

MINUTES OF THE HUMAN SERVICES COMMITTEE MEETING
February 13, 1981

The meeting was called to order by Chairman Budd Gould at 12:20 p.m., February 13, 1981, in Room 103, Capitol Building. All members were present except Representatives GARY BENNETT, KERRY KEYSER and JOE BRAND.

HOUSE BILL 646.

REP. ANN MARY DUSSAULT, District 95, Missoula, explained the bill, and stated that the purpose of the bill is to clarify the state laws relating to Child Day Care Facilities and to require registration of Family Day Care Homes instead of licensing. The bill also states the rulemaking authority of the Department of Health and Environmental Sciences, new definitions for day-care homes, day-care centers and group day-care homes. There are also included some changes in the violation section and penalties involved. DUSSAULT suggested several amendments.

PROPOSERS:

ELLIE CUMMINS, from the Department of Social and Rehabilitation Services, spoke as a proponent, stating that the Department urged favorable consideration. (EXHIBIT I)

RICHARD L. CRANKSHAW, Coordinator for the Montana Immunization Program, stated the need for identification of all day-care centers, as this registration would help curb communicable diseases among these preschool children. The licensed centers are obligated to ensure that their children are appropriately immunized and this bill, through the registration process, would do this.

MILDRED WEHRMAN, President of the Montana Day Care Association, spoke as a proponent, as well as DR. JOHN ANDERSON, Director of the Department of Health and Environmental Sciences; DEBRA DAVIS from Wee Friends Co-operative of Bozeman, Montana; and DARRELL FURAN, Sanitarian with City-County Health Department of Great Falls.

OPPOSERS: There were none.

QUESTIONS FROM THE COMMITTEE:

REP. WINSLOW asked if a family in a neighborhood took care of three children, would they also have to register.

REP. DUSSAULT stated that they would. One of the reasons for amending the penalty provision was that they register and not be subject to the misdemeanor charge. The records they would have to keep are very minimal.

REP. BARDANOUE questioned the meaning of the words "provide transportation" in the bill.

REP. DUSSAULT responded that this probably should be amended to say "safety in transportation."

REP. BARDANOUE asked Rep. Dussault to clarify several other passages in the bill relating to fees paid by the day-care centers.

Discussion followed and the hearing on HB 646 was closed.

HOUSE BILL 664.

REP. JOHN VINCENT, District 78 from Bozeman, chief sponsor of the bill, explained that this bill is designed to help children of dissolved marriages by allocating grant money programs whose activities relate directly to children of dissolved marriages. The funds are not to be available from the account unless there is matching money at the local level. The bill is designed to afford replacement of appropriate role models in the life of the child, seminars to provide skills relating to the loss of a parent, and educational programs designed for both children and specialized groups in the community organized to help these children.

PROPOSERS:

DAVE TONE, of the Big Brothers and Sisters Program in Helena, spoke in favor of the program, stating that 45% of the children in school this year live in a single parent home, and many are underachievers. There are many places and seminars for divorced parents to seek help, but none for the children of these parents.

DICK MEEKER, Chief Probation Officer of Lewis and Clark County, and board member of Big Brothers and Sisters, spoke in favor of the bill, as did JANET HULL of Helena; JEFF LANGEN, member of Friends to Youth, and WILBER SANDERS, member of Friends to Youth, both of Missoula.

OPPOSERS: There were no opposers.

QUESTIONS FROM THE COMMITTEE:

REP. BARDANOUE questioned the raise in fee for another \$20 to register.

REP. VINCENT assured the committee that the fee was correct and would be correctly applied under the wording of the bill.

HOUSE BILL 686.

REP. MCLANE, District 72, sponsor of the bill, explained the

purpose of the bill was to clarify the role of the Department of Health and Environmental Sciences in licensing and regulations of residential care type facilities.

PROPOSERS:

JAMES HILL, Department of Health, stated there are other departments involved in the program, the Department of Institutions, and Social and Rehabilitation Services. Many of the different facilities need defining, he said. The facilities operate under many different names: group homes, mental health centers, and halfway houses. Many of the centers operate under the definition of rooming houses and are licensed as such.

DON SEKORA, Program Manager for adult services from the department of SRS, presented the department's support. (EXHIBIT II).

PHILLIP POWERS, Department of Institutions, spoke in favor of the bill, stating it would legitimize the community homes now in use for mentally ill persons.

DARRELL FURAN, Sanitarian with the Great Falls City-County Health Department, spoke as a proponent.

OPPOSERS:

ROSE SKOOG, Montana Nursing Home Association, stated this bill is confusing in the new definitions of categories. There seems to be distinction between residential care and personal care, she said. Residential care facilities are licensed by the state, but do not receive direct federal funding. This bill attempts to differentiate between residential care and personal care by describing residential care as "light personal care." She felt that enforcement of licensing provisions will be nearly impossible. Personal care is already licensed under Title 50, pertaining to Health Care Facilities, and this proposed legislation seeks to license "light" personal care under Title 50, pertaining to hotels, motels and rooming houses. She stated the Association feels that expanding the group home concept without health care facility standards being applied will jeopardize safety in the facilities.

QUESTIONS FROM THE COMMITTEE:

REP. SIVERTSEN asked if this bill is duplicating the definitions of facilities we already have.

MR. HILL stated there is a need for a lessor category for personal care. The intent is for the residents to function as

much as they can on their own, but rooming houses don't require things that he feels should be required.

SEKORA, SRS, stated the intent of SRS was to define residential care and light personal care and to require that the facility be licensed according to safety, health and fire safety.

REP. SIVERTSEN asked Skoog to address the question.

SKOOG stated the definition between the two categories seemed to make light personal care a heavier definition than personal care.

REP. SIVERTSEN asked about the term medicine and administration of it.

SKOOG stated that it probably meant that the medication would be self-administered with just a reminder from someone in charge.

REP. BARDANOUE asked how the new definitions would change conditions for people released from Warm Springs, as an example, to live in a community home.

POWERS responded that there would be no change in standards, conditions or services, just a change in title.

SKOOG stated that the Association has no objection to personal care as a level of care, other than nursing home care, but the facility should be under the auspices of a health care facility, licensed as a personal care facility, and meet health care standards for the safety of those people.

The hearing on HB 686 closed.

EXECUTIVE SESSION.

HB 664.

REP. METCALF moved that HB 664 DO PASS. The motion was seconded and passed with REPS. NILSON, SIVERTSEN, and SEIFERT dissenting.

HB 646.

REP. SEIFERT moved that HB 646 DO PASS. Motion was seconded, and it PASSED UNANIMOUSLY.

REP. SEIFERT moved that the amendments proposed by DUSSAULT DO PASS. REP. WINSLOW stated his concern that if a neighbor wanted to take care of two or three children in the neighborhood, and she couldn't keep the records, how much harassment would she be liable to get. REP. CONN thought that registration would be voluntary, without penalty, and there would be no harassment. REP. SEIFERT moved DO PASS AS AMENDED. It was voted upon and passed with REPS. SWITZER, DEVLIN, SIVERTSEN

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and WINSLOW dissenting.

THE CHAIRMAN asked if the committee wanted to look at a third proposal of the certificate of need or just at the two we have. It was decided not to consider a third proposal.

HOUSE BILL 686.

REP. METCALF moved HB 686 DO PASS.

REP. SEIFERT moved the amendment DO PASS. The motion carried UNANIMOUSLY.

Discussion followed on HB 686. The Chairman called for a vote and the motion failed in a tie vote of 7 to 7. The committee decided to reconsider the bill at a subsequent meeting.

The meeting adjourned at 2:30 p.m.

BUDD GOULD, CHAIRMAN

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HOUSE Human Services COMMITTEE

Date 2/13/81

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE Human Services COMMITTEE

COMMITTEE

HB 686

Date **2-13-81**

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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COMMITTEE

HB 664

Date 2-13-81

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TESTIMONY ON HOUSE BILL 646

An Act To Generally Revise and Clarify State Laws
Relating To Child Day Care Facilities

The Department of Social and Rehabilitation Services requested introduction of this Bill. This is a result of work and study completed the past year by a State Day Care Task Force comprised of parents, day care providers, personnel from the Department, Department of Health and Environmental Sciences, the State Fire Marshals Office, the Office of Public Instruction and others. The purpose of the Bill is to clarify the State laws relating to Child Day Care Facilities and to require registration of Family Day Care Homes instead of licensing.

The Bill specifically defines all levels of care. A Day Care Center provides care to thirteen (13) or more children. A Group Day Care Home provides care for seven (7) to twelve (12) children. A Family Day Care Home provides care for six (6) or fewer children. The term "Day Care Facility" has been defined to include all of the aforementioned levels of care.

Only Group Day Care is new for Montana. The existing law defines any facility that cares for seven (7) or more children as a center.

Why do we need Group Home Day Care? Parents, providers, members of the State Day Care Association and Social Workers responsible for licensing, have identified many potential applicants, who because of large homes or available staff aides, could provide care in their own homes for more than six (6) children. However, their homes neither can, nor do applicants wish to commence major remodeling, to comply with strict fire safety codes. Group Day Care Homes, therefore, will add an additional, although less regulated, level of care in the providers own home.

What is Registration as opposed to Licensing? Registration involves the Department making regulations available to day care providers who will determine independently that they comply with standards. A provider will simply register with the Department declaring that they comply with the minimal standards for quality care.

What are some of the advantages of Registration? Registration is far less regulatory than the process of licensing. A Social Worker will not inspect a home to determine compliance prior to the applicant being registered to provide day care. The responsibility for Family Day Care Home monitoring and evaluation will be placed primarily on the parent and the consumer who use day care facilities. The procedure for registration is less "intimidating" and has increased, sometimes doubled, the number of available homes in other states that already use the process of registration. Parents will have a broader range of choices in securing a registered family day care home.

The Social Worker's responsibility will change from enforcer or watch dog to an advocate for educational services for parents, providers and the community.

Are there other significant changes in the Bill? In order to avoid revising the Day Care Law during every Legislative Session, the Bill states "The Department shall pay a daily rate established by the Department", instead of specifying the exact dollar amount.

The Bill also clarifies the responsibilities between the Department and the Department of Health and Environmental Sciences. Rule making authority for the health hazards of inadequate food preparation, poor nutrition and communicable diseases are included as responsibilities of the Health Department.

The Health Department ~~and the State Fire Marshal Bureau~~
~~requested,~~ and the Department included, language giving the
Health Department ~~and the Fire Marshall Bureau~~ the authority
to charge a fee for any training or inspections for the
licensing process.

The Department of Social and Rehabilitation Services urges
your favorable consideration of this Bill.

Elly Bernau Cummins
Program Manager V
Social Services Bureau
Community Services Division

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HOUSE BILL NO. 686

PROPOSED AMENDMENT

Page 2, line 14.

Following: "53-5-302"

Insert: "to more than four adults"

2/13/81

PUBLIC HEALTH COMMITTEE

HOUSE BILL 686

HB 686, providing for licensure of residential care facilities, duplicates and conflicts with health related provisions of present statutes and regulations and compromises the well-being of potential users of residential care services.

Distinction between "residential care" and "personal care". In many health care circles, the terms "residential care" and "personal care" are used interchangeably. This bill attempts to differentiate between residential care and personal care by describing residential care as "light personal care". Enforcement of licensing provisions based on this type of distinction will be nearly impossible. And the problem is compounded when you take into account that personal care licensing is already authorized under Title 50, Chapter 5--pertaining to health care facilities--while this proposed legislation seeks to license "light personal care" under Title 50, Chapter 51--pertaining to hotels, motels and roominghouses.

Section 50-5-101(16)(a) defines "long term care" as a facility which:

"provides skilled nursing care or intermediate nursing care to a total of two or more persons or personal care to more than three persons who are not related to the owner...." (Emphasis added.)

Section 50-5-101(16)(a)(iii) defines "personal care" as:

"the provision of services and care which do not require nursing skills to residents needing some assistance in performing the activities of daily living." (Emphasis added.)

Into this already confusing area of "level of care" the proposed legislation attempts to interject yet another level and defines "residential care" as:

"...the provision of room and board and
light personal care as defined in 53-5-302."
(Emphasis added.)

Title 53, Chapter 5, Part 3 is an "adult services" area of law dealing with a program administered by the Department of Social and Rehabilitation Services known as the Adult Foster Family Care program. Under this program, "light personal care" is defined as:

"...assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, hair grooming and supervision of prescriptive medicine administration, but not administration of prescriptive medications."

It should be pointed out that this definition is intended to deal with care of aged or disabled adults in a group home setting for four or fewer persons.

This legislation appears to be trying to expand the "group home" concept to boarding homes. The problem with doing this is that standards for group homes are relaxed and less stringent than for larger facilities because of the small home-like atmosphere and because of the ability to handle a small number of people in the event of an emergency. Expanding this concept and lack of health care facility standards to a larger facility--a boarding home of any size--will clearly jeopardize the safety of the residents.

It is inconsistent to define a "personal care facility" as a long term health care facility and license it under the health care related provisions of the statutes and regs, and then license "light personal care" elsewhere in the statutes as a hotel, motel or boardinghouse--as this legislation is asking you to do.

Other definitions of interest:

50-5-101(1). "Adult day care center" means a facility, free-standing or connected to another health care facility, which provides adults, on an intermittent basis, with the care necessary to meet the needs of daily living.

50-5-101(12). "Home health agency" means a public agency or private organization or subdivision thereof which is engaged in providing home health services to individuals in the places where they live...."

New category unnecessary. Present statutes and regulations adequately define and provide for the range of services available to our elderly population and this new category is unnecessary, confusing and will in all likelihood serve only to lower the standards for what is now known as "personal care". Even if this category were necessary it should be included in Chapter 5 relating to health care facilities and not under Chapter 51 related to hotels and motels.

Quality of care provided. All facilities licensed as health care facilities must meet minimum standards with respect to annual inspections, construction, fire and life safety codes, food service, communicable disease control, medical records, maintenance of plant and equipment, disaster plans and drills, and written policies and procedures with respect to all services provided. This includes personal care facilities. These standards have been developed for the health and safety of residents and in response to abuses and problems which arose when such standards did not exist. The proposed legislation lowers the standards required to be met by those providing services to those unable to care for themselves and erodes the protections developed over a number of years for their benefit.

Present licensing abuses. Although present law requires a personal care license to provide personal care services, several boarding homes around the state are operating without the required license--using only their boarding home license. These facilities in all likelihood are not licensed as personal care facilities because they don't meet minimum standards. This proposed legislation will add to the problem since it will move these places one step closer to legality--even though they don't meet the required minimum standards established for the health and safety of residents.

The people who stand to gain from this legislation are: (1) the people now operating personal care facilities without benefit of the appropriate license and those who might wish to offer this type of service in the future without meeting personal care standards; and (2) the Department of Health who will not have to enforce the personal care standards. The residents of these facilities have nothing to gain by passage of this legislation but stand to lose protections provided them in present law.

We urge you to vote DO NOT PASS on HB 686.