

DEPARTMENT OF
PUBLIC HEALTH AND HUMAN SERVICES # 2
DIVISION OF QUALITY ASSURANCE

SENATE PUBLIC HEALTH, WELFARE & SAFETY

EXHIBIT NO.

DATE: 1-12-05

BILL NO. SB 101

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**TESTIMONY OF DEPARTMENT OF PUBLIC HEALTH
AND HUMAN SERVICES
BEFORE THE SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
JANUARY 12, 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 an overview of what a therapeutic residential school or program is and the three main features of this bill. I would like to provide you with a little more background about how SB 101 came about. 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. We used a similar process very successfully with Assisted Living Facilities to develop proposed legislation. We met with that provider group and advocates for the elderly 10 times over the course of two years prior to coming to the 2003 legislature with proposed legislation. I am confident that we can accomplish the same thing with therapeutic residential schools or programs.

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.

The other concept contained in this bill, a restriction on "Average Number Belonging" (commonly referred to as "ANB") funding for students enrolled in a public school if the student's parent or legal guardian is not a resident of the state of Montana, was not discussed at the public forums. This portion of the legislation was included at the request of the governor's budget office after the public forums had taken place. The option was included as a part of the white paper that was sent out to the Interim Legislative Committee and to the providers prior to the public meetings.

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

Section 1 and 2 go hand in hand. **Section 2, page 3, lines 19-22**, prohibits "ANB" funding for students enrolled in a public school if the student's parent or legal guardian is not a resident of the state of Montana. **Section 1, page 2, lines 17-23**, allows the school to charge tuition and transportation for these students to offset the loss of "ANB" funding.

Section 3, 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.

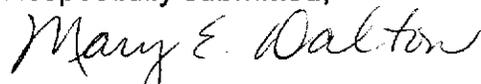
Section 3, page 10, line 15, adds companion language that adds therapeutic residential school or program to the definition of "outdoor behavioral program" as does **Section 4, page 12, lines 19-20**, to the requirement for licensure or registration.

Section 5, 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.

Section 6, page 13, lines 10-18, instructs the Department to consult with programs, public schools, and youth advocates in developing legislation to be presented to the 2007 legislature. It also gives us instruction to consider and address the diversity of programs available and provide flexibility in the oversight and regulation of these programs.

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 of Rocker 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