

## 1 HOUSE BILL NO. 413

2 INTRODUCED BY B. DAVIES

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4 A BILL FOR AN ACT ENTITLED: "AN ACT RECOGNIZING THE RIGHT OF A PERSON LICENSED  
5 PURSUANT TO TITLE 37, CHAPTER 7, MCA, TO REFUSE TO PERFORM AN ACT BECAUSE OF A  
6 PERSONAL, ETHICAL, MORAL, OR RELIGIOUS OBJECTION; PROVIDING FOR THE IMMUNITY OF THE  
7 PERSON REQUESTED TO PERFORM THE ACT; AMENDING SECTION 37-7-103, MCA; AND PROVIDING  
8 AN APPLICABILITY DATE."

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

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12 **Section 1.** Section 37-7-103, MCA, is amended to read:13 **"37-7-103. Exemptions.** Subject only to 37-7-401 and 37-7-402, this chapter does not:

14 (1) subject a person who is licensed in this state to practice medicine, dentistry, or veterinary  
15 medicine to inspection by the board, prevent the person from compounding or using drugs, medicines,  
16 chemicals, or poisons in the person's practice, or prevent a person who is licensed to practice medicine  
17 from furnishing to a patient drugs, medicines, chemicals, or poisons that the person considers proper in  
18 the treatment of the patient;

19 (2) prevent the sale of drugs, medicines, chemicals, or poisons at wholesale;

20 (3) prevent the sale of drugs, chemicals, or poisons ~~either at either~~ either wholesale or retail for use for  
21 commercial purposes or in the arts or ~~changes~~ change any of the provisions of this code relating to the  
22 sale of insecticides and fungicides; and does not prevent the sale of common household preparations and  
23 other drugs if the stores selling them are licensed under the terms of this chapter;

24 (4) apply to or interfere with manufacture, wholesaling, vending, or retailing of flavoring extracts,  
25 toilet articles, cosmetics, perfumes, spices, and other commonly used household articles of a chemical  
26 nature for use for nonmedicinal purposes;

27 (5) prevent a registered nurse employed by a family planning clinic under contract with the  
28 department of public health and human services from dispensing factory prepackaged oral contraceptives  
29 if the dispensing is in accordance with a physician's written protocol specifying the circumstances under  
30 which dispensing is appropriate and is in accordance with the ~~board of pharmacy's~~ board's requirements

1 for labeling, storage, and recordkeeping of drugs; or  
2 (6) prevent a person licensed pursuant to this chapter from objecting to and refusing to take an  
3 action that the person is licensed to take if that objection and refusal is made in accordance with [section  
4 2]."

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6 **NEW SECTION. Section 2. Claim of conscience.** (1) The right of a person licensed pursuant to  
7 this chapter to object to the performance of an act authorized to be taken pursuant to this chapter on a  
8 basis provided in subsection (3) must be respected.

9 (2) A refusal to perform an act or the omission of an act based on a claim of conscience, as  
10 provided in subsection (3), may not serve as the basis for denial of employment, a legal action, or a  
11 discriminatory action against the person refusing to perform the act or making the omission.

12 (3) A refusal to perform an act or the omission of an act authorized by this chapter:

13 (a) must be based upon demonstrable personal, ethical, moral, or religious grounds;

14 (b) must be communicated to the person requesting the act that is refused or omitted; and

15 (c) may not knowingly cause death or injury to the person requesting the act to be taken or to  
16 another person.

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18 **NEW SECTION. Section 3. Codification instruction.** [Section 2] is intended to be codified as an  
19 integral part of Title 37, chapter 7, and the provisions of Title 37, chapter 7, apply to [section 2].

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21 **NEW SECTION. Section 4. Applicability.** [This act] applies to a refusal to perform an act or  
22 omission of an act made in accordance with [section 2] after October 1, 2001.

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