

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By Senator Tom Hager, on March 17, 1989, at
12:45 p.m., Room 410, State Capitol

ROLL CALL

Members Present: Senators Tom Hager, Chairman; Tom
Rasmussen, Vice Chairman; J. D. Lynch, Matt Himsl, Bill
Norman, Bob Pipinich

Members Excused: Harry H. McLane

Members Absent: None

Staff Present: Tom Gomez, Legislative Council
Dorothy Quinn, Committee Secretary

Announcements/Discussion: None

EXECUTIVE ACTION ON SENATE BILL 270

Chairman Hager called for action on SB 270: This bill established standards for training and accreditation for asbestos workers; allowed the Department of Health and Environmental Sciences to require permits for asbestos projects and charge fees of persons working with asbestos; allowed the Department to establish criteria for asbestos projects; and provided for criminal and civil penalties.

Discussion: Senator Hager explained that the committee would vote on SB 270 and he would hold it until SB 259, which is an exemption from the Sunrise provisions, was signed by the Governor.

Recommendation and Vote: Senator Lynch made a MOTION THAT SENATE BILL 270 DO PASS. Senators in favor, 5; opposed, 0. IT IS RECOMMENDED SENATE BILL 270 DO PASS.

EXECUTIVE ACTION ON HOUSE BILL 688

Chairman Hager called for action on HB 688: Senator Hager advised this bill allowed Registered Nurses employed by family planning clinics to dispense prepackaged

prescription contraceptives.

Discussion: Senator Lynch stated he believed the present system of dispensing is totally inadequate. It was his suggestion that the pharmacists' amendments be passed; see how it works for two years, and then if it is inadequate, support the bill as it was presented. Senator Rasmussen stated he believed that would be a good, common sense approach.

Senator Hims1 stated he believed it should be limited to a 30-day supply.

Representative Simon, sponsor of the bill, pointed out that the person from Missoula who testified against the bill does not see the volume of people that the family planning clinics see.

Senator Rasmussen stated that Dr. Jack McMahon feels that the amendments are appropriate.

Recommendation and Vote: Senator Lynch made a MOTION THAT THE AMENDMENTS PRESENTED BY THE PHARMACISTS BE ADOPTED. Senators in favor, 5; opposed, 1 (Hager).

Senator Lynch then made a MOTION THAT HOUSE BILL 688 BE CONCURRED IN AS AMENDED. Senators in favor, 6; opposed, 0.

EXECUTIVE ACTION ON HOUSE BILL 458

Chairman Hager called for action on HB 458: Senator Hager stated that this act established parents' rights regarding the birth of a baby; and exempted direct-entry midwives from the medical practice act. This bill is commonly referred to as the Midwives Bill.

Discussion: Senator Pipinich stated he wished to show his file which contained approximately 370 letters in support of this bill. Senator Hager added that there is much lobbying on this bill, adding he received 75 phone calls two days ago, and 65 yesterday all HB 458.

Senator Lynch stated he had some major concerns that he wished to put in the form of amendments. His first amendment would require filing of certain affidavit certifying that he or she has completed the emergency childbirth training segment of a state approved emergency training program within 12 months of the effective date of this act. Mona Jamison, Attorney for the Midwives, stated she agreed to this amendment.

Recommendation and Vote: Senator Lynch made a MOTION THAT AMENDMENT BE ADOPTED. Senators in favor, 7; opposed, 0. AMENDMENT ADOPTED.

Discussion: Senator Norman stated that the medical system is put under much stress and liability if a midwife brings in a patient already in labor with apparent complications. In order to correct that situation he stated he wished to propose an amendment stating that a physician, nurse or hospital would not be liable for civil damages for acts or omissions other than those caused by gross negligence. In answer to a query by Senator Rasmussen, Senator Norman explained that if a physician has had no previous medical contact with the patient or the baby, the amendment would apply. However, if he has been taking care of a patient along with a midwife, then he possibly would be on weak ground arguing that he is not responsible. Senator Rasmussen wondered if the wording should be a little "finer". Senator Himsl stated that the amendment does not give total absolution to a doctor, but it does establish a defense in the event he needs one.

Recommendation and Vote: Senator Norman made a MOTION THAT HIS AMENDMENT REGARDING LIABILITY BE ADOPTED. Senators in favor, 5, opposed, 2 (Rasmussen and Pipinich). AMENDMENT ADOPTED.

Discussion: Senator Lynch stated he wished to present another amendment which would prohibit direct-entry midwives from prescribing, dispensing or administering drugs. Senator Rasmussen asked if the midwives' lobbyist could quickly explain what the midwives do currently in this regard. Mona Jamison stated that she has no problem with the proposed amendment. It was her belief that it is a restatement of the current law. She stated she understands they use no drugs in the birthing process. She believed in the lawsuit mentioned in the testimony it was brought up whether or not medication was used after the birth. Senator Lynch advised that Ms. Browder said that on rare occasions she uses pitosin.

Recommendation and Vote: Senator Lynch made a MOTION THAT THE AMENDMENT BE ADOPTED. Senators in favor, 7, opposed, 0.

Discussion: Senator Lynch stated his last concern regarded liability insurance for lay midwives. He asked Ms. Jamison why lay midwives could not get liability insurance. Ms. Jamison stated she is no expert on insurance but she did know that there is no malpractice insurance available in the United States for direct

entry midwives because they are not licensed. She stated she cannot explain why insurance companies do not offer it. She stated that she knows that no consumer in Montana has ever sued a midwife. One theory suggests that the relationship of trust and friendship has much to do with the incidence of lawsuits. She reiterated that malpractice insurance is not available to lay midwives.

Recommendation and Vote: Senator Lynch presented an amendment requiring liability insurance for a person practicing direct-entry midwifery. Senator Lynch made a MOTION THAT THE AMENDMENT BE ADOPTED. Senators in favor, 2; opposed, 5. AMENDMENT NOT ADOPTED.

Recommendation and Vote: Senator Rasmussen made a MOTION THAT HOUSE BILL 458 BE CONCURRED IN AS AMENDED. Senators in favor, 6; opposed 1 (Lynch).

Senator Rapp-Svrcek will carry HB 458 to the Senate floor.

HEARING ON HOUSE JOINT RESOLUTION 24

Presentation and Opening Statement by Sponsor: Robert Pavlovich, Representative of House District #70, stated that House Joint Resolution 24 is a resolution that urges our Secretary of State and the Department of Veterans Affairs in Washington, D.C. to do something about nursing homes in Montana. There is a 26 bed nursing home in Miles City and 60 beds in Columbia Falls. Presently there are 106,000 veterans in Montana. Soon there will be 20,000 to 30,000 who will be in the age group of 60 and over, and there must be a place for them. This resolution was adopted in the early 70's and was sent to Washington in 1979.

List of Testifying Proponents and What Group they Represent:

John Sloan, Commander, Military Order of the Purple Heart, Helena
Hale Manson, American Legion
Walt Wheeling, Ex-POWs, ADABC
John DenHerder, Department of Montana Disabled American Veterans
George Poston, United Veterans of Montana
Rich Brown, Montana Board of Veterans Affairs

List of Testifying Opponents and What Group They Represent:

None

Testimony:

John Sloan stated he is the current Commander of the Military Order of the Purple Heart and added that he has had much experience writing up resolutions to point out the inadequacies of veterans nursing home facilities. He stated this would cost the State of Montana nothing; it would simply call attention to the fact of the shortage of nursing beds in Montana. He informed that over 60% of the veteran population live within 150 miles of Fort Harrison. The construction of the VA hospital and nursing home at Fort Harrison has been delayed on seven different occasions, and now has been set back to 1992. He asked the committee to see fit to pass this Resolution.

Hal Manson, representing the American Legion of Montana, stated that they have been hoping that a nursing facility would be built at Fort Harrison for the past ten years. He stated this resolution would be a "nudge" and the American Legion would appreciate the passage of HJR 24.

Walt Wheeling, representing the American Ex-Prisoners of War, and the American Defenders of Bataan and Corrigidor, of which there are approximately 350 members in Montana, stated they wholeheartedly support this Resolution.

John DenHerder, Legislative Director for Montana Disabled Veterans. The Veterans of age 75 or older will triple within the next 15 years. The need gets greater. There is a health care crises going on nationally with the Veterans Administration. He encouraged the committee to get the information back to the Congress to encourage them to do something in this crises.

George Poston, speaking for the United Veterans of Montana, stated that the need is growing greater everyday for nursing home beds. This Joint Resolution would serve as a reminder to the representatives in Washington that the nursing home is needed, and motivate them to provide the nursing home that they promised ten years ago.

Rich Brown, Administrator of Montana Veterans Affairs, speaking on behalf of Bob Durkee, Chairman, and the entire Montana Board of Veterans Affairs, advised they have unanimously endorsed this Resolution and ask for the committee's concurrence.

Questions From Committee Members: Senator Himsl asked what

is the status of the Miles City hospital. Rich Brown advised that there have been recommendations at different times about turning hospital beds into nursing beds. The chances of seeing that happen are very unlikely, he hopes, because they are also short of hospital beds throughout Montana. The Miles City facility will face over a \$1,000,000 shortfall this year if there is not a supplemental budget passed. That could very well cause some additional closing in Miles City, which has already dropped 20 beds out of 94.

Senator Hims1 added that the only reason Miles City and Fort Harrison beds are not full to capacity is that they do not have the money.

Closing by Sponsor: Representative Pavlovich stated they would like to have this Resolution sent on to Washington.

DISPOSITION OF HOUSE JOINT RESOLUTION 24

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Lynch made a MOTION THAT HOUSE JOINT RESOLUTION 24 BE CONCURRED IN. Senators in favor, 5; opposed, 0. MOTION PASSED UNANIMOUSLY.

Senator Lynch will carry House Joint Resolution 24 to the floor of the Senate.

HEARING ON HOUSE BILL 524

Presentation and Opening Statement by Sponsor: Stella Jean Hansen, Representative from House District #57, advised that this is not a complicated bill. It is an act which expands the definition of medical assistance for medicaid to include health services by a public health department. She explained that, as an example, when a doctor refers a patient to the Health Department for a flu shot, the doctor can collect Medicaid.

List of Testifying Proponents and What Group they Represent:

Yvonne Bradford, Missoula County Health Department
Bob Johnson, Director, Lewis and Clark County Health
Department

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Yvonne Bradford, Missoula City-County Health Department, stated she is speaking in support of HB 524. She stated the bill would actually provide an additional definition of medical assistance for Medicaid. She read and presented her written testimony to the committee (Exhibit #1).

Bob Johnson, Director of Lewis and Clark City-County Health Department, stated that they support this bill. He also speaks on behalf of some other urban health departments in the state. He explained that their medical directors have two Medicaid numbers, one for themselves and one for services provided through the Health Department. This causes a confusing and questionable arrangement to allow health departments to be reimbursed for services that they provide to Medicaid clients. This bill would allow a health department to have its own Medicaid number, and then when physicians ask a health department to provide services to Medicaid clients, the health department can bill under its own number. He reiterated his support for HB 524, and asked that the committee pass it.

Questions From Committee Members: Representative Hansen and Yvonne Bradford answered questions from the committee which clarified the reimbursement procedures used by the health departments for allowable services.

Closing by Sponsor: Representative Hansen stated that the only reason for mentioning the doctor was that when a Medicaid patient goes to a doctor and receives his services, the doctor can be reimbursed by Medicaid. If he sends the child to the Health Department and they provide the service, they were not eligible to collect the Medicaid allowance. She stated the fiscal note indicates there would be no impact on the General Fund.

DISPOSITION OF HOUSE BILL 524

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Lynch MOVED THAT HOUSE BILL 524 BE CONCURRED IN. Senators in favor, 6;

opposed, 0. RECOMMENDED BE CONCURRED IN.

Senator Norman will carry HB 524 to the Senate floor.

HEARING ON HOUSE BILL 593

Presentation and Opening Statement by Sponsor: Angela

Russell, Representative from House District #99, stated that she is presenting HB 593 which is a bill requiring counseling for a person convicted of domestic abuse for the first or second time. The Domestic Abuse Act was passed in 1985 and it does require, upon conviction, certain fine. On the third conviction there is the possibility of prison sentence. She reminded the committee that 90% of the victims are women, and many communities offer counseling programs either on an individual or group basis for victims. She pointed out that 90% of the batterers are men. It is her observation that much attention is given to women, but there are few programs for men. She provided data indicating that in 1985, there were 6 temporary restraining orders in domestic abuse cases; in 1988, there were 221. The Department of Institutions 1988 data shows there are presently four offenders in the state prison for domestic abuse. The cost to the state is about \$13,000 per year in state prison, which amounts to about \$52,000 for the four. The cost of domestic abuse to society is substantial. Counseling for the batterer is essential if there is to be any impact on behavioral changes in the batterer. A similar law seems to be working for DUI offenders. She urged the committee to give favorable support to this bill. She stated she was requested to provide an amendment that would require training for those individuals who would be giving counseling. She handed out copies of the amendment which would require 16 hours of training in dealing with an offender.

List of Testifying Proponents and What Group they Represent:

Judith Carlson, Montana Chapter of National Association
of Social Workers
Steve Waldron, Montana Council of Mental Health Centers
Wally Jewell, Montana Magistrates Association
Ted Doney, Montana Health Association of Montana, and
Montana Mental Health Consortium
Nancy Griffin, Women's Lobby

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Judith Carlson stated she is testifying on behalf of the Montana Chapter of the National Association of Social Workers. She stated they support HB 593. She stated this is an area that has received much attention recently and she wished to emphasize that the attention has primarily been on the victims, but in order to interrupt the cycle the people who are doing the battering must be reached. The proposed counseling would be worthwhile. The amendment would be acceptable since it would make sure the counselor had training in that particular area.

Steve Waldron, Executive Director of the Montana Council of Mental Health Centers, stated he is also President of the Board of Directors of the Friendship Center in Helena. He stated that at the Friendship Center they are finding that they are able to deal with children and mothers who have been abused, but there is real lack of programs for the offender. They find that battering is a learned behavior and battered children or those who observe their mothers being battered turn out to be offenders themselves. He requested consideration of an additional amendment which would include a professional person as defined in 53-21-102.

Wally Jewell stated that he is a former City Judge of Havre. He advised that during his four years as City Judge, the Department had 75 cases of domestic abuse come before the Court. About 50 cases were actually taken before court. He agreed with Representative Russell regarding the fact the counseling for DUI offenders has proved effective. He believes if there would be mandatory counseling for domestic abuse violators, that too would be effective. Regarding the amendment proposed by Rep. Russell, he questioned whether the court would be qualified to approve counseling programs for domestic abuse. Otherwise he supported the amendment. He presented written testimony (Exhibit #2).

Ted Doney, representing the Mental Health Counselors Association of Montana and the Mental Health Association of Montana, stated they would like to go on record as supporting HB 593. He did not commit support of the amendment until he had time to study it further.

Nancy Griffin, Women's Lobby, stated they would like to go on record in support of HB 593. She stated an important section of the bill was that the counseling must be directed to the violent conduct of the

convicted person, which is important because although this type of behavior may overlap with other types of behavior, this is a more specific issue and should be addressed. She urged a do pass recommendation. She also wondered if the court is the appropriate agency to approve these programs.

Questions From Committee Members: Senator Lynch asked what happens in the case of an indigent who is unable to pay for the counseling. Representative Russell stated she hoped that some kind of arrangements could be worked out. Senator Lynch stated the urban areas could probably handle the program, but he was concerned about the rural areas. He wondered if the Welfare Department would pick up such an expense. Rep. Russell stated that if the persons in question were eligible for Medicaid, it would probably be covered by Medicaid.

Senator Rasmussen asked if there are domestic abuse offender counselors out in the field. Rep. Russell stated they are such counselors, and to her knowledge there are some very specific programs. Senator Rasmussen asked how they become a domestic abuse counselor. She replied that there are courses that are offered through professional organizations. She stated that several years ago there was a program at the University of Washington in Seattle that specifically dealt with working with battered women, and she took a forty-hour course.

Senator Himsl asked if would be possible to take a 16-hour course and become a counselor. Rep. Russell stated the 16 hours would be in addition to their prior professional training.

Senator Norman asked if in the case of someone who has been doing psychiatry or psychology for 20 years and had dealt with several domestic abuse cases, would they have to complete 16 hours of training in a domestic abuse program. Rep. Russell responded by stating that if they had the experience and training, they would be approved as counselors. Senator Norman asked if the court has been referring these types of cases over the years to a particular practitioner, under this amendment could the court continue to do so. Rep. Russell stated she did not believe that there have been referrals for counseling for domestic violence. She added that there are many domestic abuse coalitions throughout the State of Montana and they are a network throughout the state, and have been in the business for some time and have much up-to-date info about programs available to them. She said the bottom line is that

something must be done for the offender, but the counselor must have some special training. She added that there are probably individuals at Eastern Montana College who possibly could develop a program for treating the offender.

Judith Carlson informed that the Montana Chapter of Association of Social Workers does sponsor several workshops on various topics and this would be the kind of thing where they bring in an expert and offer a three or four day workshop inviting people to come and get that type training. She believed it would be available.

Senator Hager also stated he did not believe the court should be the entity to approve the counseling program. He questioned whether the court was knowledgeable enough to approve the course. Rep. Russell agreed, and added that two other possible options would be the Board of Social Worker Examiners or the Montana Coalition Against Domestic Violence.

Senator Norman asked if the physicians and psychologists could be approved by their licensing boards. Rep. Russell stated that would be agreeable.

Closing by Sponsor: Representative Angela Russell stated that HB 593 requires some deliberation and thought on the part of the committee. It is a continuing problem and affects children. She stated that in Billings she is involved in a group for battered women, and as part of that the YWCA has started a program for children. It is a continuing cycle of violence. She urged the committee's favorable consideration.

DISPOSITION OF HOUSE BILL 593

Discussion: None

Amendments and Vote: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 661

Presentation and Opening Statement by Sponsor: Jim Rice, Representative of House District #43, stated he is the sponsor of HB 661, which bill was requested by the Department of Health. In essence, he believes this bill says VD is out and STD is in. STD stands for

sexually transmitted diseases and most of this bill consists of going through all of the codes and changing the language from "venereal disease" to "sexually transmitted disease" and also adding some new diseases that have become problems and the Department wants the authority to regulate as they do other diseases. The additional diseases are aids and chlamydia genital infections. He stated there are some minor changes regarding reporting and record keeping requirements. He pointed out Section 8 regarding release of information concerning those people who have these particular diseases. This bill adds permissible release to a local health officer who is dealing with the particular problem, as well as tying into HB 668 which regards release of health care information by governmental agencies, then information can also be released regarding diseases consistent with what that bill provides. Section 18 repeals the law prohibiting advertising or sale of contraceptives.

List of Testifying Proponents and What Group they Represent:

Bruce Desonia, Montana Health Department
Bob Johnson, Chairman, Montana State Health Department

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Bruce Desonia, Program Officer with the AIDS/STD program with the Department of Health, stated he is submitting testimony on behalf of HB 661. He informed that Section 1 simply adds two new diseases (aids and chlamydia genital infections) to a list of defined STDs. Chlamydia became a reportable disease in Montana in 1987. He pointed out the changes in Sections 1, 2, 4, 5, 8 and 9. He presented written testimony explaining the proposed changes (Exhibit #3).

Bob Johnson, Chairman of Montana State Health Department Aids Advisory Council, stated that council is composed of all of the health care providers that provide service in caring for aids clients. Membership on that council also includes people who are directly affected by aids. That advisory committee supports HB 661, and requests passage of the bill by the committee.

Questions From Committee Members: None

Closing by Sponsor: Representative Rice closed without further comments.

DISPOSITION OF HOUSE BILL 661

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Pipinich made a MOTION THAT HOUSE BILL 661 BE CONCURRED IN. Senators in favor, 6; opposed, 0. MOTION PASSED UNANIMOUSLY.

Senator Hager will carry HB 661 to the Senate floor.

HEARING ON HOUSE BILL 668

Presentation and Opening Statement by Sponsor: Mary McDonough, Representative of House District #89, stated that this bill specifies the circumstances under which the Department of Health and Environmental Sciences and local health departments may release health care information from their records. She stated Montana was the first state in the nation to adopt the Confidentiality of Health Care Information Act, and this was the statute that guaranteed the non-release of information in health care facilities in a manner that would violate the rights of clients. The same type of statute gave these clients the right to review their own health care information. This statute relates to confidentiality requirements in the public health sector rather than in medical facilities. She said the privacy of individuals is especially important to insure that follow-up work is done, testing is completed, and treatment is incurred particularly in the area of HIV infections. Until confidentiality of all aspects relating to the aids virus can be assured, people needing such testing and counseling simply will not come forward. The basis for the statute was a prototype developed by the U. S. Public Health Service. This act in Montana was made so that information about an individual suffering from a communicable disease could not be shared in a manner which identifies them to anyone other than public health officials or medical treatment persons requiring that information. She feels this bill will improve aids control efforts in Montana by assuring citizens protection from discrimination that could be caused by disclosure of information concerning communicable diseases of all types.

List of Testifying Proponents and What Group they Represent:

Judith Gedrose, State Epidemiologist, Department of
Health and Environmental Sciences
Bob Johnson, Chairman, State Health Department Aids
Advisory Council

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Judith Gedrose, State Epidemiologist, DHES, stated that Rep. McDonough provided good information about HB 668. She stated that those in Public Health for several years are aware of the need to be confidential about persons when they are working on sexually transmitted disease cases. She presented written testimony for the committee's study (Exhibit #4).

Bob Johnson, Chairman, State Health Department Aids Advisory Council, stated he wished to add that the Council has reviewed this bill and they support its passage. He also indicated that in order for Public Health people and other health providers to be effective in the control of sexually transmitted diseases, the trust of those people who are affected by those diseases must be maintained. In most cases these people are self-referred and people who think they might have HIV or other type of sexually transmitted disease will not come forward and receive treatment if they feel that their privacy can be jeopardized by doing so. To continue to guarantee the trust of these people, they support passage of this legislation.

Questions From Committee Members: Senator Rasmussen pointed out that he and Mr. Gomez were discussing a point. He requested Tom Gomez to explain to the committee their concern. Mr. Gomez stated that there was an issue discussed by this committee resulting in an amendment in another bill (SB 437) concerning the application of the provisions of Title 50, Chapter 16 concerning the disclosure of health care information to persons needing to know such information because they are providing health care to the patient. This appears to be absent from the listing of the revisions on Page 3, line 2 as to the allowance of the disclosure of health care information. Mr. Gomez wondered to what extent

they might have a problem in what they have done in the other bill, and whether or not it has been resolved in this bill.

Senator Hager stated that they would have Tom Gomez of the Legislative Council to check it out over the weekend.

Senator Rasmussen asked how this bill changed things for a person who has aids. Judith Gedrose stated that the public health facilities cannot give out information without the patient's consent. Senator Rasmussen asked if at the present time would a public health official tell a spouse if their partner had aids. Ms. Gedrose stated she did not know that answer.

Senator Norman advised that question came up with his bill, SB 437. The Health Department at that time advised that they would make every effort to do as would be done in private practice but there is no commitment that they would refuse to do the test if the partner refused to inform his partner of the results.

Senator Himsl asked Bob Johnson what is the purpose of testing if the partner involved doesn't know. Mr. Johnson stated that in reference to aids, because it doesn't have a cure, the follow up conducted on aids is different from other sexually transmitted diseases that do have cures. Because the only defense against aids is education, they do conduct anonymous testing and consider it a victory of sorts if they are able to get anyone in their office who is worried about having the HIV virus and who wants to have the test. During the process of testing that individual, he is given intensive pre and post test counseling. Much of this counseling has to do with the actual mechanism of giving the test or what the test means. Most of the counseling relates to aids and indicates how important it is for him to name his sexual contacts. Their department makes every effort to get the names of the contacts of that person and then they contact those people and tell them they have had sexual contact with a person who has the aids virus and they go through the same process with that person as they do with the person in the initial contact. However, they never tell the name of the person who has indicated they are a sexual contact. There have been instances where a married man showed positive on the HIV test and the Department was confronted with the serious problem of contacting the wife. They worked intensively in two instances with married men and the men finally agreed to go with department representatives to speak with

their wives. Had the husbands not agreed, the Department would have told the wife she has had sexual contact with a person who has the aids virus, not naming the individual.

Senator Rasmussen commented that when you are not telling the wife in this case the name of the infected person, you are within the law. However, he is concerned about the public health. Mr. Johnson stated when the Department addresses the aids problem, they have to be concerned with the public health concerns. He stated in the future when there might be a number of drugs effective in treating aids, the issue of following up on sexual contacts is going to become more and more important. They feel they cannot lose the people who will self identify and come in for the test. They cannot push too hard. In the case of informing a wife, he believes they are on questionable legal ground and that makes lots of public health people very nervous. In the case of their own department, they will make the choice and have made the choice to inform the wife.

Senator Rasmussen stated that it seems like that worry should be removed by a change in the law. Mr. Johnson stated that if such a bold step would be taken in the direction of making sure that the HIV condition is made known at least to the wife, they would lose all married men who might be brave enough and conscientious enough to be tested.

Closing by Sponsor: Representative McDonough said she believed the discussion was very good, and added she believes the bill draws a balance between a person's right to privacy and the public right to know.

DISPOSITION OF HOUSE BILL 668

Discussion: Chairman Hager stated Tom Gomez would look into the matter of how this bill meshes with SB 437.

Amendments and Votes: None

Recommendation and Vote: None.

EXECUTIVE ACTION ON HOUSE BILL 378

Chairman Hager called for action on HB 378: Chairman Hager stated that HB 378 required the Board of Nursing to establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of drugs or alcohol.

Discussion: None

Recommendation and Vote: Senator Rasmussen made a MOTION THAT HOUSE BILL 378 BE CONCURRED IN. Senators in favor, 6; opposed, 0. MOTION PASSED UNANIMOUSLY.

Senator Rasmussen will carry HB 378 to the floor of the Senate.

EXECUTIVE ACTION ON HOUSE BILL 102

Senator Hager called for action on HB 102: Chairman Hager advised that the sponsor had indicated he wished to have HB 102 tabled. The committee had passed the bill on March 10, 1989, but it was not officially moved out of committee.

Discussion: It was decided to reconsider the committee's action on HB 102.

Recommendation and Vote: Senator Pipinich made a MOTION TO RECONSIDER ACTION ON HB 102. Senators in favor, 5; opposed, 0. MOTION PASSED UNANIMOUSLY.

ADJOURNMENT

Adjournment At: 2:45 p.m



SENATOR TOM HAGER, Chairman

TH/dq

Senmindq.317

SENATE STANDING COMMITTEE REPORT

March 17, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration SB 270 (first reading copy -- white), respectfully report that SB 270 do pass.

Sponsor: Williams

DO PASS

Signed: _____

Thomas O. Hager
Thomas O. Hager, Chairman

41.0.154
31235
5 p.m.

SENATE STANDING COMMITTEE REPORT

page 1 of 2
March 20, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 688 (third reading copy -- blue), respectfully report that HB 688 be amended and as so amended be concurred in:

Sponsor: Simon (Hager)

1. Page 2, lines 7 through 15.

Strike: subsection (f) in its entirety

Insert: "(f) the dispensing of the first month's cycle, or one month's emergency cycle in the event of an unscheduled appointment, of factory prepackaged oral contraceptives by a registered nurse employed by a family planning clinic under contract with the department of health and environmental sciences if:

(i) the dispensing is in accordance with a physician's written protocol specifying the circumstances under which dispensing is appropriate; and

(ii) a registered pharmacist has prelabeled the factory packaged oral contraceptive for use as an initial or emergency cycle in accordance with Class IV regulations contained in Rule 8.40.706, Administrative Rules of Montana. The registered nurse shall complete the label by adding the patient's name and date of issue."

2. Page 3, lines 17 through 24.

Strike: subsection (5) in its entirety

Insert: "(5) nothing in this chapter prevents a registered nurse employed by a family planning clinic under contract with the department of health and environmental sciences from dispensing the first month's cycle or an emergency cycle of a factory prepackaged oral contraceptive if:

(a) the dispensing is in accordance with the physician's written protocol specifying the circumstances under which dispensing is appropriate; and

(b) a registered pharmacist has prelabeled the oral contraceptive in accordance with Class IV regulations contained in Rule 8.40.706, Administrative Rules of Montana."

3. Page 5, lines 13 through 21.

Strike: subsection (3) in its entirety

Insert: "(3) If the drug is the first month's cycle or an emergency cycle of a factory prepackaged oral contraceptive, it may be dispensed as provided in subsection (1) or by a registered nurse employed by a family planning clinic under contract with the

department of health and environmental sciences pursuant to:

(a) a physician's written protocol specifying the circumstances under which dispensing is appropriate; and

(b) the board of pharmacy's rules for Class IV pharmacies contained in Rule 8.40.706, Administrative Rules of Montana."

AND AS AMENDED BE CONCURRED IN

Signed: _____

Thomas O. Hager
Thomas O. Hager, Chairman

J.C. 1/89
3/20/89
5:30 P.M.

SENATE STANDING COMMITTEE REPORT

March 20, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 458 (third reading copy -- blue), respectfully report that HB 458 be amended and as so amended be concurred in:

Sponsor: Peck (Rapp-Svrcek)

1. Title, line 11.

Following: ";"

Insert: "PROVIDING IMMUNITY FROM LIABILITY FOR HEALTH CARE PROVIDERS RENDERING CARE, ASSISTANCE, OR SERVICES TO A WOMAN WHO HAS RECEIVED MIDWIFERY SERVICES;"

2. Page 2, line 9.

Following: line 8

Insert: "NEW SECTION. Section 2. Affidavit required. A direct-entry midwife shall file an affidavit with the department of commerce certifying that he or she has completed the emergency childbirth training segment of a state-approved emergency medical training program within 12 months of the effective date of [this act]."

Renumber: subsequent sections

3. Page 4, line 20.

Following: "."

Insert: "Direct-entry midwives may not prescribe, dispense, or administer drugs as defined in 37-7-101."

4. Page 5, line 8.

Following: line 7

Insert: "NEW SECTION. Section 4. Immunity from liability. A physician licensed under Title 37, chapter 3, a nurse licensed under Title 37, chapter 8, and a hospital licensed under Title 50, chapter 5, rendering care, assistance, or services to a woman during pregnancy, labor, childbirth, or the postpartum period, when the woman within 30 days prior thereto has received direct-entry midwifery services as defined in 37-3-103, is not liable for any civil damages for acts or omissions other than damages occasioned by gross negligence."

Renumber: subsequent section

AND AS AMENDED BE CONCURRED IN

Signed: _____

Thomas O. Hager, Chairman

4/10/89
3:35
5:20 p.m.

SENATE STANDING COMMITTEE REPORT

March 17, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HJR 24 (third reading copy -- blue), respectfully report that HJR 24 be concurred in.

Sponsor: Pavlovich (Lynch)

BE CONCURRED IN

Signed: _____

Tom Hager
Thomas O. Hager, Chairman

3-17-89
6:00
jff

SENATE STANDING COMMITTEE REPORT

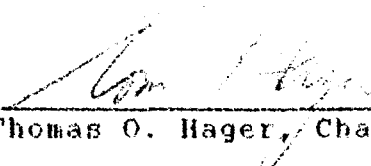
March 17, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 524 (third reading copy -- blue), respectfully report that HB 524 be concurred in.

Sponsor: Hansen, S. (Norman)

BE CONCURRED IN

Signed: 
Thomas O. Hager, Chairman

scrhb524.317

3-17-89
24
6:00

SENATE STANDING COMMITTEE REPORT

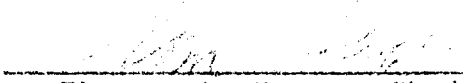
March 17, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 661 (third reading copy -- blue), respectfully report that HB 661 be concurred in.

Sponsor: Rice (Hager)

BE CONCURRED IN

Signed: 
Thomas O. Hager, Chairman

3-17-89
Rice

SENATE STANDING COMMITTEE REPORT

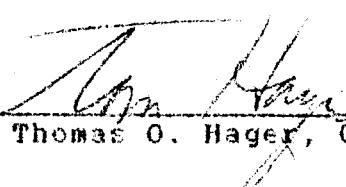
March 17, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 378 (third reading copy -- blue), respectfully report that HB 378 be concurred in.

Sponsor: Squires (Rasmussen)

BE CONCURRED IN

Signed: 
Thomas O. Hager, Chairman

ROLL CALL

PUBLIC HEALTH

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3/17/89

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Hager	X		
Sen. Tom Rasmussen	X		
Sen. Lynch	X		
Sen. Himsl	X		
Sen. Norman	X		
Sen. McLane			X
Sen. Pibinich	X		

Each day attach to minutes.



CITY-COUNTY HEALTH DEPARTMENT

March 16, 1989

Senator Tom Hager, Chairman
Public Health, Welfare, and Safety Committee
Montana State Legislature
Capital Building
Helena, MT 59620

SENATE HEALTH & WELFARE
EXHIBIT NO. #1
DATE 3/17/89
BILL NO. 524

Dear Chairman Hager and Committee Members:

I am writing in support of HB524.

HB524 would allow "health services provided under a physician's order by a public health department" to be included in the definition of medical assistance for Medicaid.

The Missoula City-County Health Department provides services to Medicaid insured clients for preventive and minor illness health care. Although the current Medicaid code includes "clinic services," public health department clinics, such as ours, are not eligible to obtain a provider number. Current Medicaid rules require that billing be conducted through a physician's provider number.

All services provided by the nurses and nurse practitioners are under a physician's order, however, there are a number of physicians involved in various aspects of the clinic. We do not have one constant physician provider number through which we could be reimbursed for Medicaid services. HB524 would allow us to have a clinic provider number and charge for allowable services. It would also establish a procedure for billing and reimbursement that is not cumbersome to the physicians serving their community health departments.

The type of health services we provide include such things as immunizations, perinatal services, communicable disease diagnosis and treatment including sexually transmitted diseases, minor illness care for sore throats, earaches and common childhood illnesses and some chronic disease follow-up such as hypertension.

As a responsible health professional, I believe Medicaid funds must be spent frugally, and provision of basic clinical services in a public health setting can be a method of extending Medicaid dollars.

I would urge your favorable recommendation of HB524.

Sincerely,

Yvonne Bradford
Yvonne Bradford, R.N.
Director of Health Services

YB:pab

Montana Magistrates Association

17 March 1989

SENATE HEALTH & WELFARE
EXHIBIT NO. #2
DATE 3/17/89
BILL NO. HB 593

Testimony given before the Senate Public Health Committee with reference to HB593, a bill for an act entitled: "An act requiring counseling for a person convicted of domestic abuse for the first or second time;" given by Wallace A. Jewell.

First of all let me state that I am presenting this testimony NOT as the lobbyist for the Montana Magistrates Association but rather as a former city judge who knows this type of counseling does work, and does, in my estimation, reduce the number of repeat offenders.

I should explain the program with which I am somewhat familiar. The Human Resources and Development Council in Havre, Montana, has put together an outstanding program structured around the very successful program first started in Duluth, Minnesota. The Havre program consists of a brief intake by a staff member, followed by a 26-week course which addresses issues of physical violence, intimidation, denial, and sexual and emotional abuse. Attendance is mandatory with a maximum of only 2 excused absences per 26 week period. The course is held 1 night per week. The cost of the program, because it is staffed primarily by volunteers, is from \$25 to \$100 for the entire 26 week program. The actual amount paid by the defendant who attends the program is based upon his or her ability to pay. There are very few defendants that cannot pay \$1 per week.

In addition to the program offered for the defendants convicted of domestic abuse, there is also a program offered by HRDC that addresses the problems faced by their victims, both male and female. This program offers to the victim methods of dealing with an abuser; not in a physical sense but in an emotional and psychological sense. It is offered the same night as the course for the abuser; they even have free babysitting for those victims with children.

The sentence imposed by the court upon a defendant convicted of domestic abuse always included attendance in this counseling program.

In the 4 years between 1985 and 1988 the Havre City Court dealt with approximately 75 cases of domestic violence; of course not all the defendants in these cases were adjudicated guilty and in many instances, for 1 reason or another, the case never reached the trial stage. So, in 4 years the Havre City Court had approximately 50 cases in which the defendant was finally adjudicated guilty. Of those 50 cases, I can remember only 2 repeat offenders.

Perhaps not all this success can be attributed to the counseling program but I am confident that a great deal of the credit for the low rate of recidivism is directly related to the availability of the HRDC program.

Merely ordering the defendant to counseling is of little value though if there is not some procedure in place whereby the court involved can follow up on it's sentence by in some way monitoring attendance and imposing further sanctions upon those defendants who fail to comply with the original order of the court. Without such follow up and "teeth in the order of the court," mandatory counseling for defendants guilty of domestic abuse should not be expected to accomplish its intended purpose.

I urge you to concur with the House in recommending passage of HB593.

Wallace A. Jewel.

HB 593

3/17/89

Amendments to House Bill No. 593
Third Reading Copy

Requested by Representative Angela Russell
For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
March 17, 1989

1. Page 3.

Following: line 1

Insert: "NEW SECTION. Section 2. Training requiring. A person may not provide counseling under 45-5-206(4) unless he has completed 16 hours of training in domestic abuse offender counseling through a program approved by the court."

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
TESTIMONY ON ACT TO REVISE HEALTH LAWS RELATING TO
SEXUALLY TRANSMITTED DISEASES

March 6, 1989
SENATE HEALTH & WELFARE
EXHIBIT NO. #3
DATE 3/17/89
BILL NO. HB 661

Mr. Chairman and Members of the Senate Public Health, Welfare and Safety Committee, I am Bruce Desonia, Program Officer with the AIDS/STD Program, and I submit this testimony in support of House Bill 661.

Conservative estimates are the cost of sexually transmitted diseases to our nation exceed two billion dollars annually. The number of different diseases transmitted sexually has continued to increase. With the advent of the AIDS epidemic, greater attention has been focused on other sexually transmitted diseases as well.

This bill replaces the term "venereal" with "sexually transmitted" to correspond to current usage. In addition:

In Section 1, we recommend the addition of two new diseases: AIDS or acquired immunodeficiency syndrome and chlamydia genital infections. Although the number of AIDS infections reported in Montana may be small in comparison to the national statistics, it is a significant threat to public health. Chlamydial genital infections have been reported with increasing frequency, in recent years. It became a reportable disease in Montana in 1987.

Section 2 is simply changed to read: "The powers and duties of the Department". Although the Department does support treatment of patients unable to pay for that treatment, the title of this section may be misleading as worded.

In Section 4, there is a section reading the Department shall destroy the results of a test if an erroneous report is made. Currently the STD program of the Department maintains a syphilis serology reactor file. This is a record of patients reported with a presumptive positive laboratory test. The positive test may be due to a current or past infection or possibly reactive due to other infectious agents or conditions. The registry allows us to know a current reactive test may be positive for reasons other than syphilis. We then spare the physician and patient from unneeded follow-up and are able to provide consultation to health care providers in Montana so that appropriate interpretation of the test results can be made. Any erroneous reports would not be maintained in the Department's registry.

March 6, 1989

Section 5 currently reads "a physician who diagnoses or treats venereal disease, shall make a record and report the case to the Department of Health and Environmental Sciences in the way and on forms provided by the Department." Current rules for reportable diseases already require a physician, health care provider, or any person with knowledge of a reportable disease, to report to their local health department. This current section of the law is unnecessary and conflicts with current reportable disease rules.

Section 8 discusses the permissible release of information concerning infected persons. Section (c) was added so information concerning persons infected with a sexually transmitted disease may be released to: a) personnel of the Department of Health and Environmental Sciences, or b) to a physician who has written consent of the person whose record is requested, and in addition, c) a local health officer. This is so the local health officer or their staff may receive reports. This is consistent with current reportable disease rules. In an addition section d) was added so that information may be released by the Department of Health and Environmental Sciences or local health officer under the circumstances allowed by the coordinating companion bill, HB 668, the Government Health Care Information Act. There are certain situations where MCA 50-18 has been too restrictive and has not allowed a patient to release their own records from the Department.

Section 9 currently provides for dispensation of drugs for treatment of sexually transmitted disease. This section is clarified to allow dispensing of drugs by a person legally authorized by the pharmacy laws of the state to do so. If persons other than physicians, are able to prescribe drugs under current pharmacy law, they need to be able to provide prescriptions in this case also.

Section 18 repeals (Section 45-8-204, MCA) which was declared unconstitutional in U.S. District Court in 1985.

Thank you.

BD/vg-108d

SENATE HEALTH & WELFARE

EXHIBIT NO. #4

DATE 3/17/89

BILL NO. HB 668

March 1989

MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
TESTIMONY TO THE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA SENATE
ON HOUSE BILL 668

Chairman Hager and members of the Committee, for the record my name is Judith Gedrose, Communicable Disease Section Supervisor and State Epidemiologist in the Department of Health and Environmental Sciences. I am here on behalf of the DHES to provide testimony in support of HB 668 (Government Health Care Information Act).

In response to states' concerns regarding confidentiality protection for persons seeking communicable disease testing and treatment, the Centers for Disease Control (the public health leadership agency in the U.S. Public Health Service) provided model legislation and encouraged each state to consider introducing statutes based on the model.

Although states have had statutes related to health care information confidentiality, the statutes have not always addressed public health concerns. Most often the statutes address what health care providers and facilities can and cannot do with health care information. The Uniform Health Care Information Act (50-16-501 through 533, MCA) is the result of a model statute developed by the National Conference of Commissioners of Uniform State Laws, and focuses on health care providers rather than public health agencies. There are areas in public health, however, that need to be specifically addressed. The basis for HB 668 is a CDC prototype state confidentiality statute concerning AIDS/HIV infection, and it appears to be the answer for public health agencies.

MDHES communicable disease control staff modified the CDC prototype statute with input from local public health departments and citizens by inserting references

to existing Montana law and broadening confidentiality coverage to include all communicable diseases rather than just AIDS. It is important for citizens of Montana to be assured that their privacy will not be violated -- that their confidentiality will be respected -- should they seek diagnosis, treatment and public health services for diseases such as hepatitis B, herpes, genital chlamydia, syphilis, AIDS and HIV infection, tuberculosis and the communicable gastro-intestinal diseases.

HB 668 primarily has to do with investigation of communicable disease, especially sexually transmitted diseases, and the information gathered during these investigations. Public health workers have dealt for years with personally sensitive information. Public health workers have been involved in notifying persons of their exposure to sexually transmitted diseases or other diseases transmitted in ways which may involve behaviors not condoned by the larger public. This work is done with care and sensitivity. Personal identifiers of the index case are not given to the contact case, since this is not necessary to effect treatment and public health intervention. If confidentiality had not been occurring, Montana would not be successful in identifying, locating, treating and educating persons infected with sexually transmitted diseases.

When AIDS entered into the disease arena in 1980, the confidentiality of public health issues increased in its critical nature because the disease was mainly occurring in persons whose lifestyle represents a small percentage of the total population. The persons most in need of public health services -- those who need to learn whether or not they are infected, and need to receive information to keep from becoming infected or infecting another -- are not seeking health services due to fears of recrimination should people find out they are members of a "risk group." It is this continuing concern which prompted the Centers for

Disease Control to develop a prototype state confidentiality statute concerning AIDS/HIV infection. If confidentiality is not strictly maintained, public health workers know they will lose the cooperation of persons suffering from those diseases which may identify them as engaging in socially unacceptable behaviors.

The system legitimized by HB 668 is already in place. The statute will not call for additional funding for, or work on the part of, public health workers. It simply clarifies two issues: 1) Non-release of information unless it is appropriate for the care of the person or for public health intervention, and 2) release of information if the person with the communicable disease requests in writing that information be released.

To integrate traditional public health interventions into the control of HIV infection and AIDS, public health professionals in Montana must be able to assure the primary group in need of testing that the confidentiality of the health information is secure. People need to know that they will not lose their job, be evicted from their homes or in some other way be punished for seeking needed health services. Passage of a clear-cut confidentiality statute such as HB 668 proposed by MDHES will provide that assurance for all communicable diseases. Until persons infected with human immunodeficiency virus will come forward for testing, counseling and partner notification, public health intervention to stop the spread of AIDS will be limited. Lack of firm public health confidentiality statutes has been repeatedly given as one reason why persons with high risk behaviors for AIDS have not come forward for testing and counseling. To help public health in its efforts to control communicable disease, the MDHES asks you to recommend passage of House Bill 668.

SB 270
3/17/89

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
Requested Amendments
To

SENATE BILL NO. 270

Amendment No. 1: Change the title of the act to read -
line 10, following ASBESTOS; insert "LIMITING THE PROCESSING
TIME FOR CERTAIN ASBESTOS PROJECT PERMITS;"

line 11, following PROJECTS; insert "CREATING AN ADVISORY
COMMITTEE FOR RULEMAKING;"

Amendment No. 2: Page 4, Line 1 - add new part : Section 3. (2)
Facility Permits.

The department shall provide by rulemaking a mechanism for the
issuance of an annual asbestos project permit to any facility
having an asbestos health and safety program meeting department
criteria and continuously employing accredited asbestos workers.
This permit shall allow such facility to conduct asbestos
projects within the confines of the facility's controlled area
during the period for which the permit is in force. The
provisions of this permit shall not preclude State and Federal
requirements for asbestos project notification.

The fee for a facility permit shall reflect the actual cost of
the department's application review, permit issuance and facility
inspections.

Renumber existing sub-sections 2 through 11 by increasing each sub-section number by one.

Amendment No. 3: Page 5, line 6 - add new part (c) "For asbestos projects having a cost of three thousand dollars (\$3,000) or less the department shall issue asbestos project permits within seven (7) calendar days following the receipt of a properly completed permit application and the appropriate fee."

Amendment No. 4: Page 5, line 16 - change department rule, to read "department rule; or" - add new part (c) "have successfully completed an asbestos-related training course for that occupation approved by the United States environmental protection agency during the time period immediately following the passage of this act and ending on December 31, 1989."

Amendment No. 5: Page 6, line 12 - add new Section 7 Advisory committee "(1) An advisory committee is hereby created to coordinate with and to advise the department on the formulation of suggested rules to be promulgated by the department under Section 3. This advisory committee shall be comprised of at least one representative from the following:

- (a) asbestos manufacturing and construction industries
- (b) asbestos suppliers
- (c) building industries

(d) labor

(e) employers with employees involved in on-premise asbestos
abatement

(f) other individuals as deemed appropriate by the
department

This advisory committee shall be abolished upon the final
adoption of rules provided for in Section 3."

Renumber existing sections 7 through 10 by increasing each
section number by one.

SB 270
3/17/89

Amendments to Senate Bill No. 270
First Reading Copy

For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
March 23, 1989

1. Title, line 10.

Following: "ASBESTOS;"

Insert: "LIMITING THE TIME FOR PROCESSING OF CERTAIN ASBESTOS
PROJECT PERMITS;"

2. Title, line 11.

Following: "PROJECTS;"

Insert: "CREATING AN ADVISORY COMMITTEE FOR RULEMAKING;"

3. Page 1, line 17.

Strike: "[section 3] authorizes"

Insert: "[sections 3 and 4] authorize"

4. Page 5, line 5.

Strike: "Fees"

Insert: "fees"

Strike: "."

Insert: ";

5. Page 5, line 6.

Following: line 5

Insert: "(c) for asbestos projects having a cost of \$3,000 or less, the department shall issue asbestos project permits within 7 calendar days following the receipt of a properly completed permit application and the appropriate fee.

NEW SECTION. Section 4. Facility permits -- fee. (1) The department shall provide by rule a procedure for the issuance of an annual asbestos project permit to any facility that has an asbestos health and safety program meeting department criteria and that continuously employs accredited asbestos workers. This permit allows a facility to conduct asbestos projects within the confines of the facility's controlled area during the period for which the permit is in force. The provisions of this permit may not preclude state and federal requirements for asbestos project notification.

(2) The fee for a facility permit must reflect the actual cost of the department's application review, permit issuance, and facility inspections."

Renumber: subsequent sections

6. Page 5, line 13.

Strike: "or"

7. Page 5, line 16.

Following: "rule"

Insert: "; or

(c) have successfully completed an asbestos-related training course for that occupation, approved by the United States environmental protection agency, during the time period immediately following the passage of [this act] and ending on December 31, 1989"

8. Page 6, line 12.

Following: line 11

Insert: "NEW SECTION. Section 8. Advisory committee. (1) An advisory committee is created to coordinate and advise the department on the formulation of rules to be promulgated by the department under [sections 3 and 4]. This advisory committee consists of at least one representative from the following:

(a) asbestos manufacturing and construction industries;

(b) asbestos suppliers;

(c) building industries;

(d) labor organizations;

(e) employers with employees involved in on-premises asbestos abatement; and

(f) other individuals as considered appropriate by the department.

(2) The advisory committee must be abolished upon final adoption of rules provided for in [sections 3 and 4]."

9. Page 8, line 6.

Strike: "Section"

Insert: "Sections"

Following: "3"

Insert: ", 4, 8,"

10. Page 8, line 7.

Strike: "and 4"

Insert: "5"

Following: "7"

Insert: ", and 9"

3/17
48 688

Amendments to House Bill No. 688
Third Reading Copy

For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
March 18, 1989

1. Page 2, lines 7 through 15.

Strike: subsection (f) in its entirety

Insert: "(f) the dispensing of the first month's cycle, or one month's emergency cycle in the event of an unscheduled appointment, of factory prepackaged oral contraceptives by a registered nurse employed by a family planning clinic under contract with the department of health and environmental sciences if:

(i) the dispensing is in accordance with a physician's written protocol specifying the circumstances under which dispensing is appropriate; and

(ii) a registered pharmacist has prelabeled the factory packaged oral contraceptive for use as an initial or emergency cycle in accordance with Class IV regulations contained in Rule 8.40.706, Administrative Rules of Montana. The registered nurse shall complete the label by adding the patient's name and date of issue."

2. Page 3, lines 17 through 24.

Strike: subsection (5) in its entirety

Insert: "(5) nothing in this chapter prevents a registered nurse employed by a family planning clinic under contract with the department of health and environmental sciences from dispensing the first month's cycle or an emergency cycle of a factory prepackaged oral contraceptive if:

(a) the dispensing is in accordance with the physician's written protocol specifying the circumstances under which dispensing is appropriate; and

(b) a registered pharmacist has prelabeled the oral contraceptive in accordance with Class IV regulations contained in Rule 8.40.706, Administrative Rules of Montana."

3. Page 5, lines 13 through 21.

Strike: subsection (3) in its entirety

Insert: "(3) If the drug is the first month's cycle or an emergency cycle of a factory prepackaged oral contraceptive, it may be dispensed as provided in subsection (1) or by a registered nurse employed by a family planning clinic under contract with the department of health and environmental sciences pursuant to:

(a) a physician's written protocol specifying the circumstances under which dispensing is appropriate; and

(b) the board of pharmacy's rules for Class IV pharmacies contained in Rule 8.40.706, Administrative Rules of Montana."

HB 458

3/17/89

(brought in day after
hearing)

MEMORANDUM

TO: SENATOR TOM HAGER
FROM: MICHAEL SHERWOOD, MTLA
RE: HB 458--AMENDMENTS PROPOSED BY MONTANA HOSPITAL ASS'N
DATE: 3-13-89

At the hearing on this bill the Montana Hospital Association offered an amendment to the bill providing as follows:

Licensed Medical Practitioners, Nurse Specialists, Nurses, and Licensed Health Care Facilities shall not be liable for the direct consequences of care commenced by a direct-entry midwife in birthing procedures, which are subsequently transferred to their care.

I was unaware that this amendment would be proposed and did not testify at the hearing. MTLA has the following concerns about the amendment:

1. This issue is already being addressed in House Bill No. 57. I have attached a copy of that bill and of an amendment proposed by the Montana Hospital Association for your review. Note that a health care provider(including doctor, nurse and hospital) are liable under the terms of the current bill only when they fail to exercise due care inconsistent with that of a reputable health care provider under similar circumstances, in a like case, in a similar locality.

The amendment goes on to say that a health care provider rendering emergency obstetrical services is liable only for gross negligence.

2. The amendment is a clumsily worded restatement of the current law. Health care providers, like all other citizens of this state can only be held liable for injuries caused by their own negligence. If a direct-entry midwife has done something to injure a patient then the midwife (not the subsequent health care provider) is liable under commonly accepted theories of civil liability. However, the amendment, to be consistent with common legal terminology, should speak to this issue in terms of "proximate cause" rather than "direct consequences".

1

We oppose this amendment because the subject matter is currently being treated in another piece of legislation and because the clumsy wording of the amendment makes it ambiguous.

Michael J. Sherwood
Legislative Counsel
Montana Trial Lawyer Association

HB 458
3/17/89
1

Amendments to House Bill No. 458
Third Reading Copy

Requested by Senator Tom Hager
For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
March 17, 1989

1. Title, line 11.

Following: ";"

Insert: "REQUIRING FILING OF CERTAIN AFFIDAVIT;"

2. Page 2, line 9.

Following: line 8

Insert: "NEW SECTION. Section 2. Affidavit required. A direct-entry midwife shall file an affidavit with the department of commerce certifying that he or she has completed the emergency childbirth training segment of a state approved emergency training program within 12 months of the [effective date of this act]."

Renumber: subsequent sections

HB 458
3/17/89

SENATE HEALTH & WELFARE 2
EXHIBIT NO. _____
DATE _____
BILL NO. _____

Amend House Bill No. 458 as follows:

1. Page 5.
Following: line 7
Insert: "NEW SECTION. SECTION 3. A physician licensed under Title 37, Chapter 3; a nurse licensed under Title 37, Chapter 8; and a hospital licensed under Title 50, Chapter 5
 - (a) who renders care, assistance or services to a woman during pregnancy, labor, child birth or the postpartum period, and
 - (b) such woman within 30 days prior thereto has received midwifery services as defined in this act,is not liable for any civil damages for acts or omissions other than damages occasioned by gross negligence."
Renumber: subsequent sections

HB 458

3/17/89

3

SENATE HEALTH & WELFARE

~~EXHIBIT~~ NO. _____

DATE _____

BILL NO. _____

HOUSE BILL 458

Amendment

Page 4, line 20

Following: "."

Insert: "(i) Direct-entry midwives shall not prescribe, dispense, or administer drugs as defined in 37-7-101.

SENATE HEALTH & WELFARE

~~COMMITTEE NO.~~
DATE 3/17/89
BILL NO. 458

1. Title, line 11.
Following: ","
Insert: "REQUIRING LIABILITY INSURANCE FOR A PERSON PRACTICING DIRECT-ENTRY MIDWIFERY;"

2. Page 4, line 17.
Following: ","
Insert: "A person wishing to practice direct-entry midwifery shall comply with the provisions of (Section 3)."

3. Page 5, line 5.
Following: line 4
Insert: "NEW SECTION. Section 3. Liability insurance for direct-entry midwifery.

(1) A person practicing direct entry midwifery shall register annually with the department. The registrant shall submit proof of liability insurance at the time of registration.

(2) The liability insurance must be in an amount of at least \$100,000 per occurrence and \$300,000 in the annual aggregate.

(3) An insurer may not cancel or terminate a policy referred to in subsection (2) until at least 10 days after a notice of cancellation or termination of the insurance has been filed with the department.

NEW SECTION. Section 4. Codification. (Section 3) is intended to be codified as an integral part of Title 37, Chapter 3, and the provisions of Title 37, Chapter 3, apply to (Section 3)."

Renumber: Subsequent section

Amendments to House Bill No. 458
Third Reading Copy

For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
March 20, 1989

1. Title, line 11.

Following: ";"

Insert: "PROVIDING IMMUNITY FROM LIABILITY FOR HEALTH CARE PROVIDERS RENDERING CARE, ASSISTANCE, OR SERVICES TO A WOMAN WHO HAS RECEIVED MIDWIFERY SERVICES;"

2. Page 2, line 9.

Following: line 8

Insert: "NEW SECTION. Section 2. Affidavit required. A direct-entry midwife shall file an affidavit with the department of commerce certifying that he or she has completed the emergency childbirth training segment of a state-approved emergency medical training program within 12 months of [the effective date of this act]."

Renumber: subsequent sections

3. Page 4, line 20.

Following: "."

Insert: "Direct-entry midwives may not prescribe, dispense, or administer drugs as defined in 37-7-101."

4. Page 5, line 8.

Following: line 7

Insert: "NEW SECTION. Section 4. Immunity from liability. A physician licensed under Title 37, chapter 3, a nurse licensed under Title 37, chapter 8, and a hospital licensed under Title 50, chapter 5, rendering care, assistance, or services to a woman during pregnancy, labor, childbirth, or the postpartum period, when the woman within 30 days prior thereto has received direct-entry midwifery services as defined in 37-3-103, is not liable for any civil damages for acts or omissions other than damages occasioned by gross negligence."

Renumber: subsequent section

3/17/89

Department of Institutions
Proposed Amendment to
House Bill 102, Third Reading Copy

Page 5, Line 7

Following: "shall"
Insert: "annually"

Page 5, Line 7

Following: "establish"
Strike: "a" on line 7 through "Effective" on line 11.
Insert: "fees and a uniform method for determining the ability to pay for persons whose services are supported by department funds."

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bruce Desonia	Mt. Dept. Health	661	✓	
Hal Manson	AMERICAN LEGION	HTJ24	X	
John Slozny	MOPH	HTJ24	L	
John M. Dewberder	Dept of MT DAV	HTJ24	X	
Robert Johnson	29C Health Dept	HB524	✓	
" "	" "	HB661		
" "	" "	HB668		
Judith Quilise	DNES	668 HB		
Yvonne Bradford	Missla County Health Dept	HB524	✓	
Wally Jewell	MT MAG ASSOC	HB593		
JUDITH CARLSON	NASW	HB593	✓	
Rich Brown	MT 3rd Vets Affairs	HTR24	✓	
Kati Williams	Senator Bob Williams	SB270		
WALT Wheeling	Ex-Pow's, AD BC	HFR24	✓	
George O. Poston	United Veterans of MT.	HFR-24	L	
Gene Walden	FRIENDSHIP CENTER Mental Health Center	HB593	X	
Ted Doney	Mental Health Arin. of Montana Mental Health Council Arin.	HB593	X	
Yvonne Bradford	Missla Health Dept	HB668	X	

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/18/89 Bill No. HB 93 Time 12:45
SB. 270

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch	X	
Sen. Matt Himsl	X	
Sen. Bill Norman	X	
Sen. Harry McLane		
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Sen Lynch - y 1 DO PASS
Unanimous
6 in favor - 0

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/17/89 Bill No. HB 688 Time _____

NAME	YES	NO
Sen. Tom Hager		X
Sen. Tom Rasmussen	X	
Sen. Lynch	X	
Sen. Matt Himsl	X	
Sen. Bill Norman	X	
Sen. Harry McLane	-	
Sen. Bob Pipinich	X	

Dorothy Quinn Secretary Sen. Tom Hager Chairman

Motion: OK of Sen. Lynch, moved the amendments that were introduced by the

all in favor of the amendments - 5
5 - 1 (Hager)

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/17/89 Bill No. 688 Time 12:55

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch	✓	
Sen. Matt Himsl	✓	
Sen. Bill Norman	X	
Sen. Harry McLane		
Sen. Bob Pipinich	X	

Dorothy Quinn

Sen. Tom Hager

Secretary

Chairman

Sen. Lynch motion that
made HB 688
Motion: BE CONCURRED IN AS
amended
2 : 6 - 0
passed.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/17/89 *Michigan Bill* Bill No. 458 Time _____

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch	X	
Sen. Matt Himsl	X	
Sen. Bill Norman	X	
Sen. Harry McLane <i>(By written vote (letter))</i>	X	
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Sen Lynch -> The amendments
favor 7 - 0 opposed

*off the book entry
Michigan
Bill*

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/17/89 Bill No. 458 Time _____

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen		X
Sen. Lynch	X	
Sen. Matt Himsel	X	
Sen. Bill Norman	X	
Sen. Harry McLane	X	
Sen. Bob Pipinich		X

(By written vote)

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Sen. Norman moved the
second amendment to HB 458
In favor 5, opposed - 2

to liability

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/17/89 Bill No. 458 Time _____

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch	X	
Sen. Matt Himsl	X	
Sen. Bill Norman	X	
Sen. Harry McLane	<i>By written instruction</i> X	
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Lyndal — to — Adopt
3rd amendment.
7-0

3

*Bill
of
law*

ROLL CALL VOTE

4

SENATE COMMITTEE PUBLIC HEALTH

Date 3/17/89 Bill No. 458 Time _____

NAME	YES	NO
Sen. Tom Hager		X
Sen. Tom Rasmussen		X
Sen. Lynch	X	
Sen. Matt Himsel		X
Sen. Bill Norman		X
Sen. Harry McLane	<i>By written instruction</i> X	X
Sen. Bob Pipinich		X

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Sen Lynch made motion to amend.

(K)

(adopted)

Favor 2 - Opposed 0

Motion failed.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/17/89 Bill No. 458 Time _____

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch		X
Sen. Matt Hims1	X	
Sen. Bill Norman	X	
Sen. Harry McLane	<i>By written instruction</i> X	
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Be Concurred in as amended
Sen. Russ P 69 amend
passed 6-1

Paul Phil. V.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/17/89 Bill No. HJR 24 Time _____

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch	X	
Sen. Matt Himsel	X	
Sen. Bill Norman	-	
Sen. Harry McLane	X	
Sen. Bob Pipinich	-	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Lynch 7 HJR 24 Pres. (Opp)
Concurred In.
of In Favor, 5 - opposed

ROLL CALL VOTE

SENATE COMMITTEE

PUBLIC HEALTH

Date 3/17/89 Bill No. HB 524 Time _____

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch	X	
Sen. Matt Himsl	X	
Sen. Bill Norman	X	
Sen. Harry McLane	X	Excused
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Sen Lynch HB 524 concurring
In favor 76, opposed 0

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/17/89 Bill No. 661 Time 2:15

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch	-	
Sen. Matt Himsl	X	
Sen. Bill Norman	X	
Sen. Harry McLane	X	
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Sen Pipinich P D Concur
H/B 661 6- 0

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/17/89 Bill No. 378 Time 2:35

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch	-	
Sen. Matt Himsl	X	
Sen. Bill Norman	X	
Sen. Harry McLane	X	
Sen. Bob Pipinich	X	

Dorothy Quinn Secretary Sen. Tom Hager Chairman

Motion: Sen Ras moved that HB 378
be concurred in 3 0
In favor 6
opposed 0

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/17/89 Bill No. 102 ~~303~~ Time _____

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch		
Sen. Matt Himsel	X	
Sen. Bill Norman	X	
Sen. Harry McLane	X	
Sen. Bob Pipinich	X	

Dorothy Quinn Secretary Sen. Tom Hager Chairman

Motion: Sen. Peppinich Reconsider Action on HB 102

In favor 5

Opposed 0