

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY

Call to Order: By CHAIRMAN STEVE BENEDICT, on February 18, 1997,
at 7:00 AM, 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. Eve Franklin (D)
Sen. Fred Thomas (R)

Members Excused: Sen. Sharon Estrada (R)

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:

Executive Action: SB 260, SB 298, SB 236, SB 23,
SB 229

*{Tape: 1; Side: A; Approx. Time Count: 7:00 AM; Comments: some
comments unintelligible due to paper shuffling and coughing.}*

EXECUTIVE ACTION ON SB 260

Amendments: CHAIRMAN STEVE BENEDICT said he thought SENATOR
DEBBIE SHEA had been working some amendments to make this bill
easier to live with.

Motion: SENATOR DOROTHY ECK moved SB 260 DO PASS.

Motion/Vote: SENATOR DOROTHY ECK moved TO TABLE SB 260. The
motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 298

Motion: SENATOR JIM BURNETT moved SB 298 DO PASS.

Discussion: SENATOR BURNETT said this is SENATOR SWYSGOOD's bill and he has no problems with the amendments.

CHAIRMAN BENEDICT said he recalled one set of amendments had already been added to the bill, but have been waiting for the additional amendment to be cleared with SENATOR SWYSGOOD.

Motion: SENATOR BURNETT moved SB 298 DO PASS AS AMENDED.

Motion: SENATOR BURNETT moved the AMENDMENTS (SB029802.asf) to SB 298 DO PASS. (EXHIBIT 1)

Discussion: SENATOR CHRIS CHRISTIAENS said he assumes this continues to have Developmentally Disabled (DD) councils in the communities.

SENATOR BURNETT said the Governor makes the appointments to the councils and they are in Glasgow, Miles City, and several in the western part of the state. It is an advisory group to Health and Human Services and the individuals receive no salary, just paid expenses.

SENATOR ECK said it's not just the family services advisory committees, but also have councils on developmental disabilities, and some councils remain in statutes. This bill doesn't do anything except state policy, that we are going to listen to the advisory councils. It gives the Governor the authority to decide what councils are needed, but there are too many councils right now. This amendment is good, giving a sense of security they are not going to be wiped out and give people an opportunity to air their concerns.

Vote: The DO PASS motion for the AMENDMENTS to SB 298 CARRIED UNANIMOUSLY.

Motion: SENATOR BURNETT moved SB 298 DO PASS AS AMENDED.

Discussion: SENATOR CHRISTIAENS asked how many amendments there are.

CHAIRMAN BENEDICT said there are two amendments to the bill.

Susan Fox said the amendment (SB 029801.asf) changing the numbers of people had already been passed.

Vote: The DO PASS AS AMENDED motion for SB 298 CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 236

Amendments: CHAIRMAN BENEDICT said there are amendments to SB 236.

Motion: SENATOR BOB DePRATU moved SB 236 DO PASS.

Discussion: Susan Fox said there are three sets of amendments, one requested by SENATOR CHRISTIAENS, one requested by SENATOR WATERMAN, and the third by CHAIRMAN BENEDICT.

CHAIRMAN BENEDICT asked if the amendments conflict with one another.

Susan Fox said yes, they do conflict. The first amendment changes the definition of severe mental illness.

Motion: SENATOR CHRISTIAENS moved AMENDMENTS SBO23601.asf DO PASS. (EXHIBIT 2)

SENATOR CHRISTIAENS said he is aware what this amendment does, as far as expansion, but thinks it would be a matter of fairness for those with mental illness.

Discussion: CHAIRMAN BENEDICT asked if SENATOR WATERMAN approved the amendments.

SENATOR CHRISTIAENS said no.

SENATOR ECK asked if this is the standard definition contained elsewhere in the statutes.

SENATOR CHRISTIAENS said he thinks it comes from the DSM-4 diagnosis, but he did not prepare this amendment. It was prepared by Gloria Hermanson.

CHAIRMAN BENEDICT said he can see it does expand the definition.

Vote: The DO PASS motion for the AMENDMENTS (SB023601.asf) FAILED by ROLL CALL VOTE.

Discussion: SENATOR ECK said SENATOR WATERMAN should be asked about this amendment. It may expand the definition a little bit but doesn't want to expand it so much it won't pass.

CHAIRMAN BENEDICT said SENATOR WATERMAN is aware of those amendments and wants this bill to pass.

Motion: SENATOR ECK moved SENATOR WATERMAN's AMENDMENTS (SB023602.asf) to SB 236 DO PASS. (EXHIBIT 3)

Discussion: Susan Fox explained SENATOR WATERMAN's amendments (SB023602.asf). They are a combination of the amendments requested by Tanya Ask and Tom Hopgood.

Vote: The DO PASS motion for AMENDMENTS (SBO23602.asf) to SB 236 CARRIED UNANIMOUSLY.

Discussion: CHAIRMAN BENEDICT said there is one more set of amendments, SB023603.asf. These will have to be conceptual amendments because of what was done with the previous amendments because it is not his desire to go too far and change the meaning of the bill, but really would like to pass just #3 and maybe #7. These amendments were proposed by Tom Hopgood. (EXHIBIT 4)

Susan Fox said #7 contains all of the repeals.

SENATOR ECK asked if #3 would clarify that these groups are covered by the bill.

CHAIRMAN BENEDICT asked Tom Hopgood to explain the intent of the amendment #3.

Tom Hopgood said amendment #3 makes the bill applicable to the various self-insured groups, over which the Legislature has control. All self-insured groups are exempt from state-required mandates except at the direction of the Legislature. SENATOR WATERMAN had indicated she would be receptive to an amendment like this.

CHAIRMAN BENEDICT said this would help and go a long way in satisfying those concerns there was not adequate coverage in the University system. As the bill was written, the University system would not have been covered.

Motion/Vote: CHAIRMAN BENEDICT moved AMENDMENTS SB023603.asf to SB 236 DO PASS. The motion carried UNANIMOUSLY.

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

Discussion: SENATOR FRED THOMAS suggested holding the bill until there is a fiscal note because of the fiscal impact it would have. If the private pay plans are loaded with all kinds of additional coverage, every consumer must pay the additional cost.

SENATOR ECK said it's an addition to the state employee plan and would be covered by premiums, not the General Fund.

SENATOR CHRISTIAENS said it is important to have the fiscal note.

SENATOR ECK withdrew her DO PASS motion for SB 236 as amended.

CHAIRMAN BENEDICT said he would vote to table the bill. Because there has been so much discussion about saving money, and the Health Care Advisory Council worked to identify cost drivers in both the insurance and the provider end of health care. We keep saying we want to get more people covered, then turn around and put on more mandated benefits which results in increased cost of insurance. Even if it's a little bit here and a little bit there,

it still gets to the point where people cannot afford to buy health insurance. From his perspective, he must say, no more mandated benefits.

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

Motion: SENATOR BURNETT moved to TABLE SB 236. The motion CARRIED with SENATORS CHRISTIAENS, ECK, and FRANKLIN voting NO by ROLL CALL VOTE.

Discussion: SENATOR THOMAS said Medicare, which drives the cost shift and the president's proposals to further cut the Medicare reimbursements to doctors, and others, will result in more cost shift. The Feds are pushing more cost shifts and so the costs are going to go up, not down, for the public, and it's going to get worse.

SENATOR ECK said it needs to be recognized the treatment of mental illness can be a cost saving, but doesn't know how it will be impacted by the mental health managed care system, because it will cover 2/3 of Montanans (up to 200% of the poverty level). The fiscal impact is something we need to examine. There was a lot of testimony about various brain diseases and some are covered and some aren't.

CHAIRMAN BENEDICT said we need to draw a distinction between mental illness and severe mental illness because mental illness is already being addressed in insurance policies, and to bring severe mental illness in on parity creates a problem.

SENATOR ECK said maybe we could work with specific diagnosis.

EXECUTIVE ACTION ON SB 23

Amendments: SENATOR CHRISTIAENS said he has an amendment for SB 23.

CHAIRMAN BENEDICT asked SENATOR CHRISTIAENS to explain the amendments.

SENATOR CHRISTIAENS said SB 23 included the county attorneys making the involuntary commitment which would obligate the county of residence for payment following that commitment. (EXHIBIT 5)

CHAIRMAN BENEDICT asked if these had been run by the Legislative Council.

Susan Fox said yes.

CHAIRMAN BENEDICT said he wasn't comfortable with putting an involuntary commitment into the hands of the chief medical officer of a treatment facility.

SENATOR CHRISTIAENS said prior to commitment or someone going in for treatment, they must be assessed by a certified counselor. Those who operate private treatment facilities in Montana are all certified counselors and this bill doesn't change anything from current practice.

CHAIRMAN BENEDICT asked, if this is already being done, what is the sense of the bill.

SENATOR CHRISTIAENS said it doesn't change who is making the assessment, but changes who is making the commitment, and county attorneys do not want this because the county making the commitment is responsible for payment. This amendment relieves that.

CHAIRMAN BENEDICT said we have gotten to the point in treatment programs where they become self-serving and tend to lump a lot of people together and put them through some unnecessary treatment. It's self-serving because, the program needs money to continue their programs because of cut backs in federal and state money, and need to come up with more money to run the programs. He does not trust some of the programs around the state.

SENATOR ECK said this is a rights issue, trying to protect the rights of the person who is committed. But, we know that many times commitment can save a life and she would trust a county attorney to make that decision, more than the chief of a private treatment facility.

SENATOR THOMAS asked if the word "chief" can be used.

Susan Fox said the word is used for the administrator of the public treatment facility.

SENATOR THOMAS said he thinks the committee should act on the table motion.

SENATOR LARRY BAER said since the intent of the bill is to authorize the county attorney to make these decisions, the amendments seem to change the character of the bill and he doesn't think the amendment is appropriate.

SENATOR ECK said the committee should act on amendment #2, but not #1, because amendment #2 is where a lot of the concern was, dealing with who pays.

Motion/Vote: **SENATOR ECK** moved to take SB 23 OFF THE TABLE. The motion FAILED with SENATORS CHRISTIAENS and ECK voting YES by ROLL CALL VOTE.

EXECUTIVE ACTION ON SB 229

Discussion: SENATOR THOMAS said SB 229 deals with the mental health centers, licensure of the professional counselors, and their problems with the managed care system. They have met and discussed amendments and failed to come up with a compromise. Mary McCue brought an amendment to issue a provisional license if working in mental health center.

CHAIRMAN BENEDICT asked if that would preclude these people from working outside of mental health centers, in competition with those in private practice.

SENATOR THOMAS said yes.

CHAIRMAN BENEDICT asked if it says that in the amendment.

SENATOR THOMAS said no.

CHAIRMAN BENEDICT said maybe that amendment could be conceptualized.

SENATOR ECK asked if there is something that gives them a time limit.

SENATOR THOMAS said it wouldn't change the requirements, which are a masters degree from a master's program primarily related to counseling, has at least 5,000 hours of practice. Those provisions stay the same, but a provisional license is issued. He then suggested accepting CHAIRMAN BENEDICT's conceptual amendment.

Motion: SENATOR THOMAS moved SB 229 DO PASS.

Discussion: SENATOR THOMAS said he is comfortable with the bill as is.

SENATOR CHRISTIAENS said this bill has real problems.

Motion: SENATOR CHRISTIAENS moved the amendments to SB 229 DO PASS.

Discussion: SENATOR CHRISTIAENS said one of the individuals who testified is outside of the education requirement of this bill. That individual had a masters in social services, and, if this bill passes, it will open up to this entire class of educated people to be able to come in. He had worked on this bill in 1993, working with SENATOR SWYSGOOD and everybody, in the conference committee, understood what the requirements would be. He said he is one of the people this bill is going to open up the opportunity, and there will be some lawsuits because of this.

CHAIRMAN BENEDICT asked SENATOR CHRISTIAENS if he was going to offer a table motion.

SENATOR CHRISTIAENS said he would, but hadn't really thought about it, but thinks the committee should be aware, there are hundreds of people out there with these degrees who will want to come in.

SENATOR THOMAS said the language is "holds a masters degree from a masters-level program primarily related to counseling" then asked SENATOR CHRISTIAENS what language he would suggest to tighten that down.

SENATOR FRANKLIN said that was something she had noted during the hearing, but then she had looked at the language, and it does not preclude the committee from changing that.

SENATOR CHRISTIAENS said that is fine with him.

SENATOR ECK asked if it would just allow an individual to work in a mental health center.

SENATOR CHRISTIAENS said with the amendment it would, but without it, it would allow for private practice.

SENATOR FRANKLIN asked if the amendment being discussed is SB022901.asf.

CHAIRMAN BENEDICT said no, that amendment needs to be done.

SENATOR THOMAS read the amendment. Page 1, line 25, insert "provisional" following "issue a." Line 26, following "counselor" insert "in a community mental health center."

SENATOR BAER asked SENATOR THOMAS if he would object to adding the word "only."

SENATOR THOMAS said that would be redundant.

SENATOR BAER said it would be more definitive and less ambiguous.

SENATOR ECK said she thinks the Legislative Council would strike it out.

SENATOR THOMAS agreed and said he does not want "only" put in.

Vote: The DO PASS motion for the amendments SB 229 CARRIED with SENATOR THOMAS voting NO.

Discussion: SENATOR THOMAS said there are more amendments, SB022901.asf. (EXHIBIT 6) This has to do with the window of opportunity, setting up a 2-week period in which to apply, and the effective date is on passage and approval. He then asked why amendment #2 is crossed out.

Susan Fox said that was the language he had taken from SB 254.

Motion/Vote: SENATOR THOMAS moved amendments 1, 3, 4, and 5 and add. The motion CARRIED with SENATOR CHRISTIAENS voting NO.

Motion: SENATOR THOMAS moved SB 229 DO PASS AS AMENDED.

Discussion: SENATOR CHRISTIAENS said he had asked Dan Anderson to research the proposal for the mental health managed care contract, and it does not require these people to be licensed.

SENATOR THOMAS asked if this was in the request for proposal, but his understanding the contract will not require licensure.

CHAIRMAN BENEDICT said he is in a quandary about this bill, and wished there was a way to get these people licensed, but they don't seem to want to be licensed. There were 14 or 15 of them, but there are probably a lot of professionals in the field who would feel that vacuum, were it created. They have waited until they were forced to become licensed, but he doesn't want to take jobs away from anyone. It seems like these people really don't want to work out the problem, and they would work on some sort of compromise, where they would be granted another extension so they could come up to the 60-hour requirement, but they don't seem to do that.

SENATOR THOMAS said they didn't say they wanted these amendments on the bill but their concern is things are going to change again due to managed care and provisional licenses will not allow them to practice. He has a chart showing SENATOR SWYSGOOD's language in the previous bill did not apply to most of them. The window of opportunity offered was not fully true.

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SENATOR BAER said he is confused about this. He thought the reason for this bill was to remedy the effects of the onset of managed care that would prevent these people from operating on a continual fashion. According to SENATOR CHRISTIAENS, that may not be the case and SENATOR THOMAS is talking about some contractual thing, so he questions the necessity of this bill. From testimony, it was his understanding all these people had the opportunity to be grandfathered in for licensure and they chose not to do so. He can understand the concerns of the professional community about the dilution of the requirements to obtain a license, allowed by this bill. And, he agrees these people have taken no steps to work out the problems, and if this bill is passed as it stands, more problems are going to be created.

SENATOR ECK said the one set of amendments offer another window of opportunity to get their credentials and that is probably important for some of the newer people in the system. Some of the other ones aren't doing counseling, but are directors and administrators, and probably would continue doing that in mental health centers. The contracting group probably won't be hard-nosed and it would be possible for them to get by without this

bill. The bill spells out they can work there but if they choose to work elsewhere, they would need to be licensed properly.

SENATOR THOMAS said **SENATOR CHRISTIAENS** checked into the Request for Proposal (RFP) and it did not require these people to be licensed. The contract between the state and the mental health managed care organization came back saying these people need to be licensed. The contract and the RFP says two different things and now these people need to be licensed. The amendments narrow it down to deal with the problem of these people being licensed in their present capacity and continuing to do so. They can become licensed, but only for working in a mental health center.

CHAIRMAN BENEDICT asked if a situation is being created where new hires in the mental health system can come in with lesser requirements.

SENATOR THOMAS said no. The amendments allow two weeks after effective date to apply to become licensed.

CHAIRMAN BENEDICT asked if the education requirement for licensure is going to be different for those people in private practice, and if they won't have to have the 60 hour masters.

Susan Fox, referring to page 2, said the flexibility clause clarifies the issue, that this act applies only to those employed by community mental health centers. There is such a narrow window that only a small group will be applying for licensure and should preclude those outside from applying.

SENATOR CHRISTIAENS said some of these people are directors of programs and nothing says they're going to be doing counseling.

SENATOR BAER said he is concerned about this bill being passed and applying only to persons employed by community mental health centers, then suggested inserting the word "only" to apply to those individuals. The word "only" would support the new section, but if the language is not incorporated into the bill, he wants it perfectly clear that that is the legislative intent.

CHAIRMAN BENEDICT said he would agree with that statement.

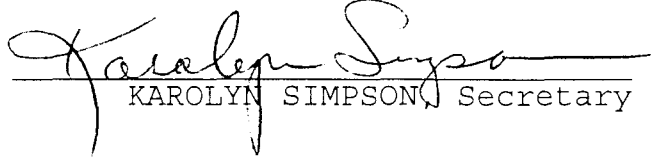
Vote: The DO PASS motion for SB 229 AS AMENDED CARRIED with **SENATOR CHRISTIAENS** voting NO by ROLL CALL VOTE.

ADJOURNMENT

Adjournment: 7:52 AM



SEN. STEVE BENEDICT, Chairman



KAROLYN SIMPSON, Secretary

SB/ks