

HOUSE BILL NO. 706

INTRODUCED BY N. HASTINGS, A. REGIER, J. GILLETTE, J. ETCHART

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MEDICAL PRACTICE PROTECTION ACT; PROHIBITING AN ACTION AGAINST A HEALTH CARE PROFESSIONAL FOR RECOMMENDING LAWFUL HEALTH SERVICES; AND CLARIFYING LIMITATIONS ON HEALTH INSURANCE COVERAGE AND HEALTH CARE FACILITY PROVISION OF RECOMMENDED SERVICES."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Medical Practice Protection Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], the following definitions apply:

(1) "Health care provider" means an individual licensed, certified, or otherwise authorized by the laws of this state to provide health care in the ordinary course of business or practice of a profession.

(2) "Labeling" means any written material that accompanies, supplements, or explains a product.

(3) "Lawful health care service" means any health-related service or treatment that is not prohibited by law or regulation.

(4) "Off-label use" means any use of a prescription drug, biologic, approved medical device, or dietary supplement approved by the United States food and drug administration in a manner not specified in the labeling or indications for the product if the product is used for medical purposes.

(5) "Punish" means the imposition of any penalty, sanction, or disciplinary action to discourage the exercise of the right to freedom of speech under [sections 1 through 4].

(6) (a) "Unprofessional conduct" has the meaning provided in 37-1-316.

(b) The term does not include conduct by a health care provider who is acting within the minimum standards of practice as determined by the licensing board responsible for governing the health care provider's

1 profession.

2

3 **NEW SECTION. Section 3. Health care provider right to advise of lawful health services.** (1) A

4 health care provider may:

5 (a) make a patient aware of or educate or advise a patient about lawful health care services for
6 which a reasonable basis exists, including the off-label use of health care services;

7 (b) make a patient aware of or educate or advise a patient about health care-related research or
8 data; and

9 (c) offer, provide, or make available lawful health care services, including the off-label use of
10 health care services as allowed under state law.

11 (2) (a) A state agency, a political subdivision of the state, or a private entity under contract with a
12 health professional licensing board provided for in Title 37 may not punish a health care provider, directly or
13 indirectly through a subcontractor or otherwise, for actions taken under this section.

14 (b) The prohibition on punishment includes an adverse licensure action.

15 (3) This section does not:

16 (a) prohibit a health professional licensing board from taking action if a health care provider
17 commits unprofessional conduct arising outside of the actions specified in this section or provides health care
18 services outside of the provider's scope of practice;

19 (b) impair a private health care entity from establishing standards of practice and communications
20 standards for its employees;

21 (c) impair any right or limitation on medical liability; or

22 (d) prevent the reporting of an action to a health professional licensing board regarding medical
23 liability cases, settlements, or decisions.

24

25 **NEW SECTION. Section 4. Applicability to health insurance and health care facilities.** The

26 provisions of [sections 1 through 4] do not require:

27 (1) a health insurer to cover a lawful health service recommended or provided pursuant to [section
28 3]; or

1 (2) a health care facility providing care to a patient to provide a lawful health service recommended
2 pursuant to [section 3].

3

4 NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be
5 codified as a new part in Title 37, chapter 2, and the provisions of Title 37, chapter 2, apply to [sections 1
6 through 4].

7

8 NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are
9 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
10 the part remains in effect in all valid applications that are severable from the invalid applications.

11

- END -