

1 SENATE BILL NO. 257

2 INTRODUCED BY D. GRIMES

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A CRITICAL ACCESS HOSPITAL THAT
5 PROVIDES LONG-TERM CARE IN A SWING BED IS SUBJECT TO A CERTIFICATE OF NEED; PROVIDING
6 AN EXCEPTION TO CERTIFICATE OF NEED REQUIREMENTS IF THE CRITICAL ACCESS HOSPITAL IS
7 NOT ADDING TO THE NUMBER OF LONG-TERM CARE BEDS IN A COMMUNITY; AND AMENDING
8 SECTION 50-5-301, MCA."

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

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12 **Section 1.** Section 50-5-301, MCA, is amended to read:

13 **"50-5-301. When certificate of need is required -- definitions.** (1) Unless a person has submitted an
14 application for and is the holder of a certificate of need granted by the department, the person may not initiate
15 any of the following:

16 (a) the incurring of an obligation by or on behalf of a health care facility for any capital expenditure that
17 exceeds \$1.5 million, other than to acquire an existing health care facility. The costs of any studies, surveys,
18 designs, plans, working drawings, specifications, and other activities (including staff effort, consulting, and other
19 services) essential to the acquisition, improvement, expansion, or replacement of any plant with respect to which
20 an expenditure is made must be included in determining if the expenditure exceeds \$1.5 million.

21 (b) a change in the bed capacity of a health care facility through an increase in the number of beds or
22 a relocation of beds from one health care facility or site to another, unless:

23 (i) the number of beds involved is 10 or less or 10% or less of the licensed beds, if fractional, rounded
24 down to the nearest whole number, whichever figure is smaller, and no beds have been added or relocated
25 during the 2 years prior to the date on which the letter of intent for the proposal is received;

26 (ii) a letter of intent is submitted to the department; and

27 (iii) the department determines that the proposal will not significantly increase the cost of care provided
28 or exceed the bed need projected in the state health care facilities plan;

29 (c) the addition of a health service that is offered by or on behalf of a health care facility that was not
30 offered by or on behalf of the facility within the 12-month period before the month in which the service would be

1 offered and that will result in additional annual operating and amortization expenses of \$150,000 or more;

2 (d) the incurring of an obligation for a capital expenditure by any person or persons to acquire 50% or
3 more of an existing health care facility unless:

4 (i) the person submits the letter of intent required by 50-5-302(2); and

5 (ii) the department finds that the acquisition will not significantly increase the cost of care provided or
6 increase bed capacity;

7 (e) the construction, development, or other establishment of a health care facility that is being replaced
8 or that did not previously exist, by any person, including another type of health care facility;

9 (f) the expansion of the geographical service area of a home health agency;

10 (g) except as provided in subsection (2), the use of hospital beds or critical access hospital beds in
11 excess of five to provide services to patients or residents needing only skilled nursing care, intermediate nursing
12 care, or intermediate developmental disability care, as those levels of care are defined in 50-5-101;

13 (h) except as provided in subsection (2), the provision by a hospital or a critical access hospital of
14 services for home health care, long-term care, or inpatient chemical dependency treatment; or

15 (i) the construction, development, or other establishment of a facility for ambulatory surgical care
16 through an outpatient center for surgical services in a county with a population of 20,000 or less according to
17 the most recent federal census or estimate.

18 (2) The conversion of licensed long-term care beds to critical access hospital swing beds by an entity
19 with control over both the critical access hospital and the licensed long-term care facility is not subject to a
20 certificate of need if the conversion does not add to the total number of long-term care beds in a community.

21 ~~(2)~~(3) For purposes of this part, the following definitions apply:

22 (a) "Health care facility" or "facility" means a nonfederal home health agency, a long-term care facility,
23 or an inpatient chemical dependency facility. The term does not include:

24 (i) a hospital or a critical access hospital, except to the extent that a hospital or a critical access hospital
25 is subject to certificate of need requirements pursuant to subsection (1)(h);

26 (ii) an office of a private physician, dentist, or other physical or mental health care professionals,
27 including licensed addiction counselors; or

28 (iii) a rehabilitation facility or an outpatient center for surgical services.

29 (b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate nursing
30 care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or more individuals.

