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As of: April 25, 2014 (4:29pm)

LCCF01

**** Bill No. ****

Introduced By *****

A Bill for an Act entitled: "An Act requiring certain health care licensing boards to adopt uniform rules for the management of chronic, noncancer pain with opioid drugs; establishing rule requirements; requiring repeal of existing pain management guidance; and amending sections 37-3-203, 37-4-205, 37-8-202, 37-10-202, 37-20-202, and 37-26-201, MCA."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Pain management rules.** (1) The following boards shall adopt uniform rules on the management of chronic, noncancer pain when the pain management includes the use of opioid drugs:

- (a) the board of medical examiners provided for in 2-15-1731;
- (b) the board of dentistry provided for in 2-15-1732;
- (c) the board of nursing provided for in 2-15-1734;
- (d) the board of optometry provided for in 2-15-1736; and
- (e) the alternative health care board provided for in 2-15-1730.

(2) The rules adopted under this section must include the following elements:

- (a) dosing criteria, including but not limited to:
 - (i) a dosage amount that may not be exceeded unless a

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licensee first consults with a health care practitioner who specializes in pain management; and

(ii) special circumstances under which the dosage amount may be exceeded without consulting with a health care practitioner who specializes in pain management.

(b) guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) guidance on tracking a patient's clinical progress by using assessment tools that focus on pain interference, physical function, and overall risk for poor outcome; and

(d) guidance on tracking the use of opioids, particularly opioids that are prescribed or dispensed in the emergency department of a hospital or other health care facility.

(3) The rules for consultation with a practitioner who specializes in pain management must, to the extent practicable, take into account:

(a) circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(b) the minimum training and experience that is sufficient to exempt a licensee from the specialty consultation requirement;

(c) methods for enhancing the availability of consultations;

(d) allowing the efficient use of resources; and

(e) minimizing the burden on practitioners and patients.

(4) When developing and revising the rules, the boards shall consult with the department of public health and human services,

the Montana state fund, the department of labor and industry, the Indian health service, the veterans health administration, and professional associations representing their licensees.

(5) The rules adopted under this section do not apply to:

(a) the management of acute pain caused by an injury or a surgical procedure; or

(b)(i) palliative care;

(ii) care provided by a hospice licensed in accordance with Title 50, chapter 5; or

(iii) other end-of-life care.

NEW SECTION. **Section 2. Repeal of guidance on pain**

management. The boards required to adopt pain management rules pursuant to [section 1] shall repeal existing rules, guidelines, or policy statements regarding pain management by October 1, 2015, and replace them with rules adopted pursuant to [section 1].

Section 3. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. (1) The board may:

(a) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter. The rules must be fair, impartial, and nondiscriminatory.

(b) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(c) aid the county attorneys of this state in the

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enforcement of parts 1 through 3 of this chapter and the prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this chapter;

(d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle as provided in 87-2-803(11); and

(e) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary.

(2) The board shall adopt rules on the management of chronic, noncancer pain as provided in [section 1].

~~(2)~~(3) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness.

(b) The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state.

~~(3)~~(4) (a) The board shall report annually on the number and types of complaints it has received involving physician

practices in providing written certification, as defined in 50-46-302, for the use of marijuana for a debilitating medical condition provided for in Title 50, chapter 46. The report must contain:

(i) the number of complaints received by the board pursuant to 37-1-308;

(ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-307;

(iii) the general nature of the complaints;

(iv) the number of investigations conducted into physician practices in providing written certification; and

(v) the number of physicians disciplined by the board for their practices in providing written certification for the use of marijuana for a debilitating medical condition.

(b) Except as provided in subsection (3)(c), the report may not contain individual identifying information regarding the physicians about whom the board received complaints.

(c) For each physician against whom the board takes disciplinary action related to the physician's practices in providing written certification for the use of marijuana for a debilitating medical condition, the report must include:

(i) the name of the physician;

(ii) the general results of the investigation of the physician's practices; and

(iii) the disciplinary action taken against the physician.

(d) The board shall provide the report to the children, families, health, and human services interim committee by August

1 of each year and shall make a copy of the report available on the board's website."

{*Internal References to 37-3-203:*

37-3-201x 37-3-401x 50-46-303x 50-46-332x
87-2-803x 87-2-803x }

Section 4. Section 37-4-205, MCA, is amended to read:

"37-4-205. Rulemaking. (1) The board may adopt, amend, or repeal rules necessary for the implementation, continuation, and enforcement of this chapter in accordance with the Montana Administrative Procedure Act. Rules adopted under this section may include but are not limited to the following subjects:

~~(1)~~(a) the practice of dentistry or oral surgery involving the administration of anesthetics; and

~~(2)~~(b) advertising by a licensed dentist including:

~~(a)~~(i) the use of false, deceptive, or misleading advertising;

~~(b)~~(ii) the use of information concerning fees, areas of practice, specialization, personal background, and quality of service in advertising; and

~~(c)~~(iii) the use of warnings and disclaimers in advertising.

(2) The board shall adopt rules on the management of chronic, noncancer pain as provided in [section 1]."

{*Internal References to 37-4-205: None.x*}

Section 5. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers and duties.

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(1) The board shall:

(a) meet annually and elect from among the members a president and a secretary;

(b) hold other meetings when necessary to transact its business;

(c) prescribe standards for schools preparing persons for registration and licensure under this chapter;

(d) provide for surveys of schools at times the board considers necessary;

(e) approve programs that meet the requirements of this chapter and of the board;

(f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list;

(g) cause the prosecution of persons violating this chapter. The board may incur necessary expenses for prosecutions.

(h) adopt rules regarding authorization for prescriptive authority of advanced practice registered nurses. If considered appropriate for an advanced practice registered nurse who applies to the board for authorization, prescriptive authority must be granted.

(i) adopt rules to define criteria for the recognition of registered nurses who are certified through a nationally recognized professional nursing organization as registered nurse first assistants; ~~and~~

(j) adopt rules on the management of chronic, noncancer pain as provided in [section 1]; and

~~(j)~~(k) establish a medical assistance program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness. The program must provide for assistance to licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward rehabilitation. The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state. For purposes of funding this medical assistance program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

(2) The board may:

(a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses;

(b) define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university

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setting or the equivalent. The applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses. Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

(c) establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the type of drugs that are allowed to be administered and the method of administration.

(d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons;

(e) adopt rules necessary to administer this chapter; and

(f) fund additional staff, hired by the department, to administer the provisions of this chapter."

{*Internal References to 37-8-202:*

20-5-420x	27-1-1101x	33-22-111x	33-30-1013x
33-31-102x	37-2-101x	37-2-401x	37-8-102x
46-1-202x	49-4-301x	49-4-303x	49-4-305x
50-9-102x	50-10-101x	50-15-101x	50-16-201x
53-21-102x	53-21-102x	87-2-803x	}

Section 6. Section 37-10-202, MCA, is amended to read:

"37-10-202. Rulemaking power -- seal. (1) The board may adopt rules for the regulation, conduct, supervision, and procedure governing all applicants for licensure as optometrists and the practice of optometry not inconsistent with the

provisions of this chapter.

(2) The board shall adopt rules on the management of chronic, noncancer pain as provided in [section 1].

~~(2)~~(3) The board shall have a common seal."

{*Internal References to 37-10-202: None.x*}

Section 7. Section 37-20-202, MCA, is amended to read:

"37-20-202. Adoption of rules. (1) The board may adopt administrative rules to implement the provisions of this chapter and set forth grounds for disciplinary action.

(2) Rules adopted in accordance with [section 1] apply to physician assistants licensed pursuant to this part."

{*Internal References to 37-20-202: None.x*}

Section 8. Section 37-26-201, MCA, is amended to read:

"37-26-201. Powers and duties of board. The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

(3) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

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(4) adopt rules that set nonrefundable fees for application, and licensure;

(5) approve naturopathic medical colleges as defined in 37-26-103;

(6) issue certificates of specialty practice;

(7) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery allowed under 37-26-301; ~~and~~

(8) adopt rules that contain the natural substance formulary list created by the alternative health care formulary committee provided for in 37-26-301; and

(9) adopt rules on the management of chronic, noncancer pain as provided in [section 1]."

{*Internal References to 37-26-201:
37-26-301x* }

NEW SECTION. Section 9. {standard} 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, apply to [section 1].

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{Name : Sue O'Connell
Title : Research Analyst
Agency: Legislative Services Division-136B
Phone : (406) 444-3597
E-Mail: soconnell@mt.gov}