

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By CHAIRMAN JIM BURNETT, on February 17, 1995, at
12:05 PM

ROLL CALL

Members Present:

Sen. James H. "Jim" Burnett, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Mike Sprague (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Terry Klampe (D)

Members Excused: Sen. Arnie A. Mohl (R)

Members Absent: None

Staff Present: Susan Fox, Legislative Council
Karolyn Simpson, Committee Secretary

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

Committee Business Summary:

Hearing: SB 226, SB 293, SB 307, SB 401
Executive Action: SB 226, SB 293, SB 307, SB 401, SB 194

{Tape: 1; Side: 1}

HEARING ON SB 226

Opening Statement by Sponsor:

SENATOR TOM KEATING, SD 5, Billings, said SB 226 deals with the licensed professional counselor, who has a level of education, training and expertise that fits into the continuum of various counseling, including psychiatric and mental health. There are psychiatrists, clinical psychologists, social workers, licensed professional counsellors, plus other types of counselors, including education, chemical dependency, etc. The word counselor gets to be a generic term, allowing people to hang out a shingle and call themselves professional counselors, but are not licensed and offering a level of service that is not as high as it is for a licensed professional counselor. The licensed professional counselors want to tighten up the statutes to protect the public

and make sure the public receives the level of service advertised on the shingle.

There will be some amendments to the bill, and there are sufficient exemptions to avoid interference with education, chemical dependency, or spiritual counselors. The intent is not to require licensure of all counselors, but want to make sure licensed professional counselors are the ones who can call themselves professional counselors. Anyone else who wants to be a "professional counselor" must be licensed.

Proponents' Testimony:

Dr. Bob Bakko, Licensed Professional Counselor, Executive Director of Northwest Counseling Centers, said the problem is, anybody can put a shingle out as a counselor in the state of Montana. The title law that protects licensed professional counseling is strictly a title law, but does not protect the practice, with consumer protection related directly to those who are licensed, not those who are unlicensed. **EXHIBIT 1.**

He handed out samples of advertising by those who are unlicensed to practice and present themselves in a way that is beyond their scope of practice. **EXHIBIT 2.**

SB 226 is a consumer protection bill, not intended to exclude, but intended to bring clarity.

Dr. Quniton Hehn, Licensed Professional Counselor, private practice in Missoula, and President of Montana Mental Health Counselors Association, spoke in support of SB 226. He said it will help defend some very vulnerable people, those seeking mental health counseling, in the state of Montana. SB 226 provides a chance for those seeking mental health counseling to know the counselor is trained and competent when they go in the door. MMHCA worked with legislators to establish a law, in Montana, that is in keeping with the National Uniform Standards for Clinical Practice. SB 226 takes the next step to help protect the people of Montana.

Mary McCue, Lobbyist and legal counsel to Montana Clinical Mental Health Counselors Association, reviewed the amendments to SB 226, which were suggested by the other professions and those who would be impacted by the bill. **EXHIBIT 3.** She referred to amendments 1, 2, and 3 for page 2, lines 17, 20 through 22. The words counselor and counseling are too broad, and too general to try to protect with this legislation, so are deleting the reference to counselor. Amendments 3-5 all relate to one another. These amendments were requested by chemical dependency counselors. Amendment 6, referring to volunteers, and amendments 7-11, refers to social workers and psychologists, who were concerned with the language on page 3, line 4. These amendments provide social workers and psychologists with an absolute exemption.

Carl Bodek, Licensed Professional Clinical Counselor in Missoula, spoke in support of SB 226. He said this bill protects the public, counselors, and protects the profession.

Gloria Hermanson, representing Montana Psychological Association, said they support SB 226, but only if the amendments proposed are included.

Bob Torres, representing Montana Chapter, National Association of Social Workers, said they support the concept of SB 226 with the amendments.

Pat Melby, representing Rimrock Foundation in Billings, spoke in support of SB 226 with the amendments proposed.

Darryl Bruno, Administrator, Alcohol and Drug Abuse Division, Department of Corrections and Human Services, spoke in support of SB 226.

Opponents' Testimony:

Robert Hagstrom, Licensed Professional Counselor from Billings, said he and his wife have a business in Billings called Christos Therapy, a Christian counseling service. He is licensed by the state of Montana and his wife is not. He spoke briefly from his written testimony. **EXHIBIT 4.**

Questions From Committee Members and Responses:

SENATOR BENEDICT wondered if **Robert Hagstrom's** wife should call herself a counselor without meeting the requirements, and why she can't call herself something other than a counselor.

Robert Hagstrom said she doesn't call herself a professional counselor or a licensed professional counselor, but instead, calls herself a biblical counselor, using the scriptures. She is not adverse to using psychological principles, and refers people to psychologists.

SENATOR BENEDICT asked why the people who are on the fringes of counseling, but are not licensed and don't meet the requirements, can't call themselves something else besides a counselor, like advisor.

Robert Hagstrom said he didn't know.

SENATOR BENEDICT asked about the statement from **Robert Hagstrom** that SB 226 would take away about 50% of their income, and why anyone, faced with the loss of income due to inadequate education or training to meet requirements, wouldn't make an effort to obtain the training necessary.

Robert Hagstrom said SB 226 just came up and the date for meeting the requirements is January 1996. He said education is one of the options, but for his wife to go back to school now, it will require years.

SENATOR BENEDICT asked why **Robert Hagstrom's** wife couldn't continue her work, but call herself something different.

Robert Hagstrom said she could call herself a pastoral counselor, but if this bill ever goes to court, how would a pastoral counselor be interpreted.

SENATOR BENEDICT said maybe she needs to call herself a pastoral advisor. If she wants to use the word counselor, she needs to do what it takes to be called a counselor.

SENATOR FRANKLIN asked about the eligibility for third-party reimbursement.

Robert Hagstrom replied that he is eligible.

SENATOR ECK asked about other people in their office who counsel, whether they're eligible.

Robert Hagstrom said, he and his wife are the only ones in their office. He is eligible but his wife is not.

SENATOR ECK asked about the use of the word counselor in the amendments.

Mary McCue said, with the amendments, a person still could call themselves a counselor, because the use of the word "counselor" is not restricted, but the practice of counseling is restricted.

SENATOR BAER asked **SENATOR KEATING** if he had approved or disapproved the amendments, as presented.

SENATOR KEATING said he accepted the amendments as presented.

SENATOR SPRAGUE asked if the public will understand the difference between counselor, professional counselor, licensed professional counselor, and all the ramifications. Has the consumer been helped?

SENATOR KEATING said the public is becoming more aware of the various levels of education and application for mental health, for subacute emotional disturbances versus acute psychiatric problems. People will seek out levels of mental health treatment based on cost and appropriate needs.

Closing by Sponsor:

SENATOR KEATING requested SB 226 be amended. The bill doesn't intend to prevent people from calling themselves counselors, as long as they preface it with the level of expertise they intend to practice. No license is required to be a counselor, but using the title Professional counselor requires being licensed. There is opportunity, in this bill, for people to continue in training,

to get the hours needed to be licensed. This bill is designed to protect the public.

HEARING ON SB 307

Opening Statement by Sponsor:

SENATOR ETHEL HARDING, SD 37, Polson and Lake County, said SB 307 clarifies acupuncture. She presented several facts about acupuncture. **EXHIBIT 5.**

Proponents' Testimony:

Donald Beans, has been licensed to practice acupuncture in Montana for 15 years, is the founding President of Montana Association of Acupuncture and Oriental Medicine, and is the liaison between the Montana Association and the Board of Medical Examiners. He has met with the Board of Medical Examiners many times, with the purpose of elevating the standards of practice of acupuncture in Montana. Together, they formulated and made rules, which have been brought into the law, relating to ethics guidelines, charting guidelines, and sterilization procedures. SB 307 is the next step in this process, clarifying the definition of the act and scope of practice of acupuncture. The Montana Association of Acupuncture and Oriental Medicine will continue to work with the Medical Board and the Legislature to ensure that Montanans have access to safe and effective acupuncture and oriental medical services provided by fully qualified practitioners.

Sara Marie, state licensed and nationally certified Acupuncturist, President of the Montana Association of Acupuncture and Oriental Medicine, said SB 307 is asking for the addition of Acupressure and Oriental food therapy. She said licensed acupuncturists are well educated and versed in these subjects. She presented the education and training for acupuncture. **EXHIBIT 6.**

Steve Yeakel, representing the Acupuncture and Oriental Medicine Association, spoke in support of SB 307. He referred to fact number 3 of the fact sheet, **EXHIBIT 5**, or lines 1-3, page 2 of SB 307, **EXHIBIT 7**. The changes proposed are intended to remove any notion of turf battle from the legislation. The bill is only intended to address the acupuncturists scope of practice.

Florie Hamrahan, a client of a licensed acupuncturist is a strong proponent of acupuncture because of the physical results she is getting and the cost. She started going to an acupuncturist about 6 years ago, after having 2 years of chronic pain due to a car accident. She had spent several thousand dollars on pain relief remedies, then went to an acupuncturist. After about \$100.00 worth of treatment, she was out of pain, and became a believer. She has had chronic sinus problems for many years, without relief, but with acupuncture and various herbs, she has had satisfying results.

Barbara Bayer, licensed Acupuncturist, said her education is a Master of Science and Art Anals and she supports SB 307.

Opponents' Testimony:

Jerry Loendorf, representing the Montana Medical Association, said there are a couple provisions in SB 307 that cause them some concern. Page 2, line 1, referring to solid needles, **EXHIBIT 7**. If the amendments may address this section, they would support the amendment. Page 2, the definition of acupuncture is expanded. They don't object to the addition of acupressure and the use of foods and herbs. Generally, they have no objection of the sale of foods and herbs, but do so in a couple of instances. If they're represented to cure diseases, for which cures have not been established for that particular substance, there is information that some could be harmful. He presented two reports documenting liver damage from herbal medications. **EXHIBITS 8 and 9**

Dr. Roger Wicke, Ph.D., Rocky Mountain Herbal Institute, testified in opposition to SB 307. He said he is concerned the language in the bill would be confusing to the general public and the issue of safety. He has encountered problems with herbal practice. He presented written testimony. **EXHIBIT 10**.

Jo Rigg, graduate of Rocky Mountain Institute, said she is not a licensed anything, but feels her training in herbs and medicines is as in-depth as given in acupuncture school. She opposes SB 307 for the same reasons given by Dr. Wicke.

Questions From Committee Members and Responses:

SENATOR BENEDICT asked if the Rocky Mountain Herbal Institute licensed, regulated, have FDA approval for the herbs, or if there is any regulation of practice.

Dr. Wicke said there are many substances that are already regulated. They are not licensed by anyone.

SENATOR KLAMPE asked **Roger Wicke** about his education.

Roger Wicke said his education is in biomedical engineering and physiology of the vestibular system. He has training in herbal medicine from the American College of Traditional Chinese Medicine and Acupuncture.

SENATOR KLAMPE asked **Roger Wicke** if he had taken a biochemistry course in nutrition.

Roger Wicke replied that he had.

SENATOR KLAMPE asked **Barbara Bayer** about if she had received a degree in nutrition.

Barbara Bayer said she had not received a degree in nutrition. She obtained a Master of Science in Oriental Medicine from Southwest Acupuncture College, in New Mexico.

SENATOR ESTRADA asked **Jerry Loendorf** if he had offered any amendments to this bill.

Jerry Loendorf said he had not.

SENATOR BENEDICT referred to **Jerry Loendorf's** statements about the ramifications from herbal medicine, and asked if there are drugs on the market, used by the medical profession, that impact the liver.

Jerry Loendorf said yes, but there is a demonstrated good effect. The good and bad are weighed when prescribing drugs.

SENATOR BENEDICT asked if there is a demonstrated good effect to herbs.

Jerry Loendorf said no, and that should be done before the bill is accepted.

SENATOR KLAMPE asked **Barbara Bayer** about her education.

Barbara Bayer replied she obtained a Master of Science in Oriental Medicine from Southwest Acupuncture College.

SENATOR KLAMPE asked if that is an accredited school and accredited by whom.

Barbara Bayer said the National Association for the Accreditation of Schools of Acupuncture and Oriental Medicine are accredited by COPRA.

SENATOR FRANKLIN asked what the main intention or focus of SB 307.

SENATOR HARDING said the focus is on line 12. Acupuncture means the diagnosis, treatment, or correction of human conditions, ailments, diseases, injuries, or infirmities by means of mechanical, thermal, or electrical stimulation effected by the insertion of solid needles.

SENATOR FRANKLIN asked if the core of intent is to define acupuncture in the statutes in the most accurate way.

SENATOR HARDING replied, yes, that was correct.

Closing by Sponsor:

SENATOR HARDING told a story about a friend who had positive results from acupuncture. She said acupuncture may not help everybody, but they have a purpose and do help certain people.

HEARING ON SB 293Opening Statement by Sponsor:

SENATOR ETHEL HARDING, SD 37, Polson, said SB 293 was requested by the Department of Social and Rehabilitation Services. It revises the laws relating to Medicaid fraud and abuse, recovery of Medicaid overpayments, and imposes sanctions for Medicaid fraud and abuse, and health care facilities to comply with applicable standards and requirements, and establishes a Medicaid fraud and abuse unit in the Department of Justice. She discussed proposed amendments. EXHIBIT 11.

{Tape: 1; Side: 2; Comments: tape malfunction, lost 30 seconds.}

Proponents:

Nancy Ellery, Administrator, Medicaid Services Division, Department of SRS, said SB 293 will improve the ability to prevent and respond to Medicaid fraud and abuse. This bill is important to help control Medicaid costs. Last year over \$300,000,000 to over 7,000 providers in Montana. The vast majority of the providers are honest, but there are some who aren't. Health care is big business, so where there is fraud and abuse it amounts to a lot of money. Applying the national estimates of health care fraud to the Montana program, there could be about \$30,000,000 in Montana. SB 293 would establish a fraud control unit in the Department of Justice, supervised and under control of the Attorney General's office. Their primary duty would be to investigate fraud and abuse under the Medicaid program, and look at establishing a criminal offence, designed to address specific activities. Some examples of fraud by providers are: bill for services not provided, bill twice for the same service, cost reports can be falsified, and bill for unnecessary services. The fraud unit would investigate and prosecute the identified cases. Montana is one of nine states that does not have a Medicaid fraud unit and are now mandated by the federal government, with 75% of the funding from the federal government. The other major provision of the bill is the revision of current Medicaid law concerning Medicaid overpayment, recovery, and policy relating to sanctions for Medicaid fraud and abuse, with penalties to providers who do not submit complete, accurate, and honest information. It also revises law to comply with federal requirements relating to health care facilities, such as nursing homes. She said this Medicaid fraud unit will pay for itself by the second year of operation. If the savings are comparable to the Workers Comp fraud unit, there will be a \$3.00 saving for every \$1.00 spent on this activity.

Denzel Davis, Administrator of the Health Facilities Division, Department of Health and Environmental Sciences, said he would address two issues of SB 293. He presented written testimony. EXHIBIT 12.

Mike Batista, Administrator, Law Enforcement Division, Department of Justice, said the Medicaid fraud unit fits well with the other programs of Work Comp fraud and welfare fraud, and anticipates eventual savings with the Medicaid fraud unit. There have been savings realized from both Work Comp and welfare fraud investigations, plus there is a deterrent factor. The word is out that the state will prosecute and criminal investigation will be initiated for cases of fraud.

Jerry Loendorf, representing the Montana Medical Association, spoke briefly in support for SB 293.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR KLAMPE said he had called Nancy Ellery's office about one of his patients, who he had suspected of fraud. He was disturbed that he got no information regarding an investigation from her office. Because he was treating this patient, who may or may not have been guilty of fraud, and he had no way to get any information. The department was not cooperative, at all.

Nancy Ellery said SB 293 addresses recipient fraud, but once a case is referred to the Department of Justice, no information can be released until the investigation is complete.

SENATOR KLAMPE asked if there's anything in this bill to address the person continuing to receive free treatment, while under investigation or found guilty.

Nancy Ellery said a person is allowed to maintain eligibility while the investigation is being done. Depending on the outcome, appropriate action will be taken.

SENATOR KLAMPE asked if appropriate action includes notifying the provider immediately.

Nancy Ellery said, after the investigation is complete, the provider is notified.

Greg Gould, Attorney for SRS, said the bill does not specifically state the provider would be notified, but when eligibility is terminated, the provider would be notified.

Closing by Sponsor:

SENATOR HARDING said, after the Legislature made the step in fraud control in Workers Comp, SRS contacted her about controlling fraud in Medicaid. She said the program will pay for itself, once it gets going, but the best part, when the public is aware of fraud control units, the incidence is reduced.

HEARING ON SB 401

Opening Statement by Sponsor:

SENATOR CHRIS CHRISTIAENS, SD 23, Great Falls, said SB 401 requires coroners, health care facilities, and health care providers inform mortuary personnel that the deceased individual had an infectious disease, at the time of death. There are cases when a mortuary picks up a body, they would handle the body differently, or would know, what kind of a situation they will encounter.

Proponents' Testimony:

Sue Weingartner, representing Montana Funeral Directors Association, said SB 401 addresses issues of concern, urge its passage.

Scott Lukkason, Licensed Funeral Director from Great Falls, spoke on behalf of several funeral directors in Great Falls, in support of SB 401 to protect their health, as well as the public's health. If they know the deceased had a communicable or infectious disease, greater precautions will be taken.

Lloyd Linden, Mortician in Helena, said morticians have a right to know they are handling an infectious case, of which all the health care providers know. They do take precautions, but it's bad when they handle a case, then the health department notifies them months later about an infectious disease the deceased had. It's disturbing when doctors and mortician present at the autopsy, become aware later that there was a possibility of contracting the disease. When the disease is known by health care providers, the morticians should be notified before handling the body.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR FRANKLIN asked if this is a similar model as the Emergency Personnel Service bill, passed in the Public Health Committee, in 1993.

SENATOR CHRISTIAENS said he thought it was.

SENATOR ESTRADA said this bill is long overdue.

SENATOR FRANKLIN asked whether morticians use "universal precautions."

Scott Lukkason said they do operate under universal precautions, but it would be helpful to have knowledge of certain type of diseases, such as tuberculosis or HIV, because they may use special precautions.

SENATOR FRANKLIN asked about dealing with an illness such as HIV, and the concern with privacy. She asked whether the funeral directors have a code of ethics.

Scott Lukkason said everything they do is confidential, for both the protection of themselves and the public.

Closing by Sponsor:

SENATOR CHRISTIAENS said SB 401 is at the request of the Attorney General, placing in the statutes, morticians rights and need to know when they are dealing with deceased who had infectious and contagious disease.

EXECUTIVE ACTION ON SB 401

Motion: **SENATOR ECK** moved SB 401 DO PASS.

Discussion: **SENATOR FRANKLIN** asked for clarification.

Susan Fox said SB 401 makes the process of notification less formal, without certificates of authorization for notification.

Vote: The Do Pass motion for SB 401 CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 194

Discussion: **SENATOR BAER** said amendment 1 to SB 194 was adopted, the other day, but there was another motion to postpone for a further amendment.

Motion: **SENATOR BAER** moved AMENDMENT 1, of January 27, 1995, to SB 194 DO PASS.

Discussion: **SENATOR ECK** asked for review of amendments.

Susan Fox explained the amendments. EXHIBIT 13.

Vote: The Do Pass motion for AMENDMENT 1 to SB 194 CARRIED UNANIMOUSLY.

Motion: **SENATOR BAER** moved AMENDMENT 2, of February 16, 1995, DO PASS.

Discussion: **Susan Fox** explained the amendments. EXHIBIT 14. She said the council serves only in an advisory capacity, making suggestions to the Department of Health and Environmental Sciences, but the council has no rule-making authority.

Vote: The DO PASS motion for AMENDMENT 2 to SB 194 CARRIED UNANIMOUSLY.

Motion: **SENATOR BAER** moved SB 194 DO PASS AS AMENDED.

Discussion: SENATOR ECK asked if this will repeal the small business insurance.

SENATOR BAER replied that it does.

Motion: SENATOR ECK moved a substitute amendment, requested by SENATOR FRANKLIN, that section be repealed. EXHIBIT 15.

SENATOR BENEDICT asked if SENATOR FRANKLIN'S amendment puts small group back into the bill.

SENATOR ECK said yes, it's being put back in, not repealing it.

SENATOR FRANKLIN said, without any other revisions, the amendment leaves small group in the body of the bill.

SENATOR KLAMPE asked about SENATOR BENEDICT'S idea to coordinate and put all of the health care and business bills into a subcommittee. He said SB 194 should be passed with SENATOR ECK'S amendments, keeping it intact until the other considerations are made.

SENATOR BENEDICT said, because there are so many health care and insurance reform bills being heard, he asked SENATOR BOB BROWN if there was a possibility of putting together a joint senate-house select committee on health care and insurance reform to coordinate all of the bills, because there is no way to know how they will affect each other. SENATOR BROWN indicated interest in coordinating the bills. If enough interest can be generated, a joint senate-house committee will be formed to coordinate the bills.

SENATOR BURNETT said, SENATOR BROWN asked him if he would be willing. SENATOR BURNETT said he would, up to a point, but bills passed by the Senate go to the House.

SENATOR BENEDICT said, after transmittal, a joint house-senate select committee would be formed.

SENATOR ECK asked about REP. SMITH'S bill, that repeals the small group insurance. Because it was tabled, she wondered if rules prohibit the Public Health Committee passing a bill that repeals the small group insurance.

SENATOR BURNETT said it did not.

SENATOR BAER said he opposes SENATOR ECK'S motion to amend, and suggest passage of the bill onto the house. If they have any suggestions for fixing the Small Employer Health Insurance Availability Act, which is repealed in SB 194, they can do so. They can revise it, in their own way, and make it something that all will be acceptable. He objects to taking it out of the bill now.

SENATOR ECK said she doesn't know what will happen to the bill on the floor, with this in it, but probably would get a count of who opposes the small group plan. She said people, especially in rural areas, depend on insurance under the small group plan and thinks it irresponsible to take it out.

SENATOR FRANKLIN said she had the amendment drawn up and hadn't talked with **SENATOR BAER** prior to offering the amendment. She had considered not offering the amendment, but voting on the body of the bill itself. Looking back, quite a few people testified against SB 194 because of the insurance portion. Montana Cattlewomen, Women in Farm Economics, Mental Health Association, every mainstream insurance company, Montana Hospital Association, and Peter Blouke from the Governor's office all testified against. There are some concerns and feel it would irresponsible not to respond to the testimony heard.

SENATOR BAER said, responding to the allegation of irresponsibility and a few other things, he said he doesn't feel a roll call of the proponents and opponents that appeared before the committee. There were a substantial number of proponents for this bill who spoke just as strongly as to their chagrin for its affect on society and the small businessman. Naturally, the health insurance people would jump all over this because it allocates more business for them. He said he doesn't want to argue these points, but should take action.

SENATOR FRANKLIN said, this is a question of arguing, but there is a need to talk about what is being done. She thinks it's important to express reasons for voting.

SENATOR KLAMPE said, although **SENATOR BAER** may be correct in saying it could be put back by the House, procedurally, it would be more correct to pass SB 194 out with **SENATOR FRANKLIN's** amendment, then deal with it in the joint House-Senate select committee.

Vote: The Do Pass motion for **SENATOR FRANKLIN's** amendments to SB 194 **FAILED**, with Senators Eck, Franklin, and Klampe voting **YES**.

Motion: **SENATOR BAER** moved SB 194 **DO PASS AS AMENDED**.

Discussion: **SENATOR FRANKLIN** said she is in a dilemma, she was considering offering an amendment for small group insurance. She, and others, had worked very hard on health reform 2 years ago, and so have a fair amount of investment and history. What is attractive to her, is keeping the structure of the health care authority intact, but with some limitations. But, she is concerned with the statement **SENATOR BAER** in his opening statement at the SB 194 hearing, that the process violated the open meetings law, and thinks it needs to be addressed and takes issue with that statement because she doesn't think that was true. She said she would challenge the statement, because making a statement that serious needs to be backed up. For that reason,

she will oppose making the Health Care Authority no more than an advisory council because she doesn't think there was abuse. The other issue, there were some statements made in **SENATOR BAER's** opening that she thinks contaminate the quality of work this Legislature put its heart into, 2 years ago. She knows the plan did not come out of Washington D.C., because she was on the committee, which was a local committee in Montana. The Vermont style plans was the model as much as possible.

SENATOR BURNETT said there is no one who has worked harder for many bills than he has, and has seen them go down the drain. He said, he knows there is concern, because he's been there.

SENATOR BAER said he wished to respond to **SENATOR FRANKLIN's** allegations. As far as the violation of the open meeting law, he could present 20-30 witnesses who were present when this took place in Kalispell earlier in the year. District 5 Health Care Authority met, made several motions as a board, discussed and passed them without asking for any public comment. It was brought to the board's attention that their procedure was illegal in violation of open meeting law. The chairman was quite concerned, expressed ignorance of meeting law, apologized, and said they did not mean to exclude the public from comment, as required by law. They were then very cooperative. At the following meeting in Kalispell, when voting took place, the group was assured they would be able to give testimony and interact at that meeting. But, they abruptly closed the meeting after the voting procedure took place, which outraged the crowd because their comments were not heard. He said these are facts and does not make statements without substance to back them up, and takes offense to allegation that he would do so. As to the origin of this bill, he has the proof of where the intent of this bill came from, December 1992. Many of the provisions came out of the proposition from Senator Max Baucus, by way of the Clinton health care people, are much too coincidental to passages in SB 285.

SENATOR ECK said she recognizes that the Clinton health care plan hearings held around the country had an effect, but there was more effect from the group Stan Stevens put together and had state-wide meetings, and the committee formed under Martin Burke, and had consensus. Then there was a third group made up of senior citizens, who were supporting the single payer plan. There were lengthy hearings and the major parts of all three proposals are contained in SB 285. She said there were many hours put in, and there was testimony. She didn't want to see charges of violating the open meeting law, but there were times that people had to be turned away because of lack of time.

Vote: The Do Pass motion for SB 194 AS AMENDED CARRIED, with Senators Eck, Franklin, and Klampe voting NO, by Roll Call Vote.

EXECUTIVE ACTION ON SB 307

Motion: SENATOR BENEDICT moved the AMENDMENTS, IN CONCEPTION, TO SB 307 DO PASS.

Discussion: SENATOR BENEDICT read the amendment. Page 1, line 15 after the ".", insert "Such use will remain under the licensure and regulation of the Board of Medical Examiners." Page 2, line 1, insert after needles "used to perform acupuncture." This would satisfy the concerns of the Montana Medical Association, and the Board of Medical Examiners has agreed to the language.

SENATOR MOHL came in.

Vote: The Do Pass motion for the AMENDMENTS to SB 307 CARRIED UNANIMOUSLY.

Motion: SENATOR BENEDICT moved SB 307 DO PASS AS AMENDED.

Discussion: SENATOR FRANKLIN asked if the concerns of the herbalists addressed.

SENATOR BENEDICT said the concerns of the acupuncturists were dealt with, but the concerns of Dr. Roger Wicke were not.

SENATOR ECK said there was no method for certifying or accrediting people who deal in food therapy. Some acupuncturists get that training and some do not.

SENATOR BENEDICT said there is rule-making authority by the Board of Medical Examiners that would deal with that issue.

SENATOR ESTRADA asked if the Medical Association is comfortable with the needle issue.

Jerry Loendorf said they were.

Vote: The Do Pass motion for SB 307 AS AMENDED CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 293

Motion/Vote: SENATOR BURNETT moved the AMENDMENT to SB 293 DO PASS.

Discussion: Susan Fox read the amendment.

Vote: The Do Pass motion for the AMENDMENT to SB 293 CARRIED UNANIMOUSLY.

Discussion: SENATOR KLAMPE proposed an amendment for SB 293, page 4, lines 24, after federal agencies, insert "and health care providers working on that patient."

{Tape: 2; Side: 1}

Nancy Ellery said it's against the rules, but is a liability issue.

SENATOR KLAMPE asked if his understanding was correct, regarding termination of medical care. The medical care a person is receiving can't be terminated, in the middle of eligibility, even though that person was determined to be guilty.

Nancy Ellery said, until the investigation is totally complete, no action can be taken against the recipient. Until all of the necessary investigation, prosecution, and appeals are done, no action can be taken against the recipient, unless there is a conviction.

SENATOR BAER asked if it's possible to legally give notice to the health care provider, that an investigation is pending.

Nancy Ellery said they can notify the individual who made the referral, that the case has been referred to the Justice Department.

SENATOR BENEDICT asked if this could be done under rules.

Nancy Ellery said yes, they could.

SENATOR BENEDICT asked if they would.

Nancy Ellery said yes

SENATOR KLAMPE withdrew his proposed amendment.

Motion: SENATOR FRANKLIN moved SB 293 DO PASS AS AMENDED.

Discussion: SENATOR BENEDICT said he is in favor of this bill because this was done to Workers Comp in the last session, even providing additional manpower in the Justice Department. He said there may be some concern, on the floor, that it's going to cost money during the first year, but should bring money back in during the second year.

SENATOR BAER said he wants it established, for the record, that the Department of SRS will take care of SENATOR KLAMPE's concerns, and under the rules, will notify the individual who referred the case.

Nancy Ellery said, for the record, they will take care of it.

Vote: The Do Pass motion for SB 293 AS AMENDED CARRIED
UNANIMOUSLY.

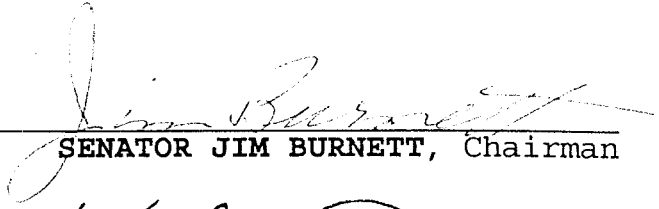
EXECUTIVE ACTION ON SB 226

Motion/Vote: SENATOR ECK moved the AMENDMENTS to SB 226 DO PASS.
The Do Pass motion for the AMENDMENTS to SB 226 AS CARRIED
UNANIMOUSLY.

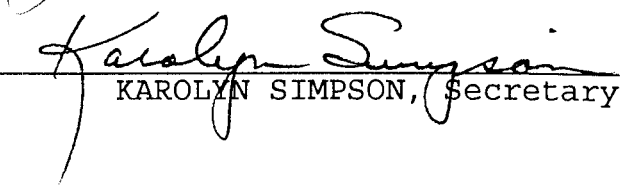
Motion/Vote: SENATOR FRANKLIN moved SB 226 DO PASS AS AMENDED.
The Do Pass motion for SB 226 AS AMENDED CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 2:10 PM



SENATOR JIM BURNETT, Chairman



KAROLYN SIMPSON, Secretary

JB/ks

ROLL CALL

2/17/95

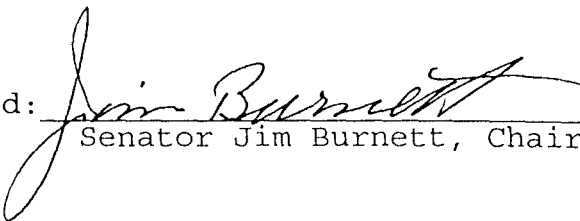
SEN:1995
wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 18, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 307 (first reading copy -- white), respectfully report that SB 307 be amended as follows and as so amended do pass.

Signed: 

Senator Jim Burnett, Chair

That such amendments read:

1. Page 1, line 15.

Following: "herbs."

Insert: "The use of oriental food therapies and herbs remains under the licensure and regulation of the board."

2. Page 2, line 1.

Following: "needles"

Insert: "used to perform acupuncture"

-END-




Amd. Coord.
Sec. of Senate

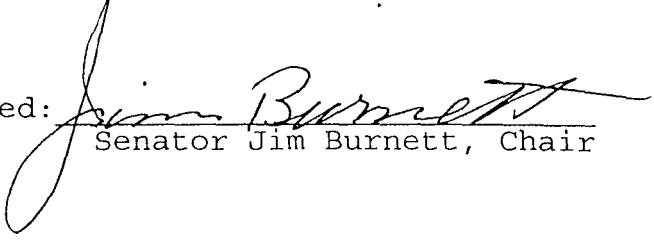
420946SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 18, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 293 (first reading copy -- white), respectfully report that SB 293 be amended as follows and as so amended do pass.

Signed: 

Senator Jim Burnett, Chair

That such amendments read:

1. Page 8, line 9.
Following: "is"
Insert: "not"

-END-



Amd. Coord.
Sec. of Senate

420951SC.SPV

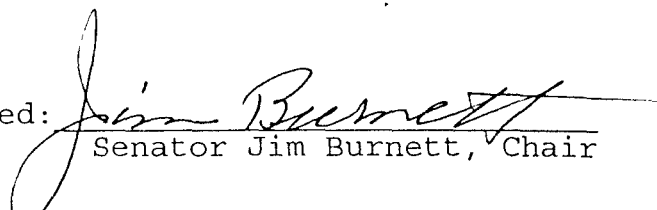
SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 18, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 226 (first reading copy -- white), respectfully report that SB 226 be amended as follows and as so amended do pass.

Signed:


Senator Jim Burnett, Chair

That such amendments read:

1. Title, line 7.

Strike: "OR COUNSELOR"

2. Page 2, line 17.

Following: "counselor"

Strike: "and"

Insert: "or"

Following: "professional counselor"

Strike: ", or counselor"

3. Page 2, line 20.

Following: "counseling,"

Insert: "or"

4. Page 2, lines 21 and 22.

Following: "professional counseling"

Strike: the remainder of line 21 through "counselor" on line 22

5. Page 2, line 27.

Strike: "psychologist,"

6. Page 2, line 28.

Strike: "social worker,"

7. Page 3, line 3.

Strike: "training"

Insert: "licensure or certification"

8. Page 3, line 4.


Strike: "or practice"

9. Page 3, line 5.

Following: "employed by"

Insert: "or acting as a volunteer for"

10. Page 3, line 24.

 Amd. Coord.

 Sec. of Senate

420959SC.SPV

Following: "37-23-202(1)(a)"

Insert: "or is working to complete the 3,000 hours of social work
experience as required by 37-22-301; or
(h) an activity or service performed by a licensed social
worker or licensed psychologist"

11. Page 3, line 28.

Following: "professional counseling"

Insert: ", except as provided in 37-23-201(4)(g),"

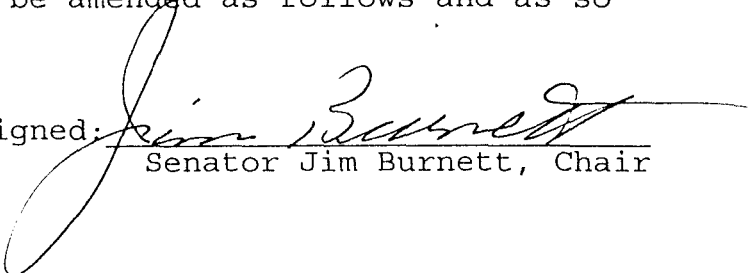
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 18, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 194 (first reading copy -- white), respectfully report that SB 194 be amended as follows and as so amended do pass.

Signed: 
Senator Jim Burnett, Chair

That such amendments read:

1. Title, lines 5 and 6.

Following: ";" on line 5

Strike: the remainder of line 5 through ";" on line 6

2. Title, line 12.

Strike: "50-1-201,"

3. Page 1, line 22 through page 2, line 14.

Strike: Section 1 in its entirety

Renumber: subsequent sections

4. Page 4, line 19.

Strike: "advisory is allocated to the"

Strike: "for"

Insert: "shall provide staff support to the advisory, which shall act in an advisory capacity as defined in 2-15-102."

5. Page 4, line 20.

Strike: line 20 in its entirety

6. Page 5, line 30.

Strike: "-- rules"

7. Page 6, line 13.

Following: "may"

Strike: ":"

8. Page 6, line 14.

Strike: "(a)"

9. Page 6, line 15.

Strike: ";"

Insert: "."

10. Page 6, lines 16 through 23.

Strike: lines 16 through 23 in their entirety



Amd. Coord.



Sec. of Senate

421013SC.SPV

Renumber: subsequent subsections

11. Page 10, lines 18 through 20.

Strike: subsection (5) in its entirety

12. Page 10, lines 23 through 26.

Strike: "(1) (a)" on line 23

Strike: lines 24 through 26 in their entirety

13. Page 10, line 27.

Strike: "(b)"

Following: "use"

Insert: "health insurer cost management"

Strike: "filed under this section"

14. Page 10, line 29 through page 11, line 1.

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

15. Page 12, lines 24 and 26.

Strike: "12 and 13"

Insert: "11 and 12"

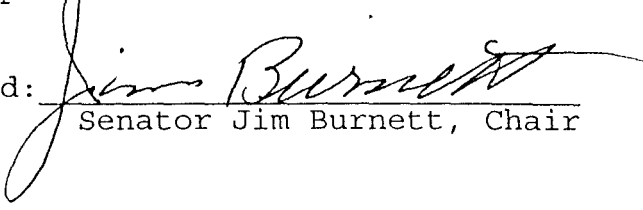
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 18, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 401 (first reading copy -- white), respectfully report that SB 401 do pass.

Signed: 

Senator Jim Burnett, Chair




Amd. Coord.
Sec. of Senate

421004SC.SPV

MONTANA SENATE
1995 LEGISLATURE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
ROLL CALL VOTE

DATE 2/17/95 BILL NO. SB 194 NUMBER

MOTION: Sen. Franklin's Amendment to
Leave Small Group Insurance Act in Bill

NAME	AYE	NO
LARRY BAER		X
SHARON ESTRADA		X
ARNIE MOHL		
MIKE SPRAUGE		X
DOROTHY ECK	X	
EVE FRANKLIN	X	
TERRY KLAMPE	X	
STEVE BENEDICT, VICE CHAIRMAN		X
JIM BURNETT, CHAIRMAN		X

SEN:1995
wp:rlclvote.man
CS-11

NORTHWEST COUNSELING CENTERS, INC.

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 2/17/95
BILL NO. SB 226

January 24, 1995

Senator Burnett
Capitol Station
Helena, MT

Dear Senator Burnett,

I am writing to encourage your support of Senate Bill 226.

SB 226 will provide consumer protection and strengthen the title law for Licensed Clinical Professional Counselors.

In the 1993 Legislature we updated our training standards and clinical supervision requirements. Montana has one of the strongest laws for Licensed Clinical Professional Counselors in the country.

With Senate Bill 226 we wish to add "practice" protection for the practice of professional counseling.

The problem is two fold: (1) Counseling is not a protected profession in Montana. Any person or persons can advertise and charge fees for "counseling", giving the impression they are trained clinicians. These individuals do not need a License or any formal training since the current title law does not protect the practice of counseling. The consumer is unprotected. Approximately seventy five percent of all complaints to the Licensure Board are against unlicensed persons who claim to be qualified to do counseling with no governing accountability. Psychology and Social Work are specific professional titles which have their own identity. Professional counseling or counseling has been and is a misused title. (2) The insurance industry including HMO's, Managed Care and EAP's all require their providers meet clinical standards. In Montana we are Licensed to do clinical work but the strength of the License is "only" in the title not the practice.

Passage of Senate Bill 226 would provide consumer protection and at the same time enable LCPC's to better compete in the marketplace with the evolution of health care.

I strongly urge you to support the passage of Senate Bill 226.

Administrative Office
1004 DIVISION STREET
SUITE 200
BILLINGS, MT 59101
406-259-6161
FAX 406-259-3677

1174 FRONT STREET
P.O. Box 1181
FORSYTH, MT 59327
406-356-2833

104 EAST MAIN
SUITE 213
BOZEMAN, MT 59715
406-586-4145

125 WEST GRANITE
SUITE 200A
BUTTE, MT 59701
406-723-5403

Please feel free to contact me with any questions or concerns. I will also be available when this Bill is introduced to the Public Health, Welfare and Safety Committee.

Respectfully,

A handwritten signature in cursive script, appearing to read 'Bob Bakko', written in dark ink.

Dr. Bob Bakko
Licensed Clinical Professional Counselor
Certified Clinical Mental Health Counselor
Director Northwest Counseling Centers Inc.

EXAMPLES OF MISREPRESENTATIONFrom local yellow pagesBOZEMAN

Dr. Shanahan, M Coun.
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- Women's Issues
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HELENA (Cont'd)
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**June Safty Odegard, MS
Marriage & Family Therapist**

**Box 26
Whitetail, Montana 59276**

Bob Bakko,

I would like to introduce my self and my new business that recently opened in Scobey. I received my Master's in Marriage & Family Therapy from Montana State University in Bozeman. My Bachelor's was in Alcohol & Addiction Studies from Minot State University. I will be offering services that include couple, family, individual and group therapy.

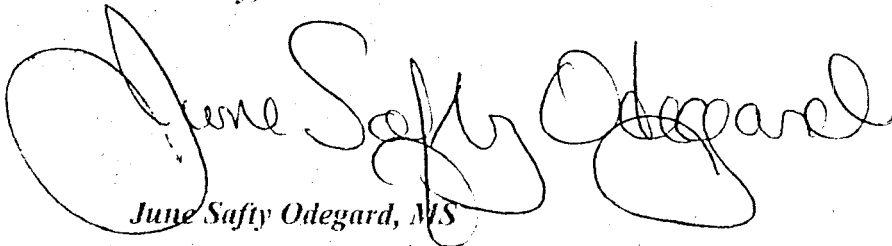
Some of my professional pursuits involve the creation and leadership of a group for couples called BECOMING INTIMATE and the development of a model of marital commitment. Even though working with and researching couples is what I refer to as my passion, I also find working with individuals, families and groups gratifying. Enclosed you will find my brochure.

I was given your name by Carwin Dover and would appreciate your consideration in the future if you consider explanding into Northeastern Montana and hiring another therapist.

*My fees are \$40/session or \$70/ 2-hour session.
The fee for an initial two-hour consultation is \$100.*

*Please contact me if you have any questions or would like more brochures or business cards.
I appreciate your consideration along with any future referrals.*

Sincerely,



June Safty Odegard, MS

Do I have to be sick or crazy?

This is a common myth. Actually, emotional wellness considers far more than the absence of sickness. Emotional health is the ability to cope or find the resources necessary for resolution. We all find ourselves struck, broken, bruised or confused. While therapy is helpful during these times, it can also be about awareness, enhancement, and growth. *Prevention is possible.* When exhaustion is reached more financial, physical, spiritual, intellectual, and emotional resources are needed to reestablish.

Choosing therapy as a resource is a sign of health not sickness.

What is Marriage & Family Therapy?

Marriage & Family Therapy perceives the *"whole is greater than the sum of its parts."* Because we do not exist in isolation, it is helpful to consider how all aspects of relationships interrelate to provide a broader perspective... even when working individually. Therefore, relationships are *worked with* rather than discussed when possible. However, individual identities are never sacrificed or families blamed.

How do I get started?

Call to set up an appointment for a consultation.

A consultation is a 2-hour opportunity that allows you to experience the process and discuss why you are considering therapy. A brief history is obtained to explore your goals and expectations. Extra time is allowed to discuss policies, fees and schedules. This allows you to decide if your needs are compatible with my recommendations and services. We can also look at other options that might be available.

If you have questions or would like information regarding fees, please contact me at:

**406-779-3339
 Office in Scobey**

provided by
June Safty Odegard, MS
 Marriage & Family Therapist
*Another Way Therapy
 Relationships*

Ask about 2/hour sessions or marathon therapy sessions which maybe more considerate of your time & finances.

**What is
 therapy?
 Why?**
**Answers
 to
 questions most asked
 about therapy**

What is therapy, anyway?

Therapy is a process not event.
It encourages you to "fish rather than catching the fish for you!"
Therapy is a process that requires participation.
It is not something done to you.

Therapy is reassuring, revealing, refreshing, renewing and rewarding.
That is not to say therapy is always comfortable. Sometimes the thought of going to therapy is scary. This makes sense as fear of the unknown is normal. At times it is hard to experience the emotions which are a natural part of the growth process. Other times change is stressful even when it is desired.

Therapy is an opportunity to:

improve relationships
find solutions
generate alternatives
strengthen weaknesses
resolve resentments
navigate life transitions
manage stress
learn communication skills

Therapy is an opportunity to
explore the interaction of thoughts, feelings, & behaviors in relationships. It is not being told what to think, feel, or do.

Therapy is usually considered
when there is a desire for something to happen differently.

What can you expect from me as a therapist?

confidentiality
clarification & feedback
support & security
a fresh perspective
objectivity
recommendations
respect & honesty

As a therapist I do not have a magic wand or instant cures. However, you can expect that I will help you explore, verify, and reach your goals. You can expect I will help determine if your goals are realistic and feasible in the time frame you anticipate.

How long will this take?

The average time is 4-12 sessions.

Sometimes during the process, it is realized that the initial goal is not the area that would benefit most from therapy.

Sometimes once the initial goal is reached, there is more energy to consider other goals.

Other times a stronger foundation is necessary before goals may be achieved.

Sometimes one revision begins sufficient movement toward goals.

Other times it takes a while.

Change is a choice!

or perhaps

Positive change is a choice!

People change differently.

Some choose therapy to facilitate change.

Some of those come once.

Some come for a while.

Some come for a long while.

Some come once in a while.

With therapy change can be less frustrating and stressful.
With or without therapy, positive change is a choice!

Give yourself a day off—a day to laugh, be with friends, and restore yourself.

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The Women's Center

**Saturday
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8:30am – 1:30pm
Billings Sheraton Hotel

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"The Virtues of Selfishness"

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Melinda L. Payne, MD, Psychiatrist

■ "Turning Points—Exploring the Issue of Loss"
Robyn Rebl Mundy, MS, Counseling Nurse Therapist

■ "Meditation...Is Listening to Your Inner Wisdom"
Monique Mandali, MA, Psychotherapist

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"What Mother Never Told You 'Cause Nobody Told Her Either"
Written by David Parris in collaboration with Judy McEnany, PhD,
Assistant Professor of Education, MSU-Billings.

**\$25/\$20 for Women's
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Call 657-8730
to reserve your place.**



We've added a second
performance of the
play at 7:30pm.
Tickets are available in advance
at The Women's Center or at
the door. \$10

sponsored by the Saint Vincent Hospital Women's Center

Amendments to Senate Bill 226
Prepared by Mary McCue
Montana Clinical Mental Health Counselors Association

1. Page 2, line 17.
Following: "counselor"
Strike: "1"
Insert: "or"
Following: "professional counselor"
Strike: "or 'counselor'"
2. Page 2, line 20.
Following: "counseling"
Strike: "1"
Insert: "or"
3. Page 2, lines 21 and 22.
Following: "professional counseling"
Strike: ", or represent that the person is a counselor"
4. Page 3, line 3.
Strike: "training"
Insert: "licensure or certification"
5. Page 3, line 4.
Strike: "or practice"
6. Page 3, line 5.
Following: "employed by"
Insert: "or acting as a volunteer for"
7. Page 3, line 24.
Following: "37-23-202(1)(a)"
Insert: "or is working to complete the 3,000 hours of social work experience as required by 37-22-301"
8. Page 3, line 28.
Following: "professional counseling"
Insert: ", except as provided in 37-23-201(4)(a),"
9. Page 2, line 27.
Strike: "psychologist,"
10. Page 2, line 28.
Strike: "social worker,"
1. Page 3, line 24.
Following: "37-23-202(1)(a)"
Insert: ";
(h) an activity or service performed by a licensed social worker or licensed psychologist"

**Presentation to the Senate Committee
of
Public Health, Welfare, and Safety
on SB 226**

**Chairman, Senator James Burnett
Friday, February 17th, 1995**

By: Robert S. "Biff" Hagstrom, Jr., M.S., L.C.P.C., N.C.C.

Chairman Burnett,
Vice-Chairman Benedict;
and
Distinguished Men and Women of Montana

I stand before you today as someone who is particularly threatened by SB 226. My wife and I are Christian Counselors in Billings. I am licensed by the State of Montana, a Licensed Clinical Professional Counselor (LCPC), my wife is not. She has been trained by Pastors, various Churches, and an assortment of licensed professionals around the United States for the past twelve (12) years but has never gone to college to obtain her Masters degree and eventual licensure.

If my opponent's have a passion to see this bill passed to restrict the counseling profession in Montana then I have an even greater passion to see it defeated or at least modified. We as a couple and family of six (6) stand to lose 40% - 50% of our yearly income if this bill is passes in its present form. My opponents have nothing to lose and everything to gain if this bill is passed and I have nothing to gain and quite a bit to lose if it passes.

So as you're sitting there listening to the various testimonies please keep in mind that this bill will have a much greater impact on non-licensed counselors than it will have on the licensed ones. Some will have their careers and life passion outlawed while others will stand to gain economically due to the smaller competitive market.

I am against SB 226 and ask you to either reject or table this bill before you for the following reasons.

1. On January 1st, 1996 this bill will effectively end the careers of eighty to one hundred counselors in the State of Montana who are not currently licensed by the State.

A superficial inspection of the Yellow Pages for the major markets in Montana indicate that at least eighty (80) people in the state make their living as non-licensed counselors. SB 226 will make it a crime for these people to make their living as counselors unless they go to the time and expense to go back to school to finish degrees, get more degrees, or get supervised in an effort to get licensed.

2. This bill specifically targets and discriminates against private sector counselors by allowing non-licensed counselors, who work within an institutional, governmental or business setting, to continue to practice their trade.

A precursory reading of Section 2, subsection 4-2, a-g, would indicate that this bill does not prohibit counseling by:

Section (a), Certain select professionals.

Section (b), An employee *or volunteer* (added in a recent re-write) of government, education, research, or charitable institution (church?).

Section (c), An employee of a specific business, counseling fellow employees.

Section (d), A student or intern pursuing course work.

Section (e), Certain, temporary non-residents of the State.

Section (F), A new State resident as long as they apply within 90 days.

Section (g), Any counselors-to-be working on their 3,000 hour post-graduate requirements.

It seems that this bill is primarily aimed at those *non-licensed professionals who work in the private sector*. Without sounding too jingoistic here, it would seem that bill serves to empower one group, those counselors licensed by the State of Montana, by silencing and reducing the influence of those who have neither the time nor money nor perhaps the inclination to return to school and/or to submit to the supervision requirements placed on them by the Board of Professional Counselors. If licensed counselors want to legitimize its image then it should do so by promoting itself through educating the public as to its scientific and professional nature rather than attacking and outlawing a class of counselors who are not licensed.

3. The Art vs. the Science of Counseling

By attempting to monopolize the practice of counseling, this bill would set up the State of Montana and its legal representative the Board of Licensed Professional Counselors to decide who is 'fit' to counsel. This bill distills and reduces the activity of counseling and therapy to it's basest scientific parts. Freud was the first to attempt to legitimize what was to become psychiatry and psychology by

conceptualizing and promoting its scientific basis. While the art of counseling certainly has its needed and necessary scientific components, e.g. psychometric tools and psychotropic medications, it is still primarily defined by empathy, nurturance, and 'intuiting the real' in the life of the presenting client. In other words a substantial portion of the art of counseling has to do with qualities that can not be taught by a University but has to do with 'a 'peculiar giftedness'. Ultimately good counselors can not be promoted, or 'endued with counseling privilege' by an amoral state government, rather a good counselor is 'recognized' and honored by the population he/she serves. This 'recognition', honor and ultimately, confidence, is much the same given to the people who elect legislators or those that choose a Medical Doctor. That is, legislators can only serve and counselors can only counsel as long as the local population has 'faith' in them. In the event that that confidence and faith is lost, that individual is then 'put aside' by the population being served.

The recent and near recent rise and general acceptance in alternative health care practitioners such as Naturopaths, Midwifery, Chiropractitioners, and others indicate that the public is beginning to question the legitimacy of a culture that is based soley on the Medical Model. My wife is a good example of an alternative to this Medical Model. As a Biblical Counselor she is involved in many of the same methods and techniques that licensed counselors use. In fact, Biblical Counselors, Spiritual Directors, and Religious Mentors have been using (and I quote from the definition of 'Professional Counselor' in SB 226)"...those cognitive. affective, behavioral, and systemic counseling strategies, techniques, and methods common to the behavioral sciences" for centuries. A superficial reading of the scripture would indicate that Jesus Christ Himself used many of these counseling strategies that are now being claimed as 'holy ground' by the social and psychological sciences. We moderns have not really 'invented' anything new, we have only codified and described what has always been there. Freud, and Rogers, and Ellis and other counseling therorists like them did

nothing in the way of inventing, they merely observed what has always been human nature.

4. This bill is hastily and poorly written.

While recent re-writes have attempted to modify and generalize this bill by no longer restricting the use of the title 'counselor' (Section 2, subsection 2) and by adding the word 'volunteer' (Section 2, subsection 2,b; I think) this bill actually outlaws everyone else, including other counseling professionals such as social workers and school counselors from, and I quote "...as long as the person does not represent by title or practice that the person is engaging in the practice of professional counseling". This bill first says that it does not prohibit the above mentioned counselors from practicing their trade and then takes it back by prohibiting them from "...engaging in the practice of professional counseling". The definition of the practice of counseling is so broad that it outlaws everyone else from counseling.. It does not matter what the sponsoring group's *good intentions* are, the interpretation of this bill in a court of law will hinge on what the bill actually says.

5. Finally, I would like to address several ideas that may have been thrown about today.

A. The myth of Parity with the other counseling disciplines. If the Licensed Professional Counselors want parity with the other counseling disciplines in Montana then let them continue to pursue professionalism with the utmost rigor. If its so easy and painless for the non-licensed counselors to become more educated and get licensed by the State then let the Licensed Counselors go back to school and become Social Workers and Psychologists.

B. The Myth of the non-licensed counselor's lack of responsibility and accountability. If accountability and responsibility are the issues then let the State of Montana register all non-licensed counselors in the state and officially recognize their non-licensed status. The State could easily

require that non-licensed counselor notify their clients of their status and then let the client decide who they want to see.

C. **The Myth of client complaints.** As you will note in my comparison study included in this report, at least for the years mentioned, all disciplines logged client complaints. Outlawing a certain class of counselors will not change that. The mental health industry deals with broken relationships and broken people. There will always be complaints because of the volatility of dissatisfied clients and unprofessional professionals. Professionalism is not primarily an educational issue, although it may have certain education components, It is primarily an issue of behavior, of intent and motivation and interpersonal honor and respect.

Conclusions

A Comparative Study of the Correlation between Mental Health Discipline and Client Complaints

<u>Discipline</u>	<u># of Practitioners</u>	<u># of Complaints</u>
Psychiatrists (FYE '94)	55	not available
Psychologists (FYE '93)	189	11
Social Workers(FYE '94)	312	5
Licensed Professional Counselors (FYE '94)	477	10
Unlicensed Counselors (Sept. '94)	Approx. 80	0 ^{1,2}

1. In 1991 there were four (4) complaints against non-licensed counselors. Three (3) of the complaints came from the Montana State Prison due to several non-licensed counselors putting prisoners in solitary confinement. (Personal Communication)

2. The Board of Professional Counselors has no record of receiving any complaints about non-licensed counselors since 1991. (Personal Communication)

KEY FACTS ABOUT SB 307 AND THE PRACTICE OF ACUPUNCTURE

FACT #1 - ACUPUNCTURE HAS A LONG HISTORY AND SOLID PROFESSIONAL CREDENTIALS, PARTICULARLY IN MONTANA.

- Acupuncture has 2,500 years of recorded history. It is based on a complex, rational working theory for accurate diagnosis and safe treatment.
- In 1984, the National Commission for the Certification of Acupuncturists (NCCA) was incorporated to develop and implement nationally recognized standards of competence in the practice of acupuncture.
- The NCCA requires a minimum of 3 years of education at an accredited school as an entry level standard for the practice of acupuncture. The average graduating requirements for most of these schools include 2416 hours in the theory and practice of Oriental Medicine, and 460 hours in Western Medicine.
- At present, Montana law requires applicants for licensure to pass a comprehensive written examination administered by the NCCA. In addition, a practical examination in "clean needle technique" and anatomically accurate point location is also required. This conforms our state to nationally set standards of competence in the practice of acupuncture.
- Montana was the second state in the nation to establish a licensing law for acupuncturists. Since 1974, the state has licensed acupuncturists under the Board of Medical Examiners. The law insures public safety, establishes a clear level of competence and has set a precedent for other states to follow.

FACT #2 - THIS BILL REPRESENTS ANOTHER STEP IN A COLLABORATIVE EFFORT TO UPGRADE THE STANDARDS OF THE PROFESSION, BY CONFORMING THE ACUPUNCTURISTS' SCOPE OF PRACTICE WITH THEIR LEVEL OF EDUCATION, TRAINING AND SKILL.

- For the past two years, acupuncturists have been working with the Board of Medical Examiners to upgrade the standards of the profession.
- Changes have been made with regard to
 - rules for ethical practice;
 - guidelines for appropriate charting; and
 - sterilization guidelines for acupuncture needles and other supplies.
- This legislation is another step forward in that relationship with the board. Its language is the product of several months' work, and several discussions before the

Board of Medical Examiners. And, while the board rarely chooses to actively involve itself in "scope of practice" legislation, it made clear its lack of any objection to the language used to draft this bill.

FACT #3 - THIS BILL DOES NOT CHANGE OR LIMIT THE PRACTICE OF ANY OTHER GROUP.

- The substantive changes in Section 2 of the bill are specifically intended to remove any notions of "turf battle" from this legislation. It says that any licensed health care professional may continue their current practices. This bill is only intended to address the acupuncturists' scope of practice. One other important point is that this bill does not address any unlicensed activities.

FACT #4 - THIS BILL IS NECESSARY TO DISTINGUISH THE TOTAL PRACTICE OF ACUPUNCTURE FROM POTENTIAL MISPERCEPTIONS THAT ACUPUNCTURE IS ONLY ABOUT THE INSERTION OF NEEDLES.

Acupuncture is not a technique which, in and of itself, provides complete and lasting cures or remedies. It is but a portion of the science of oriental medicine, which is a comprehensive philosophy of medicine that utilizes acupuncture, acupressure, oriental food therapy and herbs. These differences can be seen in the comparison below, where traditional acupuncture is contrasted with the perception and use of acupuncture as a stand-alone treatment restricted to the insertion of needles ("cookbook" acupuncture).

TRADITIONAL ACUPUNCTURE

Uses traditional diagnosis to treat symptoms and cause of symptoms.

Treats each "complaint" differently according to each person's diagnosis.

Produces no side effects if proper traditional diagnosis is followed.

Addresses underlying causes as well as symptoms so symptoms can be eliminated.

"COOKBOOK" ACUPUNCTURE

Uses a "recipe" for treating symptoms.

Treats each "complaint" the same on every person.

Can potentially worsen a condition due to lack of traditional diagnosis and improper direction of treatment principals.

Addresses symptoms only, leading to re-occurrence.

PLEASE SUPPORT SB 307.

This document is prepared and distributed by the Montana Association of Acupuncture and Oriental Medicine (MAAOM).

Emperor's College**Summary of hours**Oriental theory110 hoursOriental diagnosis220 hours

Oriental theory and diagnosis is the essential foundation for all treatment modalities that are utilized by an acupuncturist.

Treatment modalitiesAcupuncture320 hoursHerbs320 hoursFood therapy50 hoursAcupressure40 hoursWestern science & practice530 hoursClinical practice800 hoursVarious modalities100 hours

(lifestyle, counseling, exercise, research, ethics, referral, practice management)

Definitions

Oriental medical theory and diagnosis - a well developed system of observing signs and symptoms to evaluate the relative balance and imbalance of the body as a whole. Appropriate treatment is selected from modalities, such as; acupuncture, herbs, food therapy, or acupressure, to reestablish proper balance and good health. Although most patients we see are also concurrently under the care of a western trained physician we are well educated regarding proper referral.

Acupuncture - the insertion of solid needles into acupuncture points, heat or electrical stimulation may be added.

Herbs - naturally occurring medicinal substances which are recommended in tea, tablet or liquid concentrated form.

Food therapy - basic foods and nutrients are recommended as part of the daily diet.

Acupressure - applying mechanical pressure (massage) to the acupuncture point.

EMPEROR'S COLLEGE

FULL TIME (3-YEAR) CURRICULAR MODEL

YEAR ONE

WINTER QUARTER	Units	Hrs.
WS200 Chemistry	2	20
WS205 Anatomy/Physiology I	3	30
HB300 Introduction to Herbology	2	20
OM300 Phil. of Oriental Medicine	2	20
AC310 Intro. to Meridians I	3	30
OM315 Intro. to Oriental Medicine	4	40
TOTAL	16	160

SPRING QUARTER	Units	Hrs.
WS210 Biochemistry	2	20
WS206 Anatomy/Physiology II	3	30
AC311 Intro. to Meridians II	3	30
AC350 Acupuncture Anatomy	4	40
OM320 Zang /Fu Syndromes	5	50
TOTAL	17	170

SUMMER QUARTER	Units	Hrs.
WS220 Physics	2	20
WS495 Western Pharmacology	2	20
WS207 Anatomy/Physiology III	3	30
AC360 Acupuncture Therapeutics	4	40
HB315 Herb Pharmacopoeia I	3	30
OM330 Oriental Diagnosis	4	40
TOTAL	18	180

FALL QUARTER	Units	Hrs.
WS208 Anatomy/Physiology IV	3	30
WS230 Biology	3	30
WS319 West. Medical Terminology	2	20
WS290 East/West Medical History	2	20
HB320 Herb Pharmacopoeia II	3	30
OM350 Tai Qi	2	20
WS450 Pathology	2	20
TOTAL	17	170

YEAR TWO

WINTER QUARTER	Units	Hrs.
WS240 General Psychology	2	20
WS260 Basic Nutrition	2	20
OM351 Qi Gong	2	20
OM410 Chinese Internal Medicine I	3	30
AC401 Acupuncture Technique I	3	30
HB330 Herb Pharmacopoeia III	3	30
AC370 Acupressure	2	20
TOTAL	17	170

SPRING QUARTER	Units	Hrs.
WS255 Clinical Psychology	2	20
WS301, WS302 West. Physical Assessment I & II	4	40
HB340 Herb Pharmacopoeia IV	3	30
OM420 Chinese Internal Medicine II	3	30
AC402 Acupuncture Technique II	3	30
AC375 Therapeutic Massage	2	20
CL1 Clinical Observation I [Lab]	2	40
TOTAL	19	190

SUMMER QUARTER	Units	Hrs.
WS335 Clinical Nutrition	2	20
WS400 Medical Ethics & Jurisprudence	2	20
OM430 Chinese Internal Medicine III	3	30
AC403 Advanced Acu. Techniques	3	30
WS451 Western Clinical Medicine I	3	30
HB450 Herb Pharmacy	2	20
CL2 Clinical Observation II [Lab]	2.5	50
TOTAL	17.5	200

FALL QUARTER	Units	Hrs.
WS495 Western Pharmacology	2	20
WS499 Clinical Diag. by Lab Data	1	10
OM440 Chinese Internal Medicine IV	3	30
OM550 Principles of Treatment	2	20
HB410 Herb Formulae I	3	30
WS452 Western Clinical Medicine II	3	30
WS500 Practice Management	2	20
CL3 Clinical Observation III [Lab]	3	60
TOTAL	19	220

YEAR THREE

WINTER QUARTER	Units	Hrs.
HB570 Shang Han/Wen Bing	4	40
HB420 Herb Formulae II	3	30
AC500 Clinical Point Selection	3	30
WS453 Western Clinical Medicine III	3	30
CL4 Clinical Internship I [Practicum]	3	90
CLA Case Review/Presentation [Lab]	1	20
TOTAL	17	240

SPRING QUARTER	Units	Hrs.
HB430 Herb Formulae III	3	30
WS454 Western Clinical Medicine IV	3	30
AC590 Secondary Vessels	4	40
CL5 Clinical Internship II [Practicum]	5	150
CLB Case Rev./Presentation II [Lab]	1	20
TOTAL	16	270

SUMMER QUARTER	Units	Hrs.
AC510 Microsystems	2	20
OM510 Symptomatic Diagnosis	4	40
CL6 Clinical Intern. III [Practicum]	5	150
CLC Case Rev./Presentation III [Lab]	1	20
WS590 Intro. to Medical Imaging Procedures	1	10

HB440 Advanced Formulae	3	30
TOTAL	16	270

FALL QUARTER	Units	Hrs.
Electives	4	40
HB520 Chinese Nutrition	1	10
CL7 Clinical Intern. IV [Practicum]	6	180
CLD Case Rev./Presentation IV [Lab]	1	20
TOTAL	12	250

GRAND TOTALS: Academic Hours	1690
Clinic Hours	800

SENATE BILL NO. 307

INTRODUCED BY

Harding
Reenan Leimer Carlson HARPBenedict Lynch
Janner

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEFINITION OF ACUPUNCTURE; PROHIBITING UNLICENSED PERSONS FROM PURPORTING TO PRACTICE ACUPUNCTURE; AND AMENDING SECTIONS 37-13-103, 37-13-104, AND 37-13-301, MCA."

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

Section 1. Section 37-13-103, MCA, is amended to read:

"37-13-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Acupuncture" means the diagnosis, treatment, or correction of ~~the human body~~ human conditions, ailments, diseases, injuries, or infirmities by means of mechanical, thermal, or electrical stimulation effected by the insertion of solid needles. The term includes the use of acupressure and the use of oriental food therapies and herbs.

(2) "Acupuncturist" means a natural person licensed by the board of medical examiners to practice acupuncture.

(3) "Board" means the Montana state board of medical examiners.

(4) "School of acupuncture" means a school ~~where~~ in which acupuncture is taught that has been recognized and designated by the board of medical examiners."

Section 2. Section 37-13-104, MCA, is amended to read:

"37-13-104. Partial exemptions. (1) (a) ~~Nothing in this~~ This chapter ~~shall~~ may not be construed to require doctors of medicine, osteopathy, chiropractic, dentistry, and podiatry who are licensed in Montana to take further examinations in anatomy, physiology, chemistry, dermatology, diagnosis, bacteriology, materia medica, or other subjects ~~which~~ that are or may be required for licensure in their respective professions; ~~but no~~

(b) A doctor of medicine, osteopathy, chiropractic, dentistry, or podiatry ~~shall~~ may not practice acupuncture in this state unless ~~and until he~~ that doctor has completed a course and passed an examination in acupuncture as required by this chapter.

(2) Except as provided in 37-13-301 and with particular regard to the insertion of solid needles, this chapter is not intended to limit, interfere with, or prevent a licensed health professional from practicing within the scope of the health professional's license."

Section 3. Section 37-13-301, MCA, is amended to read:

"37-13-301. License required for practice. (1) ~~No~~ A person may not engage in the practice of acupuncture in this state unless ~~he~~ the person is licensed under the provisions of this chapter.

(2) A person may not purport to practice acupuncture or use the title "acupuncturist" or any similar title unless the person is licensed under the provisions of this chapter."

-END-

Chaparral Ingestion

The Broadening Spectrum of Liver Injury Caused by Herbal Medications

SENATE HEALTH & WELFARE
EXHIBIT NO. 8
DATE 2/17/95
BILL NO. SB 307

Dafna W. Gordon, MD; Gayle Rosenthal, MD; John Hart, MD; Ronald Sirota, MD; Alfred L. Baker, MD

Unconventional medical practices, including the use of herbal remedies, are prevalent in the United States. Chaparral is an herbal preparation made from a desert shrub and used for its antioxidant properties. We report the case of a 60-year-old woman who took chaparral for 10 months and developed severe hepatitis for which no other cause could be found. Despite aggressive supportive therapy, the patient deteriorated and required orthotopic liver transplantation. She is now well, more than 1 year after her transplant. This case suggests that chaparral can cause serious liver injury and fulminant hepatic failure. Herbal medications should be considered as potential causes of liver toxicity.

(JAMA. 1995;273:489-490)

Report of a Case

A 60-year-old woman was hospitalized with a 1-week history of right upper quadrant abdominal pain, anorexia, and jaundice. She had been well before this time, except for coronary artery disease. The patient had no history of liver disease, blood transfusions, or alcohol use. Her medications included diltiazem hydrochloride, atenolol, enteric coated aspirin, a nitroglycerin patch, and occasional acetaminophen. She denied use of any other drugs or nutritional supplements. On physical examination, she was alert, with marked jaundice and right upper quadrant tenderness. There were no spider angiomas present.

For editorial comment see p 502.

Laboratory test results included total bilirubin of 212 $\mu\text{mol/L}$ (12.4 mg/dL) (normal, 2 to 20 $\mu\text{mol/L}$ [0.1 to 1.2 mg/dL]), aspartate aminotransferase of 1191 U/L (normal, 15 to 37 U/L), alanine aminotransferase of 341 U/L (normal, 15 to 37 U/L), alkaline phosphatase of 186 U/L (normal, 36 to 125 U/L), albumin of 24 g/L (normal, 32 to 50 g/L), and prothrombin time of 15.9 seconds (normal, 10.9 to

13.7 seconds). Antibody to hepatitis A virus IgM, antibody to hepatitis B core antigen, hepatitis B surface antigen, and antibody to hepatitis C virus were undetectable. Antinuclear and antimitochondrial antibody titers were not significantly raised.

Right upper quadrant ultrasound and abdominal computed tomographic scan revealed a contracted gallbladder without gallstones but with a thickened and multilaminated wall. Because of these abnormalities and persistent abdominal pain, an exploratory laparotomy was performed 1 week after admission, which revealed ascites and a nodular liver. Liver biopsy showed severe acute hepatitis with areas of lobular collapse and nodular regeneration, mixed portal inflammation, and marked bile ductular proliferation (Figure).

The patient's husband then revealed that the patient had been taking one to two capsules of chaparral daily for the past 10 months, as well as a pinch of garlic powder and a glass of herbal tea made from nettle and chickweed. Approximately 3 weeks before admission, the patient developed a "flu-like syndrome" and increased her chaparral intake to six capsules daily. Jaundice occurred 2 weeks later. Her liver failure was now considered to be chaparral-induced toxic hepatitis. Because the patient was not improving, she was transferred to a tertiary care center 4 weeks after the onset of her jaundice.

On admission, she was confused and deeply jaundiced. Her encephalopathy worsened, and she developed aspiration pneumonia requiring antibiotic therapy and endotracheal intubation. In addition,

the patient developed sepsis with episodes of hypotension as well as seizure activity. Renal failure ensued, which was most consistent with acute tubular necrosis and necessitated hemodialysis. Her total serum bilirubin increased to 607 $\mu\text{mol/L}$ (35.5 mg/dL), and her prothrombin time increased to 28 seconds. Five weeks after her initial hospitalization, the patient underwent orthotopic liver transplantation as well as cadaveric renal transplantation. The hepatectomy specimen weighed 1100 g. Microscopic examination revealed large areas of lobular necrosis and collapse, nodular regeneration, marked portal inflammation, and bile ductular proliferation.

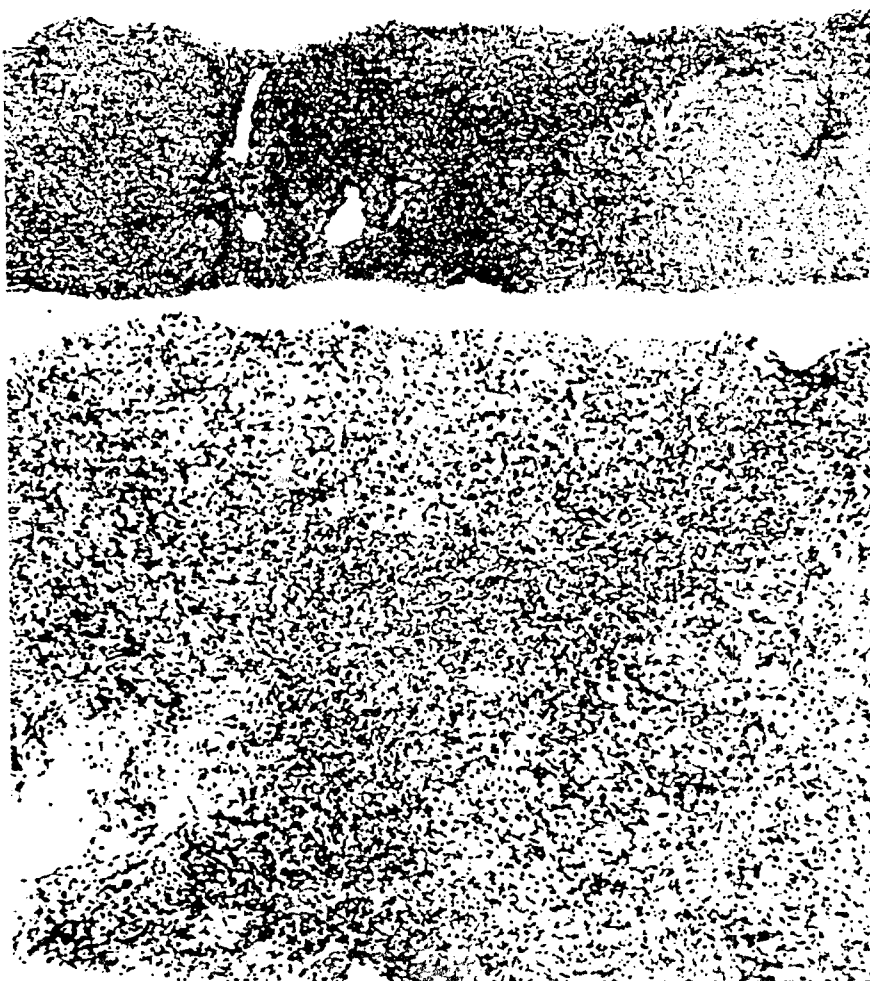
The patient's postoperative course was complicated by several infections and prolonged intubation requiring tracheostomy. She slowly recovered and was discharged. Nine months after the transplant she was readmitted for liver dysfunction; liver biopsy showed acute rejection but no evidence of hepatitis. The episode responded to treatment with corticosteroids. Antibody to hepatitis C virus was undetectable 15 months after her transplant, and hepatitis C virus RNA was negative by polymerase chain reaction. Now, more than 1½ years after her transplant, liver chemistry tests are within normal limits and the patient is well.

Comment

Chaparral is prepared by grinding leaves of an evergreen desert shrub known as the creosote bush or "greasewood." The leaves can be brewed for tea or made into capsules or tablets. Chaparral has been recommended as a "free-radical scavenger" to retard aging, as well as for skin conditions and various other disorders.¹ The active ingredient of chaparral is a potent antioxidant, nordihydroguaiaretic acid (NDGA). Used experimentally in low doses, NDGA is a potent and selective inhibitor of lipooxygenase pathways,^{2,3} although in higher concentrations it also inhibits cyclooxygenase pathways² as well as cytochrome P-450 activity in rats.^{4,5} The pathophysi-

From the Liver Study Unit, Department of Medicine (Drs Gordon and Baker), and the Department of Pathology (Dr Hart), University of Chicago (Ill) Hospitals, and the Departments of Medicine (Dr Rosenthal) and Pathology (Dr Sirota), West Suburban Hospital, Oak Park, Ill.

Reprint requests to University of Chicago Hospitals, MC4076, 5841 S Maryland Ave, Chicago, IL 60637 (Dr Baker).



Top, This low-power view of the biopsy shows severe acute hepatitis, characterized by collapse and a marked portal inflammatory cell infiltrate (hematoxylin and eosin, original magnification $\times 40$). Bottom, This high-power view reveals marked lobular disarray due to hepatocyte ballooning and lobular inflammation and severe portal inflammation with bile ductular proliferation (hematoxylin and eosin, original magnification $\times 100$).

ology of chaparral-induced hepatotoxicity is unknown, but at concentrations that inhibit cyclooxygenase pathways, NDGA could possibly cause a shift favoring proinflammatory mediators and potentiate hepatotoxicity.

Considerable evidence points to chaparral as the cause of this patient's liver failure. The patient's presentation was similar to that of the three previously reported cases of chaparral hepatotoxicity, with a hepatitislike syndrome characterized by a marked increase in transaminases and jaundice following inges-

tion of chaparral capsules for several months.^{1,6} Similar to the findings in our case, the patient presented by Katz and Saibil⁶ had ascites and coagulopathy with hepatic necrosis on liver biopsy. Moreover, our patient increased her chaparral dose shortly before the development of jaundice, supporting a causal relationship between the chaparral ingestion and her liver injury. In addition, despite extensive evaluation, no other etiology for our patient's liver failure could be found. Although the patient was taking diltiazem, which has been

reported to cause granulomatous hepatitis,^{7,8} the clinical and histologic features did not support this diagnosis. None of the patient's other medications or nutritional supplements has been associated with serious hepatotoxicity. We did not analyze the patient's uningested chaparral capsules for impurities that might have contributed to her liver injury, so it is conceivable that some component other than NDGA may have been the injurious agent. Only rechallenge with purified chaparral would unequivocally have proved that this herb was the cause of our patient's liver injury.

The patient in this report, unlike the three previously described cases with self-limited episodes of hepatitis, progressed to end-stage liver failure requiring orthotopic liver transplantation. Notably, this patient took chaparral capsules for a longer period of time than the other patients (40 weeks vs 6 to 12 weeks). It is possible that the patient had developed subclinical hepatotoxicity from chronic use of chaparral. When she increased the dose of chaparral, acute liver injury may have been superimposed on chronic liver disease resulting in fulminant hepatic failure. The patient's liver biopsy supports the hypothesis of "acute evolving to chronic" liver damage, since it shows both evidence of acute injury, with active inflammation and lobular necrosis, as well as evidence of chronicity, with regenerative activity.

Although chaparral may also have caused the patient's renal failure, this possibility seems unlikely. Renal failure developed late in her course and was associated with multiple complications that included hypotension and sepsis requiring treatment with potentially nephrotoxic antibiotics.

Most recent series show acute viral hepatitis as the most common cause of fulminant hepatic failure,⁹ although a substantial number of patients with fulminant hepatic failure have no recognized cause.¹⁰ The present case provides evidence that chaparral can cause severe toxic hepatitis. Physicians should therefore question patients regarding their use of nontraditional medications and consider these as potential causes of hepatic dysfunction.

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15 November 1994

Volume 121

SENATE HEALTH & WELFARE Number 10

Annals of Internal Medicine

 EXHIBIT NO. 9
 DATE 2/17/95
 BILL NO. SB 307

Acute Hepatitis Associated with the Chinese Herbal Product Jin Bu Huan

Graham M. Woolf, MD; Lidija M. Petrovic, MD; Sergio E. Rojter, MD; Sherrilyn Wainwright, DVM, MPH; Federico G. Villamil, MD; William N. Katkov, MD; Pina Michieletti, MD; Ian R. Wanless, MD; Frank R. Stermitz, PhD; John J. Beck, BS; and John M. Vierling, MD

■ **Objective:** To describe the hepatotoxicity associated with ingestion of the Chinese herbal product Jin Bu Huan Anodyne Tablets (*Lycopodium serratum*) and to propose possible mechanisms of injury.

■ **Design:** Retrospective analysis.

■ **Setting:** Academic hepatology units and private practice facilities.

■ **Patients:** Seven previously healthy patients.

■ **Measurements:** Clinical, laboratory, radiologic, and histologic studies.

■ **Results:** Acute hepatitis occurred after a mean of 20 weeks (range, 7 to 52 weeks) of Jin Bu Huan ingestion and resolved in six patients within a mean of 8 weeks (range, 2 to 30 weeks); another patient is currently improving. Hepatitis was associated with symptoms of fever, fatigue, nausea, pruritus, and abdominal pain and with signs of jaundice and hepatomegaly. Biopsy specimens showed that one patient had hepatitis with eosinophils (consistent with a drug reaction) and the other had mild hepatitis, moderate fibrosis, and microvesicular steatosis. Decreasing the Jin Bu Huan dose in one patient improved liver test results. Reusing Jin Bu Huan in two other patients caused abrupt recrudescence of hepatitis.

■ **Conclusion:** Jin Bu Huan can cause liver injury. Although the hepatotoxic mechanisms are not defined, they may include hypersensitive or idiosyncratic reactions or direct toxicity to active metabolites. Hepatotoxicity caused by herbal products underscores the importance of national surveillance programs and quality control of the manufacture of these products.

Estimates of the percentage of patients using alternative medications worldwide range from 4% to 50% (1). According to a recent U.S. survey, 34% of adult respondents used unconventional therapy and 3% used herbal medicines (2). In 1990, Americans made 425 million visits to providers of unconventional therapy, which exceeded the number of visits to all primary care physicians, and they spent \$13.7 billion, which exceeded the cost of all hospitalizations in the United States (2).

Herbal products are rapidly gaining popularity in North America as remedies for various medical conditions. Jin Bu Huan Anodyne Tablets (*Lycopodium serratum*), a traditional Chinese herbal remedy, has been used for more than 1000 years as a sedative and analgesic but has only been available in the United States for 10 years (3). The alkaloid levo-tetrahydropalmatine is responsible for the morphine-like properties of Jin Bu Huan (4).

A recent study (5) described three children who had taken unintentional overdoses of Jin Bu Huan tablets and who developed central nervous system and respiratory depression with bradycardia. We subsequently identified three adult patients with acute hepatitis associated with Jin Bu Huan ingestion and reported this information to the Centers for Disease Control and Prevention and to the Food and Drug Administration (6). In the present report, we describe the clinical and laboratory features of seven adult patients (including the previously described patients) who ingested Jin Bu Huan and discuss possible mechanisms for Jin Bu Huan hepatotoxicity.

Methods

Patients

All seven patients were white and had no history of hepatic asc, obesity, diabetes mellitus, or atopy. Six of seven patients were women. All denied a history of excessive alcohol or hepatic drug intake. Risk factors for viral hepatitis were absent in all patients. Five patients resided in Los Angeles, California; two patients had purchased Jin Bu Huan Anodyne Tablets (Angai Pai Se Pharmaceutical/Bosc Drug Manufactory, Kwangai, China) at the same drug store. Two other patients resided in Hawaii and Toronto, Canada, respectively. All patients developed symptoms between March 1993 and March 1994 with the exception of patient 7, whose symptoms began in 1991. Ultrasound examinations of the liver and biliary tract were normal in each patient. Serologic test results in all seven patients were negative for antinuclear, anti-smooth muscle, and anti-mitochondrial antibodies. Prothrombin times were normal throughout the course of illness of each patient.

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

Ann Intern Med. 1994;121:729-735.

From Cedars-Sinai Medical Center, Los Angeles, California; Centers for Disease Control and Prevention, Atlanta, Georgia; St. John's Hospital, Santa Monica, California; The Toronto Hospital, Toronto, Ontario, Canada; and Colorado State University, Fort Collins, Colorado. For current author addresses, see end of text.

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February 11, 1995

Senator Jim Burnett
Chairman, Senate Public Health Committee
Montana State Senate
Helena MT 59620

SENATE HEALTH & WELFARE

EXHIBIT NO. 10

DATE 2/17/95

BILL NO. SB 307

Dear Senator Burnett,

I am writing to you to express my concern over the wording of Senate Bill SB 307, "An act clarifying the definition of acupuncture". This bill proposes to redefine the word "acupuncture" in a manner that violates common sense and accepted usage.

The proposed legislation attempts to expand the scope of acupuncture by redefining the word in a way that directly conflicts with guidelines established by the National Commission for the Certification of Acupuncturists (NCCA). (See accompanying article, "A review of issues relevant to regulating Chinese herbal practice".) The NCCA recognizes acupuncture as a distinct profession from TCM herbal health care. Redefining a word by legislative fiat in contradiction to common usage does not alter this reality and is an underhanded tactic.

The changes proposed by the acupuncture lobby includes the following paragraph:

- (1) "Acupuncture" means the diagnosis, treatment or correction of the human body human conditions, ailments, diseases, injuries or infirmities by means of mechanical, thermal, or electrical stimulation effected by the insertion of solid needles. The term includes the use of acupressure and the use of oriental food therapies and herbs.

A subsequent clause (37-13-301) of the proposed changes states:

- 37-13-301. License required for practice. (1) ~~No~~ A person may not engage in the practice of acupuncture in this state unless ~~he~~ the person is licensed under the provisions of this chapter.

These two paragraphs taken together imply that an individual using acupressure, oriental food products, and herbs, would be guilty of practicing acupuncture. This absurd and dangerous conclusion results from an attempt to redefine words in legal language that stretch the bounds of credibility.

If the Montana acupuncture profession merely wishes to change the statutes to allow them to use acupressure, oriental food therapies, and herbs for the purposes of insurance billing and to protect them from claims of exceeding their scope of practice, they should have no objection to the following alternative to their proposed changes:

- (1) "Acupuncture" means the diagnosis, treatment or correction of the human body human conditions, ailments, diseases, injuries or infirmities by means of mechanical, thermal, or electrical stimulation effected by the insertion of solid needles.

[the following sentence to be deleted from the proposed changes: The term includes the use of acupressure and the use of oriental food therapies and herbs.]

- (1a, or 2) Acupuncturists may also use acupressure, oriental food therapies, and herbs to assist their clients in achieving the purposes of paragraph (1) above. Nothing in this Act is intended to limit, interfere with or prevent other persons from using acupressure, oriental food products, or herbs.

On the other hand, if the true intention of the acupuncture profession is to create a legislative monopoly of techniques that are, at best, peripheral to their traditionally recognized scope of practice, then they might oppose my suggested changes. If this is the case, purpose of health care licensing and regulation in the economic interests of special groups is not a

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

Sincerely,

Roger W. Wicke, Ph.D.

P.S. You may make as many copies as you need of the accompanying report "A review of issues relevant to regulating Chinese herbal practice", for use by legislative committee members and staff.

Mr. Chairman and members of the Committee I am Denzel Davis, Administrator of the Health Facilities Division with the Montana Department of Health and Environmental Sciences.

I am here today to speak in support of SB 293 that would establish a Medicaid Fraud Control in the Department of Justice.

The formation of a Medicaid Fraud Control Unit of this bill would have particular relevance to the Certification Bureau of the Health Facility Division. The Certification Bureau has the federal responsibility to maintain a nurse aide abuse registry. The Department of Health and SRS have a shared responsibility between Medicare and Medicaid to investigate allegations of resident abuse and neglect. At this point in time the only individuals being placed on the abuse registry are those nurse aides who have been convicted at the county level of a crime through the courts. We have seen wide disparities in how individual county attorneys handle these kinds of cases. Some county attorneys have been aggressive about pursuing these cases of staff abuse of nursing home residents, others have not. We have situations where an individual in one county has been prosecuted for committing abuse, but the same or similar offense in another county has gone unprosecuted. This bill would bring much needed statewide consistency and uniformity in the prosecution of these cases of abuse and neglect.

Manual instructions from the Health Care Financing Administration direct the state survey agency to refer all complaints alleging neglect, abuse, or misappropriation of resident property in a nursing home receiving Medicaid funds to the State Medicaid Fraud Control Unit. At this time we can not comply with this directive because no such unit exists in Montana.

The Certification Bureau has received 131 reports of allegation of nurse aide abuse, neglect or misappropriation of resident property during the past year in Montana Nursing Homes. Creation of a Fraud Control Unit would greatly assist the Department of Health in addressing these issues in nursing homes.

We would urge you to support the passage the SB 293. Thank You.

Amendment to Senate Bill 293
Medicaid Fraud Control Unit Legislation
Introduced Bill

Prepared by Greg Gould
February 17, 1995

1. Page 8, line 9.
Following: "is"
Insert: "not"

Rationale: The proposed amendment is necessary to correct a technical error in the drafting of the bill. The unintentional omission of the word "not" would reverse the intended effect of the subsection. The amendment is necessary to ensure that the bill exempts protected activity from criminal prosecution.

- end -

Amendments to Senate Bill No. 194
First Reading Copy

Requested by Senator Larry Baer
For the Committee on Public Health, Welfare, and Safety

Prepared by Susan Byorth Fox
January 27, 1995

1. Title, lines 5 and 6.
Following: ";" on line 5
Strike: the remainder of line 5 through ";" on line 6
2. Title, line 12.
Strike: "50-1-201,"
3. Page 1, line 22 through page 2, line 14.
Strike: Section 1 in its entirety
Renumber: subsequent sections
4. Page 10, lines 23 through 26.
Strike: "(1) (a)" on line 23
Strike: lines 24 through 26 in their entirety
5. Page 10, line 27.
Strike: "(b)"
Following: "use"
Insert: "health insurer cost management"
Strike: "filed under this section"
6. Page 10, line 29 through page 11, line 1.
Strike: subsections (2) and (3) in their entirety
7. Page 12, lines 24 and 26.
Strike: "12 and 13"
Insert: "11 and 12"

Amendments to Senate Bill No. 194
First Reading Copy

Requested by Senator Larry Baer
For the Committee on Public Health, Welfare, and Safety

Prepared by Susan Byorth Fox
February 16, 1995

1. Page 4, line 19.
Strike: "advisory is allocated to the"
Strike: "for"
Insert: "shall provide staff support to the advisory, which shall
act in an advisory capacity as defined in 2-15-102."
2. Page 4, line 20.
Strike: line 20 in its entirety
3. Page 5, line 30.
Strike: "-- rules"
4. Page 6, line 13.
Following: "may"
Strike: ":"
5. Page 6, line 14.
Strike: "(a)"
6. Page 6, line 15.
Strike: ";"
Insert: "."
7. Page 6, lines 16 through 23.
Strike: lines 16 through 23 in their entirety
Renumber: subsequent subsections
8. Page 10, lines 18 through 20.
Strike: subsection (5) in its entirety

Amendments to Senate Bill No. 194
First Reading Copy

Requested by Senator Eve Franklin
For the Committee on Public Health, Welfare, and Safety

Prepared by Susan Byorth Fox
February 17, 1995

1. Title, line 11.

Strike: "REPEALING" through "ACT;"

2. Title, line 13 through line 15.

Strike: "33-22-1801" on line 13 through "33-22-1822," on line 15

3. Page 12, lines 11 through 13.

Strike: "33-22-1801" on line 11 through "33-22-1822," on line 13

Amendments to Senate Bill No. 307
First Reading Copy

For the Committee on Public Health, Welfare, and Safety

Prepared by Susan Byorth Fox
February 17, 1995

1. Page 1, line 15.

Following: "herbs."

Insert: "The use of oriental food therapies and herbs remains
under the licensure and regulation of the board."

2. Page 2, line 1.

Following: "needles"

Insert: "used to perform acupuncture"

DATE 2 - 17 - 95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 401 SB 307 SB 293

SB 226

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Check One

Name	Representing	Bill No.	Support	Oppose
ROBERT HAGSTROM	MYSELF	226		✓
DR. QUINTON R. HEHN	MCMHCA	226	✓	
CARL BODEK	MCMHCA	226	✓	
Carol Steben-Burroughs	MCMHCA	226	✓	
Karen Ferra	MCMHCA	226	✓	
Ben Dunn	SELF	226	✓	
TOM FERRO	SELF	226	✓	
Pete Louthridge	DFS			?
DICK LARSON	MHAOM	307	✓	
DONALD JEXIS	MHAOM	307	✓	
Roger Wicke		307		✓
Judith Gedrose	DHES			
SCOTT LUKKASON	O'CONNOR F.I.T.	401	✓	
LLOYD LINDEN	MONTANA ADIRECTOR FURNERAL ASSN	401	✓	
NATLYL BRUNO	DCHS/HIDHS	226	✓	

VISITOR REGISTER

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DATE 2/17/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 401, 307, 293, 226

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Check One

Name	Representing	Bill No.	Support	Oppose
Jo Rigg		307		✓
DENZEL DAVIS	DHES	293	✓	
Nancy Elley	DSRS	293	✓	
Bridgette Mazurek	MAAOM	307	✓	
GLORIA HERMANSON	MT Psychological Assoc	226	Amend	
Cheryl Smith	Commerce P.O.L. - Staff	401	Info Only	
MARY C. NAILIN	POL Bd of SWPC	226	info	
TOM BUMP	Acupuncturists	307	✓	
SARA MARIE	MAAOM	307	✓	
Barb Bayer	Acupuncturist	307	✓	
Pat Melby	Rimrock Foundation	226	✓ w/ amendment	
Bob Torres	MT. Chapt. NASW	226	✓ w/ Amend.	
Ronie Hamrahan	Myself	307	X	
Bj Johnson	Self	307	X	

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DATE 2/17/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 401, 307, 293, 226

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Check One

Name	Representing	Bill No.	Support	Oppose
Jerome Loendorf	Mt. Pleasant Assn	307		<input checked="" type="checkbox"/>
Jerome Loendorf	" " "	293	<input checked="" type="checkbox"/>	
Sue WEINGARTNER	MT FURERAL Directors Assn	401	<input checked="" type="checkbox"/>	

VISITOR REGISTER

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