

HOUSE BILL NO. 572

INTRODUCED BY A. REDFIELD

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING LICENSURE OF EATING DISORDER CENTERS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 50-5-101, MCA."

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

NEW SECTION. Section 1. Licensure of eating disorder centers -- rulemaking -- definition. (1) The department shall license eating disorder centers that provide intensive outpatient or partial hospitalization programs for individuals with eating disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders.

(2) The department shall adopt administrative rules for licensure, including but not limited to rules establishing:

- (a) patient-to-staff ratios;
- (b) the treatment services that must be available on site or through arrangements with other health care facilities, including crisis and hospital services; and
- (c) license and inspection fees. Fees must be reasonably related to service costs.

(3) The rules may not establish requirements that are more stringent than standards established by the commission on accreditation of rehabilitation facilities and the joint commission for accreditation of behavioral health care organizations that provide care for individuals with eating disorders.

(4) For the purposes of this section, "partial hospitalization program" means an active treatment program that offers therapeutically intensive, coordinated, structured treatment services to individuals who have been diagnosed with an eating disorder. Services include day, evening, night, and weekend treatment programs that use an integrated, comprehensive, and complementary schedule of recognized treatment or therapeutic activities.

Section 2. 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.



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

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

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

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

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

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

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

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

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

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

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

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

30 (8) "Capital expenditure" means:

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

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

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

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

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

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

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

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

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

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

28 (17) "Council on accreditation" means the organization nationally recognized by that name that surveys
29 behavioral treatment programs, chemical dependency treatment programs, residential treatment facilities, and
30 mental health centers upon their requests and grants accreditation status to programs and facilities that it finds

1 meet its standards and requirements.

2 (18) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C.
3 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to
4 50-5-233.

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

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

9 (21) "Eating disorder center" means a facility that specializes in the treatment of eating disorders.

10 ~~(21)~~(22) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney
11 diseases and includes freestanding hemodialysis units.

12 ~~(22)~~(23) "Federal acts" means federal statutes for the construction of health care facilities.

13 ~~(23)~~(24) "Governmental unit" means the state, a state agency, a county, municipality, or political
14 subdivision of the state, or an agency of a political subdivision.

15 ~~(24)~~(25) "Healthcare facilities accreditation program" means the program nationally recognized by that
16 name that surveys health care facilities upon their requests and grants accreditation status to a health care facility
17 that it finds meets its standards and requirements.

18 ~~(25)~~(26) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency,
19 private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or
20 designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any
21 individual. The term includes chemical dependency facilities, critical access hospitals, eating disorder centers,
22 end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals,
23 infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical
24 assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical
25 services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

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

28 ~~(26)~~(27) "Home health agency" means a public agency or private organization or subdivision of the
29 agency or organization that is engaged in providing home health services to individuals in the places where they
30 live. Home health services must include the services of a licensed registered nurse and at least one other

1 therapeutic service and may include additional support services.

2 ~~(27)~~(28) "Home infusion therapy agency" means a health care facility that provides home infusion therapy
3 services.

4 ~~(28)~~(29) "Home infusion therapy services" means the preparation, administration, or furnishing of
5 parenteral medications or parenteral or enteral nutritional services to an individual in that individual's residence.
6 The services include an educational component for the patient, the patient's caregiver, or the patient's family
7 member.

8 ~~(29)~~(30) "Hospice" means a coordinated program of home and inpatient health care that provides or
9 coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family
10 arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages
11 of illness and dying and that includes formal bereavement programs as an essential component. The term
12 includes:

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

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

17 ~~(30)~~(31) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians,
18 services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except
19 as otherwise provided by law, services provided must include medical personnel available to provide emergency
20 care onsite 24 hours a day and may include any other service allowed by state licensing authority. A hospital has
21 an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and
22 provides 24-hour nursing care by licensed registered nurses. The term includes:

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

25 (ii) specialty hospitals.

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

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

1 ~~(31)~~(32) "Infirmery" means a facility located in a university, college, government institution, or industry
2 for the treatment of the sick or injured, with the following subdefinitions:

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

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

5 ~~(32)~~(33) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a
6 facility that provides intermediate developmental disability care for two or more persons.

7 (b) The term does not include community homes for persons with developmental disabilities that are
8 licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under
9 52-4-203.

10 ~~(33)~~(34) "Intermediate developmental disability care" means the provision of intermediate nursing care
11 services, health-related services, and social services for persons with a developmental disability, as defined in
12 53-20-102, or for persons with related problems.

13 ~~(34)~~(35) "Intermediate nursing care" means the provision of nursing care services, health-related
14 services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing
15 care.

16 ~~(35)~~(36) "Licensed health care professional" means a licensed physician, physician assistant, advanced
17 practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the
18 department of labor and industry.

19 ~~(36)~~(37) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care,
20 residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more
21 individuals or that provides personal care.

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

27 ~~(37)~~(38) "Medical assistance facility" means a facility that meets both of the following:

28 (a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that
29 provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless
30 a longer period is required because transfer to a hospital is precluded because of inclement weather or

1 emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction
2 retroactively and on a case-by-case basis if the individual's attending physician, physician assistant, or nurse
3 practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety
4 of the individual.

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

7 ~~(38)~~(39) "Mental health center" means a facility providing services for the prevention or diagnosis of
8 mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any
9 combination of these services.

10 ~~(39)~~(40) "Nonprofit health care facility" means a health care facility owned or operated by one or more
11 nonprofit corporations or associations.

12 ~~(40)~~(41) "Offer" means the representation by a health care facility that it can provide specific health
13 services.

14 ~~(41)~~(42) (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and
15 prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions
16 of a youth and that:

17 (i) serves either adjudicated or nonadjudicated youth;

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

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

20 (b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts,
21 4-H clubs, or other similar organizations.

22 ~~(42)~~(43) "Outpatient center for primary care" means a facility that provides, under the direction of a
23 licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient
24 center for surgical services.

25 ~~(43)~~(44) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or
26 organization that is specifically designed and operated to provide surgical services to patients not requiring
27 hospitalization and that may include recovery care beds.

28 ~~(44)~~(45) "Patient" means an individual obtaining services, including skilled nursing care, from a health
29 care facility.

30 ~~(45)~~(46) "Person" means an individual, firm, partnership, association, organization, agency, institution,

1 corporation, trust, estate, or governmental unit, whether organized for profit or not.

2 ~~(46)~~(47) "Personal care" means the provision of services and care for residents who need some
3 assistance in performing the activities of daily living.

4 ~~(47)~~(48) "Practitioner" means an individual licensed by the department of labor and industry who has
5 assessment, admission, and prescription authority.

6 ~~(48)~~(49) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24
7 hours by a patient recovering from surgery or other treatment.

8 ~~(49)~~(50) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in
9 the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services,
10 psychological and social services, or vocational evaluation and training or any combination of these services and
11 in which the major portion of the services is furnished within the facility.

12 ~~(50)~~(51) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

13 ~~(51)~~(52) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted
14 living facility, or a retirement home.

15 ~~(52)~~(53) "Residential psychiatric care" means active psychiatric treatment provided in a residential
16 treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or
17 behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the
18 individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's
19 discharge to less restrictive levels of care at the earliest possible time.

20 ~~(53)~~(54) "Residential treatment facility" means a facility operated for the primary purpose of providing
21 residential psychiatric care to individuals under 21 years of age.

22 ~~(54)~~(55) "Retirement home" means a building or buildings in which separate living accommodations are
23 rented or leased to individuals who use those accommodations as their primary residence.

24 ~~(55)~~(56) "Skilled nursing care" means the provision of nursing care services, health-related services, and
25 social services under the supervision of a licensed registered nurse on a 24-hour basis.

26 ~~(56)~~(57) (a) "Specialty hospital" means a subclass of hospital that is exclusively engaged in the diagnosis,
27 care, or treatment of one or more of the following categories:

- 28 (i) patients with a cardiac condition;
29 (ii) patients with an orthopedic condition;
30 (iii) patients undergoing a surgical procedure; or

1 (iv) patients treated for cancer-related diseases and receiving oncology services.

2 (b) For purposes of this subsection ~~(56)~~ (57), a specialty hospital may provide other services for medical
3 diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise provided by law
4 if the care encompasses 35% or less of the hospital services.

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

6 (i) psychiatric hospitals;

7 (ii) rehabilitation hospitals;

8 (iii) children's hospitals;

9 (iv) long-term care hospitals; or

10 (v) critical access hospitals.

11 ~~(57)~~(58) "State health care facilities plan" means the plan prepared by the department to project the need
12 for 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 ~~(58)~~(59) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either
15 acute care or extended skilled nursing care to a patient.

16 ~~(59)~~(60) "The joint commission" means the organization nationally recognized by that name that surveys
17 health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets
18 its standards and requirements."

19

20 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an
21 integral part of Title 50, chapter 5, part 2, and the provisions of Title 50, chapter 5, part 2, apply to [section 1].

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- END -