

HOUSE BILL NO. 271

INTRODUCED BY A. OLSZEWSKI

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE DISPENSING OF DRUGS BY MEDICAL PRACTITIONERS TO ALLOW FOR THE DISPENSING OF DRUGS BY PHYSICIANS; AND AMENDING SECTIONS 37-2-104 AND 37-7-103, 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. (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 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

1 under 21 U.S.C. 353(b).

2 (h) a medical practitioner from dispensing a drug if the medical practitioner has prescribed the drug and
3 verified that the drug is not otherwise available from a community pharmacy. A drug dispensed pursuant to this
4 subsection (2)(h) must meet the labeling requirements of the board of pharmacy.

5 (3) A physician as defined in 37-3-102 may dispense a drug that the physician has prescribed to a patient
6 if the dispensing is in accordance with the drug labeling requirements of the board of pharmacy."

7

8 **Section 2.** Section 37-7-103, MCA, is amended to read:

9 **"37-7-103. Exemptions.** Subject only to 37-7-401 and 37-7-402, this chapter does not:

10 (1) subject a person who is licensed in this state to practice medicine, dentistry, or veterinary medicine
11 to inspection by the board, prevent the person from compounding or using drugs, medicines, chemicals, or
12 poisons in the person's practice, or prevent a person who is licensed to practice medicine from dispensing a drug
13 to a patient as provided in 37-2-104 or furnishing to a patient drugs, medicines, chemicals, or poisons that the
14 person considers proper in the treatment of the patient;

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

16 (3) prevent the sale of drugs, chemicals, or poisons at either wholesale or retail for use for commercial
17 purposes or in the arts;

18 (4) change any of the provisions of this code relating to the sale of insecticides and fungicides;

19 (5) prevent the sale of common household preparations and other drugs if the stores selling them are
20 licensed under the terms of this chapter;

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

24 (7) prevent a registered nurse employed by a family planning clinic under contract with the department
25 of public health and human services from dispensing factory prepackaged contraceptives, other than
26 mifepristone, if the dispensing is in accordance with a physician's written protocol specifying the circumstances
27 under which dispensing is appropriate and is in accordance with the board's requirements for labeling, storage,
28 and recordkeeping of drugs; or

29 (8) prevent a certified agency from possessing, or a certified euthanasia technician or support personnel
30 under the supervision of the employing veterinarian from administering, any controlled substance authorized by

1 the board of veterinary medicine for the purpose of euthanasia pursuant to Title 37, chapter 18, part 6."

2 - END -