

MINUTES OF THE HUMAN SERVICES COMMITTEE
January 12, 1983

CHAIRMAN HART called the Human Services Committee to order at 12:30 p.m., January 12, 1983 in Room 224A. All members were present.

HOUSE BILL 88. REP. HAND, Sponsor. This bill lifts the responsibilities from the shoulders of the school teachers and authorized persons when it is essential to administer medication with the parents' permission during school hours when the school district does not have a school nurse. The bill does not speak to medication that can be given before and after school hours. REPRESENTATIVES EUDAILY and KEENAN have prepared amendments (EXHIBIT 1). . We are talking particularly about isolated schools.

PROPOSENTS:

RICK BARTOS, attorney for the Office of Superintendent of Public Instruction, supported House Bill 88. He sees this bill as needing clarification for administering medication. He said that school personnel today are administering medication--both non-prescribed and prescribed--in violation of present law. The Nursing Practice Act prevents such administration by non-medical professionals. It is true that administration of medication is dangerous--for the child's sake in terms of safety as the nurses will indicate. But what this bill attempts to do is strike a compromise in terms of allowing authorized employees to administer medication under certain conditions and under certain limitations. This bill is also consistent with Section 41-1-402 which states that parents have a primary responsibility for the education and health care for their children. We are linking the medical profession with the mechanics of administering medication to those children who are not accessible to a nurse or a physician. The law, as proposed in California, reads almost identical to the law of this Committee. Parents have a primary responsibility to administer medication but many times they cannot come to the school to give that medication. Further, under federal law, we as school people are mandated by Public Law 94-142, "Education of the Handicapped Act," to provide related services for handicapped children. Court cases have indicated that related services means administering medication. Some of the problems we have are (1) medication is being sent to schools in unlabeled containers, (2) medication is being carried by students whose name is not on the container, (3) there is no standardized method of storage, and (4) medication has been known to be stolen from schools. We have a failure on the part of the parents to even bother with the school district in terms of providing permission. This bill would require that the parent have notice and give permission prior to administration of medication. Further, there would be one individual that would be responsible for administering these medicines. We suggest an amendment to this statutory proposal (1) being to amend the Montana Nursing Practice Act; to make an exception authorizing employees of school districts to not come within the parameters of the Montana Nursing Practice Act. As it stands now, it appears that a non-nurse who administers medicine could be criminally liable for

administering those medications under Section 37-8-443. It is a misdemeanor for a person to practice professional nursing unless licensed to do so. Many school employees are non-professional nurses. One difficulty that might arise--a nurse who in good faith administers prescribed medicine to a student in compliance with this act--we list the standard by which we will judge whether that particular nurse is negligent or non-negligent. The standard of care for a licensed professional nurse is higher than an ordinary lay individual. In this statute we say that you would be negligent or held civilly liable if you could find that your act or omission was of gross negligence, willful or wanton misconduct. That would apply to an authorized employee, but not, necessarily, to a nurse because the nurse must meet a higher standard of care because of his or her training. We are putting the burden on the school district without any recourse as it presently exists. And, therefore, we support this measure.

DEL CURRY, representing the Office of Public Instruction, Specialist for Special Education, stated that this has been a standing problem in special education children where the child needs medication to stay in school for the day. We feel that this bill as proposed and amended would offer school districts and school district personnel some liability protection for acts that they feel they have to do in the best interest of the child.

WAYNE BUCHANAN, representing Montana School Board Association, underlined the fact that teachers on a daily basis in the schools of Montana are administering medicine. He was in support of the bill and stated that it is time that this be regulated and immunity given to the individuals that are charged with this responsibility.

OPPONENTS:

JANET COLBERG, from the Montana School Nurse Interest Group, spoke in opposition of this bill out of concern for the Montana youngsters. Nurses statewide carry liability because they "provide primary care directly to a patient" (EXHIBIT 2).

JEAN KEEGAN, representing the Montana Association of School Nurses, also opposed the bill urging that medication for children be given at home by the parents (EXHIBIT 3).

JUDY OLSON, of the Montana Nurses Association, spoke in opposition of the bill stating that because the medication needs of the students vary greatly from school district to school district in the state, she believes that the proper place to address the problem is through the local school boards through an established medications policy (EXHIBIT 4).

FRANK DAVIS, a registered pharmacist, presently the Executive Director of the Montana State Pharmaceutical Association, opposes this bill because he feels that professionals have worked for years to develop proper standards of practice to protect the public. This bill by circumventing the definition of whom may administer drugs breaks with a system that is tried and proven to be in the best interest of the public (EXHIBIT 5).

DR. DAVID LACKMAN, lobbyist for the Montana Public Health Association, endorsed the testimony of the Pharmaceutical Association and the Nurses Association. He considers this a local problem that has been satisfactorily handled in most districts. He recommended a DO NOT PASS.

DAVID SEXTON of the Montana Education Association opposed the bill because he did not like the concept of teachers administering medicine (EXHIBIT 6).

Additional written information was presented (EXHIBITS 7 and 8).

In closing, REP. HAND stated he could not see the difference between the teacher administering the medicine against the parent administering the medicine. The problem of liability still has to be addressed.

QUESTIONS:

REP. KEYSER said the bill as it is written without certain amendments is not good. He asked REP. HAND if he had seen Appendix B on medication given in school. With some of those regulations written in, would REP. HAND be opposed to Appendix B being added to the bill?

REP. HAND answered "no."

REP. FABREGA asked if those in support of the bill would still support the bill if the liability was left blank.

RICK BARTOS said he would be very hesitant to administer any medication if he had to rely upon the standard care of a nurse as opposed to the liability of a lay person. You are liable if you are found negligent. This bill raises that standard of care. You have to be grossly negligent. We would be in favor of the bill if it gives any type of civil protection.

JAN BROWN said she would like clarification on the present policy that we have Appendix B which is being used in some school districts. Is it being used in all school districts?

JEAN KEEGAN responded that Appendix B is from the Montana School Nursing Guideline which is a procedural manual for school nurses to use. Some schools had written medication policy that was in place before Appendix B was developed. It is not being used in all school districts but it could be.

REP. HANSEN asked if REP. HAND knew how many schools were involved in this situation.

RICK BARTOS felt that every school district is involved.

REP. SWIFT asked if an analysis was made pertaining to the travel and time that would be involved while utilizing nurses for that situation.

RICK BARTOS had no information that would directly respond to that.

REP. MENAHAN wanted to know if teachers are allowed to give medication, what would stop them from giving audio and visual tests. He asked what the responsibilities were for the school nurse.

JANET COLBERG replied there are three areas of responsibility for school nurses. They are (1) counseling, (2) health treatment and medication and (3) teaching in a classroom (under a teacher's supervision) and acting as a resource person.

REP. WINSLOW asked if Appendix B had been adopted by some school districts.

JEAN KEEGAN stated that it had.

REP. BRAND asked if teachers were giving prescribed medicines illegally to students.

RICK BARTOS said he always prefaced his statement with "It is apparent" or "It appears." According to two attorney generals' opinions, it is their opinion that it appears "Yes."

REP. HANSEN asked if there had ever been litigation.

RICK BARTOS replied "No."

REP. FABREGA asked if the main concern was the violation of the expansion of the nursing act or the limited liability.

JEAN COLBURG replied that it is the concern for the children of Montana.

CHAIRMAN HART closed the hearing on House Bill 88.

HOUSE BILL 28. REP. KITSELMAN, sponsor, stated that this bill is designed to provide the public the right to know how their neighborhoods are being impacted. REP. KITSELMAN explained the proposed amendments (EXHIBIT 9).

PROPONENTS:

MAY NAN ELLINGSON, representing the City of Missoula, stated that the City of Missoula could give qualified support for this bill if several amendments to it are made (EXHIBIT 10).

JUDITH CARLSON, Deputy Director, Department of Social Rehabilitation Services, supported the bill with the following amendments: (1) adult foster homes defined in 53-5-3, MCA; and (2) youth foster homes defined in 41-3-5, MCA, for six and fewer children (EXHIBIT 11).

OPPONENTS:

JOE ROBERTS, represented the Developmentally Disabled Legislative Action Committee, which represents non-profit corporations that contract with the State through the Department of Social Rehabilitation Services to provide residential services to disabled clients. He took a neutral position. He thinks the amendments will take care of some of the initial concerns he has about the bill. To remove application to foster care families is one of the most obvious. Another is that the expenses will be borne by the operator of the home. The provider corporations operate on small budgets and do not have the funds to pay expenses. Another item--any time you are going to open a group home, you are going to have some kind of controversy. After you have located that facility and you go back two years later, the residents are calmed down and they have accepted the facility. We do not have any problem with letting people know what the situation is; however, we don't want to have additional expenses which we cannot afford.

DAN RUSSELL, Administrator of Division of Corrections. With the amendment that excludes foster homes, he took a neutral position but feels that people should have some kind of input if a group home is coming into the area.

BILL CRIVELLO, Executive Director of Flathead Industries for the Handicapped, opposed the bill, even with the amendments regarding foster homes (EXHIBIT 12). In reference to public hearings, he said that there are communities throughout the State that have developed codes that mandate a public hearing. He feels it should be left up to the communities to keep their communities informed.

In closing, REP. KITSELMAN stated that some of the things in locating the facilities is the cost of the property, the budget restriction you have and the types of facilities you are building. He feels that the neighborhood does have a right to know. All other buildings have to go through a zoning process. Since the public is being informed in an informal manner, he did not feel it was too much to ask to localize that process so that all people in the State have that same right of public information. The freedom to exchange ideas between the public and the private usually alleviates problems. It is an informational hearing; it is not mandating any laws. He urged the passage of this bill.

REP. FABREGA asked if one could make a provision that the information be gotten out to the neighbors as part of the rules when applying for license for the home.

JUDY CARLSON replied that she could.

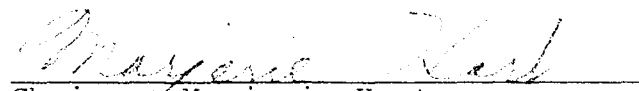
REP. FABREGA asked if you have a hearing on such a formal basis that cannot change anything, would that create a sense of false participation?

REP. KITSELMAN said that the problem he has is that formal and informational hearings are held at odd times. The informational meetings "lets the fur fly" so to speak, and then it becomes very constructive.

REP. FARRIS said she had exactly the opposite experience in Great Falls.

The hearing on House Bill 28 closed.

The meeting adjourned at 2:15 p.m.


Chairman Marjorie Hart


Secretary

Amendments to House Bill 88 (Introduced copy)

1. Page 1, line 5.
Following: "Employee"
Insert: "OR OTHER AUTHORIZED PERSON"
2. Page 1, line 11.
Following: "employee"
Insert: "or other authorized person"
3. Page 1, line 13.
Following: "if:"
Insert: "(a) the school district does not have a school nurse;"
4. Page 1, line 14.
Strike: "(a)"
Insert: "(b)"
ReNUMBER: subsequent subsection accordingly
5. Page 1, line 14.
Following: "employee"
Insert: "or other authorized person"
6. Page 1, line 19.
Following: "nurse"
Strike: "or"
Insert: ":",
7. Page 1, line 19.
Following: "employee"
Insert: ", or other person authorized by the student's parent or guardian"
8. Page 2, line 4.
Following: "school"
Strike: "."
Insert: ", and must authorize a specific certified employee or other person to administer the medicine."

Reason for the Amendment: Representative Eudaily of Missoula points out that certified means "a certified teacher," one who qualifies to teach. He points to instances where such duties would be disruptive and interrupt the supervision and routine of the class. In these instances chore delegate the chore to a competent and qualified person.

TESTIMONY ON HOUSE BILL 88: January 12, 1983
From Montana School Nurse Interest Group
Represented by Janet Colberg, R.N.

The Montana School Nurse Interest Group opposes House Bill 88 for the following reasons:

1. The major reason to deny support of this measure is out of concern for the Montana youngsters involved. Nurses statewide carry liability because they "provide primary care directly to a patient." School nurses are the only members of the academic team serving the child that take on this awesome responsibility. We would question the professional credentials a teacher would have to take on the responsibility of giving medications without a complete course in pharmacology and clinical practice in administering medications. Line 19 of proposed House Bill 88 lists school nurses as beneficiaries of this bill. We do not need this coverage because the Legislature has already enabled us to become licensed nurses; administration of medications comes with the right and the responsibility of being a licensed nurse.
2. Our second concern regards legality. It is a misdemeanor for individuals (teachers) or associations (schools) to give medications unless authorized by the guidelines of the Nurse Practice Act, Section 66-1243 R.C.M. 1947. We would question how a teacher could be legally protected unless he or she had additional credentials as a nurse, a pharmacist, or a medical doctor.
3. As school nurses we give much thought and consideration to each medication we administer at school. We make certain that the doctor and parents know what we are doing and why. We must always regard any medication as a producer of chemical change to the mind and body. As such we can not be careful enough about how our action will eventually influence our youth and even their view of dependency on medication.

Think this over carefully because in the final analysis it effects so many children in Montana. If you have further questions of me I can be reached in Helena at phone number 442-5237 or in person at my home 314 Chaucer, Helena, MT.

WITNESS STATEMENT

NAME Sean Keegan BILL No. 88
ADDRESS 706 Simms Dr. MSLA DATE 1-12-83
WHOM DO YOU REPRESENT Mt. Assis Sch Nurses
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

TESTIMONY--House Bill #88

Good afternoon. I am Jean Keegan, Chairman of the Montana Association of School Nurses. I represent some forty School Nurses from across the state. We are opposed to House Bill #88 and urge you to vote DO NOT PASS.

Most medications can be given at home--outside of school hours--and still have therapeutic blood levels maintained. Physicians and others who prescribe medicine for children should be urged to suggest a timetable that would facilitate at-home administration, thus relieving the school district of that task.

If a drug must be given during school hours, parents can be asked to administer the drug to their child at school. We realize that this may be impractical and inconvenient in some schools.

Administration of medications is a nursing function, defined by the Nurse Practice Act. Please refer to Section 37-8-102, paragraph 3a, attached as Appendix A. As part of their educational preparation, nurses learn about drugs, their actions and interactions, their effects, side effects and toxic effects. Nurses are also prepared, by virtue of their education, to administer appropriate first aid measures to counteract an adverse drug reaction, lest the situation become life-threatening.

Safety measures that are addressed in this bill are inadequate. No mention is made of drug labeling or the drug container; no mention is made of drug storage and security. There is no mention of records to be kept of the medications given in the school. Inadequate directions are given regarding the written instructions required by the prescribing physician.

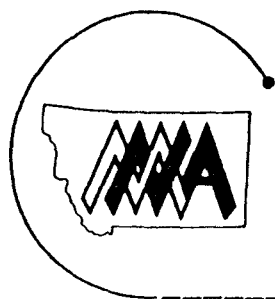
House Bill #88 excludes certified school personnel who elect to administer medications to students from liability, except in instances of gross neglect or wanton or willful misconduct. Can the legislature limit liability? Nurses are not exempt from liability from their actions. Please refer to the Nurse Practice Act, Section 37-8-102, paragraph 3a, attached as Appendix A. Many carry professional liability insurance. It seems illogical that certified school personnel should be held NOT liable for a function about which they have little--if any--educational background.

The Montana Association of School Nurses worked in conjunction with the Montana Department of Health and Environmental Sciences, Community Health Nursing Program, and the Montana Office of Public Instruction, Department of Special Services, to develop and publish the "Montana School Nursing Guidelines". In it is a suggested procedure for medications that must be given at school. Please find a

Testimony--page 2

copy attached as Appendix B. Each school district should be encouraged to develop their own written medications policy, using the suggested procedure as a model, if so desired. The presence of this approved procedure makes state-wide legislation unnecessary.

The Montana Association of School Nurses asks you to recommend DO NOT PASS on House Bill #88. Thank you.



Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59604

TESTIMONY OF HOUSE BILL 88

~~Chairman~~ Chairman, Committee members, my name is Judy Olson. I represent the Montana Nurses' Association and would like to speak in opposition to House Bill 88.

The MNA realizes that a school nurse cannot be present in every school in Montana to administer every medication needed by each student. However, because the medication needs of the students vary greatly from school district to school district in the state, we believe that the proper place to address the problem is through the local school boards through an established medications policy.

House Bill 88 does not even require a medications policy. It does not state where the medication will be stored or how the dosage will be administered. We are also concerned about the lack of definition for the "certified" school employee. A "certified" school employee could mean anyone in the school who has some type of certificate. Another definition for "certified" could be the definition which is part of the law for certified group home parents for the developmentally disabled who have to complete special educational requirements before being allowed to assist and supervise a client in taking medications.

House Bill 88 exempts school nurses and certified school employees from liability for civil damages. I think this is very misleading because the school nurse is certainly liable for any actions he or she performs under the Nurse Practice Act, and the administration of medications is listed as one of her functions in the Nurse Practice Act. In fact, because this bill if it became a law would be in conflict with the Nurse Practice Act, there is a serious question of who would be liable for the administration of medications if a public health nurse is assigned

to a school where a problem arises. There is a good possibility that the courts could determine that the public health nurse because of her license and responsibilities under the law has the ultimate liability even though the nurse did not administer the medications.

The MNA requests that the Committee give this bill a "Do Not Pass" recommendation.

We believe that the safety and interests of the school children in Montana can best be served under existing laws with the cooperation of the School Board, administrators, and health care providers working together at the local government level to develop a medications policy to meet the needs of that district.

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APPENDIX A

(b) three practical nurses. Each shall:
(i) be a graduate of a school of practical nursing;
(ii) be a licensed practical nurse in this state;
(iii) have had at least 5 years' experience as a practical nurse; and
(iv) be currently engaged in the practice of practical nursing and have practiced for at least 2 years.

(c) two public members who are not medical practitioners, involved in the practice of nursing or employment of nursing, or administrators of Montana health care facilities.

(3) All members shall have been residents of this state for at least 1 year before appointment and be citizens of the United States.

(4) Members shall serve staggered 4 year terms, and a member may not be appointed for more than two consecutive terms. The governor may remove a member from the board for neglect of a duty required by law or for incompetency or unprofessional or dishonorable conduct.

(5) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

37-8-101. Purpose. (1) In order to safeguard life and health, any person practicing or offering to practice professional nursing in this state for compensation or personal gain shall be required to submit evidence that he or she is qualified to practice and shall be licensed as hereinafter provided.

(2) In order to safeguard life and health, any person practicing or offering to practice practical nursing in this state for compensation or personal gain shall be required to submit evidence that he or she is qualified to practice and shall be licensed as hereinafter provided.

37-8-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Board" means the Board of Nursing provided in 2-15-1844.

(2) "Department" means the Department of Commerce provided for in Title 2, Chapter 15, Part 18.

(3) "Practice of Nursing" embraces two classes of nursing service and activity, as follows:

(a) "Practice of Professional Nursing" means the performance for compensation of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health; the prevention, casefinding, and management of illness, injury, or infirmity; and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (3) (a):

(i) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;

(ii) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals.

WITNESS STATEMENT

NAME FRANK J. DAVIS, R.Ph BILL No. 88
ADDRESS 613 West Dr. Great Falls, MT DATE 1/12/83
WHOM DO YOU REPRESENT Montana State Pharmaceutical Assoc
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Written statement with copies attached.

Montana State Pharmaceutical Association

Incorporated

P.O. BOX 6335

GREAT FALLS, MONTANA 59406

TELEPHONE 406-452-3201

In opposition to HB 88:

My name is Frank Davis. I am a registered pharmacist and presently the Executive Director of the Montana State Pharmaceutical Association.

I oppose HB 88 as written for the following reasons:

The Board of Nursing, The Montana Nurses' Association and other health care professionals have worked for years to develop proper standards of practice to protect the public. These standards assure the person availing themselves of professional services that the providers of these services are competent and of good moral character. This bill by circumventing the definition of whom may administer drugs breaks with a system that is tried and proven to be in the best interest of the public.

It would seem to be much less destructive to professional practice regulations to accomodate problems of a local nature at the local school administration level rather than to pass a law which applies to the entire state of Montana and is in conflict with the definition as to who can administer drugs.

I am not in opposition to the intent of this bill. I have no reason to want to see medication withheld from a child in school who needs treatment. I only oppose the manner in which this bill would attempt to do this.

Frank J. Davis, R.Ph.

TESTIMONY - MONTANA EDUCATION ASSOCIATION
David Sexton, Representative

HB 88 (Hand) - Administering medicine by certified employees

First I would like to express our appreciation for the problem this bill attempts to address and our appreciation for Rep. Hand's willingness to consider amendments to take care of some of our concerns. We took a hard look at the bill and considered seriously some amendments we could offer.

However, even with amendments, we are still troubled by the basic concept of teachers administering medicine. If the term "certified school employee" were replaced by "qualified medical personnel," we would have no problem.

Teachers are not qualified to administer medicine and they do not want to take on that kind of responsibility.

Teachers are already consumed with various tasks unrelated to teaching. This is one more such duty, but carries with it ~~the~~ heavy responsibility of potentially serious hazards.

Even though the teacher has the option, there will inevitably be pressure from parents and school administrators on teachers to take on this responsibility.

We do not, therefore, support the bill. If the committee were to approve the bill, we feel it should be amended to include the following safeguards:

1. a physician's written verification is required to establish the necessity of giving medicine at school.
2. medical personnel or parents will administer where available
3. the medication be properly labelled and kept in a secure place
4. the school district's insurance policy be required to cover any employee liability
5. the school district be required to adopt a detailed policy for administering the medicine consistent with the statute
6. *the teacher be warned in advance in writing of the potential liability*

Position of National Education Association

Resolutions

tional staff share the same community of interest with the professional staff. The Association urges that salaries and benefits for the noninstructional staff be competitive with those for similar positions in private industry and business within the geographic area. (77)

E-38. Health Examinations

The National Education Association opposes the imposition of physical and mental examinations by local school authorities for the purpose of harassment of educators.

The Association urges its local affiliates to develop, in cooperation with the local school authorities, guidelines to determine under what circumstances a physical or mental examination of certificated personnel might be deemed necessary.

The Association believes that (a) the costs of any required physical or mental diagnostic procedure should be incurred by the federal, state, or local agency that requires such procedure and (b) the educator should be guaranteed the right to select his or her own physician. (77, 80)

E-39. Medication in Schools

The National Education Association urges its affiliates to establish procedures for students who must use prescribed medication or who need other medical services during school hours. Procedures should provide that—

a. Only medical personnel be required to administer such medication or perform such services

b. A physician's written verification of the student's need for medication or services be required

c. Written permission of the parent or guardian be required

d. Medication be delivered in and dispensed from a container properly labeled with the name and strength of medication,

name of patient, name of physician, the date of the original prescription, and directions for use

e. Proper storage of the medication be available.

The Association also urges its affiliates to work for legislation that will protect school personnel from all liability when the adopted procedure is followed and if school personnel refuse to administer medication under any other circumstances. (77, 82)

E-40. Transportation Liability Insurance

The National Education Association urges its affiliates to seek the enactment of state and local legislation that would require local school systems to provide and to incur the expense of transportation liability insurance for teachers who are requested or required to transport students by private vehicle for any school-related function. (78)

E-41. Wage Controls

The National Education Association deplores the rampant inflation that is eroding the living standards of Americans. Public employees in general, and teachers in particular, have been especially victimized by inflation.

The Association is opposed to the imposition of any wage controls which freeze public employees in an inferior economic position, the elimination of programs that guarantee social and economic justice for the American people, and any anti-inflation program that increases unemployment. (79, 81)

E-42. Stress on Teachers and Other School Personnel

The National Education Association believes that the dynamics of our society and increased public demands on education have produced adverse and stressful classroom and school conditions. These conditions have led to increased emotional and physical

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School Administrators of Montana

501 North Sanders
Helena, MT 59601
(406) 442-2510

January 12, 1983

TO: Chairperson Marjorie Hart
House Human Services Committee

FROM: Jesse W. Long, Executive Secretary
School Administrators of Montana

RE: House Bill 88 - "An act to allow a certified school employee to administer a prescribed medicine to a student according to a doctor's instruction on the medicine and written instructions from the parent."

The School Administrators of Montana speak in support of H.B. 88 in concept.

We support H.B. 88 in order to provide a legal capability for certified school employee to safely administer medicines. In reality, many school employees already administer medicines at the demand of parents. Frequently medicines need to be administered in situations where nurses and doctors are not readily available. A rural school fifty miles from the nearest nurse has a problem in adequately dealing with the administration of medicine to a student. Even in a city such as Helena, a school nurse must service two or three schools and may not be available for the timely administration of medicine.

Looking at the other side of the coin. What if medication is not given to a student and further complications arise during school time? What about the Special education student that is frequently required to receive medication during the school day? Are these students then forced to miss school?

School Administrators of Montana would like to suggest some additional amendments to strengthen H.B. 88. The amendments are as follows:

"the trustees of the school district have established a written school district policy that conforms to the provisions of [section 2].

"(3) For the purposes of [this act], "certified school employee" means a school employee who is certified under the provisions of Title 20, chapter 4, part 1.

"Section 2. Establishment of policy on administration of medicine. The trustees of a school district may establish a written policy and procedure to allow a certified school employee of the district to administer a prescribed medicine to a student for whom medicine is prescribed, providing that the policy includes the following conditions:

"(1) the physician who prescribes the medicine must indicate by written statement that the medicine must be taken during school hours for the desired result and the statement must include all other pertinent information that may be required for the proper administration of the prescribed medicine;

"(3) the certified school employee who administers the prescribed medicine must store the medicine, when not being administered, in a safe and secured place within the school, other than a classroom until the parent or guardian claims any unused portion; and"

These amendments are taken from Rep. John Vincent's H.B. 726 introduced in the 47th Legislative Session which reached third reading in the Senate before it was killed by the special interest group of nurses.

SPECIAL SERVICES CENTER
Ray Butler School
School District No. 1
Helena, Montana

APPROPRIATION FOR MEDICINE TO BE GIVEN IN SCHOOL

SCHOOL _____
STUDENT _____ DATE _____
DIAGNOSIS _____
MEDICATION _____
TIME _____ AMOUNT _____
SPECIAL INSTRUCTIONS _____

Signed _____
Parent
Signed _____

(R.N.'s may take phone orders
from Physicians so signature
not always required)

SPECIAL SERVICES CENTER

May Butler Building
School District No. 1
Helena, Montana

MEDICATIONS POLICY

Adopted 5-10-77

The following policy for administering medication by school personnel applies to all buildings:

1. School District No. 1 policy requires medication be given at home whenever possible. If not, the administration of medication to pupils shall be done only in life threatening circumstances wherein the child's health may be jeopardized without it.

2. Pupils requiring medications at school shall be identified by parents and/or physician to the school nurse. Students observed by school personnel self-administering unauthorized medications should be reported to the school nurse. The school nurse will contact the parents.

3. After identification, the school nurse for the school shall make a home contact to identify the type, dosage, and purpose of said medication.

4. Written statements shall be required of:

- (a) The family physician, who shall indicate the necessity of said medication being given to the child during school hours;
- (b) Parents may make arrangements to come to school to give the medication, or
- (c) In special cases the school nurses, doctor, and parents may agree on a plan for administration of medication during school hours. (Requires use of Form #2 in special cases)

5. The physician shall then be requested by the parents to prescribe duplicate bottles of said medication, if it is necessary that it be given during school hours. One bottle will be kept at home and the other at school under the care of school authorities. Both bottles shall contain the name and telephone number of the pharmacy, the pupil's identification, name of the physician, and dosage of the drug to be given.

6. Under no circumstances should school personnel provide aspirin or any other patent medicine or nostrum to students.

Gerald W. Roth, Director

VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL HOUSE BILL 88

Date January 12, 1983

SPONSOR HAND

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Amendments to House Bill 28 (Introduced copy)

1. Page 2, line 2.

Following: "(3)"

Strike: "Prior"

Insert: "(a) Except as provided in subsection (b), prior"

2. Page 2, line 9.

Following: "facility."

Insert: "The expenses for the hearing, including the notice, shall be borne by the operator of the home."

3. Page 2, line 9.

Following: "held"

Strike: "within the neighborhood of the facility at a time convenient to the property owners."

Insert: "during the evening in a public building located in or as near as possible to the neighborhood."

4. Page 2, line 10.

Following: "owners."

Insert: "(b) Adult foster family care homes licensed pursuant to Title 53, chapter 5, part 3, and youth foster care homes licensed pursuant to Title 43, chapter 3, part 5 are exempt from the hearing requirement provided in subsection (a)."

WITNESS STATEMENT

NAME Mae VanEllingro H BILL No. 28
 ADDRESS 201 W Spruce DATE 1-12-83
 WHOM DO YOU REPRESENT City of Missoula
 SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Copy attached

TO: MARJORIE HART, CHAIR
MEMBERS OF HOUSE HUMAN SERVICES COMMITTEE

FROM: MAE NAN ELLINGSON, CITY OF MISSOULA

RE: HOUSE BILL NO. 28

DATE: JANUARY 11, 1983

The City of Missoula can give qualified support for this bill if several amendments to it are made.

Why is the support qualified? The Missoula City Council recognizes the balancing that must occur between the placement of needed group homes and in community residential areas and the wishes of neighboring property owners. If the City of Missoula's experience is widespread, giving the wishes of the neighboring property owners priority would most likely result in the community facility not being placed in residential neighborhoods. Consequently, we have no quarrel with the current legislation that allows these types of facilities in all zoning districts.

If a use of property is to be allowed that is contrary to the zoning in a neighborhood, it is fitting that the adjacent property owners be notified of the use. The Missoula City Council has reservations, however, about having one of its entities conduct a public hearing about something over which it has no control. Our experience indicates that most people feel that if a public hearing is held on a matter, the opinions and objections raised at the hearing will be taken into consideration. Since the local zoning commission is responsible for conducting the hearing, it is our belief that the affected neighbors will become even more irritated at the City if their objections are not considered.

Nevertheless, we will support the bill if the following changes can be made. Some of these changes I have already spoken to Representative Les Kitselman about.

1. The cost of the notice shall be borne by the agency seeking to establish the community residential facility.
2. The statute should place an affirmative duty on the owner or operator of the home to notify the zoning commission of its intended occupancy of the residential structure. If there is to be new construction, the City would know of that through the issuance of a building permit, but would not know of an occupancy change.
3. The hearing is to be held in conjunction with the regular zoning commission meeting. The zoning commission should not be required to have an additional meeting, but rather this hearing should be held in conjunction with the regular monthly meeting of the zoning commission.
4. The zoning commission should have the option of holding its meeting at its regular meeting place or at a public facility in the neighborhood in order to facilitate making a public record of the testimony.
5. The last sentence of subsection 3 should read: "The hearing shall be held at the regular meeting place of the zoning commission or a public building in the facility at an evening meeting after adequate notice."

Thank you for consideration of our concerns in this matter.

Very truly yours, .

Mae Nan Ellingson
Mae Nan Ellingson
Missoula Deputy City Attorney

MNE/jd

WITNESS STATEMENT

NAME JUDITH H. CARLSON BILL No. 28

ADDRESS 111 NO SANDERS, HELENA DATE 1/12/82

WHOM DO YOU REPRESENT SRS

SUPPORT X IF AMENDED OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

SUPPORT WITH AMENDMENT TO EXEMPT:

- (1) ADULT FOSTER HOMES DEFINED IN 53-5-3 MCA
- (2) YOUTH FOSTER HOMES DEFINED IN 4-3-5 MCA
FOR 6 + FEWER CHRN —

WITNESS STATEMENT

NAME William J Crivello BILL No. HB 28
 ADDRESS 670 Concord Ln. DATE 1-12-82
 WHOM DO YOU REPRESENT Flathead Industries For the Handicapped
 SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Flathead Industries opposes the bill, even with the amendments regarding foster homes. It is our belief that local communities can best address the needs for informing the community by making local determination of procedures for developing community facilities. There is some danger to establishing a public "forum", where people state their bias and possibly affect an outcome as to placement of handicapped in their neighborhoods. Handicapped individuals have a basic right to residence in the community. It would be unfortunate to see a legal procedure developed (as this bill suggests) whereby facilities might be approved or disapproved contingent on people's acceptance of these individuals in their neighborhood. The intent of the bill, informing the community, can be addressed by numerous other procedures (house-to-house visits, news releases, etc...)

Oral comments to be given.

VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL HOUSE BILL 28

Date January 12, 1983

SPONSOR KITSELMAN

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

January 19,

83

19.....

MR. SPEAKER.....We, your committee on HUMAN SERVICES.....having had under consideration HOUSE..... Bill No. 28.....first..... reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE AN INFORMATIONAL
HEARING PRIOR TO THE CONSTRUCTION OR OCCUPANCY OF ANY FOSTER OR
BOARDING HOME OR COMMUNITY RESIDENTIAL FACILITY LICENSED BY THE
STATE; AMENDING SECTION 76-2-314, MCA."

Respectfully report as follows: That..... HOUSE..... Bill No. 28.....

BE AMENDED AS FOLLOWS:

1. Title, line 5.

Following: "INFORMATIONAL"

Strike: "HEARING"

Insert: "MEETING"

2. Page 2, line 2.

Following: "(3)"

Strike: "Prior"

Insert: "(a) Except as provided in subsection (b), prior"

3. Page 2, line 4.

Following: "a"

Strike: "hearing"

Insert: "meeting"

DOWASSX

January 19, 1983

4. Page 2, line 6.
Following: "of the"
Strike: "~~hearing~~"
Insert: "meeting"

5. Page 2, line 9.
Following: "facility."
Insert: "The expenses for the meeting, including the notice,
shall be borne by the operator of the home."

6. Page 2, lines 9 and 10.
Following: "held"
Strike: "within the neighborhood of the facility at a time
convenient to the property owners"
Insert: "during the evening in a public building"

7. Page 2, line 10.
Following: "owners."
Insert: "(b) Adult foster family care homes licensed pursuant
to Title 53, chapter 5, part 3, and youth foster care homes licensed
pursuant to Title 43, chapter 3, part-5 are exempt from the hearing
requirement provided in subsection (a)."

AND AS AMENDED
DO PASS

STANDING COMMITTEE REPORT

January 17, 1983

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration HOUSE Bill No. 88

first reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A CERTIFIED SCHOOL
EMPLOYEE TO ADMINISTER A PRESCRIBED MEDICINE TO A STUDENT ACCORDING
TO A DOCTOR'S INSTRUCTIONS ON THE MEDICINE AND WRITTEN INSTRUCTIONS
FROM THE PARENT."

Respectfully report as follows: That HOUSE Bill No. 88

DO NOT PASS

DO PASS

MR. SPEAKER

WE, YOUR COMMITTEE ON HUMAN SERVICES, HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 90, FIRST READING COPY (WHITE), ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
HOUSE BILL NO. 90

House Bill 90 requires a statement of intent because it requires the Board of Pharmacists to adopt rules for the sale to, and possession and use of sodium pentobarbital by humane societies.

The Legislature contemplates that the rules should consider procedures for application by humane societies, among other things, and

1. that the limited permit should be granted only to those humane societies whose personnel have the direction of a veterinarian or other person licensed to buy, possess, and use the drug;
2. that procedures be implemented to insure adequate direction be given by such licensed person in the use of the drug, including proficiency requirements for persons administering and having access to the drug;
3. that standards for safe storage of the drug be considered;
4. that procedures for keeping accurate records of the purchase, storage, and use be kept by humane societies granted the limited permit;
5. establish standards for determining whether an entity falls within the definition of "humane society";
6. establish standards for determining what ~~rules~~ and conditions should be imposed on a permit; and
7. establish and charge a fee commensurate with the cost of issuing the permit.

.....MARJORIE HART.....

Chairman.