

HOUSE BILL NO. 850

INTRODUCED BY E. BUTTREY, S. DEMAROIS, J. ETCHART

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LICENSING AND REGULATION OF COMMUNITY HEALTH WORKERS; PROVIDING A PURPOSE; ESTABLISHING LICENSING REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; PROVIDING FOR REIMBURSEMENT AUTHORITY BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR SERVICES PROVIDED BY COMMUNITY HEALTH WORKERS; PROVIDING FOR LICENSE FEES; AND AMENDING SECTIONS ~~SECTION~~ 37-1-401 AND ~~53-6-101~~, MCA."

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

NEW SECTION. Section 1. Purpose. It is the purpose of [sections 1 through 5] to provide for the public health, safety, and welfare by ensuring the ethical, qualified, and professional practice of community health workers. [Sections 1 through 5] and the rules promulgated under [section 3] set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage as community health workers.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) "Department" means the department of labor and industry established in 2-15-1701.

(2) "Licensed community health worker" means a frontline public health worker who lives in or is trusted by the community and who provides outreach, maternity support, service navigation, coaching and social support, direct services, cultural mediation, capacity building, education, advocacy, and informal counseling.

NEW SECTION. Section 3. Department rulemaking. (1) The department shall adopt rules necessary to carry out the provisions of [sections 1 through 5].

1 (2) The department may review the curriculum for licensed community health workers and adopt
2 by rule endorsements to the license based on completion of additional education.

3
4 NEW SECTION. Section 4. License required -- exceptions. (1) Except as otherwise provided in
5 [sections 1 through 5], a person may not practice as a licensed community health worker unless licensed under
6 Title 37, chapter 1, and [sections 1 through 5].

7 (2) The license requirements of [sections 1 through 5] do not prohibit:

8 (a) a member of another profession from performing duties and services consistent with the
9 individual's licensure or certification or, in the case of a qualified member of another profession who is not
10 licensed or certified, from performing duties and services consistent with the person's training if the person
11 does not represent by title that the person is certified by the department;

12 (b) an activity or service or use of an official title by a person employed by or acting as a volunteer
13 for a federal, state, county, or municipal agency or for an educational, research, or charitable organization that
14 is a part of the duties of the office or position; or

15 (c) an activity or service of an employee of a business establishment performed solely for the
16 benefit of the establishment's employees.

17
18 NEW SECTION. Section 5. License requirements -- supervision -- fees -- exceptions. (1) The
19 department shall license a person as a licensed community health worker if the person pays the prescribed
20 fees and submits evidence that the person:

21 (a) is at least 18 years of age;

22 (b) has completed a community health worker training program, a community health representative
23 training program as provided by the federal Indian health service, or an equivalent program, including a tribal
24 program; and

25 (c) has successfully completed the required hours of supervised experience as determined by rule.

26 (2) The requirement in subsection (1)(c) may be satisfied as part of the training program curriculum
27 or through an apprenticeship.

28 (3) An applicant may be exempt from subsection (1)(b) or (1)(c) if the person presents evidence

1 satisfactory to the department of sufficient training or experience, or a combination of training and experience in
2 lieu of a formal training program or supervision.

3

4 **Section 6.** Section 37-1-401, MCA, is amended to read:

5 **"37-1-401. (Temporary) Uniform regulation for licensing programs without boards --**

6 **definitions.** As used in this part, the following definitions apply:

7 (1) "Complaint" means a written allegation filed with the department that, if true, warrants an
8 injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

9 (2) "Department" means the department of labor and industry provided for in 2-15-1701.

10 (3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the
11 department, with respect to a complaint or other information before the department, that is carried out for the
12 purpose of determining:

13 (a) whether a person has violated a provision of law justifying discipline against the person;

14 (b) the status of compliance with a stipulation or order of the department;

15 (c) whether a license should be granted, denied, or conditionally issued; or

16 (d) whether the department should seek an injunction.

17 (4) "License" means permission in the form of a license, permit, endorsement, certificate,
18 recognition, or registration granted by the state of Montana to engage in a business activity or practice at a
19 specific level in a profession or occupation governed by:

20 (a) Title 37, chapter 2, part 6;

21 (b) Title 37, chapter 16, 40, 56, 60, 72, ~~or 73~~, or [sections 1 through 5]; or

22 (c) Title 50, chapter 39, 74, or 76.

23 (5) "Profession" or "occupation" means a profession or occupation regulated by the department
24 under the provisions of:

25 (a) Title 37, chapter 2, part 6;

26 (b) Title 37, chapter 16, 40, 49, 56, 60, 72, ~~or 73~~, or [sections 1 through 5]; or

27 (c) Title 50, chapter 39, 74, or 76. (Terminates June 30, 2031--sec. 10, Ch. 628, L. 2023.)

28 **37-1-401. (Effective July 1, 2031) Uniform regulation for licensing programs without boards --**

1 **definitions.** As used in this part, the following definitions apply:

2 (1) "Complaint" means a written allegation filed with the department that, if true, warrants an
3 injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

4 (2) "Department" means the department of labor and industry provided for in 2-15-1701.

5 (3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the
6 department, with respect to a complaint or other information before the department, that is carried out for the
7 purpose of determining:

8 (a) whether a person has violated a provision of law justifying discipline against the person;

9 (b) the status of compliance with a stipulation or order of the department;

10 (c) whether a license should be granted, denied, or conditionally issued; or

11 (d) whether the department should seek an injunction.

12 (4) "License" means permission in the form of a license, permit, endorsement, certificate,
13 recognition, or registration granted by the state of Montana to engage in a business activity or practice at a
14 specific level in a profession or occupation governed by:

15 (a) Title 37, chapter 16, 40, 56, 60, 72, ~~or 73~~, or [sections 1 through 5]; or

16 (b) Title 50, chapter 39, 74, or 76.

17 (5) "Profession" or "occupation" means a profession or occupation regulated by the department
18 under the provisions of:

19 (a) Title 37, chapter 16, 40, 49, 56, 60, 72, ~~or 73~~, or [sections 1 through 5]; or

20 (b) Title 50, chapter 39, 74, or 76."

21

22 **Section 7.** Section ~~53-6-101~~, MCA, is amended to read:

23 ~~"53-6-101. Montana medicaid program -- authorization of services. (1) There is a Montana~~
24 ~~medicaid program established for the purpose of providing necessary medical services to eligible persons who~~
25 ~~have need for medical assistance. The Montana medicaid program is a joint federal-state program administered~~
26 ~~under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The~~
27 ~~department shall administer the Montana medicaid program.~~

28 (2) ~~—~~ The department and the legislature shall consider the following funding principles when

1 considering changes in medicaid policy that either increase or reduce services:

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

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

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

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

11 (a) — inpatient hospital services;

12 (b) — outpatient hospital services;

13 (c) — other laboratory and x-ray services, including minimum mammography examination as defined
14 in 33-22-132;

15 (d) — skilled nursing services in long-term care facilities;

16 (e) — physicians' services;

17 (f) — nurse specialist services;

18 (g) — early and periodic screening, diagnosis, and treatment services for persons under 21 years of
19 age, in accordance with federal regulations and subsection (10)(b);

20 (h) — ambulatory prenatal care for pregnant women during a presumptive eligibility period, as
21 provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

22 (i) — targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk
23 pregnant women;

24 (j) — services that are provided by physician assistants within the scope of their practice and that are
25 otherwise directly reimbursed as allowed under department rule to an existing provider;

26 (k) — health services provided under a physician's orders by a public health department;

27 (l) — federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2);

28 (m) — routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as

1 provided in 33-22-153;

2 (n) — for children 18 years of age and younger, habilitative services as defined in 53-4-1103;

3 (o) — services provided by a person certified in accordance with 37-2-318 to provide services in

4 accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.;

5 (p) — fertility preservation services in accordance with 33-22-2103; and

6 (q) — planned home births for women with a low risk of adverse birth outcomes, as established by

7 the appropriate licensing board, that are attended by certified nurse-midwives licensed under Title 37, chapter

8 8, or direct-entry midwives licensed under Title 37, chapter 27. Coverage under this section includes prenatal

9 care and postpartum care.

10 (4) — Medical assistance provided by the Montana medicaid program may, as provided by

11 department rule, also include the following services:

12 (a) — medical care or any other type of remedial care recognized under state law, furnished by

13 licensed practitioners within the scope of their practice as defined by state law;

14 (b) — home health care services[, including services provided by pediatric complex care assistants

15 licensed pursuant to 37-2-603];

16 (c) — private-duty nursing services;

17 (d) — dental services;

18 (e) — physical therapy services;

19 (f) — mental health center services administered and funded under a state mental health program

20 authorized under Title 53, chapter 21, part 10;

21 (g) — clinical social worker services;

22 (h) — prescribed drugs, dentures, and prosthetic devices;

23 (i) — prescribed eyeglasses;

24 (j) — other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

25 (k) — inpatient psychiatric hospital services for persons under 21 years of age;

26 (l) — services of clinical professional counselors licensed under Title 37, chapter 39;

27 (m) — services of a marriage and family therapist licensed under Title 37, chapter 39;

28 (n) — hospice care, as defined in 42 U.S.C. 1396d(o);

1 (e) — case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including
2 targeted case management services for the mentally ill;

3 (p) — services of psychologists licensed under Title 37, chapter 17;

4 (q) — inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C.
5 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201
6 ;

7 (r) — services of behavioral health peer support specialists certified under Title 37, chapter 39,
8 provided to adults 18 years of age and older with a diagnosis of a mental disorder, as defined in 53-21-102 ;
9 and

10 ~~(s) — LICENSED community health workers licensed under [sections 1 through 5] IF THE DEPARTMENT
11 DETERMINES THAT AVAILABLE FUNDS ARE SUFFICIENT TO ALLOW FOR MEDICAID REIMBURSEMENT ; and~~

12 ~~(s)(t) — any additional medical service or aid allowable under or provided by the federal Social Security
13 Act.~~

14 (5) — ~~Services for persons qualifying for medicaid under the medically needy category of assistance,
15 as described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others
16 qualifying for assistance under the Montana medicaid program. The department is not required to provide all of
17 the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy
18 category of assistance.~~

19 (6) — ~~In accordance with federal law or waivers of federal law that are granted by the secretary of the
20 U.S. department of health and human services, the department may implement limited medicaid benefits, to be
21 known as basic medicaid, for adult recipients who are eligible because they are receiving cash assistance, as
22 defined in 53-4-201, as the specified caretaker relative of a dependent child and for all adult recipients of
23 medical assistance only who are covered under a group related to a program providing cash assistance, as
24 defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may
25 include those optional services listed in subsections (4)(a) through (4)(s) that the department in its discretion
26 specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated
27 by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a
28 particular service is commonly covered by private health insurance plans. However, a recipient who is~~

1 pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or
2 is less than 21 years of age is entitled to full medicaid coverage.

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

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

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

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

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

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

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

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

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

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

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

28 (ii) — the legislative finance committee; and

1 ~~(iii) — the health and human services budget committee.~~

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

4 ~~(13) — If available funds are not sufficient to provide medical assistance for all eligible persons, the~~
5 ~~department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical~~
6 ~~services made available under the Montana medicaid program after taking into consideration the funding~~
7 ~~principles set forth in subsection (2). (Subsection (3)(o) terminates September 30, 2025—sec. 1, Ch. 298, L.~~
8 ~~2023; bracketed language in subsection (4)(b) terminates June 30, 2031—sec. 10, Ch. 628, L. 2023.)"~~

9

10 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 5] are intended to be
11 codified as a new chapter in Title 37, and the provisions of Title 37 apply to [sections 1 through 5].

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