

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

February 20, 1987

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on February 20, 1987, at 7:40 P.M. in room 410 of the State Capitol.

ROLL CALL: All members were present, except for Senators Hager and Himsel.

FURTHER CONSIDERATION OF SENATE BILL NO. 351: Sen. Eck: The question seems to be whether the member should be assigned to the EQC, to an executive agency, or at all.

Brace Hayden, Western Interstate Energy: It could be handled by either the executive branch or the legislative branch.

Sen. Rassmussen: Do you feel that the executive branch isn't monitoring this adequately at this time?

Brace Hayden: The executive branch does many functions described in the bill, but it can't do all the functions in the bill. It is not a member of any western compact. WIE is simply a federal agency that sends out information.

Sen. Rassmussen: Would the Department of Health be the appropriate agency to have involved?

Mr. Hayden: The bill would have a member of the legislative branch participate in gathering information.

Dr. Drinan: The biggest problem for the department of Health is being spread too thin. We may need another staff person, and the only person educationally qualified in the state is Larry Lloyd. When we helped to design the bill, we thought it would be more appropriate to have a legislative representative on the board rather than a state official because he will probably to back to the legislature for action.

Brace Hayden: We get one notice a week of radioactive material going through the state, and the Governor needs to know this. This person will rely on the expertise of the Health Department.

Sen. Eck: Should Sec. 2, P.7, be deleted at this time?

Dr. Drinan: We could take this to the House where we could work out the appropriation further.

Sen. Jacobson moved to delete everything in the title following the word "management" on Line 6 and Section 2.

Sen. Rassmussen: Are we letting the House decide? I think it is appropriate for the Department of Health to handle this.

Dr. Drinan: We are doing that already and I would have no problem with that, if that would satisfy the intent of the bill.

George Ochenski, MEIC: Should Sen. Walker speak about what you are going to do to replace the stricken section?

Sen. Rassmussen: I would make a substitute motion to plug in the DHES in place of the EQC and accept the DHES amendment.

Dr. Drinan: Sen. Walker does not object to that.

ACTION ON S.B. 351: The amendments proposed by the DHES were moved (by Sen. Rassmussen) and passed unanimously.

Sen. Rassmussen moved that S.B. 351 DO PASS AS AMENDED. The vote in favor was unanimous.

FURTHER ACTION ON S.B. 371: Sen. Regan proposed some additional amendments to S.B. 371. They included amending the title of the bill, amendments to Lines 19-22, a new Sec. 4, P.2. Chairman Eck called for a motion to reconsider the afternoon action. Sen. Williams so moved. The motion carried unanimously.

Sen. Jacobson moved that the amendments be adopted. The motion carried unanimously.

Sen. Jacobson moved that S.B. 371 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON S.B. 353: Karen Renne addressed the amendments to the amendments on Sections 5 and 7. Steve Brown, BC-BS, stated that that is proprietary information which is Blue Cross's objection. There could be a confidentiality provision for that information, but the information may still have to be disclosed, enabling another company to take advantage of the work a previous company has done.

Jim Bourhardt, Chief Examiner, Auditor's Office, stated that they would like to know if the companies have reasonable plans, especially if they are a new start-up company. confidentiality of information will be a problem, if information on what one company does is available to other companies. Large companies will have the advantage in that they will have computer and auditing systems already available.

Steve Brown stated that if you lay out what you are charging a patient, that will be very valuable information to a competitor. Kathy Irigoine, Auditor's Office, stated that all that information is not required, but that other information like the premium charge will be. North Dakota has adopted the NAIC model, which is where this language came from.

Sen. Rassmussen moved to keep in the language to delete Amendment No. 7. The motion failed.

Amendment No. 25 is the "guts" of an HMO and they need to have it to operate. That amendment died for lack of a motion.

Sen. Rassmussen: What about quality of care?

SENATE PUBLIC HEALTH, WELFARE
AND SAFETY COMMITTEE
FEBRUARY 20, 1987
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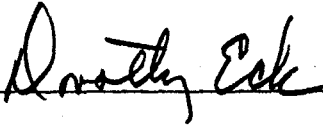
7:40 P.M.

Kathy Irigoine: Amendment # 9 takes care of this concern.

Sen. Jacobson moved that the amendments receive a DO PASS. The motion carried. Sen. Jacobson moved that S.B. 353 DO PASS AS AMENDED. The motion carried unanimously.

Sen. Rasmussen moved that the committee adopt the Statement of Intent. The motion carried unanimously.

Chairman Eck adjourned the meeting at 8:30 P.M.



CHAIRMAN

ROLL CALL

Public Health, Welfare and Safety COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2-20-87

7:30 PM

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		
Tom Hager			
Matt Himsl			

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE Public Health, Welfare and Safety

Date 2-20-87 Bill No. 353 Time 8:23

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

Ellen Nehring
Secretary

Dorothy Eck
Chairman

Motion: To delete Amendment 7.

STANDING COMMITTEE REPORT

SCR58351

February 11, 1967

MR. PRESIDENT

Public Health, Welfare, and Safety

We, your committee on.....

Senate Bill 351

having had under consideration..... No.....

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color

ENTERING PACIFIC STATES AGREEMENT ON RADIOACTIVE MATERIALS TRANSPORTATION

Respectfully report as follows: That..... Senate Bill..... No. 351.....

BE AMENDED AS FOLLOWS:

1. Title, lines 6 and 7.

Following: "AUTHORIZING THE"

Strike: "ENVIRONMENTAL QUALITY COUNCIL"

Insert: "DIRECTOR OF THE DEPARTMENT OF HEALTH AND
ENVIRONMENTAL SCIENCES"

2. Page 7, line 2.

Strike: "environmental quality council"

Insert: "director of the department of health and
environmental sciences"

AND AS AMENDED DO PASS

DO PASS

DO NOT PASS

.....
Chairman.

Senator Eck

STANDING COMMITTEE REPORT

SCRSB371

..... FEBRUARY 21, 1987

MR. PRESIDENT

Public Health, Safety, and Welfare

We, your committee on

Senate Bill

371

having had under consideration

FIRST reading copy (_____)
YELLOW color

No.

REGULATE PREFERRED PROVIDER ARRANGEMENTS

Respectfully report as follows: That..... Senate Bill..... No. 371.....

BE AMENDED AS FOLLOWS:

1. Title, lines 6 and 7.

Following: "INCENTIVES"

Strike: "OR LIMIT REIMBURSEMENT"

2. Title, line 9.

Strike: "IMMEDIATE"

3. Page 1, following line 15.

Insert: "(1) "Emergency services" means services provided after suffering an accidental bodily injury or the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that without immediate medical attention the subscriber or insured could reasonably expect that:
(a) his health would be in serious jeopardy;
(b) his bodily functions would be seriously impaired; or
(c) a bodily organ or part would be seriously damaged.

(2) "Health benefit plan" means the health insurance policy or subscriber arrangement between the insured or subscriber and the health care insurer that defines the covered services and benefit levels available."

Re-number: subsequent subsections

DO PASS

DO NOT PASS

.....
CONTINUED

Chairman.

February 21, 87

19.....

4. Page 2, lines 15 and 16.

Strike: "; (1) "

5. Page 2, line 16.

Strike: "; or "

Insert: "."

6. Page 2, lines 19 through 22.

Strike: subsection (1) in its entirety

Insert: "(2) A preferred provider arrangement issued or delivered in this state may not unfairly deny health benefits for medically necessary covered expenses."

Renumber: subsequent subsection

7. Page 3, line 1.

Insert: "Section 4. Incentives in health benefit plans.

(1) A health care insurer may issue a policy or a health benefit plan that provides for incentives for covered persons to use the health care services of preferred providers.

(2) The policy or health benefit plan must contain at least a provision that if a covered person receives emergency care for services specified in the preferred provider arrangement and cannot reasonably reach a preferred provider, the care rendered during the course of the emergency will be reimbursed as though the covered person had been treated by a preferred provider.

Section 5. Permissible provisions in provider arrangements, insurance policies, and subscriber contracts.

(1) A provider arrangement, insurance policy, or subscriber contract issued or delivered in this state may contain certain other components designed to control the cost and improve the quality of health care for policyholders and subscribers, including:

(a) a payment differential of not more than 25% between use of providers with arrangements with the health care insurer and use of providers without such arrangements. The commissioner may by rule determine appropriate differentials between copayments, deductibles, and other cost-sharing arrangements.

CONTINUED

February 21, 1987

19.....

(b) conditions, not inconsistent with other provisions of [sections 1 through 6], designed to give policyholders or subscribers an incentive to choose a particular provider.

(2) All terms or conditions of a provider arrangement, insurance policy, or subscriber contract are subject to the prior approval of the commissioner."

Remember: subsequent sections.

8. Page 3, line 5.

Strike: "section 3(1)(b)(ii)"

Insert: "sections 1 through 6"

9. Page 3, line 7.

Following: "through"

Strike: "4"

Insert: "6"

10. Page 3, line 9.

Following: "through"

Strike: "4"

Insert: "6"

11. Page 3, line 16.

Following: "date."

Strike: "This act is"

Insert: "sections 5 and this section are"

AND AS AMENDED,
DO PASS

STATEMENT OF INTENT ADOPTED AND ATTACHED

February 21, 1987

MR. PRESIDENT,

WE, YOUR COMMITTEE ON PUBLIC HEALTH, WELFARE, AND SAFETY, HAVING HAD UNDER CONSIDERATION SENATE BILL NO. 371, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
SENATE BILL NO. 371

A statement of intent is required for this bill because section 6 authorizes the commissioner of insurance to promulgate rules prescribing reasonable standards relating to the accessibility and availability of health care services for persons insured under policies or contracts described in section 3. The legislature intends that the rules adopted to implement this bill be designed to:

- (1) foster accessibility and availability of health care services; and
- (2) protect Montana health care insurance consumers.

The legislature further intends that the commissioner adopt rules to implement this act in accordance with 33-1-313, which permits the commissioner:

- (1) to make only reasonable rules that do not extend, modify, or conflict with any law of this state or with any reasonable implication of such law; and
- (2) to make or amend those rules only after a hearing of which notice has been given as required by 33-1-703.

STANDING COMMITTEE REPORT

SCRSB353

.....February 21..... 1967.....

MR. PRESIDENT

Public Health, Welfare, and Safety

We, your committee on.....

Senate Bill

353

having had under consideration..... No.....

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REGULATE HEALTH MAINTENANCE ORGANIZATIONS

Respectfully report as follows: That.....Senate Bill..... No. 353.....

BE AMENDED AS FOLLOWS:

1. Title, line 7.

Following: "SECTIONS"

Strike: "17-7-502 AND 33-22-111"

Insert: "33-1-102 AND 33-1-704"

2. Title, line 8.

Strike: "IMMEDIATE"

3. Page 2, following line 3.

Insert: "(1) care and treatment of mental illness,
alcoholism, and drug addiction;"

Reorder: subsequent subsections

4. Page 4, following line 9.

Insert: "(12) "Plan" means a health maintenance
organization operated by an insurer or health service
corporation as an integral part of the corporation and
not as a subsidiary"

Reorder: subsequent subsections

5. Page 5, lines 14 and 15.

Following: "30 days"

Strike: "of [the effective date of this act]"

Insert: "after the effective date of rules
adopted by the commissioner and the department of
health as provided in [section 20]"

DO PASS

DO NOT PASS

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CONTINUED

.....
Chairman.

February 21, 1987

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6. Page 8, lines 16 through 22.
Strike: subsection (viii) in its entirety
ReNUMBER: subsequent subsections
7. Page 10, lines 19 through 24.
Strike: subsection (xvi) in its entirety
ReNUMBER: subsequent subsections
8. Page 11, line 23.
Following: "may"
insert: ",after notice and hearing,"
9. Page 13, lines 5 and 6.
Following: "health care"
Strike: "processes and outcomes"
insert: "availability, accessibility, and continuity of
service"
10. Page 13, line 14.
Following: "withia"
Strike: "90"
insert: "60"
11. Page 13, line 19.
Following: "shall"
insert: ",after notice and hearing,"
12. Page 14, line 3.
Following: "initial"
Strike: "90-day"
insert: "60-day"
13. Page 14, lines 12 and 13.
Following: "competent"
Strike: remainder of line 12 through "reputation" on line
13
insert: "and trustworthy"
14. Page 15, lines 24 and 25.
Following: "investigation,"
Strike: "is contrary to the public interest"
insert: "violates any provision of [sections 1 through 29]
or rules adopted by the commissioner or the department
of health"

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15. Page 22, line 8.

Following: "provision"

Strike: "offering"

Insert: "requiring"

16. Page 26, line 5.

Strike: "Each"

Insert: "Unless it is operated by an insurer or a health
service corporation as a plan, each"

17. Page 26, line 13.

Following: "may"

Insert: ", after notice and hearing,"

18. Page 27, line 6.

Following: "through 29]"

Insert: ", including but not limited to a statement of
operations, transactions, and affairs of a health
maintenance organization operated by an insurer or a
health service corporation as a plan"

19. Page 27, line 9.

Strike: "promptly"

Following: "enrollees"

Strike: "notice"

Insert: "30 days' advance notice, in writing,"

20. Page 29, lines 4 and 5.

Following: "prescribed in"

Strike: "rules adopted by the commissioner"

Insert: "Title 33, chapter 1, part 8"

21. Page 33, line 7.

Following: "(9)"

Strike: "Each"

Insert: "Unless it is operated by an insurer or a health
service corporation as a plan, each"

22. Page 34, lines 1 through 5.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

CONTINUED

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23. Page 35, line 28.

Following: "organization;"

Strike: "or"

24. Page 35, following line 25.

insert: "(e) has violated rules of the health maintenance
organization stated in the evidence of coverage;(f) has violated rules adopted by the
commissioner for enrollment in a health maintenance
organization; or"

Re-number: subsequent subsection

25. Page 36, lines 20 and 21.

Strike: "except failure to pay required premiums"

insert: "not listed in subsection (3) or provided in rules
adopted by the commissioner"

26. Page 36, line 25.

Following: "period of"

Strike: "36"

insert: "12"

27. Page 37, line 8.

Strike: "except failure to pay required premiums"

insert: "not listed in subsection (3) or provided in rules
adopted by the commissioner"

28. Page 40, line 12.

Following: "examine the"

Strike: "quality"

insert: "availability, accessibility, and continuity"

29. Page 43, line 2.

Following: "director"

insert: ", after notice and hearing,"

CONTINUED

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30. Page 47, line 3.

Following: "(3)"

Strike: remainder of subsection (3) in its entirety

Insert: "Where notice and hearing are required with regard to actions taken by the commissioner under [sections 1 through 29], the requirements of 33-1-314 through 33-1-316 and Title 33, chapter 1, part 7, apply, except that the formal rules of pleading and evidence must be observed. To the extent that 33-1-314 through 33-1-316 and Title 33, chapter 1, part 7, do not address the notice and hearing requirements of [sections 1 through 29], the provisions of Title 2, chapter 4, parts 6 and 7, apply.

(4) Where notice and hearing are required with regard to actions taken by the director under [sections 1 through 29], the provisions of Title 2, chapter 4, parts 6 and 7, apply."

31. Page 47, lines 21 through 24.

Following: "functions"

Strike: ", other than examinations."

Following: "chapter."

Strike: remainder of subsection (3) in its entirety

Insert: "These fees must be deposited in the general fund."

32. Page 48, following line 2.

Insert: "after notice and hearing"

33. Page 48, lines 8 through 11.

Following: "citation."

Strike: remainder of subsection (1) in its entirety

34. Page 48, line 12.

Following: "(2)"

Strike: "(a)"

ReNUMBER: subsections (i) through (iii) as (a) through (c)

35. Page 48, line 25, through line 6 on page 49.

Strike: subsection (b) in its entirety

36. Page 52, line 6.

Following: "accepted"

Insert: "or rejected"

37. Page 53, lines 5 through 13.

Strike: subsection (1) in its entirety

CONTINUED

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38. Page 53, line 19.

Strike: "(2)"

Following: "state"

Insert: "that offers its employees the option to enroll in a health maintenance organization and an employee benefit fund in this state that offers its members the option to enroll in a health maintenance organization"

39. Page 53, lines 20 and 21.

Following: "benefits"

Strike: "as a result of the application of this section"

Insert: "provided by the health maintenance organization"

40. Page 54, lines 2 and 4.

Strike: "(a)" and "(b)"

Insert: "(1)" and "(2)" respectively

41. Page 54, line 7, through line 7 on page 58.

Strike: sections 30 and 31 in their entirety

Insert: "Section 30. Section 33-1-103, MCA, is amended to read:

"33-1-103. Compliance required -- exceptions -- health service corporations. (1) No person shall transact a business of insurance in Montana or relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) No provision of this code shall apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 5, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code shall not apply to health service corporations to the extent that the existence and operations of such corporations are authorized by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations to the extent that the existence and operations of such organizations are authorized by [this act].

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Section 31. Section 33-1-704, MCA, is amended to read:

"33-1-704. Hearing procedure. (1) All hearings shall be open to the public unless closed pursuant to the provisions of 2-3-203.

(2) The commissioner shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his interest, and to have subpoenas issued by the commissioner to compel attendance of witnesses and production of evidence in his behalf.

(3) The commissioner shall permit to become a party to the hearing by intervention, if timely, any person who was not an original party thereto and whose pecuniary interests will be directly and immediately affected by the commissioner's order made upon the hearing.

(4) ~~Formal~~ Except as provided in [section 21], rules of pleading or evidence need not be observed at any hearing.

(5) Upon written request seasonably made by a party to the hearing and at that person's expense, the commissioner shall cause a full stenographic record of the proceedings to be made by a competent reporter. If transcribed, a copy of such stenographic record shall be furnished to the commissioner without cost to the commissioner or the state and shall be a part of the commissioner's record of the hearing. If so transcribed, a copy of such stenographic record shall be furnished to any other party to such hearing at the request and expense of such other party. If no stenographic record is made or transcribed, the commissioner shall prepare an adequate record of the evidence and of the proceedings."

41. Page 58, lines 15 and 16.

Following: "applicability."

Strike: "This act is"

Insert: "Section 20 and this section are"

Strike: "and" on line 16

Insert: ". This act"

AM AS AMENDED,

DO PASS

Senator Eck

February 21, 1987

MR. PRESIDENT,

WE, YOUR COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY
HAVING HAD UNDER CONSIDERATION SENATE BILL NO. 353, ATTACH THE
FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

Senate Bill No. 353

A statement of intent is required for this bill because:

(1) it authorizes the commissioner of insurance of the state of Montana (commissioner) and the department of health and environmental sciences to adopt, after notice and hearing, reasonable rules necessary or proper to effectuate sections 1 through 29;

(2) section 3 authorizes the commissioner to make reasonable rules exempting a health maintenance organization from having to file a notice with the commissioner describing material modifications of information required in an application for a certificate of authority if the commissioner considers the information unnecessary; and

(3) section 5 authorizes the commissioner to make reasonable rules exempting a health maintenance organization from having to file a notice with the commissioner before exercising the powers granted in subsection (1)(a), (1)(b), or (1)(d) if the commissioner believes exercising those powers will have de minimis effect. The legislature expects the commissioner to make only reasonable rules necessary to effectuate or aid the effectuation of sections 1 through 29. The legislature does not authorize the commissioner to adopt rules that extend, modify, or conflict with either any law of this state or any reasonable implications of those laws. If reasonably possible, the commissioner shall set forth a proposed rule or amendment to a rule in or with the required notice of hearing. No rule or amendment to a rule by the commissioner is effective until it has been on file in the commissioner's office for at least 10 days.

In adopting rules prescribing investment regulations, the commissioner shall use the NAIC Model Health Maintenance Organization Investment Guidelines.

The commissioner and the department are urged to look to regulations adopted by the state of Minnesota in implementing chapter 62D of the Minnesota insurance code.

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