

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on January 22, 2003 at 8:00 A.M., in Room 172 Capitol.

**ROLL CALL**

**Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Jim Keane, Vice Chairman (D)  
Rep. Donald Steinbeisser, Vice Chairman (R)  
Rep. Bob Bergren (D)  
Rep. Rod Bitney (R)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Ray Hawk (R)  
Rep. Bob Lawson (R)  
Rep. Rick Maedje (R)  
Rep. Gary Matthews (D)  
Rep. Scott Mendenhall (R)  
Rep. Penny Morgan (R)  
Rep. Allen Rome (R)  
Rep. Sandy Weiss (D)  
Rep. Bill Wilson (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Alberta Strachan, Committee Secretary

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

**Committee Business Summary:**

Hearing & Date Posted: HB 321; HB 312; HB 319; HB 122  
Executive Action: HB 323; HB 312; HB 347; HB 331 (re-referred)

**HEARING ON HB 321**

**Sponsor:** REP. CINDY YOUNKIN, HD 28, Bozeman

**Opening Statement by Sponsor:**

**REP. YOUNKIN** read the title of the bill: An act providing for medical assistants; providing a definition of "medical Assistant"; providing for exemption from licensing requirements; providing for physician or podiatrist supervision of and responsibility for a medical assistant; requiring the Board of Medical Examiners to adopt guidelines by administrative rule regarding the performance of administrative and clinical tasks.  
**{Tape: 1; Side: A; Approx. Time Counter: 47 - 159}**

**Proponents' Testimony:**

**Pat Melby, Attorney at Law, Montana Medical Association,** said physicians are strongly in support of this bill. Medical assistants have been used in physician's offices in Montana for many years. Those medical assistants have administered medications. This bill will clarify that physicians can delegate clinical tasks. This is a medical practice issue. It is the physician who has the responsibility and authority to provide medicine to the patients in his office. The responsibility, liability and licensure belong with the physicians.  
**{Tape: 1; Side: A; Approx. Time Counter: 160 - 194}**

**Toni Moileman, Technician, Butte,** provided written testimony. She also provided testimony from Dean Center, M.D.  
**EXHIBIT (buh13a01)**  
**EXHIBIT (buh13a02)**  
**{Tape: 1; Side: A; Approx. Time Counter: 194 - 232}**

**Gloria Hermanson, Montana Society of Otolaryngology,** provided testimony from Hugh E. Hetherington, M.D.  
**EXHIBIT (buh13a03)**  
**{Tape: 1; Side: A; Approx. Time Counter: 233 - 277}**

**Neil Rogers, M.D., Ear, Nose & Throat Specialist,** said in order to treat patients who have allergy problems, they utilize a team approach in their office. His job as a physician is to carefully talk with patients, diagnose their problems, then proceed with work-up and treatment. In order to accomplish this, he said he needed to have experienced, extremely skilled individuals to work as partners in the process. To accomplish this, they use an R.N., L.P.N., and a medical assistant. As a physician, his job is to find the most qualified individuals to carry out these

tasks. Patient care and safety is of the highest priority. This is a job he takes very seriously. A properly skilled and trained medical assistant, in their case, was the best qualified person to do the allergy work. Supervised medical assistants can fill jobs that licensed practitioners have not been trained for. This bill formalizes the fact that the physician is legally responsible for everything his practice does or fails to do in regard to patient care and safety. This bill establishes the Board of Medical Examiners as the regulatory agency responsible for the medical assistant who has unique and special qualifications and training and is properly supervised and trained by the physician. It is important the physician can supervise and direct trained personnel to perform tasks as needed.

***{Tape: 1; Side: A; Approx. Time Counter: 277 - 341}***

**Sue Weingartner, Executive Director, Montana Podiatric Medical Association**, said they support this bill but suggest an amendment on delegation to medical assistants by podiatric physicians. Podiatrists are physicians and surgeons who treat conditions of the feet and ankles. The initial education of podiatrists includes four years of undergraduate work, followed by four years in an accredited medical school, and then a residency. They see patients in their respective offices and are also have credentials for surgery in hospitals and surgery center settings.

***{Tape: 1; Side: A; Approx. Time Counter: 341 - 368}***

**Opponents' Testimony:** None

**Informational Testimony:**

**Jim Brown, Division Administrator, Business Standards Division, Department of Labor & Industry**, said the department is neutral on this issue. They are present for information purposes only. They feel this is a scope of practice issued that is best determined by the Legislature.

***{Tape: 1; Side: A; Approx. Time Counter: 372 - 390}***

**Questions from Committee Members and Responses:**

**REP. LAWSON** asked Ms. Swaila what type of tasks nurses are able to delegate to a medical assistant. She said, "Within the Board of Nursing, they have regulations that are allowed by law to delegate certain nursing tasks. But that does not allow nurses to determine what can be delegated in terms of nursing practice. Under very specific circumstances, the Board does allow this as long as the nurse has made sure the appropriate circumstances are in place."

***{Tape: 1; Side: A; Approx. Time Counter: 400 - 420}***

**REP. WILSON** asked Mr. Melby what a P.A. or physician's assistant was. **Mr. Melby** said they are licensed by the Board of Medical Examiners and they have duties under the supervision of the physician through a practice plan.

*{Tape: 1; Side: A; Approx. Time Counter: 421 - 453}*

**REP. MAEDJE** asked if physicians can delegate the administration of medication to a physician's assistant. The law does not allow this.

*{Tape: 1; Side: A; Approx. Time Counter: 454 - 499}*

**REP. MENDENHALL** asked if this bill would allow the physician to delegate such tasks as taking X-rays and ultrasound exams that would in turn be billable and Mr. Melby said, "No."

*{Tape: 1; Side: B; Approx. Time Counter: 1 - 19}*

**REP. MATTHEWS** asked Ms. Swaila if nurses were taken out of the clinics in rural areas, how that would affect the hospital. **Ms. Swaila** said that there is much discussion about the nursing shortage nationwide. There are many things that can be done in a physician's practice that do not require a nurses knowledge, skills and abilities.

*{Tape: 1; Side: B; Approx. Time Counter: 20 - 62}*

**REP. GALVIN-HALCRO** asked Ms. Swaila about the access to drugs; i.e., "What guarantee is there that a physician's assistant will not abuse the access to drugs?" **Ms. Swaila** said that is one area in the practice of nursing the Board of Nursing takes very seriously in terms of medication control. This bill provides for an untrained person to be setting up narcotic control systems that may or may not decrease the opportunity or diversion of medications.

*{Tape: 1; Side: B; Approx. Time Counter: 62 - 157}*

**REP. KEANE** asked Dr. Rogers if he was responsible in his office if he had a nurse performing some of these tests. **Dr. Rogers** said in his office the physicians assistant is not a low-paid employee. There is an R.N. in his office and L.P.N. to support the allergy practice. One of the tasks of the medical assistant is something delegated.

*{Tape: 1; Side: B; Approx. Time Counter: 157 - 217}*

**Closing by Sponsor:**

The sponsor closed.

*{Tape: 1; Side: B; Approx. Time Counter: 218 - 373}*

**HEARING ON HB 312**

**Sponsor:** REP. MONICA LINDEEN, HD 7, Huntley

**Opening Statement by Sponsor:**

REP. LINDEEN said this bill was an act excluding services performed by an individual as an official at all amateur athletic events from the definition of "employment" for purposes of the state's unemployment compensation insurance laws.

***{Tape: 2; Side: A; Approx. Time Counter: 1 - 38}***

**Proponents' Testimony:**

REP. MARK NOENNIG, said these referees are hired for a certain amount of money for each game they referee. There was not a requirement they be hired for any particular games but they were on a list of people being used for the refereeing. They are independent contractors and are exempt from workers' compensation and they are also exempt from unemployment insurance.

***{Tape: 2; Side: A; Approx. Time Counter: 38 - 91}***

Bob Vogel, Montana School Board Association, said they stand in support of this bill.

***{Tape: 2; Side: A; Approx. Time Counter: 92 - 97}***

Annie Goodwin, State Chartered Credit Unions, said they had worked very closely with Mr. Pyfer and the Montana Credit Union League on this bill.

***{Tape: 2; Side: B; Approx. Time Counter: 132 - 146}***

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

REP. STEINBEISSER asked Mr. Vogel if this were a workers' compensation issue. Mr. Vogel indicated it was.

**Closing by Sponsor:**

The sponsor closed.

***{Tape: 2; Side: A; Approx. Time Counter: 101 - 122}***

**HEARING ON HB 319****Sponsor:** REP. BOB LAWSON, HD 80, Whitefish**Opening Statement by Sponsor:**

**REP. LAWSON** read the title of the bill: An act generally revising laws relating to credit unions; clarifying the use of "credit union" the name of credit unions; authorizing out-of-state credit unions to do business in this state under certain conditions; authorizing Montana credit unions to conduct business in other states under certain conditions; generally replacing references to the director of the Department of Administration with references to the Department of Administration; providing for examinations of credit unions on a schedule determined by the department rather than on an annual basis; establishing criteria for cease and desist orders and involuntary dissolution; revising suspension criteria; establishing criteria for appointing a conservator for a credit union; establishing criteria for the involuntary merger of a credit union; improvising for the confidentiality of certain credit union information maintained by the Department of Administration; revising certain organization and administrative procedures of credit unions; revising voluntary liquidation and merger procedures; revising board of directors and committee procedures; revising account, share, and loan provisions; revising reserve requirements.

**{Tape: 2; Side: A; Approx. Time Counter: 125 - 158}**

**Proponents' Testimony:**

**Bob Pyfer, Attorney at Law, Senior Vice President, Montana Credit Union Network**, provided a bill summary with changes to the bill.

**{Tape: 2; Side: A; Approx. Time Counter: 158 - Tape: 2; Side: B; Approx. Time Counter: 131}**

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. BOOKOUT-REINICKE** asked Mr. Pyfer if banks would have the same legislation. **Mr. Pyfer** said, "No, because it is only within the confines of the credit union".

**{Tape: 2; Side: B; Approx. Time Counter: 146 - 187}**

**REP. GALLIK** asked Mr. Pyfer what areas are not the same as the federal act. **Mr. Pyfer** said there are differences between the state act and the federal act.

**{Tape: 2; Side: B; Approx. Time Counter: 187 - 300}**

**REP. KEANE** asked what form of voting they have. **Mr. Pyfer** said there would possibly be an electronic means of voting.

**{Tape: 2; Side: B; Approx. Time Counter: 325 - 350}**

**Closing By Sponsor:**

The sponsor closed.

**{Tape: 2; Side: B; Approx. Time Counter: 351 - 370}**

**HEARING ON HB 122**

**Sponsor:** **REP. GARY L. FORRESTER, HD 16, Billings**

**Opening Statement by Sponsor:**

**REP. FORRESTER** said this bill was an act revising the video gambling machine laws to take into account connection of machines to the automated accounting and reporting system; and providing for Department of Justice training of technicians working on or installing the machines.

**{Tape: 2; Side: B; Approx. Time Counter: 372 - 406}**

**Proponents' Testimony:**

**Gene Huntington, Administrator, Gambling Control Division, Department of Justice,** said gambling machines have meters installed in them to produce a record of the tickets paid out and the money taken in. These are used for tax purposes.

**{Tape: 2; Side: B; Approx. Time Counter: 406 - Tape: 3; Side: A; Approx. Time Counter: 100}**

**Mark Staples, Montana Tavern Association,** said when the gaming was state-regulated and centralized in the 1980s it was not done with a centralized computer system. There was talk about it, but it was rejected.

**{Tape: 3; Side: A; Approx. Time Counter: 1 - 187}**

**Rhonda Carpenter, Montana Coin Machine Operators Association,** said this was a group of small business owners in Montana that own the machines and vend them to the locations where they are placed. The association would like the businesses to still receive the tax credits they had been promised. The language in

this legislation is a better solution than the last session. These small business people are still committed; they have still agreed to work with the association.

***{Tape: 3; Side: A; Approx. Time Counter: 188 - 223}***

**Rich Miller, Executive Director, Gaming Industry Association,** said he represented manufactures, route operators and operators. They stand in support of this bill.

***{Tape: 3; Side: A; Approx. Time Counter: 224 - 230}***

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. GALLIK** asked why Montana officials did not know that there would be no bids on this proposal. **Mr. Huntington** said by the time the request for proposals were sent out, the bidders could no longer meet the price they had testified on.

***{Tape: 3; Side: A; Approx. Time Counter: 238 - 337}***

**REP. KEANE** asked Mr. Huntington if the laboratory had done testing on this system and he said, "Yes." Over the last year, their staff has studied this system more than anyone. They have put in many hours.

***{Tape: 3; Side: A; Approx. Time Counter: 338 - 399}***

**REP. WEISS** asked if there was any safety backup on the machines. **Mr. Huntington** said there was a backup system.

***{Tape: 3; Side: A; Approx. Time Counter: 400 - 422}***

**Closing by Sponsor:**

The sponsor closed.

***{Tape: 3; Side: A; Approx. Time Counter: 422 - 500}***

**EXECUTIVE ACTION ON HB 323**

**Motion/Vote:** **REP. LAWSON** moved HB 323 DO PASS. Motion carried 19-0.

**EXECUTIVE ACTION ON HB 312**

**Motion/Vote:** **REP. MENDENHALL** moved HB 312 DO PASS. Motion carried 18-0.

EXECUTIVE ACTION ON HB 347

Motion: REP. BOOKOUT-REINICKE moved HB 347 DO PASS.

Motion/Vote: REP. MORGAN moved the AMENDMENTS. Motion carried 18-0.

Motion/Vote: REP. MORGAN moved HB 347 DO PASS AS AMENDED. Motion carried 18-0.

EXECUTIVE ACTION ON HB 331

Motion/Vote: REP. MORGAN moved to RE-REFER HB 331 TO HOUSE JUDICIARY COMMITTEE. Motion carried 18-0.

**ADJOURNMENT**

Adjournment: 11:15 A.M.

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REP. JOE MCKENNEY, Chairman

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ALBERTA STRACHAN, Secretary

JM/AS

**EXHIBIT (buh13aad)**