MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By Senator Dorothy Eck, Chair, on February 19, 1993, at 1:00 p.m.

ROLL CALL

Members Present:
Sen. Dorothy Eck, Chair (D)
Sen. Eve Franklin, Vice Chair (D)
Sen. Chris Christiaens (D)
Sen. Tom Hager (R)
Sen. Terry Klampe (D)
Sen. Kenneth Mesaros (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: None.

Members Absent: None.

Staff Present: Tom Gomez, Legislative Council
Laura Turman, Committee Secretary

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

Committee Business Summary:
Hearing: SB 409, SB 404, SJR 18
Executive Action: SB 290, SB 262

HEARING ON SB 409

Opening Statement by Sponsor:

Senator Bob Hockett, Senate District 7, said SB 409 relates to the trauma care program and the confidentiality of records. Sen. Hockett said he had been actively involved with the Trauma System Task force of the Department of Health and Environmental Sciences. It is important that prompt, appropriate care be provided for those living in rural areas of the state, and SB 409 is the first step towards this challenge. Sen. Hockett said this might also affect workers' compensation. Sen. Hockett provided amendments to SB 409. (Exhibit #1)

Proponents' Testimony:

Drew Dawson, Chief of the Emergency Medical Services Bureau of the Department of Health and Environmental Sciences, provided written testimony. (Exhibit #2)

Jim Ahrens, President of the Montana Hospital Association, said that work has been done to try and improve the current trauma system in Montana. Part of this involves data processing. Mr. Ahrens said the Association supports SB 409 with the amendments.

Opponents' Testimony:

Russell Hill, Montana Trail Lawyers Association, said he had not yet seen the amendments offered by Sen. Hockett. One reason that the peer review process is confidential is due to anti-trust considerations. If there is a subpoena for information, no one is subjected to anti-trust violations. Also, peer review information could be disclosed negligently or accidentally. Once it is already disclosed, it does not make sense to have a "blanket prohibition" from using that information. Mr. Hill said that, as drafted, Section 5 (2) has serious problems.

Charles Wold, Executive Director of the Montana Newspaper Association, said they had problems with Section 5, Subsection 2, and hope the Committee would amend that section in SB 409.

Questions From Committee Members and Responses:

Sen. Towe asked Drew Dawson if the amendments offered would not affect Section 5.2. Mr. Dawson said that was correct.

Sen. Towe asked Mr. Dawson about "health care information in possession of the Department" which may not be released to the individual about whom that information pertains. Sen. Towe asked if that was a violation of the constitutional right of privacy, which normally includes the right to be protected from disclosure to others and the right to receive the information others have about you. Mr. Dawson said the reason that language is in SB 409 is because the information they receive has specific information relative to quality assurance. They feel that information would interfere with quality assurance processes if it could be disclosed.

Sen. Towe said he didn't understand the problem. Sen. Towe asked Mr. Dawson if he were suggesting that the peer review system wouldn't work if the individual were allowed to see the information about himself. Mr. Dawson said that was correct. Mr. Dawson said that in a hospital, charts were available, but the annotations made on them in terms of quality were not. Mr. Dawson said that would discourage people from providing candid information if it could be disclosed to the individual.

Sen. Towe asked Mr. Dawson what the impact of peer review was.

Mr. Dawson said the purpose for which they would use the data would to make recommendations for improvements of the trauma care system. Also, for the physician members of the review committee, so they could work with other physicians across the state in an effort to make improvements. If there were an investigation, it would be discoverable.

Sen. Towe asked Mr. Dawson if a person's right to practice medicine or ambulance services could be taken away. Mr. Dawson said the purpose of this was not punitive, but positive by making corrections in performance.

Chairman Eck asked Mr. Dawson if the information disclosure in question was to the patient or to the provider. Mr. Dawson said it was to the patient.

Chairman Eck asked Mr. Dawson if there were a reason a patient's name would have to be included. Mr. Dawson said it was provided with a social security number rather than a name, and the reason was to establish linkages with worker's compensation or Medicaid further down the road to find the exact nature of the trauma problem. Some of those identifiers are necessary, but the patient's name is not used.

Sen. Christiaens asked Mr. Dawson if the same process were already in Montana law pertaining to physicians in hospitals. Mr. Dawson said there was a common peer review process comparable to this. Also there is an in-hospital peer review committee. The difficulty is that this does not extend to emergency medical services, and does not necessarily extend outside the hospital. They want to extend the same type of peer review protection to ambulances, and other emergency medical care services.

Sen. Christiaens asked Mr. Dawson if the information were non-discoverable if there were a malpractice-type issue. Mr. Dawson said that was correct. The peer review process is supposed to allow providers to candidly discuss their problems and to arrive at solutions without fear of going to court.

Sen. Franklin asked Jim Ahrens if this were consistent with private sector quality assurance programs in terms of disclosure. Mr. Ahrens said he did not know.

Sen. Franklin said that is what the concern was, information about an individual that an entity does not have access to.

Chairman Eck said there was a provision put in the single billing legislation that the individual would have access to his records. Chairman Eck said she was told that was not necessary because there already was a law stating that the individual always has access to information about him.

Tanya Ask said access is available under the Department of Health and also in the Insurance Code, Chapter 19, the Insurance

Information Privacy Protection Act which allow an individual full access to any information that an insurer, an agent or any other related entity might have on that individual. The individual also has the ability to correct that information.

Chairman Eck asked Mr. Dawson if in this case, it wasn't information about the individual, but information about the treatment that individual had. Mr. Dawson said that information still is available from the hospital. The primary purpose of this legislation is to provide protection to the peer review process itself, and if Section 5 (2) is a problem, he would suggest taking out that language.

Sen. Towe asked Mr. Dawson if the confidentially language elsewhere in the bill protects peer review activities. Mr. Dawson said it would not cover the release of information to the individual, but the rest of the bill does protect the peer review process, and the reports generated from that process.

Sen. Towe asked Mr. Dawson about the language which allows for the release of information to another state agency, provided it is not personally identifiable. Mr. Dawson said the reason for the language is to address the problem of trauma. There needs to be a common identifier, a link, with other state agencies.

Sen. Towe asked Mr. Dawson if they were talking about health care information in possession of the Department of Health. Mr. Dawson said that was correct.

Sen. Towe asked Mr. Dawson if another state agency might be collecting the statistical information. Mr. Drew said that for tracking patients through the system, a common identifier is needed to computer link the files on a patient.

Sen. Towe asked Mr. Dawson if some other agency would be doing this. Mr. Dawson said they would be doing the manipulation of the data from the Department of Health. The language is the way it is because there are two different computer systems.

Sen. Towe asked Mr. Dawson if he needed to release personally identifiable information if he were doing statistics. Sen. Towe said he had problems with information being released that would be personally identifiable. Mr. Dawson said giving information to another agency links files together.

Chairman Eck said there is an intent to develop one computer system for the whole state. Chairman Eck said she didn't see why he would want to give personal health information about a patient to the Highway Department. Mr. Dawson said that it was just important for the Committee to understand what they intended the language to do.

Sen. Towe asked Russell Hill to elaborate on the immunity in Section 3 of SB 409 which seems to give blanket immunity to a

member of the peer review committee. Mr. Hill said he thinks immunity is a mistake. Mr. Hill said if a person on a peer review committee were releasing information it could be just as damaging as a physical injury. There should be penalties for standards being violated.

Sen. Towe asked Mr. Dawson to respond to this. Mr. Dawson said he agreed that information should not be used for any other purpose than quality improvement, and he would support a penalty clause to reflecting this.

Closing by Sponsor:

Sen. Hockett said he hoped that the opponents' objections could be met with out changing the purpose of the bill. Sen. Hockett reminded the Committee the bill does not protect negligent action, but the reason for the bill is to develop the best way to help individuals who are injured in severe accident situation.

EXECUTIVE ACTION ON SB 290, SB 262

Discussion:

Sen. Christiaens said there were two options concerning these bills. For them to pass out of the Committee, there would have to be some amendments. They might also be passed out of the Committee and then worked on in the House.

Sen. Towe said that adopting SB 285, the Committee came a long way in meeting some of Sen. Christiaens' concerns. Sen. Towe asked Sen. Christiaens how strongly he felt about acting on SB 290 and SB 262 in light of SB 285 passing. Sen. Towe said that he had concerns about Sen. Christiaens' bills being "revolutionary in their concepts."

Sen. Christiaens said he wasn't sure how comfortable he was with SB 285, not having seen the final draft, and since he was not present for the first two hours of discussion. He said he would go along with the Committee's recommendation if the issues in SB 290 and SB 262 have been addressed in SB 285.

Chairman Eck said there would not be time to adopt amendments to Sen. Christiaens' bills today. Chairman Eck asked that the Committee not take Executive Action on them today. They would not want language proposed that would contradict language in SB 285.

Sen. Christiaens asked Chairman Eck if the Committee would meet later today, and if his bills could be addressed then. Chairman Eck said that she didn't anticipate the opportunity for a very long meeting because other committees will be also meeting.

HEARING ON SB 404

Opening Statement by Sponsor:

Sen. Tom Keating, Senate District 44, said SB 404 deals with an adjustment of how the state and public health officers address AIDS and HIV in our society. In general, SB 404 will move the handling of AIDS to the same manner as other sexually transmitted diseases or other communicable diseases. Sen. Keating said presently, the confidentiality of testing has impeded any kind of controls or accurate findings on the number of cases of HIV. There is no cure for HIV, and so it important to gain control of the disease such as the public health officers did for syphilis in the 1930's. He asked that the Committee pay "particular attention" to this proposal to insure the safety of health care providers and to protect the public health.

Proponents' Testimony:

William Wise, M.D. and president of the Montana Health Alliance provided written testimony. (Exhibit #3)

Joanne Shearer, RD, MS, provided written testimony. (Exhibit #4)

Michael T. Stevenson, Fort Harrison, provided written testimony on behalf of himself and his wife, Laura Stevenson. (Exhibit #5)

Opponents' Testimony:

Scott Chrichton, Executive Director of the American Civil Liberties Union of Montana, read testimony from Dr. Ken Fremont-Smith, (Exhibit #6)

Paula Block, Nurse with the Lewis and Clark City County Health Department, read testimony from Greg Alver, Missoula Health Department who could not attend the hearing. (Exhibit #7) Ms. Block added the safest prevention measure for health care workers is to assume that all body fluids may be contaminated and that universal precautions are taken. If individuals believe that everyone they have come into contact with will be tested, it will give them a false sense of security. Also, there is much confusion about the testing because too much emphasis is placed on the final result of the test. It is important that those who are tested have information they can take home and read.

Diane Sands, Montana Women's Lobby, said the Lobby opposes SB 404. Ms. Sands said current laws are working well. Ms. Sands provided written testimony from Cherry Loney, R.N. and Health Officer at the City-County Health Department in Great Falls. (Exhibit #8)

Questions From Committee Members and Responses:

Sen. Towe asked Dr. Wise what the purpose of SB 404 was, and if it would make it more difficult to test individuals for AIDS. Dr. Wise said part of the problem with current testing is that there is anonymity. Individuals who are tested positive for AIDS can continue to spread the disease after they know they have the virus, and are not required to give information about who gave them the disease and who that individual might have infected.

Sen. Towe asked Dr. Wise how he responded to the comments about this information being made public and how fewer people would come in for HIV testing. Dr. Wise said that the information would not be made public. Confidential testing would remain, but they want to know who else should be tested. If it's left up to the individuals, studies have shown that those infected do not tell their sexual partners. With total anonymity, the disease will not be stopped because there is no control over testing for HIV.

Sen. Klampe asked Dr. Wise what was done with test results, and what was done if an individual tested positive falsely. Dr. Wise said the test is very sensitive and will pick up false positive tests. Then the result is given to the patient, but the patient is not notified until a double screening of the test has been done.

Sen. Klampe asked Dr. Wise what happened then with the test result. Dr. Wise said it stayed in the confidential State Board of Health Files, just as other communicable diseases are.

Sen. Christiaens asked Dr. Wise if, in actuality, fewer individuals would come forward to be tested. To really do what Dr. Wise is suggesting, the bill (removing the felony law for sodomy) that went down in the House should have passed. Threats were made to the Governor and his family if he were to sign that bill. Sen. Christiaens said the confidentiality issue becomes suspect in this situation, and asked Dr. Wise if he really thought that if SB 404 were passed, more individuals would come forward to be tested. Dr. Wise said that he would ask the State Board of Health to tell the Committee what was currently done with the tests. They are confidential. If he finds a positive HIV test, he asks that individual to tell his or her partners or to give him the names.

Sen. Christiaens said this is currently being done, but if SB 404 passes, he has concerns that fewer people will come forward to be tested. If those tested have confidence in those working in the testing sites, then they will probably contact partners.

Dr. Wise said 50% of the people tested in Montana have been tested in private practitioner's office or hospital settings. 50% have been tested in counseling and testing sites, and only a small number of those have asked for anonymity. Dr. Wise said

this is a very vocal group and he is surprised that threats were made to the Governor.

Sen. Franklin asked Paula Block about the crossed out section of SB 404 on Page 5 regarding anonymous testing. Ms. Block said that when an individual comes in for a test, anonymous or not, information is given. Counseling is also given explaining the information, risk factors are talked about, and the client is talked to about a variety of things, not just the test result. Through this, trust is developed, which is crucial.

Sen. Franklin asked Paula Block if relatively few individuals tested opt for anonymity, but in those cases, counseling is still provided. Ms. Block said she wasn't sure what Dr. Wise was referring to, but she thought it was physician's offices, which would not be anonymous. At Health Departments, testing is predominantly anonymous.

Sen. Towe asked Dr. Wise about the provision on Page 13 which states that the local public health officer "shall obtain" from the subject the names of persons with whom the individual has had sexual contact. Sen. Towe asked Dr. Wise how that would be done if a person wasn't willing to provide names. Dr. Wise said that "all you can do is ask." Dr. Wise said he did not see that particular language, and would ask Sen. Keating to defend it.

Sen. Towe asked Sen. Keating if it would make more sense to try to develop trust and encourage, rather than mandating it in the statute that they "shall" give names.

Closing by Sponsor:

Sen. Keating said that language requires the health officer to make the attempt to obtain information, if he can. He will then notify, in a confidential manner, partners or those who have been exposed to the patient who has the HIV virus. Sen. Keating said in the 1930's, large orange quarantine signs were hung on the houses of those who had communicable diseases, and he was protected by the knowledge of that disease. Sen. Keating said the same thing applies with SB 404. With voluntary testing, no name or address is left, and if that individual chooses not to come back, they will not know the results of the test. The public will also not know. SB 404 will help get control of the whole system, and the state has an obligation to provide for public health. HIV is the fastest mutating strain of virus, and if the public does not know the seriousness of it, the state will be faced with the financial burden of those who have AIDS.

HEARING ON SJR 18

Opening Statement by Sponsor:

Sen. Tom Beck, Senate District 24, said SJR 18 addresses the dangers of mercury in dental fillings. Sen. Beck showed the Committee part of a video tape about the studies done which demonstrate the dangers of mercury poisoning in dental fillings. Sen. Beck emphasized that this was only a resolution asking the Department of Health to look into the studies which state there are possible dangers, and to perhaps give some disclosure to those individuals who visit the dentist.

Proponents' Testimony:

None.

Opponents' Testimony:

Bill Zepp, Executive Director of the Montana Dental Association, provided written testimony. (Exhibit #9)

Questions From Committee Members and Responses:

Sen. Franklin asked for Sen. Klampe's response to SJR 18. Sen. Klampe said the Calgary study that was quoted in the video tape was done on sheep. Sheep chew differently than humans and therefore the study is flawed.

Sen. Rye asked Bill Zepp about the alleged dangers of fillings. Mr. Zepp said that Dr. Gary Strong from Billings feels very strongly that there is a problem with dental amalgam, and he continues to espouse this point of view. The vast majority of the dental community and the scientific community do not concur with him. However, Mr. Zepp said they do not oppose testing for the dangers of amalgam.

Chairman Eck asked Sen. Klampe about dentists who take "extraordinary measures" to protect themselves from the mercury. Sen. Klampe said the video was addressing elemental mercury, which is completely different from mercury which is part of a compound with silver. Films such as this appeal to the emotions.

Chairman Eck asked Sen. Klampe if the mercury used by dentists is different. Sen. Klampe said that mercury now comes in capsular form, and handling it is not much of a concern.

Chairman Eck asked Sen. Beck what level of mercury was safe. Sen. Beck said that further along in the video, which the Committee did not see, shows the different classifications of "safe" levels of mercury. These levels vary from country to country.

Sen. Towe asked Sen. Beck how he responded to the five separate studies that have indicated there is no problem and no need to do further studies. Sen. Beck said he was not sure the studies were correct. His concern is with the disclosure of possible dangers

to patients. Sen. Beck said he was not concerned with the state of Montana doing studies on amalgamates.

Sen. Christiaens said he was never told what his fillings were made of, and he never bothered to ask because he trusts his dentist.

Sen. Klampe said one of the problems dentists have is that they do not know the harmful effects of bonded plastic or any other chemical put in patients' mouths. Prices would be raised if it were necessary to give patients a list of all chemicals that go into patients' mouths. Sen. Klampe said that if there were ever scientific evidence showing that the amalgam was harmful, the dentists would be the first ones to change to another filling substance.

Closing by Sponsor:

Sen. Beck asked the Committee to give SJR 18 consideration.

ADJOURNMENT

Adjournment: Chairman Eck said the Committee would meet on adjournment today.

Dorothy Eck
SENATOR DOROTHY ECK, Chair

Laura Turman
LAURA TURMAN, Secretary

DE/LT

ROLL CALL

SENATE COMMITTEE Public Health DATE 2-19-93

NAME	PRESENT	ABSENT	EXCUSED
Eck	✓		
Franklin	✓		
Klampe	✓		
Hager	✓		
Towe	✓		
Mesaros	✓		
Rye	✓		
Christiaens	✓		

FC8

Attach to each day's minutes

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 2-19-93
BILL NO. SB409

AMENDMENTS TO SENATE BILL 409
(introduced copy)

Requested by Senator Hockett, Sponsor
and the Department of Health and Environmental Sciences

1. Page 2, line 7.
Following: "organized"
Strike: "by the department"

2. Page 2, line 17.
Following: "(2)"
Strike: "The"
Insert: "Except as provided in subsection (4), the"

3. Page 2, line 18.
Following: "is"
Strike: "directed"
Insert: "organized by the department to review data concerning emergency medical and trauma care and"

4. Page 4, line 8.
Following: "facility"
Insert: ", unless the report is generated as part of an investigation of a possible violation by that entity of state licensure requirements"

5. Page 6.
Following: line 25
Insert: "NEW SECTION. **Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

SENATE HEALTH & WELFARE
EXHIBIT NO 2
DATE 2-19-93
BILL NO SB 409

SENATE BILL 409
Testimony of Drew Dawson
February 19, 1993

Madam Chair and members of the committee. I am Drew Dawson, Chief of the Emergency Medical Services Bureau of the Department of Health and Environmental Sciences. I am pleased to support Senate Bill 409 which was introduced by Senator Hockett at the request of the Department.

The concept of confidential peer review is an important and long-accepted practice within the field of medicine. Candid review by one's peers is, perhaps, the most logical and persuasive method of improving patient care. Recognizing its importance, the legislature has previously extended the concept of confidentiality and non-discoverability to the peer review process by physicians and hospitals.

As the sophistication of emergency medical services has increased, we now recognize the importance of establishing a peer review process. Because EMS encompasses multiple facilities and agencies, working cooperatively, the peer review process is a bit more complicated and frequently occurs outside the confines of the hospital. Various agencies and facilities meet together to determine how the emergency medical response could be improved. This peer review and evaluation occurs on a local level and, through the department, on a state-wide level.

Improvements in emergency medical services and trauma care are dependent on honest, open critique and evaluation of individual patient care and of system performance by emergency services providers and their peers. Quality improvement and quality assurance programs can only be effective if the participants are willing to honestly review their performance and candidly discuss problems without fear of being sued or other legal repercussions.

Comparable to the legal protection currently given hospital peer review committees, SB 409 affords confidentiality and non-discoverability protection to peer review processes and data on both a local and state-wide level. In a "nutshell", SB 409 provides:

1. that the proceedings and records of a peer review committee assessing the quality of emergency medical and trauma care of a local emergency medical service, hospital, medical assistance facility or other entity are not subject to disclosure by subpoena, discovery or otherwise. This allows, for instance, personnel from the ambulance service, quick response unit, hospital and other emergency services to critically evaluate their performance and determine methods of improvement,

2. that the proceedings and records of a department-established peer review committee are not subject to disclosure. In the spirit of honest system evaluation and improvement, some Montana hospitals provide the department, trauma register data on seriously injured patients. The department uses an expert panel to review this very sensitive data and make recommendations for improving the

trauma care system. The success of the evaluation/peer review effort and subsequent EMS system improvements is dependent on the candor and honesty of the participating providers. Their willingness to cooperate and to provide sufficient data is significantly enhanced by affording confidentiality and non-disclosure protection. The department also plans, very soon, to collect information from licensed emergency medical services,

3. immunity for members of a peer review or quality assurance committee for acting within the scope of their duties,

4. quality assurance and/or peer review data and reports which are maintained by the department or obtained from other agencies are considered confidential. This allows eventual linkages to data to evaluate cost of trauma care, effectiveness of highway safety programs, patient outcome studies and other important issues,

There are several important points:

1. This does not limit the accessibility of any current patient information. All of the usual, original patient records will continue to be discoverable through the usual processes,

2. Generalized descriptive emergency medical and trauma information will continue to be available,

3. Data gathered in conjunction with an investigation of a possible violation of a licensing requirement is discoverable.

I should also note that my description of the bill's effect is of the bill as it would read if the proposed amendments are included. As noted by Senator Hockett, the amendments are intended to correct some problems with the final editing changes and to add clarity of intent, changes we didn't dare make before the bill was introduced because the transmittal deadline is so close.

We would appreciate your support of SB 409. The safeguards it provides will encourage the establishment of an honest and successful quality improvement process which will help to improve the delivery of emergency medical services and trauma care in Montana without limiting the access to individual patient information.

EXHIBIT NO. 3
DATE 2-19-93
BILL NO. SB 404

My name is [illegible] I am the [illegible] president of the Montana Health Alliance (MHA) [illegible] in favor of SB 404.

The focus of the MHA is directed at putting HIV/AIDS infections on the same footing as any other communicable disease. The present Montana laws impede and inhibit good medical discovery of HIV infected patients and delineating contacts. [illegible] from the one or more persons from whom the patient may have contracted the disease to those whom the patient may have infected. Long counseling and then written consent must be obtained before any HIV tests can be performed.

All other communicable diseases defined as such by the MDHES require reporting by the physician or health provider to the MDHES. After being notified the MDHES then carries out its mandated activities of discovery and identification. That is one of the main reasons the Department exists.

The vast majority of reportable communicable diseases, while debilitating on the short term and in some instances in the long term, rarely cause death . HIV on the other hand, at this time, causes death in every one so infected. We of the MHA feel the State and its MDHES should treat the disease no less stringently than other communicable diseases.

The argument that the cost of checking out these contacts will be expensive and strain the budget is difficult to understand. Remember that the cost of treating one HIV case from discovery to demise is $100,000. There were 60 new cases found in the state last year which means that it will cost private insurance, Medicaid, Medicare and all other health support groups $6,120,000. The tax payer usually ends paying the majority of the cost. Estimates nationally are that by 1995 the number of known cases will at least double and so will the expense. By identifying and tracking contacts we can alert people of the danger to which they have been exposed and if HIV negative these people can change their life style and save a life. The more contacts we make the more prevention takes place.

The MDHES has Counseling and Testing Sites (CTS) which are an excellent idea for providing HIV testing for anyone who wants to be checked in a more anonymous setting. The problem is that the State does not require any identification. Our Health Department cannot under these circumstances perform proper investigations. As has happened people with positive results cannot be tracked and certainly their contacts are unknown. Further, our State Health Department has no records of follow-up of many of the positive HIV cases found at their CTS.

The military has been mass testing their personnel since 1985 on an annual basis. Testing methods with the Enzyme Linked Immunosorbant Assay (ELISA) and followed by the "Western Blot" test are very accurate. The control over this disease in the military has been well documented. This obligatory testing has

not deterred homosexuals or any one else from joining the military. Any positive cases become the expense of the Military and ultimately of the VA system. Therefore the military is intent on keeping tight control. Besides they lose trained people.

Every day new drugs are being tested. When we do find a better treatment or cure it would be very important to know at state and national levels who to call and begin early treatment. If our testing ability is impeded and inhibited it could deny life prolonging or saving treatment. If we know early who is positive we can give patients now a better and more productive life over a longer period of time before the more debilitating stage of AIDs develops

Confidentiality is a matter of fact in the health care arena. All health providers sometime in their basic training are given courses in health ethics. The only breaks in confidentiality have come from the patients or their relatives seeking to gain favor or publicity. Syphilis and other sexually transmitted diseases have been tested for up to 50 years without confidentiality being a problem.

We of the MHA ask that HIV be treated the same as all other reportable communicable diseases so that we can, after 10 years of anonimity and protection, finally begin to break this chain of transmission through appropriate tracking and notification. It is also time to take a deadly disease out of the political arena and treat HIV as the epidemic it is.

W. Blevins, MD

SENATE HEALTH & WELFARE
EXHIBIT NO. 4
DATE 2-19-93
BILL NO. SB 404

TESTIMONY IN SUPPORT OF SB 404
By: Joanne Shearer, RD, MS
Box 232, East Helena, MT 59635

Introduction: I stand in support of SB 404 since I believe that HIV infection should be treated no differently than other infectious, communicable, and sexually transmitted diseases. And that the traditional public health measures that have been effective in controlling other infectious diseases should be implemented to interrupt the chain of transmission and stop spread of HIV in Montana. SB 404 accomplishes this objective by repealing sections of our current AIDS Education and Prevention Act which impedes a public health medical response to HIV infection. Certain elements of the AIDS Act ties the hands of physicians to practice medicine and makes it impossible for public health to track the epidemic.

Definition: AIDS is an obsolete term; we should be focusing on the full range of HIV disease. Since a person can be infected with HIV for 10 years before showing symptoms of AIDS, HIV infection should be epidemic for disease control efforts.

Historical Background: In February, 1989, the Montana legislature enacted the AIDS Education and Prevention Act. The Cornerstone strategies of this Act were twofold:

1. Education of those at risk of HIV infection;
2. Legal protections to those that carry the virus.

In the fight against, HIV, the public health/medical communities embraced a never before tried concept—that being volunteerism. The idea was that if we provide enough legal protections to those that carry the virus, then those persons will voluntarily come forward to be tested. As a result, the key provisions on Montana AIDS statutes provide for:

1. Written informed consent prior to HIV testing;
2. Pre- and post-test counseling;
3. Anonymous testing;
4. Confidentiality and penalties for unlawful disclosure.

While this law was passed early in 1989, the opposite happened. Testing for HIV actually **dropped** in 1989 and did not significantly increase until 1992 with the Magic Johnson disclosure.

Ironically, studies have shown that the real reason why people do not volunteer for testing is denial of one's HIV status and not fear of breach of confidentiality or discrimination. In fact, there has never been one documented case of breach of confidentiality of 240,000 names of AIDS patients that have been forwarded to public health. Yet we are basing all these laws on something that is not true.

Failure of Volunteerism: Further evidence of the failure of volunteerism is heightened by the San Francisco based National AIDS Behavior Survey. Of the 14,000 individuals at risk of acquiring HIV that were interviewed, 38% of the gay men and 48% of the IV drug users had not gotten themselves tested for HIV. Never before in medical history have we made it the responsibility of the individual exposed to an infectious or contagious disease to end such an epidemic. Instead of implementing aggressive diagnosis and reporting consistent with other diseases we are relying on those infected with HIV—whom have no idea of their infection—to voluntarily come forward to be tested. Obviously, the San Francisco National AIDS Behavior Survey demonstrates the folly of volunteerism.

Danger of Anonymous Testing: One of the strategies of our current AIDS statutes is the requirement of physicians to offer anonymous testing. This is a very dangerous approach to combatting HIV since many of those tested at anonymous test centers do not return for their test results. Nationwide a "good" rate of return is 75-80% with many anonymous centers reporting a 50-70% or worse return rate. The failure of this strategy was heightened in Montgomery County, Maryland, where 4 cases of HIV-2 were discovered at an anonymous test center. At that time, only 27 cases of HIV-2 had been reported in the United States. Unfortunately, only 1 out of 4 of the HIV-2 positive persons returned for their test results. Having a coded label but no name or address, the other 3 were never identified. In other words, Maryland knows it has a problem, but doesn't know how big it is, where it is, where it's going or how fast it is going.

In Montana, we have a similar scenario. We think we have an HIV epidemic, but because we do not routinely test for HIV or track the epidemic we don't know how big it is, where it is, where it is going, or how fast it is going.

Failure of Education: One of the tenets of our AIDS Act is "control of the epidemic is dependent on the education of those infected or at risk of infection." A recent survey proves that education alone will not alter the course of this epidemic.

Dr. Joseph Catania and his colleagues at the University of California surveyed more than 10,000 adults in what is considered the largest sexual survey in 40 years. The results reported in the November, 1992 issue of Service indicates that the vast majority of persons with multiple partners are engaging in sexual intercourse without condoms. Dr. Catania concluded "it is just a matter of time before it (HIV) will spread widely into the heterosexual community."

SB 404 Promotes a Public Health/Medical Response to HIV:

1. SB 404 deletes the requirements for written informed consent and pre-test counseling. These requirements serve no useful purpose and are time consuming and expensive for doctors to implement. But most of all, these requirements are a barrier to routine testing and early diagnosis of HIV. Seventy-five percent of Americans visit a hospital or clinic each year. According to an August, 1992 issue of New England Journal of Medicine, 110,000 new HIV infections could have been identified in 1990 if hospitals had been doing routine testing. If only those with risk factors were tested they would have missed 50% of

2-19-93
SB-404

the new infections.

2. SB 404 removes the requirements for anonymous testing which will allow public health to define, monitor, and track the epidemic.

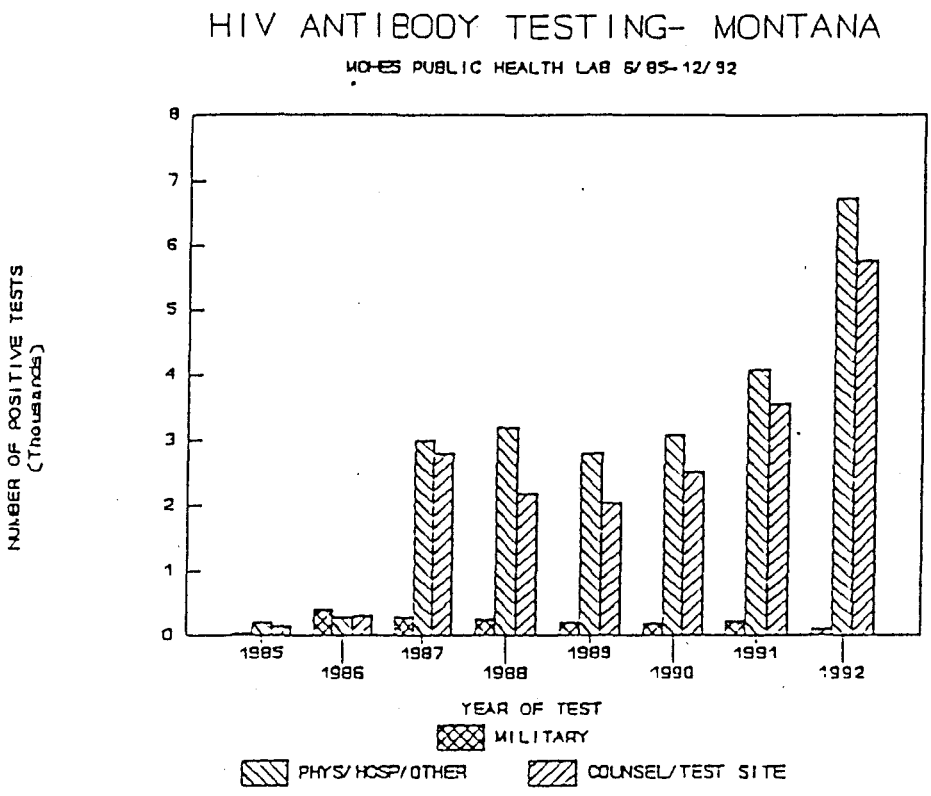
3. SB 404 places partner notification and contact tracing squarely in the hands of public health. Our current law places this burden on the physician.

In the 1930's, Dr. Parran, Surgeon General, implemented an aggressive contact tracing (partner notification) in the fight against syphilis. By secondarily testing sex partners and breaking the chain of transmission, syphilis was successfully contained even before the advent of antibiotics and a cure.

Some would argue that its too expensive to test for HIV and track the epidemic. The state lab performs and HIV test for $5.00—a mere pittance in comparison to the $100,000 or more spent to care for one HIV patient. Since 1987, the State of Colorado has required HIV reporting by name with aggressive follow-up of all sex partners which are secondarily tested. For every dollar spent on their partner notification program, Colorado estimates it save $5.00 in potential treatment costs.

Summary: In Montana, we are very blessed in that we do not have an out of control epidemic. As HIV spreads into the heterosexual community it could very easily become a major epidemic. Why wait until more people become sick and die? Now is the time to implement traditional public health measures that will be effect in containing this epidemic. Please pass SB 404 to protect the health of my children and future generations of Montanans.

Figure 8



Although testing has increased significantly, the number of individuals testing positive has not. For those tests submitted with risk information, the majority, averaging approximately 60 to 75% during the past few years, reflects either low-risk behavior or no recognized risks. Figure 9 shows the number of positive tests performed by the MPHL since testing began in 1985. Again, since many people may test more than once, the data reflected in Figure 9 will contain duplicates. However, as with other data supplied through counseling and testing, trends can still be identified.

Exhibit #4
2-19-93
SB-404

HEALTH

Americans ignore safe sex practices

People risking AIDS, study says

WASHINGTON (AP) — Americans are not practicing "safe sex," leaving millions at risk of infection by the AIDS virus, according to authors of the largest national sexual survey in more than 40 years.

The survey results, to be published Friday in the journal *Science*, indicate that heterosexual Americans are not taking seriously the risk of AIDS and that the vast majority with multiple partners are engaging in sexual intercourse without condoms.

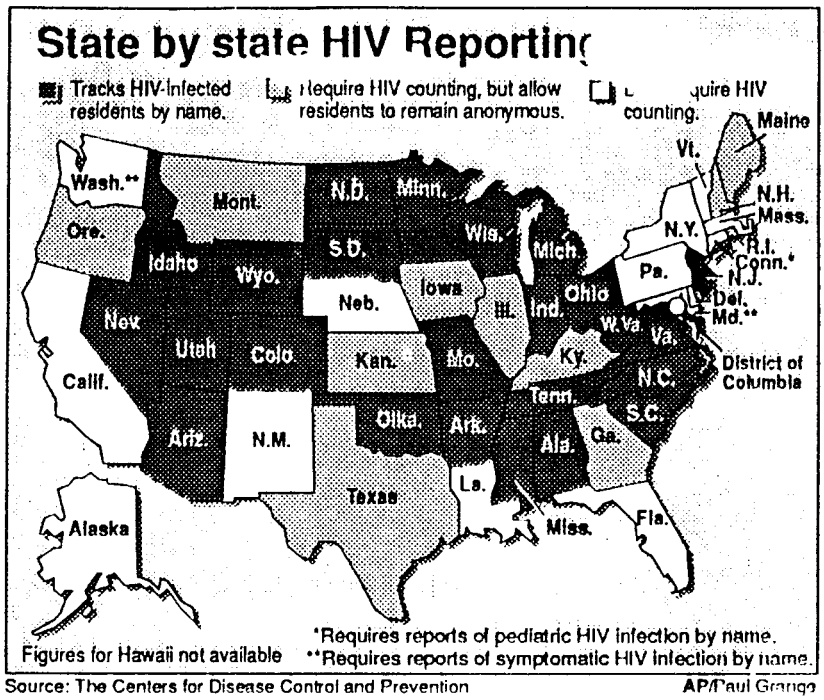
AIDS has been most prevalent in the United States among homosexuals and intravenous drug users. But Joseph Catania, a University of California, San Francisco researcher and an author of the study, said that with so many people not using condoms or other protection, "it is just a matter of time before it will spread widely into the heterosexual community."

For the survey, more than 10,000 Americans were questioned by telephone about their sexual practices. Respondents were selected by a random digit dialing system and represented people between the ages of 18 and 75, married and single, living in major cities and in rural areas.

"This is the first of a kind," Catania said, because it concentrated on behavior related to the risk of sexually transmitted diseases, such as AIDS. He said it was the first large scale survey on human sexuality in the U.S. since the Kinsey report in 1948.

"Kinsey asked a lot of questions we didn't ask, but the Kinsey study is not a representative sample and this one is," he said.

Exhibit #7
2-19-93
SB-404



Source: The Centers for Disease Control and Prevention AP/Paul Grango

Privacy rights limit accurate HIV count

DECATUR, Ga. (AP) — Federal health authorities and AIDS experts, struggling to get a more accurate estimate of the number of HIV-infected Americans, argued Wednesday over whether states should count HIV patients by taking names.

"We need to balance our goals of surveillance with human rights burdens — does it deter testing?" asked Lawrence Gostin, executive director of the American Society of Law and Medicine.

The Centers for Disease Control and Prevention had hoped a panel of about 50 AIDS experts, meeting in this Atlanta suburb, would answer that question instead of ask.

The CDC convened the meeting to help it develop guidelines for states to accurately report how many people have HIV, the virus that causes AIDS. Although the CDC estimates 1 million Americans are HIV-infected, that's a very rough guess.

"It's really hard to know how far off you are," said Dr. John Ward, CDC's chief of surveillance.

Since the start of the epidemic, state health departments have collected the names of patients with full-blown AIDS and forwarded that number to the CDC. The tally is now about 240,000.

But only 24 states count by name the people who have HIV but not AIDS, so there's no real data on HIV cases. Montana counts HIV patients but gives them anonymity.

The CDC is considering whether all states should track HIV patients by name or by a special code, so they won't count some patients twice and so doctors can better ensure that patients get appropriate follow-up care. But the agency acknowledged that anonymity may attract more people to be tested.

Whatever it decides will merely be a guideline, not an edict, but the decision is important because states that follow its guidelines get more CDC funding. For example, the 24 states that track HIV patients by name got most of the $5 million the CDC spent for HIV reporting efforts this year.

The states tightly guard the names — not even the CDC sees them. The CDC and AIDS activists agree there have been no breaches of confidentiality.

H — 1/28/93

SENATE HEALTH & WELFARE
EXHIBIT NO. 5
DATE 2-19-93
BILL NO SB 404

Public Health, Welfare and Safety Committee

Re: In support of Senate Bill No 404

We enter this testimony as concerned parents of two daughters, age 10 and 12. We support Senate Bill No 404.

Since Magic Johnson was identified as HIV positive, he has been able to try to protect his wife and their unborn child. If he had not had an HIV test, his wife and child could have been infected. What better example of the value of testing and notification of a partner?

When we are grandparents, we do not wish to explain to our grandchildren why we did not support a responsible approach to HIV/AIDS. We do not believe that you will want to explain that to your grandchildren either. We urge you to support Senate Bill No 404 for ourselves, but mostly for our children's and grandchildren's future. Thank you for your time and attention.

Michael T. Stevenson, MSSA

Laura F. Stevenson
PO Box 122
Ft. Harrison, Mt 59636

ACLU OF MONTANA
AMERICAN CIVIL LIBERTIES UNION
BOX 3012 • BILLINGS, MONTANA 59103 • (406) 248-1086 • FAX (406) 248-7763

TO Scott Crichton
CO.
FAX# 449-2180
FROM Ken Fremont-Smith
AVERY FX-10

SENATE HEALTH & WELFARE
EXHIBIT NO. 6
DATE 2-19-93
BILL NO. SB 404

Testimony in Opposition to SB 404 by Kenneth Fremont-Smith, M.D.
The Senate Committee on Public Health, Welfare and Safety
February 19, 1993, Helena, Montana

Senator Eck and members of the Committee, my name is Ken Fremont-Smith. I am here to represent the Montana Chapter of the American Civil Liberties Union, of which I am a Board member. I am a retired physician, and currently the HIV Medical Advisor for the Missoula Health Department.

I speak in opposition to SB 404. This bill would require that HIV infection and its sequelae be handled by the Department of Public Health in a manner identical to that mandated for other sexually-transmitted diseases. It is a good bill - but one whose time has not yet come.

Let me explain. Public health laws and regulations must be appropriate to the disease in question. Laws which, today, are suitable for syphilis, for example, are not appropriate for HIV, even though both are sexually-transmitted diseases. What is the difference between syphilis and HIV in this regard? Syphilis is treatable and curable; the treatment now available for HIV is meager in comparison. What is inappropriate about these laws if they are applied to HIV at this time? Primarily, in my opinion, because of their requirements for testing with named reporting, and for the compulsory sexual contact tracing.

With regard to named reporting, some people have hoped, ever since 1985 when the test became available, to arrest HIV transmission by identifying all who are infected. However, as long as there was no treatment for HIV, those who were most likely to be infected had little incentive to be tested, for there was nothing to be done. Indeed, they had a powerful disincentive - namely, the fear of discrimination and persecution, since the great majority of those individuals were then either homosexuals or intravenous drug users.

When early treatment became available for HIV-infected persons in 1989, early testing for those who feared they might be infected made sense for the first time - there was something that could be done. The argument that all who were at risk should be tested and identified took new vigor. However, the treatment that became available in 1989 served only to prolong the clinically-quiescent period of HIV infection for an average two years or so. Unhappily, this still appears to be true today. We do not yet

have effective long-term treatment, much less a cure. For the other sexually-transmitted diseases, the government has, today, a compelling interest in testing; effective treatment and usually a cure is available, and spread of the disease can thus be curbed. With HIV, this is not so. Testing is today of limited if any value in furthering the goal of halting HIV transmission: the fact that the antibody test has a 3-month average lag time, and that the activity that continues to spread this virus - sexual congress between two persons - is extremely common, means that it is neither practical nor, ultimately, possible to identify everyone who is infected by means of this test. Mandatory testing, when it does not further a public health goal, is an infringement of individual liberties under the 4th amendment, and violates the right of privacy. In the absence of a compelling interest, the government must not infringe upon our individual constitutional rights.

My statement has so far been limited to testing. Regarding compulsory sexual contact tracing, there is no evidence that this is an effective way to advance public health concerns over HIV, and there is reason to believe that it is often counter-productive. Further, it raises grave civil liberty concerns, since those who are most at risk for infection with HIV belong to groups that are at grave risk for discrimination in jobs, housing, access to medical care and all aspects of everyday live. HIV and AIDS must not continue to be exploited as an excuse for denying civil rights to those who are already shunned.

No, the time for this bill has not yet come. It must await the advent of long-term effective treatment. When that happens, I am confident we will all support widespread testing with named reporting and vigorous contact tracing. Then these laws, which are appropriate today for the other sexually-transmitted diseases, will also be appropriate for HIV. Unhappily, this is not going to happen during the next biennium. I therefore urge that you vote against SB 404.

Finally, if political realities dictate that this or a similar bill becomes law, let me make a plea for an amendment to ensure the continued availability of anonymous testing sites, as is now provided in 19 other states. Such sites are necessary for those who, out of fear that is all to often justified, will continue to avoid testing as long as it is coupled with named reporting. Until long-term effective treatment for HIV is available, the only way we are going to be able to reach those we need to test the most - gay and bisexual men, intravenous drug users, and heterosexuals who have had multiple partners - is by ensuring access to anonymous testing.
Thank you.

FAX DATE 2/19/93 # PGS 1
TO SCOTT CRICHTON
CO. FAX#
FROM Ken Fredman-Smith AVERY FX-10

MISSOULA COUNTY
MISSOULA

CITY-COUNTY HEALTH DEPARTMENT
301 W. ALDER
MISSOULA, MONTANA 59802

(406) 721-5700

SENATE HEALTH & WELFARE
EXHIBIT NO. 7
DATE 2-19-93
BILL NO. SB 404

TO: Chairperson Eck and Committee Members
Public Health, Welfare, and Safety Committee
Montana Senate

FROM: Greg Oliver, Director of Health Education (GO)
Missoula City-County Health Dept.

REPRESENTING: Local health officers from Cascade, Flathead, Lewis and Clark, Missoula, Silver Bow, and Yellowstone counties.

TESTIMONY IN OPPOSITION TO SB 404- 2/18/93

One of my job responsibilities is guiding Missoula County's response to the AIDS epidemic. For several years, I have also coordinated other communicable disease response in our county. My work has included HIV counseling and testing, outreach to individuals involved in higher risk activities, general CD case followup, and HIV partner notification.

The local health officers listed above certainly share the proponents' concerns about assuring that the best possible strategies are in place to contend with this epidemic; however, they believe, as I do, that SB 404 would actually weaken our current effectiveness.

The key concern that SB404 attempts to address is how can we best find people who are currently HIV positive and reduce the risk that they pose to others. Why doesn't it make sense to treat HIV just like a syphilis case?

Strategies in place in Montana, including current statutes, anonymous testing sites, partner notification, and an intact AIDS Prevention Act, are working. Obviously, people working on the front lines using these tools would do even better jobs with more support.

Our experience is that treating HIV like syphilis would significantly reduce the numbers of people we are likely to find at risk or currently infected. Perhaps more tragically, it would also cause more infected people to delay early intervention strategies which can keep them well for much longer.

I suspect that the people advocating SB404 have not been working on the frontlines, either with syphilis contact tracing or HIV partner notification. Please note that those who know the most about this work aren't supporting SB404.

Why exactly is that? Several thoughts come to mind when I consider our work with HIV in west-central Montana, both in urban Missoula and in the surrounding rural counties, and what the other larger health departments describe.

1. **We are currently successfully doing partner notification.** We don't need the name of a case to get the names of people who may have been exposed. What we do need is to find people who are infected. If we can't find them, we can't find their partners. And we won't find nearly as many cases if they don't trust us, or are unsure what the state of Montana, hospitals, health providers, emergency responders are going to do with their names, and their lives, if they come forward. There has been little about this legislative session to cause shunned individuals to trust government's good intentions.

2. In Missoula, **we have had more than 30 HIV seropositive individuals go through our Early Intervention Program.** 75% of those clients knew their status before they contacted us and were not tested at our site. We would not have found them if SB404 was in place. A man arrived three days ago who has known his status for 5 years, and has been scared to death for anyone else to know, including a health care provider, because he did not feel safe. That might not seem rational to you but it is very common among people who are at risk or infected. Because of this program, and another called Consortium, we are working with many more infected people, and finding new people who are at risk.

3. **Partner notification only works if a case gives you the names of people at risk.** If an individual isn't convinced that you are trustworthy, and that you will handle the situation well, he or she will not provide names. They will swear they are telling you about all their contacts, and you may even believe them. The interview process is very subtle, and requires lots of training, but everything is much, much easier if there is trust. If a gay man, for example, believes that by giving you names, you will go knock on the doors of 5 other gay men who are not out, and require them to be tested (if this is treated like syphilis), possibly against their will, and keep their names on some registry, there will be a huge number of at risk people who will do everything they can to avoid be tested and identified.

4. **The AIDS Prevention Act is also working.** Why change the act this year? Who isn't it working for? Have any of the people supporting this proposal had personal difficulties <u>in actual practice</u> with the written informed consent requirements? By the way, for those of you who weren't involved, the AIDS Prevention Act was the result of hours and hours of negotiation, over two sessions, with legislators, hospitals, other health providers, insurers, emergency responders, advocates, and public health officials hammering out an agreeable compromise.

In conclusion, the bill may seem reasonable on the surface. But looking deeper, in terms of Montana realities, and in light of our experience to date, it is not the right time to make the sorts of changes that SB404 proposes. I believe SB404 could well increase the numbers of Montanans who become infected with HIV, and reduce our ability to assist infected Montanans through the terrible process of this disease.

CITY-COUNTY HEALTH DEPARTMENT

BOARD OF HEALTH
County Commissioner
City Representative
County Representative
Superintendent of City Schools
Representative - Medical Society
Representative - Dental Society

1130 17th Avenue South
Great Falls, Montana 59405
(406) 761-1190

FAX #(406) 761-1192

SENATE HEALTH & WELFARE
EXHIBIT NO. 8
DATE 2-19-93
BILL NO. SB 404

February 19, 1993

Re: SB 404

Madam Chairman and Members of Senate Public Health, Welfare & Safety Committee:

I am Cherry Loney, R.N. and Health Officer at the City-County Health Department in Great Falls.

Weather, along with an extremely busy workload, have made it impossible for me to attend your committee meeting today, and I am grateful to [redacted] for presenting my testimony for me.

I present information today neither supporting or opposing SB 404, but rather clarifying that at least in our county, and I believe most other local health departments as well, HIV is currently treated in the same manner as other communicable and sexually transmitted diseases.

The City-County Health Department in Great Falls has been doing partner notification and subsequent disease interventions with HIV for many years, and agree that this is a function and responsibility of ours.

Partner notification is done even in anonymous testing situations. People seek anonymous, voluntary testing through testing sites such as ours. While individuals seeking the test may choose to remain anonymous, it has been our experience that those who test positive readily recognize that these sites are the gateway to early intervention and medical and support services. Trust is developed and partners are, in fact, determined, notified, and referred for follow-up. Names of those testing positive are obtained as we assist them with their needs in obtaining medical care and other services.

Fundamental to the success of these efforts are several factors including the availability of voluntary, anonymous testing. Without this, individuals at high risk of HIV infection, who might benefit from testing and especially from counselling, may not seek the services in the first place. The need for anonymous testing is verified daily in our contact with clients. The overwhelming majority not only prefer anonymity but also express that they would not submit to a test without it. I believe society is responsible for this environment relative to HIV wherein individuals are fearful of who may have access to their medical information and what may become of it. Until we can better assure people about this, many will not seek services unless they can remain anonymous.

Whether or not the disease is giardia or HIV infection; whether or not the law requires it; identification of contacts in any communicable disease situation is limited to what the patient chooses to tell the health care professional. If trust has been established, it is much more likely a patient will tell the health care professional all the information about contacts. And if the high risk person never comes for testing because of fear of giving his/her name, there will be no information about contacts whether or not a law is in existence.

Partner notification and follow-up is done regardless of whether the client seeks services through our Department or through a private physician. The physician merely needs to refer the client to us for partner determination and follow-up.

AIDS is a devastating public health problem. While there may be disagreement as to the best way to do it, we all share a common goal of stopping this terrible disease. I believe we are doing what needs to be done in terms of partner notification.

Thank you.

Sincerely,

CITY-COUNTY BOARD OF HEALTH

Cherry M. Loney

Cherry Loney, R.N., M.A.S.
Health Officer

SENATE HEALTH & WELFARE
EXHIBIT NO. 9
DATE 2-19-93
BILL NO. SJR 18

MDA

Montana Dental Association
P.O. Box 1154 • Helena, MT 59624
(406) 443-2061 • FAX: (406) 443-1546

Constitutent: AMERICAN DENTAL ASSOCIATION

February 19, 1993

To: Senate Public Health Committee

From: Bill Zepp, Executive Director

Re: SJ18

Chairperson Eck and Members of the Committee:

For the record, I am Bill Zepp, Executive Director of the Montana Dental Association, composed of 94% of the resident dentists in Montana.

The MDA and its parent organization, the American Dental Association, are appreciative of public concerns regarding the safety of dental amalgam. In addition, we are both sympathetic and respectful of the concerns of individuals faced with serious illnesses.

However, with all due respect to Senator Beck and Senate Resolution 18, dental amalgam presents neither cause nor relief for any illness or symptoms of illness. Any study by the State of Montana Department of Health would be unnecessary, costly, and redundant.

The following studies regarding the safety of dental amalgam have been completed in the last twenty-four months:

* March 15, 1991 - The Dental Products Panel, an advisory panel to the Food & Drug Administration, unanimously recommended that the FDA issue a public statement advising patients against the removal of amalgam fillings. While recommending further study on the safety of amalgam, the committee reported that no evidence exists indicating a direct hazard to humans from dental amalgam.

* March 1991 - The National Institute of Dental Research (NIDR), one of the Federal government's national institutes of health (NIH), issued a statement based on ten years of research regarding dental amalgam. Based on the available research, the NIDR concluded that dental amalgam posses no known health risk to individuals who are not hypersensitive to the material. In addition, NIDR noted that "there is no reasons for recommending either the discontinuation of dental amalgam as a restorative material or the removal of dental amalgam from patients who have no demonstrated hypersensitivity to mercury or other components of amalgam."

* May 1991 - Consumer Reports magazine conducted an analysis of the dental amalgam controversy. In an overall conclusion that mercury amalgam continues to be the best filling substance available to the public, Consumer Reports noted that "anyone with a chronic, baffling illness, such as rheumatoid arthritis or multiple sclerosis, could hardly ignore the possibility that mercury might be the key to the problem - or resist the hope that a simple cure was now possible."

* August 28, 1991 - The Office of Medical Applications of Research of the National Institutes of Health reported that "the amount of mercury vapor released from silver amalgam is very small and poses little risk to health." The fourteen member scientific panel focused solely on the scientific data related to effects and side effects of the various restorative materials. While noting that virtually all restorative materials have some components with potential health risks, the panel emphasized their overall safety. In conclusion, the panel stated that "there is no scientific evidence that currently used restorative materials cause significant side effects. Available data does not justify discontinuing the use of current dental restorative materials or recommending their replacement."

* January 21, 1993 - The U.S. Public Health Service released an evaluation of mercury amalgam that says that amalgam has continuing value in maintaining oral health. According to the report, there is no solid evidence of any harm for millions of Americans who have these fillings and there is no persuasive reason to believe that avoiding amalgams or having them removed will have a beneficial effect on health. This report was produced by representatives of Federal health related agencies, specifically the Committee to Coordinate Environmental Health and Related Programs (CCEHRP). The study is the product of twenty-five months of work. The eight PHS agencies were represented, including the National Institutes of Health, the Centers of Disease Control and Prevention, the Health Resources and Services Administration, the Indian Health Service, and the Food & Drug Administration. The Environmental Protection Agency and outside experts in toxicology, biomaterials, and clinical dentistry also assisted in the preparation of the report.

In addition, the National Multiple Sclerosis Society has concluded there is no evidence that amalgam fillings are related to multiple sclerosis and does not endorse the removal of fillings as a treatment for the disease. The Arthritis Foundation has stated "there is no conclusive scientific evidence showing a cause and effect relationship between amalgam and the development of some forms of arthritis."

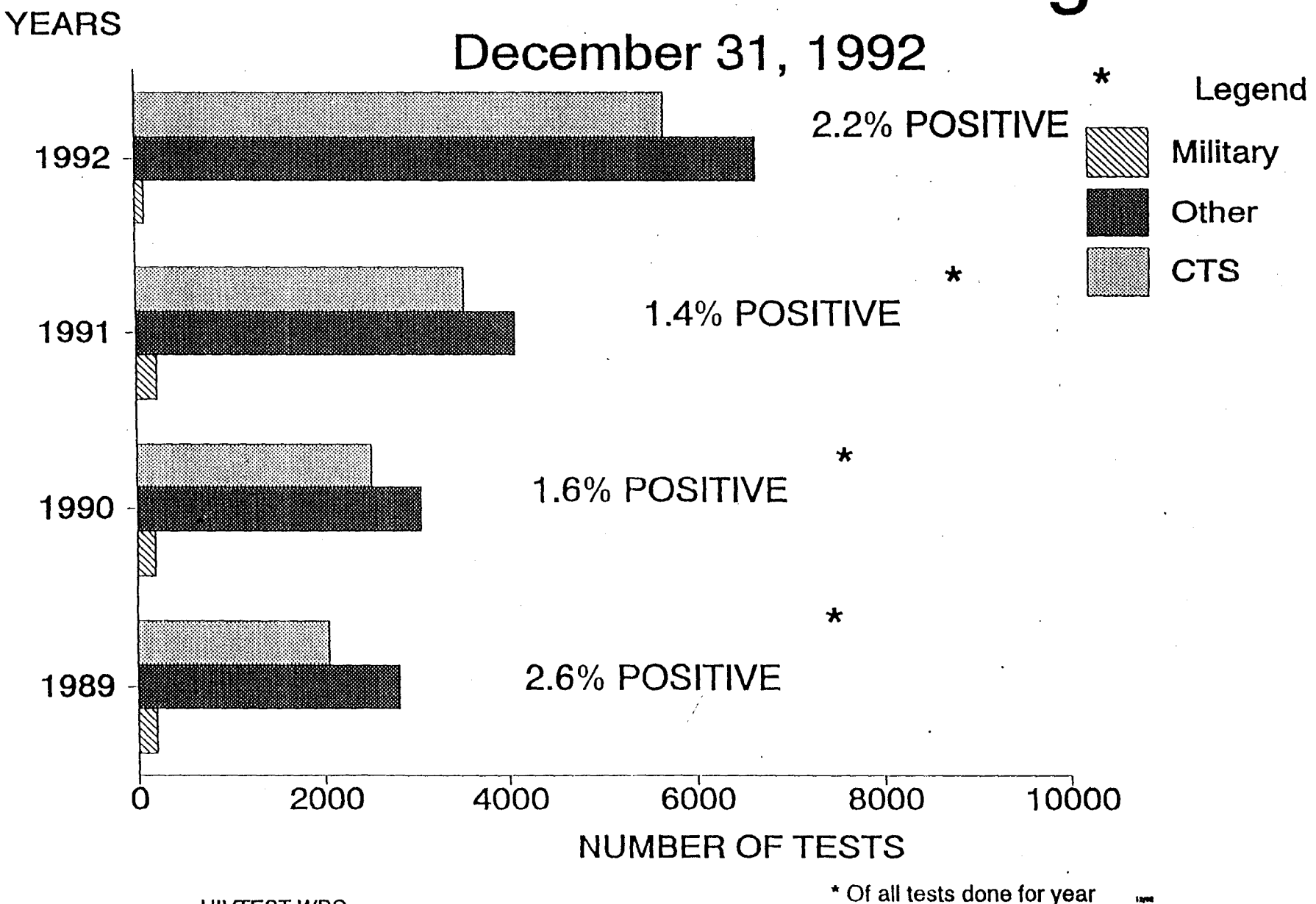
Over 100 million Americans have amalgam fillings; more than 100 million fillings are placed in the United States each year. Amalgams have been used in this country for over 150 years with no credible evidence that it poses a risk to human health.

The MDA and the ADA support valid scientific study and dialogue on the safety of dental amalgam, since our first and foremost concern is the health of the public. Based on the review of the scientific literature - and on the review of this literature by independent government agencies - the MDA and ADA firmly believe that dental amalgam is a safe, affordable and durable restorative material.

With the amount attention and scrutiny provided by the abovementioned institutes and agencies, further study by the State of Montana Department of Health would appear superfluous.

Thank you for your attention and consideration.

Montana HIV Testing



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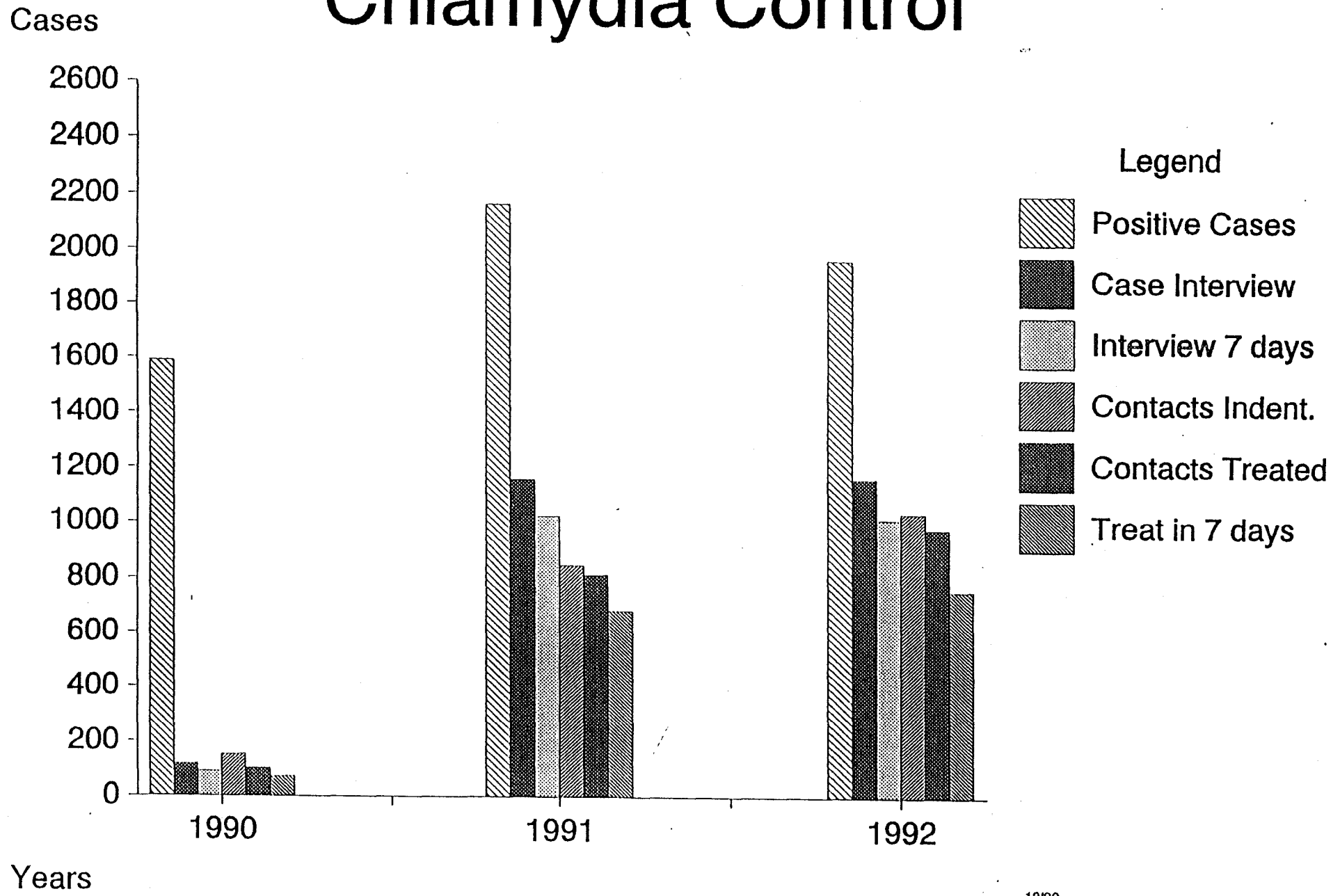
2-19-93
SSR-18

Chlamydia Control



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12/92

DATE 2-19-93

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 404, SB 409, SJR 18

Name (please print)	Representing	Bill No.	Check One: Support	Check One: Oppose
Joanne Shearer	MT Health Alliance	404	✓	
Laurie Koutnik	Coalitions. Comm of MT		✓	
Paula Black	LaC C-C HD 1 Greg Oliver Missoula HD	404	.	✓
Michael T Stevenson	Self	404	✓	
Drew Dawson	EMS, Dept Health	409	✓	
Steve White	MT Health Alliance	404	X	
Chuck Vee	MT Newspaper Assn	409		
Jesse O'Hara	Self	404	✓	
Bill Zepp	MT Dental Association	SJR 18		✓
Scott Crichton	ACLU/MT	404		✓
Diane Sands	MT. Women's Lobby	404		✓
Lee Hipsher	AAUW	404		✓
Judi Almond	AAUW	404		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10