

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By CHAIRMAN BILL BOHARSKI, on February 10, 1993,
at 3:00 P.M.

ROLL CALL

Members Present:

Rep. Bill Boharski, Chair (R)
Rep. Bruce Simon, Vice Chair (R)
Rep. Stella Jean Hansen, Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Tim Dowell (D)
Rep. Duane Grimes (R)
Rep. Brad Molnar (R)
Rep. Tom Nelson (R)
Rep. Sheila Rice (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Carolyn Squires (D)

Members Excused: Rep. Strizich, Rep. Russell

Members Absent: None

Staff Present: David Niss, Legislative Council
Alyce Rice, Committee Secretary

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

Committee Business Summary:

Hearing: HB 489, HB 497, HB 491
Executive Action: SB 152, HB 316, HB 229, HB 355, HB 391,
SB 209, SB 187, SB 89, HB 315, HJR 7,
HJR 8

HEARING ON HB 489

Opening Statement by Sponsor:

REP. ROYAL JOHNSON, House District 88, Billings, said the Comfort One Program has worked out very well in Montana. People who have a living will are more easily identifiable under the Comfort One

Program. People can have living wills but if they fail to register the living will on the form the state provides, it doesn't apply to an emergency medical situation. He asked the committee to listen closely to the testimony.

Proponents' Testimony:

Drew Dawson, Chief, Emergency Medical Services Bureau, Department of Health and Environmental Sciences. Written testimony. EXHIBIT 1.

Dick Brown, Senior Vice President, Montana Hospital Association. Written testimony. EXHIBIT 2.

REP. TIM SAYLES, House District 61, Missoula, said he is an emergency medical services (EMS) provider for the Missoula fire department. He said when he is called to an emergency scene his responsibility is to care for the injured individual to the best of his ability. Sometimes injured people have a living will and are revived against their wishes. It would be very beneficial to the EMS provider at the emergency site if the injured person had a do not resuscitate (DNR) identification bracelet on. EMS providers are liable by law to provide lifesaving services. Sometimes families make the mistake of calling emergency services when they know their loved one is terminal. They tell the EMS provider the patient has a living will but they don't have it with them. Consequently, the patient must be given lifesaving services. He said it is extremely costly to go through the resuscitation efforts. He urged support of HB 489.

Rose Hughes, Executive Director, Montana Health Care Association (MHCA), presented an amendment that addresses the issues and problems in terms of the relationship between living wills and DNR orders. She said the amendment would resolve the issues. EXHIBIT 3. MHCA has no objection to HB 489. The association's concern is that there is a great deal of confusion in nursing homes about the relationship between the living will statute and the DNR statute. Recently the association learned that patients with living wills needed an additional form prescribed by the state under the Comfort One Program. The form must be signed by the patient's physician, and the patient must have proper DNR identification; otherwise the patient's wishes could not be met by the EMS provider. The amendments are designed to allow nursing homes to provide EMS providers with a written DNR order or a written living will, and a qualifying condition certification signed by a resident's physician. There would be no need to obtain additional DNR identification. Appropriate documentation for residents of nursing homes is already available to EMS personnel from facility personnel. Requiring residents to incur additional expense is not necessary and makes it more difficult for the residents and their families to ensure that their wishes will be complied with.

Bonnie Adey, Manager, Hospice of St. Peters Hospital, urged

support of HB 489.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. CAROLYN SQUIRES asked Rose Hughes where the problem would be encountered if the long term nursing care facility had the living will and the DNR order. Ms. Hughes said if the family decided to move the patient to the hospital, called an ambulance, and the patient became ill on the way to the hospital, the patient would be resuscitated even though there was a living will.

REP. BRAD MOLNAR asked Ms. Hughes if a physician is required to abide by living wills. Ms. Hughes said a physician is required to abide by a living will. If the physician doesn't wish to abide by the living will, the patient must be transferred to another physician.

REP. SQUIRES asked Ms. Hughes if the living will was sent along with the patient to the hospital. Ms. Hughes said she understood that appropriate medical records including living will documentation is sent with the patient.

REP. SQUIRES asked Dick Brown why he didn't feel there was a problem with the language in HB 489 when the nursing homes feel there is a problem. Mr. Brown said the association visited a number of nursing homes, and after explaining the program to them, they no longer had a concern. He said there is no need to amend the language in HB 489.

REP. SQUIRES asked Drew Dawson to comment on the amendment. Mr. Dawson said when EMS personnel arrive at the scene, whether it is in the field or in the nursing home, the living will does not portray enough information. The living will is not activated until there is a declaration of a terminal illness. Even if the paperwork accompanies the patient, it is very difficult for the EMS provider to interpret it at the scene if it isn't a standard statewide form, when a decision must be made within 30 seconds. During the transfer, medical records are often sealed and not accessible to the EMS provider. One of the reasons for presenting the bill is to make sure there is only one form and one bracelet to make it easier for the EMS provider to make a quick and accurate decision whether or not to resuscitate the patient.

REP. SQUIRES asked Mr. Dawson if he felt that the only patient that should not be resuscitated would be the patient in the Comfort One Program. Mr. Dawson said that was correct.

REP. BRUCE SIMON said his 88 year old mother was concerned about being resuscitated against her will, she bought a bracelet that

said "No CPR" after consulting with her physician. He asked **Mr. Dawson** if the bracelet would be valid in case of an emergency. **Mr. Dawson** said it would not be valid. EMS providers are immunized under the Comfort One law only. **REP. SIMON** asked **Mr. Dawson** if a form would be valid if it was made up exactly like the state form except for the Comfort One logo. **Mr. Dawson** said it would not be valid. The statute requires a uniform form of statewide design. Also, if EMS providers are provided with different varieties of forms or bracelets at crisis scenes, they won't know what is valid and it becomes impossible to make a split second decision. The reason for the Comfort One Program is to make it crystal clear to the EMS providers what should be honored. Often there is intense disagreement at the scene during the last moments among family members. One family member might say the patient should be resuscitated, and another family member might say the patient should not be resuscitated. The EMS personnel are then caught in the middle. HB 489 eliminates that type of situation.

Closing by Sponsor:

REP. ROYAL JOHNSON closed.

HEARING ON HB 497

Opening Statement by Sponsor:

REP. LIZ SMITH, House District 48, Deer Lodge, said HB 497 was being introduced at the request of the Department of Family Services(DFS). The bill clarifies the financial responsibility of DFS for administrative costs of the provision of protective services.

Proponents' Testimony:

Jess Monroe, Deputy Director, Department of Family Services, said HB 497 has been years in the drafting. The bill provides for the continuation of payment of salaries and travel for protective service employees by the counties. All other costs will be paid by DFS. The fiscal note attached to the bill points out costs of \$690,892 in FY 1994 and \$532,852 in FY 1995.

Gordon Morris, Director, Montana Association of Counties, presented resolution 90-17. **EXHIBIT 4**. He urged support of HB 497.

Mike Matthew, Commissioner, Yellowstone County, said the fiscal note attached to HB 497 concerned him. The Department of Social and Rehabilitation Services(SRS) has proposed that the cost of their new computer system be passed on to the counties. The cost of the computers should be placed upon the counties. He said he would rather have the cost of the computers be part of the counties' responsibility than the administrative costs, because

the computer costs can be controlled.

Wanda Stout, Director, Jefferson County Human Services, said Jefferson County is presently paying administrative costs for the operations of a state agency. Even though the county is required to pay these costs, it has no control over the use of the items it pays for. It is becoming increasingly more difficult to budget for administrative costs. She said the county should not be fiscally responsible, and should not be involved in the administration of the Department of Family Services.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

CHAIRMAN BOHARSKI said the bill isn't very clear because of the way it is written; it sounds like salaries will also be paid by the Department of Family Services. He asked **Gordon Morris** if the bill could be made clearer by changing the word "including" on page 2, line 12 to "specifically limited to". **Mr. Morris** said the bill very clearly states on page 1 that the salaries will continue to be a responsibility of the counties and will be billed back by the Department of Family Services. The new language on page 2 clearly differentiates that the administrative costs are the Department of Family Services' responsibility.

Closing by Sponsor:

REP. SMITH closed.

HEARING ON HB 491

Opening Statement by Sponsor:

REP. BRUCE SIMON, House District 91, Billings, said bills dealing with death certificates have come before the committee in the past couple of sessions, and there has always been problems. Over the interim two years, representatives from the funeral directors' association, the attorney general's office, the health department and the coroner's association, have formed an informal task force to work out the differences. HB 491 is a result of that process.

Proponents' Testimony:

Steve Schneider, Montana Funeral Directors Association, said the current law requires the registrar be contacted when transporting dead bodies from one county to another. Sometimes transporting takes place at 2:00 a.m., and sometimes on weekends when the registrar is off duty. HB 491 alleviates that problem. Written notification must be given to the registrars in the county where

the death occurred within 24 hours.

Bonnie Tippy, Montana Funeral Directors Association. Written testimony. EXHIBIT 5 and 6.

Mickey Nelson, Lewis and Clark County Coroner, Montana Coroners Association (MCA), said HB 491 is supported by MCA. A registrar only gets paid \$1.00 per death certificate filed, and can hardly be expected to meet a funeral director at 3:00 a.m. He urged the committee to support HB 491.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

REP. SIMON said HB 491 is a clean bill and he would appreciate a DO PASS.

EXECUTIVE ACTION ON SB 152

Motion: REP. JOHN BOHLINGER MOVED SB 152 BE CONCURRED IN.

Discussion: REP. BOHLINGER said the testimony of the proponents to SB 152 indicated that all speech pathologists have masters degrees and have passed a national examination in order to qualify as speech pathologists. He said it was clear that speech pathologists are well qualified, and well trained. SB 152 should be concurred in.

Motion/Vote: SB 152 BE CONCURRED IN. Voice vote was taken. Motion CARRIED unanimously.

Vote: SB 152 BE CONCURRED IN.

EXECUTIVE ACTION ON HB 316

Motion: REP. TIM DOWELL MOVED DO PASS HB 316.

Discussion: REP. DOWELL said he talked to three or four nurses from nursing homes in his community. There is significant understaffing at the nursing homes. There are patients whose needs are not being met because of the understaffing. He said he supports HB 316.

Motion: REP. BEVERLY BARNHART moved the amendment to HB 316.

Discussion: CHAIRMAN BOHARSKI explained the amendments.

REP. LIZ SMITH said the amendment would make a significant change in the fiscal note.

Motion: REP. ELLEN BERGMAN made a substitute motion that the amendment to HB 316 DO NOT PASS.

Discussion: REP. CAROLYN SQUIRES said the amendment sets the staffing criteria. She did not agree with REP. BERGMAN'S substitute motion.

REP. SIMON said the amendment takes an expensive bill and makes it more expensive. The amendment replaces an LPN with an RN in most cases. In larger facilities it adds an LPN along with the RN. The amendment doesn't necessarily increase the staffing in nursing homes, except in the case of larger facilities, where in addition to replacing the LPN with an RN, some LPN'S are being added. In the larger facilities a minimum of four LPN'S would be added in the daytime hours, in the evening hours three LPN'S would be added, and at night two LPN'S would be added. That is an increase in staff and an increase in cost. HB 316 is fiscally costly to begin with, and the amendment would make it virtually prohibitive.

Vote: DO NOT PASS AMENDMENTS TO HB 316. Motion CARRIED 11 to 3.

Discussion: REP. SIMON said some nursing homes deal with more severe patients than others. HB 316 states all nursing homes have to have more staffing. The bill doesn't deal with the severity of the patients. The cost of medical care in nursing homes will go up dramatically. People in Montana are concerned about the cost of medical care and want to see it reduced. The people in Montana cannot afford HB 316.

REP. DUANE GRIMES said he visited a nursing home in his district expecting to see horrible things. He found that 100% of the patients in the nursing home were being very well taken care of. He said he felt that staffing problems were more localized than statewide.

Motion/Vote: REP. GRIMES MOVED HB 316 BE TABLED. Voice vote was taken. Motion CARRIED 9 to 6.

Vote: HB 316 BE TABLED.

EXECUTIVE ACTION ON 229

Motion: REP. BOHLINGER MOVED HB 229 DO PASS.

Discussion: REP. BOHLINGER said he supports HB 229 because it would provide the residents of long term care facilities the

opportunity to save money in the purchase of drugs, and it would give them freedom of choice, which is very important to them.

REP. TOM NELSON asked **Rose Hughes, Montana Health Care Association**, if the bill of rights in long term care facilities addressed the residents' rights to choose a pharmacy. **Ms. Hughes** said there is nothing in the present bill of rights that says a resident has the right to choose a pharmacy, but it says they have a right to make all kinds of choices about all aspects of their life, including medical care treatment.

REP. BARNHART said the bill of rights should clearly state that a resident has the right to choose a pharmacy. Nursing home residents often feel dis-empowered. They need to know they have this right. She said she supported HB 229.

Motion: **REP. SHEILA RICE** moved to adopt the amendments to HB 229.

Discussion: **CHAIRMAN BOHARSKI** said there was a technical problem with the amendments and asked **David Niss, Legal Counsel**, to explain it.

Mr. Niss said the amendment needed an applicability clause because it interfered with the existing contracts.

CHAIRMAN BOHARSKI said the amendment could be considered a friendly amendment, and the committee could vote on it at that time. The committee agreed to the friendly amendment.

REP. TIM DOWELL said the amendment should be passed.

REP. BOHLINGER said the amendment is good because it provides the opportunity for any druggist to sell drugs to long term care facilities if the packaging requirements are met.

Vote: DO PASS AMENDMENT TO HB 229. Voice vote was taken. Motion CARRIED 11 to 5.

Motion: **REP. DOWELL** MOVED HB 229 DO PASS AS AMENDED.

Discussion: **REP. SIMON** said long term care facilities allow residents to use pharmacies of their choice now, as long as it conforms with the facility's requirements. Almost every nursing home in the state is going to the unit dose system because it improves safety and helps control costs. If unit doses are not made mandatory, costs in nursing homes are going to increase and will be passed on to the patient. If the unit dose system is made mandatory, the bill doesn't do anything. There is no point in passing a bill that is improperly amended to the point where it doesn't make any sense. The bill is unnecessary because residents have the right to choose their pharmacies now.

REP. SHEILA RICE said a resident of a nursing home does have the

right to obtain prescription drugs at a pharmacy of their choice. But if the pharmacy can't meet the same requirements the nursing home pharmacy meets, including unit doses, then the nursing home can charge a fee for administering. She said she agreed with that. If someone brings in drugs in a bottle, the nursing home should charge them for packaging the drugs.

CHAIRMAN BOHARSKI said he would not support HB 229.

Vote: HB 229 DO PASS AS AMENDED. Voice vote was taken. Motion FAILED 8 to 8.

EXECUTIVE ACTION ON HB 355

Motion: REP. DOWELL MOVED HB 355 DO PASS.

Discussion: REP. BOHLINGER said he supports HB 355. He said pharmacists should be required to post the prices of drugs. When consumers shop for other items, price tags are found on them and price decisions can be made. The price of drugs is not indicated. The pharmacist takes the prescription, fills it, and charges the customer the fee that has been set. There are a lot of vulnerable people who are overcharged. He encouraged the committee to vote for HB 355.

REP. BERGMAN said the price of drugs is not a secret. Anyone has a right to ask the price of a drug before they buy. Requiring drug prices to be posted, places an undue burden on the pharmacist because prices change so often.

REP. BOHLINGER said pharmacies have computerized operations and it would not be difficult to obtain a price list of their 20 top selling drugs. This could easily be done on a daily, weekly, or monthly basis. Consumers, especially the elderly, hesitate to inquire about the cost of drugs.

REP. TOM NELSON said a pharmacy could be closed if it failed to post a price list of their 20 top selling drugs. He said that was too extreme.

REP. SIMON said he lives in a community where pharmacies advertise and guarantee customers they will get the lowest drug price available. Consumers can protect themselves if they find they have paid too much for a drug. The list of the top 20 drugs will vary from pharmacy to pharmacy depending on the clientele. If there are more elderly clientele, the list will be different than for younger clientele. The bill does not make it clear if the top 20 drugs to be posted are the top 20 in the United States, or in a particular store. Prescriptions come in a variety of different dosages and a variety of different packaging units. One pharmacy might post a drug price for 30 units at 250 milligrams, and the next pharmacy might post prices for completely different units and dosages. It would be completely unmanageable for the pharmacist and confusing to the consumer.

Pharmacies should not have to deal with this at the risk of their license. **REP. SIMON** asked the committee not to pass HB 355.

REP. STELLA JEAN HANSEN said pharmacists could figure out a system that would work. Drug price information is readily available on their computers.

Vote: HB 355 DO PASS. Voice vote was taken. Motion **FAILED** 8 to 8.

EXECUTIVE ACTION ON HB 391

Motion/Vote: **REP. SQUIRES** MOVED HB 391 BE TABLED. Voice vote was taken. Motion **CARRIED** unanimously.

Vote: HB 391 BE TABLED.

EXECUTIVE ACTION ON SB 209

Motion: **REP. SIMON** MOVED SB 209 BE CONCURRED IN.

Motion/Vote: **REP. SIMON** moved to adopt the amendment to SB 209. **EXHIBIT 7.** Voice vote was taken. Motion **CARRIED** unanimously.

Motion/Vote: **REP. SIMON** MOVED SB 209 BE CONCURRED IN AS AMENDED. Voice vote was taken. Motion **CARRIED** unanimously.

VOTE: SB 209 BE CONCURRED IN.

EXECUTIVE ACTION ON SB 187

Motion: **REP. SHEILA RICE** MOVED SB 187 BE CONCURRED IN. Voice vote was taken. Motion **CARRIED** unanimously.

Vote: SB 187 BE CONCURRED IN.

EXECUTIVE ACTION ON SB 89

Motion: **REP. SQUIRES** MOVED SB 89 BE CONCURRED IN. Voice vote was taken. Motion **CARRIED** 15 to 1.

Vote: SB 89 BE CONCURRED IN.

EXECUTIVE ACTION ON HB 315

Motion: **REP. SIMON** MOVED DO PASS HB 315.

Discussion: **REP. SIMON** said HB 315 is a way to make affordable health care available to people in Montana. **REP. SIMON** asked the committee to support HB 315.

Motion: **REP. DOWELL** moved to adopt the amendment to HB 315.

Discussion: **REP. DOWELL** said he supports the amendment because

of the turf battle between the optometrists and ophthalmologists. The amendment is a compromise where the ophthalmologists give a little and the optometrists give a little.

REP. NELSON said he didn't accept the reason for the amendment.

REP. SIMON said the amendment should be defeated because it sets an arbitrary deadline. If the optometrist starts treatment and finds that there is a decrease in the acuity of the eye, he has to refer the patient to an ophthalmologist after seven days. Patients are supposed to return in five days so they can be checked. They don't always do that. Two weeks later they go back to the optometrist because they have problems. The optometrist finds the eye condition is deteriorating. The seven-day deadline has elapsed. The optometrist could be guilty of malpractice. The seven-day deadline has no place in the codes because the optometrist cannot control when, or if, the patient will come back.

Vote: DO PASS AMENDMENT TO HB 315. Voice vote was taken. Motion **FAILED** 10 to 6.

Vote: HB 315 DO PASS. Voice vote was taken. Motion **CARRIED** 9 TO 7.

Vote: HB 315 DO PASS.

EXECUTIVE ACTION ON HJR 7

Motion: REP. DOWELL MOVED HJR 7 DO PASS.

Discussion: **REP. SIMON** said the costs in public facilities, nursing homes, and hospitals are going to go up as a result of the Americans With Disabilities Act. The city of Billings is spending a fortune putting in handicapped accessible ramps. Montana does not have the financial resources. He said he is not in favor of discrimination for anybody, but the financial resources are not there.

REP. HANSEN said the Act is going to have to be complied with anyway, and the Legislature should show its support.

REP. DOWELL said HJR 7 is within the spirit of what humanity is about and should be passed.

REP. GRIMES said he would have to vote against HJR 7 because there are so many old buildings in his district that were built in the early 1900's, and do not lend themselves well to the type of changes that need to be enacted.

CHAIRMAN BOHARSKI said the Americans With Disabilities Act is well intentioned but poorly conceived. He said it is a bad piece of legislation. The federal 504 regulation has been in effect

since 1973, mandating that every government building be fully accessible to the handicapped. Fifty percent of them are still not accessible.

Vote: HJR 7 DO PASS. Roll call vote was taken. EXHIBIT 8.

Motion FAILED 7 to 9.

Motion/Vote: REP. SIMON MOVED HJR 7 BE TABLED. Motion CARRIED 9 to 7.

Vote: HJR 7 BE TABLED.

EXECUTIVE ACTION ON HJR 8

Motion: REP. TIM SAYLES MOVED HJR 8 DO PASS.

Discussion: REP. BERGMAN said she was not in favor of HJR 8 because it put too much pressure on volunteer coaches.

REP. DOWELL said he is a certified coach for four different sports. Volunteers need to be trained before they start coaching to learn some of the fundamentals. Parents shouldn't have to entrust their children to someone who doesn't know that they should warm up before beginning an activity.

REP. BERGMAN said she worked for a volunteer program for ten years, and found that it is easier to get volunteers if training is given.

REP. SAYLES said he had been a volunteer for years. He said it is hard to find volunteers. Volunteers will be even harder to find if they are required to go through training.

Motion/Vote: REP. SAYLES MOVED HJR 8 BE TABLED. Voice vote was taken. Motion CARRIED 9 to 7.

Vote: HJR 8 BE TABLED.

ADJOURNMENT

Adjournment: The meeting was adjourned at 7:45 p.m.

Wm E Boharski

WM. E. BOHARSKI, Chair

Alyce Rice

ALYCE RICE, Secretary

WB/ar

HOUSE OF REPRESENTATIVES
HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL

DATE

2-10-93

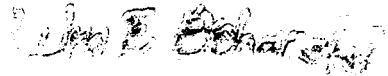
NAME	PRESENT	ABSENT	EXCUSED
REP. BILL BOHARSKI, CHAIRMAN	✓		
REP. BRUCE SIMON, VICE CHAIRMAN	✓		
REP. STELLA JEAN HANSEN, V. CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. ELLEN BERGMAN	✓		
REP. JOHN BOHLINGER	✓		
REP. TIM DOWELL	✓		
REP. DUANE GRIMES	✓		
REP. BRAD MOLNAR	✓		
REP. TOM NELSON	✓		
REP. SHEILA RICE	✓		
REP. ANGELA RUSSELL			✓
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. CAROLYN SQUIRES	✓		
REP. BILL STRIZICH			✓

HOUSE STANDING COMMITTEE REPORT

February 11, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging
report that Senate Bill 152 (third reading copy -- blue) be
concurrent in .



Signed: _____
Bill Boharski, Chair

Carried by: Rep. Bohlinger

Committee Vote:
Yes , No .

341036SC.Hss

HOUSE STANDING COMMITTEE REPORT

February 11, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging
report that Senate Bill 89 (third reading copy -- blue) be
concurrent in.

Wm E Boharski

Signed: _____
Bill Boharski, Chair

Carried by: Rep. Squires

Committee Vote:
Yes ____ No ____

341043SC.Hss

HOUSE STANDING COMMITTEE REPORT

February 11, 1993

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Mr. Speaker: We, the committee on Human Services and Aging
report that House Bill 315 (first reading copy -- white) do
pass.

Wm E Boharski

Signed: _____
Bill Boharski, Chair

Committee Vote:
Yes , No .

341244SC.Hss

HOUSE STANDING COMMITTEE REPORT

February 11, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging
report that Senate Bill 187 (third reading copy -- blue) be
concurrent in .

Wm E Boharski

Signed: _____
Bill Boharski, Chair

Carried by: Rep. S. Rice

Committee Vote:
Yes _____, No _____.

341040SC.Hss

HOUSE BILL 489

Testimony of Drew Dawson

February 10, 1993

Mr. Chairman and members of the committee. I am Drew Dawson, Chief of the Emergency Medical Services Bureau of the Department of Health and Environmental Sciences. I am pleased to support House Bill 489 which was introduced by Representative Johnson at the request of the Department. This bill corrects a technical defect in legislation enacted last session.

Responding to a patient who is not breathing and who has no pulse is a very emotional and difficult situation for both the family and the emergency medical personnel. Sometimes, when death is anticipated, the patient and their physician have previously decided the patient's life should not be extended by the application of Cardiopulmonary Resuscitation. However, the EMS personnel are often faced with conflicting information at the scene by family and friends who are, understandably, quite upset. They must make split-second, life and death decisions. Ethical advances have made "death with dignity" more acceptable and Do-Not-Resuscitate orders more common.

A living will serves as instructions to the patient's physician *if* the patient becomes terminally ill. An individual can declare a living will anytime; however, it is not activated until the patient has a physician-diagnosed terminal condition and the patient is unable to make their own decisions. As extensively discussed during previous legislative sessions, a living will itself is not considered applicable to emergency medical services providers.

The challenge has been to devise a method for EMS providers to know, **immediately and unequivocally**, when they are to withhold life-sustaining treatment. The Montana legislature has adopted two laws, now national models, which honor the wishes of the terminally ill or very sick patient to die with dignity while providing clear-cut identification, protocols and liability protection for emergency medical services providers.

1989 legislation allows the issuance of a standard identification (form, wallet card, bracelet) to persons who have signed a living will **and** who have been declared terminally ill. In 1991, legislation was adopted allowing this same state-wide, standard identification to be issued to persons for whom a physician has issued a Do-Not-Resuscitate order.

Because of a drafting error not detected until recently, the 1991 legislation also technically allows the DNR identification to be issued to an individual who possesses only a living will even though they are not terminally ill. This could theoretically result in the failure to resuscitate a patient who should be resuscitated. House Bill 489 clarifies that the identification cannot be issued to a person who has only a living will in the absence of a terminal condition.

We are proud of state-wide efforts to implement this program. With the limited financial and staffing resources of the department, we contracted with the Montana Hospital Association to design and distribute forms and bracelets, to conduct educational programs, and to respond to inquiries. We would be pleased to provide you with this information. The Montana Board of Medical Examiners has adopted a state-wide protocol governing the actions of the emergency medical providers. The standard state-wide form, wallet card, and bracelet are essential to our educational efforts, to assure consistency, and to assure the wishes of the patient are reliably honored.

This entire program has been named **COMFORT ONE** to imply that we are providing comforting, supporting and appropriate care to the dying patient. A state-wide task force of medical, emergency medical, hospice, home health, hospital and other personnel has enthusiastically guided our implementation efforts. As we learn about this new ground we are breaking, we will continue to make improvements in the **COMFORT ONE** program.

I encourage your support of HB 489 to correct last session's drafting problem. I would be pleased to respond to questions.



MONTANA HOSPITAL ASSOCIATION

EXHIBIT 2
DATE 2-10-93
HB 489

1720 NINTH AVENUE • P.O. BOX 5119
HELENA, MT, 59604 • (406) 442-1911

**Testimony before the
House Human Services & Aging Committee
by Dick Brown, Senior Vice President
Montana Hospital Association
February 10, 1993**

Mr. Chairman, members of the Committee, I am Dick Brown, Senior Vice President of the Montana Hospital Association. I offer the following comments in support of House Bill 489.

The bill offers an amendment to the Do Not Resuscitate (DNR) law in an effort to clarify language in regard to pre-hospital DNR.

In September of 1991, MHA entered an agreement with the Montana Department of Health & Environmental Sciences (DHES) for the purpose of implementing the prehospital DNR law in Montana. Through the efforts of the DHES, the MHA and a Task Force comprised of representatives from various groups and associations across the state, the pre-hospital DNR law has been developed as the Comfort One program. This program meets the need for prehospital providers to know at the scene when emergency personnel are activated and/or while providing transportation to a patient, immediately and unequivocally, when they are to withhold life-sustaining treatment while providing appropriate symptom control and comfort measures.

Enrollees in the Comfort One program are identified by a bracelet, card and/or form. Individuals can be enrolled in Comfort One by a physician or licensed hospice representative if the individual has a living will in accordance with Montana law and has been declared terminally ill by their physician. In lieu of a terminal condition, patients who have a DNR order issued by a physician are also eligible for enrollment. Since

implementation of the program, a question regarding enrollment has been presented, and this bill will help clarify exactly who is eligible to participate. House Bill 489 clarifies that an individual must be declared terminally ill, in addition to having a living will. The physician DNR does not change.

In our experience with this program, we have learned that EMS providers follow the Comfort One protocol in regards to resuscitative measures for all patients and feel that Comfort One more clearly defines the actions they are to take.

Since the July 1, 1992, implementation of Comfort One, we have record of 390 individuals enrolled. This figure represents individuals residing in nursing homes, retirement centers and in private homes.

Other states are facing the same dilemma of pre-hospital DNR that was identified in Montana. Many are beginning to adopt the Montana protocols and are using the Montana law and Comfort One program as a model. There has been discussion regarding the potential for a nationally recognized program.

Although initially enrolling hospice and home health patients, it became quickly evident that nursing home residents and others were interested in enrolling in the Comfort One program. As this program develops, more patients and other Montana residents will become enrolled. To avoid question and confusion regarding resuscitation at a scene when EMS personnel are activated or during transport it is important to keep the DNR law intact but to allow for the clarification language provided in this bill. Amending the law to only change the clarification language as presented in this bill will ensure that the same protocol is followed for all Montanans regardless of location or destination, while at the same time provide a clearer method for determining prehospital DNR applicability.

I thank you for the opportunity to testify on behalf of this bill.

HOUSE BILL NO. 489

DO NOT RESUSCITATE IDENTIFICATION

Proposed Amendments

Montana Health Care Association

1. Amend the title, page 1, line 7

Following: "CONDITION;"

Insert: "AMENDING THE DEFINITION OF DNR
IDENTIFICATION;"

2. Amend Section 1, subsection (4), page 2, line 3

Delete: "."

Insert: "; except that a written do-not-resuscitate order
or written living will and qualifying condition
certification signed and dated by a physician
and presented to medical emergency services
personnel by a licensed long term care facility
shall constitute DNR identification under this
part."

3. Amend section 1, page 2, following line 18, add a new
subsection:

Insert: "(10) "Living will and qualifying condition
certification" means a statement from a licensed
physician that the person identified has a living
will declaration on file in accordance with
Montana law and has been certified as having a
terminal illness."

Renumber: subsequent section

Rationale: These amendments are designed to allow nursing homes to provide emergency medical services personnel with a written DNR order or a written living will and qualifying condition certification signed by a resident's physician without the need to obtain additional DNR identification. Many nursing home residents have living wills and/or DNR orders. Without this amendment, EMS personnel will not honor those DNR orders or living wills without the resident or family going through the additional procedure of obtaining the specific DNR form, card or bracelet mandated by DHES. As residents of a long term care facility, appropriate documentation is already available to EMS personal from facility personnel. Requiring these individuals to meet additional requirements and incur additional expense is not necessary and makes it that much more difficult for these residents and their families to insure that their wishes will be complied with.

RESOLUTION 90-17

FAMILY SERVICES DEPARTMENT ADMINISTRATIVE COSTS

WHEREAS, House Bill 325 creating the Department of Family Services and enacted by the 1987 Legislature did not adequately address the issue of administrative support services costs (rent, utilities, telephone, supplies, etc) for the Department of Family Services; and

WHEREAS, the counties are presumed to be responsible for the administrative support services costs at the 1987 fiscal year level; and

WHEREAS, a system that requires one body of government to be responsible for another body of government's administrative support services cost is unfair and unworkable and difficult to administer; and

WHEREAS, it is believed that it was not the intent of the 1987 Legislature to require counties to be responsible for the administrative support services costs of the Department of Family Services; and

WHEREAS, the 1987 executive budget summary for the Department of Family Services states that "Counties will continue to provide current level support as in FY 87 (such as space, equipment, clerical, etc.) to the protective services staff and the youth probation staff. During the 1989 biennium, these support services and related costs will be identified along with corrective action and presented to the 1989 Legislature." and

WHEREAS, County Commissioners are of the opinion that the responsibility for administrative costs for the Department of Family Services should be the total responsibility of the Department of Family Services.

NOW THEREFORE BE IT RESOLVED that legislation be enacted that will correct this oversight and place the responsibility for administrative support services costs with the Department of Family Services.

SPONSORED BY: Districts 6 - 7
Yellowstone Co.

APPROVED: ANNUAL CONVENTION
JUNE 13, 1990

PRIORITY: HIGH

REAFFIRMED: JUNE 12, 1992

EXHIBIT 2
DATE 2-10-93
HB 491

TESTIMONY

House Bill 491

"Revising Procedures for Preparing and Filing Death Certificates, Changing the Burial Transit Permit to a Dead Body Removal Authorization"

**Submitted by: The Montana Funeral Directors Association
February 10, 1993**

Contact: Bonnie Tippy, 449-7244

This bill removes the antiquated procedure of licensed morticians having to obtain a signed burial transit permit from a county registrar in order to move a body between county lines. This procedure has become increasingly difficult, because oftentimes a death occurs in the late evening or early hours of the morning, or on weekends, times when county registrars are unavailable. In addition, registrars have no training in the area of deciding whether or not a body should be removed from the place of death.

The procedure is replaced with a removal authorization which can be signed by a coroner, mortician, or physician. Authorization can also be oral as long as it is reduced to writing within 24 hours. If the death occurs at home, or under a number of circumstances where coroners must now be called in, then the removal authorization can only be given by the coroner or medical examiner.

The bill also provides that the Department of Health can adopt rules regarding the time deadlines for filing a death certificate, instead of the current statutory three days, which is simply too short in some cases.

Members of the committee, by working together, our informal task force has been able to solve problems which have been difficult by crafting a bill which we believe to be elegant in its simplicity and will ensure the public safety and welfare.

EXHIBIT 6
DATE 2-10-93
HB 491

House Bill 491
Proposed Amendment
Submitted by: The Montana Funeral Directors Association

SECTION 4, page 6, line 1

FOLLOWING: coroner

DELETE: "or a licensed mortician"

Amendments to Senate Bill No. 209
Third Reading Copy

For the Committee on Human Services and Aging

Prepared by David S. Niss
February 10, 1993

1. Page 8, line 4.

Following: "~~optometry.~~"

Insert: "The board may accept the grades an applicant has
received in the written examinations given by the national
board of examiners in optometry."

EXHIBIT 7
DATE 2/10/93
SB 209

EXHIBIT 8
DATE 2-10-93
HJR 7

HOUSE OF REPRESENTATIVES
HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL VOTE

DATE 2-10-93 BILL NO. HJR 7 NUMBER _____

MOTION: Do Pass

NAME	AYE	NO
REP. BRUCE SIMON, VICE CHAIRMAN		✓
REP STELLA JEAN HANSEN, VICE CHAIRMAN	✓	
REP. BEVERLY BARNHART	✓	
REP. ELLEN BERGMAN		✓
REP. JOHN BOHLINGER		✓
REP. TIM DOWELL	✓	
REP. DUANE GRIMES		✓
REP. BRAD MOLNAR		✓
REP TOM NELSON		✓
REP. SHEILA RICE	✓	
REP. ANGELA RUSSELL	✓	
REP TIM SAYLES		✓
REP LIZ SMITH		✓
REP. CAROLYN SQUIRES	✓	
REP. BILL STRIZICH	✓	
REP. BILL BOHARSKI, CHAIRMAN		✓

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. HB 489
DATE 2/10/93 SPONSOR(S) Rep. Royal Johnson
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Drew DAWSON	HB 4 Dept Health	✓	
Dick Brown	MT. Hosp. Assn	✓	
Stacey Benefield	MT Hosp. Assn.	✓	
Katharine Donnelly	MHA	✓	
Bonnie Alee	MHO	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. HB 497
DATE 2/10/93 SPONSOR(S) Smith

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Wanda Stout	Jefferson Co. Rd. & Comm.	✓	
Mike Mathey	Yellowstone Co.	✓	
Gordon Morris	MACO	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. HB 491
DATE 2/10/93 SPONSOR(S) Rep. Linn
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
M. E. "Micky" Nelson	MT Coroner's Assn.	X	
Steve Schneider	MFDA MT Funeral Directors	X	
Bonnie Tippy	MT Funeral Directors Assn.	X	

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