



Children, Families, Health, and Human Services Interim Committee

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

61st Montana Legislature

SENATE MEMBERS

RICK LAIBLE--Vice Chair
ROY BROWN
CHRISTINE KAUFMANN
TRUDI SCHMIDT

HOUSE MEMBERS

DIANE SANDS--Chair
MARY CAFERRO
GARY MACLAREN
PENNY MORGAN

COMMITTEE STAFF

SUE O'CONNELL, Research Analyst
LISA JACKSON, Staff Attorney
FONG HOM, Secretary

MINUTES

January 25, 2010

Room 137, Capitol Building
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

COMMITTEE MEMBERS PRESENT

REP. DIANE SANDS, Chair
SEN. RICK LAIBLE, Vice Chair

SEN. ROY BROWN
SEN. CHRISTINE KAUFMANN
SEN. TRUDI SCHMIDT

REP. MARY CAFERRO
REP. GARY MACLAREN
REP. PENNY MORGAN

STAFF PRESENT

SUE O'CONNELL, Research Analyst
LISA JACKSON, Staff Attorney
FONG HOM, Secretary

Visitors

Visitors' list, Attachment #1.

COMMITTEE ACTION

- Committee bill draft to clarify language in the commitment laws for people with developmental disabilities.
- A bill draft to change the use of the word "commitments" to "admissions" in the mental health crisis diversion grants statute.

CALL TO ORDER AND ROLL CALL

00:00:02 Rep. Sands called the meeting to order at 9:30 a.m. The Committee Secretary noted role visually. All members were present.

00:02:20 The minutes of the November 16, 2009, meeting were approved as written.

AGENDA

LAWS RELATING TO COMMITMENT OF DEVELOPMENTALLY DISABLED PERSONS

00:03:14 Ms. O'Connell gave a presentation on a staff and stakeholder review of commitment laws for people with developmental disabilities (**Exhibit 1**).

Questions

00:11:31 REP. MORGAN asked for clarification of the term "responsible person". **Ms. O'Connell** said that there are a number of places throughout the commitment statutes where a responsible party has a duty or a right to look out for the interests of the person who is the subject of the commitment proceeding or who has been committed. Stakeholders discussed whether or not those duties were too broad and need to be changed.

00:12:48 REP. MORGAN asked how that issue would be addressed if the committee approves the drafting of a bill. **Ms. O'Connell** said she would discuss the issue further with stakeholders and present the committee with options.

Public Comment

00:13:40 **Anita Roessmann, Disability Rights Montana**, talked about the developmental disabilities study and whether or not the legislators would want to revisit the mission of the Montana Developmental Center.

00:19:34 **Matt Kuntz, Executive Director, National Alliance on Mental Illness - Montana**, said that instead of referencing the mental illness commitment and the developmental disability commitment statutes separately, the committee might want to consider revising it to be one standard.

Questions

00:23:12 SEN. SCHMIDT asked Ms. Roessmann if the committee should be focusing on referencing mental illness commitments and developmental disability commitment separately. **Ms. Roessmann** said that she thinks that mental illness and developmental disability are two different kinds of disorders.

00:24:45 REP. SANDS asked if there would be any significant legislative fiscal impacts. **Ms. O'Connell** said that the requirement for an initial hearing would have some costs because there would be a court proceeding.

00:25:27 **Paulette Kohman, Legal Counsel for DPHHS**, said that because of possible additional hearings, the costs would be to the court system, the county attorneys, and the public defenders.

MOTION

00:31:04 SEN. LAIBLE **moved** to have a committee bill drafted to revise the commitment laws.

00:31:35 REP. MORGAN asked to amend the motion to include several options in terms of the responsible person question so the committee can look at the different scenarios.

00:32:01 The motion passed.

SJR 35 STUDY OF HEALTH CARE: CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION

State Efforts and Perspective - Todd Harwell, Chief, Chronic Disease Prevention and Health Promotion Bureau, Public Health and Safety Division

00:32:39 Mr. Harwell distributed the document "Health Reform Comparison: Prevention and Workforce Provisions Cornerstone Government Affairs" (**Exhibit 2**) to the committee. He talked about the efforts and achievements of the Division and highlighted three areas that could potentially improve the health of Montanans: implement a healthy screening and wellness program; target people who are enrolled in Medicaid to quit tobacco use and adopt life style changes to become healthier and lose weight; and establish a national diabetes prevention program.

Local Efforts and Perspective - Melanie Reynolds, Association of Montana Public Health Officials (AMPHO)

00:40:01 Ms. Reynolds discussed health care reform and chronic disease prevention on the local level and how it is related to getting the "health" back into health care reform.

Ms. Reynolds distributed a document "County and City Health Departments: the Need for Sustainable Funding Through Health Reform" (**Exhibit 3**) and discussed an article about the need for more funds for chronic disease prevention programs. She also talked about HB 173, creating pilot programs for local public health agencies to improve public health delivery and help health departments become accredited.

Questions

00:48:48 REP. CAFERRO asked about the kinds of people who might be candidates for the program. **Mr. Harwell** said that the program targets people who are overweight and have one or more risk factors for cardio-vascular disease or diabetes.

00:50:22 REP. CAFERRO asked if there is any outreach efforts to schools. **Mr. Harwell** said that the program only focuses on adults and there is no clear evidence that it would work for children.

00:52:47 Committee members discussed what the Department of Public Health and Human Services and local agencies need to do to come up with a plan on addressing the obesity and lack of exercise in school-age children and to make some recommendation to the Legislature. It was suggested that this issue be put on the agenda for a future meeting and that the Office of Public Instruction be brought into the discussion.

SJR 35 STUDY OF HEALTH CARE: MEDICAL EDUCATION AND PROVIDER INCENTIVES

01:02:15 Ms. O'Connell presented a briefing paper on medical education provider incentives as part of the SJR 35 Study of Health Care (**Exhibit 4**). Ms. O'Connell introduced a panel of speakers on topics covering medical education opportunities in Montana and incentive programs for health care providers.

WWAMI, WICHE, and MR. PIP - Sylvia Moore, Deputy Commissioner for Academic and Student Affairs, Montana University System

01:05:14 Ms. Moore talked about the WWAMI program that tries to make medical education accessible to students in northwestern states that do not have medical schools (**Exhibit 5**).

01:10:49 Ms. Moore talked about the Western Interstate Commission for Higher Education

(WICHE), a 15-state commission working to boost access to and success in higher education for students in the West, and the Professional Student Exchange Program (PSEP) that provides affordable access to professional education primarily in the healthcare professions (**Exhibit 6**).

01:12:45 Ms. Moore talked about the Montana Rural Physician Incentive Program (MR. PIP) (**Exhibit 7**), a program that helps repay educational debts of rural physicians who serve communities that have a demonstrated need for medical services.

Montana Family Medicine Residency Program - Dr. Roxanne Fahrenwald, Program Director

01:17:30 Dr. Fahrenwald discussed the residency program for family medicine, located in Billings (**Exhibit 8**).

Mid-Level Provider Incentives - Jo Ann Dotson, Chief, DPHHS Family and Community Health Bureau

01:33:27 Ms. Dotson gave a presentation on incentive programs for mid-level providers such as physician assistants and advanced practice registered nurses. These incentives recognize that there is a shortage in health care providers in the state. She distributed a document that shows a comparison of Montana Healthcare Provider Loan Repayment Programs (**Exhibit 9**).

Questions

01:43:07 SEN. KAUFMANN asked if Ms. Moore knew the retention rate for the WWAMI program. **Ms. Moore** said the retention rate for WWAMI is around 45% to 50% for Montana students and increases to 55% retention when students from other WWAMI states are included.

SEN. KAUFMANN said that there has been discussion on whether there should be a requirement that WWAMI students return to Montana to practice. She asked Ms. Moore if there has been any specific proposal that the Legislature decided not to fund and what the pros and cons are of actually requiring a two- or three-year commitment from someone whose education the state funds. **Ms. Moore** talked about the "stick approach" that was done when she was in Wyoming. Montana uses the "carrot approach" of charging the students a fee while they are in the program and using that money for incentive programs for people who do return and practice in Montana.

SEN. KAUFMANN said that based on the return rates alone, it would seem a better investment of state money to increase slots in the residency program

rather than increasing slots in WICHE or WWAMI. **Ms. Moore** said that the federal government controls the number of residency slots.

01:51:11 SEN. LAIBLE asked Dr. Fahrenwald if there were other locations in Montana besides Billings that have a residency program? **Dr. Fahrenwald** said that it is the only program in the state but Missoula is currently looking at the potential of starting a residency program.

02:01:42 REP. SANDS asked if Native Americans were being recruited into those programs and if there are efforts to place Native American students back into urban Indian health programs. **Ms. Moore** said that the WWAMI program has a commitment to both recruiting and retaining Native American physicians. **Dr. Fahrenwald** said that recruiting health care providers that are culturally understanding of a population's health care needs and belief system has been difficult. She talked about a federal grant that the Family Medicine Residency Program received to develop a curriculum in Native American health competency in their residency program. **Ms. Dotson** added that MSU and UM have programs to help support people from tribal communities that get into the programs.

02:07:09 SEN. KAUFMANN asked what the state of training is for mid-level people across the country and the potential that Montana might be able to think about a training school for physician assistants and nurse practitioners. **Ms. Dotson** said that there is a lot of interest in mid-level services, however, those mid-level professions tend to practice in urban settings.

Public Comment on SJR 35 Study

02:12:53 **Erin MacLean, Montana Medical Association**, distributed a document "2009 Tort Reform Bills" (**Exhibit 10**) that provides background information on HB 310 and HB 227. She said that the Montana Medical Association supports the WICHE, WWAMI, and MR. PIP programs, and supports increasing both the number of residents in the state and the slots in the WWAMI program.

02:20:08 **Mike Foster, representing all the Catholic hospitals in Montana**, said that the panel provided some great information on the programs that the health care industry depends upon to have a source of physicians and other medical professions in the community.

02:23:07 **Dick Brown, President, MHA and Association of Montana Health Care Providers**, said that with or without health care reform, there will continue to be an issue with coverage by health care providers in the country. He commented on the three programs that were presented.

02:26:48 **Annie Glover, Novo Nordisk**, said that Novo Nordisk manufactures insulin around the world and works closely with the American Diabetes Association and with state governments in Oregon, Washington, Alaska, and Montana. She offers her assistance if the committee prepares a committee bill for diabetes prevention and control programs.

--Lunch--

SJR 35 STUDY OF HEALTH CARE: COMMITTEE DISCUSSIONS

03:16:46 Sue O'Connell, Research Analyst, distributed two documents to the committee regarding the dental study that the HJR 22 Working Group of the Joint SubCommittee on Postsecondary Education Policy and Budget did in 2008, and their Summary of Final Recommendations.

03:17:16 **Overview of Montana's Medical Malpractice Laws - Sue O'Connell, Research Analyst, LFD**

Ms. O'Connell gave a short presentation on Medical Malpractice: Montana's Approach to Limiting Liability (**Exhibit 11**).

Questions

03:20:42 SEN. BROWN said that many insurance companies tend to settle out of court because they are afraid that if that particular statute is challenged to the Supreme Court, it might not hold up. He asked Ms. O'Connell to comment on that. **Ms. O'Connell** said there may be a fear that if a party doesn't settle and a decision is appealed, they will come out with a worse outcome than they may otherwise have had. If the committee is interested in pursuing that, Ms. O'Connell said that she would help set that up.

03:21:55 SEN. LAIBLE said that Texas went through tort reform and has made some significant differences in the cost of the malpractice insurance. He asked if staff has looked at what other states might be doing in the area of tort reform. **Ms. O'Connell** talked about past studies that looked at tort reform.

ADMINISTRATIVE RULE REVIEW IMPLEMENTING HB 130 - Lisa Mecklenberg Jackson, Staff Attorney

03:35:56 Ms. Mecklenberg Jackson distributed and discussed DPHHS Administrative Rules Implementing HB 130 (**Exhibit 12**).

Comments from DPHHS

03:40:05 **Lou Thompson, Administrator, Addictive and Mental Disorders Division, DPHHS**, talked about the letters of intent that DPHHS had received from 41 counties. Regarding the grant applications that they have, 19 counties are represented and they are in meetings with 11 additional counties. Ms. Thompson gave an update of the total amount that has been allocated and the amount still available for FY 2010.

Questions

03:41:26 SEN. LAIBLE talked about the differences of the words "commitments" and "admissions". He asked why using those words would make a difference on how much money is distributed. **Ms. Thompson** said that there is a legal distinction between admissions and commitments, which the drafters of the bill did not consider. The drafters looked at the intent, the stated goals of the legislation, and diversions from the State Hospital. Both terms are used in the bill itself.

03:43:12 SEN. LAIBLE asked Ms. O'Connell to clarify the issue. **Ms. O'Connell** said that when this study was in the Law and Justice Interim Committee last interim, they were looking at ways to reduce the admissions to the Montana State Hospital by creating services in the community that could stabilize people. In the process of passing HB 130, there was a last-minute amendment in Senate Finance and Claims with some conceptual language. As that amendment was drafted, the word "commitment" was used where the word "admissions" should have been. Staff believes that the committee might want to consider a bill to clean up the language so that the term is used consistently in the statute.

03:46:40 REP. CAFERRO asked how the \$300,000 left in the grant awards will be handled. **Ms. Thompson** said that if it is not out the door by July 1, it will be rolled into fiscal year 2011 and included in those grant awards next year.

03:47:11 REP. CAFERRO asked if they base their budget on what was spent in the first year of the biennium or what was spent over the two years of the biennium? **Ms. Thompson** said that it is her understanding that it would be based on what was spent in the first year of the biennium.

ADMINISTRATIVE RULES - Lisa Mecklenberg Jackson, Staff Attorney

03:50:49 Ms. Jackson discussed Administrative Rule activities (**Exhibit 13**).

Questions

03:52:48 REP. SANDS said that she is concerned that there is still a delay in providing funding for training and equipment for local EMSs. She would appreciate hearing updates on where we are with those programs.

03:55:01 REP. LIABLE said that he would like the directors of DPHHS and the Department of Transportation to attend a meeting and discuss the administration of the grant program.

FOSTER CHILDREN PLACEMENT WITH RELATIVES - Shirley Brown, Administrator, Child and Family Services Division, DPHHS

03:55:56 The committee watched a 12-minute preview for a video documentary "From Place to Place" featuring Missoula-area children who had aged out of foster care.

04:09:56 **Ms. Brown** discussed placement of foster children with relatives. She distributed a document "Placement of Foster Children in Kinship Care" (**Exhibit 14**) to the committee.

Questions

04:24:58 REP. MORGAN asked whether relatives who are taking children are doing it on a volunteer basis or receiving state aid. **Ms. Brown** said that there are more unpaid relative placements than paid.

04:25:58 SEN. SCHMIDT asked if there were statistics on how many children are currently in placement and the number of placements each child has had. **Ms. Brown** said that they have slightly over 1,600 children in care. About 300 to 400 are 15 to 19 years of age and about 40% of children in that age group have been cared for three years or longer.

04:28:29 SEN. SCHMIDT asked if that it is a goal of the division to look for relatives or significant people in that child's life, to keep them out of foster care. **Ms. Brown** said that the goal is to get a child into permanent placement.

04:30:04 SEN. LAIBLE asked whether a kinship family receives services if they have a foster child. **Ms. Brown** said that child will receive the same services regardless if he is in a licensed foster care home or not.

04:34:21 SEN. LAIBLE said that in some other states there is the wraparound program that focuses on the environment in which the child is living. Does the state actually look at the entire environment of the child as opposed to just looking at the child? **Ms. Brown** said that they look at what led to the placement of the child in foster care and why the child couldn't remain safely with the parent. They are required by statute to develop a treatment plan and to identify all the things that need to be addressed for the child to safely be returned to the parents.

04:36:03 SEN. SCHMIDT asked if the Six Steps process that is listed as a resource for

kinship care being done. **Ms. Brown** said that people are being trained in using that as a resource.

Public Comment

- 04:37:40 **Jim Stewart, Helena, Montana**, talked about an ongoing case where the adoption by a Montana family is the goal for a child from another state who was severely neglected by her family.
- 04:46:15 **Anita Roessmann, Disability Rights Montana**, said that the state is not about keeping families together. They have data to support the fact that putting a child in foster care puts them at risk for poor outcome in life.
- 04:47:53 SEN. SCHMIDT said that we need to be aware of what is happening in our foster care system. There is no reason that children have 13 placements in 16 years as was told in the documentary. We need to start with children in the system, regardless of where they are in the system, to see if there can be something done to find family or a support person for that child instead of moving them from place to place.
- 04:49:28 SEN. LAIBLE asked about the process of determining whether a family member is eligible to accept a child and if Ms. Brown had any recommendations on what to avoid if there is a need to take a child out of an abusive environment because of the paperwork that is required. **Ms. Brown** said that if the family is in Montana and if the child is in Montana, it doesn't take very long. However, if a Montana child is to be placed out-of-state, the Interstate Compact on a Placement of Children applies. This increases the length of time a placement takes.

FAMILY ECONOMIC SECURITY EFFORTS - Hank Hudson, Manager, Economic Security Services Branch, DPHHS

- 04:54:41 Mr. Hudson gave an update on TANF efforts, the Family Economic Security Grant Program, and the Second Chance Home Program.

Family Economic Security Grant Program

- 04:55:56 Mr. Hudson said that the Family Economic Security Grant Program was started in 2005 with TANF bonus money to address one of the principle criticisms of welfare reform. He gave an update on the program and said that they have 185 people currently enrolled in the program and 93 of the 185 are involved in savings programs.

Second Chance Homes Program

- 05:00:15 Mr. Hudson said that there are three Second Chance Homes in Montana: the

Florence Crittenton Home, Mountain Home Montana, and the Harmony House. These homes provide opportunities for at-risk single mothers to raise their child in a supervised and safe setting. The Legislature approved \$300,000 a year of TANF money to these facilities to insure that those beds remain available.

ARRA Stimulus TANF Money Update

05:03:13 Mr. Hudson said that the Legislature appropriated federal authority for DPHHS to receive additional TANF funds as part of the America Recovery and Reinvestment Act (AARA). The state receives those funds based on the growth in case load.

Questions

05:07:43 REP. CAFERRO asked where the money goes if it is not used and what efforts are made to make sure that it gets to the people who really need it. **Mr. Hudson** said that the money they draw down is theirs to keep and will remain in their account until they spend it. In addition, DPHHS also funds food banks, after school programs, the Child Care for Working Relatives, and foster care and emergency services.

DPHHS BUDGET/FUNDING SOURCES - Lois Steinbeck, Fiscal Analyst

05:12:36 Ms. Steinbeck gave a presentation on DPHHS's budget and funding sources (**Exhibit 15**) in light of the Governor's request that the agency propose \$19.1 million in budget reductions due to the state's financial situation.

Questions

05:27:23 REP. MORGAN asked if Ms. Steinbeck could tell her, how the \$19.1 million in proposed reductions fit in with the funds taken out of the Medicaid program last session and backfilled with stimulus money. **Ms. Steinbeck** discussed the funding issues related to Rep. Morgan's question.

05:33:40 REP. SANDS talked about the statutory language in 53-6-101(2) that says the Department must give "preference to the elimination of restoration of an entire Medicaid program or service rather than sacrifice or augment the quality of care for several programs or services through dilution of funding." She asked if Ms. Steinbeck could reflect on how that language has historically been used to make funding decisions. **Ms. Steinbeck** said that the Legislature hasn't had to apply it to cuts since the Legislature approved the language in 2005.

05:36:34 **Ms. Steinbeck** said that the Jobs Bill pending in Congress would extend the enhanced federal Medicaid match rate for another six months if it is passed.

DEPARTMENT OF PUBLIC HEALTH AND HUMAN RESOURCES UPDATE - Anna Whiting Sorrell, Director

05:38:00 Ms. Whiting Sorrell gave an update on the Department's budget and what the Department has been doing with proposals for budget cuts.

Questions

05:51:40 REP. MORGAN said that DPHHS is including unspent money that was allocated last session into its savings package. **Ms. Whiting Sorrell** said that they needed to have a 5% contingency cut for the biennium as opposed to a 5% for 2010, and 5% for 2011. They started looking in areas where they could save in the fiscal years 2010 and 2011.

05:59:48 REP. MORGAN asked if it was Ms. Whiting Sorrell's intention to present to this committee the cuts before they actually take place so that the Legislature has the ability to look them over. **Ms. Whiting Sorrell** said that her intention is to ensure that the process that the Governor has put in place is followed.

06:01:37 SEN. BROWN asked how the negotiations for the computer program is going and whether that might be part of the discussion. **Ms. Whiting Sorrell** said that they have continued to negotiate and they have notified the highest offeror.

06:03:31 SEN. BROWN said that there are many programs in the Department and it seems to him that this is a great opportunity for the Department to go through those programs and do a cost-benefit analysis of each program. **Ms. Whiting Sorrell** said that she is using the request for budget reductions as an opportunity to restructure and reengineer the Department.

06:06:25 Ms. Whiting Sorrell talked about working with the Legislative Fiscal Division on how to present the DPHHS budget to the Legislature and the Appropriations Committee in 2011. She also discussed the implementation of Healthy Montana Kids program, as well as recent developments in the Medicaid program and with the CHIMES computer system.

Questions

06:11:58 SEN. KAUFMANN asked Ms. Steinbeck if there was anything in law about doing cuts across the board in the general fund of all agencies. **Ms. Steinbeck** said that the law allows the Governor to reduce spending.

Public Comment

06:28:15 **Matt Kuntz, Executive Director, National Alliance on Mental Illness-Montana**, commented on reduction in access to mental illness treatment

services, the need for more providers, the need to look at malpractice issues in the same way as workers' compensation issues, the WWAMI program, and the wraparound services.

- 06:31:13 REP. SANDS noted that committee members had received copies of letters **(Exhibit 16)** from Laurie Stanton of Hamilton and Elaine Swartout regarding the impact of reduction in services in mental health.
- 06:31:49 **Sheila Hogan, Director, Career Training Institute**, commented on the subsidized employment program that her agency operates with federal funds. The program places people in jobs in the community.
- 06:35:09 **Erin MacLean, Montana Medical Association**, commented on tort reform.
- 06:37:43 **Patti Jacques** thanked the committee for supporting the mental health area.
- 06:39:03 **Christina Davis, State Director, Children's Defense Fund**, urged the committee to look at ways to address the issue of training and education because medical professionals need to be able to come back to Montana and provide services for Montana children.
- 06:46:48 REP. MORGAN said that she would like more transparency by DPHHS in how they allocate funds for the Block Grant program and what the relationship is between HRDC and DPHHS.

MOTION FOR CLEAN UP LANGUAGE IN HB 130

- 06:50:47 Sen. Schmidt **moved** for a bill draft to change the use of the word "commitments" to "admissions" in the statute for mental health crisis diversion grants. The motion passed.

FURTHER BUSINESS

- 06:57:01 Rep. Sands requested that staff draft a letter to CMS regarding freeing up unexpended funds for residency programs, with a copy of the letter to Montana's congressional delegates.

Sen. Schmidt requested that staff keep the committee informed on recruitment and retention of health care providers in Montana.

Sen. Kaufmann would like ideas for the state to pick up malpractice insurance similar to the way the federal program works for CHCs and if there are any opportunities to expand that system.

ADJOURNMENT

07:03:41 With no further business before the committee, Rep. Sands adjourned the meeting at 4:35 p.m.

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