EXHIBIT 6
DATE 2-16-05
HB 534

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February 16, 2004

To: Chair & Members of the House Committee on Business and Labor
Re: Testimony in favor of HB-534
From: Bob Deaton

I strongly endorse HB-534 that modifies Montana Worker's Compensation law to include mental injury or disease, and to replace the vague term of "stress" with the terms"mental injury or disease." It is legally and medically defensible to include "mental harm" as a covered condition under Worker's Comp when a diagnosis is made by a physician or mental health professional "in accordance with criteria set forth in the diagnostic and Statistical Manual of Mental Disorders" [page 2, lines 19-20, HB-534].

I have 19 years of experience and professional training in dealing with "mental injuries" caused by verifiable incidents and conditions in the workplace with employees of emergency service agencies, schools, government agencies, and private employers. I offer the following facts and professional opinions in support of the proposed changes in HB-534:

1. The term "stress" as currently used in Sections 39-71/72-MCA is so totally undefined as to be useless to make judgments about whether specific cases can be approved or not. The argument is made in the law that "stress" claims are hard to prove and "may place an economic burden" on the worker's comp system. However, the claim of economic burden and difficulty of diagnosis and etiology can be said of any category of injury/disease claim that worker's comp currently allows and approves.
2. Under the proposed criteria, a claim of "mental injury" or "disease" would have to be proven to the same extent as any physical injury or disease that is presently covered under worker's comp. Proof would include: 1.) Meeting medical criteria that a defined injury or illness has occurred, 2.) proving that it was not a pre-existing condition, 3.) demonstrating that the mental injury/disease has been caused by a workplace condition, and 4.) proving that significant harm has been caused to the covered employee by the condition of mental injury/disease.

3. If mental injury becomes an approved condition under worker's comp, then early treatment can be provided to the covered employee at much less cost than allowing conditions such as Post-Traumatic Stress Disorder (PTSD) to continue untreated until the covered person becomes completely debilitated. Often, untreated PTSD sufferers develop related troubles such as alcoholism, divorce, circulatory, and gastro-intestinal disorders, which add their own human and financial costs to the employee and his/her family, the worker's comp system (for related covered injury/disease), and society.
4. Because untreated workplace mental disorders in emergency personnel (particularly PTSD) have not been covered under worker's comp, there have been tremendous costs to employers in the form of lawsuits by affected employees to recover losses in income and treatment costs for themselves and their families. Lacking coverage under worker's comp, litigation remains the only avenue for employees to fund treatment costs and lost income.

I can provide specific testimony about actual cases (names anonymous) of job-related mental conditions, treatment and prevention services available in Montana, which I have provided to employees and others from 1986 to present. I will be glad to provide such information to the committee at any time.

Jo Kimery, RN, LCPC

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February 14, 2005

To: The Montana Legislature

Re: House Bill #534

This bill has recently come to my attention, and I would like to comment. I have lived in Missoula since 1972; I worked first as a registered nurse for 18 years. Then in 1984 my husband, a police officer, was killed in the line of duty, and subsequent to his death I returned to college and finally obtained a masters degree in counseling in 1995. Since that time my practice has centered on clients suffering grief, trauma, and Post Traumatic Stress Disorder. I also serve as the Clinical Coordinator of the Missoula Valley CISM team, which operates to help prevent overwhelming stress in emergency responders such as police, fire, ambulance, dispatchers, etc. Due to my personal and professional experiences, I feel I possess some expertise on the subject of traumatic incidents and the reactions they can cause.

HB 534 strives to include "mental harm" as a type of injury covered by workers' compensation, and **it has my full support**. My reasons include:

* "Mental harm" or "mental injuries" **can** be objectively determined by a mental health professional. Disorders such as Acute Stress Disorder, Anxiety Disorder, Clinical Depression, and Post Traumatic Stress Disorder (as described in the DSM-IV) can be documented by concrete symptoms that are observable by counselors, physicians, co-workers and acquaintances.... they are **not** diagnosed on only the description of symptoms by the patient him/herself.

* As things stand, the present law contributes to a belief in Montana's workers that their mental health is of no concern. But the body and mind are closely linked, and the health of both is necessary for a worthwhile life. The law should promote the health of the whole person.

* The non-treatment of definable mental injuries can lead to development of physical and mental ailments, which ultimately may cause the taxpayers even more. (Many workers do not have the insurance benefits available to obtain therapy.) Especially in the case of PTSD, sufferers who have no access to proper mental health treatment often develop substance abuse, panic attacks, irritability, troubled relationships with family and co-workers, difficulty with memory and concentration, and other symptoms that preclude their gainful employment. They often end up in the welfare system, where the MT taxpayers end up totally supporting them. It would have been more cost-efficient to pay for their mental health treatment in the first place.

* Obviously, the Montana workers who are probably most affected by workplace traumatic stress are our emergency service workers such as police, fire, ambulance crews and 9-1-1dispatchers. The very fact that mental harm is not compensable by workers' comp contributes to an EMS culture that does not allow it's members to be touched by their own human emotions. Instead it leads to the generally held attitude that if the horrors they encounter are hard to take, all they need do is "just buck up and get over it."– an attitude that **does not work, and actively contributes to the development PTSD**, with all the negative effects already mentioned. It is my belief that workers' comp coverage of mental harm would promote emergency service departments to change their antiquated thinking, and get traumatized workers the help they need, and **early**.

I do want to mention one aspect of the bill that needs attention. Please refer to page 2, line 25, which states that the injury must be "caused by a specific event on a single day or during a single work shift." Mental harm in the form of a concrete diagnosis can result either from a single terrible incident, **or** from the worker experiencing several traumatic stressors over time. This would probably not occur except in emergency services, but I do want to make that clarification.

Thank you for this opportunity to comment on this important bill. Please feel free to contact me if I can be of further assistance.

Sincerely,

Jo Kimery

Jo Kimery RN, LCPC