

1 SENATE BILL NO. 417

2 INTRODUCED BY R. BROWN, BLASDEL, KAUFMANN, OLSON, GEBHARDT, GILLAN, MOSS, THOMAS,
3 BLACK, HOLLENBAUGH, GRINDE, HARRINGTON, MCNUTT, J. PETERSON, SONJU, WANZENRIED

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE DEFINITION OF SPECIALTY HOSPITAL;
6 PROVIDING FOR ATTESTATION FOR LICENSING SPECIALTY HOSPITALS; PROVIDING FOR DEPARTMENT
7 OF PUBLIC HEALTH AND HUMAN SERVICES RULEMAKING AUTHORITY; EXTENDING AND REVISING THE
8 MORATORIUM ON LICENSING SPECIALTY HOSPITALS; AMENDING SECTIONS 50-5-101, 50-5-203, AND
9 50-5-245, MCA; REPEALING SECTION 6, CHAPTER 365, LAWS OF 2005; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

13
14 **Section 1.** Section 50-5-101, MCA, is amended to read:

15 **"50-5-101. (Temporary) Definitions.** As used in parts 1 through 3 of this chapter, unless the context
16 clearly indicates otherwise, the following definitions apply:

17 (1) "Accreditation" means a designation of approval.

18 (2) "Accreditation association for ambulatory health care" means the organization nationally recognized
19 by that name that surveys ambulatory surgical centers upon their requests and grants accreditation status to the
20 ambulatory surgical centers that it finds meet its standards and requirements.

21 (3) "Activities of daily living" means tasks usually performed in the course of a normal day in a resident's
22 life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

23 (4) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that
24 provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that
25 does not provide overnight care.

26 (5) (a) "Adult foster care home" means a private home or other facility that offers, except as provided
27 in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are
28 not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full
29 guardianship of the owner or manager.

30 (b) As used in this subsection (5), the following definitions apply:

- 1 (i) "Aged person" means a person as defined by department rule as aged.
- 2 (ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult
3 so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available
4 to meet those basic needs.
- 5 (iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department
6 rule as disabled.
- 7 (iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such
8 personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine
9 administration.
- 10 (B) The term does not include the administration of prescriptive medications.
- 11 (6) "Affected person" means an applicant for a certificate of need, a health care facility located in the
12 geographic area affected by the application, an agency that establishes rates for health care facilities, or a
13 third-party payer who reimburses health care facilities in the area affected by the proposal.
- 14 (7) "Assisted living facility" means a congregate residential setting that provides or coordinates personal
15 care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related
16 services.
- 17 (8) "Capital expenditure" means:
- 18 (a) an expenditure made by or on behalf of a health care facility that, under generally accepted
19 accounting principles, is not properly chargeable as an expense of operation and maintenance; or
- 20 (b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any
21 other property of value had changed hands.
- 22 (9) "Certificate of need" means a written authorization by the department for a person to proceed with
23 a proposal subject to 50-5-301.
- 24 (10) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and
25 prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems
26 and endangers the health, interpersonal relationships, or economic function of an individual or the public health,
27 welfare, or safety.
- 28 (11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological,
29 radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from
30 the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease

1 or assessment of a medical condition.

2 (12) "College of American pathologists" means the organization nationally recognized by that name that
3 surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards
4 and requirements.

5 (13) "Commission on accreditation of rehabilitation facilities" means the organization nationally
6 recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation status
7 to a rehabilitation facility that it finds meets its standards and requirements.

8 (14) "Comparative review" means a joint review of two or more certificate of need applications that are
9 determined by the department to be competitive in that the granting of a certificate of need to one of the
10 applicants would substantially prejudice the department's review of the other applications.

11 (15) "Congregate" means the provision of group services designed especially for elderly or disabled
12 persons who require supportive services and housing.

13 (16) "Construction" means the physical erection of a health care facility and any stage of the physical
14 erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health care facility.

15 (17) "Council on accreditation" means the organization nationally recognized by that name that surveys
16 behavioral treatment programs, chemical dependency treatment programs, residential treatment facilities, and
17 mental health centers upon their requests and grants accreditation status to programs and facilities that it finds
18 meet its standards and requirements.

19 (18) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C.
20 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to
21 50-5-233.

22 (19) "Department" means the department of public health and human services provided for in 2-15-2201.

23 (20) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney diseases
24 and includes freestanding hemodialysis units.

25 (21) "Federal acts" means federal statutes for the construction of health care facilities.

26 (22) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision
27 of the state, or an agency of a political subdivision.

28 (23) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency, private
29 or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to
30 provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The

1 term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis facilities, home
2 health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities,
3 intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers,
4 outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care
5 facilities, and residential treatment facilities.

6 (b) The term does not include offices of private physicians, dentists, or other physical or mental health
7 care workers regulated under Title 37, including licensed addiction counselors.

8 (24) "Home health agency" means a public agency or private organization or subdivision of the agency
9 or organization that is engaged in providing home health services to individuals in the places where they live.
10 Home health services must include the services of a licensed registered nurse and at least one other therapeutic
11 service and may include additional support services.

12 (25) "Home infusion therapy agency" means a health care facility that provides home infusion therapy
13 services.

14 (26) "Home infusion therapy services" means the preparation, administration, or furnishing of parenteral
15 medications or parenteral or enteral nutritional services to an individual in that individual's residence. The services
16 include an educational component for the patient, the patient's caregiver, or the patient's family member.

17 (27) "Hospice" means a coordinated program of home and inpatient health care that provides or
18 coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family
19 arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages
20 of illness and dying and that includes formal bereavement programs as an essential component. The term
21 includes:

22 (a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice that
23 meets all medicare certification regulations for freestanding inpatient hospice facilities; and

24 (b) a residential hospice facility, which is a facility managed directly by a licensed hospice program that
25 can house three or more hospice patients.

26 (28) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services
27 for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as
28 otherwise provided by law, services provided may or may not include obstetrical care, emergency care, or any
29 other service allowed by state licensing authority. A hospital has an organized medical staff that is on call and
30 available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed

1 registered nurses. The term includes:

2 (i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and
3 tubercular patients; and

4 (ii) specialty hospitals.

5 (b) The term does not include critical access hospitals.

6 (29) "Infirmarium" means a facility located in a university, college, government institution, or industry for the
7 treatment of the sick or injured, with the following subdefinitions:

8 (a) an "infirmarium--A" provides outpatient and inpatient care;

9 (b) an "infirmarium--B" provides outpatient care only.

10 (30) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a facility
11 that provides intermediate developmental disability care for two or more persons.

12 (b) The term does not include community homes for persons with developmental disabilities that are
13 licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under
14 52-4-203.

15 (31) "Intermediate developmental disability care" means the provision of intermediate nursing care
16 services, health-related services, and social services for persons with a developmental disability, as defined in
17 53-20-102, or for persons with related problems.

18 (32) "Intermediate nursing care" means the provision of nursing care services, health-related services,
19 and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

20 (33) "Joint commission on accreditation of healthcare organizations" means the organization nationally
21 recognized by that name that surveys health care facilities upon their requests and grants accreditation status
22 to a health care facility that it finds meets its standards and requirements.

23 (34) "Licensed health care professional" means a licensed physician, physician assistant, advanced
24 practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the
25 department of labor and industry.

26 (35) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care,
27 residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more
28 individuals or that provides personal care.

29 (b) The term does not include community homes for persons with developmental disabilities licensed
30 under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care

1 facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations
2 providing for transients, students, or individuals who do not require institutional health care; or juvenile and adult
3 correctional facilities operating under the authority of the department of corrections.

4 (36) "Medical assistance facility" means a facility that meets both of the following:

5 (a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that
6 provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless
7 a longer period is required because transfer to a hospital is precluded because of inclement weather or
8 emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction
9 retroactively and on a case-by-case basis if the individual's attending physician, physician assistant, or nurse
10 practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety
11 of the individual.

12 (b) either is located in a county with fewer than six residents a square mile or is located more than 35
13 road miles from the nearest hospital.

14 (37) "Mental health center" means a facility providing services for the prevention or diagnosis of mental
15 illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any
16 combination of these services.

17 (38) "Nonprofit health care facility" means a health care facility owned or operated by one or more
18 nonprofit corporations or associations.

19 (39) "Offer" means the representation by a health care facility that it can provide specific health services.

20 (40) (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and
21 prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions
22 of a youth and that:

23 (i) serves either adjudicated or nonadjudicated youth;

24 (ii) charges a fee for its services; and

25 (iii) provides all or part of its services in the outdoors.

26 (b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts,
27 4-H clubs, or other similar organizations.

28 (41) "Outpatient center for primary care" means a facility that provides, under the direction of a licensed
29 physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for
30 surgical services.

1 (42) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or organization
2 that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and
3 that may include recovery care beds.

4 (43) "Patient" means an individual obtaining services, including skilled nursing care, from a health care
5 facility.

6 (44) "Person" means an individual, firm, partnership, association, organization, agency, institution,
7 corporation, trust, estate, or governmental unit, whether organized for profit or not.

8 (45) "Personal care" means the provision of services and care for residents who need some assistance
9 in performing the activities of daily living.

10 (46) "Practitioner" means an individual licensed by the department of labor and industry who has
11 assessment, admission, and prescription authority.

12 (47) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24 hours
13 by a patient recovering from surgery or other treatment.

14 (48) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the
15 rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological
16 and social services, or vocational evaluation and training or any combination of these services and in which the
17 major portion of the services is furnished within the facility.

18 (49) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

19 (50) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted
20 living facility, or a retirement home.

21 (51) "Residential psychiatric care" means active psychiatric treatment provided in a residential treatment
22 facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or behavioral
23 dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual's
24 condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge
25 to less restrictive levels of care at the earliest possible time.

26 (52) "Residential treatment facility" means a facility operated for the primary purpose of providing
27 residential psychiatric care to individuals under 21 years of age.

28 (53) "Retirement home" means a building or buildings in which separate living accommodations are
29 rented or leased to individuals who use those accommodations as their primary residence.

30 (54) "Skilled nursing care" means the provision of nursing care services, health-related services, and

1 social services under the supervision of a licensed registered nurse on a 24-hour basis.

2 (55) ~~(a) "Specialty hospital" means a specialty hospital as defined in 50-5-245 subclass of hospital that~~
3 ~~is primarily or exclusively engaged in the DIAGNOSIS, care, or treatment of one OR MORE of the following categories:~~

4 ~~(i) patients with a cardiac condition;~~

5 ~~(ii) patients with an orthopedic condition;~~

6 ~~(iii) patients undergoing a surgical procedure; OR~~

7 ~~(iv) patients treated for cancer-related diseases and receiving oncology services; and.~~

8 ~~(v) any other specialized category of services that the director of the department designates as a~~
9 ~~specialty hospital.~~

10 ~~—— (b) For purposes of this subsection (55), the term "primarily" means 65% of the discharges proposed for~~
11 ~~the hospital are for the diagnosis, care, and treatment of patients in categories listed in subsections (55)(a)(i)~~
12 ~~through (55)(a)(v).~~

13 ~~(B) FOR PURPOSES OF THIS SUBSECTION (55), A SPECIALTY HOSPITAL MAY PROVIDE OTHER SERVICES FOR~~
14 ~~MEDICAL DIAGNOSIS, TREATMENT, REHABILITATION, AND CARE OF INJURED, DISABLED, OR SICK INDIVIDUALS AS OTHERWISE~~
15 ~~PROVIDED BY LAW IF THE CARE ENCOMPASSES 35% OR LESS OF THE HOSPITAL SERVICES.~~

16 ~~(c) The term "specialty hospital" does not include:~~

17 ~~(i) psychiatric hospitals;~~

18 ~~(ii) rehabilitation hospitals;~~

19 ~~(iii) children's hospitals;~~

20 ~~(iv) long-term care hospitals; or~~

21 ~~(v) critical access hospitals.~~

22 (56) "State health care facilities plan" means the plan prepared by the department to project the need for
23 health care facilities within Montana and approved by the governor and a statewide health coordinating council
24 appointed by the director of the department.

25 (57) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either acute
26 care or extended skilled nursing care to a patient. ~~(Terminates July 1, 2007--sec. 6, Ch. 365, L. 2005.)~~

27 ~~—— 50-5-101. (Effective July 1, 2007) Definitions. As used in parts 1 through 3 of this chapter, unless the~~
28 ~~context clearly indicates otherwise, the following definitions apply:~~

29 ~~—— (1) "Accreditation" means a designation of approval.~~

30 ~~—— (2) "Accreditation association for ambulatory health care" means the organization nationally recognized~~

1 by that name that surveys ambulatory surgical centers upon their requests and grants accreditation status to the
2 ambulatory surgical centers that it finds meet its standards and requirements.

3 ~~———— (3) "Activities of daily living" means tasks usually performed in the course of a normal day in a resident's
4 life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.~~

5 ~~———— (4) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that
6 provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that
7 does not provide overnight care.~~

8 ~~———— (5) (a) "Adult foster care home" means a private home or other facility that offers, except as provided
9 in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are
10 not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full
11 guardianship of the owner or manager.~~

12 ~~———— (b) As used in this subsection (5), the following definitions apply:~~

13 ~~———— (i) "Aged person" means a person as defined by department rule as aged.~~

14 ~~———— (ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult
15 so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available
16 to meet those basic needs.~~

17 ~~———— (iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department
18 rule as disabled.~~

19 ~~———— (iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such
20 personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine
21 administration.~~

22 ~~———— (B) The term does not include the administration of prescriptive medications.~~

23 ~~———— (6) "Affected person" means an applicant for a certificate of need, a health care facility located in the
24 geographic area affected by the application, an agency that establishes rates for health care facilities, or a
25 third-party payer who reimburses health care facilities in the area affected by the proposal.~~

26 ~~———— (7) "Assisted living facility" means a congregate residential setting that provides or coordinates personal
27 care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related
28 services.~~

29 ~~———— (8) "Capital expenditure" means:~~

30 ~~———— (a) an expenditure made by or on behalf of a health care facility that, under generally accepted~~

1 ~~accounting principles, is not properly chargeable as an expense of operation and maintenance; or~~
2 ~~——— (b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any~~
3 ~~other property of value had changed hands.~~
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5 ~~a proposal subject to 50-5-301.~~
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7 ~~prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems~~
8 ~~and endangers the health, interpersonal relationships, or economic function of an individual or the public health,~~
9 ~~welfare, or safety.~~
10 ~~——— (11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological,~~
11 ~~radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from~~
12 ~~the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease~~
13 ~~or assessment of a medical condition.~~
14 ~~——— (12) "College of American pathologists" means the organization nationally recognized by that name that~~
15 ~~surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards~~
16 ~~and requirements.~~
17 ~~——— (13) "Commission on accreditation of rehabilitation facilities" means the organization nationally~~
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19 ~~to a rehabilitation facility that it finds meets its standards and requirements.~~
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21 ~~determined by the department to be competitive in that the granting of a certificate of need to one of the~~
22 ~~applicants would substantially prejudice the department's review of the other applications.~~
23 ~~——— (15) "Congregate" means the provision of group services designed especially for elderly or disabled~~
24 ~~persons who require supportive services and housing.~~
25 ~~——— (16) "Construction" means the physical erection of a health care facility and any stage of the physical~~
26 ~~erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health care facility.~~
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29 ~~mental health centers upon their requests and grants accreditation status to programs and facilities that it finds~~
30 ~~meet its standards and requirements.~~

1 ~~———— (18) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C.~~
2 ~~1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to~~
3 ~~50-5-233.~~

4 ~~———— (19) "Department" means the department of public health and human services provided for in 2-15-2201.~~

5 ~~———— (20) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney diseases~~
6 ~~and includes freestanding hemodialysis units.~~

7 ~~———— (21) "Federal acts" means federal statutes for the construction of health care facilities.~~

8 ~~———— (22) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision~~
9 ~~of the state, or an agency of a political subdivision.~~

10 ~~———— (23) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency, private~~
11 ~~or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to~~
12 ~~provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The~~
13 ~~term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis facilities, home~~
14 ~~health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities,~~
15 ~~intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers,~~
16 ~~outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care~~
17 ~~facilities, and residential treatment facilities.~~

18 ~~———— (b) The term does not include offices of private physicians, dentists, or other physical or mental health~~
19 ~~care workers regulated under Title 37, including licensed addiction counselors.~~

20 ~~———— (24) "Home health agency" means a public agency or private organization or subdivision of the agency~~
21 ~~or organization that is engaged in providing home health services to individuals in the places where they live.~~
22 ~~Home health services must include the services of a licensed registered nurse and at least one other therapeutic~~
23 ~~service and may include additional support services.~~

24 ~~———— (25) "Home infusion therapy agency" means a health care facility that provides home infusion therapy~~
25 ~~services.~~

26 ~~———— (26) "Home infusion therapy services" means the preparation, administration, or furnishing of parenteral~~
27 ~~medications or parenteral or enteral nutritional services to an individual in that individual's residence. The services~~
28 ~~include an educational component for the patient, the patient's caregiver, or the patient's family member.~~

29 ~~———— (27) "Hospice" means a coordinated program of home and inpatient health care that provides or~~
30 ~~coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family~~

1 arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages
 2 of illness and dying and that includes formal bereavement programs as an essential component. The term
 3 includes:

4 ~~———— (a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice that
 5 meets all medicare certification regulations for freestanding inpatient hospice facilities; and~~

6 ~~———— (b) a residential hospice facility, which is a facility managed directly by a licensed hospice program that
 7 can house three or more hospice patients.~~

8 ~~———— (28) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services
 9 for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Services
 10 provided may or may not include obstetrical care, emergency care, or any other service allowed by state licensing
 11 authority. A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day,
 12 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes hospitals
 13 specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients.~~

14 ~~———— (b) The term does not include critical access hospitals.~~

15 ~~———— (29) "Infirmiry" means a facility located in a university, college, government institution, or industry for the
 16 treatment of the sick or injured, with the following subdefinitions:~~

17 ~~———— (a) an "infirmiry--A" provides outpatient and inpatient care;~~

18 ~~———— (b) an "infirmiry--B" provides outpatient care only.~~

19 ~~———— (30) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a facility
 20 that provides intermediate developmental disability care for two or more persons.~~

21 ~~———— (b) The term does not include community homes for persons with developmental disabilities that are
 22 licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under
 23 52-4-203.~~

24 ~~———— (31) "Intermediate developmental disability care" means the provision of intermediate nursing care
 25 services, health-related services, and social services for persons with a developmental disability, as defined in
 26 53-20-102, or for persons with related problems.~~

27 ~~———— (32) "Intermediate nursing care" means the provision of nursing care services, health-related services,
 28 and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.~~

29 ~~———— (33) "Joint commission on accreditation of healthcare organizations" means the organization nationally
 30 recognized by that name that surveys health care facilities upon their requests and grants accreditation status~~

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2 ~~——— (34) "Licensed health care professional" means a licensed physician, physician assistant, advanced~~
 3 ~~practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the~~
 4 ~~department of labor and industry.~~

5 ~~——— (35) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care,~~
 6 ~~residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more~~
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8 ~~——— (b) The term does not include community homes for persons with developmental disabilities licensed~~
 9 ~~under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care~~
 10 ~~facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations~~
 11 ~~providing for transients, students, or individuals who do not require institutional health care; or juvenile and adult~~
 12 ~~correctional facilities operating under the authority of the department of corrections.~~

13 ~~——— (36) "Medical assistance facility" means a facility that meets both of the following:~~

14 ~~——— (a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that~~
 15 ~~provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless~~
 16 ~~a longer period is required because transfer to a hospital is precluded because of inclement weather or~~
 17 ~~emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction~~
 18 ~~retroactively and on a case-by-case basis if the individual's attending physician, physician assistant, or nurse~~
 19 ~~practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety~~
 20 ~~of the individual.~~

21 ~~——— (b) either is located in a county with fewer than six residents a square mile or is located more than 35~~
 22 ~~road miles from the nearest hospital.~~

23 ~~——— (37) "Mental health center" means a facility providing services for the prevention or diagnosis of mental~~
 24 ~~illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any~~
 25 ~~combination of these services.~~

26 ~~——— (38) "Nonprofit health care facility" means a health care facility owned or operated by one or more~~
 27 ~~nonprofit corporations or associations.~~

28 ~~——— (39) "Offer" means the representation by a health care facility that it can provide specific health services.~~

29 ~~——— (40) (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and~~
 30 ~~prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions~~

- 1 of a youth and that:
- 2 ~~—— (i) serves either adjudicated or nonadjudicated youth;~~
- 3 ~~—— (ii) charges a fee for its services; and~~
- 4 ~~—— (iii) provides all or part of its services in the outdoors.~~
- 5 ~~—— (b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts,~~
- 6 ~~4-H clubs, or other similar organizations.~~
- 7 ~~—— (41) "Outpatient center for primary care" means a facility that provides, under the direction of a licensed~~
- 8 ~~physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for~~
- 9 ~~surgical services.~~
- 10 ~~—— (42) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or organization~~
- 11 ~~that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and~~
- 12 ~~that may include recovery care beds.~~
- 13 ~~—— (43) "Patient" means an individual obtaining services, including skilled nursing care, from a health care~~
- 14 ~~facility.~~
- 15 ~~—— (44) "Person" means an individual, firm, partnership, association, organization, agency, institution,~~
- 16 ~~corporation, trust, estate, or governmental unit, whether organized for profit or not.~~
- 17 ~~—— (45) "Personal care" means the provision of services and care for residents who need some assistance~~
- 18 ~~in performing the activities of daily living.~~
- 19 ~~—— (46) "Practitioner" means an individual licensed by the department of labor and industry who has~~
- 20 ~~assessment, admission, and prescription authority.~~
- 21 ~~—— (47) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24 hours~~
- 22 ~~by a patient recovering from surgery or other treatment.~~
- 23 ~~—— (48) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the~~
- 24 ~~rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological~~
- 25 ~~and social services, or vocational evaluation and training or any combination of these services and in which the~~
- 26 ~~major portion of the services is furnished within the facility.~~
- 27 ~~—— (49) "Resident" means an individual who is in a long-term care facility or in a residential care facility.~~
- 28 ~~—— (50) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted~~
- 29 ~~living facility, or a retirement home.~~
- 30 ~~—— (51) "Residential psychiatric care" means active psychiatric treatment provided in a residential treatment~~

1 facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or behavioral
 2 dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual's
 3 condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge
 4 to less restrictive levels of care at the earliest possible time.

5 ——— (52) "Residential treatment facility" means a facility operated for the primary purpose of providing
 6 residential psychiatric care to individuals under 21 years of age.

7 ——— (53) "Retirement home" means a building or buildings in which separate living accommodations are
 8 rented or leased to individuals who use those accommodations as their primary residence.

9 ——— (54) "Skilled nursing care" means the provision of nursing care services, health-related services, and
 10 social services under the supervision of a licensed registered nurse on a 24-hour basis.

11 ——— (55) "State health care facilities plan" means the plan prepared by the department to project the need for
 12 health care facilities within Montana and approved by the governor and a statewide health coordinating council
 13 appointed by the director of the department.

14 ——— (56) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either acute
 15 care or extended skilled nursing care to a patient."

16

17 **SECTION 2. SECTION 50-5-203, MCA, IS AMENDED TO READ:**

18 **"50-5-203. Application for license.** The procedure to apply for a license is as follows:

19 (1) At least 30 days prior to the opening of a facility and after that no later than the expiration date of the
 20 license, application is made to the department accompanied by the license fee.

21 (2) The application shall contain:

22 (a) the name and address of the applicant if an individual, the name and address of each member if a
 23 firm, partnership, or association, or the name and address of each officer if a corporation;

24 (b) the location of the facility;

25 (c) the name of the person or persons who will manage or supervise the facility;

26 (d) the number and type of patients or residents for which care is provided;

27 (e) any information which the department may require pertaining to the number, experience, and training
 28 of employees;

29 (f) information on ownership, contract, or lease agreement if operated by a person other than the owner.

30 (3) Applications must include attestation or supporting documentation required by the department

1 pertaining to the licensure of specialty hospitals using the procedures provided in parts 1 and 2 of this chapter.
 2 The attestation may be used as the basis for the issuance of a provisional or temporary license."

3
 4 **Section 3.** Section 50-5-245, MCA, is amended to read:

5 **"50-5-245. (Temporary) Department to license specialty hospitals -- standards -- definition**
 6 **rulemaking -- moratorium.** (1) ~~The~~ SUBJECT TO SUBSECTION (4), THE department shall license specialty hospitals
 7 using the requirements for licensure of hospitals and the procedure provided for in parts 1 and 2 of this chapter.

8 (2) ~~As used in this section, "specialty hospital" means a specialty hospital as defined in 42 U.S.C. 1395nn~~
 9 The department shall adopt rules that are necessary to implement and administer this section.

10 (3) Notwithstanding the requirements of subsection (1), the department may not license a specialty
 11 hospital until July 1, ~~2007~~ 2009.

12 (4) A HEALTH CARE FACILITY LICENSED BY THE DEPARTMENT AND IN EXISTENCE ON [THE EFFECTIVE DATE OF THIS
 13 ACT] MAY NOT CHANGE ITS LICENSURE STATUS IN ORDER TO QUALIFY FOR LICENSURE AS A SPECIALTY HOSPITAL UNLESS
 14 THE HEALTH CARE FACILITY IS LICENSED AS A HOSPITAL. (Terminates July 1, 2007 -- sec. 6, Ch. 365, L. 2005.)"

15
 16 NEW SECTION. Section 4. Repealer. Section 6, Chapter 365, Laws of 2005, is repealed.

17
 18 ~~NEW SECTION. Section 4. Transition. [This act] may not be interpreted to allow a health care facility~~
 19 ~~presently licensed by the department of public health and human services and already in existence to change~~
 20 ~~its licensure status so as to qualify for licensure as a specialty hospital.~~

21
 22 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

23
 24 NEW SECTION. Section 6. Applicability. [This act] does not apply to a hospital existing prior to [the
 25 effective date of this act].

26 - END -