

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By Senator Tom Hager, on March 20, 1989, at
1:00 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

HEARING ON HOUSE BILL 318 and HOUSE BILL 319

Presentation and Opening Statement by Sponsor: Bruce Simon,
Representative from House District #91, advised that he
is sponsoring HB 318 and HB 319 which deal with
relatively the same subject, a death certificate. He
was asked to introduce these bills by the Department of
Health and Environmental Sciences. He stated the death
certificate is a very important document, being used as
evidence in legal cases; used by people for tracking
genealogy, and it is used to develop accurate
statistics. There is currently a problem getting death
certificates filed in a timely manner and accuracy is
another problem. The penalty for filling out the forms
inaccurately is \$25.00 to \$100.00. HB 318 would raise
that to a \$500.00 level so that there is some leverage
on the part of the Department to attempt to insure that
those filling out the reports do a good and accurate
job. He stated that HB 319 changes the prescription of
three days for the time frame that the death
certificate has to be filed to a time frame as
prescribed by the Department. This would bring that in
line to be the same as the requirement for a birth
certificate. Often times the three-day deadline is too
short a time, and they are not filled out properly.
The anticipated time frame would be 10 days. He
requested a favorable recommendation on both bills.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

None

Questions From Committee Members: In response to a question by Senator Himsl regarding the penalty fee, Representative Simon stated that the problem that the bill addresses is listed under Section 1 (3) b, where those filling out death certificates refuse to provide information as required by law.

Senator Norman requested the Secretary to obtain a blank death certificate and a birth certificate, and Senator Rasmussen suggested a coroner's handbook also be obtained. (These items were subsequently received from the Department of Health, Exhibit #4 and Exhibit #5).

Senator Pipinich stated he can verify the problem through recent experience with a death in the family. They had to go back three times before the certificate was made out properly. He also added that if a certificate with incorrect name spelling is submitted to an insurance company, more problems are encountered. Representative Simon reiterated that this is a serious problem, and that HB 318 is attempting to address it.

Senator Hager asked if the Department had a representative at the House hearing. He was informed they did not.

Senator Rasmussen raised a question regarding certificates for fetal deaths. He was advised that certificates are required for normal deaths and fetal deaths.

Senator Pipinich asked when a person dies in a hospital, who makes out the death certificate. Senator Norman stated the hospital is encouraged to get the death certificate out, but the doctor fills in the cause of death.

Closing by Sponsor: Representative Simon stated he believes that HB 318 and HB 319 have been adequately explained.

DISPOSITION OF HOUSE BILL 318 AND HOUSE BILL 319

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 73

Presentation and Opening Statement by Sponsor: Berv Kimberley, Representative from House District #90, stated that he is carrying HB 73 for Family Services. This bill allows superintendents of youth correctional facilities to order necessary emergency medical treatment for residents. He added that the language in lines 15 through 19 clarifies that if a parent or guardian of a resident cannot be located, the superintendent or acting superintendent may consent to the emergency medical treatment. If treatment was ordered, the question has arisen of who would be responsible for charges. He stated the charges would be paid by Family Services if the parents were unable to pay.

List of Testifying Proponents and What Group they Represent:

Bill Unger, Superintendent of Mountain View School,
Helena

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Bill Unger advised he asked the Department of Family Services to address this issue and they in turn requested Representative Kimberley to present the bill. HB 73 would legitimize what has had to be done on a few occasions, and that is to sign for medical emergencies. This is not done routinely. The procedure is to get hold of the family, and get permission telephonically or in writing if time allows. The bill addresses emergency situations, not the routine cases. He asked for approval of HB 73.

Questions From Committee Members: Senator Lynch stated he believed the wording "acting superintendent" was a little unusual. It was his opinion that the wording "agent" or "designee" would be more appropriate. Rep. Kimberley agreed, and stated that the point was they wished to be able to communicate with someone else if the superintendent was unavailable.

Closing by Sponsor: Representative Kimberley thanked the committee for the hearing. He also presented some written testimony describing the current procedure at Mountain View when medical emergencies arise. Attached to the testimony is a copy of the Student Medical Information and Authorization Form (Exhibit #1).

DISPOSITION OF HOUSE BILL #73

Discussion: None

Amendments and Votes: Senator Lynch moved that on Line 17 the words "Acting Superintendent" be stricken, and insert the word "designee", and THAT THE AMENDMENT BE ADOPTED. Senators in favor, 6; opposed, 0. AMENDMENT ADOPTED.

Recommendation and Vote: Senator Lynch moved that HB 73 BE CONCURRED IN AS AMENDED. Senators in favor, 6; opposed, 0.

Senator Himsl will carry HB 73 to the Senate floor.

HEARING ON HOUSE JOINT RESOLUTION 15

Presentation and Opening Statement by Sponsor: Jan Brown, Representative from House District #46, advised that HJR is a Resolution urging the Department of Family Services to review their data needs and develop and implement an automated management information system on children in out-of-home placements and services provided to meet their needs. She stated the bill was amended in the House to say that rather than having it implemented by July, 1991, they should have it planned and developed by then, with the actual implementation in July, 1993. The Department of Family Services spends over \$8,000,000 a year on children who are placed out-of-home in family or group foster care. They do not have any readily accessible system of basic information on these children. The basic data would provide information to determine service needs, provide appropriate services, and avoid over building of unneeded out-of-home placements for children services. It would help determine the best deployment of Department of Family Services staff, and determine appropriate staffing levels and would help determine the impact on children of the current youth services system. She stated the bill was not opposed by anyone in the House; the Director of Family Services spoke in favor of it, and it was said that with the

Legislature's encouragement this would be sure to be done. It was her understanding that Appropriations has authorized money to implement this. She asked for concurrence in this Resolution.

List of Testifying Proponents and What Group they Represent:

John Thorson, Montana Mental Health Association

List of Testifying Opponents and What Group They Represent:

None

Testimony:

John Thorson stated that his group supports HJR 15. He advised it has been a concern that the Department of Family Services has not had the data system to enable them to track out family placements. They feel that information is quite necessary for administrative and legislative policy decisions. He urged passage of HJR 15.

Questions From Committee Members: Senator Pipinich asked how much this program would cost. Representative Brown advised that they discussed a half-time FTE. The fiscal note also would say that it would not be implemented until 1993. She stated a representative of the Department of Family Services would have to provide that information.

Doug Matthies, Department of Family Services, advised that the language of HJR 15 goes along with of the Human Services Sub-committee encouraging the Department to do the same thing, that is to renew the continuing care in out-of-home placements. There was approximately \$30,000 appropriated to do a cost benefit analysis of how this could best be done. The data processing system now in use is a very complicated system. The analysis would determine whether the current system should be revamped or if a new system would be more beneficial. They are bringing in many more ailments into the system. He said the current system is mainly a payment system, and the proposed one would be a more comprehensive information system. Through the recommendation of the Department of Administration, it was decided to do the cost benefit analysis. The \$30,000 is in their budget now; they did not get an FTE to do this. Senator Pipinich asked if that \$30,000 was for just six months. Mr. Matthies stated it would take one person approximately six months to do a comprehensive cost benefit analysis.

Senator Hims1 asked for a more detailed definition of out-of-home placement. Mr. Matthies stated out-of-home placement basically means foster care. The number of children in the adoption program is small compared to foster care.

Closing by Sponsor: Representative Brown stated that if the committee wished, she would ask Steve Waldron for additional fiscal information. She stated another example of the need for this Resolution was that at the Intermountain Deaconess Home in Helena over 20% of the children in care at the Deaconess come from adoptive families. They feel there is a need for more support services for adoptive families so that children are not taken out of adoptive families and put in group homes or institutions. The idea is to try to get all such information coordinated so that resources can be better utilized. She urged support of HJR 15.

DISPOSITION OF HOUSE JOINT RESOLUTION 15

Discussion: Senator Lynch suggested several amendments to HJR 15. After adoption of the amendments it was suggested that the bill be reviewed with the amendments inserted before the final vote is taken on HJR 15.

Amendments and Vote: Senator Lynch made a motion that on Line 7, the words "and implement" be stricken; on page 2, line 20, strike "July 1, 1991" and insert "January 1, 1991"; on Page 2, lines 22 through 24, following "placements." strike remainder of line 22 through "1993." Senator Lynch moved that the AMENDMENTS BE ADOPTED. Senators in favor, 6; opposed, 0.

Senator Lynch moved that lines 10 through 19 be stricken. MOTION WAS MADE THAT AMENDMENT BE ADOPTED. Senators in favor, 6; opposed, 0.

Recommendation and Vote: It was recommended that the bill be reviewed with the amendments included, and no further action be taken until Wednesday, March 22.

HEARING ON HOUSE BILL 621

Presentation and Opening Statement by Sponsor: Tom Nelson, Representative of House District #95, stated HB 621 is a bill that amends the Uniform Health Care Information Act and was presented to the House Judiciary Committee and was passed out to the House floor where it passed without any dissenting votes. The Uniform Health Care Information Act was adopted by the Legislature in 1987,

to protect the confidentiality of health care information while simultaneously providing the procedures necessary for an orderly and uniform process of disclosure. HB 621 addresses various provisions of the UHCI Act which have proven in practice to be unduly burdensome, restrictive and unnecessary and in some cases in potential conflict with existing Montana law. The proposed amendments to the UHCI Act will remove some of the perceived problems in the application of the act which have arisen in the past two years while continuing to preserve the confidentiality of health care information. The bill was requested by the Montana Hospital Association, according to Rep. Nelson, who also stated he supports the amendments.

List of Testifying Proponents and What Group they Represent:

Oliver Goe, Attorney, Montana Hospital Association
Larry Akey, Montana Health Network
William A. Vollmer, Department of Social and
Rehabilitation Services

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Oliver Goe stated he is appearing on behalf of the Montana Hospital Association. He presented copies of written testimony to the committee which discussed the suggested amendments to the Act, the underlying rationale for the changes, and where necessary, the relationship of the amendments to existing law. Attached to the testimony is a copy of the proposed amendments. He reviewed the various sections of the testimony for the committee (Exhibit #2).

Larry Akey, representing Montana Health Network, stated they support HB 621 with the amendments previously proposed.

William A. Vollmer, Bureau Chief of the Disability Determination Bureau of the SRS, stated that what they have run into over the past two years has been a non-response to requests for medical information where signed releases were not specifically made out to particular medical providers. He believes the amendments will help clarify to other agencies, ie State Compensation Insurance Fund, Board of Health, that all medical information is being sought, rather than just what is specified. He also requested an extension of the time limit from 8 months to one year.

He presented written testimony for the committee's study (Exhibit #3).

Questions From Committee Members: None

Closing by Sponsor: Representative Nelson said he believes the bill speaks for itself.

DISPOSITION OF HOUSE BILL 621

Discussion: Senator asked if the amendments meet the concerns of those present. Jim Ahrens of the Montana Hospital Association suggested the bill be passed as amended, and if a change is necessary, work it out on the floor.

Amendments and Votes: Senator Lynch moved that the AMENDMENTS BE ADOPTED. Senators in favor, 6; opposed, 0. AMENDMENTS ADOPTED.

Recommendation and Vote: Senator Lynch moved that HOUSE BILL 621 BE CONCURRED IN AS AMENDED. Senators in favor, 6; opposed, 0. MOTION PASSED UNANIMOUSLY.

Senator Hager will carry HB 621 to the floor of the Senate.

EXECUTIVE ACTION ON HOUSE BILL 197

Senator Hager called for action on House Bill 197: He stated that this bill would revise the procedure to the voluntary admission of minors to a mental health facility.

Discussion: Since the requested amendments were not furnished by the sponsor, it was decided to table HB 197.

Recommendation and Vote: Senator Pipinich MADE A MOTION THAT HB 197 BE TABLED. Senators in favor, 6; opposed, 0. MOTION PASSED UNANIMOUSLY.

EXECUTIVE ACTION ON HOUSE BILL 102

Senator Hager called for action on House Bill 102: This bill revised the definition of "Community Comprehensive Mental Health Center" and permitted a regional mental health corporation board to set a fee schedule for mental health services if the department of institutions does not respond within a certain period to a request for a fee change.

Discussion: None

Recommendation and Vote: Senator Norman MADE A MOTION THAT HB 102 BE TABLED. Senators in favor, 6; opposed, 0. MOTION PASSED UNANIMOUSLY.

EXECUTIVE ACTION ON HOUSE BILL 395

Senator Hager called for action on House Bill 395: Senator Hager stated this bill is an act granting prescriptive authority to nurse specialists.

Discussion: Senator Hager stated he had several phone calls suggesting that physicians supervise this authority. It was the committee's understanding that this was the case, and the Nurse Specialists would function in a similar manner as Physician Assistants.

Recommendation and Vote: Senator Lynch made a MOTION THAT HOUSE BILL 395 DO BE CONCURRED IN. Senators in favor, 6; opposed, 0. MOTION PASSED UNANIMOUSLY.

Senator McLane will carry HB 395 to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 593

Senator Hager called for action on House Bill 593: HB 593 is an act requiring counseling for a person convicted of domestic abuse for the first or second time.

Discussion: Tom Gomez explained that the amendments adds the "professional person" as a person who will provide the counseling required in this bill. Senator Rasmussen stated he felt this was a reasonable way to help stop the problem. Tom Gomez added that the bill would say that a person convicted of domestic abuse for the first or second time shall be required to pay for and complete six months of counseling, totaling at least 25 hours, with a licensed person, or with a professional person as defined, or in a specialized domestic violence intervention program, which would give three options available.

Senator Lynch stated he did not believe that it should get to a point where volunteer people are outlawed just because they are not professionals. Judith Carlson of the Department of Health advised that the specialized domestic violence intervention program would include those types of volunteers who are not necessarily the so-called professionals. They would go through a training program.

Recommendation and Vote: Senator Lynch MADE A MOTION THAT

THE AMENDMENTS BE ADOPTED. Senators in favor, 6;
opposed, 0. AMENDMENTS ADOPTED.

Senator Rasmussen moved that HB 593 BE CONCURRED IN AS
AMENDED. Senators in favor, 5; opposed, 1 (Senator
Himsl).

Senator Rasmussen will carry HB 593 to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 668

Senator Hager called for action on HB 668: 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.

Discussion: Chairman Hager asked how this bill would mesh
with HB 437, the aids bill. Tom Gomez stated that HB
437 stated a person may disclose the identity of a
subject of a test to the extent allowed under the
Uniform Health Care Information Act, which includes
disclosure to a health care provider if that provider
has the need to know because they are rendering care to
a person. In reference to HB 668, there is absent any
provision regarding the relationship of disclosure here
to the Uniform Health Care Information Act. If the
UHCI Act provisions regarding disclosure were to apply
in the case of government health care facilities,
amendments would be necessary. The same policy would
then prevail for HB 437 and HB 668.

Recommendation and Vote: Senator Norman moved that on page
3, line 2, "Chapter 16, Part 5" be inserted after
"Chapters", and further that Section 9 be struck, and
MOVED THAT THE AMENDMENTS BE ADOPTED. Senators in
favor, 6; opposed, 0.

Senator Lynch MADE A MOTION THAT HB 668 BE CONCURRED IN AS
AMENDED. Senators in favor, 6; opposed, 0.

ADJOURNMENT

Adjournment At: 2:40 p.m.



SENATOR TOM HAGER, Chairman

TH/dq

SENATE STANDING COMMITTEE REPORT

March 20, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 73 (third reading copy -- blue), respectfully report that HB 73 be amended and as so amended be concurred in:

Sponsor: Kimberley (Hims1)

1. Title, line 6.

Following: "FACILITIES"

Insert: "OR THEIR DESIGNEES"

2. Page 1, line 17.

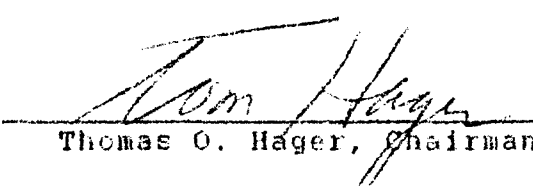
Following: "OR"

Strike: "THE ACTING SUPERINTENDENT"

Insert: "his designee"

AND AS AMENDED BE CONCURRED IN

Signed: _____


Thomas O. Hager, Chairman

SENATE STANDING COMMITTEE REPORT

page 1 of 2
March 27, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 621 (third reading copy -- blue), respectfully report that HB 621 be amended and as so amended be concurred in:

Sponsor: Nelson, T. (Hager)

1. Title, lines 13 and 14.
Strike: line 13 through "WEDLOCK" on line 14
Insert: "CLARIFY THAT INFORMATION THAT MIGHT DISCLOSE BIRTH OUT OF WEDLOCK IS TO BE DISCLOSED ONLY IN ACCORDANCE WITH SECTION 50-15-206, MCA"
2. Page 2, line 19.
Following: "~~provider or~~"
Insert: "except for"
3. Page 5, line 19.
Following: "process."
Insert: "(1)"
4. Page 5, line 23.
Strike: "(1)"
Insert: "(a)"
Renumber: subsequent subsections
5. Page 7, line 4.
Following: line 3
Insert: "(2) Nothing in this part authorizes the disclosure of health care information by compulsory legal process or discovery in any judicial, legislative, or administrative proceeding where disclosure is otherwise prohibited by law."
6. Page 7, line 8.
Strike: "(2), (4), or (5)"
Insert: "(1)(b), (1)(d), or (1)(e)"
7. Page 7, lines 9 and 10.
Strike: "(9) or (10)"
Insert: "(1)(i)"
8. Page 7, line 23.
Strike: "(2), (4), or (5)"
Insert: "(1)(b), (1)(d), or (1)(e)"

9. Page 7, lines 24 and 25.

Strike: "or investigation"

Following: "50-16-535"

Strike: "(9) or (10)"

Insert: "(1)(1)"

10. Page 8, line 10.

Following: "requests,"

Insert: "where authorized by law, a health care provider may deny access to the requested health care information. Additionally,"

11. Page 8, line 18.

Following: "(4)"

Strike: "The"

Insert: "Where access to health care is denied under 50-16-542(1), the"

12. Page 10, lines 4 and 5.

Strike: "A PERSON IS SEEKING UNDER 50-16-522 TO EXERCISE THE PATIENT'S RIGHTS AND"

AND AS AMENDED BE CONCURRED IN

Signed: _____

Thomas O. Hager
Thomas O. Hager, Chairman

41 @
3/27/89
3:45
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 395 (third reading copy -- blue), respectfully report that HB 395 be concurred in.

Sponsor: Cody (McLane)

BE CONCURRED IN

Signed: 
Thomas O. Hager, Chairman

SENATE STANDING COMMITTEE REPORT

March 28, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 593 (third reading copy -- blue), respectfully report that HB 593 be amended and as so amended be concurred in:

Sponsor: Russell (Jacobson)

1. Page 2, line 13.

Following: "(4)"

Insert: "(a)"

2. Page 2, line 15.

Following: "hours"

Strike: "1"

Insert: ";

(1) "

3. Page 2, line 17.

Following: "23"

Strike: "1"

Insert: ";

(ii) with a professional person as defined in 53-21-102;"

Following: "OR"

Insert: "(iii)"

4. Page 2, line 18.

Following: "PROGRAM."

Insert: "(b)"

Following: "counseling"

Insert: "provided in subsection (4)(a)"

5. Page 2, line 19.

Strike: "This subsection"

Insert: "Subsection (4)"

6. Page 2, line 25.

Following: "1"

Insert: "(5)"

AND AS AMENDED BE CONCURRED IN

Signed: _____

Thomas O. Hager, Chairman

scrhb593.328

Handwritten notes and stamps in the bottom right corner, including "J.C.", "3/28/89", and "11:45".

SENATE STANDING COMMITTEE REPORT

March 22, 1989

MR. PRESIDENT:

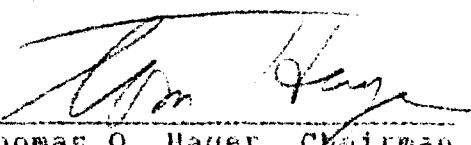
We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 668 (third reading copy -- blue), respectfully report that HB 668 be amended and as so amended be concurred in:

Sponsor: McDonough (Halligan)

1. Title, lines 11 and 12.
Following: "RECORDS;" on line 11
Insert: "AND"
Following: "PENALTY" on line 11
Strike: remainder of line 11 through "DATE" on line 12
2. Page 3, line 2.
Following: "by"
Insert: "50-16-5 and"
3. Page 4, line 25 through page 5, line 1.
Strike: section 9 in its entirety

AND AS AMENDED BE CONCURRED IN

Signed: _____


Thomas O. Hager, Chairman

SERVICE HEALTH & WELFARE
EXHIBIT NO. #1
DATE 3/20/89
BILL NO. HB #73

MOUNTAIN VIEW SCHOOL



TED SCHWINDEN, GOVERNOR

2260 SIERRA ROAD EAST

STATE OF MONTANA

(406) 458-0016

HELENA, MONTANA 59601

TESTIMONY IN SUPPORT OF HB 73

Prepared by Bill Unger, Superintendent of Mountain View School

March 20, 1989

House Bill 73 will allow the Superintendents of Mountain View and Pine Hills Schools to sign for emergency medical treatment, when a legal guardian is not available to authorize treatment.

The current procedure at Mountain View School is to contact the legal guardian in all cases for routine medical needs, where a doctor or hospital requires a signature. This procedure is also followed for emergency medical services. There have been times in the past whereby the legal guardian is not available for the needed authorization, and the Superintendent has made the decision to sign for treatment. This Bill will legitimize the position of the Superintendent and allow for that person to sign.

When a student is committed to Mountain View School, a Student Medical Information and Authorization form is sent to the guardian for their signature. Most guardians sign them and return them, although there are some who do not, or medical emergencies arise prior to receiving them.

It is the intent that Mountain View School and Pine Hills School continue to pursue the legal guardian in times of emergencies, and only sign when all efforts have failed to get in touch with the guardian.

[Handwritten signature]

MOUNTAIN VIEW SCHOOL

2250 Sierra Road East
Helena, MT 59601

In order to provide adequately for your child, sometimes dental, medical and/or surgical care becomes necessary. Therefore, PLEASE FILL OUT THIS FORM COMPLETELY AS SOON AS POSSIBLE AND RETURN IT IMMEDIATELY TO:

Superintendent
Mountain View School

STUDENT MEDICAL INFORMATION
AND AUTHORIZATION

(Please Print)

Full Legal Name of Child _____

Family Physician _____, Dentist _____

Address _____, Address _____

City _____ Phone _____, City _____ Phone _____

Hospitalization or Medical Plan _____

Policy listed under whose name _____

Address _____ City _____

Type and extent of coverage _____

Policy Number _____

Additional Medical Insurance Coverage _____

I, the undersigned parent or guardian of the above child, do hereby provide the above information and consent to the provision of any routine inoculation or immunization and of any routine dental or medical care, including anaesthesia, that may, in the opinion of Dentist or Medical Doctor, become necessary for the health and welfare of the child while in the care and custody of the Department of Family Services. I further consent to the provision of any major and/or emergency care or surgery when determined to be necessary by a Dentist or Medical Doctor, in the event of the inability, with reasonable effort, to contact the child's parents or guardian.

Date _____ Signed _____

Phone _____ Relationship to Child _____

Address _____ City _____

3/20/89

Amendments to House Bill No. 73
Third Reading Copy

For the Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
March 20, 1989

1. Title, line 6.
Following: "FACILITIES"
Insert: "OR THEIR DESIGNEES"

2. Page 1, line 17.
Following: "OR"
Strike: "THE ACTING SUPERINTENDENT"
Insert: "his designee"

TESTIMONY OF THE MONTANA HOSPITAL ASSOCIATION
IN SUPPORT OF HB 621

Amendments to the Uniform Health Care Information Act
Before the Senate Committee on Public Health, Welfare and Safety
Monday, March 20, 1989

House Bill 621 addresses various provisions of the Uniform Health Care Information Act (hereinafter "Act") which have proven in practice to be unduly burdensome, restrictive, unnecessary, and in some instances, in potential conflict with existing Montana law. The testimony presented here will discuss the suggested amendments to the Act, the underlying rationale for the changes, and where necessary, the relationship of the amendments to existing law.

Section 1

As it currently reads, § 50-16-522, MCA, authorizes release of a deceased patient's health care records upon consent of the personal representative, or if none, "by persons who are authorized by law to act for him." As set forth in the comments to the Act, "this section recognizes the possibility of substantial harm or embarrassment to the family, estate, or reputation of the deceased patient by the release of health care information. Therefore, this Act gives representatives of deceased patients the authority to exercise all of the deceased patient's rights under the Act." However, under Montana law, there does not appear to be a person "authorized by law to act for the deceased patient," in the absence of a personal representative. The proposed amendment would identify a class of relatives who would be entitled to act in the decedent's place in the absence of such a representative.

Section 2

When Montana adopted the Act it amended certain portions, including that portion found at § 50-16-525(2), MCA. Strictly construed, this section requires that each time a physician (not an agent or employee of the provider) consults a hospital chart, a record of such consultation complying with the Act must be made. The current requirements are unduly burdensome and serve no useful purpose in protecting the confidentiality of health care information. By returning to the original language of the Act, a health care provider will still be required to maintain a record of those individuals granted access to a patient's recorded health care information. However, where such person is providing

health care to the patient, § 50-16-529(1), MCA, or otherwise allowed access to such information pursuant to § 50-16-529(2), MCA, no record will be required.

Section 3

The proposed amendment will allow for the release of health care information to third party health care payors. Consent to the release of medical records, primarily to third party payors, are frequently signed by relatives. However, the Act itself does not provide for such authorization. To allow the release of a patient's health care record to third party payors will streamline the procedures for releasing such information to third party payors while not otherwise affecting the confidentiality rights of the patient.

Section 4

Section 50-16-535, MCA, identifies when health care information may be made available by use of compulsory legal process. Subsection 9 provides that such information may be released where "a court has determined that the particular health care information is subject to compulsory legal process or discovery because the party seeking the information has demonstrated that there is a compelling state interest that outweighs the patient's privacy interest." This section fails to address whether health care information must be disclosed pursuant to an "investigative subpoena" issued in accordance with the requirements of § 46-4-301, MCA as there is an uncertainty as to whether investigative subpoenas constitute an "order of court". Additionally, investigative subpoenas do not include a finding that the party seeking the information has demonstrated that there is a compelling state interest that outweighs the patient's privacy interest. The suggested amendment to § 50-16-535, MCA, clarifies that health care information must be disclosed when requested pursuant to an investigative subpoena issued in accordance with the requirements of § 46-4-301, MCA.

The amendment also is intended to clarify that the confidentiality provisions enjoyed by professional utilization, peer review and professional standards review committees are not in any way encroached upon by the Uniform Health Care Information Act and that the records of such committees are protected from disclosure, whether requested by patient, through discovery or by compulsory process. Section 37-2-201(2) currently protects such documents from disclosure, stating "The proceedings and records of professional utilization, peer review, a and professional standards review committees are not subject to discovery or introduction into evidence in any proceeding."

Section 5

Section 50-16-542, MCA, provides that a health care provider may deny access to health care information requested by a patient under a number of specifically enumerated circumstances. This section does not authorize a refusal to produce health care information in response to compulsory process or discovery even though some of the reasons articulated in § 50-16-542, MCA, might suggest to the health care provider that such information should not be furnished. The proposed amendments to § 50-16-536, MCA, provide health care providers with the discretion to deny access to health care information requested by compulsory process or pursuant to discovery, for any of those reasons articulated in § 50-16-542, MCA. However, as the court retains control over compulsory legal process, it appears appropriate that the health care provider submit to the court by affidavit or other reasonable means, an explanation as to why the health care provider believes the information should be protected from disclosure. The court may order disclosure, with whatever restrictions on use it deems necessary.

The addition of subsection (5) will allow the health care provider to recover its cost where disclosure is required by compulsory process.

Section 6

Section 50-15-206, MCA identifies the only circumstances in which health care information which might disclose illegitimacy of birth may be released. By amending the Act to provide that health care information which might disclose illegitimate birth may only be released in accordance with § 50-15-206, MCA, any question which has arisen as to whether records of illegitimate births must be released to the child, as a "written request from a patient to examine or copy all or part of his recorded health care information" pursuant to § 50-16-541 will be eliminated.

OHG/srg

William A. Vollmer, Chief
Disability Determination Bureau

Testimony HB621

SENATE HEALTH & WELFARE
EXHIBIT NO. #3
DATE 3/20/89
BILL NO. HB #621

The Montana Department of Social and Rehabilitation Services administers several programs relying on medical evidence to adjudicate individual claims possibly resulting in benefit payments. These disability programs are:

- 1) Social Security Disability Insurance - SSDI
- 2) Supplemental Security Income - SSI
- 3) Medically Needy related to Medicaid only

The adjudicative process involves securing from claimants signed medical releases directed to physicians, hospitals, insurance companies, clinics, Veterans Administration, Indian Health Service, Workers Compensation, County Welfare Offices, etc., or wherever there is medical evidence that would assist the Agency in making the disability decision resulting in benefit payments and attendant services such as Medicare and Medicaid coverage.

The new law has created a major complication in the way other state agencies who are sources of medical evidence respond to the Disability Determination Bureau (DDB) requests.

For example, some claimants are receiving Workers Compensation (W/C). In order to secure disability related information from W/C each treatment source must be specified on each medical release. Since the W/C now retains only medical records on claimants insured by the State Compensation Insurance Fund (SCIF) we have no way of knowing what other Workers Compensation insurance companies ~~may~~ have medical evidence that would assist in the adjudication of a disability claim if it's a different W/C plan. The end result is more development costs associated with having to re-contact claimants and paying records or special report fees to additional sources.

The second issue is the length of time required for a claimant to exhaust the administrative remedies in the event the disability claim is denied and subsequently appealed. There are 3 additional levels before a disability claim reaches Federal or State District Court. The six month period for the life of the release is much too short. The majority of appeals through the 3rd level take a minimum of 8 months. One year is a more realistic time frame.

The proposed amendment provides the authority for State Agencies to respond to specific program requests in a manner that will facilitate adjudication both from a time and cost standpoint.

From a time standpoint the requesting Agency will need only one signed release for all medical information from the specified Agency. There will no longer be the need for multiple contacts with the claimant to secure multiple releases when new sources are identified such as insurance carriers. If there are associated costs the requesting Agency will be paying for records costs once.

FORM V.S. 3 (1988 revision)

MONTANA
 CERTIFICATE OF DEATH

SENATE HEALTH & WELFARE

EXHIBIT NO. #4
 DATE 3/26/89 State File Number

Local File Number

DECEDENT

PARENTS

INFORMANT

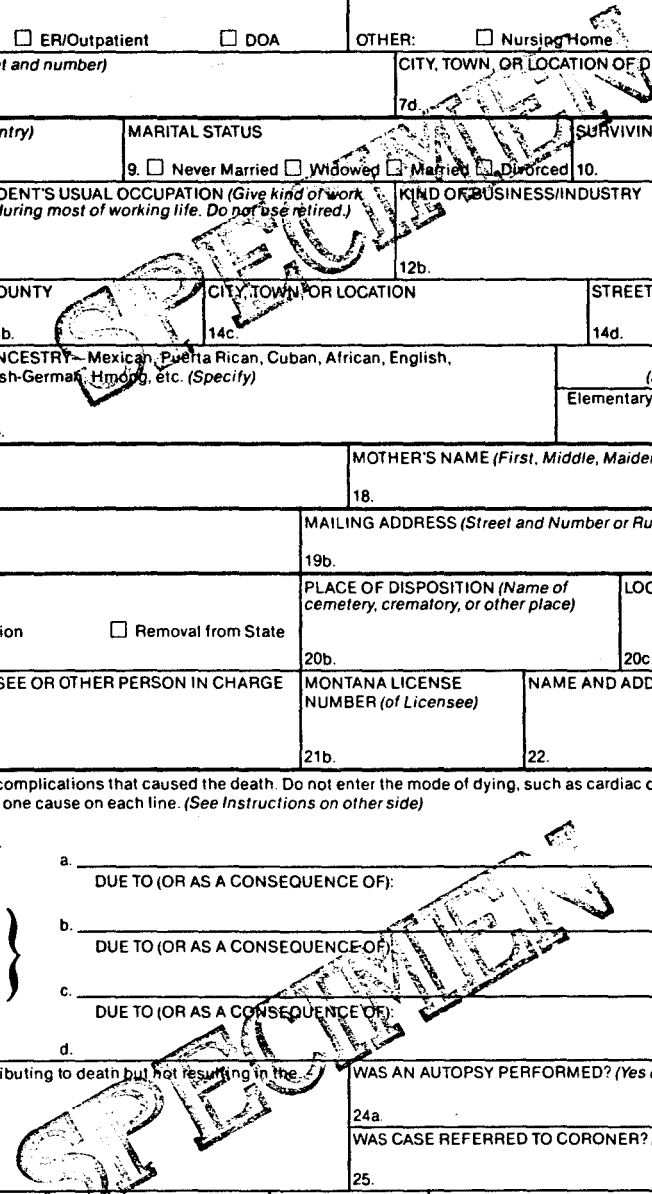
DISPOSITION

CAUSE OF DEATH

CERTIFIER

REGISTRAR

1. DECEDENT'S NAME (First) (Middle) (Last)		SEX		DATE OF DEATH (Month, Day, Year)	
2. RACE—American Indian, Black White, etc. (Specify)		3. AGE—Last Birthday (Years)		4. UNDER 1 YEAR Months Days	
5. UNDER 1 DAY Hours Minutes		6. DATE OF BIRTH (Month, Day, Year)		7. COUNTY OF DEATH	
7b. PLACE OF DEATH (Check only one)					
HOSPITAL: <input type="checkbox"/> Inpatient <input type="checkbox"/> ER/Outpatient <input type="checkbox"/> DOA			OTHER: <input type="checkbox"/> Nursing Home <input type="checkbox"/> Residence <input type="checkbox"/> Other (Specify)		
7c. FACILITY NAME (If not institution, give street and number)			7d. CITY, TOWN, OR LOCATION OF DEATH		
8. BIRTHPLACE (City and State or Foreign Country)		9. MARITAL STATUS <input type="checkbox"/> Never Married <input type="checkbox"/> Widowed <input type="checkbox"/> Married <input type="checkbox"/> Divorced		10. SURVIVING SPOUSE (If wife, give maiden surname)	
11. SOCIAL SECURITY NUMBER		12a. DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired.)		12b. KIND OF BUSINESS/INDUSTRY	
13. WAS DECEDENT EVER IN U.S. ARMED FORCES? (Yes or no)					
14a. RESIDENCE—STATE		14b. COUNTY		14c. CITY, TOWN, OR LOCATION	
14d. STREET NUMBER		14e. INSIDE CITY LIMITS? (Yes or no)		14f. ZIP CODE	
15. ANCESTRY—Mexican, Puerto Rican, Cuban, African, English, Irish-German, Hmong, etc. (Specify)				16. DECEDENT'S EDUCATION (Specify only highest grade completed)	
				Elementary/Secondary (0-12) College (1-4 or 5+)	
17. FATHER'S NAME (First, Middle, Last)			18. MOTHER'S NAME (First, Middle, Maiden Surname)		
19a. INFORMANT'S NAME (Type/Print)			19b. MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code)		
20a. METHOD OF DISPOSITION <input type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Removal from State <input type="checkbox"/> Other (Specify)		20b. PLACE OF DISPOSITION (Name of cemetery, crematory, or other place)		20c. LOCATION—City or Town, State	
21a. SIGNATURE OF FUNERAL SERVICE LICENSEE OR OTHER PERSON IN CHARGE OF DISPOSITION		21b. MONTANA LICENSE NUMBER (of Licensee)		22. NAME AND ADDRESS OF FACILITY	
23. PART I. Enter the diseases, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line. (See Instructions on other side)					Approximate Interval Between Onset and Death
IMMEDIATE CAUSE (Final disease or condition resulting in death)			a. DUE TO (OR AS A CONSEQUENCE OF):		
Sequentially list conditions if any, leading to immediate cause. Enter Underlying Cause (Disease or injury that initiated events resulting in death) Last.			b. DUE TO (OR AS A CONSEQUENCE OF):		
			c. DUE TO (OR AS A CONSEQUENCE OF):		
			d. DUE TO (OR AS A CONSEQUENCE OF):		
PART II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I.				24. WAS AN AUTOPSY PERFORMED? (Yes or no)	
				24a. WAS CASE REFERRED TO CORONER? (Yes or no)	
				25. 24b. WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? (Yes or no)	
26. MANNER OF DEATH <input type="checkbox"/> Natural <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Accident <input type="checkbox"/> Could not be Determined <input type="checkbox"/> Suicide <input type="checkbox"/> Homicide		27a. DATE OF INJURY (Month, Day, Year)		27b. TIME OF INJURY	
		27c. INJURY AT WORK? (Yes or no)		27d. DESCRIBE HOW INJURY OCCURRED	
		27e. PLACE OF INJURY—At home, farm, street, factory, office building, etc. (Specify)		27f. LOCATION (Street and Number or Rural Route Number, City or Town, State)	
				27g. 27i.	
28a. TO BE COMPLETED BY CERTIFYING PHYSICIAN ONLY. To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated.			29a. TO BE COMPLETED BY CORONER ONLY. On the basis of examination and/or investigation in my opinion death occurred at the time, date and place and due to the cause(s) and manner as stated.		
(Signature and Title)			(Signature and Title)		
28b. DATE SIGNED (Month, Day, Year)		28c. HOUR OF DEATH		29b. DATE SIGNED (Month, Day, Year)	
		M		29c. HOUR OF DEATH	
28d. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)			29d. DATE PRONOUNCED DEAD (Month, Day, Year)		29e. PRONOUNCED DEAD (Hour)
					i.
30. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN OR CORONER) (Type or Print)					
LOCAL REGISTRAR'S SIGNATURE			DATE FILED (Month, Day, Year)		

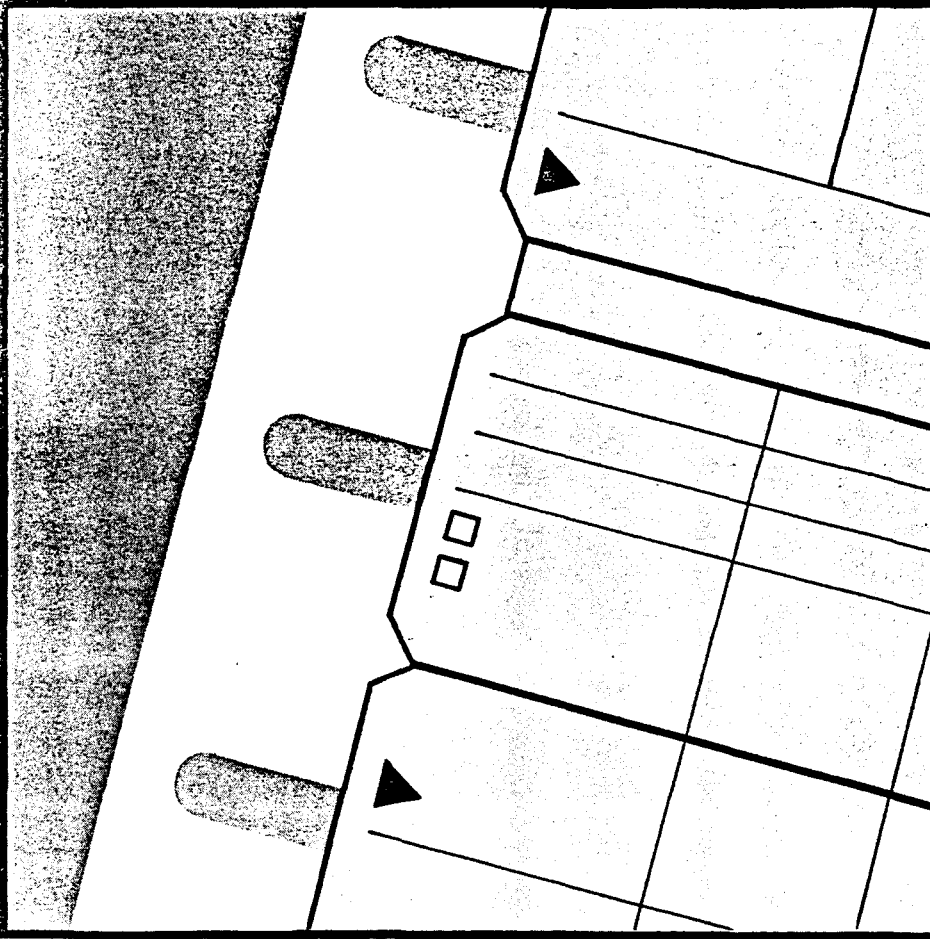


HB 31
HB 31

Medical Examiners' and Coroners' Handbook on Death Registration and Fetal Death Reporting



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES • Public Health Service • National Center for Health Statistics



3/20/89

Amendments to House Joint Resolution No. 15
Third Reading Copy

For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
March 20, 1989

1. Title, line 7.

Strike: "AND IMPLEMENT"

2. Page 2, line 20.

Strike: "July 1, 1991"

Insert: "January 1, 1991"

3. Page 2, lines 22 through 24.

Following: "placements." on line 22

Strike: remainder of line 22 through "1993." on line 24

4. Page 3, lines 10 through 19.

Strike: lines 10 through 19 in their entirety

Amendments to House Bill No. 621
Third Reading Copy

For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
March 21, 1989

1. Title, lines 13 and 14.

Strike: line 13 through "WEDLOCK" on line 14

Insert: "CLARIFY THAT INFORMATION THAT MIGHT DISCLOSE BIRTH OUT OF WEDLOCK IS TO BE DISCLOSED ONLY IN ACCORDANCE WITH SECTION 50-15-206, MCA"

2. Page 2, line 19.

Following: "~~provider or~~"

Insert: "except for"

3. Page 5, line 19.

Following: "process."

Insert: "(1)"

4. Page 5, line 23.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsections

5. Page 7, line 4.

Following: line 3

Insert: "(2) Nothing in this part authorizes the disclosure of health care information by compulsory legal process or discovery in any judicial, legislative, or administrative proceeding where disclosure is otherwise prohibited by law."

6. Page 7, line 8.

Strike: "(2), (4), or (5)"

Insert: "(1)(b), (1)(d), or (1)(e)"

7. Page 7, lines 9 and 10.

Strike: "(9) or (10)"

Insert: "(1)(i)"

8. Page 7, line 23.

Strike: "(2), (4), or (5)"

Insert: "(1)(b), (1)(d), or (1)(e)"

9. Page 7, lines 24 and 25.

Strike: "or investigation"

Following: "under"

Strike: "(9) or (10)"

Insert: "(1)(i)"

10. Page 8, line 10.

Following: "requests,"

Insert: "where authorized by law, a health care provider may deny access to the requested health care information. Additionally,"

11. Page 8, line 18.

Following: "(4)"

Strike: "The"

Insert: "Where access to health care is denied under 50-16-542(1), the"

12. Page 10, lines 4 and 5.

Strike: "A PERSON IS SEEKING UNDER 50-16-522 TO EXERCISE THE PATIENT'S RIGHTS AND"

Amendments to House Bill No. 593
Third Reading CopyRequested by Representative Angela Russell
For the Senate Public Health, Welfare and Safety CommitteePrepared by Tom Gomez, Staff Researcher
March 16, 1989

1. Page 2, line 13.

Following: "(4)"

Insert: "(a)"

2. Page 2, line 15.

Following: "hours"

Strike: ", "

Insert: ":

(i) "

3. Page 2, line 17.

Following: "23"

Strike: ", "

Insert: ";

(ii) with a professional person as defined in 53-21-102;"

Following: "OR"

Insert: "(iii)"

4. Page 2, line 18.

Following: "PROGRAM."

Insert: "(b)"

Following: "counseling"

Insert: "provided in subsection (4)(a)"

5. Page 2, line 19.

Strike: "This subsection"

Insert: "Subsection (4)"

6. Page 2, line 25.

Following: "T"

Insert: "(5)"

#B 593
3/20/89

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 required. A person may not provide counseling under 45-5-206(4)(a)(i) or (ii) unless he has completed 16 hours of training in domestic abuse offender counseling through a program approved by the appropriate licensing board."

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/20/89 Bill No. #B 73 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: Sen Lynch - 3 PC
HB 73 (C) - 90
In Favor 6; opposed 0.

Sen Himsl
will carry

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/20/89 Bill No. HB 73 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: Sen Lynch 3rd
In Favor 6; - 0 opposed

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/20/89 Bill No. HJR 15 Time 2:00

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 → over
16-19 - 6-0

2nd Amendment

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date _____ Bill No. HR 15 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	-	
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Sen Lynch moved the amendments
on H.R. 15 (64-6-0)

End

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/20/89 Bill No. HB 621 Time 1:45

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: (Lynch - 2 opposed 6, opposed

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/20/89 Bill No. 621 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: Sen. Lynch 3 (Carry)
9-0
In Favor

Sen Hager will carry

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/20/89 Bill No. 197 Time 2:08

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. Pipinich to table ^{HB.} 197

In Favor 6-0

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/20/89 Bill No. 102 Time 2:07

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	-	
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Sen. Norman moved to
table HB 102 in 6-0
favor opposed

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/20/89 Bill No. HB 395 Time 2:15

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	-	
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Sen. Lynch moved that HB 395
be concurred in
in favor 6-0 opposed

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/20/89 Bill No. HB 593 Time _____

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

Dorothy Quinn Secretary Sen. Tom Hager Chairman

Motion: Sen. Lynch.
Sen. Rasmussen moved that
the amendment be adopted

6-0

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 9/20/89 Bill No. HB 593 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	-	
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Rasmussen - y n a
- 9 aye,
in favor 5 - 1 opposed.

ROLL CALL VOTE

SENATE COMMITTEE

PUBLIC HEALTH

Date _____

Bill No. HB

Time _____

668

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

Sen. Tom Hager

Secretary

Chairman

Motion:

Sen. Lynch, made a motion
that bill be concurred
in as amended. 6-0

Halligan

1989