

House BILL NO. 301

INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO HEALTH CARE FACILITIES; PROVIDING DEFINITIONS; CLARIFYING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES MAY REQUIRE WRITTEN EVIDENCE FOR LICENSURE; REQUIRING NOTICE TO THE DEPARTMENT THAT A HEALTH CARE FACILITY IS READY TO BE INSPECTED; REMOVING THE REQUIREMENT FOR AN ANNUAL PHYSICIAN'S STATEMENT AND VISIT FOR PLACEMENT OF A RESIDENT IN A CATEGORY A PERSONAL-CARE FACILITY; DELETING MINIMUM RESIDENT REQUIREMENTS FOR CATEGORY A PERSONAL-CARE FACILITIES; PROVIDING REQUIREMENTS FOR HOME INFUSION THERAPY SERVICES AND FOR RETIREMENT HOMES; AMENDING SECTIONS 50-4-102, 50-5-101, 50-5-103, 50-5-204, 50-5-226, 50-5-227, 50-5-301, 50-51-102, AND 50-51-201, MCA; AND REPEALING SECTIONS 52-3-301, 52-3-302, 52-3-303, 52-3-304, 52-3-305, 52-3-311, 52-3-312, 52-3-313, AND 52-3-314, MCA."

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

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

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

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

(2) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that provides adults, on ~~an intermittent~~ a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.

(3) "Adult foster care" means a private home that offers personal care or custodial care to four or fewer disabled adults or aged persons who are not related by blood or marriage to the owner of the home.

~~(3)~~(4) "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 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 that plans or assists in planning for

1 health care facilities.

2 ~~(4)~~(5) "Ambulatory surgical facility" means a facility, ~~not part of a hospital,~~ that provides surgical  
3 treatment to patients not requiring hospitalization. This type of facility may include observation beds for  
4 patient recovery from surgery or other treatment.

5 ~~(5)~~(6) "Batch" means those letters of intent to seek approval for new beds or major medical  
6 equipment that are accumulated during a single batching period.

7 ~~(6)~~(7) "Batching period" means a period, not exceeding 1 month, established by department rule  
8 during which letters of intent to seek approval for new beds or major medical equipment are accumulated  
9 pending further processing of all letters of intent within the batch.

10 ~~(7)~~(8) "Board" means the board of health and environmental sciences, provided for in 2-15-2104.

11 ~~(8)~~(9) "Capital expenditure" means:

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

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

16 ~~(9)~~(10) "Certificate of need" means a written authorization by the department for a person to  
17 proceed with a proposal subject to 50-5-301.

18 ~~(10)~~(11) "Challenge period" means a period, not exceeding 1 month, established by department rule  
19 during which a person may apply for comparative review with an applicant whose letter of intent has been  
20 received during the preceding batching period.

21 ~~(11)~~(12) "Chemical dependency facility" means a facility whose function is the treatment,  
22 rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates  
23 behavioral or health problems and endangers the health, interpersonal relationships, or economic function  
24 of an individual or the public health, welfare, or safety.

25 ~~(12)~~(13) "Clinical laboratory" means a facility for the microbiological, serological, chemical,  
26 hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of  
27 materials derived from the human body for the purpose of providing information for the diagnosis,  
28 prevention, or treatment of any disease or assessment of a medical condition.

29 ~~(13)~~(14) "College of American pathologists" means the organization nationally recognized by that  
30 name with headquarters in Traverse City, Michigan, that surveys clinical laboratories upon their requests

1 and accredits clinical laboratories that it finds meet its standards and requirements.

2 ~~(14)~~(15) "Comparative review" means a joint review of two or more certificate of need applications  
3 that are determined by the department to be competitive in that the granting of a certificate of need to one  
4 of the applicants would substantially prejudice the department's review of the other applications.

5 ~~(15)~~(16) "Construction" means the physical erection of a health care facility and any stage of the  
6 physical erection, including ground breaking, or remodeling, replacement, or renovation of an existing health  
7 care facility.

8 ~~(16)~~(17) "Department" means the department of health and environmental sciences provided for  
9 in Title 2, chapter 15, part 21.

10 (18) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney  
11 diseases and includes freestanding hemodialysis units.

12 ~~(17)~~(19) "Federal acts" means federal statutes for the construction of health care facilities.

13 ~~(18)~~(20) "Governmental unit" means the state, a state agency, a county, municipality, or political  
14 subdivision of the state, or an agency of a political subdivision.

15 ~~(19)~~(21) "Health care facility" or "facility" means all or a portion of an institution, building, or  
16 agency, private or public, excluding federal facilities, whether organized for profit or not, used, operated,  
17 or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to  
18 any individual. The term does not include offices of private physicians or dentists. The term includes ~~but~~  
19 ~~is not limited to~~ ambulatory surgical facilities, chemical dependency facilities, end-stage renal dialysis  
20 facilities, health maintenance organizations, home health agencies, home infusion therapy agencies,  
21 hospices, hospitals, infirmaries, kidney treatment centers, long-term care facilities, medical assistance  
22 facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential  
23 care facilities, and residential treatment facilities, and adult day care centers.

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

27 ~~(21)~~(23) "Home health agency" means a public agency or private organization or subdivision of the  
28 agency or organization that is engaged in providing home health services to individuals in the places where  
29 they live. Home health services must include the services of a licensed registered nurse and at least one  
30 other therapeutic service and may include additional support services.

1            (24) "Home infusion therapy agency" means a health care facility that provides home infusion  
2 therapy services.

3            (25) "Home infusion therapy services" means the preparation, administration, or furnishing of  
4 parenteral medications or parenteral or enteral nutritional services to an individual in that individual's  
5 residence. The services include an educational component for the patient, the patient's caregiver, or the  
6 patient's family member.

7            ~~(22)~~(26) "Hospice" means a coordinated program of home and inpatient health care that provides  
8 or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's  
9 family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the  
10 final stages of illness and dying and that includes formal bereavement programs as an essential component.  
11 The term includes:

12            (a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice  
13 that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

14            (b) a residential hospice facility, which is a facility managed directly by a licensed hospice program  
15 that can house three or more hospice patients.

16            ~~(23)~~(27) "Hospital" means a facility providing, by or under the supervision of licensed physicians,  
17 services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals.  
18 Services provided may or may not include obstetrical care, emergency care, or any other service as allowed  
19 by state licensing authority. A hospital has an organized medical staff that is on call and available within  
20 20 minutes, 24 hours per day, 7 days per week, and provides 24-hour nursing care by licensed registered  
21 nurses. This term includes hospitals specializing in providing health services for psychiatric, mentally  
22 retarded, and tubercular patients.

23            ~~(24)~~(28) "Infirmiry" means a facility located in a university, college, government institution, or  
24 industry for the treatment of the sick or injured, with the following subdefinitions:

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

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

27            ~~(25)~~(29) "Joint commission on accreditation of hospitals" means the organization nationally  
28 recognized by that name with headquarters in Chicago, Illinois, that surveys health care facilities upon their  
29 requests and grants accreditation status to a health care facility that it finds meets its standards and  
30 requirements.

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

3 ~~(27)~~(30) (a) "Long-term care facility" means a facility or part of a facility that provides skilled  
4 nursing care, intermediate nursing care, or intermediate developmental disability care to a total of two or  
5 more individuals or that provides personal care. The term does not include ~~adult foster care licensed under~~  
6 ~~52-3-303 residential care facilities~~, community homes for the developmentally disabled licensed under  
7 53-20-305, community homes for individuals with severe disabilities licensed under 52-4-203, youth care  
8 facilities licensed under 41-3-1142, hotels, motels, boardinghouses, roominghouses, or similar  
9 accommodations providing for transients, students, or individuals not requiring institutional health care, or  
10 juvenile and adult correctional facilities operating under the authority of the department of corrections and  
11 human services.

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

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

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

20 (e) "Personal care" means the provision of services and care for residents needing some assistance  
21 in performing the activities of daily living.

22 ~~(28)~~(31) "Major medical equipment" means a single unit of medical equipment or a single system  
23 of components with related functions which is used to provide medical or other health services and costs  
24 a substantial sum of money.

25 ~~(29)~~(32) "Medical assistance facility" means a facility that:

26 (a) provides inpatient care to ill or injured individuals prior to their transportation to a hospital or  
27 provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours; and

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

30 ~~(30)~~(33) "Mental health center" means a facility providing services for the prevention or diagnosis

1 of mental illness, the care and treatment of mentally ill patients or the rehabilitation of mentally ill  
2 individuals, or any combination of these services.

3 ~~(31)~~(34) "Nonprofit health care facility" means a health care facility owned or operated by one or  
4 more nonprofit corporations or associations.

5 ~~(32)~~(35) "Observation bed" means a bed occupied for not more than 6 hours by a patient recovering  
6 from surgery or other treatment.

7 ~~(33)~~(36) "Offer" means the holding out by a health care facility that it can provide specific health  
8 services.

9 ~~(34)~~(37) "Outpatient facility" means a facility, located in or apart from a hospital, providing, under  
10 the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients in need  
11 of medical, surgical, or mental care. An outpatient facility may have observation beds.

12 ~~(35)~~(38) "Patient" means an individual obtaining services, including skilled nursing care, from a  
13 health care facility.

14 ~~(36)~~(39) "Person" means any individual, firm, partnership, association, organization, agency,  
15 institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

16 (40) "Personal-care facility" means a facility in which personal care is provided for residents in  
17 either a category A facility or a category B facility as provided in 50-5-227.

18 ~~(37)~~(41) "Public health center" means a publicly owned facility providing health services, including  
19 laboratories, clinics, and administrative offices.

20 ~~(38)~~(42) "Rehabilitation facility" means a facility that is operated for the primary purpose of  
21 assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and  
22 services, psychological and social services, or vocational evaluation and training or any combination of  
23 these services and in which the major portion of the services is furnished within the facility.

24 ~~(39)~~(43) "Resident" means an individual who is in a long-term care facility ~~for intermediate or~~  
25 ~~personal care~~ or in a residential care facility.

26 (44) "Residential care facility" means an adult day-care center, an adult foster care home, a  
27 personal-care facility, or a retirement home.

28 ~~(40)~~(45) "Residential psychiatric care" means active psychiatric treatment provided in a residential  
29 treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological,  
30 or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or

1 remedy the individual's condition. Residential psychiatric care must be individualized and designed to  
2 achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

3 ~~(41)~~(46) "Residential treatment facility" means a facility operated for the primary purpose of  
4 providing residential psychiatric care to individuals under 21 years of age.

5 (47) "Retirement home" means a building or buildings in which separate living accommodations  
6 are rented or leased to individuals who use those accommodations as their primary residence.

7 ~~(42)~~(48) "State health plan" means the plan prepared by the department to project the need for  
8 health care facilities within Montana and approved by the statewide health coordinating council and the  
9 governor."

10

11 **Section 2.** Section 50-4-102, MCA, is amended to read:

12 **"50-4-102. Definitions.** For the purposes of this chapter, the following definitions apply:

13 (1) "Authority" means the Montana health care authority created by 50-4-201.

14 (2) "Board" means one of the regional health care planning boards created pursuant to 50-4-401.

15 (3) "Certificate of public advantage" or "certificate" means a written certificate issued by the  
16 authority as evidence of the authority's intention that the implementation of a cooperative agreement, when  
17 actively supervised by the authority, receive state action immunity from prosecution as a violation of state  
18 or federal antitrust laws.

19 (4) "Cooperative agreement" or "agreement" means a written agreement between two or more  
20 health care facilities for the sharing, allocation, or referral of patients; personnel; instructional programs;  
21 emergency medical services; support services and facilities; medical, diagnostic, or laboratory facilities or  
22 procedures; or other services customarily offered by health care facilities.

23 (5) "Data base" means the unified health care data base created pursuant to 50-4-502.

24 (6) "Health care" includes both physical health care and mental health care.

25 (7) "Health care facility" means all facilities and institutions, whether public or private, proprietary  
26 or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated  
27 persons. The term includes all health care facilities and institutions included as defined in 50-5-101~~(49)~~.  
28 The term does not apply to a facility operated by religious groups relying solely on spiritual means, through  
29 prayer, for healing.

30 (8) "Health insurer" means any health insurance company, health service corporation, health

1 maintenance organization, insurer providing disability insurance as described in 33-1-207, and, to the extent  
2 permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care  
3 benefit plan offered by public and private entities.

4 (9) "Health care provider" or "provider" means a person who is licensed, certified, or otherwise  
5 authorized by the laws of this state to provide health care in the ordinary course of business or practice of  
6 a profession.

7 (10) "Management plan" means the health care resource management plan required by 50-4-304.

8 (11) "Region" means one of the health care planning regions created pursuant to 50-4-401.

9 (12) "Statewide plan" means one of the statewide universal health care access plans for access  
10 to health care required by 50-4-301."

11

12 **Section 3.** Section 50-5-103, MCA, is amended to read:

13 **"50-5-103. Rules and standards -- accreditation by joint commission.** (1) The department shall  
14 promulgate and adopt rules and minimum standards for implementation of parts 1 and 2.

15 (2) Any facility covered by this chapter shall comply with the state and federal requirements  
16 relating to construction, equipment, and fire and life safety.

17 (3) The department shall extend a reasonable time for compliance with rules for parts 1 and 2 upon  
18 adoption.

19 (4) Any hospital that furnishes written evidence required by the department, including the  
20 recommendation for future compliance statements to the department of its accreditation granted by the  
21 joint commission on accreditation of health care organizations, is eligible for licensure in the state for the  
22 accreditation period and may not be subjected to an inspection by the department for purposes of the  
23 licensing process. The department may, in addition to its inspection authority in 50-5-116, inspect any  
24 licensed health care facility to answer specific complaints made in writing by any person against the facility  
25 when the complaints pertain to licensing requirements. Inspection by the department upon a specific  
26 complaint made in writing pertaining to licensing requirements is limited to the specific area or condition  
27 of the health care facility to which the complaint pertains.

28 (5) The department may consider as eligible for licensure during the accreditation period any health  
29 care facility, other than a hospital, that furnishes written evidence, including the recommendation for future  
30 compliance statements, of its accreditation by the joint commission on accreditation of health care



1 organizations. The department may inspect a health care facility considered eligible for licensure under this  
2 section to ensure compliance with state licensure standards."

3  
4 **Section 4.** Section 50-5-204, MCA, is amended to read:

5 **"50-5-204. Issuance and renewal of licenses -- inspections.** (1) After receipt of a new application  
6 and notice that the facility is ready to be inspected, the department or its authorized agent shall conduct  
7 an initial inspection of the facility within 45 days.

8 (2) After receipt of an application for renewal of a license, the department or its authorized agent  
9 shall inspect the facility without prior notice to the operator or staff.

10 (3) If the department determines that the facility meets minimum standards and the proposed or  
11 existing staff is qualified, the department shall issue a license for a period of 1 to 3 years in duration.

12 (4) If minimum standards are not met, the department may issue a provisional license for less than  
13 1 year if operation will not result in undue hazard to patients or residents or if the demand for  
14 accommodations offered is not met in the community.

15 (5) The minimum standards ~~which~~ that home health agencies must meet in order to be licensed  
16 must be as outlined in 42 U.S.C. 1395x(o), as amended, and in rules implementing it ~~which~~ that add  
17 minimum standards.

18 (6) The department may inspect a licensed health care facility whenever it considers it necessary.  
19 The entire premises of a licensed facility must be open to inspection, and access to all records must be  
20 granted at all reasonable times."

21  
22 **Section 5.** Section 50-5-226, MCA, is amended to read:

23 **"50-5-226. Placement in personal-care facilities.** (1) A personal-care facility may provide  
24 personal-care services to a resident who is 18 years of age or older and in need of the personal care for  
25 which the facility is licensed under 50-5-227.

26 (2) A resident of a personal-care facility licensed as a category A facility under 50-5-227 may  
27 obtain third-party provider services for skilled nursing care for no more than 20 consecutive days at a time.

28 (3) A resident of a personal-care facility licensed as a category B facility under 50-5-227 must have  
29 a signed statement from a physician agreeing to the resident's admission to the facility if the resident is:

30 (a) in need of skilled nursing care;

1 (b) in need of medical, physical, or chemical restraint;

2 (c) nonambulatory or bedridden;

3 (d) incontinent to the extent that bowel or bladder control is absent; or

4 (e) unable to self-administer medications.

5 (4) A resident of a category B personal-care facility who needs skilled nursing care must have a  
6 signed statement, renewed on ~~an annual basis for a category A facility and on~~ a quarterly basis for a  
7 ~~category B facility, from~~ by a physician, a physician assistant-certified, a nurse practitioner, or a registered  
8 nurse, whose work is unrelated to the operation of the facility and who:

9 (a) actually visited the facility within the ~~year covered by the statement for a category A facility~~  
10 ~~and within the~~ calendar quarter covered by the statement for a ~~category B facility~~;

11 (b) has certified that the particular needs of the resident can be adequately met in the facility; and

12 (c) has certified that there has been no significant change in health care status that would require  
13 another level of care.

14 (5) The department shall, in consultation with the department of social and rehabilitation services,  
15 provide by rule:

16 (a) an application or placement procedure informing a prospective resident and, if applicable, the  
17 resident's physician of:

18 (i) physical and mental standards for residents of personal-care facilities;

19 (ii) requirements for placement in a facility with a higher standard of care if a resident's condition  
20 deteriorates; and

21 (iii) the services offered by the facility and services that a resident may receive from third-party  
22 providers while resident in the facility;

23 (b) standards to be used by a facility and, if appropriate, by a screening agency to screen residents  
24 and prospective residents to prevent residence by individuals referred to in subsection (3);

25 (c) a method by which the results of any screening decision made pursuant to rules established  
26 under subsection (5)(b) may be appealed by the facility operator or by or on behalf of a resident or  
27 prospective resident;

28 (d) standards for operating a category A personal-care facility, including standards for the physical,  
29 structural, environmental, sanitary, infection control, dietary, social, staffing, and recordkeeping  
30 components of a facility; and

1 (e) standards for operating a category B personal-care facility, which must include the standards  
2 for a category A personal-care facility and additional standards for assessment of residents, care planning,  
3 qualifications and training of staff, restraint use and reduction, prevention and care of pressure sores,  
4 incontinence care, and the storage and administration of drugs."

5  
6 **Section 6.** Section 50-5-227, MCA, is amended to read:

7 **"50-5-227. Licensing personal-care facilities.** (1) The department shall, in consultation with the  
8 department of social and rehabilitation services, by rule adopt standards for licensing and operation of  
9 personal-care facilities to implement the provisions of 50-5-225 and 50-5-226.

10 (2) The following licensing categories must be used by the department in adopting rules under  
11 subsection (1):

12 (a) category A--a facility providing personal care to ~~six or more~~ residents who may not be:

13 (i) in need of skilled nursing care;

14 (ii) in need of medical, chemical, or physical restraint;

15 (iii) nonambulatory or bedridden;

16 (iv) incontinent to the extent that bowel or bladder control is absent; or

17 (v) unable to self-administer medications; or

18 (b) category B--a facility providing personal care to five or fewer residents who may be:

19 (i) in need of skilled nursing care;

20 (ii) in need of medical, chemical, or physical restraint;

21 (iii) nonambulatory or bedridden;

22 (iv) incontinent to the extent that bowel or bladder control is absent; or

23 (v) unable to self-administer medications.

24 (3) The department may by rule establish license fees, inspection fees, and fees for patient  
25 screening. Fees must be reasonably related to service costs."

26  
27 **Section 7.** Section 50-5-301, MCA, is amended to read:

28 **"50-5-301. When certificate of need is required -- definitions.** (1) Unless a person has submitted  
29 an application for and is the holder of a certificate of need granted by the department, the person may not  
30 initiate any of the following:

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

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

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

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

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

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

20 (d) the acquisition by any person of major medical equipment, provided the acquisition would have  
21 required a certificate of need pursuant to subsection (1)(a) or (1)(c) if it had been made by or on behalf of  
22 a health care facility;

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

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

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

28 (f) the construction, development, or other establishment of a health care facility that is being  
29 replaced or that did not previously exist, by any person, including another type of health care facility;

30 (g) the expansion of the geographical service area of a home health agency;

1 (h) the use of hospital beds to provide services to patients or residents needing only skilled nursing  
2 care, intermediate nursing care, or intermediate developmental disability care, as those levels of care are  
3 defined in 50-5-101; or

4 (i) the provision by a hospital of services for ambulatory surgical care, home health care, long-term  
5 care, inpatient mental health care, inpatient chemical dependency treatment, or inpatient rehabilitation.

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

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

10 (a) "Health care facility" or "facility" means a nonfederal ambulatory surgical facility, home health  
11 agency, long-term care facility, medical assistance facility, mental health center with inpatient services,  
12 inpatient chemical dependency facility, rehabilitation facility with inpatient services, or residential treatment  
13 facility. The term does not include:

14 (i) a hospital, except to the extent that a hospital is subject to certificate of need requirements  
15 pursuant to subsection (1)(i); or

16 (ii) an office of a private physician, dentist, or other physical or mental health care professionals,  
17 including chemical dependency counselors.

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

21 (ii) The term does not include ~~adult foster care, licensed under 52-3-303~~ residential care facilities;  
22 community homes for the developmentally disabled, licensed under 53-20-305; community homes for  
23 persons with severe disabilities, licensed under 52-4-203; boarding or foster homes for children, licensed  
24 under 41-3-1142; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing  
25 for transients, students, or individuals not requiring institutional health care; or juvenile and adult  
26 correctional facilities operating under the authority of the department of corrections and human services.

27 (c) "Obligation for capital expenditure" does not include the authorization of bond sales or the  
28 offering or sale of bonds pursuant to the state long-range building program under Title 17, chapter 5, part  
29 4, and Title 18, chapter 2, part 1.

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

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

3 (b) For construction of health care facilities, the expenditure threshold is \$1,500,000."  
4

5 **Section 8.** Section 50-51-102, MCA, is amended to read:

6 **"50-51-102. Definitions.** Unless the context requires otherwise, in this chapter, the following  
7 definitions apply:

8 ~~(1) "Board" means the board of health and environmental sciences.~~

9 ~~(2) "Commercial establishment" means an establishment operated primarily for profit.~~

10 ~~(3)~~(1) "Department" means the department of health and environmental sciences.

11 ~~(4)~~(2) "Establishment" means a hotel, motel, roominghouse, boardinghouse, ~~retirement home,~~ or  
12 tourist home.

13 ~~(5)~~(3) "Hotel" or "motel" includes a building or structure kept, used, maintained as, advertised as,  
14 or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodginghouse, or place  
15 where sleeping accommodations are furnished for a fee to transient guests, with or without meals.

16 ~~(6)~~(4) "Person" includes an individual, partnership, corporation, association, county, municipality,  
17 cooperative group, or other entity engaged in the business of operating, owning, or offering the services  
18 of a hotel, motel, boardinghouse, tourist home, ~~retirement home,~~ or roominghouse.

19 ~~(7)~~(5) "Roominghouse", or "boardinghouse", ~~or "retirement home"~~ means buildings in which  
20 separate sleeping rooms are rented ~~providing that provide~~ sleeping accommodations for three or more  
21 persons on a weekly, semimonthly, monthly, or permanent basis, whether or not meals or central kitchens  
22 are provided but without separated cooking facilities or kitchens within each room, and whose occupants  
23 do not need professional nursing or personal-care services provided by the facility.

24 ~~(8)~~(6) "Tourist home" means an establishment or premises where sleeping accommodations are  
25 furnished to transient guests for hire or rent on a daily or weekly rental basis in a private home when the  
26 accommodations are offered for hire or rent for the use of the traveling public.

27 ~~(9)~~(7) "Transient guest" means a guest for only a brief stay, such as the traveling public."  
28

29 **Section 9.** Section 50-51-201, MCA, is amended to read:

30 **"50-51-201. License required.** (1) Each year, every person engaged in the business of conducting

1 or operating a hotel, motel, tourist home, boardinghouse, ~~retirement home~~, or roominghouse shall procure  
2 a license issued by the department.

3 (2) A separate license is required for each establishment; however, ~~where~~ when more than one of  
4 each type of establishment is operated on the same premises and under the same management, only one  
5 license is required ~~which shall~~ that must enumerate on the certificate ~~thereof~~ the types of establishments  
6 licensed.

7 (3) Before a license may be issued by the department, it must be validated by the local health  
8 officer, or, if there is no local health officer, the sanitarian, in the county where the establishment is  
9 located."

10  
11 NEW SECTION. **Section 10. Requirements for home infusion therapy services.** An agency  
12 providing home infusion therapy services shall directly provide either the home infusion therapy services  
13 or skilled nursing services and may either directly provide or may arrange for the provision of the other  
14 services.

15  
16 NEW SECTION. **Section 11. Requirements for retirement homes.** A retirement home may offer  
17 meals or central kitchens but may not offer nursing or personal care services to the residents, other than  
18 by a contract with a third party.

19  
20 NEW SECTION. **Section 12. Repealer.** Sections 52-3-301, 52-3-302, 52-3-303, 52-3-304,  
21 52-3-305, 52-3-311, 52-3-312, 52-3-313, and 52-3-314, MCA, are repealed.

22  
23 NEW SECTION. **Section 13. Codification instruction.** [Sections 10 and 11] are intended to be  
24 codified as an integral part of Title 50, chapter 5, part 2, and the provisions of Title 50, chapter 5, part 2,  
25 apply to [sections 10 and 11].

26 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0301, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A act relating to health care facilities; providing definitions; clarifying that the Department of Health and Environmental Sciences (DHES) may require written evidence for licensure; requiring notice to the department that a health care facility is ready to be inspected; removing the requirement for an annual physicians statement and visit for placement of a resident in a Category A personal care facility; deleting minimum resident requirements for Category A personal care facilities; providing requirements for home infusion therapy services and for retirement homes.

ASSUMPTIONS:

1. The Executive Budget present law base serves as the starting point for calculating any fiscal impact due to this proposed legislation.
2. This bill revises the definition of an adult foster care home to more closely resemble the current definition of a Category A personal-care facility, as defined in 50-5-227, MCA.
3. The licensure of adult foster care homes is transferred to DHES from the Department of Family Services (DFS). DFS does not currently charge fees for licensure of these homes.
4. DFS reports show there are 112 licensed adult foster care homes. These will be licensed as Category A personal-care facilities by DHES. The number of clients in these adult foster care homes totals 283, with 100 of those clients eligible for state supplemental security income (SSI) payments, which are made by DFS. The SSI payment is funded entirely by general fund.
5. The state SSI payment is currently \$52.75 per month for an eligible client in an adult foster care home and \$94.00 per month for a client in a personal-care facility, group home for the mentally ill, or a community home for the physically or developmentally disabled.
6. The state SSI payment for clients will increase from the current \$52.75 per month per client to \$94.00 per month per client, due to the new licensure category for these homes.
7. The cost will be \$49,500 additional general fund per year. ( $\$94.00 - \$52.75 = \$41.25$  per month X 100 eligible clients X 12 months = \$49,500 per year)
8. DFS will see a reduction of 3% in licensing responsibility, amounting to approximately \$4,500 per year which will be transferred from DFS to DHES to perform the licensing tasks. No FTE will be transferred. The funding is entirely general fund.
9. DHES will license approximately 980 retirement home beds in 19 facilities. Based on current license fees, the department estimates it will generate \$1,050 in fees which will be deposited to the general fund.
10. DHES will license 122 adult foster care facilities. Based on current license fees, the department estimates it will generate \$2,440 in license revenue which will be deposited to the general fund.

FISCAL IMPACT:

Expenditures:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
SSI Expenditures	49,500	49,500
Reduce DFS Expenditures for Licensure	(4,500)	(4,500)
Increase DHES Expenditures for Licensure	<u>4,500</u>	<u>4,500</u>
Total Expenditures	49,500	49,500

Funding:

General Fund Increase	49,500	49,500
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(continued)

*Dave Lewis* 1-27-95  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

*Loren Soft* 1-27-95  
 LOREN SOFT, PRIMARY SPONSOR      DATE

*This fiscal note is drastically different from the one prepared by Mr. Karp - License Bureau Chief DHES. The note shows a \$0 net impact.* JS.

Fiscal Note for HB0301, as introduced

HB 301



Fiscal Note Request, HB0301, as introduced

Page 2

(continued)

Revenues:

Retirement Home Fees (to GF)	1,050	1,050
Adult Foster Care (to GF)	<u>2,440</u>	<u>2,440</u>
General Fund Increase	3,490	3,490

Net Impact:

General Fund Cost	46,010	46,010
-------------------	--------	--------

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Counties currently receive 85% of the license fee for Retirement Homes to offset the cost of inspecting the facilities by county sanitarians. These fees would no longer go to the county. However, the county would no longer be required to inspect retirement homes and incur the related expenditures, so there would be no fiscal impact.

STATE OF MONTANA - FISCAL NOTE

Revised Fiscal Note for HB0301, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A act relating to health care facilities; providing definitions; clarifying that the Department of Health and Environmental Sciences (DHES) may require written evidence for licensure; requiring notice to the department that a health care facility is ready to be inspected; removing the requirement for an annual physicians statement and visit for placement of a resident in a Category A personal care facility; deleting minimum resident requirements for Category A personal care facilities; providing requirements for home infusion therapy services and for retirement homes.

ASSUMPTIONS:

1. The Executive Budget present law base serves as the starting point for calculating any fiscal impact due to this proposed legislation.
2. The licensure of adult foster care homes is transferred to DHES from the Department of Family Services (DFS). DFS does not currently charge fees for licensure of these homes.
3. Since DHES would license the homes under the same category as DFS, the Supplemental Security Income (SSI) payments would not change from \$52.75 per client per month to \$94.00 per client per month, as stated in the initial fiscal note.
4. DFS will see a reduction of 3% in licensing responsibility, amounting to approximately \$4,500 per year which will be transferred from DFS to DHES to perform the licensing tasks. No FTE will be transferred. The funding is entirely general fund.
5. DHES will license approximately 980 retirement home beds in 19 facilities. Based on current license fees, the department estimates it will generate \$1,050 in fees which will be deposited to the general fund.
6. DHES will license 122 adult foster care facilities. Based on current license fees, the department estimates it will generate \$2,440 in license revenue which will be deposited to the general fund.

FISCAL IMPACT:

Expenditures:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
Reduce DFS Expenditures for Licensure	(4,500)	(4,500)
Increase DHES Expenditures for Licensure	<u>4,500</u>	<u>4,500</u>
Total Expenditures	0	0

Revenues:

Retirement Home Fees (to GF)	1,050	1,050
Adult Foster Care (to GF)	<u>2,440</u>	<u>2,440</u>
General Fund Increase	3,490	3,490

Net Impact:

General Fund Increase	3,490	3,490
-----------------------	-------	-------

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Counties currently receive 85% of the license fee for Retirement Homes to offset the cost of inspecting the facilities by county sanitarians. These fees would no longer go to the county. However, the county would no longer be required to inspect retirement homes and incur the related expenditures, so there would be no fiscal impact.

Dave Lewis 1-30-95  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

Loren Soft 1-31-95  
 LOREN SOFT, PRIMARY SPONSOR      DATE

Revised Fiscal Note for HB0301, as introduced

**HB 301 #2 Rev.**

## 1 HOUSE BILL NO. 301

2 INTRODUCED BY SOFT, KASTEN

3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO HEALTH CARE FACILITIES; PROVIDING  
6 DEFINITIONS; CLARIFYING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES MAY  
7 REQUIRE WRITTEN EVIDENCE FOR LICENSURE; REQUIRING NOTICE TO THE DEPARTMENT THAT A  
8 HEALTH CARE FACILITY IS READY TO BE INSPECTED; REMOVING THE REQUIREMENT FOR AN ANNUAL  
9 PHYSICIAN'S STATEMENT AND VISIT FOR PLACEMENT OF A RESIDENT IN A CATEGORY A  
10 PERSONAL-CARE FACILITY; DELETING MINIMUM RESIDENT REQUIREMENTS FOR CATEGORY A  
11 PERSONAL-CARE FACILITIES; PROVIDING REQUIREMENTS FOR HOME INFUSION THERAPY SERVICES,  
12 ADULT FOSTER CARE HOMES, AND FOR RETIREMENT HOMES; AMENDING SECTIONS 50-4-102,  
13 50-5-101, 50-5-103, 50-5-204, 50-5-226, 50-5-227, 50-5-301, 50-51-102, AND 50-51-201, MCA; AND  
14 REPEALING SECTIONS 52-3-301, 52-3-302, 52-3-303, 52-3-304, 52-3-305, 52-3-311, 52-3-312,  
15 52-3-313, AND 52-3-314, MCA."

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
1819 **Section 1.** Section 50-5-101, MCA, is amended to read:20 **"50-5-101. Definitions.** As used in parts 1 through 4 of this chapter, unless the context clearly  
21 indicates otherwise, the following definitions apply:

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

23 (2) "Adult day-care center" means a facility, freestanding or connected to another health care  
24 facility, that provides adults, ~~on an intermittent~~ on a regularly scheduled basis, with the care necessary to meet  
25 the needs of daily living but that does not provide overnight care.26 (3) (A) "Adult foster care HOME" means a private home that offers LIGHT personal care or  
27 custodial care to four or fewer disabled adults or aged persons who are not related by blood or marriage  
28 to the owner of the home.29 (B) AS USED IN THIS SUBSECTION (3), THE FOLLOWING DEFINITIONS APPLY:30 (I) "AGED PERSON" MEANS A PERSON AS DEFINED BY DEPARTMENT RULE AS AGED.

1           (II) "CUSTODIAL CARE" MEANS PROVIDING A SHELTERED, FAMILY-TYPE SETTING FOR AN AGED  
2 PERSON OR DISABLED ADULT SO AS TO PROVIDE FOR THE PERSON'S BASIC NEEDS OF FOOD AND  
3 SHELTER AND TO ENSURE THAT A SPECIFIC PERSON IS AVAILABLE TO MEET THOSE BASIC NEEDS.

4           (III) "DISABLED ADULT" MEANS A PERSON WHO IS 18 YEARS OF AGE OR OLDER AND WHO IS  
5 DEFINED BY DEPARTMENT RULE AS DISABLED.

6           (IV) "LIGHT PERSONAL CARE" MEANS ASSISTING THE AGED PERSON OR DISABLED ADULT IN  
7 ACCOMPLISHING SUCH PERSONAL HYGIENE TASKS AS BATHING, DRESSING, HAIR GROOMING, AND  
8 SUPERVISION OF PRESCRIPTIVE MEDICINE ADMINISTRATION. THE TERM DOES NOT INCLUDE THE  
9 ADMINISTRATION OF PRESCRIPTIVE MEDICATIONS.

10           (V) "SKILLED NURSING CARE" MEANS 24-HOUR CARE SUPERVISED BY A REGISTERED NURSE  
11 OR A LICENSED PRACTICAL NURSE UNDER THE ORDERS OF AN ATTENDING PHYSICIAN.

12           ~~(3)~~(4) "Affected person" means an applicant for certificate of need, a member of the public who  
13 will be served by the proposal, a health care facility located in the geographic area affected by the  
14 application, an agency that establishes rates for health care facilities, a third-party payer who reimburses  
15 health care facilities in the area affected by the proposal, or an agency that plans or assists in planning for  
16 health care facilities.

17           ~~(4)~~(5) "Ambulatory surgical facility" means a facility, ~~not part of a hospital~~, that provides surgical  
18 treatment to patients not requiring hospitalization. This type of facility may include observation beds for  
19 patient recovery from surgery or other treatment.

20           ~~(5)~~(6) "Batch" means those letters of intent to seek approval for new beds or major medical  
21 equipment that are accumulated during a single batching period.

22           ~~(6)~~(7) "Batching period" means a period, not exceeding 1 month, established by department rule  
23 during which letters of intent to seek approval for new beds or major medical equipment are accumulated  
24 pending further processing of all letters of intent within the batch.

25           ~~(7)~~(8) "Board" means the board of health and environmental sciences, provided for in 2-15-2104.

26           ~~(8)~~(9) "Capital expenditure" means:

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

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

1           ~~(9)~~(10) "Certificate of need" means a written authorization by the department for a person to  
2 proceed with a proposal subject to 50-5-301.

3           ~~(10)~~(11) "Challenge period" means a period, not exceeding 1 month, established by department rule  
4 during which a person may apply for comparative review with an applicant whose letter of intent has been  
5 received during the preceding batching period.

6           ~~(11)~~(12) "Chemical dependency facility" means a facility whose function is the treatment,  
7 rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates  
8 behavioral or health problems and endangers the health, interpersonal relationships, or economic function  
9 of an individual or the public health, welfare, or safety.

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

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

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

20           ~~(15)~~(16) "Construction" means the physical erection of a health care facility and any stage of the  
21 physical erection, including ground breaking, or remodeling, replacement, or renovation of an existing health  
22 care facility.

23           ~~(16)~~(17) "Department" means the department of health and environmental sciences provided for  
24 in Title 2, chapter 15, part 21.

25           (18) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney  
26 diseases and includes freestanding hemodialysis units.

27           ~~(17)~~(19) "Federal acts" means federal statutes for the construction of health care facilities.

28           ~~(18)~~(20) "Governmental unit" means the state, a state agency, a county, municipality, or political  
29 subdivision of the state, or an agency of a political subdivision.

30           ~~(19)~~(21) "Health care facility" or "facility" means all or a portion of an institution, building, or

1 agency, private or public, excluding federal facilities, whether organized for profit or not, used, operated,  
 2 or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to  
 3 any individual. The term does not include offices of private physicians or dentists. The term includes ~~but~~  
 4 ~~is not limited to~~ ambulatory surgical facilities, chemical dependency facilities, end-stage renal dialysis  
 5 facilities, health maintenance organizations, home health agencies, home infusion therapy agencies,  
 6 hospices, hospitals, infirmaries, ~~kidney treatment centers~~, long-term care facilities, medical assistance  
 7 facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential  
 8 care facilities, and residential treatment facilities, and adult day care centers.

9 ~~(20)~~(22) "Health maintenance organization" means a public or private organization that provides  
 10 or arranges for health care services to enrollees on a prepaid or other financial basis, either directly through  
 11 provider employees or through contractual or other arrangements with a provider or group of providers.

12 ~~(21)~~(23) "Home health agency" means a public agency or private organization or subdivision of the  
 13 agency or organization that is engaged in providing home health services to individuals in the places where  
 14 they live. Home health services must include the services of a licensed registered nurse and at least one  
 15 other therapeutic service and may include additional support services.

16 (24) "Home infusion therapy agency" means a health care facility that provides home infusion  
 17 therapy services.

18 (25) "Home infusion therapy services" means the preparation, administration, or furnishing of  
 19 parenteral medications or parenteral or enteral nutritional services to an individual in that individual's  
 20 residence. The services include an educational component for the patient, the patient's caregiver, or the  
 21 patient's family member.

22 ~~(22)~~(26) "Hospice" means a coordinated program of home and inpatient health care that provides  
 23 or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's  
 24 family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the  
 25 final stages of illness and dying and that includes formal bereavement programs as an essential component.  
 26 The term includes:

27 (a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice  
 28 that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

29 (b) a residential hospice facility, which is a facility managed directly by a licensed hospice program  
 30 that can house three or more hospice patients.

1           ~~(23)~~(27) "Hospital" means a facility providing, by or under the supervision of licensed physicians,  
 2 services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals.  
 3 Services provided may or may not include obstetrical care, emergency care, or any other service as allowed  
 4 by state licensing authority. A hospital has an organized medical staff that is on call and available within  
 5 20 minutes, 24 hours per day, 7 days per week, and provides 24-hour nursing care by licensed registered  
 6 nurses. This term includes hospitals specializing in providing health services for psychiatric, mentally  
 7 retarded, and tubercular patients.

8           ~~(24)~~(28) "Infirmiry" means a facility located in a university, college, government institution, or  
 9 industry for the treatment of the sick or injured, with the following subdefinitions:

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

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

12           ~~(25)~~(29) "Joint commission on accreditation of hospitals" means the organization nationally  
 13 recognized by that name with headquarters in Chicago, Illinois, that surveys health care facilities upon their  
 14 requests and grants accreditation status to a health care facility that it finds meets its standards and  
 15 requirements.

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

18           ~~(27)~~(30) (a) "Long-term care facility" means a facility or part of a facility that provides skilled  
 19 nursing care, RESIDENTIAL CARE, intermediate nursing care, or intermediate developmental disability care  
 20 to a total of two or more individuals or that provides personal care. The term does not include ~~adult foster~~  
 21 ~~care licensed under 52-3-303 residential care facilities~~, community homes for the developmentally disabled  
 22 licensed under 53-20-305, community homes for individuals with severe disabilities licensed under  
 23 52-4-203, youth care facilities licensed under 41-3-1142, hotels, motels, boardinghouses, roominghouses,  
 24 or similar accommodations providing for transients, students, or individuals not requiring institutional health  
 25 care, or juvenile and adult correctional facilities operating under the authority of the department of  
 26 corrections and human services.

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

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

1 nursing care.

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

5 (e) "Personal care" means the provision of services and care for residents needing some assistance  
6 in performing the activities of daily living.

7 ~~(28)~~(31) "Major medical equipment" means a single unit of medical equipment or a single system  
8 of components with related functions which is used to provide medical or other health services and costs  
9 a substantial sum of money.

10 ~~(29)~~(32) "Medical assistance facility" means a facility that:

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

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

15 ~~(30)~~(33) "Mental health center" means a facility providing services for the prevention or diagnosis  
16 of mental illness, the care and treatment of mentally ill patients or the rehabilitation of mentally ill  
17 individuals, or any combination of these services.

18 ~~(31)~~(34) "Nonprofit health care facility" means a health care facility owned or operated by one or  
19 more nonprofit corporations or associations.

20 ~~(32)~~(35) "Observation bed" means a bed occupied for not more than 6 hours by a patient recovering  
21 from surgery or other treatment.

22 ~~(33)~~(36) "Offer" means the holding out by a health care facility that it can provide specific health  
23 services.

24 ~~(34)~~(37) "Outpatient facility" means a facility, located in or apart from a hospital, providing, under  
25 the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients in need  
26 of medical, surgical, or mental care. An outpatient facility may have observation beds.

27 ~~(35)~~(38) "Patient" means an individual obtaining services, including skilled nursing care, from a  
28 health care facility.

29 ~~(36)~~(39) "Person" means any individual, firm, partnership, association, organization, agency,  
30 institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.



1           ~~(40)~~ "Personal-care facility" means a facility in which personal care is provided for residents in  
 2 either a category A facility or a category B facility as provided in 50-5-227.

3           ~~(37)~~(41) "Public health center" means a publicly owned facility providing health services, including  
 4 laboratories, clinics, and administrative offices.

5           ~~(38)~~(42) "Rehabilitation facility" means a facility that is operated for the primary purpose of  
 6 assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and  
 7 services, psychological and social services, or vocational evaluation and training or any combination of  
 8 these services and in which the major portion of the services is furnished within the facility.

9           ~~(39)~~(43) "Resident" means an individual who is in a long-term care facility ~~for intermediate or~~  
 10 ~~personal care or in a residential care facility.~~

11           (44) "Residential care facility" means an adult day-care center, an adult foster care home, a  
 12 personal-care facility, or a retirement home.

13           ~~(40)~~(45) "Residential psychiatric care" means active psychiatric treatment provided in a residential  
 14 treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological,  
 15 or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or  
 16 remedy the individual's condition. Residential psychiatric care must be individualized and designed to  
 17 achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

18           ~~(41)~~(46) "Residential treatment facility" means a facility operated for the primary purpose of  
 19 providing residential psychiatric care to individuals under 21 years of age.

20           (47) "Retirement home" means a building or buildings in which separate living accommodations  
 21 are rented or leased to individuals who use those accommodations as their primary residence.

22           ~~(42)~~(48) "State health plan" means the plan prepared by the department to project the need for  
 23 health care facilities within Montana and approved by the statewide health coordinating council and the  
 24 governor."

25  
 26           **Section 2.** Section 50-4-102, MCA, is amended to read:

27           **"50-4-102. Definitions.** For the purposes of this chapter, the following definitions apply:

28           (1) "Authority" means the Montana health care authority created by 50-4-201.

29           (2) "Board" means one of the regional health care planning boards created pursuant to 50-4-401.

30           (3) "Certificate of public advantage" or "certificate" means a written certificate issued by the

1 authority as evidence of the authority's intention that the implementation of a cooperative agreement, when  
2 actively supervised by the authority, receive state action immunity from prosecution as a violation of state  
3 or federal antitrust laws.

4 (4) "Cooperative agreement" or "agreement" means a written agreement between two or more  
5 health care facilities for the sharing, allocation, or referral of patients; personnel; instructional programs;  
6 emergency medical services; support services and facilities; medical, diagnostic, or laboratory facilities or  
7 procedures; or other services customarily offered by health care facilities.

8 (5) "Data base" means the unified health care data base created pursuant to 50-4-502.

9 (6) "Health care" includes both physical health care and mental health care.

10 (7) "Health care facility" means all facilities and institutions, whether public or private, proprietary  
11 or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated  
12 persons. The term includes all health care facilities and institutions included as defined in 50-5-101(19).  
13 The term does not apply to a facility operated by religious groups relying solely on spiritual means, through  
14 prayer, for healing.

15 (8) "Health insurer" means any health insurance company, health service corporation, health  
16 maintenance organization, insurer providing disability insurance as described in 33-1-207, and, to the extent  
17 permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care  
18 benefit plan offered by public and private entities.

19 (9) "Health care provider" or "provider" means a person who is licensed, certified, or otherwise  
20 authorized by the laws of this state to provide health care in the ordinary course of business or practice of  
21 a profession.

22 (10) "Management plan" means the health care resource management plan required by 50-4-304.

23 (11) "Region" means one of the health care planning regions created pursuant to 50-4-401.

24 (12) "Statewide plan" means one of the statewide universal health care access plans for access  
25 to health care required by 50-4-301."  
26

27 **Section 3.** Section 50-5-103, MCA, is amended to read:

28 **"50-5-103. Rules and standards -- accreditation by joint commission.** (1) The department shall  
29 promulgate and adopt rules and minimum standards for implementation of parts 1 and 2.

30 (2) Any facility covered by this chapter shall comply with the state and federal requirements

1 relating to construction, equipment, and fire and life safety.

2 (3) The department shall extend a reasonable time for compliance with rules for parts 1 and 2 upon  
3 adoption.

4 (4) Any hospital that furnishes written evidence required by the department, including the  
5 recommendation for future compliance statements to the department of its accreditation granted by the  
6 joint commission on accreditation of health care organizations, is eligible for licensure in the state for the  
7 accreditation period and may not be subjected to an inspection by the department for purposes of the  
8 licensing process. The department may, in addition to its inspection authority in 50-5-116, inspect any  
9 licensed health care facility to answer specific complaints made in writing by any person against the facility  
10 when the complaints pertain to licensing requirements. Inspection by the department upon a specific  
11 complaint made in writing pertaining to licensing requirements is limited to the specific area or condition  
12 of the health care facility to which the complaint pertains.

13 (5) The department may consider as eligible for licensure during the accreditation period any health  
14 care facility, other than a hospital, that furnishes written evidence, including the recommendation for future  
15 compliance statements, of its accreditation by the joint commission on accreditation of health care  
16 organizations. The department may inspect a health care facility considered eligible for licensure under this  
17 section to ensure compliance with state licensure standards."  
18

19 **Section 4.** Section 50-5-204, MCA, is amended to read:

20 "**50-5-204. Issuance and renewal of licenses -- inspections.** (1) After receipt of a new application  
21 and notice that the facility is ready to be inspected, the department or its authorized agent shall conduct  
22 an initial inspection of the facility within 45 days.

23 (2) After receipt of an application for renewal of a license, the department or its authorized agent  
24 shall inspect the facility without prior notice to the operator or staff.

25 (3) If the department determines that the facility meets minimum standards and the proposed or  
26 existing staff is qualified, the department shall issue a license for a period of 1 to 3 years in duration.

27 (4) If minimum standards are not met, the department may issue a provisional license for less than  
28 1 year if operation will not result in undue hazard to patients or residents or if the demand for  
29 accommodations offered is not met in the community.

30 (5) The minimum standards ~~which~~ that home health agencies must meet in order to be licensed

1 must be as outlined in 42 U.S.C. 1395x(o), as amended, and in rules implementing it ~~which~~ that add  
2 minimum standards.

3 (6) The department may inspect a licensed health care facility whenever it considers it necessary.  
4 The entire premises of a licensed facility must be open to inspection, and access to all records must be  
5 granted at all reasonable times."  
6

7 **Section 5.** Section 50-5-226, MCA, is amended to read:

8 **"50-5-226. Placement in personal-care facilities.** (1) A personal-care facility may provide  
9 personal-care services to a resident who is 18 years of age or older and in need of the personal care for  
10 which the facility is licensed under 50-5-227.

11 (2) A resident of a personal-care facility licensed as a category A facility under 50-5-227 may  
12 obtain third-party provider services for skilled nursing care for no more than 20 consecutive days at a time.

13 (3) A resident of a personal-care facility licensed as a category B facility under 50-5-227 must have  
14 a signed statement from a physician agreeing to the resident's admission to the facility if the resident is:

15 (a) in need of skilled nursing care;

16 (b) in need of medical, physical, or chemical restraint;

17 (c) nonambulatory or bedridden;

18 (d) incontinent to the extent that bowel or bladder control is absent; or

19 (e) unable to self-administer medications.

20 (4) A resident of a category B personal-care facility who needs skilled nursing care must have a  
21 signed statement, renewed on ~~an annual basis for a category A facility and on a quarterly basis for a~~  
22 ~~category B facility, from~~ by a physician, a physician assistant-certified, a nurse practitioner, or a registered  
23 nurse, whose work is unrelated to the operation of the facility and who:

24 (a) actually visited the facility within the ~~year covered by the statement for a category A facility~~  
25 ~~and within the calendar quarter covered by the statement for a category B facility;~~

26 (b) has certified that the particular needs of the resident can be adequately met in the facility; and

27 (c) has certified that there has been no significant change in health care status that would require  
28 another level of care.

29 (5) The department shall, in consultation with the department of social and rehabilitation services,  
30 provide by rule:

- 1 (a) an application or placement procedure informing a prospective resident and, if applicable, the  
 2 resident's physician of:
- 3 (i) physical and mental standards for residents of personal-care facilities;
- 4 (ii) requirements for placement in a facility with a higher standard of care if a resident's condition  
 5 deteriorates; and
- 6 (iii) the services offered by the facility and services that a resident may receive from third-party  
 7 providers while resident in the facility;
- 8 (b) standards to be used by a facility and, if appropriate, by a screening agency to screen residents  
 9 and prospective residents to prevent residence by individuals referred to in subsection (3);
- 10 (c) a method by which the results of any screening decision made pursuant to rules established  
 11 under subsection (5)(b) may be appealed by the facility operator or by or on behalf of a resident or  
 12 prospective resident;
- 13 (d) standards for operating a category A personal-care facility, including standards for the physical,  
 14 structural, environmental, sanitary, infection control, dietary, social, staffing, and recordkeeping  
 15 components of a facility; and
- 16 (e) standards for operating a category B personal-care facility, which must include the standards  
 17 for a category A personal-care facility and additional standards for assessment of residents, care planning,  
 18 qualifications and training of staff, restraint use and reduction, prevention and care of pressure sores,  
 19 incontinence care, and the storage and administration of drugs."

20

21 **Section 6.** Section 50-5-227, MCA, is amended to read:

22 **"50-5-227. Licensing personal-care facilities.** (1) The department shall, in consultation with the  
 23 department of social and rehabilitation services, by rule adopt standards for licensing and operation of  
 24 personal-care facilities to implement the provisions of 50-5-225 and 50-5-226.

25 (2) The following licensing categories must be used by the department in adopting rules under  
 26 subsection (1):

- 27 (a) category A--a facility providing personal care to ~~six or more~~ residents who may not be:
- 28 (i) in need of skilled nursing care;
- 29 (ii) in need of medical, chemical, or physical restraint;
- 30 (iii) nonambulatory or bedridden;

1 (iv) incontinent to the extent that bowel or bladder control is absent; or

2 (v) unable to self-administer medications; or

3 (b) category B--a facility providing personal care to five or fewer residents who may be:

4 (i) in need of skilled nursing care;

5 (ii) in need of medical, chemical, or physical restraint;

6 (iii) nonambulatory or bedridden;

7 (iv) incontinent to the extent that bowel or bladder control is absent; or

8 (v) unable to self-administer medications.

9 (3) The department may by rule establish license fees, inspection fees, and fees for patient  
10 screening. Fees must be reasonably related to service costs."

11  
12 **Section 7.** Section 50-5-301, MCA, is amended to read:

13 **"50-5-301. When certificate of need is required -- definitions.** (1) Unless a person has submitted  
14 an application for and is the holder of a certificate of need granted by the department, the person may not  
15 initiate any of the following:

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

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

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

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

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

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

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

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

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

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

13 (f) the construction, development, or other establishment of a health care facility that is being  
14 replaced or that did not previously exist, by any person, including another type of health care facility;

15 (g) the expansion of the geographical service area of a home health agency;

16 (h) the use of hospital beds to provide services to patients or residents needing only skilled nursing  
17 care, intermediate nursing care, or intermediate developmental disability care, as those levels of care are  
18 defined in 50-5-101; or

19 (i) the provision by a hospital of services for ambulatory surgical care, home health care, long-term  
20 care, inpatient mental health care, inpatient chemical dependency treatment, or inpatient rehabilitation.

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

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

25 (a) "Health care facility" or "facility" means a nonfederal ambulatory surgical facility, home health  
26 agency, long-term care facility, medical assistance facility, mental health center with inpatient services,  
27 inpatient chemical dependency facility, rehabilitation facility with inpatient services, or residential treatment  
28 facility. The term does not include:

29 (i) a hospital, except to the extent that a hospital is subject to certificate of need requirements  
30 pursuant to subsection (1)(i); or

1 (ii) an office of a private physician, dentist, or other physical or mental health care professionals,  
2 including chemical dependency counselors.

3 (b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate  
4 nursing care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or  
5 more individuals.

6 (ii) The term does not include ~~adult foster care, licensed under 52-3-303~~ residential care facilities  
7 AS DEFINED IN 50-5-101; community homes for the developmentally disabled, licensed under 53-20-305;  
8 community homes for persons with severe disabilities, licensed under 52-4-203; boarding or foster homes  
9 for children, licensed under 41-3-1142; hotels, motels, boardinghouses, roominghouses, or similar  
10 accommodations providing for transients, students, or individuals not requiring institutional health care; or  
11 juvenile and adult correctional facilities operating under the authority of the department of corrections and  
12 human services.

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

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

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

19 (b) For construction of health care facilities, the expenditure threshold is \$1,500,000."  
20

21 **Section 8.** Section 50-51-102, MCA, is amended to read:

22 **"50-51-102. Definitions.** Unless the context requires otherwise, in this chapter, the following  
23 definitions apply:

24 ~~(1) "Board" means the board of health and environmental sciences.~~

25 ~~(2) "Commercial establishment" means an establishment operated primarily for profit.~~

26 ~~(3)~~(1) "Department" means the department of health and environmental sciences.

27 ~~(4)~~(2) "Establishment" means a hotel, motel, roominghouse, boardinghouse, ~~retirement home,~~ or  
28 tourist home.

29 ~~(5)~~(3) "Hotel" or "motel" includes a building or structure kept, used, maintained as, advertised as,  
30 or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodginghouse, or place



1 where sleeping accommodations are furnished for a fee to transient guests, with or without meals.

2 ~~(6)~~(4) "Person" includes an individual, partnership, corporation, association, county, municipality,  
3 cooperative group, or other entity engaged in the business of operating, owning, or offering the services  
4 of a hotel, motel, boardinghouse, tourist home, ~~retirement home~~, or roominghouse.

5 ~~(7)~~(5) "Roominghouse", or "boardinghouse", ~~or "retirement home"~~ means buildings in which  
6 separate sleeping rooms are rented ~~providing~~ that provide sleeping accommodations for three or more  
7 persons on a weekly, semimonthly, monthly, or permanent basis, whether or not meals or central kitchens  
8 are provided but without separated cooking facilities or kitchens within each room, and whose occupants  
9 do not need professional nursing or personal-care services provided by the facility.

10 ~~(8)~~(6) "Tourist home" means an establishment or premises where sleeping accommodations are  
11 furnished to transient guests for hire or rent on a daily or weekly rental basis in a private home when the  
12 accommodations are offered for hire or rent for the use of the traveling public.

13 ~~(9)~~(7) "Transient guest" means a guest for only a brief stay, such as the traveling public."  
14

15 **Section 9.** Section 50-51-201, MCA, is amended to read:

16 **"50-51-201. License required.** (1) Each year, every person engaged in the business of conducting  
17 or operating a hotel, motel, tourist home, boardinghouse, ~~retirement home~~, or roominghouse shall procure  
18 a license issued by the department.

19 (2) A separate license is required for each establishment; however, ~~where~~ when more than one of  
20 each type of establishment is operated on the same premises and under the same management, only one  
21 license is required ~~which shall~~ that must enumerate on the certificate ~~thereof~~ the types of establishments  
22 licensed.

23 (3) Before a license may be issued by the department, it must be validated by the local health  
24 officer, or, if there is no local health officer, the sanitarian, in the county where the establishment is  
25 located."  
26

27 **NEW SECTION. Section 10. Requirements for home infusion therapy services.** An agency  
28 providing home infusion therapy services shall directly provide either the home infusion therapy services  
29 or skilled nursing services and may either directly provide or may arrange for the provision of the other  
30 services.

1            NEW SECTION. Section 11. Requirements for retirement homes. A retirement home ~~may~~ SHALL  
2 offer meals or central kitchens but may not offer nursing or personal care services to the residents, other  
3 than by a contract with a third party.

4  
5            NEW SECTION. SECTION 12. STANDARDS FOR ADULT FOSTER CARE HOMES. THE  
6 DEPARTMENT MAY ADOPT RULES ESTABLISHING STANDARDS FOR THE LICENSING OF ADULT FOSTER  
7 CARE HOMES. THE STANDARDS MUST PROVIDE FOR THE SAFETY AND COMFORT OF THE RESIDENTS  
8 AND MAY BE ADOPTED BY THE DEPARTMENT ONLY AFTER RECEIVING THE ADVICE AND  
9 RECOMMENDATIONS OF THE STATE FIRE PREVENTION AND INVESTIGATION PROGRAM OF THE  
10 DEPARTMENT OF JUSTICE IN RELATION TO FIRE AND SAFETY REQUIREMENTS FOR ADULT FOSTER  
11 CARE HOMES.

12  
13            NEW SECTION. SECTION 13. LIMITATION ON CARE PROVIDED IN ADULT FOSTER CARE  
14 HOME. (1) EXCEPT AS PROVIDED IN THIS SECTION, THE TYPES OF CARE OFFERED BY ADULT FOSTER  
15 CARE HOMES ARE LIMITED TO LIGHT PERSONAL CARE OR CUSTODIAL CARE AND MAY NOT INCLUDE  
16 SKILLED NURSING CARE.

17            (2) AN ADULT FOSTER CARE HOME MAY BE LICENSED TO PROVIDE CARE FOR AN ADULT WHO  
18 RESIDED IN THE HOME FOR AT LEAST 1 YEAR BEFORE REACHING 18 YEARS OF AGE, EVEN THOUGH  
19 THE ADULT IS:

20            (A) IN NEED OF SKILLED NURSING CARE;

21            (B) IN NEED OF MEDICAL, PHYSICAL, OR CHEMICAL RESTRAINT;

22            (C) NONAMBULATORY OR BEDRIDDEN;

23            (D) INCONTINENT TO THE EXTENT THAT BOWEL OR BLADDER CONTROL IS ABSENT; OR

24            (E) UNABLE TO SELF-ADMINISTER MEDICATIONS.

25            (3) AN ADULT FOSTER CARE HOME THAT APPLIES FOR A LICENSE UNDER SUBSECTION (2)  
26 MUST HAVE A SIGNED STATEMENT FROM A PHYSICIAN AGREEING THAT THE CARE NEEDED BY THE  
27 ADULT MAY BE PROVIDED IN THE HOME.

28            (4) A RESIDENT OF AN ADULT FOSTER CARE HOME LICENSED UNDER SUBSECTION (2) MUST  
29 HAVE A SIGNED STATEMENT, RENEWED ON AN ANNUAL BASIS, FROM A PHYSICIAN, A PHYSICIAN  
30 ASSISTANT-CERTIFIED, A NURSE PRACTITIONER, OR A REGISTERED NURSE, WHOSE WORK IS

1 UNRELATED TO THE OPERATION OF THE HOME AND WHO:  
 2 (A) ACTUALLY VISITED THE HOME WITHIN THE YEAR COVERED BY THE STATEMENT;  
 3 (B) HAS CERTIFIED THAT THE PARTICULAR NEEDS OF THE RESIDENT CAN BE ADEQUATELY  
 4 MET IN THE HOME; AND  
 5 (C) HAS CERTIFIED THAT THERE HAS BEEN NO SIGNIFICANT CHANGE IN HEALTH CARE  
 6 STATUS THAT WOULD REQUIRE ANOTHER LEVEL OF CARE.

7  
 8 NEW SECTION. Section 14. Repealer. Sections 52-3-301, 52-3-302, 52-3-303, 52-3-304,  
 9 52-3-305, 52-3-311, 52-3-312, 52-3-313, and 52-3-314, MCA, are repealed.

10  
 11 NEW SECTION. Section 15. Codification instruction. [Sections 10 ~~and 11~~ THROUGH 13] are  
 12 intended to be codified as an integral part of Title 50, chapter 5, part 2, and the provisions of Title 50,  
 13 chapter 5, part 2, apply to [sections 10 ~~and 11~~ THROUGH 13].

14 -END-

## 1 HOUSE BILL NO. 301

2 INTRODUCED BY SOFT, KASTEN

3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO HEALTH CARE FACILITIES; PROVIDING  
 6 DEFINITIONS; CLARIFYING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES MAY  
 7 REQUIRE WRITTEN EVIDENCE FOR LICENSURE; REQUIRING NOTICE TO THE DEPARTMENT THAT A  
 8 HEALTH CARE FACILITY IS READY TO BE INSPECTED; REMOVING THE REQUIREMENT FOR AN ANNUAL  
 9 PHYSICIAN'S STATEMENT AND VISIT FOR PLACEMENT OF A RESIDENT IN A CATEGORY A  
 10 PERSONAL-CARE FACILITY; DELETING MINIMUM RESIDENT REQUIREMENTS FOR CATEGORY A  
 11 PERSONAL-CARE FACILITIES; PROVIDING REQUIREMENTS FOR HOME INFUSION THERAPY SERVICES,  
 12 ADULT FOSTER CARE HOMES, AND FOR RETIREMENT HOMES; AMENDING SECTIONS 50-4-102,  
 13 50-5-101, 50-5-103, 50-5-204, 50-5-226, 50-5-227, 50-5-301, 50-51-102, AND 50-51-201, MCA; AND  
 14 REPEALING SECTIONS 52-3-301, 52-3-302, 52-3-303, 52-3-304, 52-3-305, 52-3-311, 52-3-312,  
 15 52-3-313, AND 52-3-314, MCA."

16

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

18

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

20 "50-5-101. **Definitions.** As used in parts 1 through 4 of this chapter, unless the context clearly  
 21 indicates otherwise, the following definitions apply:

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

23 (2) "Adult day-care center" means a facility, freestanding or connected to another health care  
 24 facility, that provides adults, on ~~an intermittent~~ a regularly scheduled basis, with the care necessary to meet  
 25 the needs of daily living but that does not provide overnight care.

26 (3) (A) "Adult foster care HOME" means a private home that offers LIGHT personal care or  
 27 custodial care to four or fewer disabled adults or aged persons who are not related by blood or marriage  
 28 to the owner of the home.

29 (B) AS USED IN THIS SUBSECTION (3), THE FOLLOWING DEFINITIONS APPLY:30 (I) "AGED PERSON" MEANS A PERSON AS DEFINED BY DEPARTMENT RULE AS AGED.

1           (II) "CUSTODIAL CARE" MEANS PROVIDING A SHELTERED, FAMILY-TYPE SETTING FOR AN AGED  
 2 PERSON OR DISABLED ADULT SO AS TO PROVIDE FOR THE PERSON'S BASIC NEEDS OF FOOD AND  
 3 SHELTER AND TO ENSURE THAT A SPECIFIC PERSON IS AVAILABLE TO MEET THOSE BASIC NEEDS.

4           (III) "DISABLED ADULT" MEANS A PERSON WHO IS 18 YEARS OF AGE OR OLDER AND WHO IS  
 5 DEFINED BY DEPARTMENT RULE AS DISABLED.

6           (IV) "LIGHT PERSONAL CARE" MEANS ASSISTING THE AGED PERSON OR DISABLED ADULT IN  
 7 ACCOMPLISHING SUCH PERSONAL HYGIENE TASKS AS BATHING, DRESSING, HAIR GROOMING, AND  
 8 SUPERVISION OF PRESCRIPTIVE MEDICINE ADMINISTRATION. THE TERM DOES NOT INCLUDE THE  
 9 ADMINISTRATION OF PRESCRIPTIVE MEDICATIONS.

10           ~~(V) "SKILLED NURSING CARE" MEANS 24 HOUR CARE SUPERVISED BY A REGISTERED NURSE~~  
 11 ~~OR A LICENSED PRACTICAL NURSE UNDER THE ORDERS OF AN ATTENDING PHYSICIAN.~~

12           ~~(3)~~(4) "Affected person" means an applicant for certificate of need, a member of the public who  
 13 will be served by the proposal, a health care facility located in the geographic area affected by the  
 14 application, an agency that establishes rates for health care facilities, a third-party payer who reimburses  
 15 health care facilities in the area affected by the proposal, or an agency that plans or assists in planning for  
 16 health care facilities.

17           ~~(4)~~(5) "Ambulatory surgical facility" means a facility, ~~not part of a hospital,~~ that provides surgical  
 18 treatment to patients not requiring hospitalization. This type of facility may include observation beds for  
 19 patient recovery from surgery or other treatment.

20           ~~(5)~~(6) "Batch" means those letters of intent to seek approval for new beds or major medical  
 21 equipment that are accumulated during a single batching period.

22           ~~(6)~~(7) "Batching period" means a period, not exceeding 1 month, established by department rule  
 23 during which letters of intent to seek approval for new beds or major medical equipment are accumulated  
 24 pending further processing of all letters of intent within the batch.

25           ~~(7)~~(8) "Board" means the board of health and environmental sciences, provided for in 2-15-2104.

26           ~~(8)~~(9) "Capital expenditure" means:

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

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

1           ~~(9)~~(10) "Certificate of need" means a written authorization by the department for a person to  
2 proceed with a proposal subject to 50-5-301.

3           ~~(10)~~(11) "Challenge period" means a period, not exceeding 1 month, established by department rule  
4 during which a person may apply for comparative review with an applicant whose letter of intent has been  
5 received during the preceding batching period.

6           ~~(11)~~(12) "Chemical dependency facility" means a facility whose function is the treatment,  
7 rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates  
8 behavioral or health problems and endangers the health, interpersonal relationships, or economic function  
9 of an individual or the public health, welfare, or safety.

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

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

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

20           ~~(15)~~(16) "Construction" means the physical erection of a health care facility and any stage of the  
21 physical erection, including ground breaking, or remodeling, replacement, or renovation of an existing health  
22 care facility.

23           ~~(16)~~(17) "Department" means the department of health and environmental sciences provided for  
24 in Title 2, chapter 15, part 21.

25           (18) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney  
26 diseases and includes freestanding hemodialysis units.

27           ~~(17)~~(19) "Federal acts" means federal statutes for the construction of health care facilities.

28           ~~(18)~~(20) "Governmental unit" means the state, a state agency, a county, municipality, or political  
29 subdivision of the state, or an agency of a political subdivision.

30           ~~(19)~~(21) "Health care facility" or "facility" means all or a portion of an institution, building, or

1 agency, private or public, excluding federal facilities, whether organized for profit or not, used, operated,  
 2 or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to  
 3 any individual. The term does not include offices of private physicians or dentists. The term includes ~~but~~  
 4 ~~is not limited to~~ ambulatory surgical facilities, chemical dependency facilities, end-stage renal dialysis  
 5 facilities, health maintenance organizations, home health agencies, home infusion therapy agencies,  
 6 hospices, hospitals, infirmaries, ~~kidney treatment centers~~, long-term care facilities, medical assistance  
 7 facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential  
 8 care facilities, and residential treatment facilities, and adult day care centers.

9 ~~(20)~~(22) "Health maintenance organization" means a public or private organization that provides  
 10 or arranges for health care services to enrollees on a prepaid or other financial basis, either directly through  
 11 provider employees or through contractual or other arrangements with a provider or group of providers.

12 ~~(21)~~(23) "Home health agency" means a public agency or private organization or subdivision of the  
 13 agency or organization that is engaged in providing home health services to individuals in the places where  
 14 they live. Home health services must include the services of a licensed registered nurse and at least one  
 15 other therapeutic service and may include additional support services.

16 (24) "Home infusion therapy agency" means a health care facility that provides home infusion  
 17 therapy services.

18 (25) "Home infusion therapy services" means the preparation, administration, or furnishing of  
 19 parenteral medications or parenteral or enteral nutritional services to an individual in that individual's  
 20 residence. The services include an educational component for the patient, the patient's caregiver, or the  
 21 patient's family member.

22 ~~(22)~~(26) "Hospice" means a coordinated program of home and inpatient health care that provides  
 23 or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's  
 24 family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the  
 25 final stages of illness and dying and that includes formal bereavement programs as an essential component.  
 26 The term includes:

27 (a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice  
 28 that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

29 (b) a residential hospice facility, which is a facility managed directly by a licensed hospice program  
 30 that can house three or more hospice patients.

1           ~~(23)~~(27) "Hospital" means a facility providing, by or under the supervision of licensed physicians,  
2 services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals.  
3 Services provided may or may not include obstetrical care, emergency care, or any other service as allowed  
4 by state licensing authority. A hospital has an organized medical staff that is on call and available within  
5 20 minutes, 24 hours per day, 7 days per week, and provides 24-hour nursing care by licensed registered  
6 nurses. This term includes hospitals specializing in providing health services for psychiatric, mentally  
7 retarded, and tubercular patients.

8           ~~(24)~~(28) "Infirmiry" means a facility located in a university, college, government institution, or  
9 industry for the treatment of the sick or injured, with the following subdefinitions:

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

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

12           ~~(25)~~(29) "Joint commission on accreditation of hospitals" means the organization nationally  
13 recognized by that name with headquarters in Chicago, Illinois, that surveys health care facilities upon their  
14 requests and grants accreditation status to a health care facility that it finds meets its standards and  
15 requirements.

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

18           ~~(27)~~(30) (a) "Long-term care facility" means a facility or part of a facility that provides skilled  
19 nursing care, RESIDENTIAL CARE, intermediate nursing care, or intermediate developmental disability care  
20 to a total of two or more individuals or that provides personal care. The term does not include ~~adult foster~~  
21 ~~care licensed under 52-3-303 residential care facilities,~~ community homes for the developmentally disabled  
22 licensed under 53-20-305, community homes for individuals with severe disabilities licensed under  
23 52-4-203, youth care facilities licensed under 41-3-1142, hotels, motels, boardinghouses, roominghouses,  
24 or similar accommodations providing for transients, students, or individuals not requiring institutional health  
25 care, or juvenile and adult correctional facilities operating under the authority of the department of  
26 corrections and human services.

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

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



1 nursing care.

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

5 (e) "Personal care" means the provision of services and care for residents needing some assistance  
6 in performing the activities of daily living.

7 ~~(28)~~(31) "Major medical equipment" means a single unit of medical equipment or a single system  
8 of components with related functions which is used to provide medical or other health services and costs  
9 a substantial sum of money.

10 ~~(29)~~(32) "Medical assistance facility" means a facility that:

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

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

15 ~~(30)~~(33) "Mental health center" means a facility providing services for the prevention or diagnosis  
16 of mental illness, the care and treatment of mentally ill patients or the rehabilitation of mentally ill  
17 individuals, or any combination of these services.

18 ~~(31)~~(34) "Nonprofit health care facility" means a health care facility owned or operated by one or  
19 more nonprofit corporations or associations.

20 ~~(32)~~(35) "Observation bed" means a bed occupied for not more than 6 hours by a patient recovering  
21 from surgery or other treatment.

22 ~~(33)~~(36) "Offer" means the holding out by a health care facility that it can provide specific health  
23 services.

24 ~~(34)~~(37) "Outpatient facility" means a facility, located in or apart from a hospital, providing, under  
25 the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients in need  
26 of medical, surgical, or mental care. An outpatient facility may have observation beds.

27 ~~(35)~~(38) "Patient" means an individual obtaining services, including skilled nursing care, from a  
28 health care facility.

29 ~~(36)~~(39) "Person" means any individual, firm, partnership, association, organization, agency,  
30 institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

1 (40) "Personal-care facility" means a facility in which personal care is provided for residents in  
 2 either a category A facility or a category B facility as provided in 50-5-227.

3 ~~(37)~~(41) "Public health center" means a publicly owned facility providing health services, including  
 4 laboratories, clinics, and administrative offices.

5 ~~(38)~~(42) "Rehabilitation facility" means a facility that is operated for the primary purpose of  
 6 assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and  
 7 services, psychological and social services, or vocational evaluation and training or any combination of  
 8 these services and in which the major portion of the services is furnished within the facility.

9 ~~(39)~~(43) "Resident" means an individual who is in a long-term care facility ~~for intermediate or~~  
 10 personal-care or in a residential care facility.

11 (44) "Residential care facility" means an adult day-care center, an adult foster care home, a  
 12 personal-care facility, or a retirement home.

13 ~~(40)~~(45) "Residential psychiatric care" means active psychiatric treatment provided in a residential  
 14 treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological,  
 15 or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or  
 16 remedy the individual's condition. Residential psychiatric care must be individualized and designed to  
 17 achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

18 ~~(41)~~(46) "Residential treatment facility" means a facility operated for the primary purpose of  
 19 providing residential psychiatric care to individuals under 21 years of age.

20 (47) "Retirement home" means a building or buildings in which separate living accommodations  
 21 are rented or leased to individuals who use those accommodations as their primary residence.

22 ~~(42)~~(48) "State health plan" means the plan prepared by the department to project the need for  
 23 health care facilities within Montana and approved by the statewide health coordinating council and the  
 24 governor."

25  
 26 **Section 2.** Section 50-4-102, MCA, is amended to read:

27 **"50-4-102. Definitions.** For the purposes of this chapter, the following definitions apply:

28 (1) "Authority" means the Montana health care authority created by 50-4-201.

29 (2) "Board" means one of the regional health care planning boards created pursuant to 50-4-401.

30 (3) "Certificate of public advantage" or "certificate" means a written certificate issued by the

1 authority as evidence of the authority's intention that the implementation of a cooperative agreement, when  
2 actively supervised by the authority, receive state action immunity from prosecution as a violation of state  
3 or federal antitrust laws.

4 (4) "Cooperative agreement" or "agreement" means a written agreement between two or more  
5 health care facilities for the sharing, allocation, or referral of patients; personnel; instructional programs;  
6 emergency medical services; support services and facilities; medical, diagnostic, or laboratory facilities or  
7 procedures; or other services customarily offered by health care facilities.

8 (5) "Data base" means the unified health care data base created pursuant to 50-4-502.

9 (6) "Health care" includes both physical health care and mental health care.

10 (7) "Health care facility" means all facilities and institutions, whether public or private, proprietary  
11 or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated  
12 persons. The term includes all health care facilities and institutions included as defined in 50-5-101(19).  
13 The term does not apply to a facility operated by religious groups relying solely on spiritual means, through  
14 prayer, for healing.

15 (8) "Health insurer" means any health insurance company, health service corporation, health  
16 maintenance organization, insurer providing disability insurance as described in 33-1-207, and, to the extent  
17 permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care  
18 benefit plan offered by public and private entities.

19 (9) "Health care provider" or "provider" means a person who is licensed, certified, or otherwise  
20 authorized by the laws of this state to provide health care in the ordinary course of business or practice of  
21 a profession.

22 (10) "Management plan" means the health care resource management plan required by 50-4-304.

23 (11) "Region" means one of the health care planning regions created pursuant to 50-4-401.

24 (12) "Statewide plan" means one of the statewide universal health care access plans for access  
25 to health care required by 50-4-301."  
26

27 **Section 3.** Section 50-5-103, MCA, is amended to read:

28 **"50-5-103. Rules and standards -- accreditation by joint commission.** (1) The department shall  
29 promulgate and adopt rules and minimum standards for implementation of parts 1 and 2.

30 (2) Any facility covered by this chapter shall comply with the state and federal requirements

1 relating to construction, equipment, and fire and life safety.

2 (3) The department shall extend a reasonable time for compliance with rules for parts 1 and 2 upon  
3 adoption.

4 (4) Any hospital that furnishes written evidence required by the department, including the  
5 recommendation for future compliance statements to the department of its accreditation granted by the  
6 joint commission on accreditation of health care organizations, is eligible for licensure in the state for the  
7 accreditation period and may not be subjected to an inspection by the department for purposes of the  
8 licensing process. The department may, in addition to its inspection authority in 50-5-116, inspect any  
9 licensed health care facility to answer specific complaints made in writing by any person against the facility  
10 when the complaints pertain to licensing requirements. Inspection by the department upon a specific  
11 complaint made in writing pertaining to licensing requirements is limited to the specific area or condition  
12 of the health care facility to which the complaint pertains.

13 (5) The department may consider as eligible for licensure during the accreditation period any health  
14 care facility, other than a hospital, that furnishes written evidence, including the recommendation for future  
15 compliance statements, of its accreditation by the joint commission on accreditation of health care  
16 organizations. The department may inspect a health care facility considered eligible for licensure under this  
17 section to ensure compliance with state licensure standards."  
18

19 **Section 4.** Section 50-5-204, MCA, is amended to read:

20 **"50-5-204. Issuance and renewal of licenses -- inspections.** (1) After receipt of a new application  
21 and notice that the facility is ready to be inspected, the department or its authorized agent shall conduct  
22 an initial inspection of the facility within 45 days.

23 (2) After receipt of an application for renewal of a license, the department or its authorized agent  
24 shall inspect the facility without prior notice to the operator or staff.

25 (3) If the department determines that the facility meets minimum standards and the proposed or  
26 existing staff is qualified, the department shall issue a license for a period of 1 to 3 years in duration.

27 (4) If minimum standards are not met, the department may issue a provisional license for less than  
28 1 year if operation will not result in undue hazard to patients or residents or if the demand for  
29 accommodations offered is not met in the community.

30 (5) The minimum standards ~~which~~ that home health agencies must meet in order to be licensed

1 must be as outlined in 42 U.S.C. 1395x(o), as amended, and in rules implementing it ~~which~~ that add  
2 minimum standards.

3 (6) The department may inspect a licensed health care facility whenever it considers it necessary.  
4 The entire premises of a licensed facility must be open to inspection, and access to all records must be  
5 granted at all reasonable times."  
6

7 **Section 5.** Section 50-5-226, MCA, is amended to read:

8 **"50-5-226. Placement in personal-care facilities.** (1) A personal-care facility may provide  
9 personal-care services to a resident who is 18 years of age or older and in need of the personal care for  
10 which the facility is licensed under 50-5-227.

11 (2) A resident of a personal-care facility licensed as a category A facility under 50-5-227 may  
12 obtain third-party provider services for skilled nursing care for no more than 20 consecutive days at a time.

13 (3) A resident of a personal-care facility licensed as a category B facility under 50-5-227 must have  
14 a signed statement from a physician agreeing to the resident's admission to the facility if the resident is:

- 15 (a) in need of skilled nursing care;
- 16 (b) in need of medical, physical, or chemical restraint;
- 17 (c) nonambulatory or bedridden;
- 18 (d) incontinent to the extent that bowel or bladder control is absent; or
- 19 (e) unable to self-administer medications.

20 (4) A resident of a category B personal-care facility who needs skilled nursing care must have a  
21 signed statement, renewed on ~~an annual basis for a category A facility and on a quarterly basis for a~~  
22 ~~category B facility, from~~ by a physician, a physician assistant-certified, a nurse practitioner, or a registered  
23 nurse, whose work is unrelated to the operation of the facility and who:

- 24 (a) actually visited the facility within the ~~year covered by the statement for a category A facility~~  
25 ~~and within the calendar quarter covered by the statement for a category B facility;~~
- 26 (b) has certified that the particular needs of the resident can be adequately met in the facility; and
- 27 (c) has certified that there has been no significant change in health care status that would require  
28 another level of care.

29 (5) The department shall, in consultation with the department of social and rehabilitation services,  
30 provide by rule:

1 (a) an application or placement procedure informing a prospective resident and, if applicable, the  
2 resident's physician of:

3 (i) physical and mental standards for residents of personal-care facilities;

4 (ii) requirements for placement in a facility with a higher standard of care if a resident's condition  
5 deteriorates; and

6 (iii) the services offered by the facility and services that a resident may receive from third-party  
7 providers while resident in the facility;

8 (b) standards to be used by a facility and, if appropriate, by a screening agency to screen residents  
9 and prospective residents to prevent residence by individuals referred to in subsection (3);

10 (c) a method by which the results of any screening decision made pursuant to rules established  
11 under subsection (5)(b) may be appealed by the facility operator or by or on behalf of a resident or  
12 prospective resident;

13 (d) standards for operating a category A personal-care facility, including standards for the physical,  
14 structural, environmental, sanitary, infection control, dietary, social, staffing, and recordkeeping  
15 components of a facility; and

16 (e) standards for operating a category B personal-care facility, which must include the standards  
17 for a category A personal-care facility and additional standards for assessment of residents, care planning,  
18 qualifications and training of staff, restraint use and reduction, prevention and care of pressure sores,  
19 incontinence care, and the storage and administration of drugs."  
20

21 **Section 6.** Section 50-5-227, MCA, is amended to read:

22 **"50-5-227. Licensing personal-care facilities.** (1) The department shall, in consultation with the  
23 department of social and rehabilitation services, by rule adopt standards for licensing and operation of  
24 personal-care facilities to implement the provisions of 50-5-225 and 50-5-226.

25 (2) The following licensing categories must be used by the department in adopting rules under  
26 subsection (1):

27 (a) category A--a facility providing personal care to ~~six or more~~ residents who may not be:

28 (i) in need of skilled nursing care;

29 (ii) in need of medical, chemical, or physical restraint;

30 (iii) nonambulatory or bedridden;

- 1 (iv) incontinent to the extent that bowel or bladder control is absent; or  
2 (v) unable to self-administer medications; or  
3 (b) category B--a facility providing personal care to five or fewer residents who may be:  
4 (i) in need of skilled nursing care;  
5 (ii) in need of medical, chemical, or physical restraint;  
6 (iii) nonambulatory or bedridden;  
7 (iv) incontinent to the extent that bowel or bladder control is absent; or  
8 (v) unable to self-administer medications.

9 (3) The department may by rule establish license fees, inspection fees, and fees for patient  
10 screening. Fees must be reasonably related to service costs."

11  
12 **Section 7.** Section 50-5-301, MCA, is amended to read:

13 **"50-5-301. When certificate of need is required -- definitions.** (1) Unless a person has submitted  
14 an application for and is the holder of a certificate of need granted by the department, the person may not  
15 initiate any of the following:

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

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

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

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

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

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

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

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

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

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

13 (f) the construction, development, or other establishment of a health care facility that is being  
14 replaced or that did not previously exist, by any person, including another type of health care facility;

15 (g) the expansion of the geographical service area of a home health agency;

16 (h) the use of hospital beds to provide services to patients or residents needing only skilled nursing  
17 care, intermediate nursing care, or intermediate developmental disability care, as those levels of care are  
18 defined in 50-5-101; or

19 (i) the provision by a hospital of services for ambulatory surgical care, home health care, long-term  
20 care, inpatient mental health care, inpatient chemical dependency treatment, or inpatient rehabilitation.

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

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

25 (a) "Health care facility" or "facility" means a nonfederal ambulatory surgical facility, home health  
26 agency, long-term care facility, medical assistance facility, mental health center with inpatient services,  
27 inpatient chemical dependency facility, rehabilitation facility with inpatient services, or residential treatment  
28 facility. The term does not include:

29 (i) a hospital, except to the extent that a hospital is subject to certificate of need requirements  
30 pursuant to subsection (1)(i); or



1 (ii) an office of a private physician, dentist, or other physical or mental health care professionals,  
2 including chemical dependency counselors.

3 (b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate  
4 nursing care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or  
5 more individuals.

6 (ii) The term does not include ~~adult foster care, licensed under 52-3-303~~ residential care facilities  
7 AS DEFINED IN 50-5-101; community homes for the developmentally disabled, licensed under 53-20-305;  
8 community homes for persons with severe disabilities, licensed under 52-4-203; boarding or foster homes  
9 for children, licensed under 41-3-1142; hotels, motels, boardinghouses, roominghouses, or similar  
10 accommodations providing for transients, students, or individuals not requiring institutional health care; or  
11 juvenile and adult correctional facilities operating under the authority of the department of corrections and  
12 human services.

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

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

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

19 (b) For construction of health care facilities, the expenditure threshold is \$1,500,000."  
20

21 **Section 8.** Section 50-51-102, MCA, is amended to read:

22 "**50-51-102. Definitions.** Unless the context requires otherwise, in this chapter, the following  
23 definitions apply:

24 ~~(1) "Board" means the board of health and environmental sciences.~~

25 ~~(2) "Commercial establishment" means an establishment operated primarily for profit.~~

26 ~~(3)~~(1) "Department" means the department of health and environmental sciences.

27 ~~(4)~~(2) "Establishment" means a hotel, motel, roominghouse, boardinghouse, ~~retirement home,~~ or  
28 tourist home.

29 ~~(5)~~(3) "Hotel" or "motel" includes a building or structure kept, used, maintained as, advertised as,  
30 or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodginghouse, or place

1 where sleeping accommodations are furnished for a fee to transient guests, with or without meals.

2 ~~(6)~~(4) "Person" includes an individual, partnership, corporation, association, county, municipality,  
3 cooperative group, or other entity engaged in the business of operating, owning, or offering the services  
4 of a hotel, motel, boardinghouse, tourist home, ~~retirement home~~, or roominghouse.

5 ~~(7)~~(5) "Roominghouse", or "boardinghouse", ~~or "retirement home"~~ means buildings in which  
6 separate sleeping rooms are rented ~~providing~~ that provide sleeping accommodations for three or more  
7 persons on a weekly, semimonthly, monthly, or permanent basis, whether or not meals or central kitchens  
8 are provided but without separated cooking facilities or kitchens within each room, and whose occupants  
9 do not need professional nursing or personal-care services provided by the facility.

10 ~~(8)~~(6) "Tourist home" means an establishment or premises where sleeping accommodations are  
11 furnished to transient guests for hire or rent on a daily or weekly rental basis in a private home when the  
12 accommodations are offered for hire or rent for the use of the traveling public.

13 ~~(9)~~(7) "Transient guest" means a guest for only a brief stay, such as the traveling public."  
14

15 **Section 9.** Section 50-51-201, MCA, is amended to read:

16 **"50-51-201. License required.** (1) Each year, every person engaged in the business of conducting  
17 or operating a hotel, motel, tourist home, boardinghouse, ~~retirement home~~, or roominghouse shall procure  
18 a license issued by the department.

19 (2) A separate license is required for each establishment; however, ~~where~~ when more than one of  
20 each type of establishment is operated on the same premises and under the same management, only one  
21 license is required ~~which shall~~ that must enumerate on the certificate ~~thereof~~ the types of establishments  
22 licensed.

23 (3) Before a license may be issued by the department, it must be validated by the local health  
24 officer; or, if there is no local health officer, the sanitarian, in the county where the establishment is  
25 located."  
26

27 **NEW SECTION. Section 10. Requirements for home infusion therapy services.** An agency  
28 providing home infusion therapy services shall directly provide either the home infusion therapy services  
29 or skilled nursing services and may either directly provide or may arrange for the provision of the other  
30 services.

1           NEW SECTION. Section 11. Requirements for retirement homes. A retirement home ~~may~~ SHALL  
2 offer meals or central kitchens but may not offer nursing or personal care services to the residents, other  
3 than by a contract with a third party.

4  
5           NEW SECTION. SECTION 12. STANDARDS FOR ADULT FOSTER CARE HOMES. THE  
6 DEPARTMENT MAY ADOPT RULES ESTABLISHING STANDARDS FOR THE LICENSING OF ADULT FOSTER  
7 CARE HOMES. THE STANDARDS MUST PROVIDE FOR THE SAFETY AND COMFORT OF THE RESIDENTS  
8 AND MAY BE ADOPTED BY THE DEPARTMENT ONLY AFTER RECEIVING THE ADVICE AND  
9 RECOMMENDATIONS OF THE STATE FIRE PREVENTION AND INVESTIGATION PROGRAM OF THE  
10 DEPARTMENT OF JUSTICE IN RELATION TO FIRE AND SAFETY REQUIREMENTS FOR ADULT FOSTER  
11 CARE HOMES.

12  
13           NEW SECTION. SECTION 13. LIMITATION ON CARE PROVIDED IN ADULT FOSTER CARE  
14 HOME. (1) EXCEPT AS PROVIDED IN THIS SECTION, THE TYPES OF CARE OFFERED BY ADULT FOSTER  
15 CARE HOMES ARE LIMITED TO LIGHT PERSONAL CARE OR CUSTODIAL CARE AND MAY NOT INCLUDE  
16 SKILLED NURSING CARE.

17           (2) AN ADULT FOSTER CARE HOME MAY BE LICENSED TO PROVIDE CARE FOR AN ADULT WHO  
18 RESIDED IN THE HOME FOR AT LEAST 1 YEAR BEFORE REACHING 18 YEARS OF AGE, EVEN THOUGH  
19 THE ADULT IS:

20           (A) IN NEED OF SKILLED NURSING CARE;

21           (B) IN NEED OF MEDICAL, PHYSICAL, OR CHEMICAL RESTRAINT;

22           (C) NONAMBULATORY OR BEDRIDDEN;

23           (D) INCONTINENT TO THE EXTENT THAT BOWEL OR BLADDER CONTROL IS ABSENT; OR

24           (E) UNABLE TO SELF-ADMINISTER MEDICATIONS.

25           (3) AN ADULT FOSTER CARE HOME THAT APPLIES FOR A LICENSE UNDER SUBSECTION (2)  
26 MUST HAVE A SIGNED STATEMENT FROM A PHYSICIAN AGREEING THAT THE CARE NEEDED BY THE  
27 ADULT MAY BE PROVIDED IN THE HOME.

28           (4) A RESIDENT OF AN ADULT FOSTER CARE HOME LICENSED UNDER SUBSECTION (2) MUST  
29 HAVE A SIGNED STATEMENT, RENEWED ON AN ANNUAL BASIS, FROM A PHYSICIAN, A PHYSICIAN  
30 ASSISTANT-CERTIFIED, A NURSE PRACTITIONER, OR A REGISTERED NURSE, WHOSE WORK IS

1 UNRELATED TO THE OPERATION OF THE HOME AND WHO:

2 (A) ACTUALLY VISITED THE HOME WITHIN THE YEAR COVERED BY THE STATEMENT;

3 (B) HAS CERTIFIED THAT THE PARTICULAR NEEDS OF THE RESIDENT CAN BE ADEQUATELY  
4 MET IN THE HOME; AND

5 (C) HAS CERTIFIED THAT THERE HAS BEEN NO SIGNIFICANT CHANGE IN HEALTH CARE  
6 STATUS THAT WOULD REQUIRE ANOTHER LEVEL OF CARE.

7 (5) AS USED IN THIS SECTION, "SKILLED NURSING CARE" MEANS 24-HOUR CARE SUPERVISED  
8 BY A REGISTERED NURSE OR A LICENSED PRACTICAL NURSE UNDER THE ORDERS OF AN ATTENDING  
9 PHYSICIAN.

10  
11 NEW SECTION. Section 14. Repealer. Sections 52-3-301, 52-3-302, 52-3-303, 52-3-304,  
12 52-3-305, 52-3-311, 52-3-312, 52-3-313, and 52-3-314, MCA, are repealed.

13  
14 NEW SECTION. Section 15. Codification instruction. [Sections 10 ~~and 11~~ THROUGH 13] are  
15 intended to be codified as an integral part of Title 50, chapter 5, part 2, and the provisions of Title 50,  
16 chapter 5, part 2, apply to [sections 10 ~~and 11~~ THROUGH 13].

17 -END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
March 9, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 301 (third reading copy -- blue), respectfully report that HB 301 be amended as follows and as so amended be concurred in.

Signed:   
Senator Jim Burnett, Chair

That such amendments read:

1. Title, line 12.  
Following: "SECTIONS"  
Insert: "27-6-103,"

2. Page 17, line 10.  
Insert: "Section 14. Section 27-6-103, MCA, is amended to read:  
"27-6-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Dentist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:

(i) has as ~~his~~ the individual's principal residence or place of dental practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of dentistry;

or

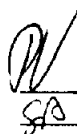
(b) for all other purposes, a person licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as ~~his~~ the principal residence or place of dental practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render dental services and whose shareholders, partners, or owners were individual dentists licensed to practice dentistry under the provisions of Title 37, chapter 4.

(2) (a) "Health care facility" means a facility (other than a governmental infirmary but including a university or college infirmary) licensed as a health care facility under Title 50, chapter 5.

(b) For the purposes of this chapter, a health care facility does not include a chemical dependency facility, an end-

 Amd. Coord.  
Sec. of Senate

SEN BURNETT  
Senator Carrying Bill

HB 301

SENATE

stage renal dialysis facility, a home infusion therapy agency, or a residential care facility.

(3) "Health care provider" means a physician, a dentist, or a health care facility.

(4) "Hospital" means a hospital as defined in 50-5-101.

(5) "Malpractice claim" means ~~any~~ a claim or potential claim of a claimant against a health care provider for medical or dental treatment, lack of medical or dental treatment, or other alleged departure from accepted standards of health care ~~which~~ that proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

(6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

(7) "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

(i) has as ~~his~~ the individual's principal residence or place of medical practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of medicine;  
or

(b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as ~~his~~ the principal residence or place of medical practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render medical services and whose shareholders, partners, or owners were individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3."

Renumber: subsequent sections

-END-

## 1 HOUSE BILL NO. 301

2 INTRODUCED BY SOFT, KASTEN

3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO HEALTH CARE FACILITIES; PROVIDING

6 DEFINITIONS; CLARIFYING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES MAY

7 REQUIRE WRITTEN EVIDENCE FOR LICENSURE; REQUIRING NOTICE TO THE DEPARTMENT THAT A

8 HEALTH CARE FACILITY IS READY TO BE INSPECTED; REMOVING THE REQUIREMENT FOR AN ANNUAL

9 PHYSICIAN'S STATEMENT AND VISIT FOR PLACEMENT OF A RESIDENT IN A CATEGORY A

10 PERSONAL-CARE FACILITY; DELETING MINIMUM RESIDENT REQUIREMENTS FOR CATEGORY A

11 PERSONAL-CARE FACILITIES; PROVIDING REQUIREMENTS FOR HOME INFUSION THERAPY SERVICES,

12 ADULT FOSTER CARE HOMES, AND FOR RETIREMENT HOMES; AMENDING SECTIONS 27-6-103,

13 50-4-102, 50-5-101, 50-5-103, 50-5-204, 50-5-226, 50-5-227, 50-5-301, 50-51-102, AND 50-51-201,

14 MCA; AND REPEALING SECTIONS 52-3-301, 52-3-302, 52-3-303, 52-3-304, 52-3-305, 52-3-311,

15 52-3-312, 52-3-313, AND 52-3-314, MCA."

16

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

18

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

20 **"50-5-101. Definitions.** As used in parts 1 through 4 of this chapter, unless the context clearly

21 indicates otherwise, the following definitions apply:

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

23 (2) "Adult day-care center" means a facility, freestanding or connected to another health care

24 facility, that provides adults, on ~~an intermittent~~ a regularly scheduled basis, with the care necessary to meet

25 the needs of daily living but that does not provide overnight care.

26 (3) (A) "Adult foster care HOME" means a private home that offers LIGHT personal care or

27 custodial care to four or fewer disabled adults or aged persons who are not related by blood or marriage

28 to the owner of the home.

29 (B) AS USED IN THIS SUBSECTION (3), THE FOLLOWING DEFINITIONS APPLY:

30 (I) "AGED PERSON" MEANS A PERSON AS DEFINED BY DEPARTMENT RULE AS AGED.

1           (II) "CUSTODIAL CARE" MEANS PROVIDING A SHELTERED, FAMILY-TYPE SETTING FOR AN AGED  
 2 PERSON OR DISABLED ADULT SO AS TO PROVIDE FOR THE PERSON'S BASIC NEEDS OF FOOD AND  
 3 SHELTER AND TO ENSURE THAT A SPECIFIC PERSON IS AVAILABLE TO MEET THOSE BASIC NEEDS.

4           (III) "DISABLED ADULT" MEANS A PERSON WHO IS 18 YEARS OF AGE OR OLDER AND WHO IS  
 5 DEFINED BY DEPARTMENT RULE AS DISABLED.

6           (IV) "LIGHT PERSONAL CARE" MEANS ASSISTING THE AGED PERSON OR DISABLED ADULT IN  
 7 ACCOMPLISHING SUCH PERSONAL HYGIENE TASKS AS BATHING, DRESSING, HAIR GROOMING, AND  
 8 SUPERVISION OF PRESCRIPTIVE MEDICINE ADMINISTRATION. THE TERM DOES NOT INCLUDE THE  
 9 ADMINISTRATION OF PRESCRIPTIVE MEDICATIONS.

10           ~~(V) "SKILLED NURSING CARE" MEANS 24 HOUR CARE SUPERVISED BY A REGISTERED NURSE~~  
 11 ~~OR A LICENSED PRACTICAL NURSE UNDER THE ORDERS OF AN ATTENDING PHYSICIAN.~~

12           ~~(3)~~(4) "Affected person" means an applicant for certificate of need, a member of the public who  
 13 will be served by the proposal, a health care facility located in the geographic area affected by the  
 14 application, an agency that establishes rates for health care facilities, a third-party payer who reimburses  
 15 health care facilities in the area affected by the proposal, or an agency that plans or assists in planning for  
 16 health care facilities.

17           ~~(4)~~(5) "Ambulatory surgical facility" means a facility, ~~not part of a hospital,~~ that provides surgical  
 18 treatment to patients not requiring hospitalization. This type of facility may include observation beds for  
 19 patient recovery from surgery or other treatment.

20           ~~(5)~~(6) "Batch" means those letters of intent to seek approval for new beds or major medical  
 21 equipment that are accumulated during a single batching period.

22           ~~(6)~~(7) "Batching period" means a period, not exceeding 1 month, established by department rule  
 23 during which letters of intent to seek approval for new beds or major medical equipment are accumulated  
 24 pending further processing of all letters of intent within the batch.

25           ~~(7)~~(8) "Board" means the board of health and environmental sciences, provided for in 2-15-2104.

26           ~~(8)~~(9) "Capital expenditure" means:

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

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



1           ~~(9)~~(10) "Certificate of need" means a written authorization by the department for a person to  
2 proceed with a proposal subject to 50-5-301.

3           ~~(10)~~(11) "Challenge period" means a period, not exceeding 1 month, established by department rule  
4 during which a person may apply for comparative review with an applicant whose letter of intent has been  
5 received during the preceding batching period.

6           ~~(11)~~(12) "Chemical dependency facility" means a facility whose function is the treatment,  
7 rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates  
8 behavioral or health problems and endangers the health, interpersonal relationships, or economic function  
9 of an individual or the public health, welfare, or safety.

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

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

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

20           ~~(15)~~(16) "Construction" means the physical erection of a health care facility and any stage of the  
21 physical erection, including ground breaking, or remodeling, replacement, or renovation of an existing health  
22 care facility.

23           ~~(16)~~(17) "Department" means the department of health and environmental sciences provided for  
24 in Title 2, chapter 15, part 21.

25           (18) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney  
26 diseases and includes freestanding hemodialysis units.

27           ~~(17)~~(19) "Federal acts" means federal statutes for the construction of health care facilities.

28           ~~(18)~~(20) "Governmental unit" means the state, a state agency, a county, municipality, or political  
29 subdivision of the state, or an agency of a political subdivision.

30           ~~(19)~~(21) "Health care facility" or "facility" means all or a portion of an institution, building, or

1 agency, private or public, excluding federal facilities, whether organized for profit or not, used, operated,  
 2 or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to  
 3 any individual. The term does not include offices of private physicians or dentists. The term includes ~~but~~  
 4 ~~is not limited to~~ ambulatory surgical facilities, chemical dependency facilities, end-stage renal dialysis  
 5 facilities, health maintenance organizations, home health agencies, home infusion therapy agencies,  
 6 hospices, hospitals, infirmaries, ~~kidney treatment centers,~~ long-term care facilities, medical assistance  
 7 facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential  
 8 care facilities, and residential treatment facilities, ~~and adult day care centers.~~

9 ~~(20)~~(22) "Health maintenance organization" means a public or private organization that provides  
 10 or arranges for health care services to enrollees on a prepaid or other financial basis, either directly through  
 11 provider employees or through contractual or other arrangements with a provider or group of providers.

12 ~~(21)~~(23) "Home health agency" means a public agency or private organization or subdivision of the  
 13 agency or organization that is engaged in providing home health services to individuals in the places where  
 14 they live. Home health services must include the services of a licensed registered nurse and at least one  
 15 other therapeutic service and may include additional support services.

16 (24) "Home infusion therapy agency" means a health care facility that provides home infusion  
 17 therapy services.

18 (25) "Home infusion therapy services" means the preparation, administration, or furnishing of  
 19 parenteral medications or parenteral or enteral nutritional services to an individual in that individual's  
 20 residence. The services include an educational component for the patient, the patient's caregiver, or the  
 21 patient's family member.

22 ~~(22)~~(26) "Hospice" means a coordinated program of home and inpatient health care that provides  
 23 or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's  
 24 family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the  
 25 final stages of illness and dying and that includes formal bereavement programs as an essential component.  
 26 The term includes:

27 (a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice  
 28 that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

29 (b) a residential hospice facility, which is a facility managed directly by a licensed hospice program  
 30 that can house three or more hospice patients.

1           ~~(23)~~(27) "Hospital" means a facility providing, by or under the supervision of licensed physicians,  
 2 services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals.  
 3 Services provided may or may not include obstetrical care, emergency care, or any other service as allowed  
 4 by state licensing authority. A hospital has an organized medical staff that is on call and available within  
 5 20 minutes, 24 hours per day, 7 days per week, and provides 24-hour nursing care by licensed registered  
 6 nurses. This term includes hospitals specializing in providing health services for psychiatric, mentally  
 7 retarded, and tubercular patients.

8           ~~(24)~~(28) "Infirmery" means a facility located in a university, college, government institution, or  
 9 industry for the treatment of the sick or injured, with the following subdefinitions:

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

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

12           ~~(25)~~(29) "Joint commission on accreditation of hospitals" means the organization nationally  
 13 recognized by that name with headquarters in Chicago, Illinois, that surveys health care facilities upon their  
 14 requests and grants accreditation status to a health care facility that it finds meets its standards and  
 15 requirements.

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

18           ~~(27)~~(30) (a) "Long-term care facility" means a facility or part of a facility that provides skilled  
 19 nursing care, RESIDENTIAL CARE, intermediate nursing care, or intermediate developmental disability care  
 20 to a total of two or more individuals or that provides personal care. The term does not include ~~adult foster~~  
 21 ~~care licensed under 52-3-303 residential care facilities,~~ community homes for the developmentally disabled  
 22 licensed under 53-20-305, community homes for individuals with severe disabilities licensed under  
 23 52-4-203, youth care facilities licensed under 41-3-1142, hotels, motels, boardinghouses, roominghouses,  
 24 or similar accommodations providing for transients, students, or individuals not requiring institutional health  
 25 care, or juvenile and adult correctional facilities operating under the authority of the department of  
 26 corrections and human services.

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

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

1 nursing care.

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

5 (e) "Personal care" means the provision of services and care for residents needing some assistance  
6 in performing the activities of daily living.

7 ~~(28)~~(31) "Major medical equipment" means a single unit of medical equipment or a single system  
8 of components with related functions which is used to provide medical or other health services and costs  
9 a substantial sum of money.

10 ~~(29)~~(32) "Medical assistance facility" means a facility that:

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

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

15 ~~(30)~~(33) "Mental health center" means a facility providing services for the prevention or diagnosis  
16 of mental illness, the care and treatment of mentally ill patients or the rehabilitation of mentally ill  
17 individuals, or any combination of these services.

18 ~~(31)~~(34) "Nonprofit health care facility" means a health care facility owned or operated by one or  
19 more nonprofit corporations or associations.

20 ~~(32)~~(35) "Observation bed" means a bed occupied for not more than 6 hours by a patient recovering  
21 from surgery or other treatment.

22 ~~(33)~~(36) "Offer" means the holding out by a health care facility that it can provide specific health  
23 services.

24 ~~(34)~~(37) "Outpatient facility" means a facility, located in or apart from a hospital, providing, under  
25 the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients in need  
26 of medical, surgical, or mental care. An outpatient facility may have observation beds.

27 ~~(35)~~(38) "Patient" means an individual obtaining services, including skilled nursing care, from a  
28 health care facility.

29 ~~(36)~~(39) "Person" means any individual, firm, partnership, association, organization, agency,  
30 institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

1            (40) "Personal-care facility" means a facility in which personal care is provided for residents in  
2 either a category A facility or a category B facility as provided in 50-5-227.

3            ~~(37)~~(41) "Public health center" means a publicly owned facility providing health services, including  
4 laboratories, clinics, and administrative offices.

5            ~~(38)~~(42) "Rehabilitation facility" means a facility that is operated for the primary purpose of  
6 assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and  
7 services, psychological and social services, or vocational evaluation and training or any combination of  
8 these services and in which the major portion of the services is furnished within the facility.

9            ~~(39)~~(43) "Resident" means an individual who is in a long-term care facility ~~for intermediate or~~  
10 ~~personal care or in a residential care facility.~~

11            (44) "Residential care facility" means an adult day-care center, an adult foster care home, a  
12 personal-care facility, or a retirement home.

13            ~~(40)~~(45) "Residential psychiatric care" means active psychiatric treatment provided in a residential  
14 treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological,  
15 or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or  
16 remedy the individual's condition. Residential psychiatric care must be individualized and designed to  
17 achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

18            ~~(41)~~(46) "Residential treatment facility" means a facility operated for the primary purpose of  
19 providing residential psychiatric care to individuals under 21 years of age.

20            (47) "Retirement home" means a building or buildings in which separate living accommodations  
21 are rented or leased to individuals who use those accommodations as their primary residence.

22            ~~(42)~~(48) "State health plan" means the plan prepared by the department to project the need for  
23 health care facilities within Montana and approved by the statewide health coordinating council and the  
24 governor."  
25

26            **Section 2.** Section 50-4-102, MCA, is amended to read:

27            **"50-4-102. Definitions.** For the purposes of this chapter, the following definitions apply:

28            (1) "Authority" means the Montana health care authority created by 50-4-201.

29            (2) "Board" means one of the regional health care planning boards created pursuant to 50-4-401.

30            (3) "Certificate of public advantage" or "certificate" means a written certificate issued by the

1 authority as evidence of the authority's intention that the implementation of a cooperative agreement, when  
2 actively supervised by the authority, receive state action immunity from prosecution as a violation of state  
3 or federal antitrust laws.

4 (4) "Cooperative agreement" or "agreement" means a written agreement between two or more  
5 health care facilities for the sharing, allocation, or referral of patients; personnel; instructional programs;  
6 emergency medical services; support services and facilities; medical, diagnostic, or laboratory facilities or  
7 procedures; or other services customarily offered by health care facilities.

8 (5) "Data base" means the unified health care data base created pursuant to 50-4-502.

9 (6) "Health care" includes both physical health care and mental health care.

10 (7) "Health care facility" means all facilities and institutions, whether public or private, proprietary  
11 or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated  
12 persons. The term includes all health care facilities and institutions included as defined in 50-5-101(19).  
13 The term does not apply to a facility operated by religious groups relying solely on spiritual means, through  
14 prayer, for healing.

15 (8) "Health insurer" means any health insurance company, health service corporation, health  
16 maintenance organization, insurer providing disability insurance as described in 33-1-207, and, to the extent  
17 permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care  
18 benefit plan offered by public and private entities.

19 (9) "Health care provider" or "provider" means a person who is licensed, certified, or otherwise  
20 authorized by the laws of this state to provide health care in the ordinary course of business or practice of  
21 a profession.

22 (10) "Management plan" means the health care resource management plan required by 50-4-304.

23 (11) "Region" means one of the health care planning regions created pursuant to 50-4-401.

24 (12) "Statewide plan" means one of the statewide universal health care access plans for access  
25 to health care required by 50-4-301."

26

27 **Section 3.** Section 50-5-103, MCA, is amended to read:

28 **"50-5-103. Rules and standards -- accreditation by joint commission.** (1) The department shall  
29 promulgate and adopt rules and minimum standards for implementation of parts 1 and 2.

30 (2) Any facility covered by this chapter shall comply with the state and federal requirements

1 relating to construction, equipment, and fire and life safety.

2 (3) The department shall extend a reasonable time for compliance with rules for parts 1 and 2 upon  
3 adoption.

4 (4) Any hospital that furnishes written evidence required by the department, including the  
5 recommendation for future compliance statements to the department of its accreditation granted by the  
6 joint commission on accreditation of health care organizations, is eligible for licensure in the state for the  
7 accreditation period and may not be subjected to an inspection by the department for purposes of the  
8 licensing process. The department may, in addition to its inspection authority in 50-5-116, inspect any  
9 licensed health care facility to answer specific complaints made in writing by any person against the facility  
10 when the complaints pertain to licensing requirements. Inspection by the department upon a specific  
11 complaint made in writing pertaining to licensing requirements is limited to the specific area or condition  
12 of the health care facility to which the complaint pertains.

13 (5) The department may consider as eligible for licensure during the accreditation period any health  
14 care facility, other than a hospital, that furnishes written evidence, including the recommendation for future  
15 compliance statements, of its accreditation by the joint commission on accreditation of health care  
16 organizations. The department may inspect a health care facility considered eligible for licensure under this  
17 section to ensure compliance with state licensure standards."  
18

19 **Section 4.** Section 50-5-204, MCA, is amended to read:

20 "**50-5-204. Issuance and renewal of licenses -- inspections.** (1) After receipt of a new application  
21 and notice that the facility is ready to be inspected, the department or its authorized agent shall conduct  
22 an initial inspection of the facility within 45 days.

23 (2) After receipt of an application for renewal of a license, the department or its authorized agent  
24 shall inspect the facility without prior notice to the operator or staff.

25 (3) If the department determines that the facility meets minimum standards and the proposed or  
26 existing staff is qualified, the department shall issue a license for a period of 1 to 3 years in duration.

27 (4) If minimum standards are not met, the department may issue a provisional license for less than  
28 1 year if operation will not result in undue hazard to patients or residents or if the demand for  
29 accommodations offered is not met in the community.

30 (5) The minimum standards ~~which~~ that home health agencies must meet in order to be licensed

1 must be as outlined in 42 U.S.C. 1395x(o), as amended, and in rules implementing it ~~which~~ that add  
 2 minimum standards.

3 (6) The department may inspect a licensed health care facility whenever it considers it necessary.  
 4 The entire premises of a licensed facility must be open to inspection, and access to all records must be  
 5 granted at all reasonable times."  
 6

7 **Section 5.** Section 50-5-226, MCA, is amended to read:

8 "**50-5-226. Placement in personal-care facilities.** (1) A personal-care facility may provide  
 9 personal-care services to a resident who is 18 years of age or older and in need of the personal care for  
 10 which the facility is licensed under 50-5-227.

11 (2) A resident of a personal-care facility licensed as a category A facility under 50-5-227 may  
 12 obtain third-party provider services for skilled nursing care for no more than 20 consecutive days at a time.

13 (3) A resident of a personal-care facility licensed as a category B facility under 50-5-227 must have  
 14 a signed statement from a physician agreeing to the resident's admission to the facility if the resident is:

- 15 (a) in need of skilled nursing care;
- 16 (b) in need of medical, physical, or chemical restraint;
- 17 (c) nonambulatory or bedridden;
- 18 (d) incontinent to the extent that bowel or bladder control is absent; or
- 19 (e) unable to self-administer medications.

20 (4) A resident of a category B personal-care facility who needs skilled nursing care must have a  
 21 signed statement, renewed on ~~an annual basis for a category A facility and on a quarterly basis for a~~  
 22 ~~category B facility, from~~ by a physician, a physician assistant-certified, a nurse practitioner, or a registered  
 23 nurse, whose work is unrelated to the operation of the facility and who:

- 24 (a) actually visited the facility within the ~~year covered by the statement for a category A facility~~  
 25 ~~and within the calendar quarter covered by the statement for a category B facility;~~
- 26 (b) has certified that the particular needs of the resident can be adequately met in the facility; and
- 27 (c) has certified that there has been no significant change in health care status that would require  
 28 another level of care.

29 (5) The department shall, in consultation with the department of social and rehabilitation services,  
 30 provide by rule:



1 (a) an application or placement procedure informing a prospective resident and, if applicable, the  
2 resident's physician of:

3 (i) physical and mental standards for residents of personal-care facilities;

4 (ii) requirements for placement in a facility with a higher standard of care if a resident's condition  
5 deteriorates; and

6 (iii) the services offered by the facility and services that a resident may receive from third-party  
7 providers while resident in the facility;

8 (b) standards to be used by a facility and, if appropriate, by a screening agency to screen residents  
9 and prospective residents to prevent residence by individuals referred to in subsection (3);

10 (c) a method by which the results of any screening decision made pursuant to rules established  
11 under subsection (5)(b) may be appealed by the facility operator or by or on behalf of a resident or  
12 prospective resident;

13 (d) standards for operating a category A personal-care facility, including standards for the physical,  
14 structural, environmental, sanitary, infection control, dietary, social, staffing, and recordkeeping  
15 components of a facility; and

16 (e) standards for operating a category B personal-care facility, which must include the standards  
17 for a category A personal-care facility and additional standards for assessment of residents, care planning,  
18 qualifications and training of staff, restraint use and reduction, prevention and care of pressure sores,  
19 incontinence care, and the storage and administration of drugs."

20  
21 **Section 6.** Section 50-5-227, MCA, is amended to read:

22 **"50-5-227. Licensing personal-care facilities.** (1) The department shall, in consultation with the  
23 department of social and rehabilitation services, by rule adopt standards for licensing and operation of  
24 personal-care facilities to implement the provisions of 50-5-225 and 50-5-226.

25 (2) The following licensing categories must be used by the department in adopting rules under  
26 subsection (1):

27 (a) category A--a facility providing personal care to ~~six or more~~ residents who may not be:

28 (i) in need of skilled nursing care;

29 (ii) in need of medical, chemical, or physical restraint;

30 (iii) nonambulatory or bedridden;

1 (iv) incontinent to the extent that bowel or bladder control is absent; or

2 (v) unable to self-administer medications; or

3 (b) category B--a facility providing personal care to five or fewer residents who may be:

4 (i) in need of skilled nursing care;

5 (ii) in need of medical, chemical, or physical restraint;

6 (iii) nonambulatory or bedridden;

7 (iv) incontinent to the extent that bowel or bladder control is absent; or

8 (v) unable to self-administer medications.

9 (3) The department may by rule establish license fees, inspection fees, and fees for patient  
10 screening. Fees must be reasonably related to service costs."

11  
12 **Section 7.** Section 50-5-301, MCA, is amended to read:

13 **"50-5-301. When certificate of need is required -- definitions.** (1) Unless a person has submitted  
14 an application for and is the holder of a certificate of need granted by the department, the person may not  
15 initiate any of the following:

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

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

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

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

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

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

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

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

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

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

13 (f) the construction, development, or other establishment of a health care facility that is being  
14 replaced or that did not previously exist, by any person, including another type of health care facility;

15 (g) the expansion of the geographical service area of a home health agency;

16 (h) the use of hospital beds to provide services to patients or residents needing only skilled nursing  
17 care, intermediate nursing care, or intermediate developmental disability care, as those levels of care are  
18 defined in 50-5-101; or

19 (i) the provision by a hospital of services for ambulatory surgical care, home health care, long-term  
20 care, inpatient mental health care, inpatient chemical dependency treatment, or inpatient rehabilitation.

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

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

25 (a) "Health care facility" or "facility" means a nonfederal ambulatory surgical facility, home health  
26 agency, long-term care facility, medical assistance facility, mental health center with inpatient services,  
27 inpatient chemical dependency facility, rehabilitation facility with inpatient services, or residential treatment  
28 facility. The term does not include:

29 (i) a hospital, except to the extent that a hospital is subject to certificate of need requirements  
30 pursuant to subsection (1)(i); or

1 (ii) an office of a private physician, dentist, or other physical or mental health care professionals,  
2 including chemical dependency counselors.

3 (b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate  
4 nursing care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or  
5 more individuals.

6 (ii) The term does not include ~~adult foster care, licensed under 52-3-303~~ residential care facilities  
7 AS DEFINED IN 50-5-101; community homes for the developmentally disabled, licensed under 53-20-305;  
8 community homes for persons with severe disabilities, licensed under 52-4-203; boarding or foster homes  
9 for children, licensed under 41-3-1142; hotels, motels, boardinghouses, roominghouses, or similar  
10 accommodations providing for transients, students, or individuals not requiring institutional health care; or  
11 juvenile and adult correctional facilities operating under the authority of the department of corrections and  
12 human services.

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

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

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

19 (b) For construction of health care facilities, the expenditure threshold is \$1,500,000."  
20

21 **Section 8.** Section 50-51-102, MCA, is amended to read:

22 "**50-51-102. Definitions.** Unless the context requires otherwise, in this chapter, the following  
23 definitions apply:

24 ~~(1) "Board" means the board of health and environmental sciences.~~

25 ~~(2) "Commercial establishment" means an establishment operated primarily for profit.~~

26 ~~(3)~~(1) "Department" means the department of health and environmental sciences.

27 ~~(4)~~(2) "Establishment" means a hotel, motel, roominghouse, boardinghouse, ~~retirement home,~~ or  
28 tourist home.

29 ~~(5)~~(3) "Hotel" or "motel" includes a building or structure kept, used, maintained as, advertised as,  
30 or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodginghouse, or place

1 where sleeping accommodations are furnished for a fee to transient guests, with or without meals.

2 ~~(6)~~(4) "Person" includes an individual, partnership, corporation, association, county, municipality,  
3 cooperative group, or other entity engaged in the business of operating, owning, or offering the services  
4 of a hotel, motel, boardinghouse, tourist home, ~~retirement home~~, or roominghouse.

5 ~~(7)~~(5) "Roominghouse", or "boardinghouse", or ~~"retirement home"~~ means buildings in which  
6 separate sleeping rooms are rented ~~providing~~ that provide sleeping accommodations for three or more  
7 persons on a weekly, semimonthly, monthly, or permanent basis, whether or not meals or central kitchens  
8 are provided but without separated cooking facilities or kitchens within each room, and whose occupants  
9 do not need professional nursing or personal-care services provided by the facility.

10 ~~(8)~~(6) "Tourist home" means an establishment or premises where sleeping accommodations are  
11 furnished to transient guests for hire or rent on a daily or weekly rental basis in a private home when the  
12 accommodations are offered for hire or rent for the use of the traveling public.

13 ~~(9)~~(7) "Transient guest" means a guest for only a brief stay, such as the traveling public."  
14

15 **Section 9.** Section 50-51-201, MCA, is amended to read:

16 **"50-51-201. License required.** (1) Each year, every person engaged in the business of conducting  
17 or operating a hotel, motel, tourist home, boardinghouse, ~~retirement home~~, or roominghouse shall procure  
18 a license issued by the department.

19 (2) A separate license is required for each establishment; however, ~~where~~ when more than one of  
20 each type of establishment is operated on the same premises and under the same management, only one  
21 license is required ~~which shall~~ that must enumerate on the certificate ~~thereof~~ the types of establishments  
22 licensed.

23 (3) Before a license may be issued by the department, it must be validated by the local health  
24 officer, or, if there is no local health officer, the sanitarian, in the county where the establishment is  
25 located."  
26

27 **NEW SECTION. Section 10. Requirements for home infusion therapy services.** An agency  
28 providing home infusion therapy services shall directly provide either the home infusion therapy services  
29 or skilled nursing services and may either directly provide or may arrange for the provision of the other  
30 services.

1           NEW SECTION. Section 11. Requirements for retirement homes. A retirement home ~~may~~ SHALL  
2 offer meals or central kitchens but may not offer nursing or personal care services to the residents, other  
3 than by a contract with a third party.

4  
5           NEW SECTION. SECTION 12. STANDARDS FOR ADULT FOSTER CARE HOMES. THE  
6 DEPARTMENT MAY ADOPT RULES ESTABLISHING STANDARDS FOR THE LICENSING OF ADULT FOSTER  
7 CARE HOMES. THE STANDARDS MUST PROVIDE FOR THE SAFETY AND COMFORT OF THE RESIDENTS  
8 AND MAY BE ADOPTED BY THE DEPARTMENT ONLY AFTER RECEIVING THE ADVICE AND  
9 RECOMMENDATIONS OF THE STATE FIRE PREVENTION AND INVESTIGATION PROGRAM OF THE  
10 DEPARTMENT OF JUSTICE IN RELATION TO FIRE AND SAFETY REQUIREMENTS FOR ADULT FOSTER  
11 CARE HOMES.

12  
13           NEW SECTION. SECTION 13. LIMITATION ON CARE PROVIDED IN ADULT FOSTER CARE  
14 HOME. (1) EXCEPT AS PROVIDED IN THIS SECTION, THE TYPES OF CARE OFFERED BY ADULT FOSTER  
15 CARE HOMES ARE LIMITED TO LIGHT PERSONAL CARE OR CUSTODIAL CARE AND MAY NOT INCLUDE  
16 SKILLED NURSING CARE.

17           (2) AN ADULT FOSTER CARE HOME MAY BE LICENSED TO PROVIDE CARE FOR AN ADULT WHO  
18 RESIDED IN THE HOME FOR AT LEAST 1 YEAR BEFORE REACHING 18 YEARS OF AGE, EVEN THOUGH  
19 THE ADULT IS:

20           (A) IN NEED OF SKILLED NURSING CARE;

21           (B) IN NEED OF MEDICAL, PHYSICAL, OR CHEMICAL RESTRAINT;

22           (C) NONAMBULATORY OR BEDRIDDEN;

23           (D) INCONTINENT TO THE EXTENT THAT BOWEL OR BLADDER CONTROL IS ABSENT; OR

24           (E) UNABLE TO SELF-ADMINISTER MEDICATIONS.

25           (3) AN ADULT FOSTER CARE HOME THAT APPLIES FOR A LICENSE UNDER SUBSECTION (2)  
26 MUST HAVE A SIGNED STATEMENT FROM A PHYSICIAN AGREEING THAT THE CARE NEEDED BY THE  
27 ADULT MAY BE PROVIDED IN THE HOME.

28           (4) A RESIDENT OF AN ADULT FOSTER CARE HOME LICENSED UNDER SUBSECTION (2) MUST  
29 HAVE A SIGNED STATEMENT, RENEWED ON AN ANNUAL BASIS, FROM A PHYSICIAN, A PHYSICIAN  
30 ASSISTANT-CERTIFIED, A NURSE PRACTITIONER, OR A REGISTERED NURSE, WHOSE WORK IS

1 UNRELATED TO THE OPERATION OF THE HOME AND WHO:

2 (A) ACTUALLY VISITED THE HOME WITHIN THE YEAR COVERED BY THE STATEMENT;

3 (B) HAS CERTIFIED THAT THE PARTICULAR NEEDS OF THE RESIDENT CAN BE ADEQUATELY  
4 MET IN THE HOME; AND

5 (C) HAS CERTIFIED THAT THERE HAS BEEN NO SIGNIFICANT CHANGE IN HEALTH CARE  
6 STATUS THAT WOULD REQUIRE ANOTHER LEVEL OF CARE.

7 (5) AS USED IN THIS SECTION, "SKILLED NURSING CARE" MEANS 24-HOUR CARE SUPERVISED  
8 BY A REGISTERED NURSE OR A LICENSED PRACTICAL NURSE UNDER THE ORDERS OF AN ATTENDING  
9 PHYSICIAN.

10  
11 SECTION 14. SECTION 27-6-103, MCA, IS AMENDED TO READ:

12 "27-6-103. Definitions. As used in this chapter, the following definitions apply:

13 (1) "Dentist" means:

14 (a) for purposes of the assessment of the annual surcharge, an individual licensed to practice  
15 dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:

16 (i) has as ~~his~~ the individual's principal residence or place of dental practice the state of Montana;

17 (ii) is not employed full-time by any federal governmental agency or entity; and

18 (iii) is not fully retired from the practice of dentistry; or

19 (b) for all other purposes, a person licensed to practice dentistry under the provisions of Title 37,  
20 chapter 4, who at the time of the occurrence of the incident giving rise to the claim:

21 (i) was an individual who had as ~~his~~ the principal residence or place of dental practice the state of  
22 Montana and was not employed full-time by any federal governmental agency or entity; or

23 (ii) was a professional service corporation, partnership, or other business entity organized under  
24 the laws of any state to render dental services and whose shareholders, partners, or owners were individual  
25 dentists licensed to practice dentistry under the provisions of Title 37, chapter 4.

26 (2) (a) "Health care facility" means a facility (other than a governmental infirmary but including  
27 a university or college infirmary) licensed as a health care facility under Title 50, chapter 5.

28 (b) For the purposes of this chapter, a health care facility does not include a chemical dependency  
29 facility, an end-stage renal dialysis facility, a home infusion therapy agency, or a residential care facility.

30 (3) "Health care provider" means a physician, a dentist, or a health care facility.

1 (4) "Hospital" means a hospital as defined in 50-5-101.

2 (5) "Malpractice claim" means ~~any~~ a claim or potential claim of a claimant against a health care  
3 provider for medical or dental treatment, lack of medical or dental treatment, or other alleged departure from  
4 accepted standards of health care ~~which~~ that proximately results in damage to the claimant, whether the  
5 claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations  
6 of battery or wrongful death.

7 (6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

8 (7) "Physician" means:

9 (a) for purposes of the assessment of the annual surcharge, an individual licensed to practice  
10 medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

11 (i) has as ~~his~~ the individual's principal residence or place of medical practice the state of Montana;

12 (ii) is not employed full-time by any federal governmental agency or entity; and

13 (iii) is not fully retired from the practice of medicine; or

14 (b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37,  
15 chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

16 (i) was an individual who had as ~~his~~ the principal residence or place of medical practice the state  
17 of Montana and was not employed full-time by any federal governmental agency or entity; or

18 (ii) was a professional service corporation, partnership, or other business entity organized under  
19 the laws of any state to render medical services and whose shareholders, partners, or owners were  
20 individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3."

21

22 **NEW SECTION.** **Section 15. Repealer.** Sections 52-3-301, 52-3-302, 52-3-303, 52-3-304,  
23 52-3-305, 52-3-311, 52-3-312, 52-3-313, and 52-3-314, MCA, are repealed.

24

25 **NEW SECTION.** **Section 16. Codification instruction.** [Sections 10 ~~and 11~~ THROUGH 13] are  
26 intended to be codified as an integral part of Title 50, chapter 5, part 2, and the provisions of Title 50,  
27 chapter 5, part 2, apply to [sections 10 ~~and 11~~ THROUGH 13].

28

-END-