

1 HOUSE BILL NO. 45
2 INTRODUCED BY B. KEENAN
3 BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO HOSPITAL CHARITY CARE
6 FINANCIAL ASSISTANCE AND COMMUNITY BENEFIT REQUIREMENTS; ~~AUTHORIZING THE~~
7 ~~DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ESTABLISH~~ CHARITY CARE
8 ESTABLISHING FINANCIAL ASSISTANCE AND COMMUNITY BENEFIT STANDARDS FOR NONPROFIT
9 HOSPITALS; ESTABLISHING CHARITY CARE FINANCIAL ASSISTANCE AND COMMUNITY BENEFIT
10 REPORTING REQUIREMENTS; ESTABLISHING A COMMUNITY MENTAL HEALTH SPECIAL REVENUE
11 ACCOUNT; PROVIDING RULEMAKING AUTHORITY; PROVIDING A DEFINITION; AND AMENDING
12 SECTIONS 50-5-101 AND 50-5-106, ~~50-5-112, 50-5-121, AND 50-5-245~~, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **NEW SECTION. Section 1. Nonprofit hospital community benefits -- reporting requirements.** No
17 later than June 1 of each year, each nonprofit hospital shall report its charity care and community benefit
18 spending to the department in a manner provided by the department by rule. The report must include the
19 following information related to the financial assistance and other community benefits spending the hospital
20 reported on schedule H for internal revenue service form 990 for the most recent tax year:
21 (1) the net community benefit expense the hospital reported for community health improvement
22 services, community benefit operations, and community building activities and how the expense related to the
23 needs identified in the most recent community health needs assessment the hospital conducted as required
24 under 26 U.S.C. 501(r)(3); and
25 (2) for expenses reported in the financial assistance at cost, other means-tested government
26 programs, subsidized health services, bad debt, and medicare categories:
27 (a) the net community benefit expense amount reported on schedule H for financial assistance,

- 1 other means-tested government programs, and subsidized health services;
- 2 (b) the total amount the hospital reported for bad debt expenses and for its shortfall or surplus in
- 3 medicare costs; and
- 4 (c) the net costs the hospital incurred in each of those categories.

5

6 **NEW SECTION. Section 2. Financial assistance and other community benefits -- minimum**

7 **requirements -- fee.** (1) Each nonprofit hospital shall provide financial assistance and other community

8 benefits, as reported in the financial assistance and certain other community benefits at cost table in part I of

9 schedule H for internal revenue service form 990, that represent the following percentage of the hospital's total

10 expenditures:

- 11 (a) 3.5% for a critical access hospital; or
- 12 (b) 7% for a hospital that is not a critical access hospital.

13 (2) No later than June 15 of each year, the department shall determine whether each hospital has

14 provided the financial assistance and other community benefits at the levels required under this section. If the

15 amount of spending on financial assistance at cost, means-tested government programs, and other benefits did

16 not meet the requirements of subsection (1), the department shall assess the hospital a fee equal to the

17 difference between the financial assistance at cost, means-tested government programs, and other benefits

18 reported on schedule H and the amount represented by the percentage required under subsection (1).

19 (3) The department shall deposit money assessed pursuant to this section in the community

20 mental health special revenue account provided for in [section 3].

21

22 **NEW SECTION. Section 3. Community mental health special revenue account -- grant program**

23 **-- rulemaking authority.** (1) There is a community mental health account in the state special revenue fund

24 established in 17-2-102 to the credit of the department to support mental health programs at the community

25 level.

- 26 (2) The account consists of any assessments levied pursuant to [section 2].
- 27 (3) Money in the account must be used by the department for grants to communities to support

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1 mental health services in accordance with rules developed by the department. The department shall issue a
2 request for grant proposals prior to each legislative session and submit the list of proposed projects to the
3 legislature for selection.

4

5 **Section 4.** Section 50-5-101, MCA, is amended to read:

6 **"50-5-101. Definitions.** As used in parts 1 through 3 of this chapter, unless the context clearly
7 indicates otherwise, the following definitions apply:

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

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

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

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

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

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

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

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

27 (iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by

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1 department rule as disabled.

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

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

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

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

12 (8) "Capital expenditure" means:

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

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

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

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

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

27 (12) "College of American pathologists" means the organization nationally recognized by that name

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1 that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its
2 standards and requirements.

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

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

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

11 (16) "Construction" means the physical erection of a new health care facility and any stage of the
12 physical erection, including groundbreaking, or remodeling, replacement, or renovation of:

13 (a) an existing health care facility; or

14 (b) a long-term care facility as defined in 50-5-301.

15 (17) "Council on accreditation" means the organization nationally recognized by that name that
16 surveys behavioral treatment programs, chemical dependency treatment programs, residential treatment
17 facilities, and mental health centers upon their requests and grants accreditation status to programs and
18 facilities that it finds 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 50-
21 5-233.

22 (19) "Department" means the department of public health and human services provided for in 2-15-
23 2201.

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

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

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

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

4 (24) "Governmental unit" means the state, a state agency, a county, municipality, or political
5 subdivision of the state, or an agency of a political subdivision.

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

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

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

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

23 (28) "Home infusion therapy agency" means a health care facility that provides home infusion
24 therapy services.

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

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1 member.

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

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

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

11 (31) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians,
12 services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals.

13 Except as otherwise provided by law, services provided must include medical personnel available to provide
14 emergency care onsite 24 hours a day and may include any other service allowed by state licensing authority.

15 A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days
16 a week, and provides 24-hour nursing care by licensed registered nurses. The term includes:

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

19 (ii) specialty hospitals.

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

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

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

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

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1 (b) an "infirmity--B" provides outpatient care only.

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

4 (b) The term does not include community homes for persons with developmental disabilities that
5 are licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under
6 52-4-203.

7 (34) "Intermediate developmental disability care" means the provision of intermediate nursing care
8 services, health-related services, and social services for persons with a developmental disability, as defined in
9 53-20-102, or for persons with related problems.

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

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

16 (37) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing
17 care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two
18 or more individuals or that provides personal care.

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

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

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

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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
6 35 road miles from the nearest hospital.

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

12 (41) "Nonprofit hospital" means a hospital, critical access hospital, or specialty hospital owned or
13 operated by one or more nonprofit corporations or associations.

14 ~~(41)(42)~~ "Offer" means the representation by a health care facility that it can provide specific health
15 services.

16 ~~(42)(43)~~ (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation,
17 and prevention for behavioral problems that endanger the health, interpersonal relationships, or educational
18 functions of a youth and that:

- 19 (i) serves either adjudicated or nonadjudicated youth;
20 (ii) charges a fee for its services; and
21 (iii) provides all or part of its services in the outdoors.

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

24 ~~(43)(44)~~ "Outpatient center for primary care" means a facility that provides, under the direction of a
25 licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient
26 center for surgical services.

27 ~~(44)(45)~~ "Outpatient center for surgical services" means a clinic, infirmary, or other institution or

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1 organization that is specifically designed and operated to provide surgical services to patients not requiring
2 hospitalization and that may include recovery care beds.

3 ~~(45)(46)~~ "Patient" means an individual obtaining services, including skilled nursing care, from a health
4 care facility.

5 ~~(46)(47)~~ "Person" means an individual, firm, partnership, association, organization, agency, institution,
6 corporation, trust, estate, or governmental unit, whether organized for profit or not.

7 ~~(47)(48)~~ "Personal care" means the provision of services and care for residents who need some
8 assistance in performing the activities of daily living.

9 ~~(48)(49)~~ "Practitioner" means an individual licensed by the department of labor and industry who has
10 assessment, admission, and prescription authority.

11 ~~(49)(50)~~ "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24
12 hours by a patient recovering from surgery or other treatment.

13 ~~(50)(51)~~ "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in
14 the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services,
15 psychological and social services, or vocational evaluation and training or any combination of these services
16 and in which the major portion of the services is furnished within the facility.

17 ~~(51)(52)~~ "Resident" means an individual who is in a long-term care facility or in a residential care
18 facility.

19 ~~(52)(53)~~ "Residential care facility" means an adult day-care center, an adult foster care home, an
20 assisted living facility, or a retirement home.

21 ~~(53)(54)~~ "Residential psychiatric care" means active psychiatric treatment provided in a residential
22 treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or
23 behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the
24 individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's
25 discharge to less restrictive levels of care at the earliest possible time.

26 ~~(54)(55)~~ "Residential treatment facility" means a facility operated for the primary purpose of providing
27 residential psychiatric care to individuals under 21 years of age.

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1 ~~(55)~~(56) "Retirement home" means a building or buildings in which separate living accommodations
2 are rented or leased to individuals who use those accommodations as their primary residence.

3 ~~(56)~~(57) "Skilled nursing care" means the provision of nursing care services, health-related services,
4 and social services under the supervision of a licensed registered nurse on a 24-hour basis.

5 ~~(57)~~(58) (a) "Specialty hospital" means a subclass of hospital that is exclusively engaged in the
6 diagnosis, care, or treatment of one or more of the following categories:

7 (i) patients with a cardiac condition;

8 (ii) patients with an orthopedic condition;

9 (iii) patients undergoing a surgical procedure; or

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

11 (b) For purposes of this subsection ~~(57)~~(58), a specialty hospital may provide other services for
12 medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise
13 provided by law if the care encompasses 35% or less of the hospital services.

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

15 (i) psychiatric hospitals;

16 (ii) rehabilitation hospitals;

17 (iii) children's hospitals;

18 (iv) long-term care hospitals; or

19 (v) critical access hospitals.

20 ~~(58)~~(59) "State long-term care facilities plan" means the plan prepared by the department to project the
21 need for long-term care facilities within Montana and approved by the governor and a statewide health
22 coordinating council appointed by the director of the department.

23 ~~(59)~~(60) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either
24 acute care or extended skilled nursing care to a patient.

25 ~~(60)~~(61) "The joint commission" means the organization nationally recognized by that name that
26 surveys health care facilities upon their requests and grants accreditation status to a health care facility that it
27 finds meets its standards and requirements."

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Section 5. Section 50-5-106, MCA, is amended to read:

"50-5-106. Records and reports required of health care facilities -- confidentiality. (1) Health care facilities shall keep records and ~~make reports as required by~~ PROVIDE THE RECORDS AT THE REQUEST OF ~~make reports as required under [section 1] and this section and as otherwise required by~~ the department.

(2) Before February 1 of each year, every licensed health care facility shall submit an annual report for the preceding calendar year to the department. The report must be on forms and contain information specified by the department.

~~(2) Before February 1 April 15 of each year, every EVERY licensed health care facility shall submit an annual report for the preceding calendar year to the department.~~

~~(3) Before April 15 of each year, every EVERY hospital, CRITICAL ACCESS HOSPITAL, OR RURAL EMERGENCY HOSPITAL that is operating as a nonprofit health care facility UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE, 26 U.S.C. 501(C)(3), shall submit to the department:~~

~~(a) both a charity care report and a community benefit report for the preceding year A COPY OF INTERNAL REVENUE SERVICE FORM 990 SCHEDULE H AND ASSOCIATED WORKSHEETS; and~~

~~(b) both a charity care plan FINANCIAL ASSISTANCE POLICY and a community benefit plan for the current calendar year.~~

~~(4) (a) The report Reports required under this section must be on forms and contain information specified by the department PROVIDED TO THE DEPARTMENT WITHIN 30 DAYS OF FILING THE REQUIRED FORMS WITH THE INTERNAL REVENUE SERVICE ANNUALLY.~~

~~(b) To the extent practicable, the department shall limit the information to be submitted for the charity care and community benefit reports required under subsection (3)(a) to data that is already being collected by the hospital.~~

~~(5)(3)~~ Information received by the department through reports, inspections, or provisions of parts 1 and 2 may not be disclosed in a way which ~~that~~ would identify patients. A department employee who discloses information that would identify a patient must be dismissed from employment and subject to the provisions of 45-7-401 and 50-16-551, if applicable, unless the disclosure was authorized as permitted by law.

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1 ~~(6)(4)~~ Information and statistical reports from health care facilities ~~which that~~ are considered
2 necessary by the department for health planning and resource development activities must be made available
3 to the public and the health planning agencies within the state. Applications by health care facilities for
4 certificates of need and any information relevant to review of these applications, pursuant to part 3, must be
5 accessible to the public."

6

7 **Section 2.** ~~Section 50-5-112, MCA, is amended to read:~~

8 ~~"50-5-112. — Civil penalties. (1) A Except as provided in 50-5-121, a person who commits an act~~
9 ~~prohibited by 50-5-111 is subject to a civil penalty not to exceed \$1,000 for each day that a facility is in violation~~
10 ~~of a provision of part 1 or 2 of this chapter or of a rule, license provision, or order adopted or issued pursuant to~~
11 ~~part 1 or 2. The department or, upon request of the department, the county attorney of the county in which the~~
12 ~~health care facility in question is located may petition the court to impose the civil penalty. Venue for an action~~
13 ~~to collect a civil penalty pursuant to this section is in the county in which the facility is located.~~

14 ~~(2) — In determining the amount of penalty to be assessed for an alleged violation under this section,~~
15 ~~the court shall consider:~~

16 ~~(a) — the gravity of the violation in terms of the degree of physical or mental harm to a resident or~~
17 ~~patient;~~

18 ~~(b) — the degree of harm to the health, safety, rights, security, or welfare of a resident or patient;~~

19 ~~(c) — the degree of deviation committed by the facility from a requirement imposed by part 1 or 2 of~~
20 ~~this chapter or by a rule, license provision, or order adopted or issued pursuant to part 1 or 2; and~~

21 ~~(d) — other matters as justice may require.~~

22 ~~(3) — A penalty collected under this section must be deposited in the state general fund.~~

23 ~~(4) — In addition to or exclusive of the remedy provided in subsection (1), the department may pursue~~
24 ~~remedies available for a violation, as provided for in 50-5-108, or any other remedies available to it."~~

25

26 **Section 3.** ~~Section 50-5-121, MCA, is amended to read:~~

27 ~~"50-5-121. — Hospital discrimination based on ability to pay prohibited -- community benefit and~~

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1 ~~charity care FINANCIAL ASSISTANCE requirements -- rulemaking authority. (1) (a) Except as provided in~~
2 ~~subsection (3), a A hospital, CRITICAL ACCESS HOSPITAL, OR RURAL EMERGENCY HOSPITAL must have in writing:~~
3 ~~(a) a policy applying to all patients, including medicaid and medicare patients, that prohibits~~
4 ~~discrimination based on a patient's ability to pay; and,~~
5 ~~(b) a charity care policy consistent with industry standards applicable to the area the facility serves~~
6 ~~and the tax status of the hospital.~~
7 ~~(2)(b)(2) — A hospital, CRITICAL ACCESS HOSPITAL, OR RURAL EMERGENCY HOSPITAL may not transfer~~
8 ~~a patient to another hospital or health care facility based on the patient's ability to pay for health care services.~~
9 ~~(2)(3) — (a) A hospital operating as a nonprofit health care facility must have in writing:~~
10 ~~(i) a charity care FINANCIAL ASSISTANCE policy consistent with federal standards and standards~~
11 ~~established by the department, applicable to the area the hospital serves; and~~
12 ~~(ii) a community benefit policy consistent with federal standards and standards established by the~~
13 ~~department.~~
14 ~~(b) — A hospital, CRITICAL ACCESS HOSPITAL, OR RURAL EMERGENCY HOSPITAL operating as a nonprofit~~
15 ~~health care facility shall:~~
16 ~~(i) adhere to the written charity care FINANCIAL ASSISTANCE and community benefit policies; and~~
17 ~~(ii) make the policies available to the public.~~
18 ~~(3) — A specialty hospital must have in writing a charity care policy consistent with industry standards for~~
19 ~~nonprofit hospitals irrespective of the tax status of the specialty hospital.~~
20 ~~(3)(4) — No later than July 1, 2024, the department shall adopt rules to implement the charity care~~
21 ~~FINANCIAL ASSISTANCE and community benefit requirements of this part, WHICH MUST BE SPECIFIC TO THE HOSPITAL~~
22 ~~AND THE AREA OR AREAS IT SERVES, including RULES MUST INCLUDE but ARE not limited to rules to THAT:~~
23 ~~(a) — define charity care FINANCIAL ASSISTANCE and community benefit CONSISTENT WITH FEDERAL~~
24 ~~STANDARDS, WHEREVER POSSIBLE;~~
25 ~~(b) — establish the standards for community benefit and charity care FINANCIAL ASSISTANCE applicable~~
26 ~~to hospitals operating as nonprofit health care facilities CONSISTENT WITH FEDERAL STANDARDS, WHEREVER~~
27 ~~POSSIBLE; AND~~

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1 ~~(c) — establish the information to be reported and verified to ensure a hospital operating as a~~
2 ~~nonprofit health care facility is complying with charity care and community benefit standards; and~~
3 ~~(d)(C) — establish penalties for failing to comply with 50-5-106 and this section. The penalties may be in~~
4 ~~addition to the penalties provided for in 50-5-112."~~

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

7 ~~"50-5-245. Department to license specialty hospitals — standards — rulemaking — moratorium.~~

8 ~~(1) Subject to subsection (4), the department shall license specialty hospitals using the requirements for~~
9 ~~licensure of hospitals and the procedure provided for in parts 1 and 2 of this chapter.~~

10 ~~(2) — Prior to approving an application under this section, the department shall adopt rules that are~~
11 ~~necessary to implement and administer this section.~~

12 ~~(3) — Notwithstanding the requirements of subsection (1), the department may not accept an~~
13 ~~application or issue a license for a specialty hospital before July 1, 2009.~~

14 ~~(4) — A health care facility licensed by the department and in existence on May 8, 2007, may not~~
15 ~~change its licensure status in order to qualify for licensure as a specialty hospital unless the health care facility~~
16 ~~is licensed as a hospital and the hospital is not subject to the provisions of 50-5-246 and subsections (5)~~
17 ~~through (9) of this section.~~

18 ~~(5) — A specialty hospital meets the 24-hour emergency care requirements for a hospital, as defined~~
19 ~~in 50-5-101, if it has an agreement with a hospital in the area served by the specialty hospital stating that the~~
20 ~~hospital will provide 24-hour emergency care to patients of the specialty hospital.~~

21 ~~(6) — A specialty hospital applying for a license must have:~~

22 ~~(a) — a charity care FINANCIAL ASSISTANCE policy meeting the provisions of 50-5-121 and, if~~
23 ~~applicable, subsection (9) of this section if the hospital will be operating as a nonprofit health care facility or~~
24 ~~meeting the provisions of subsection (9) of this section, if applicable; and~~

25 ~~(b) — a joint venture relationship with a hospital; or~~

26 ~~(c) — a signed statement from a nonprofit hospital operating as a nonprofit health care facility in the~~
27 ~~community acknowledging that the hospital declined a bona fide, good faith opportunity to participate in a joint~~

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1 ~~venture with the applicant.~~

2 ~~(7) — A specialty hospital owned by physicians and proposed as a joint venture with a nonprofit~~
3 ~~hospital operating as a nonprofit health care facility in the community may be licensed if:~~

4 ~~(a) — the majority of partnering physicians hold active privileges with the joint venture hospital; and~~

5 ~~(b) — the partnering hospital holds an ownership interest of at least 50%.~~

6 ~~(8) — This section does not prohibit physicians who are partners in a specialty hospital that is~~
7 ~~proposed as a joint venture from managing the specialty hospital.~~

8 ~~(9) — The charity care FINANCIAL ASSISTANCE policy for a specialty hospital applying as a joint venture~~
9 ~~with a nonprofit hospital operating as a nonprofit health care facility in the community must be the same as the~~
10 ~~policy used by the nonprofit hospital."~~

11
12 ~~NEW SECTION. Section 5. Transition. (1) The department of public health and human services may~~
13 ~~not require the submission of the charity care report FINANCIAL ASSISTANCE POLICY and community benefit report~~
14 ~~required under [this act] until the department has adopted rules specifying the information to be reported.~~

15 ~~(2) — A hospital charity care FINANCIAL ASSISTANCE policy required under [this act] may comply with~~
16 ~~only federal charity care FINANCIAL ASSISTANCE standards until the department of public health and human~~
17 ~~services has adopted rules specifying state standards for the policy.~~

18
19
20 ~~NEW SECTION. Section 6. Codification instruction. [Sections 1 through 3] are intended to be~~
21 ~~codified as an integral part of Title 50, chapter 5, part 1, and the provisions of Title 50, chapter 5, part 1, apply~~
22 ~~to [sections 1 through 3].~~

23
24 ~~COORDINATION SECTION. Section 7. Coordination instruction. If both House Bill No. 312 and~~
25 ~~[this act] are passed and approved, then:~~

26 ~~(1) [section 2(1)(a) and (1)(b) of this act] must be amended to read:~~

27 ~~"(a) 3% for critical access and rural emergency hospitals; or~~

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- 1 (b) 7% for a hospital that is not a critical access hospital or a rural emergency hospital"
- 2 (2) the definition of "nonprofit hospital" in [section 4(41) of this act] must be amended to read:
- 3 "(41) (a) "Nonprofit hospital" means a hospital, critical access hospital, rural emergency hospital, or
- 4 specialty hospital owned or operated by one or more nonprofit corporations or associations."
- 5 - END -

AMENDED