

HOUSE BILL NO. 977

INTRODUCED BY BRADLEY

IN THE HOUSE

MARCH 6, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
                                  ON HUMAN SERVICES & AGING.

MARCH 7, 1991                   FIRST READING.

MARCH 11, 1991                  ON MOTION, REREFERRED TO COMMITTEE  
                                  ON APPROPRIATIONS.

MARCH 25, 1991                  COMMITTEE RECOMMEND BILL  
                                  DO PASS. REPORT ADOPTED.

                                  PRINTING REPORT.

MARCH 28, 1991                  SECOND READING, DO PASS.

                                  ENGROSSING REPORT.

                                  ON MOTION, RULES SUSPENDED. BILL  
                                  PLACED ON THIRD READING THIS DAY.

                                  THIRD READING, PASSED.  
                                  AYES, 81; NOES, 19.

                                  TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 28, 1991                  INTRODUCED AND REFERRED TO COMMITTEE  
                                  ON PUBLIC HEALTH, WELFARE, & SAFETY.

                                  FIRST READING.

APRIL 12, 1991                  COMMITTEE RECOMMEND BILL BE  
                                  CONCURRED IN AS AMENDED. REPORT  
                                  ADOPTED.

APRIL 13, 1991                  SECOND READING, CONCURRED IN.

APRIL 15, 1991                  THIRD READING, CONCURRED IN.  
                                  AYES, 43; NOES, 5.

                                  RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 17, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 18, 1991

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

APRIL 19, 1991

REPORTED CORRECTLY ENROLLED.

APRIL 20, 1991

SIGNED BY PRESIDENT.

SIGNED BY SPEAKER.

DELIVERED TO GOVERNOR.

APRIL 25, 1991

RETURNED FROM GOVERNOR WITH  
RECOMMENDED AMENDMENTS.

SECOND READING, GOVERNOR'S  
AMENDMENTS NOT CONCURRED IN.

IN THE SENATE

APRIL 29, 1991

SECOND READING, GOVERNOR'S  
AMENDMENTS CONCURRED IN.

THIRD READING, GOVERNOR'S  
AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 29, 1991

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE COMMITTEE  
REPORT ADOPTED.

IN THE SENATE

APRIL 29, 1991

FREE CONFERENCE COMMITTEE REQUESTED  
AND APPOINTED.

FREE CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 29, 1991

THIRD READING, FREE CONFERENCE COMMITTEE

APRIL 30, 1991

REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 977  
2 INTRODUCED BY Bradley

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
5 RELATING TO RESIDENTIAL TREATMENT FACILITIES; ALLOWING  
6 MEDICAID REIMBURSEMENT FOR INPATIENT PSYCHIATRIC SERVICES  
7 FOR PERSONS UNDER 21 YEARS OF AGE IN A RESIDENTIAL TREATMENT  
8 FACILITY; REQUIRING LICENSURE OF A RESIDENTIAL TREATMENT  
9 FACILITY IN ORDER TO QUALIFY FOR MEDICAID REIMBURSEMENT;  
10 AMENDING SECTIONS 50-5-101 AND 53-6-101, MCA; REPEALING  
11 SECTION 50-5-317, MCA; AND PROVIDING AN EFFECTIVE DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

15 \*50-5-101. (Temporary) Definitions. As used in parts 1  
16 through 4 of this chapter, unless the context clearly  
17 indicates otherwise, the following definitions apply:

- 18 (1) "Accreditation" means a designation of approval.
- 19 (2) "Adult day-care center" means a facility,  
20 freestanding or connected to another health care facility,  
21 which provides adults, on an intermittent basis, with the  
22 care necessary to meet the needs of daily living.
- 23 (3) "Affected person" means an applicant for  
24 certificate of need, a member of the public who will be  
25 served by the proposal, a health care facility located in

1 the geographic area affected by the application, an agency  
2 which establishes rates for health care facilities, a  
3 third-party payer who reimburses health care facilities in  
4 the area affected by the proposal, or an agency which plans  
5 or assists in planning for such facilities.

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

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

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

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

21 (8) "Capital expenditure" means:  
22 (a) an expenditure made by or on behalf of a health  
23 care facility that, under generally accepted accounting  
24 principles, is not properly chargeable as an expense of  
25 operation and maintenance; or



-2- INTRODUCED BILL  
HB 977

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

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

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

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

19 (12) "Clinical laboratory" means a facility for the  
20 microbiological, serological, chemical, hematological,  
21 radiobioassay, cytological, immunohematological,  
22 pathological, or other examination of materials derived from  
23 the human body for the purpose of providing information for  
24 the diagnosis, prevention, or treatment of any disease or  
25 assessment of a medical condition.

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

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

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

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

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

22 (18) "Governmental unit" means the state, a state  
23 agency, a county, municipality, or political subdivision of  
24 the state, or an agency of a political subdivision.

25 (19) "Health care facility" or "facility" means any

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

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

21 (21) "Home health agency" means a public agency or  
 22 private organization or subdivision thereof which is engaged  
 23 in providing home health services to individuals in the  
 24 places where they live. Home health services must include  
 25 the services of a licensed registered nurse and at least one

1 other therapeutic service and may include additional support  
 2 services.

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

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

23 (24) "Infirmiry" means a facility located in a  
 24 university, college, government institution, or industry for  
 25 the treatment of the sick or injured, with the following

## 1 subdefinitions:

2 (a) an "infirmiry--A" provides outpatient and inpatient  
3 care;

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

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

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

14 (27) (a) "Long-term care facility" means a facility or  
15 part thereof which provides skilled nursing care,  
16 intermediate nursing care, or intermediate developmental  
17 disability care to a total of two or more persons or  
18 personal care to more than four persons who are not related  
19 to the owner or administrator by blood or marriage. The term  
20 does not include adult foster care licensed under 53-5-303,  
21 community homes for the developmentally disabled licensed  
22 under 53-20-305, community homes for persons with severe  
23 disabilities licensed under 53-19-203, youth care facilities  
24 licensed under 41-3-1142, hotels, motels, boardinghouses,  
25 roominghouses, or similar accommodations providing for

1 transients, students, or persons not requiring institutional  
2 health care, or juvenile and adult correctional facilities  
3 operating under the authority of the department of  
4 institutions.

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

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

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

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

22 (28) "Major medical equipment" means a single unit of  
23 medical equipment or a single system of components with  
24 related functions which is used to provide medical or other  
25 health services and costs a substantial sum of money.

1 (29) "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 (30) "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 (31) "Nonprofit health care facility" means a health  
16 care facility owned or operated by one or more nonprofit  
17 corporations or associations.

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

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

23 (34) "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 (35) "Patient" means an individual obtaining services,  
5 including skilled nursing care, from a health care facility.

6 (36) "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 (37) "Public health center" means a publicly owned  
11 facility providing health services, including laboratories,  
12 clinics, and administrative offices.

13 (38) "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 (39) "Resident" means a person who is in a long-term  
22 care facility for intermediate or personal care.

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



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

4 (41) "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 50-5-101. (Effective July 1, 1991) Definitions. As used  
9 in parts 1 through 4 of this chapter, unless the context  
10 clearly indicates otherwise, the following definitions  
11 apply:

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

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

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

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

24 (5) "Chemical dependency facility" means a facility  
25 whose function is the treatment, rehabilitation, and

1 prevention of the use of any chemical substance, including  
2 alcohol, which creates behavioral or health problems and  
3 endangers the health, interpersonal relationships, or  
4 economic function of an individual or the public health,  
5 welfare, or safety.

6 (6) "Clinical laboratory" means a facility for the  
7 microbiological, serological, chemical, hematological,  
8 radiobioassay, cytological, immuno-hematological,  
9 pathological, or other examination of materials derived from  
10 the human body for the purpose of providing information for  
11 the diagnosis, prevention, or treatment of any disease or  
12 assessment of a medical condition.

13 (7) "College of American pathologists" means the  
14 organization nationally recognized by that name with  
15 headquarters in Traverse City, Michigan, that surveys  
16 clinical laboratories upon their requests and accredits  
17 clinical laboratories that it finds meet its standards and  
18 requirements.

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

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

24 (10) "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 (11) "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 (12) "Health maintenance organization" means a public or  
18 private organization that 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 (13) "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 (14) "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 (15) "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 (16) "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 "infirmity--A" provides outpatient and inpatient  
 5 care;

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

7 (17) "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 (18) "Kidney treatment center" means a facility which  
 14 specializes in treatment of kidney diseases, including  
 15 freestanding hemodialysis units.

16 (19) (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 (20) "Medical assistance facility" means a facility  
 25 that:

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

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

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

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

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

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

21 (25) "Outpatient facility" means a facility, located in  
 22 or apart from a hospital, providing, under the direction of  
 23 a licensed physician, either diagnosis or treatment, or  
 24 both, to ambulatory patients in need of medical, surgical,  
 25 or mental care. An outpatient facility may have observation

1 beds.

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

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

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

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

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

21 (31) "Residential psychiatric care" means active  
 22 psychiatric treatment provided in a residential treatment  
 23 facility to psychiatrically impaired individuals with  
 24 persistent patterns of emotional, psychological, or  
 25 behavioral dysfunction of such severity as to require

1 24-hour supervised care to adequately treat or remedy the  
 2 individual's condition. Residential psychiatric care must be  
 3 individualized and designed to achieve the patient's  
 4 discharge to less restrictive levels of care at the earliest  
 5 possible time.

6 ~~{31}~~(32) "Residential treatment facility" means a  
 7 facility ~~of not less than 30 beds that is~~ operated by ~~a~~  
 8 ~~nonprofit corporation or association~~ for the primary purpose  
 9 of providing ~~long-term treatment services for mental illness~~  
 10 ~~in a nonhospital-based~~ residential setting psychiatric care  
 11 to persons under 21 years of age.

12 ~~{32}~~(33) "State health plan" means the plan prepared by  
 13 the department to project the need for health care  
 14 facilities within Montana and approved by the statewide  
 15 health coordinating council and the governor."

16 **Section 2.** Section 53-6-101, MCA, is amended to read:

17 "53-6-101. **Montana medicaid program -- authorization of**  
 18 **services.** (1) There is a Montana medicaid program  
 19 established for the purpose of providing necessary medical  
 20 services to eligible persons who have need for medical  
 21 assistance. The Montana medicaid program is a joint  
 22 federal-state program administered under this chapter and in  
 23 accordance with Title XIX of the federal Social Security Act  
 24 (42 U.S.C. 1396, et seq.), as may be amended. The department  
 25 of social and rehabilitation services shall administer the

1 Montana medicaid program.

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

- 4 (a) inpatient hospital services;  
 5 (b) outpatient hospital services;  
 6 (c) other laboratory and x-ray services;  
 7 (d) skilled nursing services in long-term care  
 8 facilities;  
 9 (e) physicians' services;  
 10 (f) nurse specialist services;  
 11 (g) early and periodic screening, diagnosis, and  
 12 treatment services for persons under 21 years of age;  
 13 (h) services provided by physician assistants-certified  
 14 within the scope of their practice and that are otherwise  
 15 directly reimbursed as allowed under department rule to an  
 16 existing provider;  
 17 (i) health services provided under a physician's orders  
 18 by a public health department; and  
 19 (j) hospice care as defined in 42 U.S.C. 1396d(o).

20 (3) Medical assistance provided by the Montana medicaid  
 21 program may, as provided by department rule, also include  
 22 the following services:

- 23 (a) medical care or any other type of remedial care  
 24 recognized under state law, furnished by licensed  
 25 practitioners within the scope of their practice as defined

1 by state law;

2 (b) home health care services;

3 (c) private-duty nursing services;

4 (d) dental services;

5 (e) physical therapy services;

6 (f) mental health center services administered and  
7 funded under a state mental health program authorized under  
8 Title 53, chapter 21, part 2;

9 (g) clinical social worker services;

10 (h) prescribed drugs, dentures, and prosthetic devices;

11 (i) prescribed eyeglasses;

12 (j) other diagnostic, screening, preventive,  
13 rehabilitative, chiropractic, and osteopathic services;

14 (k) inpatient psychiatric hospital services for persons  
15 under 21 years of age;

16 (l) services of professional counselors licensed under  
17 Title 37, chapter 23, if funds are specifically appropriated  
18 for the inclusion of these services in the Montana medicaid  
19 program;

20 (m) ambulatory prenatal care for pregnant women during  
21 a presumptive eligibility period, as provided in 42 U.S.C.  
22 1396a(a)(47) and 42 U.S.C. 1396r-1;

23 (n) inpatient psychiatric services for persons under 21  
24 years of age, as provided in 42 U.S.C. 1396d(h), in a  
25 residential treatment facility, as defined in 50-5-101, that

1 is licensed in accordance with 50-5-201;

2 ~~(n)~~(o) any additional medical service or aid allowable  
3 under or provided by the federal Social Security Act.

4 (4) The department may implement, as provided for in  
5 Title XIX of the federal Social Security Act (42 U.S.C.  
6 1396, et seq.), as may be amended, a program under medicaid  
7 for payment of medicare premiums, deductibles, and  
8 coinsurance for persons not otherwise eligible for medicaid.

9 (5) The department may set rates for medical and other  
10 services provided to recipients of medicaid and may enter  
11 into contracts for delivery of services to individual  
12 recipients or groups of recipients.

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

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

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

23 (9) If available funds are not sufficient to provide  
24 medical assistance for all eligible persons, the department  
25 may set priorities to limit, reduce, or otherwise curtail

LC 2042/01

1 the amount, scope, or duration of the medical services made  
2 available under the Montana medicaid program.

3 (10) Community-based medicaid services, as provided for  
4 in part 4 of this chapter, must be provided in accordance  
5 with the provisions of this chapter and the rules adopted  
6 thereunder. (Subsection (2)(j) terminates June 30,  
7 1991--sec. 4, Ch. 633, L. 1989; Subsection (3)(m) terminates  
8 June 30, 1991--sec. 15, Ch. 649, L. 1989.)"

9 NEW SECTION. **Section 3. Repealer.** Section 50-5-317,  
10 MCA, is repealed.

11 NEW SECTION. **Section 4. Effective date.** [This act] is  
12 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 HB0977, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the laws relating to residential treatment facilities; allowing medicaid reimbursement for inpatient psychiatric services for persons under 21 years of age in a residential treatment facility; and requiring licensure of a residential treatment facility in order to qualify for medicaid reimbursement.

ASSUMPTIONS:

Department of Health:

1. Licensure of residential facilities would require DHES to contract for psychiatric expertise to assist with rule development and surveys when a facility applies for a license.

Department of Family Services:

2. The executive budget recommendation and the human services appropriations subcommittee approved budget for DFS both include approximately \$3.5 million general fund over the 1993 biennium to provide a system of services which includes the residential treatment addressed in this act.

Department of Social & Rehabilitation Services:

3. The executive budget recommendation and the human services appropriations subcommittee approved budget for SRS both include approximately \$9 million federal revenue over the 1993 biennium to provide federal medicaid matching funds for the system of services which includes the residential treatment addressed in this act.

FISCAL IMPACT:

Department of Health & Environmental Sciences:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Operating Costs	0	16,500	16,500	0	10,500	10,500
<u>Funding:</u>						
General Fund	0	16,500	16,500	0	10,500	10,500
Impact to General Fund			(16,500)			(10,500)

TECHNICAL NOTES:

This fiscal note assumes that Section 50-5-316, MCA, which requires a certificate of need for residential treatment facilities is valid. This assumption may be in error if the remaining general provisions of the certificate of need process are not reenacted.

Rod Sundsted 3/11/91  
ROD SUNDSTED, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Dorothy Bradley 3-12-91  
DOROTHY BRADLEY, PRIMARY SPONSOR DATE

Fiscal Note for HB0977, as introduced.

HB 977-1



APPROVED BY COMMITTEE  
ON APPROPRIATIONS

*HOUSE* BILL NO. *977*

INTRODUCED BY *Bradley*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO RESIDENTIAL TREATMENT FACILITIES; ALLOWING MEDICAID REIMBURSEMENT FOR INPATIENT PSYCHIATRIC SERVICES FOR PERSONS UNDER 21 YEARS OF AGE IN A RESIDENTIAL TREATMENT FACILITY; REQUIRING LICENSURE OF A RESIDENTIAL TREATMENT FACILITY IN ORDER TO QUALIFY FOR MEDICAID REIMBURSEMENT; AMENDING SECTIONS 50-5-101 AND 53-6-101, MCA; REPEALING SECTION 50-5-317, MCA; 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 care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or

SECOND READING

*HB 977*

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

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

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

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

19 (12) "Clinical laboratory" means a facility for the  
20 microbiological, serological, chemical, hematological,  
21 radioassay, cytological, immunohematological,  
22 pathological, or other examination of materials derived from  
23 the human body for the purpose of providing information for  
24 the diagnosis, prevention, or treatment of any disease or  
25 assessment of a medical condition.

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

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

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

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

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

22 (18) "Governmental unit" means the state, a state  
23 agency, a county, municipality, or political subdivision of  
24 the state, or an agency of a political subdivision.

25 (19) "Health care facility" or "facility" means any

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

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

21 (21) "Home health agency" means a public agency or  
 22 private organization or subdivision thereof which is engaged  
 23 in providing home health services to individuals in the  
 24 places where they live. Home health services must include  
 25 the services of a licensed registered nurse and at least one

1 other therapeutic service and may include additional support  
 2 services.

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

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

23 (24) "Infirmiry" means a facility located in a  
 24 university, college, government institution, or industry for  
 25 the treatment of the sick or injured, with the following

## 1 subdefinitions:

2 (a) an "infirmary--A" provides outpatient and inpatient  
3 care;

4 (b) an "infirmary--B" provides outpatient care only.

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

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

14 (27) (a) "Long-term care facility" means a facility or  
15 part thereof which provides skilled nursing care,  
16 intermediate nursing care, or intermediate developmental  
17 disability care to a total of two or more persons or  
18 personal care to more than four persons who are not related  
19 to the owner or administrator by blood or marriage. The term  
20 does not include adult foster care licensed under 53-5-303,  
21 community homes for the developmentally disabled licensed  
22 under 53-20-305, community homes for persons with severe  
23 disabilities licensed under 53-19-203, youth care facilities  
24 licensed under 41-3-1142, hotels, motels, boardinghouses,  
25 roominghouses, or similar accommodations providing for

1 transients, students, or persons not requiring institutional  
2 health care, or juvenile and adult correctional facilities  
3 operating under the authority of the department of  
4 institutions.

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

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

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

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

22 (28) "Major medical equipment" means a single unit of  
23 medical equipment or a single system of components with  
24 related functions which is used to provide medical or other  
25 health services and costs a substantial sum of money.

1 (29) "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 (30) "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 (31) "Nonprofit health care facility" means a health  
16 care facility owned or operated by one or more nonprofit  
17 corporations or associations.

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

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

23 (34) "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 (35) "Patient" means an individual obtaining services,  
5 including skilled nursing care, from a health care facility.

6 (36) "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 (37) "Public health center" means a publicly owned  
11 facility providing health services, including laboratories,  
12 clinics, and administrative offices.

13 (38) "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 (39) "Resident" means a person who is in a long-term  
22 care facility for intermediate or personal care.

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

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

4 (41) "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 50-5-101. (Effective July 1, 1991) Definitions. As used  
9 in parts 1 through 4 of this chapter, unless the context  
10 clearly indicates otherwise, the following definitions  
11 apply:

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

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

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

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

24 (5) "Chemical dependency facility" means a facility  
25 whose function is the treatment, rehabilitation, and

1 prevention of the use of any chemical substance, including  
2 alcohol, which creates behavioral or health problems and  
3 endangers the health, interpersonal relationships, or  
4 economic function of an individual or the public health,  
5 welfare, or safety.

6 (6) "Clinical laboratory" means a facility for the  
7 microbiological, serological, chemical, hematological,  
8 radiobioassay, cytological, immunohematological,  
9 pathological, or other examination of materials derived from  
10 the human body for the purpose of providing information for  
11 the diagnosis, prevention, or treatment of any disease or  
12 assessment of a medical condition.

13 (7) "College of American pathologists" means the  
14 organization nationally recognized by that name with  
15 headquarters in Traverse City, Michigan, that surveys  
16 clinical laboratories upon their requests and accredits  
17 clinical laboratories that it finds meet its standards and  
18 requirements.

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

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

24 (10) "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 (11) "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 (12) "Health maintenance organization" means a public or  
18 private organization that 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 (13) "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 (14) "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 (15) "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 (16) "Infirmity" 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 (17) "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 (18) "Kidney treatment center" means a facility which  
 14 specializes in treatment of kidney diseases, including  
 15 freestanding hemodialysis units.

16 (19) (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 (20) "Medical assistance facility" means a facility  
 25 that:



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

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

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

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

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

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

21 (25) "Outpatient facility" means a facility, located in  
 22 or apart from a hospital, providing, under the direction of  
 23 a licensed physician, either diagnosis or treatment, or  
 24 both, to ambulatory patients in need of medical, surgical,  
 25 or mental care. An outpatient facility may have observation

1 beds.

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

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

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

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

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

21 (31) "Residential psychiatric care" means active  
 22 psychiatric treatment provided in a residential treatment  
 23 facility to psychiatrically impaired individuals with  
 24 persistent patterns of emotional, psychological, or  
 25 behavioral dysfunction of such severity as to require

1 24-hour supervised care to adequately treat or remedy the  
 2 individual's condition. Residential psychiatric care must be  
 3 individualized and designed to achieve the patient's  
 4 discharge to less restrictive levels of care at the earliest  
 5 possible time.

6 ~~(31)~~(32) "Residential treatment facility" means a  
 7 facility of ~~not less than 30 beds that is~~ operated by ~~a~~  
 8 ~~nonprofit corporation or association~~ for the primary purpose  
 9 of providing ~~long-term treatment services for mental illness~~  
 10 ~~in a nonhospital-based residential setting~~ psychiatric care  
 11 to persons under 21 years of age.

12 ~~(32)~~(33) "State health plan" means the plan prepared by  
 13 the department to project the need for health care  
 14 facilities within Montana and approved by the statewide  
 15 health coordinating council and the governor."

16 **Section 2.** Section 53-6-101, MCA, is amended to read:

17 **"53-6-101. Montana medicaid program -- authorization of**  
 18 **services.** (1) There is a Montana medicaid program  
 19 established for the purpose of providing necessary medical  
 20 services to eligible persons who have need for medical  
 21 assistance. The Montana medicaid program is a joint  
 22 federal-state program administered under this chapter and in  
 23 accordance with Title XIX of the federal Social Security Act  
 24 (42 U.S.C. 1396, et seq.), as may be amended. The department  
 25 of social and rehabilitation services shall administer the

1 Montana medicaid program.

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

4 (a) inpatient hospital services;

5 (b) outpatient hospital services;

6 (c) other laboratory and x-ray services;

7 (d) skilled nursing services in long-term care  
 8 facilities;

9 (e) physicians' services;

10 (f) nurse specialist services;

11 (g) early and periodic screening, diagnosis, and  
 12 treatment services for persons under 21 years of age;

13 (h) services provided by physician assistants-certified  
 14 within the scope of their practice and that are otherwise  
 15 directly reimbursed as allowed under department rule to an  
 16 existing provider;

17 (i) health services provided under a physician's orders  
 18 by a public health department; and

19 (j) hospice care as defined in 42 U.S.C. 1396d(o).

20 (3) Medical assistance provided by the Montana medicaid  
 21 program may, as provided by department rule, also include  
 22 the following services:

23 (a) medical care or any other type of remedial care  
 24 recognized under state law, furnished by licensed  
 25 practitioners within the scope of their practice as defined

- 1 by state law;
- 2 (b) home health care services;
- 3 (c) private-duty nursing services;
- 4 (d) dental services;
- 5 (e) physical therapy services;
- 6 (f) mental health center services administered and
- 7 funded under a state mental health program authorized under
- 8 Title 53, chapter 21, part 2;
- 9 (g) clinical social worker services;
- 10 (h) prescribed drugs, dentures, and prosthetic devices;
- 11 (i) prescribed eyeglasses;
- 12 (j) other diagnostic, screening, preventive,
- 13 rehabilitative, chiropractic, and osteopathic services;
- 14 (k) inpatient psychiatric hospital services for persons
- 15 under 21 years of age;
- 16 (l) services of professional counselors licensed under
- 17 Title 37, chapter 23, if funds are specifically appropriated
- 18 for the inclusion of these services in the Montana medicaid
- 19 program;
- 20 (m) ambulatory prenatal care for pregnant women during
- 21 a presumptive eligibility period, as provided in 42 U.S.C.
- 22 1396a(a)(47) and 42 U.S.C. 1396r-1;
- 23 (n) inpatient psychiatric services for persons under 21
- 24 years of age, as provided in 42 U.S.C. 1396d(h), in a
- 25 residential treatment facility, as defined in 50-5-101, that

- 1 is licensed in accordance with 50-5-201;
- 2 ~~(n)~~(o) any additional medical service or aid allowable
- 3 under or provided by the federal Social Security Act.
- 4 (4) The department may implement, as provided for in
- 5 Title XIX of the federal Social Security Act (42 U.S.C.
- 6 1396, et seq.), as may be amended, a program under medicaid
- 7 for payment of medicare premiums, deductibles, and
- 8 coinsurance for persons not otherwise eligible for medicaid.
- 9 (5) The department may set rates for medical and other
- 10 services provided to recipients of medicaid and may enter
- 11 into contracts for delivery of services to individual
- 12 recipients or groups of recipients.
- 13 (6) The services provided under this part may be only
- 14 those that are medically necessary and that are the most
- 15 efficient and cost effective.
- 16 (7) The amount, scope, and duration of services
- 17 provided under this part must be determined by the
- 18 department in accordance with Title XIX of the federal
- 19 Social Security Act (42 U.S.C. 1396, et seq.), as may be
- 20 amended.
- 21 (8) Services, procedures, and items of an experimental
- 22 or cosmetic nature may not be provided.
- 23 (9) If available funds are not sufficient to provide
- 24 medical assistance for all eligible persons, the department
- 25 may set priorities to limit, reduce, or otherwise curtail

1 the amount, scope, or duration of the medical services made  
2 available under the Montana medicaid program.

3 (10) Community-based medicaid services, as provided for  
4 in part 4 of this chapter, must be provided in accordance  
5 with the provisions of this chapter and the rules adopted  
6 thereunder. (Subsection (2)(j) terminates June 30,  
7 1991--sec. 4, Ch. 633, L. 1989; Subsection (3)(m) terminates  
8 June 30, 1991--sec. 15, Ch. 649, L. 1989.)"

9 NEW SECTION. **Section 3. Repealer.** Section 50-5-317,  
10 MCA, is repealed.

11 NEW SECTION. **Section 4. Effective date.** [This act] is  
12 effective July 1, 1991.

-End-

1 HOUSE BILL NO. 977  
 2 INTRODUCED BY Bradley  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
 5 RELATING TO RESIDENTIAL TREATMENT FACILITIES; ALLOWING  
 6 MEDICAID REIMBURSEMENT FOR INPATIENT PSYCHIATRIC SERVICES  
 7 FOR PERSONS UNDER 21 YEARS OF AGE IN A RESIDENTIAL TREATMENT  
 8 FACILITY; REQUIRING LICENSURE OF A RESIDENTIAL TREATMENT  
 9 FACILITY IN ORDER TO QUALIFY FOR MEDICAID REIMBURSEMENT;  
 10 AMENDING SECTIONS 50-5-101 AND 53-6-101, MCA; REPEALING  
 11 SECTION 50-5-317, MCA; AND PROVIDING AN EFFECTIVE DATE."

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 50-5-101, MCA, is amended to read:  
 15 "50-5-101. (Temporary) Definitions. As used in parts 1  
 16 through 4 of this chapter, unless the context clearly  
 17 indicates otherwise, the following definitions apply:

- 18 (1) "Accreditation" means a designation of approval.
- 19 (2) "Adult day-care center" means a facility,  
 20 freestanding or connected to another health care facility,  
 21 which provides adults, on an intermittent basis, with the  
 22 care necessary to meet the needs of daily living.
- 23 (3) "Affected person" means an applicant for  
 24 certificate of need, a member of the public who will be  
 25 served by the proposal, a health care facility located in

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



THIRD READING  
**HB 977**

## MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 977 (third reading copy -- blue), respectfully report that House Bill No. 977 be amended and as so amended be concurred in:

1. Title, line 10.  
Following: "50-5-101"  
Insert: ", 50-5-301, 50-5-316,"

2. Page 1, line 13.  
Following: line 12  
Insert: "

## STATEMENT OF INTENT

It is the intent of the legislature, in enacting this bill, to amend 50-5-316 to exempt persons who operate an existing facility that meets the definition of a residential treatment facility on or before August 1, 1991, from the certificate of need requirements contained in Title 50, chapter 5, part 3. The legislature finds this exemption appropriate for the following reasons:

(1) Two years ago, certain organizations that were prepared to open residential treatment facilities were prevented from operating these facilities, even though they had an application pending for licensure, because of restrictions contained in House Bill No. 304, which was enacted in 1989. The restrictions contained in House Bill No. 304 that prevented these organizations from operating residential treatment facilities have been eliminated under this bill. Thus, an exemption for these organizations is warranted in order to redress the situation created 2 years ago with enactment of House Bill No. 304 and to allow these organizations to operate existing facilities as residential treatment facilities.

(2) According to the department of family services in a report to the legislature, there is presently a need for at least 20 additional residential treatment facility beds in this state. In light of this present need, it is appropriate to allow an exemption so the organizations described in subsection (1) can implement their plans to operate residential treatment facilities without having to go through the expensive and time-consuming process of obtaining a certificate of need in order to provide services that are known to be needed now. Any possibility that this exemption may result in the creation of residential treatment facility beds in excess of the existing need is minimal in light of the realities of competition and the limited applicability of the exemption that allows only those facilities existing on or before August 1, 1991, to qualify for the exemption."

3. Page 19, line 16.

Following: line 15

Insert: "Section 2. Section 50-5-301, MCA, is amended to read:  
"50-5-301. (Temporary) When certificate of need is required -- definitions. (1) Unless a person has submitted an application for and is the holder of a certificate of need granted by the department, he may not initiate any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) "Health care facility" or "facility" means a nonfederal ambulatory surgical facility, home health agency, long-term care facility, medical assistance facility, mental health center with inpatient services, inpatient chemical dependency facility, rehabilitation facility with inpatient services, residential treatment facility, or personal care facility. The term does not include a hospital, except to the extent that a hospital is subject to certificate of need requirements pursuant to subsection (1)(i).

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

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

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

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

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

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

(b) For construction of health care facilities, the expenditure threshold is \$1,500,000."

Section 3. Section 50-5-316, MCA, is amended to read:  
"50-5-316. Certificate of need for residential treatment facility. (1) Except as provided in subsection (2), a person may not operate a residential treatment facility unless he has obtained a certificate of need issued by the department as provided under this part.

(2) A person who operates an existing facility that meets the definition of, and all statutory and regulatory requirements for, a residential treatment facility on or before August 1, 1991, may receive a license to operate the facility as a residential treatment facility and need not obtain a certificate of need as otherwise required under this section."  
Renumber: subsequent sections

Signed: \_\_\_\_\_

*Dorothy Eck*  
Dorothy Eck, Chairman

*4/12*  
Ad. Coord.

*3/24/12*  
Sec. of Senate

HOUSE BILL NO. 977  
INTRODUCED BY BRADLEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO RESIDENTIAL TREATMENT FACILITIES; ALLOWING MEDICAID REIMBURSEMENT FOR INPATIENT PSYCHIATRIC SERVICES FOR PERSONS UNDER 21 YEARS OF AGE IN A RESIDENTIAL TREATMENT FACILITY; REQUIRING LICENSURE OF A RESIDENTIAL TREATMENT FACILITY IN ORDER TO QUALIFY FOR MEDICAID REIMBURSEMENT; AMENDING SECTIONS 50-5-101, 50-5-301, 50-5-316, AND 53-6-101, MCA; REPEALING SECTION 50-5-317, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

IT IS THE INTENT OF THE LEGISLATURE, IN ENACTING THIS BILL, TO AMEND 50-5-316 TO EXEMPT PERSONS WHO OPERATE AN EXISTING FACILITY THAT MEETS THE DEFINITION OF A RESIDENTIAL TREATMENT FACILITY ON OR BEFORE AUGUST 1, 1991, FROM THE CERTIFICATE OF NEED REQUIREMENTS CONTAINED IN TITLE 50, CHAPTER 5, PART 3. THE LEGISLATURE FINDS THIS EXEMPTION APPROPRIATE FOR THE FOLLOWING REASONS:

(1) TWO YEARS AGO, CERTAIN ORGANIZATIONS THAT WERE PREPARED TO OPEN RESIDENTIAL TREATMENT FACILITIES WERE PREVENTED FROM OPERATING THESE FACILITIES, EVEN THOUGH THEY HAD AN APPLICATION PENDING FOR LICENSURE, BECAUSE OF

RESTRICTIONS CONTAINED IN HOUSE BILL NO. 304, WHICH WAS ENACTED IN 1989. THE RESTRICTIONS CONTAINED IN HOUSE BILL NO. 304 THAT PREVENTED THESE ORGANIZATIONS FROM OPERATING RESIDENTIAL TREATMENT FACILITIES HAVE BEEN ELIMINATED UNDER THIS BILL. THUS, AN EXEMPTION FOR THESE ORGANIZATIONS IS WARRANTED IN ORDER TO REDRESS THE SITUATION CREATED 2 YEARS AGO WITH ENACTMENT OF HOUSE BILL NO. 304 AND TO ALLOW THESE ORGANIZATIONS TO OPERATE EXISTING FACILITIES AS RESIDENTIAL TREATMENT FACILITIES.

(2) ACCORDING TO THE DEPARTMENT OF FAMILY SERVICES IN A REPORT TO THE LEGISLATURE, THERE IS PRESENTLY A NEED FOR AT LEAST 20 ADDITIONAL RESIDENTIAL TREATMENT FACILITY BEDS IN THIS STATE. IN LIGHT OF THIS PRESENT NEED, IT IS APPROPRIATE TO ALLOW AN EXEMPTION SO THE ORGANIZATIONS DESCRIBED IN SUBSECTION (1) CAN IMPLEMENT THEIR PLANS TO OPERATE RESIDENTIAL TREATMENT FACILITIES WITHOUT HAVING TO GO THROUGH THE EXPENSIVE AND TIME-CONSUMING PROCESS OF OBTAINING A CERTIFICATE OF NEED IN ORDER TO PROVIDE SERVICES THAT ARE KNOWN TO BE NEEDED NOW. ANY POSSIBILITY THAT THIS EXEMPTION MAY RESULT IN THE CREATION OF RESIDENTIAL TREATMENT FACILITY BEDS IN EXCESS OF THE EXISTING NEED IS MINIMAL IN LIGHT OF THE REALITIES OF COMPETITION AND THE LIMITED APPLICABILITY OF THE EXEMPTION THAT ALLOWS ONLY THOSE FACILITIES EXISTING ON OR BEFORE AUGUST 1, 1991, TO QUALIFY FOR THE EXEMPTION.



1  
2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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

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

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

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

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

25 (5) "Batch" means those letters of intent to seek

1 approval for new beds or major medical equipment that are  
2 accumulated during a single batching period.

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

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

10 (8) "Capital expenditure" means:

11 (a) an expenditure made by or on behalf of a health  
12 care facility that, under generally accepted accounting  
13 principles, is not properly chargeable as an expense of  
14 operation and maintenance; or

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

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

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

1 (11) "Chemical dependency facility" means a facility  
 2 whose function is the treatment, rehabilitation, and  
 3 prevention of the use of any chemical substance, including  
 4 alcohol, which creates behavioral or health problems and  
 5 endangers the health, interpersonal relationships, or  
 6 economic function of an individual or the public health,  
 7 welfare, or safety.

8 (12) "Clinical laboratory" means a facility for the  
 9 microbiological, serological, chemical, hematological,  
 10 radiobioassay, cytological, immunohematological,  
 11 pathological, or other examination of materials derived from  
 12 the human body for the purpose of providing information for  
 13 the diagnosis, prevention, or treatment of any disease or  
 14 assessment of a medical condition.

15 (13) "College of American pathologists" means the  
 16 organization nationally recognized by that name with  
 17 headquarters in Traverse City, Michigan, that surveys  
 18 clinical laboratories upon their requests and accredits  
 19 clinical laboratories that it finds meet its standards and  
 20 requirements.

21 (14) "Comparative review" means a joint review of two or  
 22 more certificate of need applications which are determined  
 23 by the department to be competitive in that the granting of  
 24 a certificate of need to one of the applicants would  
 25 substantially prejudice the department's review of the other

1 applications.

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

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

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

11 (18) "Governmental unit" means the state, a state  
 12 agency, a county, municipality, or political subdivision of  
 13 the state, or an agency of a political subdivision.

14 (19) "Health care facility" or "facility" means any  
 15 institution, building, or agency or portion thereof, private  
 16 or public, excluding federal facilities, whether organized  
 17 for profit or not, used, operated, or designed to provide  
 18 health services, medical treatment, or nursing,  
 19 rehabilitative, or preventive care to any person or persons.  
 20 The term does not include offices of private physicians or  
 21 dentists. The term includes but is not limited to ambulatory  
 22 surgical facilities, health maintenance organizations, home  
 23 health agencies, hospices, hospitals, infirmaries, kidney  
 24 treatment centers, long-term care facilities, medical  
 25 assistance facilities, mental health centers, outpatient

1 facilities, public health centers, rehabilitation  
 2 facilities, residential treatment facilities, and adult  
 3 day-care centers.

4 (20) "Health maintenance organization" means a public or  
 5 private organization which provides or arranges for health  
 6 care services to enrollees on a prepaid or other financial  
 7 basis, either directly through provider employees or through  
 8 contractual or other arrangements with a provider or group  
 9 of providers.

10 (21) "Home health agency" means a public agency or  
 11 private organization or subdivision thereof which is engaged  
 12 in providing home health services to individuals in the  
 13 places where they live. Home health services must include  
 14 the services of a licensed registered nurse and at least one  
 15 other therapeutic service and may include additional support  
 16 services.

17 (22) "Hospice" means a coordinated program of home and  
 18 inpatient health care that provides or coordinates  
 19 palliative and supportive care to meet the needs of a  
 20 terminally ill patient and his family arising out of  
 21 physical, psychological, spiritual, social, and economic  
 22 stresses experienced during the final stages of illness and  
 23 dying and that includes formal bereavement programs as an  
 24 essential component.

25 (23) "Hospital" means a facility providing, by or under

1 the supervision of licensed physicians, services for medical  
 2 diagnosis, treatment, rehabilitation, and care of injured,  
 3 disabled, or sick persons. Services provided may or may not  
 4 include obstetrical care, emergency care, or any other  
 5 service as allowed by state licensing authority. A hospital  
 6 has an organized medical staff which is on call and  
 7 available within 20 minutes, 24 hours per day, 7 days per  
 8 week, and provides 24-hour nursing care by licensed  
 9 registered nurses. This term includes hospitals specializing  
 10 in providing health services for psychiatric, mentally  
 11 retarded, and tubercular patients.

12 (24) "Infirmiry" means a facility located in a  
 13 university, college, government institution, or industry for  
 14 the treatment of the sick or injured, with the following  
 15 subdefinitions:

16 (a) an "infirmiry--A" provides outpatient and inpatient  
 17 care;

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

19 (25) "Joint commission on accreditation of hospitals"  
 20 means the organization nationally recognized by that name  
 21 with headquarters in Chicago, Illinois, that surveys health  
 22 care facilities upon their requests and grants accreditation  
 23 status to any health care facility that it finds meets its  
 24 standards and requirements.

25 (26) "Kidney treatment center" means a facility which

1 specializes in treatment of kidney diseases, including  
2 freestanding hemodialysis units.

3 (27) (a) "Long-term care facility" means a facility or  
4 part thereof which provides skilled nursing care,  
5 intermediate nursing care, or intermediate developmental  
6 disability care to a total of two or more persons or  
7 personal care to more than four persons who are not related  
8 to the owner or administrator by blood or marriage. The term  
9 does not include adult foster care licensed under 53-5-303,  
10 community homes for the developmentally disabled licensed  
11 under 53-20-305, community homes for persons with severe  
12 disabilities licensed under 53-19-203, youth care facilities  
13 licensed under 41-3-1142, hotels, motels, boardinghouses,  
14 roominghouses, or similar accommodations providing for  
15 transients, students, or persons not requiring institutional  
16 health care, or juvenile and adult correctional facilities  
17 operating under the authority of the department of  
18 institutions.

19 (b) "Skilled nursing care" means the provision of  
20 nursing care services, health-related services, and social  
21 services under the supervision of a licensed registered  
22 nurse on a 24-hour basis.

23 (c) "Intermediate nursing care" means the provision of  
24 nursing care services, health-related services, and social  
25 services under the supervision of a licensed nurse to

1 patients not requiring 24-hour nursing care.

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

7 (e) "Personal care" means the provision of services and  
8 care which do not require nursing skills to residents  
9 needing some assistance in performing the activities of  
10 daily living.

11 (28) "Major medical equipment" means a single unit of  
12 medical equipment or a single system of components with  
13 related functions which is used to provide medical or other  
14 health services and costs a substantial sum of money.

15 (29) "Medical assistance facility" means a facility  
16 that:

17 (a) provides inpatient care to ill or injured persons  
18 prior to their transportation to a hospital or provides  
19 inpatient medical care to persons needing that care for a  
20 period of no longer than 96 hours; and

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

24 (30) "Mental health center" means a facility providing  
25 services for the prevention or diagnosis of mental illness,

1 the care and treatment of mentally ill patients or the  
 2 rehabilitation of such persons, or any combination of these  
 3 services.

4 (31) "Nonprofit health care facility" means a health  
 5 care facility owned or operated by one or more nonprofit  
 6 corporations or associations.

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

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

12 (34) "Outpatient facility" means a facility, located in  
 13 or apart from a hospital, providing, under the direction of  
 14 a licensed physician, either diagnosis or treatment, or  
 15 both, to ambulatory patients in need of medical, surgical,  
 16 or mental care. An outpatient facility may have observation  
 17 beds.

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

20 (36) "Person" means any individual, firm, partnership,  
 21 association, organization, agency, institution, corporation,  
 22 trust, estate, or governmental unit, whether organized for  
 23 profit or not.

24 (37) "Public health center" means a publicly owned  
 25 facility providing health services, including laboratories,

1 clinics, and administrative offices.

2 (38) "Rehabilitation facility" means a facility which is  
 3 operated for the primary purpose of assisting in the  
 4 rehabilitation of disabled persons by providing  
 5 comprehensive medical evaluations and services,  
 6 psychological and social services, or vocational evaluation  
 7 and training or any combination of these services and in  
 8 which the major portion of the services is furnished within  
 9 the facility.

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

12 (40) "Residential treatment facility" means a facility  
 13 of not less than 30 beds that is operated by a nonprofit  
 14 corporation or association for the primary purpose of  
 15 providing long-term treatment services for mental illness in  
 16 a nonhospital-based residential setting to persons under 21  
 17 years of age.

18 (41) "State health plan" means the plan prepared by the  
 19 department to project the need for health care facilities  
 20 within Montana and approved by the statewide health  
 21 coordinating council and the governor.

22 50-5-101. (Effective July 1, 1991) Definitions. As used  
 23 in parts 1 through 4 of this chapter, unless the context  
 24 clearly indicates otherwise, the following definitions  
 25 apply:

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

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

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

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

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

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

1 assessment of a medical condition.

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

8 (8) "Department" means the department of health and  
9 environmental sciences provided for in Title 2, chapter 15,  
10 part 21.

11 (9) "Federal acts" means federal statutes for the  
12 construction of health care facilities.

13 (10) "Governmental unit" means the state, a state  
14 agency, a county, municipality, or political subdivision of  
15 the state, or an agency of a political subdivision.

16 (11) "Health care facility" or "facility" means any  
17 institution, building, or agency or portion thereof, private  
18 or public, excluding federal facilities, whether organized  
19 for profit or not, used, operated, or designed to provide  
20 health services, medical treatment, or nursing,  
21 rehabilitative, or preventive care to any person or persons.  
22 The term does not include offices of private physicians or  
23 dentists. The term includes but is not limited to ambulatory  
24 surgical facilities, health maintenance organizations, home  
25 health agencies, hospices, hospitals, infirmaries, kidney

1 treatment centers, long-term care facilities, medical  
 2 assistance facilities, mental health centers, outpatient  
 3 facilities, public health centers, rehabilitation  
 4 facilities, residential treatment facilities, and adult  
 5 day-care centers.

6 (12) "Health maintenance organization" means a public or  
 7 private organization that provides or arranges for health  
 8 care services to enrollees on a prepaid or other financial  
 9 basis, either directly through provider employees or through  
 10 contractual or other arrangements with a provider or group  
 11 of providers.

12 (13) "Home health agency" means a public agency or  
 13 private organization or subdivision thereof which is engaged  
 14 in providing home health services to individuals in the  
 15 places where they live. Home health services must include  
 16 the services of a licensed registered nurse and at least one  
 17 other therapeutic service and may include additional support  
 18 services.

19 (14) "Hospice" means a coordinated program of home and  
 20 inpatient health care that provides or coordinates  
 21 palliative and supportive care to meet the needs of a  
 22 terminally ill patient and his family arising out of  
 23 physical, psychological, spiritual, social, and economic  
 24 stresses experienced during the final stages of illness and  
 25 dying and that includes formal bereavement programs as an

1 essential component.

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

14 (16) "Infirmiry" means a facility located in a  
 15 university, college, government institution, or industry for  
 16 the treatment of the sick or injured, with the following  
 17 subdefinitions:

18 (a) an "infirmiry--A" provides outpatient and inpatient  
 19 care;

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

21 (17) "Joint commission on accreditation of hospitals"  
 22 means the organization nationally recognized by that name  
 23 with headquarters in Chicago, Illinois, that surveys health  
 24 care facilities upon their requests and grants accreditation  
 25 status to any health care facility that it finds meets its

1 standards and requirements.

2 (18) "Kidney treatment center" means a facility which  
3 specializes in treatment of kidney diseases, including  
4 freestanding hemodialysis units.

5 (19) (a) "Long-term care facility" means a facility or  
6 part thereof which provides skilled nursing care,  
7 intermediate nursing care, or intermediate developmental  
8 disability care to a total of two or more persons or  
9 personal care to more than four persons who are not related  
10 to the owner or administrator by blood or marriage. The term  
11 does not include adult foster care licensed under 53-5-303,  
12 community homes for the developmentally disabled licensed  
13 under 53-20-305, community homes for persons with severe  
14 disabilities licensed under 53-19-203, youth care facilities  
15 licensed under 41-3-1142, hotels, motels, boardinghouses,  
16 roominghouses, or similar accommodations providing for  
17 transients, students, or persons not requiring institutional  
18 health care, or juvenile and adult correctional facilities  
19 operating under the authority of the department of  
20 institutions.

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

25 (c) "Intermediate nursing care" means the provision of

1 nursing care services, health-related services, and social  
2 services under the supervision of a licensed nurse to  
3 patients not requiring 24-hour nursing care.

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

9 (e) "Personal care" means the provision of services and  
10 care which do not require nursing skills to residents  
11 needing some assistance in performing the activities of  
12 daily living.

13 (20) "Medical assistance facility" means a facility  
14 that:

15 (a) provides inpatient care to ill or injured persons  
16 prior to their transportation to a hospital or provides  
17 inpatient medical care to persons needing that care for a  
18 period of no longer than 96 hours; and

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

22 (21) "Mental health center" means a facility providing  
23 services for the prevention or diagnosis of mental illness,  
24 the care and treatment of mentally ill patients or the  
25 rehabilitation of such persons, or any combination of these



1 services.

2 (22) "Nonprofit health care facility" means a health  
3 care facility owned or operated by one or more nonprofit  
4 corporations or associations.

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

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

10 (25) "Outpatient facility" means a facility, located in  
11 or apart from a hospital, providing, under the direction of  
12 a licensed physician, either diagnosis or treatment, or  
13 both, to ambulatory patients in need of medical, surgical,  
14 or mental care. An outpatient facility may have observation  
15 beds.

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

18 (27) "Person" means any individual, firm, partnership,  
19 association, organization, agency, institution, corporation,  
20 trust, estate, or governmental unit, whether organized for  
21 profit or not.

22 (28) "Public health center" means a publicly owned  
23 facility providing health services, including laboratories,  
24 clinics, and administrative offices.

25 (29) "Rehabilitation facility" means a facility which is

1 operated for the primary purpose of assisting in the  
2 rehabilitation of disabled persons by providing  
3 comprehensive medical evaluations and services,  
4 psychological and social services, or vocational evaluation  
5 and training or any combination of these services and in  
6 which the major portion of the services is furnished within  
7 the facility.

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

10 (31) "Residential psychiatric care" means active  
11 psychiatric treatment provided in a residential treatment  
12 facility to psychiatrically impaired individuals with  
13 persistent patterns of emotional, psychological, or  
14 behavioral dysfunction of such severity as to require  
15 24-hour supervised care to adequately treat or remedy the  
16 individual's condition. Residential psychiatric care must be  
17 individualized and designed to achieve the patient's  
18 discharge to less restrictive levels of care at the earliest  
19 possible time.

20 ~~(31)~~(32) "Residential treatment facility" means a  
21 facility of ~~not less than 30 beds that is~~ operated by a  
22 nonprofit corporation or association for the primary purpose  
23 of providing ~~long-term treatment services for mental illness~~  
24 ~~in a nonhospital-based residential setting~~ psychiatric care  
25 to persons under 21 years of age.

1       ~~(32)~~(33) "State health plan" means the plan prepared by  
2 the department to project the need for health care  
3 facilities within Montana and approved by the statewide  
4 health coordinating council and the governor."

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

6       "50-5-301. (Temporary) When certificate of need is  
7 required -- definitions. (1) Unless a person has submitted  
8 an application for and is the holder of a certificate of  
9 need granted by the department, he may not initiate any of  
10 the following:

11       (a) the incurring of an obligation by or on behalf of a  
12 health care facility for any capital expenditure, other than  
13 to acquire an existing health care facility or to replace  
14 major medical equipment with equipment performing  
15 substantially the same function and in the same manner, that  
16 exceeds the expenditure thresholds established in subsection  
17 (4). The costs of any studies, surveys, designs, plans,  
18 working drawings, specifications, and other activities  
19 (including staff effort, consulting, and other services)  
20 essential to the acquisition, improvement, expansion, or  
21 replacement of any plant or equipment with respect to which  
22 an expenditure is made must be included in determining if  
23 the expenditure exceeds the expenditure thresholds.

24       (b) a change in the bed capacity of a health care  
25 facility through an increase in the number of beds or a

1 relocation of beds from one health care facility or site to  
2 another, unless:

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

7       (ii) a letter of intent is submitted to the department;  
8 and

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

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

18       (d) the acquisition by any person of major medical  
19 equipment, provided such acquisition would have required a  
20 certificate of need pursuant to subsection (1)(a) or (1)(c)  
21 if it had been made by or on behalf of a health care  
22 facility;

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

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

3 (ii) the department finds that the acquisition will not  
4 significantly increase the cost of care provided or increase  
5 bed capacity;

6 (f) the construction, development, or other  
7 establishment of a health care facility which is being  
8 replaced or which did not previously exist, by any person,  
9 including another type of health care facility;

10 (g) the expansion of the geographical service area of a  
11 home health agency;

12 (h) the use of hospital beds to provide services to  
13 patients or residents needing only skilled nursing care,  
14 intermediate nursing care, or intermediate developmental  
15 disability care, as those levels of care are defined in  
16 50-5-101; or

17 (i) the provision by a hospital of services for  
18 ambulatory surgical care, home health care, long-term care,  
19 inpatient mental health care, inpatient chemical dependency  
20 treatment, inpatient rehabilitation, or personal care.

21 (2) For purposes of subsection (1)(b), a change in bed  
22 capacity occurs on the date new or relocated beds are  
23 licensed pursuant to part 2 of this chapter and the date a  
24 final decision is made to grant a certificate of need for  
25 new or relocated beds, unless the certificate of need

1 expires pursuant to 50-5-305.

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

4 (a) "Health care facility" or "facility" means a  
5 nonfederal ambulatory surgical facility, home health agency,  
6 long-term care facility, medical assistance facility, mental  
7 health center with inpatient services, inpatient chemical  
8 dependency facility, rehabilitation facility with inpatient  
9 services, residential treatment facility, or personal care  
10 facility. The term does not include a hospital, except to  
11 the extent that a hospital is subject to certificate of need  
12 requirements pursuant to subsection (1)(i).

13 (b) (i) "Long-term care facility" means an entity which  
14 provides skilled nursing care, intermediate nursing care, or  
15 intermediate developmental disability care, as defined in  
16 50-5-101, to a total of two or more persons.

17 (ii) The term does not include adult foster care,  
18 licensed under 53-5-303; community homes for the  
19 developmentally disabled, licensed under 53-20-305;  
20 community homes for persons with severe disabilities,  
21 licensed under 53-19-203; boarding or foster homes for  
22 children, licensed under 41-3-1142; hotels, motels,  
23 boardinghouses, roominghouses, or similar accommodations  
24 providing for transients, students, or persons not requiring  
25 institutional health care; or juvenile and adult

1 correctional facilities operating under the authority of the  
2 department of institutions.

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

8 (d) "Personal care facility" means an entity which  
9 provides services and care which do not require nursing  
10 skills to more than four persons who are not related to the  
11 owner or administrator by blood or marriage and who need  
12 some assistance in performing the activities of everyday  
13 living. The term does not include those entities excluded  
14 from the definition of "long-term care facility" in  
15 subsection (3)(b).

16 (4) Expenditure thresholds for certificate of need  
17 review are established as follows:

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

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

24 **SECTION 3. SECTION 50-5-316, MCA, IS AMENDED TO READ:**

25 "50-5-316. Certificate of need for residential

1 treatment facility. A (1) Except as provided in subsection  
2 (2), a person may not operate a residential treatment  
3 facility unless he has obtained a certificate of need issued  
4 by the department as provided under this part.

5 (2) A person who operates an existing facility that  
6 meets the definition of, and all statutory and regulatory  
7 requirements for, a residential treatment facility on or  
8 before August 1, 1991, may receive a license to operate the  
9 facility as a residential treatment facility and need not  
10 obtain a certificate of need as otherwise required under  
11 this section."

12 **Section 4.** Section 53-6-101, MCA, is amended to read:

13 "53-6-101. Montana medicaid program -- authorization of  
14 services. (1) There is a Montana medicaid program  
15 established for the purpose of providing necessary medical  
16 services to eligible persons who have need for medical  
17 assistance. The Montana medicaid program is a joint  
18 federal-state program administered under this chapter and in  
19 accordance with Title XIX of the federal Social Security Act  
20 (42 U.S.C. 1396, et seq.), as may be amended. The department  
21 of social and rehabilitation services shall administer the  
22 Montana medicaid program.

23 (2) Medical assistance provided by the Montana medicaid  
24 program includes the following services:

25 (a) inpatient hospital services;

- 1 (b) outpatient hospital services;
- 2 (c) other laboratory and x-ray services;
- 3 (d) skilled nursing services in long-term care
- 4 facilities;
- 5 (e) physicians' services;
- 6 (f) nurse specialist services;
- 7 (g) early and periodic screening, diagnosis, and
- 8 treatment services for persons under 21 years of age;
- 9 (h) services provided by physician assistants-certified
- 10 within the scope of their practice and that are otherwise
- 11 directly reimbursed as allowed under department rule to an
- 12 existing provider;
- 13 (i) health services provided under a physician's orders
- 14 by a public health department; and
- 15 (j) hospice care as defined in 42 U.S.C. 1396d(o).
- 16 (3) Medical assistance provided by the Montana medicaid
- 17 program may, as provided by department rule, also include
- 18 the following services:
- 19 (a) medical care or any other type of remedial care
- 20 recognized under state law, furnished by licensed
- 21 practitioners within the scope of their practice as defined
- 22 by state law;
- 23 (b) home health care services;
- 24 (c) private-duty nursing services;
- 25 (d) dental services;

- 1 (e) physical therapy services;
- 2 (f) mental health center services administered and
- 3 funded under a state mental health program authorized under
- 4 Title 53, chapter 21, part 2;
- 5 (g) clinical social worker services;
- 6 (h) prescribed drugs, dentures, and prosthetic devices;
- 7 (i) prescribed eyeglasses;
- 8 (j) other diagnostic, screening, preventive,
- 9 rehabilitative, chiropractic, and osteopathic services;
- 10 (k) inpatient psychiatric hospital services for persons
- 11 under 21 years of age;
- 12 (l) services of professional counselors licensed under
- 13 Title 37, chapter 23, if funds are specifically appropriated
- 14 for the inclusion of these services in the Montana medicaid
- 15 program;
- 16 (m) ambulatory prenatal care for pregnant women during
- 17 a presumptive eligibility period, as provided in 42 U.S.C.
- 18 1396a(a)(47) and 42 U.S.C. 1396r-1;
- 19 (n) inpatient psychiatric services for persons under 21
- 20 years of age, as provided in 42 U.S.C. 1396d(h), in a
- 21 residential treatment facility, as defined in 50-5-101, that
- 22 is licensed in accordance with 50-5-201;
- 23 ~~(n)~~(o) any additional medical service or aid allowable
- 24 under or provided by the federal Social Security Act.
- 25 (4) The department may implement, as provided for in

1 Title XIX of the federal Social Security Act (42 U.S.C.  
2 1396, et seq.), as may be amended, a program under medicaid  
3 for payment of medicare premiums, deductibles, and  
4 coinsurance for persons not otherwise eligible for medicaid.

5 (5) The department may set rates for medical and other  
6 services provided to recipients of medicaid and may enter  
7 into contracts for delivery of services to individual  
8 recipients or groups of recipients.

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

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

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

19 (9) If available funds are not sufficient to provide  
20 medical assistance for all eligible persons, the department  
21 may set priorities to limit, reduce, or otherwise curtail  
22 the amount, scope, or duration of the medical services made  
23 available under the Montana medicaid program.

24 (10) Community-based medicaid services, as provided for  
25 in part 4 of this chapter, must be provided in accordance

1 with the provisions of this chapter and the rules adopted  
2 thereunder. (Subsection (2)(j) terminates June 30,  
3 1991--sec. 4, Ch. 633, L. 1989; Subsection (3)(m) terminates  
4 June 30, 1991--sec. 15, Ch. 649, L. 1989.)"

5 NEW SECTION. **Section 5.** Repealer. Section 50-5-317,  
6 MCA, is repealed.

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

-End-

1 HOUSE BILL NO. 977  
2 INTRODUCED BY BRADLEY

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
5 RELATING TO RESIDENTIAL TREATMENT FACILITIES; ALLOWING  
6 MEDICAID REIMBURSEMENT FOR INPATIENT PSYCHIATRIC SERVICES  
7 FOR PERSONS UNDER 21 YEARS OF AGE IN A RESIDENTIAL TREATMENT  
8 FACILITY; REQUIRING LICENSURE OF A RESIDENTIAL TREATMENT  
9 FACILITY IN ORDER TO QUALIFY FOR MEDICAID REIMBURSEMENT;  
10 AMENDING SECTIONS 50-5-101, 50-5-301, 50-5-316, AND  
11 53-6-101, MCA; REPEALING SECTION 50-5-317, MCA; AND  
12 PROVIDING AN EFFECTIVE DATE."

13  
14 STATEMENT OF INTENT

15 IT IS THE INTENT OF THE LEGISLATURE, IN ENACTING THIS  
16 BILL, TO AMEND 50-5-316 TO EXEMPT PERSONS WHO OPERATE AN  
17 EXISTING FACILITY THAT MEETS THE DEFINITION OF A RESIDENTIAL  
18 TREATMENT FACILITY ON OR BEFORE AUGUST 1, 1991, FROM THE  
19 CERTIFICATE OF NEED REQUIREMENTS CONTAINED IN TITLE 50,  
20 CHAPTER 5, PART 3. THE LEGISLATURE FINDS THIS EXEMPTION  
21 APPROPRIATE FOR THE FOLLOWING REASONS:

22 (1) TWO YEARS AGO, CERTAIN ORGANIZATIONS THAT WERE  
23 PREPARED TO OPEN RESIDENTIAL TREATMENT FACILITIES WERE  
24 PREVENTED FROM OPERATING THESE FACILITIES, EVEN THOUGH THEY  
25 HAD AN APPLICATION PENDING FOR LICENSURE, BECAUSE OF

1 RESTRICTIONS CONTAINED IN HOUSE BILL NO. 304, WHICH WAS  
2 ENACTED IN 1989. THE RESTRICTIONS CONTAINED IN HOUSE BILL  
3 NO. 304 THAT PREVENTED THESE ORGANIZATIONS FROM OPERATING  
4 RESIDENTIAL TREATMENT FACILITIES HAVE BEEN ELIMINATED UNDER  
5 THIS BILL. THUS, AN EXEMPTION FOR THESE ORGANIZATIONS IS  
6 WARRANTED IN ORDER TO REDRESS THE SITUATION CREATED 2 YEARS  
7 AGO WITH ENACTMENT OF HOUSE BILL NO. 304 AND TO ALLOW THESE  
8 ORGANIZATIONS TO OPERATE EXISTING FACILITIES AS RESIDENTIAL  
9 TREATMENT FACILITIES.

10 (2) ACCORDING TO THE DEPARTMENT OF FAMILY SERVICES IN A  
11 REPORT TO THE LEGISLATURE, THERE IS PRESENTLY A NEED FOR AT  
12 LEAST 20 ADDITIONAL RESIDENTIAL TREATMENT FACILITY BEDS IN  
13 THIS STATE. IN LIGHT OF THIS PRESENT NEED, IT IS APPROPRIATE  
14 TO ALLOW AN EXEMPTION SO THE ORGANIZATIONS DESCRIBED IN  
15 SUBSECTION (1) CAN IMPLEMENT THEIR PLANS TO OPERATE  
16 RESIDENTIAL TREATMENT FACILITIES WITHOUT HAVING TO GO  
17 THROUGH THE EXPENSIVE AND TIME-CONSUMING PROCESS OF  
18 OBTAINING A CERTIFICATE OF NEED IN ORDER TO PROVIDE SERVICES  
19 THAT ARE KNOWN TO BE NEEDED NOW. ANY POSSIBILITY THAT THIS  
20 EXEMPTION MAY RESULT IN THE CREATION OF RESIDENTIAL  
21 TREATMENT FACILITY BEDS IN EXCESS OF THE EXISTING NEED IS  
22 MINIMAL IN LIGHT OF THE REALITIES OF COMPETITION AND THE  
23 LIMITED APPLICABILITY OF THE EXEMPTION THAT ALLOWS ONLY  
24 THOSE FACILITIES EXISTING ON OR BEFORE AUGUST 1, 1991, TO  
25 QUALIFY FOR THE EXEMPTION.

1  
2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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

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

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

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

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

25 (5) "Batch" means those letters of intent to seek

1 approval for new beds or major medical equipment that are  
2 accumulated during a single batching period.

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

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

10 (8) "Capital expenditure" means:

11 (a) an expenditure made by or on behalf of a health  
12 care facility that, under generally accepted accounting  
13 principles, is not properly chargeable as an expense of  
14 operation and maintenance; or

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

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

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



1 (11) "Chemical dependency facility" means a facility  
 2 whose function is the treatment, rehabilitation, and  
 3 prevention of the use of any chemical substance, including  
 4 alcohol, which creates behavioral or health problems and  
 5 endangers the health, interpersonal relationships, or  
 6 economic function of an individual or the public health,  
 7 welfare, or safety.

8 (12) "Clinical laboratory" means a facility for the  
 9 microbiological, serological, chemical, hematological,  
 10 radioassay, cytological, immunohematological,  
 11 pathological, or other examination of materials derived from  
 12 the human body for the purpose of providing information for  
 13 the diagnosis, prevention, or treatment of any disease or  
 14 assessment of a medical condition.

15 (13) "College of American pathologists" means the  
 16 organization nationally recognized by that name with  
 17 headquarters in Traverse City, Michigan, that surveys  
 18 clinical laboratories upon their requests and accredits  
 19 clinical laboratories that it finds meet its standards and  
 20 requirements.

21 (14) "Comparative review" means a joint review of two or  
 22 more certificate of need applications which are determined  
 23 by the department to be competitive in that the granting of  
 24 a certificate of need to one of the applicants would  
 25 substantially prejudice the department's review of the other

1 applications.

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

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

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

11 (18) "Governmental unit" means the state, a state  
 12 agency, a county, municipality, or political subdivision of  
 13 the state, or an agency of a political subdivision.

14 (19) "Health care facility" or "facility" means any  
 15 institution, building, or agency or portion thereof, private  
 16 or public, excluding federal facilities, whether organized  
 17 for profit or not, used, operated, or designed to provide  
 18 health services, medical treatment, or nursing,  
 19 rehabilitative, or preventive care to any person or persons.  
 20 The term does not include offices of private physicians or  
 21 dentists. The term includes but is not limited to ambulatory  
 22 surgical facilities, health maintenance organizations, home  
 23 health agencies, hospices, hospitals, infirmaries, kidney  
 24 treatment centers, long-term care facilities, medical  
 25 assistance facilities, mental health centers, outpatient

1 facilities, public health centers, rehabilitation  
2 facilities, residential treatment facilities, and adult  
3 day-care centers.

4 (20) "Health maintenance organization" means a public or  
5 private organization which provides or arranges for health  
6 care services to enrollees on a prepaid or other financial  
7 basis, either directly through provider employees or through  
8 contractual or other arrangements with a provider or group  
9 of providers.

10 (21) "Home health agency" means a public agency or  
11 private organization or subdivision thereof which is engaged  
12 in providing home health services to individuals in the  
13 places where they live. Home health services must include  
14 the services of a licensed registered nurse and at least one  
15 other therapeutic service and may include additional support  
16 services.

17 (22) "Hospice" means a coordinated program of home and  
18 inpatient health care that provides or coordinates  
19 palliative and supportive care to meet the needs of a  
20 terminally ill patient and his family arising out of  
21 physical, psychological, spiritual, social, and economic  
22 stresses experienced during the final stages of illness and  
23 dying and that includes formal bereavement programs as an  
24 essential component.

25 (23) "Hospital" means a facility providing, by or under

1 the supervision of licensed physicians, services for medical  
2 diagnosis, treatment, rehabilitation, and care of injured,  
3 disabled, or sick persons. Services provided may or may not  
4 include obstetrical care, emergency care, or any other  
5 service as allowed by state licensing authority. A hospital  
6 has an organized medical staff which is on call and  
7 available within 20 minutes, 24 hours per day, 7 days per  
8 week, and provides 24-hour nursing care by licensed  
9 registered nurses. This term includes hospitals specializing  
10 in providing health services for psychiatric, mentally  
11 retarded, and tubercular patients.

12 (24) "Infirmiry" means a facility located in a  
13 university, college, government institution, or industry for  
14 the treatment of the sick or injured, with the following  
15 subdefinitions:

16 (a) an "infirmiry--A" provides outpatient and inpatient  
17 care;

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

19 (25) "Joint commission on accreditation of hospitals"  
20 means the organization nationally recognized by that name  
21 with headquarters in Chicago, Illinois, that surveys health  
22 care facilities upon their requests and grants accreditation  
23 status to any health care facility that it finds meets its  
24 standards and requirements.

25 (26) "Kidney treatment center" means a facility which

1 specializes in treatment of kidney diseases, including  
2 freestanding hemodialysis units.

3 (27) (a) "Long-term care facility" means a facility or  
4 part thereof which provides skilled nursing care,  
5 intermediate nursing care, or intermediate developmental  
6 disability care to a total of two or more persons or  
7 personal care to more than four persons who are not related  
8 to the owner or administrator by blood or marriage. The term  
9 does not include adult foster care licensed under 53-5-303,  
10 community homes for the developmentally disabled licensed  
11 under 53-20-305, community homes for persons with severe  
12 disabilities licensed under 53-19-203, youth care facilities  
13 licensed under 41-3-1142, hotels, motels, boardinghouses,  
14 roominghouses, or similar accommodations providing for  
15 transients, students, or persons not requiring institutional  
16 health care, or juvenile and adult correctional facilities  
17 operating under the authority of the department of  
18 institutions.

19 (b) "Skilled nursing care" means the provision of  
20 nursing care services, health-related services, and social  
21 services under the supervision of a licensed registered  
22 nurse on a 24-hour basis.

23 (c) "Intermediate nursing care" means the provision of  
24 nursing care services, health-related services, and social  
25 services under the supervision of a licensed nurse to

1 patients not requiring 24-hour nursing care.

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

7 (e) "Personal care" means the provision of services and  
8 care which do not require nursing skills to residents  
9 needing some assistance in performing the activities of  
10 daily living.

11 (28) "Major medical equipment" means a single unit of  
12 medical equipment or a single system of components with  
13 related functions which is used to provide medical or other  
14 health services and costs a substantial sum of money.

15 (29) "Medical assistance facility" means a facility  
16 that:

17 (a) provides inpatient care to ill or injured persons  
18 prior to their transportation to a hospital or provides  
19 inpatient medical care to persons needing that care for a  
20 period of no longer than 96 hours; and

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

24 (30) "Mental health center" means a facility providing  
25 services for the prevention or diagnosis of mental illness,

1 the care and treatment of mentally ill patients or the  
2 rehabilitation of such persons, or any combination of these  
3 services.

4 (31) "Nonprofit health care facility" means a health  
5 care facility owned or operated by one or more nonprofit  
6 corporations or associations.

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

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

12 (34) "Outpatient facility" means a facility, located in  
13 or apart from a hospital, providing, under the direction of  
14 a licensed physician, either diagnosis or treatment, or  
15 both, to ambulatory patients in need of medical, surgical,  
16 or mental care. An outpatient facility may have observation  
17 beds.

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

20 (36) "Person" means any individual, firm, partnership,  
21 association, organization, agency, institution, corporation,  
22 trust, estate, or governmental unit, whether organized for  
23 profit or not.

24 (37) "Public health center" means a publicly owned  
25 facility providing health services, including laboratories,

1 clinics, and administrative offices.

2 (38) "Rehabilitation facility" means a facility which is  
3 operated for the primary purpose of assisting in the  
4 rehabilitation of disabled persons by providing  
5 comprehensive medical evaluations and services,  
6 psychological and social services, or vocational evaluation  
7 and training or any combination of these services and in  
8 which the major portion of the services is furnished within  
9 the facility.

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

12 (40) "Residential treatment facility" means a facility  
13 of not less than 30 beds that is operated by a nonprofit  
14 corporation or association for the primary purpose of  
15 providing long-term treatment services for mental illness in  
16 a nonhospital-based residential setting to persons under 21  
17 years of age.

18 (41) "State health plan" means the plan prepared by the  
19 department to project the need for health care facilities  
20 within Montana and approved by the statewide health  
21 coordinating council and the governor.

22 50-5-101. (Effective July 1, 1991) Definitions. As used  
23 in parts 1 through 4 of this chapter, unless the context  
24 clearly indicates otherwise, the following definitions  
25 apply:

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

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

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

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

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

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

1 assessment of a medical condition.

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

8 (8) "Department" means the department of health and  
9 environmental sciences provided for in Title 2, chapter 15,  
10 part 21.

11 (9) "Federal acts" means federal statutes for the  
12 construction of health care facilities.

13 (10) "Governmental unit" means the state, a state  
14 agency, a county, municipality, or political subdivision of  
15 the state, or an agency of a political subdivision.

16 (11) "Health care facility" or "facility" means any  
17 institution, building, or agency or portion thereof, private  
18 or public, excluding federal facilities, whether organized  
19 for profit or not, used, operated, or designed to provide  
20 health services, medical treatment, or nursing,  
21 rehabilitative, or preventive care to any person or persons.  
22 The term does not include offices of private physicians or  
23 dentists. The term includes but is not limited to ambulatory  
24 surgical facilities, health maintenance organizations, home  
25 health agencies, hospices, hospitals, infirmaries, kidney

1 treatment centers, long-term care facilities, medical  
2 assistance facilities, mental health centers, outpatient  
3 facilities, public health centers, rehabilitation  
4 facilities, residential treatment facilities, and adult  
5 day-care centers.

6 (12) "Health maintenance organization" means a public or  
7 private organization that provides or arranges for health  
8 care services to enrollees on a prepaid or other financial  
9 basis, either directly through provider employees or through  
10 contractual or other arrangements with a provider or group  
11 of providers.

12 (13) "Home health agency" means a public agency or  
13 private organization or subdivision thereof which is engaged  
14 in providing home health services to individuals in the  
15 places where they live. Home health services must include  
16 the services of a licensed registered nurse and at least one  
17 other therapeutic service and may include additional support  
18 services.

19 (14) "Hospice" means a coordinated program of home and  
20 inpatient health care that provides or coordinates  
21 palliative and supportive care to meet the needs of a  
22 terminally ill patient and his family arising out of  
23 physical, psychological, spiritual, social, and economic  
24 stresses experienced during the final stages of illness and  
25 dying and that includes formal bereavement programs as an

1 essential component.

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

14 (16) "Infirmiry" means a facility located in a  
15 university, college, government institution, or industry for  
16 the treatment of the sick or injured, with the following  
17 subdefinitions:

18 (a) an "infirmiry--A" provides outpatient and inpatient  
19 care;

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

21 (17) "Joint commission on accreditation of hospitals"  
22 means the organization nationally recognized by that name  
23 with headquarters in Chicago, Illinois, that surveys health  
24 care facilities upon their requests and grants accreditation  
25 status to any health care facility that it finds meets its

1 standards and requirements.

2 (18) "Kidney treatment center" means a facility which  
3 specializes in treatment of kidney diseases, including  
4 freestanding hemodialysis units.

5 (19) (a) "Long-term care facility" means a facility or  
6 part thereof which provides skilled nursing care,  
7 intermediate nursing care, or intermediate developmental  
8 disability care to a total of two or more persons or  
9 personal care to more than four persons who are not related  
10 to the owner or administrator by blood or marriage. The term  
11 does not include adult foster care licensed under 53-5-303,  
12 community homes for the developmentally disabled licensed  
13 under 53-20-305, community homes for persons with severe  
14 disabilities licensed under 53-19-203, youth care facilities  
15 licensed under 41-3-1142, hotels, motels, boardinghouses,  
16 roominghouses, or similar accommodations providing for  
17 transients, students, or persons not requiring institutional  
18 health care, or juvenile and adult correctional facilities  
19 operating under the authority of the department of  
20 institutions.

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

25 (c) "Intermediate nursing care" means the provision of

1 nursing care services, health-related services, and social  
2 services under the supervision of a licensed nurse to  
3 patients not requiring 24-hour nursing care.

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

9 (e) "Personal care" means the provision of services and  
10 care which do not require nursing skills to residents  
11 needing some assistance in performing the activities of  
12 daily living.

13 (20) "Medical assistance facility" means a facility  
14 that:

15 (a) provides inpatient care to ill or injured persons  
16 prior to their transportation to a hospital or provides  
17 inpatient medical care to persons needing that care for a  
18 period of no longer than 96 hours; and

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

22 (21) "Mental health center" means a facility providing  
23 services for the prevention or diagnosis of mental illness,  
24 the care and treatment of mentally ill patients or the  
25 rehabilitation of such persons, or any combination of these

1 services.

2 (22) "Nonprofit health care facility" means a health  
3 care facility owned or operated by one or more nonprofit  
4 corporations or associations.

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

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

10 (25) "Outpatient facility" means a facility, located in  
11 or apart from a hospital, providing, under the direction of  
12 a licensed physician, either diagnosis or treatment, or  
13 both, to ambulatory patients in need of medical, surgical,  
14 or mental care. An outpatient facility may have observation  
15 beds.

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

18 (27) "Person" means any individual, firm, partnership,  
19 association, organization, agency, institution, corporation,  
20 trust, estate, or governmental unit, whether organized for  
21 profit or not.

22 (28) "Public health center" means a publicly owned  
23 facility providing health services, including laboratories,  
24 clinics, and administrative offices.

25 (29) "Rehabilitation facility" means a facility which is

1 operated for the primary purpose of assisting in the  
2 rehabilitation of disabled persons by providing  
3 comprehensive medical evaluations and services,  
4 psychological and social services, or vocational evaluation  
5 and training or any combination of these services and in  
6 which the major portion of the services is furnished within  
7 the facility.

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

10 (31) "Residential psychiatric care" means active  
11 psychiatric treatment provided in a residential treatment  
12 facility to psychiatrically impaired individuals with  
13 persistent patterns of emotional, psychological, or  
14 behavioral dysfunction of such severity as to require  
15 24-hour supervised care to adequately treat or remedy the  
16 individual's condition. Residential psychiatric care must be  
17 individualized and designed to achieve the patient's  
18 discharge to less restrictive levels of care at the earliest  
19 possible time.

20 ~~(31)~~ (32) "Residential treatment facility" means a  
21 facility of ~~not less than 30 beds that is~~ operated by a  
22 ~~nonprofit corporation or association~~ for the primary purpose  
23 of providing ~~long-term treatment services for mental illness~~  
24 ~~in a nonhospital-based residential setting~~ psychiatric care  
25 to persons under 21 years of age.



1       ~~(32)~~(33) "State health plan" means the plan prepared by  
 2 the department to project the need for health care  
 3 facilities within Montana and approved by the statewide  
 4 health coordinating council and the governor."

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

6       **"50-5-301. (Temporary) When certificate of need is**  
 7 **required -- definitions.** (1) Unless a person has submitted  
 8 an application for and is the holder of a certificate of  
 9 need granted by the department, he may not initiate any of  
 10 the following:

11       (a) the incurring of an obligation by or on behalf of a  
 12 health care facility for any capital expenditure, other than  
 13 to acquire an existing health care facility or to replace  
 14 major medical equipment with equipment performing  
 15 substantially the same function and in the same manner, that  
 16 exceeds the expenditure thresholds established in subsection  
 17 (4). The costs of any studies, surveys, designs, plans,  
 18 working drawings, specifications, and other activities  
 19 (including staff effort, consulting, and other services)  
 20 essential to the acquisition, improvement, expansion, or  
 21 replacement of any plant or equipment with respect to which  
 22 an expenditure is made must be included in determining if  
 23 the expenditure exceeds the expenditure thresholds.

24       (b) a change in the bed capacity of a health care  
 25 facility through an increase in the number of beds or a

1 relocation of beds from one health care facility or site to  
 2 another, unless:

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

7       (ii) a letter of intent is submitted to the department;  
 8 and

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

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

18       (d) the acquisition by any person of major medical  
 19 equipment, provided such acquisition would have required a  
 20 certificate of need pursuant to subsection (1)(a) or (1)(c)  
 21 if it had been made by or on behalf of a health care  
 22 facility;

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

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

3 (ii) the department finds that the acquisition will not  
4 significantly increase the cost of care provided or increase  
5 bed capacity;

6 (f) the construction, development, or other  
7 establishment of a health care facility which is being  
8 replaced or which did not previously exist, by any person,  
9 including another type of health care facility;

10 (g) the expansion of the geographical service area of a  
11 home health agency;

12 (h) the use of hospital beds to provide services to  
13 patients or residents needing only skilled nursing care,  
14 intermediate nursing care, or intermediate developmental  
15 disability care, as those levels of care are defined in  
16 50-5-101; or

17 (i) the provision by a hospital of services for  
18 ambulatory surgical care, home health care, long-term care,  
19 inpatient mental health care, inpatient chemical dependency  
20 treatment, inpatient rehabilitation, or personal care.

21 (2) For purposes of subsection (1)(b), a change in bed  
22 capacity occurs on the date new or relocated beds are  
23 licensed pursuant to part 2 of this chapter and the date a  
24 final decision is made to grant a certificate of need for  
25 new or relocated beds, unless the certificate of need

1 expires pursuant to 50-5-305.

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

4 (a) "Health care facility" or "facility" means a  
5 nonfederal ambulatory surgical facility, home health agency,  
6 long-term care facility, medical assistance facility, mental  
7 health center with inpatient services, inpatient chemical  
8 dependency facility, rehabilitation facility with inpatient  
9 services, residential treatment facility, or personal care  
10 facility. The term does not include a hospital, except to  
11 the extent that a hospital is subject to certificate of need  
12 requirements pursuant to subsection (1)(i).

13 (b) (i) "Long-term care facility" means an entity which  
14 provides skilled nursing care, intermediate nursing care, or  
15 intermediate developmental disability care, as defined in  
16 50-5-101, to a total of two or more persons.

17 (ii) The term does not include adult foster care,  
18 licensed under 53-5-303; community homes for the  
19 developmentally disabled, licensed under 53-20-305;  
20 community homes for persons with severe disabilities,  
21 licensed under 53-19-203; boarding or foster homes for  
22 children, licensed under 41-3-1142; hotels, motels,  
23 boardinghouses, roominghouses, or similar accommodations  
24 providing for transients, students, or persons not requiring  
25 institutional health care; or juvenile and adult

1 correctional facilities operating under the authority of the  
2 department of institutions.

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

8 (d) "Personal care facility" means an entity which  
9 provides services and care which do not require nursing  
10 skills to more than four persons who are not related to the  
11 owner or administrator by blood or marriage and who need  
12 some assistance in performing the activities of everyday  
13 living. The term does not include those entities excluded  
14 from the definition of "long-term care facility" in  
15 subsection (3)(b).

16 (4) Expenditure thresholds for certificate of need  
17 review are established as follows:

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

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

24 **SECTION 3. SECTION 50-5-316, MCA, IS AMENDED TO READ:**

25 "50-5-316. Certificate of need for residential

1 treatment facility. A (1) Except as provided in subsection  
2 (2), a person may not operate a residential treatment  
3 facility unless he has obtained a certificate of need issued  
4 by the department as provided under this part.

5 (2) A person who operates an existing facility that  
6 meets the definition of, and all statutory and regulatory  
7 requirements for, a residential treatment facility on or  
8 before August 1, 1991, may receive a license to operate the  
9 facility as a residential treatment facility and need not  
10 obtain a certificate of need as otherwise required under  
11 this section."

12 **Section 4.** Section 53-6-101, MCA, is amended to read:

13 "53-6-101. Montana medicaid program -- authorization of  
14 services. (1) There is a Montana medicaid program  
15 established for the purpose of providing necessary medical  
16 services to eligible persons who have need for medical  
17 assistance. The Montana medicaid program is a joint  
18 federal-state program administered under this chapter and in  
19 accordance with Title XIX of the federal Social Security Act  
20 (42 U.S.C. 1396, et seq.), as may be amended. The department  
21 of social and rehabilitation services shall administer the  
22 Montana medicaid program.

23 (2) Medical assistance provided by the Montana medicaid  
24 program includes the following services:

25 (a) inpatient hospital services;

- 1 (b) outpatient hospital services;
- 2 (c) other laboratory and x-ray services;
- 3 (d) skilled nursing services in long-term care
- 4 facilities;
- 5 (e) physicians' services;
- 6 (f) nurse specialist services;
- 7 (g) early and periodic screening, diagnosis, and
- 8 treatment services for persons under 21 years of age;
- 9 (h) services provided by physician assistants-certified
- 10 within the scope of their practice and that are otherwise
- 11 directly reimbursed as allowed under department rule to an
- 12 existing provider;
- 13 (i) health services provided under a physician's orders
- 14 by a public health department; and
- 15 (j) hospice care as defined in 42 U.S.C. 1396d(o).
- 16 (3) Medical assistance provided by the Montana medicaid
- 17 program may, as provided by department rule, also include
- 18 the following services:
- 19 (a) medical care or any other type of remedial care
- 20 recognized under state law, furnished by licensed
- 21 practitioners within the scope of their practice as defined
- 22 by state law;
- 23 (b) home health care services;
- 24 (c) private-duty nursing services;
- 25 (d) dental services;

- 1 (e) physical therapy services;
- 2 (f) mental health center services administered and
- 3 funded under a state mental health program authorized under
- 4 Title 53, chapter 21, part 2;
- 5 (g) clinical social worker services;
- 6 (h) prescribed drugs, dentures, and prosthetic devices;
- 7 (i) prescribed eyeglasses;
- 8 (j) other diagnostic, screening, preventive,
- 9 rehabilitative, chiropractic, and osteopathic services;
- 10 (k) inpatient psychiatric hospital services for persons
- 11 under 21 years of age;
- 12 (l) services of professional counselors licensed under
- 13 Title 37, chapter 23, if funds are specifically appropriated
- 14 for the inclusion of these services in the Montana medicaid
- 15 program;
- 16 (m) ambulatory prenatal care for pregnant women during
- 17 a presumptive eligibility period, as provided in 42 U.S.C.
- 18 1396a(a)(47) and 42 U.S.C. 1396r-1;
- 19 (n) inpatient psychiatric services for persons under 21
- 20 years of age, as provided in 42 U.S.C. 1396d(h), in a
- 21 residential treatment facility, as defined in 50-5-101, that
- 22 is licensed in accordance with 50-5-201;
- 23 ~~(n)~~(o) any additional medical service or aid allowable
- 24 under or provided by the federal Social Security Act.
- 25 (4) The department may implement, as provided for in

1 Title XIX of the federal Social Security Act (42 U.S.C.  
2 1396, et seq.), as may be amended, a program under medicaid  
3 for payment of medicare premiums, deductibles, and  
4 coinsurance for persons not otherwise eligible for medicaid.

5 (5) The department may set rates for medical and other  
6 services provided to recipients of medicaid and may enter  
7 into contracts for delivery of services to individual  
8 recipients or groups of recipients.

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

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

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

19 (9) If available funds are not sufficient to provide  
20 medical assistance for all eligible persons, the department  
21 may set priorities to limit, reduce, or otherwise curtail  
22 the amount, scope, or duration of the medical services made  
23 available under the Montana medicaid program.

24 (10) Community-based medicaid services, as provided for  
25 in part 4 of this chapter, must be provided in accordance

1 with the provisions of this chapter and the rules adopted  
2 thereunder. (Subsection (2)(j) terminates June 30,  
3 1991--sec. 4, Ch. 633, L. 1989; Subsection (3)(m) terminates  
4 June 30, 1991--sec. 15, Ch. 649, L. 1989.)"

5 NEW SECTION. **Section 5.** Repealer. Section 50-5-317,  
6 MCA, is repealed.

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

-End-

GOVERNOR'S AMENDMENTS TO  
HOUSE BILL 977  
(REFERENCE COPY, AS AMENDED)  
April 25, 1991

1. Title, line 10.

Following: "50-5-301."

Strike: "50-5-316"

2. Pages 1 and 2.

Strike: Statement of Intent in its entirety

3. Page 26, lines 1 and 2.

Following: "A"

Strike: "(1) Except as provided in subsection (2), a"

Insert: "A"

4. Page 26, lines 5 through 11.

Strike: subsection (2) in its entirety

Gov Amend.  
HB 977

4/29/91  
3:01pm  
BGA

Free Conference Committee  
on House Bill 977  
Report No. 1, April 29, 1991

Mr. Speaker and Mr. President:

Free  
We, your Conference Committee on House Bill 977 met and considered the Governor's amendments, dated April 25, 1991, and recommend that the amendments be accepted in their entirety.

Free  
And this Conference Committee report be adopted.

For the House:

For the Senate:

Donohy Bradley  
Rep. Bradley, Chair

Magrison Waterman  
Sen. Waterman, Chair

John Johnson  
Rep. John Johnson

Earl Franklin  
Sen. Franklin

Fred Thomas  
Rep. Fred Thomas

Tom Hager  
Sen. Hager

ADOPT  
REJECT

FCCR#1  
HB977  
901423CC.HSF



AN ACT REVISING THE LAWS RELATING TO RESIDENTIAL TREATMENT FACILITIES; ALLOWING MEDICAID REIMBURSEMENT FOR INPATIENT PSYCHIATRIC SERVICES FOR PERSONS UNDER 21 YEARS OF AGE IN A RESIDENTIAL TREATMENT FACILITY; REQUIRING LICENSURE OF A RESIDENTIAL TREATMENT FACILITY IN ORDER TO QUALIFY FOR MEDICAID REIMBURSEMENT; AMENDING SECTIONS 50-5-101, 50-5-301, AND 53-6-101, MCA; REPEALING SECTION 50-5-317, MCA; 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 care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or

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

(9) "Certificate of need" means a written authorization by



the department for a person to proceed with a proposal subject to 50-5-301.

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

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

(12) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or assessment of a medical condition.

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

(14) "Comparative review" means a joint review of two or more certificate of need applications which are determined by the

department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.

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

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

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

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

(19) "Health care facility" or "facility" means any institution, building, or agency or portion thereof, private or public, excluding federal facilities, whether organized for profit or not, used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. The term does not include offices of private physicians or dentists. The term includes but is not limited to ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, hospitals, infirmaries, kidney treatment centers, long-term care facilities,

medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, and adult day-care centers.

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

(21) "Home health agency" means a public agency or private organization or subdivision thereof which is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

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

(23) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick persons. Services provided may or may not

include obstetrical care, emergency care, or any other service as allowed by state licensing authority. A hospital has an organized medical staff which is on call and available within 20 minutes, 24 hours per day, 7 days per week, and provides 24-hour nursing care by licensed registered nurses. This term includes hospitals specializing in providing health services for psychiatric, mentally retarded, and tubercular patients.

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

- (a) an "infirmiry--A" provides outpatient and inpatient care;
- (b) an "infirmiry--B" provides outpatient care only.

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

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

(27) (a) "Long-term care facility" means a facility or part thereof which provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care to a total of two or more persons or personal care to more than four persons who

are not related to the owner or administrator by blood or marriage. The term does not include adult foster care licensed under 53-5-303, community homes for the developmentally disabled licensed under 53-20-305, community homes for persons with severe disabilities licensed under 53-19-203, youth care facilities licensed under 41-3-1142, hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or persons not requiring institutional health care, or juvenile and adult correctional facilities operating under the authority of the department of institutions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ambulatory patients in need of medical, surgical, or mental care. An outpatient facility may have observation beds.

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

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

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

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

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

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

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

50-5-101. (Effective July 1, 1991) 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) "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.

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

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

(6) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobiassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or assessment of a medical condition.

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

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

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

(10) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

(11) "Health care facility" or "facility" means any institution, building, or agency or portion thereof, private or public, excluding federal facilities, whether organized for profit or not, used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. The term does not include offices of

private physicians or dentists. The term includes but is not limited to ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, hospitals, infirmaries, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, and adult day-care centers.

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

(13) "Home health agency" means a public agency or private organization or subdivision thereof which is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

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

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

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

- (a) an "infirmery--A" provides outpatient and inpatient care;
- (b) an "infirmery--B" provides outpatient care only.

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

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

(19) (a) "Long-term care facility" means a facility or part thereof which provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care to a total of two or more persons or personal care to more than four persons who are not related to the owner or administrator by blood or marriage. The term does not include adult foster care licensed under 53-5-303, community homes for the developmentally disabled licensed under 53-20-305, community homes for persons with severe disabilities licensed under 53-19-203, youth care facilities licensed under 41-3-1142, hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or persons not requiring institutional health care, or juvenile and adult correctional facilities operating under the authority of the department of institutions.

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

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

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

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

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

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

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

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

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

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

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

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

ambulatory patients in need of medical, surgical, or mental care. An outpatient facility may have observation beds.

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

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

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

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

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

(31) "Residential psychiatric care" means active psychiatric treatment provided in a residential treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat

or remedy the individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

~~(31)~~(32) "Residential treatment facility" means a facility of ~~not less than 30 beds that is~~ operated by a nonprofit corporation or association for the primary purpose of providing long-term ~~treatment services for mental illness in a nonhospital-based~~ residential setting psychiatric care to persons under 21 years of age.

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

Section 2. Section 50-5-301, MCA, is amended to read:

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

(a) the incurring of an obligation by or on behalf of a health care facility for any capital expenditure, other than to acquire an existing health care facility or to replace major medical equipment with equipment performing substantially the same function and in the same manner, that exceeds the expenditure thresholds established in subsection (4). The costs of any

studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort, consulting, and other services) essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made must be included in determining if the expenditure exceeds the expenditure thresholds.

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

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

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

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

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

(d) the acquisition by any person of major medical equipment, provided such acquisition would have required a certificate of need pursuant to subsection (1)(a) or (1)(c) if it had been made



by or on behalf of a health care facility;

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

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

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

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

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

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

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

(2) For purposes of subsection (1)(b), a change in bed capacity occurs on the date new or relocated beds are licensed

pursuant to part 2 of this chapter and the date a final decision is made to grant a certificate of need for new or relocated beds, unless the certificate of need expires pursuant to 50-5-305.

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

(a) "Health care facility" or "facility" means a nonfederal ambulatory surgical facility, home health agency, long-term care facility, medical assistance facility, mental health center with inpatient services, inpatient chemical dependency facility, rehabilitation facility with inpatient services, residential treatment facility, or personal care facility. The term does not include a hospital, except to the extent that a hospital is subject to certificate of need requirements pursuant to subsection (1)(i).

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

(ii) The term does not include adult foster care, licensed under 53-5-303; community homes for the developmentally disabled, licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 53-19-203; boarding or foster homes for children, licensed under 41-3-1142; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or persons not requiring institutional

health care; or juvenile and adult correctional facilities operating under the authority of the department of institutions.

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

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

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

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

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

Section 3. Section 53-6-101, MCA, is amended to read:

"53-6-101. Montana medicaid program -- authorization of services. (1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible

persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended. The department of social and rehabilitation services shall administer the Montana medicaid program.

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

- (a) inpatient hospital services;
- (b) outpatient hospital services;
- (c) other laboratory and x-ray services;
- (d) skilled nursing services in long-term care facilities;
- (e) physicians' services;
- (f) nurse specialist services;
- (g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age;

(h) services provided by physician assistants-certified within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(i) health services provided under a physician's orders by a public health department; and

(j) hospice care as defined in 42 U.S.C. 1396d(o).

(3) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the

following services:

- (a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;
- (b) home health care services;
- (c) private-duty nursing services;
- (d) dental services;
- (e) physical therapy services;
- (f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 2;
- (g) clinical social worker services;
- (h) prescribed drugs, dentures, and prosthetic devices;
- (i) prescribed eyeglasses;
- (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
- (k) inpatient psychiatric hospital services for persons under 21 years of age;
- (l) services of professional counselors licensed under Title 37, chapter 23, if funds are specifically appropriated for the inclusion of these services in the Montana medicaid program;
- (m) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;
- (n) inpatient psychiatric services for persons under 21 years

of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201;

~~tn)(o)~~ any additional medical service or aid allowable under or provided by the federal Social Security Act.

(4) The department may implement, as provided for in Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(5) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

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

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

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

(9) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set

priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program.

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

Section 4. Repealer. Section 50-5-317, MCA, is repealed.

Section 5. Effective date. [This act] is effective July 1, 1991.