

1 *Senate* BILL NO. *316*
 2 INTRODUCED BY *Lee Flynn Steinhilber Nealy Martin*
 3 *Rosell Blylock Seibel LYNCH*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
 5 69-5201, AND 69-5212, R.C.M. 1947, TO MEET FEDERAL
 6 REQUIREMENTS BY REDEFINING OUTPATIENT FACILITIES, INCLUDING
 7 A DEFINITION OF CONSTRUCTION AND REQUIRING APPROVAL FROM THE
 8 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FOR THE
 9 CONSTRUCTION OF HEALTH CARE FACILITIES."

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

12 Section 1. Section 69-5201, R.C.M. 1947, is amended to
 13 read as follows:

14 "69-5201. Definitions. As used in this chapter, unless
 15 the context clearly indicates otherwise:

16 (1) "Hospital" means any health care facility licensed
 17 by the department of health and environmental sciences to
 18 provide, by or under the supervision of licensed physicians,
 19 services for medical diagnosis, treatment, and care of
 20 injured, disabled, or sick persons. Services provided may or
 21 may not include obstetrical care. A health care facility in
 22 order to be licensed as a hospital must have an organized
 23 medical staff; shall provide twenty-four (24) hour nursing
 24 care by licensed professional nurses and shall be in
 25 compliance with the regulations for licensed hospitals as

1 promulgated and adopted by the state department of health
 2 and environmental sciences.

3 (2) "Hospital related facility" means a facility
 4 licensed by the department of health and environmental
 5 sciences to provide any or all of the following: diagnosis;
 6 treatment; medical or nursing care or medically related
 7 rehabilitation services. Such facilities include, but are
 8 not limited to, outpatient facilities, public health
 9 centers, rehabilitation facilities, long-term care
 10 facilities, infirmaries, mental health and mental
 11 retardation institutions, alcohol and drug dependency
 12 centers and half-way houses. A health care facility in order
 13 to be licensed as a "hospital related facility" shall be in
 14 compliance with the regulations, for the specific category
 15 of facility, as promulgated and adopted by the state
 16 department of health and environmental sciences.

17 ~~(a) "Outpatient facility" means a place, located in or~~
 18 ~~apart from a hospital, which provides to ambulatory patients~~
 19 ~~not requiring hospitalization the services of persons~~
 20 ~~licensed to practice medicine or dentistry in the state of~~
 21 ~~Montana, and which makes provision for its patients to~~
 22 ~~receive a reasonably full range of physical or mental~~
 23 ~~diagnostic and treatment services;~~

24 ~~(i) "Outpatient facility" A is operated as an~~
 25 ~~organizational component of a hospital and may establish~~

~~observation--beds,--"Observation--beds"---are---those---beds
established--for--use--by--an--outpatient--recovering--from--minor
surgery--or--other--treatment--and--will--be--occupied--for--a--period
of--time--not--in--excess--of--six--(6)--hours.~~

~~(ii)--"Outpatient--facility---B"---is--operated--apart--from--a
hospital--and--may--not--include--observation--beds.~~

(a) "Outpatient facility -- A" means a physically
separate component of a licensed hospital, or a medical
clinic or other establishment owned or operated by a
licensed physician or physicians, which has an observation
bed or beds and which provides to patients, not requiring
hospitalization, the services of persons licensed to
practice medicine or dentistry in the state of Montana. An
"observation bed" is a bed used by a patient recovering from
surgery or other treatment. No patient shall be allowed to
remain in an outpatient facility for more than six (6)
hours.

(b) "Outpatient facility -- B" means a facility
operated physically apart from a hospital, other than a
medical clinic or other establishment owned or operated by a
licensed physician or physicians, which provides to
ambulatory patients, not requiring hospitalization, the
services of persons licensed to practice medicine or
dentistry in the state of Montana, but which does not have
an observation bed or beds as defined in subsection (2) (a).

~~(b)~~ (c) "Public health centers" means a publicly owned
facility utilized by a local health unit for the provision
of public health services, including related public
facilities such as laboratories, clinics, and administrative
offices operated in connection with public health centers.

~~(c)~~ (d) "Rehabilitation facility" means a facility
providing community service which is operated for the
primary purpose of assisting in the rehabilitation of
disabled persons through an integrated program under
competent professional supervision including: medical
services and evaluation; and psychological, social and
vocational services and evaluation.

~~(d)~~ (e) "Long-term care facility" means a place which
provides skilled nursing care to a total of two (2) or more
persons or personal care to more than three (3) persons, who
by reason of illness or disability are unable to properly
care for themselves and are not related to the owner or
administrator by blood or marriage, and may be defined as
follows:

(i) "Skilled nursing facilities" are establishments
furnishing continuous skilled nursing care and related
services twenty-four (24) hours a day.

(ii) "Intermediate care facilities -- A" are
establishments furnishing limited skilled nursing care and
personal care.

1 (iii) "Intermediate care facilities -- B" are
2 establishments providing only personal care and services to
3 residents.

4 (iv) "Combination facilities" are establishments
5 providing two (2) or more of the following services: skilled
6 nursing care and intermediate care -- A and/or B.

7 (v) Hotels, motels, boarding houses, rooming houses, or
8 similar accommodations providing for transients, students,
9 or persons not requiring institutional health care are not
10 considered to be long-term care facilities.

11 ~~(e)~~ (f) "Infirmiry" means a facility located in a
12 university, college, government institution, or industry,
13 for the treatment of the sick or injured.

14 (i) "Infirmiry -- A" provides outpatient and inpatient
15 care.

16 (ii) "Infirmiry -- B" provides outpatient care only.

17 (3) "Person" means any individual, firm, partnership,
18 association or corporation, or governmental unit.

19 (4) "Governmental unit" means the state, a state
20 agency, any county, municipality, political subdivision of
21 the state or an agency of any political subdivision.

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

24 (6) "Health care facility" means a hospital, hospital
25 related facility or long-term care facility.

1 (7) "Department" means state department of health and
2 environmental sciences.

3 (9) "Construction" means the erection, expansion,
4 remodeling or alteration of any new or existing facility,
5 the capital expenditure for which amounts to fifty thousand
6 dollars (\$50,000) or more in any twelve month period; or any
7 substantial change in services, or any increase or decrease
8 in the number of beds in excess of ten percent (10%) of the
9 licensed capacity of the facility, or in excess of ten (10)
10 beds, whichever is the lesser; or any purchase of
11 therapeutic or diagnostic equipment (excluding replacement
12 of existing equipment) in any twelve month period, at a cost
13 exceeding two percent (2%) of the facility's total operating
14 costs for the most recently completed fiscal year up to a
15 maximum of one hundred thousand dollars (\$100,000), or
16 exceeding ten thousand dollars (\$10,000), whichever is
17 larger. All exemptions from this definition must
18 nevertheless be consistent with the state medical facilities
19 plan of the department."

20 Section 2. Section 69-5212, R.C.M. 1947, is amended to
21 read as follows:

22 "69-5212. Alteration---or---addition---to---facility
23 Construction, expansion, remodeling, or alteration of a
24 facility -- approval of plans and specifications by the
25 department of health and environmental sciences.

1 (1) The department may adopt rules to require an
 2 applicant or licensee who contemplates alteration or
 3 addition to a health care facility to submit plans and
 4 specifications to the department for preliminary inspection
 5 and approval prior to commencing construction. Approval may
 6 be given only if the plans and specifications conform to the
 7 state or the municipal building code which applies to the
 8 facility.

9 (2) Penalties for failure to obtain prior approval of
 10 the department are as follows:

11 (a) Any person who constructs any new health care
 12 facility as defined in section 69-5201 without prior
 13 approval by the department is guilty of a misdemeanor and
 14 shall be punished by a fine of not less than one thousand
 15 dollars (\$1,000) nor more than ten thousand dollars
 16 (\$10,000), the fine to be deposited in the state general
 17 fund, and this new facility is not eligible for licensure as
 18 a health care facility as defined in section 69-5201.

19 (b) Any person who expands, remodels or alters an
 20 existing health care facility as defined in section 69-5201
 21 without prior written approval by the department is guilty
 22 of a misdemeanor and shall be punished by a fine of not less
 23 than one thousand dollars (\$1,000) nor more than ten
 24 thousand dollars (\$10,000), the fine to be deposited in the
 25 state general fund. An application for approval must be

1 submitted to the department in a form together with
 2 information as the department may prescribe. The
 3 application shall include:

4 (i) a narrative description of the proposed project;

5 (ii) the number and type of beds and/or services to be
 6 provided;

7 (iii) the estimated cost;

8 (iv) the source of financing;

9 (v) the expected time for completion of the proposed
 10 project; and

11 (vi) a simple line-drawing showing major dimensions
 12 of the proposed project.

13 Within seven (7) days after receipt of the application
 14 by the department, it shall send notice thereof to every
 15 health care facility in the same licensing class within the
 16 state of Montana located within one hundred (100) miles of
 17 the applicant facility. The department shall notify the
 18 applicant, in writing, of the approval or disapproval of the
 19 proposal within ninety (90) days after the application is
 20 submitted to the department, otherwise the application is
 21 deemed approved.

22 (3) No application may be approved unless the action
 23 proposed:

24 (a) is necessary to provide required health care in
 25 the area to be served;

1 (b) can be economically accomplished and maintained;
2 and

3 (c) will contribute to the orderly development of
4 adequate and effective health services.

5 (4) In making the determinations enumerated in
6 subsection (3) the following shall be considered:

7 (a) the compatibility with needs shown in the
8 appropriate state plan provided by those statutes relating
9 to facilities, contained in sections 69-5301 through 69-5313
10 of this title;

11 (b) the availability of facilities or services which
12 may serve as alternates or substitutes;

13 (c) the need for special equipment and services in the
14 area;

15 (d) the possible economies and improvement in services
16 to be anticipated from the operation of combined central
17 services including, but not limited to, laboratory,
18 research, radiology, pharmacy, laundry and purchasing;

19 (e) the adequacy of financial resources and sources of
20 future revenues; and

21 (f) the availability of sufficient manpower in the
22 several professional disciplines.

23 (5) An approved application for construction is valid
24 for one (1) year from the date of issue, but may be extended
25 by the department for a period of six (6) months.

1 (6) If the department disapproves an application for
2 construction of a facility, it shall notify the applicant of
3 its actions and afford the applicant an opportunity to
4 request a hearing before the board of health and
5 environmental sciences. When this hearing is desired, the
6 applicant shall notify the department in writing within
7 fifteen (15) days after the notice of disapproval is
8 received. If the decision, after hearing, is adverse, the
9 applicant may appeal to the district court as provided in
10 section 82-4216, R.C.M. 1947."

-End-

Approved by Committee on Public Health, Welfare & Safety

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3 *Rosell Elylock Seibel LYNCH*

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20 injured, disabled, or sick persons. Services provided may or
21 may not include obstetrical care. A health care facility in
22 order to be licensed as a hospital must have an organized
23 medical staff; shall provide twenty-four (24) hour nursing
24 care by licensed professional nurses and shall be in
25 compliance with the regulations for licensed hospitals as

1 promulgated and adopted by the state department of health
2 and environmental sciences.

3 (2) "Hospital related facility" means a facility
4 licensed by the department of health and environmental
5 sciences to provide any or all of the following: diagnosis;
6 treatment; medical or nursing care or medically related
7 rehabilitation services. Such facilities include, but are
8 not limited to, outpatient facilities, public health
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13 to be licensed as a "hospital related facility" shall be in
14 compliance with the regulations, for the specific category
15 of facility, as promulgated and adopted by the state
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17 ~~(a) "Outpatient facility" means a place, located in or~~
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7 (a) "Outpatient facility -- A" means a physically
 8 separate component of a licensed hospital, or a medical
 9 clinic or other establishment owned or operated by a
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 11 bed or beds and which provides to patients, not requiring
 12 hospitalization, the services of persons licensed to
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 15 surgery or other treatment. No patient shall be allowed to
 16 remain in an outpatient facility for more than six (6)
 17 hours.

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 20 medical clinic or other establishment owned or operated by a
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 22 ambulatory patients, not requiring hospitalization, the
 23 services of persons licensed to practice medicine or
 24 dentistry in the state of Montana, but which does not have
 25 an observation bed or beds as defined in subsection (2) (a).

1 ~~(b) (c)~~ "Public health centers" means a publicly owned
 2 facility utilized by a local health unit for the provision
 3 of public health services, including related public
 4 facilities such as laboratories, clinics, and administrative
 5 offices operated in connection with public health centers.

6 ~~(e) (d)~~ "Rehabilitation facility" means a facility
 7 providing community service which is operated for the
 8 primary purpose of assisting in the rehabilitation of
 9 disabled, persons through an integrated program under
 10 competent professional supervision including: medical
 11 services and evaluation; and psychological, social and
 12 vocational services and evaluation.

13 ~~(d) (e)~~ "Long-term care facility" means a place which
 14 provides skilled nursing care to a total of two (2) or more
 15 persons or personal care to more than three (3) persons, who
 16 by reason of illness or disability are unable to properly
 17 care for themselves and are not related to the owner or
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15 care.

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17 (3) "Person" means any individual, firm, partnership,
18 association or corporation, or governmental unit.

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20 agency, any county, municipality, political subdivision of
21 the state or an agency of any political subdivision.

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23 care facility as a patient or for personal care.

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25 related facility or long-term care facility.

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2 environmental sciences.

3 (8) "Construction" means the erection, expansion,
4 remodeling or alteration of any new or existing facility,
5 the capital expenditure for which amounts to fifty thousand
6 dollars (\$50,000) or more in any twelve month period; or any
7 substantial change in services, or any increase or decrease
8 in the number of beds in excess of ten percent (10%) of the
9 licensed capacity of the facility, or in excess of ten (10)
10 beds, whichever is the lesser; or any purchase of
11 therapeutic or diagnostic equipment (excluding replacement
12 of existing equipment) in any twelve month period, at a cost
13 exceeding two percent (2%) of the facility's total operating
14 costs for the most recently completed fiscal year up to a
15 maximum of one hundred thousand dollars (\$100,000), or
16 exceeding ten thousand dollars (\$10,000), whichever is
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 5 and approval prior to commencing construction. Approval may
 6 be given only if the plans and specifications conform to the
 7 state or the municipal building code which applies to the
 8 facility.

9 (2) Penalties for failure to obtain prior approval of
 10 the department are as follows:

11 (a) Any person who constructs any new health care
 12 facility as defined in section 69-5201 without prior
 13 approval by the department is guilty of a misdemeanor and
 14 shall be punished by a fine of not less than one thousand
 15 dollars (\$1,000) nor more than ten thousand dollars
 16 (\$10,000), the fine to be deposited in the state general
 17 fund, and this new facility is not eligible for licensure as
 18 a health care facility as defined in section 69-5201.

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 20 existing health care facility as defined in section 69-5201
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 24 thousand dollars (\$10,000), the fine to be deposited in the
 25 state general fund. An application for approval must be

1 submitted to the department in a form together with
 2 information as the department may prescribe. The
 3 application shall include:

- 4 (i) a narrative description of the proposed project;
 5 (ii) the number and type of beds and/or services to be
 6 provided;
 7 (iii) the estimated cost;
 8 (iv) the source of financing;
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 10 project; and
 11 (vi) a simple line-drawing showing major dimensions
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13 Within seven (7) days after receipt of the application
 14 by the department, it shall send notice thereof to every
 15 health care facility in the same licensing class within the
 16 state of Montana located within one hundred (100) miles of
 17 the applicant facility. The department shall notify the
 18 applicant, in writing, of the approval or disapproval of the
 19 proposal within ninety (90) days after the application is
 20 submitted to the department, otherwise the application is
 21 deemed approved.

22 (3) No application may be approved unless the action
 23 proposed:

- 24 (a) is necessary to provide required health care in
 25 the area to be served;

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2 and

3 (c) will contribute to the orderly development
4 adequate and effective health services.

5 (4) In making the determinations enumerated in
6 subsection (3) the following shall be considered:

7 (a) the compatibility with needs shown in the
8 appropriate state plan provided by those statutes relating
9 to facilities, contained in sections 69-5301 through 69-5313
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12 may serve as alternates or substitutes;

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14 area;

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17 services including, but not limited to, laboratory,
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19 (e) the adequacy of financial resources and sources of
20 future revenues; and

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22 several professional disciplines.

23 (5) An approved application for construction is valid
24 for one (1) year from the date of issue, but may be extended
25 by the department for a period of six (6) months.

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~~(e)~~ (d) "Rehabilitation facility" means a facility
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disabled persons through an integrated program under
competent professional supervision including: medical
services and evaluation; and psychological, social and
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~~(e)~~ (e) "Long-term care facility" means a place which
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17 (3) "Person" means any individual, firm, partnership,
 18 association or corporation, or governmental unit.

19 (4) "Governmental unit" means the state, a state
 20 agency, any county, municipality, political subdivision of
 21 the state or an agency of any political subdivision.

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

24 (6) "Health care facility" means a hospital, hospital
 25 related facility or long-term care facility.

1 (7) "Department" means state department of health and
 2 environmental sciences.

3 (8) "Construction" means the erection, expansion,
 4 remodeling or alteration of any new or existing facility,
 5 the capital expenditure for which amounts to fifty thousand
 6 dollars (\$50,000) or more in any twelve month period; or any
 7 substantial change in services, or any increase or decrease
 8 in the number of beds in excess of ten percent (10%) of the
 9 licensed capacity of the facility, or in excess of ten (10)
 10 beds, whichever is the lesser; or any purchase of
 11 therapeutic or diagnostic equipment (excluding replacement
 12 of existing equipment) in any twelve month period, at a cost
 13 exceeding two percent (2%) of the facility's total operating
 14 costs for the most recently completed fiscal year up to a
 15 maximum of one hundred thousand dollars (\$100,000), or
 16 exceeding ten thousand dollars (\$10,000), whichever is
 17 larger. All exemptions from this definition must
 18 nevertheless be consistent with the state medical facilities
 19 plan of the department."

20 Section 2. Section 69-5212, R.C.M. 1947, is amended to
 21 read as follows:

22 "~~69-5212. Alteration---or---addition---to---facility~~
 23 Construction, expansion, remodeling, or alteration of a
 24 facility -- approval of plans and specifications by the
 25 department of health and environmental sciences.

1 (1) The department may adopt rules to require an
 2 applicant or licensee who contemplates alteration or
 3 addition to a health care facility to submit plans and
 4 specifications to the department for preliminary inspection
 5 and approval prior to commencing construction. Approval may
 6 be given only if the plans and specifications conform to the
 7 state or the municipal building code which applies to the
 8 facility.

9 (2) Penalties for failure to obtain prior approval of
 10 the department are as follows:

11 (a) Any person who constructs any new health care
 12 facility as defined in section 69-5201 without prior
 13 approval by the department is guilty of a misdemeanor and
 14 shall be punished by a fine of not less than one thousand
 15 dollars (\$1,000) nor more than ten thousand dollars
 16 (\$10,000), the fine to be deposited in the state general
 17 fund, and this new facility is not eligible for licensure as
 18 a health care facility as defined in section 69-5201.

19 (b) Any person who expands, remodels or alters an
 20 existing health care facility as defined in section 69-5201
 21 without prior written approval by the department is guilty
 22 of a misdemeanor and shall be punished by a fine of not less
 23 than one thousand dollars (\$1,000) nor more than ten
 24 thousand dollars (\$10,000), the fine to be deposited in the
 25 state general fund. An application for approval must be

1 submitted to the department in a form together with
 2 information as the department may prescribe. The
 3 application shall include:

- 4 (i) a narrative description of the proposed project;
 5 (ii) the number and type of beds and/or services to be
 6 provided;
 7 (iii) the estimated cost;
 8 (iv) the source of financing;
 9 (v) the expected time for completion of the proposed
 10 project; and
 11 (vi) a simple line-drawing showing major dimensions
 12 of the proposed project.

13 Within seven (7) days after receipt of the application
 14 by the department, it shall send notice thereof to every
 15 health care facility in the same licensing class within the
 16 state of Montana located within one hundred (100) miles of
 17 the applicant facility. The department shall notify the
 18 applicant, in writing, of the approval or disapproval of the
 19 proposal within ninety (90) days after the application is
 20 submitted to the department, otherwise the application is
 21 deemed approved.

22 (3) No application may be approved unless the action
 23 proposed:

- 24 (a) is necessary to provide required health care in
 25 the area to be served;

1 (b) can be economically accomplished and maintained;
2 and

3 (c) will contribute to the orderly development of
4 adequate and effective health services.

5 (4) In making the determinations enumerated in
6 subsection (3) the following shall be considered:

7 (a) the compatibility with needs shown in the
8 appropriate state plan provided by those statutes relating
9 to facilities, contained in sections 69-5301 through 69-5313
10 of this title;

11 (b) the availability of facilities or services which
12 may serve as alternates or substitutes;

13 (c) the need for special equipment and services in the
14 area;

15 (d) the possible economies and improvement in services
16 to be anticipated from the operation of combined central
17 services including, but not limited to, laboratory,
18 research, radiology, pharmacy, laundry and purchasing;

19 (e) the adequacy of financial resources and sources of
20 future revenues; and

21 (f) the availability of sufficient manpower in the
22 several professional disciplines.

23 (5) An approved application for construction is valid
24 for one (1) year from the date of issue, but may be extended
25 by the department for a period of six (6) months.

1 (6) If the department disapproves an application for
2 construction of a facility, it shall notify the applicant of
3 its actions and afford the applicant an opportunity to
4 request a hearing before the board of health and
5 environmental sciences. When this hearing is desired, the
6 applicant shall notify the department in writing within
7 fifteen (15) days after the notice of disapproval is
8 received. If the decision, after hearing, is adverse, the
9 applicant may appeal to the district court as provided in
10 section 82-4216, R.C.M. 1947."

-End-

HOUSE OF REPRESENTATIVES

Date: March 20, 1975

HOUSE COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY AMENDMENT TO SB 316

1. Amend page 7, section 2, subsection (1), line 2.

Following: "contemplates "

Insert: "construction of,"

AND AS SO AMENDED

BE CONCURRED IN

WM/gtw

SENATE BILL NO. 316

INTRODUCED BY LEE, FLYNN, STEPHENS, HEALY, MATHERS,
ROSELL, BLAYLOCK, SEIBEL, LYNCH

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
69-5201, AND 69-5212, R.C.M. 1947, TO MEET FEDERAL
REQUIREMENTS BY REDEFINING OUTPATIENT FACILITIES, INCLUDING
A DEFINITION OF CONSTRUCTION AND REQUIRING APPROVAL FROM THE
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FOR THE
CONSTRUCTION OF HEALTH CARE FACILITIES."

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

Section 1. Section 69-5201, R.C.M. 1947, is amended to
read as follows:

"69-5201. Definitions. As used in this chapter, unless
the context clearly indicates otherwise:

(1) "Hospital" means any health care facility licensed
by the department of health and environmental sciences to
provide, by or under the supervision of licensed physicians,
services for medical diagnosis, treatment, and care of
injured, disabled, or sick persons. Services provided may or
may not include obstetrical care. A health care facility in
order to be licensed as a hospital must have an organized
medical staff; shall provide twenty-four (24) hour nursing
care by licensed professional nurses and shall be in

compliance with the regulations for licensed hospitals as
promulgated and adopted by the state department of health
and environmental sciences.

(2) "Hospital related facility" means a facility
licensed by the department of health and environmental
sciences to provide any or all of the following: diagnosis;
treatment; medical or nursing care or medically related
rehabilitation services. Such facilities include, but are
not limited to, outpatient facilities, public health
centers, rehabilitation facilities, long-term care
facilities, infirmaries, mental health and mental
retardation institutions, alcohol and drug dependency
centers and half-way houses. A health care facility in order
to be licensed as a "hospital related facility" shall be in
compliance with the regulations, for the specific category
of facility, as promulgated and adopted by the state
department of health and environmental sciences.

~~(a) "Outpatient facility" means a place, located in or
apart from a hospital, which provides to ambulatory patients
not requiring hospitalization the services of persons
licensed to practice medicine or dentistry in the state of
Montana, and which makes provision for its patients to
receive a reasonably full range of physical or mental
diagnostic and treatment services.~~

~~(i) "Outpatient facility" is operated as an~~

1 ~~organizational component of a hospital and may establish~~
 2 ~~observation beds. "Observation beds" are these beds~~
 3 ~~established for use by an outpatient recovering from minor~~
 4 ~~surgery or other treatment and will be occupied for a period~~
 5 ~~of time not in excess of six (6) hours.~~

6 ~~(ii) "Outpatient facility -- B" is operated apart from a~~
 7 ~~hospital and may not include observation beds.~~

8 (a) "Outpatient facility -- A" means a physically
 9 separate component of a licensed hospital, or a medical
 10 clinic or other establishment owned or operated by a
 11 licensed physician or physicians, which has an observation
 12 bed or beds and which provides to patients, not requiring
 13 hospitalization, the services of persons licensed to
 14 practice medicine or dentistry in the state of Montana. An
 15 "observation bed" is a bed used by a patient recovering from
 16 surgery or other treatment. No patient shall be allowed to
 17 remain in an outpatient facility for more than six (6)
 18 hours.

19 (b) "Outpatient facility -- B" means a facility
 20 operated physically apart from a hospital, other than a
 21 medical clinic or other establishment owned or operated by a
 22 licensed physician or physicians, which provides to
 23 ambulatory patients, not requiring hospitalization, the
 24 services of persons licensed to practice medicine or
 25 dentistry in the state of Montana, but which does not have

1 an observation bed or beds as defined in subsection (2) (a).

2 ~~(b)~~ (c) "Public health centers" means a publicly owned
 3 facility utilized by a local health unit for the provision
 4 of public health services, including related public
 5 facilities such as laboratories, clinics, and administrative
 6 offices operated in connection with public health centers.

7 ~~(e)~~ (d) "Rehabilitation facility" means a facility
 8 providing community service which is operated for the
 9 primary purpose of assisting in the rehabilitation of
 10 disabled persons through an integrated program under
 11 competent professional supervision including: medical
 12 services and evaluation; and psychological, social and
 13 vocational services and evaluation.

14 ~~(d)~~ (e) "Long-term care facility" means a place which
 15 provides skilled nursing care to a total of two (2) or more
 16 persons or personal care to more than three (3) persons, who
 17 by reason of illness or disability are unable to properly
 18 care for themselves and are not related to the owner or
 19 administrator by blood or marriage, and may be defined as
 20 follows:

21 (i) "Skilled nursing facilities" are establishments
 22 furnishing continuous skilled nursing care and related
 23 services twenty-four (24) hours a day.

24 (ii) "Intermediate care facilities -- A" are
 25 establishments furnishing limited skilled nursing care and

1 personal care.

2 (iii) "Intermediate care facilities -- B" are
3 establishments providing only personal care and services to
4 residents.

5 (iv) "Combination facilities" are establishments
6 providing two (2) or more of the following services: skilled
7 nursing care and intermediate care -- A and/or B.

8 (v) Hotels, motels, boarding houses, rooming houses, or
9 similar accommodations providing for transients, students,
10 or persons not requiring institutional health care are not
11 considered to be long-term care facilities.

12 ~~(e)~~ (f) "Infirmiry" means a facility located in a
13 university, college, government institution, or industry,
14 for the treatment of the sick or injured.

15 (i) "Infirmiry -- A" provides outpatient and inpatient
16 care.

17 (ii) "Infirmiry -- B" provides outpatient care only.

18 (3) "Person" means any individual, firm, partnership,
19 association or corporation, or governmental unit.

20 (4) "Governmental unit" means the state, a state
21 agency, any county, municipality, political subdivision of
22 the state or an agency of any political subdivision.

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

25 (6) "Health care facility" means a hospital, hospital

1 related facility or long-term care facility.

2 (7) "Department" means state department of health and
3 environmental sciences.

4 (8) "Construction" means the erection, expansion,
5 remodeling or alteration of any new or existing facility,
6 the capital expenditure for which amounts to fifty thousand
7 dollars (\$50,000) or more in any twelve month period; or any
8 substantial change in services, or any increase or decrease
9 in the number of beds in excess of ten percent (10%) of the
10 licensed capacity of the facility, or in excess of ten (10)
11 beds, whichever is the lesser; or any purchase of
12 therapeutic or diagnostic equipment (excluding replacement
13 of existing equipment) in any twelve month period, at a cost
14 exceeding two percent (2%) of the facility's total operating
15 costs for the most recently completed fiscal year up to a
16 maximum of one hundred thousand dollars (\$100,000), or
17 exceeding ten thousand dollars (\$10,000), whichever is
18 larger. All exemptions from this definition must
19 nevertheless be consistent with the state medical facilities
20 plan of the department."

21 Section 2. Section 69-5212, R.C.M. 1947, is amended to
22 read as follows:

23 "69-5212. Alteration---or---addition---to---facility
24 Construction, expansion, remodeling, or alteration of a
25 facility -- approval of plans and specifications by the

1 department of health and environmental sciences.

2 (1) The department may adopt rules to require an
 3 applicant or licensee who contemplates CONSTRUCTION OF,
 4 alteration or addition to a health care facility to submit
 5 plans and specifications to the department for preliminary
 6 inspection and approval prior to commencing construction.
 7 Approval may be given only if the plans and specifications
 8 conform to the state or the municipal building code which
 9 applies to the facility.

10 (2) Penalties for failure to obtain prior approval of
 11 the department are as follows:

12 (a) Any person who constructs any new health care
 13 facility as defined in section 69-5201 without prior
 14 approval by the department is guilty of a misdemeanor and
 15 shall be punished by a fine of not less than one thousand
 16 dollars (\$1,000) nor more than ten thousand dollars
 17 (\$10,000), the fine to be deposited in the state general
 18 fund, and this new facility is not eligible for licensure as
 19 a health care facility as defined in section 69-5201.

20 (b) Any person who expands, remodels or alters an
 21 existing health care facility as defined in section 69-5201
 22 without prior written approval by the department is guilty
 23 of a misdemeanor and shall be punished by a fine of not less
 24 than one thousand dollars (\$1,000) nor more than ten
 25 thousand dollars (\$10,000), the fine to be deposited in the

1 state general fund. An application for approval must be
 2 submitted to the department in a form together with
 3 information as the department may prescribe. The
 4 application shall include:

5 (i) a narrative description of the proposed project;

6 (ii) the number and type of beds and/or services to be
 7 provided;

8 (iii) the estimated cost;

9 (iv) the source of financing;

10 (v) the expected time for completion of the proposed
 11 project; and

12 (vi) a simple line-drawing showing major dimensions
 13 of the proposed project.

14 Within seven (7) days after receipt of the application
 15 by the department, it shall send notice thereof to every
 16 health care facility in the same licensing class within the
 17 state of Montana located within one hundred (100) miles of
 18 the applicant facility. The department shall notify the
 19 applicant, in writing, of the approval or disapproval of the
 20 proposal within ninety (90) days after the application is
 21 submitted to the department, otherwise the application is
 22 deemed approved.

23 (3) No application may be approved unless the action
 24 proposed:

25 (a) is necessary to provide required health care in

1 the area to be served;
2 (b) can be economically accomplished and maintained;
3 and
4 (c) will contribute to the orderly development of
5 adequate and effective health services.
6 (4) In making the determinations enumerated in
7 subsection (3) the following shall be considered:
8 (a) the compatibility with needs shown in the
9 appropriate state plan provided by those statutes relating
10 to facilities, contained in sections 69-5301 through 69-5313
11 of this title;
12 (b) the availability of facilities or services which
13 may serve as alternates or substitutes;
14 (c) the need for special equipment and services in the
15 area;
16 (d) the possible economies and improvement in services
17 to be anticipated from the operation of combined central
18 services including, but not limited to, laboratory,
19 research, radiology, pharmacy, laundry and purchasing;
20 (e) the adequacy of financial resources and sources of
21 future revenues; and
22 (f) the availability of sufficient manpower in the
23 several professional disciplines.
24 (5) An approved application for construction is valid
25 for one (1) year from the date of issue, but may be extended

1 by the department for a period of six (6) months.
2 (6) If the department disapproves an application for
3 construction of a facility, it shall notify the applicant of
4 its actions and afford the applicant an opportunity to
5 request a hearing before the board of health and
6 environmental sciences. When this hearing is desired, the
7 applicant shall notify the department in writing within
8 fifteen (15) days after the notice of disapproval is
9 received. If the decision, after hearing, is adverse, the
10 applicant may appeal to the district court as provided in
11 section 82-4216, R.C.M. 1947."

-End-