

HOUSE BILL REPORT

HB 1890

*As Reported By House Committee on:
Health Care
Appropriations*

Title: An act relating to regulation of nursing homes.

Brief Description: Revising provisions for the regulation of nursing homes.

Sponsor(s): Representative Braddock; by request of Office of Financial Management and Department of Social and Health Services.

Brief History:

Reported by House Committee on:
Health Care, March 6, 1991, DPS;
Appropriations, March 10, 1991, DPA(w/o SUB).

**HOUSE COMMITTEE ON
HEALTH CARE**

Majority Report: *That Substitute House Bill No. 1890 be substituted therefor, and the substitute bill do pass.*
Signed by 11 members: Representatives Braddock, Chair; Day, Vice Chair; Moyer, Ranking Minority Member; Casada, Assistant Ranking Minority Member; Cantwell; Edmondson; Franklin; Morris; Paris; Prentice; and Sprengle.

Staff: Antonio Sanchez (786-7383).

Background: The state's nursing home program provides residential health care to eligible persons who are no longer capable of independent living and require nursing services. Nursing homes receive reimbursement for services from three major sources; private payment, Medicare and Medicaid. Approximately 66 percent of the total nursing home population is Medicaid eligible. The Department of Social and Health Services contracts with nursing homes to provide care for Medicaid patients and establishes the Medicaid reimbursement rates. Medicaid Rates are set prospectively on a per patient, per day basis. The Legislature adjusts rates based on appropriation. However, rates for each facility can be adjusted due to changes of more than 10 percent in patient classifications, program changes, staffing levels or capital additions required by licensure.

Currently, the Medicaid reimbursement system defines allowable costs as all those costs related to care of recipients. Allowable costs are divided into four "cost centers" for calculating reimbursement costs to contractors. These four cost centers are: nursing services; food; administration and operations; and property. Additionally, providers receive a return on investment allowance.

Licensing fees - The department establishes licensing fees for each medicaid certified nursing home. A yearly licensing inspection and one follow up inspection must also be conducted by the department. The licensing inspection fee is currently \$12 per bed. This amount does not reflect the total cost associated with conducting the licensure process.

Medicare certification - Two hundred seventy-five nursing homes currently participate in the Medicaid program. One hundred five of these facilities are certified to care for private and Medicare eligible residents. The number of Medicare clients is rising rapidly. The federal government pays 100 percent of the reimbursement costs for Medicare nursing home residents.

Facility depreciation - Nursing homes receive reimbursement for facility depreciation as part of their Medicaid daily rate. When a nursing home is sold, the seller keeps all funds paid, without liability to repay the department for unrealized depreciation.

Limit on nursing pool reimbursement - Currently the cost of temporary nursing labor, provided by a nursing pool, is a reimbursable expense for Medicaid patients. The nursing home can include the expense in their daily Medicaid rate. Nursing pools are entrepreneurial organizations that contract with nursing homes and other health facilities to provide temporary nursing services. Registered nurses, licensed practical nurses and nursing assistants are furnished by these "agencies" or "pools" on an as needed basis. The rates that nursing pools charge health care facilities are not currently regulated.

Historically nursing pools have provided nursing homes with quick access to needed health care employees as a result of unanticipated staff shortages. The use of these agencies for temporary employment services, however, has grown tremendously. This rapid growth is the result of the health care labor shortage, the need for greater work schedule flexibility in the nursing professions, and a desire for nurses to have greater control of those who they work for and where they work. Increased reliance on nursing pools to provide temporary health care employees has raised concerns

about increasing the cost and decreasing the quality of nursing care.

Variable return - A variable return is the amount a nursing home is reimbursed as an incentive to be efficient. Currently these rates range from 4 percent for the nursing home with the highest efficiency or lowest cost to 1 percent with the lowest rate of efficiency.

Financing allowance - The financing allowance is the percent of return on the net book value of the assets used in the provision of a patients care. Currently the allowance is 11 percent.

Summary of Substitute Bill: The nursing services cost lid is temporarily lifted for fiscal years 1992 and 1993. A maximum ceiling is established not to exceed 50 percent of the average rate paid during the state fiscal year 1991 for the nursing services cost center.

Substitute Bill Compared to Original Bill: **LICENSING FEES:** The substitute bill eliminated provisions that raised the nursing home licensure fee to an amount adequate to reimburse the department for the costs of the nursing home licensing process. The fee remains at \$12 per year per bed rather than \$133 per bed in 1992 and \$135 in 1993.

MEDICARE CERTIFICATION: The substitute bill eliminated provisions that required nursing homes that are currently Medicaid certified to become Medicare certified for no less than 15 percent of each facility's licensed beds.

FACILITY DEPRECIATION: The substitute bill removed provisions that allowed the department to recover previously paid funds when a sale of a nursing home results in a profit. The requirement that the purchaser pay the department the amount of accumulated depreciation paid to the prior operator, and that the sale price of the facility reflect the amount of the accumulated depreciation was also removed in the substitute bill.

LIMIT ON NURSING POOL REIMBURSEMENT: The substitute bill removed the limit placed on Medicaid reimbursement for nursing pools costs. The original bill limited nursing pool costs to an amount equal to that of the 50th percentile of all facilities within Washington's Medicaid program.

RETURN ON INVESTMENT: Variable return - The substitute bill removed provisions that lowered the amount of reimbursement a nursing home receives for an incentive to operate efficiently. Financing allowance - The substitute bill also removed provisions that reduced the amount reimbursed to

nursing homes for financing costs from 11 percent to 10 percent.

Fiscal Note: Requested February 18, 1991.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Original bill): Without disciplined management, the nursing home budget will consume state discretionary resources necessary to finance cost effective expansion of home/community care. Nursing home rates in Washington have grown faster each year than any other western state for the last three years. This bill would help slow down this rapid cost growth.

Testimony Against: None.

Witnesses: Charles Reed and Paul Montgomery, Department of Social and Health Services (pro).

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: *Do pass as amended by Committee on Appropriations and do not pass the substitute bill by Committee on Health Care.* Signed by 18 members: Representatives Locke, Chair; Inslee, Vice Chair; Spanel, Vice Chair; Appelwick; Belcher; Braddock; Brekke; Dorn; Ebersole; Hine; Peery; Pruitt; Rust; H. Sommers; Sprenkle; Valle; Wang; and Wineberry.

Minority Report: *Do not pass.* Signed by 7 members: Representatives Silver, Ranking Minority Member; Morton, Assistant Ranking Minority Member; Bowman; Ferguson; Fuhrman; McLean; and Nealey.

Staff: John Woolley (786-7154).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Health Care:

The Appropriations Committee amended and passed the original bill rather than the substitute bill. As amended, the bill differs from the original bill in that it would require Department of Social Services (DSHS) to charge a fee for licensing that reimburses DSHS in full or in part for the costs associated with licensing. In addition, the requirement for nursing homes to refund any depreciation paid if there is a gain on sale is removed.

Fiscal Note: Available.

Effective Date of Original Bill as Amended: Ninety days after adjournment of session in which bill is passed.

Testimony For: Testifying to the substitute: the proposals in the original bill are bad, particularly regarding the use of nursing pools; it will make it difficult to get staff on weekends or on a temporary basis; the components of the bill related to the financing allowance will make it difficult to get bank financing in the future; the changes in the depreciation process are bizarre and would treat the nursing home industry differently from other industries; and the industry has suggested alternatives and believes the original bill should be rejected and the substitute bill adopted.

Testimony Against: Testifying to the substitute: Department of Social and Health Services cannot support the substitute as it eliminates the provisions contained in the original bill that are contained in the Governor's budget.

Witnesses: Jerry Riley, Washington Health Care Association; and Charlie Reed and Ralph Smith, Department of Social and Health Services.