



To: Economic Affairs Interim Committee

From: Board of Alternative Health Care

Date: June 10, 2013

Subject: HB525 – ALT response to the Economic Affairs Interim Committee questions

**1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?**

The regulation of direct-entry midwives through licensure serves the public interest as they advise and assist women during pregnancy, labor, natural childbirth, and the postpartum period.

The regulation of naturopathic physicians serves a public health interest as they practice a system of primary health care for prevention, diagnosis and treatment of human health conditions, injury and disease. Naturopathic medicine is a distinct health care profession and contributes to the freedom of choice in health care. Its purpose is to promote or restore health by the support and stimulation of the individual's inherent self-healing processes.

Licensing and continued oversight of these professionals is necessary to safeguard the public safety and welfare of the citizens of Montana.

**2. If your profession/occupation were not licensed, what public protection would be lost?**

Women who choose to birth outside of hospital settings would be without professional treatment. Persons attempting to practice naturopathic medicine without proper education, training and testing would expose the public to increased risk of harm from incompetence and malfeasance.

If a problem exists with a professional's treatment or actions, there would be no entity with the appropriate knowledge to review and adjudicate public complaints.

**3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.**

Yes. A board is necessary to provide an entity with expertise to evaluate initial licensure of applicants (appropriate education, exams passed, no disciplinary concerns) and continued monitoring of existing licensees through complaint review, mandatory birth morbidity/mortality reporting, continuing education requirements, etc. The Board of Alternative Health Care is comprised of practitioners from midwifery, naturopathic medicine, a medical doctor whose

practice includes obstetrics, and a public member who represents the perspective of consumers. The mix of talent on the board is the most appropriate method to deal with oversight issues.

**4. Does your board deal with unlicensed practice issues? If yes, what types of issues?**

Yes, the board has dealt with complaints of unlicensed individuals without proper training and education delivering babies, treating human health conditions, and people advertising that they are able to perform procedures that are defined in statute as within the scope of practice for these professions.

**5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?**

Qualification for licensure as a Naturopathic Physician/Doctor requires a four-year post graduate medical education from a nationally accredited naturopathic medical school. It also requires successful completion of nationally accredited basic sciences and clinical examinations. Naturopathic Physicians can prescribe drugs on the approved formulary. There are those individuals with correspondence school degrees in Naturopathy who do not have hands-on clinical education or a four-year post graduate education; if licensure was not provided by the State of Montana, these people could pass themselves off to the public as being as highly trained as the presently licensed Naturopathic Doctors.

Direct-entry midwives are required to complete education, supervised experience/training requirements, and pass a national examination. This is necessary training for individuals assisting women in natural childbirth.

**6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?**

Board member training provided by the Department of Labor and Industry addresses this issue; board members are advised of the need to recuse themselves from decision-making if a conflict exists. The Presiding Officer and staff also monitor bias on a case-by-case basis to help ensure that the possibility or perception of bias is avoided, and a carefully guarded and liberally administered public right of participation ensures a critical review of all such decisions. Also, having a mix of public and professional members who serve together on the board is another safeguard.

Direct-entry Midwives and Naturopathic Physicians work well together as there are shared areas of practice. There are also an equal number of members from each profession. There has never been an issue regarding unfair treatment on behalf of either profession.

**7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?**

There are professional associations consisting of members who elect to join the associations. The mission of associations is to promote the industry; the board's mission is to protect the public. These are two separate functions that are not well-suited to be performed by the same entity. The associations do not have legal authority to investigate complaints and discipline professionals or public members to accomplish regulation. The cost to institute licensing and discipline functions in the association would raise association membership fees considerably.

**8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?**

Yes, insurance companies are well aware of the advantage of a licensing board being able to determine the qualifications of practitioners, so licensure through an administrative agency is a prerequisite to insurance coverage for most of these professions' services. The board is not aware of any alternative billing method.

**9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?**

The board has the expertise of the professional members who understand the technical aspects of the profession and a public member to represent the consumer view. Both aspects are essential to effective regulation of the professions, and neither would be available to the department without the use of a board.

**10. Is there an optimum ratio between licensees, board size, or public representation?**

There may be, and the number might differ for different boards. What we have now, four professional members, one public member, and a medical doctor appears to work well. A board is unwieldy if it is too large, and the current number (six board members) seems sufficient for the work load.

**11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?**

A disinterested third party would spend significant time and money learning the profession and hiring consultants in various areas of the professions to address issues as they arise. Fraud issues such as insurance billing and medicare/medicaid deception have not been not common issues for these professions. However, the board has the ability to respond to fraud issues or to forward them to the Attorney General's office as the need arises.

**12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?**

The scope of practice is determined by statute and while there may be some overlap, it is important to assure that one's practice is not allowed to expand beyond the content and level of education and training associated with the license of that person. The public should be able to rely on the distinct titles associated with licensure that indicate the level of education and training associated with that person's practice. While there may be a third-party who may also properly judge whether there is an intrusion into another's practice, the statutes provide adequate notice of the respective scopes of practice and provide that if a person's practice exceeds that person's license, that person may be enjoined from the conduct by a district court action initiated by the board responsible for regulating the practice.

**13. Should any board have the ability to limit use of certain terminology to only a licensee?**

Terminology or titles that imply a particular level of training/experience should have its use restricted to those individuals that actually have that training/experience and have been adequately assessed. Consumers have a right to know the minimal qualifications of those who utilize the associated titles and terms, which is why some boards should be able to limit the use of certain terminology to only a licensee. It is the way of knowing that the individual is trained, tested and monitored for continued compliance.