



Children, Families, Health, and Human Services Interim Committee

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64th Montana Legislature

SENATE MEMBERS

MARY CAFERRO--Vice Chair
FREDERICK (ERIC) MOORE
DIANE SANDS
ROGER WEBB

HOUSE MEMBERS

RON EHLLI--Chair
JESSICA KARJALA
ALBERT OLSZEWSKI
GORDON PIERSON

COMMITTEE STAFF

SUE O'CONNELL, Lead Staff
ALEXIS SANDRU, Staff Attorney
FONG HOM, Secretary

MINUTES LOG

January 11, 2016
Room 137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

REP. RON EHLLI, Chair
SEN. MARY CAFERRO, Vice Chair

SEN. FREDERICK (ERIC) MOORE
REP. JESSICA KARJALA
REP. ALBERT OLSZEWSKI
REP. GORDON PIERSON

COMMITTEE MEMBERS EXCUSED

SEN. ROGER WEBB
SEN. DIANE SANDS

STAFF PRESENT

SUE O'CONNELL, Lead Staff
ALEXIS SANDRU, Staff Attorney
FONG HOM, Secretary

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

COMMITTEE ACTIONS

The committee heard presentations related to its House Bill 422 study of children's mental health outcomes and Senate Joint Resolution 22 study of guardianship and Alzheimer's disease. As part of their agency oversight duties, the members also heard several presentations related to the Child and Family Services Division of the Department of Public Health and Human Services.

The committee:

- adopted a resolution asking Governor Bullock to appoint a legislator to the Protect Montana Kids Commission, which is reviewing laws and practices related to child abuse and neglect cases;
- decided against renewing the objection to MAR Notice No. 37-728 that was filed after a majority of the committee notified the chairman on Jan. 8 that they objected to the rule;
- decided against including performance-based reimbursement options in any pilot project that it develops for children's mental health outcomes as part of the HB 422 study;
- agreed that the HB 422 study should focus on outcomes related to whether children in the mental health system are in school, at home, and out of trouble; and
- for the SJR 22 study, requested additional information on training and certification for guardians, on reducing conflicts of interest involving guardians, and on the "Working Interdisciplinary Networks of Guardianship Stakeholders" (WINGS) project that has been adopted for use in other states.

CALL TO ORDER AND ROLL CALL

00:00:01 Rep. Ehli called the meeting to order at 8:04 a.m. The secretary called roll. ([Attachment 3](#)) Sen. Sands and Sen. Webb were excused. Sen. Sands left her proxy with Sen. Caferro. ([Attachment 4](#))

00:01:12 Ms. O'Connell gave an overview of the agenda.

00:02:31 *Sen. Caferro arrived at 8:06 a.m.*

SJR 22: GUARDIANSHIP LAWS AND SERVICES/ALZHEIMER'S DISEASE

Guardianship: National Reform Standards - Erica Wood, Assistant Director, ABA Commission on Law and Aging

00:03:44 Ms. Wood ([Exhibit 1](#))

Committee Questions of Ms. Wood

00:35:31 Rep. Ehli asked about the WINGS program and the guardianship of last resort.

00:38:23 Rep. Karjala asked about policies related to conflicts of interest and qualifications for guardians.

00:44:20 Rep. Ehli asked about models for private guardianship programs.

00:46:28 Rep. Ehli asked for more information on the VERA program.

Alzheimer's Disease/Dementia: Less Restrictive Alternatives - Kelly Williams, Administrator, DPHHS Senior and Long-Term Care Division

00:49:23 Ms. Williams gave a presentation on the Home and Community-Based Services Waiver program. [\(Exhibit 2\)](#)

Committee Questions on the Waiver Program

00:57:36 Sen. Caferro asked about the number of home and community-based waiver slots.

01:03:30 Rep. Ehli asked about eligibility without the waiver.

01:11:18 Ms. Williams gave a presentation on the Montana Lifespan Respite program. [\(Exhibit 3\)](#)

Committee Questions on the Montana Lifespan Respite Program

01:16:45 Rep. Karjala asked about the funding source for the program.

01:19:30 Sen. Caferro asked about the amount of the grant allocated for respite care.

Public Comment on the SJR 22 Study

01:22:57 Claudia Clifford, AARP Montana

01:27:14 Matt Kuntz, Executive Director, NAMI Montana

01:30:45 Beth Breneman, Disability Rights Montana [\(Exhibit 4\)](#)

01:33:16 Erin McGowan, Montana Association of Area Agencies on Aging

AGENCY OVERSIGHT: STAFF REPORTS

SB 423: Montana Marijuana Act - Sue O'Connell, Committee Research Analyst

01:37:40 Ms. O'Connell [\(Exhibit 5\)](#)

Administrative Rule Report - Alexis Sandru, Committee Attorney

01:41:20 Ms. Sandru [\(Exhibit 6\)](#)

SB 411: Montana Developmental Center Closure - Sue O'Connell

01:43:19 Ms. O'Connell [\(Exhibit 7\)](#)

Committee Questions of Ms. O'Connell

01:50:12 Rep. Ehli asked about the number of MDC patients that the three private providers offered to take.

01:51:37 Sen. Caferro asked about the administration estimates on the costs of building smaller state-run facilities and whether the Transition Planning Committee would be addressing community crisis response.

Break (reconvened at 10:18 a.m.)

HOUSE BILL 422 STUDY: CHILDREN'S MENTAL HEALTH OUTCOMES

Performance-Based Contracting - Sue O'Connell, Committee Research Analyst

02:14:42 Ms. O'Connell ([Exhibit 8](#)) ([Exhibit 9](#))

Performance-Based Approaches in Other States

Pat Nygaard, Quality and Performance Manager, Children's Mental Health Division,
Minnesota Department of Human Services
Susan Mitchell, Executive Director, Network Development, Office of Child Programs,
Tennessee Department of Human Services
Marty Nelson, Clinical Services Officer, Social and Clinical Services Division, Wyoming
Department of Family Services

02:21:25 Ms. Nygaard, ([Exhibit 10](#)) ([Exhibit 11](#)).

Committee Questions of Ms. Nygaard

02:32:44 Rep. Ehli asked about the Minnesota program.

02:36:41 Sen. Caferro asked what type of outcomes the Minnesota system is measuring, what is meant by "watching for cherry picking", and how Minnesota avoids situations where the providers are serving only the easiest-to-treat children.

02:40:53 Ms. Mitchell

Committee Questions of Ms. Mitchell

02:51:09 Rep. Ehli asked about measuring outcomes.

02:53:51 Mr. Nelson

Committee Questions of Mr. Nelson

03:04:54 Rep. Ehli asked about Wyoming's in-patient program.

Committee Questions of Panelists

03:11:46 Sen. Caferro asked if the panelists have managed care Medicaid programs in their states.

03:13:37 Rep. Karjala asked about the need for more psychiatric care in Minnesota.

03:16:48 Ms. O'Connell asked Ms. Nygaard about Minnesota's requirement that a provider fill out the outcome questionnaire in order to provide publicly funded mental health services.

Mid-Study Review - Sue O'Connell

03:19:10 Ms. O'Connell ([Exhibit 12](#))

03:25:32 Rep. Ehli reminded the committee of the intent of HB 422 and the staff's need for more direction.

Public Comment on the HB 422 Study

03:27:30 Ron Wiens, CFO, Shodair Hospital

03:30:40 Jani McCall, Legacy Provider Group and Montana Children's Initiative ([Exhibit 13](#))

03:39:08 Matt Kuntz, Executive Director, NAMI Montana
03:40:59 Jim FitzGerald, Intermountain

LUNCH (reconvened at 12:55 p.m.)

04:52:14 Ms. O'Connell distributed a copy of a letter from Marina Little, Department of Administration, to Dan Villa, Budget Director, regarding cost estimates for two housing options for people who may need to be served by a state-run facility of last resort. ([Exhibit 14](#))

AGENCY OVERSIGHT: CHILD AND FAMILY SERVICES DIVISION (cfsd)

Introduction - Sue O'Connell

04:52:46 Ms. O'Connell

Legislative Performance Audit - Will Soller, Legislative Audit Division

04:56:06 Mr. Soller ([Exhibit 15](#))

Committee Questions of Mr. Soller

05:07:36 Rep. Ehli asked about various aspects of the audit findings, what happens to the recommendations after the audit is conducted, and who gets the final report.

05:13:11 Sen. Caferro asked about the request that precipitated the audit.

CFSD Audit Response and Division Update - Sarah Corbally, CFSD Administrator

05:16:34 Ms. Corbally

Committee Questions of Ms. Corbally

05:27:52 Rep. Ehli asked about the issues from the findings of the audit report.

05:38:15 Sen. Moore asked about the FTE positions, wages compared with neighboring states, and staff turnover.

05:42:03 Sen. Caferro asked about the division's computer system.

Protect Montana Kids Commission - Ali Bovingdon, Deputy Chief of Staff, Governor's Office

05:52:56 Ms. Bovingdon ([Exhibit 16](#))

Committee Questions of Ms. Bovingdon

06:03:27 Sen. Moore asked about legislative representation on the commission.

06:04:41 Rep. Ehli asked about the definition of abuse and neglect and the constitutional rights of parents and grandparents.

Child and Family Ombudsman Report - Traci Shinabarger, Department of Justice

06:10:36 Ms. Shinabarger ([Exhibit 17](#)) ([Exhibit 18](#))

Committee Questions of Ms. Shinabarger

06:22:01 Rep. Ehli asked about Ms. Shinabarger's authority to make recommendations to the Department of Justice, tracking those recommendations, and the number of cases she handles.

Grandparent Concerns - Cleve Loney, Great Falls

06:28:47 Mr. Loney provided copies documenting communication between CFSD and grandparents and parents ([Exhibit 19](#)); a copy of an affidavit ([Exhibit 20](#)); a letter from a grandmother ([Exhibit 21](#)); and suggested reforms ([Exhibit 22](#)).

Committee Questions of Mr. Loney

06:55:06 Rep. Ehli asked about complaints from the grandparents, Mr. Loney's experience with the Ombudsman's Office, and Mr. Loney's recommendations.

Public Comment on Child and Family Services Division Matters

06:59:51 Beth Brenneman, Disability Rights Montana ([Exhibit 23](#))
07:02:06 Aart Dolman, Great Falls, commented on the HB 422 Study.
07:06:16 Dennis Molnar, Executive Director, Court Appointed Special Advocates (CASA)
07:13:10 Aart Dolman, Great Falls

BREAK (reconvened at 3:38 p.m.)

AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Forensic Mental Health Facility at Galen - Dan Villa, Director, Office of Budget and Program Planning

07:34:59 Director Villa

Committee Questions of Director Villa

07:42:56 Rep. Ehli asked about the authority to allow the executive branch to open up a facility at Galen with no oversight from the legislative branch.
07:45:24 Director Villa ([Exhibit 24](#))
07:50:05 Rep. Pierson asked if employees who will lose their jobs at the Montana Developmental Center have expressed interest in working at other facilities and whether Montana State Prison inmates who need more in-depth treatment would be transferred to the facility at Galen.
07:52:11 Sen. Caferro asked about transferring the population in the D Wing at Montana State Hospital to Galen.
07:54:24 Rep. Ehli asked about the number of beds proposed at the Galen facility, the funding source, and remodeling costs.
08:05:41 Rep. Pierson asked about the safety of the Montana State Hospital's D Wing.
08:08:26 Sen. Caferro asked about the cost per month in the lease.

Developments Related to the Montana Developmental Center - Mary Dalton, Manager, DPHHS Medicaid and Health Services Branch

08:10:42 Ms. Dalton

Committee Questions of Ms. Dalton

08:20:27 Rep. Ehli asked about the anticipated date for closure of the Montana Developmental Center and the costs for beds in the Assessment and Stabilization Unit.
08:29:43 Sen. Caferro asked about the one-time only payment for individuals moving to community services.

- 08:32:22 Sen. Caferro asked Director Villa if the governor plans to follow the intent of the Legislature to close the Montana Developmental Center or move in a different direction.
- 08:37:00 Rep. Ehli asked Director Villa about the decision to keep the Assessment and Stabilization Unit open and whether he will continue looking for alternatives.

Other DPHHS Activities - Richard Opper, Director, Department of Public Health and Human Services

- 08:43:13 Director Opper provided an update on the following DPHHS activities:
- 08:43:48 Medicaid expansion and partnership with Blue Cross.
- 08:50:42 Children's Autism Services.
- 08:55:10 Reimbursement rates for durable medical equipment and incontinence supplies.

Committee Questions of Director Opper

- 08:58:49 Rep. Olszewski asked about the 3-year timeframe tying reimbursement rates for durable medical equipment to Medicare rates.
- 09:01:02 Rep. Olszewski asked about the population in the Medicaid expansion.
- 09:03:25 Sen. Moore asked about the number of enrollees who had applied for the workforce activities offered under the Montana Health and Economic Livelihood Partnership (HELP) Act and the administrative costs for Medicaid co-payments.

PUBLIC COMMENT on any other topic in the committee's jurisdiction

- 09:06:37 Mary Ann Dunwell, HD 84, discussed concerns about the planning process for the closure of the Montana Developmental Center. **(Exhibit 25)**
- 09:17:31 Dan Aune, Executive Director, Mental Health America, commented on access to care, community-based care, and continued care.
- 09:20:07 Casey Brock, veteran, commented on a Pain Patient Bill of Rights. **(Exhibit 26)**
- 09:20:58 Dr. Mark Ibsen commented on Pain Patient Bill of Rights.
- 09:22:53 Amy Rients, Juro's Pharmacy Health and Wellness, Billings, provided written comments on the proposed rule change to the Medicaid fee schedule for durable medical equipment. **(Exhibit 27)**
- 09:32:14 Roger Peters, General Manager, Kalispell Medical Equipment, commented on Medicaid reimbursement rates for durable medical equipment.
- 09:34:57 Mike Calcaterra, Vice President, Norco, commented on Medicaid reimbursement rates for durable medical equipment.
- 09:37:41 Charlie Briggs, member of the Montana Developmental Center Transition Planning Committee, commented on issues raised by Rep. Dunwell and his concerns about the process.
- 09:41:22 Eric Ecker, St. Vincent Medical Equipment, commented on Medicaid reimbursement rates for durable medical equipment.
- 09:45:01 Janna Jurovich, Juro's Pharmacy, Billings, commented on Medicaid reimbursement rates for durable medical equipment.
- 09:46:24 Beth Brenneman, Disability Right Montana, commented on the MDC closure and the closure process.
- 09:49:06 Rep. Albert Olszewski, on behalf of Dr. Steven Rizzalo, Dr. Don Erickson, and Dr. Rod Brandt, commented on Medicaid reimbursement rates for durable medical equipment.

COMMITTEE WORK SESSION

Objection to Administrative Rule Notice No. 37-728

09:51:00 The committee members discussed the objection to Administrative Rule Notice No. 37-728. The committee agreed that it would not renew its objection, thus allowing the Department of Public Health and Human Services to adopt the rule.

Further Direction to Staff on SJR 22 and HB 422 Studies

09:55:00 The committee discussed going forward with the HB 422 study by measuring outcomes, removing the pay-for-performance element, narrowing the focus to seriously emotionally disturbed youths, and looking at three elements: whether children are in school, at home or in a stable living environment if not at home, and are in the justice system.

10:16:54 For the SJR 22 Study, the committee asked for more information on how other states are training or educating guardians about their roles and educating the courts about guardian roles. The committee also asked for more information on the WINGS program and on financial exploitation of people in a guardianship.

OTHER BUSINESS

Sen. Moore's Resolution

10:24:48 Sen. Moore read his resolution asking the governor to appoint a legislator to the Protect Montana Kids Commission. ([Exhibit 28](#))

Motion

10:24:53 Sen. Moore moved for adoption of the resolution.

Vote

10:26:11 The motion passed unanimously by voice vote.

Request for Legal Opinion on the Intent of SB 411

10:26:26 Rep. Ehli discussed requesting a legal opinion on the intent of SB 411 to close the Montana Development Center.

10:29:49 Sen. Caferro asked that the committee wait until its next meeting to decide which direction to take because the transition planning committee will have had more meetings and could report back with recommendations.

10:31:23 Rep. Olszewski wanted to publicly apologize to Ms. Clifford for his comments regarding the AARP survey results that were presented at the November meeting held in Billings.

ADJOURNMENT

10:33:06 With no further business before the committee, Rep. Ehli adjourned the meeting at 6:37 p.m.