

SENATE BILL 403

Introduced by Rye

2/15	Introduced
2/15	Referred to Public Health, Welfare & Safety
2/15	First Reading
2/16	Fiscal Note Requested
2/17	Hearing
2/18	Fiscal Note Received
2/18	Fiscal Note Printed
2/18	Committee Report--Bill Passed as Amended
2/22	2nd Reading Passed
2/23	3rd Reading Passed

	Transmitted to House
2/23	Referred to Human Services & Aging
2/23	First Reading
3/08	Hearing
3/13	Committee Report--Bill Concurred as Amended
3/29	2nd Reading Concurred
3/31	3rd Reading Failed

1 Senatt BILL NO. 403
2 INTRODUCED BY Olgen

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE HEALTH
5 CARE FACILITY LICENSING LAWS TO CLARIFY THE DEFINITION OF
6 OUTPATIENT FACILITIES; EXCLUDING OUTPATIENT FACILITIES FROM
7 LICENSURE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
8 SCIENCES; AND AMENDING SECTIONS 50-5-101 AND 50-5-201, MCA."

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

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

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

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

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

20 (3) "Affected person" means an applicant for
21 certificate of need, a member of the public who will be
22 served by the proposal, a health care facility located in
23 the geographic area affected by the application, an agency
24 which that establishes rates for health care facilities, a
25 third-party payer who reimburses health care facilities in

1 the area affected by the proposal, or an agency which that
2 plans or assists in planning for such the facilities.

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

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

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

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

18 (8) "Capital expenditure" means:

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

23 (b) a lease, donation, or comparable arrangement that
24 would be a capital expenditure if money or any other
25 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, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or assessment of a medical condition.

(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 of erection, 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

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

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

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

25 (22) "Hospice" means a coordinated program of home and

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

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

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

24 (a) an "infirmery--A" provides outpatient and inpatient
 25 care;

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

(25) "Inpatient", when used in conjunction with a type of facility, means a setting in which a health care service is offered that allows for an overnight stay of patients receiving the service.

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

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

(28) (a) "Long-term care facility" means a facility or part thereof which provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care to a total of two or more persons or personal care to more than four persons who are not related to the owner or administrator by blood or marriage. The term does not include adult foster care licensed under 52-3-303, community homes for the developmentally disabled licensed under 53-20-305, community homes for persons with severe disabilities licensed under 52-4-203, youth care facilities 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 corrections and human services.

(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.

(29) "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†(30) "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†(31) "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†(32) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

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

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

(35) "Outpatient", when used in conjunction with a type of facility, means a setting in which a health care service

is offered that does not allow for an overnight stay of patients receiving the service, except to the extent that observation beds are provided for the patients.

†34†(36) "Outpatient facility" means:

(a) a facility, located in or apart from a hospital, or service 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; or

(b) a facility or service that offers, on an outpatient basis, but is not limited to physical rehabilitation; family planning services; immunization clinics; speech or language rehabilitation; public health agency services; abortions; end-stage renal disease treatment; primary care center services; ambulatory surgery; women, infants, and children (WIC) services; permanent makeup (tattoo) services; or mobile radiological services. An outpatient facility may have observation beds.

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

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

1 ~~†37†~~(39) "Public health center" means a publicly owned
2 facility providing health services, including laboratories,
3 clinics, and administrative offices.

4 ~~†38†~~(40) "Rehabilitation facility" means a facility
5 which is operated for the primary purpose of assisting in
6 the rehabilitation of disabled persons by providing
7 comprehensive medical evaluations and services,
8 psychological and social services, or vocational evaluation
9 and training or any combination of these services and in
10 which the major portion of the services is furnished within
11 the facility.

12 ~~†39†~~(41) "Resident" means a person who is in a long-term
13 care facility for intermediate or personal care.

14 ~~†40†~~(42) "Residential psychiatric care" means active
15 psychiatric treatment provided in a residential treatment
16 facility to psychiatrically impaired individuals with
17 persistent patterns of emotional, psychological, or
18 behavioral dysfunction of such severity as to require
19 24-hour supervised care to adequately treat or remedy the
20 individual's condition. Residential psychiatric care must be
21 individualized and designed to achieve the patient's
22 discharge to less restrictive levels of care at the earliest
23 possible time.

24 ~~†41†~~(43) "Residential treatment facility" means a
25 facility operated for the primary purpose of providing

1 residential psychiatric care to persons under 21 years of
2 age.

3 ~~†42†~~(44) "State health plan" means the plan prepared by
4 the department to project the need for health care
5 facilities within Montana and approved by the statewide
6 health coordinating council and the governor."

7 **Section 2.** Section 50-5-201, MCA, is amended to read:

8 "50-5-201. License requirements. (1) A ~~licensee who~~
9 health care facility that contemplates construction of or
10 alteration or addition to a health care facility shall
11 submit plans and specifications to the department for
12 preliminary inspection and approval prior to commencing
13 construction.

14 (2) No A person may not operate a health care facility
15 unless the facility is licensed by the department. ~~licenses~~
16 Except as provided in subsection (3), licenses may be issued
17 for a period of 1 to 3 years in duration. A license is valid
18 only for the person and premises for which it was issued. A
19 license may not be sold, assigned, or transferred.

20 (3) Outpatient facilities are not required to obtain a
21 license from the department.

22 ~~†3†~~(4) Upon discontinuance of the operation or upon
23 transfer of ownership of a facility, the license must be
24 returned to the department.

25 ~~†4†~~(5) Licenses ~~shall~~ must be displayed in a

LC 0906/01

1 conspicuous place near the admitting office of the
2 facility."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0403, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act amending the Health Care Facility licensing laws to clarify the definition of outpatient facilities; excluding outpatient facilities from licensure by the Department of Health and Environmental Sciences; and amending sections 50-5-101 and 50-5-201, MCA.

ASSUMPTIONS:

1. No fiscal impact is anticipated with this legislation.

David Lewis 2-18-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

David B. Rye 2-18-93
DAVID RYE, PRIMARY SPONSOR DATE

Fiscal Note for SB0403, as introduced

SB 403

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

SENATE BILL NO. 403

INTRODUCED BY RYE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE HEALTH CARE FACILITY LICENSING LAWS TO CLARIFY THE DEFINITION OF OUTPATIENT FACILITIES; EXCLUDING OUTPATIENT FACILITIES FROM LICENSURE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; AND AMENDING SECTIONS 50-5-101 AND 50-5-201, MCA; AND PROVIDING A TERMINATION DATE."

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

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

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

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

(2) "Adult day-care center" means a facility, 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 that 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 that plans or assists in planning for such the facilities.

(4) "Ambulatory surgical facility" means a facility, not part of a hospital, which that 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.

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(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

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property of value had changed hands.

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headquarters in Traverse City, Michigan, that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.

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

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

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

25 (a) an "infirmity--A" provides outpatient and inpatient

1 care;

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

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 4 of facility, means a setting in which a health care service
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 17 or part thereof which provides skilled nursing care,
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 19 disability care to a total of two or more persons or
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 21 to the owner or administrator by blood or marriage. The term
 22 does not include adult foster care licensed under 52-3-303,
 23 community homes for the developmentally disabled licensed
 24 under 53-20-305, community homes for persons with severe
 25 disabilities licensed under 52-4-203, youth care facilities

1 licensed under 41-3-1142, hotels, motels, boardinghouses,
 2 roominghouses, or similar accommodations providing for
 3 transients, students, or persons not requiring institutional
 4 health care, or juvenile and adult correctional facilities
 5 operating under the authority of the department of
 6 corrections and human services.

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

11 (c) "Intermediate nursing care" means the provision of
 12 nursing care services, health-related services, and social
 13 services under the supervision of a licensed nurse to
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 19 related problems.

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 21 care which do not require nursing skills to residents
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8 comprehensive medical evaluations and services,
9 psychological and social services, or vocational evaluation
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14 care facility for intermediate or personal care.

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21 (3) Outpatient facilities are not required to obtain a
22 license from the department.

23 ~~(3)~~(4) Upon discontinuance of the operation or upon
24 transfer of ownership of a facility, the license must be
25 returned to the department.

1 †4†(5) Licenses shall must be displayed in a
2 conspicuous place near the admitting office of the
3 facility."

4 NEW SECTION. **SECTION 3.** TERMINATION. [THIS ACT]
5 TERMINATES OCTOBER 1, 1995.

-End-

SENATE BILL NO. 403

INTRODUCED BY RYE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE HEALTH CARE FACILITY LICENSING LAWS TO CLARIFY THE DEFINITION OF OUTPATIENT FACILITIES; ~~EXCLUDING OUTPATIENT FACILITIES FROM LICENSURE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES~~; AND AMENDING SECTIONS 50-5-101 AND 50-5-201, MCA; AND PROVIDING A TERMINATION DATE."

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(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 that 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 that plans or assists in planning for such the facilities.

(4) "Ambulatory surgical facility" means a facility, not part of a hospital, which that 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

1 property of value had changed hands.

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

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

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

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

24 (13) "College of American pathologists" means the
25 organization nationally recognized by that name with

1 headquarters in Traverse City, Michigan, that surveys
2 clinical laboratories upon their requests and accredits
3 clinical laboratories that it finds meet its standards and
4 requirements.

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

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

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

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

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

23 (19) "Health care facility" or "facility" means any
24 institution, building, or agency or portion thereof, private
25 or public, excluding federal facilities, whether organized

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

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

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

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

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

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

25 (a) an "infirmity--A" provides outpatient and inpatient

1 care;

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

3 (25) "Inpatient", when used in conjunction with a type
 4 of facility, means a setting in which a health care service
 5 is offered that allows for an overnight stay of patients
 6 receiving the service.

7 ~~(25)~~(26) "Joint commission on accreditation of
 8 hospitals" means the organization nationally recognized by
 9 that name with headquarters in Chicago, Illinois, that
 10 surveys health care facilities upon their requests and
 11 grants accreditation status to any health care facility that
 12 it finds meets its standards and requirements.

13 ~~(26)~~(27) "Kidney treatment center" means a facility
 14 which specializes in treatment of kidney diseases, including
 15 freestanding hemodialysis units.

16 ~~(27)~~(28) (a) "Long-term care facility" means a facility
 17 or part thereof which provides skilled nursing care,
 18 intermediate nursing care, or intermediate developmental
 19 disability care to a total of two or more persons or
 20 personal care to more than four persons who are not related
 21 to the owner or administrator by blood or marriage. The term
 22 does not include adult foster care licensed under 52-3-303,
 23 community homes for the developmentally disabled licensed
 24 under 53-20-305, community homes for persons with severe
 25 disabilities licensed under 52-4-203, youth care facilities

1 licensed under 41-3-1142, hotels, motels, boardinghouses,
 2 roominghouses, or similar accommodations providing for
 3 transients, students, or persons not requiring institutional
 4 health care, or juvenile and adult correctional facilities
 5 operating under the authority of the department of
 6 corrections and human services.

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

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

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

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

24 ~~(28)~~(29) "Major medical equipment" means a single unit
 25 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)~~(30) "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)~~(31) "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)~~(32) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

~~(32)~~(33) "Observation bed" means a bed occupied for not more than 6 hours by a patient recovering from surgery or other treatment.

~~(33)~~(34) "Offer" means the holding out by a health care facility that it can provide specific health services.

(35) "Outpatient", when used in conjunction with a type

of facility, means a setting in which a health care service is offered that does not allow for an overnight stay of patients receiving the service, except to the extent that observation beds are provided for the patients.

~~(34)~~(36) "Outpatient facility" means:

(a) a facility, ~~located in or apart from a hospital,~~ or service 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; or

(b) a facility or service that offers, on an outpatient basis, but is not limited to physical rehabilitation; family planning services; immunization clinics; speech or language rehabilitation; public health agency services; abortions; end-stage renal disease treatment; primary care center services; ambulatory surgery; women, infants, and children (WIC) services; permanent makeup (tattoo) services; or mobile radiological services. An outpatient facility may have observation beds.

~~(35)~~(37) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

~~(36)~~(38) "Person" means any individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether

1 organized for profit or not.

2 ~~(37)~~(39) "Public health center" means a publicly owned
3 facility providing health services, including laboratories,
4 clinics, and administrative offices.

5 ~~(38)~~(40) "Rehabilitation facility" means a facility
6 which is operated for the primary purpose of assisting in
7 the rehabilitation of disabled persons by providing
8 comprehensive medical evaluations and services,
9 psychological and social services, or vocational evaluation
10 and training or any combination of these services and in
11 which the major portion of the services is furnished within
12 the facility.

13 ~~(39)~~(41) "Resident" means a person who is in a long-term
14 care facility for intermediate or personal care.

15 ~~(40)~~(42) "Residential psychiatric care" means active
16 psychiatric treatment provided in a residential treatment
17 facility to psychiatrically impaired individuals with
18 persistent patterns of emotional, psychological, or
19 behavioral dysfunction of such severity as to require
20 24-hour supervised care to adequately treat or remedy the
21 individual's condition. Residential psychiatric care must be
22 individualized and designed to achieve the patient's
23 discharge to less restrictive levels of care at the earliest
24 possible time.

25 ~~(41)~~(43) "Residential treatment facility" means a

1 facility operated for the primary purpose of providing
2 residential psychiatric care to persons under 21 years of
3 age.

4 ~~(42)~~(44) "State health plan" means the plan prepared by
5 the department to project the need for health care
6 facilities within Montana and approved by the statewide
7 health coordinating council and the governor."

8 **Section 2.** Section 50-5-201, MCA, is amended to read:

9 "50-5-201. License requirements. (1) A ~~licensee--who~~
10 health care facility that contemplates construction of or
11 alteration or addition to a health care facility shall
12 submit plans and specifications to the department for
13 preliminary inspection and approval prior to commencing
14 construction.

15 (2) No A person may not operate a health care facility
16 unless the facility is licensed by the department. ~~Licenses~~
17 ~~Except-as-provided-in-subsection-(3)-licenses~~ LICENSES may
18 be issued for a period of 1 to 3 years in duration. A
19 license is valid only for the person and premises for which
20 it was issued. A license may not be sold, assigned, or
21 transferred.

22 (3) Outpatient facilities are not required to obtain a
23 license from the department FOR INFORMATIONAL PURPOSES ONLY.
24 THIS LICENSE REQUIREMENT DOES NOT OBLIGATE OR REQUIRE THE
25 DEPARTMENT TO VISIT OR INSPECT THE FACILITIES OR TO REGULATE

1 THE ACTIVITIES OF THE FACILITIES.

2 †3†(4) Upon discontinuance of the operation or upon
3 transfer of ownership of a facility, the license must be
4 returned to the department.

5 †4†(5) Licenses shall must be displayed in a
6 conspicuous place near the admitting office of the
7 facility."

8 NEW SECTION. SECTION 3. TERMINATION. [THIS ACT]

9 TERMINATES OCTOBER 1, 1995.

-End-

HOUSE STANDING COMMITTEE REPORT

March 13, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 403 (third reading copy -- blue) be concurred in as amended.

Signed: _____

Wm E Boharski

Bill Boharski, Chair

And, that such amendments read:

Carried by: Rep. Boharski

1. Title, line 8.

Following: "~~AND~~"

Insert: "EXCLUDING CERTAIN OUTPATIENT FACILITIES AND LOCAL PUBLIC HEALTH AGENCIES FROM LICENSURE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES;"

2. Page 12, line 15.

Strike: "A"

Insert: "Except as provided in subsection (5), a"

3. Page 12, line 22 through page 13, line 1.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

4. Page 13.

Following: line 7

Insert: "(5) A license is not required for a local public health agency and for an outpatient facility that is certified by the federal government."

5. Page 13, line 8.

Strike: "[THIS ACT]"

Insert: "[Section 2(5)]"

-END-

HOUSE

Committee Vote:

Yes 9, No 7.

SB 403
571319SC.Hpf

SENATE BILL NO. 403

INTRODUCED BY RYE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE HEALTH CARE FACILITY LICENSING LAWS TO CLARIFY THE DEFINITION OF OUTPATIENT FACILITIES; ~~EXCLUDING OUTPATIENT FACILITIES FROM LICENSURE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES, AND EXCLUDING CERTAIN OUTPATIENT FACILITIES AND LOCAL PUBLIC HEALTH AGENCIES FROM LICENSURE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; AMENDING SECTIONS 50-5-101 AND 50-5-201, MCA; AND PROVIDING A TERMINATION DATE.~~"

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

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

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

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

(2) "Adult day-care center" means a facility, 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 that 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 that plans or assists in planning for such the facilities.

(4) "Ambulatory surgical facility" means a facility, not part of a hospital, which that 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

1 operation and maintenance; or

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

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

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

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

20 (12) "Clinical laboratory" means a facility for the
21 microbiological, serological, chemical, hematological,
22 radiobioassay, cytological, immuno-hematological,
23 pathological, or other examination of materials derived from
24 the human body for the purpose of providing information for
25 the diagnosis, prevention, or treatment of any disease or

1 assessment of a medical condition.

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

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

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

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

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

23 (18) "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 (19) "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, residential treatment facilities, and adult
 15 day-care centers.

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

22 (21) "Home health agency" means a public agency or
 23 private organization or subdivision thereof--which of an
 24 agency or organization that is engaged in providing home
 25 health services to individuals in the places where they

1 live. Home health services must include the services of a
 2 licensed registered nurse and at least one other therapeutic
 3 service and may include additional support services.

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

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

24 (24) "Infirmity" means a facility located in a
 25 university, college, government institution, or industry for

the treatment of the sick or injured, with the following subdefinitions:

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

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

(25) "Inpatient", when used in conjunction with a type of facility, means a setting in which a health care service is offered that allows for an overnight stay of patients receiving the service.

~~(25)~~(26) "Joint commission on accreditation of hospitals" means the organization nationally recognized by that name with headquarters in Chicago, Illinois, that surveys health care facilities upon their requests and grants accreditation status to any health care facility that it finds meets its standards and requirements.

~~(26)~~(27) "Kidney treatment center" means a facility which specializes in treatment of kidney diseases, including freestanding hemodialysis units.

~~(27)~~(28) (a) "Long-term care facility" means a facility or part thereof which provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care to a total of two or more persons or personal care to more than four persons who are not related to the owner or administrator by blood or marriage. The term does not include adult foster care licensed under 52-3-303,

community homes for the developmentally disabled licensed under 53-20-305, community homes for persons with severe disabilities licensed under 52-4-203, youth care facilities 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 corrections and human services.

(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

1 daily living.

2 ~~†28†~~(29) "Major medical equipment" means a single unit
3 of 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†~~(30) "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†~~(31) "Mental health center" means a facility
16 providing services for the prevention or diagnosis of mental
17 illness, the care and treatment of mentally ill patients or
18 the rehabilitation of such persons, or any combination of
19 these services.

20 ~~†31†~~(32) "Nonprofit health care facility" means a health
21 care facility owned or operated by one or more nonprofit
22 corporations or associations.

23 ~~†32†~~(33) "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†~~(34) "Offer" means the holding out by a health care
2 facility that it can provide specific health services.

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13 care; or

14 (b) a facility or service that offers, on an outpatient
15 basis, but is not limited to physical rehabilitation; family
16 planning services; immunization clinics; speech or language
17 rehabilitation; public health agency services; abortions;
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21 mobile radiological services. An outpatient facility may
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16 ~~{39}~~{41} "Resident" means a person who is in a long-term
17 care facility for intermediate or personal care.

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19 psychiatric treatment provided in a residential treatment
20 facility to psychiatrically impaired individuals with
21 persistent patterns of emotional, psychological, or
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24 individual's condition. Residential psychiatric care must be
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11 **Section 2.** Section 50-5-201, MCA, is amended to read:

12 "50-5-201. License requirements. (1) A ~~licensee who~~
13 health care facility that contemplates construction of or
14 alteration or addition to a health care facility shall
15 submit plans and specifications to the department for
16 preliminary inspection and approval prior to commencing
17 construction.

18 (2) No A EXCEPT AS PROVIDED IN SUBSECTION (5), A person
19 may not operate a health care facility unless the facility
20 is licensed by the department. ~~Licenses Except--as--provided~~
21 ~~in--subsection--{3}--licenses~~ LICENSES may be issued for a
22 period of 1 to 3 years in duration. A license is valid only
23 for the person and premises for which it was issued. A
24 license may not be sold, assigned, or transferred.

25 ~~{3}--Outpatient-facilities-are not required-to-obtain--a~~

1 ~~license from the department FOR INFORMATIONAL PURPOSES ONLY.~~
 2 ~~THIS--LICENSE--REQUIREMENT--DOES NOT OBLIGATE OR REQUIRE THE~~
 3 ~~DEPARTMENT TO VISIT OR INSPECT THE FACILITIES OR TO REGULATE~~
 4 ~~THE ACTIVITIES OF THE FACILITIES.~~

5 (3)(4)(3) Upon discontinuance of the operation or upon
 6 transfer of ownership of a facility, the license must be
 7 returned to the department.

8 (4)(5)(4) Licenses shall must be displayed in a
 9 conspicuous place near the admitting office of the facility.

10 (5) A LICENSE IS NOT REQUIRED FOR A LOCAL PUBLIC HEALTH
 11 AGENCY AND FOR AN OUTPATIENT FACILITY THAT IS CERTIFIED BY
 12 THE FEDERAL GOVERNMENT."

13 NEW SECTION. SECTION 3. TERMINATION. --[THIS-----ACT]
 14 [SECTION 2(5)] TERMINATES OCTOBER 1, 1995.

-End-