

Testimony Regarding HB 605  
Montana Board of Medical Examiners

Mr. Chairman and committee members, for the records I am Dr. Arthur Fink, President of the Montana Board of Medical Examiners.

The Board of Medical Examiners stands strongly in opposition to House Bill 605. HB 605 would restrict the use of medical assistants in private physician and podiatrist offices currently allowed by statute. This bill limits the already legislated practice of medical assistant's ability to perform administrative and clinical tasks under the supervision and direction of a Montana licensed physician or podiatrist. Specifically, it removes the ability to perform invasive procedures, administration of medications and allergy testing and replaces these tasks with a laundry list of minimal tasks such as basic first aid, aseptic procedures, assisting with patient exams, operating office medical equipment, collecting routine lab specimens and phlebotomy blood withdrawals. This bill further removes the responsibility of the Board of Medical Examiners to regulate and adopt rules governing the practice and levels of supervision for medical assistants.

Prior to the enactment of statute 37-3-104, and after the enactment in 2003, medical assistants throughout the state have been widely and successfully utilized by physicians and podiatrists in private practice. In rural communities there is a significant inability to hire nurses for private office practices. The clinical tasks and duties that medical assistants provide are a vital component of our healthcare system.

A vast majority of states, especially rural states, allow medical assistants to perform a variety of clinical tasks under the supervision of physicians, podiatrists, and other mid-level practitioners such as physician assistants and advanced practice nurses in office settings. Like these states, Montana allows the physician and podiatrists to determine the individual's level of competence necessary to perform the assigned task as long as the licensed practitioner retains the legal and professional responsibility for acts performed. If the license and livelihood of the physician or podiatrist that is in jeopardy if they authorize a medical assistant to perform a task outside of the medical assistant's sphere of competency. To establish restrictive statutes provides an illusion of protection, there is no true increased security. To date there is no recorded incidences of a medical assistant performing in such a way that they have endangered the patients of Montana.

In fact, the Board of Nursing has established similar delegation authority of unlicensed healthcare providers through their own administrative rules, not by statute. These rules allow for nurses to delegate to unlicensed assistive persons (UAPs) in a variety of setting including emergency departments, healthcare facilities, dialysis units and doctors offices. The Board of Nursing has based this allowable nursing delegation to UAPs on the nurse's professional responsibility and accountability to determine and ensure competencies of the AUP to the nursing task assigned. The Board of Nursing has also in it's rules recognized specialized education and training of UAPs to receive delegation of advanced nursing tasks in settings such as emergency departments and dialysis units to include initiation of IVs and hanging of specific IV fluids.

HB 605 required the physician or podiatrist to ensure a criminal background check is conducted on the medical assistant, which is not done on physicians, podiatrists,

APRNs, PAs nurses, dentists, chiropractors, or EMTs for licensure. This appears to be overly burdensome and unreasonable especially in light of this bill's exceedingly limited scope of practice and requirement for on-site supervision at all times.

As it stands now, in the event that a medical assistant's performance is questioned or challenged the physician's or podiatrist's license to practice medicine is in jeopardy. This assures direct accountability and legal responsibility at all times. After considerable deliberation the Board of Medical Examiners does not see the need to amend current statute to lessen the accountability by removing the Board's rule making authority.

HB 605 is burdensome for rural patients to achieve appropriate and much needed healthcare in their local communities. This bill will significantly reduce, if not wipe out the use of medical assistants in this state creating an even greater shortage of healthcare providers throughout Montana, especially impacting our rural and frontier communities.

The definition of onsite supervision prohibits a medical assistant from any activity when a physician is called away to a nursing home or hospital. Even the simplest activity would be prohibited causing, an increase in patient waiting time in the clinic and a decrease in service to the patient.

This legislation has an effective date of October 1, 2007. This is insufficient time for a person who may otherwise have the credentials and training, but who has not chosen to pursue certification since it was not required to date in Montana, to now pursue and fulfill all the requirements and still make the October 1<sup>st</sup> date. Furthermore, there is no provision for grandfathering those who have practiced successfully as a medical assistant for many years. They would become unemployed overnight.

Mike McCarty, Legal Counsel for the American Medical Technologists states in his article published in March of 2003: "Unfortunately, the regulation of health professionals is a process which is frequently the subject of abuse. Professional licensure and regulation are supposed to protect the public from incompetents and unethical practitioners, but too often they are used for "turf protection" rather than protection of the public". Healthcare providers jealously guard their practice areas and do not like to see other practitioners encroach upon tasks they have traditionally performed, even in the face of severe shortages of healthcare workers.

To date, the Department of Labor and Industry compliance unit for Healthcare Licensing, reports that there have been no complaints received or processed by any healthcare board regarding the utilization or performance of medical assistants in physicians or podiatrists offices. Since this is not an issue of public health, safety and welfare, I question the need for legislative amendments and the motivation behind it.

Passage of HB 605 will result in increased medical costs; a reduction in rural medical services, and further cripples our fragile Healthcare System. I respectfully request a vote of do not pass on HB 605.

I am available for questions. Thank you for your consideration in this matter.

Respectfully submitted,