EXHIBIT 4
DATE 3/16/15
HB 576

Amendments to House Bill No. 576
1st Reading Copy

Requested by Representative Art Wittich

For the House Human Services Committee

Prepared by Rachel Weiss
March 13, 2015 (11:25am)

1. Title, page 1, line 4 through line 5.
Following: "LICENSING" on line 4
Strike: "," on line 4 through "CERTIFICATION" on line 5

2. Title, page 1, line 5.
Following: THE FIRST "OF"
Insert: "STATE-OPERATED"

3. Title, page 1, line 6.
Following: "LICENSE"
Strike: "," through "CERTIFY"
Insert: "STATE-OPERATED"
Following: "FACILITIES;"
Insert: "PROVIDING RULEMAKING AUTHORITY;"

4. Title, page 1, line 7 through line 11.
Strike: "7-34-2301," on line 7 through "76-2-412," on line 11
Insert: "50-5-103 and 50-5-113,"

5. Page 1, line 15.
Strike: everything after the enacting clause
Insert: "NEW SECTION. **Section 1. Department of justice to license health care facilities operated by state -- rulemaking authority.** (1) The department of justice shall license a health care facility, as defined in 50-5-101, if the health care facility is operated by the state.

(2) (a) The department of justice shall adopt rules and minimum standards for implementation of Title 50, chapter 5, parts 1 and 2, as those parts apply to the licensing of state-operated health care facilities.

(b) The rules and standards adopted by the department of justice must be reasonably similar to those adopted by the department of public health and human services pursuant to 50-5-103 and 50-5-238.

(3) (a) The department of justice enjoys all of the rights and privileges and is subject to all of the duties and responsibilities granted to the department of public health and human services in Title 50, chapter 5, parts 1 and 2, as far as those rights, privileges, duties, and responsibilities relate to the licensing of state-operated health care facilities.

(b) A health care facility operated by the state and subject to licensing by the department of justice under this section is subject to the same duties, responsibilities, prohibitions, fees, and penalties as a health care facility licensed by the department of public health and human services in Title 50, chapter 5, parts 1 and 2.

(4) (a) The department of justice may bring an action for an injunction or other process against a person for the reasons listed in 50-5-108.

(b) (i) The department of justice or, on request of the department, the county attorney of the county in which the state-operated facility in question is located may petition a district court to impose a civil penalty as provided in 50-5-112.

(ii) The power to pursue other remedies, as provided to the department of public health and human services in 50-5-112(4), is granted to the department of justice to administer and enforce the provisions of this section.

(c) The department of justice may undertake an administrative action as provided in 50-5-114 and may file a complaint for receivership as provided in 50-5-115."

Insert: "Section 2. Section 50-5-103, MCA, is amended to read:

"50-5-103. Rules and standards -- accreditation. (1) The department shall adopt rules and minimum standards for implementation of parts 1 and 2<u>, except that the department may not license a health care facility operated by the state</u>.

(2) Any facility covered by this chapter <u>or [section 1]</u> shall comply with the state and federal requirements relating to construction, equipment, and fire and life safety.

(3) The department shall extend a reasonable time for compliance with rules for parts 1 and 2 upon adoption.

(4) (a) Any hospital located in this state that furnishes written evidence required by the department, including the recommendation for future compliance statements, to the department of its accreditation granted by an entity listed in subsection (4)(b) is eligible for licensure in the state for the accreditation period and may not be subjected to an inspection by the department for purposes of the licensing process.

(b) A hospital may provide evidence of its accreditation by:

(i) DNV healthcare, inc.;

(ii) the healthcare facilities accreditation program; or

(iii) the joint commission.

(c) The department may, in addition to its inspection authority in 50-5-116, inspect any licensed health care facility to answer specific complaints made in writing by any person against the facility when the complaints pertain to licensing requirements. Inspection by the department upon a specific complaint made in writing pertaining to licensing requirements is limited to the specific area or condition of the health care facility to which the complaint pertains.

(5) The department may consider as eligible for licensure during the accreditation period any health care facility located in this state, other than a hospital, that furnishes written evidence, including the recommendation for future compliance statements, of its accreditation by the joint commission. The department may inspect a health care facility considered eligible for licensure under this section to ensure compliance with state licensure standards.

(6) The department may consider as eligible for licensure during the accreditation period any rehabilitation facility that furnishes written evidence, including the recommendation for future compliance statements, of accreditation of its programs by the commission on accreditation of rehabilitation facilities. The department may inspect a rehabilitation facility considered eligible for licensure under this section to ensure compliance with state licensure standards.

(7) The department may consider as eligible for licensure during the accreditation period any outpatient center for surgical services that furnishes written evidence, including the recommendation for future compliance statements, of accreditation of its programs by the accreditation association for ambulatory health care. The department may inspect an outpatient center for surgical services considered eligible for licensure under this section to ensure compliance with state licensure standards.

(8) The department may consider as eligible for licensure during the accreditation period any behavioral treatment program, chemical dependency treatment program, residential treatment facility, or mental health center that furnishes written evidence, including the recommendation for future compliance statements, of accreditation of its programs by the council on accreditation. The department may inspect a behavioral treatment program, chemical dependency treatment program, residential treatment facility, or mental health center considered eligible for licensure under this section to ensure compliance with state licensure standards."

{*Internal References to 50-5-103:*
50-5-104 x 50-5-207 x}"

Insert: "Section 3. Section 50-5-113, MCA, is amended to read:

"50-5-113. Criminal penalties. (1) A person is guilty of a criminal offense under this section if the person knowingly conceals material information about the operation of the facility or does any of the following and by doing so threatens the health or safety of one or more individuals entrusted to the care of the person:

(a) commits an act prohibited by 50-5-111;

(b) omits material information or makes a false statement or representation in an application, record, report, or other document filed, maintained, or used for compliance with the provisions of part 1 or 2 of this chapter or with rules, license provisions, or orders adopted or issued pursuant to part 1 or 2 <u>or [section 1]</u>; or

(c) destroys, alters, conceals, or fails to file or maintain any record, information, or application required to be maintained or filed in compliance with a provision of part 1 or 2 of this chapter or in compliance with a rule, license provision, or order adopted or issued pursuant to part 1 or 2 or [section 1].

(2) A person convicted under subsection (1) is subject to a fine of not more than $1,000 for the first offense and not more than $2,000 for each subsequent offense for each day that a facility is in violation of a provision of part 1 or 2 of this chapter or of a rule, license provision, or order adopted or issued pursuant to part 1 or 2 or [section 1].

(3) In determining the amount of penalty to be assessed for an alleged violation under this section, the court shall consider:

(a) the gravity of the violation in terms of the degree of physical or mental harm to a resident or patient;

(b) the degree of harm to the health, safety, rights, security, or welfare of a resident or patient;

(c) the degree of deviation committed by the facility from a requirement imposed by part 1 or 2 of this chapter or by a rule, license provision, or order adopted or issued pursuant to part 1 or 2 or [section 1]; and

(d) other matters as justice may require.

(4) Prosecution under this section does not bar enforcement under any other section of this chapter or pursuit of any other appropriate remedy by the department or, if the facility is operated by the state, by the department of justice.

(5) Venue for prosecution pursuant to this section is in the county in which the facility is located or in the first judicial district.

(6) A penalty collected under this section must be deposited in the state general fund."

{*Internal References to 50-5-113: None.*}"

Insert: "NEW SECTION. **Section 4. Transition -- report to legislature.** The department of justice shall create a transition plan to implement the provisions of [this act] by July 1, 2016. The department of public health and human services shall participate in the planning process to the extent required. The department of justice shall report to the children, families, health, and human services interim committee provided for in 5-5-225 at times requested by the committee."

Insert: "NEW SECTION. **Section 5. Appropriation for transition support.** (1) There is appropriated $75,000 from the general fund to the department of justice for the biennium beginning July 1, 2015.

(2) The appropriation must be used to pay for two full-time equivalent personnel positions to serve as transition support to implement the provisions of [this act].

(3) The legislature intends that these positions be one-time-only positions for the biennium beginning July 1, 2015."

Insert: "NEW SECTION. **Section 6. {standard} Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2016.

(2) [Sections 4 and 5] and this section are effective July 1, 2015."

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