

Nancy Dunne Byington, RN, MA, ND ~ 2046 S 8th St W, Missoula, MT 59801 ~ 406-544-2302
Past President, American Association of Naturopathic Physicians; Past President, Montana Association of Naturopathic Physicians; Director, Alternative Health Care Board, State of Montana, 2 terms, Formulary Committee

HB 438 is something more insidious than an attempt to improve regulatory process. It specifically does not describe simplifying communication between doctors. This bill would grant a commission made up of non-elected appointees to choose what law-making the citizens of Montana get to participate in. HB 438 requires multiple deadline-driven steps that significantly complicate the process of proposing new legislation. The process described is unrealistic, vulnerable to cronyism and bureaucratic bias and stands as a potentially very **effective barrier to Montanans' rights to engage the legislative process.**

The proponents are not presenting evidence of harm to justify imposing a massive overlay of additional bureaucracy on licensing board function. Rather, the proponents complain that managing overlapping scopes of practice, for example, requires peer to peer collaboration and that's hard work that takes time and money and interpersonal skills to accomplish. To avoid having to work directly with other professionals on a level playing field of mutual respect, the proponents would impose an elaborate, complicated, time-consuming process with many points at which any effort to implement change can be indefinitely suspended, depending on the bias of the non-elected commission appointees. **The process proposed does nothing to eliminate the need for time, money and effort to describe and justify a request for regulatory change. This legislation represents the efforts of a small, elite, exclusive group to create a mechanism by which it can control other professions.**

The proponents of this bill are unable to respectfully acknowledge peer professionals. This is demonstrated by the language that proposes to give this entity power to **retroactively change** established and functioning regulation promulgated by professional licensing board authorities. (new Section 4(7)). This is unspeakably offensive to legitimate, independent professionals that have performed with due diligence according to established rule and law. Section 10 refers to an intent to "license a profession or occupation by combining that profession or occupation with an existing board ...", suggesting it is **the intent of the proponents to allow this commission to eliminate existing health care boards** by absorbing an independent profession into a dominant board.

This proposal requires a profession seeking to regulate modernizing advances in practice to produce evidence of appropriate education, examination, safety and efficacy. Naturopathic physicians thus established the credibility of our profession in 1991. Since then our medicine is recognized as so effective and valuable that there is a huge subset of medical doctors who have co-opted natural medicine to make their own practices more economically competitive. **The divisive policy described HB 438 would provide opportunity for the proponents to control the naturopathic profession by absorbing our intellectual and material resources to repeatedly defend practices are already proven, demanded and embraced by Montanans for a quarter century.**

HB 438 is about a monopolizing orthodoxy attempting to disguise its desire for domination as benevolent oversight. There is language that requires evidence of how a new proposal has functioned in other states. Apparently proponents of this bill want us to believe Montana cannot be a leader pioneering developments in the healthcare industry. Naturopathic physicians stand for recognition of the unstoppable human drive for groundbreaking development in health care. Naturopathic physicians respect the courage and industry of innovators and the intelligence of citizens preferring to be able to choose from among practitioners of a diverse, inclusive and functionally effective health care system. **We ask that you display your respect for the citizens of Montana demonstrated desire for choice among distinct, equal-but-different health care professionals and reject this poorly disguised attempt to control innovation, entrepreneurship and progress in the health care industry in our state. Please table this bill.**

Additional Points to Consider re HB 438

1. It proposes to amend functions already assigned to the Department of Labor and Industry, (for instance, Sec. 2-8-402 and 403, pertaining to the creation of boards, and Sec 37-1-107, multiple lines describing DLI's process for convening actions to manage peer professional's with overlapping scopes of practice) in a manner that does not functionally improve the processes, but only shifts the power of decision-making away from the licensing boards professional and public members, to the members of this proposed entity.
2. This committee is required to consider whether a health care practice is covered by third party reimbursement. Of course, the insurance industry only pays for the bare minimum it can get away with and one way coverage is denied is if it is a new innovation. This requirement creates an effective catch-22 could deny Montanans the right to pay cash for services of their choice.
3. This process asks in multiple sections that a new practice produce historical evidence of its impact on a population. By definition, the new and innovative does not have a history of regulation that can be examined. This is an example of a place in the proposed process where an effort could be indefinitely stalled.
4. The initial description of the make-up of this decision making body describes 7 members; a few lines later it describes how the membership of this body could be expanded, with those professions with larger numbers of licensees having greater representation. This clearly means that certain professions would have no direct representation at all, effectively putting an independent profession under the de facto control of a profession with larger numbers.
5. The head of this entity is proposed to be the Commissioner of the DLI, an individual appointed by and serving at the discretion of the governor, subject to legislative approval but who can serve unconfirmed until the next legislative session (MCA 2-15-111). This individual is described in current statues as selected on the basis of "... his professional and administrative knowledge and experience and such additional qualifications as provided by law." **This language can be used to effectively exclude fair representation of any but cronies of the most well-established bureaucrats of our failing, crippled health care system.**
6. A committee of seven is proposed as the working Group. The DLI Commissioner or the *Commissioners designee* is charged with informing health care licensing boards of the need for members, but is **not required to even consult with the licensing boards when making appointments of individuals to sit on the decision-making committee.** (new Sec. 5 (1)(b & c).
7. Sec. 5(2) allows the appointment of professionally related but not necessarily allied individuals to the decision making body. Thus, if an influential opponent can identify an individual in conflict with legislation proposed for her or his own profession, and can cause two appointees of the proposing profession who are at odds with each other to be the representatives on the decision making committee, the opponents can effectively decide outcomes without the opportunity for the voting public of Montana to consider and vote according to their constituents conveyed wishes.
8. Sec. 5 (c) represents one example of additional bureaucratic function, and time/deadline complication by requiring an interim committee that oversees licensing boards or that addresses health-related topics", to contribute a legislator-member.
9. Section 6, Regarding the proposed process for noticing and convening this committee to act, describes how this committee can effectively tie up a group's effort to advance legislation for years, simply by continuing to "request prior to, at, or after the meeting any additional information or testimony from technical experts that the committee members consider necessary to make an informed recommendation."

Opponent to House Bill 438

Nancy Dunne Byington, RN, MA, ND ~ 2046 S 8th St W, Missoula, MT 59801 ~ 406-544-2302

Past President, American Association of Naturopathic Physicians; Past President, Montana Association of Naturopathic Physicians; Director, Alternative Health Care Board, State of Montana, 2 terms, Formulary Committee