

HOUSE BILL NO. 734

INTRODUCED BY WINSLOW, D. O'HARA, HANNAH

IN THE HOUSE

February 12, 1981	Introduced and referred to Committee on Human Services.
February 21, 1981	Committee recommend bill do pass as amended. Report adopted.
February 23, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading, do pass. On motion rules suspended and bill placed on third reading this day.
February 25, 1981	Correctly engrossed. Third reading, passed. Ayes, 91; Noes, 7. Transmitted to Senate.

IN THE SENATE

March 3, 1981	Introduced and referred to Committee on Public Health, Welfare, and Safety.
March 25, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1981	Second reading, concurred in.
March 28, 1981	Third reading, concurred in as amended. Ayes, 44; Noes, 5.

IN THE HOUSE

March 28, 1981

Returned from Senate with amendments.

April 8, 1981

Second reading, amendments concurred in.

April 9, 1981

Third reading, amendments concurred in. Ayes, 97; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1 or not, used, operated, or designed to provide health
 2 services, medical treatment, or nursing, rehabilitative, or
 3 preventive care to any person or persons. The term does not
 4 include offices of private physicians or dentists. The term
 5 includes but is not limited to ambulatory surgical
 6 facilities, health maintenance organizations, home health
 7 agencies, hospitals, infirmaries, kidney treatment centers,
 8 long-term care facilities, mental health centers, outpatient
 9 facilities, public health centers, rehabilitation
 10 facilities, and adult day-care centers.

11 ~~(11)~~(12) "Health maintenance organization" means a
 12 public or private organization organized as defined in 42
 13 U.S.C. 300e, as amended.

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

21 ~~(13)~~(14) "Hospital" means a facility providing, by or
 22 under the supervision of licensed physicians, services for
 23 medical diagnosis, treatment, rehabilitation, and care of
 24 injured, disabled, or sick persons. Services provided may or
 25 may not include obstetrical care, emergency care, or any

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

8 ~~(14)~~(15) "Infirmary" means a facility located in a
 9 university, college, government institution, or industry for
 10 the treatment of the sick or injured, with the following
 11 subdefinitions:

12 (a) an "infirmary--A" provides outpatient and
 13 inpatient care;

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

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

21 ~~(15)~~(17) "Kidney treatment center" means a facility
 22 which specializes in treatment of kidney diseases, including
 23 freestanding hemodialysis units.

24 ~~(16)~~(18) (a) "Long-term care facility" means a facility
 25 or part thereof which provides skilled nursing care or

1 intermediate nursing care to a total of two or more persons
 2 or personal care to more than three persons who are not
 3 related to the owner or administrator by blood or marriage,
 4 with these degrees of care defined as follows:

5 (i) "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 (ii) "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 (iii) "Personal care" means the provision of services
 14 and care which do not require nursing skills to residents
 15 needing some assistance in performing the activities of
 16 daily living.

17 (b) Hotels, motels, boarding homes, roominghouses, or
 18 similar accommodations providing for transients, students,
 19 or persons not requiring institutional health care are not
 20 long-term care facilities.

21 ~~(17)~~(19) "Mental health center" means a facility
 22 providing services for the prevention or diagnosis of mental
 23 illness, the care and treatment of mentally ill patients or
 24 the rehabilitation of such persons, or any combination of
 25 these services.

1 ~~(18)~~(20) "New institutional health services" means:

2 (a) the construction, development, or other
 3 establishment of a health care facility which did not
 4 previously exist;

5 (b) any expenditure by or on behalf of a health care
 6 facility within a 12-month period in excess of \$150,000,
 7 which, under generally accepted accounting principles
 8 consistently applied, is a capital expenditure. Whenever a
 9 health care facility or a person on behalf of a health care
 10 facility makes an acquisition under lease or comparable
 11 arrangement or through donation, which would have required
 12 review if the acquisition had been by purchase, such
 13 acquisition shall be considered a capital expenditure
 14 subject to review.

15 (c) a change in bed capacity of a health care facility
 16 which increases or decreases the total number of beds,
 17 redistributes beds among various service categories, or
 18 relocates such beds from one physical facility or site to
 19 another over a 2-year period by more than 10 beds or 10% of
 20 the total licensed bed capacity, whichever is less;

21 (d) health services which are offered in or through a
 22 health care facility and which were not offered on a regular
 23 basis in or through such health care facility within the
 24 12-month period prior to the time such services would be
 25 offered or the deletion by a health care facility of a

1 service previously offered;

2 (e) the expansion of a geographic service area of a

3 home health agency.

4 ~~(19)~~(21) "Nonprofit health care facility" means a

5 health care facility owned or operated by one or more

6 nonprofit corporations or associations.

7 ~~(20)~~(22) "Observation bed" means a bed occupied for not

8 more than 6 hours by a patient recovering from surgery or

9 other treatment.

10 ~~(21)~~(23) "Offer" means the holding out by a health care

11 facility that it can provide specific health services.

12 ~~(22)~~(24) "Outpatient facility" means a facility,

13 located in or apart from a hospital, providing, under the

14 direction of a licensed physician, either diagnosis or

15 treatment, or both, to ambulatory patients in need of

16 medical, surgical, or mental care. An outpatient facility

17 may have observation beds.

18 ~~(23)~~(25) "Patient" means an individual obtaining

19 services, including skilled nursing care, from a health care

20 facility.

21 ~~(24)~~(26) "Person" means any individual, firm,

22 partnership, association, organization, agency, institution,

23 corporation, trust, estate, or governmental unit, whether

24 organized for profit or not.

25 ~~(25)~~(27) "Public health center" means a publicly owned

1 facility providing health services, including laboratories,

2 clinics, and administrative offices.

3 ~~(26)~~(28) "Rehabilitation facility" means a facility

4 which is operated for the primary purpose of assisting in

5 the rehabilitation of disabled persons by providing

6 comprehensive medical evaluations and services,

7 psychological and social services, or vocational evaluation

8 and training or any combination of these services and in

9 which the major portion of the services is furnished within

10 the facility.

11 ~~(27)~~(29) "Resident" means a person who is in a

12 long-term care facility for intermediate or personal care.

13 ~~(28)~~(30) "State plan" means the state medical facility

14 plan provided for in part 4."

15 Section 2. Section 50-5-103, MCA, is amended to read:

16 "50-5-103. Rules and standards ~~== accreditation by~~

17 ~~joint commission.~~ (1) The department shall promulgate and

18 adopt rules and minimum standards for implementation of

19 parts 1 through 4.

20 (2) Any facility covered by this chapter shall comply

21 with the state and federal requirements relating to

22 construction, equipment, and fire and life safety.

23 (3) The department shall extend a reasonable time for

24 compliance with rules for parts 1 through 4 after adoption.

25 ~~(4) Any health care facility that furnishes written~~

1 evidence to the department of its accreditation granted by
2 the joint commission on accreditation of hospitals is
3 eligible for licensure in the state for the accreditation
4 period and may not be subjected to an inspection by the
5 department, except that the department may inspect any
6 licensed health care facility to answer specific complaints
7 made in writing by any person against the facility when such
8 complaints pertain to licensing requirements. Inspection by
9 the department upon such complaint shall be limited to the
10 specific area or condition of the health care facility to
11 which the complaint pertains."

-End-

HB 734

Approved by Comm. On Human Services

HOUSE BILL NO. 734

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A BILL FOR AN ACT ENTITLED: "AN ACT TO WAIVE STATE LICENSURE INSPECTION FOR HEALTH-CARE-FACILITIES HOSPITALS THAT ARE ACCREDITED BY THE JOINT COMMISSION ON ACCREDITATION OF HOSPITALS; AMENDING SECTIONS 50-5-101 AND 50-5-103, MCA."

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. 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, free-standing 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 persons" means the applicant, members of the public who are to be served by the proposal, health care facilities located in the geographic area affected by the application, agencies which establish rates for health care facilities, and agencies which plan or assist in planning for such facilities, including any agency qualifying as a health systems agency pursuant to Title XV

of the Public Health Service Act.

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

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

(7) "Construction" means the physical erection of a health care facility and any stage thereof, including ground breaking.

(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" means any institution, building, or agency or portion thereof, private or public, excluding federal facilities, whether organized for profit

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13 pertains."

14 NEW SECTION. SECTION 3. ALL WRITTEN EVIDENCE
15 SUBMITTED BY THE HOSPITAL TO THE DEPARTMENT OF HEALTH AND
16 ENVIRONMENTAL SCIENCES MUST BE CONFIDENTIAL AND NOT RELEASED
17 TO ANY PERSON WITHOUT A PRIOR WRITTEN RELEASE SIGNED BY THE
18 CHIEF EXECUTIVE OFFICER OF THE HOSPITAL.

-End-

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10 requirements. Inspection by the department upon such
11 complaint shall be limited to the specific area or condition
12 of the health care facility to which the complaint
13 pertains."

14 NEW SECTION. SECTION 3. ALL WRITTEN EVIDENCE
15 SUBMITTED BY THE HOSPITAL TO THE DEPARTMENT OF HEALTH AND
16 ENVIRONMENTAL SCIENCES MUST BE CONFIDENTIAL AND NOT RELEASED
17 TO ANY PERSON WITHOUT A PRIOR WRITTEN RELEASE SIGNED BY THE
18 CHIEF EXECUTIVE OFFICER OF THE HOSPITAL.

-End-

HOUSE BILL NO. 734

INTRODUCED BY WINSLOW, D. O'HARA, HANNAH

A BILL FOR AN ACT ENTITLED: "AN ACT TO WAIVE STATE LICENSURE INSPECTION FOR HEALTH-CARE-FACILITIES HOSPITALS THAT ARE ACCREDITED BY THE JOINT COMMISSION ON ACCREDITATION OF HOSPITALS; AMENDING SECTIONS 50-5-101 AND 50-5-103, MCA."

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. 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, free-standing 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 persons" means the applicant, members of the public who are to be served by the proposal, health care facilities located in the geographic area affected by the application, agencies which establish rates for health care facilities, and agencies which plan or assist in planning for such facilities, including any agency qualifying as a health systems agency pursuant to Title XV

of the Public Health Service Act.

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

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

(7) "Construction" means the physical erection of a health care facility and any stage thereof, including ground breaking.

(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" means any institution, building, or agency or portion thereof, private or public, excluding federal facilities, whether organized for profit

1 or not, used, operated, or designed to provide health
 2 services, medical treatment, or nursing, rehabilitative, or
 3 preventive care to any person or persons. The term does not
 4 include offices of private physicians or dentists. The term
 5 includes but is not limited to ambulatory surgical
 6 facilities, health maintenance organizations, home health
 7 agencies, hospitals, infirmaries, kidney treatment centers,
 8 long-term care facilities, mental health centers, outpatient
 9 facilities, public health centers, rehabilitation
 10 facilities, and adult day-care centers.

11 ~~(12)~~(12) "Health maintenance organization" means a
 12 public or private organization organized as defined in 42
 13 U.S.C. 300e, as amended.

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

21 ~~(14)~~(14) "Hospital" means a facility providing, by or
 22 under the supervision of licensed physicians, services for
 23 medical diagnosis, treatment, rehabilitation, and care of
 24 injured, disabled, or sick persons. Services provided may or
 25 may not include obstetrical care, emergency care, or any

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

8 ~~(15)~~(15) "Infirmery" means a facility located in a
 9 university, college, government institution, or industry for
 10 the treatment of the sick or injured, with the following
 11 subdefinitions:

12 (a) an "infirmery--A" provides outpatient and
 13 inpatient care;

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

15 ~~(16)~~(16) "Joint commission on accreditation of hospitals"
 16 means the organization nationally recognized by that name
 17 with headquarters in Chicago, Illinois, that surveys health
 18 care facilities upon their requests and grants accreditation
 19 status to any health care facility that it finds meets its
 20 standards and requirements.

21 ~~(17)~~(17) "Kidney treatment center" means a facility
 22 which specializes in treatment of kidney diseases, including
 23 freestanding hemodialysis units.

24 ~~(18)~~(18) (a) "Long-term care facility" means a facility
 25 or part thereof which provides skilled nursing care or

1 intermediate nursing care to a total of two or more persons
 2 or personal care to more than three persons who are not
 3 related to the owner or administrator by blood or marriage,
 4 with these degrees of care defined as follows:

5 (i) "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 (ii) "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 (iii) "Personal care" means the provision of services
 14 and care which do not require nursing skills to residents
 15 needing some assistance in performing the activities of
 16 daily living.

17 (b) Hotels, motels, boarding homes, roominghouses, or
 18 similar accommodations providing for transients, students,
 19 or persons not requiring institutional health care are not
 20 long-term care facilities.

21 ~~(17)~~(19) "Mental health center" means a facility
 22 providing services for the prevention or diagnosis of mental
 23 illness, the care and treatment of mentally ill patients or
 24 the rehabilitation of such persons, or any combination of
 25 these services.

1 ~~(18)~~(20) "New institutional health services" means:

2 (a) the construction, development, or other
 3 establishment of a health care facility which did not
 4 previously exist;

5 (b) any expenditure by or on behalf of a health care
 6 facility within a 12-month period in excess of \$150,000,
 7 which, under generally accepted accounting principles
 8 consistently applied, is a capital expenditure. Whenever a
 9 health care facility or a person on behalf of a health care
 10 facility makes an acquisition under lease or comparable
 11 arrangement or through donation, which would have required
 12 review if the acquisition had been by purchase, such
 13 acquisition shall be considered a capital expenditure
 14 subject to review.

15 (c) a change in bed capacity of a health care facility
 16 which increases or decreases the total number of beds,
 17 redistributes beds among various service categories, or
 18 relocates such beds from one physical facility or site to
 19 another over a 2-year period by more than 10 beds or 10% of
 20 the total licensed bed capacity, whichever is less;

21 (d) health services which are offered in or through a
 22 health care facility and which were not offered on a regular
 23 basis in or through such health care facility within the
 24 12-month period prior to the time such services would be
 25 offered or the deletion by a health care facility of a

1 service previously offered;

2 (e) the expansion of a geographic service area of a
3 home health agency.

4 ~~19~~(21) "Nonprofit health care facility" means a
5 health care facility owned or operated by one or more
6 nonprofit corporations or associations.

7 ~~20~~(22) "Observation bed" means a bed occupied for not
8 more than 6 hours by a patient recovering from surgery or
9 other treatment.

10 ~~21~~(23) "Offer" means the holding out by a health care
11 facility that it can provide specific health services.

12 ~~22~~(24) "Outpatient facility" means a facility,
13 located in or apart from a hospital, providing, under the
14 direction of a licensed physician, either diagnosis or
15 treatment, or both, to ambulatory patients in need of
16 medical, surgical, or mental care. An outpatient facility
17 may have observation beds.

18 ~~23~~(25) "Patient" means an individual obtaining
19 services, including skilled nursing care, from a health care
20 facility.

21 ~~24~~(26) "Person" means any individual, firm,
22 partnership, association, organization, agency, institution,
23 corporation, trust, estate, or governmental unit, whether
24 organized for profit or not.

25 ~~25~~(27) "Public health center" means a publicly owned

1 facility providing health services, including laboratories,
2 clinics, and administrative offices.

3 ~~26~~(28) "Rehabilitation facility" means a facility
4 which is operated for the primary purpose of assisting in
5 the rehabilitation of disabled persons by providing
6 comprehensive medical evaluations and services,
7 psychological and social services, or vocational evaluation
8 and training or any combination of these services and in
9 which the major portion of the services is furnished within
10 the facility.

11 ~~27~~(29) "Resident" means a person who is in a
12 long-term care facility for intermediate or personal care.

13 ~~28~~(30) "State plan" means the state medical facility
14 plan provided for in part 4."

15 Section 2. Section 50-5-103, MCA, is amended to read:

16 "50-5-103. Rules and standards ~~of~~ accreditation by
17 joint commission. (1) The department shall promulgate and
18 adopt rules and minimum standards for implementation of
19 parts 1 through 4.

20 (2) Any facility covered by this chapter shall comply
21 with the state and federal requirements relating to
22 construction, equipment, and fire and life safety.

23 (3) The department shall extend a reasonable time for
24 compliance with rules for parts 1 through 4 after adoption.

25 (4) Any health-care-facility HOSPITAL that furnishes

1 written evidence INCLUDING THE RECOMMENDATION FOR FUTURE
2 COMPLIANCE STATEMENT to the department of its accreditation
3 granted by the joint commission on accreditation of
4 hospitals is eligible for licensure in the state for the
5 accreditation period and may not be subjected to an
6 inspection by the department, except that the department may
7 inspect any licensed health care facility to answer specific
8 complaints made in writing by any person against the
9 facility when such complaints pertain to licensing
10 requirements. Inspection by the department upon such
11 complaint shall be limited to the specific area or condition
12 of the health care facility to which the complaint
13 pertains."

14 ~~NEW SECTION--SECTION 3--ALL-----WRITTEN-----EVIDENCE~~
15 ~~SUBMITTED--BY--THE--HOSPITAL--TO--THE--DEPARTMENT--OF--HEALTH--AND~~
16 ~~ENVIRONMENTAL--SCIENCES--MUST--BE--CONFIDENTIAL--AND--NOT--RELEASED~~
17 ~~TO--ANY--PERSON--WITHOUT--A--PRIOR--WRITTEN--RELEASE--SIGNED--BY--THE~~
18 ~~CHIEF--EXECUTIVE--OFFICER--OF--THE--HOSPITAL*~~

-End-

March 25, 1981

SENATE STANDING COMMITTEE REPORT
(Public Health, Welfare & Safety)

That House Bill No. 734 be amended as follows:

1. Page 9, lines 14 through 18.
Following: line 13.
Strike: Section 3 in its entirety