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_____ BILL NO. _____
INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE CORRECTIONAL HEALTH CARE REVIEW TEAM; STANDARDIZING THE MEMBERS OF THE CORRECTIONAL HEALTH CARE REVIEW TEAM; AMENDING SECTIONS 37-1-308 AND 37-1-331, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-1-308, MCA, is amended to read:

"37-1-308. Unprofessional conduct -- complaint -- investigation -- immunity -- exceptions. (1)

Except as provided in subsections (4) and (5), a person, government, or private entity may submit a written complaint to the department charging a licensee or license applicant with a violation of this part and specifying the grounds for the complaint.

(2) (a) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have committed a violation of this part, the department may, with the concurrence of a member of the screening panel established in 37-1-307, investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation.

(b) Except as provided in subsection (2)(c), if the written complaint or information that a licensee or license applicant may have violated a requirement of this part is based on the licensee or license applicant's exercise of rights protected under the free exercise clause or the free speech clause of the Montana constitution or the United States constitution, then the investigation of the licensee or license applicant must cease immediately, and the complaint must be dismissed.

(c) If the complaint alleges an activity by a licensee whose free speech rights are protected under 50-4-1106, the department or licensing board receiving the complaint must comply with the notification

1 requirements of 50-4-1106.

2 (3) A person or private entity, but not a government entity, filing a complaint under this section in
3 good faith is immune from suit in a civil action related to the filing or contents of the complaint.

4 (4) A person under legal custody of a county detention center or incarcerated under legal custody
5 of the department of corrections may not file a complaint under subsection (1) against a licensed or certified
6 provider of health care or rehabilitative services for services that were provided to the person while detained or
7 confined in a county detention center or incarcerated under legal custody of the department of corrections
8 unless the complaint is first reviewed by ~~a~~the correctional health care review team provided for in 37-1-331.

9 (5) A board member may file a complaint with the board on which the member serves or otherwise
10 act in concert with a complainant in developing, authoring, or initiating a complaint to be filed with the board if
11 the board member determines that there are reasonable grounds to believe that a particular statute, rule, or
12 standard has been violated."
13

14 **Section 2.** Section 37-1-331, MCA, is amended to read:

15 **"37-1-331. Correctional health care review team.** (1) (a) There is a correctional health care review
16 team process in the department. The purpose of ~~a~~the review team is to review complaints filed by an ~~inmate~~
17 individual against a licensed or certified provider of health care or rehabilitative services for services that were
18 provided to the ~~person~~individual while the ~~person~~individual was detained or confined in a county detention
19 center or incarcerated under legal custody of the department of corrections.

20 (b) ~~The inmate~~ An individual may file a complaint directly with the correctional health care review
21 team for review or, if a board receives a complaint that has not been reviewed, the board shall forward the
22 complaint to the review team. If the review team has reason to believe that there has been a violation of this
23 part arising out of health care or rehabilitative services provided to ~~a person~~an individual detained or confined
24 in a county detention center, the review team shall report the possible violation to the department for
25 appropriate action under 37-1-308.

26 ~~(2) Each health care licensing board shall solicit and submit to the department a list of licensed or~~
27 ~~certified health care or rehabilitative service professionals who have correctional health care experience and~~
28 ~~who are interested in participating on a team. A current board member may not participate on a review team.~~

1 The department shall solicit from the administrators of the county detention centers and from the department of
2 corrections names of licensed or certified health care or rehabilitative service providers who have correctional
3 health care or rehabilitative services experience and are interested in participating on a review team. Each
4 member of a review team must have at least 2 years of experience in providing health care or rehabilitative
5 services in a correctional facility or program.

6 (3) ~~Each correctional health care review team is composed of three members who shall represent~~
7 ~~health care and rehabilitative service providers who have provided health care or rehabilitative services to~~
8 ~~incarcerated persons. Two members of the review team must be providers of the same discipline and scope of~~
9 ~~practice as the provider against whom a complaint was filed, and the third member may be a provider of any~~
10 ~~other health care or rehabilitative services discipline. The members must be willing to serve without~~
11 ~~compensation. If available, a correctional health care professional employed by the department of corrections~~
12 ~~and appointed by the director of the department of corrections may participate on the review team, except when~~
13 ~~the provider against whom the complaint was filed was employed by the department of corrections.~~

14 (4) (2) (a) ~~The members of a review team are is composed of the presiding officer of the screening~~
15 ~~panel, or the presiding officer's designee, of the following licensing boards: appointed by the department from~~
16 ~~the listing of health care and rehabilitative service providers with correctional experience who have been~~
17 ~~submitted by each respective board, a county detention center administrator, or the department of corrections~~
18 ~~as provided in subsection (2)~~

19 (i) ~~the board of behavioral health as established in 2-15-1744;~~

20 (ii) ~~the board of dentistry as established in 2-15-1732;~~

21 (iii) ~~the board of medical examiners as established in 2-15-1731;~~

22 (iv) ~~the board of nursing as established in 2-15-1734; and~~

23 (v) ~~the board of psychologists as established in 2-15-1741.~~

24 (b) ~~A~~ ~~The~~ review team shall meet at least twice a year. Any travel, lodging, meal, or miscellaneous
25 costs incurred by a review team may be recovered through a memorandum of understanding with the agencies
26 who provide medical services to inmates or may be assessed to the licensing or certifying boards of health care
27 and rehabilitative service providers.

28 (5) (3) The review team shall review each complaint with regard to the health care or rehabilitative

1 services provider's scope of practice. A decision on whether or not to forward the complaint must be made by
2 the majority of the review team. The review team shall submit a written response regarding the decision to the
3 ~~inmate~~ individual, the county detention center administrator or the department of corrections, and the health
4 care or rehabilitative services provider. If the decision is to not forward the complaint for action under 37-1-308,
5 a record of the complaint may not be forwarded to any licensing or certifying board, but must be retained by the
6 department.

7 (4) For the purposes of processing a complaint, the department may communicate with the facility
8 about the complaint in order to identify the licensee about whom the complaint is filed."

9
10 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

11 - END -

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