

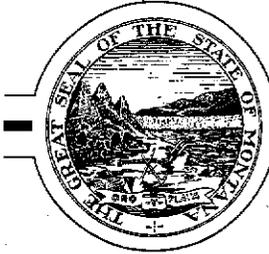
**Exhibit Number: 17**

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**The following exhibit is several assorted documents that exceeds the 10-page limit therefore it cannot be scanned. A small portion has been scanned to aid in your research for information. The exhibit is on file at the Montana Historical Society and can be viewed there.**

DEPARTMENT OF  
PUBLIC HEALTH AND HUMAN SERVICES  
DIVISION OF QUALITY ASSURANCE

EXHIBIT 17  
DATE 2-18-05  
HB 628



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TESTIMONY OF THE DEPARTMENT OF PUBLIC HEALTH  
AND HUMAN SERVICES  
BEFORE THE HOUSE EDUCATION COMMITTEE  
FEBRUARY 18, 2005

RE: HB 628 "AN ACT PROVIDING FOR A BOARD OF PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL PROGRAMS; PROVIDING FOR REGISTRATION WITH THE DEPARTMENT OF LABOR AND INDUSTRY; PROVIDING BOARD DUTIES; AND REQUIRING A REPORT TO THE LEGISLATURE ON THE NEED FOR ANY ADDITIONAL REGULATION."

The Department of Public Health and Human Services is testifying today as an informational witness to provide you with some background on our licensure functions. The Department of Public Health and Human Services (or DPHHS) currently licenses 380 residential facilities and 561 health care facilities. We are the Department in state government that has licensure expertise for facilities with a focus on public health and safety.

**Background**

"Private alternative adolescent residential programs" is the term that HB 628 uses to describe the same providers that are called "residential therapeutic schools or programs" in SB 101. These terms encompass such diverse providers as boarding or preparatory schools, therapeutic homes, ranch-based service providers, faith based providers, and adventure or wilderness providers. There are currently 30 plus providers in Montana. Programs range in size from 4 to 450 beds. They are located in Sanders, Lincoln, Flathead, Missoula, Gallatin, Carbon, Hill, Teton, and Blaine counties. Education for these youth is provided through home-school curriculums, boarding-school curriculums, or public schools.

At any given point in time, these programs are serving 950 to 1000 youth. They are between the ages of 10 to 18. Ninety to 95 percent of the youth served are from out-of-state. Their parents place them. These young people have a wide array of treatment needs ranging from learning disabilities to emotional disturbances. What these youth have in common is that they have all been placed in Montana because they have failed to function at home or in a less-structured or traditional school.

Because "private alternative adolescent residential programs" are not regulated, no governmental entity has the jurisdiction to monitor the program to assure the youth placed in the programs are safe, that their basic needs are being met, and that program

personnel possess appropriate credentials. Montana licenses other settings such as group homes or foster care homes where youth or children are cared for outside of their homes because they are such a vulnerable population. We do know that some programs have re-located to Montana after encountering problems with the regulators in the program's home state. Montana has already had brushes with providers who have placed youth in precarious situations. One provider transported a youth to Wyoming and left him at the airport without money or a ticket. Another provider fled Utah with 11 youth. Child protective services had to intervene when these youth were found outside of Rocker in cold, rainy weather with limited food and shelter.

Currently, the only safeguard for youth placed in these facilities is the mandatory child protective services (CPS) investigation conducted by Child and Family Services upon receipt of a report of suspected child abuse/neglect. However, this safeguard is minimal because without a report of suspected child abuse/neglect, the CPS worker has no authority to inspect the program. Even with a report, the CPS worker's authority is limited to the specific information contained in the report. Child Protective Services has no authority to review a program's policies, procedures, or services to see if the program has safeguards in place to reasonably protect the youth in question or other youth who might be in a similar circumstance.

### **Bill Development**

For a number of years, DPHHS and Office of Public Instruction (OPI) staff have fielded questions and complaints about programs operating in Montana. Because of our growing concerns, DPHHS brought the issue of unregulated "private alternative adolescent residential programs" forward to the Interim Legislative Committee on Children and Families. A white paper was developed that presented both a background on services and 13 recommendations ranging from doing nothing to going forth with a request for licensure in this session. The interim committee encouraged us to meet with existing providers and the Department hosted two meetings in July 2004. 19 people attended the meeting in Great Falls; the meeting in Kalispell had 51 participants. The one thing that all parties at these meetings agreed upon was that safety of the youth served is paramount. There was some support for the concept of mandatory registration. There was little support for state licensure; but limited support for voluntary accreditation by various entities, voluntary licensure, self-regulation, etc.

The Department came back from these meetings, summarized what providers had said, looked at our concerns about unregulated care and decided that voluntary licensure would not meet those concerns. We didn't feel that we knew enough about all the provider types to move forward with licensure at this time so we designed a bill to move forth in an incremental fashion. Thus, the Department proposed SB 101. SB 101 calls for mandatory registration in this biennium with a proposal for licensure to be brought forth to the 2007 legislature.

Providers examined SB 101 and brought forth an alternate bill, HB 628. HB 628 embraces the concept of mandatory registrations but asks for a Board to be formed at the Department of Labor.

### **HB 628 Analysis**

HB 628 has some departures from what would normally be seen in a bill regulating facilities. The first of these is that HB 628 proposes a board be formed at the Department of Labor. We did an Internet search of other state's statutes and regulations and could find no state that uses a board to regulate facilities. In Montana, and most other states, "boards" govern professions such as nursing, psychologists, and nursing home administrators. The function of these boards is to approve professional curriculums; set testing standards and test for professional competency; promulgate rules guiding professional standards; and discipline if needed. Boards do not license facilities because you cannot "test" a facility to determine competency. You must go on-site and examine the practices in the facility. The Department of Labor does not regulate any residential or health care facilities. They do use investigators that are attached to a board to look at two facility types: mortuaries and beauticians and barbers (cosmetology). Neither of these facilities compare to the services being proposed under HB 628.

The Department of Public Health and Human Services currently license 380 residential facilities and 561 health care facilities. This is the Department that has licensure expertise. This is the Department that has a focus on public health and safety. Establishing this expertise at the Department of Labor will be duplicative and unnecessarily expensive.

The second departure from regulation of facilities lies in "Section 2" of HB 628. Organizations, boarding schools, or residential schools with a sole focus on academics and faith-related activities and are excluded from the bill before a study is even conducted. None of these organizations are defined. This leads one to wonder about how many of the 30 existing organizations will even be included. It is hard to fathom that a residential "boarding" school could be described as having a sole focus on academics. In addition, some of the most troublesome complaints have arisen in "faith based" organizations. Catholic hospitals are regulated, Yellowstone Boys and Girls Ranch is regulated. Licensure does not eliminate the ability to have a faith-based facility. It does, however, require that faith-based facilities have the same measures in place to protect a youth as non-faith based facilities do.

Third, "Section 3" of HB 628 only requires a report to the 2007 legislature of the "board's findings and recommendations". No interim reports are required, nor is it specified who in the legislature will receive or review these final recommendations. Does the bill provide for any accountability?

Fourth, "Section 3" of HB 628 requires certain information to be provided for registration but this information is not shared with the public. Only the name address, and contact information is available to the public. One of the complaints that we have heard over the past several years is that family is not able to obtain program information. In addition, no discharge criterion for youth is included. This is a crucial piece of information.

Finally, it is not clear how the Senate will "consent" to the appointment by the Governor of the Board as required in Section 1. This is especially true in the initial appointments but continues to be problematic because the bill envisions 3-year terms.

In conclusion, we would hope that all of these areas identified as departures from facility licensure will be addressed. We would be happy to lend our expertise in facility licensure to the sponsor and the facilities if the committee wishes any amendments to this bill.

Respectfully submitted,

A handwritten signature in black ink that reads "Mary E. Dalton". The signature is written in a cursive, flowing style.

Mary E. Dalton, Administrator  
Quality Assurance Division

med/leg/testimonyhb628

This testimony was  
submitted on behalf  
of SB 101. The writer  
does not support HB 628.  
It is being presented to  
illustrate the problems some  
parents have experienced.

Mary E. Dalton  
Administrator  
Quality Assurance  
Division  
DPHHS

Unregulated Youth Residential Care Programs  
in Montana

November 2003

For Further Information, Contact:

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# Unregulated Youth Residential Care Programs in Montana

## November 2003

### Intent

This paper provides awareness, background information, and research regarding the unregulated youth residential care programs in Montana. The paper is not intended to focus on one program, or review the strengths and weaknesses of each behavioral healthcare model. Therefore, programs are not identified by name in the paper, and a redacted bibliography is attached. To request a complete bibliography, contact the Department of Public Health and Human Services, at (406) 444-5622 or e-mail at [ssletta@state.mt.us](mailto:ssletta@state.mt.us).

### Background

The behavioral healthcare industry includes therapeutic boarding schools, emotional growth schools or programs, special purpose schools or programs, therapeutic group homes, private group homes for troubled or at-risk youth, and wilderness therapy programs. This industry has grown rapidly in the United States since the early 1980s. Montana has seen much growth in these programs since the early 1990s, especially in programs that use wilderness programming or adventure activities, such as rafting, mountain biking, hiking, rock climbing.

Therapeutic boarding schools, emotional growth schools or programs, special purpose schools or programs, and therapeutic group homes have expanded dramatically in the last 15 years. Therapeutic and emotional growth programs in Montana offer a wide range of approaches and models. Almost all of these programs advertise as providing a highly structured environment for the youth. Several programs require a minimum amount of stay, such as 12 months, while others allow the youth to "graduate" when they complete all levels of the program.

As a rule, the group homes provide a home environment for youth and the youth attends school through a local school district. Boarding schools, whether they are categorized as being therapeutic, emotional growth, special purpose, or faith based, provide education for youth on their program site. The emotional growth curriculum in the group home or school is designed and marketed for youth with behavioral, emotional, and/or motivational problems, or learning disabilities. Some programs advertise as providing therapeutic counseling or informal counseling. The programs use various means to emphasize the youth—acquiring skills in self-esteem, development of problem-solving, decision-making, and self-awareness skills. Youth deal with day-to-day living in a dorm, group, or family environment where their inappropriate behavior is confronted and new skills are taught.

Wilderness therapy programs have been in existence for at least 30 years. This industry made rapid growth in the mid-1980s, with the fastest growth in the western states. Wilderness therapy programs can last from 21 days to 12 months and provide round-the-clock programming. Group size in these programs usually ranges from 6 to 14 people. These programs don't always need to be conducted in the wilderness—an unfamiliar environment to the youth can be just as effective.

The program's course "curriculum" varies, but often times provides a series of challenges which increase in difficulty throughout the course. For example, in the beginning of the course, the students will be trained on how to successfully complete basic outdoor skills like setting up tents