

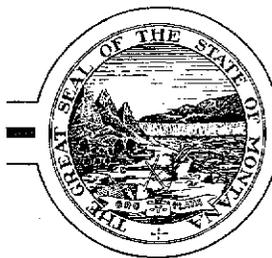
**Exhibit Number: 1**

---

**This exhibit exceeds 10-page maximum; therefore only a small portion of the exhibit is scanned for your research. The original exhibit is on file at the Montana Historical Society and may be viewed there**

DEPARTMENT OF  
PUBLIC HEALTH AND HUMAN SERVICES  
DIVISION OF QUALITY ASSURANCE

EXHIBIT 1  
DATE 3/9/05  
PAGES 101



BRIAN SCHWEITZER  
GOVERNOR

DR. ROBERT WYNIA  
DIRECTOR

STATE OF MONTANA

Phone (406) 444-2037  
Fax (406) 444-3980

2401 Colonial Drive  
3rd Floor  
PO Box 202953  
Helena, Montana 59620-2953

TESTIMONY OF DEPARTMENT OF PUBLIC HEALTH  
AND HUMAN SERVICES  
BEFORE THE HOUSE EDUCATION COMMITTEE  
MARCH 9, 2005

RE: SB 101 "AN ACT DEFINING "RESIDENTIAL THERAPEUTIC SCHOOLS OR PROGRAMS" AND PROVIDING FOR REGISTRATION; PROVIDING FOR THE CALCULATION OF SCHOOL FUNDING AND TUITION AND TRANSPORTATION RATES FOR STUDENTS OF RESIDENTIAL THERAPEUTIC SCHOOLS OR PROGRAMS; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO DEVELOP AND PRESENT RECOMMENDATIONS TO THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE AND TO REPORT TO THE LEGISLATURE REGARDING PROPOSED LEGISLATION FOR 2007 THAT WOULD REQUIRE LICENSURE; AND AMENDING SECTIONS 20-5-323, 20-9-311, 50-5-101, AND 50-5-220, MCA. "

SB 101 is being introduced at the request of the Department of Public Health and Human Services (DPHHS). Senator Schmidt has provided you with a brief overview. I would like to provide you with a little more background about what a "therapeutic residential school or program" is and how SB 101 came about.

**Background on Therapeutic Residential Schools or Programs**

"Therapeutic residential schools or programs" is an umbrella term that the Department coined to 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, staying out past curfew, using drugs or alcohol, 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 "therapeutic residential schools or 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 the youth's basic needs are being met, and that program personnel possess appropriate credentials. We do know that some programs have re-located to Montana after encountering problems with the regulators in the program's home state.

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.

### **Background of SB 101**

For a number of years, DPHHS and Office of Public Instruction (OPI) staff have fielded questions about programs operating in Montana. Many of these came from a non-custodial parent or a relative who had concerns about a child who has been placed by the custodial parent. Some of these questions came from the placing parent. Quite frankly, some of these questions or concerns are something that a prudent parent should have asked before they placed their child. We've found, however, that parents assume that if a program is operating in Montana, it must be licensed or certified by the state. And if you look at every other type of out-of-home placement or treatment facility in Montana, that is a reasonable assumption. They are all licensed and must meet basic standards to ensure the safety of the youth placed there.

Because of our concerns, DPHHS brought the issue of unregulated therapeutic residential schools or 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, looked at what providers had said, looked at our concerns about unregulated care and came up with the concepts included in SB 101. This bill is a start. It calls for mandatory registration in this biennium with a proposal to the legislature in 2007 for licensure.

Our Department will meet with providers, advocates and public schools over the next two years and try to reach consensus on what standards should be recommended.

This two year period will give us time to better understand the concerns of providers; look at existing agencies that accredit these type of facilities; look at other state's licensure standards; and look at existing best practice recommendations from professional organizations.

I would note that requiring a proposal for mandatory licensure is an important part of the equation. Without that concrete goal, my experience with other groups has been that we will spend most of our time debating philosophically whether licensure is needed rather than focusing on if there is going to be licensure, what things need to be included. Whether licensure is needed can and should be debated in front of the 2007 legislature. SB 101 will help ensure that there will be something concrete upon the table for the legislature to look at when they are making their decision.

### **Summary of Major Features**

With that background, I'd like to now summarize the two major features of this bill:

- SB 101 is an incremental bill. It does more than some people would like, and less than others would like. It is a starting place to find out more information about current programs in Montana by requiring **mandatory registration in the upcoming biennium** – see NEW SECTION 3 on page 12 and 13. Information gathered through mandatory registration will be available to the public to help them understand these programs better. This information will also be used as a basis to develop licensure standards.
- NEW SECTION 4 on page 13, goes on to require the working group established by the Department of Public Health and Human Services to develop a **proposal for mandatory licensure to be presented to the 2007 Legislature**. The working group will consist of 5 providers; 2 representatives from the Department; 1 representative from the Department of Labor and Industry; and 1 child advocate. This working group will report their progress to each meeting of the Children, Families, Health and Human Services Interim Committee. The working group is further instructed to take into account the diversity of programs currently available and provide for flexibility in the oversight and regulation of these programs in proposed legislation. Again, this will be a new legislative bill to be brought before the 2007 legislature. The 2007 legislative body will have an opportunity to fully review, approve, amend, or reject any licensure standards that are proposed.

With that background I'd like to take you through the other various aspects of the bill.

You will note that the first 4 pages of the bill have been struck. These sections dealt with "ANB funding" for public schools. "ANB funding" is being addressed in other bills and Senator Schmidt requested and the Senate Public Health, Welfare, and Safety Committee agreed that this issue should be removed from this bill.

**Section 1, page 7, line 24**, adds residential therapeutic schools or programs to the definition of health care facilities. It also does a bit of housekeeping. The 2003

legislature passed a bill adding "outdoor behavioral programs" to the health care facility licensing section of the statutes, but they were not added to the list of actual facilities licensed. This addition corrects that oversight.

**Section 3, page 11, lines 16-26**, define a "residential therapeutic school or program". Because of the wide variety of programs and what they call themselves - outdoor behavioral programs, boarding schools, and any residential program that represents that it provides supervision and structure for youth that are not already licensed are included in the definition.

**Section 1, page 10, line 15**, adds companion language that adds therapeutic residential school or program to the definition of "outdoor behavioral program" as does **Section 2, page 12, lines 19-20**, to the requirement for licensure or registration.

**Section 3, page 12, lines 22-30 and page 13, lines 1-8**, specify the information that a facility will need to provide as a component of mandatory registration. We don't anticipate that this will be a burden on programs. Most programs should already have this information available on either a web site or in a brochure. These are the most common questions asked when we receive inquiries about programs. The Department will not be judging whether the information is correct or complete, we will simply make the information available to the public in one place through our web-site access. This registration will also provide us with a contact list and program description and demographics for the workgroup to use as background information as we develop a legislative proposal for the 2007 legislature.

The majority of "therapeutic residential schools or programs" in Montana are well run programs that benefit youth. The same could be said for every kind of provider that I can think of from child day care providers to group homes. Still, we require licensure of all other out-of-home placements to help keep children and youth safe because they are such a vulnerable population. 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 in cold, rainy weather with limited food and shelter. (These and other incidents are outlined in the white paper I have provided you.) We have been lucky so far in Montana, but the time to take a proactive stand to protect youth is now. SB 101 is an important first step in doing that. I hope that you will pass it.

Respectfully submitted,



Mary E. Dalton, Administrator  
Quality Assurance Division  
Department of Public Health  
and Human Services

Unregulated Youth Residential Care Programs  
in Montana

November 2003

For Further Information, Contact:

Gail Gray, Ed. D., Director  
Department of Public Health and Human Services  
111 North Sanders, Room 301/308  
PO Box 4210  
Helena, MT 59604  
(406) 444-5622  
ggray@state.mt.us

# 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

On June 3, 2003, the *Missoulian* carried an article featuring the Program C program—a "Christian rescue home for troubled teen girls." (*Jamison, M.*) The following quote appeared in the article:

"The Christian ministry that is [Program C] began loving girls back into the world a decade and a half ago, at a boarding school in south-central Washington. But Washington has some tight rules regarding schools and curriculums and teaching methods, said [the Program C] president....

The nascent school, operating on a start-up budget, could not keep up with the regulators, and *so in 1995 moved to Montana where rules regarding curriculums are not merely loose, but are quite nearly non-existent.*" (emphasis added) (*Jamison, M.*)

In March 2003, a County Prosecutor charged a 20-year-old Program D staff member with sexually assaulting two boys – one 14 and the other 17 years old—in the isolation area. This case has not yet been resolved (*Weiner, T.; and Rummel, D.*).

In September 2002, a civil court case between a 16-year-old former resident of Program E, and the directors of Program E was settled with monetary damages. The complaint documents that a director took inappropriate photos of the girl and conducted inappropriate touching and inappropriate comments while the pictures were being taken. The case was handled by attorney David McLean, who stated that there was enough evidence to bring the case through the criminal court system, but the family did not want to put the girl through depositions and a trial (*Rummel, D. and McLean D.*).

The behavioral healthcare industry has standards of practice, principles that have been established through organizations such as: National Association of Therapeutic Schools and Programs, National Association of Therapeutic Wilderness Camps, Association for Experiential Education (AEE), Outdoor Behavioral Health Industry Council (OBHIC), Council on Accreditation (COA), and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

In addition, Oregon, Idaho, Wyoming, Utah, Arizona, and Nevada have regulations for some or all types of behavioral healthcare programs. Montana does not have any licensing or regulations for these programs. Some of the behavioral healthcare programs that have opened in Montana have called the Department of Public Health and Human Services (DPHHS) and/or the Office of Public Instruction (OPI) requesting the necessary information to become licensed in some way through the state. Some of these programs, when finding out that there were not any licensing requirements, pursued accreditation through JCAHO, COA or AEE.

### **Behavioral Healthcare Programs in Montana**

Currently, there are 29 "known" private behavioral healthcare programs in Montana. These are programs that are not licensed childcare facilities, therapeutic youth group homes, regular youth group homes, or therapeutic foster care as defined in Montana Code. When conducting the