



Children, Families, Health, and Human Services Interim Committee

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60th Montana Legislature

SENATE MEMBERS

CAROL JUNEAU
RICK LAIBLE
TERRY MURPHY
DAN WEINBERG

HOUSE MEMBERS

EDITH CLARK
ERNIE DUTTON
TERESA HENRY
DIANE SANDS

COMMITTEE STAFF

SUE O'CONNELL, Lead Staff
LISA JACKSON, Staff Attorney
FONG HOM, Secretary
PAT MURDO, Staff for SJR 15

MINUTES

August 22, 2008

Room 102, 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

SEN. CAROL JUNEAU
SEN. RICK LAIBLE
SEN. TERRY MURPHY
SEN. DAN WEINBERG

REP. EDITH CLARK
REP. ERNIE DUTTON
REP. TERESA HENRY
REP. DIANE SANDS

STAFF PRESENT

SUE O'CONNELL, Lead Staff
LISA JACKSON, Staff Attorney
FONG HOM, Secretary
PAT MURDO, Staff for SJR 15

Visitors and Agenda

Visitors' list, Attachment 1
Agenda, Attachment 2

COMMITTEE ACTION

- Staff will draft a letter to the State Auditor's Office, ambulatory surgical centers, community health centers, licensing boards, and insurance companies asking that they cooperate with the Montana Hospital Associations regarding their pricing websites.
- The committee approved drafting of a resolution regarding the process of disclosure and pricing information and report back to the next interim's committee.
- Staff will draft legislation for one-time-only funding for HealthShare Montana.
- Staff will draft legislation for a joint resolution to fund and support HealthShare Montana.
- LC 0038 will be changed to become LC 8882, LC 8883, and LC 8885. Staff will draft LC 8882, LC 8883, and LC 8885 as proposed legislation.
- The committee accepted the Emergency Medical Services' proposed legislation.
- Letters will be sent to DPHHS and the Department of Labor and Industry responding to the audit performance relative to EMS.

CALL TO ORDER AND ROLL CALL

00:00:02 REP. CLARK reconvened the Children and Families Interim Committee meeting at 8:04 a.m.

AGENDA

ADMINISTRATIVE RULE REVIEW - Lisa Mecklenberg Jackson, Staff Attorney, LSD

00:00:30 Ms. Mecklenberg Jackson gave a presentation on Administrative Rule activity **(Exhibit 1)**.

Questions

00:06:44 REP. DUTTON asked why would the POLST forms accompany patients when the DNR forms that currently exist don't. Ms. Jackson said there is some discussion in the actual rule proposal and she will look at that more closely and get back to Rep. Dutton on that.

SJR 15 STUDY: HEALTH CARE DELIVERY SYSTEM

00:07:52 **Dick Brown, President, Montana Hospitals Association, an Association of Montana Health Care Providers**, gave an introduction to MHA Hospital Pricing website that is under construction.

00:08:52 **Demonstration of MHA Hospital Pricing Website**
Bob Olsen, Vice President, MHA, gave a presentation on the MHA website **(Exhibit 2)**.

Questions

00:29:49 REP. SANDS asked Mr. Olsen how the issue of charity care for hospitals is addressed on the MHA webpage. Mr. Olsen said if a person has concerns about being able to pay for their care, there is a link to find out about discount policies, policies on charity care and the right hospital staff to access that information.

00:31:17 SEN. WEINBERG asked if Mr. Olsen has talked to the Insurance Commissioner about getting a list of insurers. Mr. Olsen said that they have not approached the current Commissioner to talk about a list.

SEN. WEINBERG asked if the Ambulatory Surgical Centers (ASCs) are listed on the website? Mr. Olsen said that they have invited the ASCs to be on their website and to post their prices but at the present time, they have, through their affiliated hospitals, declined that invitation.

SEN. WEINBERG asked if there are any community hospitals refusing to participate? Mr. Olsen said that they do not have any community hospitals refusing to participate. Those facilities who do not participate don't participate because of the limitations on their ability to generate the data.

SEN. JUNEAU commented that she liked the webpage. She said that many Montanans do not have health insurance and it might be a good idea to have a link with a title of How to Find Access if You Don't Have Health Insurance so that people without health insurance can get their questions about access to healthcare answered. She also asked if there was a link for veterans so that they know where to get access to healthcare.

SEN. JUNEAU asked if Indian Health Services are a part of the webpage. Mr. Olsen said that Indian Health Service facilities do not produce pricing information since they are not funded the same way hospitals are.

SEN. WEINBERG asked if a suicide prevention number was considered, and if not, he would like that number to be put on the webpage.

REP. CLARK asked what is being done to educate the public about the website. Mr. Olsen said that they will be advertising through print media, radio spots, PSAs. They have contacted the major insurance companies, who said they are willing to promote the website on their "explanations of benefits" and also in their

direct mailing.

01:09:17 **Pricing Transparency: Related Considerations - Pat Murdo, Lead Researcher for the Study, LSD**

Ms. Murdo gave a presentation on Health Care Facility Pricing/Quality and Insurance Information **(Exhibit 3)**.

01:19:46 **HealthShare Montana Update - Mike Foster and Dr. William Reiter**

Mr. Foster talked about the earmark of \$750,000 requested from the Labor/HHS appropriations bill for the HealthShare Montana Project. He requested that the committee consider two bills. The first would be a resolution that would simply state the committee's support for the project and the support for funding the start up costs. The second bill would be a funding bill offered in case Governor Schweitzer does not include funding for HealthShare Montana Project in his proposed budget.

01:22:45 **Dr. William Reiter** gave an update on HealthShare Montana's privacy and security work group's activities. The intent of the work group is to have a report at the end of the year so the policies can be established prior to any potential legislation. He said that much of the model for HealthShare Montana has been based upon what Community Hospital of Anaconda and others have developed with federal funding to date. They received two additional grants totaling \$700,000 with a third that would bring the total to \$800,000 serving Community Hospital and its partners in Granite County, McCone County, and Prairie County.

Questions

01:27:48 SEN. LAIBLE asked if Mr. Foster has talked to the Governor's Budget Office on where the Governor might be on this issue. He asked if it wouldn't be in HealthShare Montana's best interest to having funding included in HB 2. Mr. Foster said that they have had some positive discussions with the Administration about that, but at this point, the Administration is unwilling to commit or comment on its budget. So HealthShare Montana cannot count on its funding being in the budget.

REP. DUTTON asked if there has been any development in a pharmaceutical database. Dr. Reiter said that there has been some significant development in that area and they have been able to link electronically, the prescribing database to the dockside database.

Lending and Collection Practices at Montana's Largest Hospitals - Pat Murdo, Lead Researcher for the Study

01:36:56 Ms. Murdo gave a presentation on the lending and collection practices of hospitals (**Exhibit 4**).

Public Comment on Pricing and HealthShare Montana

01:40:22 **Frank Cote, Senior Director of Government Relations, Blue Cross Blue Shield (BCBS)**, congratulated the Montana Hospital Association for their hard work on the transparency issue, and congratulated Mike Foster and Rep. Clark for their work on the Transparency Committee of the Health Care Forum. As far as BCBS is concerned, Mr. Cote said that they are trying to work it out so that before you go to a doctor, you can look online and figure out how much your out-of-pocket expense will be.

Motions

01:44:09 **Sen. Weinberg moved that the Committee draft a letter asking certain people and institutions to cooperate with MHA regarding their pricing website: State Auditor's Office, Ambulatory Surgical Centers, community health centers, licensing boards with information that is helpful but appropriate to the public, and insurance companies. The motion passed.**

01:45:42 **Sen. Laible moved for a resolution for those individuals and entities that are involved in the process of disclosure and providing pricing information for patients to report back to the next interim committee to assess how the process is working, to look for ways that the Legislature can assist with moving this process forward, and to instruct members of the next interim committee to continue to support HealthShare Montana. The motion passed.**

01:47:32 **Sen. Laible moved for draft legislation for one-time-only funding for HealthShare Montana at \$1.5 million or less if federal funding comes through. The motion passed with Sen. Juneau voting nay.**

01:55:44 **Rep. Sands moved to send a letter to Sen. Baucus and Sen. Tester thanking them for their support prioritizing their search for federal funding. The motion passed.**

01:57:18 **Sen. Laible moved to send a letter to the Florida Hospital Association thanking them for their help on the MHA website. The motion passed.**

01:58:13 **Sen. Laible moved for a joint resolution to fund and support HealthShare Montana. The motion passed.**

BREAK

02:11:40 **Prescription Drug Monitoring Proposal - Ron Klein, Board of Pharmacy**
Mr. Klein gave a presentation on proposed legislation to establish a Prescription Monitoring Plan (PMP) in Montana. The legislation includes:

- privacy protections and strict confidentiality of data;
- a provision providing information and feedback to prescribers, pharmacists, and the public; and
- early detection of sophisticated scams, doctor shopping, and prescription forgery.

02:23:21 **LC0038: Economic Credentialing - Pat Murdo, Lead Researcher, LSD**
Ms. Murdo provided an explanation of the changes to LC0038 (**Exhibit 5**).

02:42:41 Both Sen. Weinberg and Rep. Dutton commented on the process that they went through regarding economic credentialing. Sen. Weinberg told the committee that he appreciated not only the work that Ms. Murdo and Rep. Dutton had done on the economic credentialing but he also appreciated hearing from the Montana Hospital Association, the hospital administrators, the physicians, and the other specialists who sat at the table and worked hard. There was a lot of disagreement but, in retrospect, everybody at the table did their best to represent what they thought was right. Sen. Weinberg said that his basic philosophy is that hospitals in Montana, for the most part, are non-profit organizations. Hospitals are community-based, and with that foundation, Sen. Weinberg said that he sees hospitals having certain responsibilities to their communities to be fair, to be open, to be transparent, and to be helpful. He believes that this legislation helps the hospitals to do that.

Rep. Dutton said that he also would like to thank all the participants who were willing to give of their time and to voice their opinions. He said that his philosophy is a free market philosophy, but it is obvious that competition in health care is

going away. Hospitals are being encouraged by Medicare and Medicaid and others to consolidate services. He said that the question now being asked is how can we protect the consumer. Rep. Dutton said that the committee did the best job they could with the time that they had and, in the end, they came up with a product that is beneficial and deserves to go forward.

02:53:37

Committee comments on the unofficial bill draft

Ms. Murdo said that LC0038 can be split into different bills in case the committee wanted to move in that direction.

SEN. WEINBERG said that he wanted to consider this as one bill, LC0038 but felt that the legislator who becomes the sponsor should have some input into whether this is presented as separate bills or one bill.

SEN. LAIBLE said that his concern is that they have a bill that they can pass. He said that he is leaning towards splitting LC0038 up and having something that is manageable.

REP. DUTTON said that his instinct would be to split it up as well, that there are different sections that have different degrees of difficulty and complexity and might be more cumbersome in terms of trying to get it passed. He said that he wants to make sure that the sunset in economic credentialing goes away.

03:07:32

Explanation of LC8882, LC8883, LC8884, and LC8885 - Pat Murdo, Lead Researcher, LSD

Ms. Murdo described how LC0038 had been tentatively split into LC8882, LC8883, LC8884, and LC8885. She explained each one:

LC8885 (salmon colored) includes, from the current LC0038, sections 10, 11, and 12, plus the repealer, section 13. There is no codification, and it would still have an effective date on passage and approval.

REP. HENRY asked if that would be number 1? Ms. Murdo said yes, tentatively it is 8885, which she has down as the Economic Credentialing Revisions section.

LC8884 (purple version) would include disclosure and economic credentialing. Ms. Murdo said that LC8884 may not be needed because that has two issues.

LC8883 would include disclosure and primary responsibility, sections 1 and 2 from the current LC0038 version. There would be a codification and an effective date of October 1, which would allow people time to gear up.

LC8882 includes section 3, the kickback section, of LC0038 and section 5, the enforcement issue, plus sections 6, 7, 8 and 9. Ms. Murdo said that the effective date on LC8882 would be October 1.

PUBLIC COMMENT on LC0038

03:13:58 **Mary McCue, Montana Medical Association**, thanked the subcommittee for their work. Ms. McCue provided written testimony (**Exhibit 6**) in support of LC0038, as well as their concerns.

03:18:33 **Nicholas Wolter, CEO, Billings Clinic**, said that he does not favor physician-owned specialty hospitals. The referral issue and the pricing transparency in LC0038 would be extremely burdensome and confusing to their patients at the Billings Clinic. He said there is a problem in this country regarding health care. In 2015, the costs of health care nationally will be about \$4 trillion, which will be unaffordable because of other budget demands; i.e., defense, transportation, and education. Others are working on this. He described a need for closer work between physicians and hospitals. He also expressed concerns about the approach for physician's call.

03:26:37 **Bob Olsen, Vice President, MHA, an Association of Health Care Providers**, said that they appreciate the efforts of the working group. He said that the Association came to the table at the beginning of the process with issues that they support today: reasonable and meaningful disclosure for hospitals or physicians for ownership interest, fair credentialing for physicians, and allowing the hospitals to fulfill their fiduciary obligation. The Association considers LC0038 and the specialty hospital issue a work in process and that the work is not done because they have not yet reached an agreement. He said that the Association is willing to participate in perfecting that language to find a way to achieve their policy goals, which is to provide meaningful disclosure and a fair credentialing process for the physicians.

Written testimony from the Montana Hospital Association regarding LC0038 was distributed to the Committee (**Exhibit 7**).

- 03:32:06 **Jim McLean, Montana Physical Therapy Association**, provided written comments and suggestions regarding LC0038 (**Exhibit 8**).
- 03:33:37 **Dr. Tamim Khaliqi, Chief Medical Officer, Great Falls Clinic**, thanked the Committee for the work they have done. Dr. Khaliqi provided written comments regarding LC0038 (**Exhibit 9**).
- 03:37:04 **Mike Foster, Sisters of Charity Hospitals -- St. Vincent in Billings, St. James in Butte, and Holy Rosary in Miles City -- and Sisters of Providence Hospitals -- St. Patrick's Hospital in Missoula and St. Joseph in Polson**, provided copies of Senate Bill 312 [from the 2007 Session], the bill that brought them to the table for the committee's information, but he did not discuss SB 312. He said that it is with great respect that he comes before the Committee to say that they cannot support LC0038 in its current form, whether it is in one bill or many bills. They strongly support what MHA has put together. Their belief is that a physician with an ownership interest in a competing facility should not be allowed to serve on a hospital board of directors. On the issue of the leadership positions in a hospital, as long as the whole focus is on quality, they didn't think that was a problem for a physician with an ownership interest in another health care facility. He hopes that there will be a continuation of a respectful process from here through the end of the session.
- 03:40:56 SEN. WEINBERG said that the comments they have just heard are comments that they have heard before during the process of writing this legislation. In almost every item that has been brought up, they have compromised in trying to make it more fair for the conflicting parties. He said that this is good legislation. The conflicts that this legislation addresses are not conflicts that they have brought forward. These are conflicts that came up during the 2005 Legislative Session. They are conflicts that the hospitals and the doctors and others have, which have been going on for some time and are getting worse. As the hospitals were hiring more and more hospitalists to secure their position, independent doctors were looking towards more and more surgical centers to counteract. Sen. Weinberg said that this legislation is a result of conflicts that were brought to us. He respectfully asks for this committee's support in bringing these bills forward to the 2009 Session to help resolve these conflicts.
- 03:44:18 SEN. MURPHY said that the problems being discussed now were called to his attention during the campaign of 2006. It seemed to him that the problems would

require a two-page bill. Sen. Murphy said that without seeming critical, the committee has come up with a comprehensive, huge bill with which to deal with what seemed to be a couple of simple problems. He supports the idea of dividing the bill up, and he will vote to send the bill forward.

03:46:16 **Sen. Laible moved to split LC0038 into LC8882, LC8883 and LC8885. The motion passed.**

03:50:07 **Sen Laible moved to cancel LC0038. The motion passed.**

03:50:20 **Sen. Laible moved LC8882, LC8883, and LC8885 be drafted as committee bills. The motion passed.**

LUNCH

Specialty Hospitals - Pat Murdo, Research Analyst, LSD

04:57:07 Ms. Murdo said that the specialty hospital bill is still alive in Congress but without expectation that it will pass this year. Sen. Baucus has plans to bring this to Congress again next year. Because Congress is still working on it, the committee does not have a bill.

SJR 5 STUDY: EMERGENCY MEDICAL SERVICES - Sue O'Connell, Research Analyst

04:58:31 Ms. O'Connell gave a presentation on the changes in the EMS bill drafts:

- Revisions to Definition of Volunteer EMT (**Exhibit 10**)
- Revisions to Draft Legislation (**Exhibit 11**) regarding LCS5-1, LCS5-2, LSC5-3, LCS5-4, LCS5-5, and LCS5-6.

05:09:22 LC 117: Providing for evaluation of emergency medical service run reviews
Lisa Mecklenberg Jackson, Staff Attorney, gave an overview of LC 117 (**Exhibit 12**) and the changes that have been made to the bill.

05:11:27 LCS5-7: clarifying medical direction for emergency medical services and clarifying the handling of complaints
Ms. O'Connell discussed the two issues of LCS5-7 (**Exhibit 13**), clarifying medical direction and complaint handling issues as recommended in the legislative audit of the EMS system.

Ms. O'Connell provided copies of draft letters for the committee's consideration to

be sent to Joan Miles, DPHHS (**Exhibit 14**), and Keith Kelly, Labor Commissioner, Department of Labor and Industry (**Exhibit 15**) asking for each department to followup on the audit's recommendations that do not involve legislation.

COMMITTEE COMMENTS

05:20:08 REP. SANDS thanked Ms. O'Connell for her hard work on the EMS study. She said that the primary function of the study was to address the EMS issue in Montana, particularly in Montana's rural areas where there is a shortage and a pending crisis in terms of people who can provide emergency medical services. She said the study wanted to find ways to encourage the continuation of that basic safety net and infrastructure, not just now but in future generations. She said that we have addressed those issues with these various bills. She urged the committee and the public to support these bills.

05:20:44 REP. HENRY said that her ongoing concern has been to increase the number of emergency service providers in the field and in transport and that there is not an intent to have those service providers leave the field to work in hospitals.

PUBLIC COMMENT

05:21:42 **Jim DeTienne, EMS and Trauma Section of DPHHS**, commented on the bill drafts and gave some suggestions for changes:

- Substitute definition of nonemergency transport in LCS5-2, page 2
- Staffing in LCS5-2, page 3
- Number of hours available to respond to calls in LCS5-4, page 5
- Defining members on the grant review committee in LCS5-5, page 7
- The language regarding director of emergency medical services over an ambulance or a non-transporting unit in LCS5-7, page 5
- Definitions in LC 117

Mr. DeTienne thanked the committee for their work and said that he will let the EMS community know what was done in the committee.

05:34:48 **Sally Buckles, President of Montana Emergency Medical Services Association**, said that there has been a lot of work done on this issue and now it is up to the EMTs in the field to carry on with the work that the committee has done.

05:35:44 **Cliff Christian, American Heart Association and American Stroke Association**, thanked everyone for the work that was done and said that the committee's actions will save lives.

05:36:25 **Debbie Ogden, Emergency Medical Services Council, 911 Center**, thanked everyone for all the hard work and for the work that Ms. Mecklenberg Jackson did on the EMS Council Run Review proposal.

Motions

05:38:00 **REP. SANDS** moved that Emergency Medical Services' proposed legislation LCS5-1, LCS5-2, LSC5-3, LCS5-4, LCS5-5, LCS5-6, and LCS5-7 be drafted as committee bills, but staff noted that the definition of "online medical direction" would be included only if the term was used in the bill. The motion passed.

05:41:17 **REP. SANDS** move that committee authorize sending letters to Joan Miles, Director of DPHHS, and Keith Kelly, Labor Commissioner of Department of Labor and Industry, in response to the audit performance relative to Emergency Medical Services. The motion passed.

NO PUBLIC COMMENT

COMMITTEE WRAP-UP

05:44:02 Ms. O'Connell discussed the draft Children and Families Interim Committee Final Report (**Exhibit 16**).

05:51:53 Ms. Murdo discussed the draft report for SJR15 (**Exhibit 17**).

ASSIGNMENT OF SPONSORS FOR DRAFT LEGISLATION

05:57:49 Ms. O'Connell provided a list of proposed legislation that required sponsors (**Exhibit 18**) for the committee's consideration.

REP. SANDS moved to cancel LC 149. The motion passed.

Sen. Laible consented to sponsor the following: LC S5-1, LC S5-2, LC S5-3, LC S5-4, LC S5-5, LC S5-7, AND LC 117, and the resolution for ongoing reports to Children and Family Interim Committee on transparency issues.

Sen. Juneau consented to sponsor the following: LC 41, LC 42, LC 43, LC 148, and the resolution supporting HealthShare Montana.

Sen. Murphy consented to sponsor the following: LC8882, LC8883, LC8885, and the appropriation for HealthShare Montana.

It was decided that LC 150 be sent to State Administration and Veterans' Affairs Interim Committee for consideration so no committee sponsor was needed.

NEXT MEETING DATE

06:08:31 The next meeting is scheduled for October 14, 2008, to hear about any proposed bills regarding mental health.

ADJOURNMENT

06:15:43 REP. CLARK adjourned the meeting at 2:22 p.m.

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