

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 AN AGENCY FEE FOR BACKGROUND CHECK; REQUIRING RULEMAKING; 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 REQUEST THROUGH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES a background check on all applicants for INDIVIDUALS WHO HAVE ACCEPTED employment. The facility DEPARTMENT may:



1 (a) conduct a name-based background check; or
 2 (b) require applicants INDIVIDUALS to submit fingerprints to facilitate a fingerprint and background check
 3 by the Montana department of justice and the federal bureau of investigation. THE DEPARTMENT OF PUBLIC HEALTH
 4 AND HUMAN SERVICES SHALL CHARGE A FEE, TO BE DETERMINED BY RULE, FOR THE BACKGROUND CHECK.

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

12 (5) AN ASSISTED LIVING FACILITY MAY PROVISIONALLY EMPLOY AN INDIVIDUAL PENDING THE RESULTS OF A
 13 BACKGROUND CHECK.

14 (6) AN INDIVIDUAL SUBJECT TO A FINGERPRINT-BASED BACKGROUND CHECK UNDER THIS SECTION MAY SUBMIT
 15 FINGERPRINTS TO THE STATE REPOSITORY FOR PROCESSING OF THE STATE AND FEDERAL BACKGROUND CHECK. RESULTS
 16 OF THE BACKGROUND CHECK MUST BE PROVIDED TO THE DEPARTMENT DIVISION RESPONSIBLE FOR LICENSING ASSISTED
 17 LIVING FACILITIES."

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

20 **"50-5-227. Licensing assisted living facilities.** (1) The department shall by rule adopt standards for
 21 licensing and operation of assisted living facilities to implement the provisions of 50-5-225 and 50-5-226.

22 (2) The department may deny, suspend, or revoke the license of an assisted living facility if the
 23 department finds the facility is not conducting the background checks of applicants for employment as required
 24 in A DEMONSTRATED PATTERN OF NONCOMPLIANCE WITH THE EMPLOYEE BACKGROUND CHECK REQUIREMENTS OF
 25 50-5-225.

26 (2)(3) The following licensing categories must be used by the department in adopting rules under
 27 subsection (1):

28 (a) category A facility serving residents requiring the level of care as provided for in 50-5-226(2);
 29 (b) category B facility providing skilled nursing care or other skilled services to five or fewer residents
 30 who meet the requirements stated in 50-5-226(3);

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

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

5 ~~(3)~~(4) (a) A single facility meeting the applicable requirements for a category A facility may additionally
6 be licensed to provide category B or category C services with the approval of the department.

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

10 ~~(4)~~(5) The department may by rule establish license fees, inspection fees, and fees for patient screening.
11 Fees must be reasonably related to service costs."

12 - END -