

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

March 2, 1979

The twentieth meeting of the Senate Public Health, Welfare and Safety Committee met in Room 410 of the State Capitol Building at 1:00 p.m. on March 2, 1979.

ROLL CALL: All members were present except Senator Norman and Senator Palmer.

CONSIDERATION OF HOUSE BILL 310: House Bill 310 is an act to revise the makeup of the Board of Hearing Aid Dispensers by providing for a public member who is 60 years of age or older.

Witnesses supporting House Bill 310:

Genevieve S. Adair, AARP/NRTA

Witnesses opposing House Bill 310:

Jim Going, Montana Hearing Aid Dealers' Society

John Sweeney, Hearing Aid Dispenser

Representative Ramirez, sponsor of House Bill 310, said that this bill will revise the make up of the hearing aid dispensers board. It changes the board by: (1) increasing the number of members from 5 to 6; (2) the additional member is to be a member of the public 60 years of age or older; (3) eliminating the provision for alternate members; and (4) the committee in the House put in the provision that there shall be no more than 3 members from the same congressional district. Rep. Ramirez said this bill is in line with the trend for more public members on the board. Since most of the people who are represented by this board are 60 years of age or older, it was felt that they should have some representation.

Genevieve S. Adair, National Retired Teachers Association, American Association of Retired Persons, and Montana Joint State Legislative Committee, spoke in support of House Bill 310. She said that her organizations have felt a need for a lay person on most of the boards. They feel there is a need for an elderly person on this board because they have had complaints from elderly people who cannot get any satisfaction from the hearing aid board members. Her organizations feel that if there were an older member on the board he could handle these complaints.

Senator Ryan said he received a letter from the Senior Citizens Association who wish to go on record in support of this bill.

Jim Going, Montana Hearing Aid Dealers' Society, spoke in opposition to House Bill 310. He said that the board has representatives now that are from 2 other professions. He feels that this has helped protect the public interest. If it is to be established that all boards have a public member, then the board will have 3 dealers and 3 non-dealers on the board. The dealers should be in the majority according to the way the board was originally legislated. If another member is added to the board, the fees might have to increase. Therefore, he is in favor of keeping the board membership down and dropping one of the other professions in favor of a public member. He also questioned the legality of having someone 60 years of age or older on the board since many users are in other age groups; and they might want representation also.

John Sweeney, a hearing aid dispenser and former board member, spoke in opposition to House Bill 310. He stated that in the past year the board has had only 7 complaints, all of which have been resolved, usually very compatibly to the person involved. It has been the hearing aid dealers who have done the work of clearing up these problems. He feels an added member would create an added financial burden on the licensees. The board is self-supporting. They have never asked anyone for any extra money. He feels that the doctor and the audiologist on the board could look after the interest of the public as well as another public member. He feels it is necessary to maintain a plurality of dealers on the board because the dealers are the ones who can solve the problems. They want to police their own industry and feel they have done a very good job of this.

Representative Ramirez closed the testimony by saying that as far as the number on the board is concerned the original bill maintained the original number of 5, and this was amended in the House to 6. The bill originally had 2 instead of 3 dealers. He said he has no objection to keeping it at the same number to keep the cost down, but he would like a public member of 60 years of age or older.

Chairman Rasmussen asked the Committee members if they have any questions. Senator Olson asked why the age of 60 was designated. Rep. Ramirez said that was the suggestion of the group. He has no problem with age 55 and has noticed that most bills coming back from the Senate have been changed to age 55. Senator

Olson said he would think that including a member of any age who uses a hearing aid would be more effective. Ms. Adair said that her association feels they do want to have an elderly person on the board. She would not object to age 55, but they do feel that the senior citizen needs representation on this board. Senator Lensink said that he doesn't see where in this case the elderly are a majority as they are on other boards. Rep. Ramirez said he doesn't think this will have a constitutional problem on age. Senator Himsl said he is concerned about the financing. The board has 38 people who pay \$80 each, which is only \$3000 a year; and the board has to pay a secretary. He can't see how the board can afford to have any meetings. Mr. Sweeney said their budget last year ran about \$2800. This poses a problem to them because an additional member could amount to \$200 a year depending on how much travel is involved. The hearing aid dispensers have worked part of the time last year without putting in vouchers for their expenses and time. In 1969, they went to a lot of time and expense in putting the board together, and almost every session they have had someone trying to remodel them. When the board was first established it received 50 to 60 complaints a year, and last year they had only 7. Senator Himsl asked for an explanation of the Kalispell case. Mr. Sweeney explained the case and said they had to have a hearing to lift the person's license, and a hearing is an expensive process. The dealers went to the added expense of going to this meeting and following it through. Chairman Rasmussen asked Rep. Ramirez if he feels the public isn't getting adequate input now. He said that he can't say that is the case. Senator Lensink asked if he had any evidence that there is a need for this bill. Rep. Ramirez said the only indication he has is from the people involved, but he doesn't have any specific instances. Senator Himsl asked why membership is tied to congressional district. Mr. Sweeney said that at the present time the eastern district has the most members, and they have no representation on the board. They feel this will give all the members more adequate representation.

The hearing on House Bill 310 was closed at 1:20 p.m.

CONSIDERATION OF HOUSE BILL 166: House Bill 166 is an act to amend and clarify the authority of the Department of Health and Environmental Sciences to adopt and enforce rules for the control of communicable diseases and transportation of dead human bodies.

Minutes of the Meeting
Public Health, Welfare and Safety Committee
March 2, 1979
Page 4

Representative Hemstad, House District 40 in Great Falls and sponsor of House Bill 166, said that the changes made in House Bill 166 are found on page 3, lines 20 through 25, and on page 4. This is to clarify the Department of Health and Environmental Sciences' authority to require the reporting and control of communicable diseases. The department knows of no reason why the present rules were not included in law in the past session. The present rules are outdated. For instance, cancer and epilepsy are reported among the communicable diseases. This situation also applies to rules governing the transportation of dead human bodies. The repeal of Section 50-1-205 can be justified because smallpox has been eradicated from the world.

Dr. Skinner, Department of Health and Environmental Sciences, handed out some information to the Committee. See Attachment "A." He said that the department tried to update the rules, but at the end of each rule there is a reference to law. He went through an explanation of his attachments to his testimony. He said that they have no indication that the department was not to have the authority for reporting communicable diseases and transportation of dead human bodies. After asking the Attorney General for his opinion, they were told that they would have to address the Legislature to ask for clarification.

Rep. Hemstad closed testimony by saying that she hopes the Senate will concur with the House in this bill.

Chairman Rasmussen asked the Committee members if they have any questions. Senator Himsl asked for clarification on why the section on smallpox is being repealed. Dr. Skinner said it has been eradicated from the world, but the department needs the authority to change the rules to update the communicable diseases. Senator Himsl asked if this bill gives them authority to change the administrative code. Senator Olson asked about the case of smallpox last year. Dr. Skinner said that was a laboratory accident. Senator Olson said he thinks that this should be left in the bill because a virus might crop up. Dr. Skinner said that others have expressed that doubt, but they have enough other means to handle the situation if it does happen. Senator Ryan asked if the immunization bill included smallpox. Dr. Skinner said it did not.

The hearing was closed on House Bill 166 at 1:35 p.m.

CONSIDERATION OF HOUSE BILL 505: House Bill 505 is an act to prohibit exclusions from insurance policies and membership contracts which reduce or deny benefits to persons eligible to receive public medical assistance.

Witnesses supporting House Bill 505:

Jimmy McCabe, Department of Social and Rehabilitation Services
Rita Thiesen, Montana Insurance Department

Representative Lund, sponsor of House Bill 505, was not present at the hearing. Therefore, Jimmy McCabe, Department of Social and Rehabilitation Services, explained the bill. See Attachment "B."

Rita Thiesen, Montana Insurance Department, said they concur in House Bill 505. They think that the medicaid program should not be penalized by clauses in an insurance policy. Currently, the Insurance Department cannot disapprove use of these clauses if the insurance carrier decides to put them in a policy. The Health Insurance Association of America and its 311 members voluntarily comply with this type of legislation. They do not concur against medicare. She handed the Chairman a brochure from the Department of Health, Education, and Welfare which states the federal law relating to this. See Attachment "C."

Mr. McCabe concluded testimony by saying that they have discussed this bill with Blue Shield and Blue Cross, and they have not opposed it. The bill passed the House with 100 votes, so it is not controversial.

Chairman Rasmussen asked the Committee members if they have any questions. Senator Himsel said that medicaid is for a medically needy person and asked how the policy could refuse to pay for his medical costs. Mr. McCabe said some insurance policies carry a government exclusion clause which states that this policy will not pay for services which are covered under a government program. In coordinating benefits each company wants to be sure that no one collects over 100 percent of his bill. Some policies have been written that if medicaid will cover the cost the insurance policy will not. This bill says that the insurance company pays first and then medicaid will pay last. Senator Ryan asked if the insurance companies will have to print new forms to take this clause out. Mr. McCabe said they won't have to print new forms; they just can't enforce the clause.

The hearing on House Bill 505 was closed at 1:45 p.m.

ACTION ON HOUSE BILL 505: Senator Lensink moved that House Bill 505 BE CONCURRED IN. Senator Olson asked what this bill does. Senator Lensink said that it says that if medicaid is going to pay the insurance company can't refuse to pay. The taxpayers get off the hook as primary payor. A roll call vote was taken. The motion carried by a vote of four to one. Senator Lensink will carry House Bill 505 on the Senate floor.

ACTION ON HOUSE BILL 166: Senator Himsel moved that House Bill 166 BE CONCURRED IN. He said that he reads this bill to mean that it gives the Department of Health and Environmental Sciences the authority to do what they are already doing. A roll call vote was taken. The motion passed unanimously. Senator Himsel will carry the bill on the Senate floor.

ACTION ON HOUSE BILL 310: Senator Lensink said he has problems with this bill. First of all, he doesn't think any evidence was presented that there is a need for it. He thinks that it is true that the two other groups on the board would be a very excellent public representation. This is a small board, and they pay more for their board fees than medical doctors and optometrists. Senator Ryan said that he had heard there were complaints that were not getting answered, so he was surprised to hear they only received seven complaints last year.

Senator Lensink moved that House Bill 310 BE NOT CONCURRED IN. A roll call vote was taken. The motion carried with a vote of four to one. Senator Rasmussen will carry the bill on the Senate floor.

ACTION ON HOUSE BILL 238 STATEMENT OF INTENT: Dennis Taylor, Legislative Council, presented the Committee members with copies of the subcommittee's amended statement of intent. See Attachment "D." Mr. Taylor said that the entire text of the original statement would be substituted with this statement. Senator Himsel moved that the substituted statement of intent be adopted by this Committee. The motion carried unanimously.

ACTION ON HOUSE BILL 238: House Bill 238 was amended by the Committee on February 28, 1979. Senator Olson moved that House Bill 238, as amended, BE CONCURRED IN. A roll call vote was taken. The motion passed unanimously. Senator Norman will carry House Bill 238 on the Senate floor.

Minutes of the Meeting
Public Health, Welfare and Safety Committee
March 2, 1979
Page 7

ACTION ON HOUSE BILL 166 STATEMENT OF INTENT: A discussion ensued about the need for adopting the statement of intent on House Bill 166. Senator Ryan moved that the statement of intent on House Bill 166 be adopted by the Senate Committee on Public Health, Welfare and Safety. The motion carried unanimously.

ADJOURNMENT: There being no further business discussed, the meeting was adjourned at 2:10 p.m.

[Signature]

Senator A. T. Rasmussen, Chairmar

SENATE Public Health COMMITTEE

BILLS 166, 210 & 505 VISITORS' REGISTER

DATE 5-2-77

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
JOHN E. Sweeney	H. and A. Sweeney	310		X
JAMES GOING	HEARING AID DEALERS	310		X
Johnny McCabe	SRS	505	✓	
Josephine M. Aronson	Ins. Dept.	505	✓	
John D. Turner	Health Insurance Dept.	505	✓	
J. Bert Annin	SRS/OLA	505	✓	
		and 238	attest	glet

PUBLIC HEALTH COMMITTEE

Date 3.02.79

Each day attach to minutes.

NAME: Gerrard S. Adair DATE: 3/2/79

ADDRESS: 1014 Bedford St., Helena

PHONE: 442-6773

REPRESENTING WHOM? National Retired Teachers Assoc
Alma, Assoc. of Retired Persons
Montana Joint State Legislative Comm

APPEARING ON WHICH PROPOSAL: H.B. 310 -

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: We feel that an elderly
citizen from the lay public
could relate better to those
who have need of hearing aids.

NAME: JAMES GOING DATE: 3-2-79

ADDRESS: 3001 10th AVE N Box 1174

PHONE: 727-4878 BUSINESS 761-2716

REPRESENTING WHOM? MONT HEARING AID DEALER SOCIETY
AS PRESIDENT

APPEARING ON WHICH PROPOSAL: HB310

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENTS: Not necessary. Two other professions
are already on board. Dealers should be
in majority according to the way the Board
was originally legislated
License renewal is \$80⁰⁰ per year. My wife is also
licensed, so our cost is \$160⁰⁰ per year
The Montana Speech & Hearing Association,
The Montana Hearing Aid Dealers
Society & several ear specialists
I spoke to are opposed to this
bill.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John E. [unclear] DATE: Mar 2 79

ADDRESS: 2605 [unclear] [unclear] [unclear] [unclear]

PHONE: 709-5555 [unclear] 703-8024

REPRESENTING WHOM? Henry Will [unclear]

APPEARING ON WHICH PROPOSAL: H B. 310

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: There are at present 38 days

paying \$80.00 per year to
support this bill and we feel
this would be an added financial
burden.

PL feel that two P mems
are already on this bill. The
idea of a P. [unclear]

NAME: DR. MONTANA S. KIMBLE DATE: 3-2-79

ADDRESS: 1821 Jerome Place Apt 202

PHONE: 443-5349

REPRESENTING WHOM? STATE DEPT. Member

APPEARING ON WHICH PROPOSAL: 143166

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: Artrial Testimony

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

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: Lynda Thuermer DATE: Mar. 2, 1979

ADDRESS: Albany

PHONE: 449-2040

REPRESENTING WHOM? Mont. Ins. Dept

APPEARING ON WHICH PROPOSAL: HB 505

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Josephine D. Aricall DATE: 3-2-79

ADDRESS: Mitchell Ridge

PHONE: 449-2996

REPRESENTING WHOM? Mr. Mpt., E. V. "Sonny" Orndorff

APPEARING ON WHICH PROPOSAL: N.B. 505

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3-2-79 House Bill No. 228 Time 2:10 p.m.

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

Judy L. Olson
Secretary

Tom Rasmussen
Chairman

Motion: House Bill 228 as amended, Roll called In

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

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3-2-79 House Bill No. 510 Time 2:05 p.m.

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

Andy L. Olson
Secretary

Tom Rasmussen
Chairman

Motion: House Bill 510 Be Not Concurred In

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

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3-2-19 H. 40 Bill No. 166 Time 1:55 p.m.

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

Judy L. Olson
Secretary

Tom Rasmussen
Chairman

Motion: House Bill 166 Be Referred to

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

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3-2-79 House Bill No. 505 Time 1:50 p.m.

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

Quincy J. Olson
Secretary

Tom Rasmussen
Chairman

Motion: House Bill 505 to be amended to

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

Department of Health and Environmental Sciences

STATE OF MONTANA HELENA, MONTANA 59601

MARCH 2, 1979
~~February 23, 1979~~

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

TO: Chairman and Members,
 Senate Public Health Committee

FROM: Rep. Andrea Hemstad

SUBJECT: Summary of Testimony in Support of House Bill 166

"AN ACT TO AMEND AND CLARIFY THE AUTHORITY OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT AND ENFORCE RULES FOR THE CONTROL OF COMMUNICABLE DISEASES AND TRANSPORTATION OF DEAD HUMAN BODIES: . . . AND REPEALING SECTION 50-1-205, M.C.A."

ATTACHMENTS:

- (1) "Regulation No. 40", (State Board of Health, 1965). Now MAC 16-2.18(10)
- (2) Copy of MAC 16-2.18(10)-S1840, S1850, and S1860. (MAC pages 16-415 through 16-418)
- (3) Copy of MAC 16-2.18(10)-S18040 TRANSPORTATION OF DEAD HUMAN BODIES
- (4) Copy of R.C.M. 1947, 69-4105 and 69-4106
- (5) Copy of R.C.M. 1947, 69-4105 and 69-4106, Notation of Repeal and Amendment respectively.

PURPOSE OF LEGISLATION:

This legislation is proposed to clarify the authority of the Department of Health and Environmental Sciences to require the reporting (and control) of communicable diseases. The pertinent sections of statute, as referenced in the present Rules, were incidentally and inadvertently omitted in the revisions of Chapter 41 (Title 69), which were enacted by the 1974 Legislative sessions. The present rules for reporting and control of communicable diseases are outdated, and in places reflect ineffective or obsolete actions or strategies. This awkward situation also applies to the authority to make rules governing the transportation of dead bodies.

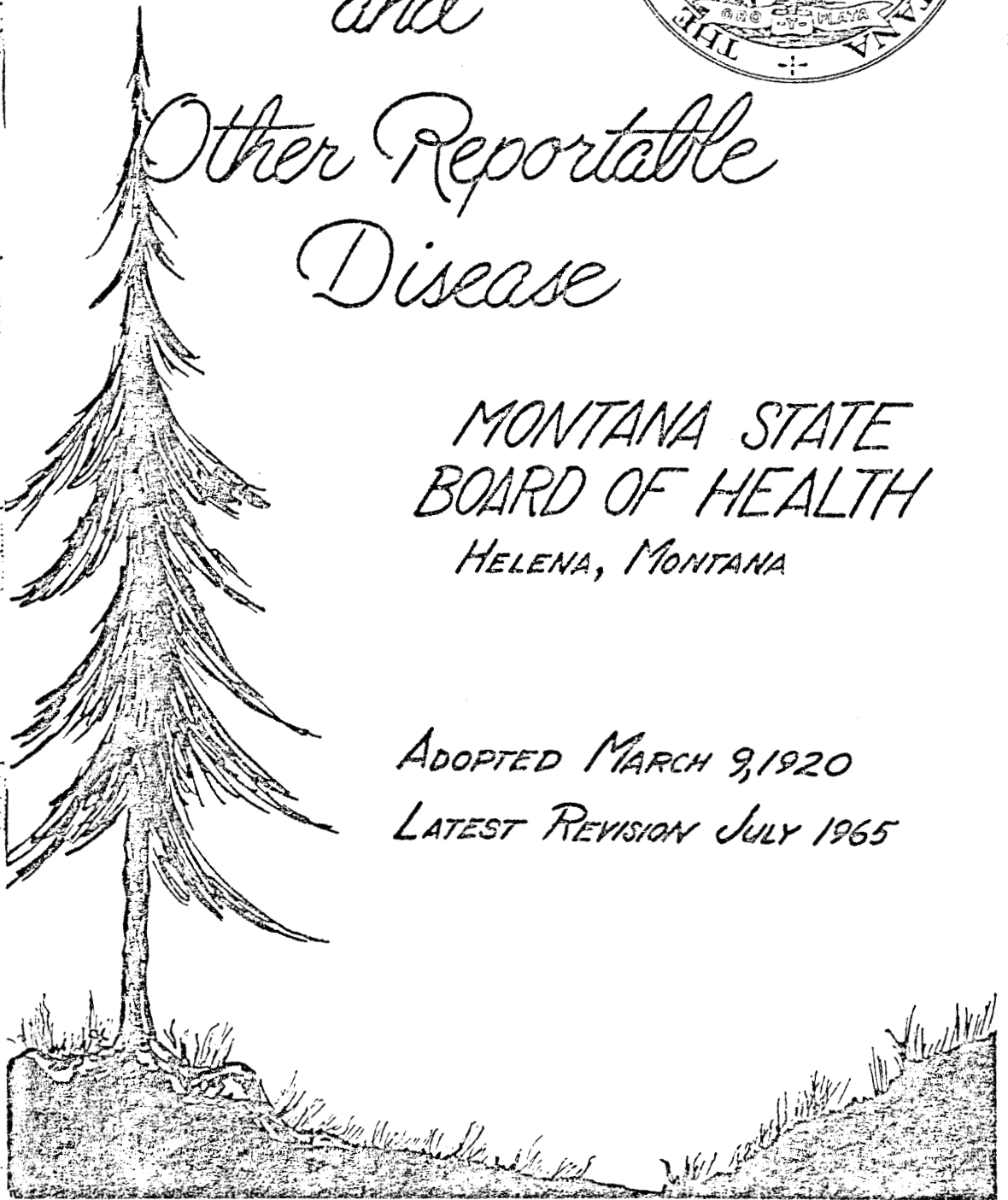
The proposed legislation, in addition, provides for repeal of a section which requires smallpox vaccination for school attendance when there are cases of smallpox within the school district. Smallpox has been eradicated from the world (1977), and the last recorded case in Montana occurred in 1938.



*Communicable
and
Other Reportable
Disease*

*MONTANA STATE
BOARD OF HEALTH
HELENA, MONTANA*

*ADOPTED MARCH 9, 1920
LATEST REVISION JULY 1965*



Sub-Chapter 10

Preventive Health Services Bureau

16-2.13(10)-S1340 COMMUNICABLE AND REPORTABLE DISEASES

(1) The rules of the department for reportable diseases are the minimum requirements in Montana. Local boards of health may adopt additional rules as deemed necessary, provided they are not less restrictive than those provided by the state.

(2) Definitions:

"Carrier" means a person who, without apparent symptoms of a communicable disease, harbors the specific infectious agent and may serve as a source of such infections.

"Cleaning" means the removal by scrubbing and washing with hot water and soap or other detergent organic or other matter or material on which infectious agents may adhere, propagate, or survive.

"Communicable disease" means a disease due to an infectious agent or its toxic products which may be transmitted directly or indirectly to a person, either from an infected person, animal, insect, or from food in which toxic products have accumulated due to growth of micro-organisms.

"Communicable period" means the time or times during which the etiological agent may be transferred directly or indirectly from an infected person to another person, or from an infected animal to man.

"Contact" means a person or animal known to have been in such association with an infected or presumably infected person or animal as to have been presumably exposed to infection.

"Contamination" means soiled with pathogenic agents that might cause a communicable disease.

"Disinfection" means the destruction of pathogenic micro-organisms or viruses by chemical or physical means.

"Concurrent disinfection" indicates the application of disinfectant immediately after the discharge of infectious material from the body of an infected person or after soiling of articles with such infectious material. All personal contact with such discharges or articles shall be prevented prior to this disinfection.

"Terminal disinfection" means the process of rendering the personal clothing, bedding and the immediate environment of the patient free from the possibility of conveying the infection to others at a time when the patient is no longer a source of infection.

"Disinfestation" means the process employing physical or chemical means for destroying undesired animal forms, especially arthropods or rodents present upon the person, the clothing, animals, or in the environment of persons.

"Fumigation" means any process employing gaseous agents for the destruction of undesirable rodents and arthropods.

"Immune person" means a person who possesses or is able to produce sufficient specific protection against illness following contact with the etiologic agent for that disease. Immunity must always be considered relative.

"Incubation period" means the time interval between the infection of a susceptible person or animal and the appearance of signs or symptoms of the disease in question.

"Infected person" means an individual whose body harbors a causative agent of a communicable disease. Such a person may be sick or have an inapparent (latent or subclinical) infection or be a carrier.

"Isolation" means the separation of an infected person from other persons in such places and under such conditions that facilitates the prevention of spread of the infection to susceptible persons.

"Quarantine" means the limitation of the freedom of movement of infected persons or animals or of persons or animals exposed to communicable disease for a period of time equal to the longest usual incubation period of the disease to which they have been exposed.

"Surveillance" means the practice of close supervision of contacts or suspects without restricting their movements.

"Susceptible" means a person who is presumably not immune to the particular disease in question by natural or artificial process.

"Suspect" means a person whose medical history or symptoms suggests that he may have or is developing some communicable disease. (History: Sec. 69-4106, 69-4110, 69-4112, 69-4311 through 69-4317, R.C.M. 1947; Order MAC No. 16-1; Adp. 12/31/72; Eff. 12/31/72.)

16-2.13(10)-S1850 REPORTABLE DISEASES (1) The following diseases are declared to be dangerous to the public health and are hereby declared reportable:

Actinomycosis

Anthrax

Botulism (see food poisoning)

Brucellosis (undulant fever)

Cancer and other malignant growths

Chancroid

Chickenpox (varicella)

Cholera

Colorado tick fever

Diarrhea of the newborn (epidemic)

Diphtheria

Dysentery (amoebic, amebiasis)

Dysentery (bacillary, shigellois)

Encephalitis, all types (infectious and post-infectious)

Epilepsy or epileptic-type seizure

Food infections (see salmonella infections)
Food poisoning (botulism, staphylococcus, etc.;
bacterial intoxication)
German measles (rubella)
Gonorrhea (ophthalmia)
Granuloma inguinale
Hepatitis, infectious (epidemic hepatitis, epidemic
jaundice, catarrhal jaundice)
Hepatitis, serum (homologous serum jaundice)
Impetigo (by institutions and for newborns by hospitals)
Influenza
Kerato-conjunctivitis, infectious
Leptospirosis (hemorrhagic jaundice, Weil's disease,
icterohemorrhagic spirochetosis)
Malaria
Measles (rubeola)
Meningitis, meningococcus (meningococcemia)
Meningitis, other (specify)
Occupational diseases
Paratyphoid fever (salmonella paratyphi infections)
Pertussis (whooping cough)
Plague
Polionyelitis (infantile paralysis)
Psittacosis
Q fever
Rabies:
Human cases
Animal cases, with history of animal
Animal bites treated
Persons given anti-rabies vaccine
Pneumatic fever, acute
Ringworm of the scalp
Rocky Mountain spotted fever
Salmonella infections (salmonellosis, food infections,
- other than typhoid and paratyphoid)
Shiella infections (see dysentery, bacillary)
Smallpox (variola)
Streptococcal infections (scarlet fever, strep sore
throat, erysipelas and puerpural sepsis)
Syphilis
Tetanus
Trachoma
Trichinosis
Tuberculosis, (pulmonary and non-pulmonary)
Tularemia
Typhoid fever
Typhus fever
Yellow fever

(History. Sec. 69-4105, 69-4106, 69-4301 through 69-4317,
R.C.M. 1947; Older AAC No. 16-1; Rep. 12/31/72; Eff. 12/31/72.)

HEALTH SERVICES

16-2.18(10)-S18840

- (i) Identify children under age 21 years who have defects which can be corrected primarily on a surgical basis.
- (ii) Provide payment to physicians and hospital services for the correction of the identified defects.
- (iii) Set standards regarding physicians' eligibility and hospitals' eligibility to participate in the program.
- (iv) To continue to make efforts and expand the program to cover categories and diseases which the present program does not cover.
- (v) To help fund and supervise specialty projects such as the Handicapped Children's Center in Billings which provides for a complete diagnostic evaluation of children with handicapping conditions and partial funding and administration of the Children's Heart Diagnostic Center in Great Falls.
- (vi) The provision of special programs such as the cleft palate program in which children who have cleft lips and palates are enrolled. In this program, a cleft palate team continually evaluates these children until the age of 21 years and provides multiple services to these handicapped individuals extending from surgical repair of the cleft lip and palate to the provision of prosthodontia and orthodontia services as well as social services.
- (c) Family planning program. Funded under Title X, National Family Planning and Regulations Control Act, the primary function is to provide comprehensive family planning services to females in the child-bearing age which extends from educational services through the provision of medical services and contraceptive services.
- (d) School health program. The school health program is a special program under maternal and child health. In this program, the staff of the bureau of child health continually promotes beneficial changes and updates school health programs throughout the state, working closely with the Department of Education. (History: Sec. 69-4102, R.C.M. 1947; Order MAC No. 16-1; Adp. 12/31/72; Eff. 12/31/72.)

16-2.18(10)-S18040 TRANSPORTATION OF DEAD HUMAN BODIES

(1) Definitions. For the purpose of this rule, unless otherwise indicated:

"Board" means the board of health and environmental sciences.

"Common carrier" means an individual or legal entity undertaking to transport a dead human body for compensation, including railroads, airlines, or other public transportation services.

"Department" means the department of health and environmental sciences.

"Destination" means a cemetery, or a crematorium, or other place of ultimate disposition.

"Local health officer" means a county, city, city-county, or district health officer appointed by the local board of health.

"Private conveyer" means one who transports a dead human body and includes one whose usual activity includes the transportation of a dead human body such as mortuaries and ambulance services.

"Specified communicable disease" means any disease or condition of a dead human body which, as determined by the board, constitutes a health hazard to the public.

"Transportation" refers to any transport of a dead human body between the place of death and the destination, including to and from a hospital, nursing home, residence, or mortuary.

(2) Specified communicable diseases. Those diseases determined to constitute a hazard to public health, for the purposes of this rule, are:

- (a) Smallpox
- (b) Cholera
- (c) Pneumonic Plague
- (d) Lassa Fever
- (e) Active Plumonary Tuberculosis, as determined necessary by local health officer.

(3) Death from a specified communicable disease.

(a) A human body dead of a specified communicable disease, being transported, must be embalmed and enclosed in a sound casket, or an equivalent suitable container. If embalming cannot be performed at the place of death, then the local health officer must be satisfied that reasonable precautions have been observed for transport to the place of embalming.

(b) A human body dead of a specified communicable disease must be embalmed as soon after death as is reasonably possible, but not before the local health officer has been notified of the suspected cause of death and determined the need for further examination to establish the cause of death with reasonable medical certainty, and such examinations as indicated have been completed.

(4) Transport of bodies dead of other causes.

(a) A human body dead of a cause or causes other than a specified communicable disease, being transported by common carrier, must be placed in a sound casket, or equivalent suitable container. If such a body will be en route more than eight (8) hours, or if the termination of common carrier transport occurs more than thirty-six (36) hours after the time of death, the body must have been embalmed, or refrigerated at 35 degrees F. or colder, or otherwise treated prior to transport, so as to prevent or substantially retard decomposition and the resultant effluents and odors.

(b) A human body dead of a cause or causes other than a specified communicable disease, being transported by private conveyer, where the body will not reach its destination within forty-eight (48) hours of death, must be embalmed, or refrigerated at 35 degrees F. or colder, or otherwise treated so as to prevent or substantially retard decomposition and the resultant effluents and odors. The minimum requirements for transport under these conditions shall be a transporting cot or stretcher and a proper covering.

(5) Application of rule.

(a) This rule shall apply to any human dead body being transported within the state of Montana, regardless of the place of death and of the destination.

(b) Exceptions to the above provisions of this rule may be granted by the department, either directly or by delegation through the local health officer, upon request, providing that such exception does not constitute a hazard to public health or create a public nuisance.

(6) Removal of body from local registration district.

(a) Every dead human body, being removed from the local registration district, must be accompanied by a burial-transit permit. The permit must be enclosed in a strong envelope and attached to the shipping container.

(b) A common carrier shall not, in any case, accept a dead human body for transportation unless it is accompanied by a burial-transit permit.

(7) Disinterred bodies. A disinterred human body shall not be accepted for transportation unless the remains shall be enclosed in a container of such type as the condition of the remains and the possibility of the escape therefrom of effluents and odors indicate.

(8) Duty of local registrar. Local registrars, when issuing a burial-transit permit for the purpose of transportation, must satisfy themselves that the rules of the board pertaining to the transportation of the dead have been complied with. (History: Sec. 82A-107, R.C.M. 1947; IMP Sec. 69-4106, R.C.M. 1947; NEW, MAC Not. No. 16-2-29; Order MAC No. 16-2-9; Adp. 5/24/74; Eff. 7/5/74.)

STATE BOARD OF HEALTH

69-4106

(1) In suits or proceedings in which state board actions are the subject of inquiry, meetings shall be deemed to have been called and held unless the contrary is proven.

History: En. Sec. 4, Ch. 197, L. 1967.

39 C.L.S. Health § 7.

39 Am. Jur. 2d 350, Health, § 11.

Collateral References

Health 67 (2).

Revised 69-4105. Administration of laws relating to public health by department. With policy guidance of the state board the department has responsibility for administration of laws relating to public health including, but not limited to, laws on:

- (1) industrial hygiene;
- (2) tuberculosis control;
- (3) vital statistics;
- (4) local boards of health;
- (5) venereal disease control;
- (6) shoddy control;
- (7) public and other water supplies;
- (8) cadavers;
- (9) hospitals, hospital related facilities, and long-term care facilities;
- (10) hospital survey and construction;
- (11) cesspools, septic tanks, privies, sewage lagoons, sewage treatment plants and stream pollution;
- (12) public swimming pools and public bathing places;
- (13) pure foods and drugs;
- ✓ (14) insecticides, fungicides, and rodenticides;
- (15) refuse disposal areas;
- 4 (16) communicable diseases;
- (17) tourist campgrounds;
- (18) hotels.

History: En. Sec. 5, Ch. 197, L. 1967.

Cross-References

Administration of Food, Drug and Cosmetic Act, sec. 27-721.

Dairy cattle, tuberculin test, sec. 27-106.

Food service establishments, markets and manufacturers, licensing and regulation by department of health, sec. 27-611 et seq.

Hotels, motels, or tourist homes, licensing and regulation of, sec. 34-301 et seq.

Montana Insecticide, Fungicide, and Rodenticide Act of 1947, sec. 27-201 et seq.

Prenatal serological test certificates, administration of law by board of health, sec. 18-134 et seq.

Slaughterhouses, unsanitary conditions prohibited, sec. 27-197, 16-216.

Water well contractor's examining board, representation on, sec. 66-2694.

Collateral References

Health 66, 7 (3), 20 et seq.

39 C.L.S. Health § 9 et seq.

39 Am. Jur. 2d 318, 355, Health, §§ 7, 19 et seq.

Revised 69-4106. Functions, powers and duties of state board. (1) The state board shall:

- (a) advise the executive officer in all public health matters;
- (b) hold hearings, administer oaths, subpoena witnesses, and take testimony in all matters relating to the duties of the state board or the department;
- (c) bring actions in court for enforcement of health laws and defend actions brought against the state board or department;

(d) after consultation with the executive officer, adopt and enforce rules and standards for carrying out provisions of section 69-4105 and for the preservation of public health and prevention of disease;

(e) make rules covering the qualifications and professional activities, duties, services, and administration of school and local public health nurses;

(f) make rules for the transportation of dead bodies;

(g) report as provided in section 82-1002.

(2) The state board may accept and expend federal funds available for public health services.

History: En. Sec. 6, Ch. 197, L. 1967;
am. Sec. 23, Ch. 93, L. 1969.

Collateral References

Health 6, 7 (3), 20 et seq.

39 C.J.S. Health § 9 et seq.

39 Am. Jur. 2d 348, 355 et seq., Health,
§§ 7, 19 et seq.

General delegation of power to guard
against spread of contagious disease. 3
ALR 826.

Validity, construction, and application
of statutes, ordinances, and other regula-
tions relating to transportation or disposal
of carcasses of dead animals not slaugh-
tered for food. 121 ALR 732.

Power of health commissioners to em-
ploy counsel. 2 ALR 1212.

Rule 69-4107. Executive officer — appointment — compensation — qualifica-
tions—temporary executive order. (1) The state board shall appoint the
executive officer who is the chief executive and administrative officer of
the department. The state board shall fix his salary.

(2) The executive officer shall:

(a) have a degree of doctor of medicine;

(b) have successfully completed at least one (1) year of graduate
study in an approved school of public health;

(c) have had at least two (2) years experience as a full-time public
health officer;

(d) be eligible for a license by the board of medical examiners;

(e) receive a license from the board of medical examiners not later
than six (6) months after his appointment.

(3) The state board may appoint a temporary executive officer for
a period of not more than one (1) year. A person appointed temporary
executive officer must be licensed to practice medicine in Montana, and
must have at least five (5) years active experience in that profession.

(4) The state board may contract with a person to serve as executive
officer, or may appoint an executive officer for a term of not more than
ten (10) years.

History: En. Sec. 7, Ch. 197, L. 1967.

39 Am. Jur. 2d 349, 350, Health, §§ 9-11.

Collateral References

Health 7.

39 C.J.S. Health §§ 6-8.

Personal liability of health officer. 21
ALR 798.

Spec 69-4108. Executive officer—removal—procedure. The executive officer
may be removed in the following way:

(1) the state board shall present him with a written statement of
the charges against him;

(2) twenty (20) or more days after written notice is given to the

69-4104. Board—officers—meetings. (1) The board may adopt bylaws governing meetings. The director of health and environmental sciences shall serve as secretary to the board.

(2) The board shall meet once every two (2) months and may hold additional meetings on the call of the chair, at the request of the director of health and environmental sciences, or at the request of a majority of its members. If a member has three (3) unexcused absences from meetings in a calendar year, his position is vacant and the governor shall appoint a person to replace him.

(3) In suits or proceedings in which board actions are the subject of inquiry, meetings shall be considered to have been called and held unless the contrary is proven.

History: En. Sec. 4, Ch. 197, L. 1967; and Sec. 29, Ch. 349, L. 1974.

Amendments

The 1974 amendment substituted references to "director of health and environmental sciences" for references to "executive officer" in subsections (1) and (2); deleted a sentence in subsection (1) which

read: "Four members constitute a quorum for the transaction of business"; deleted a provision for compensation of board members at the rate of twenty dollars a day and for reimbursement of expenses when attending meetings or in the discharge of other duties; and made minor changes in phraseology and punctuation.

69-4105. Repealed.

Repeal

Section 69-4105 (Sec. 5, Ch. 197, L. 1967), relating to administration of laws on

public health subjects by the department was repealed by Sec. 113, Ch. 349, Laws of 1974.

69-4106. Functions, powers and duties of board. The board shall:

(1) Advise the department in public health matters;

(2) Hold hearings, administer oaths, subpoena witnesses, and take testimony in matters relating to the duties of the board.

History: En. Sec. 6, Ch. 197, L. 1967; and Sec. 28, Ch. 93, L. 1969; and Sec. 39, Ch. 349, L. 1974.

Amendments

The 1974 amendment substituted "department" for "executive officer" in subdivision (1); substituted "duties of the

board" for "duties of the state board of the department" at the end of subdivision (2); deleted a subdivision which read "bring actions in court for enforcement of health laws and defend actions brought against the state board or department" and made minor changes in phraseology, punctuation, and style.

69-4107 to 69-4109. Repealed.

Repeal

Sections 69-4107 to 69-4109 (Secs. 7 to 9, Ch. 197, L. 1967), relating to the ap-

pointment, removal, and powers and duties of the executive officer, were repealed by Sec. 113, Ch. 349, Laws of 1974.

69-4110. Functions, powers, and duties of department. The department shall:

(1) Study conditions affecting the citizens of the state by making use of birth, death, and sickness records;

(2) Make investigations, disseminate information, and make recommendations for control of diseases and improvement of public health to persons, groups, or the public;

(3) At the request of the governor, administer any federal health program for which responsibilities are delegated to states;

ATTACHMENT "B"

TESTIMONY BEFORE THE SENATE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
FRIDAY, MARCH 2, 1979 AT 12:30 P.M.

HOUSE BILL 505 -- "AN ACT TO PROHIBIT EXCLUSIONS FROM INSURANCE POLICIES AND MEMBERSHIP CONTRACTS WHICH REDUCE OR DENY BENEFITS TO PERSONS ELIGIBLE TO RECEIVE PUBLIC MEDICAL ASSISTANCE; AMENDING SECTIONS 33-22-112 AND 33-30-1002"

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. THE PURPOSE OF H.B. 505 IS TO PREVENT PRIVATE INSURANCE COMPANIES AND HEALTH SERVICE CORPORATIONS FROM EXCLUDING COVERAGE OF MEDICAID SERVICES THAT WOULD NORMALLY BE INCLUDED IN PRIVATE INSURANCE PLANS. BLUE SHIELD CURRENTLY HAS SUCH A CLAUSE IN THEIR POLICIES, ALTHOUGH IT HAS NEVER BEEN ENFORCED. IF ENFORCED, INSURANCE COMPANIES COULD FORCE MEDICAID TO PAY FOR SERVICES THAT SHOULD HAVE BEEN COVERED UNDER THAT POLICY.

RECENTLY ENACTED FEDERAL LEGISLATION ON MEDICAID FRAUD AND ABUSE REQUIRES STATES TO RECOVER ANY POSSIBLE PAYMENTS FOR SERVICES FROM ANY OTHER SOURCE RESPONSIBLE FOR PAYMENTS --- SUCH AS INSURANCE COMPANIES --- BEFORE APPLYING ANY MEDICAID PAYMENTS TO THOSE SERVICES. FEDERAL FUNDS CANNOT BE USED IN THE MONTANA MEDICAID PROGRAM FOR PAYMENTS THAT WOULD NORMALLY BE COVERED BY OTHER PRIVATE OR GROUP INSURANCE PLANS. IN ORDER TO PREVENT THE POTENTIAL LOSS OF FEDERAL FUNDS FROM THE MEDICAID PROGRAM AND TO COMPLY WITH FEDERAL MANDATES, WE SUPPORT THE PASSAGE OF H.B. 505 TO PROHIBIT THE USE OF SUCH EXCLUSION CLAUSES. WE ARE PROJECTING THAT 4 PER CENT OF THE MEDICAID EXPENDITURES WILL BE COVERED BY

PRIVATE OR GROUP INSURANCE PLANS BY FISCAL YEAR 1980. IF THIS EXCLUSION CLAUSE IS NOT PROHIBITED, 100 PER CENT OF THE PAYMENTS FOR CERTAIN SERVICES TO THOSE MEDICAID RECIPIENTS WOULD HAVE TO COME FROM THE STATE'S GENERAL FUND. AND WE WOULD LOSE OUT ON THE 2/3 MATCH IN FEDERAL FUNDS FOR THOSE SERVICES TO RECIPIENTS COVERED BY OTHER INSURANCE PLANS.

BECAUSE THE MEDICAID PROGRAM IS FUNDED WITH PUBLIC MONEY, WE WANT TO ENSURE THAT MEDICAID FUNDS ARE USED ONLY WHEN ABSOLUTELY NECESSARY TO PAY A CLAIM AND ONLY AS A LAST RESORT WHEN OTHER FUNDING SOURCES ARE NOT AVAILABLE. IT IS THE AIM OF THE MEDICAID PROGRAM TO ENSURE THAT EVERYONE WHO IS QUALIFIED FOR PUBLIC MEDICAL ASSISTANCE RECEIVES IT AND ALSO TO SEE TO IT THAT THE PUBLIC'S MONEY IS SPENT CONSCIENTIOUSLY IN HELPING THE ELDERLY AND THE NEEDY RECEIVE NEEDED HEALTH CARE.

THE STATE'S INSURANCE DIVISION CURRENTLY CONTROLS THE INSURANCE POLICIES OF PRIVATE INSURANCE COMPANIES. THE HEALTH SERVICE CORPORATIONS SUCH AS BLUE CROSS AND BLUE SHIELD ARE NOT REGULATED TO SUCH A DEGREE. THIS LEGISLATION IS NECESSARY, THEREFORE, TO COVER ALL INSURANCE GROUPS THAT MIGHT BE INVOLVED IN PAYMENTS FOR MEDICAID SERVICES.

BECAUSE AN EXCLUSION CLAUSE HAS NEVER BEEN ENFORCED IN THIS STATE, THE PASSAGE OF THIS LEGISLATION SHOULD NEITHER PENALIZE NOR INJURE ANY INSURANCE COMPANY. OTHER STATES, HAVE HAD PROBLEMS WITH SUCH CLAUSES, IN THE PAST, AND WE HOPE WE CAN LEARN

FROM THEIR HARDSHIPS. IN SUPPORTING THE PASSAGE OF THIS BILL,
THE DEPARTMENT HOPES THE LEGISLATURE WILL DISPENSE A LITTLE
PREVENTIVE MEDICINE FOR THE MEDICAID PROGRAM IN ORDER TO
FORESTALL POTENTIAL PROBLEMS IN THE FUTURE.

DO7/e

Medicaid

QUALITY CONTROL

May 1978

STATEMENT OF INTENT RE: HB 238

A statement of intent is required for this bill because it amends Section 53-6-111, MCA to authorize the Department of Social and Rehabilitation Services to adopt rules in Subsections 2 through 5.

Under present law, SRS has express rulemaking authority to administer and supervise the state's medical assistance program under Title 53 of the MCA. There is no express rulemaking authority for the Department to adopt rules establishing penalties and sanctions applicable to providers of medical assistance services and supplies who engage in fraudulent, abusive, or improper activities. The Montana Administrative Procedure Act, Section 2-4-102(11)(a), MCA, requires that substantive rules be adopted under expressly delegated authority in order to be valid.

Federal regulations require the state to suspend or terminate from the Medicaid Program any provider who has also been terminated from the Medicare Program or lose federal financial participation in Medicaid payments to those providers. If SRS does not have the authority to suspend or terminate those providers, the state must continue to pay them but without federal funds which presently amount to 63 percent of the payments. Additional funds from the state's general fund would be needed to pay those providers of medical assistance in Montana.

The intent of this bill is to grant to the Department of

1 Social and Rehabilitation Services express authority to adopt
2 rules establishing penalties and sanctions as enumerated in
3 Subsections 3 through 5 and the flexibility to comply with federal
4 regulations and to adopt additional penalties and sanctions
5 necessary to provide uninterrupted access to medical care and
6 supplies in areas of Montana where alternative sources are
7 unavailable.

8 First adopted by the SENATE COMMITTEE ON PUBLIC HEALTH,
9 WELFARE AND SAFETY on March 3, 1979.