

SENATE BILL 42

Introduced by B. Brown

1/02	Introduced
1/03	Referred to Public Health, Welfare & Safety
1/07	First Reading
1/21	Hearing
1/21	Tabled in Committee

SENATE BILL NO. 42
INTRODUCED BY B. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE REFILL OF
A NARCOTIC PRESCRIPTION UNDER CERTAIN CONDITIONS; AND
AMENDING SECTIONS 37-7-101 AND 37-7-401, MCA."

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

Section 1. Section 37-7-101, MCA, is amended to read:

***37-7-101. Definitions.** Unless the context requires
otherwise, in parts 1 through 3 4 of this chapter, the
following definitions apply:

(1) "Board" means the board of pharmacy provided for in
2-15-1843.

(2) "Chemical" means medicinal or industrial
substances, whether simple, compound, or obtained through
the process of the science and art of chemistry, whether of
organic or inorganic origin.

(3) "Commercial purposes" means the ordinary purposes
of trade, agriculture, industry, and commerce, exclusive of
the practices of medicine and pharmacy.

(4) "Continuing education" means professional
pharmaceutical postgraduate education in the following
areas:

(a) the socioeconomic and legal aspects of health care;

(b) the properties and actions of drugs and dosage
forms; and

(c) the etiology, characteristics, and therapeutics of
the disease state.

(5) "Department" means the department of commerce
provided for in Title 2, chapter 15, part 18.

(6) (a) "Drug" means:

(i) articles recognized in the official United States
Pharmacopoeia/National Formulary or a supplement to them;

(ii) articles intended for use in diagnosis, cure,
mitigation, treatment, or prevention of disease in man or
other animals;

(iii) articles (other than food) intended to affect the
structure or function of the body of man or other animals;
and

(iv) articles intended for use as a component of an
article specified in subsection (i), (ii), or (iii).

(b) "Drug" does not include devices or their
components, parts, or accessories.

(7) "Intern" means a natural person licensed by the
department to prepare, compound, dispense, and sell drugs,
medicines, chemicals, and poisons under the supervision of a
registered and licensed pharmacist.

(8) "Medicine" means a remedial agent which has the
property of curing, preventing, treating, or mitigating

1 diseases or which is used for this purpose.

2 (9) "Person" includes an individual, partnership,
3 corporation, or association.

4 (10) "Pharmacist" means a natural person licensed by the
5 department to prepare, compound, dispense, and sell drugs,
6 medicines, chemicals, and poisons and who may affix to his
7 name the term "R.Ph.".

8 (11) "Pharmacy" means an established place registered by
9 the department of commerce in which prescriptions, drugs
10 requiring a prescription, medicines, chemicals, and poisons
11 are compounded, dispensed, vended, or sold.

12 (12) "Poison" means a substance which, when introduced
13 into the system, either directly or by absorption, produces
14 violent, morbid, or fatal changes or which destroys living
15 tissue with which it comes in contact.

16 (13) "Prescription" means an order given individually
17 for the person for whom prescribed, directly from the
18 prescriber to the furnisher or indirectly to the furnisher,
19 by means of an order signed by the prescriber and bearing
20 the name and address of the prescriber, his license
21 classification, the name of the patient, the name and the
22 quantity of the drug or drugs prescribed, the directions for
23 use and the date of its issue. These stipulations apply to
24 both written and telephoned prescriptions.

25 (14) "Terminal illness" means an incurable or

1 irreversible condition that will, in the opinion of the
2 attending physician, result in death within a relatively
3 short time.

4 ~~(14)~~(15) "Wholesale" means a sale for the purpose of
5 resale."

6 **Section 2.** Section 37-7-401, MCA, is amended to read:

7 "37-7-401. Restrictions upon sale or prescription of
8 opiates -- coding prohibited -- refilling prescriptions. (1)
9 It is unlawful for any physician, physician
10 assistant-certified, or nurse specialist to sell or give to
11 or prescribe for any person any opium, morphine,
12 alkaloid-cocaine, or alpha or beta eucaine or codeine or
13 heroin or any derivative, mixture, or preparation of any of
14 them, except to a patient believed in good faith to require
15 the same for medical use and in quantities proportioned to
16 the needs of the patient.

17 (2) A prescription must be written so that it can be
18 compounded by any registered pharmacist. The coding of any
19 prescription is a violation of this section.

20 (3) A prescription marked "non repetatur", "non rep",
21 or "N.R." cannot be refilled. A prescription marked to be
22 refilled by a specified amount may be filled by any
23 registered pharmacist the number of times marked on the
24 prescription. A prescription not bearing any refill
25 instructions may not be refilled without first obtaining

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1 permission from the prescriber. A prescription may not be
2 refilled for more than 3 years from the date it was
3 originally filled. A Except as provided in subsection 4, a
4 narcotic prescription may not be refilled.

5 (4) A physician may authorize a narcotic prescription
6 to be refilled for a patient with a terminal illness."

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