

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

MARCH 13, 1985

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by chairman, Judy Jacobson on Wednesday, March 13, 1985 in Room 410 of the State Capitol at 12:30 p.m.

ROLL CALL: All members were present with the exception of Senator Lynch who arrived late. Karen Renne, staff researcher was also present.

There were many, many people in attendance. See attachments.

CONSIDERATION OF HOUSE BILL 720: Representative Jan Brown of Helena, the chief sponsor of HB 720, gave a brief resume of the bill. This bill is 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; and providing an effective date.

Doug Blakely, the state ombudsman from the governor's office, stood in support of the bill. He stated that the ombudsman bill covers the operation of two advocacy programs for senior citizens, the Long-term Care Ombudsman Program and the Elderly Legal Services Developer Program. 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 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 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. Mr. Blakely handed out fact sheets to the members of the Committee for their consideration. See attachments.

Molly Munro, Executive Secretary for the Montana Association of Homes for the Aging, stood in support of the bill. She stated that this bill provides that the office of long-term care ombudsman be placed in the Governor's office to give it greater autonomy. This is most necessary. Mrs. Munro handed in testimony for the Committee to consider. See attachments.

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Joe Upshaw, representing the Legacy Legislature and also the Retired People Association, stood in support of the bill as is.

Doug Olson, Senior's Office of Legal and Ombudsman Services, stood in support of the bill. He stated that House Bill 720 is necessary to formally establish and recognize within Montana statutes a long-term care ombudsman program as required by federal law to insure continued receipt of federal aging services monies. Without the passage of this law, the state ombudsman for nursing home residents will not be able to represent those residents who are under 60 years of age, nor will he be assured access to enter long-term care facilities to respond to requests for assistance. Federal law requires the state to establish procedures recognizing the ombudsman program as an independent authority and entity within state government and common sense further supports the need for the program to be established in state statutes. This bill does not seek an increase in the general fund to operate.

Wade Wiklinson, represent the Low Income Senior Citizens Association, stood in support of the bill.

Jane Anderson of Anaconda stood in support of the bill. She stated that this is a much needed piece of legislation.

With no further proponents, the chairman called on the opponents.

Bill Leary, represented the Montana Hospital Association, he stated that he was speaking in a neutral zone. Mr. Leary handed in written testimony for the Committee to review. Attachments.

Rose Skoogs, representing the Montana Health Care Association, stood in opposition to the bill. Mrs. Skoogs handed in written testimony for the Committee's consideration. See attachments.

With no further opponents, the meeting was opened to a question and answer period from the Committee.

Senator Stephens asked if the program will continue. The program will continue for those persons over the age of 65.

Senator Stephens asked about the interpretation of the medical records, Mr. Blakely stated that the bill does not intend for the local ombudsman to get into the local medical records.

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Senator Towe stated that according to page 3, section 5 of the bill, nursing homes are covered by federal law regarding the records.

Senator Himsl asked if the Board of Visitors also inspects the homes. They do not inspect the nursing homes.

Representative Brown closed.

CONSIDERATION OF HOUSE BILL 186: Representative Paul Pistoria of House District 36, the chief sponsor of House Bill 186, gave a brief resume of the bill. This bill is an act allowing passage of county ordinances to control community decay caused by accumulation of rubble and providing an immediate effective date.

He handed out an amendment which was being proposed by Representative Sales which would exempt the farmers and ranchers from this bill. See attachments.

Representative Pistoria handed out some copies of pictures of the problem that they are facing in Cascade County. See attachments.

This bill would give the counties the authority to pass an ordinance which would control community decay. Community decay is a public nuisance created by allowing rubble, debris, junk, or refuse to accumulate resulting in conditions that are injurious to health, indecent, offensive, to the senses, or obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property.

Jim Leitner, representing the Department of Health and Environmental Sciences, stood in support of the bill. He stated that the Department has been receiving letters of complaints and perhaps this bill would help the situation.

Ron Miller of Great Falls stood in support of the bill. He told of an example that had occurred near his home on the outskirts of Great Falls. The counties should have the jurisdiction.

With no further proponents, the chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee. Hearing none, Representative Pistoria closed. He stated that this bill does not cost state government anything. He urged the Committee to give the bill favorable consideration.

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CONSIDERATION OF HOUSE BILL 561: Representative Ron Miller of House District 34 in Great Falls, the sponsor of HB 561, gave a brief resume of the bill. This bill is an act to generally revise the laws relating to cosmetology and providing an immediate effective date.

Representative Miller had all of the proponents to the bill stand. Many, many people stood. They had all signed in earlier at the meeting so that the names would be in the record.

He reviewed the bill section by section.

Dorthy Turner, legislative chairman of the Montana State Cosmetologists Association, stood in support of the bill. She handed in written testimony to the Committee for their consideration. See attachments.

Tom Ryan, representing the Montana Senior Citizens, stood in support of the bill.

Beverly Ball, co-chairman of the Legislative Committee, stood in support of the bill.

Darlene Battaiola, vice president of the Montana State Cosmetologists Association, stood in support of the bill.

With no further proponents speaking, the chairman called on the opponents.

Farrel Griffin, a school owner from Billings, stood in opposition to page 5, line 20 of the bill. He stated that the inspector should be a licensed cosmetologists. He felt that only a licensed cosmetologists should be doing the inspecting, he felt that that is a needed part of the bill.

Mac Evans of Bozeman, himself a cosmetologist and school owner/operator, stood in opposition to the same section as Mr. Griffin. He stated that he has been in the business for 25 years. He stated that the inspector needs to be a cosmetologist.

With no further opponents, the meeting was opened to a question and answer period from the Committee.

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Shirley Miller explained to the Committee the procedure regarding the inspection. She stated that nothing in this bill prevents a licensed cosmetologists from applying for the inspectors job. Some of the Boards at the present time are trying to combine inspections of several different occupations. This is being done as a cost effective measure.

Senator Lynch asked about the additional 500 hours. Everyone felt that this is a very good feature to insure quality people doing the work and the teaching.

Senator Himsl asked about the health certificate. Under present law, a person must pass a health inspection when they first enter the profession.

CONSIDERATION OF HOUSE BILL 563: Representative Ron Miller of House District 34 in Great Falls, the sponsor of HB 563, gave a brief resume of the bill. This bill is an act to generally revise the laws relating to cosmetology; providing for the licensure and regulation of manicurists, manicuring shops and schools of manicuring; and providing a delayed effective date.

Dorothy Turner, legislative chairman of the Montana State Cosmetologists Association, stood in support of the bill. She stated that the information which she had turned in on HB 561 also included information regarding HB 563. See attachments.

With no further proponents, the chairman called on the opponents.

Farrel Griffin of Billings stated that this bill will not do what the sponsor hopes it will. There are no provisions in this bill. He urged the Committee to give this bill a be not concurred in recommendation.

With no further opponents, the chairman opened the meeting to a question and answer period from the Committee.

Senator Towe asked Dorothy Turner to explain the status of the manicurists at the present time. At the present time many many people are doing manicuring without any training or schoooling. They must work at a cosmetology establishment.

Senator Towe asked how the public is going to be protected by this bill. He was told that the license would ensure schooling and training.

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Representative Miller closed.

CONSIDERATION OF HOUSE BILL 737: Representative Toni Bergene of House District 41 in Great Falls, the chief sponsor of HB 737, gave a brief resume of the bill. This bill is an act permitting a county attorney or county Welfare Department to convene adult protective service teams to assist older persons who are victims of abuse, neglect, or exploitation; permitting disclosure of reports filed under the Montana Elder Abuse Prevention Act to such teams.

Representative Bergene stated that in one year there were 147 reports of alleged elderly abuse. 85 of these reports were substantiated. As publicity increased so did the number of reports. The following is a breakdown of the 85 substantiated cases of elder abuse reported. Sex: 49 females and 36 males; Age: Females median age, 77.6, males median age, 74, and the average median age of both groups, 75.8. Most cases were physical abuse.

Norma Harris, an administrator with the Department of Social and Rehabilitation Services, stood in support of the bill. She stated that the goal of SRS in the next year, is to increase reporting of this serious problem by continued publicity and public awareness activities and to become more proficient in investigating and providing service intervention to the victims and their families through local and state training efforts. Mrs. Harris handed in the Annual Report on Elder Abuse for the Committee to review. See attachments.

Tom Ryan, representing the Montana Senior Citizens Association, stood in support of the bill.

With no further proponents, the chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Stephens asked if the county attorney could be the only one to handle these matters. The county attorney or his designee are the only ones who can handle this.

Senator Himsel asked about the cost of this program. There will no additional cost on this program. Mrs. Harris stated the this will be coordinated with other programs.

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Representative Bergene closed.

CONSIDERATION OF HOUSE BILL 748: Representative Les Kitselman of Billings, the sponsor of HB 748, gave a brief resume of the bill. This bill was requested by the Department of Social and Rehabilitation Services. HB 748 is an act revising the criteria for providing community-based services to developmentally disabled persons; providing that the Department of Social and Rehabilitation Services may provide available services to developmentally disabled persons who, after a screening process, are found to be in need of them.

Mike Miszkiewicz, representing the Department of Social and Rehabilitation Services, stood in support of the bill. He stated that this bill would allow that any person suspected of a developmentally disability would be eligible for an evaluation to determine whether the person is developmentally disabled. If the department determines through a screening process that a person is developmentally disabled and is in needs of available services and those services can be provided to him, the department may provide the services.

This bill seeks to avoid going to court and having a court order for a person to receive the services. This bill would also clarify more than a court order would. All angles needs to be considered.

Steve Davis representing the Disabilities Coalition, stood in support of the bill.

With no further proponents, the chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Towe asked if there have been lawsuits regarding this matter already. No, however, there have been some challenges. The Department is trying to avoid problems in the future.

Senator Himsel stated that there was a massive problem when many many people were deinstitutionalized.

Representative Kitselman closed.

ACTION ON HOUSE BILL 748: A motion was made by Senator Towe that HB 748 BE CONCURRED IN. Motion carried. Senator Towe will carry this bill on the floor of the Senate.

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ACTION ON HOUSE BILL 807: This bill is an act providing for the protection of certain handicapped, injured, or otherwise seriously ill children by requiring that they be given medical treatment. Representative Tom Hannah of Billings is the chief sponsor of this bill.

Karen stated that she had visited with Dr. Strickler and that there is a team or committee in every hospital regarding this type of problem. Perhaps a statement of intent should be placed with the bill to spell out more clearly the intention of the legislature. See attachments for Statement of Intent.

Senator Norman stated that the recent case of Baby Jane Doe was tried by the press.

Senator Himsl asked if there is a compelling reason for this bill in view of the fact that federal statutes already do this.

Senator Norman stated that this would make state law conform with the federal law.

Senator Jacobson asked if the Committee would hold this bill long enough for Representative Hannah to come from the House. Everyone was in agreement of this matter.

ACTION ON HOUSE BILL 465: Representative Stella Jean Hansen of Missoula is the chief sponsor of this bill which is an act to require the Department of Health and Environmental Sciences to adopt rules requiring owners and operators of solid waste management systems to submit information on the location and contents of solid waste disposal sites to counties to record as part of their permanent land records, providing for the recording of such information by county health departments of sites known to them.

Karen stated that she had talked with Sue Bartlett, the Clerk and Recorder for Lewis and Clark County. She explained to her how the Clerk and Recorders plan to handle this statute. There will be a special book kept in the Clerk and Recorders office containing this information.

Senator Hager stated that he did not feel that this bill was necessary. Hazardous waste sites are already recorded in county files.

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A motion was made by Senator Hager that HB 465 BE NOT CONCURRED IN. Motion carried with Senators Towe and Norman voting "no" all other senators voting "yes".

Representative Hannah arrived.

FURTHER CONSIDERATION OF HOUSE BILL 807: This is Representative Hannah's bill dealing with protection of children by requiring medical treatment being provided.

Representative Hannah explained the bill.

Senator Towe asked about the definition of the age of children. This bill addresses children, as those under the age of one year old.

Representative Hannah told of an instance in Indiana where a child which was born mentally retarded was let to starve to death.

Senator Stephens asked about the federal laws. There are federal laws which cover most of this at the present time, however, they could be changed very quickly and Montana would be left with nothing.

Senator Newman stated that there has not been a case of this in Montana and if there would be, the federal law would take care of it.

A motion was made by Senator Towe that HB 807 Be Concurred In.

A substitute motion was made by Senator Newman that HB 807 BE TABLED. Motion carried.

Senator Hager stated that he felt that is was very important that the entire team decide to withhold medical treatment.

ACTION ON HOUSE BILL 114: Representative Joan Miles of Helena introduced this bill at the request of the Department of Health and Environmental Sciences. This bill is an act generally revising and clarifying the laws relating to swimming pools and bathing places; clarifying that the Department of Health and Environmental Sciences may set safety standards for public swimming pools and bathing places; and providing an immediate effective date.

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Senator Hager asked if this bill will address the problem which his daughter and the rest of her diving team incurred at Bozeman Senior High where the diving tank is only 9 feet deep. Dr. John Drynan from the Department of Health stated that this problem would be addressed by this bill.

Senator Stephens asked if the state has been sued because of this problem and was told that in fact, the state has been sued because of the problem.

Senator Himsel asked if slides would be covered in this bill. Dr. Drynan assured Senator Himsel that slides that are a part of a swimming pool or public bathing place would be covered in this bill.

A motion was made by Senator Towe that HB 114 be amended as per the sponsor's request. Motion carried.

A motion was made by Senator Stephens that HB 114 BE CONCURRED IN AS AMENDED. Motion carried. Senator Towe will carry this bill on the floor of the Senate.

ACTION ON HOUSE BILL 540: Representative Jerry Devlin is the chief sponsor of HB 540. This bill is an act establishing and funding a child abuse prevention program.

A motion was made by Senator Himsel that HB 540 BE TABLED IN COMMITTEE. Motion carried. He stated that SB 19 is more of more acceptable way to handle the problem according to those people testifying on both of the bills.

ACTION ON HOUSE BILL 649: Representative Jack Moore of Great Falls is the chief sponsor of HB 649. This bill is an act revising for administrative purposes the laws relating to regulation of the practice of dentistry.

The amendments presented by the Governor's Office were discussed. A motion was made by Senator Towe that the Governor's amendments be adopted. Motion carried.

A motion was made by Senator Hager that HB 649 BE CONCURRED IN AS AMENDED. Motion carried with Senators Newman and Himsel voting "no" and all others present voting "yes". Senator Bengston will carry this bill on the floor of the Senate.

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DISCUSSION ON HOUSE BILL 738: This bill is sponsored by Representative Kelly Addy, regarding the Medical Legal Panel.

Senator Himsl asked that the Committee pass consideration for the day as they were not ready to act on this bill.

ACTION ON HOUSE BILL 817: Representative Les Kitselman of Billings is the chief sponsor of HB 817 which is an act to provide health insurance coverage to certain persons ineligible for coverage from traditional providers of health care benefits by establishing a Montana Comprehensive Health Association and Plan; to require participation in the Association by each health service corporation, fraternal benefit society, and insurer providing health care benefits in this state; and providing effective dates.

A motion was made by Senator Hager to adopt the proposed amendments of the sponsor of the bill. Motion carried.

A motion was made by Senator Hager that HB 817 BE CONCURRED IN AS AMENDED. Motion carried. Senator Hager will carry this bill on the floor of the Senate.

ANNOUNCEMENTS: The next meeting of the Senate Public Health, Welfare and Safety Committee will be held on Friday, March 15, 1985 in Room 410 of the State Capitol to discuss HB 280, 358, 487, 623, and 646.

ADJOURN: With no further business the meeting was adjourned.

eg

Judy Jacobson
SENATOR JUDY JACOBSON, CHAIRMAN

ROLL CALL

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/13/85

SENATE
SEAT
#

Each day attach to minutes.

STANDING COMMITTEE REPORT

MARCH 13, 1975

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY,
having had under consideration HOUSE BILL No. 465,

THIRD reading copy (BLUE)
color

**REQUIRING COUNTIES TO MAINTAIN RECORDS ON LANDFILL LOCATIONS AND
CONTENTS**

STELLA JEAN HANSEN (SAGER)

Respectfully report as follows: That HOUSE BILL No. 465,

~~DO PASS~~

~~DO NOT PASS~~ BE NOT CONCURRED IN

SENATOR JUDY JACOBSON Chairman.

STANDING COMMITTEE REPORT

MARCH 13, 1965

MR. PRESIDENT

PUBLIC HEALTH, WELFARE AND SAFETY

We, your committee on HOUSE BILL No. 649
having had under consideration.....

THIRD reading copy (BLUE)
color

GENERALLY REVISE THE LAWS GOVERNING THE PRACTICE OF DENTISTRY

MOORE (BENGSTON)

Respectfully report as follows: That..... HOUSE BILL No. 649.....

be amended as follows:

1. Page 12, line 14.

Following: "appointment."

Insert: "Within 60 days after the effective date of this act
the governor shall replace one of the 3 denturists appointed
to the initial board with a dentist member."

~~NO PAGES~~

~~NO PAGES~~

AND AS AMENDED
BE CONCURRED IN

SENATOR JUDY JACOBSON

Chairman.

STANDING COMMITTEE REPORT

MARCH 13, 1965

MR. PRESIDENT

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**
having had under consideration..... **HOUSE BILL**..... No. **114**,

THIRD reading copy (BLUE)
color

DEPARTMENT OF HEALTH TO ADOPT SWIMMING POOL SAFETY STANDARDS
MILLES (TOWN)

Respectfully report as follows: That..... **HOUSE BILL**..... No. **114**,

be amended as follows:

1. Page 2, line 19.

Following: "(1)"

Insert: "(1)"

2. Page 2, line 29.

Following: line 24.

Insert: "(2) Any rule relating to the design, construction,
reconstruction, alteration, conversion, repair, inspection,
or use of buildings or installation of equipment in buildings
is effective only when it has been adopted by the department
of administration as part of the state building code and
filed with the secretary of state pursuant to 50-60-204."

564XXXX

XXXXXXAND AS AMENDED
BE CONCURRED IN

SENATOR JUDY JACOBSON

Chairman.

STANDING COMMITTEE REPORT

MARCH 13, 1985

MR. PRESIDENT

SENATE PUBLIC HEALTH, WELFARE AND SAFETY

We, your committee on
having had under consideration.....

HOUSE BILL

No. 748

THIRD reading copy (BLUE)
color

ELIGIBILITY FOR STATE SERVICES TO DEVELOPMENTALLY DISABLED PERSONS

KITSelman (TOWNE)

Respectfully report as follows: That.....

HOUSE BILL No. 748

XORPAX

XORPAX

BE CONCURRED IN

SENATOR JUDY JACOBSON Chairman.

STANDING COMMITTEE REPORT

MARCH 13, 1935

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY
having had under consideration..... HOUSE BILL No. 317

THIRD reading copy (BLUE)
color

HEALTH INSURANCE POOLING ACT

KITSELMAN (HAGER)

Respectfully report as follows: That..... HOUSE BILL No. 317

be amended as follows:

1. Title, line 11.

Following: line 10.

Insert: "INSURANCE ARRANGEMENT,"

2. Page 2, line 18.

Following: line 17.

Insert: "(6) "Insurance arrangement" means any plan, program, contract, or other arrangement to the extent not exempt from inclusion by virtue of the provisions of the federal employee retirement income security act of 1974 under which one or more employers, unions, or other organizations provide to their employees or members, either directly or indirectly through a trust of a third party administrator, health care services or benefits other than through an insurer."

Renumber: subsequent subsections

3. Page 3, lines 7 through 14.

Following: "benefits" in line 7.

Strike: remainder of line 7 through line 14.

Insert: "those health benefit plans certified by the commissioner as providing the minimum benefits required by section 6 or the actuarial equivalent of those benefits."

4. Page 4, line 16.

Following: "insurers."

Insert: "insurance arrangements,"

584XSS1

AND AS AMENDED
BE CONCURRED IN

SENATOR JUDY JACOBSON

Chairman.

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Leanne B. Parker	Cosmetology	563	✓	
Dorothy Turner		563	✓	
Dorothy Williams		563	✓	
Dee Meierahn	MHCA	720		
Angela R. Milla	Cosmetology	512	✓	
Heather D. Brit	Cosm.	563	✓	
Darlene Battaini	Cosmetology	563	✓	
Dawn Smith	Cosmetology	563	✓	
Heather Smith	Cosmetology	563	✓	
Dee's Laundry	Laundry	512	✓	
Celine Rasmussen	"	563	✓	
Debra M. Miller	"	512	✓	
Bethany Johnson	"	563	✓	
Shelly Posine	"	563		
Jeanne Johnson	"	563	✓	
Deb McElroy	"	563	✓	
Carolyn Miller	"	563	✓	
Deb Miller	"	563	✓	
Kathy Ballinger	"	563	✓	
Carol Ballinger	"	563	✓	
Mary Ballinger	"	563	✓	
Mary Ballinger	"	563	✓	
Mary Ballinger	"	563	✓	
Donna Johnson	"	563	✓	
Debra Johnson	"	563	✓	
Debra Johnson	"	563	✓	
Debra Johnson	"	563	✓	

DATE

COMMITTEE ON

VISITORS' REGISTER

(Please leave prepared statement with Secretary)

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Leavenworth	Cosmetology	561	✓	
Dorothy Turner	"		✓	
William Williams		561	✓	
Indians Rosemary	" - - - -	561	✓	
Beverly Hall	" "	561	✓	
Lee Upshaw	AARP / Longmy Legisla	720	✓	
Starlene Battaila	Cosmetology	561	✓	
Janell Stitt	Cosmetology	561	✓	
Alto with	Cosmetology	561	✓	
Dee Dice	Board of Cosmetology	469	✓	
Sandi Curn	MS MUNICIPAL	561	✓	
Clara Russell	"	561	✓	
Deborah White	"	561	✓	
Barbara Whitehead	"	561	✓	
Stelle				
Angela Barr	"	561	✓	
Charles Buff	Governor's Office	720 737	✓	
John Willard	Cosmetology	561	✓	
Tonya Barr	Cosmetology	561 562	✓	
Frederick Blanchard	Cosmetology	561 563	✓	

Aug 1985

SENIORS' OFFICE

LEGAL AND OMBUDSMAN SERVICES



TED SCHWINDEN, GOVERNOR

P.O. BOX 232
CAPITOL STATION

STATE OF MONTANA

(406) 444-4676
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HELENA, MONTANA 59620

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 Bill'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 lack of guidelines and questions of authority in this area. Access to records would be especially important for the State LTCO in investigating elder abuse cases or cases relating to jandling of resident funds. Specific guidelines for access to records are being developed. Requiring a release prevents indiscriminate access by Ombudsmen.

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.

The Bill 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 facilities. The amendments formalize 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 requiring prosecution

The Bill would not allow State or local LTCO's the authority to revoke, suspend or deny a facility's license. DHES is the only one with this authority. It makes the penalties for failing to comply with failure to comply with provisions in the Bill similar to the other 541 conditions facilities must meet (eg., establishing a grievance procedure or providing staff training).



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March 13, 1985

TESTIMONY BEFORE THE SENATE PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

RE: HB 720

BY: Molly Munro, Executive Secretary

The Montana Association of Homes for the Aging supports HB 720. It provides that the office of long-term care ombudsman be placed in the Governor's office to give it greater autonomy. This is most necessary.

It also provides the ombudsman with access to the necessary records he/she needs to conduct an investigation. While maintaining the confidentiality of the records, it would permit the ombudsman to obtain the necessary information.

HB 720 also provides that known instances of abuse, exploitation, or neglect be reported within 72 hours--not days or weeks later. This is especially important in cases of physical abuse.

The ombudsman program is presently in place and working. It provides an advocacy position for residents of long-term care facilities.

We urge this committee to support HB 720 and give it a "do pass."

NAME: Doug Olson DATE: 3-13-85

ADDRESS: P.O Box 232, Cap. Sta. Helena, MT 59620

PHONE: 444-4204

REPRESENTING WHOM? Seniors Office of Legal & Ombudsman Services

APPEARING ON WHICH PROPOSAL: HB 720

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: House Bill 720 is necessary to formally establish and recognize within Montana statutes a long-term care ombudsman program as required by the federal Older Americans Act 42 USC 3027(a)(12) to insure continued receipt of federal aging services monies. Without passage of this law, the state ombudsman for nursing home residents will not be able to represent those residents who are under 60 years of age, nor will he be assured access to enter long-term care facilities to respond to requests for assistance. Finally, there will be no guarantee that the ombudsman's ^{files} records will be afforded confidentiality that federal law requires Montana to establish. Federal law requires the
PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

state to establish procedures ~~reg~~ recognizing the ombudsman program as an independent authority and entity within state government and common sense further supports the need for this program to be established in state statute. The bill seeks no increase in state general fund to operate.

March 13, 1985

TESTIMONY ON HOUSE BILL 720

by

William E. Leary, President
Montana Hospital Association

Chairman Jacobson, Members of the Committee, I am Bill Leary, president of the Montana Hospital Association, appearing in general support of House Bill 720, but will have some comments and a suggested amendment.

The Montana Hospital Association, in addition to representing 57 general hospitals, also represents 28 hospital-attached longterm care facilities. Those 28 facilities have a total of 887 skilled nursing beds and 328 intermediate care beds, for a total of 1,215 longterm care beds. This is approximately one-third of the longterm care beds in Montana.

We are in general support of this proposed legislation but make the following comments on the bill.

Page 1, Section 1, line 24-25, indicates the funding for the state office of longterm care ombudsman is contingent upon receipt of federal funds for that purpose. Page 1 of the longterm care ombudsman's annual report indicates there has been a total contributed of \$73,500 with \$70,000 coming from the federal Older American Act, while the state matching funds were approximately \$3,500.

The current debate at the federal level, and more specifically in the Senate Budget Committee, may end up with a decrease in the funding from the OAA program. This would, of course, switch the financial impact for this program to the state. We won't know for certain for several months whether the same amount of federal funding will be available to Montana and consequently even though you may pass House Bill 720, we may not know how much federal money will be available until next October. I would recommend, therefore, that following completion of this committee's action on House Bill 720, that it be submitted to the Appropriations Committee for their further analysis.

Page 3, Section 5, beginning on line 20, addresses the access to long-term care facilities and residents' records. We have no problem with granting general access to the longterm care facility by the ombudsman, but are concerned that the ombudsman and the local agents may not be sufficiently trained to recognize the medical concerns of some of the patients. We therefore request that the nursing home have the right to inform the

MHA Testimony on HB 720/page 2

ombudsman that the patient's physician has documented in the records that visits by other than family could be detrimental to the health and safety of the resident and therefore, the ombudsman would not have the right to visit those specific patients.

While we recognize that the ombudsman can have access to the resident's medical records with the provision that it be upon written permission signed by the resident or the resident's legal guardian, or attorney, we must request an amendment which would establish a mechanism for a copy off the medical records. The use of just any attorney is a little loose and we therefore would request that the attorney designated to have access to the records in the absence of a legal guardian, be the county attorney from the county where the nursing home is located.

I would recommend to amend on page 4, line 4, following the word "complaints." a new section to read as follows:

"The original records may not be removed from the facility. If a copy of the record is needed, it shall only be granted upon the written consent of the resident, the resident's legal guardian, or the county attorney.

"All costs of copying the records shall be paid within 30 days of receipt of the records to the facility by the Office of Long-term Care Ombudsman."

On page 5, line 17, the entire paragraph starting with (3) having to do with the expelling of a patient is obnoxious to the nursing home industry and we request that lines 17-25 on page 5 and lines 1-3 on page 6, be stricken from this bill unless the ombudsman can document to the satisfaction of this committee that nursing homes have been guilty of this discriminatory practice.

Since I represent 28 longterm care facilities in the state, I would request that the committee make a formal request from Mr. Blakley to document by name of patient, date, and the name of the nursing home, where a longterm care facility has expelled a resident due to the filing of a complaint. Only if we in the industry have such documentation can we attempt to connect such actions, if in fact it is being done as a routine method of muzzling those who complain about inadequate care.

We have no problem with posting the notices, although the question arises as to who has the obligation to print the notices, the state or the nursing home, what cost is involved, and whether the cost is covered in the fiscal note.

MHA Testimony on HB 720/page 3

As a final analysis, the members of the committee must study House Bill 720 along with House Bill 783, the rights bill, as both are intertwined and without a full understanding of one, there will be confusion with the other.

With those comments, we would give general support to House Bill 720 as amended.



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

STATEMENT OF THE MONTANA HEALTH CARE ASSOCIATION

on

HOUSE BILL 720

RELATING TO THE ESTABLISHMENT OF A STATE

OMBUDSMAN PROGRAM

before the

SENATE PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

March 13, 1985

For the record, I am Rose Skoog, of Helena, Executive Director of the Montana Health Care Association. I appear here today on behalf of more than 60 skilled and intermediate care facilities, both proprietary and non-proprietary, in opposition to House Bill 720.

We oppose House Bill 720 as being unnecessary, duplicative, and disruptive to the ability of long term care facilities to do what they exist to do--care for the frail and chronically ill entrusted to their care.

History of long term care ombudsman program. In order to understand our opposition to this legislation, it is important to understand the background of the ombudsman program and to understand the program as it currently exists.

Montana has operated a long term care ombudsman program since about 1980. The program was developed because it was mandated by the federal government. In order to receive funds under the Older Americans Act, a state must provide a long term care ombudsman. (The legal developer position also mentioned in this legislation is optional.) Most of the funds used to pay for this program are federal funds. The state match is 15% and may increase to 25%. Funding is somewhat stable through March, 1986, but is questionable after that time.

It is not necessary to enact state legislation to meet the federal requirements to receive Older Americans Act money,

and, in fact, Montana has operated an ombudsman program without a state law over the last several years. Fewer than half of all the states—about 20—have enacted state ombudsman legislation. All of the others, including Montana, operate an ombudsman program without having enacted a state law.

Current ombudsman program. The current long term care ombudsman program consists of a state ombudsman, who is attached to the Governor's office. Local ombudsmen, who work for the area agencies on aging, visit nursing homes on a regular basis as part of the state program. The local ombudsmen consist largely of dedicated, caring people who are elderly themselves. They are paid very little and have had the duties associated with the ombudsman program imposed on them in addition to their regular duties as information and referral technicians. They do not have the background, qualifications, or training to serve a true advocacy function in nursing homes or to investigate serious complaints. Most of them would admit this to you if asked. They do, however, provide two valuable services to nursing homes and their residents. First, they perform a "friendly visitor" function--visiting regularly with nursing home patients, many of whom have few visitors. In addition, they do become involved in the resolution of minor complaints involving residents. By bringing these small matters to the attention of the facility administrators, they often serve to keep a small problem from becoming a big problem.

While satisfaction with the current program amongst nursing homes is generally high, satisfaction with the program varies according to the actions and attitudes of the local ombudsmen. In most areas, the local ombudsmen serve the positive functions I've described in terms of being a "friendly visitor" to the patients and in terms of helping to resolve minor complaints. In other situations, the local ombudsman displays a hostile attitude toward the facility and is a disruptive rather than helpful force.

Generally, the current program works well, facilities are supportive of it, and there is a spirit of cooperation between the facilities and the program.

We would like to see the program continued in its current form. That will happen if you vote "no" on House Bill 720.

In other words, if this bill does not pass, there will still be an ombudsman program. We are not asking you to vote against the program, only the particular form it takes in this piece of legislation, which seems to be attempting to "fix" something that isn't broken.

Problems with House Bill 720. House Bill 720 takes a program which is cooperative and makes it confrontational; takes a program that is supportive of the goals of facilities and other agencies and makes it duplicative of the goals and activities of other agencies; and takes a program which is intended to provide an objective listener and resource to residents with concerns and complaints and makes it a program of enforcement and penalties. It does nothing to enhance the quality or effectiveness of the program, and may in fact detract from the effectiveness of the program by setting up a confrontational relationship with the facilities, whose cooperation is necessary to a successful program.

Duplication. This legislation assigns to the ombudsman program specific duties which are properly within the scope of the Department of Health and Environmental Sciences. Examples are:

Throughout the bill, reference is made to the ombudsman program being responsible for assuring that a good "quality of care" for residents is maintained, that "investigations" be made, that "corrective action" is taken (p. 2, lines 3-5), that residents reside in a safe environment. Clearly, the Department of Health is responsible for the quality of care provided by health care facilities. They are also the agency with investigative powers and the ability to insure corrective action with respect to problems that have to do with the quality of services provided in these facilities. They also clearly have the authority and responsibility to inspect for and insure a safe environment. They are, in fact, performing these functions--and there are bills pending that will give them additional staff and authority in these areas, such as SB 287 (relating to unannounced inspections), which passed the Senate unanimously and is pending in the House.

The bill also gives the ombudsman the responsibility for investigating complaints of abuse, neglect and exploitation under the Montana Elder Abuse Prevention Act--a responsibility which is now specifically given to DHES under the act. Reports of suspected abuse and neglect under the act are very serious matters and should be handled by qualified, well-trained staff. The Department of Health has such staff; the ombudsman program does not. Neither the state ombudsman nor the local ombudsmen are qualified to investigate these types of complaints.

Access to Facility and Records. This legislation appears to give both the state ombudsman and his "local agents" unlimited access to the facility, its residents, and residents' confidential medical and personal records. Again, I must point out that there are no minimum qualifications, education or training specified for either the state ombudsman nor the local agents. Yet this

legislation gives them access to the facility and its residents at any time of the day or night--and allows them to review patients' confidential medical records.

There is not even mention that this access should be at "reasonable" times, or that only those qualified to accurately interpret what they find in medical records should have access to them.

While there is provision for a resident to give permission for the ombudsman or agent to review medical records, the vast majority of our residents, while not having been legally adjudicated incompetent, in fact are not capable of giving truly informed consent for the release of these documents.

One can't help but wonder what these people plan to look for in patients' medical records--and what they will do with what they find there given their lack of training to analyze and interpret what they find in these records.

Again, if there is any serious question relating to the medical and nursing care being given to a patient in a health care facility, the Dept. of Health has the duty, responsibility, authority--and trained staff--to go into the facility, review the medical records and the patient and resolve the problem. The Department also has the authority and responsibility to require corrective action, if any is necessary, and can go so far as to suspend or revoke the license of the facility.

Due process rights of providers. The legislation provides no guidance with respect to the conduct of the investigations it contemplates. There is no provision for a nursing home to be informed of a complaint, to be allowed to have its side of the story in the official records of the investigation, to appeal the findings of the ombudsman or local agent, and the like. In other words, the program is given the authority to conduct investigations, take corrective action, pass information about complaints on to other agencies, etc.--all with absolutely no provision for the due process rights of the nursing home. In addition the legislation mandates the ombudsman to insure "quality of care" but does not define what is meant by the term. Nursing homes have a right to know what it is you are asking these people to go in and look for--in other words, they have a right to be put on notice as to what is expected of them. When the Dept. of Health inspects facilities for quality care, they use an objective checklist that contains over 600 specific ingredients they are looking for that are indicative of a facility that is doing a good job. What criteria will the ombudsman program use to determine quality care? Will there be objective criteria--or will they go into facilities making subjective judgments leading to uneven enforcement throughout the state?

Violations and penalties. Sections 8 and 10 provide for penalties for violation of the act. This is another case of inappropriate penalties.

An example of problems associated with these sections follows. Under section 8, subsection (1), a facility is prohibited from "discriminating or retaliating against ...an employee because ...such...employee...provided information" to the ombudsman program concerning the care of a resident. Subsection (3) requires the county attorney to investigate and prosecute violations of this section. A facility convicted of a violation will be fined not less than \$50 nor more than \$500 for each incident.

Most facilities have a policy that requires all employees to report to the administrator or director of nursing services any inappropriate employee behavior relating to patient care that might be observed in the facility. These policies normally provide that any employee observing inappropriate care or behavior toward a patient, and not reporting it to the facility's management, will be disciplined or discharged. The reason for this type of policy is obvious.

Under this legislation, if an employee sees an incident of physical or verbal abuse toward a patient but does not report it to the facility management--in violation of facility policy--but later gives information about the incident during the course of an investigation, the facility would not be able to take disciplinary action against the employee who failed to follow policy--because this legislation protects that person.

This is another instance of well-intentioned legislation tying the hands of the facility in dealing with the sensitive and difficult problems it encounters on a regular basis.

Action against facility license for failure to post notice. Section 10 of this legislation provides for denial, suspension or revocation of a facility's license for failure to post notice of the ombudsman program. The only legitimate reasons to deny, suspend or revoke a health care facility license have to do with actual patient care and well being and are already described in section 50-5-207 of the Montana Codes.

In summary, the current ombudsman program operates as a cooperative effort between long term care facilities and the state and local ombudsman. The main functions served by the program are that the local ombudsmen visit facilities regularly and serve as "friendly visitors" to our residents. In addition they are helpful in resolving small problems in the facilities and keep these small problems from becoming big problems.

If HB 720 fails, the program will continue to exist in its present form.

If HB 720 passes, the program will attempt to duplicate the investigative duties of the Department of Health--and will be doing it without trained, qualified personnel. Confrontations between the program and the homes are likely to develop. This is not in the best interests of the program, the homes, or the patients.

We ask you to support the program in its present form, and to vote against HB 720.

Thank you for the opportunity to present our views. I'd be happy to answer your questions at the appropriate time.

(b) compliance with the rules from which a variance is sought would produce hardship without producing benefits to the health and safety of the public that outweigh the hardship.

(2) No variance may be granted pursuant to this section except after a hearing pursuant to the Montana Administrative Procedure Act and consideration by the board of the relative interests of the applicant and owners of the property likely to be affected by the waste disposal system under consideration.

(3) Nothing in this section may be construed as relieving the board from the obligation to comply with the Resource Conservation and Recovery Act of 1976, as amended, or as allowing the board to grant a variance less restrictive than that act.

History: En. Sec. 1, Ch. 563, L. 1981.

75-10-207 through 75-10-210 reserved.

75-10-211. Repealed. Sec. 30, Ch. 358, L. 1981.

History: En. Sec. 5, Ch. 35, L. 1965; amd. Sec. 2, Ch. 349, L. 1969; amd. Sec. 109, Ch. 349, L. 1974; and Sec. 6, Ch. 542, L. 1977; R.C.M. 1947, 69-4005.

~~75-10-212. Disposal in unauthorized area prohibited — exception.~~ (1) No person may dispose of solid waste except as permitted under this part.

(2) It shall be unlawful to dump or leave any garbage, dead animal, or other debris or refuse:

(a) in or upon any highway, road, street, or alley of this state;

(b) in or upon any public recreational property, highway, street, or alley under the control of the state of Montana or any political subdivision thereof or any officer or agent or department thereof;

(c) within 200 yards of such public highway, road, street, or alley or public recreational property;

(d) on privately owned property where hunting, fishing, or other recreation is permitted, provided this subsection shall not apply to the owner, his agents, or those disposing of debris or refuse with the owner's consent.

History: (1) En. Sec. 3, Ch. 35, L. 1965; and Sec. 4, Ch. 542, L. 1977; Sec. 69-4003, R.C.M. 1947; (2) En. Sec. 11-110, Ch. 197, L. 1965; and Sec. 1, Ch. 112, L. 1969; Sec. 32-4410, R.C.M. 1947; R.C.M. 1947, 32-4410(1), 69-4003; amd. Sec. 4, Ch. 358, L. 1981.

Compiler's Comments *1981 Amendment: Deleted "or transport hazardous waste" after "dispose of solid waste" in (1).*

75-10-213. Unlawful disposition of dead animals — exception.

It is unlawful to:

(1) place all or any part of a dead animal in any lake, river, creek, pond, reservoir, road, street, alley, lot, or field;

(2) place all or any part of a dead animal within 1 mile of the residence of any person unless the dead animal or part of a dead animal is burned or buried at least 2 feet underground; or

(3) being the owner, permit all or any part of a dead animal to remain in the premises specified in subsections (1) and (2) of this section except as provided in subsection (2) of this section.

History: En. Sec. 4, Ch. 35, L. 1965; and Sec. 1, Ch. 542, L. 1977; R.C.M. 1947, 32-4410(1), 69-4516; and Sec. 11, Ch. 68, L. 1979.

75-10-214. Exclusions — exceptions to exclusions. (1) This part may not be construed to prohibit a person from disposing of his own solid waste upon land owned or leased by that person or covered by easement or permit as long as it does not create a nuisance or public health hazard.

(2) The exclusion contained in subsection (1) of this section does not apply to a division of land of 5 acres or less made after July 1, 1977, which falls within the definition of subdivision in Title 76, chapter 4, part 1, or the Montana Subdivision and Platting Act in Title 76, chapter 3.

History: En. Sec. 8, Ch. 35, L. 1965; and Sec. 4, Ch. 349, L. 1969; amd. Sec. 12, Ch. 68, L. 1979; and Sec. 5, Ch. 358, L. 1981.

Compiler's Comments

1981 Amendment: Deleted "except hazardous waste" after "solid waste" in (1); deleted former subsection (1)(b) relating to a person disposing of his own hazardous waste; deleted former subsection (2) which removed the transportation of

Cross-References

Private nuisance, 27-30-102.

Public nuisance, 27-30-102, 45-8-111.

Cross-References

Oregon Taken - There - May 10, 1984 on wire mill Road a
County rd to dump St Falls, - Falls, Pictoria
also a residential area.

USE FOR H.B. 186

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Pictures



Co Road

Taken - This. May 10, 1984 on wire line road
to Deep S. Falls - Paul S. Pistoria



Co. Road

Take - Thurs. May 10, 1984, on wire mill Road
to Deep St. Falls - Paul & Astoria



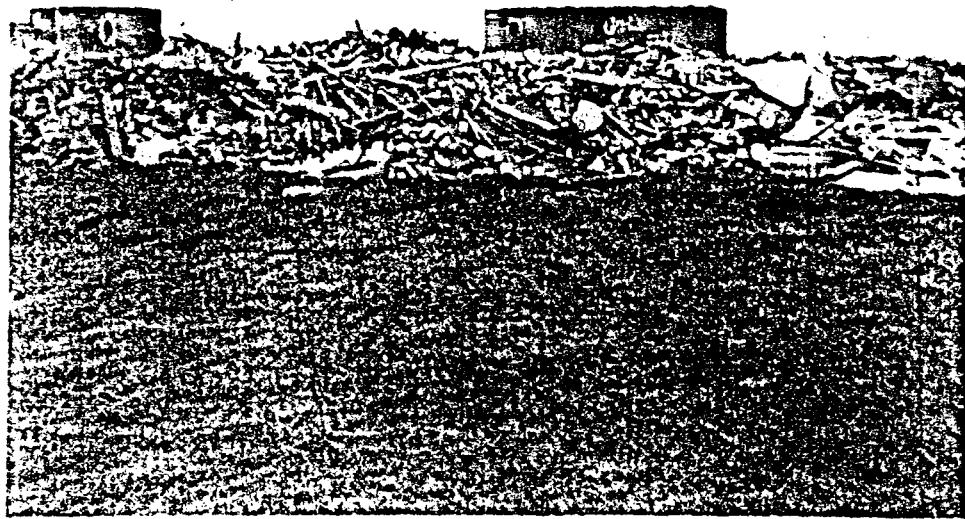
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Taken - Ther. May 10, 1984 on wire mill Road
to Stemp. St. Falls - Paul J. Pistoris



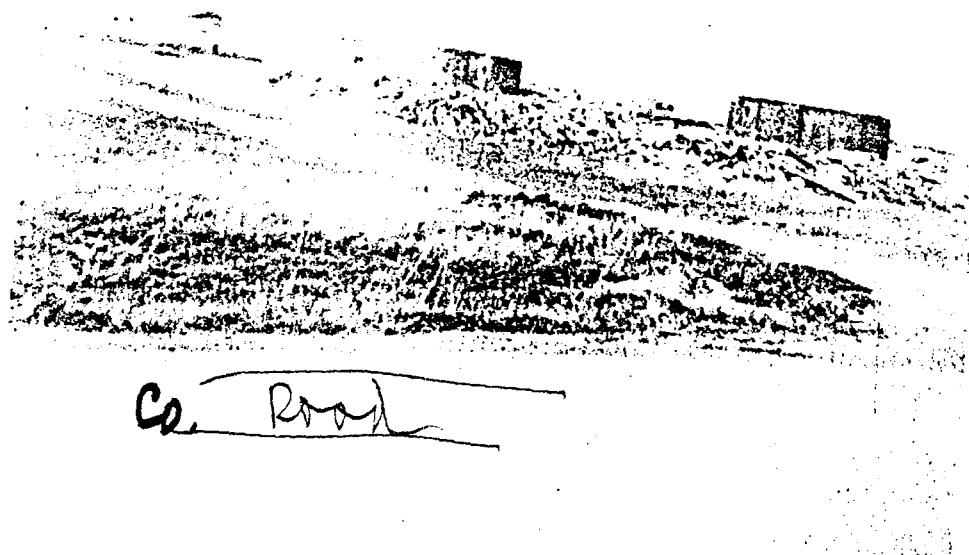
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Takee see tour - May 10, 1984, on wire wire road
to Camp Z. Falls. Paul Z. Pistoria



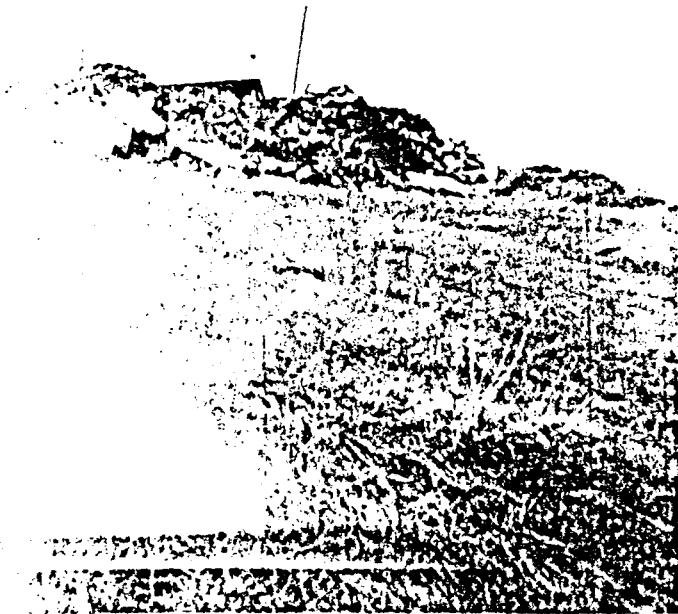
Co. Road

Taken Thur. May 10, 1984, on Wire Mill Road
to dump St. Falls - Paul S. Fistoria



Co. Road

Taken - Thurs. May 10, 1984 on ~~with~~ Mill Rock
to Dump St. Falls - Paul S. Pasteris



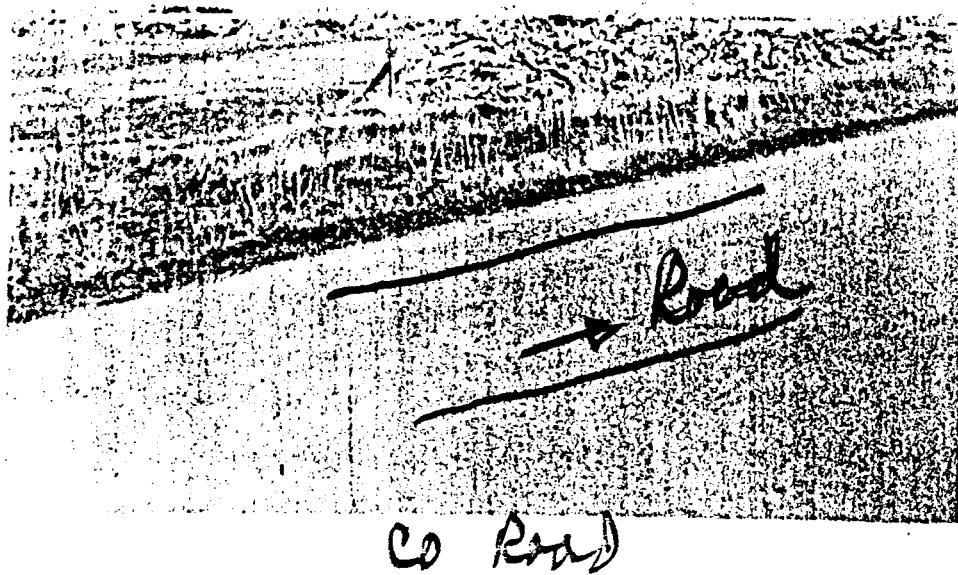
Co. Rock

Taken - this - May 10, 1984 on wire road
to Deemps - St. Falls - Paul St. Astoria



Co. Road

Taken there May 10, 1984 on wire Mill Road
to Deem's - Lt. Falls - Paul G. Pistoria



Taken - Thur - May 10, 1984 on wire Mill Road
to Deems - Ft. Falls - Paul A. Pistoria



Burred Pit
of Road

Tahoe - Deer - May 10, 1984 on wire Rock
to Dumps - St. Falls - Paul & Historia



A.C.M. wire well Blg.

← concrete
Blocks
& chunks

CS
Road

Taken - Thur. May 10, 1984 on the wire mill
to Pump. St. Falls - Paul S. Pistoria



7-5-4103. Council rules and discipline. The council may determine the rules of its proceedings, punish its members for improper conduct, and expel any member for the same by a two-thirds vote of the members elected.

The citizens have the power to:
History: En. Sec. 4802, Pol. C. 1895; re-en. Sec. 3262, Rev. C. 1907; re-en. Sec. 5053, R.C.M. 1921; Cal. Pol. C. Sec. 4407; re-en. Sec. 5053, R.C.M. 1935; R.C.M. 1947, 11-1013(part).

7-5-4104. Control of nuisances. The city or town council has power

- (1) define and abate nuisances and impose fines upon persons guilty of creating, continuing, or suffering a nuisance to exist on the premises which they occupy or control;
- (2) regulate and prohibit the wearing of hats or bonnets at theaters or public places of amusement.

to:
History: En. Subds. 33, 81, Sec. 5039, R.C.M. 1921; amd. Sec. 1, Ch. 115, L. 1925; amd. Sec. 1, Ch. 20, L. 1927; re-en. Secs. 5039.32, 5039.80, R.C.M. 1935; R.C.M. 1947, 11-935, 11-983.

7-5-4105. Responsibility for mob damage. Every city or town is responsible for injuries to real or personal property within its corporate limits done or caused by mobs or riots.

History: En. Sec. 5036, Pol. C. 1895; re-en. Sec. 3485, Rev. C. 1907; re-en. Sec. 5086, R.C.M. 1921; Cal. Pol. C. Sec. 4452; re-en. Sec. 5086, R.C.M. 1935; R.C.M. 1947, 11-1503.

Cross-References

Liability exposure of local governments, Title 2, ch. 9, part 3.
2, ch. 9, part 1.

Claims and actions against local governments,

7-5-4106. Power of condemnation. The city or town council has power to condemn private property for opening, establishing, widening, or altering any street, alley, park, sewer, or waterway in the city or town and for establishing, constructing, and maintaining any sewer, waterway, or drain ditch outside of the corporate limits of the municipality or for any other municipal and public use. The ordinance authorizing the taking of private property for any such use is conclusive as to the necessity of the taking and must conform to and the proceedings thereunder had as provided in Title 70, chapters 30 and 31, concerning eminent domain.

History: En. Subd. 75, Sec. 5039, R.C.M. 1921; amd. Sec. 1, Ch. 115, L. 1925; amd. Sec. 1, Ch. 20, L. 1927; re-en. Sec. 5039.74, R.C.M. 1935; R.C.M. 1947, 11-977.

Cross-References

Eminent domain, Art. II, sec. 29, Mont.
Const.

7-5-4107. Municipal census. The city or town council has power to take a census of the inhabitants of a city or town at any time.

History: En. Subd. 77, Sec. 5039, R.C.M. 1921; amd. Sec. 1, Ch. 115, L. 1925; amd. Sec. 1, Ch. 20, L. 1927; re-en. Sec. 5039.76, R.C.M. 1935; R.C.M. 1947, 11-979.

7-5-4108. Municipal printing contract. The city or town council has power to provide for the city or town printing. The contract for city or town printing must be let annually to the lowest bidder.

History: En. Subd. 78, Sec. 5039, R.C.M. 1921; amd. Sec. 1, Ch. 115, L. 1925; amd. Sec. 1, Ch. 20, L. 1927; re-en. Sec. 5039.77, R.C.M. 1935; R.C.M. 1947, 11-980.

7-5-4109. Control of conflict of interest. The mayor, any member of the council, any city or town officer, or any relative or employee thereof

The Montana State Cosmetologist's Association

INCORPORATED
APUD NOS JUNGAMUS

Executive Office - 1248 Seventh Avenue Northwest
Great Falls, Montana 59404 - Phone 452-2249

March 13, 1985

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SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

COMMITTEE CHAIRMAN & MEMBERS

RE: Support for HB #561 & HB #563

Chairman Jacobson & Committee Members:

The Legislative Committee of the Montana State Cosmetologists Association requests your support of House Bills #561 & #563 which have been submitted by this Association in the interest of some 6,000 Licensees, approximately 400 Students of Cosmetology in 16 Schools of Cosmetology as well as the State Board of Cosmetology.

These amendments will allow for a more efficient process of protection of Public Health and Welfare.

Our Legislative Committee represents our profession as follows:

Beverly Ball, Co-chairman: Cosmetology School & Salon Owner, Instructor
Dudley Williams, Project Director: Salon Owner & Board Member
Dorothy Turner, Chairman: Salon Owner, Instructor & Board Chairman

This Committee has met several times throughout 1984 with Licensees Cosmetology School Owners, Instructors and the Board of Cosmetology to discuss issues of concern from all areas of Montana. Agreement at these meetings was to support the majority vote on all issues for Legislation, by those in attendance. We are aware of opposition by several of our members, however, the majority attending the meetings of this Association supported all items for Legislation.

Issues contained in the above mentioned House Bills have our support and we urge each of you to give your support.

Attached herewith is a brief outline of amendments contained in the above stated "Bills" with an explanation on each issue. Members from various areas of Montana and involved in various areas of this profession are in attendance today, to answer any questions you may have.

We look forward to working with you for successful passage of this Legislation.

Sincerely,

Dorothy Turner

Dorothy Turner,
Legislative Chairman, MSCA

cc/Committee Members
MSCA Officers

EXPLANATION AND JUSTIFICATION FOR THE PROPOSED AMENDMENTS TO THE LAWS RELATING TO THE PRACTICE OF COSMETOLOGY:

HOUSE BILL # 561

1. Page 2 Section 37-31-101, (1) (b) would be repealed to broaden the definition of
Lines 3-6 Cosmetology and clearly define who shall be required to be licensed.
This removes the exemption for State Association sponsored Artists to obtain
an "Itinerant" license.
2. Page 3 Section 37-31-304 (3) would be amended to abolish this costly and
Lines 10-11 cumbersome requirement of providing a health statement to enter
Cosmetology Training. The Board has authority, granted in Section
37-31-332, to cancel or suspend a license if a licensee contracts a
communicable disease endangering the Public Health.
3. Page 3 Section 37-31-305 (2) would be amended to delete the requirement of
Lines 23-25 one year of experience prior to taking the Teacher Training course with
the number of hours of training increased and prior to taking the Instructor
examination. Deleting the requirement for one year of work experience
and increasing the course of training is proposed because a newly licensed
person is more prepared with school procedure and the Basic curriculum for
teaching basic cosmetology to students in a school than individuals who
have been a longer period of time out of school. Licensees with three or
more years of work experience may apply and take the written and practical
examinations for an instructor license, and be licensed upon passing the
examination.
4. Page 4 37-31-308 (1) (2) (3) Would be amended to allow the Board more flexibility
Lines 10-13 to hold examinations and to further clarify the conditions for re-examination.
17-18
Line 25
Page 5
Lines 1-5
Allowing more flexibility to hold examinations as needed will allow students
upon graduation a quicker entry into the work force with a Manager-Operator
License. The number of persons graduating from Cosmetology schools has
increased to the extent that examinations have become so large that facilities
used for examinations are overcrowded to the point that double examinations
are necessary. Overcrowding and double examinations, in the opinion of the
Board, are not conducive to proper examinations either for the Students or
the examiners.
5. Page 5 37-31-312 (1) would be amended to delete the unnecessary requirement that
Lines 19-20 an Inspector or cosmetology salons and schools must be a licensed Cosmetologist.
An inspector is inspecting only for sanitary conditions of an
establishment and that the persons working in the premises, performing
cosmetological services on the Public are currently licensed in the State of
Montana. This would not prevent a licensee from being an Inspector.
6. Page 8 37-31-322 (3) would be amended to abolish the requirement that the Department
Lines 7-12 notify the licensees of the expiration dates of their license and the penalty
for failure to renew by that date. Licensees are provided with their notice
to renew at the time of issuance of their license, including the expiration
date and penalty fees for failure to renew, attached with the license.

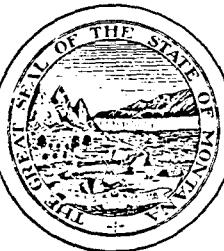
The following changes are intended to broaden the present laws of cosmetology to include a separate license to practice manicuring.

NEW SECTION Sections 37-31-101 through 37-31-331, MCA. The proposed amendments for providing for a separate (fragmentized) license to practice manicuring will not prevent fully licensed cosmetologists from performing the services of manicuring or application of artificial nails and their maintenance, however, they will provide an opportunity for careers to interested individuals without requiring the full cosmetology course and will accomodate mobile individuals from other States who are already licensed with this fragmented license. Further, to protect the Public, persons performing these services must be qualified and licensed.

1. Page 1 37-31-101 (1) (5) (6) The definition of cosmetology is amended to include Line 19 manicuring and to clarify and define the definition of manicuring and the Line 23 premises wherein manicuring may be practiced.
Page 2 - Lines 18-23
2. Page 3 37-31-203 (2) (5) is proposed to include manicuring in Rulemaking Lines 4 & 10 powers.
3. Page 3 37-31-301 (1) (b) (c) (d) (e) Prohibited acts is amended to include Lines 20-25 manicuring.
5, 13-17
4. Page 4 37-31-302 (1) (3) (4) is amended to include licenses required Line 23 to conduct a school, teach or practice manicuring.
Page 5 Lines 3-10
5. Page 5 37-31-303 is amended to include manicuring.
Lines 20-21
6. Page 6 37-31-304 (1) (3) (a) (b) is amended to include that a license to practice Lines 3-10 manicuring is required, unless a person is licensed to practice cosmetology, Page 7 eligibility to take the examination to practice manicuring and the requirement Lines 3-15 of an applicant to file an application and pay the examination fee.
7. Page 7 37-31-305 (1) (2) (a) is amended to establish qualifications for a license Lines 18-23 to teach manicuring.
8. Page 8 37-31-308 (1) (2) (3) (4) (5) is amended to allow flexibility to hold Lines 16-25 examinations and to further clarify the conditions for re-examinations Page 9 for operators and instructors of manicuring and to allow physically Lines 6-25 handicapped persons trained for manicuring by the department of SRS to be granted a license for a period of 1 year, exempting them from examination for a period of 1 full year.
9. Page 10 37-31-311 (1) (a) (b) (c), (4) (5) (6) (7) (8) is amended to include manicuring Lines 8-9 for teaching, schools, equipment for schools, course of training and prohibiting Page 11 an owner or person in charge of a school of manicuring to sleep in or use Lines 12-25 the premises for residential purposes; prohibiting a teacher or student Page 12 teacher from practicing manicuring on the public in a school of manicuring.
Lines 2-25
10. Page 13 37-31-312 (1) (2) (3) (4) is amended to include inspectors for Lines 5-21 manicuring shops and schools and that a manicuring shop be required Page 14 to pay an initial inspection fee and authority to grant a manicuring Lines 2-25 shop a temporary permit.
11. Page 14 37-31-322 (2) (a) (b) is amended to include manicuring for renewals, Line 23 continuing education and delinquency fees.
Page 15 Lines 4-19
12. Page 16 37-31-331 (1) (a) (b) is amended to include manicuring for grounds Lines 14-15 of refusal to issue, revocation and/or suspension of licenses and Lines 16-22 notice of hearings.

J.B. 131

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES



TED SCHWINDEN, GOVERNOR

P.O. BOX 4210

STATE OF MONTANA

January 11, 1985

HELENA, MONTANA 59604

TO: David Lewis, Director
FROM: Norma Harris, Administrator *NH*
Community Services Division
RE: Annual Report on Elder Abuse

I. INTRODUCTION

This report is in response to the requirements of Section 53-5-504 of the Montana Elder Abuse Prevention Act.

The Montana Elder Abuse Prevention Act became effective October 1, 1983. At that time the Department of SRS had staff alerted to respond to Elder Abuse referrals based on existing adult protective service procedures. Training on the elder abuse reporting system was under way and in operation in three test sites. The reporting system which is now called the Protective Service Information System (PSIS) became operational statewide in December 1983. This report therefore contains information on Elder Abuse from the period January 1, 1984 through December 31, 1984.

II. PUBLICITY

Prevention of Elder Abuse is contingent upon the incidents of abuse being reported. SRS undertook a publicity effort in three formal phases. The first phase which was concluded in March 1984, was the mailing of approximately 4,000 information packets to all licensed in state doctors, dentists, optometrists, osteopaths, chiropractors, hospitals, clinics, and nursing homes. Also these information packets were sent to home health agencies, all law enforcement agencies, ambulance services, mental health clinics and county attorneys. To inform the 2,800 licensed registered nurses and approximately the same number of licensed practical nurses, we asked that clinics, hospitals and other agencies employing RNs to post the information or circulate it to their staff. The information packet consisted of a letter from the SRS director informing the recipient of their responsibilities in Elder Abuse reporting, a copy of the Elder Abuse Prevention Act, a sheet with signs and symptoms of abuse and a list of appropriate phone numbers to call Elder Abuse reports in on.

The second phase of the formal publicity campaign conducted by SRS was the printing and distribution of 5,000 Elder Abuse

Pamphlets. This was completed in September 1984. Distribution of the pamphlets was made to Senior Centers and other places that serve senior citizens or where senior citizens congregated.

The third phase of the publicity was that a 28 minute video film on Elder Abuse was made by the Center of Gerontology at Montana State University. This video was funded by money from the Montana Advocacy Assistance Program and will be shown to senior citizen groups, civic groups and TV stations across Montana. It portrays a dramatization of Elder Abuse, intervention by an SRS social worker and gives concise information on how and who to report Elder Abuse to.

An ongoing informal publicity effort is being conducted by SRS social workers and the long term care ombudsmen. Numerous Adult Protective Service Social Workers have made presentations to various interest groups. The long term care ombudsmen has also conducted numerous publicity meetings on this subject.

III. TRAINING AND POLICY

To insure appropriate reporting and tracking by SRS staff; training sessions were held across the state in the fall 1983. Also to insure appropriate intervention almost all Adult Protective Service Social Workers attended one of two 3-day workshops conducted by a top national leader in Elder Abuse intervention.

The Community Services Division of SRS revised its Adult Protective Services policies and procedures effective October 1, 1984 to insure specific and prompt response to referrals and requests for protective services which of course encompasses Elder Abuse. The basic concept of this policy is that those adults in clear and present danger of mental or physical harm as a result of abuse, neglect and/or exploitation will receive intervention services to eliminate or alleviate that danger.

IV. ELDER ABUSE STATISTICS

This statistical report will be provided in three parts. The first part will cover those reports received by local county welfare or human services departments concerning those elderly persons 60 years of age and older living outside long term care facilities. The second part will cover those reports received by the Long Term Care Ombudsman (LTCO) on elderly persons residing in long term care facilities. The Third part will be a general summary of the above statistics.

1. Reports of Elderly Abuse as Reported to Local SRS Offices.

147 reports of alleged elderly abuse were received from January 1, 1984 through December 31, 1984.

85 of these reports were substantiated.

As publicity increased so did the number of reports.

The following is a breakdown of the 85 substantiated cases of Elder Abuse reported to the local county SRS offices.

Sex

49 females
36 males

Age

Females Median Age 77.6
Males Median Age 74
Average Median Age 75.8

Types of Abuse

Abuse	7 females	5 males	total 12
	(2 sexual abuse)	(most cases physical abuse)	
Neglect	28 females	23 males	total 51
Exploitation	6 females	4 males	total 10
Combination	8 females	4 males	total 12

Who did the Abusing

Self	42
Son or daughter	14
Spouse	6
Friends	6
Residential Staff	4
Medical Providers	4 (1 physician)
Other relatives	3
Foster Parent	1
Housekeeper	1
Institutional Staff	1
Landlord	1
Legal Guardian	1
Unknown	1

Who Reported Elder Abuse

Interested Citizens	43
Hospital Social Workers	7
Relatives	6
Self	5
Anonymous	4
Mental Health Clinic	4

Law Enforcement	2
Medicaid Waiver Staff	2
Public Health	2
Ambulance	1
Clergy	1
County Welfare Department	1
Foster Home Operator	1
DD Service Provider	1
Doctor	1
IHP Team	1
Aging I and R Technician	1
Landlord	1
Long Term Care Ombudsmen	1

Counties that Reports Came From

Big Horn - 1	Judith Basin - 3	Pondera - 1
Cascade - 2	Lake - 1	Prairie - 2
Choteau - 3	Lewis and Clark - 2	Ravalli - 10
Dawson - 1	Madison - 1	Silver Bow - 4
Deer Lodge - 2	Missoula - 8	Valley - 5
Fergus - 5	Musselshell - 1	Wheatland - 1
Flathead - 3	Park - 1	Yellowstone - 18
Gallatin - 2	Phillips - 8	

Summary of Reports to Local County SRS Offices

147 reports were investigated and 85 were found to be substantiated. Out of the 85 substantiated cases 49 were women. The median age was 75.8 for those substantiated cases reported. Almost one half of the abusers were the victims themselves in the fact that they were in danger since they could not meet their own life needs. Over half of those abused were victims of physical and medical neglect. Half of the substantiated cases were reported to the local SRS offices by interested citizens. Yellowstone County had almost one-fourth of the substantiated cases reported. As of this date no elder abusers have been prosecuted but three are under investigation for possible prosecution.

2. Reports of Elder Abuse Received by the Long Term Care Ombudsman

As required in Section 53-5-511 of the Elder Abuse Prevention Act the Long Term Care Ombudsman (LTCO) and the Department of Health and Environmental Sciences were required to sent reports of substantiated elder abuse cases to SRS regarding those elderly individuals residing in long term care facilities. In an agreement signed on April 1, 1984, it was agreed that the LTCO would file the substantiated reports with SRS. The LTCO went back to January 1, 1984 in filing the reports so the reporting period responds with the above reporting date of January 1, 1984 through December 31, 1984.

Statistics on Elder Abuse in Long Term Care Facilities

21 cases were substantiated

12 cases are still under investigation

It should be noted that the LTCO is only required to report substantiated cases to SRS.

The following is a breakdown of the 21 substantiated cases reported:

Sex

16 Females

5 Males

Age

Females Median Age 80

Males Median Age 86

Average Median Age 83

Types of Abuse

Abuse	11 Females	5 Males (physical abuse)	Total 16
Neglect	1 Females		Total 1
Exploitation	3 Females		Total 3
Combination	1 Female		Total 1

Who Did the Abusing

Staff of Long Term Care Facility	15
Son/daughter	2
Other Residents	2
Unknown	1
Other Relative	1

Who Reported Elder Abuse

Long Term Care Facility Administrators	8
Interested Citizens	6
Director of Nursing	2
County Welfare Director	1
County Social Worker	1
Medicaid Fraud Bureau	1
Relative	1
Lawyer	1

Counties that Reports Came From

Blaine - 1	Lincoln - 1
Dawson - 1	Meagher - 1
Flathead - 1	Missoula - 1
Gallatin - 1	Phillips - 2
Hill - 3	Sanders - 1
Lake - 1	Silver Bow - 2
Lewis and Clark - 2	Yellowstone - 3

Summary of Reports Received From Long Term Ombudsmen

21 substantiated cases of Elder Abuse were reported from the long term care ombudsmen of those people residing in long term care facilities. 16 of these cases were female. The average age of these 21 cases was 83. 16 of the 21 cases were physical abuse. 8 of the substantiated cases were reported by the long term care facility administrators, 6 by interested citizens and the substantiated reports came from 14 Montana counties.

3. General Statistical Summary of Substantiated Elder Abuse Reports in Montana

106 substantiated cases of elder abuse were reported to SRS from January 1, 1984 through December 31, 1984. 65 cases were female. The average median age of cases reported was 79.4 years. 52 cases were physical or medical neglect, 28 cases were physical abuse, 13 were exploitation and 13 were a combination of types of abuse. In 42 cases the abuser was the alleged victim, a son or daughter was the abuser in 16 cases and long term care staff in 15 cases. 21 of the reports came from Yellowstone County, 10 from Phillips County, 9 from Missoula County, and the rest from 25 other counties.

V. CONCLUSION

In reviewing the 106 substantiated case reports it is very indicative that Elder Abuse exists in Montana and that it is a very serious problem. Specific intervention services were required by 76 of the victims. Very serious incidents of abuse and neglect that put the elderly person in extreme danger were noted in 50 of the cases.

The goal of SRS in the next year, is to increase reporting of this serious problem by continued publicity and public awareness activities and to become more proficient in investigating and providing service intervention to the victims and their families through local and state training efforts.

DEPARTMENT OF COMMERCE



TED SCHWINDEN, GOVERNOR

1424 9TH AVENUE

STATE OF MONTANA

(406) 444-3737

HELENA, MONTANA 59620-0401

February 19, 1985

Senator Jerry Jacobson

~~Representative Robert Pavlovich, Chairman
Business and Labor Committee
State Capitol
Capitol Station
Helena, MT 59620~~

Dear Representative Pavlovich:

Following are statements to clarify the amendments made to Initiative 97 by the Department of Commerce for administrative purposes:

Lines 13 and 17, Page 2: Changed to assist the Governor in the appointment process and to allow more denturists to qualify for appointment to the board.

Lines 1 - 5, Page 4: The four reasons to delete this subsection are: (1) it is unconstitutional in this form, (2) creates added expense, (3) Department legal and investigative staff perform this function for all other boards. Boards still have the ability to contract for technical expertise on a case basis if deemed necessary and (4) other boards have had such committees and when used in the past made recommendations rather than providing useful evidence.

Line 9, Page 4: Statutory provisions regulating expenses of boards and deposit or disbursement of funds collected by the board of Department of Commerce.

Please refer to copy of Section 37-1-134, MCA "Licensing boards to establish fees commensurate with costs", and Section 37-4-203, MCA "Compensation and expenses of board members (Board of Dentistry) - disbursement of excess funds.

Medical Examiners	37-3-314, MCA
Dentists & Dental Hygienists	37-4-203 (copy attached)
Podiatrists	37-6-305
Pharmacists	37-7-324
Nursing	37-8-432
Nursing Home Administrators	37-9-306

Optometrists	37-10-203
Physical Therapists-	37-11-203
Chiropractors	37-12-308
Radiologic Technologists	37-14-311
Speech Pathologists & Audiologists	37-15-310
Hearing Aid Dispensers	37-16-408
Psychologists	37-17-307
Veterinarians	37-18-308
Morticians	37-19-307
Social Workers	37-22-302
Barbers	37-30-201
Cosmetologists	37-31-324
Water Well Contractors	Has no provision so reverts to 37-1-134
Public Accountants	37-50-315
Real Estate	37-51-208
Private Investigators	37-60-320
Polygraph Examiners	37-62-308
Architects	37-65-307
Landscape Architects	37-66-307
Professional Engineers & Land Surv.	37-67-317
Electrical	37-68-318
Plumbers	37-69-308

Lines 6 and 7, Page 5: The passing grade of 75% is specified in another section of the Initiative.

Lines 19 - 23, Page 6: This was written to apply to the original licensees.

Lines 17 and 18, Page 8: Written to bring into conformity with existing code (attached) governing all licensing boards.

Lines 15 - 17 and 23 - 24, Page 9: Other boards accept applications 10 to 30 days prior to examination. Original language denied application for licensure for too long a period.

Lines 3 - 14, Page 12: Changed to be consistent with the Administrative Procedures Act.

Lines 15 - 24, Page 12: Added for consistency with all other boards.

Sincerely,



Shirley M. Miller
Bureau Chief, Professional & Occupational Licensing

(2) Meetings held for the purpose of examining candidates for a license to practice dentistry in this state may not exceed 6 days.

(3) Four members of the board constitute a quorum for the transaction of business. Its proceedings are open to public inspection in cases of public interest.

(4) Money collected by the department under this chapter shall be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

(5) The department shall keep a complete record of meetings and proceedings of the board and shall keep a complete account of moneys received and disbursements made by the department.

History: (1), (3) thru (5)En. Sec. 4, Ch. 48, L. 1935; re-en. Sec. 3115.4, R.C.M. 1935; amd. Sec. 147, Ch. 147, L. 1963; amd. Sec. 25, Ch. 177, L. 1965; amd. Sec. 21, Ch. 93, L. 1969; amd. Sec. 1, Ch. 352, L. 1969; amd. Sec. 78, Ch. 350, L. 1974; Sec. 66-904, R.C.M. 1947; (2)En. Sec. 9, Ch. 48, L. 1935; re-en. Sec. 3115.9, R.C.M. 1935; amd. Sec. 149, Ch. 147, L. 1963; amd. Sec. 4, Ch. 352, L. 1969; amd. Sec. 82, Ch. 350, L. 1974; amd. Sec. 29, Ch. 439, L. 1975; amd. Sec. 2, Ch. 531, L. 1977; Sec. 66-909, R.C.M. 1947; R.C.M. 1947, 66-904, 66-909(2); amd. Sec. 2, Ch. 316, L. 1979; amd. Sec. 1, Ch. 277, L. 1983.

Compiler's Comments

1983 Amendment: Substituted reference to state special revenue fund for reference to earmarked revenue fund.

Cross-References

Right to know, Art. II, sec. 9, Mont. Const.

Open meetings, Title 2, ch. 3, part 2.

Meeting defined, 2-3-202.

Public records, Title 2, ch. 6.

Preservation of records, Title 22, ch. 3, part 2.

Duty of Department to keep records, 37-1-101.

Duty of Department to provide facilities, 37-1-101.

Licensing investigation and review — records access, 37-1-135.

Disrupting meeting as disorderly conduct, 45-8-101.

37-4-203. Compensation and expenses of board members — disbursement of excess funds. (1) Out of the funds derived from fees collected under this chapter, each member of the board shall receive compensation and travel expenses as provided for in 37-1-133.

(2) Money collected in excess of expenses and salaries provided for shall be held by the department as a special fund for meeting the expenses of the board, the proper administration of this chapter, and educational purposes considered wise by the board.

History: En. Sec. 9, Ch. 48, L. 1935; re-en. Sec. 3115.9, R.C.M. 1935; amd. Sec. 149, Ch. 147, L. 1963; amd. Sec. 4, Ch. 352, L. 1969; amd. Sec. 82, Ch. 350, L. 1974; amd. Sec. 29, Ch. 439, L. 1975; amd. Sec. 2, Ch. 531, L. 1977; R.C.M. 1947, 66-909(1), (3); amd. Sec. 5, Ch. 363, L. 1981; amd. Sec. 8, Ch. 474, L. 1981.

Compiler's Comments

1981 Amendments: Chapter 363 deleted the last two sentences of (2) relating to emergency funds.

Chapter 474 substituted language after "shall" in (1) for "be reimbursed as follows: (a) \$25 per day for each day in actual attendance at a meeting of the board; (b) expenses and travel authorized under 2-18-501 through 2-18-503".

37-4-204. Affiliation with national association authorized — delegates. The board may affiliate with the national association as an active member, pay regular annual dues to the association, and send delegates to the meetings of the association.

History: En. Sec. 20, Ch. 48, L. 1935; re-en. Sec. 3115.20, R.C.M. 1935; amd. Sec. 8, Ch. 352, L. 1969; amd. Sec. 87, Ch. 350, L. 1974; R.C.M. 1947, 66-920; amd. Sec. 6, Ch. 363, L. 1981; amd. Sec. 9, Ch. 474, L. 1981; amd. Sec. 1, Ch. 349, L. 1983.

Compiler's Comments

1983 Amendment: Substituted "delegates" for "delegate".

1981 Amendments: Chapter 363 deleted former subsection (3) relating to railroad fares;

37-1-132. Nominees for appointment to licensing and regulatory boards. Private associations and members of the public may submit to the governor lists of nominees for appointment to professional and occupational licensing and regulatory boards. The governor may consider nominees from the lists when making appointments to such boards.

History: En. Sec. 9, Ch. 244, L. 1981.

37-1-133. Board members' compensation and expenses. Unless otherwise provided by law, each member of a board allocated to the department is entitled to receive \$50 per day compensation and travel expenses, as provided for in 2-18-501 through 2-18-503, for each day spent on official board business. Board members who conduct official board business in their city of residence are entitled to receive a midday meal allowance, as provided for in 2-18-502. Ex officio board members may not receive compensation but shall receive travel expenses.

History: En. Sec. 1, Ch. 474, L. 1981; amd. Sec. 2, Ch. 123, L. 1983; amd. Sec. 4, Ch. 672, L. 1983.

Compiler's Comments

1983 Amendments: Chapter 123 substituted, at end of second sentence, "2-18-502" for "2-18-501, for each day in which 6 or more hours are spent on official board business". Chapter 672 increased per diem from \$25 to \$50.

37-1-134. Licensing boards to establish fees commensurate with costs. All licensing boards allocated to the department shall set fees reasonably related to the respective program area costs. Unless otherwise provided by law, each board within the department may establish fees including but not limited to fees for program areas such as application, examination, renewal, reciprocity, late renewal, and continuing education. Board costs not related to a specific program area may be equitably distributed to program areas as determined by the board. Each board shall maintain records sufficient to support the fees charged for each program area.

History: En. Sec. 1, Ch. 345, L. 1981.

37-1-135. Licensing investigation and review — record access. Any person, firm, corporation, or association that performs background reviews, complaint investigations, or peer reviews pursuant to an agreement or contract with a state professional or occupational licensing board shall make available to the board and the legislative auditor, upon request, any and all records or other information gathered or compiled during the course of the background review, complaint investigation, or peer review.

History: En. Sec. 1, Ch. 242, L. 1981.

STATEMENT OF INTENT

HOUSE BILL NO. 807

Senate Public Health, Welfare and Safety Committee

It is the intent of the legislature to implement this act by encouraging any hospital that provides care to infants to establish an infant care review committee. The functions of an infant care review committee are to educate hospital personnel and families of handicapped, disabled, or seriously ill infants with life-threatening conditions; to develop and recommend institutional policies and guidelines concerning the withholding of medically indicated treatment from such infants; and to provide counsel and review on treatment decisions regarding such infants.

The precise composition of the committee will depend on the needs and resources of the particular hospital, but it should consist of at least 8 members, including a physician, a nurse, an administrator, a social worker, a parent of a disabled child, and legal counsel. The committee should meet regularly to carry out its educational and policy-making functions and in addition should meet to review individual cases. Individual cases should be reviewed whenever there is disagreement among staff, or between the attending physician and the infant's immediate family, regarding the appropriate treatment for a seriously ill infant, and at the request of any staff member or member of the infant's immediate family. The committee should review all cases in which the attending physician and the family propose to forego life-sustaining treatment. At meetings held to review individual cases, all concerned parties should have an opportunity to present their viewpoints and to hear the views of others.

The committee should recommend a course of action only when agreement cannot be reached among the committee, the infant's family, and the health care providers. Regardless of committee recommendations, if the family wishes to continue life-sustaining treatment and the attending physician disagrees, the family's wishes should be carried out until they are officially removed from their position as the infant's guardian, unless

such treatment is medically contraindicated or is contrary to existing hospital policies and procedures. If the family refuses consent to life-sustaining procedures and the attending physician and the committee disagree, the committee should recommend that the hospital or its representative refer the case to an appropriate court or child protective agency.

The committee should maintain records of all its deliberations and summary descriptions of specific cases considered and the disposition of those cases. Hospital counsel should clarify for the committee the circumstances under which records must be made available to government officials or other persons, as required by state law.