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Deanna Halliwell
Operator's Signature

10/22/03
Date

2003 SENATE HUMAN SERVICES

SB 2352

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2352

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 4, 2003

Tape Number	Side A	Side B	Meter #
3	X		1420 - 5173
Committee Clerk Signature <i>Donna Kramer</i>			

Minutes:

SENATOR JUDY LEE opened the public hearing for SB 2352 relating to the practice of massage by American Indian healers.

SENATOR LINDA CHRISTENSON, from District 18, introduced the bill on behalf of a friend and constituent. Suggested we look at massage therapists from a different prospective. (Meter # 1674 - 1753)

CAROL TWO EAGLE testified in favor of the bill. She stated the change provides for cultural and heritage protection and preservation for the first Dakotans, regardless of tribe or nation, when we are off the Reservation. Stated they do not advertise ... requests made to the healer.

Discussion with committee regarding healing treatments, grant money in limbo. (Written testimony) (Meter # 1803 - 3640)

SENATOR FAIRFIELD questioned how accupressure is handled. (Meter #3658)

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Senate Human Services Committee
Bill/Resolution Number SB 2352
Hearing Date February 4, 2003

EDWARD ERICKSON, Assistant Attorney General, stated accupressure isn't specifically referenced anywhere. No state license needed. Nothing addressing traditional healing. (Meter #3670 - 4091)

SENATOR LEE asked who is on the Board of Massage Therapists?

EDWARD ERICKSON stated there 5 members appointed by the governor. (Meter #4142 - 4285)

CAROL TWO EAGLE: Healers on the reservation do not prescribe. Continued discussion with committee regarding law on the reservation, use of massage, religious practices. (Meter # 4311 - 4685)

EDWARD ERICKSON stated the Board of Massage is neutral on the bill at the present time.

Concern ... no formal school. If an issue were to arise, who is really a healer. (Meter #4731 - 4959)

SENATOR LEE: Challenge ... how do we know who is honorable?

SENATOR LEE closed the public hearing at this time. (Meter #5173)

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2352

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 10, 2003

Tape Number	Side A	Side B	Meter #
1		X	485 - 1190
Committee Clerk Signature <i>Donna Kramer</i>			

Minutes:

SENATOR JUDY LEE opened the committee discussion on SB 2352 regarding the practice of massage by American Indian healers.

SENATOR BROWN made a motion to DO NOT PASS.

SENATOR FISCHER seconded the motion.

Committee Discussion.

SENATOR LEE stated the question is if someone who is not conscientious and says they are an American Indian healer and I should not have to abide by the massage therapy rules. I have a real struggle with that, personally. Cultural issue ... Reservation - sovereign laws. Thousand of refugees in the Fargo area and there isn't any latitude given for them allowing their kind of practice of faith healing or medicine practice or Eastern medicine, those kinds of things are not permitted. They have to be licensed. They have go through the criteria that would be required

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Senate Human Services Committee

Bill/Resolution Number SB 2352

Hearing Date February 10, 2003

for a comproable position here. ... Everyone should have the qualifications. Advertising healing.

(Meter #540 - 1160)

Roll call was read. 4 yeas 2 nays.

SENATOR ERBELE is the carrier. (Meter #1190)

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Date

Date: 2-10-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2352

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Not Pass

Motion Made By

Sen. Brown

Seconded By

Sen. Fischer

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee - Chairman	✓				
Senator Richard Brown - V. Chair.	✓				
Senator Robert S. Erbele	✓				
Senator Tom Fischer	✓				
Senator April Fairfield		✓			
Senator Michael Polovitz		✓			

Total

(Yes)

4

No

2

Absent _____

Floor Assignment

Sen. ~~Brown~~ Erbele

If the vote is on an amendment, briefly indicate intent:

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Date

10/22/03

REPORT OF STANDING COMMITTEE (410)
February 11, 2003 8:25 a.m.

Module No: SR-26-2207
Carrier: Erbele
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2352: Human Services Committee (Sen. J. Lee, Chairman) recommends DO NOT PASS (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2352 was placed on the Eleventh order on the calendar.

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2003 TESTIMONY

SB 2352

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TESTIMONY OF CAROL TWO EAGLE ON SB 2382. February 4, 2003.

Hau mitakuyapi. Hello, my relatives. Senator Lee and members of the Committee, for the record my name is Carol Two Eagle. I asked for the change in Section 43-25-04 of the North Dakota Century Code, for a number of reasons. First, I would like to tell you what this change does.

This change provides for cultural and heritage protection and preservation for the first Dakotans, regardless of tribe or nation, when we are off the Reservations. It deals specifically with a segment of all Native cultures not often thought of anymore, but it is a segment that kept the first Europeans alive when they first came to this Turtle Island, and which still functions to some extent today. That segment is the healers.

It was our knowledge of herbs, roots, barks, rock powders, clays, fungi, and in some cases, massages that kept not only our people alive and healthy for thousands of years before Europeans came here, but kept those Europeans alive and well after they got here. The healers did not disappear from the cultures after majority-culture medicine became prevalent. Even today, there are many Native nations where the traditional healers are consulted and work side by side with majority culture doctors, and we are again being sought in this way.

I came to feel this change in the law was desirable after 3 incidents. The first was when I first became aware of this law and I made a telephone call to the State Capitol wanting to talk to the Board that oversees licensing of massage therapists. I was given a number that did not have the prefix 328, and on calling it, I found that the Board is actually run through a private business. I find this highly irregular, even now.

The woman I talked to was very rude, and she told me "You Indians are always wanting special treatment." when I asked her why there was no provision for native healers or for grandfathering massage practitioners into licensing. Massage therapists are not treating brain tumors, etc. We relieve pain, muscle spasms, promote greater ease of movement, etc. The woman also told me that native healers "are a bunch of witch doctors" and made similar remarks about our supposed overall ignorance. Obviously, I didn't feel we were going to make progress there.

I had already read the law and felt parts of it would never stand up in court; particularly the parts about not giving massages "even for a gratuity or as a free demonstration". These violate First Amendment Rights - to privacy, to freedom of expression, and for native healers, religious freedom. Native healers, who often work with herbs and such - and may or may not include massages according to their culture's practices - always include prayer as a vital part of the procedures. Thus, the religious freedom infringement reference.

And we always work only for a gratuity. It is forbidden to charge a fee for what we do; people are expected to show gratitude in a physical way, as an example to the spirits of the sort of result they want from the healer's work - even though that work may include no more ceremonial aspect than a prayer for guidance and good result for all concerned. For all native cultures, everything centers on the spiritual.

I prayed on this matter of the woman's attitude for a considerable length of time, asked several good attorneys what they thought of the law in the event of a court test, and eventually came to the conclusion that while the law as written would not likely stand up in court, there is also the consideration of paying an attorney should the matter go to court.

We Indians survive for the most part at the very bottom of the economic totem pole across this land, and in North Dakota in particular. The courts are already backlogged. Thus, it seemed best to try to get the law changed, rather than see anyone go in hock to make an attorney or two richer.

Then, two more incidents occurred that nudged me toward this hearing today. In the first one, a woman I had worked on on one of the Reservations bumped into me in a store in Bismarck. She is enrolled, but she doesn't know her culture or its traditions very well. She tends to speak loudly, and she told me how happy she was and how well she felt since I had worked on her. She asked if I would do it again, and remarked that she hoped it would include the massage I did on her, too, as it had relieved her pain greatly. I told her the public place was not the place to talk about it, and said we'd discuss it later, in some more private place. Unfortunately, she didn't listen, and tried to talk about it again. I told her again, "later", etc. and we parted company.

As I went on my way, a white woman came up to me and said, "Did you know you were breaking the law in giving her a massage?" I said, "Did you know it's none of your business?" She said she was going to turn me in, but lacking my name, it was an empty threat.

A short time later, a man I had worked on apparently told friends I had "worked miracles" on his pain; and a woman called me and made the same accusation as the first woman had. I told her it was none of her business, and excused myself from the phone.

Since these 2 incidents occurred within 3 weeks, I thought about this some more & mulled over whether I should let it ride & see where it went, or take a more assertive approach, and see about getting the law changed. Racism is a fact of life in North Dakota, and I believe an ounce of prevention is worth a pound of cure, so I decided to seek this change in the law on behalf of native healers, in hopes of saving us all some headaches. I don't believe the North Dakota Legislature prefers to make laws that are unConstitutional or that attack the cultures of the native people here, or keep unConstitutional laws intact.

Our native cultures and people have suffered greatly from the onslaughts of the majority culture. We need to preserve every bit we have left of every one of them. That includes we who are healers, and our practices.

Those of us who include massages of various kinds in our practices do not learn these things in any formal school. We learn from our elders and often we journey to study with others, after our first teachers have found us ready to practice on our own.

In my case, my grandmother Pearl began taking me with her when I was about 6. At that time, I was just a little girl tagging along, but she told me later that she realized early that I had a gift for healing, and that she had found someone she could comfortably pass her knowledge on to.

When I was about 9, she began sending me out to find specific herbs or fungi or clay which we would take back & grind into powder for various uses. She began to quiz me. She was a good teacher; she made learning fun, and she encouraged me to think, to observe, and to learn.

When I was about 10, she began teaching me the massages that were in keeping with my physical strength. By the time I was 15 or 16, she felt she had taught me everything she had to offer, and she began sending me to learn from some of my uncles, who were healers also. For the native healer, life is a never-ending learning experience. We are always on the lookout for a better technique to add to our store of knowledge.

I wanted to go to college, and my elders strongly encouraged this. I have always used my degree, which is in chemistry, as a tool to evaluate different ways of doing things, and to find better ways to do what is needed. Today, instead of hunting for a specific kind of limestone, for example, which she taught me was useful in pain control when made into a poultice which was used in conjunction with a certain kind of massage, I can go to the health products store and buy that material already powdered. I often buy herbs for various salves there, too. And so on.

In the case of massages, there are many kinds of massages healers use. There are massages to relieve pain; to relieve muscle spasms and cramps; to relieve headaches; to induce sleep, and so on. Over time, I have learned that some of the massages my elders taught me include what are acupressure points in the Chinese way. Acupressure is an ancient Chinese modality with a history of over 4,000 years of success on humans and animals such as horses, but discovery by one culture seldom means that culture's healers are the only ones to have discovered something, since we trade with each other, and we are lifelong students looking for better ways.

When we are on the Reservations, state law doesn't affect us. It is when we are off the Reservations that we need protection for our art and our healers, and for preservation of this unique part of our various native cultures. Thus, I ask you to give this change in the law a "Do Pass" recommendation today.

Thank you for hearing me in a good way now. I will stand for any questions you may have.

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