

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By **CHAIRMAN DUANE GRIMES**, on January 27, 1995, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Duane Grimes, Chairman (R)
Rep. John C. Bohlinger, Vice Chairman (Majority) (R)
Rep. Carolyn M. Squires, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. Bill Carey (D)
Rep. Dick Green (R)
Rep. Antoinette R. Hagener (D)
Rep. Deb Kottel (D)
Rep. Bonnie Martinez (R)
Rep. Brad Molnar (R)
Rep. Bruce T. Simon (R)
Rep. Liz Smith (R)
Rep. Susan L. Smith (R)
Rep. Loren L. Soft (R)
Rep. Kenneth Wennemar (D)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Council
Jacki Sherman, Committee Secretary

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

Committee Business Summary:

Hearing: HB 318, HB 301
Executive Action: HB 134

{Tape: 1; Side: A; Approx. Counter: 000; Comments: n/a.}

HEARING ON HB 318

Opening Statement by Sponsor:

REP. SAM ROSE, HD 87, stated this is a bill for organizations that transport disabled individuals and provides a special

parking permit, not for a handicapped space, but for the loading and unloading of handicapped persons. This bill stemmed from the inquiries of senior citizens. Disability permits cannot be issued without an order from a doctor.

Proponents' Testimony:

Bud Schoen, Chief, Title Registration Bureau, attested that services should be used by persons who have a disability that does not affect their mobility when not in a motor vehicle. This bill would help those with disabilities.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. BRUCE SIMON asked **REP. ROSE** if under the provision that is being added, applicants would not receive more than one permit. He asked what would happen if a business or facility owned more than one vehicle. Could an amendment be added? **REP. ROSE** replied they have unloading zones for public transportation.

REP. JOHN BOHLINGER told **REP. ROSE** that there are at least two nursing home facilities in Billings that have their own fleet of vehicles. They transport residents to public places. The bill should be expanded to include more than one vehicle per facility. **REP. ROSE** answered if each vehicle had a different applicant, then three separate permits could be issued. The department does not want these permits handed out profusely. The handicapped would fight this. What would be accomplished is that people with walkers and canes would be helped, without jeopardizing the flow of traffic or the safety of other people.

REP. ELLEN BERGMAN told **REP. ROSE** that a mini-van full of passengers must have a special permit to unload. **REP. ROSE** replied that most of the areas used for loading and unloading in shopping centers are the fire lanes.

REP. BERGMAN asked **REP. ROSE** if a mini-van could stay parked in the handicapped space. **REP. ROSE** answered no, only to load and unload.

REP. BOHLINGER told **Mr. Schoen** there are concerns at long-term health care facilities and the ability to be permitted for the fleet of vehicles they would own. Under current law it says "a permit," which implies they can have only a single permit. **Mr. Schoen** answered that is correct, only one vehicle per facility may be on the road at one time with a permit. Only one permit per long-term care facility can be issued.

REP. SUSAN SMITH asked **REP. ROSE** if that would be a license plate permit with a decal. **REP. ROSE** answered that it would be a

windshield permit. The permit would be for loading and unloading only.

REP. BOHLINGER inquired of Mr. Schoen if a facility may have more than one vehicle on the road if each vehicle has been issued a permit. Mr. Schoen replied that if a facility had more than one vehicle, all vehicles can be on the road at the same time, but only one vehicle can display the permit. A handicapped individual can acquire more than one permit if more than one vehicle is owned by that person.

REP. BOHLINGER suggested to Mr. Schoen that the intent appears to be an accommodation for handicapped individuals. This could be strengthened by changing "a permit" to something other than one. Mr. Schoen replied that is a good suggestion, and stated again that an individual could apply for as many permits as the number of vehicles owned by the individual.

Closing by Sponsor:

REP. SAM ROSE said the current law is too rigid. He said he fully intends to check with the Motor Vehicle Division again to see if they can get one permit per vehicle added so a long-term care facility can get more than one permit, if they own more than one vehicle.

{Tape: 1; Side: A; Approx. Counter: 450; Comments: n/a.}

HEARING ON HB 301

Opening Statement by Sponsor:

REP. LOREN SOFT, HD 12, Billings, said this bill involves a number of agencies, because corrections are being made as well as transfers of authority and licensing changes. At least four agencies are involved: Social and Rehabilitation Services, Department of Health and Environmental Sciences, Montana Health Care Association, and Food and Consumer Protection Agency. He mentioned that the amendments have only been briefly reviewed by Mr. Niss and the fiscal note dramatically disagrees with the original information he had. He said the fiscal note given to the committee is not the one he signed. He asked the committee to make a note at the bottom of their fiscal note that the \$49,000 figure is not accurate. He mentioned people from the aforementioned agencies who were present to testify at the hearing.

He walked the committee through the bill and the amendments being proposed. Changes were made to the title and throughout the body of the bill.

{Tape: 1; Side: B; Approx. Counter: 000; Comments: n/a.}

Roy Kemp, State Licensure Bureau Chief, submitted written testimony. He stated that it would be inappropriate for him to appear as a proponent, but was present to answer any questions pertaining to the bill. **EXHIBIT 1**

Proponents' Testimony:

Nancy Ellery, Administrator, Medicaid Division, Social and Rehabilitative Services (SRS), submitted written testimony. **EXHIBIT 2**

Rose Hughes, Executive Director, Montana Health Care Association, said they strongly support this bill. It properly defines definitions of residential health care facilities. She said it would not change the services of adult foster care, personal care, and adult retirement homes, but it would make for better licensing and allow people to understand what the services are. The amendments also have their support and further clarify the intent of the bill.

Bob Olsen, Montana Hospital Association, echoed the comments of the sponsor of this bill and supported HB 301 as amended.

Bob Robinson, Director, Department of Health and Environmental Sciences (DHES), said this is an attempt to develop "one-stop shopping" and a more straight-forward and simplified licensing process. This would eliminate the licensee from having to hunt for the various agencies that license their facilities.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

CHAIRMAN DUANE GRIMES asked **REP. SOFT** to re-describe the bill so they have a clear understanding of the bill. He asked if what the bill would do, is to take current facilities that are licensed by separate agencies and wrap them into one through redefining and putting them all under a single title. That would be the residential care facilities. He asked if that was accurate so far. **REP. SOFT** said he wished to defer his question to the other people present. **CHAIRMAN GRIMES** redirected his question to **Ms. Hughes** and she answered that he had accurately described the bill, but stated that it might be better to direct questions to **Mr. Kemp**, since it's his Department's bill.

REP. BOHLINGER asked **Roy Kemp** if the changes made by the bill would increase the cost for the elderly individual or the health care facility.

Mr. Kemp said these four consolidations will not lose their identities. The purpose, as described in his written testimony (see Exhibit 1), is for the four facility types to be placed

under one residential health care license, and would be placed under that facility by endorsement. If a facility wished to have an adult day care as well as personal care, they could meet the rule requirements and be endorsed for both those facility types. Currently, adult foster care facilities have no license requirement. The DHES would require \$20 to license that facility. Retirement homes are presently \$40 per year. The structure that the licensing bureau uses is \$20 for the first twenty beds and a dollar for each bed after. He calculated that 19 facilities would have a reduction in their licensing fee, and seven facilities would have a slight increase. There would be no change to adult foster care on the SSI payment. They are not going to take adult foster care and categorize it as a personal care facility, but it will remain as it is.

REP. BOHLINGER questioned whether or not they would be incurring additional expense, as stated on page 12, line 6, where a residence category fee which is now renewed annually would increase to quarterly renewals. **Mr. Kemp** said the requirement for the quarterly renewal for category B was always there. He said this section of bill deletes the requirement for category A assessment on a quarterly basis. He said category A people are highly functional who require little assistance with activities of daily living. He said the Department sees no reason why they should incur the expense of being assessed on a quarterly basis. If, as they age, they progress into category B, it is the intent of the statute, to require a quarterly assessment. It can be done by an R.N., nursing practitioner, physician assistant, or a physician.

REP. BOHLINGER clarified that additional costs will not be passed on to the individual. **Mr. Kemp** added that it would only incur the expense to a resident were they to decline from a category A resident to a category B resident which requires skilled nursing care.

REP. SQUIRES asked about the home infusion therapy services described on page 4 of the bill and asked for further clarification. **Mr. Kemp** said that home infusion therapy is provided under the supervision of a licensed health care professional and can be administered by such an individual. He said this is service would allow an individual to receive such treatment in their home with a prescription for a physician.

REP. SQUIRES wondered if the kind of infusion therapy referred to in the bill is restrictive if it has to leave the hospital and be done in the individual's home by a home infusion therapy company. She asked if the health care facility would demand that it be given in a certain kind of facility, so that it limits where the company can operate. **Mr. Kemp** replied that they have a license category that references a health care facility and in many instances, such as a hospice, is not operated out of one particular place.

REP. SQUIRES asked Mr. Olson if he is comfortable with that. Mr. Olson replied that as far as home infusion therapy is concerned, often the products are crafted by a pharmacy and then delivered by a licensed agency or health care professional and they don't envision that this statute would impinge on their ability to do that.

REP. SQUIRES referred to REP. BOHLINGER'S concern about category B and remembered similar legislation discussed during the 1993 legislature. She asked if this bill clarifies better the definition of category A and B type personal care facilities. Mr. Kemp said it does.

REP. SQUIRES asked Mr. Robinson how this fits into the "grand scheme" of the combining of the DHES, SRS, and the other programs. Mr. Robinson responded that with the proposed reorganization of the Public Health and Human Services consolidation, the licensing function would not be part of that department and they are not clear where it would go, possibly to the Department of Labor. REP. SQUIRES asked if he just said the licensing program would go to the Department of Labor. He said that was correct.

REP. SUSAN SMITH asked Mr. Kemp if home infusion therapy is intravenous treatment. He responded yes.

REP. SUSAN SMITH asked Mr. Kemp if he could comment on the fiscal note and he said he could. In reference to Item #5, she asked about the figure \$52.75. Mr. Kemp said they have no intention to change adult foster care home to a personal care aid facility as indicated on the fiscal note. They see no impact as far as SSI payments increasing beyond what they are already paying to eligible people now. He said the fiscal note is incorrect.

{Tape: 1; Side: B; Approx. Counter: 688; Comments: n/a.}

REP. BONNIE MARTINEZ asked if the rules and regulations would remain the same for foster homes. Mr. Kemp said they are not changing the rules, but are only attempting to move the categories under one licensing group. He said they were further defining the space required for the number of individuals at these facilities, but not changing the rules.

REP. DEB KOTTEL asked about page 3, line 19, on the bill, where chemical dependency facilities are added under health care facilities. She wanted to be sure this was correct. Mr. Kemp described the Department's responsibility to survey and assess chemical dependency facilities as part of the licensing process. He said the addition of this kind of facility would update the statute.

REP. BRUCE SIMON referred to page 3, where the definitions of a health care facility are being updated, and wondered about Certificates of Need (CON), and the eight health care facilities

that are required to have a CON. Others do not require a CON, such as in-state renal, dialysis, health maintenance organizations, home infusion therapy services, hospices, hospitals, infirmaries, out-patient facilities, public health centers, residential care facilities. He asked if it was correct that these facilities would not require a CON.

Mr. Kemp said that was correct and said that during the last regular session of the legislature, personal care facilities were struck from the definition requiring a CON, and is the same situation with the others he listed. He said the legislature has determined that the facilities listed under the CON definition do require review under a CON. **REP. SIMON** asked about personal care facilities and "supervision of self-medication." He said his mother lives in a facility providing these services, as well as **REP. BOHLINGER**.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: n/a.}

REP. SIMON continued discussing a problem with the rules pertaining to self-medication in these facilities. He wondered how far they can go to assist people with medication, even if they are not allowed to administer the medication.

Mr. Kemp said the facility he described probably misunderstood the definition of self-medication and imposed an incorrect policy. He said self-medication allows personnel to assist them in opening the bottle, dispensing into their hand and assisting in the taking of the medicine.

REP. MOLNAR asked a question about putting the medicine right into the person's mouth. He was told that would be in violation of the statute.

CHAIRMAN GRIMES asked about the fiscal note and noted on page 11 of the bill they would be redefining category A to include personal care facilities that can now have less than six people and who are entitled to SSI payments.

Mr. Kemp said he didn't think they are currently in category A facilities. They want to reduce the number from six to a lower number. He said that a number of facilities want to establish a home-like environment. Houses are remodeled for this purpose and have to be done under strict requirements. When six individuals are in these homes, they must find a very large home to fit the requirements of this category. He said they have been asked to accommodate five instead of six residents. Zoning requirements have also been a problem.

CHAIRMAN GRIMES asked how they are classified if they have less than five residents and they are a category A type facility. **Mr. Kemp** responded that they would be classified as adult foster care.

CHAIRMAN GRIMES asked if this bill would increase the number of category A facilities in the state. **Mr. Kemp** said that was correct and felt this is a service that needs to be expanded in Montana, especially in the areas where there are not many other services or options available.

CHAIRMAN GRIMES asked if the category B people cannot be put in a category A bed, they are currently supported by SSI general fund payments. **Mr. Kemp** said since the rules have been in place and the category has been available, in the last seven months he has licensed 27 beds. He said he hasn't seen "people beating the door down" for this category, because skilled care in that kind of setting is not as desirable. He stated that this bill would allow them to keep residents in the homes where they have been cared, rather than having to be moved to a nursing home when they become less independent.

CHAIRMAN GRIMES asked **Ms. Hughes** if she recalled the woman who testified in 1993 who came from Billings who had five or six residents in her home. **Ms. Hughes** said that woman was Eunice Ash. **CHAIRMAN GRIMES** asked her to describe what this bill would do in her case. **Ms. Hughes** said she didn't believe the bill would change anything for her, but if she had fewer than six residents, it would correct a problem so she could either get category A or B people. Her testimony in 1993 included the request to be able to care for category B people.

Closing by Sponsor:

REP. SOFT stated that he knew Mrs. Ash quite well because she used to be an employee of his. He assumed that she is probably tracking this bill, and if there were any problems with it, she would be present at this hearing. He said the bill would consolidate many outlying licensing activities currently in numerous departments, and would pool it into one department. He appreciated the opportunity to present the bill and urged the committee to pass it.

EXECUTIVE ACTION ON HB 134

Motion: **REP. ELLEN BERGMAN** MOVED THAT HB 134 DO PASS.

Motion: **REP. BOHLINGER** MOVED A SUBSTITUTE MOTION OF DO NOT PASS.

Discussion:

REP. BOHLINGER supported his do not pass motion because testimony by the Department of Health claimed there are alternatives available, and he heard testimony from the Department of Family Services who spoke in opposition, and testimony offered by members of the Montana Nurses Association who spoke against it. He said advocates for Montana children and public health officials spoke against the bill. He said these people have

direct, every day working knowledge of the health care risks that are involved and know more about the subject than he does, so he would vote with them.

REP. BERGMAN agreed with **REP. BOHLINGER** but said she would vote for it because it's the law in K-12. She wondered why the law should be different for pre-schoolers.

REP. KEN WENNEMAR said he was for the bill, then started thinking about it, so he called his mother who is a nurse, and was told that in his age group they didn't see many people die from serious diseases. He stated that many members of the committee grew up in an age when children died of serious diseases, and if his generation forgets about that, there could be an increase in diseases, because people are liable to avoid immunization. He said the risk of immunization is less than not being immunized, so he will vote yes on the do not pass motion.

REP. MOLNAR asked **REP. BOHLINGER** about children having contact with one another when they have a known communicable disease such as AIDS, which is allowed in the public schools, and wondered what he thought about this.

REP. BOHLINGER said he understood that children do play with one another outside the classroom and will interact. He said it seemed to him that children would be more vulnerable and he favors immunization, and would like to see more children inoculated.

REP. MOLNAR thought it was peculiar that a child would not be allowed to go to a school if they have a problem with inoculation, but could if they have AIDS.

REP. DICK GREEN said there are cases where inoculation poses a greater threat than the possibility of the disease, such as small pox. He said the current law makes liars out of people and intrudes on people's rights. He would not support the do not pass motion.

REP. SUSAN SMITH asked if they would first be arguing the bill and then the amendment.

CHAIRMAN GRIMES said he requested the amendment be drafted because he told **REP. KADAS** that he didn't think the bill stood a good chance without it. He was holding on moving the amendment to see if that was the case or not.

REP. SQUIRES said she didn't want to discuss the amendment.

REP. SUSAN SMITH said she received some phone calls on the bill from people who have children in daycare and one from a provider who supported the exemption for religious reasons.

REP. BOHLINGER WITHDREW HIS DO NOT PASS MOTION.

Motion: REP. S. SMITH MOVED THE AMENDMENT.

Discussion:

REP. S. SMITH said she supported the amendment because it would allow greater freedom for both parties. The amendment would give the daycare provider the choice of whether or not to accept that child and there would be a requirement that parents are notified if an unimmunized child is in the center, so they would have the option of continuing to patronize the center or not.

CHAIRMAN GRIMES referred to REP. WENNEMAR'S comments, and said he thought the amendment helped the bill and would support it with the amendment. He told REP. KADAS that this may do nothing for his bill, because any daycare, except for a very small one, that would post information of this nature, "it would be suicide to their business" because most parents would see that and overreact, but thought the amendment would make the bill workable in granting the exclusions, but he's still not sure this portion of law would be used that much, because of the fact that daycare centers would be hardpressed to post that information.

REP. WENNEMAR spoke against the amendment because he thought a parent wishing to use the religious exemption could claim their constitutional rights were compromised if a daycare center refused to accept their unimmunized child. He wondered if it could result in lawsuits and a clogging of the judicial system.

REP. DEB KOTTEL asked if she was correct in understanding current law that a daycare center cannot turn away a child who is not immunized for medical reasons, one that may be hypersensitive to the shot. She learned from a nurse that the DPT inoculation can cause death, retardation and serious neurological damage. In a series of three shots, if there is an adverse reaction after the first one, the doctor will not continue the series of injections. That child, then, is not fully immunized because it is too risky. She wondered if this law would result in children with medical reasons being turned away from centers, or having to have their name publicly posted.

She related to the committee that when she was getting chemotherapy for cancer and her immune system was weakened, her son, at three years of age, could not get his polio vaccine, because being a live virus, it endangered her health. For a period of a year, he was not immunized for polio, and she wondered if this law would prevent her child from entering a daycare center. He had a medical exemption, which she thought was very responsible. She said REP. KADAS asked them to expand the medical exemption to include religion, but she said the amendment would exclude the medical exemption. She asked if she was mistaken.

CHAIRMAN GRIMES said she had a good point, but didn't think the child's name would have to be posted, although the fact that an unimmunized child is there would have to be made public.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: n/a.}

REP. SIMON wondered how this law would be enforced, and thought it would be difficult for daycare centers to implement and impossible for the Department to enforce.

REP. CHRIS AHNER mentioned that when a parent signs their child up for preschool, daycare, or public school they have to have a certificate showing the immunization record of that child.

Vote: Voice vote was taken. The motion to adopt the amendment failed.

Motion: **REP. BOHLINGER** MOVED THAT HB 134 DO NOT PASS.

Discussion:

REP. SQUIRES said she would support the do not pass motion and said they're talking about children from birth to the age of five. There is a co-mingling of children who are in different stages of getting immunized. She said it's a bad bill that should be killed.

REP. KOTTEL said she has heard much testimony this session about freedom of choice, and believes that it's the family that should make religious decisions for their children and it's the family that has the best interest of the child at heart. She said all it does is allow them to make those religious decisions from the day of birth of their child, not when the child suddenly reaches the age for kindergarten and she will vote for it.

REP. SIMON said he recognized the importance of immunization and said it works when the entire population is immunized. He told the committee about his brother's granddaughter who died very suddenly from a disease. He emphasized the vulnerability of young children who can be healthy one day, and gone the next. He said he would not support the bill.

REP. TONI HAGENER said that the risks of the disease are infinitely less dangerous than the disease itself. When she was a lab technician in the late 1940s, early 1950s, she saw a child with whooping cough and said she would rather take a chance with immunization than she would see any child go through such a devastating disease. All four of her children had "hard" measles, and she lost one son at twenty years of age because of the damage to his heart from his measles. She said her children benefitted from the polio vaccine when it became available. She said people with a religious conviction have a right to find other sources of daycare. She said she fought in the 1950s,

through the PTA, to get the state to require immunization in the schools. She would not support this bill.

REP. SOFT said the word that comes to mind for him is consistency. He thought it was wrong to have exemptions in K-12, but not in preschool. He mentioned that children with AIDS are allowed to go to daycare centers.

REP. BOHLINGER told **REP. KOTTEL** that he liked the way her mind works and how she expresses her ideas, but said when his choices put other people at risk, that is wrong.

REP. AHNER said she had a friend with a three-year-old girl, who because of immunizations, has seizures and will be handicapped all her life. The bill doesn't say not to immunize, it only says for medical or religious reasons they can have an exemption. She said the exemption is not putting those who are immunized at risk. It is putting themselves at risk if they so choose. The other children who have had their shots are not at risk.

REP. HAGENER said the difference with the inconsistency is that daycare is not required, but public education is, so what is done in daycare has an indirect influence on the requirement for immunization in public school.

REP. BERGMAN said what they're talking about is whether they're going to allow a daycare center to operate under the same conditions that the kindergarten does. All they're doing is extending it to daycare. She told **REP. HAGENER** that what needs to be done to satisfy her concerns is to disallow the exemption in kindergarten. "There's where the culprit is, not just these daycare kids."

REP. SQUIRES listed the childhood diseases that are far more contagious than AIDS is. She said they're discussing the first five years of life and then the entrance into kindergarten. She reiterated her first statement that in that first five years, they're dealing with kids who are in different stages of immunization, so the issue with the preschool years is one that shouldn't be confused with K-12. She said she doesn't have a problem with the exclusion in the K-12, because the chance of contracting the disease is about one percent. She is in strong opposition to this bill.

{Tape: 2; Side: B; Approx. Counter: 438; Comments: n/a.}

REP. GREEN said to compare this bill with government control is reprehensible. He said these are emotional arguments, but doesn't think they stand up to the issue.

REP. WENNEMAR said he agreed with **REP. SQUIRES** about the stages of immunization and stated that preschool-aged children are more susceptible to these diseases. He asked **REP. GREEN** if he had many classmates die from these diseases.

REP. GREEN replied not to his knowledge.

REP. LIZ SMITH said that this age is very vulnerable to disease and people still do have choices to either choose to take their children to daycare or not to, so she is opposed to the bill.

REP. KOTTEL said if they are going to worry about all the immunized children then they need to worry about all the children who are in school who are unimmunized out of ignorance and poverty of the parents, not the handful of ten or twelve, who for religious reasons choose not to get their children immunized. That risk group doesn't hold a great threat. She agreed with REP. BOHLINGER that it isn't right for one parent to put another parent's child at risk, but to her it is the parent that is best able to understand that risk.

REP. SQUIRES said that in her practice as a health care provider, she has seen children who were crippled by a disease from lack of immunization and she challenged the committee to fund the ongoing treatment and care for children suffering from diseases of this nature.

REP. MOLNAR asked if there were other places requiring immunization besides schools.

Several committee members said it is only required in schools.

{Tape: 2; Side: B; Approx. Counter: 658; Comments: n/a.}

Motion/Vote:

Vote: Roll call vote on the do not pass motion was taken. The motion failed 9-7.

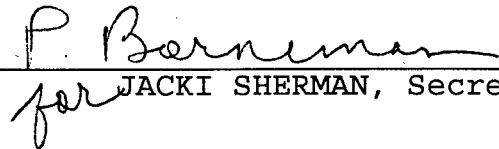
REP. GRIMES asked the secretary to reverse the vote for a do pass motion reflecting the following no votes: REP. BOHLINGER, SQUIRES, CAREY, HAGENER, SIMON, LIZ SMITH, AND WENNEMAR.

ADJOURNMENT

Adjournment: 4:55 p.m.



REP. DUANE GRIMES, Chairman



for JACKI SHERMAN, Secretary

Note: These minutes were edited and written by Patti Borneman beginning with Tape 1, Side B.

DG/pb

HOUSE OF REPRESENTATIVES

Human Services and Aging

ROLL CALL

DATE 1-27-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Duane Grimes, Chairman	✓		
Rep. John Bohlinger, Vice Chairman, Majority	✓		
Rep. Carolyn Squires, Vice Chair, Minority	✓	✓	
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Carey	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener	✓	✓	
Rep. Deb Kottel	✓		
Rep. Bonnie Martinez	✓		
Rep. Brad Molnar	✓		
Rep. Bruce Simon	✓		
Rep. Liz Smith	✓ ✓	✓	
Rep. Susan Smith	✓		
Rep. Loren Soft	✓		
Rep. Ken Wennemar	✓		



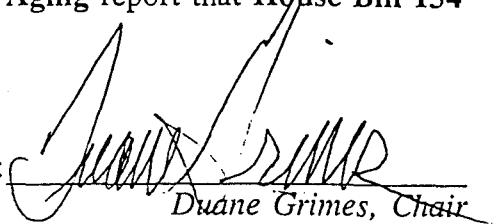
HOUSE STANDING COMMITTEE REPORT

February 8, 1995

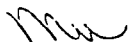
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Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 134 (first reading copy -- white) do pass.

Signed:


Duane Grimes, Chair

2-8



Committee Vote:

Yes 9, No 7.

330915SC.Hdh

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Human Services and Aging Committee

DATE 1/27/95 BILL NO. HB 134 NUMBER

MOTION: Chairman Duane Grimes moved Do Pass.

(to reverse committee vote on the do not pass motion by Rep. Bohlinger)

NAME	AYE	NO
Rep. Duane Grimes, Chairman	✓	
Rep. John Bohlinger, Vice Chairman, Majority		✓
Rep. Carolyn Squires, Vice Chairman, Minority		✓
Rep. Chris Ahner	✓	
Rep. Ellen Bergman	✓	
Rep. Bill Carey		✓
Rep. Dick Green	✓	
Rep. Toni Hagener		✓
Rep. Deb Kottel	✓	
Rep. Bonnie Martinez	✓	
Rep. Brad Molnar	✓	
Rep. Bruce Simon		✓
Rep. Liz Smith		✓
Rep. Susan Smith	✓	
Rep. Loren Soft	✓	
Rep. Ken Wennemar		✓

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7

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
HEALTH FACILITIES DIVISION
LICENSURE BUREAU

HB301 WRITTEN TESTIMONY

This bill is intended to update statutory definitions;

HB301 redefines an Adult Day Care facility and restricts Adult Day Care from providing overnight stays. Adult Day Care facilities can seek a Personal Care license if they wish to provide overnight services. Meeting the requirements for personal care will assure that all necessary requirements to provide overnight care is available in the Adult Day Care facility. Adult Day Care facilities that are attached to a nursing facility can admit an overnight stay into an empty bed in the nursing facility. This would not require additional licensure.

HB301 replaces terms no longer in use such as "Kidney Treatment Centers" which changes to "End Stage Renal Dialysis".

HB301 modifies the definition of "health care facility" to identify only those specific types of facilities defined by the legislature and thus subject to regulation and licensure. Under the present language of "includes but is not limited to" any potential provider can request a health care facility/service license and not be required to fit a license category as defined by the legislature. HB301 then updates the list of licensed "health care facilities" to include Chemical Dependency, End Stage Renal Dialysis, Home Infusion Therapy Agencies, and Residential Care facilities. A definition for Home Infusion "service" and "Agency" is added.

If this bill is successful, a definition for Adult Foster Care, Retirement Home, and Residential Care will be necessary. These definitions are added by HB301. The bill defines a "Residential Care Facility" and moves four different facility types under this Licensure category. Licensing would be accomplished by endorsing a residential care license with one or more of the facility types as requested by a provider. The delivery of care in a "Residential Care Facility" will proceed along a spectrum from Retirement Homes, Adult Day Care, Adult Foster Care, and Personal Care. All four facility types covered by a "Residential Care" license will still be properly regulated, inspected, and licensed under the existing rules, but by one agency rather than three different agencies. The Licensure Bureau believes this is in harmony with the efforts to consolidate government and to provide a single point of access for the public.

This bill is intended to allow the department to request documentation from a health care facility to support written evidence of JCAHO accreditation.

The statute states "...any hospital that furnishes written evidence..." This language is problematic. There is a very broad interpretation of this requirement by providers with regards to what they deem written evidence of JCAHO accreditation. The cover letter granting accreditation is not deemed evidence. Accreditation by JCAHO may require a facility follow-up "focused survey" with a time line plan of correction as a basis for accreditation. These documents, in addition to the initial inspection report, follow up reports and any accompanying documents, must be provided to the department for review. This statute only applies if a facility wishes to seek license renewal based on JCAHO accreditation.

HB301 will requires the department to receive notification by a health care facility; indicating they are ready for an initial inspection.

The present statute requires an initial on-site survey within 45 days after receiving an application for a health care facility license. Frequently, a health care facility is not ready for an on-site inspection within that time frame. The results are lost productivity and a duplication of efforts resulting in increased cost to the department. This change will allow a provider to notify the department when they are ready to be inspected and still be able to proceed with the application process. Submitting an application can be important for financial arrangements. It has been reported to the department that on occasion, the owner must show they have initiated the licensure process before the financing institution will proceed.

HB301 is intended to remove statutory limitations of Personal Care "A" Facilities.

a) HB301 removes the quarterly requirement for a physician certification and assessment for category "A" personal care resident. In the last legislative session Senator Tom Towe successfully sponsored a bill authorizing the department to write rules for a new personal care category license, to include category "A" & "B" residents. The requirement for assessment of category "A" residents was part of that bill. The focus of category "A" personal care is intended to offer people who require some assistance with activities of daily living an alternative to residing in an institutional setting. Category "A" residents are by definition highly functional people that need only little assistance with activities of daily living. The department feels an assessment was never intended to include category "A" residents. The department sees no justification for a signed statement from a physician for a category "A" PC resident.

b) HB301 also removes the minimum number from category "A" personal care. The Department has been approached by a number of potential providers who would like a category "A" personal care license for less than 6 residents. Presently this is not permitted by statute. The focus of personal care is to provide a more home-like environment and to place less focus on institutional settings and requirements. Many providers accomplish this by purchasing a house and remodeling, where necessary. Suitable houses are already difficult to find with local zoning restriction limits. A personal care facility's resident capacity is determined by available square footage of sleeping rooms, dining, and activity/day rooms. By limiting a minimum of six residents, it makes it more difficult to find a large enough suitable structure to remodel. Further, Adult Foster Care begins with 4 or less residents and Personal Care "A" begins with 6 or more residents. There is no category to include 5 category "A" residents. The Department feels there is no justification for such a minimum requirement. If eliminated it will help to make more personal care homes available to the public as an alternative to entering an institutional setting.

HB301 is intended to continue the Certificate of Need exception for a "Residential Care Facility" presently offered to Adult Foster Care.

HB301 will consolidate the regulatory oversight of Retirement Homes, Adult Day care, Adult Foster Care and Personal Care into a single agency. The new health care license category will be called "Residential Care". Licensure would be accomplished by endorsing the residential care license with one or more of the four facility types as requested by the provider. All facility types covered by a "Residential Care" license are presently exempted from review by Certificate of Need. Therefore, there is no impact by the language clarifying the exemption.

HB301 establishes requirements for Home Infusion Therapy Services.

This section further defines home infusion therapy services and the requirements for the provision of this service.

The Health Facilities Division, licensure Bureau would appreciate your consideration of this bill and ask for a vote of do pass for HB301.

Denzel C. Davis, Administrator
Licensing & Certification Bureau
Health Services Division

**TESTIMONY BY THE DEPARTMENT OF SOCIAL AND
REHABILITATION SERVICES BEFORE THE HOUSE
HUMAN SERVICES AND AGING COMMITTEE**

HB 301 - Act Relating to Health Care Facilities

The Department of Social and Rehabilitation Services supports House Bill 301. Passage of this bill will facilitate the provision of home and community services that are alternatives to more costly institutional care.

As part of the Department's Long Term Care Reform efforts, we are developing a number of community options for recipients of long term care services. One of these options, which will be provided under our Home and Community Based Waiver, is adult residential care in foster homes and personal care facilities. The services are being developed under the waiver to ensure the services are cost-effective and targeted to those at risk of institutionalization. The creation of a category defined as residential care facilities and the licensing of these various facilities by only one department will greatly facilitate the definition of, and reimbursement for, this service.

The deletion of the minimum resident requirements for category A personal care facilities will promote the availability of this service in small, more home-like settings. This goes hand in hand with our philosophy regarding the provision of long term care services. That philosophy is to encourage a maximum level of individual independence, foster cost-effective services, and respect the dignity of the individual.

We urge you to pass HB 301.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Human Services & Aging

DATE 1-27-95

BILL NO. HB 301
HB 318

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Cynthia Brooks	DHES	✓	
Ray Kemp	DHES	✓	
Bud Schoen	MOTOR VEHICLES	H.B. 318 ✓	
Nancy Ellery	SRS	H.B. 318 ✓	
Rose Hughes	Mt Healeck Care	H.B. 301 ✓	
Bob Olsen	Mt Hospital Assoc	H.B. 301 ✓	
John Melcher Jr	DFS		

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