

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO MEDICAL MALPRACTICE AND
5 HEALTH CARE PROVIDERS; AND PROVIDING A STATUTORY DUTY OF CARE."

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

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9 NEW SECTION. **Section 1. Medical malpractice -- duty of care -- health care providers.** In
10 medical malpractice actions, all licensed health care providers have a duty to provide care and treatment
11 consistent with the skill and learning reasonably used in similar cases by health care providers practicing in the
12 same specialty and sharing the same certification. The appropriate standard of care includes both the duty and
13 degree of care owed, and the person claiming its violation shall establish the appropriate standard of care by
14 competent evidence, including qualified expert testimony that is based on education, training, knowledge, and
15 experience in the evaluation, diagnosis, or treatment of the disease or injury at issue. The existence of risks or
16 of a specific risk does not heighten or vary the duty owed beyond the standard of care established by the
17 evidence.

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19 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an
20 integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [section 1].

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