

hbd-08

Bill No. HB 703, 1st Eng.

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Fasano offered the following:

Amendment to Amendment (152467) (with title amendment)

On page 29, between lines 16 and 17,

insert:

Section 23. Subsection (20) of section 400.141, Florida Statutes, is amended to read:

400.141 Administration and management of nursing home facilities.--Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(20) Maintain general and professional liability insurance coverage that is in force at all times.

Section 24. (1) For the period beginning June 30, 2001, and ending June 30, 2005, the Agency for Health Care Administration shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives with respect to nursing homes, which shall:

(a) Be submitted every 6 months.

(b) Delineate information on a monthly basis, if available.

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1 (c) Differentiate between types of facilities based on
2 their ownership characteristics, size, business structure,
3 for-profit or not-for-profit status, and any other
4 characteristics the agency determines useful in analyzing the
5 varied segments of the nursing home industry.

6 (2) The report shall contain:

7 (a) The number of Notices of Intent to Litigate
8 received by the facility each month.

9 (b) The number of complaints on behalf of a resident
10 or a resident's legal representative that were filed with the
11 clerk of the court each month.

12 (c) The month in which the injury which is the basis
13 for a suit occurred or was discovered or, if unavailable, the
14 dates of residency of the resident involved, beginning with
15 the date of initial admission and including the latest
16 discharge date.

17 (d) Information regarding deficiencies cited,
18 including information used to develop the Nursing Home Guide
19 pursuant to s. 400.191, Florida Statutes, and applicable
20 rules; a summary of data generated on nursing homes by Centers
21 for Medicare and Medicaid Services Nursing Home Quality
22 Information Project; and information collected pursuant to s.
23 400.147(9), Florida Statutes, as amended by this act, relating
24 to litigation.

25
26 Facilities subject to part II of chapter 400, Florida
27 Statutes, must submit the information necessary to compile
28 this report each month on forms provided by the agency.

29 Section 25. Subsection (9) of section 400.147, Florida
30 Statutes, is amended to read:

31 400.147 Internal risk management and quality assurance

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1 program.--

2 (9) By the 10th of each month, each facility subject
3 to this section shall report ~~monthly~~ any liability claim,
4 which shall include any request for medical records from a
5 resident, family member, guardian, conservator, personal
6 representative, or legal representative; each Notice of Intent
7 to Litigate received by the facility; and each complaint filed
8 by a resident, family member, guardian, conservator, personal
9 legal representative, that was filed with the clerk of the
10 court during the prior month ~~filed against it~~. The report must
11 include copies of the Notices of Intent and complaints filed,
12 the name, date of birth, social security number and, if
13 appropriate, the Medicaid identification number ~~the name~~ of
14 the resident, the date or dates of the incident leading to the
15 claim, if applicable, or dates of residency, and the type of
16 injury or violation of rights alleged to have occurred. This
17 report is confidential as provided by law and is not
18 discoverable or admissible in any civil or administrative
19 action, except in such actions brought by the agency to
20 enforce the provisions of this part.

21 Section 26. Paragraph (b) of subsection (2) of section
22 409.908, Florida Statutes, is amended to read:

23 409.908 Reimbursement of Medicaid providers.--Subject
24 to specific appropriations, the agency shall reimburse
25 Medicaid providers, in accordance with state and federal law,
26 according to methodologies set forth in the rules of the
27 agency and in policy manuals and handbooks incorporated by
28 reference therein. These methodologies may include fee
29 schedules, reimbursement methods based on cost reporting,
30 negotiated fees, competitive bidding pursuant to s. 287.057,
31 and other mechanisms the agency considers efficient and

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1 effective for purchasing services or goods on behalf of
2 recipients. Payment for Medicaid compensable services made on
3 behalf of Medicaid eligible persons is subject to the
4 availability of moneys and any limitations or directions
5 provided for in the General Appropriations Act or chapter 216.
6 Further, nothing in this section shall be construed to prevent
7 or limit the agency from adjusting fees, reimbursement rates,
8 lengths of stay, number of visits, or number of services, or
9 making any other adjustments necessary to comply with the
10 availability of moneys and any limitations or directions
11 provided for in the General Appropriations Act, provided the
12 adjustment is consistent with legislative intent.

13 (2)

14 (b) Subject to any limitations or directions provided
15 for in the General Appropriations Act, the agency shall
16 establish and implement a Florida Title XIX Long-Term Care
17 Reimbursement Plan (Medicaid) for nursing home care in order
18 to provide care and services in conformance with the
19 applicable state and federal laws, rules, regulations, and
20 quality and safety standards and to ensure that individuals
21 eligible for medical assistance have reasonable geographic
22 access to such care.

23 1. Changes of ownership or of licensed operator do not
24 qualify for increases in reimbursement rates associated with
25 the change of ownership or of licensed operator. The agency
26 shall amend the Title XIX Long Term Care Reimbursement Plan to
27 provide that the initial nursing home reimbursement rates, for
28 the operating, patient care, and MAR components, associated
29 with related and unrelated party changes of ownership or
30 licensed operator filed on or after September 1, 2001, are
31 equivalent to the previous owner's reimbursement rate.

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1 2. The agency shall amend the long-term care
2 reimbursement plan and cost reporting system to create direct
3 care and indirect care subcomponents of the patient care
4 component of the per diem rate. These two subcomponents
5 together shall equal the patient care component of the per
6 diem rate. Separate cost-based ceilings shall be calculated
7 for each patient care subcomponent. The direct care
8 subcomponent of the per diem rate shall be limited by the
9 cost-based class ceiling, and the indirect care subcomponent
10 shall be limited by the lower of the cost-based class ceiling,
11 by the target rate class ceiling, or by the individual
12 provider target. The agency shall adjust the patient care
13 component effective January 1, 2002. The cost to adjust the
14 direct care subcomponent shall be net of the total funds
15 previously allocated for the case mix add-on. The agency shall
16 make the required changes to the nursing home cost reporting
17 forms to implement this requirement effective January 1, 2002.

18 3. The direct care subcomponent shall include salaries
19 and benefits of direct care staff providing nursing services
20 including registered nurses, licensed practical nurses, and
21 certified nursing assistants who deliver care directly to
22 residents in the nursing home facility. This excludes nursing
23 administration, MDS, and care plan coordinators, staff
24 development, and staffing coordinator.

25 4. All other patient care costs shall be included in
26 the indirect care cost subcomponent of the patient care per
27 diem rate. There shall be no costs directly or indirectly
28 allocated to the direct care subcomponent from a home office
29 or management company.

30 5. On July 1 of each year, the agency shall report to
31 the Legislature direct and indirect care costs, including

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1 average direct and indirect care costs per resident per
2 facility and direct care and indirect care salaries and
3 benefits per category of staff member per facility.

4 6. In order to offset the cost of liability insurance
5 and subject to appropriations included in the General
6 Appropriations Act, the agency shall amend ~~Under~~ the plan to
7 allow for ~~interim rate adjustments, beginning January 2003,~~
8 by adjusting the operating cost component ~~shall not be granted~~
9 to reflect increases in the cost of general or professional
10 liability insurance for nursing homes unless the following
11 criteria are met: have at least a 65 percent Medicaid
12 utilization in the most recent cost report submitted to the
13 agency, and the increase in general or professional liability
14 costs to the facility for the most recent policy period
15 affects the total Medicaid per diem by at least 5 percent.
16 This rate adjustment shall not result in the per diem
17 exceeding the class ceiling. This provision shall be
18 implemented to the extent existing appropriations are
19 available.

20
21 It is the intent of the Legislature that the reimbursement
22 plan achieve the goal of providing access to health care for
23 nursing home residents who require large amounts of care while
24 encouraging diversion services as an alternative to nursing
25 home care for residents who can be served within the
26 community. The agency shall base the establishment of any
27 maximum rate of payment, whether overall or component, on the
28 available moneys as provided for in the General Appropriations
29 Act. The agency may base the maximum rate of payment on the
30 results of scientifically valid analysis and conclusions
31 derived from objective statistical data pertinent to the

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1 particular maximum rate of payment.

2 Section 27. In order to expedite the availability of
3 general and professional liability insurance for nursing
4 homes, the agency, subject to appropriations included in the
5 General Appropriation Act, shall advance \$6 million for the
6 purpose of capitalizing the risk retention group. The terms of
7 repayment may not extend beyond 3 years from the date of
8 funding.

9

10

11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13 On page 33, line 14, after the semicolon,

14

15 insert:

16 amending s. 400.141, F.S.; requiring licensed
17 nursing home facilities to maintain general and
18 professional liability insurance coverage;
19 requiring facilities to submit information and
20 the Agency for Health Care Administration to
21 provide reports regarding facilities'
22 litigation, complaints, and deficiencies;
23 amending s. 400.147, F.S.; revising reporting
24 requirements under facility internal risk
25 management and quality assurance programs;
26 amending s. 409.908, F.S.; requiring the agency
27 to amend the Florida Title XIX Long-Term Care
28 Reimbursement Plan (Medicaid) for nursing home
29 care to allow for interim rate adjustments to
30 offset the cost of liability insurance;
31 providing for funding to expedite the

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1 availability of nursing home liability
2 insurance;
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