

1 HOUSE BILL NO. 410
2 INTRODUCED BY CS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT
5 CERTIFICATE OF NEED REQUIREMENTS DO NOT APPLY TO OFFICES OF
6 PRIVATE PHYSICIANS OR DENTISTS UNLESS THE SERVICE TO BE
7 PROVIDED AT THE OFFICES IS SUBJECT TO CERTIFICATE OF NEED;
8 AND AMENDING SECTION 50-5-301, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 50-5-301, MCA, is amended to read:

12 "50-5-301. (Temporary) When certificate of need is
13 required -- definitions. (1) Unless a person has submitted
14 an application for and is the holder of a certificate of
15 need granted by the department, he may not initiate any of
16 the following:

17 (a) the incurring of an obligation by or on behalf of a
18 health care facility for any capital expenditure, other than
19 to acquire an existing health care facility or to replace
20 major medical equipment with equipment performing
21 substantially the same function and in the same manner, that
22 exceeds the expenditure thresholds established in subsection
23 (4). The costs of any studies, surveys, designs, plans,
24 working drawings, specifications, and other activities
25 (including staff effort, consulting, and other services)

1 essential to the acquisition, improvement, expansion, or
2 replacement of any plant or equipment with respect to which
3 an expenditure is made must be included in determining if
4 the expenditure exceeds the expenditure thresholds.

5 (b) a change in the bed capacity of a health care
6 facility through an increase in the number of beds or a
7 relocation of beds from one health care facility or site to
8 another, unless:

9 (i) the number of beds involved is 10 or less or 10% or
10 less of the licensed beds (if fractional, rounded down to
11 the nearest whole number), whichever figure is smaller, in
12 any 2-year period;

13 (ii) a letter of intent is submitted to the department;
14 and

15 (iii) the department determines the proposal will not
16 significantly increase the cost of care provided or exceed
17 the bed need projected in the state health plan;

18 (c) the addition of a health service that is offered by
19 or on behalf of a health care facility which was not offered
20 by or on behalf of the facility within the 12-month period
21 before the month in which the service would be offered and
22 which will result in additional annual operating and
23 amortization expenses of \$150,000 or more;

24 (d) the acquisition by any person of major medical
25 equipment, provided such acquisition would have required a



1 certificate of need pursuant to subsection (1)(a) or (1)(c)
 2 if it had been made by or on behalf of a health care
 3 facility;

4 (e) the incurring of an obligation for a capital
 5 expenditure by any person or persons to acquire 50% or more
 6 of an existing health care facility unless:

7 (i) the person submits the letter of intent required by
 8 50-5-302(2); and

9 (ii) the department finds that the acquisition will not
 10 significantly increase the cost of care provided or increase
 11 bed capacity;

12 (f) the construction, development, or other
 13 establishment of a health care facility which is being
 14 replaced or which did not previously exist, by any person,
 15 including another type of health care facility;

16 (g) the expansion of the geographical service area of a
 17 home health agency;

18 (h) the use of hospital beds to provide services to
 19 patients or residents needing only skilled nursing care,
 20 intermediate nursing care, or intermediate developmental
 21 disability care, as those levels of care are defined in
 22 50-5-101; or

23 (i) the provision by a hospital of services for
 24 ambulatory surgical care, home health care, long-term care,
 25 inpatient mental health care, inpatient chemical dependency

1 treatment, inpatient rehabilitation, or personal care.

2 (2) For purposes of subsection (1)(b), a change in bed
 3 capacity occurs on the date new or relocated beds are
 4 licensed pursuant to part 2 of this chapter and the date a
 5 final decision is made to grant a certificate of need for
 6 new or relocated beds, unless the certificate of need
 7 expires pursuant to 50-5-305.

8 (3) For purposes of this part, the following
 9 definitions apply:

10 (a) "Health care facility" or "facility" means a
 11 nonfederal ambulatory surgical facility, home health agency,
 12 long-term care facility, medical assistance facility, mental
 13 health center with inpatient services, inpatient chemical
 14 dependency facility, rehabilitation facility with inpatient
 15 services, or personal care facility. The term does not
 16 include:

17 (i) a hospital, except to the extent that a hospital is
 18 subject to certificate of need requirements pursuant to
 19 subsection (1)(i); or

20 (ii) an office of a private physician or dentist unless
 21 the service to be provided in the office is subject to a
 22 certificate of need.

23 (b) (i) "Long-term care facility" means an entity which
 24 provides skilled nursing care, intermediate nursing care, or
 25 intermediate developmental disability care, as defined in

1 50-5-101, to a total of two or more persons.

2 (ii) The term does not include adult foster care,
3 licensed under 53-5-303; community homes for the
4 developmentally disabled, licensed under 53-20-305;
5 community homes for persons with severe disabilities,
6 licensed under 53-19-203; boarding or foster homes for
7 children, licensed under 41-3-1142; hotels, motels,
8 boardinghouses, roominghouses, or similar accommodations
9 providing for transients, students, or persons not requiring
10 institutional health care; or juvenile and adult
11 correctional facilities operating under the authority of the
12 department of institutions.

13 (c) "Obligation for capital expenditure" does not
14 include the authorization of bond sales or the offering or
15 sale of bonds pursuant to the state long-range building
16 program under Title 17, chapter 5, part 4, and Title 18,
17 chapter 2, part 1.

18 (d) "Personal care facility" means an entity which
19 provides services and care which do not require nursing
20 skills to more than four persons who are not related to the
21 owner or administrator by blood or marriage and who need
22 some assistance in performing the activities of everyday
23 living. The term does not include those entities excluded
24 from the definition of "long-term care facility" in
25 subsection (3)(b).

1 (4) Expenditure thresholds for certificate of need
2 review are established as follows:

3 (a) For acquisition of equipment and the construction
4 of any building necessary to house the equipment, the
5 expenditure threshold is \$750,000.

6 (b) For construction of health care facilities, the
7 expenditure threshold is \$1,500,000. (Repealed effective
8 July 1, 1991--sec. 2, 3, Ch. 377, L. 1989.)"

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APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

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SECOND READING



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THIRD READING

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-2-

AS AMENDED

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25 (b) (i) "Long-term care facility" means an entity which

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REFERENCE BILL

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