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Senate BILL NO. 298
[Signature]

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ADVISORY COUNCILS ASSOCIATED WITH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; ELIMINATING THE STATE ADVISORY COUNCIL ON FOOD AND NUTRITION, THE MONTANA INITIATIVE FOR THE ABATEMENT OF MORTALITY IN INFANTS PROJECT ADVISORY COUNCIL, THE EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL, THE STATE AND LOCAL FAMILY SERVICES ADVISORY COUNCILS, THE STATEWIDE HEALTH COORDINATING COUNCIL, THE CHILD-CARE ADVISORY COUNCIL, THE REGIONAL ADVISORY COUNCILS FOR DEVELOPMENTAL DISABILITIES, AND THE ADVISORY COUNCIL ON EMOTIONALLY DISTURBED CHILDREN; AMENDING SECTIONS 2-15-2204, 50-5-101, 50-6-103, 50-6-401, 50-6-402, 50-6-404, 50-19-303, 50-49-103, 50-49-106, 50-49-107, 52-1-103, 52-2-704, 53-20-203, 53-20-205, AND 53-21-202, MCA; AND REPEALING SECTIONS 2-15-2210, 2-15-2213, 2-15-2215, 50-6-403, 50-19-312, 50-49-104, 50-49-105, 52-1-202, 52-1-203, 52-2-705, AND 53-20-207, MCA."

WHEREAS, the 54th Montana Legislature enacted a bill to combine several state agencies into a new department of public health and human services; and

WHEREAS, it would better serve the needs of Montana to combine the functions and duties and limit the number of advisory councils associated with the department of public health and human services.

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

Section 1. Section 2-15-2204, MCA, is amended to read:

"2-15-2204. Developmental disabilities planning and advisory council. (1) The governor shall appoint a developmental disabilities planning and advisory council in accordance with the provisions of this section.

(2) The council is composed of at least ~~23~~ 18 but no more than ~~25~~ 20 members and consists of the following:

(a) a representative of the program of services provided under the authority of the Rehabilitation Act of 1973, 29 U.S.C. 701, et seq.;



1 (b) a representative of the program of services provided under the authority of the Older Americans
2 Act of 1965, 42 U.S.C. 3001, et seq.;

3 (c) a representative of the program of services for persons with developmental disabilities provided
4 under the authority of Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq.;

5 (d) a representative of the program of services provided under the authority of the Individuals With
6 Disabilities Education Act, 20 U.S.C. 1400, et seq.;

7 (e) two recognized professionals, one each in the disciplines of medicine and law;

8 (f) one member of the state senate;

9 (g) one member of the state house of representatives;

10 (h) seven persons, each of whom has a developmental disability or who is an immediate family
11 member or guardian of a person with a developmental disability;

12 ~~(i) one member of each of the five regional councils provided for in 53-20-207, each of whom has~~
13 ~~a developmental disability or who is an immediate family member or guardian of a person with a~~
14 ~~developmental disability;~~

15 ~~(j)~~ the director of the university-affiliated or satellite program on developmental disabilities, created
16 pursuant to 42 U.S.C. 6031, or a designee of the director;

17 ~~(k)(i)~~ the director of the state protection and advocacy system, created pursuant to 42 U.S.C.
18 6012, or a designee of the director; and

19 ~~(k)~~ a representative of a statewide developmental disabilities service provider organization whose
20 member agencies provide direct services to persons with developmental disabilities.

21 (3) (a) Each member who serves on the council pursuant to subsection (2)(a), (2)(b), (2)(c), or
22 (2)(d) shall serve for a term concurrent with the respective term of the director of the agency that
23 administers the program that the member represents. Upon the removal of an agency director from office,
24 the representative's term as a member of the council is automatically terminated.

25 (b) Each member who serves on the council pursuant to subsection (2)(f) or (2)(g) must be
26 appointed or reappointed annually by the governor.

27 (c) Eight of the members serving on the council pursuant to subsection (2)(e), (2)(h), ~~(2)(i)~~, ~~(2)(j)~~
28 (2)(k), or (3)(d) must be appointed by the governor to serve for terms concurrent with the gubernatorial
29 term and until their successors are appointed. The remaining members serving on the council pursuant to
30 subsection (2)(e), (2)(h), ~~(2)(i)~~, ~~(2)(j)~~ (2)(k), or (3)(d) must be appointed by the governor to serve for terms

1 ending on January 1 of the third year of the succeeding gubernatorial term and until their successors are
2 appointed.

3 (d) Representatives named to the council pursuant to this section, in addition to fulfilling the
4 requirements listed in subsections (2)(a) through ~~(2)(j)~~ (2)(k), may also be selected to represent the
5 following areas: psychology, social work, special education, and minority groups, including Native
6 Americans with developmental disabilities. A minimum of one member of the council must represent each
7 of these areas. In the event that the persons listed in subsections (2)(a) through ~~(2)(j)~~ (2)(k) do not
8 represent all of the areas of psychology, social work, special education, and minority groups, including
9 Native Americans with developmental disabilities, up to two representatives may be added to the
10 membership of the council to represent not more than two of these groups.

11 (4) The council is allocated to the department for administrative purposes only and, unless
12 inconsistent with the provisions of 53-20-206 and this section, the provisions of 2-15-121 apply:"

13

14 **Section 2.** Section 50-5-101, MCA, is amended to read:

15 **"50-5-101. Definitions.** As used in parts 1 through 4 of this chapter, unless the context clearly
16 indicates otherwise, the following definitions apply:

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

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

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

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

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

26 (ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled
27 adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person
28 is available to meet those basic needs.

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

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

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

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

10 (6) "Capital expenditure" means:

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

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

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

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

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

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

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

1 (12) "Construction" means the physical erection of a health care facility and any stage of the
2 physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health
3 care facility.

4 (13) "Department" means the department of public health and human services provided for in
5 2-15-2201.

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

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

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

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

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

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

26 (20) "Home infusion therapy agency" means a health care facility that provides home infusion
27 therapy services.

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

1 patient's family member.

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

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

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

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

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

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

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

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

25 (26) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing
26 care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of
27 two or more individuals or that provides personal care. The term does not include community homes for
28 persons with developmental disabilities licensed under 53-20-305; community homes for persons with
29 severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 41-3-1142; hotels, motels,
30 boardinghouses, roominghouses, or similar accommodations providing for transients, students, or

1 individuals who do not require institutional health care; or juvenile and adult correctional facilities operating
2 under the authority of the department of corrections.

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

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

8 (d) "Intermediate developmental disability care" means the provision of nursing care services,
9 health-related services, and social services for persons with developmental disabilities, as defined in
10 53-20-102(4), or for individuals with related problems.

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

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

16 (28) "Medical assistance facility" means a facility that:

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

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

21 (29) "Mental health center" means a facility providing services for the prevention or diagnosis of
22 mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals,
23 or any combination of these services.

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

26 (31) "Observation bed" means a bed occupied by a patient recovering from surgery or other
27 treatment.

28 (32) "Offer" means the representation by a health care facility that it can provide specific health
29 services.

30 (33) "Outpatient facility" means a facility, located in or apart from a hospital, that provides, under

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

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

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

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

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

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

15 (39) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

16 (40) "Residential care facility" means an adult day-care center, an adult foster care home, a
17 personal-care facility, or a retirement home.

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

23 (42) "Residential treatment facility" means a facility operated for the primary purpose of providing
24 residential psychiatric care to individuals under 21 years of age.

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

27 (44) "State health plan" means the plan prepared by the department to project the need for health
28 care facilities within Montana and approved by the statewide health coordinating council and the governor."

29

30 **Section 3.** Section 50-6-103, MCA, is amended to read:

1 **"50-6-103. Powers of department.** (1) The department of public health and human services is
 2 authorized to confer and cooperate with any other persons, organizations, and governmental agencies that
 3 have an interest in emergency medical services problems and needs.

4 (2) The department is authorized to accept, receive, expend, and administer any funds that are now
 5 available or that may be donated, granted, or appropriated to the department.

6 (3) The department may, after consultation with ~~the emergency medical services advisory council,~~
 7 the trauma care committee, the Montana committee on trauma of the American college of surgeons, the
 8 Montana hospital association, and the Montana medical association, adopt rules necessary to implement
 9 part 4 of this chapter."

10

11 **Section 4.** Section 50-6-401, MCA, is amended to read:

12 **"50-6-401. Definitions.** As used in this part, unless the context clearly requires otherwise, the
 13 following definitions apply:

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

16 (2) "Emergency medical service" means an emergency medical service as defined by 50-6-302.

17 (3) ~~"Emergency medical services advisory council" means the emergency medical services advisory~~
 18 ~~council created in 2-15-2215.~~

19 ~~(4)~~ "Health care facility" or "facility" means a hospital or medical assistance facility as defined in
 20 50-5-101.

21 ~~(5)~~(4) "Hospital trauma register" means patient-specific trauma data that is maintained by a health
 22 care facility, in a format prescribed by department rule, and that has the primary purpose of facilitating peer
 23 review and quality improvement at the health care facility.

24 ~~(6)~~(5) "Quality improvement" means the process of defining trauma care system performance
 25 standards, collecting data against which the standards may be applied, using the data to determine
 26 compliance with the standards, and using the data and compliance information in a nonpunitive manner,
 27 including peer review, that will continuously improve performance and facilitate compliance with the
 28 standards.

29 ~~(7)~~(6) "State trauma register" means trauma data relating to a specific patient or health care facility
 30 that is maintained by the department in an electronic format and that has the primary purpose of facilitating

1 peer review and quality improvement for a health care facility or a trauma care system.

2 ~~(9)~~(7) "Trauma" means a severe, abrupt injury to the human body that is caused by mechanical,
3 environmental, thermal, or other physical force.

4 ~~(9)~~(8) "Trauma care committee" means the trauma care committee created in 2-15-2216.

5 ~~(10)~~(9) "Trauma care system" means a state or regional system for the prevention of trauma and
6 the provision of optimal medical care to trauma victims that includes both provision of appropriate health
7 care services and provision of emergency medical care, equipment, and personnel for effective and
8 coordinated prehospital, hospital, interhospital, and rehabilitative care for trauma patients.

9 ~~(11)~~(10) "Trauma facility" means a health care facility designated by the department pursuant to
10 50-6-410 as providing a specialized program in trauma care with appropriately trained personnel,
11 equipment, and other facility resources that are specifically organized to provide optimal care to a trauma
12 patient at the facility.

13 ~~(12)~~(11) "Trauma region" means a geographic area, designated by department rule pursuant to
14 50-6-402, within which trauma services are coordinated and evaluated through a regional trauma care
15 system."
16

17 **Section 5.** Section 50-6-402, MCA, is amended to read:

18 **"50-6-402. Department duties -- rules.** (1) The department shall plan, coordinate, implement, and
19 administer a statewide trauma care system that involves all health care facilities and emergency medical
20 services within the state. The department shall also develop and adopt a statewide trauma care system plan
21 and a state trauma register.

22 (2) The department shall adopt rules to:

23 (a) establish and coordinate the statewide trauma care system, including rules that establish:

24 (i) various levels of trauma facilities and the standards each facility is required to meet concerning
25 personnel, equipment, resources, data collection, and organizational capabilities;

26 (ii) procedures for, standards for, and the duration of designation and revocation of designation of
27 a trauma facility, including application procedures, site survey procedures, complaint investigation, and
28 emergency suspension of designation;

29 (iii) operational procedures and criteria for the regional trauma advisory committees;

30 (iv) prehospital emergency medical services triage and treatment protocols for trauma patients;

1 (v) triage and treatment protocols for the transfer of injured persons between health care facilities;

2 (vi) requirements for collection and release of trauma register data;

3 (vii) quality improvement standards for emergency medical services and trauma care facilities; and

4 (viii) the duties, responsibilities, and functions of ~~the emergency medical services advisory council~~
5 ~~created by 2-15-2216~~, the trauma care committee created by 2-15-2216, and the regional trauma care
6 advisory committees created pursuant to 50-6-411;

7 (b) designate trauma regions throughout Montana, taking into consideration geographic distance
8 from available trauma care, transportation modalities available, population location and density, health care
9 facility resources, historical patterns of patient referral, and other considerations relevant to optimum
10 provision of emergency medical care;

11 (c) establish the procedure to be followed by a health care facility to appeal to the department a
12 decision by the department pursuant to 50-6-410 affecting the facility's designation as a trauma facility;

13 (d) specify the information that must be submitted to the department, including information from
14 health care facilities, for statistical evaluation of the state and regional trauma care systems, planning
15 prevention programs, assessing trauma-related educational priorities, and determining how trauma facilities
16 and emergency medical services may comply with protocols and standards adopted by the department; and

17 (e) establish the electronic format and other standards that a health care facility trauma data
18 system is required to meet in order to qualify as a hospital trauma register.

19 (3) The department shall submit a report to each session of the legislature concerning the
20 effectiveness of the trauma care system established under this part.

21 (4) This part does not restrict any other provisions of law allowing or requiring a health care facility
22 or health care provider to provide health care services."
23

24 **Section 6.** Section 50-6-404, MCA, is amended to read:

25 "**50-6-404. Duties of trauma care committee.** The trauma care committee provided for in
26 2-15-2216 shall:

27 (1) provide recommendations and guidance to the department concerning:

28 (a) trauma care, including suggestions for changes to the statewide trauma care system;

29 (b) the implementation of a hospital data collection system; and

30 (c) the design and implementation of a statewide and regional quality improvement system for

1 trauma care that considers the standards recommended by the American college of surgeons and the joint
2 commission on accreditation of healthcare organizations;

3 (2) assist the department in conducting statewide quality improvement and peer review functions
4 by regularly analyzing the effect of the statewide trauma care system on patient care, morbidity, and
5 mortality; and

6 (3) provide recommendations to and oversight and coordination of the activities of the regional
7 trauma care advisory committees; ~~and~~

8 ~~(4) provide recommendations to the emergency medical services advisory committee concerning~~
9 ~~the statewide trauma care system and the integration of trauma care with the emergency medical services~~
10 ~~delivery system."~~

11

12 **Section 7.** Section 50-19-303, MCA, is amended to read:

13 **"50-19-303. Definitions.** For purposes of this part, the following definitions apply:

14 (1) ~~"Council" means the MIAMI project advisory council established in 2-15-2213.~~

15 ~~(2)~~ "Department" means the department of public health and human services provided for in
16 2-15-2201.

17 ~~(3)~~(2) "Low income" means, with respect to an individual or family, income that does not exceed
18 the official federal poverty threshold as defined by the federal office of management and budget and revised
19 annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

20 ~~(4)~~(3) "Project" means the MIAMI project established in 50-19-311.

21 ~~(5)~~(4) "Service provider" means a person, agency, or organization that has a contract to provide
22 services under the MIAMI project."

23

24 **Section 8.** Section 50-49-103, MCA, is amended to read:

25 **"50-49-103. Definitions.** For purposes of this part, unless the context requires otherwise, the
26 following definitions apply:

27 (1) ~~"Council" means the state advisory council on food and nutrition established in 2-15-2210.~~

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

30 ~~(3)~~(2) "Food programs and nutrition services" means public or private programs to provide food

1 and nutrition assistance to persons who have need. The term includes but is not limited to the food stamp
2 program, food programs for the elderly, and supplemental food programs for women, infants, and children."

3
4 **Section 9.** Section 50-49-106, MCA, is amended to read:

5 **"50-49-106. Gifts and grants.** The ~~council~~ department may accept contributions, gifts, and grants
6 to fund its activities."

7
8 **Section 10.** Section 50-49-107, MCA, is amended to read:

9 **"50-49-107. Public health nutritionist -- appointment and duties.** The director of the department
10 shall appoint a registered dietitian as a public health nutritionist. The appointment of the public health
11 nutritionist may not be required unless funding for the position is available. The public health nutritionist
12 shall:

13 (1) establish a program of public education and technical assistance for programs that provide food
14 assistance; and

15 (2) ~~provide staff assistance to the council;~~

16 ~~(3)~~ provide technical assistance to the governor's advisory council on aging; and

17 ~~(4)~~ (3) provide technical assistance to health care and public health agencies."

18
19 **Section 11.** Section 52-1-103, MCA, is amended to read:

20 **"52-1-103. Powers and duties of department.** The department shall:

21 (1) administer and supervise all forms of child and adult protective services;

22 (2) act as the lead agency in coordinating and planning services to children with multiagency
23 service needs;

24 (3) provide the following functions, as necessary, for youth in need of care:

25 (a) intake, investigation, case management, and client supervision;

26 (b) placement in youth care facilities;

27 (c) contracting for necessary services;

28 (d) protective services day care; and

29 (e) adoption;

30 (4) register or license youth care facilities, child-placing agencies, day-care facilities, community

1 homes for persons with developmental disabilities, community homes for severely disabled persons, and
2 adult foster care facilities;

3 (5) act as lead agency in implementing and coordinating child-care programs and services under
4 the Montana Child Care Act;

5 (6) administer the interstate compact for children;

6 (7) (a) administer child abuse prevention services funded through child abuse grants and the
7 Montana children's trust fund provided for in Title 41, chapter 3, part 7; and

8 (b) administer elder abuse prevention services;

9 (8) ~~(a) make a written evaluation of each plan developed by the local family services advisory~~
10 ~~councils, as provided in 52-1-203, indicating those portions of each plan that will be implemented by the~~
11 ~~department, those portions that will not be implemented, and the reasons for not implementing those~~
12 ~~portions;~~

13 ~~(b) develop a statewide youth services and resources plan that takes into consideration local needs~~
14 ~~as reflected in plans developed by the local family services advisory councils;~~

15 (9) administer services to the aged;

16 (10) provide consultant services to:

17 (a) facilities providing care for needy, indigent, handicapped, or dependent adults; and

18 (b) youth care facilities;

19 (11) utilize the staff and services of other state agencies and units of the Montana university
20 system, within their respective statutory functions, to carry out its functions under this title;

21 (12) contract, as necessary, with the county board of welfare for administration of child and adult
22 protection services for that county; and

23 (13) adopt rules necessary to carry out the purposes of 41-3-1126 and this chapter."
24

25 **Section 12.** Section 52-2-704, MCA, is amended to read:

26 "**52-2-704. Duties of department.** (1) The department is responsible for planning, implementing,
27 and coordinating programs under the Montana Child Care Act.

28 (2) The department shall:

29 (a) assess child-care needs and resources within the state;

30 (b) develop a state child-care plan ~~after consultation with the local family services advisory councils~~

1 ~~established under 52-1-203 and the child care advisory council established in 52-2-705;~~

2 (c) coordinate child-care programs administered by all state agencies;

3 (d) issue licenses to persons to receive children into a day-care center on a regular basis;

4 (e) prescribe the conditions and publish minimum standards upon which licenses and registration
5 certificates are issued;

6 (f) adopt rules for day-care facilities consistent with the purposes of this part; and

7 (g) issue registration certificates to a person or persons to receive children into a family day-care
8 home or group day-care home on a regular basis.

9 (3) The department may:

10 (a) enter into interagency agreements to administer and coordinate child-care programs;

11 (b) accept any federal funds made available for the improvement or promotion of child-care services
12 within the state;

13 (c) administer any state and federal funds that may be appropriated for the purposes of the part."
14

15 **Section 13.** Section 53-20-203, MCA, is amended to read:

16 **"53-20-203. Responsibilities of department.** The department shall:

17 (1) take cognizance of matters affecting the citizens of the state who are persons with
18 developmental disabilities;

19 (2) initiate a preventive developmental disabilities program ~~which shall~~ that must include but not
20 be limited to the implementation of developmental disabilities care, treatment, prevention, and research as
21 can best be accomplished by community-centered services. Every means ~~shall~~ must be utilized to initiate
22 and operate the service program in cooperation with local agencies under the provisions of 53-20-205 ~~and~~
23 ~~53-20-207.~~

24 (3) collect and disseminate information relating to developmental disabilities;

25 (4) prepare, with the assistance of the planning and advisory council, an annual comprehensive
26 plan for the initiation and maintenance of developmental disabilities services in the state. The services ~~shall~~
27 must include but not be limited to community comprehensive developmental disabilities services as referred
28 to in 53-20-202.

29 (5) provide by rule for the evaluation of persons who apply for services or persons admitted into
30 a program at a developmental disability facility;

- 1 (6) ~~provide state personnel to assist regional councils provided for in 53-20-207;~~
 2 ~~(7)~~ receive from agencies of the government of the United States and other agencies, persons or
 3 groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies,
 4 materials, and contributions to initiate and maintain developmental disabilities services within the state;
 5 ~~(8)~~(7) require that habilitation plans be developed, implemented, and continuously maintained for
 6 all persons with developmental disabilities who are served through a community-based program funded by
 7 the state; and
 8 ~~(9)~~(8) use funds available for cases in which special medical or material assistance is necessary
 9 to rehabilitate children with developmental disabilities or physically handicapped children if ~~such~~ the
 10 assistance is not otherwise provided for by law."

11

12 **Section 14.** Section 53-20-205, MCA, is amended to read:

13 "**53-20-205. Community services.** (1) The department may establish and administer community
 14 comprehensive services, programs, clinics, or other facilities throughout the state for the purpose of aiding
 15 in the prevention, diagnosis, amelioration, or treatment of developmental disabilities. Programs, clinics, or
 16 other services may be provided directly by state agencies or indirectly through contract or cooperative
 17 arrangements with other agencies of government, regional or local, private or public agencies, private
 18 professional persons, or accredited health or long-term care facilities.

19 (2) The department may contract for programs for developmental disabilities services. Contracts
 20 entered into by the department ~~shall~~ must contain specific conditions for performance by the contractor.
 21 ~~The department~~ shall set minimum standards for programs and establish appropriate qualifications for
 22 persons employed in such programs.

23 (3) All developmental disabilities facilities and services ~~shall~~ must comply with existing federal
 24 guidelines and with requirements ~~which~~ that will enable the services and facilities to qualify for available
 25 aid funds. However, ~~nothing herein requires~~ this section does not require facilities serving persons with
 26 developmental disabilities to meet the same or equal standards as licensed medical facilities unless the
 27 developmental disabilities facility is providing professional or skilled medical care.

28 (4) Comprehensive services, programs, clinics, or other facilities established or provided by the
 29 department under this part ~~shall~~ must conform as nearly as possible to the plans of the advisory council
 30 created under 2-15-2204 ~~and the regional councils provided for in 53-20-207.~~

1 (5) The department may promote scientific and medical research investigations relative to the
2 incidence, cause, prevention, and care of persons with developmental disabilities."

3
4 **Section 15.** Section 53-21-202, MCA, is amended to read:

5 **"53-21-202. Duties of department.** The department shall:

6 (1) take cognizance of matters affecting the mental health of the citizens of the state;

7 (2) initiate mental health care and treatment, prevention, and research as can best be accomplished
8 by community-centered services. The means must be utilized to initiate and operate these services in
9 cooperation with local agencies as established under this part.

10 (3) collect and disseminate information relating to mental health;

11 (4) prepare and maintain a comprehensive plan for the development of public mental health services
12 in the state;

13 (5) receive from agencies of the United States and other state agencies, persons or groups of
14 persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials,
15 and contributions for the development of mental health services within the state;

16 (6) establish standards for mental health programs that receive funds from the department;

17 (7) evaluate performance of programs that receive funds from the department in compliance with
18 federal and state standards; and

19 (8) coordinate state and community resources to ensure comprehensive delivery of services to
20 children with emotional disturbances and submit at least a biennial report to the governor and the legislature
21 concerning the activities and recommendations of the department and service providers; ~~and~~

22 ~~(9) appoint an advisory council to make recommendations to the department regarding services~~
23 ~~for emotionally disturbed children. The members of the advisory council shall serve without compensation~~
24 ~~and must include but not be limited to a representative of:~~

25 ~~(a) the department;~~

26 ~~(b) the office of public instruction;~~

27 ~~(c) a youth court;~~

28 ~~(d) parents of emotionally disturbed children; and~~

29 ~~(e) service provider groups."~~

30

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0298, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the advisory councils associated with the Department of Public Health and Human Services.

Assumptions:

1. The bill removes the statutory requirement for several councils within the Department of Public Health and Human Services (DPHHS). The department will elect to continue these councils in order to receive public input on department policy, and in some cases the councils are required as a condition of the state receiving federal funding.
2. Budgeted expenditures for these councils are anticipated to remain at the same level during the 1999 biennium.

FISCAL IMPACT:

None. (Please see assumption 2.)

TECHNICAL NOTE:

Federal law requires that the Developmental Disabilities Planning and Advisory Council have a specific configuration. Compliance with this requirement is necessary to maintain federal funding for the council.

Dave Lewis 2/12/97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Charles Swysgood 2/13/97
CHARLES SWYSGOOD, PRIMARY SPONSOR DATE

Fiscal Note for SB0298, as introduced

38 298

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0298, as revised

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the advisory councils associated with the Department of Public Health and Human Services.

Assumptions:

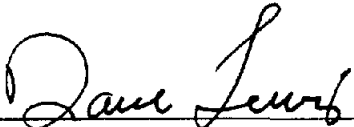
1. The bill removes the statutory requirement for several councils within the Department of Public Health and Human Services (DPHHS).
2. The department will evaluate the structure and composition of advisory councils throughout the agency in light of the new reorganization structure and changes in federal and state policies.
3. After completion of this evaluation, the department will develop an improved process for formal public input, including advisory councils.
4. Until this process is completed, the department is unable to determine what savings or efficiencies may be realized as a result of this bill. Therefore, budgeted expenditures for these councils are anticipated to remain at the same level during the 1999 biennium and the department anticipates that any savings resulting from this streamlined process will be put into direct services.

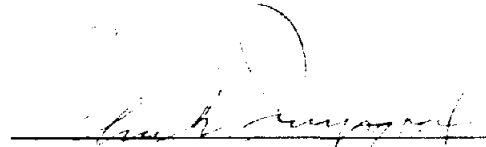
FISCAL IMPACT:

None.

TECHNICAL NOTE:

Federal law requires that the Developmental Disabilities Planning and Advisory Council have a specific configuration. Compliance with this requirement is necessary to maintain federal funding for the council.

 2-14-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/15/97
CHARLES SWYSGOOD, PRIMARY SPONSOR DATE

Fiscal Note for SB0298, as revised

REV. SB 298 # 2

SENATE BILL NO. 298

INTRODUCED BY SWYSGOOD

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ADVISORY COUNCILS ASSOCIATED WITH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; ELIMINATING THE STATE ADVISORY COUNCIL ON FOOD AND NUTRITION, THE MONTANA INITIATIVE FOR THE ABATEMENT OF MORTALITY IN INFANTS PROJECT ADVISORY COUNCIL, THE EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL, THE STATE AND LOCAL FAMILY SERVICES ADVISORY COUNCILS, THE STATEWIDE HEALTH COORDINATING COUNCIL, THE CHILD-CARE ADVISORY COUNCIL, THE REGIONAL ADVISORY COUNCILS FOR DEVELOPMENTAL DISABILITIES, AND THE ADVISORY COUNCIL ON EMOTIONALLY DISTURBED CHILDREN; AMENDING SECTIONS 2-15-2204, 50-5-101, 50-6-103, 50-6-401, 50-6-402, 50-6-404, 50-19-303, 50-49-103, 50-49-106, 50-49-107, 52-1-103, 52-2-704, 53-20-203, 53-20-205, AND 53-21-202, MCA; AND REPEALING SECTIONS 2-15-2210, 2-15-2213, 2-15-2215, 50-6-403, 50-19-312, 50-49-104, 50-49-105, 52-1-202, 52-1-203, 52-2-705, AND 53-20-207, MCA."

WHEREAS, the 54th Montana Legislature enacted a bill to combine several state agencies into a new department of public health and human services; and

WHEREAS, it would better serve the needs of Montana to combine the functions and duties and limit the number of advisory councils associated with the department of public health and human services.

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

Section 1. Section 2-15-2204, MCA, is amended to read:

"2-15-2204. Developmental disabilities planning and advisory council. (1) The governor shall appoint a developmental disabilities planning and advisory council in accordance with the provisions of this section.

(2) The council is composed of at least ~~23-18~~ 23 but no more than ~~25-20~~ 25 members and consists of the following:

(a) a representative of the program of services provided under the authority of the Rehabilitation Act of 1973, 29 U.S.C. 701, et seq.;

1 (b) a representative of the program of services provided under the authority of the Older Americans
2 Act of 1965, 42 U.S.C. 3001, et seq.;

3 (c) a representative of the program of services for persons with developmental disabilities provided
4 under the authority of Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq.;

5 (d) a representative of the program of services provided under the authority of the Individuals With
6 Disabilities Education Act, 20 U.S.C. 1400, et seq.;

7 (e) two recognized professionals, one each in the disciplines of medicine and law;

8 (f) one member of the state senate;

9 (g) one member of the state house of representatives;

10 (h) ~~seven~~ 12 persons, each of whom has a developmental disability or who is an immediate family
11 member or guardian of a person with a developmental disability;

12 (i) ~~one member of each of the five regional councils provided for in 53-20-207, each of whom has~~
13 ~~a developmental disability or who is an immediate family member or guardian of a person with a~~
14 ~~developmental disability;~~

15 ~~(j)~~ the director of the university-affiliated or satellite program on developmental disabilities, created
16 pursuant to 42 U.S.C. 6031, or a designee of the director;

17 ~~(k)~~(j) the director of the state protection and advocacy system, created pursuant to 42 U.S.C.
18 6012, or a designee of the director; and

19 ~~(k)~~(k) a representative of a statewide developmental disabilities service provider organization whose
20 member agencies provide direct services to persons with developmental disabilities.

21 (3) (a) Each member who serves on the council pursuant to subsection (2)(a), (2)(b), (2)(c), or
22 (2)(d) shall serve for a term concurrent with the respective term of the director of the agency that
23 administers the program that the member represents. Upon the removal of an agency director from office,
24 the representative's term as a member of the council is automatically terminated.

25 (b) Each member who serves on the council pursuant to subsection (2)(f) or (2)(g) must be
26 appointed or reappointed annually by the governor.

27 (c) Eight of the members serving on the council pursuant to subsection (2)(e), (2)(h), ~~(2)(i)~~, ~~(2)(j)~~
28 (2)(k), or (3)(d) must be appointed by the governor to serve for terms concurrent with the gubernatorial
29 term and until their successors are appointed. The remaining members serving on the council pursuant to
30 subsection (2)(e), (2)(h), ~~(2)(i)~~, ~~(2)(j)~~ (2)(k), or (3)(d) must be appointed by the governor to serve for terms

1 ending on January 1 of the third year of the succeeding gubernatorial term and until their successors are
2 appointed.

3 (d) Representatives named to the council pursuant to this section, in addition to fulfilling the
4 requirements listed in subsections (2)(a) through ~~(2)(j)~~ (2)(k), may also be selected to represent the
5 following areas: psychology, social work, special education, and minority groups, including Native
6 Americans with developmental disabilities. A minimum of one member of the council must represent each
7 of these areas. In the event that the persons listed in subsections (2)(a) through ~~(2)(j)~~ (2)(k) do not
8 represent all of the areas of psychology, social work, special education, and minority groups, including
9 Native Americans with developmental disabilities, up to two representatives may be added to the
10 membership of the council to represent not more than two of these groups.

11 (4) The council is allocated to the department for administrative purposes only and, unless
12 inconsistent with the provisions of 53-20-206 and this section, the provisions of 2-15-121 apply."

13

14 **Section 2.** Section 50-5-101, MCA, is amended to read:

15 **"50-5-101. Definitions.** As used in parts 1 through 4 of this chapter, unless the context clearly
16 indicates otherwise, the following definitions apply:

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

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

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

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

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

26 (ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled
27 adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person
28 is available to meet those basic needs.

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

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

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

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

10 (6) "Capital expenditure" means:

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

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

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

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

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

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

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

1 (12) "Construction" means the physical erection of a health care facility and any stage of the
2 physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health
3 care facility.

4 (13) "Department" means the department of public health and human services provided for in
5 2-15-2201.

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

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

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

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

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

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

26 (20) "Home infusion therapy agency" means a health care facility that provides home infusion
27 therapy services.

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

1 patient's family member.

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

6 The term includes:

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

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

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

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

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

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

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

25 (26) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing
26 care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of
27 two or more individuals or that provides personal care. The term does not include community homes for
28 persons with developmental disabilities licensed under 53-20-305; community homes for persons with
29 severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 41-3-1142; hotels, motels,
30 boardinghouses, roominghouses, or similar accommodations providing for transients, students, or

1 individuals who do not require institutional health care; or juvenile and adult correctional facilities operating
2 under the authority of the department of corrections.

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

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

8 (d) "Intermediate developmental disability care" means the provision of nursing care services,
9 health-related services, and social services for persons with developmental disabilities, as defined in
10 53-20-102(4), or for individuals with related problems.

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

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

16 (28) "Medical assistance facility" means a facility that:

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

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

21 (29) "Mental health center" means a facility providing services for the prevention or diagnosis of
22 mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals,
23 or any combination of these services.

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

26 (31) "Observation bed" means a bed occupied by a patient recovering from surgery or other
27 treatment.

28 (32) "Offer" means the representation by a health care facility that it can provide specific health
29 services.

30 (33) "Outpatient facility" means a facility, located in or apart from a hospital, that provides, under

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

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

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

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

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

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

15 (39) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

16 (40) "Residential care facility" means an adult day-care center, an adult foster care home, a
17 personal-care facility, or a retirement home.

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

23 (42) "Residential treatment facility" means a facility operated for the primary purpose of providing
24 residential psychiatric care to individuals under 21 years of age.

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

27 (44) "State health plan" means the plan prepared by the department to project the need for health
28 care facilities within Montana and approved by the statewide health coordinating council and the governor."

29

30 **Section 3.** Section 50-6-103, MCA, is amended to read:

1 **"50-6-103. Powers of department.** (1) The department of public health and human services is
 2 authorized to confer and cooperate with any other persons, organizations, and governmental agencies that
 3 have an interest in emergency medical services problems and needs.

4 (2) The department is authorized to accept, receive, expend, and administer any funds that are now
 5 available or that may be donated, granted, or appropriated to the department.

6 (3) The department may, after consultation with ~~the emergency medical services advisory council,~~
 7 the trauma care committee, the Montana committee on trauma of the American college of surgeons, the
 8 Montana hospital association, and the Montana medical association, adopt rules necessary to implement
 9 part 4 of this chapter."

10
 11 **Section 4.** Section 50-6-401, MCA, is amended to read:

12 **"50-6-401. Definitions.** As used in this part, unless the context clearly requires otherwise, the
 13 following definitions apply:

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

16 (2) "Emergency medical service" means an emergency medical service as defined by 50-6-302.

17 (3) ~~"Emergency medical services advisory council" means the emergency medical services advisory~~
 18 ~~council created in 2-15-2215.~~

19 (4) "Health care facility" or "facility" means a hospital or medical assistance facility as defined in
 20 50-5-101.

21 ~~(4)~~(4) "Hospital trauma register" means patient-specific trauma data that is maintained by a health
 22 care facility, in a format prescribed by department rule, and that has the primary purpose of facilitating peer
 23 review and quality improvement at the health care facility.

24 ~~(6)~~(5) "Quality improvement" means the process of defining trauma care system performance
 25 standards, collecting data against which the standards may be applied, using the data to determine
 26 compliance with the standards, and using the data and compliance information in a nonpunitive manner,
 27 including peer review, that will continuously improve performance and facilitate compliance with the
 28 standards.

29 ~~(7)~~(6) "State trauma register" means trauma data relating to a specific patient or health care facility
 30 that is maintained by the department in an electronic format and that has the primary purpose of facilitating

1 peer review and quality improvement for a health care facility or a trauma care system.

2 ~~(8)~~(7) "Trauma" means a severe, abrupt injury to the human body that is caused by mechanical,
3 environmental, thermal, or other physical force.

4 ~~(9)~~(8) "Trauma care committee" means the trauma care committee created in 2-15-2216.

5 ~~(10)~~(9) "Trauma care system" means a state or regional system for the prevention of trauma and
6 the provision of optimal medical care to trauma victims that includes both provision of appropriate health
7 care services and provision of emergency medical care, equipment, and personnel for effective and
8 coordinated prehospital, hospital, interhospital, and rehabilitative care for trauma patients.

9 ~~(11)~~(10) "Trauma facility" means a health care facility designated by the department pursuant to
10 50-6-410 as providing a specialized program in trauma care with appropriately trained personnel,
11 equipment, and other facility resources that are specifically organized to provide optimal care to a trauma
12 patient at the facility.

13 ~~(12)~~(11) "Trauma region" means a geographic area, designated by department rule pursuant to
14 50-6-402, within which trauma services are coordinated and evaluated through a regional trauma care
15 system."
16

17 **Section 5.** Section 50-6-402, MCA, is amended to read:

18 **"50-6-402. Department duties -- rules.** (1) The department shall plan, coordinate, implement, and
19 administer a statewide trauma care system that involves all health care facilities and emergency medical
20 services within the state. The department shall also develop and adopt a statewide trauma care system plan
21 and a state trauma register.

22 (2) The department shall adopt rules to:

23 (a) establish and coordinate the statewide trauma care system, including rules that establish:

24 (i) various levels of trauma facilities and the standards each facility is required to meet concerning
25 personnel, equipment, resources, data collection, and organizational capabilities;

26 (ii) procedures for, standards for, and the duration of designation and revocation of designation of
27 a trauma facility, including application procedures, site survey procedures, complaint investigation, and
28 emergency suspension of designation;

29 (iii) operational procedures and criteria for the regional trauma advisory committees;

30 (iv) prehospital emergency medical services triage and treatment protocols for trauma patients;

1 (v) triage and treatment protocols for the transfer of injured persons between health care facilities;
 2 (vi) requirements for collection and release of trauma register data;
 3 (vii) quality improvement standards for emergency medical services and trauma care facilities; and
 4 (viii) the duties, responsibilities, and functions of ~~the emergency medical services advisory council~~
 5 ~~created by 2-15-2216~~, the trauma care committee created by 2-15-2216, and the regional trauma care
 6 advisory committees created pursuant to 50-6-411;

7 (b) designate trauma regions throughout Montana, taking into consideration geographic distance
 8 from available trauma care, transportation modalities available, population location and density, health care
 9 facility resources, historical patterns of patient referral, and other considerations relevant to optimum
 10 provision of emergency medical care;

11 (c) establish the procedure to be followed by a health care facility to appeal to the department a
 12 decision by the department pursuant to 50-6-410 affecting the facility's designation as a trauma facility;

13 (d) specify the information that must be submitted to the department, including information from
 14 health care facilities, for statistical evaluation of the state and regional trauma care systems, planning
 15 prevention programs, assessing trauma-related educational priorities, and determining how trauma facilities
 16 and emergency medical services may comply with protocols and standards adopted by the department; and

17 (e) establish the electronic format and other standards that a health care facility trauma data
 18 system is required to meet in order to qualify as a hospital trauma register.

19 (3) The department shall submit a report to each session of the legislature concerning the
 20 effectiveness of the trauma care system established under this part.

21 (4) This part does not restrict any other provisions of law allowing or requiring a health care facility
 22 or health care provider to provide health care services."
 23

24 **Section 6.** Section 50-6-404, MCA, is amended to read:

25 **"50-6-404. Duties of trauma care committee.** The trauma care committee provided for in
 26 2-15-2216 shall:

27 (1) provide recommendations and guidance to the department concerning:

28 (a) trauma care, including suggestions for changes to the statewide trauma care system;

29 (b) the implementation of a hospital data collection system; and

30 (c) the design and implementation of a statewide and regional quality improvement system for

1 trauma care that considers the standards recommended by the American college of surgeons and the joint
2 commission on accreditation of healthcare organizations;

3 (2) assist the department in conducting statewide quality improvement and peer review functions
4 by regularly analyzing the effect of the statewide trauma care system on patient care, morbidity, and
5 mortality; and

6 (3) provide recommendations to and oversight and coordination of the activities of the regional
7 trauma care advisory committees; ~~and~~

8 ~~(4) provide recommendations to the emergency medical services advisory committee concerning~~
9 ~~the statewide trauma care system and the integration of trauma care with the emergency medical services~~
10 ~~delivery system."~~

11
12 **Section 7.** Section 50-19-303, MCA, is amended to read:

13 **"50-19-303. Definitions.** For purposes of this part, the following definitions apply:

14 (1) ~~"Council" means the MIAMI project advisory council established in 2-15-2213.~~

15 ~~(2)~~ "Department" means the department of public health and human services provided for in
16 2-15-2201.

17 ~~(3)~~(2) "Low income" means, with respect to an individual or family, income that does not exceed
18 the official federal poverty threshold as defined by the federal office of management and budget and revised
19 annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

20 ~~(4)~~(3) "Project" means the MIAMI project established in 50-19-311.

21 ~~(5)~~(4) "Service provider" means a person, agency, or organization that has a contract to provide
22 services under the MIAMI project."

23
24 **Section 8.** Section 50-49-103, MCA, is amended to read:

25 **"50-49-103. Definitions.** For purposes of this part, unless the context requires otherwise, the
26 following definitions apply:

27 (1) ~~"Council" means the state advisory council on food and nutrition established in 2-15-2210.~~

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

30 ~~(3)~~(2) "Food programs and nutrition services" means public or private programs to provide food

1 and nutrition assistance to persons who have need. The term includes but is not limited to the food stamp
 2 program, food programs for the elderly, and supplemental food programs for women, infants, and children."

3
 4 **Section 9.** Section 50-49-106, MCA, is amended to read:

5 **"50-49-106. Gifts and grants.** The ~~council~~ department may accept contributions, gifts, and grants
 6 to fund its activities."

7
 8 **Section 10.** Section 50-49-107, MCA, is amended to read:

9 **"50-49-107. Public health nutritionist -- appointment and duties.** The director of the department
 10 shall appoint a registered dietitian as a public health nutritionist. The appointment of the public health
 11 nutritionist may not be required unless funding for the position is available. The public health nutritionist
 12 shall:

13 (1) establish a program of public education and technical assistance for programs that provide food
 14 assistance; and

15 (2) ~~provide staff assistance to the council;~~

16 ~~(3)~~ provide technical assistance to the governor's advisory council on aging; and

17 ~~(4)~~ (3) provide technical assistance to health care and public health agencies."

18
 19 **Section 11.** Section 52-1-103, MCA, is amended to read:

20 **"52-1-103. Powers and duties of department.** The department shall:

21 (1) administer and supervise all forms of child and adult protective services;

22 (2) act as the lead agency in coordinating and planning services to children with multiagency
 23 service needs;

24 (3) ESTABLISH A SYSTEM OF COUNCILS AT THE STATE AND LOCAL LEVELS TO MAKE
 25 RECOMMENDATIONS AND TO ADVISE THE DEPARTMENT ON ISSUES, INCLUDING CHILDREN'S ISSUES;

26 ~~(3)~~(4) provide the following functions, as necessary, for youth in need of care:

27 (a) intake, investigation, case management, and client supervision;

28 (b) placement in youth care facilities;

29 (c) contracting for necessary services;

30 (d) protective services day care; and

1 (e) adoption;

2 ~~(4)(5)~~ register or license youth care facilities, child-placing agencies, day-care facilities, community
3 homes for persons with developmental disabilities, community homes for severely disabled persons, and
4 adult foster care facilities;

5 ~~(5)(6)~~ act as lead agency in implementing and coordinating child-care programs and services under
6 the Montana Child Care Act;

7 ~~(6)(7)~~ administer the interstate compact for children;

8 ~~(7)(8)~~ (a) administer child abuse prevention services funded through child abuse grants and the
9 Montana children's trust fund provided for in Title 41, chapter 3, part 7; and

10 (b) administer elder abuse prevention services;

11 ~~(8)(9)~~ ~~(a) make a written evaluation of each plan developed by the local family services advisory~~
12 ~~councils, as provided in 52-1-203, indicating those portions of each plan that will be implemented by the~~
13 ~~department, those portions that will not be implemented, and the reasons for not implementing those~~
14 ~~portions;~~

15 ~~(b) develop a statewide youth services and resources plan that takes into consideration local needs~~
16 ~~as reflected in plans developed by the local family services advisory councils;~~

17 ~~(9)(10)~~ administer services to the aged;

18 ~~(10)(11)~~ provide consultant services to:

19 (a) facilities providing care for needy, indigent, handicapped, or dependent adults; and

20 (b) youth care facilities;

21 ~~(11)(12)~~ utilize the staff and services of other state agencies and units of the Montana university
22 system, within their respective statutory functions, to carry out its functions under this title;

23 ~~(12)(13)~~ contract, as necessary, with the county board of welfare for administration of child and
24 adult protection services for that county; and

25 ~~(13)(14)~~ adopt rules necessary to carry out the purposes of 41-3-1126 and this chapter."

26

27 **Section 12.** Section 52-2-704, MCA, is amended to read:

28 **"52-2-704. Duties of department.** (1) The department is responsible for planning, implementing,
29 and coordinating programs under the Montana Child Care Act.

30 (2) The department shall:

- 1 (a) assess child-care needs and resources within the state;
- 2 (b) develop a state child-care plan ~~after consultation with the local family services advisory councils~~
 3 ~~established under 52-1-203 and the child-care advisory council established in 52-2-705;~~
- 4 (c) coordinate child-care programs administered by all state agencies;
- 5 (d) issue licenses to persons to receive children into a day-care center on a regular basis;
- 6 (e) prescribe the conditions and publish minimum standards upon which licenses and registration
 7 certificates are issued;
- 8 (f) adopt rules for day-care facilities consistent with the purposes of this part; and
- 9 (g) issue registration certificates to a person or persons to receive children into a family day-care
 10 home or group day-care home on a regular basis.
- 11 (3) The department may:
- 12 (a) enter into interagency agreements to administer and coordinate child-care programs;
- 13 (b) accept any federal funds made available for the improvement or promotion of child-care services
 14 within the state;
- 15 (c) administer any state and federal funds that may be appropriated for the purposes of the part."
- 16

17 **Section 13.** Section 53-20-203, MCA, is amended to read:

18 **"53-20-203. Responsibilities of department.** The department shall:

- 19 (1) take cognizance of matters affecting the citizens of the state who are persons with
 20 developmental disabilities;
- 21 (2) initiate a preventive developmental disabilities program ~~which shall~~ that must include but not
 22 be limited to the implementation of developmental disabilities care, treatment, prevention, and research as
 23 can best be accomplished by community-centered services. Every means ~~shall~~ must be utilized to initiate
 24 and operate the service program in cooperation with local agencies under the provisions of 53-20-205 ~~and~~
 25 ~~53-20-207.~~
- 26 (3) collect and disseminate information relating to developmental disabilities;
- 27 (4) prepare, with the assistance of the planning and advisory council, an annual comprehensive
 28 plan for the initiation and maintenance of developmental disabilities services in the state. The services ~~shall~~
 29 must include but not be limited to community comprehensive developmental disabilities services as referred
 30 to in 53-20-202.

1 (5) provide by rule for the evaluation of persons who apply for services or persons admitted into
2 a program at a developmental disability facility;

3 ~~(6) provide state personnel to assist regional councils provided for in 53-20-207;~~

4 ~~(7)~~ receive from agencies of the government of the United States and other agencies, persons or
5 groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies,
6 materials, and contributions to initiate and maintain developmental disabilities services within the state;

7 ~~(8)(7)~~ require that habilitation plans be developed, implemented, and continuously maintained for
8 all persons with developmental disabilities who are served through a community-based program funded by
9 the state; and

10 ~~(9)(8)~~ use funds available for cases in which special medical or material assistance is necessary
11 to rehabilitate children with developmental disabilities or physically handicapped children if ~~such~~ the
12 assistance is not otherwise provided for by law."

13
14 **Section 14.** Section 53-20-205, MCA, is amended to read:

15 "**53-20-205. Community services.** (1) The department may establish and administer community
16 comprehensive services, programs, clinics, or other facilities throughout the state for the purpose of aiding
17 in the prevention, diagnosis, amelioration, or treatment of developmental disabilities. Programs, clinics, or
18 other services may be provided directly by state agencies or indirectly through contract or cooperative
19 arrangements with other agencies of government, regional or local, private or public agencies, private
20 professional persons, or accredited health or long-term care facilities.

21 (2) The department may contract for programs for developmental disabilities services. Contracts
22 entered into by the department ~~shall~~ must contain specific conditions for performance by the contractor.
23 ~~¶ The department~~ shall set minimum standards for programs and establish appropriate qualifications for
24 persons employed in such programs.

25 (3) All developmental disabilities facilities and services ~~shall~~ must comply with existing federal
26 guidelines and with requirements ~~which~~ that will enable the services and facilities to qualify for available
27 aid funds. However, ~~nothing herein requires~~ this section does not require facilities serving persons with
28 developmental disabilities to meet the same or equal standards as licensed medical facilities unless the
29 developmental disabilities facility is providing professional or skilled medical care.

30 (4) Comprehensive services, programs, clinics, or other facilities established or provided by the

1 department under this part ~~shall~~ must conform as nearly as possible to the plans of the advisory council
 2 created under 2-15-2204 ~~and the regional councils provided for in 53-20-207.~~

3 (5) The department may promote scientific and medical research investigations relative to the
 4 incidence, cause, prevention, and care of persons with developmental disabilities."

5
 6 **Section 15.** Section 53-21-202, MCA, is amended to read:

7 **"53-21-202. Duties of department.** The department shall:

8 (1) take cognizance of matters affecting the mental health of the citizens of the state;

9 (2) initiate mental health care and treatment, prevention, and research as can best be accomplished
 10 by community-centered services. The means must be utilized to initiate and operate these services in
 11 cooperation with local agencies as established under this part.

12 (3) collect and disseminate information relating to mental health;

13 (4) prepare and maintain a comprehensive plan for the development of public mental health services
 14 in the state;

15 (5) receive from agencies of the United States and other state agencies, persons or groups of
 16 persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials,
 17 and contributions for the development of mental health services within the state;

18 (6) establish standards for mental health programs that receive funds from the department;

19 (7) evaluate performance of programs that receive funds from the department in compliance with
 20 federal and state standards; and

21 (8) coordinate state and community resources to ensure comprehensive delivery of services to
 22 children with emotional disturbances and submit at least a biennial report to the governor and the legislature
 23 concerning the activities and recommendations of the department and service providers; ~~and~~

24 ~~(9) appoint an advisory council to make recommendations to the department regarding services~~
 25 ~~for emotionally disturbed children. The members of the advisory council shall serve without compensation~~
 26 ~~and must include but not be limited to a representative of:~~

27 ~~(a) the department;~~

28 ~~(b) the office of public instruction;~~

29 ~~(c) a youth court;~~

30 ~~(d) parents of emotionally disturbed children; and~~

1 ~~(e) service provider groups."~~

2

3 NEW SECTION. **Section 16. Repealer.** Sections 2-15-2210, 2-15-2213, 2-15-2215, 50-6-403,
4 50-19-312, 50-49-104, 50-49-105, 52-1-202, 52-1-203, 52-2-705, and 53-20-207, MCA, are repealed.

5

-END-

1 SENATE BILL NO. 298

2 INTRODUCED BY SWYSGOOD

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ADVISORY COUNCILS ASSOCIATED WITH THE
5 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; ELIMINATING THE STATE ADVISORY
6 COUNCIL ON FOOD AND NUTRITION, THE MONTANA INITIATIVE FOR THE ABATEMENT OF MORTALITY
7 IN INFANTS PROJECT ADVISORY COUNCIL, THE EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL,
8 THE STATE AND LOCAL FAMILY SERVICES ADVISORY COUNCILS, THE STATEWIDE HEALTH
9 COORDINATING COUNCIL, THE CHILD-CARE ADVISORY COUNCIL, THE REGIONAL ADVISORY COUNCILS
10 FOR DEVELOPMENTAL DISABILITIES, AND THE ADVISORY COUNCIL ON EMOTIONALLY DISTURBED
11 CHILDREN; AMENDING SECTIONS 2-15-2204, 50-5-101, 50-6-103, 50-6-401, 50-6-402, 50-6-404,
12 50-19-303, 50-49-103, 50-49-106, 50-49-107, 52-1-103, 52-2-704, 53-20-203, 53-20-205, AND
13 53-21-202, MCA; AND REPEALING SECTIONS 2-15-2210, 2-15-2213, 2-15-2215, 50-6-403, 50-19-312,
14 50-49-104, 50-49-105, 52-1-202, 52-1-203, 52-2-705, AND 53-20-207, MCA."
15

16 WHEREAS, the 54th Montana Legislature enacted a bill to combine several state agencies into a
17 new department of public health and human services; and

18 WHEREAS, it would better serve the needs of Montana to combine the functions and duties and
19 limit the number of advisory councils associated with the department of public health and human services.
20

21 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 SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

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6 COUNCIL ON FOOD AND NUTRITION, THE MONTANA INITIATIVE FOR THE ABATEMENT OF MORTALITY
7 IN INFANTS PROJECT ADVISORY COUNCIL, THE EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL,
8 THE STATE AND LOCAL FAMILY SERVICES ADVISORY COUNCILS, THE STATEWIDE HEALTH
9 COORDINATING COUNCIL, THE CHILD-CARE ADVISORY COUNCIL, THE REGIONAL ADVISORY COUNCILS
10 FOR DEVELOPMENTAL DISABILITIES, AND THE ADVISORY COUNCIL ON EMOTIONALLY DISTURBED
11 CHILDREN; AMENDING SECTIONS 2-15-2204, 50-5-101, 50-6-103, 50-6-401, 50-6-402, 50-6-404,
12 50-19-303, 50-49-103, 50-49-106, 50-49-107, 52-1-103, 52-2-704, 53-20-203, 53-20-205, AND
13 53-21-202, MCA; AND REPEALING SECTIONS 2-15-2210, 2-15-2213, 2-15-2215, 50-6-403, 50-19-312,
14 50-49-104, 50-49-105, 52-1-202, 52-1-203, 52-2-705, AND 53-20-207, MCA."

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 10 FOR DEVELOPMENTAL DISABILITIES, AND THE ADVISORY COUNCIL ON EMOTIONALLY DISTURBED
 11 CHILDREN; AMENDING SECTIONS 2-15-2204, 50-5-101, 50-6-103, 50-6-401, 50-6-402, 50-6-404,
 12 50-19-303, 50-49-103, 50-49-106, 50-49-107, 52-1-103, 52-2-704, 53-20-203, 53-20-205, AND
 13 53-21-202, MCA; AND REPEALING SECTIONS 2-15-2210, 2-15-2213, 2-15-2215, 50-6-403, 50-19-312,
 14 50-49-104, 50-49-105, 52-1-202, 52-1-203, 52-2-705, AND 53-20-207, MCA."
 15

16 WHEREAS, the 54th Montana Legislature enacted a bill to combine several state agencies into a
 17 new department of public health and human services; and

18 WHEREAS, it would better serve the needs of Montana to combine the functions and duties and
 19 limit the number of advisory councils associated with the department of public health and human services.
 20

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 22

23 **Section 1.** Section 2-15-2204, MCA, is amended to read:

24 **"2-15-2204. Developmental disabilities planning and advisory council.** (1) The governor shall
 25 appoint a developmental disabilities planning and advisory council in accordance with the provisions of this
 26 section.

27 (2) The council is composed of at least ~~23-18~~ 23 but no more than ~~25-20~~ 25 members and
 28 consists of the following:

29 (a) a representative of the program of services provided under the authority of the Rehabilitation
 30 Act of 1973, 29 U.S.C. 701, et seq.;

1 (b) a representative of the program of services provided under the authority of the Older Americans
2 Act of 1965, 42 U.S.C. 3001, et seq.;

3 (c) a representative of the program of services for persons with developmental disabilities provided
4 under the authority of Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq.;

5 (d) a representative of the program of services provided under the authority of the Individuals With
6 Disabilities Education Act, 20 U.S.C. 1400, et seq.;

7 (e) two recognized professionals, one each in the disciplines of medicine and law;

8 (f) one member of the state senate;

9 (g) one member of the state house of representatives;

10 (h) ~~seven~~ 12 persons, each of whom has a developmental disability or who is an immediate family
11 member or guardian of a person with a developmental disability;

12 (i) ~~one member of each of the five regional councils provided for in 53-20-207, each of whom has~~
13 ~~a developmental disability or who is an immediate family member or guardian of a person with a~~
14 ~~developmental disability;~~

15 (j) the director of the university-affiliated or satellite program on developmental disabilities, created
16 pursuant to 42 U.S.C. 6031, or a designee of the director;

17 ~~(k)~~ (j) the director of the state protection and advocacy system, created pursuant to 42 U.S.C.
18 6012, or a designee of the director; and

19 ~~(k)~~ (k) a representative of a statewide developmental disabilities service provider organization whose
20 member agencies provide direct services to persons with developmental disabilities.

21 (3) (a) Each member who serves on the council pursuant to subsection (2)(a), (2)(b), (2)(c), or
22 (2)(d) shall serve for a term concurrent with the respective term of the director of the agency that
23 administers the program that the member represents. Upon the removal of an agency director from office,
24 the representative's term as a member of the council is automatically terminated.

25 (b) Each member who serves on the council pursuant to subsection (2)(f) or (2)(g) must be
26 appointed or reappointed annually by the governor.

27 (c) Eight of the members serving on the council pursuant to subsection (2)(e), (2)(h), ~~(2)(i)~~, ~~(2)(j)~~
28 (2)(k), or (3)(d) must be appointed by the governor to serve for terms concurrent with the gubernatorial
29 term and until their successors are appointed. The remaining members serving on the council pursuant to
30 subsection (2)(e), (2)(h), ~~(2)(i)~~, ~~(2)(j)~~ (2)(k), or (3)(d) must be appointed by the governor to serve for terms

1 ending on January 1 of the third year of the succeeding gubernatorial term and until their successors are
2 appointed.

3 (d) Representatives named to the council pursuant to this section, in addition to fulfilling the
4 requirements listed in subsections (2)(a) through ~~(2)(j)~~ (2)(k), may also be selected to represent the
5 following areas: psychology, social work, special education, and minority groups, including Native
6 Americans with developmental disabilities. A minimum of one member of the council must represent each
7 of these areas. In the event that the persons listed in subsections (2)(a) through ~~(2)(j)~~ (2)(k) do not
8 represent all of the areas of psychology, social work, special education, and minority groups, including
9 Native Americans with developmental disabilities, up to two representatives may be added to the
10 membership of the council to represent not more than two of these groups.

11 (4) The council is allocated to the department for administrative purposes only and, unless
12 inconsistent with the provisions of 53-20-206 and this section, the provisions of 2-15-121 apply."
13

14 **Section 2.** Section 50-5-101, MCA, is amended to read:

15 **"50-5-101. Definitions.** As used in parts 1 through 4 of this chapter, unless the context clearly
16 indicates otherwise, the following definitions apply:

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

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

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

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

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

26 (ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled
27 adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person
28 is available to meet those basic needs.

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

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

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

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

10 (6) "Capital expenditure" means:

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

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

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

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

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

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

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

1 (12) "Construction" means the physical erection of a health care facility and any stage of the
2 physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health
3 care facility.

4 (13) "Department" means the department of public health and human services provided for in
5 2-15-2201.

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

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

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

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

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

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

26 (20) "Home infusion therapy agency" means a health care facility that provides home infusion
27 therapy services.

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

1 patient's family member.

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

6 The term includes:

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

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

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

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

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

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

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

25 (26) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing
26 care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of
27 two or more individuals or that provides personal care. The term does not include community homes for
28 persons with developmental disabilities licensed under 53-20-305; community homes for persons with
29 severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 41-3-1142; hotels, motels,
30 boardinghouses, roominghouses, or similar accommodations providing for transients, students, or

1 individuals who do not require institutional health care; or juvenile and adult correctional facilities operating
2 under the authority of the department of corrections.

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

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

8 (d) "Intermediate developmental disability care" means the provision of nursing care services,
9 health-related services, and social services for persons with developmental disabilities, as defined in
10 53-20-102(4), or for individuals with related problems.

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

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

16 (28) "Medical assistance facility" means a facility that:

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

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

21 (29) "Mental health center" means a facility providing services for the prevention or diagnosis of
22 mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals,
23 or any combination of these services.

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

26 (31) "Observation bed" means a bed occupied by a patient recovering from surgery or other
27 treatment.

28 (32) "Offer" means the representation by a health care facility that it can provide specific health
29 services.

30 (33) "Outpatient facility" means a facility, located in or apart from a hospital, that provides, under

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

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

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

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

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

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

15 (39) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

16 (40) "Residential care facility" means an adult day-care center, an adult foster care home, a
17 personal-care facility, or a retirement home.

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

23 (42) "Residential treatment facility" means a facility operated for the primary purpose of providing
24 residential psychiatric care to individuals under 21 years of age.

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

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

29

30 **Section 3.** Section 50-6-103, MCA, is amended to read:

1 **"50-6-103. Powers of department.** (1) The department of public health and human services is
 2 authorized to confer and cooperate with any other persons, organizations, and governmental agencies that
 3 have an interest in emergency medical services problems and needs.

4 (2) The department is authorized to accept, receive, expend, and administer any funds that are now
 5 available or that may be donated, granted, or appropriated to the department.

6 (3) The department may, after consultation with ~~the emergency medical services advisory council,~~
 7 the trauma care committee, the Montana committee on trauma of the American college of surgeons, the
 8 Montana hospital association, and the Montana medical association, adopt rules necessary to implement
 9 part 4 of this chapter."
 10

11 **Section 4.** Section 50-6-401, MCA, is amended to read:

12 **"50-6-401. Definitions.** As used in this part, unless the context clearly requires otherwise, the
 13 following definitions apply:

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

16 (2) "Emergency medical service" means an emergency medical service as defined by 50-6-302.

17 (3) ~~"Emergency medical services advisory council" means the emergency medical services advisory~~
 18 ~~council created in 2-15-2215.~~

19 ~~(4)~~ (4) "Health care facility" or "facility" means a hospital or medical assistance facility as defined in
 20 50-5-101.

21 ~~(5)~~(4) "Hospital trauma register" means patient-specific trauma data that is maintained by a health
 22 care facility, in a format prescribed by department rule, and that has the primary purpose of facilitating peer
 23 review and quality improvement at the health care facility.

24 ~~(6)~~(5) "Quality improvement" means the process of defining trauma care system performance
 25 standards, collecting data against which the standards may be applied, using the data to determine
 26 compliance with the standards, and using the data and compliance information in a nonpunitive manner,
 27 including peer review, that will continuously improve performance and facilitate compliance with the
 28 standards.

29 ~~(7)~~(6) "State trauma register" means trauma data relating to a specific patient or health care facility
 30 that is maintained by the department in an electronic format and that has the primary purpose of facilitating

1 peer review and quality improvement for a health care facility or a trauma care system.

2 ~~(8)~~(7) "Trauma" means a severe, abrupt injury to the human body that is caused by mechanical,
3 environmental, thermal, or other physical force.

4 ~~(9)~~(8) "Trauma care committee" means the trauma care committee created in 2-15-2216.

5 ~~(10)~~(9) "Trauma care system" means a state or regional system for the prevention of trauma and
6 the provision of optimal medical care to trauma victims that includes both provision of appropriate health
7 care services and provision of emergency medical care, equipment, and personnel for effective and
8 coordinated prehospital, hospital, interhospital, and rehabilitative care for trauma patients.

9 ~~(11)~~(10) "Trauma facility" means a health care facility designated by the department pursuant to
10 50-6-410 as providing a specialized program in trauma care with appropriately trained personnel,
11 equipment, and other facility resources that are specifically organized to provide optimal care to a trauma
12 patient at the facility.

13 ~~(12)~~(11) "Trauma region" means a geographic area, designated by department rule pursuant to
14 50-6-402, within which trauma services are coordinated and evaluated through a regional trauma care
15 system."
16

17 **Section 5.** Section 50-6-402, MCA, is amended to read:

18 **"50-6-402. Department duties -- rules.** (1) The department shall plan, coordinate, implement, and
19 administer a statewide trauma care system that involves all health care facilities and emergency medical
20 services within the state. The department shall also develop and adopt a statewide trauma care system plan
21 and a state trauma register.

22 (2) The department shall adopt rules to:

23 (a) establish and coordinate the statewide trauma care system, including rules that establish:

24 (i) various levels of trauma facilities and the standards each facility is required to meet concerning
25 personnel, equipment, resources, data collection, and organizational capabilities;

26 (ii) procedures for, standards for, and the duration of designation and revocation of designation of
27 a trauma facility, including application procedures, site survey procedures, complaint investigation, and
28 emergency suspension of designation;

29 (iii) operational procedures and criteria for the regional trauma advisory committees;

30 (iv) prehospital emergency medical services triage and treatment protocols for trauma patients;

1 (v) triage and treatment protocols for the transfer of injured persons between health care facilities;
 2 (vi) requirements for collection and release of trauma register data;
 3 (vii) quality improvement standards for emergency medical services and trauma care facilities; and
 4 (viii) the duties, responsibilities, and functions of ~~the emergency medical services advisory council~~
 5 ~~created by 2-15-2216~~, the trauma care committee created by 2-15-2216, and the regional trauma care
 6 advisory committees created pursuant to 50-6-411;

7 (b) designate trauma regions throughout Montana, taking into consideration geographic distance
 8 from available trauma care, transportation modalities available, population location and density, health care
 9 facility resources, historical patterns of patient referral, and other considerations relevant to optimum
 10 provision of emergency medical care;

11 (c) establish the procedure to be followed by a health care facility to appeal to the department a
 12 decision by the department pursuant to 50-6-410 affecting the facility's designation as a trauma facility;

13 (d) specify the information that must be submitted to the department, including information from
 14 health care facilities, for statistical evaluation of the state and regional trauma care systems, planning
 15 prevention programs, assessing trauma-related educational priorities, and determining how trauma facilities
 16 and emergency medical services may comply with protocols and standards adopted by the department; and

17 (e) establish the electronic format and other standards that a health care facility trauma data
 18 system is required to meet in order to qualify as a hospital trauma register.

19 (3) The department shall submit a report to each session of the legislature concerning the
 20 effectiveness of the trauma care system established under this part.

21 (4) This part does not restrict any other provisions of law allowing or requiring a health care facility
 22 or health care provider to provide health care services."
 23

24 **Section 6.** Section 50-6-404, MCA, is amended to read:

25 "**50-6-404. Duties of trauma care committee.** The trauma care committee provided for in
 26 2-15-2216 shall:

27 (1) provide recommendations and guidance to the department concerning:

28 (a) trauma care, including suggestions for changes to the statewide trauma care system;

29 (b) the implementation of a hospital data collection system; and

30 (c) the design and implementation of a statewide and regional quality improvement system for

1 trauma care that considers the standards recommended by the American college of surgeons and the joint
2 commission on accreditation of healthcare organizations;

3 (2) assist the department in conducting statewide quality improvement and peer review functions
4 by regularly analyzing the effect of the statewide trauma care system on patient care, morbidity, and
5 mortality; and

6 (3) provide recommendations to and oversight and coordination of the activities of the regional
7 trauma care advisory committees; ~~and~~

8 ~~(4) provide recommendations to the emergency medical services advisory committee concerning~~
9 ~~the statewide trauma care system and the integration of trauma care with the emergency medical services~~
10 ~~delivery system."~~

11

12 **Section 7.** Section 50-19-303, MCA, is amended to read:

13 **"50-19-303. Definitions.** For purposes of this part, the following definitions apply:

14 (1) ~~"Council" means the MIAMI project advisory council established in 2-15-2213.~~

15 ~~(2) "Department" means the department of public health and human services provided for in~~
16 ~~2-15-2201.~~

17 ~~(3)(2) "Low income" means, with respect to an individual or family, income that does not exceed~~
18 ~~the official federal poverty threshold as defined by the federal office of management and budget and revised~~
19 ~~annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.~~

20 ~~(4)(3) "Project" means the MIAMI project established in 50-19-311.~~

21 ~~(5)(4) "Service provider" means a person, agency, or organization that has a contract to provide~~
22 ~~services under the MIAMI project."~~

23

24 **Section 8.** Section 50-49-103, MCA, is amended to read:

25 **"50-49-103. Definitions.** For purposes of this part, unless the context requires otherwise, the
26 following definitions apply:

27 (1) ~~"Council" means the state advisory council on food and nutrition established in 2-15-2210.~~

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

30 ~~(3)(2) "Food programs and nutrition services" means public or private programs to provide food~~

1 and nutrition assistance to persons who have need. The term includes but is not limited to the food stamp
2 program, food programs for the elderly, and supplemental food programs for women, infants, and children."

3

4 **Section 9.** Section 50-49-106, MCA, is amended to read:

5 "50-49-106. **Gifts and grants.** The ~~council~~ department may accept contributions, gifts, and grants
6 to fund its activities."

7

8 **Section 10.** Section 50-49-107, MCA, is amended to read:

9 "50-49-107. **Public health nutritionist -- appointment and duties.** The director of the department
10 shall appoint a registered dietitian as a public health nutritionist. The appointment of the public health
11 nutritionist may not be required unless funding for the position is available. The public health nutritionist
12 shall:

13 (1) establish a program of public education and technical assistance for programs that provide food
14 assistance; and

15 (2) ~~provide staff assistance to the council;~~

16 ~~(3) provide technical assistance to the governor's advisory council on aging; and~~

17 ~~(4) (3) provide technical assistance to health care and public health agencies."~~

18

19 **Section 11.** Section 52-1-103, MCA, is amended to read:

20 "52-1-103. **Powers and duties of department.** The department shall:

21 (1) administer and supervise all forms of child and adult protective services;

22 (2) act as the lead agency in coordinating and planning services to children with multiagency
23 service needs;

24 (3) ESTABLISH A SYSTEM OF COUNCILS AT THE STATE AND LOCAL LEVELS TO MAKE
25 RECOMMENDATIONS AND TO ADVISE THE DEPARTMENT ON ISSUES, INCLUDING CHILDREN'S ISSUES;

26 ~~(3)(4)~~ provide the following functions, as necessary, for youth in need of care:

27 (a) intake, investigation, case management, and client supervision;

28 (b) placement in youth care facilities;

29 (c) contracting for necessary services;

30 (d) protective services day care; and

- 1 (e) adoption;
- 2 ~~(4)(5)~~ register or license youth care facilities, child-placing agencies, day-care facilities, community
- 3 homes for persons with developmental disabilities, community homes for severely disabled persons, and
- 4 adult foster care facilities;
- 5 ~~(5)(6)~~ act as lead agency in implementing and coordinating child-care programs and services under
- 6 the Montana Child Care Act;
- 7 ~~(6)(7)~~ administer the interstate compact for children;
- 8 ~~(7)(8)~~ (a) administer child abuse prevention services funded through child abuse grants and the
- 9 Montana children's trust fund provided for in Title 41, chapter 3, part 7; and
- 10 (b) administer elder abuse prevention services;
- 11 ~~(8)(9)~~ ~~(a) make a written evaluation of each plan developed by the local family services advisory~~
- 12 ~~councils, as provided in 52-1-203, indicating those portions of each plan that will be implemented by the~~
- 13 ~~department, those portions that will not be implemented, and the reasons for not implementing those~~
- 14 ~~portions;~~
- 15 ~~(b) develop a statewide youth services and resources plan that takes into consideration local needs~~
- 16 ~~as reflected in plans developed by the local family services advisory councils;~~
- 17 ~~(9)(10)~~ administer services to the aged;
- 18 ~~(10)(11)~~ provide consultant services to:
- 19 (a) facilities providing care for needy, indigent, handicapped, or dependent adults; and
- 20 (b) youth care facilities;
- 21 ~~(11)(12)~~ utilize the staff and services of other state agencies and units of the Montana university
- 22 system, within their respective statutory functions, to carry out its functions under this title;
- 23 ~~(12)(13)~~ contract, as necessary, with the county board of welfare for administration of child and
- 24 adult protection services for that county; and
- 25 ~~(13)(14)~~ adopt rules necessary to carry out the purposes of 41-3-1126 and this chapter."

26

27 **Section 12.** Section 52-2-704, MCA, is amended to read:

28 "52-2-704. **Duties of department.** (1) The department is responsible for planning, implementing,

29 and coordinating programs under the Montana Child Care Act.

30 (2) The department shall:

- 1 (a) assess child-care needs and resources within the state;
- 2 (b) develop a state child-care plan ~~after consultation with the local family services advisory councils~~
 3 ~~established under 52-1-203 and the child-care advisory council established in 52-2-705;~~
- 4 (c) coordinate child-care programs administered by all state agencies;
- 5 (d) issue licenses to persons to receive children into a day-care center on a regular basis;
- 6 (e) prescribe the conditions and publish minimum standards upon which licenses and registration
 7 certificates are issued;
- 8 (f) adopt rules for day-care facilities consistent with the purposes of this part; and
- 9 (g) issue registration certificates to a person or persons to receive children into a family day-care
 10 home or group day-care home on a regular basis.

11 (3) The department may:

- 12 (a) enter into interagency agreements to administer and coordinate child-care programs;
- 13 (b) accept any federal funds made available for the improvement or promotion of child-care services
 14 within the state;
- 15 (c) administer any state and federal funds that may be appropriated for the purposes of the part."

16

17 **Section 13.** Section 53-20-203, MCA, is amended to read:

18 **"53-20-203. Responsibilities of department.** The department shall:

- 19 (1) take cognizance of matters affecting the citizens of the state who are persons with
 20 developmental disabilities;
- 21 (2) initiate a preventive developmental disabilities program ~~which shall~~ that must include but not
 22 be limited to the implementation of developmental disabilities care, treatment, prevention, and research as
 23 can best be accomplished by community-centered services. Every means ~~shall~~ must be utilized to initiate
 24 and operate the service program in cooperation with local agencies under the provisions of 53-20-205 ~~and~~
 25 ~~53-20-207.~~
- 26 (3) collect and disseminate information relating to developmental disabilities;
- 27 (4) prepare, with the assistance of the planning and advisory council, an annual comprehensive
 28 plan for the initiation and maintenance of developmental disabilities services in the state. The services ~~shall~~
 29 must include but not be limited to community comprehensive developmental disabilities services as referred
 30 to in 53-20-202.

1 (5) provide by rule for the evaluation of persons who apply for services or persons admitted into
2 a program at a developmental disability facility;

3 ~~(6) provide state personnel to assist regional councils provided for in 53-20-207;~~

4 ~~(7)~~ receive from agencies of the government of the United States and other agencies, persons or
5 groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies,
6 materials, and contributions to initiate and maintain developmental disabilities services within the state;

7 ~~(8)(7)~~ require that habilitation plans be developed, implemented, and continuously maintained for
8 all persons with developmental disabilities who are served through a community-based program funded by
9 the state; and

10 ~~(9)(8)~~ use funds available for cases in which special medical or material assistance is necessary
11 to rehabilitate children with developmental disabilities or physically handicapped children if ~~such~~ the
12 assistance is not otherwise provided for by law."

13

14 **Section 14.** Section 53-20-205, MCA, is amended to read:

15 "**53-20-205. Community services.** (1) The department may establish and administer community
16 comprehensive services, programs, clinics, or other facilities throughout the state for the purpose of aiding
17 in the prevention, diagnosis, amelioration, or treatment of developmental disabilities. Programs, clinics, or
18 other services may be provided directly by state agencies or indirectly through contract or cooperative
19 arrangements with other agencies of government, regional or local, private or public agencies, private
20 professional persons, or accredited health or long-term care facilities.

21 (2) The department may contract for programs for developmental disabilities services. Contracts
22 entered into by the department ~~shall~~ must contain specific conditions for performance by the contractor.
23 ~~‡ The department~~ shall set minimum standards for programs and establish appropriate qualifications for
24 persons employed in such programs.

25 (3) All developmental disabilities facilities and services ~~shall~~ must comply with existing federal
26 guidelines and with requirements ~~which~~ that will enable the services and facilities to qualify for available
27 aid funds. However, ~~nothing herein requires~~ this section does not require facilities serving persons with
28 developmental disabilities to meet the same or equal standards as licensed medical facilities unless the
29 developmental disabilities facility is providing professional or skilled medical care.

30 (4) Comprehensive services, programs, clinics, or other facilities established or provided by the

1 department under this part ~~shall~~ must conform as nearly as possible to the plans of the advisory council
2 created under 2-15-2204 ~~and the regional councils provided for in 53-20-207.~~

3 (5) The department may promote scientific and medical research investigations relative to the
4 incidence, cause, prevention, and care of persons with developmental disabilities."

5

6 **Section 15.** Section 53-21-202, MCA, is amended to read:

7 "**53-21-202. Duties of department.** The department shall:

8 (1) take cognizance of matters affecting the mental health of the citizens of the state;

9 (2) initiate mental health care and treatment, prevention, and research as can best be accomplished
10 by community-centered services. The means must be utilized to initiate and operate these services in
11 cooperation with local agencies as established under this part.

12 (3) collect and disseminate information relating to mental health;

13 (4) prepare and maintain a comprehensive plan for the development of public mental health services
14 in the state;

15 (5) receive from agencies of the United States and other state agencies, persons or groups of
16 persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials,
17 and contributions for the development of mental health services within the state;

18 (6) establish standards for mental health programs that receive funds from the department;

19 (7) evaluate performance of programs that receive funds from the department in compliance with
20 federal and state standards; and

21 (8) coordinate state and community resources to ensure comprehensive delivery of services to
22 children with emotional disturbances and submit at least a biennial report to the governor and the legislature
23 concerning the activities and recommendations of the department and service providers; ~~and~~

24 ~~(9) appoint an advisory council to make recommendations to the department regarding services~~
25 ~~for emotionally disturbed children. The members of the advisory council shall serve without compensation~~
26 ~~and must include but not be limited to a representative of:~~

27 ~~(a) the department;~~

28 ~~(b) the office of public instruction;~~

29 ~~(c) a youth court;~~

30 ~~(d) parents of emotionally disturbed children; and~~

1 ~~(e) service provider groups."~~

2

3 NEW SECTION. **Section 16. Repealer.** Sections 2-15-2210, 2-15-2213, 2-15-2215, 50-6-403,
4 50-19-312, 50-49-104, 50-49-105, 52-1-202, 52-1-203, 52-2-705, and 53-20-207, MCA, are repealed.

5

-END-