

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

February 16, 1987

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on February 16, 1987, at 1 P.M. in Room 410 of the State Capitol.

ROLL CALL: All members of the committee were present.

FURTHER ACTION ON SENATE BILL NO. 248: The Statement of Intent was read.

Sen. Meyer moved that the statement of intent be adopted.

Sen. Himsel: Is there rule-making authority in the bill?

Sen. Eck: Yes, the bill gives rule-making authority to the Commissioner of Insurance.

The motion to adopt the statement of intent passed with Sen. Hager voting no. A copy is attached to the committee report.

ACTION ON SENATE BILL NO. 290: Sen. Vaughn moved the adoption of S.B. 290.

Sen. Hager: There are over 2000 drugs sold by an average pharmacy, and 400 of them have had price changes since January. This will be a tremendous amount of work.

Sen. Himsel: I think this will be a real burden to the small pharmacies.

Sen. Williams: This seems like too many sheets to post with too small printing.

Sen. Rassmussen: This bill could produce the opposite of result of raising prices.

The motion to pass S.B. 290 failed. Sen. Rassmussen will present the adverse committee report.

FURTHER CONSIDERATION OF HOUSE BILL NO. 246: Sen. Himsel: When we put in this amend., we were under duress because institutions receiving Medicare-Medicaid would have their funding jeopardized.

Dr. Drinan: Director, DHES: The Federal Government will make no decision; and agreement 1122 will not be signed with the state of Montana until we all see what comes from Sen. Kennedy's committee (Congress).

Sen. Himsel: If we pass the CON, will we be clear with 1122?

Dr. Drinan: Yes, we will be in compliance. The Fed. gov't. would recognize the CON without a signed 1122 agreement.

Sen. Williams: What is the cost to the state?

Dr. Drinan: The cost in the hospital budget is \$125,000 and the total cost is \$200,000 to operate the total program. Some of this comes from the General Fund.

Sen. Norman: Does that include the hearings?

Dr. Drinan: Yes, the biggest expense in is travel, plus legal fees for outside lawyers.

Sen. Williams: How long is the extension?

Dr. Drinan: Two years. That gives the state of Montana two years to find out what the Federal Government is going to do, and it will keep us from experiencing the problems that Arizona is having with cuts in Medicaid budgets and rising costs from increased building.

Sen. Bengtson, in closing, stated that there are two amendments to the bill; the one by Sen. Keating, lowering the threshold, presents no real problem and the lowering will cover more people. The Glasgow hospital administrator suggests covering HMO's. The marketplace should determine how much building needs to be done. To eliminate the CON may not be beneficial to rural Montanans and possibly not to those in cities, either. Merging and deregulation can be harmful to Montana consumers. The hearing process will now be less formal and the public will have input. The appeal process will be shortened because the Department of Health has been eliminated. The cost of applying for a CON need not be so high, and most of the money used by hospitals is Medicare-Medicaid, which is tax dollars. Without the certificate of need, we could end producing many empty nursing beds, which taxpayers end up paying for. Testimony has shown the need to plan, especially for facilities using tax dollars.

ACTION ON S.B. 246: Sen. Himsel moved that S.B. 246 receive a DO PASS.
Sen. Himsel: \$200,000 seems a very reasonable cost to have a review of existing facilities and the need for new ones. We need to use restraint in this area because of tremendously rising medical costs. We are in penalty situation without the CON with the Federal Government.

Sen. Williams: Explain 1122 a little further to me.

James Ahrens: 1122 is voluntary; the state does not have to enter into this agreement.

Dr. Drinan: The Federal Government could impose sanctions, if it wanted to without a CON. The taxpayer would pay for this.

Sen. Williams: What damage would be done if this were sunsetted?

Sen. Himsel: We would possibly jeopardize all those delivering services to Medicaid-Medicare.

Sen Hager: I would like to make a substitute motion to move \$750,000 to \$500,000, and \$1,500,000 to \$750,000 - back to the previous figures. Otherwise, we are moving out people who need to be covered by CON.

Sen. Eck called for the question. The amendment failed 4-6. Those voting yes were Senators Eck, Vaughn, Himsel, and Hager. Senators voting no were Norman, Williams, Meyer, Rassmussen, Jacobson, and McLane.

Dr. Drinan stated that they went to the limit to assist rural hospitals who need to replace a piece of equipment, so that they don't need to have a CON all the time.

Sen. Eck: What effect do these limits have on nursing homes?

Rose Skoog: The limits are fine for the nursing home industry. Any new facilities or equipment or service would have to be reviewed despite any thresholds.

Sen. Eck: A second nursing home or drug treatment center in a community would come under this?

Dr. Drinan: Yes, these services would have to be reviewed.

James Ahrens: The reason for the high thresholds is that new equipment usually has a high approval rate.

Sen. Himsel moved that S.B. 246 receive a DO PASS. The vote was 5-5. Those voting yes were Senators Eck, Meyer, Vaughn, Rassmussen, and Himsel. Those senators voting no were Norman, Williams, Jacobson, McLane and Hager.

CONSIDERATION OF SENATE BILL NO. 305: Senator Dorothy Eck, District # 40, sponsor of S.B. 305, opened by stating that she would let the proponents explain the bill.

PROPOSERS: Roger Tippy, testified that S.B. 305 amends the Dental Practices Act to make it more efficient for physicians to function in a hospital with their patients. The bill really deals specifically with oral surgeons, who have clinical and residential training in hospitals, who wish to give pre-operative physicals themselves to their patients so that they can keep better track of other physical difficulties their patients might have. Right now, another physician at the hospital must give this physical. If this bill passes, the Department of Health needs to be advised that the privilege limited to physicians needs to be modified. The reason that the term "oral surgeons" was not used in this bill is that there will be other dental specialties in a few years who will want to use this privilege.

Dr. John Lohman, Montana Dental Association, testified that oral surgeons have advanced education and training to enable them to take histories and perform physical exams for their patients, that the history and physical privilege will be reserved to oral surgery patients only, that oral surgeons have the training to refer patients to other medical doctors when special needs are noticed, and that patients will save money by not having to call in other M.D.'s. S.B. 305 will clear up present law, which is vague and confusing, and which opens the door to possible liability involvement, when an oral surgeon may not adequately know the other medical history of his/her patient. Exhibit # 1.

Dr. David Lackman, Montana Public Health Association, stated that the medical educators favor this bill. They urge its passage.

Dr. Dail M. Hafer, oral surgeon, Great Falls, stated that he has had difficulties in hospitals doing his own physicals on his patients, and that he needs to know what their problems are. These physicals need to be done by a qualified person, and oral surgeons are qualified through their residency training programs to do these. They now rotate with all other doctors and work with the total patient.

Dr. Steven Black, oral surgeon, Bozeman, stated that oral surgeons are taught by qualified members of a teaching staff who certify that training is done; oral surgeons also receive anesthesia training for work in hospitals and in their offices. In the Accreditation Manual for Hospitals by the Joint Commission, a patient can have a physical performed by an oral surgeon, if the hospital has granted that privilege.

Dr. Tom Bulger, District # 37, stated that only a qualified dentist, i.e. an oral surgeon, would have the right to give these particular physicals to their own patients, and that the bill does not give them the right to treat other medical problems.

Jerome Loendorf: Montana Medical Association, stated that the Department of Health was refusing to allow oral surgeons to perform physicals, but he would offer an amendment to the bill adding "a qualified dentist" as a member of the medical staff. This does not affect hospital staff privileges.

William Leary, Montana Hospital Association, stated that they support the intent of the bill but that they have some questions such as the dentist's qualifications and the depth of the exam and whether or not a general anesthetic will be required. They would like to submit an amendment that specifies a new Section Two that the dentist shall adhere to the rule of the hospital to have the physical done by a physician member of the staff if anesthetic is to be administered. This would prevent risk to the patient.

DISCUSSION OF SENATE BILL NO. 305: Sen. Rasmussen: Dr. Lohman, how do you feel about the amendment?

Dr. Lohman: It would destroy the bill; the patient would still need two physicals. That doctor who does the hospital physicals wouldn't be around at all after surgery.

Sen. Meyer: Do you want oral surgeon instead of dentist in the bill and do you want a complete physical or just a physical exam?

Dr. Black: Oral surgeon would be fine, and complete physical should be the term used. The anesthesiologist also acts as his own control and talks to the patient, as well.

Sen. Vaughn: Is the doctor there during surgery?

Dr. Black: No, not usually.

Sen. Himsl: What does this complete physical exam involve?

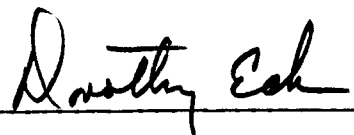
Dr. Hafer: It is a standard physical exam given to a patient entering a hospital, and that is what we are referring to as a complete physical. We need to know what is going on with the heart and lungs especially. The complete physical would be what the doctor feels the patient needs.

Sen. Williams: Who determines "properly qualified"?

Dr. Hafer: The hospital staff.

Sen. Eck: Perhaps we should strike the work "complete", use "oral surgeon" instead of "dentist", and keep the anesthesiologist responsible for his own procedures; and I recommend against Mr. Leary's amendment.

The meeting adjourned at 2:50 P.M.



Chairman

ROLL CALL

Public Health, Welfare and Safety COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2-16-87

NAME	PRESENT	ABSENT	EXCUSED
Dorothy Eck	X		
Bill Norman	X		
Bob Williams	X		
Darryl Meyer	X		
Eleanor Vaughn	X		
Tom Rasmussen	X		
Judy Jacobson	X		
Harry H. "Doc" McLane	X		
Matt Himsl	X		
Tom Hager	X		

Each day attach to minutes.

Montana Dental Association

P. O. Box 513 Butte, Montana 59703 Phone (406) 782-9333

SENATE HEALTH & WELFARE

EXHIBIT NO. 1

DATE 2-16-87

Constituent: AMERICAN DENTAL ASSOCIATION

Bill. SB 305

February 16, 1987

TO: Senate Public Health, Welfare and Safety Committee

RE: SB 305

Dear Madam Chairman, Mr. Vice-Chairman and Committee Members:

I am Dr. John Lohman from Butte. I am Secretary-Treasurer and Director of the Montana Dental Association, the professional association representing 452 members, which is over 95% of the dentists in Montana. We support SB 305 and recommend its passage. Some of the reasons for our support are as follows:

1. Oral surgeons have advanced education and training to enable them to take histories and perform physical exams for their patients.
2. Granting staff privilege is still reserved to the local hospital administrators.
3. The "history and physical" privilege is reserved to oral surgery patients and will not impact on other hospital or insurance physicals.
4. The training of oral surgeons makes them acutely aware of the need to refer patients to medical doctors when special needs and considerations are noted.
5. Allowing oral surgeons to take histories and physicals will save money for patients who otherwise have to call in an M.D. for hospital admittance for oral surgery procedures.
6. Present law is vague and confusing, resulting in varied interpretation, and opens the door to possible liability involvement.
7. SB 305 will clear up the present confusion as recommended by the Joint Commission on Accreditation of Hospitals.

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P.O. Box 513
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ROLL CALL VOTE

SENATE COMMITTEE Public Health, Welfare and Safety

Date 2-16-87 Bill No. 290 Time 1:12

NAME	YES	NO
Dorothy Eck	X	
Bill Norman		X
Bob Williams		X
Darryl Meyer		X
Eleanor Vaughn	X	
Tom Rasmussen		X
Judy Jacobson		X
Harry H. "Doc" McLane		X
Matt Himsl		X
Tom Hager		X

Ellen Nehring
Secretary

Dorothy Eck
Chairman

Motion: That S.B. 290 Do Pass.

ROLL CALL VOTE

SENATE COMMITTEE Public Health, Welfare and Safety

Date 2-16-87 Bill No. 246 Time 1:40

NAME	YES	NO
Dorothy Eck	X	
Bill Norman		X
Bob Williams		X
Darryl Meyer		X
Eleanor Vaughn	X	
Tom Rasmussen		X
Judy Jacobson		X
Harry H. "Doc" McLane		X
Matt Himsl	X	
Tom Hager	X	

Ellen Nehring
Secretary

Dorothy Eck
Chairman

Motion: That Sen Hager's amendment to S.B. 246 do pass.

ROLL CALL VOTE

SENATE COMMITTEE Public Health, Welfare and Safety

Date 2-16-87

Bill No. 246

Time 2:45

NAME	YES	NO
Dorothy Eck	X	
Bill Norman		X
Bob Williams		X
Darryl Meyer	X	
Eleanor Vaughn	X	
Tom Rasmussen	X	
Judy Jacobson		X
Harry H. "Doc" McLane		X
Matt Himsel	X	
Tom Hager		X

Ellen Nehring
Secretary

Dorothy Eck
Chairman

Motion: That S.B. 246 do pass.

STANDING COMMITTEE REPORT

February 16 19 87

MR. PRESIDENT

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

having had under consideration SENATE BILL No. 290

First reading copy (White)
color

**REQUIRE PHARMACIES TO POST PRICE AND GENERIC EQUIVALENT OF BRAND--
NAME DRUGS**

Respectfully report as follows: That SENATE BILL No. 290

Statement of Intent Attached And Adopted

~~X:DO NOT PASS~~

DO NOT PASS

.....
DOROTHY ECE

Chairman.

FEBRUARY 16, 1987

MR. PRESIDENT,

WE, YOUR COMMITTEE ON PUBLIC HEALTH HAVING HAD UNDER CONSIDERATION SENATE BILL 290, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

SENATE BILL 290

The legislature determines that it is the policy of this state to permit and encourage, for the benefit of the citizens of this state, the availability of factual information regarding prescription drug prices charged by licensed pharmacists and pharmacies.

Therefore, it is the intent of the legislature in enacting this bill to make prescription drug prices available to the public by requiring the display of price information in every pharmacy that serves the general public. Such information should be made available in a manner that will not encourage unfair or deceptive competitive practices but will assist the public in making informed purchasing decisions.