

MINUTES OF THE HUMAN SERVICES COMMITTEE MEETING
February 18, 1981

The Human Services Committee convened on February 18, 1981 in Room 103 of the Capitol at 12:45 p.m. with CHAIRMAN BUDD GOULD presiding. All members were present except REPRESENTATIVES BRAND and DEVLIN who were excused.

HB 566.

REP. HEMSTAD opened the hearing on the bill explaining the intent and reading suggested amendments to the bill. (EXHIBIT IA) This bill was requested by electrologists and asks for definition of electrology to mean removal of superfluous hair with an electrified needle and to require a license for the removal of superfluous hair by a means other than electrology.

PROPOSERS:

HELEN ARTHUR, licensed electrologist from Great Falls, testified in favor of the bill, saying it would give the electrologists credibility. She read three letters received by her from the Food and Drug Administration (FDA) defining the terms "electrolysis," "removatron," "Nu-Trolysis," and "Depilatron." (EXHIBIT I.) The letters indicated that the FDA felt the tweezer-type hair removers had a temporary effect. She also submitted letters from JAMES OCCIOGROSSO, President of the Condesco Corporation, (EXHIBIT II), information on Removatron (EXHIBIT III), a copy of an ad for The Electrolysis Clinic of Great Falls, (EXHIBIT IV), a letter from DR. ALBERT M. KLIGMAN, MD, ph.D. (EXHIBIT V), from the University of Pennsylvania and a Depillex advertisement, (EXHIBIT VI), attached to a FDA Enforcement Report.

DONNA ALIRES, an electrologist from Kalispell, testified that her main concern was for the safety of the public. She felt that without licensing there could be a spread of communicable disease because a physical exam would not be required. She also said a friend who worked as a hair remover by the tweezer method said the method lacked permanency, and quit a lucrative position in an elite California salon because her conscience wouldn't allow her to continue. She stated that, even to give a manicure in that state, one must be a cosmetologist.

ROSE PARIS, an electrologist from Missoula, distributed EXHIBITS VII through XII in addition to testifying as a proponent of the bill.

KATHRYN (KATIE) TUCKER, member of the Board of Electrology, testified in favor of the bill, but did propose an amendment to it. Tucker's proposed amendment to the bill would require that all individuals performing hair removal by other than the electric needle be required to have the background and training of a cosmetologist in the study of skin textures and hair or require that the hair removal be performed only in a licensed cosmetology establishment under supervision of a licensed cosmetologist. She said the board also intends to have a "grandfather clause" to allow those to practice who have prior to enactment of the law.

ALICE BERNING, a registered electrologist from Kalispell, submitted her recommendations for amendment to HB 566 (EXHIBIT XIII).

CAL CAMPBELL, representing the Montana Department of Health and Environmental Sciences, Food, Drug and Cosmetic Section Supervisor, testified as a proponent. He was called into the controversy as a result of receiving complaints because of the non-permanent nature of the tweezer hair removal. He submitted copies of correspondence and of advertising (EXHIBIT VII).

NORBERT J. BERNING, representing Alice's Electrolysis of Kalispell, submitted recommendations for amendments to be added to HB 566 (EXHIBIT XIII and XIV).

OPPONENTS:

SANDRA WILLIAMSON, of Removatrol Hair Removal in Missoula, said she felt this bill would violate her constitutional rights, as well as the five other businesses she represents.

PEGGY STEFFLAS, a Removatron operator from Billings, said she does not claim to be an electrologist. She said her method used radio frequency energy. She also said that the method is "permanent" though it cannot claim so, as it has not been in use long enough. She favored licensing, but feels her type of hair removal should not be included with licensing of electrologists and their salons, as the two methods are very different. She suggested two separate bills for licensing. The Removatron Company conducts its own training program, she said.

PATTY FOSTER, owner of two Removatron businesses in Missoula showed the committee a poster which explained the two types of hair removal. She said in her own experience of having hair removed, she found the Removatron to be more permanent than electrology.

QUESTIONS FROM THE COMMITTEE:

REP. BERGENE asked how Removatron operators were trained. PATTY FOSTER said they were trained by the company manufacturing the machine; after training the operator practices for a month or so.

REP. KEYSER referred to tweezer method permanency and asked if Removatron was permanent hair removal. FOSTER said the court case mentioned in testimony was against Depilatron which is different. The test case is in California, where a cosmetology license is required for anyone removing hair.

REP. KEYSER asked why the permanency had been questioned by the U.S. Dept. of Health. FOSTER said it takes a series of treatments to effect permanency with any method.

REP. PAVLOVICH asked if an electrology operator must go to a beauty school. ARTHUR said an operator had to go to an electrology school, most of which require 500 hours of training, in addition to being a trained cosmetologist.

REP. SWITZER asked why licensing was being considered for people who are already in business. CAMPBELL (DHES) said the tweezer hair removers don't wish to be licensed under the Board of Electrology. TUCKER said the Legislature enacted a law in 1976 requiring the licensing.

REP. BARDANOUE asked why a grandfather clause should be included. TUCKER, of the Board of Cosmetology, said that was for people who were already in business.

CHAIRMAN GOULD asked why there couldn't be two different licenses. TUCKER said she thought neither group would object to that.

REP. SEIFERT asked if the electrology method would require licensing and the "tweezer" operator would not. TUCKER said the "tweezer" operators would not object to being licensed.

REP. HEMSTAD said the electrologists do not care if the other faction practices, but objects to them being referred to as electrologists. She feels the two should be completely separate. She said the Removatron people in California were fined \$35,000. The hearing on HB 566 was closed.

HB 705.

REP. FEDA opened the hearing on HB 705, an act requiring timely payment by the Department of Social and Rehabilitation Services to providers of health care services to recipients of medical assistance. The bill would require the SRS to be run as a business, paying their bills on time, he said.

PROPONENTS:

BILL LEARY, president of the Montana Hospital Association, (EXHIBIT XIV), presented written testimony addressing the problem of delays in payment by SRS. It included a statement by Mr. Leary, a copy of Administrative Rules of Montana in regard to this matter, a letter to Director Keith Colbo of the SRS and a letter written by Colbo, regarding the delay and suggesting the state return to the old method of allowing the Dikewood Corporation to write the checks.

ROSE SKOOG, Executive Director of the Montana Nursing Home Association, left written testimony favoring the bill (EXHIBIT XV), said MR. LEARY.

KYLE HOPSTED, of a Glasgow hospital, said that payrolls must be

paid on time; if the hospitals or nursing homes lack the money, they must borrow and pay interest.

CHAD SMITH, attorney for the Montana Hospital Association, said that working capital costs money. When a hospital has to borrow money, the additional cost is borne by the patient. Most insurance companies pay within two or three weeks, and he felt that Medicaid should be just as prompt.

OPPONENTS:

JUDITH CARLSON, deputy director of the SRS, read a letter to Chairman GOULD from SRS Director JOHN LaFAVER stating that SRS not only must pay their bills promptly, but accurately. He said that several determinations must be made before a check is written out. (EXHIBIT XVI)

QUESTIONS FROM THE COMMITTEE:

REP. SWITZER asked who makes out the checks. BILL IKARD, of the SRS, said that once a week SRS receives a computer tape from the Dikewood Corporation in Albuquerque, N.M. That tape is put on the SRS computers, runs through the state treasurer and all required processes and then a check is issued based on the computer tape received. The Dikewood Corporation has a contract to evaluate all Medicaid bills promptly and accurately and to give management reports. The computer checks all bills to determine whether they should be paid, he said. The computer operation is done in New Mexico and the tape is sent to Dikewood. About 1,700 bills are received daily, he said. They are processed in Great Falls and then they send their information to Dikewood.

REP. SIVERTSEN asked what causes the delays. LEARY said that eligibility technicians in some counties do not want to record the requirements. This delays the hospital. He also thought the method of the computer tapes coming from New Mexico and the checks being made out in Helena was another cause of delay. He thought the process would be speeded up if Dikewood made out the checks.

LEARY said another problem which the MHA does not attempt to address by this bill is a third party liability situation, which can hold up payment for investigation of the claim.

REP. KEYSER asked if LEARY felt the problems were with the SRS, or the hospitals. LEARY said a survey four or five years ago indicated that part of the problem was with the hospital, and said SRS had improved to a degree, but that further improvement was needed.

REP. NILSON asked what the maximum amount of interest, (requested by the bill) legally could be charged. REP. FEDA said 6%.

REP. KEYSER felt the testimony was conflicting and asked just how fast the claims were paid. JUDY CARLSON said the difference could be from time payments and the kind of claims. SRS has improved considerably in the past six months, she said, and admitted that JOHN LaFAVER's statistics were from that time period, rather than a previous time, when the checks were being issued with more delay.

LEARY, said he had just received his information that morning from the Deaconess Hospital and they still reported slow processing of claims. He said he could not refute Faver's statistics on a state-wide basis, but only wished to report to the committee what a few of the hospitals had reported to him recently.

REP. BARDANOUE asked over what period the statistics were gathered. LEARY said the survey covered the past 18 months and included 1900 claims.

REP. BARDANOUE said that the new method of handling of claims has covered only the past 6 months and questioned including the previous 12 months.

REP. BARDANOUE asked why the eligibility technicians wouldn't fill out the eligibility forms. LEARY and CARLSON both agreed that they didn't have time during the first 15 days of the month as they were busy working on the books. REP. BARDANOUE said perhaps there should be more eligibility technicians hired. He also said improper payment could result in embezzlement occurring. He said that there might also be cases in which hospitals hold money belonging to SRS and asked if the hospitals would have to pay interest on these advances. SMITH said yes, that it could happen.

REP. DEVLIN wondered just how long it presently takes to process claims.

HOPSTED, from Glasgow, said some claims take from four to six weeks before payment is received. LEARY, MHA, said that in the area of private payment, Blue Cross pays in about two weeks, Blue Shield pays in about 30 days and the state pays in 30 to 40 days.

REP. BARDANOUE said the difference is that the private insurance carriers have already determined the eligibility. REP. FEDA felt private companies should not be compared, as they have many different plans. He urged passage of HB 705 and closed the hearing on the bill.

EXECUTIVE SESSION.

REP. SIVERTSEN moved that HJR 1 be tabled. The motion was seconded and PASSED UNANIMOUSLY.

HB 258.

REP. SEIFERT distributed copies of HB 258 as rewritten by a subcommittee composed of REP. SEIFERT, REP. HEMSTAD, and REP. MOORE. He also distributed copies of the original HB 258, showing where the changes were made in combining HB 258 and HJR 1. He also stated that a Statement of Intent would be needed and asked that RUSS JOSEPHSON, legal counsel for the committee, prepare one for the bill. RUSS JOSEPHSON read a proposed Statement of Intent. REP. SEIFERT stated this was not a Committee Bill, but was to retain the same number.

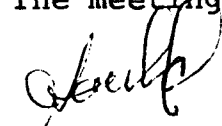
REP. SEIFERT moved a DO PASS for the substitute bill HB 258.

REP. SEIFERT MOVED the committee ACCEPT THE AMENDMENTS and the STATEMENT OF INTENT FOR HB 258. The motion was seconded and PASSED UNANIMOUSLY. He then MOVED that HB 258 DO PASS AS AMENDED. The motion was seconded and PASSED UNANIMOUSLY.

HB 566.

REP. BENNETT moved HB 566 DO PASS AS AMENDED. REP. HEMSTED said there were two major changes in the bill. One was a change from a pilot program to one going statewide. The other was that, instead of narrowing in on six counties, it was decided to narrow in on aid to dependent children. Some language was changed to go along with the federal WIN program, she said. The motion was WITHDRAWN, and action was postponed to a later meeting.

The meeting adjourned at 3:00 p.m.



BUDD GOULD, Chairman

rj

2-18-81
12 p.m.

VISITORS' REGISTER

HOUSE Health and Insurance COMMITTEE

BILL 556

Date 2-19-81

SPONSOR Hennrich

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Peggy Steffes	4663 Cove Rd Billings	Recreation		✓
Patricia Foster	Missoula	Recreation		✓
Ann del Villano	Missoula	318 E. Front Missoula, MT Recreation (Proposed 5980)		
Bob Steffes	4663 Cove Rd Billings	"		✓
Wilbur Christian	Helena 4525 Hwy 100	Recreation		✓
Helen Arthur	600 Central Plaza #100 Missoula	Trussell - electrologist	✓	
Rose Ellen Rain	515 Kensington Missoula	Paris Electrologist	✓	
L. Hecker	1565 Canyon Jerry Helena	Lee's Electrologist		
Cal Campbell	Helena	mt Dept of Health & Soc. Sc.	✓	
Kathryn Mitchell	Helena	Bd of Cosmetologists	✓	
Donna Salves	Marion Pox 945 Res. Kalispell Bus.	MT Electrologist	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

2-18-81
12 p.m.

VISITORS' REGISTER

HOUSE Human Services COMMITTEE

BILL 705

Date 2-18-81

SPONSOR Feder

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
William Feary	Helena	Mountains Hospital	✓	
JUDITH H CARLSON	HELENA	SRS		X
Bill Beard	Helena	medical assistant		X
Kyle Clark	Helena	Hospital	✓	
CHAD SMITH	Helena	Int Hospital	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

1. Title, line 6.

Following: "REQUIRE A"

Insert: "COSMETOLOGY"

2. Title, line 8.

Following: line 7

Strike: "SECTIONS 37-32-101 THROUGH: 37-32-103"

Insert: "SECTION 37-32-101 AND 37-32-102"

3. Page 1, lines 11 through 19.

Strike: Section 1 in its entirety

Insert: "Section 1. Section 37-31-101, MCA is amended to read:

37-31-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Practice and teaching of cosmetology" includes work generally and usually included in the terms "hairdressing" and beauty culture" and performed in so-called hairdressing and beauty shops or by itinerant cosmetologists, which work is done for the embellishment, cleanliness, and beautification of the hair, scalp, face, arms, or hands, and includes the practice of removing superfluous hair by a means other than electrolysis. The practice and teaching of cosmetology shall not be construed to include:

(a) itinerant cosmetologists who perform their services without compensation for demonstration purposes in any regularly established store or place of business holding a license from the state of Montana as such store or place of business; or

(b) cosmetological artists who demonstrate cosmetological skills under the auspices of the state association of cosmetology or its affiliated units, whether at meetings or in licensed cosmetological establishments.

(2) "Cosmetological establishment" means premises, building, or part of a building in which is practiced a branch or combination of branches of cosmetology or the occupation of a hairdresser and cosmetician or cosmetologist and which must have a manager-operator in charge.

(3) "Board" means the board of cosmetologists provided for in 2-15-1626.

(4) "Department" means the department of professional and occupational licensing provided for in Title 2, chapter 15, part 16.

4. Page 2, line 6.

Following: "practice of"

Insert: "permanently"

5. Page 2, lines 10 through 20.

Strike: Section 3 in its entirety

Renumber: all subsequent sections

6. Page 4, line 21.

Following: "chapter"

Strike: "32"

Insert: "31"

7. Page 4, line 22.

Following: "chapter"

Strike: "32"

Insert: "31"

2-18-81 I
12 p.m.

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
8757 Georgia Avenue
Silver Spring MD 20910

December 9, 1980

Ms. Helen Arthur
600 Central Plaza, #106
Great Falls, Montana 59401

Dear Ms. Arthur:

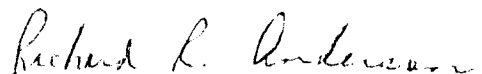
This is in response to your recent letter requesting information concerning the different types and methods of machines used in electrolysis.

There are basically two types of hair removal devices being marketed at the present time. The electrolytic type uses a thin needle which is inserted into the hair follicle. By passage of an electric current through the needle, the follicle is damaged to the point that it will no longer produce hair. This method, when properly done by specially trained people, can effect permanent hair removal. However, if this procedure is applied improperly, infection and permanent scarring can result.

The Removatron, which is a "tweezer" type device that holds the hair strand above the skin line and transmits an electrical current down the shaft, is limited to the "temporary removal of superfluous hair." We are not aware of any evidence to support the effectiveness of this type of device for anything other than simply "tweezing" the hair. Any representations or suggestions that the device will accomplish permanent hair removal may misbrand the device and may place it in violation of federal law.

If we can be of any further assistance, please do not hesitate to let us know.

Sincerely yours,



Richard R. Anderson
Division of Compliance Operations
Bureau of Medical Devices



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
FOOD AND DRUG ADMINISTRATION
SILVER SPRING, MARYLAND 20910

April 18, 1980

Ms. Claire Lofgren
10643 Camino Real
Fountain Valley, CA 92708

Dear Ms. Lofgren:

This is in response to your recent letter regarding permanent and painless hair removal.

Generally, two types of hair removal devices are being marketed at the present time. The electrolytic type uses a thin needle which is inserted into the hair follicle. By passage of an electric current through the needle, the follicle is damaged to the point where it will no longer produce hair. The electrolytic method, when properly done, can effect permanent hair removal.

The tweezer type, which includes the Nu-Trolysis device, holds the hair strand above the skin and transmits an electrical current down the shaft. This type is limited "for temporary removal of superfluous hair." The Food and Drug Administration (FDA) has a case pending against one of the companies promoting this type of product. The U.S. District Court for the Southern District of New York presently has under consideration a seizure case against Depilitron Incorporated. It is the government's contention that these devices are not effective for permanent hair removal and in fact are no more effective than a regular pair of tweezers.

Without representative labeling and advertising material which should accompany the sale and promotion of the device, we are unable to comment more definitively. You may wish to provide us with copies of the intended labeling and promotional material for review. This may be in rough draft form.

If we can be of any further assistance, please let us know.

Sincerely yours,

Bert L. Schrivener, Chief
Regulatory Guidance Branch
Bureau of Medical Devices



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
FOOD AND DRUG ADMINISTRATION
BETHESDA, MARYLAND 20910

January 28, 1980

The State of California has taken legal action against this device and so has the Food and Drug Administration (FDA). The California case was settled and the FDA case is still pending in the New York Federal District Court.

It is the opinion of the FDA that Depilatron is not effective for permanent hair removal. We have seen no well controlled scientific studies to substantiate such claims by tweezer type hair removal devices.

We trust this information is helpful.

Sincerely yours,

Richard R. Anderson
Division of Compliance Operations
Bureau of Medical Devices

2-18-81 II
12 p.m.

December 9, 1980
600 Central Plaza #106
Great Falls, Montana
50401

Mr. James Occhiogrosso ,President
Condesco Corporation
11 Spruce Circle
Farmingville, New York

Dear Mr. Occhiogrosso,

I am a liscenced electrologist, and I was very interested in your letter to Mr. G.Artinian , Oct. 15, 1975 in which you discussed the Depilitron tweezer machine.

You made the statement that 'human hair does not conduct electricity.'

I have been involved in trying to get the tweezer machines out of our field of electrolysis..and have quoted your statement in regard to that fact.

However, the Removatron representative from bac k east somewhere called me about two months ago to criticise me for knocking the tweezer machines and he had apparently been sent my ad which quoted you. He made an interesting statement about you and I quote "Mr. Occhiogrosso must have beans between his ears."!

He said "we don't use electricity, we use radio frequency energy, or radio waves." He said that the hair is used as an insulator to transfer the radio waves.

I called the Removatron operator here and she said "we use radio waves...like micro waves , and they only go to the end of the hair. She stated that the vibrations of the radio waves against the moisture in the skin causes heat and destroys the hair root.

I am wondering if you have any more information on this type of machine and could you explain the difference between radio frequency energy, and electricity, if there is any?

I would appreciate hearing from you, and I sincerely hope that he was wrong about the beans!

Cordially yours,

Helen Arthur R.E.

CONDESCO CORPORATION

755 WAVERLY AVENUE, HOLTSVILLE, NEW YORK 11742 (516) 475 5510

January 5, 1981

Helen Arthur
600 Central Plaza # 106
Great Falls, Montana 50401

Dear Ms Arthur:

I received your letter a while ago and I apologize for the delay in answering.

To give you a full explanation of the reasons why a tweezer machine is ineffective towards permanent removal of unwanted hair would be extremely technical, and would require much more time than that available to me at the moment.

However, you might well tell your "Removatron" representative that if he is "using radio waves--like micro waves" with the hair as an insulator for the transferral of the energy, he has accomplished the violation of all the known laws of electrical energy transfer. It is conceivable that a human hair can transfer energy from a tweezer down into a hair follicle, but, the frequency at which such a machine would have to operate, and the required power levels would be extremely difficult to obtain and would be hazardous to human life.

In essence the size and construction of a human hair and its associated follicle, preclude the possibility of the transferral of sufficient energy to do any damage to the growth cells, at the frequencies and power levels at which electrolysis machines are permitted to operate.

If you would like to go into the technical reasons why the tweezer method cannot be effective, I suggest you contact the Kree organization and request copies of some of the independent studies that have been performed, over and above my analysis. You might be very interested in the report from Hofstra University in which the actual results of a comparison test between tweezer and needle machines on human subjects, was analyzed.

The mode of operation of all those who perpetrate a "hoax" on the public is essentially the same, and that is: to take a true or well known fact, and distort it to make it believable in their desired application. The tweezer machine promoters are using the fact that



Consultants in Electronic Engineering and Packaging

CONDESCO CORPORATION

755 WAVERLY AVENUE, HOLTSVILLE, NEW YORK 11742 (516) 475 5510

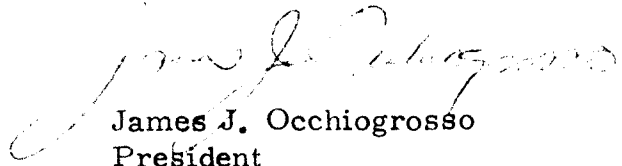
Page # 2

electrical energy can indeed be passed from one point to another by traveling along the surface of a normally non-conductive element, but, what they neglect to tell you is that the physical dimensions and characteristics of human hair make this effect impossible to obtain,

To illustrate this point, I cite the following example:

Our society today puts considerable emphasis on a woman's breasts, with the implication that a shortage of feminine hormones causes small sized breasts. Manufacturer's of breast enlargement creams advertise and sell from many magazines, implying that their product has the "proper" hormonal content to overcome this problem". What they neglect to mention is that a woman's breast size is genetically inherited, and virtually nothing, short of surgery, can change that fact. But----- they sell a lot of cream!!!

Very truly yours,



James J. Occhiogrosso
President



Consultants in Electronic Engineering and Packaging

CONDESCO CORPORATION

11 SPRUCE CIRCLE, FARMINGVILLE, NEW YORK 11738 (516) 698-7000

Oct. 15, 1975

Mr. G.P. Artinian
Kree International
152 W. 42nd Street
New York, N.Y. 10036

Dear Mr. Artinian:

Attached is a technical report detailing the concepts and parameters upon which I have based my conclusions regarding the Dipilitron method of hair removal.

It is an unchallengable fact that to achieve permanent removal of unwanted hair, the growth cells associated with the hair must be destroyed, or significantly damaged.

Observing the Dipilitron method in operation, I note that the concept of this machine is to apply Radio Frequency (RF) energy directly to the unwanted hair shaft.

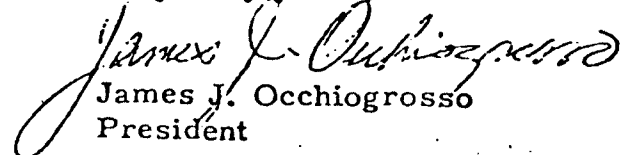
This concept is erroneous! Human hair does not conduct electricity! Thus, since the Dipilitron machine is in contact only with the hair itself, no energy is applied to the growth cells, and consequently, these cells are not damaged or destroyed.

Expecting to effect permanent hair removal in this manner, is analogous to expecting an electrical appliance to function without being plugged in!

The basic philosophy that the hair shaft will capacitively or directly conduct the RF energy to the lower extreme of the hair shaft, is totally incompatible with known laws of energy transfer.

It is my conclusion, based on the attached study, that the Dipilitron method is no more effective in achieving hair removal, than a common tweezer.

Very truly yours,


James J. Occhiogrosso
President



Consultants in Electronic Engineering and Packaging

2-18-81, 12 p.m.

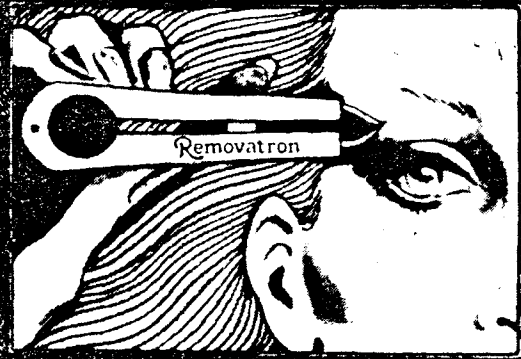
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BECAUSE EVEN NATURE
MAKES MISTAKES

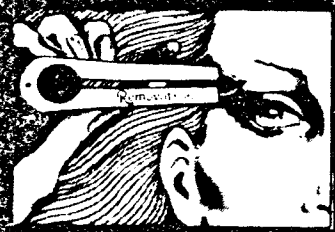
If you have further questions on the Removatron
Method of painless, effective hair removal, your
Removatron operator will be happy to answer them.

REMOVATRON HAIRREMOVAL CLINIC
SUITE 3 - 1824 10th AVE. S.
GREAT FALLS, MONTANA 59405
PHONE 406 727-0022

Removatron



The Painless Way
of Effective Hair Removal



Removatron

by Removatron International
215 A Street
Boston, Massachusetts 02210

Printed in U.S.A.

Questions and Answers
About Your Unwanted Hair

Did you know? *Unwanted Hair is a problem almost all women share.* It's a fact! Statistics show that 85-90% of all women have some facial or body hair they would look and feel better without. The Removatron method is a beautiful solution to this embarrassing cosmetic problem. It lets you say goodbye to temporary, messy creams or useless shaving, plucking, bleaching, and waxing. And you can forget about "needle ouch" forever. Removatron uses **NO NEEDLES!** It's both effective and painless, can be used on even your most sensitive body areas, and lets you apply make-up right after treatment. It's what you've been waiting for, but never had until now—**SAFE, EFFECTIVE, PAINLESS HAIR REMOVAL.** Removatron. It works, but it doesn't hurt!

Radio Frequency Energy is transmitted from the machine and channeled through the electronic tweezers. It follows the hair shaft down through the hair follicle, coagulates (dries) and destroys the papilla (root bulb), which is the source of nourishment for the hair. In just seconds, the unwanted hair slides right out—root and all.

NO. It is a low-grade, drying-type energy, directed only to the root of the hair. It will not travel any further. This is the same medically approved R.F.E. that has been used for the past twenty-five years in electrology treatments.

YES. But not the first time. Permanent hair removal is seldom accomplished in a single treatment due to the individual chemical make-up of each person and to the many factors involved in hair growth.

NO. You won't feel a thing! Removatron's exclusively insulated tweezers gently grasp the hair above the skin line and removes the hair—root and all. Nothing ever touches the skin!

There is no way your Removatron specialist or any doctor can tell you since they cannot see beneath the surface of your skin. Only the hairs visible above the

skin can be removed. You DO have approximately 1,000 hairs per square inch on your body which are not surfacing above the skin at the same time since they grow in a 90-day cycle. But within a short period of time you will definitely notice that an appreciable amount of unwanted hair is not coming back.

Since there are factors such as emotional stress, hormonal, or chemical changes that may interfere with your treatments; and since your unique chemical make-up is not known, there is no way of knowing the exact length of time. But be **ASSURED** that the treatments will decrease as quickly as possible. The hour treatments will diminish to 45 minutes, then to 30 minutes, and eventually to 15 minutes.

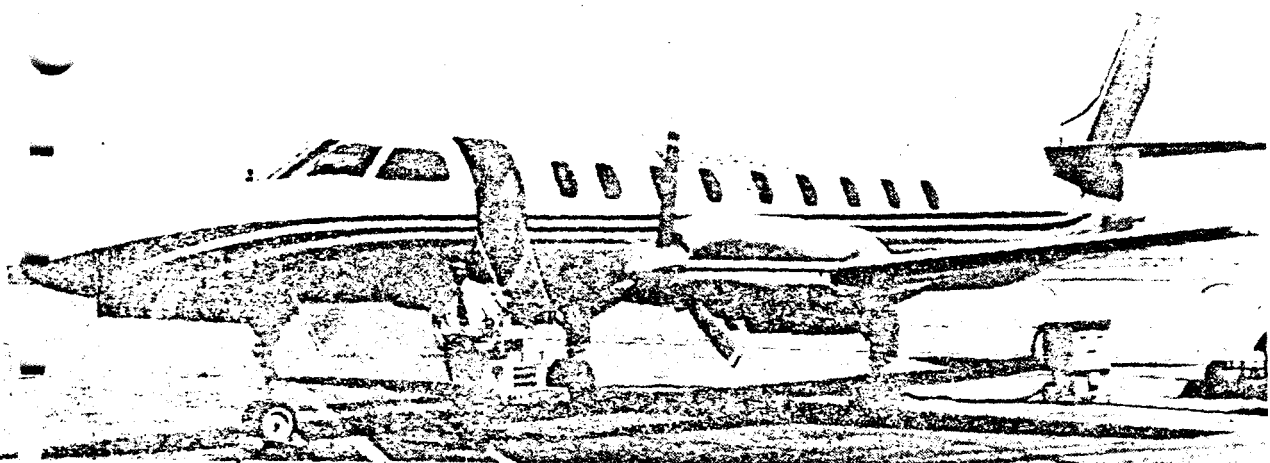
Since maximum results for treatments are achieved when hair first appears above the skin (this is when the roots are weakest and most vulnerable), appointments are scheduled on a weekly basis.

Once the papilla has been coagulated and terminated, there is NO way another hair can grow out of that same follicle. But the same hair will have to be treated more than once if it is weak and breaks off below the skin line, or if it is already detached from the papilla as in the shedding process.

NO. This interferes with treatments. You should use only scissors and cut the hair as close to the skin as possible.

NO. It is a localized heat which goes only to the papilla attached to the hair being worked on. The heat travels NO further.

There are three rates available—one hour, half hour, and fifteen minutes. It is the most important thing a woman can do for herself. Remember, you are not buying an hour or a half-hour of time. You are buying the end result—**a skin free of hair for the rest of your life.**



Big Sky's pride

This \$1.3 million Swearingen Metroliner is Big Sky Airlines, pride and joy. It is the first of four Metroliners which will be delivered to the airline for commuter air service throughout Eastern Montana, Wyoming and Idaho. Capt. Tommy Thompson is shown with the 17-passenger prop-jet after he landed at Great Falls International Airport on a regularly scheduled run. Thompson also is the airline's chief pilot. The aircraft cruises at 300 mph. The airline's second Metroliner will be delivered in September. (Tribune Photo)

WRECKER

1972 CHEV. C30 1-ton

Good tires. Low mileage. Power take-off operated winch. Adjustable boom and dollies & lights.

This unit is ready to be put to work.

\$2995

453-2491 or 917 Central Ave.

The Electrolysis Clinic

Permanent Hair Removal

Electrologists Do What!!

Many people in Montana confuse electrolysis with hair removal by means of electrified tweezers.

I would like to explain the difference as many ladies have been to my office who are very dis-satisfied after having a long period of treatment by what they assume is electrolysis.

With electrolysis the hair root is destroyed by applying high frequency current directly to the hair root by means of a minute surgical probe.

Tweezer machine promoters claim that electric current is conducted through the hair to the root by grasping the hair with electrified tweezers and applying radio-frequency current, thus destroying the hair root.

James Occhiogrosso, president of an electronics corporation has stated "The concept is erroneous!" Human hair does not conduct electricity!!

Some states have banned this type of machine. California law prohibits electrologists from using them, and also requires promoters to refrain from using the words permanent OR painless.

Judging from what I have read in the past several years and from talking to people who have had this type of hair removed, I am inclined to agree with Mr. Occhiogrosso's statement that the _____ method is no more effective in achieving hair removal than a common tweezer."



In addition to the expense of this type of hair removal . . . most hair that is tweezed will grow back darker and coarser.

Yes there is a great deal of difference! Electrolysis is still the only method for permanent removal of unwanted hair other than surgery.

For further information or appointment call Helen Arthur, 727-5163

The Electrolysis Clinic OF GREAT FALLS



- 2-18-81
12 p.m.

V

ALBERT M. KLIGMAN, M. D., PH. D.
HOSPITAL OF THE UNIVERSITY OF PENNSYLVANIA
36TH AND SPRUCE STREETS
PHILADELPHIA, PA. 19104

DEPARTMENT OF DERMATOLOGY

(215) 386-4388
(215) 386-4389
(215) 662-3261

18 November 1975

Mr. Jules Shapiro
328 North Fifth Street
Reading, Pennsylvania 19601

Dear Mr. Shapiro:

I shall summarize in this letter the observations which lead me to conclude that the claims made by Depilatron are false. The device is a hoax and I wish to have it entered in the record that I support efforts to have Depilatron exposed and discredited.

I. Examination of Epilated Hairs.

With the Kree electrolysis units the hair roots slide out of the follicle without effort. The entire bulb comes out.

With the Depilatron unit the hairs break off above the bulb; the viable portion of the hair matrix remains in situ.

The appearance of the hair roots is the same whether or not the current is turned on and whether or not the extraction is performed immediately or after 3 minutes of applied heat.

The morphology of the extracted hair is in no way distinguishable from that which is observable after manual epilation with an ordinary pair of tweezers.

Therefore, Depilatron does nothing more than break the hair shaft, leaving the matrix to generate another hair in due course.

II. Histologic Studies.

Six white males with hirsute forearms participated in these studies.

The hairs were epilated within a one-inch circle with the Depilatron on one side while a corresponding site on the

Mr. Jules Shapiro
328 North Fifth Street
Reading, Pennsylvania 19601
Page 2
18 December 1975

opposite side was epilated by Kree electrolysis.

Elliptical, full thickness specimens of skin were scalpel excised from the epilated areas. Histologic specimens were prepared by conventional techniques and examined under the light microscope.

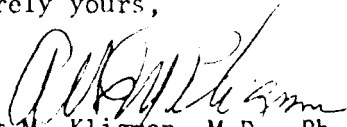
Following electrolysis, there is extensive coagulation necrosis of the entire basalar portion of the hair root. The papilla and hair bulb are completely destroyed. The subcutaneous tissue prolapses into the vacant space left by extirpation of the entire hair bulb. There is not any possibility that hairs can be regenerated from follicles which have been destroyed in this fashion.

The picture was entirely different with Depilatron epilation. In not a single follicle was there any evidence of destruction of viable tissue. The papilla was untouched and the supra-papillary portion of the bulb was intact. A variable portion of the external root sheath was removed, as expected after any form of manual extraction.

It is a certainty that hairs will regenerate from follicles in which the papilla and matrix survive.

I believe these observations do not allow for equivocal interpretations. The Depilatron apparatus cannot accomplish permanent epilation as does conventional electrolysis.

Sincerely yours,


Albert M. Kligman, M.D., Ph.D.
Professor of Dermatology

AMK/ajm

cc: Mr. Peter Artinian

CAMBRIDGE ENGINEERING

12 December 1975

Mr. G. P. Artinian, Pres.
Kree International
152 W. 42nd Street
New York, New York 10036

Dear Mr. Artinian,

Jim Occhiogrosso recently sent me a copy of "Basic Simplified Depilatron DP-206 Theory." While the information contained in this report is essentially correct in its description of a basic capacitor and the ability of a transmitter, such as a TV station, to transmit over large distances to a TV set, it stops short of completing the analogy and misses the basic phenomena that renders the operation of this machine impossible.

Going on from their description of a TV station transmitting to a TV receiver, one can draw an analogy between a hair follicle in the skin and a tunnel through which automobiles drive. It is a well known fact that as you enter a tunnel, it becomes rapidly difficult to receive radio signals. You will also have noted that FM radio is better in this regard, however still does not work in a tunnel of any length. The problem is that the tunnel is small compared to the wave length of the radio signals involved. In the case of an AM radio station, the wavelength of the AM signals are on the order of about 1,000 feet, while the opening of the tunnel is about 20-30 feet. (a ratio of 50:1 - 33:1). In the case of FM, where some improvement is noted, wavelength is on the order of 10 feet. If, by analogy, we compare this to the problem of causing the radio energy to propagate down a hair follicle, we find we are faced with a wavelength of approximately 36 feet at the Depilatron frequency, and a hair follicle, or "tunnel opening" of approximately .005 inches. (a ratio of 7000:1) Noting the relative dimensions, it is not surprising that the energy which will not propagate any distance into a tunnel, with a ratio of 50:1, will also have difficulty in propagating down a very narrow and long (relatively speaking) hair follicle, with a ratio of 7000:1.

I realize that the theory of why radio waves will not propagate down into tunnels is fairly complex and not of interest, I thought it might interest you to realize that this situation is analogous to the Depilatron theory. Although a layman may not know why the energy does not travel down into a tunnel, he certainly is aware of the effects.

I am sorry that I was unable to attend the news conference, and look forward to meeting you at some date in the future.

God keep you,



Martin Carl Poppe, Jr.

MCPjr:lp

Depillex

Depillex is an easily operated unit which makes possible the safe and completely painless removal of superfluous hair without scarring or tissue damage.

The Depillex Unit is finished in white with black trim. The tweezers and foot switch are stored in a specially designed container at the front of the Unit. Depillex is a precision electronic instrument.

Other special features include:---

- * Hours meter to record the total number of hours worked.
- * Digital clock to assist operator and client.
- * Red mains neon light.
- * White neon to indicate when power is being applied to the tweezers.

The Unit has an elegant and sophisticated appearance inspiring confidence even in the most apprehensive.

Depillex

DEPILLEX is a completely new, safe and painless method of removing unwanted hair. The DEPILLEX method uses special electronic tweezers to grasp the hair, they do not touch the skin. The DEPILLEX current flows through the tweezers and after a few seconds the root of the hair is destroyed and painless removal can take place.

Cosmetic depilation

The Depillex method brings exciting new scope in the field of cosmetic depilation, where the comfortable removal of underarm or bikini line hair for example, is now possible. After treatment clients may use make-up as usual without any ill effects since there is no skin damage.

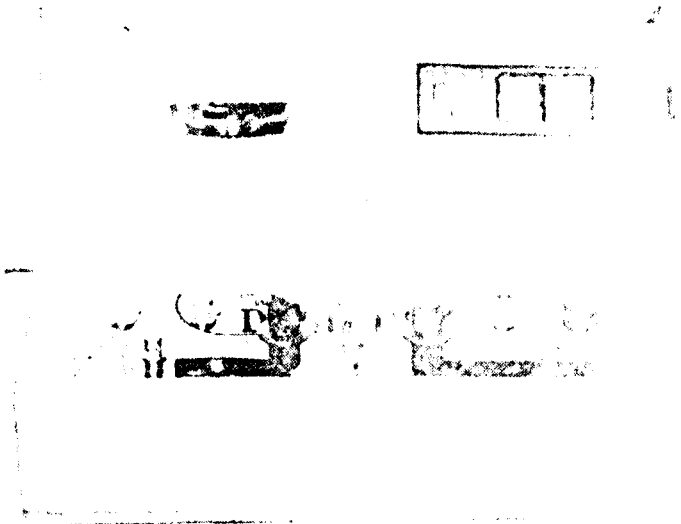
PATENTS APPLIED FOR

2-18-81
12 p.m. VI

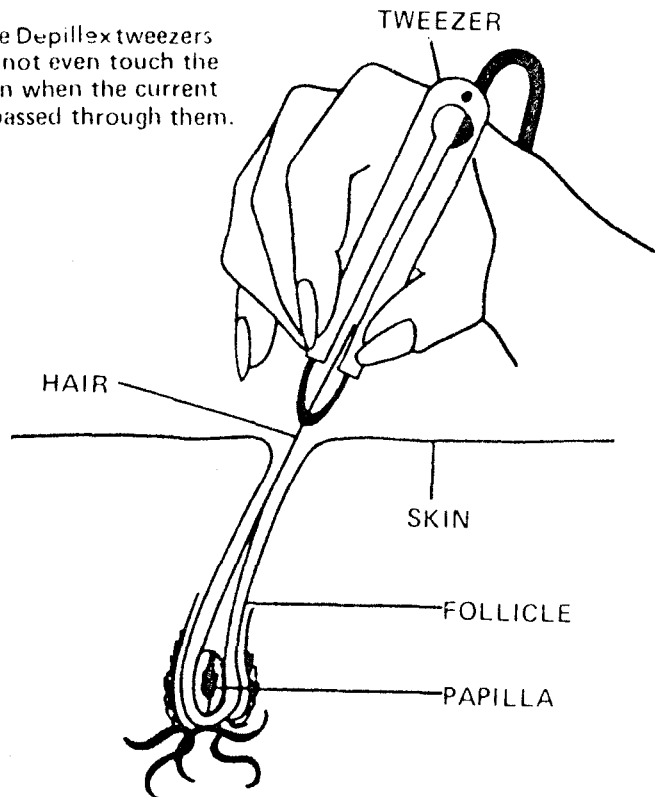
Depillex

IS THE ONLY ELECTRONIC TWEEZER THAT

1. You can buy for \$5,000.00
2. Lease and purchase at your option
3. No legal binding contracts
4. Our firm has a medical background in research and developing of electrology and skin care equipment
5. Depillex is the newest, most improved, medically tested ELECTRONIC TWEEZER on the market
6. F. C. C. regulations met



The Depillex tweezers do not even touch the skin when the current is passed through them.



FDA Enforcement Report

Press Office
Food and Drug Administration

5600 Fishers Lane
Rockville, Md. 20857

(202) 245-1144

The FDA Enforcement Report is published weekly and contains information on prosecutions, seizures, injunctions, and recalls. The following is an explanation of these actions:

PROSECUTION: A criminal action filed by FDA against a company or individual charging violation of the law. Prosecutions listed below have been filed with a court but not yet tried or concluded.

SEIZURE: An action taken to remove a product from commerce because it is in violation of the law. FDA initiates a seizure by filing a complaint with the U.S. District Court where the goods are located. A U.S. marshal is then directed by the court to take possession of the goods until the matter is resolved. The date listed is the date a seizure request is filed, not the date of seizure.

INJUNCTION: A civil action filed by FDA against an individual or company seeking, in most cases, to stop a company from continuing to manufacture or distribute products that are in violation of the law. Injunctions listed have been filed with the court but not concluded.

RECALL: Voluntary removal by a firm of a defective product from the market. Some recalls begin when the firm finds a problem, others are conducted at FDA's request. Recalls may involve the physical removal of products from the market or correction of the problem where the product is located.

Product: Depillex Device (78-130-447)
Charge: Misbranded - Product labeling is false and misleading
Responsible Firm: B10 2000, Inc., and Bea Cranford, Inc., Irving, Texas
Filed: September 8, 1978 - U.S. District Court for the Eastern District of Tennessee; Civil #CIV-2-78-147, FDC #61854

Product: Flour (78-172-475)
Charge: Adulterated - Product contaminated with a filthy substance and was held under insanitary conditions
Responsible Firm: Trans-Florida Warehouse Corporation, Tampa, Florida
Filed: September 19, 1978 - U.S. District Court for the Middle District of Florida at Tampa; Civil #78-769-CIV-TR, FDC #61741

Product: WANS Suppositories (78-147-435)
Charge: Product is a new drug marketed without an approved New Drug Application
Responsible Firm: Aicon Laboratories (Puerto Rico), Inc., Humacao, Puerto Rico
Filed: September 21, 1978 - U.S. District Court for the District of Puerto Rico; Civil #78-1830, FDC #61874

Product: Maple Syrup (78-115-479)
Charge: Adulterated and Misbranded - Syrup other than maple syrup has been substituted; product does not conform to a standard of identity for maple syrup
Responsible Firm: Paul Pilgrim, DeKalb, Mississippi
Filed: September 25, 1978 - U.S. District Court for the Western District of Oklahoma at Oklahoma City; Civil #78-1032-D, FDC #61893

IMPORTANT LETTER
please read immediately

The Food and Drug Administration has taken action against a "Depillex Unit" in Dallas, Texas. This unit was apparently an electronic tweezer. The Food and Drug Administration charged that the product carried a false and misleading label. The FDA therefor filed a seizure action. A seizure action is one taken to remove a product from commerce because it is in violation of the law. According to the Division of Compliance Operations, Bureau of Medical Devices, of the FDA, BIO 2,000 Inc. and BEA Cranford, Inc., from whom the Depillex was seized, subsequently defaulted. This seizure should encourage all of us who are interested in protecting the public from promoters of electronic tweezers who mislabel their product and make false claims of its effectiveness.

In addition it has come to my attention that two default judgments were levied against Sans Hair, Inc., a Michigan Depilatron Franchisee.

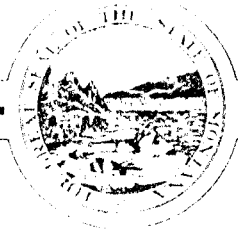
These two items show that both government and the consumer are beginning to understand the false and misleading claims which are being made by some persons on behalf of certain hair removal products. This gradual awakening of public opinion and governmental action is no doubt due to the tireless efforts of those all across the country who have sought to expose the false and misleading nature of the claims which have been made. We should all be spurred to redouble our efforts as a result.

share this information with any colleague who you think may be interested. The trial, the State of California against Depilatron, is continued and scheduled to start today, July 25th, 1978. Lack of courtroom space has been one of the main deterrents to scheduling.

Rose

2-18-81
12 p.m.
VII

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
FOOD AND CONSUMER SAFETY BUREAU



THOMAS W. WELLS GOVERNOR

C. J. WELLS BUILDING

STATE OF MONTANA

406-449-2400

HELENA MONTANA 59601

November 25, 1980

Helen Arthur
The Electrolysis Clinic
600 Central Plaza #106
Great Falls, Montana 59401

Dear Ms. Arthur:

We have received your letter concerning the advertising of permanent hair removal machines. We have forwarded a copy of your letter to the Food and Drug Administration. They have a case pending in federal court. They cannot take action until after the outcome of the trial. Hopefully they will know the results in the near future.

Also, we are forwarding your letter to the Department of Business Regulations. They will assist in false and misleading advertising.

Could you obtain any printed materials claiming permanent hair removal? It would be helpful.

Certainly civil actions would be in order by the persons adversely affected by the false and misleading claims.

If we can help with any legislation you propose, please let us know.

Sincerely,

Cal Campbell
Cal Campbell, R.S., Supervisor
Food, Drug and Cosmetic Section
Food & Consumer Safety Bureau

CC/ns

cc: Charles Breen, Resident FDA Inspector, Helena
Jerry Wines, Business Regulations

January 14, 1981
600 Central Plaza #106
Great Falls, Montana 59401

Cal Campbell
Food, Drug, and Cosmetic Section
Food and Consumer Safety Bureau
Cogswell Building
Helena, Montana 59601

Dear Cal,

Thank you for your answer to my letter in regard to what can be done about operators of electronic tweezer machines advertising permanent hair removal.

I have been really busy getting information together, contacting legislators and keeping in touch with the other electrologists.

I am enclosing a copy of some of the advertising of the Nu-trolysis and Removatron machines and also several letters from the F.D.A. about those two specifically and also a letter or two from the Condesco Corporation. Andrea Hemstad is going to introduce our bill to change the definition of electrolysis back to the original, as permanent hair removal by the use of the electrified needle only as it is in California, and as it was here in Montana until two years ago.

She also planned to contact another representative to introduce a bill placing the tweezer machines under the state board of cosmetology.

I will let you know when the hearing is going to be and what the number of the bill is and it's context when the committee gets it into the proper wording.

As you can see, neither of these ads claims permanent hair removal, but when the customer calls or goes in they are told that it is indeed permanent. I know for a fact because I called both of them in December.

The girl who operates the Removatron machine told me 'we use radio waves...like micro waves'. I then wrote to Mr. Occhiogrosso to ask him to tell me what the difference is between radio waves and electricity, or does R.F. energy mean electricity as I was taught or does it mean mysterious radio waves, and not electricity as the man from Removatron told me. His answer is enclosed.

My questions about the ads are...what does EFFECTIVE mean? ONLY MEDICALLY PROVEN METHOD of WHAT? IS THERE SUCH A THING AS A LICENSED ELECTROLOGIST IN MONTANA? What does ALTERNATE mean? YOU notice they imply that the pain involved with electrolysis is from the needles, instead of the electric current...the Nu-trolysis ad is entered by a LICENSED ELECTROLOGIST who practiced electrolysis for years! Also I question how you can introduce enough electricity into the skin by ANY means enough to kill the hair root and still not feel it!

It is hard to get any of the persons involved to do anything in regard to the time and money they have lost because of embarrassment due to the problem of excess hair, plus who wants hubby to know they've wasted all that money? I will keep in touch. I will appreciate any effort you can make on behalf of both bills.

Sincerely,


Helen Arthur, R.E.

PAINLESS Hair Removal

Removatron

Safe and effective...
The alternative
method for the
removal of
unwanted hair.

- Staffed only by **trained technicians.**
- Free consultation — no obligation.
Come in for a 30-minute appointment,
and we'll give you an additional 15
minutes **free!**
(new patrons only, please)
- We promise . . . you won't feel pain
because Removatron uses no needles.



REMOVATRON HAIR REMOVAL CLINIC

1824 10th Ave. So.

GREAT FALLS, MT.

Suite #3

727-0022

Want Ad No. 761-2406



LOOK YOUR HOLIDAY BEST!

Because even nature makes
mistakes...there's REMOVATRON...
the finest no-needle hair removal
system available.

**No Needles,
No Pain,
No Hair!**



The only safe & effective alternate method for the removal of unwanted hair.

REMOVATRON: Hair Clinic
1824 10th Ave. So.
Suite No. 3 Gt. Falls **727-0022**

...a
government...
use he did not have a

NU-TROLYSIS



The Comfortable Approach to Effective hair Removal.

The only medically proven method. Safe...no needles, no burning of the skin. Two licensed Nu-Trolygists to serve you. Call Leora or Linda at

**Town & Country
BEAUTY SALON**
761-4322 3320 10th Ave. So.

Eklur

2-18-81 VIII
12 p.m.



EDMUND G. BROWN JR.
Governor
RICHARD B. SPOHN
Director

THE COSMETOLOGY ACT

(Chapter 10 of Division 3 of the Business and Professions Code)

Including amendments effective on or before
JANUARY 1, 1980

also excerpts from

**General Provisions of the Business and Professions Code
and the Government Code**



Issued by

BOARD OF COSMETOLOGY

RUSSELL C. SALAZAR, *Executive Secretary*

1020 N Street

Sacramento, California 95814

Junior Operator License

7334. A licensed junior operator may engage in any one occupation of a cosmetologist upon a patron who is paying for service or materials, under the immediate supervision of a licensed cosmetologist in a licensed cosmetological establishment only after he has had 350 hours of instruction.

The license of a junior operator shall expire upon the expiration of three years from the date such license was issued, or on the date his license as a cosmetologist is issued, or on the date the results of his second examination are issued, if he fails such examination, whichever first occurs.

Article 3.5. Practice of Electrology

Electrology/Thermology

7339. "Electrology" as used in this chapter includes electrolysis and/or thermolysis.

Electrologist, Definition of

7340. An electrologist is any person who removes hair from, or destroys hair on, the human body by the use of an electric needle only.

Junior Electrologist, Definition of

7341. A junior electrologist is any person who is engaged in learning or acquiring a knowledge of the practice of electrolysis in a licensed cosmetological establishment under a licensed electrologist.

Electrologist Examination Qualifications

7342. The board shall admit to examination for a certificate of registration and license as an electrologist, any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

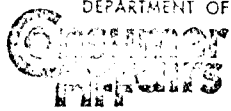
- (a) Who is not less than 17 years of age.
- (b) Who has not committed acts or crimes constituting grounds for denial of licensure under Section 480.
- (c) Who has completed the 12th grade, or an accredited senior high school, in public schools of this state or its equivalent.
- (d) Who has had any one of the following:
 - (1) Practical training of 500 hours in a licensed school in which the practice is taught.
 - (2) Instruction, training and practice as a junior electrologist for a period of not less than 12 months, in a licensed cosmetological establishment, under a licensed electrologist.
 - (3) Holds a valid electrology license issued by a state whose licensing requirements are equal to or greater than California.
 - (4) Either training or practice, or a combination of training and practice, outside of this state in electrology for such period as may be specified by rules of the board.

Junior Electrologist Qualifications

7343. Every person applying to the board for a license as a junior electrologist upon the proper application form accompanied by two

2-18-81
12 p.m.

TX



BOARD OF COSMETOLOGY

1020 N STREET, SACRAMENTO, CALIFORNIA 95814

Information/Licenses (916) 445-7061, (213) 620-4280, (415) 557-2622, (714) 237-7819

Executive Offices (916) 445-9278

Complaints (916) 445-9244

Student Records (916) 445-0915

Examinations (916) 445-7253



February 5, 1979

CIRCULAR LETTER #79/1

TO ALL LICENSED ELECTROLOGISTS, ALL SCHOOLS OF COSMETOLOGY, AND INTERESTED PARTIES

SUBJECT: USE OF ELECTRIC TWEEZERS

During the past two or three years, a number of cosmetologists--and even a few electrologists--have used hair removal devices featuring electric tweezers. For the greater part of this time, the Board of Cosmetology had a law suit pending against the manufacturers and promoters of one of the hair removal machines, called Depilatron.

The defendants in the Depilatron court case were found guilty of false and misleading advertising, and they were fined \$36,000 in civil penalties. The defendants were also prohibited by the court from advertising that the Depilatron device provides "permanent" or "effective" hair removal unless a disclaimer, with qualifying language, is also prominently displayed. The court did not prohibit the distribution or use of Depilatron or similar "electronic tweezer" machines. Consequently, Depilatron and several other brands--which appear to be identical to the Depilatron machine--are now being promoted and used in California.

Back in 1976, when the Board of Cosmetology started receiving consumer complaints about Depilatron, the Board was often asked, "Who can use the machine? Cosmetologists? Electrologists? Or both?" The Board replied that--until the court case was settled and more was known about the way the machine functioned--no disciplinary action would be taken against either cosmetologists or electrologists for using the device.

[It is now clear that hair removal by electric tweezers cannot legally be performed by an electrologist. (By definition in California law, an electrologist removes hair by the use of an electric needle only.) Therefore, effective immediately, the Board of Cosmetology will permit only licensed cosmetologists and licensed cosmeticians working within licensed establishments to legally use electric tweezers on the paying public.]

The use of such devices (on the paying public) by any other licensee or by any unlicensed person will constitute a misdemeanor.

Russell C. Salazar
RUSSELL C. SALAZAR
Executive Secretary

RCS/NET:jk

DISTRIBUTION: LE, S & IP LISTS
CIRCULAR LETTER #79/1

2-18-81
12 p.m.

X

FDA Enforcement Report

Press Office
Food and Drug Administration

5600 Fishers Lane
Rockville, Md. 20857

(202) 245-1144

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RECALL: Voluntary removal by a firm of a defective product from the market. Some recalls begin when the firm finds a problem, others are conducted at FDA's request. Recalls may involve the physical removal of products from the market or correction of the problem where the product is located.

August 30, 1978

Complaints For Injunction Filed:

Against: AHC Pharmacal, Inc., Miami, Florida
 Product: Various Drugs (77-140-843)
 Charge: Misbranded - Products' labeling fails to bear an accurate statement of quantity of contents; labeling fails to bear the name of the drugs; labeling fails to bear adequate directions for use; products were marketed without approved New Drug Applications
 Filed: August 11, 1978 - U.S. District Court for the Southern District of Florida at Miami; Civil #78-3585-CIV-JG, Injunction #823

Seizure Actions Filed:

Product: Depilatron Devices (78-130-072)
 Charge: Misbranded - Product labeling is false and misleading
 Responsible Firm: Depilatron Hair Removal Clinic, Minneapolis, Minnesota
 Filed: July 26, 1978 - U.S. District Court for the District of Minnesota; Civil #4-78-309, FDC #61815

Colleague, these two form letters are the latest I have sent out regarding Depilatron. Share the information with any colleague who you think may be interested.

Rose

2-18-81 X
12 p.m.

Fine hits tweezer promoters

SANTA ANA (AP) — the "Depilatron" device permanently removes hair. Three manufacturers and promoters of firms using an "electronic tweezers" for hair remover have been fined \$30,000 and ordered to modify all future advertisements. Superior Court Judge Claude Owens has issued an injunction forbidding the defendants to claim without qualifying language that

Depilatron, Inc. and Depilatron Sales Inc. were fined \$10,000 each. Fined \$5,000 each were Depilatron Professional Center and Seligman & Latz, Inc., the owners of a chain of beauty salons. The suit was filed in 1976 by the state attorney general's office on behalf of the

California Department of Consumer Affairs, the state Board of Cosmetology and the Orange County district attorney's office. Beauty salons in the United States and several foreign countries currently use the electronic tweezer devices.

DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL LICENSING

BOARD OF COSMETOLOGISTS

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JUNE BAKER
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MILES CITY, MONTANA

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GREAT FALLS, MONTANA

JACQUES ROMEIJN
SECRETARY
BILLINGS, MONTANA



ED CARNEY, DIRECTOR

LaLONDE BUILDING
HELENA, MONTANA 59601
(406) 449-3737

February 18, 1981

To: Chairman, Human Services Committee
and Committee Members,

From: *Kathryn M. Tucker*
Kathryn M. Tucker, Administrative Assistant
for Board of Cosmetologists

Re: HB 566, Defining Electrology

On behalf of the Board of Cosmetologists, I would like to inform this committee that the board of cosmetologists is in basic agreement with this bill. However, to more adequately protect the consuming public, they recommend an amendment to this bill that will require all individuals performing the service of "hair removal", by other than the electric needle, be required to have the background and training of a cosmetologist in the study of skin textures and hair - - - or, require the service be performed only in licensed cosmetology establishments under supervision of licensed cosmetologists.

The board plans to propose a "grandfather clause" in their rules that will allow them to grant licenses for "hair removal" to all individuals performing this service prior to the enactment of this proposed legislation, however, after the bill becomes law, applicants lacking this proposed training would not be eligible for a license.

In addition, the board would like to inform this committee that upon the recommendation of the Legislative Audit Committee, Section 37-32-103, Sub-section (2) is being deleted from the Statute.

HOUSE BILL No. 566

Recommendations submitted by Alice B. Berning, Registered Electrologist, regarding House Bill No. 566.

As a professional electrologist, I respectfully submit the following recommendations for your consideration in clarifying House Bill No. 566 before it is brought to the legislature for a vote. My observations are based on the American Medical Association's definition of and position regarding electrolysis.

page 1: lines 4-8: Change to read:

A Bill for an act entitled: "An act to define electrology to mean the study and professional practice of permanent removal of hair by the transmission of an electrical current through a fine wire needle inserted into the hair follicle to destroy the hair root." Amending sections 37-32-101 through 37-32-103, MCA.

lines 13 & 14: Delete underlined wording.

lines 18 & 19: Delete underlined wording.

page 2: lines 5 through 9: Change to read:

"Electrology means the study and professional practice of permanent removal of hair by the transmission of an electrical current through a fine wire needle inserted into the hair follicle to destroy the hair root. Electrology as defined in this chapter shall include only the modalities of galvanic, thermolysis, and the blend."

lines 14 & 15: Delete all underlined wording.

lines 16 through 20: Delete entirely.

NEW SECTIONS : 4 through 8 inclusive:

Delete entirely since these sections do not pertain to the profession of electrology as defined in the bill enactment.

Alice Berning
Alice Berning
Registered Electrologist
Kalispell
2/18/81

WITNESS STATEMENT

NAME Norbert J Benning BILL No. HB 566
ADDRESS 224 N Riding Rd DATE 2/18/81
WHOM DO YOU REPRESENT Alice's Ectanalysis
SUPPORT w/ amendments OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Have prepared hand-out
Would like to make oral presentation

2-18-81
12 p.m

XV XIV



Montana Hospital Association

(406) 442-1911 · P. O. BOX 5119 · HELENA, MONTANA 59601

TESTIMONY IN SUPPORT OF H.B. 705

February 18, 1981

TO: MEMBERS OF THE MONTANA HOUSE OF REPRESENTATIVES - COMMITTEE ON HUMAN SERVICES

For the record, I am William Leary, president of the Montana Hospital Association and I am appearing today in support of the adoption of House Bill 705, which is an act which will require the timely payment by the Department of Social and Rehabilitation Services to providers of health care services to recipients of medical assistance and provides for the assessment of interest on late payments.

Early in 1980 the Department of SRS adopted Rule No. 46.12.303 addressing the subject matter of billing, reimbursement, claims processing and payment. This rule was based upon federal regulation and was adopted at the insistence of the Montana Hospital Association so the providers as well as the Department would have a logical method of addressing the problem of slowdown in claims processing which has occurred over the past several years.

The rule stipulates that (a) all claims to the Montana Medicaid program are to be submitted on personally signed state-approved billing forms, or they shall not be considered valid and proper billings. The rule requires that the Department of SRS pay 90% of all valid and proper claims within 30 days after receipt of said claim and further stipulates that the program shall pay 99% of all valid and proper claims within 90 days of receipt of the claims and the remaining 1% of the claims to be paid within 180 days of receipt. The Department does have by regulation the right to determine and to deny payment if the claim is improper.

Since the adoption of this rule and the methodology utilized by the Department in educating the providers, we have seen a significant improvement in the claims processing and the Department needs to be officially complimented for the progress they have made to date. However, there is more room for improvement which is illustrated by a report I recently received from Montana Deaconess Medical Center. They studied some 1,954 Medicaid claims which had been submitted to Dikewood Corporation, the fiscal claims agent for SRS. The results of the Montana Deaconess

Medical Center study clearly points out that the average turnaround time on Medicaid claims, and incidentally these are all valid certified claims, was 72 days. Further breakdown showed that 63% of the claims were paid within 60 days, 77% paid within 90 days, 85% were paid within 120 days and the balance of 15% is still in the process and as the administrator said, "could be forever".

The significance of this particular study is that Montana Deaconess Medical Center is located in Great Falls as is Dikewood Corporation and while the claims could be transmitted from the hospital to the claims processing agent within a very short period of time, we still see some significant delays. One of the biggest problems which was identified in the SRS processing program was the fact that the checks are now being processed by the State of Montana. In the past, Dikewood Corporation printed the statement of remittance and the check, then mailed the two to the state and then mailed to providers. Now, Dikewood Corporation processes the claims and mails a tape to the state. The state is responsible for printing the statement of remittance and the check, which has certainly caused some delays in payment to the providers.

I personally encouraged Mr. Colbo, the Director of the Department, to go back to the old method of allowing Dikewood to write the checks, however, for whatever reason Mr. Colbo had, that recommendation was rejected and thus causing a delay in the processing. In that same letter to Mr. Colbo (a copy of my letter and a copy of his reply is enclosed for the committee's review) we identified other problems. Probably the most acute problem affecting a reasonable claims processing function is the problem with the county welfare departments not getting the eligibility information into the state system so that relocated claims can be paid by Dikewood in a reasonable fashion. We still have hospitals reporting that the eligibility technicians literally refuse to come to the hospital to take the information from the Medicaid client and in those cases the hospital has been advised by me to contact their county commissioners to put some heat on the eligibility technicians to do their job.

The Department will argue that the legislature has not seen fit to properly fund the Department so they can hire more eligibility technicians to sufficiently staff the program. The Department did, however, in May attempt and hopefully were successful in hiring 18 additional staff for the counties and this should have alleviated the backlog problem. We still see the problem of the reluctance on the part of the eligibility technicians to come to the hospital and take the information in Deer Lodge County, Anaconda and more recently in Yellowstone County.

You can read for yourself some of the other problems we identified which affect the claims processing situation and I will not take your time today to go into any detail in that regard.

We feel that the adoption of House Bill 705 will put the proper emphasis on the Department officials to continually improve their claims processing to make the kind of administrative decisions which would make this an efficient system so the hospitals, physicians and nursing homes will be assured of a timely payment upon submission of their claims to the claims processing agent.

The failure of the Department to establish an effective timely payment processing method will require the Department paying interest to the provider. We certainly do not want to see this happen but feel it is only justified to cover for the loss in cash flow of the health care provider who might have to borrow to meet its payroll because of a slowdown in payments from the Medicaid program.

I urge you to consider and fully support the passage of House Bill 705.

Thank you.

(3) Providers shall render services to an eligible medicaid recipient in the same scope, quality, duration and method of delivery as to the general public, unless specifically limited by these regulations.

(4) Providers shall not discriminate in the provision of service to eligible medicaid recipients on the grounds of race, creed, color, sex, national origin, or handicap. Providers shall comply with the department of health, education, and welfare regulations under Title VI and Title IX of the Civil Rights Acts, Public Law 93-112 (sections 504 and 505) and 49-1-101, 102 MCA; 49-2-101, 102 MCA; 49-2-202 MCA; 49-2-301 through 49-2-308 MCA; 49-2-401 through 49-2-404 MCA; 49-2-501 through 49-2-505 MCA; 49-2-601 MCA, as amended and all requirements imposed by or pursuant to the regulations implementing the statutes. (History: Sec. 53-6-113 MCA; IMP, Sec. 53-6-101, Sec. 53-6-111 and Sec. 53-6-141 MCA; NEW, 1980 MAR, p.1491-1500, Eff. 5/16/80.)

46.12.303 BILLING, REIMBURSEMENT, CLAIMS PROCESSING, AND PAYMENT

(1) Providers shall submit claims within 180 days of the date the service was performed, within 180 days after the applicants eligibility is determined, or within 180 days after a written notice from a third party resource, whichever occurs last. For providers of hospital services, the service shall be deemed to have been performed upon the recipient's discharge from one continuous confinement. A written inquiry to the department or to the local county welfare department regarding eligibility within the 180 day limit shall constitute evidence of an effort to bill medicaid for these services.

(a) All claims to the Montana medicaid program are to be submitted on personally signed state approved billing forms, or they shall not be considered valid and proper claims.

(2) The program shall pay 90 percent of all valid and proper claims within 30 days after receipt of said claim. Should the bureau contend that a claim is not valid or proper, the bureau shall inform the provider of the details of the contention within 30 days after receipt of the claim.

(a) The program shall pay 99 percent of all valid and proper claims within 90 days of receipt of the claims.

(b) The program shall make payment on all claims within 180 days of the receipt of the claim unless it determines payment to be improper under this chapter or applicable federal regulations.

(c) The department shall be entitled to promptly (within 60 days) recover all payments erroneously or improperly made to a provider. At the option of the provider, refunds shall be accomplished either by mailing a check made out to "State Department of Social and Rehabilitation Services" directly to that department at Box 4210, Helena, MT 59601, or by notifying

the department in writing of the receipt and the amount of payment over and above the amount reimbursable by the Montana medicaid program, which amount shall then be automatically deducted from future payments to the provider. Regardless of the method of repayment chosen, the provider shall identify on the check or notifying document the patient, by name and claim number, who received services for which the over payment was made and specify the dates of services for which over payments were received. If the provider contests the department's decision that the provider has been overpaid, recovery shall depend on the final administrative decision.

(3) Unless stated elsewhere, payments made by the Montana medicaid program shall not exceed the lower of the amount payable for like services in the same locality by the medicare program (Title XVIII of the Social Security Act), or the provider's usual and customary charges that are reasonable.

(4) Providers are required to accept, as payment in full, the amount paid by the Montana medicaid program for a service provided to an eligible medicaid recipient in accordance with the rules of the department. Providers shall not seek any payment in addition to or in lieu of the amount paid by the Montana medicaid program from a recipient or his representative.

(5) In the event that a provider of services is entitled to a retroactive increase of payment for services rendered, the provider shall submit a claim within 180 days of the written notification of the retroactive increase or the provider forfeits any rights to the retroactive increase.

(6) The Montana medicaid program shall make payments directly to the individual provider of service unless the individual provider is required, as a condition of his employment, to turn his fees over to his employer.

(a) Exceptions to the above requirement may, at the discretion of the department, be made for transportation and/or per diem costs incurred to enable a recipient to obtain medically appropriate services.

(7) The method of determining payment rates for out-of-state providers will be the same as for in-state providers except as otherwise provided in the rules of the department. (History: Sec. 53-6-113 MCA; IMP, Sec. 53-6-101, Sec. 53-6-111 and Sec. 53-6-141 MCA; NEW, 1980 MAR, p. 1491-1500, Eff. 5/16/80.)

46.12.304 THIRD PARTY LIABILITY (1) The department is subrogated to the recipient's right to third party recoveries to the extent necessary to reimburse the department for services provided by the Montana medicaid program, when the third party's liability is established after assistance is granted, and in any other case in which the liability of the third

party exists, but was not treated as a current source of payment.

(2) Before payments can be made to providers, all other identifiable sources of payment must be exhausted by recipients and/or providers, as follows:

(a) For known medicaid-eligible individuals, the provider shall use its usual and customary procedures for inquiring about sources of payment for non-medicaid patients. This inquiry includes ascertaining the identity of any potentially liable tortfeasor only if such identity may be learned using the provider's usual and customary inquiry procedures.

(b) Prior to billing the Montana medicaid program for services rendered to a medicaid-eligible individual, the provider shall bill any other source of payment identified by means of the provider's usual and customary inquiry procedures, and which has been properly assigned by the individual to the provider if the provider requires assignment, except that the provider is not required to bill or to pursue in any way any potentially liable tortfeasor. The provider shall not be required to send to an identified source of payment more than one billing statement.

(c) For bills for which no source of payment is identified other than a potentially liable tortfeasor and the Montana medicaid program, the provider shall bill the Montana medicaid program indicating that services were rendered as the result of a possible tortious act, and, if known, the identity of the tortfeasor.

(d) If the provider receives no payment or notice of rejection from the liable third party within 45 days of the date of billing, it may bill the Montana medicaid program noting the lack of timely response. Medicaid will make payment for services rendered to the medicaid-eligible individual in all cases within 180 days of the date of receipt of the bill.

(e) If the provider receives partial payment or notice of rejection of the claim within 45 days, it may bill the Montana medicaid program noting the rejection or the amount of credit. The Montana medicaid program will make payment of the balance due for services rendered to medicaid-eligible individuals up to the maximum allowed by the rules of the department as soon as the normal course of business allows, and in all cases within 180 days of receipt of the bill.

(3) In the event the provider receives payments from the Montana medicaid program and one or more third-party sources, any amount received over and above the amount reimbursed by the Montana medicaid program shall be promptly (within 60 days) refunded by the provider to the Montana medicaid program. At the option of the provider, refunds shall be accomplished either by mailing a check made out to "State Depart-

SOCIAL AND
REHABILITATION SERVICES

ment of Social and Rehabilitation Services" directly to that department at Box 4210, Helena, MT 59601, or by notifying the department in writing of the receipt and the amount of payment over and above the amount reimbursed by the Montana medicaid program, which amount shall then be automatically deducted from future payments to the provider. Regardless of the method of repayment chosen, the provider shall identify on the check or notifying document, the patient, by name and claim number, who received services for which the double payment was made and specify the dates of services for which double payments were received.

(4) In the event a provider delivers to a known medicaid recipient a copy of a billing statement for services for which payment has been received or is being sought from the Montana medicaid program, the provider must clearly indicate on the recipient's copy that the department is subrogated to the right of the recipient to recover from liable third parties.

(a) The words "subrogation notice--billed to medicaid," or a similar statement giving clear notice of the department's subrogation rights, indelibly stamped, typed or printed on the statement shall be sufficient to meet the notification requirement of subsection (3).

(b) If a provider fails to meet the requirements of section (3) the department may withhold or recover from the provider any amount lost to the department as a result of that failure.

(5) Referrals shall be made to the Program Integrity Bureau, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana, 59601. The program integrity bureau may send referrals to the department of revenue for recovery. (History: Sec. 53-6-113 MCA; IMP, Sec. 53-6-101, Sec. 53-6-111 and Sec. 53-6-141 MCA; NEW, 1980 MAR, p. 1491-1500, Eff. 5/16/80.)

46.12.305 ATTORNEYS' FEES SCHEDULE (1) In administering "prior approval of the department" of attorney fees, pursuant to section 53-2-612(4) MCA, as a result of services rendered in legal proceedings or settlement of a third party recovery case, the department sets forth the following schedule for payment from total amount recovered on behalf of the department.

(a) When recovery is made prior to filing of suit, the attorney will receive 25 percent of total amount recovered.

(b) When recovery is made after filing of suit but before trial commencement, the attorney will receive 33 1/3 percent of total amount recovered; however, if clear liability exists as determined by client and attorney, the attorney will receive 25 percent.

(c) When recovery is made after actual trial commence-



Montana Hospital Association

(406) 442-1911 · P. O. BOX 5119 · HELENA, MONTANA 59601

April 22, 1980

Mr. Keith L. Colbo
Director
Department of Social and
Rehabilitation Services
Room 301
SRS Building
111 Sanders
Helena, Montana 59601

Dear Mr. Colbo:

Several months ago one of the MHA member hospitals reported receiving several letters from Montana Medicaid-Dikewood which stated that the processing of a Medicaid claim was pending for either possible third party involvement or under going professional review.

In February I surveyed the membership in an effort to determine if this is a statewide problem or is limited to just a few hospitals before I brought this matter to your attention for proper resolution. I have enclosed a copy of my letter of survey as well as the responses received.

I sincerely hope you will delegate the administrative followup to the program integrity bureau and specifically to James McCabe as he has shown an interest in resolving this problem.

In addition to the efforts of the Montana Hospital Association in studying a slowdown in reimbursement from insurance companies, Blue Cross, Blue Shield, Medicare and Medicaid, the Montana Chapter of the Hospital Financial Management Association has also been studying the slowdown in reimbursement of Medicaid claims and has offered the following additional comments.

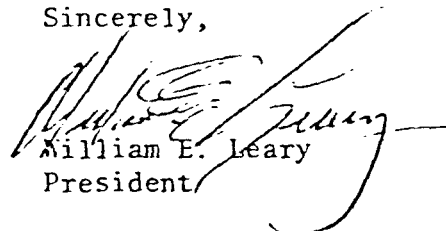
1. Checks are now being processed by the state of Montana. In the past, Dikewood Corporation printed the statement of remittance and the check, then mailed the two to the state and were then mailed to providers. Now, Dikewood processes the claim and mails a tape to the state. The state is responsible for printing the statement of remittance and the check, which has delayed payments to providers.
2. The local county welfare departments are extremely slow in getting eligibility to the state so that it can be processed by Dikewood Corporation.

April 11, 1981

3. Once the eligibility information gets to the state office, the state is very slow in processing the information timely.
4. The eligibility is only updated once a month in Dikewood's data processing system. It is the belief of members of HFMA that eligibility should be updated weekly to allow providers to bill claims more timely.
5. We have seen no improvement in the processing of supplemental security income Medicaid claims. Since the infant stages of this program, our claims have never been paid timely.
6. HFMA believes it is the responsibility of the local county welfare departments to submit documentation to the state or Medicaid if there is third party involvement. Once this information is documented in Dikewood's system, it is most difficult to get a claim released for payment. It is our understanding that it is the responsibility of the Montana Foundation for Medical Care to document third party accident information. When this third party information is documented, only the Foundation has the authority to release a claim for payment, which delays payment for our billings.

We realize the State Department is currently studying the entire claims processing and would request that the above six points be reviewed in detail as a part of the study. The members of Montana's HFMA and I would be available to assist the Department in resolving these problems so providers can be assured of effective and efficient claims processing and reimbursement.

Sincerely,



William E. Leary
President

WEL:ml

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES



THOMAS L. JUDGE, GOVERNOR

P.O. BOX 4210

STATE OF MONTANA

HELENA, MONTANA 59601

May 7, 1980

William E. Leary, President
Montana Hospital Association
P.O. Box 5119
Helena, MT 59601



Dear Mr. Leary:

I appreciate your April 22, 1980, letter concerning the slowdown problems in reimbursement of Medicaid claims. It gives me the feedback I need to identify problems within SRS.

In your letter you addressed six problems which I will address separately:

1. You indicated that the switch over of printing statements of remittance and checks from Dikewood to the state has delayed payments. The change was implemented in late January this year and payments are being made in at least just as timely a fashion as under Dikewood. There have been occasional delays in payment just as under the Dikewood system but we expect these to become less and less as routines become more established.
2. Problems with county welfare departments getting eligibility information into the state system so that relocated claims can be paid by Dikewood was indicated. Current economic conditions have caused a significant increase in county case loads since the first of the year which has resulted in a backlog of cases in some counties. Because the staffing level is fixed by the state legislature, we have had difficulty in securing authorization for additional staff in those counties. However, this month we have received authorization for eighteen additional staff for the counties which hopefully will help alleviate the backlog problem.
3. Slow processing of eligibility information through the state office was mentioned. Processing of county data through the state's system is accomplished on a timely basis and we are unaware of any specific problems with the current system which impact the timely payment of

May 7, 1980

claims. In fact we have started providing Dikewood with two monthly updates of eligibility within the last couple of months to speed up claims processing.

4. Weekly updates of Dikewood eligibility information was suggested. As indicated in number 3, we have gone to bi-weekly updates. To go to weekly updates would require an amendment of our contract with Dikewood. We will, however, look into the possibility. At this time we believe the major problem with timely payments is contained in number 1 above.
5. Timely payment of Supplemental Security Income (SSI) related Medicaid claims has historically been a problem. The problem rests with the Social Security Administration, which does not supply us with timely verification of SSI eligibility which, in turn, automatically establishes Medicaid eligibility. We are not optimistic about them ever improving their system. We are, however, looking at determining eligibility for SSI clients ourselves, but that determination is a ways away.
6. Claims with third party information are delayed due to Montana Foundation for Medical Care involvement. The Foundation has nothing to do with releasing claims for payment because of third party liability. We recognize, however, that there are problems with delayed payments for these type claims.

In an effort to streamline our third party liability (TPL) system, Eligibility Technicians have been asked to notate specific insurance information on the Turn Around Documents (TADs) which are submitted to the Data Processing Bureau (currently only a yes or no insurance indicator is required). While the State office cannot utilize this information on the current computer system, it is being forwarded by the Third Party Liability section to Dikewood for their records. This process should reduce client and county office contact and consequently speed claims processing. In addition, to update our information TPL and Medicare client lists have been sent to the county offices for verification or changes depending on the case.

Presently when a claim is pended for TPL and the exact information (insurance company, policy number, etc.) is unknown to Dikewood, they send a letter to the client requesting the information. If the requested information is received, it is forwarded to the provider. If the

William E. Leary

Page 3

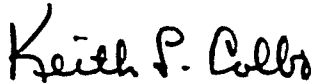
May 7, 1980

reply states no insurance, the TPL indicator is overridden, claims are paid and the reply is forwarded to the state office for further action. The county office is contacted by the TPL section to verify information received and to correct TADs if necessary. (Correction of TADs at this point will prevent future claims being pended for TPL.) If specific insurance information is known, the county will confirm and the provider will be notified.

Effective November, 1979, accident-related claims are being paid then forwarded to the TPL section for further action. The provider is not penalized by a delay in payment because the accident-related cases are under a pay and chase system.

We are sensitive to provider feelings and recognize that we cannot have an efficient and effective Medicaid system without provider support. Your understanding and cooperation is appreciated.

Very truly yours,



Keith L. Colbo
Director

PG/hj

cc Jim McCabe
Bill Ikard

February 18, 1981

STATEMENT OF ROSE SKOOG, EXECUTIVE DIRECTOR,
MONTANA NURSING HOME ASSOCIATION

BEFORE HOUSE PUBLIC HEALTH COMMITTEE

HOUSE BILL 705

House Bill 705, requiring timely payments to providers of health care services, has very wide support within the nursing home industry.

While many providers indicate that the problem of late payments is not as prevalent as it has been in the past, they feel that this bill would provide needed protection in those instances when a problem involving payment does arise. Problems involving late payments do occur in instances where an employee simply makes a mistake in processing a payment or where a Department employee intentionally withholds a payment which it is later determined should in fact have been made. When a problem of this kind does arise, it is not unusual for it to take several months to resolve it. When the problem is ultimately resolved, the provider has lost the use of his money over a long period of time and has received no interest. Yet that provider may have had to borrow money to meet regular expenses of operation such as the facility's payroll.

When problems do occur, it is very difficult for a provider to seek redress since no one person in the Department can be held responsible. Passage of HB 705 will provide the Department with the incentive to resolve payment problems expeditiously--to identify the source of the problem and get it resolved--in a timely manner.

We should add that this legislation is very generous in the time it allows the Department to make payment. Nursing home providers bill the medicaid program on the first of the month following the month for which services are rendered. A nursing home which took care of a patient January 1 through January 31, would bill medicaid on February 1 for those services. HB 705 gives the Department until March 10 to pay for those services before interest begins to run. Thus the interest doesn't begin to run until the services for which payment has not been made range in age from 40 days to 70 days. This is a more than reasonable length of time.

February 18, 1981

House Bill 705

Page 2

Thus, with this legislation, providers are not seeking interest on payments which are simply a few days late, or where there is a very minor problem with payment. They are seeking redress when major delays and problems occur in the processing of their payments.

We urge you to vote DO PASS on House Bill 705.

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

12 p.m. XVI
2-18-81



TED SCHWINDEN, GOVERNOR

P.O. BOX 4210

STATE OF MONTANA

HELENA, MONTANA 59604

February 17, 1981

The Honorable R. Budd Gould
Chairman, Public Health Committee
Montana House of Representatives
Helena, MT 59601

Dear Representative Gould:

H. B. 705 which is before your Committee today merits a speedy death.

The Department of Social and Rehabilitation Services is responsible for paying its bills both accurately and promptly. H. B. 705 appears to recognize only the second of these responsibilities.

Prior to payment of a bill, we must determine whether the client is eligible, the service is medically necessary, the service is covered by the program, the proper fee is billed, the bill is a duplicate, and the bill explains what service was provided.

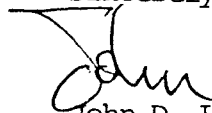
If all of the above are answered affirmatively, a check is written. If the claim is inappropriate for any of the above reasons, it is denied. As you can imagine, some of the determinations called for occasionally cannot be made within thirty days. H. B. 705 would require those determinations to be made within 10 days if a claim were submitted on the last day of the month.

The record of this department is very good overall in consideration of the fact that an average of 40,000 claims per month are made. As our testimony will show, we settle between 85 to 97% of our claims within thirty days. We plan to improve that percentage even further. Our contract for claims processing for the next fiscal year calls for 90% of all claims to be settled within 20 days, for 95% to be settled within 30 days, for 99% to be settled within 75 days.

The requirement that the department pay interest on unpaid bills will only hurt patients. Any interest payment would not be eligible for federal matching funds and would come from the state general fund appropriation. This would take away from our ability to meet patient needs for medical assistance.

Thank you for your consideration of my views on H. B. 705.

Sincerely,


John D. LaFaver
Director

2-18-01
12p.m.

XVII

1 Substitute House BILL NO. 251

2 INTRODUCED BY _____

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A WORK
5 EXPERIENCE AND TRAINING PROGRAM TO PROVIDE RECIPIENTS OF
6 AFDC PAYMENTS AN OPPORTUNITY TO CONTRIBUTE THEIR EFFORTS
7 TO SOCIETY IN RETURN FOR ASSISTANCE RECEIVED AND TO EXPLORE
8 THE FEASIBILITY OF ESTABLISHING SUCH A PROGRAM TO INCLUDE
9 RECIPIENTS OF OTHER FORMS OF PUBLIC ASSISTANCE."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Purpose. The purpose of [this act] is to
13 establish a work experience and training program to be
14 coordinated, whenever fiscally advantageous, with the federal
15 WIN program to provide recipients of AFDC payments an oppor-
16 tunity to contribute their efforts to society, to improve
17 their skills and increase their employment opportunities,
18 to promote their self-sufficiency, and to explore the
19 feasibility of expanding this program to include recipients
20 of other forms of public assistance.

21 Section 2. Definitions. As used in [this act], the
22 following definitions apply:

23 (1) "AFDC" means aid to families with dependent
24 children, as defined in the federal social security act,
25 42 U.S.C. 601, through 626.

1 (2) "Board" means the board of social and rehabilitation
2 appeals provided for in 2-15-2203.

3 (3) "Departments" means the department of social and
4 rehabilitation services provided for in Title 2, chapter 15,
5 part 22 and the department of labor and industry provided
6 for in Title 2, chapter 15, part 17.

7 (4) "Program" means the work experience and training
8 program established under [this act].

9 (5) "Project" means a place, approved by the departments,
10 at which a recipient of AFDC payments may receive work
11 experience or training.

12 (6) "WIN" means the federal work incentive program
13 provided for in 42 U.S.C. 630 through 644. .

14 Section 3. Departments' to establish program. The
15 departments shall work jointly to establish a program in which
16 an employable or potentially employable person may be required
17 to participate as a condition of eligibility for AFDC payments.
18 AFDC payments shall continue to be paid to such a person by
19 the same agencies authorized to make such payments prior
20 to [the effective date of this act], pursuant to Title 53,
21 chapter 4 and regulations under WIN. The departments may
22 jointly or individually enter into agreements with governmental
23 units or agencies, or nonprofit agencies to establish projects
24 to effectuate this program. The departments shall, to the
25 extent practicable, establish the program on a statewide

1 basis.

2 Section 4. Exemptions. A person may be exempt
3 from mandatory participation in the program if he is:

4 (1) under 16 years of age;

5 (2) enrolled in and attending school full time
6 when attendance is appropriate and 16 but not yet
7 21 years of age;

8 (3) ill or significantly and substantially
9 incapacitated if it has been determined by the depart-
10 ment, on the basis of medical evidence or on another
11 sound basis, that the illness or incapacitation is
12 serious enough to temporarily or permanently prevent
13 the person from engaging in a work experience
14 or training project;

15 (4) the caretaker in the home of a household
16 member who requires the person's presence in the home
17 on a substantially continuous basis as determined
18 by a physician or a licensed or certified psychologist.
19 Only one member of a household may claim this exemption.

20 (5) the mother, the father, or other caretaker
21 relative of a child under the age of 6. Only one member
22 of a household may claim this exemption.

23 (6) 65 years of age or older; or

24 (7) for any other reason exempt from participating
25 in the WIN program pursuant to federal regulations.

1 Section 5. Suitability of project. A project
2 established under [this act] may not be used to supplant
3 or perform any work ordinarily performed by:

- 4 (1) a regular employee, whether paid or voluntary; or
- 5 (2) a regular employee whose position is vacant due to
6 a labor strike or a lockout currently in active progress.

7 Section 6. Disqualification from public assistance--
8 right of appeal. (1) If the departments or their
9 authorized designees determine that a person required
10 to participate in the program has failed or refused
11 to do so or has failed to comply with the rules
12 established under [section 7], that person, upon written
13 notice by one of the departments or its authorized designee,
14 shall be disqualified from receiving AFDC payments. The
15 termination of AFDC payments for any person may not affect
16 AFDC payments or any other form of public assistance
17 received by other members of the same household.

18 (2) Upon written notification of disqualification, an
19 affected person may appeal to:

20 (a) the board for a fair hearing, pursuant to
21 Title 53, chapter 2, part 6; or

22 (b) the department of labor and industry for
23 redress under the WIN adjudication process, pursuant
24 to CFR part 56 and 45 CFR part 1398.

25 Section 7. Adoption of rules. (1) The departments

1 jointly shall adopt rules for:

2 (a) the determination of suitable projects;

3 (b) the determination of employability;

4 (c) registration and participation in the program;

5 (d) the determination of disqualification for AFDC
6 payments and subsequent reeligibility of persons who
7 fail to comply with the provisions of [this act] and
8 rules adopted under [it];

9 (e) reporting and other responsibilities of the
10 sponsoring project;

11 (f) hearing procedures required under [section 6].
12 and the determination of which appeal process is
13 appropriate for the recipient; and

14 (g) the administration of the program and the
15 delegation of responsibilities between the departments.

16 Section 8. Compliance with federal requirements
17 authorized. The departments are authorized to comply
18 with such federal requirements and to adopt such
19 methods of administration as may be necessary under WIN
20 or similar federal programs to obtain federal funds
21 in the maximum amount and most advantageous proportion
22 possible.

23 Section 9. Departments to make recommendations.
24 The departments shall make recommendations to the 48th
25 legislature as to the feasibility of expanding the

1 program to include recipients of other forms of public
2 assistance. The departments' recommendations may be
3 accompanied by suggested legislation necessary to
4 implement the recommendations made.

5 Section 10. Conflict with federal law. If any
6 portion of the program is found to conflict with
7 federal law or rules, that portion may be suspended.

8 -End-

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House BILL NO. 258

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INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A ~~PILOT~~
^{EXPERIENCE AND TRAINING}
WORK A PROGRAM ~~IN AT LEAST SIX COUNTIES IN MONTANA~~ TO PROVIDE
^{AFDC PAYMENTS}
RECIPIENTS OF ~~PUBLIC ASSISTANCE~~ AN OPPORTUNITY TO CONTRIBUTE
THEIR EFFORTS TO SOCIETY IN RETURN FOR ASSISTANCE RECEIVED
AND TO EXPLORE THE FEASIBILITY OF ESTABLISHING SUCH A
PROGRAM PERMANENTLY." ^{TO INCLUDE RECIPIENTS OF OTHER FORMS OF PUBLIC ASSISTANCE}

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose. The purpose of [this act] is to
establish a ^{experience and training} pilot work a program ~~to be applied in limited~~
^{to be coordinated, whenever fiscally advantageous, with the federal WIV program}
~~areas of the state~~ to provide recipients of ~~public~~
^{AFDC payments} assistance, an opportunity to contribute their efforts to
society, to improve their skills and increase their
employment opportunities, to promote their self-sufficiency,
~~and to explore the feasibility of expanding this program to~~
~~cover the entire state.~~ ^{include recipients of other forms of public assistance}

Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "AFDC" means ~~the aid to families with dependent children, payments~~ ^{as defined in the federal Social Security Act, 42 U.S.C. 601 through 626.}

(1)(2) "Board" means the board of social and rehabilitation appeals provided for in 2-15-2203.

(2)(3) "Department" ^{"Departments"} means the department of social and rehabilitation services provided for in Title 2, chapter 15,

and the department of labor and industry provided for in part 22. Title 2, chapter 15, part 17

(3)(4) "Program" means the ^{experience and training} pilot work program established under [this act].

(4)(5) "Project" means a place of employment, approved by the ^{department} department, at which a recipient of ^{AFDC} public assistance ^{payments} may ^{receive} work. ^{experience or training provided for in} 42 U.S.C. 630 through 644.

(6) "WIN" means ^{public work} The work incentive program ^{department} departments.

Section 3. ^{department} Department ^{work jointly to} to establish program. The ^{department} department shall establish a program in which an employable or potentially employable person may be required to participate ^{as a condition of eligibility} to be eligible to receive public assistance. ^{AFDC payments} Public assistance shall continue to be paid to such a person ^{for AFDC payments} by the same agencies authorized to make such payments prior to [the effective date of this act], pursuant to Title 53, chapter 2. ^{4 and regulations under WIN} The ^{department} department may ^{jointly or individually} enter into agreements with governmental units or agencies, ~~private employers~~, or nonprofit agencies to establish projects to effectuate this program. ~~Pilot projects shall be established in, at least~~

~~six counties in the state. No more than one project may be established in each county.~~ ^{The departments shall, to the extent possible, establish the program on a statewide basis.}

Section 4. Exemptions. A person ~~is~~ ^{may be} exempt from mandatory participation in the program if he is:

- (1) under 16 years of age;
- (2) ^{enrolled in and} attending school full time; ^{when attendance is appropriate and but not yet 24 years of age for 18 year}
- (3) ill or significantly ^{and} substantially ^{benefits to children who are not direct of}

incapacitated if it has been determined by the department,

(1) for any other reason exempt from participating in the WIN program pursuant to federal regulations.

1 on the basis of medical evidence or on another sound basis,
 2 that the illness or incapacitation is serious enough to
 3 temporarily or permanently prevent the person from engaging
 4 in employment; ^{a work experience or training project}

5 (4) the caretaker in the home of a household member
 6 who requires the person's presence in the home on a
 7 substantially continuous basis as determined by a physician
 8 or a licensed or certified psychologist. Only one member of
 9 a household may claim this exemption.

10 (5) the mother, the father, or other caretaker ^{relative} of a
 11 child under the age of 6. Only one member of a family or a
 12 household may claim this exemption.

13 ~~Section 5. Limitation on days of work required. A~~
 14 ~~person participating in the program may not be required to~~
 15 ~~work more than the number of hours necessary to earn the~~
 16 ~~amount to which he is eligible under the public assistance~~
 17 ~~laws of Montana. The equivalent rate of reimbursement may~~
 18 ~~not be less than the minimum wage.~~

19 Section ⁵ ~~4~~. Suitability of employment. ^{project} ~~(1)~~ A project
 20 established under [this act] may not be used to supplant or
 21 perform any work ordinarily performed by:

- 22 (a) (1) a regular employee, whether paid or voluntary; or
- 23 (b) (2) a regular employee whose position is vacant due to
- 24 a labor strike or a lockout currently in active progress.

25 ~~(2) No person may be required to participate in a~~

1 project if such participation would interfere with his
2 participation in a training program approved by the
3 department designed to improve his employability.

4 Section 7. Disqualification from public assistance --
5 right of appeal. (1) If the department^{department} or its^{department} authorized
6 designee^{designees determine} determines^{their} that a person required to participate in
7 the program has failed or refused to do so or has failed to
8 comply with the rules established under [section 7], that
9 person, upon written notice by ^{one of} the ~~department~~^{department} or its
10 authorized designee, shall be disqualified from receiving
11 public assistance. ^{AFDC payments} The termination of public assistance ^{AFDC payments for} of
12 any person may not affect ^{AFDC payments or any other form of} public assistance received by
13 other members of the same household.

14 (2) Upon written notification of disqualification, an
15 affected person may appeal to ^(a) the board for a fair hearing,
16 ~~The board shall, upon receipt of a request for a hearing,~~ ^{pursuant to Title 53, chapter 2, part 6; or (b) the department of labor and industry for review}
17 ~~give the affected person prompt notice and opportunity for a~~ ^{with} ~~fair hearing.~~ ^{adjudicatory} ~~All decisions of the board are final and~~ ^{process,} ~~binding.~~ ^{to federal regulations in (29 C.F.R. part 52 and 45 C.F.R. part}

20 Section 8. Adoption of rules. (1) The department^{department} shall ^{department jointly}
21 adopt rules for:

- 22 (a) the determination of suitable projects;
- 23 (b) the determination of employability;
- 24 (c) registration and participation in the program;
- 25 (d) the determination of disqualification for public

AFDC payments

1 assistance and subsequent reeligibility of persons who fail
2 to comply with the provisions of [this act] and rules
3 adopted under [it];

4 (e) reporting and other responsibilities of the
5 sponsoring project; and

6 (f) hearing procedures required under [section 7] ^{and the determination of which appeal process is appropriate for the recipient and}

7 (g) the administration of the program and the delegation of responsibilities between the departments.

8 (2) The department may adopt any other rules necessary
9 for the administration of the program.

Section 8.

Department

9 Department to report results and make
10 recommendations. The department shall report to the 48th

departments

11 legislature the results of the program established under
12 [this act] and make recommendations as to the feasibility of

to the 48th legislature

13 continuing the program and expanding it throughout the
14 state. The department's report shall be accompanied by suggested

The program to include other recipients of other forms of public assistance

departments' recommendations may

15 legislation necessary to implement the recommendations made.

16 Section 10. Conflict with federal law. If any portion
17 of the program is found to conflict with federal law or

18 its rules, that portion may be suspended. The reason for

19 suspension shall be reflected in the report required under
20 [section 9].

21 Section 11. Expiration of act. This act expires June

22 30, 1983.

-End-

Cooperation and compliance with federal requirements authorized. The department
is authorized to comply with such federal requirements and to adopt such methods
of administration as may be necessary under WIN or similar federal programs
to obtain federal funds in the maximum amount and most
advantageous proportion possible.