

## MINUTES OF THE MEETING

### PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

February 1, 1977

The tenth meeting of the Senate Public Health, Welfare and Safety Committee was held in Room 405 of the State Capitol Building on Tuesday, February 1, 1977, beginning at 11:00 A.M.

ROLL CALL: All Committee members were present.

CONSIDERATION OF SENATE BILL 246: Chairman Stephens turned the meeting over to Senator Lowe, sponsor of SB246; the Billings Senator then presented his bill to the Committee. In explaining his proposed legislation, he addressed the problem of proper detention of a seriously mentally-ill person (for 72 hour period or until a hearing on his case) in adequate facilities, keeping in mind that the patient has rights. The present law, some say, already covers these areas; Senator Lowe thinks his amendments to the present law would clarify problem areas. The Senator stated that judges in communities do not or cannot send the mentally ill person to the local jail; other alternatives, such as community hospitals are not adequate, either the facilities are inadequate or the staff is not adequate. There is a need for better facilities and trained personnel to take these people. Another problem area in the present law is one of time - Senator Lowe said SB246 would see that fast action was taken on the mentally ill in the courts. If the court finds the person in question mentally ill, that person can then be detained for only 72 hours in an institution or jail, pending commitment.

Testifying on SB246 were:

1. Chad Smith, Montana Hospital Association. (Support)
2. Jim Larson, V.A. Hospital, Ft. Harrison and Mt. Hospital Assn.

Chad Smith testified that there are other people's rights involved in this problem of what to do with seriously mentally-ill persons who are out in the community and need immediate attention to keep them from harming others or themselves. Smith pointed out discrepancies in the language of the law as it stands now. SB246 would better provide for equipment and staff to handle the problem patients. A letter was read to the Committee (see Exhibit "A") from Don Danielson (Billings Deaconess Hospital) urging support of SB246.

Jim Larson testified that Montana, in its state program to de-institutionalize mentally ill patients, was also to have nine regional mental health centers. None of these centers have been established. Consequently, these potentially-dangerous patients

February 1, 1977

are released into communities that have no facilities to help the patient except the local hospitals. A few Montana hospitals have been sued because of things patients do either to themselves or to others while this institution is attempting to restrain the mentally ill person. Generally, hospitals, not having adequate facilities or trained personnel, do two things with these people: tranquilize them and then put them in a security room. Finally, Larson testified that, in his opinion, if the trend to de-institutionalize patients is to continue in the state, we need those nine mental health care centers and we need the amendment we propose to the current law, it will go far to control the patients and protect institution employees in contact with the patients, as well as provide treatment for the ill person. Mr. Larson then gave an explanation of change in regard to page 13 about the examination by the person in charge at the place of detention.

Mr. Larson completed testimony from those supporting the bill. Senator Towe then addressed the Committee. He stated there are now two bills for Judiciary Committee pertaining to the same problem areas of the mentally ill -- this bill of Senator Lowe's would be inconsistent with the other two. Towe also feels that the three bills will have to be dealt with together. He requested that Public Health, Welfare and Safety Committee simply move this bill over to Judiciary.

A discussion followed among the Committee members and Senators Lowe and Towe. Initially, the sponsor indicated he would like to keep the bill in Public Health for hearing. Later, after Chairman Stephens assured Senator Lowe that he personally would look after the bill while in Public Health Committee, that it would not die there, that he would discuss the mechanics of moving the bill over to Judiciary with both Judiciary Chairman and President of the Senate, and that Public Health would hold on to the bill pending consideration of the other bills, Senator Lowe acquiesced.

That concluded the hearing on SB246.

CONSIDERATION OF SENATE BILL 269: Senator Blaylock explained his Senate Bill 269 which he is carrying at the request of the Department of Health and Environmental Sciences. This bill is designed to enable the Department to obtain primary enforcement responsibility under the Safe Drinking Water Act (federal).

Testifying in favor of the bill were:

1. Steve Brown, Chief Council for the Department of Health
2. Arthur W. Clarkson, Sanitary Engineer, Dept. of Health and Environmental Sciences - Water Quality
3. Don Allems, Dept. of Health and Environmental Services

February 1, 1977

Steve Brown set out for the Committee the reasons why this legislation is needed by the State. The main reason is that the EPA notified the Department of Health that Montana's laws were defective in five areas - this bill addresses these areas. Mr. Brown said this is simply another example of the "carrot and stick" situation that exists in any piece of federal legislation. Mr. Clarkson in the Water Quality Bureau in the Environmental Sciences Division has developed a very good public water supply program and in order to accomplish what has to be accomplished under the federal Safe Drinking Water Act, this legislation must be passed.

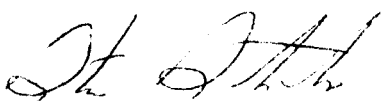
Arthur Clarkson went into the merits of the existing program and the need for this legislation as it relates to the authority of the Department and the success of Safe Drinking Water program. (See Exhibit "B".) Clarkson said at the present time Montana has no formal standards for drinking water. We have the basic law and we have used the federal U.S. Public Health Service drinking water standards as a guideline. However, we have never been challenged in the courts - we have nothing to back us up. The criticism the EPA levied against Montana has been aimed at the law.

Questions from Committee members following witnesses' testimony covered the myriad problems involved with conforming to federal guidelines, such as exactly how much Montana will receive in federal funds (\$170,000 yearly matching \$56,000 State funds) by bringing our laws into conformity; how many additional people the State would have to hire to carry out the extra work (approximately 10-12 versus how many people the federal government would have to hire to come here to do this work if Montana decided not to comply); whether it would be good for Montanans just to let the federal government come in and do the work (Brown said Montanans would not like outsiders taking care of this - anyone facing an enforcement action would have EPA people coming out of Denver for hearings - and that is the issue, who do you want the people to deal with). The question of whether the federal law is necessary as far as Montana is concerned brought a definite affirmative answer. (It was suggested that since the 1907 legislature, which enacted appropriate legislation then, the State has been coasting. The federal legislation is now timely - Montana has reached a new plateau of need.)

The hearing was concluded on Senate Bill 269 with NO ACTION being taken.

ANNOUNCEMENTS: Senate Bill 273 will be heard Thursday, February 3rd.

ADJOURNMENT: With no further business, the meeting was adjourned at 12:15 P.M.

  
\_\_\_\_\_  
STAN STEPHENS, Chairman

ROLL      CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

45th LEGISLATIVE SESSION - 1977

DATE:

[illegible]

2-1-77

COMMITTEE ON Public Health

BILL NO. 246

## VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Laura Mathe	Heridas Co Mental Health Assn		X
Jan Brown	Heridas Co Mental Health Chapter		X
Pat Baedeker	Mental Health Assn of MT		X
	L. & C. Adm. Bd.		X
	M.H. Ass.		X
Thomas E. Love	Mont. State		X
James P. Larson	Montana Hospital Assn	X	
Chas. Smith	Montana Hosp. Assn	X	
Nick Poterung	DEPT. OF INSTITUTIONS		X
John Uda	Office of Budget & Program Planning		X
	BOARD OF VISITORS		X

NAME:

Jan Brown

DATE:

2/1/77

ADDRESS:

912 Peosta, Helena, MT

PHONE:

443-3824

REPRESENTING WHOM?

Mental Health Assn. of MT.

APPEARING ON WHICH PROPOSAL:

SB 246

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

X

COMMENTS:

I believe this bill infringes upon the rights of the mentally ill person.

I especially object to detention in jail for up to 72 hours, where there may be no trained staff to help with them.

NAME: W. J. Buckner DATE: 2/1/77

ADDRESS: 224 Walter, Helena, MT.

PHONE: 252-7371

REPRESENTING WHOM? Private citizen

APPEARING ON WHICH PROPOSAL: Senate Bill # 246

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? ☒

COMMENTS: Disinfranchisement of freedom

NAME: Alfred W. Clarkson DATE: 2-1-77

ADDRESS: 411 S. Helena St.

PHONE: 442 2213 449 2404

REPRESENTING WHOM? State Dept. Health & Env. Sci.

APPEARING ON WHICH PROPOSAL: SB 269

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



NAME:

DATE:

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

**OPPOSE?**

COMMENTS:

© 2011 The Authors. Journal compilation © 2011 Blackwell Publishing Ltd, *Journal of Internal Medicine* 270: 103–111

---

NAME: Dr. Williams DATE: 2-1-77

ADDRESS: State Dept of Health & E.S.

PHONE: 442-2406

REPRESENTING WHOM? State Dept of Health

APPEARING ON WHICH PROPOSAL: SB 269

DO YOU: SUPPORT? X AMEND?        OPPOSE?       

COMMENTS:

NATIONAL SERVICE CENTER  
BIRMINGHAM, AL. 35245



**Mailgram**<sup>®</sup>



EXHIBIT "A"

2-355916231 01/31/77 105 IPWTEZ CSP HELA  
005259551 AMT TDMT BILLINGS MT 272 01-31 0607P EST

SENATOR STAN STEPHENS  
CMT CHAD SMITH  
PO BOX 601  
BELLWA MT 59501

DEAR SENATOR STEPHENS

I AM UNABLE TO ATTEND THE HEARING SCHEDULED FOR FEBRUARY 1 1977 ON  
SENATE BILL 246 WHICH YOUR COMMITTEE IS CONSIDERING I WOULD LIKE TO  
STATE IN FAVOR OF THE BILL

SENATE BILL 246 MAKE<sup>S</sup> CLEAR THE LANGUAGE FOR LOCK UP PROCEDURES FOR  
PERSONS WHO ARE MENTALLY ILL. THE MOST DRAMATIC INCIDENT INVOLVING A  
PERSON WHO WAS MENTALLY ILL OCCURRED HERE AT DEACONESS HOSPITAL THIS  
PAST YEAR. A PERSON WHO HAD NOT BEEN A PATIENT CAME INTO THE HOSPITAL  
AND TOOK ONE OF OUR EMPLOYEES HOSTAGE AT GUN POINT TO DRAMATIZE HER  
NEED FOR HER TREATMENT AT WARM SPRINGS. GOVERNOR JUDGE CAME TO THE  
HOSPITAL (HE WAS IN BILLINGS AT THE TIME) AND SPENT ONE HOUR TALKING  
WITH THE GIRL. FORTUNATELY ALL TURNED OUT WELL AND NO ONE WAS HURT.  
SENATE BILL 246 WILL HAVE THE GREATEST ADVANTAGE FOR THE HOSPITAL IN  
THE STATES THAT DO NOT HAVE A PSYCHIATRIC UNIT. THERE ARE ABOUT 60  
HOSPITALS OF THE APPROXIMATELY 64 THAT DO NOT HAVE PSYCHIATRIC  
FACILITIES. THESE HOSPITALS AND THE REST OF THE PUBLIC THEY SERVE NEED  
THE ASSURANCE THAT THEY CAN TAKE QUICK ACTION IN SECURING A MENTALLY  
ILL PATIENT AND THEREBY PROTECT THEIR STAFF AND THE VAST MAJORITY OF  
THE PATIENTS THEY SERVE. IT IS TIME I BELIEVE WE TAKE POSITIVE ACTION  
AND HAVE LAWS THAT PROTECT 99.9 PERCENT OF THE POPULATION WHILE AT THE  
SAME TIME NOT INFRINGING ON THE RIGHT OF THE MENTALLY ILL.

I HOPE THAT YOU GIVE FAVORABLE CONSIDERATION TO SENATE BILL 246

DONALD J DANIELSON  
EXECUTIVE DIRECTOR  
BILLINGS DEACONESS HOSPITAL  
BILLINGS MT

END

ENCLOSURE

## E X H I B I T "B"

### COMMENTS ON SENATE BILL 269 TO AMEND THE MONTANA PUBLIC WATER SUPPLY ACT

I am Arthur W. Clarkson, Sanitary Engineer for the Department of Health and Environmental Sciences - Water Quality Bureau and have been responsible for the administration of the Safe Drinking Water program in Montana for the past 27 years.

The Montana Public Water Supply Act was originally passed in 1907. It was amended from time to time to keep it up-to-date. It now needs revision to permit the State to assume primary enforcement responsibility under the Federal Safe Drinking Water Act (PL 93-523). The primary changes will authorize the Board of Health and Environmental Sciences to establish safe drinking water standards. The Department of Health and Environmental Sciences will administer and enforce the provisions of the act, will provide for the issuance of variances and exemptions, require licensing of laboratories performing analyses of public water supplies, and may bring actions for the collection of civil penalties.

Section 69-4902 is to be revised to change the definitions of contamination, pollution, sewage, industrial waste and other wastes, to make them conform with the definitions in Section 69-4802, the Water Pollution Control law. The definition of a public water supply will be modified to relate to the definition in the federal act but will not be exactly the same as the Federal law. Montana law covers, "10 or more services", whereas the Federal law is "15 or more service connections". Montana law was changed to 10 or more families several years ago to require the small subdivision water systems to be included in the jurisdiction. 60 days per calendar year is added to meet EPA's definition in The Interim Primary Drinking Water Regulations. Montana law specifically mentions "water haulers" and "bottled water" in the definition. In the Federal law, "bottled water" is under the Food and Drug Administration not EPA and although "water haulers" are not included in the Act, an EPA legal

interpretation just received said a "water hauler" is considered as a supplier of water and must comply with the requirements of the Act. The definition of "Board" and "Department" are added for clarity.

Section 69-4903 specifies the rule making and substantive powers to be exercised by the Board. The authority of the Board to establish maximum contaminant levels is necessary to implement the Interim Primary Drinking Water Regulations as adopted by EPA. This is the most important grant of authority contained in the proposed law. Monitoring, record keeping, and reporting by persons who own or operate a public water supply is also a requirement of the Federal Safe Drinking Water Act.

Section 69-4904 remains, primarily, as it is presently in force. Under paragraph 1, the only change is to add "its own initiative" to permit the department to initiate investigations in addition to making such investigations upon complaints received. Under paragraph 6 of Section 69-4904, the present law states that the department shall fix fees. This language is being changed to authorize the collection of fees for services rendered in analyzing water and conducting inspections. The fees would be collected to cover the cost of services rendered and the fees would be deposited in an earmarked revenue fund. At the present time, moneys are collected and deposited in the general fund. The amount of money anticipated this current fiscal year will amount to over \$65,790 if all water supplies pay their annual fee. With the addition of more supplies in the monitoring and surveillance program, it is anticipated that this revenue will increase.

Paragraphs 10, 11 and 12 of Section 69-4904 are new provisions primarily to bring our laws in conformance with the federal law and to cover such items that have not been included in the State Act. The Department has worked with the Office of Civil Defense and the Office of Emergency Protection to provide waters in times of disasters, but there was no formal requirement for this program under our existing law. In the

same manner, the department has maintained an inventory and record of public water supplies and has conducted annual sanitary surveys of all water supplies in the state, but again, this was not a requirement of the state law. In order to reach the small water utilities and the noncommunity water supplies which will be coming under the provisions of the Federal Act in 1978, it is desirable to have authority to negotiate with local boards of health when appropriate to request their assistance in performing the surveys and inspections under the act and to be able to offer them payment for this service.

Initially, under the Interim Primary Drinking Water Regulations adopted by EPA, there will be certain maximum contaminant levels which cannot be complied with by water supplies in Montana. It will be necessary to grant variances and exemptions to the Interim Primary Drinking Water Regulations until such time as the water supplies can be brought into compliance with the standards. The present act does not authorize the issuance of variances or exemptions for noncompliance with rules or other requirements of the Act.

The new section, 69-4905.2, Licensing of Laboratories, will be established so that laboratories performing analyses of public water supplies and issuing reports will be using the same standards and test techniques, and the same quality of work throughout the state.

Section 69-4907 is Appeal from Rule or Standard Injunction to Require Compliance. Under this section, the original act provided that a person aggrieved by a rule, standard, or order could appeal to the district court. This has been changed to bring the provisions of the Act into conformity with the Montana Administrative Procedures Act. This section is also being amended to authorize the Department to initiate action to collect a civil penalty. The Federal Act requires that a state have the authority to initiate actions for civil penalties before enforcement authority will be

granted by EPA.

The proposed revisions to the Safe Drinking Water Act will be beneficial to the health and welfare of the people of Montana. It brings needed changes to a good law which has been in effect for 70 years.