

**HOUSE BILL NO. 299**

**INTRODUCED BY J. BROWN**

**BY REQUEST OF THE DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES**

**IN THE HOUSE**

January 18, 1983	Introduced and referred to Committee on Human Services.
February 2, 1983	Committee recommend bill do pass as amended. Report adopted.
February 3, 1983	Bill printed and placed on members' desks.
February 4, 1983	On motion, taken from second reading and rereferred to Committee on Human Services.
February 5, 1983	Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached.
February 8, 1983	Second reading, do pass.
February 9, 1983	Considered correctly engrossed.
February 10, 1983	Third reading, passed. Transmitted to Senate.

**IN THE SENATE**

February 11, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 10, 1983	Committee recommend bill be concurred in. Report adopted.
March 12, 1983	Second reading, concurred in.

March 14, 1983

On motion taken from third reading and referred to second reading.

March 15, 1983

Second reading, concurred in as amended.

March 17, 1983

Third reading, concurred in. Ayes, 48; Noes, 0.

#### IN THE HOUSE

March 17, 1983

Returned to House with amendments.

March 30, 1983

Second reading, amendments not concurred in.

On motion, Conference Committee requested.

March 31, 1983

Conference Committee appointed.

April 11, 1983

Conference Committee dissolved.

On motion, Free Conference Committee requested and appointed.

April 15, 1983

Free Conference Committee reported.

April 16, 1983

Second reading, Free Conference Committee report adopted.

Third reading, Free Conference Committee report adopted.

April 20, 1983

Free Conference Committee report adopted by Senate.

Sent to enrolling.

Reported correctly enrolled.

*HOUSE* BILL NO. *299*

INTRODUCED BY

*J. Brown*  
BY REQUEST OF THE DEPARTMENT OF

HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING  
THE DEFINITION OF LONG-TERM CARE FACILITY; ADDING A  
DEFINITION OF INTERMEDIATE DEVELOPMENTAL DISABILITY CARE;  
AMENDING SECTION 50-5-101, 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) "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.

(8) "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

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*H3299*

1 requirements.

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

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

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

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

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

1 (14) "Health maintenance organization" means a public  
2 or private organization organized as defined in 42 U.S.C.  
3 300a, as amended.

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

11 (16) "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 (17) "Infirmery" 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 "infirmity--A" provides outpatient and  
3 inpatient care;

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

5 (18) "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 (19) "Kidney treatment center" means a facility which  
12 specializes in treatment of kidney diseases, including  
13 freestanding hemodialysis units.

14 (20) (a) "Long-term care facility" means a facility or  
15 part thereof which provides skilled nursing care, or  
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 three persons who are not related  
19 to the owner or administrator by blood or marriage, with  
20 these degrees of care defined as follows: The term does not  
21 include hotels, motels, boardinghouses, roominghouses, or  
22 similar accommodations providing for transients, students,  
23 or persons not requiring institutional health care.

24 ~~++~~(b) "Skilled nursing care" means the provision of  
25 nursing care services, health-related services, and social

1 services under the supervision of a licensed registered  
2 nurse on a 24-hour basis.

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

7 (d) "Intermediate developmental disability care" means  
8 the provision of nursing care services, health-related  
9 services, and social services for the developmentally  
10 disabled or persons with related problems.

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

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

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

24 (22) "New institutional health services" means:

25 (a) the construction, development, or other

1 establishment of a health care facility which did not  
2 previously exist;

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

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

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

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

1 home health agency.

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

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

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

10 (26) "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 (27) "Patient" means an individual obtaining services,  
17 including skilled nursing care, from a health care facility.

18 (28) "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 (29) "Public health center" means a publicly owned  
23 facility providing health services, including laboratories,  
24 clinics, and administrative offices.

25 (30) "Rehabilitation facility" means a facility which

1 is 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 (31) "Resident" means a person who is in a long-term  
9 care facility for intermediate or personal care.

10 (32) "State plan" means the state medical facility plan  
11 provided for in part 4."

12 NEW SECTION. Section 2. Saving clause. This act does  
13 not affect rights and duties that matured, penalties that  
14 were incurred, or proceedings that were begun before the  
15 effective date of this act.

16 NEW SECTION. Section 3. Severability. If a part of  
17 this act is invalid, all valid parts that are severable from  
18 the invalid part remain in effect. If a part of this act is  
19 invalid in one or more of its applications, the part remains  
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21 the invalid applications.

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Approved by Comm. On Human Services

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21 include ADULT FOSTER CARE LICENSED UNDER 53-5-303, COMMUNITY  
22 HOUSES FOR THE DEVELOPMENTALLY DISABLED LICENSED UNDER  
23 53-20-105, BOARDING OR FOSTER HOMES FOR CHILDREN LICENSED  
24 UNDER 41-3-503, hotels, motels, boardinghouses,  
25 roominghouses, or similar accommodations providing for

1 transients, students, or persons not requiring institutional  
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12 health care facility or a person on behalf of a health care  
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6 home health agency.

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14 care facility for intermediate or personal care.

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25 in effect in all valid applications that are severable from

1 the invalid applications.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 299

## 3 House Human Services Committee

4

5 A statement of intent is necessary for House Bill 299  
6 because it grants the Department of Health and Environmental  
7 Sciences the authority to adopt, by rule, specific licensing  
8 standards for facilities providing nursing care, as well as  
9 other services, to the developmentally disabled.

10 It is the intent of the Legislature that the standards  
11 adopted for such facilities be substantially the same as  
12 those federal standards contained in 42 Code of Federal  
13 Regulations, Part 442, Subpart G, "Standards for  
14 Intermediate Care Facilities for the Mentally Retarded".  
15 Those standards include necessary administrative policies  
16 and procedures; admission and release criteria; personnel  
17 policies; resident living standards; requirements for  
18 professional and special programs and services; dental  
19 service requirements; necessary administrative services;  
20 safety and sanitation requirement; required recordkeeping;  
21 and requirements for services in the following areas:  
22 training and habilitation, food and nutrition, medical  
23 services, nursing, pharmacy, physical and occupational  
24 therapy, psychological services, recreation, social  
25 services, speech pathology, and audiology.

SECOND READING

HB 299

On motion taken from second  
reading & rereferred to  
Human Services Comm.

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8 the services of a licensed registered nurse and at least one  
9 other therapeutic service and may include additional support  
10 services.

11 (16) "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 (17) "Infirmity" 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  
3 inpatient care;

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

5 (18) "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 (19) "Kidney treatment center" means a facility which  
12 specializes in treatment of kidney diseases, including  
13 freestanding hemodialysis units.

14 (20) (a) "Long-term care facility" means a facility or  
15 part thereof which provides skilled nursing care, or  
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 three persons who are not related  
19 to the owner or administrator by blood or marriage, ~~with~~  
20 ~~these degrees of care defined as follows: The term does not~~  
21 ~~include ADULT FOSTER CARE LICENSED UNDER 53-5-303, COMMUNITY~~  
22 ~~HOUSES FOR THE DEVELOPMENTALLY DISABLED LICENSED UNDER~~  
23 ~~53-20-105, BOARDING OR FOSTER HOMES FOR CHILDREN LICENSED~~  
24 ~~UNDER 41-3-503, hotels, motels, boardinghouses,~~  
25 ~~roominghouses, or similar accommodations providing for~~

1 ~~transients, students, or persons not requiring institutional~~  
2 ~~health care.~~

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

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

11 (d) ~~"Intermediate developmental disability care" means~~  
12 ~~the provision of nursing care services, health-related~~  
13 ~~services, and social services for the developmentally~~  
14 ~~disabled, AS DEFINED IN 53-20-102(4), or persons with~~  
15 ~~related problems.~~

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

20 (f) ~~--Hotels, motels, boarding houses, roominghouses, or~~  
21 ~~similar accommodations providing for transients, students,~~  
22 ~~or persons not requiring institutional health care, are not~~  
23 ~~long-term care facilities.~~

24 (21) "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 (22) "New institutional health services" means:

5 (a) the construction, development, or other  
6 establishment of a health care facility which did not  
7 previously exist;

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

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

24 (d) health services which are offered in or through a  
25 health care facility and which were not offered on a regular

1 basis in or through such health care facility within the  
2 12-month period prior to the time such services would be  
3 offered or the deletion by a health care facility of a  
4 service previously offered;

5 (e) the expansion of a geographic service area of a  
6 home health agency.

7 (23) "Nonprofit health care facility" means a health  
8 care facility owned or operated by one or more nonprofit  
9 corporations or associations.

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

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

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

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

23 (28) "Person" means any individual, firm, partnership,  
24 association, organization, agency, institution, corporation,  
25 trust, estate, or governmental unit, whether organized for

1 profit or not.

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

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

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

15 (32) "State plan" means the state medical facility plan  
16 provided for in part 4."

17 NEW SECTION. Section 2. Saving clause. This act does  
18 not affect rights and duties that matured, penalties that  
19 were incurred, or proceedings that were begun before the  
20 effective date of this act.

21 NEW SECTION. Section 3. Severability. If a part of  
22 this act is invalid, all valid parts that are severable from  
23 the invalid part remain in effect. If a part of this act is  
24 invalid in one or more of its applications, the part remains  
25 in effect in all valid applications that are severable from

1 the invalid applications.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 299

3 House Human Services Committee  
4

5 A statement of intent is necessary for House Bill 299  
6 because it grants the Department of Health and Environmental  
7 Sciences the authority to adopt, by rule, specific licensing  
8 standards for facilities providing nursing care, as well as  
9 other services, to the developmentally disabled.

10 It is the intent of the Legislature that the standards  
11 adopted for such facilities be substantially the same as  
12 those federal standards contained in 42 Code of Federal  
13 Regulations, Part 442, Subpart G, "Standards for  
14 Intermediate Care Facilities for the Mentally Retarded".  
15 Those standards include necessary administrative policies  
16 and procedures; admission and release criteria; personnel  
17 policies; resident living standards; requirements for  
18 professional and special programs and services; dental  
19 service requirements; necessary administrative services;  
20 safety and sanitation requirement; required recordkeeping;  
21 and requirements for services in the following areas:  
22 training and habilitation, food and nutrition, medical  
23 services, nursing, pharmacy, physical and occupational  
24 therapy, psychological services, recreation, social  
25 services, speech pathology, and audiology.

THIRD READING  
HB299

## 1 HOUSE BILL NO. 299

2 INTRODUCED BY J. BROWN

3 BY REQUEST OF THE DEPARTMENT OF

4 HEALTH AND ENVIRONMENTAL SCIENCES

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING  
7 THE DEFINITION OF LONG-TERM CARE FACILITY; ADDING A  
8 DEFINITION OF INTERMEDIATE DEVELOPMENTAL DISABILITY CARE;  
9 AMENDING SECTION 50-5-101, MCA."

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

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

13 "50-5-101. Definitions. As used in parts 1 through 4  
14 of this chapter, unless the context clearly indicates  
15 otherwise, the following definitions apply:

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

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

21 (3) "Affected persons" means the applicant, members of  
22 the public who are to be served by the proposal, health care  
23 facilities located in the geographic area affected by the  
24 application, agencies which establish rates for health care  
25 facilities, and agencies which plan or assist in planning

1 for such facilities, including any agency qualifying as a  
2 health systems agency pursuant to Title XV of the Public  
3 Health Service Act.

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

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

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

14 (7) "Clinical laboratory" means a facility for the  
15 microbiological, serological, chemical, hematological,  
16 radiobioassay, cytological, immuno-hematological,  
17 pathological, or other examination of materials derived from  
18 the human body for the purpose of providing information for  
19 the diagnosis, prevention, or treatment of any disease or  
20 assessment of a medical condition.

21 (8) "College of American pathologists" means the  
22 organization nationally recognized by that name with  
23 headquarters in Traverse City, Michigan, that surveys  
24 clinical laboratories upon their requests and accredits  
25 clinical laboratories that it finds meet its standards and

1 requirements.

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

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

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

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

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

1 (14) "Health maintenance organization" means a public  
2 or private organization organized as defined in 42 U.S.C.  
3 300e, as amended.

4 (15) "Home health agency" means a public agency or  
5 private organization or subdivision thereof which is engaged  
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10 and training or any combination of these services and in  
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1 the invalid applications.

-End-



March 15, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 299 be amended as follows:

CORRECTED BY CLERICAL

1. Page 5, line 24.

Following: "41-3-503,"

Insert: "a community residential facility as defined in ~~76-2-213,~~"

**76-2-313**

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 299

3 House Human Services Committee  
4

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6 because it grants the Department of Health and Environmental  
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9 other services, to the developmentally disabled.

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REFERENCE BILL

HB 299

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INTRODUCED BY J. BROWN

BY REQUEST OF THE DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING  
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REFERENCE BILL

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23 53-20-305, BOARDING OR FOSTER HOMES FOR CHILDREN LICENSED  
24 UNDER 41-3-503, A COMMUNITY RESIDENTIAL FACILITY AS DEFINED  
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23 ~~or persons not requiring institutional health care, are not~~  
24 ~~long-term care facilities.~~

25 (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) "New institutional health services" means:

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

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

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

(d) health services which are offered in or through a

health care facility and which were not offered on a regular basis in or through such health care facility within the 12-month period prior to the time such services would be offered or the deletion by a health care facility of a service previously offered;

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

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

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

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

(26) "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.

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

(28) "Person" means any individual, firm, partnership, association, organization, agency, institution, corporation,

1 trust, estate, or governmental unit, whether organized for  
2 profit or not.

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

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

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

16 (32) "State plan" means the state medical facility plan  
17 provided for in part 4."

18 NEW SECTION. Section 2. Saving clause. This act does  
19 not affect rights and duties that matured, penalties that  
20 were incurred, or proceedings that were begun before the  
21 effective date of this act.

22 NEW SECTION. Section 3. Severability. If a part of  
23 this act is invalid, all valid parts that are severable from  
24 the invalid part remain in effect. If a part of this act is  
25 invalid in one or more of its applications, the part remains

1 in effect in all valid applications that are severable from  
2 the invalid applications.

-End-

April 15, 1983

..... 19 .....

FREE CONFERENCE COMMITTEE ON  
HOUSE BILL 299  
(Report No. 1)

Mr. Speaker:

We, your Free Conference Committee on House Bill 299, met and considered:

Senate Committee of the Whole amendment of March 15, 1983.

We recommend as follows:

That the Senate recede from the Senate Committee of the Whole amendment of March 15, 1983;

That House Bill 299 be further amended as specified in Clerical Instruction 2; and

That this Free Conference Committee Report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1) Page 5, line 24

Following: " , "

Strike: line 24 and through "313," on line 25

2) Page 6, line 3

Following: "care"

Insert: " , or juvenile and adult correctional facilities operating under the authority of the department of institutions"

FOR THE HOUSE

*J. Brown*  
J. BROWN, CHAIR

*Marks*  
MARKS

*Metcalf*  
METCALF

FOR THE SENATE

*T. Hager*  
HAGER, CHAIR

*B. Christaens*  
CHRISTLAENS

*Himsl*  
HIMSL



## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 299

## 3 House Human Services Committee

4

5 A statement of intent is necessary for House Bill 299  
6 because it grants the Department of Health and Environmental  
7 Sciences the authority to adopt, by rule, specific licensing  
8 standards for facilities providing nursing care, as well as  
9 other services, to the developmentally disabled.

10 It is the intent of the Legislature that the standards  
11 adopted for such facilities be substantially the same as  
12 those federal standards contained in 42 Code of Federal  
13 Regulations, Part 442, Subpart G, "Standards for  
14 Intermediate Care Facilities for the Mentally Retarded".  
15 Those standards include necessary administrative policies  
16 and procedures; admission and release criteria; personnel  
17 policies; resident living standards; requirements for  
18 professional and special programs and services; dental  
19 service requirements; necessary administrative services;  
20 safety and sanitation requirement; required recordkeeping;  
21 and requirements for services in the following areas:  
22 training and habilitation, food and nutrition, medical  
23 services, nursing, pharmacy, physical and occupational  
24 therapy, psychological services, recreation, social  
25 services, speech pathology, and audiology.

## HOUSE BILL NO. 299

INTRODUCED BY J. BROWN

BY REQUEST OF THE DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING  
THE DEFINITION OF LONG-TERM CARE FACILITY; ADDING A  
DEFINITION OF INTERMEDIATE DEVELOPMENTAL DISABILITY CARE;  
AMENDING SECTION 50-5-101, 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) "Clinical laboratory" means a facility for the  
microbiological, serological, chemical, nematological,  
radioassay, 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.

(8) "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

1 requirements.

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

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

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

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

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

1 (14) "Health maintenance organization" means a public  
2 or private organization organized as defined in 42 U.S.C.  
3 300e, as amended.

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

11 (16) "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 (17) "Infirmity" 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 "infirmity--A" provides outpatient and  
3 inpatient care;

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

5 (18) "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 (19) "Kidney treatment center" means a facility which  
12 specializes in treatment of kidney diseases, including  
13 freestanding hemodialysis units.

14 (20) (a) "Long-term care facility" means a facility or  
15 part thereof which provides skilled nursing care, or  
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 three persons who are not related  
19 to the owner or administrator by blood or marriage, with  
20 these degrees of care defined as follows: The term does not  
21 include ADULT FOSTER CARE LICENSED UNDER 53-5-303, COMMUNITY  
22 HOMES FOR THE DEVELOPMENTALLY DISABLED LICENSED UNDER  
23 53-20-105, BOARDING OR FOSTER HOMES FOR CHILDREN LICENSED  
24 UNDER 41-3-503, A COMMUNITY RESIDENTIAL FACILITY AS DEFINED  
25 IN 16-2-312, hotels, motels, boardinghouses, roominghouses,

1 or similar accommodations providing for transients,  
2 students or persons not requiring institutional health  
3 care, OR JUVENILE AND ADULT CORRECTIONAL FACILITIES  
4 OPERATING UNDER THE AUTHORITY OF THE DEPARTMENT OF  
5 INSTITUTIONS.

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

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

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

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

23 (f) "Hotels, motels, boardinghouses, roominghouses, or  
24 similar accommodations providing for transients, students,  
25 or persons not requiring institutional health care are not

1 ~~long-term-care-facilities~~

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

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17 care facility for intermediate or personal care.

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-End-