



Transition Review Committee

68th Montana Legislature

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July 15, 2024

To: Transition Review Committee
From: Maddie Krezowski, Staff Attorney
Re: Statutory Analysis of the Application of HB 29

Questions Presented

Does Section 53-21-405(1)(a)(i), MCA (subsection 7(1)(a)(i) of HB29) require the Department of Public Health and Human Services (Department) to report to the Transition Review Committee on the number of all patients at the Montana State Hospital with a primary diagnosis of Alzheimer's disease, other forms of dementia, or traumatic brain injury or only the number of those patients meeting those criteria that reside in the Spratt Unit of the Montana State Hospital?

Short Answer

Section 53-21-405(1)(a)(i), MCA, (subsection 7(1)(a)(i) of HB29) requires the Department to report to the Transition Review Committee on the number of all patients at the Montana State Hospital with a primary diagnosis of Alzheimer's disease, other forms of dementia, or traumatic brain injury.

Analysis

Relevant Statutory Provisions

Section 7 of HB29 – 53-21-405, MCA

Subsection (1)(a) of Section 7 of HB 29, codified at 53-21-405(1)(a), MCA, requires the Transition Review Committee to hear regular reports from the Department on:

- (i) the number of Montana state hospital patients with a primary diagnosis of Alzheimer's disease, other forms of dementia, or traumatic brain injury;
- (ii) efforts the department is making to find community placements for individuals with those diagnoses, including any barriers to discharging the individuals from the Montana state hospital and the steps being taken to alleviate the barriers; and
- (iii) activities being taken to identify and develop community-based services and to transition into those services individuals with a primary diagnosis of

Alzheimer's disease, other forms of dementia, or traumatic brain injury who meet only the commitment criteria of 53-21-126(1)(a) or (1)(d)(i)(B);

Subsection (2) of section 7 of HB29 requires the report under subsection (1)(a)(i) to include:

- (a) the number of those patients admitted to the hospital;
- (b) the number currently receiving treatment; and
- (c) the number discharged.

53-21-601, MCA

Section 53-21-601(1), MCA, provides that “[t]he facility providing mental health care services at Warm Springs, Montana, is the Montana state hospital and as its primary function provides care and treatment of mentally ill persons.”

Principles of Statutory Interpretation

Section 1-2-101, MCA, provides that “[i]n the construction of a statute, the office of the judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted or to omit what has been inserted. Where there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all.”

The Montana Supreme Court has explained that a court’s:

objective when interpreting a statute is to implement the objectives the legislature sought to achieve. [A court] ascertain[s] the legislature's intent, in the first instance, from the plain language of the statute. If the intent of the legislature can be determined from the plain meaning of the words used in the statute, the plain meaning controls, and [the c]ourt need go no further nor apply any other means of interpretation. [A court] examine[s] legislative history only when the intent cannot be ascertained from the language of the statute.

Rogers v. Lewis & Clark Cty., 2020 MT 230, ¶¶ 31-32, 401 Mont. 228, 472 P.3d 171 (quotation and citations omitted).

If the meaning of a statute is ambiguous because its plain language is subject to more than one reasonable interpretation, a court may review legislative history or apply a canon of statutory construction to determine the legislative intent. See *Mont. Env'tl. Info. Ctr. v. Mont. Dep't of Pub. Serv. Regulation.*, 2024 MT 56, ¶ 24, 415 Mont. 499, 545 P.3d 69. If a statute is ambiguous, a court in Montana may give “respectful consideration” to an agency’s interpretation of a statute. *Mont. Env'tl. Info. Ctr. v. Mont. Dep't of Env'tl. Quality*, 2019 MT 213, ¶ 24, n.9, 397 Mont. 161, 451 P.3d 493 (citing *Mont. Power Co. v. Mont. PSC*, 2001 MT 102, ¶ 25, 305 Mont. 260, 26 P.3d 91). But, if “the intent of the Legislature can be determined from the plain meaning of the words used in the statute, the plain meaning controls.” *Clark Fork Coal. v. Tubbs*, 2016 MT 229, ¶ 20, 384 Mont. 503, 380 P.3d 771

Statutory Analysis

HB29 aims to end the involuntary commitment of patients to the Montana State Hospital who have a primary diagnosis of Alzheimer’s disease, other forms of dementia, or traumatic brain injury when those individuals meet only the commitment criteria outlined in 53-21-126(1)(a) or (1)(d)(i)(B).¹ See 53-21-401(4)(a), MCA. Beginning July 1, 2025, individuals with such a primary diagnosis may not be involuntarily committed under the commitment criteria outlined in 53-21-126(1)(a) or (1)(d)(i)(B). See 53-21-126 and -127, MCA.

Section 53-21-403(4), MCA, [Section 5 of HB29], requires the department to transition out of the Montana State Hospital all patients with such primary diagnosis and who only meet the commitment criteria outlined in 53-21-126(1)(a) or (1)(d)(i)(B), MCA, by June 30, 2025. Additionally, HB29 requires the Department to develop and implement a plan to ensure the availability of community-based services for individuals with a primary diagnosis of Alzheimer’s disease, other forms of dementia, or traumatic brain injury “who might otherwise be at risk of involuntary commitment.” See 53-21-403(1), MCA. HB29 creates the Transition Review Committee to review and advise the Department on this transition. See section 53-21-404 and -405, MCA.

Section 53-21-405, MCA [Section 7 of HB29] requires the department to provide the Transition Review Committee with reports on Montana State Hospital Patients with a primary diagnosis of Alzheimer’s disease, other forms of dementia, or traumatic brain injury. See section 53-21-405(2), MCA [Section 7(2) of HB29]. Under the plain language of the statute, this required report is not limited to patients who only meet the commitment criteria outlined in 53-21-126(1)(a) or (1)(d)(i)(B) and are required to be transferred out of the hospital by June 30, 2025. Rather this report includes “Montana state hospital patients with a primary diagnosis of Alzheimer’s disease, other forms of dementia, or traumatic brain injury” with no further limiting language. See section 53-21-405(1)(a)(i), MCA (Section 7(1)(a)(i) of HB29). Title 53, chapter 21, part 4, MCA, does not provide a separate definition for the Montana State Hospital. In part 6 of Chapter 21, however, section 53-21-601(1), MCA, explains that “The facility providing mental health care services at Warm Springs, Montana, is the Montana state hospital and as its primary function provides care and treatment of mentally ill persons.”

The statute states what patients who have a primary diagnosis of Alzheimer’s disease, other forms of dementia, or traumatic brain injury that must be included in the report from the Department to the Transition Review Committee: those patients that are admitted to the Montana

¹ Effective July 1, 2025, section 53-21-126(1)(a) or (1)(d)(i)(B), MCA, provides:

(a) Whether the respondent, because of a mental disorder, is substantially unable to provide for the respondent’s own basic needs of food, clothing, shelter, health, or safety;

(d)(i) whether the respondent’s mental disorder, as demonstrated by the respondent’s recent acts or omissions, will, if untreated, predictable result in deterioration of the respondent’s mental condition to the point at which the respondent will:

(B) be unable to provide for the respondent’s own basic needs of food, clothing, shelter, health, or safety.

State Hospital, which is the “facility providing mental health care services at Warm Springs, Montana.”

Reading section 53-21-405(1)(a)(i), MCA, (Section 7(1)(a)(i) of HB29) in context further supports that it is a broad reporting requirement. Section 53-21-405(1)(a)(i), MCA, (Section 7(1)(a)(iii) of HB29), in the same list of reporting requirements, requires the Department to report on “activities being taken to identify and develop community-based services and to transition into those services individuals with a primary diagnosis of Alzheimer's disease, other forms of dementia, or traumatic brain injury *who meet only the commitment criteria of 53-21-126(1)(a) or (1)(d)(i)(B).*” This subsection demonstrates that the legislature knew how to define the required reporting more narrowly in subsection (1)(a)(i) if it had wanted to but chose not to.

Based on its plain language, section 53-21-405(1)(a)(i), MCA, (Section 7(1)(a)(i) of HB29), requires the Department to report to the Transition Review Committee on the number of all patients at the Montana State Hospital with a primary diagnosis of Alzheimer’s disease, other forms of dementia, or traumatic brain injury.