

HOUSE BILL 681

Introduced by J. Rice, et al.

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|------|---|
| 2/07 | Introduced  |
| 2/07 | Referred to Human Services & Aging                        |
| 2/08 | First Reading   |
| 2/08 | Fiscal Note Requested                                     |
| 2/14 | Fiscal Note Received                                      |
| 2/14 | Fiscal Note Printed                                       |
| 2/20 | Hearing   |
| 2/23 | Committee Report--Bill Passed as<br>Amended               |
| 2/26 | 2nd Reading Passed  |
| 2/26 | Taken From Engrossing and<br>Rereferred to Appropriations |
| 3/19 | Hearing   |
| 3/23 | Tabled in Committee                                       |

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*House* BILL NO. *681*  
*Bob Brown*  
*Thomas*  
*Hagan*  
*Maguire*

INTRODUCED BY  
A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO RESIDENTIAL TREATMENT FACILITIES; TO REDEFINE "RESIDENTIAL TREATMENT FACILITY"; TO PROVIDE MEDICAID REIMBURSEMENT FOR INPATIENT PSYCHIATRIC SERVICES FOR PERSONS UNDER 21 YEARS OF AGE IN A RESIDENTIAL TREATMENT FACILITY; TO REVISE THE REQUIREMENT FOR A CERTIFICATE OF NEED TO OPERATE A RESIDENTIAL TREATMENT FACILITY; AMENDING SECTIONS 50-5-101, 50-5-316, 50-5-317, AND 53-6-139, MCA; AMENDING SECTION 9, CHAPTER 616, LAWS OF 1989; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 50-5-101, MCA, is amended to read:

"50-5-101. (Temporary) Definitions. As used in parts 1 through 4 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

- (1) "Accreditation" means a designation of approval.
- (2) "Adult day-care center" means a facility, freestanding or connected to another health care facility, which provides adults, on an intermittent basis, with the care necessary to meet the needs of daily living.
- (3) "Affected person" means an applicant for

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certificate of need, a member of the public who will be served by the proposal, a health care facility located in the geographic area affected by the application, an agency which establishes rates for health care facilities, a third-party payer who reimburses health care facilities in the area affected by the proposal, or an agency which plans or assists in planning for such facilities.

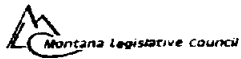
(4) "Ambulatory surgical facility" means a facility, not part of a hospital, which provides surgical treatment to patients not requiring hospitalization. This type of facility may include observation beds for patient recovery from surgery or other treatment.

(5) "Batch" means those letters of intent to seek approval for new beds or major medical equipment that are accumulated during a single batching period.

(6) "Batching period" means a period, not exceeding 1 month, established by department rule during which letters of intent to seek approval for new beds or major medical equipment are accumulated pending further processing of all letters of intent within the batch.

(7) "Board" means the board of health and environmental sciences, provided for in 2-15-2104.

(8) "Capital expenditure" means:  
(a) an expenditure made by or on behalf of a health care facility that, under generally accepted accounting



-2- INTRODUCED BILL  
NB 681

1 principles, is not properly chargeable as an expense of  
2 operation and maintenance; or

3 (b) a lease, donation, or comparable arrangement that  
4 would be a capital expenditure if money or any other  
5 property of value had changed hands.

6 (9) "Certificate of need" means a written authorization  
7 by the department for a person to proceed with a proposal  
8 subject to 50-5-301.

9 (10) "Challenge period" means a period, not exceeding 1  
10 month, established by department rule during which any  
11 person may apply for comparative review with an applicant  
12 whose letter of intent has been received during the  
13 preceding batching period.

14 (11) "Chemical dependency facility" means a facility  
15 whose function is the treatment, rehabilitation, and  
16 prevention of the use of any chemical substance, including  
17 alcohol, which creates behavioral or health problems and  
18 endangers the health, interpersonal relationships, or  
19 economic function of an individual or the public health,  
20 welfare, or safety.

21 (12) "Clinical laboratory" means a facility for the  
22 microbiological, serological, chemical, hematological,  
23 radiobioassay, cytological, immunohematological,  
24 pathological, or other examination of materials derived from  
25 the human body for the purpose of providing information for

1 the diagnosis, prevention, or treatment of any disease or  
2 assessment of a medical condition.

3 (13) "College of American pathologists" means the  
4 organization nationally recognized by that name with  
5 headquarters in Traverse City, Michigan, that surveys  
6 clinical laboratories upon their requests and accredits  
7 clinical laboratories that it finds meet its standards and  
8 requirements.

9 (14) "Comparative review" means a joint review of two or  
10 more certificate of need applications which are determined  
11 by the department to be competitive in that the granting of  
12 a certificate of need to one of the applicants would  
13 substantially prejudice the department's review of the other  
14 applications.

15 (15) "Construction" means the physical erection of a  
16 health care facility and any stage thereof, including ground  
17 breaking, or remodeling, replacement, or renovation of an  
18 existing health care facility.

19 (16) "Department" means the department of health and  
20 environmental sciences provided for in Title 2, chapter 15,  
21 part 21.

22 (17) "Federal acts" means federal statutes for the  
23 construction of health care facilities.

24 (18) "Governmental unit" means the state, a state  
25 agency, a county, municipality, or political subdivision of

1 the state, or an agency of a political subdivision.

2 (19) "Health care facility" or "facility" means any  
3 institution, building, or agency or portion thereof, private  
4 or public, excluding federal facilities, whether organized  
5 for profit or not, used, operated, or designed to provide  
6 health services, medical treatment, or nursing,  
7 rehabilitative, or preventive care to any person or persons.  
8 The term does not include offices of private physicians or  
9 dentists. The term includes but is not limited to ambulatory  
10 surgical facilities, health maintenance organizations, home  
11 health agencies, hospices, hospitals, infirmaries, kidney  
12 treatment centers, long-term care facilities, medical  
13 assistance facilities, mental health centers, outpatient  
14 facilities, public health centers, rehabilitation  
15 facilities, residential treatment facilities, and adult  
16 day-care centers.

17 (20) "Health maintenance organization" means a public or  
18 private organization which provides or arranges for health  
19 care services to enrollees on a prepaid or other financial  
20 basis, either directly through provider employees or through  
21 contractual or other arrangements with a provider or group  
22 of providers.

23 (21) "Home health agency" means a public agency or  
24 private organization or subdivision thereof which is engaged  
25 in providing home health services to individuals in the

1 places where they live. Home health services must include  
2 the services of a licensed registered nurse and at least one  
3 other therapeutic service and may include additional support  
4 services.

5 (22) "Hospice" means a coordinated program of home and  
6 inpatient health care that provides or coordinates  
7 palliative and supportive care to meet the needs of a  
8 terminally ill patient and his family arising out of  
9 physical, psychological, spiritual, social, and economic  
10 stresses experienced during the final stages of illness and  
11 dying and that includes formal bereavement programs as an  
12 essential component.

13 (23) "Hospital" means a facility providing, by or under  
14 the supervision of licensed physicians, services for medical  
15 diagnosis, treatment, rehabilitation, and care of injured,  
16 disabled, or sick persons. Services provided may or may not  
17 include obstetrical care, emergency care, or any other  
18 service as allowed by state licensing authority. A hospital  
19 has an organized medical staff which is on call and  
20 available within 20 minutes, 24 hours per day, 7 days per  
21 week, and provides 24-hour nursing care by licensed  
22 registered nurses. This term includes hospitals specializing  
23 in providing health services for psychiatric, mentally  
24 retarded, and tubercular patients.

25 (24) "Infirmery" means a facility located in a

1 university, college, government institution, or industry for  
2 the treatment of the sick or injured, with the following  
3 subdefinitions:

4 (a) an "infirmiry--A" provides outpatient and inpatient  
5 care;

6 (b) an "infirmiry--B" provides outpatient care only.

7 (25) "Joint commission on accreditation of hospitals"  
8 means the organization nationally recognized by that name  
9 with headquarters in Chicago, Illinois, that surveys health  
10 care facilities upon their requests and grants accreditation  
11 status to any health care facility that it finds meets its  
12 standards and requirements.

13 (26) "Kidney treatment center" means a facility which  
14 specializes in treatment of kidney diseases, including  
15 freestanding hemodialysis units.

16 (27) (a) "Long-term care facility" means a facility or  
17 part thereof which provides skilled nursing care,  
18 intermediate nursing care, or intermediate developmental  
19 disability care to a total of two or more persons or  
20 personal care to more than four persons who are not related  
21 to the owner or administrator by blood or marriage. The term  
22 does not include adult foster care licensed under 53-5-303,  
23 community homes for the developmentally disabled licensed  
24 under 53-20-305, community homes for persons with severe  
25 disabilities licensed under 53-19-203, youth care facilities

1 licensed under 41-3-1142, hotels, motels, boardinghouses,  
2 roominghouses, or similar accommodations providing for  
3 transients, students, or persons not requiring institutional  
4 health care, or juvenile and adult correctional facilities  
5 operating under the authority of the department of  
6 institutions.

7 (b) "Skilled nursing care" means the provision of  
8 nursing care services, health-related services, and social  
9 services under the supervision of a licensed registered  
10 nurse on a 24-hour basis.

11 (c) "Intermediate nursing care" means the provision of  
12 nursing care services, health-related services, and social  
13 services under the supervision of a licensed nurse to  
14 patients not requiring 24-hour nursing care.

15 (d) "Intermediate developmental disability care" means  
16 the provision of nursing care services, health-related  
17 services, and social services for the developmentally  
18 disabled, as defined in 53-20-102(4), or persons with  
19 related problems.

20 (e) "Personal care" means the provision of services and  
21 care which do not require nursing skills to residents  
22 needing some assistance in performing the activities of  
23 daily living.

24 (28) "Major medical equipment" means a single unit of  
25 medical equipment or a single system of components with

1 related functions which is used to provide medical or other  
2 health services and costs a substantial sum of money.

3 (29) "Medical assistance facility" means a facility  
4 that:

5 (a) provides inpatient care to ill or injured persons  
6 prior to their transportation to a hospital or provides  
7 inpatient medical care to persons needing that care for a  
8 period of no longer than 96 hours; and

9 (b) either is located in a county with fewer than six  
10 residents per square mile or is located more than 35 road  
11 miles from the nearest hospital.

12 (30) "Mental health center" means a facility providing  
13 services for the prevention or diagnosis of mental illness,  
14 the care and treatment of mentally ill patients or the  
15 rehabilitation of such persons, or any combination of these  
16 services.

17 (31) "Nonprofit health care facility" means a health  
18 care facility owned or operated by one or more nonprofit  
19 corporations or associations.

20 (32) "Observation bed" means a bed occupied for not more  
21 than 6 hours by a patient recovering from surgery or other  
22 treatment.

23 (33) "Offer" means the holding out by a health care  
24 facility that it can provide specific health services.

25 (34) "Outpatient facility" means a facility, located in

1 or apart from a hospital, providing, under the direction of  
2 a licensed physician, either diagnosis or treatment, or  
3 both, to ambulatory patients in need of medical, surgical,  
4 or mental care. An outpatient facility may have observation  
5 beds.

6 (35) "Patient" means an individual obtaining services,  
7 including skilled nursing care, from a health care facility.

8 (36) "Person" means any individual, firm, partnership,  
9 association, organization, agency, institution, corporation,  
10 trust, estate, or governmental unit, whether organized for  
11 profit or not.

12 (37) "Public health center" means a publicly owned  
13 facility providing health services, including laboratories,  
14 clinics, and administrative offices.

15 (38) "Rehabilitation facility" means a facility which is  
16 operated for the primary purpose of assisting in the  
17 rehabilitation of disabled persons by providing  
18 comprehensive medical evaluations and services,  
19 psychological and social services, or vocational evaluation  
20 and training or any combination of these services and in  
21 which the major portion of the services is furnished within  
22 the facility.

23 (39) "Resident" means a person who is in a long-term  
24 care facility for intermediate or personal care.

25 (40) "Residential treatment facility" means a facility

1 of not less than 30 beds that is operated by a nonprofit  
2 corporation or association for the primary purpose of  
3 providing long-term treatment services for mental illness in  
4 a nonhospital-based residential setting to persons under 21  
5 years of age.

6 (41) "State health plan" means the plan prepared by the  
7 department to project the need for health care facilities  
8 within Montana and approved by the statewide health  
9 coordinating council and the governor.

10 50-5-101. (Effective July 1, 1991) Definitions. As used  
11 in parts 1 through 4 of this chapter, unless the context  
12 clearly indicates otherwise, the following definitions  
13 apply:

14 (1) "Accreditation" means a designation of approval.

15 (2) "Adult day-care center" means a facility,  
16 freestanding or connected to another health care facility,  
17 which provides adults, on an intermittent basis, with the  
18 care necessary to meet the needs of daily living.

19 (3) "Ambulatory surgical facility" means a facility,  
20 not part of a hospital, which provides surgical treatment to  
21 patients not requiring hospitalization. This type of  
22 facility may include observation beds for patient recovery  
23 from surgery or other treatment.

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25 sciences, provided for in 2-15-2104.

1 (5) "Chemical dependency facility" means a facility  
2 whose function is the treatment, rehabilitation, and  
3 prevention of the use of any chemical substance, including  
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5 endangers the health, interpersonal relationships, or  
6 economic function of an individual or the public health,  
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8 (6) "Clinical laboratory" means a facility for the  
9 microbiological, serological, chemical, hematological,  
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13 the diagnosis, prevention, or treatment of any disease or  
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15 (7) "College of American pathologists" means the  
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20 requirements.

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22 environmental sciences provided for in Title 2, chapter 15,  
23 part 21.

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25 construction of health care facilities.

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3 the state, or an agency of a political subdivision.

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5 institution, building, or agency or portion thereof, private  
6 or public, excluding federal facilities, whether organized  
7 for profit or not, used, operated, or designed to provide  
8 health services, medical treatment, or nursing,  
9 rehabilitative, or preventive care to any person or persons.  
10 The term does not include offices of private physicians or  
11 dentists. The term includes but is not limited to ambulatory  
12 surgical facilities, health maintenance organizations, home  
13 health agencies, hospices, hospitals, infirmaries, kidney  
14 treatment centers, long-term care facilities, medical  
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16 facilities, public health centers, rehabilitation  
17 facilities, residential treatment facilities, and adult  
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20 private organization that provides or arranges for health  
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22 basis, either directly through provider employees or through  
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2 in providing home health services to individuals in the  
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4 the services of a licensed registered nurse and at least one  
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8 inpatient health care that provides or coordinates  
9 palliative and supportive care to meet the needs of a  
10 terminally ill patient and his family arising out of  
11 physical, psychological, spiritual, social, and economic  
12 stresses experienced during the final stages of illness and  
13 dying and that includes formal bereavement programs as an  
14 essential component.

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16 the supervision of licensed physicians, services for medical  
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18 disabled, or sick persons. Services provided may or may not  
19 include obstetrical care, emergency care, or any other  
20 service as allowed by state licensing authority. A hospital  
21 has an organized medical staff which is on call and  
22 available within 20 minutes, 24 hours per day, 7 days per  
23 week, and provides 24-hour nursing care by licensed  
24 registered nurses. This term includes hospitals specializing  
25 in providing health services for psychiatric, mentally



1 retarded, and tubercular patients.

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3 university, college, government institution, or industry for  
4 the treatment of the sick or injured, with the following  
5 subdefinitions:

6 (a) an "infirmery--A" provides outpatient and inpatient  
7 care;

8 (b) an "infirmery--B" provides outpatient care only.

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10 means the organization nationally recognized by that name  
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13 status to any health care facility that it finds meets its  
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21 disability care to a total of two or more persons or  
22 personal care to more than four persons who are not related  
23 to the owner or administrator by blood or marriage. The term  
24 does not include adult foster care licensed under 53-5-303,  
25 community homes for the developmentally disabled licensed

1 under 53-20-305, community homes for persons with severe  
2 disabilities licensed under 53-19-203, youth care facilities  
3 licensed under 41-3-1142, hotels, motels, boardinghouses,  
4 roominghouses, or similar accommodations providing for  
5 transients, students, or persons not requiring institutional  
6 health care, or juvenile and adult correctional facilities  
7 operating under the authority of the department of  
8 institutions.

9 (b) "Skilled nursing care" means the provision of  
10 nursing care services, health-related services, and social  
11 services under the supervision of a licensed registered  
12 nurse on a 24-hour basis.

13 (c) "Intermediate nursing care" means the provision of  
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15 services under the supervision of a licensed nurse to  
16 patients not requiring 24-hour nursing care.

17 (d) "Intermediate developmental disability care" means  
18 the provision of nursing care services, health-related  
19 services, and social services for the developmentally  
20 disabled, as defined in 53-20-102(4), or persons with  
21 related problems.

22 (e) "Personal care" means the provision of services and  
23 care which do not require nursing skills to residents  
24 needing some assistance in performing the activities of  
25 daily living.

1 (20) "Medical assistance facility" means a facility  
2 that:

3 (a) provides inpatient care to ill or injured persons  
4 prior to their transportation to a hospital or provides  
5 inpatient medical care to persons needing that care for a  
6 period of no longer than 96 hours; and

7 (b) either is located in a county with fewer than six  
8 residents per square mile or is located more than 35 road  
9 miles from the nearest hospital.

10 (21) "Mental health center" means a facility providing  
11 services for the prevention or diagnosis of mental illness,  
12 the care and treatment of mentally ill patients or the  
13 rehabilitation of such persons, or any combination of these  
14 services.

15 (22) "Nonprofit health care facility" means a health  
16 care facility owned or operated by one or more nonprofit  
17 corporations or associations.

18 (23) "Observation bed" means a bed occupied for not more  
19 than 6 hours by a patient recovering from surgery or other  
20 treatment.

21 (24) "Offer" means the holding out by a health care  
22 facility that it can provide specific health services.

23 (25) "Outpatient facility" means a facility, located in  
24 or apart from a hospital, providing, under the direction of  
25 a licensed physician, either diagnosis or treatment, or

1 both, to ambulatory patients in need of medical, surgical,  
2 or mental care. An outpatient facility may have observation  
3 beds.

4 (26) "Patient" means an individual obtaining services,  
5 including skilled nursing care, from a health care facility.

6 (27) "Person" means any individual, firm, partnership,  
7 association, organization, agency, institution, corporation,  
8 trust, estate, or governmental unit, whether organized for  
9 profit or not.

10 (28) "Public health center" means a publicly owned  
11 facility providing health services, including laboratories,  
12 clinics, and administrative offices.

13 (29) "Rehabilitation facility" means a facility which is  
14 operated for the primary purpose of assisting in the  
15 rehabilitation of disabled persons by providing  
16 comprehensive medical evaluations and services,  
17 psychological and social services, or vocational evaluation  
18 and training or any combination of these services and in  
19 which the major portion of the services is furnished within  
20 the facility.

21 (30) "Resident" means a person who is in a long-term  
22 care facility for intermediate or personal care.

23 (31) "Residential treatment facility" means a facility  
24 ~~of not less than 30 beds that is operated by a nonprofit~~  
25 ~~corporation or association~~ operated for the primary purpose

1 of providing long-term treatment services for mental illness  
2 in a ~~nonhospital-based~~ residential setting to persons under  
3 21 years of age.

4 (32) "State health plan" means the plan prepared by the  
5 department to project the need for health care facilities  
6 within Montana and approved by the statewide health  
7 coordinating council and the governor."

8 **Section 2.** Section 50-5-316, MCA, is amended to read:

9 "50-5-316. Certificate of need for residential  
10 treatment facility. A Except as provided in 50-5-317, a  
11 person may not operate a residential treatment facility  
12 unless he has obtained a certificate of need issued by the  
13 department as provided under this part."

14 **Section 3.** Section 50-5-317, MCA, is amended to read:

15 "50-5-317. Study of residential treatment facility  
16 needs -- ~~authorization-for-change-of-use----~~ licensing of  
17 existing facilities. (1) In order to determine the need for  
18 services provided by a residential treatment facility, the  
19 department, together with the department of family services  
20 and the department of social and rehabilitation services,  
21 shall:

22 (a) conduct a review of the need for services provided  
23 by the residential treatment facility. The review must  
24 include a determination of:

25 (i) the number of persons between 5 and 21 years of age

1 who:

2 (A) suffer from mental illness in this state; and

3 (B) are placed in out-of-state facilities by the  
4 department of family services and Montana school districts;

5 (ii) the appropriate levels of care or treatment for the  
6 persons described in subsection (1)(a)(i); and

7 (iii) the potential number of persons described in  
8 subsection (1)(a)(i) eligible for reimbursement of inpatient  
9 psychiatric services under 53-6-101; and

10 (b) develop an appropriate methodology for determining  
11 the need for residential treatment facility services and  
12 beds; ~~and~~

13 ~~(c) report their findings to the 52nd legislature.~~

14 ~~(2) Except as provided in subsection (3), the~~  
15 ~~department may not issue a certificate of need for a new~~  
16 ~~residential treatment facility or for any change in the~~  
17 ~~capacity of an existing facility seeking a certificate of~~  
18 ~~need as a residential treatment facility until after October~~  
19 ~~17, 1991.~~

20 ~~(3)(2)~~ A person who operates an existing facility that  
21 meets the definition of a residential treatment facility on  
22 ~~January 17, 1989~~ October 1, 1991, may receive a license to  
23 operate the facility as a residential treatment facility and  
24 need not obtain a certificate of need as otherwise required  
25 under 50-5-316."

1       **Section 4.** Section 53-6-139, MCA, is amended to read:

2       "53-6-139. ~~{Temporary}~~-Residential treatment services.

3     ~~{1}~~ The definition of medical assistance contained in  
4     53-6-101 may include inpatient psychiatric services for  
5     persons under 21 years of age, as provided in 42 U.S.C.  
6     1396d(h), in a residential treatment facility as defined in  
7     50-5-101~~{31}~~ ~~and that is accredited by the joint commission~~  
8     ~~on accreditation of health care organizations.~~

9       ~~{2}~~ ~~To the extent allowed by federal law, the~~  
10    ~~department shall by rule limit eligibility for medicare~~  
11    ~~reimbursement for residential treatment facility services to~~  
12    ~~those persons under 18 years of age committed to the~~  
13    ~~department of family services by a youth court under~~  
14    ~~41-5-523 or placed in the legal custody of the department of~~  
15    ~~family services under 41-3-406, (Terminates July 1,~~  
16    ~~1991, sec. 97-247-6167, L. 1989.)"~~

17       **Section 5.** Section 9, Chapter 616, Laws of 1989, is  
18    amended to read:

19       "Section 9. Effective date ~~---termination.~~ ~~{1}~~ [This  
20    act] is effective July 1, 1989.

21       ~~{2}~~ ~~{Section 2} terminates July 1, 1991."~~

22       NEW SECTION. **Section 6.** Effective date. [This act] is  
23    effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0681, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


A bill to generally revise the laws relating to residential treatment facilities; to redefine "residential treatment facility"; to provide medicaid reimbursement for inpatient psychiatric services for persons under 21 years of age in a residential treatment facility; and to revise the requirement for a certificate of need to operate a residential treatment facility.

ASSUMPTIONS:

1. DHES would be required to issue a certificate of need for residential treatment facilities except as provided in 50-5-317, MCA, as amended.
2. DHES would be required to conduct an on-going study of services provided by residential treatment facilities and reporting of study results through need estimates published in a health planning document.
3. Medicaid would only pay for residential psychiatric services in a facility accredited by the Joint Commission for the Accreditation of Health Care Organizations (JCAHO). One JCAHO accredited facility currently exists in the state and currently receives medicaid reimbursements. Two additional facilities would be JCAHO accredited by July 1, 1991. One facility would provide 2,453 medicaid-reimbursable days @ \$130 per day; the other facility would provide 4,906 medicaid-reimbursable days @ \$150 per day.
4. The federal medical assistance percentage (FMAP) would be .2829 and .2810 in FY92 and FY93, respectively.

FISCAL IMPACT:

see next page

  
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ROD SUNDSTED, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

\_\_\_\_\_  
JIM RICE, PRIMARY SPONSOR      DATE  
Fiscal Note for HB0681, as introduced.      **HB 681**

Fiscal Note Request, HB0681, as introduced.  
 Form BD-15  
 Page 2

FISCAL IMPACT:  
Department of Health and Environmental Sciences:

|                      | FY 92       |               |               | FY 93       |               |               |
|----------------------|-------------|---------------|---------------|-------------|---------------|---------------|
|                      | Current Law | Proposed Law  | Difference    | Current Law | Proposed Law  | Difference    |
| <u>Expenditures:</u> |             |               |               |             |               |               |
| FTE                  | 0.00        | 0.50          | 0.50          | 0.00        | 0.50          | 0.50          |
| Personal Services    | 0           | 16,585        | 16,585        | 0           | 16,585        | 16,585        |
| Operating Expenses   | 0           | <u>27,500</u> | <u>27,500</u> | 0           | <u>27,500</u> | <u>27,500</u> |
| Total                | 0           | 44,085        | 44,085        | 0           | 44,085        | 44,085        |
| <u>Funding:</u>      |             |               |               |             |               |               |
| General Fund         | 0           | 44,085        | 44,085        | 0           | 44,085        | 44,085        |

Department of Social and Rehabilitation Services:

|                                   | FY 92       |                |                | FY 93       |                |                |
|-----------------------------------|-------------|----------------|----------------|-------------|----------------|----------------|
|                                   | Current Law | Proposed Law   | Difference     | Current Law | Proposed Law   | Difference     |
| <u>Expenditures:</u>              |             |                |                |             |                |                |
| Medicaid Benefits                 | 0           | 1,054,790      | 1,054,790      | 0           | 1,054,790      | 1,054,790      |
| <u>Funding:</u>                   |             |                |                |             |                |                |
| General Fund (01)                 | 0           | 298,400        | 298,400        | 0           | 296,396        | 296,396        |
| Federal Funds (03)                | 0           | <u>756,390</u> | <u>756,390</u> | 0           | <u>758,394</u> | <u>758,394</u> |
| Total                             | 0           | 1,054,790      | 1,054,790      | 0           | 1,054,790      | 1,054,790      |
| <u>Total General Fund Impact:</u> |             |                | (342,485)      |             |                | (340,481)      |

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

There are several other facilities which may convert or add residential psychiatric beds. If so, medicaid would pay all reimbursable costs for eligible individuals under 21 years of age.

HB 681

APPROVED BY COMM. ON  
HUMAN SERVICES AND AGING

HOUSE BILL NO. 681

INTRODUCED BY J. RICE, STRIZICH, MAZUREK, BENEDICT,

B. BROWN, THOMAS, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO RESIDENTIAL TREATMENT FACILITIES; TO REDEFINE "RESIDENTIAL TREATMENT FACILITY"; TO PROVIDE MEDICAID REIMBURSEMENT FOR INPATIENT PSYCHIATRIC SERVICES FOR PERSONS UNDER 21 YEARS OF AGE IN A RESIDENTIAL TREATMENT FACILITY; TO REVISE THE REQUIREMENT FOR A CERTIFICATE OF NEED TO OPERATE A RESIDENTIAL TREATMENT FACILITY; AMENDING SECTIONS 50-5-101, 50-5-301, 50-5-316, 50-5-317, 53-6-101, AND 53-6-139, MCA; AMENDING SECTION 9, CHAPTER 616, LAWS OF 1989; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 50-5-101, MCA, is amended to read:

**"50-5-101. (Temporary) Definitions.** As used in parts 1 through 4 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accreditation" means a designation of approval.

(2) "Adult day-care center" means a facility, freestanding or connected to another health care facility, which provides adults, on an intermittent basis, with the care necessary to meet the needs of daily living.

(3) "Affected person" means an applicant for certificate of need, a member of the public who will be served by the proposal, a health care facility located in the geographic area affected by the application, an agency which establishes rates for health care facilities, a third-party payer who reimburses health care facilities in the area affected by the proposal, or an agency which plans or assists in planning for such facilities.

(4) "Ambulatory surgical facility" means a facility, not part of a hospital, which provides surgical treatment to patients not requiring hospitalization. This type of facility may include observation beds for patient recovery from surgery or other treatment.

(5) "Batch" means those letters of intent to seek approval for new beds or major medical equipment that are accumulated during a single batching period.

(6) "Batching period" means a period, not exceeding 1 month, established by department rule during which letters of intent to seek approval for new beds or major medical equipment are accumulated pending further processing of all letters of intent within the batch.

(7) "Board" means the board of health and environmental sciences, provided for in 2-15-2104.

(8) "Capital expenditure" means:

(a) an expenditure made by or on behalf of a health



1 care facility that, under generally accepted accounting  
2 principles, is not properly chargeable as an expense of  
3 operation and maintenance; or

4 (b) a lease, donation, or comparable arrangement that  
5 would be a capital expenditure if money or any other  
6 property of value had changed hands.

7 (9) "Certificate of need" means a written authorization  
8 by the department for a person to proceed with a proposal  
9 subject to 50-5-301.

10 (10) "Challenge period" means a period, not exceeding 1  
11 month, established by department rule during which any  
12 person may apply for comparative review with an applicant  
13 whose letter of intent has been received during the  
14 preceding batching period.

15 (11) "Chemical dependency facility" means a facility  
16 whose function is the treatment, rehabilitation, and  
17 prevention of the use of any chemical substance, including  
18 alcohol, which creates behavioral or health problems and  
19 endangers the health, interpersonal relationships, or  
20 economic function of an individual or the public health,  
21 welfare, or safety.

22 (12) "Clinical laboratory" means a facility for the  
23 microbiological, serological, chemical, hematological,  
24 radiobioassay, cytological, immunohematological,  
25 pathological, or other examination of materials derived from

1 the human body for the purpose of providing information for  
2 the diagnosis, prevention, or treatment of any disease or  
3 assessment of a medical condition.

4 (13) "College of American pathologists" means the  
5 organization nationally recognized by that name with  
6 headquarters in Traverse City, Michigan, that surveys  
7 clinical laboratories upon their requests and accredits  
8 clinical laboratories that it finds meet its standards and  
9 requirements.

10 (14) "Comparative review" means a joint review of two or  
11 more certificate of need applications which are determined  
12 by the department to be competitive in that the granting of  
13 a certificate of need to one of the applicants would  
14 substantially prejudice the department's review of the other  
15 applications.

16 (15) "Construction" means the physical erection of a  
17 health care facility and any stage thereof, including ground  
18 breaking, or remodeling, replacement, or renovation of an  
19 existing health care facility.

20 (16) "Department" means the department of health and  
21 environmental sciences provided for in Title 2, chapter 15,  
22 part 21.

23 (17) "Federal acts" means federal statutes for the  
24 construction of health care facilities.

25 (18) "Governmental unit" means the state, a state



1 agency, a county, municipality, or political subdivision of  
2 the state, or an agency of a political subdivision.

3 (19) "Health care facility" or "facility" means any  
4 institution, building, or agency or portion thereof, private  
5 or public, excluding federal facilities, whether organized  
6 for profit or not, used, operated, or designed to provide  
7 health services, medical treatment, or nursing,  
8 rehabilitative, or preventive care to any person or persons.  
9 The term does not include offices of private physicians or  
10 dentists. The term includes but is not limited to ambulatory  
11 surgical facilities, health maintenance organizations, home  
12 health agencies, hospices, hospitals, infirmaries, kidney  
13 treatment centers, long-term care facilities, medical  
14 assistance facilities, mental health centers, outpatient  
15 facilities, public health centers, rehabilitation  
16 facilities, residential treatment facilities, and adult  
17 day-care centers.

18 (20) "Health maintenance organization" means a public or  
19 private organization which provides or arranges for health  
20 care services to enrollees on a prepaid or other financial  
21 basis, either directly through provider employees or through  
22 contractual or other arrangements with a provider or group  
23 of providers.

24 (21) "Home health agency" means a public agency or  
25 private organization or subdivision thereof which is engaged

1 in providing home health services to individuals in the  
2 places where they live. Home health services must include  
3 the services of a licensed registered nurse and at least one  
4 other therapeutic service and may include additional support  
5 services.

6 (22) "Hospice" means a coordinated program of home and  
7 inpatient health care that provides or coordinates  
8 palliative and supportive care to meet the needs of a  
9 terminally ill patient and his family arising out of  
10 physical, psychological, spiritual, social, and economic  
11 stresses experienced during the final stages of illness and  
12 dying and that includes formal bereavement programs as an  
13 essential component.

14 (23) "Hospital" means a facility providing, by or under  
15 the supervision of licensed physicians, services for medical  
16 diagnosis, treatment, rehabilitation, and care of injured,  
17 disabled, or sick persons. Services provided may or may not  
18 include obstetrical care, emergency care, or any other  
19 service as allowed by state licensing authority. A hospital  
20 has an organized medical staff which is on call and  
21 available within 20 minutes, 24 hours per day, 7 days per  
22 week, and provides 24-hour nursing care by licensed  
23 registered nurses. This term includes hospitals specializing  
24 in providing health services for psychiatric, mentally  
25 retarded, and tubercular patients.

1 (24) "Infirmery" means a facility located in a  
 2 university, college, government institution, or industry for  
 3 the treatment of the sick or injured, with the following  
 4 subdefinitions:

5 (a) an "infirmery--A" provides outpatient and inpatient  
 6 care;

7 (b) an "infirmery--B" provides outpatient care only.

8 (25) "Joint commission on accreditation of hospitals"  
 9 means the organization nationally recognized by that name  
 10 with headquarters in Chicago, Illinois, that surveys health  
 11 care facilities upon their requests and grants accreditation  
 12 status to any health care facility that it finds meets its  
 13 standards and requirements.

14 (26) "Kidney treatment center" means a facility which  
 15 specializes in treatment of kidney diseases, including  
 16 freestanding hemodialysis units.

17 (27) (a) "Long-term care facility" means a facility or  
 18 part thereof which provides skilled nursing care,  
 19 intermediate nursing care, or intermediate developmental  
 20 disability care to a total of two or more persons or  
 21 personal care to more than four persons who are not related  
 22 to the owner or administrator by blood or marriage. The term  
 23 does not include adult foster care licensed under 53-5-303,  
 24 community homes for the developmentally disabled licensed  
 25 under 53-20-305, community homes for persons with severe

1 disabilities licensed under 53-19-203, youth care facilities  
 2 licensed under 41-3-1142, hotels, motels, boardinghouses,  
 3 roominghouses, or similar accommodations providing for  
 4 transients, students, or persons not requiring institutional  
 5 health care, or juvenile and adult correctional facilities  
 6 operating under the authority of the department of  
 7 institutions.

8 (b) "Skilled nursing care" means the provision of  
 9 nursing care services, health-related services, and social  
 10 services under the supervision of a licensed registered  
 11 nurse on a 24-hour basis.

12 (c) "Intermediate nursing care" means the provision of  
 13 nursing care services, health-related services, and social  
 14 services under the supervision of a licensed nurse to  
 15 patients not requiring 24-hour nursing care.

16 (d) "Intermediate developmental disability care" means  
 17 the provision of nursing care services, health-related  
 18 services, and social services for the developmentally  
 19 disabled, as defined in 53-20-102(4), or persons with  
 20 related problems.

21 (e) "Personal care" means the provision of services and  
 22 care which do not require nursing skills to residents  
 23 needing some assistance in performing the activities of  
 24 daily living.

25 (28) "Major medical equipment" means a single unit of

1 medical equipment or a single system of components with  
2 related functions which is used to provide medical or other  
3 health services and costs a substantial sum of money.

4 (29) "Medical assistance facility" means a facility  
5 that:

6 (a) provides inpatient care to ill or injured persons  
7 prior to their transportation to a hospital or provides  
8 inpatient medical care to persons needing that care for a  
9 period of no longer than 96 hours; and

10 (b) either is located in a county with fewer than six  
11 residents per square mile or is located more than 35 road  
12 miles from the nearest hospital.

13 (30) "Mental health center" means a facility providing  
14 services for the prevention or diagnosis of mental illness,  
15 the care and treatment of mentally ill patients or the  
16 rehabilitation of such persons, or any combination of these  
17 services.

18 (31) "Nonprofit health care facility" means a health  
19 care facility owned or operated by one or more nonprofit  
20 corporations or associations.

21 (32) "Observation bed" means a bed occupied for not more  
22 than 6 hours by a patient recovering from surgery or other  
23 treatment.

24 (33) "Offer" means the holding out by a health care  
25 facility that it can provide specific health services.

1 (34) "Outpatient facility" means a facility, located in  
2 or apart from a hospital, providing, under the direction of  
3 a licensed physician, either diagnosis or treatment, or  
4 both, to ambulatory patients in need of medical, surgical,  
5 or mental care. An outpatient facility may have observation  
6 beds.

7 (35) "Patient" means an individual obtaining services,  
8 including skilled nursing care, from a health care facility.

9 (36) "Person" means any individual, firm, partnership,  
10 association, organization, agency, institution, corporation,  
11 trust, estate, or governmental unit, whether organized for  
12 profit or not.

13 (37) "Public health center" means a publicly owned  
14 facility providing health services, including laboratories,  
15 clinics, and administrative offices.

16 (38) "Rehabilitation facility" means a facility which is  
17 operated for the primary purpose of assisting in the  
18 rehabilitation of disabled persons by providing  
19 comprehensive medical evaluations and services,  
20 psychological and social services, or vocational evaluation  
21 and training or any combination of these services and in  
22 which the major portion of the services is furnished within  
23 the facility.

24 (39) "Resident" means a person who is in a long-term  
25 care facility for intermediate or personal care.

1 (40) "Residential treatment facility" means a facility  
 2 of not less than 30 beds that is operated by a nonprofit  
 3 corporation or association for the primary purpose of  
 4 providing long-term treatment services for mental illness in  
 5 a nonhospital-based residential setting to persons under 21  
 6 years of age.

7 (41) "State health plan" means the plan prepared by the  
 8 department to project the need for health care facilities  
 9 within Montana and approved by the statewide health  
 10 coordinating council and the governor.

11 50-5-101. (Effective July 1, 1991) Definitions. As used  
 12 in parts 1 through 4 of this chapter, unless the context  
 13 clearly indicates otherwise, the following definitions  
 14 apply:

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16 (2) "Adult day-care center" means a facility,  
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4 the state, or an agency of a political subdivision.

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6 institution, building, or agency or portion thereof, private  
7 or public, excluding federal facilities, whether organized  
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9 health services, medical treatment, or nursing,  
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12 dentists. The term includes but is not limited to ambulatory  
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3 disabilities licensed under 53-19-203, youth care facilities  
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5 roominghouses, or similar accommodations providing for  
6 transients, students, or persons not requiring institutional  
7 health care, or juvenile and adult correctional facilities  
8 operating under the authority of the department of  
9 institutions.

10 (b) "Skilled nursing care" means the provision of  
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13 nurse on a 24-hour basis.

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22 related problems.

23 (e) "Personal care" means the provision of services and  
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25 needing some assistance in performing the activities of

1 daily living.

2 (20) "Medical assistance facility" means a facility  
3 that:

4 (a) provides inpatient care to ill or injured persons  
5 prior to their transportation to a hospital or provides  
6 inpatient medical care to persons needing that care for a  
7 period of no longer than 96 hours; and

8 (b) either is located in a county with fewer than six  
9 residents per square mile or is located more than 35 road  
10 miles from the nearest hospital.

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13 the care and treatment of mentally ill patients or the  
14 rehabilitation of such persons, or any combination of these  
15 services.

16 (22) "Nonprofit health care facility" means a health  
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18 corporations or associations.

19 (23) "Observation bed" means a bed occupied for not more  
20 than 6 hours by a patient recovering from surgery or other  
21 treatment.

22 (24) "Offer" means the holding out by a health care  
23 facility that it can provide specific health services.

24 (25) "Outpatient facility" means a facility, located in  
25 or apart from a hospital, providing, under the direction of

1 a licensed physician, either diagnosis or treatment, or  
2 both, to ambulatory patients in need of medical, surgical,  
3 or mental care. An outpatient facility may have observation  
4 beds.

5 (26) "Patient" means an individual obtaining services,  
6 including skilled nursing care, from a health care facility.

7 (27) "Person" means any individual, firm, partnership,  
8 association, organization, agency, institution, corporation,  
9 trust, estate, or governmental unit, whether organized for  
10 profit or not.

11 (28) "Public health center" means a publicly owned  
12 facility providing health services, including laboratories,  
13 clinics, and administrative offices.

14 (29) "Rehabilitation facility" means a facility which is  
15 operated for the primary purpose of assisting in the  
16 rehabilitation of disabled persons by providing  
17 comprehensive medical evaluations and services,  
18 psychological and social services, or vocational evaluation  
19 and training or any combination of these services and in  
20 which the major portion of the services is furnished within  
21 the facility.

22 (30) "Resident" means a person who is in a long-term  
23 care facility for intermediate or personal care.

24 (31) "Residential treatment facility" means a facility  
25 ~~of not less than 30 beds that is operated by a nonprofit~~

1 ~~corporation--or-association operated~~ for the primary purpose  
2 of providing ~~long-term-treatment-services-for-mental-illness~~  
3 ~~in-a nonhospital-based residential setting~~ PSYCHIATRIC CARE  
4 to persons under 21 years of age.

5 (32) "RESIDENTIAL PSYCHIATRIC CARE" MEANS ACTIVE  
6 PSYCHIATRIC TREATMENT IN A RESIDENTIAL TREATMENT FACILITY OF  
7 PSYCHIATRICALY IMPAIRED INDIVIDUALS WITH PERSISTENT  
8 PATTERNS OF EMOTIONAL, PSYCHOLOGICAL, OR BEHAVIORAL  
9 DYSFUNCTION OF SUCH SEVERITY AS TO REQUIRE 24-HOUR  
10 SUPERVISED CARE TO ADEQUATELY TREAT OR REMEDY THEIR  
11 CONDITION. RESIDENTIAL PSYCHIATRIC CARE MUST BE  
12 INDIVIDUALIZED AND DESIGNED TO ACHIEVE THE PATIENT'S  
13 DISCHARGE TO LESS RESTRICTIVE LEVELS OF CARE AT THE EARLIEST  
14 POSSIBLE TIME.

15 ~~{32}~~(33) "State health plan" means the plan prepared by  
16 the department to project the need for health care  
17 facilities within Montana and approved by the statewide  
18 health coordinating council and the governor."

19 **SECTION 2.** SECTION 50-5-301, MCA, IS AMENDED TO READ:

20 "50-5-301. (Temporary) When certificate of need is  
21 required -- definitions. (1) Unless a person has submitted  
22 an application for and is the holder of a certificate of  
23 need granted by the department, he may not initiate any of  
24 the following:

25 (a) the incurring of an obligation by or on behalf of a

1 health care facility for any capital expenditure, other than  
2 to acquire an existing health care facility or to replace  
3 major medical equipment with equipment performing  
4 substantially the same function and in the same manner, that  
5 exceeds the expenditure thresholds established in subsection  
6 (4). The costs of any studies, surveys, designs, plans,  
7 working drawings, specifications, and other activities  
8 (including staff effort, consulting, and other services)  
9 essential to the acquisition, improvement, expansion, or  
10 replacement of any plant or equipment with respect to which  
11 an expenditure is made must be included in determining if  
12 the expenditure exceeds the expenditure thresholds.

13 (b) a change in the bed capacity of a health care  
14 facility through an increase in the number of beds or a  
15 relocation of beds from one health care facility or site to  
16 another, unless:

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

21 (ii) a letter of intent is submitted to the department;  
22 and

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



1 (c) the addition of a health service that is offered by  
 2 or on behalf of a health care facility which was not offered  
 3 by or on behalf of the facility within the 12-month period  
 4 before the month in which the service would be offered and  
 5 which will result in additional annual operating and  
 6 amortization expenses of \$150,000 or more;

7 (d) the acquisition by any person of major medical  
 8 equipment, provided such acquisition would have required a  
 9 certificate of need pursuant to subsection (1)(a) or (1)(c)  
 10 if it had been made by or on behalf of a health care  
 11 facility;

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

15 (i) the person submits the letter of intent required by  
 16 50-5-302(2); and

17 (ii) the department finds that the acquisition will not  
 18 significantly increase the cost of care provided or increase  
 19 bed capacity;

20 (f) the construction, development, or other  
 21 establishment of a health care facility which is being  
 22 replaced or which did not previously exist, by any person,  
 23 including another type of health care facility;

24 (g) the expansion of the geographical service area of a  
 25 home health agency;

1 (h) the use of hospital beds to provide services to  
 2 patients or residents needing only skilled nursing care,  
 3 intermediate nursing care, or intermediate developmental  
 4 disability care, as those levels of care are defined in  
 5 50-5-101; or

6 (i) the provision by a hospital of services for  
 7 ambulatory surgical care, home health care, long-term care,  
 8 inpatient mental health care, inpatient chemical dependency  
 9 treatment, inpatient rehabilitation, or personal care.

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

16 (3) For purposes of this part, the following  
 17 definitions apply:

18 (a) "Health care facility" or "facility" means a  
 19 nonfederal ambulatory surgical facility, home health agency,  
 20 long-term care facility, medical assistance facility, mental  
 21 health center with inpatient services, inpatient chemical  
 22 dependency facility, rehabilitation facility with inpatient  
 23 services, residential treatment facility, or personal care  
 24 facility. The term does not include a hospital, except to  
 25 the extent that a hospital is subject to certificate of need

1 requirements pursuant to subsection (1)(i).

2 (b) (i) "Long-term care facility" means an entity which  
3 provides skilled nursing care, intermediate nursing care, or  
4 intermediate developmental disability care, as defined in  
5 50-5-101, to a total of two or more persons.

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

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

22 (d) "Personal care facility" means an entity which  
23 provides services and care which do not require nursing  
24 skills to more than four persons who are not related to the  
25 owner or administrator by blood or marriage and who need

1 some assistance in performing the activities of everyday  
2 living. The term does not include those entities excluded  
3 from the definition of "long-term care facility" in  
4 subsection (3)(b).

5 (4) Expenditure thresholds for certificate of need  
6 review are established as follows:

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

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

13 **Section 3.** Section 50-5-316, MCA, is amended to read:

14 "50-5-316. Certificate of need for residential  
15 treatment facility. A Except as provided in 50-5-317, a  
16 person may not operate a residential treatment facility  
17 unless he has obtained a certificate of need issued by the  
18 department as provided under this part."

19 **Section 4.** Section 50-5-317, MCA, is amended to read:

20 "50-5-317. Study of residential treatment facility  
21 needs -- authorization--for--change-of-use--- licensing of  
22 existing facilities. (1) In order to determine the need for  
23 services provided by a residential treatment facility, the  
24 department, together with the department of family services  
25 and the department of social and rehabilitation services,

1 shall:

2 (a) conduct a review of the need for services provided  
3 by the residential treatment facility. The review must  
4 include a determination of:

5 (i) the number of persons between 5 and 21 years of age  
6 who:

7 (A) suffer from mental illness in this state; and  
8 (B) are placed in out-of-state facilities by the  
9 department of family services and Montana school districts;

10 (ii) the appropriate levels of care or treatment for the  
11 persons described in subsection (1)(a)(i); and

12 (iii) the potential number of persons described in  
13 subsection (1)(a)(i) eligible for reimbursement of inpatient  
14 psychiatric services under 53-6-101; and

15 (b) develop an appropriate methodology for determining  
16 the need for residential treatment facility services and  
17 beds; ~~and~~

18 ~~(c) report their findings to the 52nd legislature.~~

19 ~~(2) Except as provided in subsection (3), the~~  
20 ~~department may not issue a certificate of need for a new~~  
21 ~~residential treatment facility or for any change in the~~  
22 ~~capacity of an existing facility seeking a certificate of~~  
23 ~~need as a residential treatment facility until after October~~  
24 ~~17, 1991.~~

25 ~~(3)(2)~~ A person who operates an existing facility that

1 meets the definition of a residential treatment facility on  
2 ~~January 17, 1989~~ October 1, 1991, may receive a license to  
3 operate the facility as a residential treatment facility and  
4 need not obtain a certificate of need as otherwise required  
5 under 50-5-316."

6 **SECTION 5. SECTION 53-6-101, MCA, IS AMENDED TO READ:**

7 "53-6-101. Montana medicaid program -- authorization of  
8 services. (1) There is a Montana medicaid program  
9 established for the purpose of providing necessary medical  
10 services to eligible persons who have need for medical  
11 assistance. The Montana medicaid program is a joint  
12 federal-state program administered under this chapter and in  
13 accordance with Title XIX of the federal Social Security Act  
14 (42 U.S.C. 1396, et seq.), as may be amended. The department  
15 of social and rehabilitation services shall administer the  
16 Montana medicaid program.

17 (2) Medical assistance provided by the Montana medicaid  
18 program includes the following services:

- 19 (a) inpatient hospital services;
- 20 (b) outpatient hospital services;
- 21 (c) other laboratory and x-ray services;
- 22 (d) skilled nursing services in long-term care  
23 facilities;
- 24 (e) physicians' services;
- 25 (f) nurse specialist services;

- 1 (g) early and periodic screening, diagnosis, and  
 2 treatment services for persons under 21 years of age;
- 3 (h) services provided by physician assistants-certified  
 4 within the scope of their practice and that are otherwise  
 5 directly reimbursed as allowed under department rule to an  
 6 existing provider;
- 7 (i) health services provided under a physician's orders  
 8 by a public health department; and
- 9 (j) hospice care as defined in 42 U.S.C. 1396d(o).
- 10 (3) Medical assistance provided by the Montana medicaid  
 11 program may, as provided by department rule, also include  
 12 the following services:
- 13 (a) medical care or any other type of remedial care  
 14 recognized under state law, furnished by licensed  
 15 practitioners within the scope of their practice as defined  
 16 by state law;
- 17 (b) home health care services;
- 18 (c) private-duty nursing services;
- 19 (d) dental services;
- 20 (e) physical therapy services;
- 21 (f) mental health center services administered and  
 22 funded under a state mental health program authorized under  
 23 Title 53, chapter 21, part 2;
- 24 (g) clinical social worker services;
- 25 (h) prescribed drugs, dentures, and prosthetic devices;

- 1 (i) prescribed eyeglasses;
- 2 (j) other diagnostic, screening, preventive,  
 3 rehabilitative, chiropractic, and osteopathic services;
- 4 (k) inpatient psychiatric hospital services for persons  
 5 under 21 years of age;
- 6 (l) services of professional counselors licensed under  
 7 Title 37, chapter 23, if funds are specifically appropriated  
 8 for the inclusion of these services in the Montana medicaid  
 9 program;
- 10 (m) ambulatory prenatal care for pregnant women during  
 11 a presumptive eligibility period, as provided in 42 U.S.C.  
 12 1396a(a)(47) and 42 U.S.C. 1396r-1;
- 13 (n) inpatient psychiatric services for persons under 21  
 14 years of age, as provided in 42 U.S.C. 1396d(h), in a  
 15 residential treatment facility, as defined in 50-5-101, that  
 16 is licensed in accordance with 50-5-201;
- 17 ~~(n)~~(o) any additional medical service or aid allowable  
 18 under or provided by the federal Social Security Act.
- 19 (4) The department may implement, as provided for in  
 20 Title XIX of the federal Social Security Act (42 U.S.C.  
 21 1396, et seq.), as may be amended, a program under medicaid  
 22 for payment of medicare premiums, deductibles, and  
 23 coinsurance for persons not otherwise eligible for medicaid.
- 24 (5) The department may set rates for medical and other  
 25 services provided to recipients of medicaid and may enter

1 into contracts for delivery of services to individual  
2 recipients or groups of recipients.

3 (6) The services provided under this part may be only  
4 those that are medically necessary and that are the most  
5 efficient and cost effective.

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

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

13 (9) If available funds are not sufficient to provide  
14 medical assistance for all eligible persons, the department  
15 may set priorities to limit, reduce, or otherwise curtail  
16 the amount, scope, or duration of the medical services made  
17 available under the Montana medicaid program.

18 (10) Community-based medicaid services, as provided for  
19 in part 4 of this chapter, must be provided in accordance  
20 with the provisions of this chapter and the rules adopted  
21 thereunder. (Subsection (2)(j) terminates June 30,  
22 1991--sec. 4, Ch. 633, L. 1989; Subsection (3)(m) terminates  
23 June 30, 1991--sec. 15, Ch. 649, L. 1989.)"

24 **Section 6.** Section 53-6-139, MCA, is amended to read:

25 "53-6-139. ~~(Temporary)~~--Residential treatment services.

1 ~~{1}~~ The definition of medical assistance contained in  
2 53-6-101 may include inpatient psychiatric services for  
3 persons under 21 years of age, as provided in 42 U.S.C.  
4 1396d(h), in a residential treatment facility as defined in  
5 50-5-101~~{31}~~--and-that-is-accredited-by-the-joint-commission  
6 on-accreditation-of-health-care-organizations.

7 ~~{2}~~--To--the--extent--allowed--by--federal--law--the  
8 department--shall--by--rule--limit--eligibility--for--medicaid  
9 reimbursement--for--residential--treatment--facility--services--to  
10 those--persons--under--18--years--of--age--committed--to--the  
11 department--of--family--services--by--a--youth--court--under  
12 ~~41-5-523~~--or--placed--in--the--legal--custody--of--the--department--of  
13 family--services--under--~~41-3-406~~--~~{Terminates--July--17~~  
14 ~~1991--sec. 9, Ch. 616, L. 1989}~~"

15 **Section 7.** Section 9, Chapter 616, Laws of 1989, is  
16 amended to read:

17 "Section 9. Effective date ----termination. ~~{1}~~ [This  
18 act] is effective July 1, 1989.

19 ~~{2}~~--~~{Section-2}~~--terminates--July--17--1991--"

20 NEW SECTION. **Section 8.** Effective date. [This act] is  
21 effective July 1, 1991.

-End-

1 HOUSE BILL NO. 681

2 INTRODUCED BY J. RICE, STRIZICH, MAZUREK, BENEDICT,

3 B. BROWN, THOMAS, HARPER

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
6 LAWS RELATING TO RESIDENTIAL TREATMENT FACILITIES; TO  
7 REDEFINE "RESIDENTIAL TREATMENT FACILITY"; TO PROVIDE  
8 MEDICAID REIMBURSEMENT FOR INPATIENT PSYCHIATRIC SERVICES  
9 FOR PERSONS UNDER 21 YEARS OF AGE IN A RESIDENTIAL TREATMENT  
10 FACILITY; TO REVISE THE REQUIREMENT FOR A CERTIFICATE OF  
11 NEED TO OPERATE A RESIDENTIAL TREATMENT FACILITY; AMENDING  
12 SECTIONS 50-5-101, 50-5-301, 50-5-316, 50-5-317, 53-6-101,  
13 AND 53-6-139, MCA; AMENDING SECTION 9, CHAPTER 616, LAWS OF  
14 1989; AND PROVIDING AN EFFECTIVE DATE."

15

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

17 **Section 1.** Section 50-5-101, MCA, is amended to read:

18 "50-5-101. (Temporary) Definitions. As used in parts 1  
19 through 4 of this chapter, unless the context clearly  
20 indicates otherwise, the following definitions apply:

- 21 (1) "Accreditation" means a designation of approval.  
22 (2) "Adult day-care center" means a facility,  
23 freestanding or connected to another health care facility,  
24 which provides adults, on an intermittent basis, with the  
25 care necessary to meet the needs of daily living.

There are no changes in this bill,  
and will not be reprinted. Please  
refer to yellow copy for complete  
text.