



AN ASSOCIATION OF
MONTANA HEALTH
CARE PROVIDERS

Senate Bill 446
Testimony before the House Human Services Committee
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MHA, An Association of the Montana Health Care Providers supports adoption of Senate Bill 446 presented today by Senator Story.

MHA has consistently opposed licensure for physician-owned specialty hospitals. We believe that studies show medical service utilization increases with specialty hospitals and that the addition of a specialty hospital increases the overall cost of health care services without providing a corresponding benefit for the community.

However, the time has come when lawmakers must establish a public policy for specialty hospitals in Montana. MHA has worked with hospitals, physician groups, the Department of Public Health and Human Services and others, to find common ground for the future development of specialty hospitals.

Senate Bill 446 proposes to lift the moratorium on specialty hospitals and provide for a path to licensure in Montana. The sections of Senate Bill 446 include:

Section 1: Definitions. SB 446 amends the definition of a hospital to make clear that a hospital must be prepared to provide full time emergency care to its patients at the hospital. SB 446 does not require that a hospital have an emergency room. Rather, the amended statute requires that a hospital maintain medical staff necessary to provide emergency treatment at the hospital within the scope and ability of the medical staff. This amendment is intended to prevent any hospital from routinely transferring its emergency medical care to another hospital by using a 9-1-1 service.

Section 2. Hospital Discrimination Based Upon Ability to Pay Prohibited. A major criticism alleged against specialty hospitals is the practice of providing care to those able to pay, or the well-insured, but declining access for uninsured or low income patients. SB 446 states that a hospital may not discriminate against a patient based upon their ability to pay. Simply put, this means that a hospital must have a consistent and equitable policy to provide access to care regardless of the patient's ability to pay. SB 446 states that a hospital is required to have a written charity policy, but the bill does not specify what that policy must include. Finally, the bill prohibits the transfer of patients solely based upon the patient's ability to pay.

This section of SB 446 is not intended to impose additional responsibility on a hospital to provide any and all care requested by a patient. Nor is it intended to require State investigation of patient complaints about the amount charged for care. It is intended only to provide an even playing field among hospitals, and assure reasonable access to care for patients.

Section 3: Transfer of Hospital Patients. A troubling practice has developed in states with existing specialty hospitals whereby specialty hospitals rely solely on a 9-1-1 service to transfer patients with emergency conditions or medical complications. In one notorious case in Texas, a man died while being transferred from a specialty hospital to a community hospital, perhaps unnecessarily, and using only a 9-1-1 service.

Hospitals in Montana believe that the appropriate safety, treatment and transfer of patients include clear communication between hospitals. SB 446 requires that a specialty hospital alert a receiving hospital that it is transferring a patient, that the reasons for the transfer are known, and that needed records accompany the patient.

This section of SB 446 addresses those conditions when federal regulations that govern patient transfer do not apply. Federal rules apply to most emergency transfer situations, but may not apply to the transfer of a patient receiving care at the hospital for a scheduled surgery, or to inpatients at the specialty hospital.

Section 4 Specialty Hospital Standards, Licensure and Repeal of the Moratorium. SB 446 provides the Department rulemaking authority and time needed to establish its procedures and guidelines for processing a specialty hospital application. Subsection 5 provides that a specialty hospital can meet the requirement for emergency care required in Section 1 of the bill if it has an agreement to provide that care with another hospital in the same service area. This language reflects the practice in Kalispell where Health Center Northwest shares an emergency room with Kalispell Regional Medical Center.

Subsection 6 provides that applicant specialty hospital have a written charity policy and, either a joint venture relationship with a hospital, or evidence that a good faith opportunity for joint venture was provided, but declined by a nonprofit hospital.

This language is at the heart of the compromise to allow for specialty hospitals. The opportunity for a joint venture addresses hospital concerns about carving up the market into profit centers for specialty providers, and leaving nonprofit hospitals with unprofitable services.

Subsection 7 specifies that when a specialty hospital is partnered with a hospital its physicians hold active privileges with the partner hospital and that the hospital holds at least a 50% ownership interest.

This language is a second key part of the compromise. The requirement for active medical privileges provides the basis for active management of patient care needs across both partnering entities. The ownership requirement for the joint venture hospital assures that a nonprofit hospital is not accused of converting its tax exempt assets to private, for profit activities.

Subsection 8 states that the physician partners are not prohibited from managing the specialty hospitals. Management and control of patient care at a specialty hospital is a key issue for physicians.

Subsection 9 provides that in the case of a joint venture specialty hospital the charity policy of the nonprofit hospital must be used at both entities. This is another feature of the model developed in Kalispell that assures that the profits are not moved to one hospital and the losses imposed on the other.

New Section 5, The application process. Section 5 provides a public process that accomplishes two goals. First, the application process provides the opportunity for the creation of a specialty hospital. This is the desired goal of the proponents for development of specialty hospitals. The second goal is that the application process provides for an impact study to be completed before a specialty hospital is licensed. This addresses concerns of those who oppose development of specialty hospital by providing the public information about the impact of such a facility on the community. Simply stated, if Montana policy is to allow specialty hospitals, the development occurs with our eyes wide open.

The key part of Section 5 is the requirement to conduct an impact study. SB 446 specifies that the applicant pay the costs of the study, and that the Department approve the consultant that performs the study. This assures that the Department does not bear any expense for the application process, and that the study is performed by an independent analyst. SB 446 provides an opportunity for public comment and participation in the process.

Subsection 4 addresses the scope of the study to include the impact on key community medical services and the operational impacts on existing health care facilities.

Subsection 5 provides for a limited time frame of 180 days from the date the department establishes the scope of the study. This provision assures the applicant that they won't face endless delays.

Subsection 6 allows the Department to mitigate any adverse impacts on the community by imposing conditions on the applicant. SB 446 also allows the Department to deny an application.

The final two sections provide codification instructions and provide an effective date of July 1, 2009. This date coincides with the expiration date for the current moratorium.

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