MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

2181

2007 SENATE HUMAN SERVICES

SB 2181

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2181

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: # 1184

Committee Clerk Signature Mary K Monson

Minutes:

Senator Judy Lee, Chairperson of the Senate Human Services Committee brought the committee to order.

Attendance was taken indicating all members of the committee present.

Senator Lee opened the hearing on SB 2181 relating to consent for certain health care services provided to minors.

Senator Karen Krebsbach from District 40, prime sponsor of SB 2181 introduced the bill (See attachment #1.)

Bruce Levi representing the North Dakota Medical Association testified in support of SB 2181 (See attachment # 2). He further added that SB 2181 does follow the ethics of medical practice (See the ethical opinion of AMA Code of Medical Ethics included in Attachment # 2.) He also presented a brief review of each subsection of the bill (also included with attachment # 2.)

Senator Dick Dever stated the bill refers to cases when a minor can consent to services if the parents of the minor are not acting in the best interest of the minor. He then asked if the minor is not doing what is in its own best interest can a parent legally force the minor to do what is best.

Bruce Levi responded that the bill is designed not only for those instances when the parents are not acting in the best interest of the child, but for the larger part is when minors ask for confidential services. The bill sets up the legal environment especially for the medical personnel that are now subject to law that says they cannot provide services without the consent of parents.

Dr. Shari Orser, obstetrician-gynecologist testified in support of SB 2181 on her own behalf (See attachment # 3.)

Senator Dever questioned how often minors are left on their own to make medical decisions.

Dr. Orser answered that it is not very often but there are circumstances where a minor is in labor and there is no parent available. Or she has had a pregnant teenager come to her office for care and because of the law she had to refuse her services and unfortunately never saw her again. She further stated she would like to prevent those kinds of situations.

Senator Robert Erbele asked how the paperwork would be handled as far as insurance and other documentation if the bill is passed into law.

Bruce Levi answered the bill does not create a perfect situation as there are issues of disclosure of information and situations will probably be handled on a case by case basis.

Senator Lee asked Rod St.Aubyn of Blue Cross/Blue Shield, if a minor can on her own apply for a "CHIP" if she is pregnant.

Rod St.Aubyn responded he was not sure about a "CHIP", but there are student plans that can be applied for. BCBS has adopted a policy where members would receive services in every state under a parent's plan. The law allows states to be more strident than a standard HIPAA policy. BCBS policy allows children 12 years and up with a separate EOB (Explanation of Benefits) and have many complaints from parents. There is a consent authorization form that minors can sign that allows parents access to that information.

Kathy Perkerewicz a certified obstetrician-gynecologist testified in support of SB 2181 on her own behalf (See attachment # 4).

Senator Joan Heckaman asked if a minor seeks prenatal care does the bill extend to include social work services.

Kathy Perkerewicz confirmed the bill discusses mental health services to include services of a social worker.

Senator Lee asked for further supporting testimony and hearing none asked for opposing testimony and neutral testimony of SB 2181. She further asked the committee if they had any questions of Mr. Mullen of the Attorney General's office. Hearing none closed the hearing on SB 2181.

Senator Heckaman requested background information on the discussion held in the House from two years ago when a similar bill was killed.

Senator Lee recalled that there was one person who felt parents should be included from the beginning.

Discussion was held regarding the history of the bill in the last session.

Bruce Levi added that the difference between the two bills was that last session the senate bill included an immunity clause and contained a section that created confusion relating to financial responsibility. This bill recognizes the ethical obligation which was not in the last session's bill.

Senator Dever added that 32 % of births in North Dakota in 2005 were out of wedlock births and 25 % or 600 of those were teens. (See attachment # 5)

Senator John Warner added that a premature or low birth weight of less than 5 pounds has a hospital cost of approximately $37,000.00 plus the additional cost of the hospital stay.

Senator Lee added there is a wide range of professionals and interest groups that support SB 2181 because they realize the benefits for the young mother and the baby. Being there is no opposition to the bill would also indicate its importance.

Senator Dever made a motion for a Do Pass of SB 2181.

Senator Warner seconded the motion.

Roll call vote 6-0-0. Passed.

Senator Warner will carry SB 2181.

Date: 1-16-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2181

Senate **HUMAN SERVICES** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Sen. Dever Seconded By Sen. Warner

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Warner

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2181: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2181 was placed on the Eleventh order on the calendar.

2007 HOUSE HUMAN SERVICES

SB 2181

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2181

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 13, 2007

Recorder Job Number: 4982

Committee Clerk Signature Judy Schock

Minutes:

Chairman Price: We will open the hearing on SB 2181.

Senator Karen Krebsbach, with District 40 Minot, ND: See attached testimony.

Senator Dick Dever, District 32, Bismarck, ND: See attached testimony.

Representative Kathy Hawken, District 46: I was pleased when asked to be a part of this bill. It is so very important that our young women have prenatal care. My daughter would not have had her twins had it not been for prenatal care. There are young women who are scared and who do not know what to do. We have many times talked about how important the life of a baby is. We want them to be born alive and born healthy. This is not a bill to get between children and parents. It has nothing to do with terminating pregnancies, but it has everything to do with healthy babies.

Dr, Jerry Obritsch, practicing OBGYN at Mid Dakota Clinic Center for Women: I have been doing this for the past 15 years. This is a very important bill. This bill is very important for me as a practicing OBGYN, because it effects what I do in my carrier. While having a young woman laboring the discussion of control of pain came up. Unfortunately her Mom made the statement that she was unable to consent to an epidural because she wanted her daughter to feel the pain of what it is like to do something that was wrong in her opinion. This

was very discouraging to me as a practicing OBGYN, because I know what an epidural can do to relieve pain in labor. This is one of the most painful situations in medicine the other having kidney stones pass. Another patient I had in Standing Rock, she was 15 years old living at home with her Mom. While laboring her Mom went back home to gather things as they left with nothing. In the course of her being away the patient became very active in labor and asked for pain relief. We should have obtained a consent from her Mom. I knew the Mom and if she had been there I would have easily obtained the consent for the epidural. She said you know I would have consented to it. I said I could not because of the way the laws are. The concerns with this bill are about is taking away parental right and consent of a minor daughter. I share those concerns; I am the Father of 4 children. I believe that 99% of parents care for their daughters and want the best outcome for them regarding a healthy pregnancy, and a healthy baby. We work with them to try and obtain consent of their parents. However there is some times this is not the case, and our hands become tied as practicing obstetrician.

Representative Damschen: The example you shared about the pain medication, does this bill allow the physician to administer medication with out the consent of the parent, even when the parent was informed? Are you aware of documentation of young Mothers to be not getting prenatal care?

Dr. Obritsch: It would allow us to gain the consent to do so. I have no documentation of how many Mothers who are minors.

Chairman Price: When the Mother returned home to pick up belongings what would have happened if the baby had gone into distress? In an emergency situation are you able to act?

Dr. Obritsch: Yes, in an emergency we can do what Is needed to do. That is not part of this bill it goes beyond that. When ever a patient sees a physician, we would have a patient physician relationship. In essence it becomes a contract, a bonding time.

Shari Orser, obstetrician-gynecologist of Medcenter One Health Systems: See attached testimony, and attached statistics. In other situations like treatment for STD, the minor can make an agreement with the business office to pay for the care herself. BC will tell you they sent the bill to the person who received the treatment, so parents don't receive the explanation of benefit. I also have articles that were published last year in contemporary OBGYN that talks about adolescent patients and confidentiality, and how to take care of these people.

Chairman Price: In your practice when you have a young woman come to you are you able to do anything, as far as determining a pregnancy or suggesting vitamins. I

Dr Orser: No, at this point in time we are not. I have had to turn young women away because they came in and had no consent of a parent. If the bill were to pass we would be able to do lab work, testing for STD's and provide her with a prescription for prenatal vitamins, or samples. We would talk with them and try to encourage them to talk with their parents to get them involved.

Bruce Levi, executive director of ND Medical Association: See attached testimony, and medical ethics, Minnesota stats, and Montana code annotated.

Representative Damschen: Once a minor as for example she's responsible for making decisions concerning medication. Is it consistent to take that right away from an adult parent? Is it consistent than for us to pass legislation that takes that authority away from and adult parent? From testimony we are not only taking the right of the parent informed away, we would also take away the authority of the decision making for the other parent. We are granting that authority to the physician. I am uncomfortable with the things in this bill

Mr. Levi: The way the frame work is set up in the law now what you say is true. A minor parent does have a new born child; they can make these decisions for the new born child. I think that is the point of the bill. There are situations to protect the unborn child. I think the

health of the unborn child and the minor mother becomes a balance with the health care if provided. I think the bill does deal with different kinds of situations. The bill is to protect the pregnant minor , who needs particular care .

Represenatative Conrad: A young woman has a child and has to make adult decisions about that child, than she needs to be treated a s an adult as she prepares to give birth to that child.

Mr. Levi: Our own abortion control act involves the maturity. The minor need all the information.

Representative Porter: If we are saying that the minor should be able to make this decision and have these treatments. Why don't we than relieve the parents of the financial responsibility at the same time? Why don't we put it all on the patient?

Mr. Levi: I believe last session we tried to include some language to deal with the financial situation. What we did this session is not address the financial implication other than suggest to provide that the minor could contract for that. That is a respect for the dialog of respect for the need for confidentiality. The bill does not address specifically other than allowing the minor to enter into some sort of special relationship and work out the details with how the care will be paid. There are statutes in ND dealing with minors and disaffirming contracts.

Rep. Porter: So in essence we are taking away the parents rights to be involved, but not thir right to pay the bill? If the concern is to allow physicians to get the first or a couple pre natal visit going and have the discussion, getting the right diet and vitamins and risk behaviors associated with the patient. Why don't we limit than, to the first visit?

Mr. Levi: I think it would depend on the specific situation. Every situation is different. The minor may not yet be ready to involve the parents at any particular stage during the preganancy even beyond the first12 weeks. I think it is more than the first initial visit. The prenatal care is a process through out the pregnancy, and that is important.

Audrey Cleary: I am here in support of the bill. See attached testimony. Not all children have the perfect relationship with their children. I also would like to see the Doctors not charge for the first visit.

Chairman Price: We just passed a bill for funds for alternatives to abortion to organizations around the state. Are you fearful that they could loose their opportunity to council expectant mothers on alternatives to abortion?

Ms. Cleary: Yes, we also encourage them to tell their parents. Sometimes our volunteers will go with them.

Tom Freier. Representing the ND Family Alliance: See attached testimony. I am in opposition to SB 2181.

Representative Conrad: If we were to go with this and some of the testimony young women never had prenatal care and came in only for the delivery. Should we than prosecute those parents who are neglect to the medical care of their children? Prenatal care is not provided to these young women and the parents are responsible and it is not happening so who? We don't want to give it to the young women.

Mr. Freier: I am not an attorney and If don't know if to that extent that could be done. I can tell you Family Alliance I am not in favor of not having prenatal care I believe we are reaching to the most extreme cases and looking at it other than the immediate issue is. This does not happen in every pregnancy.

Representative Kaldor: Assuming you would want every pregnancy carried to term if possible. Wouldn't you want minors in particular who are pregnant to have prenatal care as early as possible? Isn't it in keeping with your organizations philosophy that every child is important and in those unfortunate circumstances as you even described in you t testimony,

not every family is perfect. In those unfortunate circumstances isn't it worth it to do a little more than is necessary to insure protection of that baby?

Mr. Freier: Yes, obviously as I said in this room the initial and on going prenatal care should be available for everyone that becomes pregnant. Back to the bill is one issue and a parental issue. We do want to extend that protection to everyone. I think we cannot remove parental. Those individual's you more than likely are referencing are ones that parental (could not understand).

Rep. Kaldor: There are a couple things in the bill that relate to this issue that actually the physician is supposed to encourage the child. This is part of that process, a minor that becomes pregnant probably not very likely to tell her parents. They are probably not the first people they are going to tell, even in good families. Wouldn't it be more beneficial to encourage that process rather than force it?

Mr Freier: Just by encouraging, I don't know that, that is something that can't be done right now. I would hope that the provider would encourage with out this bill.

Chairman Price: Dr. Orser just said they can not treat patients. They can not see her about the pregnancy with out permission. So how can they encourage? :

Mr. Freier: The fact is a matter of contention. Some sort of narrowly crafted legislation that deals with that point alone as opposed to a draft of this bill that goes all the way to the removal of the parental involvement.

Representative Potter: In your testimony you said it removes the parent right and obligation in this instance. I would like to know what exactly you think is the parent obligation?

Mr Freier: Our duties and obligations are very important all the way from when we take care of that young person to education guidance direction all the way through their lives. The family unit is the unit we all come back to. To remove one part that is very important as this is during

a time of crises is really saying the other things are okay and important , but this one you don't have to confide in me, we don't have to be involved. We are responsible for our children.

Rep. Potter: Since it is part of your testimony, whether it is philosophical, I was thinking that you were talking for the family alliance and I heard you say the obligation is nurturing and financial. Those were the two I heard.

Mr. Freier: I don't know that I could give you a whole listing on what the parent's duties to raise their kids and educate them, and be consistent with them.

Representative Schneider: In the case of incest resulting in preganancy. Does the family alliance still support parental consent? If you wanted to let the world know it was your father or grandfather or to put them in jail you could do that. I don't think that is reality in life. Some times you want to put things behind you

Mr. Freier: Family alliance has always been for life, all life not matter the situation or occurrences. I think the status of the parent should still be respected. I believe we have services available through out our human services division and social services. I know there would be an opportunity here to prevail themselves to a service. We would come back to the alliance to keep parents involved.

Chairman Pride: The over all good in this bill the unborn child. We have a third of the babies born on Medicaid, we are asked to support the children that are born with problems because they didn't get prenatal care, a drug abuse Mom, and all sorts of other things. Granted some are genetic. We are 28th in the nation for infant mortality. We have high record of low birth with babies. A lot of it goes back to the prenatal care. Our fear is for the unborn child. As a parent or grandparent would I rather know y grandchild is going to be born healthy or find out two months later that I am going to be a grandma? This is about the unborn child.

Mr. Freier: This is not an easy question or easy situation. Maybe it is more so educational. I think what I heard you say was the prenatal care for that unborn and if in fact for the individuals that are not aware of what can transpire.

Rep. Damschen: I don't think there is a debate here about prenatal care, but however two examples referred to in previous testimony that Representative Kaldor referred to. I don't remember testimony there were actual complications resulting from the lack of prenatal care. Back to Rep. Conrad's question about being responsible, could the Dr. be prosecuted or the parents. Who is responsible?

Mr. Heier: Not being an attorney again, I don't know.

Rep. Porter: On page 2 of the bill, we really have not gotten into the discussion on some of the things that are also allowed under the bill. Sub section b concerns me. I don't know if we have a definition of prolonged hospitalization, but if some ones child needs to be hospitalized than by passing this law it can happen with out the notification of parents. The child could be gone for three days. The parent would have no idea where the child id and still be perfectly legal under this bill. I am not sure what is meant by major, and I know times have changed through medical care and there is a lot of invasive procedures that are done on an out patient basis. A child could have a surgical procedure done and the parents never notified. Are those concerns valid? The examples used could go beyond prenatal care once again.

Mr. Heier: You are correct in stating that the definition of what has occurred with all of a,b,and c is rather vague. We would not be certain what may occur, and once again that does remove the ability of that parent.

Janne Myrdal, representing Women for America of ND: See attached testimony: This is a detersive bill; I think it could be written better. We would support amendment s to clarify the bill. We have 1046 members, and we are about 26 years old.

Representative Dan Ruby, District 38: I felt compelled to come and testify in opposition. As a parent of 10 children I could have a PHD in parenthood, which does not make a perfect parent. I have dealt with this as a young man I understand the full emotions. It was a life changing time in my life. My oldest daughter has come to me with the same situation. She is older than I was, so both end of the spectrum. One who has been through it and one as a parent. For two sessions at least now we are dealing with this mother who denied the epidural. The parent rights are already quite substantial under the HIPPA laws. Either fix the bill or can it.

Bill Schuch, see attached testimony and power structure of the bill, and the second attached parental disempowerment in ND: This is not a medical matter it is a family crises. There is too much going on behind parents back. The problem with this is ir is a broadly framed bill. The parents have a right to know. They can not exercise there responsibilities if they don't know. There needs to be another approach to this.

Representative Potter: I agree with most everything you say. The parents right to guide, and nurture, and their duty. In today's world there are so many parents that aren't. We read about it and see it on TV daily. I am not quite sure what we do with families that are not there for their kids.

Mr. Schuch: Yes, there are a lot of cases of abuse, and neglect, and a parent does not have that right. It is not nearly as common as you get the idea from the news. The vast majorities of the parents care, and want to be involved, and be in charge of their children.

Representative Jim Kasper: District 46 Fargo: I have the following observation that I would ask the committee to consider. Line 18 this bill is putting those people in place of the parent. Some one is going to help that minor make a decision, but this bill is saying the physician or health care providers is in a better position than the parent. In most cases the parent loves the

child, and not aware of any problems. Who is liable if that physician or health care provider gives that young minor the wrong advice? Whether it is to carry the child, abort the child, or adopt the child. It is the responsibility of the parent to take care of that child. Observe the word minor. The definition of minor is someone who is young, immature in the perspective of making difficult decisions. This is a big deal; it is probably one of the biggest in a minor's life. Our family structure is what makes our nation great. Every bad thing we hear in the news or news paper, there is hundreds of good things happening which we never hear about.

Michel Hove: I am a parent. He talks about medical costs in another state about his son related to lines 13, 14, and 19 about parent becoming aware.

Becky Ness , health care professional: See attached testimony.

Mike Motschenbacher, I am here as a concerned parent. See attached testimony.

Vice Chair Pietsch: We will close the hearing on SB 2181

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2181

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 19, 2007

Recorder Job Number: 5267

Committee Clerk Signature	Judy Schock

Minutes:

Chairman Price: Take out SB 2181 for discussion.

Representative Porter: Brings proposed amendments. See attached. I took the concerns from the a\hearing and I worked with Mr. Levi from the Medical Association. We cam up with this amendment that was a narrower scope of what would be allowed. It still doesn't go as far as the ND Family Alliance would like to see it. The suggestion to me was a specific number of prenatal visits, which was one. The rest they were okay with. They are opposed to this amendment without a limiting factor on prenatal care.

Representative Potter asks for him to explain line 9 and what a condition means.

Bruce Levi, with Medical Association: We did assist in developing the recommendations. The intent behind the amendments was to focus on those particular situations that were used as examples in presentations. If a minor comes in at the point of labor and delivery, you are probably looking at an emergency situation at that point, and there is another law that applies to minor consent for emergency care. 14-10-17 that deals with emergency care for all situations involved in a minor.

Representative Porter: Some felt the pain relief didn't go far enough, and it should be spelled out. Pain relief is also healing relief. If things were to effect the unborn child it would go under the emergency code.

Representative Conrad asks Mr. Levi to explain line 3.

Chairman Price: I will let you review the amendment and we will take action later.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2181

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 20, 2007

Recorder Job Number: 5333

Committee Clerk Signature Shirley K Olmstead

Minutes:

Chairman Price asked the committee to continue the discussion on SB 2181.

Representative Porter went over the proposed amendments that are attached. Based on the discussions yesterday, as we looked this over from .0103 to this version (.0105) on these amendments. See attached proposed amendments marked as Item #1. I will tell you upfront that it must be really good amendment because neither side really likes it very well. I know that Representative Damschen has another amendment and we can discuss this after he has presented his amendment.

Representative Conrad asked why it was 2 prenatal visits instead of 3.

Representative Porter said the third visit takes place in weeks 16 to 18. It was looked at that the patient would already be showing so the parental notification on this is up for grabs. The discussion was of course from the medical association having an unlimited to the family alliance side wanting just one so we picked two as the starting point for discussion. There was a sheet provided by Mr. Levi. See attached sheet marked as Item #2. This is an event structure for routine prenatal care. The first four visits are a month apart.

Representative Conrad asked if he had considered number 5 or 6 or the issues there.

Representative Porter said no.

Representative Conrad said if we want to help these young women and girls then we want this to be relevant to the experience in their lives. This isn't like what you would do with cows or something.

Representative Kaldor said his question was regarding the same issue. If the patient comes for a screening or comes in earlier than that period of time, what about a circumstance where they come in after week one or within a week after exception. What would visit 2 consist of? I am assuming that would be visit one.

Representative Porter said if that would happen, that would be considered visit one. The chances of that happening within 7 days of fertilization would probably be slim. If it did happen, that would constitute visit one. Visit two would be between 10 and 12 weeks. Then between 13 and 16 weeks in order to have visit 3, the parents would have to be informed.

Representative Kaldor asked if this was per pregnancy or per physician. They could go to another doctor on the third visit.

Representative Porter said there is nothing in here as a tracking mechanism. The doctors would have knowledge inside the group of doctors that the first two visits had already taken place, but there is no tracking mechanism that wouldn't send the patient across the street and that physician may not have the knowledge that the first two visits took place. I don't know how you would do that. The only thing that may happen would be if there were some risk factors that were at the first initial visit of the first physician and asked for the medical records and realized that they had seen another physician twice before. If everything was normal the patient could certainly go the entire pregnancy by moving to another doctor every two visits.

Representative Conrad said if you look at visit 4 on this routine prenatal care, the family issues are in visit 4. I think this would make more sense than saying 2 visits. I don't mind all these amendments except for defining the numbers because I think that is irrelevant.

Representative Hofstad said that he thought it was relative. We heard in testimony that the main thing is getting the young women off on the right start and it is that initial that helps them that their diet is correct, and their lifestyle is correct.

Representative Conrad said if you look at the list all of those issues are dealt with in different visits. They do not do all these things in one visit. If they were all handled in one visit, our insurance wouldn't pay for all the visits.

Representative Weisz said they don't need their parents for medical care and there is no data produced to show they are not getting care. They are not getting prenatal care because they are afraid to tell their parents.

Chairman Price said she would play the devils advocate and say based on the number of parents that take their kids for abortion, they are going to want to be informed as well so they can get them to the clinic in the first trimester.

Representative Damschen presented his amendments. He said basically what this does is that it says they can go to the first appointment and then the physician will notify the parents.

Representative Porter asked him to clarify that it was one prenatal care visit and whether the patient comes back or not again there is a notification or upon the second visit there is a notification.

Representative Damschen said he never looked at that from that perspective. He said he would read it that they would have to inform the parents.

Representative Conrad said she would move the amendment made by Representative Porter with the change from 2 visits to 4 prenatal visits.

Representative Kaldor seconded the motion.

Representative Uglem said his understanding of this is that the first appointment determines the pregnancy. There is no counseling and the child is in shock and worried. By the second