

HOUSE BILL NO. 455

INTRODUCED BY MILES, B. BROWN, STRATFORD, HAGER,  
HALLIGAN, CAMPBELL, THOFT, ECK, HIRSCH, WALLIN,  
WINSLOW, B. WILLIAMS, SQUIRES, HARPER, VINCENT,  
COHEN, KEENAN, PHILLIPS, BRADLEY

BY REQUEST OF THE GOVERNOR

IN THE HOUSE

JANUARY 26, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
JANUARY 29, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 30, 1987	PRINTING REPORT.
FEBRUARY 2, 1987	SECOND READING, DO PASS.
FEBRUARY 3, 1987	ENGROSSING REPORT.  THIRD READING, PASSED. AYES, 99; NOES, 0.  TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 4, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
MARCH 23, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 27, 1987	SECOND READING, CONCURRED IN.
MARCH 30, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.  RETURNED TO HOUSE.

IN THE HOUSE

MARCH 31, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

APRIL 1, 1987

ENROLLING REPORT.

APRIL 2, 1987

SIGNED BY SPEAKER.

IN THE SENATE

APRIL 2, 1987

SIGNED BY PRESIDENT.

IN THE HOUSE

APRIL 3, 1987

DELIVERED TO GOVERNOR.

APRIL 8, 1987

RETURNED FROM GOVERNOR WITH  
RECOMMENDED AMENDMENTS.

APRIL 10, 1987

SECOND READING, GOVERNOR'S RECOM-  
MENDED AMENDMENTS CONCURRED IN.

APRIL 11, 1987

THIRD READING, GOVERNOR'S RECOM-  
MENDED AMENDMENTS CONCURRED IN.

TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 15, 1987

SECOND READING, GOVERNOR'S RECOM-  
MENDED AMENDMENTS CONCURRED IN.

ON MOTION, RULES SUSPENDED TO PLACE  
BILL ON THIRD READING THIS DAY.

THIRD READING, GOVERNOR'S RECOM-  
MENDED AMENDMENTS CONCURRED IN.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 16, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

1 House BILL NO. 453  
 2 INTRODUCED BY Miles Bob Brown Stratford Hager  
 3 Coyhill BY REQUEST OF THE GOVERNOR Jeff E. Bligh  
 4 Hislop Wright Vincent Winters Phillips  
 5 Spencer Hager Keenan Phillips Bri  
 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE RIGHTS

6 OF RESIDENTS OF LONG-TERM CARE FACILITIES; PROVIDING THAT A  
 7 RESIDENT MUST BE INFORMED OF HIS RIGHTS; REQUIRING THAT  
 8 THESE RIGHTS BE POSTED IN LONG-TERM CARE FACILITIES; AND  
 9 REQUIRING THAT FACILITY STAFF BE TRAINED TO IMPLEMENT THESE  
 10 RIGHTS."

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 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 13 Section 1. Short title. [This act] may be cited as the  
 14 "Montana Long-Term Care Residents' Bill of Rights".

15 Section 2. Findings and purpose. (1) The legislature  
 16 finds and declares that many residents of long-term care  
 17 facilities are isolated from the community and lack the  
 18 means to assert their rights.

- 19 (2) The purpose of [this act] is to:  
 20 (a) establish and recognize the fundamental civil and  
 21 human rights to which residents of long-term care facilities  
 22 are entitled; and  
 23 (b) provide for the education of residents and staff  
 24 regarding these rights.

25 Section 3. Definitions. In [this act] the following

1 definitions apply:

2 (1) "Administrator" means a person who is licensed as  
 3 a nursing home administrator under Title 37, chapter 9, and  
 4 who administers, manages, or supervises a long-term care  
 5 facility.

6 (2) "Authorized representative" means:

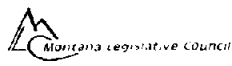
- 7 (a) a person holding a general power of attorney for a  
 8 resident;  
 9 (b) a person appointed by a court to manage the  
 10 personal or financial affairs of a resident;  
 11 (c) a representative payee;  
 12 (d) a resident's next of kin; or  
 13 (e) a sponsoring agency.

14 (3) "Department" means the department of health and  
 15 environmental sciences.

16 (4) "Facility" or "long-term care facility" means a  
 17 facility or part thereof licensed under Title 50, chapter 5,  
 18 to provide skilled nursing care, intermediate nursing care,  
 19 or personal care.

20 (5) "Long-term care ombudsman" means the individual  
 21 appointed to fulfill the requirement of 42 U.S.C.  
 22 3027(a)(12) that the state provide an advocate for  
 23 residents of long-term care facilities.

24 (6) "Resident" means a person who lives in a long-term  
 25 care facility.



1 Section 4. Rights of long-term care facility  
 2 residents. (1) The state adopts by reference for all  
 3 long-term care facilities the rights for long-term care  
 4 facility residents applied by the federal government to  
 5 facilities that provide skilled nursing care or intermediate  
 6 nursing care and participate in a medicaid or medicare  
 7 program (42 U.S.C. 1395x(j) and 1396d(c), as implemented by  
 8 regulation).

9 (2) In addition to the rights adopted under subsection  
 10 (1), the state adopts for all residents of long-term care  
 11 facilities the following rights:

12 (a) A resident or his authorized representative must  
 13 be informed by the facility at least 30 days in advance of  
 14 any changes in the cost or availability of services, unless  
 15 to do so is beyond the facility's control.

16 (b) Regardless of the source of payment, each resident  
 17 or his authorized representative is entitled, upon request,  
 18 to receive and examine an explanation of his monthly bill.

19 (c) Residents have the right to organize, maintain,  
 20 and participate in resident advisory councils. The facility  
 21 shall afford reasonable privacy and facility space for the  
 22 meetings of such councils.

23 (d) A resident has the right to present a grievance on  
 24 his own behalf or that of others to the facility or the  
 25 resident advisory council. The facility shall establish

1 written procedures for receiving, handling, and informing  
 2 residents or the resident advisory council of the outcome of  
 3 any grievance presented.

4 (e) A resident has the right to ask a state agency or  
 5 a resident advocate for assistance in resolving grievances,  
 6 free from restraint, interference, or reprisal.

7 (f) During his stay in a long-term care facility, a  
 8 resident retains the prerogative to exercise decisionmaking  
 9 rights in all aspects of his health care, including  
 10 placement and treatment issues such as medication, special  
 11 diets, or other medical regimens.

12 (g) The resident's authorized representative must be  
 13 notified in a prompt manner of any significant accident,  
 14 unexplained absence, or significant change in the resident's  
 15 health status.

16 (h) A resident has the right to be free from verbal,  
 17 mental, and physical abuse, neglect, or financial  
 18 exploitation. Facility staff shall report to the department  
 19 and the long-term care ombudsman any suspected incidents of  
 20 abuse under the Montana Elder Abuse Prevention Act, Title  
 21 53, chapter 5, part 5.

22 (i) Each resident has the right to privacy in his room  
 23 or portion of the room. If a resident is seeking privacy in  
 24 his room, staff members should make reasonable efforts to  
 25 make their presence known when entering the room.

1 (j) In case of involuntary transfer or discharge, a  
 2 resident has the right to reasonable advance notice to  
 3 ensure an orderly transfer or discharge. Reasonable advance  
 4 notice requires at least 21 days' written notification of  
 5 any interfacility transfer or discharge except in cases of  
 6 emergency or for medical reasons documented in the  
 7 resident's medical record by the attending physician.

8 (k) If clothing is provided to the resident by the  
 9 facility, it must be of reasonable fit.

10 (l) A resident has the right to reasonable safeguards  
 11 for his personal possessions brought to the facility. The  
 12 facility shall provide a means for safeguarding the  
 13 resident's small items of value in his room or in another  
 14 part of the facility where he must have reasonable access to  
 15 the items.

16 (m) The resident has the right to have all losses or  
 17 thefts of personal possessions promptly investigated by the  
 18 facility. The results of the investigation must be reported  
 19 to the affected resident.

20 (3) The administrator of the facility shall adopt  
 21 whatever additional measures are necessary to implement the  
 22 residents' rights listed in subsections (1) and (2) and meet  
 23 any other requirements relating to residents' health and  
 24 safety that are conditions of participation in a state or  
 25 federal program of medical assistance.

1 Section 5. Long-term care facility to adopt and post  
 2 residents' rights. (1) The administrator of each long-term  
 3 care facility shall:

4 (a) adopt a written statement of rights applicable to  
 5 all residents of its facility, including as a minimum the  
 6 rights listed in [section 4];

7 (b) provide each resident, at the time of his  
 8 admission to the facility, a copy of the facility's  
 9 statement of residents' rights, receipt of which the  
 10 resident or his authorized representative shall acknowledge  
 11 in writing;

12 (c) provide each resident with a written statement of  
 13 any change in residents' rights at the time the change is  
 14 implemented, receipt of which the resident or his authorized  
 15 representative shall acknowledge in writing; and

16 (d) train and involve staff members in the  
 17 implementation of residents' rights as expressed in the  
 18 statement adopted by the facility.

19 (2) Each staff member shall affirm in writing that he  
 20 has read and understands the facility's statement of  
 21 residents' rights.

22 (3) The administrator of the facility shall post in a  
 23 conspicuous place visible to the public a copy of the  
 24 facility's statement of residents' rights, presented in a  
 25 format that can be read easily by the residents and by the

1 public.

2 Section 6. Resident's rights devolve to authorized  
3 representative. The rights and responsibilities listed in  
4 [sections 4 and 5] devolve to the resident's authorized  
5 representative when the resident:

- 6 (1) exhibits a communication barrier;  
7 (2) has been found by his physician to be medically  
8 incapable of understanding these rights; or  
9 (3) has been adjudicated incompetent by a district  
10 court.

11 Section 7. Enforcement of residents' rights. The  
12 requirements of [sections 5 and 6] are included in the  
13 minimum standards considered by the department in reviewing  
14 applications for license, as provided in 50-5-204.

15 Section 8. Severability. If a part of this act is  
16 invalid, all valid parts that are severable from the invalid  
17 part remain in effect. If a part of this act is invalid in  
18 one or more of its applications, the part remains in effect  
19 in all valid applications that are severable from the  
20 invalid applications.

21 Section 9. Codification instruction. Sections 1  
22 through 7 are intended to be codified as an integral part of  
23 Title 50, chapter 5, and the provisions of Title 50, chapter  
24 5, apply to sections 1 through 7.

25 Section 10. Extension of authority. Any existing

1 authority of the department of health and environmental  
2 sciences to make rules on the subject of the provisions of  
3 this act is extended to the provisions of this act.

-End-

APPROVED BY COMM. ON HUMAN SERVICES AND AGING

1 House BILL NO. 455  
 2 INTRODUCED BY Miles Bob Brown Stratford Hager  
 3 BY REQUEST OF THE GOVERNOR Staff Clark  
 4 Spears Hager Keena Phillips  
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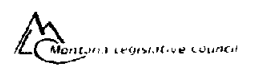
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14 applications for license, as provided in 50-5-204.

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17 part remain in effect. If a part of this act is invalid in  
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21 Section 9. Codification instruction. Sections 1  
22 through 7 are intended to be codified as an integral part of  
23 Title 50, chapter 5, and the provisions of Title 50, chapter  
24 5, apply to sections 1 through 7.

25 Section 10. Extension of authority. Any existing

1 authority of the department of health and environmental  
2 sciences to make rules on the subject of the provisions of  
3 this act is extended to the provisions of this act.

-End-

## 1 HOUSE BILL NO. 455

2 INTRODUCED BY MILES, B. BROWN, STRATFORD, HAGER,

3 HALLIGAN, CAMPBELL, THOFT, ECK, HIRSCH, WALLIN,

4 WINSLOW, B. WILLIAMS, SQUIRES, HARPER, VINCENT,

5 COHEN, KEENAN, PHILLIPS, BRADLEY

6 BY REQUEST OF THE GOVERNOR

7

8 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE RIGHTS  
9 OF RESIDENTS OF LONG-TERM CARE FACILITIES; PROVIDING THAT A  
10 RESIDENT MUST BE INFORMED OF HIS RIGHTS; REQUIRING THAT  
11 THESE RIGHTS BE POSTED IN LONG-TERM CARE FACILITIES; AND  
12 REQUIRING THAT FACILITY STAFF BE TRAINED TO IMPLEMENT THESE  
13 RIGHTS."

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

15 Section 1. Short title. [This act] may be cited as the  
16 "Montana Long-Term Care Residents' Bill of Rights".

17 Section 2. Findings and purpose. (1) The legislature  
18 finds and declares that many residents of long-term care  
19 facilities are isolated from the community and lack the  
20 means to assert their rights.

21 (2) The purpose of [this act] is to:

22 (a) establish and recognize the fundamental civil and  
23 human rights to which residents of long-term care facilities  
24 are entitled; and  
25

1 (b) provide for the education of residents and staff  
2 regarding these rights.

3 Section 3. Definitions. In [this act] the following  
4 definitions apply:

5 (1) "Administrator" means a person who is licensed as  
6 a nursing home administrator under Title 37, chapter 9, and  
7 who administers, manages, or supervises a long-term care  
8 facility.

9 (2) "Authorized representative" means:

10 (a) a person holding a general power of attorney for a  
11 resident;

12 (b) a person appointed by a court to manage the  
13 personal or financial affairs of a resident;

14 (c) a representative payee;

15 (d) a resident's next of kin; or

16 (e) a sponsoring agency.

17 (3) "Department" means the department of health and  
18 environmental sciences.

19 (4) "Facility" or "long-term care facility" means a  
20 facility or part thereof licensed under Title 50, chapter 5,  
21 to provide skilled nursing care, intermediate nursing care,  
22 or personal care.

23 (5) "Long-term care ombudsman" means the individual  
24 appointed to fulfill the requirement of 42 U.S.C.  
25 3027(a)(12) that the state provide an advocate for

1 residents of long-term care facilities.

2 (6) "Resident" means a person who lives in a long-term  
3 care facility.

4 Section 4. Rights of long-term care facility  
5 residents. (1) The state adopts by reference for all  
6 long-term care facilities the rights for long-term care  
7 facility residents applied by the federal government to  
8 facilities that provide skilled nursing care or intermediate  
9 nursing care and participate in a medicaid or medicare  
10 program (42 U.S.C. 1395x(j) and 1396d(c), as implemented by  
11 regulation).

12 (2) In addition to the rights adopted under subsection  
13 (1), the state adopts for all residents of long-term care  
14 facilities the following rights:

15 (a) A resident or his authorized representative must  
16 be informed by the facility at least 30 days in advance of  
17 any changes in the cost or availability of services, unless  
18 to do so is beyond the facility's control.

19 (b) Regardless of the source of payment, each resident  
20 or his authorized representative is entitled, upon request,  
21 to receive and examine an explanation of his monthly bill.

22 (c) Residents have the right to organize, maintain,  
23 and participate in resident advisory councils. The facility  
24 shall afford reasonable privacy and facility space for the  
25 meetings of such councils.

1 (d) A resident has the right to present a grievance on  
2 his own behalf or that of others to the facility or the  
3 resident advisory council. The facility shall establish  
4 written procedures for receiving, handling, and informing  
5 residents or the resident advisory council of the outcome of  
6 any grievance presented.

7 (e) A resident has the right to ask a state agency or  
8 a resident advocate for assistance in resolving grievances,  
9 free from restraint, interference, or reprisal.

10 (f) During his stay in a long-term care facility, a  
11 resident retains the prerogative to exercise decisionmaking  
12 rights in all aspects of his health care, including  
13 placement and treatment issues such as medication, special  
14 diets, or other medical regimens.

15 (g) The resident's authorized representative must be  
16 notified in a prompt manner of any significant accident,  
17 unexplained absence, or significant change in the resident's  
18 health status.

19 (h) A resident has the right to be free from verbal,  
20 mental, and physical abuse, neglect, or financial  
21 exploitation. Facility staff shall report to the department  
22 and the long-term care ombudsman any suspected incidents of  
23 abuse under the Montana Elder Abuse Prevention Act, Title  
24 53, chapter 5, part 5.

25 (i) Each resident has the right to privacy in his room



1 or portion of the room. If a resident is seeking privacy in  
 2 his room, staff members should make reasonable efforts to  
 3 make their presence known when entering the room.

4 (j) In case of involuntary transfer or discharge, a  
 5 resident has the right to reasonable advance notice to  
 6 ensure an orderly transfer or discharge. Reasonable advance  
 7 notice requires at least 21 days' written notification of  
 8 any interfacility transfer or discharge except in cases of  
 9 emergency or for medical reasons documented in the  
 10 resident's medical record by the attending physician.

11 (k) If clothing is provided to the resident by the  
 12 facility, it must be of reasonable fit.

13 (l) A resident has the right to reasonable safeguards  
 14 for his personal possessions brought to the facility. The  
 15 facility shall provide a means for safeguarding the  
 16 resident's small items of value in his room or in another  
 17 part of the facility where he must have reasonable access to  
 18 the items.

19 (m) The resident has the right to have all losses or  
 20 thefts of personal possessions promptly investigated by the  
 21 facility. The results of the investigation must be reported  
 22 to the affected resident.

23 (3) The administrator of the facility shall adopt  
 24 whatever additional measures are necessary to implement the  
 25 residents' rights listed in subsections (1) and (2) and meet

1 any other requirements relating to residents' health and  
 2 safety that are conditions of participation in a state or  
 3 federal program of medical assistance.

4 Section 5. Long-term care facility to adopt and post  
 5 residents' rights. (1) The administrator of each long-term  
 6 care facility shall:

7 (a) adopt a written statement of rights applicable to  
 8 all residents of its facility, including as a minimum the  
 9 rights listed in [section 4];

10 (b) provide each resident, at the time of his  
 11 admission to the facility, a copy of the facility's  
 12 statement of residents' rights, receipt of which the  
 13 resident or his authorized representative shall acknowledge  
 14 in writing;

15 (c) provide each resident with a written statement of  
 16 any change in residents' rights at the time the change is  
 17 implemented, receipt of which the resident or his authorized  
 18 representative shall acknowledge in writing; and

19 (d) train and involve staff members in the  
 20 implementation of residents' rights as expressed in the  
 21 statement adopted by the facility.

22 (2) Each staff member shall affirm in writing that he  
 23 has read and understands the facility's statement of  
 24 residents' rights.

25 (3) The administrator of the facility shall post in a

1 conspicuous place visible to the public a copy of the  
 2 facility's statement of residents' rights, presented in a  
 3 format that can be read easily by the residents and by the  
 4 public.

5 Section 6. Resident's rights devolve to authorized  
 6 representative. The rights and responsibilities listed in  
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 8 representative when the resident:

- 9 (1) exhibits a communication barrier;  
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-End-

GOVERNOR'S AMENDMENT TO  
HOUSE BILL NO. 455  
(Reference Copy)  
(April 8, 1987)

1. Page 7, line 15.  
Following: "sections"  
Insert: "4,"

-End-

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