

SENATE BILL NO. 420

INTRODUCED BY M. WATERMAN

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE STANDARDIZED FORMS AND EDUCATIONAL MATERIALS TO PERSONAL-CARE FACILITIES AND TO HEALTH CARE PROFESSIONALS; REQUIRING THE DEPARTMENT TO REVIEW ADMINISTRATIVE RULES AND REPORT TO THE LEGISLATURE; AMENDING SECTION 50-5-226, MCA; AND PROVIDING A TERMINATION DATE."

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

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

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"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.

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14 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.

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17 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:

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19 have a signed statement from a physician agreeing to the resident's admission to the facility if the resident is:

20 is:

(a) in need of skilled nursing care;

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

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(c) nonambulatory or bedridden;

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

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(e) unable to self-administer medications.

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(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~~ an advanced practice registered nurse, or a registered nurse, whose work is unrelated to the operation of the facility and who:

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27 signed statement, renewed on a quarterly basis by a physician, a physician assistant-certified, ~~a nurse practitioner~~ an advanced practice registered nurse, or a registered nurse, whose work is unrelated to the operation of the facility and who:

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29 operation of the facility and who:

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

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1 (b) has certified that the particular needs of the resident can be adequately met in the facility; and
 2 (c) has certified that there has been no significant change in health care status that would require
 3 another level of care.

4 (5) The department shall develop standardized forms and education and training materials to
 5 provide to the personal-care facilities and to the physicians, physician-assistants certified, advanced
 6 practice registered nurses, or registered nurses who are responsible for the signed statements provided
 7 for in subsection (4). The use of the standardized forms is voluntary.

8 ~~(5)~~(6) The department shall provide by rule:

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

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

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

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

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

18 (c) a method by which the results of any screening decision made pursuant to rules established
 19 under subsection ~~(5)(b)~~ (6)(b) may be appealed by the facility operator or by or on behalf of a resident or
 20 prospective resident;

21 (d) standards for operating a category A personal-care facility, including standards for the physical,
 22 structural, environmental, sanitary, infection control, dietary, social, staffing, and recordkeeping
 23 components of a facility; and

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

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29 NEW SECTION. Section 2. Department review. (1) The legislature finds that an increasing number
 30 of individuals require personal-care services and that it is in the best interest of individuals who reside in

1 personal-care facilities:

2 (a) to remain in those facilities and to age in place while having their health, medical, and social
3 needs met;

4 (b) for the department to provide some flexibility in the regulation of personal-care facilities; and

5 (c) for the department to educate the personal-care facilities and health care professionals about
6 the regulations.

7 (2) The department shall review all rules adopted pursuant to 50-5-226, in conjunction with
8 consumers and providers of personal care, to determine any necessary changes that may be needed to
9 the rules or the laws that they implement. The department shall consider the following, including but not
10 limited to:

11 (a) the appropriate size of category A and category B personal-care facilities;

12 (b) the flexibility in the oversight and regulation of personal-care facilities based on the needs of
13 the individuals who reside in the personal-care facilities in order to allow individuals to safely remain in
14 those facilities and age in place; and

15 (c) the extent to which the rules specify provider qualifications, sufficient staff training
16 requirements, and sufficient physician involvement in the care of the individuals in personal-care facilities.

17 (3) The department shall present its findings, recommendations, and any suggested legislation to
18 the children, families, health, and human services interim committee by September 15, 2002, and to the
19 legislature as provided in 5-11-210.

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21 NEW SECTION. **Section 3. Termination.** [Section 2] terminates June 30, 2003.

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