

BALLOT LANGUAGE FOR INITIATIVE NO. 179 (I-179)

INITIATIVE NO. 179

A LAW PROPOSED BY INITIATIVE PETITION

I-179 would create a new license for a “community veteran emergency medical technician” and allow these license holders to provide medical services beyond the current scope of care for emergency medical technicians (EMTs). The care administered by the community veteran EMTs would not be limited to veterans. The board of medical examiners would be required to adopt rules governing the care administered by these licensed EMTs. Two community veteran EMTs would be added to the board of medical examiners, the trauma care committee, and the board of pardons and parole. I-179 requires the department of justice to create and maintain a database of all crimes charged against veterans. I-179 would take effect September 27, 2016, more than a month before the general election.

State government would incur approximately \$13.3 million in general fund expenditures and \$5.7 million in special revenue expenditures in the first five years due to the creation and maintenance of the criminal database and other provisions. In addition, I-179 would have significant financial impacts on local governments

YES on Initiative I-179

NO on Initiative I-179

THE COMPLETE TEXT OF INITIATIVE NO. 179 (I-179)

WHEREAS, Montana has the highest per capita rate of veteran suicide in the nation and has held this title for over 30 years; and

WHEREAS, Montana veterans are committing suicide at a rate of one suicide every 36 hours, which equates to approximately 2,100 Montana veterans dying by suicide over the past 10 years; and

WHEREAS, the United States Department of Veterans Affairs and the State of Montana have no effective programs to decrease the current suicide rate; and

WHEREAS, the United States Department of Veterans Affairs is currently short-staffed by over 41,000 licensed medical personnel and as a result Montana veterans are waiting at unacceptable times for primary and mental health care; and

WHEREAS, the State of Montana has thousands of emergency medical technicians who are trained and licensed but who, under current Montana law and administrative rules, are unable to provide care, such as taking a simple blood pressure measurement, to the veterans of Montanans except in emergency situations; and

WHEREAS, emergency medical technicians have performed medical care to thousands of Montanans and have proven their value to the people of Montana; and

WHEREAS, emergency medical technicians have proven their ability to provide medical care in Montana, the 1970's restriction of providing emergency care is outdated and needs to be updated.

WHEREAS, veterans' current basic physical and mental health care needs are not being met; and

WHEREAS, prompt and efficient physical and mental health care of veterans is an important ingredient necessary for the reduction of suicide and mortality and morbidity rates within the veteran community; and

WHEREAS, emergency medical technicians can become a key component in providing primary physical and mental health care to veterans.

THEREFORE, it is the intent of the people of Montana to allow emergency medical technicians to practice within their scope of practice outside of current restrictions of emergency situations only. An advanced practice emergency medical technician is needed to fill the veterans and their friends and family's needs for primary physical and mental health care by enacting the following.

Be it enacted by the people of the State of Montana:

NEW SECTION. Section 1. Short Title. [Sections 1 through 7] may be cited as the “CVEMT Act”.

NEW SECTION. Section 2. Findings. The people of the state of Montana find that:

(1) emergency medical technicians are critical and necessary for the reduction of mortality and morbidity rates for the people of Montana; and

(2) community veteran emergency medical technicians are critical and necessary for the reduction of mortality and morbidity rates for the veterans and their friends and families of Montana.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(2) "Community veteran emergency medical technician" means a person who has been specially trained in a training program approved by the board to apply their training and skill, in community-based environments (outside the usual emergency response / transport model) and who has been licensed by the board. The community veteran emergency medical technician may practice within an expanded scope and role of an emergency medical technician by applying specialized skills / protocols pursuant to [section 4]. Community veteran emergency medical technicians may operate independent from direct medical supervision.

(3) "Emergency medical technician" means a person who has been specially trained to provide physical and mental health care with an emphasis in emergency care in a training program approved by the board and who has been licensed by the board as having demonstrated a level of competence suitable to treat patients in the person's care.

(4) "Volunteer emergency medical technician" means a person who is licensed pursuant to [sections 1 through 5] and who provides emergency medical care:

(a) on the days and at the times of the day chosen by the individual; and

(b) for an emergency medical service other than:

(i) a private ambulance company unless the care is provided without compensation and outside of the individual's regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical care as part of the individual's job duties.

(5) "Veteran" means an individual who served on active duty for a period of 6 months or longer, other than for training, with the United States armed forces, including an individual who served with the United States coast guard. The term includes individuals who served with the first special service force and the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945.

(6) "Scope of Practice" describes the procedures, actions, and processes that an emergency medical technician or community veteran emergency medical technicians is permitted to undertake in keeping with the terms of [section 4 and 5] and rules of the board.

(7) "Advanced Medical Care Services" describes the procedures, actions, and processes that an emergency medical technician licensed above a basic level is permitted to undertake.

NEW SECTION. Section 4. Powers and duties of board. (1) The board has a special duty to ensure that emergency medical technicians and community veteran emergency medical technicians provide proper treatment to patients in their care.

(2) The board shall adopt rules governing emergency medical technicians, including but not limited to:

(a) training and licensure and relicensure;

(b) the administration of drugs; and

(c) the handling of complaints involving patient care provided by emergency medical technicians.

(3) The board shall adopt rules governing community veteran emergency medical technicians, including but not limited to:

(a) training, which must not be limited to a college training program or degree;

(b) licensure and relicensure, for which a college program or degree must not be required;

(c) the administration and or dispensing of drugs; and

(d) the handling of complaints involving patient care provided by community veteran emergency medical technicians.

(4) The board may, by rule, establish various levels of emergency medical technician licensure and shall specify for each level the training requirements, acts allowed, relicensure requirements, and any other requirements regarding the training, performance, or licensure of that level of emergency medical technician that it considers necessary, subject to the provisions of 37-1-138.

(5) An emergency medical technician licensed to provide advance medical care providing advanced medical care services as defined by the board may be billed as if the services were performed by the medical director.

(6) An emergency medical technician practicing within the scope of practice must not be restricted as to when or where they may practice.

NEW SECTION. Section 5. Community veteran emergency medical technician. (1) A community veteran emergency medical technician shall practice under the direction of a medical director who must be a physician licensed under Title 37, chapter 3, or a physician assistant licensed under Title 37, chapter 20.

(2) A community veteran emergency medical technician is not required to practice under the guidance of a licensed mental health professional.

(3) A community veteran emergency medical technician training course must include the following topics in a program of not less than 1,000 hours;

- a. Emergency medical technician
- b. Acupuncture/Acupressure
- c. Non-Medical Counseling
- d. Suicide Prevention/Intervention
- e. Exercise physiology
- f. Electronic medical records documentation
- g. Veteran Advocacy
- h. Veteran and Social Security benefits
- i. Grant Writing
- j. Community Program Development
- k. Research Methodologies

- l. Palliative Care
- m. Chronic Care
- n. Pharmacology

(4) A licensed community veteran emergency medical technician scope of practice must include:

- (a) physical and mental health assessments;
- (b) chronic disease monitoring;
- (c) palliative care;
- (d) immunizations and vaccinations;
- (e) laboratory specimen collections;
- (f) acupuncture;
- (g) education;
- (h) community development;
- (i) medication compliance;
- (j) drug dispensing;
- (k) medication administration;
- (l) exercise physiology;
- (m) hospital discharge follow up care;
- (n) nutritional education;
- (o) mental health care;
- (p) crisis intervention;
- (q) suicide assessment and intervention; and
- (r) other medical procedures approved by the medical director.

(4) Community veteran emergency medical technicians are not restricted to a practice of only veterans.

(5) Services provided by a community veteran emergency medical technician must be billed as if the services were performed by the medical director.

NEW SECTION. Section 6. Consent. No emergency medical technician or community veteran emergency medical technician may be subject to civil liability for failure to obtain consent in performing acts authorized under [sections 1 through 5] to any individual regardless of age where the patient is unable to give consent and there is no other person present legally

authorized to consent, provided that the acts are in good faith and without knowledge of facts negating consent.

NEW SECTION. Section 7. Veteran's criminal database. (1) The department of justice shall create and maintain a database of all crimes charged against veterans. The database must be kept confidential and is accessible only to licensed community veteran medical technicians and the personnel responsible for maintaining the database. Any person accessing the database is subject to the penalties provided in 45-7-601.

(2) The database shall contain at a minimum the veteran's name, service number or social security number, charges, contact information, case disposition or sentencing information, and next of kin.

(3) All Montana courts, including courts of limited jurisdiction, shall:

(a) ascertain the veteran status of any person charged with a crime in Montana; and

(b) designate a person to input the data on not less than a weekly basis. The person's failure to keep the data current subjects the person to the penalties provided in 45-7-401.

Section 8. Section 2-15-1731, MCA, is amended to read:

"2-15-1731. Board of medical examiners. (1) There is a Montana state board of medical examiners.

(2) The board consists of ~~13~~ 15 members appointed by the governor with the consent of the senate. Appointments made when the legislature is not in session may be confirmed at the next session.

(3) The members are:

(a) five members having the degree of doctor of medicine, including one member with experience in emergency medicine;

(b) one member having the degree of doctor of osteopathy;

(c) one member who is a licensed podiatrist;

(d) one member who is a licensed nutritionist;

(e) one member who is a licensed physician assistant;

(f) one member who is a licensed acupuncturist;

(g) one member who is a volunteer emergency medical technician, as defined in ~~50-6-202~~ [section 2]; and

- (h) two members of the general public who are not medical practitioners; and
- (i) two members who are licensed community veteran emergency medical technicians.

(4) (a) The members having the degree of doctor of medicine may not be from the same county.

(b) The volunteer emergency medical technician must have a demonstrated interest in and knowledge of state and national issues involving emergency medical service.

(c) Each member must be a citizen of the United States.

(d) Each member, except for public members, must have been licensed and must have practiced medicine, acupuncture, emergency medical care, or dietetics-nutrition in this state for at least 5 years and must have been a resident of this state for at least 5 years.

(5) Members shall serve staggered 4-year terms. A term begins on September 1 of each year of appointment. A member may be removed by the governor for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 9. Section 2-15-2216, MCA, is amended to read:

"2-15-2216. Trauma care committee. (1) There is a trauma care committee.

(2) The committee consists of members appointed by the governor as follows:

(a) a member of the Montana committee on trauma of the American college of surgeons, who shall serve as presiding officer of the committee;

(b) two members from each regional trauma care advisory committee created pursuant to 50-6-411;

(c) a member of the Montana trauma coordinators;

(d) a representative of the Montana hospital association;

(e) a member of the Montana medical association;

(f) a member of the emergency nurses association;

(g) an individual who is or who is employed by a Montana private ambulance operator;

(h) a member of the Montana emergency medical services association;

(i) a nurse or physician representing the Indian health service; and

(j) a member of the American college of emergency physicians, Montana chapter; and

(k) two members who are licensed community veteran emergency medical technicians.

(3) Members must be appointed for 4-year terms, except that seven of the members initially appointed shall serve terms of 2 years. Members serve at the pleasure of the governor. If a vacancy occurs, the governor shall appoint a replacement to fill the unexpired term. A member may be reappointed.

(4) A member of the committee may not receive compensation for performing the member's duties but must be reimbursed for expenses.

(5) The committee is attached to the department of public health and human services for administrative purposes only as provided in 2-15-121.

(6) The committee has the duties provided in 50-6-404."

Section 10. Section 2-15-2302, MCA, is amended to read:

"2-15-2302. Board of pardons and parole -- composition -- allocation -- quasi-judicial.

(1) There is a board of pardons and parole.

(2) (a) The board consists of ~~seven~~ nine members, each of whom must have knowledge of American Indian culture and problems gained through training as required by rules adopted by the board. One member must be an enrolled member of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana. The tribal member may not be required to hear and act on all American Indian applications before the board. Two members must be licensed community veteran emergency medical technicians.

(b) Board members must have knowledge of serious mental illness and recovery from serious mental illness gained through annual training as required by rules adopted by the board. One member must be a mental health professional as defined in 53-21-102.

(c) Board members must possess academic training that has qualified them for professional practice in a field such as criminology, education, medicine, psychiatry, psychology, law, social work, sociology, psychiatric nursing, or guidance and counseling. Related work experience in the areas listed may be substituted for these educational requirements.

(3) The governor shall attempt to establish geographic balance among board members.

(4) Board members shall serve staggered 4-year terms. The governor shall appoint three members in January of the first year of the governor's term, two members in January of the second year of the governor's term, and two members in January of the third year of the governor's term. The provisions of 2-15-124(2) do not apply to the board.

(5) The terms of board members run with the position, and if a vacancy occurs, the governor shall appoint a person to fill the unexpired portion of the term.

(6) The governor shall designate the presiding officer, as provided in 2-15-124. The governor may designate a different presiding officer at any time. If the governor designates a different presiding officer, the former presiding officer still serves as a board member unless removed for cause pursuant to 2-15-124(6).

(7) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

(8) The board is designated as a quasi-judicial board for purposes of 2-15-124, except board members must be compensated as provided by legislative appropriation and the terms of board members must be staggered as provided in subsection (4).

(9) A favorable vote of at least a majority of the seven members of the board is required to implement any policy, procedure, or administrative rule. A favorable vote of at least a majority of the members of a hearing panel, as defined in 46-23-103, is required to make decisions regarding parole and executive clemency, and the provisions of 2-15-124(8) do not apply."

Section 11. Section 7-33-4510, MCA, is amended to read:

"7-33-4510. Workers' compensation for volunteer firefighters -- definitions. (1) An employer may provide workers' compensation coverage as provided in Title 39, chapter 71, to any volunteer firefighter who is listed on a roster of service.

(2) An employer may purchase workers' compensation coverage from any entity authorized to provide workers' compensation coverage under plan No. 1, 2, or 3 as provided in Title 39, chapter 71.

(3) If an employer provides workers' compensation coverage as provided in this section, the employer may, upon payment of the filing fee provided for in 7-4-2631(1)(a), file a roster of service with the clerk and recorder in the county in which the employer is located and update the roster of service monthly if necessary to report changes in the number of volunteers on the roster of service. The clerk and recorder shall file the original and replace it with updates whenever necessary. The employer shall maintain the roster of service with the effective date of membership for each volunteer firefighter.

(4) For the purposes of this section, the following definitions apply:

(a) (i) "Employer" means the governing body of a fire agency organized under Title 7, chapter 33, including a rural fire district, a fire service area, a volunteer fire department, a volunteer fire company, or a volunteer rural fire control crew.

(ii) The term does not mean a governing body of a city of the first class or second class, including a city to which 7-33-4109 applies, that provides workers' compensation coverage to employees as defined in 39-71-118.

(b) "Roster of service" means the list of volunteer firefighters who have filled out a membership card prior to performing services as a volunteer firefighter.

(c) (i) "Volunteer firefighter" means a volunteer who is on the employer's roster of service. A volunteer firefighter includes a volunteer emergency medical technician as defined in ~~50-6-202~~ section 2 who is on the roster of service. A volunteer firefighter is not required to be an active member as defined in 19-17-102.

(ii) The term does not mean an individual who is not listed on a roster of service or a member of a volunteer fire department provided for in 7-33-4109."

Section 12. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. (1) The board may:

(a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1 through 4, as well as chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and ~~50-6-203~~ sections 1 through 6, respectively. The rules must be fair, impartial, and nondiscriminatory.

(b) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers licensed by the board. The board also may assist the county attorneys of this state in the prosecution of persons, firms, associations, or corporations charged with violations of the provisions listed in this subsection (1)(c).

(d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle as provided in 87-2-803(11); and

(e) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary.

(2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness.

(b) The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state.

(3) (a) The board shall report annually on the number and types of complaints it has received involving physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana for a debilitating medical condition provided for in Title 50, chapter 46. The report must contain:

(i) the number of complaints received by the board pursuant to 37-1-308;

(ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-307;

(iii) the general nature of the complaints;

(iv) the number of investigations conducted into physician practices in providing written certification; and

(v) the number of physicians disciplined by the board for their practices in providing written certification for the use of marijuana for a debilitating medical condition.

(b) Except as provided in subsection (3)(c), the report may not contain individual identifying information regarding the physicians about whom the board received complaints.

(c) For each physician against whom the board takes disciplinary action related to the physician's practices in providing written certification for the use of marijuana for a debilitating medical condition, the report must include:

(i) the name of the physician;

(ii) the general results of the investigation of the physician's practices; and

(iii) the disciplinary action taken against the physician.

(d) The board shall provide the report to the children, families, health, and human services interim committee by August 1 of each year and shall make a copy of the report available on the board's website.

(4) The board may enter into agreements with other states for the purposes of mutual recognition of licensing standards and licensing of physicians and ECPs from other states under the terms of a mutual recognition agreement."

Section 13. Section 37-13-104, MCA, is amended to read:

"37-13-104. Partial exemptions. (1) (a) This chapter may not be construed to require doctors of medicine, osteopathy, chiropractic, dentistry, and podiatry who are licensed in Montana to take further examinations in anatomy, physiology, chemistry, dermatology, diagnosis, bacteriology, materia medica, or other subjects that are or may be required for licensure in their respective professions.

(b) A doctor of medicine, osteopathy, chiropractic, dentistry, or podiatry may not practice acupuncture in this state unless that doctor has completed a course and passed an examination in acupuncture as required by this chapter.

(2) Except as provided in 37-13-301 and with particular regard to the insertion of solid needles used to perform acupuncture, this chapter must not limit, interfere with, or prevent a licensed health professional from practicing within the scope of the health professional's license.

(3) This chapter does not affect the practice of an occupation by an individual who does not represent to the public that the individual is licensed under this chapter.

(4) A medical director providing medical supervision to community veteran emergency medical technicians as defined under [section 2(c)] is exempt from this chapter.

(5) An acupuncturist who is licensed in good standing from other states of the United States, performing services under a community veteran emergency medical technician program."

Section 14. Section 37-20-303, MCA, is amended to read:

"37-20-303. Exemptions from licensure requirement. (1) This chapter does not prohibit or require a license as a physician assistant for the rendering of medical or medically related services if the service rendered is within the applicable scope of practice for any of the following individuals:

(a) a physician assistant providing services in an emergency or catastrophe, as provided in 37-20-410;

(b) a federally employed physician assistant;

(c) a registered nurse, an advanced practice registered nurse, a licensed practical nurse, or a medication aide licensed or authorized pursuant to Title 37, chapter 8;

(d) a student physician assistant when practicing in a hospital or clinic in which the student is training;

(e) a physical therapist licensed pursuant to Title 37, chapter 11;

(f) a medical assistant, as provided in 37-3-104;

(g) an emergency medical technician licensed pursuant to ~~Title 50, chapter 6~~ sections 1 through 6; or

(h) any other medical or paramedical practitioner, specialist, or medical assistant, technician, or aide when licensed or authorized pursuant to laws of this state.

(2) A licensee or other individual referred to in subsection (1) who is not a licensed physician assistant may not use the title "PA" or "PA-C" or any other word or abbreviation to indicate or induce others to believe that the individual is a physician assistant."

Section 15. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical technician defined. (1) As used in this chapter, the term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college;

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as described in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer;

(f) an inmate working in a federally certified prison industries program authorized under 53-30-132;

(g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under Title 7, chapter 34, part 1;

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for recipients of financial assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the

public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's public assistance participants and may be only for the duration of each participant's training while receiving financial assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite;

(i) subject to subsection (11), a member of a religious corporation, religious organization, or religious trust while performing services for the religious corporation, religious organization, or religious trust, as described in 39-71-117(1)(d).

(2) The terms defined in subsection (1) do not include a person who is:

(a) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(b) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(b), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(c) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(d) performing temporary agricultural work for an employer if the person performing the work is otherwise exempt from the requirement to obtain workers' compensation coverage under 39-71-401(2)(r) with respect to a company that primarily performs agricultural work at a fixed business location or under 39-71-401(2)(d) and is not required to obtain an independent contractor's exemption certificate under 39-71-417 because the person does not regularly perform agricultural work away from the person's own fixed business location. For the purposes of this subsection, the term "agricultural" has the meaning provided in 15-1-101(1)(a).

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter a volunteer as defined in subsection (2)(b) or a volunteer firefighter as defined in 7-33-4510.

(4) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (4)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (4)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$900 a month and not more than 1 1/2 times the state's average weekly wage.

(5) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) For the purposes of an election under this subsection (5), all weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (5)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$200 a week and not more than 1 1/2 times the state's average weekly wage.

(6) Except as provided in Title 39, chapter 8, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(7) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(8) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (8)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

(i) nonresident employees are hired in Montana;

(ii) nonresident employees' wages are paid in Montana;

(iii) nonresident employees are supervised in Montana; and

(iv) business records are maintained in Montana.

(9) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (8)(b) or (8)(d) as a condition of approving the election under subsection (8)(d).

(10) (a) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee within the provisions of this chapter a volunteer emergency medical technician who serves public safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or volunteer nontransporting medical unit. The ambulance service or nontransporting medical unit may purchase workers' compensation coverage from any entity authorized to provide workers' compensation coverage under plan No. 1, 2, or 3 as provided in this chapter.

(b) If there is an election under subsection (10)(a), the employer shall report payroll for all volunteer emergency medical technicians for premium and weekly benefit purposes based on the number of volunteer hours of each emergency medical technician, but no more than 60 hours, times the state's average weekly wage divided by 40 hours.

(c) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, may make a separate election to provide benefits as described in this subsection (10) to a member who is either a self-employed sole proprietor or partner who has elected not to be covered under this chapter, but who is covered as a volunteer emergency medical technician pursuant to subsection (10)(a). When injured in the course and scope of employment as a volunteer emergency medical technician, a member may instead of the benefits described in subsection (10)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year. If the separate election is made as provided in this subsection (10), payroll information for those self-employed sole proprietors or partners must be reported and premiums must be assessed on the assumed weekly wage.

(d) A volunteer emergency medical technician who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17, if the individual is also eligible as a volunteer firefighter.

(e) (i) The term "volunteer emergency medical technician" means a person who has received a certificate issued by the board of medical examiners as provided in ~~Title 50, chapter 6, part 2~~ sections 1 through 5, and who serves the public through an ambulance service not

otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.

(ii) The term does not include a volunteer emergency medical technician who serves an employer as defined in 7-33-4510.

(f) The term "volunteer hours" means the time spent by a volunteer emergency medical technician in the service of an employer or as a volunteer for a town, city, or county, including but not limited to training time, response time, and time spent at the employer's premises.

(11) The definition of "employee" or "worker" in subsection (1)(i) is limited to implementing the administrative purposes of this chapter and may not be interpreted or construed to create an employment relationship in any other context."

Section 16. Section 50-6-302, MCA, is amended to read:

"50-6-302. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Aircraft" has the meaning provided in 67-1-101. The term includes any fixed-wing airplane or helicopter.

(2) (a) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients.

(b) The term does not include:

(i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or

(ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent physician.

(3) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(4) "Department" means the department of public health and human services provided for in 2-15-2201.

(5) "Emergency medical service" means a prehospital or interfacility emergency medical transportation or treatment service provided by an ambulance or nontransporting medical unit that is licensed by the department.

(6) "Nonemergency ambulance transport" means the use of an ambulance to transport a patient between health care facilities, as defined in 50-5-101, including federal facilities, when the patient's medical condition requires special transportation considerations, supervision, or handling but does not indicate a need for medical treatment during transit or for emergency medical treatment upon arrival at the receiving health care facility.

(7) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department rule but may not transport patients.

(8) "Offline medical direction" means the function of a board-licensed physician or physician assistant in providing:

(a) medical oversight and supervision for an emergency medical service or an emergency medical technician; and

(b) review of patient care techniques, emergency medical service procedures, and quality of care.

(9) "Online medical direction" means the function of a board-licensed physician or physician assistant or the function of a designee of the physician or physician assistant in providing direction, advice, or orders to an emergency medical technician for prehospital and interfacility emergency care as identified in a plan for offline medical direction.

(10) (a) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(b) The term does not include an individual who is nonambulatory and who needs transportation assistance solely because that individual is confined to a wheelchair as the individual's usual means of mobility.

(11) "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States.

(12) "Volunteer emergency medical technician" means an individual who is licensed pursuant to ~~Title 50, chapter 6, part 2~~ sections 1 through 5, and provides emergency medical care:

(a) on the days and at the times of the day chosen by the individual; and

(b) for an emergency medical service other than:

(i) a private ambulance company, unless the care is provided without compensation and outside of the individual's regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical care as part of the individual's job duties."

Section 17. Section 61-2-502, MCA, is amended to read:

"61-2-502. Definitions. As used in this part, the following definitions apply:

(1) "Aircraft" has the meaning provided in 67-1-101. The term includes any fixed-wing airplane or helicopter.

(2) (a) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients.

(b) The term does not include:

(i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or

(ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent physician.

(3) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(4) "Department" means the department of transportation provided for in 2-15-2501.

(5) "Emergency medical service" means a prehospital or interhospital emergency medical transportation or treatment service provided by an ambulance or nontransporting medical unit.

(6) "Emergency medical technician" means a person who has been specially trained in emergency care in a training program approved by the board and licensed by the board as having demonstrated a level of competence suitable to treat victims of injury or other emergent condition.

(7) (a) "Emergency response vehicle" means a vehicle used for the dedicated purpose of responding to emergency medical calls.

(b) The term does not include a vehicle used for an individual's personal purposes.

(8) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department of public health and human services rule but may not transport patients.

(9) (a) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(b) The term does not include an individual who is nonambulatory and who needs transportation assistance solely because that individual is confined to a wheelchair as the individual's usual means of mobility.

(10) "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States.

(11) "Volunteer emergency medical technician" means an individual who is licensed pursuant to ~~Title 50, chapter 6, part 2~~ sections 1 through 5, and provides emergency medical care:

(a) on the days and the times of the day chosen by the individual; and

(b) for an emergency medical service other than:

(i) a private ambulance company, unless the care is provided without compensation and outside of the individual's regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical care as part of the individual's job duties."

Section 18. Section 53-21-102, MCA, is amended to read:

"53-21-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Abuse" means any willful, negligent, or reckless mental, physical, sexual, or verbal mistreatment or maltreatment or misappropriation of personal property of any person receiving treatment in a mental health facility that insults the psychosocial, physical, or sexual integrity of any person receiving treatment in a mental health facility.

(2) "Behavioral health inpatient facility" means a facility or a distinct part of a facility of 16 beds or less licensed by the department that is capable of providing secure, inpatient

psychiatric services, including services to persons with mental illness and co-occurring chemical dependency.

(3) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors created by 2-15-211.

(4) "Commitment" means an order by a court requiring an individual to receive treatment for a mental disorder.

(5) "Court" means any district court of the state of Montana.

(6) "Department" means the department of public health and human services provided for in 2-15-2201.

(7) "Emergency situation" means:

(a) a situation in which any person is in imminent danger of death or bodily harm from the activity of a person who appears to be suffering from a mental disorder and appears to require commitment; or

(b) a situation in which any person who appears to be suffering from a mental disorder and appears to require commitment is substantially unable to provide for the person's own basic needs of food, clothing, shelter, health, or safety.

(8) "Friend of respondent" means any person willing and able to assist a person suffering from a mental disorder and requiring commitment or a person alleged to be suffering from a mental disorder and requiring commitment in dealing with legal proceedings, including consultation with legal counsel and others.

(9) (a) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

(b) The term does not include:

(i) addiction to drugs or alcohol;

(ii) drug or alcohol intoxication;

(iii) intellectual disability; or

(iv) epilepsy.

(c) A mental disorder may co-occur with addiction or chemical dependency.

(10) "Mental health facility" or "facility" means the state hospital, the Montana mental health nursing care center, or a hospital, a behavioral health inpatient facility, a mental health center, a residential treatment facility, or a residential treatment center licensed or certified by the department that provides treatment to children or adults with a mental disorder. A

correctional institution or facility or jail is not a mental health facility within the meaning of this part.

(11) "Mental health professional" means:

- (a) a certified professional person;
- (b) a physician licensed under Title 37, chapter 3;
- (c) a professional counselor licensed under Title 37, chapter 23;
- (d) a psychologist licensed under Title 37, chapter 17;
- (e) a social worker licensed under Title 37, chapter 22; or
- (f) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing.

(g) a community veteran emergency medical technician licensed under [section 4].

(12) (a) "Neglect" means failure to provide for the biological and psychosocial needs of any person receiving treatment in a mental health facility, failure to report abuse, or failure to exercise supervisory responsibilities to protect patients from abuse and neglect.

(b) The term includes but is not limited to:

- (i) deprivation of food, shelter, appropriate clothing, nursing care, or other services;
- (ii) failure to follow a prescribed plan of care and treatment; or
- (iii) failure to respond to a person in an emergency situation by indifference, carelessness, or intention.

(13) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

(14) "Patient" means a person committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

(15) "Peace officer" means any sheriff, deputy sheriff, marshal, police officer, or other peace officer.

(16) "Professional person" means:

- (a) a medical doctor;
- (b) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing;
- (c) a licensed psychologist; or
- (d) a person who has been certified, as provided for in 53-21-106, by the department.
- (e) a community veteran emergency medical technician licensed under [section 4].

(17) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a professional person.

(18) "Respondent" means a person alleged in a petition filed pursuant to this part to be suffering from a mental disorder and requiring commitment.

(19) "State hospital" means the Montana state hospital."

Section 19. Section 37-2-104, MCA, is amended to read:

"37-2-104. Dispensing of drugs by medical practitioners unlawful -- exceptions. (1)

Except as otherwise provided by this section, it is unlawful for a medical practitioner to engage, directly or indirectly, in the dispensing of drugs.

(2) This section does not prohibit:

(a) a medical practitioner from furnishing a patient any drug in an emergency;

(b) the administration of a unit dose of a drug to a patient by or under the supervision of a medical practitioner;

(c) dispensing a drug to a patient by a medical practitioner whenever there is no community pharmacy available to the patient;

(d) the dispensing of drugs occasionally, but not as a usual course of doing business, by a medical practitioner;

(e) a medical practitioner from dispensing drug samples;

(f) the dispensing of factory prepackaged contraceptives, other than mifepristone, by a registered nurse employed by a family planning clinic under contract with the department of public health and human services if the dispensing is in accordance with:

(i) a physician's written protocol specifying the circumstances under which dispensing is appropriate; and

(ii) the drug labeling, storage, and recordkeeping requirements of the board of pharmacy;

(g) a contract physician at an urban Indian clinic from dispensing drugs to qualified patients of the clinic. The clinic may not stock or dispense any dangerous drug, as defined in 50-32-101, or any controlled substance. The contract physician may not delegate the authority to dispense any drug for which a prescription is required under 21 U.S.C. 353(b).

(h) a medical practitioner from dispensing a drug if the medical practitioner has prescribed the drug and verified that the drug is not otherwise available from a community

pharmacy. A drug dispensed pursuant to this subsection (2)(h) must meet the labeling requirements of the board of pharmacy.

(i) A community veteran emergency medical technician from dispensing drugs to their patients. A drug dispensed pursuant to this subsection shall be exempt from the labeling requirements of the Board of Pharmacy. The Board of Medical Examiners must provide rules for drugs dispensed under this exemption.”

NEW SECTION. Section 20. Repealer.

50-6-105. Emergency medical care standards -- review process.

50-6-201. Legislative findings -- duty of board.

50-6-202. Definitions.

50-6-203. Rules.

50-6-206. Consent.

50-6-207. Construction.

NEW SECTION. Section 21. Codification instruction. (1) [Sections 2 through 6] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 2 through 6].

(2) [Section 7] is intended to be codified as an integral part of Title 44, chapter 4, and the provisions of Title 44, chapter 4, apply to [section 7].

NEW SECTION. Section 22. Grandfather Clause. (1) The board must grant a license to practice as an emergency medical technician at all levels authorized by the board, without examination those who are currently licensed by the board as an emergency medical technician at their current license level.

(2) The board must grant a license as a community veteran emergency medical technician to licensed emergency medical technicians who have completed the required training under [section 4] without examination for a period of eighteen months after enactment of this act.

(3) The board must accept training provided by schools training community veteran emergency medical technicians as approved training for a period of eighteen months after enactment of this act.

NEW SECTION. **Section 23. Severability.** If a part of this initiative is invalid, all parts of that are severable from the invalid part remain in effect. If a part of this initiative is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 24. Effective Date.** This initiative is effective September 27, 2016.