

Multidisciplinary Health Care Provider Task Force

Summary of Comments & Report to Task Force

May 10, 2022

The Task Force provided an opportunity for comment during each of its meetings and filed MAR Notice No. 24-101-313 to provide a formal opportunity for oral and written comments between March 11, 2022, and April 29, 2022. The Task Force further accepted email comments after the formation of the Task Force in September of 2021 through the date of this document.

Individual stakeholder agencies, i.e., the jurisdictional agencies for the identified statutes, were sent correspondence in early September and November to bring specific line items to their attention and elicit their comments.

A letter specifically asking stakeholder agencies to identify forms that should be updated to reflect that not only a physician, but other health care providers may also be authorized to sign, was sent in early December. Four agencies responded with two (DPHHS and FWP) indicating that they had forms meeting the specified criteria.

As reflected in the Task Force Charter, the main interested parties in this project are boards and associations related to physicians, physician assistants, and advance practice registered nurses; i.e., the Montana Nurses Association (MNA), the Montana Board of Nursing, the Montana Medical Association (MMA), and the Montana Board of Medical Examiners.

Montana Nurses Association

At the first meeting of the Task Force, the Montana Nurses Association commented generally in support of the Task Force. The MNA did not submit further verbal or written comment.

Montana Board of Medical Examiners and Montana Board of Nursing

The Montana Board of Medical Examiners and Montana Board of Nursing each met during the formal comment period and submitted written comment through their Executive Officers. See, *April 25, 2022, Board of Medical Examiners Public Comment* and *April 20, 2022, Board of Nursing Public Comment*

The Board of Nursing had no comments on the list of statutes.

The Board of Medical Examiners commented generally on the need for consistent definitions of “health care provider” across the code to be consistent and yet preserve distinctions between professions, especially between mental health providers and psychiatrists. The

BOME (and the Montana Medical Association) generally objected to any definition of “physician” that included PAs and APRNs. The BOME had specific comments on item numbers 56, 59, and 137.

The Task Force’s responses to the BOME’s specific comments are included on the list of statutes. Regarding the definitions, the Task Force agrees that the code includes varying definitions of health care providers, practitioners, and professionals, but the task to harmonize them exceeded the time, resources, and composition of the Task Force. As the BOME recognizes, each definition is limited to isolated chapters and parts and for that reason may not be necessary or even possible to harmonize them across the Montana Code Annotated.

The Task Force notes the objection of the BOME (and MMA, below) to define the term “physician” to include other professionals, even for the purposes of a chapter or a part and will revise its recommendations accordingly.

Montana Medical Association Comments

The Montana Medical Association commented verbally during meetings of the Task Force, at the formal hearing on April 15, 2022, and finally, in written comments submitted on April 29, 2022. The written comments repeat and thoroughly summarize the verbal comments received through the process and include specific feedback on the line items on the list of statutes under consideration by the Task Force. The specific line items are addressed on the list. Where the MMA registered no comment on a particular line item, the Task Force has so noted the lack of objection and will treat the recommendation of the Task Force as having consensus. The general objections of the MMA are as follows:

In summary, the MMA objects to the Task Force’s approach of limiting its review to statutes which referenced the term “physician” as (1) inconsistent with the authorizing statute, (2) focused inappropriately on equating scope of practice for three professions, (3) anti-collaborative, and (4) generally unsupported by data.

In response, the Task Force agrees with MMA that health care reform for the state of Montana should include collaboration by various health care related providers, insurers, policy makers, administrators, and consumers.

However, the breadth and ambiguity of such a legislative mandate in comparison to the time, resources, and membership of the task force led to the development of a narrow charter based on the legislative intent expressed in testimony before the committees. See, Mont. House Human Services Comm., Hearing on HB 495 (February 24, 2021), Mont. Senate Public Health, Welfare, and Safety Comm., Hearing on HB 495 (March 26, 2021).

During testimony, the sponsor, Rep. Caferro and proponent Montana Nurses’ Association (MNA) referred to identification by Legislative Services Division (LSD) staff of statutes requiring amendment that specify “physician,” but should also include Advanced Practice

Registered Nurse (APRN) and physician assistant (PA). The sponsor and proponents emphasized that the bill:

- does not expand scopes of practices but is only to “clean up” the Montana Code Annotated to recognize the authority of PAs and APRNs “where they should be inserted....,”
- will provide the framework to “update statute and paperwork issues,” including “DPHHS forms, health insurance forms, and other documents that require a health care provider’s signature” and avoid wasting time and resources when forms are rejected if signed by an APRN, and
- recognizes that in rural communities, PAs and APRNs may be the primary care providers.

Id. No opponents spoke against the bill.

The scope and charter of the Task Force have been clear since its inception: to start with the LSD-developed list and decide in each occurrence of treatment, diagnosis, or duty imposed on a physician, whether the PA (under supervision of a physician) and APRN (independently practicing) scopes of practice allow them to perform equally and propose to amend the statutory language accordingly. *See Task Force Charter, August 23, 2021.*

Public Comment

Other public comment came from massage therapists (at the first meeting of the task force and one written comment in response to the Notice and Opportunity for Public Comment). These commenters encouraged the Task Force to add licensed massage practitioners to the list of “healthcare care providers,” recognize their value in the health care system, especially as an alternative to pain management and amelioration of the opioid crisis, and to allow insurance coverage for medical massage therapy services deemed medically necessary by a physician. Other states, the National Institutes of Health and the Department of Veteran Affairs and nationally known clinics and schools recognize massage therapy as healthcare rather than only a luxury or spa service and Montana’s failure to include massage therapists in the health care sector limits their ability to conduct business.

Respectfully submitted,

s/Colleen White, Task Force Chair