



Governor Brian Schweitzer

Montana
Department of Labor and Industry
Business Standards Division

BUSINESS & LABOR

EXHIBIT NO. ~~10~~ 11

DATE 2-12-09

SB 287

February 11, 2009

Senator Roy Brown
Montana Senate
PO Box 200500
Helena, MT 59620-0500

Dear Senator Brown:

The Senate Business, Labor, and Economics Committee heard SB 287 on Monday, February 9. During the hearing you had asked if the Board of Medical Examiners had contacted other states to inquiry about the impact of similar legislation being passed in their state. I testified that I had contacted the states of Oklahoma and Idaho and would follow-up with the states to answer your questions.

Since Monday, I have attempted to contact the states noted by Ms. Kimmet as having passed some form of a Health Freedom law. In addition, I contacted the Federation of State Medical Boards to determine if that organization had information pertinent to the discussion of the bill. In the states of Idaho and Louisiana, individuals described the law as being problematic as it is "too loose" and not well defined. The Associate Director of the Idaho Board of Medicine noted it was difficult to get attorneys to take the case of an unlicensed practice and prosecute. She explained that most issues related to either lay midwives, in the case where there was a poor outcome, and with naturopathic physicians starting iv's. She could not quantify how many complaints have been the result of this piece of law, but noted they are seeing mini spas popping up in the state.

The Executive Director of the Louisiana State Board of Medical Examiners also indicated the lifestyle modification statute was very problematic. He indicated the majority of practice is harmless, but there are areas like colonic irrigation that are a cause of concern. He also could not state whether or not complaints had increased as a result of the law being passed. He offered that the law would be improved if it addressed diagnosis and required disclosure, including the health care service provider's training.

The Executive Director of the Minnesota Board of Medical Practice indicated they had not really seen an increase in complaints. Unlike Louisiana and Idaho, Minnesota established a separate Office of Unlicensed Complementary and Alternative Health Care Practice. This office registers these providers and handles related complaints. This office is not connected to the licensing board, but is under the Department of Health. The Executive Director had not seen a complaint referred to the Board of Medical Practice from the Office. He noted the Board worked to amend

P.O. BOX 200513 • 301 SOUTH PARK • HELENA MT 59620-0513 • PHONE (406) 841-2300

FAX (406) 841-2305 • TTD (406) 444-0532

"AN EQUAL OPPORTUNITY EMPLOYER"

OVER

the bill to ensure informed consent was in place and to allow Board to discipline a physician who was providing complementary or alternative health care. He noted there was "no teeth" in the law.

The Federation of State Medical Boards provided me with general information about states that are looking at similar legislation this year or had looked at similar legislation in the recent past. Texas (HB 40), Virginia (HB 1744) and Washington (HB 1861) have bills proposed this year. Colorado, Hawaii, Iowa, Maryland, New Mexico, New York, Ohio, Washington had similar pieces of legislation considered in either 2007 or 2008 and the legislation failed to pass. The FSMB did not have any information related to the impact of legislation that did pass in the states noted by the proponents to SB 287.

I understand the committee has taken executive action on SB 287. I extend my regrets and apologies that I was unable to collect this information in a shorter timeframe for your consideration. I do hope you find this information of use as this piece of legislation moves forward. Please let me know if I can be of further assistance.

Sincerely,

Jean Branscum
Executive Director
Board of Medical Examiners
406/841-5960