

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By CHAIRMAN DUANE GRIMES, on March 13, 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. 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. Kenneth Wennemar (D)

Members Excused:

Rep. Chris Ahner (R)
Rep. Loren Soft (R)

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: SB 236 (continued from hearing of 3/10/95); SB 17
Executive Action: SB 401 BE CONCURRED IN
SB 310 BE CONCURRED IN

{Tape: 1; Side: A; Approx. Counter: 000; Comments: See minutes of 3/10/95 for opening remarks by sponsor and beginning of proponents' testimony for SB 236.}

CONTINUED HEARING ON SB 236Proponents' Testimony:

Charles Briggs, Director of the Rocky Mountain Agency on Aging, stated that he was there as a member of the Long-Term Care Committee that was commissioned by the Governors' Council on Aging and as a member of SAIL (Seeking an Independent Lifestyle) Committee that was commissioned by the 53rd Legislature. He stated the concern of protecting the assets of the surviving spouse. SB 236 addresses the concerns of time limits for transfer of assets and provides a mechanism (lien) to recover specified expenses.

Opponents' Testimony:

Bob Bachini, Helena, strongly opposed this bill, stating that there were ways to get around it and middle income families would get picked on again. He felt the bill would not stop the rich from sheltering their assets. He questioned the term "reasonably necessary" and thought that it was too broad with too many gray areas. He quoted several sections of the bill that he was unhappy with. He introduced a petition as **EXHIBIT 1**. He said that this bill would not help contain the costs in the rest homes and this was not a fair bill. He was angry that there was no lien for the prisoners at Deer Lodge, but there was for the elderly who have paid their way all along.

Ed Sheehy, retired federal employee, has been active in several senior organizations and has worked on getting an affordable long-term care policy for this country. He said he was also opposed to this bill on a personal basis.

{Tape: 1; Side: A; Approx. Counter: 710; Comments: NA.}

Joe Brand, Montana State Legislative Chairman for the Veterans of Foreign Wars, stated that under current law someone would need to turn over their assets to a family member five years in advance in order for those assets not to be able to be taken away by the state if they were put in a nursing home. He said that if someone went on welfare or was placed in prison, the burden fell on the taxpayers, but the elderly who have paid taxes all their lives have no one to pay for them.

Jack Gunderson, expressed his displeasure that under the terms of this bill the state can at any time put a lien on someone who has been on welfare to recover any costs. His mother has been in a nursing home and has been able to pay for her own costs so far, but at \$3,600 a month may not be able to for much longer.

{Tape: 1; Side: B; Approx. Counter: 20; Comments: NA.}

Dick Baumberger, Legislative Representative for Disabled American Veterans, expressed his concern that there was not enough money to cover funeral costs.

Informational Testimony: None

Questions From Committee Members and Responses:

REP. BRUCE SIMON asked **Mr. Gunderson** if his mother was using her assets to cover the costs of being in a nursing home and he replied that she was. **REP. SIMON** stated that he didn't think it was fair that **Mr. Gunderson's** family had to use up their assets while someone else could give their assets to a family member and have the system pay for their care.

REP. TONI HAGENER asked if this bill related somehow to the Spousal Impoverishment Act. **Ms. Ellery** stated that the spouse of someone in a nursing home can keep up to about \$1,900 a month in income and \$72,666 in assets to meet their needs in the community. She said that the Social Security benefits that a person in a nursing home would receive would go to that nursing home except the \$40 that is used for personal needs. If the patient is expected to return home their house is not included as an asset.

Closing by Sponsor:

SEN. MIGNON WATERMAN reiterated previous testimony on the bill and clarified that the lien only applies to the recipients' property if there is not a spouse living in that property or if there are not minor children. She added that this was a difficult piece of legislation and they need to prioritize the money given to cover long-term care.

{Tape: 1; Side: B; Approx. Counter: 320; Comments: NA.}

HEARING ON SB 17

Opening Statement by Sponsor:

SEN. TOM KEATING, SD 5, Billings, stated that he was presenting the bill as a matter of public health. He explained that the HIV (human immunodeficiency virus) is listed as a sexually transmitted disease but is not treated as such by the Department of Health or public health officers. Testing for HIV has been done anonymously and voluntarily. SB 17 would do away with the written informed consent and establish a procedure that the carrier be interviewed to determine and notify exposed partners so that they could be tested also. Confidentiality has always been and would remain a top priority. The only way to fight this disease is by early detection and early treatment. Two percent of the men and one percent of the women who apply to the military are carriers. He feels that more of the public would go to a

medical provider to be tested for many communicable diseases if the testing became more routine and confidentiality was not breached. This is a homosexual and heterosexual epidemic that has no cure. SB 17 would not be an invasion of privacy, but a matter of public health.

Proponents' Testimony:

Bob Robinson, Director of the Department of Health and Environmental Sciences, met with several parties to identify how to get people who are HIV positive and their partners to counseling and treatment, because that would be the way to head off an epidemic disease with no cure. SB 17 would allow health care providers, the County Health Department, the Sexually Transmitted Disease Clinic, and the Family Planning Clinic to test for HIV on an anonymous basis.

{Tape: 2; Side: A; Approx. Counter: 000; Comments:

Doctor William D. Wise, President of Montana Health Alliance, Helena, submitted written testimony. **EXHIBIT 2**

Dianne Hoffman, educator in the Helena School District, has been involved with FOCUS (Friends of Children Under Stress) for 15 years and has a sincere concern for the future of the country which is the youth. Teens feel they are immortal and do not foresee the consequences of experimenting with drugs and sex. Without the trust and support of their parents and peers, the problem of HIV and AIDS (acquired immune deficiency syndrome) will continue to rise. She submitted a letter from Americans for a Sound AIDS/HIV Policy. **EXHIBIT 3**

Laurie Koutnik, Executive Director of Christian Coalition of Montana, read comments by **Gary Swant, President of SAFE (Sexual Abstinence and Family Education)** from the hearing on SB 17 in the Senate. He used to teach comprehensive sex education and now focuses on abstinence only sex education. Presented testimony by **Joanne Shearer, Registered Dietician**. **EXHIBITS 4 and 5**

Arlette Randash, Eagle Forum, read statements and submitted testimony on behalf of **Paul L. Gorsuch Jr., M.D.**
EXHIBITS 6 and 7

Jerry Loendorf, Montana Medical Association, supported SB 17.

Jenny Dodge, supported SB 17 as a mother and concerned citizen.

{Tape: 2; Side: A; Approx. Counter: 710; Comments: NA.}

Opponents' Testimony:

Father Greg Smith, Governor's AIDS Advisory Council, presented written testimony on behalf of himself and **Father David Herrera**, also of the **Governor's AIDS Advisory Council**. **EXHIBITS 8 and 9**

{Tape: 2; Side: B; Approx. Counter: 00; Comments: NA.}

Joan Miles, Director of the City-County Health Department in Lewis and Clark County, stated that this bill would act as a deterrent for voluntary testing. In order to combat the disease, people must get tested and in order for them to get tested, the positive results as well as the negative results need to remain confidential and anonymous. She also voiced concern that written informed consent had been taken out of the bill.

Kathy Bone, nurse at the City County Health Department, explained the process of informing and educating people who come in for testing. **EXHIBIT 10**

Sandra Hale, Executive Director of PRIDE!, Montana's statewide organization for lesbians, gay men and bisexuals. **EXHIBIT 11**

Steve Shapiro, Montana Nurses Association. **EXHIBIT 12**

Kate Cholewa, Montana Women's Lobby, voiced her concern of mixing politics and medicine. She said that HIV/AIDS is not like other sexually transmitted diseases and shouldn't be treated as such.

Robert J. Campbell, registered pharmacist and lawyer, offered the testimony for Dr. Ken Fremont-Smith. **EXHIBIT 13**

Lynn Solomon, concerned citizen, said that whatever the health care providers could do to make it easier for the public to get tested and counseled, should be done.

Informational Testimony: None

{Tape: 2; Side: B; Approx. Counter: 460; Comments: NA.}

Questions From Committee Members and Responses:

REP. DEB KOTTEL asked **SEN. KEATING** to respond to the concern that due to the lack of confidentiality people are not as likely to go in to get tested. He stated that he could not guarantee 100% confidentiality, but until the program is put into practice they won't know if it will work or not.

REP. KOTTEL stated some instances where confidentiality was breached and asked for reassurance. **SEN. KEATING** replied that discrimination is brought out by fear and people do not understand the disease and this could be lessened by education.

REP. KOTTEL asked if there was any additional money for education for AIDS/HIV in SB 17. She pointed out that the people who won't give the names of their sexual partners and the people who are worried about confidentiality aren't going to be helped by SB 17.

SEN. KEATING could not give any guarantees, but felt that the people who went to their own doctor and were tested

confidentially could rely on those health care professionals to help them and keep quiet. He thought some people would feel more comfortable with their own doctor.

REP. KOTTEL asked **SEN. KEATING** how he felt about informed consent and he replied that putting an amendment in the bill concerning informed consent, would impede and complicate the system.

{Tape: 3; Side: A; Approx. Counter: 00; Comments: NA.}

REP. KOTTEL voiced her concern that no one speaks for the unborn or newborn child of a mother that has been tested for HIV/AIDS or engages in high-risk behaviors and refuses to bring the child in for follow-up medical care. **SEN. KEATING** replied that to give non-consensual testing in those situations would counteract the idea of anonymous and confidential testing and be an invasion of privacy.

Dr. Wise also responded that AZT (Aschheim-Zondek Test) treatment would need to begin in the first trimester to be effective, and that nothing could be done for the baby right before or right after birth.

Mr. Robinson responded that there was not additional funding in HB 2 for AIDS education, but that the Office of Public Instruction is working on making sure that those individuals who need further education are getting it.

REP. S. SMITH stated that other sexually transmitted diseases are curable and that AIDS is not. This was the reason for the fine or penalty. **Dr. Wise** stated that many sexually transmitted diseases did not have cures when they first came about, and that there were medical consequences to these diseases and sometimes death. He also said that there was a social stigma to those diseases many years ago.

REP. L. SMITH asked **Ms. Hoffman** if she presented a program to schools and she replied that she did not, but they do discuss AIDS and related issues.

REP. KOTTEL asked **SEN. KEATING** if he would be opposed to increasing the penalty for knowingly disclosing health care information. And he said he would be opposed to that because it should be taken up as a separate issue.

REP. S. SMITH asked **Father Smith** why he thought that this process would not help people and he replied that the fear that is holding them back from the testing is irrational and is concerned about the stigma. He would like to see the testing as a friendly process and appealing to those with high risk behaviors.

Father Smith went on further to say that the counseling after the testing is also important and needs to be worked on.

REP. JOHN BOHLINGER asked if Father Smith thought that providing HIV-related tests on an anonymous basis would provide a security. Father Smith replied that he thought it would.

REP. BRAD MOLNAR said that he heard of some people who knew that they were HIV positive who turned up with other sexually transmitted diseases later on and asked if SEN. KEATING could back that up. He replied that it was usually the opposite and that the other diseases usually showed up first.

{Tape: 3; Side: A; Approx. Counter: 760; Comments: NA.}

Closing by Sponsor:

SEN. KEATING stated that SB 17 would be beneficial to all Montanans and that all testing is anonymous until the test comes back positive and then it becomes confidential. The written informed consent has been an impediment to testing and without it there would be greater participation in the medical community. Anonymity would not be done away with, SB 17 would still allow for anonymous testing for those who want to, and it would provide for others who would find it worthwhile to be routinely tested in their doctor's office. He quoted statistics about AIDS/HIV and stated that two years ago there were 103 strains of the HIV virus that do not have vaccines and that no one would be able to produce vaccines for that many strains.

{Tape: 3; Side: B; Approx. Counter: 00; Comments: NA.}

He said SB 17 would not drive people away but rather invite more people to be tested. Early testing and notification would be a help to both the carriers and their partners. He stated that he would resist any amendments as they would confuse the issue and wants to keep the bill as is.

EXECUTIVE ACTION ON SB 401

Motion/Vote: REP. TONI HAGENER MOVED THAT SB 401 BE CONCURRED IN. The motion carried unanimously.

A letter urging support for SB 401 from Dahl Chapels of Billings, Bozeman and Red Lodge was submitted for the record. EXHIBIT 14

EXECUTIVE ACTION ON SB 310

Motion: REP. TONI HAGENER MOVED THAT SB 310 BE CONCURRED IN.

Discussion:

REP. LIZ SMITH said that nurse practitioners have permission to prescribe drugs by rules and physician assistants need to have permission by statute. She opposed SB 310.

Motion: REP. L. SMITH MADE A SUBSTITUTE MOTION THAT SB 310 NOT BE CONCURRED IN.

Discussion:

REP. BRAD MOLNAR stated that he was in favor of several points of the bill.

Motion: REP. MOLNAR MADE A SUBSTITUTE MOTION THAT SB 310 BE CONCURRED IN.

Discussion:

REP. SUSAN SMITH questioned whether it should be up to the committee to allow them to have full voting rights on a board if the board doesn't want them to.

REP. MOLNAR said that many people who sit on boards are reluctant to give voting rights out.

REP. KEN WENNEMAR commented that one of the benefits of extending the voting rights would be that the board could delegate committee work out and have a better distribution of board members.

REP. LOREN SOFT stated that he thought the board could make the decision of who to give voting rights to amongst themselves.

REP. DICK GREEN asked REP. L. SMITH what Schedule II was. She replied that they were the narcotic level drugs only to be distributed by written prescription with an identification number of the physician who wrote it.

REP. CHRIS AHNER asked for clarification that physicians assistants were on the board, but not allowed full voting rights and REP. S. SMITH stated that they could vote on issues that pertained to their field, but not on the issues pertaining to physicians.

Holly Franz, Montana Academy of Physicians Assistants, said that physician assistants were first certified in 1989 to have a seat on the board, but not full voting rights. The board is in favor of SB 310 and supports giving full voting rights to spread the workload on the board.

REP. AHNER clarified the intent of the bill and Ms. Franz affirmed the statements.

REP. L. SMITH clarified what positions were presently represented on the board and REP. JOHN BOHLINGER said that nutritionists do not have a vote.

Vote: The motion carried 13-3 with REPS. L. SMITH, S. SMITH and MARTINEZ voting no.

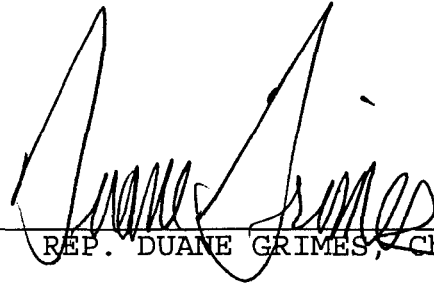
HOUSE HUMAN SERVICES & AGING COMMITTEE

March 13, 1995

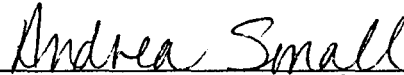
Page 9 of 9

ADJOURNMENT

Adjournment: 6:00 p.m.

A handwritten signature in black ink, appearing to read "Duane Grimes", written over a horizontal line.

REP. DUANE GRIMES, Chairman

A handwritten signature in black ink, appearing to read "Andrea Small", written over a horizontal line.

ANDREA SMALL, Recording Secretary

DG/as

HOUSE OF REPRESENTATIVES

Human Services and Aging

ROLL CALL

DATE 3-13-95

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

March 15, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 310 (third reading copy -- blue) be concurred in.

Signed: _____

Duane Grimes
Duane Grimes, Chair

Carried by: Rep. Bohlinger

Committee Vote:
Yes 13, No 3.

601134SC.Hbk




HOUSE STANDING COMMITTEE REPORT

March 15, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 401 (third reading copy -- blue) be concurred in.

Signed: _____


Duane Gimes, Chair

Carried by: Rep. Carey

Committee Vote:
Yes 15, No 0.

601132SC.HBK

HOUSE OF REPRESENTATIVES

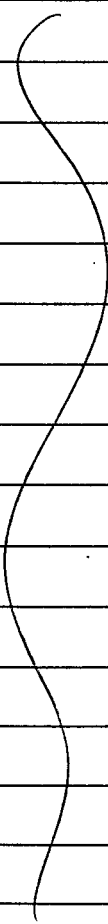
ROLL CALL VOTE

Human Services and Aging Committee

DATE 3-13-95 BILL NO. SB 401 NUMBER _____

MOTION: Do Pass Hagener

unanimous

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		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Human Services and Aging Committee

DATE 3-13-95 BILL NO. SB 310 NUMBER _____

MOTION: Rep ^{Molnar} Hagener "Do Concur"

NAME	AYE	NO
Rep. Duane Grimes, Chairman	✓	
Rep. John Bohlinger, Vice Chairman, Majority	✓	
Rep. Carolyn Squires, Vice Chairman, Minority	W	
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		

(13-3)



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

I give my Proxy
to Duane Grimes
for Human Services.

Chris Ahner

~~Bob [unclear]~~ ~~John [unclear]~~

Vote Duane Grimes and
Chris Ahner YES on
SB 401 and 209.

Duane Grimes

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE 3-13-95

I request to be excused from the House Service & Agency
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with Bill Carney.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
HB 401	✓	
HB 310	✓	

SENATE BILL/AMENDMENT	AYE	NO

Rep. [Signature]
(Signature)

EXHIBIT 1
DATE 3-13-95
SE. 236

WE THE FOLLOWING SENIORS OF Belgrade Senior COUNTY
WANT TO GO ON RECORD AS OPPOSING A LIEN LAW IN THE STATE OF
MONTANA

SIGNATURES	ADDRESS
<u>Rich. L. L. L.</u>	<u>109 Wagon Wheel</u>
<u>Mary J. Johnson</u>	<u>606 N 5 Apt 404</u>
<u>Kenneth Johnson</u>	<u>2920 Sunny Rd Belgrade</u>
<u>Laura Jean L.</u>	<u>P.O. Box 186 Gallatin Gateway</u>
<u>Elizabeth Marshall</u>	<u>8217 Belgrade MT 59714</u>
<u>Elizabeth Hillkamp</u>	<u>700 Colorado Belgrade Mt.</u>
<u>Robert K Priest</u>	<u>1855 Montana Belgrade</u>
<u>Marjorie Priest</u>	<u>1855 Montana Belgrade, MT</u>
<u>B. H. Faw</u>	<u>704 Colorado Belgrade</u>
<u>Rich. Bradley</u>	<u>700 Colorado Belgrade</u>
<u>Alberta Williams</u>	<u>P.O. Box Belgrade</u>
<u>Richard L.</u>	<u>2733 River View Rd Belgrade, MT</u>
<u>George E. L.</u>	<u>14825 - R Ky. Unit. Road 59714</u>
<u>Robert W. L.</u>	<u>14325 R</u>
<u>Robert L. L.</u>	<u>13613 Springhill Road</u>
<u>Elmer M. Sharp</u>	<u>113 N. Main St</u>
<u>Erna A. Clark</u>	<u>511 W. Central Apt. 2</u>
<u>Ma. L. L.</u>	<u>93 L. L.</u>
<u>Billy B. Rank</u>	<u>5123 Park Ave Belgrade</u>
<u>Chas. L. L.</u>	<u>P.O. Box 1195 Belgrade Mt.</u>
<u>Dottie M. L.</u>	<u>P.O. Box 1195 Belgrade, MT</u>
<u>Chas. L. L.</u>	<u>P.O. Box 211 Belgrade MT 59714</u>
<u>L. L. L.</u>	<u>707 W. Jefferson Hwy Belgrade</u>
<u>Helene Kegel</u>	<u>4289 Northridge Belgrade, MT</u>
<u>Frank L. L.</u>	<u>11999 Frontier Rd Belgrade MT 59714</u>
<u>L. L. L.</u>	<u>201 L. L.</u>

Exhibit 1 is a petition which consists of 4 pages of signatures. The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. Phone # 444-2694.



MONTANA HEALTH ALLIANCE

EXHIBIT 22
DATE 3/13/95
SB 17

President

William D. Wise, M.D.
Helena

Vice President

Don Taucher, O.D.
Wolf Point

Secretary

Jeri Snell, R.N.
Miles City

Treasurer

Joanne Shearer, R.D., M.S.
Helena

Advisory Committee

Kris Kirkland, D.D.S.
Bozeman

Cindy Marshall, L.P.N.
Havre

Brand Robinson, D.D.S.
Bozeman

Jonathan Martin
Medical Representative,
Geigey Pharm.
Great Falls

Judy Douglas, R.N.
Belgrade

Chaplain William Wohlers
Montana State Prison
Deer Lodge

Robert Essig, O.D.
Bozeman

Command Sgt. Major Larry Westfall
Helena

Judy Van Abbema, R.N.
Manhattan

Stephen R. Shaub, D.O.
Billings

Gary Little, D.C.
Bozeman

Mike Dellwo, B.S.
Clancy

Madalyn Crouch, R.N.
Bozeman

Rodney Longfellow, D.D.S.
Wilsall

Mr. Chairman and members of the Committee

I am Dr. Wm. Wise, a specialist in Internal Medicine. I am the president of the Montana Health Alliance.

I am here before you today to support Senator Keating's bill (S-17). It is now in an amended form which is better for both sides in my estimation. As it now stands this bill maintains the anonymous testing methods while enabling the health professionals to pursue the reduction in new cases of HIV/AIDS. This can only be accomplished by having the authority to obtain the identity of positive testers and their contacts. As it stand now a person testing positive for HIV can walk out without ever giving their name or the names of their contacts. Is it any reason then to be surprised when our CDC estimates that we only know of 40% of the HIV/AIDS infected people in our nation? That same proportion holds forth in this state too!

In this United States the primary cause of death in men 25-44 is AIDS. The fourth highest cause of death in females age 25-44 is AIDS. In 1992 there were 240,000 known cases of HIV/AIDS, in 1994 there were 360,000 "or more" according to our CDC and NIH statistics. It is obvious that an "education policy" alone is not controlling let alone slowing this deadly epidemic. While these are national figures our state has a proportionate problem.

HIV/AIDS is a 100% deadly disease. Anyone who has a positive test and continues to have indiscriminant sex is actually committing murder. If we as health concerned society do not do everything reasonable to stop the spread of this deadly disease are we not partly culpable?

We have very strict health regulations regarding the control and treatment of TB. We have strict regulations for the detection and control of communicable diseases as measles and mumps. We have strict regulations for the detection and control of sexually transmitted

diseases. Yet, when was the last time you heard of someone with any of those infections dying? As an MD seeing these problems on a regular basis, I can't. I can recall the cases of AID's that have died. And all who are now infected will die.

Cuba is the only country to control the HIV/AIDs epidemic. In Cuba, a country of 10 million, the same population as New York City, there were 927 new cases in a 6 month period. In that same time frame in New York City there were 43,000 new cases. Cuba uses classic public health tradition with routine testing and contact tracing and partner notification and close medical surveillance. They go one step further with partial temporary social isolation. But the effects are obvious--927 cases compared to 43,000. And remember, they will all die.

We haven't even taken that first step to obtain the identification of a patient with a positive test. We then can go to the classic public health tradition of contact tracing and partner notification.

We of the Montana Health Alliance ask that you as a committee pass this compromise bill of Senator Keating's.

A.S.A.P.

Americans for a Sound AIDS/HIV Policy

P.O. Box 17433 • Washington, D.C. 20041 • 703/471-7350

January 25, 1995

Montana has an opportunity most other states no longer have--the chance to never have a significant HIV problem. With eight active years in this fourteen-year-old epidemic, I can accurately share what has worked and what hasn't. . . separate the myths from reality, so to speak. In doing so, I hope to give a strong endorsement to the HIV legislation you all are trying to get enacted.

Perhaps the biggest mistake made in the early years of the epidemic was treating AIDS and HIV differently from other serious contagious and/or sexually transmitted diseases. Because we did not encourage routine HIV diagnosis (testing) in medical settings, nor routinely report individuals on a confidential basis to public health authorities for voluntary and confidential partner notification, we have an epidemic today in the United States that is truly underground.

Sadly, it might not surprise you that as a result of our offering inducements, instead, for people to come forward on their own to be tested--like anonymous testing and super-restrictive privacy protections--we have fewer than half those thought to be infected in our country today who know their HIV status. It is a pipe dream to believe we can ever get this epidemic under control when a majority of those carrying this fatal disease have no idea they are infected. The result of this failed policy is infections keep occurring which are preventable and most of those infected are being denied optimal medical care.

Fortunately the trend away from this ill-conceived course is finally happening. When we first started ASAP fewer than five states were doing any partner notification, now more than half are. Anonymous testing is also being phased out in many states, being replaced by confidential HIV testing. And restrictions blocking routine diagnosis in medical settings are also being removed.

Why is this change occurring? It's simple. Medicine and public health work for the benefit of the sick and the continued good health of those who are well, and the paradigm of anonymity and super-confidentiality simply have proven inconsistent with sound medical and public health policy. This was inevitable, yet it has taken a long time to arrive here; at the cost of countless lives and needless suffering.

The primary reason the unusual "volunteer" system hasn't worked is because it was based mostly on fear. . . fear of disclosure of lifestyle as pointed out by Randy Shilts in his book "And the Band Played On." Having participated in many of the early legislative debates on this, I recall that the most often expressed fear was that people were afraid their identities would somehow be disclosed through breaches of medical confidentiality and discrimination would result. The argument was then made that folks should (and would) voluntarily come forward to be tested--often anonymously--if we offered them civil rights and privacy protections or else we'd drive the epidemic underground. And based on this reasoning we did succeed to drive it underground because it is sophistry at its best, and fear-motivated policy at its worst.

Well over four hundred thousand cases of AIDS have been reported to the CDC by all fifty state public health departments without a single breach of confidentiality. There are numerous lists of people infected, from blood banks to insurance companies, to AIDS groups, and the military with few, if any, breaches of confidentiality ever having occurred. We served over eight thousand children and families affected by HIV last year with no breaches of confidentiality, incidentally. It just isn't the problem it was made out to be, and should never have been the basis for policy formation.

Beyond the experience of the medical/public health community actually being able to keep such information confidential, many began to see the benefits of reporting and partner notification through the experience of states like Colorado and South Carolina and the United States military. In fact, the military's aggressive testing, reporting, and partner notification program has led to a three-fold reduction in the rate of HIV infections of active duty military personnel over the past five years. States with aggressive interventions have their epidemics pretty much in check, where those states who have ignored these tried and true fundamentals of medicine and public health really have little idea of whether or not their HIV epidemics are getting better or worse.

While ASAP has largely been supportive of having anonymous alternatives, we now believe anonymous testing is probably not in the best interest of limiting disease spread. The CDC did an analysis of doing away with anonymous testing in North Carolina and concluded that there would be a net gain of people learning their HIV status by abolishing anonymous testing and utilizing

confidential partner notification more often. In other words, even without expanded testing in medical settings, partner notification of those getting confidential testing would find more people infected and not be offset by any possible decrease in total numbers of people tested.

The actual experience of states implementing partner notification is no decrease of people being tested. Those who have argued against partner notification have consistently warned of dire consequences. The truth is, none have occurred. Even where written informed consent is abolished, it is done virtually without incident. We have learned the world does not end when sound medical/public health policy is implemented.

As this epidemic spreads to more people of color, more heterosexuals, and more underserved communities, we find very high acceptance of instituting more traditional interventions. You have a great opportunity in Montana to limit total suffering in the future in respect to HIV disease if you do treat AIDS/HIV as we do other serious contagious diseases. However, if you listen to the old failed arguments that more testing will somehow lead to more infections, then you will pretty much guarantee yourselves a long-term epidemic.

In hopes this helps to some extent, I remain

Sincerely yours,

Shepherd

W. Shepherd Smith, Jr.
President

Mr. Chairman, members of the committee:

For the record, my name is Laurie Koutnik, Executive Director of Christian Coalition of Montana, our state's largest family advocacy organization concerned about the devastating effects which HIV/AIDS has had on our citizens, and the need to stop the spread of this most virulent disease.

In 1989 when our current AIDS statutes were passed, proponents convinced the legislature that their approach would work to address the spread of this disease. Instead of using proven public health and medical practices, AIDS activist advocated for giving civil rights protection for those that carry the virus, super confidentiality, and written informed consent prior to a test to entreat the infected to come forward.

Here we are six years later, no further ahead in stemming the tide of this epidemic than we were back in 1989. Six years of experimentation of controlling a deadly virus is six years too long when there are tried and true public health measures available that have been effective in curbing other epidemics. Too many lives have been lost, and too many continue to suffer the consequences of HIV, while others are oblivious to their infection.

SB 17 moves Montana towards a proven public health model, one that is being adopted around the country. One that removes the barriers to testing, such as written informed consent, and one that requires a common sense practice of reporting those who test positive.

Should we treat HIV less stringently than we do hepatitis, syphilis, or other diseases? Especially since the end result of HIV is death.

Why are we continuing to focus on AIDS at the end of the spectrum, instead of treating HIV, the beginning?. When we treat AIDS as reportable by name, why should we ignore HIV knowing early diagnosis can allow for treatments that can afford the infected a longer life, and that partner notification has been demonstrated to stop the spread of this disease? With many youth dying in their early 20's, it makes sense to do routine testing of HIV and reporting since these young adults contracted it when they were in their teens. We can't wait till they are dying.

This proposal before you today is a first step approach in truly addressing the halting of HIV/AIDS.

The laws that were passed in 1989 were passed on hysteria control rather than disease control.

Dr. John Seale, a famed British AIDS expert, had this to say when addressing the British Parliament:

"The only way to halt the spread of the virus is to identify all those who are infected by compulsory testing. Government then must take whatever steps are required to ensure that those infected do not pass the virus on to anyone else. The longer this action is delayed the greater will be the task when it is finally undertaken and greater the danger that the spread of the virus will then be unstoppable. The actions required by government are comparable to those taken to waging a war of survival. The war against AIDS is a war of survival."

Can we afford the cost of lives not address this epidemic? If truly government is to protect its citizens, then it's time to pass SB 17. Thank you for your consideration.

Respectfully submitted: 3/13/95

'Twas a dangerous cliff, as they freely confessed,
Though to walk near its crest was so pleasant;
But over its terrible edge there had slipped
A duke and full many a peasant.
The people said something would have to be done,
But their projects did not at all tally.
Some said, "Put a fence 'round the edge of the cliff,"
some, "An ambulance down in the valley."

EXHIBIT

4

DATE

3-13-95

1

SB 17

The lament of the crowd was profound and was loud,
As their hearts overflowed with their pitty;
But the cry for the ambulance carried the day
As it spread through the neighboring city.
A collection was made, to accumulate aid,
And the dwellers in highway and alley
Gave dollars or cents - not to furnish a fence-
But an ambulance down in the valley.

"For the cliff is all right if you're careful," they said;
"And if folks ever slip and are dropping,
It isn't the slipping that hurts them so much
As the shock down below - when they're stopping."
So for years (we have heard), as these mishaps occurred
Quick forth would the rescuers sally,
To pick up the victims who fell from the cliff
With the ambulance down in the valley.

Said one, to his pleas, "It's a marvel to me
That you'd give so much greater attention
To repairing results than to curing the cause;
You had much better aim at prevention.
For the mischief, of course, should be stopped at its source,
Come, neighbors and friends, let us rally
It is far better sense to rely on a fence
Than an ambulance down in the valley."

"He is wrong in his head," the majority said;
"He would end all our earnest endeavor,
He's a man who would shirk this responsible work,
But we will support it forever.
Aren't we picking up all, just as fast as they fall,
and giving them care liberally?
A superfluous fence is of no consequence,
If the ambulance works in the valley."

The story looks queer as we've written it here,
But things oft occur that are stranger.
More humane, we assert, than to succor the hurt,
Is the plan of removing the danger.
The best possible course is to safeguard the source
Attend to things rationally.
Yes, build up the fence and let us dispense
With the ambulance down in the valley.

Author unknown

TESTIMONY IN SUPPORT OF SB 17
AN ACT TO TREAT HIV INFECTION AS OTHER SEXUALLY TRANSMITTED AND
COMMUNICABLE DISEASES

Submitted by: Joanne Shearer RD, MS
307 Prickly Pear, PO Box 232, E. Helena, MT 59635

I am a registered dietitian and the mother of four children ages 9, 12, 14 and 16. In 1988/89 I served on the Board of Directors of the Lewis and Clark County Task Force where I advocated for early diagnosis through routine testing with implementation of traditional public health practice as the cornerstone of HIV/AIDS policy. Then, and is the case today, the cornerstone of HIV policy was civil rights protections for those carrying the virus, voluntary testing and "safe sex" campaigns. Some members of the Task Force believed that these policies would stop 95% of new infections. We now know that these are failed policies with the HIV epidemic still underground. The Montana Health Department estimates that as many as 870 Montana citizens are infected with HIV and that most of these individuals are totally unaware they carry a deadly virus. Common sense dictates that unless we are more aggressive in conducting mandatory and routine testing of the general population that the HIV epidemic will go unchecked in Montana and the nation.

SB 17 is a positive step in identifying those that carry the AIDS virus since it removes written informed consent prior to HIV testing. After written informed consent was written into the Montana statutes, HIV testing dropped since some physicians stopped testing for HIV in their offices rather than comply with this tedious, time consuming, and unnecessary requirement. The military has conducted routine testing of military personnel since 1985 without written informed consent. There has never been one documented case of psychological trauma in the millions of HIV tests conducted by the military. Written informed consent serves no useful purpose and is an obstacle to routine testing.

It is time that Montana moves beyond the "safe sex" and condom campaigns and institute in their stead the tried and true public health measures that have proven effective in halting all past epidemics. SB 17 moves Montana away from past failed HIV policies into proven public health practice by removing barriers to routine testing and by requiring reporting and tracking of HIV infection. Unless these most basic public health practices are implemented, HIV/AIDS will not only be the plague of this century but well into the next. Protect my children. Vote yes on SB17

SB 17/ House Human Services and Aging
March 13, 1995
Arlette Randash

December 31, Attorney General Mazurek ruled that ambulance crews and other emergency medical workers must be told when they have handled a person with an infectious disease even if they were not exposed. If ambulance crews merit being told even if not exposed--shouldn't the state guarantee the same high quality of notification for the sexual partners of HIV sufferers? Especially when those partners may well be the naive sexually active students of our schools and universities? Yes, in spite of all our efforts, maybe your child or mine?

Parents are extremely concerned with the transmission of HIV because they realize that the sexual activity of their children could well result in death. A real concern when a 1993 CDC survey reported that 54% of high schoolers have had intercourse and 2/3 of all seniors are sexually active. AIDS has become the leading cause of death among all Americans aged 25 to 44, the CDC announced January 30. Partner notification of possible exposure would send a chilling message, a message of reality to an age group who believes themselves immortal, through out the high school and college campuses of Montana.

SB 17 serves to bring HIV public health to the same level of public policy we demand for all sexually transmitted diseases. Resistance has been due in part to a sense of compassion for those suffering from HIV. However, confidentiality is a well established norm in medicine. The compassion due and given to the HIV inflicted, needs to be equally honored and given to the potentially exposed.

This bill joins several others that are being heard this session concerning infectious diseases and public health. SB 401 is an act requiring that coroners, health care facilities, and health care providers inform mortuary personnel if a deceased individual had an infectious disease at the time of death, and HB 557 would allow the regulation of tattooing, a service in growing demand of young people and if not administered in sanitary conditions could spread HIV/AIDS. Sound public health demands a 'do pass' on SB 17.

EXHIBIT 7
DATE 3/13/95
SB 17

PAUL L. GORSUCH JR., M.D.
Neurological Surgery
Board Certified

400 - 15th Avenue South, Suite 204
Great Falls, Montana 59405
Telephone (406) 761-3181

January 30, 1995

Senate Public Health, Welfare, and Safety

Regarding: Senate Bill 17

Dear Senator,

I am writing to encourage your consideration of Senate Bill 17. Current law managing HIV testing in Montana is excessively burdensome. Since the current regulations were enacted I have not ordered one HIV test. This is a direct result of the law and is the specific reason I quit ordering the tests. Prior to the enactment of the current law I probably ordered an HIV test every month. The need for such testing is growing and a change in the law would be most helpful.

It is estimated that in my field of Neurosurgery, HIV related brain problems will become THE most common indication for brain biopsy this decade. This means that HIV brain problems will likely exceed in number all brain tumors. Clearly I have an interest in obtaining appropriate testing.

The current law is objectionable for a number of reasons. First, the burden of follow-up is placed entirely on the provider, with the patient bearing no responsibility. Second, the penalties for providers violation are excessive, particularly when one considers that many of the factors at work are beyond the control of the physician. HIV testing should in my view be treated as is testing for any other communicable disease; with maintenance of confidentiality and notification of those at risk. Traditional provider-patient safeguards should be sufficient; i.e. mutual agreement on any testing and all results available to the patient at follow-up, with appropriate interpretation. There is no need to legislate what is constantly done on a routine basis by physicians and patients. The current law inappropriately introduces the government's hand into normal provider-patient relationships with a chilling effect on testing.

Thank you.

Sincerely,



Paul L. Gorsuch Jr., M.D.



404 North 31st Street
Suite 129
Billings, MT 59101-1211
(406) 255-7467
FAX (406) 255-7466

EXHIBIT 8
DATE 3/13/95
SB 17

March 9, 1995

Human Services and Aging Committee
Capitol Station
Helena, MT 59620

Dear Members of the Committee:

In addition to requiring ^{no} written informed consent for HIV testing, there are a few other concerns with SB17:

1. There may be several comments and questions made about confidentiality regarding HIV testing and services. I think that most people would agree that when a person **trusts** their provider, whether that be at an anonymous testing site or with their own family physician, individuals will be less reluctant to give their names and any other necessary information such as names of past contacts. This was described by both proponents and opponents. *What was left out, is the change to the law, which would require that if a test for HIV is positive, the health provider will be required to report that test by name to the local health officer and state health department.* So now, while a person may tell his or her physician that anonymity is not a concern because they trust their physician's confidentiality, *will that same person feel the same way when the physician then tells the patient, that in the event that the HIV test comes back positive, he or she will be required to report that by name to the local health officer and state health department.* The question then becomes, while a person may trust their counselor or private physician, but *do they also trust the local health officer and state health department?* I think that if the November elections showed anything, it was that Montanans do **not** trust big government. And I don't think Montanans would trust government with such personal information as their positive results of their HIV test.

2. It seems that Montana is doing a good job getting demographic data on individuals testing for HIV. And when we look at that information, as was mentioned today, we find that Montana remains a low incidence state for both AIDS cases and HIV infections. There have been approx. 235 AIDS cases since 1985 and there were 38 positive tests over last year. These numbers remain very low when compared to the population of our state. We consistently document year after year that less than 1% of the total tests conducted in Montana come back positive. This tells me that we are doing a good job in keeping the incidence of HIV low in our state. Through education we will continue to keep these numbers low. But it certainly does not appear that we have a major problem with HIV and AIDS in Montana when you look at the numbers. *So if the system is not broken, why do we need to fix it?*

Please keep these points in mind when your committee next meets to decide the fate of SB17. I really don't think it's necessary.

Respectfully,

F. David Herrera

Fr. D. Gregory Smith
642 Madison Avenue
Helena, MT 59601

Human Services and Aging Committee
Capitol Station
Helena, MT, 59620

March 13, 1995

Members of the committee,

My testimony will be brief. I simply believe that this bill is entirely unnecessary.

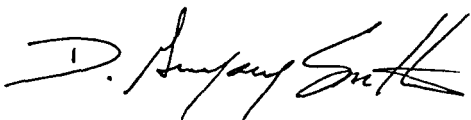
The time, effort, resources and sheer human drive that went into creating the recommendations of the AIDS task force for the State of Montana are being totally disregarded in creating policy and law in our state. My testimony can be summed up in the following question: Why bother engaging interested, educated, and experienced professional people in providing carefully researched recommendations, if that information is simply and quickly dismissed or dismantled?

As a member of the Governor's AIDS Advisory Council, and as a priest who is constantly confronting and dealing with the fear and despair in people's lives, I am concerned that the dignity of the individual is being sacrificed for "the public's best interest". AIDS is unlike every other sexually transmitted disease. It is incurable, and as far as we know, always fatal. The stigma associated with this disease is almost as debilitating as AIDS itself. The trauma and soul-searching that people go through before testing, and while waiting for the results is unbelievable. I know. I have supported many people through this process. Anything which makes it more difficult, or erodes the dignity of the person involved is simply going to hinder the process of arresting HIV disease. I have dealt with people who would rather remain ignorant about their HIV status than face the horror of this particular reality. I believe our duty is to make the testing process as accessible and simple as possible, as well as respecting the person enough to take a few moments to receive their written informed consent.

The only truly human response to this epidemic is concern, and our concern is best ~~be~~ expressed in compassion, education and support for all those infected and affected with HIV/AIDS, it is not best expressed by suspicion or mistrust.

AIDS is an acquired disease. Our attention would be better used in educating to prevent its transmission, rather than making it more difficult for people to make a decision about being tested. Our concern should be responsibility rather than accountability.

Sincerely,



Rev. D. Gregory Smith

Informed Consent for HIV Antibody Test

The HIV test is a blood test that determines if you have developed antibodies to the Human Immunodeficiency Virus (HIV), the virus, that causes AIDS. A sample of blood will be taken from your arm by a person trained in venipuncture and then sent to a laboratory for analysis. If there are antibodies (a positive result), you have been infected with HIV and can pass the virus on to others. As with many laboratory tests, there is a possibility of inaccurate results. For instance a false negative could occur if you have recently been exposed to the virus but have not yet developed antibodies.

If your test results are known, it may help your doctor determine the medical care that you need. It may also help you make personal decisions, such as whether to have children and how best to avoid the risk behaviors that transmit the virus to others. **This test cannot determine if you have AIDS.**

If the test is being performed as part of an application for insurance, positive results will be reported to the health care provider designated by you who will also provide you with post-test counseling. Negative test results may be obtained from your insurance company.

Your test result is a confidential medical record and is protected by Montana law, which states that medical information can be released only with your consent; or under conditions specified by the Uniform Health Care Act (Title 50, Chapter 16, Part 6, MCA. All HIV test results are reported anonymously (nameless) to the Montana Department of Health and Environmental Sciences (DHES), for purposes of statistical surveillance.

If you prefer, anonymous (nameless) testing is available at several locations established by the DHES in Montana. These locations can be obtained from the DHES, your local health department or calling 1-800-233-6668.

At a minimum, counseling in the form of written materials developed by the DHES must be given to you before you consent to have the HIV antibody test performed. Additional written materials from DHES must be provided to you after you receive the test results from your health care provider or designee.

I have read and understand the above explanation. I voluntarily agree to have my blood drawn for the HIV antibody test. I also understand that I may withdraw my consent for the procedure at any time up until the blood specimen is taken.

I authorize _____ to receive and inform me of the test results.
(health care provider)

Date

Patient identifier/Signature of person
to be tested or that person's representative
(please signify relationship to
person being tested)



EXHIBIT 11
DATE 3/13/95
SB 17

P.O. Box 775 • Helena, MT 59624 • (406) 442-9322

March 13, 1995

TO: Representative Duane Grimes, Chair
Members of the House Human Services & Aging Committee

FROM: Sandra Hale, Executive Director

RE: SENATE BILL 17

I am Sandra Hale, Executive Director of PRIDE!, Montana's statewide organization for lesbians, gay men, and bisexuals. Our mission is to secure the constitutional rights of privacy, equal protection under the law, and human dignity for this community.

PRIDE! opposes Senate Bill 17 (SB 17). The bill is in the first place unnecessary given the present effectiveness of Montana's AIDS Prevention Act. It furthermore sets up barriers for those most at risk (gay men and bisexuals) from coming in for HIV+ testing by requiring name-reporting of all positive cases.

If indeed we lived in a state that did not discriminate against gay men, lesbians, and bisexuals, I'd say treat HIV/AIDS like any other sexually transmitted disease. But that is sadly not the case. On the Montana books exists a statute making gay men and bisexuals felons. And yes, there is a section added to the Deviate Sexual Conduct statute stating individuals can not be prosecuted on the basis of seeking testing or treatment. This still does^{not} remove the stigma that shrouds all homosexuals from living in a state that makes them criminals for being who they are in one important part of their being - their human sexuality.

And, I guess I'd feel OK with SB17 and that gays and lesbians would have been treated equally with other Montanans if the House would have passed HB388 in February which would have eliminated discrimination in housing, employment, and education based on someone's sexual orientation. You didn't.

The so-called "confidential" sytem used in health care has never worked perfectly. Leaks occur all the time and in small rural communities the effects can be devastating. Individuals will lose their jobs, face harassment, and sometimes even physical harm because their "name" was unethically shared in the community out of the "confidential"

(over)

"Lesbians, Gay Men and Bisexuals united to secure our constitutional rights to privacy, equal protection and dignity."

health care setting. Until gays, lesbians, and bisexuals are treated as full and equal human beings; free from violence, discrimination, and bigotry, HIV/AIDS cannot be treated as any other STD.

Thirty percent of gay and bisexual men in America age 20 today will be dead or HIV-positive by the time they're 30 according to national estimates. In Montana about 70% of the AIDS cases reported are to gay and bisexual men. Many of these Montanans now 20 years old will be dead when they reach 30 also. **SB 17 does nothing to further prevent any of these deaths from happening in Montana!!! To apply Governor Racicot's benchmarks for creating good government that he voiced in his "state of the state address" this year, SB17 is neither safe, sane, nor civil.**

March 13, 1995

Steven J. Shapiro
Montana Nurses Association

**TESTIMONY OF MONTANA NURSES ASSOCIATION
ON SENATE BILL 17 REGARDING HIV TESTING**

I am Steven Shapiro appearing for the Montana Nurses Association which represents 1400 registered professional nurses in the State of Montana.

We accept the amendments reached by compromise in the Senate Public Health Committee to allow anonymous testing at the option of health care providers and followup by local health officers.

However, we still have great concern for the amendment of Section 50-16-1003(18), MCA, which deletes existing language regarding "written informed consent." The amended language would, in some situations, require consent, but not in writing. We can see problems arising in determining whether consent was actually given to the testing if there is not appropriate documentation. If not documented, the determination of whether there was consent for testing would be left up to the interpretation of health care providers and may in some instances be subjective. The consent to most health care procedures is given in writing and consent to HIV testing should not be different.

The Montana Nurses Association is concerned with the proposed deletion of the specific elements of written informed consent, including the explanation of testing procedures, disclosure, anonymity, and counseling. We expect to see a greatly reduced response compared to voluntary testing. This would have a negative impact on the discovery and treatment of HIV infected persons.

The original purpose of the AIDs Prevention Act was to encourage voluntary HIV testing and the prevention of transmission by appropriate education. The Montana Nurses Association requests that the language requiring written informed consent be retained to support this purpose.

(mna/sb 17)

**Testimony in Opposition to SB17
by Ken Fremont-Smith, M.D. of Missoula
The House Committee on Human Services
March ~~13~~ 1995, Helena, Montana**

^{13,}
Representative Grimes and members of the Committee, I am an internist, the HIV Medical Advisor for the Missoula Health Department, and a Director of the Montana Chapter of the American Civil Liberties Union.

I am opposed to SB17. This bill would require that HIV infection and its sequelae be handled by public health officials in a manner identical to that mandated for certain other communicable diseases, including named reporting of those who test positive for the virus, and aggressive contact tracing of their sexual or needle-sharing partners. This bill will undermine our efforts to slow the spread of the epidemic, and it will infringe on the civil liberties of those infected when there is no compelling public need to do so.

Public health law should be relevant to the disease in question. Laws which are suitable for certain other communicable diseases, syphilis or gonorrhea for example, are not now appropriate for HIV. Named reporting for these other sexually transmitted diseases is appropriate; here, the government has a compelling interest in identifying those who test positive, since effective treatment is available and spread of the disease can thus be curtailed. With HIV, this is not so; there is no effective treatment, and identifying by name those who test positive will not further the State's legitimate goal of curbing the spread of the virus. It is therefore an unwarranted intrusion on individual liberties guaranteed by the 4th amendment, and violates the right of privacy. In the absence of a compelling interest, no government may infringe upon our individual constitutional rights.

SB17 would also replace the present policy of partner notification of those who may have been infected by an HIV-infected person, with a program aggressive contact tracing. There is no evidence that contact tracing is an effective way to advance the State's legitimate concerns about HIV, and there is reason to believe that it may often be counter-productive. SB17 also raises major civil liberty concerns for those identified by contact tracing, without any redeeming advancement in curbing the epidemic of HIV.

As originally drafted, SB17 would have effectively prohibited anonymous testing for HIV infection. This prohibition has been removed by amendment, and the bill is now more palatable to those of us involved in the care of persons who are or may be infected with HIV. However, it is still onerous. Only when effective treatment for HIV becomes available will laws which are suitable today for other communicable diseases become appropriate for HIV. SB17, should it become law, will be counter-productive at this time to the universal goal of stemming this epidemic, and will threaten individual civil liberties. I urge that you vote against SB17.

K Fremont-Smith MD

DATE 3/13/95SB 17GOLDEN RULE

March 14, 1995

Re: Senate Bill 401 (Christiaens)

Dear Members of the House Human Services Committee:

As concerned citizens and funeral service practitioners, we are writing you to show our support for Senate Bill 401 and requesting the same consideration from each one of you. When dealing with any possible health or life threatening diseases, the individuals involved have serious concerns. In the funeral service industry, licensed personnel risk being exposed to a variety of infectious diseases that may also be life-threatening. Although we are educated and trained to take universal precautions with all human remains, there are definite advantages to disclosure of infectious diseases known to be carried by a human remains. Disclosure proposed by Senate Bill 401 would inform and alert the technician to take extra protective precautions relative to the specific disease as deemed necessary. For example, if a funeral service professional was informed that a human remains had tuberculosis, he or she could further protect himself or herself by wearing a mask and by also placing a mask on the deceased individual to prevent expelling contents from the lungs into the air, a method by which tuberculosis is known to be transmitted. Without disclosure, the general public health is also put at risk as the law allows viewing, therefore subsequent exposure, without embalming when a human body is not known to be dead from a specified communicable disease.

Senate Bill 401 is not only an effort to provide a safer working environment for funeral service personnel, but also a means by which to further protect the health of the general public. We would greatly appreciate your support for Senate Bill 401.

Sincerely,

John E. Dahl
Mortician License #64
10 Yellowstone

John E. Dahl
Mortician License #501
Address

Jerry R. Nordquist
Mortician License #171
1608 Poly Drive

Shane W. Salisbury
Mortician License #531
304 Westchester Sq. N

Ann M. Salisbury
Mortician License #530
304 Westchester Sq. N

Shane W. Salisbury

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Human Services COMMITTEE DATE 3-13-95
BILL NO. 236 SPONSOR(S) Waterman

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Jack Henderson	Self		✓
Lisa Swanson	Self		✓
Dee Trombetta	my		✓
Ellen Wirtz	Self		✓
Dick Baumberger	Self		✓
Ed Sheehy	SELF REPAIRS		✓
Joe Brand	VFW		✓
Bob Bachman	Self		✓
Charlie Briggs	Area IV Agency on Aging	X	
MARY ALLEN	MT AREA AGING AND HOUSING ASSOC	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:visbcom.man

CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Human Services & Aging

DATE 3-13-95

BILL NO. SB 17

SPONSOR(S) Keating

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Althea Mendash	Eagle Forum	✓	
Dianne Hoffman	ASAP	✓	
Joan Miles	L+C City County Health		✓
Kathy Bone	L+C CC Health		✓
Steven Shapiro	MT Nurses Assn.		✓
Lauree Kestruk	Christian Bethel of MT	✓	
Julith Gedrose	INES		
Jenny Dodge	Concerned Citizen	✓	
Gunn Solomon	" "		✓
Sandra Hale	PRIDE!		✓
Fr. Greg Smith	Governor's AIDS Commission		✓
David Herrera (Fr. Greg Smith)	" "		✓
Wise-ME	Montana Health Alliance	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:vissbcom.man

CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Human Services & Aging

DATE _____

BILL NO. 517 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
J London K	mt. med assn	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert J. Campbell	ACLU of Mont.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Syd Grosfeld	self	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kate Cholewa	MT Womens Lobby	<input type="checkbox"/>	<input checked="" type="checkbox"/>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:visbcom.man

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