MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 13, 1985

The meeting of the Human Services and Aging Committee was called to order by Chairperson Nancy Keenan on February 13, 1985 at 3:00 p.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present.

HOUSE JOINT RESOLUTION NO. 16: Hearing commenced on House Joint Resolution No. 16. Representative Rapp-Svrcek, District #15, sponsor of the bill stated that a joint resolution of the Senate and House of Representatives of the State of Montana condemning human rights abuses in Afghanistan and the countries of Central America; calling upon the governments of the Union of Soviet Socialist Republics and the United States to cease intervention in these countries and supporting the right of all people to self-determination. Rapp-Svrcek wants the Committee to understand the human rights violation involved.

Proponent Sherman Janke, a teacher in Afghanistan stated that he wished that the opposition of these people not be mistaken and an admiration of their determination be noted. Jerry Schneider a student at Montana State University stated that this was not a Communist country but a Totalitarian country. Mr. Schneider did not want our country involved in another war. Bonnie Evans, representing the Peace Legislative Coalition stated that the invasion of Afghanistant has harmed the Soviet Union in the eyes of the world. Exhibit 1 indicates her support.

Opponents to this bill were none.

There being no further proponents and opponents present, Representative Rapp-Svrcek was then excused by the chairman.

There being no further discussion on House Joint Resolution No. 16, the hearing was closed.

HOUSE BILL NO. 720: Hearing commenced on House Bill No. 720. Representative Jan Brown, District #46, sponsor of the bill, stated that an act to establish an office of long-term care ombudsman within the office of the Governor; to specify the powers and duties of the ombudsman; to impose certain requirements on long-term care facilities; to provide for access to and confidentiality of records was needed.

Proponent Charles Briggs, representing the Governor's Office drafted this bill at the request of the Governor. Douglas Blakley, director of the State Long Term Care Ombudsman Program provides technical assistance to the senior citizen programs and investigates the elderly complaints for various objectives. Exhibit 2 was provided by Mr. Blakley. Sue Weingartner, representing the Montana Health Care Association, as stated in her Exhibit 3 that the Legacy Legislature endorsed the concept of an advisory committee, including nursing home administrator representation and also minimum qualifications and training for the ombudsman and volunteers, pursuant to policies and guidelines established by the federal Administration on Aging. Ms. Weingartner also supplied a copy of To Legislators which is published by the American Health Care Association. Norma Hansen, representing the Montana Department of Social and Rehabilitation Services spoke of amendments to this bill. William Leary, representing the Montana Hospital Association, stated that if a copy of medical records is needed of a hospital facility it should only be granted upon the written consent of the resident, the residents legal guardian or an attorney. Exhibit 4 indicates Mr. Leary's support. Kelly Moore supports this bill. Lenore Farrell indicated that someone to protect the elderly and their interests was needed.

There being no further proponents and opponents present, Representative Brown was then excused by the Chair.

There being no further discussion on House Bill No. 720, the hearing was closed.

HOUSE BILL NO. 526: Hearing commenced on House Bill No. 526. Representative Simon, District #91, sponsor of the bill indicated that an act to require applicants for general relief to first pursue other public assistance programs was needed.

Bonnie Fry of the Montana Department of Social and Rehabilitation Services and William Leary of the Montana Hospital Association indicated their support of this bill.

There were no further proponents and opponents present. Representative Simon then closed by saying that amendments to this bill were proposed.

Representative Waldron asked what type of assistance would be given to people who were in the process of applying for Social Security and the answer was that the various forms which were necessary to apply plus the general support of

the personnel of the Department of Social and Rehabilitation Services would be available. Mr. Waldron also asked if the SRS would be reimbursed for their services by the Social Security Administration if an applying person were granted funds.

There being no further discussion on House Bill No. 526, the hearing was closed.

HOUSE BILL NO. 595: Hearing commenced on House Bill No. 595. Representative Bradley, District #79, sponsor of the bill stated that an act amending Section 53-6-10, MCA, to include licensed social workers as permissible providers of medical assistance under the medicaid program administered by the Department of Social and Rehabilitation Services was needed.

Proponent Sharon Hanton of the National Association of Social Workers indicated her support. Andree Deligdisch, supplying Exhibit 5, stated that at the present time, medicaid will only pay for social workers if they work in a mental health center. In most mental health centers there are waiting lists running anywhere from two weeks to six weeks to get in for an intake. Thereafter it may take another few weeks to actually be scheduled for a regular appointment. In the case of working with children, the sooner you get to a problem, the better the chances of intervention being successful and generally the shorter the course of the therapy. Jack Ellery, administrator of the Economic Assistance Division of the Department of Social and Rehabilitation Services stated that at this time, given the increasing recipient demands on the medicaid program, the escalating cost of the program and the serious budget programs facing our state, the Department cannot provide any guarantees that it will provide reimbursement for social worker services to medicaid recipients. This would only be accomplished if this expansion of services was considered by our joint appropriation subcommittee and adequate funding were provided by the legislature. Exhibit 6 provides Ellery's testimony.

There were no further proponents and opponents present. Representative Bradley was then excused by the Chair.

Representative Phillips questioned as to whether these needs were being met. Representative Gilbert asked if private practice would be eligible also.

There being no further discussion on House Bill No. 595, the hearing was closed.

HOUSE BILL NO. 730: Hearing commenced on House Bill No. 730. Representative Cohen, District #3, sponsor of the bill, stated that an act revising laws relating to weatherization; requiring the Department of Social and Rehabilitation Services to allocate and spend for home weatherization at least 5 percent of funds received from the federal low-income home energy assistance program was needed. Representative Cohen then supplied a federal block grants chart which is attached as Exhibit 7.

Proponent Jim Nolan, representing the Montana Department of Social and Rehabilitation Services supplied a fiscal note of the years 1985 through 1987 of the outcome if funds are transferred to weatherization. Exhibit 8 indicates his testimony. Charles Briggs, representing the Office of the Governor and Dan Oberg, representing the Public Service Commission indicated their support. Nancy Sheets, representing the Montana Power Company indicated that this program was very beneficial to the low-income population. Joe Ward, representing the Human Resources Commission said that the low income population needed a chance. Larry Domonic indicated that weatherization stretches the dollars as this process has served 80 households in its beginning and now serves 2,500 households. Jim Smith, also representing the Human Resources Commission that this was first enacted in 1977 and that many benefits had derived from the program.

There were no further proponents and opponents present. Representative Cohen was then excused by the Chair.

Representative Simon questioned the first year of initiation of this program and whether or not this program assisted people in acquiring loans for home improvement.

EXECUTIVE SESSION

ACTION ON HOUSE BILL NO. 235: Representative Gould made a motion that House Bill No. 235 DO PASS AS AMENDED. Representative Darko seconded the motion. Amendments were moved and seconded to DO PASS. A unanimous vote was taken to DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 301: A motion was made by Representative Hansen which was seconded by Representative Darko to DO PASS. Discussion followed regarding amendments and changing of the registration fee. Chairperson Keenan then decided that further action would be taken at a later date.

ACTION ON HOUSE BILL NO. 318: A motion was made by Representative Gilbert which was seconded by Representative Campbell to DO NOT PASS. Representative Gould then made a substitute motion which was seconded by Representative Hansen to DO PASS. A vote was taken to DO NOT PASS.

ACTION ON HOUSE BILL NO. 646: Representative Darko made a motion was seconded by Representative Bergene to DO PASS House bill No. 646. A vote was taken and was unanimously voted to DO PASS.

ACTION ON HOUSE BILL NO. 409: A motion was made by Representative Hansen which was seconded by Representative Waldron to DO NOT PASS AS AMENDED. Questions were raised by Representatives Bradley, Brown, Bergene. A vote was taken to DO NOT PASS AS AMENDED which passed unanimously.

ACTION ON HOUSE JOINT RESOLUTION NO. 16: A motion was made by Representative Darko which was seconded by Representative Waldron to DO PASS House Joint Resolution No. 16. A vote was taken which was roll called (10 yes and 8 no).

ACTION ON HOUSE BILL NO. 526: A motion was made by Representative Simon which was seconded by Representative Darko to DO PASS AS AMENDED on House Bill No. 526. A vote was taken and was voted DO PASS AS AMENDED. Representatives Cohen, Hart and Hansen voted no.

ACTION ON HOUSE BILL NO. 595. A motion was made by Representative Bradley which was seconded by Representative Cohen to DO PASS House Bill No. 595. Questions were raised by Representatives Waldron, Gilbert, Phillips, Cohen, Simon, Campbell and Waldron. A vote was taken to DO PASS and all members of Committee voted Yes with the exception of Representatives Wallin and Campbell.

ACTION ON HOUSE BILL NO. 435: The amendments were moved and seconded by Representatives Bradley and Connolly. All members voted Yes with the exception of Representative Brown voting No on the exception of Representative Brown voting No on the amendments. A motion was then made and seconded that House Bill No. 435 to DO PASS AS AMENDED WITH STATEMENT OF INTENT. This motion was passed unanimously.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 8:50 p.m.

Nancy Keenan
NANCY KEENAN, Chair

STANDING COMMITTEE REPORT

February 13 19 85

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 595

first reading copy (white)
color

Social workers as providers of medical assistance under Medicaid

Respectfully report as follows: That House Bill No. 595

DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

February 13 19 85

Page 1 of 2

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 435

first reading copy (white)
color

Naturopathic health care practice act

Respectfully report as follows: That House Bill No. 435

STATEMENT OF INTENT AND
AMENDMENTS ATTACHED

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

Human Services and Aging Committee
House Bill No. 435

STATEMENT OF INTENT

HOUSE BILL NO. 435

A statement of intent is required for this bill because it delegates rulemaking authority to the board of naturopathic doctors. It is the intent of the legislature that the board be guided by the provisions of Title 37, chapter 1, in adopting licensing fees and disciplinary rules. The board should use the standards of the American council on naturopathic medical education in approving college programs. The board should take into account the availability of programs and the need for public protection in establishing standards for continuing education.

Chairman.

STATE PUB. CO.
Helena, Mont.

House Committee on Human Services and Aging.

House Bill No. 435

1. Page 2, line 11.
Following: "board"
Strike: ", secretary-treasurer,"

2. Page 3, line 23.
Strike: "11"
Insert: "10"

3. Page 7, line 22 through line 1, page 8.
Following: line 21
Strike: section 8 in its entirety

Renumber: subsequent sections

4. Page 8, line 20.
Following: "the"
Strike: "secretary-treasurer"
Insert: "department"

5. Page 9, line 7.
Following: "nondiscriminatory."
Insert: "The board shall by rule set fees for issuing duplicate licenses, copying documents, and other matters the board considers necessary."

6. Page 9, line 24.
Strike: "16"
Insert: "15"

7. Page 10, line 13.
Strike: "12"
Insert: "11"

8. Page 10, line 23.
Strike: "15"
Insert: "14"

9. Page 11, line 1.
Strike: "11" and "16"
Insert: "10" and "15", respectively

9)5. Page 11, line 5.
Strike: "secretary-treasurer of the board"
Insert: "department"

Chairman.

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Helena, Mont.

Human Services and Aging Comm.
House Bill No. 435

10. Page 12, line 25.
Strike: "11"
Insert: "10"

11. Page 13, line 2.
Strike: "9"
Insert: "8"

12. Page 13, line 14.
Following: "The"
Strike: "secretary-treasurer of the board"
Insert: "department"

13. Page 14, line 16.
Strike: "11"
Insert: "10"

14. Page 15, line 21.
Following: "expire, the"
Strike: "secretary-treasurer of the board"
Insert: "department"

15. Page 16, line 5.
Following: line 4
Strike: "secretary-treasurer"
Insert: "department"

16. Page 16, lines 11 and 12.
Following: "by the" on line 11
Strike: remainder of line 11 through "board" on line 12
Insert: "department"

17. Page 16, line 13.
Following: "The"
Strike: "secretary-treasurer of the board"
Insert: "department"

18. Page 16, line 16.
Following: line 15
Strike: "secretary-treasurer of the board"
Insert: "department"

19. Page 17, line 12.
Following: "The"
Strike: "board"
Insert: "department"

..... Chairman.

STATE PUB. CO.
Helena, Mont.

Human Services and Aging Committee
House Bill 435

20. Page 19, line 4.
Following: line 3
Strike: "secretary-treasurer of the board"
Insert: "department"

21. Page 19, line 7.
Strike: "17"
Insert: "16"

22. Page 19, line 13.
Following: "The"
Strike: "secretary-treasurer"
Insert: "department"

23. Page 19, line 16.
Following: line 15
Strike: "secretary-treasurer of the board"
Insert: "department"

24. Page 20, line 5.
Strike: "17"
Insert: "16"

25. Page 20, line 8.
Strike: "17"
Insert: "16"

26. Page 20, line 18
Following: "The"
Strike: "secretary-treasurer of the board"
Insert: "department"

27. Page 21, line 12.
Strike: "18" and "19"
Insert: "17" and "18", respectively

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Human Services and Aging Committee
House Bill No. 435

28. Renumber "22" to "21" in the following locations:
Page 1, line 24.
Page 2, lines 14 and 15.
Page 3, line 9.
Page 4, lines 3, 11, 18, 21, and 23.
Page 5, lines 6, 8, and 22.
Page 6, lines 8 and 9.
Page 7, lines 12 and 13.
Page 8, line 25.
Page 9, lines 2, 3, 6, 12, 14, 17, 18, and 23.
Page 10, line 4.
Page 17, lines 9, 11, and 17.
Page 18, lines 23 and 25.
Page 21, line 21.
Page 22, lines 7, 12, and 18.
Page 23, line 4.
Page 24, line 5.

AS AMENDED DO PASS WITH STATEMENT OF INTENT

Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

February 13 19 85

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 526

first reading copy (white)
color

General relief assistance when applicants eligible for other types of relief

Respectfully report as follows: That House Bill No. 526

AMENDMENTS ATTACHED

AS AMENDED
DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

Human Services and Aging Committee
House Bill 526

AMENDMENTS AS FOLLOWS:

1) Page 2, lines 4 and 5.
Following: "household." on line 4
Strike: "After initial denials of other reasonably available programs of assistance, a"
Insert: "A"

2) Page 2, line 8.
Following: "for"
Strike: "those"
Insert: "other reasonably available assistance"

AND AS AMENDED, DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

February 13 19 95

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 402

first reading copy (white color)

Remove board authority to set other qualifications - nursing applicants

Respectfully report as follows: That House Bill No. 402

DO PASS DO NOT PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

February 13 19 85

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Joint Resolution Bill No. 16

first reading copy (white)
color

Condemning human rights abuses in Afghanistan and Central America

Respectfully report as follows: That House Joint Resolution Bill No. 16

DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

February 13 19 85

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 646

first reading copy (white)
color

Truth in labeling for organic foods

Respectfully report as follows: That House Bill No. 646

DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

February 13 19 85

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 318

first reading copy (white color)

Add acupuncturists to list for freedom of choice of health practitioners

Respectfully report as follows: That House Bill No. 318

~~DO PASS~~ DO NOT PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

February 13 19 85

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 235

first reading copy (white color)

Require anesthesiologist to administer general anesthesia during dental acts

Respectfully report as follows: That House Bill No. 235

AMENDMENTS AND STATEMENT OF INTENT ATTACHED

~~BE AMENDED~~
~~DO PASS~~

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

STATEMENT OF INTENT
HOUSE BILL NO. 235

A statement of intent is required for this bill because it contains a delegation of authority to allow the board of dentistry to adopt rules to regulate dental advertising and dental procedures involving the administration of anesthetics.

The legislature finds that no person who engages in the practice of dentistry or oral surgery should perform a dental or surgical procedure upon another person if a general anesthetic or general anesthesia is administered unless there is another qualified health professional available to monitor the patient. The legislature intends that any rule regulating dental anesthetics adopted by the board should be consistent with this finding.

The legislature intends that the board impose additional, necessary requirements for the training and skill of individuals who administer and monitor general anesthesia, deep conscious sedation, or any anesthetic agent used in pain control. In preparing its rules, the board should be guided by the principles stated in the American Academy of Oral and Maxillofacial Surgeons' Model State Rules for General Anesthesia" and any other guide pertinent to the subject.

Lastly, it is contemplated that the board will develop and implement appropriate rules regulating advertising practices by licensed dentists. The scope of such rules should extend to the content and purpose of such advertising as indicated in section 3. Such rules should have as a purpose the protection of the public from unprofessional advertising and the maintenance of professional standards in advertising by persons engaged in the practice of dentistry.

Chairman.

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Helena, Mont.

House Bill No. 235.

1. Title, lines 4 through 7.
Following: "AN ACT"
Strike: lines 4 through 7 in their entirety
Insert: "TO REQUIRE AN ANESTHESIOLOGIST, ANESTHETIST, OR OTHER TRAINED PROFESSIONAL TO ADMINISTER AND MONITOR GENERAL ANESTHETICS DURING DENTAL PROCEDURES; TO GRANT THE BOARD OF DENTISTRY AUTHORITY TO ADOPT RULES REGULATING DENTAL ANESTHETICS AND DENTAL ADVERTISING; AMENDING SECTIONS 37-4-101 AND 37-4-205, MCA."

2. Pages 1 through 4.
Strike: everything following the enacting clause
Insert: "Section 1. Section 37-4-101, MCA, is amended to read:
"37-4-101. Definitions -- practice of dentistry. (1) Unless the context requires otherwise, in this chapter the following definitions apply:
(a) "Board" means the board of dentistry provided for in 2-15-1842.
(b) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.
(c) "General anesthesia" means a state of unconsciousness intentionally produced by anesthetic agents, with absence of pain sensation over the entire body and a greater or lesser degree of muscular relaxation. The drugs producing this state can be administered by inhalation, intravenously, intramuscularly, or via the gastrointestinal tract.
(d) "General anesthetic" means any recognized anesthetic agent, sedative, hypnotic, tranquilizer, or narcotic used in sufficient prescribed dosages for the purpose of inducing general anesthesia. The term general anesthetic does not include a nitrous oxide/oxygen mixture used for the purpose of achieving analgesia during dental procedures or other oral surgical procedures.
(2) A person is "practicing dentistry" under this chapter if he:
(a) performs, attempts, advertises to perform, causes to be performed by the patient or any other person, or instructs in the performance of dental operations, oral surgery, or dental service of any kind gratuitously or for a salary, fee, money, or other remuneration paid or to be paid, directly or indirectly, to himself, any other person, or agency;

Chairman.

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Helena, Mont.

(b) is a manager, proprietor, operator, or conductor of a place where dental operations, oral surgery, or dental services are performed;

(c) directly or indirectly, by any means or method, furnishes, supplies, constructs, reproduces, or repairs a prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth;

(d) places the appliance or structure in the human mouth or attempts to adjust it;

(e) advertises to the public, by any method, to furnish, supply, construct, reproduce, or repair a prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth;

(f) diagnoses, professes to diagnose, prescribes for, professes to prescribe for, treats, or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of human teeth, jaws, or adjacent structures;

(g) extracts or attempts to extract human teeth or corrects, attempts, or professes to correct malpositions of teeth or of the jaw;

(h) gives or professes to give interpretations or readings of dental roentgenograms;

(i) administers an anesthetic of any nature, subject to the limitations provided in [section 2], in connection with a dental operation;

(j) uses the words "dentist", "dental surgeon", "oral surgeon", the letters "D.D.S.", "D.M.D.", or any other words, letters, title, or descriptive matter which in any way represents him as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of human teeth, jaws, or adjacent structures;

(k) states, advertises, or permits to be stated or advertised, by sign, card, circular, handbill, newspaper, radio, or otherwise, that he can perform or will attempt to perform dental operations or render a diagnosis in connection therewith; or

(l) engages in any of the practices included in the curricula of recognized dental colleges.

NEW SECTION. Section 2. Limitations on the administration of general anesthetics and practices involving general anesthesia.

Chairman.

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Helena, Mont.

(1) No person engaged in the practice of dentistry or oral surgery may perform any dental or surgical procedure upon another person if a general anesthetic is administered unless such anesthetic is administered and monitored by:

(a) an anesthesiologist licensed to practice medicine by the state board of medical examiners;

(b) a nurse anesthetist recognized in that specialty by the state board of nursing; or

(c) another health professional who has received at least 1 year of postgraduate training in the administration of general anesthesia.

(2) No person engaged in the practice of dentistry or oral surgery may conduct any dental or surgical procedure upon another person under general anesthesia unless the vital signs of the patient are continually monitored by another health professional who meets the qualifications for an anesthesiologist, nurse anesthetist, or other trained health professional as provided for in subsection (1)(a).

(3) No person engaged in the practice of dentistry or oral surgery may administer a general anesthetic to any other person unless he satisfies the requirements for a person qualified to administer a general anesthetic, as provided in subsection (1)(a), and meets any additional standards established by the board of dentistry for training in the administration of general anesthesia and in the treatment of the complications thereof. This subsection does not affect the requirements for monitoring of vital signs by another health professional under subsection (1)(b).

(4) The facility in which general anesthesia is to be administered as part of a dental or surgical procedure must be equipped with proper drugs and equipment to safely administer anesthetic agents, to monitor the well-being of the patient under general anesthesia, and to treat the complications that may arise from general anesthesia.

Section 3. Section 37-4-205, MCA, is amended to read:

"37-4-205. Rulemaking. The board may adopt, amend, or repeal rules necessary for the implementation, continuation, and enforcement of this chapter in accordance with the Montana Administrative Procedure Act.

Rules adopted under this section may include but are not limited to the following subjects:

(1) the practice of dentistry or oral surgery involving the administration of anesthetics; and

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Helena, Mont.

(2) advertising by a licensed dentist including:

(a) the use of false, deceptive, or misleading advertising; and

(b) the use of information concerning fees, areas of practice, specialization, personal background, and quality of service in advertising; and

(c) the use of warnings and disclaimers in advertising."

NEW SECTION. Section 4. Codification instruction. Section 2 is intended to be codified as an integral part of Title 37, chapter 4, and the provisions of Title 37, chapter 4, apply to section 2."

-End-

AND AS AMENDED DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

HOUSE COMMITTEE HUMAN SERVICES AND AGING

DATE 2/13/85 HJR Bill No. 16 Time

NAME	YES	NO
Nancy Keenan	X	
Bud Gould		X
Toni Bergene	X	
Dorothy Bradley	X	
Jan Brown	X	
Bud Campbell		X
Ben Cohen	X	
Mary Ellen Connelly	X	
Paula Darko	X	
Bob Gilbert		X
Stella Jean Hansen	X	
Marian Hanson		X
Marjorie Hart	X	
Harriet Hayne		X
John Phillips		X
Bruce Simon		X
Steve Waldron	X	
Norm Wallin		X

Alberta Strachan
Secretary

Nancy Keenan
Chairman

Motion: A motion was made to DO PASS

(Include enough information on motion -- put with yellow copy of committee report.)

CS-31

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

HOUSE COMMITTEE HUMAN SERVICES AND AGING

DATE 2/13/85 House Bill No. 409 Time

NAME	YES	NO
Nancy Keenan	X	
Bud Gould		X
Toni Bergene	X	
Dorothy Bradley	X	
Jan Brown		X
Bud Campbell	X	
Ben Cohen	X	
Mary Ellen Connelly	X	
Paula Darko	X	
Bob Gilbert	X	
Stella Jean Hansen		X
Marian Hanson	X	
Marjorie Hart	X	
Harriet Hayne	X	
John Phillips		X
Bruce Simon		X
Steve Waldron		X
Norm Wallin	X	

Alberta Strachan
Secretary

Nancy Keenan
Chairman

Motion: A motion was made to DO NOT PASS

(Include enough information on motion -- put with yellow copy of committee report.)

CS-31

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

HOUSE COMMITTEE HUMAN SERVICES AND AGING

DATE 2/13/85 House Bill No. 318 Time

NAME	YES	NO
Nancy Keenan	X	
Bud Gould	X	
Toni Bergene		X
Dorothy Bradley	X	
Jan Brown	X	
Bud Campbell		X
Ben Cohen	X	
Mary Ellen Connelly	X	
Paula Darko	X	
Bob Gilbert		X
Stella Jean Hansen	X	
Marian Hanson		X
Marjorie Hart		X
Harriet Hayne		X
John Phillips		X
Bruce Simon		X
Steve Waldron		X
Norm Wallin		X

Alberta Strachan
Secretary

Nancy Keenan
Chairman

Motion: A motion was made to DO PASS

(Include enough information on motion -- put with yellow copy of committee report.)

CS-31

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/13/85

NAME	PRESENT	ABSENT	EXCUSED
NANCY KEENAN	X		
BUDD GOULD	X		
TONI BERGENE	X		
DOROTHY BRADLEY	X		
JAN BROWN	X		
BUD CAMPBELL	X		
BEN COHEN	X		
MARY ELLEN CONNELLY	X		
PAULA DARKO	X		
BOB GILBERT	X		
STELLA JEAN HANSEN	X		
MARIAN HANSON	X		
MARJORIE HART	X		
HARRIET HAYNE	X		
JOHN PHILLIPS	X		
BRUCE SIMON	X		
STEVE WALDRON	X		
NORM WALLIN	X		

EXHIBIT 1
February 13, 1985

Peace Legislative Coalition

P.O. Box 5419 • Helena, Montana 59604
406-443-5122

In 1978 a Marxist government came into power in Afghanistan and aligned itself with the Soviet Union. After only 11/2 years in power it fell and was replaced by the Muslim Amin government, in 1979. The Soviet Union army invaded and overthrew Amin, who was killed and ever since, the Soviets have fought to keep the government in place which they had inst lled.

In these six years 3 million refugees have fled from Afghanistan to Pakistan. One million Afghanistanis have been killed and human rights abuses have become common.

What do the Soviets stand to gain by invading Afghanistan? It is a poor country of 14 million people the size of Texas. It shares a thousand mile border with the Soviet Union. It is rich in oil and gas. It also has a large population of fundamentalist Muslims similar to those who have taken power in Iran. The Soviets are reported to be fearful of the influence of the rebel Muslim population as well as the spector of a hostile neighbor joining forces with Iran against them. They also speak of their hatred of the Muslim repression of women.

The invasion of Afghanistan has harmed the Soviet Union in the eyes of the world. There have been reports of refusals to serve by Soviet soldiers in Afghanistan. As soldiers return from Afghanistan to Russia, more questions about the morality of what they are doing in Afghanistan will be raised throughout the Soviet society.

There is no end in sight for the Soviets in this mire they have created for themselves, intervening in another country's search for self determination.

Thank you

Bonnie Evans

EXHIBIT 2
February 13, 1985

SENIORS' OFFICE

LEGAL AND OMBUDSMAN SERVICES

TED SCHWINDEN, GOVERNOR

P.O. BOX 232
CAPITOL STATION

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FACT SHEET ON OMBUDSMAN PROGRAM

The Ombudsman Bill covers the operation of two advocacy programs for Senior Citizens - the Long Term Care Ombudsman Program (LTCO) and the Elderly Legal Services Developer Program (ELSD). The program title reflects the closeness with which both programs operate in providing advocacy assistance to senior citizens in Montana. Both positions are mandated services under the Federal Older Americans Act (OAA), and are funded mainly by Federal funds: $20,000 of Title III B money, $50,000 of Title IV C money, and approximately $5000 of State matching funds for the current federal fiscal year.

The program is currently administratively attached to the Governor's Office. Financial monitoring and overall grant monitoring is done by SRS, since they receive the federal funds for the program. Daily supervision is provided by the Board of Visitors, which is also attached to the Governor's Office.

Basic duties for the LTCO under OAA include investigation and resolving complaints on the health, safety, welfare and rights of residents as well as cases of elder abuse, neglect or exploitation pertaining to long-term care residents; monitoring legislation, laws, etc. effecting long- term care residents; providing information to public agencies on long-term care issues; and promoting the development of citizen organizations in long- term care facilities.

Basic duties for the ELSD include providing technical and legal assistance to the LTCO, to AAA attorneys upon request, and to senior citizen organizations; assisting in elder abuse cases; and improving the accessibility to legal assistance providers for Montana's 128,000 elderly.

At the State level, each program is staffed by only 1 FTE.

Local Ombudsman services are provided through the State's Area Agencies on Aging (AAA's), who hire and supervise local personnel. All but two of Montana's fifty six counties receive local coverage by forty seven local personnel. The State program provides overall programmatic direction, training and technical assistance to local programs. AAA's determine the scope of the daily duties of the local personnel. The vast majority of the State's 125 long-term care facilities (including nursing homes and personal care homes) which house 6000 residents, receive at least monthly visits by local personnel.

In the past reporting period (October 1, 1984 to September 30, 1985) the State program investigated 77 cases involving 227 specific complaints. Elder abuse cases accounted for about 50% of the cases. Other common complaint include concerns about the level of staffing, guardianship/conservatorship issues, staff training, food, resident hygiene care, use of restraints, and medication issues.

FACT SHEET ON OMBUDSMAN BILL

The major objectives of this bill are as follows:

(1) To meet federal requirement under OAA.
(2) To establish the scope and authority of the programs in Montana law.
(3) To provide a means of enforcing the Act's requirements.

There are two major differences from HB 773, which was introduced last session:

(1) HB 773 would have established an appointed Board to oversee the hiring of personnel and the supervision of the Program, while under HB 720 personnel are hired through the State personnel system solely.
(2) HB 773 sought to establish civil penalties while HB 720 ties enforcement to DHES' licensing of facilities.

In addition to the basic requirements Ombudsman programs must perform, OAA requires the State to provide assurances that Ombudsman programs have "appropriate access to long-term care facilities and patient records". The issue of access is a critical and controversial one for the program. Access to facilities for local personnel, specifically personal care facilities, has been denied in the past. Without access, monitoring of care or receiving complaints can not be done. Access to records has not been used in the past due to questions of authority in this area. Access to records would be especially important for the State LTCO in investigating elder abuse cases. Specific guidelines for access to records will need to be developed. Requiring a release prevents indiscriminate access by Ombudsman.

Because of the ongoing difficulty the program has in making residents and family aware of the existence and purpose of the program, the requirements within the Act that pertain to the facilities obligation to inform people about the program and to post notice about the program are very important. Problems of awareness have undoubtedly resulted in concerns and complaints that have gone unreported because individuals didn't know where to turn.

Finally, the Act includes some amendments to the Elder Abuse Prevention Act (EAPA). Under a joint letter of understanding with DHES, SRS, and the Medicaid Fraud Bureau, the State LTCO has been the focal point for initial reporting and investigation into cases of abuses occurring within facilites. The amendments establish this arrangement in law. It also seeks to require facilities that are aware of abuse situations to report them within 72 hours so that appropriate law enforcement investigations can be initiated into more severe cases that may require prosecution.

EXHIBIT 3
February 13, 1985

mhca
MONTANA HEALTH CARE ASSOCIATION

34 So. Last Chance Mall, No. 1
Helena, Montana 59601
Telephone: 406-443-2876

February 13, 1985

HB 720

For the record, my name is Sue Weingartner. I represent the Montana Health Care Association, and I reside at 4480 Last Straw Drive, Helena, Montana.

MHCA supports the Long Term Care Ombudsman Program. We believe the program staff and volunteers who work as advocates for the elderly can enhance the lives of residents of long term care facilities.

We are in general support of this proposed legislation but do have some suggestions which we believe would strengthen the program, as well are a couple of problems we feel need addressing.

PROBLEMS

Section 5 which deals with access to long-term care facilities and resident's records should include a provision that the facility has the right to terminate visits by the ombudsman where the patient's physician has documented that such a visit would hamper the health and safety of the resident. Exceptions to this rule can be made where the resident waives the physician's orders.

Providers' due process rights need also be protected in the complaint resolution process. As complaints are being investigated,

facilities need to have the right to document their responses and have those responses part of the ombudsman records--to also be included in any reports forwarded to SRS and to the county attorney, as provided for in Section 11(b) of this bill.

Section 10(2) provides that a facility's license may be denied, revoked or suspended if the facility has failed to comply with the notice requirements of Section 9 on page 6. This section should be amended to include the word "willfully failed to comply" with the notice requirements. Facilities have many people about their premises daily--residents, employees, members of the public, vendors, etc., and it is not inconceivable that a posted notice could be removed and not noticed for several hours. If this were to happen, license revocation would be an unreasonable penalty for an unintentional occurrence.

SUGGESTIONS FOR STRENGTHENING THE PROGRAM

I am attaching to my written testimony, an issue paper from American Health Care Association, the largest organization representing long term care facilities in the United States. AHCA represents more than 8,000 long term care facilities, both proprietary and non-proprietary, which serves in excess of 800,000 convalescent and chronically ill patients. This issue paper pinpoints elements AHCA believes characterize a successful state ombudsman program. These elements are:

- Precise delineation of program purpose, procedures and practices;
- A highlay qualified state ombudsman;
- A reasonable approach to sensitive issues;
- Well trained volunteers;
- An opportunity for meaningful provider involvement in program development to ensure dialogue between ombudsman representatives and providers on major policy issues.

Specific items which we believe should be added to this bill in order to strengthen the ombudsman program and ensure that the program meets its goals should include:

- The ombudsman program should be expanded to include all services for older adults such as: adult foster care, home and community based waiver services, and skilled and intermediate services provided in swing bed hospitals;
- Creation of a state level advisory body which would include appropriate consumers and providers of long term care services;
- Establishment of minimum qualifications for a state ombudsman; and
- Establishment of minimum standards for volunteer training.

The Legacy Legislature endorsed the concept of an advisory committee--including nursing home administrator representation--and also minimum qualifications and training for the ombudsman and volunteers pursuant to policies and guidelines established by the federal Administration on Aging.

We would ask that a subcommittee be appointed on this bill for the purpose of including some of these suggestions, or that appropriate amendments be drafted to include the suggestions.

We would be happy to assist a subcommittee and provide any requested information.

Issue

Long Term Care Ombudsman Program

Background

The Long Term Care Ombudsman Program was established by the 1978 amendments to the Older Americans Act to resolve complaints made by or on behalf of residents in long term care facilities. Implementation of the program has varied from state to state, with mandated activities—such as program emphasis, training and qualifications of volunteers, procedures for complaint resolution and education—taking different forms. As a result, while providers in some states perceive the program as valuable, providers in other states have found it to cause serious problems.

Status

Final legislation reauthorizing the Older Americans Act is expected by late summer. The House Education and Labor Committee reported out H.R.4785 which included provisions, recommended by AHCA, requiring provider participation in planning and operating the ombudsman program and assure adequate training of ombudsman program staff. The House has not acted on the Older Americans Act bill. Provisions pertaining to the ombudsman program were not included in the Senate bill which was passed May 24.

AHCA's Position

AHCA believes that elements characterizing a successful state ombudsman program include precise delineation of program purpose, procedures and practices; a highly qualified state ombudsman; a reasonable approach to sensitive issues, such as privacy of medical records and access to facilities; well trained volunteers; and an opportunity for meaningful provider involvement in program development and implementation. Because the long term care ombudsman program has the potential to benefit long term care facility residents, AHCA urged Congress to:

- *expand the program to include all long term care services for older adults;*
- *develop a state-level advisory body that includes provider representation;*
- *protect provider due process rights in the complaint resolution process;*
- *require that complaints from providers be received and acted upon;*
- *require that the ombudsman program be based in the state aging unit;*
- *prohibit organizations that may have a conflict of interest from performing local ombudsman functions; and*
- *delegate authority on issues related to confidentiality of and access to medical records to state law.*

AHCA also believes that Congress should consider establishing minimum qualifications for state ombudsmen and minimum standards for volunteer training; limiting access to the facility by volunteers to a reasonable standard; developing a requirement that confidentiality rules apply to all aspects of unresolved complaints; and requiring utilization of other state agencies, such as the state licensure agency, in complaint resolution.

AHCA's Action Plan

AHCA will continue to monitor congressional activity pertaining to the Older Americans Act and work to assure that the final bill includes Long Term Care Ombudsman Program amendments included in the House bill.

7/84

ahca
AMERICAN
HEALTH CARE
ASSOCIATION

TO LEGISLATORS
ISSUES IN LONG TERM HEALTH CARE

May 1984

Ombudsman Program Enhances Residents' Lives

Due for reauthorization under the Older Americans Act in 1984, the state-administered long term care ombudsman program has been a positive force in enhancing the well-being of nursing home residents and increasing community involvement in the lives of institutionalized elderly.

Authorized in 1978, the program was designed to investigate and resolve complaints of elderly residents of long term care facilities. In addition, the program was established to monitor the development and implementation of federal, state and local laws, regulations and policies governing long term care facilities and to provide information to public agencies on the problems of elderly long term care facility residents.

Since its inception, the program and its policies have varied from state to state. Federally mandated activities—such as program emphasis, training and qualifications of volunteers and procedures for complaint resolution—have taken different forms. As a result, while providers in most states perceive the program as valuable, providers in other states consider it to be the cause of serious problems.

To promote consistency in state implementation of the ombudsman program, the Administration on Aging (AoA) developed a "program instruction" manual and several chapters of a "guidance manual" for state programs. While these documents address many problems satisfactorily, neither has the weight of law.

Therefore, it is essential that certain major issues be addressed by Congress when it considers reauthorization of the program. These issues require changes in the statutory and regulatory framework to make the program more effective, to avoid unnecessary problems and to fulfill original program objectives.

(See **Changes,** p. 4)

Study of Nursing Home Regulations Under Way

Funded by the Department of Health and Human Services' Health Care Financing Administration (HCFA) last fall, the Institute of Medicine's (IOM) committee to study nursing home regulation has begun a 22-month examination of the role of federal and state governments in assuring the delivery of quality care in our nation's long term care facilities. IOM's final report is expected to have a major impact on nursing home operations nationwide.

The study was originally conceived as a compromise between opponents of deregulation and federal government officials, who proposed changes to rules governing nursing home survey and certification requirements. Under the proposed revisions, nursing homes with good records of compliance would be inspected less frequently than problem facilities. In addition, the rules would have removed requirements for mandatory on-site resurveys when deficiencies did not threaten patient health and safety.

HCFA's proposal generated widespread comment—both positive and negative—from providers and consumers of long term care. To ensure that the proposed regulatory changes would succeed in eliminating unnecessary burdens on providers while protecting patients' rights to quality care in safe surroundings, congressional and governmental officials worked together to establish a committee to study the issue and make recommendations. The result: the formation, through IOM, of a committee of experts that would examine not only the effectiveness of current regulations concerning survey and certification of nursing homes, but also the factors that influence the quality of care in nursing homes.

Deeply engaged in its work, the IOM committee has identified four sets of questions that will focus the direction of the study:

- What are the objectives that should be achieved through nursing home regulation?
- How effective are current approaches to nursing home certification in ensuring quality of care and to what extent do reimbursement policies and bed supply affect quality of care?
- How do federal and state governments currently relate in the nursing home certification process, and how should they relate?
- How should federal and state policies be changed to ensure that the goals of survey and certification requirements are met?

Moreover, the committee has decided to develop and test a mechanism for measuring the quality of patient care and the quality of life in nursing homes. As part of this effort, the IOM study group will make recommendations on acceptable standards of quality.

Facing a formidable task, the study group will take into consideration 53 sets of nursing home regulations: those of the federal government, the 50 states, the District of Columbia and Puerto Rico. The committee is also expected to solicit recommendations and reactions from provider and consumer organizations, federal and state agencies, and congressional staff interested in long term health care issues.

The impressive group of health and long term care experts participating in the IOM study includes representatives from provider groups, research organizations, consumer advocacy groups, and university medical departments. Associate Dean of Medicine at Brown University Sidney Katz is chairing the committee.

d for Nursing Home Care, Research Shows

It is possible that the estimates may understate the potential demand for these facilities. As noted in recent ICF research, the proportion of retired individuals with the ability to afford these facilities may increase in the future.

The estimates of LTC facility demand are based on an assumption that the ability of the elderly and others to pay for LTC in these facilities in the future will be comparable to the present. They also assume that the current role of government in financing Medicaid LTC facilities will not be overly restrictive. If these and other factors change, the demand for these facilities will also change.

NH Estimates by State

There are substantial variations by state in potential demand for nursing home care. However, because age-specific use rates by elderly age group are available only at the national level, a different method was used to develop state-by-state estimates for this article. For 1980 it was assumed that states with a ratio of nursing home beds per 1,000 over age 85, below the U.S. average (684 beds/1,000), would add beds at that same state specific rate during the next two decades. However, for those with a ratio higher than the U.S. average in 1980, it was assumed that they would add beds at the average U.S. rate. **(Exhibit 2)**

Between 1980 and 1990, the greatest apparent demand for nursing home beds is in California, Florida, New York, Ohio and Pennsylvania. By 2000, these states, plus Arizona, Georgia, Illinois, New Jersey, North Carolina, Texas and Virginia, may have to add significantly to their current capacity. An alternate interpretation of these estimates is if the additional capacity is not built, these states may have the greatest shortage of nursing home beds.

Capital Cost Estimates

To estimate potential capital requirement rates for these projects, recent investment costs for each category of facility were examined and applied to the number of beds or units potentially required. From this review, it was determined that nursing home construction costs have recently run about $25,000 per bed, retirement centers about $40,000 per resident, and life care about $50,000 per resident. The capital requirement estimates do not include any renovation or replacement of existing facilities. Nor do they include any amounts for financing costs or start-up and development. These additional costs will add considerably to overall capital requirements during the period.

Exhibit 3 shows overall investment in new LTC capacity may be about $50 billion through 1990 and $130 billion by 2000. These estimates include about $20 billion in new nursng home construction through 1990, assuming average construction costs of $25,000 per bed and 6 percent inflation. Through 2000, it may require about $58 billion to increase the capacity of the nursing home industry to 2.7 million beds.

Investment in retirement and life-care centers is expected to be equally substantial. Based on recent demand, developers may invest $25 billion during this decade alone in new congregate residential facilities for retirees. However, because much of the recent demand is based on previous levels of HUD activity, realizing this new capacity will depend in part on future levels of HUD support. Investment in life-care facilities will continue to increase, although the scale of this investment will be somewhat lower than other LTC facilities.

Exhibit 3: Potential investment for new LTC facilities, 1980-2000 ($ billions)

	Potential investment through:			
	Nominal $ @ 6% inflation		Constant $ 1980	
Fixed asset requirements	1990	2000	1990	2000
• Nursing homes (@ $25K per bed)	$19.7	$ 57.7	$14.7	$29.7
• Retirement centers (@ $40K per resident unit)	$24.7	$ 62.2	$18.5	$32.5
• Life-care centers (@ $50K per resident unit)	$ 4.4	$ 11.1	$ 3.3	$ 5.8
Total	$48.8	$131.0	$36.5	$68.0

Source: ICF estimates based upon demand estimates and construction/equipment costs.

Exhibit 2: Nursing home beds based on lower of state specific usage rates or U.S. average for the over 85 population

State	Actual 1980 nursing home beds/1,000 age 85+	Nursing home beds in 1980	Increase in beds by: 1990	2000
Alabama	607.33	20,650	11,723	29,155
Alaska	1,715.00	1,028	340	2,119
Arizona	467.79	9,308	15,297	45,002
Arkansas	731.48	19,237	6,218	17,967
California	749.57	163,481	70,679	191,043
Colorado	712.35	17,309	6,503	17,999
Connecticut	595.07	21,243	9,998	23,625
Delaware	477.36	2,529	2,053	4,870
District of Columbia	496.87	3,179	-298	-198
Florida	308.21	36,121	34,828	94,990
Georgia	762.46	30,040	17,996	50,294
Hawaii	500.89	2,804	3,006	5,961
Idaho	512.35	4,354	1,538	4,714
Illinois	770.56	88,382	23,223	61,338
Indiana	818.22	44,510	12,421	36,508
Iowa	771.51	34,640	2,447	10,111
Kansas	754.73	25,207	2,711	9,485
Kentucky	750.43	26,264	11,371	28,272
Louisiana	710.56	21,671	14,595	34,166
Maine	802.62	11,316	2,848	7,980
Maryland	633.82	20,725	16,480	37,903
Massachusetts	707.09	52,253	17,543	38,003
Michigan	981.40	80,081	2,442	35,630
Minnesota	794.15	41,930	3,574	14,933
Mississippi	521.40	12,252	6,362	14,913
Missouri	764.17	48,690	10,515	28,854
Montana	642.27	5,651	1,542	4,625
Nebraska	801.27	13,989	581	4,687
Nevada	561.67	2,021	5,392	19,378
New Hampshire	687.33	6,671	3,798	8,930
New Jersey	523.89	37,824	21,585	47,779
New Mexico	349.43	3,074	3,390	9,051
New York	533.89	103,951	42,465	76,577
North Carolina	713.37	32,172	26,744	69,238
North Dakota	796.30	6,449	120	1,830
Ohio	703.04	76,279	34,916	81,036
Oklahoma	797.09	27,100	7,798	22,920
Oregon	612.04	17,381	8,691	22,830
Pennsylvania	583.90	75,906	41,866	93,541
Rhode Island	721.08	8,652	3,665	8,318
South Carolina	599.50	11,989	11,151	29,556
South Dakota	823.52	8,646	44	1,755
Tennessee	523.96	21,691	13,309	32,329
Texas	904.71	101,327	25,196	96,018
Utah	567.64	5,051	2,158	5,847
Vermont	784.33	4,705	1,385	3,506
Virginia	666.11	27,376	18,185	44,363
Washington	943.45	39,152	2,657	24,828
West Virginia	331.03	6,422	4,205	9,370
Wisconsin	896.53	49,846	1,953	19,266
Wyoming	502.57	1,758	754	1,759
Total U.S.	684.28	1,537,298	589,963	1,584,994

Source: Nursing home bed data from unpublished estimates of the Master Facility Index provided by NCHS; population data from U.S. Bureau of the Census, Population Estimates and Projections, Series P-25, No. 937, 1983.

Major Investment Needed to Meet Increasing Dema

by John Vallante

Long term care (LTC) providers will have to make a $49 billion investment in fixed assets by 1990 and an additional $82 billion by 2000 to meet the apparent demand for LTC services during the next 16 years. For nursing homes alone, this implies the development of more than one 120-bed nursing home per day during the next five to 10 years. This investment will be necessary even with a shift to non-institutional care for many LTC services.

However, without major changes in Medicaid and Certificate-of-Need (CN) policies, it is unlikely that this entire investment will actually occur. Some states will continue to restrict the number of nursing homes, leaving to other states the burden of meeting the expected increase in demand.

The 65 and older population uses more LTC services than younger groups. Overall demand for LTC services will increase as the number of people 65 and older increases. **Exhibit 1** shows that there will be 32 million elderly in 1990 and 35 million in 2000, an increase from 25 million in 1980.

Although the annual rate of growth in the 65 and older population is significant, even more rapid growth is expected in the older age categories of this group. The number of people age 75 to 84, a key group that uses nursing homes and congregate residential facilities, will increase from 7.7 million to 12.2 million during the next two decades. The number of people 85 and older, the most likely users of skilled nursing and intermediate care facilities, will more than double from 2.2 million in 1980 to 5.1 million in 2000. About one-fifth of this latter group is expected to be in a nursing home at any given time. These trends will place increasing stress on the current supply of nursing home beds.

Some observers point to a number of factors that may diminish the effect of the demographic trends cited previously. For example, it is reasonable to expect that new drugs and technology will continue to make progress in reducing if not deferring the onset of mental and physical disabilities among the elderly. When these disabilities occur, improvements in the effects of therapy are expected. Nevertheless, short of techniques to reverse the aging process itself, it is unlikely to expect that technological progress will offset the effect of the increasing number of the elderly on the demand for LTC services.

Exhibit 1: Trends in population age 65 and older, 1980-2000 (thousands of people)

Age group	1980	1990	2000	Annual rate of change 1980-90	Annual rate of change 1990-2000
65-69	8,780.8	10,006.3	9,110.2	1.3%	-0.9%
70-74	6,796.7	8,048.0	8,582.8	1.7	0.6
75-79	4,792.6	6,223.7	7,242.2	2.6	1.5
80-84	2,934.2	4,060.1	4,964.6	3.3	2.0
85+	2,239.7	3,460.9	5,136.3	4.4	4.0
Total	25,544.1	31,799.1	35,036.1	2.2%	1.0%

SOURCE: U.S. Bureau of the Census, *Population Estimates and Projections*, Series P-25, No. 937, 1983.
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Current Supply of LTC Facilities

While the existing supply of nursing and residential units that provide long term care services is somewhat difficult to establish, three major categories of LTC facilities are examined in this article.

- **Nursing homes.** Unpublished data from the 1980 Master Facility Index provided to ICF by the National Center for Health Statistics indicate that there were 1,537,200 nursing home beds in the U.S. in 1980. These include beds in skilled nursing, intermediate care, personal care and domicillary homes.
- **Congregate residential facilities.** There is no reliable estimate of the number of residential units in retirement centers and other congregate living facilitles. Nevertheless, these facilities provide an increasingly popular and significant residential alternative for the elderly. The supply of these units in 1980 is estimated to be about 1.3 to 1.4 million units.
- **Life-care facilities.** There were about 600 life-care/continuing-care communities in 1979, assuming 300 to 350 residents per community yields about 180,000 to 210,000 life-care residents. For purposes of our forecasts, we have assumed there were 200,000 residents in 1980.

(While home healthcare is an important factor in long term care, this article does not address the potential increase in demand for these services.)

The potential demand for these LTC facilities was estimated by applying recent ratios of beds, units or residents per 1,000 for selected groups of the elderly population to the number of individuals in each category.

Nursing Homes

By assuming the proportion of elderly residents to total nursing home beds in 1980 (.81) remains constant during the 1980 to 2000 period, total potential nursing home demand for the same period was estimated.

Using this approach, there is an apparent demand for about 587,000 additional nursing home beds by 1990, and an additional 603,000 nursing home beds between 1990 and 2000. This implies a total potential increase of 1.2 million beds during the next two decades. In addition, these estimates reflect the potential renovation and replacement of existing nursing home beds. This requirement alone could add an additional 400,000 to 500,000 beds to construction demand.

Retirement and life-care centers

To examine potential trends in the demand for retirement and life-care centers, we developed national estimates as a function of the size of the population aged 75 to 84. Recent research has indicated that the average age of residents of these centers is five to eight years less than that of nursing home residents, or about age 78 to 83. Due to the lack of state-by-state estimates of supply in 1980, only national forecasts of demand were developed.

The demand for retirement center units could increase by 463,000 units by 1990 and 349,000 units by 2000. This implies a total potential increase in the demand of 812,000 units during the next two decades. Life-care units can be expected to grow by about 66,000 units by 1990 and an additional 50,000 units between 1990 and 2000.

The author is a partner in ICF, Inc., a healthcare consulting firm in Washington, D.C. This article has been excerpted with permission from April 1984 **Healthcare Financial Management.** *Copyright 1984 Healthcare Financial Management Association.*

Changes Needed to Ensure Program Success

(Continued from p. 1)

Recommendations

As home and community-based programs continue to grow, the assistance of long term care ombudsmen will become more important to elderly individuals receiving these services. As a result, ***the ombudsman program should be expanded to include all services for older adults.*** Members of Congress must recognize that if the program is not expanded, non-institutionalized vulnerable adults will have no access to ombudsman or other problem-solving services.

Experience has also shown that involvement of providers in all aspects of program development and implementation is an important factor in program success. ***Creation of a state-level advisory body that includes provider representation*** would ensure dialogue between ombudsman representatives and providers on major policy issues. Existing advocacy groups dealing with aging issues, such as State Commissions on Aging, should be allowed to perform this function.

In reauthorizing the ombudsman program, Congress also should consider provisions to ***protect provider due process rights in the complaint resolution process.*** Facility rights to provide care without undue interference and to present information in its defense when accused of wrongdoing have not been adequately addressed in federal law.

The issue of "access" is complex and raises questions related to patient privacy and confidentiality of medical records. Providers have found that reasonable access by representatives of organizations such as the ombudsman program is beneficial to long term care facility residents. However, such access must be balanced with the facility's responsibility to protect its residents and their right to privacy. Moreover, access to personal and medical records raises questions of confidentiality. While ***resident permission for access to records should be required,*** laws governing this issue should be developed at the state level.

> ***. . . the ombudsman program should be expanded to include all services for older adults . . .***

Use of contractors, including citizen organizations, to perform ombudsman functions often creates difficulties with ensuring objectivity. Although AoA does prohibit the use of state licensing or certifying agencies to perform ombudsman functions, the Administration's guidelines do not ***recognize that certain advocacy or union-related organizations might also have conflicts of interest*** that would prevent their "vigorous and impartial" implementation of program requirements.

Additional factors influencing program success relate to volunteer qualifications, training, and supervision. While AoA's manual addresses these issues appropriately, the ***qualifications of individuals providing training should also be addressed.***

To provide guidance on major issues not covered in the legislation, Congress should instruct AoA to develop detailed regulations that:

- establish minimum qualifications for the state ombudsman;
- limit volunteer access to facilities to a reasonable, defined standard;
- establish minimum standards for volunteer training;
- encourage, without any prohibitions, that the expertise of other state agencies, such as the state licensure agency, be utilized, especially in complaint resolution and education; and
- require that specified confidentiality constraints be applied to all aspects of unresolved complaints.

Analyses of the program since its inception ha shown that several identifiable elements are characteristic of successful state ombudsman programs: precise delineation of program purpose, procedures and practices; a highly qualified state ombudsman; a reasonable approach to sensitive issues such as privacy of medical records and access to facilities; well-trained volunteers; and the opportunity for meaningful provider involvement in program development and implementation.

Because the ombudsman program was created to benefit older individuals receiving a variety of long term care services, Congress should take necessary action to ensure the effectiveness, objectivity and professionalism that are essential if the program is to achieve its potential.

Publications Available to Members of Congress

To assist in identifying the appropriate type of long term care services needed by aging and disabled individuals, AHCA has published ***"Thinking About A Nursing Home?"*** This consumer information pamphlet includes a checklist of important considerations in choosing a nursing home for a family member or friend. For quantities of the publication, contact Gary Capistrant or Cheryl Beversdorf at AHCA.

"AHCA to Legislators: Issues in Long Term Health Care"
is published by the
American Health Care Association
1200 15th Street, N.W.
Washington, D.C. 20005
(202) 833-2050

Harold Moffie, President
Dr. Thomas G. Bell, Executive Vice President
William Hermelin, Vice President for Congressional Affairs
Gary Capistrant, Director of Congressional Relations and Public Policy
Cheryl Beversdorf, Legislative Representative
Linda Keegan, Editor

The American Health Care Association is the largest organization of long term health care facilities. AHCA membership comprises half of the nation's licensed nursing homes and reflects a cross-section of the entire profession. Membership includes nearly 8,000 proprietary and non-proprietary facilities which serve 800,000 convalescent and chronically ill of all ages.

EXHIBIT 4
February 13, 1985

Proposed Amendment to HB 720

To Section 5 following (2) Add.

The original Records may not be removed from the facility.

If a copy of the records is needed it shall only be granted upon the written consent of the resident, the resident's legal guardian or attorney.

All costs of coping the records shall be paid by the office of long-term care ombudsman to the facility within thirty (30) days of the receipt of the records.

Submitted by Wellen E Leary
Montana Hospital Association

EXHIBIT 5
February 13, 1985

Chairman Keenan and members of the committee,

My name is Andree Deligdisch . I am from Great Falls, Montana, where I have been employed for the past 28 years in a variety of jobs with different responsibilities. I am a licensed Social worker in the State of Montana, with a Masters Degree of Social Work. I am also registered in the National Association of Social Worker's Registry for Clinical Social Workers.

For 13 years I have been employed fulltime in the Mental Health field. For ten years (up until September 1984) I was employed by the Community Mental Health Center in Great Falls, where I performed psychotherapy with adults and children about half of my time while I performed administrative duties as Head of the Cascade office the other half of the time. At present I am fulltime in private practice. I do a lot of work with families, children and couples.

At present Medicaid will only pay for social workers if they work in a Mental Health Center. Now, in most mental health centers there are waiting lists, running anywhere from two weeks to six weeks to get in for an intake. Thereafter it may take another few weeks to actually be scheduled for regular appointments. Particularly in working with children (but this also largely is true for adults) the sooner you get to a problem, the better the chances of intervention being successful, and generally the shorter the course of the therapy.
It is therefore ironical that there are a number of licensed social workers available to perform the services, while on the other hand the people needing the services have to wait long periods of time simply because by a Medicaid policy decision social workers are excluded from payment if they are not employed by a Mental Health Center. I am the same person with the very same skills now as I was five months ago; five months ago Medicaid would reemburse the Center for my services. Now I can not get paid.
It is particularly ironical in terms of the services needed for abused and sexually abused children. In this legislature a number of bills deal with services needed for that expanding group of victims of abuse. Many of these children (although many not) are on Medicaid. There is a whole group of very well trained professionals available right now to provide services.

Several times in the past few months I was contacted by social workers employed by the Child Welfare Services, asking me to see a child with serious problems. These children were in fosterhomes and Medicaid certified. I ended up seeing some for free. However, I also have to pay my rent bills, and consequently I do not end up seeing many of these kids free of charge. The reason I ended up seeing them is because the Mental Health Center had a waiting list, and the other professionals in the city also could not see these children soon.

I therefore hope that you can look favorably upon HB 595.
Thank you for the opportunity to speak before you,

Andree Deligdisch

Andree Deligdisch
3016 Central Ave.
Great Falls, Mont 59401

EXHIBIT 6
February 13, 1985

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

TED SCHWINDEN, GOVERNOR

P.O. BOX 4210

STATE OF MONTANA

HELENA, MONTANA 59604

TESTIMONY OF JACK ELLERY
ADMINISTRATOR
ECONOMIC ASSISTANCE DIVISION
DEPARTMENT OF SRS
P.O. BOX 4210
HELENA, MT 59604
444-4540

RE: HB595 - TO INCLUDE LICENSED SOCIAL WORKER AS PERMISSIBLE PROVIDERS OF MEDICAL ASSISTANCE UNDER THE MEDICAID PROGRAM

MADAM CHAIR AND MEMBERS OF THE COMMITTEE, MY NAME IS JACK ELLERY, ADMINISTRATOR OF THE ECONOMIC ASSISTANCE DIVISION OF SRS. MY TESTIMONY TODAY IS IN SUPPORT OF THIS LEGISLATION TO SPECIFICALLY AND PERMISSIVELY ALLOW LICENSED SOCIAL WORKERS AS PROVIDERS OF MEDICAID SERVICES. IN FACT, I BELIEVE THAT THIS AUTHORITY ALREADY EXISTS IN THE VERY STATUTE BEFORE YOU. CURRENTLY, SECTION 1, PARAGRAPH 2(J) ALLOWS "ANY ADDITIONAL MEDICAL SERVICES OR AID ALLOWABLE UNDER OR PROVIDED BY THE FEDERAL SOCIAL SECURITY ACT".

ALTHOUGH THE DEPARTMENT IS SUPPORTING THIS AMENDMENT IT MUST BE RECOGNIZED THAT WE DO NOT VIEW THIS LEGISLATION AS A MANDATE TO PROVIDE LICENSED SOCIAL WORKER SERVICES AS A REIMBURSABLE SERVICE IN THE MEDICAID PROGRAM. CLEARLY, TO MANDATE AND TO INCLUDE A NEW PROVIDER OF SERVICE WITHIN THE MEDICAID PROGRAM WOULD BE AN EXPANSION OF THE SCOPE, AMOUNT AND DURATION OF THE PROGRAM.

AT THIS TIME, GIVEN THE INCREASING RECIPIENT DEMANDS ON THE MEDICAID PROGRAM, THE ESCALATING COST OF THE PROGRAM AND THE SERIOUS BUDGET PROGRAMS FACING OUR STATE, THE DEPARTMENT CANNOT PROVIDE ANY GUARANTEES THAT IT WILL PROVIDE REIMBURSEMENT FOR SOCIAL WORKER SERVICES TO MEDICAID RECIPIENTS. WE WOULD ONLY DO SO IF THIS EXPANSION OF SERVICES WAS CONSIDERED BY OUR JOINT APPROPRIATION SUB-COMMITTEE AND ADEQUATE FUNDING WERE PROVIDED BY THE LEGISLATURE.

LEGIS/113

EXHIBIT 7
February 13, 1985

Federal Block Grants

They do provide states with flexibility but look how the Fed. Govt responds.

eg. LIEAP Funds

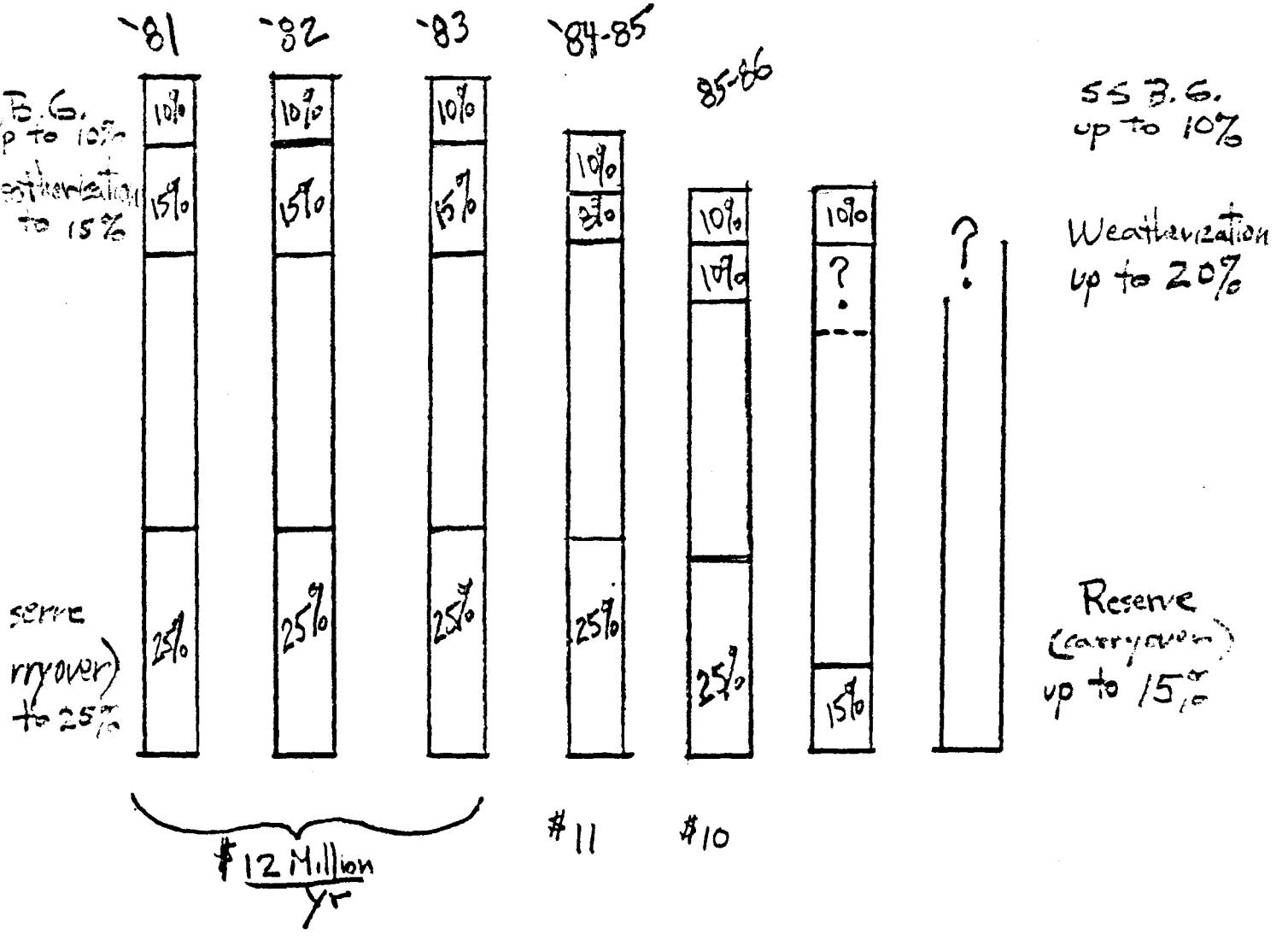

EXHIBIT 8
February 13, 1985

IF FUNDS TRANSFERRED TO WEATHERIZATION AND TITLE XX PER:

	SRS REQUEST	APPROPRIATIONS SUBCOMMITTEE
1985		
Grant	$ 12,297,692	$ 12,297,692
Carryover	1,737,426	1,737,426
	14,035,118	14,035,118
Title XX	1,229,769	1,229,769
Weatherization	614,885	614,885
Administration	1,000,000	1,000,000
Projected Fuel Bills	10,217,757	10,217,757
(Returns)	(345,528)	(345,528)
Carryover	1,318,235	1,318,235
1986		
Grant	$ 11,695,105	$ 11,695,105
Carryover	1,318,235	1,318,235
	13,013,340	13,013,340
Title XX	1,169,510	1,169,510
Weatherization	584,755	1,169,510
Administration	1,000,000	1,000,000
Available for Fuel Bills	10,259,075	9,674,320
Carryover	-0-	-0-
Projected Fuel Bills	10,728,809	10,728,809
(Returns)	(362,810)	(362,810)
Potential Deficit unless Program is Modified	$(106,924)	$(691,679)
1987		
Grant	$ 11,695,105	$ 11,695,105
Oil Overcharge	575,000	575,000
	12,270,105	12,270,105
Title XX	373,755	1,169,510
Weatherization	584,755	1,169,510
Administration	1,000,000	1,000,000
Available for Fuel Bills	10,311,595	8,931,085
Projected Fuel Bills	11,538,726	11,538,726
(Returns)	(390,198)	(390,198)
Potential Deficit Unless Program is modified	$(836,933)	$(2,217,443)

THD/m

VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEE

BILL NO. HB 730 DATE 2/13/85

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JIM NOLAN	SRS	✓	
[illegible]	MT Low [illegible]	—	
[illegible]	[illegible] MSU/Mont St College	✓	
[illegible]	Helena MPRC Northern Plains	✓	
[illegible]	PSC	✓	
[illegible]	MPC	✓	
[illegible]	Governor's Office	✓	
[illegible]	Billings MT	✓	
[illegible]	Bozeman	—	
[illegible]	Kalispell	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEE

BILL NO. HJR 16 DATE 2/13/85

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
STEVE DAGGETT	MISSOULA	X	
Joseph Moore	444 STEPHENS #1, Missoula	X	
Dirk Stinger	Helena	X	
Butch Turk	Helena	X	
Melody Brown	Missoula	X	
Sherm Ishkanian	Bozeman	X	
Jerry Schneider	Missoula	X	
Bonnie Evans	Helena	X	
Al Kenkle	Helena	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FO

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEE

BILL NO. HB 595 DATE 2/13/85

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JACK ELLERY	HELENA	X	
[illegible]	Helena	X	
[illegible]	Great Falls	X	
[illegible]	Bozeman	X	
[illegible]	Helena		
[illegible]	Helena		
Judy CARLSON	HELENA NASW	X	
David McMillen	Richland Co		X

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEE

BILL NO. HB 526 DATE 2/13/85

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Bonnie Frey	Helena	✓	
William Leary	Helena	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.