

## **MINUTES**

### **MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY**

**Call to Order:** By Senator Dorothy Eck, Chair, on March 22, 1993,  
at 3:10 p.m.

#### **ROLL CALL**

##### **Members Present:**

Sen. Dorothy Eck, Chair (D)  
Sen. Eve Franklin, Vice Chair (D)  
Sen. Chris Christiaens (D)  
Sen. Tom Hager (R)  
Sen. Terry Klampe (D)  
Sen. Kenneth Mesaros (R)  
Sen. David Rye (R)  
Sen. Tom Towe (D)

**Members Excused:** Sen. Tom Hager

**Members Absent:** None.

**Staff Present:** Tom Gomez, Legislative Council  
Laura Turman, Committee Secretary

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

##### **Committee Business Summary:**

Hearing: HB 491, HB 489, HJR 15  
Executive Action: HB 148, SB 389, HB 118, HB 190, HB 491,  
HB 489

#### **HEARING ON HB 491**

##### **Opening Statement by Sponsor:**

Rep. Bruce Simon, House District 91, said there has been debate  
about death certificates. A committee was formed, met during the  
interim and worked out their differences. The result is HB 491.

##### **Proponents' Testimony:**

None.

##### **Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Bonnie Tippy, Montana Funeral Directors Association, provided written testimony. (Exhibit #1)

**Closing by Sponsor:**

Rep. Simon said HB 491 is a compromise bill needing no further explanation. Rep. Simon closed.

**HEARING ON HB 489**

**Opening Statement by Sponsor:**

Rep. Royal Johnson, House District 88, said HB 489 is an attempt to clean up a problem indicated two years ago when the Emergency Medical Technician (EMT) identification program was put together. There was an attempt to organize a state-wide system for EMT in order that they would know how to handle an individual in need of immediate care. The Comfort One system was organized, and has been working successfully. If an individual has a living will and does not want to be resuscitated, EMT's would not know about it. HB 489 is a technical language change.

**Proponents' Testimony:**

Ken Threet, Training Coordinator for the Emergency Medical Services Bureau of the Department of Health and Environmental Sciences, provided written testimony. (Exhibit #2)

Dick Brown, Senior Vice President of the Montana Hospital Association, provided written testimony. (Exhibit #3) Mr. Brown also provided a brochure about Comfort One. (Exhibit #4)

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Sen. Christiaens asked Ken Threet if, in order to enroll in Comfort One, an individual must have a living will and a terminal illness. Mr. Threet said that was correct. This is where the technicality in the law exists because currently the law states that an individual may enroll in Comfort One with a living will only. HB 489 clarifies this.

Sen. Christiaens asked Mr. Threet if the only time HB 489 would

be in effect would be in an emergency situation before going to the hospital. Mr. Threet said that was correct. During a response to an emergency call, there is confusion over who has legal authority regarding resuscitation. HB 489 takes a gray area and makes it black and white.

Sen. Mesaros asked Rep. Johnson about the title of the bill requiring an identification tag, and where these tags would be made available. Rep. Johnson said this problem came up in the House Committee. Rose Hughes of the Nursing Association thought it was unfair to ask patients to buy a bracelet, and HB 489 addresses this.

Sen. Mesaros said the language "will be readily available" seemed vague. Rep. Johnson said bracelets would be readily available in hospitals, nursing homes or wherever such conditions might be cared for.

Sen. Klampe asked Dick Brown about individuals under 18 years of age not being qualified. Mr. Brown said it was his understanding that they were qualified, but it was a guardian's responsibility to make that decision.

Sen. Klampe asked Mr. Brown if a 17 year old could have a (Do Not Resuscitate) DNR bracelet. Mr. Brown said he could not specifically answer the question.

Chairman Eck asked if someone could respond to Sen. Klampe's question regarding individuals under 18 having a DNR tag. Mr. Brown said if an individual under 18 years of age had a physician's written DNR, then they would be eligible for Comfort One.

Tom Gomez, Legislative Council, said the legislation clearly reads that the identification card or bracelet signifies that the wearer is a "qualified patient" of 18 years or older with a living will and a terminal illness. However, it may be possible that such a DNR be administered by an attending physician, provided required documentation be made.

Sen. Rye said this was a moot point because most individuals under 18 think they are "immortal". This represents a highly atypical situation.

Sen. Towe asked Rep. Johnson who requested HB 489. Rep. Johnson said Emergency Medical Technicians and the Comfort One system organizers requested the bill to take care of a technical problem.

Chairman Eck said HB 489 clarifies the qualifications for Comfort One, a living will and a terminal illness. Chairman Eck said she disagreed with Sen. Rye because there are many young people under 18 who have terminal illnesses. Chairman Eck said there is language in the bill to take care of that situation.

Sen. Christiaens said his mother was resuscitated twice during her terminal illness, unnecessarily prolonging her life.

Rep. Johnson said an individual may have a living will at any time, but it becomes activated at the "terminal" stage. Emergency care providers should know exactly what they should do, and not have to guess.

Sen. Towe asked Rep. Johnson about the mechanics of the bill, and what it was the bill did. Rep. Johnson said the qualifications were for the Comfort One program. Rep. Johnson provided a sample form. (Exhibit #5)

Sen. Klampe said the definition of "qualified patient" satisfies the needs for the qualifications of Comfort One. Sen. Klampe said he still didn't see how a 17 year old could have a DNR bracelet.

Dick Brown said an individual under 18 years of age could not enroll himself in the Comfort One program without a legal guardian's consent.

Chairman Eck asked Mr. Brown to address the situation of an attending physician issuing a Do Not Resuscitate order, documented in the patient's medical file. Mr. Brown said a physician, and a physician's assistant, has the authority to override the Do Not Resuscitate order for a patient. Any individual can request a DNR from his physician.

Sen. Towe asked Mr. Brown what has happened during the last two years regarding this legislation. Mr. Brown said 400 people have enrolled in the Comfort One program.

Sen. Towe asked Mr. Brown if those 400 people were wearing DNR bracelets. Mr. Brown said the 200 bracelets ordered had all been distributed, and more were on order. Participants in the program can also carry a DNR card. Also, many forms have been requested by hospitals. There has not been much media coverage yet, but other states are attempting to copy Montana's model.

Sen. Towe asked Mr. Brown if Section 2 of HB 489 would require the Department of Health to purchase the DNR bracelets. Mr. Brown said the bracelet is the best way to be identified as a participant of Comfort One, but not everyone chooses to wear one. They produce the forms and provide them at cost, but there is no funding in the program for the bracelets. Bracelets may also be reused when returned.

**Closing by Sponsor:**

Rep. Johnson said amendments clarifying language could be worked out if necessary, but the program is one that works well. Sen. Christiaens will carry the bill on the Senate Floor. Rep.

Johnson closed.

EXECUTIVE ACTION ON HB 148

Motion/Vote:

Sen. Klampe moved HB 148 BE CONCURRED IN. The motion carried UNANIMOUSLY. Sen. Klampe will carry the bill on the Floor of the Senate.

EXECUTIVE ACTION ON SB 389

Discussion:

Sen. Towe said he had amendments prepared, but they are being submitted to Billings industries for comments before being brought to the Committee.

EXECUTIVE ACTION ON HB 118

Motion/Vote:

Sen. Christiaens moved HB 118 BE CONCURRED IN. The motion carried UNANIMOUSLY. Chairman Eck will carry the bill on the Floor of the Senate.

HEARING ON HJR 15

Opening Statement by Sponsor:

Rep. Francis Bardanouve said President Bush had denied Oregon a Medicaid Waiver, which would broaden the base of Medicaid coverage through "rationing" of Medicaid. The situation has changed quite a bit since HJR 15 was drafted in December. President Clinton is more lenient in giving Medicaid waivers, and this week his administration approved the Oregon Plan. It would not hurt the state of Montana to look at Medicaid funding and the Oregon Plan which was designed to reduce the cost of Medicaid. HJR 15 may not be so valuable now, and Rep. Bardanouve said that the Department of Social and Rehabilitation Services (SRS) may not be interested in asking for a Medicaid waiver.

Proponents' Testimony:

Dan Shea, concerned citizen, said Medicaid costs are extremely high, and have been rising steadily. In the year 1991 the

general funds contributed to Medicaid were \$49 million, and \$75 million could be expected to be contributed by the state in 1993. Mr. Shea said the general funds are being used up by Medicaid, and the Resolution should be amended to repeal the Boren Amendment which is the hospital and nursing home relief bill. It required that all funding to hospitals and nursing homes be reasonable. Mr. Shea said that hospitals and nursing homes are the ones defining what is reasonable.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Chairman Eck asked Nancy Ellery to address the Oregon Plan Medicaid waiver. Nancy Ellery, Administrator of the Medicaid Division, said they had been watching the Oregon waiver closely, and they have regular contact with people in Oregon. It is their intent to see how the waiver would apply in Montana. In SB 285, it states that the Health Care Authority will address this.

Sen. Towe asked Ms. Ellery if Congress had anything to do with the approval of waivers. Ms. Ellery said Congress establishes the law which gives states the basis for waiving something.

Sen. Towe asked Ms. Ellery if Congress could override a waiver. Ms. Ellery said it could.

Sen. Towe asked Ms. Ellery if the Oregon waiver had actually been signed. Ms. Ellery said she did not know if the official letter had been signed, but there have been press releases.

Rep. Bardanoue said the Oregon waiver had been approved in principle.

Ms. Ellery said this would cost the state of Oregon millions of dollars, and will not save money the first year. 300,000 people will be added to the Medicaid rolls, but by limiting the amount that can be spent, money will be saved in the future.

Sen. Towe asked Rep. Bardanoue if HJR 15 had any further merit since it had already been done. Rep. Bardanoue said it created an awkward position.

Sen. Towe said HJR 15 did not address Montana.

Rep. Bardanoue said the Resolution may not have a lot of value at this point, but it may be good to send it anyway.

Sen. Towe said the Oregon Plan prioritizes all medical care, and then takes the available medical dollars to fund the priorities.

Rep. Bardanouve said that was correct.

Chairman Eck asked Rep. Bardanouve about changing the Resolution to urge the President to evaluate or to provide information relating to the Oregon Plan. Rep. Bardanouve said Dan Shea had a good point to raise the Boren Amendment.

**Closing by Sponsor:**

He said he would welcome the Committee's changes to the Resolution, and he encouraged the Department to monitor it closely.

**EXECUTIVE ACTION ON HB 190**

**Discussion:**

Chairman Eck said during the hearing there was reference to a Senate Bill.

Sen. Christiaens said SB 372 was heard in Business and Industry. He said it was interesting that the people who opposed that bill were proponents of HB 190. SB 372 increased the number of continued education hours to 60 for those with master's degrees in social work.

Mary McCue, Montana Clinical Mental Health Counselors Association (MCMHCA), said SB 372 was sponsored by Sen. Swysgood and MCMHCA opposed it in the Senate. There had been confusion about what that bill did, and the interpretation of the Board of Social Work Examiners and Professional Counselors that the hours of continued education must be continuous. The standards for licensure are not lowered.

Sen. Christiaens said he was confused regarding the title "clinical", which stemmed primarily from the third party payment designation. Sen. Christiaens asked if the service fees would be raised by the passage of HB 190.

Sen. Klampe said insurance companies raise services fees.

**Motion:**

Sen. Towe moved the amendments offered by Mary McCue. (Exhibit #6)

**Discussion:**

Sen. Towe said it was his understanding that social workers did not oppose the amendments.

**Vote:**

The motion carried UNANIMOUSLY.

**Discussion:**

Sen. Christiaens said no one had addressed the changing of inactive status from seven to two years.

Sen. Towe said that in other fields, seven years is a long time.

Sen. Christiaens said that in the nursing practice, there are individuals who maintain an inactive status by continuing to pay fees. There are courses for nurses who have been on inactive status.

**Motion/Vote:**

Sen. Towe moved that HB 190 BE CONCURRED IN AS AMENDED. The motion carried UNANIMOUSLY.

**EXECUTIVE ACTION ON HJR 15**

**Discussion:**

Sen. Towe suggested language on Line 11, striking everything after "the United States" and adding "be congratulated for granting the request for a waiver by the state of Oregon and that the President of the United States be encouraged to show similar flexibility in approving other waivers from other states to allow states to more effectively address the problem of paying for increased Medicaid costs."

Sen. Christiaens said that might be helpful because the Subcommittee (on Human Services) has requested a portfolio of waivers.

Chairman Eck asked the Committee members if the "whereas" clauses should be changed. Sen. Rye one "whereas" might be added acknowledging the updated situation.

Sen. Towe suggested, "whereas the President of the United States has recently indicated his willingness to approve the Oregon waiver."

Chairman Eck asked Sen. Towe to work with Tom Gomez on language. She said the first "whereas" might be replaced with a congratulations.

Sen. Christiaens asked if the Committee could come up with a new Resolution rather than changing HJR 15. Sen. Towe said the deadline had passed.

Sen. Mesaros said if the body of the Resolution were changed, it



would not relate to the title.

Sen. Towe said it would not change it too much.

Tom Gomez said he would rework the language. Sen. Rye requested the term "endorsing" rather than "congratulating" be used.

**EXECUTIVE ACTION ON HB 491**

**Motion:**

Sen. Christiaens moved HB 491 BE CONCURRED IN.

**Discussion:**

Chairman Eck said the bill had been worked on by different groups and everyone agrees to the language and the process in HB 491.

**Vote:**

The motion carried UNANIMOUSLY. Sen. Christiaens said he would carry the bill on the Floor of the Senate.

**EXECUTIVE ACTION ON HB 489**

**Discussion:**

Chairman Eck said there had been questions regarding procedure.

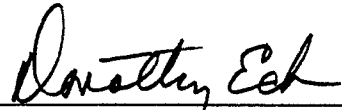
Sen. Towe said he was satisfied with the language in the bill, and concerns were taken care of by existing law.

**Motion/Vote:**

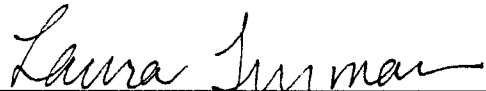
Sen. Klampe moved HB 489 BE CONCURRED IN. The motion carried UNANIMOUSLY. Sen. Christiaens will carry the HB 489 on the Floor of the Senate.

ADJOURNMENT

**Adjournment:** Chairman Eck adjourned the hearing.



\_\_\_\_\_  
SENATOR DOROTHY ECK, Chair



\_\_\_\_\_  
LAURA TURMAN, Secretary

DE/LT

## ROLL CALL

SENATE COMMITTEE Public Health DATE 3-22-93

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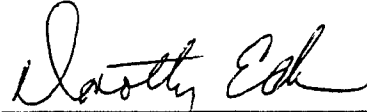
SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 23, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 148 (first reading copy -- blue), respectfully report that House Bill No. 148 be concurred in.

Signed: \_\_\_\_\_



Senator Dorothy Eck, Chair

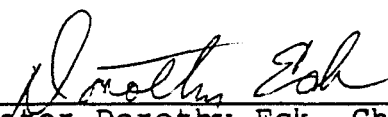
SENATE STANDING COMMITTEE REPORT


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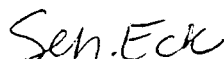
MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 118 (first reading copy -- blue), respectfully report that House Bill No. 118 be concurred in.

Signed: \_\_\_\_\_

  
Senator Dorothy Eck, Chair

 Amd. Coord.

  
Sen. Eck

SENATE STANDING COMMITTEE REPORT

Page 1 of 3  
March 23, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 190 (first reading copy -- white), respectfully report that House Bill No. 190 be amended as follows and as so amended be concurred in.

Signed: *Dorothy Eck*  
Senator Dorothy Eck, Chair

That such amendments read:

1. Title, line 6.

Strike: "AND OF"

Insert: ", "

2. Title, line 7.

Following: "WORKERS"

Insert: ", LICENSED PROFESSIONAL COUNSELORS, AND LICENSED  
CLINICAL PROFESSIONAL COUNSELORS"

3. Title, line 12.

Following: "37-22-312,"

Insert: "37-23-201, 37-23-202,"

4. Page 10, line 23.

Following: line 22

Insert: "Section 9. Section 37-23-201, MCA, is amended to read:

"37-23-201. Representation as licensed clinical professional counselor -- license required. (1) No Upon issuance of a license in accordance with this chapter, a licensee may use the title "licensed clinical professional counselor". Except as provided in subsection (2), a person may not represent himself to be that the person is a licensed professional counselor or licensed clinical professional counselor by adding the letters "LPC" or "LCPC" after his the person's name or by any other means unless licensed under this chapter, and.

(2) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or "LCPC".

~~(2)~~(3) Subsection (1) does not prohibit:

(a) a qualified member of another profession, such as a physician, psychologist, lawyer, pastoral counselor, probation officer, court employee, nurse, social worker, school counselor, or educator, from professional counseling consistent with his that person's training if he the person does not hold himself out to the public by use a title or description incorporating the

words "licensed professional counselor", "licensed counselor", or "professional counselor", "licensed clinical professional counselor", or "licensed clinical counselor";

(b) an activity or service or use of an official title by a person employed by a federal, state, county, or municipal agency or an educational, research, or charitable institution that is a part of the duties of the office or position;

(c) an activity or service of an employee of a business establishment performed solely for the benefit of the establishment's employees;

(d) an activity or service of a student, intern, or resident in mental health counseling pursuing a course of study at an accredited university or college or working in a generally recognized training center if the activity or service constitutes a part of the supervised course of study;

(e) an activity or service of a person who is not a resident of this state, which activity or service is rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year, if the person is authorized under the law of the state or country of residence to perform such activity or service. However, such person shall report to the department of commerce the nature and extent of the activity or service if it exceeds 10 days in a calendar year.

(f) pending disposition of the application for a license, the activity or service by a person who has recently become a resident of this state, has applied for a license within 90 days of taking up residency in this state, and is licensed to perform such activity or service in the state of his former residence."

Section 10. Section 37-23-202, MCA, is amended to read:

~~"37-23-202. Licensure requirements. (1) To be licensed on or before December 31, 1987, as a professional counselor under this chapter, an applicant must have satisfactorily completed:~~

~~(a) a planned graduate program of study that was primarily counseling in nature which resulted in an advanced degree in a counseling field from an institution accredited to offer such a degree program;~~

~~(b) 2,000 hours or more of postdegree work experience as a counselor in a hospital, school, agency, or other supervised setting;~~

~~(c) and passed an examination prepared and administered by:~~

~~(i) the board, based on a national examination approved by the board;~~

~~(ii) the national board of certified counselors; or~~

~~(iii) the national academy of certified clinical mental health counselors; and~~

~~(d) an application form and process prescribed by the board that includes submission of three letters of nomination from~~

~~counselors or related professionals, each of whom holds a master's degree or higher and who can attest to the quality of the applicant's work.~~

~~(2)~~ To be licensed after ~~December 31, 1987~~, an applicant must have satisfactorily completed:

~~(a)~~(1) a planned graduate program of 90 quarter hours, primarily counseling in nature, nine quarter hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

~~(b)~~(2) ~~2,000~~ 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse his application for licensure, attesting to the number of hours supervised.

~~(c)~~ (3) and passed an examination prepared and administered by:

~~(i)~~(a) the board, based on a national examination approved by the board; or

~~(ii)~~ the national board of certified counselors; or

~~(iii)~~(b) the national academy of certified clinical mental health counselors; and

~~(d)~~(4) an application form and process prescribed by the board.""

Renumber: subsequent sections

5. Page 11, line 5.

Strike: "Section"

Insert: "Sections"

6. Page 11, line 6.

Following: "1(2)(b)"

Insert: "and 10(2) and (3)"

Strike: "applies"

Insert: "apply"

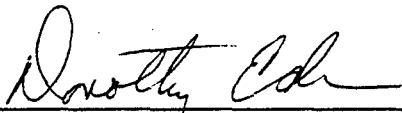



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 23, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 491 (first reading copy -- blue), respectfully report that House Bill No. 491 be concurred in.

Signed:   
Senator Dorothy Eck, Chair

 Amd. Coord.

Sen. Christaens

SENATE STANDING COMMITTEE REPORT

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March 23, 1993

MR. PRESIDENT:

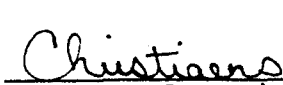
We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 489 (first reading copy -- blue), respectfully report that House Bill No. 489 be concurred in.

Signed:

  
Senator Dorothy Eck, Chair

 Amd. Coord.

Am. Sec. of Senate



Senator Carrying Bill

651006SC.San

## 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  
March 22, 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 not 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. We urge a do pass recommendation.

SENATE HEALTH & WELFARE  
EXHIBIT NO. 2  
DATE 3-22-93  
BILL NO. HB 489

## HOUSE BILL 489

### Testimony of Ken Threet

March 19, 1993

Madam Chair and members of the committee. I am Ken Threet, Training Coordinator for 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.

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. We are well along in the implementation of the COMFORT ONE® program - as it is known and have contracted with the Montana Hospital Association of manage the program for the department.

However, we recently became aware of a drafting problem in the statute. The 1991 legislation 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 error **theoretically** could 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.

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

**Testimony before the  
Senate Public Health, Welfare & Safety Committee  
by Dick Brown, Senior Vice President  
Montana Hospital Association  
March 22, 1993**

Madame Chair, 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.

# What is COMFORT ONE?

COMFORT ONE gives seriously ill persons who are not hospital inpatients an opportunity to limit their treatment in a medical emergency.

By enrolling in COMFORT ONE and displaying the proper identification, patients let emergency medical personnel know that they only want supportive care in an emergency.

A COMFORT ONE patient is identified by:

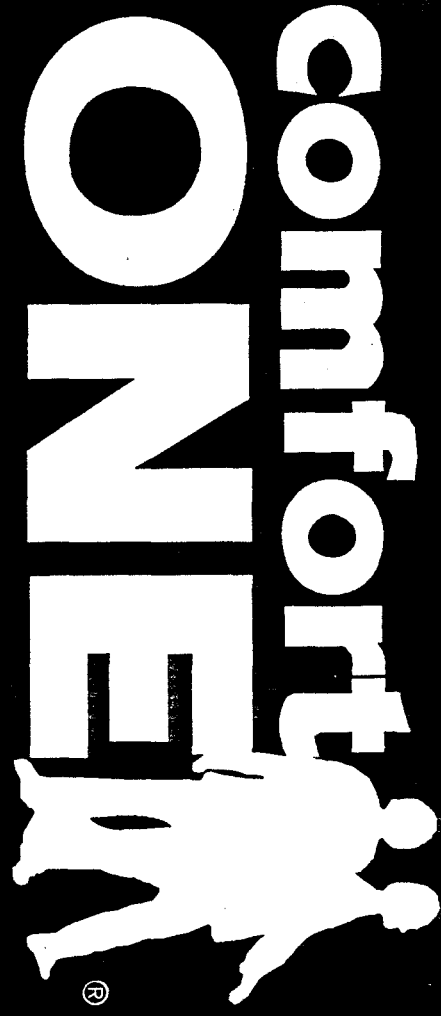
- A COMFORT ONE form
- A COMFORT ONE card
- A COMFORT ONE bracelet

# Who is eligible for COMFORT ONE?

You are eligible to enroll in COMFORT ONE if you have:

- A valid Living Will and are enrolled in a licensed hospice program
- A valid Living Will and a terminal illness, verified by a physician
- A formal *Do Not Resuscitate* order issued by a licensed physician

... giving pre-hospital  
patients a choice in  
their medical treatment



## *How do you sign up for COMFORT ONE?*

Enrollment forms can be obtained from your local:

- hospital
- hospice
- home health agency
- nursing home
- physician's office

For more information call the Montana Hospital Association at 442-1911.



*Sample Form*

## PATIENT INFORMATION

PATIENT NAME: \_\_\_\_\_ DOB: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_ GENDER: M F

### CERTIFICATION OF COMFORT ONE STATUS

This form constitutes reliable documentation that the above identified patient is certified as a **COMFORT ONE** patient by either:



#### LIVING WILL and QUALIFYING CONDITION

The person identified has a living will declaration on file in accordance with Montana law and has been certified as having a terminal illness.

\_\_\_\_\_  
*Printed name of representative of licensed hospice program or physician*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

### AND/OR



#### DO NOT RESUSCITATE (DNR) ORDER

My signature below constitutes and confirms a formal order to Emergency Medical Services personnel to follow the **COMFORT ONE** protocol. I affirm that this order is written in accordance with accepted medical and ethical guidelines.

\_\_\_\_\_  
*Printed name of physician*

\_\_\_\_\_  
*Physician signature*

\_\_\_\_\_  
*Date*

### INFORMATION TO PATIENT

This form certifies you as a **COMFORT ONE** patient under Montana law. If this form, wallet card or **COMFORT ONE** bracelet is presented to pre-hospital emergency response personnel, they are required to provide the care described on the reverse side. Emergency medical care will be directed at preventing avoidable suffering and providing supportive comfort measures. It is understood that as a **COMFORT ONE** patient you will be allowed to die in the natural course of your illness.

### REVOCATION

The **COMFORT ONE** status of the patient may be revoked, by the patient identified at any time.

If emergency medical services personnel do not see this form, the wallet card or the **COMFORT ONE** bracelet, they will attempt to resuscitate the patient in accordance with their standard procedures.



**COMFORT ONE**  
Montana Hospital Association  
P.O. Box 5119  
Helena, MT 59604-5119

Physician: \_\_\_\_\_  
Physician Phone Number: \_\_\_\_\_  
Hospice/HH Phone Number: \_\_\_\_\_  
Hospital: \_\_\_\_\_  
Hospital Phone Number: \_\_\_\_\_



For a COMFORT ONE patient, the emergency medical services personnel:

**WILL:**

■ Suction the airway ■ Administer oxygen ■ Position for comfort ■ Splint ■  
Control bleeding ■ Provide pain medication (Advanced Life Support only) ■ Provide  
emotional support ■ Contact hospice, home health agency or attending physician

**WILL NOT:**

■ Initiate CPR ■ Administer chest compressions ■ Intubate (ET or EOA) ■  
Initiate cardiac monitoring ■ Administer cardiac resuscitation drugs ■ Defibrillate  
■ Provide ventilatory assistance

If someone else has already begun resuscitating a COMFORT ONE  
patient prior to EMS arrival, EMS personnel:

**WILL STOP:**

■ Cardiopulmonary resuscitation ■ Ventilatory assistance ■ Cardiac medications

**COMFORT ONE**  
Montana Hospital Association  
P.O. Box 5119  
Helena, MT 59604-5119

DATE 3-22-93  
 BILL NO. HB 190

Proposed Amendments to HB 190

Prepared by Mary McCue

Lobbyist for Montal Clinical Mental Health Counselors Association

1. Title, line 6.  
 Strike: "AND OF"  
 Insert: ","
2. Title, line 7.  
 Following: "WORKERS"  
 Insert: ", licensed professional counselors, and licensed clinical professional counselors"
3. Title, line 12.  
 Following: "37-22-312,"  
 Insert: "37-23-201, 37-23-202,"
4. Page 10, following line 22.  
 Insert: "Section 9. Section 37-23-201, MCA, is amended to read:

"37-23-201. Representation as licensed clinical professional counselor --- license required. (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title "licensed clinical professional counselor". Except as provided in subsection (2), No no person may represent himself to be a licensed professional counselor or licensed clinical professional counselor by adding the letters "LPC" or "LCPC" after his name or by any other means unless licensed under this chapter; and.

(2) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or "LCPC."

~~(2)~~ (3) Subsection (1) does not prohibit:

(a) a qualified member or another profession, such as a physician, psychologist, lawyer, pastoral counselor, probation officer, court employee, nurse, social worker, school counselor, or educator, from professional counseling consistent with his training if he does not hold himself out to the public by a title or description incorporating the words "licensed professional counselor, "licensed counselor", or "professional counselor", "licensed clinical professional counselor", or licensed clinical counselor;

(b) an activity or service or use of an official title by a person employed by a federal, state, county, or municipal agency or an educational, research, or charitable institution that is a part of the duties of the office or position;

(c) an activity or service of an employee of a business establishment performed solely for the benefit of the establishment's employees;

(d) an activity or service of a student, intern, or resident in mental health counseling pursuing a course of study at an accredited university or college or working in a generally

recognized training center if the activity or service constitutes a part of the supervised course of study;

(e) an activity or service of a person who is not a resident of this state, which activity or service is rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year, if the person is authorized under the law of the state or country of residence to perform such activity or service. However, such person shall report to the department of commerce the nature and extent of the activity or service if it exceeds 120 days in a calendar year.

(f) pending disposition of the application for a license, the activity or service by a person who has recently become a resident of this state, has applied for a license within 90 days of taking up residency in this state, and is licensed to perform such activity or service in the state of his former residence."

**Section 10.** Section 37-23-202, MCA, is amended to read:

"37-23-202. Licensure requirements. ~~(1) To be licensed on or before December 31, 1987, as a professional counselor under this chapter, an applicant must have satisfactorily completed:~~

~~(a) a planned graduate program of study that was primarily counseling in nature which resulted in a advanced degree in a counseling field from an institution accredited to offer such a degree program;~~

~~(b) 2,000 hours or more of postdegree work experience as a counselor in a hospital, school, agency, or other supervised setting;~~

~~(c) and passed an examination prepared and administered by:~~

~~(i) the board, based on a national examination approved by the board;~~

~~(ii) the national board of certified counselors; or~~

~~(iii) the national academy of certified clinical mental health counselors; and~~

~~(d) an application form and process prescribed by the board that includes submission of three letters of nomination from counselors or related professionals, each of whom holds a masters' degree or higher and who can attest to the quality of the applicant's work.~~

~~(2) To be licensed after December 31, 1987, an applicant must have satisfactorily completed:~~

~~(a) (1) a planned graduate program of 90 quarter hours, primarily counseling in nature, nine quarter hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;~~

~~(b) (2) 2,000 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse his application for licensure, attesting to the number of hours supervised.~~

~~(c) (3) and passed an examination prepared and administered by:~~

~~(i) (a) the board, based on a national examination approved by~~

the board;

~~(ii) the national board of certified counselors; or~~  
~~(iii) (b) the national academy of certified clinical mental~~  
health counselors; and  
~~(d) (4)~~ an application form and process prescribed by the  
board."

Renumber: subsequent sections

5. Page 11, line 5.  
Strike: "Section"  
Insert: "Sections"
6. Page 11, line 6.  
Strike: "applies"  
Insert: "and 10(2) and (3) apply"