

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

JANUARY 31, 1983

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Tom Hager on Monday, January 31, 1983 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Norman, who was excused.

There were visitors in attendance.

CONSIDERATION OF SENATE BILL 200: Senator Fred Van Valkenberg, chief sponsor of Senate Bill 200, gave a brief resume of the bill. This bill is an act to clarify the general powers and duties of the Department of Health and Environmental Sciences and giving the department the authority to adopt rules to implement state and federal health programs for maternal and child health and for handicapped children.

Senator Van Valkenberg stated that there is a good reason that rule making authority is needed in maternal and child health care programs. These services are allotted money from the federal government.

Dr. Sidney Pratt, chief of Maternal and Child Health Services Bureau, stood in support of the bill. He stated that the department's financial eligibility policy is that they accept those who are at 185% of poverty level as defined by the federal government. This may be necessarily reduced to 150% of poverty level in order to even meet those people which are presently being covered. This might be forced on the program if the cost of medical care and hospitalization continues to rise and the federal allocations do not keep up with this cost increase. After third party payments, the department will pay 90% of the usual and customary fee. The maximum payment of \$10,000 for any one child in any one calendar year has been set.

David Lackman, representing the Montana Public Health Association, stood in support of the bill. He stated that one of the functions of the public health laboratory is to assist epidemiological investigations of communicable diseases by performing a multiplicity of screening tests. Charging a fee for service in such situations would hamper effective prosecution of this mission. Mr. Lackman offered an amendment --- inserting in

PUBLIC HEALTH
PAGE TWO
JANUARY 31, 1983

Section 1 (18) "have the authority to." This is an essential bill. The department must have the authority to adopt rules to implement health programs; both federal and state. This bill provides a degree of legal protection for the department. Mr. Lackman presented the Committee with written testimony and also the definition of Public Health, as taken from the Encyclopedia Britannica.

With no further proponents, the chairman called on the opponents.

Chad Smith, representing the Montana Hospital Association, stated that he would like to offer an amendment to the bill on page 3, line 14, by deleting the words "(e) payment for services;". See exhibit 1.

With no further opponents, Chairman Hager opened the meeting to a question and answer period from the Committee.

Senator Hims1 asked who is being charged for tests. He was told that the Air Quality and Water Quality Bureaus pay for the tests at the present time.

Senator Marbut stated that he did not like the language in the bill stating, "but not limited to" in referring to the rule making authority.

Senator Hager asked if the department did not have rule making authority now in this area. Dr. Pratt stated that this bill is an attempt to equalize.

Senator Hims1 asked about the maternal and child health care block grants.

Senator Stephens stated that the department has been operating for several years without this bill and could not see the reason that it is needed at this time.

Senator Van Valkenberg closed. He spoke to the Lackman amendment. He stated that he feels that this is beyond the scope of the bill as introduced.

He then spoke to the Smith amendment. Senator Van Valkenberg stated that this bill is an attempt to provide a service for handicapped children, and Mr. Smith seems to be all concerned about health care expenditures.

PUBLIC HEALTH
PAGE THREE
JANUARY 31, 1983

DISCUSSION ON SENATE BILL 56: Senate Bill 56 is an act to give the Department of Health and Environmental Sciences the authority to adopt rules setting fees to be paid by hazardous waste generators, and providing an immediate effective date.

Woody Wright, staff attorney, presented a new statement of intent for SB 56 to the Committee for their review.

Senator Marbut stated that he is satisfied with the statement as it now reads.

DISPOSITION OF SENATE BILL 180: Senate Bill 180 is an act to generally revise the requirements for premartial serological tests.

A motion was made by Senator Jacobson that SB 180 receive a DO PASS recommendation from the Committee.

Senator Marbut questioned the "ruebella" part of the bill. Senator Jacobson stated that this a medically a very sound bill.

Senator Hims1 asked about the stricken part of the bill.


The chairman acted on the motion. SB 180 received a DO PASS recommendation from the Committee with a unanimous vote.

A motion was made by Senator Marbut to adopt the statement of intent. Motion carried.

Chairman Hager introduced, guest, former Senator S. A. Olsen, who had served on the Public Health, Welfare and Safety Committee in previous years.

ANNOUNCEMENTS: The next meeting of the Public Health Committee will be held on Wednesday, February 2, 1983 in Room 410 of the State Capitol Building to consider Senate Bills 208, 209, and 214.

ADJOURN: With no further business the meeting was adjourned.


CHAIRMAN TOM HAGER

ROLL CALL

PUBLIC HEALTH, WELFARE, SAFETY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 1-31-83

[illegible]

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

[illegible]

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

January 3, 1983

Senator Fred VanValkenburg
Capitol Station
Helena, Montana 59620

Dear Senator:

You will recall that during our phone conversation on December 20, I told you I would put in writing the various reasons for our needing rule-making authority for Maternal and Child Health and Handicapped Children's Programs. You will also recall my assuring you that we had no specific anticipated changes in mind but that we feel it necessary to have this authority because of the rules that have been promulgated over the past several years and the current trend toward reduced funding.

The objectives of the Handicapped Children's Program, in particular, are the early detection, diagnosis and rehabilitation of children with chronic handicapping conditions. These activities include initial evaluation and diagnosis as well as payment for hospitalization and medical expenses for those conditions which Handicapped Children's Services covers. Recognizing that it would be ideal to cover all conditions for children between ages 0-18, we must also realize that fiscal limitations make such total coverage impossible. I have enclosed a current list of covered conditions which were developed with the assistance and advice of the Advisory Committee and made effective July 1, 1982.

It should be noted specifically that acute conditions are not covered. You will also note that respiratory distress syndrome, a result of prematurity and the principle cause of premature death, as well as no conditions of the gastrointestinal tract are covered.

At the present time, our financial eligibility policy is that we accept those who are at 185% of poverty level as defined by the federal government. This may necessarily be reduced to 150% of poverty level in order to even meet those people we are presently covering. This might be forced on the program if the cost of medical care and hospitalization continues to rise and our federal allocations do not keep up with this cost increase.

We have also established the policy that, again after third party payment, we pay hospitals, physicians, and dentists at 90% of the usual and customary fee. When they sign the agreement to take care of any one patient, they agree to accept this as payment in full and not bill the family for the differential. This would be difficult to enforce if this policy is challenged.

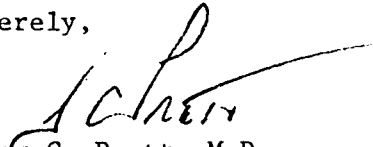
In addition, a maximum payment of \$10,000 for any one child in any one calendar year has been set.

Senator Fred VanValkenburg
January 3, 1983
Page 2

An additional policy has been developed and adhered to over a period of years that payment will be made for services rendered only by board eligible or by board certified physicians except under emergent or special conditions. The rationale behind this is that these delicate patients should receive only the best of care. As I believe I told you, on two occasions in the last two years, this has been challenged by the Montana Hospital Association. In both of these cases, anesthesia was administered by a nurse anesthetist and not by an anesthesiologist. Because of the lack of rule-making authority, this challenge by the Hospital Association was presented with the threat of a law suit. Rather than carry this through the courts, we acceded to their wishes and paid the hospitals for these services. While these were only small amounts, the potential for devastating payments is frightening. Only a few congenital heart cases (\$50,000 to \$60,000), for example, challenged and lost, could eliminate our funds.

No doubt you will want to discuss this in more detail with me and I would be very pleased to meet with you, at your convenience at any time prior to your introduction of the bill.

Sincerely,

A handwritten signature in dark ink, appearing to read 'S. C. Pratt', with a long, sweeping horizontal line extending to the right.

Sidney C. Pratt, M.D.
Medical Director
Field Health Services
Health Services Division

SCP/dw

WITNESS STATEMENT

January 31, 1983 , Room 410 , 1:00 P.M.

Name DAVID B. LACKMAN Committee On Public Health-Senate
Address 1400 Winne Ave. , Helena , MT 59601 Date January 31, 1983
Lobbyist
Representing Montana Public Health Assn. Support XXXX
Bill No. Senate Bill No. 200 Oppose _____
Amend XXX

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. One of the functions of the public health laboratory is to assist epidemiological investigations of communicable diseases by performing a multiplicity of screening tests. Charging a fee for service in such situations would hamper effective prosecution of this mission. Therefore, we propose inserting in Sec. 1. (18) have the authority to .

2.

This is an essential bill. The department must have the authority to adopt rules to implement health programs; both state and federal. Additionally , this bill provides a degree of legal protection for the department.

3. A similar bill was defeated in the '81 session because it contained matters extraneous to the main purpose of the bill. SB 200 is a good bill ; and we urge its passage with the suggested amendment.

4. Amendment : SB 200 Section 1. "50-1-202 . General powers and duties. The department shall :
(18) have the authority to adopt rules imposing fees for the tests and services performed by the laboratory of the department ,

Attached : A definition of PUBLIC HEALTH ; and the place of the PUBLIC HEALTH LABORATORY in the scheme of things .

David B. Lackman
January 23, 1983

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

PUBLIC HEALTH is the art and science of preventing disease, prolonging life, and promoting physical and mental efficiency through organized community effort. Important in this effort is the PUBLIC HEALTH LABORATORY . It provides virological, bacteriological, serological , and physical testing for the prevention and control of communicable and other diseases. * Chemical , radiological , and bacteriological testing is also made available to assure the safety of water , air , and the physical environment .

* e.g. hereditary disease

Reference : Encyclopedia Britannica , 15th edition 1974 , Macropedia V. 15 ,
pp 202-209 .

David B. Lackman
January 19, 1983

Exhibit 1

SENATE BILL NO. 200

MR. CHAIRMAN:

I move to amend Senate Bill No. 200 as follows:

1. On page 3, in line 12, by adding the word "and" after the semi-colon.
2. On page 3, in line 13, by deleting the word "and".
3. On page 3, in line 14, by deleting the words "(e)
payment for services;"

Exhibit 2

STATEMENT OF INTENT
SENATE BILL 180
48th LEGISLATURE

A statement of intent is necessary for Senate Bill 180 because it adds to the laws relating to premarital serological tests rule-making authority for the Department of Health and Environmental Sciences to specify allowable exceptions to the test requirement.

Present law defines a premarital serological test as including both a test for rubella immunity and a test for syphilis. Senate Bill 180 eliminates the syphilis test requirement and requires the rubella test only of female applicants for a marriage license, since the purpose of the rubella test is to alert the license applicants to lack of immunity to the disease which could result in damage to a fetus if rubella were contracted during pregnancy. Since the test is of value only to women capable of bearing children, there is no purpose in requiring the test of women incapable of doing so. Therefore, the rules would define those categories of women whose medical status precludes them, with reasonable medical certainty, from bearing children, including, but not limited to, women over child-bearing age and those whose physicians certify they are incapable of bearing children.

STANDING COMMITTEE REPORT

.....JANUARY 31..... 19 83.....

MR.**PRESIDENT:**.....

We, your committee on**PUBLIC HEALTH, WELFARE AND SAFETY**.....

having had under consideration ...**Statement of Intent, SENATE**..... Bill No. **180**.....

Respectfully report as follows: That.....**Statement of Intent, SENATE**..... Bill No. **180**.....
be adopted.

STATEMENT OF INTENT RE: SB 180

A statement of intent is necessary for Senate Bill 180 because it adds to the laws relating to premartial serological tests rule-making authority for the Department of Health and Environmental Sciences to specify allowable exceptions to the test requirement.

Present law defines a premartial serological test as including both a test for rubella immunity and a test for syphilis. Senate Bill 180 eliminates the syphilis test requirement and requires the rubella test only of female applicants for a marriage license, since the purpose of the rubella test is to alert the license applicants to lack of immunity to the disease which could result in damage to a fetus if rubella were contracted during pregnancy. Since the test is of value only to women capable of bearing children, there is no purpose in requiring the test of women incapable of doing so. Therefore, the rules would define those categories of women whose medical status precludes them, with reasonable medical certainty, from bearing ~~XXXXX~~ children, including, but not limited to, women over child-bearing age and those whose physicians certify they are incapable of bearing children.

STANDING COMMITTEE REPORT

.....JANUARY 31..... 19 83.....

MR.**PRESIDENT:**.....

We, your committee on**PUBLIC HEALTH, WELFARE AND SAFETY**.....

having had under consideration**SENATE**..... Bill No. **180**.....

Respectfully report as follows: That.....**SENATE**..... Bill No. **180**.....

DO PASS

STATEMENT OF INTENT ATTACHED.