

MINUTES

MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY

Call to Order: By CHAIRMAN STEVE BENEDICT, on January 13, 1997,  
at 1:00 PM, in Room 410.

ROLL CALL

**Members Present:**

Sen. Steve Benedict, Chairman (R)  
Sen. James H. "Jim" Burnett, Vice Chairman (R)  
Sen. Larry L. Baer (R)  
Sen. Chris Christiaens (D)  
Sen. Bob DePratu (R)  
Sen. Dorothy Eck (D)  
Sen. Sharon Estrada (R)  
Sen. Eve Franklin (D)  
Sen. Fred Thomas (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Susan Fox, Legislative Services Division  
Karolyn Simpson, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 34, 1/7/97  
Executive Action: None

*{Tape: 1; Side: A; Approx. Time Count: 1:00 PM}*

HEARING ON SB 34

**Sponsor:** SENATOR LINDA NELSON

**Proponents:** Mark O'Keefe, State Auditor

Barbara Boher, Montana Nurses Association  
Tanya Ask, Blue Cross and Blue Shield  
Lynn Cordeiro, RN  
Steve Yeakel, Maternal and Child Health, DPHHS  
Kate Cholewa, Montana Womens Lobby  
Susan Good, Montana Association of Life Underwriters  
Don Allen, Montana Benefit Plan

**Opponents:** None

Opening Statement by Sponsor:

**SENATOR LINDA NELSON, SD 34, Medicine Lake**, is sponsoring SB 34, which she is carrying for the State Auditor. This bill brings us into compliance with federal regulations under the Kennedy-Kassabaum bill, which requires a 48-hour stay for a normal delivery, and a 96-hour hospital stay for cesarian section. This does not mandate they must stay in that long, but is open to negotiation. If the mother feels she wants to go home, and has the consent of her attending health care provider, she can go home sooner than that, and if she feels the need to stay, that is allowed. By passing SB 34, it puts the law under the state jurisdiction for enforcement, which is better for consumers. It's much better to deal with these things within the state of Montana rather than having to deal with the federal government.

Proponents' Testimony:

**Mark O'Keefe, State Auditor and Insurance and Securities**

**Commissioner**, said this legislation is more or less forced upon us by the federal government in regards to the abbreviated stays some managed care companies in other parts of the country have forced on consumers. Last year Congress passed the Kennedy-Kassabaum bill to regulate the industry. This is the first time the federal government has stepped in to regulate the industry, traditionally regulated by the states. This bill set the requirement for minimum hospital stays for mothers following child birth. The federal legislation says, a group health plan may not restrict benefits for any hospital length of stay related to child birth, for the mother or new born child, following a normal vaginal delivery to less than 48 hours, or restrict benefits for any hospital length of stay for mother and child, following a cesarian section to less than 96 hours. The KK bill, gives states, like Montana, the option to preempt federal law in the regulation of health care insurance concerning this issue, and that is what **SENATOR NELSON'S** bill does.

New mothers who face problems with their health insurance plan won't have to go to the federal government to solve their problems, but can come to Helena, Montana to have their problems solved.

He brought in a copy of, "Trib Talk" from the Great Falls newspaper dealing with the 48-hour and 96-hour hospital stays for new mothers. **(EXHIBIT 1)**

SB 34 is designed to make sure the mother and doctor are sure the mother is ready to go home, and she is not being forced out of the hospital, when that decision can be detrimental to her and the newborn child.

**Barbara Booher, Executive Director, Montana Nurses Association**, said they favor the bill because it supports the vulnerable population of women and children. Maybe we can learn from the rest of the country and avoid the problems experienced in managed care. Sending mothers and newborns home too early results in increased health care costs and could be reduced if there is an industry standard.

**Tanya Ask, Blue Cross and Blue Shield of Montana,** said they do not oppose SB 34 and recognize the need for this legislation to implement federal changes and support state regulations.  
(EXHIBIT 2)

**Lynn Cordeiro, Maternity nurse at a hospital in Great Falls,** said she supports SB 34 and this issue is not a big problem in Montana, but is beginning to be. She said the majority of women go home before the 48 hours by choice, and for most of them, it is appropriate. She related two instances, from the hospital where she works, of mothers going home early. (EXHIBIT 3)

**Steve Yeakel, Executive Director, Montana Council of Maternal and Child Health, and Chairman of Montana Children's Alliance,** said they support SB 34. The agenda of the alliance is prevention, spending a little bit of resources now to prevent large costs later.

**Kate Cholewa, Montana Womens Lobby,** said they support SB 34. The best and safest medical decisions for women are made by women and their doctors. This bill allows for the best care for women and their infants, and allows enough latitude for them to stay 12 hours or stay 48, so resources are not unnecessarily wasted in the process of giving the best care.

**Susan Good, representing Montana Association of Life Underwriters,** said they would like to echo some of Blue Cross and Blue Shield's comments. But this bill sets a precedent and that you will be putting into statute direction for medical procedure.

**Don Allen, representing Montana Benefit Plan (MBP),** said they do not oppose this bill and already does this in their policies. He said they are concerned with item #5 on page 1, duplicate notice, and sub-section 2 of section 1 covers that. They, too, are concerned with the precedent of setting in statute.

Opponents' Testimony: None

Questions From Committee Members and Responses:

**SENATOR SHARON ESTRADA** asked **Tanya Ask** if her suggestions were in the way of amendments.

**Tanya Ask** said she has technical amendments.

**SENATOR ESTRADA** asked **SENATOR NELSON** if she agrees with **Tanya Ask's** amendments.

**SENATOR NELSON** said regarding the amendment on page 1, if we insert 33-22-243 it would take care of her concern on that particular one and we would agree with her second amendment.

**SENATOR ESTRADA** as about the effective date being a year from now.

**SENATOR NELSON** deferred to the State Auditor.

**Mark O'Keefe** said that date is in conjunction with the Kennedy-Kassabaum bill, mandated by federal law.

**SENATOR FRED THOMAS** said **Tanya Ask** had said health service corporations may not be in this bill, and wondered if there are other elements not in, such as Medicaid.

**Mark O'Keefe** said it's his understanding current Medicaid standards are 48 and 96 hours.

**SENATOR DOROTHY ECK** ask about the current status of those who leave voluntarily, by their own choice, after one day. Are there arrangements in their insurance that make it cheaper if they do that.

**Mark O'Keefe** said he doesn't know of any insurance company who has any arrangement like that in any of their policies, nor does he know of anyone who has applied for that. There may financial incentives for someone to go home early in other parts of the country in managed care entities, but there are no contracts like that in Montana.

**SENATOR ECK** asked about policies that have a relatively high deductible.

**Mark O'Keefe** said that would make a difference to families who cannot afford the deductible under their policy, and there are people who make economic decisions even if, medically, it may not be the most advantageous, because they feel they cannot afford to stay in the hospital.

**SENATOR LARRY BAER** said **Mark O'Keefe** said the Kennedy-Kassabaum mandates that states comply with their provisions, and wondered if there are any provisions for assistance in funding for the state of Montana, or the people who will incur additional expenses under this bill, being it appears to be an unfunded mandate from the federal government.

**Mark O'Keefe** said there are no provisions for funding for any of work we need to do as an insurance department in the regulatory approval of this process and enforcement, nor for any of the companies. This could be considered an unfunded mandate. The only thing the federal government is hanging over our heads, is, if we don't pass this legislation, they will come in and regulate the industry in the state.

**SENATOR BAER** asked wouldn't it be best for us, as Montanans, to say we are implementing this bill for the best interests of the women of Montana because we feel it is good for Montana, rather than allow the federal government to mandate to us what we have to do, which I believe is in violation of the 10th amendment in this case, but may show an example of what we can do in a case where the 10th amendment is violated, but we feel it is in the best interest of Montana not to comply with the mandate, but simply agree with it. I don't want to set a bad precedent that would open the door for unreasonable federal mandates of similar character.

**Mark O'Keefe** said this bill was in draft stage long before the Kennedy-Kassabaum bill passed. Kennedy-Kassabaum gave us a little bit of leverage to get it done, but before Kennedy-Kassabaum went through, several states passed the bill.

**SENATOR BENEDICT** said under your (KK) legislation being proposed by the auditors office, this is not covered?

**Mark O'Keefe** said it is not covered.

**CHAIRMAN BENEDICT** asked, under **SENATOR HARGROVE'S** managed care bill, I believe it refers to HEDIS (Health Plan Employer Data Information Set) standards, so it would be covered managed care, if **SENATOR HARGROVE'S** bill passes.

**Mark O'Keefe** said not necessarily. HEDIS standards are talked about in terms of Medicaid and the present system. The way the managed care bill is structured, the medical community and consumers in the state would adopt the standards. If they chose HEDIS as a standard, then HEDIS would be appropriate in whatever communities, and would carry over in 48 and 96. If they chose a lower quality standard, then it may not be included. If they choose a higher one (NCQA) National Committee for Quality Assurance, they may have different standards for maternity, but that will be in the managed care bill, centrally decided by a seven physicians, who will make recommendations to the board as to what the standards will be.

**CHAIRMAN BENEDICT** asked if the board can veto what the physicians panel recommends.

**Mark O'Keefe** said they can modify, amend, veto, accept or reject.

Closing by Sponsor:

**SENATOR NELSON** submitted the amendment on page 1, which seems to be agreeable to all parties. She said it is very clear, 2 days for a normal delivery and 4 days for a cesarean.


**CHAIRMAN BENEDICT** said no Executive Action will be taken on this bill until there are some amendments to look at. We will be taking Executive Action on Wednesday on SB 14 and SB 23.

ADJOURNMENT

Adjournment: 1:40 PM



SEN. STEVE BENEDICT, Chairman



KAROLYN SIMPSON, Secretary

SB/ks