

## SENATE BILL NO. 284

INTRODUCED BY C. GLIMM

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO REPORTING OF DRUGS TAKEN BY OR PRESCRIBED TO INDIVIDUALS WHOSE DEATHS ARE RULED TO BE SUICIDE; REQUIRING PHARMACISTS TO REPORT INFORMATION ON MENTAL HEALTH MEDICATIONS TO THE PRESCRIPTION DRUG REGISTRY; REQUIRING PRESCRIBERS TO REVIEW REGISTRY INFORMATION ON MENTAL HEALTH MEDICATIONS; ALLOWING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ACCESS REGISTRY INFORMATION FOR INDIVIDUALS WHO COMPLETED SUICIDE; REQUIRING CORONERS TO REPORT AVAILABLE TOXICOLOGY RESULTS FOR INDIVIDUALS WHO COMPLETED SUICIDE; REQUIRING A REPORT ON TOXICOLOGY AND PRESCRIPTION DRUG INFORMATION IN DEATHS RULED TO BE A SUICIDE; EXTENDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 37-7-1502, 37-7-1503, 37-7-1504, 37-7-1506, 37-7-1512, 37-7-1515, 46-4-123, AND 53-21-1101, MCA."

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

**Section 1.** Section 37-7-1502, MCA, is amended to read:

**"37-7-1502. Prescription drug registry -- purpose.** (1) The board shall establish and maintain a prescription drug registry for the purpose of improving patient safety by:

(a) making a list of controlled substances and mental health medications prescribed to a patient available to the patient or to the patient's health care provider; ~~and~~

(b) allowing authorized staff of the board who have signed appropriate confidentiality agreements to review the registry for possible misuse and diversion of controlled substances; and

(c) allowing authorized staff of the department of public health and human services who have signed appropriate confidentiality agreements to review the registry for research purposes involving medications prescribed to individuals whose deaths have been ruled to be a suicide.

(2) The board shall electronically collect information on prescription drug orders involving

1 controlled substances pursuant to 37-7-1503 and shall disseminate information as provided in 37-7-1504  
2 through 37-7-1506."

3  
4 **Section 2.** Section 37-7-1503, MCA, is amended to read:

5 **"37-7-1503. Prescription drug registry -- registration and reporting requirements.** (1) Each  
6 person licensed under Title 37 to prescribe or dispense prescription drugs shall register to use the prescription  
7 drug registry at the time of initial licensure or renewal of licensure.

8 (2) (a) Except as provided in subsection (2)(b), each entity licensed by the board as a certified  
9 pharmacy or as an out-of-state mail order pharmacy that dispenses drugs to patients in Montana shall provide  
10 to the registry prescription drug order information for controlled substances to the registry and for medications  
11 prescribed to treat a mental disorder as defined in 53-21-102. The information must be reported by:

12 (i) electronically transmitting the information in a format established by the board unless the board  
13 has granted a waiver allowing the information to be submitted in a nonelectronic manner; and

14 (ii) submitting the information in accordance with time limits set by the board unless the board  
15 grants an extension because:

16 (A) the pharmacy has suffered a mechanical or electronic failure or cannot meet the deadline for  
17 other reasons beyond its control; or

18 (B) the board is unable to receive electronic submissions.

19 (b) This subsection (2) does not apply to:

20 (i) a prescriber who dispenses or administers drugs to the prescriber's patients; or

21 (ii) a prescription drug order for a controlled substance dispensed to a person who is hospitalized."  
22

23 **Section 3.** Section 37-7-1504, MCA, is amended to read:

24 **"37-7-1504. Prescription drug registry review.** (1) The board may review the information in the  
25 registry for possible misuse and diversion of controlled substances prescribed and dispensed to a patient. The  
26 board may provide information about possible misuse or diversion to prescribers and dispensers as allowed by  
27 rule.

28 (2) The department of public health and human services may review information in the registry for

1 individuals whose death has been ruled to be a suicide, only for the purposes of the report required under 53-  
2 21-1101."

3  
4 **Section 4.** Section 37-7-1506, MCA, is amended to read:

5 **"37-7-1506. Providing prescription drug registry information.** (1) Registry information is health  
6 care information as defined in 50-16-504 and is confidential. Except as provided in 37-7-1504, the board is  
7 authorized to provide data from the registry, upon request, only to the following:

8 (a) a person authorized to prescribe or dispense prescription drugs if the person certifies that the  
9 information is needed to provide medical or pharmaceutical treatment to a patient who is the subject of the  
10 request and who is under the person's care or has been referred to the person for care;

11 (b) a prescriber who requests information relating to the prescriber's own prescribing information if  
12 the prescriber certifies that the requested information is for a purpose in accordance with board rule;

13 (c) an individual requesting the individual's registry information if the individual provides evidence  
14 satisfactory to the board that the individual requesting the information is the person about whom the data entry  
15 was made;

16 (d) a designated representative of a government agency responsible for licensing, regulating, or  
17 disciplining licensed health care professionals who are authorized to prescribe, administer, or dispense drugs,  
18 in order to conduct investigations related to a health care professional who is the subject of an active  
19 investigation for drug misuse or diversion;

20 (e) a designated representative of the department of public health and human services making an  
21 inquiry in accordance with 37-7-1504;

22 ~~(e)(f)~~ a county coroner or a peace officer employed by a federal, state, tribal, or local law  
23 enforcement agency if the county coroner or peace officer has obtained an investigative subpoena;

24 ~~(f)(g)~~ an authorized individual under the direction of the department of public health and human  
25 services for the purpose of reviewing and enforcing that department's responsibilities under the public health,  
26 medicare, or medicaid laws; or

27 ~~(g)(h)~~ a prescription drug registry in another state if the data is subject to limitations and restrictions  
28 similar to those provided in 37-7-1502 through 37-7-1513.

(2) The board shall maintain a record of each individual or entity that requests information from the registry and whether the request was granted pursuant to this section.

(3) The board may release information in summary, statistical, or aggregate form for educational, research, or public information purposes. The information may not identify a person or entity.

(4) Information collected by or obtained from the registry may not be used:

(a) for commercial purposes; or

(b) as evidence in any civil or administrative action, except in an investigation and disciplinary proceeding by the department or the agency responsible for licensing, regulating, or disciplining licensed health care professionals who are authorized to prescribe, administer, or dispense prescription drugs.

(5) Information obtained from the registry in accordance with the requirements of this section may be used in the course of a criminal investigation and subsequent criminal proceedings.

(6) (a) Registry information may be integrated into a health information system if the system:

(i) limits access to the information to those individuals authorized under subsection (1) to receive registry information;

(ii) meets the privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq.; and

(iii) meets other criteria established by the board by rule.

(b) Information integrated into a health information system remains subject to the confidentiality requirements of 37-7-1505.

(7) The board shall adopt rules to ensure that only authorized individuals have access to the registry and only to appropriate information from the registry. The rules must be consistent with:

(a) the privacy provisions of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq.;

(b) administrative rules adopted in connection with that act;

(c) Article II, section 10, of the Montana constitution; and

(d) the privacy provisions of Title 50, chapter 16.

(8) The procedures established by the board under this section may not impede patient access to prescription drugs for legitimate medical purposes."

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2           **Section 5.** Section 37-7-1512, MCA, is amended to read:

3           **"37-7-1512. Rulemaking authority.** The board shall adopt rules to carry out and enforce this part,  
4 including but not limited to rules that:

5           (1)       specify the type of information to be reported on prescription drug orders involving controlled  
6 substances;

7           (2)       specify which medications for the treatment of mental disorders must be reported in  
8 accordance with this part;

9           ~~(2)~~(3)    establish the requirements for transmitting from a pharmacy to the board prescription drug  
10 order information involving controlled substances and medications for mental disorders;

11           ~~(3)~~(4)    define the electronic format for submission of information;

12           ~~(4)~~(5)    define the circumstances under which a pharmacy may receive a waiver from the requirement  
13 to submit information electronically;

14           ~~(5)~~(6)    specify the procedure through which a pharmacy may request an extension of the time limit for  
15 submitting information;

16           ~~(6)~~(7)    establish how a person or entity authorized to receive information from the registry may submit  
17 a request for the information;

18           ~~(7)~~(8)    specify the ways in which the board may use records involving requests for registry information  
19 to document and report on statistics involving the registry;

20           ~~(8)~~(9)    set the fees to be charged for establishing and maintaining the registry; and

21           ~~(9)~~(10)   establish confidentiality provisions to ensure that the privacy of patient information is  
22 maintained."

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24           **Section 6.** Section 37-7-1515, MCA, is amended to read:

25           **"37-7-1515. Mandatory use of prescription drug registry.** A prescriber or an agent of the prescriber  
26 shall review a patient's records under the prescription drug registry before the prescriber issues a prescription  
27 for an opioid ~~or~~, a benzodiazepine, or a medication for a mental disorder for the patient, unless:

28           (1)       the patient is receiving hospice care;

- 1           (2)     the prescription is for a number of doses that is intended to last the patient 7 days or less and  
2 cannot be refilled;
- 3           (3)     the prescription drug is lawfully administered to the patient in a health care facility;
- 4           (4)     due to an emergency, it is not possible to review the patient's records under the registry before  
5 the prescriber issues a prescription for the patient;
- 6           (5)     the patient is being treated for chronic pain and the prescriber reviews the patient's records  
7 under the prescription drug registry every 3 months; or
- 8           (6)     it is not possible to review the patient's records under the registry because the registry is not  
9 operational or because of other technological failure if the failure is reported to the board."
- 10

11           **Section 7.**Section 5. Section 46-4-123, MCA, is amended to read:

12           **"46-4-123. Inquiry report.** (1) The coroner shall make a full report of the facts discovered in all  
13 human deaths requiring an inquiry under the provisions of 46-4-122.

14           (2)     The inquiry report must be:

- 15           (a)     made using the Montana coroner death management system, if implemented and operational  
16 by the local agency;
- 17           (b)     initiated within 24 hours after the death investigation; and
- 18           (c)     completed as promptly as reasonable and commensurate with the availability of investigation  
19 information, excluding confidential criminal justice information and any other investigative material not  
20 necessary to determine cause or manner of death until the case is closed or charges are filed.

21           (3) For a death ruled to be a suicide, the report must include the results of any toxicology testing  
22 done as a part of the inquiry. The coroner of a county that has not implemented the Montana coroner death  
23 management system shall report the information required under this subsection to the department of public  
24 health and human services in the manner prescribed by the department.

25           ~~(3)~~(4) The coroner and the medical examiner must each have access to the system. The coroner  
26 shall make a copy of the system inquiry report available to the county attorney."

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28           **Section 8.** Section 53-21-1101, MCA, is amended to read:

1           **"53-21-1101. Suicide prevention officer -- duties.** (1) The department shall implement a suicide

2 prevention program administered by a suicide prevention officer attached to the division responsible for  
3 administering adult mental health services. The program must be informed by the best available evidence.

4           (2) The suicide prevention officer shall:

5           (a) coordinate all suicide prevention activities being conducted for both children and adults by all  
6 divisions within the department and coordinate with any suicide prevention activities that are conducted by  
7 other state agencies, including the office of the superintendent of public instruction, the department of  
8 corrections, the department of military affairs, the university system, and other stakeholders;

9           (b) develop a biennial suicide reduction plan in accordance with 53-21-1102 that addresses  
10 reducing suicides by Montanans of all ages, ethnic groups, and occupations;

11           (c) report to the legislature annually, in accordance with 5-11-210 and subsection (3) of this  
12 section, on the toxicology information submitted by county coroners and the prescription drug registry  
13 information regarding the medications prescribed to individuals whose manner of death was ruled to be a  
14 suicide; and

15           ~~(e)~~(d) direct a statewide suicide prevention program with activities based on the best available  
16 evidence that include but are not limited to:

17           (i) conducting statewide communication campaigns aimed at normalizing the need for all  
18 Montanans to address their mental health and utilizing both paid and free media, including digital and social  
19 media, and including input from government agencies, school representatives from elementary schools through  
20 higher education, mental health advocacy groups, veteran groups, and other relevant nonprofit organizations;

21           (ii) initiating, in partnership with Montana's tribes and tribal organizations, communication and  
22 training that is culturally appropriate and utilizes the modalities best suited for Indian country;

23           (iii) seeking opportunities for research that will improve understanding of suicide in Montana and  
24 provide increased suicide-related services;

25           (iv) training for medical professionals, military personnel, school personnel, social service  
26 providers, and the general public on recognizing the early warning signs of suicidality, depression, and other  
27 mental illnesses as well as actions, based on the best available evidence, to take during and after a crisis;

28           (v) identifying and using available resources, which may include providing grants to entities,

1 including but not limited to tribes, tribal and urban health organizations, local governments, schools, health care  
2 providers, professional associations, and other nonprofit and community organizations, for development or  
3 expansion of evidence-based suicide prevention programs in accordance with the requirements of 53-21-1111;

4 (vi) building a multifaceted, lifespan approach to suicide prevention; and

5 (vii) obtaining, analyzing, and reporting program evaluation data, quality health outcomes, and  
6 suicide morbidity and mortality data, subject to existing confidentiality protections for the data.

7 (3) The suicide prevention officer may coordinate with appropriate department personnel in  
8 preparing the report required under subsection (2)(c). The report may contain only deidentified information."

9 - END -