

HOUSE BILL NO. 51

INTRODUCED BY E. CLARK

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LICENSURE OF PERSONAL-CARE FACILITIES; CHANGING THE NAME OF "PERSONAL-CARE FACILITY" TO "ASSISTED LIVING FACILITY" FOR PURPOSES OF HEALTH CARE FACILITY LICENSURE; REVISING THE REQUIREMENTS FOR THE TYPES OF RESIDENTS SERVED BY ASSISTED LIVING FACILITIES; PROVIDING FOR A NEW CATEGORY C THAT CLASSIFIES COGNITIVELY IMPAIRED RESIDENTS WHO ARE SERVED BY ASSISTED LIVING FACILITIES FOR LICENSURE PURPOSES; AND AMENDING SECTIONS 50-5-101, 50-5-225, 50-5-226, 50-5-227, 50-5-1202, 52-1-104, 52-3-811, AND 87-2-802, MCA."

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

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

"50-5-101. Definitions. As used in parts 1 through 3 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

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

(2) "Activities of daily living" means tasks usually performed in the course of a normal day in a resident's life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

~~(2)~~(3) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.

~~(3)~~(4) (a) "Adult foster care home" means a private home or other facility that offers, except as provided in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full guardianship of the owner or manager.

(b) As used in this subsection ~~(3)~~ (4), the following definitions apply:

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

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

to meet those basic needs.

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

(iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine administration.

(B) The term does not include the administration of prescriptive medications.

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

(6) "Assisted living facility" means a congregate residential setting that provides or coordinates personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services designed to support a resident's personal dignity, autonomy, independence, privacy, choice, and safety.

~~(5)~~(7) "Capital expenditure" means:

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

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

~~(6)~~(8) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.

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

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

~~(9)~~(11) "College of American pathologists" means the organization nationally recognized by that name that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.

~~(10)~~(12) "Commission on accreditation of rehabilitation facilities" means the organization nationally recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and requirements.

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

(14) "Congregate" means the provision of group services designed especially for elderly or disabled persons who require supportive services and housing.

~~(12)~~(15) "Construction" means the physical erection of a health care facility and any stage of the physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health care facility.

~~(13)~~(16) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C. 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to 50-5-233.

~~(14)~~(17) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(15)~~(18) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney diseases and includes freestanding hemodialysis units.

~~(16)~~(19) "Federal acts" means federal statutes for the construction of health care facilities.

~~(17)~~(20) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

~~(18)~~(21) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. ~~The term does not include offices of private physicians, dentists, or other physical or mental health care workers regulated under Title 37, including chemical dependency counselors.~~ The term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis facilities, health maintenance organizations, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

(b) The term does not include offices of private physicians, dentists, or other physical or mental health care workers regulated under Title 37, including chemical dependency counselors.

~~(19)~~(22) "Health maintenance organization" means a public or private organization that provides or arranges for health care services to enrollees on a prepaid or other financial basis, either directly through provider employees or through contractual or other arrangements with a provider or group of providers.

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

~~(21)~~(24) "Home infusion therapy agency" means a health care facility that provides home infusion therapy services.

~~(22)~~(25) "Home infusion therapy services" means the preparation, administration, or furnishing of parenteral medications or parenteral or enteral nutritional services to an individual in that individual's residence. The services include an educational component for the patient, the patient's caregiver, or the patient's family member.

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

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

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

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

~~(25)~~(28) "Infirmary" means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:

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

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

~~(26)~~(29) "Intermediate developmental disability care" means the provision of nursing care services, health-related services, and social services for persons with developmental disabilities, as defined in 53-20-102, or for individuals with related problems.

~~(27)~~(30) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

~~(28)~~(31) "Joint commission on accreditation of healthcare organizations" means the organization nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements.

~~(32)~~ "Licensed health care professional" means a licensed physician, physician assistant-certified, advanced practice registered nurse, or registered nurse, who is practicing within the scope of the license issued by the department of labor and industry.

~~(29)~~(33) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care.

(b) The term does not include community homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals who do not require institutional health care; or juvenile and adult correctional facilities operating under the authority of the department of corrections.

~~(30)~~(34) "Medical assistance facility" means a facility that meets both of the following:

(a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a longer period is required because transfer to a hospital is precluded because of inclement weather or emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction retroactively and on a case-by-case basis if the individual's attending physician, physician assistant-certified, or nurse practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety of the individual.

(b) either is located in a county with fewer than six residents a square mile or is located more than 35

road miles from the nearest hospital.

~~(34)~~(35) "Mental health center" means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any combination of these services.

~~(32)~~(36) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

~~(33)~~(37) "Offer" means the representation by a health care facility that it can provide specific health services.

~~(34)~~(38) "Outpatient center for primary care" means a facility that provides, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for surgical services.

~~(35)~~(39) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or organization that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and that may include recovery care beds.

~~(36)~~(40) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

~~(37)~~(41) "Person" means an individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

~~(38)~~(42) "Personal care" means the provision of services and care for residents who need some assistance in performing the activities of daily living.

~~(39)~~ "Personal-care facility" means a facility in which personal care is provided for residents in either a category A facility or a category B facility as provided in 50-5-227.

(43) "Practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

~~(40)~~(44) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24 hours by a patient recovering from surgery or other treatment.

~~(41)~~(45) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

~~(42)~~(46) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

~~(43)~~(47) "Residential care facility" means an adult day-care center, an adult foster care home, a ~~personal-care~~ an assisted living facility, or a retirement home.

~~(44)~~(48) "Residential psychiatric care" means active psychiatric treatment provided in a residential treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

~~(45)~~(49) "Residential treatment facility" means a facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age.

~~(46)~~(50) "Retirement home" means a building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.

~~(47)~~(51) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

~~(48)~~(52) "State health care facilities plan" means the plan prepared by the department to project the need for health care facilities within Montana and approved by the governor and a statewide health coordinating council appointed by the director of the department.

~~(49)~~(53) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either acute care or extended skilled nursing care to a patient."

Section 2. Section 50-5-225, MCA, is amended to read:

"50-5-225. ~~Personal-care~~ Assisted living facilities -- services to residents. ~~A personal-care facility must provide the following services to facility residents:~~ (1) An assisted living facility shall, at a minimum, provide or make provisions for:

~~(1)(a) residential personal~~ services, such as laundry, housekeeping, food service, and either providing or making available provision for local transportation;

~~(2)(b) personal assistance services, such as assistance by staff as required by residents in eating, walking, dressing, grooming, and similar routine living tasks~~ assistance with activities of daily living, as provided for in the facility admission agreement and that do not require the use of a licensed health care professional;

~~(3)(c)~~ recreational activities; and

~~(4)(d)~~ supervision of assistance with self-medication;

~~(e)~~ 24-hour onsite supervision by staff; and

(f) assistance in arranging health-related services, such as medical appointments and appointments related to hearing aids, glasses, or dentures.

(2) An assisted living facility may provide, make provisions for, or allow a resident to obtain third-party provider services for:

(a) the administration of medications consistent with applicable laws and regulations; and

(b) skilled nursing care or other skilled services related to temporary, short-term, acute illnesses, which may not exceed 30 consecutive days for one episode or more than a total of 120 days in 1 year."

Section 3. Section 50-5-226, MCA, is amended to read:

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

(2) ~~A resident of a personal-care~~ An assisted living facility licensed as a category A facility under 50-5-227 ~~may obtain third-party provider services for skilled nursing care for no more than 20 consecutive days at a time.~~ may not admit or retain a resident unless each of the following conditions is met:

(a) The resident may not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices pursuant to Title 50, chapter 5, part 12.

(b) The resident may not have a stage 3 or stage 4 pressure ulcer.

(c) The resident may not have a gastrostomy or jejunostomy tube.

(d) The resident may not require skilled nursing care or other skilled services on a continued basis except for the administration of medications consistent with applicable laws and regulations.

(e) The resident may not be a danger to self or others.

(f) The resident must be able to accomplish activities of daily living with supervision and assistance based on the following:

(i) the resident may not be consistently and totally dependent in four or more activities of daily living as a result of a cognitive or physical impairment; and

(ii) the resident may not have a severe cognitive impairment that renders the resident incapable of expressing needs or making basic care decisions.

(3) ~~A resident of a personal-care~~ An assisted living facility licensed as a category B facility under 50-5-227 ~~must have a signed statement from a physician agreeing to the resident's admission to the facility if the resident is~~ may not admit or retain a resident unless each of the following conditions is met:

~~(a) in need of~~ The resident may require skilled nursing care or other services for more than 30 days for an incident, for more than 120 days a year that may be provided or arranged for by either the facility or the resident, and as provided for in the facility agreement;

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

~~(c) nonambulatory or bedridden;~~

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

~~(e) unable to self-administer medications.~~

(b) The resident may be consistently and totally dependent in more than four activities of daily living.

(c) The resident may not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices pursuant to Title 50, chapter 5, part 12.

(d) The resident may not be a danger to self or others.

(e) The resident must have a practitioner's written order for admission as a category B resident and written orders for care.

~~(4)(f) A~~ The resident of a category B personal-care facility who needs skilled nursing care must have a signed statement health care assessment, renewed on a quarterly basis by a physician, a physician assistant-certified, an advanced practice registered nurse, or a registered nurse, whose work is unrelated to the operation of the facility and licensed health care professional who:

~~(a)(i)~~ actually visited the facility within the calendar quarter covered by the statement assessment;

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

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

(4) An assisted living facility licensed as a category C facility under 50-5-227 may not admit or retain a resident unless each of the following conditions is met:

(a) The resident has a cognitive impairment.

(b) The resident may be at risk for leaving the facility without personal safety.

(c) The resident may not be a danger to self or others.

(d) The resident may not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices pursuant to Title 50, chapter 5, part 12.

(5) For category B and C residents, the assisted living facility shall specify services that it will provide in the facility admission criteria.

~~(5)(6)~~ The department shall develop standardized forms and education and training materials to provide

to the ~~personal-care~~ assisted living facilities and to the ~~physicians, physician assistants-certified, advanced practice registered nurses, or registered nurses~~ licensed health care professionals who are responsible for the signed statements provided for in subsection ~~(4)~~ (3)(f). The use of the standardized forms is voluntary.

~~(6)(7)~~ The department shall provide by rule:

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

(i) physical and mental standards for residents of ~~personal-care~~ assisted living facilities;

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

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

(b) standards to be used by a facility and, if appropriate, by a screening agency to screen residents and prospective residents to prevent residence by individuals referred to in ~~subsection~~ subsections (3) and (4);

(c) a method by which the results of any screening decision made pursuant to rules established under subsection ~~(6)(b)~~ (7)(b) may be appealed by the facility operator or by or on behalf of a resident or prospective resident;

(d) standards for operating a category A ~~personal-care~~ assisted living facility, including standards for the physical, structural, environmental, sanitary, infection control, dietary, social, staffing, and recordkeeping components of a facility and the storage and administration of over-the-counter and prescription medications; and

(e) standards for operating a category B ~~personal-care~~ assisted living facility, which must include the standards for a category A ~~personal-care~~ assisted living facility and additional standards for assessment of residents, care planning, qualifications and training of staff, ~~restraint use and reduction~~, prevention and care of pressure sores, and incontinence care, ~~and the storage and administration of drugs~~; and

(f) standards for operating a category C assisted living facility, which must include the standards for a category B assisted living facility and additional standards for resident assessment, the provision of specialty care to residents with cognitive impairments, and additional qualifications of and training for the administrator and direct-care staff."

Section 4. Section 50-5-227, MCA, is amended to read:

"50-5-227. Licensing ~~personal-care~~ assisted living facilities. (1) The department shall by rule adopt standards for licensing and operation of ~~personal-care~~ assisted living facilities to implement the provisions of

50-5-225 and 50-5-226.

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

(a) ~~category A—a facility providing personal care to residents who may not be:~~
~~—— (i) in need of skilled nursing care;~~
~~—— (ii) in need of medical, chemical, or physical restraint;~~
~~—— (iii) nonambulatory or bedridden;~~
~~—— (iv) incontinent to the extent that bowel or bladder control is absent; or~~
~~—— (v) unable to self-administer medications; or serving residents requiring the level of care as provided for in 50-5-226(2);~~

(b) ~~category B—a facility providing personal care~~ skilled nursing care or other skilled services to five or fewer residents who ~~may be:~~

~~—— (i) in need of skilled nursing care;~~
~~—— (ii) in need of medical, chemical, or physical restraint;~~
~~—— (iii) nonambulatory or bedridden;~~
~~—— (iv) incontinent to the extent that bowel or bladder control is absent; or~~
~~—— (v) unable to self-administer medications~~ meet the requirements stated in 50-5-226(3); or

(c) category C facility providing services to residents with cognitive impairments requiring the level of care stated in 50-5-226(4).

(3) A single facility meeting the applicable requirements for a category A facility may additionally be licensed to provide category B or category C services with the approval of the department.

~~(3)(4)~~ The department may by rule establish license fees, inspection fees, and fees for patient screening. Fees must be reasonably related to service costs."

Section 5. Section 50-5-1202, MCA, is amended to read:

"50-5-1202. Definitions. As used in this part, the following definitions apply:

- (1) "Department" means the department of public health and human services provided for in 2-15-2201.
- (2) "Long-term care facility" means a licensed facility that provides skilled nursing care or intermediate nursing care or that is ~~a personal-care~~ an assisted living facility, as defined in 50-5-101.
- (3) "Medical symptom" means an indication of a physical or psychological condition or of a physical or psychological need expressed by the patient.

- (4) "Physician" includes an advanced practice registered nurse to the extent permitted by federal law.
- (5) "Resident" means a person who lives in a long-term care facility.
- (6) (a) "Safety devices" means side rails, tray tables, seatbelts, and other similar devices.
- (b) The term does not include protective restraints as defined in 21 CFR 880.6760."

Section 6. Section 52-1-104, MCA, is amended to read:

"52-1-104. Department authorized to provide and set standards for supplementary payments. (1)

Except as provided in this section, the department ~~shall have the authority to~~ may provide supplementary payments from state funds to recipients of supplemental security income for the aged, blind, or disabled under Title XVI of the Social Security Act of the United States or any future amendments ~~thereto~~ to that act.

(2) The department ~~shall have the authority to~~ may establish standards of assistance and apply them uniformly throughout the state and ~~to~~ may determine individuals eligible for and the amount of ~~such~~ supplementary payments under federal and state guidelines.

(3) The department may not provide supplementary payments under subsection (1) for persons who are residents of category B ~~personal-care~~ assisted living facilities licensed pursuant to 50-5-227."

Section 7. Section 52-3-811, MCA, is amended to read:

"52-3-811. Reports. (1) When the professionals and other persons listed in subsection (3) know or have reasonable cause to suspect that an older person or a person with a developmental disability known to them in their professional or official capacities has been subjected to abuse, sexual abuse, neglect, or exploitation, they shall:

- (a) if the person is not a resident of a long-term care facility, report the matter to:
 - (i) the department or its local affiliate; or
 - (ii) the county attorney of the county in which the person resides or in which the acts that are the subject of the report occurred;
- (b) if the person is a resident of a long-term care facility, report the matter to the long-term care ombudsman appointed under the provisions of 42 U.S.C. 3027(a)(12) and to the department. The department shall investigate the matter pursuant to its authority in 50-5-204 and, if it finds any allegations of abuse, sexual abuse, neglect, or exploitation contained in the report to be substantially true, forward a copy of the report to the county attorney as provided in subsection (1)(a)(ii).

(2) If the report required in subsection (1) involves an act or omission of the department that may be

construed as abuse, sexual abuse, neglect, or exploitation, a copy of the report may not be sent to the department but must be sent instead to the county attorney of the county in which the older person or the person with a developmental disability resides or in which the acts that are the subject of the report occurred.

(3) Professionals and other persons required to report are:

(a) a physician, resident, intern, professional or practical nurse, physician's assistant, or member of a hospital staff engaged in the admission, examination, care, or treatment of persons;

(b) an osteopath, dentist, denturist, chiropractor, optometrist, podiatrist, medical examiner, coroner, or any other health or mental health professional;

(c) an ambulance attendant;

(d) a social worker or other employee of the state, a county, or a municipality assisting an older person or a person with a developmental disability in the application for or receipt of public assistance payments or services;

(e) a person who maintains or is employed by a roominghouse, retirement home or complex, nursing home, group home, adult foster care home, adult day-care center, or ~~personal-care~~ assisted living facility or an agency or individual that provides home health services or personal care in the home;

(f) an attorney, unless the attorney acquired knowledge of the facts required to be reported from a client and the attorney-client privilege applies;

(g) a peace officer or other law enforcement official;

(h) a person providing services to an older person or a person with a developmental disability pursuant to a contract with a state or federal agency; and

(i) an employee of the department while in the conduct of the employee's duties.

(4) Any other persons or entities may, but are not required to, submit a report in accordance with subsection (1)."

Section 8. Section 87-2-802, MCA, is amended to read:

"87-2-802. Veterans in VA hospitals and residents of state institutions and long-term care facilities, nursing care facilities, ~~personal-care~~ assisted living facilities, and community homes for persons with disabilities. (1) ~~Any~~ A veteran who is a patient residing at a hospital operated by the department of veterans affairs, within or outside the state, and residents of all institutions under the jurisdiction of the department of public health and human services may fish without a license. The residents shall carry a permit on a form prescribed by the department and signed by the superintendent of the institution in lieu of a license.

(2) Upon annual application by managers or directors of licensed long-term care facilities and ~~personal-care~~ assisted living facilities as defined in 50-5-101, community homes for persons with developmental disabilities licensed under 53-20-305, and community homes for persons with severe disabilities licensed under 52-4-203, the department shall allow supervised residents to fish without the otherwise required license during any activities approved by the facilities and homes."

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