

HOUSE BILL NO. 519

INTRODUCED BY T. WINTER

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A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE CERTIFICATE OF NEED REQUIREMENT FOR HOME HEALTH AGENCIES; AMENDING SECTION 50-5-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

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

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

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

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

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

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

(c) the addition of a health service that is offered by or on behalf of a health care facility that was not offered by or on behalf of the facility within the 12-month period before the month in which the service would be offered and that will result in additional annual operating and amortization expenses of \$150,000 or more;

(d) the incurring of an obligation for a capital expenditure by any person or persons to acquire 50% or

1 more of an existing health care facility unless:

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

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

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

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

8 ~~(g)(f)~~ the use of hospital beds in excess of five to provide services to patients or residents needing only
9 skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as those levels of
10 care are defined in 50-5-101;

11 ~~(h)(g)~~ the provision by a hospital of services for ~~home health care~~, long-term care; or inpatient chemical
12 dependency treatment; or

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

16 (2) For purposes of this part, the following definitions apply:

17 (a) "Health care facility" or "facility" means a ~~nonfederal home health agency~~; a long-term care facility;
18 or an inpatient chemical dependency facility. The term does not include:

19 (i) a hospital, except to the extent that a hospital is subject to certificate of need requirements pursuant
20 to subsection ~~(1)(h)~~ ~~(1)(g)~~;

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

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

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

26 (ii) The term does not include residential care facilities, as defined in 50-5-101; community homes for
27 persons with developmental disabilities, licensed under 53-20-305; community homes for persons with severe
28 disabilities, licensed under 52-4-203; boarding or foster homes for children, licensed under 52-2-622; hotels,
29 motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or
30 individuals not requiring institutional health care; or juvenile and adult correctional facilities operating under the

1 authority of the department of corrections.

2 (3) This section may not be construed to require a health care facility to obtain a certificate of need for
3 a nonreviewable service that would not be subject to a certificate of need if undertaken by a person other than
4 a health care facility."

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6 **NEW SECTION. Section 2. Effective date -- applicability.** [This act] is effective on passage and
7 approval and applies to certificate of need applications made on or after [the effective date of this act].

8 - END -