

Summary of Health and Human Services Legislation 2009 Legislative Session

Prepared for the Children, Families, Health and Human Services Interim Committee
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The 2009 Legislature acted on a number of bills involving health care, health insurance, children's issues, and human services. This summary provides an overview of major legislation, excluding the budget provisions of House Bill 2 and House Bill 645, in the following areas:

CFHHS Interim Committee	Public Health
Children's Issues	Senior and Long-Term Care
Health Care/Health Insurance	Social Services
Mental Health	

The summary focuses primarily on legislation that was approved by the Legislature and has or will become law. It also includes bills that were proposed by the Children, Families, Health, and Human Services Interim Committee (CFHHS) but that failed during the legislative process.

CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

During the 2007-2008 interim, the Children, Families, Health, and Human Services Interim Committee approved the drafting of 21 pieces of legislation, including four minor clean-up bills. Ten of the bills were approved by the 2009 Legislature, while two involving an electronic health records pilot project were not pursued at the sponsor's suggestion because the governor's budget included funding for the project.

Seven of the 21 bills were related to the Committee's SJR 5 study of emergency medical services (EMS), while six were related to the SJR 15 study of the health care delivery system and four were related to a mental health study conducted for the Legislature by a consultant.

The CFHHS bills, and the topics they addressed, are listed below.

SJR 5: Emergency Medical Services

The Legislature approved the following SJR 5-related bills:

- HB 85** Creates a grant program within the Department of Transportation for EMS agencies that are staffed primarily by volunteer emergency medical technicians (EMTs). The bill provides \$1 million of federal or state funds per year to help the agencies buy equipment and provide training.
- HB 93** Clarifies the procedures to be used by the Department of Public Health and Human Services (DPHHS), which licenses ambulance companies, and the Board of Medical Examiners, which licenses EMTs, when complaints involving emergency medical services are filed with the state. The bill addresses issues raised in a legislative audit of emergency services in Montana.
- SB 77** Adds a volunteer EMT to the Board of Medical Examiners and requires that one of the five physician members have experience in emergency medicine. The bill was

proposed to strengthen the emergency medicine presence on the Board after it began licensing EMTs in 2004 – a task it had previously delegated to DPHHS.

- SB 79** Allows a reduced staffing level for ambulance companies that are staffed primarily by volunteer EMTs and that are conducting nonemergency transports between health care facilities or that are providing emergency transports in sparsely populated counties or towns. The bill allows these ambulance runs to be made with one EMT and one driver trained in the operation of emergency vehicles, rather than with two EMTs as is currently required. It was proposed as a way of alleviating problems many small communities face in recruiting and retaining EMTs.

The Legislature did not pass the following SJR 5-related bills:

- **SB 63**, providing tax incentives for volunteer EMTs and their employers;
- **SB 64**, creating a license plate and related tax credit for volunteer EMTs; and
- **SB 93**, providing confidentiality protection for review of EMS calls.

SJR 15: Health Care Delivery System

The Legislature approved the following SJR 15-related bills:

- SB 26** Revises a 2007 law that prohibited hospitals from denying hospital privileges to a physician who has an ownership interest in a competing health care facility. The bill expands the prohibition to outpatient surgical centers and clarifies that a hospital or outpatient surgical center may require physicians who have such a conflict of interest to remove themselves from discussions and decisions involving finances of the hospital or surgical center. The bill also repealed the sunset date (June 30, 2009) of the original legislation.

- SJR 5** Directs CFHHS to continue to monitor efforts by MHA, An Association of Healthcare Providers, and others to make hospital pricing information more readily available to consumers via the Internet. CFHHS is to determine whether any future state action is necessary in the area of transparency in health care pricing.

The Legislature did not pass the following SJR 15-related bills:

- **SB 51**, requiring health care providers to disclose any ownership interests they have in facilities to which they are referring patients;
- **SB 52**, prohibiting kickbacks and conflicts of interest for health care providers and making such activities unprofessional conduct that could lead to disciplinary action;
- **HB 86**,* appropriating \$1.5 million for an electronic health records pilot project; and
- **HJR 5**,* supporting funding for health information technology.

* Both HB 86 and HJR 5 were not pursued after their initial hearings because federal legislation and the governor's proposed budget contained funding for the pilot project. That funding remained in the final version of HB 645.

Mental Health

The Committee requested the drafting of four bills related to the contracted mental health study that was completed in October 2008. All of the bills failed. They were:

- **HB 65**,* appropriating \$1.5 million to fund existing and additional kids management authorities (KMAs), which are local multi-agency planning teams serving youth with mental health needs;

- **HB 66**, appropriating \$500,000 to the “system of care” account, which is used to provide services to certain high-risk children in an effort to keep them in their homes, communities, or the state;
- **HB 111**, clarifying the roles of local advisory groups in the mental health system; and
- **HJR 3**, requesting an interim study of a managed care mental health system.

* Although HB 65 failed, HB 645 does contain \$333,500 for each year of the biennium to help offset the impending loss of federal funds for the five existing KMAs.

General Cleanup/Clarification of Existing Laws

HB 70 Clarifies the application of the exclusion of nonprescription drugs from the dangerous drug schedules.

HB 71 Repeals the sunset of the hospital bed tax, as intended by the 2007 Legislature. This bill was needed because the 2007 legislation failed to properly repeal the session laws governing the sunset date.

HB 72 Corrects a discrepancy in the law authorizing caretaker relative educational authorization affidavits. The law contained conflicting time periods during which an affidavit would be valid; HB 72 standardized the time period to a maximum of the length of the school year for which the affidavit was approved.

SB 40 Clarifies that a court-appointed “friend of the respondent” in an involuntary commitment procedure may not have a conflict of interest involving the respondent and that a judge may at any time appoint someone else to serve in that capacity.

CHILDREN'S ISSUES: ABUSE/NEGLECT/FOSTER CARE

HB 367 Allows an adoption agency to establish a specific program, separate from its placement service, that provides post-adoptive counseling and support services to birth parents who have given a child up for adoption. The program may include, among other things, grief and loss counseling, temporary housing, job training, educational opportunities, and financial management training.

HB 397 Requires DPHHS to create a registry for close relatives of a child so the relatives may be notified when a child has been removed from the child’s home as part of an abuse or neglect proceeding. Registration by a relative is voluntary.

HB 403 Requires courts to consider a child’s need for continuity of care – including continuity in residence, schooling, and activities outside the home – when determining whether the child should be placed with a person other than a parent.

SB 108 Prevents a court from considering military service as the sole reason in determining a child’s best interest during a custody proceeding and specifies that modifications to a parenting plan are temporary if they are based on a parent’s military service orders.

SB 405 Extends the current law involving a grandparent’s right to contact a grandchild to include great-grandparents, as well.

SB 442 Creates a shaken baby syndrome education program within DPHHS, requiring the department to develop educational materials, post them online, and distribute them through groups, facilities, and entities that provide classes or services to expectant parents, parents of newborns, day-care centers, and babysitters.

HEALTH CARE/HEALTH INSURANCE

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Primary and Preventive Care

HB 263 Requires a health care provider, hospital, or ambulatory surgical center to provide an estimate, if requested by a patient, when the actual or estimated charge for a procedure or course of treatment will exceed \$500.

HB 307 Allows a medical practitioner, including an advanced practice registered nurse or physician's assistant who has prescriptive authority, to dispense drugs that are not otherwise available from a pharmacy within 10 miles of the practitioner's office. The practitioner must verify that a drug is not otherwise available.

HB 409 Creates a cancer drug repository program in which individuals, health care providers, or health care facilities may donate certain unused cancer drugs or devices so they may be given away or sold for a minimal fee, generally to cancer patients who are uninsured, indigent, or otherwise unable to pay for needed cancer drugs or devices.

HB 578 Allows for establishment of a "Montana Health Corps," made up of retired physicians who may provide outpatient care to Medicare- or Medicaid-eligible individuals in their homes for a charge of \$10 a visit. The stated purpose of the legislation is to keep the people in their homes for longer periods of time and to provide home health care visits to patients who have difficulty traveling.

SB 53 Extends the trial period for hearing aids that are purchased from vendors who travel from their permanent place of business to offices that are in another location and that are open for business only during certain days or hours of the month.

SB 174 Creates a professional classification of "clinical pharmacist practitioner" for pharmacists who meet education and experience requirements established by the Board of Pharmacy and the Board of Medical Examiners and are certified to provide drug therapy management. The designation was created in anticipation of changes in federal law that will allow pharmacists who engage in medication therapy management to be considered practitioners under Medicare laws.

SB 446 Establishes a procedure for DPHHS to license specialty hospitals, including a requirement for an impact study that analyzes the financial and operational impacts of a proposed specialty hospital on existing health care facilities in the service area. A specialty hospital also must have a charity care policy in place.

Health Insurance

HB 258 Appropriates \$6 million over the 2011 biennium to expand the Insure Montana program that provides premium assistance and tax credits for small businesses that provide insurance coverage for their employees. The appropriation may be used to add participants to the small business health insurance pool and the tax credit program and to revise premium assistance and incentive levels.

- HB 264** Requires insurance companies to provide, if requested by an insured person, a summary of the person's coverage for a specific health care service or course of treatment if the actual or estimated charges are higher than \$500.
- SB 133** Includes, in a bill generally revising insurance laws, the provision that an insured person must pay only the required co-payment or other cost-sharing requirement for prescription drugs at the time the prescription is purchased. The provision was designed to eliminate requirements in some insurance plans that an insured person pay the full cost of the prescription and then submit a claim for reimbursement of expenses that exceed the co-payment or cost-sharing requirement.
- SB 234** Requires insurance companies to provide coverage for the diagnosis and treatment of autism spectrum disorders in children, up to a maximum of \$50,000 a year for a child 8 years or younger and \$20,000 a year for a child 9 through 18 years of age. Companies must cover rehabilitative services, including applied behavior analysis, as well as medications and certain other therapies.

Medicaid

- SB 119** Establishes a program that would allow people with disabilities to "buy in" to the Medicaid program for continued health insurance coverage if they obtain employment and thus would earn too much to qualify for Medicaid.
- HJR 25** Requires DPHHS to examine the Medicaid eligibility determination process for nursing home care and develop solutions to problems that are identified during the review. DPHHS must provide quarterly reports to CFHHS.

Other Health Care Legislation

- HB 224** Establishes a loan reimbursement program for registered nurses who work at the Montana State Hospital in Warm Springs or the Montana State Prison in Deer Lodge. The program will provide an eligible participant with a reimbursement of up to \$3,750 a year for four years.
- SB 325** Clarifies the Montana Medical Marijuana Act to specifically prohibit "caregivers," who may legally grow and provide marijuana to qualifying patients, from using marijuana themselves. The bill also allows caregivers to use drug paraphernalia only when preparing marijuana products as allowed for the qualifying patient.

MENTAL HEALTH

Children's Mental Health

- HB 243** Requires the existing System of Care Planning Committee to study the progress achieved to date in developing a statewide system of care for high-risk children with multi-agency service needs and to prepare a report by July 2010 that includes information on the number of children served, by community. The report must identify the types of services provided, include a summary of all funds spent on the system, and note any barriers to developing the system further. The report must be provided to the 62nd Legislature and to an appropriate interim committee.

SB 399 Requires DPHHS to develop a pool of qualified in-state providers of children's mental health services and to report to CFHHS each interim on its efforts to place children with mental health needs in in-state treatment facilities.

Adult Mental Health

HB 130 Creates a program in which the state will match funds spent by counties for jail diversion and crisis intervention services, as well as for insurance coverage against catastrophic precommitment costs and short-term inpatient treatment. To be eligible, a county must develop and submit a jail diversion and crisis intervention strategic plan that includes a plan for community or regional services. The county also must participate in a statewide or regional county insurance plan for precommitment costs.

HB 131 Requires DPHHS to contract for up to three inpatient psychiatric treatment beds in each of the three mental health service area authority regions. The beds would be used to provide inpatient crisis intervention services before an involuntary commitment petition is filed or to allow for emergency detention after a petition has been filed but before the court has made a final determination on the request.

HB 132 Allows a civil commitment proceeding to be suspended for up to 14 days while a respondent is diverted to short-term inpatient treatment. If the respondent successfully completes the treatment program, the commitment proceeding is dismissed.

The Legislature appropriated about \$3 million through HB 2 and HB 645 to put HB 130, HB 131, and HB 132 into effect.

HB 634 Establishes a state program that counties may use to transport people involved in civil commitment proceedings to the Montana State Hospital. People transported through this program could only be restrained in handcuffs when required by safety concerns. Participating counties will pay a fee to be set by DPHHS for the transportation. The bill requires a report on the use of the program, which will end on June 30, 2011, unless the 2011 Legislature extends it.

SB 157 Changes the current law establishing which parties in a civil commitment proceeding may object to the use of two-way electronic audio-video communication for the initial hearing. SB 157 allows an objection only by the professional person appointed by the court to evaluate the individual involved in the commitment proceeding. Current law allows the individual or the individual's attorney to object, as well, and an objection by any party prevents the use of the electronic communication.

PUBLIC HEALTH

HB 114 Allows the state to recognize licenses issued by other states to professionals who volunteer during a state of emergency or disaster, thus allowing those volunteers to practice in Montana. The bill also allows Montana's licensing boards to sanction an individual practicing under this exception if the person commits an action considered to be unprofessional conduct under state law.

HB 173 Establishes a pilot project, subject to available funds, to help local public health agencies prepare for national accreditation. DPHHS is to develop a grant application and review process and provide materials and training to the selected pilot project

agencies. The local agencies are to report to the Legislature on their experiences, as well as the anticipated costs of meeting national accreditation standards. *(HB 645 appropriates \$200,000 in each year of the biennium for the pilot.)*

- HB 288** Bans reproductive human cloning that is intended to result in the gestation or birth of a child who is genetically identical to another embryo, fetus, or human being.
- SB 226** Allows the Board of Dentistry to issue restricted, temporary licenses to nonresident dentists or dental hygienists to provide, without compensation, dental services in university clinics, correctional facilities, federal community health centers, or federal migrant health care clinics. Individuals may receive the temporary license only if they have graduated from an accredited school and are licensed and in good standing in another state.
- SB 350** Makes HIV screening a routine part of patient care and prenatal care and incorporates the screening into the patient's general informed consent for medical care. The bill also requires that a patient be informed orally or in writing that HIV diagnostic testing will be performed and that if the patient declines the testing, the decision is documented in the patient's medical record.
- SB 401** Requires the Board of Medical Examiners to make sure that a licensee who is required to participate in a rehabilitation program because of drug or alcohol abuse has the opportunity to enroll in a qualified program in Montana if one is available, rather than requiring that a licensee attend an out-of-state program.

SENIOR AND LONG-TERM CARE

- SB 330** Requires DPHHS to establish goals, responsibilities, and performance expectations for services to older Montanans and to periodically report to CFHHS on the progress the agency has made in complying with the requirements of the bill.
- HJR 17** Requests that DPHHS review existing studies and information from other states on the use of medication aides in nursing homes and provide quarterly progress reports to CFFHS. The agency is to work with the Department of Labor and Board of Nursing, as well as affected parties and stakeholders.
- HJR 25** Requests that DPHHS review the Medicaid eligibility determination process for nursing home care and identify any problems with the system. DPHHS is to report quarterly to CFHHS on the progress of the study.

SOCIAL SERVICES

- SB 463** Requires DPHHS and the Department of Labor and Industry to develop a training program and educational materials on labor law and liability issues for individuals who employ a person to provide respite care services for a family member who is aged or disabled. Individuals who employ such respite care workers will not qualify for respite care funds from the department unless they have signed a statement acknowledging they have received the training and read the educational materials.