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PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS:

A meeting of the House Public Health, Welfare and Safety Committee was held on Tuesday, March 15, 1977 at 10:00 a.m. in Room 431 of the State Capitol. All members were present with the exception of Reps. Colburn, Lynch and Kimble.

The first bill heard was SENATE BILL 355, sponsored by Senator Dover, see prepared statement. He suggested several amendments, also; see copy. The amendments attempt to extend the family planning counseling to the parents, also. There were no further proponents.

The opponents to SB 355 then spoke. The first was Dr. John Anderson, Dept. of Health. He had supported this bill in the Senate, but the Senate took the very guts out of it, and now he is opposed to the bill unless it can be amended back to its original intent. It now serves an adverse purpose. He pointed out that the Senate had also killed a bill which would allow abortions to be performed on minors without parental consent. There were no further opponents.

Questions were asked. Dr. Anderson in response to a question concerning the counseling, expressed dubious feelings about the moral character of the counselors which would be allowed to provide this service. He expressed confidence in the persons employed by clinics and doctors' offices, which are at present the only two legal places where contraceptives can be obtained. The chairman questioned whether this bill might promote involvement in sexual activities of kids who are at present refraining from them. Dr. Anderson stated that the people who come to the clinics are promiscuous before they ever get there. If this is a fact of life, then the other risks involved are just as awesome, and something should be done. Rep. Menahan reasserted his opinion that "when you are going to supply them without parental consent, this would promote promiscuity". Rep. Holmes asked Dr. Anderson if he felt that the bill as amended by the Senate was unconstitutional. He replied that he did think so, due to supreme court decisions which had to do with the Utah law requiring parental consent. Federal funds were involved. HOUSE BILL 544 says that minors may receive these services without parental consent. This is more of a legal issue than anything. Rep. Kenny asked Senator Dover whether this bill had been at the request of a Department. He confirmed that it had, more or less, but the bill had been watered down quite a bit since that time. Senator Dover said that he didn't know how justifiable the fiscal note was for this bill any more, now that the section dealing with the Dept. of Health making a list of approved counselors had been stricken. He said that this bill had not been introduced at the request of the Dept. of Health. Qualifications for the counselors were then discussed. Mr. Royal Johnson, Tri County

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Family Planning, explained that each clinic had its own set of criteria, but most counselors are degree social workers.

Senator Dover then closed. The bill had been drafted in order to set up guidelines. He has continued to support the bill because he feels the Senate will kill HB 544. Consequently, the courts will have to rule on this question. This bill would be a set-up for when the courts do rule. The hearing was then closed.

SENATE BILL 105 was then heard. The sponsor was Senator Rasmussen. This is a bill which will change the optometry law to allow optometrists to use a number of topical drugs. There have been many changes in the quality, scope and length of optometric examination, but the law has not changed since the beginning of this century. There are two different professions in the state - opthamology, which is physicians specializing in the diseases of the eye, and optometry. There are 40 practicing opthamologists and 113 practicing opticians in the state. There are four classes of topical drugs that the bill deals with. These drugs are administered in the form of eyedrops only. These drugs are basically not dangerous. He pointed out that the dentistry and podiatry professions are allowed to use drugs. Optometrists are qualified to use these drugs. A letter from the dean of the Pacific University Optometry School was then quoted from. The education of students of optometry in this area is similar to that of dental and medical students; they even use some of the same textbooks. There is no grandfather clause in the bill. All optometrists must complete a course and also pass a test given by the State Board of Examiners. Currently 18 states have passed similar laws, or have never prohibited the use of these drugs in the first place. This bill will allow optometrists to provide a more complete service.

Larry LaRock, a practicing optometrist and the president of the Motnana Optometric Assoc., then spoke. He outlined the training involved in optometry. In the past six to eight years, most optometry schools have offered a course in pharmacology. Educational programs have been sponsored by the Optometric Assoc. in Montana every year. Dr. M. F. Keller, a Great Falls optometrist, then spoke. This bill creates nothing unique, unusual, or new in the U.S. or even the world. In all branches of the armed services including the Veterans Administration, optometrists are authorized to use diagnostic drugs. In all these years and all these states, countries, and jurisdictions where topical drugs have been allowed, none have opted to take this right away. Malpractice insurance for optometrists is \$118 per year in all states, including those that allow the use of these drugs. This indicates the lack of any problem. Nothing in the bill allows optometrists to treat diseases of the eye. It is time the Montana statutes were brought up to date. Senator Lensink, an opthamologist, spoke up in support

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of the bill; it will provide for cooperation among the two professions. Gerald Neely, Montana Medical Association, rose in support of the bill.

There were no opponents to SENATE BILL 105. The sponsor closed. In a report prepared by the U.S. Dept. of HEW, inclusion of optometry in the medical profession was covered. One of their recommendations was to encourage joint development of appropriate laws on the state level to allow use of these drugs.

Questions were then asked. It was not anticipated that the use of these drugs would have much impact on the fee structure of the optometrists, as far as the patient was involved. Rep. Feda wanted to know what changes had been made to the bill that made it palatable to the M.D.'s. The sponsor pointed out that on page 3 the Board of Medical Examiners now has definite input into the courses to be taken by the optometrists. There will be an educational program established in Montana, possibly at the U of M Pharmacy School. Also, one could go out of state for the courses. A normal eye examination will not call for the use of these drugs.

At this point the Chairman Rep. Menahan had to leave; Vice Chairman Holmes took over.

SENATE BILL 365 was then heard. The sponsor was Senator Roberts. He was not present; in his absence Mr. Pat Melby, Director of the Dept. of Social and Rehabilitation Services opened. The bill deals with a project the Dept. of SRS would like to take on dealing with the recovery of substantial funds in the Medicaid program. This is enabling legislation, so they could go to the insurance companies or the third parties and recover the funds expended. This will also provide the money to put the law into effect. Dick Webber, also from the Dept. of SRS, spoke; see prepared testimony. Bill Ikard, Chief of the Medical Assistance Bureau, Dept. of SRS, then spoke. When someone has an insurance policy, the insurance will pay the bill, but if they have two insurance policies or one insurance policy and Medicaid, the person isn't particularly concerned about which one pays. From the Department viewpoint, they feel that the insurance company should pay first, and the taxpayers should pay last.

There were no opponents to SB 365. Mr. Melby closed. Based on other states' experiences, they feel they could recover about 2.5% of their expenditures. By Fiscal Year 1980 a net recovery to the state could amount to about \$415,000 per year. Questions were then asked. This bill would not apply to Medicare payments; only Medicaid payments would be covered. This bill would allow the Dept. of SRS to take the

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initiative in court actions. It would allow them to go after an insurance company only if they haven't paid. At present, because of the complexities and difficulties of getting a third party to pay for medical services, the health care providers have been coming to the Dept. of SRS; it is much easier for them to go this route. If the insurance company should be paying, this bill would enable the Dept. of SRS to negotiate with them. Rep. Ryan asked Mr. Melby if the county attorneys couldn't do this same thing at present. He answered that they could, but that the Medicaid program is a state program and therefore the counties would not be involved. Funds generated under this type of action would be reverted, or else put to use in the Medicaid program.

The meeting was then adjourned.

Wm RED Menahan
Chairman-Rep. Wm. "Red" Menahan

Debbie Jahorace
Secretary