



IN THE SENATE

APRIL 2, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

SECOND READING, STATEMENT OF  
INTENT ADOPTED.

APRIL 3, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

THIRD READING, STATEMENT OF  
INTENT ADOPTED.

SENT TO ENROLLING.

1 *Senate* BILL NO. *385*  
 2 INTRODUCED BY *Wesley*  
 3 BY REQUEST OF THE SENATE BUSINESS AND INDUSTRY COMMITTEE  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE A MEDICAL  
 6 ASSISTANCE FACILITY; TO INCLUDE MEDICAL ASSISTANCE FACILITY  
 7 IN DEFINITION OF HEALTH CARE FACILITY; AND AMENDING SECTIONS  
 8 50-5-101 AND 53-5-503, MCA."  
 9

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

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

12 "50-5-101. (Temporary) Definitions. As used in parts 1  
 13 through 4 of this chapter, unless the context clearly  
 14 indicates otherwise, the following definitions apply:

- 15 (1) "Accreditation" means a designation of approval.
- 16 (2) "Adult day-care center" means a facility,  
 17 freestanding or connected to another health care facility,  
 18 which provides adults, on an intermittent basis, with the  
 19 care necessary to meet the needs of daily living.
- 20 (3) "Affected persons" means the applicant, members of  
 21 the public who are to be served by the proposal, health care  
 22 facilities located in the geographic area affected by the  
 23 application, agencies which establish rates for health care  
 24 facilities, third-party payers who reimburse health care  
 25 facilities in the area affected by the proposal, and

1 agencies which plan or assist in planning for such  
 2 facilities, including any agency qualifying as a health  
 3 systems agency pursuant to Title XV of the Public Health  
 4 Service Act.

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

10 (5) "Batch" means those letters of intent and  
 11 applications of a specified category and within a specified  
 12 region of the state, as established by department rule, that  
 13 are accumulated during a single batching period.

14 (6) "Batching period" means a period, not exceeding 1  
 15 month, established by department rule during which letters  
 16 of intent for specified categories of new institutional  
 17 health services and for specified regions of the state may  
 18 be accumulated pending further processing of all letters of  
 19 intent within the batch.

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

22 (8) "Capital expenditure" means an expenditure made by  
 23 or on behalf of a health care facility that, under generally  
 24 accepted accounting principles, is not properly chargeable  
 25 as an expense of operation and maintenance.

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

4 (10) "Challenge period" means a period, not exceeding 1  
5 month, established by department rule during which any  
6 person may apply for comparative review with an applicant  
7 whose letter of intent has been received during the  
8 preceding batching period.

9 (11) "Clinical laboratory" means a facility for the  
10 microbiological, serological, chemical, hematological,  
11 radiobioassay, cytological, immunohematological,  
12 pathological, or other examination of materials derived from  
13 the human body for the purpose of providing information for  
14 the diagnosis, prevention, or treatment of any disease or  
15 assessment of a medical condition.

16 (12) "College of American pathologists" means the  
17 organization nationally recognized by that name with  
18 headquarters in Traverse City, Michigan, that surveys  
19 clinical laboratories upon their requests and accredits  
20 clinical laboratories that it finds meet its standards and  
21 requirements.

22 (13) "Comparative review" means a joint review of two  
23 or more certificate of need applications within a given  
24 batch which are determined by the department to be  
25 competitive in that the granting of a certificate of need to

1 one of the applicants would substantially prejudice the  
2 department's review of the other applications.

3 (14) "Construction" means the physical erection of a  
4 health care facility and any stage thereof, including ground  
5 breaking, or remodeling, replacement, or renovation of an  
6 existing health care facility.

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

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

12 (17) "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 (18) "Health care facility" or "facility" means any  
16 institution, building, or agency or portion thereof, private  
17 or public, excluding federal facilities, whether organized  
18 for profit or not, used, operated, or designed to provide  
19 health services, medical treatment, or nursing,  
20 rehabilitative, or preventive care to any person or persons.  
21 The term does not include offices of private physicians or  
22 dentists. The term includes but is not limited to ambulatory  
23 surgical facilities, health maintenance organizations, home  
24 health agencies, hospices, hospitals, infirmaries, kidney  
25 treatment centers, long-term care facilities, medical

1 assistance facility, mental health centers, outpatient  
2 facilities, public health centers, rehabilitation  
3 facilities, and adult day-care centers.

4 (19) "Health maintenance organization" means a public  
5 or private organization organized as defined in 42 U.S.C.  
6 300e, as amended.

7 (20) "Health systems agency" means an entity which is  
8 organized and operated in the manner described in 42 U.S.C.  
9 3001-2 and which is capable, as determined by the secretary  
10 of the United States department of health and human  
11 services, of performing each of the functions described in  
12 42 U.S.C. 3001-2.

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

20 (22) "Hospice" means a coordinated program of home and  
21 inpatient health care that provides or coordinates  
22 palliative and supportive care to meet the needs of a  
23 terminally ill patient and his family arising out of  
24 physical, psychological, spiritual, social, and economic  
25 stresses experienced during the final stages of illness and

1 dying and that includes formal bereavement programs as an  
2 essential component.

3 (23) "Hospital" means a facility providing, by or under  
4 the supervision of licensed physicians, services for medical  
5 diagnosis, treatment, rehabilitation, and care of injured,  
6 disabled, or sick persons. Services provided may or may not  
7 include obstetrical care, emergency care, or any other  
8 service as allowed by state licensing authority. A hospital  
9 has an organized medical staff which is on call and  
10 available within 20 minutes, 24 hours per day, 7 days per  
11 week, and provides 24-hour nursing care by licensed  
12 registered nurses. This term includes hospitals specializing  
13 in providing health services for psychiatric, mentally  
14 retarded, and tubercular patients.

15 (24) "Infirmery" means a facility located in a  
16 university, college, government institution, or industry for  
17 the treatment of the sick or injured, with the following  
18 subdefinitions:

19 (a) an "infirmery--A" provides outpatient and  
20 inpatient care;

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

22 (25) "Joint commission on accreditation of hospitals"  
23 means the organization nationally recognized by that name  
24 with headquarters in Chicago, Illinois, that surveys health  
25 care facilities upon their requests and grants accreditation

1 status to any health care facility that it finds meets its  
2 standards and requirements.

3 (26) "Kidney treatment center" means a facility which  
4 specializes in treatment of kidney diseases, including  
5 freestanding hemodialysis units.

6 (27) (a) "Long-term care facility" means a facility or  
7 part thereof which provides skilled nursing care,  
8 intermediate nursing care, or intermediate developmental  
9 disability care to a total of two or more persons or  
10 personal care to more than four persons who are not related  
11 to the owner or administrator by blood or marriage. The  
12 term does not include adult foster care licensed under  
13 53-5-303, community homes for the developmentally disabled  
14 licensed under 53-20-305, community homes for physically  
15 disabled persons licensed under 53-19-111, boarding or  
16 foster homes for children licensed under 41-3-1142, hotels,  
17 motels, boardinghouses, roominghouses, or similar  
18 accommodations providing for transients, students, or  
19 persons not requiring institutional health care, or juvenile  
20 and adult correctional facilities operating under the  
21 authority of the department of institutions.

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

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

5 (d) "Intermediate developmental disability care" means  
6 the provision of nursing care services, health-related  
7 services, and social services for the developmentally  
8 disabled, as defined in 53-20-102(4), or persons with  
9 related problems.

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

14 (28) "Major medical equipment" means a single unit of  
15 medical equipment or a single system of components with  
16 related functions which is used to provide medical or other  
17 health services.

18 (29) "Medical assistance facility" means a facility  
19 that:

20 (a) is located in an isolated geographical area;

21 (b) is located more than 50 miles from the nearest  
22 hospital;

23 (c) is an extension of the prehospital system;

24 (d) is staffed by personnel able to assist with  
25 triage, treatment, observation, and secondary transport, if

1 needed;

2 (e) is staffed and equipped pursuant to requirements  
3 for an advanced life support transport unit;

4 (f) has a registered nurse on site or on call;

5 (g) is operated according to local and regional  
6 medical protocols. Regional medical control protocols must  
7 be congruent with secondary transport protocols.

8 (h) allows admission in accordance with the  
9 capabilities of the facility.

10 ~~(29)~~(30) "Mental health center" means a facility  
11 providing services for the prevention or diagnosis of mental  
12 illness, the care and treatment of mentally ill patients or  
13 the rehabilitation of such persons, or any combination of  
14 these services.

15 ~~(30)~~(31) "Nonprofit health care facility" means a  
16 health care facility owned or operated by one or more  
17 nonprofit corporations or associations.

18 ~~(31)~~(32) "Observation bed" means a bed occupied for not  
19 more than 6 hours by a patient recovering from surgery or  
20 other treatment.

21 ~~(32)~~(33) "Offer" means the holding out by a health care  
22 facility that it can provide specific health services.

23 ~~(33)~~(34) "Outpatient facility" means a facility,  
24 located in or apart from a hospital, providing, under the  
25 direction of a licensed physician, either diagnosis or

1 treatment, or both, to ambulatory patients in need of  
2 medical, surgical, or mental care. An outpatient facility  
3 may have observation beds.

4 ~~(34)~~(35) "Patient" means an individual obtaining  
5 services, including skilled nursing care, from a health care  
6 facility.

7 ~~(35)~~(36) "Person" means any individual, firm,  
8 partnership, association, organization, agency, institution,  
9 corporation, trust, estate, or governmental unit, whether  
10 organized for profit or not.

11 ~~(36)~~(37) "Public health center" means a publicly owned  
12 facility providing health services, including laboratories,  
13 clinics, and administrative offices.

14 ~~(37)~~(38) "Rehabilitation facility" means a facility  
15 which is operated for the primary purpose of assisting in  
16 the rehabilitation of disabled persons by providing  
17 comprehensive medical evaluations and services,  
18 psychological and social services, or vocational evaluation  
19 and training or any combination of these services and in  
20 which the major portion of the services is furnished within  
21 the facility.

22 ~~(38)~~(39) "Resident" means a person who is in a  
23 long-term care facility for intermediate or personal care.

24 ~~(39)~~(40) "State health plan" means the plan prepared by  
25 the department pursuant to 42 U.S.C. 300m-2(a)(2).

1 50-5-101. (Effective July 1, 1987) Definitions. As  
 2 used in parts 1 through 4 of this chapter, unless the  
 3 context clearly indicates otherwise, the following  
 4 definitions apply:

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 9 care necessary to meet the needs of daily living.

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1 headquarters in Traverse City, Michigan, that surveys  
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8 (e) "Personal care" means the provision of services  
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16 hospital;

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18 (d) is staffed by personnel able to assist with  
19 triage, treatment, observation, and secondary transport, if  
20 needed;

21 (e) is staffed and equipped pursuant to requirements  
22 for an advanced life support transport unit;

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25 medical protocols. Regional medical control protocols must

1 be congruent with secondary transport protocols.

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3 capabilities of the facility.

4 ~~(20)~~(21) "Mental health center" means a facility  
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9 ~~(21)~~(22) "Nonprofit health care facility" means a  
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13 more than 6 hours by a patient recovering from surgery or  
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14 which the major portion of the services is furnished within  
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16 ~~(29)~~(30) "Resident" means a person who is in a  
17 long-term care facility for intermediate or personal care.

18 ~~(30)~~(31) "State health plan" means the plan prepared by  
19 the department pursuant to 42 U.S.C. 300m-2(a)(2)."

20 Section 2. Section 53-5-503, MCA, is amended to read:  
21 "53-5-503. Definitions. As used in this part, the  
22 following definitions apply:

23 (1) "Abuse" means the infliction of physical or mental  
24 injury or the deprivation of food, shelter, clothing, or  
25 services necessary to maintain the physical or mental health

1 of an older person without lawful authority. A declaration  
2 made pursuant to 50-9-103 constitutes lawful authority.

3 (2) "Exploitation" means the unreasonable use of an  
4 older person, his money, or his property to the advantage of  
5 another by means of duress, menace, fraud, or undue  
6 influence.

7 (3) "Long-term care facility" means a facility defined  
8 in 50-5-101{20}.

9 (4) "Mental injury" means an identifiable and  
10 substantial impairment of an older person's intellectual or  
11 psychological functioning or well-being.

12 (5) "Neglect" means the failure of a guardian,  
13 employee of a public or private residential institution,  
14 facility, home, or agency, or any other person legally  
15 responsible in a residential setting for an older person's  
16 welfare to care for an older person by failing to provide  
17 food, shelter, clothing, or services necessary to maintain  
18 the physical or mental health of the older person.

19 (6) "Older person" means a person who is at least 60  
20 years of age. For purposes of prosecution under 53-5-525(2),  
21 the person 60 years of age or older must be unable to  
22 protect himself from abuse, neglect, or exploitation because  
23 of a mental or physical impairment or because of frailties  
24 or dependencies brought about by advanced age.

25 (7) "Physical injury" means death, permanent or

1 temporary disfigurement, or impairment of any bodily organ  
2 or function."

3 NEW SECTION. Section 3. Extension of authority. Any  
4 existing authority of the department of health and  
5 environmental sciences to make rules on the subject of the  
6 provisions of this act is extended to the provisions of this  
7 act.

-End-

APPROVED BY COMM. ON BUSINESS & INDUSTRY

1 SENATE BILL NO. 385  
 2 INTRODUCED BY WEEDING  
 3 BY REQUEST OF THE SENATE BUSINESS AND INDUSTRY COMMITTEE  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE A MEDICAL  
 6 ASSISTANCE FACILITY; TO INCLUDE MEDICAL ASSISTANCE FACILITY  
 7 IN DEFINITION OF HEALTH CARE FACILITY; AND AMENDING SECTIONS  
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 17 freestanding or connected to another health care facility,  
 18 which provides adults, on an intermittent basis, with the  
 19 care necessary to meet the needs of daily living.
- 20 (3) "Affected persons" means the applicant, members of  
 21 the public who are to be served by the proposal, health care  
 22 facilities located in the geographic area affected by the  
 23 application, agencies which establish rates for health care  
 24 facilities, third-party payers who reimburse health care  
 25 facilities in the area affected by the proposal, and

1 agencies which plan or assist in planning for such  
 2 facilities, including any agency qualifying as a health  
 3 systems agency pursuant to Title XV of the Public Health  
 4 Service Act.

5 (4) "Ambulatory surgical facility" means a facility,  
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 12 region of the state, as established by department rule, that  
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2 authorization by the department for a person to proceed with  
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5 month, established by department rule during which any  
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13 the human body for the purpose of providing information for  
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20 clinical laboratories that it finds meet its standards and  
21 requirements.

22 (13) "Comparative review" means a joint review of two  
23 or more certificate of need applications within a given  
24 batch which are determined by the department to be  
25 competitive in that the granting of a certificate of need to

1 one of the applicants would substantially prejudice the  
2 department's review of the other applications.

3 (14) "Construction" means the physical erection of a  
4 health care facility and any stage thereof, including ground  
5 breaking, or remodeling, replacement, or renovation of an  
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13 agency, a county, municipality, or political subdivision of  
14 the state, or an agency of a political subdivision.

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

1 assistance facility, mental health centers, outpatient  
2 facilities, public health centers, rehabilitation  
3 facilities, and adult day-care centers.

4 (19) "Health maintenance organization" means a public  
5 or private organization organized as defined in 42 U.S.C.  
6 300e, as amended.

7 (20) "Health systems agency" means an entity which is  
8 organized and operated in the manner described in 42 U.S.C.  
9 3001-2 and which is capable, as determined by the secretary  
10 of the United States department of health and human  
11 services, of performing each of the functions described in  
12 42 U.S.C. 3001-2.

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

20 (22) "Hospice" means a coordinated program of home and  
21 inpatient health care that provides or coordinates  
22 palliative and supportive care to meet the needs of a  
23 terminally ill patient and his family arising out of  
24 physical, psychological, spiritual, social, and economic  
25 stresses experienced during the final stages of illness and

1 dying and that includes formal bereavement programs as an  
2 essential component.

3 (23) "Hospital" means a facility providing, by or under  
4 the supervision of licensed physicians, services for medical  
5 diagnosis, treatment, rehabilitation, and care of injured,  
6 disabled, or sick persons. Services provided may or may not  
7 include obstetrical care, emergency care, or any other  
8 service as allowed by state licensing authority. A hospital  
9 has an organized medical staff which is on call and  
10 available within 20 minutes, 24 hours per day, 7 days per  
11 week, and provides 24-hour nursing care by licensed  
12 registered nurses. This term includes hospitals specializing  
13 in providing health services for psychiatric, mentally  
14 retarded, and tubercular patients.

15 (24) "Infirmiry" means a facility located in a  
16 university, college, government institution, or industry for  
17 the treatment of the sick or injured, with the following  
18 subdefinitions:

19 (a) an "infirmiry--A" provides outpatient and  
20 inpatient care;

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

22 (25) "Joint commission on accreditation of hospitals"  
23 means the organization nationally recognized by that name  
24 with headquarters in Chicago, Illinois, that surveys health  
25 care facilities upon their requests and grants accreditation

1 status to any health care facility that it finds meets its  
2 standards and requirements.

3 (26) "Kidney treatment center" means a facility which  
4 specializes in treatment of kidney diseases, including  
5 freestanding hemodialysis units.

6 (27) (a) "Long-term care facility" means a facility or  
7 part thereof which provides skilled nursing care,  
8 intermediate nursing care, or intermediate developmental  
9 disability care to a total of two or more persons or  
10 personal care to more than four persons who are not related  
11 to the owner or administrator by blood or marriage. The  
12 term does not include adult foster care licensed under  
13 53-5-303, community homes for the developmentally disabled  
14 licensed under 53-20-305, community homes for physically  
15 disabled persons licensed under 53-19-111, boarding or  
16 foster homes for children licensed under 41-3-1142, hotels,  
17 motels, boardinghouses, roominghouses, or similar  
18 accommodations providing for transients, students, or  
19 persons not requiring institutional health care, or juvenile  
20 and adult correctional facilities operating under the  
21 authority of the department of institutions.

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

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

5 (d) "Intermediate developmental disability care" means  
6 the provision of nursing care services, health-related  
7 services, and social services for the developmentally  
8 disabled, as defined in 53-20-102(4), or persons with  
9 related problems.

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

14 (28) "Major medical equipment" means a single unit of  
15 medical equipment or a single system of components with  
16 related functions which is used to provide medical or other  
17 health services.

18 (29) "Medical assistance facility" means a facility  
19 that:

20 (a) is located in an isolated geographical area;

21 (b) is located more than 50 miles from the nearest  
22 hospital IN A COUNTY WITH FIVE OR FEWER PERSONS PER SQUARE  
23 MILE;

24 (c) is an extension of the prehospital system;

25 (d) is staffed by personnel able to assist with



1 triage, treatment, observation, and secondary transport, if  
2 needed;

3 (e) is staffed and equipped pursuant to requirements  
4 for an advanced life support transport unit;

5 (f) has a registered nurse on site or on call;

6 (g) is operated according to local and regional  
7 medical protocols. Regional medical control protocols must  
8 be congruent with secondary transport protocols.

9 (h) allows admission in accordance with the  
10 capabilities of the facility.

11 ~~†29~~{30} "Mental health center" means a facility  
12 providing services for the prevention or diagnosis of mental  
13 illness, the care and treatment of mentally ill patients or  
14 the rehabilitation of such persons, or any combination of  
15 these services.

16 ~~†30~~{31} "Nonprofit health care facility" means a  
17 health care facility owned or operated by one or more  
18 nonprofit corporations or associations.

19 ~~†31~~{32} "Observation bed" means a bed occupied for not  
20 more than 6 hours by a patient recovering from surgery or  
21 other treatment.

22 ~~†32~~{33} "Offer" means the holding out by a health care  
23 facility that it can provide specific health services.

24 ~~†33~~{34} "Outpatient facility" means a facility,  
25 located in or apart from a hospital, providing, under the

1 direction of a licensed physician, either diagnosis or  
2 treatment, or both, to ambulatory patients in need of  
3 medical, surgical, or mental care. An outpatient facility  
4 may have observation beds.

5 ~~†34~~{35} "Patient" means an individual obtaining  
6 services, including skilled nursing care, from a health care  
7 facility.

8 ~~†35~~{36} "Person" means any individual, firm,  
9 partnership, association, organization, agency, institution,  
10 corporation, trust, estate, or governmental unit, whether  
11 organized for profit or not.

12 ~~†36~~{37} "Public health center" means a publicly owned  
13 facility providing health services, including laboratories,  
14 clinics, and administrative offices.

15 ~~†37~~{38} "Rehabilitation facility" means a facility  
16 which is operated for the primary purpose of assisting in  
17 the rehabilitation of disabled persons by providing  
18 comprehensive medical evaluations and services,  
19 psychological and social services, or vocational evaluation  
20 and training or any combination of these services and in  
21 which the major portion of the services is furnished within  
22 the facility.

23 ~~†38~~{39} "Resident" means a person who is in a  
24 long-term care facility for intermediate or personal care.

25 ~~†39~~{40} "State health plan" means the plan prepared by

1 the department pursuant to 42 U.S.C. 300m-2(a)(2).  
 2 50-5-101. (Effective July 1, 1987) Definitions. As  
 3 used in parts 1 through 4 of this chapter, unless the  
 4 context clearly indicates otherwise, the following  
 5 definitions apply:

- 6 (1) "Accreditation" means a designation of approval.  
 7 (2) "Adult day-care center" means a facility,  
 8 freestanding or connected to another health care facility,  
 9 which provides adults, on an intermittent basis, with the  
 10 care necessary to meet the needs of daily living.  
 11 (3) "Ambulatory surgical facility" means a facility,  
 12 not part of a hospital, which provides surgical treatment to  
 13 patients not requiring hospitalization. This type of  
 14 facility may include observation beds for patient recovery  
 15 from surgery or other treatment.  
 16 (4) "Board" means the board of health and  
 17 environmental sciences, provided for in 2-15-2104.  
 18 (5) "Clinical laboratory" means a facility for the  
 19 microbiological, serological, chemical, hematological,  
 20 radiobioassay, cytological, immuno-hematological,  
 21 pathological, or other examination of materials derived from  
 22 the human body for the purpose of providing information for  
 23 the diagnosis, prevention, or treatment of any disease or  
 24 assessment of a medical condition.  
 25 (6) "College of American pathologists" means the

1 organization nationally recognized by that name with  
 2 headquarters in Traverse City, Michigan, that surveys  
 3 clinical laboratories upon their requests and accredits  
 4 clinical laboratories that it finds meet its standards and  
 5 requirements.

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

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

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

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

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

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

6 (12) "Health systems agency" means an entity which is  
7 organized and operated in the manner described in 42 U.S.C.  
8 3001-2 and which is capable, as determined by the secretary  
9 of the United States department of health and human  
10 services, of performing each of the functions described in  
11 42 U.S.C. 3001-2.

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

19 (14) "Hospice" means a coordinated program of home and  
20 inpatient health care that provides or coordinates  
21 palliative and supportive care to meet the needs of a  
22 terminally ill patient and his family arising out of  
23 physical, psychological, spiritual, social, and economic  
24 stresses experienced during the final stages of illness and  
25 dying and that includes formal bereavement programs as an

1 essential component.

2 (15) "Hospital" means a facility providing, by or under  
3 the supervision of licensed physicians, services for medical  
4 diagnosis, treatment, rehabilitation, and care of injured,  
5 disabled, or sick persons. Services provided may or may not  
6 include obstetrical care, emergency care, or any other  
7 service as allowed by state licensing authority. A hospital  
8 has an organized medical staff which is on call and  
9 available within 20 minutes, 24 hours per day, 7 days per  
10 week, and provides 24-hour nursing care by licensed  
11 registered nurses. This term includes hospitals specializing  
12 in providing health services for psychiatric, mentally  
13 retarded, and tubercular patients.

14 (16) "Infirmiry" means a facility located in a  
15 university, college, government institution, or industry for  
16 the treatment of the sick or injured, with the following  
17 subdefinitions:

18 (a) an "infirmiry--A" provides outpatient and  
19 inpatient care;

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

21 (17) "Joint commission on accreditation of hospitals"  
22 means the organization nationally recognized by that name  
23 with headquarters in Chicago, Illinois, that surveys health  
24 care facilities upon their requests and grants accreditation  
25 status to any health care facility that it finds meets its

1 standards and requirements.

2 (18) "Kidney treatment center" means a facility which  
3 specializes in treatment of kidney diseases, including  
4 freestanding hemodialysis units.

5 (19) (a) "Long-term care facility" means a facility or  
6 part thereof which provides skilled nursing care,  
7 intermediate nursing care, or intermediate developmental  
8 disability care to a total of two or more persons or  
9 personal care to more than four persons who are not related  
10 to the owner or administrator by blood or marriage. The  
11 term does not include adult foster care licensed under  
12 53-5-303, community homes for the developmentally disabled  
13 licensed under 53-20-305, community homes for physically  
14 disabled persons licensed under 53-19-111, boarding or  
15 foster homes for children licensed under 41-3-1142, hotels,  
16 motels, boardinghouses, roominghouses, or similar  
17 accommodations providing for transients, students, or  
18 persons not requiring institutional health care, or juvenile  
19 and adult correctional facilities operating under the  
20 authority of the department of institutions.

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

25 (c) "Intermediate nursing care" means the provision of

1 nursing care services, health-related services, and social  
2 services under the supervision of a licensed nurse to  
3 patients not requiring 24-hour nursing care.

4 (d) "Intermediate developmental disability care" means  
5 the provision of nursing care services, health-related  
6 services, and social services for the developmentally  
7 disabled, as defined in 53-20-102(4), or persons with  
8 related problems.

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

13 (20) "Medical assistance facility" means a facility  
14 that:

15 (a) is located in an isolated geographical area;

16 (b) is located ~~more than 50 miles from the nearest~~  
17 hospital IN A COUNTY WITH FIVE OR FEWER PERSONS PER SQUARE  
18 MILE;

19 (c) is an extension of the prehospital system;

20 (d) is staffed by personnel able to assist with  
21 triage, treatment, observation, and secondary transport, if  
22 needed;

23 (e) is staffed and equipped pursuant to requirements  
24 for an advanced life support transport unit;

25 (f) has a registered nurse on site or on call;

1 (g) is operated according to local and regional  
2 medical protocols. Regional medical control protocols must  
3 be congruent with secondary transport protocols.

4 (h) allows admission in accordance with the  
5 capabilities of the facility.

6 ~~(20)~~(21) "Mental health center" means a facility  
7 providing services for the prevention or diagnosis of mental  
8 illness, the care and treatment of mentally ill patients or  
9 the rehabilitation of such persons, or any combination of  
10 these services.

11 ~~(21)~~(22) "Nonprofit health care facility" means a  
12 health care facility owned or operated by one or more  
13 nonprofit corporations or associations.

14 ~~(22)~~(23) "Observation bed" means a bed occupied for not  
15 more than 6 hours by a patient recovering from surgery or  
16 other treatment.

17 ~~(23)~~(24) "Offer" means the holding out by a health care  
18 facility that it can provide specific health services.

19 ~~(24)~~(25) "Outpatient facility" means a facility,  
20 located in or apart from a hospital, providing, under the  
21 direction of a licensed physician, either diagnosis or  
22 treatment, or both, to ambulatory patients in need of  
23 medical, surgical, or mental care. An outpatient facility  
24 may have observation beds.

25 ~~(25)~~(26) "Patient" means an individual obtaining

1 services, including skilled nursing care, from a health care  
2 facility.

3 ~~(26)~~(27) "Person" means any individual, firm,  
4 partnership, association, organization, agency, institution,  
5 corporation, trust, estate, or governmental unit, whether  
6 organized for profit or not.

7 ~~(27)~~(28) "Public health center" means a publicly owned  
8 facility providing health services, including laboratories,  
9 clinics, and administrative offices.

10 ~~(28)~~(29) "Rehabilitation facility" means a facility  
11 which is operated for the primary purpose of assisting in  
12 the rehabilitation of disabled persons by providing  
13 comprehensive medical evaluations and services,  
14 psychological and social services, or vocational evaluation  
15 and training or any combination of these services and in  
16 which the major portion of the services is furnished within  
17 the facility.

18 ~~(29)~~(30) "Resident" means a person who is in a  
19 long-term care facility for intermediate or personal care.

20 ~~(30)~~(31) "State health plan" means the plan prepared by  
21 the department pursuant to 42 U.S.C. 300m-2(a)(2)."

22 Section 2. Section 53-5-503, MCA, is amended to read:  
23 "53-5-503. Definitions. As used in this part, the  
24 following definitions apply:

25 (1) "Abuse" means the infliction of physical or mental

1 injury or the deprivation of food, shelter, clothing, or  
 2 services necessary to maintain the physical or mental health  
 3 of an older person without lawful authority. A declaration  
 4 made pursuant to 50-9-103 constitutes lawful authority.

5 (2) "Exploitation" means the unreasonable use of an  
 6 older person, his money, or his property to the advantage of  
 7 another by means of duress, menace, fraud, or undue  
 8 influence.

9 (3) "Long-term care facility" means a facility defined  
 10 in 50-5-101~~(20)~~.

11 (4) "Mental injury" means an identifiable and  
 12 substantial impairment of an older person's intellectual or  
 13 psychological functioning or well-being.

14 (5) "Neglect" means the failure of a guardian,  
 15 employee of a public or private residential institution,  
 16 facility, home, or agency, or any other person legally  
 17 responsible in a residential setting for an older person's  
 18 welfare to care for an older person by failing to provide  
 19 food, shelter, clothing, or services necessary to maintain  
 20 the physical or mental health of the older person.

21 (6) "Older person" means a person who is at least 60  
 22 years of age. For purposes of prosecution under 53-5-525(2),  
 23 the person 60 years of age or older must be unable to  
 24 protect himself from abuse, neglect, or exploitation because  
 25 of a mental or physical impairment or because of frailties

1 or dependencies brought about by advanced age.

2 (7) "Physical injury" means death, permanent or  
 3 temporary disfigurement, or impairment of any bodily organ  
 4 or function."

5 NEW SECTION. Section 3. Extension of authority. Any  
 6 existing authority of the department of health and  
 7 environmental sciences to make rules on the subject of the  
 8 provisions of this act is extended to the provisions of this  
 9 act.

-End-

1                   SENATE BILL NO. 385  
 2                   INTRODUCED BY WEEDING  
 3           BY REQUEST OF THE SENATE BUSINESS AND INDUSTRY COMMITTEE  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE A MEDICAL  
 6 ASSISTANCE FACILITY; TO INCLUDE MEDICAL ASSISTANCE FACILITY  
 7 IN DEFINITION OF HEALTH CARE FACILITY; AND AMENDING SECTIONS  
 8 50-5-101 AND 53-5-503, MCA."  
 9

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

11       Section 1. Section 50-5-101, MCA, is amended to read:  
 12       "50-5-101. (Temporary) Definitions. As used in parts 1  
 13 through 4 of this chapter, unless the context clearly  
 14 indicates otherwise, the following definitions apply:

- 15       (1) "Accreditation" means a designation of approval.
- 16       (2) "Adult day-care center" means a facility,  
 17 freestanding or connected to another health care facility,  
 18 which provides adults, on an intermittent basis, with the  
 19 care necessary to meet the needs of daily living.
- 20       (3) "Affected persons" means the applicant, members of  
 21 the public who are to be served by the proposal, health care  
 22 facilities located in the geographic area affected by the  
 23 application, agencies which establish rates for health care  
 24 facilities, third-party payers who reimburse health care  
 25 facilities in the area affected by the proposal, and

1 agencies which plan or assist in planning for such  
 2 facilities, including any agency qualifying as a health  
 3 systems agency pursuant to Title XV of the Public Health  
 4 Service Act.

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

10       (5) "Batch" means those letters of intent and  
 11 applications of a specified category and within a specified  
 12 region of the state, as established by department rule, that  
 13 are accumulated during a single batching period.

14       (6) "Batching period" means a period, not exceeding 1  
 15 month, established by department rule during which letters  
 16 of intent for specified categories of new institutional  
 17 health services and for specified regions of the state may  
 18 be accumulated pending further processing of all letters of  
 19 intent within the batch.

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

22       (8) "Capital expenditure" means an expenditure made by  
 23 or on behalf of a health care facility that, under generally  
 24 accepted accounting principles, is not properly chargeable  
 25 as an expense of operation and maintenance.



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

4 (10) "Challenge period" means a period, not exceeding 1  
5 month, established by department rule during which any  
6 person may apply for comparative review with an applicant  
7 whose letter of intent has been received during the  
8 preceding batching period.

9 (11) "Clinical laboratory" means a facility for the  
10 microbiological, serological, chemical, hematological,  
11 radiobioassay, cytological, immunohematological,  
12 pathological, or other examination of materials derived from  
13 the human body for the purpose of providing information for  
14 the diagnosis, prevention, or treatment of any disease or  
15 assessment of a medical condition.

16 (12) "College of American pathologists" means the  
17 organization nationally recognized by that name with  
18 headquarters in Traverse City, Michigan, that surveys  
19 clinical laboratories upon their requests and accredits  
20 clinical laboratories that it finds meet its standards and  
21 requirements.

22 (13) "Comparative review" means a joint review of two  
23 or more certificate of need applications within a given  
24 batch which are determined by the department to be  
25 competitive in that the granting of a certificate of need to

1 one of the applicants would substantially prejudice the  
2 department's review of the other applications.

3 (14) "Construction" means the physical erection of a  
4 health care facility and any stage thereof, including ground  
5 breaking, or remodeling, replacement, or renovation of an  
6 existing health care facility.

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

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

12 (17) "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 (18) "Health care facility" or "facility" means any  
16 institution, building, or agency or portion thereof, private  
17 or public, excluding federal facilities, whether organized  
18 for profit or not, used, operated, or designed to provide  
19 health services, medical treatment, or nursing,  
20 rehabilitative, or preventive care to any person or persons.  
21 The term does not include offices of private physicians or  
22 dentists. The term includes but is not limited to ambulatory  
23 surgical facilities, health maintenance organizations, home  
24 health agencies, hospices, hospitals, infirmaries, kidney  
25 treatment centers, long-term care facilities, medical



1 assistance facility, mental health centers, outpatient  
2 facilities, public health centers, rehabilitation  
3 facilities, and adult day-care centers.

4 (19) "Health maintenance organization" means a public  
5 or private organization organized as defined in 42 U.S.C.  
6 300e, as amended.

7 (20) "Health systems agency" means an entity which is  
8 organized and operated in the manner described in 42 U.S.C.  
9 3001-2 and which is capable, as determined by the secretary  
10 of the United States department of health and human  
11 services, of performing each of the functions described in  
12 42 U.S.C. 3001-2.

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

20 (22) "Hospice" means a coordinated program of home and  
21 inpatient health care that provides or coordinates  
22 palliative and supportive care to meet the needs of a  
23 terminally ill patient and his family arising out of  
24 physical, psychological, spiritual, social, and economic  
25 stresses experienced during the final stages of illness and

1 dying and that includes formal bereavement programs as an  
2 essential component.

3 (23) "Hospital" means a facility providing, by or under  
4 the supervision of licensed physicians, services for medical  
5 diagnosis, treatment, rehabilitation, and care of injured,  
6 disabled, or sick persons. Services provided may or may not  
7 include obstetrical care, emergency care, or any other  
8 service as allowed by state licensing authority. A hospital  
9 has an organized medical staff which is on call and  
10 available within 20 minutes, 24 hours per day, 7 days per  
11 week, and provides 24-hour nursing care by licensed  
12 registered nurses. This term includes hospitals specializing  
13 in providing health services for psychiatric, mentally  
14 retarded, and tubercular patients.

15 (24) "Infirmiry" means a facility located in a  
16 university, college, government institution, or industry for  
17 the treatment of the sick or injured, with the following  
18 subdefinitions:

19 (a) an "infirmiry--A" provides outpatient and  
20 inpatient care;

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

22 (25) "Joint commission on accreditation of hospitals"  
23 means the organization nationally recognized by that name  
24 with headquarters in Chicago, Illinois, that surveys health  
25 care facilities upon their requests and grants accreditation

1 status to any health care facility that it finds meets its  
2 standards and requirements.

3 (26) "Kidney treatment center" means a facility which  
4 specializes in treatment of kidney diseases, including  
5 freestanding hemodialysis units.

6 (27) (a) "Long-term care facility" means a facility or  
7 part thereof which provides skilled nursing care,  
8 intermediate nursing care, or intermediate developmental  
9 disability care to a total of two or more persons or  
10 personal care to more than four persons who are not related  
11 to the owner or administrator by blood or marriage. The  
12 term does not include adult foster care licensed under  
13 53-5-303, community homes for the developmentally disabled  
14 licensed under 53-20-305, community homes for physically  
15 disabled persons licensed under 53-19-111, boarding or  
16 foster homes for children licensed under 41-3-1142, hotels,  
17 motels, boardinghouses, roominghouses, or similar  
18 accommodations providing for transients, students, or  
19 persons not requiring institutional health care, or juvenile  
20 and adult correctional facilities operating under the  
21 authority of the department of institutions.

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

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

5 (d) "Intermediate developmental disability care" means  
6 the provision of nursing care services, health-related  
7 services, and social services for the developmentally  
8 disabled, as defined in 53-20-102(4), or persons with  
9 related problems.

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

14 (28) "Major medical equipment" means a single unit of  
15 medical equipment or a single system of components with  
16 related functions which is used to provide medical or other  
17 health services.

18 (29) "Medical assistance facility" means a facility  
19 that:

20 (a) is located in an isolated geographical area;  
21 (b) is located more than 50 miles from the nearest  
22 hospital IN A COUNTY WITH FIVE OR FEWER PERSONS PER SQUARE  
23 MILE;

24 (c) is an extension of the prehospital system;  
25 (d) is staffed by personnel TO INCLUDE, IF AVAILABLE,

1 A LICENSED PHYSICIAN, LICENSED PHYSICIAN ASSISTANT, OR A  
 2 LICENSED NURSE SPECIALIST able to assist with triage,  
 3 treatment, observation, and secondary transport, if needed;

4 (e) is staffed and equipped pursuant to requirements  
 5 for an advanced life support transport unit;

6 (f) has a registered nurse on site or on call;

7 (g) is operated according to local and regional  
 8 medical protocols. Regional medical control protocols must  
 9 be congruent with secondary transport protocols.

10 (h) allows admission in accordance with the  
 11 capabilities of the facility.

12 ~~{29}~~{30} "Mental health center" means a facility  
 13 providing services for the prevention or diagnosis of mental  
 14 illness, the care and treatment of mentally ill patients or  
 15 the rehabilitation of such persons, or any combination of  
 16 these services.

17 ~~{30}~~{31} "Nonprofit health care facility" means a  
 18 health care facility owned or operated by one or more  
 19 nonprofit corporations or associations.

20 ~~{31}~~{32} "Observation bed" means a bed occupied for not  
 21 more than 6 hours by a patient recovering from surgery or  
 22 other treatment.

23 ~~{32}~~{33} "Offer" means the holding out by a health care  
 24 facility that it can provide specific health services.

25 ~~{33}~~{34} "Outpatient facility" means a facility,

1 located in or apart from a hospital, providing, under the  
 2 direction of a licensed physician, either diagnosis or  
 3 treatment, or both, to ambulatory patients in need of  
 4 medical, surgical, or mental care. An outpatient facility  
 5 may have observation beds.

6 ~~{34}~~{35} "Patient" means an individual obtaining  
 7 services, including skilled nursing care, from a health care  
 8 facility.

9 ~~{35}~~{36} "Person" means any individual, firm,  
 10 partnership, association, organization, agency, institution,  
 11 corporation, trust, estate, or governmental unit, whether  
 12 organized for profit or not.

13 ~~{36}~~{37} "Public health center" means a publicly owned  
 14 facility providing health services, including laboratories,  
 15 clinics, and administrative offices.

16 ~~{37}~~{38} "Rehabilitation facility" means a facility  
 17 which is operated for the primary purpose of assisting in  
 18 the rehabilitation of disabled persons by providing  
 19 comprehensive medical evaluations and services,  
 20 psychological and social services, or vocational evaluation  
 21 and training or any combination of these services and in  
 22 which the major portion of the services is furnished within  
 23 the facility.

24 ~~{38}~~{39} "Resident" means a person who is in a  
 25 long-term care facility for intermediate or personal care.

1       ~~(39)~~(40) "State health plan" means the plan prepared by  
2 the department pursuant to 42 U.S.C. 300m-2(a)(2).

3       50-5-101. (Effective July 1, 1987) Definitions. As  
4 used in parts 1 through 4 of this chapter, unless the  
5 context clearly indicates otherwise, the following  
6 definitions apply:

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

8       (2) "Adult day-care center" means a facility,  
9 freestanding or connected to another health care facility,  
10 which provides adults, on an intermittent basis, with the  
11 care necessary to meet the needs of daily living.

12       (3) "Ambulatory surgical facility" means a facility,  
13 not part of a hospital, which provides surgical treatment to  
14 patients not requiring hospitalization. This type of  
15 facility may include observation beds for patient recovery  
16 from surgery or other treatment.

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

19       (5) "Clinical laboratory" means a facility for the  
20 microbiological, serological, chemical, hematological,  
21 radioassay, cytological, immunohematological,  
22 pathological, or other examination of materials derived from  
23 the human body for the purpose of providing information for  
24 the diagnosis, prevention, or treatment of any disease or  
25 assessment of a medical condition.

1       (6) "College of American pathologists" means the  
2 organization nationally recognized by that name with  
3 headquarters in Traverse City, Michigan, that surveys  
4 clinical laboratories upon their requests and accredits  
5 clinical laboratories that it finds meet its standards and  
6 requirements.

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

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

12       (9) "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       (10) "Health care facility" or "facility" means any  
16 institution, building, or agency or portion thereof, private  
17 or public, excluding federal facilities, whether organized  
18 for profit or not, used, operated, or designed to provide  
19 health services, medical treatment, or nursing,  
20 rehabilitative, or preventive care to any person or persons.  
21 The term does not include offices of private physicians or  
22 dentists. The term includes but is not limited to ambulatory  
23 surgical facilities, health maintenance organizations, home  
24 health agencies, hospices, hospitals, infirmaries, kidney  
25 treatment centers, long-term care facilities, medical

1 assistance facility, mental health centers, outpatient  
2 facilities, public health centers, rehabilitation  
3 facilities, and adult day-care centers.

4 (11) "Health maintenance organization" means a public  
5 or private organization organized as defined in 42 U.S.C.  
6 300e, as amended.

7 (12) "Health systems agency" means an entity which is  
8 organized and operated in the manner described in 42 U.S.C.  
9 3001-2 and which is capable, as determined by the secretary  
10 of the United States department of health and human  
11 services, of performing each of the functions described in  
12 42 U.S.C. 3001-2.

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

20 (14) "Hospice" means a coordinated program of home and  
21 inpatient health care that provides or coordinates  
22 palliative and supportive care to meet the needs of a  
23 terminally ill patient and his family arising out of  
24 physical, psychological, spiritual, social, and economic  
25 stresses experienced during the final stages of illness and

1 dying and that includes formal bereavement programs as an  
2 essential component.

3 (15) "Hospital" means a facility providing, by or under  
4 the supervision of licensed physicians, services for medical  
5 diagnosis, treatment, rehabilitation, and care of injured,  
6 disabled, or sick persons. Services provided may or may not  
7 include obstetrical care, emergency care, or any other  
8 service as allowed by state licensing authority. A hospital  
9 has an organized medical staff which is on call and  
10 available within 20 minutes, 24 hours per day, 7 days per  
11 week, and provides 24-hour nursing care by licensed  
12 registered nurses. This term includes hospitals specializing  
13 in providing health services for psychiatric, mentally  
14 retarded, and tubercular patients.

15 (16) "Infirmiry" means a facility located in a  
16 university, college, government institution, or industry for  
17 the treatment of the sick or injured, with the following  
18 subdefinitions:

19 (a) an "infirmiry--A" provides outpatient and  
20 inpatient care;

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

22 (17) "Joint commission on accreditation of hospitals"  
23 means the organization nationally recognized by that name  
24 with headquarters in Chicago, Illinois, that surveys health  
25 care facilities upon their requests and grants accreditation

1 status to any health care facility that it finds meets its  
2 standards and requirements.

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

6 (19) (a) "Long-term care facility" means a facility or  
7 part thereof which provides skilled nursing care,  
8 intermediate nursing care, or intermediate developmental  
9 disability care to a total of two or more persons or  
10 personal care to more than four persons who are not related  
11 to the owner or administrator by blood or marriage. The  
12 term does not include adult foster care licensed under  
13 53-5-303, community homes for the developmentally disabled  
14 licensed under 53-20-305, community homes for physically  
15 disabled persons licensed under 53-19-111, boarding or  
16 foster homes for children licensed under 41-3-1142, hotels,  
17 motels, boardinghouses, roominghouses, or similar  
18 accommodations providing for transients, students, or  
19 persons not requiring institutional health care, or juvenile  
20 and adult correctional facilities operating under the  
21 authority of the department of institutions.

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

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

5 (d) "Intermediate developmental disability care" means  
6 the provision of nursing care services, health-related  
7 services, and social services for the developmentally  
8 disabled, as defined in 53-20-102(4), or persons with  
9 related problems.

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

14 (20) "Medical assistance facility" means a facility  
15 that:

16 (a) is located in an isolated geographical area;

17 (b) is located more than 50 miles from the nearest  
18 hospital IN A COUNTY WITH FIVE OR FEWER PERSONS PER SQUARE  
19 MILE;

20 (c) is an extension of the prehospital system;

21 (d) is staffed by personnel TO INCLUDE, IF AVAILABLE,  
22 A LICENSED PHYSICIAN, LICENSED PHYSICIAN ASSISTANT, OR A  
23 LICENSED NURSE SPECIALIST able to assist with triage,  
24 treatment, observation, and secondary transport, if needed;

25 (e) is staffed and equipped pursuant to requirements

1 for an advanced life support transport unit;  
 2 (f) has a registered nurse on site or on call;  
 3 (g) is operated according to local and regional  
 4 medical protocols. Regional medical control protocols must  
 5 be congruent with secondary transport protocols.  
 6 (h) allows admission in accordance with the  
 7 capabilities of the facility.  
 8 ~~{20}~~(21) "Mental health center" means a facility  
 9 providing services for the prevention or diagnosis of mental  
 10 illness, the care and treatment of mentally ill patients or  
 11 the rehabilitation of such persons, or any combination of  
 12 these services.  
 13 ~~{21}~~(22) "Nonprofit health care facility" means a  
 14 health care facility owned or operated by one or more  
 15 nonprofit corporations or associations.  
 16 ~~{22}~~(23) "Observation bed" means a bed occupied for not  
 17 more than 6 hours by a patient recovering from surgery or  
 18 other treatment.  
 19 ~~{23}~~(24) "Offer" means the holding out by a health care  
 20 facility that it can provide specific health services.  
 21 ~~{24}~~(25) "Outpatient facility" means a facility,  
 22 located in or apart from a hospital, providing, under the  
 23 direction of a licensed physician, either diagnosis or  
 24 treatment, or both, to ambulatory patients in need of  
 25 medical, surgical, or mental care. An outpatient facility

1 may have observation beds.  
 2 ~~{25}~~(26) "Patient" means an individual obtaining  
 3 services, including skilled nursing care, from a health care  
 4 facility.  
 5 ~~{26}~~(27) "Person" means any individual, firm,  
 6 partnership, association, organization, agency, institution,  
 7 corporation, trust, estate, or governmental unit, whether  
 8 organized for profit or not.  
 9 ~~{27}~~(28) "Public health center" means a publicly owned  
 10 facility providing health services, including laboratories,  
 11 clinics, and administrative offices.  
 12 ~~{28}~~(29) "Rehabilitation facility" means a facility  
 13 which is operated for the primary purpose of assisting in  
 14 the rehabilitation of disabled persons by providing  
 15 comprehensive medical evaluations and services,  
 16 psychological and social services, or vocational evaluation  
 17 and training or any combination of these services and in  
 18 which the major portion of the services is furnished within  
 19 the facility.  
 20 ~~{29}~~(30) "Resident" means a person who is in a  
 21 long-term care facility for intermediate or personal care.  
 22 ~~{30}~~(31) "State health plan" means the plan prepared by  
 23 the department pursuant to 42 U.S.C. 300m-2(a)(2)."  
 24 Section 2. Section 53-5-503, MCA, is amended to read:  
 25 "53-5-503. Definitions. As used in this part, the

1 following definitions apply:

2 (1) "Abuse" means the infliction of physical or mental  
3 injury or the deprivation of food, shelter, clothing, or  
4 services necessary to maintain the physical or mental health  
5 of an older person without lawful authority. A declaration  
6 made pursuant to 50-9-103 constitutes lawful authority.

7 (2) "Exploitation" means the unreasonable use of an  
8 older person, his money, or his property to the advantage of  
9 another by means of duress, menace, fraud, or undue  
10 influence.

11 (3) "Long-term care facility" means a facility defined  
12 in 50-5-101~~(20)~~.

13 (4) "Mental injury" means an identifiable and  
14 substantial impairment of an older person's intellectual or  
15 psychological functioning or well-being.

16 (5) "Neglect" means the failure of a guardian,  
17 employee of a public or private residential institution,  
18 facility, home, or agency, or any other person legally  
19 responsible in a residential setting for an older person's  
20 welfare to care for an older person by failing to provide  
21 food, shelter, clothing, or services necessary to maintain  
22 the physical or mental health of the older person.

23 (6) "Older person" means a person who is at least 60  
24 years of age. For purposes of prosecution under 53-5-525(2),  
25 the person 60 years of age or older must be unable to

1 protect himself from abuse, neglect, or exploitation because  
2 of a mental or physical impairment or because of frailties  
3 or dependencies brought about by advanced age.

4 (7) "Physical injury" means death, permanent or  
5 temporary disfigurement, or impairment of any bodily organ  
6 or function."

7 NEW SECTION. Section 3. Extension of authority. Any  
8 existing authority of the department of health and  
9 environmental sciences to make rules on the subject of the  
10 provisions of this act is extended to the provisions of this  
11 act.

-End-



## 1 STATEMENT OF INTENT

## 2 SENATE BILL 385

3 House Business and Labor Committee  
4

5 A statement of intent is provided for this bill because  
6 it extends the authority of the department of health and  
7 environmental sciences to set licensure standards to cover  
8 medical assistance facilities. It is the intent of the  
9 legislature that the department adopt licensure standards  
10 for such facilities that include, but are not limited to,  
11 the following:

12 (1) the types, training, and supervision of staff the  
13 facility must have, including either a physician, nurse  
14 practitioner, or physician assistant, with the restriction  
15 that a physician, nurse practitioner, or physician assistant  
16 need not be on site at all times but may be on call so long  
17 as he is available within 1 hour;

18 (2) requirements for medical treatment protocols that  
19 must be utilized by staff;

20 (3) review of a professional review organization or  
21 its equivalent to determine if the level of care provided is  
22 appropriate; and

23 (4) a requirement that the facility have a referral  
24 agreement with a hospital ensuring acceptance of patients  
25 needing hospital-level care who are treated at the facility.

1 SENATE BILL NO. 385

2 INTRODUCED BY WEEDING

3 BY REQUEST OF THE SENATE BUSINESS AND INDUSTRY COMMITTEE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE A MEDICAL  
6 ASSISTANCE FACILITY; TO INCLUDE MEDICAL ASSISTANCE FACILITY  
7 IN DEFINITION OF HEALTH CARE FACILITY; AND AMENDING SECTIONS  
8 50-5-101 AND 53-5-503, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

12 "50-5-101. (Temporary) Definitions. As used in parts 1  
13 through 4 of this chapter, unless the context clearly  
14 indicates otherwise, the following definitions apply:

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

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

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

1 agencies which plan or assist in planning for such  
2 facilities, including any agency qualifying as a health  
3 systems agency pursuant to Title XV of the Public Health  
4 Service Act.

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

10 (5) "Batch" means those letters of intent and  
11 applications of a specified category and within a specified  
12 region of the state, as established by department rule, that  
13 are accumulated during a single batching period.

14 (6) "Batching period" means a period, not exceeding 1  
15 month, established by department rule during which letters  
16 of intent for specified categories of new institutional  
17 health services and for specified regions of the state may  
18 be accumulated pending further processing of all letters of  
19 intent within the batch.

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

22 (8) "Capital expenditure" means an expenditure made by  
23 or on behalf of a health care facility that, under generally  
24 accepted accounting principles, is not properly chargeable  
25 as an expense of operation and maintenance.



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

4 (10) "Challenge period" means a period, not exceeding 1  
5 month, established by department rule during which any  
6 person may apply for comparative review with an applicant  
7 whose letter of intent has been received during the  
8 preceding batching period.

9 (11) "Clinical laboratory" means a facility for the  
10 microbiological, serological, chemical, hematological,  
11 radiobioassay, cytological, immuno-hematological,  
12 pathological, or other examination of materials derived from  
13 the human body for the purpose of providing information for  
14 the diagnosis, prevention, or treatment of any disease or  
15 assessment of a medical condition.

16 (12) "College of American pathologists" means the  
17 organization nationally recognized by that name with  
18 headquarters in Traverse City, Michigan, that surveys  
19 clinical laboratories upon their requests and accredits  
20 clinical laboratories that it finds meet its standards and  
21 requirements.

22 (13) "Comparative review" means a joint review of two  
23 or more certificate of need applications within a given  
24 batch which are determined by the department to be  
25 competitive in that the granting of a certificate of need to

1 one of the applicants would substantially prejudice the  
2 department's review of the other applications.

3 (14) "Construction" means the physical erection of a  
4 health care facility and any stage thereof, including ground  
5 breaking, or remodeling, replacement, or renovation of an  
6 existing health care facility.

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

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

12 (17) "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 (18) "Health care facility" or "facility" means any  
16 institution, building, or agency or portion thereof, private  
17 or public, excluding federal facilities, whether organized  
18 for profit or not, used, operated, or designed to provide  
19 health services, medical treatment, or nursing,  
20 rehabilitative, or preventive care to any person or persons.  
21 The term does not include offices of private physicians or  
22 dentists. The term includes but is not limited to ambulatory  
23 surgical facilities, health maintenance organizations, home  
24 health agencies, hospices, hospitals, infirmaries, kidney  
25 treatment centers, long-term care facilities, medical

1 assistance facility, mental health centers, outpatient  
2 facilities, public health centers, rehabilitation  
3 facilities, and adult day-care centers.

4 (19) "Health maintenance organization" means a public  
5 or private organization organized as defined in 42 U.S.C.  
6 300e, as amended.

7 (20) "Health systems agency" means an entity which is  
8 organized and operated in the manner described in 42 U.S.C.  
9 3001-2 and which is capable, as determined by the secretary  
10 of the United States department of health and human  
11 services, of performing each of the functions described in  
12 42 U.S.C. 3001-2.

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

20 (22) "Hospice" means a coordinated program of home and  
21 inpatient health care that provides or coordinates  
22 palliative and supportive care to meet the needs of a  
23 terminally ill patient and his family arising out of  
24 physical, psychological, spiritual, social, and economic  
25 stresses experienced during the final stages of illness and

1 dying and that includes formal bereavement programs as an  
2 essential component.

3 (23) "Hospital" means a facility providing, by or under  
4 the supervision of licensed physicians, services for medical  
5 diagnosis, treatment, rehabilitation, and care of injured,  
6 disabled, or sick persons. Services provided may or may not  
7 include obstetrical care, emergency care, or any other  
8 service as allowed by state licensing authority. A hospital  
9 has an organized medical staff which is on call and  
10 available within 20 minutes, 24 hours per day, 7 days per  
11 week, and provides 24-hour nursing care by licensed  
12 registered nurses. This term includes hospitals specializing  
13 in providing health services for psychiatric, mentally  
14 retarded, and tubercular patients.

15 (24) "Infirmiry" means a facility located in a  
16 university, college, government institution, or industry for  
17 the treatment of the sick or injured, with the following  
18 subdefinitions:

19 (a) an "infirmiry--A" provides outpatient and  
20 inpatient care;

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

22 (25) "Joint commission on accreditation of hospitals"  
23 means the organization nationally recognized by that name  
24 with headquarters in Chicago, Illinois, that surveys health  
25 care facilities upon their requests and grants accreditation

1 status to any health care facility that it finds meets its  
2 standards and requirements.

3 (26) "Kidney treatment center" means a facility which  
4 specializes in treatment of kidney diseases, including  
5 freestanding hemodialysis units.

6 (27) (a) "Long-term care facility" means a facility or  
7 part thereof which provides skilled nursing care,  
8 intermediate nursing care, or intermediate developmental  
9 disability care to a total of two or more persons or  
10 personal care to more than four persons who are not related  
11 to the owner or administrator by blood or marriage. The  
12 term does not include adult foster care licensed under  
13 53-5-303, community homes for the developmentally disabled  
14 licensed under 53-20-305, community homes for physically  
15 disabled persons licensed under 53-19-111, boarding or  
16 foster homes for children licensed under 41-3-1142, hotels,  
17 motels, boardinghouses, roominghouses, or similar  
18 accommodations providing for transients, students, or  
19 persons not requiring institutional health care, or juvenile  
20 and adult correctional facilities operating under the  
21 authority of the department of institutions.

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

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

5 (d) "Intermediate developmental disability care" means  
6 the provision of nursing care services, health-related  
7 services, and social services for the developmentally  
8 disabled, as defined in 53-20-102(4), or persons with  
9 related problems.

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

14 (28) "Major medical equipment" means a single unit of  
15 medical equipment or a single system of components with  
16 related functions which is used to provide medical or other  
17 health services.

18 (29) "Medical assistance facility" means a facility  
19 that:

20 (a) is located in an isolated geographical area;  
21 (b) is located more than 50 miles from the nearest  
22 hospital in a county with five or fewer persons per square  
23 mile;

24 (c) is an extension of the prehospital system;  
25 (d) is staffed by personnel to include, if available,

1 ~~A--LICENSED--PHYSICIAN,--LICENSED--PHYSICIAN-ASSISTANT,--OR-A~~  
2 ~~BICENSED--NURSE--SPECIALIST~~ able--to--assist--with--triage,  
3 treatment,--observation,--and--secondary--transport,--if--needed,  
4 {e)--is--staffed--and--equipped--pursuant--to--requirements  
5 for--an--advanced--life--support--transport--unit,  
6 {f)--has--a--registered--nurse--on--site--or--on--call,  
7 {g)--is--operated--according--to--local--and--regional  
8 medical--protocols;--Regional--medical--control--protocols--must  
9 be--congruent--with--secondary--transport--protocols;  
10 {h)--allows--admission--in--accordance--with--the  
11 capabilities--of--the--facility; PROVIDES INPATIENT CARE TO ILL  
12 OR INJURED PERSONS PRIOR TO THEIR TRANSPORTATION TO A  
13 HOSPITAL OR PROVIDES INPATIENT MEDICAL CARE TO PERSONS  
14 NEEDING THAT CARE FOR A PERIOD OF NO LONGER THAN 96 HOURS;  
15 {B) EITHER IS LOCATED IN A COUNTY WITH FEWER THAN SIX  
16 RESIDENTS PER SQUARE MILE OR IS LOCATED MORE THAN 35 ROAD  
17 MILES FROM THE NEAREST HOSPITAL.  
18 {29}{30} "Mental health center" means a facility  
19 providing services for the prevention or diagnosis of mental  
20 illness, the care and treatment of mentally ill patients or  
21 the rehabilitation of such persons, or any combination of  
22 these services.  
23 {30}{31} "Nonprofit health care facility" means a  
24 health care facility owned or operated by one or more  
25 nonprofit corporations or associations.

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2 more than 6 hours by a patient recovering from surgery or  
3 other treatment.  
4 {32}{33} "Offer" means the holding out by a health care  
5 facility that it can provide specific health services.  
6 {33}{34} "Outpatient facility" means a facility,  
7 located in or apart from a hospital, providing, under the  
8 direction of a licensed physician, either diagnosis or  
9 treatment, or both, to ambulatory patients in need of  
10 medical, surgical, or mental care. An outpatient facility  
11 may have observation beds.  
12 {34}{35} "Patient" means an individual obtaining  
13 services, including skilled nursing care, from a health care  
14 facility.  
15 {35}{36} "Person" means any individual, firm,  
16 partnership, association, organization, agency, institution,  
17 corporation, trust, estate, or governmental unit, whether  
18 organized for profit or not.  
19 {36}{37} "Public health center" means a publicly owned  
20 facility providing health services, including laboratories,  
21 clinics, and administrative offices.  
22 {37}{38} "Rehabilitation facility" means a facility  
23 which is operated for the primary purpose of assisting in  
24 the rehabilitation of disabled persons by providing  
25 comprehensive medical evaluations and services,

1 psychological and social services, or vocational evaluation  
2 and training or any combination of these services and in  
3 which the major portion of the services is furnished within  
4 the facility.

5 ~~{38}~~{39} "Resident" means a person who is in a  
6 long-term care facility for intermediate or personal care.

7 ~~{39}~~{40} "State health plan" means the plan prepared by  
8 the department pursuant to 42 U.S.C. 300m-2(a)(2).

9 50-5-101. (Effective July 1, 1987) Definitions. As  
10 used in parts 1 through 4 of this chapter, unless the  
11 context clearly indicates otherwise, the following  
12 definitions apply:

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

14 (2) "Adult day-care center" means a facility,  
15 freestanding or connected to another health care facility,  
16 which provides adults, on an intermittent basis, with the  
17 care necessary to meet the needs of daily living.

18 (3) "Ambulatory surgical facility" means a facility,  
19 not part of a hospital, which provides surgical treatment to  
20 patients not requiring hospitalization. This type of  
21 facility may include observation beds for patient recovery  
22 from surgery or other treatment.

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

25 (5) "Clinical laboratory" means a facility for the

1 microbiological, serological, chemical, hematological,  
2 radiobioassay, cytological, immunohematological,  
3 pathological, or other examination of materials derived from  
4 the human body for the purpose of providing information for  
5 the diagnosis, prevention, or treatment of any disease or  
6 assessment of a medical condition.

7 (6) "College of American pathologists" means the  
8 organization nationally recognized by that name with  
9 headquarters in Traverse City, Michigan, that surveys  
10 clinical laboratories upon their requests and accredits  
11 clinical laboratories that it finds meet its standards and  
12 requirements.

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

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

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

21 (10) "Health care facility" or "facility" means any  
22 institution, building, or agency or portion thereof, private  
23 or public, excluding federal facilities, whether organized  
24 for profit or not, used, operated, or designed to provide  
25 health services, medical treatment, or nursing,

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

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

13 (12) "Health systems agency" means an entity which is  
 14 organized and operated in the manner described in 42 U.S.C.  
 15 3001-2 and which is capable, as determined by the secretary  
 16 of the United States department of health and human  
 17 services, of performing each of the functions described in  
 18 42 U.S.C. 3001-2.

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

1 (14) "Hospice" means a coordinated program of home and  
 2 inpatient health care that provides or coordinates  
 3 palliative and supportive care to meet the needs of a  
 4 terminally ill patient and his family arising out of  
 5 physical, psychological, spiritual, social, and economic  
 6 stresses experienced during the final stages of illness and  
 7 dying and that includes formal bereavement programs as an  
 8 essential component.

9 (15) "Hospital" means a facility providing, by or under  
 10 the supervision of licensed physicians, services for medical  
 11 diagnosis, treatment, rehabilitation, and care of injured,  
 12 disabled, or sick persons. Services provided may or may not  
 13 include obstetrical care, emergency care, or any other  
 14 service as allowed by state licensing authority. A hospital  
 15 has an organized medical staff which is on call and  
 16 available within 20 minutes, 24 hours per day, 7 days per  
 17 week, and provides 24-hour nursing care by licensed  
 18 registered nurses. This term includes hospitals specializing  
 19 in providing health services for psychiatric, mentally  
 20 retarded, and tubercular patients.

21 (16) "Infirmiry" means a facility located in a  
 22 university, college, government institution, or industry for  
 23 the treatment of the sick or injured, with the following  
 24 subdefinitions:

25 (a) an "infirmiry--A" provides outpatient and



1 inpatient care;

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

3 (17) "Joint commission on accreditation of hospitals"  
4 means the organization nationally recognized by that name  
5 with headquarters in Chicago, Illinois, that surveys health  
6 care facilities upon their requests and grants accreditation  
7 status to any health care facility that it finds meets its  
8 standards and requirements.

9 (18) "Kidney treatment center" means a facility which  
10 specializes in treatment of kidney diseases, including  
11 freestanding hemodialysis units.

12 (19) (a) "Long-term care facility" means a facility or  
13 part thereof which provides skilled nursing care,  
14 intermediate nursing care, or intermediate developmental  
15 disability care to a total of two or more persons or  
16 personal care to more than four persons who are not related  
17 to the owner or administrator by blood or marriage. The  
18 term does not include adult foster care licensed under  
19 53-5-303, community homes for the developmentally disabled  
20 licensed under 53-20-305, community homes for physically  
21 disabled persons licensed under 53-19-111, boarding or  
22 foster homes for children licensed under 41-3-1142, hotels,  
23 motels, boardinghouses, roominghouses, or similar  
24 accommodations providing for transients, students, or  
25 persons not requiring institutional health care, or juvenile

1 and adult correctional facilities operating under the  
2 authority of the department of institutions.

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 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 (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 services  
17 and care which do not require nursing skills to residents  
18 needing some assistance in performing the activities of  
19 daily living.

20 (20) "Medical assistance facility" means a facility  
21 that:

22 (a) is-located-in-an-isolated-geographical-area,  
23 (b)--is--located more--than--50-miles-from-the-nearest  
24 hospital IN-A-COUNTY-WITH-FIVE-OR-FEWER-PERSONS--PER--SQUARE  
25 MILE;

1 ~~(c) is an extension of the prehospital system;~~  
 2 ~~(d) is staffed by personnel who are available~~  
 3 ~~A LICENSED PHYSICIAN, LICENSED PHYSICIAN ASSISTANT, OR A~~  
 4 ~~LICENSED NURSE SPECIALIST able to assist with triage,~~  
 5 ~~treatment, observation, and secondary transport, if needed;~~  
 6 ~~(e) is staffed and equipped pursuant to requirements~~  
 7 ~~for an advanced life support transport unit;~~  
 8 ~~(f) has a registered nurse on site or on call;~~  
 9 ~~(g) is operated according to local and regional~~  
 10 ~~medical protocols. Regional medical control protocols must~~  
 11 ~~be congruent with secondary transport protocols.~~  
 12 ~~(h) allows admission in accordance with the~~  
 13 ~~capabilities of the facility. PROVIDES INPATIENT CARE TO ILL~~  
 14 ~~OR INJURED PERSONS PRIOR TO THEIR TRANSPORTATION TO A~~  
 15 ~~HOSPITAL OR PROVIDES INPATIENT MEDICAL CARE TO PERSONS~~  
 16 ~~NEEDING THAT CARE FOR A PERIOD OF NO LONGER THAN 96 HOURS;~~  
 17 ~~(B) EITHER IS LOCATED IN A COUNTY WITH FEWER THAN SIX~~  
 18 ~~RESIDENTS PER SQUARE MILE OR IS LOCATED MORE THAN 35 ROAD~~  
 19 ~~MILES FROM THE NEAREST HOSPITAL.~~  
 20 (20)(21) "Mental health center" means a facility  
 21 providing services for the prevention or diagnosis of mental  
 22 illness, the care and treatment of mentally ill patients or  
 23 the rehabilitation of such persons, or any combination of  
 24 these services.  
 25 (21)(22) "Nonprofit health care facility" means a

1 health care facility owned or operated by one or more  
 2 nonprofit corporations or associations.  
 3 (22)(23) "Observation bed" means a bed occupied for not  
 4 more than 6 hours by a patient recovering from surgery or  
 5 other treatment.  
 6 (23)(24) "Offer" means the holding out by a health care  
 7 facility that it can provide specific health services.  
 8 (24)(25) "Outpatient facility" means a facility,  
 9 located in or apart from a hospital, providing, under the  
 10 direction of a licensed physician, either diagnosis or  
 11 treatment, or both, to ambulatory patients in need of  
 12 medical, surgical, or mental care. An outpatient facility  
 13 may have observation beds.  
 14 (25)(26) "Patient" means an individual obtaining  
 15 services, including skilled nursing care, from a health care  
 16 facility.  
 17 (26)(27) "Person" means any individual, firm,  
 18 partnership, association, organization, agency, institution,  
 19 corporation, trust, estate, or governmental unit, whether  
 20 organized for profit or not.  
 21 (27)(28) "Public health center" means a publicly owned  
 22 facility providing health services, including laboratories,  
 23 clinics, and administrative offices.  
 24 (28)(29) "Rehabilitation facility" means a facility  
 25 which is operated for the primary purpose of assisting in

1 the rehabilitation of disabled persons by providing  
 2 comprehensive medical evaluations and services,  
 3 psychological and social services, or vocational evaluation  
 4 and training or any combination of these services and in  
 5 which the major portion of the services is furnished within  
 6 the facility.

7 ~~(29)~~(30) "Resident" means a person who is in a  
 8 long-term care facility for intermediate or personal care.

9 ~~(30)~~(31) "State health plan" means the plan prepared by  
 10 the department pursuant to 42 U.S.C. 300m-2(a)(2)."

11 Section 2. Section 53-5-503, MCA, is amended to read:

12 "53-5-503. Definitions. As used in this part, the  
 13 following definitions apply:

14 (1) "Abuse" means the infliction of physical or mental  
 15 injury or the deprivation of food, shelter, clothing, or  
 16 services necessary to maintain the physical or mental health  
 17 of an older person without lawful authority. A declaration  
 18 made pursuant to 50-9-103 constitutes lawful authority.

19 (2) "Exploitation" means the unreasonable use of an  
 20 older person, his money, or his property to the advantage of  
 21 another by means of duress, menace, fraud, or undue  
 22 influence.

23 (3) "Long-term care facility" means a facility defined  
 24 in 50-5-101~~(20)~~.

25 (4) "Mental injury" means an identifiable and

1 substantial impairment of an older person's intellectual or  
 2 psychological functioning or well-being.

3 (5) "Neglect" means the failure of a guardian,  
 4 employee of a public or private residential institution,  
 5 facility, home, or agency, or any other person legally  
 6 responsible in a residential setting for an older person's  
 7 welfare to care for an older person by failing to provide  
 8 food, shelter, clothing, or services necessary to maintain  
 9 the physical or mental health of the older person.

10 (6) "Older person" means a person who is at least 60  
 11 years of age. For purposes of prosecution under 53-5-525(2),  
 12 the person 60 years of age or older must be unable to  
 13 protect himself from abuse, neglect, or exploitation because  
 14 of a mental or physical impairment or because of frailties  
 15 or dependencies brought about by advanced age.

16 (7) "Physical injury" means death, permanent or  
 17 temporary disfigurement, or impairment of any bodily organ  
 18 or function."

19 NEW SECTION. SECTION 3. COORDINATION INSTRUCTION. IF  
 20 SENATE BILL NO. 246 AND THIS BILL ARE BOTH PASSED AND  
 21 APPROVED, THE CODE COMMISSIONER SHALL ADD THE TERM "MEDICAL  
 22 ASSISTANCE FACILITY" TO THE LIST OF FACILITIES DEFINED AS  
 23 "HEALTH CARE FACILITIES" IN 50-5-301, AS AMENDED BY SENATE  
 24 BILL NO. 246.

25 NEW SECTION. Section 4. Extension of authority. Any

SB 0385/04

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

-End-

STANDING COMMITTEE REPORT

HOUSE

MARCH 26 19 87

SENATE BILL NO. 385  
MARCH 26 19 87  
Page 2 of 2

Mr. Speaker: We, the committee on BUSINESS AND LABOR  
report SENATE BILL 385

do pass  be concurred in  as amended  
 do not pass  be not concurred in  statement of intent attached

  
REP. LES KITSEIMAN Chairman

AMENDMENTS AS FOLLOWS:

1) Page 8, line 20 through page 9, line 11  
Following: "(a)" on page 8, line 20  
Strike: the remainder of line 20 through line 11 on page 9  
Insert: "provides inpatient care to ill or injured persons prior to their transportation to a hospital or provides inpatient medical care to persons needing that care for a period of no longer than 96 hours; (b) either is located in a county with fewer than six residents per square mile or is located more than 35 road miles from the nearest hospital."

2) Page 16, line 16 through page 17, line 7  
Following: "(a)" on page 16, line 16  
Strike: the remainder of line 16 through line 7 on page 17  
Insert: "provides inpatient care to ill or injured persons prior to their transportation to a hospital or provides inpatient medical care to persons needing that care for a period of no longer than 96 hours; (b) either is located in a county with fewer than six residents per square mile or is located more than 35 road miles from the nearest hospital."

3) Page 20, line 6  
Following: line 6  
Insert: "NEW SECTION. Section 3. Coordination instruction. If Senate Bill 246 and this bill are both passed and approved, the code commissioner shall add the term "medical assistance facility" to the list of facilities defined as "health care facilities" in 50-5-301, as amended by Senate Bill 246."  
Renumber: subsequent section

STATEMENT OF INTENT

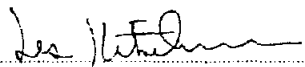
A statement of intent is provided for this bill because it extends the authority of the Department of Health and Environmental Sciences to set licensure standards to cover medical assistance facilities. It is the intent of the legislature that the department adopt licensure standards for such facilities that include, but are not limited to, the following:

1. the types, training, and supervision of staff the facility must have, including either a physician, nurse practitioner, or physician assistant, with the restriction that a physician, nurse practitioner, or physician assistant need not be on site at all times but may be on call so long as they are available within 1 hour;
2. requirements for medical treatment protocols that must be utilized by staff;
3. review of a professional review organization or its equivalent to determine if the level of care provided is appropriate; and
4. a requirement that the facility have a referral agreement with a hospital ensuring acceptance of patients needing hospital-level care who are treated at the facility.

SW

Rep. Devlin will sponsor

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Chairman