

HOUSE BILL NO. 395

INTRODUCED BY CODY

IN THE HOUSE

JANUARY 24, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
JANUARY 25, 1989	FIRST READING.
FEBRUARY 4, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 6, 1989	PRINTING REPORT.
FEBRUARY 7, 1989	SECOND READING, DO PASS.
FEBRUARY 8, 1989	ENGROSSING REPORT.
FEBRUARY 9, 1989	THIRD READING, PASSED. AYES, 95; NOES, 3.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 10, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
	FIRST READING.
MARCH 21, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 22, 1989	SECOND READING, CONCURRED IN.
MARCH 27, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

MARCH 28, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 395
 2 INTRODUCED BY Anthony J. Cody
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING PRESCRIPTIVE
 5 AUTHORITY TO NURSE SPECIALISTS; REQUIRING THE BOARD OF
 6 NURSING TO ESTABLISH RULES REGULATING PRESCRIPTION OF DRUGS
 7 BY NURSE SPECIALISTS; AMENDING SECTIONS 37-2-101, 37-7-401,
 8 AND 37-8-202, MCA; AND PROVIDING AN EFFECTIVE DATE."

9
 10 STATEMENT OF INTENT

11 A statement of intent is required for this bill because
 12 it grants authority to the board of nursing to adopt rules
 13 regarding prescriptive authority for certain nurse
 14 specialists. At a minimum, it is intended that the rules
 15 address:

16 (1) criteria for granting prescriptive authority to an
 17 applicant for recognition as a nurse specialist who requests
 18 prescriptive authority as a condition of practice;

19 (2) a procedure for granting prescriptive authority to
 20 nurse specialists already recognized by the board on July 1,
 21 1989, upon request of the nurse specialist;

22 (3) a process to notify the board of pharmacy when
 23 prescriptive authority is granted to a nurse specialist;

24 (4) continuing education requirements for nurse
 25 specialists who are granted prescriptive authority, with

1 respect to the use of medical therapeutics in the area of
 2 practice; and

3 (5) appropriateness of the authority to prescribe
 4 specific drugs based on the nurse's area of specialty.

5
 6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 **Section 1.** Section 37-2-101, MCA, is amended to read:
 8 "37-2-101. Definitions. As used in this part, the
 9 following definitions apply:

10 (1) "Medical practitioner" means any person licensed
 11 by the state of Montana to engage in the practice of
 12 medicine, dentistry, osteopathy, chiropractic (podiatry), or
 13 optometry, or a nursing specialty as described in
 14 37-8-202(5) and in such the licensed practice to administer
 15 or prescribe drugs.

16 (2) "Drug" means any article:

17 (a) recognized in the official United States
 18 Pharmacopoeia/National Formulary or in any supplement to
 19 such the pharmacopoeia/formulary;

20 (b) intended for use in the diagnosis, cure,
 21 mitigation, treatment, or prevention of disease in man;

22 (c) intended to affect the structure or any function
 23 of the body of man;

24 (d) intended for use as a component of any article
 25 described in subsection (a), (b), or (c) of this subsection

(2), but ~~such~~ the term does not include any device or any components of a device.

(3) "Device" means any instrument, apparatus, or contrivance intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man;

(b) to affect the structure or any function of the body of man.

(4) "Pharmacy" means an establishment which engages in the sale of drugs requiring a prescription.

(5) "Community pharmacy", when used in relation to a medical practitioner, means a pharmacy situated within 10 miles of any place at which ~~such~~ the medical practitioner maintains an office for professional practice.

(6) "Drug company" means any person engaged in the manufacturing, processing, packaging, or distribution of drugs; but ~~such~~ the term does not include a pharmacy.

(7) "Person" means any individual and any partnership, firm, corporation, association, or other business entity.

(8) "State" means the state of Montana or any political subdivision thereof."

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

"37-7-401. Restrictions upon sale or prescription of opiates -- coding prohibited -- refilling prescriptions. (1) It ~~shall--be~~ is unlawful for any physician or nurse

specialist to sell or give to or prescribe for any person any opium, morphine, alkaloid-cocaine, or alpha or beta eucaine or codeine or heroin or any derivative, mixture, or preparation of any of them, except to a patient believed in good faith to require the same for medical use and in quantities proportioned to the needs of ~~such-patients~~ the patient.

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

(3) A prescription marked "non repetatur", "non rep", or "N.R." cannot be refilled. A prescription marked to be refilled by a specified amount may be filled by any registered pharmacist the number of times marked on the prescription. A prescription not bearing any refill instructions may not be refilled without first obtaining permission from the prescriber. A prescription may not be refilled for more than 3 years from the date it was originally filled. ~~No~~ A narcotic prescription may ~~not~~ be refilled."

Section 3. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers and duties. (1) The board shall meet annually and shall elect from among the nine members a president and a secretary. The board shall hold other meetings when necessary to transact

1 its business. A majority of the board constitutes a quorum
2 at any meeting. The department shall keep complete minutes
3 and records of the meetings and rules and orders promulgated
4 by the board.

5 (2) The board may make rules necessary to administer
6 this chapter. The board shall prescribe standards for
7 schools preparing persons for registration and licensure
8 under this chapter. It shall provide for surveys of schools
9 at times it considers necessary. It shall approve programs
10 that meet the requirements of this chapter and of the board.
11 The department shall, subject to 37-1-101, examine and issue
12 to and renew licenses of qualified applicants. The board
13 shall conduct hearings on charges which may call for
14 discipline of a licensee, revocation of a license, or
15 removal of schools of nursing from the approved list. It
16 shall cause the prosecution of persons violating this
17 chapter and may incur necessary expenses for this
18 prosecutions.

19 (3) The board may adopt and the department shall
20 publish forms for use by applicants and others, including
21 license, certificate, and identity forms and other
22 appropriate forms and publications convenient for the proper
23 administration of this chapter, ~~and the~~. The board may fix
24 reasonable fees for incidental services, ~~all~~ within the
25 subject matter delegated by this chapter.

1 (4) The board may participate in and pay fees to a
2 national organization of state boards of nursing to assure
3 interstate endorsement of licenses.

4 (5) (a) The board ~~of--nursing~~ may define the
5 educational requirements and other qualifications applicable
6 to specialty areas of nursing. Specialty areas of nursing
7 are those that require additional professional education
8 beyond the basic nursing degree required of a registered
9 nurse, ~~which--additional~~. Additional education is must be
10 obtained in courses offered in a university setting or its
11 equivalent. The applicant must be certified by a specialty
12 area certifying body. Specialty areas of nursing include
13 nurse practitioners, nurse-midwives, and
14 nurse-anesthetists."

15 (b) The board shall adopt rules regarding
16 authorization for prescriptive authority of nurse
17 specialists. If considered appropriate for a nurse
18 specialist who applies to the board for authorization,
19 prescriptive authority must be granted."

20 NEW SECTION. Section 4. Extension of authority. Any
21 existing authority to make rules on the subject of the
22 provisions of [this act] is extended to the provisions of
23 [this act].

24 NEW SECTION. Section 5. Effective date. [This act] is
25 effective July 1, 1989.

-End-

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

HOUSE BILL NO. 395

INTRODUCED BY CODY

A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING PRESCRIPTIVE AUTHORITY TO NURSE SPECIALISTS; REQUIRING THE BOARD OF NURSING AND BOARD OF MEDICAL EXAMINERS, ACTING JOINTLY, TO ESTABLISH RULES REGULATING PRESCRIPTION OF DRUGS BY NURSE SPECIALISTS; AMENDING SECTIONS 37-2-101, 37-7-401, AND 37-8-202, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because it grants authority to the board of nursing to adopt rules regarding prescriptive authority for certain nurse specialists. At a minimum, it is intended that the rules address:

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(3) a process to notify the board of pharmacy when prescriptive authority is granted to a nurse specialist;

(4) continuing education requirements for nurse

specialists who are granted prescriptive authority, with respect to the use of medical therapeutics in the area of practice; and

(5) appropriateness of the authority to prescribe specific drugs based on the nurse's area of specialty.

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

Section 1. Section 37-2-101, MCA, is amended to read:

"37-2-101. Definitions. As used in this part, the following definitions apply:

(1) "Medical practitioner" means any person licensed by the state of Montana to engage in the practice of medicine, dentistry, osteopathy, chiropody (podiatry), or optometry, or a nursing specialty as described in 37-8-202(5) and in such the licensed practice to administer or prescribe drugs.

(2) "Drug" means any article:

(a) recognized in the official United States Pharmacopoeia/National Formulary or in any supplement to such the pharmacopoeia/formulary;

(b) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man;

(c) intended to affect the structure or any function of the body of man;

(d) intended for use as a component of any article

1 described in subsection (a), (b), or (c) of this subsection
2 (2), but ~~such~~ the term does not include any device or any
3 components of a device.

4 (3) "Device" means any instrument, apparatus, or
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6 (a) for use in the diagnosis, cure, mitigation,
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9 body of man.

10 (4) "Pharmacy" means an establishment which engages in
11 the sale of drugs requiring a prescription.

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13 medical practitioner, means a pharmacy situated within 10
14 miles of any place at which ~~such~~ the medical practitioner
15 maintains an office for professional practice.

16 (6) "Drug company" means any person engaged in the
17 manufacturing, processing, packaging, or distribution of
18 drugs; but ~~such~~ the term does not include a pharmacy.

19 (7) "Person" means any individual and any partnership,
20 firm, corporation, association, or other business entity.

21 (8) "State" means the state of Montana or any
22 political subdivision thereof."

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

24 "37-7-401. Restrictions upon sale or prescription of
25 opiates -- coding prohibited -- refilling prescriptions. (1)

1 It ~~shall--be~~ is unlawful for any physician or nurse
2 specialist to sell or give to or prescribe for any person
3 any opium, morphine, alkaloid-cocaine, or alpha or beta
4 eucaïne or codeine or heroin or any derivative, mixture, or
5 preparation of any of them, except to a patient believed in
6 good faith to require the same for medical use and in
7 quantities proportioned to the needs of ~~such--patients~~ the
8 patient.

9 (2) A prescription must be ~~so~~ written so that it can
10 be compounded by any registered pharmacist. The coding of
11 any prescription is a violation of this section.

12 (3) A prescription marked "non repetatur", "non rep",
13 or "N.R." cannot be refilled. A prescription marked to be
14 refilled by a specified amount may be filled by any
15 registered pharmacist the number of times marked on the
16 prescription. A prescription not bearing any refill
17 instructions may not be refilled without first obtaining
18 permission from the prescriber. A prescription may not be
19 refilled for more than 3 years from the date it was
20 originally filled. ~~No~~ A narcotic prescription may not be
21 refilled."

22 **Section 3.** Section 37-8-202, MCA, is amended to read:

23 "37-8-202. Organization -- meetings -- powers and
24 duties. (1) The board shall meet annually and shall elect
25 from among the nine members a president and a secretary. The

board shall hold other meetings when necessary to transact its business. A majority of the board constitutes a quorum at any meeting. The department shall keep complete minutes and records of the meetings and rules and orders promulgated by the board.

(2) The board may make rules necessary to administer this chapter. The board shall prescribe standards for schools preparing persons for registration and licensure under this chapter. It shall provide for surveys of schools at times it considers necessary. It shall approve programs that meet the requirements of this chapter and of the board. The department shall, subject to 37-1-101, examine and issue to and renew licenses of qualified applicants. The board shall conduct hearings on charges which may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list. It shall cause the prosecution of persons violating this chapter and may incur necessary expenses for this prosecutions.

(3) The board may adopt and the department shall publish forms for use by applicants and others, including license, certificate, and identity forms and other appropriate forms and publications convenient for the proper administration of this chapter, ~~and the~~. The board may fix reasonable fees for incidental services, ~~and~~ within the

subject matter delegated by this chapter.

(4) The board may participate in and pay fees to a national organization of state boards of nursing to assure interstate endorsement of licenses.

(5) (a) The board ~~of---nursing~~ may define the educational requirements and other qualifications applicable to specialty areas of nursing. Specialty areas of nursing are those that require additional professional education beyond the basic nursing degree required of a registered nurse, ~~which additional~~. Additional education is must be obtained in courses offered in a university setting or its equivalent. The applicant must be certified by a specialty area certifying body. Specialty areas of nursing include nurse practitioners, nurse-midwives, and nurse-anesthetists."

(b) The board OF NURSING AND THE BOARD OF MEDICAL EXAMINERS, ACTING JOINTLY, shall adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board BOARDS for authorization, prescriptive authority must be granted."

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

HB 0395/02

- 1 NEW SECTION. **Section 5.** Effective date. [This act] is
- 2 effective July 1, 1989.

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(b) The board OF NURSING AND THE BOARD OF MEDICAL EXAMINERS, ACTING JOINTLY, shall adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board BOARDS for authorization, prescriptive authority must be granted."

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