

HOUSE BILL NO. 714

INTRODUCED BY K. PETERSON

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING MEDICAL NARRATIVE REPORTS TO BE ADMITTED INTO EVIDENCE DURING A CIVIL PROCEEDING; ALLOWING FOR OBJECTION AND CROSS-EXAMINATION BY THE OPPOSING PARTY; AND AMENDING SECTION 25-7-404, MCA."

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

NEW SECTION. Section 1. Admissibility of medical reports -- qualifications of person signing reports -- right of cross-examination. (1) In the trial of a civil case involving injury or disease, a medical report in narrative form is admissible and must be received into evidence and treated in the same manner as if the information were presented by a witness at trial if:

- (a) the report is signed and dated by an examining or treating licensed health care provider; and
- (b) the report and notice of intent to introduce the report as evidence at trial are provided to the opposing party at least 60 days in advance of the trial.

(2) The following information from a medical narrative report may be admitted into evidence:

- (a) information pertaining to the history, examination, diagnosis, treatment, prognosis, or interpretation of medical tests or examinations;
- (b) the basis for any of the items listed in subsection (2)(a); and
- (c) the opinion of the health care provider signing the report concerning the etiology of the injury or disease, if included as part of the diagnosis.

(3) A statement of the qualifications of the person signing the report may be included as part of the basis for providing the information in the report.

(4) The opposing party:

- (a) may object to the admissibility of any portion of the report, other than on the ground that it is hearsay, within 15 days of being provided with the report; and
- (b) has the right to cross-examine the person signing the report and to provide rebuttal testimony.

(5) The party submitting the report as evidence may also introduce the testimony of the person signing the report to supplement information in the report.

1 (6) For purposes of this section, "licensed health care provider" means a person licensed, certified, or
2 otherwise authorized by the laws of this state to provide health care in the ordinary course of business or practice
3 of a profession.

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5 **NEW SECTION. Section 2. Medical report -- jury.** A medical narrative report submitted into evidence
6 pursuant to [section 1] must be presented to a jury in the same manner as depositions are presented to a jury
7 under Rule 32 of the Montana Rules of Civil Procedure.

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9 **Section 3.** Section 25-7-404, MCA, is amended to read:
10 **"25-7-404. Papers ~~which~~ that may be taken into jury room.** Upon retiring for deliberation, the jurors
11 may take with them all papers ~~which~~ that have been received as evidence in the cause except depositions,
12 medical narrative reports submitted pursuant to [section 1], or copies of such any papers as ~~ought~~ that should
13 not, in the opinion of the court, ~~to~~ be taken from the person having them in possession. ~~They~~ Jurors may also take
14 ~~with them~~ into the jury room notes ~~of~~ that they have taken on the testimony or other proceedings on the trial ~~taken~~
15 ~~by themselves or any of them~~ but ~~none~~ may not take into the jury room notes taken by any other person."

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17 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified
18 as an integral part of Title 26, chapter 1, part 1, and the provisions of Title 26, chapter 1, apply to [sections 1 and
19 2].

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