

SENATE BILL NO. 189

INTRODUCED BY J. KEANE

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PHARMACISTS TO ADMINISTER THE INFLUENZA VACCINE TO INDIVIDUALS WHO ARE 12 YEARS OF AGE OR OLDER; AND AMENDING SECTION 37-7-101, MCA."

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

**Section 1.** Section 37-7-101, MCA, is amended to read:

**"37-7-101. Definitions.** As used in this chapter, the following definitions apply:

(1) (a) "Administer" means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

(b) ~~The~~ Except as provided in [section 2], the term does not include immunization by injection for children under 18 years of age.

(2) "Board" means the board of pharmacy provided for in 2-15-1733.

(3) "Cancer drug" means a prescription drug used to treat:

(a) cancer or its side effects; or

(b) the side effects of a prescription drug used to treat cancer or its side effects.

(4) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(5) "Clinical pharmacist practitioner" means a licensed pharmacist in good standing who meets the requirements specified in 37-7-306.

(6) "Collaborative pharmacy practice" means the practice of pharmacy by a pharmacist who has agreed to work in conjunction with one or more prescribers, on a voluntary basis and under protocol, and who may perform certain patient care functions under certain specified conditions or limitations authorized by the prescriber.

(7) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more prescribers that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients.

- 1           (8) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce,  
2 exclusive of the practices of medicine and pharmacy.
- 3           (9) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or  
4 device based on:
- 5           (a) a practitioner's prescription drug order;
- 6           (b) a professional practice relationship between a practitioner, pharmacist, and patient;
- 7           (c) research, instruction, or chemical analysis, but not for sale or dispensing; or
- 8           (d) the preparation of drugs or devices based on routine, regularly observed prescribing patterns.
- 9           (10) "Confidential patient information" means privileged information accessed by, maintained by, or  
10 transmitted to a pharmacist in patient records or that is communicated to the patient as part of patient counseling.
- 11           (11) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part  
12 17.
- 13           (12) "Device" has the same meaning as defined in 37-2-101.
- 14           (13) "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription  
15 drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable  
16 container appropriately labeled for administration to or use by a patient.
- 17           (14) "Distribute" means the delivery of a drug or device by means other than administering or dispensing.
- 18           (15) "Drug" means a substance:
- 19           (a) recognized as a drug in any official compendium or supplement;
- 20           (b) intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in humans or  
21 animals;
- 22           (c) other than food, intended to affect the structure or function of the body of humans or animals; and
- 23           (d) intended for use as a component of a substance specified in subsection (15)(a), (15)(b), or (15)(c).
- 24           (16) "Drug utilization review" means an evaluation of a prescription drug order and patient records for  
25 duplication of therapy, interactions, proper utilization, and optimum therapeutic outcomes. The term includes but  
26 is not limited to the following evaluations:
- 27           (a) known allergies;
- 28           (b) rational therapy contraindications;
- 29           (c) reasonable dose and route administration;
- 30           (d) reasonable directions for use;

- 1 (e) drug-drug interactions;  
2 (f) drug-food interactions;  
3 (g) drug-disease interactions; and  
4 (h) adverse drug reactions.

5 (17) "Equivalent drug product" means a drug product that has the same established name, active  
6 ingredient or ingredients, strength or concentration, dosage form, and route of administration and meets the same  
7 standards as another drug product as determined by any official compendium or supplement. Equivalent drug  
8 products may differ in shape, scoring, configuration, packaging, excipients, and expiration time.

9 (18) "Health care facility" has the meaning provided in 50-5-101.

10 (19) (a) "Health clinic" means a facility in which advice, counseling, diagnosis, treatment, surgery, care,  
11 or services relating to preserving or maintaining health are provided on an outpatient basis for a period of less  
12 than 24 consecutive hours to a person not residing at or confined to the facility.

13 (b) The term includes an outpatient center for primary care and an outpatient center for surgical services,  
14 as those terms are defined in 50-5-101, and a local public health agency as defined in 50-1-101.

15 (c) The term does not include a facility that provides routine health screenings, health education, or  
16 immunizations.

17 (20) "Hospital" has the meaning provided in 50-5-101.

18 (21) "Intern" means:

19 (a) a person who is licensed by the state to engage in the practice of pharmacy while under the personal  
20 supervision of a preceptor and who is satisfactorily progressing toward meeting the requirements for licensure  
21 as a pharmacist;

22 (b) a graduate of an accredited college of pharmacy who is licensed by the state for the purpose of  
23 obtaining practical experience as a requirement for licensure as a pharmacist;

24 (c) a qualified applicant awaiting examination for licensure; or

25 (d) a person participating in a residency or fellowship program.

26 (22) "Long-term care facility" has the meaning provided in 50-5-101.

27 (23) (a) "Manufacturing" means the production, preparation, propagation, conversion, or processing of  
28 a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by  
29 means of chemical or biological synthesis.

30 (b) Manufacturing includes:

1 (i) any packaging or repackaging;  
2 (ii) labeling or relabeling;  
3 (iii) promoting or marketing; and  
4 (iv) preparing and promoting commercially available products from bulk compounds for resale by  
5 pharmacies, practitioners, or other persons.

6 (24) "Medicine" means a remedial agent that has the property of curing, preventing, treating, or mitigating  
7 diseases or which is used for this purpose.

8 (25) "Participant" means a physician's office, pharmacy, hospital, or health clinic that has elected to  
9 voluntarily participate in the cancer drug repository program provided for in 37-7-1403 and that accepts donated  
10 cancer drugs or devices under rules adopted by the board.

11 (26) "Patient counseling" means the communication by the pharmacist of information, as defined by the  
12 rules of the board, to the patient or caregiver in order to ensure the proper use of drugs or devices.

13 (27) "Person" includes an individual, partnership, corporation, association, or other legal entity.

14 (28) "Pharmaceutical care" means the provision of drug therapy and other patient care services intended  
15 to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's  
16 symptoms, or arresting or slowing of disease process.

17 (29) "Pharmacist" means a person licensed by the state to engage in the practice of pharmacy and who  
18 may affix to the person's name the term "R.Ph."

19 (30) "Pharmacy" means an established location, either physical or electronic, registered by the board  
20 where drugs or devices are dispensed with pharmaceutical care or where pharmaceutical care is provided.

21 (31) "Pharmacy technician" means an individual who assists a pharmacist in the practice of pharmacy.

22 (32) "Poison" means a substance that, when introduced into the system, either directly or by absorption,  
23 produces violent, morbid, or fatal changes or that destroys living tissue with which it comes in contact.

24 (33) "Practice of pharmacy" means:

25 (a) interpreting, evaluating, and implementing prescriber orders;

26 (b) administering drugs and devices pursuant to a collaborative practice agreement and compounding,  
27 labeling, dispensing, and distributing drugs and devices, including patient counseling;

28 (c) properly and safely procuring, storing, distributing, and disposing of drugs and devices and  
29 maintaining proper records;

30 (d) monitoring drug therapy and use;

1 (e) initiating or modifying drug therapy in accordance with collaborative pharmacy practice agreements  
2 established and approved by health care facilities or voluntary agreements with prescribers;

3 (f) participating in quality assurance and performance improvement activities;

4 (g) providing information on drugs, dietary supplements, and devices to patients, the public, and other  
5 health care providers; and

6 (h) participating in scientific or clinical research as an investigator or in collaboration with other  
7 investigators.

8 (34) "Practice telepharmacy" means to provide pharmaceutical care through the use of information  
9 technology to patients at a distance.

10 (35) "Preceptor" means an individual who is registered by the board and participates in the instructional  
11 training of a pharmacy intern.

12 (36) "Prescriber" has the same meaning as provided in 37-7-502.

13 (37) "Prescription drug" means any drug that is required by federal law or regulation to be dispensed only  
14 by a prescription subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 353.

15 (38) "Prescription drug order" means an order from a prescriber for a drug or device that is communicated  
16 directly or indirectly by the prescriber to the furnisher by means of a signed order, by electronic transmission, in  
17 person, or by telephone. The order must include the name and address of the prescriber, the prescriber's license  
18 classification, the name and address of the patient, the name, strength, and quantity of the drug, drugs, or device  
19 prescribed, the directions for use, and the date of its issue. These stipulations apply to written, oral, electronically  
20 transmitted, and telephoned prescriptions and orders derived from collaborative pharmacy practice.

21 (39) "Provisional community pharmacy" means a pharmacy that has been approved by the board,  
22 including but not limited to federally qualified health centers, as defined in 42 CFR 405.2401, where prescription  
23 drugs are dispensed to appropriately screened, qualified patients.

24 (40) "Qualified patient" means a person who is uninsured, indigent, or has insufficient funds to obtain  
25 needed prescription drugs or cancer drugs.

26 (41) "Utilization plan" means a plan under which a pharmacist may use the services of a pharmacy  
27 technician in the practice of pharmacy to perform tasks that:

28 (a) do not require the exercise of the pharmacist's independent professional judgment; and

29 (b) are verified by the pharmacist.

30 (42) "Wholesale" means a sale for the purpose of resale."

