

HOUSE BILL NO. 308

INTRODUCED BY SQUIRES, MANNING, COBB, WEEDING, WALKER,
DAVIS, JOHNSON, COCCHIARELLA, DRISCOLL, THOMAS,
JERGESON, HANNAH, STRIZICH

BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION
SERVICES AND THE DEPARTMENT OF FAMILY SERVICES

IN THE HOUSE

JANUARY 19, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
JANUARY 20, 1989	FIRST READING.
FEBRUARY 4, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 6, 1989	PRINTING REPORT.
FEBRUARY 7, 1989	SECOND READING, DO PASS.
FEBRUARY 8, 1989	ENGROSSING REPORT.
FEBRUARY 9, 1989	THIRD READING, PASSED. AYES, 99; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 10, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
	FIRST READING.
MARCH 7, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 8, 1989	SECOND READING, CONCURRED IN.
MARCH 10, 1989	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 14, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 15, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *308*
 2 INTRODUCED BY *Squire, Richard, Spinning, Cobb, Wund, G...*
 3 BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION *Cochran, Johnson*
 4 SERVICES AND THE DEPARTMENT OF FAMILY SERVICES
 5 *Squire, Thomas, Ferguson, H...*
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 LAWS RELATING TO COMMUNITY PROGRAMS FOR PERSONS WITH SEVERE
 8 DISABILITIES; TO AUTHORIZE THE STATE TO ADMINISTER COMMUNITY
 9 PROGRAMS FOR PERSONS WITH SEVERE DISABILITIES UNDER ANY
 10 PROVISION OF TITLE VII OF THE FEDERAL REHABILITATION ACT OF
 11 1973; TO TRANSFER AUTHORITY FOR LICENSING OF COMMUNITY HOMES
 12 FOR PERSONS WITH SEVERE DISABILITIES FROM THE DEPARTMENT OF
 13 SOCIAL AND REHABILITATION SERVICES TO THE DEPARTMENT OF
 14 FAMILY SERVICES; AMENDING SECTIONS 50-5-101, 50-5-301,
 15 53-19-101 THROUGH 53-19-104, 53-19-106, 53-19-110, AND
 16 53-19-112, MCA; REPEALING SECTIONS 53-19-111 AND 53-19-113,
 17 MCA; AND PROVIDING EFFECTIVE DATES."

18
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 **Section 1.** Section 53-19-101, MCA, is amended to read:

21 "53-19-101. Purpose. The legislature, in recognition
 22 of needs of severely---disabled persons with severe
 23 disabilities and of the desirability of meeting those needs
 24 on a community level to the extent of available funding and
 25 in order to reduce the need for institutional care settings,

1 establishes by this part a community program to assist
 2 severely-disabled persons with severe disabilities in living
 3 and functioning independently. This program implements Title
 4 VII,--Part--A, of the federal Rehabilitation Act of 1973 (29
 5 U.S.C. 796, et seq.), as may be amended, for disabled
 6 persons with severe disabilities in Montana. The legislature
 7 ~~further---recognizes-the-need-to-provide-for-the-licensing-of~~
 8 ~~current-community-homes-for-severely-disabled-persons."~~

9 **Section 2.** Section 53-19-102, MCA, is amended to read:

10 "53-19-102. Definitions. As used in this part, the
 11 following definitions apply:

12 (1) "Community home for severely-disabled persons with
 13 severe disabilities" means a family-oriented-residence-that
 14 is-designed-to-provide-residential-services-for-two-to-eight
 15 severely-disabled-persons-and-that-does-not-provide--skilled
 16 or---intermediate---nursing---care---This---definition---does-not
 17 preclude-the-provision-of-skilled---or---intermediate---nursing
 18 care---by---third-person---providers. facility licensed by the
 19 department of family services, as provided for in [sections
 20 8 through 12].

21 (2) "Department" means the department of social and
 22 rehabilitation services established in 2-15-2201.

23 (3) "Disability" means a permanent physical or mental
 24 condition recognized as a disability by Title VII,--Part--A,
 25 of the federal Rehabilitation Act of 1973 (29 U.S.C. 796, et

seq.), as may be amended}.

~~{4}--"Severely-disabled-person"--means-a-person--with--a permanent--disability--that--substantially-limits-major-life activity,--such--as--walking,--self-care,--seeing,--hearing, speaking,--learning,--reasoning,--judgment,--or-memory,--and--that can-be-diagnosed-by-a-physician--~~

{4} "Person with severe disabilities" means the same as "individual with severe handicaps" as defined in the federal Rehabilitation Act of 1973 (29 U.S.C. 706(15)(B)), as may be amended. The term includes an individual whose ability to function independently in family or community or whose ability to engage or continue in employment is so limited by the severity of his physical or mental disability that the services provided under this part are required in order for the individual to achieve a greater level of independence in functioning in family or community or in engaging in or continuing in employment."

Section 3. Section 53-19-103, MCA, is amended to read:

"53-19-103. Department authorized to provide services.

(1) Subject to available appropriated funds, services provided under this part include:

(a) vocational and other rehabilitation services that enhance the ability of a ~~severely-disabled~~ person with severe disabilities to live and function independently and to ~~secure-and-maintain~~ engage in or continue in appropriate

employment; and

(b) any services specified in Title VII, Part A, of the federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.), as may be amended}.

(2) To the extent that funds are appropriated and allocated for the purpose of providing services to ~~severely disabled~~ persons with severe disabilities, the department may establish the facilities and services it determines are in the best interest of ~~severely-disabled~~ persons with severe disabilities.

(3) The scope, amount, and duration of services made available to ~~severely-disabled~~ persons with severe disabilities under this part are within the discretion of the department to determine."

Section 4. Section 53-19-104, MCA, is amended to read:

"53-19-104. Department contracts for services -- governmental units providing for community homes for persons with severe disabilities. (1) The department may expend money appropriated or available for the purposes of this part and may contract for services for eligible ~~severely disabled~~ persons with any person or entity providing such the services to persons with severe disabilities.

(2) Governmental units, including but not limited to counties, municipalities, school districts, or state institutions of higher learning, may at their own expense

1 provide services, funds, materials, and facilities for
2 services to community homes for ~~severely--disabled~~ persons
3 with severe disabilities."

4 **Section 5.** Section 53-19-106, MCA, is amended to read:

5 "53-19-106. Eligibility for services. (1) The
6 department, in its discretion and in accordance with this
7 part and Title VII, ~~Part-A,~~ of the federal Rehabilitation
8 Act of 1973 (29 U.S.C. 796, et seq.), as may be amended},
9 may determine eligibility of persons for services under this
10 part.

11 (2) To be eligible for services under this part, a
12 person must have a disability of such severity that, to
13 secure and maintain employment or to function independently,
14 he requires ~~more~~ intensive vocational or comprehensive
15 rehabilitation services ~~than--are--available--through--other~~
16 ~~state-and-federal-programs.~~

17 (3) ~~Disabled-persons~~ A person with severe disabilities
18 not receiving other vocational and rehabilitation services
19 provided by the department ~~have~~ has priority for services
20 provided under this part."

21 **Section 6.** Section 53-19-110, MCA, is amended to read:

22 "53-19-110. Eligibility for residential services in a
23 community home for persons with severe disabilities. (1) The
24 department, in its discretion and in accordance with this
25 part, may determine eligibility for residential services in

1 a community home for ~~the--severely--disabled~~ persons with
2 severe disabilities, based on the residential needs of the
3 person and on the availability of residential services. Any
4 ~~severely--disabled~~ person with a severe disability, as
5 defined in [section 9], may be considered for placement in a
6 community home, regardless of the source of funding for his
7 residential services.

8 (2) A person who has a primary diagnosis of mental
9 illness or who receives mental health services under Title
10 53, chapter 21, is not eligible for placement in ~~residential~~
11 ~~services~~ a community home for persons with severe
12 disabilities unless he is eligible for and receiving
13 services under this part and Title VII, ~~Part-A,~~ of the
14 federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.),
15 as may be amended}, or Title XIX of the Social Security Act
16 (42 U.S.C. 1396, et seq.), as may be amended."

17 **Section 7.** Section 53-19-112, MCA, is amended to read:

18 "53-19-112. Rulemaking. (1) For the purposes of
19 providing services to ~~severely-disabled~~ persons with severe
20 disabilities, the department may adopt rules necessary for
21 the administration of the services provided ~~to--severely~~
22 ~~disabled--persons~~ under this part. Rules adopted may include
23 but are not limited to eligibility for services, ~~licensing,~~
24 facility design and acquisition, program staffing, staff
25 training, service goals and design, quality of services,

client placement procedures, client rights and privileges, client grievance procedures, fair hearings, provider grievance procedures, and accounting procedures which include accounting of client financial resources.

~~{2}--(a)--The--department--shall,--for--the--purpose--of licensing,--adopt--rules--to--govern--administration,--operation, and--health--and--safety--requirements--for--community--homes--for severely--disabled--persons--in--order--to--protect--residents' rights.--The--department--shall--provide--for--temporary--and provisional--licensing--~~

~~{b)--The--department--of--health--and--environmental sciences--shall--provide--advice--and--recommendations--to--the department--concerning--licensing--requirements--for--health--and safety--~~

{3}{2} The department shall, in cooperation with the board of nursing, adopt rules under which a properly trained staff member of a facility providing services to severely disabled persons with severe disabilities under this part may supervise and assist a client of a facility in taking a medication if the medication is usually self-administered and if a physician has prescribed the assistance."

NEW SECTION. Section 8. Purpose. The legislature, in recognition of the needs of persons with severe disabilities and of the desirability of meeting those needs on a community level, establishes in [sections 8 through 12]

authority for the state to license community homes for persons with severe disabilities. Licensed community homes for persons with severe disabilities are for the purpose of providing residential settings for persons with severe disabilities receiving services funded through state-administered programs who otherwise are unable to live independently and who are determined to be capable of residing in noninstitutional settings.

NEW SECTION. Section 9. Definitions. As used in [sections 8 through 12], the following definitions apply:

(1) "Community home for persons with severe disabilities" means a family-oriented residence that is designed to provide residential services for two to eight persons with severe disabilities and that does not provide skilled or intermediate nursing care. This definition does not preclude the provision of skilled or intermediate nursing care by third-person providers.

(2) "Department" means the department of family services established in 2-15-2401.

(3) "Disability" means a permanent physical or mental condition recognized as a disability by Title VII of the federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.), as may be amended.

(4) "Severe disability" means a permanent disability that substantially limits major life activity, such as

walking, self-care, seeing, hearing, speaking, learning, reasoning, judgment, or memory, and that can be diagnosed by a physician. The term includes the condition of a person with severe disabilities as defined in 53-19-102.

NEW SECTION. Section 10. Licensing. (1) A community home for persons with severe disabilities must be licensed annually by the department.

(2) The department may also issue temporary and provisional licenses.

NEW SECTION. Section 11. Health and safety standards.

(1) A community home for persons with severe disabilities must be certified annually for fire and life safety by the state fire marshal. The state fire marshal shall notify the department whenever a community home has been certified or refused certification.

(2) (a) Local health officers shall inspect a community home for persons with severe disabilities to ensure compliance with health and safety standards. If for any reason the local authority cannot complete the inspection in a timely manner, the department of health and environmental sciences may make the inspection to ensure compliance with the standards.

(b) The inspecting health officer shall notify the department whether a community home is or is not in compliance with applicable standards.

(c) A reasonable fee may be charged by health authorities conducting compliance inspections.

NEW SECTION. Section 12. Rulemaking. (1) The department shall, for the purpose of licensing, adopt rules to govern administration, operation, and health and safety requirements for community homes for persons with severe disabilities in order to protect rights of residents. The department shall provide for temporary and provisional licensing.

(2) The department of health and environmental sciences and the state fire marshal shall provide advice and recommendations to the department concerning licensing requirements for health and safety.

Section 13. Section 50-5-101, MCA, is amended to read:

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

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

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

(3) "Affected person" means an applicant for certificate of need, a member of the public who will be served by the proposal, a health care facility located in

the geographic area affected by the application, an agency which establishes rates for health care facilities, a third-party payer who reimburses health care facilities in the area affected by the proposal, or an agency which plans or assists in planning for such facilities.

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

(5) "Batch" means those letters of intent to seek approval for new beds or major medical equipment that are accumulated during a single batching period.

(6) "Batching period" means a period, not exceeding 1 month, established by department rule during which letters of intent to seek approval for new beds or major medical equipment are accumulated pending further processing of all letters of intent within the batch.

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

(8) "Capital expenditure" means:

(a) an expenditure made by or on behalf of a health care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or

(b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any other property of value had changed hands.

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

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

(11) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, which creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.

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

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

(14) "Comparative review" means a joint review of two or more certificate of need applications which are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.

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

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

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

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

(19) "Health care facility" or "facility" means any

institution, building, or agency or portion thereof, private or public, excluding federal facilities, whether organized for profit or not, used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. The term does not include offices of private physicians or dentists. The term includes but is not limited to ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, hospitals, infirmaries, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, and adult day-care centers.

(20) "Health maintenance organization" means a public or private organization which provides or arranges for health care services to enrollees on a prepaid or other financial basis, either directly through provider employees or through contractual or other arrangements with a provider or group of providers.

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

1 services.

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

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

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

1 (a) an "infirmiry--A" provides outpatient and
2 inpatient care;

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

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

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

13 (27) (a) "Long-term care facility" means a facility or
14 part thereof which provides skilled nursing care,
15 intermediate nursing care, or intermediate developmental
16 disability care to a total of two or more persons or
17 personal care to more than four persons who are not related
18 to the owner or administrator by blood or marriage. The
19 term does not include adult foster care licensed under
20 53-5-303, community homes for the developmentally disabled
21 licensed under 53-20-305, community homes for ~~physically~~
22 ~~disabled~~ persons with severe disabilities licensed under
23 ~~53-19-111~~ [section 10], youth care facilities licensed under
24 41-3-1142, hotels, motels, boardinghouses, roominghouses, or
25 similar accommodations providing for transients, students,

or persons not requiring institutional health care, or juvenile and adult correctional facilities operating under the authority of the department of institutions.

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

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

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

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

(28) "Major medical equipment" means a single unit of medical equipment or a single system of components with related functions which is used to provide medical or other health services and costs a substantial sum of money.

(29) "Medical assistance facility" means a facility

that:

(a) 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; and

(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.

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

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

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

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

(34) "Outpatient facility" means a facility, located in or apart from a hospital, providing, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients in need of medical, surgical,

1 or mental care. An outpatient facility may have observation
2 beds.

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

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

9 (37) "Public health center" means a publicly owned
10 facility providing health services, including laboratories,
11 clinics, and administrative offices.

12 (38) "Rehabilitation facility" means a facility which
13 is operated for the primary purpose of assisting in the
14 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 (39) "Resident" means a person who is in a long-term
21 care facility for intermediate or personal care.

22 (40) "State health plan" means the plan prepared by the
23 department to project the need for health care facilities
24 within Montana and approved by the statewide health
25 coordinating council and the governor.

1 50-5-101. (Effective July 1, 1989) Definitions. As
2 used in parts 1 through 4 of this chapter, unless the
3 context clearly indicates otherwise, the following
4 definitions apply:

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

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

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

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

17 (5) "Chemical dependency facility" means a facility
18 whose function is the treatment, rehabilitation, and
19 prevention of the use of any chemical substance, including
20 alcohol, which creates behavioral or health problems and
21 endangers the health, interpersonal relationships, or
22 economic function of an individual or the public health,
23 welfare, or safety.

24 (6) "Clinical laboratory" means a facility for the
25 microbiological, serological, chemical, hematological,

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

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

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

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

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

(a) 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; and

(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.

(21) "Mental health center" means a facility providing

services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients or the rehabilitation of such persons, or any combination of these services.

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

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

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

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

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

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

(28) "Public health center" means a publicly owned

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

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

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

13 (31) "State health plan" means the plan prepared by the
14 department to project the need for health care facilities
15 within Montana and approved by the statewide health
16 coordinating council and the governor."

17 **Section 14.** Section 50-5-301, MCA, is amended to read:

18 "50-5-301. (Temporary) When certificate of need is
19 required -- definitions. (1) Unless a person has submitted
20 an application for and is the holder of a certificate of
21 need granted by the department, he may not initiate any of
22 the following:

23 (a) the incurring of an obligation by or on behalf of
24 a health care facility for any capital expenditure, other
25 than to acquire an existing health care facility or to

1 replace major medical equipment with equipment performing
2 substantially the same function and in the same manner, that
3 exceeds the expenditure thresholds established in subsection
4 (4). The costs of any studies, surveys, designs, plans,
5 working drawings, specifications, and other activities
6 (including staff effort, consulting, and other services)
7 essential to the acquisition, improvement, expansion, or
8 replacement of any plant or equipment with respect to which
9 an expenditure is made must be included in determining if
10 the expenditure exceeds the expenditure thresholds.

11 (b) a change in the bed capacity of a health care
12 facility through an increase in the number of beds or a
13 relocation of beds from one health care facility or site to
14 another, unless:

15 (i) the number of beds involved is 10 or less or 10%
16 or less of the licensed beds (if fractional, rounded down to
17 the nearest whole number), whichever figure is smaller, in
18 any 2-year period;

19 (ii) a letter of intent is submitted to the department;
20 and

21 (iii) the department determines the proposal will not
22 significantly increase the cost of care provided or exceed
23 the bed need projected in the state health plan;

24 (c) the addition of a health service that is offered
25 by or on behalf of a health care facility which was not

1 offered by or on behalf of the facility within the 12-month
2 period before the month in which the service would be
3 offered and which will result in additional annual operating
4 and amortization expenses of \$150,000 or more;

5 (d) the acquisition by any person of major medical
6 equipment, provided such acquisition would have required a
7 certificate of need pursuant to subsection (1)(a) or (1)(c)
8 of this section if it had been made by or on behalf of a
9 health care facility;

10 (e) the incurring of an obligation for a capital
11 expenditure by any person or persons to acquire 50% or more
12 of an existing health care facility unless:

13 (i) the person submits the letter of intent required
14 by 50-5-302(2); and

15 (ii) the department finds that the acquisition will not
16 significantly increase the cost of care provided or increase
17 bed capacity;

18 (f) the construction, development, or other
19 establishment of a health care facility which is being
20 replaced or which did not previously exist, by any person,
21 including another type of health care facility;

22 (g) the expansion of the geographical service area of
23 a home health agency; or

24 (h) the use of hospital beds to provide services to
25 patients or residents needing only skilled nursing care,

1 intermediate nursing care, or intermediate developmental
2 disability care, as those levels of care are defined in
3 50-5-101.

4 (2) For purposes of subsection (1)(b), a change in bed
5 capacity occurs on the date new or relocated beds are
6 licensed pursuant to part 2 of this chapter and the date a
7 final decision is made to grant a certificate of need for
8 new or relocated beds, unless the certificate of need
9 expires pursuant to 50-5-305.

10 (3) For purposes of this part, the following
11 definitions apply:

12 (a) "Health care facility" or "facility" means a
13 nonfederal ambulatory surgical facility, home health agency,
14 hospital, long-term care facility, medical assistance
15 facility, mental health center with inpatient services,
16 inpatient chemical dependency facility, rehabilitation
17 facility with inpatient services, or personal care facility.

18 (b) (i) "Long-term care facility" means an entity
19 which provides skilled nursing care, intermediate nursing
20 care, or intermediate developmental disability care, as
21 defined in 50-5-101, to a total of two or more persons.

22 (ii) The term does not include adult foster care
23 licensed under 53-5-303; community homes for the
24 developmentally disabled licensed under 53-20-305; community
25 homes for ~~physically~~---disabled persons with severe

disabilities licensed under ~~53-19-111~~ [section 10]; boarding or foster homes for children licensed under 41-3-1142; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or persons not requiring institutional health care; or juvenile and adult correctional facilities operating under the authority of the department of institutions.

(c) "Obligation for capital expenditure" does not include the authorization of bond sales or the offering or sale of bonds pursuant to the state long-range building program under Title 17, chapter 5, part 4, and Title 18, chapter 2, part 1.

(d) "Personal care facility" means an entity which provides services and care which do not require nursing skills to more than four persons who are not related to the owner or administrator by blood or marriage and who need some assistance in performing the activities of everyday living. The term does not include those entities excluded from the definition of "long-term care facility" in subsection (b).

(4) Expenditure thresholds for certificate of need review are established as follows:

(a) For acquisition of equipment and the construction of any building necessary to house the equipment, the expenditure threshold is \$750,000.

(b) For construction of health care facilities, the expenditure threshold is \$1,500,000. (Repealed effective July 1, 1989--sec. 9, Ch. 477, L. 1987.)"

NEW SECTION. **Section 15.** Repealer. Sections 53-19-111 and 53-19-113, MCA, are repealed.

NEW SECTION. **Section 16.** Codification instruction. [Sections 8 through 12] are intended to be codified as an integral part of Title 53, chapter 20, and the provisions of Title 53, chapter 20, apply to [sections 8 through 12].

NEW SECTION. **Section 17.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 18.** Effective dates. (1) [Section 17 and this section] are effective on passage and approval.

(2) [Sections 1 through 16] are effective July 1, 1989.

-End-

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

HOUSE BILL NO. 308

INTRODUCED BY SQUIRES, MANNING, COBB, WEEDING, WALKER,
DAVIS, JOHNSON, COCCHIARELLA, DRISCOLL, THOMAS,
JERGESON, HANNAH, STRIZICH

BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION
SERVICES AND THE DEPARTMENT OF FAMILY SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
LAWS RELATING TO COMMUNITY PROGRAMS FOR PERSONS WITH SEVERE
DISABILITIES; TO AUTHORIZE THE STATE TO ADMINISTER COMMUNITY
PROGRAMS FOR PERSONS WITH SEVERE DISABILITIES UNDER ANY
PROVISION OF TITLE VII OF THE FEDERAL REHABILITATION ACT OF
1973; TO TRANSFER AUTHORITY FOR LICENSING OF COMMUNITY HOMES
FOR PERSONS WITH SEVERE DISABILITIES FROM THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES TO THE DEPARTMENT OF
FAMILY SERVICES; AMENDING SECTIONS 50-5-101, 50-5-301,
53-19-101 THROUGH 53-19-104, 53-19-106, 53-19-110, AND
53-19-112, MCA; REPEALING SECTIONS 53-19-111 AND 53-19-113,
MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

This bill requires a statement of intent because
[section 12] requires the department of family services to
adopt administrative rules for the licensing of community
homes for persons with severe disabilities. Licensed

community homes are family-oriented residences for persons
with severe disabilities who are eligible for services
designed to assist persons with severe disabilities in
living and functioning independently.

It is the intent of the legislature that, in adopting
rules, the department develop licensing requirements to
govern the administration, operation, and health and safety
of standards of community homes for persons with severe
disabilities. The department of health and environmental
sciences and the state fire marshal shall provide advice and
recommendations to the department of family services in the
adoption of licensing requirements for the health and safety
of community homes.

The rules for licensing of community homes for persons
with severe disabilities may address the following: facility
acquisition, facility design, group home staffing, staff
training, service goals and design, quality of services,
client placement procedure, provider grievance procedure,
accounting procedures, including a procedure for the
accounting of client personal property and belongings, water
and waste disposal, food service, laundry, and fire and life
safety standards that are compatible with the residential
character of the facility.

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

Section 1. Section 53-19-101, MCA, is amended to read:

"53-19-101. **Purpose.** The legislature, in recognition of needs of ~~severely--disabled~~ persons with severe disabilities and of the desirability of meeting those needs on a community level to the extent of available funding and in order to reduce the need for institutional care settings, establishes by this part a community program to assist ~~severely-disabled~~ persons with severe disabilities in living and functioning independently. This program implements Title VII, ~~Part A~~, of the federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.), as may be amended, for disabled persons with severe disabilities in Montana. ~~The legislature further recognizes the need to provide for the licensing of current community homes for severely disabled persons.~~"

Section 2. Section 53-19-102, MCA, is amended to read:

"53-19-102. **Definitions.** As used in this part, the following definitions apply:

(1) "Community home for ~~severely-disabled~~ persons with severe disabilities" means a ~~family-oriented residence that is designed to provide residential services for two to eight severely-disabled persons and that does not provide skilled or intermediate nursing care.~~ This definition does not preclude the provision of skilled or intermediate nursing care by third-person providers: facility licensed by the department of family services, as provided for in [sections

8 through 12].

(2) "Department" means the department of social and rehabilitation services established in 2-15-2201.

(3) "Disability" means a permanent physical or mental condition recognized as a disability by Title VII, ~~Part A~~, of the federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.), as may be amended.

~~(4) "Severely-disabled person" means a person with a permanent disability that substantially limits major life activity, such as walking, self-care, seeing, hearing, speaking, learning, reasoning, judgment, or memory, and that can be diagnosed by a physician.~~

(4) "Person with severe disabilities" means the same as "individual with severe handicaps" as defined in the federal Rehabilitation Act of 1973 (29 U.S.C. 706(15)(B)), as may be amended. The term includes an individual whose ability to function independently in family or community or whose ability to engage or continue in employment is so limited by the severity of his physical or mental disability that the services provided under this part are required in order for the individual to achieve a greater level of independence in functioning in family or community or in engaging in or continuing in employment."

Section 3. Section 53-19-103, MCA, is amended to read:

"53-19-103. Department authorized to provide services.

(1) Subject to available appropriated funds, services provided under this part include:

(a) vocational and other rehabilitation services that enhance the ability of a ~~severely--disabled~~ person with severe disabilities to live and function independently and to ~~secure-and-maintain~~ engage in or continue in appropriate employment; and

(b) any services specified in Title VII~~7~~--Part--A~~7~~ of the federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.), as may be amended.

(2) To the extent that funds are appropriated and allocated for the purpose of providing services to ~~severely disabled~~ persons with severe disabilities, the department may establish the facilities and services it determines are in the best interest of ~~severely--disabled~~ persons with severe disabilities.

(3) The scope, amount, and duration of services made available to ~~severely--disabled~~ persons with severe disabilities under this part are within the discretion of the department to determine."

Section 4. Section 53-19-104, MCA, is amended to read:

"53-19-104. Department contracts for services -- governmental units providing for community homes for persons with severe disabilities. (1) The department may expend money appropriated or available for the purposes of this

part and may contract for services for eligible ~~severely disabled~~ persons with any person or entity providing such the services to persons with severe disabilities.

(2) Governmental units, including but not limited to counties, municipalities, school districts, or state institutions of higher learning, may at their own expense provide services, funds, materials, and facilities for services to community homes for ~~severely-disabled~~ persons with severe disabilities."

Section 5. Section 53-19-106, MCA, is amended to read:

"53-19-106. Eligibility for services. (1) The department, in its discretion and in accordance with this part and Title VII~~7~~--Part-A~~7~~ of the federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.), as may be amended, may determine eligibility of persons for services under this part.

(2) To be eligible for services under this part, a person must have a disability of such severity that, to secure and maintain employment or to function independently, he requires ~~more~~ intensive vocational or comprehensive rehabilitation services ~~than--are--available-through-other state-and-federal-programs~~.

(3) ~~Disabled persons~~ A person with severe disabilities not receiving other vocational and rehabilitation services provided by the department ~~have~~ has priority for services

1 provided under this part."

2 **Section 6.** Section 53-19-110, MCA, is amended to read:

3 "53-19-110. Eligibility for residential services in a
4 community home for persons with severe disabilities. (1) The
5 department, in its discretion and in accordance with this
6 part, may determine eligibility for residential services in
7 a community home for ~~the--severely-disabled~~ persons with
8 severe disabilities, based on the residential needs of the
9 person and on the availability of residential services. Any
10 ~~severely--disabled~~ person with a severe disability, as
11 defined in [section 9], may be considered for placement in a
12 community home, regardless of the source of funding for his
13 residential services.

14 (2) A person who has a primary diagnosis of mental
15 illness or who receives mental health services under Title
16 53, chapter 21, is not eligible for placement in ~~residential~~
17 services a community home for persons with severe
18 disabilities unless he is eligible for and receiving
19 services under this part and Title VII, ~~Part--A,~~ of the
20 federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.),
21 as may be amended, or Title XIX of the Social Security Act
22 (42 U.S.C. 1396, et seq.), as may be amended."

23 **Section 7.** Section 53-19-112, MCA, is amended to read:

24 "53-19-112. Rulemaking. (1) For the purposes of
25 providing services to ~~severely-disabled~~ persons with severe

1 disabilities, the department may adopt rules necessary for
2 the administration of the services provided to ~~severely~~
3 ~~disabled-persons~~ under this part. Rules adopted may include
4 but are not limited to eligibility for services, ~~licensing,~~
5 facility design and acquisition, program staffing, staff
6 training, service goals and design, quality of services,
7 client placement procedures, client rights and privileges,
8 client grievance procedures, fair hearings, provider
9 grievance procedures, and accounting procedures which
10 include accounting of client financial resources.

11 ~~{2}--(a)--The--department--shall--for--the--purpose--of~~
12 ~~licensing--adopt--rules--to--govern--administration--operation,~~
13 ~~and--health--and--safety--requirements--for--community--homes--for~~
14 ~~severely-disabled-persons--in--order--to--protect--residents--~~
15 ~~rights--The--department--shall--provide--for--temporary--and~~
16 ~~provisional--licensing.~~

17 ~~{b}--The--department--of--health--and--environmental~~
18 ~~sciences--shall--provide--advice--and--recommendations--to--the~~
19 ~~department--concerning--licensing--requirements--for--health--and~~
20 ~~safety.~~

21 ~~{3}(2)~~ The department shall, in cooperation with the
22 board of nursing, adopt rules under which a properly trained
23 staff member of a facility providing services to ~~severely~~
24 ~~disabled~~ persons with severe disabilities under this part
25 may supervise and assist a client of a facility in taking a

1 medication if the medication is usually self-administered
2 and if a physician has prescribed the assistance."

3 NEW SECTION. Section 8. Purpose. The legislature, in
4 recognition of the needs of persons with severe disabilities
5 and of the desirability of meeting those needs on a
6 community level, establishes in [sections 8 through 12]
7 authority for the state to license community homes for
8 persons with severe disabilities. Licensed community homes
9 for persons with severe disabilities are for the purpose of
10 providing residential settings for persons with severe
11 disabilities receiving services funded through
12 state-administered programs who otherwise are unable to live
13 independently and who are determined to be capable of
14 residing in noninstitutional settings.

15 NEW SECTION. Section 9. Definitions. As used in
16 [sections 8 through 12], the following definitions apply:

17 (1) "Community home for persons with severe
18 disabilities" means a family-oriented residence that is
19 designed to provide residential services for two to eight
20 persons with severe disabilities and that does not provide
21 skilled or intermediate nursing care. This definition does
22 not preclude the provision of skilled or intermediate
23 nursing care by third-person providers.

24 (2) "Department" means the department of family
25 services established in 2-15-2401.

1 (3) "Disability" means a permanent physical or mental
2 condition recognized as a disability by Title VII of the
3 federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.),
4 as may be amended.

5 (4) "Severe disability" means a permanent disability
6 that substantially limits major life activity, such as
7 walking, self-care, seeing, hearing, speaking, learning,
8 reasoning, judgment, or memory, and that can be diagnosed by
9 a physician. The term includes the condition of a person
10 with severe disabilities as defined in 53-19-102.

11 NEW SECTION. Section 10. Licensing. (1) A community
12 home for persons with severe disabilities must be licensed
13 annually by the department.

14 (2) The department may also issue temporary and
15 provisional licenses.

16 NEW SECTION. Section 11. Health and safety standards.

17 (1) A community home for persons with severe disabilities
18 must be certified annually for fire and life safety by the
19 state fire marshal. The state fire marshal shall notify the
20 department whenever a community home has been certified or
21 refused certification.

22 (2) (a) Local health officers shall inspect a
23 community home for persons with severe disabilities to
24 ensure compliance with health and safety standards. If for
25 any reason the local authority cannot complete the

1 inspection in a timely manner, the department of health and
2 environmental sciences may make the inspection to ensure
3 compliance with the standards.

4 (b) The inspecting health officer shall notify the
5 department whether a community home is or is not in
6 compliance with applicable standards.

7 (c) A reasonable fee may be charged by health
8 authorities conducting compliance inspections.

9 NEW SECTION. **Section 12. Rulemaking.** (1) The
10 department shall, for the purpose of licensing, adopt rules
11 to govern administration, operation, and health and safety
12 requirements for community homes for persons with severe
13 disabilities in order to protect rights of residents. The
14 department shall provide for temporary and provisional
15 licensing.

16 (2) The department of health and environmental
17 sciences and the state fire marshal shall provide advice and
18 recommendations to the department concerning licensing
19 requirements for health and safety.

20 **Section 13.** Section 50-5-101, MCA, is amended to read:

21 "50-5-101. (Temporary) Definitions. As used in parts 1
22 through 4 of this chapter, unless the context clearly
23 indicates otherwise, the following definitions apply:

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

25 (2) "Adult day-care center" means a facility,

1 freestanding or connected to another health care facility,
2 which provides adults, on an intermittent basis, with the
3 care necessary to meet the needs of daily living.

4 (3) "Affected person" means an applicant for
5 certificate of need, a member of the public who will be
6 served by the proposal, a health care facility located in
7 the geographic area affected by the application, an agency
8 which establishes rates for health care facilities, a
9 third-party payer who reimburses health care facilities in
10 the area affected by the proposal, or an agency which plans
11 or assists in planning for such facilities.

12 (4) "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 (5) "Batch" means those letters of intent to seek
18 approval for new beds or major medical equipment that are
19 accumulated during a single batching period.

20 (6) "Batching period" means a period, not exceeding 1
21 month, established by department rule during which letters
22 of intent to seek approval for new beds or major medical
23 equipment are accumulated pending further processing of all
24 letters of intent within the batch.

25 (7) "Board" means the board of health and

1 environmental sciences, provided for in 2-15-2104.

2 (8) "Capital expenditure" means:

3 (a) an expenditure made by or on behalf of a health
4 care facility that, under generally accepted accounting
5 principles, is not properly chargeable as an expense of
6 operation and maintenance; or

7 (b) a lease, donation, or comparable arrangement that
8 would be a capital expenditure if money or any other
9 property of value had changed hands.

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

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

18 (11) "Chemical dependency facility" means a facility
19 whose function is the treatment, rehabilitation, and
20 prevention of the use of any chemical substance, including
21 alcohol, which creates behavioral or health problems and
22 endangers the health, interpersonal relationships, or
23 economic function of an individual or the public health,
24 welfare, or safety.

25 (12) "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 (13) "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 (14) "Comparative review" means a joint review of two
14 or more certificate of need applications which are
15 determined by the department to be competitive in that the
16 granting of a certificate of need to one of the applicants
17 would substantially prejudice the department's review of the
18 other applications.

19 (15) "Construction" means the physical erection of a
20 health care facility and any stage thereof, including ground
21 breaking, or remodeling, replacement, or renovation of an
22 existing health care facility.

23 (16) "Department" means the department of health and
24 environmental sciences provided for in Title 2, chapter 15,
25 part 21.

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

3 (18) "Governmental unit" means the state, a state
4 agency, a county, municipality, or political subdivision of
5 the state, or an agency of a political subdivision.

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

20 (20) "Health maintenance organization" means a public
21 or private organization which provides or arranges for
22 health care services to enrollees on a prepaid or other
23 financial basis, either directly through provider employees
24 or through contractual or other arrangements with a provider
25 or group of providers.

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

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

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

1 in providing health services for psychiatric, mentally
2 retarded, and tubercular patients.

3 (24) "Infirmery" means a facility located in a
4 university, college, government institution, or industry for
5 the treatment of the sick or injured, with the following
6 subdefinitions:

7 (a) an "infirmery--A" provides outpatient and
8 inpatient care;

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

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

16 (26) "Kidney treatment center" means a facility which
17 specializes in treatment of kidney diseases, including
18 freestanding hemodialysis units.

19 (27) (a) "Long-term care facility" means a facility or
20 part thereof which provides skilled nursing care,
21 intermediate nursing care, or intermediate developmental
22 disability care to a total of two or more persons or
23 personal care to more than four persons who are not related
24 to the owner or administrator by blood or marriage. The
25 term does not include adult foster care licensed under

1 53-5-303, community homes for the developmentally disabled
2 licensed under 53-20-305, community homes for ~~physically~~
3 ~~disabled~~ persons with severe disabilities licensed under
4 ~~53-19-111~~ [section 10], youth care facilities licensed under
5 41-3-1142, hotels, motels, boardinghouses, roominghouses, or
6 similar accommodations providing for transients, students,
7 or persons not requiring institutional health care, or
8 juvenile and adult correctional facilities operating under
9 the authority of the department of institutions.

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

14 (c) "Intermediate nursing care" means the provision of
15 nursing care services, health-related services, and social
16 services under the supervision of a licensed nurse to
17 patients not requiring 24-hour nursing care.

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

23 (e) "Personal care" means the provision of services
24 and care which do not require nursing skills to residents
25 needing some assistance in performing the activities of

1 daily living.

2 (28) "Major medical equipment" means a single unit of
3 medical equipment or a single system of components with
4 related functions which is used to provide medical or other
5 health services and costs a substantial sum of money.

6 (29) "Medical assistance facility" means a facility
7 that:

8 (a) provides inpatient care to ill or injured persons
9 prior to their transportation to a hospital or provides
10 inpatient medical care to persons needing that care for a
11 period of no longer than 96 hours; and

12 (b) either is located in a county with fewer than six
13 residents per square mile or is located more than 35 road
14 miles from the nearest hospital.

15 (30) "Mental health center" means a facility providing
16 services for the prevention or diagnosis of mental illness,
17 the care and treatment of mentally ill patients or the
18 rehabilitation of such persons, or any combination of these
19 services.

20 (31) "Nonprofit health care facility" means a health
21 care facility owned or operated by one or more nonprofit
22 corporations or associations.

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

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

3 (34) "Outpatient facility" means a facility, located in
4 or apart from a hospital, providing, under the direction of
5 a licensed physician, either diagnosis or treatment, or
6 both, to ambulatory patients in need of medical, surgical,
7 or mental care. An outpatient facility may have observation
8 beds.

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

11 (36) "Person" means any individual, firm, partnership,
12 association, organization, agency, institution, corporation,
13 trust, estate, or governmental unit, whether organized for
14 profit or not.

15 (37) "Public health center" means a publicly owned
16 facility providing health services, including laboratories,
17 clinics, and administrative offices.

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

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

3 (40) "State health plan" means the plan prepared by the
4 department to project the need for health care facilities
5 within Montana and approved by the statewide health
6 coordinating council and the governor.

7 50-5-101. (Effective July 1, 1989) Definitions. As
8 used in parts 1 through 4 of this chapter, unless the
9 context clearly indicates otherwise, the following
10 definitions apply:

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

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

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

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

23 (5) "Chemical dependency facility" means a facility
24 whose function is the treatment, rehabilitation, and
25 prevention of the use of any chemical substance, including

1 alcohol, which creates behavioral or health problems and
2 endangers the health, interpersonal relationships, or
3 economic function of an individual or the public health,
4 welfare, or safety.

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

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

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

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

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

1 (11) "Health care facility" or "facility" means any
 2 institution, building, or agency or portion thereof, private
 3 or public, excluding federal facilities, whether organized
 4 for profit or not, used, operated, or designed to provide
 5 health services, medical treatment, or nursing,
 6 rehabilitative, or preventive care to any person or persons.
 7 The term does not include offices of private physicians or
 8 dentists. The term includes but is not limited to ambulatory
 9 surgical facilities, health maintenance organizations, home
 10 health agencies, hospices, hospitals, infirmaries, kidney
 11 treatment centers, long-term care facilities, medical
 12 assistance facilities, mental health centers, outpatient
 13 facilities, public health centers, rehabilitation
 14 facilities, and adult day-care centers.

15 (12) "Health maintenance organization" means a public
 16 or private organization that provides or arranges for health
 17 care services to enrollees on a prepaid or other financial
 18 basis, either directly through provider employees or through
 19 contractual or other arrangements with a provider or group
 20 of providers.

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

1 other therapeutic service and may include additional support
 2 services.

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

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

23 (16) "Infirmity" means a facility located in a
 24 university, college, government institution, or industry for
 25 the treatment of the sick or injured, with the following

1 subdefinitions:

2 (a) an "infirmery--A" provides outpatient and
3 inpatient care;

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

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

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

14 (19) (a) "Long-term care facility" means a facility or
15 part thereof which provides skilled nursing care,
16 intermediate nursing care, or intermediate developmental
17 disability care to a total of two or more persons or
18 personal care to more than four persons who are not related
19 to the owner or administrator by blood or marriage. The
20 term does not include adult foster care licensed under
21 53-5-303, community homes for the developmentally disabled
22 licensed under 53-20-305, community homes for ~~physically~~
23 ~~disabled~~ persons with severe disabilities licensed under
24 53-19-111 [section 10], youth care facilities licensed under
25 41-3-1142, hotels, motels, boardinghouses, roominghouses, or

1 similar accommodations providing for transients, students,
2 or persons not requiring institutional health care, or
3 juvenile and adult correctional facilities operating under
4 the authority of the department of institutions.

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

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

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

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

22 (20) "Medical assistance facility" means a facility
23 that:

24 (a) provides inpatient care to ill or injured persons
25 prior to their transportation to a hospital or provides

1 inpatient medical care to persons needing that care for a
2 period of no longer than 96 hours; and

3 (b) either is located in a county with fewer than six
4 residents per square mile or is located more than 35 road
5 miles from the nearest hospital.

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

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

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

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

25 (26) "Patient" means an individual obtaining services,

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

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

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

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

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

19 (31) "State health plan" means the plan prepared by the
20 department to project the need for health care facilities
21 within Montana and approved by the statewide health
22 coordinating council and the governor."

23 **Section 14.** Section 50-5-301, MCA, is amended to read:
24 "50-5-301. (Temporary) When certificate of need is
25 required -- definitions. (1) Unless a person has submitted

1 an application for and is the holder of a certificate of
2 need granted by the department, he may not initiate any of
3 the following:

4 (a) the incurring of an obligation by or on behalf of
5 a health care facility for any capital expenditure, other
6 than to acquire an existing health care facility or to
7 replace major medical equipment with equipment performing
8 substantially the same function and in the same manner, that
9 exceeds the expenditure thresholds established in subsection
10 (4). The costs of any studies, surveys, designs, plans,
11 working drawings, specifications, and other activities
12 (including staff effort, consulting, and other services)
13 essential to the acquisition, improvement, expansion, or
14 replacement of any plant or equipment with respect to which
15 an expenditure is made must be included in determining if
16 the expenditure exceeds the expenditure thresholds.

17 (b) a change in the bed capacity of a health care
18 facility through an increase in the number of beds or a
19 relocation of beds from one health care facility or site to
20 another, unless:

21 (i) the number of beds involved is 10 or less or 10%
22 or less of the licensed beds (if fractional, rounded down to
23 the nearest whole number), whichever figure is smaller, in
24 any 2-year period;

25 (ii) a letter of intent is submitted to the department;

1 and

2 (iii) the department determines the proposal will not
3 significantly increase the cost of care provided or exceed
4 the bed need projected in the state health plan;

5 (c) the addition of a health service that is offered
6 by or on behalf of a health care facility which was not
7 offered by or on behalf of the facility within the 12-month
8 period before the month in which the service would be
9 offered and which will result in additional annual operating
10 and amortization expenses of \$150,000 or more;

11 (d) the acquisition by any person of major medical
12 equipment, provided such acquisition would have required a
13 certificate of need pursuant to subsection (1)(a) or (1)(c)
14 of this section if it had been made by or on behalf of a
15 health care facility;

16 (e) the incurring of an obligation for a capital
17 expenditure by any person or persons to acquire 50% or more
18 of an existing health care facility unless:

19 (i) the person submits the letter of intent required
20 by 50-5-302(2); and

21 (ii) the department finds that the acquisition will not
22 significantly increase the cost of care provided or increase
23 bed capacity;

24 (f) the construction, development, or other
25 establishment of a health care facility which is being

1 replaced or which did not previously exist, by any person,
2 including another type of health care facility;

3 (g) the expansion of the geographical service area of
4 a home health agency; or

5 (h) the use of hospital beds to provide services to
6 patients or residents needing only skilled nursing care,
7 intermediate nursing care, or intermediate developmental
8 disability care, as those levels of care are defined in
9 50-5-101.

10 (2) For purposes of subsection (1)(b), a change in bed
11 capacity occurs on the date new or relocated beds are
12 licensed pursuant to part 2 of this chapter and the date a
13 final decision is made to grant a certificate of need for
14 new or relocated beds, unless the certificate of need
15 expires pursuant to 50-5-305.

16 (3) For purposes of this part, the following
17 definitions apply:

18 (a) "Health care facility" or "facility" means a
19 nonfederal ambulatory surgical facility, home health agency,
20 hospital, long-term care facility, medical assistance
21 facility, mental health center with inpatient services,
22 inpatient chemical dependency facility, rehabilitation
23 facility with inpatient services, or personal care facility.

24 (b) (i) "Long-term care facility" means an entity
25 which provides skilled nursing care, intermediate nursing

1 care, or intermediate developmental disability care, as
2 defined in 50-5-101, to a total of two or more persons.

3 (ii) The term does not include adult foster care
4 licensed under 53-5-303; community homes for the
5 developmentally disabled licensed under 53-20-305; community
6 homes for ~~physically~~ disabled persons with severe
7 disabilities licensed under ~~53-19-111~~ [section 10]; boarding
8 or foster homes for children licensed under 41-3-1142;
9 hotels, motels, boardinghouses, roominghouses, or similar
10 accommodations providing for transients, students, or
11 persons not requiring institutional health care; or juvenile
12 and adult correctional facilities operating under the
13 authority of the department of institutions.

14 (c) "Obligation for capital expenditure" does not
15 include the authorization of bond sales or the offering or
16 sale of bonds pursuant to the state long-range building
17 program under Title 17, chapter 5, part 4, and Title 18,
18 chapter 2, part 1.

19 (d) "Personal care facility" means an entity which
20 provides services and care which do not require nursing
21 skills to more than four persons who are not related to the
22 owner or administrator by blood or marriage and who need
23 some assistance in performing the activities of everyday
24 living. The term does not include those entities excluded
25 from the definition of "long-term care facility" in

1 subsection (b).

2 (4) Expenditure thresholds for certificate of need
3 review are established as follows:

4 (a) For acquisition of equipment and the construction
5 of any building necessary to house the equipment, the
6 expenditure threshold is \$750,000.

7 (b) For construction of health care facilities, the
8 expenditure threshold is \$1,500,000. (Repealed effective
9 July 1, 1989--sec. 9, Ch. 477, L. 1987.)"

10 NEW SECTION. Section 15. Repealer. Sections 53-19-111
11 and 53-19-113, MCA, are repealed.

12 NEW SECTION. Section 16. Codification instruction.
13 {Sections--8--through--12} are intended to be codified as an
14 integral part of Title 53, chapter 20, and the provisions of
15 Title 53, chapter 20, apply to {sections 8 through 12}.

16 NEW SECTION. Section 16. Extension of authority. Any
17 existing authority to make rules on the subject of the
18 provisions of [this act] is extended to the provisions of
19 [this act].

20 NEW SECTION. Section 17. Effective dates. (1)
21 [Section 17 16 and this section] are effective on passage
22 and approval.

23 (2) [Sections 1 through 16 15] are effective July 1,
24 1989.

-End-

1 HOUSE BILL NO. 308

2 INTRODUCED BY SQUIRES, MANNING, COBB, WEEDING, WALKER,

3 DAVIS, JOHNSON, COCCHIARELLA, DRISCOLL, THOMAS,

4 JERGESON, HANNAH, STRIZICH

5 BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION

6 SERVICES AND THE DEPARTMENT OF FAMILY SERVICES

7
8 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
9 LAWS RELATING TO COMMUNITY PROGRAMS FOR PERSONS WITH SEVERE
10 DISABILITIES; TO AUTHORIZE THE STATE TO ADMINISTER COMMUNITY
11 PROGRAMS FOR PERSONS WITH SEVERE DISABILITIES UNDER ANY
12 PROVISION OF TITLE VII OF THE FEDERAL REHABILITATION ACT OF
13 1973; TO TRANSFER AUTHORITY FOR LICENSING OF COMMUNITY HOMES
14 FOR PERSONS WITH SEVERE DISABILITIES FROM THE DEPARTMENT OF
15 SOCIAL AND REHABILITATION SERVICES TO THE DEPARTMENT OF
16 FAMILY SERVICES; AMENDING SECTIONS 50-5-101, 50-5-301,
17 53-19-101 THROUGH 53-19-104, 53-19-106, 53-19-110, AND
18 53-19-112, MCA; REPEALING SECTIONS 53-19-111 AND 53-19-113,
19 MCA; AND PROVIDING EFFECTIVE DATES."

20
21 STATEMENT OF INTENT

22 This bill requires a statement of intent because
23 [section 12] requires the department of family services to
24 adopt administrative rules for the licensing of community
25 homes for persons with severe disabilities. Licensed

There are no changes in HB 308 and due to length
will not be reprinted. Please refer to second
reading (yellow) copy for complete text.

SENATE STANDING COMMITTEE REPORT

page 1 of 2
March 6, 1989

SENATE COMMITTEE ON PUBLIC HEALTH, HB 308
page 2 of 2

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 308 (third reading copy -- blue), respectfully report that HB 308 be amended and as so amended be concurred in:

Sponsor: Squires (Manning)

1. Page 33, line 10.

Following: line 9

Insert: "NEW SECTION. Section 15. Coordination requirements -- consolidation of programs authorized. (1) The governor shall assure that services under Title 53, chapter 19, part 1, are coordinated with programs and services in Title 53, chapter 7, parts 1 through 3, that are administered by the department of social and rehabilitation services with funds provided under the federal Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as amended.

(2) The governor may consolidate services under Title 53, chapter 19, part 1, with other programs and services in order to maximize coordination of services as required in subsection (1) and to prevent overlapping and duplication of services within state government.

(3) The governor may transfer employees, appropriations, and spending authority necessary to accomplish the coordination of services as mandated by this section. The authority contained in this subsection is limited to the programs and services described in subsection (1). This subsection supercedes any restrictions on the transfer of employees, appropriations, and spending authority contained in [House Bill No. 100]."

ReNUMBER: subsequent sections

2. Page 33, line 16.

Following: line 15

Insert: "NEW SECTION. Section 17. Codification instruction. [Sections 8 through 12] are intended to be codified as an integral part of Title 53, and the provisions of Title 53 apply to [sections 8 through 12]."

ReNUMBER: subsequent sections

3. Page 33, line 21.

Strike: "16"

Insert: "18"

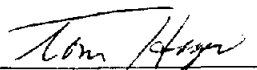
4. Page 33, line 23.

Strike: "15"

Insert: "17"

AND AS AMENDED BE CONCURRED IN

Signed:


Thomas O. Hagge, Chairman

continued

scrhb308.306
HB 308

SENATE

scrhb308.306

HB 308

1 HOUSE BILL NO. 308

2 INTRODUCED BY SQUIRES, MANNING, COBB, WEEDING, WALKER,

3 DAVIS, JOHNSON, COCCHIARELLA, DRISCOLL, THOMAS,

4 JERGESON, HANNAH, STRIZICH

5 BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION

6 SERVICES AND THE DEPARTMENT OF FAMILY SERVICES

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8 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
9 LAWS RELATING TO COMMUNITY PROGRAMS FOR PERSONS WITH SEVERE
10 DISABILITIES; TO AUTHORIZE THE STATE TO ADMINISTER COMMUNITY
11 PROGRAMS FOR PERSONS WITH SEVERE DISABILITIES UNDER ANY
12 PROVISION OF TITLE VII OF THE FEDERAL REHABILITATION ACT OF
13 1973; TO TRANSFER AUTHORITY FOR LICENSING OF COMMUNITY HOMES
14 FOR PERSONS WITH SEVERE DISABILITIES FROM THE DEPARTMENT OF
15 SOCIAL AND REHABILITATION SERVICES TO THE DEPARTMENT OF
16 FAMILY SERVICES; AMENDING SECTIONS 50-5-101, 50-5-301,
17 53-19-101 THROUGH 53-19-104, 53-19-106, 53-19-110, AND
18 53-19-112, MCA; REPEALING SECTIONS 53-19-111 AND 53-19-113,
19 MCA; AND PROVIDING EFFECTIVE DATES."

21 STATEMENT OF INTENT

22 This bill requires a statement of intent because
23 [section 12] requires the department of family services to
24 adopt administrative rules for the licensing of community
25 homes for persons with severe disabilities. Licensed

1 community homes are family-oriented residences for persons
2 with severe disabilities who are eligible for services
3 designed to assist persons with severe disabilities in
4 living and functioning independently.

5 It is the intent of the legislature that, in adopting
6 rules, the department develop licensing requirements to
7 govern the administration, operation, and health and safety
8 of standards of community homes for persons with severe
9 disabilities. The department of health and environmental
10 sciences and the state fire marshal shall provide advice and
11 recommendations to the department of family services in the
12 adoption of licensing requirements for the health and safety
13 of community homes.

14 The rules for licensing of community homes for persons
15 with severe disabilities may address the following: facility
16 acquisition, facility design, group home staffing, staff
17 training, service goals and design, quality of services,
18 client placement procedure, provider grievance procedure,
19 accounting procedures, including a procedure for the
20 accounting of client personal property and belongings, water
21 and waste disposal, food service, laundry, and fire and life
22 safety standards that are compatible with the residential
23 character of the facility.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-19-101, MCA, is amended to read:

"53-19-101. **Purpose.** The legislature, in recognition of needs of severely---disabled persons with severe disabilities and of the desirability of meeting those needs on a community level to the extent of available funding and in order to reduce the need for institutional care settings, establishes by this part a community program to assist severely-disabled persons with severe disabilities in living and functioning independently. This program implements Title VII, Part-A, of the federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.), as may be amended, for disabled persons with severe disabilities in Montana. ~~The legislature further recognizes the need to provide for the licensing of current community homes for severely disabled persons.~~"

Section 2. Section 53-19-102, MCA, is amended to read:

"53-19-102. **Definitions.** As used in this part, the following definitions apply:

(1) "Community home for severely-disabled persons with severe disabilities" means a family-oriented residence--that is designed to provide residential services for two to eight severely--disabled persons and that does not provide skilled or intermediate--nursing--care. ~~This definition does not preclude the provision of skilled or intermediate nursing care by third person providers.~~ facility licensed by the department of family services, as provided for in [sections

8 through 12].

(2) "Department" means the department of social and rehabilitation services established in 2-15-2201.

(3) "Disability" means a permanent physical or mental condition recognized as a disability by Title VII, ~~Part-A,~~ of the federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.), as may be amended.

~~(4) "Severely--disabled--person" means a person with a permanent disability that substantially limits major life activity, such as walking, self-care, seeing, hearing, speaking, learning, reasoning, judgment, or memory, and that can be diagnosed by a physician.~~

(4) "Person with severe disabilities" means the same as "individual with severe handicaps" as defined in the federal Rehabilitation Act of 1973 (29 U.S.C. 706(15)(B)), as may be amended. The term includes an individual whose ability to function independently in family or community or whose ability to engage or continue in employment is so limited by the severity of his physical or mental disability that the services provided under this part are required in order for the individual to achieve a greater level of independence in functioning in family or community or in engaging in or continuing in employment."

Section 3. Section 53-19-103, MCA, is amended to read:

"53-19-103. Department authorized to provide services.

(1) Subject to available appropriated funds, services provided under this part include:

(a) vocational and other rehabilitation services that enhance the ability of a ~~severely--disabled~~ person with severe disabilities to live and function independently and to ~~secure-and-maintain~~ engage in or continue in appropriate employment; and

(b) any services specified in Title VII, ~~Part--A~~ of the federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.), as may be amended.

(2) To the extent that funds are appropriated and allocated for the purpose of providing services to ~~severely disabled~~ persons with severe disabilities, the department may establish the facilities and services it determines are in the best interest of ~~severely--disabled~~ persons with severe disabilities.

(3) The scope, amount, and duration of services made available to ~~severely--disabled~~ persons with severe disabilities under this part are within the discretion of the department to determine."

Section 4. Section 53-19-104, MCA, is amended to read:

"53-19-104. Department contracts for services -- governmental units providing for community homes for persons with severe disabilities. (1) The department may expend money appropriated or available for the purposes of this

part and may contract for services for eligible ~~severely disabled~~ persons with any person or entity providing such the services to persons with severe disabilities.

(2) Governmental units, including but not limited to counties, municipalities, school districts, or state institutions of higher learning, may at their own expense provide services, funds, materials, and facilities for services to community homes for ~~severely-disabled~~ persons with severe disabilities."

Section 5. Section 53-19-106, MCA, is amended to read:

"53-19-106. Eligibility for services. (1) The department, in its discretion and in accordance with this part and Title VII, ~~Part--A~~ of the federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.), as may be amended, may determine eligibility of persons for services under this part.

(2) To be eligible for services under this part, a person must have a disability of such severity that, to secure and maintain employment or to function independently, he requires more intensive vocational or comprehensive rehabilitation services ~~than--are--available-through-other state-and-federal-programs~~.

(3) ~~Disabled persons~~ A person with severe disabilities not receiving other vocational and rehabilitation services provided by the department has priority for services

1 provided under this part."

2 **Section 6.** Section 53-19-110, MCA, is amended to read:

3 "53-19-110. Eligibility for residential services in a
4 community home for persons with severe disabilities. (1) The
5 department, in its discretion and in accordance with this
6 part, may determine eligibility for residential services in
7 a community home for ~~the--severely-disabled persons with~~
8 severe disabilities, based on the residential needs of the
9 person and on the availability of residential services. Any
10 ~~severely--disabled person with a severe disability, as~~
11 defined in [section 9], may be considered for placement in a
12 community home, regardless of the source of funding for his
13 residential services.

14 (2) A person who has a primary diagnosis of mental
15 illness or who receives mental health services under Title
16 53, chapter 21, is not eligible for placement in residential
17 services a community home for persons with severe
18 disabilities unless he is eligible for and receiving
19 services under this part and Title VII, ~~Part--A,~~ of the
20 federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.),
21 as may be amended, or Title XIX of the Social Security Act
22 (42 U.S.C. 1396, et seq.), as may be amended."

23 **Section 7.** Section 53-19-112, MCA, is amended to read:

24 "53-19-112. Rulemaking. (1) For the purposes of
25 providing services to severely-disabled persons with severe

1 disabilities, the department may adopt rules necessary for
2 the administration of the services provided to ~~severely~~
3 ~~disabled persons~~ under this part. Rules adopted may include
4 but are not limited to eligibility for services, licensing,
5 facility design and acquisition, program staffing, staff
6 training, service goals and design, quality of services,
7 client placement procedures, client rights and privileges,
8 client grievance procedures, fair hearings, provider
9 grievance procedures, and accounting procedures which
10 include accounting of client financial resources.

11 ~~(2)--(a)--The--department--shall--for--the--purpose--of~~
12 ~~licensing, adopt rules to govern administration, operation,~~
13 ~~and--health--and--safety--requirements--for--community--homes--for~~
14 ~~severely-disabled persons in order to protect residents'~~
15 ~~rights.--The--department--shall--provide--for--temporary--and~~
16 ~~provisional licensing.~~

17 ~~(b)--The--department--of--health--and--environmental~~
18 ~~sciences--shall--provide--advice--and--recommendations--to--the~~
19 ~~department--concerning--licensing--requirements--for--health--and~~
20 ~~safety.~~

21 ~~(3)(2)~~ The department shall, in cooperation with the
22 board of nursing, adopt rules under which a properly trained
23 staff member of a facility providing services to ~~severely~~
24 disabled persons with severe disabilities under this part
25 may supervise and assist a client of a facility in taking a

1 medication if the medication is usually self-administered
2 and if a physician has prescribed the assistance."

3 NEW SECTION. Section 8. Purpose. The legislature, in
4 recognition of the needs of persons with severe disabilities
5 and of the desirability of meeting those needs on a
6 community level, establishes in [sections 8 through 12]
7 authority for the state to license community homes for
8 persons with severe disabilities. Licensed community homes
9 for persons with severe disabilities are for the purpose of
10 providing residential settings for persons with severe
11 disabilities receiving services funded through
12 state-administered programs who otherwise are unable to live
13 independently and who are determined to be capable of
14 residing in noninstitutional settings.

15 NEW SECTION. Section 9. Definitions. As used in
16 [sections 8 through 12], the following definitions apply:

17 (1) "Community home for persons with severe
18 disabilities" means a family-oriented residence that is
19 designed to provide residential services for two to eight
20 persons with severe disabilities and that does not provide
21 skilled or intermediate nursing care. This definition does
22 not preclude the provision of skilled or intermediate
23 nursing care by third-person providers.

24 (2) "Department" means the department of family
25 services established in 2-15-2401.

1 (3) "Disability" means a permanent physical or mental
2 condition recognized as a disability by Title VII of the
3 federal Rehabilitation Act of 1973 (29 U.S.C. 796, et seq.),
4 as may be amended.

5 (4) "Severe disability" means a permanent disability
6 that substantially limits major life activity, such as
7 walking, self-care, seeing, hearing, speaking, learning,
8 reasoning, judgment, or memory, and that can be diagnosed by
9 a physician. The term includes the condition of a person
10 with severe disabilities as defined in 53-19-102.

11 NEW SECTION. Section 10. Licensing. (1) A community
12 home for persons with severe disabilities must be licensed
13 annually by the department.

14 (2) The department may also issue temporary and
15 provisional licenses.

16 NEW SECTION. Section 11. Health and safety standards.
17 (1) A community home for persons with severe disabilities
18 must be certified annually for fire and life safety by the
19 state fire marshal. The state fire marshal shall notify the
20 department whenever a community home has been certified or
21 refused certification.

22 (2) (a) Local health officers shall inspect a
23 community home for persons with severe disabilities to
24 ensure compliance with health and safety standards. If for
25 any reason the local authority cannot complete the

1 inspection in a timely manner, the department of health and
2 environmental sciences may make the inspection to ensure
3 compliance with the standards.

4 (b) The inspecting health officer shall notify the
5 department whether a community home is or is not in
6 compliance with applicable standards.

7 (c) A reasonable fee may be charged by health
8 authorities conducting compliance inspections.

9 NEW SECTION. Section 12. Rulemaking. (1) The
10 department shall, for the purpose of licensing, adopt rules
11 to govern administration, operation, and health and safety
12 requirements for community homes for persons with severe
13 disabilities in order to protect rights of residents. The
14 department shall provide for temporary and provisional
15 licensing.

16 (2) The department of health and environmental
17 sciences and the state fire marshal shall provide advice and
18 recommendations to the department concerning licensing
19 requirements for health and safety.

20 **Section 13.** Section 50-5-101, MCA, is amended to read:

21 "50-5-101. (Temporary) Definitions. As used in parts 1
22 through 4 of this chapter, unless the context clearly
23 indicates otherwise, the following definitions apply:

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

25 (2) "Adult day-care center" means a facility,

1 freestanding or connected to another health care facility,
2 which provides adults, on an intermittent basis, with the
3 care necessary to meet the needs of daily living.

4 (3) "Affected person" means an applicant for
5 certificate of need, a member of the public who will be
6 served by the proposal, a health care facility located in
7 the geographic area affected by the application, an agency
8 which establishes rates for health care facilities, a
9 third-party payer who reimburses health care facilities in
10 the area affected by the proposal, or an agency which plans
11 or assists in planning for such facilities.

12 (4) "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 (5) "Batch" means those letters of intent to seek
18 approval for new beds or major medical equipment that are
19 accumulated during a single batching period.

20 (6) "Batching period" means a period, not exceeding 1
21 month, established by department rule during which letters
22 of intent to seek approval for new beds or major medical
23 equipment are accumulated pending further processing of all
24 letters of intent within the batch.

25 (7) "Board" means the board of health and

1 environmental sciences, provided for in 2-15-2104.

2 (8) "Capital expenditure" means:

3 (a) an expenditure made by or on behalf of a health
4 care facility that, under generally accepted accounting
5 principles, is not properly chargeable as an expense of
6 operation and maintenance; or

7 (b) a lease, donation, or comparable arrangement that
8 would be a capital expenditure if money or any other
9 property of value had changed hands.

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

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

18 (11) "Chemical dependency facility" means a facility
19 whose function is the treatment, rehabilitation, and
20 prevention of the use of any chemical substance, including
21 alcohol, which creates behavioral or health problems and
22 endangers the health, interpersonal relationships, or
23 economic function of an individual or the public health,
24 welfare, or safety.

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

1 microbiological, serological, chemical, hematological,
2 radiobioassay, cytological, immuno-hematological,
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 (13) "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 (14) "Comparative review" means a joint review of two
14 or more certificate of need applications which are
15 determined by the department to be competitive in that the
16 granting of a certificate of need to one of the applicants
17 would substantially prejudice the department's review of the
18 other applications.

19 (15) "Construction" means the physical erection of a
20 health care facility and any stage thereof, including ground
21 breaking, or remodeling, replacement, or renovation of an
22 existing health care facility.

23 (16) "Department" means the department of health and
24 environmental sciences provided for in Title 2, chapter 15,
25 part 21.

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

3 (18) "Governmental unit" means the state, a state
4 agency, a county, municipality, or political subdivision of
5 the state, or an agency of a political subdivision.

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

20 (20) "Health maintenance organization" means a public
21 or private organization which provides or arranges for
22 health care services to enrollees on a prepaid or other
23 financial basis, either directly through provider employees
24 or through contractual or other arrangements with a provider
25 or group of providers.

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

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

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

1 in providing health services for psychiatric, mentally
2 retarded, and tubercular patients.

3 (24) "Infirmery" means a facility located in a
4 university, college, government institution, or industry for
5 the treatment of the sick or injured, with the following
6 subdefinitions:

7 (a) an "infirmery--A" provides outpatient and
8 inpatient care;

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

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

16 (26) "Kidney treatment center" means a facility which
17 specializes in treatment of kidney diseases, including
18 freestanding hemodialysis units.

19 (27) (a) "Long-term care facility" means a facility or
20 part thereof which provides skilled nursing care,
21 intermediate nursing care, or intermediate developmental
22 disability care to a total of two or more persons or
23 personal care to more than four persons who are not related
24 to the owner or administrator by blood or marriage. The
25 term does not include adult foster care licensed under

1 53-5-303, community homes for the developmentally disabled
2 licensed under 53-20-305, community homes for physically
3 disabled persons with severe disabilities licensed under
4 ~~53-19-111~~ [section 10], youth care facilities licensed under
5 41-3-1142, hotels, motels, boardinghouses, roominghouses, or
6 similar accommodations providing for transients, students,
7 or persons not requiring institutional health care, or
8 juvenile and adult correctional facilities operating under
9 the authority of the department of institutions.

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

14 (c) "Intermediate nursing care" means the provision of
15 nursing care services, health-related services, and social
16 services under the supervision of a licensed nurse to
17 patients not requiring 24-hour nursing care.

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

23 (e) "Personal care" means the provision of services
24 and care which do not require nursing skills to residents
25 needing some assistance in performing the activities of

1 daily living.

2 (28) "Major medical equipment" means a single unit of
3 medical equipment or a single system of components with
4 related functions which is used to provide medical or other
5 health services and costs a substantial sum of money.

6 (29) "Medical assistance facility" means a facility
7 that:

8 (a) provides inpatient care to ill or injured persons
9 prior to their transportation to a hospital or provides
10 inpatient medical care to persons needing that care for a
11 period of no longer than 96 hours; and

12 (b) either is located in a county with fewer than six
13 residents per square mile or is located more than 35 road
14 miles from the nearest hospital.

15 (30) "Mental health center" means a facility providing
16 services for the prevention or diagnosis of mental illness,
17 the care and treatment of mentally ill patients or the
18 rehabilitation of such persons, or any combination of these
19 services.

20 (31) "Nonprofit health care facility" means a health
21 care facility owned or operated by one or more nonprofit
22 corporations or associations.

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

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

3 (34) "Outpatient facility" means a facility, located in
4 or apart from a hospital, providing, under the direction of
5 a licensed physician, either diagnosis or treatment, or
6 both, to ambulatory patients in need of medical, surgical,
7 or mental care. An outpatient facility may have observation
8 beds.

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

11 (36) "Person" means any individual, firm, partnership,
12 association, organization, agency, institution, corporation,
13 trust, estate, or governmental unit, whether organized for
14 profit or not.

15 (37) "Public health center" means a publicly owned
16 facility providing health services, including laboratories,
17 clinics, and administrative offices.

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

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

3 (40) "State health plan" means the plan prepared by the
4 department to project the need for health care facilities
5 within Montana and approved by the statewide health
6 coordinating council and the governor.

7 50-5-101. (Effective July 1, 1989) Definitions. As
8 used in parts 1 through 4 of this chapter, unless the
9 context clearly indicates otherwise, the following
10 definitions apply:

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

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

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

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

23 (5) "Chemical dependency facility" means a facility
24 whose function is the treatment, rehabilitation, and
25 prevention of the use of any chemical substance, including

1 alcohol, which creates behavioral or health problems and
2 endangers the health, interpersonal relationships, or
3 economic function of an individual or the public health,
4 welfare, or safety.

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

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

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

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

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

1 (11) "Health care facility" or "facility" means any
 2 institution, building, or agency or portion thereof, private
 3 or public, excluding federal facilities, whether organized
 4 for profit or not, used, operated, or designed to provide
 5 health services, medical treatment, or nursing,
 6 rehabilitative, or preventive care to any person or persons.
 7 The term does not include offices of private physicians or
 8 dentists. The term includes but is not limited to ambulatory
 9 surgical facilities, health maintenance organizations, home
 10 health agencies, hospices, hospitals, infirmaries, kidney
 11 treatment centers, long-term care facilities, medical
 12 assistance facilities, mental health centers, outpatient
 13 facilities, public health centers, rehabilitation
 14 facilities, and adult day-care centers.

15 (12) "Health maintenance organization" means a public
 16 or private organization that provides or arranges for health
 17 care services to enrollees on a prepaid or other financial
 18 basis, either directly through provider employees or through
 19 contractual or other arrangements with a provider or group
 20 of providers.

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

1 other therapeutic service and may include additional support
 2 services.

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

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

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

1 subdefinitions:

2 (a) an "infirmity--A" provides outpatient and
3 inpatient care;

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

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

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

14 (19) (a) "Long-term care facility" means a facility or
15 part thereof which provides skilled nursing care,
16 intermediate nursing care, or intermediate developmental
17 disability care to a total of two or more persons or
18 personal care to more than four persons who are not related
19 to the owner or administrator by blood or marriage. The
20 term does not include adult foster care licensed under
21 53-5-303, community homes for the developmentally disabled
22 licensed under 53-20-305, community homes for physically
23 disabled persons with severe disabilities licensed under
24 53-19-111 [section 10], youth care facilities licensed under
25 41-3-1142, hotels, motels, boardinghouses, roominghouses, or

1 similar accommodations providing for transients, students,
2 or persons not requiring institutional health care, or
3 juvenile and adult correctional facilities operating under
4 the authority of the department of institutions.

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

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

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

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

22 (20) "Medical assistance facility" means a facility
23 that:

24 (a) provides inpatient care to ill or injured persons
25 prior to their transportation to a hospital or provides

1 inpatient medical care to persons needing that care for a
2 period of no longer than 96 hours; and

3 (b) either is located in a county with fewer than six
4 residents per square mile or is located more than 35 road
5 miles from the nearest hospital.

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

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

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

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

25 (26) "Patient" means an individual obtaining services,

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

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

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

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

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

19 (31) "State health plan" means the plan prepared by the
20 department to project the need for health care facilities
21 within Montana and approved by the statewide health
22 coordinating council and the governor."

23 **Section 14.** Section 50-5-301, MCA, is amended to read:

24 "50-5-301. (Temporary) When certificate of need is
25 required -- definitions. (1) Unless a person has submitted

1 an application for and is the holder of a certificate of
2 need granted by the department, he may not initiate any of
3 the following:

4 (a) the incurring of an obligation by or on behalf of
5 a health care facility for any capital expenditure, other
6 than to acquire an existing health care facility or to
7 replace major medical equipment with equipment performing
8 substantially the same function and in the same manner, that
9 exceeds the expenditure thresholds established in subsection
10 (4). The costs of any studies, surveys, designs, plans,
11 working drawings, specifications, and other activities
12 (including staff effort, consulting, and other services)
13 essential to the acquisition, improvement, expansion, or
14 replacement of any plant or equipment with respect to which
15 an expenditure is made must be included in determining if
16 the expenditure exceeds the expenditure thresholds.

17 (b) a change in the bed capacity of a health care
18 facility through an increase in the number of beds or a
19 relocation of beds from one health care facility or site to
20 another, unless:

21 (i) the number of beds involved is 10 or less or 10%
22 or less of the licensed beds (if fractional, rounded down to
23 the nearest whole number), whichever figure is smaller, in
24 any 2-year period;

25 (ii) a letter of intent is submitted to the department;

1 and

2 (iii) the department determines the proposal will not
3 significantly increase the cost of care provided or exceed
4 the bed need projected in the state health plan;

5 (c) the addition of a health service that is offered
6 by or on behalf of a health care facility which was not
7 offered by or on behalf of the facility within the 12-month
8 period before the month in which the service would be
9 offered and which will result in additional annual operating
10 and amortization expenses of \$150,000 or more;

11 (d) the acquisition by any person of major medical
12 equipment, provided such acquisition would have required a
13 certificate of need pursuant to subsection (1)(a) or (1)(c)
14 of this section if it had been made by or on behalf of a
15 health care facility;

16 (e) the incurring of an obligation for a capital
17 expenditure by any person or persons to acquire 50% or more
18 of an existing health care facility unless:

19 (i) the person submits the letter of intent required
20 by 50-5-302(2); and

21 (ii) the department finds that the acquisition will not
22 significantly increase the cost of care provided or increase
23 bed capacity;

24 (f) the construction, development, or other
25 establishment of a health care facility which is being

1 replaced or which did not previously exist, by any person,
2 including another type of health care facility;

3 (g) the expansion of the geographical service area of
4 a home health agency; or

5 (h) the use of hospital beds to provide services to
6 patients or residents needing only skilled nursing care,
7 intermediate nursing care, or intermediate developmental
8 disability care, as those levels of care are defined in
9 50-5-101.

10 (2) For purposes of subsection (1)(b), a change in bed
11 capacity occurs on the date new or relocated beds are
12 licensed pursuant to part 2 of this chapter and the date a
13 final decision is made to grant a certificate of need for
14 new or relocated beds, unless the certificate of need
15 expires pursuant to 50-5-305.

16 (3) For purposes of this part, the following
17 definitions apply:

18 (a) "Health care facility" or "facility" means a
19 nonfederal ambulatory surgical facility, home health agency,
20 hospital, long-term care facility, medical assistance
21 facility, mental health center with inpatient services,
22 inpatient chemical dependency facility, rehabilitation
23 facility with inpatient services, or personal care facility.

24 (b) (i) "Long-term care facility" means an entity
25 which provides skilled nursing care, intermediate nursing

1 care, or intermediate developmental disability care, as
2 defined in 50-5-101, to a total of two or more persons.

3 (ii) The term does not include adult foster care
4 licensed under 53-5-303; community homes for the
5 developmentally disabled licensed under 53-20-305; community
6 homes for physically---disabled persons with severe
7 disabilities licensed under 53-19-111 [section 10]; boarding
8 or foster homes for children licensed under 41-3-1142;
9 hotels, motels, boardinghouses, roominghouses, or similar
10 accommodations providing for transients, students, or
11 persons not requiring institutional health care; or juvenile
12 and adult correctional facilities operating under the
13 authority of the department of institutions.

14 (c) "Obligation for capital expenditure" does not
15 include the authorization of bond sales or the offering or
16 sale of bonds pursuant to the state long-range building
17 program under Title 17, chapter 5, part 4, and Title 18,
18 chapter 2, part 1.

19 (d) "Personal care facility" means an entity which
20 provides services and care which do not require nursing
21 skills to more than four persons who are not related to the
22 owner or administrator by blood or marriage and who need
23 some assistance in performing the activities of everyday
24 living. The term does not include those entities excluded
25 from the definition of "long-term care facility" in

1 subsection (b).

2 (4) Expenditure thresholds for certificate of need
3 review are established as follows:

4 (a) For acquisition of equipment and the construction
5 of any building necessary to house the equipment, the
6 expenditure threshold is \$750,000.

7 (b) For construction of health care facilities, the
8 expenditure threshold is \$1,500,000. (Repealed effective
9 July 1, 1989--sec. 9, Ch. 477, L. 1987.)"

10 NEW SECTION. SECTION 15. COORDINATION REQUIREMENTS --
11 CONSOLIDATION OF PROGRAMS AUTHORIZED. (1) THE GOVERNOR
12 SHALL ASSURE THAT SERVICES UNDER TITLE 53, CHAPTER 19, PART
13 1, ARE COORDINATED WITH PROGRAMS AND SERVICES IN TITLE 53,
14 CHAPTER 7, PARTS 1 THROUGH 3, THAT ARE ADMINISTERED BY THE
15 DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES WITH FUNDS
16 PROVIDED UNDER THE FEDERAL REHABILITATION ACT OF 1973 (29
17 U.S.C. 701, ET SEQ.), AS AMENDED.

18 (2) THE GOVERNOR MAY CONSOLIDATE SERVICES UNDER TITLE
19 53, CHAPTER 19, PART 1, WITH OTHER PROGRAMS AND SERVICES IN
20 ORDER TO MAXIMIZE COORDINATION OF SERVICES AS REQUIRED IN
21 SUBSECTION (1) AND TO PREVENT OVERLAPPING AND DUPLICATION OF
22 SERVICES WITHIN STATE GOVERNMENT.

23 (3) THE GOVERNOR MAY TRANSFER EMPLOYEES,
24 APPROPRIATIONS, AND SPENDING AUTHORITY NECESSARY TO
25 ACCOMPLISH THE COORDINATION OF SERVICES AS MANDATED BY THIS

1 SECTION. THE AUTHORITY CONTAINED IN THIS SUBSECTION IS
2 LIMITED TO THE PROGRAMS AND SERVICES DESCRIBED IN SUBSECTION
3 (1). THIS SUBSECTION SUPERSEDES ANY RESTRICTIONS ON THE
4 TRANSFER OF EMPLOYEES, APPROPRIATIONS, AND SPENDING
5 AUTHORITY CONTAINED IN [HOUSE BILL NO. 100].

6 NEW SECTION. Section 16. Repealer. Sections 53-19-111
7 and 53-19-113, MCA, are repealed.

8 NEW-SECTION--Section 16--Codification---instruction--
9 {Sections 8 through 12} are intended to be codified as an
10 integral part of Title 53, chapter 20, and the provisions of
11 Title 53, chapter 20, apply to {sections 8 through 12}.

12 NEW SECTION. SECTION 17. CODIFICATION INSTRUCTION.
13 [SECTIONS 8 THROUGH 12] ARE INTENDED TO BE CODIFIED AS AN
14 INTEGRAL PART OF TITLE 53, AND THE PROVISIONS OF TITLE 53
15 APPLY TO [SECTIONS 8 THROUGH 12].

16 NEW SECTION. Section 18. Extension of authority. Any
17 existing authority to make rules on the subject of the
18 provisions of [this act] is extended to the provisions of
19 [this act].

20 NEW SECTION. Section 19. Effective dates. (1)
21 [Section 17 16 18 and this section] are effective on passage
22 and approval.

23 (2) [Sections 1 through 16 15 17] are effective July
24 1, 1989.

-End-