_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO DISPENSING OF DRUGS BY MEDICAL PRACTITIONERS; ALLOWING MEDICAL PRACTITIONERS TO DISPENSE DRUGS TO PATIENTS; ESTABLISHING REQUIREMENTS FOR MEDICAL PRACTITIONER DISPENSING; REQUIRING REGISTRATION; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 37-2-104 AND 50-31-307, MCA."

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

Section 1. Section 37-2-104, MCA, is amended to read:

"**37-2-104. Dispensing of drugs by medical practitioners ~~unlawful -- exceptions~~ -- registration -- exceptions.** (1) ~~Except as otherwise provided by this section, it is unlawful for a medical practitioner to engage, directly or indirectly, in the dispensing of~~ A medical practitioner may dispense drugs as provided in this section.

(2) Drugs dispensed by a medical practitioner must be:

(a) dispensed directly by the practitioner at the practitioner's office or place of practice;

(b) dispensed only to the practitioner's own patients; and

(c) necessary in the treatment of the condition for which the practitioner is attending the patient.

(3) Before dispensing a drug, a medical practitioner shall offer to give a patient the prescription in a written, electronic, or facsimile form that the patient may choose to have filled by the practitioner or any pharmacy.

(4) Except as otherwise provided in this section, a medical practitioner:

(a) may dispense only those drugs that the practitioner is allowed to prescribe under the practitioner's scope of practice; and

(b) may not dispense a controlled substance.

(5) A medical practitioner dispensing drugs shall comply with and is subject to the provisions of this part and the provisions of:

(a) Title 37, chapter 7, parts 4, 5, and 15;

(b) Title 50, chapter 31, parts 3 and 5;

(c) the labeling, storage, and recordkeeping requirements established by the board of pharmacy; and

(d) all applicable federal laws and regulations.

(6) Except as provided in subsection (7), a medical practitioner wishing to dispense drugs shall register with the board of pharmacy provided for in 2-15-1733 and pay a fee established by the board by rule. The fee must be paid at the time of registration and on each renewal of the practitioner's license.

~~(2)~~(7) This section does not prohibit any of the following when a medical practitioner has not registered to dispense drugs:

(a) a medical practitioner from furnishing a patient any drug in an emergency;

(b) the administration of a unit dose of a drug to a patient by or under the supervision of a medical practitioner;

(c) dispensing a drug to a patient by a medical practitioner whenever there is no community pharmacy available to the patient;

(d) the dispensing of drugs occasionally, but not as a usual course of doing business, by a medical practitioner;

(e) a medical practitioner from dispensing drug samples;

(f) the dispensing of factory prepackaged contraceptives, other than mifepristone, by a registered nurse employed by a family planning clinic under contract with the department of public health and human services if the dispensing is in accordance with:

(i) a physician's written protocol specifying the circumstances under which dispensing is appropriate; and

(ii) the drug labeling, storage, and recordkeeping requirements of the board of pharmacy;

(g) a contract physician at an urban Indian clinic from dispensing drugs to qualified patients of the clinic. The clinic may not stock or dispense any dangerous drug, as defined in 50-32-101, or any controlled substance. The contract physician may not delegate the authority to dispense any drug for which a prescription is required under 21 U.S.C. 353(b).

(h) a medical practitioner from dispensing a drug if the medical practitioner has prescribed the drug

and verified that the drug is not otherwise available from a community pharmacy. A drug dispensed pursuant to this subsection ~~(2)~~ ~~(h)~~ (7)(h) must meet the labeling, storage, and recordkeeping requirements of the board of pharmacy.

(i) a medical practitioner from dispensing an opioid antagonist as provided in 50-32-605."

NEW SECTION. **Section 2. Report to legislature and governor.** The board of pharmacy shall submit a report to the legislature, in accordance with 5-11-210, and to the governor no later than September 30, 2023, detailing:

(1) the number of medical practitioners who registered with the board to dispense prescription drugs;

(2) any enforcement actions taken by the board or another licensing entity related to complaints about the dispensing practices of medical practitioners; and

(3) any actions taken by the board or another licensing entity in response to complaints about or investigations into the dispensing practices of medical practitioners.

Section 3. Section 50-31-307, MCA, is amended to read:

"**50-31-307. Dispensing of prescription drugs.** (1) A drug intended for use by humans that is included in one of the categories in subsection (2) may be dispensed only if a practitioner licensed by law to administer or prescribe the drug:

(a) provides a written prescription;

(b) transmits the prescription directly to the pharmacy by electronic means or directly dispenses the drug pursuant to 37-2-104;

(c) provides an oral prescription that is reduced promptly to writing and filed by the pharmacist or practitioner, if the practitioner dispenses the drug; or

(d) authorizes the refilling of a written, electronic, or oral prescription either in the original prescription or by an oral order that is reduced promptly to writing and filed by the pharmacist or practitioner, if the practitioner fills the prescription.

(2) A drug must be dispensed as provided in subsection (1) if the drug:

(a) is a habit-forming drug to which 50-31-306(1)(d) applies;

(b) because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer or prescribe the drug; or

(c) is limited by an approved application under section 505 of the federal act (21 U.S.C. 355) or 50-31-311 to use under the professional supervision of a practitioner licensed by law to administer or prescribe the drug.

(3) If the drug is a factory prepackaged contraceptive, other than mifepristone, it may be dispensed as provided in subsection (1) or by a registered nurse employed by a family planning clinic under contract with the department of public health and human services pursuant to a physician's written protocol specifying the circumstances under which dispensing is appropriate and pursuant to the board of pharmacy's rules concerning labeling, storage, and recordkeeping of drugs.

(4) The act of dispensing a drug contrary to the provisions of this section is considered an act that results in a drug being misbranded while held for sale."

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