

		Department of Public Health & Human Services	
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		EXHIBIT SERVICES <u>4</u>	DATE: <u>1-28-05</u>
		BILL NO. <u>SB 257</u>	
<b>Nursing Home Services</b> <b>See definition of "long-term care facility."</b>			

Nursing homes provide both skilled nursing care and intermediate nursing care. "Skilled nursing care" is defined as "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"(50-5-101(54), Montana Code Annotated [MCA]). "Intermediate nursing care" is "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"(50-5-101(32), MCA).

### **Goal:**

Comprehensive long-term care, including nursing home services, should be readily available and accessible to those Montanans in need of such services, provided at the closest proximity possible, under the premise that nursing home patients are best served in their local communities.

### **Objectives:**

- To promote the provision of nursing home services in facilities that provide residents with a level of care in accordance with all licensure and certification standards, and that provide care to all residents, regardless of the resident's source of payment.
- To encourage the continued development and maintenance of services by nursing homes and the viability of those existing homes. Communities with multiple nursing homes should maintain an average community occupancy rate of at least 95 percent.
- To approve additional beds when a local need can be demonstrated, as well as to consider the availability of beds within the applicant's county or service area when appropriate.
- To advocate for the development of nursing home services as only part of the larger long-term care continuum, including personal care homes, adult foster care homes, home health services, etc.

### **Certificate of Need Guidelines:**

As outlined in 50-5-304, MCA, any applicant seeking to provide nursing home services should address the review criteria in its CON application, including an evaluation of the proposal with the guidelines established in this section. The review criteria consider consistency with this State Health Care Facilities Plan, but also allow consideration of additional data and information.

- **Bed need methodology.** These projections are to be used only as a guideline and will not be the basis for automatic approval or disapproval of an application. The numbers

may be modified during the course of review, either increased or decreased, based on evidence available at the time of review.

- **Continued high occupancy.** Although the bed need methodology includes a 5% increase in beds if an area has had over 95% occupancy, this allowance may not be adequate if an area has had nursing homes at capacity for a number of years.
- **Service specificity.** Consideration should be given to an application that proposes to develop a particular type of nursing home service. The applicant should demonstrate unmet need, not only for nursing home services within a specified community, but also for the particular type of service proposed, as well as a profile of the type of resident proposed to be served.
- **Long-term care alternatives.** Applicants should address any appropriate existing or potential long-term care services within that community, including personal care homes, retirement homes, adult foster care homes, home health services, etc.
- **Swing-bed use.** For any community in which the swing bed days exceed 1825 bed days (5 beds x 365 days), this usage should indicate that nursing home beds are needed. The Department of Public Health and Human Services (DPHHS) recognizes that swing-beds are designed as "temporary" nursing homes beds and are only to be used when there is no appropriate nursing home bed available (Administrative Rules of Montana (ARM) 37.40.405; Code of Federal Regulations (CFR) 42§482.66).
- **Small projects.** Communities with a small number of beds may clearly need expansion, but the method may not permit enough beds to be feasible. Exceeding the projection by a few beds should be considered in these cases.
- **Rapid change in use.** An increase or decrease in the use of nursing home services that is sustained for at least a year is not adequately covered by the proposed method. If evidence is presented that there is a local trend of changing service use, an adjustment to the unmet bed need can be made.
- **Service migration.** In situations where beds are added to a community and a nursing home in an adjacent community has been serving patients from that area and operating near capacity, the latter nursing home may need less beds (if patients migrate back to that community) than projected in the methodology.
- **New locations.** Proposed projects in communities with no nursing homes will require use of an alternative method. The applicant should include utilization rates of both the nursing homes in any areas adjacent to the proposed area and of any facilities that may serve similar populations, as well as patient origin data, and other information the applicant considers pertinent.

### Need Methodology for Nursing Home Services:

The following information will be used to calculate the bed need for each Montana community that contains at least one nursing home. The attached table shows the results of applying this methodology to each community. These calculations will be revised annually.

- Data on the number of patient bed days for each community for the last three years as determined by the data reported by individual nursing homes in the Annual Survey of Long-Term Care Facilities.
- Divide the three-year total patient days (including community swing bed days) by three

(3) to determine the average yearly patient days.

- Divide the average yearly patient days by 365 days to determine the average daily census (ADC).
- Divide the ADC by an occupancy factor of 85% (.85) to determine the projected total bed need for that community for the most recent year.
- Any of the rules (see below) are applied, when appropriate, to adapt the total bed need to particular community situations.
- Compute the unmet bed need by subtracting the number of licensed beds in the community from the total bed need.

The following rules are used in addition to the standard methodology:

- A three-year average is used, unless the total patient days for the community for one year falls 10 percent (10%) or more below the three-year average. In this case, that year is removed and a two-year average is used.
- If the beds in the community have had a three-year average occupancy of 95 percent (95%) or more, five percent (5%) is added to the total bed need.
- In a community with only one nursing home that has operated for less than one year, bed need is shown as the number of beds at that facility. In a community with multiple nursing homes, the bed days for the first year of operation will be used as the average for the facility that has operated for less than one year.

### **Discussion:**

The nursing home need methodology used here has been used by the Department for over fifteen years. While the methodology is utilization-based, growth is made possible by applying a standard occupancy factor of 85 percent (85%) to each community and by adding five percent (5%) to the bed need in communities with consistently high occupancies. The 85% multiplier permits reasonable growth beyond current utilization (not necessarily over current beds).

Since the 1993 State Health Plan, the emergence of subacute care in Montana has precipitated debate regarding the definition of such care, the recognition of such care in any formal capacity by the state, and the question of what type of facility can provide such care. In the spring of 1996, DPHHS contracted with Abt Associates Inc. to explore the implications of the growing industry of subacute care, particularly as it affects Montana. Specifically, the Department asked whether subacute care should be recognized as a separate level of care, either for Certificate of Need (CON) or for licensure purposes, where that type of care could be provided, and what, if any, CON guidelines might be appropriate for that level of care. The study concluded that subacute care "not be a separate category of care for CON or licensure purposes, although the intended use of new beds should be considered when the State reviews applications for skilled nursing beds" ( Subacute Care in Montana: Recommendations for State Government Policy , Abt Associates Inc., 1996, p 1). While the study does not recommend that subacute care be recognized separately, it states that "CON decisions for skilled nursing beds take bed use into account" (p 25). In response to the study and to various provider concerns, the department has incorporated new guidelines into the component that

allow for an applicant to distinguish particular types of service they propose to provide. Categories of care could include not only subacute care, but also such types of care as rehabilitation, Alzheimer's, traumatic brain injury, as well as any others designated by the applicant.

As the arena of long-term care evolves to include a wide range of services, the utilization of nursing homes as part of that continuum must be addressed. As can be seen in the table, the Department encourages moderate, rational growth of nursing home beds as part of the long-term care continuum. The Department also recognizes that the evolution of the long-term care industry compels providers to develop new and creative ways of delivering care.

### NURSING HOME BED NEED PROJECTIONS

*(Click Above)*

The most recent listing of nursing home facilities can be obtained from the department's web page <http://www.dphhs.state.mt.us> or by contacting the Licensure Bureau, 2401 Colonial Drive, 2nd Floor, PO Box 202953, Helena, Montana 59620-2953, (406) 444-0596.



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This page was last updated August 9, 2004

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