



# State of Tennessee

## PUBLIC CHAPTER NO. 360

### SENATE BILL NO. 574

By Overbey

Substituted for: House Bill No. 515

By Harrison

AN ACT to amend Tennessee Code Annotated, Title 68 and Title 71, relative to nursing homes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-5-1001, is amended by adding the following as a new subdivision to be appropriately designated:

( ) "Continuing care retirement community" means an entity or organization that offers on a single campus setting a continuum of services and facilities for each resident including single and congregate dwellings, assisted living units, and nursing facility services, pursuant to a contract between a resident and a provider by which the resident pays a fee for the right to occupy a space in a designated facility and to receive continuing care for life. Entities or organizations defined in this part shall have a minimum ratio of independent/assisted living beds to nursing facility beds of one-to-one;

SECTION 2. Tennessee Code Annotated, Section 71-5-1002, is amended by deleting subdivision (h)(1) in its entirety and substituting instead the following:

(1) To make expenditures for nursing facility services under the TennCare program for FY 2015-2016 at the full rates for the specified fiscal year as set in accordance with § 71-5-105(a)(3)(B)-(D), that would have been subject to reduction by the bureau of TennCare for FY 2015-2016, except for the availability of one-time funding for that year only. Payment of full rates to restore a rate reduction from the bureau of TennCare as described in this section shall be satisfied only by the money available in the fund described in this section and before making any other payments from the fund;

SECTION 3. Tennessee Code Annotated, Section 71-5-1003, is amended by deleting in subsection (b) the language "uniform" and substituting instead the language "established pursuant to subsection (c)".

SECTION 4. Tennessee Code Annotated, Section 71-5-1003, is further amended by deleting subsections (c) and (d) and substituting instead the following:

(c) The aggregated amount of assessments for all nursing facilities from July 1, 2015, through June 30, 2016, shall equal four and three-quarters percent (4.75%) of the net patient service revenue. For any nursing home licensed on July 1, 2015, the annual assessment for each nursing facility shall be determined as follows:

(1) Any licensed nursing home that is licensed on July 1, 2015, for fifty (50) beds or fewer shall pay an assessment rate equal to three percent (3%) of net patient service revenue, divided by all non-medicare days. The facility shall pay the per diem rate for each of its non-medicare days;

(2) Any licensed nursing home that on July 1, 2015, operates as part of a continuing care retirement community shall pay an assessment rate equal to three percent (3%) of net patient service revenue, divided by all non-medicare days. The facility shall pay the per diem rate for each of its non-medicare days;

(3) Any licensed nursing home providing fifty thousand (50,000) or greater medicaid patient days for the twelve (12) months ending December 31 of the prior year shall pay an assessment of two thousand two hundred twenty-five dollars (\$2,225) per licensed bed per year. The facility shall pay the per bed rate on all beds licensed as of July 1 of each year. This annual nursing home assessment fee and/or the high-volume medicaid threshold can be modified if necessary to meet the redistribution test of 42 CFR 433.68(e)(2);

(4) Any nursing facility that is initially licensed and commences operations after July 1, 2015, shall pay in FY 2015–2016 a prorated assessment equal to two thousand two hundred twenty-five dollars (\$2,225) per licensed bed per year, prorated to accrue from the date the nursing facility became certified to participate in TennCare. The change in ownership of an existing licensed facility shall not meet the requirements of this subdivision (c)(4);

(5) Any licensed nursing home not meeting the criteria of subdivisions (c)(1)–(4) shall pay an equal annual per facility assessment at such amounts necessary to ensure that the aggregated amount of assessments for all nursing facilities from July 1, 2015, through June 30, 2016, shall equal four and three-quarters percent (4.75%) of the net patient service revenue; and

(6) Any facility that ceases to be licensed by the department of health shall not be required to pay assessment fees accruing after the date of its licensure termination.

(d) Each nursing home shall pay its nursing home annual assessment fee as set forth in subsection (c) in equal quarterly installments due on the fifteenth day following the end of each quarter.

SECTION 5. Tennessee Code Annotated, Section 71-5-1004, is amended by deleting subsections (a) and (b) and substituting instead the following:

(a) Upon enactment of the assessment fee pursuant to this part, the bureau of TennCare shall make increased payments to nursing facilities for FY 2015–2016 as part of a transition to a full acuity-based reimbursement system.

(b)(1) During FY 2015–2016, the bureau of TennCare shall make a supplemental transitional payment to nursing facilities for the transition to an acuity-based reimbursement system, which exceeds the amount of nursing home medicaid rates, in the aggregate, as calculated in accordance with the approved state medicaid plan in effect on July 1, 2015.

(2) The total aggregated amount of funds available for this supplemental payment shall be equal to the difference between:

(A) The aggregated amount of nursing home trust fund assessments scheduled to be paid by all nursing homes during FY 2015–2016; and

(B) The total amount of nursing home privilege tax paid by all nursing homes during FY 2013–2014.

(c) The supplemental transitional payments shall be allocated as follows, in consultation with the Tennessee Health Care Association:

(1) Thirty-five percent (35%) allocated in the same manner as the 2014 acuity payment;

(2) Thirty-five percent (35%) allocated strictly based on medicaid day-weighted CMI score;

(3) Twenty-six percent (26%) allocated based on quality measures adopted by the bureau of TennCare and the Tennessee Health Care Association; and

(4) Four percent (4%) allocated to fund full payment of nursing facility reimbursement rates as set forth in § 71-5-1002(h)(1), and administrative costs associated with systems development, which shall be used to implement an electronic cost report submission system and online process for facilities to submit data needed to support the new acuity-based reimbursement system.

SECTION 6. Tennessee Code Annotated, Section 71-5-1006, is amended by adding a new subsection (f) as follows:

(f) Any licensed facility that changes its licensure status to inactive status pursuant to § 68-11-206(b) shall be entitled to request that its nursing home annual assessment fee be held in abeyance until such time as the facility returns to active status, at which time the facility shall resume payment of the annual assessment fee that was held in abeyance. During the abeyance because of inactive status, the facility shall not be determined to be delinquent pursuant to this section. Nothing in this subsection (f) shall operate to excuse any licensee from the payment of its nursing home annual assessment fee.

SECTION 7. Tennessee Code Annotated, Section 71-5-1009, is amended by deleting the language "of the nursing home assessment fee due on July 15, 2014, pursuant to § 68-11-216(c)" and substituting instead the language "of any nursing home assessment fee due prior to July 1, 2015".

SECTION 8. Tennessee Code Annotated, Section 71-5-1010, is amended in subsection (a) by deleting the year "2015" and substituting instead the year "2016".

SECTION 9. Tennessee Code Annotated, Section 71-5-1011(a), is amended by deleting the year "2014" wherever it appears and substituting instead the year "2015"; and further amended by deleting the language "the commencement date" and substituting instead the language "the necessary approvals are obtained".

SECTION 10. Tennessee Code Annotated, Section 71-5-1011(b), is amended by deleting the year "2014" wherever it appears and substituting instead the year "2015"; by deleting the language "two thousand two hundred twenty-five dollars (\$2,225) per licensed bed per year" and substituting instead the language "four and one-half percent (4.5%) of net patient service revenue divided pro rata among all facilities"; and deleting the fifth sentence of the subsection.

SECTION 11. This act shall take effect July 1, 2015, the public welfare requiring it.

SENATE BILL NO. 574

PASSED: April 20, 2015

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 4<sup>th</sup> day of MAY 2015

  
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BILL HASLAM, GOVERNOR