

SENATE BILL NO. 560

INTRODUCED BY M. REGIER, D. LENZ, J. GILLETTE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO NONPROFIT HOSPITAL COMMUNITY BENEFITS; ESTABLISHING REPORTING REQUIREMENTS FOR COMMUNITY BENEFIT EXPENSES; ASSESSING A FEE IF A NONPROFIT HOSPITAL'S COMMUNITY BENEFIT DOES NOT EQUAL OR EXCEED ITS POTENTIAL PROPERTY TAX LIABILITY; CREATING A CRITICAL ACCESS HEALTH CARE SPECIAL REVENUE ACCOUNT AND FUNDING PROGRAM; PROVIDING A DEFINITION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 50-5-101, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

NEW SECTION. Section 1. Nonprofit hospital reporting requirements -- rulemaking authority.

Each nonprofit hospital shall report its charity care and community benefit spending to the department of public health and human services in a manner provided by the department by rule. The report must include the following information related to the financial assistance and other community benefits spending the nonprofit hospital reported on schedule H of internal revenue service form 990 for the most recent tax year:

(1) the net community benefit expense the nonprofit hospital reported for community health improvement services and community benefit operations and for community building activities and how the expenses related to the needs identified in the most recent community health needs assessment the nonprofit hospital conducted as required under 26 U.S.C. 501(r)(3); and

(2) for expenses reported in the financial assistance at cost, other means-tested government programs, subsidized health services, and bad debt categories:

(a) the net community benefit expense amount reported on schedule H for financial assistance, other means-tested government programs, and subsidized health services;

(b) the total amount the nonprofit hospital reported for bad debt expenses; and

(c) the net costs the nonprofit hospital incurred in each of those categories.

1

2 **NEW SECTION. Section 2. Community benefit to equal potential property tax liability -- fee.** (1)

3 (a) Each nonprofit hospital shall provide a total annual community benefit that exceeds the property tax liability
4 the nonprofit hospital would have incurred during the tax year in which the community benefit is provided.

5 (b) The community benefit must be calculated using the net community benefit expenses, net
6 community building expenses, and total bad debt and medicare shortfall amounts listed by the nonprofit
7 hospital on schedule H of internal revenue service form 990.

8 (2) No later than March 31, each nonprofit hospital shall provide the department of public health
9 and human services with a copy of schedule H for internal revenue service form 990 filed for the most recent
10 tax year. The department of public health and human services shall determine whether the amount of
11 community benefit reported on schedule H exceeds the statement of potential tax liability provided by the
12 department of revenue pursuant to [section 4].

13 (3) If the amount of community benefit spending does not exceed the amount of the nonprofit
14 hospital's potential tax liability, the department of public health and human services shall assess the nonprofit
15 hospital a fee equal to the difference between the potential tax liability and the amount of reported community
16 benefit spending.

17 (4) The department of public health and human services shall deposit money assessed pursuant
18 to this section in the special revenue account provided for in [section 3].

19

20 **NEW SECTION. Section 3. Critical access health care special revenue account -- rulemaking**

21 **authority.** (1) There is an account in the state special revenue fund established in 17-2-102 to the credit of the
22 department of public health and human services to support critical access health care base funding.

23 (2) The account consists of money collected from fees assessed pursuant to [section 2].

24 (3) Money in the account must be used by the department to provide funding no later than June 30
25 of each year on the basis of each bed to each critical access hospital not affiliated with another hospital.

26

27 **NEW SECTION. Section 4. Statement of potential tax liability.** (1) The department of revenue shall
28 prepare and provide to the department of public health and human services a statement indicating the amount

1 of property taxes a nonprofit hospital would have owed on its real property in the prior tax year if the nonprofit
2 hospital had not been exempt from taxation under 15-6-201.

3 (2) The department of revenue shall calculate the property tax using the prior year estimated
4 taxable value and the prior year mills levied by each taxing jurisdiction in which the nonprofit hospital is located.

5 (3) If a nonprofit hospital owns real property in multiple counties, the department of revenue shall
6 prepare a single statement that reflects the total potential tax liability of all the nonprofit hospital's real property.
7

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

9 **"50-5-101. Definitions.** As used in parts 1 through 3 of this chapter, unless the context clearly
10 indicates otherwise, the following definitions apply:

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

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

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

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

21 (b) As used in this subsection (4), the following definitions apply:

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

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

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

28 (iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing

1 such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine
2 administration.

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

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

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

10 (7) "Capital expenditure" means:

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

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

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

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

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

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

28 (12) "Congregate" means the provision of group services designed especially for elderly or disabled

1 persons who require supportive services and housing.

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

4 (a) an existing health care facility; or

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

6 (14) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C.
7 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to 50-
8 5-233.

9 (15) "Department" means the department of public health and human services provided for in 2-15-
10 2201.

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

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

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

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

17 (20) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency,
18 private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or
19 designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any
20 individual. The term includes abortion clinics as defined in 50-20-901, chemical dependency facilities, critical
21 access hospitals, eating disorder centers, end-stage renal dialysis facilities, home health agencies, home
22 infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities
23 for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for
24 primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities,
25 residential treatment facilities, and rural emergency hospitals.

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

28 (21) "Home health agency" means a public agency or private organization or subdivision of the

1 agency or organization that is engaged in providing home health services to individuals in the places where
2 they live. Home health services must include the services of a licensed registered nurse and at least one other
3 therapeutic service and may include additional support services.

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

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

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

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

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

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

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

27 (ii) specialty hospitals.

28 (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.

(26) "Infirmity" 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 "infirmity--A" provides outpatient and inpatient care;

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

(27) (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.

(28) "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.

(29) "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.

(30) "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.

(31) (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

1 accommodations providing for transients, students, or individuals who do not require institutional health care; or
2 correctional facilities operating under the authority of the department of corrections.

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

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

11 (b) either is located in a county with fewer than six residents a square mile or is located more than
12 35 road miles from the nearest hospital.

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

16 (34) "Nonprofit health care facility" means a health care facility owned or operated by one or more
17 nonprofit corporations or associations.

18 (35) (a) "Nonprofit hospital" means a hospital owned or operated by one or more nonprofit
19 corporations or associations.

20 (b) The term does not include specialty hospitals or hospitals specializing in providing health
21 services for psychiatric, developmentally disabled, and tubercular patients.

22 ~~(35)(36)~~ "Offer" means the representation by a health care facility that it can provide specific health
23 services.

24 ~~(36)(37)~~ (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and
25 prevention for behavioral problems that endanger the health, interpersonal relationships, or educational
26 functions of a youth and that:

27 (i) serves either adjudicated or nonadjudicated youth;

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

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

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

4 ~~(37)~~(38)"Outpatient center for primary care" means a facility that provides, under the direction of a
5 licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient
6 center for surgical services.

7 ~~(38)~~(39)"Outpatient center for surgical services" means a clinic, infirmary, or other institution or
8 organization that is specifically designed and operated to provide surgical services to patients not requiring
9 hospitalization and that may include recovery care beds.

10 ~~(39)~~(40)"Patient" means an individual obtaining services, including skilled nursing care, from a health
11 care facility.

12 ~~(40)~~(41)"Person" means an individual, firm, partnership, association, organization, agency, institution,
13 corporation, trust, estate, or governmental unit, whether organized for profit or not.

14 ~~(41)~~(42)"Personal care" means the provision of services and care for residents who need some
15 assistance in performing the activities of daily living.

16 ~~(42)~~(43)"Practitioner" means an individual licensed by the department of labor and industry who has
17 assessment, admission, and prescription authority.

18 ~~(43)~~(44)"Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24
19 hours by a patient recovering from surgery or other treatment.

20 ~~(44)~~(45)"Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in
21 the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services,
22 psychological and social services, or vocational evaluation and training or any combination of these services
23 and in which the major portion of the services is furnished within the facility.

24 ~~(45)~~(46)"Resident" means an individual who is in a long-term care facility or in a residential care facility.

25 ~~(46)~~(47)"Residential care facility" means an adult day-care center, an adult foster care home, an
26 assisted living facility, or a retirement home.

27 ~~(47)~~(48)"Residential psychiatric care" means active psychiatric treatment provided in a residential
28 treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or

1 behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the
2 individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's
3 discharge to less restrictive levels of care at the earliest possible time.

4 ~~(48)~~(49)"Residential treatment facility" means a facility operated for the primary purpose of providing
5 residential psychiatric care to individuals under 21 years of age.

6 ~~(49)~~(50)"Retirement home" means a building or buildings in which separate living accommodations are
7 rented or leased to individuals who use those accommodations as their primary residence.

8 ~~(50)~~(51)"Rural emergency hospital" means a facility defined in 42 U.S.C. 1395x(kkk)(2) that is
9 designated by the department as a rural emergency hospital in accordance with 50-5-234.

10 ~~(54)~~(52)"Skilled nursing care" means the provision of nursing care services, health-related services,
11 and social services under the supervision of a licensed registered nurse on a 24-hour basis.

12 ~~(52)~~(53)(a) "Specialty hospital" means a subclass of hospital that is exclusively engaged in the
13 diagnosis, care, or treatment of one or more of the following categories:

14 (i) patients with a cardiac condition;

15 (ii) patients with an orthopedic condition;

16 (iii) patients undergoing a surgical procedure; or

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

18 (b) For purposes of this subsection ~~(52)~~ (53), a specialty hospital may provide other services for
19 medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise
20 provided by law if the care encompasses 35% or less of the hospital services.

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

22 (i) psychiatric hospitals;

23 (ii) rehabilitation hospitals;

24 (iii) children's hospitals;

25 (iv) long-term care hospitals; or

26 (v) critical access hospitals.

27 ~~(53)~~(54)"State long-term care facilities plan" means the plan prepared by the department to project the
28 need for long-term care facilities within Montana and approved by the governor and a statewide health

1 coordinating council appointed by the director of the department.

2 ~~(54)~~(55)"Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either
3 acute care or extended skilled nursing care to a patient."

5 NEW SECTION. Section 6. Codification instruction. (1) [Sections 1 through 3] are intended to be
6 codified as an integral part of Title 50, chapter 5, part 1, and the provisions of Title 50, chapter 5, part 1, apply
7 to [sections 1 through 3].

(2) [Section 4] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 4].

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11 NEW SECTION. Section 7. Effective date. [This act] is effective January 1, 2026.

12 - END -