



Children, Families, Health, and Human Services Interim Committee

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59th Montana Legislature

SENATE MEMBERS

TRUDI SCHMIDT--Chair
JOHN ESP
JERRY O'NEIL
DAN WEINBERG

HOUSE MEMBERS

BILL WARDEN--Vice Chair
EMELIE EATON
EVE FRANKLIN
DON ROBERTS

COMMITTEE STAFF

SUSAN FOX, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

MINUTES

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

June 8, 2006

Capitol Building, Room 137
Helena, Montana

COMMITTEE MEMBERS PRESENT

SEN. TRUDI SCHMIDT, Chair
REP. BILL WARDEN, Vice Chair

SEN. JOHN ESP
SEN. DAN WEINBERG

REP. EMELIE EATON
REP. EVE FRANKLIN
REP. DON ROBERTS

COMMITTEE MEMBERS EXCUSED

SEN. JERRY O'NEIL

STAFF PRESENT

SUSAN FOX, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

Visitors List and Agenda

Visitors' list (Attachment 1)
Agenda (Attachment 2)

COMMITTEE ACTION

- Minutes of March 30 and March 31, 2006 approved.
- Recommend a draft committee bill be prepared to modify statutes 53-21-129 and 53-21-129(2), MCA, as recommended by Mr. Tom Bartlett.

CALL TO ORDER AND ROLL CALL

SEN. TRUDI SCHMIDT, Presiding Officer, called the meeting to order at 8:30 a.m. Secretary took roll visually (Attachment 3). Sen. O'Neil and Rep. Franklin were absent. REP. ROBERTS moved to approve minutes of the March 30 and 31, 2006 meetings. The motion passed unanimously.

ADMINISTRATIVE RULE REVIEW ISSUES - David Niss, Staff Attorney

Mr. Niss said that DPHHS has adopted daycare licensure rules, the outpatient crisis response rules, and the youth foster home rules. He said that the Department did not adopt the proposed rules governing daycare facilities and centers for school age children. The Department did not adopt the rules that Andre Deligdish objected to. Mr. Niss said that rules concerning youth foster homes that this Committee suspended rulemaking proceedings on under objections from the majority of the committee members have now been adopted as law.

COMMENTS

SEN. SCHMIDT said that for the record, Andre Deligdish's daycare is a non-profit organization.

SUSAN FOX said that she wanted the Committee to know that Betsy Stimach has sent over copies of the Youth Foster Licensing Requirements in the format that they shared with the foster parents.

SUSAN FOX said that everyone received all of the different EPP proposals. If you have any questions on the proposals, the Department will be bringing them to the Committee in August. The Committee is responsible to hear the requests and submit a bill draft request for each bill. The bill then can read "By Request of DPHHS" and be preintroduced.

MONITORING DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

PUBLIC HEALTH LAW - Jane Smilie, Public Health and Safety Division

MS. SMILIE said that they have been reviewing the public health statutes and looking at how they can better reflect contemporary public health practices. Ms. Smilie provided a handout **(EXHIBIT 1)** to the Committee. Ms. Smilie said that they are interested in creating a public health legal infrastructure that reflects what is happening in the world today and current public health practices.

Ms. Smilie talked about their work with attorneys from Georgetown and Johns Hopkins who have drafted two pieces of model legislation: the Model Emergency Health Powers Act and the Model Public Health Statute. She said that they have looked at their public health statute in relation to the model legislation and they have been working with legal and medical and public health policy makers over the last couple of years and working through the statutes and trying to determine the key areas that they need to update. Some five key areas that they are looking at:

- 1) making title 50 describe the importance of public health and making a case that having a public health system is important in terms of keeping our population healthy.

Currently the statute goes back and forth and talks about health care access and policy issues and it is co-mingled with public health but there is really no statement that says public health is important. These are the core activities that it does and Montanans should have these services and protections.

- 2) looking at the major public basis powers of the state and local agency. Much of the language in our statute comes from the 30s and 40s and does not reflect necessarily what is happening in the world today. You will see archaic language directing us to remove all sources of filth that cause a disease. We can be more contemporary than that and we are concerned that when public health actions are undertaken, this language may or may not actually support us in the real world.
- 3) defining standards for condition of public health importance. Again this speaks to looking at current public health issues. Right now our statute speaks a great deal to hygiene and sanitation, and the words "chronic disease" are not mentioned in our statutes, so moving from disease specific. Another thing you will see is a layering of some very disease specific, communicable disease specific language. You will see TB, HIV, STB, various diseases that have been the history of public health. There are some specific provisions but there is not this broad definition, considering what is really important in our environment in our current world and addressing those conditions of public health importance.
- 4) looking at individual rights and due process guarantees. We know that the Montana Constitution guarantees due process but there is nothing exclusively spelled out in the statute that balances the police power of public health with due process and respect for individual rights. We are looking at what we can add there in case there is an event that someone feels that they have been injured or wronged by the public health system.
- 5) the ability of the public health system to respond and react in an emergency. We have been looking at Title 10, MCA, Department of Military Affairs, Disaster and Emergency Services and how our public health emergency planning and activities can and should mesh with theirs. We have been examining issues relating to the ability to license, for example, health care professionals who may come in to assist in an emergency and looking at liability protections in emergency for health care workers. We will continue to work with as many groups as we could to provide information about what we are doing and hear what people think. She said that they have been having video conference sessions with local public health agencies and have been inviting county commissioners and boards of health. They have visited with various MACo districts at their regional meetings. They were going to travel around the state with an attorney from DPHHS, do some similar meetings in the eastern part of the state in August ,and look forward to having a chance to hear what people think about what we are proposing.

QUESTIONS

REP. ROBERTS asked if Public Health was involved in tobacco use in bars. MS. SMILIE said that they have been able to balance people getting used to it and doing a lot of education. What

we learned from other states is that you don't have to be heavy handed about enforcement and people need a transition time.

REP. ROBERTS asked if Ms. Smilie has seen any economic impairment to some of the establishments from the enforcement of the rule. MS. SMILIE said that they have not assessed that yet. She said that they have seen some establishments that don't have to be smoke-free until 2009 that have voluntarily chosen to do that and they have had positive feedback that this has been a good thing.

SEN. SCHMIDT asked if the Committee could receive some information regarding the numbers of establishments that have gone smoke-free.

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES UPDATE - Joan Miles, John Chappuis, and Hank Hudson

JOAN MILES, Director, complimented the Public Health and Safety in the work that they have done in the Clean Indoor Air Act. The Department is seeing tremendous public support in many of the recent work that has been done and there is continued support for that Act and for tobacco prevention activities.

Ms. Miles said that the Department will not be able to pursue some of the projects that they would like to because of budget pressures due to federal cuts, federal costs shifting, mental health overcrowding at the State Hospital.

Ms. Miles said that the Department has always monitored some important indicators but they have significantly expanded what they do on a monthly basis as a result of some legislation by Sen. Cobb that the Legislature approved but was vetoed by the Governor; however, they do recognize and believe in tracking what they are doing in the Department so that they are able to present it in a manner that would help the Committee understand the policy implications and to see what the policy issues are so that the Committee will have those within their purview to address during the legislative session.

OFFICE OF BUDGET AND PROGRAM PLANNING - David Ewer, Executive Director

MR. EWER talked about issues he is looking at:

- Medicaid
- Mental health
- Managing I149, tobacco money

Mr. Ewer said that the Medicaid issue, without expanding benefits, puts a lot of pressure on Montana State Government, to stay even with what they have as far as a safety net. He said that the kinds of goods and services that Medicaid can pay for without changing or raising those benefits higher as far as new people coming in or more acuity, puts pressures on caseload and

pressures from the federal government. He said that they are getting two kinds of pressures from the federal government: the first is that as Montana gets closer to the average, the less the federal match is and DPHHS needs more general fund money to stay even; the second is the Federal Deficit Reduction Act, actual cuts that the federal government is imposing.

Mr. Ewer discussed the census situation at the State Hospital. (TAPE 1B) Mr. Ewer said that in August he authorized supplemental beds and they got zero beds. He said they have a very serious issue with mental health resources. He looked at accepting the pressures on Medicaid and needing to fund that, funding the backflow that the federal government is going to do to us, the cuts that are coming, and the growth in caseload.

Mr. Ewer said the challenge they face is how to accurately determine how much of that money is ongoing. He is convinced that experts are worried that much of it is one time money versus sustainable. The good news is that they are seeing more money than expected in the House Joint Revenue Resolutions. He said that this budget may look more austere in some ways than people might expect.

QUESTIONS

SEN. WEINBERG asked for an explanation of Mr. Ewer's statement that he authorized new beds and didn't get any. JOHN CHAPPUIS said that when Director Ewer authorized DPHHS to get beds, they called many psychiatric hospitals and they were already at capacity or over, or they did not have the capacity of psychiatrists to take on more cases. He said they worked with them to try to find other solutions and they are still working with the Department.

SEN. ESP asked Mr. Ewer if he had any proposals in the works that would motivate communities to work together to provide mental health crisis services. MR. EWER said that he does not have any proposals and that most of his attention has been site specific. One of the things they have thought about is bringing DPHHS and Department of Corrections together to deal with the mentally ill in a new way.

SEN. WEINBERG asked Mr. Ewer which is the most compelling of the two sources of revenue and should we worry about corporate tax bubble. MR. EWER said that we should worry about it. He said that our long term revenue growth is something on the line of 4.5%, and the kind of pressures we historically see for DPHHS and the Department of Corrections is over 5% DPHHS and 6% Corrections. He said that unless you are going to raise taxes so that you capture more revenue growth, it is going to be an issue.

SEN. SCHMIDT asked if Mr. Ewer could comment more on the relationship of AMDD to Department of Corrections. MR. EWER said that the Budget Office has laid out a philosophy about Corrections that they want to have a range of suitable control to protect public safety and at the same time have opportunities for people to give back to society. The proposal he

inherited was the only new decision package of any substance with respect to Corrections from the previous Administration and that was to add Shelby, and the legislature did not support that. He said that they are taking steps to try to address people with mental health issues.

SEN. SCHMIDT commented on a book she received from Dr. Mihelish and said that it is a good book to read and would recommend that the Committee read it.

JOAN MILES said that the Department's first and foremost budget priority is to continue their current level of services which will cost more in the next biennium and to put forth some very critical and new proposals in the arena of mental health, both at the community level and at the State Hospital level and with the collaboration of the Department of Corrections.

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES EPP ISSUES - John Chappuis

MR. CHAPPUIS discussed DPHHS' Executive Planning Process issues (**EXHIBIT 2**). He said that DPHHS' budget will be under \$1.5B. He said that most of their funding comes from the Federal Government, but when the Federal Government makes cuts, or if there is a change in the state's matching percentages, the impact is enormous. That cost shift to the Department is over \$30M general fund.

Mr. Chappuis talked about DPHHS' new proposals. He said that issues in Adult Mental Health; additional staff in Child and Family Services; CHIP; and other AMDD issues are some of the top priority focus for them. He talked about the serious infrastructure problem at the State Hospital and the census that he monitors on a daily basis. Mr. Chappuis discussed the problem of dental access and the shortage of dentists. He said that one way to address that is to raise Medicaid rates in dental. Mr. Chappuis discussed Child and Family Services field staff and caseload. He discussed DD rate rebasing, which is a big ticket item. He said that the federal government is forcing them over to a system that will pay on a statewide rate system. He discussed self-administration for CHIP and the meth and CD regional expansion. He said that it is \$4M a year but is not matched.

TAPE 2A

QUESTIONS

SEN. ESP asked Mr. Chappuis what the one-time only is. MR. CHAPPUIS said it was a position for an ombudsman who would work in the communities to help people with everything from weatherization through getting LIEAP assistance to help with energy needs.

HANK HUDSON, Human and Community Services Division, said that during the last session there was an energy ombudsman program that was instituted. This is the renewal of that program which evolved into the Warm Hearts Warm Homes Montana Weatherization Project.

SEN. SCHMIDT asked if the regional services expansion came out of the Best Practice Committee that was appointed. MS. DECUNZO said that the need to have more community services for people with addictions and meth has been a big issue in their office. It fits the need for these services coming out of the Best Practices group in terms of appropriate residential settings, being able to serve people at the level of care that they need without having to wait to get into MCDC in Butte.

SEN. SCHMIDT asked if the proposal that includes 186 beds in regional and tribal sites is accurate? MS. DECUNZO said that that is the proposal. They will be changing the numbers a little because the original proposal was higher and they have had to make adjustments.

SEN. SCHMIDT asked if the locations have been determined. MS. DECUNZO said they have not.

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES REPORT ON DATA

INDICATORS - John Chappuis

MR. CHAPPUIS gave a report on Data Indicators (**EXHIBIT 3**) and provided an Excel Chart to the Committee (**EXHIBIT 4**). He said that the report is on the Department's website and is updated monthly. He said that these data indicators lead to issues that the Committee may have questions on.

QUESTIONS

SEN. SCHMIDT asked if there was a proposal in EPP to increase CHIP 200%. MR. CHAPPUIS said that it is in the legislative package.

HIGHLIGHTS ON SUICIDE PREVENTION - Joan Miles

MS. MILES said that they received a grant to work on suicide population of 10-24 yrs old. She said that 85% of that grant is required to go to communities for educational institutions and they hope to fund 16 projects. She said that they have appointed a task force, which has met twice, to develop community based programs. They anticipate funding for an additional three years.

QUESTIONS

SEN. WEINBERG said that this committee talked about data gathering capabilities regarding suicide, and that they could do more and pinpoint what to do for suicide victims. He asked if that was part of her thinking with work with suicide prevention? MS. MILES said that to the extent they can document and gather data, but what they need is continued grants.

JOANNE DOTSON, Bureau Chief of the Family Health Bureau, said that the educational activities that are being used are evidence-based and they are supporting evidence-based proposals both at the local and at the state level. She said that as they include educational activities to medical providers, that also includes secondary reporting on death certificates, the

causes of deaths whether or not they can identify suicide attempts as a cause of death or suicide. She said that they can improve documentation as they are going along. Some of it will be community-based and some of it will be state level.

SEN. WEINBERG asked if it is known whether the person had ever tried to receive therapy or whether the person had ever been to a family practitioner, or are family practitioners required to report a suicide risk, and can we really pinpoint where the system failed that person? MS. DOTSON said that to the best of her knowledge there is no required reporting. There has been a great effort over the last few years for a QPR, which is "question, persuade, respond", and some other education and programming in school settings to increase awareness of counselors and teachers about the signs and symptoms of suicide and to encourage that response or that referral.

SEN. ESP said that in the evaluation or gathering of data after death in suicide cases that are fairly obvious, even if we had a voluntary reporting system or a way to gather information from family members or something to begin to put those pieces together, would you need legislation to make that happen or could you do that within the department in order to get consistency across the state? You are talking about local efforts here and they may not be consistent but if you were actually going to try to delve into some meaningful data, you'd almost have to have consistent questions and consistent followup with physicians or whomever.

MS. DOTSON said that in death certificate reporting, documentation of contributing factors is required. There is not always consistency in the degree to which those are used and if they reported any IDC9 coding that allows for the analysis. She said that some of what we are talking about we will have to think about patient confidentiality and patient/doctor relationship.

JOAN MILES said that they will bring those issues to the Advisory Committee to talk about that. She said that on the fetal infant mortality review, they would need legislative assistance in order to standardize everything and in order to be able to investigate those situations at the same time that they protect confidentiality.

PUBLIC HEALTH UPDATE - Jane Smilie

SUSAN FOX said that she had a chance to meet Dr. Gostin and attend some of the meeting in which they were working on public health law. She said that a lot of things have changed but they have been tracking it and providing assistance when it was possible.

DAVID NISS said that the issue of emergency power is important because when you need it, you really need it. He asked the Department whether there has been any recent changes to the Emergency Health Powers Act and if there hasn't been, what is Ms. Smilie's perception of where the 2003 Legislature fell short on this issue. MS. SMILIE said that in 2003 they did an initial review of their statute and asked the question, what is the most urgent need in terms of

the Public Health Emergency Powers. She said that the items in the bill sponsored by Rep. Franklin were a clarification of our isolation and quarantine powers. They included bio-terrorism in the definition of disasters and emergencies that would be declarable by a governor. They did modifications to assist with exchange of health care information and emergency. She said that in terms of the Model Emergency Health Powers Act, it still exists as a "model act", but what has been a positive thing is the Model Public Health Statute tried to take the critical elements of the Model Emergency Health Powers Act and look everyday at public health responsibilities.

JANE SMILIE, Public Health, DPHHS, said that with the Public Health Emergency work that they have been doing over the last four years, they have worked very hard to not create a separate response system but to make sure that the public health emergency planning response is very well integrated with disaster and emergency services across the state. She said that outlining what the public health planning responsibility should be is a piece that they would like to see in there, specifically what should public health's charge in terms of planning be and how does that fit with our emergency coordination plan; the other one is the liability piece, the credentialing and the utilization.

DAVID NISS asked Ms. Smilie if she was familiar with National Governor's Association trying to draft or change law to provide for mobilization of resources short of a declaration of emergency. MS. SMILIE said that there were a number of different initiatives happening. They also passed enabling legislation to be part of the national system.

TAPE 2B

REP. WARDEN asked if Ms. Smilie would elaborate on what happens at their Public Health meetings. MS. SMILIE said that they will spend approximately two hours in each community. The first hour is spent working through a draft proposal to see what is actually being changed in Title 50, as well as what might be proposed in Title 10. The second half will be devoted for questions and answers.

REP. ROBERTS asked how Montana fits in with respect to avian flu and how are we receiving medication. MS. SMILIE said that there is the strategic national stockpile which has some anti-virals and other medications that may be brought in. In addition, they have placed eight pharmaceutical caches around the state and they are being housed in hospitals because of the need to be housed with pharmacies. And third, they are in the process of working with CDC and HHS at the federal level on the purchase of Tamiflu.

PUBLIC COMMENT ON MONITORING DPHHS

JANI MCCALL, Montana Children's Initiative Provider Association, said that on the DPHHS Indicators, Residential Treatment Centers, there will be an increase in out of state youth by about 30. She said that one of the reasons for that is that they have a residential treatment

center in the state of Montana that had significant quality assurance issues that forced a bottleneck in the system all the way from the in-patient psych unit for kids to kids in lower ends of care that needed to go into that level. Part of the increase is due to kids in the state of Montana who need a specific treatment and have such severe issues going on that providers may not be able to care for them in the state. She said that the other thing she wanted the Committee to look at was a decline in youths served instate and the reason for that decline of residential treatment center placements is because of the development of the children's system of care and kid's management authorities around the state. She said that one significant area of funding that has been taken off the EPP list is the Children's Mental Health System of Care Funding Biennial, which is approximately \$1.1M of general fund money. She said that she will do all she can to see that it gets back on the list.

KATHY MCGOWAN, Four Community Mental Health Centers, said that she wanted to thank the people for their dialogue this morning about strengthening the community based services and at the same time piggy back what Mr. Chappuis talked about in terms of infrastructure at the State Hospital. She said that legislators need to think seriously if they are going to strengthen community services. She said there is an infrastructure problem out in the communities and in some ways it is more dire than it is at the institutions because they are at the bottom of the heap in terms of having enough resources to pay employees adequately who are siphoned off by other institutions.

BETH BRENNEMAN, Attorney, Montana Advocacy Program, said that they have had wonderful experience with the Kids Management Authority. The Kids Management Authority seeks to ensure that there is interagency cooperation which means that special education services from the schools and other individuals who are involved in the youth's life are at the table talking about how they can make sure that youths get what they need without having it be in a most restrictive setting. She said that she would suggest that the Committee support that budget item.

KANDI MATTHEWS-JENKINS, Missoula, said that her main concern is the children who have been put on behavior drugs. She said that she has been in situations in the families that she works with where a child is taken because of a situation in their family; instead of the child being administered to when they begin acting out because they want to go home with the parents, they are drugged, they run away from the group homes, and they are drugged even more. She said that there are children who are growing up in the system who are being drugged against the will of the parents, against the children's will, and these drugs have suicidal tendencies, hallucinations, and many other side effects that are not being looked at. She said that she would encourage the Committee to look at the drugging of our children and see what it is causing in our children, to see if those drugs are actually needed, or if they are prescribed so that they can handle the child, and then those children use more drugs as they become adults.

INTERIM STUDY: SJ 37 CHILD PROTECTIVE SERVICES - Shirley Brown, Division Administrator, Child and Family Services, DPHHS

WORK MEASUREMENT STUDY

MS. BROWN discussed the report from Miles Edwards (**EXHIBIT 5**). She said that there is information out on two studies that have been conducted in Montana; one in November and one in May. The one in November included ongoing child protective services workers, investigatory child protective services workers, combination of family resource specialists and some administrative support. The one in May only involved the CPS workers. They worked with the National Resource Center American Humane. Ms. Brown said that the genesis of doing the study came out of an audit conducted by the Department on caseload/workload issues. They completed their study at the end of May but that information is not available at this time.

DRUG DATA

MS. BROWN talked about data on cases with drug involvement (**EXHIBIT 6**). She said that they made changes to their automated system that went into effect the first of January. This is the first time that they have had information on the impact of drugs on children who are in placement in terms of parent usage of drugs. The data provided here is on children who were in placement as of the 6th of June. There were 1913 children in care, excluding the Department of Corrections kids in the system, as well as tribal kids. There are some children on which they have no data. The total number of cases with drug data is almost 1900. Of those 1900 children, 2/3 or 66.01% are in placement because of some drug usage by their parents.

TAPE 3A

Ms. Brown said that one of the requirements in the Child Abuse Prevention and Treatment Act is that there is to be in place Policies and Procedures to address the needs of infants born who are identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, including a requirement that health care providers involved in the delivery of this care notify Child Protective Services. She said that in looking at this requirement, they are wondering whether they want to make their definition of neglect and abuse or neglect more specific as to when babies are born testing positive.

QUESTIONS

REP. EATON asked if children are in placement because of alleged drug usage. MS. BROWN said that children are in placement because they were in unsafe situations. She said that they were only able to track the reason children went into care, whether it was physical neglect or physical abuse or sexual abuse, and that there was nothing that tied the child maltreatment to possible drug usage by the parents.

REP. FRANKLIN asked Ms. Brown to talk about how that fits into policy approaches to the

Department. MS. BROWN said that one of the issues when they are dealing with meth is that the treatment is different than for the treatment for alcohol. She said that where it impacts them is their first goal, reuniting the child and with parents where there is meth use, it takes a lot longer to address the issues that led to the placement to begin with. Often if a parent stops using meth in particular, it takes months before they get to the point where they can start addressing all of the other issues. That means that children are staying in care longer.

REP. ROBERTS asked Ms. Brown if the families are selling meth. MS. BROWN said that there is no significance on those one, twos or threes. It is which one was reported the most. In terms of number one, it doesn't mean that this many families, it was first drugs and alcohol is second, that is the way the report came out.

SEN. WEINBERG asked if the terms are defined somewhere, for instance, does a person need to be an alcoholic to qualify for inclusion in this graph. MS. BROWN said that they didn't define it, this is an issue that has to be addressed before they can return the child. SEN. WEINBERG asked if it is a judgment call in all cases whether or not alcohol or marijuana are part of the problem. MS. BROWN said that it would either be a judgment call or they have documented information that shows that there is marijuana use or alcohol use which has impacted the safety of the child.

TITLE IV-E FUNDS

MS. BROWN said that 25% to 30% of their budget is Title IV-E funds. Title IV-E funds have to be related to foster care. So it is either the foster care services that the social worker provides for which we can use Title IV-E administrative costs, or it is the foster care maintenance payment that is made to the foster parent. If the child is IV-E eligible, then they can use the IV-E funding. As of the end of May, 46% to 47% of the children in foster care are IV-E eligible. When we can use the federal funds for maintenance payments, it is about 68% to 70% federal funds and the rest is general fund money because there is a match. She said that they had a Title IV-E review in June 2003 where 80 cases were reviewed, 29 failed and of those 29 that failed, 20 of them failed because of no permanency hearing. She said another 150 cases will be reviewed at the end of July.

SEN. SCHMIDT asked Ms. Brown how long ago did the federal government start to mandate the Title IV-E. MS. BROWN said that they have been using IV-E since 1981.

MS. BROWN gave an update on foster care rules. She said that they are final and have been adopted. Ms. Brown said that they were able to work with Jani McCall and her group to resolve the last outstanding issues.

CASA AND GUARDIAN AD LITEM ISSUES - Ellen Bush, Judy Pylar and Sherri Rafter

ELLEN BUSH, Executive Director of CASA of Montana, gave a brief overview of CASA

(EXHIBIT 7). She said that she works with 16 local programs around the state. Each of those CASA programs is independent and reports to a board of directors and runs their own operation. She said there are around 1,000 children who are represented around the state with 360 volunteers. They have national standards from the National CASA and are required to go through a self-assessment process to make sure that they are doing all the things that they can be doing to be accountable and to show that they are a non-profit that is operating with the correct policies for fiscal, management, how they work with local programs, and their employment procedures. She said that 20% of CASA's funds are from the state and they will be asking for an increase in the next session to get closer to 30% to 40% funding.

GUARDIAN AD LITEM - Judy Pylar, Director of CASA, Great Falls

JUDY PYLAR said that CASA in Great Falls is the largest program in the state. This fiscal year they have had 102 volunteers and have served over 300 children for a total, as of May 1, of 4,715 hours of volunteer service for abused children in Cascade County. She said that they pride themselves on having their volunteer guardian ad litem be professionally trained. They adhere to the national CASA training standards. She talked about the outline of the Guardian Ad Litem Training **(EXHIBIT 8)**.

QUESTIONS

REP. ROBERTS asked Ms. Pylar if other cities have a program like hers or is there a protocol that is recommended that they can draw from as a resource. MS. PYLAR said that each Guardian Ad Litem program in the state of Montana uses this curriculum. Other CASA programs use the same curriculum and do the same training.

COURT ASSESSMENT PROGRAM - Sherri Rafter, Court Administrator's Office, Supreme Court

MS. RAFTER said that she manages a federal grant called the Court Assessment Program. She spoke on the Guardian Ad Litem standards **(EXHIBIT 9)**. She said that quite a few of the requirements that are in the standards as written now are also in statutes and would be repetitive. She said that they need to revamp part of them. She said that the plan is to do the rewrite, the Guardian Ad Litem Task Force will do the approval, and her advisory committee will ask the Supreme Court to have these standards adopted either by order or into the Uniform District Court Rules. She talked about the four videos available to help in the required hours of training. Two were done by ABA specialists out of the ABA Center for Children in the Law; one is on procedural laws; one is on Guardian Ad Litem's role; one is on conflicting timelines; and the fourth is an overview of teen brain development.

Distributed by one of the presenters is Proposed Montana Standards of a Guardian ad Litem in Title 41 - Child Abuse and Neglect Proceedings **(EXHIBIT 10)**.

QUESTIONS

SEN. SCHMIDT asked what the difference is between Guardian Ad Litem and CASA, what the difference is between their funding, and how it is decided that a child will have a guardian ad litem or receive services from CASA. MS. RAFTER said that the law requires that a guardian ad litem be appointed. In some judicial districts, an attorney guardian ad litem is appointed as well as a CASA volunteer. In other jurisdictions there are no CASA programs, so it is an attorney guardian ad litem or could be a lay guardian ad litem because the law does not require that a guardian ad litem be an attorney if they are not a CASA, and then just the CASA is appointed because there are not enough attorneys to go around. She said that the attorney guardian ad litem receives \$60/hour; CASA volunteer is limited to \$400/case; guardian ad litem is funded through the Supreme Court's Administrator's Office. MS. BUSH said that in other jurisdictions, where the program is developed under the guidance of the judge, the CASA is more of an assistant to an attorney guardian ad litem who may just appear in court and the CASA does a lot of the foot work.

SEN. ESP asked if their training fulfills the standards which was distributed to the Committee. MS. BUSH said that it did.

SUSAN FOX said that there is a distinction between the two types of training. She said that the guardian ad litem training, if adopted in court rules, will apply to attorney guardian ad litem. If you want to belong to the CASA program, then you need to take the CASA training. Ms. Fox said that you could be a guardian ad litem and never have the CASA training if you are an attorney because the Supreme Court is your boss and they are the ones who determine the standards for attorneys. She said that there are two different approaches in both standards and training and if someone is talking about the distinctions or the difference, get more specifics about which type of program you are talking about.

FOSTER PARENTS AND LIABILITY - Jani McCall, Montana Children's Initiative Provider Association; Brenda Quillen, Director of Yellowstone Boys and Girls Ranch; Lisa Thompson; and Shirley Brown

JANI MCCALL, Montana Children's Initiative Provider Association, said that there was an agreement on the foster care rules and they are very pleased with the outcome. She said that she appreciated the Committee's help in working through those issues. She said that there will be a public forum to present recommendations of the Pew Commission. The Pew Commission is a national group that was put together by the Pew Public Trust and Georgetown University Public Policy Institute. She said that MCI will be the major partner with the Pew Commission and a group called the North American Council for Adoptable Children (NACAC). They are doing a series of forums around the country, including Montana. She said that she and Ms. Brown will be working together to provide information and data to the public to look at foster care in Montana and look at ways to improve child welfare reform, court actions and funding.

Ms. McCall said that she would like the Committee to consider adding to its legislative bill

priority list, legislation to ensure that all licensed foster families in the state of Montana are included in the Claims Payment Plan. She said that it is only those who are under supervision of Child and Family Services Division. The other licensed parents are under supervision of licensed contractors, such as Yellowstone Boys and Girls Ranch, and other providers around the state. Ms. McCall said that the second request is that the Committee consider liability insurance for foster parents. She said there is no liability insurance currently in the state of Montana.

TAPE 3B

BRENDA GUILLEN, Social Worker, Director of Therapeutic Foster Care for Yellowstone Boys and Girls Ranch, talked about foster care, which she has found challenging but the rewards, but the rewards have outweighed the obstacles, and that is the reason people keep doing it. For the therapeutic foster parents in their program, one of the conditions of being a foster parent is they must carry personal insurance on their home, which has been the first place that they have gone if a child has done significant damage. She said that they are finding out more and more that the insurance company is saying that they are going to exclude that child who is not a legal member of their family. She believes that the primary challenge in the foster care system is not family recruitment but family retainment. She said that her families are in need of the consideration that they would be allowed to access this funding. She said that the systems of care in the past few years have done significant things for some of Montana's neediest children.

LISA THOMPSON, RN and a licensed foster adoptive parent, talked about the liability as foster parents. She said that they know when they take that licensing that they are taking a risk not only emotionally but financially and to their family structure. She said that watching and trying to get supportive services for their families often falls back to other foster families. She said that they feed off of each other and try to get through and try to answer questions through each other. The liability issue that they take emotionally and financially is very great.

SHIRLEY BROWN said that there are two issues when looking at insurance for foster families. One is property damage and the other is liability. She said that they cover their regular and specialized foster families for property damage that is intentionally inflicted by a foster child. They also cover claims made by third parties against foster parents because of the intentional acts of the foster child, and again that is property damage.

QUESTIONS

REP. ROBERTS asked Ms. Brown if she finds that her position is contrary to what the guardian ad litem or what CASA does and how does she rectify that. MS. BROWN said that there are times when the social worker's plan for the child is different than the recommendations from the guardian ad litem. Generally, if the social worker and the guardian ad litem can't resolve it before they get to court, the social worker would present their recommendation, the guardian ad

litem would present their recommendations and the court would ultimately decide.

REP. EATON asked that the foster system be reviewed. MS. MCCALL said that there really is a system within a system. Two groups are under supervision of the state; another group becomes treatment families and deals with seriously emotionally disturbed youths--3 groups of foster care. MS. BROWN added that foster parents are volunteers, licensed by DPHHS but not state employees, so payment for care of the child is not considered as income. DPHHS licenses regular families, which include kinship families; licenses specialized families, those who provide services to children with physical health needs; and licenses child placement agencies which have the therapeutic family foster care programs that deal with seriously emotionally disturbed youth.

PUBLIC COMMENT

ANGELA HADDICK, CASA volunteer, submitted her written testimony (**EXHIBIT 11**) to the Committee. She said that she would like CASA to be given more power. She said that case dismissal should require some approval or sign off of the CASA worker and that should be law. She said that she would like to see an elevation of children's rights.

LILLIAN GUNDER, Stevensville, said that Shirley Brown's statement was wrong. She said that DFS took her son simply because he ran away to his grandmother's house after his grandfather had passed away. She said that DFS discredited her and said that she was a bad parent. She said that one of the ways that the state can save money, prevent suicides, and lighten caseload would be to reinvestigate some of DFS' cases--the ones that they are complaining about.

LYNETTE SCHLINGER, Missoula, said that she is here on behalf of her two children. She said that Shirley Brown's statement of "you don't take the children unless they have found alcohol or drug abuse on the parents" is not always the case. She hopes that this Committee will listen to the parents and take into consideration the parents and the children. The children are the ones who are suffering.

KANDI MATTHEWS-JENKINS, Missoula, said that she wanted to start her comment with a publication from the Administration of Children and Families, based on the first round of Child and Family Services review. She said that the review stated that the citizens of the state of Montana will be paying back an estimated penalty of \$3,386,993 for noncompliance. She gave a copy of a video of an interview with Hank Hudson with Families for Families (**EXHIBIT 12**) that proves that this problem has been going on for years and the basis of the problem is noncompliance with the law.

Ms. Matthews-Jenkins talked about the Reasonable Efforts Handbook which tells you how to prevent the removal of children. She recommended that the Committee read this book before any laws that have been suggested to be changed, rewritten, or looked at. She talked about a

nationwide movement among advocates and parents to abolish Child Protection Services because of their unconstitutional treatment of parents.

Ms. Matthews-Jenkins talked about the reasons for the shrinking income in certain situations. She talked about three examples from the House, Ways and Means Committee, chaired by Mr. Herger and is available on the internet. She said that the Committee has been inundated with complaints of constitutional violations, legal violations, from state after state and they are the one who is shrinking the budget, trying to put the money back where it belongs, in family preventative measures. Ms. Matthews-Jenkins told the Committee that if you go back through the cases for an analysis, you will find no prevention, you will find case worker abuse of the parents, you will find no actions by guardian ad litem in cases, abuse in guardian ad litem cases, CASA programs need oversight, that this department needs oversight or abolishment.

She said that they are trying to tell the Committee that there is a good side to protection and there is a bad side. She wanted to know why the Committee is not trying to find a balance and finding out who is being hurt the most. Is it future generations of children caught up in the bad system, or are the laws broken and can't be mended, as stated by Kathleen Jenks of the Attorney General's Office.

Ms. Matthews-Jenkins said that we have a business of trafficking in human life. Children, adults, senior adults, and disabilities. If you would take into considerations those people who have overcome the fear and really look at what they are saying, we won't be paying that \$3M on the next review.

TAPE 4A

SJ 41, MENTAL HEALTH CRISIS RESPONSE

Addictive and Mental Disorders Division Update - Joyce DeCunzo, Administrator

JOAN DECUNZO, Administrator for AMDD, talked about their list of EPP proposals that deal with their new proposals:

- the work that is being done with the Department of Corrections; they have 20 applicants for the Behavior Health Program Facilitator.
- in the last session they received authorization for 5 field staff, Community Program Officers, and hope to be on board July 1.
- they received authorization to develop a home and community based services waiver.
- they are getting ready to partner with Montana Hospital Association for a meeting with hospital administrators in the community, providers to get information on what are some of the nontraditional players (judges, county attorneys, county commissioners), what is the best way to roll out how to deal with crisis with all main players in system.
- what kind of resources are needed to continue a study of individuals in the Montana State Hospital, particularly those who are non-Medicaid eligible.

- report on Director Miles' suicide issue and prevention efforts; added to adult population.
- updated on grant proposals in response to their RFP specifically for crisis services, one that deals with suicide prevention.

LOU THOMPSON, Bureau Chief for the Adult Mental Health System, gave an update on their RFP for a grant for a community based crisis stabilization. She said they received nine proposals and have funded a portion of six of the proposals. She said that a summary is in her handout (**EXHIBIT 13**). They received proposals that total between \$1.3M and \$1.4M and are prepared to award \$843,000 of the \$875,000 that they have. The Procurement Office of the Department of Administration mailed out to the six entities a request for a best and final offer. These amounts are tentative amounts.

Ms. Thompson discussed the awarding of proposals in each of the Service Area Authorities:

- Eastern Service Area Authority is funding a proposal to Eastern Montana Community Mental Health Center and to Southcentral Community Mental Health Center. They are proposing to purchase and install the Pathways Compass Case Management System, a medical tracking software that is currently in use in Billings with the Mental Health Center, the two hospitals, and the Community Health Center where they share information about individuals that they see.
- Central Service Area Authority is funding Golden Triangle Community Mental Health Center for a recovery oriented crisis peer support pilot program with the intent of developing crisis peer services as a Medicaid reimbursable service. They will also fund the Rocky Mountain Development Council who has requested the creation of a tri-county mental health crisis response partnership for Lewis and Clark, Broadwater and Jefferson Counties.
- Western Service Area Authority is funding the Western Montana Mental Health Center in Butte for some development of peer to peer consumer recovery and support system training and providing some assistance with funding for the building of a nonmedical crisis stabilization facility that will include secure, nonsecure detox beds that will include a variety of crisis response services. They will also fund the Western Montana Community Mental Health Center in Hamilton to help them plan and construct a crisis center that will provide four beds for community crisis residential and detox services that will provide assistance for Ravalli and western Beaverhead Counties.

JOYCE DECUNZO discussed some of the EPP Requests to OBPP (**EXHIBIT 14**):

- Crisis Management Initiative
- Methamphetamine & Chemical Dependency Expansion

Ms. DeCunzo said that in the interest of time, she would not go over all of the requests.

QUESTIONS

REP. FRANKLIN asked if Ms. DeCunzo could talk about the hospitals that are going to

participate in the 72-hour program. MS. DECUNZO said that she doesn't have the answer to that question. She said that they have been having discussions on it but this has not been rolled out to hospitals because they needed to see how far they would be able to get with that issue in terms of the EPP process.

REP. FRANKLIN said that in her experience the rural hospital that may have people come into the emergency room who need emergency services, the biggest issue is whether they have any kind of special behavioral needs or if they needed to be protected. There should be accommodations and is that built in financially or not. MS. DECUNZO said that as they were doing their listening tour, especially with some of the smaller hospitals, some of them are doing that already and in very creative ways.

MENTAL HEALTH ISSUES AND OPTIONS

Hospital Survey - Bob Olsen, Montana Hospital Association

MR. OLSEN said that he has been asked to provide information from their survey on Crisis Intervention Services that currently exist in Montana hospitals (**EXHIBIT 15**). He said that they engaged in a survey of all of the hospitals in support of Joan Daly who is the manager of the Billings Clinic. He said that they framed their questions around a survey that was done by the Eastern Montana Mental Health Center and then provided those questions to both the Billings Clinic staff and the Department of Health and Human Services so that they would capture all issues that they would most want to talk to the hospitals about.

TAPE 4B

QUESTIONS

REP. FRANKLIN commented that it is a licensing issue as far as having a full service medical unit, that you have to have a medical director and a psychiatrist, and if you don't have enough psychiatrists, you have to start thinking of different models of care. MR. OLSEN said that the Medicare conditions of participation govern the ingredients a hospital has to bring to bear when they offer routine inpatient psychiatric care. He said that a lot of hospitals deliver the occasional inpatient treatment but that has to be well within the comfort of the treating physician if they are not a psychiatrist.

SEN. WEINBERG asked Mr. Olsen if he needed specialized equipment for medical teleconferencing or can he just use a desktop PC and a camera. MR. OLSEN said that the desktop PC with a camera is not adequate for the purposes of doing a telemedicine type consult. He said that the hospitals have equipment that essentially accomplishes that feat. The equipment is very similar to the MetNet system that the state has.

REP. FRANKLIN asked if there is any data that says why telemedicine would not be helpful. MR. OLSEN said that they didn't ask the surveyed to explain the "why not", so he would not

want to venture a guess.

HB 395 STUDY AND 53-21-132, MCA - Bill Kennedy, Yellowstone County Commissioner, and Chair of the Health and Human Services Steering Committee

MR. KENNEDY discussed his document (**EXHIBIT 16**):

- Regarding items 1 and 2, they support the 72-hour Presumptive Eligibility with Suicide Eligibility as a part of it.
- Regarding item 3, County Commitments, they would like to go one step further and support the Department with the 72-hour Presumptive Eligibility and would like to see the counties match the 72-hour Presumptive Eligibility on the county commitments with another 72 hours.
- Regarding item 4, Financial eligibility/DC and Mental Health, chemical dependency is treated at 200% of poverty and mental health treatment is at 150% of poverty. It would be easier if there was CD and mental health reimbursement at 200%. He said that it would help with the treatment.
- Regarding item 5, he said that the Billings Crisis Center will be opened.
- Regarding item 6, HUB, which is a drop-in center. Mr. Kennedy provided a document regarding numbers of HUB clientele (**EXHIBIT 17**).

Mr. Kennedy discussed a chart showing the numbers that the counties spend on mental health services (**EXHIBIT 18**).

QUESTIONS

SEN. ESP asked Mr. Kennedy if the county mental health costs are adult mental health services or adult and children. MR. KENNEDY said the majority of it is adult mental health care with some children's services. SEN. ESP asked if the 500 diversions as shown on Exhibit 17 are 500 different patients or could the 40 people in November of '05 be part of the 47 in February '06. MR. KENNEDY said that it could be the same person in two different months. They are just trying to show numbers that you can divert each month.

REP. ROBERTS asked if any of the insurance costs are masked by any of these numbers. MR. KENNEDY said that Yellowstone County has a contract with the Billings Clinic whereby they first go to the patient and/or the insurance they may have, and then if they are on any type of public assistance. The figures that he has are the numbers that the county actually pays out.

SEN. WEINBERG asked if Mr. Kennedy knew why Flathead County had reduced their funding while other counties have raised theirs. MR. KENNEDY said that he didn't know and couldn't answer that for them, but he said that they might have found something else that works that none of the rest of them know about.

MR. KENNEDY said that there is one area that will be controversial and he wanted to make

sure that the Committee understood that when they talk about the 6-day evaluation. They want to make sure that it is uniform across the state and that the counties are coming forward and paying for evaluation and not for the whole treatment process. He said that if they can get a uniform system on the evaluation, it will be better for the client and it also will give them an opportunity to budget in the counties and when they had made the proposal last session about having the state take it over and coming up with a million dollars to come to the state of Montana, they were serious about having a system that was a uniform system with someone overseeing the whole system.

SEN. ESP asked Ms. DeCunzo if she knew the amount of resources the state spends on adult mental health services; what is her opinion of what the 72-hour doubling up might do to the services and to the consumer's recovery. MS. DECUNZO said that she didn't have those figures in her head, but Community Mental Health is around \$35M and the State Hospital is around \$24M; the Nursing Care Center is \$6.5M.

Ms. DeCunzo talked about Mr. Kennedy's proposals and said that she would need to talk to Mr. Kennedy about having a unified system statewide, but in discussing Mr. Kennedy's list (Exhibit 15), she felt that they are together on the hospital bed reimbursement issue, that the 72-hour is going to go a long way in helping the suicide issue. In regards to the financial eligibility, coming up to 200% poverty might create some problems for individuals who are dually diagnosed. They do not have any EPP request for that particular item. She said that the problem is that they are not able to serve the individuals who are at 150% poverty. Ms. DeCunzo said that they are asking for more money for MHSP and other services. When they agreed to give funding to HUB, one of the things they did in exchange for that is to ask that the provider gather data for the Department so that they could say that they put money into it and whether that helped or not.

SEN. SCHMIDT asked if Ms. DeCunzo wanted to comment further on HB395 and the Hospital Survey. MS. DECUNZO said that regarding the Hospital Survey, it has been interesting and in some cases it bears out exactly the kinds of things that they are trying to do. Regarding the issues on whether or not hospitals would find it helpful, she said that some of that is an educational process. She said that the survey does show where they need to develop some discussion points with hospitals.

TAPE 5A

QUESTIONS

SEN. WEINBERG asked if the WWAMI people have had any discussion with the University System regarding their internships. MS. DECUNZO said that they have had some discussions with some of their university systems about further development of programs in the universities for mental health professionals of all kinds, but there are no projects in front of them on that.

SEN. WEINBERG asked Ms. Thompson if there was a possibility of working with the WWAMI people. MS. THOMPSON said that one of components of our community strengthening for enhancement and workforce development is a contract with WICHI. She said that she thinks that WICHI and WWAMI are related and she hopes to explore that possibility of that type of enhanced relationship.

SEN. WEINBERG asked Ms. DeCunzo what is being done regarding regulatory issues with BIF, will there be some results of an investigation and will those results be available? MS. DECUNZO said that they are working on that now but she can't give a timeline. She said that one of the things they are talking about is going to the State of Washington and looking at a successful nonhospital-based BIF.

REP. WARDEN asked if the HUB program is unique to the state of Montana, are there similar programs that they are also funding, or is this a pilot program. MS. DECUNZO said that the HUB is the only drop-in program in the state that they fund.

PUBLIC COMMENT

MIGNON WATERMAN, Chair of the State Mental Health Oversight Advisory Council, said that she is here as a member of the local advisory council who is partnered with the local NAMI organization to put on crisis intervention training for law enforcement. She said that they want to conduct crisis intervention training twice a year at the Law Enforcement Academy, which will be funded in part by NAMI and the Board of Crime Control. She said that they are optimistic that crisis intervention training can be offered to officers across the state of Montana and they are committed to continue seeking funding for that.

ISSUES AND OPTIONS FOR CONSIDERATION - Susan Fox, Research Analyst, LSD

MS. FOX presented areas of issues and options for consideration (**EXHIBIT 19**):

- #2, nonhospital crisis stabilization, and #7, community commitments are directly related to the potential BIF change, the potential 72-hour eligibility. Cross those off for consideration today and put it on the agenda for the August meetings.
- #5, parity in insurance coverage for mental illness. She suggested discussing that at the next meeting so that she can get more information on that.
- she would like to talk more about #1, the Montana State Hospital Study in reference to the Legislative Audit Division's request for a letter from the Committee that says it is an important study and we would like it to happen.
- #3, certification of Mental Health Professionals. Ms. Fox has more research on that.
- #6, inventory of public mental health system and gap analysis. More research needs to be done; she would recommend that something be done on this at a future date.
- #8, telephone listings for mental health crisis or suicide goes well with the suicide prevention issues because there are similar issues.
- there are people here to present information on #10, SAA Update, and #11, soft

transport issue.

REP. EATON said that Jani McCall asked her to follow up on a couple of things that she had mentioned in her presentation. The first one was to expand the foster care children self-insurance program to all state licensed foster parents and include therapeutic foster parents. The second issue is the liability coverage which she would like to have the Committee add to the legislative bill priority list.

SEN. ESP requested that they look at those as bills and as fiscal impact. SUSAN FOX said that because they were waiting to see if risk management was going to find out whether the cost of expanding it to therapeutic foster care was a possibility or not, and whether or not the policy that the other state had was a possibility for this state. Ms. Fox said that she wanted to followup on that because she didn't feel that they had enough information, especially on expanding the self-insurance. She would need to know exactly which kind of proposal is being looked at so they can focus on a bill draft specific to that. DAVID NISS said that it would be useful conceptually to not consider both of those types of insurance as a package. He suggested splitting property damage caused by a foster child to the foster parent's property to be covered by home insurance and splitting that from liability to third parties because liability for property damage or personal injury to third parties can be treated one of two ways, one which is costly and the other one not costly. He said that the costly way to treat liability is to consider the foster parent as a state employee and incorporate the foster parent into the State Tort Claims Act, Title 2, Chapter 9, and say that the parent is not liable for personal injury or property damage to third parties but the state is. If you were to choose that method of relieving the foster parents from liability, you would want to know what size of bill the state would be paying to those third parties. He said that another way to treat liability is to say the foster parents are immune.

TOM BARTLETT, Kalispell, Chair of Western SAA, talked about possible modifications to two statutes, 53-21-129 and 53-21-129(2), in his document Mental Health Statutes Treatment of the Seriously Mentally Ill (**EXHIBIT 20**).

LEE ANNE BYRNE, Clinical Supervisor at Pathways Treatment Center, Kalispell Regional Medical Center, and Board Member of Western SAA, said that she is here to speak on the recommended modifications to the two statutes from Tom Bartlett. She said that these modifications would permit the earliest possible intervention with individuals whose mental disability has impaired their judgment to the extent that they are unable to recognize their own need for help and who are at jeopardy to inadvertently or deliberately hurt themselves or others. She strongly urges the Committee to support modifications to the existing statute to permit this essential intervention at an earlier point than is now possible.

DAN AUNE, Director of the Central SAA and Director of Gallatin Mental Health Center, discussed transporting patients without shackles (**EXHIBIT 21**). He distributed his proposal

summary (**EXHIBIT 22**) to the Committee showing the objectives and costs of developing a transportation service sensitive to the needs of individuals and families where there is a mental health emergency. He asked the Committee to support this model to transport in a safe and respectful way.

TAPE 5B

QUESTIONS

SEN. ESP asked Mr. Aune in what context is he talking about when he is talking about voluntary transport. MR. AUNE said that there are many individuals who are evaluated by mental health professionals and agree that they need a higher level of care and those become voluntary. He said then it becomes a transport issue, whether the hospital accepts them if they are not transported by law enforcement.

SEN. WEINBERG asked if we are looking at a potential post-traumatic reaction when there are consumers who have been traumatized while being transported by law enforcement. MR. AUNE said that is part of the training and debriefing that would go on whenever there is an event where you have to transport and there is some likelihood of post-trauma.

SUSAN FOX said that the statutes regarding transportation of the mentally ill in Montana dates back to 1895 and are from a time when we didn't have the same sensitivity that we have now regarding the mentally ill. Those statutes directing the sheriff to transport are still in statute and pre-commitment costs are the county's responsibility. She said that there is nothing in statute that would preclude a county from contracting for this type of services, but it is not stated clearly in statute.

REP. WARDEN asked if Mr. Aune has had dialogue with Gallatin County Commissioners or the sheriff in terms of whether they would consider some agreement to allow transport to be contracted out. MR. AUNE said that they have had discussions and the county is happy to have them if they can find a way to transport voluntary. He said they have not talked about the financial burden of responsibility on that. REP. WARDEN asked if Mr. Aune's sense is that the Commissioners believe that it is mandated that the sheriffs have to do this. MR. AUNE said that is how they talked around the table.

PUBLIC COMMENT

KATHY MCGOWAN, Montana Sheriffs and Peace Officers Association and Community Mental Health Centers, said that there seems to be some confusion about voluntary versus involuntary. She said that to her knowledge she does not know of a sheriff who transports anything but involuntary patients. She believes that sheriffs have liability for transporting someone who was not involuntarily committed. She said that at her meeting in Washington, D.C., she asked people from other states how they transport and the answer was that most people do transport

using law enforcement. Ms. McGowan said that some of the mental health centers were interested in taking this responsibility themselves because of the humane type issues. They were told by their liability companies, either you do and we are dropping you, or you do and your premiums are going to go up. She believes that is something that we need to take into consideration.

SEN. SCHMIDT said that Sen. Weinberg and Rep. Warden will serve on a subcommittee to work on the insurance issue and to give a report at the next meeting.

ALICE HOGERTY, Miles City, Eastern SAA, supports Tom Bartlett's proposed changes to statutes 53-21-129 and 53-21-129(2). She said that it reflects what consumers would want for their family members and for themselves.

DAN AUNE said that he would like to add to Ms. McGowan's comments. He said that they transport individuals all the time in terms of services in the community and so the liability is there, it wasn't a concern of theirs to do it. He said that the stakeholders in his community were Bozeman Deaconess Hospital, law enforcement, local advisory committee, the county commissioners and other providers within the community, so when they look at that and consider the implications in terms of liabilities and the historical implications of the sheriff and law enforcement being involved, they as a community wanted to bring that back to the community.

BOYD ANDREW COMMUNITY SERVICES UPDATE - Mike Ruppert, CEO

MR. RUPPERT said that Boyd Andrew is a non-profit corporation and has been in existence for over 34 years. They provide chemical dependency outpatient services and are also involved in the community corrections business. They operate the Helena Pre-release Center. He said that he is here today because the Department of Correction had issued an RFP for a residential methamphetamine treatment for persons convicted of second offense and above possession of meth. He said that this was a bill sponsored by Rep. Peterson and Sen. Schmidt. He said that they submitted a bid for a female-only facility in Boulder and won that award.

PUBLIC COMMENT

There was no public comment.

DISCUSSION ON ISSUES AND OPTIONS LIST (Exhibit 19)

SUSAN FOX said that if the Committee did not object, she would not address some of the issues so that next August there may be better proposals before them; i.e., nonhospital crisis stabilization parity and community commitment. She said that regarding the crisis stabilization, Ms. DeCunzo had mentioned the Washington Model, which John Wilkinson has provided a summary. Ms. Fox mentioned several issues that need further discussion; i.e., BIF, whether the Department has authority for licensing secured crisis beds or not. She said that if there is still

some interest in those issues, she will continue to pursue that.

WASHINGTON'S INVOLUNTARY TREATMENT ACT - John Wilkinson, Rocky Mountain Development Council

MR. WILKINSON said that Rocky Mountain Development Council received a grant through AMDD, and their agenda is to develop a voluntary crisis facility and a crisis response team. He discussed the state of Washington's Involuntary Treatment Act (ITA) (**EXHIBIT 23**).

There was a discussion on whether or not the Committee was going to develop a program similar to Washington's ITA. Ms. Fox suggested waiting to see what kind of proposal or package DPHHS comes up with. Sen. Schmidt asked the Committee if they wanted to be proactive or reactive and asked Ms. Fox how to go about doing that. Ms. Fox said that the Committee has heard many ideas which have great potential but they will take work and she didn't know if the Committee wanted to wait to see what kind of work the Department does and build upon and endorse, or if they want to spur some action by working side by side with them. Sen. Weinberg said that perhaps in mid-July, the Committee could get a status report from the Department which would tell us enough so that we have an understanding of the direction they are taking and we would have an opportunity before we meet in August to give some guidance or direction or at least state our feelings about the direction that they are going in.

SEN. SCHMIDT asked if there are any Committee members who would like to follow this so that Susan could direct her information to instead of to the whole committee. Rep. Franklin and Sen. Esp volunteered and will meet with MACo, the Department, and the Hospital Association in July, and will work on Nos. 2 and 7 on the Issues and Options List.

MENTAL HEALTH ISSUES AND OPTIONS

SUSAN FOX presented the document Mental Health Issues and Options (**EXHIBIT 24**) for discussion:

Montana State Hospital Study, Issue No. 2

SUSAN FOX told the Committee that they had sent a letter to Addictive and Mental Disorders inquiring about the status of the study. She said that she spoke with the Legislative Auditors and was told that the Audit Committee had placed an audit on Mental Health Manage Care System to monitor the public mental health system. She said that the Audit Division has been working with AMDD to set a time to talk about the parameters of the study. Ms. Fox said that a letter should be sent to the Audit Committee that says they are working together and that they have the support of this Committee.

Certification of Mental Health Professionals, Issue No. 4

After presenting the issues and options of No. 4, Ms. Fox said that if the Committee wanted to

define a licensed psychologist as a professional person, that would require a statutory change in the form of a committee bill. She said that other things regarding AMDD, examining the process to see if there is more potential, could be done either as a recommendation or a letter. If the Committee wanted to put it in statute, DPHHS would have the right to ask what resources will be given to them to accomplish that goal. Rep. Franklin said that she wouldn't change licensure, she would keep it with AMDD. She said that the issue is access and if the measure is, how do you allow for more access to consumers to be able to access people who might help them get treatment, then that is a reasonable idea. She said that she didn't know if that would improve the state of healthcare and might not rise to the status of a committee bill, but on the other hand, it is not harmful. Sen. Warden said that he agreed with Rep. Franklin. He said that he is troubled that some of them are saying that the statute should be changed. The professional group has not even endorsed anything and he would not carry legislation that the psychologists are in favor of that happening. Ms. Fox said that the Montana Psychological Association has not had a chance to decide whether they are going to endorse this concept or not.

SEN. SCHMIDT asked Dr. Patrick Davis to comment on this subject.

TAPE 6A

DR. PATRICK DAVIS, licensed psychologist, Great Falls, and member of Montana Psychological Association, said that he is speaking as an individual licensed psychologist and he believes that the Montana Psychological Association is interested in this issue and would be interested in preparing a formal statement. He provided the Committee with his written comments (**EXHIBIT 25**) regarding the issue of certification of mental health professionals.

SEN. SCHMIDT said that the Association needed to decide if they wanted to be statutorily certified and if so, they need to get a legislator to request a bill draft. DR. DAVIS said that he thinks there is significant interest in that because the chair of their legislative committee had charged him to bring it up at this meeting. He said that he was conflicted about bringing various issues to the Committee as he educated himself about the purpose of the CFHHS committee. He said that he thinks this is a relevant issue to the Committee's goals which is to broaden the mental health safety net in the state of Montana. Upon listening to Commissioner Kennedy's testimony with regard to the issue of the extended period of time that it takes to get people through the commitment process, that reflects back on how this issue is relevant to the work of the Committee. He said that so while MPA, if they decide that this is an issue of interest to them, certainly can pursue that issue through the legislature.

JOYCE DECUNZO said that AMDD is not opposed to the statutory inclusion of licensed psychologists. She said that if the Montana Psychological Association comes forth with a bill by a legislator who agrees to carry it, we will not oppose it.

SEN. SCHMIDT said that if there was someone from the Committee who would like to work with MPA to decide if they want to proceed and sponsor a future bill, or they could do it as a committee bill.

Parity in Insurance Coverage for Mental Illness, Issue 5

SUSAN FOX said that in 1991 when severe mental illness parity was put in place, a list of seven major "severe mental illnesses" was determined and it was decided that they were organic disorders. When she looked at AMDD's definition of "serious and disabling mental illness" it was yet again a different list of people. When trying to compare that to the Montana Hospital data, they used diagnosis related groups which comes from the international classification of diseases, instead of the diagnostic and statistical manual. She said that Mental Health Association has been talking up parity and to some extent it makes sense to keep adding to diagnoses. Ms. Fox said that the Montana statutes regarding parity is not in bad shape, but without good technical advice, the Committee is not in a position do anything. She recommends to move on and if someone wants to bring a parity bill, they could entertain that. SEN. SCHMIDT said that she is interested in the parity issue and she will be speaking to Deb Matteuci and if Dr. Davis or anyone else is interested, they can work together.

Inventory of Public Mental Health System Resources and Gap Analysis, Issue 7

SUSAN FOX said that she attempted to put in what she would like to see in an inventory, Elements of Mental Health System Inventory (**EXHIBIT 26**). She said that in 1991, there was a directive from the Legislature that the Department ask a consultant to look at the Public Mental Health System and to make recommendations. Some of the recommendations was a systemwide needs assessment and gap analysis. Ms. Fox asked the Committee if they wanted to make any specific recommendations; should people work on the current system, do inventory, or do gap analysis.

REP. FRANKLIN said that given that Ms. Fox reported that some of it may not be relevant just because it has been 14 years, if Committee would allow her to study up and then talk with Ms. Fox and Ms. DeCunzo and come up with some general conclusions and report the information at the next meeting.

Telephone Listings for Mental Health Crisis or Suicide, Issue 8

SUSAN FOX presented her content analysis of suicide information she got from researching the Yellow Pages of Montana telephone books (**EXHIBIT 27**). She said you need to go directly to the Yellow Pages of the phone books for mental health services. There is no such thing for suicide or mental health crisis because it in the contract of the Community Mental Health Centers, so it is business people putting their listings in the phone book. If you wanted a statewide hotline, there would be costs to that. She said that the 2-1-1 Legislation from last session has great potential. There was a section in the bill that said it was expected that they do this without any additional resources because that was the point of 2-1-1. The

Administration took exception to that and recently has appointed a working group with which Deb Mettucci has been involved. Ms. Fox said that there is potential for advancement there but she does not have enough information on that for the Committee. SEN. SCHMIDT said that what needs to be done is funding of the 2-1-1 calling system. Ms. Fox said that there should be some direction or resources to the Department to do it, get suicide and mental health crisis included, get standards and training, or at least an analysis of how to do it right.

QUESTIONS

SEN. ESP said that that is the direction that the Department needs to go. He said that there should be a mental health crisis line in every phone book because there is a mental health center and a mental health contract and a mental health services plan contract in every part of the state and anyone who has that contract should be responsible to put the listing in the phone books.

MARY DALTON, Health Resources Division Administrator, said that it is more complicated and when you start to get into those crisis things, one of the things that she wondered about in the children's system is who would you know to call about what. If you publish a crisis number for mental health centers for adults, sixteen for children, somebody has to do the triage. It does have to be staffed and it does have to have resources to be able to refer to.

REP. EATON asked if the Committee should write a letter to the workforce instructing them to do that or write a letter to the Department. MS. FOX said that there are two ways to do it: one, put that in a contract and we can ask the Department to do that by a letter; and two, you could ask to make it a condition of licensure.

JOYCE DECUNZO, AMDD, said that first and foremost, that while they require by contract that the licensed mental health centers have a crisis line and to have 24/7 response to that crisis line. She said that it is very specific that if you are a licensed mental health center and you serve 2,000 people, that those individuals have the crisis line so they know how to get 24/7. What it doesn't account for is some means of being able to have it for any individual who is not a patient or client of some community mental health center. She said that the Department wanted to require it but there wasn't any money to make it bigger than what their own clientele were. The Department would be willing to try to look at it some other way, but if they require it in a much broader sense, then they will probably have to put some money behind it, either new money which is not part of their EPP, or take it away from something else that they do in terms of service delivery.

REP. EATON asked if the Committee could send a letter to the Department asking them to include the wording in their contract to make the suicide hotline available and to work with their contractor. She also wanted to know if the Committee could take the alternative route and try to work to fund the 2-1-1 system.

REP. FRANKLIN said that the appropriate thing for the Committee to say to the Department is how do we include access to emergency services through a telephone service, how are you going to coordinate that at the state level.

SEN. SCHMIDT read what Deb Matteuci wrote: "I would ask for your continued support of the statewide 2-1-1 calling system. This system can provide easy accessible information to everyone and will serve as a safety net for people who are in need of information and crisis support." Sen. Schmidt said that the language is already in for this 2-1-1 number, but wasn't funded last session and that is one of their priorities--this information delivery system is fragmented--and the 2-1-1 system is set and is available to use if it was funded.

SEN. SCHMIDT said that the Committee could ask the Montana Mental Health Association to bring a proposal to the Committee.

SUICIDE PREVENTION REPORTING ISSUE

SUSAN FOX said that the issue of reporting Fetal Infant and Child Mortality Review (FICMR) and psychotropic drug use in suicide prevention reporting were raised. Ms. Fox said that it does help having information about stemic issues and information on psychotropic drug use would be an interesting variable when collecting data. She asked the Committee what they wanted to do with the issue of suicide prevention reporting.

SEN. WEINBERG asked if the Committee had a consensus to pursue the statistical gathering for suicide prevention and does the Committee want to pursue that and create a committee bill around that. REP. ROBERTS said that he thinks it would be a good idea and if they could include the tribes. He also said that you can't put together good policy without good numbers.

SEN. WEINBERG asked Ms. Fox what would be the best means to establish protocol. MS. FOX said that you have to identify who you want to be responsible for this. She said that in order to do a bill, she would need more detail. She said that she would be happy to work with Sen. Weinberg on developing that language. REP. FRANKLIN said that she would like to work with Sen. Weinberg on that issue.

ISSUE REGARDING TOM BARTLETT AND 53-21-129 AND 53-21-129(2)

SEN. SCHMIDT asked the Committee what they wanted to do with Mr. Barlett's recommendation. **SEN. ESP moved to modify statutes 53-21-129 and 53-21-129(2), as recommended by Mr. Tom Bartlett, and present it as a committee bill. The motion passed.**

DISCUSSION ON FOSTER CARE SELF-INSURANCE ISSUE

SUSAN FOX said that the Committee didn't clarify where they wanted to go with the foster care self-insurance issue. She said that David Niss had clarified that they are two separate issue:

one, expanding the foster care self-insurance; and two, the liability issue. She said she didn't know if the Committee would like more information on that.

SEN. ESP said that he would like a third approach to the liability issue and that is that the state participates in paying for a policy for those folks who do foster care, to insure them against risks rather than either negating liability or assuming liability as the state paying for a private insurance policy or a blanket policy that covers those people.

REP. WARDEN said that he wanted to go on record saying that he is interested in looking at the immunity option, he wants to know about that and what the ramifications might be. SEN. ESP said the thing that if you are going to give immunity to foster parents from the real parents, that is going to be a hard sell and it is a 2/3 sell in the legislature and he doesn't know how much time you want to spend on that. REP. WARDEN said that he understands that and he didn't know that the Committee needs to go full tilt into it, but he would like answers to those questions. He said that if it gets too deep, he would withdraw his request.

DAVID NISS said that there is a range of choices and they are: provide for the type of immunity that the state does for its employees where the state has substituted for the defendant and if found negligent, the state pays the bill; the second alternative is to provide that foster parents are absolutely immune.

TAPE 6B

SEN. WEINBERG said that he thinks this Committee is flying blind, that we don't have the resources to do anything of value, and we need more data to be better informed. SEN. SCHMIDT said that the Committee would need to have Jani McCall and the Department work on this.

REP. EATON said that she was going to report to Ms. McCall and urge her to contact Susan Fox and try to provide that information to the Committee in August. She said that also along lines of foster care, she is requesting some clarification.

UPDATE ON REWRITING STATUTES

Rep. Eaton said that at one of the Committee's meetings, a representative from the Attorney General's Office came and said that the statutes needed to be rewritten because they were complicated. She said that when they were discussing that in the work group from the last meeting, they were going to go back to those same people and urge them to do the rewriting of the statutes, but when she got the packet of information, the impression was that there were some initial work that was being done on that and there were all sorts of questions about where this committee would go from here. Rep. Easton said that she feels obligated to not let the committee drop the ball on that offer from the AG's Office.

SUSAN FOX said that she worked on two different drafts. She worked with Kathleen Jenks, but then thought that she should take it to the Department and see what they think. Ms. Fox said that she needs some direction from the Committee. The Department is worried that they will give away some hard fought battles that they won in the past. Ms. Fox said that she didn't send the drafts because there was not an agreement between the Attorney General's Office and the Department. It was to be on the agenda tomorrow, and she can get the main draft as Kathleen Jenks envisioned it, to the Committee. Ms. Fox asked the Committee how deep do they want to get into Department practices, or do they want to address the issues that Kathleen Jenks was concerned about that had more to do with court processes and timelines and federal and state laws? REP. EATON asked if we would discuss that in August. MS. FOX said that she could have a draft for consideration to be sent out.

RECESS

SEN. SCHMIDT recessed at 5:48 p.m., to reconvene at 8:00 a.m., June 9, 2006, in room 102 for the Legislative Finance Committee meeting. The Committee will meet at 10:00 a.m. in Room 137 for the CFHHS' second day meeting.

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