

1 SENATE BILL NO. 101

2 INTRODUCED BY G. HERTZ

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE DISPENSATION OF
5 DRUGS BY NATUROPATHIC PHYSICIANS; INCLUDING NATUROPATHIC PHYSICIANS IN LAWS
6 RELATING TO THE DISPENSATION OF DRUGS; AMENDING SECTIONS 37-2-104 AND 37-26-301, MCA;
7 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8

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

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11 **Section 1.** Section 37-2-104, MCA, is amended to read:

12 **"37-2-104. Dispensing of drugs by medical practitioners -- registration -- exceptions.** (1) Subject
13 to subsection (7), a medical practitioner may dispense drugs if the practitioner:

14 (a) registers with the board of pharmacy provided for in 2-15-1733; and

15 (b) complies with the requirements of this section.

16 (2) Drugs dispensed by a medical practitioner must be:

17 (a) dispensed directly by the practitioner at the practitioner's office or place of practice;

18 (b) dispensed only to the practitioner's own patients; and

19 (c) necessary in the treatment of the condition for which the practitioner is attending the patient.

20 (3) Before dispensing a drug, a medical practitioner shall offer to give a patient the prescription in a
21 written, electronic, or facsimile form that the patient may choose to have filled by the practitioner or any
22 pharmacy.

23 (4) Except as otherwise provided in this section, a medical practitioner:

24 (a) may dispense only those drugs that the practitioner is allowed to prescribe under the
25 practitioner's scope of practice; and

26 (b) may not dispense a controlled substance.

27 (5) A medical practitioner dispensing drugs shall comply with and is subject to the provisions of this
28 part and the provisions of:

1 (a) Title 37, chapter 7, parts 4, 5, and 15;

2 (b) Title 50, chapter 31, parts 3 and 5;

3 (c) the labeling, storage, inspection, and recordkeeping requirements established by the board of
4 pharmacy; and

5 (d) all applicable federal laws and regulations.

6 (6) A medical practitioner registering with the board of pharmacy shall pay a fee established by the
7 board by rule. The fee must be paid at the time of registration and on each renewal of the practitioner's license.

8 (7) Except as provided in subsection (8), a medical practitioner registered with the board of
9 pharmacy may not dispense drugs to an injured worker being treated pursuant to Title 39, chapter 71.

10 (8) This section does not prohibit any of the following when a medical practitioner has not
11 registered to dispense drugs or when a practitioner registered to dispense drugs is treating an injured worker
12 pursuant to Title 39, chapter 71:

13 (a) a medical practitioner from furnishing a patient any drug in an emergency;

14 (b) the administration of a unit dose of a drug to a patient by or under the supervision of a medical
15 practitioner;

16 (c) dispensing a drug to a patient by a medical practitioner whenever there is no community
17 pharmacy available to the patient;

18 (d) the dispensing of drugs occasionally, but not as a usual course of doing business, by a medical
19 practitioner;

20 (e) a medical practitioner from dispensing drug samples;

21 (f) the dispensing of factory prepackaged contraceptives, other than mifepristone, by a registered
22 nurse employed by a family planning clinic under contract with the department of public health and human
23 services if the dispensing is in accordance with:

24 (i) a physician's written protocol specifying the circumstances under which dispensing is
25 appropriate; and

26 (ii) the drug labeling, storage, and recordkeeping requirements of the board of pharmacy;

27 (g) a contract physician at an urban Indian clinic from dispensing drugs to qualified patients of the
28 clinic. The clinic may not stock or dispense any dangerous drug, as defined in 50-32-101, or any controlled

1 substance. The contract physician may not delegate the authority to dispense any drug for which a prescription
2 is required under 21 U.S.C. 353(b).

3 (h) a medical practitioner from dispensing a drug if the medical practitioner has prescribed the drug
4 and verified that the drug is not otherwise available from a community pharmacy. A drug dispensed pursuant to
5 this subsection (8)(h) must meet the labeling, storage, and recordkeeping requirements of the board of
6 pharmacy.

7 (i) a medical practitioner from dispensing an opioid antagonist as provided in 50-32-605.

8 (9) For the purposes of this section, the term "medical practitioner" includes a naturopathic
9 physician."

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11 **Section 2.** Section 37-26-301, MCA, is amended to read:

12 **"37-26-301. Practice of naturopathic health care -- alternative health care formulary committee.**

13 (1) Naturopathic physicians may practice naturopathic medicine as a limited practice of the healing arts as
14 exempted in 37-3-103(1)(m), with the following restrictions. A naturopathic physician may not:

15 (a) prescribe, dispense, or administer any legend drug, as defined in 50-31-301, except for whole
16 gland thyroid; homeopathic preparations; the natural therapeutic substances, drugs, and therapies described in
17 subsection (2); and oxytocin (pitocin), provided that the naturopathic physician may administer but may not
18 prescribe or dispense oxytocin (pitocin);

19 (b) administer ionizing radioactive substances for therapeutic purposes;

20 (c) perform surgical procedures except those minor surgery procedures authorized by this chapter;

21 or

22 (d) claim to practice any licensed health care profession or system of treatment other than
23 naturopathic medicine unless holding a separate license in that profession.

24 (2) Naturopathic physicians may prescribe, ~~and administer,~~ and dispense for preventive and
25 therapeutic purposes the following natural therapeutic substances, drugs, and therapies, as well as drugs on
26 the natural substance formulary list provided for in subsection (3):

27 (a) food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanical medicines,
28 homeopathic preparations, and oxytocin (pitocin);

1 (b) topical drugs, health care counseling, nutritional counseling and dietary therapy, naturopathic
2 physical applications, therapeutic devices, and nonprescription drugs; and

3 (c) barrier devices for contraception, naturopathic childbirth attendance, and minor surgery.

4 (3) A five-member alternative health care formulary committee appointed by the board shall
5 establish a natural substance formulary list. The committee consists of a licensed pharmacist plus four
6 members of the board, two of whom must be licensed naturopathic physicians, one who must be a licensed
7 medical doctor, and one who must be a public member. The list may not go beyond the scope of substances
8 covered by approved naturopathic college curricula or continuing education and must be reviewed annually by
9 the committee. Changes to the list that are recommended by the committee and accepted by the board must be
10 published as administrative rules.

11 (4) Naturopathic physicians may perform or order for diagnostic purposes a physical or orificial
12 examination, ultrasound, phlebotomy, clinical laboratory test or examination, physiological function test, and
13 any other noninvasive diagnostic procedure commonly used by physicians in general practice and as
14 authorized by 37-26-201(2).

15 (5) ~~Except as provided by this subsection, it is unlawful for a naturopath to engage, directly or~~
16 ~~indirectly, in the dispensing of any drugs that a naturopath is authorized to prescribe by subsection (2).~~ If the
17 place where a naturopath maintains an office for the practice of naturopathy is more than 10 miles from a place
18 of business that sells and dispenses the drugs a naturopath may prescribe under subsection (2), then, to the
19 extent the drugs are not available within 10 miles of the naturopath's office, the naturopath may sell the drugs
20 that are unavailable."

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22 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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