



To: Economic Affairs Interim Committee

From: Montana Board of Sanitarians

Date: June 10, 2013

Subject: HB525 – SAN response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

Registered Sanitarians (RS) are part of the public health system that includes registered public health nurses, epidemiologists, and others concerned with issues of public health significance. The profession of sanitarian is also known as Environmental Health Specialist. Environmental Health addresses the interaction between human health and the environment. Our health is affected by the quality of air, land, food and water resources. Maintaining and improving public health by managing those environmental factors that affect health is the goal of this professional group.

Examples of duties associated with the environmental health field include:

- On-site wastewater treatment system permitting, design and inspection
- Assuring wastewater system compliance with the Montana Water Quality Act
- State licensing and inspection of retail food establishments
- State licensing and inspection of wholesale food manufacturers
- State licensing and inspection of public accommodations
- State licensing and inspection of trailer parks, work camps, campgrounds, youth camps
- State licensing and inspection of pools, spas, and similar facilities
- Licensing and inspection of tattoo parlors
- Inspection of day care centers
- Inspection of group homes for the disabled
- Review of subdivisions under MCA 76-4 Sanitation in Subdivisions Act
 - Includes review of water, wastewater, storm water, and solid waste management facilities
- Air quality program activities
- Solid waste compliance issues
- Public water system inspection under contract with MDEQ
- Education and training on all of the above
- Compliance and enforcement actions on all of the above

In Montana, those working in environmental health for a local government agency are required to be licensed by the Montana Department of Labor and Industry; state employees may require licensure if required by their position description.

2. If your profession/occupation were not licensed, what public protection would be lost?

The areas of environmental health listed above involve not only critical issues of public health but also business development and operation, the legal status of property development, and other private as well as community concerns. It is imperative that the registered sanitarian have an appropriate educational background, continuing educational, and ethical standards to competently address the science of public health, assure compliance with state and local regulations, provide education and training to promote environmental health, and interact with the public and business community in an effective and ethical way.

Without an educational and ethical standard, the administration of public health programs could result in inconsistencies in how public health laws are applied, lack of knowledge in how to protect the public's health based upon valid scientific evidence, application of state law in an unethical manner and without recourse available to the public, and a variety of other substandard practices.

The RS working for a local environmental health program is, essentially, where the state public health standards meet the public. It is critical for both current and future generations that the laws are applied accurately, fairly, and with an informed scientific basis.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Board oversight is essential to the public. State regulations require that a registered sanitarian have a degree in Environmental Health from an accredited college or a degree that is equivalent as determined by the board. Because few applications come from those with an Environmental Health degree, the board routinely reviews applications for educational equivalency. The board also does the required application review to determine if the applicant has licensing or ethics issues in their past that might prevent them from serving the Montana public well as a Registered Sanitarian.

Because Registered Sanitarians routinely deal with applying public health law and standards, it is very important that the citizens of Montana have recourse to the board if they believe they have been treated unfairly or unethically by a sanitarian. While these requests are infrequent, this opportunity to have a hearing to address such a complaint is an essential part of the licensing system.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

The board receives unlicensed practice complaints infrequently. Most of the duties that are included within a sanitarian's scope of practice are carried out by employees of local governments, and most governments are careful to hire qualified and licensed professionals. Many acts that might otherwise fall within the scope of practice as a sanitarian are covered by statutory exemptions that allow engineers, state and federal government public health officials, and individuals who are not employed by or under contract with government entities to perform sanitarian duties without being registered. Current law seems to adequately protect the public without unnecessary restrictions that hinder the work of individuals, businesses, and governments.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The only group required to be licensed are those practicing the profession of sanitarian in their employment with local government of those working for state government whose position descriptions require this licensing. There are many individuals working for private industry, state government, federal government, or self-employed who are qualified and work in areas related to the profession of the sanitarian. Examples are environmental consultants who evaluate land for development, prepare sanitation in subdivision applications, and design on-site wastewater systems. Some qualified persons serve as in-house inspectors for businesses and as trainers for the food industry. These individuals are valuable contributors to our communities; many choose to be professional licensed as a means to demonstrate their commitment to their profession, public/environmental health, and an ethical standard.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

This board which is composed of three Registered Sanitarians and two members of the public monitor one profession with the two license types of Registered Sanitarian and Sanitarian-in-Training. The structure of the board provides balance in the regulation of the industry. Board members are educated through training to identify and understand conflicts of interest. A member who feels they may have a conflict of interest associated with an application, license, or disciplinary issue can freely recuse themselves from voting.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

Registered Sanitarians are typically members of the Montana Environmental Health Association (MEHA) and/or the National Environmental Health Association (NEHA). MEHA is formed as an affiliate under NEHA. There is no requirement that either MEHA or NEHA exist, so it is possible that any oversight these associations might provide could cease. MEHA does not have, and I would be quite confident that they would not choose to have, any involvement with professional licensing or application of an ethical standard. NEHA has professional licensing: Environmental Health Specialist (EHS) which is comparable to the Montana RS license. One avenue to meeting the Environmental Health Degree equivalency standard of Montana is to have a NEHA EHS license and a Microbiology course. NEHA licensing has not been deemed a suitable replacement for Montana licensing in that it does not have an ethical standard associated with the Environmental Health Specialist certification. The educational standards also vary somewhat from Montana which is a topic currently being addressed by the board.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

No - This issue is not related to Sanitarian registration.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

The board is composed of three Registered Sanitarians and two members of the public. Having members who are part of the profession is very important. This profession is rather unusual and not well-understood. There are only about 100+ sanitarians who work for local government. Therefore, having people who are invested in the profession serve on the board brings understanding regarding both educational and ethical standards that are appropriate for the profession. Having public member on the board is also important in that the purpose of professional licensing is to protect the public whom they represent. The board brings continuity to the process. The Department is valuable in its expertise, but the positions have turnover that can impede understanding. The Department is not an invested party to the registered sanitarian with regard to public relationship.

10. Is there an optimum ratio between licensees, board size, or public representation?

A greater number of licensees allows for a reduced annual licensing fee. The Registered Sanitarian group is one of the smallest license groups; this means our operating costs bring higher fees than that of many professions. While this is not optimal, the sanitarians, when surveyed in 2011, expressed their support of maintaining its own licensing group and board. The ratio on the Board of Sanitarians seems appropriate with three RS and two members of the public. This brings a good balance between those licensed and those protected.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

It is of great benefit to have a board who understands the profession. This is especially true with a profession that has a small number of licensees and is often not well understood by the average person. The board structure allows the members to better understand the profession, its needs for educational requirements, judgment when ethical standards are compromised, and the other responsibilities seated with the board. Rarely, does this board address issues of consumer protection. As such, it is not likely the Attorney General's office could develop the relationships and the understanding necessary to determine if the public protection is being adequately served by this profession.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

The closest example relative to this question pertains to Registered Sanitarians and Professional Engineers. There has been some issue raised over the limits of the types of wastewater systems that can be designed by Registered Sanitarians vs engineers. While not part of these conversations, this matter was resolved by the two groups meeting to determine the appropriate line of jurisdiction for the professions. It was determined that a wastewater system with a design flow of 2500gpd or more was to be designed by an engineer. A collaborative attempt to reach consensus would be the best first step with a third party entering the conversation if deemed necessary.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

In order to be protective of the public, there are times when terminology related to a professional should be limited to a licensed person. Boards should be able to limit the use of certain terminology so that the public is not misled or confused by persons describing themselves in professional terms.