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EXHIBIT 19  
DATE 2-18-05  
HB 682

## HOUSE HUMAN SERVICES COMMITTEE

### HB 682 SOCIAL WORK LICENSURE

February 18, 2005

For the record, I am Rose Hughes, the Executive Director of the Montana Health Care Association, an association that represents nursing homes and assisted living facilities throughout the state of Montana.

We oppose HB 682 and appreciate the opportunity to present our views.

Nursing homes are required by federal regulation to provide "medically related social services" to all of our residents. Federal regulations and guidelines outline the nature of the services we are expected to provide as well as who can provide them. The regulations anticipate an interdisciplinary team approach to the provision of these services. The resident's physician as well as RN's, LPN's, CNA's, activity directors, social services designees (who do not have a human services degree), qualified social workers (who have a degree in a human services field), BSW's and consultants may all contribute to the over-all quality of care and quality of life of our residents - and all may play a role in assuring that appropriate social services are provided. In addition, residents may be referred to other professionals in the community if necessary. I have provided you with a copy of the federal regulations and guidelines related to social services as well as an index which allows you to see the breadth of the regulations applicable to nursing homes.

The Department of Public Health and Human Services, Quality Assurance Division, oversees the care provided by nursing homes - including social services - through enforcement of the federal regulations related to social services as well as all of the other regulations governing nursing homes. If nursing homes fail to comply with the regulations, they are required to correct the noncompliance. Failure to correct leads to fines and penalties up to and including losing their ability to participate in the Medicare and Medicaid programs.

Social services are provided by a wide variety of staff in our facilities but the licensed facility as a whole is responsible for the quality of care and quality of life of our residents. The social services area is not an area that has been identified as a problem area in our facilities.

We believe this legislation - at least as it relates to nursing homes - is addressing a problem that simply does not exist, and is therefore unnecessary.

**We are also concerned about the cost implications of this legislation. Many of our facilities—particularly those in rural areas—report that they are unable to find individuals with social work degrees to employ in their facilities. This bill will increase the demand for individuals with social work degrees even though the supply of such individuals is limited. Basic economic principles tell us this will increase the cost of health care in our facilities. Cost increases will also come about because facilities will have to replace social service designees and assistants with licensed social workers.**

**We are also concerned that very experienced individuals who have been ably performing social services in our facilities and who are very committed to the elderly they serve will be forced out of their jobs.**

**We do not believe that this legislation will result in better care for our residents, but it will increase the cost of care and will force some excellent staff out of their jobs.**

**HB 682:**

- **is not needed**
- **will increase the cost of health care**
- **will force competent people currently performing some of these services out of their jobs**
- **will create increased demand for professionals that are hard to come by especially in rural communities**

**Please vote “No” on HB 682.**

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## **§483.15(g) Social Services**

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### **F250**

**§483.15(g)(1) The facility must provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.**

#### **Intent §483.15(g)**

To assure that sufficient and appropriate social service are provided to meet the resident's needs.

#### **Interpretive Guidelines §483.15(g)(1)**

Regardless of size, all facilities are required to provide for the medically related social services needs of each resident. This requirement specifies that facilities aggressively identify the need for medically-related social services, and pursue the provision of these services. It is not required that a qualified social worker necessarily provide all of these services. Rather, it is the responsibility of the facility to identify the medically-related social service needs of the resident and assure that the needs are met by the appropriate disciplines.

"Medically-related social services" means services provided by the facility's staff to assist residents in maintaining or improving their ability to manage their everyday physical, mental, and psychosocial needs. These services might include, for example:

- Making arrangements for obtaining needed adaptive equipment, clothing, and personal items;
- Maintaining contact with facility (with resident's permission) to report on changes in health, current goals, discharge planning, and encouragement to participate in care planning;
- Assisting staff to inform residents and those they designate about the resident's health status and health care choices and their ramifications;
- Making referrals and obtaining services from outside entities (e.g., talking books, absentee ballots, community wheelchair transportation);
- Assisting residents with financial and legal matters (e.g., applying for pensions, referrals to lawyers, referrals to funeral homes for preplanning arrangements);

- Discharge planning services (e.g., helping to place a resident on a waiting list for community congregate living, arranging intake for home care services for residents returning home, assisting with transfer arrangements to other facilities);
- Providing or arranging provision of needed counseling services;
- Through the assessment and care planning process, identifying and seeking ways to support residents' individual needs;
- Promoting actions by staff that maintain or enhance each resident's dignity in full recognition of each resident's individuality;
- Assisting residents to determine how they would like to make decisions about their health care, and whether or not they would like anyone else to be involved in those decisions;
- Finding options that most meet the physical and emotional needs of each resident;
- Providing alternatives to drug therapy or restraints by understanding and communicating to staff why residents act as they do, what they are attempting to communicate, and what needs the staff must meet;
- Meeting the needs of residents who are grieving; and
- Finding options which most meet their physical and emotional needs

Factors with a potentially negative effect on physical, mental, and psychosocial well being include an unmet need for:

- Dental /denture care;
- Podiatric care;
- Eye Care;
- Hearing services
- Equipment for mobility or assistive eating devices; and
- Need for home-like environment, control, dignity, privacy

Where needed services are not covered by the Medicaid State plan, nursing facilities are still required to attempt to obtain these services. For example, if a resident requires transportation services that are not covered under a Medicaid state plan, the facility is

required to arrange these services. This could be achieved, for example, through obtaining volunteer assistance.

Types of conditions to which the facility should respond with social services by staff or referral include:

- Lack of an effective family/support system;
- Behavioral symptoms;
- If a resident with dementia strikes out at another resident, the facility should evaluate the resident's behavior. For example, a resident may be re-enacting an activity he or she used to perform at the same time everyday. If that resident senses that another is in the way of his re-enactment, the resident may strike out at the resident impeding his or her progress. The facility is responsible for the safety of any potential resident victims while it assesses the circumstances of the residents behavior);
- Presence of a chronic disabling medical or psychological condition (e.g., multiple sclerosis, chronic obstructive pulmonary disease, Alzheimer's disease, schizophrenia);
- Depression
- Chronic or acute pain;
- Difficulty with personal interaction and socialization skills;
- Presence of legal or financial problems
- Abuse of alcohol or other drugs;
- Inability to cope with loss of function;
- Need for emotional support;
- Changes in family relationships, living arrangements, and/or resident's condition or functioning; and
- A physical or chemical restraint.
- For residents with or who develop mental disorders as defined by the "Diagnostic and Statistical Manual for Mental Disorders (DSM-IV)," see §483.45, F406.

**Probes §483.15(g)(1)**

For residents selected for a comprehensive or focused review as appropriate:

- How do facility staff implement social services interventions to assist the resident in meeting treatment goals?
- How do staff responsible for social work monitor the resident's progress in improving physical, mental and psychosocial functioning? Has goal attainment been evaluated and the care plan changed accordingly?
- How does the care plan link goals to psychosocial functioning/well-being?
- Have the staff responsible for social work established and maintained relationships with the resident's family or legal representative?
- [NFs] What attempts does the facility make to access services for Medicaid recipients when those services are not covered by a Medicaid State Plan?

Look for evidence that social services interventions successfully address residents' needs and link social supports, physical care, and physical environment with residents' needs and individuality.

For sampled residents, review MDS, section H.

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**F251**

**§483.15(g)(2) and (3)**

**(2) A facility with more than 120 beds must employ a qualified social worker on a full-time basis.**

**(3) Qualifications of a social worker. A qualified social worker is an individual with-**

**(i) A bachelor's degree in social work or a bachelor's degree in a human services field including but not limited to sociology, special education, rehabilitation counseling, and psychology; and**

**(ii) One year of supervised social work experience in a health care setting working directly with individuals**

### **Procedures §483.15(g)(2) and (3)**

If there are problems with the provision of social services in a facility with over 120 beds, determine if a qualified social worker is employed on a full time basis. See also F250.

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## **F252**

### **§483.15(h) Environment**

**The facility must provide--**

**§483.15(h)(1) A safe, clean, comfortable and homelike environment, allowing the resident to use his or her personal belongings to the extent possible;**

#### **Interpretive Guidelines §483.15(h)(1)**

For "safe" environment, also see Guidelines for §483.25(h), Accidents, and 483.70(a), Life Safety Code."

For personal belongings, also see §483.10(l), Personal Property. For Comfortable Environment, see Guidelines for 483.15(h)(5), Adequate and Comfortable Lighting Levels; 483.15(h)(6), Comfortable and Safe Temperature Levels; and 483.15(h)(7), Comfortable Sound Levels.

A determination of "comfortable and homelike" should include, whenever possible, the resident's or representative of the resident's opinion of the living environment.

The absence of a personalized, homelike environment in a resident's room, is not meaningful unless the survey team determines that the absence of personal belongings is a result of facility practices, rather than the result of resident choice or circumstances (e.g., lack of resident funds, lack of family support system, resident's reason for being in the facility, such as short-term rehabilitation).

A "homelike environment" is one that de-emphasizes the institutional character of the setting, to the extent possible, and allows the resident to use those personal belongings that support a homelike environment. A personalized, homelike environment recognizes the individuality and autonomy of the resident, provides an opportunity for self-expression and encourages links with the past and family members. Use this Tag when the facility fails to allow the resident to personalize his or her individual environment to the extent possible. Use Tag F224, 483.15(c), if the facility fails to have a system in place to prevent the misappropriation of resident's property. See §483.10(l) for the requirement regarding personal property.

# State Operations Manual

## Appendix PP - Guidance to Surveyors for Long Term Care Facilities - (Rev. 1, 05-21-04)

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## F150

### §483.5 Definitions

For purposes of this subpart “Facility” means, a skilled nursing facility (SNF) or a nursing facility (NF) which meets the requirements of §§1819 or 1919(a), (b), (c), and (d) of the Social Security Act, the Act. “Facility” may include a distinct part of an institution specified in §440.40 of this chapter, but does not include an institution for the mentally retarded or persons with related conditions described in §440.150 of this chapter. For Medicare and Medicaid purposes (including eligibility, coverage, certification, and payment), the “facility” is always the entity which participates in the program, whether that entity is comprised of all of, or a distinct part of a larger institution. For Medicare, a SNF (see §1819(a)(1)), and for Medicaid, a NF (see §1919(a)(1)) may not be an institution for mental diseases as defined in §435.1009.

#### Interpretive Guidelines §483.5

The following are the statutory definitions at §§1819(a) and 1919(a) of the Act for a SNF and a NF:

“Skilled nursing facility” is defined as an institution (or a distinct part of an institution) which is primarily engaged in providing skilled nursing care and related services for residents who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons, and is not primarily for the care and treatment of mental diseases; has in effect a transfer agreement (meeting the requirements of §1861(1)) with one or more hospitals having agreements in effect under §1866; and meets the requirements for a SNF described in subsections (b), (c), and (d) of this section.

“Nursing facility” is defined as an institution (or a distinct part of an institution) which is primarily engaged in providing skilled nursing care and related services for residents who require medical or nursing care, rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities, and is not primarily for the care and treatment of mental diseases;