

1 SENATE BILL NO. 68

2 INTRODUCED BY KEATING

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A REHABILITATION FACILITY ACCREDITED
5 BY THE COMMISSION ON ACCREDITATION OF REHABILITATION FACILITIES MAY BE CONSIDERED
6 ELIGIBLE FOR LICENSURE AS A REHABILITATION FACILITY OR A TREATMENT FACILITY FOR CHEMICAL
7 DEPENDENCY; AND AMENDING SECTIONS 50-4-504, 50-4-605, 50-5-101, 50-5-103, 53-24-103, AND
8 53-24-208, MCA."

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

11
12 Section 1. Section 50-4-504, MCA, is amended to read:

13 "50-4-504. **Definitions.** As used in this part, the following definitions apply:

14 (1) "Data base" means the health care data base created pursuant to 50-4-502.

15 (2) "Department" means the department of public health and human services provided for in Title
16 2, chapter 15, part 22.

17 (3) "Health care" includes both physical health care and mental health care.

18 (4) "Health care advisory council" means the council provided for in 50-4-103, 50-4-104, 50-4-203
19 through 50-4-206, and 50-4-403.

20 (5) "Health care facility" means all facilities and institutions, whether public or private, proprietary
21 or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated
22 persons. The term includes all facilities and institutions included in 50-5-101~~(19)~~(18). The term does not
23 apply to a facility operated by religious groups relying solely on spiritual means, through prayer, for healing.

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

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

1 **Section 2.** Section 50-4-605, MCA, is amended to read:

2 **"50-4-605. Definitions.** For the purposes of this part, the following definitions apply:

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

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

11 (3) "Department" means the department of justice provided for in Title 2, chapter 15, part 20.

12 (4) "Health care facility" means all facilities and institutions, whether public or private, proprietary
13 or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated
14 persons. The term includes all facilities and institutions included in 50-5-101~~(19)~~(18). The term does not
15 apply to a facility operated by religious groups relying solely on spiritual means, through prayer, for
16 healing."

17

18 **Section 3.** Section 50-5-101, MCA, is amended to read:

19 **"50-5-101. Definitions.** As used in parts 1 through 4 of this chapter, unless the context clearly
20 indicates otherwise, the following definitions apply:

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

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

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

28 (b) As used in this subsection (3), the following definitions apply:

29 (i) "Aged person" means a person as defined by department rule as aged.

30 (ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled

1 adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person
2 is available to meet those basic needs.

3 (iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by
4 department rule as disabled.

5 (iv) "Light personal care" means assisting the aged person or disabled adult in accomplishing such
6 personal hygiene tasks as bathing, dressing, hair grooming, and supervision of prescriptive medicine
7 administration. The term does not include the administration of prescriptive medications.

8 (4) "Affected person" means an applicant for a certificate of need, a health care facility located
9 in the geographic area affected by the application, an agency that establishes rates for health care facilities,
10 or a third-party payer who reimburses health care facilities in the area affected by the proposal.

11 (5) "Ambulatory surgical facility" means a facility that provides surgical treatment to patients not
12 requiring hospitalization. This type of facility may include observation beds for patient recovery from surgery
13 or other treatment.

14 (6) "Capital expenditure" means:

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

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

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

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

25 (9) "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 a disease or assessment of a medical condition.

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

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

2 (11) "Commission on accreditation of rehabilitation facilities" means the organization nationally
3 recognized by that name with headquarters in Tucson, Arizona, that surveys rehabilitation facilities upon
4 their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and
5 requirements.

6 ~~(11)~~(12) "Comparative review" means a joint review of two or more certificate of need applications
7 that are determined by the department to be competitive in that the granting of a certificate of need to one
8 of the applicants would substantially prejudice the department's review of the other applications.

9 ~~(12)~~(13) "Construction" means the physical erection of a health care facility and any stage of the
10 physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health
11 care facility.

12 ~~(13)~~(14) "Department" means the department of public health and human services provided for in
13 2-15-2201.

14 ~~(14)~~(15) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney
15 diseases and includes freestanding hemodialysis units.

16 ~~(15)~~(16) "Federal acts" means federal statutes for the construction of health care facilities.

17 ~~(16)~~(17) "Governmental unit" means the state, a state agency, a county, municipality, or political
18 subdivision of the state, or an agency of a political subdivision.

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

27 ~~(18)~~(19) "Health maintenance organization" means a public or private organization that provides
28 or arranges for health care services to enrollees on a prepaid or other financial basis, either directly through
29 provider employees or through contractual or other arrangements with a provider or group of providers.

30 ~~(19)~~(20) "Home health agency" means a public agency or private organization or subdivision of the

1 agency or organization that is engaged in providing home health services to individuals in the places where
 2 they live. Home health services must include the services of a licensed registered nurse and at least one
 3 other therapeutic service and may include additional support services.

4 ~~(20)~~(21) "Home infusion therapy agency" means a health care facility that provides home infusion
 5 therapy services.

6 ~~(21)~~(22) "Home infusion therapy services" means the preparation, administration, or furnishing of
 7 parenteral medications or parenteral or enteral nutritional services to an individual in that individual's
 8 residence. The services include an educational component for the patient, the patient's caregiver, or the
 9 patient's family member.

10 ~~(22)~~(23) "Hospice" means a coordinated program of home and inpatient health care that provides
 11 or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's
 12 family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the
 13 final stages of illness and dying and that includes formal bereavement programs as an essential component.
 14 The term includes:

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

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

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

26 ~~(24)~~(25) "Infirmiry" means a facility located in a university, college, government institution, or
 27 industry for the treatment of the sick or injured, with the following subdefinitions:

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

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

30 ~~(25)~~(26) "Joint commission on accreditation of ~~hospitals~~ healthcare organizations" means the

1 organization nationally recognized by that name with headquarters in ~~Chicago~~ Oakbrook Terrace, Illinois,
2 that surveys health care facilities upon their requests and grants accreditation status to a health care facility
3 that it finds meets its standards and requirements.

4 ~~(26)~~(27) (a) "Long-term care facility" means a facility or part of a facility that provides skilled
5 nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to
6 a total of two or more individuals or that provides personal care. The term does not include community
7 homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons
8 with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 41-3-1142; hotels,
9 motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or
10 individuals who do not require institutional health care; or juvenile and adult correctional facilities operating
11 under the authority of the department of corrections.

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 persons with developmental disabilities, as defined in
19 53-20-102(4), or for individuals with related problems.

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

22 ~~(27)~~(28) "Major medical equipment" means a single unit of medical equipment or a single system
23 of components with related functions that is used to provide medical or other health services and that costs
24 a substantial sum of money.

25 ~~(28)~~(29) "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 ~~(29)~~(30) "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, the rehabilitation of mentally ill individuals,
2 or any combination of these services.

3 ~~(30)~~(31) "Nonprofit health care facility" means a health care facility owned or operated by one or
4 more nonprofit corporations or associations.

5 ~~(31)~~(32) "Observation bed" means a bed occupied by a patient recovering from surgery or other
6 treatment.

7 ~~(32)~~(33) "Offer" means the representation by a health care facility that it can provide specific health
8 services.

9 ~~(33)~~(34) "Outpatient facility" means a facility, located in or apart from a hospital, that provides,
10 under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients
11 in need of medical, surgical, or mental care. An outpatient facility may have observation beds.

12 ~~(34)~~(35) "Patient" means an individual obtaining services, including skilled nursing care, from a
13 health care facility.

14 ~~(35)~~(36) "Person" means an individual, firm, partnership, association, organization, agency,
15 institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

16 ~~(36)~~(37) "Personal-care facility" means a facility in which personal care is provided for residents
17 in either a category A facility or a category B facility as provided in 50-5-227.

18 ~~(37)~~(38) "Public health center" means a publicly owned facility providing health services, including
19 laboratories, clinics, and administrative offices.

20 ~~(38)~~(39) "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)~~(40) "Resident" means an individual who is in a long-term care facility or in a residential care
25 facility.

26 ~~(40)~~(41) "Residential care facility" means an adult day-care center, an adult foster care home, a
27 personal-care facility, or a retirement home.

28 ~~(41)~~(42) "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 ~~(42)~~(43) "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 ~~(43)~~(44) "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 ~~(44)~~(45) "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 4.** Section 50-5-103, MCA, is amended to read:

12 **"50-5-103. Rules and standards -- accreditation by joint commission.** (1) The department shall
13 promulgate and adopt rules and minimum standards for implementation of parts 1 and 2.

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

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

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

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

1 under this section to ensure compliance with state licensure standards.

2 (6) The department may consider as eligible for licensure during the accreditation period any
 3 rehabilitation facility that furnishes written evidence, including the recommendation for future compliance
 4 statements, of accreditation of its programs by the commission on accreditation of rehabilitation facilities.
 5 The department may inspect a rehabilitation facility considered eligible for licensure under this section to
 6 ensure compliance with state licensure standards."

7
 8 **Section 5.** Section 53-24-103, MCA, is amended to read:

9 **"53-24-103. Definitions.** For purposes of this chapter, the following definitions apply:

10 (1) "Alcoholic" means a person who has a chronic illness or disorder of behavior characterized by
 11 repeated drinking of alcoholic beverages to the extent that it endangers the health, interpersonal
 12 relationships, or economic function of the individual or public health, welfare, or safety.

13 (2) "Approved private treatment facility" means a private agency that has as its function the
 14 treatment, rehabilitation, and prevention of chemical dependency, that meets the standards prescribed in
 15 53-24-208(1), and that is approved under 53-24-208.

16 (3) "Approved public treatment facility" means:

17 (a) a treatment agency operating under the direction and control of the department as a state
 18 agency and approved under 53-24-208; or

19 (b) a treatment agency operating under the direction and control of a local government and
 20 approved under 53-24-208.

21 (4) "Chemical dependency" means the use of any chemical substance, legal or illegal, that creates
 22 behavioral or health problems, or both, resulting in operational impairment. This term includes alcoholism,
 23 drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of
 24 an individual or the public health, welfare, or safety.

25 (5) "Commission on accreditation of rehabilitation facilities" means the organization nationally
 26 recognized by that name with headquarters in Tucson, Arizona, that surveys rehabilitation facilities upon
 27 their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and
 28 requirements.

29 ~~(6)~~ (6) "Department" means the department of public health and human services provided for in
 30 2-15-2201.

1 ~~(6)~~(7) "Family member" is the spouse, mother, father, child, or member of the household of a
2 chemically dependent person whose life has been affected by the actions of the chemically dependent
3 person and who may require treatment.

4 ~~(7)~~(8) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is
5 unconscious or has judgment otherwise so impaired that the person is incapable of realizing and making
6 a rational decision with respect to a need for treatment.

7 ~~(8)~~(9) "Incompetent person" means a person who has been adjudged incompetent by the district
8 court.

9 ~~(9)~~(10) "Intoxicated person" means a person whose mental or physical functioning is substantially
10 impaired as a result of the use of alcohol.

11 ~~(10)~~(11) "Prevention" has meaning on four levels; these are:

12 (a) education to provide information to the school children and general public relating to chemical
13 dependency treatment and rehabilitative services and to reduce the consequences of life experiences
14 acquired by contact with a chemically dependent person;

15 (b) early detection and recovery from the illness before lasting emotional or physical damage, or
16 both, have occurred;

17 (c) if lasting emotional or physical damage, or both, have occurred, to arrest the illness before full
18 disability has been reached;

19 (d) the provision of facility requirements to meet division program standards and improve public
20 accessibility for services.

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

25 ~~(11)~~(13) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient
26 services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service
27 care, vocational rehabilitation, and career counseling, which may be extended to chemically dependent
28 persons, intoxicated persons, and family members."

29

30 **Section 6.** Section 53-24-208, MCA, is amended to read:

1 **"53-24-208. Facility standards.** (1) The department shall establish standards for approved
 2 treatment facilities that must be met for a treatment facility to be approved as a public or private treatment
 3 facility and fix the fees to be charged for the required inspections. The standards must be adopted by rule
 4 and may concern the health standards to be met and standards for the approval of treatment programs for
 5 patients.

6 (2) Facilities applying for approval ~~must~~ shall demonstrate that a local need currently exists for
 7 proposed services and that the proposed services do not duplicate existing local services.

8 (3) The department shall periodically inspect approved public and private treatment facilities at
 9 reasonable times and in a reasonable manner.

10 (4) The department shall maintain a list of approved public and private treatment facilities.

11 (5) Each approved public ~~and or~~ private treatment facility shall, on request, file with the department
 12 data, statistics, schedules, and information that the department reasonably requires. An approved public
 13 or private treatment facility that without good cause fails to furnish any data, statistics, schedules, or
 14 information as requested or files fraudulent returns ~~thereof shall~~ of the requested material must be removed
 15 from the list of approved treatment facilities.

16 (6) The department, after holding a hearing in accordance with the Montana Administrative
 17 Procedure Act, may suspend, revoke, limit, or restrict an approval or refuse to grant an approval for failure
 18 to meet its standards.

19 (7) A district court may restrain any violation of this section, review any denial, restriction, or
 20 revocation of approval, and grant other relief required to enforce its provisions.

21 (8) Upon petition of the department and after a hearing held upon reasonable notice to the facility,
 22 a district court may issue a warrant to the department authorizing it to enter and inspect at reasonable
 23 times and examine the books and accounts of any approved public or private treatment facility ~~refusing that~~
 24 refuses to consent to inspection or examination by the department or ~~which~~ that the department has
 25 reasonable cause to believe is operating in violation of this chapter.

26 (9) If a rehabilitation facility otherwise meets the requirements of subsection (2), the department
 27 may consider as eligible for approval during the accreditation period any rehabilitation facility that furnishes
 28 written evidence, including the recommendation for future compliance statements, of accreditation of its
 29 programs by the commission on accreditation of rehabilitation facilities. The department may, but is not
 30 required to, inspect a facility considered eligible for approval under this section to ensure compliance with

1 state approval standards."

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-END-

APPROVED BY COM ON PUBLIC
HEALTH, WELFARE & SAFETY

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SENATE BILL NO. 68
INTRODUCED BY KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A REHABILITATION FACILITY ACCREDITED BY THE COMMISSION ON ACCREDITATION OF REHABILITATION FACILITIES MAY BE CONSIDERED ELIGIBLE FOR LICENSURE AS A REHABILITATION FACILITY OR A TREATMENT FACILITY FOR CHEMICAL DEPENDENCY; AND AMENDING SECTIONS 50-4-504, 50-4-605, 50-5-101, 50-5-103, 53-24-103, AND 53-24-208, MCA."

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO INTRODUCED COPY (WHITE) FOR COMPLETE TEXT.

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8 53-24-208, MCA."

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

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12 **Section 1.** Section 50-4-504, MCA, is amended to read:

13 **"50-4-504. Definitions.** As used in this part, the following definitions apply:

14 (1) "Data base" means the health care data base created pursuant to 50-4-502.

15 (2) "Department" means the department of public health and human services provided for in Title
16 2, chapter 15, part 22.

17 (3) "Health care" includes both physical health care and mental health care.

18 (4) "Health care advisory council" means the council provided for in 50-4-103, 50-4-104, 50-4-203
19 through 50-4-206, and 50-4-403.

20 (5) "Health care facility" means all facilities and institutions, whether public or private, proprietary
21 or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated
22 persons. The term includes all facilities and institutions included in 50-5-101~~(19)~~(18). The term does not
23 apply to a facility operated by religious groups relying solely on spiritual means, through prayer, for healing.

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

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

1 **Section 2.** Section 50-4-605, MCA, is amended to read:

2 **"50-4-605. Definitions.** For the purposes of this part, the following definitions apply:

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4 department as evidence of the department's intention that the implementation of a cooperative agreement,
5 when actively supervised by the department, receive state action immunity from prosecution as a violation
6 of state or federal antitrust laws.

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

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13 or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated
14 persons. The term includes all facilities and institutions included in 50-5-101~~(49)~~(18). The term does not
15 apply to a facility operated by religious groups relying solely on spiritual means, through prayer, for
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19 **"50-5-101. Definitions.** As used in parts 1 through 4 of this chapter, unless the context clearly
20 indicates otherwise, the following definitions apply:

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

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

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

28 (b) As used in this subsection (3), the following definitions apply:

29 (i) "Aged person" means a person as defined by department rule as aged.

30 (ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled

1 adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person
2 is available to meet those basic needs.

3 (iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by
4 department rule as disabled.

5 (iv) "Light personal care" means assisting the aged person or disabled adult in accomplishing such
6 personal hygiene tasks as bathing, dressing, hair grooming, and supervision of prescriptive medicine
7 administration. The term does not include the administration of prescriptive medications.

8 (4) "Affected person" means an applicant for a certificate of need, a health care facility located
9 in the geographic area affected by the application, an agency that establishes rates for health care facilities,
10 or a third-party payer who reimburses health care facilities in the area affected by the proposal.

11 (5) "Ambulatory surgical facility" means a facility that provides surgical treatment to patients not
12 requiring hospitalization. This type of facility may include observation beds for patient recovery from surgery
13 or other treatment.

14 (6) "Capital expenditure" means:

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

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

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

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

25 (9) "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 a disease or assessment of a medical condition.

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

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

2 (11) "Commission on accreditation of rehabilitation facilities" means the organization nationally
3 recognized by that name with headquarters in Tucson, Arizona, that surveys rehabilitation facilities upon
4 their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and
5 requirements.

6 ~~(11)~~(12) "Comparative review" means a joint review of two or more certificate of need applications
7 that are determined by the department to be competitive in that the granting of a certificate of need to one
8 of the applicants would substantially prejudice the department's review of the other applications.

9 ~~(12)~~(13) "Construction" means the physical erection of a health care facility and any stage of the
10 physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health
11 care facility.

12 ~~(13)~~(14) "Department" means the department of public health and human services provided for in
13 2-15-2201.

14 ~~(14)~~(15) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney
15 diseases and includes freestanding hemodialysis units.

16 ~~(15)~~(16) "Federal acts" means federal statutes for the construction of health care facilities.

17 ~~(16)~~(17) "Governmental unit" means the state, a state agency, a county, municipality, or political
18 subdivision of the state, or an agency of a political subdivision.

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

27 ~~(18)~~(19) "Health maintenance organization" means a public or private organization that provides
28 or arranges for health care services to enrollees on a prepaid or other financial basis, either directly through
29 provider employees or through contractual or other arrangements with a provider or group of providers.

30 ~~(19)~~(20) "Home health agency" means a public agency or private organization or subdivision of the

1 agency or organization that is engaged in providing home health services to individuals in the places where
 2 they live. Home health services must include the services of a licensed registered nurse and at least one
 3 other therapeutic service and may include additional support services.

4 ~~(20)~~(21) "Home infusion therapy agency" means a health care facility that provides home infusion
 5 therapy services.

6 ~~(24)~~(22) "Home infusion therapy services" means the preparation, administration, or furnishing of
 7 parenteral medications or parenteral or enteral nutritional services to an individual in that individual's
 8 residence. The services include an educational component for the patient, the patient's caregiver, or the
 9 patient's family member.

10 ~~(22)~~(23) "Hospice" means a coordinated program of home and inpatient health care that provides
 11 or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's
 12 family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the
 13 final stages of illness and dying and that includes formal bereavement programs as an essential component.
 14 The term includes:

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

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

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

26 ~~(24)~~(25) "Infirmarium" means a facility located in a university, college, government institution, or
 27 industry for the treatment of the sick or injured, with the following subdefinitions:

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

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

30 ~~(25)~~(26) "Joint commission on accreditation of ~~hospitals~~ healthcare organizations" means the

1 organization nationally recognized by that name ~~with headquarters in Chicago Oakbrook Terrace, Illinois,~~
 2 that surveys health care facilities upon their requests and grants accreditation status to a health care facility
 3 that it finds meets its standards and requirements.

4 ~~(26)~~(27) (a) "Long-term care facility" means a facility or part of a facility that provides skilled
 5 nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to
 6 a total of two or more individuals or that provides personal care. The term does not include community
 7 homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons
 8 with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 41-3-1142; hotels,
 9 motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or
 10 individuals who do not require institutional health care; or juvenile and adult correctional facilities operating
 11 under the authority of the department of corrections.

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 persons with developmental disabilities, as defined in
 19 53-20-102(4), or for individuals with related problems.

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

22 ~~(27)~~(28) "Major medical equipment" means a single unit of medical equipment or a single system
 23 of components with related functions that is used to provide medical or other health services and that costs
 24 a substantial sum of money.

25 ~~(28)~~(29) "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 ~~(29)~~(30) "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, the rehabilitation of mentally ill individuals,
2 or any combination of these services.

3 ~~(30)~~(31) "Nonprofit health care facility" means a health care facility owned or operated by one or
4 more nonprofit corporations or associations.

5 ~~(31)~~(32) "Observation bed" means a bed occupied by a patient recovering from surgery or other
6 treatment.

7 ~~(32)~~(33) "Offer" means the representation by a health care facility that it can provide specific health
8 services.

9 ~~(33)~~(34) "Outpatient facility" means a facility, located in or apart from a hospital, that provides,
10 under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients
11 in need of medical, surgical, or mental care. An outpatient facility may have observation beds.

12 ~~(34)~~(35) "Patient" means an individual obtaining services, including skilled nursing care, from a
13 health care facility.

14 ~~(35)~~(36) "Person" means an individual, firm, partnership, association, organization, agency,
15 institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

16 ~~(36)~~(37) "Personal-care facility" means a facility in which personal care is provided for residents
17 in either a category A facility or a category B facility as provided in 50-5-227.

18 ~~(37)~~(38) "Public health center" means a publicly owned facility providing health services, including
19 laboratories, clinics, and administrative offices.

20 ~~(38)~~(39) "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)~~(40) "Resident" means an individual who is in a long-term care facility or in a residential care
25 facility.

26 ~~(40)~~(41) "Residential care facility" means an adult day-care center, an adult foster care home, a
27 personal-care facility, or a retirement home.

28 ~~(41)~~(42) "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 ~~(42)~~(43) "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 ~~(43)~~(44) "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 ~~(44)~~(45) "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 4.** Section 50-5-103, MCA, is amended to read:

12 **"50-5-103. Rules and standards -- accreditation by joint commission.** (1) The department shall
13 promulgate and adopt rules and minimum standards for implementation of parts 1 and 2.

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

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

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

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

1 under this section to ensure compliance with state licensure standards.

2 (6) The department may consider as eligible for licensure during the accreditation period any
 3 rehabilitation facility that furnishes written evidence, including the recommendation for future compliance
 4 statements, of accreditation of its programs by the commission on accreditation of rehabilitation facilities.
 5 The department may inspect a rehabilitation facility considered eligible for licensure under this section to
 6 ensure compliance with state licensure standards."

7

8 **Section 5.** Section 53-24-103, MCA, is amended to read:

9 **"53-24-103. Definitions.** For purposes of this chapter, the following definitions apply:

10 (1) "Alcoholic" means a person who has a chronic illness or disorder of behavior characterized by
 11 repeated drinking of alcoholic beverages to the extent that it endangers the health, interpersonal
 12 relationships, or economic function of the individual or public health, welfare, or safety.

13 (2) "Approved private treatment facility" means a private agency that has as its function the
 14 treatment, rehabilitation, and prevention of chemical dependency, that meets the standards prescribed in
 15 53-24-208(1), and that is approved under 53-24-208.

16 (3) "Approved public treatment facility" means:

17 (a) a treatment agency operating under the direction and control of the department as a state
 18 agency and approved under 53-24-208; or

19 (b) a treatment agency operating under the direction and control of a local government and
 20 approved under 53-24-208.

21 (4) "Chemical dependency" means the use of any chemical substance, legal or illegal, that creates
 22 behavioral or health problems, or both, resulting in operational impairment. This term includes alcoholism,
 23 drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of
 24 an individual or the public health, welfare, or safety.

25 (5) "Commission on accreditation of rehabilitation facilities" means the organization nationally
 26 recognized by that name with headquarters in Tucson, Arizona, that surveys rehabilitation facilities upon
 27 their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and
 28 requirements.

29 ~~(5)~~(6) "Department" means the department of public health and human services provided for in
 30 2-15-2201.

1 ~~(6)~~(7) "Family member" is the spouse, mother, father, child, or member of the household of a
2 chemically dependent person whose life has been affected by the actions of the chemically dependent
3 person and who may require treatment.

4 ~~(7)~~(8) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is
5 unconscious or has judgment otherwise so impaired that the person is incapable of realizing and making
6 a rational decision with respect to a need for treatment.

7 ~~(8)~~(9) "Incompetent person" means a person who has been adjudged incompetent by the district
8 court.

9 ~~(9)~~(10) "Intoxicated person" means a person whose mental or physical functioning is substantially
10 impaired as a result of the use of alcohol.

11 ~~(10)~~(11) "Prevention" has meaning on four levels; these are:

12 (a) education to provide information to the school children and general public relating to chemical
13 dependency treatment and rehabilitative services and to reduce the consequences of life experiences
14 acquired by contact with a chemically dependent person;

15 (b) early detection and recovery from the illness before lasting emotional or physical damage, or
16 both, have occurred;

17 (c) if lasting emotional or physical damage, or both, have occurred, to arrest the illness before full
18 disability has been reached;

19 (d) the provision of facility requirements to meet division program standards and improve public
20 accessibility for services.

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

25 ~~(11)~~(13) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient
26 services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service
27 care, vocational rehabilitation, and career counseling, which may be extended to chemically dependent
28 persons, intoxicated persons, and family members."

29

30 **Section 6.** Section 53-24-208, MCA, is amended to read:

1 **"53-24-208. Facility standards.** (1) The department shall establish standards for approved
2 treatment facilities that must be met for a treatment facility to be approved as a public or private treatment
3 facility and fix the fees to be charged for the required inspections. The standards must be adopted by rule
4 and may concern the health standards to be met and standards for the approval of treatment programs for
5 patients.

6 (2) Facilities applying for approval ~~must~~ shall demonstrate that a local need currently exists for
7 proposed services and that the proposed services do not duplicate existing local services.

8 (3) The department shall periodically inspect approved public and private treatment facilities at
9 reasonable times and in a reasonable manner.

10 (4) The department shall maintain a list of approved public and private treatment facilities.

11 (5) Each approved public ~~and~~ or private treatment facility shall, on request, file with the department
12 data, statistics, schedules, and information that the department reasonably requires. An approved public
13 or private treatment facility that without good cause fails to furnish any data, statistics, schedules, or
14 information as requested or files fraudulent returns ~~thereof shall~~ of the requested material must be removed
15 from the list of approved treatment facilities.

16 (6) The department, after holding a hearing in accordance with the Montana Administrative
17 Procedure Act, may suspend, revoke, limit, or restrict an approval or refuse to grant an approval for failure
18 to meet its standards.

19 (7) A district court may restrain any violation of this section, review any denial, restriction, or
20 revocation of approval, and grant other relief required to enforce its provisions.

21 (8) Upon petition of the department and after a hearing held upon reasonable notice to the facility,
22 a district court may issue a warrant to the department authorizing it to enter and inspect at reasonable
23 times and examine the books and accounts of any approved public or private treatment facility ~~refusing that~~
24 refuses to consent to inspection or examination by the department or ~~which that~~ that the department has
25 reasonable cause to believe is operating in violation of this chapter.

26 (9) If a rehabilitation facility otherwise meets the requirements of subsection (2), the department
27 may consider as eligible for approval during the accreditation period any rehabilitation facility that furnishes
28 written evidence, including the recommendation for future compliance statements, of accreditation of its
29 programs by the commission on accreditation of rehabilitation facilities. The department may, but is not
30 required to, inspect a facility considered eligible for approval under this section to ensure compliance with

1 state approval standards."

2

-END-

1 SENATE BILL NO. 68

2 INTRODUCED BY KEATING

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A REHABILITATION FACILITY ACCREDITED
5 BY THE COMMISSION ON ACCREDITATION OF REHABILITATION FACILITIES MAY BE CONSIDERED
6 ELIGIBLE FOR LICENSURE AS A REHABILITATION FACILITY OR A TREATMENT FACILITY FOR CHEMICAL
7 DEPENDENCY; AND AMENDING SECTIONS 50-4-504, 50-4-605, 50-5-101, 50-5-103, 53-24-103, AND
8 53-24-208, MCA."

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

11
12 **Section 1.** Section 50-4-504, MCA, is amended to read:

13 **"50-4-504. Definitions.** As used in this part, the following definitions apply:

14 (1) "Data base" means the health care data base created pursuant to 50-4-502.

15 (2) "Department" means the department of public health and human services provided for in Title
16 2, chapter 15, part 22.

17 (3) "Health care" includes both physical health care and mental health care.

18 (4) "Health care advisory council" means the council provided for in 50-4-103, 50-4-104, 50-4-203
19 through 50-4-206, and 50-4-403.

20 (5) "Health care facility" means all facilities and institutions, whether public or private, proprietary
21 or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated
22 persons. The term includes all facilities and institutions included in 50-5-101~~(19)~~(18). The term does not
23 apply to a facility operated by religious groups relying solely on spiritual means, through prayer, for healing.

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

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

1 **Section 2.** Section 50-4-605, MCA, is amended to read:

2 **"50-4-605. Definitions.** For the purposes of this part, the following definitions apply:

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

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

11 (3) "Department" means the department of justice provided for in Title 2, chapter 15, part 20.

12 (4) "Health care facility" means all facilities and institutions, whether public or private, proprietary
13 or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated
14 persons. The term includes all facilities and institutions included in 50-5-101~~(19)~~(18). The term does not
15 apply to a facility operated by religious groups relying solely on spiritual means, through prayer, for
16 healing."

17

18 **Section 3.** Section 50-5-101, MCA, is amended to read:

19 **"50-5-101. Definitions.** As used in parts 1 through 4 of this chapter, unless the context clearly
20 indicates otherwise, the following definitions apply:

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

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

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

28 (b) As used in this subsection (3), the following definitions apply:

29 (i) "Aged person" means a person as defined by department rule as aged.

30 (ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled

1 adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person
2 is available to meet those basic needs.

3 (iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by
4 department rule as disabled.

5 (iv) "Light personal care" means assisting the aged person or disabled adult in accomplishing such
6 personal hygiene tasks as bathing, dressing, hair grooming, and supervision of prescriptive medicine
7 administration. The term does not include the administration of prescriptive medications.

8 (4) "Affected person" means an applicant for a certificate of need, a health care facility located
9 in the geographic area affected by the application, an agency that establishes rates for health care facilities,
10 or a third-party payer who reimburses health care facilities in the area affected by the proposal.

11 (5) "Ambulatory surgical facility" means a facility that provides surgical treatment to patients not
12 requiring hospitalization. This type of facility may include observation beds for patient recovery from surgery
13 or other treatment.

14 (6) "Capital expenditure" means:

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

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

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

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

25 (9) "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 a disease or assessment of a medical condition.

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

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

2 ~~(11)~~ (11) "Commission on accreditation of rehabilitation facilities" means the organization nationally
3 ~~recognized by that name with headquarters in Tucson, Arizona, that surveys rehabilitation facilities upon~~
4 ~~their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and~~
5 ~~requirements.~~

6 ~~(11)(12)~~ (12) "Comparative review" means a joint review of two or more certificate of need applications
7 that are determined by the department to be competitive in that the granting of a certificate of need to one
8 of the applicants would substantially prejudice the department's review of the other applications.

9 ~~(12)(13)~~ (13) "Construction" means the physical erection of a health care facility and any stage of the
10 physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health
11 care facility.

12 ~~(13)(14)~~ (14) "Department" means the department of public health and human services provided for in
13 2-15-2201.

14 ~~(14)(15)~~ (15) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney
15 diseases and includes freestanding hemodialysis units.

16 ~~(15)(16)~~ (16) "Federal acts" means federal statutes for the construction of health care facilities.

17 ~~(16)(17)~~ (17) "Governmental unit" means the state, a state agency, a county, municipality, or political
18 subdivision of the state, or an agency of a political subdivision.

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

27 ~~(18)(19)~~ (19) "Health maintenance organization" means a public or private organization that provides
28 or arranges for health care services to enrollees on a prepaid or other financial basis, either directly through
29 provider employees or through contractual or other arrangements with a provider or group of providers.

30 ~~(19)(20)~~ (20) "Home health agency" means a public agency or private organization or subdivision of the

1 agency or organization that is engaged in providing home health services to individuals in the places where
2 they live. Home health services must include the services of a licensed registered nurse and at least one
3 other therapeutic service and may include additional support services.

4 ~~(20)~~(21) "Home infusion therapy agency" means a health care facility that provides home infusion
5 therapy services.

6 ~~(21)~~(22) "Home infusion therapy services" means the preparation, administration, or furnishing of
7 parenteral medications or parenteral or enteral nutritional services to an individual in that individual's
8 residence. The services include an educational component for the patient, the patient's caregiver, or the
9 patient's family member.

10 ~~(22)~~(23) "Hospice" means a coordinated program of home and inpatient health care that provides
11 or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's
12 family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the
13 final stages of illness and dying and that includes formal bereavement programs as an essential component.
14 The term includes:

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

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

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

26 ~~(24)~~(25) "Infirmiry" means a facility located in a university, college, government institution, or
27 industry for the treatment of the sick or injured, with the following subdefinitions:

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

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

30 ~~(25)~~(26) "Joint commission on accreditation of ~~hospitals~~ healthcare organizations" means the

1 organization nationally recognized by that name ~~with headquarters in Chicago Oakbrook Terrace, Illinois,~~
2 that surveys health care facilities upon their requests and grants accreditation status to a health care facility
3 that it finds meets its standards and requirements.

4 ~~(26)~~(27) (a) "Long-term care facility" means a facility or part of a facility that provides skilled
5 nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to
6 a total of two or more individuals or that provides personal care. The term does not include community
7 homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons
8 with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 41-3-1142; hotels,
9 motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or
10 individuals who do not require institutional health care; or juvenile and adult correctional facilities operating
11 under the authority of the department of corrections.

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 persons with developmental disabilities, as defined in
19 53-20-102(4), or for individuals with related problems.

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

22 ~~(27)~~(28) "Major medical equipment" means a single unit of medical equipment or a single system
23 of components with related functions that is used to provide medical or other health services and that costs
24 a substantial sum of money.

25 ~~(28)~~(29) "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 ~~(29)~~(30) "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, the rehabilitation of mentally ill individuals,
2 or any combination of these services.

3 ~~(30)~~(31) "Nonprofit health care facility" means a health care facility owned or operated by one or
4 more nonprofit corporations or associations.

5 ~~(31)~~(32) "Observation bed" means a bed occupied by a patient recovering from surgery or other
6 treatment.

7 ~~(32)~~(33) "Offer" means the representation by a health care facility that it can provide specific health
8 services.

9 ~~(33)~~(34) "Outpatient facility" means a facility, located in or apart from a hospital, that provides,
10 under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients
11 in need of medical, surgical, or mental care. An outpatient facility may have observation beds.

12 ~~(34)~~(35) "Patient" means an individual obtaining services, including skilled nursing care, from a
13 health care facility.

14 ~~(35)~~(36) "Person" means an individual, firm, partnership, association, organization, agency,
15 institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

16 ~~(36)~~(37) "Personal-care facility" means a facility in which personal care is provided for residents
17 in either a category A facility or a category B facility as provided in 50-5-227.

18 ~~(37)~~(38) "Public health center" means a publicly owned facility providing health services, including
19 laboratories, clinics, and administrative offices.

20 ~~(38)~~(39) "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)~~(40) "Resident" means an individual who is in a long-term care facility or in a residential care
25 facility.

26 ~~(40)~~(41) "Residential care facility" means an adult day-care center, an adult foster care home, a
27 personal-care facility, or a retirement home.

28 ~~(41)~~(42) "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 ~~(42)~~(43) "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 ~~(43)~~(44) "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 ~~(44)~~(45) "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 4.** Section 50-5-103, MCA, is amended to read:

12 **"50-5-103. Rules and standards -- accreditation by joint commission.** (1) The department shall
13 promulgate and adopt rules and minimum standards for implementation of parts 1 and 2.

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

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

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

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

1 under this section to ensure compliance with state licensure standards.

2 (6) The department may consider as eligible for licensure during the accreditation period any
3 rehabilitation facility that furnishes written evidence, including the recommendation for future compliance
4 statements, of accreditation of its programs by the commission on accreditation of rehabilitation facilities.
5 The department may inspect a rehabilitation facility considered eligible for licensure under this section to
6 ensure compliance with state licensure standards."

7
8 **Section 5.** Section 53-24-103, MCA, is amended to read:

9 **"53-24-103. Definitions.** For purposes of this chapter, the following definitions apply:

10 (1) "Alcoholic" means a person who has a chronic illness or disorder of behavior characterized by
11 repeated drinking of alcoholic beverages to the extent that it endangers the health, interpersonal
12 relationships, or economic function of the individual or public health, welfare, or safety.

13 (2) "Approved private treatment facility" means a private agency that has as its function the
14 treatment, rehabilitation, and prevention of chemical dependency, that meets the standards prescribed in
15 53-24-208(1), and that is approved under 53-24-208.

16 (3) "Approved public treatment facility" means:

17 (a) a treatment agency operating under the direction and control of the department as a state
18 agency and approved under 53-24-208; or

19 (b) a treatment agency operating under the direction and control of a local government and
20 approved under 53-24-208.

21 (4) "Chemical dependency" means the use of any chemical substance, legal or illegal, that creates
22 behavioral or health problems, or both, resulting in operational impairment. This term includes alcoholism,
23 drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of
24 an individual or the public health, welfare, or safety.

25 (5) "Commission on accreditation of rehabilitation facilities" means the organization nationally
26 recognized by that name with headquarters in Tucson, Arizona, that surveys rehabilitation facilities upon
27 their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and
28 requirements.

29 ~~(5)~~(6) "Department" means the department of public health and human services provided for in
30 2-15-2201.

1 ~~(6)~~(7) "Family member" is the spouse, mother, father, child, or member of the household of a
2 chemically dependent person whose life has been affected by the actions of the chemically dependent
3 person and who may require treatment.

4 ~~(7)~~(8) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is
5 unconscious or has judgment otherwise so impaired that the person is incapable of realizing and making
6 a rational decision with respect to a need for treatment.

7 ~~(8)~~(9) "Incompetent person" means a person who has been adjudged incompetent by the district
8 court.

9 ~~(9)~~(10) "Intoxicated person" means a person whose mental or physical functioning is substantially
10 impaired as a result of the use of alcohol.

11 ~~(10)~~(11) "Prevention" has meaning on four levels; these are:

12 (a) education to provide information to the school children and general public relating to chemical
13 dependency treatment and rehabilitative services and to reduce the consequences of life experiences
14 acquired by contact with a chemically dependent person;

15 (b) early detection and recovery from the illness before lasting emotional or physical damage, or
16 both, have occurred;

17 (c) if lasting emotional or physical damage, or both, have occurred, to arrest the illness before full
18 disability has been reached;

19 (d) the provision of facility requirements to meet division program standards and improve public
20 accessibility for services.

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

25 ~~(11)~~(13) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient
26 services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service
27 care, vocational rehabilitation, and career counseling, which may be extended to chemically dependent
28 persons, intoxicated persons, and family members."

29

30 **Section 6.** Section 53-24-208, MCA, is amended to read:

1 **"53-24-208. Facility standards.** (1) The department shall establish standards for approved
2 treatment facilities that must be met for a treatment facility to be approved as a public or private treatment
3 facility and fix the fees to be charged for the required inspections. The standards must be adopted by rule
4 and may concern the health standards to be met and standards for the approval of treatment programs for
5 patients.

6 (2) Facilities applying for approval ~~must~~ shall demonstrate that a local need currently exists for
7 proposed services and that the proposed services do not duplicate existing local services.

8 (3) The department shall periodically inspect approved public and private treatment facilities at
9 reasonable times and in a reasonable manner.

10 (4) The department shall maintain a list of approved public and private treatment facilities.

11 (5) Each approved public ~~and or~~ private treatment facility shall, on request, file with the department
12 data, statistics, schedules, and information that the department reasonably requires. An approved public
13 or private treatment facility that without good cause fails to furnish any data, statistics, schedules, or
14 information as requested or files fraudulent returns ~~thereof shall~~ of the requested material must be removed
15 from the list of approved treatment facilities.

16 (6) The department, after holding a hearing in accordance with the Montana Administrative
17 Procedure Act, may suspend, revoke, limit, or restrict an approval or refuse to grant an approval for failure
18 to meet its standards.

19 (7) A district court may restrain any violation of this section, review any denial, restriction, or
20 revocation of approval, and grant other relief required to enforce its provisions.

21 (8) Upon petition of the department and after a hearing held upon reasonable notice to the facility,
22 a district court may issue a warrant to the department authorizing it to enter and inspect at reasonable
23 times and examine the books and accounts of any approved public or private treatment facility ~~refusing that~~
24 refuses to consent to inspection or examination by the department or ~~which that~~ the department has
25 reasonable cause to believe is operating in violation of this chapter.

26 (9) If a rehabilitation facility otherwise meets the requirements of subsection (2), the department
27 may consider as eligible for approval during the accreditation period any rehabilitation facility that furnishes
28 written evidence, including the recommendation for future compliance statements, of accreditation of its
29 programs by the commission on accreditation of rehabilitation facilities. The department may, but is not
30 required to, inspect a facility considered eligible for approval under this section to ensure compliance with

1 state approval standards."

2

-END-