

HOUSE BILL NO. 165
INTRODUCED BY J. BROWN

IN THE HOUSE

JANUARY 13, 1987 INTRODUCED AND REFERRED TO COMMITTEE
 ON BUSINESS & LABOR.

JANUARY 23, 1987 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 24, 1987 PRINTING REPORT.

JANUARY 26, 1987 ON MOTION, TAKEN FROM SECOND READING
 AND REREFERRED TO COMMITTEE
 ON JUDICIARY.

FEBRUARY 23, 1987 ON MOTION, TAKEN FROM COMMITTEE ON
 JUDICIARY AND REREFERRED TO
 SECOND READING.

FEBRUARY 24, 1987 SECOND READING, DO PASS.

 ON MOTION, RULES SUSPENDED AND BILL
 PLACED ON THIRD READING THIS DAY.

 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 100; NOES, 0.

 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1987 INTRODUCED AND REFERRED TO COMMITTEE
 ON BUSINESS & INDUSTRY.

MARCH 13, 1987 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN. REPORT ADOPTED.

MARCH 17, 1987 SECOND READING, CONCURRED IN.

MARCH 19, 1987

THIRD READING, CONCURRED IN.
AYES, 48; NOES, 1.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 19, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

1 HB BILL NO. 165
2 INTRODUCED BY J. Brown
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING A PHARMACIST
5 WITHIN THE DEFINITION OF A HEALTH CARE PROFESSIONAL FOR
6 PURPOSES OF IMMUNITY FROM LIABILITY FOR ACTION TAKEN AS A
7 MEMBER OF A UTILIZATION, PEER REVIEW, OR STANDARDS
8 COMMITTEE; AMENDING SECTION 37-2-201, MCA; AND PROVIDING AN
9 IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 37-2-201, MCA, is amended to read:
13 "37-2-201. Nonliability for peer review -- evidential
14 privilege -- application to nonprofit corporations. (1) As
15 used in this section, "health care profession" includes the
16 practice of medicine, dentistry, pharmacy, or psychology as
17 defined in this title.

18 (1)(2) No member of a utilization review committee of
19 a hospital or long-term care facility or of a professional
20 utilization committee, peer review committee, or
21 professional standards review committee of a society
22 composed of persons licensed to practice a health care
23 profession is liable in damages to any person for any action
24 taken or recommendation made within the scope of the
25 functions of the committee if the committee member acts

1 without malice and in the reasonable belief that the action
2 or recommendation is warranted by the facts known to him
3 after reasonable effort to obtain the facts of the matter
4 for which the action is taken or a recommendation is made.

5 (2)(3) The proceedings and records of professional
6 utilization, peer review, and professional standards review
7 committees are not subject to discovery or introduction into
8 evidence in any proceeding. However, information otherwise
9 discoverable or admissible from an original source is not to
10 be construed as immune from discovery or use in any
11 proceeding merely because it was presented during
12 proceedings before the committee, nor is a member of the
13 committee or other person appearing before it to be
14 prevented from testifying as to matters within his
15 knowledge, but he cannot be questioned about his testimony
16 or other proceedings before the committee or about opinions
17 or other actions of the committee or any member thereof.

18 (3)(4) This section also applies to any member, agent,
19 or employee of a nonprofit corporation engaged in performing
20 the functions of a peer review or professional standards
21 review committee."

22 NEW SECTION. Section 2. Effective date. This act is
23 effective on passage and approval.

-End-



INTRODUCED BILL
HB-165

APPROVED BY COMM. ON BUSINESS AND LABOR

HOUSE BILL NO. 165
INTRODUCED BY J. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING PROVIDING THAT A PHARMACIST WITHIN THE DEFINITION OF A HEALTH CARE PROFESSIONAL FOR PURPOSES OF IMMUNITY FROM LIABILITY IS NOT LIABLE FOR ACTION TAKEN AS A MEMBER OF A UTILIZATION, PEER REVIEW, OR STANDARDS COMMITTEE; AMENDING SECTION 37-2-201, MCA, AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 37-2-201, MCA, is amended to read: "37-2-201. Nonliability for peer review. Evidential privilege. Application to nonprofit corporations. As used in this section, "health care profession" includes the practice of medicine, dentistry, pharmacy, or psychology as defined in this title:

(1)(2) No member of a utilization review committee of a hospital or long-term care facility or of a professional utilization committee, peer review committee, or professional standards review committee of a society composed of persons licensed to practice a health care profession is liable in damages to any person for any action taken or recommendation made within the scope of the functions of the committee if the committee member acts

without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him after reasonable effort to obtain the facts of the matter for which the action is taken or a recommendation is made.

(2)(3) The proceedings and records of professional utilization, peer review, and professional standards review committees are not subject to discovery or introduction into evidence in any proceeding. However, information otherwise discoverable or admissible from an original source is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before the committee, nor is a member of the committee or other person appearing before it to be prevented from testifying as to matters within his knowledge, but he cannot be questioned about his testimony or other proceedings before the committee or about opinions or other actions of the committee or any member thereof.

(3)(4) This section also applies to any member, agent, or employee of a nonprofit corporation engaged in performing the functions of a peer review or professional standards review committee."

SECTION 1. NONLIABILITY FOR PEER REVIEW. NO MEMBER, EMPLOYEE, OR VOLUNTEER INTERVENOR OF THE MONTANA PHARMACEUTICAL ASSOCIATION IN ITS PEER REVIEW PROGRAM IS LIABLE IN DAMAGES TO ANY PERSON FOR ANY ACTION TAKEN OR

1 RECOMMENDATION MADE WITHIN THE SCOPE OF THE PROGRAM IF THE
2 MEMBER, EMPLOYEE, OR VOLUNTEER ACTS IN GOOD FAITH IN
3 ACCORDANCE WITH THE RULES OF THE ASSOCIATION.

4 SECTION 2. CODIFICATION INSTRUCTION. SECTION 1 IS
5 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 37,
6 CHAPTER 7, AND THE PROVISIONS OF TITLE 37, CHAPTER 7, APPLY
7 TO SECTION 1.

8 NEW-SECTION: Section 3. Effective date. This act is
9 effective on passage and approval.

-End-

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING PROVIDING
 5 THAT A PHARMACIST WITHIN THE DEFINITION OF A HEALTH CARE
 6 PROFESSIONAL FOR PURPOSES OF IMMUNITY FROM LIABILITY IS NOT
 7 LIABLE FOR ACTION TAKEN AS A MEMBER OF A UTILIZATION, PEER
 8 REVIEW, OR STANDARDS COMMITTEE; AMENDING SECTION 37-2-201,
 9 MEA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 37-2-201, MEA, is amended to read:
 13 "37-2-201. Nonliability for peer review. Evidential
 14 privilege application to nonprofit corporations. ~~(1) As~~
 15 ~~used in this section, "health care profession" includes the~~
 16 ~~practice of medicine, dentistry, pharmacy, or psychology as~~
 17 ~~defined in this title;~~
 18 ~~(2) No member of a utilization review committee of~~
 19 ~~a hospital or long-term care facility or of a professional~~
 20 ~~utilization committee, peer review committee, or~~
 21 ~~professional standards review committee of a society~~
 22 ~~composed of persons licensed to practice a health care~~
 23 ~~profession is liable in damages to any person for any action~~
 24 ~~taken or recommendation made within the scope of the~~
 25 ~~functions of the committee if the committee member acts~~

1 without malice and in the reasonable belief that the action
 2 or recommendation is warranted by the facts known to him
 3 after reasonable effort to obtain the facts of the matter
 4 for which the action is taken or a recommendation is made.
 5 (2)(3) The proceedings and records of professional
 6 utilization, peer review, and professional standards review
 7 committees are not subject to discovery or introduction into
 8 evidence in any proceeding. However, information otherwise
 9 discoverable or admissible from an original source is not to
 10 be construed as immune from discovery or use in any
 11 proceeding merely because it was presented during
 12 proceedings before the committee, nor is a member of the
 13 committee or other person appearing before it to be
 14 prevented from testifying as to matters within his
 15 knowledge, but he cannot be questioned about his testimony
 16 or other proceedings before the committee or about opinions
 17 or other actions of the committee or any member thereof.
 18 (3)(4) This section also applies to any member, agent,
 19 or employee of a nonprofit corporation engaged in performing
 20 the functions of a peer review or professional standards
 21 review committee."
 22 SECTION 1. NONLIABILITY FOR PEER REVIEW. NO MEMBER,
 23 EMPLOYEE, OR VOLUNTEER INTERVENOR OF THE MONTANA
 24 PHARMACEUTICAL ASSOCIATION IN ITS PEER REVIEW PROGRAM IS
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6 CHAPTER 7, AND THE PROVISIONS OF TITLE 37, CHAPTER 7, APPLY
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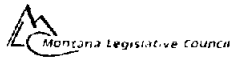
8 NEW-SECTION: Section 3. Effective date. This act is
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 19 a hospital or long-term care facility or of a professional
 20 utilization committee, peer review committee, or
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