MINUTES

MONTANA
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By **VICE CHAIRMAN JOHN BOHLINGER**, on March 10, 1995, at 3:00 p.m.

ROLL CALL

Members Present:
Rep. John C. Bohlinger, Vice Chairman (Majority) (R)
Rep. Carolyn M. Squires, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. Bill Carey (D)
Rep. Dick Green (R)
Rep. Antoinette R. Hagener (D)
Rep. Deb Kottel (D)
Rep. Bonnie Martinez (R)
Rep. Bruce T. Simon (R)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Kenneth Wennemar (D)

Members Excused:
Rep. Duane Grimes, Chairman (R)

Members Absent:
Rep. Brad Molnar (R)
Rep. Susan L. Smith (R)

Staff Present: David Niss, Legislative Council
Jacki Sherman, Committee Secretary

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

Committee Business Summary:
Hearing: SB 124, SB 293, SB 226
Executive Action: SB 124 DO CONCUR
SB 271 DO CONCUR AS AMENDED

HEARING ON SB 124

Opening Statement by Sponsor:

SEN. WILLIAM CRISMORE, SD 41, Libby, stated that this was an act modifying the mandatory requirement for sanitary inspections of schoolhouses, churches, theaters, jails and other buildings to a

discretionary requirement for public health inspections, modifying the enforcement provisions.

Proponents' Testimony:

Dale Taliaferro, Administrator of Health Services Division. EXHIBIT 1

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

SEN. CRISMORE said that SB 124 was a simple bill and would make it easier for the health departments to do their jobs.

EXECUTIVE ACTION ON SB 124

Motion/Vote: **REP. BRUCE SIMON MOVED THAT SB 124 BE CONCURRED IN. The motion carried unanimously.**

{Tape: 1; Side: A; Approx. Counter: 120; Comments: NA.}

HEARING ON SB 293

Opening Statement by Sponsor:

SEN. ETHEL HARDING, SD 37, Polson, stated that SB 293 would revise the laws related to Medicaid fraud and abuse and establish a Medicaid fraud control unit in the Department of Justice.

Proponents' Testimony:

Nancy Ellery, Administrator of the Medicaid Services Division. EXHIBIT 2

Mike Batista, Administrator of the Law Enforcement Services Division, said that his division works on fraud including welfare and workers' compensation fraud. There currently is a five-to-one return on investment on workers' compensation fraud. For every dollar invested in the enforcement program there is a $5 savings. The program has been in effect for one and a half years and has saved over $2 million for State Fund. Over 400 felony investigations have taken place in the area of welfare fraud with cases totalling over $4 million. Social and Rehabilitation Services (SRS) came to their bureau to take on the fraud enforcement function. This is important for the cost savings but also as a deterrent.

Opponents' Testimony: None

Informational Testimony: None

{Tape: 1; Side: A; Approx. Counter: 400; Comments: NA.}

Questions From Committee Members and Responses:

REP. BRUCE SIMON clarified that doctors' offices have all the welfare information available, but they keep changing what is required. Are they going to be held responsible when the rules are changed and they haven't been able to keep up with all the information switches. He asked where the dividing line would be between false reporting and honest mistakes in paperwork.

Mr. Batista replied that it was often the defense in Medicaid fraud cases that there was not enough education about the changes in the process. State investigators would take that under advisement before taking it to court for prosecution.

Greg Gould, Legal Counsel for SRS, clarified that the section in the bill they were referring to is not a criminal section. There are separate standards in the criminal code. These would be intentional cases where they knew and intended to defraud the programs. Medicaid statute provisions work to tell providers that they have a certain responsibility to be honest and submit correct documentation in cases where there were overpayments that they were not entitled to.

REP. SIMON asked for an explanation on what the terminology means when a person "purposely" and "knowingly" commits fraud. **Mr. Gould** said that the definitions were included in the bill on page 12, line 21, and on page 16, line 11.

REP. ELLEN BERGMAN asked what was done previously in the area of Medicaid fraud and is it separate from the work done on the Workers' Compensation fraud.

Ms. Ellery stated that there has always been limited resources to investigate fraud. The Surveillance and Utilization Review Unit, within the Medicaid Division, works with referrals and investigations. They need to devote maximum resources to the recoveries of Medicaid fraud. Workers' Compensation has their own fraud unit.

REP. BERGMAN inquired if they have more staff. **Ms. Ellery** said that the federal government required that seven additional positions be dedicated to the unit.

REP. LOREN SOFT asked what the liability of a board of directors of a private entity would be if fraud was committed either knowingly or unknowingly.

Mr. Gould clarified that the section referred to is not part of the criminal code so the person would not be liable criminally. The section is intended to clarify when a provider is participating in the program, it is their responsibility to supervise all those who work on the forms.

REP. SOFT asked if the supervisor would be liable for a person who made a fraudulent claim. **Mr. Gould** answered that the supervisor would not be liable but whoever the provider was that received the payment from Medicaid would be liable in the sense that they would have to pay the money back, but there would be no personal liability.

REP. SIMON questioned why the Abortion Control Act was brought into this bill.

{Tape: 1; Side: B; Approx. Counter: 00; Comments: NA.}

Mr. Gould explained that there was no substantial change in the section, but the criminal statute that is added for Medicaid fraud had some definitions that went along with it. These were inserted into the section in the criminal code and caused the renumbering of the sections.

REP. SIMON wanted to know if an office manager in a doctor's office had the information, would they, by virtue of their position, be knowingly committing fraud? **Mr. Gould** stated that the controlling definition of the term "knowingly" would be in the section contained in the criminal code that was discussed earlier. He said that it is not the intent of the bill to leapfrog from this section over to establishing criminal intent.

REP. SIMON asked **Mr. Gould** if he was an attorney and he said he was.

REP. SIMON asked for expansion on the terms he was having difficulty with. **David Niss, Legislative Council,** explained that what would be in question is the state of mind of someone defrauding the system and the degree of criminal intent. He noted the penalty for purposely or knowingly committing fraud as related beginning on page 7, line 15 of the bill, focusing on page 8, line 15.

Mr. Gould stated that an interpretation would be contrary to the specific definition of knowingly that occurs in the criminal statute. The criminal statute definition of knowingly specifically defines the term "highly probable" and the presumption of the mental state would be unconstitutional.

REP. JOHN BOHLINGER wondered if such language existed in other states' laws dealing with fraud. **Mr. Gould** replied that the language used in Montana was modeled after language from another state's statute. The Workers' Compensation fraud unit

legislation has some provisions that addressed some of the basic responsibilities of providers and claimants to be truthful.

REP. SIMON asked for clarification as to the purpose of section 6, especially subsection (3). **Mr. Gould** reiterated that it is not the intent to overreach and the purpose is to address the problem of supervisors attempting to escape the responsibility of repaying overpayment. It is important to show that they have a responsibility to supervise their employees who submit claims on their behalf.

REP. SIMON voiced his opinion that there would not be a need for subsection (3). **Mr. Gould** stated that the subsections cover different aspects of the problem. Subsections (1) and (2) cover the ability of collecting an overpayment back. If there are providers abusing the program there may be sanctions and then it becomes important to look at whether the person was aware of what they were doing. This is intended to make the supervisors more aware and responsible.

REP. SIMON asked if he would be willing to submit a statement for the committee record that would help clarify the intent of section 6. **Mr. Gould** stated that he would be glad to.

{Tape: 1; Side: B; Approx. Counter: 560; Comments: NA.}

REP. LIZ SMITH voiced her concerns about what Medicaid was doing to inform people of the frequent changes that occur. **Ms. Ellery** explained that her department spends a lot of time on educating providers of the frequent changes in requirements. They give out provider manuals and have a toll-free number as well as provider training.

Mr. Batista cited an example of a fiscal manager of a non-profit organization that was turning over a huge profit over the course of five years. He knowingly double-billed the Medicaid office and committed fraud. It was an example that showed intent and where the term knowingly would be applicable.

REP. SOFT stated that in Title 45 a person could be defined as a corporation or partnership and was concerned that the word "incomplete" was included in regard to fraudulently filling out a Medicaid claim. **Mr. Gould** explained that many staff members fill out the claims and it is actually the provider who receives payment. There is a misconception that sections 6 and 7 of the bill are related and they are not. For there to be a criminal offense it has to be by purposefully or knowingly obtaining a payment, not just an error or mistake.

REP. SOFT asked what would happen when a provider would take advantage of a gray area. **Mr. Gould** said that there were areas in which the rules were not entirely clear. The provider should inquire about the circumstance and when they disregard the risk that is not a criminal liability situation but falls under the

category of abuse. Providers would be sanctioned if patterns of misconduct were found.

REP. DEB KOTTEL asked if a director of a corporation would be personally liable through the imputed knowledge theory for the nonpayment of payroll taxes. **Mr. Gould** stated that the private provider was responsible for the payroll tax. They can't get out of it just because they said they didn't know.

REP. KOTTEL asked if there was a trend in the laws becoming tougher when there are public policy reasons such as Medicaid fraud. **Mr. Gould** stated his surprise that there has not been a more specific statement of the policy in the Montana code prior to this time.

REP. KOTTEL said that principals are liable civilly for the actions of their agents as long as they acted under the scope of their employment. **Mr. Gould** remarked that there are around 250,000 claims per month. If those claims are facially correct they will be processed and paid. If through further investigation there is found to be an overpayment, then repayment will be due.

REP. L. SMITH felt that too much pressure was being placed on the supervisors to make accurate decisions if they are not fully informed of the rules and regulations that are supposedly being followed by their employees. She wanted to see a better way to alert providers of information that comes to them that they are required to read and understand right away.

Ms. Ellery clarified that there is a section in the bill for providers and submitting information and that section has nothing to do with the recipient and whatever fraud they might commit. They sign a statement that says they are submitting the most accurate information possible.

REP. SIMON asked if the people who process Medicaid claims make mistakes and to what standard are those people going to be held in comparison to those who fill out the claims. **Ms. Ellery** said they do make mistakes and part of their contract with the fiscal agent provides penalties for not having good performance standards. Those individuals are targeted and the department tries to educate or train them if it is a problem of simply not understanding the process.

Closing by Sponsor:

SEN. HARDING stated that fraud control is funded 75% federally and 25% from the general fund. The cost recoveries and cost avoidance will begin to occur in SRS during the second year of the program operation. The cost savings is expected to be $3.00 for each $1.00 invested in the fraud control program and the program will eventually pay for itself.

{Tape: 2; Side: A; Approx. Counter: 485; Comments: NA.}

HEARING ON SB 226

Opening Statement by Sponsor:

SEN. TOM KEATING, SD 5, Billings, said that SB 226 is a bill to clarify the definition of licensed clinical professional counselors (LCPCs). There are various levels of training and ability in counseling within the continuum of mental health services. The definitions of the types of counselors need to be established so the person seeking counseling knows what level of expertise they are receiving. A prepared amendment will be presented for the inclusion of psychiatrists.

Proponents' Testimony:

Dr. Bob Bakko, Licensed Clinical Professional Counselor, Executive Director of Northwest Counseling Centers, mentioned that this was an important bill for counselors in that they share within the mental health provider continuum of care a relationship with psychologists, social workers and psychiatrists. Those titles and practices can't be duplicated or interchanged. Professional counselor as a title is protected under title law, but the practices themselves are not. The problem is that literally anyone in Montana can put out a shingle as a counselor without meeting any minimum standards, training requirements, degrees, or certifications. The primary issue in introducing the change in the law is for consumer protection. If someone is a licensed counselor, they have to practice within the scope of the law and stand at risk for complaints from anyone in the community. It is a painful process to go through and many wish not to be subject to it. There are strict guidelines that must be followed and they are required to keep malpractice insurance. He submitted photocopies of pages from phone books showing examples of mis-representation. **EXHIBIT 3**

{Tape: 2; Side: B; Approx. Counter: 00; Comments: This side of the tape is blank and testimony was not recorded due to tape recorder malfunction. Notes from meeting for Tape 2, Side B are submitted as EXHIBIT 4. The names of proponents are listed as shown in the secretary's notes. The meeting resumed on Tape 3, Side A.}

Dr. Quinton Helan, Missoula. EXHIBIT 5

Mary McCue, Montana Clinical Mental Health Counselors.

Bob Torres, NASW.

Gloria Hermanson, Montana Psychology Association.

Darryl Bruno, Alcohol and Drug Abuse Division, SRS.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

{Tape: 3; Side: A; Approx. Counter: 00; Comments: Continuing with questions by REP. KOTTEL.}

REP. DEB KOTTEL asked that under the definition of professional counseling on the first page of the bill would someone not be engaging in professional counseling if they only performed the duties in one of the two subsections under (3)(a).

Ms. McCue stated that she thought the duties in both subsections (i) and (ii) needed to be engaged to be considered professional counseling.

Dr. Bakko explained that there should be an "or" between the two subsections instead of an "and".

REP. BRUCE SIMON asked for clarification as to therapy versus therapist and counselor versus counseling. He referred to the LCPC pamphlet and wanted to know where someone would be in violation if SB 226 was passed. **Dr. Bakko** said that therapy is counseling and it does not have to be defined within the context of the pamphlet. It is a therapeutic term that is synonymous with mental health providers.

REP. SIMON stated that he was trying to determine where a person might be considered in violation of the statute. **Dr. Bakko** explained that the person (June Safty Odegard, MS) whose flyer is shown in Exhibit 3, changed the semantics to give the impression that she was qualified, which she might be, but is not licensed. Therapy is an opportunity that has many aspects to it and these include, but are not limited to, counseling, nurturing, confidentiality, clarification and feedback.

Ms. McCue said that the service someone is providing would have to be examined in light of the definition of counseling. If the patient was asked to describe what service was being provided, then it could be compared to the definition.

REP. SIMON said that he felt that the definitions or regulations should be tightened up for therapists and counselors. **Ms. McCue** explained that the statute for psychologists including definitions and regulations is very clear and lists what is allowed and what is not.

REP. LIZ SMITH reiterated that the title law was not in effect in regard to counselors. **Dr. Bakko** stated that what she said was true and it protects those who are licensed and the consumers. It was enacted in 1987.

REP. L. SMITH asked if people are not counselors, why have they gotten away with using the word counseling in their advertisements. **Dr. Bakko** replied that the singular use of the word counseling or counselor is not a protected title, but licensed clinical professional counselor is protected. The reason for SB 226 is so those who violate the statute can be reprimanded.

REP. L. SMITH clarified that the intent of the bill is to protect those words also and what would be wrong with using the word therapist in advertisements. **Dr. Bakko** referred to page 2 of the bill where definitions are broken down more for further clarification and therapeutic is included. The title as well as the practice needs to be protected.

{Tape: 3; Side: A; Approx. Counter: 500; Comments: NA.}

REP. ELLEN BERGMAN asked how someone could judge if a counselor is entering into an area they are not qualified for. **Dr. Bakko** said that through the process and re-referrals along with diagnosing, the "fraudulent" counselors are brought forward. The main issue is that if a counselor is not licensed then they are not accountable to anyone if something should go wrong and the consumer would have no guarantee that the "professional" they are seeing meets minimum standards.

REP. BERGMAN said that the public would know and might choose to go to someone they know is not licensed just because the cost is lower. She felt that choice would be taken away from them with this legislation. **Dr. Bakko** stated that there are very few consumers who know if someone is licensed or certified. There is an assumption made that if someone advertises and sets up shop then they would naturally be qualified.

REP. CAROLYN SQUIRES added that with a license there are some criteria that must be met. There is no mechanism for discipline unless there is a license.

David Niss, Legislative Council, asked for clarification on page 2, section 2, subsection (2), on line 18 where a person is prohibited from representing or engaging in the practice of professional counseling as defined. He also asked for clarification on subsection (4) beginning on line 26 where it states what subsection (2) does not prohibit. He wanted to know why the Senate added on line 27 of page 3 "an activity or service performed by a licensed social worker or licensed psychologist," when they were stricken from subsection (4)(a).

Ms. McCue stated that they would not have a problem adding some language that says they would need to be practicing within the scope of their licensure and ethics. The people listed in subsection (4)(a) cannot represent by title that they are engaging in the practice of professional counseling. Some social

workers and psychologists want to be able to say they are engaging in the practice of professional counseling.

{Tape: 3; Side: B; Approx. Counter: 00; Comments: NA.}

It was agreed that **Mr. Niss** and **Ms. McCue** would meet and work out their issues before executive action takes place.

Closing by Sponsor:

SEN. KEATING reiterated that the effort was to protect the phrase "professional counselor" and to protect the public so they can get what they are looking for.

{Tape: 3; Side: B; Approx. Counter: 80; Comments: NA.}

EXECUTIVE ACTION ON SB 271

Discussion:

REP. DEB KOTTEL recounted that SB 271 looked at the issue of when the Department of Family Services makes a decision to remove a child from their home they should try to place the child in the home of an extended family member.

David Niss, Legislative Council, explained the department's amendments.

Motion/Vote: REP. DEB KOTTEL MOVED TO AMEND SB 271. The motion carried unanimously.

Motion/Vote: REP. LOREN SOFT MOVED THAT SB 271 BE CONCURRED IN AS AMENDED. The motion carried 13-0 with REPS. SIMON, HAGENER and SQUIRES voting by proxy.

ADJOURNMENT

Adjournment: 5:40 p.m.

DUANE GRIMES, Chairman

ANDREA SMALL, Recording Secretary

DG/as

HOUSE OF REPRESENTATIVES

Human Services and Aging

ROLL CALL DATE 3-10-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Duane Grimes, Chairman			✓
Rep. John Bohlinger, Vice Chairman, Majority	✓		
Rep. Carolyn Squires, Vice Chair, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Carey	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener	✓		
Rep. Deb Kottel	✓		
Rep. Bonnie Martinez	✓		
Rep. Brad Molnar		✓	
Rep. Bruce Simon	✓		
Rep. Liz Smith	✓		
Rep. Susan Smith		✓	
Rep. Loren Soft	✓		
Rep. Ken Wennemar	✓		

HOUSE STANDING COMMITTEE REPORT

March 13, 1995

Mr. Speaker: We, the committee on **Human Services and Aging** report that **Senate Bill 271** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____
Duane Grimes, Chair

Carried by: Rep. Kottel

And, that such amendments read:

1. Title, line 5.
Following: "DEPARTMENT"
Insert: "OF FAMILY SERVICES'"

2. Title, line 6.
Following: "HOME;"
Insert: "REQUIRING A DEPARTMENT INVESTIGATION OF PERSONS LIVING IN THE HOME;"

3. Page 1, line 29.
Following: "facility."
Insert: "Prior to approving a home, the department shall investigate whether anyone living in the home has been convicted of a crime involving serious harm to children."

-END-

Committee Vote:
Yes 13, No 0.

580850SC.Hbk

HOUSE STANDING COMMITTEE REPORT

March 13, 1995

Mr. Speaker: We, the committee on **Human Services and Aging** report that **Senate Bill 124** (third reading copy -- blue) **be concurred in**.

Signed: _____
Duane Grimes, Chair

Carried by: Rep. Carey

Committee Vote:
Yes 8, No 0.

580852SC.Hbk

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Human Services and Aging Committee

DATE 3-10-95 BILL NO. SB124 NUMBER

MOTION: Rep. Simon "Do Pass"

unanimous

NAME	AYE	NO
Rep. Duane Grimes, Chairman		
Rep. John Bohlinger, Vice Chairman, Majority	✓	
Rep. Carolyn Squires, Vice Chairman, Minority		
Rep. Chris Ahner	✓	
Rep. Ellen Bergman	✓	
Rep. Bill Carey	✓	
Rep. Dick Green		
Rep. Toni Hagener	✓	
Rep. Deb Kottel	✓	
Rep. Bonnie Martinez	✓	
Rep. Brad Molnar		
Rep. Bruce Simon	✓	
Rep. Liz Smith		
Rep. Susan Smith		
Rep. Loren Soft		
Rep. Ken Wennemar	✓	

(9-0)

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Human Services and Aging Committee

DATE 3-10-95 BILL NO. SB271 NUMBER

MOTION: Rep Soft Do Pass as amended

Unanim

NAME	AYE	NO
Rep. Duane Grimes, Chairman		
Rep. John Bohlinger, Vice Chairman, Majority	✓	
Rep. Carolyn Squires, Vice Chairman, Minority	✓	
Rep. Chris Ahner	✓	
Rep. Ellen Bergman	✓	
Rep. Bill Carey	✓	
Rep. Dick Green	✓	
Rep. Toni Hagener	✓	
Rep. Deb Kottel	✓	
Rep. Bonnie Martinez	✓	
Rep. Brad Molnar	—	—
Rep. Bruce Simon	✓	
Rep. Liz Smith	✓	
Rep. Susan Smith	—	—
Rep. Loren Soft	✓	
Rep. Ken Wennemar	✓	

13 - 0

3-10-95

Rep Bohlinger Has my
proxy on any votes
This Day

HOUSE OF REPRESENTATIVES
COMMITTEE PROXY

DATE 3/10/95

I request to be excused from the _____

Committee meeting this date because of other commitments. I desire

to leave my proxy vote with Carolyn Squires.

Indicate **Bill Number** and your vote **Aye** or **No**. If there are **amendments**, list them **by name and number** under the bill and indicate a **separate vote for each amendment.**

HOUSE BILL/AMENDMENT	AYE	NO
S.B. 271	X	

SENATE BILL/AMENDMENT	AYE	NO

Rep. Joni Hagener
(Signature)

HR:1993
WP/PROXY

HOUSE OF REPRESENTATIVES
COMMITTEE PROXY

DATE 3/10/

I request to be excused from the _____

Committee meeting this date because of other commitments. I desire

to leave my proxy vote with _____.

Indicate **Bill Number** and your vote **Aye** or **No**. If there are **amendments**, list them **by name and number** under the bill and indicate a **separate vote for each amendment**.

HOUSE BILL/AMENDMENT	*AYE*	*NO*
SB 271	X	

SENATE BILL/AMENDMENT	*AYE*	*NO*

Rep. Carolyn Bruce
(Signature)

HR:1993
WP/PROXY

Wagon Proxy 3/10/25

SB 371 - Y
" 134 - N
" 401 - Y
" 310 - Y
" 244 -
" 158 - Y

Please hold action on
SB 223 pending
[illegible]

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES
HEALTH SERVICES DIVISION

EXHIBIT 1
DATE 3/10/95
SB 124

COGSWELL BUILDING
1400 BROADWAY

STATE OF MONTANA

(406) 444-4473 (OFFICE)
(406) 444-2606 (FAX)

PO BOX 200901
HELENA, MONTANA 59620-0901

Testimony on SB 124

Mr. Chairman and members of the Committee, the Department of Health & Environmental Sciences (DHES) supports the proposed amended language to §50-1-203. This section has been in place for 21 years and the proposed amended language updates it to be consistent with current needs and resources.

The primary purpose of this bill is to modify required inspections of schoolhouses, churches, theaters, jails, and other buildings or facilities where people may assemble from mandatory to discretionary by changing the "shall" in line 13 to "may." The language is modified from mandatory to discretionary to remove a requirement for inspections that are not needed. Neither Local or State Public Health has staff to inspect all of the facilities named, but are able to inspect those that are requested by local public officials or are the subject of complaints.

The DHES or local boards of health need to retain the flexibility and authority to conduct public health inspections in public places where persons may assemble. These inspections are to investigate complaints, prevent communicable disease epidemics, and address a variety of public health issues especially for vulnerable populations such as children or inmates. Broad language needs to be retained to maintain the ability to address changing community public health issues on an as-needed basis.

In §50-1-203(1) the language requiring the department to conduct "sanitary" inspections is technically updated to "public health" inspections with deficiencies identified during the inspection re-identified by language modification from "unsanitary" to "public health."

Also in Section 1, the language is removed which automatically classifies a facility as a public nuisance when deficiencies are found. Most inspected facilities, when notified of deficiencies, willingly make corrections and do not require action as a declared public nuisance. The DHES or a local health board may still petition a court to declare a facility as a public nuisance and require abatement of a deficiency.

Section 2 broadens the language to include injunctive relief to be certain the DHES or a local health board can seek closure of a facility immediately if there is sufficient risk to the health of the public and there is a rare instance where the facility does not agree to voluntarily close. It is not anticipated this situation would occur with any frequency, however, the ability to act if necessary should be provided.

This bill reduces unnecessary regulatory requirements, but retains sufficient safeguards to protect the health of the public using public facilities.

Submitted to: House Human Services & Aging Committee
By: Dale Taliaferro, Administrator of Health Services Division
Date: March 10, 1995

EXHIBIT 2
DATE 3/10/95
SB 293

TESTIMONY OF THE DEPARTMENT OF SRS
HOUSE HUMAN SERVICES AND AGING COMMITTEE
SB293-MEDICAID FRAUD AND ABUSE

SB 293 will significantly improve the state's ability to prevent and respond to medicaid fraud, abuse and overpayment. The bill will also improve the state's ability to address substandard care in health care facilities and patient abuse and neglect, and theft of patient property. These measures are important components in the continuing effort to control the cost of the medicaid program.

Medicaid paid out approximately $300 million dollars to over 7000 medical providers in 1994. While the vast majority of health care providers are honest, health care is big business. If you apply national fraud estimates of ten percent to Montana, the problem of Medicaid fraud and abuse could be costing the state over $30 million. Fraud and abuse not only diverts scarce resources but also deprives those who are in need of health care.

I would like to briefly describe the major provisions of this bill.

Medicaid Fraud Control Unit

The bill would establish a medicaid fraud control unit in the Department of Justice, as required by federal medicaid law. The unit must employ necessary personnel for effective operation, including investigative, audit and legal staff. The unit would be under the supervision and control of the attorney general. The primary function of the unit is to investigate and prosecute fraud and abuse under the medicaid program. The bill also establishes a criminal offense specifically designed to address fraudulent activities under the medicaid program.

Medicaid Fraud, Abuse and Overpayments

The bill generally revises the laws regarding medicaid overpayment recovery and imposition of sanctions for medicaid fraud and abuse. The bill would establish specific responsibilities of medicaid applicants, recipients and providers related to the truth, accuracy and completeness of documents, statements and other information submitted to medicaid. The bill would establish responsibilities for providers with respect to employees submitting materials on the provider's behalf. The bill would amend current law to more clearly specify the law in the areas of overpayment recovery and imposition of sanctions for fraud and abuse.

Substandard Care in Health Care Facilities

The bill would revise current law to comply with federal requirements regarding sanctions applicable to health care facilities that fail to comply with applicable participation requirements. These changes would eliminate implications in current law that federal standards cannot be enforced unless

adopted as rules by DHES and that the authority of SRS to impose sanctions is limited to those cases where a health care facility fails to meet requirements adopted as rules by DHES. The proposed amendments would allow imposition of sanctions based upon failure to comply with applicable requirements imposed by law.

I urge your support of this important bill. Passage of this bill will significantly improve the state's ability to prevent and respond to fraud, abuse and overpayment in the Medicaid program. It will help to contain costs in the Medicaid program and conserve scarce resources for those in need.

EXHIBIT 3
DATE 3/10/95
SB 226

EXAMPLES OF MISREPRESENTATION

From local yellow pages

BOZEMAN

NECTIONS
Liz Shanahan, M Coun.
National Certified Counselor
Sexual Abuse Issues
Women's Issues
• Comprehensive Individual & Family Mental Health Services
East Main — 585-7167

Perceptions
Counseling Services
Marriage & Family Therapist

Individual
Group
• Families
• Children
Paula J. Mills, M.S.
No Charge for Initial Visit
WEST YELLOWSTONE, MT
646-4055

Jorene LeMieux
M.S.

Families, Couples and Individuals with an emphasis on Stepfamilies and Adolescents
586-9340
67 W. Kagy Blvd.
Bozeman

GREAT FALLS

ChemCare Associates Inc.
OUTPATIENT COUNSELING & RECOVERY PROGRAMS
• Co-Dependency • Chemical Dependency
• Adult Children of Dysfunctional Homes
• Eating Disorders • Depression & Stress
Sexual Abuse • Women's Issues • Grief
Family / Relationship Communication Counseling
• Compulsive Behavior Counseling
• Therapeutic Massage
andace Atwood, MHS, CCDC Carol Habets, BA, CCDC

When Life Hurts, We Can Help.
The caring connection
761-2273
1601 2nd Ave North, Great Falls
6th Floor (CCCC Building)

MISSOULA

LIFE TRANSITION CENTER
COUNSELING • BIOFEEDBACK
• Stress • Headaches • Depression/Anxiety
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• Death/Dying • Pain • Chronic Fatigue
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HELENA

HELENA (Cont'd)

FARRELL JAMES MA MTH CDC
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• ALCOHOL & DRUG COUNSELING
• PROBLEM GAMBLING COUNSELING
• INDIVIDUAL, FAMILY & GROUP
314 N Last Chance Gulch — 442-9528

FLINN KAY BA CDC
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COUNSELING & CONSULTANT SERVICES
SPECIALIZING IN
ADDICTIONS & CODEPENDENCY
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MILES CITY

PARACLETE THERAPY
KEDRIC H. CECIL PH.D.
CRAIG JENSEN, M.A.
Individual, Marital & Family Therapy
1-800-320-5970
Miles City Clinic — 232-5970

BILLINGS

Counselors-Marriage, Family, Child & Individual

BILLINGS
A RELATIONSHIP COUNSELING CENTER
"Feeling depressed, lonley, angry or confused? You don't have to deal with it alone, you can rely on us to help. For over 15 years we've been counseling individuals and families, helping them to overcome the most challenging problems, in a warm and compassionate setting"
WE'LL HELP YOU WITH:
• RESOLVING PAST TRAUMA/ABUSE
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• BREAKING HABITS & ADDICTIONS
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NO CHARGE FOR INITIAL CONSULTATION
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Coping With Life Threatening Illness
Non-traditional Lifestyle Issues
1111 24 W — 652-1223

Dr. Bob.

Another Way Therapy for Relationships
779-3339
June Safty Odegard, MS
Marriage & Family Therapist
Box 26
Whitefall, Montana 59278

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

June Safty Odegard, MS

* not licensed

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 stuck, 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 for Relationships

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

EXHIBIT 3
DATE 3-10-95
SB 226

what is therapy anyway?

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!

EXHIBIT 4
DATE 3/10/95
SB SB 226

(1)

SB 226 Tom Keating SD 5 Billings
(475) This is a bill revising counseling laws;
tape 2 side 1) revising the definition of professional counseling; requiring licensure to engage in the practice of professional counseling or for a person to represent that the person is a professional counselor; authorizing counseling by an individual working to complete certain counseling requirements; amending sections, providing a delayed date. (Left out psychiatrists will amend in)

PRO ① Doctor Bob Barko (written) Northwest Counseling (Blgs)
- Consumer protection - complaints filed
- strict guidelines -
- malpractice insurance required must have license must be certified
- Chemical dep counselors - own rules -
No license No due course of action
~~(Tape 2, Side B)~~
Continued... Bill was amended to add volunteers.
Psychiatrist will be added to amend.

② Dr Quinton Helan MSLA (written pamphlet)
good licensing law

③ Mary McKew MT Clinical Mental Health Counselors
amendments Pg 2 ln 17
'counselors' 'prof counseling' definition different.

(20)

(4) Bob Torres, NASW Bill satisfied private
P MSW, DSW, in their profession. We believe in bill.

(5) ~~Doug~~ Gloria Hermanson MT Pysch Assoc.
does require licensure. Support.

(6) Darryl Bruno Alcohol + Drug Abuse Div.
Supports cert. chem dep counselors.
CCDC license process for violation of professional ethics.

OPP None

Quest (1) Soft-Bakko Clarifying
pastor doing counseling. → doesn't affect w/in the church. Laws protect.
follow up - people like, go outside church, advertise pastoral counseling → also profession.
2 certification processes (1) clinical (2) _____
follow up no CPE program, MDIV grad. no certified, private Pastoral spiritual counseling → if person not professional not violating. → integration with theology + pysch goes on for years. need licensed.
follow up - ~~[illegible]~~ No certified, people seek out for counseling. then → nothing unless diagnosing + treatment mental disorders then wrong.

EXHIBIT 4
DATE 3-10-95
SB 226

(3)

(405) (2) Kottel - McKew → pysch physicians → yes.
~~really~~ need to amend: pyschiatrist → Pg 3 ln 3+4
"terminology usage"
follow up - Pg 2 ln 28
Follow up
Follow up Pg 3 ln 7 Clarification 'charitable'
Follow up all non profits ~~
Follow up - conflict statement of purpose
"prof. counselor" not 'counselor'
which is correct → Pg 2 ln 18 . 22 heart of bill

(TAPE 3 - SIDE 1)

EXHIBIT 5
DATE 3/10/95
SB 226

LICENSED CLINICAL PROFESSIONAL COUNSELORS

Sponsored by

MONTANA CLINICAL MENTAL HEALTH COUNSELORS ASSOCIATION

MCMHCA

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.

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Human Services & Aging

DATE 3-10-95

BILL NO. SB 124 SPONSOR(S) Crismore

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
DALE TALIAFERRO	MDHES	✓	

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wp:vissbcom.man
CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Human Services & Aging

DATE 3-10-95

BILL NO. SB 226 SPONSOR(S) Keating

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Dr. Bob Bakko	Self + MCMHCA	✓	
DR. D. Heln 415 N. Higgins	MCMHCA	✓	
Mary McCue	" "	✓	
Leanne Young, MA, LCPC 415 N. Higgins Ave	self + MCMHCA	✓	
Darrell J. Brown	DCHS/ADHD	✓	
Bob Jones	MT. Ch. NASW	✓	
GLORIA HERMANSON	MT Psych. Assoc.	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORM ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

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