



General Assembly

February Session, 2012

Amendment

LCO No. 4484

HB0545104484HRO

Offered by:
REP. CHAPIN, 67th Dist.

To: Subst. House Bill No. 5451 File No. 257 Cal. No. 210

"AN ACT CONCERNING TRANSPARENCY IN NURSING HOME COST REPORTS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsection (a) of section 17b-340 of the 2012 supplement
4 to the general statutes is repealed and the following is substituted in
5 lieu thereof (*Effective July 1, 2012*):

6 (a) The rates to be paid by or for persons aided or cared for by the
7 state or any town in this state to licensed chronic and convalescent
8 nursing homes, to chronic disease hospitals associated with chronic
9 and convalescent nursing homes, to rest homes with nursing
10 supervision, to licensed residential care homes, as defined by section
11 19a-490, and to residential facilities for the mentally retarded which are
12 licensed pursuant to section 17a-227 and certified to participate in the
13 Title XIX Medicaid program as intermediate care facilities for the
14 mentally retarded, for room, board and services specified in licensing
15 regulations issued by the licensing agency shall be determined

16 annually, except as otherwise provided in this subsection, after a
17 public hearing, by the Commissioner of Social Services, to be effective
18 July first of each year except as otherwise provided in this subsection.
19 Such rates shall be determined on a basis of a reasonable payment for
20 such necessary services, which basis shall take into account as a factor
21 the costs of such services. Cost of such services shall include
22 reasonable costs mandated by collective bargaining agreements with
23 certified collective bargaining agents or other agreements between the
24 employer and employees, provided "employees" shall not include
25 persons employed as managers or chief administrators or required to
26 be licensed as nursing home administrators, and compensation for
27 services rendered by proprietors at prevailing wage rates, as
28 determined by application of principles of accounting as prescribed by
29 said commissioner. Cost of such services shall not include amounts
30 paid by the facilities to employees as salary, or to attorneys or
31 consultants as fees, where the responsibility of the employees,
32 attorneys, or consultants is to persuade or seek to persuade the other
33 employees of the facility to support or oppose unionization. Nothing
34 in this subsection shall prohibit inclusion of amounts paid for legal
35 counsel related to the negotiation of collective bargaining agreements,
36 the settlement of grievances or normal administration of labor
37 relations. The commissioner may, in his discretion, allow the inclusion
38 of extraordinary and unanticipated costs of providing services which
39 were incurred to avoid an immediate negative impact on the health
40 and safety of patients. The commissioner may, in his discretion, based
41 upon review of a facility's costs, direct care staff to patient ratio and
42 any other related information, revise a facility's rate for any increases
43 or decreases to total licensed capacity of more than ten beds or changes
44 to its number of licensed rest home with nursing supervision beds and
45 chronic and convalescent nursing home beds. The commissioner may
46 so revise a facility's rate established for the fiscal year ending June 30,
47 1993, and thereafter for any bed increases, decreases or changes in
48 licensure effective after October 1, 1989. Effective July 1, 1991, in
49 facilities which have both a chronic and convalescent nursing home
50 and a rest home with nursing supervision, the rate for the rest home

51 with nursing supervision shall not exceed such facility's rate for its
52 chronic and convalescent nursing home. All such facilities for which
53 rates are determined under this subsection shall report on a fiscal year
54 basis ending on the thirtieth day of September. Any licensed nursing
55 facility which receives state funding pursuant to this section shall,
56 upon the request of the Department of Social Services, provide any
57 financial related party information required by this section. For
58 purposes of this subsection, a "related party" includes, but is not
59 limited to, companies related to such nursing homes through family
60 associations, common ownership, control or business association with
61 any of the owners, operators or officials of the facility. The statement
62 shall include the actual cost of the goods and services, including a
63 detailed account of the goods and services purchased and fees paid,
64 and the mark-up, profit or administrative charges related to such
65 purchase. Such report shall be submitted to the commissioner by the
66 thirty-first day of December. The commissioner may reduce the rate in
67 effect for a facility which fails to report on or before such date by an
68 amount not to exceed ten per cent of such rate. The commissioner shall
69 annually, on or before the fifteenth day of February, report the data
70 contained in the reports of such facilities to the joint standing
71 committee of the General Assembly having cognizance of matters
72 relating to appropriations. For the cost reporting year commencing
73 October 1, 1985, and for subsequent cost reporting years, facilities shall
74 report the cost of using the services of any nursing pool employee by
75 separating said cost into two categories, the portion of the cost equal to
76 the salary of the employee for whom the nursing pool employee is
77 substituting shall be considered a nursing cost and any cost in excess
78 of such salary shall be further divided so that seventy-five per cent of
79 the excess cost shall be considered an administrative or general cost
80 and twenty-five per cent of the excess cost shall be considered a
81 nursing cost, provided if the total nursing pool costs of a facility for
82 any cost year are equal to or exceed fifteen per cent of the total nursing
83 expenditures of the facility for such cost year, no portion of nursing
84 pool costs in excess of fifteen per cent shall be classified as
85 administrative or general costs. The commissioner, in determining

86 such rates, shall also take into account the classification of patients or
87 boarders according to special care requirements or classification of the
88 facility according to such factors as facilities and services and such
89 other factors as he deems reasonable, including anticipated
90 fluctuations in the cost of providing such services. The commissioner
91 may establish a separate rate for a facility or a portion of a facility for
92 traumatic brain injury patients who require extensive care but not
93 acute general hospital care. Such separate rate shall reflect the special
94 care requirements of such patients. If changes in federal or state laws,
95 regulations or standards adopted subsequent to June 30, 1985, result in
96 increased costs or expenditures in an amount exceeding one-half of
97 one per cent of allowable costs for the most recent cost reporting year,
98 the commissioner shall adjust rates and provide payment for any such
99 increased reasonable costs or expenditures within a reasonable period
100 of time retroactive to the date of enforcement. Nothing in this section
101 shall be construed to require the Department of Social Services to
102 adjust rates and provide payment for any increases in costs resulting
103 from an inspection of a facility by the Department of Public Health.
104 Such assistance as the commissioner requires from other state agencies
105 or departments in determining rates shall be made available to him at
106 his request. Payment of the rates established hereunder shall be
107 conditioned on the establishment by such facilities of admissions
108 procedures which conform with this section, section 19a-533 and all
109 other applicable provisions of the law and the provision of equality of
110 treatment to all persons in such facilities. The established rates shall be
111 the maximum amount chargeable by such facilities for care of such
112 beneficiaries, and the acceptance by or on behalf of any such facility of
113 any additional compensation for care of any such beneficiary from any
114 other person or source shall constitute the offense of aiding a
115 beneficiary to obtain aid to which he is not entitled and shall be
116 punishable in the same manner as is provided in subsection (b) of
117 section 17b-97. For the fiscal year ending June 30, 1992, rates for
118 licensed residential care homes and intermediate care facilities for the
119 mentally retarded may receive an increase not to exceed the most
120 recent annual increase in the Regional Data Resources Incorporated

121 McGraw-Hill Health Care Costs: Consumer Price Index (all urban)-All
122 Items. Rates for newly certified intermediate care facilities for the
123 mentally retarded shall not exceed one hundred fifty per cent of the
124 median rate of rates in effect on January 31, 1991, for intermediate care
125 facilities for the mentally retarded certified prior to February 1, 1991.
126 Notwithstanding any provision of this section, the Commissioner of
127 Social Services may, within available appropriations, provide an
128 interim rate increase for a licensed chronic and convalescent nursing
129 home or a rest home with nursing supervision for rate periods no
130 earlier than April 1, 2004, only if the commissioner determines that the
131 increase is necessary to avoid the filing of a petition for relief under
132 Title 11 of the United States Code; imposition of receivership pursuant
133 to sections 19a-541 to 19a-549, inclusive; or substantial deterioration of
134 the facility's financial condition that may be expected to adversely
135 affect resident care and the continued operation of the facility, and the
136 commissioner determines that the continued operation of the facility is
137 in the best interest of the state. The commissioner shall consider any
138 requests for interim rate increases on file with the department from
139 March 30, 2004, and those submitted subsequently for rate periods no
140 earlier than April 1, 2004. When reviewing a rate increase request the
141 commissioner shall, at a minimum, consider: (1) Existing chronic and
142 convalescent nursing home or rest home with nursing supervision
143 utilization in the area and projected bed need; (2) physical plant long-
144 term viability and the ability of the owner or purchaser to implement
145 any necessary property improvements; (3) licensure and certification
146 compliance history; (4) reasonableness of actual and projected
147 expenses; and (5) the ability of the facility to meet wage and benefit
148 costs. No rate shall be increased pursuant to this subsection in excess
149 of one hundred fifteen per cent of the median rate for the facility's peer
150 grouping, established pursuant to subdivision (2) of subsection (f) of
151 this section, unless recommended by the commissioner and approved
152 by the Secretary of the Office of Policy and Management after
153 consultation with the commissioner. Such median rates shall be
154 published by the Department of Social Services not later than April
155 first of each year. In the event that a facility granted an interim rate

156 increase pursuant to this section is sold or otherwise conveyed for
 157 value to an unrelated entity less than five years after the effective date
 158 of such rate increase, the rate increase shall be deemed rescinded and
 159 the department shall recover an amount equal to the difference
 160 between payments made for all affected rate periods and payments
 161 that would have been made if the interim rate increase was not
 162 granted. The commissioner may seek recovery from payments made to
 163 any facility with common ownership. With the approval of the
 164 Secretary of the Office of Policy and Management, the commissioner
 165 may waive recovery and rescission of the interim rate for good cause
 166 shown that is not inconsistent with this section, including, but not
 167 limited to, transfers to family members that were made for no value.
 168 The commissioner shall provide written quarterly reports to the joint
 169 standing committees of the General Assembly having cognizance of
 170 matters relating to human services and appropriations and the budgets
 171 of state agencies and to the select committee of the General Assembly
 172 having cognizance of matters relating to aging, that identify each
 173 facility requesting an interim rate increase, the amount of the
 174 requested rate increase for each facility, the action taken by the
 175 commissioner and the secretary pursuant to this subsection, and
 176 estimates of the additional cost to the state for each approved interim
 177 rate increase. Nothing in this subsection shall prohibit the
 178 commissioner from increasing the rate of a licensed chronic and
 179 convalescent nursing home or a rest home with nursing supervision
 180 for allowable costs associated with facility capital improvements or
 181 increasing the rate in case of a sale of a licensed chronic and
 182 convalescent nursing home or a rest home with nursing supervision,
 183 pursuant to subdivision (15) of subsection (f) of this section, if
 184 receivership has been imposed on such home."

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2012	17b-340(a)