

MINUTES

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

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By Senator Dorothy Eck, Chair, on March 19, 1993,
at 3:00 pm.m

ROLL CALL

Members Present:

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

Members Excused: Sen. Tom Hager

Members Absent:

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

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

Committee Business Summary:

Hearing: HB 190, HB 148
Executive Action: HB 158, HB 107, HB 610, HJR 4, HB 168

HEARING ON HB 148

Opening Statement by Sponsor:

Rep. Alvin Ellis, Jr., House District 84, said HB 148 is a simple
piece of legislation. He said the important part of the bill is
on Page 2, Line 13.

Proponents' Testimony:

Mary Lou Garrett, Administrative Assistant for the Board of
Chiropractors, provided written testimony from the Chairman of
the Board of Chiropractors. (Exhibit #1)

Questions From Committee Members and Responses:

Sen. Towe asked Rep. Ellis what a preceptor was. Rep. Ellis said it was his understanding that the term was synonymous with "intern".

Sen. Franklin said that a preceptor is one who supervises interns.

Sen. Towe asked Mary Lou Garrett if preceptors themselves were licensed. Ms. Garrett said they were.

Sen. Rye asked Ms. Garrett about the passing grade of 60%, which seems like a very low grade. Ms. Garrett said a 75% overall passing grade is required. There are many sections in the exam, and individuals may not get a percentage lower than 60% on one section.

Chairman Eck asked Ms. Garrett to what extent written exams were given, and what other exams there were. Ms. Garrett said the National Board of Chiropractor has developed a practical exam, and some "special purpose" exams for chiropractors.

Closing by Sponsor:

Rep. Ellis said the amendment from the House Committee got rid of language which set into law what the examination would consist of. National standards change, and therefore so does the examination. The amendment makes it so that the law does not have to be changed to reflect changes in national standards. Rep. Ellis said Sen. Klampe agreed to carry the HB 148 on the Floor of the Senate.

HEARING ON HB 190

Opening Statement by Sponsor:

Rep. Gary Mason, House District 63, said HB 190 specifies the requirements for licensure of clinical social workers. An inactive status for licensed social workers will also be created.

Proponents' Testimony:

Patrick Wolberd, licensed social worker representing the Board of Social Worker Examiners and Professional Counselors, provided written testimony. (Exhibit #2)

Craig Simmons, licensed social worker practicing in Helena, said he has been authorized by the National Association of Social Workers (NASW) to speak on behalf of that association. The Association fully concurs with the testimony given by Mr. Wolberd. HB 190 will up-grade the supervision requirement for licensure candidates, which will provide consumer protection. The bill allows the term Licensed Clinical Social Worker (LCSW)

to be used which is important for insurance reimbursement for clinical services. HB 190 and the term LCSW will not narrow the scope of practice for social workers. The intent of the licensing law which was enacted in 1983 was to license all professionally trained social workers for general or clinical practice. Mr. Simmons said HB 190 is a clean up bill.

Judith Carlson, Montana Chapter of the National Association of Social Workers, said the Association supports HB 190, and supports the amendments offered in the House.

Mary McCue, Montana Clinical Mental Health Counselors Association (MCMHCA), said they support HB 190 because it includes good provisions, which they would like to apply to professional counselors. Counselors would like the opportunity to use the term "clinical" as well, for the same reasons as the social workers. Ms. McCue provided amendments to HB 190 (Exhibit #3), and went over them. They were not aware of the deadline for submitting legislation to the Governor's Office. When they became aware of HB 190, the professional counselors stated they would like to be included. However, they had missed the deadline.

Dr. Quinton Hehn, licensed professional counselor practicing in Missoula, and President-elect of MCMHCA, said they support the addition of "clinical" for licensed professional counselors. It is only a title change, but it assists them in representing themselves, and more accurately represents what counselors do. They also support the increase of work experience to 3000 hours.

Carol Stabin-Burroughs, licensed professional counselor in Bozeman, said licensed professional counselors and licensed professional social workers have comparable degrees, similar hours for their degrees and licensure, they work in the same sector of business, and they are governed by the same Board. Ms. Stabin-Burroughs said it was unfair to give social workers the title "clinical", while not giving it to counselors. She asked the Committee to support the amendments.

Tom J. Farrow, licensed professional counselor in Billings, said he works with social workers, and they work well together. It is appropriate for counselors to have "clinical" status along with social workers because they are governed by the same Board. Mr. Farrow said he is tired of wasting time and money to get "clinical" status.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Towe asked what the difference between a social worker and a counselor was. Judith Carlson said social workers have a master's degree in social work. All social workers basically have the same body of knowledge, studying the organization of communities, families and individual psycho-social development. They have field work experience as well as academic experience. There are additional requirements for licensure.

Dr. Quinton Hehn, said counselors also have a master's degree, 2000 hours of supervised training. Counselor programs have started developing programs for school counselors and for clinical mental health counselors.

Sen. Towe asked Dr. Hehn who goes to a social worker, and who would go to a counselor. Dr. Hehn said that is interchangeable. He refers to social workers as well as counselors, and psychologists. They all do similar types of work, and very often have the same training.

Sen. Franklin said how she understood the disciplines was by looking at the "core" of the practice, because often times there are overlapping functions. She readdressed the questions to Ms. Carlson and to Mr. Hehn. Ms. Carlson said the core of social work is the work with individuals within their family, and within their community. Dr. Hehn said for counselors, it was working with individuals within their families.

Chairman Eck asked Dr. Hehn if a school counselor could be a licensed clinical counselor. Dr. Hehn said under current law, a school guidance counselor could, if certain standards were met. This is one reason for the licensing law.

Chairman Eck asked Dr. Hehn if guidance counselors would be grandfathered into the law. Dr. Hehn said they would, if they met the qualifications for licensed counselors.

Chairman Eck asked Dr. Hehn who got third party payments. Dr. Hehn said all licensed professional counselors could collect third party payments. There are some problems with the term "clinical".

Sen. Klampe asked Pat Wolberd about the three reasons he gave for including counselors in the bill. Mr. Wolberd said there is a lack of dialogue among licensed professional counselors in the state, and it is not certain that all counselors are in accord with HB 168.

Sen. Klampe asked Pat Wolberd for three reasons why counselors should not be included in the bill. Mr. Wolberd said the current statutes do not conform with the new national standards. Putting "clinical" into counselors' titles may misrepresent their actual qualifications. There is current legislation pending which has the potential for eroding standards even further. In addition, the Board is not satisfied that it has heard adequate testimony

from licensed professional counselors across the state.

Sen. Klampe asked Mr. Wolberd if Montana currently did not meet the national standards. Mr. Wolberd said that was correct, in terms of the statutes for both licenses. Social workers asked for legislation to bring them into compliance a couple of years ago.

Sen. Christiaens asked Craig Simmons if the addition of the title "clinical" immediately upgraded the profession. Mr. Simmons said the upgrading is in peer recognition, and in public recognition of the training of social workers.

Sen. Christiaens asked Mr. Simmons about the implication that the treatment would be better because of the addition of the title "clinical". Mr. Simmons said that was not correct, and he did not intend to say that. The term "clinical" clarifies what the social worker's services are. The upgrading comes with increased supervision.

Sen. Christiaens asked if licensed social workers and licensed professional counselors worked in psychotherapy. Mr. Simmons said social workers did during 3000 hours of supervised therapy.

Carol Stabin-Burrows said a school counselor would need to practice 2000 hours in a clinical setting. Currently, schools are not considered clinical settings.

Chairman Eck asked Ms. Stabin-Burrows if there were many school counselors, or guidance counselors who did not have that title. Ms. Stabin-Burrows said not all counselors are licensed professional counselors.

Chairman Eck asked Ms. Stabin-Burrows if it was all right for them to call themselves counselors. Ms. Stabin-Burrows said it was.

Sen. Towe asked what was gained by adding the word "clinical" in front of either title. Dr. Bob Bachew, Montana Clinical Mental Health Counselors Association, said the term "clinical" is a vendorship issue.

Sen. Towe asked Dr. Bachew if that meant there was no difference between a counselor and a clinical counselor. Dr. Bachew said there was not a difference if all the minimum standards had been met to qualify for licensure.

Sen. Towe asked Dr. Bachew what was sought to be achieved by the addition of the title "clinical." Dr. Bachew said it was critical in terms of surviving in the state of Montana. The insurance industry has applied pressure in terms of reimbursement. "Clinical" is a way to redefine what psychotherapists do.

Sen. Towe asked Dr. Bachew if there were a difference between "clinical" hours of training and non-clinical hours of training. Dr. Bachew said clinical training would be in a psycho-therapeutic setting, with supervision.

Sen. Towe asked for an example of non-clinical training. Sen. Christiaens said pre-release center counselors are unsupervised in a clinical setting. Working under a psychologist would be clinical.

Sen. Towe said it depended on who the supervisor was.

Sen. Franklin said the difference was that "clinical" people were involved with affecting and interacting in human dynamics in a significant way. It is a semantic difference. It is not necessarily a professional growth issue, but more a vendorship issue.

Sen. Klampe asked Dr. Wolberd about the pending legislation. Dr. Wolberd said there is other legislation, SB 372, which allows licensed practical counselors from other states to establish a plan for their different credentials.

Chairman Eck said that bill went through the Senate Business and Industry Committee.

Sen. Towe asked Rep. Mason if he objected to the amendment offered by Mary McCue. Rep. Mason said if the amendments did not pose a problem with the procedure of the bill, then he did not oppose them.

Sen. Towe asked Pat Wolberd if the Board objected to the amendment. Mr. Wolberd said there were concerns that HB 190 would die in a joint committee if amendments were adopted.

Sen. Christiaens asked Mr. Wolberd if the inactive status had been amended from seven years to two years. He also asked if both groups had the same continuing education requirements. Mr. Wolberd said there was a requirement of 20 hours of continuing education required each year. Both licensed come under the same Board.

Sen. Klampe asked Bob Bachew why there was no compliance with the April deadline for bills. Dr. Bachew said they were never notified of the deadline. The licensing board does not communicate with the professional organizations.

Sen. Klampe asked Dr. Bachew why counselors want to be included in the bill by adding "clinical" before their titles. Dr. Bachew said they need the vendorship to compete in the industry.

Chairman Eck asked Carol Grell, legal counsel for the Board, about the deadline for legislation. Ms. Grell said the legislation deadlines were moved to April, giving them two weeks

notice. It was not a matter of not notifying anyone.

Chairman Eck asked Ms. Grell if there were people who called themselves social workers who were not licensed. Ms. Grell said they were, in most cases, employed by agencies.

Closing by Sponsor:

Rep. Mason thanked the Committee for a good hearing.

EXECUTIVE ACTION ON HB 158

Motion:

Chairman Eck said the bill revised the laws regarding the Alternative Health Care Board.

Tom Gomez, Legislative Council, said there were some major problems with the current law. For example, all members of the Board had to be present to conduct business, but that has been changed. There was also a need for staggered terms.

Motion/Vote:

Sen. Rye moved HB 158 BE CONCURRED IN. The motion carried UNANIMOUSLY. Sen. Halligan will carry HB 158 on the Floor of the Senate.

EXECUTIVE ACTION ON HB 107

Discussion:

Chairman Eck said she would prefer to wait to take Executive Action on HB 107 until Sen. Hager was present, or until a member of the Committee had spoken to him about the bill. The bill would eliminate the Sunrise procedures, including the audit. Chairman Eck said that the audits had helped. Chairman Eck said that Rep. Cobb had indicated that the Legislative Audit Committee would continue to do the Sunrise audits if the Committee insisted.

Motion:

Sen. Towe moved HB 107 BE NOT CONCURRED IN.

Discussion:

Sen. Rye asked Sen. Towe what a Sunrise audit was. Sen. Towe

said it was about licensing, setting up a board, and paying license fees. The Sunrise audit provides limitations. The term "Sunset" refers to the termination of a board, and "Sunrise" refers to the creation of a board.

Sen. Klampe said he had spoken with Mr. Seacat, and he did not like Sunrise audits.

Sen. Towe said Mr. Seacat is the auditor, he does the Sunrise audits. It is a useful function because it saves the Committee from doing all the screening.

Vote:

The motion to NOT CONCUR IN HB 107 CARRIED, with Sen. Franklin voting no. Chairman Eck said she would carry the adverse committee report on the Floor of the Senate

EXECUTIVE ACTION ON HB 610

Motion:

Sen. Towe moved the amendments (Exhibit #4) be adopted.

Discussion:

Sen. Towe went over the amendments (Exhibit #4), saying that the amendments were made at the request of Rose Hughes in the House Committee. Sen. Towe said he had concerns about fees going to a special account rather than the general fund.

Mike Craig, Department of Health, said putting the money into the general fund disallows the Department's access to use it specifically for receivership of a facility or to reimburse patient's lost money.

Sen. Christiaens asked Mr. Craig if some of the funds would go towards the relocation of patients as well. Mr. Craig said that was correct.

Sen. Towe asked Sen. Christiaens if there were a way in the appropriations process to guarantee access to those funds for the purposes outlined by Mr. Craig. Sen. Christiaens said it would have to be requested from the general fund. If it is in an account, it is available to the Department. Information was given in testimony that the account would be less than \$10,000.

Sen. Mesaros asked Mr. Craig about the need for a special account. Mr. Craig said HB 610 provides the Department with the ability to negotiate with a facility that is not in compliance with the law. It is important that patients are not moved. Much of what Rose Hughes wanted is still intact, and a middle ground

has been achieved.

Sen. Mesaros said he was not fond of creating another earmarked account.

Sen. Christiaens said Rose Hughes stated in testimony that the amendments provided a range of sanctions, rather than immediately going to civil penalties.

Vote:

The motion to adopt the amendments carried, with Sen. Mesaros voting no.

Motion/Vote:

Sen. Towe moved HB 610 BE CONCURRED IN AS AMENDED. The motion carried, with Sen. Mesaros voting no. Sen. Towe will carry HB 610 on the Senate Floor.

EXECUTIVE ACTION ON HJR 4

Discussion:

Chairman Eck said information had been provided regarding the number of nurse practitioners in Montana. (Exhibit #5) Chairman Eck said the program needs a million dollar endowment to get started.

Sen. Christiaens said he foresaw the debate on the Floor of the Senate, about future funds for the program.

Sen. Franklin said HJR 4 is very basic and nurse practitioners will be needed in the future. Having programs in the state insures not having recruitment problems.

Sen. Towe asked Sen. Franklin what a nurse practitioner was. Sen. Franklin said a nurse practitioner is a registered nurse who has additional (graduate level) clinical and didactic training and education. Sen. Franklin said there are certificate programs, but these are limited in terms of clinical experience.

Sen. Christiaens said that nurse practitioners could prescribe medication under the supervision of a physician. Sen. Franklin said that was correct, but not all nurse practitioners have prescriptive authority.

Sen. Klampe asked Sen. Franklin why she didn't see nurse practitioners as being "in between" a registered nurse and a physician. Sen. Franklin said she saw the core practices differently. Physicians operate out of a "medical model," and nurses operate out of a "nursing model." There are conceptual differences, but there are also overlapping functions.

Chairman Eck said that nurse practitioners could also be primary care providers. Sen. Franklin said that was correct. Sen. Klampe said he foresaw turf battles, and this should be kept in mind. The doctors and nurse practitioners should be kept away from conflict.

Sen. Franklin said nurse practitioners are not providing a new function. They are functioning well with physicians in many major cities, and it has not been a turf battle because it has been an on-going discussion. They are doing different things with some common tools.

Chairman Eck said that HJR 4 is something that came from the Legacy Legislature, and does nothing more than encouraging an endorsement of supports at Montana State University to develop a nurse practitioner program.

Motion/Vote:

Sen. Mesaros moved HJR 4 BE CONCURRED IN. The motion carried UNANIMOUSLY. Sen. Bob Brown will carry the bill on the Floor of the Senate.

EXECUTIVE ACTION ON HB 168

Discussion:

Ann Gilkey said she had seen the amendment. (Exhibit #6) She said she had spoken with federal officials in Denver who said including "substantial risk of harm" language was fine. However, it is contradictory to the preceding sentence.

Sen. Towe went over the amendment. (Exhibit #6) Withholding medical care solely for religious proposes should not be the basis for finding child abuse or neglect.

Tom Gomez said the language in the amendment came from already existing Montana statute.

Sen. Towe said he had concerns that the term "substantial" was not strong enough.

Ms. Gilkey said "substantial" was as strong as the language could be. The federal government does not agree to "life threatening."

Sen. Christiaens asked Ms. Gilkey how would "substantial risk" be proven by an attorney. Ms. Gilkey said that would depend on the case.

Sen. Christiaens asked Ms. Gilkey if there had been cases in Montana where a child had been taken from the parents for medical treatment. Ms. Gilkey said she was aware of none.

Sen. Christiaens asked Ms. Gilkey if, under current law, it could be done. Ms. Gilkey said it would be difficult with the religious exemption in the law.

Sen. Franklin said it would be appropriate to have language that gives judges clear direction. Sen. Franklin said she was satisfied with the amendment.

Sen. Towe said the language read "substantial risk of harm" not "not substantial harm."

Sen. Klampe asked what was meant by "imminent." Sen. Towe said it meant "immediate." Sen. Rye said it "could happen in the near future."

Sen. Klampe said he did not like the language.

Sen. Towe said the reason the language "imminent or substantial risk of harm" was included is that language is already in the Montana Codes.

Motion:

Sen. Franklin moved the amendment without the second sentence. (Exhibit #6)

Discussion:

Sen. Rye said he valued the life of a child and the freedom to exercise religious beliefs, which made voting for or against the amendment difficult. One must be subordinated to the other in this case, and he was not comfortable doing this. Sen. Rye urged the Committee members to vote for the amendment, and he would vote against it.

Sen. Christiaens said he shared the same feelings as Sen. Rye.

Sen. Towe said the language in the first sentence of the amendment covers the issue well.

Sen. Rye said he would prefer to keep the second sentence in the amendment.

Chairman Eck said it was her understanding that the parents or guardians could not be charged with child abuse or neglect (by withholding medical care) because of religious beliefs. On the other hand, in the case of imminent or substantial risk of harm, a judge can insist a child gets (medical) care. The parents are still not charged with abuse.

Sen. Towe said he accepted the decision of the United States Supreme Court on this issue. Sen. Towe mentioned the case of snake charmers.

Vote:

The motion to adopt the amendment without the second sentence carried UNANIMOUSLY.

Motion:

Sen. Franklin moved the second set of amendments to HB 168. (Exhibit #7)

Discussion:

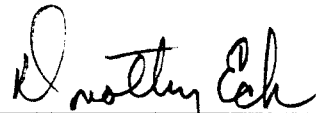
Sen. Towe went over the amendments. (Exhibit #7)

Motion/Vote:


Sen. Christiaens moved that HB 168 BE CONCURRED IN AS AMENDED. The motion carried UNANIMOUSLY. Sen. Franklin will carry the bill on the Floor of the Senate.

ADJOURNMENT

Adjournment: Chairman Eck adjourned the hearing at 5:00 p.m.



SENATOR DOROTHY ECK, Chair



LAURA TURMAN, Secretary

DE/LT

ROLL CALL

SENATE COMMITTEE Public Health

DATE 3-19-93

NAME	PRESENT	ABSENT	EXCUSED
Eck	✓		
Franklin	✓		
Klampe	✓		
Hager			✓
Towe	✓		
Mesaros	✓		
Rye	✓		
Christiaens	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 22, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 158 (first reading copy -- blue), respectfully report that House Bill No. 158 be concurred in.

Signed: _____

Dorothy Eck

Senator Dorothy Eck, Chair

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Sec. of Senate

Sen. Halligan

Senator Carrying Bill

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ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 22, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 107 (first reading copy -- blue), respectfully report that House Bill No. 107 be not concurred in.

Signed: *Dorothy Eck*
Senator Dorothy Eck, Chair

AM Amd. Coord.
m Sec. of Senate

Sen. Eck
Senator Carrying Bill

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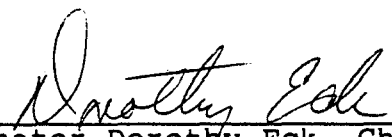
SENATE STANDING COMMITTEE REPORT

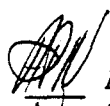
Page 1 of 1
March 22, 1993


MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Joint Resolution No. 4 (first reading copy -- blue), respectfully report that House Joint Resolution No. 4 be concurred in.

Signed: _____


Senator Dorothy Eck, Chair


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

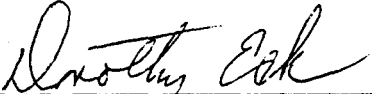
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SENATE STANDING COMMITTEE REPORT

Page 1 of 3
March 22, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 610 (first reading copy -- blue), respectfully report that House Bill No. 610 be amended as follows and as so amended be concurred in.

Signed: 
Senator Dorothy Eck, Chair

That such amendments read:

1. Title, line 8.

Strike: "AND ADMINISTRATIVE"

2. Page 2, lines 5 through 7.

Following: "[section 1]" on line 5

Strike: remainder of line 5 through "PERSON" on line 7

3. Page 2, line 19.

Following: line 18

Insert: "(2) In determining the amount of penalty to be assessed for an alleged violation under this section, the court shall consider:

(a) the gravity of the violation in terms of the degree of physical or mental harm to a resident or patient; the degree of harm to the health, safety, rights, security, or welfare of a resident or patient; and the degree of deviation committed by the facility from a requirement imposed by part 1 or 2 of this chapter or by a rule, license provision, or order adopted or issued pursuant to part 1 or 2;

(b) other matters as justice may require."

Renumber: subsequent subsections

4. Page 2, line 21.

Strike: "GENERAL FUND"

Insert: "patient protection account provided for in [section 7]"

5. Page 3, line 3.

Following: "knowingly"

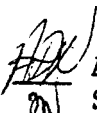
Insert: "conceals material information about the operation of the facility or"

6. Page 4, line 2.

Following: line 1

Insert: "(3) In determining the amount of penalty to be assessed for an alleged violation under this section, the court shall consider:

(a) the gravity of the violation in terms of the degree of


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Senator Carrying Bill

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physical or mental harm to a resident or patient; the degree of harm to the health, safety, rights, security, or welfare of a resident or patient; and the degree of deviation committed by the facility from a requirement imposed by part 1 or 2 of this chapter or by a rule, license provision, or order adopted or issued pursuant to part 1 or 2;
(b) other matters as justice may require."

Renumber: subsequent subsections

7. Page 4, line 12.

Following: line 11

Insert: "(6) A penalty collected under this section must be deposited in the patient protection account provided for in [section 7]."

8. Page 7, line 10.

Following: "APPROPRIATE"

Strike: "AND REASONABLE METHOD"

Insert: "means"

9. Page 10, line 25.

Following: line 24

Insert: "(a) penalties collected pursuant to part 1 or 2 of this chapter;"

Renumber: subsequent subsections

10. Page 11, lines 7 through 9.

Strike: subsection (a) in its entirety

Insert: "(a) to pay for the costs of a receivership; and"

11. Page 11, line 11.

Following: "residents"

Strike: ";"

Insert: "."

12. Page 11, lines 12 through 17

Strike: subsections (c) and (d) in their entirety

13. Page 15, line 1.

Strike: "(1)"

14. Page 15, line 7.

Strike: "(a)"

Insert: "(1)"

15. Page 15, line 10.

Strike: "(b)"

Insert: "(2)"

16. Page 15, line 13.

Strike: "(c)"

Insert: "(3)"

17. Page 15, lines 16 through 25.

Strike: subsections (2) and (3) in their entirety

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
March 22, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 168 (first reading copy -- blue), respectfully report that House Bill No. 168 be amended as follows and as so amended be concurred in.

Signed: *Dorothy Eck*
Senator Dorothy Eck, Chair

That such amendments read:

1. Title, line 6.

Strike: "IN ACCORDANCE"

Insert: "AND OTHER TERMS USED UNDER MONTANA'S CHILD ABUSE AND
NEGLECT LAWS IN ORDER TO CONFORM"

2. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 40-8-111,"

Following: "41-3-102,"

Insert: "AND 41-3-609,"

3. Page 1, lines 19 through 23.

Following: "neglected" on line 19

Insert: ""

Strike: remainder of line 19 through "welfare" on line 23

Insert: "means the state or condition of a child who has suffered
child abuse or neglect"

4. Page 1, line 24.

Following: "(3)"

Insert: "(a)"

5. Page 1, line 25.

Strike: "health"

6. Page 2, line 4.

Following: line 3

Insert: "(b) Nothing in this chapter may be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent, due to religious beliefs, does not provide medical care for a child. However, nothing in this chapter may be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent or substantial risk of harm to the child."

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Amd. Coord.
Sec. of Senate

Sen. Franklin
Senator Carrying Bill

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7. Page 2, line 6.

Following: line 5

Insert: "(5)(a) "Child abuse or neglect" means:

(i) harm to a child's health or welfare, as defined in subsection (8); or

(ii) threatened harm to a child's health or welfare, as defined in subsection (15).

(b) The term includes harm or threatened harm to a child's health or welfare by the acts or omissions of a person responsible for the child's welfare."

Renumber: subsequent subsections

8. Page 3, line 3.

Following: "education, or"

Insert: "adequate"

9. Page 6.

Following: line 6

Insert: "Section 2. Section 40-8-111, MCA, is amended to read:

"40-8-111. Consent required for adoption. (1) An adoption of a child may be decreed when there have been filed written consents to adoption executed by:

(a) both parents, if living, or the surviving parent of a child, provided that consent is not required from a father or mother:

(i) adjudged guilty by a court of competent jurisdiction of assault on the child, as provided in 45-5-201; endangering the welfare of children, concerning the child, as provided in 45-5-622; or sexual abuse of children, toward the child, as provided in 45-5-625;

(ii) who has been judicially deprived of the custody of the child on account of cruelty or neglect toward the child;

(iii) who has, in the state of Montana or in any other state of the United States, willfully abandoned the child, as defined in 41-3-102~~(7)~~~~(d)~~(8)(d);

(iv) who has caused the child to be maintained by any public or private children's institution, charitable agency, or any licensed adoption agency or the department of family services of the state of Montana for a period of 1 year without contributing to the support of the child during said period, if able;

(v) if it is proven to the satisfaction of the court that the father or mother, if able, has not contributed to the support of the child during a period of 1 year before the filing of a petition for adoption; or

(vi) whose parental rights have been judicially terminated;

(b) the legal guardian of the child if both parents are dead or if the rights of the parents have been terminated by judicial proceedings and such guardian has authority by order of

the court appointing him to consent to the adoption;

(c) the executive head of an agency if the child has been relinquished for adoption to such agency or if the rights of the parents have been judicially terminated or if both parents are dead and custody of the child has been legally vested in such agency with authority to consent to adoption of the child; or

(d) any person having legal custody of a child by court order if the parental rights of the parents have been judicially terminated, but in such case the court having jurisdiction of the custody of the child must consent to adoption and a certified copy of its order shall be attached to the petition.

(2) The consents required by subsections (1)(a) and (1)(b) shall be acknowledged before an officer authorized to take acknowledgments or witnessed by a representative of the department of family services or of an agency or witnessed by a representative of the court."

Section 3. Section 41-3-609, MCA, is amended to read:

"41-3-609. Criteria for termination. (1) The court may order a termination of the parent-child legal relationship upon a finding that any of the following circumstances exist:

(a) the parents have relinquished the child pursuant to 40-6-135;

(b) the child has been abandoned by his parents as set forth in 41-3-102~~(7)(d)~~(8)(d);

(c) the child is an adjudicated youth in need of care and both of the following exist:

(i) an appropriate treatment plan that has been approved by the court has not been complied with by the parents or has not been successful; and

(ii) the conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time; or

(d) the parent has failed to successfully complete a treatment plan approved by the court within the time periods allowed for the child to be in foster care under 41-3-410 unless it orders other permanent legal custody under 41-3-410.

(2) In determining whether the conduct or condition of the parents is unlikely to change within a reasonable time, the court must enter a finding that continuation of the parent-child legal relationship will likely result in continued abuse or neglect or that the conduct or the condition of the parents renders the parents unfit, unable, or unwilling to give the child adequate parental care. In making such determinations, the court shall consider but is not limited to the following:

(a) emotional illness, mental illness, or mental deficiency of the parent of such duration or nature as to render the parent unlikely to care for the ongoing physical, mental, and emotional needs of the child within a reasonable time;

(b) a history of violent behavior by the parent;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child caused by the parent;

(d) excessive use of intoxicating liquor or of a narcotic or dangerous drug that affects the parent's ability to care and provide for the child;

(e) present judicially ordered long-term confinement of the parent;

(f) the injury or death of a sibling due to proven parental abuse or neglect; and

(g) any reasonable efforts by protective service agencies that have been unable to rehabilitate the parent.

(3) In considering any of the factors in subsection (2) in terminating the parent-child relationship, the court shall give primary consideration to the physical, mental, and emotional conditions and needs of the child. The court shall review and, if necessary, order an evaluation of the child's or the parent's physical, mental, and emotional conditions.

(4) A treatment plan is not required under this part upon a finding by the court following hearing if:

(a) two medical doctors submit testimony that the parent is so severely mentally ill that such person cannot assume the role of parent;

(b) the parent is incarcerated for more than 1 year and such treatment plan is not practical considering the incarceration; or

(c) the death of a sibling caused by abuse or neglect by the parent has occurred.""

-END-

BOARD OF CHIROPRACTORS
DEPARTMENT OF COMMERCE

DATE 3-19-93

BILL NO. HB 148

ARCADE BUILDING
111 N. JACKSON

STAN STEPHENS, GOVERNOR



STATE OF MONTANA

(406) 444-5433

HELENA, MONTANA 59620-0407

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

H.B. 148 amends 37-12-201 and 304 which are sections in the Chiropractic Practice Act. This legislation does several housekeeping chores that have needed to be done for a long time. Our Commerce Department legal counsel recommended these changes.

First, it cleans up some language by using the more legally suitable term "must" instead of "shall." It also makes the pronoun "him" gender neutral. There are some other minor grammatical changes.

Second, in paragraph 3, part d of 204, it adds the words "and the registration of interns and preceptors." For years the Board has had a very useful program to allow fourth year interns from chiropractic colleges to practice under the direct, physical supervision of a licensed doctor of chiropractic until they graduate and are licensed. However, upon close examination of the law, we found that we may not actually have legal authority to do this. This amendment will take care of this.

Third, it simply strikes the term "written" in paragraph 3 of 304 that refers to the tests administered by the National Board of Chiropractic Examiners (NBCE). Right now the Board of Chiropractors administer our own oral, practical tests to license applicants twice yearly. However, we on the Board of Chiropractors are not really experts on the administration of objective, legally defensible examinations of basic competency in the practice of chiropractic. But until recently there was no alternative.

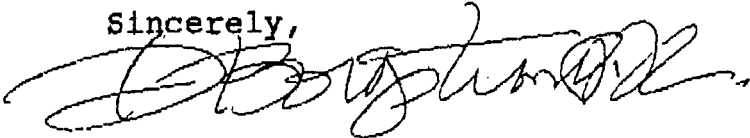
Now the NBCE is developing new oral practical tests that will be given regionally beginning in the near future. These tests are being developed by the professional testing staff of the NBCE and will be a tremendous improvement over the tests that we now give here in Montana.

By striking "written" from the law, the Board of Chiropractors will be able to use these NBCE oral, practical tests in lieu of our own as soon as they are available. However, the law will still allow us to use our own tests if any problems with the administration or quality of the NCBC tests should arise. In addition, the Board will always

require applicants to appear and pass a test on Montana laws and regulations concerning the practice of chiropractic in order to be licensed.

This legislation will make our operation at the Board of Chiropractors both more efficient and legally defensible. The changes will result in no additional cost to the state. If you have questions, Mary Lou Garrett, our administrative assistant at the Bureau of Professional and Occupational Licensing will be attending the hearing. The Board of Chiropractors urge you to pass H.B. 148.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dwayne S. Borgstrand', written over a horizontal line.

Dwayne S. Borgstrand, D.C.
President

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

TESTIMONY PREPARED FOR THE
SENATE PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

March 19, 1993

LICENSED SOCIAL WORKER PROPOSED CHANGES
HB-190

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

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

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

During the past two years, the Board of Examiners has sought input from licensed social workers through the Montana Chapter of the National Association of Social Workers (NASW). There have been several regional meetings plus three state wide meetings to discuss the proposed legislation. The outcome has been that the NASW Board adopted a resolution in support of the Board of Examiners sponsored bill. This was a bill requested by NASW, which the Board of Examiners agreed to carry on behalf of Licensed Social Workers.

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

1. SUPERVISED WORK EXPERIENCE: Section 37-22-301 currently requires a license applicant to have "accumulated 3,000 hours of postdegree work experience in psychotherapy within the past 5 years".
COMMENT: There is no reference to supervision being a part of the required work experience, nor is there reference to

the minimum time required to accumulate the 3,000 hours. The result has been requests for licensure with no comment required from supervisors as to skill level and competence on the job. Some applicants have also applied with as little as one year of work experience based on time worked in excess of a 40 hour work week. The national standards established a 24 month postdegree training period as the minimum period required to integrate one's graduate education and prepare to practice without the benefit of regular supervision.

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

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

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

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

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

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

30% generalists content. The original licensing intent was to license for clinical practice as well as the general practice of social work in order to provide the broadest licensing base. The new language does not change this intent of the original licensing statutory language.

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

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

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

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

LPC CLINICAL TITLE AMENDMENT: The Board of Examiners understands that there will be a request by the Montana Clinical Mental Health Counselors Association (who represent about a third of the Licensed Professional Counselors in Montana) to amend HB 190 to include the term Clinical in the Licensed Professional Counselor title. The Board of Examiners does not support this LPC Clinical Title language amendment. This is not a matter of opposing the concept, but rather a matter of more thoroughly studying the issue.

It is important to note that the original intent of this bill was to make changes in the LSW statutes to bring this license more into compliance with national standards. As was mentioned earlier during the past two years, the Board of Examiners has sought input from licensed social workers through the Montana Chapter of the National Association of Social Workers (NASW). There have been several regional meetings plus three state wide meetings to discuss the proposed legislation. The outcome has been that the NASW Board adopted a resolution in support of the Board of Examiners sponsored bill. This was a bill requested by NASW, which the Board of Examiners agreed to carry on behalf of Licensed Social Workers.

Any reference to Licensed Professional Counselors in this bill was for the purpose of maintaining uniformity in administrative provisions across both licenses, not to bring any changes of substance to the LPC statutes. If there had been a request by the LPCs prior to the April, 1992 deadline for submitting Administration sponsored

legislation, the Board of Examiners would have been able to give more serious consideration to sponsoring such a change. As it was, the first that the Board heard of any interest in such legislation was three months later when Dr. Bakko met with the Board of Examiners on 7/14/93.

The Board informed Dr. Bakko, at that time, that time had grown too short to fully study this request and that we would gladly work with his group to prepare legislation for 1995. This would allow the more thorough process to unfold that we discovered was necessary from our experience with the Licensed Social Workers.

The Board of Examiners does not support the LPC Clinical Title language amendment for the following reasons:

1. The current statutes do not fully conform with the national standards established by the American Counselors Association and the American Clinical Mental Health Counselors Association (as per Dr. Robert Bakko's presentation to the Board on 7/14/92 and his follow up letter of 7/15/92).
2. There is current legislation pending (SB 372) which could further erode LPC licensure requirement's conformity to the national standards.
3. The Board of Examiners believes that, regardless of a last minute attempt by MCMHCA to poll all the LPCs of the State, there has not been sufficient dialogue state wide to demonstrate that the LPCs have been fully informed of the import of such an amendment. (See the Letter of 3/18/93 from Dr. Mary Fitzpatrick, LPC, opposing the Clinical title amendment at this time.) As a result, we would like to work with the LPCs over the next two years to more fully study this request and develop statutory language that is clearly needed, is in the best interest of the consumers of LPC services, and that the Board can whole heartedly support.

The Board of Examiners welcomes the opportunity to work with MCMHCA and the other LPCs in Montana on this matter, but cannot support any amendment at this time to add the term Clinical to the LPC title.

In conclusion, we are requesting that the Senate Public Health, Welfare & Safety Committee approve House Bill-190 as presented with the amendments approved by the House Business Committee.

Madam Chair, we want to thank representative Gary Mason for his support and willingness to sponsor this bill, and the time you and the Public Health Committee are taking to hear testimony on this important matter. I am available for questions from the Committee, as is the legal counsel and administrative assistant for the Board.

AFFILIATED COUNSELING
Office (406) 657-0611
Toll Free 1-800-823-3322

P.O. Box 22931
Billings, MT 59104

3-19-93
HB-190

MARY E. FITZPATRICK, Ph.D.
Licensed Professional Counselor
Certified Chemical Dependency Counselor

Certified Clinical Mental Health Counselor
National Certified Addictions Counselor

Individual
Marital
Family

March 18, 1993

Mr. Patrick Wolberd
2417 Elizabeth St.
Billings, MT 59102

Dear Patrick,

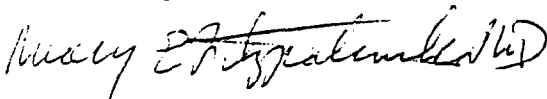
I am happy to put in writing, for your testimony before the legislative committee tomorrow, some of my thoughts about the proposed amendment to allow LPCs to add the word "Clinical" to their title.

In April 1991, the Board of the American Counselors Association adopted its Professionalization Directorate Strategic Plan. The same plan was adopted by the Board of Directors of the American Clinical Mental Health Counselors Association in March, 1992. This plan sets standards for the certification of persons as clinical mental health counselors, and these are the standards which these associations will endeavor to have enacted in state legislatures and accepted by third party payors. These standards, among other things, call for 60 semester hours of clinical training at the master's or post-master's level.

Since the Montana licensing law does not meet these standards it seems to me a cosmetic change and unnecessary, if not deceitful, to allow persons who do not meet these national standards to call themselves LP Clinical Cs. No name change will allow MT LPCs to meet the national standards until the certification law conforms to those standards. The ballot sent to LPCs about the name change suggested this would be a step toward meeting national standards, and perhaps this induced some to vote for it. I believe adopting this change would be irrelevant and confusing.

Please convey to the Board my appreciation of its consistent stand opposing any retreat from national standards in licensing counselors.

Sincerely



Mary E. Fitzpatrick, Ph.D.
Licensed Professional Counselor
Certified Clinical Mental Health Counselor



NATURE HAS MADE US STRONG
AND RESILIENT. WE BEND WITH
THE WIND AND REMAIN UPRIGHT
AFTER A STORM.

Proposed Amendments to HB 190

Prepared by Mary McCue

Lobbyist for Montal Clinical Mental Health Counselors Association

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the board;

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

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

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

Renumber: subsequent sections

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

AMENDMENTS TO HOUSE BILL 610
FOR SENATE PUBLIC HEALTH
(Introduced by Tim Whalen)

1. Page 1, line 8.
Strike: "AND ADMINISTRATIVE"
2. Page 2, lines 5 through 7.
Following: "[section 1]" on line 5
Strike: "THAT" on line 5 through "PERSON" on line 7.
3. Page 2, line 21.
Strike: "GENERAL FUND"
Insert: "patient protection account provided for in [section 7]"
4. Page 2, line 19.
Following: line 18
Insert: "(2) In determining the amount of penalty to be assessed for an alleged violation under this section, the court shall consider
(a) the gravity of the violation in terms of the degree of physical or mental harm to a resident or patient, the degree of harm to the health, safety, rights, security, or welfare of a resident or patient; and the degree of deviation committed by the facility from a requirement imposed by part 1 or 2 of this chapter or by a rule, license provision, or order adopted or issued pursuant to part 1 or 2;
(b) other matters as justice may require."
5. Page 2, line 19.
Strike: "(2)"
Insert: "(3)".
6. Page 3, line 5.
Following: "PERSON"
Insert: "or conceals material information about the operation of the facility".
7. Page 4, line 2.
Following: "VIOLATION" on line 2
Insert: "(3) In determining the amount of penalty to be assessed for an alleged violation under this section, the court shall consider
(a) the gravity of the violation in terms of the degree of physical or mental harm to a resident or patient, the degree of harm to the health, safety, rights, security, or welfare of a resident or patient; and the degree of deviation committed by the facility from a requirement imposed by part 1 or 2 of this chapter or by a rule, license provision, or order adopted or issued pursuant to part 1 or 2;
(b) other matters as justice may require."
and renumber

8. Page 4, line 9.
Following: "district" on line 8
Insert: "A penalty collected under this section must be deposited in the patient protection account provided for in [section 7]."
9. Page 7, line 10.
Following: "APPROPRIATE"
Strike: "AND REASONABLE METHOD"
Insert: "means".
10. Page 10, lines 23 and 24.
Following: "CHAPTER"
Insert: "penalties collected pursuant to parts 1 or 2 of this chapter".
11. Page 10, line 25.
Following: "(A)"
Insert: "(b)".
12. Page 11, line 4.
Following: "(B)"
Insert: "(C)".
13. Page 11, lines 7 through 9.
Following: "(a)"
Strike: "TO ADMINISTER" through "RECEIVERSHIP"
Insert: "to pay for the costs of a receivership".
14. Page 11, lines 12 and 13.
Strike: "(c)" to "AND"
15. Page 11, lines 14 through 17.
Strike: (D) in its entirety from "(D)" to "FACILITY".
16. Page 15, lines 16 through 25.
Strike: "(2) through FUND".

Montana Primary Care Association, Inc.

SENATE HEALTH & WELFARE

EXHIBIT NO

5

DATE

3-19-93

BILL NO

HJR 4

March 18, 1993

TO: Senator Chris Christiaens

FROM: Kip Smith *K. Smith*
Director of Development

RE: HJR 4

This memo is in response to questions you raised regarding HJR 4 during the Senate Public Health, Welfare and Safety Committee meeting yesterday.

According to the Montana Nurses Association, there are currently 121 Nurse Practitioners living in Montana and registered with the Board of Nursing. Thirty-nine of these have prescriptive authority under Montana law. In addition, there are 56 Certified Registered Nurse Anesthetists (CRNA) and 11 Nurse Midwives residing in Montana.

Regarding the specific requirements of a family nurse practitioner program, nurses can obtain a Masters of Nursing in several areas, therefore, a nurse with a masters degree is not automatically a Nurse Practitioner. However, a person successfully completing a NP program will have a masters in nursing.

Stan Hall with the Nurse Practitioners Interest Group provided me with a brief summary of the planned Family Nurse Practitioner Program at MSU. It will include both didactic and clinical components and will be specifically tailored to practicing in rural areas. The goal will be to increase the number of primary health care practitioners available to practice in rural Montana communities.

Course work will include classes on physical diagnosis, microbiology, physiology of aging, pharmacology, counseling, etc. The classroom work will be followed by a clinical internship under the supervision of a physician or practicing nurse practitioner. Stan would be very willing to provide additional information and can be reached at 442-6410 in Helena.

I hope this information answers your questions. If we can be of further assistance, please contact me at the number below. We appreciate your support for HJR 4.

cc: Senator Dorothy Eck
Representative Beverly Barnhart

Amendments to House Bill No. 168
Third Reading Copy

SENATE HEALTH & WELFARE
EXHIBIT NO. 6
DATE 3-19-93
BILL NO. HB 168

For the Senate Public Health, Welfare, and Safety Committee

Prepared by Tom Gomez
February 26, 1993

1. Page 1, line 24.
Following: "(3)"
Insert: "(a)"

2. Page 2, line 4.
Following: line 3
Insert: "(b) Nothing in this chapter may be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent, due to religious beliefs, does not provide medical care for a child. The mere withholding of medical care in the practice of religious beliefs may not be considered child abuse or neglect. However, nothing in this chapter may be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent or substantial risk of harm to the child.

Amendments to House Bill No. 168
Third Reading Copy

For the Senate Health, Welfare, and Safety Committee

Prepared by Tom Gomez
February 25, 1993

1. Title, line 6.

Strike: "IN ACCORDANCE"

Insert: "AND OTHER TERMS USED UNDER MONTANA'S CHILD ABUSE AND
NEGLECT LAWS IN ORDER TO CONFORM"

2. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 40-8-111,"

Following: "41-3-102,"

Insert: "41-3-609,"

3. Page 1, lines 19 through 23.

Following: "neglected" on line 19

Insert: ""

Strike: remainder of line 19 through "welfare" on line 23

Insert: "means the state or condition of a child who has suffered
child abuse or neglect"

4. Page 1, line 25.

Strike: "health"

5. Page 2, line 6.

Following: line 5

Insert: "(5)(a) "Child abuse or neglect" means:

(i) harm to a child's health or welfare, as defined in
subsection (8); or

(ii) threatened harm to a child's health or welfare, as
defined in subsection (15).

(b) The term includes harm or threatened harm to a child's
health or welfare by the acts or omissions of a person
responsible for the child's welfare."

Renumber: subsequent subsections

6. Page 3, line 3.

Following: "education, or"

Insert: "adequate"

7. Page 6.

Following: line 6

Insert: "Section 2. Section 40-8-111, MCA, is amended to read:

"40-8-111. Consent required for adoption. (1) An adoption
of a child may be decreed when there have been filed written
consents to adoption executed by:

(a) both parents, if living, or the surviving parent of a
child, provided that consent is not required from a father or

mother:

(i) adjudged guilty by a court of competent jurisdiction of assault on the child, as provided in 45-5-201; endangering the welfare of children, concerning the child, as provided in 45-5-622; or sexual abuse of children, toward the child, as provided in 45-5-625;

(ii) who has been judicially deprived of the custody of the child on account of cruelty or neglect toward the child;

(iii) who has, in the state of Montana or in any other state of the United States, willfully abandoned the child, as defined in 41-3-102~~(7)~~~~(d)~~(8)(d);

(iv) who has caused the child to be maintained by any public or private children's institution, charitable agency, or any licensed adoption agency or the department of family services of the state of Montana for a period of 1 year without contributing to the support of the child during said period, if able;

(v) if it is proven to the satisfaction of the court that the father or mother, if able, has not contributed to the support of the child during a period of 1 year before the filing of a petition for adoption; or

(vi) whose parental rights have been judicially terminated;

(b) - the legal guardian of the child if both parents are dead or if the rights of the parents have been terminated by judicial proceedings and such guardian has authority by order of the court appointing him to consent to the adoption;

(c) the executive head of an agency if the child has been relinquished for adoption to such agency or if the rights of the parents have been judicially terminated or if both parents are dead and custody of the child has been legally vested in such agency with authority to consent to adoption of the child; or

(d) any person having legal custody of a child by court order if the parental rights of the parents have been judicially terminated, but in such case the court having jurisdiction of the custody of the child must consent to adoption and a certified copy of its order shall be attached to the petition.

(2) The consents required by subsections (1)(a) and (1)(b) shall be acknowledged before an officer authorized to take acknowledgments or witnessed by a representative of the department of family services or of an agency or witnessed by a representative of the court."

Section 3. Section 41-3-609, MCA, is amended to read:

"41-3-609. Criteria for termination. (1) The court may order a termination of the parent-child legal relationship upon a finding that any of the following circumstances exist:

(a) the parents have relinquished the child pursuant to 40-6-135;

(b) the child has been abandoned by his parents as set forth in 41-3-102~~(7)~~~~(d)~~(8)(d);

(c) the child is an adjudicated youth in need of care and both of the following exist:

(i) an appropriate treatment plan that has been approved by the court has not been complied with by the parents or has not been successful; and

(ii) the conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time; or

(d) the parent has failed to successfully complete a treatment plan approved by the court within the time periods allowed for the child to be in foster care under 41-3-410 unless it orders other permanent legal custody under 41-3-410.

(2) In determining whether the conduct or condition of the parents is unlikely to change within a reasonable time, the court must enter a finding that continuation of the parent-child legal relationship will likely result in continued abuse or neglect or that the conduct or the condition of the parents renders the parents unfit, unable, or unwilling to give the child adequate parental care. In making such determinations, the court shall consider but is not limited to the following:

(a) emotional illness, mental illness, or mental deficiency of the parent of such duration or nature as to render the parent unlikely to care for the ongoing physical, mental, and emotional needs of the child within a reasonable time;

(b) a history of violent behavior by the parent;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child caused by the parent;

(d) excessive use of intoxicating liquor or of a narcotic or dangerous drug that affects the parent's ability to care and provide for the child;

(e) present judicially ordered long-term confinement of the parent;

(f) the injury or death of a sibling due to proven parental abuse or neglect; and

(g) any reasonable efforts by protective service agencies that have been unable to rehabilitate the parent.

(3) In considering any of the factors in subsection (2) in terminating the parent-child relationship, the court shall give primary consideration to the physical, mental, and emotional conditions and needs of the child. The court shall review and, if necessary, order an evaluation of the child's or the parent's physical, mental, and emotional conditions.

(4) A treatment plan is not required under this part upon a finding by the court following hearing if:

(a) two medical doctors submit testimony that the parent is so severely mentally ill that such person cannot assume the role of parent;

(b) the parent is incarcerated for more than 1 year and such treatment plan is not practical considering the incarceration; or

(c) the death of a sibling caused by abuse or neglect by the parent has occurred.""

Montana Primary Care Association, Inc.

March 18, 1993

TO: Senator Chris Christiaens
FROM: Kip Smith *K. Smith*
Director of Development
RE: HJR 4

This memo is in response to questions you raised regarding HJR 4 during the Senate Public Health, Welfare and Safety Committee meeting yesterday.

According to the Montana Nurses Association, there are currently 121 Nurse Practitioners living in Montana and registered with the Board of Nursing. Thirty-nine of these have prescriptive authority under Montana law. In addition, there are 56 Certified Registered Nurse Anesthetists (CRNA) and 11 Nurse Midwives residing in Montana.

Regarding the specific requirements of a family nurse practitioner program, nurses can obtain a Masters of Nursing in several areas, therefore, a nurse with a masters degree is not automatically a Nurse Practitioner. However, a person successfully completing a NP program will have a masters in nursing.

Stan Hall with the Nurse Practitioners Interest Group provided me with a brief summary of the planned Family Nurse Practitioner Program at MSU. It will include both didactic and clinical components and will be specifically tailored to practicing in rural areas. The goal will be to increase the number of primary health care practitioners available to practice in rural Montana communities.

Course work will include classes on physical diagnosis, microbiology, physiology of aging, pharmacology, counseling, etc. The classroom work will be followed by a clinical internship under the supervision of a physician or practicing nurse practitioner. Stan would be very willing to provide additional information and can be reached at 442-6410 in Helena.

I hope this information answers your questions. If we can be of further assistance, please contact me at the number below. We appreciate your support for HJR 4.

cc: Senator Dorothy Eck
Representative Beverly Barnhart

DATE 3-19-93

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: HB 148, HB 190

Name (please print)	Representing	Bill No.	Check One		
			Support	Oppose	
DR. DUNTON R. HELM	MEMHCA	HB 190	<input checked="" type="checkbox"/>	<input type="checkbox"/>	+
Carol Staben-Burroughs	MCMHCA	HB 190	<input checked="" type="checkbox"/>	<input type="checkbox"/>	+ ✓
Tommy F. Foy	MCMHCA	HB 190	<input checked="" type="checkbox"/>	<input type="checkbox"/>	+ ✓
Mary Lou Garrett	Board of Chiropractors 148		<input type="checkbox"/>	<input type="checkbox"/>	
Mary McEue	MCMHCA	HB 190	<input type="checkbox"/>	<input type="checkbox"/>	✓
Bob Bunker	MCMHCA	HB 190	<input type="checkbox"/>	<input type="checkbox"/>	✓
Pat Williams	BSWERC	HB 190	<input type="checkbox"/>	<input type="checkbox"/>	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY