
OLR Bill Analysis

SB 288

AN ACT CONCERNING THE DEPARTMENT OF SOCIAL SERVICES' RECOMMENDATIONS REGARDING EXCEPTIONS TO THE NURSING HOME BED MORATORIUM, NURSING HOME RESIDENT DATA AND NURSING HOME REIMBURSEMENT RATE CAPS FOR RELATED PARTY EMPLOYEES.

SUMMARY

This bill makes several unrelated changes to laws on nursing homes. Primarily, it:

1. creates an exception to the state's nursing home bed moratorium, allowing the Department of Social Services (DSS) to approve additional Medicaid-certified beds in existing or new nursing homes under certain circumstances;
2. modifies the factors the DSS commissioner must consider when reviewing certificate of need (CON) applications;
3. establishes a separate process for DSS audits of licensed nursing homes' minimum data set information for acuity-based Medicaid payments; and
4. caps the Medicaid reimbursement rate of pay for union employees who are related to the owner of a nursing home.

The bill also makes minor, technical and conforming changes.

EFFECTIVE DATE: Upon passage, except the provisions on DSS audits and Medicaid reimbursement for related-party pay are effective July 1, 2026.

§ 1— NURSING HOME BED MORATORIUM EXCEPTION

Existing law establishes a nursing home bed moratorium that generally prohibits DSS from accepting or approving CON requests for

more nursing home beds, with certain exceptions (see BACKGROUND).

The bill adds a new exception that allows DSS to approve a request to add new Medicaid-certified beds to existing or new nursing homes. When doing so, the department must give preference to nontraditional, small-house style nursing homes whose goals are in keeping with the department's long-term care strategic plan to address facility needs in priority census tracts.

§ 2 — CON CRITERIA

By law, nursing homes, rest homes, and intermediate care facilities for people with intellectual disabilities must generally receive CON approval from DSS when (1) introducing new services, (2) changing ownership, (3) relocating licensed beds or decreasing bed capacity, (4) terminating a service, or (5) incurring certain capital expenditures.

Under existing law and the bill, the DSS commissioner must consider several factors when reviewing CON requests, such as whether there is clear public need for the proposal. When determining public need for requests to add new Medicaid-certified beds under the bill, the commissioner must consider whether there is a demonstrated bed need in the towns within a 15-mile radius of the town where the new beds will be added. (Existing law also requires the commissioner to do this when considering requests to relocate beds to a replacement nursing home.)

For all CON requests, existing law requires the commissioner to consider how a request contributes to regional long-term care delivery quality, accessibility, and cost-effectiveness. Under the bill, in making this consideration, she must include the requesting nursing home's star rating on the Centers for Medicare and Medicaid Service's (CMS) five-star quality rating system for nursing homes.

The bill also modifies how bed need is determined for CON requests. Under the bill, a service area with a demonstrated bed need is one whose nursing home occupancy is above 96% for at least two consecutive

quarters. The DSS commissioner may also consider the service area's projected future bed need above 96% occupancy using its latest strategic statewide long-term care rebalancing plan. Currently, demonstrated bed need is based on a service area's nursing home occupancy (the law does not specify a percentage) and projected bed need for up to five years at 97.5% occupancy using the (1) Office of Policy and Management's latest population projections by town and age and (2) Department of Public Health's latest available nursing home utilization statistics by age cohort.

§ 3 — NURSING HOME MINIMUM DATA SET AUDITS

Existing law sets procedures and requirements related to DSS audits of long-term care facilities that receive Medicaid or other state payments (for example, nursing homes, residential care homes, and intermediate care facilities for people with intellectual disabilities).

The bill establishes a different process for DSS audits of nursing homes' minimum data set (MDS) information. Federal law requires nursing homes to assess each resident's functional capacity using the MDS assessment tool and DSS then uses the information to calculate nursing homes' acuity-based Medicaid reimbursement rates. (Generally, acuity-based rates refer to rates that vary based on, among other things, the facility's patient casemix.)

Deadline to Provide Information

Under the bill, if DSS requests documentation related to an MDS audit, the nursing home must provide it within 10 days. For other types of audits, existing law grants facilities at least 30 days to provide documentation on any discrepancies found during the audit.

Limitation on Post-Exit Interview Submissions

Under existing law, unchanged by the bill, the commissioner must prepare a preliminary report on an audit's findings. She must then hold an exit conference with the audited facility to discuss the preliminary report, and the facility may present evidence refuting the report's findings. For MDS audits, the bill prohibits nursing homes from giving the commissioner any more documentation after the exit conference,

unless the commissioner and nursing home agree to it.

§ 4 — MEDICAID REIMBURSEMENT FOR RELATIVES' WAGES

Under existing law, the DSS commissioner sets Medicaid reimbursement rates for nursing homes, (as well as certain chronic disease hospitals, residential care homes, and intermediate care facilities for people with intellectual disabilities). These rates take into account the costs of providing necessary services and include expenses required under any collective bargaining agreement, such as union employee compensation, or other agreements.

For union employees who are related to a nursing home's owners, operators, or officials, the bill limits how much of the employee's compensation is eligible for Medicaid reimbursement. The bill appears to limit Medicaid reimbursement for these employees to the allowable salary amount set in law for related parties.

Under existing law, unchanged by the bill, reimbursement for a non-union related party's salary is limited to amounts annually published in a salary limitations schedule.

By law, "related parties" include any company related to a nursing home's owners, operators, or officials through common ownership, control, business association, or family association (a relationship by birth, marriage, or domestic partnership).

BACKGROUND

DSS CON Program

By law, nursing homes, rest homes, and intermediate care facilities for people with intellectual disabilities must generally receive CON approval from DSS when (1) introducing new services, (2) changing ownership, (3) relocating licensed beds or decreasing bed capacity, (4) terminating a service, or (5) incurring certain capital expenditures.

Exceptions to Nursing Home Bed Moratorium

For over 30 years, the state has placed a moratorium on new nursing home beds, except for those:

1. restricted to use by patients with AIDS or who require neurological rehabilitation;
2. associated with a continuing care facility, if they are not used for Medicaid patients;
3. that are Medicaid-certified and relocated from one licensed nursing home to another or to a new facility, under certain conditions; and
4. in certain nontraditional, small-house style nursing homes.

COMMITTEE ACTION

Aging Committee

Joint Favorable

Yea 14 Nay 0 (03/05/2026)