

HOUSE BILL NO. 566

INTRODUCED BY B. BESSETTE

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING REQUIREMENTS FOR BACKGROUND EMPLOYMENT CHECKS FOR ASSISTED LIVING FACILITIES; PROHIBITING EMPLOYMENT OF PEOPLE UNDER CERTAIN CIRCUMSTANCES; ALLOWING LICENSURE ACTIONS FOR FAILURE TO CONDUCT BACKGROUND CHECKS; AND AMENDING SECTIONS 50-5-225 AND 50-5-227, MCA."

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

Section 1. Section 50-5-225, MCA, is amended to read:

"50-5-225. Assisted living facilities -- services to residents -- employee background checks. (1)

An assisted living facility shall, at a minimum, provide or make provisions for:

- (a) personal services, such as laundry, housekeeping, food service, and local transportation;
- (b) assistance with activities of daily living, as provided for in the facility admission agreement and that do not require the use of a licensed health care professional or a licensed practical nurse;
- (c) recreational activities;
- (d) assistance with self-medication;
- (e) 24-hour onsite supervision by staff; and
- (f) assistance in arranging health-related services, such as medical appointments and appointments related to hearing aids, glasses, or dentures.

(2) An assisted living facility may provide, make provisions for, or allow a resident to obtain third-party provider services for:

- (a) the administration of medications consistent with applicable laws and regulations; and
- (b) skilled nursing care or other skilled services related to temporary, short-term, acute illnesses, which may not exceed 30 consecutive days for one episode or more than a total of 120 days in 1 year.

(3) An assisted living facility shall conduct a background check on all applicants for employment. The facility may:

- (a) conduct a name-based background check; or
- (b) require applicants to submit fingerprints to facilitate a fingerprint and background check by the

1 Montana department of justice and the federal bureau of investigation.
 2 (4) An assisted living facility may not employ a person who:
 3 (a) has been found guilty in a court of law of an offense involving abuse, neglect, exploitation,
 4 mistreatment, or misappropriation of property;
 5 (b) has been subject to disciplinary action by a state professional licensing board because of a finding
 6 of abuse, neglect, exploitation, mistreatment of residents, or misappropriation of resident property; or
 7 (c) has had a finding entered into the state nurse aide registry concerning abuse, neglect, exploitation,
 8 mistreatment of residents, or misappropriation of resident property."

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 10 **Section 2.** Section 50-5-227, MCA, is amended to read:

11 **"50-5-227. Licensing assisted living facilities.** (1) The department shall by rule adopt standards for
 12 licensing and operation of assisted living facilities to implement the provisions of 50-5-225 and 50-5-226.

13 (2) The department may deny, suspend, or revoke the license of an assisted living facility if the
 14 department finds the facility is not conducting the background checks of applicants for employment as required
 15 in 50-5-225.

16 ~~(2)~~(3) The following licensing categories must be used by the department in adopting rules under
 17 subsection (1):

18 (a) category A facility serving residents requiring the level of care as provided for in 50-5-226(2);

19 (b) category B facility providing skilled nursing care or other skilled services to five or fewer residents
 20 who meet the requirements stated in 50-5-226(3);

21 (c) category C facility providing services to residents with cognitive impairments requiring the level of
 22 care stated in 50-5-226(4); or

23 (d) category D facility providing services to residents with mental disorders who may be a temporary
 24 harm to themselves or others and who require the level of care stated in 50-5-226(5).

25 ~~(3)~~(4) (a) A single facility meeting the applicable requirements for a category A facility may additionally
 26 be licensed to provide category B or category C services with the approval of the department.

27 (b) If a single facility meeting the applicable requirements as provided in subsection ~~(3)~~(4)~~(a)~~ (a) further
 28 seeks to be licensed as a category D facility, the facility shall provide documentation that indicates the facility can
 29 keep all residents safe.

30 ~~(4)~~(5) The department may by rule establish license fees, inspection fees, and fees for patient screening.

1 Fees must be reasonably related to service costs."

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