



## Children, Families, Health, and Human Services Interim Committee

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### 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

April 27, 2010 Meeting

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.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

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**

- The committee will ask Utah and Massachusetts to give a presentation on exchange programs from their states.
- The committee will ask that the Department of Public Health and Human Services consider the recommendations in the HJR White Paper into their operational practices.
- The committee approved a bill draft streamlining the regulatory hurdles for primary care physicians.
- The committee approved a letter to the Department of Labor and Industry asking that health care licensing boards collect certain workforce data.
- The committee approved a letter to the Board of Public Education asking that all schools undertake activities to encourage health childhood habits.

### **CALL TO ORDER AND ROLL CALL**

00:00:01 Rep. Sands reconvened the meeting at 8:03 a.m. The secretary noted roll visually. Everyone was present.

### **AGENDA**

#### **EMERGENCY MEDICAL SERVICES GRANT PROGRAM - Jim Lynch, Director, Department of Transportation**

00:01:55 Director Lynch gave an update on the Emergency Medical Services grant program that was created in the Department of Transportation based on legislation resulting from a committee study last interim (**Exhibit 19**).

#### **Questions**

00:12:52 SEN. LAIBLE asked Director Lynch when the dispersals of the funds will begin. **Director Lynch** said that he hopes to have the awards done late May or early June.

00:17:52 SEN. LAIBLE asked about billing issues for volunteer EMS agencies. **Director Lynch** said the agencies need an understanding of who should be billed.

00:20:18 REP. SANDS asked if Director Lynch has identified other federal sources that may support this program. **Director Lynch** said another source of funding is from the National Highway Traffic Safety Administration (NHTSA). There is a new reauthorization coming sometime this year.

00:21:46 REP. SANDS asked if the committee should write a letter asking for clarity and support for the rural EMS in the new reauthorization bill. **Director Lynch** said that when they get to that point, a letter might be helpful.

**SENIOR AND LONG TERM CARE ISSUES - Kelly Williams, Administrator, DPHHS Senior and Long Term Care Division, and Susan Kohler, Missoula Aging Services**

- 00:26:00 Ms. Williams gave an update on the activities of the Senior and Long Term Care Division (**Exhibit 20**).
- 00:45:01 Ms. Kohler gave a presentation on Montana Area Agencies on Aging Association (**Exhibit 21**).
- Questions**
- 00:52:36 REP. MORGAN how Ms. Williams about how 80 waiver slots funded by one-time-only money might continue. **Ms. Williams** said that the one-time-only funding created some problems for programs; i.e., the home and community-based waiver. DPHHS is reviewing the matter and may be asking for a continuation of funding for those 80 service slots as a new proposal.
- 00:54:51 SEN. SCHMIDT asked Ms. Williams to talk more about the \$737,000 grant that is available in October and will be used on a local level for long-term care. **Ms. Williams** said that both of their grants on aging are available in October. The Aging Disability Grant, the \$737,000, is an expansion of the Aging Disability Resource Center funding.
- 00:55:31 SEN. SCHMIDT asked how the funding is distributed to the communities. **Ms. Kohler** said that the money is contracted to the area agencies.
- 00:57:12 SEN. SCHMIDT asked how the Senior and Long Term Care Division gets involved when the federal government identifies problems with the facilities. **Ms. Williams** said that the Quality Assurance Division is the division that has certification and licensure oversight.
- 00:58:36 SEN. SCHMIDT said that the federal government was in Montana to rate long term care facilities, and the facility in Great Falls received a 1-star rating out of 5; two other facilities received a 2-star rating out of 5. She asked Jeff Buska if he was involved with that at all. **Jeff Buska, Administrator, Quality Assurance Division, DPHHS**, said that Sen. Schmidt is referring to the Centers for Medicare and Medicaid Services 5-Star Rating Program that is done in every state. A lot of the information that goes into the 5-star rating program is related to the health facilities surveys that the Quality Assurance Division does.
- 01:00:23 SEN. SCHMIDT asked if a 1-star rating is cause for concern and how the state responds. **Mr. Buska** said that facilities with the 1-star rating are issued a

deficiency report and are then required to come back into compliance.

- 01:01:11 SEN. SCHMIDT said that she has been told that if staff didn't like the quality of care that was being provided, the employees could quit. Her concern is that they are talking about the care of people who no longer can care for themselves and if nurses are being told that they can quit if they don't like it, she is shocked by those kinds of statements. Could Mr. Buska address that? **Mr. Buska** said that he did not think that any of his surveyors are making recommendations to staff that they could quit if they didn't like it. That may be something that is happening with the management of the facilities.
- 01:04:47 REP. CAFERRO asked Ms. Kohler if the \$737,000 funding is to create a system that links people with the current services rather than strengthening services. **Ms. Kohler** said that it is information and assistance where someone comes in to find out what services they are eligible for and what services are available.
- 01:06:08 REP. CAFERRO asked Ms. Kohler how the \$880,000 federal grant is used. **Ms. Kohler** said that it goes to the Aging and Disability Resource Center (ADRC). The ADRC operates much like a home and community-based services program where there is a nurse and social worker.
- 01:06:58 REP. CAFERRO said that what she is talking about is the caregivers, those who stay with the person 24/7. Is there any funding to help with those people who are the caregivers? **Ms. Kohler** said that at this point, the program is not set up to do 24-hour care.
- 01:11:01 SEN. KAUFMANN said that Ms. Williams mentioned that the program for health care workers has resulted in a reduction in turnover. Does Ms. Williams have any numbers related to how much that reduction has been? **Ms. Williams** said that it is mostly anecdotal from the provider agencies themselves based on what they see in their day-to-day employment and turnover. That will be something that they will strive to get more data on.
- 01:11:26 SEN. LAIBLE said that there will be impacts to Ravalli and Missoula Counties for loss of meals and other services if state funding is not renewed. He asked if the Senior and Long Term Care Division is looking at providing services to those people in need, particularly in the area of receiving meals. **Ms. Williams** said that their plan is to have the Legislature appropriate one-time only funds again. At this point, county governments have passed special mill levies and cities are doing fundraising and writing grants.

**SJR 35 STUDY OF HEALTH CARE: MEDICAL MALPRACTICE - Sue O'Connell, Staff Researcher, LSD**

- 01:14:28 Ms. O'Connell discussed her briefing paper (**Exhibit 22**) on medical malpractice insurance data for Montana.
- 01:16:35 **Erin MacLean, Montana Medical Association**, said that there were tort reform bills that did not pass in the 2009 session. There were questions regarding what was the data behind supporting the bills. She spoke with the insurance companies and they provided information and individuals to speak on that information.
- 01:17:17 **Mona Jamison, The Doctors Co.**, said that The Doctors Co. insures approximately 400 Montana physicians. She pointed out that medical malpractice insurance is a long-tail business. When you pay a premium in year 1, you have no idea if you will be sued in later years for an incident that occurred in the year during which you paid that premium. It is a premium that looks to cover you for a future claim that may be filed against you. The Doctors Co. supported the bill in 2005 that required the filing of additional information with the Auditor's Office.
- 01:24:09 **Leo Berry, Utah Medical Insurance Association**, talked about a summary of medical malpractice insurers' earnings, losses, and claims filed (**Exhibit 23**). He said that Utah Medical is the largest insurer in Montana and is also a physician-owned insurance company.
- Questions**
- 01:29:24 SEN. BROWN said that in looking at the last page of Mr. Berry's handout, and if you look at the first five years of claims reported, it averages around 70 claims a year. After that it is over 100. He asked what that will do to future premiums. **Mr. Berry** said that the number of claims per insurers that they are writing for is going up.
- 01:31:10 SEN. KAUFMANN asked Ms. Jamison to explain why medical malpractice is different from other insurance. **Ms. Jamison** said that when a physician pays a premium in year 1, any claims against that premium could be 5 years down the road.
- 01:33:13 SEN. LAIBLE asked if there has been an analysis done based on claims filed and the particular type of patient involved? As an example, what percentage of the suits filed come from Medicaid patients, what percentage come from Medicare patients, what percentage come from Workers' Comp claims? **Ms.**

**Jamison and Mr. Berry** said that they are not aware of any studies done on this but they will get more information to the committee.

## BREAK

### MONTANA MEDICAL MARIJUANA ACT

#### State Regulatory Issues

- **Jeff Buska, Administrator, Quality Assurance Division, DPHHS**
- **Dr. Dean Center, Montana Board of Medical Examiners**
- **Ronald Klein, Executive Director, Montana Board of Pharmacy**

01:49:42 Jeff Buska said that Quality Assurance Division is charged with maintaining the registry of the Medical Marijuana Program. Mr. Buska distributed a report on the Registry Program (**Exhibit 24**) and discussed the process of the applications for registry identification cards by medical marijuana users. He said that additional information for the medical marijuana program can be found on the Quality Assurance Division website.

01:56:12 Dr. Dean Center provided written comments from the Board of Medical Examiners on the issue of recommending and monitoring the use of marijuana for medical reasons (**Exhibit 25**).

02:05:50 Ronald Klein said that by federal law, marijuana and tetrahydrocannabinoids (THC) are Schedule 1 Controlled Substances and are listed as hallucinogenic substances, and therefore, pharmacies and pharmacists in the state cannot have the product in their possession as it is considered to be contraband. It is the opinion of the Board of Pharmacy that hospitals and other institutions need to develop and adopt policies and procedures for patients who bring medical marijuana with them when admitted. Policies also need to be established to document the use of this product in patient charts so that attending practitioners can make appropriate prescribing decisions.

#### Questions

02:08:54 SEN. BROWN asked Dr. Center if he knows how many of the screening clinics are doing the screening by teleconference or by videoconferencing? **Dr. Center** said the videoconference method is relatively new. **Jean Branscum, Executive Director, Board of Medical Examiners**, agreed. There is only one clinic environment that that is being utilized for.

02:10:54 SEN. SCHMIDT asked Mr. Buska when he mentioned the description debilitating

condition, is this more in detail than other states? **Mr. Buska** said no, he is not aware of that.

SEN. SCHMIDT asked if it is unusual to identify a caregiver on the application form? **Mr. Buska** said that he doesn't know if that is unusual or related to other states, he just knows that other states make referrals to dispensaries. Montana law allows a caregiver to be named by the patient and that caregiver is only allowed to provide marijuana to their named patients.

SEN. SCHMIDT asked why there is such a huge increase in applications from December 2009 to now. **Mr. Buska** said that a lot of it is based on a growing awareness of the program because of press coverage. Part of the increase also is related to the clinics that have been put on by various caregivers.

02:12:45 SEN. SHOCKLEY asked Dr. Center if a physician ultimately signs the applications. **Dr. Center** said that was true.

SEN. SHOCKLEY said that after reading the law it appears that providing certifications without an in-person exam would be practicing medicine without a license. **Dr. Center** said that in the cases that they knew of, the physician is certifying the patient. In the mass screenings done in person, the patients are brought to the physician, the physician does whatever he is able to do in that setting, and then signs the card. The physician is involved.

SEN. SHOCKLEY said the statute requires reviewing medical records of the patient and that obviously isn't happening in the circumstances Dr. Center is describing. **Dr. Center** said that he had the same thought.

#### **LAW ENFORCEMENT ISSUES**

- **Mark Long, Narcotics Bureau Chief, Montana Department of Justice**
- **Kevin Myhre, Chief of Police, Lewistown, Montana**
- **Annalivia Harris, Montana Forensic Science Division**

02:14:53 Mark Long talked about the statewide issues that law enforcement is encountering: location of caregivers; compliance on the number of plants grown; no regulatory guidelines for inspection for fire, health, and safety issues; no provisions in statute that regulates how much can be used by patients; marijuana making it into the illegal use market; requiring that the patient carry their card at all times; and the issue of people driving who have been using.

02:21:28 Kevin Myhre said that small towns across the state are dealing with issues with

regard to law enforcement, not only Montana laws but also local ordinances and other types of enforcement codes. Mr. Myhre talked about the difficulties of prosecuting cases because of the affirmative defense contained in the law.

02:29:50 Annalivia Harris provided written comments (**Exhibit 26**) on the Crime Lab's perspective on marijuana being used for medical purposes and the problems that the Medical Marijuana Act has presented.

### **Questions**

02:35:14 REP. MENAHAN said that the Medical Marijuana Act provides that minors can be a medical marijuana card holder, and as a result, juveniles on probation can be in possession of marijuana. **Mr. Long** said that that is common across the state that people who are on probation or parole have registry cards and are allowed to use medical marijuana while on probation or parole. **Ron Alsbury, Department of Corrections, Probation and Parole**, said that the statute allows that no one can be punished or incarcerated for having a medical marijuana card.

02:39:38 SEN. LAIBLE asked Mr. Long if he knew how many pounds of marijuana are being produced within the state or shipped to Montana from other locations? **Mr. Long** said that he could not guess because there are too many variables.

02:40:18 SEN. LAIBLE asked how that information could be obtained. **Mr. Long** said that he doesn't know that either.

### **COMMUNITY ISSUES**

- **Jim Santoro, Great Falls City Attorney**
- **Greg Sullivan, Bozeman City Attorney**
- **Joe Brott, Director of Policy Services, Montana School Board Association**
- **Aaron Bouschor, Staff Attorney, Montana School Board Association**

02:43:08 Jim Santoro gave background information about the issues that Great Falls will be hearing at their May 2010 public hearing. He distributed a packet containing information (**Exhibit 27**) on his concerns with the medical marijuana law and its impact to Great Falls.

02:50:51 Greg Sullivan discussed and distributed the methods and techniques that the city of Bozeman is using to address their concerns (**Exhibit 28**).

02:54:57 Aaron Bouschor said that the Montana School Boards Association (SBA) has received numerous comments, questions, and concerns from school districts about medical marijuana as it relates to students and employees. They have



been advising school districts, based on that federal law, that no one can legally possess marijuana on school district property. He provided handwritten notes on his presentation to staff (**Exhibit 29**).

02:58:34 Joe Brott said that the School Board Association has received numerous calls from school administrators and board chairs regarding how to handle the medical marijuana situation. He provided to the committee his written notes on his discussion and concerns (**Exhibit 30**).

#### **MEDICAL MARIJUANA BUSINESS REPRESENTATIVES**

- **Tom Daubert, Patients and Families United**
- **Jim Gingery, Executive Director, Montana Medical Growers Association**
- **Jason Christ, Montana Caregivers Network**

03:11:02 Jason Christ gave a presentation on his reasons for the use of medical marijuana and also provided information about the Montana Caregivers Network (**Exhibit 31**).

03:21:11 Jim Gingery gave a presentation on the Montana Medical Growers Association. He discussed the issues that the MMGA has been addressing with their membership and with a number of communities around the state.

03:25:50 Tom Daubert said that he is a caregiver and a partner in a cooperative called Montana Cannabis, which serves registered legal patients statewide. Mr. Daubert talked about the legislation that he has supported. He said that he and others agree that the Medical Marijuana Act is in serious need of sideboards and clarity.

#### **Questions**

03:34:40 SEN. SHOCKLEY asked Mr. Gingery if he or his members would object to a registration of all sites, a list of all patients who they are serving, the physician who prescribed the medical marijuana, and records of all transactions with that patient. **Mr. Gingery** said that one of the reasons why caregivers keep their facilities private are for security reasons. In response to a request of a list of patients, there is the patient confidentiality issue. In response to knowing the physician that prescribes marijuana, Mr. Gingery said he had no issue with that.

03:37:39 SEN. ESP asked if a caregiver can be sued for malpractice? **Mr. Christ** said that under Title 37, chapter 3, the practice of medicine doesn't occur here. It is a recommendation.

03:38:31 SEN. ESP asked Mr. Gingery how much money do caregivers make? **Mr.**

**Gingery** said that the business of a caregiver is not as easy as people think. It is a lengthy process and expensive to get into, particularly for caregivers with larger facilities.

### Public Comment

- 03:45:03 **TayIn Lang, General Manager, Zoo Mountain Natural Care, Missoula**, submitted a copy of a presentation that he gave in Missoula regarding the economic impact of medical cannabis in our state and local economies (**Exhibit 32**). He feels that this law is a benevolent law and does provide many opportunities for increased quality of life.
- 03:46:14 **Kay Parmiter, Missoula**, submitted written comments (**Exhibit 33**) and does not support the use of medical marijuana.
- 03:50:30 **Rick Rosio, Montana Pain Management, Missoula**, said that they are in compliance with the guidelines of growing medical marijuana and prescribing it to patients. He said he is here to ask the committee to take the time to visit his facility.
- 03:52:49 **Rosemary Habib, Analytical Chemist**, said that as a chemist she provides caregivers and patients a way to quantify the dosage of their medicine. Her service is not protected under Montana law. She urged the committee, that as they begin to draft more comprehensive legislation, to consider the contributions that other professionals can make towards improving the lives of medical marijuana patients.
- 03:54:18 **Donald Harr, Neuropsychiatrist, Billings, and Legislative Representative of the Montana Psychiatric Association**, provided written comments (**Exhibit 34**) to the committee, and said that the Medical Association and the Montana Psychiatric Association initially opposed the initiative because they foresaw the probable serious consequences of it. In addition to his handout were written comments from Dr. Nicholas Pace, New York University.
- 03:57:15 **Mark Gibbons, Rocky Mountain Medical Marijuana Cultivators, Butte**, wanted to make sure that the committee remembered that these people who are obtaining cards are people who believe that medical marijuana helps them.
- 03:59:06 **Mike Foster, Catholic Hospitals of Montana**, suggested that the committee make several changes to clarify the law as it relates to health care facilities.

- 04:00:52 **Leah Heffelfinger, student**, commented that she is opposed to the use of medical marijuana.
- 04:02:51 **Douglas Crosby, college graduate and a medical marijuana patient**, said that the use of marijuana for medical reasons has helped him function without the use of traditional medicine. He does not believe that marijuana is addictive.
- 04:05:13 **Katrina Farnum, Garden Mother Herbs, LLC, Missoula**, said that medical marijuana is not the one and only answer. She would like to look at ingestibles.
- 04:07:17 **Barbara Trego, medical marijuana patient**, said that being a medical marijuana patient has helped the quality of her life.
- 04:08:52 **Carl George DeBelly, Jr., attorney**, said that he advises and represents caregivers and patients that have been charged or want to comply with laws. He believes that the committee should address the interplay between 50-46-201, 1 ounce possession limits, and 50-46-206, reasonable supply limits to maintain the uninterrupted supplies.
- 04:10:26 **Lewis Smith, Powell County Attorney**, provided written comments (**Exhibit 35**) to the committee.
- 04:11:43 **John Masterson, Montana Norml, Missoula**, said that at the core of the medical marijuana conundrum is a problem that the committee can't solve because there is no objective definition of legitimate medical use. He distributed his solution "Getting Past Medical" (**Exhibit 36**) to the committee.
- 04:13:38 **Wendy Gwinner, LCSW, Cancer Center, Bozeman**, said that she takes care of cancer patients and administers medical marijuana to them. She encouraged the committee to look at the application process.
- 04:15:14 **Mike Ruppert, CEO, Boyd Andrew Community Services, Helena, and President of Montana Addiction Service Provider Organization**, talked about the problems that they are experiencing with their chronic cannabis dependent people and with staff who are under the influence while on the job. He said that there needs to be laws to tighten those kinds of loopholes and laws to determine what his obligations and responsibilities are as an employer.
- 04:16:49 **Scott Karabler, caregiver**, talked about how marijuana has helped his patients. He said that it is important that medical marijuana stays intact. He said that the law as it exists now is ambiguous and doesn't provide protection for caregivers to

maintain quality product throughout its life cycle before delivery to patients.

04:18:30 **Nicole Harrington, a patient**, first pointed out that she does not prefer to smoke or ingest but there are other remedies of marijuana use that will help her with her back problem.

04:19:17 **David Max, Missoula Ethical Caregivers Association, Missoula**, provided written comments from the Missoula Ethical Caregivers Association (**Exhibit 37**) focusing on the sustainability of growing marijuana. He feels that this is a state's right issue and an opportunity for the state to assert itself.

04:21:06 **Sam Etinger** talked about him observing "zoo" clinics. There are a lot of bad apples, don't let bad apples affect the decisions on medical marijuana.

## **BREAK**

### **Discussion on HB 130 - Sen. John Esp**

05:29:01 SEN. ESP talked about the concept of House Bill 130. He feels that if communities build community services to take of the mental health population that they have and take care of the people in their town, then the state should reward those communities for doing that. He explained the reasons for his amendment to HB 130. He suggested that the committee think about making the sliding scale that was in his amendment broader.

## **DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES OVERSIGHT - Anna Whiting Sorrell, Director**

05:34:29 Ms. Whiting Sorrell gave an overview of the activities of the DPHHS:

### **Budget Reductions**

Ms. Whiting Sorrell gave a presentation on the 5% trigger cuts that are being made to the Department.

### **Questions**

05:49:10 REP. CAFERRO said that the Legislative Finance Committee had written a letter to Governor Schweitzer regarding the FMAP Enhancement Extension and in that letter it said "in the event that that extension does happen, we would like to see at least in part some of that extension committed to the 5% cuts." Rep. Caferro asked if Ms. Whiting Sorrell could tell her if that recommendation was taken into consideration in the Department's budget-planning process. **Ms. Whiting Sorrell**

said that because it is still moving through, the Governor cannot appropriate funds so they can only move within what is appropriated.

- 05:51:31 REP. CAFERRO asked whether the ongoing budget talks include extension of the FMAP Enhancement. **Ms. Whiting Sorrell** said that it does not because we don't have any indication of what that is going to look like.
- 05:53:05 REP. SANDS asked how the federal health care reform requirement for maintenance of effort affects the prospective cuts that are going to be required in the Department from general fund to make whatever goals that are going to be set for this next budget? **Ms. Whiting Sorrell** said that it is going to make those cuts even more difficult because they are required to maintain current eligibility levels for Medicaid and CHIP.
- 05:56:35 **Healthy Montana Kids and other Programs**  
Ms. Whiting Sorrell distributed information on Healthy Montana Kids (HMK) **(Exhibit 38)** that showed current enrollment, the number of applications received for the program, an update on the phase-in of employees, charts on the SNAP program, Medicaid, and the TANF program.
- Questions**
- 06:02:19 SEN. KAUFMANN said that the numbers shown are flat, and given the economic circumstances, those numbers should be increasing. She asked for clarification on that. **Linda Snedigar, Human and Community Services Division Administrator**, said that if you look at the Office of Public Assistance application, it shows that in May of 2008, they were at 4,284. They have gone up in March 2010, to 7,110 total applications. It looks flatter on the chart than it is in actual numbers.
- 06:04:46 SEN. KAUFMANN said that this is about the number of applications, not the number of people that you are providing services for. So, you are maintaining a lot of the current population rather than having people go off and that is what is leading to increased caseload. **Ms. Snedigar** said that every application represents 2.1 to 2.5 depending upon the program, with the exception of adult Medicaid.
- 06:06:25 **Medicaid - Mary Dalton, Medicaid and Health Services Branch Manager**  
Ms. Dalton distributed and discussed the charts on monthly enrollment in Medicaid **(Exhibit 39)**.
- 06:06:58 **HIFA Waiver - Mary Dalton**

Ms. Dalton said that the HIFA Waiver is on hold at the Department's request so that they can review the health care reform bill and then decide whether to proceed or not. The piece of the HIFA Waiver that is left would put the people that are on the Mental Health Services Plan into a Medicaid Waiver.

06:10:49 **Family Planning Waiver - Mary Dalton**

Ms. Dalton discussed the status of the Family Planning Waiver.

06:11:38 **Senate Bill 399 Report - Mary Dalton**

Ms. Dalton said that SB 399 required a six-month report to the committee on out-of-state placements for children with multi-agency needs (**Exhibit 40**). Ms. Dalton also discussed the question that was raised about the differences between certified and licensed out-of-state facilities. In order to participate in Medicaid, a facility must be both licensed and certified.

**Questions**

06:17:21 SEN. SCHMIDT asked about the two new PRTF waiver sites that will be opened.

**Ms. Dalton** explained that these are the community-based alternatives to try to serve children in their communities.

06:18:30 REP. SANDS asked about the reduction in the out of state number of days from 300 to 150 by a more aggressive utilization management. **Ms. Dalton** said the Department wants a child who has to go out of state to be there the least amount of time possible.

**Update on Backlog on the OPA System - Anna Whiting Sorrell**

06:25:31 Ms. Whiting Sorrell said that the Department authorized additional overtime to deal with the backlog situation at offices of public assistance.

**Questions**

06:27:49 REP. CAFERRO asked about a family's specific situation involving a deadline date in applying for food stamps. **Ms. Snedigar** explained the policy for submitting applications.

**Public Comment**

06:35:18 **Anita Roessmann, Disability Rights Montana**, commented on a case she had about placement of a child out of state. She talked about Disability Rights Montana's efforts to create an advance directive law for mental health in Montana.

06:42:43 **Donald Harr, Billings**, commented that he agrees with the comments that Sen. Esp and Director Whiting Sorrell brought out in regard to the stress that many of the staff members are under.

06:44:05 **Christina Davis, Children's Defense Fund for Montana**, commented that she agrees with Rep. Caferro regarding the waiting time for TANF. She said that the Defense Fund is trying to work with the Department. They provide a free anonymous Internet program called Bridge to Benefits that screens and lists all programs that someone may qualify for.

06:45:58 **Barbara Schneeman, RiverStone Health, Billings**, said that RiverStone Health, Billings Clinic, St. Vincent Health Care, and the Mental Health Center have jointly gone in to fund the Community Crisis Center along with funding from HB 130. She gave an update on how that funding has helped the Center.

## **BREAK**

### **COMMITTEE WORK SESSION**

#### **SJR 35 Study of Health Care**

06:59:57 Ms. O'Connell said that it would be helpful to staff if the committee could determine those areas that it wishes to pursue because of the federal health care bill. Ms. O'Connell said that suggestions from the obesity panel were distributed and the committee may want to consider those suggestions.

#### **Health Insurance Exchange Discussion**

The committee discussed looking at the exchange program that is being done by Utah and maybe examining what the state of Massachusetts is doing. There was discussion that the Legislature and the State Auditor's Office may want to work together in proposing some legislation for an exchange program. It was also the consensus of the committee that the State Auditor's Office has jurisdiction over this.

07:14:53 REP. SANDS suggested that a presentation on what other states are doing specific to the health insurance exchange be on the agenda for the June 28 meeting.

#### **Motion by Sen. Laible to have a presentation on exchange programs from Utah and Massachusetts**

07:17:41 SEN. LAIBLE **moved** to have staff proceed with contacting both Utah and Massachusetts and see if they would be willing to make a presentation either in person or electronically on health insurance exchanges The motion **passed** with Rep. Sands voting no because she felt that no money should be spent bringing in someone from the two states to give a presentation.

**Amended Motion by Sen. Laible that the presentations will not be a cost to the committee**

07:22:09 SEN. LAIBLE **amended** his motion to say that the presentation on health exchange programs be given electronically or in any way that would not be a cost to the state of Montana. The amended motion **passed** unanimously.

**Motion by Sen. Brown to streamline regulatory hurdles for primary care physicians**

07:22:59 SEN. BROWN **moved** that staff draft legislation to streamline regulatory hurdles that are causing delays in getting primary care physicians employed. The motion **passed**.

**Motion by Sen. Brown for draft legislation on defensive medicine costs and safe harbor legislation**

07:28:21 SEN. BROWN **moved** for staff to draft safe harbor legislation and to contact presenters and plaintiff's attorneys to come together to make sure everyone is on board. After a discussion by the committee that they need more information on this issue before suggesting any legislation, SEN. BROWN **withdrew** his motion.

**Motion by Sen. Laible for a letter from the CFHHS committee to the Board of Public Education regarding issues of obesity and nutrition in school age children**

07:34:24 SEN. LAIBLE **moved** to have staff write a letter from the committee to the Board of Public Education saying that the committee supports addressing the issues of obesity in terms of exercise and nutrition. The motion **passed** with Sen. Brown voting nay.

**Motion by Rep. Sands to have the proper licensing boards collect adequate data related to primary care providers**



07:38:25 REP. SANDS **moved** that a letter from the committee be written to the Department of Labor and Industry asking that appropriate licensing boards collect data relative to primary care providers. The motion **passed** with Rep. Caferro voting nay.

### **SJR 39 STUDY OF COMMUNITY SERVICES**

07:41:27 Ms. O'Connell said that the HJR 39 White Paper contained draft recommendations and suggested that the committee could accept or revise those recommendations or decide to continue the study beyond the report that they received.

#### **Motion by Sen. Kaufmann to have the DPHHS consider the recommendations contained in HJR 39 White Paper**

07:45:03 Sen. Kaufmann **moved** that the recommendations contained in the HJR 39 White Paper be recommended to DPHHS for consideration into their operational practices. The motion **passed** unanimously.

### **COMMITTEE BILL DRAFT ON LC 65**

07:46:10 Ms. O'Connell said that this bill draft changes the word "commitments" to "admissions" in the HB 130 formula for distributing grant funds.

#### **A motion was made to approve LC 65.**

#### **Discussion**

07:46:36 There was a discussion on the intent of HB 130 and how LC 65 was drafted to keep from using the words "admissions" and "commitments" interchangeably. Ms. O'Connell said the goal of HB 130 was to reduce the number of people who are admitted to the State Hospital, sometimes only for short periods. The question is, was this intended to reward existing programs or was it created in the hopes that more communities would develop these alternatives to commitment and to have more community-based services. Sen. Esp suggested an expansion of this bill draft to include those issues.

#### **Substitute Motion by Sen. Brown to address additional issues**

07:51:59 SEN. BROWN **moved** for a substitute motion to not only address the issue of changing the word "commitments" to "admissions" but also direct staff to work

with Sen. Esp and have additional language to solve that problem.

### **Discussion**

07:52:35 There was a discussion regarding what the language in the bill would look like and that there may not be the grant money available in the next budget. Sen. Esp said that the money is in the base and there will have to be a proposal to pull it out. It was clear that the last Legislature had a strong commitment by passing the three bills. It was suggested keeping LC 65 as it is and having another bill draft for the change Sen. Esp was proposing to keep the two issues separate.

07:54:17 SEN. BROWN **withdrew** his substitute motion.

07:54:38 **The motion to approve LC 65 passed.**

### **Motion by Sen. Laible for a bill draft to have communities develop alternatives to commitment and to develop community-based services**

07:54:50 SEN. LAIBLE **moved** to direct staff to work with Sen. Esp on a bill draft to develop alternatives to commitments and community-based services. The motion **passed** unanimously.

### **MEDICAL MARIJUANA ISSUES**

07:57:54 REP. SANDS said that what would be helpful to move this issue forward is to ask that staff talk to different agencies that came here that have jurisdiction for various pieces of the law and ask them to provide written suggestions on changes to the law. Also, staff could meet with a coalition of the leadership of some of the providers and some of the other agencies on issues around regulations for doctors, caregivers, and patients to see if there is some consensus for changes.

SEN. SHOCKLEY talked about the issue of caregivers telling law enforcement about their business and having a registration of some sort of grow operations, patient information, amount distributed and used, as well as other issues of legality.

08:00:04 There was a discussion on who will be involved in the working group. Ms. O'Connell wanted to know if there were any issues heard today that were of no interest to the committee, or did the committee want to look at the various topics that were covered by the panelists and the people who provided public comment. Sen. Laible said that a high priority of the study group should be finding out who

is growing and where the crop is being grown. Rep. Caferro thinks of that as tracking, regulation, and inspection. Sen. Schmidt felt that the issues brought up by law enforcement and attorneys should be discussed.

## **ADJOURNMENT**

08:14:05 With no further business before the committee, Rep. Sands adjourned the meeting at 2:20 p.m. The next meeting date is set for June 28, 2010.

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