

SENATE BILL NO. 208

INTRODUCED BY JACOBSON, VINCENT, MENAHAN, ECK,  
NORMAN, KEENAN, HIMSL, FABREGA, STEPHENS,  
REGAN, BERGENE, MARDUT, MAZUREK

IN THE SENATE

January 19, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
February 12, 1983	Committee recommend bill do pass as amended. Report adopted.  Statement of Intent attached.
February 14, 1983	Bill printed and placed on members' desks.
February 15, 1983	Second reading, do pass.
February 16, 1983	Correctly engrossed.
February 17, 1983	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 1, 1983	Introduced and referred to Committee on Human Services.
March 21, 1983	Committee recommend bill be concurred in. Report adopted.
March 22, 1983	Second reading, concurred in.
March 23, 1983	Third reading, concurred in.

IN THE SENATE

March 24, 1983

Returned to Senate. Sent to  
enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *208*  
 2 INTRODUCED BY *J. Jackson Vincent Monahan Bob*  
 3 *Norman Keenan George Bergone*  
 4 A BILL FOR AN ACT ENTITLED: *Animal STEWENS Egg* "AN ACT DEFINING A HOSPICE FOR  
 5 LICENSING PURPOSES; REQUIRING THE DEPARTMENT OF HEALTH AND  
 6 ENVIRONMENTAL SCIENCES TO ADOPT RULES SETTING STANDARDS FOR  
 7 LICENSING A HOSPICE; REQUIRING THE DEPARTMENT TO LICENSE A  
 8 HOSPICE APPROVED BY THE COMMISSION ON ACCREDITATION OF  
 9 HOSPITALS; 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, hospices, hospitals, infirmaries, kidney treatment  
23 centers, long-term care facilities, mental health centers,  
24 outpatient 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) "Hospice" means a coordinated program of home and  
12 inpatient health care that provides or coordinates  
13 palliative and supportive care to meet the needs of a  
14 terminally ill patient and his family arising out of  
15 physical, psychological, spiritual, social, and economic  
16 stresses experienced during the final stages of illness and  
17 dying, and that includes formal bereavement programs as an  
18 essential component.

19 ~~(16)~~ (17) "Hospital" means a facility providing, by or  
20 under the supervision of licensed physicians, services for  
21 medical diagnosis, treatment, rehabilitation, and care of  
22 injured, disabled, or sick persons. Services provided may or  
23 may not include obstetrical care, emergency care, or any  
24 other service as allowed by state licensing authority. A  
25 hospital has an organized medical staff which is on call and

1 available within 20 minutes, 24 hours per day, 7 days per  
 2 week, and provides 24-hour nursing care by licensed  
 3 registered nurses. This term includes hospitals specializing  
 4 in providing health services for psychiatric, mentally  
 5 retarded, and tubercular patients.

6 ~~(17)~~(18) "Infirmity" means a facility located in a  
 7 university, college, government institution, or industry for  
 8 the treatment of the sick or injured, with the following  
 9 subdefinitions:

10 (a) an "infirmity--A" provides outpatient and  
 11 inpatient care;

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

13 ~~(18)~~(19) "Joint commission on accreditation of  
 14 hospitals" means the organization nationally recognized by  
 15 that name with headquarters in Chicago, Illinois, that  
 16 surveys health care facilities upon their requests and  
 17 grants accreditation status to any health care facility that  
 18 it finds meets its standards and requirements.

19 ~~(19)~~(20) "Kidney treatment center" means a facility  
 20 which specializes in treatment of kidney diseases, including  
 21 freestanding hemodialysis units.

22 ~~(20)~~(21) (a) "Long-term care facility" means a facility  
 23 or part thereof which provides skilled nursing care or  
 24 intermediate nursing care to a total of two or more persons  
 25 or personal care to more than three persons who are not

1 related to the owner or administrator by blood or marriage,  
 2 with these degrees of care defined as follows:

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

11 (iii) "Personal care" means the provision of services  
 12 and care which do not require nursing skills to residents  
 13 needing some assistance in performing the activities of  
 14 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)~~(22) "Mental health center" means a facility  
 20 providing services for the prevention or diagnosis of mental  
 21 illness, the care and treatment of mentally ill patients or  
 22 the rehabilitation of such persons, or any combination of  
 23 these services.

24 ~~(22)~~(23) "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)~~(24) "Nonprofit health care facility" means a  
3 health care facility owned or operated by one or more  
4 nonprofit corporations or associations.

5 ~~(24)~~(25) "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)~~(26) "Offer" means the holding out by a health care  
9 facility that it can provide specific health services.

10 ~~(26)~~(27) "Outpatient facility" means a facility,  
11 located in or apart from a hospital, providing, under the  
12 direction of a licensed physician, either diagnosis or  
13 treatment, or both, to ambulatory patients in need of  
14 medical, surgical, or mental care. An outpatient facility  
15 may have observation beds.

16 ~~(27)~~(28) "Patient" means an individual obtaining  
17 services, including skilled nursing care, from a health care  
18 facility.

19 ~~(28)~~(29) "Person" means any individual, firm,  
20 partnership, association, organization, agency, institution,  
21 corporation, trust, estate, or governmental unit, whether  
22 organized for profit or not.

23 ~~(29)~~(30) "Public health center" means a publicly owned  
24 facility providing health services, including laboratories,  
25 clinics, and administrative offices.

~~(30)~~(31) "Rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

~~(31)~~(32) "Resident" means a person who is in a long-term care facility for intermediate or personal care.

~~(32)~~(33) "State plan" means the state medical facility plan provided for in part 4."

NEW SECTION. Section 2. Department to make rules -- standards for skilled care. (1) The department shall by rule establish standards for the licensure of a hospice. These standards must consider the terminally ill patient and his family as a unit and require service delivery through a medically directed interdisciplinary team of professionals and volunteers acting under a defined hospice administration.

(2) A hospice must meet the standards of care defined by law for any skilled care it provides that normally would be provided by a licensed facility such as a hospital, skilled nursing facility, or home health agency.

NEW SECTION. Section 3. Licensure based on approval

of commission. A hospice accredited by the joint commission on accreditation of hospitals must be granted deemed status licensure by the department based upon the joint commission's survey and approval.

NEW SECTION. Section 4. Codification instruction. Sections 2 and 3 are intended to be codified as an integral part of Title 50, chapter 5, and the provisions of Title 50, chapter 5, apply to sections 2 and 3.

-End-

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 208

3 Senate Public Health, Welfare &amp; Safety Committee

4

5 Section 2 authorizes the department of health and  
6 environmental sciences to adopt rules setting standards for  
7 hospice programs. It is anticipated that the department will  
8 draw on the Hospice Project Standards being formulated by  
9 the Joint Commission on Accreditation of Hospitals (JCAH),  
10 which cover hospice programs operated both with and without  
11 hospital affiliation. The JCAH standards expand on areas  
12 mentioned in section 2 (patient and family as unit,  
13 continuity of care, management and administration) and touch  
14 on additional areas when standards are contemplated (such as  
15 symptom management, medical records, and quality assurance).  
16 The department should bear in mind that many of the JCAH  
17 standards are optimum standards or goals and that these  
18 should not be promulgated as minimum standards. Where  
19 minimum standards or weighted averages exist, these should  
20 be taken into account.

21 The bill is not intended as a vehicle to qualify  
22 hospice programs for medicare reimbursement. Such program  
23 standards as the federal government may establish to qualify  
24 medicare providers are not to be considered a source of  
25 state licensing criteria, except as an alternative standard

1 for programs which choose to pursue medicare reimbursement.



Approved by Committee  
on Public Health, Welfare  
& Safety

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REGAN, BERGENE, MARBUT, MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING A HOSPICE FOR  
LICENSING PURPOSES; REQUIRING THE DEPARTMENT OF HEALTH AND  
ENVIRONMENTAL SCIENCES TO ADOPT RULES SETTING STANDARDS FOR  
LICENSING A HOSPICE; ~~REQUIRING THE DEPARTMENT TO LICENSE A  
HOSPICE APPROVED BY THE COMMISSION ON ACCREDITATION OF  
HOSPICES~~; 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:

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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  
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Health Service Act.

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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,  
radioassay, cytological, immuno-hematological,  
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

1 clinical laboratories upon their requests and accredits  
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19 services, medical treatment, or nursing, rehabilitative, or  
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21 include offices of private physicians or dentists. The term  
22 includes but is not limited to ambulatory surgical  
23 facilities, health maintenance organizations, home health  
24 agencies, ~~hospices~~ hospitals, infirmaries, kidney treatment  
25 centers, long-term care facilities, mental health centers,

1 outpatient facilities, public health centers, rehabilitation  
2 facilities, and adult day-care centers.

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4 or private organization organized as defined in 42 U.S.C.  
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7 private organization or subdivision thereof which is engaged  
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1 other service as allowed by state licensing authority. A  
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 24 the rehabilitation of such persons, or any combination of  
 25 these services.

~~(22)~~(23) "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)~~(24) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

~~(24)~~(25) "Observation bed" means a bed occupied for not more than 6 hours by a patient recovering from surgery or other treatment.

~~(25)~~(26) "Offer" means the holding out by a health care facility that it can provide specific health services.

~~(26)~~(27) "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)~~(28) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

~~(28)~~(29) "Person" means any individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

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1 facility providing health services, including laboratories,  
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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 ~~(31)~~(32) "Resident" means a person who is in a  
12 long-term care facility for intermediate or personal care.

13 ~~(32)~~(33) "State plan" means the state medical facility  
14 plan provided for in part 4."

15 NEW\_SECTION. Section 2. Department to make rules --  
16 standards for skilled care. (1) The department shall by rule  
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18 standards must consider the terminally ill patient and his  
19 family as a unit and require service delivery through a  
20 medically directed interdisciplinary team of professionals  
21 and volunteers acting under a defined hospice  
22 administration.

23 (2) A hospice must meet the standards of care defined  
24 by law for any skilled care it provides that normally would  
25 be provided by a licensed facility such as a hospital,

1 skilled nursing facility, or home health agency.

2 ~~NEW\_SECTION.~~ Section 3. Licensure based on approval  
3 of commissions -- A hospice accredited by the joint commission  
4 on accreditation of hospitals must be granted deemed status  
5 licensure by the department based upon the joint  
6 commission's survey and approval.

7 THERE IS A NEW MCA SECTION THAT READS:

8 Section 3. Hospitals hospice programs -- exemptions  
9 from separate licensure. A hospice program provided by a  
10 hospital need not be separately licensed if the department  
11 finds that such program meets the standards of [section 2].

12 NEW\_SECTION. Section 4. Codification Instruction.  
13 Sections 2 and 3 are intended to be codified as an integral  
14 part of Title 50, chapter 5, and the provisions of Title 50,  
15 chapter 5, apply to sections 2 and 3.

-End-

## 1                   STATEMENT OF INTENT

## 2                   SENATE BILL 208

3           Senate Public Health, Welfare & Safety Committee  
4

5           Section 2 authorizes the department of health and  
6   environmental sciences to adopt rules setting standards for  
7   hospice programs. It is anticipated that the department will  
8   draw on the Hospice Project Standards being formulated by  
9   the Joint Commission on Accreditation of Hospitals (JCAH),  
10   which cover hospice programs operated both with and without  
11   hospital affiliation. The JCAH standards expand on areas  
12   mentioned in section 2 (patient and family as unit,  
13   continuity of care, management and administration) and touch  
14   on additional areas when standards are contemplated (such as  
15   symptom management, medical records, and quality assurance).  
16   The department should bear in mind that many of the JCAH  
17   standards are optimum standards or goals and that these  
18   should not be promulgated as minimum standards. Where  
19   minimum standards or weighted averages exist, these should  
20   be taken into account.

21          The bill is not intended as a vehicle to qualify  
22   hospice programs for medicare reimbursement. Such program  
23   standards as the federal government may establish to qualify  
24   medicare providers are not to be considered a source of  
25   state licensing criteria, except as an alternative standard

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THIRD READING

SB 208

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(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, radioassay, cytological, immuno-hematological, 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

1 clinical laboratories upon their requests and accredits  
2 clinical laboratories that it finds meet its standards and  
3 requirements.

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

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

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

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

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

1 outpatient facilities, public health centers, rehabilitation  
2 facilities, and adult day-care centers.

3 (14) "Health maintenance organization" means a public  
4 or private organization organized as defined in 42 U.S.C.  
5 300e, as amended.

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

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

21 ~~(16)(17)~~ "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 ~~(177)~~(118) "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 ~~(187)~~(119) "Joint commission on accreditation of  
 16 hospitals" means the organization nationally recognized by  
 17 that name with headquarters in Chicago, Illinois, that  
 18 surveys health care facilities upon their requests and  
 19 grants accreditation status to any health care facility that  
 20 it finds meets its standards and requirements.

21 ~~(197)~~(120) "Kidney treatment center" means a facility  
 22 which specializes in treatment of kidney diseases, including  
 23 freestanding hemodialysis units.

24 ~~(207)~~(121) (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 ~~(217)~~(122) "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 ~~(22)~~(23) "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 ~~(23)~~(24) "Nonprofit health care facility" means a  
5 health care facility owned or operated by one or more  
6 nonprofit corporations or associations.

7 ~~(24)~~(25) "Observation bed" means a bed occupied for not  
8 more than 6 hours by a patient recovering from surgery or  
9 other treatment.

10 ~~(25)~~(26) "Offer" means the holding out by a health care  
11 facility that it can provide specific health services.

12 ~~(26)~~(27) "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 ~~(27)~~(28) "Patient" means an individual obtaining  
19 services, including skilled nursing care, from a health care  
20 facility.

21 ~~(28)~~(29) "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 ~~(29)~~(30) "Public health center" means a publicly owned

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

3 ~~(30)(31)~~ "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 ~~(31)(32)~~ "Resident" means a person who is in a  
12 long-term care facility for intermediate or personal care.

13 ~~(32)(33)~~ "State plan" means the state medical facility  
14 plan provided for in part 4."

15 NEW SECTION. Section 2. Department to make rules --  
16 standards for skilled care. (1) The department shall by rule  
17 establish standards for the licensure of a hospice. These  
18 standards must consider the terminally ill patient and his  
19 family as a unit and require service delivery through a  
20 medically directed interdisciplinary team of professionals  
21 and volunteers acting under a defined hospice  
22 administration.

23 (2) A hospice must meet the standards of care defined  
24 by law for any skilled care it provides that normally would  
25 be provided by a licensed facility such as a hospital,

1 skilled nursing facility, or home health agency.

2 ~~NEW SECTION. Section 3. Licensure based on approval~~  
3 ~~of commission. A hospice accredited by the joint commission~~  
4 ~~on accreditation of hospitals must be granted deemed status~~  
5 ~~licensure by the department based upon the joint~~  
6 ~~commission's survey and approval.~~

7 THERE IS A NEW MCA SECTION THAT READS:

8 Section 3. Hospitals hospice programs -- exemptions  
9 from separate licensure. A hospice program provided by a  
10 hospital need not be separately licensed if the department  
11 finds that such program meets the standards of [section 2].

12 NEW SECTION. Section 4. Codification instruction.  
13 Sections 2 and 3 are intended to be codified as an integral  
14 part of Title 50, chapter 5, and the provisions of Title 50,  
15 chapter 5, apply to sections 2 and 3.

-End-

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 208

3 Senate Public Health, Welfare &amp; Safety Committee

1 for programs which choose to pursue medicare reimbursement.

4  
5 Section 2 authorizes the department of health and  
6 environmental sciences to adopt rules setting standards for  
7 hospice programs. It is anticipated that the department will  
8 draw on the Hospice Project Standards being formulated by  
9 the Joint Commission on Accreditation of Hospitals (JCAH),  
10 which cover hospice programs operated both with and without  
11 hospital affiliation. The JCAH standards expand on areas  
12 mentioned in section 2 (patient and family as unit,  
13 continuity of care, management and administration) and touch  
14 on additional areas when standards are contemplated (such as  
15 symptom management, medical records, and quality assurance).  
16 The department should bear in mind that many of the JCAH  
17 standards are optimum standards or goals and that these  
18 should not be promulgated as minimum standards. Where  
19 minimum standards or weighted averages exist, these should  
20 be taken into account.

21 The bill is not intended as a vehicle to qualify  
22 hospice programs for medicare reimbursement. Such program  
23 standards as the federal government may establish to qualify  
24 medicare providers are not to be considered a source of  
25 state licensing criteria, except as an alternative standard

## SENATE BILL NO. 208

INTRODUCED BY JACOBSON, VINCENT, MENAHAN, ECK,

NORMAN, KEENAN, HIMSL, FABREGA, STEPHENS,

REGAN, BERGENE, MARBUT, MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING A HOSPICE FOR LICENSING PURPOSES; REQUIRING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT RULES SETTING STANDARDS FOR LICENSING A HOSPICE; ~~REQUIRING THE DEPARTMENT TO LICENSE A HOSPICE APPROVED BY THE COMMISSION ON ACCREDITATION OF HOSPICES~~ 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, radiobiassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or assessment of a medical condition.

(8) "College of American pathologists" means the organization nationally recognized by that name with headquarters in Traverse City, Michigan, that surveys

1 clinical laboratories upon their requests and accredits  
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3 requirements.

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

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

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11 construction of health care facilities.

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

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

1 outpatient facilities, public health centers, rehabilitation  
2 facilities, and adult day-care centers.

3 (14) "Health maintenance organization" means a public  
4 or private organization organized as defined in 42 U.S.C.  
5 300e, as amended.

6 (15) "Home health agency" means a public agency or  
7 private organization or subdivision thereof which is engaged  
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9 places where they live. Home health services must include  
10 the services of a licensed registered nurse and at least one  
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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  
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 9 university, college, government institution, or industry for  
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12 (a) an "infirmity--A" provides outpatient and  
 13 inpatient care;

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 16 hospitals" means the organization nationally recognized by  
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21 ~~(19)~~(20) "Kidney treatment center" means a facility  
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 23 freestanding hemodialysis units.

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 25 or part thereof which provides skilled nursing care or

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 3 related to the owner or administrator by blood or marriage,  
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 6 nursing care services, health-related services, and social  
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 18 similar accommodations providing for transients, students,  
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6 facility within a 12-month period in excess of \$150,000,  
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