



Montana Dental Association

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Legislative Services Division
Economic Affairs Interim Committee
Attn: Rep Sharon Stewart Peregoy
P.O. Box 201706
Helena, MT 59620-1706

May 28, 2020

Chairwoman Peregoy,

Montana dentists are seeking a definitive determination from the EAIC on whether the Montana Board of Dentistry has—or does not have—statutory authority to arbitrarily declare a public school as a public health facility. In the past two years, members of the Montana Board of Dentistry (BOD) actively sought to declare four public schools in Libby as public health facilities in order to allow Limited Access Practitioner (LAP) hygienists to operate in them.

The Montana Dental Association testified before the Board of Dentistry that they lack statutory authority to do so. Our testimony was based on a thorough legal review of the matter by our attorney, who is an expert on such laws in Montana. The DLI attorneys chose to deliberately ignore our well researched legal opinion and cavalierly told Board of Dentistry members “You have the authority to do this.” While the BOD deadlocked on the vote last year, the issue is up again on their June 5, 2020, meeting agenda. DLI attorneys are again telling the Board of Dentistry they have statutory authority and the BOD is working to develop standards for declaring facilities in the future.

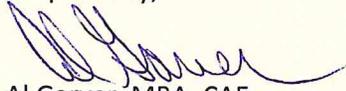
The legislation that created LAPs was clear in its scope and limitations. The DLI attorneys are seeking to ignore legislative intent and focusing instead on word parsing. The statute allows the Board of Dentistry to allow LAPs to operate in *existing* public health facilities. It does not allow them to declare non-public health facilities, such as a public school, as a public health facility.

Riverstone Health at Orchard Elementary in Billings, is an example of a public school that has undergone impressive steps to be recognized by the federal government as a public health facility, and it would be completely within the authority of the BOD to authorize LAPs to perform services there. It is completely inappropriate and violates legislative intent and statute, however, to select a public school in Libby and declare that it is a public health facility, just so LAPs can work and provide services there.

We have also engaged OPI in this matter, since we believe they would not want the Board of Dentistry randomly declaring public schools as public health facilities when they are not. We will defer to OPI on the many unintended consequences they foresee for schools if this occurs.

We are asking the EAIC to consider the matter and take any action available to halt these efforts by the Board of Dentistry. If requested, we are prepared to share our legal review to assist your staff and attorneys with background information and references to relevant statutes.

Respectfully,

A handwritten signature in blue ink, appearing to read "Al Garver", with a long, sweeping flourish extending to the right.

Al Garver, MBA, CAE
Executive Director