

1 HOUSE BILL NO. 601

2 INTRODUCED BY D. FERN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO FACILITIES
5 PROVIDING SKILLED AND INTERMEDIATE NURSING CARE; REQUIRING CERTAIN FACILITIES TO
6 PROVIDE INFORMATION ON THEIR FEDERAL QUALITY RATING; REQUIRING LEGISLATIVE REVIEW OF
7 QUALITY RATING INFORMATION; ESTABLISHING REQUIREMENTS RELATED TO ACCESS TO
8 COMMUNICATION DEVICES AND FACILITIES; AMENDING SECTION 50-5-114, MCA; AND PROVIDING AN
9 EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], the following definitions
14 apply:

- 15 (1) "Authorized representative" has the meaning provided in 50-5-1103.
16 (2) "Long-term care facility" or "facility" means a facility or part of a facility licensed to provide skilled
17 nursing care or intermediate nursing care.

18
19 NEW SECTION. **Section 2. Quality ratings -- notification before admission -- penalty.** (1) Before
20 accepting an individual for admission, a long-term care facility that has a rating of one or two stars in the five-
21 star quality rating system used by the centers for medicare and medicaid services shall provide notification of
22 the rating to the individual or the individual's authorized representative as required in this section.

- 23 (2) At a minimum, notification must include the following written information:
24 (a) the facility's overall rating;
25 (b) the facility's rating for each performance measure included in the overall rating;
26 (c) a copy of the most recent report on the inspection conducted by or on behalf of the centers for
27 medicare and medicaid services; and
28 (d) a copy of the plan of correction for any deficiencies noted during the inspection.

- 1 (3) The facility:
- 2 (a) shall discuss the written materials with the individual or the individual's authorized representative
- 3 at the time the materials are provided; and
- 4 (b) may not admit an individual until the individual or the individual's authorized representative has
- 5 signed a document acknowledging that the facility provided and fully discussed the information required under
- 6 this section with the individual or the authorized representative. The document must be presented separately
- 7 from any other materials provided at the time an individual is admitted or transferred to the facility.

8

9 NEW SECTION. Section 3. Access to communication devices. A long-term care facility shall

10 ensure that each resident has a telephone or other two-way communications device that is:

- 11 (1) provided by the facility;
- 12 (2) in working order for both outgoing and incoming calls; and
- 13 (3) within reach of the resident in the resident's room.

14

15 NEW SECTION. Section 4. Access to facilities. (1) A long-term care facility shall provide each

16 resident and the resident's authorized representative with information explaining the services provided by the

17 state and local ombudsmen pursuant to Title 52, chapter 3, part 6.

18 (2) During a time of a declared public health emergency or another instance in which a long-term care

19 facility is restricting access to the facility, the facility shall:

- 20 (a) provide written updates on at least a weekly basis to family members and the public about the
- 21 health condition of residents;
- 22 (b) allow a representative of the local public health agency access to the facility; and
- 23 (c) notify family members and authorized representatives of each resident with information about the
- 24 ombudsman services provided for in Title 52, chapter 3, part 6.

25

26 NEW SECTION. Section 5. Quality ratings -- legislative review. (1) The department shall, as

27 provided in 5-11-210, provide the children, families, health, and human services interim committee with the

28 following information during each interim:

- 1 (a) the rating for each health care facility that receives a rating under the five-star quality rating
2 system used by the centers for medicare and medicaid services;
- 3 (2) for facilities with an overall rating of one or two stars, an analysis of:
- 4 (i) the types of deficiencies found during the inspections used to develop the rating;
- 5 (ii) the frequency with which each type of deficiency occurred; and
- 6 (iii) the number of facilities that were operated by for-profit and nonprofit entities; and
- 7 (c) information on how to obtain the publicly reported information on inspections, plans of correction,
8 ownership, and finances for the facilities.
- 9

10 **Section 6.** Section 50-5-114, MCA, is amended to read:

11 **"50-5-114. Administrative enforcement -- notice -- order for corrective action.** (1) If the
12 department believes that a violation of a provision of part 1, ~~or 2,~~ or [sections 1 through 4] of this chapter or of a
13 rule adopted or a condition or limitation imposed by a license issued pursuant to part 1 or 2 has occurred, it
14 may serve written notice on the alleged violator or the violator's agent personally or by certified mail. The notice
15 must specify the provision of part 1, ~~or 2,~~ or [sections 1 through 4] of this chapter or the rule or license condition
16 or limitation alleged to have been violated and the facts alleged to constitute the violation. The notice must
17 inform the alleged violator of the right to a hearing and that the contested case provisions of the Montana
18 Administrative Procedure Act, Title 2, chapter 4, part 6, apply to the hearing. The notice may include an order to
19 take necessary corrective action, including ceasing new admissions, relocating residents, or ceasing the
20 violation within a reasonable period of time stated in the order. The order becomes final unless, within 30 days
21 after the notice is received, the person named requests in writing a hearing before the department. On receipt
22 of the request, the department shall schedule a hearing. Until issuance of a contrary decision by the
23 department, a department order concerning corrective action remains effective and enforceable.

24 (2) If, after a hearing held under subsection (1), the department finds that a violation has occurred, it
25 shall issue an appropriate order for the prevention, abatement, or control of the violation involved or the taking
26 of other corrective action. As appropriate, an order issued as part of a notice or after a hearing may prescribe
27 the date by which the violation must cease and the time limits for particular action in preventing, abating, or
28 controlling the violation. If, after a hearing on an order contained in a notice, the department finds that a

1 violation has not occurred or is not occurring, it shall declare the order void.

2 (3) The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4,
3 part 6, apply to a hearing conducted pursuant to this section.

4 (4) Instead of or in addition to issuing the order provided for in subsection (1), the department may:

5 (a) require that the alleged violators appear before the department for a hearing at a time and place
6 specified in the notice and answer the charges; or

7 (b) initiate action under any other applicable provisions of part 1 or 2 of this chapter.

8 (5) Before acting under this section, the department shall attempt to obtain voluntary compliance
9 through a warning, conference, or any other appropriate means.

10 (6) In connection with a hearing held pursuant to this section, the department may and on application
11 by a party shall compel the attendance of witnesses and the production of evidence on behalf of any party."

12

13 **NEW SECTION. Section 7. Codification instruction.** (1) [Sections 1 through 4] are intended to be
14 codified as an integral part of Title 50, chapter 5, and the provisions of Title 50, chapter 5, apply to [sections 1
15 through 4].

16 (2) [Section 5] is intended to be codified as an integral part of Title 52, chapter 3, part 2, and the
17 provisions of Title 52, chapter 3, part 2 apply to [section 5].

18

19 **NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 2021.

20

- END -