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*** Bill No. ***

Introduced By *****

By Request of the Department of Public Health and Human
Services

A Bill for an Act entitled: "An Act updating certain definitions and requirements relating to licensure of health care facilities, private alternative adolescent residences, and abortion clinics; amending sections 50-5-101, 50-5-201, 50-5-203, 50-5-204, and 50-20-901, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

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

"50-5-101. Definitions. As used in parts 1 through 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.

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(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.

(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 (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.

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(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~~prescription medicine administration.

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

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

(7) "Capital expenditure" means:

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(a) an expenditure made by or on behalf of a long-term 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.

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

~~(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.~~

~~(10)~~ (9) "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

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information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition.

(101) "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.

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

(123) "Construction" means the physical erection of a new health care facility and any stage of the physical erection, including groundbreaking, or remodeling, replacement, or renovation of:

- (a) an existing health care facility; or
- (b) a long-term care facility as defined in 50-5-301.

(134) "Critical access hospital" means a facility that is located in a rural area, as defined in federal regulations adopted by the U.S. centers for medicare & medicaid services~~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.

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

(156) "Eating disorder center" means a facility that specializes in the treatment of eating disorders.

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

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

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

(1920) (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 includes abortion clinics as defined in 50-20-901, ~~chemical dependency facilities~~, critical access hospitals, eating disorder centers, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-

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term care facilities, intermediate care facilities for the developmentally disabled, ~~medical assistance facilities,~~ mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, residential treatment facilities, ~~and rural emergency hospitals,~~ and substance use disorder 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 licensed addiction counselors.

(20~~1~~) "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~~2~~) "Home infusion therapy agency" means a health care facility that provides home infusion therapy services.

(22~~3~~) "Home infusion therapy services" means the preparation, administration, or furnishing of parenteral medications or parenteral or enteral nutritional services

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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.

(234) "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.

(245) (a) "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. Except as otherwise provided by law, services provided must include medical

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personnel available to provide emergency care onsite 24 hours a day and may include 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:

(i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients; and

(ii) specialty hospitals.

(b) The term does not include critical access or rural emergency hospitals.

(c) The emergency care requirement for a hospital that specializes in providing health services for psychiatric, developmentally disabled, or tubercular patients is satisfied if the emergency care is provided within the scope of the specialized services provided by the hospital and by providing 24-hour nursing care by licensed registered nurses.

(256) "Infirmary" means a facility located in a university, college, government institution, or industry

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

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

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

(267) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a facility that provides intermediate developmental disability care for two or more persons.

(b) The term does not include community homes for persons with developmental disabilities that are licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under 52-4-203.

(278) "Intermediate developmental disability care" means the provision of intermediate nursing care services, health-related services, and social services for persons with a developmental disability, as defined in 53-20-102, or for persons with related problems.

(289) "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.

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~~(2930)~~ "Licensed health care professional" means a licensed physician, physician assistant, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the department of labor and industry.

~~(301)~~ (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 correctional facilities operating under the authority of the department of corrections.

~~(32) "Medical assistance facility" means a facility that meets both of the following:~~

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~~(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, 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.~~

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

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

(346) (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions of a youth and that:

(i) serves either adjudicated or nonadjudicated youth;

(ii) charges a fee for its services; and

(iii) provides all or part of its services in the outdoors.

(b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts, 4-H clubs, or other similar organizations.

(357) "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.

(368) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or organization that is specifically designed and operated to provide

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surgical services to patients not requiring hospitalization and that may include recovery care beds.

(~~379~~) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

(~~3840~~) "Person" means an individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(~~3941~~) "Personal care" means the provision of services and care for residents who need some assistance in performing the activities of daily living.

(~~402~~) "Practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(~~413~~) "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.

(~~424~~) "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

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and training or any combination of these services and in which the major portion of the services is furnished within the facility.

(43~~5~~) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

(44~~6~~) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted living facility, or a retirement home.

(45~~7~~) "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.

(46~~8~~) "Residential treatment facility" means a facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age.

(47~~9~~) "Retirement home" means a building or buildings in which separate living accommodations are rented or

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leased to individuals who use those accommodations as their primary residence.

(~~4850~~) "Rural emergency hospital" means a facility defined in 42 U.S.C. 1395x(kkk)(2) that is designated by the department as a rural emergency hospital in accordance with 50-5-234.

(~~4951~~) "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.

(~~5052~~) (a) "Specialty hospital" means a subclass of hospital that is exclusively engaged in the diagnosis, care, or treatment of one or more of the following categories:

- (i) patients with a cardiac condition;
- (ii) patients with an orthopedic condition;
- (iii) patients undergoing a surgical procedure; or
- (iv) patients treated for cancer-related diseases and receiving oncology services.

(b) For purposes of this subsection (52), a specialty hospital may provide other services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled,

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or sick individuals as otherwise provided by law if the care encompasses 35% or less of the hospital services.

(c) The term "specialty hospital" does not include:

- (i) psychiatric hospitals;
- (ii) rehabilitation hospitals;
- (iii) children's hospitals;
- (iv) long-term care hospitals; ~~or~~
- (v) critical access hospitals; or
- (vi) rural emergency hospitals.

(51~~3~~) "State long-term care facilities plan" means the plan prepared by the department to project the need for long-term care facilities within Montana and approved by the governor and a statewide health coordinating council appointed by the director of the department.

(52) "Substance Use Disorder 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 physical or mental health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.

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(534) "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."

{Internal References to 50-5-101:

7-34-2102	7-34-2201	15-6-201	15-30-2110
15-30-2366	15-60-101	15-65-101	15-66-101
15-68-101	23-5-406	27-1-747	27-6-103
33-1-801	33-22-133	33-23-310	33-32-102
33-36-103	33-38-102	37-2-315	37-2-401
37-3-803	37-7-101	37-8-102	37-8-422
37-8-423	37-8-424	37-20-410	37-31-101
39-8-102	40-6-402	41-1-401	45-8-213
50-4-605	50-5-117	50-5-235	50-5-245
50-5-301	50-5-1202	50-6-302	50-6-401
50-10-101	50-12-102	50-15-703	50-16-103
50-16-201	50-16-701	50-17-102	50-40-104
50-46-318	50-46-320	50-60-205	50-60-301
50-78-103	52-2-736	52-3-602	52-3-803
53-6-101	53-6-106	53-6-802	53-6-1316
53-6-2102	53-21-1001	75-10-1006	87-2-802
90-7-104			

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

"50-5-201. License requirements. (1) A facility or licensee considering construction of or alteration or addition to a health care facility shall submit plans and specifications to the department for preliminary inspection and approval prior to commencing construction.

(2) A person may not operate a health care facility unless the facility is licensed by the department. Licenses may be issued for a period of 1 to 3 years in duration. A license is valid only for the person and premises for which

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it was issued. A license may not be sold, assigned, or transferred.

(3) Upon discontinuance of the operation or upon transfer of ownership of a facility, the license must be returned to the department or destroyed by the owners.

(4) Licenses must be displayed in a conspicuous place near the admitting office of the facility."

{Internal References to 50-5-201:

50-5-212 53-6-101}

Section 3. Section 50-5-203, MCA, is amended to read:

"50-5-203. Application for license. The procedure to apply for a license is as follows:

(1) At least ~~30~~ 45 days prior to the opening of a facility and after that no later than the expiration date of the license, application is ~~made~~ submitted to the department accompanied by the license fee.

(2) The application shall contain:

(a) the name and address of the applicant if an individual, the name and address of each member if a firm, partnership, or association, or the name and address of each officer if a corporation;

(b) the location of the facility;

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(c) the name of the person ~~or persons who will manage~~
~~or supervise~~ who is to be listed as the Administrator of
the facility;

(d) the number and type of patients or residents for
which care is provided;

(e) any information which the department may require
pertaining to the number, experience, and training of
employees;

(f) information on ownership, contract, or lease
agreement if operated by a person other than the owner.

(3) Applications must include attestation or
supporting documentation required by the department
~~pertaining to~~ indicating the applicant has read and
understands the licensure requirements of specialty
~~hospitals using the procedures provided in parts 1 and 2 of~~
~~this chapter. The attestation may be used as the basis for~~
~~the issuance of a provisional or temporary license."~~ the
facility type with respect to which the application is
being submitted.

{Internal References to 50-5-203: None}

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

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"50-5-204. Issuance and renewal of licenses --

inspections. (1) After receipt of a new application and notice that the facility is ready to be inspected, the department or its authorized agent shall conduct an initial inspection of the facility within 45 days.

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

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

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

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

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

{Internal References to 50-5-204:

50-5-116 50-5-1107 52-3-811}

Section 5. Section 50-20-901, MCA, is amended to read:

"50-20-901. Definitions. As used in this part, the following definitions apply:

- (1) (a) "Abortion clinic" means a facility that:
 - (i) performs surgical abortion procedures; or
 - (ii) provides an abortion-inducing drug.
- (b) The term does not include:
 - (i) a hospital as defined in 50-5-101;
 - (ii) a critical access hospital as defined in 50-5-101;
 - (iii) a rural emergency hospital as defined in 50-5-101;
 - (iv~~iii~~) an outpatient center for surgical services as defined in 50-5-101; or

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(iv) a facility that provides, prescribes, administers, or dispenses an abortion-inducing drug to fewer than five patients each year.

(2) (a) "Abortion-inducing drug" means a medicine, drug, or other substance provided with the intent of terminating the clinically diagnosable pregnancy of a woman.

(b) The term includes the off-label use of drugs known to have abortion-inducing properties that are prescribed specifically with the intent of causing an abortion.

(c) The term does not include the use of drugs that may be known to cause an abortion if the drugs are prescribed for a medical indication other than abortion.

(3) "Affiliate" means an organization that directly or indirectly:

(a) owns or controls another organization;

(b) is owned or controlled, in whole or in part, by another organization;

(c) is related by shareholdings or other means of control to another organization;

(d) is a parent or subsidiary of another organization; or

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(e) is under common control with another organization.

(4) "Medical practitioner" means a person authorized under 50-20-109 to perform an abortion in this state."

{Internal References to 50-20-901: None}

NEW SECTION. **Section 6. Effective date.** [This act]
is effective October 1, 2025.

-END-