### MINUTES OF THE MEETING

### PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

January 19, 1979

The fourth meeting of the Public Health, Welfare and Safety Committee met January 19 in Room 410 of the State Capitol Building at 1:00 p.m.

ROLL CALL: All Committee members were present except Senator Palmer, who arrived later in the meeting.

CONSIDERATION OF HOUSE BILL 40: House Bill 40 is an act to provide for a senior citizen representative on the Board of Nursing Home Administrators.

Representative Jerry Metcalf, House District 31 in Helena, sponsored House Bill 40 at the request of the National Retired Teachers' Association and the American Association of Retired Persons. Representative Metcalf stated that the bill merely provides that one person 60 years of age or older be allowed to sit on the Board of Nursing Home Administrators. He stated that the Board is in favor of this bill. The senior citizen selected would be from nominations submitted by the Governor's Commission on Aging. He then introduced Genevieve S. Adair, a member of the joint state legislative committee with the National Retired Teachers' Association and the American Association of Retired Persons.

Genevieve Adair spoke in favor of House Bill 40. See Attachment "A."

No one spoke in opposition to House Bill 40.

Chairman Olson then asked the Committee members if they had any questions. Senator Himsl questioned setting the age at 60 since the AARP has a designation of 55 or over for a senior citizen. He felt that to amend the bill to read "age 55" would be a more equitable age since that is the designation of a senior citizen. He also asked if the senior citizen had to belong to such an organization to be eligible. Representative Metcalf replied that anyone age 60 or over would be eligible. The nominees would come from the Governor's Commission on Aging. Representative Metcalf said the senior citizens' groups decided it would be best to have the Governor's Commission on Aging do the selection rather than fighting among themselves.

The hearing on House Bill 40 was closed at 1:10 p.m.

CONSIDERATION OF SENATE BILL 100: Senate Bill 100, by request of the Department of Health and Environmental Sciences, is an act to revise the laws relating to health care facilities, defining health care facilities to include among other entities home health agencies and adult day-care centers and eliminating existing laws dealing with home health agencies; providing for a certificate of need and for review of applications for certificates of need and appeal procedures, providing guidelines for denial, suspension, or revocation of health care facility licenses. Minutes of the Meeting Public Health, Welfare and Safety Committee January 19, 1979 Page 2

Witnesses supporting Senate Bill 100:

George M. Fenner, Department of Health & Environmental Sciences Dr. John W. McMahon, Montana Medical Association Chad Smith, Montana Hospital Association William E. Leary, Montana Hospital Association Ralph Gildroy, Montana Health Systems Agency, Inc. Sharon Dieziger, Montana Nurses' Association Glen Drake, Montana Nursing Homes' Association David Lackman, Montana Health Association Arthur Knight, Department of Health and Environmental Sciences Rita Ann Shuhy, State Board of Health William Spoja, State Board of Health Barbara Kirscher, Montana Health Systems Agency Beverly Gibson, Montana Association of Counties Charles R. Shields, State Board of Health & Environmental Sciences Dr. John McGregor, State Board of Health John W. Bartlett, Board of Health

Senator Norman, sponsor of Senate Bill 100, said this is a Certificate of Need bill. It is not new law, but it is amendment of current law. The Certificate of Need is a composite introduced by the Federal government. If a hospital is marginal, it is quite obvious that if another hospital is built in the same area it would run at less than capacity. Thus the hospital would have to charge more. The Certificate of Need is to help prevent this situation from happening to keep health care costs down. This same theory applies to nursing homes, adult day-care centers, etc. This bill does not apply to the doctor in his office or clinic. This bill would broaden the coverage and include home health facilities and adult foster homes. Fifty thousand dollars was used as the previous amount for a Certificate of Need. This amount is raised to \$150,000 in this bill. Senator Norman stated that there are various estimates from \$19,000,000 to \$26,000,000 worth of health department funds which are spent throughout the state. The assumption is made that these funds are in jeopardy as most of these are federal funds unless we bring our Certificate of Need law up to Federal standards. Senator Norman asked Mr. Fenner to speak in behalf of the bill.

George M. Fenner, Department of Health and Environmental Sciences, spoke in support of Senate Bill 100 with amendments. See Attachment "B."

Bill Leiker, Department of Social and Rehabilitative Services, stated that they support this bill as they believe it will encourage the proper use of our health care facilities.

Dr. John McMahon, Montana Medical Association, stated that the Montana Medical Association is supportive of this bill. However, they do have some reservations. The Association is cautious about health planning. Examples of inappropriate ultimate decisions continue. It is their hope that some of the clarification and other things that have been proposed with the present law will address this problem. This bill would also give the right to redress if a hearing does not find in favor of a particular problem. The Association offered two amendments. See Attachment "C." Minutes of the Meeting Public Health, Welfare & Safety Committee January 19, 1979 Page 3

Chad Smith, Montana Hospital Association, spoke in favor of Senate Bill 100 with amendments. See Attachment "D." He stated that the association would like the words "for good cause" deleted because this would require a hearing before the hearing. He stated that if something needs to be reviewed, it should be guaranteed as a matter of right. If we are going to condition it on "good cause," we are going to afford the Commission the right to deny somebody a hearing. The amendment in Attachment "D", item 4. is recommended to provide for an orderly proceeding -- the requirement that there be a record. Mr. Smith stated that at some level of this proceeding there will have to be a record made that will allow for a review to determine whether or not the department or the board has acted arbitrarily. Otherwise, you do not have anything to take to court. The amendment requested in Item 5 of Attachment "D" requires the Board upon request of any interested person to hear and receive written briefs. When you get to the board you do not have a full hearing again. Mr. Smith stated that unless the parties have the opportunity to argue orally they won't be able to emphasize the errors they feel are made. The Hospital Association would like the deletion of the sentence indicated in Item 6 of Attachment "D" because they feel that sentence is fraught with a number of dangers. Rules should be uniformly made. Mr. Smith said they feel that they are not going to have a due process in decisions in this matter. He stated that there is one hospital that has had some bad experiences in order to attempt to present its case and the hospitals want to have an opportunity for full review.

William E. Leary, Montana Hospital Association, spoke in favor of Senate Bill 100 with amendments. See Attachment "E."

Ralph Gildroy, Montana Health Systems Agency, Inc., spoke in favor of Senate Bill 100. See Attachment "F."

Sharon Dieziger, Montana Nurses' Association, spoke in favor of Senate Bill 100. See Attachment "G."

Glen Drake, Montana Nursing Homes' Association, stated that they support Senate Bill 100 and also recommend the amendments proposed by the Hospital Association except that they take no position on the removal of the clause "with or without conditions" under Section 13, subparagraph 4 on page 20. They recommend deletion of Line 14 through 16 on page 20 because it would be unworkable with the way the bill is written.

There were no opponents to Senate Bill 100.

Senator Norman stated that after removing anything that is damaging to their organization that each organization supports Senate Bill 100. He stated that the Committee cannot adopt all of the amendments, but it certainly will try to give consideration to all of them. He cautioned the Committee to watch and make sure that the bill is not contradictory when it is amended. Minutes of the Meeting Public Health, Welfare & Safety Committee January 19, 1979 Page 4

Chairman Olson asked the Committee members if they had any questions. Senator Lensink asked if the various parties could present the Committee with their proposed amendments. Chairman Olson said that the amendments would be given to Dennis Taylor who would work them up and have them ready for a working session. Senator Ryan asked Mr. Fenner if his department consulted with any of the other organizations present when they were drafting Senate Bill 100. Mr. Fenner said that there is a list of the task force that helped draft this legislation attached to the back of his testimony. Senator Himsl stated that he understands that the Department of Health. Education and Welfare has increased some of the standards for Certificate of Need and asked Mr. Fenner if those standards are covered on pages 1 and 2 of the bill. Mr. Fenner replied that in summary it shows what is now covered and what is mandated. Senator Himsl then asked if the additional requirements are items 1, 2, 3 and 4. Mr. Fenner replied that that is all we have to do to conform with HEW and added that there are changes in the bill which do not affect compliance. Senator Himsl asked if day-care centers had to be part of the bill. Mr. Fenner said they do not; but, if there is a payment made for adult day-care center, the department is in favor of it. Senator Ryan asked about a cost breakdown. Chairman Olson said that he would order a fiscal impact.

Chairman Olson closed the hearing on Senate Bill 100.

ACTION ON SENATE BILL 100: Chairman Olson said that there will be a working hearing to go over all the proposed amendments to Senate Bill 100 at 1:00 p.m. on Friday, February 2.

ANNOUNCEMENTS: Senate Bill 61 will be discussed and amended at the working session on February 2. Chairman Olson announced that the Committee would meet on Monday, January 22, 1979, at 1:00 p.m. to hear Senate Bills 125 and 127.

ADJOURNMENT: With no further business being discussed, the meeting was adjourned at 2:30 p.m.

Olson SON, CHAIRMAN

### ROLL CALL

## PUBLIC HEALTH COMMITTEE

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### 46th LEGISLATIVE SESSION - - 1979 Date \_\_\_\_\_

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NAME	PRESENT	AESENT	EXCUSED
Olson, S. A., Chairman			
Rasmussen, A. T., V. Chr.			
Himsl, Matt V.	~		
Lensink, Everett R.	-		
Norman, Bill	~		
Palmer, Bob		-	
Ryan, Patrick L.	~		

Each day attach to minutes.

\_\_\_\_ATTACHMENT\_''A''\_\_\_





NATIONAL RETIRED TEACHERS ASSOCIATION AMERICAN ASSOCIATION OF RETIRED PERSONS

#### MONTANA JOINT STATE LEGISLATIVE COMMITTEE

CHAIRMAN Mr. Arthur L. Jacobson 2908 7th Avenue South Great Falls, MT 59405 (406) 452-5526 VICE CHAIRMAN Mr. Mark Jennings 2537 Olofson Drive Missoula, MT 59801 (406) 543-7948

SECRETARY Mr. T. H. Brekke 304 Pueblo Drive Billings, MT 59102 (406) 656-3613

Jan. 19, 79

Statement presented January 10, 1979, on HB 40, to the Public Health Corrittee of the Montana House of Representatives, by the Hontana Joint State Legislative Committee of the National Retired Teachers Association and the American Association of Retired Persons.

For a number of years our associations on a nation-wide basis and in Montana for a least 4 years have had as an objective placing consumers on state boards and commissions.

Our association in California worked closely with the governor and the legislature. This resulted in the majority on boards and commissions being consumers.

Last session our objective was getting a consumer on 2 boards - the Morticians Board and the Teachers Retirement Board. We appreciate that we had an opportunity to have imput on these boards.

Our goal this year is to get a lay person on one or more boards including the Board of Nursing Home Administrators. We particularly appreciate Representative Metcalf's introduction of HB 40 to do this. We indorse the concept outlined in HB 40.

Since the average age of nursing home occupants is 85 years and they are old and frail, they have less vitality to protect themselves. One way to insure that they are protected would be by citizen participation on a board. That citizens be placed on boards is a consumer trend around the country.

In one state one regulatory board had 101 complaints filed. The result of the complaints was that 5 letters of admonishment were issued. If a citizen had been on the board different results may have been accomplished.

Frank M. Hughes President, NRTA J. Leonard Johnson President AARP Cyril F Brickfield Executive Director

National Hondouarters, 1909 K Street, N.W., Washington, D.C. 20049 (202) 872-4700





NATIONAL RETIRED TEACHERS ASSOCIATION

AMERICAN ASSOCIATION OF RETIRED PERSONS

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SECRETARY Mr. T. H. Brekke 304 Pueblo Drive Billings, MT 59102 (406) 656-3613

The Montana Joint State Legislative Committee is in general agreement with the provisions of the proposals of senior citizens in the state. The largest one is the Association of Retired Persons and the Montana Retired Teachers Association of 42,000. Others are: the National Association of Federal Employees, the Grey Panthers, Montana Senior Citizens Association, and the organization of state employees. We think it inappropriate to give the power of nomination of a lay representative to any one group.

Wa suggest a compromise wording. The Governors Commission on Aging has as one of its responsibilities the drawing together of all of the senior citizen organizations.

In the wording of the bill <u>detence give</u> the Commission on Aging<sup>4</sup> the responsibility to solicit nominations from all of the senior citizen organizations in the state and to screen and provide the governor with the names of 3 persons.

The Montana Joint State Legislative Committee thanks you for the opportunity to appear before you and the committee members will be happy to assist you in any way we can.

I am personally happy to note that five Cascade County legislators are on this committee, Joe Tropila, Jonas Rosenthal, Helen O'Connell, Andrea Hematad, and Joe Fabrega.

Thank you kindly.

Gre-

ive S. adair unch

Glady's J. Johnson, member Montana Joint State Legislative Committee

J. Leonard Johnson President, AARP Cyril F. Brickfield Executive Director

### ATTACHMENT "B"

NAMEGeorge M. FennerBill No. SB-100ADDRESSCogswell BuildingDATE1-19-79WHOM DO YOU REPRESENT Dept. of Health & Environmental SciencesSUPPORTXXOPPOSEAMENDPLEASELEAVEPREPAREDSTATEMENT WITHSECRETARY.Comments:See Attachment



# Department of Health and Environmental Sciences

A. C. Knight, M.D., F.C.C.P. Director

### George M. Fenner January 19, 1979

Mr. Chairman and members of the Senate Public Health, Welfare and Safety Committee. For the record, I am George Fenner, Administrator of the Division of Hospital and Medical Facilities for the Department of Health and Environmental Sciences, and responsible for administering the Certificate of Need and Health facility Licensure and Certification programs.

I would like to present to you testimony supporting SB-100 which offers amendments to Title 50 Chapter 5 MCA.

Many of the amendments offered in SB-100 have been drafted to bring our present law into compliance with the Federal guideline for PL 93-641, the National Health Planning and Resource Development Act of 1974. The Act requires all states to have in place by September, 1980 a Certificate of Need program acceptable to the Secretary of HEW.

Amendments which we are offering to bring our present statute into compliance are:

- Definitions of health care facilities covered by licensure and Certificate of Need have been expanded to include kidney disease treatment centers, ambulatory surgical centers, health maintenance organizations, and the definition of hospital has been revised to include psychiatric and tuberculosis hospitals.
- The activities requiring Certificate of Need review have been expanded to include any construction, development or establishment of a new health care facility or service; the relocation

### EEO/AFFIRMATIVE ACTION AGENCY

or redistribution of beds within a health care facility of 10 beds or 10% of the licensed bed capacity over a two year period; any predevelopment activities in excess of \$150,000; and any arrangements or commitments for financing a project. Predevelopment activities are defined in the proposed amendments and do not include site acquisition.

- 3. Various time lines within the review process have been expanded to meet the Federal requirements and also to make the review system more responsive to the applicants needs.
- 4. The opportunity to request a hearing before the Department for reconsideration of the Department's decision has been included. This amendment is so written that any person who would be affected by the project may request this hearing.

These proposed amendments go beyond the Federal requirements due to the Department's wish to strengthen our Certificate of Need Law and to address some problems which were identified during the recodification of our present Law. One amendment requests that the penalty for failure to obtain a Certificate of Need be changed from a criminal penalty to a civil penalty thus making our enforcement policy more effective and easier to administer. Definitions have been revised to make them more applicable to our present health care system and because of the present emphasis on alternative systems for long-term care we have requested permission to cover Adult Day Care Centers. We are seeking authority to expand our present decision making authority to include "approval with conditions" thus allowing for a more flexible review system and to prevent unnecessary delay and additional cost to the project. These amendements request the repeal of Title 50, Chapter 7, which places Home Health Agencies under, the licensure and Certificate of Need regulations of the Department and incorporates them into the proposed amendments. Authority to promulgate rules to implement the Certificate of Need program are also included with SB-100. We especially desire this authority in the application procedure section, review criteria section and the hearing and appeal section.

Section C of PL 93-641 states the Secretary may not enter into any contracts under the Public Health Service Act, Community Mental Health Centers Act or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 for the development and expansion or support of health resources with a state if the state does not have an acceptable Certificate of Need program in place by September, 1980.

According to figures provided to us by the Region VIII Office of DHEW, these appropriations amounted to approximately 6.2 million dollars in FY'77. According to our estimations this dollar figure has risen considerably in 1978-79. However, we do not have an accurate figure to provide you at this time. It should be emphasized that all of these funds except for state administrative costs are passed through to local government.

I wish to thank the Committee for this opportunity to testify in support of SB-100. I urge a do pass recommendation from this Committee.

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The Department of Health and Environmental Sciences, which drafted this bill, and Senator Norman, who sponsored the bill, presented the following amendment:

Page 13, line 15, after the word patients and before the word information, insert "A department employee who discloses information which would identify a patient shall be dismissed from employment and subject to the provision of 45-401, unless the disclosure was authorized in writing by the patient, his guardian, or his agent."

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Proposed Montana C/N Law	Same as requirements for P.L. 93-641.	Raises capital expenditure figure to \$150,000 and in- cludes lease or donation of this amount.	Any increase, decrease, relocation or redistribution of bed capacity of a facility of 10 beds or 10% of total bed capacity of a facili ty over a two-year period.	Any addition or deletion of a health service within a l2-month period.	Same as P.L. 93-641 using figure in excess of \$150,000.	nces
Current Montana C/N Laws	Erection, expansion, remodeling, alter- ation of a new or existing health care facility involving capital expenditures of \$50,000 or more.	Same as above using capital expenditure figure of \$50,000. Does not cover lease or donations. Purchase of therapeutic or diagnostic equipment in a 12-month period at a cost exceeding 2% of facility's total operating cost or exceeding \$10,000, whichever is larger.	Any increase or decrease of bed capacity of a facility of 10 beds or 10% of licensed bed capacity of a facility.	Any change in service within a 12- month period.		tealth Planning and Resource Development Bureau -Mcntamalopaintment of Health and Environmental Sciences
P.L. 93-641	Any construction, development or other establishment of a health care facility which did not previously exist.	Any project involving a capi- tal expenditure of \$150,000 or lesser amount as determined by state (applies to lease or donation of facility or equip- ment amounting to \$150,000).	Any increase, relocation or redistribution of bed capacity of a facility of 10 beds or 10% of total bed capacity of a facility over a two-year period.	Any addition of a health service not offered by a facility during the last year.	Predevelopment activities in excess of \$150,000 or lesser amount as determined by state and all arrangements and com- mitments for financing a project.	Health Planning and Resource Development Bureau McntamaDepaintment of Health and E

CERTIFICATE OF NEED SUMMARY (continued)

Additional features of the proposed amendments to Montana's C/N Law

Review criteria have been expanded to include the criteria in P.L. 93-641.

P.L. 93-641, and now allow any "affected person" remedy from the Department's decision by means of a Reconsideration Public Hearing before the Department of Health & Environmental Sciences. The public hearing and appeals processes have been revised to comply with the time requirements in

Penalty has been changed from criminal to civil proceedings, and the fine will be calculated on the basis of each day of violation.

Gives the state agency the authority to approve, with conditions, in addition to approve or disapprove a proposal

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Included in

Health Planning and Resource Development Bureau

### MEMBERS OF CERTIFICATE OF NEED TASK FORCE

Montana Nursing Home Association Elsie Spencer North Valley Nursing Home Stevensville, Montana 59870

Montana Health Systems Agency Bert Glueckert Montana Health Systems Agency 32<sup>°</sup> Fuller Avenue Helena, Montana 59601

Montana Hospital Association Ken Rutledge Montana Hospital Association P.O. Box 5119 Helena, Montana 59601

Legislative Council Dennis Taylor Legislative Council State Capitol Helena, Montana 59601

Consumer Ed Morse Denton Montana 59430

Montana Medical Association Dr. Adron Medley 2225 Eleventh Avenue Helena, Montana 59601

Montana Home Health Agency Janet Kovalchik Montana Home Health Agency 530 North Ewing Street Helena, Montana 59601 Department of Health and Environmental Sciences Wallace A. King Bureau of Health Planning and Resource Development Cogswell Building Helena, Montana 59601

Department of Institutions Janie Kerr Department of Institutions Capitol Station Helena, Montana 59601

Department of Social and Rehabilitation Services Gary Blewett Department of Social and Rehabilitative Services Capitol Station Helena, Montana 59601

Montana Nurses Association Shirley Thennis 510 Dearborn Avenue Helena, Montana 59601

These members were appointed by their respective organization, agency or state department to serve on the Task Force.

The proposed amendments developed by the Department of Health and Environmental Sciences with assistance from this Task Force have not been endorsed by any of the represented agencies nor the members of the Task Force.

AMENDMENTS TO SB 100

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Amendment No. 1. At page 8, line 21, insert after the word "less" the following: "A change in bed capacity shall not be considered a new institutional health service if the health care facility utilizes the swing-bed concept."

Amendment No. 2. At page 12, line 19, after the word "may" insert the word "unreasonably".

Amendment No. 3. At page 13, line 15, after the word "patients." insert the following: "Facilities and individual providers of health care services may not be identified except in a proceeding involving the question of licensure or as required by the federal government for certification or preparation of a state plan. Any disclosure of specific patient information in possession of the Department or its staff and released by a staff member without a properly signed authorization to do so by the patient, or by his or her guardian or by an individual holding power of attorney to do business for the patient, will subject such staff member to immediate dismissal, all other legal sanctions."

Amendment No. 4. At page 22, line 9, after the word "costly" insert the words "quality equivalent".

Amendment No. 5. Insert after Section 27, the following new section: "Section 28. Adjustment of \$150,000.00 limit. (1) From time to time the \$150,000-00 limit set forth in Section 1(18) (b) and Section 12(2) shall be changed according to and to the extent of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1979 = 100, compiled by the Bureau of Labor Statistics, United States Department of Labor, and hereafter referred to as the index. The index for December of the year preceding the year in which this chapter becomes effective is the reference base index."

(2) The designated dollar amount shall change on July 1, of each even numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index at the end of the preceding year and the reference base index is 10 percent or more.

(3) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the Bureau of Labor Statistics.

(4) The Department—shall adopt a rule announcing each year in which the dollar amounts are to change, the changes in the dollar amounts required by subsection (2). The Department shall adopt such other rules as are necessary to carry out the provisions of this section. The Department of Health and Environmental Sciences, which drafted this bill, and Senator Norman, who sponsored the bill, presented the following amendment:

Page 13, line 15, after the word patients and before the word information, insert "A department employee who discloses information which would identify a patient shall be dismissed from employment and subject to the provision of 45-401, unless the disclosure was authorized in writing by the patient, his guardian, or his agent."

## SENATE BILL 100

MR. CHAIRMAN: I move to amend Senate Bill 100 as follows:

1. On page 25 in lines 11 and 12, by deleting the following words and punctuation: ", for good cause,".

2. On page 25 in lines 15 and 16, by deleting the following words: "showing good cause as defined in rules adopted by the department".

3. On page 25 in lines 18 and 19, by deleting the following words and punctuation: ", if warranted,".

4. On page 25 in line 23, by adding the following after the period: "The hearing shall be conducted in accordance with sections 2-4-601 through 2-4-623, MCA."

5. On page 26 in line 12, by inserting the following sentence after the period: "The board, upon request of any interested person, shall hear oral argument and receive written briefs."

6. On page 26 in line 25 and on page 27 in line 1, by deleting all of said lines.

ATTACHMENT "E"



# Montana Hospital Association

(406) 442-1911 · P. O. BOX 5119 · HELENA, MONTANA 59601

January 19, 1979

TESTIMONY IN SUPPORT OF SENATE BILL 100 - "REVISIONS OF LAWS AND AMENDMENTS TO CERTIFICATE OF NEED FOR HEALTH CARE FACILITIES"

Chairman Olson, Members of the Senate Public Health, Welfare and Safety Committee For the record, my name is William E. Leary, Executive Vice President of the Montana Hospital Association. I am appearing here today in support of the passage of Senate Bill 100 but will offer some suggested amendments to improve this good bill and to make it an excellent law which should serve the needs of Montana, the health care facilities and the people we all serve.

I would like to take this opportunity to introduce to you Ken Rutledge, the Director of Planning and Development for the Montana Hospital Association. Ken was selected last summer to serve on a special task force with staff of the State Department of Health and Environmental Sciences to develop the amendments to Montana's Certificate of Need law to bring it into general compliance with the federal regulations and guidelines as proposed by HEW. On behalf of the Montana Hospital Association, I would like to publicly express our appreciation to George Fenner, Barbara Crebo and the other staff members of the state department for the opportunity of working with them on this task force and through reason, discussion and compromise present to you a well studied and researched bill.

Ken is here today to be available to the committee to respond to any questions regarding the technicalities of the federal laws and regulations as they relate to the Montana Certificate of Need law and the reasons for our suggested amendments.

The 60 member hospitals of the Montana Hospital Association, along with the 29 hospital-nursing home combination units in our Association, have a longstanding history of supporting health care planning in Montana. We do support effective



Montana Health Systems Agency, Inc.

324 Fuller Avenue Helena, Montunu 59601

(406) 443-5965

Ralph Gildroy Executive Director

### Testimony in Support of Senate Bill 100, Certificate of Need Law

The Montana Health Systems Agency supports a Certificate of Need Law that meets the minimum Federal requirements for the review of New Institutional Health Services.

During its second year of operation, August 23, 1977 to August 22, 1978, the Health Systems Agency reviewed forty-four proposals subject to the existing Certificate of Need Law. Those proposals totaled \$24,285,896. Of this total amount, \$4,410,000 were recommended for disapproval.

The staff of the Health Systems Agency was part of a Certificate of Need Task Force in the development of the initial draft of Senate Bill 100. In the staff analysis of the bill are noted the following:

The procedures and criteria for Certificate of Need or the review of New Institutional Health Services are synonymous, thus bettering the review process.

It is anticipated that the Federal Regulations of the Social Security Act, Section 1122, will be modified to follow the same procedures and criteria. This will be an added improvement.

Due to the revision of the minimum reviewable capital expenditure from \$50,000 to \$150,000, the number of reviews will be reduced. The \$150,000 figure is a better representation of a reviewable expenditure in light of the inflations over the past five years.

Senate Bill 100 provides for review of establishment of Health Maintenance Organizations (HMOs). This review is not included in the existing Certificate of Need Law. This inclusion is one of the minimum Federal requirements.

The individual Certificate of Need for Home Health Agencies is included in the State Certificate of Need as indicated in Senate Bill 100.

Licensing requirements for health care facilities are consolidated in Senate Bill 100. At the present time, these requirements are found in numerous sections of the revised codes of Montana. The consolidation of these requirements will simplify any considerations of licensing requirements. Senate Bill 100 allows for the promulgation of rules, by the Department of Health and Environmental Sciences, to implement the State Certificate of Need. This capability is not extant in the present Certificate of Need. The Montana Health Systems Agency hopes to work closely with the Department of Health and Environmental Sciences in the establishment of these rules.

Senate Bill 100 expands and clarifies the hearing procedures, in particular for those aggrieved applicants and affected persons where good cause is demonstrated.

Sanctions or penalties for facilities proceeding in violation of Certificate of Need Law are better described.

Procedures are provided for expeditious handling of special circumstances (fire, storm, civil disturbance, act of God) which require Certificate of Need application.

Guidelines for the State Medical Facilities Plan are outlined in Senate Bill 100. This plan will be one of the criteria upon which Certificate of Need decisions are based.

In view of the above analyses, and the need of a State Certificate of Need Law to insure receipt of certain Federal health monies, the Montana Health Systems Agency supports Senate Bill 100, the Montana Certificate of Need Law.

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RALPH GILDROY V Executive Director Montana Health Systems Agency, Inc.

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ATTACHMENT "G"



Montana Nurses' Association

1716 NINTH AVENUE

(406) 442-6710

P.O. BOX 5718 \* HELENA, MONTANA 59601

January 19, 1979

SENATE BILL 100 - Certificate of Need

My name is Sharon Dieziger and I represent the Montana Nurses' Association. I wish to speak in support of Senate Bill 100.

Health Care and the entire Health Care Delivery System have surely become a controversial issue in the past few years and rightly so. Controversial in respect to poor planning and higher costs.

Consumers in our state and nationwide are no longer willing to sit back and quietly accept what has happened to them in the escalation of skyrocketing costs and an unorganized health care system.

Sound planning is essential to any basic program. The Certificate of Need Law demands that all of us involved in health care and the delivery of health care stop and look - stop and plan. It creates a method for consumers, providers and facility administrators to talk and plan and share in a common goal of providing health services in an economical manner for their communities.

The Bureau of Health Planning Resource Development and the Montana Health Systems Agency have worked together toward this reality. They provide expertise and consultation to communities to assist them in sound planning and to proceed in a framework in which there can be maximum community and grass roots input under Certificate of Need.

It certainly behooves us all to stand behind and support health planning laws.

Equal access to quality care at a reasonable cost is the American Dream. In Montana with our wide geographic state the dream becomes a night mare.

The Certificate of Need is the vital ingredient to PL 93-641. I have worked with the state agency and the MHSA as a representative of the Nurses Association for the past several years. I firmly believe that this law is the States last chance to prove that they can control their own destiny. If we fail to bring our present Certificate of Need law into compliance with the Federal Guidelines, the Federal Government will assume the authority to plan health care for Montana citizens. I respectfully request that you give a unanimous 'do pass' to SB 100 and thank you for this opportunity to present testimony on this vital issue. Senate Bill No. 100 Revision of laws relating to health care facilities Senate Health Committee Room 410 1:00 P.M. January 19, 1979

I am David Lackman, lobbyist for the Montana Health Association, Ph.D. in the I am testifying in support of Senate Bill 100. The application Medical Sciences . prevention, of the fruits of research in the medical sciences toldiagnosis and treatment of has been the thrust of my professional career. Concomitantly, I have disease been concerned with our contribution to the rising costs of medical care. Anything which promises to slow down inflation in these costs , we are for. The certificateof-need portions of the bill are especially applicable here. The revisions of the laws governing health care facilities appear to be well considered ; and are amended consistent with Federal Codes and regulations. This is a good bill we urge its adoption .

alph tuldre

JAN 19 1979.



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

REGION VIII FEDERAL OFFICE BUILDING I9TH AND STOUT STREETS DENVER. COLORADO 80202

### JAN 17 1979

PUBLIC HEALTH SERVICE

Arthur Knight, M.D., Director Department of Health and Environmental Sciences Cogswell Building Helena, Montana 59601

Dear Dr. Knight:

Members of my staff, while in Montana last week, were given a copy of the bill to be introduced by request of the Department into the 46th Legislature covering amendments to Montana's Certificate of Need Act. We have reviewed this draft bill and would like to make the following comments.

If the bill is adopted in its present form, then we are of the opinion that the program will have the necessary authority, coverage, thresholds, and enforcement to be satisfactory to the Secretary, HEW. A final review of the program will occur after legislative action and Department rulemaking. This review, which will be done in concert with headquarters, will decide if the program is satisfactory. Most, perhaps all of the following items, can be accomplished through rulemaking per 50-5-103. This would of course eliminate the need to revise the draft bill, and requiring the legislature to consider these issues. The decision how to do this should properly be yours.

The regulations at Section 123.404(c) requires dissemination and publication of scope of coverage as set forth in 123.404(a) and (b) prior to initiating reviews of new institutional health services under this program. In addition, prior to adoption of procedures and criteria, (see Section 123.406(b)), the State Agency should give interested persons an opportunity to offer written comments on such procedures and criteria. There is also a distribution and publication requirement set forth in Sections 123.406(b) (1) and (2).

Section 123.405(a) requires the program to provide four assurances. These must be clearly set forth.

In addition, Sections 123.410 and 123.411 have required findings for inpatient facilities and health maintenance organizations. These must also be clearly set forth.

Arthur Knight, M.D. Page 3

(12) Preparation and publication, at least annually, of reports by the State Agency of the reviews being conducted (including a statement concerning the status of each such review) and of the reviews completed by the agency since the publication of the last report and a general statement of the findings and decisions made in the course of such reviews.

If the State Agency wishes to seek an exception of the requirements of Section 123.407 then it should follow the exception process as set forth in Section 123.408.

If you have any questions regarding this letter, please contact your Project Officer, Nick Kelly, at (303) 837-5944.

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Sincerely yours,

Il Marcia Ossonio 100

k Hilary H. Connor, M.D. Regional Health Administrator

NAME: Genéricie adair DATE: 1/19/79
ADDRESS: 1014 Bedford St
PHONE: 442-6773
REPRESENTING WHOM? NRTA + AARP
APPEARING ON WHICH PROPOSAL: $HB40$
DO YOU: SUPPORT? AMEND? OPPOSE?
COMMENTS: attached
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NAME: DOHN W. Mc MARton M.D. DATE: 1-19-79
ADDRESS: 2225 11th Aue Helena 59601
PHONE: 442-0671
REPRESENTING WHOM? Montana Medical Assoc.
APPEARING ON WHICH PROPOSAL: SB 100
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PHONE: 443 1398	
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PHONE: <u>482-3374</u> REPRESENTING WHOM? <u>Mont. Heal Thouses Agency</u> Eastern Sub APPEARING ON WHICH PROPOSAL: <u>5.810-0</u> DO YOU: SUPPORT? <u>AMEND?</u> OPPOSE?	NAME: Barbara Kinschen DATE: 1/19/29
REPRESENTING WHOM? Mont. Neal The Systems Agency, Eastern Sub APPEARING ON WHICH PROPOSAL: <u>5.8100</u> DO YOU: SUPPORT? <u>AMEND?</u> OPPOSE?	ADDRESS: Box 38.8 Sidney, Mit 59270
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Dr Dohre M- Cross DATE: (-1929
ADDRESS: 1601 4th Hob bog total
PHONE: 45 JUSIA
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NAME: JURILL BRITHT DATE: 1/19/94
ADDRESS: U Halona, Mont-
PHONE: 443-2167
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