

EXHIBIT 11  
DATE 3-20-09  
SB 287

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Representative Wilson and members of the Montana Legislature,

I am writing in opposition of SB 287, the Consumer Health Freedom and Access to Health Care Services Act, which I interpret as seeking to legitimize unlicensed "health-related" individuals as state recognized health care providers. The bill seeks to remove potential penalties from non-traditional practitioners that may attempt to treat medical conditions via "alternate" forms of therapy. I find tremendous concern in the underlying assumption of the bill, stated as follows:

“The legislature finds that these unlicensed health care services may be desirable under certain circumstances, provide consumers with options in health care, and pose no significant risk to public health, safety, or welfare.”

Who is verifying the absence of risk?

The bill mentions only a very few limitations concerning the prescriptions of controlled substances and invasive surgical procedures. Theoretically, this would allow unlicensed, and in many circumstances, minimally trained individuals to treat everything from pneumonia to cancer. Why am I concerned? **I have seen such practitioners attempt to do so on many occasions-- often in direct contradiction to evidence based medicine.**

I have seen individuals pronouncing success in treating ear infections by "tugging on the ear" (purportedly "opening the eustachian tubes"—there is no anatomical connection), and claiming to treat sensory-neural hearing loss by "manipulations"--- while missing the tumor growing in the patient's head that was causing the hearing loss. **I have seen an herbal practitioner claiming to "help" a patient by treating with enemas. She offered "proof" of the benefits of her services by showing the patient all the "toxins" that came out each time. Over a 12 month period of time, the "black toxins" increased. The patient was terminal by the time we saw him. The "Toxins" were old blood. He was dying of disseminated colon cancer-- which, under her care, had spread to the abdomen and liver. While in the hospital, the patient was found seizing one night-- we discovered that his sodium levels were dangerously low-- later finding out that his herbalist was sneaking in herbal diuretics in a surreptitious attempt to "counteract the bad medicines" we were giving him.**

I am not opposed to non-traditional therapies, and there is evidence that many forms of therapy are effective when used within their limitations, others, if only for their placebo

effects. I routinely prescribe massage therapy for patients affected by musculoskeletal aches and pains--. However, such practitioners should never be interpreted as having the skills to treat fractures, cancers, diabetes, hypertension, heart disease, or any other myriad of medical conditions without the assistance of a licensed and trained practitioner with an evidence based medical degree.

I would propose, that, should this legislature feel confident that the referenced unlicensed practitioners can provide "options in health care, and pose *no significant risk* to public health, safety, or welfare", that there exist an agency that can verify that these practitioners are doing just that-- offering safe, risk-free care. Who will oversee them? Will they be free of penalty if they injure a patient by attempting to treat illnesses beyond their capabilities or understanding?

If such practitioners are truly allowed the freedoms proposed in this bill, then I would expect them to be required to obtain state licensure. I would expect the state to provide supervisory services overseen by evidence-based health care practitioners, and that non-traditional practitioners purchase licenses that would support this oversight. Lastly, I would encourage the state to require that all practitioners who attempt to treat medical conditions be required to carry malpractice insurance, and that they be held legally responsible for misdiagnosis, delays in therapy, and complications-- just as traditional physicians are held liable for their work.

If the state wishes to provide consumer health that is safe, and effective, then there must be oversight to verify the safety and efficacy. Holding practitioners who have undergone years of intensive training to one set of rules and penalties, while allowing a less regulated group of non-traditional therapists to practice a broad range of unproven therapies without similar rules and penalties will encourage unsafe, unproven, and outright dangerous practices to proliferate. Beauty salons, already providing such FDA dis-approved services such as "ear candling", will now become centers of disease control.

I should mention that the patient referred to above with the colon cancer died shortly thereafter, succumbing to widely metastatic cancer. The treating physicians and hospital were sued by his wife. The herbalist? To the best of my knowledge, still practicing without penalty or consequence. Still loved by the wife for attempting to keep her husband alive while the "doctors killed him".

With concern,

Brett R. Bennion MD  
Sidney, MT

**MDHA STATEMENT OPPOSING SB 287**

Dear Legislators:

The Montana Dental Hygienists' Association opposes SB 287 for the following reasons:

1. **SB 287 POSES A SIGNIFICANT THREAT TO PUBLIC SAFETY.**  
There is a reason for the licensure process and that is to ensure the safety of the public. Licensing Boards work closely with Examining Boards to ensure that candidates who wish to practice health care are properly educated, qualified and "safe to practice". Without regulation from a Licensing Board, there is no accountability for those practicing in the health care professions. Simply being trained or educated to perform a certain science does not ensure that one is "safe to practice" and that one stays current in all aspects of that profession.
2. **SB 287 WILL CREATE A FISCAL IMPACT OF OVER \$200,000.**  
This money could and should be better spent than to be earmarked for administrative amendment of existing rules of (21) licensing boards and (1) health care program. It is our understanding that it will be used to contact all 45,294 licensed, certified and registered health care professionals advising them of the change to Title 37. This cost would directly affect all current licensees who would bear the burden of funding this through increased licensing fees. This money will also be used to DEFEND the unlicensed, uncertified, unregulated individuals from any complaints against them stemming from this legislation.
3. **SB 287 IS OPEN-ENDED WHICH WILL GIVE RISE TO MISINTERPRETATION.**  
This bill as it is currently written will allow any member of the public to practice dentistry with the exception of (3) areas noted under section 4 (prohibited acts). Our profession involves a lot more than the (3) item headings under this section. This bill continues to use the wording, "Certain Health Care Individuals". It is not specific as to who this bill will apply to. This bill also focuses on medical diagnosis but no mention is made of dental diagnosis, dental hygiene assessment, or dental hygiene process of care. It is entirely open for interpretation.
4. **SB 287 DOES NOT PROVIDE ANY INSIGHT INTO WHO WILL MONITOR DISCLOSURE AND INFORMED CONSENT.**  
This bill speaks of disclosure and informed consent but does not offer how this will be monitored to protect the public other than keeping such information for period of (2) years. If these individuals are unlicensed, uncertified and unregulated, what is the point of this line item? As it stands, there will be no one to monitor this due to deregulation. Further, does the general public understand the difference between an unlicensed and licensed practitioner and what the scope of practice entails for each?

MDHA believes that if the advocates of this bill are truly interested in public safety and access to health care, then they should also be advocates of regulation rather than opponents of the process that is already in place. Deregulation of all health care providers is not the answer. We respectfully ask that you oppose this bill.

Gail Staples, RDH, BADH  
President, Montana Dental Hygienists' Association