

SENATE BILL NO. 456

INTRODUCED BY T. MCGILLVRAY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROFESSIONS AND OCCUPATIONS LAWS; ALLOWING A HEALTH CARE STAFF MEMBER OTHER THAN A PRACTITIONER TO DISPENSE DRUGS UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 37-2-104, MCA."

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

Section 1. Section 37-2-104, MCA, is amended to read:

"37-2-104. Dispensing of drugs by medical practitioners -- registration -- exceptions. (1) Subject to subsection (7), a medical practitioner may dispense drugs if the practitioner:

(a) registers with the board of pharmacy provided for in 2-15-1733; and

(b) complies with the requirements of this section.

(2) (a) Drugs dispensed by a medical practitioner must be:

~~(a)~~ (i) dispensed ~~directly~~ by the practitioner at the practitioner's office or place of practice;

~~(b)~~ (ii) dispensed only to the practitioner's own patients; ~~and~~

(iii) dispensed with the offer of counseling from the practitioner; and

~~(c)~~ (iv) necessary in the treatment of the condition for which the practitioner is attending the patient.

(b) Health care staff, other than the practitioner, who are at the practitioner's office or place of practice, may convey the dispensed drugs if:

(i) the drugs are prepared and sealed with two forms of identification written on the package by the provider; and

(ii) the identification of the patient is verified by the staff member conveying the drugs.

(3) Before dispensing a drug, a medical practitioner shall offer to give a patient the prescription in a written, electronic, or facsimile form that the patient may choose to have filled by the practitioner or any pharmacy.

(4) Except as otherwise provided in this section, a medical practitioner:

1 (a) may dispense only those drugs that the practitioner is allowed to prescribe under the
2 practitioner's scope of practice unless the practitioner is engaged in the practice of pharmacy and dispensing a
3 drug pursuant to Title 37, chapter 7; and

4 (b) may not dispense a controlled substance unless the practitioner is engaged in the practice of
5 pharmacy and is dispensing a controlled substance pursuant to Title 37, chapter 7.

6 (5) A medical practitioner dispensing drugs shall comply with and is subject to the provisions of this
7 part and the provisions of:

8 (a) Title 37, chapter 7, parts 4, 5, and 15;

9 (b) Title 50, chapter 31, parts 3 and 5;

10 (c) the labeling, storage, inspection, and recordkeeping requirements established by the board of
11 pharmacy; and

12 (d) all applicable federal laws and regulations.

13 (6) A medical practitioner registering with the board of pharmacy shall pay a fee established by the
14 board by rule. The fee must be paid at the time of registration and on each renewal of the practitioner's license.

15 (7) Except as provided in subsection (8), a medical practitioner registered with the board of
16 pharmacy may not dispense drugs to an injured worker being treated pursuant to Title 39, chapter 71.

17 (8) This section does not prohibit any of the following when a medical practitioner has not
18 registered to dispense drugs or when a practitioner registered to dispense drugs is treating an injured worker
19 pursuant to Title 39, chapter 71:

20 (a) a medical practitioner from furnishing a patient any drug in an emergency;

21 (b) the administration of a unit dose of a drug to a patient by or under the supervision of a medical
22 practitioner;

23 (c) dispensing a drug to a patient by a medical practitioner whenever there is no community
24 pharmacy available to the patient;

25 (d) the dispensing of drugs occasionally, but not as a usual course of doing business, by a medical
26 practitioner;

27 (e) a medical practitioner from dispensing drug samples;

28 (f) the dispensing of factory prepackaged contraceptives, other than mifepristone, by a registered

1 nurse employed by a family planning clinic under contract with the department of public health and human
2 services if the dispensing is in accordance with:

3 (i) a physician's written protocol specifying the circumstances under which dispensing is
4 appropriate; and

5 (ii) the drug labeling, storage, and recordkeeping requirements of the board of pharmacy;

6 (g) a contract physician at an urban Indian clinic from dispensing drugs to qualified patients of the
7 clinic. The clinic may not stock or dispense any dangerous drug, as defined in 50-32-101, or any controlled
8 substance. The contract physician may not delegate the authority to dispense any drug for which a prescription
9 is required under 21 U.S.C. 353(b).

10 (h) a medical practitioner from dispensing a drug if the medical practitioner has prescribed the drug
11 and verified that the drug is not otherwise available from a community pharmacy. A drug dispensed pursuant to
12 this subsection (8)(h) must meet the labeling, storage, and recordkeeping requirements of the board of
13 pharmacy.

14 (i) a medical practitioner from dispensing an opioid antagonist as provided in 50-32-605.

15 (9) For the purposes of this section, the term "medical practitioner" includes a naturopathic
16 physician."

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