

Children's Healthcare Is a Legal Duty, Inc.

Box 2604, Sioux City IA 51106
Phone 712-948-3500; FAX 712-948-3704
e-mail: childinc@netins.net

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Writer and editor Rita Swan
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Equal rights for children under the law



State Capitol in Denver

Victory in Colorado

Colorado took a big step forward in protecting children from medical neglect when Governor Bill Owens signed HB1286 into law on April 16. The bill repeals Colorado's religious exemption from felony child abuse, negligent homicide, reckless endangerment, and manslaughter.

Colorado has a long history of deaths and injuries to children in faith-healing sects, mostly within the Church of the Firstborn. It also has a long history of letting the Christian Science church draft its laws.

Colorado first acquired a religious exemption to child abuse in 1971, three years before the federal government (also in response to Christian Science

lobbying) began pressuring states to enact religious exemptions in their civil codes.

The Colorado law exempted parents who, in lieu of medical care, got for their children "treatment" consisting of prayers prescribed in the "tenets" of "a recognized church" and rendered by "a duly accredited practitioner" of such a church. The Christian Science church is the only church we know of that calls its faith healers practitioners, its prayers treatments, and its doctrinal principles tenets.

Colorado's religious exemptions have contributed to many injuries to children, especially on the Western Slope (west of the Continental Divide) where most of its Churches of the Firstborn are located.

Colorado Social Services attempted to get medical care for a Western Slope child, later identified as David Lyle Easter, who was having grand mal epileptic seizures. The retarded boy had been adopted by members of Church of the Firstborn. In 1980 the Colorado Supreme Court refused to uphold an order for Easter's medical treatment because of the civil religious exemption and because, the Court said, the seizures were not life threatening. *People in the Interest of D.L.E., Colo.*, 614 P.2d 873 (1980)

It was, in our view, barbaric to let the child suffer on and on with grand mal seizures. The fact that he had survived the seizures does not mean they

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they were not life threatening. He was at risk of SUDEPS, or Sudden Unexpected Death in Epilepsy, according to Dr. William Svoboda, a Wichita physician specializing in epilepsy. He was at risk of hemorrhages into the brain and brain swelling during the vigorous motor activity and rise in blood pressure during a seizure. Repeated generalized grand mal and partial seizures cause lowering of intelligence and overall functioning. Also, the child was at increased risk for epileptic status, Svoboda said.

In 1982 the Colorado Supreme Court reversed itself and ordered medical treatment over the child's and parents' religious objections because, it said, the seizures were now life-threatening. *People in the Interest of D.L.E.*, Colo., 645 P.2d 271 (1982).

Jesus through Jon and Judy: three trials

Also in 1982 a baby named Jessica Lybarger died of untreated pneumonia in Larimer County. Her parents led a small fellowship group called Jesus through Jon and Judy. They believed illness was a demonic temptation and Jesus their only true doctor. The father was charged with felony child abuse, but tried to raise Colorado's religious exemption as a defense. The trial judge prohibited it and ruled the exemption law unconstitutional, saying, "The legislature has no right to make that exemption to criminal conduct." The judge also ruled that the exemption law creates a special privilege for one religion in violation of the Establishment Clause of the Constitution. *People v. Lybarger*, Larimer County District Court case 82-CR-205

Lybarger was convicted, but the Colorado Supreme Court overturned his conviction because the parties had not petitioned the judge to rule the law unconstitutional. *People v. Lybarger*, 700 P.2d 910 (Colo. 1985)

Lybarger was retried and convicted in 1985. The Colorado Supreme Court overturned the second conviction in 1991, ruling that the judge had allowed the jury to determine what the religious exemption law meant and that the lower courts had stripped it of meaning. *Lybarger v. People*, 807 P.2d 570 (Colo. 1991).

Lybarger was retried later in 1991, but the Colorado Supreme Court ruled that a mistrial had occurred because of live television coverage. The prosecutor dropped the charges rather than trying the case a fourth time.

Christian Scientists derail reform effort

In 1988 Colorado pediatricians began working for a bill to give children in faith-healing sects rights to medical care. They asked CHILD founders Rita and Doug Swan to come to Denver and meet with small groups of state legislators. Senator Bill Owens, R-Aurora, agreed to sponsor the bill.

Eleven Christian Scientists testified against the bill, including Dwight Hamilton, former president of the Denver Bar Association and former state Republican Party chairman. Hamilton bragged that he delivered his son at home himself. "All I needed was a catcher's mitt and a bushel basket," he testified. (*Rocky Mountain News*, Jan. 18, 1989)

The Senate Judiciary Committee passed the bill, but the pressure from Christian Scientists mounted steadily. When the bill went to the Senate floor, one Senator invited three Christian Scientists on to the floor and they tried to lobby other Senators although Senate rules prohibit lobbying on the floor. (*Rocky Mountain News*, Jan. 24, 1989)

Owens then withdrew the bill. He and other legislators allowed Christian Science attorneys to rewrite it. "I don't want to put people in jail who don't belong in jail," Owens said. (*Denver Post*, Jan. 24, 1989)

Methods of religious healing recognized by state

The law ultimately enacted in 1989 gave an ambiguous privilege to parents relying on "a recognized method of religious healing."

In the civil code, it stated: "(1) No child who in lieu of medical treatment is under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing shall, for that reason alone, be considered to have been neglected or dependent within the purview of this article." Colorado Revised Statutes 19-3-103

The statute went on to provide the courts could order medical care for children over the religious

objections of their parents and to set up the presumption that two kinds of prayer qualified as state-recognized methods of religious healing:

(2) A method of religious healing shall be presumed to be a recognized method of religious healing if:

(a)(I) Fees and expenses incurred in connection with such treatment are permitted to be deducted from taxable income as "medical expenses" pursuant to regulations or rules promulgated by the United States Internal Revenue Service, and

(II) Fees and expenses incurred in connection with such treatment are generally recognized as reimbursable health care expenses under medical policies of insurance issued by insurers licensed by this state; or

(b) Such treatment provides a rate of success in maintaining health and treating disease or injury that is equivalent to that of medical treatment. C.R.S. 19-3-103

No criminal liability for medical neglect

In the criminal code, the religious defense to crimes against children stated:

A parent, guardian, or legal custodian who chooses and legitimately practices treatment by spiritual means through prayer in accordance with section 19-3-103, C.R.S., shall not be considered to have injured or endangered the child and to be criminally liable under the laws of this state solely because he fails to provide medical treatment for the child, unless such person inhibits or interferes with the provision of medical treatment for the child in accordance with a court order, or unless there is an additional reason, other than health care, to consider the said child to be injured or endangered. CRS 18-6-401

Colorado also has a religious defense to criminal nonsupport. It states at C.R.S. 14-6-101, "No child shall be deemed to lack proper care for the sole reason that he is being provided remedial treatment in accordance with section 19-3-103, C.R.S."

Privileged fee-for-service prayers

The law gave Christian Scientists, and only Christian Scientists, a blanket presumption that their prayers qualified as "a recognized method of religious healing." About forty insurance companies reimburse bills sent by Christian Science practitioners for their prayers, and the Internal Revenue

Service allows such bills to be deducted from income tax as medical expenses.

The law allowed other denominations to be "presumed" to have "a recognized method of religious healing" if they could show that their prayers healed disease as effectively as medical doctors. Christian Science attorneys claimed that provision made the law fair to all religions, but it was obviously a much more difficult standard to meet than the one for the Christian Scientists.

Could Firstborners' prayers be recognized?

For years afterward there was a running debate about whether the exemption could ever apply to the Church of the Firstborn. Some elected officials justified the law on the grounds that the Christian Scientists were the only ones who could use it. Some prosecutors, however, noted that the exemption gave any defendant the right to offer evidence that he had "a recognized method of religious healing." A Firstborn member could, for example, point out that his church was 300 years old. Although the courts would not automatically "presume" a Firstborner's prayers to be a state-recognized method as they would for the Christian Scientists' prayers, the courts could grant a Firstborn defendant the benefit of the exemption after evaluating the evidence he presented.

The Colorado exemption had the ambiguity typical of other states' laws created by the phrase "for that reason alone." Courts have interpreted it differently. Maybe it meant that praying for a child was not per se neglect or maybe it meant that those who relied exclusively on prayer for healing had no legal obligation to provide medical care regardless of the child's symptoms.

Unfortunately, the criminal code seemed to resolve the ambiguity with its statement that parents who rely on "recognized" prayers are not criminally liable for withholding medical care from sick children.

CPS worker allows medical neglect

Enacted in 1989, the new exemption law was one reason for the death of Angela Sweet, age 7, the next

year. Her parents, David and Barbara Sweet of Olathe, refused to get medical care because of their membership in Church of the Firstborn. A Child Protective Services (CPS) worker visited Angela three times during her illness and urged the family to get medical care, but did not seek a court order to compel it.

The first time he visited, Angela was sleeping, and he did not see her at all. The next two times, she was lying under a blanket. A public health nurse accompanied him on one visit, but Mrs. Sweet said she did not want the child examined, so no exam was done.

The CPS worker did not seek an order because he understood Colorado's religious exemption law to mean that courts could order medical treatment over the religious objections of parents only if he had evidence that the child was in imminent danger of dying. The mother claimed that Angela was just recovering from the flu, and the worker did not see evidence that Angela's illness was life-threatening.

In fact, over seven weeks, Angela died a horribly painful and slow death of peritonitis following a ruptured appendix. The autopsy photos show that she was skeletonized.

Subsequently, the civil code was amended to allow courts to order a medical exam and diagnosis over parents' religious objections even when social workers did not have evidence that the illness was life-threatening.

Second reform effort defeated

In 1993 Denver legislator Douglas Friednash led another attempt to repeal the religious exemption. Though a first-term legislator and a member of the minority party, he got a good bill through the House. The bill died in a Senate committee, however, and again because of Christian Science lobbying. Gale Norton, then Attorney General and now U.S. Secretary of the Interior, reportedly prohibited her deputies from supporting it.

Meanwhile, children continued to die in the Church of the Firstborn, and prosecutors had different responses. Three prosecutors filed criminal charges in faith deaths and each got a plea bargain. Montezuma County District Attorney Mike Green, however, de-

clined to file charges in two deaths of children, saying the religious exemption law made it a futile exercise. The great majority of deaths were not prosecuted.

Prosecutor opposes exemption law

Early in 1999, the death of Firstborn baby Warren Glory due to untreated pneumonia and meningitis forced Mesa County District Attorney Frank Daniels to think about Colorado's religious exemption statute. He filed criminal charges against the parents, but also urged the Colorado District Attorneys Council (CDAC) to work for repeal of the religious exemption.

The CDAC convened a forum on it and invited Hamilton to present the church's position. Daniels came away more convinced than ever that the law was wrong.

Another preventable death in Mesa County

During the summer of 2000, Firstborn baby Billy Ray Reed died of a treatable heart defect in Mesa County without medical treatment. Also, Montrose County baby Ishmael Belebbas was stuck in his mother's birth canal for days in an unattended home delivery. A member of Church of the Firstborn, his mother refused medical help, even though sheriff's deputies warned her that both she and the baby could die. The baby died, and the mother was seriously ill, but recovered.

Would the legislature care?

CHILD's officers debated whether to push for statutory reform in Colorado. The Christian Scientists had beaten the last two reform efforts. If we lost again, it would be hard to persuade the legislature to revisit the issue at any time in the future. Bill Owens, who had given in to the Christian Scientists in 1989, was now the Governor. We were also aware that the Colorado legislature had refused to pass gun control legislation even after the Columbine massacre. How could we persuade legislators to care about children in faith-healing sects if they didn't care about students murdered at school, we wondered.

On the other hand, we had Colorado friends who told us not to lose hope in their state's politics. In October we were heartened by Governor Bill Owens'

statement that he wished he "had the votes in 1989" to remove the exemption and he would "support" another "effort to do so." (*Westword*, Oct. 12-18, 2000)

New political landscape

In November a Colorado ballot referendum closing the gun show loophole passed handily and the Democrats took control of the Colorado Senate for the first time in forty years. We felt the voters were sending a message to move back to the center and to care about children. We decided to work for a repeal bill.

Independently, the CDAC also decided to work for repeal, and they obtained an excellent sponsor, Rep. Kay Alexander, R-Montrose. A former social worker, Alexander had a strong record of legislative achievements on children's issues. She also lived in Montrose County where Angela Sweet had died.

Senator Bob Hagedorn, D-Aurora, a political science professor, agreed to be the Senate sponsor. With lead sponsors in the majority parties for each chamber, the bill was off to a promising start.

Third Mesa County child dies in two years

Three days after the bill was introduced, another Church of the Firstborn child died in Mesa County without medical care. Amanda Bates died at age 13 of untreated type 1 diabetes. She also had a vaginal infection that eventually became gangrene in her genitalia and buttocks. Finally, her brain was so swollen that infection traveled down her spine.

Her parents, Randy and Colleen Bates of Clifton, had twelve children and were expecting a thirteenth. The children were home schooled.

Bill repealed exemptions to four felonies

The House Criminal Justice Committee held a four-hour hearing on HB1286 February 13. The bill repealed one religious exemption in the criminal code that applied to the crimes of felony child abuse, negligent homicide, manslaughter, and reckless endangerment.

Below is a mixture of direct quote, paraphrase, and summary of the hearing based on the audiotapes in the Colorado legislative archives.



Kay Alexander

Kay Alexander: The fierce Masai warriors have a standard greeting, "Kseri Ngera," or "How is it with the children?" The intent is, if all is right with the children, all is right with the society. All is not well with the children of Colorado.

HB1286 is about the need for equity in our child protection laws. The current religious exemption discriminates against children, depriving them of protections to which other children are entitled. . . . The state has a role, in fact it has an obligation, to insure that all of Colorado's children have equal protection under the law.

Frank Daniels, Mesa County District Attorney: I believe Representative Alexander's bill is the only way to insure all children are afforded the equal protection of the law. . . . As the law now stands, the state of Colorado is endorsing a practice that endangers and even kills children.

"Confusing mishmash"

Also, the criminal law should be crystal clear. No one should have to guess its scope. The law should apply equally to all citizens, and its protections should apply equally as well. This exemption law is such a

confusing mishmash that its meaning is not readily understood by the ordinary citizen or even a trained attorney. It gives a privilege to recognized methods of religious healing, but does not define them. There is no definition, but there is a presumption that would apply only to the Christian Science church. And it's also unclear whether there must first be a court order that is disobeyed before a prosecution can proceed.

You can argue that the law applies to some churches and not others. . . . But [the law] is not fair to the children of faith healers and it's not fair to the faith healers themselves.

Peter Weir, Executive Director of the Colorado District Attorneys Council: The importance of this bill is to put all citizens on the same level.

The balancing that a prosecutor engages in to determine if certain conduct rises to the level of child abuse is a reasonable person standard, and that's an objective standard. What would a reasonable person in the community do under like circumstances?

Prosecutors have to evaluate the parent's mental state for recklessness and convince a jury of six or twelve peers that there was a gross deviation from the standard of care. It's a very fact-specific process for the prosecutors. It would have to be the kind of illness or injury for which need for medical treatment would be obvious to most individuals.

Rep. Lauri Clapp: Can't courts order medical treatment promptly under current law?

Daniels: I've had three children die in my county in the last two years. In all of those cases, neither the parents nor anyone else called any public officials until they thought the child was dead.

Tamara Grigsby: As a board-certified pediatrician and a child abuse expert at Children's Hospital, I am acutely aware of the importance of religion to families. I've practiced in many cultures including Guam, and I know that there are cultural issues that need to be considered. However, I must also say that faith healing cannot be used as a substitute for medical care.

Respecting cultural diversity, protecting the child

We had a baby girl born with hydrocephalus. Doctors felt that she had a greater than 50% chance of

death and greater than 90% chance of profound mental retardation without surgery. Her Hmong parents were adamantly opposed to the surgery because of their religion and culture. We got a court order for the surgery, which was successful. Later she needed more surgery. By then the parents were comfortable with medical care and willingly consented to have it done by the same neurosurgeon.

This little girl is almost two years old now and is doing beautifully.

We firmly believe that no laws should exempt parents from civil or criminal liability in the name of religion. We support legislation that holds parents legally accountable when they deny children medical care that can prevent suffering, harm, and death.

Rep. Peter Groff asked if Children's Hospital had a chapel, if it was open to all faiths, and if it was open at all hours. Grigsby replied that the hospital did indeed have such a chapel.

When choice belongs to parents

Rep. Matthew Smith asked if physicians expected parents to obtain medical treatment when the treatment was experimental or had only a 10% chance of cure.

Grigsby: We do not expect parents to [agree to] experimental treatment. We usually develop a rapport with the parents, sit down with them, and reach a mutual decision. Parents are given the choice if the only available treatment is longshot or experimental. Some of the children, if they are mature minors, are even allowed the choice.

We respect death with dignity rights.

Don Bross, counsel to the Kempe Children's Center: The question and answer are both good. HB1286 is dealing with extreme situations where the possibility of children's death or serious bodily impairment would be obvious to most reasonable parents. It deals with extreme circumstances. It does not expect parents to be physicians and know what is going to happen, but to realize that they must at least take the child for a medical examination.

We give parents great latitude for discretion, for example with vegetarianism and corporal punishment,

even though children may be harmed by those practices.

Colorado has really failed its children and the parents of those children by not following the U.S. Supreme Court lead, which says that we do not have a right to martyr our children.

Exemptions mislead parents

Rita Swan, president of CHILD: Colorado's present law gives parents and church officials the impression that exclusive reliance on prayer is not only legal, but safe. The Christian Science church in particular has told its members they have been given these exemptions because public officials agree that Christian Science can heal children's diseases just as effectively as medical doctors. The church members may not comprehend the risk they are taking with their children's lives when they believe the state has endorsed their behavior.

Documentation lacking

The Christian Science church has refused to let us see any medical documentation they may have for their healings. We do not think either they or the Church of the Firstborn has credible evidence that they can heal serious diseases of children. But even if all the healings you will hear about today are miracles—beyond explanation in terms of biochemical processes—they would not justify this current law, which, as I read it, lets parents withhold medical care from children sick with any disease whatsoever and without even getting a medical diagnosis to determine what treatment options medical science has available.

Female genital mutilation prohibited

Colorado's definition of child abuse is immediately followed by a law against female genital mutilation. "Belief that [female genital mutilation] is required as a matter of custom, ritual, or standard practice. . ." is not a defense to the crime of child abuse, the law states. Colorado does not have a religious exemption for female genital mutilation and should not have one for medical neglect.

Freedom of religion is a precious right, but it should not extend to allowing injuries to children.

Amy Winterfeld: I represent the American Humane Association, which is a 124-year-old national organization headquartered in Englewood, Colorado. Our mission is "to prevent cruelty, abuse, neglect, and exploitation of children and animals and to assure that their interests and well-being are fully, effectively, and humanely guaranteed by an aware and caring society."

We urge you to support HB1286 because we believe it is the humane course that will prevent suffering, disability, and even the death of Colorado children. Constitutional guarantees of religious freedom have never been held by our courts to permit children to be harmed by religious practices, nor should a legislature permit them to be interpreted to provide a defense when the child suffers death or disability from lack of medical treatment.

Camille Clark, a social worker from Fort Collins, testified as a CHILD member and as a person who grew up in a Christian Science household. She described the fear and abandonment that many children in faith-healing sects feel when vindication of a belief system takes precedence over their experience of illness.

Opponent testimony began with Bob Doughtie, the Christian Science Committee on Publications for Colorado.

Doughtie: Christian Scientists do not practice faith healing. Rather, they practice a method of religious healing that for over a century has proven to be very effective with children and adults. We would not do so if it weren't proved to be effective and quick. We've been in Colorado since 1885. We make conscientious health care decisions for our children.

HB1286 takes the retrograde step of criminalizing loving, sincere parents and restricting family liberties. It imposes medical treatment as the only choice, which does not reflect the pluralism of society's cultural values.

“A trick question”

Rep. Joyce Lawrence: How do you treat otitis media and tonsillitis in children?

Doughtie: There is always a treatment. Christian Science doesn't just heal the disease, but deals with the whole question of what human existence is all about. We're very serious people. We do not neglect our children. The treatment in Christian Science is not a formula. The Christian Scientists turn wholeheartedly to God and address the mental nature of the disease.

I know that's kind of a trick question because you gave a very specific name. I don't even know what that is because I'm a chaplain not a doctor. But diseases of all kinds are healed regularly by Christian Science.

Lawrence: Otitis media is ear infections. In young children they can be pretty devastating and painful. Antibiotics are given for them. I'm a nurse. I don't think children with ear infections should be deprived of a treatment that can reverse the disease within 24 hours.

Doughtie then claimed that Christian Science had healed his own children of ear infections.

Rep. Jennifer Veiga: Under the Christian Science faith, is there ever an appropriate time to seek medical care?

Doughtie: The supposition of your question is that someone is telling us what to do. There isn't.

As in any practice, there are different levels, and sometimes people aren't as wise or serious as they should be. But in most cases conscientious parents are able to do well by their children.

Veiga: Do you mean that conscientious parents are able to recognize when faith can't do the job and take their children to a doctor or. . . .

Doughtie: Christian Science parents are always free to go to a doctor.

Veiga: If parents are free, then why is it a violation of your religious freedom to require medical care?

Doughtie: We think the law should recognize what's really going on in society. If you'd go to the Harvard Medical School as I have three times, you'll

see that doctors are acknowledging the impact of spirituality on health and healing of the physical body. It's a movement that will not go back into the closet.

Law should allow Christian Scientists to withhold medical care, but not Firstborn parents

We will always obey the law. We just hope the law would be expansive enough to allow more than one system. In the Middle Ages only one system was allowed, and people who questioned it were burned at the stake as heretics until the Reformation.

Let intelligent and responsible parents take care of children as they see fit.

Rep. Nancy Spence: How can we protect children in Church of the Firstborn?

Doughtie: Colorado law already does that, and that's why we have put sections in the Children's Code to define a well-recognized religion that practices responsibly. The IRS allows tax deductions for Christian Science methods. Insurance companies have covered us for decades. I think we all know that insurance companies are in it to make a buck and they wouldn't do it if it wasn't a way for them to make money.

We're always accused of anecdotes. But anybody who has raised children knows that when your child is ill, you don't call in a research scientist to observe the process. Rather, you do what you have been taught to do and have seen as effective in your life, namely turn wholeheartedly to God, but not in faith. Instead, we use spiritual understanding of the very nature of the universe.

Rep. Lynn Hefley, Chairman: Do your parishioners believe in alternative medicine at all? Do they believe in herbs? Do they have special diets?

Doughtie: We use only spiritual treatment.

Alexander: The bill caption says it “repeals the faith-healing exception.” If you're not practicing faith healing, then what is your concern?

Doughtie: I have two attorneys to answer that.

Rep. Andrew Romanoff: Asking us or the Internal Revenue Service or insurance companies to decide which religions are responsible or legitimate

really thwarts the intent of the First Amendment, which prohibits us from making laws respecting an establishment of religion. What Rep. Alexander has proposed instead is a single, scientific standard based on medical necessity, which seems to me to be more consistent with that constitutional protection.

Dwight Hamilton: I've practiced law for 46 years. I'm very active in the Masonic Fraternity and other community organizations. I found the testimony of the witnesses from Children's Hospital ironic because I'm president of a foundation that is the largest single donor to the hospital.

I'm here as a lifelong Christian Scientist who loves and respects what doctors do, but also who feels that we have as good—and in my opinion better—a method of healing as theirs. And it's worked, and it's proven.

I certainly helped write the current religious exemption in the criminal code that Rep. Alexander proposes to repeal.

It's really beyond me that anyone could look at me as a suspected child abuser simply because of my religion. I care deeply for my children just as each of you do.

Christian Scientists exempted by secular criteria

With reference to the constitutional issues raised by Rep. Romanoff, present law is constitutional because it sets forth secular standards for determining a recognized method of religious healing.

The Colorado legislature decided to exempt us from criminal liability while not excusing those who do not belong to a church with a recognized method of religious healing. The legislature did not intend to promote or advance any particular sect, but only to get at recognized methods that are proven and work.

Rep. Matt Smith: The bill proponents say they want to provide for equal treatment of children.

Hamilton: Current law protects children on an equal basis. All we're asking for is accommodation for a method that has been proven for over 125

years to protect the health of children on an equal basis with medicine.

Lawrence: Your witnesses indicate that you know when to seek medical care. When you look at a child with an obvious infection that could go into something like meningitis, I assume Christian Scientists say this is out of our hands; we need to go to a physician and get antibiotics. Is that true or not?

Hamilton: That might or might not be true. The person is free to take any kind of treatment he wants. In my case, I wouldn't know whether any of those conditions existed. The one time when we took each of our boys to a hospital was when each had a fractured bone, and that's certainly something that Christian Science provides for. But no other medical care has been needed, and I like to think that's because I'm prayed up each day.

Lawrence: We are talking about cases of children being put at serious risk of harm.

Hamilton: You basically are advocating that there is only one method of health care. And what we're asking is that you at least give us the benefit of the proven history that we have.

Lawrence: I think Rep. Alexander and others have testified that you can continue to pray.

Hamilton: Oh, we can continue to pray, ma'am, but it is extremely difficult, if not impossible to mix, and that is as important to us as the Eucharist is to Catholics.

Veiga: Then why is it o.k. for Christian Scientists to have broken bones set by a doctor?

Hamilton: Mary Baker Eddy says it's better to leave setting of bones to a surgeon and us handle things like swelling. She says it's better—a better method.

Veiga: Can you explain to me then why there's a recognition in your religion that some things require medical care and others do not and how that determination is made?

Hamilton: Other than the setting of broken bones, there's absolutely nothing that requires medical care.

Brian Boettiger, a Christian Science practitioner in Boulder: Growing up, I experienced both

medical care and Christian Science because my mom was a Christian Scientist, and my dad was not.

At three years old I was healed of a broken arm within an hour after I fell out of a tree. I know that's hard for you to believe, but a registered nurse, who was our neighbor, actually saw the break and then a few days later saw that I was healed.

As a fifth grader, I broke a nose, and I can't explain how it took place in medical terms, but all I can say is that it was moving around a lot and then it was set and I've never had any problems since then.

As a high school senior, after years of medical treatment for asthma, I asked a Christian Science practitioner to pray for me, and within five days I was completely healed.

I'm here to say that the two treatments cannot be mixed. Christian Science comes from a spiritual viewpoint, and medical treatment comes from an organic basis. I've chosen Christian Science because I've had proof, because I've had healing after healing.

Rep. Richard Decker: Would repeal of the religious exemption change how you responded to your children's illnesses or would you follow your religious convictions even if it meant you would go to jail?

Boettiger: There would be a cloud of criminality in thought. It would be an additional fear I would have to handle in my thought. My daughter once had a high fever. I wouldn't know when to take that child to a doctor because I've experienced quick healings, but I've also gone through times when I didn't experience quick healings.

Hefley: Would you follow the law or not?

Boettiger: I would follow the law because Mrs. Eddy says to do so.

Hefley: Well, great. That's exactly—

Boettiger: But I still wonder about I wouldn't know when. My daughter had a fever, and I didn't know how bad it was. It broke within fifteen minutes, but what if it had gone for twenty minutes?

Hefley: I think all parents deal with that. I've been there.

Annie Buckley: I've been a full-time Christian Science practitioner in Denver for fifteen years. This bill will have a chilling effect on us. There's a very different sense mentally when you have in the back of your mind that your fellow citizens are waiting for you to trip and in hopes of prosecuting you for doing the thing that you are absolutely convinced is the highest possible way you can worship God.

Marian English: I'm here chiefly as a mother, but also as a Christian Science practitioner. If this bill becomes law, I would lose some of the protection I've had with my children. I would be afraid to practice my religion. I'm not qualified to diagnose anything, so when my child looks like he has symptoms of the flu, I just heal it. But what if those would be symptoms of something else and perhaps I would be prosecuted? I would not know what my rights were, and there have to be some rights for us.

Hefley: Well, yes, you would know your rights if this bill passes because it would be spelled out, and as a very bright woman, you would be able to know what your rights were. We don't take our children to the doctor at every drop of a hat. We use reasonable methods and prayer.

English: So do we. As responsible parents, we use reasonable methods too. But this bill will take away some of my rights. I would never want to feel that I was breaking the law because I did not take my child to the doctor.

Tom Dennison, a lawyer from Littleton: We're in violent agreement with the purpose of the bill, which is to guarantee appropriate health care for all children. But this bill criminalizes a health care choice that has not been proven to be unreasonable.

Health care choices are a continuum from trivial illnesses to medically incurable ones. At both extremes we are allowed to rely on prayer, but this bill prohibits relying on prayer for the medically serious, but medically curable diseases.

Lawrence: The continuum is where we all are as parents. Sometimes when your child is ill, you use a humidifier and cook a little chicken soup, and that works for everybody. It has nothing to do with

faith healing. Then you start moving up the line where the illness is serious and science has already proven that an antibiotic makes a difference between life and death. We in the legislature are saying that a reasonable person would get medical care at that point. And if the kid is diabetic, you're saying, "We're just going to do faith healing." Well, if that's where you think you are, then we need this legislation because we're all about saving kids' lives. And I don't know if you're there or not, but that's where I am.

Dennison: I think you framed the question very well. The question is what is reasonable care. There's been no showing of harm from Christian Science treatment. I would like the freedom to choose what has proven to me to be the most effective care for myself and my child. My wife and I could have every choice in the world, and Christian Science is what we've chosen for ourselves and our daughter, and we are not irrational people in the rest of our lives. We are willing to live with our record.

Jim Meyer: I was Bob Doughtie's predecessor in our church information office. I was walking the halls of this House when the law in question was passed in 1989. We spent most of the entire session on the current law that HB1286 would repeal. It was a careful, thoughtful compromise.

This bill may have no impact on the Church of the Firstborn members, but it would have collateral damage for some other pretty innocent people—Christian Scientists.

Smith: But we have three children who have died. How do we send a message to parents who are not going to take the health of their children seriously?

Meyer: You've heard enough to know that there are differences in approach and theology and also very honestly in effectiveness among those who practice faith healing and spiritual healing.

Love sends a better message than fear. When fear is overcome, amazing healings are possible in Christian Science.

Robert Lewis: The sponsor of this bill has said it is not an attack on Christian Science. However, if

that were the case, CHILD would not be represented here today. Rita Swan would not be here.

Five times more effective than medical care

In 1993 when Doug Friednash had his bill [to repeal the religious exemption], I did research and gave it to the legislators. I found that children die under medical treatment at a five times greater rate than under spiritual treatment. There was only one death of a Christian Science child in Colorado from 1981 to 1990 and that was attributed to SIDS. Our church does not tell how many members it has, but if there are 2,000 Christian Scientists in Colorado and if we had the same mortality rates as medicine does, we would lose one child every two years.

[A legislator asked if Lewis would risk going to jail for withholding medical care from his child.]

Lewis: Knowing that spiritual healing is five times more effective and safer than medical care, I would disobey the law and risk going to jail. I did that in the special forces of the military when my commanding officer gave an order. I refused to obey it, and that ended my career in the special forces.

Laveda Frasier of Colorado Springs: I converted to Christian Science as a young adult and have never had even an aspirin since.

[She poses a series of questions about health problems her family has had and asks if it was unreasonable for her to rely on Christian Science to heal them. Included is:] Was it unreasonable of me to deprive my child of medical care when she was unconscious for a few hours?

Beth Morris of Golden: I've been a Christian Science nurse for twenty years. I want to assure you that Christian Scientists do care for their members. I have seen many wonderful healings in my work.

One patient in a Christian Science nursing facility was having what I believe would be called seizures. I dialed the Christian Science practitioner, held the phone to the patient's ear, and within two minutes she was totally healed.

Hefley: Have you had any cases at all where your patients have died?

Morris: I don't consider the patients at a Christian Science nursing facility "my" cases. As far as home care cases, no, I have not.

Hefley: And you've been doing this how many years?

Morris: Twenty years.

Hefley: I just want to say that I know of some cases and they were under the care of a Christian Science nurse. One was a 13-year-old girl and she died. One was a young adult. And I watched her go through agony and die.

Morris: I'm not saying that there haven't been, you know, people who have, you know, passed on.

Hefley: But I've listened to all of the testimony. All of us have. And no-one seems to do anything but get better. I believe in the power of prayer. I pray and many other committee members do also. But I have to state for the record that I know personally of two cases that under the care of a practitioner nurse. . . .

Morris: Those are two different offices.

Hefley: Well, this was a nurse. And these two people did die of their illnesses, so it does happen.

Morris: I just want to tell you of my experience, which is that Christian Science is truly based on God and His laws of the universe. It's not faith healing, and it has a wonderful record of healing.

Hefley then closed the testimony and called for final statements by the committee members, including

Spence: In spite of these very compelling and heartbreaking cases, I will not support the bill because I so strongly feel that it's a First Amendment right and a parental right. I'm not convinced that if it saves the life of just one child, it's worth it to go against the importance I feel of the Constitution.

Veiga: The First Amendment is precious, but we have to balance religious freedom with a child's right to live. Rep. Alexander's bill is neutral as to religious choice and fulfills constitutional requirements for the relationship of church and state.

Clapp: I haven't heard any good reason that this is a preventative measure. We can already get court orders. I oppose the bill.

Romanoff: The most offensive comment I heard today was the accusation that the state is lying in wait to trip us up.

Colorado does not have a religious exemption for cruelty to animals and should not have one for cruelty to children.

Decker: I have an aunt and her husband who are practitioners. I also had an aunt who ran a Christian Science nursing home and died in the hospital. So rational people come to rational solutions.

I will not be supporting this bill because I think it's going to hurt a lot of good people. They might not be perfect people, [but] they're sincere people, and I think we're going to have to find another way to solve our problem.

Sponsor calls for equal protection

Alexander: First and foremost, this bill is about the protection of Colorado's children and removing the discrimination in current law against children in spiritual healing sects. Second, I believe this is a dangerous precedent that we have set—to single out one religious group for special treatment.

I know this is a difficult decision for legislators. I think this bill is the right thing to do and I would encourage your support.

After a hearing of more than four hours, the committee voted for HB1286 by 8-3.

On February 22, there was well over an hour of floor debate on an amendment offered by Rep. Spence, the wife of a physician. Although her supporters claimed she had "worked long and hard" on it, it was actually given to her by the Christian Science church, which reportedly retained the Mayer, Brown, and Platt law firm in Chicago to prepare it.

The amendment retained the religious exemption "provided that reliance upon [a recognized method of religious healing] is reasonable under the circumstances" and then ten factors that a juvenile court judge must consider "at a minimum" to deter-

mine reasonableness before adjudicating a child neglected or dependent. While some factors would weigh in favor of ordering medical care, such as, "the risks of harm from failure to provide medical treatment," others were designed to prevent adjudication, such as "the past experience of the child or the parent or guardian in relying upon religious methods of healing" and "whether the child or the parent or guardian believes that the receipt of medical diagnosis or treatment is inconsistent with his or her religious beliefs."

It was, in any case, a radical departure from the general concept that juvenile court judges are supposed to make their rulings based on "the best interests of the child."

It was also cumbersome and confusing, whereas a main purpose of HB1286 was to send a clear message to parents of their legal obligations.

Typical arguments by the bill's opponents are synopsized below.

Rep. John Witwer, a physician: This bill will encourage faith-healing parents to seek martyrdom, one of the highest levels of religious expression.

Also, the bill has the unintended consequences of making criminals out of Christian Scientists, who have functioned in the mainstream of America for years and conscientiously practiced spiritual healing responsibly. We do not hear about the children of Christian Science dying. Why should members of this church pay for the excesses of irresponsible sects by being unnecessarily criminalized? Why should the state abandon them when they have worked to accommodate their beliefs with the requirements of our laws?

Rep. Keith King: Many times doctors do not have the right answer, and many times prayer has made a significant difference. We should not interfere with parents' decisions when there is no perfect solution on either side. Passing this bill violates our responsibility to uphold the Constitution of the United States.

Rep. Bill Cadman: Demonizing someone for their faith will not stop children from dying. These are the statistics. Cancer is the number one cause of

death in this country, and heart disease is number two. People die of those diseases under doctors' care. And the number three cause of death is iatrogenic diseases caused by doctors. Do not drive parents' choices into the industry that is the number three cause of death in this country.

Rep. Lauri Clapp: We have a social services department that can pull out "at risk" children under current law. Social services knows that there are groups out there that are high risk and why they're not keeping an eye on these groups is beyond me. That's their responsibility. They should be doing this now. If we are serious about protecting our children, let's identify the children who are at risk, let's hold our social services department accountable, and let's pull those children out.

HB1286 is not needed to protect the children at risk and it will confuse the Christian Scientists about their legal obligations.

Rep. Mark Paschall: It's my understanding that there's only one religious organization in Colorado that qualifies for the exemption, and that's the Christian Science church, and we don't have any problem with them. They have already qualified, so there isn't anybody above the law.

He proposed that HB1286 be offered as a ballot initiative. He felt all the voters should have the opportunity to vote on something as momentous as First Amendment rights.

Rep. Richard Decker: Why are we seeking to punish a group of people who use prayer as the first and only line of defense for their health? We should be praising them. Probably the members of Church of the Firstborn, who have let children die, would rather go to jail than observe this law anyway.

Supporters of HB1286 spoke strongly as shown in excerpts below.

Rep. Mark Larson: I come from a community [Montezuma County] that has a large amount of faith healing in it, and they are my customers. I can't tell you the number of times they have told me, "I wish there was something in the law that would have caused me not to follow this faith healing when my child got ill." I have seen children in my own

business whom I would ask their parents to take to a doctor. The parents would not because of this religious exemption.

Rep. Gayle Berry of Mesa County, where three Firstborn children have died without medical care in two years, gave a graphic description of how Amanda Bates died. Some members of the legislature gasped.



Jennifer Veiga

Veiga: Existing law protects certain religious groups over and above other religious groups. If I am a Catholic with a sick child, and I am praying over my child and my child dies, I can be charged for child abuse and would not have the benefit of this affirmative defense. However, if Representative Grossman practices the Christian Science religion and prays over his child and does not seek medical care for his child, he would have the benefit, sponsored by the government, of an affirmative defense. That's wrong. This bill does not outlaw faith healing or prayer or criminalize Christian Scientists. It simply levels the playing field.

HB1286 passed on third reading with an official recorded vote of 36-26, with ten of the 38 Republicans and all Democrats present voting for the bill.

The Senate Health Committee heard the bill on March 15. Peter Weir, Frank Daniels, and Tamara Grigsby testified again for the bill. Two new proponents spoke substantially as follows.

Jan Carrier: I'm on the board of directors of The Interfaith Alliance of Colorado. We are a non-partisan, faith-based, grassroots organization representing many faith traditions and with more than 500 Colorado members.

We support HB1286 because we believe that all of our citizens, no matter what their faith, have a responsibility to seek reasonable medical attention for their children when they are seriously ill or injured.

We also believe it is a clear violation of the separation of church and state for one group's prayers or traditions to have a different legal status than someone else's.

Rev. Kay Palmer Marsh of the Rinn United Methodist Church in Longmont: In 1957 I had heart surgery that gave me a normal life. Without it, I was expected to die in childhood. The surgery would not have happened if my Christian Science mother and her parents had had their way.

My mother had been bedridden with multiple sclerosis for several years and refused all medical help. I started kindergarten in Ohio in 1957 and became very sick. My mother and father argued over whether to get me medical care. My father won; the doctor who examined me said I needed heart surgery.

Family feud over medical care for child

Again, my mother and father argued; my mother objected to the surgery on religious grounds. But at that time my mother contracted pneumonia and died, again refusing all medical care, and I had the surgery I needed.

My grandparents contacted Social Services and tried to get me and my sister removed from my father's home because he was not following my

mother's wishes and because there was no woman in the house. So my father went to the local YWCA, met a woman there, and married her a few weeks later. They were married for 43 years until my father died four months ago.

As an ordained Methodist pastor, I believe that God is the ultimate healer. God heals through the healing hands of medical doctors, nurses, and technicians, and through the very occasional spontaneous healings we call miracles. While I believe prayer is vital in the healing process, I would never advocate leaving anyone's care up to prayer alone.

Children are no longer property of their parents. All children need to be treated equally by the law. I am grateful that I am alive to give you my opinion and my story.

Linda Johnson: I represent the Colorado Organization for Victim Assistance with over 800 members who are crime victims and agencies that serve crime victims. We believe that removing the exemption in the law will insure that the safety of all children is valued and protected equally. We also believe that all parents should be held accountable for their decisions equally.

Carla Bennett: I represent the League of Women Voters of Colorado. We also believe that all children have the right to equal protection under the law. HB1286 does not prevent people from doing faith healing or spiritual healing. What it does do is make clear that all parents can be held accountable if their child dies or is grievously injured because of their failure to seek medical treatment.

Opponent testimony began with **Bob Doughtie**, Christian Science lobbyist and public relations manager for Colorado. He stated his church's willingness to accept removal of the religious exemption if the standard of care were changed from "medical care" to "health care." He pointed out that Americans spend over \$30 billion annually on alternative health care, including spiritual treatment, and that 42% of Americans tried some form of alternative care in 1997. The legislature must, therefore, he argued, expand the law to include "the wider diversity that is the reality of today."

Other opponent testimony is paraphrased and excerpted below.

Annie Buckley: I'm representing myself today, although I am a Christian Science practitioner in Denver. Suppose we passed a law saying that every household would be free to pursue any religious path it chose, including atheism, but that in addition, within each home, there must be a statue of the Buddha. In the event of a child's illness, the Buddha would have to be displayed in the very place reserved for the crucifix, the Torah, the family Bible, or the Christian Science textbook. The parents would be expected to take the initiative in leading the family in Buddhist meditation, which involves emptying the mind of all conscious thought, including the usual religious thought or a prayer. Although this might result in a distressing sense of separation from the God the family was accustomed to turn to, and a confusion on the part of the children as to where the parents' loyalties really lay, the parents would perform these exercises because the state had decreed that this was best for the children. Everyone would be reassured that once the child's health had been restored, the crucifix and the rosary could be restored to their usual places, the Torah or the book of New Age Affirmations could once again be studied. The Buddha could be put away, and life could return to normal.

Medical care a religion

If this sounds farfetched, try envisioning the same scenario, replacing the Buddha with the caduceus. You know the caduceus, the little winged staff with the two serpents curled around it. It's the visual symbol of Western medicine. And another name for it is the staff of Aesculapius. This is a reference to its pagan origins. Aesculapius having been a Greco-Roman god of medicine, his followers are roundly denounced by Jesus in the book of Revelations. You are asked to empty your mind of everything you've been taught to rely on, and prostrate yourself before a symbol that represents just the opposite.

Using medicine breaks God's law

That is the position in which a Christian Scientist finds himself with HB1286. He is convinced that there is only one God, not a spiritual God for times of good health and a material one for times of illness. The Christian Scientist teaches his children to love the first commandment of the Bible, the one that tells him to acknowledge only one God. He takes seriously the biblical warning that a double-minded man is unstable in all his ways. He takes seriously Moses' thundering command, "Choose ye this day whom ye will serve." If medical methods had been part of God's plan for man, Jesus would have used them. As he said, "The son can do nothing of himself except what he seeth the Father do. As He doeth, so doeth the son likewise." As Jesus, the master Christian, emulated the Father, so does the Christian Scientist. That is why, like Jesus, the Christian Scientist neither utilizes nor recommends the use of material remedies.

Prohibition against medical care comes from Bible not Christian Science church

It has been said so many times recently that it's become something of a mantra that there is no rule of the Christian Science church that forbids medical intervention. That's because there doesn't need to be. The Christian Scientist finds his number one rule for life in the first commandment: "Thou shalt have no other gods before me." He is single-mindedly devoted to the service of the one God of the Bible, and sees the overcoming of sin, sickness, and death, which does occur regularly in Christian Science practice, as his daily and hourly duty to that one God. His weapons are not carnal in the words of St. Paul; that is, not material, not pharmaceutical nor surgical, but mighty through God. The Christian Scientist also heeds the words of Mary Baker Eddy, who discovered the science of Jesus' healing methods, and founded our church, when she says, "Its power would be arrested if one were to mix material methods with the spiritual—were to mingle hygienic rules, drugs, and prayers in the same process, and thus serve 'other gods.'"

It has also been said recently, most recently in yesterday's *Denver Post*, that it is common for Christian Scientists to seek medical care for sick or injured children. That has not been my experience, nor that of anyone I know.

Bill won't save lives of Firstborns' children

A friend who was raised in the Church of the Firstborn told me this bill would not change the behavior of Firstborn members because they believe that you just leave everything in God's hands, and whatever occurs as a result must be God's will. She said she has seen many people "live through," as she put it, cases of ruptured appendix and other dire situations. I don't know where she came up with the diagnosis if they never had a medical diagnosis, but they felt they were witnessing real, actual diseases seemingly taking, trying to take the lives of their family members, but it was their feeling that there should be no intervention.

This is very different from the practice of Christian Scientists. The responsibility of the legislature is to find a right balance. I know that you are challenged with this question of favoritism for one religion over others. The wording that we have now recognizing an acceptable system of spiritual healing is said to be unfair because only one religion qualifies for it. If you remove that wording, though, and if you remove that concept, if you agree that it's unfair, you'll be closing the door to other groups that could easily qualify for that recognition. You would be removing the opportunity for others also to show that they can reach an understanding of God's law in its operation in man's lives that would allow them also to have the rate of success that Christian Science has had in the care of children and adults.

One last word from Mary Baker Eddy. In a passage in her textbook, giving instruction for the treatment of disease, Mrs. Eddy says "to meet the incipient stages of disease with as powerful mental opposition as a legislator would employ to defeat the passage of an inhuman law." For all the reasons I and others bring before you today, I would ask you please to defeat House Bill 1286.

Jim Meyer: In 1899 the Governor of Colorado vetoed a bill that would have restricted the practice of Christian Science. Since that time Christian Scientists have felt free to practice their religion in Colorado. My family has lived here for 25 years, and we felt Colorado was the best place in the country to raise a child. When Christian Scientists call me from around the country and ask, I tell them that. But if this bill passes, I don't know if I can say that. I don't know if I can encourage them to move here.

Sick Christian Science children in Colorado not allowed to have information about measles

Presenting poster-sized photos of five children who died after their Christian Science parents withheld medical care, Rita Swan spoke as a bill proponent after the opponents testified: There are many reasons that Christian Science parents withhold medical care from seriously ill children. First, church theology opposes both medical diagnosis and medical treatment. So the parents cannot obtain rational information about the disease without violating the theology. The church believes in fact that knowledge of disease causes disease and seeks exemption for their schoolchildren from studying about disease in school. In 1985, the Christian Science camp, Adventure Unlimited, near Buena Vista, Colorado, had one of their periodic rubeola measles outbreaks, over fifty cases of measles in 1985 at those camps. Colorado health officials came in and wanted to give the children some information about this potentially fatal disease, but the camp's attorney said they had religious rights to refuse information and so the children were not given it.

Medical patients can't have prayer treatment

Second, the church prohibits its practitioners from giving prayer treatments to those who decide to get medical care. It is very frightening to many members to know that God cannot follow them to the doctor's office.

The religion asserts that all disease is caused by sin. In the case of a little child, the disease is believed to be caused by the sins of his parents. Fear

and doubt are sins. The practitioners told us that our fears were causing our baby to be sick. Lack of gratitude to them, and other sins were also blamed.

Also the church purports to heal disease by arguing for its unreality. You have to convince yourself that the disease is an illusion and then it will disappear from your experience. This leads to relentless denial and trivializing of symptoms.

Injured wrist healed by ignoring symptoms

In the airport, I found a recent copy of the *Christian Science Sentinel* proclaiming that they can heal diabetes. I also read a testimony from a Boulder, Colorado man about healing his injured wrists. He talks about willfully ignoring the pain and going about his daily activities. He says, "I tried not to submit to what the body was telling me." And his wrist got better. That may work fine with many injured wrists, but it's a very dangerous method when a child is seriously ill.

I profoundly believe that House Bill 1286 is in the best interests of both parents and their children. It will create a clear law that requires all parents to get medical care when the disease reaches a certain threshold of seriousness.

No prosecutions of parents with good reasons for not providing medical care

A period for legislators' questions was then opened. Frank Daniels responded to allegations of Christian Science witnesses that, under HB1286, people who couldn't afford medical care or had doubts about experimental treatment might be prosecuted for failure to provide it. He pointed out that all the bill did was remove the faith healing exemption. The rest of the Colorado law requiring all other parents—probably 99.9% of the population—to provide medical care for their children has been there for years, and no parents, to his knowledge, have been charged with criminal neglect when they couldn't afford medical care or declined experimental treatment.

Further exchanges are paraphrased below.

Linkhart: In your committee, when people are asking for advice or when you publish advice, how do you instruct people when to go to an M.D. versus when faith healing might help? Can faith healing or whatever you want to call it, I'm sorry if I'm saying the wrong words, but can spiritual prayer cure anything, or do you feel at some point that you need to go to an M.D.?

Doughtie: I never give advice. Our church has no clergy. There's no authority figure out there even indicating what one should do.

It never crosses my mind to consult a medical doctor when I'm ill because I've had so many wonderful experiences of healing through prayer. But there is no-one to advise you. There's a whole lifestyle that you get into and you are committed to it.

[Doughtie did not answer Linkhart's second question.]

Did I get close to answering you, Senator, or not?

Linkhart: Yes. It actually causes more worries in my mind because it doesn't sound like anyone's providing guidance as to when to stop.

Doughtie: I could have told you about a lot more of our healings, but I deliberately chose not to because I was told, "That's just like Church of the Firstborn, always talking about their healings."

Linkhart: Under this bill will people be prosecuted for using the services of naturopaths and herbal healers?

Daniels: One of my daughters stayed home from school today because she was sick. We didn't take her to a doctor. We gave her some echinacea and golden seal from a health food store. I don't object to alternative therapies.

The statute dealing with lack of medical care requires that it be part of a continued pattern of conduct that ultimately results in death or serious bodily injury of a child. In addition, we use the principles of culpability, including criminal negligence and recklessness. A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

Will law change religiously-motivated behavior?

Epps: Some people are so rooted in their faith that they're not going to change no matter what laws we pass. Do you think HB1286 will change the behavior of this group in your district?

Daniels: I believe it would have some impact on them. The Church of the Firstborn has what I perceive to be a closed system. If a person is sick and they pray and the person is healed, then they've succeeded. If the person dies, then they feel God has called the person back. The grandfather of Warren Glory, the 18-day-old baby who died, said that if the baby had lived, he would have turned out to be a criminal or drug addict. He also told the press that when he was in the military, he was required to get vaccines, but he had God turn the vaccine into water before it entered his veins and he still didn't get any of those diseases, so that was proof to him that his system works.

Now with him and people who are that vested in their belief, I don't think that changing the law will change their practices. But I talked to Warren Glory's parents before I filed charges. They were about 21 years old and just a real nice young couple. I felt that without the pressure from the grandfather, they might well have sought medical care for the baby.

By and large, the Church of the Firstborn members are law-abiding citizens. I don't think changing the law will work for everybody, but if it saves one child's life, that's great. If it saves more than one, that's better.

Senator Epps then asked Swan about religious exemption laws nationwide. Swan pointed out that Colorado is one of only seven states with a religious defense to a homicide or manslaughter charge.

Linkhart rejected the Christian Science argument for an amendment to accommodate alternative medicine: This part of the statute is about child abuse. Other statutes refer to all kinds of health care. We do allow for alternative medicine. If any of you were here last year when we looked at that, boy, we had people with magnets and electricity and all kinds of things that they believed in, and, hey, some of them may work. I took echinacea a couple of weeks ago, and it might have done some good. You will still be able to do spiritual prayer, faith healing, whatever you want to call it, but we're not going to

condone harming a child, and that's what this bill is about. We as a state need to be very clear about that and send a very clear message. We're not going to condone that conduct.

Epps: When we were listening to testimony today, I was thinking about my own twin daughters, and one of them happens to be a diabetic, and I thought there was no way I would have let her suffer and die without seeking medical care for something that can be [treated] and she can live a long life. And I believe strongly in the power of prayer and faith healing and I believe even in miracles. But we can do both. You can use faith healing and seek proper medical care. I've come down on the side of supporting this bill because I don't want to see any child die needlessly, and that's how I'll be voting today.

The Senate Health Committee then voted unanimously for the bill.

HB1286 went to the Senate floor on March 27.

Lead sponsor Bob Hagedorn opened the debate with a recounting of the deaths of many Colorado children because of religious objections to medical care. He called for lawmakers to give children in faith-healing sects the equal protection of the law.

Former Christian Scientist Senator John Andrews offered an amendment to protect the Christian Scientists. He argued that prosecutors could already file charges against the Church of the Firstborn parents and therefore the bill did not add protection for their children.

He also argued that current law provided secular standards for evaluating "responsible prayer treatment" and the kind of prayers that met those standards should be allowed as an alternative to medical care of sick and injured children. He said the Christian Science church had to his knowledge "an unblemished record" with its prayer treatments in Colorado and "should not be inhibited."

Senator Bruce Cairns from Arapahoe County offered an amendment that insulated faith-healing parents from criminal charges if they consulted with a clergyperson. He said it could be any sort of clergyperson even a New Age guru. His hope was,



Bob Hagedorn

he said, that the cleric would persuade the parents to seek medical care, but of course the state should not tell the parents to violate their religious beliefs. He said his amendment was "no great stroke of genius."

Senator Linkhart said he agreed with Cairns on that last point. Parents with a very sick child should be consulting a physician, not a minister, he said. He pointed out that the Christian Science officials testified that they never give their members advice.

Turning to Andrews, Linkhart said that the issue was not prayer in the abstract, but preventing serious injury and deaths of children. Children have a constitutional right to life, liberty, and the pursuit of happiness.

"Senator Andrews, these are children, not mung beans," Linkhart said. His point was likely lost on most of the audience, but we don't think it was on Andrews (see following article).

After the Cairns amendment was defeated, Andrews withdrew his amendment.

In his final speeches for the bill, Senator Bob Hagedorn answered concerns that the bill would not change parents' behavior: "We have hundreds of years of criminal law and case law showing that

some of our criminal sanctions are deterrent to the committing of crimes. I cannot promise that no other Colorado children will die because their parents deny them medical care on religious grounds. But I do believe the bill will be a deterrent."

"I ask you not to let these children's deaths be in vain. Let us have the courage to be the champion of all of Colorado's children and vote yes on this bill."

The bill passed by a vote of 23-10.

Lawmaker's past surfaces again

Colorado's Republican Senator from Arapahoe County, John Andrews, comes from a family of distinguished Christian Scientists. His uncle was president of Principia College for Christian Scientists. His father founded the Adventure Unlimited camps for Christian Scientists near Buena Vista, Colorado. Andrews and his wife graduated from Principia, where he was a straight A student.

In 1987-88 Andrews served as a board member, secretary, project administrator, and press contact of an organization called Spindrift. He and the other board members were Christian Scientists trying to conduct scientific experiments proving the power of prayer.

In one experiment, mung beans were divided into two groups, one prayed over and the other not. Nine days later when their sprouts were counted, there were nearly twice as many sprouts in the beans that had been prayed for, according to Spindrift literature.

In another experiment, some potted plants were promised more light and some jars of yogurt were promised more milk if more of "their" seeds germinated than control seeds did. A drawer was removed from a handmade dresser and then a Spindrift member mentally formed the intention to replace the drawer if correlated seeds did better than controls.

Religious mind influences objects at a distance

Spindrift claimed that the seeds correlated with the drawers, yogurt, and potted plants that had been talked to or thought about germinated more fully than the control seeds.

Andrews' press release said that their "laboratory findings" showed that an "intensely focused," "religiously disciplined consciousness" can "influence atoms or electrons at a distance."

The Christian Science church did not appreciate these experiments. Spindrift officers Bruce Klingbeil and his son John were censured by the church; Bruce's church accreditation as a healer was rescinded and then he was excommunicated.

In 1993 Bruce and John committed suicide together "apparently despondent," according to the *Boston Globe*, "that their attempt to scientifically prove the value of prayer was not embraced by the First Church of Christ, Scientist."

Gubernatorial candidate promises not to promote church's agenda

Andrews, however, went from Spindrift to the Republican party's nominee for Governor of Colorado against incumbent Roy Romer in 1990. Andrews' work with Spindrift was unearthed by the press. His conversations with plants, yogurt, and dresser drawers became the butt of late night talk show jokes.

The press also reported that Andrews had testified and lobbied with other Christian Scientists in 1989 to get the Colorado law privileging parents who use "a recognized method of religious healing" and "presum[ing]" that Christian Science has such a method.

Andrews promised that, as governor, he would "step back" if a bill to repeal the Christian Science exemption were introduced—even if his fellow Christian Scientists launched a full-scale attack.

He lost the election decisively.

Shortly afterwards, Andrews and his wife joined a Presbyterian Church. They were active in the work of their new church. Reportedly, Andrews is also active in Promise Keepers.

Andrews is now the Senate minority leader. Surely he knew that he ran a risk of having his past resurrected if he fronted for the Christian Science church again, but he chose to take it and offer another amendment privileging their practices this year.

“Unblemished record”?

Surely he knew too that Christian Scientists do not have the “unblemished record” in Colorado that he claimed for them in the Senate floor debate. In 1982, 9-year-old Debra Kupsch contracted diphtheria at the Adventure Unlimited Christian Science camp in Colorado. She was sick there for a week with this vaccine-preventable disease, but it was not reported to health authorities. Then she went on a bus with many other unvaccinated children back to Wisconsin where she died. It cost states thousands of dollars to track down and culture more than a hundred children and adults with whom she came in contact.

The Colorado camps have also had periodic outbreaks of rubeola measles, including one in 1985 with more than fifty cases (see Swan’s Senate committee testimony in preceding article).

Several Senators rose in opposition to Andrews’ Christian Science amendment. With so many preventable deaths of Western Slope children in the Church of the Firstborn, they wanted no more loopholes for any parents.

“Senator Andrews,” said Denver Democrat Doug Linkhart, “These are not mung beans. These are children.”

We suspect Andrews could see his new Presbyterian identity and his political career fading away and his colorful past with beans and dresser drawers slouching towards Bethlehem to be reborn.

Andrews withdrew his amendment a few minutes later.

Taken in part from *Westword*, Oct. 3-9, 1990; *Grand Junction Daily Sentinel*, Sep. 23, 1990; and Caroline Fraser, *God’s Perfect Child: Living and Dying in the Christian Science Church*.

Church claims diabetes healing in Colorado

A Colorado woman’s testimony that Christian Science had healed her of medically-diagnosed diabetes was published in the April, 2001, issue of *The Christian Science Journal* and prominently displayed on the church’s web page.

CHILD wrote the woman with some questions about her claims (see below). We were particularly interested in whether the physician had diagnosed her as having insulin-dependent diabetes or type 2 diabetes that can be managed with diet and exercise.

We doubt the timing of this testimony was coincidental. On February 5, 13-year-old Amanda Bates died on Colorado’s Western Slope of diabetes because of her Church of the Firstborn parents’ religious objections to medical care. Her death goaded the Colorado legislature to repeal a religious exemption to felony crimes against children over the strenuous objections of Christian Scientists. We think the Christian Science church published this testimony to reassure its members that they can heal diabetes and deserve an exemption from providing medical care.

We are still waiting for an answer to our letter.

April 28, 2001

Mrs. Mary E. Kemper
316 North 19th Street
Canon City CO 81212

Dear Mrs. Kemper:

We would like to learn more about the healing of diabetes you describe in the April, 2001, issue of *The Christian Science Journal*. Were you a member of the Christian Science church when you got the medical diagnosis? Did you feel it was consistent with Christian Science theology to obtain a medical diagnosis?

What medication did the doctor say you would have to take? Were you diagnosed as having insulin-dependent diabetes? Are you willing to let us see your medical records or talk with the doctor who made the diagnosis?

Finally, what was your motivation for publishing this testimony? Do you feel it provides guidance for parents of diabetic children? What message would you like for them to get from it?

Thank you for your consideration of these questions. We will be grateful for as many answers as you wish to provide.

Sincerely,

Rita Swan

Colorado: final thoughts

by Rita Swan

The passage of HB1286 is a significant victory both for Colorado and the nation. Colorado still has a religious exemption to civil child abuse and neglect and to criminal non-support, but it has made clear that your religious beliefs do not allow you to let a child die or suffer serious bodily injury.

Thanks to the ghastly death of Amanda Bates three days after the bill was introduced, it was an easy win—compared, anyway, to what we went through repealing five religious exemptions in Oregon in 1999.

“All over the place”

Many Colorado legislators deserve great credit for keeping their eyes on the prize and seeing through the Christian Science obfuscations. The church's theology must have bewildered the legisla-

tors. Some witnesses claimed that Christian Scientists commonly went to doctors; others said they would never go to a doctor and didn't know any Christian Scientists who did.

Several legislators tried to pin down what diseases Christian Science recommends medical care for and what diseases the church believes should be healed only by spiritual treatment. They asked this important question several times, but never got an answer.

One witness said he had taken his sons to a doctor for setting of broken bones. When a legislator asked him how he had rationalized that, he explained that Mary Baker Eddy said it was better to have broken bones set by a physician, but every other possible disease or injury should be treated only by spiritual treatment. The very next witness, however, testified that his parents relied only on Christian Science to heal broken bones.

Most Christian Scientists said they would obey the law, but one said he would rather go to jail than take his children to a doctor.

One legislator told the Christian Scientists they were “all over the place” on the bill. The church lobbyist responded that was because Christian Science is “a whole way of life.”

Several Christian Science witnesses argued that medicine was a religion. This is what they honestly believe. They equate being compelled to get medical care for children with the state forcing everyone to belong to one church. It is typical of highly controlled groups to be unable to distinguish between the secular and the sacred.

Rep. Lynn Hefley did a brilliant job of chairing the bill's first battleground, the House Criminal Justice Committee. Pro-life on the abortion issue, Hefley saw protection for children in faith-healing sects as part and parcel of her pro-life convictions. In an exhausting hearing of more than four hours, Hefley maintained respect and courtesy for everyone, but also focused attention on main points for the bill.

Exemptions for the willfully ignorant

The arrogance of the Christian Scientists was hard to sit through. Some blatantly claimed their prayers were more “effective” than those of other churches. One asked the legislature to retain the exemption so that other churches would have the “opportunity” to “reach an understanding of God’s law” that would let them have the Christian Scientists’ “rate of success.” One claimed to be able to heal “otitis media” even though he didn’t know what it was, while another denigrated Church of the Firstborn for not having a medical diagnosis of the diseases they talked about.

Several who testified to the House Committee said, in essence, that they should have a religious exemption because they were stupid. They said they just wouldn’t know if their child had a serious illness. Hefley tactfully pointed out that all parents face that uncertainty sometimes. The difference left unstated is that most parents call licensed health care providers for guidance while Christian Scientists believe disease is an illusion and want to be ignorant of disease as a precept of their theology.

Christian Scientists may not move to Colorado

It was comical for the church’s former public relations manager to tell the legislators so mournfully and solemnly that he just didn’t know whether he could recommend that Christian Scientists move to Colorado if the bill passed. With all of Colorado’s explosive population growth and water shortage problems, we doubt that would be a big worry to many legislators.

Several wanted to distinguish the “genuine” Christian Scientists from those who were not “serious” or “wise.” A legislator felt that was an effort to discredit my experience.

Then there was the familiar nit-picking over the meanings of words. Nobody has ever died under Christian Science care, but some have passed on. The witnesses adamantly insisted they were not faith healers until the bill sponsor pointed out that the bill title was repeal of the faith-healing exemption and

thus the bill impacted only on faith healers not Christian Scientists.

Also familiar was the relentless insistence on *ad hominem* argument: “we are reasonable, responsible, serious, loving, and prosperous.” “I have served in Vietnam.”

A proven record?

They claimed to have a “proven” record of healing, but submitted no credible data. At a bare minimum to draw any scientific conclusions about their record, one would have to know how many Colorado children are being treated only with Christian Science, what diseases they have had, and what all the outcomes have been—all of which is information the church refuses to provide. No data about Christian Science healings of children have been published in a peer-reviewed scientific journal.

What is the problem?

They had a hard time explaining their objections to the bill given their insistence that Christian Scientists are always free to go to doctors. The best they could come up with was that being subject to criminal law—as all the rest of us are—would give them “a cloud of fear” that reduced their ability to produce “amazing” spiritual healings.

The bottom line is that the church is asking for state recognition of its prayers as a legal substitute for medical care of sick and injured children without the data or acceptance of responsibility to support such status. We do not take the church’s word for it that no Colorado children have died under Christian Science treatment since 1989, but even if it were true, it would not justify a law allowing Christian Scientists to withhold medical care from children.

Christian Science attorneys argued that the state should allow them to use only Christian Science methods for sick children because they have “not been proven to be unreasonable.” In a narrow sense it may be true that Christian Science treatment has not been proven unreasonable, but that is only because the church will not provide the data to do so. Most of society feels in its gut that it is

unreasonable to deprive a diabetic child of insulin and we should let a jury determine that.

It is simply not the state's burden to prove that Christian Science is "unreasonable." It should be the church's burden to prove that their methods work if they want legal recognition as a health care system for sick and injured children.

Who should have exemptions from homicide and manslaughter charges?

To the legislators who voted against the bill on grounds that Christian Scientists should not be "criminalized," we ask: who should be given an exemption that allows them to commit negligent homicide and manslaughter? If blue-eyed carpenters came to the legislature and asked for such an exemption because they were nice people who hadn't let children die from lack of medical care in x number of years, would legislators take their word for it? And would legislators enact a statute allowing blue-eyed carpenters to withhold lifesaving medical care from children?

CHILD's board of directors

CHILD is governed by a board of five persons elected by its members. The board now consists of William Cooley, Ed Ledbetter, Imogene Johnson, Carole Jenny, and Sharon Lutz. Comments, concerns, and questions may be directed to board members as well as President Rita Swan.

The chairman of the board is Dr. William Cooley, 531 Chisholm Trail, Wyoming OH 45215, phone 513-522-2491, e-mail: billcool@concentric.net. Bill has a doctorate in chemistry. After many years in research and regulatory affairs with Proctor and Gamble, Bill now works as an independent regulatory consultant to the drug and cosmetic industries.

Dr. Edgar Ledbetter's address is 13 Birnam Wood, San Antonio TX 78248. His phone # is 210-479-8014; his e-mail address is edledbet@aol.com. Ed was a pediatrics professor at Texas Tech

University from 1979 to 1984. He was director of the American Academy of Pediatrics Department of Maternal, Child and Adolescent Health from 1988 to 1998, and gave much assistance to CHILD in that position. He has scores of scholarly publications on infectious diseases, caregiving, and medical ethics.

Dr. Imogene Johnson's address is 4 Pondsides Drive, Jackson MS 39211. Her phone # is 601-981-6672; her e-mail address is wlj6672@aol.com. She holds an Ed.D. from Oklahoma State University and has taught at the University of Central Oklahoma and Piedmont College. For the past six years Jean has worked as a volunteer in the Jackson elementary public schools. Jean is implementing a large grant that uses a reading program she wrote for the schools. She and her husband have established the Imogene T. Johnson Friend of Children awards, which CHILD gives to honor successful legislative work against religious exemptions.

Dr. Carole Jenny may be contacted at Hasbro Children's Hospital Co-op 140, 593 Eddy Street, Providence RI 02903, Ph. 401-444-3996, e-mail: cjenny@lifespring.org. Carole heads the Division of Child Maltreatment and directs the fellowship program in forensic pediatrics at Brown University School of Medicine. She also directs the Child Protection Program at Hasbro Children's Hospital in Providence, Rhode Island. In 1999 she won the American Academy of Pediatrics' Award for Outstanding Service to Maltreated Children.

Sharon Lutz may be reached at 9031 SW 92nd Court, Miami FL 33156, Ph. 305-275-9334, e-mail: lutzsimon@aol.com. Sharon is an attorney in Miami, Florida, with an undergraduate degree in nursing. From 1976 to 1997, Sharon was in practice with the Charfoos and Christensen law firm in Detroit and in 1992 became a managing partner. In 1980, she filed the country's first wrongful death suit against the Christian Science church. The suit alleged that the church and two of its practitioners were negligent in the death of Matthew Swan. She currently serves on the board of the Miami-Dade County Health Policy Authority and as a volunteer guardian ad litem. She is a member of the American

Association of Nurse Attorneys and several other professional organizations.

Imogene Johnson wins national award



Imogene Johnson

CHILD board member Dr. Imogene Johnson was given the Jefferson Award by the American Institute for Public Service in Washington, D.C. on June 13.

Jean was nominated by WLBT, an African-American television station in Jackson, Mississippi, for her service to the Jackson Public Schools. Working as a volunteer, Jean has spent many hours a week for six years designing a reading program, implementing it, and training Americorps volunteers to assist her.

The American Institute for Public Service was founded by Jacqueline Kennedy Onassis and Senator Robert Taft, Jr. This year 70 award winners were selected from thousands of nominations throughout the country.

In the Pea Green Cemetery

The headstones pictured on the next page are in the Pea Green Cemetery of rural Montrose County, Colorado. They are all for children whose parents belonged to the Church of the Firstborn.

Several more Firstborn children's graves in Pea Green are not depicted. Furthermore, Pea Green is not the only cemetery used by the Church of the Firstborn members of the Western Slope.

Pea Green is a more desolate place on its wind-swept mesa than any other cemetery we've seen. But the graves of the children are so familiar. Their inscriptions about little angels, the drawings of peaceful lambs, the "Suffer the children to come to me"—they could be lifted straight from the Carus Cemetery in Oregon where 78 Followers of Christ children lie buried.

Amanda Bates's grave has no inscription yet. We have heard that her parents with their twelve children are very poor and that a fellow church member gave them a burial plot. Eventually, it too may be adorned with the statement "An angel lives here," like the grave of Angela Sweet, whose death was equally ghastly, unpeaceful, and preventable.

We do not mock the grief of their parents nor their conviction that their children are now in heaven. Nevertheless, honesty also requires that someone tell the truth of how and why these children died.

As Ohio Judge Richard Evans said in 1985 to Christ Assembly parents who let two babies die: this child "did not just slip away peacefully to be with the Lord." *State v. Miskimens*, Coshocton County Court of Common Pleas, case 83-CR-120.

CHILD is a national membership organization whose purpose is to stop child abuse and neglect that is carried out on grounds of religion or cultural tradition. Membership is by application. For more information on CHILD, visit our web page at <http://www.childrenshealthcare.org>.

At Pea Green

