



AN ACT PROVIDING FOR DESIGNATION OF RURAL EMERGENCY HOSPITALS; ESTABLISHING REQUIREMENTS FOR DESIGNATION; PROVIDING A DEFINITION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-66-101, 33-36-103, 40-6-402, 50-5-101, 50-5-701, 50-5-1301, 50-16-103, AND 50-17-102, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Designation as rural emergency hospital -- requirements -- rulemaking.** (1) The department may designate as a rural emergency hospital a facility that operates for the purpose of providing emergency department services, observation care, and outpatient services and in which the annual per patient average length of stay does not exceed 24 hours. The designation is available to a facility that, as of December 27, 2020, was licensed as:

- (a) a critical access hospital; or
- (b) a hospital with 50 or fewer beds if the hospital is:
  - (i) located in a county in a rural area as defined in the federal Social Security Act, 42 U.S.C.

1395ww(d)(2)(D); or

- (ii) deemed as being located in a rural area pursuant to the federal Social Security Act, 42 U.S.C.

1395ww(d)(8)(E).

- (2) A hospital seeking rural emergency hospital designation:

- (a) shall maintain a 24-hour emergency department that:
  - (i) provides emergency and observation care;
  - (ii) is open 7 days a week; and
  - (iii) is staffed with a physician, an advanced practice registered nurse certified as a nurse

practitioner or clinical nurse specialist, or a physician assistant;

- (b) must have:
  - (i) a transfer agreement in effect with a hospital that is designated by the department pursuant to 50-6-410 as, at a minimum, a regional trauma center; and
  - (ii) any other transfer agreement necessary for patient care;
  - (c) shall provide laboratory services; and
  - (d) shall provide pharmacy services or maintain a drug storage area.
- (3) A rural emergency hospital may:
  - (a) provide outpatient services as allowed by the department by rule, in accordance with federal regulations governing rural emergency hospitals; and
  - (b) own and operate an entity that provides ambulance services.
- (4) A rural emergency hospital may not have inpatient beds unless the hospital has a unit that is a distinct part of the hospital and is licensed as a skilled nursing facility to provide extended posthospital care.
- (5) A facility that applies for a rural emergency hospital designation shall include with its application:
  - (a) an action plan for initiating rural emergency hospital services, including a detailed transition plan that lists the specific services the facility will retain, modify, add, and discontinue;
  - (b) a description of services that the facility intends to provide on an outpatient basis; and
  - (c) other information as required by the department by rule.
- (6) A hospital or critical access hospital that applies for the designation and elects to operate as a rural emergency hospital may later transition back to its original license as a hospital or critical access hospital.
- (7) Before approving an application under this section, the department shall adopt rules necessary to implement this section, including but not limited to:
  - (a) licensure standards that satisfy the requirement for reimbursement by federal health care programs as a rural emergency hospital;
  - (b) procedures for applying for and receiving designation as a rural emergency hospital; and
  - (c) services the facility may provide on an outpatient basis, in accordance with federal regulations governing rural emergency hospital designation.

**Section 2.** Section 15-66-101, MCA, is amended to read:

**"15-66-101. (Temporary) Definitions.** For purposes of this chapter, the following definitions apply:

- (1) (a) "Hospital" has the meaning provided in 50-5-101 and includes a critical access hospital and a rural emergency hospital as those terms are defined in 50-5-101.
- (b) The term does not include the Montana state hospital or a hospital or facility operated by the state, a political subdivision of the state, the United States, or an Indian tribe or any facility authorized under the Indian Health Care Improvement Act.
- (2) (a) "Hospital outpatient revenue" means the gross revenue from a hospital's charges for services provided on an outpatient basis.
- (b) The term does not include charges for professional services provided as part of the outpatient treatment.
- (3) (a) "Inpatient bed day" means a day of inpatient care provided to a patient in a hospital. A day begins at midnight and ends 24 hours later. A part of a day, including the day of admission, counts as a full day. The day of discharge or death is not counted as a day. If admission and discharge or death occur on the same day, the day is considered a day of admission and is counted as one inpatient bed day. Inpatient bed days include all inpatient hospital benefit days as defined for medicare reporting purposes in section 20.1 of chapter 3 of the centers for medicare and medicaid services publication 100-02, the Medicare Benefit Policy Manual. Inpatient bed days also include all nursery days during which a newborn infant receives care in a nursery.
- (b) The term does not include observation days or days of care in a swing bed, as defined in 50-5-101.
- (4) "Patient" means an individual obtaining skilled medical and nursing services in a hospital. The term includes newborn infants.
- (5) "Report" means the report of inpatient bed days and hospital outpatient revenue required in 15-66-201.
- (6) "Utilization fee" or "fee" means the fees required to be paid as provided in 15-66-102. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment; terminates June 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019.)

**15-66-101. (Temporary -- effective on occurrence of contingency) Definitions.** For purposes of

this chapter, the following definitions apply:

- (1) (a) "Hospital" means a facility licensed as a hospital pursuant to Title 50, chapter 5, and includes a critical access hospital.
- (b) The term does not include the Montana state hospital.
- (2) (a) "Inpatient bed day" means a day of inpatient care provided to a patient in a hospital. A day begins at midnight and ends 24 hours later. A part of a day, including the day of admission, counts as a full day. The day of discharge or death is not counted as a day. If admission and discharge or death occur on the same day, the day is considered a day of admission and is counted as one inpatient bed day. Inpatient bed days include all inpatient hospital benefit days as defined for medicare reporting purposes in section 20.1 of chapter 3 of the centers for medicare and medicaid services publication 100-02, the Medicare Benefit Policy Manual. Inpatient bed days also include all nursery days during which a newborn infant receives care in a nursery.
- (b) The term does not include observation days or days of care in a swing bed, as defined in 50-5-101.
- (3) "Patient" means an individual obtaining skilled medical and nursing services in a hospital. The term includes newborn infants.
- (4) "Report" means the report of inpatient bed days required in 15-66-201.
- (5) "Utilization fee" or "fee" means the fee required to be paid for each inpatient bed day, as provided in 15-66-102. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

**Section 3.** Section 33-36-103, MCA, is amended to read:

**"33-36-103. Definitions.** As used in this chapter, the following definitions apply:

- (1) "Closed plan" means a managed care plan that requires covered persons to use only participating providers under the terms of the managed care plan.
- (2) "Combination plan" means an open plan with a closed component.
- (3) "Covered benefits" means those health care services to which a covered person is entitled under the terms of a health benefit plan.
- (4) "Covered person" means a policyholder, subscriber, or enrollee or other individual participating

in a health benefit plan.

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

(6) "Emergency medical condition" means a condition manifesting itself by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in any of the following:

- (a) the covered person's health would be in serious jeopardy;
- (b) the covered person's bodily functions would be seriously impaired; or
- (c) a bodily organ or part would be seriously damaged.

(7) "Emergency services" means health care items and services furnished or required to evaluate and treat an emergency medical condition.

(8) "Facility" means an institution providing health care services or a health care setting, including but not limited to a hospital, medical assistance facility, ~~or critical access hospital~~, or rural emergency hospital, as those terms are defined in 50-5-101, or other licensed inpatient center, an outpatient center for surgical services, a treatment center, a skilled nursing center, a residential treatment center, a diagnostic laboratory, a diagnostic imaging center, or a rehabilitation or other therapeutic health setting.

(9) "Health benefit plan" means a policy, contract, certificate, or agreement entered into, offered, or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

(10) "Health care professional" means a physician or other health care practitioner licensed, accredited, or certified pursuant to the laws of this state to perform specified health care services consistent with state law.

(11) "Health care provider" or "provider" means a health care professional or a facility.

(12) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(13) "Health carrier" means an entity subject to the insurance laws and rules of this state that contracts, offers to contract, or enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a disability insurer, health maintenance organization, or

health service corporation or another entity providing a health benefit plan.

(14) "Intermediary" means a person authorized to negotiate, execute, and be a party to a contract between a health carrier and a provider or between a health carrier and a network.

(15) "Managed care plan" means a health benefit plan that either requires or creates incentives, including financial incentives, for a covered person to use health care providers managed, owned, under contract with, or employed by a health carrier, but not preferred provider organizations or other provider networks operated in a fee-for-service indemnity environment.

(16) "Medically necessary" means services, medicines, or supplies that are necessary and appropriate for the diagnosis or treatment of a covered person's illness, injury, or medical condition according to accepted standards of medical practice and that are not provided only as a convenience.

(17) "Network" means the group of participating providers that provides health care services to a managed care plan.

(18) "Open plan" means a managed care plan other than a closed plan that provides incentives, including financial incentives, for covered persons to use participating providers under the terms of the managed care plan.

(19) "Participating provider" means a provider who, under a contract with a health carrier or with the health carrier's contractor, subcontractor, or intermediary, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health carrier.

(20) "Primary care professional" means a participating health care professional designated by the health carrier to supervise, coordinate, or provide initial care or continuing care to a covered person and who may be required by the health carrier to initiate a referral for specialty care and to maintain supervision of health care services rendered to the covered person.

(21) "Quality assessment" means the measurement and evaluation of the quality and outcomes of medical care provided to individuals, groups, or populations.

(22) "Quality assurance" means quality assessment and quality improvement.

(23) "Quality improvement" means an effort to improve the processes and outcomes related to the provision of health care services within a health plan."

**Section 4.** Section 40-6-402, MCA, is amended to read:

**"40-6-402. Definitions.** As used in this part, the following definitions apply:

- (1) "Child-placing agency" means an agency licensed under Title 52, chapter 8, part 1.
- (2) "Court" means a court of record in a competent jurisdiction and, in Montana, means a district court or a tribal court.
- (3) "Department" means the department of public health and human services provided for in 2-15-2201.
- (4) "Emergency services provider" means:
  - (a) a uniformed or otherwise identifiable employee of a fire department, hospital, or law enforcement agency when the individual is on duty inside the premises of the fire department, hospital, or law enforcement agency; or
  - (b) any law enforcement officer, as defined in 7-32-201, who is in uniform or is otherwise identifiable.
- (5) "Fire department" means a governmental fire agency organized under Title 7, chapter 33.
- (6) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.
- (7) "Guardian ad litem" means a person appointed to represent a newborn under Title 41, chapter 3.
- (8) "Hospital" has the meaning provided in 50-5-101 and includes a rural emergency hospital.
- (9) "Law enforcement agency" means a police department, a sheriff's office, a detention center as defined in 7-32-2241, or a correctional institution as defined in 45-2-101.
- (10) "Newborn" means an infant who a physician reasonably believes to be no more than 30 days old.
- (11) "Surrender" means to leave a newborn with an emergency services provider without expressing an intent to return for the newborn."

**Section 5.** 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.
    - (iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department rule as disabled.
    - (iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine administration.
      - (B) The term does not include the administration of prescriptive medications.
- (6) "Affected person" means an applicant for a certificate of need, a long-term care facility located



in the geographic area affected by the application, an agency that establishes rates for long-term care facilities, or a third-party payer who reimburses long-term care facilities in the area affected by the proposal.

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

(8) "Capital expenditure" means:

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

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

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

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

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

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

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

(14) "Comparative review" means a joint review of two or more certificate of need applications that are determined by the department to be competitive in that the granting of a certificate of need to one of the

applicants would substantially prejudice the department's review of the other applications.

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

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

- (a) an existing health care facility; or
- (b) a long-term care facility as defined in 50-5-301.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) specialty hospitals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(40) "Nonprofit health care facility" means a health care facility owned or operated by one or more

nonprofit corporations or associations.

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

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

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

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

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

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

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

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

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

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

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

(50) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in

the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

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

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

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

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

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

(56) "Rural emergency hospital" means a facility defined in 42 U.S.C. 1395x(kkk)(2) that is designated by the department as a rural emergency hospital in accordance with [section 1].

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

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

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

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

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

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

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

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

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

**Section 6.** Section 50-5-701, MCA, is amended to read:

**"50-5-701. Definitions.** As used in this part, the following definitions apply:

(1) "Aftercare" means assistance provided by a lay caregiver to a patient after the patient's discharge from a hospital and limited to the patient's condition at the time of discharge, including but not limited to assistance with:

- (a) basic activities of daily living;
- (b) instrumental activities of daily living; and
- (c) medical or nursing tasks that do not require a licensed professional.

(2) "Discharge" means a patient's exit or release from a hospital to the patient's residence after an inpatient hospital admission.

(3) "Entry" means an individual's admission into a hospital for the purposes of inpatient care.

(4) "Hospital" means a hospital, ~~or~~ critical access hospital, or rural emergency hospital as those terms are defined in 50-5-101.



(5) (a) "Lay caregiver" means an individual designated as a lay caregiver by a patient or the patient's legal representative to provide aftercare to a patient in the patient's residence. The term includes but is not limited to a spouse, relative, partner, friend, or neighbor.

(b) The term does not include an individual who receives a third-party payment for providing post-discharge assistance to a patient unless the individual is providing assistance under a Medicaid self-directed service delivery model authorized by the state.

(6) "Legal representative" means:

- (a) a legal guardian;
- (b) a person who holds a medical power of attorney; or
- (c) a representative named in an advance health care directive recognized under Montana law or the law of another state.

(7) (a) "Residence" means a dwelling that the patient considers to be the patient's home, including the home of a lay caregiver, relative, or friend.

(b) The term does not include an assisted living facility, state-licensed group home, hospital, rehabilitation facility, or skilled nursing facility."

**Section 7.** Section 50-5-1301, MCA, is amended to read:

**"50-5-1301. Definitions.** As used in this part, the following definitions apply:

- (1) "Adult" means any person 18 years of age or older.
- (2) "Advanced practice registered nurse" means an individual who is licensed under Title 37, chapter 8, to practice professional nursing in this state and who has fulfilled the requirements of the board of nursing pursuant to 37-8-202 and 37-8-409.
- (3) "Attending health care provider" means the physician, advanced practice registered nurse, or physician assistant, whether selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient.
- (4) "Decisional capacity" means the ability to provide informed consent to or refuse medical treatment or the ability to make an informed health care decision as determined by a health care provider experienced in this type of assessment.

- (5) "Health care facility" means a hospital, critical access hospital, rural emergency hospital, or facility providing skilled nursing care as those terms are defined in 50-5-101.
- (6) "Health care provider" means any individual licensed or certified by the state to provide health care.
- (7) "Interested person" means a patient's:
- (a) spouse;
  - (b) parent;
  - (c) adult child, sibling, or grandchild; or
  - (d) close friend.
- (8) "Medical proxy decisionmaker" means a physician or advanced practice registered nurse designated by the attending health care provider.
- (9) "Physician" means an individual licensed pursuant to Title 37, chapter 3.
- (10) "Physician assistant" means an individual licensed pursuant to Title 37, chapter 20, whose duties and delegation agreement authorizes the individual to undertake the activities allowed under this part.
- (11) (a) "Lay proxy decisionmaker" means an interested person selected pursuant to this part authorized to make medical decisions and discharge and transfer dispositions for a patient who lacks decisional capacity.
- (b) The term does not include the patient's attending health care provider."

**Section 8.** Section 50-16-103, MCA, is amended to read:

**"50-16-103. Information on shaken baby syndrome -- program.** (1) There is a shaken baby syndrome education program established in the department.

- (2) The department shall:
- (a) develop educational materials that present readily comprehensible information on shaken baby syndrome; and
  - (b) post the materials on the department's website in an easily accessible format.
- (3) The materials required to be produced by this section must be distributed at no cost to the recipients.

(4) For purposes of 50-16-104 and this section, the following definitions apply:

(a) "Child care facility" means a day-care center, day-care facility, family day-care home, or group day-care home as those terms are defined in 52-2-703.

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

(c) "Hospital" means a hospital or rural emergency hospital, as those terms are defined in 50-5-101, that regularly provides maternity, pediatric, or obstetrical care.

(d) "Parent" means either parent, unless the parents are not married or are separated or divorced, in which case, the term means the custodial parent. The term also means a prospective adoptive parent or foster parent with whom the child is placed.

(e) "Shaken baby syndrome" means damage to the brain of an infant or young child, including but not limited to swelling that impedes the supply of oxygen to the brain or any degree of brain damage that results from the infant or young child having been forcefully shaken."

**Section 9.** Section 50-17-102, MCA, is amended to read:

**"50-17-102. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Acute heart attack" means a heart attack that involves a prolonged period of blocked blood supply, affects a large area of the heart, and is measured by an elevation of the ST segment of an electrocardiogram.

(2) "Approved course of treatment" means a course of treatment for tuberculosis that includes medical treatment prescribed by a physician and consistent with accepted medical standards, as well as appropriate followup to ensure public health and safety as set out in the rules of the department.

(3) "Critical access hospital" has the meaning provided in 50-5-101.

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

(5) "Emergency medical service" has the meaning provided in 50-6-302.

(6) "Hospital" has the meaning provided in 50-5-101 and includes a rural emergency hospital as

defined in 50-5-101.

(7) "Local board" means a city, county, city-county, or district board of health.

(8) "Receiving hospital" means a hospital capable of performing coronary revascularization for a patient suffering an acute heart attack.

(9) "Treatment location" or "location" means a hospital or other place designated by a local health officer where the person diagnosed with tuberculosis must remain to be available for an approved course of treatment.

(10) (a) "Tuberculosis" means a disease caused by mycobacterium tuberculosis or mycobacterium tuberculosis complex.

(b) The term does not include infection by mycobacterium bovis in a nonpulmonary site that is a result of instillation of bacille calmette-guerin as part of cancer therapy."

**Section 10. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 50, chapter 5, part 2, and the provisions of Title 50, chapter 5, apply to [section 1].

**Section 11. Effective date.** [This act] is effective July 1, 2023.

- END -

I hereby certify that the within bill,  
HB 312, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

HOUSE BILL NO. 312

INTRODUCED BY J. ETCHART, M. CAFERRO, R. MARSHALL, L. SMITH

AN ACT PROVIDING FOR DESIGNATION OF RURAL EMERGENCY HOSPITALS; ESTABLISHING REQUIREMENTS FOR DESIGNATION; PROVIDING A DEFINITION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-66-101, 33-36-103, 40-6-402, 50-5-101, 50-5-701, 50-5-1301, 50-16-103, AND 50-17-102, MCA; AND PROVIDING AN EFFECTIVE DATE.