

February 15, 1977

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS:

A meeting of the House Public Health, Welfare and Safety Committee was held on Tuesday, February 15, 1977 at 10:00 a.m. in Room 431 of the State Capitol. All members were present with the exception of Reps. Palmer, Gould, Metcalf, Porter and Kimble, who were excused.

The first bill heard was HOUSE BILL 523. The sponsor was Rep. Kennerly. This bill is trying to correct some problems within the law. Passage of the bill would allow the Dept. of SRS to receive applications for day care licenses from Indians residing on Indian reservations. SRS funds are federal funds administered by the state and the state does not have the jurisdiction to license centers on Indian reservations; therefore they are not eligible for federal funds, simply because of a technicality of the law. This is a simple thing and has been done in other areas in the past. Merle R. Lucas, Coordinator of Indian Affairs for the State of Montana, then spoke. If a center were to default, the state would simply not relicense it. There were no opponents to HB 523. Questions were asked. It was explained that the bill would not require a fiscal note, as only federal funds would be involved. The sponsor closed. The Welfare Dept. will be the "watchdog" for the implementation of this bill.

HOUSE BILL 724, sponsored by Rep. Lynch, was heard next. He explained that he had introduced the bill at the request of Bob Fowler, MHD project in Butte. It has been proven that asbestos is a problem if it is abused; this simply prohibits that abuse. Ernie Post then spoke in favor of the bill; see prepared statement. No opponents spoke. Questions were then asked. It was reassured that passage of this bill would not do away with the use of asbestos, it would only control it. The bill was copied from a similar measure proposed in Ohio. It was unclear whether this subject was already covered in the OSHA regulations.

HOUSE BILL 371 was then heard. The sponsor, Rep. Harper, distributed amendments to the bill which modified its wording to incorporate the most recent definition of death, as proposed by the American Bar Assoc. The present law is common law; in the absence of breathing, pulse and heartbeat the patient is dead. The problem we are facing is that the common law definition of death does not jibe with medical definitions any more. The advances in the field of transplants is making this problem apparent. More and more states are passing this type of legislation. He gave several points proving the merits of the definition put forth in the amended version of the bill, such as: (1) it permits judicial determination; (2) it avoids religious determination of any facts; and so on. This bill should not be confused with euthenasia. Under the proposed definition of death, Karen Quinlan could not have been killed in the euthenasia sense. The problem is that it is very difficult to get a vital organ in good enough condition to transplant under the current law. Schematic injury occurs under the current common law definition at a much higher rate than under the new definition. Sen. Dover spoke up in favor of the bill. He feels that the brain is what determines whether or not the patient is alive. This definition has stood up in several court cases. It has worked for everyone involved. Chad Smith, Montana Hospital Association, then spoke. He feels that the bill as amended is acceptable. Gerald J. Neely, Montana Medical Assoc. was the

February 15, 1977

next proponent. The MMA supports this bill as amended. The bill insures availability of transplantable organs. Because of the medical liability situation, no doctor wants to remove an organ if the patient's heart is still beating. John Frankino, Montana Catholic Conference, then spoke. The Conference's Research Analyst, Cindy Scott, prepared a paper which was sent to the committee by mail; see attached copy. The Catholic Conference supports the amended version of the bill.

There were no opponents to HOUSE BILL 371. The sponsor closed. Questions were asked. The hearing was closed.

HOUSE BILL 608 was then heard. Rep. Hansen, chief sponsor of the bill, was not available to open, so Mr. Ed Carney, Director of the Dept. of Professional and Occupational licensing, began. This bill has the approval of the Board of Sanitarians. The bill will reduce the size of the statutes. There were no further proponents.

The first opponent to HB 608 was Mr. Steve Pilcher, a Water Quality Specialist for the Dept of Health; see prepared statement. He felt that due to current legal action which is taking place, this bill is very untimely. Ben Wake, Administrator of the Environmental Sciences Division of the Dept. of Health then spoke. Certain rules have been made by the Board of Sanitarians which the persons involved may or may not be able to meet. The entire intent of the bill is to create a closed shop. Passage of this measure could possibly cause him to have to lay off 35 qualified people.

Mr. Carney then closed. He said that he wasn't aware there was going to be any opposition. He was vaguely aware of the legal problem. He couldn't see how the bill was going to affect those involved in the lawsuit. The issue is whether the persons involved are doing sanitarian work. Questions were then asked. Mr. Carney insisted that he didn't feel the bill was related to the lawsuit. The hearing was closed.

HOUSE BILL 594 was then heard. The chief sponsor was Rep. South. In most cases alcoholism is not covered by insurance; this bill is an attempt to require such coverage for those persons who need it, but are neither poor enough nor rich enough to have their problems treated. Frank Lane, Director of the Eastern Montana Health Center, expressed his belief that addictive disease and mental illness are not properly covered at present. Many people other than doctors are involved in the treatment of these disorders; many of them are not covered under insurance. George L. Swartz, Alcohol and Drug Bureau, Dept. of Institutions, spoke next; see prepared statement. John D. Allen, Executive Director of the Mental Health Assoc., spoke next, and also left a prepared statement, as did the following speaker, Jan Brown, a volunteer for the Mental Health Assoc. Ms. Brown also submitted further information from the National Assoc. for Mental Health concerning other health care plans. Janet Kovalchik, representing West-Mont Home Health Care, Inc. of Helena spoke next; see prepared statement.

February 15, 1977

The opponents to HB 594 then spoke. Earl Hanson, Blue Cross of Montana, was first. Mental illness, etc. are covered under Blue Cross policies at present. However, usually only bed care treatment is covered. Also, this bill mandates coverage with no thought given to the possible rate function it might serve. It doesn't take very many custodial patients to make rates go sky-high. He suggested that an interim committee study these problems. Dr. Duncan Burford, M.D., President of the Montana Psychiatric Association spoke next. The Psychiatric Assoc. had considered presenting a similar bill, but felt they were not ready at this time. He also outlined several areas the bill did not cover; see witness statement. Alan F. Cain, Montana Physicians Service, stressed the cost factor in his presentation. This type of coverage is presently available. The present trend is to cut back on services so that costs to the consumers can go down. Josephine Driscoll spoke then, first as a representative of the Insurance Dept. and secondly on behalf of herself; see prepared statement. Harold Paulsen, American Council of Life Insurance, stated that the industry is opposed to this type of mandating. Mike Young, Administrator of the Department of Administration, spoke; he was also opposed to the cost factor.

Rep. South then closed. He felt it was not fair to talk about the cost of the insurance premium alone. The problem with leaving this kind of coverage up to the groups who negotiate, is that no one ever thinks that he is going to become mentally ill, or an alcoholic, etc. At present, middle-class alcoholics are not treated because they don't have the money to pay for care. Questions were then asked. The hearing was then closed.

HOUSE BILL 709 was then heard. The chairman, Rep. Menahan, turned the meeting over to Vice-Chairman Holmes in order to present this bill, which he was chief sponsor of. Under present law the amount of insurance coverage is limited and shall not exceed the amount in the schedule. The carriers are willing to go above the amounts. Josephine Driscoll spoke up in support of the bill. She felt the bill should be amended so that the entire section of the law would not be repealed, but only the portion concerning limits. Harold Paulsen, American Council of Life Insurance, spoke. He would go along with striking of the entire section of the law. There were no opponents to HB 709. The hearing was closed.

The committee then went into executive session. Discussion took place concerning the Problems of the Elderly Subcommittee. It was questioned whether they had the right to make their recommendations directly to the floor of the House or whether they should report to this committee, who would then in turn report to the floor. It was decided to discuss the matter with the Speaker of the House, Rep. Driscoll.

SENATE BILL 29 was then acted on. Rep. Holmes moved that it BE CONCURRED IN. Motion carried unanimously. Rep. Menahan agreed to carry the bill.

February 15, 1977

It was moved and seconded that HOUSE BILL 338 DO PASS. Motion carried unanimously.

Rep. Ryan moved that HOUSE BILL 461 DO PASS. Discussion took place. Several amendments were considered. The amendments were then moved and they were accepted. The motion of DO PASS AS AMENDED was then voted on and the motion carried unanimously.

HOUSE BILL 608 was voted on. Rep. Feda moved and it was seconded by Rep. Gunderson that it DO NOT PASS. Motion carried with Rep. Stobie opposed.

The meeting was adjourned.

---

Rep. Wm. "Red" Menahan - Chairman

---

Secretary