

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

FEBRUARY 22, 1985

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Judy Jacobson on Friday, February 22, 1985 in Room 410 of the State Capitol at 12:30.

ROLL CALL: All members were present with the exception of Senator Newman, who was excused. Staff researcher, Karen Renne, was also present.

There were many visitors in attendance. See attachments.

ACTION ON SENATE BILL 286: Senator Tom Hager of Billings is the chief sponsor of SB 286 which is an act providing for the licensure and regulation of respiratory care practitioners; creating a board of respiratory care; providing for the authority of the board, and providing effective dates.

Senator Hager explained the proposed amendments which he felt would address most of the problems which the opponents spoke to at the hearing. See attachments.

A motion was made to accept the proposed amendments of Senator Hager. Motion was made by Senator Hager and carried.

Senator Lynch stated that he felt that the bill still needs to be cleaned up more before he could support it.

Senator Towe stated that he too is concerned. He felt that there were several areas which were not being addressed in the bill.

A motion was made by Senator Towe to accept Karen's proposed amendment #2. Motion carried.

Senator Hims1 stated that he cannot support this bill. It sets up a hierarchy in health related services and puts something on the hospitals and nursing homes which could be very costly. Everybody wants a license for something.

A motion was made by Senator Hager that HB 286 DO PASS AS AMENDED. Motion failed on a 2 to 5 vote.

A motion was made by Senator Hager to reconsider the actions of the Committee on SB 286. Motion carried.

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A motion was made by Senator Hager that all of the adopted amendments to SB 286 be stripped off. Motion carried.

A motion was made by Senator Lynch that SB 286 DO NOT PASS. Motion carried.

ACTION ON SENATE JOINT RESOLUTION 22: Senator Tom Towe of Billings is the chief sponsor of SJR 22 which is a joint resolution of the State of Montana urging the United States Congress to reauthorize the Indian Health Care Improvement Act.

Senator Stephens stated that there are two Indian Reservations in his area. Health care is an on going problem. He asked Senator Towe if the Indian Reservations are a sovereign nation? Senator replied that in some ways they are.

Senator Himsel stated that in 1926 the Dawes' Wheeler Act granted Indians citizenship and put them into the same stream as other Americans and gave them equal treatment. Senator Himsel questioned that with the passage of this resolution there would be duplicated health services.

Senator Towe stated that there are some serious mental problems and also some other health problems which affect Indians more readily than other Americans, which are not covered under regular health care programs.

A motion was made by Senator Towe that SJR 22 DO PASS AS AMENDED. Motion failed on a 4-3 vote.

A motion was made by Senator Lynch that SJR 22 DO NOT PASS AS AMENDED. Motion carried.

CONSIDERATION OF SENATE BILL 458: Senator J. D. Lynch of Senate District 34 in Butte, the chief sponsor of SB 458, gave a brief resume of this bill. This bill is an act relating to the adequate habilitation of patients in mental health facilities; requiring qualified staff in sufficient numbers to provide adequate habilitation of patients admitted to the Montana State Hospital in Warm Springs; granting the Department of Institutions rulemaking authority, and providing an effective date.

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Senator Lynch stated that this bill is based on the Short/Doyle Act in California. This bill would improve the minimum standards of care. Warm Springs today has regressed back to the turn of the century. The psychologists case load is 140 patients per psychologists. The hospital must have staff for the protection of the patients and the staff alike. Senator Lynch stated that he was willing to compromise and amend the bill regarding the numbers of staff people called for in the bill. He felt that this is one of the more important issues this session.

Nancy Keenan, representative of District 66 in Anaconda, stood in support of the bill. She stated that she was also speaking on behalf of Representative Red Menehan who could not attend the hearing today. She stated that the people that this bill affects cannot come here to the hearing to tell the Committee that they are not being properly cared for and properly treated. Warm Springs is operating at a minimal staff. "Vacancy Savings" was used in deciding the number of staff at the hospital.

Kelly Moore, directors of the Mental Disabilities Board of Visitors, stood in support of the bill. She stated also that the people that this effects most cannot come here to testify and they are trusting this Committee to take care of their needs. She asked for a favorable consideration from the Committee.

Mike Dahlem, representing the Warm Springs Independent Union, stood in support of the bill. He stated that the level of care and the amount of staff needs to be addressed. This is the most important issue this session.

Judy Olson, representing the Montana Nurses Association, stood in support of the bill. She stated that she like the concept of the bill.

Senator Jack Haffey of Butte, stood in support of the bill. He stated that most people are genuinely concerned with the quality of health care which the patients at Warm Springs are receiving. Improvement must be made and a better ratio established between the staff and the patients at Warm Springs. The effects from "vacany savings" is still carrying over to the staff at the hospital.

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Curt Chisolm, Deputy Director for the Department of Institutions, stood as a neutral to the bill. He stated that he praised the concept of the bill. However, he opposed the ratios which the bill addresses. He stated that perhaps softer ratios would work better and the appropriation would be easier to be met. The court system does not seem to recognize the problems facing the staff and patients at Warm Springs. The Department of Institutions has a problem hiring staff for the hospital. Some people do not care to work there because of the conditions.

With no other proponents to the bill, the chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period for the Committee.

Senator Lynch called on Tom Gomez from the Legislative Council, who drafted the bill. He commended Mr. Gomez for his long hours in on this bill and all the many hours of research. Mr. Gomez stated that this bill was drafted after California law and other mental health care personnel. The present codes are very explicit regarding patients rights of the mentally ill.

Senator Hims1 asked how many are at Warm Springs at the present time and how many are long term care patients. Mr. Chisolm stated that there are approxiamtely 341 patients at Warm Springs at the present time. Mr. Chisolm reported the following figures regarding the patients at the Hospital: 53 short term patients, 55, long term patients, 100 in the locked unit, 22, childre, 100 in the extended unit, and 22 in the treatment unit.

Senator Stephens asked how many doctors there are at Warm Springs at the present time. There are 5 doctors at the hospital now and there are 257 registered nurses. Mr. Chisolm stated that they have a hiring problem, but they do try to fill the positions as quickly as possible.

Senator Towe asked about the hiring of doctors. Mr. Chisolm stated again that there are five doctors, one is leaving very soon and they have already hired another to fill is vacancy.

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Senator Lynch closed. He stated that if the Committee would see fit to pass this bill, he would be willing to remove the ratios and try to work on them when the bill reaches the House of Representatives. The patients should have some type of standards. They cannot come before the Committee themselves to tell of their concerns. He encouraged the Committee to pass this bill, as the state does not need a law suit, because of the conditions at Warm Springs.

ACTION ON SENATE BILL 458: This is an act relating to the adequate habilitation of patients in mental health facilities; requiring qualified staff in sufficient numbers to provide adequate habilitation of patients admitted to the Montana State Hospital in Warm Springs.

Senator Hager address the ratios. He stated that the numbers should be changed and a minimum number required.

Senator Towe stated that perhaps the ratios could be removed and studied during the next biennium and at that time put the ratios into the law. This would give everyone at the department more time also and enable them to prepare their budget as such.

A motion was made by Senator Towe to amend SB 458 be amended to strike all of the ratios and let the department determine this ratio by rule for the personnel. Motion carried.

A motion was made by Senator Towe that the bill be amended on page 8, Strike: the date of October 1, 1985 and insert the date of July 1, 1987. Motion carried.

A motion was made by Senator Lynch that SB 458 DO PASS AS AMENDED. Motion carried.

A motion was made by Senator Towe to amend the Statement of Intent to reflect the amendments in the bill. Motion carried.

A motion was made by Senator Lynch that the Statement of Intent BE ADOPTED AS AMENDED. Motion carried.

ANNOUNCEMENTS: There will be no further meeting of the Public Health, Welfare and Safety Committee until after transmittal.

ADJOURN: With no further business the meeting was adjourned.

Date 2/22/85

[illegible][illegible]

Each day attach to minutes.

STANDING COMMITTEE REPORT

FEBRUARY 22, 19 85

MR. PRESIDENT

We, your committee on Public Health, Welfare and Safety

having had under consideration Senate Joint Resolution No. 22

Introduced reading copy (white)
color

RESOLUTION URGING CONGRESS TO REAUTHORIZE THE INDIAN HEALTH CARE ACT

Respectfully report as follows: That Senate Joint Resolution No. 22

Be amended as follows:

1. Page 3, line 9.

Following: line 8

Insert: "(1)"

2. Page 3, line 12.

Following: line 11.

Insert: "(2) That copies of this resolution be sent to the Speaker of the United States House, the President of the United States Senate, all members of the Montana Congressional delegation, and the President of the United States."

AND AS AMENDED

~~XXXXXX~~
~~DO PASS~~

DO NOT PASS

Senator Judy Jacobson

Chairman.

STANDING COMMITTEE REPORT

February

19.35

MR. PRESIDENT

We, your committee on Public Health, Welfare and Safety

having had under consideration Senate Bill No. 236

Introduced reading copy (white)
color

RESPIRATORY CARE PRACTITIONERS LICENSURE AND REGULATION

Respectfully report as follows: That Senate Bill No. 236

~~DO NOT PASS~~

DO NOT PASS

Senator Judy Jacobson

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 22, 1985

MR. PRESIDENT

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

having had under consideration **SENATE BILL** No. **458**

FIRST reading copy (**WHITE**)
color

REQUIRES SUFFICIENT STAFF TO PROVIDE HABILITATION OF MENTALLY ILL PATIENTS

Respectfully report as follows: That **SENATE BILL** No. **458**

be amended as follows:

1. Page 6, line 7.
Following: "ratios."
Insert: "(1)"

2. Page 6, line 10.
Following: "Warm Springs"
Strike: "as follows:"
Insert: ". (2) The department shall determine this ratio
by rule for the following personnel:"

3. Page 6, line 11.
Strike: line 11 in its entirety

4. Page 6, line 12.
Strike: "5"

5. Page 6, line 13.
Strike: "2"

6. Page 6, line 14.
Strike: "2"

7. Page 6, line 15.
Strike: "20"

8. Page 6, line 16.
Strike: "25"

~~XXXXXX~~

~~XXXXXXXXXX~~

9. Page 6, line 17.
Strike: line 17 in its entirety

10. Page 8, line 4.
Following: "date."
Strike: "Section"
Insert: "Sections 4 (2) and"

11. Page 8, lines 6 and 7.
Following: "effective"
Strike: "October 1, 1985"
Insert: "July 1, 1987"

AND AS AMENDED

DO PASS

SENATOR JUDY JACOBSON, CHR.

FEBRUARY 22, 1985

MR. PRESIDENT:

WE, YOUR COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY
HAVING HAD UNDER CONSIDERATION SENATE BILL 458, ATTACH THE
FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

SENATE BILL 458

This bill requires a statement of intent because it grants the department of institutions authority to adopt rules to restrict admissions to the Montana state hospital in Warm Springs if necessary to achieve the staffing levels required by this bill.

It is the finding of the legislature that adequate habilitation cannot occur if the number of staff in relation to patients is insufficient to provide proper individual care, to control disturbances, and to protect the safety of patients from physical harm by other seriously disturbed patients.

Therefore, it is the intent of the legislature that the department of institutions limit admissions to the state hospital if the patient population is higher than the number permitted under the standards provided in the rules to be adopted by the department that require certain staff-patient ratios. It is contemplated that the department accomplish this goal to restrict patient levels by:


(1) providing for habilitation of patients in a community-based setting whenever possible;

(2) transferring patients to nonstate facilities;

(3) limiting voluntary admissions; and

(4) permitting habilitation in the institutionalized setting of the state hospital only if less restrictive alternatives are unavailable and if a person is so mentally ill as to require institutionalization.

In considering the administration of the provisions of this bill, the department should be guided by the practices and policies of other states, especially the administration of the Short-Doyle Act by the state of California.


SENATOR JUDY JACOBSON

AMENDMENTS TO SB 458 (bill passed as amended 2/22/85 by
Senate Public Health, Welfare and Safety Committee)

1. Page 6, line 7.
Following: "ratios."
Insert: "(1)"
2. Page 6, line 10.
Following: "Warm Springs"
Strike: "as follows:"
Insert: ". (2) The department shall determine this ratio
by rule for the following personnel:"
3. Page 6, line 11.
Strike: line 11 in its entirety
4. Page 6, line 12.
Strike: "5"
5. Page 6, line 13.
Strike: "2"
6. Page 6, line 14.
Strike: "2"
7. Page 6, line 15.
Strike: "20"
8. Page 6, line 16.
Strike: "25"
9. Page 6, line 17.
Strike: line 17 in its entirety
10. Page 8, line 4.
Following: "date."
Strike: "Section"
Insert: "Section 4(2) and
11. Page 8, lines 6 and 7.
Following: "effective"
Strike: "October 1, 1985"
Insert: "July 1, 1987"

AMENDMENTS to SB 286

Amend Section 4(1), page 3, line 20 through 23 by striking the words: "...a person licensed in this state to engage in the profession or occupation for which he is licensed.", and inserting in lieu thereof the words: "...any physician, registered nurse, physical therapist or other licensed health care personnel."

Amend Section 4(2), page 4, line 6 by deleting the "." inserting a ";" and by adding a new subsection (c): " or, (c) the provision of respiratory care services by any licensed health care personnel".

Amend Section 13, page 7, line 21 after the word "program" as follows:
" , enrolled in a respiratory therapy correspondence course or engaged in on-the-job training."

Amend Section 13, page 8, line 5 after the word "student" as follows:
" , enrolled in a respiratory therapy correspondence course or engaged in on-the-job training".

DATE _____

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretariat)

PROPOSED AMENDMENTS TO SB 286

1. Page 2, lines 13 and 14.
Following: "staff" in line 13
Strike: remainder of line 13 through "care" in line 14
2. Page 4, line 6.
Following: "(b)"
Strike: remainder of line 6
Insert: "delivery, maintenance, or administration of oxygen or oxygen equipment to patients in their place of residence by unlicensed health care personnel."
3. Page 4, lines 13 through 16.
Following: "physician." in line 13
Strike: remainder of line 13 through "care." in line 16
4. Page 7, line 24.
Following: "physician."
Insert: "Enrollment in a respiratory therapy training program may be delayed until the employee completes the period of in-service training established as a prerequisite for enrollment."
5. Page 10, line 10.
Following: "care;"
Strike: "or"
6. Page 10, line 13.
Following: "practitioner"
Strike: "."
Insert: "; or"
7. Page 10, line 14
Following: line 13
Insert: "(j) accepting referral fees from suppliers of oxygen, medication, or equipment."

Notes on proposed amendments

1. changes definition of "medical director" to meet the objection that not enough Montana physicians are knowledgeable in respiratory care
2. requested by Clay Edwards, an oxygen supplier; also deletes the reference to emergency respiratory care because several witnesses said the provision was too broad
3. deletes reference to emergency care as a justification for providing respiratory care without a physician's direction or prescription; requested by doctor from Butte
4. adds a provision for on-the-job training without enrollment in a course, at the request of the doctor from Butte
- 5, 6, 7. adds a provision making acceptance of "kickbacks" grounds for discipline, at the request of a witness

4 9 T H L E G I S L A T I V E S E S S I O N

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

MONTANA STATE SENATE

1985

COMMITTEE MEMBERS:

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