

Examples for Consideration by Taskforce

Qualifications of Supervising Physician and Physician Assistant

37-20-101. Qualifications of supervising physician and physician assistant. (1) The supervising physician named in the supervision agreement required by **37-20-301** shall:

- (a) possess a current, active license to practice medicine in this state; and
 - (b) exercise supervision over the physician assistant in accordance with the rules adopted by the board and retain professional and legal responsibility for the care and treatment of patients by the physician assistant.
- (2) A physician assistant named in the supervision agreement required by **37-20-301** must have a current, active Montana physician assistant license.

https://leg.mt.gov/bills/mca/title_0370/chapter_0200/part_0010/section_0010/0370-0200-0010-0010.html

Requirements For Use Of Physician Assistant -- Supervision Agreement -- Duties And Delegation Agreement -- Content -- Approval -- Filing

37-20-301. Requirements for use of physician assistant -- supervision agreement -- duties and delegation agreement -- content -- approval -- filing. (1) A physician, office, firm, state institution, or professional service corporation may not employ or make use of the services of a physician assistant in the practice of medicine, as defined in **37-3-102**, and as provided in this chapter and a physician assistant may not be employed or practice as a physician assistant unless the physician assistant:

- (a) is supervised by a physician licensed in this state;
 - (b) is licensed by the board;
 - (c) has submitted a physician assistant supervision agreement to the board on a form prescribed by the department; and
 - (d) has paid to the board the applicable fees required by the board.
- (2) A supervising physician and the supervised physician assistant shall execute a duties and delegation agreement constituting a contract that defines the physician assistant's professional relationship with the supervising physician and the limitations on the physician assistant's practice under the supervision of the supervising physician. The agreement must be kept current, by amendment or substitution, to reflect changes in the duties of each party occurring over time. The board may by rule specify other requirements for the agreement. A physician assistant licensed by the board before October 1, 2005, shall execute a duties and delegation agreement with a supervising physician by October 1, 2006.
- (3) A physician assistant and the physician assistant's supervising physician shall keep the supervision agreement and the duties and delegation agreement at their place of work and provide a copy upon request to a health care provider, a health care facility, a state or federal agency, the board, and any other individual who requests one.

https://leg.mt.gov/bills/mca/title_0370/chapter_0200/part_0030/section_0010/0370-0200-0030-0010.html

Physician Assistant As Agent Of Supervising Physician -- Degree Of Supervision Required -- Scope Of Practice

37-20-403. Physician assistant as agent of supervising physician -- degree of supervision required -- scope of practice. (1) A physician assistant is considered the agent of the supervising physician with regard to all duties delegated to the physician assistant and is professionally and legally responsible for the care and treatment of a patient by a physician assistant licensed in accordance with this chapter. A health care provider shall consider the instructions of a physician assistant as being the instructions of the supervising physician as long as the instructions concern the duties delegated to the physician assistant.

(2) Onsite or direct supervision of a physician assistant by a supervising physician is not required if the supervising physician has provided a means of communication between the supervising physician and the physician assistant or an alternate means of supervision in the event of the supervising physician's absence.

(3) A physician assistant may diagnose, examine, and treat human conditions, ailments, diseases, injuries, or infirmities, either physical or mental, by any means, method, device, or instrumentality authorized by the supervising physician.

https://leg.mt.gov/bills/mca/title_0370/chapter_0200/part_0040/section_0030/0370-0200-0040-0030.html

Prescribing And Dispensing Authority -- Discretion Of Supervising Physician On Limitation Of Authority

37-20-404. Prescribing and dispensing authority -- discretion of supervising physician on limitation of authority. (1) A physician assistant may prescribe, dispense, and administer drugs to the extent authorized by the supervising physician.

https://leg.mt.gov/bills/mca/title_0370/chapter_0200/part_0040/section_0040/0370-0200-0040-0040.html

Telemedicine

In Section 1, under (1) they need to include, at a minimum, in relation to the Title 37 licensing chapters, Advanced Practice Registered Nurses licensed under Chapter 8.

This change also needs to be made in Section 6 where it states:

(5) The department shall reimburse a service provided by means of telemedicine as defined in 37-3- 102 at the same rate as it reimburses the service when provided in an in-person setting if the service:

- (a) is provided by a person licensed pursuant Title 37, chapter 3 or chapter 20; and
- (b) meets the criteria in [section 1(2)].

33-22-138, referenced in Section 1 in the draft, refers to "health care providers" and does not limit telemedicine services to physicians and physician assistants.

Title 2. Government Structure and Administration
Chapter 18. State Employee Classification, Compensation, and Benefits
Part 7. Group Insurance Generally

2-18-704. Mandatory provisions.

(8) (a) An insurance contract or plan issued under this part that provides coverage for an individual in a member's family must provide coverage for well-child care for children from the moment of birth through 7 years of age. Benefits provided under this coverage are exempt from any deductible provision that may be in force in the contract or plan.

(d) For purposes of this subsection (8):

(ii) "well-child care" means the services described in subsection (8)(b) and delivered by a **physician** or a health care professional supervised by a **physician**.

(11) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending **physician** and, in the case of a health maintenance organization, the primary care physician, in consultation with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

Title 3. Judiciary, Courts
Chapter 15. Juries and Jurors
Part 3. Jurors – Competency and Excuses

3-15-313. Who may be excused — affidavit to claim excuse — permanent exclusion for chronically incapacitated.

(3) A person who is chronically incapacitated by illness or injury may request a permanent exclusion from jury service by making and transmitting an affidavit to the jury commissioner of the person's place of residence. The affidavit must include a certification by the person's **physician** that the person is chronically incapacitated by illness or injury. The affidavit must be filed with the jury commissioner, who shall transmit it to the court. The court or jury commissioner with the approval of the court may permanently excuse a prospective juror from jury service if the prospective juror satisfies the provisions of this subsection (3).

Title 7. Local Government
Chapter 3. Alternative Forms of Local Government
Part 13. City-County Consolidation – Option 2 Continued

7-3-1346. Department of health. The director of the department of health must be a **physician** legally authorized to practice medicine and surgery in Montana. Except as otherwise provided in part 12 or this part, the director of the department of health has the powers and shall perform the duties conferred on and required of coroners and county health officers and local health officers by the general laws of the state. The director also has other powers and shall perform other duties that may be prescribed by ordinance.

Title 7. Local Government
Chapter 4. Officers and Employees
Part 29. Office of County Coroner

7-4-2911. Duties of county coroner. The county coroner shall:

(8) inquire into any human death when no **physician** or surgeon licensed in the state will sign a death certificate;

Title 7. Local Government
Chapter 6. Financial Administration and Taxation
Part 15. Resort Tax

7-6-1501. Definitions. As used in this part, the following definitions apply:

(4) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a **physician**.

(5) "Medicine" means substances sold for curative or remedial properties, including both **physician** prescribed and over-the-counter medications.

Title 7. Local Government
Chapter 32. Law Enforcement
Part 2. Reserve and Auxiliary Officers

7-32-213. Qualifications for appointment as reserve officer. To be appointed a reserve officer, a person:

(8) must be examined by a licensed **physician** within 30 days immediately preceding the date of appointment and pronounced in good physical condition; and

Title 7. Local Government
Chapter 32. Law Enforcement
Part 3. Qualifications of Law Enforcement Officers

7-32-303. Peace officer employment, education, and certification standards — suspension or revocation — penalty.

(g) be free of any mental condition that might adversely affect performance of the duties of a peace officer, as determined after:

(i) a mental health evaluation performed by a licensed **physician** or a mental health professional who is licensed by the state under Title 37, who is acting within the scope of the person's licensure when performing a mental health evaluation, who is not the applicant's personal **physician** or licensed mental health professional, and who is selected by the employing authority; or

(ii) satisfactory completion of a standardized mental health evaluation instrument determined by the employing authority to be sufficient to examine for any mental conditions within the meaning of this subsection (2)(g), if the instrument is scored by a licensed **physician** or a mental health professional acting within the scope of the person's licensure by a state;

Title 7. Local Government
Chapter 32. Law Enforcement
Part 21. Sheriff's Office

7-32-2104. Qualifications of deputy sheriff. (1) A sheriff may not employ an individual as a deputy sheriff unless the individual:

(e) has been examined by a **physician** licensed to practice in the state of Montana within 30 days immediately preceding the date of employment and has been pronounced in good physical condition.

Title 15. Taxation
Chapter 30. Individual Income Tax
Part 21. Rate and General Provisions

15-30-2116. Additional exemption for dependent child with disability — physician's verification.

(3) A taxpayer claiming the exemption provided for in subsection (1) shall provide with the taxpayer's income tax return written documentation by a licensed **physician** that the disability qualifies under subsection (2). The written documentation remains in effect in subsequent tax years for the purpose of claiming the additional exemption unless there is a change in the dependent's physical circumstances to the extent that the dependent no longer qualifies for the additional exemption. The taxpayer shall inform the department of any change in the dependent's eligibility. The department may inquire by mail whether any material change has occurred in the dependent's physical circumstances that may affect the dependent's eligibility for the additional exemption and that may require additional written documentation by a licensed **physician** at any time that the department considers necessary.

Title 16. Alcohol and Tobacco
Chapter 1. Administration and Taxation
Part 2. Scope of Code and Exemptions

16-1-203. Health professions exemption. A **physician**, dentist, veterinarian, or pharmacist, acting within the scope of the individual's professional responsibility and license to practice, who prescribes, prepares, or administers alcohol or substances containing alcohol and sells or charges a fee does not violate the prohibitions of this code.

Title 16. Alcohol and Tobacco
Chapter 6. Enforcement
Part 3. Miscellaneous Prohibitions and Penalties

16-6-305. Age limit for sale or provision of alcoholic beverages — liability of provider. (1) (a) Except in the case of an alcoholic beverage provided in a nonintoxicating quantity to a person under 21 years of age by the person's parent or guardian, **physician** or dentist for medicinal purposes, a licensed pharmacist upon the prescription of a **physician**, or an ordained minister or priest in connection with a religious observance, a person may not sell or otherwise provide an alcoholic beverage to a person under 21 years of age.

Title 19. Public Retirement Systems
Chapter 3. Public Employee's Retirement System
Part 10. Disability Retirement Benefits

19-3-1015. Medical examination of disability retiree — cancellation and reinstatement. (1) The board may, in its discretion, require a disabled member to undergo a medical examination. The examination must be made by a board-approved **physician** or surgeon at a place mutually agreed on by the board, the disabled member, and the **physician** or surgeon and at the board's expense. . .

Title 19. Public Retirement Systems
Chapter 5. Judge's Retirement
Part 10. Disability Retirement Benefits

19-5-612. Medical examination of disability retiree — cancellation of benefit. (1) The board, in its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination. The examination must be made by a board-approved **physician** or surgeon at a place mutually agreed on by the board, the disabled member, and the **physician** or surgeon and at the board's expense. . .

Title 19. Public Retirement Systems
Chapter 6. Highway Patrol Officer's Retirement
Part 6. Disability Retirement Benefits

19-6-612. Medical examination of disability retiree — cancellation of benefit. (1) The board may require the recipient of a disability retirement benefit to undergo a medical examination. The examination must be made by a board-approved **physician** or surgeon at a place mutually agreed on by the board, the disabled member, and the **physician** or surgeon and at the board's expense. . .

Title 19. Public Retirement Systems
Chapter 7. Sheriff's Retirement
Part 6. Disability Retirement Benefits

19-7-612. Medical examination of disability retiree — cancellation of benefit. (1) The board, in its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination. The examination must be made by a board-approved **physician** or surgeon at a place mutually agreed on by the board, the disabled member, and the **physician** or surgeon and at the board's expense. . .

Title 19. Public Retirement Systems
Chapter 8. Game Warden's and Peace Officer's Retirement
Part 7. Disability Retirement Benefits

9-8-712. Medical examination of disability retiree — cancellation of benefit. (1) The board, in its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination. The examination must be made by a board-approved **physician** or surgeon at a place mutually agreed on by the board, the disabled member, and the **physician** or surgeon and at the board's expense. . .

Title 19. Public Retirement Systems
Chapter 9. Police Retirement – Statewide Plan
Part 9. Disability Retirement Benefits

19-9-904. Termination of disability benefit. The board, in its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination. The examination must be made by a board-approved **physician** or surgeon at a place mutually agreed on by the board, the disabled member, and the **physician** or surgeon and at the board's expense. . .

Title 19. Public Retirement Systems
Chapter 13. Firefighters' Unified Retirement System
Part 8. Disability Retirement Benefits

19-13-804. Medical examination of disability retiree — cancellation of benefit. (1) The board, in its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination. The examination must be made by a board-approved **physician** or surgeon at a place mutually agreed on by the board, the disabled member, and the **physician** or surgeon and at the board's expense. . .

Title 19. Public Retirement Systems
Chapter 17. Volunteer Firefighters' Compensation Act
Part 6. Disability Retirement Benefits

9-17-604. Medical review of certain disability retirees. The board may require a member who receives a disability benefit to undergo periodic medical examinations. The examinations must be made by a board-approved **physician** or surgeon at a place mutually agreeable to the board, the **physician** or surgeon, and the member and at the board's expense. Upon the basis of these examinations and the advice of the board's consulting **physician**, the board shall determine, by reason of physical or mental capacity, whether the member remains permanently and totally disabled.

Title 19. Public Retirement Systems
Chapter 20. Teachers' Retirement
Part 9. Disability Retirement

19-20-901. Eligibility for disability retirement — determination by board.

(3) In making a determination under subsection (2), the retirement board or its representative may:

(a) order examinations by a **physician**, psychologist, or vocational rehabilitation counselor;

19-20-903. Medical examination of disability retiree. (1) Once each year during the first 5 years following the retirement of a member on a disability retirement allowance and once in every 3-year period thereafter, the retirement board may require a disability benefit recipient who has not yet attained the age of 60 to undergo a medical examination by a **physician** or **physicians** designated by the retirement board. .

Title 20. Education
Chapter 1. General Provisions
Part 6. Montana Military Service Higher Education Act

20-1-605. Financial credit — readmission fees prohibited — refund. (1) Except as provided in subsection (2):

(d) if a student does not reenroll within the timeframe required under subsection (1)(a) due to an illness or injury, including posttraumatic stress disorder, documented by a licensed **physician** and incurred while performing the active duty, the student is entitled to a refund of the amount of the tuition and fees previously paid by or on behalf of the student for any course or courses the student withdrew from pursuant to 20-1-604.

Title 20. Education

Chapter 5. Pupils

Part 4. Health

20-5-405. Medical or religious exemption.

(2) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school, if an adult, files with the governing authority a written statement signed by a **physician** licensed to practice medicine in any jurisdiction of the United States or Canada stating that the physical condition of the person seeking to attend school or medical circumstances relating to the person indicate that some or all of the required immunizations are not considered safe and indicating the specific nature and probable duration of the medical condition or circumstances that contraindicate immunization, the person is exempt from the requirements of this part to the extent indicated by the **physician's** statement. The statement must be maintained as part of the person's immunization records.

Title 20. Education

Chapter 10. Transportation and Food Services

Part 1. School Buses and Transportation

20-10-103. School bus driver qualifications. A driver of a school bus is qualified to drive a school bus if the driver:

(4) has filed with the district a satisfactory medical examination report, on a form approved by the United States department of transportation, signed by any **physician** licensed in the United States or, if acceptable to an insurance carrier, any licensed **physician**;

Title 26. Evidence

Chapter 1. Statutory Provisions on Evidence

Part 8. Privileges

26-1-805. Doctor-patient privilege. Except as provided in Rule 35, Montana Rules of Civil Procedure, a licensed **physician**, surgeon, or dentist may not, without the consent of the patient, be examined in a civil action as to any information acquired in attending the patient that was necessary to enable the **physician**, surgeon, or dentist to prescribe or act for the patient. A communication described in 45-9-104(7) is not a privileged communication.

Title 26. Evidence

Chapter 2. Subpoenas and Witnesses

Part 6. Expert Witness Qualifications – Medical Malpractice

26-2-601. Medical malpractice expert witness qualifications.

(2) If the malpractice claim involves treatment that is recommended or provided by a **physician** as defined in 37-3-102, a person may not testify as an expert witness with respect to issues of negligence or standards of care and practice concerning the treatment unless the person is also a **physician**.

Title 27. Civil Liability, Remedies, and Limitations

Chapter 1. Availability of Remedies – Liability

Part 7. Liability

27-1-714. Limits on liability for emergency care rendered at scene of accident or emergency. (1) Any person licensed as a **physician** and surgeon under the laws of the state of Montana, any volunteer firefighter or officer of any nonprofit volunteer fire company, any search and rescue volunteer, or any other person who in good faith renders emergency care or assistance without compensation except as provided in subsection (2) at the scene of an emergency or accident is not liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by the person in rendering the emergency care or assistance.

Title 33. Insurance and Insurance Companies
Chapter 2. Regulation of Insurance Companies
Part 22. Private Air Ambulance Services

3-2-2208. Trade practices.

(4) A membership agreement requirement of medical necessity is satisfied if:

(a) the treating **physician** requesting the transport certifies that the transport is medically necessary; or

Title 33. Insurance and Insurance Companies
Chapter 18. Unfair Trade Practices
Part 2. Insurer's Relations with Insured and Claimant

33-18-201. Unfair claim settlement practices prohibited. A person may not, with such frequency as to indicate a general business practice, do any of the following:

(12) delay the investigation or payment of claims by requiring an insured, claimant, or **physician** of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

Title 33. Insurance and Insurance Companies
Chapter 20. Life Insurance
Part 13. Viatical Settlements

33-20-1312. Conditions precedent to entering into viatical settlement contract. (1) Before a viatical settlement provider enters into a viatical settlement contract with a policyholder or certificate holder who has a terminal illness or condition, the viatical settlement provider shall first obtain the following:

(a) a written statement from an attending **physician** that the policyholder or certificate holder is of sound mind and not under constraint or undue influence; and

(2) A viatical settlement provider may enter a viatical settlement contract only after the individual whose life would be the subject of the viatical settlement contract is determined to have a terminal illness or condition, as follows:

(a) if the individual is the policyholder or certificate holder, an attending **physician** of the policyholder or certificate holder shall make the determination; or

(b) if the individual is a person other than the policyholder or certificate holder, an attending **physician** of the individual or of the policyholder or certificate holder shall make the determination.

(3) For purposes of this section, "attending **physician**" means a medical doctor, a doctor of osteopathy, or a naturopathic physician licensed in this state, who is primarily responsible for the treatment or a portion of treatment of the individual whose life would be the subject of the viatical settlement contract.

33-20-1313. Requirements for entering into viatical settlement contract — prohibitions on finder's fee — solicitations — discrimination — false or misleading advertising or solicitation — misuse of confidential information.

(3) A licensee may not pay or offer to pay a finder's fee, commission, or other compensation to a person described in this subsection (3) in connection with a policy insuring the life of an individual with a terminal illness or condition. The prohibition under this subsection (3) applies with respect to payments or offers of payment to:

(a) the **physician**, attorney, or accountant of the policyholder, the certificate holder, or the insured individual;

(b) any person other than a **physician**, attorney, or accountant described in subsection (3)(a) who provides medical, legal, or financial planning services to the policyholder, to the certificate holder, or to the insured individual when the individual is other than the policyholder or certificate holder; or

Title 33. Insurance and Insurance Companies

Chapter 22. Disability Insurance

Part 1. General Provisions

33-22-131. Coverage for treatment of inborn errors of metabolism.

(3) For purposes of this section:

(a) "medical foods" means nutritional substances in any form that are:

(i) formulated to be consumed or administered enterally under supervision of a **physician**;

(b) "treatment" means licensed professional medical services under the supervision of a **physician**.

33-22-132. Coverage for mammography examinations.

(2) For the purpose of this section, "minimum mammography examination" means:

(b) a mammogram every 2 years for any woman who is 40 years of age or older and under 50 years of age or more frequently if recommended by the woman's **physician**; and

33-22-134. Postmastectomy care. Each group and individual disability policy, certificate of insurance, or membership contract that is delivered, issued for delivery, renewed, extended, or modified in this state must provide coverage for hospital inpatient care for a period of time as is determined by the attending **physician** and, in the case of a health maintenance organization, also the primary care **physician**, in consultation with the patient, to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer. . .

33-22-135. Coverage for reconstructive breast surgery after mastectomy — benefits and conditions.

(2) The treatment covered under subsection (1) must be determined in consultation with the attending **physician** and the patient.

33-22-139. Coverage of therapies for Down syndrome.

(2) Coverage under this section must include:

(a) habilitative or rehabilitative care that is prescribed, provided, or ordered by a licensed **physician**, including but not limited to professional, counseling, and guidance services and treatment programs that are medically necessary to develop and restore, to the maximum extent practicable, the functioning of the covered child; and

(6) When treatment is expected to require continued services, the insurer may request that the treating **physician** provide a treatment plan consisting of diagnosis, proposed treatment by type and frequency, the anticipated duration of treatment, the anticipated outcomes stated as goals, and the reasons the treatment is medically necessary. The treatment plan must be based on evidence-based screening criteria. The insurer may ask that the treatment plan be updated every 6 months.

(7) As used in this section, "medically necessary" means any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a **physician** licensed in this state and that will or is reasonably expected to:

(a) reduce or improve the physical, mental, or developmental effects of Down syndrome; or

(b) assist in achieving maximum functional capacity in performing daily activities, taking into account both the functional capacity of the recipient and the functional capacities that are appropriate for a child of the same age.

Title 33. Insurance and Insurance Companies

Chapter 22. Disability Insurance

Part 3. Requirements for Certain Individual Coverages

33-22-303. Coverage for well-child care.

(5) For purposes of this section:

(b) "well-child care" means the services described in subsection (2) and delivered by a **physician** or a health care professional supervised by a **physician**.

3-22-512. Coverage for well-child care.

(5) For purposes of this section:

(b) "well-child care" means the services described in subsection (2) and delivered by a **physician** or a health care professional supervised by a **physician**.

33-22-515. Coverage of autism spectrum disorders.

(3) (a) Coverage under this section must include:

(i) habilitative or rehabilitative care that is prescribed, provided, or ordered by a licensed **physician** or licensed psychologist, including but not limited to professional, counseling, and guidance services and treatment programs that are medically necessary to develop and restore, to the maximum extent practicable, the functioning of the covered child;

(ii) medications prescribed by a **physician** licensed under Title 37, chapter 3;

(iii) psychiatric or psychological care; and

(iv) therapeutic care that is provided by a speech-language pathologist, audiologist, occupational therapist, or physical therapist licensed in this state.

(6) When treatment is expected to require continued services, the insurer may request that the treating **physician** provide a treatment plan consisting of diagnosis, proposed treatment by type and frequency, the anticipated duration of treatment, the anticipated outcomes stated as goals, and the reasons the treatment is medically necessary. The treatment plan must be based on evidence-based screening criteria. The insurer may ask that the treatment plan be updated every 6 months.

(7) As used in this section, "medically necessary" means any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a **physician** or psychologist licensed in this state and that will or is reasonably expected to:

Title 33. Insurance and Insurance Companies
Chapter 22. Disability Insurance
Part 9. Medicare Supplement Insurance Minimum Standards

33-22-904. Standards for policy provisions — rules.

(4) Notwithstanding any other provisions of the law, a medicare supplement policy or certificate may not exclude or limit benefits for losses incurred more than 6 months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a **physician** within 6 months before the effective date of coverage.

Title 33. Insurance and Insurance Companies
Chapter 22. Disability Insurance
Part 10. Home Health Care Coverage

33-22-1001. Definition of home health care. "Home health care" means services provided by a licensed home health agency to an insured in the insured's place of residence that is prescribed by the insured's attending **physician** as part of a written plan of care. Services provided by home health care include:

Title 33. Insurance and Insurance Companies
Chapter 30. Health Service Corporations
Part 10. Health Service Corporation Plans

33-30-1014. Coverage for well-child care.

(5) For purposes of this section:

(b) "well-child care" means the services described in subsection (2) and delivered at the intervals required in that subsection by a **physician** or a health care professional supervised by a physician.

Title 35. Corporations, Partnership, and Associations
Chapter 20. Cemetery Associations
Part 2. Operations Generally – Trustees of Association

35-20-209. Duties of secretary — record of interments. The secretary shall perform all the duties of a secretary of a corporation and shall, in addition, keep a record of interments in which the secretary shall enter as correctly and carefully as may be the name, age, sex, place of birth, and cause of death with date of burial of every person interred in the cemetery. The secretary shall procure these facts from friends or relatives of the deceased or the undertaker that gives the order for interment at that time or, if the deceased is a pauper, a stranger, or criminal, from the coroner, **physician**, or other public officer directing the burial of the deceased.

Title 37. Professions and Occupations

Chapter 7. Pharmacy

Part 5. Drug Product Selection

37-7-506. Notice to purchaser.

(2) Each pharmacy shall display in a prominent place that is in clear and unobstructed public view, at or near the place where prescriptions are dispensed, a sign stating: "This pharmacy may be able to select a less expensive drug product that is equivalent to the one prescribed by your **physician** unless you or your **physician** request otherwise." The printing on the sign must be in block letters not less than 1 inch in height.

Title 37. Professions and Occupations

Chapter 16. Hearing Aid Dispensers

Part 1. General

37-16-103. Exemptions. This chapter does not apply to a person who is:

- (1) a **physician** licensed to practice by the state board of medical examiners;

37-16-303. Bill of sale — medical evaluation requirements — waiver.

(2) (a) Except as provided in subsection (2)(b), a hearing aid dispenser may not sell a hearing aid to a person unless the person has presented to the hearing aid dispenser a written statement signed by a licensed **physician** within the previous 6 months that states that the person's hearing loss has been medically evaluated and that there are no medical factors or conditions that render hearing aid use inadvisable as a treatment or remedy for hearing loss.

Title 37. Professions and Occupations

Chapter 27. Direct-Entry Midwifery

Part 1. General

37-27-104. Exemptions. This chapter does not limit or regulate the practice of a licensed **physician**, certified nurse-midwife, or licensed emergency care provider. . .

Title 37. Professions and Occupations

Chapter 27. Direct-Entry Midwifery

Part 2. Licensure

37-27-205. Provisional license — apprentice license. (1) Upon payment of a \$200 fee to the department of labor and industry, the board may grant an apprentice direct-entry midwife license to a person who:

- (a) is working under the personal supervision of a licensed direct-entry midwife, a certified nurse-midwife, a licensed **physician**, or a licensed naturopathic physician who is certified for the specialty practice of naturopathic childbirth attendance; and

Title 37. Professions and Occupations

Chapter 27. Direct-Entry Midwifery

Part 3. Regulation of Practice

37-27-302. Administration of prescription drugs prohibited — exceptions. A licensed direct-entry midwife may not dispense or administer prescription drugs other than newborn vitamin K (oral or intramuscular preparations), pitocin (intramuscular) postpartum, xylocaine (subcutaneous), and, in

accordance with administrative rules adopted by the department of public health and human services, prophylactic eye agents to newborn infants. These drugs may be administered only if prescribed by a **physician**.

37-27-311. Informed consent.

(2) Informed consent must be evidenced by a written statement, in a form prescribed by the board and signed by the direct-entry midwife and the woman to whom care is to be given, in which the direct-entry midwife certifies that full disclosure has been made and acknowledged by the woman on the following:

(e) the fact that the patient has been advised to consult with a **physician** at least twice during the pregnancy;

37-27-320. Reports — failure to report. (1) A licensed direct-entry midwife shall submit semiannually to the board, on forms supplied by the board, a summary report on each patient who was given care. The report must include vital statistics on each patient and information on the procedures and scope of care administered, including transport of the patient to a hospital and **physician** referrals, but may not include information disclosing the identity of the patient.

Title 37. Professions and Occupations

Chapter 28. Respiratory Care Practitioners

Part 1. General

37-28-102. Definitions. As used in this chapter, the following definitions apply:

(2) "Qualified medical direction" means the direction of:

(b) a licensed **physician** with a special interest and knowledge about the diagnosis and treatment of respiratory problems.

(3) (a) "Respiratory care" means the care provided by a member of the allied health profession responsible for the treatment, management, diagnostic testing, and control of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The term includes but is not limited to:

(i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures that are necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a **physician**;

(ii) transcription and implementation of the written or verbal orders of a **physician** regarding the practice of respiratory care;

(iv) implementation of respiratory care protocols pursuant to a prescription by a **physician**; and

Title 39. Labor

Chapter 2. The Employment Relationship

Part 1. General Provisions

39-2-104. Mandatory leave of absence for employees holding public office.

(2) An employee granted a leave of absence shall make arrangements to return to work within 10 days following the completion of the service for which the leave was granted unless the employee is unable to do so because of illness or disabling injury certified to by a licensed **physician**.

Title 39. Labor

Chapter 2. The Employment Relationship

Part 2. General Obligations of Employers

39-2-206. Definitions. As used in 39-2-205 through 39-2-211, the following definitions apply:

(9) "Medical review officer" means a licensed **physician** trained in the field of substance abuse.

Title 39. Labor

Chapter 71. Workers' Compensation

Part 4. Coverage, Liability, and Subrogation

39-71-407. (Effective on occurrence of contingency) Liability of insurers — limitations.

(5) Except as provided in subsection (6), an employee is not eligible for benefits otherwise payable under this chapter if the employee's use of alcohol or drugs not prescribed by a **physician** is the major contributing cause of the accident.

(6) (a) An employee who has received written certification, as defined in 50-46-302, from a **physician** for the use of marijuana for a debilitating medical condition and who is otherwise eligible for benefits payable under this chapter is subject to the limitations of subsections (6)(b) through (6)(d).

(7) The provisions of subsection (5) do not apply if the employer had knowledge of and failed to attempt to stop the employee's use of alcohol or drugs not prescribed by a **physician**. This subsection (7) does not apply to the use of marijuana for a debilitating medical condition because marijuana is not a prescribed drug.

Title 39. Labor

Chapter 71. Workers' Compensation

Part 6. Claims for Benefits

39-71-604. Application for compensation — disclosure and communication without prior notice of health care information. (1) If a worker is entitled to benefits under this chapter, the worker shall file with the insurer all reasonable information needed by the insurer to determine compensability. It is the duty of the worker's attending **physician** to lend all necessary assistance in making application for compensation and proof of other matters that may be required by the rules of the department without charge to the worker. The filing of forms or other documentation by the attending **physician** does not constitute a claim for compensation.

(2) A signed claim for workers' compensation or occupational disease benefits authorizes disclosure to the workers' compensation insurer, as defined in 39-71-116, or to the agent of a workers' compensation insurer by the health care provider. The disclosure authorized by this subsection authorizes the **physician** or other health care provider to disclose or release only information relevant to the claimant's condition. . .

(3) A signed claim for workers' compensation or occupational disease benefits or a signed release authorizes a workers' compensation insurer, as defined in 39-71-116, or the agent of the workers' compensation insurer to communicate with a **physician** or other health care provider about relevant health care information, as authorized in subsection (2), by telephone, letter, electronic communication, in person, or by other means, about a claim and to receive from the physician or health care provider the information authorized in subsection (2) without prior notice to the injured employee, to the employee's

authorized representative or agent, or in the case of death, to the employee's personal representative or any person with a right or claim to compensation for the injury or death.

(4) If death results from an injury, the parties entitled to compensation or someone in their behalf shall file a claim with the insurer. The claim must be accompanied with proof of death and proof of relationship, showing the parties entitled to compensation, certificate of the attending **physician**, if any, and such other proof as may be required by the department.

Title 39. Labor

Chapter 71. Workers' Compensation

Part 7. Compensation and Benefits Generally

39-71-727. Payment for prescription drugs — limitations. (1) For payment of prescription drugs, an insurer is liable only for the purchase of generic-name drugs if the generic-name product is the therapeutic equivalent of the brand-name drug prescribed by the **physician**, unless the generic-name drug is unavailable.

Title 40. Family Law

Chapter 6. Parent and Child

Part 1. Uniform Parentage Act

40-6-106. Artificial insemination. (1) If, under the supervision of a licensed **physician** and with the consent of the woman's husband, a wife is inseminated artificially with semen donated by a person who is not the husband, the husband is treated in law as if the husband were the natural father of a child conceived by artificial insemination. The husband's consent must be in writing and signed by the husband and the wife. The **physician** shall certify their signatures and the date of the insemination and file the husband's consent with the department of public health and human services, where it must be kept confidential and in a sealed file. However, the **physician's** failure to file the consent does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising **physician** or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(2) The donor of semen provided to a licensed **physician** for use in artificial insemination of a married woman other than the donor's wife is treated in law as if the donor is not the natural father of a child conceived by artificial insemination.

Title 40. Family Law

Chapter 6. Parent and Child

Part 4. Montana Safe Haven Newborn Protection Act

40-6-402. Definitions. As used in this part, the following definitions apply:

(10) "Newborn" means an infant who a **physician** reasonably believes to be no more than 30 days old.

40-6-406. Medical care — report of abuse or neglect — report to department.

(2) A hospital that takes a newborn into temporary protective custody under this part must have the newborn examined by a **physician**. If a **physician** who examines the newborn either determines that there is reason to suspect the newborn has experienced abuse or neglect, other than being surrendered to an emergency services provider under 40-6-405, or comes to a reasonable belief that the infant is not a newborn, the **physician** shall immediately report to the department as required under 41-3-201. If the

actual date of birth of the infant is not known, the **physician** shall determine a birth date based on the **physician's** examination of the infant.

(3) If a **physician** is not required to report to the department under subsection (2), the hospital shall, no later than the first business day after taking possession of the newborn, notify the department that the hospital has taken a newborn into temporary protective custody under this part.

40-6-407. Assumption of care, custody, and control by department — placement of child — presumptions — Montana birth certificate.

(4) A Montana birth certificate may be issued based on the presumption of birth in Montana as provided in subsection (3). A birth certificate issued to a newborn surrendered under 40-6-405 must provide a date of birth based on either the actual date of birth, if known, or on the date of birth determined by the **physician** who performs the medical examination of the newborn under 40-6-406.

Title 41. Minors

Chapter 1. Rights and Obligations of Minors

Part 4. Consent for Health Services

41-1-405. Emergencies and special situations.

(3) Consent may not be required of a minor who does not possess the mental capacity or who has a physical disability that renders the minor incapable of giving consent and who has no known relatives or legal guardians, if a **physician** determines that the health service should be given.

41-1-406. Psychiatric or psychological counseling under urgent circumstances. When executed by a minor, the consent to the providing of psychiatric or psychological counseling by a **physician** or psychologist licensed to practice in this state, under circumstances when the need for the counseling is urgent in the opinion of the physician or psychologist involved because of danger to the life, safety, or property of a minor or of another person or persons and the consent of the spouse, parent, custodian, or guardian of the minor cannot be obtained within a reasonable time to offset the danger to life or safety, is as valid and binding as if the minor had achieved majority. . .

Title 41. Minors

Chapter 3. Child Abuse and Neglect

Part 1. General

41-3-123. (Temporary) Child abuse and neglect review commission — duties — confidentiality — liability — report to legislature.

(11) For the purposes of this section, "near fatality" means an incident in which a child was certified by a **physician** to be in a medically serious or critical condition because of an action that constituted child abuse or neglect.

Title 41. Minors

Chapter 3. Child Abuse and Neglect

Part 2. Reports and Investigations

41-3-204. Admissibility and preservation of evidence.

(4) A **physician**, either in the course of providing medical care to a minor or after consultation with child protective services, the county attorney, or a law enforcement officer, may require x-rays to be taken

when, in the **physician's** professional opinion, there is a need for radiological evidence of suspected abuse or neglect. X-rays may be taken under this section without the permission of the parent or guardian. . .

41-3-206. Procedure in case of child's death.

(2) The medical examiner or coroner shall investigate the report and submit findings, in writing, to the local law enforcement agency, the appropriate county attorney, the local child protective service, the family of the deceased child, and, if the person making the report is a **physician**, the **physician**.

Title 41. Minors

Chapter 3. Child Abuse and Neglect

Part 4. Abuse or Neglect Proceedings

41-3-443. Treatment plan — contents — changes.

(3) A treatment plan may include but is not limited to any of the following remedies, requirements, or conditions:

(b) the requirement of either the child or the child's parent or guardian to obtain medical or psychiatric diagnosis and treatment through a **physician** or psychiatrist licensed in the state of Montana;

Title 44. Law Enforcement

Chapter 1. Highway Patrol

Part 5. Salaries and Expenses

44-1-512. Determination of eligibility for salary benefit.

(2) In determining the nature and extent of an officer's injuries and the extent of any recovery, the chief shall seek and consider the medical opinion of a qualified **physician** who has examined the injured officer. The chief may seek a second medical opinion.

44-1-513. Periodic medical examinations — waiver of right to salary benefit. (1) The chief may appoint a **physician** to examine an injured officer from time to time. If, in the **physician's** opinion, the injured officer has sufficiently recovered to perform light duties or regular duties, the physician shall certify that fact.

Title 46. Criminal Procedure

Chapter 4. Investigative Procedures

Part 1. Investigation of Death – Autopsy

46-4-121. Inquiry defined. For the purposes of this part, an inquiry by a county coroner is an informal examination of a death and its attendant circumstances to determine whether:

(2) the reporting **physician** should certify the death;

46-4-122. Human deaths requiring inquiry by coroner. The coroner shall inquire into and determine the cause and manner of death and all circumstances surrounding a human death:

(2) whenever the death occurred:

(e) in a manner that was unattended or unwitnessed and the deceased was not attended by a **physician** at any time in the 30-day period prior to death;

Title 46. Criminal Procedure

Chapter 23. Probation, Parole, and Clemency

Part 2. Granting of Parole

46-23-210. Medical parole. (1) The board may release on medical parole by appropriate order any person confined in a state prison or adult community corrections facility or any person sentenced to a state prison and confined in a prerelease center who:

(c) (i) has a medical condition requiring extensive medical attention; or

(ii) has been determined by a **physician** to have a medical condition that will likely cause death within 6 months or less.

(3) Medical parole may be requested by the board, the department, an incarcerated person, or an incarcerated person's spouse, parent, child, grandparent, or sibling by submitting a completed application to the administrator of the correctional institution in which the person is incarcerated. The application must include a detailed description of the person's proposed placement and medical care and an explanation of how the person's medical care will be financed if the person is released on medical parole. The application must include a report of an examination and written diagnosis by a **physician** licensed under Title 37 to practice medicine. The **physician's** report must include:

(6) The hearing panel shall require as a condition of medical parole that the person agree to placement in an environment approved by the department during the parole period, including but not limited to a hospital, nursing home, hospice facility, or prerelease center, to intensive supervision, to some other appropriate community corrections facility or program, or to a family home. The hearing panel may require as a condition of parole that the person agree to periodic examinations and diagnoses at the person's expense. Reports of each examination and diagnosis must be submitted to the board and department by the examining **physician**. If either the board or department determines that the person's medical condition has improved to the extent that the person no longer requires extensive medical attention or is likely to pose a detriment to the person, victim, or community, a hearing panel may revoke the parole and return the person to the custody of the department.

Title 50. Health and Safety

Chapter 1. Administration of Public Health Laws

Part 1. General Provisions

50-1-111. Asbestos disease account. There is an asbestos disease account in the state special revenue fund to be used by the department for grants to the Lincoln County health board to be used for the following purposes:

(3) providing direct services to individuals who have a positive result as determined by a qualified **physician** for asbestos-related diseases;

Title 50. Health and Safety

Chapter 5. Hospitals and Related Facilities

Part 1. General Provisions

50-5-101. Definitions. As used in parts 1 through 3 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(26) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, eating disorder centers, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

(b) The term does not include offices of private **physicians**, dentists, or other physical or mental health care workers regulated under Title 37, including licensed addiction counselors.

(31) (a) "Hospital" means a facility providing, by or under the supervision of licensed **physicians**, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as otherwise provided by law, services provided must include medical personnel available to provide emergency care onsite 24 hours a day and may include any other service allowed by state licensing authority. A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes:

(36) "Licensed health care professional" means a licensed physician, physician assistant, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the department of labor and industry.

(38) "Medical assistance facility" means a facility that meets both of the following:

(a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a longer period is required because transfer to a hospital is precluded because of inclement weather or emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction retroactively and on a case-by-case basis if the individual's attending **physician**, physician assistant, or nurse practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety of the individual.

(43) "Outpatient center for primary care" means a facility that provides, under the direction of a licensed **physician**, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for surgical services.

(48) "Practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

50-5-105. Discrimination prohibited.

(3) A person who operates a facility may not discriminate among the patients of licensed **physicians**. The free and confidential professional relationship between a licensed physician and patient must continue and remain unaffected.

Title 50. Health and Safety
Chapter 5. Hospitals and Related Facilities
Part 2. Licensing

50-5-216. Limitation on care provided in adult foster care home.

(4) A resident of an adult foster care home licensed under subsection (2) must have a certification in the form of a signed statement, renewed on an annual basis, from a **physician**, a physician assistant, a nurse practitioner, or a registered nurse, whose work is unrelated to the operation of the home and who has actually visited the home within the year covered by the statement and certifies that:

(5) As used in this section, "skilled nursing care" means 24-hour care supervised by a registered nurse or a licensed practical nurse under the orders of an attending **physician**.

50-5-235. Hourly limitation waivable by department or department's designee. The department or the department's designee may waive the 24-hour limitation related to recovery care beds, as defined in 50-5-101, as that limitation applies to a particular bed, if the attending **physician** of the individual occupying the bed determines that the waiver is medically appropriate. The waiver may be granted by the department before or after the 24-hour limitation is exceeded.

Title 50. Health and Safety

Chapter 5. Hospitals and Related Facilities

Part 6. Family Practice Residency Training

50-5-602. Definitions. As used in this part, the following definitions apply:

(2) "Family practice" means comprehensive medical care with particular emphasis on the family unit, in which the **physician's** continuing responsibility for health care is not limited by the patient's age or sex or by a particular organ system or disease entity.

(3) "Residency training" means a community-based family practice program to train family practice resident **physicians**, sponsored by one or more community hospitals and physicians in Montana, for inpatient and outpatient training.

(4) "Resident **physician**" means any **physician** in advanced medical specialty training.

Title 50. Health and Safety

Chapter 5. Hospitals and Related Facilities

Part 7. Lay Caregivers

50-5-703. Notice to designated lay caregiver. (1) A hospital shall notify a patient's designated lay caregiver of the patient's impending discharge or transfer to another hospital or facility licensed by the state as soon as practicable. Notice may be provided after the patient's **physician** issues a discharge order and prior to the patient's discharge or transfer.

Title 50. Health and Safety

Chapter 5. Hospitals and Related Facilities

Part 11. Long-Term Health Care Facilities

50-5-1104. Rights of long-term care facility residents.

(2) In addition to the rights adopted under subsection (1), the state adopts for all residents of long-term care facilities the following rights:

(j) In case of involuntary transfer or discharge, a resident has the right to reasonable advance notice to ensure an orderly transfer or discharge. Reasonable advance notice requires at least 21 days' written

notification of any interfacility transfer or discharge except in cases of emergency or for medical reasons documented in the resident's medical record by the attending **physician**.

50-5-1106. Resident's rights devolve to authorized representative. The rights and responsibilities listed in 50-5-1104 and 50-5-1105 devolve to the resident's authorized representative when the resident:

(2) has been found by the resident's **physician** to be medically incapable of understanding these rights; or

50-5-1202. Definitions. As used in this part, the following definitions apply:

(4) "Physician" includes an advanced practice registered nurse to the extent permitted by federal law.

Title 50. Health and Safety

Chapter 16. Health Care Information

Part 7. Report of Exposure to Infectious Disease

50-16-702. Notification of exposure to infectious disease — report of exposure to disease. (1)

(b) If the exposure described on the form occurred in a manner that may allow infection by HIV, as defined in 50-16-1003, by a mode of transmission recognized by the U.S. department of health and human services, centers for disease control and prevention, then submission of the form to the health care facility constitutes a request to the patient's **physician** to perform an HIV diagnostic test pursuant to 50-16-1014.

50-16-703. Notification of precautions after exposure to infectious disease. (1) After a patient is transported to a health care facility and if a **physician** determines that the transported patient has an infectious disease, the **physician** shall inform the infectious disease control officer of the health care facility of the determination within 24 hours after the determination is made.

50-16-704. Confidentiality — penalty for violation — immunity from liability.

(3) A health care facility, a representative of a health care facility, a **physician**, or the designated officer of an emergency services provider's organization may not be held jointly or severally liable for providing the notification required by 50-16-703 when the notification is made in good faith or for failing to provide the notification if good faith attempts to contact an exposed person of exposure are unsuccessful.

Title 50. Health and Safety

Chapter 17. Disease Prevention and Control

Part 1. Tuberculosis Control

50-17-102. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(2) "Approved course of treatment" means a course of treatment for tuberculosis that includes medical treatment prescribed by a **physician** and consistent with accepted medical standards, as well as appropriate followup to ensure public health and safety as set out in the rules of the department.

50-17-105. Application to require examination or treatment for tuberculosis. (1) The department or a local board may apply for an order from the district court if a person is reasonably suspected to have or to have been exposed to tuberculosis, upon request of:

(a) a **physician** legally authorized to practice medicine in the state;

(4) The application must state the names of witnesses by which facts alleged may be proved. At least one witness must be a **physician**.

50-17-113. Voluntary release. (1) If the **physician** for the person at the hospital or treatment location where the person has been committed and the department or local board that requested commitment concur that a person either does not have tuberculosis or has completed an approved course of treatment, the person must be released from the hospital or treatment location.

50-17-115. Emergency detention — petition — detention. (1) If a **physician**, the department, or a local health officer reasonably believes that a person has tuberculosis and that the person is likely to attempt to leave the jurisdiction to avoid a hearing on commitment, the **physician**, department, or local health officer shall notify the sheriff of the county in which the person is found, who shall cause the person to be detained in a hospital. At least by the next regular business day, the **physician**, department, or local health officer shall petition for an order from the district court of the county in which the person is found for continued detention of the person and to require examination or treatment for tuberculosis pursuant to 50-17-105. The sheriff must serve the summons required by 50-17-106 on the person the same day the petition is filed.

Title 50. Health and Safety

Chapter 18. Sexually Transmitted Diseases

Part 1. General Provisions

50-18-107. Powers and duties of health officers. (1) If found necessary or desirable to protect public health, state and local health officers or their authorized deputies or agents shall:

(b) require persons infected to report for treatment to a reputable **physician** and continue treatment, which may be at public expense, until cured;

50-18-109. Permissible release of information concerning infected persons. (1) Information concerning persons infected or reasonably suspected to be infected with a sexually transmitted disease may be released only:

(b) to a **physician** who has written consent of the person whose record is requested;

50-18-111. Certificate of freedom from sexually transmitted disease not to be issued. No person shall issue a certificate of freedom from a sexually transmitted disease. However, a **physician** or health officer may issue a statement of freedom from diseases in an infectious state only if it is written in such form or given under safeguards that will prevent its use in solicitation for sexual intercourse. These statements shall not be used for solicitation for immoral purposes.

Title 50. Health and Safety

Chapter 19. Pregnant Women and Newborn Infants

Part 2. Metabolic Tests of Infants – Genetics Program

50-19-204. Department and Montana developmental center to furnish assistance when requested.

(2) The department may determine its procedure for advising the attending **physician**, the parents, or legal guardian of the newborn infant of any medical results of the test and the availability of assistance, services, or counseling of the department and the staff of the Montana developmental center.

Title 50. Health and Safety

Chapter 20. Abortion

Part 1. Montana Abortion Control Act

50-20-104. Definitions. As used in this chapter, the following definitions apply:

(5) "Informed consent" means voluntary consent to an abortion by the woman upon whom the abortion is to be performed only after full disclosure to the woman by:

(a) the **physician** who is to perform the abortion of the following information:

(b) the **physician** or an agent of the **physician**:

(c) the **physician** or the agent that the printed materials described in 50-20-304 have been provided by the department and that the materials describe the unborn child and list agencies that offer alternatives to abortion.

50-20-106. Informed consent.

(2) Informed consent must be certified by a written statement in a form prescribed by the department and signed by the **physician** and the woman upon whom the abortion is to be performed in which the physician certifies that the physician has made the full disclosure provided in 50-20-104(5) and in which the woman upon whom the abortion is to be performed acknowledges that the disclosures have been made to the woman and that the woman voluntarily consents to the abortion.

(4) The information required in 50-20-104(5)(a) may be provided by telephone without conducting a physical examination or tests of the patient. The information may be based on facts supplied to the **physician** by the woman and other relevant information that is reasonably available to the **physician**. The information may not be provided by a tape recording but must be provided during a consultation in which the **physician** is able to ask questions of the woman and the woman is able to ask questions of the **physician**. If a physical examination, tests, or the availability of other information subsequently indicates, in the medical judgment of the **physician**, a revision of information previously provided to the patient, the revised information may be communicated to the patient at any time prior to the performance of the abortion.

(6) The informed consent or consent provided for in this section is not required if a licensed **physician** certifies that the abortion is necessary because of a medical emergency as defined in 50-20-303.

50-20-109. Control of practice of abortion. (1) Except as provided in 50-20-401, an abortion may not be performed within the state of Montana:

(a) except by a licensed **physician** or physician assistant;

(2) An abortion under subsection (1)(b) may be performed only to preserve the life or health of the mother and only if:

(a) the judgment of the **physician** who is to perform the abortion is first certified in writing by the **physician**, setting forth in detail the facts relied upon in making the judgment; and

(b) two other licensed **physicians** have first examined the patient and concurred in writing with the judgment. The certification and concurrence in this subsection (2)(b) are not required if a licensed **physician** certifies that the abortion is necessary to preserve the life of the mother.

50-20-110. Reporting of practice of abortion. (1) Every facility in which an abortion is performed within the state shall keep on file upon a form prescribed by the department a statement dated and certified by the **physician** who performed the abortion setting forth such information with respect to the abortion as the department by regulation shall require, including but not limited to information on prior pregnancies, the medical procedure employed to administer the abortion, the gestational age of the fetus, the vital signs of the fetus after abortion, if any, and if after viability, the medical procedures employed to protect and preserve the life and health of the fetus.

(2) The **physician** performing an abortion shall cause such pathology studies to be made in connection therewith as the department shall require by regulation, and the facility shall keep the reports thereof on file.

(4) Such facility shall, within 30 days after the abortion, file with the department a report upon a form prescribed by the department and certified by the custodian of the records or **physician** in charge of such facility setting forth all of the information required in subsections (1), (2), and (3) of this section, except such information as would identify any individual involved with the abortion. The report shall exclude copies of any documents required to be filed by subsection (3) of this section, but shall certify that such documents were duly executed and are on file.

50-20-112. Penalties.

(4) (a) A penalty may not be imposed against the woman upon whom the abortion is performed or attempted to be performed.

(b) A penalty may not be imposed for failure to comply with the provision of 50-20-106 that requires a written certification that the woman has been informed of the opportunity to review the information referred to in 50-20-304 if the department has not made the written materials available at the time that the **physician** or the **physician's** agent is required to inform the woman of the right to review the materials.

Title 50. Health and Safety

Chapter 20. Abortion

Part 3. Woman's Right to Know

50-20-302. Legislative purpose and findings. (1) The legislature finds that:

(c) in most instances, the only contact with a **physician** that a woman who has an abortion has occurs simultaneously with the abortion procedure, with little opportunity to receive counseling concerning the decision;

50-20-303. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Medical emergency" means a condition that, on the basis of the **physician's** good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of the woman's pregnancy to avert the woman's death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(2) "**Physician**" means a person licensed to practice medicine under Title 37, chapter 3.

50-20-304. Publication of materials.

(3) The materials must state that:

(b) a **physician** who performs an abortion on a woman without the woman's informed consent may be liable to the woman for damages in a civil action; and

50-20-305. Emergency. When a medical emergency compels the performance of an abortion, the **physician** shall inform the woman, before the abortion if possible, of the medical indications supporting the **physician's** judgment that an abortion is necessary to avert the woman's death or that a 24-hour delay will create serious risk of substantial and irreversible impairment of a major bodily function.

50-20-306. Physician reporting requirements — penalty — action — department report. (1) Within 90 days after July 1, 1995, the department shall prepare a reporting form to be used by **physicians** that contains a reprint of this chapter and on which the **physician** shall list:

(a) the number of women to whom the **physician** provided the information described in 50-20-104(5)(a), including:

(ii) the number of women in each group referred to in subsection (1)(a)(i) to whom the **physician** provided the information in the capacity of a referring physician and the number to whom it was provided in the capacity of a physician who is to perform the abortion;

(b) the number of women to whom the **physician** or an agent of the **physician** provided the information described in 50-20-104(5)(b), including:

(i) the number of women to whom the **physician** provided the information by telephone and the number to whom it was provided in person;

(ii) the number of women in each group referred to in subsection (1)(b)(i) to whom the **physician** provided the information in the capacity of a referring **physician** and the number to whom it was provided in the capacity of a **physician** who is to perform the abortion; and

(iii) the number of women in each group referred to in subsection (1)(b)(ii) to whom information was provided by the **physician** and the number to whom it was provided by an agent of the **physician**;

(d) of each of the numbers described in subsections (1)(a) through (1)(c), the number who, to the best of the reporting **physician's** information and belief, obtained an abortion; and

(2) The department shall ensure that copies of the reporting forms described in subsection (1) are provided:

(a) by 120 days after July 1, 1995, to all **physicians** licensed in this state;

(b) to each **physician** licensed to practice after July 1, 1995, at the time of licensure;

(c) by December 1 of each succeeding year, to all **physicians** licensed to practice in this state.

(3) By February 28 of each year, each **physician** or the **physician's** agent who provided information to one or more women in accordance with 50-20-106 shall submit a copy of the reporting form described in subsection (1) to the department with the requested data entered accurately and completely.

(4) Reports that are not submitted by March 31 are subject to a penalty of \$500 for each 30-day period that the reports are overdue. A **physician** who is required to report but who, more than 1 year after the due date, has not submitted a report or who has submitted an incomplete report may, in an action brought by the department, be directed by a district court to submit a complete report within a period stated in the court order or be subject to sanctions for civil contempt.

Title 50. Health and Safety

Chapter 20. Abortion

Part 4. Miscellaneous Abortion Laws

50-20-401. Offense of partial-birth abortion — exception — definitions — penalties.

(4) A person committing the offense provided for in subsection (1) is guilty of a felony and shall be punished by:

(d) permanent revocation of the license of the **physician** performing the partial-birth abortion. The provisions of 37-1-203 and 37-1-205 do not apply to a **physician** whose license is revoked pursuant to this section.

Title 50. Health and Safety

Chapter 20. Abortion

Part 5. Parental Consent for Abortion Act

50-20-502. Legislative purpose and findings. (1) The legislature finds that:

(d) parents ordinarily possess information essential to a **physician** in the exercise of the **physician's** best medical judgment concerning the minor;

50-20-503. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(7) "**Physician**" means a person licensed to practice medicine under Title 37, chapter 3.

(8) "Physician assistant" means a person licensed pursuant to Title 37, chapter 20, who provides medical services under the supervision of a physician.

50-20-506. Proof of identification and relationship to minor — retention of records. (1) A parent or legal guardian of a minor who is consenting to the performance of an abortion on the minor shall provide the attending **physician** or physician assistant or the agent of the **physician** or physician assistant with government-issued proof of identity and written documentation that establishes that the parent or legal guardian is the lawful parent or legal guardian of the minor.

(2) A **physician** or physician assistant shall retain the completed consent form and the documents provided pursuant to subsection (1) in the minor's medical file for 5 years after the minor reaches 18 years of age, but in no event less than 7 years.

(3) A **physician** or physician assistant receiving documentation under this section shall execute for inclusion in the minor's medical record an affidavit stating: "I, (insert name of **physician** or physician assistant), certify that according to my best information and belief, a reasonable person under similar circumstances would rely on the information presented by both the minor and the minor's parent or legal guardian as sufficient evidence of identity and relationship."

Title 50. Health and Safety

Chapter 21. Cadavers and Autopsies

Part 1. General Provisions

50-21-101. Procurement of cadavers.

(2) A **physician** or podiatrist licensed in the state of Montana may procure a cadaver specimen from a nationally accredited nontransplant anatomic bank for the purposes of anatomic dissection and surgical demonstration and training.

50-21-103. Limitations on right to perform autopsy or dissection. The right to perform an autopsy, dissect a human body, conduct surgical demonstration or training on a human body, or make any postmortem examination involving dissection of any part of a body is limited to cases:

(6) in which the decedent died in the state, was a resident, but left no surviving husband, wife, or next of kin charged by law with the duty of burial and the attending **physician** obtains authority on order of the district court for the purpose of ascertaining the cause of death and then only to the extent authorized by court order after it has been shown that the physician made diligent search for the next of kin responsible by law for burial.

50-21-104. Autopsies. All autopsies of a human body must be performed by a **physician** legally authorized to practice medicine in this state. Upon completion, the **physician** shall send a written report of the **physician's** findings, including the cause of death if determined, to the:

(1) **physician** attending the person at the time of death if other than the **physician** performing the autopsy;

Title 50. Health and Safety

Chapter 32. Controlled Substances

Part 2. Scheduling of Dangerous Drugs

50-32-229. Specific dangerous drugs included in Schedule IV. Schedule IV consists of the drugs and other substances, by whatever official, common, usual, chemical, or brand name designated, listed in this section.

(5) Ephedrine.

(c) Ephedrine may be immediately accessible for use by a licensed **physician** in a patient care area if it is under the physician's direct supervision.

Title 50. Health and Safety

Chapter 32. Controlled Substances

Part 4. Transfer of Precursors to Controlled Substances

50-32-401. Report required for precursor to controlled substance.

(3) This section does not apply to any of the following:

(a) a pharmacist or other authorized person who sells or furnishes the substance upon the prescription of a **physician**, dentist, podiatrist, or veterinarian;

(b) a **physician**, dentist, podiatrist, or veterinarian who administers or furnishes the substance to patients;

(c) a manufacturer or wholesaler licensed by the board of pharmacy who sells, transfers, or otherwise furnishes the substance to a licensed pharmacist, **physician**, dentist, podiatrist, or veterinarian;

Title 50. Health and Safety

Chapter 33. Blood and Blood Products

Part 1. General Provisions

50-33-103. Immunity of physicians and hospitals. No **physician**, long-term care facility, or hospital may be held liable, in the absence of fault or negligence on the part of such a hospital, long-term care facility, or doctor, for injuries resulting from the furnishing or performing of such services.

50-33-104. Immunity of blood banks and tissue banks. No blood bank or tissue bank may be held liable in the absence of fault or negligence for injuries resulting from the injecting, transfusing, transplanting, or transferring of whole blood, plasma, blood products, blood derivatives, human tissue, organs, or bones supplied by any such blood bank or tissue bank to any hospital or **physician** if such blood products or tissue products have been tested by the latest testing procedures in accordance with recommendations of the American association of blood banks or the American association of tissue banks and by such test are not found to be dangerous to the health of the recipient of such blood products or tissue products.

Title 50. Health and Safety

Chapter 42. Dimethyl Sulfoxide (DMSO)

Part 1. General Provisions

50-42-103. Hospital not to interfere. A hospital or health care facility may not interfere with the physician-patient relationship by restricting or forbidding the use of DMSO when requested by a patient and prescribed or administered by a **physician**.

50-42-104. Health care facility nonliability. No hospital, health care facility, pharmacy, or employee thereof shall be held liable for the administration of DMSO to any person at the direction of a **physician** licensed in Montana.

50-42-105. Physician not subject to disciplinary action. A **physician** may not be subjected to disciplinary action by the board of medical examiners for prescribing or administering DMSO to a patient under the **physician's** care as an adjunct to recognized, customary, or accepted modes of therapy in the treatment of any malignancy, disease, illness, or physical condition.

50-42-107. DMSO optional. This part does not require:

- (1) a **physician**, pharmacist, pharmacy, manufacturer, or distributor to manufacture, sell, or distribute DMSO; or
- (2) a **physician** to prescribe DMSO for any patient.

Title 50. Health and Safety

Chapter 43. Calcium-EAP, Harnosal, and Phosetamin

Part 1. General Provisions

50-43-101. Purpose. The purpose of this part is to provide for the continuation of medication initiated by a **physician** for multiple sclerosis. This medication includes the substances described in this part and has been found to be effective in alleviating the symptoms of multiple sclerosis.

50-43-103. Authorization of medication. The manufacture, sale, possession, and distribution of calcium-EAP, harnosal, and phosetamin to provide for the continuation of medication initiated by a **physician** for multiple sclerosis are lawful within this state.

50-43-104. Health care facility may not interfere. A health care facility may not interfere with the physician-patient relationship by restricting or forbidding the use of calcium-EAP, harnosal, or phosetamin when prescribed or administered by a **physician**.

50-43-106. Physician not subject to disciplinary action. A **physician** may not be disciplined by the board of medical examiners for prescribing or administering calcium-EAP, harnosal, or phosetamin to a patient under the physician's care in the treatment of any malignancy, disease, illness, or physical condition.

50-43-108. Medication not required. This part does not require:

- (1) a **physician** to prescribe calcium-EAP, harnosal, or phosetamin for any patient; or
- (2) a **physician**, pharmacist, pharmacy, manufacturer, or distributor to manufacture, sell, or distribute calcium-EAP, harnosal, or phosetamin.

Title 50. Health and Safety

Chapter 46. Use of Marijuana for Debilitating Medical Conditions

Part 3. Montana Medical Marijuana Act

50-46-302. Definitions. As used in this part, the following definitions apply:

- (4) "Debilitating medical condition" means:
 - (c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating **physician**;
- (14) (a) "Marijuana-infused products provider" means a person licensed by the department to manufacture and provide marijuana-infused products for a registered cardholder.
 - (b) The term does not include the cardholder's treating or referral **physician**.
- (18) (a) "Provider" means a person licensed by the department to assist a registered cardholder as allowed under this part.
 - (b) The term does not include a cardholder's treating physician or referral **physician**.
- (19) "Referral **physician**" means an individual who:
 - (a) is licensed under Title 37, chapter 3; and
 - (b) is the **physician** to whom a patient's treating physician has referred the patient for physical examination and medical assessment.
- (26) "Standard of care" means, at a minimum, the following activities when undertaken in person or through the use of telemedicine by a patient's treating **physician** or referral **physician** if the treating **physician** or referral **physician** is providing written certification for a patient with a debilitating medical condition:
 - (g) creating and maintaining patient records that remain with the **physician**.
- (30) "Treating **physician**" means an individual who:
 - (a) is licensed under Title 37, chapter 3; and
 - (b) has a bona fide professional relationship with the individual applying to be a registered cardholder.
- (32) "Written certification" means a statement signed by a treating **physician** or referral **physician** that meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care.

50-46-303. Medical marijuana registry — department responsibilities — issuance of cards and licenses — confidentiality.

(7) (a) Registry identification cards expire 1 year after the date of issuance unless a **physician** has provided a written certification stating that a card is valid for a shorter period of time.

(8) (a) A registered cardholder shall notify the department of any change in the cardholder's name, address, or **physician** or change in the status of the cardholder's debilitating medical condition within 10 days of the change.

50-46-307. Individuals with debilitating medical conditions — requirements — minors — limitations. (1) Except as provided in subsections (2) through (5), the department shall issue a registry identification card to an individual with a debilitating medical condition who submits the following, in accordance with department rules:

(g) the name of the individual's treating **physician** or referral **physician** and the street address and telephone number of the physician's office;

(i) the written certification and accompanying statements from the individual's treating **physician** or referral **physician** as required pursuant to 50-46-310.

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(b) signs and submits a written statement that:

(i) the minor's treating **physician** or referral **physician** has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana;

(4) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 50-46-310 from a second **physician** in addition to the minor's treating **physician** or referral **physician**.

50-46-310. Written certification — accompanying statements. (1) The written certification provided by a **physician** must be made on a form prescribed by the department and signed and dated by the **physician**. The written certification must:

(a) include the **physician's** name, license number, and office address and telephone number on file with the board of medical examiners and the **physician's** business e-mail address, if any; and

(2) A treating **physician** or referral **physician** who is providing written certification for a patient shall provide a statement initialed by the **physician** that must:

(a) confirm that the **physician** is:

(i) the patient's treating **physician** and that the patient has been under the **physician's** ongoing medical care as part of a bona fide professional relationship with the patient; or

(ii) the patient's referral **physician**;

(d) confirm that the **physician** has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after obtaining a comprehensive medical history and

conducting a physical examination, whether in person or, in accordance with subsection (4), through the use of telemedicine, that included a personal review of any medical records maintained by other **physicians** and that may have included the patient's reaction and response to conventional medical therapies;

(g) confirm that the **physician** has reviewed all prescription and nonprescription medications and supplements used by the patient and has considered the potential drug interaction with marijuana;

(h) state that the **physician** has a reasonable degree of certainty that the patient's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(i) confirm that the **physician** has explained the potential risks and benefits of the use of marijuana to the patient;

(l) state that the **physician** will:

(i) continue to serve as the patient's treating **physician** or referral **physician**; and

(3) A **physician** who is the second **physician** recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the **physician** that the **physician** conducted a comprehensive review of the minor's medical records as maintained by the treating **physician** or referral **physician**;

(b) a statement that in the **physician's** professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(4) A **physician** who is providing written certification through the use of telemedicine:

(b) may not use an audio-only visit unless the **physician** has first established a physician-patient relationship through an in-person encounter.

50-46-319. Legal protections — allowable amounts. (1) (a) A registered cardholder who has elected to obtain marijuana and marijuana-infused products through the system of licensed providers and marijuana-infused products providers may:

(d) (i) A registered cardholder may petition the department for an exception to the monthly limit on purchases. The request must be accompanied by a confirmation from the **physician** who signed the cardholder's written certification that the cardholder's debilitating medical condition warrants purchase of an amount exceeding the monthly limit.

(3) A **physician** may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(b) a **physician** violates the standard of care or other requirements of this part.

50-46-327. Prohibitions on physician affiliation with providers and marijuana-infused products providers — sanctions. (1) (a) A **physician** who provides written certifications may not:

(b) Subsection (1)(a) does not prevent a **physician** from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the **physician** charges the individual the same fee that the **physician** charges other patients for providing a similar level of medical care.

(2) A provider or marijuana-infused products provider may not:

(a) arrange for a **physician** to conduct a physical examination or review of medical records required under this part, either in the **physician's** office or at another location; or

(b) pay all or a portion of the costs for an individual to be seen by a **physician** for the purposes of obtaining a written certification.

(3) If the department has cause to believe that a **physician** has violated this section, has violated a provision of rules adopted pursuant to this part, or has not met the standard of care required under this part, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(4) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a **physician** has violated this section, the board shall restrict the **physician's** authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

50-46-331. Fraudulent representation — penalties.

(2) A **physician** who purposely and knowingly misrepresents any information required under 50-46-310 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

50-46-343. Legislative monitoring.

(3) (a) The department shall periodically report to the children, families, health, and human services interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to 50-46-303. The report must include:

(vi) the number of **physicians** providing written certification for registered cardholders and the number of written certifications each **physician** has provided.

(b) The report may not provide any identifying information of cardholders, **physicians**, providers, marijuana-infused products providers, dispensaries, or testing laboratories.

(5) The board of medical examiners shall report annually to the children, families, health, and human services interim committee on the number and types of complaints the board has received involving **physician** practices in providing written certification for the use of marijuana, pursuant to 37-3-203.

Title 50. Health and Safety

Chapter 78. Employee and Community Hazardous Chemical Information Act

Part 1. General

50-78-103. Applicability — exemptions.

(2) Employers operating the following workplaces are in compliance with this chapter if they retain and make accessible to employees and, when applicable, to students, all material safety data sheets received or, if no material safety data sheet is received for a hazardous chemical, any other information received on its hazards and safe handling and if the provisions of 50-78-206, 50-78-301(2) through (4), and 50-78-305 are met:

(e) an office of a **physician**, dentist, osteopath, podiatrist, optometrist, or veterinarian licensed under Title 37.

Title 52. Family Services

Chapter 3. Adult Services

Part 8. Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act

52-3-813. Confidentiality.

(2) The records and reports required to be kept confidential by subsection (1) may be disclosed, upon request, to the following persons or entities in this or any other state:

(a) a **physician** who is caring for an older person or a person with a developmental disability who the physician reasonably believes was abused, sexually abused, neglected, or exploited;

52-3-815. Evidence of abuse, sexual abuse, neglect, or exploitation to be gathered and submitted.

(2) A **physician** required to report under 52-3-811 may, with the consent of an allegedly abused, sexually abused, neglected, or exploited older person or person with a developmental disability or without consent of the person if it appears that the person is an incapacitated person, require x-rays or other appropriate medical tests or procedures that would, in the professional opinion of the **physician**, assist in establishing evidence related to the allegation of abuse, sexual abuse, neglect, or exploitation.

Title 52. Family Services

Chapter 4. Services to the Disabled

Part 2. Physically Disabled – Community Home Licensing

52-4-202. Definitions. As used in 52-4-201 through 52-4-205, the following definitions apply:

(4) "Severe disability" means a permanent disability that substantially limits major life activity, such as walking, self-care, seeing, hearing, speaking, learning, reasoning, judgment, or memory, and that can be diagnosed by a **physician**. The term includes the condition of a person with severe disabilities as defined in 53-19-102.

Title 53. Social Services and Institutions

Chapter 1. General Administration of Institutions

Part 4. Per Diem Payments for Institutional Care

53-1-410. Nonpayment not grounds for discharge. A resident of an institution listed in 53-1-402 may not be discharged by reason of the nonpayment of the resident's cost of care unless, by certification of a **physician** consulted by the superintendent of the institution, the discharge is medically advisable.

Title 53. Social Services and Institutions

Chapter 9. Services for Victims of Crimes

Part 1. The Crime Victims Compensation Act of Montana

53-9-123. Evidence of condition.

(2) If the physical condition of a victim or claimant is material to a claim, the office may order the victim or claimant to submit from time to time to a physical examination by a **physician** or may order an autopsy of a deceased victim. The office shall pay for the examination or autopsy.

53-9-128. Compensation benefits.

(2) The claimant is entitled to be reimbursed for reasonable services by a **physician** or surgeon, reasonable hospital services and medicines, and other treatment approved by the office for the injuries suffered due to criminally injurious conduct. Unless expressly requested by the claimant, benefits may not be paid under this subsection until the claimant has been fully compensated for total wage loss benefits as provided in subsection (1) or (7).

Title 53. Social Services and Institutions

Chapter 19. Physically Disabled

Part 1. Services and Community Homes

53-19-112. Rulemaking.

(2) The department shall, in cooperation with the board of nursing, adopt rules under which a properly trained staff member of a facility providing services to persons with severe disabilities under this part may supervise and assist a client of a facility in taking a medication if the medication is usually self-administered and if a **physician** has prescribed the assistance.

Title 53. Social Services and Institutions

Chapter 20. Developmental Disabilities

Part 1. Treatment

53-20-145. Right to be free from unnecessary or excessive medication. Residents have a right to be free from unnecessary or excessive medication. Medication may not be administered unless at the written order of a **physician**. The individual treatment planning team and the attending **physician** are responsible for all medication given or administered to a resident. The use of medication may not exceed standards of use that are advocated by the United States food and drug administration. Notation of each individual's medication must be kept in the individual's medical records. A pharmacist or a registered nurse shall review monthly the record of each resident on medication for potential adverse reactions, allergies, interactions, contraindications, rationality, and laboratory test modifications and shall advise the **physician** of any problems. Medications must be reviewed quarterly by the attending or staff **physician**. At least monthly, an attending **physician** shall review the drug regimen of each patient on psychotropic medication. All prescriptions must be written with a termination date that may not exceed 90 days. Medication for newly admitted residents must be reviewed and reordered as necessary upon admission and then every 30 days for the first 90 days. Medications may not be used as punishment, for the convenience of staff, as a substitute for a habilitation program, or in quantities that interfere with the resident's treatment program. This section may not be interpreted to relieve a **physician** or other professional or medical staff person from any obligation to adequately monitor the medication of a resident, with due consideration to the nature of the medication, the purpose for which it is given, and the condition of the resident.

53-20-146. Right not to be subjected to certain treatment procedures.

(2) Physical restraint may be employed only when absolutely necessary to protect the resident from injury or to prevent injury to others. Mechanical supports used to achieve proper body position and balance that are ordered by a **physician** are not considered a physical restraint. Restraint may not be employed as

punishment, for the convenience of staff, or as a substitute for a habilitation program. Restraint may be applied only if alternative techniques have failed and only if the restraint imposes the least possible restriction consistent with its purpose. Use of restraints may be authorized by a **physician**, a developmental disabilities professional, or a qualified intellectual disability professional. Orders for restraints must be in writing and may not be in force for longer than 12 hours. Whenever physical restraint is ordered, suitable provision must be made for the comfort and physical needs of the resident restrained.

(6) Electric shock devices are considered a research technique for the purpose of this part. Electric shock devices may be used only in extraordinary circumstances to prevent self-mutilation leading to repeated and possibly permanent physical damage to the resident and only after alternative techniques have failed. The use of electric shock devices is subject to the conditions prescribed by this part for experimental research generally and may be used only under the direct and specific order of a **physician** and an individual designated by the department of public health and human services to order the treatment for an individual placed in a residential facility.

53-20-161. Maintenance of records.

(3) These records must include:

(m) a signed order by a qualified intellectual disability professional or **physician** for any physical restraints;

Title 53. Social Services and Institutions

Chapter 20. Developmental Disabilities

Part 2. Community-Based Services

53-20-204. Rules.

(2) The department shall adopt rules in cooperation with the board of nursing under which a properly trained staff member of a facility providing services to persons with developmental disabilities under this part may assist and supervise a client of the facility in taking medication if the medication is usually self-administered and if a **physician** has prescribed the assistance.

Title 53. Social Services and Institutions

Chapter 21. Mentally Ill

Part 1. Treatment of the Seriously Mentally Ill

53-21-127. Posttrial disposition.

(6) The court may authorize the chief medical officer of a facility or a **physician** designated by the court to administer appropriate medication involuntarily if the court finds that involuntary medication is necessary to protect the respondent or the public or to facilitate effective treatment. Medication may not be involuntarily administered to a patient unless the chief medical officer of the facility or a **physician** designated by the court approves it prior to the beginning of the involuntary administration and unless, if possible, a medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review is not possible, within 5 working days after the beginning of the involuntary administration. . .

Commented [SE1]: APRN is stated in 53-21-145 as "APRN with a clinical specialty in psychiatric mental health nursing"
It is also stated in 53-21-165 as "APRN"

Title 61. Motor Vehicles

Chapter 2. Highway Safety

Part 5. Emergency Medical Service Providers Grant Program

61-2-502. Definitions. As used in this part, the following definitions apply:

(2) (a) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients.

(b) The term does not include:

(ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent **physician**.

Title 61. Motor Vehicles

Chapter 5. Driver's Licenses

Part 1. Licensing Provisions

61-5-122. Low-speed restricted driver's license.

(2) (a) To qualify for a low-speed restricted driver's license, an applicant shall submit to the department a medical evaluation or statement from a treating **physician** that attests to the person's impairment and resulting inability to safely operate a motor vehicle across the range of speeds permitted or required on a public highway.

Chapter 61. Motor Vehicles

Chapter 7. Accidents and Accident Reports

Part 1. Uniform Accident Reporting Act

61-7-105. Duty to give information and render aid. (1) The driver of any vehicle required to stop pursuant to 61-7-103 shall:

(b) render to any person injured in the accident reasonable assistance, including the transporting or the making of arrangements for the transporting of the person to a **physician**, surgeon, or hospital for medical or surgical treatment if it is apparent that the treatment is necessary or if transportation is requested by the injured person; and

Title 69. Public Utilities and Carriers

Chapter 14. Railroads

Part 10. Railroad Personnel

69-14-1005. Medical aid for injured train operator. (1) If a railroad train operator or employee of any railroad doing business in this state is injured during the operator's or employee's regular course of employment, any employee of the railroad is empowered and authorized to call upon and retain the services of the nearest practicing **physician** or surgeon to care for and treat the injured train operator or employee during and until the time that one of the regularly employed and paid **physicians** or surgeons of the railroad corporation is able to render service.

(2) If the services of any **physician** or surgeon other than the regularly employed **physician** or surgeon of the railroad corporation are retained and hired as provided in this section, the **physician** or surgeon must be compensated and paid a reasonable fee for the services performed.

(3) If a railroad corporation refuses or neglects to pay for the services of a **physician** as provided in subsection (2) within a reasonable time after the **physician** or surgeon has rendered the services, the railroad corporation is guilty of a misdemeanor.

Title 72. Estates, Trusts, and Fiduciary Relationships
Chapter 5. UPC – Persons Under Disability, Guardianship, and Conservatorship
Part 3. Guardians of Incapacitated Persons

72-5-315. Procedure for court appointment of guardian — hearing — examination — interview — procedural rights.

(3) The person alleged to be incapacitated must be examined by a **physician** appointed by the court who shall submit a report in writing to the court and must be interviewed by a visitor sent by the court. . .

(4) The person alleged to be incapacitated is entitled to be present at the hearing in person and to see or hear all evidence bearing upon the person's condition. The person is entitled to be present by counsel, to present evidence, to cross-examine witnesses, including the court-appointed **physician** and the visitor, and to trial by jury. . .

Title 72. Estates, Trusts, and Fiduciary Relationships
Chapter 5. UPC – Persons Under Disability, Guardianship, and Conservatorship
Part 4. Protection of Property of Minors and Persons Under Disability

72-5-408. Procedure concerning hearing and order on original petition.

(2) Upon receipt of a petition for appointment of a conservator or other protective order for reasons other than minority, the court shall set a date for hearing. Unless the person to be protected has counsel of the person's own choice, the court shall order the office of state public defender to assign counsel to represent the person pursuant to the Montana Public Defender Act, Title 47, chapter 1. If the alleged disability is mental illness or mental deficiency, the court may direct that the person to be protected be examined by a **physician** or professional person as defined in 53-21-102 designated by the court. If the alleged disability is physical illness or disability, advanced age, chronic use of drugs, or chronic intoxication, the court may direct that the person to be protected be examined by a **physician** designated by the court. It is preferable that a physician designated by the court not be connected with any institution in which the person is a patient or is detained. The court may send a visitor to interview the person to be protected. The visitor may be a guardian ad litem or an officer or employee of the court.

(3) In the case of an appointment pursuant to 72-5-410(1)(h), the court shall direct that the person to be protected be examined by a **physician** as set forth in subsection (2).

72-5-432. Compensation and expenses. If not otherwise compensated for services rendered, any visitor, lawyer, **physician**, conservator, or special conservator appointed in a protective proceeding is entitled to reasonable compensation from the estate.

Title 72. Estates, Trusts, and Fiduciary Relationships
Chapter 31. Miscellaneous Provisions Relating to Fiduciaries
Part 3. Uniform Power of Attorney Act

72-31-309. When power of attorney effective.

(3) If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated or the person authorized is unable

or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

(a) a **physician** that the principal is incapacitated within the meaning of 72-31-302(5)(a); or

Title 81. Livestock

Chapter 22. Manufactured Dairy Products

Part 4. Sanitation, Qualify, and Labeling Requirements

81-22-411. Filled dairy products unlawful — exceptions.

(3) The term "filled dairy product" does not mean or include:

(b) any distinctive proprietary food compound not readily mistaken for a dairy product where such compound is customarily used on the order of a **physician** and is prepared and designed for medicinal or special dietary use and prominently so labeled;

Title 87. Fish and Wildlife

Chapter 2. Fishing, Hunting, and Trapping Licenses

Part 7. Special and Combination Licenses and Nongame Certificate

87-2-706. Drawing for special antelope licenses — licenses for those with life-threatening illness.

(3) (a) The department may issue a special antelope license to a resident or nonresident who has been diagnosed with a life-threatening illness unless the person qualifies for a license pursuant to 87-2-805. As used in this subsection (3), "life-threatening illness" means any progressive, degenerative, or malignant disease or condition that results in a significant threat, likelihood, or certainty that the person's life expectancy will not extend more than 1 year from the date of the request for the license unless the course of the disease is interrupted or abated.

(b) To qualify for the license, the department must receive documentation that the person has been diagnosed with a life-threatening illness from a licensed **physician**.

Title 87. Fish and Wildlife

Chapter 2. Fishing, Hunting, and Trapping Licenses

Part 8. Exceptions to License Requirements

87-2-805. Licenses for persons under 18 years of age.

(4) (a) The department may issue a free resident or nonresident big game combination license, as applicable, or a free resident or nonresident antelope license and wildlife conservation license, as applicable, to a resident or nonresident youth under 18 years of age who has been diagnosed with a life-threatening illness. In order for a youth to qualify for the free license, the department must receive documentation that the youth has been diagnosed with a life-threatening illness from a licensed **physician**. The free license may be issued to a youth on a one-time basis for only one hunting season. As used in this subsection, "life-threatening illness" means any progressive, degenerative, or malignant disease or condition that results in a significant threat, likelihood, or certainty that the child's life expectancy will not extend past the child's 19th birthday unless the course of the disease is interrupted or abated.