

SENATE BILL NO. 103

INTRODUCED BY R. WEBB

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A BILL FOR AN ACT ENTITLED: "AN ACT RECOGNIZING HOSPITAL ACCREDITATION GRANTED BY ENTITIES OTHER THAN THE JOINT COMMISSION; AND AMENDING SECTIONS 50-5-101 AND 50-5-103, MCA."

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

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

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

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

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

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

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

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

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

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

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



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

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

6 (B) The term does not include the administration of prescriptive medications.

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

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

13 (8) "Capital expenditure" means:

14 (a) an expenditure made by or on behalf of a health care facility that, under generally accepted  
15 accounting principles, is not properly chargeable as an expense of operation and maintenance; or

16 (b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any  
17 other property of value had changed hands.

18 (9) "Certificate of need" means a written authorization by the department for a person to proceed with  
19 a proposal subject to 50-5-301.

20 (10) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and  
21 prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems  
22 and endangers the health, interpersonal relationships, or economic function of an individual or the public health,  
23 welfare, or safety.

24 (11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological,  
25 radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from  
26 the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease  
27 or assessment of a medical condition.

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

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

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

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

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

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

15 (18) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C.  
16 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to  
17 50-5-233.

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

19 (20) "DNV healthcare, inc." means the company nationally recognized by that name that surveys  
20 hospitals upon their requests and grants accreditation status to a hospital that it finds meets its standards and  
21 requirements.

22 ~~(20)~~(21) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney  
23 diseases and includes freestanding hemodialysis units.

24 ~~(21)~~(22) "Federal acts" means federal statutes for the construction of health care facilities.

25 ~~(22)~~(23) "Governmental unit" means the state, a state agency, a county, municipality, or political  
26 subdivision of the state, or an agency of a political subdivision.

27 (24) "Healthcare facilities accreditation program" means the program nationally recognized by that name  
28 that surveys health care facilities upon their requests and grants accreditation status to a health care facility that  
29 it finds meets its standards and requirements.

30 ~~(23)~~(25) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency,

1 private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or  
 2 designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any  
 3 individual. The term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis  
 4 facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care  
 5 facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health  
 6 centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities,  
 7 residential care facilities, and residential treatment facilities.

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

10 ~~(24)~~(26) "Home health agency" means a public agency or private organization or subdivision of the  
 11 agency or organization that is engaged in providing home health services to individuals in the places where they  
 12 live. Home health services must include the services of a licensed registered nurse and at least one other  
 13 therapeutic service and may include additional support services.

14 ~~(25)~~(27) "Home infusion therapy agency" means a health care facility that provides home infusion therapy  
 15 services.

16 ~~(26)~~(28) "Home infusion therapy services" means the preparation, administration, or furnishing of  
 17 parenteral medications or parenteral or enteral nutritional services to an individual in that individual's residence.  
 18 The services include an educational component for the patient, the patient's caregiver, or the patient's family  
 19 member.

20 ~~(27)~~(29) "Hospice" means a coordinated program of home and inpatient health care that provides or  
 21 coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family  
 22 arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages  
 23 of illness and dying and that includes formal bereavement programs as an essential component. The term  
 24 includes:

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

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

29 ~~(28)~~(30) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians,  
 30 services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except

1 as otherwise provided by law, services provided must include medical personnel available to provide emergency  
 2 care onsite 24 hours a day and may include any other service allowed by state licensing authority. A hospital has  
 3 an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and  
 4 provides 24-hour nursing care by licensed registered nurses. The term includes:

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

7 (ii) specialty hospitals.

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

9 (c) The emergency care requirement for a hospital that specializes in providing health services for  
 10 psychiatric, developmentally disabled, or tubercular patients is satisfied if the emergency care is provided within  
 11 the scope of the specialized services provided by the hospital and by providing 24-hour nursing care by licensed  
 12 registered nurses.

13 ~~(29)~~(31) "Infirmery" means a facility located in a university, college, government institution, or industry  
 14 for the treatment of the sick or injured, with the following subdefinitions:

15 (a) an "infirmery--A" provides outpatient and inpatient care;

16 (b) an "infirmery--B" provides outpatient care only.

17 ~~(30)~~(32) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a  
 18 facility that provides intermediate developmental disability care for two or more persons.

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

22 ~~(31)~~(33) "Intermediate developmental disability care" means the provision of intermediate nursing care  
 23 services, health-related services, and social services for persons with a developmental disability, as defined in  
 24 53-20-102, or for persons with related problems.

25 ~~(32)~~(34) "Intermediate nursing care" means the provision of nursing care services, health-related  
 26 services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing  
 27 care.

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

1           ~~(34)~~(35) "Licensed health care professional" means a licensed physician, physician assistant, advanced  
2 practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the  
3 department of labor and industry.

4           ~~(35)~~(36) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care,  
5 residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more  
6 individuals or that provides personal care.

7           (b) The term does not include community homes for persons with developmental disabilities licensed  
8 under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care  
9 facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations  
10 providing for transients, students, or individuals who do not require institutional health care; or juvenile and adult  
11 correctional facilities operating under the authority of the department of corrections.

12           ~~(36)~~(37) "Medical assistance facility" means a facility that meets both of the following:

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

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

22           ~~(37)~~(38) "Mental health center" means a facility providing services for the prevention or diagnosis of  
23 mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any  
24 combination of these services.

25           ~~(38)~~(39) "Nonprofit health care facility" means a health care facility owned or operated by one or more  
26 nonprofit corporations or associations.

27           ~~(39)~~(40) "Offer" means the representation by a health care facility that it can provide specific health  
28 services.

29           ~~(40)~~(41) (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)~~(42) "Outpatient center for primary care" means a facility that provides, under the direction of a  
8 licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient  
9 center for surgical services.

10 ~~(42)~~(43) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or  
11 organization that is specifically designed and operated to provide surgical services to patients not requiring  
12 hospitalization and that may include recovery care beds.

13 ~~(43)~~(44) "Patient" means an individual obtaining services, including skilled nursing care, from a health  
14 care facility.

15 ~~(44)~~(45) "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)~~(46) "Personal care" means the provision of services and care for residents who need some  
18 assistance in performing the activities of daily living.

19 ~~(46)~~(47) "Practitioner" means an individual licensed by the department of labor and industry who has  
20 assessment, admission, and prescription authority.

21 ~~(47)~~(48) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24  
22 hours by a patient recovering from surgery or other treatment.

23 ~~(48)~~(49) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in  
24 the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services,  
25 psychological and social services, or vocational evaluation and training or any combination of these services and  
26 in which the major portion of the services is furnished within the facility.

27 ~~(49)~~(50) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

28 ~~(50)~~(51) "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)~~(52) "Residential psychiatric care" means active psychiatric treatment provided in a residential

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

5 ~~(52)~~(53) "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)~~(54) "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)~~(55) "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)~~(56) (a) "Specialty hospital" means a subclass of hospital that is exclusively engaged in the diagnosis,  
12 care, or treatment of one or more of the following categories:

- 13 (i) patients with a cardiac condition;  
14 (ii) patients with an orthopedic condition;  
15 (iii) patients undergoing a surgical procedure; or  
16 (iv) patients treated for cancer-related diseases and receiving oncology services.

17 (b) For purposes of this subsection ~~(55)~~ (56), a specialty hospital may provide other services for medical  
18 diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise provided by law  
19 if the care encompasses 35% or less of the hospital services.

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

- 21 (i) psychiatric hospitals;  
22 (ii) rehabilitation hospitals;  
23 (iii) children's hospitals;  
24 (iv) long-term care hospitals; or  
25 (v) critical access hospitals.

26 ~~(56)~~(57) "State health care facilities plan" means the plan prepared by the department to project the need  
27 for health care facilities within Montana and approved by the governor and a statewide health coordinating council  
28 appointed by the director of the department.

29 ~~(57)~~(58) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either  
30 acute care or extended skilled nursing care to a patient.



1           (59) "The joint commission" means the organization nationally recognized by that name that surveys  
2 health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets  
3 its standards and requirements."

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5           **Section 2.** Section 50-5-103, MCA, is amended to read:  
6           **"50-5-103. Rules and standards -- accreditation.** (1) The department shall adopt rules and minimum  
7 standards for implementation of parts 1 and 2.

8           (2) Any facility covered by this chapter shall comply with the state and federal requirements relating to  
9 construction, equipment, and fire and life safety.

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

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

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

18           (i) DNV healthcare, inc.;

19           (ii) the healthcare facilities accreditation program; or

20           (iii) the joint commission;

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

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

