HOUSE BILL NO. 409

INTRODUCED BY Z. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING MEDICAL PRACTITIONERS WITH PRESCRIPTION AUTHORITY FROM WRITING MORE THAN A 7-DAY SUPPLY OF OPIOIDS ON A FIRST PRESCRIPTION WITH CERTAIN CONDITIONS AND EXCEPTIONS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 37-2-101, MCA."

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

NEW SECTION. **Section 1. Limits on opioid prescriptions -- exceptions -- rulemaking.** (1) Subject to the conditions in subsection (2), as applicable, when a medical practitioner with prescriptive authority for opioids prescribes an opioid drug to a patient for the first time on an outpatient basis, the prescription is limited to a 7-day supply or less:

(a) to an adult for nonchronic pain, with a subsequent ability to get another prescription of the same type for no more than 7 days of use if the patient meets the criteria in subsection (3); or

(b) to a minor, without the ability to get another prescription of the same type unless the patient meets the criteria in subsection (3). The medical practitioner prescribing to a minor who is subject to this provision shall discuss with the minor and the minor's custodial parent, guardian, or other person having legal custody of the minor the risks associated with the opioid drug and the major reasons the prescription is necessary.

(2) The 7-day restriction on a first-time opioid prescription to a patient does not apply if:

(a) in the professional medical judgment of the medical practitioner with prescriptive authority for opioids a prescription is necessary for more than a 7-day supply to treat chronic pain, pain associated with cancer or postsurgical conditions, or pain experienced while the patient is in palliative care; or

(b) the opioid being prescribed is designed for the treatment of opioid abuse or dependence on an opioid drug, including but not limited to opioid agonists and opioid antagonists.

(3) Conditions for obtaining a second prescription of an opioid drug after an original prescription of up to 7 days include:

(a) documentation by the medical practitioner with prescription authority for opioids in the patient's medical record and an indication of why an alternative to the opioid drug was not appropriate to address the

medical condition; and

(b) (i) for an adult, a consultation with the medical practitioner and payment of any required copay on each subsequent prescription; or

(ii) for a minor, a consultation with the medical practitioner and a subsequent one-time second prescription unless the conditions in subsection (2) apply.

(4) The medical practitioner with prescription authority shall indicate on the prescription that the prescription is not intended for chronic pain.

(5) (a) A pharmacist filling an opioid prescription shall ask for the patient's identification or identification by the patient's custodial parent, guardian, or other person having legal custody if the patient is a minor.

(b) A patient's identification may include but is not limited to the identification types allowed under 13-13-114, including a valid driver's license, a school district or postsecondary education photo identification, a tribal photo identification, or any other identification determined by the board of pharmacy by rule.

(6) (a) The board of medical examiners is authorized to adopt rules implementing subsections (3) and (4).

(b) The board of pharmacy is authorized to adopt rules implementing subsection (5).

Section 2. Section 37-2-101, MCA, is amended to read:

"37-2-101. Definitions. As used in this part, the following definitions apply:

(1) "Community pharmacy", when used in relation to a medical practitioner, means a pharmacy situated within 10 miles of any place at which the medical practitioner maintains an office for professional practice.

(2) "Device" means any instrument, apparatus, or contrivance intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans;

(b) to affect the structure or any function of the body of humans.

(3) "Drug" has the same meaning as provided in 37-7-101.

(4) "Drug company" means any person engaged in the manufacturing, processing, packaging, or distribution of drugs. The term does not include a pharmacy.

(5) "Medical practitioner" means any person licensed by the state of Montana to engage in the practice of medicine, dentistry, osteopathy, podiatry, optometry, or a nursing specialty as described in 37-8-202 and in the licensed practice to administer or prescribe drugs.

(6) "Minor" means a person who is younger than 18 years of age.

(7) "Opioid" has the meaning of "opiate" in 50-32-101.

~~(6)~~(8) "Person" means any individual and any partnership, firm, corporation, association, or other business entity.

~~(7)~~(9) "Pharmacy" has the same meaning as provided in 37-7-101.

~~(8)~~(10) "State" means the state of Montana or any political subdivision of the state."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 37, chapter 2, part 1, and the provisions of Title 37, chapter 2, part 1, apply to [section 1].

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