

1 HOUSE BILL NO. 500

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5
6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO CHIROPRACTIC
7 PRACTITIONERS; ESTABLISHING A CHIROPRACTIC LICENSE ENDORSEMENT FOR PRESCRIPTIVE
8 AUTHORITY; PROVIDING THAT CHIROPRACTIC SERVICES BE PROVIDED BY THE MONTANA
9 MEDICAID PROGRAM; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 37-12-101,
10 37-12-104, 37-12-201, AND 53-6-101, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 NEW SECTION. **Section 1. Prescriptive authority license endorsement -- formulary --**
15 **requirements -- rulemaking.** (1) A chiropractor may apply to the board for a license endorsement for
16 prescriptive authority.

17 (2) A chiropractor who successfully obtains a license endorsement for prescriptive authority may
18 prescribe, obtain, and administer the following noncontrolled, nonscheduled drugs for diagnostic and
19 therapeutic use:

- 20 (a) skeletal muscle relaxants;
21 (b) cyclooxygenase-2 inhibitors;
22 (c) nonsteroidal anti-inflammatory drugs;
23 (d) topical nonsteroidal anti-inflammatory drugs;
24 (e) glucocorticoids;
25 (f) topical anesthetics; and
26 (g) trigger point injections.

27 (3) The board shall adopt rules establishing:

- 28 (a) the procedures for chiropractors to apply for a license endorsement;

(b) the educational qualifications required for a license endorsement, including:

(i) the number of hours of initial and ongoing pharmacology education; and

(ii) approved pharmacology education programs;

(c) standard protocols for procurement, storage, inventory control, and disposal of prescription drugs that chiropractors with a license endorsement shall follow; and

(d) other requirements deemed reasonably necessary by the board to implement a prescriptive authority license endorsement.

(4) The board may adopt rules to add drugs to or remove drugs from the list in subsection (2) consistent with the scope of chiropractic practice under 37-12-101.

(5) A chiropractor licensed under this chapter is not required to apply for the licensing endorsement available under this section. A chiropractor who has not been approved by the board for a prescriptive authority license endorsement may not promote, advertise, or imply that the chiropractor has the authority described in subsection (2).

Section 2. Section 37-12-101, MCA, is amended to read:

"37-12-101. Definitions -- practice of chiropractic. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of chiropractors provided for in 2-15-1737.
- (2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.
- (3) (a) "Chiropractic" is the system of specific adjustment or manipulation of the articulations and tissues of the body, particularly of the spinal column, for the correction of nerve interference and includes the use of recognized diagnostic and treatment methods as taught in chiropractic colleges but does not include surgery or the prescription or use of drugs means the science, art, and philosophy of things natural and the science of locating and removing interference with the transmissions or expression of nerve forces in the human body by the correction of misalignments or subluxations of the articulations and adjacent structures, especially those of the vertebral column and pelvis, for the purpose of restoring and maintaining health or for treatment of human disease primarily by adjustment and manipulation of the human structure. The term

1 includes the prescription and administration of all natural agents in all forms to assist in the healing act, such as
2 food, water, heat, light, cold, electricity, mechanical appliances, herbs, nutritional supplements, homeopathic
3 remedies, and any necessary diagnostic procedure.

4 (b) The term does not include invasive procedures, surgery, or the prescription or use of controlled
5 or dangerous drugs, except as provided in [section 1]."

6
7 **Section 3.** Section 37-12-104, MCA, is amended to read:

8 **"37-12-104. Rights and limitations governing practice.** (1) ~~Chiropractors~~ Individuals licensed
9 under this chapter ~~shall have the right to practice that the~~ science defined as chiropractic under 37-12-101 in
10 accordance with the method, thought, and practice of chiropractors, ~~and they shall be~~ are permitted to use the
11 prefix "Dr." or "Doctor" as a title but ~~shall~~ may not in any way imply that ~~they~~ the individuals are medical doctors,
12 osteopaths, or surgeons. ~~They~~

13 (b) Except as provided in subsection (2), a chiropractor shall ~~may~~ not prescribe for or administer to
14 any person any medicine or drugs or practice medicine or surgery or osteopathy, except that ~~the~~ a chiropractor
15 is permitted to use of antiseptics for purposes of sanitation and hygiene and to prevent infection and contagion
16 shall be permitted.

17 (2) A chiropractor who successfully obtains a license endorsement for prescriptive authority from
18 the board may prescribe for therapeutic and diagnostic purposes as authorized under [section 1].

19 (2)(3) Licensed chiropractors may diagnose, palpate, and treat the human body by the application of
20 manipulative, manual, mechanical, and dietetic methods, including chiropractic physiotherapy, the use of
21 supportive appliances, analytical instruments, and diagnostic x-ray in accordance with guidelines promulgated
22 or approved by state or federal health regulatory agencies."

23
24 **Section 4.** Section 37-12-201, MCA, is amended to read:

25 **"37-12-201. Organization of board -- powers and duties.** The board shall:

26 (1) elect annually a president, vice president, and secretary-treasurer from its membership;

27 (2) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming
28 within the scope of the board;

(3) make a schedule of minimum educational requirements that are without prejudice, partiality, or discrimination as to the different schools of chiropractic;

(4) adopt rules necessary for the implementation, administration, continuation, and enforcement of this chapter. The rules must address but are not limited to license applications, the display of licenses, and the registration of interns and preceptors, and the issuing of prescriptive authority license endorsements.

(5) make determinations of the qualifications of applicants under this chapter; and

(6) certify that a chiropractor who meets the standards that the board by rule adopts is a qualified evaluator for purposes of 39-71-711."

Section 5. Section 53-6-101, MCA, is amended to read:

"53-6-101. Montana medicaid program -- authorization of services. (1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall administer the Montana medicaid program.

(2) The department and the legislature shall consider the following funding principles when considering changes in medicaid policy that either increase or reduce services:

(a) protecting those persons who are most vulnerable and most in need, as defined by a combination of economic, social, and medical circumstances;

(b) giving preference to the elimination or restoration of an entire medicaid program or service, rather than sacrifice or augment the quality of care for several programs or services through dilution of funding; and

(c) giving priority to services that employ the science of prevention to reduce disability and illness, services that treat life-threatening conditions, and services that support independent or assisted living, including pain management, to reduce the need for acute inpatient or residential care.

(3) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

- 1 (c) other laboratory and x-ray services, including minimum mammography examination as defined
2 in 33-22-132;
- 3 (d) skilled nursing services in long-term care facilities;
- 4 (e) physicians' services;
- 5 (f) nurse specialist services;
- 6 (g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of
7 age, in accordance with federal regulations and subsection (10)(b);
- 8 (h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as
9 provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;
- 10 (i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk
11 pregnant women;
- 12 (j) services that are provided by physician assistants within the scope of their practice and that are
13 otherwise directly reimbursed as allowed under department rule to an existing provider;
- 14 (k) health services provided under a physician's orders by a public health department;
- 15 (l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2);
- 16 (m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as
17 provided in 33-22-153;
- 18 (n) for children 18 years of age and younger, habilitative services as defined in 53-4-1103;
- 19 (o) services provided by a person certified in accordance with 37-2-318 to provide services in
20 accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.;
- 21 (p) fertility preservation services in accordance with 33-22-2103; and
- 22 (q) planned home births for women with a low risk of adverse birth outcomes, as established by
23 the appropriate licensing board, that are attended by certified nurse-midwives licensed under Title 37, chapter
24 8, or direct-entry midwives licensed under Title 37, chapter 27. Coverage under this section includes prenatal
25 care and postpartum care; and
- 26 (r) chiropractic services provided by a practitioner licensed under Title 37, chapter 12.
- 27 (4) Medical assistance provided by the Montana medicaid program may, as provided by
28 department rule, also include the following services:

- 1 (a) medical care or any other type of remedial care recognized under state law, furnished by
2 licensed practitioners within the scope of their practice as defined by state law;
- 3 (b) home health care services[, including services provided by pediatric complex care assistants
4 licensed pursuant to 37-2-603];
- 5 (c) private-duty nursing services;
- 6 (d) dental services;
- 7 (e) physical therapy services;
- 8 (f) mental health center services administered and funded under a state mental health program
9 authorized under Title 53, chapter 21, part 10;
- 10 (g) clinical social worker services;
- 11 (h) prescribed drugs, dentures, and prosthetic devices;
- 12 (i) prescribed eyeglasses;
- 13 (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
- 14 (k) inpatient psychiatric hospital services for persons under 21 years of age;
- 15 (l) services of clinical professional counselors licensed under Title 37, chapter 39;
- 16 (m) services of a marriage and family therapist licensed under Title 37, chapter 39;
- 17 (n) hospice care, as defined in 42 U.S.C. 1396d(o);
- 18 (o) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including
19 targeted case management services for the mentally ill;
- 20 (p) services of psychologists licensed under Title 37, chapter 17;
- 21 (q) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C.
22 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201;
- 23 (r) services of behavioral health peer support specialists certified under Title 37, chapter 39,
24 provided to adults 18 years of age and older with a diagnosis of a mental disorder, as defined in 53-21-102; and
- 25 (s) any additional medical service or aid allowable under or provided by the federal Social Security
26 Act.
- 27 (5) Services for persons qualifying for medicaid under the medically needy category of assistance,
28 as described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others

1 qualifying for assistance under the Montana medicaid program. The department is not required to provide all of
2 the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy
3 category of assistance.

4 (6) In accordance with federal law or waivers of federal law that are granted by the secretary of the
5 U.S. department of health and human services, the department may implement limited medicaid benefits, to be
6 known as basic medicaid, for adult recipients who are eligible because they are receiving cash assistance, as
7 defined in 53-4-201, as the specified caretaker relative of a dependent child and for all adult recipients of
8 medical assistance only who are covered under a group related to a program providing cash assistance, as
9 defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may
10 include those optional services listed in subsections (4)(a) through (4)(s) that the department in its discretion
11 specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated
12 by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a
13 particular service is commonly covered by private health insurance plans. However, a recipient who is
14 pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or
15 is less than 21 years of age is entitled to full medicaid coverage.

16 (7) The department may implement, as provided for in Title XIX of the Social Security Act, 42
17 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums,
18 deductibles, and coinsurance for persons not otherwise eligible for medicaid.

19 (8) (a) The department may set rates for medical and other services provided to recipients of
20 medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

21 (b) The department shall strive to close gaps in services provided to individuals suffering from
22 mental illness and co-occurring disorders by doing the following:

23 (i) simplifying administrative rules, payment methods, and contracting processes for providing
24 services to individuals of different ages, diagnoses, and treatments. Any adjustments to payments must be
25 cost-neutral for the biennium beginning July 1, 2017.

26 (ii) publishing a report on an annual basis that describes the process that a mental health center or
27 chemical dependency facility, as those terms are defined in 50-5-101, must utilize in order to receive payment
28 from Montana medicaid for services provided to individuals of different ages, diagnoses, and treatments.

(9) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(10) (a) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(b) The department shall, with reasonable promptness, provide access to all medically necessary services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.

(11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(12) (a) Prior to enacting changes to provider rates, medicaid waivers, or the medicaid state plan, the department shall report this information to the following committees:

(i) the children, families, health, and human services interim committee;

(ii) the legislative finance committee; and

(iii) the health and human services budget committee.

(b) In its report to the committees, the department shall provide an explanation for the proposed changes and an estimated budget impact to the department over the next 4 fiscal years.

(13) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program after taking into consideration the funding principles set forth in subsection (2). (Subsection (3)(o) terminates September 30, 2025--sec. 1, Ch. 298, L. 2023; bracketed language in subsection (4)(b) terminates June 30, 2031--sec. 10, Ch. 628, L. 2023.)"

NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 37, chapter 12, part 3, and the provisions of Title 37, chapter 12, part 3, apply to [section 1].

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