

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

MARCH 18, 1985

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Judy Jacobson on Monday, March 18, 1985 in Room 410 of the State Capitol at 12:30.

ROLL CALL: All members were present with the exception of Senator Hager, who was excused. Senators Newman and Towe arrived late. Karen Renne, staff researcher, was also present.

There were many visitors in attendance. See attachments.

CONSIDERATION OF HOUSE BILL 228: Representative Cal Winslow of Billings, the chief sponsor of House Bill 228, gave a brief resume of the bill. This bill is an act authorizing the preparation and implementation of a declaration instructing an adult's physician to withhold or withdraw life sustaining procedures if the person is in a terminal condition and is unable to participate in medical treatment decisions; providing methods for revocation of the declaration; limiting the liability of physicians and health care providers who implement the declaration; and establishing criminal penalties for failing to comply with a declaration and for other related violations.

Twenty three states have some laws regarding living wills. Most of these states specifically exclude certain categories of persons from witnessing living wills such as: spouses or other relatives; heirs or claimants to any part of the declarant's will or estate; the declarant's physician or physician's employees; patient's health facility employees; or person responsible for the patient's health care costs.

States have recognized the need for restrictions to minimize or preclude the possibility of living wills being forged by those who would stand to gain financially by the premature death of the declarant.

Charles Briggs of the Office of the Governor, stood in support of the bill. He stated that this issue was one of the priorities of the Legacy Legislature. One must be allowed to die with dignity.

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

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Doug Olson, representing the Seniors' Office of Legal and Ombudsman Services, stood in support of the bill. He handed in written testimony to the committee for their consideration. See attachments.

Molly Munroe, a concerned citizen, stood in support of the bill. She stated that this is very necessary legislation. She suggested that the Committee consider an amendment which would change the effective date to July 1, 1985 instead of October 1, 1985.

Bill Leary, representing the Montana Hospital Association, stood in support of the bill as it passed the House.

Rose Skoogs, executive directors of the Montana Health Care Association, stood in support of the bill as it passed the House. She stated that the process has to be simple.

Wade Wilkinson, representing the Low Income Senior Citizens Advocacy, 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 Himsel asked about the two witnesses named on page three of the bill. He stated that he felt that it was necessary to have a relative involved also.

Representative Winslow closed. He stated that it is very, very important to pass this legislation, as it is important to terminally ill patients.

CONSIDERATION OF HOUSE BILL 466: Representative Jan Brown of Helena, the sponsor of HB 466, gave a brief resume of the bill. This bill is an act to include physical therapists under the physician, nurse, and hospital lien act.

Gordon Jones, a physical therapist from Helena, stood in support of the bill. Mr. Jones stated that this is a much needed bill.

Mike Pardis, of Helena stood in support of the bill. He offered some amendments which would include chiropractors in this bill. He was speaking on behalf of the chiropractors association.

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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 why the chiropractors were not included in the House. Mr. Pardis stated that they were not aware of the bill at that time.

Senator Hims1 asked if there is a real need for this bill. Mr. Jones stated that the physical therapist have been having trouble recovering finances for services rendered. This bill would help them to do that.

Senator Hims1 stated that if this bill were to pass then next session other services would want to be included.

Representative Brown closed. She asked the Committee to give the bill favorable consideration.

CONSIDERATION OF HOUSE BILL 259: Representative Nancy Keenan of House District 66 in Anaconda, the sponsor of House bill 259, gave a brief resume of the bill. This bill was requested by the Department of Social and Rehabilitation Services. HB 259 is a an act providing the Department of Social and Rehabilitation Services with rulemaking authority to establish penalties and sanctions applicable to providers of health-related services in counties that have opted for state assumption of county welfare; providing that such penalties and sanctions are the same as in the medicaid program.

Pat Godbout, an administrator of the Department of Social and Rehabilitation Services, stood in support of the bill. This bill would give the SRS rule making authority.

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.

There were no questions from the Committee.

Representative Keenan closed. She stated that this is a good bill and asked the Committee to give it favorable consideration.

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CONSIDERATION OF HOUSE BILL 730: Representative Ben Cohen of Whitefish, the chief sponsor of House Bill 730, gave a brief resume on the bill. This bill is an act revising the laws relating to weatherization; requiring the Department of Social and Rehabilitation Services to allocate and spend for home weatherization at least 5 percent of funds received from the federal low-income home energy assistance program.

Representative Cohen stated that this bill would clear up some of the existing laws. He handed out fact sheets to the Committee for their consideration. See attachments.

Jim Noland, representing the Department of Social and Rehabilitation Services, stood in support of the bill.

Kathleen Ely, representing herself, stood in support of the bill. She handed in written testimony to the Committee for their consideration. See attachments.

Charles Briggs, representing the Office of the Governor, stood in support of the bill.

Teri England, representing the Montana Public Interest Research Group, stood in support of the bill. She stated that she felt that this is a good bill which would help many people.

Nettie Rusanoeski, representing the Senior Citizens, stood in support of the bill.

Mike Fieldman, District IV HARDC Representative, stood in support of the bill. He stated that he feels that this is a good compromise. There are approximately 47,000 eligible homes in Montana. The ten Human Resource Development Councils operate the weatherization program in all 56 counties in Montana. This bill would put money into the program. 18,000 homes have been weatherized in Montana since 1974.

Mike Zimmerman, representing the Montana Power Company, stood in support of the bill. He stated that this bill represents a step towards a long term solution.

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.

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Senator Hims1 asked if these jobs are inspected by anyone upon completion. The jobs are inspected by the monitors. Senator Hims1 asked then about the funding. 5% comes from the state level and 5% comes from the federal level.

Representative Cohen closed. He stated that he did not want to see the programs squeezed out completely. It is good legislation.

CONSIDERATION OF HOUSE BILL 214: Representative Ron Miller of Great Falls, the sponsor of House Bill 214, gave a brief resume of the bill. This bill is an act providing for the registration of speech pathology aides and audiology aides providing for annual registration fees; changing the license renewal date, and providing an effective date.

Betty Hiener, an audiologist with the Easter Seals in Helena, stood in support of the bill. She stated that this bill will assure good service for the people of Montana. HB 214 would be cost effective.

Floyd Mc Dowell, representing the Board of Speech Pathologists and Audiologists, stood in support of the bill. He stated that his entire board is in support of this 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 why everyone wants to be licensed. Shirley Miller, director of the Department of Commerce, state that perhpas it is prestige.

Representative Miller closed. He stated that he hoped the Committee would give this bill favorable consideration.

ACTION ON HOUSE BILL 563: House Bill 563 introduced by Representative Ron Miller 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.

Senator Jacobson stated that some of the cosmetologists had contacted her regarding the earlier action by the Committee and reported that this bill is definitely needed because otherwise, a full cosmetology license will be needed to practice as a manicurists.

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Senator Stephens asked why manicurists cannot operate out of a barber shop. Many of the people doing manicuring are not trained properly to do as such, and therefore, their clients are getting infections and having other problems and many lawsuits are occurring.

Senator Towe state that lawsuits sometimes help to correct the problems which arise.

A motion was made by Senator Lynch to reconsider the previous action of the Committee of House Bill 563. Motion carried.

Senator Lynch asked Shirley Miller if there is a problem in this area at the present time and Mrs. Miller replied that they indeed do have a problem with this.

Senator Towe commented that this is just free enterprise system and did not see a need for a license for this group.

A motion was made by Senator Lynch to amend the bill as per recommendations made by the Cosmetologists. Motion carried.

A motion was made by Senator Towe that the bill be amended on page 7, line 3, following: "age"; Strike: the remainder of the section.

A substitute motion was made by Senator Lynch that HB 563 BE CONCURRED IN AS AMENDED. Motion carried with all those present voting "yes" with the exception of Senator Towe who voted "no".

Senator Jacobson will carry this bill on the floor of the Senate.

ACTION ON HOUSE BILL 720: Bouse Bill 720 introduced by Representative Han Brown 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.

Senator Stephens stated that he did not feel that this was a necessary bill.

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Senator Towe handed out a copy of the Older Americans Act Amendments of 1984. He stated that according to this without the bill the funding would be in jeopardy. See attachemnts.

Senator Stephens stated that this is already being done at the present time.

Senator Towe stated that Montana is required by a federal act to adopt legislation which would cover this problem.

Rose Skoogs from the Nursing Homes Association stated that her group did not want to give full access to the facility records to the long-term care ombudsman. She stated that the ombudsman is not properly trained to be able to read the medical records.

Senator Hims1 stated that this program is already in place at the present time.

Charles Briggs from the Office of the Governor stated that the facility could cooperate with the long-term care ombudsman. This bill would give the ombudsman statutory authority.

A motion was made by Senator Stephens that HB 720 Be Not Concurred in.

A substitute motion was made by Senator Towe that HB 720 Be Conccurred in. Motion failed on a tie vote. Those senators voting "yes" were: Lynch, Towe, and Jacobson. Those voting "no" were Senators Newman, Hims1, and Stephens.

ACTION ON HOUSE BILL 487: House Bill 487 introduced by Representative Wallin is an act to authorize the Health Facility Authority to issue bonds and notes in an amount not to exceed \$150 million in each biennium; and providing an immediate effective date.

A motion was made by Senator Hims1 that HB 487 BE CONCURRED IN. Motion carried.

Senator Towe will carry this bill on the floor of the Senate.

ACTION ON HOUSE BILL 623: House Bill 623 introduced by Representative Wallin is an act revising the procedure for issuing health facility bonds; providing that bond proceeds may not be expended for a facility unless it has been reviewed and approved by the appropriate authorities and providing an immediate effective date and an applicability date.

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A motion was made by Senator Lynch that HB 623 BE CONCURRED IN. Motion carried.

Senator Towe will carry this bill on the floor of the Senate.

ACTION ON HOUSE BILL 646: House Bill 646 introduced by Representative Paul Rapp-Svrcek is an act defining "organic food" and requiring accurate labeling of organic food; providing for remedies; and providing an effective date and an applicability date.

A motion was made by Senator Lynch that HB 646 BE CONCURRED IN. Motion carried. with all present voting "yes" with the exceptions of Senators Stephens and Newman, who voted "no".

Senator Jacobson will carry this bill on the floor of the Senate.

ACTION ON HOUSE BILL 743: House Bill 743 introduced by Representative Ron Miller is an act to clarify the subrogation rights of the Department of Social and Rehabilitation Services regarding the provision of medical benefits on behalf of a person for whom a third party is liable.

A motion was made by Senator Towe that the bill be amended on page 2, line 23; strike "The"; and insert "Unless all parties agree to a different settlement, the". Motion carried.

Senator Towe stated that this processs is different than that of Worker's Compensation.

A motion was made by Senator Lynch that HB 743 BE CONCURRED IN AS AMENDED. Motion carried.

Senator Mazurek will carry this bill on the floor of the Senate.

ACTION ON HOUSE BILL 280: House Bill 280 introduced by Representative Toni Bergene is an act to provide that violation of the Federal Drug Abuse Prevention and Control Act is grounds for revocation of a pharmacist's license and providing an immediate effective date. This bill was requested by the Board of Pharmacy.

Senator Norman stated that federal law takes care of this problem already and therefore, the bill was not necessary.

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A motion was made by Senator Norman that HB 280 Be Not Concurred In. Motion failed. Those Senators voting for the motion were: Norman, Newman, and Lynch. Those Senators voting against the motion were: Jacobson, Himsl, Towe, and Stephens.

A motion was made by Senator Towe that HB 280 Be Concurred In. Motion failed. With the following voting "no", Senators Newman, Norman, Stephens, and Lynch, all others present voted "yes".

A motion was made by Senator Newman that HB 280 BE TABLED. Motion carried with all present voting "yes" with the exception of Senators Jacobson and Himsl.

ACTION ON HOUSE BILL 358: Representative Mike Kadas introduced HB 358, which is an act to create a missing children information program within the Department of Justice; to require law enforcement authorities to submit missing children reports to the program; to require the superintendent of public instruction to distribute monthly to the schools a list of missing school age children and to require schools to contact any parent whose child is absent without parental verification of the absence.

Karen explained the proposed amendments.

Senator Stephens stated that this legislation cannot prevent children from kidnapping.

Senator Jacobson stated that it is important to inform the authorities as soon as possible following the discovery of a child missing. The first 24 hours are very critical.

Senator Himsl stated that he felt people were over reacting.

Senator Towe stated that the Department does not have a choice, it must be put on the National Crime Information Center computer as soon as possible.

Senator Lynch asked if this same procedure would not be followed without this bill.

Senator Jacobson replied that there is a 24 hour waiting period now before it is turned into the NCIC.

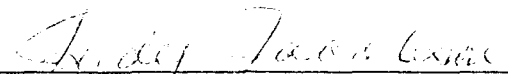
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A motion was made by Senator Towe that HB 358 Be Concurred In. Motion failed with Senators Towe and Jacobson voting "yes" and all other senators present voting "no".

A motion was made by Senator Stephens that HB 358 BE NOT CONCURRED IN. Motion carried with all present voting "yes" with the exception of Senators Jacobson and Towe.

ANNOUNCEMENTS: The next meeting of the Senate Public Health Welfare, and Safety Committee will be held on Wednesday, March 20, 1985 in Room 410 of the State Capitol to consider HB 759, 798, 665, 686, and 627.

ADJOURN: With no further business the meeting was adjourned.



SENATOR JUDY JACOBSON
CHAIRMAN

eg

Each day attach to minutes.

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Spencer Thompson	Grass Range N.S.	022803	✓	
M. Blackburn	Grass Range	"		
W. G. Fenn	Coastal Seal	814	✓	
Jam. M. L. G. G. G. G.	FAIR HILL			
Kim F. G. G. G.	(H)			
Michael O. F. G. G.	Dist. III. H.R.C.	HB 730	✓	
R. J. M. G. G.	Board of Health & Safety	HB 214	✓	
W. G. G. G.	Benito G. G.		✓	
John G. G.	"		✓	
Sam. G. G.	Mont. Senior Citizens	HB 228	✓	
W. G. G.		HB 730	✓	
D. G. G.	Seniors. Old. L. G. G.	HB 228	✓	
M. G. G.	MOA - A. G.	HB 228	✓	
Mary M. G.	Gravel College			
John H. G.	"			
John T. G.	Int. Medical. G. G.	HB 228	✓	
John G. G.	Mont. P. R. G.	HB 30	✓	
WADE WILKINSON	LISCA	HB 730	✓	
WADE WILKINSON	LISCA	HB 228	✓	
Charles B. G.	Governors Office	HB 228	✓	
Charles B. G.	Governors Office	HB 730	✓	
W. G. G.	G. G.		✓	
Henry G. G.	G. G.			

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

MARCH 18, 19 95

MR. PRESIDENT

We, your committee on Public Health, Welfare and Safety

having had under consideration..... House No. 358

third reading copy (blue)
color

TO CREATE A MISSING CHILDREN INFORMATION PROGRAM WITHIN DEPT. OF JUSTICE

KADAS

(STEPHENS)

Respectfully report as follows: That..... House No. 358

~~XXXX~~

~~DO NOT PASS~~

BE NOT CONCURRED IN

Senator Judy Jacobson

Chairman.

STANDING COMMITTEE REPORT

March 13 19 85

MR. PRESIDENT

We, your committee on Public Health, Welfare and Safety

having had under consideration House Bill No. 743

third reading copy (blue)
color

SUBROGATION RIGHTS OF SRS - 3RD PARTY LIABILITY FOR MEDICAL BENEFITS

MILLER (MAYUREK)

Respectfully report as follows: That House Bill No. 743

be amended as follows:

1. Page 2, line 23.

Following: "first."

Strike: "the"

Insert: "Unless all parties agree to a different settlement,
the"

XXXXXX
DO NOT PASS

AND AS AMENDED

XXXXXXXXXX BE CONCURRED IN

DO NOT PASS

SENATOR JULY JACOBSON, Chairman.

STANDING COMMITTEE REPORT

March 18, 1935

MR. PRESIDENT

We, your committee on Public Health, Welfare and Safety

having had under consideration House Bill No. 646

third reading copy (blue color)

TRUTH IN LABELING FOR ORGANIC FOODS

RAPP-SVRCER (JACOBSON)

Respectfully report as follows: That House Bill No. 646

XXXXXX

XXXXXX

BE CONCURRED IN

SENATOR JUDY JACOBSON,

Chairman.

STANDING COMMITTEE REPORT

March 11, 19 05

MR. PRESIDENT

We, your committee on Public Health, Welfare and Safety

having had under consideration House Bill No. 623

third reading copy (blue)
color

REVISE PROCEDURE FOR ISSUING HEALTH FACILITY AUTHORITY BONDS

WALLIN (TONE)

Respectfully report as follows: That House Bill No. 623

XXXXX
DO PASS

XXXXXX
DO NOT PASS

BE CONCURRED IN

SENATOR JUDY JACOBSON, Chairman.

STANDING COMMITTEE REPORT

March 14, 1985

MR. PRESIDENT

We, your committee on Public Health, Welfare and Safety

having had under consideration House Bill No. 487

third reading copy (blue)
color

INCREASE BONDING LIMIT OF HEALTH FACILITY AUTHORITY

WALLIN (TOWE)

Respectfully report as follows: That House Bill No. 487

~~XXXX~~
DO PASS

~~XXXXXXXX~~
DO NOT PASS

BE CONCURRED IN

~~SENATOR JUDY JACOBSON~~

Chairman.

STANDING COMMITTEE REPORT

MARCH 18, 1935

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE BILL No. 563

THIRD reading copy (BLUE)
color

LICENSE AND REGULATION OF MANICURISTS & MANICURIST SHOPS AND SCHOOLS

MILLER (JACOBSON)

Respectfully report as follows: That HOUSE BILL No. 563

be amended as follows:

1. Page 2, lines 5 through 8.
Strike: subsection (b) in its entirety
2. Page 6, lines 23 through 25.
Following: "examination" on line 23
Strike: remainder of line 23 through "department," on line 25
3. Page 8, lines 4 through 6.
Following: "department" on line 4
Strike: remainder of line 4 through "examination," on line 6
4. Page 15, line 25 through line 5, page 16.
Following: "deadline." on line 25
Strike: remainder of line 25 through "expiration." on line 5

~~XXXXXX~~

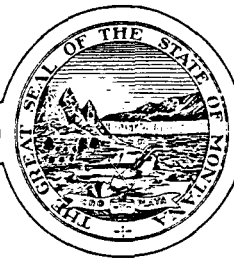
~~XXXXXXXXXX~~

AND AS AMENDED
BE CONCURRED IN

SENATOR JUDY JACOBSON

Chairman.

SENIORS' OFFICE
LEGAL AND OMBUDSMAN SERVICES



TED SCHWINDEN, GOVERNOR

P.O. BOX 232
CAPITOL STATION

STATE OF MONTANA

(406) 444-4676
1-(800) 332-2272

HELENA, MONTANA 59620

March 18, 1985

Senators
Senate Public Health Committee
49th Legislative Session
State Capitol
Helena, Montana 59620

re: House Bill 228
Living Will

Dear Madam Chairman & Committee Members:

My name is Doug Olson and I am the attorney-elderly legal services developer with the Seniors' Office of Legal and Ombudsman Services, here in Helena. One of my responsibilities is to work with Senior citizen organizations and individual senior citizens to help them draft legislation for their Legacy Legislature. This past year I assisted Vi Thomson, a member of the Governor's Advisory Council on Aging and a Legacy Legislature Senator, with the drafting of a Living Will bill, Bill #18. This bill passed the Legacy Legislature with the result that several legislators requested that the Legislative Council draft proposed legislation on this topic.

House Bill 228 was finally introduced by Rep. Winslow regarding this topic. Instead of using the Legacy Legislature bill proposal, Rep. Winslow introduced a proposed Model Uniform State Law that will not be voted upon for approval or rejection by the National Commissioners on Uniform State Laws until August of this year at the earliest.

The bill as introduced by Rep. Winslow is acceptable and compatible with the Legacy Legislature Bill #18 in my opinion except insofar as HB 228 contains no restrictions on who may serve as witnesses to a declarant's statement (living will). Of the 23 states that have adopted state laws recognizing living wills to date, I believe that all of them place some restrictions on who may serve as a witness. Most of these states specifically exclude certain categories of persons from witnessing living wills such as: spouses or other relatives; heirs or claimants to any part of the declarant's will or estate; the declarant's physician or physician's employees; patient's health facility employees; or a person responsible for the patient(declarant)'s health care costs.

Letter to Senate Public Health Committee
re: House Bill 228
March 18, 1985
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The few remaining states that do not have these specific provisions require that the living will be executed with the same formalities as a person's will.

States have recognized the need for restrictions to minimize or preclude the possibility of living wills being forged by those who would stand to gain financially by the premature death of the declarant. I would urge you to carefully consider this issue and to follow the lead of all the states that have acted thus far by placing some restrictions on who may witness a living will.

For your benefit, I have copied an article that appeared in the January/February 1985 issue of Geriatric Nursing that highlights the provisions contained in living wills recognized in the 23 states that have acted thus far. I believe that you will find it interesting and a compelling reason to adopt some restrictions on witnesses in House Bill 228.

Regardless of your decision, I would urge you to take favorable action on House Bill 228 to formally recognize a living will in Montana. Thank you.

Sincerely,

Douglas B. Olson
Attorney
Seniors' Office

Attachment

Current medical technology indisputably prolongs life. Many individuals argue that it also prolongs dying and does so contrary to the wishes of many terminally ill patients.

Living-will legislation often legitimizes what was an unspoken and unregulated practice in some hospitals.

When should life-sustaining respirators be turned off for the comatose patient who has no hope of regaining consciousness? How many resuscitations should be performed on a terminally ill aged patient who

Twenty-two state legislatures across the nation have responded to this ethical dilemma by enacting living-will legislation that offers guidelines and legal protection for health professionals when they participate in decisions about life and death.

In a single month in 1983, five states passed bills: Georgia, Mississippi, West Virginia, Wisconsin, and Wyoming.

Other states that have some variety of living will legislation are Alabama, Arkansas, California, Delaware, Florida, Idaho, Illinois, Kansas, Louisiana, Nevada, New Mexico, North Carolina, Vermont, Virginia, and Washington. The District of Columbia also has a living will statute.

This translation of concern for the rights and dignity of the dying into legislative action began in 1967 when a Chicago attorney, Louis Kutner, helped formulate the first living will. The prototype document was to be morally, not legally, binding. The will stated a person's wishes on how long and under what circumstances his or her life

Important: This chart is intended for

Law contains declaration form.
Form must be precisely followed.
Form permits personalized instructions.
Declaration in effect until revoked.
No. Number of years effective.
Law specifies proxy provision.
Form to be binding, declaration must be executed after terminal diagnosis.
Declaration invalidated during pregnancy.
Declaration may be executed for a minor.
For an incompetent adult.
Law establishes decision-making for comatose patients who have not executed a declaration.
Declaration must notify physician of declaration, physician must file in patient's medical record.
Execution of declaration requires signature of patient signature of physician signature of spouse signature of relative signature of patient or relative signature of claimant to any part of signature of decedent's estate.
Declaration's power extends to physician, employee.
Patient's health facility employee.
Responsible for patient's health care costs.
Nursing home patient's declaration requires special witness.
Other formalities of execution are specified.
Law provides immunity to health professionals complying with declaration.
Physician must comply with qualified patient's directive or transfer patient to another physician.
Failure to do so constitutes unprofessional conduct.
Compliance requires confirming consultation and written certification of terminal condition.

CHECKLIST CHART OF 23 LIVING WILL LAWS

quick reference to many of the significant provisions of the laws. For more complete information, consult the texts of the statutes.

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[illegible]

Checklist Chart: Footnotes

Checklist Chart: Footnotes

_____ should be executed with the same formalities as required in the state for executing a will. _____ will not be executed after a terminal diagnosis, the directive may be given without evidence of the patient's wishes, and the attending physician may determine whether or not it should be implemented.

_____ of each witness must verify in writing that he/she is not prohibited from being a witness by the disqualifications specified in the statute.

[illegible]

19) The law also contains a revocation form.

¹³ The law states that the declaration must be filed with the Bureau of Vital Statistics of the relevant state. The declaration may be made in any form, and the validity of the declaration is not affected by the fact that it is not in the form prescribed by the state.

For declarant's spouse's relative: declarant must be certified by a clerk of the court if physician who cannot comply must so inform patient, or help select another physician who will comply or both.

If patient is competent, only attending physician's diagnosis and written certificates required.

Declarant must be signed in the presence of a notary public.

The statute stipulates that the state's department of Health and Social Services must approve the declaration form as contained in the statute. The use of this form, however, is not otherwise obligatory.

was to be prolonged in the event that terminal illness or accident left him or her incapable of competently expressing those wishes.

The will that Kuner drafted inspired a small group of New Yorkers to found Concern for Dying, a nonprofit organization that has led a nationwide fight for living-will legislation.

According to CFD executive director A. J. Levenson, the state of Virginia has passed what the group believes approaches model legislation. The Virginia bill provides for an agent who has the permanent power of attorney. This agent must be familiar with the wishes of the person named in the will. The Vir-

where the life of the terminally ill is prolonged unnecessarily through treatment.

Living-will legislation often legitimizes what was formerly an unspoken and unregulated practice in some hospitals.

In New York, which currently does not have living-will legislation, a special grand jury in 1983 called upon the New York legislature and the Commissioner of Health to establish formal guidelines to govern emergency resuscitation of terminally ill patients.

The grand jury found what it called "shocking procedural abuses" during a year-long investigation of "Do Not Resuscitate"

In most states two individuals are required to witness living wills. They cannot work in the facility the named person is in.

ginia living-will provisions are binding immediately after the person named in the will becomes incompetent as determined in accordance with state laws. Wills in some other states with living-will legislation, such as California, become binding only when a prescribed period of time has elapsed (14 days in California) after the diagnosis of terminal illness and incompetence has been made.

In some states, such as Arkansas, any adult can write his or her own living-will directives, but in other states legislative language specifies strict guidelines for all adults.

In most states two individuals are required to witness living wills. These persons cannot be related by blood or marriage to the person making the will declaration or be beneficiaries to his or her estate. They also cannot be employees of the health care facility the named person is in.

Health professionals have long sought guidance from government on how to proceed in situations

procedures at a hospital in Queens County, New York.

The inquiry was prompted by the death of a 78-year-old woman after her respirator was allegedly disconnected by an unknown person or persons. The jury determined that no alarm for resuscitation had been sounded.

While not handing up an indictment, the grand jury found that "Do Not Resuscitate" decisions at the facility in Queens were made without proper documentation on patients' charts and without consulting patients' families.

Testimony before the grand jury alleged that a purple dot was placed on a nursing record card to identify a patient for whom no code would be called. Testimony disclosed that when a patient died this card was thrown away. According to the jury statement, that was done for the purpose of "avoiding legal responsibility."

The jury report stated that there may be times when it is appropriate to withhold resuscitation codes if

such resuscitation would merely prolong the suffering of a terminally ill patient. Because there are no legal guidelines for health professionals in New York State, the grand jury called for government safeguards that would protect patients and guide caregivers.

New York State Governor Mario Cuomo announced on October 3, 1984, that he was forming a task force on "life and the law" to recommend state policies.

In his announcements, the Governor said, "Like it or not we are increasingly involved in life and death questions to which we have no consistent response. Science is leaving us in the dust."

Ten noted physicians who were brought together by the Society for the Right to Die, a New York-based group, published their beliefs about the medical profession's responsibilities toward the terminally ill in the April 12, 1984, issue of the *New England Journal of Medicine*.

Termed "Bill of Rights for Terminally Ill Patients" in a *Washington Post* news headline, the article details the kind of care the physicians consider ethically proper when dealing with the competent, formerly competent, and incompetent terminally ill person.

Reprints of the *NEJM* article, "The Physician's Responsibility Toward Hopelessly Ill Patients," by Sidney H. Wazner, MD, and others, are available for \$1 each from the Society for the Right to Die at 250 West 57th St., New York, NY 10107.

Spokespersons for both Concern for Dying and the Society for the Right to Die caution nurses to consult fully with their health-care employer and state nurses' associations to establish what the state law and facility policy are. While still far from providing perfect guidelines for nurses, living-will legislation is one of the first steps in the effort to regulate and standardize the criteria on which life and death decisions for the hopelessly ill can be made. Each state attorney general's office can also be a valuable information resource. GN

Cohen

HB 730 Fact Sheet

HB 730 requires that at least five percent (5%) of the Low Income Energy Assistance Program (LIEAP) funds be transferred annually to the LOW INCOME WEATHERIZATION Program.

I. Funding Sources and Flow of funds

- A. Federal -- the Department of Energy funds Weatherization; the Department of Health & Human Services funds the Low Income Energy Assistance Program(LIEAP)
- B. State -- the Department of Social & Rehabilitation Services administers both programs in Montana
- C. Local -- the ten (10) Human Resource Development Councils (HRDCs) operate the Weatherization program in all 56 Montana counties
HRDCs, county welfare departments and senior citizen centers operate LIEAP

II. Amount of Funds

- A. LIEAP -- Montana will receive \$ 11.6 million for LIEAP in 1986, 1987
- B. Weatherization -- Montana will receive \$1.6 million for Weatherization in 1986, 1987

III. Transfer Provisions of LIEAP

- A. Federal law permits a transfer of LIEAP funds to Weatherization
- B. Up to 20% of LIEAP funds may be transferred to Weatherization per year
- C. HB 730 requires a transfer of "at least five percent (5%) of LIEAP to Weatherization."
- D. HB 730 requires a transfer of at least \$584,755 of LIEAP to Weatherization in 1986 and 1987.

IV. Weatherization Facts

- A. 18,000 homes weatherized in Montana since 1974.
- B. 47,000 homes are currently in need of and eligible for Weatherization.
- C. HRDCs have been weatherizing from 2,000 to 3,000 homes per year since 1981.
- D. At the current rate of production, it will take from 20 to 35 years to weatherize the 47,000 homes currently eligible for the service.
- E. The average cost per home equals about \$1,100, equally divided between labor and materials.
- F. Priority for Weatherization is given to elderly and handicapped.
- G. About half of all homes weatherized are occupied by senior

H. About half of all homes weatherized are occupied by homeowners.

A. 125% of Poverty Level is the eligibility standard.

C. 125% of Poverty in actual numbers as of 1984

D. How many Montanans at 125% of poverty?

E. Approximately 47,000 eligible households in Montana

A. "to increase energy efficiency of dwellings occupied
by low income persons"

C. Labor Intensive: HRDCs hire crews or contract out work

E. Dimensions of the program:
vehicles, tools....inventory

F. Completed weatherization work inspected by SRS

VII. Benefits of Weatherization

- A. Benefits to low income persons-->saves money--->
more disposable income
for low income persons
- B. Benefits to society at large---->all residents, consumers:
conservation-->
"cheapest source
of energy"
- C. Benefits to LIEAP-->heating dollars used more effectively
- D. Benefits to utility companies and heat suppliers--->
fewer terminations
- E. Saves 10% to 25% of of heating costs after Weatherization
documented by studies conducted by
DOE
CECA (Consumer Energy Council of America)
CSA (Community Services Administration)
US Govt Bureau of Standards
District VII DRDC; Billings, Montana
Opportunities Incorporated; Great Falls, Montana
- F. Benefits to Montana and to counties because these
program dollars are 100% federal in origin

NAME: Kathleen Ely DATE: 3/15/85

ADDRESS: 510 N. Park; #217

PHONE: 449-9774

REPRESENTING WHOM? Myself

APPEARING ON WHICH PROPOSAL: HB 730

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: See attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

My name is Kathleen Ely and I am the Assistant Journals Clerk in the Senate. I have worked as an eligibility technician for the Low Income Energy Assistance Program. While a VISTA Volunteer working with Laotian refugees, I organized Hmong weatherization crews, working hands on caulking and blosing insulation. Since the first house was weatherized in 1974, nearly 18,000 homes have been weatherized in Montana, including my own last year.

Working as a legal secretary in Missoula I was eligible for L.I.E.A.[because my incoem was under the income guideline for a single person of \$6,225. My house was built in 1907. My power bill last February was \$256 even though I kept the heat at 60° all the time, which was about half of my monthly salry. When the house was weatherized, the R factor in the ceiling went from 4 to 32, storm windows were made, caulked and sealed, insets were made for the fireplaces, and a storm door was put on the back. This February my power bill was \$147 and I was able to keep the heat at 68°. When only 25% of my income goes to power bills instead of 50%, being a homeowner is possible for me.

Weatherization of homes is one of the best means of cost-containment for low-income homeowners. It also helps break the cycle of dependency on assistance programs by solving problems instead of continuing them. I want to support HB 730; my only reservation is that the figure is only 5%. I would recommend that you amend the bill to increase the percentage and help make home ownership a possiblity for all Montanans. Thank you.

Proposed Amendments To House Bill 730

1. Title, line 13.
Following: "LEAST"
Strike: "5"
Insert: "20"

2. Page 2, line 9.
Following: "least"
Strike: "5%"
Insert: "20%"

NAME: Felie Rusnawski DATE: 3-18-85

ADDRESS: 3000 Villard Ave 146

PHONE: 443-4258

REPRESENTING WHOM? Senior Citizen

APPEARING ON WHICH PROPOSAL: # 730

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: The weatherization Program provided me with
storm windows two years ago.
I have been well satisfied with the performance
of the people who did the work for me. I can only
say "Thank you" for this program

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Mike Pandis D.C DATE: 3/18/85

ADDRESS: 1420 Cedar St

PHONE: 406-449-7524

REPRESENTING WHOM? Mt. Chiropractic Assn.

APPEARING ON WHICH PROPOSAL: HB 466

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: yes

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

PROPOSED AMENDMENT TO HOUSE BILL 358

1. Page 5, line 4.
Following: "~~contacting~~"
Strike: "ATTEMPT"
Insert: "establish procedures to be followed by school
personnel for attempting"

PROPOSED AMENDMENTS TO HOUSE BILL 720 (requested by William Leary
for the Montana Hospital Association; revised by researcher)

1. Page 4, line 5.
Following: line 4
Insert: "(3) A resident's medical and personal records may
not be removed from the long-term care facility, but if
a copy of a record is needed, it must be given to the
office with the written consent of the resident or the
resident's legal guardian or attorney. The office
shall pay the cost of copying such records to the facility
within 30 days of receiving the records."
2. Page 5, line 10,
Following: "prohibition"
Strike: " -- presumption"
3. Page 5, lines 17 through 25.
Strike: subsection (2) in its entirety
Renumber: subsequent subsections

75B
720
By Javner

OLDER AMERICANS ACT AMENDMENTS OF 1984

SEPTEMBER 19, 1984.—Ordered to be printed

Mr. HAWKINS, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 2603]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2603) to extend the authorization of appropriations for, and to revise the Older Americans Act of 1965, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Older Americans Act Amendments of 1984".

TITLE I—OBJECTIVES AND DEFINITIONS

AMENDMENT TO HEADING

SEC. 101. The heading for title I of the Older Americans Act of 1965 (hereafter in this Act referred to as "the Act") (42 U.S.C. 3001 et seq.) is amended by striking out the colon and inserting in lieu thereof a semicolon.

COMMUNITY-BASED, LONG-TERM CARE SERVICES

SEC. 102. (a) Section 101(4) of the Act (42 U.S.C. 3001(4)) is amended by inserting before the period the following: ", and a comprehensive array of community-based, long-term care services adequate to

OLDER AMERICANS ACT OF 1965 AS AMENDED THROUGH 1984

[Title 42 United States Code §3027 - Ombudsman program]

"Sec. 307. (a) Except as provided in section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Commissioner a State plan for a two-, three-, or four-year period determined by the State agency, with such annual revisions as are necessary, which meets such criteria as the Commissioner may by regulation prescribe. Each such plan shall--

(1)-(11)...

(12) provide assurances that the State will--

(A) establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate arrangement with any public agency or other appropriate private non-profit organization other than an agency or organization which is responsible for licensing or certifying long-term care services in the State or which is an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), a long-term care ombudsman program which provides an individual who will, on a full-time basis--

(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of such residents;

(ii) monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in that State;

(iii) provide information as appropriate to public agencies regarding the problems of older individuals residing in long-term care facilities;

(iv) provide for training staff and volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

(v) carry out such other activities as the Commissioner deems appropriate;

(B) establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order;

(C) establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis;

(D) establish procedures to assure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless--

(i) such complainant or resident, or his legal representative, consents in writing to such disclosure; or

(ii) such disclosure is required by court order; and

(E) in planning and operating the ombudsman program, consider the views of area agencies on aging, older individuals, and provider agencies;

(13)-(20)...

(21) provide that the State agency, from funds allotted under section 304(a) for part B will use an amount equal to an amount not less than 1 percent of such allotment or \$20,000, whichever is greater, for the purpose of carrying out the provisions of clause (12), except that (A) the requirement of this clause shall not apply in any fiscal year in which the State spends from State or local sources an amount equal to the amount required to be spent by this clause; and (B) the provisions of this clause shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands."