

1 HOUSE BILL NO. 449  
2 INTRODUCED BY A. BUCKLEY, E. BUTTREY, D. SALOMON, T. WELCH, D. HARVEY, D. BEDEY, G.  
3 NIKOLAKAKOS  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PEDIATRIC COMPLEX CARE ASSISTANT  
6 SERVICES UNDER THE MEDICAID PROGRAM; ESTABLISHING CERTIFICATION LICENSURE  
7 REQUIREMENTS FOR CARE ASSISTANTS; ALLOWING MEDICAID COVERAGE OF CARE ASSISTANT  
8 SERVICES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-1-401, 53-6-101, AND 53-  
9 6-402, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12  
13 NEW SECTION. Section 1. Pediatric complex care assistant -- qualifications -- scope of  
14 practice. ~~(1) The department shall certify pediatric complex care assistants to aid in providing nursing-related~~  
15 ~~services as allowed under this section to individuals who are:~~

- 16 (a) ~~under 21 years of age; and~~  
17 (b) ~~eligible to receive medical assistance under this part or to receive home and community-based~~  
18 ~~services under Title 53, chapter 6, part 4, because of the individual's physical or developmental disabilities.~~

19 ~~(2)(1) An applicant for certification INDIVIDUAL MAY NOT PRACTICE as a pediatric complex care assistant~~  
20 ~~shall submit to the department: UNLESS LICENSED UNDER TITLE 37, CHAPTER 1, AND THIS CHAPTER.~~

21 ~~(2) AN APPLICANT FOR LICENSURE MUST HAVE:~~

- 22 ~~(a) a fee required by the department by rule; and~~  
23 ~~(b) proof that the applicant:~~

24 ~~(i)(A) has satisfactorily completed the necessary portions of a training program approved by the~~  
25 ~~department and has received a valid certificate from the training program; AND~~

26 ~~(ii)(B) has satisfactorily completed PASSED a hands-on examination approved by the department that~~  
27 ~~demonstrates the applicant's competence in the specific types of care to be provided to the individual to whom~~

**Amendment - 2nd Reading/2nd House-tan - Requested by: Willis Curdy - (S) Committee of Whole**

- 2023

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Drafter: Sue O'Connell, 406-444-3597

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1 ~~the applicant will be providing care;~~ and

2 (iii) ~~is a parent, guardian, or family member of a n individual eligible to receive services or provides~~  
3 ~~a kinship foster home or youth foster home, as those terms are defined in 52-2-602, to the individual.~~

4 (3) The training program approved by the department must include, ~~at a minimum,~~ medication  
5 administration, airway clearance therapies, tracheostomy care, and enteral care and therapy for an individual  
6 under 21 years of age. ~~An applicant for certification LICENSURE shall complete the portions of the training~~  
7 ~~program that are specific to the care the applicant will be providing.~~

8 (4) A pediatric complex care assistant may provide services only to the ~~AN~~ individual UNDER 21  
9 YEARS OF AGE for whom the care assistant is a parent, guardian, other family member, or kinship care or foster  
10 care provider. The services must be:

- 11 (a) ordered by a physician and consistent with the individual's plan of care; and
- 12 (b) limited to:
- 13 (i) duties considered by the department to be equivalent to those of a certified nursing assistant;
- 14 (ii) medication administration;
- 15 (iii) tracheostomy care and enteral care and therapy;
- 16 (iv) airway clearance therapies; and
- 17 (iv) ~~other tasks~~ SERVICES as allowed by the department by rule.

18 (5) ~~The department shall adopt rules to carry out the purposes of this section, including but not~~  
19 ~~limited to rules regarding:~~

- 20 (a) ~~the training and testing requirements for certification;~~
- 21 (b) ~~the fee an applicant must pay;~~
- 22 (c) ~~the care that a pediatric complex care assistant may provide; and~~
- 23 (d) ~~the reimbursement rate for services provided by the care assistant. The reimbursement rate~~  
24 ~~must reflect the special skills needed to meet the health care needs of the individuals receiving the services and~~  
25 ~~must be comparable to the reimbursement rate for home health aide services.~~

26

27 NEW SECTION. SECTION 2. RULEMAKING. THE DEPARTMENT SHALL ADOPT RULES TO CARRY OUT THE

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1 PURPOSES OF [SECTION 1], INCLUDING BUT NOT LIMITED TO:

2 (1) TRAINING AND TESTING REQUIREMENTS FOR PEDIATRIC COMPLEX CARE ASSISTANTS;

3 (2) APPLICATION FEES; AND

4 (3) PEDIATRIC COMPLEX CARE ASSISTANT SCOPE OF PRACTICE.

5

6 **Section 3.** Section 37-1-401, MCA, is amended to read:

7 **"37-1-401. Uniform regulation for licensing programs without boards -- definitions.** As used in  
8 this part, the following definitions apply:

9 (1) "Complaint" means a written allegation filed with the department that, if true, warrants an  
10 injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

11 (2) "Department" means the department of labor and industry provided for in 2-15-1701.

12 (3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the  
13 department, with respect to a complaint or other information before the department, that is carried out for the  
14 purpose of determining:

15 (a) whether a person has violated a provision of law justifying discipline against the person;

16 (b) the status of compliance with a stipulation or order of the department;

17 (c) whether a license should be granted, denied, or conditionally issued; or

18 (d) whether the department should seek an injunction.

19 (4) "License" means permission in the form of a license, permit, endorsement, certificate,  
20 recognition, or registration granted by the state of Montana to engage in a business activity or practice at a  
21 specific level in a profession or occupation governed by:

22 (a) Title 37, chapter 2, [sections 1 and 2];

23 (b) Title 37, chapter 35, 72, or 73; or

24 ~~(b)(c)~~ Title 50, chapter 39, 74, or 76.

25 (5) "Profession" or "occupation" means a profession or occupation regulated by the department  
26 under the provisions of:

27 (a) Title 37, chapter 2, [sections 1 and 2];

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1 ~~(b)~~ Title 37, chapter 35, 49, 72, or 73; or

2 ~~(b)(c)~~ Title 50, chapter 39, 74, or 76."

3

4 **Section 4.** Section 53-6-101, MCA, is amended to read:

5 **"53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana  
6 medicaid program established for the purpose of providing necessary medical services to eligible persons who  
7 have need for medical assistance. The Montana medicaid program is a joint federal-state program administered  
8 under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The  
9 department shall administer the Montana medicaid program.

10 (2) The department and the legislature shall consider the following funding principles when  
11 considering changes in medicaid policy that either increase or reduce services:

12 (a) protecting those persons who are most vulnerable and most in need, as defined by a  
13 combination of economic, social, and medical circumstances;

14 (b) giving preference to the elimination or restoration of an entire medicaid program or service,  
15 rather than sacrifice or augment the quality of care for several programs or services through dilution of funding;  
16 and

17 (c) giving priority to services that employ the science of prevention to reduce disability and illness,  
18 services that treat life-threatening conditions, and services that support independent or assisted living, including  
19 pain management, to reduce the need for acute inpatient or residential care.

20 (3) Medical assistance provided by the Montana medicaid program includes the following services:

21 (a) inpatient hospital services;

22 (b) outpatient hospital services;

23 (c) other laboratory and x-ray services, including minimum mammography examination as defined  
24 in 33-22-132;

25 (d) skilled nursing services in long-term care facilities;

26 (e) physicians' services;

27 (f) nurse specialist services;

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1 under 53-6-405, including but not limited to establishing the elements that must be contained in fraud  
2 prevention education materials and the models that may be used for the training.

3 (16) The department shall adopt rules to carry out the cost reporting provisions of 53-6-406,  
4 including but not limited to the costs that a provider is required to report to the department, the format of the  
5 report, and the deadline for filing the report."  
6

7 NEW SECTION. Section 6. Codification instruction. [~~Section SECTIONS 1 AND 2~~] is-ARE intended to  
8 be codified as an integral-A NEW part of Title 53, chapter 6, part 4 IN TITLE 37, CHAPTER 2, and the provisions of  
9 Title 53, chapter 6, part 4 TITLE 37, CHAPTER 2, apply to [~~section SECTIONS 1 AND 2~~].  
10

11 COORDINATION SECTION. Section 7. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 152 AND  
12 [~~THIS ACT~~] ARE PASSED AND APPROVED, and House Bill No. 152 contains one or more sections giving the  
13 department of labor and industry authority to adopt rules for professional and occupational licensing programs.  
14 THEN [~~SECTION 2 OF THIS ACT~~] IS VOID.  
15

16 COORDINATION SECTION. Section 8. Coordination instruction. If both House Bill No. 152 and  
17 [this act] are passed and approved and House Bill No. 152 repeals 37-1-401, then [section 3 of this act],  
18 amending 37-1-401, is void.  
19

20 NEW SECTION. Section 9. Effective date. [This act] is effective July 1, 2023.  
21

22 NEW SECTION. Section 10. TERMINATION. [~~THIS ACT~~] TERMINATES JUNE 30, 2031.  
23

- END -