

FINAL
Signed:

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN AL BISHOP**, on March 5, 1999 at 3:00 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Fred Thomas, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Dale Berry (R)
Sen. John C. Bohlinger (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)

Members Excused: None.

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Martha McGee, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 156, HB 190, HJR 22, HB 70,
HB 583, 2/20/1999
Executive Action: HJR 22, HB 190, HB 156, HB 70

VICE CHAIRMAN FRED THOMAS chaired the meeting until **CHAIRMAN AL BISHOP** arrived.

HEARING ON HB 156

Sponsor: REP. JOE TROPILA, HD 47, Great Falls

Proponents: Claudia Clifford, State Auditor's Office
Todd Thun, Montana Nurses' Association
Larry Dreyer, Private Citizen
Bill Olson, AARP
Chuck Butler, Blue Cross/Blue Shield
Don Allen, Montana Medical Benefit Plan

Opponents: None

Opening Statement by Sponsor:

REP. JOE TROPILA, HD 47, Great Falls, said the bill was the result of a compromise, and its purpose was to state, in laymen's language, an explanation of all benefits and their prices on the benefits page of the insurance policy. This would make it easier for people to make a good decision in purchasing insurance.

Proponents' Testimony:

Claudia Clifford, State Auditor's Office, used **EXHIBIT (phs50a01)** for her testimony.

Todd Thun, Montana Nurses' Association (MNA), said they stood in strong support of **HB 156.**

{Tape : 1; Side : A; Approx. Time Counter : 3.5}

Larry Dreyer, Private Citizen, said in January, 1997, he was diagnosed with an uncommon, though not extremely rare, medical condition. His Blue Cross/Blue Shield (BC/BS) HMO, Primary Care physician told him he wanted to schedule an appointment with a specialist to see if brain surgery was advisable. The charge for the comprehensive consultation was \$209.70; however, BC/BS paid only \$165, which meant he paid about 23%, instead of the usual 20%, of the bill. When he got home, he read his policy, and the fine print said if a non-participating provider was not used, there would be a 10% differential.

He said BC/BS had been his insurer for most of the past 26 years, and throughout that time, his family and he had been referred by family doctors to many different specialists; however, until the just-mentioned experience, they had never been referred to a non-participating provider. He said he expected to pay his deductibles and co-payments, and was comforted because he thought when he ran into a large bill, the huge costs would be covered. He suggested when patients were referred to a non-participating doctor, they should be informed by their gatekeeper physician their liability could exceed the maximum liabilities in the member contracts.

He reported both he and his wife took time off work in order to keep the appointment with the specialist. Upon discovering he was a non-participant, they told him he would have to cancel the appointment on a moment's notice, if they chose to avoid the possibility of paying more than the insurance company allowed. He maintained consumer protection was warranted at the time of first referral and there was a financial incentive to refer to non-participating providers. If the policy holder accepted his gatekeeper's referral to a non-participating provider, BC/BS automatically saved at least 10% of the allowable fee.

On Saturday, prior to the Monday surgery, he received a letter from BC/BS which acknowledged the need for in-patient care, and about a month later, he realized it contained a "fine-print" warning to "check with your treating physician before obtaining treatment to see whether all members of your physician team are participating providers with Blue Cross. Please be aware there may be...who are not participating providers with BC/BS, even though the hospital is." His bill totaled \$9,300, but BC/BS paid only \$3,436; in other words, he paid about 63% of the bill. The next thing he got was another letter from BC/BS which said the usual physician charges were not necessarily reasonable charges. His complaints against BC/BS included: (1) They refused to pay a reasonable share of his surgery, even though he was not told he was referred to a non-participating physician; (2) Their written warning about using non-participating providers was received by him two days before the scheduled surgery; (3) No forewarning by BC/BS that the group of neurosurgeons had been a previous source of trouble for the insurance company. He said later, BC/BS informed him they made the decision to not pay any amount to resolve the "very large gap" between the provider charges and allowable amount. He was advised he needed an advocate, so he "signed on" with one; however, he later discovered that advocate actually worked for a subsidiary of BC/BS. He said he took it upon himself to check with neurosurgeons in neighboring states regarding their fees, and discovered his surgeon's fee was just a bit below the average. He reported he began communicating with the State Auditor's Office and they sent a copy of a letter from BC/BS which said it was important for the subscribers to understand how the allowances were calculated. The charges were calculated on comparisons with the federally-established Resource-Based Relative Value System (RBRVS). In other words, BC/BS could pay any amount they felt like paying. Or to put it another way, it meant if they followed the recommendation of their primary care provider, they could be uninsured for the lion's share of the physician's charges.

{Tape : 1; Side : A; Approx. Time Counter : 12.6}

Bill Olson, AARP, said they rose in support of **HB 156**, and the reference to laymen's terms should be cherished.

Chuck Butler, Blue Cross/Blue Shield, said he apologized once again to **Larry Dreyer** for his experience with BC/BS. The record would show that in 1997, BC/BS supported this legislation; however, the problem was they could not come to an agreement with the insurance department. He regretted **Mr. Dreyer** had to come to both the House and this Committee to discuss his personal problems. He expressed full support the bill; in fact, he suggested the Committee pass it today.

Don Allen, Montana Medical Benefit Plan, said they felt it was important the information, as in the bill, be disclosed. They liked the January 1, 2000, amendment because all the policies would be changed over at the same time. They supported the legislation.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. SUE BARTLETT asked how this bill was different from that in 1997. **Claudia Clifford** said the 1997 legislation attempted to establish standardized systems to be used by each company; however, it was a very difficult thing to do, because companies used a variety of ways to address the issue. They decided it would be better if both the consumers and the Department were fully informed.

Closing by Sponsor:

REP. JOE TROPILA said the bill was needed on a national, as well as local, level. In laymen's terms, for example, the medical bill is \$100, the deductible has been paid and there is an 80-20 co-payment. It would seem the insurance company would pay \$80.00 and the insured \$20.00; however, they may only allow \$50. That would mean the company would pay 80% of the \$50, and the insured would pay the rest.

{Tape : 1; Side : A; Approx. Time Counter : 18.7}

HEARING ON HB 190

Sponsor: REP. LOREN SOFT, HD 12, Billings

Proponents: Becky Fleming-Siebenaler, Department of Public Health & Human Services

Susan Held, Montana Child Care Association

Opponents: None

Opening Statement by Sponsor:

REP. LOREN SOFT, HD 12, Billings, said the bill would allow the Department of Public Health & Human Services (DPHHS), to issue three-year licenses to certain day care providers who met the necessary licensing requirements, and who did not have any deficiencies. The reasons for this included DPHHS had about 2,000 licenses to issue every year, and it was almost impossible for the Department to visit the sites on an annual basis. The bill was a result of many agencies working together, and allowed DPHHS to take a proactive, rather than reactive process in working with the people. He stressed if DPHHS got a complaint about a provider, it would immediately examine the complaint. The bill was coaching for success, rather than policing for failure.

Proponents' Testimony:

Becky Fleming-Siebenaler, Department of Public Health & Human Services (DPHHS), read her written testimony **EXHIBIT (phs50a02)**.

Susan Held, Montana Child Care Association (MCCA), read her written testimony **EXHIBIT (phs50a03)**.

Opponents' Testimony: None.

{Tape : 1; Side : A; Approx. Time Counter : 25.9}

Questions from Committee Members and Responses:

SEN. EVE FRANKLIN asked for clarification new providers would be licensed for one year, and then re-reviewed before being licensed for three years. **Becky Fleming-Siebenaler** affirmed.

SEN. DALE BERRY asked if there was a way, other than complaints, which would indicate problems. **Ms. Fleming-Siebenaler** said they relied on parents and the public to inform them of concerns in the facilities. However, providers would be reviewed before receiving a license.

Closing by Sponsor:

REP. LOREN SOFT said **HB 190** was a good bill and he closed. **SEN. VICKI COCCHIARELLA** will carry **HB 190** on the Senate Floor.

{Tape : 1; Side : B; Approx. Time Counter : 0}

HEARING ON HJR 22

Sponsor: **REP. GAY ANN MASOLO, HD 40, Townsend**

Proponents: **Bob Olson, Montana Hospital Association (MHA)**

Opponents: **None**

Opening Statement by Sponsor:

REP. GAY ANN MASOLO, HD 40, Townsend, said some of her constituents had been complaining for a long time about the billing process from hospitals because they did not understand it. The main issue was people wanted to do more comparison and questioning on the hospital bills, and it seemed this was more a problem in the smaller hospitals than in the larger. The resolution asked the hospital to use clearer language when listing the itemized goods and services.

Proponents' Testimony:

Bob Olson, Montana Hospital Association (MHA) said they supported **HJR 22**. He stated there were Federal Regulations which required hospitals to provide detailed information and explanation to their patients. He admitted making billing information understandable to consumers was a challenge, even though the Federal regulations for the hospital industry included summarizing, coding and submitting for payment. Therefore, when the consumer received the bill, it usually was a summary; however, if the consumer wanted detail, he or she could ask for an itemized bill. However, it was difficult to make it understandable or to explain why overhead was allocated, down to the aspirin tablet. This resolution was a good step forward because it dealt with Montanans saying hospitals should deal with them in a more simple, straight-forward way. He referred to **EXHIBIT (phs50a04)** and said MHA had devised the pamphlet to address that request, and encouraged people to be more assertive

in utilizing services, what questions to ask their physicians and who to contact.

Opponents' Testimony: None.

{Tape : 1; Side : B; Approx. Time Counter : 6.5}

Questions from Committee Members and Responses:

SEN. EVE FRANKLIN, SEN. DUANE GRIMES and SEN. SUE BARTLETT expressed thanks for the bill, and said they had a clearer understanding of the costs of aspirin, etc., in a hospital.

Closing by Sponsor:

REP. GAY ANN MASOLO said she closed. **SEN. DUANE GRIMES** will carry **HJR 22** on the Senate Floor.

VICE CHAIRMAN FRED THOMAS relinquished the chair to **CHAIRMAN AL BISHOP**, who returned.

HEARING ON HB 70

Sponsor: **REP. JOAN HURDLE, HD 13, Billings**

Proponents: **Susan Daw, Director of Agency for People With Disabilities**
Wally Melcher, Foster Father
Maggie Bullock, Developmental Disabilities, State

Opponents: None

Opening Statement by Sponsor:

REP. JOAN HURDLE, HD 13, Billings, said the bill dealt with the licensing of adult foster care homes. The licensing requirements usually prohibited the placement of persons who required more extensive care than just custodial. However, the problem was some developmentally disabled adults could be placed in adult foster care homes, rather than in nursing homes. This could be done if they received third party support living services while they were living in the adult foster care homes, which were much cheaper than nursing homes. This bill asked for changes in the licensing statutes to allow for these placements.

Proponents' Testimony:

Susan Daw, Director of Agency for People With Disabilities, Billings, said she had been with the agency for about 20 years, and had seen folks whose lives had been negatively influenced by the current foster care language. She said about 14 years ago, one of her clients was Jason, a 9-year-old boy, who had been moved from a nursing home in Columbus to a foster care home in Billings. Her contact with him over these years had been very rewarding. However, last year his foster mother could no longer provide care for him, and since she loved him very much, she found another foster home for him. The provider was licensed, experienced and wanted Jason to live with her; however, that could not happen, because of the current language. Jason now lived here in Helena in a nursing home, and that was not where he, his family or she would like to see him live; in fact, the nursing home staff did not feel that placement appropriate, either. She urged the Committee's support for **HB 70**.

{Tape : 1; Side : B; Approx. Time Counter : 13}

Wally Melcher, Foster Father, said his foster son, David Arbour, was 31 years old and had a normal birth; however, at the age of two months, he had a severe stroke which left him with cerebral palsy, mental retardation and growth hormone suppression. He said David had been with them for 17 years as their foster son, and according to current statute, was allowed to remain with them when he turned 18. However, David did not meet the criteria in current statute for living in an adult foster home, because he could not exit the home independently in case of an emergency and was sometimes incontinent. He urged support for the bill because they believed people like David belonged in homes and with families.

Maggie Bullock, Director of Developmental Disabilities Program for State, said they strongly supported the bill because of the people working together to create more options so these people could have a better quality of life. This bill would provide one of those options.

Opponents' Testimony: None.

{Tape : 1; Side : B; Approx. Time Counter : 17.5}

Questions from Committee Members and Responses:

SEN. B.F. "CHRIS" CHRISTIAENS asked how many people would be impacted by the bill. **Maggie Bullock** said they calculated a

handful of new people would be affected by the bill; however, they saw growth in the potential.

SEN. SUE BARTLETT asked about the section which was struck and then reinserted. **REP. JOAN HURDLE** said the House struck the entire section and tried to make it more understandable, i.e., it had nothing to do with the bill. The substance of the bill remained the same.

SEN. EVE FRANKLIN asked how a family, who needed supportive services to maintain a child or foster adult, would access the services. **Susan Daw** said they could be referred for services, and would go through a screening to determine eligibility. There were a variety of funding services.

Closing by Sponsor:

REP. JOAN HURDLE said she closed, and hoped the Committee would give the bill their favorable consideration. **SEN. DOROTHY ECK** will carry the **HB 70** on the Senate Floor.

{Tape : 2; Side : A; Approx. Time Counter : 0}

VICE CHAIRMAN FRED THOMAS again took the chair from **CHAIRMAN AL BISHOP**.

HEARING ON HB 583

Sponsor: **REP. BILL THOMAS, HD 93, Hobson**

Proponents: Ray Mohney, American Red Cross Volunteer, GT. Falls
Alice Klundt, American Red Cross Volunteer, GT.Falls
Bill Chigbrow, Disaster Services, Big Sky Chapter
Lonie Stimac, American Red Cross Volunteer, Helena
Greg Van Horssen, American Red Cross Volunteer
Jim Barfknecht, Lewis & Clark Board of Directors
Todd Thun, Montana Nurses' Association
Inga Nelson, Montana Education Association

Opponents: John McEwen, State Personnel Division

Opening Statement by Sponsor:

REP. BILL THOMAS, HD 93, Hobson, recounted how when he was a boy, upon making a contribution in school, he would receive a metal pin and membership card which indicated he was a member of the American Red Cross. Both items were something he was very proud

of because they meant he was a part of something special. He said today the American Red Cross was just as special, even though he was an adult; in fact, he felt honored to carry this bill.

Proponents' Testimony:

Ray Mohny, American Red Cross Volunteer, Great Falls, read his written testimony **EXHIBIT (phs50a05)**.

Alice Klundt, American Red Cross Volunteer, Great Falls, said required training for disaster volunteers involved in feeding and sheltering large numbers of people, was three-and-a-half hours. The same length of training time was required for specific shelter arrangements, while eight hours was required for volunteers doing casework with the victims. There were other areas in which to volunteer, and most of them required about a day's training. She said they encouraged volunteers to cross-train into other areas; in fact, much of their training could be used in their regular jobs. The Red Cross offered the training and supplies free of charge, and they often came to the volunteers, instead of the volunteers going to them. However, the training took place on the volunteers' own time. She stated they never sent anyone out unless they felt confident the volunteer(s) had adequate training.

Bill Chigbrow, Disaster Services, Big Sky Chapter, reassured the Committee he was not here on paid time. He said he had been traveling with the National Red Cross for the past 14-15 years, and had covered areas throughout the states and possessions of the United States. He said it was very self-satisfying and he enjoyed it very much. The profile of a typical disaster volunteer might include a three-week call, the first week of which could be 14-hour days and then it would taper off to normal-length working days. However, the length of the call could be longer or shorter, depending on the severity of the disaster. He again stressed it was not a paid vacation.

Lonie Stimac, American Red Cross, Helena, read her written testimony **EXHIBIT (phs50a06)**.

{Tape : 2; Side : A; Approx. Time Counter : 9.8}

Greg Van Horssen, American Red Cross Volunteer, said he offered his support and asked for that of the Committee, as well. He said the bill was very important, and explained it did not allow all state employees to rush to the scene of a disaster as soon as it happened. The bill contained three circuit-breakers to avoid this happening: (1) The state employee must be properly trained

in the area of need; (2) The state employee must be requested by the American Red Cross to attend the disaster; (3) There must be the ability, from a human resource perspective, to let that person go, i.e., receive permission to go from their employer. He suggested if Montana passed this bill, it would send a positive message to the sister states and territories they understood this philosophy and supported it. Also, **HB 583** might create enough incentive to have more Montana people trained in disaster services. He asked for support.

Jim Barfknecht, Chairman, Lewis & Clark Board of Directors, asked for support for the bill.

Todd Thun, Montana Nurses' Association (MNA), said they stood in support of the bill.

Inga Nelson, Montana Education Association (MEA), Montana Federation of Teachers (MFT), State Employees (SE) and Montana Public Employees' Association (MPEA), said they rose in support of the bill and asked for its passage.

Opponents' Testimony:

John McEwen, State Personnel Division, read his written testimony **EXHIBIT (phs50a07)**, which included a letter from Governor Marc Racicot **EXHIBIT (phs50a08)**.

{Tape : 2; Side : A; Approx. Time Counter : 16.8}

Questions from Committee Members and Responses:

SEN. B.F. "CHRIS" CHRISTIAENS asked how the bill, if it passed, affected the Emergency Services Division. **John McEwen** said he was not sure how Red Cross volunteers would be impacted; however, being a part of the Emergency Services Division was part of those employees' job.

SEN. CHRISTIAENS suggested there should be an impact statement regarding the financial impact on other states. **Mr. McEwen** said he would try to do a quick survey of other states to see what the cost was.

SEN. EVE FRANKLIN asked if there was a thumbnail sketch of how many state employees were active Red Cross volunteers. **John McEwen** said there were two. **SEN. FRANKLIN** asked the leave policy for National Guard, and was told by **Mr. McEwen** it was 15 days.

SEN. EVE BARTLETT asked for more information regarding the military leave. **John McEwen** said it was up to 15 days of paid leave for training, and if they were called to active duty, military pay took over.

SEN. DOROTHY ECK asked if employers paid their Red Cross volunteer employees who frequently went to disaster sites. **Ray Mohny** said most of them were retired, and if they were not, they would take their vacation time, etc. Also, some were self-employed. However, the system was a heavy weight on the elderly people, and it was hoped to generate interest among the younger people.

SEN. ECK asked if large corporations or employers had a system of paid leave. **Mr. Mohny** affirmed by citing several employers. He said one employer began the leave policy by extending it to nurses only; however, there were such benefits from releasing them, the opportunity was opened to all employees.

SEN. DUANE GRIMES asked if there was a specific Red Cross definition for disaster. **Mr. Mohny** said it was any kind of situation which created human needs and problems, which could not be alleviated by people on their own. The local chapters of the Red Cross were not required to have a declaration before the volunteers sprang into action.

SEN. GRIMES commented the state's current disaster policy was the Governor had to declare it a disaster, and **Mr. Mohny** affirmed.

SEN. GRIMES then asked if more disasters would be serviced (even in other states) if there were more people available to go. **Ray Mohny** said Montana responded, only if requested; in fact, there was a hierarchy of requests. He referred to a disaster which occurred in East Helena a few years ago, and said the initial response was conducted here by the local chapter and then supported by teams throughout the state. When they realized it was a substantial disaster, requests for additional volunteers were made at the national level.

SEN. GRIMES asked who was notified and how it occurred. **Mr. Mohny** said on the local level, the chapter had a disaster plan in place. When a disaster occurred on the state level, there was a state lead unit which maintained a data base, which contained the names of persons who were properly trained. They worked back through their chapters to have them dispatched, or requested to come. It was up to the individuals to seek release from their jobs, etc. On the national level, the state lead unit would be consulted, and they would select the people who had the kind of training needed for that particular disaster. In other words, there was a system in place to deal with that.

SEN. FRANKLIN commented it would be atypical for a volunteer to hear of a disaster and ask the Red Cross unit to call his or her employer for permission to go. Her comment was affirmed.

SEN. AL BISHOP asked if employees could use this as employees' rights. **Mr. Mohney** said he did not think that was a problem; in fact, none of the other states had run into that problem. The first state passed this legislation in 1983, and none of the leave laws had been rescinded. Also, Montanans had a rich history of helping each other, and that went hand-in-hand with the Red Cross.

{Tape : 2; Side : A; Approx. Time Counter : 26.9}

SEN. BISHOP asked the same question of **John McEwen**, who said that answer was correct, and stressed there needed to be approval from the supervisor. However, if a supervisor did not grant the leave, it would appear much like his being an opponent to this bill.

SEN. FRED THOMAS commented it might give opportunity to see if the employee's work was done. **John McEwan** agreed.

SEN. GRIMES asked if there was a conflict with Workers' Compensation in the current military leave policy. **Mr. McEwan** said there was a Workers' Compensation issue, in that if those paid employees were injured in their volunteer activity, there was a question if that injury should be covered by Workers' Compensation payments.

{Tape : 2; Side : A; Approx. Time Counter : 31.1}

SEN. SUE BARTLETT said it was specified as a paid leave of absence. **SEN. FRED THOMAS** suggested looking at the Workers' Compensation code for an answer to her question. Both **SEN. BARTLETT** and **John McEwen** suggested talking to the Workers' Compensation people.

{Tape : 2; Side : B; Approx. Time Counter : 0}

Closing by Sponsor:

REP. BILL THOMAS said when Hurricane Andrew struck southern Florida, he and his wife spent a week at Homestead, Florida, and worked with the Southern Baptist Convention Emergency Services Unit. They were not trained, and neither were the other volunteers, except for the leaders. He noticed how much more effective the leadership would have been if the volunteers had been trained. Montana currently had two employees who would have

qualified for this program and he viewed this legislation as a possible incentive for more persons to be involved in emergency preparedness. He suggested it would be a wonderful situation if there was one qualified employee in each governmental department who would be granted this discretionary paid leave. These employees would bring leadership skills back to the place of employment, and it would contribute to morale building. He commented the rest of the employees would gladly cover for their missing co-worker. **SEN. THOMAS** addressed the issue of the Governor's reservations, and said he did not believe the Governor closed the door on the idea. There were safeguards in the bill to prohibit abuse. He urged a strong DO PASS. **SEN. RIC HOLDEN** will carry **HB 583** on the Senate Floor.

{Tape : 2; Side : B; Approx. Time Counter : 4.4}

EXECUTIVE ACTION ON HJR 22

Motion/Vote: SEN. BARTLETT moved that HJR 22 BE CONCURRED IN. Motion carried unanimously 7-0.

EXECUTIVE ACTION ON HB 190

Motion/Vote: SEN. HARGROVE moved that HB 190 BE CONCURRED IN. Motion carried unanimously 8-0.

EXECUTIVE ACTION ON HB 156

Motion/Vote: SEN. DEPRATU moved that HB 156 BE CONCURRED IN. Motion carried unanimously 8-0.

EXECUTIVE ACTION ON HB 70

Motion/Vote: SEN. ECK moved that HB 70 BE CONCURRED IN. Motion carried unanimously 8-0.

ADJOURNMENT

Adjournment: 5:15 P.M.

SEN. AL BISHOP, Chairman

MARTHA MCGEE, Secretary

JANICE SOFT, Transcriber

AB/MM

EXHIBIT (phs50aad)