



MONTANA
HOSPITAL
ASSOCIATION

Memo

To: Chairman Usher and Members of the House Judiciary Committee

From: Heather O'Hara, RN, MSN – Vice President Montana Hospital Association

Cc:

Date: January 11, 2021

Re: HB 113 – Provide for youth health protection

The Montana Hospital Association respectfully opposes HB 113. The Montana Hospital Association (MHA) is a nonprofit organization whose members provide the full spectrum of health care services, including hospital inpatient and outpatient, skilled nursing facility, home health, hospice, physician, assisted living, senior housing and insurance services. One of the fundamental facets of MHA's mission is to facilitate access to medical care for all Montanans and ensure appropriate care is available to those that seek it. HB 113 threatens both of these mandates.

As noted by our MHA Legal counsel, Montana's right to privacy, set forth in Article 2, Section 10 of the Montana Constitution, is "implicated when a statute infringes on a person's ability to obtain a lawful medical procedure." *Weems v. State*, 2019 MT 98, ¶ 19, 395 Mont. 350, 440 P.3d 4. The right to health care is the "fundamental privacy right to obtain a particular lawful medical procedure from a health care provider [who] has been determined by the medical community to be competent to provide that service and who has been licensed to do so." *Wiser v. State*, 2006 MT 20, ¶ 15, 331 Mont. 28, 129 P.3d 133. HB 113 is an attempt to overreach acceptable restrictions on healthcare to the point it fundamentally infringes on Montanans' constitutional privacy rights.

Further, MHA believes in ensuring Montana physicians are best suited to address the needs of their individual patients, whether they be minors or adults. In addition to being regulated by a medical board, Physicians have taken the Hippocratic Oath ensuring they put patients' interests first and foremost. Through state regulation, private governance, and their own professional mandates, Physicians are held accountable to ensure that they are practicing safe, research-based medicine with the focus on the physician-patient relationship. For these reasons, MHA supports allowing physicians and patients to make decisions collaboratively and without improper interference from the Montana Legislature into patients' ability to access health care.

MHA supports protecting individual privacy rights and enabling physicians to practice within their scope of practice and the applicable standards of care to continue to provide access to patients, regardless of the otherwise legal services being sought. We ask the committee to vote no on HB 113.