

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By CHAIRMAN JIM BURNETT, on February 15, 1995, at
12:02 PM

ROLL CALL

Members Present:

Sen. James H. "Jim" Burnett, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Arnie A. Mohl (R)
Sen. Mike Sprague (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Terry Klampe (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Council
Karolyn Simpson, Committee Secretary

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

Committee Business Summary:

Hearing: SB 240, SB 223, SB 310
Executive Action: SB 240, SB 310, SB 223, SB 248, SB 158,
SB 236, SB 339

{Tape: 1; Side: 1}

HEARING ON SB 240

Opening Statement by Sponsor:

SENATOR FRED VAN VALKENBURG, SD 32, Missoula, said SB 240 is a proposal to amend the statutes for licensure of physicians in Montana to create a restrictive license to practice medicine for physicians who have been foreign-trained, but have attained a level of recognition greater than most in Montana. The reason for this legislation is, St. Patrick Hospital in Missoula in particular, has an opportunity to recruit a physician, Dr. Carlos Duran, who has a tremendous international reputation, to work with the Heart Institute. For about 5 years, St. Patrick Hospital in Missoula has had a Heart Institute that is gaining

considerable national reputation. Dr. Duran has expressed interest in moving to Western Montana and establishing a practice. Under current law, he would have to take the state medical board exam to be able to practice medicine in Montana. This legislation is intended specifically to give him the opportunity to practice medicine in Montana, it is not limited to just that situation. Opportunities are limited to those graduating from foreign medical school, because there must be proof that an individual is highly qualified to permit them to practice medicine in Montana.

This bill was drafted with the cooperation and support of the Board of Medical Examiners and the Montana Medical Association.

Proponents' Testimony:

Larry White, President, St. Patrick's Hospital, Missoula, spoke in support of SB 240, which amends the existing physician licensure law in Montana, so foreign-trained physicians, who have a proven record of scholarly research, can be granted this restricted license by the Board of Medical Examiners. Passing SB 240 would enable Montana to recruit foreign doctors who have an international reputation and assist our ability to compete, both regionally and nationally. Dr. Duran would head the Heart Institute, which was created by St. Patrick Hospital and the University of Montana, in Missoula. He would do basic research in the cardiovascular disease areas at the University and perform surgery at St. Patrick Hospital. He has a proven ability to attract millions of dollars in research grants from both private and public agencies, which be an economic benefit to Montana.

The proposed changes to the current law would require the applicant to obtain hospital staff privileges, on condition of licensure. He said this requirement is reasonable, can be effectively implemented, and the process used by hospitals, all over the state, in granting privileges are basically the same because they are governed by accreditation standards.

Dr. Jim Oury, a practicing cardiac surgeon, St. Patrick Hospital in Missoula, said SB 240 will enable the state of Montana to recruit internationally renowned physicians, such as Dr. Duran, to pursue the development of scientific centers of excellence in research and clinical medicine in specialized fields. There is such a clinical center at St. Patrick Hospital in Missoula, but it lacks an individual of Dr. Duran's caliber to attract research money, grants, etc. In addition to developing research, individuals of Dr. Duran's stature, would provide educational opportunities for students, health care professionals, and research scientists.

Bob Frazier, representing the University of Montana campuses, spoke in support of SB 240. He said the recruitment of Dr. Duran to Missoula would be good for the U of M School of Pharmacy and Allied Health Sciences. They currently do research in diabetes,

cardiovascular areas, and pharmacology, the interaction of drug utilization with different types of cardiovascular research.

Jim Ahrens, President, Montana Hospital Association, said he supports SB 240.

Dr. Gary Elliott, Vice President of Pharmaceutical Development at Ribi Immuno Chem, in Hamilton, spoke in support of SB 240. He said an opportunity exists, with the passage of this bill, to obtain the expertise of a renowned cardiovascular surgeon. The concept of providing an opportunity for physicians who are foreign-trained but of international reputation, to come to Montana to practice medicine, and make a contribution as a clinical scientists is quite an opportunity for collaboration and commiseration which can lead development of biotechnology in the state.

Carole Erickson, St. Patrick Hospital in Missoula, distributed information giving examples of types of internationally renowned physicians who can be recruited to Montana. **EXHIBIT 1.**

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR FRANKLIN asked how Dr. Duran's going to Missoula would help the health care community of the whole state.

Carole Erickson said it will benefit the state, as far as medical development goes, if this bill is drafted so it can apply to other cities other than Missoula. The direction of health care reform, the need for access and specialized care, brings about the need for developing centers of excellence.

SENATOR ECK referred to page 1, line 30, and asked why this bill includes "demonstrates evidence of research and publication," and whether this is generally a requirement of physicians for licensure in Montana.

SENATOR VAN VALKENBURG said it is not a requirement for licensure, but this is a special kind of licensure. The Board of Medical Examiners and Montana Medical Association felt that requirement should be in the law if restrictive licenses to practice medicine in Montana are granted to foreign-trained physicians. This is to avoid less-than excellent foreign-trained physicians from practicing medicine in Montana without going through some of the same training that American-trained physicians receive, and avoid opening the door to less-than qualified individuals.

SENATOR FRANKLIN asked if Dr. Duran, practicing under special provisions, would be subject to all the same regulatory standards by the Board of Medical Examiners.

Larry White said he thought the answer is yes, but could be better answered by someone on the board. The restricted license doesn't relieve the individual from having to meet all the other ethical or hospital standards that would apply to others.

Patricia England, Attorney, Board of Medical Examiners, said that was a concern of the Board, that unqualified individuals from inadequate schools should not be able to slip through under this restrictive license. Dr. Duran is not going through the usual gamut of qualifications, it's a different set of criteria. They want to make sure the hurdles are high enough, which is the reason for the current research and publication requirement within the last 2 years, not 10-15 years ago. There is language that specifically refers to section 37-3-323, which is the professional conduct, disciplinary statute. She referred to SB 240, page 2, line 23, and said, this bill specifically states the person is going to be held to the same standards of care and professional conduct as other licensed physicians in Montana.

Closing by Sponsor:

SENATOR VAN VALKENBURG said people, such as Dr. Duran, will find Montana an attractive place to live, and we have a tremendous opportunity to have access to care that someone like Dr. Duran can provide, and can attract research dollars into the state, which is an economic tool.

EXECUTIVE ACTION ON SB 240

Motion/Vote: SENATOR FRANKLIN moved SB 240 DO PASS. The motion CARRIED UNANIMOUSLY.

HEARING ON SB 223

Opening Statement by Sponsor:

SENATOR TOM KEATING, SD 5, Billings, said SB 223, dealing with mental health services, is at the request of the Department of Social and Rehabilitation Services for managed care for mental health. Many mental health recipients said they are capable of holding down a job, but don't work because they would lose their Medicaid benefits. To qualify for Medicaid, mental health clients have to be on SSI and get a subsistence of less than \$500 a month, on which to live. If they are below those eligibility levels, they qualify for Medicaid, which provides their medication that stabilizes them in order to function. Their medication prescriptions cost between \$600.00 and \$1300.00 per month. It's difficult for them to earn that kind of money. If they earn more than \$900.00 per month, they lose their SSI and Medicaid. The providers of mental health treatment say that work is an essential part of the recovery program, along with the counselling and medications.

SB 223 raises the eligibility level to 200% of the poverty level to still qualify for Medicaid. These people will come into a program for screening, evaluation, and their eligibility will give them a share of Medicaid to get appropriate treatment, and go to work, doing some co-pay, while regaining their health. When they can be treated, then returned to society as a productive people, they can take care of themselves, pay taxes, and stop the generational cycle of mental health and emotional disturbances. This Medicaid program is limited to mental health services. It will not address physical Medicaid. The case management will be operated by a private company, which is expert in designing and evaluating, but all of the mental health services will be provided by Montana providers. The program is designed for cost-containment with appropriate care, with the objective of successful treatment.

Proponents' Testimony:

SENATOR CHRIS CHRISTIAENS, SD 23, Cascade Co., said passage of SB 223 will allow for the management and complex care of mental health patients. It will also improve the quality of care and outcomes, and will give the flexibility to respond to local in-community situations. It has as the focus, a medical delivery system giving parity, and manage benefits through utilization-based, assuring quality-based continuum of care at the most appropriate level of care. Managed care will allow better management of limited resources and will serve clients in the least restrictive manner.

Peter Blouke, Director, Department of Social and Rehabilitation Services, spoke briefly in support of SB 223 from his written testimony. **EXHIBIT 2.**

SENATOR MIGNON WATERMAN, SD 26, Helena, said she served on the task force that put together this proposal and this bill gives the opportunity to pull together the whole mental health system. It has been recognized that the mental health system is fractured within the state budgeting process. Combined meetings were held with the Institutions Subcommittee and Human Service Subcommittee, because in the past there were two different committees looking at the mental health budget. This will allow a unified system that can serve youth and adults, as well as individuals at the state hospital.

Hugh Black, Ph.D., Psychologist in Helena, member of the board Montana Psychological Association, and representing Montana Coalition of Mental Health Providers, spoke in support of SB 223. The state Medicaid Division has worked with an advisory group, composed of individuals concerned about mental health, to establish a proposal that provides cost containment, while preserving the standards of effective care and safeguards for some of Montana's most vulnerable citizens. He said appropriate and timely mental health care lowers overall medical costs. The

present situation does not encourage people to lift themselves out of poverty if there are urgent mental health needs.

Frank Lane, Executive Director, Eastern Montana Mental Health Center, said this bill will begin to take care of the mentally ill in the state. He urged passage of SB 223.

Kathy McGowan, representing the Montana Council of Mental Health Centers, said she had been a member of the task force and SB 223 represents the best of what can happen with a federal-state partnership, working together to contain costs and have a better system. The 200% of poverty is scary, but in this state most of these people are already being served with 100% general fund dollars.

Donna Hale, Licensed Clinical Social Worker and self-employed as a psycho-therapist, representing the Montana Chapter of the National Association of Social Workers and private practitioners in the field of mental health, said a bill for managed care of Medicaid mental health introduced last year, at the request of the Department of SRS, during the special Legislative session, greatly concerned most of the people in private practice of mental health. Then SRS formed a committee, which included consumers, family members, public and private sector providers, and all of the departments that would be involved, to forge a program on which they all agree. They strongly support the program and urge passage of SB 223.

Bob Ross, Director of Region 3 Mental Health Center in Billings, spoke in support of SB 223. He said that it is unusual to see agreement among those in the mental health arena, but there is agreement on SB 223. Even though this bill will allow flexibility, quick access to treatment, uniform treatment standards, bring in all the other providers so there would be better access to care, mental health care costs will not be reduced in the State of Montana if there are no work opportunities made available. Region 3 has a contract with vocational education, out of SRS, to provide a transitional employment program, and a training employment program for their consumers who are seriously mentally ill. People who enroll in this program need to have some stability in their illness, and it gives them an opportunity to work and earn wages. Statistics show that mentally ill people who are placed in employment positions do not use mental health services as much. If employment is not made an important part of mental health care, the cost of mental health care will not be reduced.

Dan Anderson, Administrator of the Mental Health Division, Department of Corrections and Human Services, said they support SB 223.

Pat Melby, representing Rimrock Foundation and speaking on behalf of the Chemical Dependency Programs of Montana, said while the people served by chemical dependency programs are not included in

SB 223, the organization still supports this bill. The majority of people who are chemically dependent are often times diagnosed with a mental illness. The treatment of both diseases must be closely coordinated and done as a whole, rather than disjointed. They hope, in the future, the Legislature will include chemical dependency in the managed care system.

Bill Kennedy, Yellowstone County Commissioner and Chairman of the Mental Health Board in Billings, urged support of SB 223.

Patrick Pope, Executive Director of the Meriweather Lewis Institute and a member of the Medicaid Managed Care advisory group, said he has a mental illness, which is managed by medications, peer support and therapy. He said, under Managed Care, the Montana mental health system can operate as an efficient system that helps those with mental illness. The current mental health system is a care-taking system and once a person is in the system there is little chance of getting out. Under Managed Care, services that make sense can be implemented, not just those that take. Managed Care offers real hope to mental health consumers. He said that if the mentally ill can work and pay taxes, the cost in services is less.

David Hemion, representing the Montana Mental Health Association, read his written testimony in support of SB 223. **EXHIBIT 3.**

Paul Meyer, Executive Director, Region 5 Mental Health Center, which serves the seven counties of Western Montana, spoke in support of SB 223. He said it will give an opportunity to re-think the public mental health dollars being spent by the state, and create a better system for individuals. He referred to the concern that had been raised about the 200% of poverty level. Now, people have a choice of maintaining Medicaid eligibility and their treatment services or getting a job. This program, with a graduated fee schedule, would have people cost-sharing over 100% of the poverty level, up to 200% where they're paying full cost of treatment, but there would no longer be a choice between a job and Medicaid benefits.

Marty Onishuk, Vice President of the Montana Alliance for the mentally ill, spoke in support of SB 223. She said it's a chance for a continuum of care under one entity. Now the community mental health centers, which are federally mandated and partially federally funded, are responsible for community-based services, the state hospital completely funded by the state General Fund, and there are people bouncing between the two systems. There has been a problem tracking family members and friends of family members, as they leave the state hospital and move to another part of the state because different agencies in different parts of the state have different programs and treatment. SB 223 would make a similar system throughout the state. The fee for service, now in existence for Medicaid, only pays for certain services, and as family members, there are other services they would like to have that are not provided now. They were able to get case

management included as a service, and would like to see housing included also.

Mary Alice Cook, representing Advocates for Montana's Children, said they support SB 223, but with the reservations about children, to which David Hemion referred in his written testimony.

Andree Larose, staff attorney for the Montana Advocacy Program, made a brief statement from her written testimony in support of SB 223. **EXHIBIT 4.**

{Tape: 1; Side: 2; Comments: lost first 30 seconds at beginning of tape}

Candy Wimmer, Montana Board of Crime Control, and representing the Justice Council, said they support Managed Care for kids because many of the youth who enter the criminal justice system have mental illness or emotional disturbances. Those youth are sent to places where money is available for treatment, which does not mean that treatment was the most appropriate to meet their needs. The Managed Care system will allow a broader array of services to meet the actual needs of youth and be able to serve a broader group of youth.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR FRANKLIN asked about the waiver process.

Peter Blouke said all of the waivers have been submitted to the Federal Government, they have raised some concerns, but it is not final. The State Hospital will be included as part of the Managed Care system, but not a Medicaid reimbursable basis.

SENATOR FRANKLIN asked about the contract bidding process.

Peter Blouke deferred to **Mary Dalton, SRS.** She said the Federal Government has said, until they improve the waiver, the State cannot let the RSP. SRS is in the process of developing the RSP, letting that out for public content in March.

SENATOR BENEDICT referred to the fiscal note, asking about the savings. He said, there's an expenditure in the first year of the biennium and a savings in the second year of the biennium, but, whether or not the bill passes, the savings of \$2.1 million would go back into the Medicaid primary care budget, and it appears there would be no true savings to the General Fund, but just reallocated into the Medicaid primary care budget.

Peter Blouke replied, if it says that, it's an error, because those funds have been reduced from the Primary Care budget.

SENATOR BENEDICT referred to Assumption 5 of the Fiscal Note, and read the last 2 sentences. **EXHIBIT 5.**

Peter Blouke said they had anticipated beginning Managed Care in FY 96, so there was \$2.1 million in FY 96 identified as savings, then \$2.1 in FY 97 as savings. Because the waiver process has taken longer than anticipated, there will be no savings in FY 96, consequently, the \$2.1 million that was taken out of the budget has to go back in.

SENATOR ECK asked about the children's program, the safety of the funding, and preventing its going to adult care.

Peter Blouke said that has been a concern, but they don't want to tie up any particular funding source. The department should be allowed flexibility to distribute the funds as deemed appropriate by the advisory group. They are going to be bringing up the children's program in FY 97 to the Legislature.

SENATOR ECK asked about the advisory council.

Peter Blouke said the advisory council would be continued because it is helpful in giving the Department ideas for structuring.

SENATOR FRANKLIN asked how private practitioners are responding to RFT and will these practitioners be able to compete.

Donna Hale said the private practitioners were initially opposed having this process regionalized, and requested language be included in the RFP that anyone licensed in Montana be eligible as a provider to patients of the program, giving some freedom of choice to consumers for choosing their providers. One difficulty private practitioners have faced is, currently the system has not allowed for outcome measures, and they know there are abuses of the system and inefficiencies they haven't been able to correct.

Closing by Sponsor:

SENATOR KEATING said this touches a lot of people. The mental health community throughout the State, from every level of provider and client are constantly networking, and meetings held frequently. This area has a huge impact on the State budget, costs needs to be controlled, and services delivered. The goal is for effective services with reduced spending. He asked the Committee to favorably consider SB 223.

HEARING ON SB 310

Opening Statement by Sponsor:

SENATOR JUDY JACOBSON, SD 18, Butte, said SB 310 changes the time for the prescription of Class II drugs from 72 hours to 34 days, and allow both the Nutritionist and Physician Assistant full

voting privileges on the Board of Medical Examiners. It has been found in practice, some prescriptions need to be filled for one month, and this bill covers one month and 2 weekends. Currently, if the P.A. has to fulfill a prescription, the patient has to keep going back every 72 hours. Because the 72 hour limit was arbitrarily set as a very conservative compromise when the bill was originally passed, the 34 days time makes more sense.

She said she thinks the physicians who have served on the Board of Medical Examiners are in agreement with granting full voting privileges to the Physician Assistant and Nutritionist members of the Board. At present, everyone on the Board, including 2 members of the public, has full voting privileges except the Physicians Assistant and the Nutritionist. She posed the rhetorical question, if the 2 members of the public have full voting privileges, why don't the Nutritionist and the P.A. It has been suggested that eliminating lines 5 and 6 of the bill would grant those voting privileges.

Proponents' Testimony:

Jennifer Krueger, Montana Academy of Physician Assistants, testified in support of SB 310. **EXHIBIT 6.**

Randy Spear, Physician Assistant, spoke on behalf of the Board of Medical Examiners in support of SB 310. **EXHIBIT 7.**

Ben Lindeman, Physician Assistant, Helena, said passage of SB 310 would augment the practice of Primary Care Medicine in the State with the release of the P.A. to offer to patients medications over a timely period, which they are unable to do at present. In the case of children with Attention Deficit Disorder treated mainly with the drug Ritalin, the P.A. is restricted to 72 hours and is an indirect cost to the State if the child is seen every 3 days for a renewal of the Ritalin prescription.

Al Obrien, Physician Assistant, Butte, said he sees many children, the problem with Ritalin, and having to return every 72 hours for prescription renewal. Being in Butte and in the Community Health Center, he sees all of the pre-release patients living in Butte, and is sure than any of these people who are inclined to drug use will say **Mr. Obrien** is the toughest guy to get anything from in Butte. He says that abuses can occur with physicians, nurse practitioners, or anyone, but he knows the people who are in the Montana Academy of Physician Assistants, and knows their moral tenure, doesn't think abuse would be a problem.

Opponents' Testimony:

Jerry Loendorf, representing the Montana Medical Association, said they support Section 2, which will improve the health care for the people of Montana, but want to delete Section 1, which they oppose. He said the Board regulates more than 1,700 physicians in various practices and specialties in the State. The

time the Board spends on Physician Assistants and Nutritionists is less than 10% of the time, and if full-time Board members are to be added, they should be physicians representing groups of physicians not currently represented.

Questions From Committee Members and Responses:

SENATOR ECK asked what type of issues come before the Board.

Jerry Loendorf said they deal mostly with physician disciplinary matters. They also do the licensing of the 6 groups listed in the bill, but these are more Board administrative matters handled by the staff.

CHAIRMAN BURNETT asked why they want to delete Section 1 of SB 223.

Jerry Loendorf said that section makes the changes for Board members voting privileges, making the Physician Assistant and Nutritionist full-time members of the Board. At present, the Physician Assistant and Nutritionist board members vote only on matter that pertain to their professions they represent, but do not vote on all issues before the board.

SENATOR FRANKLIN asked what was the rationale for limiting the Physician Assistant and Nutritionist to voting only on issues of interest to their professions.

Patricia England, Executive Secretary Board of Medical Examiners, explained the initial rationale for excluding the Nutritionist and the P.A. from full voting privileges. When the Board was established by the Department of Commerce, found themselves divided along professional lines. When the P.A. and Nutritionist were added, there was some concern there may be ganging up of one profession against another, and the physician majority could be outvoted to the detriment of the physicians and the people of Montana. This has not happened because the Board is comprised of mature individuals who have the public's best interest in mind, and there has been no reason to fear full-voting membership or partisan line up. They simply deal with the issues that come before the board.

SENATOR MOHL asked about the fiscal note, and whether there would be additional in cost.

SENATOR JACOBSON said there would be no cost increase, because additional members are not being added to the Board, just a change in voting privileges.

SENATOR ESTRADA asked for more information on Schedule II drugs.

Jennifer Kruger said Schedule II are regulated narcotics, such as pain pills.

SENATOR ESTRADA asked if this is everything not sold over-the-counter.

Jennifer Kruger said Schedule II narcotics include drugs such as codeine, Ritalin, and pain killers.

Al Obrien said the schedule of drugs is set up by the Department of Drug Administration, and is a schedule of potency or ability of a drug to cause an addiction. It's considered to be very little chance of becoming addicted to over-the-counter and RX drugs. Schedule IV drugs are drugs that contain some narcotics, such as codeine. Schedule III drugs may have a little more chance of addiction, and Schedule II drugs more chance of addiction. Drugs used to alleviate pain are in this schedule II category. Schedule I drugs are heroin, etc. that have restricted use within the medical profession.

Closing by Sponsor:

SENATOR JACOBSON said former Board members who are physicians are in favor of giving full voting privileges to P.A.s and Nutritionists. She said these members have as much good common sense as the general public members. She encouraged passage of SB 310 as it is.

EXECUTIVE ACTION ON SB 310

Discussion: **SENATOR BENEDICT** said the amendments would strike lines 5 and 6 from present law.

SENATOR BURNETT said that was the recommendation.

Motion: **SENATOR BENEDICT** moved the AMENDMENTS in conception to SB 310 DO PASS.

SENATOR BENEDICT said striking lines 5 and 6 from present law is cleaner, rather than leave those sections in and amend them, it's better to strike them out of present law.

Vote: The Do Pass motion for the AMENDMENTS in conception to SB 310 CARRIED UNANIMOUSLY.

SENATOR BENEDICT said Susan Fox will be renumbering #7 and #8 to #5 and #6.

Motion/Vote: **SENATOR BENEDICT** moved SB 310 DO PASS AS AMENDED. The motion CARRIED, with **SENATOR ESTRADA** voting NO.

EXECUTIVE ACTION ON SB 223

Motion: SENATOR BENEDICT moved SB 223 DO PASS.

Discussion: SENATOR FRANKLIN said she thinks they need to be careful about funding for children's services.

SENATOR BENEDICT said he favors the bill but has some reservations about the fiscal note. It looks like there's an expenditure in the first year and a savings in the second year, but ends up to be a savings even though it goes to Medicaid primary care because SRS had already taken it out of their budget. He said after 1997, this will be a good vehicle for money savings.

SENATOR ECK said it needs to be recognized, that over the years, growth has been contained, but never thought about the possibility of saving money.

Vote: The Do Pass motion for SB 223 CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 194

Discussion: SENATOR BAER said there are some amendments.

Susan Fox said the second longer amendment has incorporated the first amendment.

Motion: SENATOR BAER moved the AMENDMENTS to SB 194 DO PASS.

Susan Fox explained the amendments to SB 194, saying most of the amendments deal with section 1. Right now it's a discretionary program with the Department of Health. SB 285 would transfer the administration of the state health plan to the Health Care Authority on July 1, 1996. When drafting this bill, there was an inadvertent error changing it to a mandatory program. It was intended to take the provision that gave it to the Health Care Authority and say don't transfer it to the Health Care Authority. Because the bill is inaccurate from what SENATOR BAER intended, section 1 will be taken out. She referred to section 1, lines 17-21, Chapter 606 Laws of 1993, saying it will get rid of the transfer function. The amendments in 1, 2, and 3 will leave it as is, a discretionary program in the Department of Health, and no FTE's will have to be added.

The other amendment (numbers 4, 5, and 6) deals with section 11, page 10, amended to "the Advisory may health insured management plans." This enables them to utilize the plan already submitted prior to January 1, 1994, and puts no more requirements on the insurers.

Amendment 7 cleans up the classification instructions, taking the section out of law.

Vote: The Do Pass motion for the AMENDMENTS to SB 194 CARRIED, with SENATOR FRANKLIN voting NO.

Motion: SENATOR BAER moved DO PASS SB 194 AS AMENDED.

Motion: SENATOR FRANKLIN made a substitute motion.

Discussion: SENATOR FRANKLIN said she wanted to make another amendment. She referred to page 5, lines 15-27, who members of the Advisory Board may not be, and said she would like to strike that part. She is concerned about the terms of the members serving prior to May 3, who will be terminated upon making the appointments, and wants to strike that entire section. She said she thinks the leadership and the Governor would use good sense in choosing people and would not appoint someone who is not appropriate.

But, the part that really concerns her is the section dealing with the expiration of the current appointments. She talked with Sonny Lockrum who said, there is so much history that was gained in the last 2 years, and it would be a shame to dispose of those whose terms have not expired. Even though people rotate out as their terms expire, they share information with new people coming in.

SENATOR BENEDICT said that he disagrees with SENATOR FRANKLIN. He thinks there would be a conflict of interest for those people to be discussing things in which they have a financial interest, such as those who are directly involved in administering pensions and benefits and at the same time, serving on a health care advisory where they would be talking about things about which they have a financial interest. He said it would be better to have the public involved rather than people who have a definite financial interest in the subject being discussed.

SENATOR BAER said he opposes SENATOR FRANKLIN'S motion because the intent of SB 194 was to start fresh, and there's nothing to keep the previous members of the council from re-applying and being re-appointed. They would have an equal opportunity of being chosen.

SENATOR FRANKLIN said she had never made that connection. Being in the original drafting, the thought was for people to be appointed who have a health care and hospital background because they understand health care delivery, and they could bring more knowledge than the average person to the council.

SENATOR BENEDICT said everyone has a financial interest in health care. He opposes the amendment for the reasons stated by SENATOR BAER.

SENATOR ECK said there is nothing to keep current council members from being renamed.

SENATOR BAER referred to lines 18-25, saying the language came from SENATOR ECK's proposed Ethics Code, much of which he hopes will be adopted. He said they are trying to create an equitable and fair way to do this.

{Tape: 2; Side: 1}

Vote: The substitute motion for AMENDMENTS TO SB 194 FAILED with SENATOR FRANKLIN voting YES, by Roll Call Vote. SENATOR KLAMPE was not present for this vote.

Discussion: SENATOR ECK asked, when talking about the Advisory, if there's any reference to what kind of committee it will be, whether it's a decision-making advisory council. She said there is a section that says it can adopt rules and referred to page 4, line 20.

Susan Fox said 2-15-121 is allocation for administrative purposes only.

SENATOR BAER said it is his intent that this will be an advisory board, which collects information, and makes recommendations to the Legislature, but it does not make rules, except internal rules for its own procedures.

SENATOR BENEDICT said to accomplish what SENATOR BAER intends, strike "as provided" in 2-15-121 (Section 4) because it gives the council quasi-judicial powers.

SENATOR ECK said there's another kind of advisory council.

Susan Fox explained that it falls in 2-15-122, saying the Governor may create advisory councils.

SENATOR BENEDICT said they could still come back and report to the Legislature, but they are attached to the Department of Health for administrative reasons. The Department of Health would coordinate meetings, just like they do with other advisory councils.

SENATOR BAER said that was his goal.

SENATOR BENEDICT referred to page 4, line 20, saying, strike 2-15-121 and insert 122, putting them under the definition of advisory council.

Motion: SENATOR BENEDICT moved page 4, line 20, strike line 121 and insert 122.

SENATOR FRANKLIN said Mike Craig is a member of the Health Care Authority, and has had a lot of experience with rules, and could be helpful.

Mike Craig, referred to page 6, line 29, said striking the provision for reimbursement for members, and this bill takes out chapter 15 and inserts chapter 18.

SENATOR BAER withdrew his Do Pass motion for SB 194 as amended. He said there needs to be more work on the amendments before voting and asked for suggestions from Committee members for parts of the bill that need to be changed. He said SB 285 was a ponderous undertaking, and when you try to modify existing statute, snags are encountered. That's the main reason total repeal of the Small Employer Health Care Act is requested, because it's difficult to take existing law and change it the way you'd like it to be.

SENATOR BENEDICT suggested to **SENATOR BAER** that he meet with **REP. TOM NELSON** because the Small Employers Group bill is going down and as a result would end up with no small employers group if the amendment were repealed and that bill went down.

SENATOR BAER said it's his understanding there are several proposals to modify the Small Employers Health Insurance Act, but it's intent to not have anything after repeal of that act. He said he wants to have something that the Legislature really intended originally when it gave the task to the Insurance Commissioner. He's hoping someone will come up with the proper statutory proposal that will provide the remedies and actions that were deemed necessary, and communicated by the Legislature, at that time.

SENATOR FRANKLIN said, for purposes of the record, to question the intentions of the Legislature in 1993 and presume the intent was not met, is to presume a lot and she questions it.

EXECUTIVE ACTION ON SB 248

Motion: **SENATOR MOHL** moved SB 248 DO PASS.

Discussion: **SENATOR BENEDICT** said he doesn't support SB 248, the people in his area and the county sanitarian don't support it. It sounds good when the Department of Health is instructed, by the Appropriations Committee, to find areas of responsibility that can be put at the local level, but the Department finds a couple of small things and say they have accomplished what had been directed. But, this really puts the onus on the people who clean the septic tanks and cesspools to get a license, and maybe different regulations, in the counties in which they operate. That's a lot more government, to them, than obtaining a single license from the Department of Health.

SENATOR FRANKLIN said she had spoken to some of the people in the industry and they had expressed concerns, but also a good case

can be made from Director Robinson's being asked to eliminate unnecessary functions of the department.

SENATOR BURNETT said, from the Department's standpoint, they're just spinning their wheels because it really isn't doing anything. The issuance of licenses isn't costing them anything, they just do some administrative work.

Motion: **SENATOR ECK** made a substitute motion SB 248 DO NOT PASS.

Discussion: **SENATOR BENEDICT** said he would rather see the bill tabled because a Do Not Pass means that it will be debated on the floor on an Adverse Committee Report.

Motion/Vote: **SENATOR ECK** amended her motion that TO TABLE SB 248. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 158

Motion/Vote: **SENATOR FRANKLIN** moved SB 158 DO PASS. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 236

Discussion: **Susan Fox** explained the amendments. She said these amendments come from the Department of SRS as technical amendments. Amendment 9, page 17, line 10, helps clear up some of the \$100,000 problem and shows the importance of a single comma. It clarifies that it's the home the surviving spouse receives, not all of the surviving spouse's assets.

Motion/Vote: **SENATOR BENEDICT** moved the AMENDMENTS to SB 236 DO PASS.

Discussion: **SENATOR SPRAGUE** referred to the Fiscal Note and the expenditure of \$190,000.

SENATOR BENEDICT said the amendments have nothing to do with the Fiscal Note. The \$100,000 refers to the value of the assets.

Vote: The Do Pass motion for the AMENDMENTS to SB 236 CARRIED UNANIMOUSLY.

Motion: **SENATOR ECK** moved SB 236 DO PASS AS AMENDED.

Discussion: **SENATOR BENEDICT** said he knows that Medicaid costs must be contained, but he has a problem with the intrusion that this bill presents at the end of a person's life, and what they want to do with their assets. He thinks that a lot of people will

think it's not fair to try to take assets away from someone because they were in a nursing home, and the state had to pay for it.

SENATOR ECK said she thinks it's unfair that such a large portion of our Medicaid budget goes for nursing home care. The numbers of people on Medicaid isn't as high as one would think looking at the portion of the budget spent, which means that people who really need services aren't getting them. People with fairly substantial assets, using technicalities, dispose of them so they don't have to pay their nursing home costs.

SENATOR BURNETT said, if they're on Medicaid, normally they've already been investigated and wouldn't be on Medicaid if they had any substantial assets.

SENATOR ECK said there are seminars, given by attorneys, instructing older people how to divest of their assets, giving them to their kids, putting them in trust, so they can go on welfare.

SENATOR ESTRADA wondered how much abuse actually exists, and said she just can't give the government or the state license to take the assets of these people.

SENATOR MOHL said his in-laws paid everything they had to be in a nursing home. A friend, who could well-afford to buy the home, paid nothing because they were wealthy enough to know where to put their money. He said he thinks this bill is a good enough to put out on the floor for debate.

SENATOR SPRAGUE said, if he thought this bill would make it fair, he would be for it. But his question of whether he would circumvent this whole thing by having out-of-state relative move into the state, or in-state relative go to an out-of-state nursing home, then it became clear to him and he thinks this bill has no teeth. It will affect the good, honest person, but to the person who wants to circumvent, there would be no effect.

SENATOR FRANKLIN said there is a recovery process in the statutes already, and this bill changes some aspects of the recovery, changes the look-back period. The taking of someone's home is the part that most of the Committee has problems with. This is an addition but is optional under federal law, so this is more stringent than the federal option. The other aspects, such as state recovery and transfer of assets, is just tweaking it. There are some changes, but not substantial enough to change what is being done.

SENATOR BURNETT said he's not real happy with the bill, but is going to vote to put the bill onto the floor for debate.

Vote: The Do Pass motion for SB 236 AS AMENDED CARRIED with SENATORS BAER, ESTRADA, SPRAGUE, and FRANKLIN voting NO by Roll Call Vote.

EXECUTIVE ACTION ON SB 339

Motion/Vote: SENATOR BENEDICT moved the AMENDMENTS to SB 339 DO PASS. The motion CARRIED with SENATOR ESTRADA voting NO.


Motion/Vote: SENATOR SPRAGUE moved SB 339 AS AMENDED DO PASS. The motion CARRIED with SENATORS ESTRADA and BAER voting NO, by Roll Call Vote.

ADJOURNMENT

Adjournment: 2:40 PM



SENATOR JIM BURNETT, Chairman



KAROLYN SIMPSON, Secretary

JB/ks

MONTANA SENATE
1995 LEGISLATURE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

ROLL CALL

DATE 2/15/95

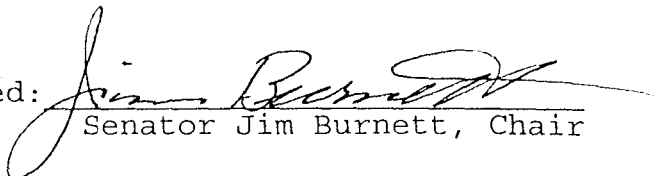
NAME	PRESENT	ABSENT	EXCUSED
LARRY BAER	X		
SHARON ESTRADA	X		
ARNIE MOHL	X		
MIKE SPRAUGE	X		
DOROTHY ECK	X		
EVE FRANKLIN	X		
TERRY KLAMPE	X		
STEVE BENEDICT, VICE CHAIRMAN	X		
JIM BURNETT, CHAIRMAN	X		

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 15, 1995


MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 236 (first reading copy -- white), respectfully report that SB 236 be amended as follows and as so amended do pass.

Signed: 
Senator Jim Burnett, Chair

That such amendments read:

1. Page 5, line 23.
Following: "(1)"
Insert: "(b)"
2. Page 10, line 28.
Strike: "this section"
Insert: "[sections 8 through 25]"
3. Page 11, line 15.
Following: "recipient"
Insert: "or the recipient's spouse or successor in interest"
4. Page 11, line 17.
Strike: "period"
Insert: "periods"
5. Page 12, lines 11 and 12.
Following: "transfer," on line 11
Strike: "or"
Following: "exchange" on line 11
Insert: ", or other event"
Following: "recover" on line 11
Strike: the remainder of line 11 through "death" on line 12
6. Page 14, line 8.
Following: "interest in"
Insert: "or residing lawfully upon"
7. Page 14, line 17.
Strike: the first "section"
Insert: "sections"
Following: "17"
Insert: "and 19"
8. Page 15, line 5.
Strike: "payment of"

 Amd. Coord.
Sec. of Senate

391645SC.SRF

Insert: "payments or"

9. Page 17, line 10.
Following: "home"
Strike: ", "

10. Page 17, line 26.
Following: "(a)"
Insert: "(i)"

11. Page 17, line 27.
Strike: "or"

12. Page 17, line 28.
Strike: "(b)"
Insert: "(ii)"

13. Page 17, line 29.
Strike: "(c) (i)"
Insert: "(iii)"

14. Page 18, line 1.
Strike: "(ii)"
Insert: "(b)"

15. Page 21, line 1.
Strike: "2, 27"
Insert: "28"

16. Page 21, line 3.
Strike: "3 through 26"
Insert: "2 through 27"

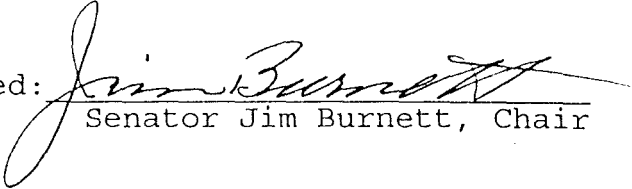
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SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 15, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 339 (first reading copy -- white), respectfully report that SB 339 be amended as follows and as so amended do pass.

Signed: 
Senator Jim Burnett, Chair

That such amendments read:

1. Title, line 9.

Following: "LIMIT"

Insert: "FOR MENTAL ILLNESS"

2. Title, line 10.

Following: "33-22-702"

Strike: ", "

Insert: "AND"

Strike: "AND 33-22-705,"

3. Page 2, line 16.

Strike: line 16 in its entirety

4. Page 2, line 26.

Strike: "(1) (b)"

Insert: "(1) (c)"

Strike: "(2) (b), and"

Insert: "(2) (c),"

Following: "(2) (d)"

Insert: ", and (2) (e)"

5. Page 2, line 30 through page 3, line 7.

Strike: page 2, line 30 through "benefits" on page 3, line 7


Insert: "(a) inpatient treatment for mental illness, alcoholism, and drug addiction is subject to a maximum yearly benefit of 21 days;


(b) inpatient treatment for mental illness may be traded on a 2-for-1 basis for a benefit for partial hospitalization through an American partial hospitalization association program operated by a hospital; and

(c) inpatient treatment for alcoholism and drug addiction is subject to a maximum benefit of \$4,000 in any 24-month period and a maximum lifetime benefit of \$8,000"

6. Page 3, lines 11 through 25.

Strike: lines 11 through 25 in their entirety

 Amd. Coord.

 Sec. of Senate

391658SC.SRF

Insert: "(a) inpatient treatment for mental illness, alcoholism, and drug addiction is subject to a maximum yearly benefit of 21 days;

(b) inpatient treatment for mental illness may be traded on a 2-for-1 basis for a benefit for partial hospitalization through an American partial hospitalization association program operated by a hospital;

(c) inpatient treatment for alcoholism and drug addiction may be subject to a maximum benefit of \$4,000 in any 24-month period and a maximum lifetime benefit of \$8,000;

(d) outpatient treatment for mental illness may be subject to a maximum yearly benefit of no less than \$2,000; and

(e) outpatient treatment for alcoholism and drug addiction is subject to a maximum yearly benefit of \$1,000."

7. Page 3, line 27 through page 4, line 24.

Strike: section 3 in its entirety

Renumber: subsequent section

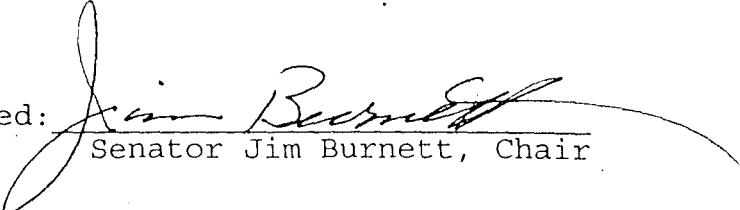
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 15, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 310 (first reading copy -- white), respectfully report that SB 310 be amended as follows and as so amended do pass.

Signed: 
Senator Jim Burnett, Chair

That such amendments read:

1. Title, line 5.

Strike: "AUTHORIZING"

Insert: "GRANTING"

2. Title, lines 7 and 8.

Following: "EXAMINERS"

Strike: the remainder of line 7 through "BOARD" on line 8

Insert: "FULL VOTING RIGHTS"

3. Page 1, lines 27 through page 2, line 1.

Strike: subsections (5) and (6) in their entirety

Re-number: subsequent subsections

-END-


SA

Amd. Coord.
Sec. of Senate

391637SC.SRF


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 15, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 240 (first reading copy -- white), respectfully report that SB 240 do pass.

Signed: 
Senator Jim Burnett, Chair

 Amd. Coord.
Sec. of Senate

391634SC.SRF

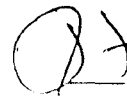
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 15, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 223 (first reading copy -- white), respectfully report that SB 223 do pass.

Signed: 
Senator Jim Burnett, Chair

 Amd. Coord.
Sec. of Senate

391641SC.SRF

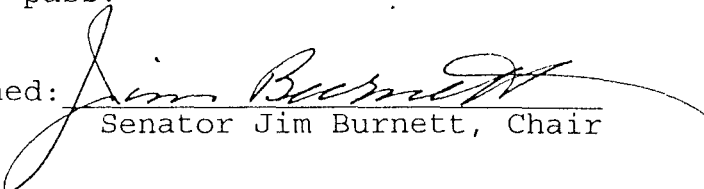
SENATE STANDING COMMITTEE REPORT


Page 1 of 1
February 15, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 158 (first reading copy -- white), respectfully report that SB 158 do pass.

Signed:


Senator Jim Burnett, Chair


Amd. Coord.
Sec. of Senate

391643SC.SRF

MONTANA SENATE
1995 LEGISLATURE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
ROLL CALL VOTE

DATE 2/15/95 BILL NO. SB236 NUMBER _____

MOTION: Do pass as Amended

NAME	AYE	NO
LARRY BAER		X
SHARON ESTRADA		X
ARNIE MOHL	X	
MIKE SPRAUGE		X
DOROTHY ECK	X	
EVE FRANKLIN		X
TERRY KLAMPE	X	
STEVE BENEDICT, VICE CHAIRMAN	X	
JIM BURNETT, CHAIRMAN	X	

MONTANA SENATE
 1995 LEGISLATURE
 PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
 ROLL CALL VOTE

DATE 2/15/95 BILL NO. SB 339 NUMBER _____

MOTION: Do pass SB 339 as amended

NAME	AYE	NO
LARRY BAER		X
SHARON ESTRADA		X
ARNIE MOHL	X	
MIKE SPRAUGE	X	
DOROTHY ECK	X	
EVE FRANKLIN	X	
TERRY KLAMPE	X	
STEVE BENEDICT, VICE CHAIRMAN	X	
JIM BURNETT, CHAIRMAN	X	

MONTANA SENATE
 1995 LEGISLATURE
 PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
 ROLL CALL VOTE

DATE 2/15/95 BILL NO. SB194 NUMBER _____

MOTION: Amendments (Sen Franklin)

NAME	AYE	NO
LARRY BAER		X
SHARON ESTRADA		X
ARNIE MOHL		X
MIKE SPRAUGE		X
DOROTHY ECK		X
EVE FRANKLIN	X	
TERRY KLAMPE		
STEVE BENEDICT, VICE CHAIRMAN		X
JIM BURNETT, CHAIRMAN		X

SENATE HEALTH & WELFARE

EXHIBIT NO. 1

DATE 2/15/95

BILL NO. SB 240

CARLOS G. DURAN, MD, PhD

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

For additional information, please contact:

**Carole V. Erickson
1-800-228-7271 Ext. 2015
St. Patrick Hospital
500 West Broadway
Missoula, MT 59802**

TESTIMONY OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
BEFORE THE SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

(Re SB 223 - An Act Relating to
Medicaid Managed Care Mental Health Services)

In conjunction with the Departments of Corrections and Human Services and Family Services, and with the cooperation of the Office of Public Instruction and the Commissioner of Insurance, the Department of Social and Rehabilitation Services has been doing extensive planning for a system of managed care for all publicly funded mental health services in Montana. That planning was required by HB33 as passed by the 1993 Special Session. The bill before you will accomplish a number of changes in law that are necessary to implement the program we have designed.

Working with the Department of Corrections and Human Services we determined that to have an effective and comprehensive managed care program it was necessary to include all state-funded mental health services under the new system. It then became necessary to find a way to include those people whose mental health services are currently paid, in full or in part, by the state general fund. To do so we have proposed to expand Medicaid eligibility, for mental health services only, to Montanans with an income of up to two hundred percent (200%) of the Federal Poverty Level. For a family of four that would equate currently to an annual income of \$29,600. Approximately forty percent (40%) of Montana families fall within this standard. We are proposing a graduated fee schedule under which persons qualifying for this expanded eligibility would pay a portion of their mental health treatment costs. This bill will authorize the Medicaid program to accomplish this.

Another important component of our proposed system is to have the managed care contractor perform eligibility determinations for people qualifying under this expanded category. SRS has insufficient personnel available for what will be a large workload expansion. This bill will allow us to have eligibility determinations for mental health managed care performed by an entity other than the county welfare offices.

After consultation with the Commissioner of Insurance, we have determined that some adjustments are also needed in the insurance law to implement our managed care program. First, we are asking that the contractor under the Medicaid mental health managed care program be exempt from requirements that they be licensed as an insurance company. We believe that few of the national managed care companies which have expressed an interest in bidding on our program would be able or willing to meet the extensive requirements for becoming an insurer in Montana. Neither we nor the Commissioner believe it is necessary. We will have extensive financial reporting and solvency requirements in our managed care

contract, and the Commissioner's staff has agreed to assist us in evaluating the financial abilities of the bidders and in establishing solvency requirements.

The insurance laws must also be changed in order for us to require that the managed care contractor be responsible for arranging for all Medicaid mental health services. Currently health maintenance organizations are required by law to provide behavioral health services. This bill will remove those services from the package required of HMOs serving Medicaid clients. Then we can enroll Medicaid recipients in HMOs for physical health care without weakening the effectiveness and comprehensiveness of our mental health initiative. This exemption will avoid the necessity of creating an entire new set of regulations for this unique situation.

This bill also addresses some minor changes needed in the mental health laws to permit the managed care program to work effectively. It authorizes Montana State Hospital and the Center for the Aged to receive payments from the managed care contractor and to use those payments for the operation of the institutions. When the funds normally allocated to them by the legislature are included in the capitation payment to the managed care contractor, this will allow the two institutions to be paid as providers under the managed care system.

Finally, the bill makes two additional minor changes in the mental health statutes. One allows the Department of Corrections and Human Services to designate an entity other than the community mental health centers to screen voluntary admissions to Montana State Hospital. This gives the department additional flexibility in anticipation of a changing array of providers under managed care. Another allows the department to limit services if sufficient funding is unavailable.

This diverse amalgam of changes to existing laws is needed not to authorize a mental health managed care program, which was done by the 1993 Special Session, but to allow the program to go forward as designed and as efficiently as possible. It is important to note that Montana will need to receive waivers to a number of federal regulations in order to implement this program. If this does not come about, all of these changes will have no effect on the operation of the state's mental health system.

On behalf of the Department of Social and Rehabilitation Services, I urge you to pass SB 223. Thank you for the opportunity to speak to this important bill.

Peter S. Blouke, PhD
Director
Department of Social and Rehabilitation Services

TESTIMONY OF DAVID HEMION
PUBLIC POLICY COORDINATOR
MENTAL HEALTH ASSOCIATION OF MONTANA
SB 223 - MENTAL HEALTH MANAGED CARE
FEBRUARY 15, 1995

The Mental Health Association of Montana represents some 1,200 mental health consumers, providers, family members and others interested in achieving victory over mental illness. On behalf of MHA, here are its positions and thoughts on mental health managed care.

1. MHA SUPPORTS A PRE-PAID MANAGED MENTAL HEALTH PLAN, COMBINING STATE AND MEDICAID FUNDS.

MHA believes that managed care offers a solution to both cost-containment and quality service delivery. The American Academy of Actuaries has concluded that managed care for mental health services can save between 30 to 40 percent over unmanaged fee-for service or minimally managed delivery systems. AAA conducted studies of the Health Security Act of 1993 and estimated that costs for treatment of mental illnesses and substance abuse would drop: from \$240 to \$305 per person annually for unmanaged care to \$45 to \$165 per person under managed care.

In actual experience, large corporate health plans track these estimates. Bell South reduced its spending for mental health benefits by 30 percent over three years. Alcan Aluminum reduced its annual mental health per capita claims from \$170 to \$70 over two years.

Public sector experience is similar. A Brandeis University study of the mental health Medicaid managed care system for the state of Massachusetts, implemented in 1991, showed a 22 percent reduction over anticipated costs and actual savings of \$23 million.

We need to temper our expectations about Montana's projected system. Please remember that savings for Medicaid-eligible clients may not be as great as general populations, as those included are in varying conditions of poverty, which places them at higher risk for mental illnesses and health problems.

The Brandeis study also found that quality of service did not suffer, as indicated by a decline in recidivism rates of about 20 percent. Access also improved with increases in numbers of users of 22 percent.

Imagine that. A decrease in costs, increase in clients served with quality maintained or improved.

2. MHA SUPPORTS RETAINING SAVINGS WITHIN THE SYSTEM

We believe that Montana needs to retain funds saved by managed care, at least through initial years, to address service gaps, improving prevention, early intervention and access, especially for difficult to serve populations, such as those in remote areas.

3. MHA SUPPORTS INCLUDING SERVICES PROVIDED BY MONTANA STATE HOSPITAL IN MANAGED CARE.

MHA expects all patients admitted by MSH, except forensic patients, to be included. We anticipate that managed care will increase treatment of patients at the community level, decrease admissions to MSH and discharge patients sooner and to an improved after care continuum.

4. MHA CONTINUES TO EXPRESS CONCERN REGARDING THE COMBINING OF PUBLIC FUNDS TARGETED TO CHILDREN'S SERVICES WITH FUNDS FOR ADULT TREATMENT.

Our concerns are two-fold. First, Montana is working hard to overcome a past lack of coordination of children's services, primarily through the MRM program. We are concerned that the gains MRM has made may be rolled back, unless funding for children's services is somehow protected. We support the recommendation of Dan Anderson of the Department of Corrections and Human Services to earmark funding for children's services to prevent shifts to adult services.

Our second concern is that actions to date in this Legislative session indicate that inadequate funding will be provided for children's services. The 50 percent cut in the MRM program and denial of funding for the Community Impact program are tragic. We urge the legislature to restore funding to levels recommended by the Governor for both these programs.

This concern also extends to adult services. Funding for community level crisis intervention and housing is the only way to prevent costlier hospitalization. The funding requested for these services must be restored by the Legislature.

To ignore this request invites an avoidable disaster for the mental health of the children of Montana. It also assures the failure of managed care, as we doubt any contractor would be willing to take on the task of managing an underfunded system.

5. MHA SUPPORTS EXPANDING COVERAGE TO 200 PERCENT OF POVERTY.

This is in the self-interest of all Montana tax payers, as it allows a shift from general fund-supported services to federal funding. It also provides a preventative measure by assuring early intervention and treatment of mental illnesses for working Montanans who are uninsured or underinsured.

EXHIBIT 3
DATE 2-15-95
SB 223

4. MHA APPRECIATES THE INITIATIVE OF THE DEPARTMENT OF SOCIAL AND REHABILITATIVE SERVICES IN PURSUING MANAGED CARE AND ITS RESPONSIVENESS TO QUESTIONS AND CONCERNS RAISED BY MHA AND OTHERS.

SRS has been prompt in responding to detailed and extensive questions provided by MHA. We appreciate the opportunity to be represented on the Advisory Council by Joan-Nell Mcfadden, chair of MHA's Children's Committee and Candy Butler, MHA president-elect. We look forward to the opportunity to review and comment upon the RFP and to be actively involved in monitoring the implementation of managed care.

8. WE SUPPORT SB 223 AND URGE YOUR PASSAGE.

MONTANA ADVOCACY PROGRAM, Inc.

316 North Park, Room 211
P.O. Box 1680
Helena, Montana 59624

(406)444-3889
1-800-245-4743
(VOICE - TDD)
Fax #: (406)444-0261

February 15, 1995

Senator Jim Burnett
Senate Public Health Committee
State Capitol
Helena, Montana 59620

Re: SB 223

Mr. Chair and Members of the Committee:

For the record, my name is Andree Larose and I am a staff attorney for the Montana Advocacy Program. Montana Advocacy Program is a non-profit organization which advocates the rights of individuals with disabilities. We are here to testify in support of SB 223.

1. We support the mental health managed care proposal because we believe it will provide a more coordinated system for ensuring that persons with mental illness receive appropriate care in the least restrictive environment. So often the types of services a person receives are dictated more by funding sources and what is available, rather than what is appropriate to meet the person's needs. Historically, mental health services at a community level have been severely underfunded, yet those very services could prevent unnecessary hospitalization.
2. We also anticipate that managed care would emphasize early treatment and intervention. So often people with mental illness do not receive necessary treatment at earlier stages and the problems associated with the mental illness escalate, so that the person ends up receiving "high end" treatment at the greatest cost to taxpayers.
3. We are concerned about a potential conflict of interest if the managed care organization (MCO) provides some direct mental health services.
4. We are happy to see that SRS recognizes that for treatment to be effective, it is essential that individuals and families participate in developing and implementing treatment plans. We urge SRS to include in the Request for Proposal a process which ensures that the input of individual clients and families has weight and is not an exercise in futility.
5. We urge SRS to include in the RFP appropriate mechanisms to deal with disagreements between a consumer and the MCO. The risk of utilizing a managed care system is that services may be compromised in order to ensure a profit to the MCO. We believe that with adequate safeguards this risk can be minimized.

6. For these reasons, we request that the Montana Advocacy Program, as well as representatives from other consumer and advocacy groups, be active participants in the development of the RFP, not just by giving input but by being included in a more formal capacity.

7. We also request that advocacy and consumer groups be included in a formal capacity in the regular quality reviews of the MCO.

8. Finally, we urge the immediate inclusion of the Montana State Hospital in the managed care proposal. SRS itself recognizes that if MSH is not included and is funded separately with guaranteed general fund dollars, it will become a dumping grounds for people with mental illness. Already there are many patients at MSH who do not need that high cost level of service, but who are there only because there are inadequate community based services. To delay inclusion of MSH in managed care is to continue the waste of spending 18 million dollars per year in operating costs and to continue to insulate MSH from the realities of a competitive system in which more appropriate services are funded and unnecessary services are not funded. Those clients who do require inpatient treatment may still be placed at MSH under the managed care proposal; it's only those clients who do not belong there in the first place who will be affected.

Thank you for your time.

Sincerely,



Andree Larose
Staff Attorney

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0223, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill relating to managed care mental health services provided under the Montana Medicaid program.

ASSUMPTIONS:

1. Eligibility for mental health benefits for children and adults under the managed care system will be expanded to those with annual gross incomes less than 200% of poverty.
2. A federal waiver will be granted to Montana by the federal Health Care Financing Administration (HCFA) to implement this program. Upon approval of the waiver, Medicaid federal funds will become available for reimbursement for services provided at Montana State Hospital (MSH) and the Center for the Aged (CFA).
3. The waiver request will be approved in time for the program to be implemented July 1, 1996.
4. Medicaid services are funded at the FMAP matching rate of 30.26% general fund and 69.74% federal funds in FY96 and 31.00% general fund and 69.00% federal funds in FY97.
5. The Executive Budget present law base contains anticipated savings of \$622,789 (where \$188,456 is general fund and \$434,333 is federal funds) during FY96 and \$701,628 (where \$217,393 is general fund and \$484,235 is federal funds) during FY97 due to implementation of managed care mental health. However, delays in getting approval of the waiver and getting the program started will delay implementation to FY97. Regardless of whether this legislation passes or fails, the savings for FY96 will need to be added back into the Medicaid primary care budget, since these savings will not be realized. If this proposed legislation does not pass, then the savings for FY97 will also need to be added back into the Medicaid primary care budget, since those savings will not be realized either.
6. An Executive Budget new proposal regarding Medicaid primary care reflects an additional anticipated savings of \$2,100,000 general fund during FY97. This is an impact in addition to the Executive Budget present law base discussed in assumption 5 above, and is shown below as a reduction in expenditures in FY97.
7. The Department of Corrections and Human Services (DCHS) assumes the managed care contractor would guarantee a specific number of beds which would be used at MSH and at CFA, and be reimbursed through the managed care mental health contract during the next five years. The number of beds is still to be negotiated.
8. In FY97, DCHS would transfer \$36,950,019 general fund and \$1,023,073 in federal funds to SRS which would contract for and reimburse mental health services on behalf of DCHS.
9. In the event that this legislation is passed and the waiver is received, DCHS will need \$20,773,720 in state special revenue spending authority in FY97 in order to receive payments from the managed care contractor.

(continued)

Dave Lewis 1-30-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Keating

TOM KEATING, PRIMARY SPONSOR DATE

(continued)

10. The expenditures shown below would be included in HB2 as a line item with language included that states in the event the waiver is delayed or not approved, the savings reflected in FY97 will be adjusted or added back to the primary care budget, since the mechanism for generating the savings will not exist. (Please see assumptions 5, 6 and 9 above.)

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
Medicaid Primary Care Benefits	622,789	(2,801,628)
<u>Funding:</u>		
General Fund	188,456	(2,317,393)
Federal Fund	<u>434,333</u>	<u>(484,235)</u>
Total Funds	622,789	(2,801,628)
<u>Net Impact:</u>		
General Fund Cost/(Savings)	188,456	(2,317,393)

SENATE BILL NO. 310

INTRODUCED BY SENATOR JUDY JACOBSON

TESTIMONY BY MONTANA ACADEMY OF PHYSICIAN ASSISTANTS, INC
(MAPA)

I. "AN ACT ALLOWING PHYSICIAN ASSISTANTS-CERTIFIED TO PRESCRIBE, DISPENSE, AND ADMINISTER A SCHEDULE II DRUG FOR UP TO 34 DAYS; AMENDING SECTION 37-20-404, MCA."

Historical background:

1. Physician Assistants (PAs) have provided health care services to Montana citizens for greater than twenty (20) years.
2. PAs practice medicine with the supervision of a licensed physician. The supervising physician is legally, medically and ethically responsible for the care provided. All scheduled drug prescriptions written by a PA are required to be reviewed by the supervising physician.
3. PAs are regulated by the Board of Medical Examiners (BOME).
4. Prescriptive authority for PAs was authorized by legislation passed during the 1989 legislative session to allow for prescribing, dispensing, and administering of Schedule II drugs. This law was formulated with the advice, consultation and approval of the Boards of Pharmacy and Medical Examiners.
5. DEA registration is mandatory for PAs prescribing scheduled drugs.
6. Duplicate prescriptions are mandatory for all scheduled drugs with a copy going to the BOME to monitor prescribing patterns and compliance with law.

Physician Assistant (PA) prescribing history (1989-1994)

1. No incidents of abuse or misuse of Schedule II drugs by a PA have been reported.
2. No incidents of injury to a patient due to inappropriate prescribing or administration of Schedule II drugs by a PA have been reported.

RATIONALE FOR CHANGE 72 HOURS TO 34 DAYS:

1. Patient health care needs.

Acutely injured or surgical patients (fractures, burns, pre- or post-surgical).

Chronic pain management patients (hospice, nursing home).

Mental health patients (child or adult attention deficit disorder).

2. Why 34 Days?

This equals one month and two week-ends.

Patients on chronic or long term medications are usually seen on a monthly basis to assess ongoing health care needs, changes, improvement or deterioration of condition.

Patients currently would need to return to healthcare facility for re-evaluation and refill of medications (Schedule II) in all cases that require more than 72 hours of medication if the patient were being cared for by a PA.

This extension of prescription authority would allow for appropriate prescribing for appropriate health care needs on an individualized basis.

3. What was the purpose of a 72 hour restriction and if removed, are adequate safe-guards in place to assure safety of Montana citizens?

The restriction of 72 hours was a initial, conservative proposal by PAs to allow prescribing of this class of scheduled drug. The BOME agreed and with consultation with the Board of Pharmacy the bill, which included that language, was introduced, passed, and signed into law (1989).

The change from the current 72 hours to the proposed 34 days would not affect any of the current safe-guards. The supervising physician review, the DEA registration, the duplicate prescriptions to the BOME, and the BOME review of the duplicate prescriptions all remain unchanged.

If past history is any indicator of future performance in regard to PA prescribing, then this proposed change will risk nothing and hold promise to decrease cost and possibly increase access to health care services, particularly in rural areas.

II. "AUTHORIZING A PHYSICIAN ASSISTANT-CERTIFIED AND A NUTRITIONIST WHO ARE MEMBERS OF THE BOARD OF MEDICAL EXAMINERS TO VOTE ON AN ISSUE AFFECTING ANY PERSON LICENSED AND REGULATED BY THE BOARD; AMENDING SECTION 2-15-1841, MCA."

RATIONALE FOR INCREASING VOTING PRIVILEGES OF PA AND NUTRITIONIST MEMBERS:

1. Increase public representation on the BOME.

This past year the Governor's Task Force to Renew Montana Government called for increased public representation of state regulatory boards. This proposal would accomplish that end without increasing size or expense of the BOME.

2. A matter of full representation.

PA numbers have grown substantially over the past few years, from 26 in 1988 to currently about 85. This represents provider numbers greater than those of podiatric or osteopathic physicians, both of whom have full voting privileges.

Matters that affect the practice of medicine, directly and indirectly affect all those licensed and regulated by the BOME. PAs practice medicine with physician supervision.

3. The BOME voted its approval of granting full voting privileges to the PA and nutritionist members of the board.

Minutes of July 21, 22, 23, 1994 reflect this action.

4. Currently, two members from the general public are full voting members of the BOME. The health care related education and experience of the PA provide for better understanding of all of the medical issues before the board, beyond those of public members.

END OF TESTIMONY

MAPA would like to respectfully offer a conceptual ammendment to this bill as written and ask if the committee's legislative council could undertake those changes if the committee were so inclined.

The changes suggested would be to: simply line out/remove numbers (5) and (6), page 2, lines 3-7; and renumber (7) and (8) to numbers (5) and (6), respectively. We wonder if this would not clean up the bill and accomplish the same goal.

SENATE BILL NO. 310
INTRODUCED BY SENATOR JUDY JACOBSON

TESTIMONY BY BOARD OF MEDICAL EXAMINERS
Randy L. Spear, PA-C

The Board of Medical Examiners (BOME) has thoroughly discussed both elements of this bill and voted unanimously in each case to support such an initiative.

Reasoning for support of an extension of prescribing authority:

1. Physician Assistants (PAs) have demonstrated, through existing oversight mechanisms, the knowledge and expertise to safely and appropriately deliver this class of drugs.
2. PAs have maintained an exceptional record in their use of Schedule II prescription authority over the past five (5) years.
3. There does exist valid medical rationale for the appropriate prescribing of Schedule II pharmaceuticals in excess of 72 hours.
4. All currently existing oversight mechanisms will remain in effect; physician supervision and prescription review, DEA registration and federal monitoring, duplicate prescriptions to the BOME and subsequent review.
5. Patient health care needs could more efficiently be met. The additional time frame of prescriptions will allow for the reasonable delivery of medications to Montana citizens with access to care and safe, quality health care as its foundation.

Reasoning for support of full voting privileges to the PA and Nutritionist members of the BOME:

1. Efficiency of Board Function.
2. Increase public representation without increasing size or cost of Board.
3. Expertise and knowledge of these members have been invaluable. Their ability to express their viewpoints through voting would be welcomed.
4. Nearly all issues coming before the Board are interrelated to some degree. To limit the voting privileges of some fully capable board members is not in the public's interest and is clearly unnecessary.

END OF TESTIMONY

Mr. Spear suggested that the Board send the bariatric guidelines to physicians using amphetamines in weight control.

The Board discussed the Board of Nursing's Transcript of Proceedings. Ms. England will transcribe a written response to the proceedings.

The Board noted the proposal to reorganize government moved regulation of podiatrists to another, umbrella board. It was noted that the podiatrists oppose this move. They practice a surgical specialty and want to remain with the Medical Board. Public membership could be increased, but the number of physicians on the Board should not be decreased, given the workload. The Board approved granting full voting privileges to physician assistants and nutritionists, noting that that would count as increasing the public membership without actually increasing the size of the Board.

ASSOCIATION OF PHYSICIAN ASSISTANT PROGRAMS

ELEVENTH ANNUAL REPORT ON P.A. EDUCATIONAL PROGRAMS
 IN THE UNITED STATES, 1994-95

Denis R. Oliver, Ph.D.
 Project Director

Physician Assistant Curriculum: Basic Science Core Courses*

	<u>Hours of Instruction</u>		<u>Number of Programs</u>		<u>Total Mean*</u>
	<u>Mean</u>	<u>S.D.</u>	<u>Mean Based Upon</u>	<u>Reporting 0 Hours</u>	
Basic Medical Science Courses					
Anatomy	123.9	61.8	39	19	80.5
Anatomy/Physiology	107.5	56.6	19	39	34.0
Biochemistry	46.3	32.5	22	36	17.0
Clin. Lab Sciences	43.7	36.8	45	13	32.2
Microbiology	58.4	35.7	41	17	39.9
Nutrition	15.3	11.3	41	17	10.4
Pathology	49.2	22.6	27	31	22.1
Patho./Physiology	69.6	56.2	19	39	22.0
Pharmacology	70.4	26.1	58	0	70.4
Physiology	72.0	25.5	35	23	42.0
Medical Terminology	18.5	16.3	26	32	6.0
"Other "	<u>48.8</u>	<u>41.0</u>	<u>16</u>	<u>42</u>	<u>6.8</u>
<u>Total Hours</u>	400.7	183.6	58	0	400.7

*Data is drawn from the 1994 Annual MEAP Survey of all P.A. Programs in the U.S. The Report is published June each year at The University of Iowa P.A. Program

DATE 2/15/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 240, SB 223
SB 310

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Donna Hale	MT Chap NASW	223	✓	
Ba. Torres	MT Chap NASW	223	✓	
Randy Poulsen	SR 5	223	✓	
Frank Lane	E. M. MHC	223	✓	
Larry White	St. Patrick Hosp.	240	✓	
Jim Oury	"	240		
Gary Elliott	Rib. Immunochem	240	✓	
Carol Erickson	St. Patrick Hosp.	240	✓	
Bob Ren	MENTAL HEALTH	223	✓	
PAUL MEYER	MHC - Region 5	223	✓	
KATHY McGOWAN	MEMHC	223	✓	
Jennifer Kueger	MONTANA ACADEMY OF PHYSICIAN ASSTS	310	✓	
RANDY SPEAR	BOWE	310/240	✓	
RANDY SPEAR	MAPA	310	✓	

David Henion

VISITOR REGISTER

Mental Health Assoc. 223 ✓

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: 2-15-95

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Ben Ludeman PAC		200 310	X	
Jerona Loenderk	Mt. Mel ASSN	310	Sec 2 ✓	Sec 1 ✓
" "	" " "	240	✓	
Mary Alice Cook	Adv for MTS Children	223	✓	
Pat Melby	Remrod Foundation	223	✓	
Hugh M. Black PhD	MONTANA Coalition of Mental Health Providers	223	✓	
Gloria Hermannson	MT Psych. Assoc	223	✓	
Candy Wimmer	MB CE	223	✓	
Dan Anderson	DXHS	223	✓	
Bill Kennedy	Yellowstone Co	223	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY