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SENATE BILL 5588

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senators West, Johnson and L. Kreidler.

Read first time February 8, 1991. Referred to Committee on Health & Long-Term Care.

1            AN ACT Relating to continuity of nursing care in nursing homes;  
2 amending RCW 74.46.481; creating a new section; providing an effective  
3 date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.**            It is the intent of the legislature to  
6 temporarily raise the nursing services cost center lid in order to  
7 provide an incentive to attract and retain nurses in nursing homes. It  
8 is not the intent of the legislature to retrospectively reimburse  
9 nursing homes for costs incurred prior to July 1, 1991.

10           **Sec. 2.** RCW 74.46.481 and 1990 c 207 s 1 are each amended to read  
11 as follows:

12           (1) The nursing services cost center shall include all costs  
13 related to the direct provision of nursing and related care, including  
14 fringe benefits and payroll taxes for the nursing and related care

1 personnel. For rates effective for state fiscal year 1984, the  
2 department shall adopt by administrative rule a definition of "related  
3 care" which shall incorporate, but not exceed services reimbursable as  
4 of June 30, 1983. For rates effective for state fiscal year 1985, the  
5 definition of related care shall include ancillary care.

6 (2) The department shall adopt by administrative rules a method for  
7 establishing a nursing services cost center rate consistent with the  
8 principles stated in this section.

9 (3) Utilizing regression or other statistical technique, the  
10 department shall determine a reasonable limit on facility nursing staff  
11 taking into account facility patient characteristics. For purposes of  
12 this section, facility nursing staff refers to registered nurses,  
13 licensed practical nurses and nursing assistants employed by the  
14 facility or obtained through temporary labor contract arrangements.  
15 Effective January 1, 1988, the hours associated with the training of  
16 nursing assistants and the supervision of that training for nursing  
17 assistants shall not be included in the calculation of facility nursing  
18 staff. In selecting a measure of patient characteristics, the  
19 department shall take into account:

20 (a) The correlation between alternative measures and facility  
21 nursing staff; and

22 (b) The cost of collecting information for and computation of a  
23 measure.

24 If regression is used, the limit shall be set at predicted nursing  
25 staff plus 1.75 regression standard errors. If another statistical  
26 method is utilized, the limit shall be set at a level corresponding to  
27 1.75 standard errors above predicted staffing computed according to a  
28 regression procedure.

29 (4) No facility shall receive reimbursement for nursing staff  
30 levels in excess of the limit, except that, if a facility was

1 reimbursed for a nursing staff level in excess of the limit as of June  
2 30, 1983, the facility may chose to continue to receive its June, 1983  
3 nursing services rate plus any adjustments in rates, such as  
4 adjustments for economic trends, made available to all facilities.  
5 However, nursing staff levels established under subsection (3) of this  
6 section shall not apply to the nursing services cost center  
7 reimbursement rate for the pilot facility especially designed to meet  
8 the needs of persons living with AIDS as defined by RCW 70.24.017 and  
9 specifically authorized for this purpose under the 1989 amendment to  
10 the Washington state health plan [1989 1st ex.s. c 9]. The  
11 reasonableness limit established pursuant to this subsection shall  
12 remain in effect for the period July 1, 1983 through June 30, 1985. At  
13 that time the department may revise the measure of patient  
14 characteristics or method used to establish the limit.

15 (5) The department shall select an index of cost increase relevant  
16 to the nursing and related services cost area. In the absence of a  
17 more representative index, the department shall use the medical care  
18 component index as maintained by the United States bureau of labor  
19 statistics.

20 (6) If a facility's nursing staff level is below the limit  
21 specified in subsection (3) of this section, the department shall  
22 determine the percentage increase for all items included in the nursing  
23 services cost center between the facility's most recent cost reporting  
24 period and the next prior cost reporting period.

25 (a) If the percentage cost increase for a facility is below the  
26 increase in the selected index for the same time period, the facility's  
27 reimbursement rate in the nursing services cost center shall equal the  
28 facility's cost from the most recent cost reporting period plus any  
29 allowance for inflation provided by legislative appropriation.

1 (b) If the percentage cost increase for a facility exceeds the  
2 increase in the selected index, the department shall limit the cost  
3 used for setting the facility's rate in the nursing services cost area  
4 to a level reflecting the increase in the selected index.

5 (7) If the facility's nursing staff level exceeds the  
6 reasonableness limit established in subsection (3) of this section, the  
7 department shall determine the increase for all items included in the  
8 nursing services cost center between the facility's most recent cost  
9 reporting period and the next prior cost reporting period.

10 (a) If the percentage cost increase for a facility is below the  
11 increase in the index selected pursuant to subsection (5) of this  
12 section, the facility's reimbursement rate in the nursing cost center  
13 shall equal the facility's cost from the most recent cost reporting  
14 period adjusted downward to reflect the limit on nursing staff, plus  
15 any allowance for inflation provided by legislative appropriation  
16 subject to the provisions of subsection (4) of this section.

17 (b) If the percentage cost increase for a facility exceeds the  
18 increase in the selected index, the department shall limit the cost  
19 used for setting the facility's rate in the nursing services cost  
20 center to a level reflecting the nursing staff limit and the cost  
21 increase limit, subject to the provisions of subsection (4) of this  
22 section, plus any allowance for inflation provided by legislative  
23 appropriation.

24 (8) Prospective rates for the nursing services cost center for  
25 state fiscal years 1992 and 1993 shall not be subject to the cost index  
26 lid in subsections (5), (6), and (7) of this section. The total of all  
27 rate increases for the nursing services cost center for any nursing  
28 home, including prospective rate increases authorized pursuant to RCW  
29 74.46.495 and 74.46.460 but excluding costs associated with new federal  
30 regulatory requirements, during this period shall not exceed fifty

1 percent of the average rate paid during state fiscal year 1991 for the  
2 nursing services cost center for that nursing home.

3 (9) The department is authorized to determine on a systematic basis  
4 facilities with unmet patient care service needs. The department may  
5 increase the nursing services cost center prospective rate for a  
6 facility beyond the level determined in accordance with subsection (6)  
7 of this section if the facility's actual and reported nursing staffing  
8 is one standard error or more below predicted staffing as determined  
9 according to the method selected pursuant to subsection (3) of this  
10 section and the facility has unmet patient care service needs:  
11 PROVIDED, That prospective rate increases authorized by this subsection  
12 shall be funded only from legislative appropriations made for this  
13 purpose and the increases shall be conditioned on specified  
14 improvements in patient care at such facilities.

15 ~~((9))~~ (10) The department shall establish a method for  
16 identifying patients with exceptional care requirements and a method  
17 for establishing or negotiating on a consistent basis rates for such  
18 patients.

19 ~~((10))~~ (11) The department, in consultation with interested  
20 parties, shall adopt rules to establish the criteria the department  
21 will use in reviewing any requests by a contractor for a prospective  
22 rate adjustment to be used to increase the number of nursing staff.  
23 These rules shall also specify the time period for submission and  
24 review of staffing requests: PROVIDED, That a decision on a staffing  
25 request shall not take longer than sixty days from the date the  
26 department receives such a complete request. In establishing the  
27 criteria, the department may consider, but is not limited to, the  
28 following:

29 (a) Increases in acuity levels of contractors' residents;

30 (b) Staffing patterns for similar facilities;

1 (c) Physical plant of contractor; and

2 (d) Survey, inspection of care, and department consultation  
3 results.

4 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of the  
6 state government and its existing public institutions, and shall take  
7 effect July 1, 1991.