

1 HOUSE BILL NO. 220

2 INTRODUCED BY K. MCCARTHY, J. GROSS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PHYSICIAN ASSISTANT LAWS TO INCLUDE
5 PHYSICIAN ASSISTANTS AS MENTAL HEALTH PROFESSIONALS AND PROFESSIONAL PERSONS FOR
6 THE PURPOSES OF PROVIDING MENTAL HEALTH CARE; AND AMENDING SECTION 53-21-102, MCA."

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

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10 **Section 1.** Section 53-21-102, MCA, is amended to read:11 **"53-21-102. Definitions.** As used in this chapter, the following definitions apply:

12 (1) "Abuse" means any willful, negligent, or reckless mental, physical, sexual, or verbal mistreatment or
13 maltreatment or misappropriation of personal property of any person receiving treatment in a mental health facility
14 that insults the psychosocial, physical, or sexual integrity of any person receiving treatment in a mental health
15 facility.

16 (2) "Behavioral health inpatient facility" means a facility or a distinct part of a facility of 16 beds or less
17 licensed by the department that is capable of providing secure, inpatient psychiatric services, including services
18 to persons with mental illness and co-occurring chemical dependency.

19 (3) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors created
20 by 2-15-211.

21 (4) "Commitment" means an order by a court requiring an individual to receive treatment for a mental
22 disorder.

23 (5) "Court" means any district court of the state of Montana.

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

25 (7) "Emergency situation" means:

26 (a) a situation in which any person is in imminent danger of death or bodily harm from the activity of a
27 person who appears to be suffering from a mental disorder and appears to require commitment; or

28 (b) a situation in which any person who appears to be suffering from a mental disorder and appears to
29 require commitment is substantially unable to provide for the person's own basic needs of food, clothing, shelter,
30 health, or safety.

1 (8) "Friend of respondent" means any person willing and able to assist a person suffering from a mental
2 disorder and requiring commitment or a person alleged to be suffering from a mental disorder and requiring
3 commitment in dealing with legal proceedings, including consultation with legal counsel and others.

4 (9) (a) "Mental disorder" means any organic, mental, or emotional impairment that has substantial
5 adverse effects on an individual's cognitive or volitional functions.

6 (b) The term does not include:

7 (i) addiction to drugs or alcohol;

8 (ii) drug or alcohol intoxication;

9 (iii) intellectual disability; or

10 (iv) epilepsy.

11 (c) A mental disorder may co-occur with addiction or chemical dependency.

12 (10) "Mental health facility" or "facility" means the state hospital, the Montana mental health nursing care
13 center, or a hospital, a behavioral health inpatient facility, a mental health center, a residential treatment facility,
14 or a residential treatment center licensed or certified by the department that provides treatment to children or
15 adults with a mental disorder. A correctional institution or facility or jail is not a mental health facility within the
16 meaning of this part.

17 (11) "Mental health professional" means:

18 (a) a certified professional person;

19 (b) a physician licensed under Title 37, chapter 3;

20 (c) a professional counselor licensed under Title 37, chapter 23;

21 (d) a psychologist licensed under Title 37, chapter 17;

22 (e) a social worker licensed under Title 37, chapter 22; ~~or~~

23 (f) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in
24 psychiatric mental health nursing; or

25 (g) a physician assistant licensed under Title 37, chapter 20, with a clinical speciality in psychiatric mental
26 health.

27 (12) (a) "Neglect" means failure to provide for the biological and psychosocial needs of any person
28 receiving treatment in a mental health facility, failure to report abuse, or failure to exercise supervisory
29 responsibilities to protect patients from abuse and neglect.

30 (b) The term includes but is not limited to:

- 1 (i) deprivation of food, shelter, appropriate clothing, nursing care, or other services;
- 2 (ii) failure to follow a prescribed plan of care and treatment; or
- 3 (iii) failure to respond to a person in an emergency situation by indifference, carelessness, or intention.
- 4 (13) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers and
- 5 sisters of a person.
- 6 (14) "Patient" means a person committed by the court for treatment for any period of time or who is
- 7 voluntarily admitted for treatment for any period of time.
- 8 (15) "Peace officer" means any sheriff, deputy sheriff, marshal, police officer, or other peace officer.
- 9 (16) "Professional person" means:
- 10 (a) a medical doctor;
- 11 (b) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in
- 12 psychiatric mental health nursing;
- 13 (c) a licensed psychologist;
- 14 (d) a physician assistant licensed under Title 37, chapter 20, with a clinical specialty in psychiatric mental
- 15 health; or
- 16 ~~(d)~~(e) a person who has been certified, as provided for in 53-21-106, by the department.
- 17 (17) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a
- 18 professional person.
- 19 (18) "Respondent" means a person alleged in a petition filed pursuant to this part to be suffering from a
- 20 mental disorder and requiring commitment.
- 21 (19) "State hospital" means the Montana state hospital."

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23 **NEW SECTION. Section 2. Two-thirds vote required.** Because [section 1] limits governmental liability,

24 Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of

25 the legislature for passage.

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