MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

February 19, 1979

The eighteenth meeting of the Senate Public Health, Welfare and Safety Committee was called to order in Room 410 of the State Capitol Building at 12:30 p.m. on February 19, 1979.

ROLL CALL: All Committee members were present.

CONSIDERATION OF SENATE JOINT RESOLUTION 25: Senate Joint Resolution 25 is a resolution of the Senate and the House of Representatives of the state of Montana urging President Carter to change his proposal to reduce social security benefits.

Senator Palmer, sponsor of Senate Joint Resolution 25, stated that he introduced the resolution because of concern over President Carter revamping the social security system. Last week Senator Palmer talked to Senator Melcher, who assured him that no services would be lost. Therefore, Senator Palmer thinks there is no need for the resolution. He moved that the Committee table the resolution. The motion passed unanimously.

CONSIDERATION OF SENATE BILL 425: Senate Bill 425 is an act to change the use of the state-owned nursing home at Glendive from the care and treatment of geriatric persons to the care and treatment of developmentally disabled persons.

Witnesses supporting Senate Bill 425:

Peter Blouke, Department of Institutions
Ron Phelps, Department of Institutions
John Fitzpatrick, Office of Budget and Program Planning
Curt Chisholm, Department of Institutions

Witnesses opposing Senate Bill 425:

Aage Hansen, Association for the Mentally Disabled

Senator Thiessan, District 27 and sponsor of Senate Bill 425, said that he sponsored this bill because the state has a facility in Glendive that has no use. Two sessions ago the Legislature appropriated 2.5 million dollars at the end of the session, and it was very inappropriately done. It designated the building of two facilities, one in Billings and one in Glendive. The one in Billings was stopped in time, and the other one was built at Glendive. It is a very nice facility. He stated that he went through the building with some people who are very interested

in mental retardation. This bill asks for a change of use from geriatric persons to developmentally disabled persons. Senator Thiessan said we are not going to create a need for this facility, but there is a need for the handicapped. This facility could meet that need in eastern Montana.

Peter Blouke, administrator of Mental Health Services Division of the Department of Institutions, said the department has done considerable work in looking at various uses of this facility in Glendive. One of the uses is for the mentally retarded. He stated that the department would be happy to make information available to the Committee on finances.

Ron Phelps, hospital administrator for the Department of Institutions, said that the department developed a number of uses for this facility. They feel that a mental health center is a good use. It could be ran as a non-profit operation or as a state operation. He thinks that a non-profit operation is probably the most cost-effective alternative for this center. When the department found there wasn't a need for a center in Billings, it felt there probably wouldn't be a need in Glendive; so changes in the facility were made so that it could be certified for IMR.

John Fitzpatrick, deputy director for Office of Budget and Program Planning, said there are a number of features which come up in Senate Bill 425. In 1975, when this nursing home was proposed, there was a very sizeable geographic population at Warm Springs. There has been a very substantial effort to reduce this population. At the present time the state has a population of 50 to 70 geriatric patients at Warm Springs. It is working on a plan to move these to beds at Galen. There are a number of vacant beds in the smaller hospitals in eastern Montana. The addition of another geriatric facility in eastern Montana may constrain the operators of existing nursing homes. There are at least three populations that can be considered appropriate for developmentally disabled. At the present time Boulder is filled to capacity, and some of these patients may profit from the center at Glendive. The Glendive facility is fully certifiable, and the cost of operating the program would be fully funded by Title XIX. He referred the Committee to the costs in the fiscal note. He said that the eastern Montana institution which is adjacent to this nursing home is a developmentally disabled facility and will help strengthen the staff at the other facility.

Curt Chisholm, Department of Institutions, gave the Committee a copy of the report on consolidation. See Attachment "A."

Aage Hansen, Association for the Mentally Disabled, said that whenever his association sees a bill that is going to move a great number of people into one place it gets a little nervous. The association feels that this is to achieve some cost effectiveness. It doesn't support a bill that is going to move mass developmentally disabled people, but it does support a change for the facility.

Senator Thiessen closed the testimony by stating that he feels there is a need for a facility in eastern Montana. The state has one in Boulder. This would move people closer to their families in eastern Montana.

Chairman Rasmussen asked the Committee members if they have any questions. Senator Olson asked what level of patients the department plans to have at Glendive. Dr. Blouke said it would be for severely mentally retarded and handicapped. Ron Phelps said that there would be 30 severely retarded and 10 moderately retarded, but no one has been designated specifically. Senator Olson asked if the department has figures on what it would cost to duplicate the staff at Boulder. Ron Phelps said that on page 28 of Attachment "A" is the costs for non-profit operation, and page 34 has costs for state operation. Senator Himsl asked how many beds are there. Ron Phelps said there are 40. Senator Himsl asked what it was costing the state to have the building sit empty. Ron Phelps said the utilities for one month is $2700. There is no caretaker. Senator Himsl asked if the department had any private contractors interested in running the place. Dr. Phelps replied that there are two interested. Senator Himsl referred to Section 3 on the bill and asked why the section is being repealed that deals with the legislative intent of moving geriatric people, if possible, to community settings. John Fitzpatrick said the Legislative Council indicated this was the simplest way to write the bill. It is not the intent to designate that the people of Warm Springs will not be moved out. They are being moved out now. He stated that it is fine with him to reinsert that language. Senator Ryan asked if they have any idea of the case load from western Montana and eastern Montana. Dr. Blouke said that in discussing this with Mr. Hover he feels there is a substantial population in eastern Montana now that would provide part of the population for the Glendive facility, but the department does not know exactly where the population would come from.

The hearing on Senate Bill 425 was closed at 12:55 p.m.

CONSIDERATION OF SENATE BILL 447: Senate Bill 447 is an act to authorize a local health officer to close establishments licensed under Title 50, Chapters 50 through 52, for 72 hours when an imminent health hazard exists.

Witnesses supporting Senate Bill 447:

Will Selser, Association of Local Health Officers

Witnesses opposing Senate Bill 447:

Phil Strope, Montana Innkeepers Association

Senator Norman, sponsor of Senate Bill 447, said this is a health bill that relates to eating establishments and closure thereof. The bill in one form or another has been in before. This time it is substantially changed. In the title you have Title 50, etc. which relates to the general provisions of local boards of health. This bill is of primary interest to local boards and local health officers. On page 2, line 19, is where the changes start. This is not a bill where the health officer can close an establishment down for 72 hours, or where he can come in and in 72 hours close an establishment down. On line 19 the local health officer has to have concurrence of the local board of health. He also can only close the establishment down for 72 hours. On page 3 he has to establish that there is an imminent health hazard to the establishment. He has to visit the establishment on two occasions, and he has to tally on his marking sheets 50 or more demerits on each occasion. On the second occasion there is still 24 hours in which the owner can come up with a plan to quiet the health officer's objections. If this is not done, then the restaurant can be closed down for up to 72 hours.

Will Selser, Association of Local Health Officers, presented the Committee with some amendments he would like to propose to the bill. See Attachment "B." The title is amended to refer only to Chapter 50. The bill as it reads now would speak in terms of 72 hours for not only restaurants but hotels, motels, etc. which have similar types of licenses. The bill was intended to apply only to food service establishments. Mr. Selser stated that in 1976 from the Center for Disease Control 92 cases of food-borne illnesses occurred. One of the greatest objections in the past to this bill was lack of due process. The association thinks that

this has been addressed in Section 3. The demerit score is 50. Public Health Service recommends closure for more than 40. He referred the Committee to state law 27-615, which allows cancellation of license. This law allows ten days for the restaurant owner to come up with a plan, but stated that this process takes weeks or months. The thing that this bill deals with is imminent health hazard. Public abuse by health officers is pretty well taken care of with the due process. Everyone expects good, safe food when they eat out; and the association feels this bill is needed to protect the public.

Phil Strope, Montana Innkeepers Association, said that he represents 50 percent of the facilities in the state of Montana. This same sort of request by the health department has been in the Legislature in 1975, 1977, and now in 1979. It was killed by local government because it proposes that local health officers substitute their judgement for the judgement of the courts. The health officer could go to the county attorney who would go to the district judge and get a closure. Mr. Strope stated that the reason they do not do this is because the reason for which they go is not sufficient for the district judge to close the facility. He related a situation here in Helena on a new facility where closure was threatened. He stated that the fundamental request here is for the health people to avoid the courts. They don't want to convince county attorneys and judges that there is an imminent danger. He hopes that in looking at this the Committee will kill the bill and leave the law so that the health officer, if there is any risk, has to go to the county attorney and request that the judge move for closure.

Senator Norman closed the testimony by saying he couldn't recall any district court in Missoula that has ever shut down a restaurant. That presumes that the restaurants are clean and everything is wonderful, that that isn't the case. It wasn't the case in Missoula where a large number of people became ill. If you try to get a district judge to act on Saturday or Sunday or on a holiday, there is a problem. He doesn't think that giving the health officer this path for closure will circumvent the courts.

Chairman Rasmussen asked the Committee members if they have any questions. Senator Norman asked Mr. Strope if he knew when a district court has shut down any of these facilities. Mr. Strope said that he doesn't know of any. However, he doesn't think that to pass this law would do anything about that. All this does is permit the health officer to circumvent the court.

Senator Ryan asked Mr. Selser why he proposed the amendment. Mr. Selser replied that it was merely an oversight to include the other places. Senator Ryan asked how many actions have been initiated in Lewis & Clark County in the past year. Mr. Selser stated that several people have closed voluntarily for remodeling. The situation Mr. Strope referred to was a case where the restaurant remodeled and didn't ask for inspection before reopening. It wasn't an imminent health hazard. Senator Himsl asked about sections 4 and 5 starting on page 3. Senator Lensink said he thinks that refers back to the title.

The hearing on Senate Bill 447 closed at 1:15 p.m.

CONSIDERATION OF SENATE BILL 494: Senate Bill 494 is an act to establish when a prescription must be given to an individual who has an eye examination.

Witnesses supporting Senate Bill 494:

Phil Strope

Witnesses opposing Senate Bill 494:

M. F. Keller, O. D.
Larry LaRock, O. D.
Paul Kathrein, O. D.
Don Pratt, Montana Optometric Association

Senator Lensink, District 39 and sponsor of Senate Bill 494, stated that within the last year the Federal Trade Commission made a law which is applicable to Montana; and the thrust of that ruling is that patients have to be given a prescription so they can shop for eyeglasses. Page 2, line 15, is the thrust of this bill. This says that the examiner shall give the patient a copy of his prescription immediately after the eye examination unless there is no change required in the person's eyeglasses. There is a little more to this bill because there are ways to circumvent this process. He referred to Section 1, which prohibits the doctor from requiring the purchase of glasses from him before he will give the eye examination. The doctor can't give an examination and then require an additional fee before he will give out the prescription. The doctor may not require the buyer to sign a waiver that he is not responsible for the prescription. This is also in the FTC ruling. We need this in Montana because it is a good rule. The federal law is currently being appealed in the federal courts, so there is no guarantee that this will be the law. The other reason is a matter of enforcement. Montana is ignored often when it comes to federal matters. Senator Lensink feels that we can be pretty much ignored if there are violations of the federal law. There is also a difference in the penalty requirements between the federal regulation and this bill.

Phil Strope, who represents the opticians, stated that there are four opticians here who he has talked to; and he will summarize what they would say to the Committee. The background for this has been well set before the Committee by Senator Lensink. There are some who are reluctant to give out their prescription because of the economic advantage of fulfilling their own prescriptions. FTC said they had to be given out, and it also said the seller of the lenses could advertise prices. What has happened in this state is that in a place like Missoula students come from all over the state and want to change their glasses. The prescription is back home, and many calls are made requesting the prescription. Some prescriptions come out on note pads. Most of the time the prescription comes out unsigned. Often times they come on plain sheets of paper without the letterhead. Sometimes they even say the dispenser is responsible for the accuracy of the prescription. The opticians think that Dr. Lensink's proposal is very timely. Mr. Strope left some news accounts with the Committee which show advertisements for eyeglasses. See Attachment "C." The opticians feel it is time Montanans be able to fill their prescriptions where they can get the best buy.

M. F. Keller, Great Falls, says he opposes this bill because it is basically a verbatim copy of the federal trade regulation, which was issued in July of 1978. This whole regulation deals with the patient's right to have a copy of his prescription. See Attachment "D." He went through the bill and showed how it duplicated the federal ruling. He stated that he is not here opposing the federal rule and the federal ruling is being enforced. On October 18 he received a letter from the FTC telling him that he was in violation of the FTC by failing to give a patient a copy of his prescription immediately after examination. See Attachment "E." He showed the Committee a form that his office has since developed in order to help him comply with the FTC. See Attachment "F." He stated that he does not object to the law, but he does object to all the verbage which is not a part of the Montana Optometry Law. He stated that a couple of sentences in the optometry law would accomplish the purpose of this bill.

Larry LaRock, optometrist from Butte, stated that he opposes Senate Bill 494. He stated that some people are concerned that the FTC ruling might be stricken by the courts, but the patient would still have access to his prescription. He read a section from the Optometric Association regulations. He stated that many optomologists and optometrists have had to change their practice in the last six months, and mistakes have been made. The Montana

Optometric Association stands ready to help these people obtain their prescriptions. Regardless of the outcome of the federal ruling, it will be appealed; and an appeal will take at least three years. Dr. LaRock said all that is needed is one sentence to the Montana Optometric Law.

Paul Kathrein, Great Falls, spoke in opposition to Senate Bill 494. He said he does support the FTC. This bill is a duplication of an FTC regulation which is binding in every state. He feels that this bill is an unnecessary waste of tax dollars and the Committee's time. The Committee's time is more valuable than spending it duplicating federal rules into Montana Code. Under the federal law the penalty is $10,000, and Dr. Kathrein said he doesn't want to pay a $10,000 fine for any reason.

Don Pratt, executive director of the Montana Optometric Association, said that the association opposes Senate Bill 494. He stated that if anyone would like to know how to file a complaint with the FTC, he has that information in his office.

Senator Lensink closed testimony by reiterating that the bill essentially duplicates the FTC regulation. This is now on appeal and will go all the way to the United States Supreme Court. What is it being appealed? Obviously, some groups don't like it. This bill will also help from the standpoint of enforcement. If this is just a duplication, why all the flak over it?

Chairman Rasmussen asked the Committee members if they have any questions. Senator Olson asked Dr. Keller what percentage of his people go elsewhere for glasses. Dr. Keller said it is a very small percentage.

The hearing was closed on Senate Bill 494 at 1:40 p.m.

CONSIDERATION OF SENATE BILL 446: Senate Bill 446 is an act to restrict county medical programs for the needy to persons who do not have access to other government health programs or health insurance; establishing a minimum level of service; and designating responsibility in cases of intrastate movement of indigent persons.

Witnesses supporting Senate Bill 446:

Mr. Waterman, Lewis & Clark County Welfare Department

Witnesses opposing Senate Bill 446:

Chad Smith, Montana Hospital Association
Bill Leary, Montana Hospital Association

Chairman Rasmussen explained that Senator Fasbender, sponsor of Senate Bill 446, had to be at another meeting. He asked Mr. Waterman from the Lewis and Clark County Welfare Department to explain the bill.

Mr. Waterman, county director of Lewis and Clark, Broadwater, and Jefferson counties said that this bill will help clarify regulations. The term on page 2 is changed from medically needy to medically indigent. This is for clarification only. The next change is toward the bottom of the page which adds "or for persons who have available medical resources from other government programs or insurance coverage that provides comprehensive hospital and physician care." What has happened in the county is that sometimes people who are available for other medical coverage decide to go to county medical health care, and the county is forced to pay their bill. Another thing that is changed is the 300 percent of the income. If income exceeds 300 percent of a welfare standard for that person's family, they would not be eligible for county assistance. Sometimes the judge orders that a person is indigent when he is well over the 300 percent income level. The change on page 4 is for people who move. Recepient is changed to person for administrative purposes only. Recently in Lewis and Clark County a family moved into Helena, and the woman gave birth to a premature infant. Lewis and Clark County had to accept responsibility for the bills because she was not a recepient from her prior county.

Chad Smith, Montana Hospital Association, stated that the association is opposed to the bill as written. The concern is with page 2, lines 20 through 23. The association has no objection to the standard for indigent. This has been explained to mean that if a person has adequate coverage elsewhere, they should get it; and the hospital association agrees. What this bill says is that if there is any type of insurance or government resources available, the hospital wouldn't be able to file a claim with the county. There are many cases where another program doesn't cover the whole bill. The association's concern is with regard to the medicaid bills. The bills are discounted by SRS for 85 percent. Anytime that you have someone paying less than his share, the other patients will have to pick up the rest of the tab. The association feels this is very unfair. This type of language discriminates against the one who doesn't have full coverage, and the association is contending that this type of government price fixing is unconstitutional. It wants a system set up whereby what the government buys it should pay for. The counties have funds which are set up to 13-1/2 million dollars which take care of this. After that they make an application for a grant-in-aid which the state cannot

refuse. If it is the intent of this bill to provide that first the individual must make every effort to get assistance from insurance or other government programs, then the association offers an amendment (see Attachment "G") to do just that. Otherwise, Mr. Smith said he knows how this is going to be interpreted, because they have battled with SRS over the years on this. The association asks the Committee to amend the bill to include its suggestion, and then the association would have no further objection.

Bill Leary, Montana Hospital Association, said that the hospitals establish their charges based upon their full and adequate needs. They develop these charges and usually submit their budgets for review to the association for approval. If they have a Title 19 patient, medicaid will discount that bill 85 percent. The hospital then has a balance which cannot be collected according to federal law. Some of the hospitals have attempted to send the bill to the county and request that the county pay. When they first started this, some counties paid. A few counties decided to check with SRS, who gave them the opinion that they should not pay. In 1978 statistics show that the hospitals will have to charge off 1.3 million dollars for Title 19 charges. Therefore, the hospital will have to increase their charges a proportionate amount to take care of this loss. They also have losses from the medicare Title 18 program. Under the medicare program the person that receives the services can be requested to pay the deductible and the coinsurance factor after the 90th day. Under Title 18 in the cost reimbursement form the bad debt that is left is a non-reimburseable cost. Medicaid assumes there are no bad debts. We feel that this particular bill will, as it is written, give the county the authority to say that they are prohibited from paying the hospital any more than Title 19. Also, SRS had to limit physicians by a 1974 fee schedule. This obviously is not sufficient, and the physicians probably have to pass on their costs also. You have all the other factions of health care that have to do the same thing. This bill, unless it is amended in accordance with Mr. Smith's amendment, is opposed by the association.

Chairman Rasmussen asked the Committee members if they have any questions. Senator Himsl stated that even with these amendments he doesn't see where things change very much. Mr. Smith said the present bill says hospital you will get whatever you have. The amendment says that you must apply for resources that are available, and then the balance will be paid by the county. Chairman Rasmussen asked Mr. Waterman if he accpeted the amendments. Mr. Wterman said he has not had a chance to study them, but from what Mr. Smith has said he would support them. Senator Norman questioned the use of the word "palliative" on page 3, line 12, and asked if the county would just have to provide symptomatic

treatment and not real treatment. Mr. Smith said he doesn't understand this either. Senator Ryan asked how this bill would affect wards of the state. Mr. Smith stated that if the ward has any type of other medical program he would be required to address that first. Senator Norman stated that the hospitals are going to take quite a loss unless something is clarified. He went on to give an example of an emergency patient who cannot be questioned upon arrival and who should have been sent to a VA hospital.

The hearing on Senate Bill 446 was closed at 2:10 p.m.

ACTION ON SENATE BILL 446: Senator Norman moved DO NOT PASS for Senate Bill 446. Senator Ryan said that by changing recepient to person, we may be placing quite a burden on some counties. A roll call vote was taken. The motion passed unanimously.

ACTION ON SENATE BILL 425: Senator Lensink stated that his only concern is multiple units doing the same thing. Senator Olson said he is also concerned about this. He stated that he talked to Larry Zanto, and they had a hearing in Glendive. The Department of Instituttions said they would let the Legislature decide what to do. Senator Himsl stated that this has had a lot of history. It started out as a 100 bed unit, and each time the Legislature heard about it the Department of Institutions had cut another 10 beds and another 10 beds to fit the allocation. The idea was to have the Good Samaritans run it, and the state stay out of it. When they cut it down to 40 beds, the Good Samaritans said they wouldn't run it because they needed at least 60 beds. He also stated that he has a problem with the repealer. Senator Norman stated that if we are going to pass the bill then we will address this problem.

Senator Norman moved that Senate Bill 425 DO NOT PASS. Senator Olson stated that this building could have been foiled by the Department of Institutions if they had wanted to do so. Then the Glendive Hospital Board offered to be a non-profit operator, and they turned that down. The college offered to buy it, and they turned that down. Senator Rasmussen stated that he feels that since we have moved a bunch of people out of Boulder there should be enough room at that facility. A roll call vote was taken. The motion carried on a vote of five to two.

ACTION ON SENATE BILL 447: Senator Norman moved the amendments presented by the Local Health Officers. See Attachment "B." The motion carried.

Senator Norman moved that Senate Bill 447, as amended, DO PASS. Senator Ryan said he doesn't know what this does that current statute does not do in ten days. As a substitute motion, Senator Ryan moved that Senate Bill 447 DO NOT PASS. Senator Norman stated that it isn't working through the courts. Senator Olson said that he doesn't feel it is the courts. The health officer goes to the county attorney, and he sits on it. He stated that when he was a health officer he had no trouble in getting people to comply. A roll call vote was taken on the substitute motion. The motion carried by a vote of five to two.

ACTION ON SENATE BILL 494: Senator Lensink proposed an amendment to strike line 17 on page 2 in its entirety. What this says is that if the prescription does not change, the doctor does not have to give a prescription. Senator Lensink feels there is an advantage in having an updated prescription even if it hasn't changed. The motion carried unanimously.

Senator Palmer moved that Senate Bill 494 DO PASS. Chairman Rasmussen stated that as far as the testimony indicated this is all law now and why duplicate it. If we continue this pattern, we will duplicate all that is on the law books. If this FTC rule is declared unconstitutional, there are other laws that say the patient has a right to his records. Senator Lensink stated that it is being appealed, and he is not so sure that it is going to take three to four years to appeal it; and we duplicate Montana laws all the time. This is nothing new. Senator Ryan stated that he would like to encourage that professions police themselves.

Chairman Rasmussen moved DO NOT PASS on Senate Bill 494 as a substitute motion. A roll call vote was taken on the substitute motion. The motion failed by a vote of four to three.

The Committee reverted to the original motion, and a roll call vote was taken. The motion passed by a vote of four to three.

ADJOURNMENT: There being no further business to discuss, the meeting was adjourned at 2:30 p.m.

A. T. RASMUSSEN, CHAIRMAN

ROLL CALL

PUBLIC HEALTH COMMITTEE

45th LEGISLATIVE SESSION - - 1979 Date 2-19-79

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

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 2-19-79 Bill No. SB 446 Time 2:10

NAME	YES	NO
Senator Matt V. Himsl	✓	
Senator Everett R. Lensink	✓	
Senator Bill Norman	✓	
Senator Bob Palmer	✓	
Senator Patrick Ryan	✓	
Senator S. A. Olson, Vice-Chairman	✓	
Senator A. T. Rasmussen, Chairman	✓	

Secretary

Chairman

Motion: Do Not Pass - SB 446

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 2-19-79 Bill No. SB 425 Time 2:15 p

NAME	YES	NO
Senator Matt V. Himsl		✓
Senator Everett R. Lensink	✓	
Senator Bill Norman	✓	
Senator Bob Palmer	✓	
Senator Patrick Ryan	✓	
Senator S. A. Olson, Vice-Chairman		✓
Senator A. T. Rasmussen, Chairman	✓	

Judy S. Olson
Secretary

Tom Rasmussen
Chairman

Motion: Do Not Pass - SB 425

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 2-19-79 Bill No. SB 447 Time 2:30 p

NAME	YES	NO
Senator Matt V. Himsl	✓	
Senator Everett R. Lensink	✓	
Senator Bill Norman		✓
Senator Bob Palmer		✓
Senator Patrick Ryan	✓	
Senator S. A. Olson, Vice-Chairman	✓	
Senator A. T. Rasmussen, Chairman	✓	

Judy S. Olson
Secretary

Tom Rasmussen
Chairman

Motion: Do Not Pass - SB 447

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 2-19-79 Bill No. SB494 Time 2:05 p.

NAME	YES	NO
Senator Matt V. Himsl	✓	
Senator Everett R. Lensink		✓
Senator Bill Norman		✓
Senator Bob Palmer		✓
Senator Patrick Ryan	✓	
Senator S. A. Olson, Vice-Chairman		✓
Senator A. T. Rasmussen, Chairman	✓	

Judy J. Olson
Secretary

Tom Rasmussen
Chairman

Motion: Do Not Pass - SB494

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 2-19-79 Bill No. SB494 Time 2:30 p.

NAME	YES	NO
Senator Matt V. Himsl		✓
Senator Everett R. Lensink	✓	
Senator Bill Norman	✓	
Senator Bob Palmer	✓	
Senator Patrick Ryan		✓
Senator S. A. Olson, Vice-Chairman	✓	
Senator A. T. Rasmussen, Chairman		✓

Secretary

Chairman

Motion: As Amended, Do Pass - SB 494

(include enough information on motion--put with yellow copy of committee report.)

SENATE Public Health COMMITTEE

BILLS 425 446, 447, 494 & SJR 25 VISITORS' REGISTER DATE 3-19-7[illegible]

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPP
Bill Ikard	SRS	S446	✓	
[illegible]	Lewis & Clark Co. Welfare Dept.	S446	✓	
Will Selser	Local Health Officers Assoc	SB 447	✓	
Jack Lucas	OBPP			
Margaret Ulvestad	DD/MAP	SB425		✓
[illegible]	[illegible]	SB 425		
P. Burke				
[illegible]	Montana Law [illegible]	SB446		✓
Chad Smith	Mont Hosp Assn	SB446		✓
Betty Richter	State DD Council	S425		
[illegible]	State D.D. Council	S425	✓	
John R. Breen	M.O.A.	S 494		✓
Connie Waterman	Citizen	S446	✓	
[illegible]	Assn for DD	425		✓
[illegible]	Flathead [illegible]	SB 425		
[illegible]	Senate	425	✓	
[illegible] Merrigan	Miles City			

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: M. J. Kitts, O.D. DATE: 2/19/79

ADDRESS: 509 2 Ave No. Great Falls

PHONE: 452-9507

REPRESENTING WHOM? Mont. Optometric Assn.

APPEARING ON WHICH PROPOSAL: SB 490

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: L. C LaCroix, OD DATE: 2-15-17

ADDRESS: 211 Main St. Ste, Bad.

PHONE: 223-3231

REPRESENTING WHOM? Med. Optometric Assoc.

APPEARING ON WHICH PROPOSAL: SB 180

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: _____ DATE: _____

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: [illegible] DATE: [illegible]

ADDRESS: Helena

PHONE: [illegible]

REPRESENTING WHOM? MT Dept [illegible]

APPEARING ON WHICH PROPOSAL: [illegible]

DO YOU: SUPPORT? ______ AMEND? ______ OPPOSE? ✓

COMMENTS: ______

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Attachment "A"

REPORT ON THE CONSOLIDATION OF HEALTH CARE SERVICES BETWEEN WARM SPRINGS AND GALEN STATE HOSPITALS AND PLANS FOR OPTIMUM UTILIZATION OF HEALTH CARE RESOURCES

Prepared by:

Ronald C. Phelps
Hospital Administrator
Department of Institutions

January 22, 1979

CONTENTS

Total consolidation of the two institutions remains an elusive and perhaps ill-advised goal. Significant progress has been made in sharing services. Consolidation of certain functions has also been accomplished. However, careful planning has revealed significant obstacles to complete consolidation. In some cases, there exist political and economic barriers to merger. Similar obstacles also prevent sharing services.

Nonetheless, significant improvements have been realized in the management of the institutions. Cooperation between the two administrations has been excellent. Much of the credit for this development must be extended to Dr. E.P. Higgins, who accepted the interim superintendency at Warm Springs State Hospital in addition to his permanent role as Galen State Hospital's superintendent. Dr. Higgins was instrumental in recruiting Dr. James Hamill who was recently appointed superintendent of Warm Springs State Hospital. Dr. Hamill is a board certified psychiatrist with documented administrative abilities.

In the subsequent narrative, areas of shared and consolidated services will be described briefly. Reasons will be given for not consolidating or sharing other services and the primary obstacles to total consolidation will be explained. In addition, significant management developments will be outlined that have resulted in improved accountability and more effective management of the institutions. Finally, a major policy directive will be presented along with alternative plans for fulfilling that directive.

CONSOLIDATION AND SHARED SERVICES

Acute Hospital Care

Since May, 1978 the patients at Warm Springs State Hospital who needed acute hospital care have been transferred to Galen State Hospital's acute unit. This has allowed Warm Springs to utilize Unit 16 (formerly their acute hospital) for an Intake Unit which is designed to admit, evaluate and recommend treatment for all patients at Warm Springs State Hospital. We believe that the change enhanced patient care since it places acutely ill patients in a setting more heavily staffed by general practitioners vis-a-vis psychiatrists and provides a suitable facility for one of the key elements in the reorganization of Warm Springs State Hospital. Warm Springs is billed for only the ancillary costs associated with care of their patients at Galen. Galen hired no additional staff to accommodate this phase of consolidation.

Central Laundry

The Warm Springs State Hospital Laundry processes all laundry for Galen. A significant cost savings resulted because 7 FTE's were deleted at Galen State Hospital.

Dental Services

All dental services for Galen patients are performed by dentists employed at Warm Springs. Currently one half day per week by one dentist has provided adequate routine coverage. Emergency work is, of course, scheduled immediately during the work week.

Respiratory Therapy

Since November 1, 1977, Galen provided approximately four hours per week of respiratory therapy training to the Warm Springs staff. However, the contract lapsed since it was no longer needed when the acute care component was consolidated at Galen State Hospital. Respiratory therapy is primarily directed at those in the acute care section and, therefore, is simply provided at Galen State Hospital.

Dietary Services

Galen State Hospital does not employ a registered dietitian. The dietitian at Warm Springs State Hospital spends up to eight hours per month at Galen State Hospital coordinating menu planning and other dietary services. Menu plans are now jointly prepared for both institutions. Minor variations are found due to inventory differences.

Chaplain

A chaplain employed at Warm Springs State Hospital provides counseling (for up to three hours each week) to those persons who are served by the alcohol training and rehabilitation program at Galen.

Motor Pool

Major automotive overhauls for equipment owned by Galen State Hospital are done at Warm Springs State Hospital. In addition, Galen also purchases unleaded gas from Warm Springs State Hospital rather than in the local community.

X-Ray, Medical Laboratory

Emergency call service for both X-ray and lab services is provided by Galen technicians. Due to this provision WSSH was able to reduce their X-ray technician staff by one FTE.

Certain laboratory services are shared at this time. Chemistry and certain types of blood studies are conducted at Galen utilizing their autoanalyzer. These procedures are done for Warm Springs and have enabled Warm Springs to cancel the contract in the private sector for providing these services. The cost of the analyzer has been more than offset by savings realized from discontinuing contracted services.

Warm Springs State Hospital's lab possesses special equipment that allows them to complete serology tests for Galen patients. When the acute component was transferred to Galen from WSSH,

the hospital was able to reduce its laboratory FTE by one person.

A further indication of the spirit of cooperation that exists in this particular area is reflected by the large amounts of equipment that have been transferred from one institution to another. For example, Warm Springs has transferred a portable X-ray unit, two patient monitoring graphs, an ECG Unit and a DC defibrillator to Galen. The total cost of these items is estimated at over $15,000.00. The portable X-ray unit was especially needed since the unit at Galen was not producing adequately detailed X-rays. Galen has transferred laboratory and other types of equipment to Warm Springs including a small defibrillator, scope monitor, a mobile cart, a clinicard system and a 1969 pickup truck that has been adapted to provide a vertical lift for maintenance work on each campus. Total value of these items approximates $20,000.00.

Other service areas were examined for the appropriateness of consolidation. The following explanations will indicate why total consolidation is not feasible at this time.

Physical Therapy

Physical therapy services are currently provided in each institution through contracted services. The administrations are closely monitoring the need for these services but at present the cost of hiring a full-time physical therapist would exceed the amount expended for contracting these services. If this condition should change, this situation will be reevaluated, and if appropriate, a full-time physical therapist will be hired and shared between the two institutions. At present, however, it is not a cost effective decision.

Pharmacy

Consolidation of pharmacy services at one institution presents operational problems that dissuade us from pursuing such a course of action. A registered pharmacist must be available to dispense and inventory medications at each institution. Since medications are dispensed on a very frequent basis at each institution, it is very difficult to have this function covered by only one individual. Regulations governing medication administration require that a pharmacist be available whenever carts or other apparatus for dispensing medications are filled. It would be rather inefficient to attempt to coordinate these functions from one central location. In addition, opportunities for abuse multiply when drugs must be frequently transported. Comments have been made to the effect that pharmacy consolidation would develop better control of purchasing and drug issuance. That statement is only partially true. Actual control of purchasing including volume discounts is not controlled at the institutional level but by the purchasing division in Helena. Economics or more effective means of managing drug purchases are the prerogative of that group and not those of the satellite pharmacies in the two institutions.

X-Ray, Medical Laboratory

Although there is significant sharing of the services between these units, a total consolidation is a dubious goal. One of the major problems in effecting a consolidation is

the requirement for stat work. In such cases, staff utilization would be drastically affected in the treatment units. For example, any patient needing an X-ray would need to be transferred to the service area by a teamster and an aide or orderly from one of the treatment units. The down time in terms of lost personnel services would be significant. Due to the numbers of procedures performed, it would probably be necessary to hire additional teamsters to accommodate the workload in transferring patients back and forth for X-ray or lab work. In the case of lab work, it is often true that only samples need be transported and not the patient. Even in these cases, a teamster would be required to carry the lab samples to the centralized location of the medical lab.

Another factor that affects our decision to not attempt to consolidate these clinical areas is the fact that they are very capital intensive. There are relatively few FTE's assigned to each unit. These units have very modern equipment that takes the place of skilled personnel. Therefore, consolidation will result in perhaps no savings in FTE. Essentially, the primary inroads by which these services can be made more efficient have already been taken as described in the section above regarding shared services pertinent to X-ray and laboratory.

Psychology, Social Services and Psychiatric Services

It has been suggested that a clinical team from Warm Springs comprised of a social worker, psychologist and psychiatrist cover all evaluations and pertinent treatment of patients at Galen State Hospital. This has not been completely accomplished due to the fact that we simply do not have adequate manpower to provide this service. We are currently short of qualified psychiatrists at Warm Springs State Hospital and we also need to hire additional psychologists. In the realm of social services we have provided an MSW to Galen who coordinates their social services program. The fact that this team approach has not been enacted has not been particularly costly since Galen does not contract for any psychology or psychiatric services at this time.

Motor Pool

Items of shared services have been described earlier. Total consolidation seems relatively insignificant since Galen has only one FTE and one teamster assigned to the motor pool section. These personnel also have additional duties on the grounds. Consolidation would not reduce the need for these FTE's and, in fact, might increase the need due to additional travel requirements between institutions. In addition, no maintenance services are contracted from the private sector in the community by Galen State Hospital. Therefore, there is no significant cost savings generated via a consolidation of services with Warm Springs State Hospital.

Maintenance

One of the reasons given for consolidating these functions was the potential for sharing on call responsibilities for weekend work. This is essentially a false issue since we are not paying any maintenance personnel for being on call during weekends. At each institution

personnel are called out only on an emergency basis. Thus, they are paid only when called out and are not given compensatory time for being on call.

A major problem in consolidating all maintenance functions at one institution stems from the loss of productivity. Actual hours worked for personnel in this area is somewhat less than 7 hours per shift due to lunch break, morning and afternoon breaks and cleanup time. Adding a travel requirement to another institution could cut as much as half an hour to one hour out of the time allotted for productive work efforts. This seems a rather high price to pay for consolidation, particularly in light of the fact that there would be only minor reductions in the number of FTE at Warm Springs and no net reduction in the existing staff at Galen. Galen's administrator, Joe Balkovatz, has indicated that they are currently short of an electrician and Warm Springs State Hospital has no surplus personnel in that area.

Speech and Audiology

There is virtually no need for consolidation of these functions since they are provided directly to the patient from the Easter Seal Society in Butte. Essentially, patients are billed directly for the service because the institution does not contract for them. Thus, there is no additional cost to the institution that would be offset by consolidation.

Warehouse

We have examined a number of alternatives with regard to consolidating warehousing functions between the two institutions. Without going into the intricacies of each alternative, the bottom line is that any consolidation will not result in a direct reduction in FTE levels at either institution. The existing warehouse facilities at each institution are not large enough to accommodate the centralized function. Therefore, additional space would be required at whatever location was selected. Since Warm Springs has proportionally more square feet of space than Galen, it would be a logical location. However, the recent demolition of a number of older buildings also restricts available options at Warm Springs. If another facility at Warm Springs is utilized for warehousing, it may be necessary to provide a freight elevator for efficient handling of inventoried items. A representative cost for installing such an elevator is approximately $35,000. This seems to be a rather large expenditure to consolidate a function that results in no readily observable cost reduction.

Comments have been made that some advantages would accrue in consolidating warehouse functions even if there was not a reduction in FTE levels. The first item mentioned relates to volume ordering. Basically it states that if orders are coordinated there may be volume discounts obtained on various items. The prerogative for improvement in this area does not rest with the institutions. If there is a need for improvement in this area, and we do not know that there is, the responsibility rests with the purchasing division of the Department of Administration. The institutions can have little impact upon this avenue with the exception of insuring that their inventory or store's requisitions are submitted properly to allow adequate coordination and processing. Another area in which there may be some advantage to the central warehouse pertains to the efficient utilization of inventory levels. It is sometimes true that there

are cases in which certain inventory levels of a particular commodity are oversupplied in one institution while the other institution is short of the same item. With proper coordination, the oversupply could be redirected to the other facility and thereby reduce the capital outlay for the particular item. That function can be effectively managed without centralizing warehouse locations. The Director has recently requested that the institutional administrators devise a plan to foster utilization of one anothers inventory stock before resorting to local purchases. In short, our concensus is that there is no net financial advantage to consolidating warehousing functions. In fact, additional monies would need to be expended to provide the additional space required to consolidate.

PRIMARY OBSTACLES TO CONSOLIDATION

Federal Regulations

The foremost obstacle to consolidation of Galen and Warm Springs State Hospitals lies with federal regulations restricting reimbursement in so called "institutions for mental diseases." The Code of Federal Regulations states:

> "Federal financial participation under Title XIX of the Social Security Act is not available in medical assistance for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases, except for an individual under age 22 who is receiving in-patient psychiatric facility services."

This and other regulations effectively exclude patients between the ages of 22 and 64 from receiving Medicaid payments. There is no doubt that Warm Springs State Hospital would be construed as an institution for mental diseases. Section 80-2401 R.C.M. 1947 indicates:

> "The institution located at Warm Springs is the Warm Springs State Hospital. The functions of the state hospital are the care and treatment of mentally ill persons."

An institution is characterized as "primarily" one for mental diseases if it is licensed as such, if it advertises as such or if more than 50% of the patients are in fact patients with mental disease.

Consolidation of the two institutions would result in a more diagnostically varied patient population; however, more than 50% would continue to be primarily diagnosed as suffering from mental diseases. Currently, the total population of Warm Springs State Hospital is nearly 370 while the census at Galen is 160. Thus, the institution produced from a consolidation would meet one primary criterion for designation as an "institution for mental diseases." As such, the restriction on reimbursement would apply to the consolidated institution. Medicaid revenues currently received for patients at Galen State Hospital would be foregone because the age discrimination statute would apply. Federal financial participation from Title XIX would be permanently lost until the fundamental character

of the institution changed to reflect less than 50% of the aggregate census having primary diagnoses for conditions of mental illness. Therefore, it is clear that a consolidation of the institutions at their present levels of resident population would result in an additional restriction in federal financial participation to the state general fund.

In terms of our planning efforts this essentially means that it would be ill-advised to proceed with the total consolidation unless the restrictive aspects of federal law and regulations are challenged and overturned. Another alternative is to step up our efforts to add additional treatment components to Galen or Warm Springs State Hospital in order to redress the population imbalance so that it is not predominantly comprised of persons suffering from mental illness. The latter course of action will be explored more fully as this report proceeds.

Union Resistance

Even if the external obstacle to consolidation represented by restrictive federal regulations is assuaged, there are other barriers to be considered. A very significant one is the union resistance to consolidation.

The structure of union representation reveals bargaining units common to both institutions as well as those peculiar to each institution. Wherever there is an intersection of jurisdiction, resistance to consolidation can be anticipated. Food service employees, psychiatric and nurses aides, LPN's, clerical staff, X-ray and lab technicians are represented by different unions on each campus. Consolidation represents a clear threat to the bargaining units representing these different employee categories. Even if there is no reduction in the aggregate staff levels through the consolidation, the continued existence of some bargaining units is threatened due to overlapping jurisdiction. Therefore, resistance to a total merger is assured. As an example, in recent negotiation sessions the Montana Nurses Association was most decidedly opposed to any interchange of nursing services between Warm Springs and Galen.

An organization overview of the structure as it pertains to each institution is shown below.

Unions common to both institutions:

1. Montana Nurses Association
2. Carpenters Local 88
3. Electrical Workers Local 200
4. Machinist Local 1336
5. Painters Local 182
6. Plumbers Local 481
7. Teamsters Local 4488
8. Operating Engineers Local 927

Unions exclusive to Galen:

1. AFSCME Local 1620
2. Teamsters Local 448 (separate unit - security)

Unions exclusive to Warm Springs:

1. Hotel, Motel and Restaurant Workers Local 509
2. Independent Union
3. LPN Association
4. MPEA (Professional Unit)

Generally speaking, those unions that are common to both institutions would be the least difficult to deal with in terms of a consolidation. Those that are peculiar to one or the other institution often have overlapping jurisdiction and probably would be diametrically opposed to affiliation with one another.

It is clear that the law requires that the Department of Institutions not place itself in a position which either supports the platform of one union over another or in any fashion attempts to discourage union organization or activity among employees. Our position must be one of neutrality. Substantial discord could well result from the move to consolidate the institutions. This discord could be very disruptive to the efficient functioning of the emerging institution.

SIGNIFICANT ACCOMPLISHMENTS

Although it became apparent that complete consolidation was not a realistic objective, efforts were clearly needed to improve management systems.

This was particularly true at Warm Springs where the role of the institution was rapidly changing due to the evolution of the deinstitutionalization phenomenon. Patients census had fallen from 1,100 in early 1974 to 400 in early 1978. The hospital was organized on a regionalized basis - a structure that obviously facilitated deinstitutionalization. However, with the patient census stabilizing there was a clear need to reemphasize the effective delivery of care and treatment.

Reorganization

The recognition of the changing role of the institution combined with an acute awareness of many of the shortcomings of the existing organization prompted the Department to begin the extended period of planning for reorganization.

Regardless of the organization label, Warm Springs State Hospital had been decentralized into ten treatment components - it was essentially a unitized hospital. This pointed to a definite anomaly in the organization since the decentralized treatment units were managed by centralized departments. This paradox can interfere with the efficient delivery of health care. In simple

terms, we aimed for a reorganization that would render the administrative and managerial aspects of the organization compatible with the decentralized treatment system.

In the past, decentralized treatment units were managed from centralized departments. This presented a dilemma in a number of ways. Unit directors had responsibility for coordinating treatment in the treatment units but no authority to carry out that function. Treatment personnel did not report to them but rather to centralized department directors. Spans of control were much too wide in the old organization and there were overlapping areas of responsibility. In some instances, units with high operating costs reported directly to consultants who were seldom on the premises. To rectify that problem a change was made in which these units report to the Hospital Administrator. This change is in keeping with modern hospital management practices.

Under the reorganization, an entirely new branch was created called Quality Assurance. The functions of this organizational component are nursing coordination, inservice training, program evaluation, policy development and technical assistance. The strength of the hospital's treatment teams is a direct function of the quality of inservice training programs. Previously, these programs had been directed primarily at direct care nursing staff. In the future, the inservice thrust will be to train across multi-disciplinary lines in order to promote an integrated team approach to treatment. The program evaluation function is an innovative facet of the new organization that will allow the evaluation and internal inspection of treatment services by a group outside the direct line authority of managers responsible for treatment.

The Treatment Services component of the organization houses all treatment units. There are three specialty units - Geriatrics, Children and Adolescent, and Forensic. In addition, there are four subunits of the General Psychiatric Service - Intake, Short-Term, Extended Care, and Pre-Release. These units established a phased, progressive movement for patients in the hospital ranging from crisis intervention, assessment, intensive or acute care, extended care and finally a pre-release function in which psychological and medical structure will be reduced to approximate what the patient will encounter in a community release situation. The General Psychiatric Services component is specifically designed to return patients to the community and not to hold them on a long-term basis at Warm Springs State Hospital. In the Appendix, organization charts are exhibited that depict the hospital both before and following reorganization. A meaningful comparison will clearly indicate that lines of authority and accountability are much better defined under the new system. In addition, appropriate spans of control and other organization principles are observed throughout the organization.

Master Staffing Plan

The question of staffing levels at Warm Springs State Hospital is a constant source of concern. Paramount in the minds of treatment professionals are the questions of staff size and utilization. Is the number of staff adequate? Is the mix of employees efficient? Is the staff distributed properly? Is effective treatment being delivered? From the standpoint of budget officials and administrators, cost is a significant issue. During the last biennium, the hospital was faced with the dilemma of a massive reversion of the general fund dollars the

extent of which was to be determined by the average patient population. While the reversion requirement was met during the first year of the biennium, the outlook for the following year was more bleak. For these reasons, the development of an objective staffing rationale was very significant.

Utilizing data gathered from surveys of other state hospitals, formulae developed for staffing in other states, analysis of model units at Warm Springs and spatial considerations generated by the physical configuration of the facilities at the hospital, master staffing formulae were developed for treatment units under the reorganization. Proper staffing size and distribution to provide quality care were the primary concerns with cost avoidance measures being of secondary importance.

After gathering and analyzing staffing data, many discussions were held with key personnel at Warm Springs State Hospital regarding the adoption of staffing standards. The entire program was presented to the unions affected by the formulae and adjustments were made whenever possible in a manner that would not compromise the integrity of the plan. Finally, staffing formulae were approved and are being utilized to determine the direct care nursing staff in each treatment unit. The formulae represent the core level staffing that we feel must be maintained in each treatment unit in order to provide quality care and treatment. Since the staffing formulae are designed to take into account changes in the census, their use has been instrumental in providing a control mechanism for meeting reversion requirements and for controlling personnel expenditures.

Physician Compensation Plan

Another significant accomplishment that affects physicians at all institutions is the development of a new physician compensation plan. This plan effectively removed physicians from the Montana State Pay and Classification System. This was vital due to the fact that salaries allowed for physicians were simply not competitive and we could not attract qualified professionals to the institutions. The compensation plan requires the establishment of a Professional Standards Advisory Council made up of private physicians, psychiatrists and representatives from the Departments of Administration and Institutions. This council oversees the management and operation of the compensation plan. Although it is certainly not a panacea in terms of attracting every qualified physician we need, it has been a positive step in allowing us to recruit on an equitable footing with other states and governmental agencies.

Physician Services - Montana State Prison

A significant improvement in utilization of Galen State Hospital's medical staff occurred as a result of a program at Montana State Prison. In previous years, physician coverage for Montana State Prison had been provided by a group of local private practitioners. The cost for coverage was $42,000 last year and the group initially asked that the remuneration be increased to $65,000 for the upcoming year.

Dr. E.P. Higgins, Superintendent of Galen State Hospital, and Montana State Prison

Warden, Roger Crist, coordinated a physician coverage plan that has allowed Montana State Prison to totally avoid the high cost of contracting physician services from the private sector.

A Galen State Hospital physician treats inmates at the prison complex each afternoon, Monday - Friday. On Monday, Wednesday and Friday, the physician visits the new complex and is available at the old prison location on Tuesday and Thursday. This duty is rotated among the Galen State Hospital medical staff.

This arrangement has resulted in the intense utilization of the medical staff. It is a significant factor in requesting an additional physician position for Galen State Hospital if any major patient services are added to the hospital.

POLICY FOR OPTIMUM UTILIZATION OF HEALTH CARE RESOURCES

The major task in the upcoming biennium is to utilize existing institutional health care resources more effectively. Facilities at most institutions are intensively used but a few important exceptions exist. One of the primary reasons for consolidating Galen and Warm Springs State Hospitals focused upon utilizing the total capacity of Galen State Hospital. Galen currently has 220 beds that are fully licensed and certified for hospital or intermediate care. Occupancy is chronically low, averaging slightly over 40%.

At Warm Springs State Hospital there is currently only one building that meets licensure and certification standards. That building is Unit 219 with a capacity of 64 beds; however, there are three other buildings, Warren, Receiving Hospital, and Unit 216 that are very modern and meet nearly all current life-safety requirements. Only minor deficiencies prevent their certification and plans are in progress to seek acute psychiatric certification for two and perhaps all of these units. The occupancy of these units is reasonable in light of the fact that certain types of patients must be separated based upon treatment needs. It is doubtful that we can expect an occupancy rate in any particular unit in excess of 80% to 85%. Treatment programs based upon the services required by patients do not automatically "fit" into a building's bed capacity, particularly a building that was built years ago. Due to both administrative and clinical concerns, buildings are used for patient occupancy at Warm Springs State Hospital that are most kindly described as substandard. The classic example is the Bolton Building which houses nearly 100 patients who are part of the Extended Treatment Unit. Nearly $1 million would be required to renovate Bolton to transform it into a unit suitable for patient use.

Rather than spend large sums of monies to renovate archaic buildings at Warm Springs, it seems more logical to plan the use of underutilized facilities that are licensed and certified and require none or only minor renovation for patient use. Two primary locations under state control are underutilized at this time. Clearly, underutilization of Galen State Hospital is very striking when compared to the conditions described in the Bolton Building located in an institution only four miles away. The other prominent facility that is underutilized at this time is the Eastmont Human Services Center. This facility was funded by the 44th Legislature and was completed in late 1978. It has a licensed-certified capacity of 40 beds.

The foundation for a policy statement of employing institutional health resources in the most optimum manner engenders the utilization of existing capacity at Galen State Hospital and the Eastmont Human Services Center. Corollaries of that policy statement are that the quality of patient care should be maintained or improved. Quality should not decline as a result of any patient movements. In addition, the movement of patients or the addition of services at any institution should enable the Department to implement cost avoidance measures. Specifically, this means that the state should be able to avoid expending large sums of money to provide additional capacity at one hospital while suitable excess capacity exists at another facility.

In the analysis that follows, various plans are examined to effect the policy of optimum utilization of health resources. The crux of the analysis centers upon three facilities: Eastmont Human Services Center, Galen State Hospital, and Warm Springs State Hospital. Each alternative plan is supported by a detailed financial analysis indicating the impact on the general fund of proceeding with it.

Three of the alternative plans have as their central theme the transfer of patients currently at Warm Springs State Hospital. Our assessment reveals that there is a large contingent of patients inappropriately placed at Warm Springs State Hospital. Many do not require intensive psychiatric care, and therefore, their presence at WSSH is not conducive to the hospital's mission as an acute psychiatric facility. Some are certainly behaviorally disruptive but could receive care and treatment elsewhere. Their relocation would clarify and reemphasize the hospital's salutary effect of placing patients who need intensive psychiatric care in the most appropriate treatment facilities at Warm Springs State Hospital.

The Department has not recommended any particular alternative or combination of alternatives. Those presented are designed to depict a range of viable alternatives for effecting an optimum utilization policy. Admittedly, alternatives exist that were considered but not presented such as using the Eastmont Human Services Center as a multi-purpose human services facility or as a juvenile detention facility. We were unable to think of any programmatic benefit of mixing diverse populations in a 40 bed facility. Dawson Community College also requested that the facility be leased to them to provide student housing. They also contemplated a longer term use of the facility as a diagnostic center. While that part of their program has merit, we felt that the enabling legislation and existing health care needs dictated that other alternatives be considered first. While the existence of other alternatives is recognized, we believe the ones presented represent the most realistic courses of action from both financial and administrative viewpoints. Where there are obstacles to effecting a plan, we have endeavored to point out those obstacles.

Legislative mandate would be an insurmountable force in overcoming most obstacles encountered. Selection of a course of action will allow for optimum utilization of health resources and will improve health care delivery. We can attain a posture in which patients are treated effectively while being housed in our most appropriate facilities. The use of substandard facilities at Warm Springs State Hospital can be discontinued without expending millions for renovation or new construction. We urge that you examine these alternatives closely and assist the Executive in arriving at a course of action that will allow us to provide quality care in a more efficient manner.

EASTMONT HUMAN SERVICES CENTER (EHSC)

Construction of the Eastmont Human Services Center was authorized by the 44th Legislature. The Center, which is licensed as a long-term care facility and certified for skilled and intermediate care, contains 40 beds. Construction was completed in August, 1978 at a total cost of nearly $1.2 million. The enabling legislation specified that "it is the intent of the Legislature that geriatric patients at Warm Springs State Hospital and geriatric residents of the state, who may in the future be placed in Warm Springs State Hospital and who do not need intensive psychiatric care, receive care and treatment in nursing homes located in the community settings."

The Department of Institutions was charged with the responsibility of recruiting and selecting a non-profit corporation to manage EHSC. Requests for proposals to manage the facility were published in 11 Montana newspapers. In addition, direct mail appeals were made to a number of large organizations having expertise in providing care to the elderly. Response to these efforts was largely negative.

The major problem in securing a management agreement stems from the fact that funds were not appropriated to subsidize the non-profit entity if an operating loss occurred. The detailed cash flow analysis indicates that a loss during the first year of operation is not only possible but very probable. Such an outcome is not surprising since the size of the facility is not optimum for efficient operation, there is a lag in reimbursement receipts, occupancy will be low initially and discharge of patients for non-payment is somewhat restricted.

A number of alternatives exist for use of Eastmont Human Services Center. Among the more feasible are: 1) as a geriatric facility for selected Warm Springs State Hospital patients, 2) a veteran's component for Eastern Montana, 3) an intermediate care facility for the mentally retarded (IMR). Each will be discussed and analyzed in the following material.

Geriatric Transfer from Warm Springs State Hospital

An alternative worthy of serious consideration is the transfer of 40 geriatric patients, currently residents at Warm Springs State Hospital in Unit 219. A detailed analysis of this alternative is contained in the pro forma financial statements and the accompanying operational data at the end of this section. The total personnel expenditures, staffing levels and other operating expenses are defined and compared with potential income projections based upon a full 12 months of operation. Particular note should be made of the cash flow analysis which indicates an operating loss of $55,430.00 for the first 12 months.

Type of Management

Under this alternative it is anticipated that management of the facility would be contracted with a non-profit corporation skilled in providing care to the elderly. From our past efforts in attempting to secure the services of a non-profit manager, we were able

to gain the interest of one specific group, the Ev. Lutheran Good Samaritan Society domiciled in Sioux Falls, South Dakota. This particular group is actively involved in providing nursing care and treatment of the elderly. Under their standard management contract, a management fee of 2½% of gross revenues is charged to the owner of the facility. A major problem in finalizing a contract would be the projected operating loss during the first year of $55,430.00. If Good Samaritan or any other potential manager was indemnified against absorbing such a loss, I am confident that a contract could be consummated to provide management of the facility. In addition, they agreed in earlier discussions to adapt their contract to allow employees to be hired by them as opposed to the work force being employees of the State of Montana. This has a salutary impact in terms of personnel expenditures due to the fact that salaries paid to nursing and the support personnel in the private sector are somewhat less than what is paid to similar personnel under the state pay plan.

Financial Discussion

With regard to patients transferred from Warm Springs State Hospital, the Director of the Department of Institutions was confronted with an issue that was difficult to resolve and has a significant impact on the financial stability of the facility. A number of patients earmarked for transfer to EHSC are not eligible for Medicaid and do not have private resources that enable them to pay the total liability for services received. Pursuant to statutes governing reimbursement in state institutions, an ability to pay determination was made for each of these patients. In a number of cases it would be nearly impossible to spend the patient down to render them eligible for Medicaid and it is doubtful that their estates could be liquidated in order to receive full payment. The Director made the decision to require that the non-profit manager adhere to the ability to pay determination conducted by the Department of Institutions on former Warm Springs State Hospital patients. The net result of this is that there are certain patients who would be transferred to the EHSC for whom the state incurs an ongoing liability due to unpaid costs of care and treatment. This limitation on ability to pay is a primary reason for the net loss incurred during the first year of operations.

If this alternative is to become a reality the Legislature would be required to indemnify the non-profit corporation against a loss; thus funds would have to be appropriated through some means. Even though such a subsidy must be provided for the first year of operation, the amount is considerably less than the general fund expenditure incurred by retaining these patients at Warm Springs State Hospital. In the exhibits found at the end of this section, a per diem cost comparison shows that there is a net advantage to the state general fund of nearly $265,000 if the patients are transferred to the Eastmont Human Services Center. Thus, there is a distinct savings to the general fund by effecting such a transfer. The savings arises from such factors as lower labor costs paid by the non-profit entity, avoidance of the age restriction on receiving federal reimbursement that is characteristic of anyone between the ages of 21 and 65 located in Warm Springs State Hospital and the fact that seven additional people will become Medicaid eligible by being transferred.

In addition to the direct financial advantages depicted in the exhibits, there are some cost avoidance measures that are worthy of note. Transferring the Geriatrics Unit to EHSC would cause Unit 219 to be vacated. This facility has a licensed/certified capacity of 64 beds.

It could then be utilized for patients in the Extended Treatment Unit at Warm Springs. Currently there are nearly 190 patients in the Extended Treatment Unit. These patients are domiciled in Warren and Bolton buildings. The Warren building has been renovated recently and meets most certification requirements. The Bolton building, however, is in a very deteriorated condition; it is a primary goal to discontinue its use for patient occupancy. A large proportion of the patients currently located in Bolton could be shifted to Unit 219. This would place us in a much better posture in terms of locating most, if not all, Warm Springs State Hospital patients in licensed/certified buildings that meet fire/life safety codes. Since the cost of renovating the Bolton building would exceed $1,000,000, there is substantial financial incentive to effect such a movement. In essence, adoption of this proposal enables the Department to take a positive step toward meeting our goal of optimum utilization of existing licensed/certified facilities.

Problem Areas

Some problems may be encountered if this proposal is adopted. Patients who are relocated often undergo significant stress. Sometimes that stress can be life threatening, particularly to elderly patients who have become acclimated to a particular setting.

As has already been mentioned, funds must be advanced or earmarked to indemnify a non-profit management group against operating losses particularly during the initial 12 months of activity. Various means exist for advancing the needed funds ranging from an appropriation, reverted funds or even a business loan paid back with funded depreciation.

This particular patient movement would reduce the aggregate number of permanent positions at Warm Springs State Hospital. There are currently 22 permanent positions assigned to Unit 219 all of which are filled. The employees are represented by three different bargaining groups - the Montana Nurses Association, the LPN Association, and the Independent Union. If employees assigned to Unit 219 could not be absorbed into other treatment units at Warm Springs through the process of attrition, a layoff may be necessary. On a more positive note, the possible expansion of services at Galen may offer alternative employment opportunities to Warm Springs employees and other residents of the local area.

This issue may be assuaged to some degree as a result of legislative intent. The enabling legislation specifically designates that EHSC is intended for geriatric patients at Warm Springs State Hospital. Thus, it seems clear that no additional statutory authority is required to allow such a relocation.

EASTMONT HUMAN SERVICES CENTER

Geriatric Transfer from WSSH
Statement of Annual Operating Expenses

PERSONNEL EXPENSES:

Nursing Services:

1.0 - Nursing Director	$ 13,000	
2.0 - Registered Nurses	20,000	
3.0 - L.P.N.'s	24,000	
14.0 - Aides	98,000	$155,000

Treatment Services:

1.0 - Occupational Therapist	$ 10,000	
1.0 - Recreation Therapist	10,000	
1.0 - Activities Coordinator	10,000	30,000

Administrative & Support Services:

1.0 - Administrator	$ 15,500	
1.0 - Secretary/Receptionist	7,500	
0.5 - Medical Records Clerk	4,000	
1.6 - Cook	15,500	
3.2 - Food Service Workers	25,000	
3.2 - Custodians	24,000	
1.0 - Maintenance Worker	8,000	99,500

Benefits	42,675
TOTAL PERSONNEL SERVICES	$327,175

OVERHEAD EXPENSES:

Contracted Services:

Physician	$5,000	
Psychology Service	1,000	
Physical Therapy	7,000	
Pharmacy	3,000	
Dietitian	2,000	$ 18,000

Management Fee	11,500
Medical Supplies	3,500
Unreimbursed Service Expense *	4,245
Equipment	2,000
Food ($2.00 x PPD)	23,500
Utilities	15,000
Laundry (1 lb. PPD x $ .30)	3,525
Housekeeping Supplies	1,800
Telephone	1,000
Insurance	2,000
Travel	2,000
Professional Memberships	500
Transportation Expenses	1,000
TOTAL OVERHEAD	$ 89,570
Add: Depreciation Expense	40,000
TOTAL OPERATING EXPENSE	$456,745

EASTMONT HUMAN SERVICES CENTER
Geriatrics Transfer from WSSH
Annual Income Projection

INCOME PROJECTION:

	Private 27.5%	Medicaid 72.5%	Annual Projection
Total Patient Days	3,231	8,519	11,750
Interim Rate	$38.34	$38.34	$38.34
Per Diem Income	$123,877	$326,618	$450,495
Fee-for-Service Income	5,899	15,551	21,450
Gross Income	$129,776	$342,169	$471,945
Adjustments:			
Unpaid Per Diem *	(84,487)	0	(84,487)
Patient Contribution	6,815	(6,815)	0
Unpaid Fee-for-Service *	(5,899)	0	(5,899)
NET INCOME	$ 46,205	$335,354	$381,559

* Unpaid due to limited patient resources based upon ability to pay determination.

SOURCE OF FEE - FOR - SERVICE INCOME:

Physical Therapy	$ 7,000
Occupational Therapy	10,000
Psychology Services	1,000
Benefits	1,500
Sub - Total	$19,500
Add: 10% Margin	1,950
TOTAL	$21,450

CALCULATION OF UNPAID PER DIEM FOR PRIVATE PAY PATIENTS:

Potential Per diem:	$123,877
Ability to Pay: Non-Medicaid	39,390
Unpaid Per Diem	$ 84,487

EASTMONT HUMAN SERVICES CENTER

Geriatrics Transfer from WSSH

SCHEDULE OF PATIENT DAYS:

	Month	Private 27.5%	Medicaid 72.5%	Total Patient Days	% Occupancy
	1	62	163	225	
	2	149	391	540	
	3	272	718	990	
1st Quarter		483	1,272	1,755	48%
	4	289	761	1,050	
	5	304	801	1,105	
	6	304	801	1,105	
2nd Quarter		897	2,363	3,260	89%
	7	305	805	1,110	
	8	305	805	1,110	
	9	305	805	1,110	
3rd Quarter		915	2,415	3,330	92%
	10	312	823	1,135	
	11	312	823	1,135	
	12	312	823	1,135	
4th Quarter		936	2,469	3,405	93%
Annual Total		3,231	8,519	11,750	80%

SCHEDULE OF ALLOWABLE EXPENSES TO DETERMINE PER DIEM RATE:

Expense Category:

Nursing Services	$155,000
Developmental Services	20,000
Administrative & Support Services	99,500
Benefits	41,175
Overhead	77,325
Depreciation (Building)	40,000
Total Allowable Expenses	$433,000

CALCULATION FOR INTERIM RATE REQUEST:

Allowable Expenses	$433,000
Divide by Total Patient Days	11,750
Per Diem Cost	$ 36.85
Incentive Increment	1.49
Interim Rate	$ 38.34

EASTMONT HUMAN SERVICES CENTER

Geriatric Transfer from WSSH

Cash Flow Analysis

	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			ANNUAL PROJECTION
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12	
Projected Expenses	$26,047	$31,256	$34,729	$34,729	$34,729	$34,729	$34,729	$34,729	$34,729	$34,729	$34,729	$34,729	$404,593
Projected Revenues (PDR = $38.34)													
Per Diem:													
Private	884	2,123	3,893	4,128	4,345	4,345	4,365	4,365	4,365	4,464	4,464	4,464	46,205
Medicaid	0	6,118	14,678	26,954	28,568	30,069	30,069	30,220	30,220	30,220	30,896	30,896	288,908
Fee-for-Service	0	298	715	1,310	1,390	1,462	1,462	1,469	1,469	1,469	1,503	1,503	14,050
Monthly Income	884	8,539	19,286	32,392	34,303	35,876	35,896	36,054	36,054	36,153	36,863	36,863	349,163
Net Gain or (Loss)	(25,163)	(22,717)	(15,443)	(2,337)	(426)	1,147	1,167	1,325	1,325	1,424	2,134	2,134	(55,430)
Cash Balance	(25,163)	(47,880)	(63,323)	(65,660)	(66,086)	(64,939)	(63,772)	(62,447)	(61,122)	(59,698)	(57,564)	(55,430)	(55,430)

1. Maximum cash deficit is $66,086 in Month 5. However, SRS may grant an interim rate less than the requested per diem of $38.34. The rate would prevail for six months after which an adjustment would be made to reflect actual costs. The net effect is an increase in operating capital needed to start up and maintain operations until the adjustment payment is received.

2. Private pay per diem income is collected in advance. Average collection period for Medicaid and Fee-for-Service income is 30 days.

3. Interim rate of $38.34 is based upon 80% occupancy. Occupancy may be higher but cash flow is enhanced if rate is not based on a higher occupancy.

4. Private and Fee-for-Service income is limited to approximately $39,390 and $14,050 respectively due to ability to pay limitation pertinent to patients ineligible for Medicaid. These people cannot be spent down and due to reimbursement statutes pertinent to institutional patients seldom pay total liability.

EASTMONT HUMAN SERVICES CENTER

Geriatrics Transfer from WSSH
Per Diem Cost Comparison: *
Warm Springs State Hospital vs. Eastmont Human Services Center

	Warm Springs	Eastmont Human Services Center
Projected Per Diem Cost	$855,122	$538,010
Income:		
Medicaid	482,282	405,828
Private	46,456	39,390
Total Per Diem Income	$528,738	$445,218
Deficit	($326,384)	($92,792)
General Fund Impact:		
Deficit	$326,384	$ 92,792
State Match (Medicaid)	188,090	158,273
	$514,474	$251,065
Net Advantage for Transfer:	$263,409	

* Based upon a full year or 14,600 patient days.

EASTMONT HUMAN SERVICES CENTER

Geriatrics Transfer from WSSH

Forty (40) WSSH Residents - Proposed Transfer to Eastmont

Resident Number	Title XIX Eligibility
14654	Yes
18002	Yes
35969	Yes
21118	Yes
30408	Yes
16950	Yes
35333	No
17036	Yes
36992	Yes
37187	Yes
24196	Yes
36920	No
12626	Yes
25599	Yes
36830	No
34186	No
16956	Yes
28837	No
06964	Yes
16423	Yes
14173	No
36965	No
37308	Yes
36795	Yes
37219	Yes
37237	Yes
37346	No
04374	Yes
07407	Yes
09774	Yes
10179	Yes
13051	Yes
13780	Yes
14524	Yes
34333	Yes
18996	No
20541	Yes
24982	Yes
28277	No
36459	No

EASTMONT HUMAN SERVICES CENTER

Veterans Component for Eastern Montana

The Eastmont Human Services Center (EHSC) seems well suited for use as a state home for veterans. Its construction is ideal for providing nursing services and it is proximal to the VA Hospital in Miles City.

There are currently over 100,000 living veterans in Montana. A commonly used formula calls for two and one half nursing beds per 1,000 veterans or at least 250 for the entire state. According to the Montana Board of Veterans Affairs, half of the living veterans in Montana served in World Wars I and II. Thus the age distribution expected would indicate a significant increase in the need for additional nursing home beds. Currently there are 40 beds at the state home in Columbia Falls, 26 beds at the Miles City VA Center, 32 beds are under contract from private and/or non-profit nursing homes.

Management Provisions

Under this alternative, the EHSC would be managed as a state veterans home by the Department of Institutions. Due to its location on the Eastmont Training Center campus in Glendive, we recommend that services be shared wherever possible. For example, the superintendent at Eastmont Training Center, Jerry R. Hoover, would undertake the additional responsibility of managing the nursing home. Other economies would result from sharing personnel in the areas of food service, housekeeping, maintenance, development and training.

Enabling legislation would be required designating the Eastmont Human Services Center as a veterans nursing home. An application for VA recognition would then be filed with the Medical Director of the Veterans Administration and an inspection of the facilility would be made by that office to determine its suitability. Based upon the inspection, a recommendation to accept or reject the facility would be made to the Administrator of the Veterans Administration.

Financial Discussion

The total personnel expenditures, staffing levels, operating expenses and income projections are depicted in the pro forma financial statements that follow this section. The statement of annual operating expenses reflects only the incremental expense of operating the center as a veterans nursing home. For example, the salary expense for the superintendent is not included since it would be incurred for the Eastmont Training Center regardless of use of the Eastmont Human Services Center. Since the facility will be managed as a state institution, employees' salaries are based on the Montana Pay and Classification Plan. Generally speaking, the salaries are 10 to 20 percent higher than those paid in the private sector for similar positions. This explains the rather high percentage of personnel service expenses to total expenditures.

The income analysis for this alternative is greatly simplified since virtually no Medicaid reimbursement can be expected for veterans care. In most cases, veterans pensions or disability income generally exceed Medicaid income limitations.

Income is generated from two primary sources. Veterans receiving care in the nursing home are assessed a monthly charge based upon their ability to pay determined in accordance with reimbursement statutes governing the state institutions. Since there is no way to obtain a preview of those veterans who would be admitted, the average ability to pay was based on our experience at the state home in Columbia Falls. In addition to that income source, the Veterans Administration contributes up to one half of the cost of care not to exceed $10.50 per day.

As will be noted in the financial statements, income does not cover anticipated expenses. Although we have reduced expenses by sharing services with staff from the Eastmont Training Center, the general fund obligation will approximate $112,000 during the first year of operation. In terms of annual cost per patient, the expense is relatively low compared to most other institutions (e.g. cost per patient exceeds $22,000 per annum at Warm Springs State Hospital). In subsequent years, it is very probable that comparable general fund obligations will be incurred. Under no circumstances can total income exceed the cost of care if the status as a veterans nursing home is to be maintained.

Problem Areas

In assessing the design of the EHSC in light of VA construction standards, we discovered that the total square footage in double occupancy rooms does not meet VA requirements. VA requirements exceed DHEW standards by 30%. VA's propensity to grant a variance would best be determined following the inspection for VA recognition as a state home. A mitigating factor may be the efficient design of the rooms which incorporates built-in wardrobes and chests of drawers that do not interfere with clear space.

Adopting this proposal will not allow cost avoidance measures to be taken at Warm Springs State Hospital. Taken alone it does not reduce the population of inappropriately placed patients at Warm Springs State Hospital allowing the closure of substandard buildings. A positive aspect is that it greatly improves the availability of nursing home services to veterans living in eastern Montana.

EASTMONT HUMAN SERVICES CENTER

Veterans Nursing Home

Statement of Annual Operating Expenses

PERSONNEL EXPENSE:

Nursing Services:

1.0 - Nursing Director	$15,206	
3.0 - Nurse, Professional I	38,379	
3.0 - Licensed Practical Nurse II	21,548	
10.0 - Nurses Aide I	83,740	$158,873

Developmental Services:

1.0 - Activities Coordinator	$12,793	
.75 Physical Therapist	10,461	$ 23,254

Administrative Support Services:

1.0 - Secretary II	$ 9,096	
0.5 - Medical Records Technician I	4,548	
1.6 - Cook II	14,554	
2.0 - Food Service Worker II	15,412	
2.2 - Custodial Worker III	18,423	
1.0 - Maintenance Worker I	9,096	$ 71,129

Benefits	$ 45,586
TOTAL PERSONNEL EXPENSE	**$298,842**

OVERHEAD EXPENSES:

Contracted Services:

Physician	$5,000	
Psychology Services	1,000	
Pharmacy	3,000	
Dietitian	2,000	$11,000

Medical Supplies	3,300
Equipment	2,000
Food ($2.00 PPD)	23,500
Utilities	15,000
Laundry (1 lb. PPD x $.30)	3,525
Housekeeping Supplies	1,800
Telephone	1,000
Insurance	2,000
Travel	2,000
Professional Memberships	500
Transportation Expenses	1,000
TOTAL OVERHEAD	$ 66,825
TOTAL OPERATING EXPENSE	$365,667

EASTMONT HUMAN SERVICES CENTER

Veterans Nursing Home

ANNUAL INCOME PROJECTION

INCOME PROJECTION:

Private ability to pay *	$334.17	
Number of Patient Months	x 390	$130,327
VA Contribution		
Per Diem	$ 10.50	
Total Patient Days	x 11,750	123,375
TOTAL INCOME		**$253,702**

* Ability to pay based upon average private resources available for residents of Veterans' Home, Columbia Falls.

CALCULATION OF GENERAL FUND OBLIGATION

Total Operating Expenses	$365,667
Total Income	253,702
General Fund Obligation	$111,965
Net Annual Cost Per Patient	$ 3,499

OCCUPANCY PROJECTION

Month	Total Patient Days	Total Patient Months Billed	Occupancy
1	225	8.0	
2	540	18.0	
3	990	33.0	
1st Quarter	1,755	59.0	48%
4	1,050	35.0	
5	1,105	36.0	
6	1,105	36.0	
2nd Quarter	3,206	107.0	89%
7	1,110	37.0	
8	1,110	37.0	
9	1,110	37.0	
3rd Quarter	3,330	111.0	92%
10	1,135	37.0	
11	1,135	38.0	
12	1,135	38.0	
4th Quarter	3,405	113.0	93%
Annual Total	11,750	390.0	80%

EASTMONT HUMAN SERVICES CENTER

An Intermediate Care Facility for the Mentally Retarded (IMR)
Non-Profit Status
Option 1

Using the Eastmont Human Services Center (EHSC) as an intermediate care facility for the mentally retarded (IMR) is another viable alternative. Of the various alternatives discussed, this one is most compatible with the present range of programs offered at the Eastmont Training Center. It is believed that total DD status for the entire complex, including ETC and EHSC, would more easily generate citizen support and that such a role may be more flexible than others that have been proposed.

The EHSC facility itself will meet current IMR physical standards for licensure and certification. During the construction, it was anticipated that multiple uses of the facility might be considered. As a result, change orders were effected to render the facility acceptable for use as either a geriatrics facility or an IMR. Written correspondence from the Department of Health and Environmental Sciences is on file that clearly indicates both the facility's physical acceptability as an IMR and the fact that Certificate of Need approval will not be necessary to change level of care from geriatrics (SNF and ICF) to IMR.

Population Served

The sources of patients for IMR use are varied. One potential source involves a transfer of selected patients from Boulder River School and Hospital. In addition, there are 43 DD adults at Warm Springs State Hospital most of whom are inappropriately placed at the state mental hospital. Transferring patients from Boulder River School and Hospital to EHSC would allow the DD component at Warm Springs to be transferred to Boulder River School and Hospital, a much more appropriate placement. The net effect would be a reduction in the census of the Extended Treatment Unit at Warm Springs State Hospital which would contribute significantly to the abandonment of the Bolton building. Obviously, this source would make an important contribution toward realizing our goal of optimum facility utilization.

Another possible source stems from the DD population currently domiciled in nursing homes. Information provided by Jerry R. Hoover, Superintendent of the Eastmont Training Center, indicates that there are presently 55 DD adults in nursing homes located in eastern Montana. Since October 1, 1978, they have not received habilitation services from the Division of Developmental Disabilities. Most of them do not have individual habilitation plans.

Management Provision

Management services for the IMR would be contracted from a private non-profit organization. Non-profit management implies greater flexibility than is generally afforded

institutions operated directly by the state. Expenditures for salaries are generally lower if a facility has non-profit status as opposed to being state operated. For example, salaries paid by the state for nursing personnel are from 10 to 20% higher than those paid in the private sector. A potential disadvantage of non-profit status is that sharing services between ETC and EHSC would be very difficult due to salary disparity among employees at the respective facilities. Nonetheless, total operational expenses are less when the facility is operated by a non-profit manager.

At least two non-profit groups are interested in managing the facility as an IMR. They are Montana/Wyoming Health Resources headquartered in Billings and the Ev. Lutheran Good Samaritan Society domiciled in Rapid City, South Dakota.

Financial Discussion

The pro forma statements following this section depict the financial implications of operating EHSC with non-profit status as an IMR. The statement of operating expenses clearly reveals the heavy emphasis on developmental services for the DD population that will be served. Since the specific source of the patient population is unknown, conservative assumptions were made in conducting the income projections. The key to the financial success of the facility is the number of patients eligible for Medicaid reimbursement. We hope that our assumption of 65% being Medicaid eligible will turn out to be understated.

The most critical assumption is that the non-profit manager will have discharge authority for private pay patients who cannot meet the total liability associated with care and treatment or who cannot be "spent down" to be eligible for Medicaid. If the patient census for this facility was generated from an existing institution, specifically Boulder River School and Hospital, the Director will be faced with the dilemma of whether or not to allow the non-profit manager to have discharge authority for patients who cannot meet the total liability for care and treatment. It is probable that some of the patients transferred from Boulder River School and Hospital would not be eligible for Medicaid and could not be "spent down" to eligibility and could not pay the total liability. Obviously, any such cases would have a measurable impact upon the financial analysis. In spite of this potential problem, the assumption has been made that a non-profit manager will have discharge authority since the source of patients has not been identified.

The cash flow analysis indicates that the maximum cash deficit of nearly $60,000 is reached during the third month of operation. However, at the end of the initial 12 months of operation, a positive cash balance of nearly $50,000 is attained. Under a typical non-profit management contract, this excess revenue would be returned to the owner. In this case, the general fund would be reimbursed; thus, it is clear that the Legislature could provide an operating loan or subsidy at the outset of activity and have a very low risk exposure. In essense, the operation of EHSC as a non-profit IMR will not require on-going expenditures from the general fund since reimbursement statutes applicable to state owned and operated institutions do not apply to non-profit management groups.

EASTMONT HUMAN SERVICES CENTER - IMR PROPOSAL

Statement of Operating Expenses

Non-Profit Status

PERSONNEL SERVICES:

Nursing Care:

1.0 - Nursing Director	$ 13,000	
2.0 - Registered Nurses	20,000	
4.0 - L.P.N.'s	32,000	
16.0 - Habilitation Aides	112,000	$177,000

Developmental Services:

1.0 - Social Worker	$ 10,000	
1.0 - Physical Therapist	13,000	
1.0 - Occupational Therapist	10,000	
1.0 - Speech Therapist	10,000	
1.0 - Habilitation Coordinator	11,000	
3.0 - Teachers	33,000	
3.0 - Teacher Aides	21,000	108,000

Administrative & Support Services:

1.0 - Administrator	$ 15,000	
0.5 - Secretary	3,750	
1.0 - Accounting Clerk	7,500	
0.5 - Medical Records Clerk	3,750	
1.6 - Cook	15,500	
4.8 - Food Service Workers	33,600	
3.2 - Custodians	24,000	
1.0 - Maintenance Worker	8,500	111,600

Benefits	59,490
TOTAL PERSONNEL SERVICES	**$456,090**

OVERHEAD EXPENSES:

Contracted Services:

Physician	$ 5,000	
Psychology Services	2,000	
Pharmacy	3,000	
Dietitian	2,000	$ 12,000

Medical Supplies	3,500
Equipment	2,500
Food ($2.00 PPD)	25,920
Utilities	15,000
Laundry (2 lb. PPD x $ .30)	7,800
Housekeeping Supplies	1,800
Telephone	1,000
Insurance	2,000
Travel	2,000
Professional Memberships	500
Transportation Expenses	500
Management Fee	13,000
TOTAL OVERHEAD	**87,520**
Add: Depreciation Expense	40,000
TOTAL OPERATING EXPENSE	**$583,610**

EASTMONT HUMAN SERVICES CENTER

IMR Proposal

Non-Profit Status

INCOME PROJECTION:

	Private 35%	Medicaid 65%	Annual Income
Total Patient Days	4,120	7,635	11,755
Interim Rate	$48.72	$48.72	$48.72
Per Diem Income	$200,727	$371,977	$572,704
Fee-for-Service Income	15,381	28,564	43,945
TOTAL INCOME	$216,108	$400,541	$616,649

SOURCE OF FEE-FOR-SERVICE:

Physical Therapy	$13,000
Occupational Therapy	10,000
Speech Therapy	10,000
Benefits	4,950
Psychology	2,000
Sub-Total	$39,950
Add: 10% Margin	3,995
TOTAL	$43,945

-P.T. & O.T. billing rate is $25 per hour for annual evaluation. P.T. service billing varies with procedure; e.g., $16.98 hr. for kinetic activities.

-O.T. billed at $16.98 per person per session for "activities of daily living."

-S.T. billed at $15 per hour for evaluation - maximum of $30 per patient for evaluation.

-Consult Relative Value Schedule for more detail.

EASTMONT HUMAN SERVICES CENTER

IMR Proposal

Non-Profit Status

SCHEDULE OF PATIENT DAYS:

	Month	Private 35%	Medicaid 65%	Total	% Occupancy
	1	79	146	225	
	2	237	438	675	
	3	342	633	975	
1st Quarter		658	1,217	1,875	52%
	4	368	682	1,050	
	5	373	692	1,065	
	6	387	718	1,105	
2nd Quarter		1,128	2,092	3,220	86%
	7	389	721	1,110	
	8	389	721	1,110	
	9	389	721	1,110	
3rd Quarter		1,167	2,163	3,330	91%
	10	389	721	1,110	
	11	389	721	1,110	
	12	389	721	1,110	
4th Quarter		1,167	2,163	3,330	91%
Total Patient Days		4,120	7,635	11,755	80%

SCHEDULE OF ALLOWABLE EXPENSES TO DETERMINE PER DIEM RATE:

Expense Category:	
Nursing Services	$177,000
Developmental Services *	85,000
Administrative & Support Services	111,600
Benefits	56,040
Overhead	85,520
Depreciation (Building)	40,000
Total Allowable Expenses	$555,160

CALCULATION FOR INTERIM RATE REQUEST:

Allowable Expenses	$555,160
Divide by Total Patient Days	11,755
Per Diem Cost	$ 47.23
Incentive Increment	1.49
Interim Rate	$ 48.72

* Expenses for teachers and aides may be unallowable although the proprietary IMR in Helena is being reimbursed for such costs through per diem charges. If unallowable, Title I funds may be an alternative funding source. See

EASTMONT HUMAN SERVICES CENTER

IMR Proposal
Cash Flow Analysis

Non-Profit Status

	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			ANNUAL
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12	TOTAL
Projected Expenses	$33,976	$40,771	$45,301	$45,301	$45,301	$45,301	$45,301	$45,301	$45,301	$45,301	$45,301	$45,301	$527,757
Projected Revenue (PDR = $48.72)													
Per Diem Income													
Private	3,849	11,547	16,662	17,929	18,173	18,855	18,952	18,952	18,952	18,952	18,952	18,952	200,727
Medicaid	0	7,113	21,340	30,840	33,227	33,714	34,981	35,127	35,127	35,127	35,127	35,127	336,850
Fee-for-Service	0	799	2,397	3,463	3,728	3,782	3,924	3,942	3,942	3,942	3,942	3,942	37,803
Monthly Income	3,849	19,459	40,399	52,232	55,128	56,351	57,857	58,021	58,021	58,021	58,021	58,021	575,380
Net Gain or (Loss)	(30,127)	(21,312)	(4,902)	6,931	9,827	11,050	12,556	12,720	12,720	12,720	12,720	12,720	47,623
Cash Balance	($30,127)	($51,439)	($56,341)	($49,410)	($39,583)	($28,533)	($15,977)	($3,257)	$9,463	$22,183	$34,903	$47,623	$47,623

1. Maximum cash deficit is $56,341 in Month 3. However, SRS may grant an interim rate less than the requested per diem of $48.72. The rate would prevail for six months after which an adjustment would be made to reflect actual costs. The net effect is a significant increase in operating capital needed to start up and maintain operations.

2. Private Pay Per Diem Income is collected in advance. Average collection period for Medicaid and Fee-for-Service income is 30 days.

3. Interim rate of $48.72 is based upon 80% occupancy. Occupancy may be higher but cash flow improves if per diem rate is not based on a higher occupancy rate.

EASTMONT HUMAN SERVICES CENTER

An Intermediate Care Facility for the Mentally Retarded (IMR)

State Operated

Option 2

Management Provision

An alternative management style for an IMR at the Eastmont Human Services Center involves operating the facility under the auspices of the Department of Institutions. Specifically, enabling legislation would be required designating the Eastmont Training Center and the Eastmont Human Services Center as a single institution with two distinct service components, a training center and the intermediate care component.

Essentially, a regional center for DD services would emerge managed by a single entity. This management arrangement may well facilitate the delivery of fully integrated services in the catchment area, including screening, diagnosis, developmental and medical treatment. Jerry R. Hoover, the Superintendent of the Eastmont Training Center, believes that the establishment of the regional delivery system has distinct advantages over further decentralization of services along county or community lines. He asserts in a special report that municipal governments are not skilled in coordinating service delivery to the retarded. He indicates that a number of states have superimposed regional structures to manage county systems for fiscal and program accountability. In addition, most states which have recently decentralized their DD services have opted for a regional system. (Alaska, Nevada, New Mexico). Mr. Hoover also contends that ideally the scope of the services offered in Glendive should be directed at the child and adolescent DD population in eastern Montana. With this limited form of specialization, integrated services could be delivered in a more efficient manner than would be the case if services were not focused on a specific age group.

Financial Considerations

Pro forma financial statements accompanied by other operational data schedules have been developed for this particular option and can be compared to similar statements for the non-profit option. The statement of incremental operating expenses will reveal significantly higher expenditures for personnel under state ownership and operation. As has been mentioned before, this is due to the salary disparity between state employees and salaries paid employees in the private sector. Even though a number of services could be shared, total operating expenses for an IMR under state ownership are greater than expenses incurred if the facility is managed as a non-profit entity.

In determining the per diem rate for reimbursement purposes, the expenses of providing special education were excluded. This is required since public law prohibits public institutions from charging parents for special education services provided to their children. It is anticipated, however, that the costs of providing special education services will be largely offset by ESEA Title I grants for self help skill acquisition.

An income projection is most difficult under this alternative since a specific population has not been identified for the facility. In addition, if the facility is operated as a state institution, the reimbursement statutes will apply to all patients domiciled there. As a result, ability to pay limitations will undoubtably result in less than 100% cost reimbursement for operation of the facility. This fact has a significant impact on estimating payment from private payors. In fact, it is virtually impossible to predict what revenues from that source might be. As a result, the income projection shows income from only three sources, Medicaid, grants and fee for service income. The general fund obligation shown in the accompanying statements indicates a maximum general fund obligation of $165,921. This general fund payment could be reduced by the amount of funds received from private parties. Nonetheless, it is doubtful that the facility would ever generate income in an amount sufficient to offset the total operating cost. Generally speaking, as the percentage of Medicaid eligible patients increases, the general fund obligation will decrease. Nonetheless, from a strictly financial point of view, it appears that a non-profit operation is more cost efficient than operating an IMR as a state institution.

EASTMONT HUMAN SERVICES CENTER

Intermediate Care Facility for the Mentally Retarded

State Operated

Annual Incremental Operating Expenses

Option 2

PERSONNEL EXPENSE:		
Nursing Services:		
1.0 - Nurse, Professional III	$15,206	
2.0 - Nurse, Professional II	27,894	
2.0 - Licensed Practical Nurse II	21,550	
2.0 - Licensed Practical Nurse I	19,792	
8.0 - Habilitation Aide II	72,768	
8.0 - Habilitation Aide I	66,992	$224,202
Developmental Services:		
1.0 - Social Worker I	$11,731	
1.0 - Occupational Therapist I	13,947	
1.0 - Speech Pathologist I	15,206	
0.7 - Physical Therapist I	10,645	
3.0 - Teacher, Ungraded Room III	41,841	
3.0 - Teacher Aide II	27,288	120,658
Administrative & Support Services:		
0.5 - Secretary II	$ 4,548	
0.5 - Medical Records Technician I	4,548	
1.6 - Cook II	14,554	
3.2 - Food Service Worker II	24,660	
1.0 - Maintenance Worker I	9,096	
3.2 - Custodial Worker II	24,660	82,066
Benefits		76,847
TOTAL PERSONNEL EXPENSE		$503,773

OVERHEAD EXPENSE:			
Contracted Services:			
Physician	$5,000		
Psychology	2,000		
Pharmacy	3,000		
Dietitian	2,000	$12,000	
Medical Supplies		3,500	
Equipment		2,500	
Food ($2.00 PPD)		25,920	
Utilities		15,000	
Laundry (2 lb. PPD x $.30)		7,800	
Housekeeping Supplies		1,800	
Telephone		1,000	
Insurance		2,000	
Travel		1,000	
Professional Memberships		300	
TOTAL OVERHEAD			$ 73,020
Add: Depreciation Expense			40,000
TOTAL OPERATING EXPENSE			$616,793

EASTMONT HUMAN SERVICES CENTER

Intermediate Care Facility for the Mentally Retarded

State Operated

Option 2

INCOME PROJECTION

Medicaid Income		
7,635 patient days x $43.99	=	$335,864
ESEA Title I Grant		
Self-Help Skill Acquisition		40,000
Fee-for-Service Income		35,008
Private Payors		Unknown
		$410,872

GENERAL FUND OBLIGATION

Total Operating Expenses	$616,793
Less: Depreciation	40,000
	$576,793
Less: Projected Income	410,872
Maximum General Fund Obligation	**$165,921**
Net Cost Per Patient	**$ 5,185**

EASTMONT HUMAN SERVICES CENTER

Intermediate Care Facility for the Mentally Retarded

State Operated

Option 2

Schedule of Allowable Expenses to Determine Per Diem Rate

EXPENSE CATEGORY:

Nursing Services	$224,202
Developmental Services*	11,731
Administration & Support Services	93,378
Benefits	59,276
Overhead	71,020
Depreciation (Building)	40,000
	$499,607

CALCULATION FOR INTERIM RATE REQUEST:

Allowable Expenses	$499,607
Divide by Total Patient Days	11,755
Per Diem Cost	$ 42.50
Incentive Increment	1.49
Interim Rate	**$ 43.99**

SOURCE OF FEE-FOR-SERVICE INCOME:

Physical Therapy	$ 10,645
Occupational Therapy	13,947
Speech Therapy	15,206
Benefits	7,164
Psychology Services	2,000
Sub-Total	48,962
Add: 10% Margin	4,896
	$ 53,858

* Excluded fee-for-service items (O.T., A.T., S.T.) and special education personnel expenses.

GALEN STATE HOSPITAL (GSH)

Galen State Hospital has wards licensed for either hospital or long term care. Of a total 220 bed contingent, 113 beds are certified for hospital care while 107 are certified for intermediate care. Utilization of the facility has been chronically low, averaging slightly over 40% occupancy at present. Minor alterations will be needed to maintain ICF certification. Some physical features on the ICF wards do not meet the needs of the handicapped; however, alternative plans to upgrade utilization of GSH will incorporate plans to correct the deficiencies. The primary functions of GSH are (1) the treatment and diagnosis of tuberculosis and silicosis, and (2) detoxification, diagnosis and treatment of alcoholism. A portion of the law defining the function of GSH indicates that if space and funds are available, the facility may treat patients who are residents of other institutions (80-1701(2)(d).

Since some flexibility exists, the Department of Institutions will prepare two alternate plans to increase utilization of Galen State Hospital. The two alternatives are (1) a 60 bed "state home" for providing nursing services to veterans and (2) a geriatric component to provide care and treatment to patients currently located at Warm Springs State Hospital. The last alternative will encompass two options each involving differing population segments.

Veterans Nursing Home Component

VA regulations governing the recognition of state homes allow for buildings in an existing state facility to be approved as a state home. As a result, one alternative to increase utilization of Galen State Hospital is the addition of a veterans nursing home component.

There are currently over 100,000 living veterans in Montana. A commonly used formula calls for two and one half nursing beds per 1,000 veterans or at least 250 beds for the entire state. According to the Montana Board of Veterans Affairs, half of the living veterans in Montana served in World Wars I and II. Thus the age distribution expected would indicate a significant increase in the need for additional nursing home beds. Currently, there are 40 beds at the state home in Columbia Falls, 26 beds at the Miles City VA Center, 32 beds are under contract from private and/or non-profit nursing homes. Waiting lists for admission are significant at Columbia Falls and Miles City.

This plan involves designating one entire floor of the Terrill, Crockett and Annex Complex as a veterans nursing home. It is our recommendation that the first floor of the hospital be designated since it is most suitable for this level of care. Maximum capacity of the first floor would be 60 beds.

Renovation Requirement

Minor renovation is necessary to utilize the Galen facility. We do not know the exact extent of the work since a final inspection by a VA survey team will determine the specific renovation requirements. According to Mr. Hal Grayber, an official of the VA Extended

Treatment Division in Washington, D.C., inspections are generally not conducted until the state has enacted legislation indicating a serious intent to utilize a state facility as a state home for veterans. Nonetheless, Mr. Grayber has forwarded VA standards for construction of nursing homes. There standards have been reviewed by Ralph DeCunzo, an architect with the Division of Architecture and Engineering. An estimate of renovation costs was determined based on these standards. Items considered in the estimate were:

1. Toilet and bathing facilities for the handicapped.
2. Positive latches for patient room doors.
3. New grounding outlets for patient rooms.
4. Provide multipurpose/dining room space.
5. Ramp off existing patio.
6. Double doors to close off wings.
7. Combine nurse's call systems to one central location.
8. Provide isolation rooms.
9. Provide clean and soiled laundry rooms.
10. Minor remodeling for general improvements and safety.

The price tag for this work comes to approximately $100,000.

If VA recognizes the facility as a state home, they are authorized to participate in up to 65% of the cost of alternations. Expenses for architect fees, supervision, inspection and initial equipment may be included for cost sharing. Total outlay for the state would approximate $35,000 for building alterations under these conditions.

Management Provisions

The veterans component would, of course, be managed by the current administration of Galen State Hospital. As a result, many ancillary services can be shared, thereby reducing the total operating expenses for the veterans component.

Enabling legislation is vital to effecting this plan. The first floor of the hospital complex must be designated exclusively for veterans' use. Admission requirements could be synonymous with those operative for the state home in Columbia Falls.

Following the enactment of the enabling legislation, an application for VA recognition would be filed with the Medical Director of the Veterans Administration and an inspection of the facility would be made by VA to determine its suitability. Based upon the inspection, a recommendation to accept or reject the facility would be made to the Administrator of the Veterans Administration.

Financial Discussion

Total personnel expenditures, staffing levels, capital equipment needs, incremental operating expenses,and income projections are depicted in the financial statements that follow this section. The statement of annual operating expenses indicates a very high

percentage of personnel expenses to total operating expenses. This stems from the fact that many support services are shared, such as administration, food service, housekeeping, laundry and medical care. The statement of operating expenses also indicates the additional personnel that must be hired to operate the veterans component. These employees would be paid in accordance with the Montana Pay and Classification Plan. As employees of Galen State Hospital, they would naturally be required to join the various unions applicable to their employee category. The need for additional employees at Galen could be a significant factor in offsetting the displacement of Warm Springs State Hospital employees caused by the implementation of other alternatives such as the movement of the Geriatrics Unit to the Eastmont Human Services Center.

As in the previous income projection, the revenue calculations are greatly simplified since virtually no Medicaid reimbursement can be expected for veterans care. In most cases, their pensions or disability income exceed Medicaid income limitations.

Income is generated from two primary sources. Veterans receiving care in the nursing home are assessed a monthly charge based upon their ability to pay determined in accordance with reimbursement statutes governing state institutions. Since there is no way to identify veterans who will be admitted, the average ability to pay is based upon our experience at the state home in Columbia Falls. In addition to that income source, the VA contributes up to one half of the cost of care not to exceed $10.50 per day.

As will be shown in the financial statements at the end of this section, income from the two primary sources does not cover anticipated expenses. Although expenses have been reduced by sharing services, the general fund obligation will slightly exceed $100,000 during the first year of operation. It is probable that comparable general fund obligations will be incurred in subsequent years. Under no circumstances can total income exceed the cost of care if status as a veterans nursing home is to be maintained. In terms of annual cost per patient, the expense to the general fund is relatively low compared to most other institutions (e.g. cost per patient exceeds $22,000 per annum at Warm Springs State Hospital).

Summary

There seem to be few problems inherent in this proposal. The only significant disadvantage of effecting this plan seems to be that it does not allow cost avoidance measures to be undertaken at Warm Springs State Hospital. It would not have the effect of reducing the population of inappropriately placed patients at Warm Springs. On the positive side, it does contribute to the unmet need for nursing home services for veterans in Montana.

GALEN STATE HOSPITAL

Veterans Nursing Home Component
(60 Bed)
Incremental Operating Expenses

PERSONNEL EXPENSE:

Nursing Services:

3.0 - Registered Nurse II	$ 41,841	
2.4 - Licensed Practical Nurse III	28,155	
0.8 - Licensed Practical Nurse II	8,620	
16.0 - Nurse Aide I	133,984	
1.6 - Ward Clerk	13,399	
1.0 - Inhalation Therapy Aide, LPN I	9,896	$235,895

Treatment Services:

1.0 - Physician	$ 38,000	
.7 - Physical Therapist II	10,645	48,645

Administrative & Support Services:

1.6 - Food Service Worker III	$ 13,399	
3.2 - Food Service Worker II	24,660	
1.0 - Dietitian I	12,793	
2.0 - Custodial Worker II	15,412	
1.0 - Pharmacist I	15,206	81,470

Benefits	63,291
TOTAL PERSONNEL EXPENSE	$429,301

OVERHEAD EXPENSE:

Contracted Services	$ 2,000
Medical Supplies	4,800
Housekeeping Supplies	1,500
Drugs	10,000
Food ($2.00 PPD)	35,040
Transportation Expenses	500
TOTAL OVERHEAD	$ 53,840
TOTAL OPERATING EXPENSE	$483,141

GALEN STATE HOSPITAL

Veterans Nursing Home Component

ANNUAL INCOME PROJECTION

Private Ability to Pay *	$334.17	
Number of Patient Months	x 584	$195,156
VA Contribution		
Per Diem	$10.50	
Total Patient Days	x 17,520	$183,960
TOTAL INCOME		$379,116

* Ability to pay based upon average payment from patients in Veterans' Home at Columbia Falls.

CALCULATION OF GENERAL FUND OBLIGATION

Total Operating Expenses	$483,141
Less: Total Income	$379,116
General Fund Obligation	$104,025
Net Annual Cost Per Patient	**$ 2,168**

CAPITAL EQUIPMENT REQUIRED

Walkers	7 @ $40	$ 280
Wheelchairs	4 @ $250	1,000
Geriatric Chairs	6 @ $300	1,800
Patient Lift	2 @ $500	1,000
Perambulators	2 @ $300	600
Food Carts	3 @ $535	1,605
TOTAL EQUIPMENT		$6,285

GALEN STATE HOSPITAL

Veterans Nursing Home Component

Occupancy Projection

Month	Total Patient Days	Total Patient Months Billed	Occupancy
1	300	12	
2	750	26	
3	1,250	40	
1st Quarter	2,300	78	43%
4	1,600	53	
5	1,620	54	
6	1,650	55	
2nd Quarter	4,870	162	90%
7	1,700	56	
8	1,710	57	
9	1,720	57	
3rd Quarter	5,130	170	94%
10	1,740	58	
11	1,740	58	
12	1,740	58	
4th Quarter	5,220	174	97%
ANNUAL TOTAL	17,520	584	80%

GALEN STATE HOSPITAL

Transfer - WSSH Extended Treatment Unit

Option I

In late October, 44 geriatric residents were identified on the Extended Treatment Unit (ETU) at Warm Springs. The Unit Supervisor, James Deming, indicated that many, if not most, of the group could manage a rest home or group home experience. Community placement for selected individuals was attempted but not completed due to level of care limitations imposed by the Professional Standards Review Organization (PSRO).

Currently 37 of the 44 patients initially identified remain at Warm Springs State Hospital. Since many are authorized for only personal care levels and appear to be capable of adapting to an alternative setting, a transfer of the group to Galen is worthy of consideration. Such a transfer would greatly relieve overcrowded, congested conditions in the Bolton Building.

Renovation Required

Although Galen State Hospital is licensed and certified, minor renovation is required to enable the hospital staff to utilize contiguous wards for this patient group. It is recommended that the first floor of the Terrill, Crockett and Annex complex be utilized for the ETU component. Capacity following renovation would be 60 beds, all certified for intermediate care (ICF). Two wards in the selected area are currently certified for hospital care. Ironically, the licensing and certification bureau of DHES has indicated that these wards will not meet ICF requirements without alterations. The alterations needed are minor and chances are high that renovation would soon be required even to maintain the existing certification. An analysis of renovation needs was made by Ralph DeCunzo, architect with the Division of Architecture and Engineering. A summary of his assessment is shown below.

Items for Alteration

1. Toilet and bathing facilities for the handicapped.
2. Positive latches for patient room doors.
3. New grounding outlets for patient rooms.
4. Provide multipurpose/dining room space.
5. Ramp existing patio.
6. Double doors to close off wings.
7. Combine nurses' call system into one central location.
8. Provide isolation room.
9. Provide clean and soiled laundry rooms.
10. Minor remodeling for general improvement and safety.

The estimated cost for completing the listed items is $85,000. This would virtually insure that the first floor would meet ICF standards.

The Medicaid Enigma

Eligibility for Title XIX Medicaid benefits is primarily determined by income levels. Where Medicare is an insurance program, Medicaid is a welfare program. In addition to income eligibility, a number of other criteria are crucial in determining whether or not Medicaid payments are made on behalf of a patient being treated in an institution. The significant criteria are:

1. Income Eligibility.
2. Nature of the Institution - if the institution is one for mental diseases, Medicaid will not participate for patients between ages 22 and 64.
3. Certification of the Facility - if the facility is not certified for a suitable level of care, Medicaid will not pay even if the patient is otherwise eligible.
4. Authorized Level of Care - PSRO is now charged with the responsibility of assessing appropriate levels of care for patients in an institutional setting. In the case of Galen and Warm Springs State Hospital, Medicaid reimbursement is paid only for ICF, SNF and Hospital levels of care. Personal care does not qualify for Medicaid participation.

Using the criteria defined above, the patients identified in the ETU can be assessed for federal financial participation through Medicaid. First, based on the income criterion, the eligibility technician has determined that 18 of the 37 patients identified are eligible. However, when the nature of the institution is considered, only 8 of those 18 are 65 years or age or more, thus, due to the age restriction in mental institutions, 10 patients are no longer eligible. Thirdly, the ETU is an uncertified facility. As a result, Medicaid payments will not be authorized for any patient in that unit even though they may be eligible from an income and age standpoint. We now have the prospect of receiving no federal financial participation for patients in the Extended Treatment Unit since the patients are not domiciled in certified buildings.

However, assume that the facility at Warm Springs State Hospital was certified for ICF level of care. In such a case, 8 of the original 18 patients would remain eligible for Medicaid. We must then assess these 8 patients based upon the final criterion - authorized level of care. The PSRO representative evaluated the patients over 64 years of age and found that only three have medical problems that warrant an ICF level of care. The other five are authorized personal care for which no Medicaid payments can be made. To summarize, only three patients are ultimately able to receive financial participation from Title XIX sources.

If the ETU component is transferred to Galen State Hospital, the criteria must be utilized once again to assess eligibility. First, we know there are 18 eligibles based upon income. Since Galen is not an institution for mental diseases, there is no age restriction affecting federal financial participation. In addition, the Galen complex will be certified for ICF care. So after assessing the same patient group against the first three criteria, we still have eighteen patients eligible for Medicaid benefits. However, the last factor must be considered. The PSRO representative has found that of the 18 eligible patients only 10 are

authorized an ICF level of care. The other 8 patients are authorized personal care and are, therefore, excluded from Medicaid participation. The table below summarizes this process and the conclusions drawn.

ELIGIBILITY ASSESSMENT OF 37 ETU PATIENTS FOR MEDICAID ELIGIBILITY

Criteria	Number Eligible at WSSH in ETU	Number Eligible in WSSH in Certified Unit	Number Eligible if Transferred to Galen State Hospital
Income Eligibility	18	18	18
Nature of Institution (Age)	8	8	18
Certification of Facility	0	8	18
Authorized Level of Care	N/A	3	10
TOTAL ELIGIBLE	**0**	**3**	**10**

It is obvious that from a reimbursement viewpoint, the outlook for federal financial participation is much improved if the patients are at Galen State Hospital. The exhibit entitled "Patient Identification and Eligibility Data" reflects the basic information and assumptions about eligibility determination. The reader is cautioned that eligibility status can change due to new episodes of illness or recovery from a previous illness or injury. Changes in financial status can also occur that affect eligibility. Conditions cannot be assumed to remain static. Naturally, as patient age increases, the level of care needed also tends to escalate.

Financial Discussion

Financial data is presented at the end of this section that demonstrates the cost advantage of effecting this transfer. Staffing levels, personnel and overhead expenses are identified. Total personnel expenses for the addition of a physician, pharmacist and dietitian are shown on the statement of operating expenses. The expenses for these three positions are necessary to implement this or other alternatives. However, the services of these people will benefit all patients in the hospital. It is also planned that the dietitian will provide consultation to the Veterans' Home and the Center for the Aged.

The income comparison clearly shows that there is a significant increase in Medicaid revenue based upon the transfer of these patients to Galen State Hospital. The cost advantage of transfer stems from the lower cost of care at Galen State Hospital, inapplicability of the age restrictions on reimbursement at Galen State Hospital and the fact that patients transferred will be in a certified unit.

Problem Areas

In order to realize a true cost reduction by transfer of the ETU component, staff levels at WSSH must be reduced coincidentally with the increase in staff levels at GSH. Some employees may wish to transfer to Galen which is desirable in terms of offsetting new hire and training costs. Should employees at WSSH not opt for transfer, some may be absorbed into other treatment units at Warm Springs as attrition occurs. If the rate of attrition is not timely, a layoff may be required to prevent excessive personnel expenses.

Union officials at Warm Springs State Hospital can be expected to strenuously object to a patient transfer to Galen since the size of their membership would decrease. WSSH employees can be expected to object due to the fact that the seniority they have accrued at WSSH as it relates to position and promotion rights would be lost. This is due to the fact that they would be required to join different bargaining units at Galen State Hospital. Naturally, a transfer would not affect their seniority rights as employees of the State of Montana.

GALEN STATE HOSPITAL

Transfer - WSSH Extended Treatment Unit

Annual Incremental Operating Expense

Option I

PERSONNEL EXPENSE:

Nursing Services:

2.0 - Registered Nurse II	$27,894	
1.0 - Licensed Practical Nurse III	11,732	
2.0 - Licensed Practical Nurse II	21,550	
7.0 - Nurse Aide II	63,672	
7.0 - Nurse Aide I	58,618	
1.6 - Ward Clerk	13,399	$196,865

Treatment Services:

1.0 - Physician	$38,000	
1.0 - Recreation Therapist II	15,206	
0.5 - Music Therapist I	6,974	
1.0 - Occupational Therapist I	13,947	
1.0 - Rehabilitation Aide I	9,096	$ 83,223

Administrative & Support Services:

1.0 - Pharmacist I	$15,206	
1.0 - Dietitian I	12,793	
3.2 - Food Service Worker II	24,660	
2.0 - Custodial Worker II	15,412	
1.0 - Cosmetologist I	9,096	$ 77,167

Benefits	$ 64,306
TOTAL PERSONNEL EXPENSE	$421,561

OVERHEAD EXPENSE:

Contracted Services:

Psychology	$3,000	
Physical Therapy	5,000	$ 8,000
Medical Supplies		3,000
Housekeeping Supplies		1,200
Drugs		8,000
Food ($2.00 PPD)		27,740
TOTAL OVERHEAD		$ 47,940
TOTAL OPERATING EXPENSE		$469,501

GALEN STATE HOSPITAL

Transfer - WSSH Extended Treatment Unit

Option I

Annual Income Comparison

	Remain at WSSH - ETU	Remain at WSSH * in Certified Unit	Transfer to Galen State Hospital
Per Diem Rate	$ 61.07	$ 61.07	$ 35.34
Annualized	$824,751	$824,751	$477,267
Income			
Medicaid	-0-	$ 65,162	$124,462
Private Resources	55,993	55,993	55,993
Total Income	**$ 55,993**	**$121,155**	**$180,435**
Less: State Medicaid Match	-0-	$ 25,414	$ 48,540
Net Income	**$ 55,993**	**$ 95,741**	**$133,254**
Cost Recovery %	6.8%	11.6%	27.9%

* No certified unit is currently available. Renovation cost to provide one could reach $1 million.

GALEN STATE HOSPITAL

Transfer - WSSH Extended Treatment Unit

Option I

Patient Identification & Eligibility Data

Patient Number	Monthly Ability to Pay	Age	Medicaid Eligibility	Level of Care
12039	0	63	X	Personal
18294	$278.45	68		
14268	0	67		
20063	0	63	X	Personal
32820	0	77		
29303	0	60		
28829	221.10	63		
25696	228.50	76		
11844	202.29	68		
15717	89.30	65	X	Intermediate
20605	0	60	X	Intermediate
32250	272.82	81		
31846	0	61		
13798	165.50	61		
36153	142.30	62	X	Intermediate
37346	131.70	62		
12476	74.30	60		
15626	0	68	X	Personal
13938	30.00	66		
14801	0	61		
17118	92.30	66	X	Intermediate
37160	89.30	61	X	Personal
16717	173.70	64	X	Intermediate
13755	0	63	X	Personal
11459	60.80	63	X	Intermediate
31605	0	61		
16949	0	63	X	Personal
8740	96.80	72	X	Intermediate
10984	0	66	X	Personal
30710	170.70	64		
9886	42.00	72		
18769	0	65	X	Intermediate
13051	0	73	X	Intermediate
24982	175.40	63	X	Intermediate
10448	96.80	65	X	Personal
15372	0	60		
32264	1,832.00	78		

GALEN STATE HOSPITAL

Transfer - WSSH Geriatrics Unit

Option 2

Transfer of 40 patients from the Geriatrics Unit - 219 at WSSH has already been discussed as a potential use for the Eastmont Human Services Center. Yet another alternative is the transfer of those patients to Galen State Hospital. For the purposes of this analysis, only 38 patients will be considered since two of the patients originally identified recently expired.

Renovation Required

This patient movement also requires minor alterations of the GSH complex. The scope and cost of the renovation is identical with that shown for Option I. Again, it is recommended that the first floor of the Terrill, Crockett and Annex area be utilized. It is especially desirable to have the geriatric population on the first floor since many are handicapped. The location also provides superior emergency evacuation features and during the summer months it facilitates accessibility to the outdoor courtyard.

Although this alternative addresses the transfer of only 38 patients, renovated capacity will accomodate 60 patients. Therefore, there is potential for transferring additional geriatric patients as the need arises. It is assumed that additional geriatric patients earmarked for transfer will have distinct needs for physical care. While we realize there might be some minor psychosis, we also assume that patients transferred would not be in need of intensive psychiatric care, it is our position that they should remain at Warm Springs State Hospital.

Medicaid Eligibility

Determining the extent of federal financial participation can once again be done utilizing the four eligibility criteria developed in the narrative for Option I.

ELIGIBLITY ASSESSMENT OF 38 GERIATRIC PATIENTS FOR MEDICAID BENEFITS

Criteria	Number Eligible at WSSH Unit 219	Number Eligible if Transferred to GSH
Income Eligibility	27	27
Nature of Institution	20	27
Certification of Facility	20	27
Authorized Level of Care	20	27
TOTAL ELIGIBLE	20	27

Unit 219 at WSSH is the only fully licensed/certified building on the campus. As a result, many more patients are eligible than was the case under Option I. All patients have been authorized to receive ICF level of care by the PSRO coordinator. The difference in eligibility of seven patients is due solely to the age restriction operative at WSSH since it is an institution for mental diseases. The exhibit entitled "Patient Identification and Eligibility Data" reflects the basic information and assumptions about eligibility determination. The reader is once again cautioned that eligibility status can change due to many interacting factors.

Financial Discussion

A statement of incremental operating expenses and an income comparison can be found at the end of this report. Staffing levels, personnel and overhead expenses are identified. Special attention should be given to the income comparison that is based upon current per diem charges at Warm Springs and Galen State Hospitals. Ancillary expenses and concomitant reimbursement will not change significantly due to a patient transfer. Therefore, the income comparison is confined to eligibility and per diem variations.

Unlike Option I, this transfer does not result in additional Medicaid income accruing to the state. In fact, effecting the transfer would result in nearly $51,000 less federal financial participation. However, total cost of care and treatment at Galen State Hospital is much lower than at WSSH. The apparent difference in absolute Medicaid dollars reimbursed will be further offset by the fact that the movement of other patient groups into Unit 219 at WSSH will undoubtedly produce additional Medicaid revenue since that unit is licensed and certified for ICF and SNF levels of care.

In assessing the cost impact of this alternative, cost recovery takes on added importance. Transfer to GSH would result in nearly 55% of the annual per diem cost being recaptured, whereas only about 40% is recaptured if the patients remain at Warm Springs.

Problem Areas

In order to realize a true cost reduction by transfer of the Geriatrics Unit, staff levels at WSSH must be reduced coincidentally with the increase of staff levels at GSH. Even more financial benefits can be realized if the overstaffing in the non-clinical areas at WSSH is addressed. The hospital's administration has identified excessive personnel in a number of those areas. Overstaffing varies from 13 to 20 employees depending upon the census level at the hospital. If attrition does not occur in these areas, it is obvious that excessive personnel expenditures will be made at WSSH.

Some employees at WSSH may wish to transfer to Galen. This is undoubtedly desirable since it offsets the high cost of training new employees. Should employees at WSSH not opt for a transfer, some may be absorbed into other treatment units at Warm Springs as attrition occurs. If the rate of attrition is not timely, a layoff may be required to prevent excessive personnel expenses.

Union officials at WSSH have severe objections to this type of a proposal since it would require that employees of Warm Springs be assimilated into differing bargaining units at Galen State Hospital. Former WSSH employees of the Geriatric Unit who opted for transfer to Galen would lose much, if not all, of their seniority accrued at Warm Springs as it relates to position and promotion rights. It should be emphasized that the loss of rights mentioned in the preceding sentence refers to their union membership rights and not to longevity rights as employees of the State of Montana. A transfer would not affect their longevity rights as employees of the State.

Other arguments from union officials and employees at WSSH can also be anticipated. Late in 1978, the Department recommended that the Geriatrics Unit be moved to Galen and retain its administrative affiliation with Warm Springs. This proposal was made to utilize our resources more efficiently. The President of the WSSH independent Union, Mike Beusoleil, wrote a letter in which a number of reasons were cited for not effecting such a movement. Mr. Beusoleil stated that a majority of therapies and diversional activities offered by staff would no longer be available to geriatric patients if they were transferred to GSH. Among the activities he included were physical therapy, passive exercises, reality therapy, music therapy, church services, movies, availability of student nurses, availability of volunteer workers, walks, dances, candy making, escort services and patient employment. He also indicated that physical plant facilities at Warm Springs State Hospital far exceeded those at Galen, particularly because Unit 219 at Warm Springs is well suited for geriatric patients.

While we can agree that Unit 219 is an excellent building for geriatric patients, we also feel that the renovation planned at Galen State Hospital will enable that facility to be quite suitable for geriatric use. We feel that the fact that the first floor will be certified for intermediate care by the state survey agency is a clear indication that the requirements for proper care and treatment are being met. As concerns the therapies and diversional activities that supposedly cannot be offered at Galen, we see no significant barriers preventing similar activities from being provided at that facility.

If either option under this alternative becomes a reality, employees at Warm Springs State Hospital who wish to be hired at Galen should have first priority for positions there. They would be subject to the union seniority rules of the existing jurisdictional rules at Galen State Hospital - namely ASFME and the RN Association. For those displaced employees of Warm Springs who do not desire to relocate to Galen, every attempt will be made to absorb them into existing units at Warm Springs. In essence, neither of the two options need reduce aggregate employment in the Deer Lodge valley. Certainly jurisdictional lines will be crossed and differing bargaining units will be affected but jobs will not be lost as they might be if the geriatric or ETU components were moved to a facility such as the Eastmont Human Services Center. If the Legislature feels that it is impractical to absorb employees at WSSH who do not wish to transfer, a layoff seems to be the only alternative. In such a case, procedures would undoubtedly impact the actual employees terminated.

Effecting the transfer of the Geriatric Unit would enable the Bolton Building to be vacated. Patients in Bolton could be relocated to the Warren Building and Unit 219. Costly renovation of Bolton or other inadequate buildings is avoided if the ample capacity

and services that exist at Galen State Hospital are utilized. We perceive an ironical dilemma in allowing the interests of employees to override the interests of nearly 90 patients who are domiciled in the Bolton Building. In this case, we believe that the needs of the patients take first priority.

The other problem that may be encountered if either option is adopted relates directly to the patients transferred. Patients who are relocated often undergo significant stress. That stress can be life threatening, particularly to elderly patients who have become acclimated to a particular setting.

GALEN STATE HOSPITAL

Transfer - WSSH Geriatric Unit

Annual Incremental Operating Expense

Option 2

PERSONNEL EXPENSE:

Nursing Services:

1.0 - Nurse Practitioner	$18,103	
2.0 - Registered Nurse II	27,894	
1.0 - Licensed Practical Nurse III	11,732	
2.0 - Licensed Practical Nurse II	21,550	
7.0 - Nurse Aide II	65,672	
7.0 - Nurse Aide I	58,618	
1.6 - Ward Clerk	13,399	$214,969

Treatment Services:

1.0 - Physician	$38,000	
1.0 - Recreation Therapist II	15,206	
0.5 - Music Therapist I	6,974	
1.0 - Rehabilitation Aide I	9,096	$ 69,276

Administrative & Support Services:

1.0 - Pharmacist I	$15,206	
1.0 - Dietitian I	12,793	
3.2 - Food Service Worker II	24,660	
3.0 - Custodial Worker II	22,500	
1.0 - Cosmetologist I	9,096	$ 84,255

Benefits	$ 66,330
TOTAL PERSONNEL EXPENSE	$434,830

OVERHEAD EXPENSE:

Contracted Services:

Psychology	$2,000	
Physical Therapy	8,000	$10,000
Medical Supplies		3,500
Housekeeping Supplies		1,800
Drugs		10,000
Food ($2.00 PPD)		29,200

TOTAL OVERHEAD	$ 54,500
TOTAL OPERATING EXPENSE	$489,330

Transfer - WSSH Geriatric Unit

Option 2

INCOME COMPARISON

	Remain at WSSH	Transfer to GSH
Per Diem Cost	$58.57	$35.34
Annualized	$812,366	$490,166
Income		
Medicaid	$418,307	$335,159
Private Resources	67,197	67,197
Total Income	$485,504	$402,356
Less: State Medicaid Match	163,140	130,712
Net Income	$322,364	$271,644
Cost Recovery %	39.7%	55.4%

GALEN STATE HOSPITAL

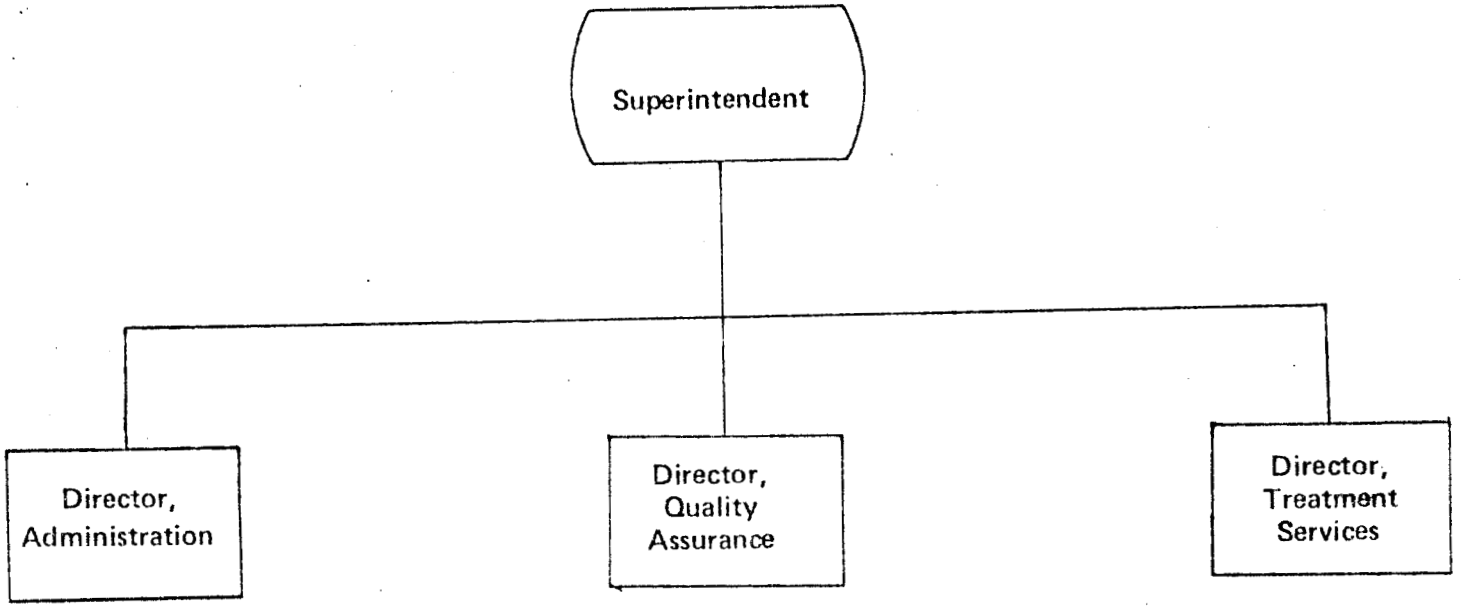
Transfer - WSSH Geriatrics Unit

Option 2

Patient Identification & Eligibility Data

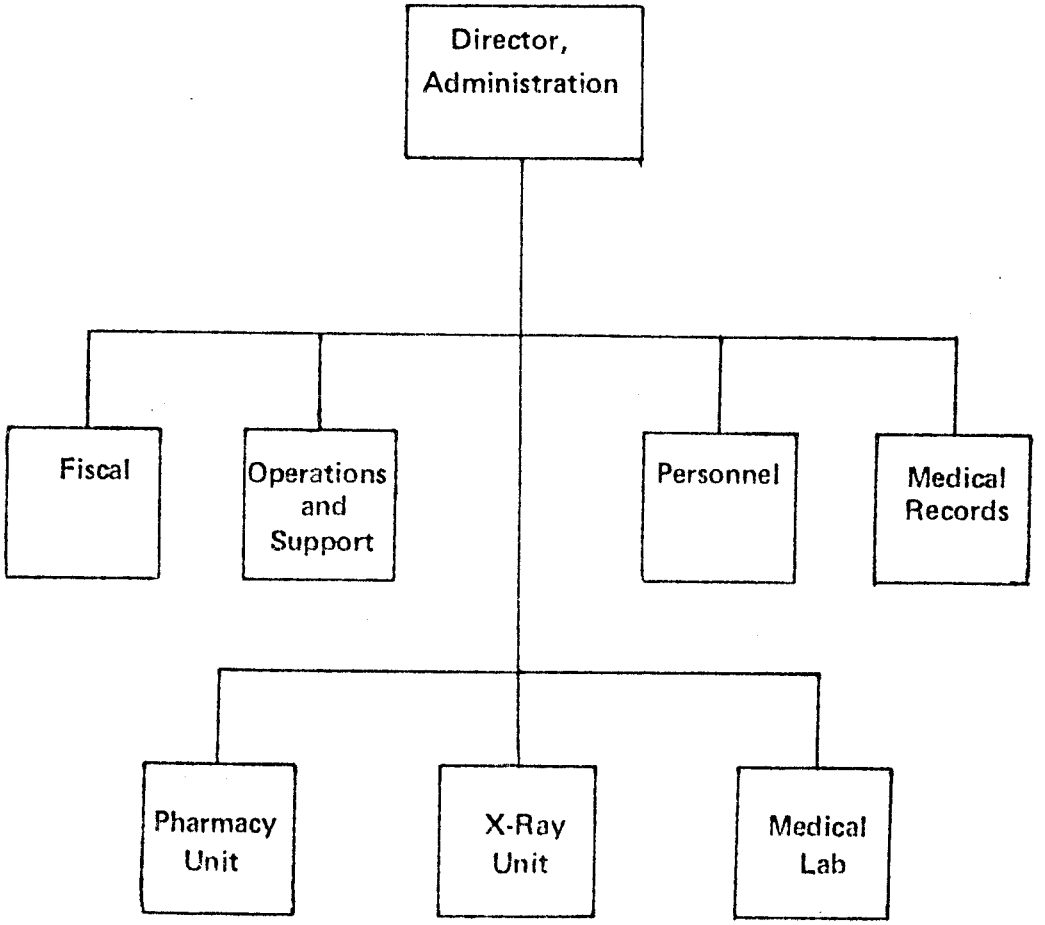
Patient Number	Monthly Ability to Pay	Age	Medicaid Eligibility	Level of Care
14654	$ 197.30	57	X	*
18002	90.10	52	X	
35969	120.80	74	X	
21118	62.90	71	X	
16950	171.10	71	X	
35333	546.43	79		
17036	96.80	48	X	
36992	17.25	71	X	
37187	398.26	78	X	
24196	82.50	71	X	
36920	-0-	68		
12626	-0-	69	X	
25599	102.50	81	X	
36830	315.00	67		
34186	317.90	76		
16956	80.10	50	X	
28837	320.00	67		
06964	58.70	84	X	
16423	165.80	80	X	
14173	237.90	71		
36965	309.10	80		
37308	188.70	67	X	
36795	-0-	56	X	
37219	191.60	71	X	
37346	1,757.10 (131.70 rec)	62		
04374	58.70	85	X	
07407	-0-	77	X	
09774	-0-	77	X	
10179	-0-	70	X	
13051	-0-	74	X	
13780	58.70	84	X	
14524	-0-	68	X	
34344	-0-	73	X	
18966	1,757.10 (399.00 rec)	61		
20541	-0-	51	X	
24982	175.40	63	X	
28277	1,757.10 (366.00 rec)	78		
36459	1,757.10 (303.50 rec)	70		

* All patients authorized ICF Level of Care by PSRO Coordinator.



APPENDIX A

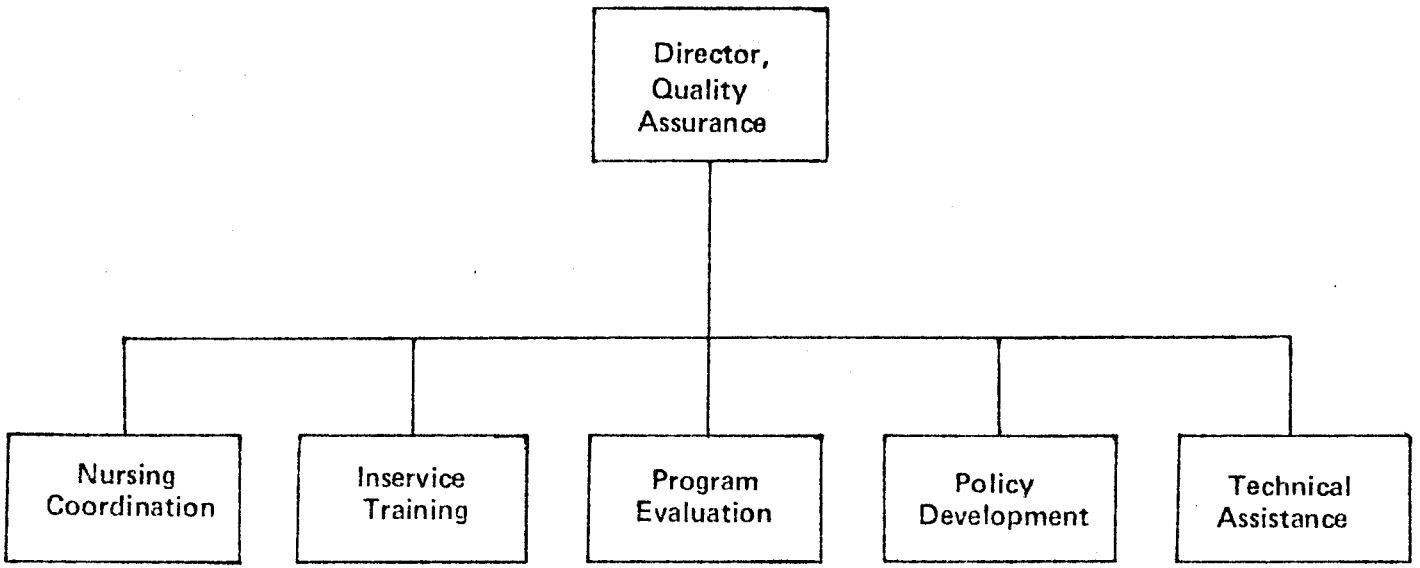
WARM SPRINGS STATE HOSPITAL
ORGANIZATION



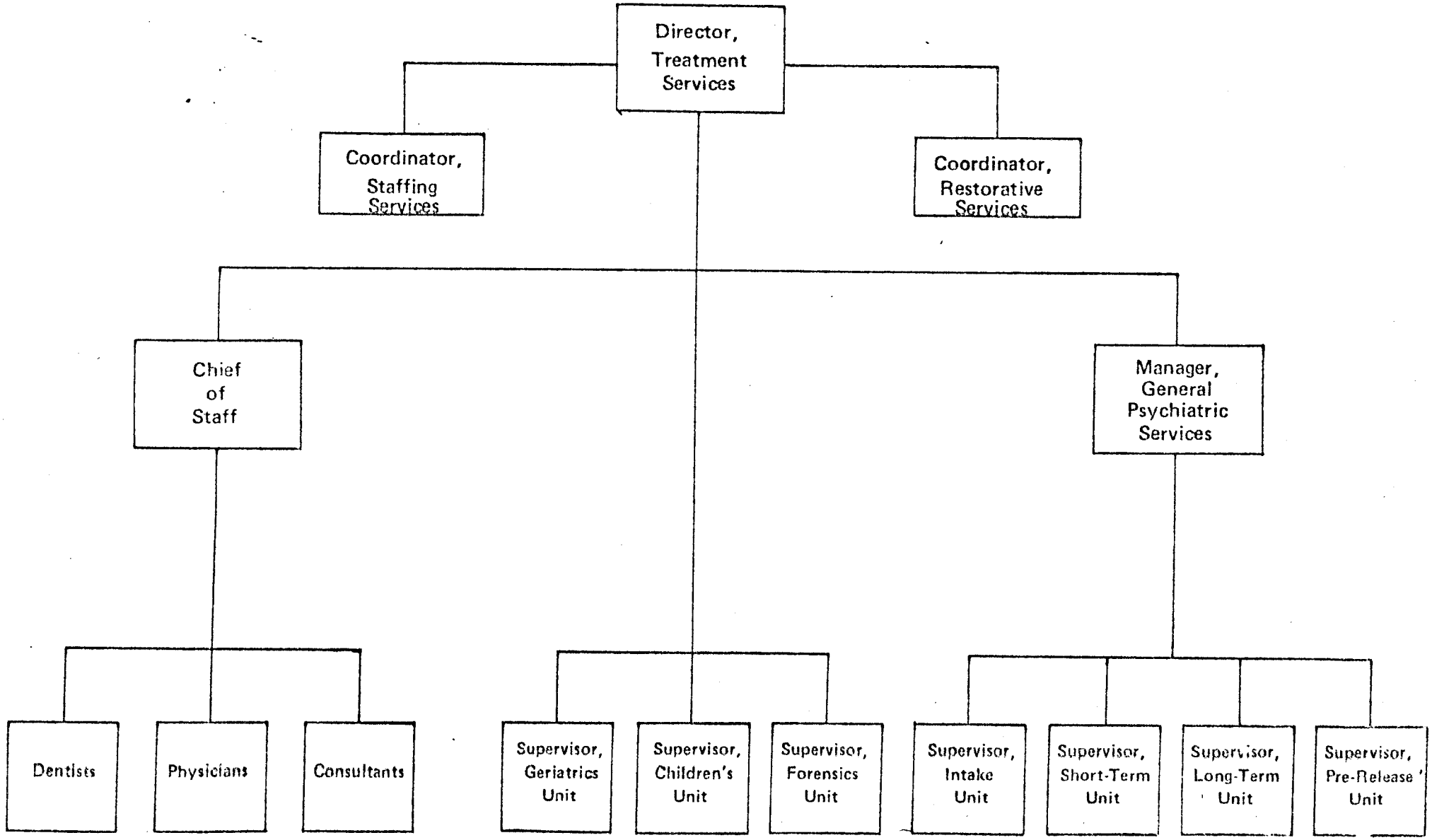
WARM SPRINGS STATE HOSPITAL

ORGANIZATION

ADMINISTRATION FUNCTIONS

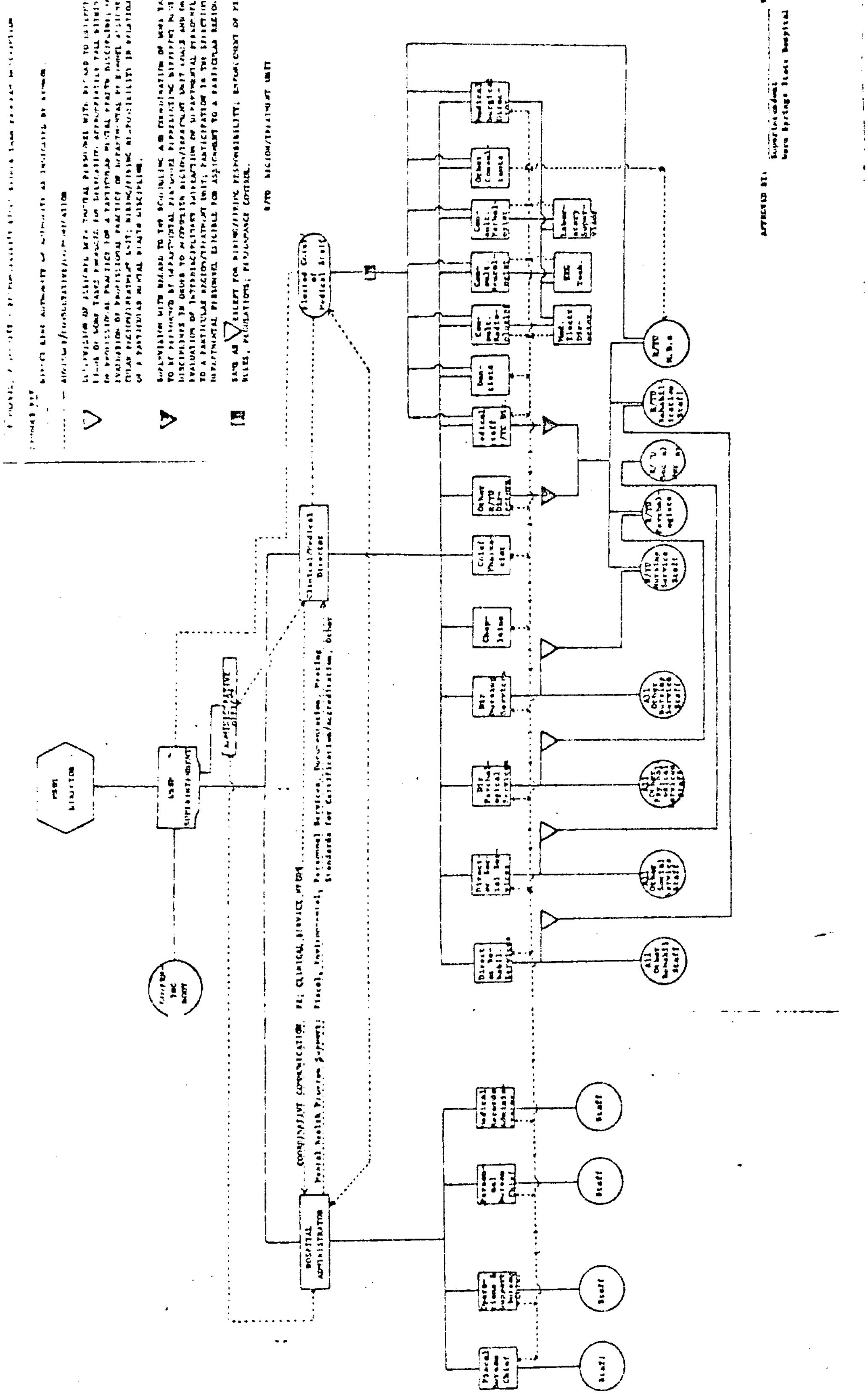


WARM SPRINGS STATE HOSPITAL
ORGANIZATION
QUALITY ASSURANCE FUNCTIONS



WARM SPRINGS STATE HOSPITAL
ORGANIZATION
TREATMENT SERVICES

APPENDIX B



Clinical/Medical Director
HOSPITAL ADMINISTRATOR
Staff
APPROVED BY:

ATTACHMENT "B"

February 1979

Information Sheet

PROPOSED AMENDMENTS TO SENATE BILL NO. 447

1. Page 1 in title, line 6, following "50" strike "through 52".

2. Page 2 line 21, following "hours" by inserting "a food service" and striking "an".

3. Page 2 line 22, following "50" strike "through 52".

ATTACHMENT "B"

February 1979

Information Sheet

PROPOSED AMENDMENTS TO SENATE BILL NO. 447

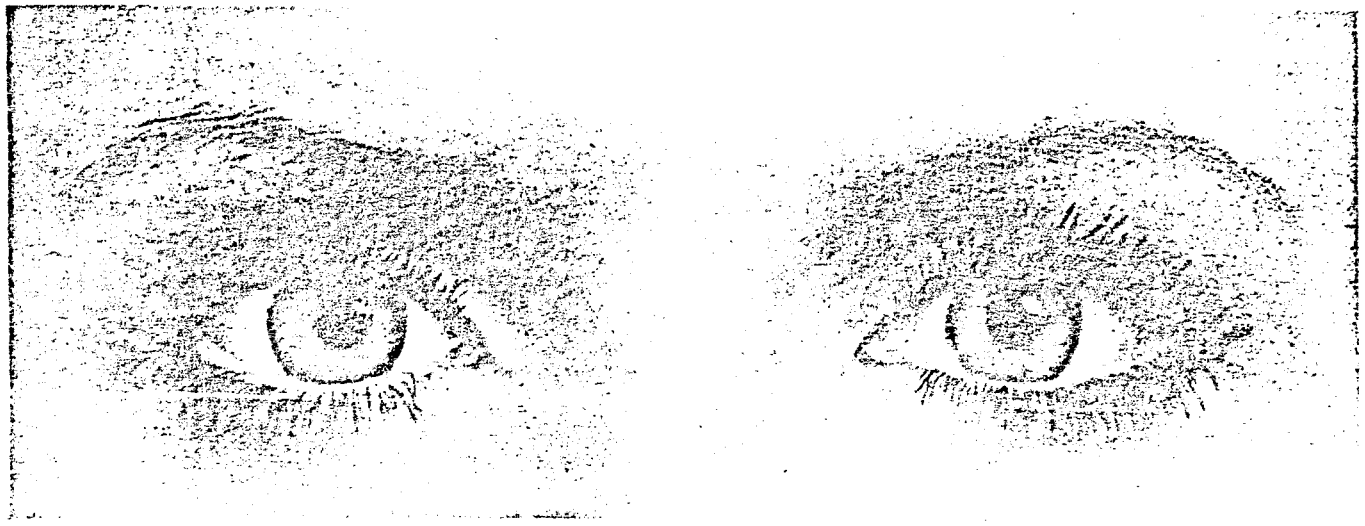
1. Page 1 in title, line 6, following "50" strike "through 52".

2. Page 2 line 21, following "hours" by inserting "a food service" and striking "an".

3. Page 2 line 22, following "50" strike "through 52".

ATTACHMENT "C"

ADD A "SPARE PAIR" OF CONTACT LENSES TO YOUR WARDROBE...



IT'S AS EASY AS CALLING TOLL-FREE (1-800-848-7573) AND AS INEXPENSIVE AS $39.90 A PAIR

Sound too good to be true? It's not! Through 20/20 you receive your spare pair of contact lenses that fit the same as the pair you now have. Hard lenses for **$19.95 EACH** ($39.90 per pair). For soft lens wearers we offer the Bausch & Lomb Soflens (polymacon) exclusively for **$49.95 EACH** ($99.90 per pair). Hard lenses are available in any of our 31 fashion tints (including clear) at no extra cost. (Sorry, soft lenses are available in clear only).

Why are we doing this? 20/20 Contact Lens Service is an extension of the personal philosophy of Dr. Joseph Serian, an optometrist in Columbus, Ohio. He became concerned at the number of people coming to his office wearing damaged lenses, sometimes wearing

only one lens, because they couldn't afford to replace damaged or lost lenses. In his private practice, Dr. Serian never charged patients excessively for replacement lenses, but he realized that consumers across the country were being overcharged. He created 20/20 Contact Lens Service to offer the people an alternative, enabling them to enjoy the benefits of contact lenses without the hassle and excessive expense of replacements.

All you have to do is call our **TOLL-FREE NUMBER** and we'll do the rest. Think of 20/20 as your contact lens pharmacy. We call your doctor, get your prescription and duplicate your lenses—identical in quality and fit to the ones you now have. Our lab inspects them, then we re-inspect them just like your doctor would. Our quality control procedures exceed all government, industry and professional standards and are backed by a **100% MONEYBACK GUARANTEE.** Within two weeks from the time we receive your prescription, your lenses arrive via first class mail, just as your doctor would receive them from the lab. It couldn't be easier or safer if you went to your own eye doctor for your spare pair, but it's a lot less expensive through 20/20.

Most of the expense for contacts should go to pay for your doctor's time for initial examination and fitting. Since none of this is necessary to replace a lost or damaged lens or to add a spare pair for fashion (or just peace of mind), you shouldn't have to pay a high price. Now you have a choice . . . it's your prescription and **IT'S YOUR RIGHT** to have it filled where you choose! Many people think of 20/20 as an alternative to expensive contact lens insurance.

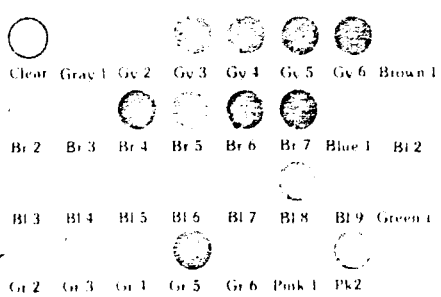
For a free full-color consumer brochure or to order, call

TOLL FREE 1-800-848-7573

or in Ohio call **1-800-282-7510. We are open 7 days a week 9 a.m. to 10 p.m. (E.D.T.)** or write:

20/20 Contact Lens Service, Inc.
P.O. Box 13270 Whitehall, Ohio 43213.

31 FASHION TINTS



20/20

CONTACT LENS SERVICE, INC.

"A Team of Optometrists & Opticians"

Member Better Vision Institute

BankAmericard & Master Charge Accepted

REDBOOK Sept 1976

Some lawyers feel that the Williams Act, which provides for federal regulation of tender offers, preempts the state laws. Congress' intention that mergers should not be prevented or unduly hindered is clear. The problem has been that no one would go to the time and trouble of testing the state laws in the courts.

Not, that is, until the Hunt brothers of Texas arrived on the scene. Nelson B. and William H. offered to buy Sunshine Mining for their Great Western United Corp., a diversified sugar producer. The states of Idaho, where Sunshine's mine is located, New York and Maryland have all claimed that their laws applied. The Hunts sued in federal court, claiming that the state laws are unconstitutional, duplicate federal legislation and violate the Civil Rights Act. (This may seem a strange stance for States-Righters like the Hunts, but then the brothers dearly love silver, and Sunshine has plenty of silver.) Anyhow, the SEC is showing some sympathy for the Hunts: Irving Picard, of the SEC general counsel's office, says the agency might file an amicus curiae brief, presumably in support of the Hunts. At the moment, the court is tussling over jurisdiction; a decision on that may come any day.

The barriers to takeover—legal and illegal, fair and unfair—remain. But the trend to takeover continues—and will continue as long as stock prices fail to reflect the going-business value of the underlying assets.

One reason: Should management turn down an attractive offer, it could face lawsuits. A Viacom shareholder has filed suit against management for turning down a Storer Broadcasting offer. Guy Wyser-Pratte, a director of Bache & Co. and manager of the arbitrage department, hopes to see more suits. "If I were Ralph Nader or someone like him, I'd go after managements who turn down deals under false pretenses like there was no tomorrow," he says. "They're telling the public, 'Our interest comes first.'"

"... The takeover trend will continue as long as stock prices fail to reflect the value of underlying assets..."

Moreover, most companies today have a number of outside directors on their boards, who, aware of their fiduciary responsibility to shareholders, think twice about rejecting an offer that would give shareholders a nice profit. So, the merger game goes on.

"There are only about 20 people in this business," says one arbitrageur, speaking of the lawyers and investment bankers most active in putting takeovers together. "The same people always end up around a table looking at each other. Each one is trying to think of some new way of doing things, some new twist."

Given the overwhelming economics, new ways of expediting takeovers will certainly be forthcoming. One possibility, according to the dean of takeover attack and defense, George Demas of the law firm of Demas & Hall, is that we could see a return to proxy fights as in the Fifties. Companies might just buy more stock on the open market, filing the necessary forms with the SEC as they do so.

"The fundamental thing to understand," stresses Richard G. Rosenthal, a partner at Salomon Brothers in charge of arbitrage, "is that those assets are valuable." The point he is making is: If current management fails to grasp that essential fact, then outside managements will. In either case, stockholders, big and little ones alike, can only benefit and, because, of the more even returns on capital, so, too, will the economy. ■

Shifting Channels

Faced with an inevitable end to its monopoly in soft contact lenses, Bausch & Lomb is seeking to hold its volume by broadening the market. A sensible strategy, but there are hurdles.

By PHYLLIS BERMAN

EVEN the hottest products go through phases, and the smart marketer changes his tactics as he goes. Take soft contact lenses: Rochester, N.Y.'s Bausch & Lomb had three years with the market to itself. In 1971 the Food & Drug Administration had given approval for B&L to produce the lenses under a Czech process licensed by National Patent Development Corp.

Not until 1974 did the FDA give the nod to competitors. In that period, B&L reaped a rich harvest. From sales of $147 million and a net profit of less than $5 million in 1970, it jumped to $349 million in sales and $21 million in profits in 1976. Almost all of the profit gains came from soft contact lenses. On 23% of sales, they produced nearly two-thirds of B&L's operating profits. Figures show that where the company earned only about 7% in pretax operating profits in the rest of its business (scientific lab equipment, eye-care products, sunglasses, telescopes and binoculars), it earned close to 40% on soft lenses.

When B&L had the only soft lens in town, it could charge the eye-care specialist $3,000 for an introductory dispensing kit and maintenance equipment. Now B&L gets $60 to $70 for a pair of lenses, the manufacture of which costs B&L a few cents before marketing and packaging costs and before royalties which averaged $6 million over the last two years.

But the doctors themselves have nothing to complain about. They can fit soft lenses in maybe 30 minutes of their time at an average of $300 a pair. For the doctors, the profits are such as dreams are made of.

Even after paying a hefty settlement to its licensor, National Patent Development, in January, Bausch & Lomb earned $2.57 a share—almost triple what it earned in the pre-soft-lens days. But there is a dark cloud looming. While B&L still has 80% of the market—three years after the entry of its competitors' soft lenses—the competition is getting hotter.

Eye-Catching: Soft lenses cost pennies to make; B&L gets $60 a pair; practitioners charge $300 to fit them.

Five other manufacturers—including the American Optical division of Warner-Lambert—now have FDA-ap-

AND MORE . . .

continued

BOGUS BASIN, Idaho
Backpacking: available in Boise National Forest. **Fishing:** several species of trout in Lucky Peak, Boise River and several streams located nearby; out-of-state license required. **Meeting facilities:** conference room with capacity for 150; projection equipment; contact Jim Berry. Rates approx. 20 percent less in summer months. Contact: Pioneer Inn at Bogus Basin, 7311 W. 15th, Boise, Idaho 83702.

KIRKWOOD, Calif.
Backpacking: available in area. **Swimming:** in Caples Lake and at public beaches. **Fishing:** brown trout in Caples Lake, Lake Kirkwood, Silver Lake; out-of-state license required, $2.50. **Camping:** 20 tentsites two miles from Kirkwood, $1.50/night; 30 camper/RV sites $1-$3/night; water, cooking grills, tables. **Cultural events:** Kirkwood concerts held twice each month June-Sept. **Meeting facilities:** Conference rooms available at area, projection equipment; contact Rowen King (209-258-6000) for information. Rates average 25 percent less than in winter. Contact: Kirkwood Meadows, Inc., P.O. Box 1, Kirkwood, Calif. 95646.

NORTHSTAR-AT-TAHOE, Calif.
Backpacking: in or around Northstar's 2,560 acres; organized day and overnight trips available through Northstar's summer recreation program. **Riding:** at Northstar Stables; trail rides $5/hr., breakfast rides $10; group lessons $6/hr., private lessons $8/hr; packsaddle trips available. **Swimming:** at outdoor pool, Lake Tahoe and at Jacuzzi. **Fishing:** trout in Lake Tahoe and Truckee River; out-of-state license required, $6/ten days; rental equipment available. **Other activities:** art shows, concerts, movies, outdoor exercise area. **Meeting facilities:** conference rooms with capacity for 50-200; projection equipment; contact Lynn Smith (916) 562-1111 for information. Rates approx. 15-25 percent less than in winter. Shuttle service to tennis, golf, stables, swimming, volleyball, exercise room. Contact: Northstar-at-Tahoe, P.O. Box 2499, Truckee, Calif. 95734.

PARK WEST, Utah
Backpacking: in surrounding area and in the High Uintas; organized day hikes, horseback trips; rentals available at Timberline Sports (Salt Lake). **Riding:** at Park West, $3.50/hr.; lessons and packsaddle trips available. **Swimming:** outdoor pool and in the lakes within a 15-minute drive. **Fishing:** cutthroat, brook, rainbow, golden trout, Arctic grayling; out-of-state license required, $15/season, $5/5 days. **Camping:** 24 camper/RV sites at resort with electricity, water, cooking grills, tables, provisions store. **Cultural events:** Utah Symphony 3 miles away, annual art festival held in August. **Meeting facilities:** conference rooms available; projection equipment; contact Donna Van Buren for information. Rates average 20 percent less than in winter. Contact: Park West Condominiums, Box 1598, Snyderville, Utah 84060.

RED RIVER, N.M.
Backpacking: in Carson National Forest and Wheeler Peak Wilderness Area; organized trips available. **Riding:** at Red River Stables, $2.50-$3.50/hr; packsaddle trips offered. **Fishing:** several species of trout in nearby lakes and Red River; out-of-state license required; rentals available. **Camping:** numerous tent and camper/RV sites in surrounding area with electricity, water, cooking grills, tables. Contact: Red River Ski Area, P.O. Box 303, Red River, N.M. 87558.

STEAMBOAT, Colo.
Backpacking: in Routt National Forest. **Riding:** Sombrero Stables; $4/hr., $7/2 hrs., $20/day; packsaddle trips offered. **Swimming:** 2 outdoor pools at resort village; 2 indoor and 9 outdoor pools in area. **Fishing:** trout in Steamboat Lake, Yampa and Elk Rivers; out-of-state license required, $10/5 day license. **Camping:** 78 tent and camper sites with electricity, water, cooking grills, tables; store for provisions at campground. **Cultural events:** Steamboat Springs Summer Art Festival, arts and crafts exhibits, plays, workshops. **Other activities:** river rafting, movie theaters, rodeo. **Meeting facilities:** four conference rooms at Steamboat Resort; projection equipment; contact Bob Moroney for information. Rates approx. 25-30 percent less than in winter. Free shuttle available to most activities; car needed for stables and fishing. Contact: Steamboat Village Resort, P.O. Box 1178, Steamboat Springs, Colo. 80477.

SUN VALLEY, Idaho
Backpacking: at Sawtooth National Recreation Area; organized trips available through Sun Valley Sports Center; rentals available. **Riding:** in Village, approx. $4.50/hr.; group lessons; packsaddle trips available. **Swimming:** in lakes, rivers, creeks and four swimming pools (2 outdoor, 2 glass-enclosed). **Fishing:** rainbows and most varieties of trout, salmon in Wood River, Salmon River, Silver Creek, Warm Springs Creek, Trail Creek, Sun Valley Lake; out-of-state license required. $3/day; rentals available. **Camping:** limitless in area. **Cultural events:** Sun Valley Center for the Arts and Humanities with numerous events during week and on weekends. **Other activities:** literally 100 recreational activities from rock climbing to trap shooting. **Meeting facilities:** conference rooms with capacity for 1300; projection equipment; call (800) 635-8261 for information. Rates approx. 20 percent lower in summer months. A car is not necessary. Contact: Sun Valley Resort, Sun Valley, Idaho 83353.

continued on page 80

San Francisco Chronicle 35
Thurs., Nov. 2, 1978

It's no longer against the law to advertise competitive prices for... prescription glasses

1/2 million people discovered B.A.P.C. before we could advertise and **saved 30% to 60%**

$28 prescription glasses clear, single vision glass lenses (includes oversize) *and* frame, custom fitted with professional care.
PRESCRIPTIONS FILLED AND LENSES DUPLICATED

QUALITY GUARANTEE

Guarantee in writing for 90 days that you must be satisfied with any eyeglasses we prescribe, or your entire purchase price will be refunded.

Now you can compare because advertising competitive prices is legal. A $2 family membership in "B.A.P.C." entitles you to prices 30% to 60% less than charged by many other eye-care practitioners in the Bay Area. Shop around. *Compare the amazing difference in price.* Then phone us for an appointment. Get the facts regarding the low additional cost for tints, plastic lenses, bifocals, trifocals, high-powered lenses and fashion frames (mod and designer/imported and domestic). The low prices will open your eyes!

Phone For Information. No Obligation.

San Francisco Area 391-2020 East Bay Area 638-1010

WSA, BANKAMERICARD, MASTER CHARGE ACCEPTED

Bay Area Professional Center

bapc Low prices will open your eyes! Plan 14-G

'atest introductions from Detroit i its October issue. Changing for- .iat are: the Buick Riviera, Buick's first front-wheel drive intermediate; the Cadillac Eldorado, with a new rear end design that provides more trunk space and rear seat passenger comfort; and the Dodge St. Regis, which replaces the Monaco and Coronet intermediates.

Sexism in the *New York Times* newsroom? NEW TIMES takes a look in its Oct. 2 issue (Memphis police on cover). Women reporters at the *Times* are charging that the paper segregates jobs, gives the men work entailing greater responsibility, pay and recognition, hires men at higher salaries, gives prestigious assignments on the basis of sex.

The women's charges against the paper are generally true, says Charlotte Curtis, editor of the op-ed page. The women have taken the paper before the judge, making this the first affirmative action suit against a major media institution that has not been settled out of court.

Of some interest to military people, perhaps, Gen. Alexander Haig makes the cover of the Sept. 26 issue of **ESQUIRE FORTNIGHTLY**. Haig rose from colonel to four stars in four years. Eisenhower was the only other Army officer to do that. But so far, the closest Haig has come to the presidency is acting as Nixon's chief of staff.

At Ease

PREMPTION

refractionist. *Provided:* Nothing in this subpart shall be construed to prohibit any person from imposing reasonable affirmative disclosure requirements on the dissemination of information concerning eye examinations.

(b) Any organization or association which is not composed primarily of sellers and/or refractionists, which adopts or enforces self-regulatory guidelines for the dissemination of information which apply to all retail advertisements of consumer goods and services, shall not be deemed to be in violation of this subpart.

(c) The conditioning of membership in a professional or trade association of sellers or refractionists on a requirement that members or prospective members of that association not engage in the dissemination of information concerning ophthalmic goods and services and eye examinations or a requirement that ophthalmic goods and services be advertised only in a prescribed manner shall be deemed to prohibit, limit or burden the dissemination of that information.

§ 456.7 Separation of examination and dispensing.

In connection with the performance of eye examinations, it is an unfair act or practice for a refractionist to:

(a) Fail to give to the buyer a copy of the buyer's prescription immediately after the eye examination is completed. *Provided,* A refractionist may refuse to give the buyer a copy of the buyer's prescription until the buyer has paid for the eye examination but only if that refractionist would have required immediate payment from that buyer had the examination revealed that no ophthalmic goods were required;

(b) Condition the availability of an eye examination to any person on a requirement that that person agree to purchase any ophthalmic goods from the refractionist;

(c) Charge the buyer any fee in addition to the refractionist's examination fee as a condition to releasing the prescription to the buyer. *Provided:* A refractionist may charge an additional fee for verifying ophthalmic goods dispensed by another seller when the additional fee is imposed at the time the verification is performed; or

(d) Place on the prescription, or require the buyer to sign, or deliver to the buyer a form or notice waiving or disclaiming the liability or responsibility of the refractionist for the accuracy of the eye examination or the accuracy of the ophthalmic goods or services dispensed by another seller.

§ 456.8 Federal or State employees.

Nothing in this part shall be construed to prohibit any federal, state or local governmental entity from adopting and enforcing standards or requirements concerning the dissemination of information and release of prescriptions by sellers or refractionists employed by those governmental entities.

§ 456.9 Declaration of Commission intent.

(a) (1) It is the purpose of this part to allow retail sellers of ophthalmic goods and services to disseminate information concerning those goods and services in a fair and nondeceptive manner to prospective purchasers. This part is intended to eliminate certain restraints, burdens, and controls imposed by state and local governmental action as well as by private action on the dissemination of information, including advertising, concerning ophthalmic goods and services.

(2) It is the intent of the Commission that this part shall preempt all state and local laws, rules, or regulations that are repugnant to this part, and that would in any way prevent or burden the dissemination of information by retail sellers of ophthalmic goods and services to prospective purchasers, except to the extent specifically permitted by this part. All state or local laws, rules, or regulations which burden the dissemination of information by requiring affirmative disclosures specifically addressed to ophthalmic goods and services are preempted, except for those specifically permitted by this part. State and local laws, rules, or regulations which apply to advertising of all consumer goods and services, including those that require affirmative disclosure of information, are not preempted.

(b) It is the Commission's intent that state laws which do not permit refractionists to disseminate information concerning eye examinations, including information concerning the cost and availability of those examinations, be preempted. State and local laws, rules or regulations which require affirmative disclosure of information in all disseminations of information concerning eye examinations are not preempted.

(c) The Commission intends this part to be as self-enforcing as possible. To that end, it is the Commission's intent that this part may be used, among other ways, as a defense to any proceeding of any kind which may be brought against any retail seller of ophthalmic goods and services or refractionist who advertises in a nondeceptive and fair manner.

(d) It is not the Commission's intent to compel any seller or refractionist to disseminate information by virtue of this part. On the contrary, the provisions of this part are intended solely for the protection of those sellers and refractionists who want to disseminate information but have been restrained or prevented from advertising due to the prohibitions and restrictions of state and local laws and regulations, or be private action.

(e) In prohibiting the use of waivers and disclaimers of liability in § 456.7(d), it is not the Commission's intent to impose liability on a refractionist for the ophthalmic goods and services dispensed by another seller pursuant to that refractionist's prescription.

(f) In this part, the Rule, each subparagraph, and the Declaration of Commission Intent and their application are separate and severable.

By direction of the Commission dated May 24, 1978.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-15353 Filed 6-1-78; 8:45 am]

[1505-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER D—TRADE REGULATION RULES

PART 456—ADVERTISING OF OPHTHALMIC GOODS AND SERVICES

Correction

In FR Doc. 78-15353, appearing at page 23992 in the issue of Friday, June 2, 1978, the following changes should be made:

1. On page 24001, second column, the first word in the eighteenth line of the first full paragraph should read, "produce".

2. On page 24003, second column, the last sentence should be followed by the words, "however, the Commission specifically]".

3. On page 24006, the third line of footnote 30 should read, "the field or in any way to preempt state or".

4. On page 24008, second column, the last line of § 456.9(d) should read, "by private action".

§ 456.1 Definitions.

A *"buyer"* is any person who has had an eye examination.

The *"dissemination of information"* is the use of newspapers, telephone directories, window displays, signs, television, radio, or any other medium to communicate to the public any information, including information concerning the cost and availability of a product or service.

An *"eye examination"* is the process of determining the refractive condition of a person's eyes or the presence of any visual anomaly by the use of objective or subjective tests.

"Ophthalmic goods" consists of eyeglasses, or any component of eyeglasses and contact lenses.

"Ophthalmic services" are the measuring, fitting, and adjusting of ophthalmic goods to the face subsequent to an eye examination.

A *"person"* means any party over which the Federal Trade Commission has jurisdiction. This includes individuals, partnerships, corporations, and professional associations.

A *"prescription"* is the written specifications for ophthalmic lenses which are derived from an eye examination. The prescription shall contain all of the information necessary to permit the buyer to obtain the necessary ophthalmic goods from the seller of his choice. In the case of a prescription for contact lenses, the refractionist must include in the prescription only those measurements and directions which would be included in a prescription for spectacle lenses. All prescriptions shall include all the information specified by state law, if any.

A *"refractionist"* is any Doctor of Medicine, Osteopathy or Optometry or any other person authorized by state law to perform eye examinations.

A *"seller"* is any person, or his employee or agent, who sells or provides ophthalmic goods and services directly to the public.

§ 456.2 Private conduct.

(a) (1) It is an unfair act or practice for sellers to fail to disseminate information concerning ophthalmic goods and services notwithstanding state or local law to the contrary. *Provided:* Violation of this subpart by any seller acting alone shall not be deemed to be a violation of section 5(a)(1) of the Federal Trade Commission Act.

(2) To prevent this unfair act or practice, any seller may engage in the dissemination of information concerning ophthalmic goods and services subject to the limitations expressed in § 456.5 below.

(b) (1) It is an unfair act or practice for refractionists to fail to disseminate information concerning eye examinations notwithstanding state or local law to the contrary. *Provided:* Violation of this subpart by any refractionist acting alone shall not be deemed to be a violation of section 5(a)(1) of the Federal Trade Commission Act.

(2) To prevent this unfair act or practice, any refractionist may engage in the dissemination of information concerning eye examinations. Nothing in this subpart shall excuse a refractionist from compliance with any state or local law which permits the dissemination of information concerning eye examinations, including information on the cost and availability of those examinations, but requires that specified affirmative disclosures also be included.

§ 456.3 Public restraints.

It is an unfair act or practice under section 5 of the Federal Trade Commission Act for any state or local governmental entity or any subdivision thereof, state instrumentality, or state or local governmental official to enforce any:

(a) Prohibition, limitation or burden on the dissemination of information concerning ophthalmic goods and services by any seller or group of sellers, or

(b) Prohibition, limitation or burden on the dissemination of information concerning eye examinations by any refractionist. *Provided:* Nothing in subparagraph (b) shall be construed to prohibit the enforcement of a state or local law which permits the dissemination of information concerning eye examinations, including information on the cost and availability of these examinations, but requires that specified affirmative disclosures also be included.

Violation of subparagraphs (a) and (b) shall not be deemed for purposes of section 5(m)(1)(A) or section 19 of the Federal Trade Commission Act to be a violation of section 5(a)(1) of the Act.

§ 456.4 Conformance to State law.

It is an unfair act or practice under section 5 of the Federal Trade Commission Act:

(a) For any seller to reduce, limit, or burden the dissemination of information concerning ophthalmic goods and services in order to comply with any law, rule, regulation or code of conduct of any nonfederal legislative, executive, regulatory or licensing entity or any other entity or person, which would have the effect of prohibiting, limiting, or burdening the dissemination of this information, or

(b) For any refractionist to reduce, limit, or burden the dissemination of information concerning eye examinations in order to comply with any law, rule, regulation or code of conduct of any nonfederal legislative, executive, regulatory or licensing entity or any other entity or person, which would have the effect of prohibiting, limiting, or burdening the dissemination of this information. *Provided:* To the extent that a state or local law, rule, or regulation permits the dissemination of information concerning eye examinations, including information on the cost and availability of those examinations, compliance with that law or regulation shall not be construed to reduce, limit or burden the dissemination of information concerning eye examinations.

§ 456.5 Permissible State limitations.

(a) To the extent that a state or local law, rule, or regulation requires that any or all of the following items be included within any dissemination of information concerning ophthalmic goods and services, such a law, rule, or regulation shall not be considered to prohibit, limit, or burden the dissemination of information:

(1) Whether an advertised price includes single vision and/or multifocal lenses;

(2) Whether an advertised price for contact lenses refers to soft and/or hard contact lenses;

(3) Whether an advertised price for ophthalmic goods includes an eye examination;

(4) Whether an advertised price for ophthalmic goods includes all dispensing fees, and

(5) Whether an advertised price for eyeglasses includes both frames and lenses.

(b) Where a state or local law, rule or regulation applies to all retail advertisements of consumer goods and services (including a law, rule, or regulation which requires the affirmative disclosure of information or imposes reasonable time, place and manner restrictions), such a law, rule, or regulation shall not be considered to prohibit, limit, or burden the dissemination of information.

(c) If, upon application of an appropriate state or local governmental agency, the Commission determines that any additional requirement of any such state or local governmental agency deemed by that agency to be necessary to prevent deception or unfairness is reasonable and does not unduly burden the dissemination of information, then that requirement shall be permitted to the extent specified by the Commission.

§ 456.6 Private restraints.

(a) It is an unfair act or practice for any person, other than a state or a political subdivision or agency thereof, to prohibit, limit or burden:

(1) The dissemination of information concerning ophthalmic goods and services by any seller;

(2) The dissemination of information concerning eye examinations by any

ATTACHMENT "E"

FEDERAL TRADE COMMISSION
WASHINGTON, D. C. 20580

BUREAU OF
CONSUMER PROTECTION

October 18, 1978

M. F. Keller,O.D.
501 2nd Avenue, North
Great Falls, Montana 59401

Called Scott Klurfeld

Dear Dr. Keller:

As you may know, the Federal Trade Commission's trade regulation rule on the Advertising of Ophthalmic Goods and Services became effective on July 13, 1978.

The rule prohibits the enforcement of state and private restrictions on advertising by opticians, optometrists and ophthalmologists. In addition, the rule requires optometrists and ophthalmologists to release to their patients copies of their prescriptions immediately upon completion of the eye examination.

We recently received a complaint alleging that you have violated Section 456.7(a) of the trade regulation rule. Specifically, it has been alleged that you violated the rule by: failing to give to the patient a copy of the prescription immediately after the eye examination is completed.

We will be considering this allegation, and we would welcome any response you might want to provide to us.

Enclosed is a copy of the rule and a series of commonly asked questions and answers concerning its requirements. If you have any questions or comments, please write Gary D. Hailey or Scott P. Klurfeld, Room 281, Federal Trade Commission, Washington, D. C. 20580, or call (202) 523-3426.

Sincerely,

Gary D. Hailey, Attorney
Division of Professional Services

Enclosure

M. F. KELLER, O.D., F.A.A.O.
P. L. KATHREIN, O.D., F.A.A.O.

VISUAL ANALYSIS RECORD

ATTACHMENT "F"

Rx. No. Name Date

Address Res. Phone

erred by Age Bus. Phone

Occupation Where Employed Fathers Name

Date Last Visual Exam. Visual Dist.

Headaches Physical Cond.

Ophth. O.D. Tonometer O.D. Color Vision Married

O.S. O.S. Pupillary Reflexes Children

Cover Handedness Dom. Eye Lids Cornea Conj.

Date Last Visual Exam. Visual Dist.

Headaches Physical Cond.

Ophth. O.D. Tonometer O.D. Color Vision Fields O.D.

O.S. O.S. Pupillary Reflexes O.S.

Cover Lids Cornea Conj.

Date Last Visual Exam. Visual Dist.

Headaches Physical Cond.

hth. O.D. Tonometer O.D. Color Vision Fields O.D.

O.S. O.S. Pupillary Reflexes O.S.

Cover Lids Cornea Conj.

Date Last Visual Exam. Visual Dist.

Headaches Physical Cond.

Ophth. O.D. Tonometer O.D. Color Vision Fields O.D.

O.S. O.S. Pupillary Reflexes O.S.

Cover Lids Cornea Conj.

Date Last Visual Exam. Visual Dist.

Headaches Physical Cond.

Ophth. O.D. Tonometer O.D. Color Vision Fields O.D.

O.S. O.S. Pupillary Reflexes O.S.

Cover Lids Cornea Conj.

Date Last Visual Exam. Visual Dist.

adaches Physical Cond.

Ophth. O.D. Tonometer O.D. Color Vision Fields O.D.

O.S. O.S. Pupillary Reflexes O.S.

Cover Lids Cornea Conj.

P.D.	HAB.
Old Rx	NEAR
O.D.	O.D.
O.S.	O.S.

	VA Old Rx	N.V.
Add O.D.	O.D.	O.D.
Add O.S.	O.S.	O.S.
	O.U.	O.U.

	O.D. O.S.	3
	O.D. O.S.	13A
	O.D. O.S.	
	O.D. O.S. VA O.D. O.S. O.U.	Basic
		1/2 Exo.
	1st Blur Blur Out	7-9
	/ / /	19/10
	/ / /	9/5
	Ductions O.D. O.S.	
		6 Exo.
	O.D. O.S.	
	O.D. O.S.	
16B	/ /	VA Yrs.
17B	/ /	Rec. Date
	Ductions O.D. O.S.	
	ADJ.	

Call Drop Card Will Call

	Sphere	Cylinder	Axis	Dec.	Prism

Fee

Rec.

Payment

DR. M. F. KELLER
DR. P. L. KATHREIN
OPTOMETRISTS
509 SECOND AVENUE, NORTH
GREAT FALLS, MONTANA 59401

atient:

Call Drop Card Will Call

	Sphere	Cylinder	Axis	Dec.	Prism
O.D.					
O.S.					

	Width	Height	Displacement	Shape & Size
O.D.				
O.S.				

ype Tint

rame or Mounting

Fee

Rec.

Payment

Date	P.D.	HAB.
Old Rx		NEAR
O.D.		O.D.
O.S.		O.S.

	VA Old Rx	N.V.
Add O.D.	O.D.	O.D.
Add O.S.	O.S.	O.S.
	O.U.	O.U.

2	O.D. O.S.	3
4	O.D. O.S.	13A
5	O.D. O.S.	
7	O.D. O.S. VA O.D. O.S. O.U.	Basic
8		1/2 Exo.
9	1st Blur Blur Out	7-9
10	/ / /	19/10
11	/ / /	9/5
12	Ductions O.D. O.S.	
13B		6 Exo.
14A	O.D. O.S.	
15A		
14B	O.D. O.S.	
15B		
16A 16B	/ /	VA Yrs.
17A 17B	/ /	Rec. Date
18	Ductions O.D. O.S.	
20	ADJ.	
21		

Date

Date

Date

Date

Optical Co.

Date Call Drop Card Will Call

P.D.

		Sphere	Cylinder	Axis	Dec.	Prism
Distance	O.D.					
	O.S.					

			Width	Height	Displacement	Shape & Size
Add.	O.D.					
	O.S.					

Type Tint

Frame or Mounting

Fee

Rec.

Payment

Date P.D. HAB.

Old Rx		VA Old Rx	N.V.	NEAR
O.D.	Add O.D.	O.D.	O.D.	O.D.
	Add O.S.	O.S.	O.S.	O.S.
O.S.		O.U.	O.U.	O.U.

2	O.D. O.S.	3
4	O.D. O.S.	13A
5	O.D. O.S.	
7	O.D. O.S. — VA O.D. O.S. O.U.	Basic
8		1/2 Exo.
9	1st Blur Blur Out	7-9
10	/ / /	19/10
11	/ / /	9/5
12	Ductions O.D. O.S.	
13B		6 Exo.
14A	O.D. O.S.	
15A		
14B	O.D. O.S.	
15B		
16A	16B / /	VA Yrs.
17A	17B / /	Rec. Date
18	Ductions O.D. O.S.	
20	ADJ.	
21		

Date

Date

Date

Date

Optical Co.

Date Call Drop Card Will Call

P.D.

		Sphere	Cylinder	Axis	Dec.	Prism
Distance	O.D.					
	O.S.					
Add.	O.D.		Width Height Displacement		Shape & Size	
	O.S.					

Fee

Rec.

Type Tint

Payment

Frame or Mounting

Date P.D. HAB.

Old Rx VA Old Rx N.V. NEAR

O.D. Add O.D. O.D. O.D. O.D.

O.S. Add O.S. O.S. O.S. O.S.

O.U. O.U. O.U.

2 O.D. O.S. 3

4 O.D. O.S. 13A

5 O.D. O.S.

7 O.D. O.S. VA O.D. O.S. O.U. Basic

8 1/2 Exo.

9 1st Blur Blur Out 7-9

10 / / / 19/10

11 / / / 9/5

12 Ductions O.D. O.S.

13B 6 Exo.

14A O.D. O.S.

15A

14B O.D. O.S.

15B

16A 16B / / VA Yrs.

17A 17B / / Rec. Date

18 Ductions O.D. O.S.

20 ADJ.

21

Date

Date

Date

Date

Optical Co.

Date Call Drop Card Will Call

P.D.

Sphere Cylinder Axis Dec. Prism

Distance O.D. O.S.

Add. O.D. O.S. Width Height Displacement Shape & Size

Fee Rec.

Type Tint

Payment

Frame or Mounting

P.D. | HAB

Old Rx | VA Old Rx | N.V. | NEAR

O.D. | O.D. | O.D. | O.D.

Add O.S. | O.S. | O.S. | O.S.

O.U. | O.U. | O.U.

	O.D. O.S.	3
	O.D. O.S.	13A
	O.D. O.S.	
	O.D. O.S. VA O.D. O.S. O.U.	Basic
		1/2 Exo.
	1st Blur Blur Out	7-9
	/ / /	19/10
	/ / /	9/5
	Ductions O.D. O.S.	
		6 Exo.
	O.D. O.S.	
	O.D. O.S.	
16B	/ /	VA Yrs.
17B	/ /	Rec. Date
	Ductions O.D. O.S.	
	ADJ.	

Date

Date

Date

Date

Optical Co.

Date Call Drop Card Will Call

P.D.

Fee

	Sphere	Cylinder	Axis	Dec.	Prism
O.D.					
O.S.					
O.D.	Width	Height	Displacement	Shape & Size	
O.S.					

Rec.

Type Tint

Payment

P.D. | HAB

Date | VA Old Rx | N.V. | NEAR

Old Rx | O.D. | O.D. | O.D.

O.D. Add O.S. | O.S. | O.S. | O.S.

O.S. | O.U. | O.U. | O.U.

2	O.D. O.S.	3
4	O.D. O.S.	13A
5	O.D. O.S.	
7	O.D. O.S. VA O.D. O.S. O.U.	Basic
8		1/2 Exo.
9	1st Blur Blur Out	7-9
10	/ / /	19/10
11	/ / /	9/5
12	Ductions O.D. O.S.	
13B		6 Exo.
14A	O.D. O.S.	
15A		
14B	O.D. O.S.	
15B		
16A 16B	/ /	VA Yrs.
17A 17B	/ /	Rec. Date
18	Ductions O.D. O.S.	
20	ADJ.	
21		

Date

Date

Date

Date

Optical Co.

Date Call Drop Card Will Call

P.D.

Fee

	Sphere	Cylinder	Axis	Dec.	Prism
Distance O.D.					
Distance O.S.					
Add. O.D.	Width	Height	Displacement	Shape & Size	
Add. O.S.					

Rec.

Type Tint

Payment

ATTACHMENT "G"

Senate Bill No. 446

I move to amend SB No. 446 as follows:

1. On page 2, lines 20 and 21, by placing a period after the word "assistance" and deleting the words "or for persons who have" and inserting in lieu thereof the word "all".

2. On page 2, line 23, by inserting before the period the words "to be claimed by the indigent to reduce the county's obligation as much as possible."