

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
March 16, 1983

The meeting of the Human Services Committee held on March 16, 1983, in Room 224A of the Capitol Building, at 12:30 p.m., was called to order by Chairman Marjorie Hart. All members were present except Reps. Brand, Darko, Driscoll, and Menahan, who were absent, and Rep. Swift, who was excused.

SENATE BILL 418

SEN. JACOBSON, sponsor. This bill deals with a small program which is called the end-stage renal program and has been administered through the Department of Social and Rehabilitation Services. They have had some problems over the last biennium with the way the program has been administered and SENATE BILL 418 is attempting to correct those problems. This program assists people with end-stage renal disease who do not have rehabilitative potential for employment. It would help pay their medical and other expenses that are not covered by insurance or medicare-medicaid payments. During the last session, there were two bills introduced that would tighten the rules for this program, and they were defeated in the Senate. In July of 1982, new rules were adopted by the Department of SRS and the program was administratively moved from the Vocational Rehabilitation Centers to the Welfare Department. Not only was there a gap in service from July 1st to the middle or latter part of November but people could not apply or reapply for the program because the Department had not gotten the rules or applications out to the Welfare Department and they did not know how to administer the program. Also, very few of the previous clients were able to qualify under the new rules. Out of 76 clients that had been served, there were only 12 being served. Of the \$125,000 that had been allocated, only \$1,000 had been expended. The Welfare rules seem to be too inflexible to deal with the complicated problems of these people. One example in the new rules, one of the things they are using is the cash value of life insurance being used as available cash. I felt that was an unfair rule. When these clients become eligible for a kidney transplant, they have to fly to Seattle--Seattle requires that their whole family go with them. They have approximately 3-4 days before the kidney is dead. To get funds from Welfare requires more than a day or two. From Voc-Rehab, they could get these funds immediately. The main point of this money that is available is to see that these people obtain medical and other needs that are necessary for their survival without depleting their family resources to a point of welfare level. Their dialysis needs can cost up to \$600 per week. Their nutritional needs may cost them \$100 more than you or I. The best way to handle the program was to transfer it out of SRS and put it in the Department of Health.

DRS. DRYNAN and PRATT testified they would be glad to take the program and administer it under new rules. It was the suggestion of the Department of SRS that we move this program into the Department of Health.

PROPOSERS:

REP. KEENAN, Anaconda, said 1975 was when the end-stage renal program was put into existence and it was the intent of the Legislature to provide some assistance to the people who needed this service in a lifesaving situation. There was not to be any maximum or minimum income levels for this program. To these people, it is a lifesaving allotment and it is our obligation to make sure the money goes to those people and we can accomplish it through this legislation.

NORMA VESTRE, Department of SRS, spoke in support of the bill.

CARL DONOVAN, Columbia Hospital, said that dialysis is a very expensive process. He urged support of the legislation.

JIMMY NORT, Missoula, asked for support of SENATE BILL 418.

JOHN H. COATS, home kidney patient of eight years, asked for support of this legislation. He corrected statement of SEN. JACOBSON, who said one had four days to report for a kidney. Twenty-four hours is what is requested and they will go as long as 48 hours.

REP. HANSEN wanted to go on record as a proponent of this bill.

OPPOSERS: None

SEN. JACOBSON closed saying when the bill passes, they will transfer money from one department to another.

QUESTIONS:

CHAIRMAN HART: Are you asking for another appropriation or will you use the money you still have?

SEN. JACOBSON: The money is there from the last biennium. They have expended about \$12,000. The Subcommittee has recommended that they appropriate \$125,000 for a year and that is the money we are talking about that will go into this program.

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CHAIRMAN HART: Is that enough?

SEN. JACOBSON: There is never enough; and the program could use more money, but General Fund money is tight.

REP. SOLBERG: How many patients do you have in the state under this program?

SEN. JACOBSON: Prior to the transfer, there were 76 people in the state that were being served under this program. At present, there are 12.

CHAIRMAN HART closed the hearing on SENATE BILL 418.

REP. KEENAN will carry SENATE BILL 418 on the House floor.

SENATE BILL 447

SEN. NORMAN, sponsor. This bill would require the Department of Health, Institutions, and SRS to provide "one-step" licensing for certain (typically health care) facilities. The bill also provides for the inspection of the facilities licensed by those departments.

PROPOSERS:

STAFF PERSON with Health Planning said this legislation would make a better licensing system and allow a provider to know who he has to go through to get that license. He supported this legislation.

CURT CHISHOLM, Department of Institutions, said this is a large step forward in improving the posture we have and is a positive improvement over the way things have been done in the past. He urged concurrence of this legislation.

NORMA VESTRE, Department of SRS, also supported SENATE BILL 447.

OPPOSERS: None

SEN. NORMAN closed urging caution in amending the bill for fear it would disturb something else.

QUESTIONS: None

CHAIRMAN HART closed the hearing on SENATE BILL 447.

SENATE BILL 446

SEN. THOMAS, sponsor. This bill expands the definition of "personal-care facility", establishes criteria for such facilities' residents, and provides for licensure of personal-care facilities. Currently, there are only provisions for institutional care for nursing homes and medical facilities. This legislation establishes rules and guidelines for inspection enforcement of the license requirement. Amendments were offered (EXHIBIT 1). With this amendment we are striking out the Department of Health and allowing the Department of Administration to determine and enforce building codes. The second group of amendments was more or less a consensus to take a fine tooth to the language so it was acceptable to the various groups of participants in the study. Everyone seemed to agree on these proposed amendments (EXHIBIT 2). There is a group of amendments that SRS is going to present and we are neutral on those.

PROPOSERS:

TOM RYAN, representing the Montana Senior Citizens Association and the Montana Peoples Association, said that when this bill becomes law, it will ensure the health and welfare of seniors and other individuals in personal care and other settings. Some seniors need care and would choose a level of care less intense than that provided by a nursing care facility. This bill will allow them to receive care in their homes or go to a facility of their choice (EXHIBIT 3). He supported this bill.

MAURICE POWERS, representing the Montana Senior Citizens Association and the Montana Peoples Association, said he would like to see this bill become law. He is concerned about the health and safety of people residing in health care centers (EXHIBIT 4).

NORMA VESTRE, Department of Social Rehabilitation Services, stated that the department strongly supports this legislation. When it is necessary for adults and seniors to be placed outside of their own homes, we assist in placement in alternative living situations which are the least restrictive and in the most appropriate setting. She submitted amendments that the department recommends (EXHIBIT 5). She said the reason that SRS offers these amendments, the legislative subcommittee for SJR 34 expressed concern that the personal care bill be consistent with the medicaid waiver.

SHIRLEY THENNIS, representing the Montana Nurses' Association, said one of the gaps in the delivery of quality health care identified by the study commission was for personal care homes. Elderly and developmentally disabled are currently being kept in personal care homes that do not seem to meet any fire and safety codes or health care standards, and the state has not had any provisions in place to prevent this type of abuse from taking place. SENATE BILL 446 would set standards to help assure that residents in personal care homes are properly placed, reside in a safe structure, and receive a minimal amount of services (EXHIBIT 6).

BOB WALTERMIRE, Senior Citizens Advocate, Columbia Falls, Montana, said he doesn't want this amended so we are just warehousing people. I want to see that this bill, without any amendments, is taken care of.

ROSE SKOOGS, representing the Montana Health Care Association, addressed the amendments that were presented. The amendments offered as group consensus amendments were amendments that were taken back to the group that studied this legislation. Those amendments were agreed by that group. The amendments offered with respect to the building codes, she had no objection to. The amendments offered by SRS, she did have serious problems with and she strongly opposed that set of amendments. The first two amendments they offered dealing with rules being adopted in cooperation with SRS and also licensing standards being developed in cooperation with SRS--the group that studied that question felt very strongly that the Health Department was the proper place to put both of these functions. We did not want a situation where the funding agency would have so much involvement in rules and standards that licensing would be developed based on providing an inexpensive service rather than a safe service. The Health Department and not the funding agency should be developing these standards including the licensing. The next group of amendments (from the third on down to the bottom of the page) deals with one paragraph of the bill on page 2. That section currently reads, (line 6), "consistent with the provisions of section 2". That is the meat of the bill. It describes what a personal care resident is like: "consistent with section 2, a resident of a personal-care facility may have medical or nursing related services performed for him in a personal care facility by a third-party provider." The function of that provision was that a person in a personal care facility should be able to receive intermittent services. We felt like there would be no reason not to have that person have someone come in on a home-health basis. The group of amendments offered by SRS closes out the term "consistent with section 2". That wipes out the definition.

SRS is saying they don't need to be consistent with it. When it does that, it guts the definition. Once you eliminate that definition, you have tossed out the project almost entirely. The last amendment--I believe that Norma Vestre of SRS said that it was their intent that any screening process which occurs under this bill which the Health Department would be doing would not be applicable to SRS medicaid recipients. The Health Department needs to go into those facilities and if they find people there who cannot be cared for in these facilities, they have to be able to say, "This person does not belong here." SRS seems to be saying, "We screened them in and they stay here." She urged passage of the bill without the SRS amendments.

DON PETERSON, Montana Association of Home for the Aging, said we do support the bill in principle and feel it is necessary for Montana to develop regulations for personal care. We do have some concerns. First of all--the bill speaks of third-party providers. I think that needs clarifying. I do have some concerns about the amendments offered by SRS. I think we are creating another two headed monster and we would have two agencies trying to agree upon rules. I would also suggest that you not approve the amendment at the bottom of the page. On the second page of the amendments suggested by SRS, I would encourage you not to approve this amendment because this establishes dual standards and I think the screening process has to remain clear and this confuses the issue. We support the bill in principle and believe it is needed for Montana to have a clearer definition and clearer rules for personal care.

SAM RYAN, senior citizen, stood in support of SENATE BILL 446.

VEARLE ADDY, representing the Montana Health System Advocacy, supported this bill as presented by SENATOR THOMAS. He does not support the amendments offered by SRS.

GEORGE FENNER, Administrator of Health Services and Medical Facilities Division, Department of Health and Environmental Sciences, rose in support of the bill. The amendments presented by SENATOR THOMAS and the amendments offered by the Department of Administration we certainly agree to. The amendments offered by the Department of SRS--page 1, we do not object to but page 2, we strongly oppose. Prescreening of medicaid patients going into a residential or personal care home we believe is a responsibility of SRS. Once they become a resident, then the Department of Health and Environmental Sciences do their inspection and that is a plain investigation process and we believe that is a DHES responsibility.

LENORE TALIOFERRO, Ombudsman for Long-Term Care Facility Residents for the State of Montana, said this has been one area that has been almost impossible to address, investigate, resolve, or ensure safety of residents in this type of setting. SENATE BILL 446 would standardize and regulate this level of service. And, most importantly SENATE BILL 446 would provide for enforcement measures. She urged passage of this legislation (EXHIBIT 7).

DOUGLAS B. OLSON, Mt. Seniors' Advocacy Assistance, said they support this bill with the amendments agreed to by all groups that participated in the interim study. MSAA does not concur in any other amendments that may be offered. Rules to be adopted by SRS by adding "in cooperation" are actually setting up dual rulemaking authority. They would oppose that (EXHIBIT 8).

HOWARD SCHWARZ, Missoula County, said they are very concerned that the people who are in personal care homes in Missoula are taken care of. We believe this bill will go a long way in resolving this question. I think the home health waiver is important to ensure that whenever the transition comes, that the alternatives are fully available so people can get home health care.

OPPONENTS: None

SEN. THOMAS closed saying on page 2, line 9, establishing a definition of third party providers--we would like to solve that problem in that the Statement of Intent is broad enough to take care of it by administrative rule. We apologize for bringing in these two sets of amendments. The matter of the third amendment--the Committee took no position. We hope you will concur with this piece of legislation.

REP. WINSLOW will carry this piece of legislation on the House floor.

QUESTIONS:

REP. BROWN: Do you have a response to criticism of SRS amendments?

NORMA VESTRE: I would agree with Mr. Fenner and on page 2 of the handout--any individual who is a prospective resident--those are for people who are not in personal care facilities now. We would only want to screen those people coming in. We would agree with Mr. Fenner that once a person enters the facility, they should be screened by the Health Department. We are talking about people who are not in a personal care facility. Under the medicaid waiver, there is a prescreening

requirement. Regarding the first and second amendments--I can only say our attorneys reviewed the mandates of the medicaid waiver and the legislation and said that it appears that because the department is a medicaid agency, we cannot delegate authority. And that is the reason for inserting "in cooperation with the Department of SRS". We are not attempting to say we have more expertise than the Department of Health in health and safety of people. There is some indication that SRS is overly concerned about costs and that the medicaid waiver and offering amendments--that is done to save funds. The cost of care is secondary to wellbeing of person. We would not support anything that would lessen standard of care. The waiver does have standards. We must have standards for facilities. The waiver demands there must be a plan of care. This is developed by a physician. The doctor has a major role in deciding where a person should go. All that we are saying is that we want to have the waiver protected but there must be standards with the waiver. We are not attempting to downgrade any standard of quality of care. We did not intend to gut the bill. We want to make sure it does ensure service for third-party providers.

REP. FABREGA: What is the reaction to putting in "consultation" rather than "cooperation"?

NORMA VESTRE: I can only say they have reviewed it and offered that amendment.

REP. FABREGA: SRS has to conform to the waiver. If SRS certifies someone for care, that is when SRS gets involved with the funding?

NORMA VESTRE: Keep in mind that the Department of Health has a standard for personal care.

REP. FABREGA: Under this bill, the standards will be set up by the Department of Health and the licensing will be done by SRS?

NORMA VESTRE: No. The licensing will be done by the Department of Health.

REP. FABREGA: If the medicare waiver is under the control of SRS, when SRS grants that waiver then that individual can be qualified for one of the services. Why does SRS still need to be involved in this area?

NORMA VESTRE: SRS approves payment and pays for services for people who are qualified for medicaid. The intent of the waiver is to offer community based services so SRS would certify the person eligible for medicaid payments. We are concerned with quality care. That goes hand in hand with whether a person goes into a foster home or personal care facility.

REP. SOLBERG: I would like ROSE SKOOG to answer that question.

ROSE SKOOG: I disagree that medicaid regulations or the waiver require SRS to be involved with personal care licensing. The problem arises when SRS decides it would like to place someone in a personal care facility under the waiver but that person doesn't need personal care standards. That person requires more care so the Health Department might be in a position where it is saying that the safety of this person in the personal care facility is in question and SRS says "We want that person there". That is the point of the problem--when SRS wants to override the standards that the Health Department has set up. Our question is "What is a safe environment for a given type of patient? Does everybody need those standards?"

REP. FABREGA: You are saying, then, if SRS says the patient is qualified to go with this program--if they are involved, the Department of Health would be able to take only those uncertified. With the pressure from SRS, their input will be to lower those standards.

REP. CONNELLY: Why do you feel SRS wants to lower the standards?

ROSE SKOOG: As a funding agency, they have traditionally been more involved with the dollars than with the people. Let me give you an example--they are in here trying to protect their ability to put people in personal care homes under the waiver. Yet for a person to qualify for the waiver, you have to determine that that person is either intermediate or a skilled patient needing nursing home care. That tells me that they want to place an intermediate nursing home patient or a skilled nursing home patient in a personal care facility which doesn't meet the standards for providing that level of care.

REP. CONNELLY: Would you like to respond to that?

NORMA VESTRE: It is a federal regulation that in order to qualify for the waiver, you have to need intermediate or skilled nursing care. It is hard for me to hear that SRS would lower standards of care because, generally, we have never been accused of lowering standards. Most people are concerned about the high level of standards we have and how difficult it is to meet the standards.

REP. FABREGA: If we did not adopt your suggested amendments, what would happen.

NORMA VESTRE: It would provide problems for administration of the waiver. It would impair the department's ability to administer it.

REP. FABREGA: You think there is a possibility that without the amendments, there would be problems getting the waivers approved or what?

NORMA VESTRE: Not including the amendments would impair the department's ability to administer the waiver.

CHAIRMAN HART: Are you still of the opinion that these amendments would dilute the bill?

SHIRLEY THENNIS: Yes.

REP. FABREGA: Would the third party providers qualify for third party payments?

CHAIRMAN HART: A statement has been submitted to be included in the Statement of Intent. It reads: "While SB 446 prohibits direct provision of nursing services by the personal care or roominghouse/retirement home licensee, there is no intention to prevent those services from being delivered by any provider legally authorized to do so."

CHAIRMAN HART closed the hearing on SENATE BILL 446.

EXECUTIVE ACTION
SENATE BILL 418

SEN. JACOBSON, sponsor. This bill requires the Department of Health and Environmental Sciences to establish a program to provide treatment to persons suffering from chronic renal diseases.

REP. FARRIS: Moved that SENATE BILL 418 BE CONCURRED IN.

Amendments were presented and REP. BROWN moved that the amendments BE ACCEPTED.

REP. SOLBERG: The amendment can provide a termination date but I don't see anything on the amendment that does provide a termination date.

CHAIRMAN HART: Referred to S e c t i o n 3 . As soon as they adopt those rules, the termination date is effective.

Question was called and the motion to accept the amendments was voted on. The motion PASSED UNANIMOUSLY.

REP. FARRIS: Moved that SENATE BILL 418 BE CONCURRED IN AS AMENDED. The motion PASSED UNANIMOUSLY.

REP. KEENAN: Will carry SENATE BILL 418 on the House floor.

SENATE BILL 447

SEN. NORMAN, sponsor. This would require the Department of Health, Institutions, and SRS to provide "one-step" licensing for certain (typically health care) facilities. The bill also provides for the inspection of the facilities licensed by those departments.

REP. BROWN: Moved that SENATE BILL 447 BE CONCURRED IN.

The motion was voted and PASSED UNANIMOUSLY.

SENATE BILL 446

SEN. THOMAS, sponsor. This bill expands the definition of "personal-care facility", establishes criteria for such facilities residents, and provides for licensure of personal-care facilities.

REP. DRISCOLL: Moved that all of the amendments be accepted.

CHAIRMAN HART: DAVE BOHYER would like to look over the amendments. I think we should take some time and think about the amendments, sorting them out in our mind.

It was decided to hold this bill for one session.

SENATE BILL 193

SEN. CONOVER, sponsor. This bill provides that current medical practice must be referred to in determining standards for use of medication.

REP. KEYSER: Moved that SENATE BILL 193 BE CONCURRED IN.

REP. FABREGA: I have been trying to get in touch with someone from the Board of Visitors to try and get to the bottom of what is involved in this chain of words.

REP. KEYSER: I think we should act.

REP. FARRIS: From my notes, REP. DOZIER said "Nothing would change the doctors, no matter what we do with this bill. Doctors already have to work to be consistent with current medical practice. They have to take continuing education and they are subject to malpractice suits." Whether we change the bill to agree that that is what they already do or whether we leave it that the Food and Drug Administration sets up standards--for the doctors, they don't seem to care too much one way or the other.

The opposition to this bill said "If this bill passes, there will be no documented standards to see if patient is over-medicated." Since the doctors don't really gain anything and some developmentally disabled might lose something, I offer a substitute motion that this SENATE BILL 193 NOT BE CONCURRED IN.

REP. KEYSER: The United States Food and Drug Administration does not set dosage. They set standards for things being manufactured and going on the market. The doctor is the one who makes the prescription. The doctors are the ones that want it. The Food and Drug Administration doesn't have a thing to do with it.

REP. DOZIER: I can understand why that line doesn't belong. When you are talking about prescription-type medications--not over-the-counter--REP. CONNELLY and I are going to take a different dosage just for the simple fact that she weighs less than I do. The Food and Drug Administration does not refer to that kind of information. It is really up to the doctor to see how much should be prescribed.

REP. FABREGA: The reason I wanted to talk to the person from the Board of Visitors, I wanted to find out what it is they find in the standards abdicated by the Food and Drug Administration. I realize there is no such thing as dosage but is there a maximum to anyone? There seems to be an indication that Food and Drug Administration says do not use "above these limits". What is it that the Board of Visitors looks at when they look at a chart and what gives them the idea that excessive medication is being given to a patient.

REP. FARRIS: There seems to be confusion between prescription and dosage levels. The Food and Drug Administration does test and find out how many milligrams it takes to kill 40 white mice. This just gives us a guideline of standards. She proposed some amendments:

Page 1, line 17.

Following: "are"

Reinsert: "advocated by the United States food
and drug administration"

and then we would have it covered both ways.

REP. DRISCOLL: Moved that we reinstate stricken language.

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REP. HANSEN: What it is doing is shifting some responsibility. The doctor should be the responsible one, regardless of the Food and Drug Administration.

REP. FARRIS: How do we know he is responsible? What standard do we have to know?

REP. HANSEN: By striking out the Food and Drug Administration, you have taken them out of the picture.

REP. FARRIS: How does anybody know if a patient has been given excessive medication.

REP. DOZIER: Made a motion for all motions to TABLE SENATE BILL 193.

The motion was voted on and REPS. KEYSER, CONNELLY and HANSEN voted no. The motion PASSED.

The meeting adjourned.



CHAIRMAN MARJORIE HART



Secretary

VISITOR'S REGISTER

HOUSE

HUMAN SERVICES

COMMITTEE

BILL

SENATE BILL 446

DATE 3-16-83

SPONSOR

SENATOR THOMAS

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Tom Ryan	Helena	M S C A	✓	
Maurice Powers	Whitehall	M S C A	✓	
Mary H. Powers	Whitehall	M. S. C. A.	✓	
W. James Kember	Helena	Building Codes Dept of Admin	Questions	
Paul Kelly	Helena	M K / B A	✓	
Virginia F. Fink	Missoula	Mont. Ass. of Homeleging		
Shirley G. Fink	Helena	M N A	✓	
Ronald Peterson	Blgs	Mont. Ass. of Homeleging	✓	
Steve Belmutter	Helena	DNES	✓	
Douglas B. Olson	Helena	Mt. Seniors' Advoc Asst.	✓	
Lenore F. Talerico	Helena	Long Term Care Ombudsman	✓	
Kay Miller	Helena	self	✓	
WANE WILKISON	~	L I S C A	✓	
Howard Schatz	Missoula	Missoula County	✓	
Sam Ryan	Helena	Mont. Jr. Citizens	✓	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE HUMAN SERVICES

COMMITTEE

BILL SENATE BILL 418

DATE 3-16-83

SPONSOR SENATOR JACOBSON

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL SENATE BILL 447

DATE 3-16-83

SPONSOR SENATOR NORMAN

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Ex 1
SB446

AMENDMENTS TO SB446
(proposed by the Montana Technical Council)

Statement of Intent for Senate Bill No. 446

Page 1 Line 9

Following: "fees"

Strike: ", and in cooperation with other state agencies to adopt health
and safety standards for personal-care facilities."

Insert: "."

Senate Bill No. 446

Page 3 Line 15

Strike: "(2) The department, in cooperation with other state agencies,
shall adopt health and safety standards for various types of personal-
care facilities."

Page 3 Line 18

Strike: "(3)"

Insert: "(2)"

K 42
SB 44

AMENDMENTS TO SB-446
(group consensus)

1. Page 1, lines 15 and 16
Following: " "RETIREMENT HOME" "
Strike: "TO COMPLETELY EXCLUDE NURSING SERVICES"
2. Page 1, line 21
Following: "facility"
Insert: ", as defined in 50-5-101(20)(a)(iii),"
3. Page 10, line 1
Following: "than"
Strike: "three"
Insert: "four"
4. Page 10, line 13
Following: "~~skills~~"
Strike: "as provided in [sections 1 through 6]"
Insert: "which do not require nursing skills"
5. Page 14, line 6
Following: " "Roominghouse" "
Insert: " "Boardinghouse" "
6. Page 14, line 13
Following: line 12
Strike: "services"
Insert: "or personal care services provided by the facility"
7. Page 14, line 23
Following: line 22
Strike: "prohibited"
Insert: "or personal care services by the facility prohibited. (1) Hotels, motels, boardinghouses, roominghouses, or similar accommodations may not provide professional nursing services or personal care services. A resident of a hotel, motel, boardinghouse, roominghouse, or similar accommodation may have personal care, medical or nursing-related services provided for him in such facility by a third-party provider."
8. Page 15, line 2
Following: "~~(2)~~"
Insert: "(2)"
9. Page 15, line 6
Following: "appropriate"
Insert: "care or"

2-3
SB 446

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624



(406) 443-5341

16 March 1983

TESTIMONY OF TOM RYAN OF THE MONTANA SENIOR CITIZENS ASSOCIATION AND THE MONTANA PEOPLES ASSOCIATION IN SUPPORT OF SB 446

Madame Chairman and Members of the Committee,

I am Tom Ryan. I represent The Montana Senior Citizens Association and the Montana Peoples Association.

When Senator Thomas carried this legislation on the floor of the Senate, he said there would be amendments. I asked Senator Thomas yesterday his opinion of the amendments which came largely from two state agencies. From the answers I received, I believe that when this bill becomes law, it will ensure the health and welfare of seniors and other individuals in personal care settings.

Some seniors need care and would choose a level of care less intense than that provided by a nursing care facility. This bill would allow them to choose to remain in their homes or go to a facility of their choosing.

Senate Bill 70, which passed through both houses of the Legislature, will recognize Nurse practitioners as legal providers of professional services. The Workers Compensation and insurance companies will now be able to compensate Nurse practitioners for services rendered. This will allow for delivery of health services in more rural settings.

The Montana Senior Citizens Association supports Senate Bill 446. We believe personal care persons will benefit from the legal recognition of Nurse practitioners.

Montana Senior Citizens Association believes that Senate Bill 446 will:

1. assure that licenses meet applicable fire, sanitation, building and service statutes,
2. provide expeditious licensing,
3. set fees which cover the costs of inspection and patient screening and
4. include state agencies in the development of those rules which fall in their areas of expertise and responsibility.

A "Do Pass" recommendation by this committee will be another step towards bringing better services to the elderly and handicapped.

518 446
Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624



(406) 443-5341

16 March 1983

TESTIMONY OF MAURICE POWERS OF THE MONTANA SENIOR CITIZENS ASSOCIATION AND THE MONTANA PEOPLES ASSOCIATION IN SUPPORT OF SENATE BILL 446.

I am Maurice Powers of Whitehall, and am a member of the Montana Senior Citizens Association. I am on the Board of Directors of the Montana Peoples Association and the ~~West~~ Montana Community Care.

Following the passage of Senate Joint Resolution 34 in the 47th Legislative Session, an interim committee did much research in order to come to the conclusions which Senator Thomas presented to you in the form of Senate Bill 446.

As a retired steel worker and a manager of a ~~16~~-apartment Senior Housing facility, I would like to see this bill become law.

I am concerned about the health and safety of senior citizens residing in less-than-adequate residential care settings. I am particularly in support of a screening process which will tell the senior just what kind of care will fulfill his or her needs.

I hope that after having given this bill and adequate hearing, you will give it a "Do Pass" vote.

Thank you very much, Madame Chairman and Members of this committee.

AMENDMENTS TO SB446 REQUESTED BY THE
DEPARTMENTS OF HEALTH AND ENVIRONMENTAL SCIENCES AND OF
SOCIAL AND REHABILITATION SERVICES

Ex 5
SB446

Page 2, line 17.

Following: "department"

Insert: ", in cooperation with the department of social and rehabilitation services,"

Page 3, line 12.

Following: "department"

Insert: ", in cooperation with the department of social and rehabilitation services,"

Page 2, lines 6 and 7.

Following: (2).

Strike: "Consistent with the provisions of [section 2], a resident"

Insert: "Residents"

Following: "of"

Strike: "a"

Following: "personal care"

Strike: "facility"

Insert: "facilities"

Page 2, line 8.

Following: "for"

Strike: "him"

Insert: "them"

Following: "in"

Strike: "a"

Page 2, line 9.

Following: "personal-care"

Strike: "facility"

Insert: "facilities"

Following: "by"

Strike: "a"

Following: "third-party"

Strike: "provider"

Insert: "providers. This includes residents who are recipients of medical services, as provided for under the authority of 53-6-111, and delivered by a home health agency, as defined in 50-5-101(15) or who are recipients of medical services, as provided for under the authority of 53-6-111 and (HB 424)."

Page 3, line 10.

Following: "resident"

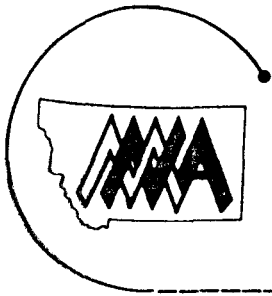
Strike: "."

Insert: ";

Page 3

Following: line 10.

Insert: "(3) Any individuals who are prospective residents of a personal care facility shall not be made subject to any level of care screening process as authorized in this section if those individuals are Medicaid recipients and therefore subject to Medicaid related screening, as provided for under the authority of 53-6-111, or as provided for under the authority of 53-6-111 and (HB 424).



Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59604

TESTIMONY ON SB-446

Madame Chairman, Committee members, my name is Shirley Thennis, representing the Montana Nurses' Association. I represented the MNA on the Study Commission established by SJR-34 to look into one-step licensure. One of the gaps in the delivery of quality health care identified by this group was for personal care homes. Elderly and developmentally disabled are currently being kept in personal care homes that do not seem to meet any fire and safety codes or health care standards, and the state has not had any provisions in place to prevent this type of abuse from taking place. Senate Bill 446 would set standards to help assure that residents in personal care homes are properly placed, reside in a safe structure, and receive a minimal amount of services.

With the introduction of the medical waiver (HB-424) by the Department of SRS, this bill has become even more important for the protection of medicaid recipients because the proposed waiver allows for placement in personal care homes. Without the strong definition of personal care home contained in SB-446, we are very concerned about the care that recipients of the medicaid-waiver will receive if placed in a personal care setting. We have met with SRS to discuss some Amendments they indicated they want to place on the bill to make it compatible with their medicaid waiver. It is our opinion that the bill is as compatible as it should be and to add their amendments as presented to us would only dilute the bill.

The bill in the statement of intent and again on page 3, lines 15 and 16, require that rules be developed in cooperation with other state agencies so that any provisions required by the medicaid-waiver will be addressed. The title of the bill and lines 3 and 4 on page 3 would allow for the screening process in the medicaid-waiver to be used for initial placement. After that, the Department of Health's screening process should be used to ensure that the residents in personal care homes are properly placed.

In summary, we ask that you support SB-446. In it's present form it represents months of work towards a consensus of a large group who worked hard to define personal care and set standards. Our first desire is to keep people in their own homes as long as possible. Personal care homes are a needed alternative for those who need some services they cannot receive in their own homes, but they should not become a substitute for people who need the skilled nursing care available in an long-term care facility.

I would like to thank the members of the Legislature for allowing me to participate in the study group and for listening to my testimony today.

WITNESS STATEMENT

Name Lenore F. Taliaferro Committee On Human Services
Address 1026 9th Ave. Date 3/16/83
Representing Long Term Care Ombudsman Support ✓
Bill No. SB 446 Oppose _____
Amend ✓

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Support SB 446 as a means to clean up a confusing situation that affects elderly/disabled in long term care settings - specifically "rooming/retirement/personal care."
2. Support amendments submitted as a consensus from task force who spent over a year developing the legislation. Those amendments submitted & introduced by Sen. Thomas.
3. The Ombudsman has responsibility to resolve complaints for these residents as a result of the Older Americans Act Amendment of 1981. Of all complaints received, these have had no agency's ability to correct because of lack of enforcement & because current law has not really addressed this problem area. There are some existing facilities that are sub-human. Some are excellent. SB 446 would itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.
4. Standardizing & regulate this level of service. And, most importantly, provide for enforcement measures. Please pass SB 446 w amendments as requested by Sen. Thomas

WITNESS STATEMENT

Name Douglas B. Olson Committee On Human Services
Address Helena Date 3-16-83
Representing Mt. Seniors' Advocacy Assistance (MSAA) Support ✓
Bill No. ^{SB} ~~HB~~ 446 Oppose _____
Amend w/ Group Amendments

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. MSAA worked with the interim legis. committee task force on SJR 34 (1981 session); supports ~~HB~~ SB 446 with the amendments agreed to by all groups that participated in the interim study. MSAA does not concur in any
2. other amendments that may be offered.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

AMENDMENTS TO SB 418

1. Title, line 14.

Following: "MCA;"

Insert: "PROVIDING A TERMINATION DATE;"

2. Page 5, line 14.

Strike: "(4)"

Insert: "NEW SECTION. Section 4. Termination date."

Strike: "rules"

Insert: "limitations"

3. Page 5, lines 14 and 15.

Strike: "subsection (1) are effective until such time as"

Insert: "subsections (1) through (3) of [section 3] terminate
when"

Renumber: subsequent sections accordingly

STANDING COMMITTEE REPORT

March 16,

19 **83**

MR. **SPEAKER**

We, your committee on **HUMAN SERVICES**

having had under consideration **SENATE** Bill No. **418**

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**A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING ADMINISTRATIVE RULES
OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES IMPLEMENTING
THE CHRONIC OR END-STAGE RENAL DISEASE TREATMENT PROGRAM AND CLARI-
FYING EXISTING RULEMAKING AUTHORITY FOR THOSE RULES; AMENDING SECTION
53-6-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

Respectfully report as follows: That **SENATE** Bill No. **418**

BE AMENDED AS FOLLOWS:

1. Title, line 14.

Following: "MCA,"

Insert: "PROVIDING A TERMINATION DATE;"

2. Page 5, line 14.

Strike: "(4)"

Insert: "NEW SECTION. Section 4. Termination date."

Strike: "rules"

Insert: "limitations"

3. Page 5, lines 14 and 15.

Strike: "subsection (1) are effective until such time as"

Insert: "subsections (1) through (3) of [section 3] terminate when"

Re-number: subsequent section

AND AS AMENDED
BE CONCURRED IN

XXXXX
DO PASS

STANDING COMMITTEE REPORT

March 16, 19 **83**

MR. **SPEAKER**

We, your committee on **HUMAN SERVICES**

having had under consideration **SENATE** Bill No. **447**

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color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR ONE-STEP
LICENSING OF CERTAIN FACILITIES UNDER THE DEPARTMENTS OF HEALTH
AND ENVIRONMENTAL SCIENCES, SOCIAL AND REHABILITATION SERVICES,
AND INSTITUTIONS."**

Respectfully report as follows: That **SENATE** Bill No. **447**

BE CONCURRED IN

XXXXXX

STANDING COMMITTEE REPORT

March 18, 1983

SENATE BILL 446

Page 1 of 3

MR. **SPEAKER**.....

We, your committee on **HUMAN SERVICES**

SENATE 446
having had under consideration Bill No.

third reading copy (blue)

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING AND FURTHER DEFINING THE SERVICES TO BE PROVIDED BY PERSONAL-CARE FACILITIES; ESTABLISHING RESTRICTIONS ON ELIGIBILITY FOR RESIDENCY IN SUCH FACILITIES; REQUIRING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES ESTABLISH BY RULE CERTAIN STANDARDS RELATING TO RESIDENT ADMISSION AND SCREENING; PROVIDING FOR LICENSING OF SUCH FACILITIES; PROVIDING FOR CIVIL AND CRIMINAL ENFORCEMENT; CLARIFYING THE DEFINITION OF "BOOMINGHOUSE" OR "RETIREMENT HOME" TO COMPLETELY EXCLUDE NURSING

~~XXXXXXXXXXXXXXXXXXXX~~.....~~XXXX~~

SERVICES; AMENDING SECTIONS 50-5-101, 50-51-102, AND 50-51-107,
MCA."

Respectfully report as follows: That SENATE Bill No. 446

See attached pages for amendments.

SECRET

STATE PUB. CO.
Helena, Mont.

MARJORIE EAST

Chairman.

COMMITTEE SECRETARY

BE AMENDED AS FOLLOWS:

1. Statement of Intent

Page 1, line 9.

Following: "fees"

Strike: ", and in cooperation with other state agencies to adopt health and safety standards for personal-care facilities"

2. Statement of Intent

Page 1, line 25.

Following: "responsibility."

Insert: "While SB 446 prohibits direct provision of nursing services by the personal care or rooming-house/ retirement home licensee, there is no intention to prevent those services from being delivered by any provider legally authorized to do so."

3. Page 1, lines 15 and 16.

Following: " "RETIREMENT HOME" "

Strike: "TO COMPLETELY EXCLUDE NURSING SERVICES"

4. Page 2, line 6.

Following: "(2)"

Insert: "(a)"

Following: "2]"

Insert: "and subsection (2)(b)"

5. Page 2.

Following: line 9.

Insert: "(b) Subsection (1)(a) applies only if the resident is a recipient of medical services, as provided under 53-6-111, and delivered by a home health agency, as defined in 50-5-101 or who is a recipient of medical assistance as provided under 53-6-111 [and HB 424]."

6. Page 2, line 17.

Following: "shall"

Insert: ", in consultation with the department of social and rehabilitation services,"

7. Page 3, line 12.

Following: "shall"

Insert: ", in consultation with the department of social and rehabilitation services,"

8. Page 3, line 15.

Strike: "(2) The department, in cooperation with other state agencies, shall adopt health and safety standards for various types of personal-care facilities."

Renumber: subsequent subsection

9. Page 10, line 1.

Following: "than"

Strike: "three"

Insert: "four"

10. Page 10, line 13.

Following: "skills"

Strike: "as provided in [sections 1 through 6]"

Insert: "which do not require nursing skills"

11. Page 14, line 6.

Following: " "Roominghouse" "

Insert: " "Boardinghouse" "

12. Page 14, line 13.

Following: line 12

Strike: "services"

Insert: "or personal care services provided by the facility"

13. Page 14, line 23.

Following: line 22

Strike: "prohibited"

Insert: "or personal care services by the facility prohibited.

(1) ~~Hotels~~ motels, boardinghouses, roominghouses, or similar accommodations may not provide professional nursing services or personal care services. A resident of a hotel, motel, boardinghouse, roominghouse, or similar accommodation may have personal care, medical or nursing-related services provided for him in such facility by a third-party provider"

14. Page 15. line 2.

Following: "{2}"

Insert: "(2)"

15. Page 15. line 6.

Following: "appropriate"

Insert: "care or"

16. Page 15, line 9.

Following: line 8

Insert: "Section 10. Coordination instruction. If House Bill 424 is not passed and approved, the bracketed reference to HB 424 in section 1 is stricken."

Renumber: subsequent section

AND AS AMENDED
BE CONCURRED IN

STANDING COMMITTEE REPORT

SENATE BILL 446
Page 1 of 3

March 21, 19 83.....

MR. **SPEAKER**.....

We, your committee on.....**HUMAN SERVICES**.....

having had under consideration **SENATE** Bill No. **446**

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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING AND FURTHER DEFINING THE SERVICES TO BE PROVIDED BY PERSONAL-CARE FACILITIES; ESTABLISHING RESTRICTIONS ON ELIGIBILITY FOR RESIDENCY IN SUCH FACILITIES; REQUIRING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES ESTABLISH BY RULE CERTAIN STANDARDS RELATING TO RESIDENT ADMISSION AND SCREENING; PROVIDING FOR LICENSING OF SUCH FACILITIES; PROVIDING FOR CIVIL AND CRIMINAL ENFORCEMENT; CLARIFYING THE

Page 2 of 2

DEFINITION OF "ROOMINGHOUSE" OR "RETIREMENT HOME" TO COMPLETELY EXCLUDE NURSING SERVICES; AMENDING SECTIONS 50-5-101, 50-51-102, AND 50-51-107, MCA."

Respectfully report as follows: That SENATE Bill No. 446

See following pages for amendments.

DISEASE

BE AMENDED AS FOLLOWS:

1. Statement of Intent

Page 1, line 9.

Following: "fees"

Strike: ", and in cooperation with other state agencies to adopt health and safety standards for personal-care facilities"

2. Statement of Intent

Page 1, line 25.

Following: "responsibility."

Insert: "While SB 446 prohibits direct provision of nursing services by the personal care or roominghouse/retirement home licensee, there is no intent to prevent those services from being delivered by any provider legally authorized to do so, consistent with the provisions of this act."

3. Page 1, lines 15 and 16.

Following: " "RETIREMENT HOME" "

Strike: "TO COMPLETELY EXCLUDE NURSING SERVICES"

4. Page 2, line 17.

Following: "shall"

Insert: ", in consultation with the department of social and rehabilitation services,"

5. Page 3, line 12.

Following: "shall"

Insert: ", in consultation with the department of social and rehabilitation services,"

6. Page 3, line 15.

Strike: "(2) The Department, in cooperation with other state agencies, shall adopt health and safety standards for various types of personal-care facilities."

Renumber: subsequent subsection

7. Page 10, line 1.

Following: "than"

Strike: "three"

Insert: "four"

8. Page 10, line 13.

Following: "skills"

Strike: "as provided in [sections 1 through 6]"

Insert: "which do not require nursing skills"

9. Page 14, line 6.

Following: " "Roominghouse" "

Insert: " "Boardinghouse" "

10. Page 14, line 13.

Following: line 12

Strike: "services"

Insert: "or personal care services provided by the facility"

11. Page 14, line 23.

Following: line 22

Strike: "prohibited"

Insert: "or personal care services by the facility prohibited.

(1) Hotels, motels, boardinghouses, roominghouses, or similar accommodations may not provide professional nursing services or personal care services. A resident of a hotel, motel, boardinghouse, roominghouse, or similar accommodation may have personal care, medical or nursing-related services provided for him in such facility by a third-party provider"

12. Page 15, line 2.

Following: "{2}"

Insert: "(2)"

13. Page 15, line 6.

Following: "appropriate"

Insert: "care or"

14. Page 15, line 9.

Following: line 8

Insert: "Section 10. Coordination instruction. If House Bill 424 is not passed and approved, the bracketed reference to HB 424 in section 1 is stricken."

ReNUMBER: subsequent section

AND AS AMENDED
BE CONCURRED IN