

HOUSE BILL NO. 50

INTRODUCED BY C. JUNEAU

BY REQUEST OF THE DEPARTMENT OF COMMERCE

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A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE CERTIFICATION OF CHEMICAL DEPENDENCY COUNSELORS TO LICENSURE OF ADDICTION COUNSELORS; AMENDING SECTIONS 33-22-702, 33-22-705, 33-32-102, 37-23-201, 37-35-101, 37-35-102, 37-35-103, 37-35-201, 37-35-202, 37-35-203, 37-35-301, 37-35-304, 45-5-624, 45-9-208, 45-10-108, 53-24-301, AND 61-8-732, MCA; AND PROVIDING EFFECTIVE DATES."

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

Section 1. Section 33-22-702, MCA, is amended to read:

"33-22-702. Definitions. For purposes of this part, the following definitions apply:

(1) "Chemical dependency treatment center" means a treatment facility that:

(a) provides a program for the treatment of alcoholism or drug addiction pursuant to a written treatment plan approved and monitored by a physician or ~~chemical dependency~~ addiction counselor ~~certified~~ licensed by the state; and

(b) is licensed or approved as a treatment center by the department of public health and human services under 53-24-208.

(2) "Inpatient benefits" are as set forth in 33-22-705.

(3) "Mental health treatment center" means a treatment facility organized to provide care and treatment for mental illness through multiple modalities or techniques pursuant to a written treatment plan approved and monitored by an interdisciplinary team, including a licensed physician, psychiatric social worker, and psychologist, and a treatment facility that is:

(a) licensed as a mental health treatment center by the state;

(b) funded or eligible for funding under federal or state law; or

(c) affiliated with a hospital under a contractual agreement with an established system for patient referral.

(4) (a) "Mental illness" means a clinically significant behavioral or psychological syndrome or

1 pattern that occurs in a person and that is associated with:

2 (i) present distress or a painful symptom;

3 (ii) a disability or impairment in one or more areas of functioning; or

4 (iii) a significantly increased risk of suffering death, pain, disability, or an important loss of freedom.

5 (b) Mental illness must be considered as a manifestation of a behavioral, psychological, or
6 biological dysfunction in a person.

7 (c) Mental illness does not include:

8 (i) a developmental disorder;

9 (ii) a speech disorder;

10 (iii) a psychoactive substance use disorder;

11 (iv) an eating disorder, except for bulimia and anorexia nervosa;

12 (v) an impulse control disorder, except for intermittent explosive disorder and trichotillomania; or

13 (vi) a severe mental illness as provided in 33-22-706.

14 (5) "Outpatient benefits" are as set forth in 33-22-705."
15

16 **Section 2.** Section 33-22-705, MCA, is amended to read:

17 **"33-22-705. Inpatient and outpatient benefits.** (1) "Inpatient benefits" are benefits payable for
18 charges made by a hospital or freestanding inpatient facility for the necessary care and treatment of mental
19 illness, alcoholism, or drug addiction furnished to a covered person while confined as an inpatient and, with
20 respect to major medical policies or contracts, also includes those benefits payable for charges made by
21 a physician for the necessary care and treatment of mental illness, alcoholism, or drug addiction furnished
22 to a covered person while confined as an inpatient. Care and treatment of alcoholism or drug addiction in
23 a freestanding inpatient facility must be in a chemical dependency treatment center that is approved by
24 the department of public health and human services under 53-24-208. Inpatient benefits include payment
25 for medically monitored and medically managed intensive inpatient services and clinically managed
26 high-intensity residential services.

27 (2) "Outpatient benefits" are benefits payable for:

28 (a) reasonable charges made by a hospital for the necessary care and treatment of mental illness,
29 alcoholism, or drug addiction furnished to a covered person while not confined as an inpatient;

30 (b) reasonable charges for services rendered or prescribed by a physician for the necessary care

1 and treatment for mental illness, alcoholism, or drug addiction furnished to a covered person while not
2 confined as an inpatient;

3 (c) reasonable charges made by a mental health or chemical dependency treatment center for the
4 necessary care and treatment of a covered person provided in the treatment center. The chemical
5 dependency treatment center must be approved by the department of public health and human services
6 under 53-24-208.

7 (d) reasonable charges for services rendered by a licensed psychiatrist, psychologist, licensed
8 professional counselor, licensed social worker, or ~~chemical dependency~~ addiction counselor ~~certified~~
9 licensed by the department of commerce under Title 37, chapter 35."

10

11 **Section 3.** Section 33-32-102, MCA, is amended to read:

12 **"33-32-102. Definitions.** As used in this chapter, the following definitions apply:

13 (1) "Commissioner" means the commissioner of insurance provided for in 2-15-1903.

14 (2) "Health care provider" means a person, corporation, facility, or institution licensed by the state
15 to provide or otherwise lawfully providing health care services, including but not limited to:

16 (a) a physician, health care facility as defined in 50-5-101, osteopath, dentist, nurse, optometrist,
17 chiropractor, podiatrist, physical therapist, psychologist, licensed social worker, speech pathologist,
18 audiologist, ~~certified chemical dependency~~ licensed addiction counselor, or licensed professional counselor;
19 and

20 (b) an officer, employee, or agent of a person described in subsection (2)(a) acting in the course
21 and scope of employment.

22 (3) "Health care services" means the health care and services provided by health care providers,
23 including drugs, medicines, ambulance services, and other therapeutic and rehabilitative services and
24 supplies.

25 (4) (a) "Utilization review" means a system for review of health care services for a patient to
26 determine the necessity or appropriateness of services, whether that review is prospective, concurrent,
27 or retrospective, when the review will be ~~utilized~~ used directly or indirectly in order to determine whether
28 the health care services will be paid, covered, or provided.

29 (b) Utilization review does not include routine claim administration or determination that does not
30 include determinations of medical necessity or appropriateness."

1

2 **Section 4.** Section 37-23-201, MCA, is amended to read:

3 **"37-23-201. Representation or practice as licensed clinical professional counselor -- license**
4 **required.** (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title
5 "licensed clinical professional counselor" or "professional counselor".

6 (2) Except as provided in subsection (3), a person may not represent that the person is a licensed
7 professional counselor or licensed clinical professional counselor by adding the letters "LPC" or "LCPC"
8 after the person's name or by any other means, engage in the practice of professional counseling, or
9 represent that the person is engaged in the practice of professional counseling, unless licensed under this
10 chapter.

11 (3) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title
12 "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or
13 "LCPC".

14 (4) Subsection (2) does not prohibit:

15 (a) a qualified member of another profession, such as a physician, lawyer, pastoral counselor,
16 probation officer, court employee, nurse, school counselor, educator, chemical dependency counselor
17 accredited by a federal agency, or ~~chemical dependency~~ addiction counselor ~~certified~~ licensed pursuant
18 to Title 37, chapter 35, from performing duties and services consistent with the person's licensure or
19 certification and the code of ethics of the person's profession or, in the case of a qualified member of
20 another profession who is not licensed or certified or for whom there is no applicable code of ethics, from
21 performing duties and services consistent with the person's training, as long as the person does not
22 represent by title that the person is engaging in the practice of professional counseling;

23 (b) an activity or service or use of an official title by a person employed by or acting as a volunteer
24 for a federal, state, county, or municipal agency or an educational, research, or charitable institution that
25 is a part of the duties of the office or position;

26 (c) an activity or service of an employee of a business establishment performed solely for the
27 benefit of the establishment's employees;

28 (d) an activity or service of a student, intern, or resident in mental health counseling pursuing a
29 course of study at an accredited university or college or working in a generally recognized training center
30 if the activity or service constitutes a part of the supervised course of study;

1 (e) an activity or service of a person who is not a resident of this state, which activity or service
 2 is rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year, if the
 3 person is authorized under the law of the state or country of residence to perform the activity or service.
 4 However, the person shall report to the department of commerce the nature and extent of the activity or
 5 service if it exceeds 10 days in a calendar year.

6 (f) pending disposition of the application for a license, the activity or service by a person who has
 7 recently become a resident of this state, has applied for a license within 90 days of taking up residency
 8 in this state, and is licensed to perform the activity or service in the state of the person's former residence;

9 (g) an activity or service of a person who is working to satisfactorily complete the 3,000 hours
 10 of counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a
 11 planned graduate program, as required by 37-23-202(1)(a), or is working to complete the 3,000 hours of
 12 social work experience as required by 37-22-301; or

13 (h) an activity or service performed by a licensed social worker, licensed psychiatrist, or licensed
 14 psychologist when performing the activity or service in a manner consistent with the person's license and
 15 the code of ethics of the person's profession."

16

17 **Section 5.** Section 37-35-101, MCA, is amended to read:

18 **"37-35-101. Purpose.** The legislature finds and declares that because the profession of ~~chemical~~
 19 ~~dependency~~ addiction counseling profoundly affects the lives of people of this state, it is the purpose of
 20 this chapter to provide for the common good by ensuring the ethical, qualified, and professional practice
 21 of ~~chemical-dependency~~ addiction counseling. This chapter and the rules promulgated under 37-35-103
 22 set standards of qualification, education, training, and experience and establish professional ethics for
 23 those who seek to engage in the practice of ~~chemical-dependency~~ addiction counseling as ~~certified~~
 24 ~~chemical-dependency~~ licensed addiction counselors."

25

26 **Section 6.** Section 37-35-102, MCA, is amended to read:

27 **"37-35-102. Definitions.** As used in this chapter, the following definitions apply:

28 (1) "Accredited college or university" means a college or university accredited by a regional
 29 accrediting association for institutions of higher learning.

30 (2) "~~Certified chemical-dependency counselor~~" means a person who has the knowledge and skill

1 ~~necessary to provide the therapeutic process of chemical dependency counseling and who is certified~~
 2 ~~under the provisions of this chapter.~~

3 ~~———(3) "Chemical dependency" means the use of any chemical substance, legal or illegal, that creates~~
 4 ~~behavior or health problems, or both, resulting in operational impairment. "Addiction" means the condition~~
 5 ~~or state in which an individual is physiologically or psychologically dependent upon alcohol or other drugs.~~
 6 ~~This The term includes alcoholism, drug dependency, or both, that endanger the health, interpersonal~~
 7 ~~relationships, or economic functions of an individual or the public health, safety, or welfare chemical~~
 8 ~~dependency as defined in 53-24-103.~~

9 ~~(4)(3) "Department" means the department of commerce provided for in 2-15-1801.~~

10 ~~(4) "Licensed addiction counselor" means a person who has the knowledge and skill necessary~~
 11 ~~to provide the therapeutic process of addiction counseling and who is licensed under the provisions of this~~
 12 ~~chapter."~~

13

14 **Section 7.** Section 37-35-103, MCA, is amended to read:

15 **"37-35-103. Department powers and duties.** (1) The department shall:

16 (a) examine, ~~certify~~ license, and renew the ~~certificates~~ licenses of qualified applicants;

17 (b) adopt rules:

18 (i) for eligibility requirements and competency standards;

19 (ii) prescribing the time, place, content, and passing requirements of the ~~certification~~ licensure and
 20 competency examinations and passing scores for ~~certification~~ licensure under 37-35-202;

21 (iii) for application forms and fees for ~~certification~~ licensure and for renewal and ~~certification~~
 22 licensure expiration dates; and

23 (iv) defining any unprofessional conduct that is not included in 37-1-316; and

24 (c) adopt and implement rules for training programs, internships, and continuing education
 25 requirements to ensure the quality of ~~chemical dependency~~ addiction counseling.

26 (2) The department may:

27 (a) adopt rules necessary to implement the provisions of this chapter;

28 (b) adopt rules specifying the scope of ~~chemical dependency~~ addiction counseling that are
 29 consistent with the education required by 37-35-202; and

30 (c) establish ~~recertification~~ licensure requirements and procedures that the department considers

1 appropriate."

2

3 **Section 8.** Section 37-35-201, MCA, is amended to read:

4 **"37-35-201. ~~Certificate~~ License required -- exceptions.** (1) Except as otherwise provided in this
5 chapter, a person may not practice ~~chemical dependency~~ addiction counseling or represent to the public
6 that the person is a ~~certified chemical dependency~~ licensed addiction counselor unless the person is
7 ~~certified~~ licensed under the provisions of this chapter.

8 (2) This chapter does not prohibit an activity or service:

9 (a) performed by a qualified member of a profession, such as a physician, lawyer, licensed
10 professional counselor, licensed social worker, licensed psychiatrist, licensed psychologist, nurse, probation
11 officer, court employee, pastoral counselor, or school counselor, consistent with the person's licensure
12 or certification and the code of ethics of the person's profession, as long as the person does not represent
13 by title that the person is a ~~certified chemical dependency~~ licensed addiction counselor. If a person is a
14 qualified member of a profession that is not licensed or certified or for which there is no applicable code
15 of ethics, this section does not prohibit an activity or service of the profession as long as the person does
16 not represent by title that the person is a ~~certified chemical dependency~~ licensed addiction counselor.

17 (b) of, or use of an official title by, a person employed or acting as a volunteer for a federal, state,
18 county, or municipal agency or an educational, research, or charitable institution if that activity or service
19 or use of that title is a part of the duties of the office or position;

20 (c) of an employee of a business establishment performed solely for the benefit of the
21 establishment's employees;

22 (d) of a student, intern, or resident in ~~chemical dependency~~ addiction counseling who is pursuing
23 a course of study at an accredited college or university or who is working in a generally recognized training
24 center if the activity or service constitutes part of the course of study;

25 (e) of a person who is not a resident of this state if the activity or service is rendered for a period
26 that does not exceed, in the aggregate, 60 days during a calendar year and if the person is authorized
27 under the laws of the state or country of residence to perform the activity or service. However, the person
28 shall report to the department the nature and extent of the activity or service if it exceeds 10 days in a
29 calendar year.

30 (f) of a person who is working to satisfactorily complete supervised ~~chemical dependency~~

1 addiction counseling experience required for ~~certification~~ licensure.

2 (3) This chapter is not intended to limit, preclude, or interfere with the practice of other persons
3 and health care providers licensed by the appropriate agencies of the state of Montana."

4

5 **Section 9.** Section 37-35-202, MCA, is amended to read:

6 "**37-35-202. ~~Certification~~ Licensure requirements -- examination -- fees.** (1) To be eligible for
7 ~~certification~~ licensure as a ~~chemical dependency~~ licensed addiction counselor, the applicant shall submit
8 an application fee in an amount established by the department by rule and a written application on a form
9 provided by the department that demonstrates that the applicant has completed the eligibility requirements
10 and competency standards as defined by department rule.

11 (2) A person may apply for ~~certification~~ licensure as a ~~certified-chemical dependency~~ licensed
12 addiction counselor if the person has:

13 (a) received a baccalaureate degree in alcohol and drug studies, psychology, sociology, social
14 work, counseling, or a related field from an accredited college or university;

15 (b) received an associate of arts degree in alcohol and drug studies, ~~chemical dependency~~
16 addiction, or substance abuse from an accredited institution; or

17 (c) successfully completed at least 1 year of formalized training in ~~chemical dependency~~ addiction
18 counseling in a program approved by the department or recognized under the laws of another state.

19 (3) Prior to becoming eligible to begin the examination process, each person shall complete
20 supervised work experience in a ~~chemical dependency~~ an addiction treatment program as defined by the
21 department, in an internship approved by the department, or in a similar program recognized under the
22 laws of another state.

23 (4) Each applicant shall successfully complete a competency examination process as defined by
24 rules adopted by the department.

25 (5) A person holding a ~~certificate~~ license to practice as a ~~certified-chemical dependency~~ licensed
26 addiction counselor in this state may use the title "~~certified-chemical dependency~~ "licensed addiction
27 counselor"."

28

29 **Section 10.** Section 37-35-202, MCA, is amended to read:

30 "**37-35-202. ~~Certification~~ Licensure requirements -- examination -- fees.** (1) To be eligible for

1 ~~certification~~ license as a ~~chemical dependency licensed addiction~~ counselor, the applicant shall submit
 2 an application fee in an amount established by the department by rule and a written application on a form
 3 provided by the department that demonstrates that the applicant has completed the eligibility requirements
 4 and competency standards as defined by department rule.

5 (2) A person may apply for ~~certification~~ license as a ~~certified chemical dependency licensed~~
 6 addiction counselor if the person has:

7 (a) received a baccalaureate degree in alcohol and drug studies, psychology, sociology, social
 8 work, counseling, or a related field from an accredited college or university; or

9 (b) received an associate of arts degree in alcohol and drug studies, ~~chemical dependency~~
 10 addiction, or substance abuse from an accredited institution; ~~or~~

11 ~~——(c) successfully completed at least 1 year of formalized training in chemical dependency counseling~~
 12 ~~in a program approved by the department or recognized under the laws of another state.~~

13 (3) Prior to becoming eligible to begin the examination process, each person shall complete
 14 supervised work experience in a ~~chemical dependency~~ an addiction treatment program as defined by the
 15 department, in an internship approved by the department, or in a similar program recognized under the
 16 laws of another state.

17 (4) Each applicant shall successfully complete a competency examination process as defined by
 18 rules adopted by the department.

19 (5) A person holding a ~~certificate~~ license to practice as a ~~certified chemical dependency licensed~~
 20 addiction counselor in this state may use the title "~~certified chemical dependency~~ licensed addiction
 21 counselor"."

22

23 **Section 11.** Section 37-35-203, MCA, is amended to read:

24 **"37-35-203. Renewal of ~~certificate~~ license -- application and fee.** (1) A ~~certificate~~ license expires
 25 biennially on the date set by department rule.

26 (2) A ~~certificate~~ license holder may renew a ~~certificate~~ license by:

27 (a) filing an application on a form prescribed by the department; and

28 (b) paying a renewal fee in an amount established by the department.

29 (3) A default in the payment of a renewal fee after the date it is due may increase the fee, as
 30 prescribed by the department by rule.

1 (4) It is unlawful for a person who refuses or fails to pay the renewal fee to practice as a ~~certified~~
2 ~~chemical dependency licensed addiction~~ counselor in this state.

3 (5) A ~~certificate~~ license not renewed within 1 year following its expiration date terminates
4 automatically."

5

6 **Section 12.** Section 37-35-301, MCA, is amended to read:

7 **"37-35-301. Unprofessional conduct complaint -- sanctions.** (1) A formal complaint alleging
8 unprofessional conduct by a ~~certified chemical dependency licensed addiction~~ counselor may be directed
9 to the department. The charges must be made by an affidavit, subscribed and sworn to by the person
10 making it, and filed with the department.

11 (2) The complaint may allege any unprofessional conduct contained in 37-1-316 or as further
12 defined by department rule that constitutes a threat to the public health, safety, or welfare and that is
13 inappropriate to the practice of a ~~certified chemical dependency licensed addiction~~ counselor.

14 (3) The director of the department shall appoint a review panel to investigate a complaint of
15 unprofessional conduct directed to the department. The panel must consist of:

- 16 (a) two ~~certified chemical dependency licensed addiction~~ counselors;
17 (b) one employee of the department; and
18 (c) two members of the public.

19 (4) The panel shall recommend to the department either that the person be cleared of any charges
20 or that a sanction or combination of sanctions contained in 37-1-312 be imposed.

21 (5) For the purposes of this section, the department is vested with a board's authority for the
22 purposes of the procedures in 37-1-307 through 37-1-318 regarding unprofessional conduct, and
23 37-1-301 through 37-1-318 apply to any proceeding under this section."

24

25 **Section 13.** Section 37-35-304, MCA, is amended to read:

26 **"37-35-304. Transition -- transfer of ~~certificates~~ license.** The department shall grant a ~~certificate~~
27 license to practice as a licensed addiction counselor without the need for further application or other
28 requirements to those persons holding a current, unrestricted certificate as a certified chemical dependency
29 counselor as of ~~July 1, 1997~~ October 1, 2001, that was issued by the ~~department of public health and~~
30 ~~human services~~ state."

1

2 **Section 14.** Section 45-5-624, MCA, is amended to read:

3 **"45-5-624. Unlawful attempt to purchase or possession of intoxicating substance -- interference**
4 **with sentence or court order.** (1) A person under 21 years of age commits the offense of possession of
5 an intoxicating substance if the person knowingly consumes or has in the person's possession an
6 intoxicating substance. A person does not commit the offense if the person consumes or gains possession
7 of the beverage because it was lawfully supplied to the person under 16-6-305 or when in the course of
8 employment it is necessary to possess alcoholic beverages.

9 (2) In addition to any disposition by the youth court under 41-5-1512, a person under 18 years
10 of age who is convicted of the offense of possession of an intoxicating substance:

11 (a) for the first offense, shall be fined an amount not to exceed \$100 and:

12 (i) must have the person's driver's license confiscated by the court for not less than 30 days and
13 not more than 90 days and shall be ordered not to drive during that period if the person was driving or was
14 otherwise in actual physical control of a motor vehicle when the offense occurred;

15 (ii) shall be ordered to perform community service if a community service program is available; and

16 (iii) shall be ordered to complete and pay, either directly with money or indirectly through
17 court-ordered community service, if any is available, all costs of participation in a community-based
18 substance abuse information course, if one is available;

19 (b) for a second offense, shall be fined an amount not to exceed \$200 and:

20 (i) must have the person's driver's license suspended for not less than 60 days and not more than
21 120 days;

22 (ii) shall be ordered to perform community service if a community service program is available; and

23 (iii) shall be ordered to complete and pay, either directly with money or indirectly through
24 court-ordered community service, if any is available, all costs of participation in a community-based
25 substance abuse information course, if one is available;

26 (c) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than
27 \$500 and:

28 (i) must have the person's driver's license suspended for not less than 120 days and not more
29 than 1 year, except that if the person was driving or was otherwise in actual physical control of a motor
30 vehicle when the offense occurred, must have the person's driver's license revoked for 1 year or until the

1 person reaches the age of 18, whichever occurs last;

2 (ii) shall be ordered to complete and pay, either directly with money or indirectly through
3 court-ordered community service, if any is available, all costs of participation in a community-based
4 substance abuse information course, if one is available, which may include alcohol or drug treatment, or
5 both, approved by the department of public health and human services, if determined by the court to be
6 appropriate.

7 (3) A person 18 years of age or older who is convicted of the offense of possession of an
8 intoxicating substance:

9 (a) for a first offense, shall be fined an amount not to exceed \$50 and be ordered to perform
10 community service if a community service program is available;

11 (b) for a second offense, shall be fined an amount not to exceed \$100 and:

12 (i) shall be ordered to perform community service if a community service program is available; and

13 (ii) must have the person's driver's license suspended for not more than 60 days if the person was
14 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

15 (c) for a third or subsequent offense, shall be fined an amount not to exceed \$200 and:

16 (i) shall be ordered to perform community service if a community service program is available;

17 (ii) must have the person's driver's license suspended for not more than 120 days if the person
18 was driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

19 (iii) shall be ordered to complete an alcohol information course at an alcohol treatment program
20 approved by the department of public health and human services, which may, in the sentencing court's
21 discretion and upon recommendation of a ~~certified chemical dependency~~ licensed addiction counselor,
22 include alcohol or drug treatment, or both; and

23 (iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed
24 6 months.

25 (4) A person under 21 years of age commits the offense of attempt to purchase an intoxicating
26 substance if the person knowingly attempts to purchase an alcoholic beverage. A person convicted of
27 attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$50 if the person
28 was 18 years of age or older at the time that the offense was committed or \$100 if the person was under
29 18 years of age at the time that the offense was committed.

30 (5) A defendant who fails to comply with a sentence and is under 21 years of age and was under

1 18 years of age when the defendant failed to comply must be transferred to the youth court. If
2 proceedings for failure to comply with a sentence are held in the youth court, the offender must be treated
3 as an alleged youth in need of intervention as defined in 41-5-103. The youth court may enter its judgment
4 under 41-5-1512.

5 (6) A person commits the offense of interference with a sentence or court order if the person
6 purposely or knowingly causes a child or ward to fail to comply with a sentence imposed under this section
7 or a youth court disposition order for a youth found to have violated this section and upon conviction shall
8 be fined \$100 or imprisoned in the county jail for 10 days, or both.

9 (7) A conviction or youth court adjudication under this section must be reported by the court to
10 the department of justice under 61-11-101 for the purpose of keeping a record of the number of offenses
11 committed but may not be considered part of the person's driving record for insurance purposes unless
12 a second or subsequent conviction or adjudication under this section occurs. (See compiler's comments
13 for contingent termination of certain text.)"

14

15 **Section 15.** Section 45-9-208, MCA, is amended to read:

16 **"45-9-208. Mandatory dangerous drug information course.** A person who is convicted of an
17 offense under this chapter and given a sentence that makes the offense a misdemeanor, as defined in
18 45-2-101, shall, in addition to any other sentence imposed, be sentenced to complete a dangerous drug
19 information course offered by a chemical dependency facility approved by the department of public health
20 and human services under 53-24-208. The sentencing judge may include in the sentencing order a
21 condition that the person shall undergo chemical dependency treatment if a ~~certified chemical dependency~~
22 licensed addiction counselor working with the person recommends treatment."

23

24 **Section 16.** Section 45-10-108, MCA, is amended to read:

25 **"45-10-108. Mandatory dangerous drug information course.** A person who is convicted of an
26 offense under this chapter and given a sentence that makes the offense a misdemeanor, as defined in
27 45-2-101, shall, in addition to any other sentence imposed, be sentenced to complete a dangerous drug
28 information course offered by a chemical dependency facility approved by the department of public health
29 and human services under 53-24-208. The sentencing judge may include in the sentencing order a
30 condition that the person shall undergo chemical dependency treatment if a ~~certified chemical dependency~~

1 licensed addiction counselor working with the person recommends treatment."

2

3 **Section 17.** Section 53-24-301, MCA, is amended to read:

4 **"53-24-301. Treatment of the chemically dependent.** (1) An applicant for voluntary admission or
5 court-referred admission to an approved public treatment facility shall obtain confirmation from a ~~certified~~
6 ~~chemical dependency~~ licensed addiction counselor that the applicant is chemically dependent and
7 appropriate for inpatient, freestanding care as described in the administrative rules. The department shall
8 adopt rules to establish policies and procedures governing assessment, patient placement, confirmation,
9 and admission to an approved public treatment facility. If the proposed patient is a minor or an
10 incompetent person, the proposed patient, a parent, legal guardian, or other legal representative may make
11 the application.

12 (2) Subject to rules adopted by the department, the administrator of an approved public treatment
13 facility may determine who is admitted for treatment. If a person is refused admission to an approved
14 public treatment facility, the administrator, subject to departmental rules, shall refer the person to an
15 approved private treatment facility for treatment if possible and appropriate.

16 (3) If a patient receiving inpatient care leaves an approved public treatment facility, the patient
17 must be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the
18 administrator of the treatment facility that the patient is chemically dependent and requires help, the
19 department shall arrange for assistance in obtaining supportive services and residential facilities.

20 (4) If a patient leaves an approved public treatment facility, with or against the advice of the
21 administrator of the facility, the department shall make reasonable provisions for the patient's
22 transportation to another facility or to the patient's home. If the patient has no home, the patient must be
23 assisted in obtaining shelter. If the patient is a minor or an incompetent person, the request for discharge
24 from an inpatient facility must be made by a parent, legal guardian, or other legal representative or by the
25 minor or incompetent, if the minor or incompetent person was the original applicant."

26

27 **Section 18.** Section 61-8-732, MCA, is amended to read:

28 **"61-8-732. Driving under influence of alcohol or drugs -- driving with excessive alcohol**
29 **concentration -- assessment, education, and treatment required.** (1) In addition to the punishments
30 provided in 61-8-714, 61-8-722, and 61-8-731, regardless of disposition, a defendant convicted of a

1 violation of 61-8-401 or 61-8-406 shall complete:

2 (a) a chemical dependency assessment;

3 (b) a chemical dependency education course; and

4 (c) on a second or subsequent conviction for a violation of 61-8-401 or 61-8-406 or as required
5 by subsection (8) of this section, chemical dependency treatment.

6 (2) The sentencing judge may, in the judge's discretion, require the defendant to complete the
7 chemical dependency assessment prior to sentencing the defendant. If the assessment is not ordered or
8 completed before sentencing, the judge shall order the chemical dependency assessment as part of the
9 sentence.

10 (3) The chemical dependency assessment and the chemical dependency education course must
11 be completed at a treatment program approved by the department of public health and human services
12 and must be conducted by a ~~certified chemical dependency~~ licensed addiction counselor. The defendant
13 may attend a treatment program of the defendant's choice as long as the treatment services are provided
14 by a ~~certified chemical dependency~~ licensed addiction counselor. The defendant shall pay the cost of the
15 assessment, the education course, and chemical dependency treatment.

16 (4) The assessment must describe the defendant's level of addiction, if any, and contain a
17 recommendation as to education, treatment, or both. A defendant who disagrees with the initial
18 assessment may, at the defendant's cost, obtain a second assessment provided by a ~~certified chemical~~
19 ~~dependency~~ licensed addiction counselor or a program approved by the department of public health and
20 human services.

21 (5) The treatment provided to the defendant at a treatment program must be at a level appropriate
22 to the defendant's alcohol or drug problem, or both, as determined by a ~~certified chemical dependency~~
23 licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department
24 of public health and human services. Upon determination, the court shall order the defendant's appropriate
25 level of treatment. If more than one counselor makes a determination as provided in this subsection, the
26 court shall order an appropriate level of treatment based upon the determination of one of the counselors.

27 (6) Each counselor providing education or treatment shall, at the commencement of the education
28 or treatment, notify the court that the defendant has been enrolled in a chemical dependency education
29 course or treatment program. If the defendant fails to attend the education course or treatment program,
30 the counselor shall notify the court of the failure.

1 (7) A court or counselor may not require attendance at a self-help program other than at an "open
2 meeting", as that term is defined by the self-help program. A defendant may voluntarily participate in
3 self-help programs.

4 (8) Chemical dependency treatment must be ordered for a first-time offender convicted of a
5 violation of 61-8-401 or 61-8-406 upon a finding of chemical dependency made by a ~~certified chemical~~
6 ~~dependency licensed addiction~~ counselor pursuant to diagnosis and patient placement rules adopted by
7 the department of public health and human services.

8 (9) (a) On a second or subsequent conviction, the treatment program provided for in subsection
9 (5) must be followed by monthly monitoring for a period of at least 1 year from the date of admission to
10 the program.

11 (b) If a defendant fails to comply with the monitoring program imposed under subsection (9)(a),
12 the court shall revoke the suspended sentence, if any, impose any remaining portion of the suspended
13 sentence, and may include additional monthly monitoring for up to an additional 6 months."

14

15 NEW SECTION. Section 19. Effective dates. (1) [Sections 1 through 9 and 11 through 18 and
16 this section] are effective ~~October 1, 2001~~ JANUARY 1, 2002.

17 (2) [Section 10] is effective January 1, 2004.

18 - END -