

HOUSE BILL NO. 476

INTRODUCED BY D. HAYMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS CONCERNING THE SUPERVISION OF MEDICAL ASSISTANTS; PROVIDING FOR PHYSICIAN ASSISTANT SUPERVISION OF MEDICAL ASSISTANTS; EXPANDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 37-3-102 AND 37-3-104, MCA."

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

Section 1. Section 37-3-102, MCA, is amended to read:

"37-3-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "ACGME" means the accreditation council for graduate medical education.

(2) "AOA" means the American osteopathic association.

(3) "Approved internship" means an internship training program of at least 1 year in a program that either is approved for intern training by the AOA or conforms to the standards for intern training established by the ACGME or successors. However, the board may, upon investigation, approve any other internship.

(4) "Approved medical school" means a school that either is accredited by the AOA or conforms to the education standards established by the LCME or the world health organization or successors for medical schools that meet standards established by the board by rule.

(5) "Approved residency" means a residency training program conforming to the standards for residency training established by the ACGME or successors or approved for residency training by the AOA.

(6) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(7) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(8) "ECP" means an emergency care provider licensed by the board, including but not limited to an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic.

(9) "LCME" means the liaison committee on medical education.

(10) "Medical assistant" means an unlicensed allied health care worker who functions under the supervision of a physician, physician assistant, or podiatrist in a physician's or podiatrist's office and who performs

1 administrative and clinical tasks.

2 (11) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and
3 who has a valid license to practice medicine or osteopathic medicine in this state.

4 (12) "Practice of medicine" means the diagnosis, treatment, or correction of or the attempt to or the
5 holding of oneself out as being able to diagnose, treat, or correct human conditions, ailments, diseases, injuries,
6 or infirmities, whether physical or mental, by any means, methods, devices, or instrumentalities, including
7 electronic and technological means such as telemedicine. If a person who does not possess a license to practice
8 medicine in this state under this chapter and who is not exempt from the licensing requirements of this chapter
9 performs acts constituting the practice of medicine, the person is practicing medicine in violation of this chapter.

10 (13) (a) "Telemedicine" means the practice of medicine using interactive electronic communications,
11 information technology, or other means between a licensee in one location and a patient in another location with
12 or without an intervening health care provider. Telemedicine typically involves the application of secure
13 videoconferencing or store-and-forward technology, as defined in 33-22-138.

14 (b) The term does not mean an audio-only telephone conversation, an e-mail or instant messaging
15 conversation, or a message sent by facsimile transmission."
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17 **Section 2.** Section 37-3-104, MCA, is amended to read:

18 **"37-3-104. Medical assistants -- guidelines.** (1) The board shall adopt guidelines by administrative rule
19 for:

20 (a) the performance of administrative and clinical tasks by a medical assistant that are allowed to be
21 delegated by a physician, physician assistant, or podiatrist, including the administration of medications; and

22 (b) the level of physician, physician assistant, or podiatrist supervision required for a medical assistant
23 when performing specified administrative and clinical tasks delegated by a physician, physician assistant, or
24 podiatrist. However, the board shall adopt a rule requiring onsite supervision of a medical assistant by a
25 physician, physician assistant, or podiatrist for invasive procedures, administration of medication, or allergy
26 testing.

27 (2) The physician, physician assistant, or podiatrist who is supervising the medical assistant is
28 responsible for:

29 (a) ensuring that the medical assistant is competent to perform clinical tasks and meets the requirements
30 of the guidelines;

1 (b) ensuring that the performance of the clinical tasks by the medical assistant is in accordance with the
2 board's guidelines and good medical practice; and

3 (c) ensuring minimum educational requirements for the medical assistant.

4 (3) The board may hold the supervising physician, physician assistant, or podiatrist responsible in
5 accordance with 37-1-410 or 37-3-323 for any acts of or omissions by the medical assistant acting in the ordinary
6 course and scope of the assigned duties."

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