

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

January 21, 1987

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on January 21, 1987, at 1 P.M. in Room 410 of the State Capitol.

ROLL CALL: All members were present, except Harry MacLane, whose absence was excused.

FURTHER CONSIDERATION OF SENATE BILL # 17: Senator Eck opened by explaining budget expenditures in the child welfare budget of SRS, especially as they relate to expenditures for Indian Child Welfare. SRS can possibly use a vacancy opening to fund the position and may not need an extra appropriation. Title IV - E funding is available in which the Federal government pays 2/3, the state 1/3. Senator Eck called on Norma Harris, SRS, to explain how services are provided on reservations who have no agreement with SRS.

Norma Harris, SRS, stated the SRS provides Title IV-E foster care payments for children now. They have a tentative contract with one tribe and are negotiating contracts with three more tribes. The specialist position may or may not involve foster care payments. They could possibly absorb this position through vacancy savings.

Sen. Dick Pinsoneault, District #27, stated that a big problem right now is deciding who has tribal jurisdiction; until the time that tribal jurisdiction is decided, many children fall through the cracks in terms of placement. The specialist would provide definite assistance until adjudication is decided, would render a quicker decision on adjudication and provide proper supervision which at this time does not exist. The Rocky Boy agreement is working.

Sen. Rassmussen: Is the state willing to pay?

Ans: Sen. Pinsoneault: There is a reluctance to commit monies when it is uncertain who should pay the bill.

Sen. Eck: Tribes can apply for a small amount of money from the state now without any agreement.

Sen. Himsl: The bill has a noble purpose, but I have three concerns: There are seven Indian reservations, but this bill provides for only five candidates. I am concerned over agreement among the Indian tribes. Second, it is the attorney general's opinion that SRS does not have jurisdiction on reservations with no cooperative agreement. Third, SRS is asking for an additional \$15,000,000. How can this position be funded? Exhibit # 1.

Ans: Norma Harris: We are negotiating agreements now with three more tribes because of the attorney general's opinion. It is still appropriate to make Title IV-E foster care payments and provide services on reservations because IV-E funds are entirely Federal.

Sen. Himsl: I understand the agreement is with the Blackfeet.
Ans: Louie Clayborn - The only agreement we have is a quasi one with Rocky Boy, under which they still operate.

Sen. Williams: Would it make any difference to the tribes to have only five names submitted?
Ans: Louie Clayborn: The choice of candidates goes by qualifications and not tribal enrollment. Cultural awareness and qualifications are the two most important requirements. This meets SRS standards.

Sen. Jacobson: I would like to substitute a motion to send this bill to Finance and Claims.

ACTION ON SENATE BILL NO.17: Sen. Eck: We have a call for the substitute motion before the committee. The substitute motion PASSES with a 5-4 roll call vote. Yes votes included senators Norman, Williams, Vaughn, Rasmussen, and Jacobson. No votes were senators Eck, Meyer, Himsl, and Hager.

CONTINUATION OF SENATE BILL NO. 6: Senator Eck opened discussion by having Karen Renne present and explain the new amendments to the bill. She emphasized that proper protocol procedures will be developed by hospital administrators, that families will be approached with sensitivity, and that organ donation will not be listed on the death certificate, in agreement with Health Department wishes.

Sen. Eck noted that Sen. Lybeck has not seen the new amendments but is agreeable to the Department of Health being out.

Sen. Hager commented that hospitals, even the smallest, under MCA 50-5-21 will have to comply with the regulations of the bill. Karen Renne confirmed that. Jim Ahrens, Montana Hospital Association, further explained that this provision has to apply to all hospitals now because of Federal regulations. Very small hospitals will probably be limited in their ability to provide organ donations, but they will have to establish a protocol.

Sen. Hager: Will persons in failing condition be transported?
Renne: The usual procedure will be to send a team to the hospital, usually from a large city hospital.

Sen. Williams: What would happen if we didn't pass this bill?
Ans: Jim Ahrens: Hospitals receiving Medicaid-Medicare would still have to have this program and advertize it to the community.

ACTION ON SB 6: Sen. Jacobson moved the new amendments do pass. The DO PASS was unanimous. Sen. Jacobson moved that SB 6 do pass as amended. The DO PASS was unanimous.

ACTION ON SB 31:

Sen. Jacobson: I move the amendments.

Sen. Himsl: I see a problem with putting two subjects in one bill. The title of the bill is the requirement of referral; the title of the amendments is the make-up of the board.

Karen Renne: There is not enough distance in the purpose of the bill and the amendments.

Sen. Jacobson: The amendments allow their board to act on problems that might arise from direct patient access. We discussed this and then accepted the Legislative Council's decision to recommend addition of the amendments.

Sen. Rassmussen: Why do doctors feel they need to be on the board?

Ans: Sen. Jacobson: Doctors are concerned about the lack of doctor referral. If an M.D. is on the board, that person can see complaints immediately. Everyone agreed that this is a reasonable change.

Sen. Hager: Will there be a significant cost to the state or patients by expanding the board from three to five?

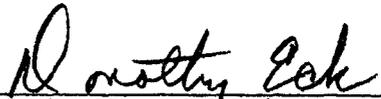
Ans. Sen. Jacobson: There will be overall less cost to the patient because of having direct access. License fees totally fund the board and the maximum would be \$900-\$1000/year.

Sen. Himsl: I went over the Physical Therapist board expenditures and they can afford it. (Per diem's and honorariums).

Sen. Eck: I will call for the question on the amendments. Seven senators voted DO PASS. Senators Hager and Himsl voted no. Sen. Jaconson moved and Sen. Williams seconded that the bill DO PASS AS AMENDED. The DO PASS was unanimous.

There being no further business, the meeting was adjourned.

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Dorothy Eck, Chairman

ROLL CALL

Public Health, Welfare and Safety COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1-21-87

NAME	PRESENT	ABSENT	EXCUSED
Dorothy Eck	X		
Bill Norman	X		
Bob Williams	✓		
Darryl Meyer	✓		
Eleanor Vaughn	X		
Tom Rasmussen	✓		
Judy Jacobson	✓		
Harry H. "Doc" McLane	*X	X	
Matt Himsl	X		
Tom Hager	X		

Each day attach to minutes.

AGREEMENT BETWEEN DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES,
HILL COUNTY HUMAN SERVICES AND THE
ROCKY BOY'S INDIAN COMMUNITY

This Agreement is entered into by the Rocky Boy's Indian Community (hereinafter referred to as "Community"), the Montana Department of Social and Rehabilitation Services (hereinafter referred to as "Department") and the Hill County Human Services (hereinafter referred to as "County").

WHEREAS, there are Indian children on the Rocky Boy's Indian Reservation who may be eligible for foster care maintenance payments under Title IV-E of the Social Security Act, 42 USC §670 et seq.;

WHEREAS, 42 USC §672(d)(2) requires that the Department enter into an agreement with any agency who will be responsible for the care and placement of children for whom Title IV-E foster care maintenance payments are sought;

WHEREAS, the Community intends to maintain administrative and judicial supervision over Indian foster children for whom Title IV-E payments will be sought; and

WHEREAS, the Community, the County and the Department recognize the need to coordinate their efforts to ensure that the federal eligibility requirements of the Title IV-E foster care program are met;

The parties hereby agree as follows:

I. PURPOSE

The purpose of this Agreement is to clarify the relative responsibilities of the Community, the County and the Department

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that because of the emergency circumstances no reasonable efforts could be taken to prevent removal.

(3) That the child must be placed in a licensed foster home or other licensed youth care facility.

IV. SERVICES

The Community shall provide services to eligible children placed in foster care on the reservation in compliance with 42 USC Sections 671 and 672 and 45 CFR 233.110 and 45 CFR 1356 et seq. The services provided shall be consistent with the following standards:

a. Placement. The child will be placed in a licensed youth foster home, youth group home, or child care agency.

b. Case plan. The case plan for each child for whom the Department pays foster care maintenance payments must be a written case plan and must include:

(1) a description of the type of home or institution in which the child is to be placed;

(2) a discussion of the appropriateness of the placement;

(3) a description of the care and services the child will receive while in foster care;

(4) a description of the services which are provided to the parents, child, and foster parents in order to improve the condition in the parents' home, facilitate return of the child to his home or the permanent placement of the child, and address the needs of the child;

(5) an evaluation of the appropriateness of the services provided under the plan.

V. LICENSING

The Community is responsible for the licensing of foster homes on the Rocky Boy's Indian Reservation. The Department will pay foster care maintenance payments for any eligible child who is placed in a foster home which has been licensed by the Community and who currently meets Tribal licensing standards.

VI. FOSTER CARE MAINTENANCE PAYMENTS

The Department will make foster care maintenance payments in accordance with the terms of this agreement on behalf of children who meet all of the eligibility requirements for Title IV-E foster care and who have been placed in licensed foster homes as provided in this agreement.

VII. EVALUATION

The Department will conduct periodic evaluation of the Community's implementation of the terms of this Agreement, solely for the purpose of determining whether there is compliance with the federal standards pertaining to Title IV-E foster care. The periodic evaluation shall be done in a manner that does not interfere with the Community's orderly administration of foster care placement for Indian children.

VIII. REFERRALS FOR FOSTER CARE MAINTENANCE PAYMENTS

The Community, through the agency designated under paragraph III above, shall assist the county welfare department to obtain the necessary information from the family to complete all applications and forms including SRS EA-1a, EA-32, CS/EA-2, CS/EA-1 and EA-4. The Community will also assist in providing veri-

IN WITNESS WHEREOF, the parties have executed this Agreement
on the dates set out below.

MONTANA DEPARTMENT OF SOCIAL
& REHABILITATION SERVICES

BY: Dave Lewis
(Director)

DATE: 3/5/86

HILL COUNTY COMMISSIONERS

BY: Arthur Panko
(Chairman)

DATE: 1/31/86

HILL COUNTY HUMAN SERVICES

BY: Nancy Malone
(Director)

DATE: 2-4-86

ROCKY BOY'S INDIAN COMMUNITY

BY: Rocky Stump
(Chairman)

DATE: 2-5-86

BY: J. Harding
Tribal Court Judge

DATE: 3/5/86

BY: Suzanne Bell
Tribal Indian Child Welfare
Representative

DATE: 2-5-86

Approved for Legal Content

BY: [Signature]

DATE: 2/2/86

Welfare Services

FEDERAL IV-E and IV-B ADMINISTRATION FUNDING

COMMUNITY SERVICES DIVISION

SENATE HEALTH & WELFARE

EXHIBIT NO. 1

DATE 1-21-87

BILL NO. SB17

child welfare

Federal 1987 IV-B Allocation \$956,736 -
Less: Foster Care Maintenance Payments (271,396)

IV-B Administration¹ \$ 685,340

*These services are from general admin fund
for case management, etc. - need gov fund
to maintain services*

Projected Federal 1987 IV-E Administration (From 9/30/86 cost allocation)² \$ 435,480 - APB - Foster Care

1.5% of 28,365,000

- 1) Administration costs for Child Welfare Services are documented through the Department's Random Moment Time Study. For state fiscal year 1986, these amounted to \$1,511,000. The federal funds are used to offset these expenditures to the state. Any reduction in IV-B funds would have to be compensated for with the State General Fund.

- 2) IV-E Foster Care administrative funds are also documented through the Department's Random Moment Time Study. These funds are not a direct offset to the General Fund as IV-B is, rather they are claimed at a 50% federal, 50% state match ratio. These funds can only be claimed for eligible IV-E services such as eligibility determination, rate setting, placement services and case reviews.

ROLL CALL VOTE

SENATE COMMITTEE Public Health, Welfare and Safety

Date 1-21-87 Bill No. 17 Time 1:35

<u>NAME</u>	<u>YES</u>	<u>NO</u>
Dorothy Eck		X
Bill Norman	X	
Bob Williams	X	
Darryl Meyer		X
Eleanor Vaughn	X	
Tom Rasmussen	X	
Judy Jacobson	X	
Harry H. "Doc" McLane		
Matt Himsl		X
Tom Hager		X

Ellen Nehring
Secretary

Dorothy Eck
Chairman

Motion: To send S.B. # 17 to Finance and Claims.

STANDING COMMITTEE REPORT

Page 1 of 3

.....January 21..... 1987.....

MR. PRESIDENT

We, your committee on.....**SENATE PUBLIC HEALTH, WELFARE AND SAFETY**.....

having had under consideration.....**SENATE BILL**..... No. **31**.....

_____ **first** _____ reading copy (**white** _____)
color

ALLOWING DIRECT PATIENT ACCESS TO PHYSICAL THERAPY

Respectfully report as follows: That..... **SENATE BILL** No. **31**

BE AMENDED AS FOLLOWS:

1. Title, line 4.

Following: "AN ACT"

Strike: Remainder of line 4 through "TO" in line 5

Insert: "GENERALLY REVISING THE LAWS REGULATING THE PRACTICE OF"

2. Title, line 5.

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS 2-15-1858 AND"

3. Page 1, following line 8.

Insert: "Section 1. Section 2-15-1858 is amended to read:

"2-15-1858. Board of physical therapy examiners. (1)
There is a board of physical therapy examiners.

(2) The board consists of three five members appointed by the governor with the consent of the senate for a term of 3 years. The members are:

(a) three physical therapists licensed under Title 37, chapter 11, who have been actively engaged in the practice of physical therapy for the 3 years preceding appointment to the board;

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CONTINUED

Chairman.

(b) one physician licensed under Title 37, chapter 3, who has been actively engaged in the practice of medicine for the 3 years preceding appointment to the board; and

(c) one member of the general public who is not a physician or a physical therapist.

(3) Each member must have been a resident of Montana and-a-practicing-physical-therapist for the 3 years preceding appointment to the board.

(4) (a) within 30 days following July 1, 1979, the governor shall make initial appointments to the board of physical therapy examiners. He shall appoint one member each to hold office for terms of 1 year, 2 years, and 3 years, respectively. At the end of each member's appointed term, a member shall be appointed for a full 3-year term.

(b) The Montana medical association may submit names of nominees under subsection 2(b) to the governor as provided in 37-1-132.

(c) A physician and a member of the general public must be appointed to the board on or before January 1, 1983 for a 3-year term.

(5) A vacancy on the board must be filled in the same manner as the original appointment. These appointments may only be made for the unexpired portions of the term.

(6) No member may be appointed for more than two consecutive terms.

(7) The governor may remove any board member for negligence in performance of any duty required by law and for incompetence or unprofessional or dishonorable conduct.

(8) A board member is not liable to civil action for any act performed in good faith in the execution of the duties required by Title 37, chapter 11.

(9) The board shall provide for its organizational structure by rule, which shall include a chairman, vice-chairman, and secretary-treasurer.

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(10) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

NEW SECTION. Section 2. Duty to report violations -- immunity from liability. (1) Notwithstanding any provision of state law regarding the confidentiality of health care information, a physical therapist shall report to the board any information that appears to show that another physical therapist is:

(a) mentally or physically unable to engage safely in the practice of physical therapy; or

(b) guilty of any act, omission, or condition that is grounds for disciplinary action under 37-11-321.

(2) There is no liability on the part of and no cause of action may arise against a physical therapist who in good faith provides information to the board as required by subsection (1)."

Renumber: subsequent section

4. Page 2, following line 4

Insert: NEW SECTION. Section 4. Codification instruction. Section 2 is intended to be codified as an integral part of Title 37, chapter 11, and the provisions of Title 37, chapter 11 apply to section 2."

AND AS AMENDED,

DO PASS

SENATOR EOE, CHAIRMAN

STANDING COMMITTEE REPORT

.....January 21..... 19.87.....

Page 1 of 3

MR. PRESIDENT

We, your committee on.....~~SENATE PUBLIC HEALTH, WELFARE AND SAFETY~~.....

having had under consideration.....~~SENATE BILL~~..... No.....~~6~~.....

~~first~~ reading copy (~~white~~)
color

REQUIRING HOSPITAL ADMINISTRATOR TO REQUEST ANATOMICAL GIFT

Respectfully report as follows: That.....~~SENATE BILL~~..... No.....~~6~~.....

~~BE AMENDED AS FOLLOWS:~~

1. Title, lines 4 and 5.

Following: "AN ACT"

Strike: remainder of line 4 through "ANATOMICAL GIFT" on line 5

Insert: "PROVIDING FOR ORGAN DONATION REQUESTS IN HOSPITALS"

2. Page 1, lines 9 through 12.

Following: "Section 1."

Strike: remainder of line 9 through "a hospital" in line 12

Insert: "When organ donation may be requested. (1) When, based on generally accepted medical standards, a hospital patient is a suitable candidate for organ or tissue donation and has not made an anatomical gift as provided in this part"

3. Page 1, following line 20.

Insert: "(2) If the hospital administrator or his designated representative has actual notice of opposition to the gift by the decedent or a person authorized to make a gift under 73-17-201 or reason to believe that an anatomical gift is contrary to the decedent's religious beliefs, or if there are medical or emotional conditions under which the request would contribute to severe emotional distress, donation of all or part of the decedent's body may not be requested."

Remember: subsequent subsections

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CONTINUED.....

Chairman.

4. Page 1, line 23.

Following: "medical record"

Strike: "and on the death certificate"

5. Page 1, line 25 through page 2, line 10.

Strike: subsections (3) and (4) in their entirety

Insert: "Section 2. Immunity from liability.

A person who acts in good faith in accordance with the terms of [section 1] is not liable for damages in any civil proceeding or subject to prosecution in any criminal proceeding that might result from this action.

Section 3. Organ procurement program required.

The administrator of a hospital licensed under this chapter shall as a condition of licensure under 50-3-201: (1) establish a written protocol for the identification of potential organ donors that:

(a) assures that families of potential organ donors are made aware of the option of organ or tissue donation and their option to decline;

(b) encourages discretion and sensitivity with respect to the circumstances, views, and beliefs of families of potential organ donors; and

(c) requires that a qualified organ procurement agency be notified of potential organ donors;

(2) designate and train a person or persons to represent him for purposes of requesting an anatomical gift as provided in [section 1]; and

(3) make known to the public that the hospital has an organ procurement program as described in subsection (1)."

Renumber: subsequent section

6. Page 2, line 11.

Following: "instruction."

Strike: "Section 1 is"

Insert: "(1) Sections 1 and 2 are"

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7. Page 2, line 14.

Following: "17,"

Strike: "part 2,"

Following: "apply to"

Strike: "section 1"

Insert: "sections 1 and 2. (2) Section 3 is intended to be codified as an integral part of Title 50, chapter 5, part 2, and the provisions of Title 50, chapter 5 apply to section 3.

Section 5. Extension of authority. Any existing authority of the department of health and environmental sciences to make rules on the subject of the provisions of section 3 is extended to section 3."

AND AS AMENDED,

DO PASS

.....
SENATOR ECK, CHAIRMAN

STANDING COMMITTEE REPORT

Page 1 of 3

January 21 1967

MR. PRESIDENT

We, your committee on.....SENATE PUBLIC HEALTH, WELFARE AND SAFETY.....

having had under consideration.....SENATE BILL..... No. 31.....

first reading copy (white)
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CONTINUED

Chairman.

(b) one physician licensed under Title 37, chapter 3, who has been actively engaged in the practice of medicine for the 3 years preceding appointment to the board; and

(c) one member of the general public who is not a physician or a physical therapist.

(3) Each member must have been a resident of Montana and a practicing physical therapist for the 3 years preceding appointment to the board.

(4) (a) Within 30 days following July 1, 1979, the governor shall make initial appointments to the board of physical therapy examiners. He shall appoint one member each to hold office for terms of 1 year, 2 years, and 3 years, respectively. At the end of each member's appointed term, a member shall be appointed for a full 3-year term.

(b) The Montana medical association may submit names of nominees under subsection 2(b) to the governor as provided in 37-1-131.

(c) A physician and a member of the general public must be appointed to the board on or before January 1, 1980 for a 3-year term.

(5) A vacancy on the board must be filled in the same manner as the original appointment. These appointments may only be made for the unexpired portions of the term.

(6) No member may be appointed for more than two consecutive terms.

(7) The governor may remove any board member for negligence in performance of any duty required by law and for incompetence or unprofessional or dishonorable conduct.

(8) A board member is not liable to civil action for any act performed in good faith in the execution of the duties required by Title 37, chapter 11.

(9) The board shall provide for its organizational structure by rule, which shall include a chairman, vice-chairman, and secretary-treasurer.

January 21 1987

(10) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

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(a) mentally or physically unable to engage safely in the practice of physical therapy; or

(b) guilty of any act, omission, or condition that is grounds for disciplinary action under 37-11-321.

(2) There is no liability on the part of and no cause of action may arise against a physical therapist who in good faith provides information to the board as required by subsection (1)."

Renumber: subsequent section

4. Page 2, following line 4

Insert: NEW SECTION. Section 4. Codification instruction. Section 2 is intended to be codified as an integral part of Title 37, chapter 11, and the provisions of Title 37, chapter 11 apply to section 2."

AND AS AMENDED,

DO PASS

.....
SENATOR ECE. CHATMAN