

SENATE BILL NO. 397  
INTRODUCED BY K. GILLAN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A MEDICAL PRACTITIONER TO DISPENSE DRUGS AT EMPLOYER-BASED ONSITE CLINICS PURSUANT TO A PRESCRIPTION WRITTEN BY A MEDICAL PRACTITIONER; AMENDING SECTION 37-2-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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.** (1) Except as otherwise provided by this section, it is unlawful for a medical practitioner to engage, directly or indirectly, in the dispensing of drugs.

(2) This section does not prohibit:

- (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 by a medical practitioner:
    - (i) occasionally, but not as a usual course of doing business, ~~by a medical practitioner;~~ or
    - (ii) at an employer-based onsite clinic pursuant to a written prescription from a medical practitioner;
  - (e) a medical practitioner from dispensing drug samples;
  - (f) the dispensing of factory prepackaged oral contraceptives 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)."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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