

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN STEVE BENEDICT, on January 25, 1993,
at 10:00 A.M.

ROLL CALL

Members Present:

Rep. Steve Benedict, Chair (R)
Rep. Sonny Hanson, Vice Chair (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Ray Brandewie (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Alvin Ellis (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (X)D
Rep. Doug Wagner (R)

Members Excused: Rep. Fritz Daily and Rep. Sonny Hanson

Members Absent: None

Staff Present: Paul Verdon, Legislative Council
Claudia Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 190
Executive Action: HB 190

HEARING ON HB 190

Opening Statement by Sponsor:

REP. GARY MASON, House District 63, Corvallis, said HB 190 was
requested by the Department of Commerce, and is an act specifying
the requirements for licensure of licensed clinical social

workers. This will amend the procedure for charging of license violations by licensed clinical social workers, providing the requirements of license renewal and creating an inactive status for licensed clinical social workers and professional counselors.

Proponents' Testimony:

Patrick Wolberd, M.S.W., B.C.D. Member of Board of Social Work Examiners & Professional Counselors, Billings, said the board has proposed legislation to amend specific sections of the social work licensure law to bring it up to national standards, and provide for more efficient and effective operation of the board. These changes will: 1) grant the board authority to specify supervised work experience for social work applicants; 2) allow a longer grace period for license renewal; 3) allow, but not require, the use of the title Licensed Clinical Social Worker (LCSW); 4) provide social work practice protection; 5) delete the six month time limit requirement for action on complaints; and 6) establish an inactive status. He said the board requested an amendment to the bill which would delete subsection (4) of section 3, lines 3 - 8, page 6 of this bill. This amendment would also require the deletion of the new codification, section 9, lines 2 - 4, page 11, and delete the entire practice protection language of this bill. He said language has been included in the bill to allow a 1 year grandparent period for recent Montana University graduates who might otherwise be adversely affected by extending their work experience by 6 months before receiving their license. On page 11, section 10, there is a typographical error, it should read 1994 instead of 1993, the purpose of this section was to provide for the grace period of the recent graduates. **Mr. Wolberd** read written testimony. **SEE EXHIBIT 1.** He also distributed written testimony from Dr. Frank W. Clark, Ph.D. University of Montana. **SEE EXHIBITS 2 & 3**

Craig Simmons, Licensed Social Worker, Helena, said the Montana National Association of Social Workers (MASW) has 356 members in Montana, 221 of those members are currently licensed social workers. HB 190 will upgrade the requirement for supervision that a licensee must have to gain a license. It brings the license requirements within the national standards. He said if they have this standard the public will better be able to seek services from LSW or LCSW, because the proper amount of supervision has occurred and the public expects to receive a competent level of service from an independent practitioner. On pages 3 & 4, will allow them to use the term "licensed clinical social worker" as well as "licensed social worker". There is precedence set in permissive language so they can have the option of calling themselves LSW or LCSW. He said they are increasingly asked to call themselves LCSW, i.e., an out-of-state insurance company that a consumer may use and the insurance company will directly pay the LCSW or LSW for their services. If they are able to use the term LCSW, it will clearly define they have had clinical training and supervision.

Rose Hughes, Executive Director, Montana Health Care Association, represents nursing homes throughout the state of Montana. She said they are required to provide social services to the residents in these facilities. Their original intention was to oppose HB 190, because of the limit to practice to licensed social workers. Most of the social workers in the nursing facilities are not licensed social workers, they are bachelor level social workers who are qualified to perform the particular activities required of them to perform. She said they have some problems with subsection 4, section 3, page 6, which limits the practice of social work to licensed individuals, and would require most of their facilities to hire master degree level or doctorate degree level social workers to supervise the individuals that are currently employed. Ms. Hughes said they do support the amendment which removes that section from this legislation, and allowed them to support this bill. She said another section of the bill could be clarified if the committee wishes to do so. On page 4, section 3, subsection 3a, it lists other professionals as not being in prohibition of the act when they do social work as long as they don't use the title, "licensed social worker or licensed clinical social worker". Those missing from the title are people in the profession of social work with a bachelor level social work degree who are doing social work without a license. She didn't think the intent was there to stop those people from practicing, but felt it needed to be clarified.

Opponents' Testimony:

Jack McDonald, self, stated his opposition of HB 190.

Informational Testimony:

None

Questions From Committee Members and Responses:

Rep. Simon asked Rep. Mason about the current law which allows a 60-day grace period on the licensure renewal, and wanted to know why it needs to be extended to a full year? Rep. Mason said for continuing education requirements, i.e., returning to school would give the individuals more time to continue their education for licensure, and asked Rep. Mason to speak to the need for the inactive status situation? Rep. Mason asked if Pat Wolberd could answer the question. Mr. Wolberd said the board's intent was to establish statutory authority to write administrative rules to address this issue. The direction of the rules would be to currently provide 20 hours per year of continuing education, and would stay in place. He said they would like to see some flexibility as to when those hours are completed, e.g., if someone was in inactive status for three years could acquire the 60 hours in the last year prior to returning to active status. Rep. Simon said on page 2, line 9, it states "supervised post-master's degree work experience", who would do this supervision?

Mr. Wolberd said this is another case where the board was looking for statutory language to provide authority to write rules to define this more clearly. He said in defining a LSW or a LCSW, they have been looking at other states as models in terms of document supervision, allowing flexibility in the supervision being a combination of face-to-face or telephone supervision, taped interviews, and written documentation to be reviewed by the supervisor in order to address the concerns that some people have expressed because of the more remote areas of Montana and limited availability of a LSW. He said they are confident to developing rules that would include a public hearing for review and would address this need.

Rep. Tuss asked **Pat Wolberd** if there is a standard date for renewal of licenses or are they standard throughout the year?

Mr. Wolberd said his understanding under current statute the date is December 31st of each year. **Rep. Tuss** asked if a LSW doesn't renew their license by December 31st, and continues to practice can they continue to charge with a license that is not valid?

Mr. Wolberd said the license is still considered active during the following 60-day grace period. **Carol Grell**, legal counsel of the board was asked to reply. **Ms. Grell** said the section that attempts to deal with the renewal of license already contains language under Title 68, "a person is allowed to practice while in a grace period". The new language being added is not technically a grace period. The way the licensing board is set up under Title 37, the initial chapters of that section deal with licensing of all boards which already allow a one-year period to renew a license without having to start over. She said language was needed that would state what happens in that one-year period. The statute that deals with all boards did not clarify language specifically for this board. They would also like to charge a late fee in that time frame, but would still be able to renew without having to go through the testing. She said no one should be practicing in this time frame, and if they know about it they will do what they can to stop it.

Rep. Stella Jean Hansen asked **Pat Wolberd** what the difference is between a LSW and a social worker who has a master's degree and is working without being licensed? **Mr. Wolberd** said the difference is the 3000 hours of practice experience following the additional master's degree, and an examination that demonstrates their knowledge in social work. The exam that is currently used has about 70% to 80% clinical material, and 20% to 30% general social work material. **Mr. Wolberd** said in Montana, social workers practicing without a license must practice under some private or public agency that provides supervision and oversight of the work which an agency is usually licensed, i.e., a hospital, nursing home, mental health center, etc. This gives the consumer protection through this process. The social work education, the master's degree in social work, is a two-year graduate degree program with a curriculum approved by the counsel in social work education, so it is standardized curriculum throughout the country. Many social workers who are not licensed

are certified by the Academy of Certified Social Workers through the National Association of Social Workers that Mr. Simmons represents.

Rep. Brandewie asked **Pat Wolberd** what the continuing education requirements are now, are they established by rules? **Mr. Wolberd** said the requirements are in administrative rules. The process is to accumulate 20 clock hours of continuing education during the course of the year, and present evidence of the education to the board upon request for re-licensure.

Rep. Brandewie asked **Rose Hughes** if she was comfortable with the bill in its present form in regard to protection of the counselors and social workers in the nursing homes. **Ms. Hughes** said no, not as the bill is proposed. She said they support the amendment to remove subsection 4, page 6, that was brought in by the board. The other clarification she thought would be appropriate is on page 4, subsection 3, 3a, of the laundry list of things not prohibited by this legislation, and the one thing missing from the list is the practice of social work by unlicensed social workers of whom there are many out there including most of the ones in the nursing homes, hospitals and other entities. In speaking with the board, she said it is not their intent to stop those people from practicing, but felt it wasn't clarified.

Rep. Brandewie asked **Pat Wolberd** if he would have any problem with the committee placing language into the affect mentioned above, the practice of social work by a license social worker. **Mr. Wolberd** said personally he would not have any objection to it. The board felt it was a non-issue, because no questions or concerns have been raised from it. His opinion was if this was taken back to the board there would be no objections raised.

Paul Verdon, Legislative Council, said as he reads subsection 3, on page 4, subsection 3a, it does not prohibit (3b) activities, services, and use of an official title by a person in the employ of a federal, state, county, or municipal agency or an educational, research, or charitable institution that are a part of the duties of the office or position; doesn't that cover the activities of the positions that are being referred to here? **Pat Wolberd** said speaking as a licensed social worker and not as an attorney, it would be an accurate assumption.

Closing by Sponsor:

Rep. Mason closed.

EXECUTIVE ACTION ON HB 190

Motion: REP. MILLS MOVED HB 190 DO PASS.

Discussion: **Paul Verdon, Legislative Council**, said the amendment

is to strike subsection 4, page 6, and insert licensed social workers. On page 11, strike 1993 and insert 1994, and strike all of section 11. **SEE EXHIBIT 4**

Rep. Tuss asked **Paul Verdon** about the amendment on page 5, lines 2, 3 and 4, if it could be broaden to include, "private, not-for-profit agency to include hospitals, nursing homes", etc., so the agency licensure will cover the practicing social workers.

Rep. Brandewie proposed an amendment to expand the activities, service, and use of official title by a person employed by federal, state, county, municipal, educational, and research, to include "for profit nursing homes, hospital or not-for-profit".

Paul Verdon, Legal Council said he would like to consult with legal counsel before the committee continued with HB 190.


Motion: **Rep. Mills** withdrew his motion.

Motion/Vote: None

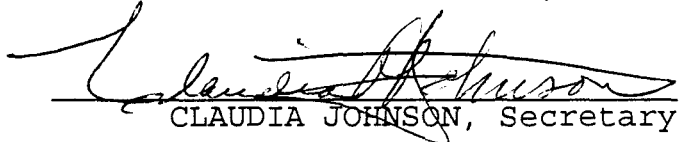
Vote: None

ADJOURNMENT

Adjournment: 11:00 A.M.



STEVE BENEDICT, Chair



CLAUDIA JOHNSON, Secretary

SB/cj

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE

1-25-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY			✓
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN			✓
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993

wp.rollcall.man

EXHIBIT 1
DATE 1-25-93
HB 190

PATRICK WOLBERD, M.S.W., B.C.D.
Member, Board of Social Work Examiners & Professional Counselors
P.O. Box 20601, Billings, MT 59104
(406) 657-0611

January 25, 1993

LICENSED SOCIAL WORKER PROPOSED CHANGES
HB-190

Mr. Chairman, my name is Patrick Wolberd and I am a licensed social worker representing the Board of Social Work Examiners & Professional Counselors. I have been a member of this board for the past year and have previously served on a social work licensing board in another state. I received my Master of Social Work degree in 1970 and have been practicing social work during the more than twenty years since that time. I have worked as a mental health administrator in the Montana State Department of Corrections and Human Services and in public service elsewhere, in addition to working as a line social worker and administrator in private agencies. I have been self employed as a private clinical social worker in Billings, Montana, for the past six years.

The Board of Social Work Examiners (BSWE) has proposed legislation to amend specific sections of the social work licensure law to bring it up to national standards, and provide for more efficient and effective operation of the Board. These changes will:

1. Grant the Board authority to specify supervised work experience for social work applicants.
2. Allow a longer grace period for license renewal.
3. Allow, but not require, the use of the title Licensed Clinical Social Worker (LCSW).
4. Provide Social Work practice protection.
5. Delete the six month time limit requirement for action on complaints.
6. Establish an inactive status.

During the past year, the BSWE has sought input from licensed social workers through the Montana Chapter of the National Association of Social Workers (NASW). There have been several regional meetings plus three state wide meetings to discuss the proposed legislation. The outcome has been that the NASW Board adopted a resolution in support of the BSWE sponsored bill.

The following is an item by item review of the bill:

1. SUPERVISED WORK EXPERIENCE: Section 37-22-301 currently requires a license applicant to have "accumulated 3,000 hours of postdegree work experience in psychotherapy within the past 5 years".
COMMENT: There is no reference to supervision being a part of the required work experience, nor is there reference to the minimum time required to accumulate the 3,000 hours. The result has been requests for licensure with no comment required from supervisors as to skill level and competence on the job. Some applicants have also

applied with as little as one year of work experience based on time worked in excess of a 40 hour work week. The national standards established a 24 month postdegree training period as the minimum period required to integrate one's graduate education and prepare to practice without the benefit of regular supervision.

PROPOSED LANGUAGE: ...completed at least 24 months of supervised post master's degree work experience in psychotherapy, which includes 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years;

COMMENT: This language retains the terms psychotherapy and social work, which are currently defined in section 37-22-102. No attempt has been made to narrow the definition of licensed social work practice to exclude social workers who define their work in more generalists terms. The intent is to require a level of supervision for licensure which credibly assures the public of quality licensed social work service delivery. Language has been included which allows a one year grandparenting period for recent MSW graduates who might otherwise have been adversely effected by extending their work experience by six months before being licensed.

2. LICENSE RENEWAL: The current language allows "...60 days after the expiration of the license..." to renew the license. The new language would allow one year for renewal.

COMMENT: The BSWE believes this new renewal time period is more reasonable and more in line with the national standards. The continuing education requirements and renewal fee remain unchanged.

3. LICENSED CLINICAL SOCIAL WORKER: The current language does not provide for the use of the title Licensed Clinical Social Worker. The new language allows the use of Licensed Social Worker (LSW) or Licensed Clinical Social Worker (LCSW).

COMMENT: This language change is permissive. It does not require the use of one title over the other, but rather allows the use of either title as the licensee sees fit. The new language is in no way intended to narrow the scope of the license to one subset of the profession. This change is mostly in response to the health industry's use of the term clinical with regard to billing procedures. Licensed social workers in private practice or who work for agencies that bill for their services are increasingly required to define their services as clinical. The current language in section 37-22-102, which defines terms such as licensee, psychotherapy, and social work, remains unchanged. The advanced exam being used to test license applicants has 70-80 % clinical content and 20-30% generalists content. The original licensing intent was to license for clinical practice as well as the general practice of social work in order to provide the broadest licensing base. The new language does not change this intent of the original licensing statutory language.

4. PRACTICE PROTECTION: The intent of the BSWE, in proposing practice protection language, was to strengthen public protection in the delivery of social work services.

COMMENT: There was never any intent to harm individuals practicing social work or agencies providing social work services, nor to increase the cost of social work service delivery in public or private agencies. We share the concerns, recently raised by some individual social workers and agencies, that this section could jeopardize social worker jobs or raise the cost of social work services in public and private agencies.

REQUEST: We, therefore, request an amendment to this bill which would delete subsection (4) of section 3, lines 3-8, page 6 of this bill. This amendment would also require the deletion of the new codification section 9, lines 2-4, page 11. This would delete the entire practice protection language of this bill.

5. SIX MONTH COMPLAINT LIMIT: The current language limits the BSWE to six months in which they can take action on a complaint about a licensee. The new language deletes the six month limitation.

COMMENT: The BSWE has found that six months often limits the investigation of facts and forces them into closing the case without action in some instances due to a lack of time to complete a thorough examination of the matter. This change will allow for a more complete review of the allegations and a more equitable decision. This change does not limit a licensee's legal right to timely action.

6. INACTIVE STATUS: There is no current language defining an inactive status. The new language would allow a licensee to go inactive for a maximum of seven years with greater flexibility regarding the continuing education requirements and inactive renewal fee structure.

COMMENT: The BSWE wants to make compassionate provision for licensed social workers to temporarily withdraw from active professional practice without undue hardship, yet maintain the integrity of the continuing education requirement and the license.

In conclusion, we are requesting that the Business Committee approve House Bill-190 as presented with the amendment requested today, noted earlier in our presentation.

Mr. Chairman, we want to thank representative Gary Mason for his support and willingness to sponsor this bill, and the time you and the Business Committee are taking to hear testimony on this important matter.

EXHIBIT

DATE 1-25-93

HB 190

The Department of Social Work
The University of Montana
Missoula, MT 59812
406-243-5543
FAX 406-243-4076

EXHIBIT 2
DATE 1-25-93
HB 190

Mr. Pat Walberg
C/O Business Committee
State of Montana Legislature
Capitol Building
Helena, MT 59604

Dear Pat:

RE: HB 190

Representing the faculty of the Department of Social Work of the University of Montana, I would like to register OPPOSITION to HB 190 which is "An act specifying the requirements for licensure of licensed clinical social workers..." The reasons for our opposition are as follows:

1. Change of the title "Licensed Social Worker" to "Licensed Clinical Social Worker" diminishes the profession and the current scope of present legislation. This change alters the name of the profession of social work and would discourage and/or preclude other professional social workers from becoming licensed. It restricts the licensing of social workers to one sub-set of the profession only. We believe that all professionally trained social workers should be eligible for licensure and for professional practice to be controlled by the profession and by the State of Montana through licensure as is presently the case. Requiring a set of criteria for those practicing in private clinical practice can accomplish the goals of clinical practitioners without eliminating an accountability mechanism for an entire profession.

2. The bill unduly restricts any form of clinical practice of social work by social workers without supervision by a licensed clinical social worker. All state public and private agencies or institutions would be hampered in their abilities to provide therapeutic interventions at a time when more, not fewer professionally trained social workers are called for. This would drive up costs (hiring only licensed clinical social workers to supervise) and reduce the effectiveness of service by diminishing the use of professional social workers. This change is self defeating for Montana and in a period of fiscal crisis would drive up service costs to citizens of Montana.

3. The terms "clinical" and "supervision" are not well defined. The whole history of the term "clinical" in the profession of social work has been marked by confusion and attempts to diminish and undercut the scope of the profession. What is and is not clinical practice? This bill lacks clarity in defining this very general term.

Second, "supervision" is not defined in this bill. Presumably it will be interpreted by a licensing board, but this does not provide assurance that the definition will accomplish the functional purpose of supervision in a way which is appropriate to the rural nature of Montana. The creation of some sort of supervision requirement makes sense from a "quality control" or "protection of the public" standpoint, but one could argue that this is even more important in rural areas where clients have few choices in the selection of a professional. Unfortunately the potential for confusion and discord abounds when no definitions are attached to the main terms used in the bill. A good bill has a greater potential for doing good rather than creating confusion and discord. These items should be worked out to the satisfaction of affected parties before being submitted in bill form.

4. Supervision by clinical social workers is impossible for social workers seeking licensure in many rural areas of Montana. In many rural areas of our state, licensed social workers do not exist. Persons seeking licensure in those areas would find this requirement impossible. This creates an undue hardship for the people of rural Montana. We need a mechanism for adequate education and training of professional social workers which can lead to licensure, but the proposed requirement creates barriers for members of the profession, not workable guidelines. This bill does not increase the likelihood of the licensure of social work professionals in rural areas, it decreases it.

FOR THESE REASONS, WE OPPOSE HB 190 AND URGE ITS DEFEAT. We understand the interests of primarily private practitioners in social work to be able to receive third party reimbursement for their services, but these interests must not be served at the expense of the broader profession of social work or at the expense of the citizens of Montana by driving up costs to public and private agencies or eliminating the use of professionally and appropriately trained social workers from agencies who cannot provide the requisite "clinical" supervision.

If you have other questions, please feel free to contact me.

Sincerely,

Frank W. Clark, Ph.D.

EXHIBIT 2
DATE 1-25-93
HB 190

The Department of Social Work
The University of Montana
Missoula, MT 59812
406-243-5543
FAX 406-243-4076

EXHIBIT 3
DATE 1-25-93
HB 190

January 25, 1993

Mr. Pat Walberg
C/O Business Committee
State of Montana Legislature
Capitol Building
Helena, MT 59604

Dear Pat:

RE: HB 190

Yesterday, January 24, I was in contact with Mr. Pat Walberg. A compromise has been reached which if made, makes it possible to support HB 190. There are two modifications agreed to by myself and Mr. Walberg:

1. The practice protection clause and its references to clinical social workers will be deleted in its entirety. This will eliminate the requirement for supervision of social workers by licensed clinical social workers and otherwise deal with that and related objections;

2. Language related to "licensed social worker" and "licensed clinical social worker" will be modified so that the bill's intent will reflect an inclusive rather than exclusive meaning of the terms. That is, that persons who are licensed will be able to legally refer to themselves as either "licensed social worker" or "licensed clinical social worker." This will make it possible for third party payments to be made to licensed clinical social workers for clinical work, and at the same time preserve the licensing process for all eligible social workers meeting the criteria for licensure.

As an additional note, the bill's title might now more accurately be reflected by wording to the effect, "A BILL FOR AN ACT ENTITLED: AN ACT SPECIFYING THE REQUIREMENTS FOR LICENSURE OF LICENSED SOCIAL WORKERS AND LICENSED CLINICAL SOCIAL WORKERS: ETC, ETC..."

With the changes above, I and the faculty of the Department of Social Work would support passage of HB 190.

If you have other questions, please feel free to contact me.

Sincerely,

Frank W. Clark, Ph.D.

Amendments to House Bill No. 190
First Reading Copy

EXHIBIT 4
DATE 1-25-93
HB 190

For the Committee on Business and Economic Development

Prepared by Paul Verdon
January 25, 1993

1. Title, line 6.
Following: "LICENSURE"
Insert: "OF LICENSED SOCIAL WORKERS AND"
2. Title, line 13.
Strike: "EFFECTIVE DATES"
Insert: "AN APPLICABILITY DATE"
3. Page 5, line 1.
Following: "of"
Insert: "or under a contract with"
4. Page 5, line 2.
Following: "agency"
Insert: ", "
Strike: "or"
5. Page 5, line 3.
Following: "institution"
Insert: ", or a health care facility licensed under the
provisions of Title 50, chapter 5,"
6. Page 6, lines 3 through 8.
Strike: subsection (4) in its entirety
7. Page 11, line 4.
Strike: "1993"
Insert: "1994"
8. Page 11, lines 5 and 6.
Strike: section 11 in its entirety

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Economics COMMITTEE BILL NO. HB 190
DATE 1-25 SPONSOR(S) Rep. G Mason

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Patrick Wolberd 2417 Elizabeth St, Billings	SW Lic Board	✓	
CRAIG SIMMONS 2225 11TH AVE. #20 HELENA	NASW.		
R. Hughes	Med. Health Care Assn	Amend	
Jack McDonald	Self		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.