is appropriate so that Sanitarian considerations do not get swallowed up in other, perhaps more interesting, considerations.

I believe that the health of the people of Montana is clearly worth any additional cost which having a separate Board might entail. The process now used seems to be workable; I do not believe that it has resulted in over-regulation.

Sincerely,


WILLIAM A. SVOJA, JR.
COUNTY ATTORNEY

WAS.mg

LAW OFFICES OF
**CHURCH,
HARRIS,
JOHNSON &
WILLIAMS**

I. W. CHURCH (1884-1973)
G. B. HARRIS (1883-1973)
BJARNE JOHNSON
CARTER WILLIAMS
WM. A. REID
DALE FORBES
CHRIS B. WICKRACKEN
CHARLES C. LOVELL
DOUGLAS C. ALLEN
MILTON O. WORDAL
RICHARD F. DALLAGHER
DON A. LABAR
ROBERT P. GOFF
R. KEITH STRONG
W. BJARNE JOHNSON
MICHAEL B. ANDERSON
GREGORY R. SCHWANDT
KENNETH T. JARVI

P.O. BOX 1645 • GREAT FALLS, MONTANA 59403 • THIRD FLOOR NORTHWESTERN BANK BUILDING • PHONE (406) 761-3000

RECEIVED

MAR 17 1980

MONTANA LEGISLATIVE AUDITOR

March 13, 1980

Mr. Morris L. Brusett
Office of the Legislative Auditor
Rm. 135, State Capitol Building
Helena, Montana 59601

Dear Mr. Brusett:

The purpose of this letter is to provide written testimony to the Legislative Audit Committee concerning the Sunset Review of the Board of Sanitarians.

In my opinion, elimination of the Board of Sanitarians and removal of the licensing restrictions for public sanitarians would significantly endanger the public health, safety and welfare. Under the present regulations, sanitarians must have certain educational background and must be able to pass a licensing test in order to qualify for the position. These licensing requirements insure that the individuals holding the position of sanitarian are competent to deal in the areas of food service and water and soils testing. Because of the extreme dangers which are present in the food service industry, it is critically important that competent, knowledgeable individuals be employed for the purpose of testing food service operations.

Because of increasing inflationary pressures, it is reasonable to expect that new sanitarians hired, without regulation, would be hired at a lower cost to the county governments. As a result, qualified individuals would cease to apply for these positions and the counties would end up employing untrained and unskilled individuals to handle this critical work.

Once this trend became evident, then the State would undoubtedly step into the area. In my estimation this would only complicate the testing process, would result in higher travel costs to the State, and thereby the taxpayer, and would substantially lengthen the process of obtaining approval of

Mr. Morris L. Brusett
March 17, 1980
Page Two

food service operations and the testing process. Likewise, I do not believe that on-the-job training can act as a substitute for the formal education requirements which are necessary for these jobs.

In the area of subdivision testing and examination, it is again critical that the local government be able to provide qualified sanitarians to handle the testing of water, soils analysis and air pollution analyses. If this is not done, the State Department of Health and Environmental Sciences will undoubtedly remove the right of the county sanitarians to perform these functions, thereby increasing State costs, travel costs and substantially delaying the time required to complete these analyses. Moreover, this will eliminate the advantage which exists now in having local people reviewing local situations and being able to rely in part upon knowlege of local areas.

Finally, I believe that the present system of licensing and registration provides protection of the function and wages of a county sanitarian. If this system is eliminated, I believe that there would occur an erosion of wages with a resultant loss of qualified and competent people in these local functions. This would have the effect of bringing in less qualified people, not only in the technical areas but also in the communication areas. The communication skill which tends to be associated with college graduates is vitally important to the proper fulfillment of the task performed by sanitarians. If problems and solutions cannot be communicated, the general public will encounter substantial difficulty in these areas.

Very truly yours,

CHURCH, HARRIS, JOHNSON & WILLIAMS

BY:



ROBERT P. GOFF

RPG:lh

RECEIVED

MAR 19 1980

March 18, 1980

MONTANA LEGISLATIVE AUDITOR

Morris L. Brusett, C.P.A.
Legislative Auditor
State Capitol
Helena, Montana 59601

Re: Board of Sanitarians Sunset Review

Legislative Audit Committee:

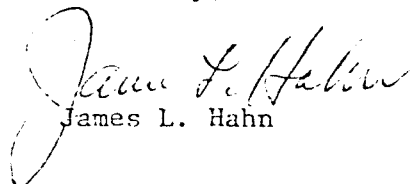
I am a registered land surveyor employed by a consulting engineering firm and am actively engaged in the development of land for residential and industrial uses.

I offer the following comments with respect to the Sunset Review of the registration of sanitarians.

- A. In the case of subdividing land for the use of individual water and sewer systems, there is a need for expert review by a branch of the governing body. The absence of registration for sanitarians could and probably would allow unqualified people to pass judgement in situations that have a definite potential on endangering the public health, safety and welfare.
- B. Only the governing body and its qualified representatives are capable of maintaining uniform standards in the sanitation field. The absence of an ability to approve or disapprove proposals dealing with sanitation in land development would in many instances lead to a disregard for the public's health, safety and welfare.
- C. The ongoing development of minimum standards for Montana in the sanitation field through rules procedures during the last 25 years has led to probably the least restrictive method of regulation which will adequately serve the public's interests.
- D. Present rules requiring registration of sanitarians does directly increase costs related to salaries, facilities and the knowledgeable enforcement of minimum standards.
- E. The indirect and unseen long range savings to consumers are probably greater than the obvious costs referred to in D. above by a considerable amount. This is especially true in cases where land unsuitable for individual water and sewer systems is turned into a residential subdivision only to have an eventual failure of either or both systems.

F. For the most part my experience reveals that registered sanitarians demonstrate that they do protect the public. However, there have been instances in which I have seen registered sanitarians extend a particular administration's policies dealing with restricting reasonable growth. These situations which were concluded in adverse recommendations by a sanitarian to a particular development proposal did not endanger the public's health, safety or welfare conversely neither would the development have endangered the public's health, safety or welfare.

Sincerely,


James L. Hahn

JLH/e

SOIL SCIENTIST

March 13, 1980

Donald M. Erb
Consulting Soil Scientist
P.O. Box 65
Huntley, Montana 59037

Home Office Mobile
348-3880 248-7835 248-9412
Huntley Billings Pick-up

Mr. Morris L. Bursett C.P.A.
Legislative Auditor
State Capitol
Helena, Montana 59601

RECEIVED

MAR 14 1980

MONTANA LEGISLATIVE AUDITOR

Dear Sir,

This letter is in reference to the Board of Sanitation's Sunset Review. I have a Masters Degree in Soil Science from M.S.U., Bozeman and work on a private basis as a soils consultant in the Billings area. One phase of my business involves percolation tests, water table determinations and soil profile descriptions as required in the process of subdividing property. I have been involved in this particular type of soil work for about three years. Having presented this brief bit of background information I shall proceed to answer the questions set forth in the Rules For Conduct of Public Meetings on Sunset Reviews, rules section, number 4.

4-A Yes, regulations are definitely needed to protect public health and welfare. It is obvious that many home sites which require individual wells as a water supply, septic tanks and drainfields for sewage disposal have been and are being created in many areas in Montana. It will be many years before public water and sewage systems will be available to these residences, many will probably never have such service available. Who would possibly want their neighbors sewage drainfield located just across the fence or lot line from the well that provides their drinking water.

Let it be understood that I am not in total agreement with the regulations that I encounter in my line of work. However, I do feel very strongly that regulations are needed.

4-B Yes, however, the persons who enforce such powers should be competent, understanding people. We in Yellowstone County are fortunate to have a capable staff in our local Environmental Sanitation office. I have not found this to be the case in some other counties or at the state level.

4-C No, none that I can think of.

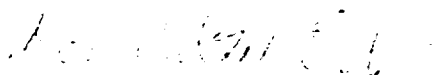
4-D Yes, for example the cost for the type of service I offer ranges from about fifty dollars, for a one acre homesite, to about one hundred and fifty dollars for a five acre homesite.

4-E No, money spent to obtain information regarding the installation of an on site sewage system which is adequate and properly located is money well spent. It is in the best interest of not only the individual home owner but the general public as well.

4-F Yes, however, I question some of the information and the interpretation of that information which serves as a basis for some of the regulations which are pertinent to the type of service that I provide.

I hope that my comments will be helpful. Rest assured that I am sincere and deeply concerned in regard to this matter. Should any one or any group wish to discuss any of my comments more specifically I would be glad to do so. My card is enclosed.
Thank You.

Sincerely,



Donald M. Erb

TOM ASTLE, JR.
Licensed Land Surveyor

111 BURLINGTON AVENUE
BILLINGS, MT 59101
PHONE 259-8632

MEMBER MONTANA ASSOCIATION OF
REGISTERED LAND SURVEYORS (MARLS)

March 13, 1980

RECEIVED

MAR 14 1980

MONTANA LEGISLATIVE AUDITOR

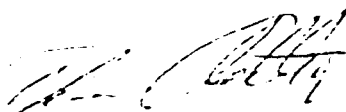
Morris L. Brusett, C.P.A.
Legislative Auditor
State Capitol
Helena, Montana 59601

Ref. Board of Sanitarians
Sunset Review

Dear Sir

I would like to offer my support to the Board of Sanitarians. It has been my experience that the Public Health is being served well by this Board. I have also found that though some extra expense is incurred due to regulations, this cost is not at this time causing a hardship on the general public.

I must say that by my very nature I am opposed to regulations and regulators. However, I must admit that I have had a good working relationship with sanitarians and if this Board is dissolved and control is passed to some inhouse committee or no control at all, we would have chaos, and a serious threat to the public health would be a distince possibility.



Thomas Astle Jr., R.L.S.
Reg. No. 2918-S

SAGE ENGINEERS & LAND PLANNERS, INC.

706 CENTRAL AVENUE - BILLINGS, MONTANA

PHONE - 252-0555

March 12, 1980

RECEIVED
MAR 14 1980
MONTANA LEGISLATIVE AUDITOR

Morris L. Brusett, C.P.A.
Legislative Auditor
State Capitol
Helena, Montana 59601

Re: Board of Sanitarians Sunset Review

Dear Mr. Brusett:

This written testimony is provided in support of continuing the vital function of the State Board of Sanitarians.

- A. The absence of the Board will most certainly result in degradation of the quality of personnel and services providing vital public health inspection, regulation, consultations, etc.
- B. There is a most definite need for regulation in this area by the State agency as evidenced by past needs and performance.
- C. There may be a less restrictive method to provide the public with the same protection but to this date it has not been found. We suggest an effort to study same, but not to abolish what exists until the new regulatory system is formed.
- D. The current regulation does cause a minimal increase in costs of related goods and services which have not been a major factor of resistance in the past.
- E. This increase is minimal in relation to possible harm to the public from absence of regulation.
- F. It appears from past performance that most facets of the regulatory process have been designed solely for the purpose of and have had as their primary purpose,

the protection of the public.



James R. O'Brien, P.E., R.L.S.
President



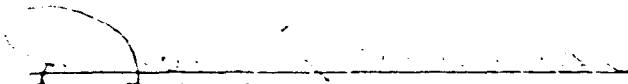
John M. O'Brien
Vice President



Daniel M. Koszuta, P.E.
Project Engineer



Dennis Soelter
Survey Crew Chief



Judy Richardson
Office Manager



Sanderson/Stewart/Gaston Engineering, Inc.

March 11, 1980

RECEIVED

MAR 13 1980

Mr. Morris L. Brusett, C.P.A.
Legislative Auditor
State Capitol
Helena, Montana 59601

MONTANA LEGISLATIVE AUDITOR

Re: Board of Sanitarians Sunset Review

Dear Mr. Brusett:

Our firm works in the area of civil engineering and land surveying primarily concerned with private and public developments where water supply and sanitary sewerage systems are necessary. In this capacity, we work directly with the State Department of Health and the County Sanitarians in Montana. We feel very strongly that the sanitarians must meet specific requirements for licensing. Our response to the six specific questions posed are as follows:

- A. Would the absence of regulation significantly harm or endanger the public health, safety, or welfare?

Yes. Sanitarians are faced each day with decisions that directly effect public health. These decisions can only be made by persons specially trained in the field of expertise. The public must be assured that the persons making decisions concerning public water, sewerage, and solid waste are properly qualified.

- B. Is there a reasonable relationship between the exercise of the state's police power and the protection of the public's health, safety, or welfare?

Yes. The State must have the power to enforce reasonable requirements for public health facilities on a uniform basis. The present system of licensed County and State Sanitarians is sound and should not be weakened in any way. There really is no foreseeable room for compromise when dealing with health standards in new and existing developments. Regulations must be enforced by persons trained and licensed to serve the public and hold the trust of those affected.

March 11, 1980

- C. Is there another less restrictive method or regulation available which could adequately protect the public?

No. We do not feel that a less restrictive method of regulation would meet the basic requirement for competent review of facilities.

- D. Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

Yes. We believe that the existing regulations do require minimum qualifications to be met and that in order to meet these requirements, a person must have certain basic background and education. This is the crux of the situation. This individual will therefore demand and deserve higher compensation than someone not so prepared and therefore not qualified to perform the service.

- E. Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?

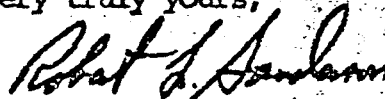
No. The cost which might occur if public water and waste systems were not properly evaluated is immeasurable. The cost of hiring qualified people to enforce public health regulations is measurable in both dollar value and peace of mind. We do not believe there is room for compromise here.

- F. Are all facets of the regulatory process designed solely for the purpose of, and have as their primary effect, the protection of the public?

Yes. We feel each aspect of the regulatory process enhances the overall purpose of protecting the public. Compromising the process in any way decreases the protective effect.

Thank you for the opportunity to express our concerns. We believe our thoughts will be echoed by many in our profession.

Very truly yours,



Robert L. Sanderson, P.E.
President

RLS/vc

TREFTZ & ASSOC.
LAND SURVEYORS & ENG.
124 CHERRY STREET
BILLINGS, MONTANA
252 - 1301

MARCH 12, 1980

RECEIVED

MAR 13 1980

MONTANA LEGISLATIVE AUDITOR

MORRIS L. BRUSETT, C.P.A.
LEGISLATIVE AUDITOR
STATE CAPITOL
HELENA, MONTANA 59601

A. Would the absence of regulation significantly harm or endanger the public health, safety, or welfare?

Yes, a person could become a Sanitarian by personally knowing someone that would have enough influence on the hiring agency to convince them you are a qualified for the position.

B. Is there a reasonable relationship between the exercise of the state's police power and the protection of the public's health, safety, or welfare?

The only way to assure that a person is qualified for the position of Sanitarian is to have a regulatory board requiring a Sanitarian to meet certain qualifications to prove to the board that he is qualified for the position & therefore the health, safety & welfare of the public is protected.

C. Is there another less restrictive method of regulation available which could adequately protect the public.

None that I'am aware of.

D. Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree.

No. A man who is qualified for his position will save the public money by safeguarding the health, Safety & welfare.

E. Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?

No increase in cost would occur.

F. Are all facets of the regulatory process designed solely for the purpose of, and have as their primary effect, the protection of the public.

Yes, if properly organized. A regulatory board made up of professionals knowledgeable in the field of Sanitarians are the best qualified in the interest of the public to assure that the public health, safety & welfare are protected.

Elmer E. Treftz



**GREAT
FALLS AREA
CHAMBER OF COMMERCE**

P.O. BOX 2127
926 CENTRAL AVENUE
GREAT FALLS, MONTANA 59403
(406) 761-4434

RECEIVED

MAY 11 1980
MONTANA LEGISLATIVE AUDITOR

March 14, 1980

State of Montana Legislative Audit Committee
Room 135, Capital Building
Helena, MT 59601

Dear Legislative Audit Committee:

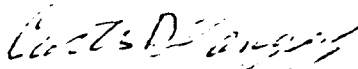
The Great Falls Area Foodservice Association respectfully submits the following formal testimony concerning the Sunset provision effecting the Montana State Board of Sanitarians, Section 2-8-101(2) MCA.

In the opinion of the Association, the Board of Sanitarians provides the Montana taxpayer an invaluable service. Our local sanitarians have the awesome responsibility, in conjunction with the food service industry, of insuring the health and safety of our Montana citizens. The preservation of their welfare is no matter to be taken lightly nor placed in the hands of unqualified personnel. Through the development of minimum standards of registration, by determining sanitarian eligibility, and by authorizing the Bureau of Occupational Licensing to register sanitarians, the Board of Sanitarians insures that local sanitarians are the true professionals that their responsibilities demand.

Local sanitarians are a prime source of information for food service operators in the areas of health regulation and sanitation standards. It is vital that if the food service industry is to take full advantage of this information, through inspections and seminars conducted by sanitarians, the credibility of these sanitarians must be maintained. It is through the state registration process that Montana restaurateurs and their patrons are assured of this credibility.

The GFAFSA strongly supports the continuation of the Board of Sanitarians. Just as insuring public welfare and safety is an important function of our state and local governments, it is also of paramount importance to the food service industry. The Board of Sanitarians provides that all sanitarians have the necessary education and expertise to meet their responsibilities with the professionalism we and the public have come to expect from them.

Respectfully,


Curtis D. Langendorff
Chairman



Ponderosa Inn

2511 FIRST AVENUE NORTH
P. O. BOX 1791
BILLINGS, MONTANA 59103
DIAL 406/259-5511

March 10, 1980

RECEIVED

MAR 13 1980

Morris L. Brusett, C. P. A.
Legislative Auditor
State Capitol
Helena, Mont. 59601

MONTANA LEGISLATIVE AUDITOR

Dear Mr. Brusett:

I understand the 1977 Sunset Law would terminate the Board of Sanitarians on July 1, 1981.

Because of the qualified and experienced sanitarians in Billings I have been given very valuable help in controlling the sanitary conditions of a restaurant on my premises; a restaurant which is leased and over which I have very little control.

I think there is not only a reasonable but a mandatory relationship between the exercise of the states policy power and the protection of the public's health but this control must be by a licensed sanitarian. If such would incur any increased costs it would be negligible compared to the preservation of adequate controls. I don't believe there is a substitute for qualified persons in this field. We certainly don't substitute quality in any other area of public health and safety.

I can't envision this regulation affecting the cost of services or goods involved except possibly in an increase in licencing fees but this would certainly be warranted.

Sincerely,

Kenneth E. Hickel
Owner - Manager



the Northern Hotel

BROADWAY AT FIRST AVENUE NORTH
BILLINGS, MONTANA 59101



RECEIVED

MAR 13 1980

MONTANA LEGISLATIVE AUDITOR

March 11, 1980

Morris L. Brusett, C.P.A.
Legislative Auditor
State Capitol
Helena, Montana 59601

Reference to: Sunset Review of Sanitarians Registration Act

Dear Mr. Brusett:

This is a favorable testimony to be submitted for the public meeting on March 17, 1980.

The following are responses for the six questions posed in the sunset law.


- A. Without the Registration Act, the health, welfare and safety of citizens throughout Montana could be jeopardized.
- B. If this Act was eliminated, the protection of public health, in general, could deteriorate. Unqualified and untrained personnel would be trying to administer the laws, rules and regulations.
- C. I do not believe so because we need this type of safeguard, mandated by State Law.
- D. The Registration Act does have an effect on costs for services rendered, but the cost is not prohibitive to have well qualified and trained personnel to assist businesses and the public in interpretation of the laws, rules and regulations that pertain to public health.
- E. No, it would be more harmful to the public without the regulations.

Morris L. Brusett, C.P.A., Con't.
March 11, 1980

Page 2

F. I feel that the regulatory process is for the benefit of the public's health, safety and welfare.

Respectfully submitted,


F. Jack Anderson
Vice President and General Manager
Northern Hotel
Billings, Montana 59101

FJA:nh

KLAUS H. SCHUHBAUER
MNGR. TRAIL DUST INN
P.O. BOX 1438
BILLINGS, MONT. 59103

IN REFERENCE TO SUNSET LAW:

RECEIVED

MAR 17 1980

MONT. ENVIRONMENTAL HEALTH ASSOC.

MONTANA LEGISLATIVE AUDITOR

IN reference to the terminations of the Board of Sanitations, we feel this would be a real threat to the state of Mont. health and welfare. It would be as bad as having a plumber do surgical work.

Our feelings concerning number 4 are as follows;

- A. Yes. We feel the absence of the regulations would harm the restaurant public.
- B. Yes. We want only trained personell to do policing. Anybody else would be to easily paid or bought off as done in so many professions.
- C. No. That is the only way. The only way to protect the public is to leave the rules and regulations for sanitarians the way it is now.
- D. No.
- E. No. How would like the state like to be liable for any lawsuits held for sloppy work done by any Jo-Blow?
- F. Yes, Thats the way we understand it.

One questions we have is this. Why are so many of the most very important meetings held so far away from the major metropolitin areas of Mont. where the majority of the people are living? It is very hard to leave your place of business when you are the sole operator of a reatuarant to attend these important meetings! Please consider giving us a chance to speak ourselves in public.


KLAUS H. SCHUHBAUER
OWNER/MNGR.



TELEPHONE - (406) 761-3401

P O BOX 2008
601 5th STREET SOUTHWEST

GREAT FALLS, MONTANA 59403

RECEIVED

MAR 14 1980
March 14, 1980

MONTANA LEGISLATIVE AUDITOR

Office of the Legislative Auditor
State Capital
Helena, Montana 59601

Re: Comments on Sunset Review of Sanitarians Registration Act

Dear Sirs:

The following written testimony in support of the Sanitarian Registration Act is respectfully offered to the Legislative Audit Committee for consideration at the March 17, 1980, meeting.

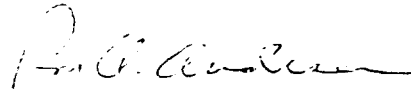
The below signed have been employed for eight and four years respectively as sanitarians for Buttrey Food Stores Division, Jewel Companies, Inc., Great Falls, Montana, a retail food store chain with retail outlets in Montana, Idaho, Washington, Oregon, Wyoming, North Dakota, and Minnesota. Both are graduates of Montana State University (Master of Science Microbiology) and are currently registered under this act. Job responsibilities include developing and implementing quality assurance, food protection, and general sanitation programs in retail food stores and distribution facilities in the seven state market area, to include monitoring and insuring compliance with the various local, state, and federal food safety regulations. Our comments in support of the Sanitarian Registration Act are therefore limited to the food safety scope of a registered sanitarian's responsibilities, and will address only the questions in Item 4 Page 2 of the Rules For Conduct of Public Meetings on Sunset Reviews which we feel qualified to answer.

A. The current regulation in our opinion significantly enhances the public health, safety, and welfare of Montana's citizens by requiring that qualified individuals are hired to assure the wholesomeness and safety of the foods consumed by Montanans. The complexity of the causative factors of food borne illness and its preventative measures necessitates that one be proficient in the basic concepts of food protection and sanitary principles, if he or she is to be able to identify situations or practices in food establishments which may lead to a food borne illness outbreak. Regulations provide the sanitarian with an enforcement tool to mandate certain requirements which will reduce the likelihood of a food borne illness, but the sanitarian must be able to interpret these regulations and correlate them with observed situations or practices in a food establishment which might lead to such a food borne illness. If one is not qualified to do this, such situations or practices will very likely go uncorrected and the safety of the consumer will not be assured. The criteria for registration under the current Sanitarians Registration Act helps insure that the individual charged with these responsibilities has this proficiency.

D. In our opinion the Sanitarian Registration Act does not have the effect of directly or indirectly increasing the costs of any goods or services involved in the operation of a food establishment. A conscientious food operator will strive to comply with the letter and the intent of the sanitary food regulations applicable to his operation, and will design, construct, and maintain the facility and equipment in compliance with those regulations, integrating the required specifications into his operational design. The sanitarian, through the plan approval process, and through pre-opening, and subsequent inspections, is responsible to insure that these specifications are met. The operator must rely on the proficiency of the sanitarian to define these specifications as they relate to his particular plan, equipment, structure, or current operation. The sanitarian must be able to correlate the specifications required in the regulation to the potential food safety hazards which might associated with a particular food operation. If the sanitarian does not have the background that will enable him to understand the food safety hazards that might be associated with the operation, arbitrary specifications, based on misinterpretation of the regulations may be required that are costly or counterproductive and serve no useful purpose. Additionally, during the plan approval, construction, and pre-opening inspection process, interpretations may vary if not based on sound food protection concepts and sanitary principles, necessitating costly plan, equipment, and/or construction changes or construction delays. The qualified sanitarian through his knowledge can assist the operator in complying with the regulations at the minimum cost and in a manner most efficient to the productivity of the operation. The converse is true of an unqualified sanitarian. Since all costs of operating a business are necessarily passed on to the consumer, the Sanitarian Registration Act, by requiring proficiency helps reduce, or at least hold down such operating costs.

We hope our comments have been of assistance to the committee in their Sunset Review of the Sanitarians Registration Act and we are at your service if amplification or clarification of our comments is necessary.

Sincerely,



Ron A. Andersen, R.S.
Director Sanitation & Safety



William E. Robinson, R.S.
Staff Sanitarian



Department of Health and Environmental Sciences
STATE OF MONTANA HELENA, MONTANA 59601

DIRECTOR'S OFFICE
449-2544

A. C. Knight, M.D., F.C.C.P.
Director

September 16, 1980

John W. Northey
Legislative Auditor's Office
Room 135, State Capitol
Helena, Montana 59601

Dear Mr. Northey:

The Department of Health & Environmental Sciences strongly believes that sanitarians must meet uniform state-wide qualifications before working in the profession and believes that screening, testing, registering and monitoring by an independent board is the best process by which this can be accomplished.

The Department recommends the Legislative Audit Committee reconsider its decision to sunset the Board of Sanitarians and determine to re-establish it, with certain changes in its administrative law, in the Department of Professional and Occupational Licensing.

If this is not acceptable, the Department then recommends the Board of Sanitarians be allocated to the Department of Health & Environmental Sciences for administrative purposes, that the Director of the Department of Health & Environmental Sciences be given the authority to appoint the members of the Board of Sanitarians, and the Board of Sanitarians continue its current screening, testing, registering, and monitoring of professional performance activities.

The Department is responsible for the administration of many laws and rules which specifically name the sanitarian as the person to complete public health protection tasks as representatives of the Department. Some of the areas of responsibility are: food processors and manufacturers; food, drugs and cosmetics; food service establishments; hotels, motels, and tourist homes; day care centers; retirement homes; schools; locker plants and frozen food processors; septic tank and cesspool operations; swimming pools and bathing places; tourist campgrounds, trailer courts; vending of food and beverages; water pollution; jails and public buildings. Over 7,000 licensed businesses are included in this workload.

September 16, 1980
John W. Northey
Page 2

Many more areas, such as nuisance complaints, animal bites, rodent and insect control, junk vehicle yards, and solid waste disposal programs are also involved. Other areas include the sanitarian by implication or common practice such as planning and zoning activities and building codes administration.

The Department has always worked closely with, relied upon, and accepted documents, observations, judgments and evaluations of registered sanitarians. Department legal actions are based upon the registered sanitarian's work.

This close professional relationship is possible because accumulated evidence indicates that persons required to meet and maintain sanitarian registration requirements deliver quality work consistently, are certifiable as experts in their fields of responsibility, and are qualified partners with the Department in public health protection matters.

The loss of the sanitarian as a registered professional would effectively erase this partnership and Montana would be ill served if just anyone could be employed in the first line public health protection role provided by the registered sanitarian.

The Department would be happy to expand on its beliefs and to work with the committee and its staff in any way.

Thank you for the opportunity to bring these considerations before you.

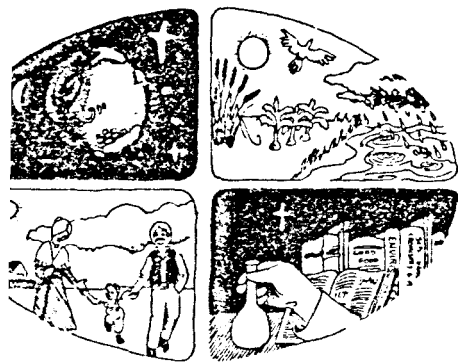
Sincerely,



John W. Bartlett
Deputy Director

gs

cc: Kenneth B. Read, R.S.



...MAKING A DIFFERENCE...

January 14, 1981

Mr. James Peterson, State Compliance Officer
State Department of Health & Environmental
Sciences
Food & Consumer Safety Bureau
Board of Health Building
Helena, Montana 59620

Dear Jim:

This letter is to inform you that at the December, 1980, Local Health Officers' Association meeting, the local Health Officers unanimously voted to support retention of the Board of Sanitarians. We feel the Board, which operates at no public cost, offers considerable public benefit by establishing and maintaining standards of professionalism among sanitarians working in Montana.

Sincerely,

David A. Feffer, Chairman
Montana Local Health Officers' Assoc.

DAF:mjp

MISSOULA CITY-COUNTY HEALTH DEPARTMENT
301 WEST ALDER STREET MISSOULA, MT 59801
TELEPHONE 721-5700

THE LEGISLATIVE AUDIT COMMITTEE FOR THE MONTANA STATE LEGISLATURE

RECEIVED

MAR 17 1980

MONTANA LEGISLATIVE AUDITOR

Mr. Chairman and Members of the Committee

I am Gary Lee Watt. I live at 1515 Missoula Avenue, Helena, Montana

I am a registered sanitarian but I have not worked as such for the past twenty months.

I am employed as a food service consultant for the Office of Public Instruction.

My background consists of many years in the milk business, three and one-half years as a county sanitarian and six years as a consultant sanitarian for the Department of Health and Environmental Sciences.

I hold a B.S. in Dairy Manufacturing and a M.S. in Microbiology (Environmental Health).

I have taken several advanced courses in public administration. Besides this I have numerous certificates for training courses completed in most areas sanitarians are involved. While I was with the Department of Health and Environmental Sciences, I was certified by the Food and Drug Administration as a food survey officer.

I am past President of the Montana Environmental Health Association, former member of the Sanitarians Registration Council and a former member of the Governing Board of the Montana Health Systems Agency.

I give you this capulated form of my history so you know that I speak from experience. I have helped train several sanitarians working in Montana today.

I have also helped train many sanitarians who have left the field.

To understand what a sanitarian is, you have to understand what he or she does.

It is like looking through a microscope, as you adjust the focus you clearly see one segment of the operation. Then by readjusting the focus, you see another segment. Rarely will you ever see the total picture without piecing the segments together.

I feel the absence of registration would significantly harm or endanger the public's health, safety or welfare.

I would estimate that within five years after the Board was disbanded, there would be a movement to reestablish the Board and to make it stronger than it is today.

Most local jurisdictions currently look for guidance from the Board and the Department of Health and Environmental Sciences in finding people qualified and capable of acting as sanitarians. Some local boards have tried to save money by hiring local talent, using CETA workers and by attempting to live without a qualified sanitarian. The need for a qualified sanitarian quickly becomes apparent.

The hiring agency ^{will do this} ~~is~~ soon looking for qualified applicants because the demands of the job become so heavy the unqualified people cannot keep up.

Not all persons who qualify as sanitarians stay with the profession. Highly qualified people who can very easily handle the work sometimes move on to better paying jobs. Others cannot or do not care for the stress of public contact. Still others get so involved with the demands of the job they burn out. Their family life becomes nonexistent because they are working weekends and nights.

I believe the auditors missed the point on Page 4, Paragraph 1, last sentence.

Very few local sanitarians are only involved in food protection and water quality control. You should read a sanitarians log if you don't believe me.

Actually sanitarians are expected to know a lot about everything involved with sanitation. The demands on this profession are rapidly evolving and becoming extremely complex.

It is difficult to keep up even when you are working with subjects on a constant basis. That is why I agree with the concept of continuing education.

It is my opinion that in the near future only graduates of certified environmental health programs should be eligible for registration. The sanitarian is expected

to work on a par with engineers, medical doctors, lawyers and other professional people. To have less than qualified sanitarians puts the public's health at risk. Their pocket book will also suffer because of inadequate evaluations of situations such as subdivision review, sewage disposal and epidemiological investigations.

I feel the board should be separated from the Department of Health and Environmental Sciences because of two serious incidents that occurred. The personal ego of a division director got in the way of professional judgement. If the Department of Health and Environmental Sciences had had control of the registration I fear that a bureaucratic power play by one person would have wiped out the board.

Please refer to page 22, Paragraph 3, The Department of Health and Environmental Sciences does do a lot of training but they do not regulate local or private sanitarians. Various individual Department of Health and Environmental Sciences employees keep the Board informed of sanitarians activities but the Department of Health and Environmental Sciences does not have authority or control over local sanitarians. Too often confusion occurs over the Department of Health and Environmental Sciences role in control. Local governments and businesses have complete authority over their employees. Local jurisdictions such as Great Falls, Missoula and Billings seldom ask for assistance in training new staff. The Board should retain its autonomy.

On Page 21 under Regulatory Authority I believe the auditors missed the point of registration complaints. Sanitarians, by nature, are very sensitive to human needs. If they have a fault it is in proper documentation. They try to resolve matters quickly, cleanly and with as little distress to the other party as possible. Sometimes red tape and records are left undone because of it.

Although it is not on file I was the one who notified a board member that an unqualified person had just been hired in Lake County. He contacted the person who quickly called his former employer, got his old job back and moved back to Colorado.

Since sanitarians converse a lot by phone, the board members are usually aware of situations where a sanitarian is not performing properly. Usually, the County Commissioners or local board of health either terminates the individual or the individual resigned before the board could collect the necessary data to act.

However, the mechanism for delicensure should be in place should it be needed. This has been a cursory list of comments I have on why I believe the Board of Sanitarians is essential to public health. I welcome any questions you may have now or in the future. My office number is 449-2501 and my home phone number is 443-4753.

The Board of Sanitarians has been established and functions to maintain standards for Sanitarians in the State of Montana. Montana's Board of Sanitarians insures that only qualified individuals serve as Sanitarians in Montana. Individuals adequately trained and with a demonstrated ability to pass a required environmental health examination better serve the public health needs of the people of Montana. As Montana State University has received accreditation for the environmental health option in the Department of Microbiology by the National Accreditation Council for Environmental Health Curricula in order to provide well-trained, quality students to serve Montana, so too, the Board of Sanitarians attempts to insure that well-trained, quality Sanitarians serve the environmental health needs of Montana. We, the undersigned, feel that the Montana Board of Sanitarians has insured a high level of quality personnel for serving Montana Environmental health needs and that abolition of the Board would be detrimental to the standard of quality attention given to the health and safety of every Montanan.

Dr. Malcolm D. Winter

Dr. Malcolm D. Winter
Custer County Health Officer

Stephen Hamann R.S., M.P.H.
Stephen Hamann
Custer and Powder River County Sanitarian

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL LICENSING
BOARD OF SANITARIANS



ED CARNEY, DIRECTOR

LALONDE BUILDING
HELENA, MONTANA 59601
(406) 449-3737

LEGISLATIVE AUDIT COMMITTEE

Testimony

Relative to the Board of Sanitarians and Sanitarian Registration

by

James M. Peterson, R.S.
Member
Board of Sanitarians

Gentlemen:

It is a privilege to come before you and present testimony on behalf of the Board of Sanitarians, Kenneth Read, R.S., Chairman, and Samuel Kalafat, R.S., Vice Chairman, in support of the continuation of the Board of Sanitarians and sanitarian registration.

Before speaking to the six specific questions required by Sunset Law, we would like to present a few introductory remarks.

The registered sanitarian occupies a most important and unique position in the world of environmental public health protection. He is the first line professional, usually a multi-discipline generalist, who carries the tremendous responsibility as primary inspector, evaluator, advisor and enforcer in environmental public health prevention and correction matters. The propriety of his actions is critical to the development and maintenance of a healthful and safe environment.

The sanitarian has long been considered a responsible professional by the legislature. Many laws, including those dealing with food, public accommodations,

and trailer courts-campgrounds, specifically name sanitarians as persons to carry out the provisions of the law. It seems a reasonable assumption that the lawmakers believed the registration requirements qualified and justified the specific inclusion of the sanitarian.

The individuals and industries that are affected by environmental law and rules generally accept the need for controls. But they expect the laws and rules to be universal, that they will be uniformly enforced, and that only qualified and competent sanitarians will administer them.

Without a viable Board of Sanitarians and sanitarians registration requirements, a fundamental element in an efficient, effective and fair public health prevention program will be missing.

- 1. Would the absence of regulation significantly harm or endanger the public's health, safety, or welfare?

Yes. The elimination of the Board of Sanitarians and the requirements for sanitarian registration would result in a lowering of the level of public health protection because qualified registered sanitarians have an appreciation for and an understanding of those factors which have a critical impact on the elimination of environmental health hazards. They can adapt their basic knowledge and training in public health preventive practices to sudden and unfamiliar situations. The rapid mobilization and successful participation of sanitarians from industry and local/state government in the recent PCB incident illustrates this capability.

- 2. Is there a reasonable relationship between the exercise of the state's police power and the protection of the public's health, safety, or welfare?

Yes. The public health responsibilities of the registered sanitarian are generally concerning matters that are beyond the awareness and technical knowledge of the public and thus the public cannot protect itself. There is no way a consumer can assure himself that the water he drinks in a cafe is potable, that the food he eats is free of harmful chemicals or bacterial contamination, that the silverware

and glasses he uses in a public establishment are sanitary, or that the sewage disposal system serving a facility is non-polluting. He can only suffer the consequences.

These examples illustrate a few of the many areas where the public expects and even demands the state meet its responsibility to provide adequate and effective public health protection through laws and rules and the qualified persons to administer them.

Maintaining the Board of Sanitarians and sanitarian registration is a reasonable and, we believe, necessary exercise of state power.

3. Is there a less restrictive method of regulation available which could adequately protect the public?

No. We believe the Board of Sanitarians has adopted the minimum qualifications necessary to meet the responsibilities of the profession. The requirements are in keeping with those in other states.

The Board of Sanitarians accepts limited equivalency in academic areas to provide flexibility and has interstate reciprocity with states with similar standards.

4. Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

No. It is possible that the salaries paid to persons qualified as registered sanitarians would be higher than that paid to individuals with lesser qualifications. However, the costs resulting from incorrect decisions, inaction, etc., made by unqualified persons would more than offset any salary differences.

5. Is the increase in cost more harmful to the public than the harm which would result from the absence of regulation?

No. As was discussed in the preceding question, costs would likely balance, but, even if they did not, the harm to the public through the increased incidence of illness and injuries would more than offset any increase.

6. Are all facets of the regulatory process designed solely for the purpose of, and have as their primary effect, the protection of the public?

Yes. The entire registration process and the only reason for the Board of Sanitarians is to insure that only persons with adequate knowledge and ability in public health protection matters are given the authority and responsibility to practice the profession of sanitarian.

GENERAL COMMENTS

We would like, with your permission, to add our comments to other items contained in the Sunset Review and to other areas, because we believe the information would be helpful in your deliberations.

It may be your information that differences existed between the Board of Sanitarians and the Department of Health and Environmental Sciences. These problems have been resolved. You should have written commentary to this fact from the Department and an indication of their support for the Board of Sanitarians.

The Sunset Review contains comments on educational requirements, complaint procedures, and several other special areas, and we wish to respond to them. But we would like to note that we do not believe they should be considered factors in determining the continuation of the Board of Sanitarians and sanitarian registration.

They are, and are being actively considered as, recommended improvements to the functions of the Board of Sanitarians and the registration process.

Educational Requirements:

The sanitarian was the first professional to become active in the field of environmental public health protection. As a generalist, the knowledge and abilities he must bring to his work are broad, yet firmly grounded on certain subjects such as microbiology.

We now have schools of public health in universities across the United States which are graduating individuals in the specific academic discipline of environmental health. Montana State University recently was nationally accredited in this area. It is anticipated that most future sanitarians will come from this specific academic background.

All this means that educational requirements for sanitarians is a dynamic process, and the Board of Sanitarians will be continually evaluating educational requirements which will insure that only qualified persons are registered.

Complaint Procedure:

The Sunset Review noted that the Department of Health and Environmental Sciences and other agencies deal with complaints against registered sanitarians.

We believe this is misleading as the complaints being considered are in reality questions about the interpretation and application of a state law or rule, and as such are part of the normal standardization process.

The Board of Sanitarians is not in the business of interpreting technical laws and rules, but is charged to act when gross incompetence or professional conduct is in question.

A suggestion is made that the Department of Health and Environmental Sciences take over the registration process.

We believe this is inappropriate. We believe a conflict of interest would occur, since the Department would be both an employer of sanitarians and the registering agency.

We find that establishing the Department as registration agency is in opposition to the more independent and broad-based expanded Board of Sanitarians being proposed.

Unprofessional Conduct:

The Board of Sanitarians has recently revised its rules dealing with unprofessional conduct. They are currently consistent with those of the engineering profession.

The Board will be continuously evaluating statements from other states, considering legal opinions handed down by the courts, and will be amending its rules as appropriate.

Continued Competency:

The Board of Sanitarians proposed an amendment to its governing laws during the last legislative session to require continuing education for re-registration of sanitarians. The amendment was defeated when the bill was voted out over other aspects.

The Board of Sanitarians plans to re-introduce the continuing education amendment in the next legislative session and is already working with an advisory committee of sanitarians from the Montana Environmental Health Association on the details of the process.

Board Membership:

The Board of Sanitarians proposed an amendment to increase membership by including lay persons during the last legislative session. The amendment was defeated when the bill was voted out due to another matter.

The Board plans to re-introduce this amendment during the next legislative session.

Administrative Areas:

The Sunset Review comments dealing with automated license records; reporting requirements, etc. are non-controversial so far as the Board of Sanitarians is concerned and seem not to be a factor in the deliberations concerning the continuation of the Board.

Conclusion:

The Board of Sanitarians believes that only qualified and registered sanitarians should be entrusted with the protection of environmental public health in the areas of their responsibility. To place the health and safety in the hands of anyone less qualified would be retrogressive and not in the best interest of anyone concerned.

We hope your deliberations will result in the decision to recommend continuation of the Board of Sanitarians and sanitarian registration.

You may be assured that all any registered sanitarian wants is to be sure that he and his peers are qualified and competent to carry out their responsibilities and to satisfy the trust placed upon them.

Thank you.



Montana Environmental Health Association

March 13, 1980

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MAR 14 1980

MONTANA LEGISLATIVE AUDITOR

Legislative Audit Committee
State Capitol
Helena, Montana 59601

Re: Comments on the Sunset Review Report on the Board of Sanitarians

Ladies and Gentlemen:

As the current President of the Montana Environmental Health Association, I am speaking on behalf of that association. My name is Laurence E. Wallace, and I am from Bozeman.

It is difficult to be concise and to the point and still cover adequately all six questions mentioned in the Legislative Auditors Report. I therefore will answer only the first question. "Would the absence of regulation significantly harm or endanger the public's health, safety, or welfare?" The answer to that would be, in some counties yes and in some counties probably not.

Let me explain what I mean by that yes and no answer. The laws, codes, ordinances, and regulations we now enforce are not going to go away whether the Board of Sanitarians is sunsetted or not. People will still be required to be out around the state enforcing the laws you have enacted. The actions taken by those inspectors will continue to affect the health and welfare of the people who live and visit here. To insure that these inspectors are competent and making educated decisions, some qualifications for the job will still be required. If statewide qualifications are not used, the individual counties will have to come up with some of their own. The effect of this will be that the laws will be enforced somewhat differently in each county in the state. Sanitarians now have basically the same education and training and this tends to make enforcement relatively the same throughout the state. Fair and equal enforcement of the regulations from county to county is now encouraged by the licensing regulations. These regulations are enforced by the Board of Sanitarians.

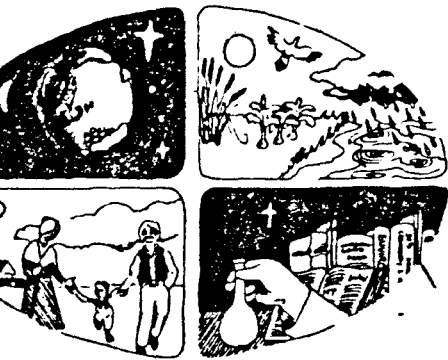
The decisions and actions that the sanitarian is required to make must be made with an educated judgement. The sanitarian must then be ready to defend his actions in court. If the Sanitarian is unable to convince the court that he

or she acted lawfully and properly, the employer (county) may find itself liable. I am sure that Gallatin County is not much different than any other county in Montana, and we find ourselves on the witness stand more and more frequently.

We in the Montana Environmental Health Association would prefer that the current rules, regulations, and board that governs our profession be updated and modified if necessary, rather than completely eliminated. It is only in this way the uniformity that is needed to enforce the regulations equally and fairly across the state can be obtained.

Laurence E. Wallace, R.S.
President, Montana Environmental
Health Association

LEW:hma



...MAKING A DIFFERENCE ...

March 12, 1980

RECEIVED

MAR 14 1980

MONTANA LEGISLATIVE AUDITOR

Morris L. Brusett
Legislative Auditor
Office of the Legislative Auditor
State Capitol
Helena, MT 59601

Dear Sir:

I request that this letter be included as part of formal written testimony and be entered into the record concerning the sunset performance audit report of the Board of Sanitarians.

My name is William R. DeCou. I reside at 1139 Poplar Street, Missoula, Montana. I am a registered sanitarian, currently employed by the Missoula City-County Health Department. My comments reflect my views as a practicing sanitarian.

The rules for written testimony state the necessity for relating the testimony presented to the questions posed in the sunset law. Limiting testimony to the six points outlined would have the effect of excluding relevant testimony.

The sunset review report to the Legislature concerning the Board of Sanitarians, prepared by the office of the legislative auditor, does not follow the requested format; nonetheless, I assume that material included within that report is deemed relevant. Therefore, the validity of concerns or conclusions stated in the report are proper subjects for testimony.

My first comment concerning the report questions the validity of the point raised on page 20 concerning the definition of a sanitarian. I do not agree that "the law forced the inclusion of many professionals into the definition of sanitarian who did not want to practice the profession." I am aware of only two individuals for which this was an issue. To me, two does not constitute "many." And the positions held

MISSOULA CITY-COUNTY HEALTH DEPARTMENT
301 WEST ALDER STREET MISSOULA, MT 59801
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by the individuals were stated as "sanitarian" at the date of hire. The position titles (but not the responsibilities or duties of the position) were later changed by H.E.S. administrators in an attempt to evade the law. I am sure that the committee must be aware of the considerable bureaucratic maneuvering by H.E.S. concerning this issue.

I also question the relevancy of past disputes regarding the definition of a sanitarian. I am sure that this committee would not accept the relevancy of disputes within committee hearings in previous legislative sessions. Thus, a single standard must be applied. Currently there is no dispute; H.E.S. and the Board of Sanitarians are in agreement concerning the definition of a sanitarian.

I do not agree that the standards for suspending or revoking a license are inappropriate as contended on page 21. First, more specific standards have been proposed by the Board of Sanitarians. While the proposed standards are still somewhat non-specific, as are the standards adopted by the boards of many licensed occupations in Montana, that's simply the nature of such standards as applied to licensed professionals.

This committee found the standards regarding suspension and revocation for professional engineers to be acceptable at the last session of the Legislature. Yet the committee questions the same language when proposed by the Board of Sanitarians. It is the responsibility of the committee to determine the suitability of language, not to measure the political clout or lobbying power of professional engineers as compared to registered sanitarians, or to make decisions based on the differences in political power of the two groups.

I do not agree with the conclusions reached in the section titled Regulatory Responsibility, starting on page 21 of the report. While one of the Board's major objectives is to review and take appropriate action on complaints, the committee has misinterpreted the type of complaints which are relevant.

I am sure that the committee would agree that it would not be in the Board's jurisdiction to investigate complaints regarding issuance of traffic citations. Likewise, it is outside the Board's jurisdiction to field complaints regarding health-related complaints encountered by the public unless the complaint results from unprofessional conduct of a sanitarian. The lack of this kind of complaint indicates that sanitarians are carrying out their duties in a professional manner.

Generally, complaints involve adverse environmental conditions, the existence of which is not related to the lack of competence by sanitarians. The most common reasons why some of these complaints are not satisfactorily resolved are either inadequate funding or lack of jurisdiction (no enabling legislation). These are political deficiencies not under the control of sanitarians.

It is most appropriate that health-related complaints be referred to the local or state agency having jurisdiction, as these agencies provide funding for enforcement, make political decisions regarding priorities, and are responsible for establishing the necessary regulatory framework to resolve complaints.

I do not agree with the report's contention that most of the regulation of sanitarians is concentrated at H.E.S. I have observed little or no evidence of "the department's constant contact with probationary sanitarians." I have never been supervised by H.E.S. While H.E.S. serves as technical consultants for some programs, a number of local jurisdictions have their own regulations and programs with no parallel at a state level. Thus, H.E.S. has little or no influence in these areas.

It should also be noted that while H.E.S. has the power to monitor and supervise local sanitarians in some respects, it has, on the whole, not chosen to do so. Food and Consumer Safety, which administers the single largest state program carried out by sanitarians (licensed establishments) has not withheld funds for unsatisfactory contract performance, although justification for withholding of funds probably existed in some jurisdictions.

I also question the implicit assumption that employees of H.E.S. are necessarily better qualified to evaluate sanitarians than are sanitarians throughout the state.

Establishing H.E.S. as the licensing board would create an unhealthy situation in two respects. H.E.S. could abuse its powers for political reasons regarding the inevitable friction between various levels of government. Thus, a local sanitarian could suffer harassment from H.E.S. regarding registration because H.E.S. and the county's commissioners had some differences.

Secondly, H.E.S. is a well-developed bureaucracy, with attendant internal organizational problems. There would be an opportunity and

incentive to rubber-stamp its own workers' qualifications unless the worker had committed an act of political indiscretion. Since the purpose of registering sanitarians is to assure competency in technical, not political, respects, H.E.S. would be unsuited for this role.

I do not agree with either of the points raised on page 22 concerning educational requirements. A degree, in and of itself, does reflect on the applicant. A degree-holder has demonstrated at least four years of self-motivation, an ability to function satisfactorily with a(n) (academic) bureaucracy, and has fulfilled basic requirements in oral, written, and mathematical skills. Since sanitarians must function in a bureaucracy, these skills and abilities are highly relevant.

The accumulation of a particular number of credits in science does not necessarily provide these same skills and abilities.

While it would be possible for a history major to have 30 credits in science, it is unlikely. If a history major did have 30 credits in science and those courses included microbiology, biology, chemistry and physics, the person would have the necessary technical background. The specific major is of lesser importance if the candidate has a degree and the required coursework.

The requirement does specify the degree required and specific types of subjects required. The minimum number of quarter hours is covered by the degree requirement. The current requirements are broad enough to include qualified persons and narrow enough to exclude those unqualified.

The committee's discussion of continued competency appears to criticize both the lack of continuing education and a proposal to require same. This smacks of wanting to have the cake and eat it too.

Continuing education and entrance exams are not perfect predictors of competency, as is true of bar exams, medical exams, professional engineer exams, etc. However, satisfactory performance on the exam insures an adequate technical and analytical background, which is an essential part of competency. In a similar manner, a continuing education requirement assures up-to-date knowledge by registrants, which is a necessary part of competence.

The Board has proposed a continuing education requirement, but cannot enact it without legislative action.

The committee report discusses automated record-keeping and, no doubt, will later expound about the associated high costs. As the number of registered sanitarians in Montana is less than 200 and likely to remain so, there is no need for automated records. If the Legislature is to require such record-keeping without a documented need, then the Legislature should also take responsibility for the resultant costs incurred.

The committee's guidelines for testimony make an unwarranted assumption that the registration of sanitarians increases costs to the public. This constitutes evidence of a bias on the part of the committee. (4 E Is the increase in cost)

I believe the committee's concern about costs is unwarranted. Seven percent of the time of one administrative assistant is involved in sanitarian registration, and all of the costs are borne by the sanitarians themselves.

In the absence of a registration requirement, these additional costs could be expected to result:

(1) Government would continue to expend funds for sanitation, but would receive less service as qualification of job-holders declines.

(2) Lowered environmental conditions would be endured by the entire citizenry.

Sincerely yours,

Bill DeCou, R.S.

Bill DeCou, R.S.

BD:mzc

I, as a practicing sanitarian, agree with the above mentioned comments.

K. A. Janic (Ed. Edward D. Zuleger)

Joseph L. Day
Don Vilkum

a non-practicing but concerned, registered sanitarian, I agree with the above.

Linda C Hedstrom M.T., R.S.

Tom Barger, R.S.

OFFICE OF
DISTRICT SANITARIAN

PHONE 406-232-6237
CUSTER COUNTY COURTHOUSE
MILES CITY, MONTANA 59301

March 12, 1980

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MAR 13 1980

MONTANA LEGISLATIVE AUDITOR

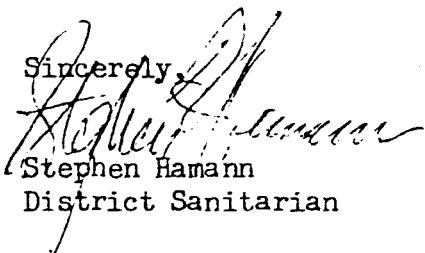
Office of the Legislative Auditor
Morris L. Brusett
Legislative Auditor
State Capitol
Helena, Montana 59601

Re: Testimony on the importance and
performance of the Board of Sanitarians.

Dear Mr. Brusett:

Please enter the testimony on the next page at the March 17, 1980 meeting
of the Legislative Audit Committee.

Sincerely,


Stephen Hamann
District Sanitarian

lb

Enclosure

The Board of Sanitarians has been established and functions to maintain standards for Sanitarians in the State of Montana. Montana's Board of Sanitarians insures that only qualified individuals serve as Sanitarians in Montana. Individuals adequately trained and with a demonstrated ability to pass a required environmental health examination better serve the public health needs of the people of Montana. As Montana State University has received accreditation for the environmental health option in the Department of Microbiology by the National Accreditation Council for Environmental Health Curricula in order to provide well-trained , quality students to serve Montana, so too, the Board of Sanitarians attempts to insure that well-trained, quality Sanitarians serve the environmental health needs of Montana. We, the undersigned, feel that the Montana Board of Sanitarians has insured a high level of quality personnel for serving Montana Environmental health needs and that abolition of the Board would be detrimental to the standard of quality attention given to the health and safety of every Montanan.

in D. Hamann, M.D.

Dr. Malcolm D. Winter
Custer County Health Officer

Stephen Hamann, R.S., M.P.H.
Stephen Hamann
Custer and Powder River County Sanitarian

1026 Hauser
Helena, MT 59601
March 14, 1980

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MAR 17 1980

MONTANA LEGISLATIVE AUDITOR

Legislative Audit Committee
Room 135
State Capitol Building
Helena, MT 59601

Committee Members:

Please consider this my written testimony in opposition to the proposed sunseting of the Board of Sanitarians. Without that administrative board, the Sanitarian Registration Act would be a totally ineffective piece of legislation. Without the qualification requirements set forth in that act, I sincerely feel that the quality of environmental sanitation and the associated preventative health efforts in the state will deteriorate. The Act and its administration by the Board is the only guarantee that state and especially local health departments will be staffed with the qualified individuals needed to carry out the very important task of improving the environmental health of the people and the state. The absence of this type of regulation will result in a significant decrease in the quality of these important public officials.

The relationship between the regulation and the protection or enhancement of public health, safety, and welfare is direct and most obvious at the county health department level. The county sanitarian is the primary and often the only environmental health authority in at least 40 of the 56 counties in the state. The wide range of duties and problems they are called upon to investigate and solve requires an individual of special ability. The Board of Sanitarians and the Sanitarian Registration Act is the only assurance that these positions will be filled with individuals capable of performing these duties in a satisfactory manner.

The economics or costs involved in retaining the Board barely deserve a comment. The staff report on the subject clearly illustrates that it is a self-financed regulatory agency which costs the taxpayers of the state nothing. I certainly do not pass on the cost of my annual license to my "customers" when I renegotiate my salary plan with the Legislature. I would venture to guess that the taxpayers' cost of preparing the Legislative Auditor's staff report on the Sanitarians Board was far more than the cost to the taxpayer for supporting the Board of Sanitarians in the entire history of its existence.

To summarize in the interests of brevity, the retention of the Board or the development of an alternative (and probably more costly) administering agency is very important to the Sanitarian Registration Act. That Act is very important to the state of Montana. I sincerely hope that your committee will be farsighted enough to realize what impacts its decision will have on the future course of environmental health and sanitation for the people of the state.

Sincerely,


Larry D. Mitchell, R.S.

Employed by Montana Department of Health
and Environmental Sciences



County of Yellowstone



CITY-COUNTY HEALTH DEPARTMENT

BILLINGS, MONTANA
59101

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MAR 14 1980
MONTANA LEGISLATIVE AUDITOR

James U. Neely, R.S., Chief
Environmental Health Division
Room 311, Courthouse
Phone 252-5181 Ext. 225

March 13, 1980

Morris L. Brusett, C.P.A.
Legislative Auditor
State Capitol
Helena, Montana 59601

Reference to: Sunset Review of Sanitaricians Registration Board
and Sanitaricians Registration Act.

Dear Mr. Brusett:

We, the employees of the Yellowstone City-County Health Department, Environmental Health Division, support the Board of Sanitaricians.

This Board was established to enforce the laws and rules of qualification for entering into this field and to police its ranks. We feel that it is fulfilling this function and through its efforts a high standard of professionalism has been achieved in this State.

To do away with this agency and its control will open this field to possible political abuses that have occurred in the past.

We feel there should be no compromising of qualifications and educational standards when the health, safety, and welfare of the people of this State are involved.

Respectfully submitted,

Sue Cozzens, R.S.
Sue A. Cozzens, R.S.

Louis Ladas
Louis Ladas, R.S.

Gary Bradshaw, R.S.
Gary Bradshaw, R.S.

Ted Kylander
Ted Kylander, R.S.

Norma L. Hart, Secretary

James U. Neely, R.S., Chief

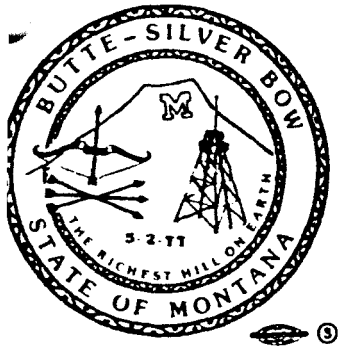
BUTTE - SILVER BOW HEALTH DEPARTMENT

220 NORTH ALASKA

BUTTE, MONTANA 59701

March 12, 1980

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MONTANA LEGISLATIVE AUDITOR

Morris L. Brusett, C. P. A.
Legislative Auditor
Office of the Legislative Auditor
State Capital
Helena, Montana 59601

Dear Sir:

I wish to present written testimony in support of the Sanitarians Registration Act.

The abolishment of the Sanitarians Registration Act would have an adverse and detrimental effect on the public health needs and requirements of the people of the entire state of Montana.

The absence of regulation of the profession of Sanitarian as set by the present Sanitarian Registration Act would allow untrained and uneducated personnel to inspect, investigate, interpret and render decisions of the Public Health Regulations Rules and Codes of the State of Montana as passed by the Legislature and the State Department of Health and Environmental Sciences, to the detriment of the general public and the various industries involved.

There is a reasonable relationship between the exercise of the State's police power and protection of the public's health, safety and welfare at the present time because qualified Registered Sanitarians at the state and local levels are carrying out the public health programs they are responsible for.

In my opinion there is no less restrictive method of regulation available than using qualified personnel, who by the very nature of their education and experience can effectively determine the best methods of achieving public health goals.

The Sanitarians Registration Act is administered by the Sanitarians Registration Council and the entire operating cost comes from the annual and initial Sanitarians Registration Fees; therefore, there is no cost to the public.

All facets of the Sanitarians Registration Act are designed solely and primarily to give the public the protection of having sanitarians who have a high degree of expertise in their field of endeavor through education and adherence to an ethical philosophy of deportment and practice.

BUTTE-SILVER BOW HEALTH DEPARTMENT

220 NORTH ALASKA

BUTTE, MONTANA 59701

PHONE 406-792-2341

The Sanitarians Registration Act has been in effect since 1960 and I feel it has proven its worth by the caliber of the people employed in the field of environmental health and sanitation.

I strongly urge that the Legislative Audit Committee give favorable consideration to the merits of the Sanitarians Registration Act and allow the act to remain in force.

Sincerely,

Don McLean, R.S.

Don McLean, R.S.
Registration No. LX17
Supervising Sanitarian
Butte-Silver Bow Health Department

DM:mp

DISTRICT SANITARIAN

RICHLAND AND McCONE COUNTY HEALTH DEPARTMENTS

Edward W. Grove
221 - 5th Street S.W.
Sidney, Montana 59270

Phone: 482-2207

March 17, 1980

RECEIVED

MAR 18 1980

MONTANA LEGISLATIVE AUDITOR

Morris L. Brusett
Legislative Auditor
Office of the Legislative Auditor
State Capitol
Helena, Montana 59601

Dear Members of the Legislative Audit Committee:

It is my firm belief that the Board of Sanitarians and the Sanitarian Registration Act should be preserved. The Registration Act through the Board of Sanitarian serves a vital function in the screening of individuals who seek to become practicing sanitarians in Montana. The Registration Act is the simplest, most effective method of assuring that sanitarians possess the minimum educational background to properly serve the public in the concerns of public health. The registry exam tests the applicants knowledge in these important aspects of public health: 1) disease microbiology and control; 2) water chemistry, treatment, and protection; 3) air pollution; 4) environmental sanitation; 5) food sanitation; 6) vector and rodent control and 7) specialty sanitation areas (plumbing, ventilation, radiation). The Board of Sanitarians is also involved in continuing education for the sanitarian through the training conferences and workshops that the board sponsors.

The Registration Act, administered through the Board of Sanitarians is designed solely for the protection of the public. In Richland County where I practice as a registered sanitarian, the public is feeling tremendous impacts from the Williston Basin oil activity. This oil activity poses public health concerns which affect the livelihood and health of almost all Richland County residents. Some of the important problems which must be addressed daily in Richland County are: 1) water protection (preserving the quality of water from oil related contamination in well supplies); 2) rapid housing expansion (insuring safe sewer and water installations on dwelling units outside the city limits); and 3) continued food protection from the increased load that is placed on the existing food service establishments.

In an oil impacted area such as Richland County it is difficult to keep a sanitarian employed due to the increased problems and work load resulting from this type of development. Yet, the public health issues necessitate that the local government keep an individual working on these problems. Under conditions such as this, which do exist around Montana, it is my belief that local government would hire virtually anyone to fill a vacancy were it not

Morris L. Brusett
Helena, Montana 59601

March 17, 1980

for the Sanitarian's Registration Act. The consequences of this "lowering of standards" would be directly reflected in the many aspects of a developing community; from the quality of its subdivisions and industrial areas, to the safety of its food sources. It is for these reasons that I urge you to favor the preservation of the Board of Sanitarians and the Sanitarian Registration Act.

Sincerely,

Edward W. Grove R.S.

Edward W. Grove
District Sanitarian

EWG/kl



University of Montana
Missoula, Montana 59812

RECEIVED

MAR 11 1980

MONTANA LEGISLATIVE AUDITOR

March 10, 1980

Morris L. Brusett
Legislative Auditor
State Capitol
Helena, Montana 59601

Dear Mr. Brusett:

Since a commitment of several months to be in Seattle on March 17 would be difficult to change I will not be attending the public hearing relative to the Board of Sanitarians. James Peterson will represent the Board at this hearing.

I wish to submit the enclosed personal answers to the six questions posed in the sunset law.

Sincerely,

Kenneth B. Read, R.S.
University Sanitarian

cc: Sam Kalafat, R.S.
James Peterson, R.S.

Enclosure.

TESTIMONY TO LEGISLATIVE AUDIT COMMITTEE

Relative to: Board of Sanitarians and Sanitarian Registration

By: Kenneth B. Read, Registered Sanitarian
502 Dearborn
Missoula, MT 59801

On behalf of: Self.

A. WOULD THE ABSENCE OF REGULATION SIGNIFICANTLY HARM THE PUBLIC HEALTH, SAFETY, AND WELFARE?

It can be expected that, without required qualification standards, political patronage and false economy will cause to be employed as sanitarians persons with inadequate educational backgrounds. (This situation can be illustrated by past incidents in Montana.)

It can also be expected that a person without the background, or a similar background, to that required for sanitarian registration would not have the knowledge needed for properly evaluating environmental conditions as to potential hazard to human health nor the capability to understand and interpret the reasoning behind environmental sanitation and public health standards.

The anticipated eventual result of the services of an unqualified person is the lack of elimination and/or an inadequate reduction in severity of those conditions which cause or contribute to poor human health.

B. IS THERE A REASONABLE RELATIONSHIP BETWEEN THE EXERCISE OF THE STATE POLICE POWER AND THE PROTECTION OF THE PUBLIC'S HEALTH, SAFETY, OR WELFARE?

The requirement that persons employed to enforce laws in those environmental areas to which the Sanitarian Registration law and rules refer, become registered and thus meet specified qualifications has a strong relationship to the protection of the public's health.

Educational requirements for sanitarian registration provide for a basic knowledge that:

- a. Is needed by a person in making intelligent and valid evaluation of community environments as to the existence of conditions which have the potential of causing disease or contributing to the cause or dissemination of disease. Such quality evaluation is a necessary precursor to the formulation of recommendations which will prove effective in alleviating conditions detrimental to human health.
- b. Is needed for a person to have the capability to understand, and to interpret to the public, the reasoning behind environmental sanitation standards and related public health laws and regulations.

- C. IS THERE ANOTHER LESS RESTRICTIVE METHOD OF REGULATION AVAILABLE WHICH COULD ADEQUATELY PROTECT THE PUBLIC?

I am not aware of any.

- D. DOES THE REGULATION HAVE THE EFFECT OF DIRECTLY OR INDIRECTLY INCREASING THE COSTS OF ANY GOODS OR SERVICES INVOLVED AND, IF SO, TO WHAT DEGREE?

No. Sanitarian registration helps to insure the employment of qualified persons who provide greater and more effective services for tax dollars expended than can be expected from unqualified persons.

- E. IS THE INCREASE IN COST MORE HARMFUL TO THE PUBLIC THAN THE HARM WHICH RESULTS FROM THE ABSENCE OF REGULATION?

see D

- F. ARE ALL FACETS OF THE REGULATORY PROCESS DESIGNED SOLELY FOR THE PURPOSE OF, AND HAVE AS THEIR PRIMARY EFFECT, THE PROTECTION OF THE PUBLIC?

The rules of the Board are designed to enhance the effectiveness of the Sanitarian Registration law. The purpose of the Sanitarian Registration law is to require that persons employed as sanitarians have a background which provides the potential to effectively promote environmental sanitation and to enforce environmental sanitation laws. A sanitary community environment serves to protect the public.

March 13, 1980

Chairman, Legislative Audit Committee, Helena, Montana

By Pete Frazier, R.S., 3305 17th Ave. So., Gt. Falls, Mt. 59405

On behalf of: Self

RECEIVED
MONTANA LEGISLATIVE AUDITOR

Dear Mr. Chairman:

I am presently a Registered Sanitarian within the State of Montana and currently hold the position of Environmental Health Coordinator with the City-County Health Department in Great Falls, Montana. I am not representing any agency, department, or organization and therefore, this testimony is provided solely as an individual. Below, please find my testimony with regard to the six (6) questions outlined on pages 1 and 2 of the "Report to the Legislature Sunset Review Board of Sanitarians."

- A). "Would the absence of regulation significantly harm or endanger the public health, safety, or welfare?"

Yes, if individuals without proper knowledge of food borne illness, sewage disposal, public and private water system construction, etc., were allowed to practice as sanitarians serious public health and safety problems would soon become evident in public eating establishments, other public facilities, subdivision areas with numerous private water systems, etc. The types of decisions and consultation that Registered Sanitarians must provide to the public in proper construction, operation, and maintenance of numerous public and private facilities requires an individual with specific educational qualifications. The only way to assure such qualifications are met is through a required registration program for sanitarians.

- B). "Is there a reasonable relationship between the exercise of the State's police power and the protection of the public health, safety and welfare?"

Yes, the various State and Local laws and regulations with regard to proper planning, construction, operation and maintenance of public food service and processing establishments, public housing, public and private water and sewage systems, subdivision development, etc., are necessary and beneficial to the public in order to assure that no public health and safety problems will prevail. In order to insure that the necessary regulations are adhered to, it is imperative that qualified and knowledgeable individuals administer and enforce these laws. The Registered Sanitarian is currently providing this service to the public in an efficient manner. Without these professional individuals the safety and health of the citizens of Montana will suffer.

- C). "Is there another less restrictive method of regulation available which could adequately protect the public?"

No, I believe my answer in "A" qualifies this response.

- D). "Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?"

Any regulation naturally increases the costs of goods in order to comply with the law. However, if the Sanitarian Registration Board is disposed of, such action would very probably increase the costs to the industries related under State Health and Safety Regulations and thus increase costs to the consumer, due to the fact that unqualified and un-knowledgeable individuals would be attempting to enforce the Health and Safety Regulations. In so doing, they may provide inadequate or incorrect information causing an establishment increased costs at a later date to correct the situation.

- E). "Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?"

No, as indicated in "D" above, in actuality the costs probably would be higher with the absence of regulation of sanitarians due to poor judgements on the part of unqualified and un-regulated sanitarians. In addition, health care costs to the consumer could rise due to increased incidence of disease through lack of or poor enforcement of health related regulations by unqualified individuals. The properly trained and educated sanitarian provides the consumer the service of preventative medicine -stopping a disease outbreak or safety problem before it becomes a problem -thus reducing potential illness or accidents to the citizens throughout Montana.

- F). "Are all facets of the regulatory process designed solely for the purpose of, and have as their primary effect, the protection of the public?"

Yes, I believe from the above comments it can be seen that the need for regulating the professional sanitarian through a testing and registration program is necessary to assure that knowledgeable and qualified individuals are available to carry out the important work of protecting the health and welfare of the citizens of Montana.

Chairman, Legislative Audit Committee
March 13, 1980
Page 3

In conclusion, therefore, I respectfully urge the Legislative Audit Committee to make the recommendation to retain the current Board of Sanitarians, in order that the Environmental Health Programs within Montana can continue to provide the necessary and required consumer, health and safety protection services to the people of Montana that it has strived to do over the past many years.

Thank you.

Peter M. Ferguson, R.S.

CITY-COUNTY HEALTH DEPARTMENT

1130 . 17TH AVE. SOUTH

GREAT FALLS, MONTANA 59405

BOARD OF HEALTH

COUNTY COMMISSIONER
MAYOR
SUPERINTENDENT CITY SCHOOLS
REPRESENTATIVE MEDICAL SOCIETY
REPRESENTATIVE DENTAL SOCIETY

RECEIVED PHONE 761-8700
EXT. 550

MAR 14 1980

MONTANA LEGISLATIVE AUDITOR

March 13, 1980

Morris L. Brusett
Legislative Auditor
State Capitol
Helena, Montana 59601

Dear Mr. Brusett:

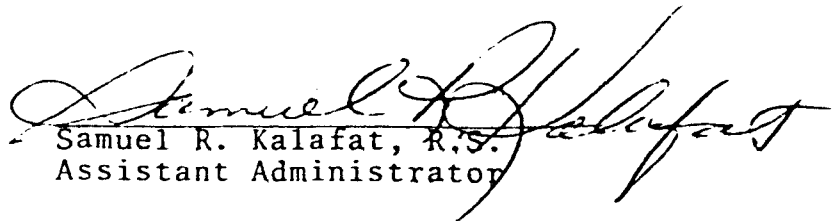
Attached are my personal comments on the report to the Legislative Audit Committee regarding review of the Board of Sanitarians.

I will be in attendance during the public hearing on March 17, 1980.

Mr. James Peterson will be representing the Board of Sanitarians during the hearing and I would be happy to provide any input, if requested by the Legislative Audit Committee.

Sincerely,

CITY-COUNTY BOARD OF HEALTH


Samuel R. Kalafat, R.S.
Assistant Administrator

SRK/al

Attach.

WRITTEN TESTIMONY TO LEGISLATIVE AUDIT COMMITTEE

REFERENCE: Board of Sanitarians Sunset Review
Public Hearing March 17, 1980

BY: *SKK* Samuel R. Kalafat, R.S.
P.O. Box 494
Black Eagle, Montana 59414

ON BEHALF OF:
Self

I would like to prefix my remarks by first saying that it seems rather unrealistic that testimony is restricted to six (6) points that were posed in the Sunset Law, and not adequately or substantially addressed by the Sunset Review Auditor regarding Review of the Board of Sanitarians. It would seem more realistic to comment on the report, but in keeping with the desires of Legislative Audit Committee I have provided the following written comments.

A. "Would the absence of Regulation significantly harm the Public Health, safety and welfare?"

Yes, individuals working in the field of public health must be properly educated and meet a minimum qualification established by his or her peers. A decision and consultation provided by a Registered Sanitarian in many cases is provided during a critical period of time that requires an immediate decision. This decision must be in the best interest of public health and for the Citizens of Montana. An individual making this decision must be capable and knowledgeable and this can only be established by an adequate registration of the Sanitarian, should they not be qualified, his or her decision may have a costly and long lasting effect to the public that he serves.

B. "Is there a reasonable relationship between the exercise of the State's police power and the protection of the public safety and welfare?"

Yes, not only are we faced with the State police power, but power intrusted to Cities and Counties to establish regulations. The individuals carrying out these regulations must have the capability to understand and interpret these regulations in the best interest of all parties

involved. A carpenter is not capable of building a home without knowledge and tools; a Sanitarian is not capable of carrying out regulations without knowledge and abilities. The registered Sanitarians of Montana are currently providing this service to the citizens of Montana in an efficient and economic manner.

- C. "Is there another less restrictive method of regulation available which could adequately protect the public?"

No, not to my knowledge.

- D. "Does the regulation have the effect of directly or indirectly increasing the cost of any goods or service involved and, if so, to what degree?"

No. Sanitarian registration insures the employment of qualified individuals at the State, Local and Industrial levels and provides a cost effective service. An unqualified individual, through the enforcement of regulations, could increase cost to the taxpayer or to industry which, in turn, would pass the increased cost off to the consumer. The ultimate loser of this system would be each and every citizen of the State.

- E. "Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?"

No, see "D" above.

- F. "Are all facets of the regulatory process designed solely for the purpose of, and have as their primary effect, the protection of the public?"

Yes, most definitely, the rules of the Board of Sanitarians are designed and established in the best interest of public health. A price cannot be placed on the health and well-being of the public. A clean community is a healthy community, a healthy community is a rich and prosperous component that makes up a great State of Montana. I feel strongly, as can be seen, that an individual intrusted with the primary goal of public health, must be both qualified and knowledgeable and this can only be maintained through an active and effective peer review. Established in the best interest of the Citizens of Montana, and maintained for that purpose through the Registration of Sanitarians, a professional within the Community.

I hereby encourage the Audit Committee to maintain the Board of Sanitarians.

Central Montana Health District

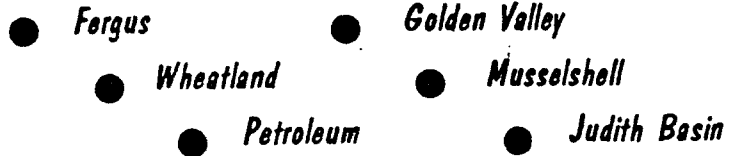
Sanitarian's Office

404 Fourth Avenue South

P. O. Box 1150

Lewistown, Montana 59457

Telephone 406/538-7466



March 10, 1980

Morris L. Brusett, C.P.A.
Legislative Auditor
State Capitol
Helena, Montana 59601

RECEIVED

MAR 14 1980

MONTANA LEGISLATIVE AUDITOR

Dear Mr. Brusett:

This letter is to offer testimony in support of continuation of the Board of Sanitarians.

I feel that if the Board is abolished, in many instances unqualified persons could practice as sanitarians without the education and proficiency that is now required by the Board. This would present a very real danger to the public.


The Board, by use of it's police power, has insured educational and proficiency standards are established and complied with by the practicing sanitarians. This provides the public with sanitarians capable of working in the broad area of environmental health, and has done much to upgrade the profession.

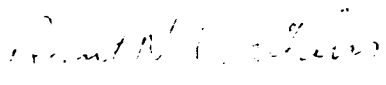
The regulation of sanitarians does affect the cost of the counties providing environmental health services, however this cost is more than offset by the increased efficiency of the qualified sanitarians. It is difficult to equate cost of services with the quality of public health protection provided. Historically, these services have resulted in a decided upgrading in the quality of life. Given competent personnel this trend should continue.

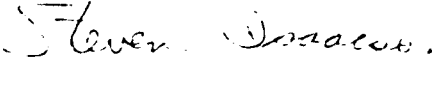
The increase in cost due to the Boards duties is truly minimal when compared to the many benefits derived by the public by their actions.

I feel the regulatory process is a well designed and effective tool for protection of the public.

Sincerely,


Paul J. Gans
Public Health Officer


Robert Childers
District Sanitarian


Steven Isaacson
District Sanitarian

PJG:RC:SI:jp

727 8th Avenue
Helena, MT 59601
March 12, 1980

RECEIVED

MAR 14 1980

Legislative Audit Committee
Room 135
State Capitol Building
Helena, MT 59601

MONTANA LEGISLATIVE AUDITOR

Committee Members:

For the past thirteen years I have worked in the Sanitarian profession, both at the county and state levels. I am very concerned with what I believe would happen to public health protection at the local level without proper safeguards to see that properly educated and trained people are employed. Working at the local level and with people daily at the local level, I find that in most cases there is a tendency to want to hire the least expensive help possible and to not get involved with politically damaging issues. Without constraints placed on the qualifications for hiring, it would be very easy to find someone to collect his pay and not get involved. It is impossible to be an effective sanitarian and not get involved with controversial public health issues. Many sanitarians in Montana have lost their jobs trying to do the job they were hired to do. This is still a much better situation than letting controversial issues go unnoticed. Keeping qualified persons at the local level is the backbone for public health protection in Montana.

It appears as though the regulation increases the costs; however, if you look at the ramifications from the problems that can be caused from not having adequate control, the investment in preventive measures to protect public health is very reasonable.

The one overriding thing that keeps anyone in the Sanitarian profession is the fact that you feel you are making a contribution to the protection of public health now and for the future. It is one of the most thankless jobs anyone could ever have and there definitely isn't any big money associated with it.

I hope you can see from my comments that I feel very strongly about the need to have qualified people working in the profession. Montana State University just received accreditation for their curriculum to graduate students with Environmental Health degrees. This should make it easier to hire good Montana students who are properly trained for the Sanitarian profession. Without the Sanitarian Registration Board, I am thoroughly convinced that the degree of public health protection will definitely be degraded. Montanans now enjoy some of the finest public health protection in the United States. We should build on that rather than begin to erode it.

Sincerely,


Duane L. Robertson

Employed by Montana Department of Health
and Environmental Sciences

221 Anderson
Helena, MT 59601
March 17, 1980

Legislative Audit Committee
Room 135
State Capitol Building
Helena, MT 59601

RECEIVED

MAR 19 1980

MONTANA LEGISLATIVE AUDITOR

Committee Members:

I would like to submit the following comments for your committee's consideration of the sunset review of the Sanitarian Registration Act.

As a registered sanitarian working in the state of Montana, I have a high esteem of our little known profession. The term "sanitarian" has little or no meaning to the average citizen. Yet, every day the services the registered sanitarian performs greatly influence the health and well-being of each and every citizen in Montana.

The food we eat, the water we drink and the schools our children attend are all inspected for compliance with Montana regulations by the registered sanitarian. In addition, motels, trailer courts, swimming pools and refuse disposal sites are inspected by registered sanitarians for the protection of the public health.

Because the sanitarian's services are essential to the preservation of a high quality of health, it is essential the sanitarian be well qualified. The present registration of sanitarians insures that academically qualified individuals who have passed a stringent registration exam are employed as sanitarians in this state. Without these registration standards, the quality of health in Montana will be jeopardized.

The registered sanitarian is many times called upon to testify in legal enforcement proceedings to insure state health laws and regulations are met. Each time a sanitarian testifies in these proceedings, his credentials are reviewed to authenticate his testimony. Without a registration act and registration standards, the credibility of the sanitarian will be severely questioned and the enforcement of state law regarding health will be weakened.

The registration of sanitarians in Montana does not significantly result in increasing the costs of goods or services to consumers in the state. Registration of sanitarians does not increase the consumer costs any more than the licensing of medical doctors or nurses. Yet, like licensing of doctors and nurses, the registration of sanitarians insures a high quality of health care and services to the consumer. I do not believe there is another method available other than the registration of sanitarians that would insure high quality sanitarian health services.

However, with the absence of qualified individuals performing sanitarian services, the quality of health to the public would be lessened. There is no way of placing a dollar value on health, but certainly the consequences of a reduced quality of health far outweigh any additional costs the consumer may incur as a result of the Sanitarian Registration Act in Montana.

The Sanitarian Registration Act was designed to insure the health and safety of the citizens of Montana. To sunset this act will be a step backward in providing quality sanitarian health services which will in turn affect each and every citizen in the state of Montana.

Sincerely,

A handwritten signature in cursive script, appearing to read "John C. Geach".

John C. Geach, R.S.

Employed by Montana Department of Health
and Environmental Sciences

7104 Antelope Way
Helena, MT 59601
March 13, 1980

Legislative Audit Committee
Room 135
State Capitol Building
Helena, MT 59601

RECEIVED

MAR 17 1980

MONTANA LEGISLATIVE AUDITOR

Committee Members:

I would like to offer my support for continued registration of sanitarians in the state of Montana, and the preservation of the registration authority in the Department of Professional and Occupational Licensing.

My recommendations are derived from three areas of experience:

1) I previously worked with unregistered sanitarians in another state which had no registration act;

2) I am myself a registered sanitarian in Montana, and have dealt with the Board of Sanitarians, the law, and the Board's policies; and,

3) I currently work for the Montana Department of Health and Environmental Sciences and have a strong conviction that allowing unregistered individuals to practice as sanitarians could directly endanger public health, safety, and welfare. In addition, not having "proven professionals" in local government positions would drastically increase the workload for state departments and be reflected in additional cost to the taxpayer for state services.

I would like to briefly address the six pertinent aspects of the Sunset Law:

A) As the staff review indicates, the sanitarian has a unique blend of talents, knowledge, and responsibility. Many of the tasks he/she performs can directly affect public health, safety, and welfare. Without basic educational requirements, unqualified sanitarians could very likely make poor decisions or ignore areas of significant impact for fear of making wrong decisions. Such was often the case in Ohio, where I was previously employed, and where there was no registration act. Some local sanitarians, such as ex army mess sergeants, were qualified for food programs, but totally inept at rabies control, subsurface sewage disposal, etc.

B) As I see it, the state's police power in registration directly controls the quality of individual practicing the profession and, therefore, directly benefits the public, not the members of the profession.

C) I believe the Board of Sanitarians represents a simple, yet effective, method of control which is not too restrictive. Less control would adversely affect the public health, safety, and welfare:

March 13, 1980

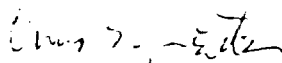
D) Most professional sanitarians work at nearly the same salary levels as people in other positions in local and state government. The slight differential, if any at all, is offset by the increased efficiency of their work and subsequent savings to other regulatory agencies. The annual registration fees are negligible and do not affect costs to the public. The Board of Sanitarians is generally self-supporting. It appears that doing away with the act would actually increase costs to the public.

E) The cost to the public is so small as to be non-harmful, at all. The added protection the public receives is, therefore, a bargain.

F) As I see it, no part of the regulatory process is self-serving or for other purposes than protection of the public.

In brief summation, what we have here is a great deal! The majority of states have recognized the value of sanitarians registration and fought for years to preserve it. The benefits the public enjoy far outweigh any disadvantages.

Sincerely,



James E. Leiter

Employed by Montana Department of
Health and Environmental Sciences

5135 Green Meado. Drive
Helena, MT 59601
March 13, 1980

Legislative Audit Committee
Room 135
State Capitol Building
Helena, MT 59601

RECEIVED

MAR 17 1980

Committee Members:

MONTANA LEGISLATIVE AUDITOR

Re: Sunset of Sanitarian Registration Act

I am addressing the committee as a registered sanitarian and will direct my comments to the six questions specified in the rules for conduct of public meeting on sunset reviews.

A. I believe the hiring of untrained and/or uneducated public health personnel will most definitely endanger the health of the public. Much of the sanitarian's job is involved with making in-the-field judgments. These must be based on sound educational requirements.

B. My experience has shown that without the exercise of the state's police power, a percentage of regulated entities (city and county governments, restaurant operations, trailer court operations, etc.) will absolutely ignore basic health principles, i.e. allow garbage to accumulate in a trailer park for months at a time. Without the use of police power in these instances, these people will never "clean up their act." The same holds true for using police power to require that sanitarians be registered. Without the exercise of that power (non-registration), I think a gradual erosion process will occur resulting in unqualified people trying to do the job with an unsuspecting public being the victim. I don't think sunset of the registration act is going to immediately result in plagues ravaging the land, drastic weather changes, etc., but I do believe over a period of two to five years you will see a gradual decrease in the protection of public health and an increase in illness. I, for one, don't think the increased risk is worth it.

C. Making the present city/county sanitarians state employees subject to the state classification and pay plan would accomplish the same goal. This would be done in much the same manner as the county assessors.

D. I think requiring the registration of individuals definitely increases the cost of both goods and services because the salary is paid with tax dollars, and we all know a trained professional will have a higher salary than someone's nitwit nephew. However, when the difference in cost is spread over the entire population, it literally amounts to pennies per person. An indirect example of increasing the cost of goods is the cost of a restaurant meal when prepared in an approved kitchen and the dishes washed in an automatic dishwasher versus the cost of a meal prepared on a hot plate and the dishes washed in the toilet tank. (Don't laugh; this happened.) Obviously, the first meal will cost more as an indirect result of having qualified personnel inspecting and enforcing regulations. An unqualified person hired under a spoils system may very well let health violations go by because of who the operator is, or because on less blatant things, he simply didn't know of the potential health hazards.

E. The increase in cost is much less harmful than the harm which would result from the absence of regulation when you consider the cost of illness, lost work days, and doctor and medical bills.

Legislative Audit Committee

Page 2.

March 13, 1980

F. Yes

Thank you for providing me this opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Vic R. Andersen".

Vic R. Andersen

Employed by Montana Department of Health
and Environmental Sciences

Cormier Associates

406-656-4231

3911 Pine Cove Road
Billings, Montana 59102

January 13, 1981

Mr. James Peterson
Board of Sanitarians
Helena, Montana 59601

Dear Mr. Peterson:

I wanted to write this letter to you to express my concern for the continuance of the Sanitarian Registration Act. First I would like to give you my background in the field, then I shall list the reasons why I think that it is a good law.

I have been a Registered Sanitarian since 1971, having taken and passed the test given by the board that year. For six years I worked for the City-County Health Department in Billings, inspecting food service establishments, and other programs that the Health Department administered. These include inspecting dairy farms, bakerys, meat lockers, food stores, and manufacturing establishments that produced food in Billings. Also included in my job were school plant and school lunch programs, motels and hotels, and public swimming pools. Another program that the local Health Department administered was local compliance of the Sanitation in Subdivisions Act. This involved checking plans as submitted for proposed subdivisions, and also making field inspections at installation of septic systems.

The field of subdivisions led to my leaving the department and starting my own consulting business 3 years ago. I primarily deal with environmental impacts and soil testing for subdivisions. As a Registered Sanitarian, my work in the field is recognized by the Subdivision Bureau of the State Department of Health.

As I listed the duties above for field sanitarians, you can see that the job would most certainly require someone with a bachelors degree in the general area of microbiology or related science fields to be able to understand the complex interactions of the environment around us and the public health and safety. I also feel that a college degree ensures a certain level of competence and maturity in an individual.

In the 10 years that I have been in the field I have been fortunate to see and work for the improvement in the requirements of the individuals that apply for the positions in environmental health. I do not feel that now is the time to dismantle that work and leave the field wide open to anyone.

Mr. James Peterson
January 13, 1981
Page 2

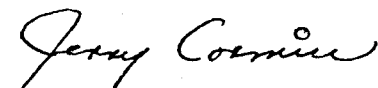
Registration of Sanitarians working in Montana is a reasonable law and has not caused any hardships on anyone who is qualified under the premise that those working with the public's health and safety should have a minimum of a college degree. To drop the Registration law at this time would have serious implications for the quality of people who might be hired in some areas of the State. I see no real reason for this proposal except that it is the Registration Act's time for review under the sunset legislation. I am in favor of such periodic review, but it should be noted by those undertaking this review that the Board of Sanitarians causes no great demand on the State budget, and it does serve a very useful purpose. I would like to illustrate one example currently happening.

In the city of Red Lodge there currently exists a serious problem with the quality of the drinking water and scores of people are sick from the problem that has been going on now for some six months in epidemic proportions. The problem has come about in no small measure because of a lack of proper installation of septic systems in the watershed for the drinking water of Red Lodge. In such rural areas it has been the practice in the past to have no one or someone who was not qualified working in the field of public health. Now these past mistakes have come back to haunt the people of Red Lodge. I'm sure that such problems also exist in other areas of the State. Should the Registration Act be dropped, then these types of problems can be expected to occur in the future, when unqualified people are again used in the public health field.

If the Registration Act is dropped, I feel that irreparable damage will be done to the quality of the people working in the field of public health. In the 10 years that I have been associated with this field, there has been the normal attrition of people who were "grandfathered" in, and this has opened up positions for those more qualified. Should there be a lapse of even a few years, there would be many people hired who would then be entitled to such protection, and this would be a serious setback for the people of the State.

I would urge you as a member of the Board of Sanitarians to do all you can to continue the Registration Act in Montana, for the good of all the people of Montana.

Sincerely,



Jerry Cormier, R.S.
Registered Sanitarian

January 20, 1981

Testimony against SB 388

Dear Committee Members:

During the past year or two the question of "Sunsetting" the Sanitarians Registration Act has been reviewed and discussed with your fellow colleagues. It appears that some do not support our continued requirement for registration. I am well aware that we are in a time of governmental change and most of us are in the disposition that we have too much government and this trend must be reversed.

However, the eliminating of the Registration Act is taking a blind slice at one aspect of government requirements that is totally unjustified. First of all, there are no expenditures of State funds involved in maintaining the Registration Act. Furthermore, there are significant factors that must be considered before making the final decision on a law requiring registration. You may already be familiar in a general way with the kinds of work the sanitarians do in the field of environmental and public health throughout the State of Montana, but let me elaborate for a minute on my role in the community.

It is important to note that over the past twenty years the role of the sanitarians with regard to environmental and public health has evolved from rather a straight forward performance of tasks to a complex profession. Today we deal with problems far more wide ranging and intricate than our predecessors. We deal daily with questions and problems dealing with air and water pollution, land subdivision, pesticides and other toxic substance contaminations, radiation, sewage disposal technology, land use planning, long range health planning, communicable disease investigations, to name a few.

The world of environmental and public health is complex and even the application of written rules and regulations that we administer are complicated by an exacting legal system. Our efforts must continually dissect the often unclear area between due process and effective enforcement.

A ridged and thoughtless application of health rules and requirements by unregistered and unqualified persons would be certain to cause more problems and further strain relations between the inspectors and inspected. A successful regulatory process is not the mere filling of forms, but it is the professional judgement that the Registered Sanitarian brings to the process that is essential for sound application of the health laws and administrative rules and regulations. Without standards for performance, blind application of regulatory authority would be totally ineffective and costly in terms of health and dollars.

Although I weigh carefully the financial impact of my decisions and always respect a persons rights to do business in the State of Montana, my first concern is the protection of the public from unnecessary risks and dangers.

I take seriously the obligation I have to the people of my health jurisdiction and continue to engage in activities of planning and development to insure their well being in years ahead. As involved as the work has become today, tomorrow will no doubt bring more challenges.

Environmental and public health is not a fringe benefit to be taken lightly; rather it is an obligation to be taken seriously. Removal of the Registration Act within Montana will open the profession up to less than trained, competent and dedicated individuals. The loosening of standards can only invite quasi-professional attitudes and knowledge to significant problems of the environmental and public health.

Publicly financed health efforts in Montana need the direction that professional people can give it. We must anticipate the problems of the 1980's and place before the legislature those concerns about Montana's health needs. Clear, professional and concise programs and policies that demand the most of the tax dollars available must not be left in the hands of nonprofessionals.

In conclusion, the majority of us sanitarians work at the local levels of government, near the people that we are charged to protect. I believe that Montanans deserve to have the most qualified people on the frontline where the problems occur. A vote for Sanitarian Registration will help insure that your local community will have qualified health professionals.

Sincerely,



Robert K. Stevenson
Registered Sanitarian

SJR 17

This resolution calls for the repeal of Rule 16.8.813 of the Administrative Rules of Montana as adopted by the Board of Health and Environmental Sciences that set the monthly standard for flourides on forage at 20 micrograms per gram of forage. Further, the Board shall proceed to adopt a flouride standard at an annual average of 35 micrograms per gram of forage and a monthly average of 50 micrograms per gram of forage. The resolution addresses the fact that the Board, on July 18, 1980, set a higher standard than was suggested by department (DHES) staff study.

Testimony FOR S.J.R. 17

Johnson
This is a Resolution to the Board of Health to repeal the Foliolate Fluoride standard of 20 micrograms per gram yearly, adopted and stayed by the Board of Health and raise it to 35 ~~ppm~~ ^{micrograms} per gram yearly, any one month not to exceed 50 micrograms per gram.

Stauffer Chemical has spent 1.16 million on Fluoride Abatement, 6.89 million on Particulate and Visible omissions. Anaconda Aluminun 40 million, however, there were other benefits to this process such as 15% -20% energy savings, better efficiency, etc.

Stauffer Chemical began ^{these} pollution control programs in 1968 and fluoride control programs November 1978 -- through June 1979. Anaconda Aluminum's Sumitomo process 1976 - 1980.

The Department of Health is just completing a study of these levels. Although this data is preliminary and not official it does appear to support the claim of Stauffer Chemical that, given present technology they cannot, at this time, meet the standard of 20 micrograms per gram.

The Board asked the Department to study the fluoride issue including data costs of compliance, etc., and report back at the next board meeting. The next meeting is scheduled for February 20 with 4 new members out of a 7 member board.

If the board were to desire a new fluoride standard, it would adopt the standard under the Montana Administrative Procedures Act. The time period could not exceed 6 months and would require public hearings and the like. It would also take another 2 months to develop the new standard, reasons for adoption, and so forth.

I believe from all the above evidence, both the Stauffer Chemical Company and the ranchers and residents of Ramsey have been done a disservice by leaving them in limbo with no standards.

I believe the evidence points to the fact that the original recommendation by the Department of Health was reasonable and substantiated. I believe that the ranchers and residents of Ramsey never meant to close Stauffer Chemical Company, but rather want to protect their cattle and their homes with the best standards possible.

The other important thing to remember is that this is not a Public Health Standard--it is a Public Welfare standard and economic impact must be considered. Montana law clearly states in ^{mont code} 75-2-102 of Clean Air Act of Montana.

It is hereby declared to be the public policy of this state and the purpose of this chapter to achieve and maintain levels of air quality as will protect human health and safety and, to the greatest degree practicable prevent injury to plant and animal, life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of natural attractions of this state.

I believe the Board of Health's original recommendation provides the greatest degree practicable to prevent injury to plant and animals. This resolution has been endorsed by the ^{Select} ~~Special Sub~~ Committee on Economic Problems appointed by the Legislative Council, and I would appreciate this Committee's support.

ARM - Administrative Rules of Montana

2-4-412

Subsection

(2) "The legislature may also, by joint resolution, direct a change to be made in any rule in ARM or direct the adoption of an additional rule. If a change in any rule or the adoption of an additional rule is directed to be made the legislature shall in the Joint resolution state the nature of the change or the additional rule to be made and

its reasons therefor. The agency shall, in the manner provided in the Montana Administrative Procedure Act, adopt a new rule in accordance with the legislative direction."

Tony Schooner
Art Peterson
Hazel Spangler
Ray Tillman

WITNESS STATEMENT

Name John Hollenback Date _____
Address Gold Creek Support ? _____
Representing Self Oppose ? X
Which Bill ? SJR 17 Amend ? _____
Comments:

Please leave prepared statement with the committee secretary.

TESTIMONY SJR 17

Hal Robbins, Chief
Air Quality Bureau

Members of the Committee. My name is Hal Robbins; I am Chief of the Air Quality Bureau, and am here to speak on behalf of the Department of Health and Environmental Sciences.

Senate Joint Resolution 17 tends to place the Department in a precarious position. The Department certainly does not object to adopting a different fluoride in forage standard than is currently on the books, although not enforced via an order of the Board of Health. As you are already aware, the Department proposed the 35/50 value that is now a part of this resolution. The Department's recommendation of 35/50 was only one of several recommendations from various witnesses and parties, whose numbers ranged from as low as 10 to as high as 80. Nevertheless, we need to point out that shortly after the Board adopted the 20 ppm standard, the Department was directed to study the matter in light of two relevant points:

1. Several members of the Board felt that the rule as published did not accurately reflect the intentions of the Board regarding a growing season average;
2. The status of industry's ability to comply with the new standard was unclear at the time.

In response to this request, the Department will present the fluoride issue to the new Board members at their first meeting tomorrow morning, February 20. We shall make a presentation to the Board and react to the Board's wishes.

Our reservation concerning the resolution is that it requires the Board to adopt a specific number, i.e., the 35/50 value. We feel this specific value may unfairly lock the cattle or chemical industry into something that is not

easily changed. A legislative mandate of this set value would allow little flexibility. For example, what if Stauffer Chemical Company, despite our best estimates, cannot meet the 35 or 50 number? Stauffer would then be subject to enforcement proceedings without the Department's having the ability to make recommendations for any reasonable changes. The same case could be argued for the cattle industry. What if Stauffer could economically meet a more stringent standard some time in the near future? Would it not be fair to the ranchers to ask Stauffer to meet a more stringent standard, since it would be a benefit to the cattle industry without being a burden to Stauffer?

In light of these shortcomings to the resolution, I would respectfully request that you remove the portions in the resolution that mandate an adoption of a specific value.

Senator Halligan has requested that we work with him, Senator Jacobsen, and the Committee, if they so desire, to ensure that the resolution achieves the sponsor's wishes and complies with the goals of all parties involved, i.e., the sponsor's, industry's, the cattle industry's, and the Department's.

Thank you for your time. I am available for questions.

WITNESS STATEMENT

Name Lester H. Little II

Date 2/19/81

Address Box 173 Helena

Support ?

Representing _____

Oppose ?

Which Bill ? SR 17

Amend ?

Comments:

Please leave prepared statement with the committee secretary.

SENATE
PRESENTATION TO SPECIAL SUBCOMMITTEE
ON ECONOMIC DEVELOPMENT

PUBLIC HEALTH
SENATE CHAMBERS

SATURDAY, DECEMBER 20, 1980

February 9, 1981

Mr. Chairman, members of the committee, my name is Lester H. Loble, II, representing the Tri-County Anti-Pollution Association, which is an association of stockgrowers centered at Garrison and from Powell, Granite and Deer Lodge Counties. These stockgrowers know first hand the economics of fluoride pollution. They have seen what it does to their cattle and horse herds. The difficulty is that the economic results are not as dramatic as in the case of Anaconda. The results are just as pernicious, though. The economic losses are in smaller bites, but the total could be just as large.

Sixty people attended the hearing before the Board of Health. Fifteen people came over today. In line with the request by the Chairman, we have a specific proposal.

The Tri-County Anti-Pollution Association supports the fluoride standard in or on forage of a monthly average of 20 parts per million. It is the position of Tri-County, however, that this standard be applied in a fashion analogous to EPA Class I and II air quality areas.

There is no question that it is more expensive to retro-fit an existing installation representing a large capital investment to meet a 20 parts per million standard. However, these same problems do not face a potential investor wishing to begin operations in Montana. Accordingly, Tri-County recommends that the present standard as promulgated be maintained in all areas except those areas containing operating plants with fluoride

emissions (Stauffer Chemical Company and Anaconda Aluminum).

As is well known, the Tri-County area has been subjected in the past to excessive fluoride or forage. This resulted in a devastating economic loss to the local stockgrowers. A court found in 1966 that the damages suffered by the few people who sued to be \$123,000. This illustrates the absolute necessity of requiring that anyone interested in investing in a plant which produces fluoride gases and fluoride particulates that lodge on forage be financially sound with sufficient capital to meet the emission control requirements. Operating with the hope that the operator will respond in damages may prove futile.

The investment of stockgrowers in Montana, their continued livelihood, is as valid a concern as the investment of Stauffer and Anaconda and their continued livelihood. Stock grazing is a larger industry than either of those represented by Stauffer or Anaconda and is entitled to protection and the right to flourish also.

TRI-COUNTY ANTI-POLLUTION
ASSOCIATION

By Loble & Pauly, P.C.

A handwritten signature in cursive script that reads "Lester H. Loble, II". The signature is written in dark ink and is positioned above a horizontal line.

Lester H. Loble, II

Attorneys for Tri-County Anti-Pollution
Association

833 North Last Chance Gulch
P. O. Box 176
Helena, Montana 59624

My name is Karen Zackheim and I live in Twin Bridges. I have a masters degree from the University of Montana for my work on the effects of airborne fluorides on livestock and wildlife. For three years I have participated in the setting of state fluoride standards. ~~_____~~

I am opposed to SJR 17 for two reasons. First, the resolution undermines proper consideration of the fluoride forage standard. During its intensive hearings on the new air quality standards, the Board of Health heard hours of public and expert testimony and considered hundreds of pages of complex and technical testimony on the issue of fluoride standards. Included in these materials is the story of stunted growth, rotted teeth and lameness in cattle, all caused by fluoride air pollution. With due respect, I don't believe this committee has the time to adequately consider the health or economic implications of the fluoride standards proposed in this resolution.

Tomorrow, the Board of Health will reconsider the record and propose a new state fluoride standard. It's unlikely that the much contested 20 ppm proposed standard will stand because the Board member who most strongly supported that standard is no longer on the Board. The Board also has a proven record of being more than fair to industry, as demonstrated by the dozens of variances granted to industries, including Stauffer Chemical and Anaconda Aluminum, over the years. Clearly, the Board is in a much better position to judge and balance factors relating to air quality standards than is a Senate committee faced with tight time constraints.

My second reason for opposing the resolution is that it would require the Board to adopt a 35 ppm annual average and a 50 ppm monthly forage fluoride standard. There is ample evidence that such a standard would not protect the cattle around Silver Bow from fluorosis. In their draft EIS, the Air Quality Bureau states, "The evidence available indicates that livestock and wildlife are adversely affected after long-term consumption of forage with less than 40 ppm fluoride." As I noted previously, these adverse impacts include serious bone and teeth damage.

In view of this, and in view of the fact that livestock on the range are far more sensitive to fluoride impacts than are livestock under lab conditions, the department's draft statement recommended a 30 ppm standard. This recommendation was also based on extensive research findings of Dr. J.L. Shupe of the University of Utah, who recommends a 35 ppm standard, and Dr. Leonart Krook, a Cornell University veterinarian who insists that even 20 ppm may be too high to prevent fluorosis.

as proposed by SJR 17?

Does Stauffer need a 35-50 standard? Based on a review of the company's own data over the past six years, it's evident that they are already doing much better than a 35-50 standard. The data indicates: 1) Stauffer ^{has} ~~has~~ probably never exceeded a 35 ppm annual average in forage during this six year period, 2) Since 1978, there hasn't been a monthly average exceeding 50 ppm and 3) Fluoride levels have been decreasing since 1978 and the completion of Stauffer's 1980 cleanup program should lead to even lower fluoride levels in the future.

Despite such a good record, livestock in the area have continued to be seriously damaged by fluoride. Clearly the standard proposed in SJR 17 is inadequate and a stronger standard

would not be a hardship on Stauffer.

In summary, I believe the Board of Health is the appropriate body to set fluoride standards that will be fair to ranchers and reasonable for industry.

Moreover,

If the Legislature passes SJR 17, it will be insuring excessive fluoride pollution and continued damage to livestock. The ranchers have been waiting for over 10 years for a viable, enforceable standard. Another 6-12 months will not make much difference especially if the result ^{may be} a higher standard to protect animals from fluoride.

~~Patricia S. ...~~

WITNESS STATEMENT

Name Richard Stagg Date 2/19/31
Address 753 Eddy Ave. MSL Support ?
Representing SEL Oppose ? X
Which Bill ? SJR 17 Amend ? X

Comments:

agreed to suggest intent but to strike the phrase
members of 35/50 -

Please leave prepared statement with the committee secretary.

NORTHERN PLAINS RESOURCE COUNCIL

Main Office
419 Stapleton Bldg
Billings, Mt. 59101
(406) 248-1154

Field Office
P.O. Box 886
Glendive, Mt. 59330
(406) 365-2525

TESTIMONY OF THE NORTHERN PLAINS RESOURCE COUNCIL ON SJR 17

SENATE PUBLIC HEALTH COMMITTEE

FEBRUARY 19, 1981

Mr. Chairman, members of the Committee, for the record my name is Steve Doherty. I am testifying on behalf of the Northern Plains Resource Council. NPRC and its local affiliate organizations fully participated in the two year process to get enforceable air quality standards for the State of Montana.

SJR 17 is a good attempt to deal with the issue of the fluoride standards. It is straight and directly to the point. It does not attempt to hide its intent and effect. To that degree we appreciate this resolution.

However, SJR 17 shouldn't pass for the following reasons:

1) The numbers cited in the bill appear to be too low to adequately protect the livestock industry in the vicinity of a fluoride emitting source.

2) Perhaps the most important reason is the reason that we have opposed HB 334 and SB 65. The issue of the numbers is a complex one. Even among honest scientists there are honest disagreements over the correct interpretation of one study or another. It would not do justice to the industries or to the surrounding landowners for a hasty decision to be made. The pressure packed halls of the Montana Legislature is not the place to make the decision.

3) The Board of Health has stayed enforcement of the fluoride standard. It is meeting very soon to review the standard it has adopted. The system is working. There is no need to "fix it" if it isn't broke.

For these reasons we urge a do not pass.

CONCLUSION:

Mr. Chairman, members of the committee, I urge you to adopt ^{the} ~~these~~ standards set forth in this Joint Resolution.

TO QUOTE THE ~~MONTANA STANDARD~~ WEDNESDAY, NOVEMBER 18th:

AP News of 11/18 Hal Robbins, Chief of the Health Department's Air Quality bureau, said Tuesday that his agency probably would recommend the same fluoride standard that it suggested to the board about a year ago.

Robbins said he plans to ask the board to delay action on fluorides until a good sampling protocol is developed. "We may be talking over a year," he said.

Dr. Bartlett was quoted as saying the board basically has three options:

- 1) accept the fluoride standard set last summer
- 2) accept the standard to reflect the board's intention ^{of} making ~~the~~ standard apply only during the growing season.

I feel the first is unacceptable because it cannot be met.

The second is not acceptable to the ranchers because of the vagueness of ^{the definition of} growing season. ^{year} This has been an unusual year, and cattle have been grazing long after what might have been termed the growing season.

The 3rd option, to adopt the department's recommendation would involve, according to Dr. Bartlett, going through the state's rule-making process again. Under that process, notice must be given and hearings must be held. The process must be completed in 6 months.

May I suggest to you that by the time the Department of Health develops a good sampling protocol which may be over a year, according to Mr. Robbins, and after that time the Board of Health goes through the state's rule-making process again, it will be just about time for the legislature to meet again and, if they wish this Resolution to be amended

I will be happy to introduce the legislation. In the meantime, I suggest we get some fluoride standards on the books. I urge this committee's approval.

County Health Officer
and
Health Department

Health Department
and
County Health Officer

NAME: Frank J Davis DATE: 3/19/81

ADDRESS: 613 Beech Dr Great Falls, MT

PHONE: Home 453-6622 Business 452-3201

REPRESENTING WHOM? Montana State Pharmaceutical Assoc.

APPEARING ON WHICH PROPOSAL: SB 418

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: Wish to state the position of the pharmacists of Montana who support in a ratio of 4-1 the new section stating on line 15 page 15 "A prescription may not be refilled for more than one (1) year from the date it was originally filled."

NAME: John Sweeney DATE: 2-19-81

ADDRESS: 20 N DAKOTA BOTTE

PHONE: 792-5505

REPRESENTING WHOM? HEARING AID DEALERS

APPEARING ON WHICH PROPOSAL: SB 480 - ~~SB 480~~

DO YOU: SUPPORT? yes AMEND? no OPPOSE?

COMMENTS: This has been a good law
and has cleared industry and helped
the hard of hearing public

STATE OF MONTANA

DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL LICENSING

BOARD OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS



ED CARNEY, DIRECTOR

LaLONDE BUILDING
HELENA, MT. 59601
(406-449-3737)

February 18, 1981

Senator Tom Hager, Chairman
Senate Public Health Committee
Capitol Building
Helena, MT 59620

Dear Senator Hager:

The Board of Speech Pathologists and Audiologists would like to go on record as opposing SB453 which combines the Board of Speech Pathologists and Audiologists with the Board of Hearing Aid Dispensers.

Senate Bill 453, as developed, did not include input from the Boards nor was there sufficient time for review. The bill to combine the Boards was promised in late September; however, it was not available for the Board members of the Montana Speech and Hearing Association at their late October meeting. This bill was finally available in early December with minimal time and opportunity for input and review by the members of the profession.

The bill, as drafted, seems to be a last-minute cut and paste attempt to create a new Board, using bits and pieces of the two existing laws. SB453 thus legislates two groups with a history of antagonism to function as one compatible group. The two Boards and professions, although somewhat interrelated, provide a completely different service to two completely separate consumer groups, and to two separate categories of licensees.

The Board of Speech Pathologists and Audiologists was very pleased with the sunset review. Findings were positive and comments by Legislative Auditors indicated that our law was one of the better laws reviewed. Complaints by consumers and licensees were non-existent. The Board has attempted to work cooperatively with all agencies and feels a quality credentialing program with optimal consumer protection exists.

If we can be of further assistance regarding this proposed legislation, please do not hesitate to contact our Board members. We urge your vote of "do not pass" for Senate Bill 453.

Thank you.

Shirley DeVoe, Chairman
BOARD OF SPEECH PATHOLOGISTS & AUDIOLOGISTS

NAME: Paul Ray DATE: 7-17-81

ADDRESS: 2300 - 14th St. S.E. Bldg. 13 Mt. Fair, Md. 54405

PHONE: 761-5435

REPRESENTING WHOM? Myself - Dir of Speech Pathology at Mt. Beacon Med. Center & Exec. Comm. Member of State Assn. of SLPs

APPEARING ON WHICH PROPOSAL: 452

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: Typed letter submitted after reading

Strongly urge a "do not pass" and maintain

the present language of the Speech Pathology Act

and that it was passed this morning in

the State House for Bill #452.

February 17, 1981

~~Public Health Committee~~
~~State Administration Committee~~
Capitol Station
Helena, Montana 59601

To Whom it may Concern:

I am writing on behalf of the Montana Speech-Language-Hearing Association in regard to SB 453. The Association does not support this bill for the following reasons:

1. The bill does not address the qualifications of those members who would serve on the Board;
2. The bill does not address the issue of continuing education;
3. The bill would represent two entirely different consumer interest groups;
4. The bill would create a board which does not equally represent the population it is designed to serve. The bill stipulates that there would be one hearing aid dealer and one speech pathologist on the board. We should note that there are less than 50 licensed hearing aid dealers in the state and over 200 licensed speech pathologists;
5. Historically, the two groups, which the bill would combine, have been antagonistic; and
6. The two boards which SB 453 attempts to combine have significantly different treasury amounts.

The Association does not believe that combining the Board of Speech Pathologists and Audiologists with the Board of Hearing Aid Dealers is in the best interest of the consumer.

Respectfully,

Christie Deck

Christie Deck, President
Montana Speech, Language,
Hearing Association

CD/lf

NAME: Marilyn M Pearson DATE: 2-19-81

ADDRESS: 5000 Grand Meadow Drive, Helena

PHONE: 459-5731

REPRESENTING WHOM? Success and Disabilities - Dept of Communication

APPEARING ON WHICH PROPOSAL: SR 453

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: Prepared Statement left with
Committee

University of Montana
Missoula, Montana 59812

February 17, 1981

The Honorable Tom Hager
Chairman, Public Health Committee
State Senate
Helena, MT 59601

Dear Sir:

The faculty of the Department of Communication Sciences and Disorders of the University of Montana are unanimously opposed to S.B. 453. This bill is seriously flawed and would be impossible to implement if passed. We urge your support in recommending a No Pass for this bill from your committee.

Sincerely,

Beverly Reynolds
Richard M. Backsaler
Mark D. Parker
Nancy J. Cornell
Lynda Gill
Kathy O'Grady
Barbara Bain
Mark Love
Robert B. Chaney

SP 453 TO COMBINE THE BOARDS OF SPEECH PATHOLOGISTS AND
AUDIOLOGISTS WITH THE BOARD OF HEARING AID DISPENSERS.

OPPOSE

BECAUSE:

1. 2 separate consumer groups
2. Treasury differences
3. Historic antagonism between groups
4. Board businesses are entirely different
5. Unequal representation
6. Legislative audit staff gave SP&A Board a good, complimentary review
7. No indication of better consumer protection
8. Bill as written is poor - last minute cut and paste version of two licensure laws
 - a. No continuing education
 - b. No qualification for board members

Maile DeVoe
418 Butler
Helena, Mont
59601

NAME: BARBARA GOING DATE: 2.20.81

ADDRESS: ^{home} 3001 6th Ave N. GREAT FALLS, MT. 59401

PHONE: 727-4878 (home) 761-2716 (office)

REPRESENTING WHOM? BELTONE HEARING AID SERVICE [Bd of H.A. DISPENSER]

APPEARING ON WHICH PROPOSAL: SB #453 #SB 480

DO YOU: SUPPORT? 480 AMEND? _____ OPPOSE? 453

COMMENTS: SB 453 I am opposed to the bill and I speak with a background in all fields. My husband and I have been licensed hearing aid dealers for the past 7 years. I am currently a member of the board of hearing aid dispensers. I have a degree in speech pathology and have worked in private clinics in school systems and for state programs, administering private therapy. My husband has a degree in audiology and has worked as an audiologist for schools, for an ENT doctor and worked as an audiologist for Montana State Board of Health for 3 years and as head of the program for 4 years. He also served as an audiologist for private industry. These positions were all salaried.

These three professions are only related in the aspect that they deal with people from the neck up. (Podiatrists do work with the lower) To combine these two boards would be like combining the nutritionists and physicians because they deal with the whole body - RIDICULOUS!

Podiatrists - Audiologists are salaried people and hearing aid dealers are private enterprise. Neither are qualified to work with the licensing of the other fields.

To combine the two boards would be too cumbersome due to the increasing procedures & tests. I am currently Chairman of the Board of Hearing Aid Dispensers and the largest portion of our meeting day is consumed with testing & oral review. The rest of the time is spent dealing with consumer protection. Although complaints have become fewer they have been numerous in the past 6 years and the board

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

has been effective in solving the problems.

~~But~~ All three areas work in servicing the needs of the handicapped public but only when they are compatible in how they obtain their salaries is a combined board justifiable.

I would like to propose this bill be killed and know the members of all three professions agree.

B 480 - I support this bill with the same credentials that I listed as I opposed the previous bill.

The deletions ~~and~~ corrections, and additions to the present H. A. D. law are necessary to enable the board to work more effectively and best serve the needs of the hard of hearing public.

The audiologist position on the board has long since lost its effectiveness. Most dealers are knowledgeable in audiology due to the continuing education they obtain through their parent hearing aid company or courses offered through the National Hearing Aid Dealers Society. We do not have a hearing aid dealer on the board of speech pathologists and audiologist and do not ~~not~~ feel they need to have a representative on our board.

I have one addition I would like to make to the bill. ~~but~~ I would like to see continuing education made mandatory for hearing aid dealers in compliance with the new standards being set by N. H. A. D. S.

I speak as a hearing aid dealer of 6 1/2 years and as Chairman of the board of hearing aid dispensers

in effective in solving the problems.

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