

HOUSE BILL NO. 79

INTRODUCED BY B. THOMAS

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES HAS AUTHORITY TO PRESCRIBE BY RULE STANDARDS THAT ADMINISTRATORS AND STAFF OF PERSONAL-CARE FACILITIES MUST MEET; CLARIFYING THAT THE DEPARTMENT HAS RULEMAKING AUTHORITY TO PREVENT INAPPROPRIATE PLACEMENTS IN A PERSONAL-CARE FACILITY; AMENDING SECTION 50-5-226, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 50-5-226, MCA, is amended to read:

"50-5-226. Placement in personal-care facilities. (1) A personal-care 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 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.

(3) A resident of a personal-care 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:

- (a) in need of skilled nursing care;
- (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.

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

1 (a) actually visited the facility within the calendar quarter covered by the statement;
 2 (b) has certified that the particular needs of the resident can be adequately met in the facility; and
 3 (c) has certified that there has been no significant change in health care status that would require
 4 another level of care.

5 (5) The department shall provide by rule:

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

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

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

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

13 (b) standards to be used by a facility and, if appropriate, by a screening agency to screen residents
 14 and prospective residents to prevent ~~residence by individuals referred to in subsection (3)~~ inappropriate
 15 placements in personal-care facilities;

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

19 (d) standards for operating a category A personal-care facility, including standards for the physical,
 20 structural, environmental, sanitary, infection control, dietary, social, staffing, and recordkeeping
 21 components of a facility and qualifications and training of the facility's administrators and other staff; and

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

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27 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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