

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

19 **NEW SECTION. Section 1. Tort actions -- gender transition treatment for minors.** (1) An action
20 brought by a person for damages for injuries suffered from gender transition treatment the person received as a
21 minor must be commenced ~~within 25~~ 4 ~~2~~ years from ~~by~~ the date the person reaches ~~18~~ 30 ~~25~~ years of age or
22 within 4~~2~~ years from the time of discovery by the person of both the injury and the causal relationship between
23 the gender transition treatment and the injury, whichever occurs later, except that an action may not be
24 commenced after the person reaches 35 years of age.

25 (2) For the purposes of this section, "gender transition treatment" means the following medical
26 treatments provided:

27 (a) to a female minor to address the minor's perception that her gender or sex is not female;

15 **NEW SECTION. Section 2. Reciprocity in gender transition treatment coverage required. (1) A**

16 group or individual insurance policy that includes coverage for gender transition treatment or subsequent

17 treatment directly related to the provision of gender transition treatment must also include coverage for

18 detransition treatment under equivalent cost-sharing policies.

19 (2) If the group or individual insurance policy ceases coverage for gender transition treatment, the
20 policy is not required to provide equivalent coverage for detransition treatment, except that the policy must
21 provide equivalent coverage to insureds who were enrolled when gender transition treatment coverage was
22 provided and received benefits under that coverage.

23 (3) For the purposes of this section "gender transition treatment" means the following medical
24 treatments provided:

25 (a) to a female to address her perception that her gender or sex is not female:

26 (i) surgical procedures, including a vaginectomy, hysterectomy, oophorectomy, ovariectomy,
27 reconstruction of the urethra, metoidioplasty, phalloplasty, scrotoplasty, implantation of erection or testicular

1 protheses, subcutaneous mastectomy, voice surgery, and pectoral implants;

2 (ii) supraphysiologic doses of testosterone or other androgens; or

3 (iii) puberty blockers, such as GnRH agonists or other synthetic drugs that suppress the production

4 of estrogen and progesterone to delay or suppress pubertal development in female minors; and

5 (b) to a male to address his perception that his gender or sex is not male:

6 (i) surgical procedures, including a penectomy, orchiectomy, vaginoplasty, clitoroplasty,

7 vulvoplasty, augmentation mammoplasty, facial feminization surgery, voice surgery, thyroid cartilage reduction,

8 and gluteal augmentation;

9 (ii) supraphysiologic doses of estrogen; or

10 (iii) puberty blockers, such as GnRH agonists or other synthetic drugs that suppress the production

11 of testosterone to delay or suppress pubertal development in male minors.

NEW SECTION. Section 3. Private cause of action for injuries caused by treatment of gender

dysphoria -- definitions. (1) A health care professional or physician who provides the medical treatments listed in subsection (3) to a minor may be subject to a civil action if the medical treatment results in any injury, including physical, psychological, emotional, or physiological harms, that is proximately caused by a deviation from the applicable medical standard of care of the health care professional or physician as established by qualified expert testimony.

(2) Subject to [section 1], a person who suffers an injury described in subsection (1) or the person's legal guardian or estate may bring a civil action against the offending health care professional or physician in a court of competent jurisdiction for:

- (a) declaratory or injunctive relief;
- (b) compensatory damages; and
- (c) any other appropriate relief.

(3) (a) Except as provided in subsection (4), a health care professional or physician may be found liable under subsection (1) for an injury proximately caused by a deviation from the applicable medical standard of care of the health care professional or physician, as established by qualified expert testimony, in providing

1 the following treatments to a minor female patient to address the patient's perception that the patient's gender
2 or sex is not female:

3 (i) surgical procedures, including a vaginectomy, hysterectomy, oophorectomy, ovariectomy,
4 reconstruction of the urethra, metoidioplasty, phalloplasty, scrotoplasty, implantation of erection or testicular
5 prostheses, subcutaneous mastectomy, voice surgery, or pectoral implants;
6 (ii) supraphysiologic doses of testosterone or other androgens; or
7 (iii) puberty blockers such as GnRH agonists or other synthetic drugs that suppress the production
8 of estrogen and progesterone to delay or suppress pubertal development in female minors.

9 (b) Except as provided in subsection (4), a health care professional or physician may be found
10 liable under subsection (1) for an injury proximately caused by a deviation from the applicable medical standard
11 of care of the health care professional or physician, as established by qualified expert testimony, in providing
12 the following treatments to a minor male patient to address the patient's perception that the patient's gender or
13 sex is not male:

14 (i) surgical procedures, including a penectomy, orchiectomy, vaginoplasty, clitoroplasty,
15 vulvoplasty, augmentation mammoplasty, facial feminization surgery, voice surgery, thyroid cartilage reduction,
16 or gluteal augmentation;
17 (ii) supraphysiologic doses of estrogen; or
18 (iii) puberty blockers such as GnRH agonists or other synthetic drugs that suppress the production
19 of testosterone to delay or suppress pubertal development in male minors.

20 (4) The medical treatments listed in subsection (3) may be the basis of a claim under subsection
21 (1) only when knowingly provided to address a minor female patient's perception that the patient's gender or
22 sex is not female or a minor male patient's perception that the patient's gender or sex is not male and only
23 when performed in a manner that deviates from the applicable medical standard of care as established by
24 qualified expert testimony. Subsection (3) does not apply for other purposes, including:

25 (a) treatment for a person born with a medically verifiable disorder of sex development, including:
26 (i) a person born with external biological sex characteristics that are irresolvably ambiguous,
27 including an individual born with 46 XX chromosomes with virilization, an individual born with 46 XY

1 chromosomes with undervirilization, or an individual having both ovarian and testicular tissue; and

2 (ii) a person whom a physician has otherwise diagnosed with a disorder of sexual development in

3 which the physician has determined through genetic or biochemical testing that the person does not have

4 normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or

5 female;

6 (b) treatment of any infection, injury, disease, or disorder that has been caused or exacerbated by

7 a medical treatment listed in subsection (3), whether or not the medical treatment was performed in accordance

8 with state and federal law and whether or not funding for the medical treatment is permissible under state and

9 federal law; or

10 (c) any other clinically appropriate or evidence-based basis for the treatment.

11 (5) As used in this section, unless the context clearly indicates otherwise, the following definitions

12 apply:

13 (a) "Female" means a member of the human species who, under normal development, has XX

14 chromosomes and produces or would produce relatively large, relatively immobile gametes, or eggs, during her

15 life cycle and has a reproductive and endocrine system oriented around the production of those gametes. An

16 individual who would otherwise fall within this definition, but for a biological or genetic condition, is female for

17 the purposes of this section.

18 (b) "Gender" means the psychological, behavioral, social, and cultural aspects of being male or

19 female.

20 (c) "Health care professional" means a person who is licensed, certified, or otherwise authorized

21 by the laws of this state to administer health care in the ordinary course of the practice of the person's

22 profession.

23 (d) "Male" means a member of the human species who, under normal development, has XY

24 chromosomes and produces or would produce small, mobile gametes, or sperm, during his life cycle and has a

25 reproductive and endocrine system oriented around the production of those gametes. An individual who would

26 otherwise fall within this definition, but for a biological or genetic condition, is male for the purposes of this

27 section.

Section 4. Section 2-18-704, MCA, is amended to read:

"2-18-704. Mandatory provisions. (1) An insurance contract or plan issued under this part must

11 contain provisions that permit:

12 (a) the member of a group who retires from active service under the appropriate retirement
13 provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in
14 Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in
15 covered employment to remain a member of the group until the member becomes eligible for medicare under
16 the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another
17 group plan with substantially the same or greater benefits at an equivalent cost or unless the member is
18 employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the
19 same or greater benefits at an equivalent cost;

20 (b) the surviving spouse of a member to remain a member of the group as long as the spouse is
21 eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is
22 eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible
23 for equivalent insurance coverage as provided in subsection (1)(a);

24 (c) the surviving children of a member to remain members of the group as long as they are eligible
25 for retirement benefits accrued by the deceased member as provided by law unless they have equivalent
26 coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of
27 a surviving parent or legal guardian.

1 (2) An insurance contract or plan issued under this part must contain the provisions of subsection

2 (1) for remaining a member of the group and also must permit:

3 (a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

4 (b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

5 (c) continued membership in the group by anyone eligible under the provisions of this section,

6 notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

7 (3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain

8 a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health

9 Insurance for the Aged Act if the legislator:

10 (i) terminates service in the legislature and is a vested member of a state retirement system

11 provided by law; and

12 (ii) notifies the department of administration in writing within 90 days of the end of the legislator's
13 legislative term.

14 (b) A former legislator may not remain a member of the group plan under the provisions of
15 subsection (3)(a) if the person:

16 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

17 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan
18 with substantially the same or greater benefits at an equivalent cost.

19 (c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and
20 subsequently terminates membership may not rejoin the group plan unless the person again serves as a
21 legislator.

22 (4) (a) A state insurance contract or plan must contain provisions that permit continued
23 membership in the state's group plan by a member of the judges' retirement system who leaves judicial office
24 but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The
25 judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial
26 service of the judge's choice to continue membership in the group plan.

27 (b) A former judge may not remain a member of the group plan under the provisions of this

1 subsection (4) if the person:

2 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

3 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan

4 with substantially the same or greater benefits at an equivalent cost; or

5 (iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.

6 (c) A judge who remains a member of the group under the provisions of this subsection (4) and

7 subsequently terminates membership may not rejoin the group plan unless the person again serves in a

8 position covered by the state's group plan.

9 (5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall
10 pay the full premium for coverage and for that of the person's covered dependents.

11 (6) An insurance contract or plan issued under this part that provides for the dispensing of
12 prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

13 (a) must permit any member of a group to obtain prescription drugs from a pharmacy located in
14 Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions,
15 including the same professional requirements that are met by the mail service pharmacy for a drug, without
16 financial penalty to the member; and

17 (b) may only be with an out-of-state mail service pharmacy that is registered with the board under
18 Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

19 (7) An insurance contract or plan issued under this part must include coverage for:

20 (a) treatment of inborn errors of metabolism, as provided for in 33-22-131;

21 (b) therapies for Down syndrome, as provided in 33-22-139;

22 (c) treatment for children with hearing loss as provided in 33-22-128(1) and (2);

23 (d) fertility preservation services as required under 33-22-2103;

24 (e) the care and treatment of mental illness in accordance with the provisions of Title 33, chapter
22, part 7;

26 (f) telehealth services, as provided for in 33-22-138; and

27 (g) refills of prescription eyedrops as provided in 33-22-154.

5 (b) Coverage for well-child care under subsection (8)(a) must include:

9 (ii) routine immunizations according to the schedule for immunization recommended by the
10 advisory committee on immunization practices of the U.S. department of health and human services.

11 (c) Minimum benefits may be limited to one visit payable to one provider for all of the services
12 provided at each visit as provided for in this subsection (8).

13 (d) For purposes of this subsection (8):

18 (9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a
19 dependent terminates at a specified age must continue to provide coverage for any dependent, as defined in
20 the insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans
21 issued under this part, the premium charged for the additional coverage of a dependent, as defined in the
22 insurance contract or plan, may be required to be paid by the insured and not by the employer.

23 (10) Prior to issuance of an insurance contract or plan under this part, written informational
24 materials describing the contract's or plan's cancer screening coverages must be provided to a prospective
25 group or plan member.

26 (11) The state employee group benefit plans and the Montana university system group benefits
27 plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending

1 physician and, in the case of a health maintenance organization, the primary care physician, in consultation
2 with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection
3 for the treatment of breast cancer.

4 (12) (a) (i) The state employee group benefit plans and the Montana university system group
5 benefits plans must provide coverage for medically necessary and prescribed outpatient self-management
6 training and education for the treatment of diabetes. Any education must be provided by a licensed health care
7 professional with expertise in diabetes. At a minimum, the benefit must consist of:

8 (A) 20 visits of training and education in diabetes self-management provided in either an individual
9 or group setting if the person has not received the training and education previously; and

10 (B) 12 visits of followup diabetes self-management training and education services in subsequent
11 years for an insured who has previously received and exhausted the initial 20 visits of education.

12 (ii) For the purposes of this subsection (12)(a), the term "visit" refers to a period of 30 minutes.

13 (b) The state employee group benefit plans and the Montana university system group benefits
14 plans must provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes,
15 injection aids, devices for self-monitoring of glucose levels (including those for the visually impaired), test strips,
16 visual reading and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps,
17 one prescriptive oral agent for controlling blood sugar levels for each class of drug approved by the United
18 States food and drug administration, and glucagon emergency kits.

19 (c) Nothing in subsection (12)(a) or (12)(b) prohibits the state or the Montana university group
20 benefit plans from providing a greater benefit or an alternative benefit of substantially equal value, in which
21 case subsection (12)(a) or (12)(b), as appropriate, does not apply.

22 (d) Annual copayment and deductible provisions are subject to the same terms and conditions
23 applicable to all other covered benefits within a given policy.

24 (e) This subsection (12) does not apply to disability income, hospital indemnity, medicare
25 supplement, accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the
26 Montana university system as benefits to employees, retirees, and their dependents.

27 (13) (a) Except as provided in subsection (16), the state employee group benefit plans and the

1 Montana university system group benefits plans that provide coverage to the spouse or dependents of a peace
2 officer as defined in 45-2-101, a game warden as defined in 19-8-101, a firefighter as defined in 19-13-104, or a
3 volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace
4 officer, game warden, firefighter, or volunteer firefighter dies within the course and scope of employment.
5 Except as provided in subsection (13)(b), the continuation of the coverage is at the option of the spouse or
6 dependents. Renewals of coverage under this section must provide for the same level of benefits as is
7 available to other members of the group. Premiums charged to a spouse or dependent under this section must
8 be the same as premiums charged to other similarly situated members of the group. Dependent special
9 enrollment must be allowed under the terms of the insurance contract or plan. The provisions of this subsection
10 (13)(a) are applicable to a spouse or dependent who is insured under a COBRA continuation provision.

11 (b) The state employee group benefit plans and the Montana university system group benefits
12 plans subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or
13 dependent only if:

14 (i) the spouse or dependent has failed to pay premiums or contributions in accordance with the
15 terms of the state employee group benefit plans and the Montana university system group benefits plans or if
16 the plans have not received timely premium payments;

17 (ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made
18 an intentional misrepresentation of a material fact under the terms of the coverage; or

19 (iii) the state employee group benefit plans and the Montana university system group benefits
20 plans are ceasing to offer coverage in accordance with applicable state law.

21 (14) The state employee group benefit plans and the Montana university system group benefits
22 plans must comply with the provisions of 33-22-153.

23 (15) An insurance contract or plan issued under this part and a group benefits plan issued by the
24 Montana university system must provide mental health coverage that meets the provisions of Title 33, chapter
25 22, part 7.

26 (16) The employing state agency of a law enforcement officer as defined in 2-15-2040 who is
27 covered under the state employee group benefit plan shall:

1 (a) if the officer is catastrophically injured in the line of duty as defined in 2-15-2040, enroll the
2 officer and the officer's covered spouse or dependent children in COBRA continuation coverage when that
3 officer is terminated from employment as a result of the catastrophic injury. The officer and the officer's spouse
4 or dependent children may opt out of COBRA continuation coverage within 60 days of enrollment.

5 (b) enroll the officer's covered spouse or dependent children in COBRA continuation coverage if
6 the officer dies in the line of duty as defined in 2-15-2040. The officer's spouse or dependent children may opt
7 out of COBRA coverage within 60 days of the date of enrollment.

8 (c) pay the COBRA premium for 4 months of COBRA continuation coverage for the officer and the
9 officer's covered spouse or dependent children enrolled in COBRA continuation coverage pursuant to
10 subsections (16)(a) or (16)(b), after which time the officer and the officer's spouse or dependent children shall
11 pay the COBRA premium.

12 (17) (a) An insurance contract or plan issued under this part or a group benefits plan issued by the
13 Montana university system that includes coverage for gender transition treatment or subsequent treatment
14 directly related to the provision of gender transition treatment must also include coverage for detransition
15 treatment under equivalent cost-sharing policies.

16 (b) If an insurance contract or plan issued under this part or a group benefits plan issued by the
17 Montana university system ceases coverage for gender transition treatment, the plan is not required to provide
18 equivalent coverage for detransition treatment, except that the plan must provide equivalent coverage to
19 insureds who were enrolled when gender transition treatment coverage was provided and received benefits
20 under that coverage.

21 (c) For the purposes of this subsection (17), "gender transition treatment" means the following
22 medical treatments provided:

23 (a) to a female to address her perception that her gender or sex is not female:
24 (i) surgical procedures, including a vaginectomy, hysterectomy, oophorectomy, ovariectomy,
25 reconstruction of the urethra, metoidioplasty, phalloplasty, scrotoplasty, implantation of erection or testicular
26 prostheses, subcutaneous mastectomy, voice surgery, and pectoral implants;
27 (ii) supraphysiologic doses of testosterone or other androgens; or

1 (iii) puberty blockers, such as GnRH agonists or other synthetic drugs that suppress the production
2 of estrogen and progesterone to delay or suppress pubertal development in female minors; and
3 (b) to a male to address his perception that his gender or sex is not male:
4 (i) surgical procedures, including a penectomy, orchiectomy, vaginoplasty, clitoroplasty,
5 vulvoplasty, augmentation mammoplasty, facial feminization surgery, voice surgery, thyroid cartilage reduction,
6 and gluteal augmentation;
7 (ii) supraphysiologic doses of estrogen; or
8 (iii) puberty blockers, such as GnRH agonists or other synthetic drugs that suppress the production
9 of testosterone to delay or suppress pubertal development in male minors. (See compiler's comments for
10 contingent termination of certain text.)"

11

12 **Section 5.** Section 27-2-204, MCA, is amended to read:

13 **"27-2-204. Tort actions -- general and personal injury.** (1) Except as provided in 27-2-216 and
14 [section 1], the period prescribed for the commencement of an action upon on a liability not founded upon on an
15 instrument in writing is within 3 years.

16 (2) The period prescribed for the commencement of an action to recover damages for the death of
17 one caused by the wrongful act or neglect of another is within 3 years, except when the wrongful death is the
18 result of a homicide, in which case the period is within 10 years.

19 (3) The period prescribed for the commencement of an action for libel, slander, assault, battery,
20 false imprisonment, or seduction is within 2 years."

21

22 **Section 6.** Section 27-2-205, MCA, is amended to read:

23 **"27-2-205. Actions for medical malpractice.** (1) Action Except as provided in [section 1], action in
24 tort or contract for injury or death against a physician or surgeon, physician assistant, dentist, dental hygienist,
25 registered nurse, advanced practice registered nurse, nursing home or hospital administrator, dispensing
26 optician, optometrist, licensed physical therapist, podiatrist, psychologist, osteopath, chiropractor, clinical
27 laboratory bioanalyst, clinical laboratory technologist, pharmacist, veterinarian, a licensed hospital or long-term

1 care facility, or licensed medical professional corporation, based uponon alleged professional negligence or for
2 rendering professional services without consent or for an act, error, or omission, must, except as provided in
3 subsection (2), be commenced within 2 years after the date of injury or within 2 years after the plaintiff
4 discovers or through the use of reasonable diligence should have discovered the injury, whichever occurs last,
5 but in no case may an action be commenced after 5 years from the date of injury. However, this time limitation
6 is tolled for any period during which there has been a failure to disclose any act, error, or omission uponon
7 which an action is based and that is known to the defendant or through the use of reasonable diligence
8 subsequent to the act, error, or omission would have been known to the defendant.

9 (2) Notwithstanding the provisions of 27-2-401, in an action for death or injury of a minor who was
10 under the age of 4 on the date of the minor's injury, the period of limitations in subsection (1) begins to run
11 when the minor reaches the minor's eighth birthday or dies, whichever occurs first, and the time for
12 commencement of the action is tolled during any period during which the minor does not reside with a parent or
13 guardian."

14

15 **Section 7.** Section 33-31-111, MCA, is amended to read:

16 **"33-31-111. Statutory construction and relationship to other laws.** (1) Except as otherwise
17 provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance
18 organization authorized to transact business under this chapter. This provision does not apply to an insurer or
19 health service corporation licensed and regulated pursuant to the insurance or health service corporation laws
20 of this state except with respect to its health maintenance organization activities authorized and regulated
21 pursuant to this chapter.

22 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority
23 or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

24 (3) A health maintenance organization authorized under this chapter is not practicing medicine and
25 is exempt from Title 37, chapter 3, relating to the practice of medicine.

26 (4) This chapter does not exempt a health maintenance organization from the applicable certificate
27 of need requirements under Title 50, chapter 5, parts 1 and 3.

5 (6) This section does not exempt a health maintenance organization from:

6 (a) prohibitions against interference with certain communications as provided under Title 33,
7 chapter 1, part 8;

- 8 (b) the provisions of Title 33, chapter 22, parts 7 and 19;
- 9 (c) the requirements of 33-22-134 and 33-22-135;
- 10 (d) network adequacy and quality assurance requirements provided under chapter 36; or
- 11 (e) the requirements of Title 33, chapter 18, part 9.

12 (7) Other chapters and provisions of this title apply to health maintenance organizations as follows:

13 Title 33, chapter 1, parts 6, 12, and 13; 33-2-1114; 33-2-1211 and 33-2-1212; Title 33, chapter 2, parts 13, 19,

14 23, and 24; 33-3-401; 33-3-422; 33-3-431; Title 33, chapter 3, part 6; Title 33, chapter 10; Title 33, chapter 12;

15 33-15-308; Title 33, chapter 17; Title 33, chapter 19; 33-22-107; 33-22-114; 33-22-128; 33-22-129; 33-22-131;

16 33-22-136 through 33-22-139; 33-22-141 and 33-22-142; 33-22-152 through 33-22-159; 33-22-180; [section 2];

17 33-22-244; 33-22-246 and 33-22-247; 33-22-514 and 33-22-515; 33-22-521; 33-22-523 and 33-22-524; 33-22-

18 526; 33-22-2103; and Title 33, chapter 32."

20 Section 8. Section 33, 35, 306, MCA, is amended to read:

"33-35-306. **Application of insurance code to arrangements.** (1) In addition to this chapter, self-funded multiple employer welfare arrangements are subject to the following provisions:

23 (a) 33-1-111:

24 (b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare
25 arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter
26 (c) Title 33, chapter 1, part 7;
27 (d) Title 33, chapter 2, parts 23 and 24;

- 1 (e) 33-3-308;
- 2 (f) Title 33, chapter 7;
- 3 (g) Title 33, chapter 18, except 33-18-242;
- 4 (h) Title 33, chapter 19;
- 5 (i) 33-22-107, 33-22-114, 33-22-128, 33-22-129, 33-22-131, 33-22-134, 33-22-135, 33-22-138,
- 6 33-22-139, 33-22-141, 33-22-142, section 2, and 33-22-152 through 33-22-155;
- 7 (j) 33-22-316;
- 8 (k) 33-22-512, 33-22-515, 33-22-525, and 33-22-526;
- 9 (l) Title 33, chapter 22, parts 7 and 21; and
- 10 (m) 33-22-707.

11 (2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded
12 multiple employer welfare arrangement that has been issued a certificate of authority that has not been
13 revoked."

Section 9. Section 53-4-1005, MCA, is amended to read:

"53-4-1005. (Temporary) Benefits provided. (1) Benefits provided to participants in the program

17 may include but are not limited to:

- 18 (a) inpatient and outpatient hospital services;
- 19 (b) physician, physician assistant, and advanced practice registered nurse services;
- 20 (c) laboratory and x-ray services;
- 21 (d) well-child and well-baby services;
- 22 (e) immunizations;
- 23 (f) clinic services;
- 24 (g) dental services;
- 25 (h) prescription drugs;
- 26 (i) mental health and substance abuse treatment services;
- 27 (j) rehabilitative services as defined in 53-4-1103;

1 (k) hearing and vision exams; and

2 (I) eyeglasses.

3 (2) The program must comply with the provisions of 33-22-153 and 53-6-197.

12 (6) If benefits provided under the program include gender transition treatment or subsequent
13 treatment directly related to the provision of gender transition treatment, benefits provided under the program
14 must also include detransition treatment under equivalent cost-sharing policies.

15 (b) If benefits provided under the program cease to include gender transition treatment, the
16 program is not required to provide equivalent coverage for detransition treatment, except that the program must
17 provide equivalent coverage to participants who were enrolled when gender transition treatment was provided
18 and received benefits under that coverage.

19 (c) For the purposes of this subsection (6), "gender transition treatment" means the following
20 medical treatments provided:

21 (a) to a female to address her perception that her gender or sex is not female;

22 (i) surgical procedures, including a vaginectomy, hysterectomy, oophorectomy, ovariectomy,
23 reconstruction of the urethra, metoidioplasty, phalloplasty, scrotoplasty, implantation of erection or testicular
24 prostheses, subcutaneous mastectomy, voice surgery, and pectoral implants:

25 (ii) supraphysiologic doses of testosterone or other androgens; or

26 (iii) puberty blockers, such as GnRH agonists or other synthetic drugs that suppress the production
27 of oestrogen and progesterone to delay or suppress pubertal development in female minors; and

1 (b) to a male to address his perception that his gender or sex is not male:
2 (i) surgical procedures, including a penectomy, orchiectomy, vaginoplasty, clitoroplasty,
3 vulvoplasty, augmentation mammoplasty, facial feminization surgery, voice surgery, thyroid cartilage reduction,
4 and gluteal augmentation;
5 (ii) supraphysiologic doses of estrogen; or
6 (iii) puberty blockers, such as GnRH agonists or other synthetic drugs that suppress the production
7 of testosterone to delay or suppress pubertal development in male minors. (Terminates on occurrence of
8 contingency--sec. 15, Ch. 571, L. 1999; sec. 3, Ch. 169, L. 2007; sec. 10, Ch. 97, L. 2013; sec. 5, Ch. 399, L.
9 2017.)"

10

11 **Section 10.** Section 53-6-101, MCA, is amended to read:

12 **"53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana
13 medicaid program established for the purpose of providing necessary medical services to eligible persons who
14 have need for medical assistance. The Montana medicaid program is a joint federal-state program administered
15 under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The
16 department shall administer the Montana medicaid program.

17 (2) The department and the legislature shall consider the following funding principles when
18 considering changes in medicaid policy that either increase or reduce services:

19 (a) protecting those persons who are most vulnerable and most in need, as defined by a
20 combination of economic, social, and medical circumstances;

21 (b) giving preference to the elimination or restoration of an entire medicaid program or service,
22 rather than sacrifice or augment the quality of care for several programs or services through dilution of funding;
23 and

24 (c) giving priority to services that employ the science of prevention to reduce disability and illness,
25 services that treat life-threatening conditions, and services that support independent or assisted living, including
26 pain management, to reduce the need for acute inpatient or residential care.

27 (3) Medical assistance provided by the Montana medicaid program includes the following services:

- (a) inpatient hospital services;
- (b) outpatient hospital services;
- (c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;
- (d) skilled nursing services in long-term care facilities;
- (e) physicians' services;
- (f) nurse specialist services;
- (g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age, in accordance with federal regulations and subsection (10)(b);
- (h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;
- (i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;
- (j) services that are provided by physician assistants within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;
- (k) health services provided under a physician's orders by a public health department;
- (l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2);
- (m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as provided in 33-22-153;
- (n) for children 18 years of age and younger, habilitative services as defined in 53-4-1103;
- (o) services provided by a person certified in accordance with 37-2-318 to provide services in accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.;
- (p) fertility preservation services in accordance with 33-22-2103; and
- (q) planned home births for women with a low risk of adverse birth outcomes, as established by the appropriate licensing board, that are attended by certified nurse-midwives licensed under Title 37, chapter 8, or direct-entry midwives licensed under Title 37, chapter 27. Coverage under this section includes prenatal care and postpartum care.

1 Act.

2 (5) Services for persons qualifying for medicaid under the medically needy category of assistance,
3 as described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others
4 qualifying for assistance under the Montana medicaid program. The department is not required to provide all of
5 the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy
6 category of assistance.

7 (6) In accordance with federal law or waivers of federal law that are granted by the secretary of the
8 U.S. department of health and human services, the department may implement limited medicaid benefits, to be
9 known as basic medicaid, for adult recipients who are eligible because they are receiving cash assistance, as
10 defined in 53-4-201, as the specified caretaker relative of a dependent child and for all adult recipients of
11 medical assistance only who are covered under a group related to a program providing cash assistance, as
12 defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may
13 include those optional services listed in subsections (4)(a) through (4)(s) that the department in its discretion
14 specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated
15 by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a
16 particular service is commonly covered by private health insurance plans. However, a recipient who is
17 pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or
18 is less than 21 years of age is entitled to full medicaid coverage.

19 (7) The department may implement, as provided for in Title XIX of the Social Security Act, 42
20 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums,
21 deductibles, and coinsurance for persons not otherwise eligible for medicaid.

22 (8) (a) The department may set rates for medical and other services provided to recipients of
23 medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

24 (b) The department shall strive to close gaps in services provided to individuals suffering from
25 mental illness and co-occurring disorders by doing the following:

26 (i) simplifying administrative rules, payment methods, and contracting processes for providing
27 services to individuals of different ages, diagnoses, and treatments. Any adjustments to payments must be

1 cost-neutral for the biennium beginning July 1, 2017.

2 (ii) publishing a report on an annual basis that describes the process that a mental health center or
3 chemical dependency facility, as those terms are defined in 50-5-101, must utilize in order to receive payment
4 from Montana medicaid for services provided to individuals of different ages, diagnoses, and treatments.

5 (9) The services provided under this part may be only those that are medically necessary and that
6 are the most efficient and cost-effective.

7 (10) (a) The amount, scope, and duration of services provided under this part must be determined
8 by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be
9 amended.

10 (b) The department shall, with reasonable promptness, provide access to all medically necessary
11 services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access
12 to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.

13 (11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

14 (12) (a) Prior to enacting changes to provider rates, medicaid waivers, or the medicaid state plan,
15 the department shall report this information to the following committees:

16 (i) the children, families, health, and human services interim committee;

17 (ii) the legislative finance committee; and

18 (iii) the health and human services budget committee.

19 (b) In its report to the committees, the department shall provide an explanation for the proposed
20 changes and an estimated budget impact to the department over the next 4 fiscal years.

21 (13) If available funds are not sufficient to provide medical assistance for all eligible persons, the
22 department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical
23 services made available under the Montana medicaid program after taking into consideration the funding
24 principles set forth in subsection (2).

25 (14) If services provided under the Montana medicaid program include gender transition treatment
26 or subsequent treatment directly related to the provision of gender transition treatment, services provided under
27 the program must also include detransition treatment under equivalent cost-sharing policies.

1 (b) If services provided under the program cease to include gender transition treatment, the
2 program is not required to provide equivalent coverage for detransition treatment, except that the program must
3 provide equivalent coverage to recipients who were enrolled when gender transition treatment was provided
4 and received benefits under that coverage.

5 (c) For the purposes of this subsection (14), "gender transition treatment" means the following
6 medical treatments provided:

7 (a) to a female to address her perception that her gender or sex is not female:

8 (i) surgical procedures, including a vaginectomy, hysterectomy, oophorectomy, ovariotomy,
9 reconstruction of the urethra, metoidioplasty, phalloplasty, scrotoplasty, implantation of erection or testicular
10 prostheses, subcutaneous mastectomy, voice surgery, and pectoral implants;

11 (ii) supraphysiologic doses of testosterone or other androgens; or

12 (iii) puberty blockers, such as GnRH agonists or other synthetic drugs that suppress the production
13 of estrogen and progesterone to delay or suppress pubertal development in female minors; and

14 (b) to a male to address his perception that his gender or sex is not male:

15 (i) surgical procedures, including a penectomy, orchiectomy, vaginoplasty, clitoroplasty,
16 vulvoplasty, augmentation mammoplasty, facial feminization surgery, voice surgery, thyroid cartilage reduction,
17 and gluteal augmentation;

18 (ii) supraphysiologic doses of estrogen; or

19 (iii) puberty blockers, such as GnRH agonists or other synthetic drugs that suppress the production
20 of testosterone to delay or suppress pubertal development in male minors. (Subsection (3)(o) terminates
21 September 30, 2025--sec. 1, Ch. 298, L. 2023; bracketed language in subsection (4)(b) terminates June 30,
22 2031--sec. 10, Ch. 628, L. 2023.)"

23
24 **NEW SECTION. SECTION 10. TWO-YEAR LOOK BACK. A CAUSE OF ACTION ALLEGING INJURIES TO HAVE**
25 **BEEN CAUSED BY PROCEDURES DESCRIBED IN [SECTION 1] THAT WOULD OTHERWISE BE BARRED BY THE APPLICABLE**
26 **STATUTE OF LIMITATIONS MAY BE COMMENCED WITHIN 2 YEARS OF [THE EFFECTIVE DATE OF THIS ACT].**

27

1 **NEW SECTION. Section 11. Codification instruction.** (1) [Section 1] is intended to be codified as
2 an integral part of Title 27, chapter 2, part 2, and the provisions of Title 27, chapter 2, part 2, apply to [section
3 1].

4 (2) [Section 2] is intended to be codified as an integral part of Title 33, chapter 22, part 1, and the
5 provisions of Title 33, chapter 22, part 1, apply to [section 2].

6 (3) [Section 3] is intended to be codified as a new part in Title 50, chapter 4, and the provisions of
7 Title 50, chapter 4, apply to [section 3].

8

9 **NEW SECTION. Section 12. Effective date dates.** (1) Except as provided in subsection (2), [This
10 ~~act~~ [this act] is effective October 1, 2026.

11 (2) [Section 13] and this section are effective on passage and approval.

12

13 **NEW SECTION. SECTION 13. RETROACTIVE APPLICABILITY.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2),
14 [SECTION 1] APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO PREVIOUSLY FILED ACTIONS THAT HAVE
15 BEEN DISMISSED ON THE BASIS OF AN EXPIRED STATUTE OF LIMITATIONS.

16 (2) [SECTION 1] DOES NOT APPLY TO:

17 (A) A CLAIM THAT HAS BEEN LITIGATED TO FINALITY ON THE MERITS IN A COURT OF COMPETENT
18 JURISDICTION PRIOR TO [THE EFFECTIVE DATE OF THIS ACT]; OR

19 (B) A SETTLEMENT AGREEMENT REACHED PRIOR TO [THE EFFECTIVE DATE OF THIS ACT] THAT INVOLVES
20 CLAIMS ALLEGING INJURIES CAUSED BY THE PROCEDURES DESCRIBED IN [SECTION 1].

21

22 **COORDINATION SECTION. Section 13. Coordination instruction.** If both Senate Bill No. 218 and
23 [this act] are passed and approved, then [section 1 of Senate Bill No. 218] and [section 2 of Senate No. Bill
24 218], amending 27-2-205, are void.

25

26 **NEW SECTION. Section 14. Severability.** If a part of [this act] is invalid, all valid parts that are
27 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

1 the part remains in effect in all valid applications that are severable from the invalid applications.

2

3 NEW SECTION. SECTION 14. APPLICABILITY. [SECTION 1] APPLIES TO A CAUSE OF ACTION PENDING OR

4 COMMENCED ON OR AFTER [THE EFFECTIVE DATE OF THIS ACT], REGARDLESS OF WHEN THE CAUSE OF ACTION AROSE.

5

- END -