

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
February 2, 1983

The meeting of the Human Services Committee was called to order by Chairman Marjorie Hart, February 2, 1983, 12:30 p.m., in Room 224A of the Capitol Building. All members were present.

HOUSE BILL 284. REP. WINSLOW, sponsor, stated that this bill is almost identical to the bill that was introduced last time which provided for licensing for professionals having the Masters of Social Work. Amendments and Statement of Intent were passed out (EXHIBITS 1 and 2) along with an explanation of social work licensing (EXHIBIT 3). He said that the Masters of Social Work is one of the five groups that are accredited in the mental health area. They are psychiatrists (M.D.'s), psychoanalysts, clinical psychologists, clinical social workers and psychiatric nurses. By providing a licensing board, it will provide a mechanism of maintaining quality care in providing for the consumer to receive third-party payments from insurance companies. At the present time, it is possible for a Masters of Social Work to work half a day at a mental health center and the other half day on their own in private practice. The half day that they work in the mental health center, they are reimbursed for their work. The same kind of work is done down the street by a private practitioner. Even though it may be prescribed by a physician, they can receive no reimbursement for the service because there is not a licensing process in the state.

PROPONENTS:

SHARON HANTON, Executive Director of the Montana Chapter of the National Association of Social Workers, stated they were endorsing HOUSE BILL 284 because we know that it will provide greater protection to the public. Other strong arguments for licensing master level social workers are their involvement in the hospice movement and home care for the elderly. Hospice makes possible the option for patients, terminally ill, to return or remain in their homes (EXHIBIT 4).

DAVID BRIGGS, Executive Director of the Montana Council of Regional Mental Health Center Boards, read a letter of support from John G. Nesbo, Chairman, Council of Montana Community Mental Health Center Boards, Inc. (EXHIBIT 5).

DR. BAILEY MOLINEUX, representing the Montana Psychological Association, spoke in favor of the bill. His one question was on page 14, subsection 2, under health services, licensed psychologists are not included whereas they are included under the "Freedom of Choice", Section 13. He asked how would they go about having licensed psychologists included under the subject. He proposed this item as an amendment.

ANDREE DELIGDISCH, a clinical social worker employed by the North Central Montana Community Mental Health Center in Great Falls, Montana, spoke in favor of HOUSE BILL 284. The two areas she was concerned with were the issue of confidentiality and the setting forth of fairly rigorous performance and ethical standards for Masters of Social Work practice (EXHIBIT 6).

OPPONENTS:

IRVING E. DAYTON, Commissioner of Higher Education, stated that the university system takes a neutral position in relation to third-party payments. He had one very serious reservation about this bill and support for the bill is conditioned upon getting that remedied. We have established a technical Masters of Social Work. The academic degree, Master of Social Work, is a very well recognized degree offered by academic institutions for two years of work beyond the Bachelor's degree. What you are doing here is having a state certification which uses this accepted and understood title and, in his opinion, would be a source of incredible amounts of confusion and misrepresentation. Mr. Dayton suggested that the second reading copy of HOUSE BILL 554 of the previous session, which had been amended to the satisfaction of the university system using either "certified social worker" or "licensed social worker" be perused. In the previous bill, the Board was the State Board of Social Work Examiners. In this bill, it is the State Board of Masters of Social Work. I would ask that you put in the amendments to get this Masters of Social Work out except when it refers to an accepted academic degree. If the amendments are made, they will support the bill.

TOM HARRISON, representing Blue Cross, stated this bill seems to be a part of a package of bills started in various houses to accomplish an end we would advocate as undesirable. SENATE BILL 107 was drafted with the thought that this bill, HOUSE BILL 284, would pass; and yet it picks up "social workers" in Section 2-(2)-(d). In addition, it makes the change which REP. WINSLOW represented in this bill, which is correct. This bill puts it in as an optional benefit: SENATE BILL 107 converts it to a mandated benefit. I would like to address them as the two interrelate. He didn't think people realized that the other bill is coming to accomplish exactly the opposite what this bill seems to represent on its face. As you increase mandated and requisite benefits, this bill picks up nurse practitioners, licensed drug counselors, licensed Masters of Social Work, increases the drug dependency benefits, triples the alcoholism treatment benefits and makes them all mandated. The mandated portion is just an increase in premium. There is no negotiation

on it; it is passed along to the consuming public and we don't think that that is a good thing. We think that anything that is done in concert with this bill makes it harder for them to negotiate on their own behalf. He felt both bills should be addressed together.

MARY LOU GARRETT, Department of Commerce, did not support or oppose the bill (EXHIBIT 7).

JAN VANRIPER, Assistant Bureau Chief with the Division of Workers' Compensation, opposed HOUSE BILL 284. She stated that this addition will raise the cost of workers' compensation coverage to Montana employers without justification and that the bill has every indication of causing a rise in premiums (EXHIBIT 8).

STUART L. KELLNER, Blue Shield, appeared in opposition to HOUSE BILL 284. He stated there would be a cost increase. His second concern was with those provisions of the bill that did not mandate coverage. Other bills that have been introduced in this session are SENATE BILL 70, which provides that a nurse specialist will be included under the Freedom of Choice Act; SENATE BILL 107, which was previously mentioned; and SENATE BILL 274, which would do for professional counselors what this bill will do for social workers. He stated it takes the option away from the consumer and forces upon him choices he may not want to make or may not be able to afford to make.

LES LOBLE, representing the American Council of Life Insurance, opposed Sections 14 and 15 of HOUSE BILL 284 which adds "Masters of Social Work" and "licensed Masters of Social Work" as in the Freedom of Choice provision. He asked that that part of the bill be amended out.

REP. WINSLOW closed by saying he was amazed at all the insurance companies in force talking about something that is going to be optional. They are automatically saying there are going to be increased costs because somebody is going to a social worker and be reimbursed for it. He stated we are discouraging people from getting the proper type of care when these people are trying to give it. If a psychiatrist prescribes it, insurance companies cover that. The letter that was returned from the insurance company said that they were not mandated to pay because the social worker was not licensed in the State of Montana. If they don't get the proper care, we are going to pay for it later. He was also concerned about the Chamber of Commerce saying that two boards are being set up that are quite similar. He said there was a very close relationship between counseling at the Masters of Social Work level and one

doing psychotherapy. In the future, there will be a Behavioral Sciences Board; and, hopefully, these decisions will be decided by the over-all board. He felt that it was important that we maintain quality of care for those who are doing this work; but, he stated, if the Committee is hung up on insurance, that section could come out.

QUESTIONS:

REP. MENAHAN TO MR. DAYTON: The University at Bozeman has two types of Masters of Social Work. What is the distinction between the two programs.

MR. DAYTON: Montana University has never offered a Masters of Social Work. John Bowers had a Bachelor's program.

REP. MENAHAN: When you go on to the Master's degree, aren't there two types--a practicing degree and the other is a door-knocker.

MR. DAYTON: The degree of Master of Social Work is a professional practice degree. It is conceivable that a person could get a research degree--Master of Science in Psychology or Human Services, which would be devoted to research rather than providing services.

REP. MENAHAN: What is the difference between a social worker or a psychiatrist.

MR. DAYTON: A psychiatrist is an M.D.; a psychologist has to have a PH.D. in Clinical Psychology.

REP. MENAHAN: What is the distinction between a social worker and a psychologist.

ANDREE DELIGDISCH: Psychologists do a lot of testing. Masters of Social Work cannot administer tests. The work of counseling or psychotherapy does very often intersect.

REP. MENAHAN: Could we combine these two programs.

MR. DAYTON: They do not do the same thing. They overlap.

REP. MENAHAN: When does somebody need a social worker.

REP. WINSLOW: You have probably talked to people who have been to a social worker but they are called a therapist. Most of those people have a Masters of Social Work degree.

REP. SEIFERT: What educational requirements are needed to get a degree in social work.

REP. WINSLOW: Four years plus a two years graduate program. This licensing board would require 10,000 hours of experience and 4,000 hours of supervised experience.

REP. MENAHAN: If we pass this law, how are the people in the field now going to get a license. The answer was that the standards will be the same for the people in the field now and the new individuals coming in.

REP. DOZIER: Have there been any studies done in relation to mental health to physical health.

HAROLD JENKINS passed out a fact sheet with information pertaining to this question (EXHIBIT 9).

REP. SEIFERT: If you have a private practice in social work, how do you regulate your fees.

HAROLD JENKINS: We have a regular rate of \$35 per hour.

REP. BRAND to SHARON HANTON: There are currently eight people in the WICHE program. How many people in the WICHE program have come back to Montana.

It was explained that the program that Ms. Hanton referred to did not involve the WICHE program. Different states pick programs that are unique and let people from other states in at in-state fees. We send no Montana money after these people.

REP. WINSLOW: By our ignoring this issue, we are hampering social work as a profession. The only place they can work here is for a mental health center.

REP. BRAND: How many people are we talking about.

REP. WINSLOW: About 150.

REP. BRAND: The opponents say it is going to cost more to providers and also to the insurance companies. You are saying it is going to cost less. Who is right?

REP. WINSLOW: It is impossible to say at this point.

REP. BRAND to ANDREE DELIGDISCH: You testified about being a counselor and discussed the confidentiality between you and your client. One of the problems was child abuse to be reported. Do you really feel that should be confidential between you and your client?

ANDREE DELIGDISCH: No, it should not. And the point I was trying to make is that even though this bill would give us privileged communication, we are mandated by the law in some instances to give information.

REP. FABREGA: How much enthusiasm will the proponents lose if everyone has to take the examination.

REP. WINSLOW: I don't think that would be any problem.

CHAIRMAN HART closed the hearing on HOUSE BILL 284.

HOUSE BILL 328. REP. FARRIS, sponsor. This bill, presented by REP. VINCENT, provides for annual unannounced inspections of long-term care facilities by the Department of Health and Environmental Sciences. He stated the definition of a long-term health care facility means a facility of health care which provides care to two or more persons or personal care to more than three persons who are not related to the owner or administrator by birth or marriage. He wanted to emphasize that he doesn't look on this bill as a total answer. The intent of the bill is directed to the real needs of people. There is a difference and if they would have unannounced annual inspections, it would provide us with a better window as to how people are being cared for. If the argument is raised that they are doing a good job, we want to give some thought to turning that argument around.

PROPOSERS:

MARGARET L. GILFEATHER, representing the Legacy Legislature, stated that this item had second-to-top priority in the Legacy Legislature (EXHIBIT 10).

BOB VIRTS, President, Helena Chapter of the Montana Senior Citizens Association, stated that if we do not have an annual unannounced inspection, we might as well have no inspection at all (EXHIBIT 11).

CHESTER KINSEY, speaking for TOM RYAN, Montana Senior Citizens Association, stated that adequate monitoring of nursing homes is absolutely necessary, both for the residents of the homes and for the family and friends of the residents (EXHIBIT 12).

ALICE COLLINS, member of the Montana Senior Citizens Association, has been a volunteer at local nursing homes and is deeply concerned how the old people are treated in nursing homes (EXHIBIT 13).

BARBARA C. COLE, citizen, said that the good nursing homes would not object to annual inspection with no notice. She was in favor of HOUSE BILL 328 (EXHIBIT 14).

HELEN McKNIGHT, Great Falls Senior Citizens, felt it is necessary for visits to be unannounced. She was in support of HOUSE BILL 328.

GEORGE SHAUGHNESSY, Issues Chairman, the Montana Senior Citizens Association, said he had discussed this issue with quite a number of people that have, or have had loved ones so confined.

Each and every one of them agrees that more frequent inspections are absolutely necessary. He supported HOUSE BILL 328 (EXHIBIT 15).

WADE WILKISON, Director, Low Income Senior Citizens Advocate, spoke in support of HOUSE BILL 328.

DWIGHT KINSEY, Chairman of the Flathead Council on Aging, wholeheartedly supports this bill.

DOLLY SIBERIUS, Kalispell, Chairperson of the Senior Citizens Center, supported HOUSE BILL 328.

Additional written testimony is attached (EXHIBIT 16).

OPPONENTS:

ROSE SKOOG, Executive Director of the Montana Health Care Association, representing 60 nursing homes throughout the State of Montana stated they are not opposed to having their nursing homes open for inspection. She did say this bill will add to the regulatory burden and to costs of both the state and the facilities but it doesn't add anything to quality care for patients. She said the Department of Health can go into a nursing home anytime it wants to because of complaints or to perform "surveys" or "inspections". The nursing home ombudsman program has people around the state whose duties are to visit nursing homes. The Montana Foundation for Medical Care is a peer review/quality assurance organization which contracts with the state and/or individual homes to perform various functions in nursing homes. The Foundation visits some nursing homes quarterly, some every six months, and others annually (EXHIBIT 17).

JACQUELINE McKNIGHT, Chief of the Licensing and Certification Bureau, Department of Health and Environmental Sciences, spoke in opposition to this bill. The problems she saw with passage of this bill are: (1) If the federal funding and requirement for annual surveys continues, there is no need for passage of the act requiring annual surveys; (2) If the federal requirements are for less than annual surveys, then the costs for annual licensure surveys would have to be borne by state general funds; and (3) As far as unannounced surveys are concerned, she saw value in them for the purpose of complaint investigation or for complete survey if we have any reason to suspect that the facility is operating below standards (EXHIBIT 18).

LENORE TALIOFERRO stated she had statistics showing that there is a growing number of complaints (EXHIBIT 19). What she wanted to make sure was whether inspections are announced or unannounced, the same people who do investigate complaints referred through her office, still have the capability to do

that in terms of staff people that are available.

BECKY SMITH, Montana Hospital Association, stated they would support the bill with Miss Skoog's amendment.

VERL BRECHLEY, Montana Association of Homes for the Aging, wanted to go on record as opposing this bill.

REP. VINCENT closed saying HOUSE BILL 8 of the November 81 special session was introduced at the request of the Department of Health in the knowledge that federal medicaid funding would be cut. Montana was presented with the option of either cutting back annual inspections or coming up with the money out of the general fund to accommodate those needs. As he understands it, those medicaid regulations for annual inspections are still law. There is a very real question as to what the situation is. Montana may well be in violation because the federal regulations requiring annual inspections are still there. Congress is making a concerted effort to put funding back in to provide for the inspections. He stated when you clear away all the dialog, you will learn more on unannounced visits. There were comments raised relative to the adequacy of the complaints. He questions who, in a care facility is able and willing to issue a complaint knowing that they are going at it on their own. They are going to be alone and he submitted that they might be fearful what would happen to them when certain people find out that they have made a complaint. Without a provision in the law of unannounced visits, opportunities to find out how people are treated is greatly diminished.

QUESTIONS:

REP. SWIFT to REP. VINCENT: What is the difference between the annual inspection and the inspection by the federal authorities that is required now.

REP. VINCENT: I do not know the answer to that question in the specifics you are wanting.

REP. SWIFT: Can a resident or a relative at any time request and receive an investigation from the department.

REP. VINCENT: I do not know. They can file a complaint and, in most cases, an investigation follows.

REP. WINSLOW said it was the understanding that we changed it from one year to three years, and that is not the case. It could be one, or two, or three.

REP. WINSLOW to REP. VINCENT: Do you see any difference between the word "inspection" and "investigation".

REP. VINCENT: Yes. To put them in order, you would have an inspection long before you would have an investigation.

In the title of the bill you are talking about unannounced inspections. It appears from the testimony, people are having conflicting ideas. The bottom line is that there is a world of difference between the words "may" and "shall" and he comes down on the side of "shall".

REP. JONES: How many facilities are we referring to in this bill.

JACQUELINE McKNIGHT: There are 95 long-term care facilities in the state.

REP. JONES: What is the cost of the inspection.

REP. VINCENT: I do not know.

REP. KEYSER: With the language the way it is with the Department being able to make any number of unannounced investigations into any one of these homes, are you just trying to get back in the law the word "annual".

REP. VINCENT: My intent was for there to be an annual one-time visitation.

REP. KEYSER: Could they do that now.

REP. VINCENT: They can but they are not required to do so.

REP. SEIFERT: When that was changed during the special session, was it not the intent that they could spend more time with the problem homes.

ROSE SKOOG: When the legislation was put in, there was a great deal of testimony that time could be spent with homes that were not in regularly in compliance and not waste time with homes who were in compliance.

REP. FABREGA: Would REP. VINCENT care to address the proposed amendment.

REP. VINCENT: I would want to read it very carefully and give some thought to it. I have real problems with basing a complaint as the primary reason to initiate an inspection or a visitation.

REP. FABREGA to LENORE TALIOFERRO: Is there a conspicuously posted sign that advises where individuals wanting to file a complaint can get in touch with you.

LENORE TALIOFERRO: Efforts are made to keep the public notified. Some facilities post them and some don't.

REP. DRISCOLL: How many people are on the inspection team.

JACQUELINE McKNIGHT: We send at least three people.

REP. DRISCOLL: How long does the inspection take.

JACQUELINE McKNIGHT: One and one-half days.

REP. DRISCOLL: Do you go out on the inspections and do you know before you go into a place what you are going to find. Would you know which places are violating.

JACQUELINE McKNIGHT: We review things very thoroughly.

REP. FABREGA asked if the Committee might have the report of an inspection to understand what they do--where they spend their time and what is accomplished in an inspection. He would like to have Ms. McKnight come back and answer questions to make sure they are addressing the concerns that are addressed in the bill. She agreed to be available for Executive Session.

CHAIRMAN HART closed the hearing on HOUSE BILL 328.

HOUSE BILL 299. REP. JAN BROWN, sponsor, passed out amendments to this bill along with a Statement of Intent (EXHIBITS 22 and 23). She stated this bill will enable the Department of Health and Environmental Sciences to establish a special licensure category for facilities that provide nursing and habitation services to the developmentally disabled. This bill will enable the Department of Health and Environmental Sciences to hold these facilities to standards that are tailored to these types of facilities. Licensing provides standards for intermediate care facilities that are aimed at services for older people who need nursing care. They are inappropriate for intermediate developmentally disabled. They need standards that are geared toward care of the mentally retarded. The department intends to adopt the licensing standards for these facilities from federal standards for intermediate care facilities for the mentally retarded.

PROPONENTS: None

OPPONENTS: None

QUESTIONS:

REP. DOZIER to JACQUELINE McKNIGHT: What is the purpose of this bill.

JACQUELINE McKNIGHT: We need to have a special name for intermediate developmentally disabled.

REP. WINSLOW: What facilities are we talking about.

JACQUELINE McKNIGHT: We are talking about Boulder, Eastmont and an intermediate retardation facility in Ronan.

REP. CONNELLY: Would this include a place like Friendship House in Kalispell.

JACQUELINE McKNIGHT: Not unless they are providing care for the developmentally disabled.

REP. SWIFT: Would this cover eight or ten developmentally disabled that have a home in a residential area.

JACQUELINE McKNIGHT: No. The ones we are dealing with have expressed to be certified to receive Medicaid dollars providing IMR service.

REP. WINSLOW: In order for them to get Medicaid reimbursement, do they have to pass this inspection rather than the inspections they are getting at the present time.

JACQUELINE McKNIGHT: It is the same inspection. We just don't have a title for the types of these facilities. Instead of licensing them as ICF, we will be licensing them as IUD.

REP. WINSLOW: Will we get Medicaid, whereas now we are not getting Medicaid.

JACQUELINE McKNIGHT: Those that we are dealing with are certified. Part of the licensing requirement are the federal commissions of participation for developmentally disabled.

REP. WINSLOW: Are we getting Medicaid for patients in Boulder.

JACQUELINE McKNIGHT: Yes

REP. BRAND: Does the federal government change its criteria and is it forcing you to change.

JACQUELINE McKNIGHT: No. We see it as a housekeeping bill where licensing now is intermediate care facilities.

REP. BRAND: Is everyone under the program now.

JACQUELINE McKNIGHT: Yes.

REP. BRAND: What is this going to do.

JACQUELINE McKNIGHT: It will change what is on their licenses.

REP. HANSEN to JACQUELINE McKNIGHT: With your amendment, you intend to exclude "adult foster care center". Would it be just intermediate.

JACQUELINE McKNIGHT: That is right.

CHAIRMAN HART closed the hearing on HOUSE BILL 299.

HOUSE BILL 266. REP. CONNELLY, sponsor.

CHAIRMAN HART stated that she was asked to bring this bill back to Committee because some people felt that the Statement of Intent should be included as part of the bill.

REP. DOZIER: Apparently, one or two of the attorneys in the House said that some of the requirements should be statutory and not in the rulemaking area.

REP. KEYSER: Moved we accept HOUSE BILL 266 back into Committee. The motion passed unanimously.

EXECUTIVE SESSION:

HOUSE BILL 299. REP. JAN BROWN, sponsor. This bill clarifies definition of long-term care facility; adding a definition of intermediate developmental disability care.

REP. SEIFERT moved HOUSE BILL 299 DO PASS.

REP. KEYSER moved amendments to HOUSE BILL 299 be adopted. The motion passed unanimously. (EXHIBIT 20)

REP. KEYSER moved HOUSE BILL 299 DO PASS AS AMENDED. The motion carried unanimously.

HOUSE BILL 269. Needs discussion.

HOUSE BILL 262. REP. SCHYE, sponsor. This bill conforms the definition of developmentally disabled for treatment purposes to that for purposes of community-based programs and residential facilities.

REP. WINSLOW moved HOUSE BILL 262 DO PASS. The motion passed unanimously.

HOUSE BILL 182. REP. WINSLOW, sponsor, stated that an amendment is being worked on regarding continuing education which would not be implemented until after June 1985.

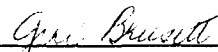
REP. FABREGA moved that this amendment be accepted. It was carried unanimously.

REP. KEYSER moved HOUSE BILL 182 DO PASS AS AMENDED. It was carried with REP. BRAND voting no.

The meeting adjourned at 2:50 p.m.



CHAIRMAN MARJORIE HART



Secretary

STATEMENT OF INTENT
_____ Bill No. _____ [LC 450]

Section 4 requires the Board of Masters of Social Work to adopt rules setting professional, practice, and ethical standards for licensed masters of social work, establish continuing education requirements, and adopt such other rules as are necessary for the regulation of licensed masters of social work. The Legislature perceives a need to regulate persons holding themselves out as having a master's degree in social work or using the title of master of social work. Consumers of social worker's services are entitled to adequate regulation of those services in the public interest. It is contemplated that the Board may promulgate rules that:

- (1) protect the public from abuse of the trust placed in social workers;
- (2) regulate the day-to-day practices of masters of social work;
- (3) ensure a professional attitude and professional work in a professional atmosphere;
- (4) regulate fees charged for services;
- (5) regulate testing devices and methods used by masters of social work;
- (6) regulate counseling techniques;
- (7) determine the type, amount, and quality of continuing education of masters of social work; and
- (8) are otherwise necessary to the regulation of the profession.

AMENDMENTS FOR HB 284

LIST OF ADDITIONS AND DELETIONS TO BE INCLUDED IN HB 284

PAGE 1 LINES 22 and 23 (Section 1 (c))

ORIGINAL READING: one member must be in the private practice of mental health;

PROPOSED CHANGE: one member must be in the medical or social welfare field;

PAGE 4 LINE 17 (Section 4 (6))

ORIGINAL READING: distribute a copy of the ethical standards of the certified masters of social work; and

PROPOSED CHANGE: distribute a copy of the ethical standards to the licensed masters of social work; and

PAGE 5 LINES 4 through 9 (Section 5 (a))

ORIGINAL READING: qualified members of other professions such as physicians, psychologists, lawyers, pastoral counselors, educators from doing social work consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "social work" or "social worker";

PROPOSED CHANGE: qualified members of other professions such as physicians, psychologists, lawyers, pastoral counselors, educators or the general public engaged in social work like activities.

PAGE 7 LINE 3 (Section 6 (b))

ORIGINAL READING: has accumulated 3,000 hours of practice in social work within the past 5 years; and

PROPOSED CHANGE: has accumulated 3,000 hours of practice in psychotherapy within the past 5 years; and

PAGE 1 LINE 16 (Section 1 (1))

ORIGINAL READING: The governor shall appoint a board of masters of social work consisting of five members. Five members must have a master of social work degree, and:

PROPOSED CHANGE: The governor shall appoint a board of masters of social work consisting of five members. Four members must have a master of social work degree, and one member must be appointed from and represent the general public and may not be engaged in social work.

PAGE 5 LINES 15-17 (Section 3 (c))

ORIGINAL READING: activities and services of an employee of a business establishment performed solely for the benefit of the establishment's employees;

PROPOSED CHANGE: activities and services of an employer of a business establishment from performing social work like activities solely for the benefit of the establishment's employees;

ANSWERS TO QUESTIONS STATE LEGISLATORS ASK ABOUT SOCIAL WORK LICENSING

A RESPONSE TO QUESTIONS PROPOSED BY THE
COUNCIL OF STATE GOVERNMENTS IN
OCCUPATIONAL LICENSING:
QUESTIONS A LEGISLATOR SHOULD ASK.

National Association of Social Workers
1425 H Street, N.W.
Washington, D.C. 20008

Introduction

State licensure of persons to engage in an occupation or profession has come under increasing question in recent years as state legislators more critically examine just which activities state government should be involved in and which activities should be left outside governmental control. In 1978, the Council of State Governments prepared a booklet titled "Occupational Licensing: Questions a Legislator Should Ask,"¹ which has been widely used by state legislators in studying both new bills proposing the regulation of currently unregulated groups and in considering whether existing laws regulating an occupation or profession are justified.

¹ Shinberg, Benjamin, and Roederer, Doug. *Occupational Licensing: Questions a Legislator Should Ask*. Lexington, Ky.: The Council of State Governments, 1978.

The following "Answers to Questions Legislators Should Ask About Social Work Licensing" is a response to these questions. The National Association of Social Workers believes that the questions are valid and that they represent a major advance for the public interest in making government more effective and efficient. We believe that social workers, as professional practitioners carrying important responsibilities for the lives and well-being of people, should be accountable to the public for their actions in serving vulnerable and often defenseless or dependent adults and children. We believe that a serious consideration of the reasons for regulating who may engage in the practice of social work will conclude that such regulation is in the public interest.

#1. What is the problem? Has the public been harmed because social workers have not been regulated?

Because social workers serve people in so many ways, the extent of harm to the public's health, safety, or economic well-being that is caused by incompetent or improper practice has never been appreciated. The actions, or failure to act, of a social worker often have significant effects on the health, mental health, and well-being of both individual clients and family groups. Social workers are responsible for such matters as:

- decisions to remove or return children to their home;
- the placement of children outside their own family;
- determining if a child is in risk of physical or sexual abuse;
- ensuring that a mentally ill patient or a retarded adult can leave an institution with plans for sound care;
- providing mature and constructive counseling to emotionally distressed individuals and families; and
- helping people make decisions about their lives in a countless number of other ways.

It is *because* a client is vulnerable, or has been hurt, that the social worker is involved and has been given the task of helping. Failure to help, whether through incompetence or irresponsibility, is a serious matter to thousands of persons every day whose well-being depends upon the ability of a social worker.

Because most social workers, up to recent years, have practiced as employees of public and private (voluntary) agencies, there has been little attempt made to hold social workers legally accountable for malpractice, but with the growing number of social workers in private or independent practice, suits by persons who have been harmed through malpractice are increasing. Most of the people who have been served by social workers are the clients of government or voluntary agencies. There is increasing concern for the effectiveness of these programs, which are often staffed by workers without any professional social work training or education.

Exposes by the news media and by investigating committees repeatedly document the inadequacy and sometimes fatal consequences of poor practices in programs and institutions where so-called "social workers" have responsibility for service. But little changes, because both civil service and other employers continue to hire people who do not have the professional knowledge or skill to know what their clients need or how to help them. Unfortunately, it is probable that most of the instances of harm to the public resulting from the actions of untrained and incompetent "social workers" are never known, but are suffered in silence by dependent, defenseless clients. Most members of the public, at one time or another, have heard about or experienced how a so-called "social worker" can take advantage of (or just plain fail to help) a distressed or vulnerable client. And if they believe the social worker is wrong, they have had no place to take the complaint.

Yes, the public has been greatly harmed by the services of ill prepared and incapable persons acting as social workers, and the economic burden of social services which do not give effective aid is a serious social problem. Social services are a major public and private investment by our society designed to alleviate distress and assist people to provide better for themselves. There is every reason to believe that large amounts of public and voluntary funds spent for "social services" have been wasted because such services were being provided by ill-equipped, even if well-meaning, persons.

How do you measure the harm done to a bewildered mother whose life and responsibilities threaten to overwhelm her and whose plea for help is not understood by an ill-equipped "social worker"? What about the lasting impact on the children where such a family breaks up? How do you measure the harm to a child in foster care who goes from failure to failure because no responsible "social worker" was able to understand how to help? Or the harm to all those people who reach out for help but do not receive it?

4

#2. Who are the users of social work services? Are they able to evaluate the qualifications of those offering social work services?

Most of the persons receiving social work services are clients of public programs, such as services providing care to children, counseling to the mentally distressed or troubled, and protective functions. Such clients literally have no choice about who "serves" them and rarely would they have any basis for evaluating qualifications. But large numbers of persons also use social work services in hospitals, mental health clinics, from private practitioners, and, increasingly, in programs conducted by employers to assist employees with alcoholism or other family problems. Without some form of licensing, clients and potential clients of social work services have no basis for understanding the qualifications of those persons presenting themselves as "social workers." In recent years, there has been a very large number of people graduating from college and university programs at every level from Associate of Arts (2 year college programs), BA (4 years) and MA (1 or 2 post-

graduate study). These programs carry a variety of titles, such as "Counselling," "Mental Health," "Human Service," but they are not accredited professional programs, meeting nationally recognized professional educational standards. Social work programs are accredited by the federally sanctioned Council on Social Work Education.

Nevertheless, the great bulk of the graduates of these non-social work programs seek employment and are hired in social service agencies. At best such programs offer only a "book knowledge" of their fields. In no way do they prepare graduates to assume responsibility for helping clients make significant decisions about their life, nor do they assess the actual *practice competence* of their students. The major professional helping disciplines (e.g., medicine, social work, psychology) incorporate supervised practice in the process of professional education.

#3. What is the extent of autonomy of social work practice? How much skill and experience is required in social work? What kind of "supervision" is there?

Social workers practice both as salaried employees and as independent therapists and consultants. While some form of "supervision" is involved in any type of salaried employment, social workers are characterized by the high degree of independent judgment vested in even beginning level workers. Social work practice requires confidentiality and privacy in contacts between the social worker and client; even closely supervised practice involves contacts that are entirely private and therefore subject only to later supervisory review.

Beginning level social workers are frequently involved in highly emotional, challenging situations, such as in child abuse investiga-

tions, and a high level of mature, informed judgment is needed. Both definite professional skills and prior experience during professional training are needed for entry into the field.

Experienced salaried social workers normally work under administrative supervision, using professional supervision only on a consultant basis. Supervisors in social work should be licensed or regulated in the same way as the practitioners they supervise.

Social workers practicing as independent therapists or consultants function autonomously, even though they might use consultation with a colleague or other professional, such as a psychiatrist, where such expertise is needed.

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#4. What efforts have been made to address problems that occur in social work practice? Is there a code of ethics? Are there complaint handling procedures? Are these effective in protecting the public?

There is a Code of Ethics promulgated by the National Association of Social Workers, a voluntary professional membership organization of some 80,000 members, and the NASW does have a well organized procedure for handling complaints of unethical conduct. However, the effectiveness is limited because only members of the association can be made accountable and because the most severe "discipline" (censure or termination of membership in NASW) possible may not prevent continued practice by an unethical social worker. Moreover, this professional peer review of ethical conduct is not a review of *competence* and so does not provide an adequate forum for handling disputes between practitioners and the public.

The NASW Code of Ethics is widely recognized and accepted in the field of social work and social services as the primary ethical guide or standard. This demonstrates the readiness of the profession to observe such standards. It is estimated that of the nearly 350,000 persons employed in a social service capacity, only 150,000 are *trained* social workers and, therefore, eligible for membership in NASW. The fact is that the field has large numbers of persons employed as "social workers" who lack the necessary training and have little or no awareness of the profession's ethical and other practice standards. Thus, the only way to ensure full accountability of persons practicing social work is through state regulation covering all such practitioners.

#5. Is there a nongovernmental certification program that would assist the public in identifying qualified practitioners?

There are several such programs for voluntary certification in social work but they provide certification only for certain advanced levels of social work practice. They do not provide an adequate guide to the public and to clients about the great bulk of social workers now practicing.

The major voluntary certification program is the ACADEMY OF CERTIFIED SOCIAL WORKERS, which requires membership in the National Association of Social Workers, two years of postgraduate social work experience, and a written examination. It was developed to provide a voluntary identification of practitioners qualified to practice independently and

as supervisors. In 1979, some 45,000 persons held the ACSW certification.

Social workers in private or independent clinical social work practice can also be certified and listed in the national Register of Clinical Social Workers, which is primarily designed as a guide to the public and to insurance companies using the services of social work therapists and consultants.

There is no certification program for the great majority of persons employed as social workers. Most civil service social workers are not required to be trained social workers, and the public now has no means of knowing whether "social workers" in public agencies are, in fact, professionally qualified.

#6. Could existing laws or standards solve the problem? Would strengthening existing regulations help?

Existing laws covering unfair trade practices, consumer protection, deceptive advertising, etc., have little or no applicability to the practice of social work. This is primarily because most practice is by agency employees operating on a non-profit basis and not usually subject to the various trade and commerce regulations. Civil law protections are, of course, applicable in certain situations but do not provide any assurance of *quality* in the practice of social work or a protection against

mistreatment. Without the standards set by a state regulatory act, there is little basis for effective malpractice litigation.

Strengthening state regulation of such institutions and facilities as hospitals, nursing homes, day care centers, etc., would help but, again, without state recognized standards of qualification and with no procedure to monitor practice, there are no standards to follow. Also, such increased regulation would cover only a limited number of social workers.

#7. Have alternatives to licensure been considered? Registration by a state agency? Certification of competence by other than the profession?

Several alternatives to licensing of social work practice have been tried in some states, but found inadequate as a means of protecting the public. One alternative—registration on a voluntary basis by practitioners—is effective only where such registration can serve as a guide to members of the public in selecting a qualified practitioner. Because most social work clients are not voluntary but are served by a public or private agency program, the client is not helped by knowing that a social worker is or is not “registered” by the state. Also, such registration is voluntary and to *not* be registered does not mean that an agency employee is not qualified.

Other alternatives are the ACSW and *The Register of Clinical Social Workers*. These existing certification programs are, of course, operated by the social work profession. Certification of competence by other than the profession does not in fact exist for any profession or occupation simply because a certifying body would have to be competent in the profession in order to make such a determination. NASW supports the increased use of lay members on boards and proposes their appointment on all state regulatory boards in order to ensure effective public participation in monitoring professional practice.

Accountability and effective standards set-

ting for a profession that is practiced as widely and in so many different types of settings as social work can only be successfully carried out through a basic licensure law, which covers all settings and requires mandatory participation of all practitioners.

In the past, it was expected that state civil service systems, and such agency-related organizations as the United Way and Family Service Association of America, would establish and maintain standards of professional quality and would adequately protect the public in providing services to them. In fact this has not proved to be the case, as state civil service systems in most states have not established standards for ensuring the quality of service and have taken no measures to ensure the accountability of their social work employees to their clientele. Private agencies, such as those affiliated with the FSAA or Child Welfare League of America, are more responsive to public criticism but the field of social welfare and services in recent years has come to incorporate many new agencies that use “social workers” and “counselors” but recognize no professional standards. The public has no way of knowing what standards, if any, such agencies follow, or how they hold their social work staff accountable for the quality of services given.

#8. How will the public benefit from licensing of social work practice? What standards would be used? Are they job related? Will they ensure competence?

The public stands to benefit from the licensure of social work practice because such a law will ensure that those persons who the client and public see and deal with, and who make decisions about their lives, or who intervene to protect a child's life, or to whom they turn when troubled and wanting sound counseling, will have had the training needed to be able to understand and to help, and can be held accountable for their actions as social workers.

- Licensing will end the confusion caused by the proliferation of job titles and varied training and experience backgrounds by recognizing standards for which social workers, regardless of background or training, will be held accountable;
- Licensing will create an easily accessible forum in which a client can raise charges of malpractice and unethical conduct;

- Licensing will establish state recognized standards which can be in turn recognized by other state agencies and reduce wasteful studies and disputes about social work services in state regulated activities.

The social work profession over the years has developed standards that are widely recognized in practice and that are job related because they are derived from experience on the job. Specific standards and regulations are, of course, established by each licensing board but those states currently that have regulatory acts share information through the Association of State Boards of Social Work, an independent organization formed by these state boards. The NASW strongly supports the concept of interstate mobility of professionals and reciprocity that is based on nationally recognized standards.

#9. What training and experience requirements would exist? Are they similar to those of other states?

The licensure of social work practice should be based on the accredited professional training that is now recognized by the profession as beginning with the Bachelors in Social Work (BSW). This degree, accredited by the Council on Social Work Education, is offered in over 180 colleges and universities in nearly every state in the nation. The second level of professional practice is achieved through the Masters in Social Work (MSW) or an equivalent graduate degree accredited by the Council on Social Work Education (CSWE). There are currently about 90 accredited Master's programs. The CSWE is designated by the federal Department of Education as the single accrediting body authorized for social work education. These standards are recognized by federal regulations for Medicare and, as of March 1980, in proposed guidelines for all state child welfare services.

Licensure to engage in independent or private practice of social work, as a therapist or consultant, requires two years of post-MSW social work experience and the passing of an examination to assess the applicant's breadth of knowledge and professional judgment. Frequently, an oral examination or other means of demonstrating competence is also required.

These standards for education and experience are recognized by the majority of those twenty-three states that regulate social work. Some states do not include a baccalaureate level, but the NASW strongly believes that this level of initial professional practice is critical to the objective of protection of the public because, in fact, more clients are served by practitioners at this level than at any other level.

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#10. Will applicants be required to pass an examination? Will the exam meet professional and legal testing standards?

It is the position of NASW that some form of assessment of competence and professional knowledge should be required in addition to possession of a degree. In practice, most states now use some form of written test but these vary in their quality.

The NASW, using the professional expertise

of the Educational Testing Service, has prepared nationally available examinations for the baccalaureate, master's, and advanced levels of practice. These tests meet legal and professional standards and their validity is under continuing review.

#11. What assurance would there be that licensed practitioners will maintain their competence? Will renewal be required?

The law licensing social work practice should require periodic evidence of continued professional learning. Most recent acts regulating social work do have such provisions. A total of eight states regulating social work now require this.

All social work regulatory acts do require periodic renewal and the NASW supports this important aspect of ensuring that a commit-

ment to professional development is maintained. Renewal should not be based merely on the payment of a fee. The NASW believes that continuing professional learning is extremely important, particularly in view of the fact that the enactment of licensing may "grandparent in" practitioners who have not had accredited social work education.

#12. How will complaints of the public against practitioners be handled? What grounds will there be for suspension or revocation of license?

Complaints of improper conduct or malpractice are usually made directly to the state board; which should have investigating staff available to handle the complaint promptly.

The Board created by the law should be empowered to conduct a hearing, with full due process safeguards for all parties, and to act without undue delay in any disciplinary action required.

Suspension or revocation of the license—and therefore of the right to practice—may be based on a number of grounds, including unprofessional conduct, inability to render adequate professional service, or unethical conduct.

The NASW believes that one of the most important reasons for enacting licensure is the accountability it provides to the public.

#13. Will licensure restrict competition? Will the profession unduly restrict entry to practice? Will it increase costs to the public? Or decrease service available?

These questions of economic impact are not applicable to the practice of social work, which is largely carried out by non-profit organizations and public agencies, and only to a lesser degree by private practitioners. Because, as noted before, enactment of licensure usually entails the grandparenting in of a number of persons already in practice, there is no way that the law can have a restrictive impact. For future applicants and entrants, the requirements for professional education are neither burdensome (since existing accredited programs are producing adequate numbers of graduates and are available in nearly every state) nor unfair (since the practice of social work does require the knowledge and skills provided in these accredited programs). Also, since there are a significantly higher proportion of minority graduates in social work than in other related fields, the job related requirement of a social work degree acts to reinforce affirmative action objectives. The serious problem faced by many members of minority groups in financing a college education of any kind is not a factor here, as social work employment generally requires at least a college level education. It is important to bear in mind that licensure of *social work practice* does not mean that *all* types of *social service work* would require a license. There is a great need for many social service positions not requiring a college degree and for which other forms of training and experience are appropriate.

Because there is no economic restriction involved in the licensing of social work practice, there has been no cost or economic impact following the passage of laws regulating social work. In all states having regulation, there has continued to be a surplus of qualified persons and there is no reason to foresee any change in this situation.

A problem for all professional disciplines is the tendency of members to move toward

metropolitan areas, leaving shortages in the rural and inner-city areas of a state. Social workers tend to be more widely dispersed than other professionals (psychologists, psychiatrists) and the licensing of the BSW social worker, particularly, could make opportunities available that will attract licensed social workers to the under-served areas.

Also, since in practice the fees charged by social workers being reimbursed for mental health services as private practitioners generally are less than the fees charged by psychiatrists, physicians, and many clinical psychologists, the real economic impact of the increased use of social workers has been to retard or reduce the costs to insurance companies of mental health coverage, and thus ultimately to slow down the cost spiral. Experience shows that licensure of social workers does increase their participation in providing mental health services and the lack of licensure tends to exclude their participation.

Other charges of unfair restriction or of negative impact by licensing have also been shown to be unfounded. The advertisement of professional services has generally been accepted by professions today as valid and appropriate, as long as it is honest and does not include "scare" tactics or exaggerated claims. It is also clear that the primary professional organization, NASW, as a voluntary membership organization, does not in any sense "control" the profession, and therefore cannot control the supply of practitioners.

The existing "scope of practice" clauses incorporated in laws regulating social work provide a broad definition and do not interfere with the right of other professions to provide those services for which they are qualified. Specific exemptions are usually included to recognize those other professions and occupations regulated by the state.

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#14. Will the regulatory body be restricted to social workers? What powers would it have? Will its actions be subject to review?

NASW has consistently supported the inclusion of lay or public interest representation on boards regulating social work, and almost all existing boards do include non-social worker members. In recent years, there has developed another form of regulatory body, the "umbrella" board, which administers the licensure law covering several related professions—for instance, psychology and social work. On such a board, there should be major, not token, public interest representation.

The regulatory board's powers should be spelled out in the legislation. Usually it includes the authority to promulgate regulations necessary to administer the law, to establish

standards of professional performance and ethics, to examine applicants, and to consider complaints by the public against licensed social workers. Where there is an umbrella board covering more than one profession, each profession evaluates the applications of its own discipline.

Many states also bring their regulatory bodies under a single department which establishes overall standards and administrative procedures. Many states now have Sunset laws which provide for periodic performance audits of each regulatory board and provide for their termination if not found justified or in the public interest.

#15. How is the regulatory board financed? How are fees set? How are the funds administered?

Boards regulating social work are uniformly financed entirely from the fees paid by the licensees, which, in many cases, provide a regular surplus to the state treasury. Many state laws set maximum or minimum amounts for the fees to be charged, and permit the board to revise the fee schedule within those limits. This procedure is the most practical one and appears to work best. Fees should not be set in

specific terms by a state law because they are not then subject to change as needed to finance the administration of the law.

Most laws, however, do provide that all fees be paid into the state treasury. The board's administrative costs are paid under an appropriated budget acted on in the regular legislative process.

#16. Who is sponsoring the licensure of social workers? What organizations are there in the profession? What is their position on licensing?

The licensure of social workers in all states is a goal of the National Association of Social Workers, the primary professional organization representing trained social workers. For many years, after the development of the social work profession, while the other major professions, such as medicine, law and psychology, were establishing state licensing for their respective professions, social workers resisted the concept of seeking state regulation because of

their concern that such regulation would prove restrictive, rather than helpful, and that other professions had not adequately demonstrated that such regulation was in the public's interest.

By 1968, however, fundamental changes in our nation's system of providing social services have eroded and seriously undercut the actual delivery of vital services which require sound professional education and preparation. It

became all too clear that the best means of ensuring quality in the delivery of social services was to seek regulatory laws requiring persons engaging in and responsible for the provision of services having critical impact on the life and social functioning of others to be professionally trained and fully accountable to the client and the public. Since then, NASW has firmly pursued the goal of legal regulation as a necessary measure to ensure adequate quality in social services on which so many people depend for a chance at a better life.

Other professional social work organizations also support and are active in seeking licensure. The National Federation of State Societies of Clinical Social Workers, most of whose members are social workers engaged in psychotherapeutic services, is an important factor in this effort.

Another major professional group is the Society of Hospital Social Work Directors. They strongly support the need to ensure the social workers in medical and psychiatric settings are fully trained to carry their important roles as a helping professional discipline in the treatment of illness and encouragement of healthful living.

The National Association of Black Social Workers has not supported licensing out of their concern that insufficient numbers of blacks are able to secure the requisite professional education and their fear that state regulation will entail some degree of state control. While it is certainly true that continuing racism and economic discrimination is a problem in our society, the fact is that schools of social work have strongly recruited and graduated blacks and persons of other minority and ethnic groups. Thus, these minorities are more highly represented in social work than in other professions. The very fact that social workers direct so large a portion of their work to assisting people in need and helping them combat the effects of discrimination ensures that social work as a profession needs the knowledge and commitment of members of all minorities and ethnic groups if we, as a society, are to succeed in eliminating all forms of discrimination. And far from being a tool of increased state control, the participation of Blacks and other minority and ethnic groups on state boards of social work offers a new opportunity to enforce accountability and increase the consumer's influence in the delivery of social services in this country.

#17. Why is the profession of social work seeking licensure? Is it self interest? Or public interest?

Many of the responses to other questions in this booklet speak to this question, but the basic reason is that we have become convinced it is necessary for the profession to be regulated in order to ensure that clients receive competent and ethical help in dealing with their problems. It is important to understand that the great majority of clients receiving social work help *have no choice about who is to be their social worker*. And where they do have a choice, such as when seeking psychotherapy or marital counseling, the consumer is in no position to effectively judge the possible competence of the therapist. The consumer, or client's, need to be assured of capable service is the basic reason why the social work profession is seeking regulation.

It would, however, be less than honest to deny that social workers have a real and legitimate self interest in achieving the same type of legal and social recognition that the other major, learned professions have obtained. One of the major changes in our society has been the increasing use of insurance as a primary means of providing personal services; in fact, a major portion of mental health care in this country is now provided through such insurance and, of course, hospital and health services which so often involve social workers are also heavily supported by insurance systems. To ensure quality in the services paid for, insurance companies demand that providers, such as social workers, have some objective form of certifying their competence. State

licensing is the primary way in which all such professions are certified for practice, and therefore, social work should be so regulated.

A third important fact is that social workers practice in a larger number and variety of settings, organizations, and institutions than does any other profession. There simply is no way to ensure a minimum of professional quality apart from that provided by licensing. This is dramatically illustrated in the confusion that

now exists in the public mind about what a social worker is, what he or she does, and what a client should expect in the way of service.

It is our conviction that providing competent social work help requires professional education. Experience shows the only way to ensure that persons giving services are capable is to establish minimum standards for practice. Such regulation is essential for the public, as well as for the profession.

TESTIMONY BEFORE THE HEALTH AND WELFARE SUBCOMMITTEE HB 284

I am Sharon Hanton, Executive Director of the Montana Chapter of the National Association of Social Workers. There are approximately 300 master level social workers in Montana. Of that number 126 are members of our organization. We are endorsing HB 284 because we know that it will provide greater protection to the public. Presently anyone can call themselves a social worker. HB 284 would require that anyone holding themselves out to the public as a master of social work would have to show proof of education, training and adherence to the professional Code of Ethics by obtaining a license. Clients would be protected in the area of privileged communication. Presently, a social worker can summons to court and made to testify regarding a client. This puts the social worker in the bind of having to divulge information which was regarded by the client to be confidential. This bill addresses privileged communication and properly protects the client. The bill does not preclude private citizens from doing work of a social work nature; such as being a boy scout leader or an employer counseling an employee.

Other strong arguments for licensing master level social workers are their involvement in the hospice movement and home care for the elderly. Hospice makes possible the option for patients, terminally ill, to return or remain in their homes. Here they are cared for by their families with the help of a backup support team consisting of a nurse, social worker and volunteers. The patient remains under the immediate care of the physician. With social workers being licensed, the patient can use insurance to cover costs of their services. Costs to patient and insurance companies, including medicaid and medicare, are considerably less when the patient can be in his home. Another area in which licensing will help Montanans is home care for the elderly. We know that the number of elderly in Montana is growing. Many of their children have moved out of State. More women are working and less available to look in on a neighbor. The children of the elderly worry about their parents. They know that they are better off in their own homes. They would like someone to be giving them an assessment of the situation. A social worker is trained to do this work. A license would protect these elder Montanans by making visible who is qualified to do this work. Future, employment projections indicate that many social workers providing these services will be in private practice. Without a license law in Montana, there will be no way of monitoring situations in which unethical behavior maybe involved.

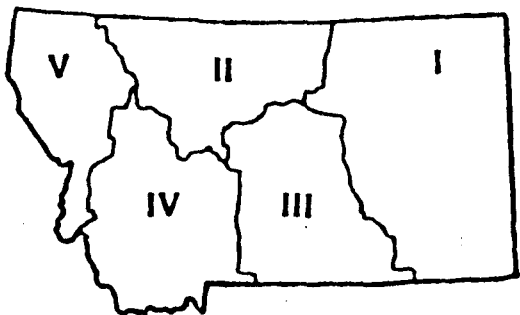
The bill addresses only master level social workers. Social workers with bachelors degrees usually work in agencies which monitor their performance and behavior. Many master level social workers are moving into private practice. Presently there are between 30 and 35 in private practice. Their number is growing. There is no way to monitor unethical behavior. Clients are often fearful or reluctant to press charges. And unless they do, there is presently no other recourse.

Some legislators have expressed concern that the bill licenses master level social workers but there is no educational program in Montana for this degree. Several years ago an attempt was made to begin a master of social work program at the University of Montana. The idea was defeated in the legislature. Montana is now a member of the WICHE program. This allows Montana residents to pay in state tuition fees at Eastern Washington University School of Social Work. Presently, 8 Montanans are in that program.

HB 284 established a licensing board. However, we endorse the behavioral scient board that is being introduced in this legislative session. We are willing to make modifications in our bill to be placed under this umbrella board.

Finally, clients receiving services from a licensed social worker are more likely to be able to collect on their insurance. Licensing would give clients the option of choosing the services of a social worker and using insurance to cover the costs. In a study done by CHAMPUS, Civilian Health and Medican Program of the Uniformed Services, it was found that making clinical social workers eligible for CHAMPUS reimbursements without the signature and supervision of a physician, saved the insurance company \$253,000 between December 1980 and March 1982. Similar conclusions can probably be made regarding svaings in Medicaid and private insurance companies as well as the non-insured client. This savings is related to the fees charged by social workers verses psychologists and psychiatrists.

We hope that upon consideration of these issues you will vote for HB 284



Montana Council of Regional Mental Health Boards, Inc.

January 25, 1983

Human Services Committee
House of Representatives
Helena, Montana

Dear Chairperson:

The Council of Montana Community Mental Health Center Boards, Incorporated, strongly endorses HB-284 which provides for the licensing of Masters of Social Work.

The licensing of Masters of Social Work provide for a number of critically important benefits to the general public. It will protect the clients' rights to confidentiality and privacy. Licensing will enable consumers to clearly identify social work practitioners with acceptable credentials, thereby, reducing the possibility of consumer exploitation. Additionally, licensing will further the development of quality services by setting standards for social work practitioners. Finally, the licensure bill will give the consumer an avenue for redress for malpractice.

In addition to the benefits and protections offered the general public through licensure, the profession also benefits through a greater understanding on the part of the public of what social workers do.

We kindly ask for your support of this important piece of legislation.

Sincerely,

John Nesbo, Chairman
Council of Montana Community Mental Health Center Boards, Inc.

JN/sc

REGION I — EASTERN

1819 Main Street
Helena City MT 59301
(402-232-0234)

REGION II — NORTH CENTRAL

2307 Eleventh Avenue South
Great Falls, MT 59403
(727-2991)

REGION III — SOUTH CENTRAL

1245 North 29th Street
Billings MT 59101
(252-5658)

REGION IV — SOUTHWEST

Airport Way West Building Suite A
1300 Cedar Street
Helena MT 59601
(442-0310)

REGION V — WESTERN

Fort Missoula T-12
Missoula MT 59801
(728-6870)

February 2, 1983

Testimony before the House Human Services Committee.

House Bill 284 (Master of Social Work licensure bill)

I am Andree Deligdisch, and I am a Clinical Social Worker employed by the North Central Montana Community Mental Health Center in Great Falls, Montana.

I am speaking in support of House Bill 284, and in support of establishing licensure for Masters of Social Work in Montana.

I want particularly to speak to two issues addressed by this bill :

1. the first one is the issue of confidentiality. At present many masters of social work do therapeutic counselling, either in Mental Health Centers or in private practice. In the course of providing therapy we often receive from our clients very personal and sensitive information. Although we protect this information as much as possible, at present we do not have "privileged communication" protection under the law. We can be subpoenaed in a court of law and we can be ordered to disclose information. This bill would extend to us, the social worker, privileged communication protection. It will provide much better confidentiality to the client.

We will still be obligated to report information mandated by law to be reportable, such as child abuse.

2. Secondly, the bill will set forth fairly rigorous performance and ethical standards for Masters of Social Work practice. As more of us move into private practice (as is presently happening) it becomes all the more important to the public that there are controls and performance standards as a protection for the public.

I want to thank you for your time and attention, and I hope you can support House Bill 284

Andree Deligdisch
Andree Deligdisch

WITNESS STATEMENT

Name Mary Lou Messed Committee On Human Services
Address Helena Date 2-2-83
Representing Dept of Commerce Support Neither
Bill No. HB 284 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

DEPARTMENT OF COMMERCE



TED SCHWINDEN, GOVERNOR

1424 9TH AVENUE
CAPITOL STATION

STATE OF MONTANA

HELENA, MONTANA 59620

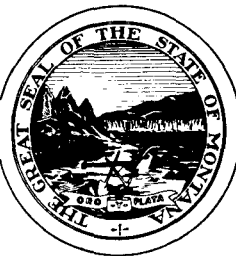
The Department of Commerce neither supports or opposes H.B. 284 to create a Board of Masters of Social Workers.

However, it is noted in H.B. 284 and S.B. 274 the language is identical except that one is to create a Board of Masters of Social Workers and S.B. 274 is to create a Board of Professional Counselors. Assuming 200 licensees per board, the Department questions if two boards are really necessary and if these two licensing functions could be placed under one board with representation on the board equal to each profession.

EX. 8
H.B. 284



**DIVISION OF
WORKERS'
COMPENSATION**



TED SCHWINDEN, GOVERNOR

815 FRONT STREET

STATE OF MONTANA

HELENA, MONTANA 59604

2/2/83
RJS

TESTIMONY BY JAN VANRIPER ON HOUSE BILL 284, BEFORE THE HOUSE HUMAN SERVICES
COMMITTEE, FEBRUARY 2, 1983.

I am Jan VanRiper, Assistant Bureau Chief with the Division of Workers' Compensation, in opposition to House Bill 284 which proposes to amend Section 33-22-111, allowing disability and health insurance coverage for work done by licensed masters of social work.

Under the existing statute, insurers providing workers' compensation coverage are required to pay for services rendered to an injured worker by a variety of health care providers. These include physicians, dentists and chiropractors, to name a few. This bill would add "master of social work" to that list of providers. The Division is concerned that this addition will raise the cost of workers' compensation coverage to Montana employers without justification.

It is obvious that each time a required service is added to insurance coverage, the cost of that coverage potentially goes up. As drafted, this bill has every indication of causing a rise in premiums. This is primarily due to the fact that the service to be provided by the social worker is ill-defined. We see, for example, that social work "...means the professional practice directed toward helping people achieve more adequate, satisfying, and productive social adjustments." (Section 3(5)). If a workers' compensation

insurer is to be required to fund such services, how will that insurer
7 determine what specific services are necessitated by an industrial injury?

For comparison and illustration, consider a situation where dental care is required due to an on-the-job injury. In such a case it is relatively simple to determine whether specific dental care is necessitated by an accident, what care is needed, and when that care is no longer appropriate (or related to the accident). This legislation allows for no such determinations with respect to services provided by social workers. The result is that the workers compensation carrier pays for nebulous services, for undetermined amounts of time, and ultimately passes these costs on to the employer.

It should be noted that there is one service which might be termed "social work", at least within this definition, and which is appropriately covered by workers' compensation insurance. That service is vocational rehabilitation, and is already addressed specifically in the Workers' Compensation Act, in 39-71-1001, MCA. That section provides for referral of certain disabled workers to the Rehabilitative Services Division of SRS. Employers in this state, through their workers compensation insurance carriers, are currently assessed one percent of compensation benefits paid per ~~X~~ year for this service. This figure now approximates \$380,000 annually. Such costs would potentially be duplicated if this bill is passed.

In summary, this proposed amendment to Section 33-22-111 is inappropriate and cost-inefficient, and threatens to raise the cost of ~~X~~ workers' compensation premiums for Montana employers. The Division of Workers' Compensation urges that you do not pass this bill.

FACT SHEET:
EQUAL INSURANCE
COVERAGE FOR MENTAL ILLNESS

Currently, ten states regulate insurance coverage for treatment of mental and emotional problems by guaranteeing that benefits for mental illness are equal to benefits for physical illness. Most health insurance policies provide inadequate coverage for mental illness by limiting inpatient services and by providing no more than minimal outpatient services. Few, if any policies, cover partial hospitalization. Inadequate or untimely treatment of mental disorders is very costly in terms of the well-being of the individual, stability of the family and productivity in the work place. It may also result in costly and unnecessary hospitalization.

- FACT: Over 50% of the patients who go to physicians have symptoms due wholly or in part to mental or emotional factors.
- FACT: Some patients are forced to seek costly hospitalization because outpatient or partial hospitalization services are often not covered by their insurance.
- FACT: Most current insurance plans provide incentives for inpatient care by paying only for inpatient care rather than for outpatient or partial hospitalization care.
- FACT: Partial hospitalization is more effective than inpatient care in effecting client social adjustment and reducing family stress, and is comparable to inpatient care in preventing relapses.
- FACT: The cost of partial hospitalization is usually one half, to one third the cost of inpatient care.

Equal insurance coverage for mental illness will decrease medical utilization and result in a cost-offset which should save consumers money.

- FACT: Jones and Vischi reviewed 13 studies and found that decreased medical surgical utilization occurred in 12 of 13 patients when mental health care was insured. Reduction in utilization ranged from 5% to 85% with a median reduction of 20%.
- FACT: Blue Cross of Western Pennsylvania instituted psychiatric benefits and found a significant reduction in medical utilization - the monthly cost per patient was reduced 50%.
- FACT: The University of Washington Health Services Center found a 41% reduction in the use of outpatient medical services by individuals receiving mental health services.
- FACT: The Group Health Association of Washington D.C. found that patients with mental health coverage reduced their medical-surgical utilization by 30.7%.

Equality of Insurance coverage for mental illness has significant benefits for business and industry.

- FACT: Equitable Life initiated an emotional health program for employees and increased productivity by \$3.00 for every \$1.00 spent.
- FACT: Kimberly-Clark began an Employee Assistance Program and realized a 70% reduction in accidents.
- FACT: Kennecott Copper started an Employee Assistance Program and found a 6 to 1 benefit to cost ratio; a 52% improvement in attendance; a 74.6% decrease in weekly indemnity costs; and a 52.4% decrease in medical costs.

Currently most insurance policies have higher co-payments, more restrictions and lower limits for mental health care than are placed on physical illness. As a result, the mentally ill, and in some cases, the taxpayer, must bear a far greater burden for the cost of mental illness than for physical illness. Equality of insurance coverage for mental illness will ensure that the private sector shares in the cost of providing mental health, thus freeing limited state dollars to fund services for the chronically mentally ill.

- FACT: Nationwide, public funding sources provide 51% of the funds for mental health care, compared with 42% of the funds for general health care.
- FACT: Insurance coverage accounts for only 15% of the total expenditures for mental health care compared with 25% of the expenditures for general health care.
- FACT: In 1980, fee collections in mental health centers in New Hampshire increased 100% since insurance coverage for mental health care was mandated in 1977.

Equal insurance coverage for mental and nervous conditions prevents unnecessary and costly hospitalization, benefits employers, reduces medical costs by reducing utilization and saves tax dollars.

VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEEBILL HOUSE BILL 284Date 2-2-83SPONSOR REP. WINSLOW

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Barry J. J. J.	Helena	LDS Social Services	yes	
Barry J. J.	Helena	MHC Inters	yes	
Barley J. J.	"	MT Psychological Assoc	✓	
Lloyd E. M. M.	Missoula	Social Services Assn	✓	
Sharon J. J.	Bozeman	National Ass. Soc. Workers	✓	
E. H. Evans	Helena	Self	✓	
Adrian Delphich	Great Falls	NASW -	✓	
Carol J. J.	Helena	Self	✓	
James J. J.	"	MT University System		
James J. Van Riper	Helena	Div. of Workers' Comp		✓
J. D. Holmes	Helena	Mont Chapter, NASW	✓	
Mary Lou J. J.	Helena	Dept of Commerce	Neither	
James J. J.	Helena	Blue Cross		✓
Arthur J. J.	Helena	Blue Shield		✓
Les Loble	"	Am Council 1/2 R. M. S.		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name Margaret L. Gulfeather Committee On Human Services
Address 2816 - 4th Ave S. Great Falls, MT Date Feb 2
Representing Legacy Legislators Support ✓
Bill No HB 328 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. This had second to top priority in the Legacy legislature

2. frail & elderly are very vulnerable - Annual inspection of nursing homes is the very least or minimum as a state should provide.

3. On-call arrangement unfortunately implies complaint & confrontation which shouldn't be necessary & is very difficult for the vulnerable.

4. It takes only an hour perhaps to clean up ones act if one is given notice of an inspection visit. This should not every be necessary & nursing & retirement homes should be ready for inspection at any time

5. If a manager is afraid he will not be available during an inspection, he could send his schedule of vacations & conferences to the State Board of Health so they would not conflict with his schedule.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

P

EX 11
H.B. 328

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624



(406) 443-5341

2 February 1983

TESTIMONY OF BOB VIRTIS, PRESIDENT, HELENA CHAPTER OF THE MONTANA
SENIOR CITIZENS ASSOCIATION ON HOUSE BILL 328.

Members of the Committee,

My name is Bob Virtis and I'm the President of the Helena Chapter of The Montana Senior Citizens Association. I'm here on behalf of the members of our organization to strongly urge you to pass this important piece of legislation.

The Montana Senior Citizens Association takes the position that the senior citizens in nursing homes should be allowed the dignity of living out the remainder of their lives in a wholesome and sanitary atmosphere. We feel this can only be attained through passage of House Bill 328, establishing annual, unannounced inspection of long-term care facilities.

Under the present law, where inspections are announced ahead of time, the facilities can clean up their acts for the inspectors. Then, after the inspection, they can slide back into normal conditions.

The Helena Chapter of The Montana Senior Citizens Association strongly urges this committee to pass House Bill 328.

P

Ex. 12
H.B. 328

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624

2



(406) 443-5341

February 2, 1983

TESTIMONAY OF TOM RYAN OF THE MONTANA SENIOR CITIZENS ASSN.
ON HOUSE BILL 328.

The Montana Senior Citizens Association supports the scope and intent of HB 328. We believe adequate monitoring of nursing homes is absolutely necessary, both for the residents of the homes and for the family and friends of the residents.

The committee will note an emotional level of concern with this bill. Anyone who has had to place a loved one in a nursing home or who has faced the possibility themselves understands this situation.

The concern to day is to achieve a degree of assurance that the mechanisms are in place to adequately determine that nursing home residents are treated in a compassionate manner. The areas of concern focus on the human aspect of treatment of residents. The Montana Senior Citizens Association tends to focus on the inadequate assessment as to how the nursing home residents are cared for in the following areas: (1) receiving physical activity, (2) being listened to and talked with, (3) being gotten out of bed regularly, (4) having activities available in which to participate, (5) receiving adequate personal hygiene, (6) having sensitive staff attitudes towards patients and (7) having large enough staffs.

We have all heard comments as to how nursing homes gear-up for an inspection. This stereotyping may be exaggerated, but I would stress that if inspections are the tool by which nursing homes come into compliance with regulations, to perform the inspection as infrequently as every three years is not satisfactory.

We are talking about two types of inspections. The first, to take care of the "brick and mortar" issues and adequate paper work; the second type of inspection would be to assure quality care towards the resident.

We are asking this committee to give favorable consideration to the intent of HB 328. after careful consideration of the human aspect.

EX13
H0328

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624



(406) 443-5341

Members of the Committee

My name is Alice Collins. I am a member of the Montana Senior Citizens Association and I have been a volunteer at local nursing homes. I am deeply concerned with how old people are treated in nursing homes. I think conditions could be improved and this bill will help do that. I'd like to tell you of my experiences visiting the nursing homes. The patients need more time to eat their food but the aids are in such a hurry that many do not get a chance to finish their meal. There seems to be a depressive atmosphere and the employees seem angry about conditions.

One thing that is needed is to spend more time talking with patients. They also need to be better exercised, to walk each day more than what I have seen done. They need a friendly atmosphere in which to visit and to eat their meals. They should also be able to use the telephone when they wish to call someone.

The conditions do change when someones family is coming. Things get cleaned up; they patient gets out of bed; their hair gets combed and the employees pay more attention to the person.

These are reasons why we need to have nursing homes inspected without telling the home that the inspectors are coming.

Thank You,

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H.B. 328

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(over)

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EX13
H0328

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624



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The conditions do change when someones family is coming. Things get cleaned up; they patient gets out of bed; their hair gets combed and the employees pay more attention to the person.

These are reasons why we need to have nursing homes inspected without telling the home that the inspectors are coming.

Thank You,

BARBARA C. COLE
313 SOUTH 5TH STREET
HAMILTON, MONTANA 59840

February 1, 1983

Marjorie Hart, Chairman
Human Services Committee
Capitol Station
Helena, Montana 59620

Dear Representative Hart:

This is a statement in favor of HB 328.

From personal family experience, volunteer visiting, and service to nursing homes in different States, I am convinced that ~~that~~ the good ones would not object to annual inspection with no notice. The good ones would feel secure about their status 365 days of every year. If some nursing homes lobby against this bill, I feel they better be inspected frequently.

I trust this bill will pass for the sake of the many elder Montanans in nursing homes.

Sincerely,

Barbara C. Cole

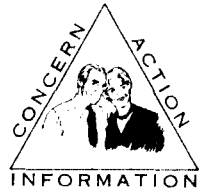
Ex. 15
H.B. 328

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624

VOLUME 2



(406) 443-5341

H3-8

2 February 1983

TESTIMONY OF MICHAEL GEORGE SHAUGHNESSY, ISSUES CHAIRMAN, THE MONTANA
SENIOR CITIZENS ASSOCIATION

It is our understanding that opposition to this bill would have necessary inspections of long-term care facilities put on a three-year basis, and pre-announced.

Are we led to believe that under such a long-term arrangement, quality care will continue to be provided? Could it not be compared to the "spit and polish" hurriedly done minutes before the generals arrive? No fear, the "brass" will soon be gone.

Each and every person who is so unfortunate to have to spend their last hours, days or years in a long-term facility, like us, are human beings. Each and every one of these poor souls deserve the kindness, care and consideration which they are due.

We believe that such institutions in question should be served notice that at any day or hour, should doubts arise, they will be held responsible for any such shabby conditions, care or performance so found.

I have discussed this with quite a number of people that have, or have had loved ones so confined. Each and every one of them agrees that more frequent inspections are absolutely necessary.

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449 7917



Testimony of Kathy A. van Hook, Women's Lobbyist Fund, on HB 328
before the House Human Services Committee

As a former labor representative, I organized and represented nursing home employees in Helena and Livingston. On numerous occasions these employees discussed conditions in the homes where they worked. Some of the conditions were very disturbing to them and, of course, to me. I was told of cockroaches in food warming carts, torn and thread bare linens or lack of availability of clean linen, and food cut backs to the point of concern for adequate nutrition. I was also told of the flurry of activity in certain homes when an announced inspection by the Health Dept. was pending. Kitchens were scoured and cockroaches routed out. New linen was hauled out of locked closets and put on residents beds and in the bathrooms, floors were stripped and waxed, menus beefed up, etc. On several occasions I contacted the Health Dept. and spot inspections were made in response to specific complaints. The employees always were held responsible by management for these spot inspections. This, however, does not solve the problem satisfactorily.

House Bill 328, I believe, addresses the problem more directly. If inspections are unannounced, inspectors are much more likely to see a nursing home the way the residents and employees see it every day. And, administrators are much more likely to see to it that the home is in tip top shape all year round.

The Women's Lobbyist Fund is concerned about this bill because the majority of nursing home residents are women. And, like it or not, many of us may one day be residents in nursing homes. We want to support legislation that will promote consistently clean and healthful environments in nursing homes and other long-term care facilities.

TESTIMONY OF MONTANA HEALTH CARE ASSOCIATION

February 2, 1983 - House Human Services Committee

HOUSE BILL 328

For the record, my name is Rose Skoog. I'm the Executive Director of the Montana Health Care Association, representing 60 nursing homes throughout the State of Montana.

First, it is important to say that we are not opposed to having our nursing homes open for inspection--are homes are in fact open for inspection 24 hours a day, every day.

House Bill 328 is duplicative and costly--it adds to the regulatory burden and to costs of both the state and the facilities--but it doesn't add anything to quality care for patients--which I do assume is what the proponents intended, but did not accomplish with this legislation.

Who inspects nursing homes now, and under what circumstances?

1. The Department of Health

--whenever it considers it "necessary" because

of complaints or for other reasons

--to perform "surveys" or "inspections" for

licensing and certification

Scheduled inspections, under current law take place no less frequently than every three years. Some facilities are inspected annually, some every two years, and some every three years. Survey frequency is, quite logically, based on the facility's past survey history.

If a nursing home's most recent survey indicates that the facility has met all conditions, standards, and statutory requirements, that facility is placed on a three year cycle.

If a nursing home's most recent survey indicates that the facility has met all conditions, "key" standards, and statutory requirements, that facility is placed on a two year cycle.

If a nursing home's most recent survey indicates that the facility has met all conditions and statutory requirement, and if an acceptable plan of correction is filed for all key standards violated, that facility is placed on an annual survey cycle.

In addition, any facility placed on a two or three year cycle will be moved back to an annual inspection cycle if a validated complaint is received with respect to that facility. Also, deficiencies in quarterly staffing reports, expansion or modification of the facility, any continuing pattern of noncompliance, or identification, by any means, of significant problems in the facility will result in a partial or complete survey.

In addition to the Health Dept.'s ability to visit a facility unannounced any time it has a complaint, or feels for some other reason that such a visit is necessary; and in addition to the one, two or three year announced surveys,

2. Nursing Home Ombudsman.

In addition to the Health Dept.'s ability to visit a facility unannounced any time it has a complaint or feels for some other reason that such a visit is necessary, and in addition to the one, two or three year announced surveys, nearly every nursing home in the state is visited monthly by a person representing the State Nursing Home Ombudsman's office.

These people visit monthly, unannounced, and visit with residents and staff of nursing homes. They report back to the State Ombudsman, who in turn deals with any complaints brought to her attention.

Complaints in areas over which the Dept. of Health has jurisdiction are referred there and investigated and resolved.

3. Montana Foundation for Medical Care.

The Montana Foundation for Medical Care is a peer review/quality assurance organization which contracts with the state and/or individual homes to perform various functions in nursing homes.

The Foundation visits some nursing homes quarterly, some every 6 months, and others annually.

Most often the Foundation is involved is a process called medical and/or utilization review. This is a process which includes a review of a facility for quality of care. Medical records are examined, patients are talked to, and emphasis is placed on care plans and progress toward goals for each patient.

4. Family, friends, general public.

Most importantly, our nursing homes are open to inspection all day - every day - by the general public--family and friends of residents, social workers, community volunteers, and others.

We welcome these people and feel that in the final analysis they are the most qualified to judge the quality of the services being offered by our nursing homes.

Strangely enough, those who visit our nursing homes regularly recognize that we are performing a difficult service and are doing it quite well--while those with little or no contact with our homes are suspicious and concerned.

Anyone in this room right now can walk into any nursing home in the state, observe what's going on, talk to and visit with patients,-- and, if they saw something that didn't seem right or if they thought there was a problem with that home, could complain to either the Nursing Home Ombudsman or the Health Department and their complaint would be investigated, and the problem resolved.

Government inspectors, making unannounced, but routine, annual surveys, could never be nearly as effective at promoting quality of care and quality of life for nursing home residents as the people sitting in this room right now.

Are we up to the challenge?--or are we content to sit in rooms like this and ask for one more costly government regulation to accomplish what we ought to be doing ourselves?

Our nursing homes are up to the challenge--we welcome community involvement in our homes, recognizing that our resident's need that involvement perhaps more than any other single thing. We welcome comments and suggestions for improvement, we welcome the opportunity to meet with the various advocacy groups present in this room, and others, to discuss matters of concern to them. That kind of involvement and communication will do more for nursing home residents than HB 328 could ever do.

COST FACTORS.

Annual unannounced inspections of nursing homes are a costly proposition--both to the facility and to the state.

--First, how cost effective is it to send a survey team consisting of 3 to 5 health care specialists to spend two days in a facility checking compliance with over 600 requirements, when that facility has a history of compliance and would continue to be in compliance and operate a good facility without the inspection? Why shouldn't we reward such facilities by staying out of their hair and allowing them to get on with the important work they're there for--taking care of their patients. Surveys cost not only the state, but also the facility, which devotes two days of effort of key personnel to the inspection, when that personnel could be delivering direct care to patients.

--Second, how cost effective is it to send a survey team consisting of 3 to 5 health care specialists to make an unannounced inspection of a facility in Glendive, only to arrive and find that key personnel are not available to participate in the inspection--making it impossible to perform an

--Third, how cost effective would it be to send a survey team to the same town on four separate occasions to inspect 4 separate facilities, instead of doing all three during the same trip? Let's take Bozeman, for example, which has 4 long term care facilities. If the survey teams did not inspect these facilities at totally separate times, every facility after the first one would know the inspectors were in town and would be arriving at the next facility within a couple of days. Truly "unannounced" inspections would require 4 separate trips to Bozeman--unless, of course, you'd like to pass a law that says that nursing home administrators can't talk to each other.

Montana's current statute is sensible, cost effective, and provides the Health Department with the flexibility needed to prudently use funds for inspection of facilities in the most cost effective manner.

Current law permits surveyors to spend more time with border-line facilities and to conduct less frequent or less extensive surveys with top-line facilities. It also provides the Health Dept. with access to a facility any time the Dept., in its discretion, thinks that's appropriate.

PROPOSERS ARE CONFUSING "ANNUAL SURVEYS" WITH "INVESTIGATION OF COMPLAINTS."

We feel that the proponents of this bill are confusing routine survey inspections with the ability to investigate complaints.

While we feel that the Health Dept. currently has significant authority to investigate complaints unannounced, and

in fact exercises that authority, it might ease the minds of the proponents to make unannounced investigation of complaints a statutory requirement, rather than simply a Department policy, which it is now.

For that reason, we are offering an amendment to House Bill 328 which does two things:

(1) First, it maintains the flexible cycle for routine inspections--which we feel ought to be given a chance to work, and which we further feel is the most cost effective way to utilize limited survey funds; and

(2) Second, it provides that all visits to facilities by the Health Department in connection with complaints be unannounced visits aimed at investigating such complaints.

We urge your consideration of this amendment, and would support passage of HB 328 if amended as proposed.

Thank you for the opportunity to be heard.

House Bill 328

My name is Jacqueline McKnight. I am Chief of the Licensing and Certification Bureau, Department of Health and Environmental Sciences. I represent the Department and I am speaking in opposition to this bill.

Until calendar year 1982, the Department surveyed every long-term care facility annually for compliance with state and federal regulations for the purpose of state licensure and certification as a provider of services for Medicare and Medicaid.

During Federal FY 1981, two rescissions of funds occurred which resulted in the loss of 48 per cent of Medicare funding. In order to accommodate for this loss of federal funds for survey activity and at the direction of the Secretary of Health and Human Services, the Bureau prepared a Revised Plan for Determining Survey Schedules based on the past year's performance measured by deficiencies cited.

To avoid continuing violation of state law, the Bureau prepared an amendment which allowed surveys within a three-year period and mandated a written report of essential activity for the year on-site surveys were not done. This amendment was passed by the Legislature during the 1982 Special Session.

Some of you here today will remember the discussion regarding this change of the licensure law. We stated that we did not know how it would work out. We believed it deserved a trial period. We certainly planned to evaluate the new system at the conclusion of the second and third year of the plan.

I regret that we have no evaluative information for you today. We are just beginning to survey long-term care facilities that were not surveyed during calendar year 1982.

You also need to know that the Bureau was notified by letter from the Regional Office on January 24 that the 1983 Medicare budget was raised from \$236,540 to \$289,559 for the purpose of supporting a minimum of annual inspections of all nursing homes. For the proponents of this bill, this is the good news.

The bad news is that the Secretary of Health and Human Services must present to the 98th Congress any plans to change the required frequency of surveys for certification purposes on or about April 1, 1983 according to the Tax Equity and Fiscal Responsibility Act of 1982.

The bottom line is that the Bureau cannot predict the federal funding level for FY 1984 and 1985 or federal expectations regarding frequency of surveys.

In summary, the problems that we see with passage of this act are:

1. If the federal funding and requirement for annual surveys continues, there is no need for passage of the act requiring annual surveys.
2. If the federal requirements are for less than annual surveys, then the costs for annual licensure surveys would have to be born by state general funds. Currently, costs are shared between state general fund and federal Medicare/Medicaid funds.
3. As far as unannounced surveys are concerned, we see value in them for the purpose of complaint investigation or for complete survey if we have any reason to suspect that the facility is operating below standards.

The concept of unannounced annual surveys is, in our opinion, misleading to the public. Providers can guess within a 30-day period when the survey will be conducted.

Last, announced surveys allow the facilities to make the needed arrangements for all department heads and consultants to be present for the survey which is helpful to the surveyors and the personnel directly responsible for correcting any deficiencies noted.

Considering all these factors, the Department of Health and Environmental Sciences believe that we can be responsive to the public health and safety with the licensure law as written.

We, therefore, urge non-passage of this bill.

Ex 19
H.B.328

MONTANA SENIORS ADVOCACY ASSISTANCE

P.O. BOX 232

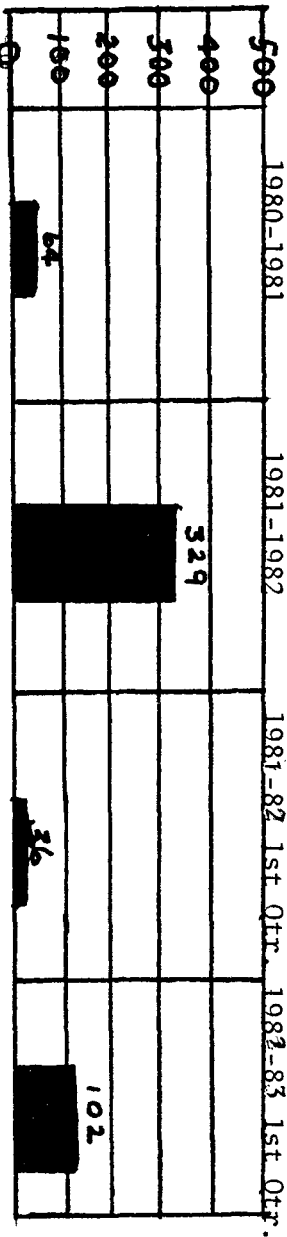
CAPITOL STATION, HELENA

MONTANA 59620

GRAPH SHOWING NUMBERS OF COMPLAINTS RECEIVED IN OMBUDSMAN OFFICE, 1980 through 1982, reporting years beginning on October 1, and ending on September 30 of each fiscal year.

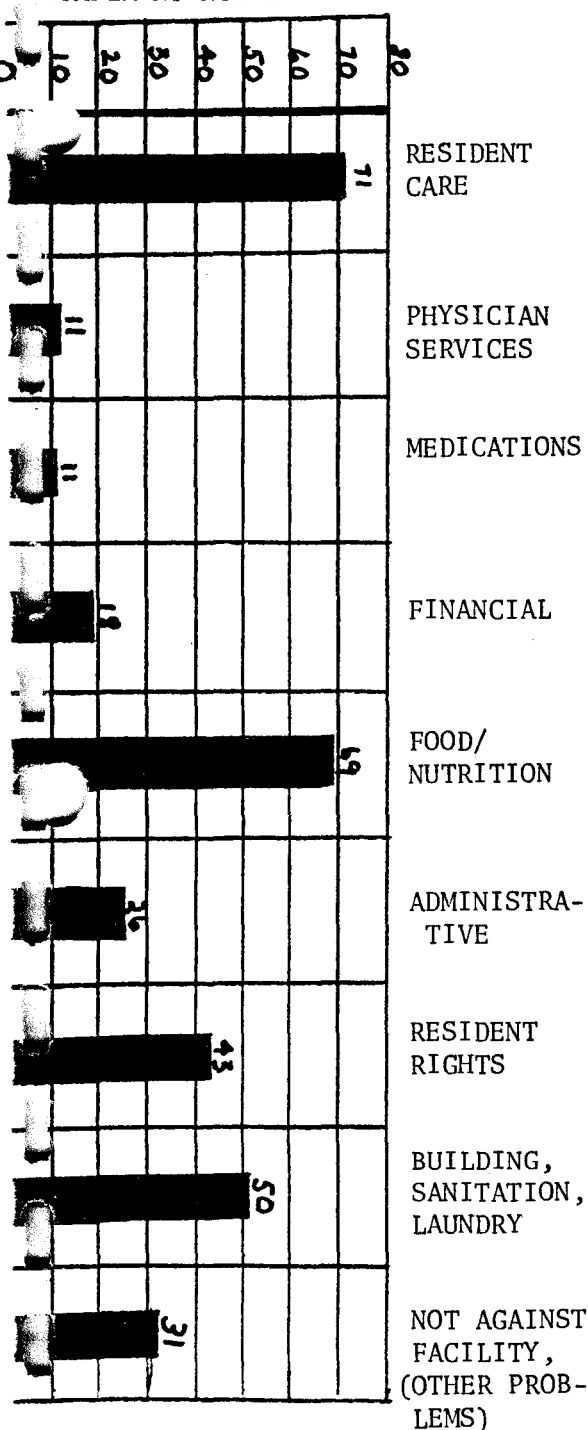
Although approximately 500 complaints for the year 1982-83 are projected, 102 have been received during the 1st quarter which ended December 31, 1982. Thirty-six (36) complaints were received during the 1st quarter of the previous year ending December 31, 1981. An increase of approximately 60%.

COMPLAINT NUMBERS



GRAPH SHOWING NUMBERS OF COMPLAINTS BY INCIDENCE IN CATEGORIES BY HEADING FOR 1981-82.

COMPLAINT NUMBERS



MONTANA ASSOCIATION OF HOMES FOR THE AGING

February 3, 1983

Memorandum to Human Services Committee

The Montana Association of Homes for the Aging (MAHA) has some sincere concerns about the validity of H.B. 328. MAHA is comprised of Non-profit Nursing Homes and Retirement Homes and its primary concern is quality care and quality life for the residents of its member facilities. The Association's membership shares the concerns of Montana's Senior Citizens about lack of care of nursing home residents and believes that positive corrective action should be taken in cases of abuse and poor home care. MAHA does not believe, however, that H.B. 328 is the answer to the problem; nor do we believe that it is a step in the right direction toward alleviating the problem areas.

I attended the Committee on Human Services hearing on H.B. 328. Unfortunately, there was not enough time to hear the testimony of MAHA on the bill. I do wish you had time to inspect personally a nursing home facility. I would be happy to arrange an inspection for you.

The Association agrees with Representative Vincent that human dignity and welfare should take precedent over dollars when it comes to caring for Montana's Senior Citizens. However, we do not advocate spending State tax dollars on programs that will not accomplish the desired purpose and which could possibly have detrimental rather than positive effects on resident care.

According to the State Budget Director, the increased cost to the State for the one year inspection cycle would be over \$100,000. More important, however, is the fact that while the quantity of surveys is increased, the quality of the inspections will suffer. Under the present system, the Department of Health and Environmental Sciences has the time and flexibility to spend an extra day or two at a facility that has problems, providing constructive criticism and instruction. This capability will be lost if the annual system is brought back into being.

The unannounced inspections would cause total chaos in a facility. A copy of the Inspection Check-off List used by the surveyors was left with Rep. Seifert. (If you would like a personal copy, the Department of Health should provide one

to you.) If the Committee will take time to review this document, it will learn that the greatest portion of the survey is administrative in nature. This is not to say that the functions checked are not important; nor are we saying that improvements cannot be made through this process. Meals are checked during the inspection and residents are checked for skin care, bed sores and other indicators of proper patient care. The bulk of the survey, however, is administrative. This is where the problem arises. Under the announced procedure, a facility will spend from one to two days preparing for a survey. Preparation does not mean giving the floor an extra good scrubbing, sweeping dirt under the carpet or giving the residents an extra bath. It involves having administrative documents, such as personnel policies, nursing home policies, procedures for each department, licenses for nurses, agreements with consultants, governing body membership, meeting minutes, etc., out of the files and ready for the surveyors. If the survey team comes in unannounced, it will take them longer to do a less effective inspection. Also, key personnel (the administrator and department heads) may be away from the facility. Their presence is essential during the survey because they will be responsible for correcting any deficiencies in their respective areas of expertise and responsibility.


MAHA is not opposed to inspections--quite to the contrary. Surveys can be beneficial if they are properly conducted and are used constructively instead of in a "come in, tear-em-apart and leave-em" manner. In this fashion, they become a burden and detract from resident care, and this is what our membership sees developing under H.B. 328. Our Association finds no fault in doing a partial unannounced inspection on complaint or on concern by the Department of Health in specific areas. This would allow problem areas to be resolved promptly, with minimum disruption to the facility and to resident care. A total unannounced survey is not in the best interest of the Department of Health, the facility or the residents.

The Montana Association of Homes for the Aging is also not opposed to additional administrative tasks if they accomplish a positive end. Its membership supported the SRS Patient Assessment as an adjunct to the Medicaid Reimbursement Program. Assessment was viewed by our organization, not as an administrative burden, but as a tool for evaluating resident needs and staffing requirements and for improving resident care. Moreover, it provided a basis for SRS to reimburse facilities for actual care provided.

MONTAHA believes that the present survey schedules provide the mechanisms necessary for insuring quality care and for properly

correcting problems that exist. Based on the information provided in this testimony, we urge the Committee to work more directly with the health care providers to fashion a more workable solution to the problems addressed by H.B. 328.

Sincerely,


Verlin D. Buechler, Chairman
Public Policy Committee
Montana Association of Homes
for the Aging
601 South Wibaux Street
Wibaux, Montana 59353

VISITORS' REGISTER

HOUSE HUMAN SERVICES

COMMITTEE

BILL HOUSE BILL 328

Date 2-2-83

SPONSOR REP. FARRIS

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Tom Ryan	Helena	Mont. Senior Citizens	✓	
Margaret Gelfather	Great Falls	Legacy Legislature		
Edna Robbins	MONTANA LUNAR ASSOC.	HELENA	✓	
Barbara Dale	Hamilton	Sen. or Citizens	✓	
Phil Paul	Great Falls	Legacy Legislature	✓	
Metro Basarabo	Missa Mont	Senior Citizens	✓	
J. Gelfather	Gr. Falls Dist.	Sen. Citizens	✓	
Sam Ryan	Helena	Sen. Citizens		
Verli Brechler	Wibaux, MT	Montana Association OF HOMES FOR THE AGING	✓	✓
Carol Andrews	Harriet	11	✓	✓
Peggy Krog	Helena	MT Health Care Assoc.		✓
Paula Ledy	MT Health System	Helena		✓
Rebecca Smith	Helena	Montana Hospital Assn.		
Dany Olson	Helena	MT Senior Adv. Inst.	✓	
Joan Ashley	Helena	MT. Health Home for aged		
Lynne Tolifson	Helena	Long Term Care Ombudsman		
Charles Buff	"	Governor's Ofc.		
Wanda R. Rynne	Col. Falls	Leg. Legislature		
Bob Ginto	56, Highland	MT S C R		
Henry Dickman	3020 Kalisp	MT R R R		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

Kathy A. van Hook Helena

Women's Lobbyist Fund

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33

1-81

David Lackman

Helena

MT Pub Hlth. Assn

ISCIA

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AMENDMENTS REQUESTED BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES, WITH THE CONCURRENCE OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES: -

1. Page 5, line 21.

Following: "include"

Insert: "adult foster care licensed under 53-5-303; community homes for the developmentally disabled licensed under 53-20-305; boarding or foster homes for children licensed under 41-3-503; or"

2. Page 6, line 10.

Following: "disabled"

Insert: ", as defined in 53-20-102(4),"

VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL HOUSE BILL 299

Date 2-2-83

SPONSOR REP. J. BROWN

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

February 11, 1983

MR. **SPEAKER**

We, your committee on **HUMAN SERVICES**

having had under consideration **HOUSE** Bill No. **328**

first reading copy (**white** color)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR ANNUAL UNANNOUNCED INSPECTIONS OF LONG-TERM CARE FACILITIES BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; AMENDING SECTION 50-5-204, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **328**

BE AMENDED AS FOLLOWS:

1. Title, line 5.

Following: "UNANNOUNCED"

Strike: "INSPECTIONS OF"

Insert: "INQUIRIES AT"

2. Page 2, lines 8 and 9.

Strike: ", except long-term care facilities,"

3. Page 2, line 10.

Following: "inspection."

Strike: "The"

Insert: "(5) In addition to and separate from the inspection required in subsection (4), the"

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DO PASS

February 11, 1983

4. Page 2, line 11.

Following: "unannounced"

Strike: "inspection of"

Insert: "inquiry at"

5. Page 2, line 12.

Following: "facility"

Insert: "The purpose of the inquiry is to ensure that a caring environment is maintained at each long-term care facility. The department shall adopt rules establishing criteria and a procedure for conducting the inquiry."

Renumber: subsequent subsection

AND AS AMENDED

DO PASS

STATEMENT OF INTENT ATTACHED

.....February 11,..... 1983.....

MR. SPEAKER

WE, YOUR COMMITTEE ON HUMAN SERVICES COMMITTEE, HAVING
HAD UNDER CONSIDERATION HOUSE BILL NO. 328, FIRST READING COPY
(WHITE), ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
HOUSE BILL NO. 328

House Bill 328 requires a statement of intent because it requires the Department of Health and Environmental Sciences to conduct an annual unannounced inquiry at each licensed long-term care facility.

The Legislature contemplates that such inquiry should include, but not be limited to, the following:

1. Consideration of general resident care and treatment, including resident's personal hygiene and cleanliness.
2. Consideration of the living environment, including cleanliness of the premises.
3. Consideration of the residents' general well-being and morale.
4. Consideration of the facility's staff's morale.

Further, the process for conducting the inquiry should include, at a minimum, a survey of the residents by written instrument or personal interview, a survey of the facility's staff, a general tour of the facility, and other activity as may be reasonable.

STANDING COMMITTEE REPORT

February 2, 1983

MR. **SPEAKER**

We, your committee on **HUMAN SERVICES**

having had under consideration **HOUSE** Bill No. **299**

first reading copy (**white**)
color

**A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING THE
DEFINITION OF LONG-TERM CARE FACILITY; ADDING A DEFINITION OF
INTERMEDIATE DEVELOPMENTAL DISABILITY CARE; AMENDING SECTION
50-5-101, MCA."**

Respectfully report as follows: That **HOUSE** Bill No. **299**

BE AMENDED AS FOLLOWS:

1. Page 5, line 21.

Following: "include"

**Insert: "adult foster care licensed under 53-5-303, community
homes for the developmentally disabled licensed under 53-20-303,
boarding or foster homes for children licensed under 41-3-503,"**

2. Page 6, line 10.

Following: "disabled"

Insert: ", as defined in 53-20-102(4),"

AND AS AMENDED

DO PASS

MR. SPEAKER:

WE, YOUR COMMITTEE ON HUMAN SERVICES, HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 299, FIRST READING COPY (WHITE) ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
HOUSE BILL 299

A statement of intent is necessary for House Bill 299 because it grants the Department of Health and Environmental Sciences the authority to adopt, by rule, specific licensing standards for facilities providing nursing care, as well as other services, to the developmentally disabled.

It is the intent of the Legislature that the standards adopted for such facilities be substantially the same as those federal standards contained in 42 Code of Federal Regulations Part 442, Subpart G, "Standards for Intermediate Care Facilities for the Mentally Retarded." Those standards include necessary administrative policies and procedures; admission and release criteria; personnel policies; resident living standards; requirements for professional and special programs and services; dental service requirements; necessary administrative services; safety and sanitation requirements; required record-keeping; and requirements for services in the following areas: training and habilitation, food and nutrition, medical services, nursing, pharmacy, physical and occupational therapy, psychological services, recreation, social services, speech pathology, and audiology.

STANDING COMMITTEE REPORT

HOUSE BILL 284
Page 1 of 6

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MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration HOUSE Bill No. 284

first reading copy (white color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE MANDATORY LICENSING AND REGULATION OF MASTERS OF SOCIAL WORK; CREATING A STATE BOARD OF MASTERS OF SOCIAL WORK; CREATING A COMMUNICATIONS PRIVILEGE; PROVIDING FOR VIOLATIONS AND PENALTIES; AND ALLOWING DISABILITY AND HEALTH INSURANCE COVERAGE FOR WORK DONE BY LICENSED MASTERS OF SOCIAL WORK; AMENDING SECTIONS 33-22-111 AND 33-30-101, MCA."

Respectfully report as follows: That HOUSE Bill No. 284

be amended as follows:

1. Title, line 5.
Strike: "MANDATORY"
Strike: "MASTERS OF"
Following: "SOCIAL"
Insert: "WORKERS"
2. Title, line 6.
Following: line 5
Strike: "WORK"
Strike: "MASTERS OF"
Following: "SOCIAL WORK"
Insert: "EXAMINERS"

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DO PASS

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3. Title, line 9.
Strike: "MASTERS OF"

4. Title, line 10.
Following: "SOCIAL"
Strike: "WORK"
Insert: "WORKERS"

5. Page 1, line 14.
Strike: "masters of"

6. Page 1, line 15.
Following: "work"
Insert: "examiners"
Following: "board of"
Strike: "masters of"

7. Page 1, line 16.
Following: "work"
Insert: "examiners"
Following: "members."
Strike: "Each member"
Insert: "Four members"

8. Page 1, line 17.
Strike: "have a master of social work degree"
Insert: "be licensed social workers"

9. Page 1, lines 22 and 23.
Following: "the"
Strike: "private practice of mental health;"
Insert: "medical or social welfare field; and"

10. Page 1, line 25.
Following: "work"
Strike: "; and"
Insert: "."

11. Page 2, line 1.
Strike: "(e) one"
Insert: "(2) One"
ReNUMBER: subsequent subsections

12. Page 2, line 17.
Following: "work as"
Strike: "masters of"
Insert: "licensed"
Following: "masters of social"
Strike: "work"
Insert: "workers"

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13. Page 2, line 20.
Following: "board of"
Strike: "masters of"
Following: "work"
Insert: "examiners"

14. Page 4, line 7.
Strike: "attorneys"
Insert: "attorney"

15. Page 4, line 9,
Strike: "masters of"
Following: "social"
Strike: "work"
Insert: "workers"

16. Page 4, line 23.
Strike: "master of"
Following: "social"
Strike: "work"
Insert: "worker"

17. Page 4, line 25.
Strike: "master of"
Following: "social"
Strike: "work"
Insert: "worker"
Following: "letters"
Strike: "LMSW"
Insert: "LSW"

18. Page 5, line 5.
Strike: "or"

19. Page 5, line 6.
Following: "educators"
Insert: ", or the general public engaged in social work
like activities."

20. Page 5, line 8.
Following: "words "
Insert: "licensed"

21. Page 5, line 9.
Following: "or "
Insert: "licensed"

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22. Page 5, line 15.

Following: "(c)"

Strike: "activities and services of"

Following: "an"

Strike: "employee of a business establishment"

Insert: "employer from performing social work like activities"

23. Page 5, line 17.

Strike: "the establishment's"

Insert: "his"

24. Page 7, lines 1 and 2.

Strike: "of masters of social work"

25. Page 7, lines 3 and 4.

Following: "in"

Strike: "social work"

Insert: "psychotherapy"

26. Page 9, line 8.

Strike: "master of"

27. Page 9, line 9.

Strike: "work"

Insert: "worker"

28. Page 9, line 11.

Strike: "masters of"

29. Page 9, line 12.

Strike: "work"

Insert: "workers"

30. Page 12, line 11.

Strike: "master of"

31. Page 12, line 12.

Strike: "work"

Insert: "worker"

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32. Page 13, line 8.

Following: "or"

Strike: "master of"

Insert: "licensed"

Following: "social"

Strike: "work"

Insert: "worker"

33. Page 14, line 9.

Strike: "masters"

34. Page 14, line 10.

Strike: "of"

Following: "social"

Strike: "work"

Insert: "worker or psychologist"

AND AS AMENDED

DO PASS

STATEMENT OF INTENT ATTACHED