MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By Chairman Dorothy Eck, on March 20, 1991, at 3:15 p.m.

ROLL CALL

Members Present:
Dorothy Eck, Chairman (D)
Eve Franklin, Vice Chairman (D)
James Burnett (R)
Thomas Hager (R)
Judy Jacobson (D)
Bob Pipinich (D)
David Rye (R)
Thomas Towe (D)

Members Excused: None

Staff Present: Tom Gomez (Legislative Council)
Christine Mangiantini (Committee Secretary)

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HOUSE BILL 761

Presentation and Opening Statement by Sponsor:

Representative Ray Peck opened by saying this measure combines several bills but authorizes the county attorney to order tests for sexually transmitted diseases following the entry of judgement against the sexual offender. Secondly, the bill requires the county attorney to arrange for counseling of the victim and the convicted person if the sexually transmitted disease test is positive. Third, the bill exempts the protection provided for on page 2, lines 5 and 6 relative to AIDS testing. The bill also provides for the release of the results by the county attorney and also meets the requirement of federal law relating to a possible penalty. He reviewed the amendments implemented by the House committee.

Proponents' Testimony:

The first witness was Beth Baker, she was appearing in place of John Connor who was the legislative coordinator for the Montana County Attorneys Association. This Association originally drafted and requested this bill. It was amended substantially in the House of Representatives. The original intent was twofold. First, provides victims of sexual offenses with the mechanism of determining whether they have been exposed to a sexually transmitted disease and thereby given an opportunity to obtain appropriate medical treatment. Secondly, the bill provides information for those responsible for the custody of the offender. She reviewed the amendments implemented in the House by saying they decided to make the testing discretionary instead of mandatory. She said this will lessen the value of the bill. A new subsection (3) provides that the county attorney has the duty to arrange counseling of the victim. She did not think this was appropriate. It should be an option that the victim has. The amendment is too vague. Section 2, pages 2 and 3, the House struck the provisions relating to the custodians of the offender. This essentially emasculates one purpose of the bill which was to consider the protection of persons impacted by the defendant as well as the interests of the defendant. These provisions were included in the bill to allow custodians to make provisions for the care and custody of those individuals. She continued to review the amendments added in the House of Representatives. The County Attorneys Association believes that the bill as originally drafted had some value. The Association would prefer to have the bill in it's original form, with the exception of a couple of amendments and would be happy to assist in any conference committee proceedings if that is the result. Mr. Connor will be available tomorrow and thereafter if the committee has questions.

The second witness was Representative Bob Pavlovich, who said he had a similar bill that stated a test had to be taken. He said a young woman was raped the man was caught and six months later he died. The young woman was pregnant and was told the rapist had AIDS. His bill said a test could be requested in a rape case.

Opponents' Testimony:

The first witness was Mary Beth Federias, Lewis and Clark Health Department. She said he had just read the bill but had a question about the language on page 2, section 3. She said post test counseling is used for someone who has received an HIV test. It should be given to the convicted person and the people who have been victims. It is a language error that makes no sense as it is written.

Questions From Committee Members:

Senator Rye asked Beth Baker if she was testifying as a proponent.

Ms. Baker said the Association is a proponent of the bill as it was originally drafted. The bill is confusing and has language problems.

Senator Rye asked Representative Peck about amending the bill back to is original form.

Representative Peck said he felt the intent of the committee was good. There is one basic intent in the bill. If a woman is raped she should have the right to have that individual tested to determine if there is a sexually transmitted disease. The committee started looking more into the rights of the perpetrator instead of the rights of the victim. He said he thought they made a great to do about nothing. He said the state needs this legislation.

Senator Hager asked Representative Peck about the new language on the top of page 3, regarding the county attorney arranging for post-test counseling of the convicted person, which was stricken.

Representative Peck said he did not know if the amendment was proposed during executive action.

Senator Hager asked which House committee had the bill.

Representative Peck said it was the House Human Services Committee.

Senator Eck asked Mary Federias if she was troubled by a person testing negative for AIDs after an assault but tested positive at a later date.

Ms. Federias said re-testing would make sense. It takes an amount of time for the test to show positive. Because the perpetrator is infected it does not mean the victim is infected. The victim should be tested repeatedly over the first year.

Senator Franklin asked what she would recommend in terms of protocol language.

Ms. Federias said the State Health Department could advise the committee on how to form that language.

<u>Closing by Sponsor:</u>

Representative Peck closed by saying it would not necessarily have to go to conference committee. He said it would be acceptable to amend the bill. He emphasized that the Board of Crime Control said in fiscal year 1992 there will be $2.4 million in the anti-abuse fund that could be endangered if the state does not have in place mandatory testing. He thanked the committee for the hearing.

HEARING ON HOUSE BILL 881

Presentation and Opening Statement by Sponsor:

Representative Royal Johnson opened by saying this measure was in concert with the Board of Medical Examiners, who supervise the emergency medical technicians. They have been working on cleaning up the authority language. He read from the bill. He said much time has been spent working on the language. The bill requires a statement of intent because it allows rulemaking authority. It also lays out the training levels. He said there was no problem with the bill on the House side. He asked the chairman to recognize the witnesses.

Proponents' Testimony:

The first witness was Drew Dawson, chief of the Emergency Medical Services Bureau, Department of Health and Environmental Sciences. See Exhibit #1 for a copy of his testimony.

Opponents' Testimony:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

Representative Johnson closed by saying the legal counsel for the Board of Medical Examiners supports the bill.

EXECUTIVE ACTION ON HOUSE BILL 881

Motion:

Senator Pipinich moved concurrence.

Discussion:

None.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

There being 8 ayes and 0 nays the motion carried.

HEARING ON HOUSE BILL 917

Presentation and Opening Statement by Sponsor:

Representative Howard Toole opened by saying due to his former service on the Board of Health and Environmental Sciences he was asked by the department to become involved with HB 917. A substantial amount of work has gone into the bill. He said Representative Jim Rice also worked on the bill. He read sections of the bill to the committee members. Page 7, definitions section. Section 2, pertains to when an AIDS test can be ordered. It amends a provision that previously said a person could not request an HIV test without first getting written informed consent from the subject. The tenor of that statute is being changed by adding to the numbers of people who can consent. The purpose is to enable a next of kin or significant other to execute that document if the subject is unconscious or mentally incapacitated. The conditions under which such a person can sign a consent form are laid out in the bill. Page 8, it can be done by anyone designated in hospital records if the subject is in the hospital. Other changes on page 8, section 2 include a physician or health care provider when ordering an HIV test has certified that written informed consent has been obtained. That is insurance that the procedures have been complied with. Subsection (3), page 8, line 16, addresses how pretest counseling is to be handled. We are extending pretest counseling to the same people signing the informed consent document. A related subject begins on page 10, informed consent is not required. This is one of the most important provisions of this bill. The conditions under which informed consent can be avoided are being expanded to address several situations. Page 10, medical indications of an HIV related condition, it is advisable to determine the proper course of treatment. When the subject is incapacitated or unconscious and there is some medical indication of HIV or a related condition. The test is advisable to determine the proper course of treatment for the subject. This situation applies only when none of the people who normally must be approached are available within a reasonable time. That is an emergency situation. The focus is on the condition of the patient. The other situation where informed consent is not required is for the case where there has been probable exposure to people providing treatment or responding to an emergency circumstance. That language is from another bill that was folded into this measure. Pages 11 and 12, line 12, allows for testing without informed consent of a person who is in a similar situation, unable to give the consent and there has been involuntary exposure. He read from the bill. It is intended to address the circumstance where an emergency health responder has had possible exposure and the informed consent is not available. Testing is to be done on previously drawn blood. There are stringent limitations in the language. Insurance is addressed in the bill.

Representative Toole continued by saying when testing is done in connection with an application for insurance, there was discussion about what should be done when HIV testing has been performed. This bill sets forth a rule that if the insurance company receives information that the test for HIV is positive then the insurer is to contact the health care provider for the individual. If the test is negative they can directly contact the subject. Routine HIV testing is done for insurance purposes and the great majority of situations result in negative findings. There should be a mechanism to protect the subject for whom the test is positive. This bill sets forth that the insurer is to contact a designated medical provider. In that context this bill requires such a person for HIV testing. Section 3, page 12, addresses the testing of organ donors that provides that the testing be done in accordance with nationally accepted standards adopted by the Department of Health. There are provisions regarding the confidentiality of records and are to be disclosed only to the extent allowed by the language on page 13 of the bill. In Section 6 of the bill it addresses the disclosure without the patients authorization. We added a circumstance where their can be disclosure of information about a patient without the patients authorization. This language is based on the need to know. If the health care provider reasonably believes that disclosure will avoid or minimize an eminent danger to health or safety of the contact or another individual. This allows for the disclosure of results without the patients authorization. The Department of Health has pointed out the need to dovetail for the emergency care responder. The existing provisions of law which allow for the submission of a form by the responder to file that form with the medical care provider. The amendment will provide that it constitutes a request to the physician to seek consent from the subject for an HIV test. It is a mechanism to enable the testing to occur if an emergency responder believes they have been exposed. He asked the chairman to recognize the witnesses.

Proponents' Testimony:

The first witness was Anita Masters, a registered nurse from Great Falls. As part of her job she performs HIV counseling of patients, physicians and employees. Last year they did 64 HIV tests because health care workers were exposed to needle sticks, body fluids or blood. Only 30 were actual diagnostic testing of patients. Twice as many are performed because of needle stick injuries. She said she is in favor of an amendment that would allow a broader definition of who can sign for HIV consent. She said she is pleased that health care workers and emergency service providers are recognized as providing care. She said on page 11, line 18, there is a problem. This law would mandate that the health care worker has to inform the patient of the results of the HIV test. She said it would put the health professional in an adversarial position with the patient.

The second witness was Dr. Cheryl Reichert, pathologist from Columbus Hospital. See Exhibit #2 for a copy of her testimony.

The third witness was Bruce DeSonia, an employee of the Department of Health and Environmental Sciences. See Exhibit #3 for a copy of his testimony.

The fourth witness was Kathy Camparolli, representing the Montana Nurses Association. See Exhibit #4 for a copy of her testimony.

The fifth witness was Vern Erickson, representing the Montana State Firemen's Association. He said they are involved in emergency responses. The environments they work in are totally out of control. He said he appreciated the comments of Dr. Reichert especially in regards to body fluids. He urged the committee to take action to assure emergency workers that tests will be taken when necessary.

The sixth witness was Drew Dawson, chief of the Emergency Medical Services Bureau for the Department of Health and Environmental Sciences. See Exhibit #5 for a copy of his testimony.

The seventh witness was Jim Aherns, president of the Montana Hospital Association. He said they started to get calls from hospital personnel in 1989. He said they supported this bill. Coalitions are a fine balance and have worked on this bill for a long time. He said they would be generally supportive of looking at the amendments. Of major importance is bill passage.

The eighth witness was Mary Beth Federius, public health administrator for Lewis and Clark City/County Health Department. She said she supports the hard work that went into the bill and the tremendous amount of compromise that took place. To fight this epidemic we need a balance of everyone's rights. We need trust so people come forward, especially those infected. This bill comes along way towards balancing this issue. Any language that loosens the intent of the consent laws will scare the infected parties. If these people do not find out they are infected the disease will spread. Take a close look at the proposed changes to ensure that a balance is present. The patient must have the opportunity for consent. The role of the physician is to educate, explain the need for the test and over 99 percent of source patients consent. If the person refuses there is a provision in the bill that allows for testing existing blood samples. That information should be shared with the source patient. She said this was a good bill and was in absolute support of the bill.

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Franklin asked about the proposed amendments from Drew Dawson.

Mr. Jerry Loendorf, representing the Montana Medical Association, said they agreed with them but they did not define the term 'first responder' or 'emergency responder'. The House of Representatives amended in the term 'first responder' but did not define it. He said he had read Mr. Dawson's amendment but said it only referred to persons who transported the patient. He handed the committee Exhibit #6, a copy of his proposed amendment.

Senator Hager asked Representative Toole about the availability of the tests.

Representative Toole suggested that Dr. Reichert answer that question.

Dr. Reichert said in Montana their has not been a reported case of AIDs transmitted through transfusion. Their are a couple of people in Montana who acquired AIDS from blood transfusions given in other states. The reason the test takes so long is that positive tests are repeated. If it is positive it is verified by a totally different technology. The AZT drug is experimental. The medication is taken four or five times a day for about six weeks. It is a possibility that the health care worker who is infected is not testing positive at that time. We suggest a follow-up test at three and six months.

Closing by Sponsor:

Representative Toole said the legislation has received a great deal of attention and effort. There has been work during this session and the two years leading up to the session. The Committee On Human Services and Aging in the House of Representatives worked extensively on this bill. The attention this committee has given this hearing suggests the need to pass the bill. He said the issues had been narrowed considerably and he urged passage.

EXECUTIVE ACTION ON HOUSE BILL 176

Motion:

Senator Hager moved to strike the Public Health, Welfare and Safety Senate Standing Committee Report amendments dated March 14, 1991 in their entirety.

Discussion:

Senator Eck said HB 176 was referred back to Committee. Senator Rye was originally carrying the bill.

Senator Eck said the Clerk and Recorders Association was not satisfied with the first amendments implemented in the bill. People usually need more than a dozen death certificates.

Senator Pipinich said a copy of a death certificate has to accompany almost every transaction during estate proceedings and it can cost quite a bite of money to purchase them.

Senator Eck said she had talked to county clerks and they agreed that a person should buy in quantity versus one copy at a time. She recognized Mike Stephen, representing the Clerk and Recorders Association.

He said they would like not to have multiple costs but leave it at a set rate. He asked that the committee set the rate at $3.00.

Senator Eck wanted to know why they found quantities difficult.

Mr. Stephen said it makes it a 'blue light special'. There is no other fee structure set that way. These are certified copies, indexed and maintained as such.

Senator Eck asked how many are filed and returned to the courthouse.

Mr. Stephen said it is used once. It does not return to the courthouse.

Amendments, Discussion and Votes:

There being no objection the motion carried.

Recommendation and Vote:

Senator Hager moved concurrence. There being no objection the motion carried.

EXECUTIVE ACTION ON HOUSE BILL 325

Motion:

Senator Franklin moved adoption of the amendments denoted in Exhibit #7.

Discussion:

Senator Franklin explained the amendments by saying it is a formal statement of intent that outlines that the new provision follows the protocol established by the local hospital districts.

Tom Gomez explained the remaining amendments as technical in nature.

Amendments, Discussion, and Votes:

There being no objections the amendments denoted in Exhibit #7 were adopted.

Recommendation and Vote:

Senator Pipinich moved concurrence as amended. There being no objections the motion carried.

EXECUTIVE ACTION ON HOUSE BILL 713

Motion:

Senator Pipinich moved to table the bill.

Discussion:

Senator Pipinich said after much consideration and discussion about the effect of this measure on Galen and Warm Springs, he said he is convinced it is a back door closure of these institutions. He said he did not want to kill the bill. He wanted to table it until further action.

Recommendation and Vote:

There being 6 ayes and 2 nays by Senators' Burnett and Rye, the motion carried.

EXECUTIVE ACTION ON HOUSE BILL 620

Motion:

Senator Pipinich moved adoption of the amendments denoted in Exhibit #8.

Discussion:

Tom Gomez explained the amendments by saying the sponsor and the Respiratory Care Association requested.

Amendments, Discussion, and Votes:

There being 7 ayes and 1 nay by Senator Hager, the motion carried.

Recommendation and Vote:

Senator Franklin moved concurrence as amended. There being 6 ayes and 2 nays by Senators' Burnett and Hager, the motion carried.

HEARING ON HOUSE JOINT RESOLUTION 21

Presentation and Opening Statement by Sponsor:

Representative Tim Whalen opened by saying he thought this was a non-controversial measure. He said a large portion of the Medicaid budget is used for elderly care institutionalization. Ms. Julia Robinson, director of the Department of Social and Rehabilitation Services (SRS) feels she has no flexibility because of federal rules and regulations. If the federal government would relax the regulations so that treatment and care for elderly in their home could be reimbursed as well as institutional care, that would save her budget money and reduce the incidents of institutionalization. The resolution urges the federal government to relax those restrictions so that reimbursement for assistance at home could be subsidized.

Proponents' Testimony:

The first witness was Harley Warner, representing the Montana Association of Churches. He said they support this resolution because they would like to see senior citizens taken care of at home.

The second witness was Ronnie Hansen, representing the Montana Senior Citizens Association. She said they supported this measure.

The third witness was Mike Hanschen, an employee of the Medicaid Services division of SRS. He said they are in support of the resolution.

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Hager said when he attended a health ethics committee meeting in Virginia it was general opinion that other states had some success from the federal government with similar measures.

Senator Eck said their was a waiver.

Mr. Hanschen said the waiver had been operating since 1981. It started for the elderly and some physically disabled people. It now serves approximately 500 people in the state.

Senator Burnett asked if the service can only be offered up to the point of financing.

Mr. Hanschen said it is fixed. Montana has a certain amount of money and a certain number of people that can be served.

Senator Eck said there was another bill that would increase the number of eligible persons.

Mr. Hanschen said the Governor's budget contained an expansion by offering an additional 50 slots. Representative Boharski asked the Appropriations subcommittee to allow up to 25 individuals now in nursing homes to move into community services.

Senator Eck asked if the eligibility was based upon state or federal budgetary constraints.

Mr. Hanschen said it is both. Montana is reaching its federal limit. It is predicated on the number of empty nursing home beds. We have a high occupancy rate of nursing homes beds in Montana.

Closing by Sponsor:

Representative Whalen thanked the committee for a good hearing and urged passage.

EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 21

Motion:

Senator Hager moved concurrence.

Discussion:

None.

Recommendation and Vote:

There being 8 ayes and 0 nays the motion carried.

HEARING ON HOUSE BILL 930

Presentation and Opening Statement by Sponsor:

Representative Tim Whalen said this bill incorporates federal law provisions relating to the U.S. Congressional Act passed in 1986 for mentally ill advocacy. This would bring the Montana law parallel with the federal law, allowing more ease in providing the mandates for the advocacy of the mentally ill. He asked the chairman to recognize the witnesses.

Proponents' Testimony:

The first witness was Mary Gallagher, staff attorney for the Board of Visitors. See Exhibit #9 for a copy of her testimony which includes written testimony from Kelly Moorse.

The second witness was John McCrea, representing the Montana Advocacy Program. See Exhibit #10 for a copy of his testimony which included testimony from Krista Bakula, executive director of the Montana Advocacy Program.

The third witness was Dan Anderson, administrator of the Mental Health Division, Department of Institutions. He said they were provided with a draft of the bill before it was introduced. They went over it very thoroughly and worked with the Board of Visitors. This bill is supported by the Department of Institutions and the State Hospital. It is unfortunate that we need a section of law dealing with the rights of the mentally ill. One would assume they have the same rights as everyone else. The rights of the mentally ill have not been granted as they should have been. Service providers, today, are concerned about this. The Department of Institutions is joining with the advocates in support of this bill.

The fourth witness was Jim Smith, representing the Montana Association for Rehabilitation. The whole history of the nation is bound up in the rights of people who did not have them. Two hundred years ago you could not vote unless you owned property. Eighty years ago you could not vote unless you were a male. People with mental illnesses have rights and if this bill passes they will have additional rights. In so doing, the legislature and the society has to be sensitive to everyone's rights. We must balance the rights of those with mental illnesses against those hired to help them. This bill strikes a proper balance. The needs of the patients come first.

The fifth witness was Kathy McGowan, representing the Montana Council of Mental Health Centers. She said they are a provider and support the bill. She said the Montana Alliance for the Mentally Ill also supports the bill.

Opponents' Testimony:

The first witness was Archie McPhail, supervisor of the Intensive Treatment Unit at Montana State Hospital. See Exhibit #11 for a copy of his testimony. He said he was here on his own time and expense and his remarks were not reflective of the Department.

The second witness was Ginny Hill, a psychologist at Montana State Hospital. She was representing herself. She said she reviewed the bill and said a major concern was that the bill was developed without the input of staff at the State Hospital. One issue would adversely affect patient care, on page 17, section 7 (6c). She read this section. She said peers and staff would be at an increased risk of physical harm, illnesses will be harder to treat and untreated patients may be discharged to the community. She said once dangerous behaviors have occurred that involve mental illness the state has a moral obligation to prevent future episodes of violence.

Questions From Committee Members:

Senator Burnett asked Representative Whalen about the fiscal impact of the bill.

Representative Whalen said it would not cost any additional monies because the Board of Visitors is already established.

Senator Pipinich asked Jim Smith to respond to Mr. McPhail's testimony regarding section C.

Mr. Smith said the concern was genuine but felt it had been addressed. The patient had the right not to receive treatment unless it is during an emergency situation. The rights of the patient are forfeited through the order of the court or the emergency at hand.

The chairman recognized Mary Gallagher who said it was unfortunate that the hospital employees were not at the meeting the Board of Visitors had with the superintendent of the hospital. As the law stands, people must give informed consent. A guardian should be appointed to make the medical decisions. Most hospitals have that procedure in place. However, there is some confusion at the State Hospital about this responsibility.

Senator Pipinich asked Archie McPhail to respond.

Mr. McPhail said he had asked if any compromise had been reached on that section of the bill and received a variety of answers.

Senator Franklin asked Mr. McPhail about the guardianship proceedings.

Mr. McPhail said the only guardianship that occurs regularly pertains to money. Very seldom is a guardian appointed to determine treatment. Many patients refuse consent to treatment. He said one patient had been schizophrenic for 12 years. She was not treated for half of that time. With medication she was responding within a week and after that was sorry she had not consented to the medication earlier. He said they did not have much recourse if a patient would not submit to treatment. In this case we had a court order. Presently, there is a committee comprised of health care workers who are independent of the unit the patient is on. They decide about consent.

Senator Burnett asked if section C were stricken from the bill what the impact would be.

Mary Gallagher said these are the bottom line positions that all hospitals use regarding treatment. It would delete an area that needs clarification. Leaving this section in the bill may help to define this area.

Senator Franklin asked if it was reasonable to expect someone overtly psychotic to give written consent.

Mary Gallagher said when someone is in that state it is a situation where the treating physician may decide the person is not capable of giving consent. That is why the temporary guardianship provisions are in the mental health code.

Senator Jacobson said someone mentioned that most other facilities already do informed consent, is it not true that most involuntary commitments are made to the state hospital.

Mary Gallagher said the majority are made to the state hospital. Others are committed to psychiatric wards throughout the state. Other facilities have already established policies about informed consent. The state hospital has been more laxed about defining that policy. We suggested that the community take some responsibility for guardianship proceedings as well.

Senator Franklin commented about the issue regarding written consent and the Board of Visitors process.

Mary Gallagher said the Board of Visitors is not appointed as guardian but has the legal services program available.

Senator Franklin said if someone is unable to give written consent and the psychiatrist feels that they are in need of treatment, they need to establish a guardian.

Mary Gallagher said persons with a mental illness that are committed under the statute may have the mental capacity to make a decision regarding treatment.

Senator Franklin said her contention was that the very patient's that need treatment, that are not deemed incompetent, do not receive it and the clinicians are caught in the bind.

Mary Gallagher said that was not correct. If a physician said the person could not make the treatment decision, that information is what is needed in a guardianship hearing to find incapacity. A guardian would be appointed.

Senator Pipinich asked Mr. McPhail to respond.

Mr. McPhail said it would be difficult to take them back to court to have a guardianship approved.

Senator Pipinich asked about his input on section C.

Mr. McPhail said he was in the meeting for five or ten minutes and was then replaced by the superintendent.

Senator Towe said one issue is commitment. Some psychiatrist's have had difficulty with the tight commitment procedures. There are times when people need to take their medicine on a regular basis or they become uncontrollable. A guardianship proceeding was developed which would allow for temporary holding of an individual and use of force to administer medication. This could not be done in Warm Springs. The question is whether or not the patient can refuse treatment. This has been a major debate. A decision was made that would require every patient to have a treatment plan.

Representative Whalen said we are talking about people capable of making these decisions. If they are not capable a guardianship can be established. If it is not an emergency situation, the person is incompetent, there is no reason why the guardianship proceedings should not be undertaken. If they are not incompetent but are mentally ill, that person should be making informed consent about his/her treatment plan. He said if section C were stricken it would create a huge problem. It speaks to the manner in which treatment is carried forward. You cannot read this bill in isolation. This provision is in federal law.

Mary Gallagher said section C was put in the bill because treatment plans were established but never discussed with the patient. The provisions allow a contract between the professionals and the patient. If someone does not agree to a treatment plan, the code addresses non-compliance. There must be a treatment plan in accordance with state law. However, if their is no participation, the professional must seek compliance. If that is not possible their is a statute dealing with that problem. The federal restatement of the Bill of Rights is not a substantive provision.

Senator Towe asked about provisions from other states.

Mary Gallagher said they use their guardianship provisions. If they are not incompetent and refuse treatment they have a hospital policy or go through a state statute.

Mr. McPhail commented that without compromise or without procedure we would be in court resolving the differences. The point is that we have not worked out a policy. We have an obligation to our patients. The least amount of medication is what is used. Over medication rarely occurs.

Senator Franklin asked Dan Anderson about current policies on instituting guardianship.

Mr. Anderson said he was not the right person to answer that question. He said we have a limited guardianship statute on the books. We do not have to prove the person is totally unable to take care of themselves. We can set up a procedure with the help of the Board of Visitors and the state hospital.

Senator Franklin said what concerns her is the set-up for the patients. We end up not treating them. They cannot consent to treatment because of their illness, we do not have a guardianship policy in place and as a result they get warehoused.

Mr. Anderson said not every patient refuses treatment. Section C caused him concern. This is a basic right all of us have. We have the right to understand the treatment and make a decision whether to accept it. It is difficult to say we are not going to offer that right to people because they are mentally ill.

Senator Franklin said she was hopeful their were enough other protection besides (c), including the Board of Visitors and community involvement. This issue of emergency situations says if someone is overtly aggressive they are medicated. The rest of the time they do not get treatment. That is not clinical treatment.

Chairman Eck asked Ginny Hill about section (c), adding language, and wanted to know what exceptions would be appropriate.

Ms. Hill said when a patient is received on a 90-day commitment, most Montana judges add a clause that states the patient may receive treatment by injection if necessary in order to treat the patient. She said she would like that clause included. We have to treat the dangerous patients. We make all efforts to get informed consent. Our experience with judges is that they believe it is within the patients right to refuse treatment. Ms. Hill continued by saying the voluntary commitments are not the problem. The involuntarily committed patient we cannot treat without their consent.

Chairman Eck said right now they are getting commitments and it might be appropriate to add language that allows treatment when it is in compliance with the commitment order.

Ms. Hill said a reference such as that would be helpful.

Chairman Eck said this bill was on the consent calendar in the House of Representatives.

<u>Closing by Sponsor:</u>

Representative Whalen closed by saying there were no problems with this bill. He said the misunderstandings were unfortunate. It results from the interpretation of the guardianship laws. This bill speaks to areas when treatment is required to address an emergency that no inform consent is required. A treatment plan for someone incompetent is denoted in the guardianship statutes. This bill applies to any facility that is dealing with mentally ill persons. If the person is not incompetent they should be allowed to refuse treatment. The intent of the bill is to give mentally ill persons rights.

ADJOURNMENT

Adjournment At: 6:24 p.m.

SENATOR DOROTHY ECK, Chairman

CHRISTINE MANGIANTINI, Secretary

DE/cm

ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Date March 20, 19

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BURNETT	X		
SENATOR FRANKLIN	X		
SENATOR HAGER	X		
SENATOR JACOBSON	X		
SENATOR PIPINICH	X		
SENATOR RYE	X		
SENATOR TOWE	X		
SENATOR ECK	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 21, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 881 (third reading copy -- blue), respectfully report that House Bill No. 881 be concurred in.

Signed: Dorothy Eck
Dorothy Eck, Chairman

3-21-91
Amd. Coord.

3-21 9:45
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

March 21, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 176 (third reading copy as amended -- blue), respectfully report that House Bill No. 176 be amended and as so amended be concurred in:

Strike the Public Health, Welfare, and Safety Senate Standing Committee Report amendments dated March 14, 1991 in their entirety.

Signed: Dorothy Eck
Dorothy Eck, Chairman

3-21-91
Amd. Coord.

3-21 9:45
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

March 21, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 325 (third reading copy -- blue), respectfully report that House Bill No. 325 be amended and as so amended be concurred in:

1. Title, line 4.
Following: ""AN ACT"
Insert: "TO REVISE THE LAWS RELATING TO HOSPITAL DISTRICTS;"

2. Page 1, line 10.
Following: line 9
Insert: "

STATEMENT OF INTENT

A statement of intent has been prepared for this bill to clarify the provisions of this bill that authorize the board of trustees of a hospital district to provide educational benefits to qualified individuals.

It is the intent of the legislature that, in providing educational benefits, the board of trustees follow current procedures established in the district bylaws governing decisions of the board in order to ensure:

(1) a fair assessment of the qualifications and financial need of individuals applying for educational benefits; and

(2) the equitable distribution of funds available for educational benefits offered by the hospital district."

3. Page 3, line 16.
Following: "<u>including</u>"
Insert: "the payment of"

4. Page 3, line 17.
Following: "<u>materials,</u>"
Insert: "and"
Following: "<u>stipends</u>"
Strike: ","

Signed: Dorothy Eck
Dorothy Eck, Chairman

3-21-91
Amd. Coord.

3-31 9:45
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

March 21, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 620 (third reading copy -- blue), respectfully report that House Bill No. 620 be amended and as so amended be concurred in:

1. Page 6, line 6.
Following: "quasi-judicial board"
Insert: ", except that one member of the board need not be an attorney licensed to practice law in this state"

Signed _____
Dorothy Eck, Chairman

3-21-91
Amd. Coord.

3-22 9:45
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

March 21, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Joint Resolution No. 21 (third reading copy -- blue), respectfully report that House Joint Resolution No. 21 be concurred in.

Signed: Dorothy Eck
Dorothy Eck, Chairman

lgl 3-21-91
Amd. Coord.

SB 3-21 9:45
Sec. of Senate

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 3/26/91
BILL NO. HB 881

HOUSE BILL 881

Madam Chair, members of the committee. I am Drew Dawson, Chief of the Emergency Medical Services Bureau in the Department of Health and Environmental Sciences.

The Emergency Medical Services Bureau is responsible for the planning and implementation of a state-wide emergency medical services program. Our responsibilities include the day-to-day administration of the EMT training and certification program. This is done on behalf of, and in cooperation with, the Montana Board of Medical Examiners.

The current EMT certification law was passed in 1975 just as emergency medical services were evolving throughout the nation. In 1975, there were only two national standard EMT training programs-Basic and Advanced-both of which were reflected in the legislation.

As emergency medical services has progressed, additional national curricula and certification levels have evolved including EMT-Basic, EMT-Defibrillation, EMT-Intermediate and EMT-Paramedic. Montana has adopted these levels of training and certification. Under previous legal advice, administrative rules classified EMT-Defibrillation, EMT-Intermediate and EMT-Paramedic as subcategories of EMT-Advanced. I have attached a summary of each of the training programs and the numbers of personnel currently certified in Montana. These persons are working on emergency medical services, both volunteer and paid, within your communities.

Several factors have precipitated the need for this legislation:

1. Current legal counsel has advised us that there should be more clear-cut statutory authority for the Board of Medical Examiners to establish various categories of emergency medical technicians and the acts they may perform.

2. The national standard EMT curricula are currently undergoing major revisions by the U.S. Department of Transportation. To remain consistent with national standards and with current advancements in emergency medicine, the Board of Medical Examiners needs the flexibility to establish various categories of EMTs and to determine the specific procedures EMTs may perform at each level.

3. As advancements are made in emergency medical services, some existing procedures often become obsolete. New techniques and medications become more appropriate. It is essential that the Board of Medical Examiners, in concert with the medical and EMS community, be able to rapidly respond to these changing needs. It is more realistic to deal with these complex medical issues by administrative rule rather than by statute. This involves considerable input from established medical and emergency medical organizations in Montana.

This legislation accomplishes three major purposes:

1. It give clear legal authority to the Board of Medical Examiners to establish, by administrative rule, the levels and types of Emergency Medical Technicians.

2. It allows the Board of Medical Examiners to establish, by rule, the acts which various levels of EMTs may perform. This allows new procedures and medications to be adopted based on input from the medical community. It also allows out-dated procedures and medications to be removed from the acts allowed.

3. It will allow Montana to be rapidly responsive to changes in the national curricula which are currently underway. This, of course, always involve carefully looking at the impact of these curricula on Montana's EMS providers.

The EMS Bureau actively solicits input from EMS providers and from the medical community prior to recommending rule changes to the Board of Medical Examiners. To assure the availability of examination and certification methods, every effort is made to remain consistent with national standards.

I would appreciate your support of this bill.

Thank you for the opportunity to testify. I would be pleased to respond to any questions.

Ex. 1
3/20/91
HB 881

EMT TRAINING IN MONTANA

EMT-BASIC - 1145 current certified

The emergency medical technician - basic training program, approximately 110 hours in length, is intended to prepare a person to respond to, treat and transport the patient to a medical facility. The program includes ten (10) hours of required hospital observation time to allow the student to see, touch and perform assessment skills on actual sick people while under the direct observation of other medical personnel.

The EMT-Basic may perform the skills identified in the national curriculum including initial assessment of the patient, rendering basic life support care, immobilizing and transporting the patient, operation of the ambulance and other skills necessary for ambulance personnel.

EMT-DEFIBRILLATION - 1470

EMT-D requires 16 hours of training beyond EMT-Basic, a written and practical certification examination and medical control. A medical director is responsible for the training.

In addition to skills allowed the EMT-Basic, the EMT-Defibrillation may, when functioning in a licensed EMT-D service, defibrillate patients in ventricular fibrillation.

EMT-INTERMEDIATE - 50

The EMT-I is a level of certification beyond the EMT-Basic. It requires an additional 116* hours of training, commitment from a medical facility for conducting clinical training, a written and practical certification examination and medical control. A medical director is responsible for the training. The emergency medical service is required to license at the EMT-I level in order to provide care at the EMT-I level.

In addition to the skills allowed the EMT-Basic, the EMT-I, when functioning according to protocol in a licensed EMT-I service, may:

- defibrillate patients in ventricular fibrillation
- perform endotracheal intubation
- start IV lines and administer specific IV fluids

* MINIMUM recommended number of hours to complete.

EMT-PARAMEDIC - 25

The EMT-P level is a level of certification beyond the EMT-Basic. It requires an additional 600* hours of training, commitment from a medical facility for conducting clinical training, a written and practical certification examination and required medical control. A medical director is responsible for the training.

Ex. 1
3/20/91
HB 881

In addition to the skills allowed the EMT-Intermediate, the EMT-P,when functioning according to protocol in a licensed advanced life support service, may:

- administer a variety of medications authorized by their medical director, their protocols and the Board of Medical Examiners. Many of these are cardiac medications.

- perform a variety of other advanced life support techniques identified in the national standard paramedic curriculum

* MINIMUM recommended number of hours to complete.

Testimony before Montana State Legislature, Senate Health Subcommittee
Wednesday, March 20, 1991 at 3:00 p.m.

SENATE HEALTH & WELFARE
EXHIBIT NO. 2
DATE 3/20/91
BILL NO. 917

H.B. 917 Amendments to the AIDS Prevention Act

Members of the Committee, I am Dr. Cheryl Reichert from Great Falls and I also speak in support of this legislation.

I am a medical doctor, a scientist, a pathologist, and Director of the Laboratory at the Columbus Hospital, where I also sit on the Infection Control Committee. My interest in HIV infection and AIDS dates back nearly a decade to the time when I was a medical scientist/pathologist at the National Institutes of Health. In 1982 I wrote the first paper on the pathology of AIDS, and I have published several chapters and manuscripts on various facets of this tragic disease. In 1983 I presented my findings to then President Reagan's Lay Advisory Council of the NIH.
Since returning to my home State of MT, I served for 2 yrs as the MMA representative to the Mt State Dept. HHS AIDS Advisory Panel. I come to you today after numerous discussions of this issue with health care workers.

I am here to tell you that there are significant problems with the present 1989 Montana "AIDS Prevention Act", which we are seeking to amend. I believe that H.B. 917 represents a substantial improvement over the previous statute, and I commend the members of the legislature for their efforts in attempting to cope with such a challenging, unprecedented, and complex issue. There are no easy or obvious answers to some of the dilemmas that are posed by the conflicting rights of individuals.

As we struggle to preserve the right to privacy of individuals who are infected with this deadly human immunodeficiency virus, it is important for us to also recognize the legitimate concerns of healthcare workers who have been injured in the line of duty. You are charged with the responsibility of providing for the care of the caregivers. This is not a debate about lifestyles, nor is it a veiled threat to withdraw compassion and healthcare services for the ill. It is rather a plea for a balance of rights that will permit rational decisions about treatment options and personal decisions regarding sexual relationships and child-bearing.

Ex. 2
3/20/91
HB 917

I see four significant problems that remain with the proposed bill:

(1) Page 9, line 23: the requirement that all HIV results be delivered in person. This provision *discourages HIV testing*, since it imposes logistical barriers to patients that sometimes must travel long distances or interrupt their work schedules to see a physician, and it is not realistic to expect a busy practioner to set aside time to go over negative test results. It is my belief that this requirement should be modified to read inform the subject...of positive test results in person. This change is also more consistent with amendments in the bill that permit individuals to obtain negative test results directly from an insurance company.

(2) Page 12, lines 1,2: With respect to an adverse exposure by a healthcare worker, I do not believe that testing should be limited to a previously drawn blood sample. I believe that the logistics of obtaining the appropriate sample should be left to the guidelines of the healthcare facility.

(3) Page 12, lines 6-8: when testing of the source patient is done without written informed consent, the present bill requires us to notify the patient of the result. This places the source patient and the physician and /or the healthcare facility in a potentially adversarial position. If the source patient (or his/her representative) has denied written informed consent, I believe that the source patient has the right *not* to receive this test result, which is being obtained for another's well being. Fortunately, in the vast majority of such cases, the result of HIV testing will be negative. Why should the physician or healthcare facility be mandated to inform a source patient of negative test result that was obtained against the express wishes of that patient? If the result of source patient testing is positive, then this result should go the source patient's physician, who should persuasively seek written informed consent for repeat testing.

(4) Page 12, lines 8-11: In addition to the provisions that the source patient may not be charged for the test and that no written test results are linked to the source patient, there should be a mandate that the infection control officer /infectious disease committee within each healthcare facility develop procedural guidelines to ensure that source patient testing is both anonymous and confidential.

Respectfully submitted,

C. Peterson MD, Ph.D
(406) 727-3333 ext. 5021

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

SENATE HEALTH & WELFARE
EXHIBIT NO. 3
DATE 3/20/91
H BILL NO. 917

STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

AIDS Prevention Act Amendment
Testimony in Support of House Bill 917--3/20/91

Madame Chair and members of the Senate Public Health, Welfare and Safety Committee, I am Bruce Desonia, Program Manager of the AIDS/STD Program within the Preventive Health Services Bureau of the Montana Department of Health & Environmental Sciences. I wish to provide testimony in support of House Bill 917.

In 1989, the legislature passed the AIDS Education and Prevention Act which set counselling and consent standards for those being tested for exposure to the virus causing AIDS. It also had provisions intended to protect others, such as organ recipients. There was concern that testing might decrease by implementation of the Act. Our testing data shows that HIV testing increased during 1990 by 14% over the number of HIV tests performed in 1989 through our Public Health Laboratory.

The proposed revisions to the Act contained in HB 917 attempt to address problems which have occurred since the 1989 adoption of the statute, including

1. The existing statute has no provision for testing of a person in a coma or otherwise unable to give consent to testing and no legal guardian is available. The amendments allow next of kin and others to provide appropriate consent.

2. The requirement for a test immediately prior to donation of an organ, semen, etc. in the current statute conflicts with national standards for donation. The amendments would allow DHES to incorporate, by rule, nationally-accepted standards for handling such donations.

3. The existing statute has caused confusion relative to insurance companies reporting back to persons applying for coverage when the company requires HIV testing. The amendments clarify the role of the insurance company to send the results of positive HIV test results to the health care provider designated by the insurance applicant, and to allow the applicant access to negative test results.

4. The confidentiality section of the existing statute allows release of information under the Uniform Health Care Information Act (Title 50, Chapter 16, Part 5). However, local health departments may have information collected outside the patient-health care provider relationship, making the information collected subject to the more restrictive Government Health Care Information Act, and the amendments clarify this.

5. The Uniform Health Care Information Act amendment is taken from the

uniform statutes model to allow health care providers to release health care information without consent when disclosure would avoid or minimize danger to the health or safety of a person.

MDHES supports HB917. The Department drafted the bill after receiving comments over the past 2 years.

cc: Representative Howard Toole

SEN[illegible]TH & WELFARE
E[illegible] 3
DA[illegible] 3/20/91
BILL NO HB 917

Montana Nurses' Association
P.O. Box 5718 • Helena, Montana 59604 • 442-6710

EXHIBIT NO. 4
DATE 3/20/91
H BILL NO 917

MNA TESTIMONY HB 917 REVISION OF THE HIV PREVENTION ACT

Montana Nurses Association is in support of HB 917 as it is written. The language in the bill has many improvements over previous language. MNA's support of this legislation is based on adequate education of individuals at risk, protection of the privacy of the individual who is tested, the right of the individual to refuse HIV testing and adequate, realistic protection of nurses at risk for exposure to the HIV virus.

HB 917 does indeed provide for education of individuals at risk, and protection of the privacy of the individual who is tested. This bill does weaken the right of the individual to refuse testing and has several provisions which do not actually protect the health care workers. You will again today be asked to amend this bill to force an individual to be tested without their consent and that health care providers not be required to provide counselling to those individuals who test negative. If an individual is at enough risk to be tested then they are at enough risk to receive counselling.

True protection of health care workers would include consistent use of universal precautions, and following a possible exposure, counselling, regular follow-up testing according to the Centers for Disease Control guidelines and the option of drugs such as AZT.

We urge a do pass as written of this bill. Thank you for your consideration of this bill.

SENATE HEALTH & WELFARE
EXHIBIT NO. 5
DATE 3/20/91
HBILL NO. 917

HOUSE BILL 917

Madam Chair, members of the committee. I am Drew Dawson, Chief of the Emergency Medical Services Bureau in the Department of Health and Environmental Sciences.

We are pleased that HB 917 includes the concept of including persons providing patient care in the pre-hospital environment. In reviewing the House amendments, we found some problems in coordinating with an existing law which we administer - ***REPORT OF EXPOSURE TO INFECTIOUS DISEASE (50-16-701 - 705, MCA)***. This law provides:

- emergency services providers may file a standard, state-wide form with the medical facility if they have had an unprotected exposure to the blood or body fluids of a patient

- if the physician determines the patient has one of five infectious diseases (Hepatitis B, Hepatitis, non-A non-B, communicable pulmonary tuberculosis, or meningococcal meningitis) and if the physician determines the unprotected exposure could transmit the disease, the health care facility is required to notify the emergency services provider both orally and in writing, and to notify them of the precautions they should follow.

The Unprotected Exposure form and an educational video tape have been in use by emergency services providers for approximately one year.

To assure coordination with this existing statute, we propose a couple of amendments which will:

- make the definition of emergency services personnel consistent within HB 917 and with 50-16-701, MCA. The current use of FIRST RESPONDERS in HB 917 would present a problem since it is not defined, and because First Responder is a specific level of emergency medical services training both nationally and in Montana.

- allow the filing of the existing REPORT OF UNPROTECTED EXPOSURE form to serve as the emergency service personnel's request to the patient's physician to seek consent for performance of an HIV-related test pursuant to HB 917's proposed language in 50-16-1007 (10). This would eliminate a lot of confusion for emergency services personnel while providing fairly detailed information to the health care facility about the unprotected exposure and providing a written record of the request for both the medical facility and the emergency services personnel.

We would appreciate your adoption of these amendments. We could easily modify our form and the video tape to explain these changes to the emergency services personnel.

Thanks for the opportunity to testify.

Ex. 5
3/20/91

HB 917

Proposed Amendments to House Bill 917
Third Reading Copy
Montana Department of Health and Environmental Sciences

March 20, 1991

1. Title, page 2, line 2.
Following: "FACILITY"
Insert: "OR EMERGENCY SERVICES"
Following: "PERSONNEL"
Strike: "OR EMERGENCY RESPONDERS"

2. Title, page 2, line 14.
Following: "50-16-529,"
Insert: "50-16-702,"

3. Page 11, line 14.
Following: "A"
Strike: "FIRST RESPONDER"
Insert: "person providing emergency services and described in 50-16-702(1)"

4. Page 18.
Following: line 14
Insert: "NEW SECTION. **Section 7.** Section 50-16-702, MCA, is amended to read:

"50-16-702. Report of unprotected exposure to disease. (1) A report may be filed, as provided in subsection (2), by a person:

(a) employed by or acting as a volunteer with a public or private organization that provides emergency services to the public, including but not limited to a law enforcement officer, firefighter, emergency medical technician, corrections officer, or ambulance service attendant; and

(b) who, in his official capacity with the public or private organization, attends or assists in transporting a patient to a health care facility and believes he has sustained an unprotected exposure.

(2) A person who qualifies in subsection (1) may submit to the health care facility, on a form prescribed by the department, a report of unprotected exposure that contains his name and other information required by the department, including a description of the unprotected exposure.

(3) If the exposure described in the report is in a manner recognized by the Centers for Disease Control as allowing infection by HIV, as defined in 50-16-1003, submission of the report to the health care facility constitutes a request to the patient's physician to seek consent for performance of an HIV-related test pursuant to 50-16-1007(10)."

Renumber: subsequent sections

Ex. 5
3/20/91
HB 917

MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

REPORT OF UNPROTECTED EXPOSURE

(Please print)

Pursuant to 50-16-702, MCA, this is the *only* form authorized for the reporting of unprotected exposures.

EMERGENCY SERVICES PROVIDER: (e.g., EMT, Law Enforcement Officer, Firefighter, First Responder)

NAME OF PROVIDER: _____

ADDRESS: _____ PHONE (H): _____

PHONE (W): _____

CITY: _____ STATE: _____ ZIP _____

EMERGENCY SERVICES ORGANIZATION (e.g. Ambulance, Fire Department, Non-transporting unit (QRU), other):

NAME OF SERVICE: _____

NAME OF CONTACT PERSON: _____

ADDRESS: _____ PHONE (W): _____

CITY: _____ STATE: _____ ZIP _____

PATIENT:

NAME OF PATIENT: _____

ADDRESS: _____ DOB: _____

CITY: _____ STATE: _____ ZIP _____

NAME OF FACILITY RECEIVING THE PATIENT: _____

DESCRIPTION OF UNPROTECTED EXPOSURE:

a) Precautions (explain what precautions were taken — e.g., gloves, masks, eye protection, etc.) _____

b) Type of unprotected exposure (explain how and where the unprotected exposure took place) _____

c) Time and date of unprotected exposure. _____

_____ _____

(Signature of emergency services provider) **(Date)**

I received this REPORT OF UNPROTECTED EXPOSURE and provided the pink copy to the emergency services provider named above:

_____ _____ _____

(Signature of health care facility employee) (Date) (Time)

health care facility copy (white); final receiving facility (canary) emergency services provider copy (pink);

SENATE HEALTH & WELFARE
EXHIBIT NO. 6
DATE 3-20-91
BILL NO. HB 917

Amend House Bill No. 917 - Third Reading copy as follows:

1. Page 7.
Following: line 11 emergency
Insert: "(19) 'F~~irst~~ responder' means an emergency medical technician as defined in section 50-6-202, a member of a non-transporting medical unit as defined in section 50-6-302 and emergency medical service personnel as defined in section 50-9-102."

SENATE HEALTH & WELFARE
EXHIBIT NO. 8
DATE 3/20/91
BILL NO. 325

Amendments to House Bill No. 325
Third Reading Copy

Requested by Senator Eve Franklin
For the Senate Public Health, Welfare, and Safety Committee

Prepared by Tom Gomez
March 15, 1991

1. Title, line 4.
Following: ""AN ACT"
Insert: "TO REVISE THE LAWS RELATING TO HOSPITAL DISTRICTS;"

2. Page 1, line 10.
Following: line 9
Insert: "

STATEMENT OF INTENT

A statement of intent has been prepared for this bill to clarify the provisions of this bill that authorize the board of trustees of a hospital district to provide educational benefits to qualified individuals.

It is the intent of the legislature that, in providing educational benefits, the board of trustees follow current procedures established in the district bylaws governing decisions of the board in order to ensure:

(1) a fair assessment of the qualifications and financial need of individuals applying for educational benefits; and

(2) the equitable distribution of funds available for educational benefits offered by the hospital district."

3. Page 3, line 16.
Following: "including"
Insert: "the payment of"

4. Page 3, line 17.
Following: "materials,"
Insert: "and"
Following: "stipends"
Strike: ","

SENATE HEALTH & WELFARE
EXHIBIT NO. 8
DATE 3/20
BILL NO. 620

Amendments to House Bill No. 620
Third Reading Copy

Requested by Representative Carolyn Squires
For the Senate Public Health, Welfare, and Safety Committee

Prepared by Tom Gomez
March 20, 1991

1. Page 6, line 6.
Following: "quasi-judicial board"
Insert: ", except that one member of the board need not be an attorney licensed to practice law in this state"

SENATE HEALTH & WELFARE
EXHIBIT NO. 9
DATE 3/20
H BILL NO. 930

OFFICE OF THE GOVERNOR
MENTAL DISABILITIES BOARD OF VISITORS

STAN STEPHENS, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

(406) 444-3955
OR TOLL FREE 1-(800)-332-2272

HELENA, MONTANA 59620

25 March 1991

Senator Dorothy Eck, Chair
Senate Public Health
State Capitol
Helena, MT 59620

Chairman Eck and Members of the Committee,

For the record, my name is Kelly Moorse and I serve as the director of the Mental Disabilities Board of Visitors. The members of the Board of Visitors support House Bill 930.

As an advocacy agency, we feel this bill and the Mental Health Consumer Bill (SB 326) are two of the most important pieces of mental health legislation this session, in that they directly affect the people who live a mental illness.

House Bill 930 incorporates the federal mental health rights into the Montana Mental Health Commitment Act. We feel this addition strengthens the existing law as proposed by Senator Towe in 1975. These efforts also correspond to the action of the 1987 Legislature when the federal nursing home rights were incorporated into Montana law.

We urge your support of House Bill 930. Thank you for your consideration of this legislation.

Sincerely,

Kelly Moorse

Kelly Moorse
Executive Director

SENATE HEALTH & WELFARE
EXHIBIT NO. 10
DATE 3/20
BILL NO. 930

MONTANA ADVOCACY PROGRAM, Inc.

1410 Eighth Avenue
Helena, Montana 59601

(406)444-3889
1-800-245-4743

March 20, 1991

Dorothy Eck, Chair
Public Health, Welfare, and Safety Committee
Capitol Station
Helena, Montana 59620

Re: H.B. 930

Dear Ms. Eck:

I am writing to you today in support of H.B. 930 which will be heard by your committee this afternoon .

H.B. 930, is "An Act incorporating the federal provisions regarding protection and advocacy for the mentally ill described in 42 U.S.C. 10801 et. seq. into Montana law...and amending" certain sections of existing 53-21-141. Passage of this bill will make Montana law consistent with the federal legislation referenced.

As the executive director of the system designated to administer the federal mandate authorized by the legislation referenced above, I strongly endorse passage of H.B. 930. I encourage you, or any of the committee members, to contact me or my staff if you have any questions or need additional information regarding this bill.

Sincerely,

Kris Bakula

Kristin Bakula
Executive Director

kb
c: File

H B 930 Section 7-6C
Informed Consent

There is a tremendous difference between you and me going to a surgeon and having the ability to make an informed decision, compared to that of a mentally ill or mentally deranged person who lacks the ability, the knowledge, and insight to understand that they are not living in reality.

This one little paragraph will affect adversely, patients who are commited for treatment, their family who has usually risked much to have them treated, and the community that has sent them through the due process to be treated.

The vast majority of the seriously mentally ill do not realize they are suffering from a mental illness. Therefore, they live in a world which is a product of their imagination and illusions for which they need treatment.

Informed consent implies that involuntarily committed patients are competent and have knowledge of their illness to refuse treatment--until proven otherwise.

However the court has committed these patients, usually because they do not have knowledge of their illness and by law are a danger to themselves and/or others. They already have had due process.

Now if informed consent passes, these same recently involuntarily committed patients will have to be brought back into court, possibly for each treatment procedure, or for a guardian, or to authorize medications, or for all of the above.

This little paragraph, if passed could do the following:

1. It will leave patients, who refuse treatment, warehoused on a treatment ward, not participating, until their commitment is up or their dangerousness disappears so they can return to the community.

2. If the patient is incompetent, it will leave him warehoused until a court of law can prove otherwise.

3. It will place patients in significant risk when due process protections are extended at the expense of treatment.

4. Some patients will experience extensive delays in treatment while a court order to treat them is sought.

5. With other patients a course of least resistance will be taken - - this now will be legally correct -- However it will be a clinically unfortunate discharge from the Montana State Hospital.

This legal approach places a high value on patient's wishes and assumes that patients statements are accurate and reflect the true intent of the patient.

Usually, the desire of the patient not to be treated comes from a psychotic mind, that has no sense of wholeness, no integration, who can not act independently, who does not demonstrate a capacity for self-governance and who does not have the knowledge to realize that his own beliefs are not reality.

Ex. 11
3/20/91
HB 930

Informed consent implies that the world of the ego-syntonic grandiose psychotic is preferable to normality for the non compliant patient.

Psychotic reasoning and anger underlie most treatment refusals. By one author it is called, "Rotting With Their Rights On."

Compromise

1. Informed consent should be applied only to voluntary patients with the involuntary patients who already have had due process, having the right to treatment.

2. If this compromise is unacceptable we request a two year postponement until a compromise can be worked out.

Testimony by Archie McPhail

Will not speak - record test.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 20 day of March, 1991.

Name: Marty Onishuk

Address: 5853 Pinewood Ln

Missoula, MT 59803

Telephone Number: 251-2754

Representing whom?

Hon AMI - Mt. Alliance for the Mentally Ill

Appearing on which proposal?

HB 930

Do you: Support? X Amend?____ Oppose?____

Comments:

Necessary changes to comply with fed. law + secure rights of mentally ill.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 20th day of March, 1991.

Name: GHill Ginny Hill

Address: Drawer M

Warm Springs, MT 59756

Telephone Number: 406-693-7000

Representing whom?

Self

Appearing on which proposal?

House Bill 930

Do you: Support?_____ Amend?_____ Oppose? Section 7 #6 c

Comments:

Dangerous seriously mentally ill pts should be treated.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date March 20, 1991 H Bill No. 881 Time 3:40 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATORJACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary Chairman

Motion: Senator Pipinich moved concurrence. There being no objections the motion carried.

1987

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date March 20, 1991 H Bill No. 176 Time 4:50 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATORJACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary Chairman

Motion: Senator Hager moved concurrence as amended. There being no objections the motion carried.

1987

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date March 20, 1991 H Bill No. 325 Time 4:55 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATORJACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary Chairman

Motion: Senator Franklin moved adoption of the amendments denoted in Exhibit #7. There being no objection the motion carried.

1987

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date March 20, 1991 H Bill No. 325 Time 4:56 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATORJACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary Chairman

Motion: Senator Pipinich moved concurrence as amended. There being no objections the motion carried.

1987

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date March 20, 1991 H Bill No. 176 Time 4:47 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATORJACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary Chairman

Motion: Senator Hager moved to strike the Public Health, Welfare & Safety Senate Standing Committee Report amendments dated March 14 in their entirety. There being no objections the motion carried.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date March 20, 1991 H Bill No. 713 Time 4:57 p.m.

NAME	YES	NO
SENATOR BURNETT		X
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATORJACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE		X
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary Chairman

Motion: Senator Pipinich moved to table. There being 6 ayes and 2 nays the motion carried.

1987

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date March 20, 1991 H Bill No. 620 Time 4:57 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER		X
SENATORJACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary Chairman

Motion: Senator Pipinich moved adoption of the amendments denoted in Exhibit #8. There being 1 objection and 7 ayes the motion carried.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date March 20, 1991 H Bill No. 620 Time 5:00 p.m.

NAME	YES	NO
SENATOR BURNETT		X
SENATOR FRANKLIN	X	
SENATOR HAGER		X
SENATORJACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary

Chairman

Motion: Senator Franklin moved concurrence as amended.

There being 2 nays and 6 ayes the motion carried.

1987

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date March 20, 1991 HJ Bill No. 21 Time 5:14 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATORJACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary Chairman

Motion: Senator Hager moved concurrence. There being no objections the motion carried.

1987

DATE Wed. 2/20/91

COMMITTEE ON PUBLIC HEALTH

HB 761, 881, 917, 930, HJ 21

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Anita Masters, R.N.	Columbus	917	✓	
Cheryl Reichert, M.D.	Columbus Hospital, Great Falls	917	✓	
Judith Gedrose	Department of Health + Environmental Sciences	917	✓	
Drew Dawson	EMS, Dept Health	917	✓	
Drew Dawson	EMS " "	880	✓	
[illegible]	self	930		✓ sec 7-6c
G Hill	self	930		✓ sec 7-6c
Dan Anderson	MT Dept Institutions	930	✓	
Harley Warner	MT Assoc. of Churches	HJR 21	✓	
Beth Baker	MT County Attys Assn	HB761	✓	
Mary Gallagher	Board of Visitors/MAP	HB930	X	
Bruce Desonia	Mt. Dept Health - PHSB	HB917	✓	
Marty Onishuk	Mont. Alliance for the Mentally Ill	H930	✓	
Judy Williams	self	H 761 H917		
Cathy Campanoli	Mont. Nurses Association	HB917	✓ written	
Mary Beth Frideres	Lewis & Clark Health	HB917	✓	
[illegible]	[illegible]	H917	✓	
Diane Sands	Mt Womens Lobby	761	w/Amendments ✓	
Diane Sands	Mt Womens Lobby	917	✓	
Paul Meier	Western Region Mental Health Center	930	✓	
P. Driscoll	American Council of Life Insurance	917	✓	
Ronee Hanson	MSCA	HJ21	✓	

(Please leave prepared statement with Secretary)