

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5341

58th Legislature
2003 1st Special Session

Passed by the Senate June 4, 2003
YEAS 38 NAYS 8

President of the Senate

Passed by the House June 5, 2003
YEAS 89 NAYS 8

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
**ENGROSSED SECOND SUBSTITUTE SENATE
BILL 5341** as passed by the Senate
and the House of Representatives
on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5341

Passed Legislature - 2003 1st Special Session

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Winsley, Kline, Thibaudeau, Carlson, Parlette and Kohl-Welles)

READ FIRST TIME 04/04/03.

1 AN ACT Relating to a quality maintenance fee levied on nursing
2 facilities; adding new sections to chapter 74.46 RCW; adding a new
3 chapter to Title 82 RCW; creating a new section; providing an effective
4 date; providing a contingent expiration date; and declaring an
5 emergency.

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

7 NEW SECTION. **Sec. 1.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Department" means the department of revenue.

10 (2) "Gross income" means all revenue, without deduction, that is
11 derived from the performance of nursing facility services. "Gross
12 income" does not include other operating revenue or nonoperating
13 revenue.

14 (3) "Other operating revenue" means income from nonpatient care
15 services to patients, as well as sales and activities to persons other
16 than patients. It is derived in the course of operating the facility,
17 such as providing personal laundry service for patients, or from other
18 sources such as meals provided to persons other than patients, personal
19 telephones, gift shops, and vending machine commissions.

1 (4) "Nonoperating revenue" means income from activities not
2 relating directly to the day-to-day operations of an organization.
3 "Nonoperating revenue" includes such items as gains on disposal of a
4 facility's assets, dividends, and interest from security investments,
5 gifts, grants, and endowments.

6 (5) "Patient day" means a calendar day of care provided to a
7 nursing facility resident, excluding a medicare patient day. Patient
8 days include the day of admission and exclude the day of discharge;
9 except that, when admission and discharge occur on the same day, one
10 day of care shall be deemed to exist.

11 (6) "Medicare patient day" means a patient day for medicare
12 beneficiaries on a medicare Part A stay and a patient day for persons
13 who have opted for managed care coverage using their medicare benefit.

14 (7) "Nonexempt nursing facility" means a nursing facility that is
15 not exempt from the quality maintenance fee under section 4 of this
16 act.

17 (8) "Nursing facility" has the same meaning as the term is defined
18 in RCW 18.51.010; it does not include a boarding home as defined in RCW
19 18.20.020 or an adult family home as defined in RCW 70.128.010.

20 (9) "Nursing facility operator" means a person who engages in the
21 business of operating a nursing facility or facilities within this
22 state.

23 (10) "Nursing facility services" means health-related services to
24 individuals who do not require hospital care, but whose mental or
25 physical condition requires services that are above the level of room
26 and board and can be made available only through institutional
27 facilities.

28 NEW SECTION. **Sec. 2.** (1) In addition to any other tax, a quality
29 maintenance fee is imposed on every operator of a nonexempt nursing
30 facility in this state. The quality maintenance fee shall be six
31 dollars and fifty cents per patient day.

32 (2) Each operator of a nonexempt nursing facility shall file a
33 return with the department on a monthly basis. The return shall
34 include the following:

35 (a) The number of patient days for nonexempt nursing facilities
36 operated by that person in that month; and

1 (b) Remittance of the nonexempt nursing facility operator's quality
2 maintenance fee for that month.

3 NEW SECTION. **Sec. 3.** All of chapter 82.32 RCW, except RCW
4 82.32.270, applies to the fee imposed by this chapter, in addition to
5 any other provisions of law for the payment and enforcement of the fee
6 imposed by this chapter. The department may adopt rules, in accordance
7 with chapter 34.05 RCW, as necessary to provide for the effective
8 administration of this chapter.

9 NEW SECTION. **Sec. 4.** (1) By July 1st of each year, each nursing
10 facility operator shall file a report with the department of social and
11 health services listing the patient days and the gross income for the
12 prior calendar year for each nursing facility that he or she operates.

13 (2) By August 1, 2003, the department of social and health services
14 shall submit for approval to the federal department of health and human
15 services a request for a waiver pursuant to 42 C.F.R. 433.68. The
16 waiver shall identify the nursing facilities that the department
17 proposes to exempt from the quality maintenance fee. Those facilities
18 shall include at least:

19 (a) Nursing facilities operated by any agency of the state of
20 Washington;

21 (b) Nursing facilities operated by a public hospital district; and

22 (c) As many nursing facilities with no or disproportionately low
23 numbers of medicaid-funded residents as, within the judgment of the
24 department, may be exempted from the fee pursuant to 42 C.F.R. 433.68.

25 (3) The department of social and health services shall notify the
26 department of revenue and the nursing facility operator of the nursing
27 facilities that would be exempted from the quality maintenance fee
28 pursuant to the waiver request submitted to the federal department of
29 health and human services. The nursing facilities included in the
30 waiver request may withhold payment of the fee pending final action by
31 the federal government on the request for waiver.

32 (4) If the request for waiver is approved, the department of social
33 and health services shall notify the department of revenue and the
34 nursing facility operator that no quality maintenance fee is due from
35 the facility. If the request for waiver is denied, nursing facility
36 operators who have withheld payment of the fee shall pay all such fees

1 as have been withheld. No interest or penalties shall be due upon such
2 withheld payments for the period during which final federal action was
3 pending.

4 (5) The department of social and health services shall take
5 whatever action is necessary to continue the waiver from the federal
6 government.

7 (6) The department of social and health services may adopt such
8 rules, in accordance with chapter 34.05 RCW, as necessary to provide
9 for effective administration of this section and section 5 of this act.

10 NEW SECTION. **Sec. 5.** The department of social and health services
11 shall prospectively add the medicaid cost of the quality maintenance
12 fee under section 2 of this act to the nursing facility component rate
13 allocation calculated after application of all other provisions of RCW
14 74.46.521.

15 NEW SECTION. **Sec. 6.** (1) Sections 1 through 5 of this act shall
16 expire on the effective date that federal medicaid matching funds are
17 substantially reduced or that a federal sanction is imposed due to the
18 quality maintenance fee under section 2 of this act, as such date is
19 certified by the secretary of social and health services.

20 (2) The expiration of sections 1 through 5 of this act shall not be
21 construed as affecting any existing right acquired or liability or
22 obligation incurred under those sections or under any rule or order
23 adopted under those sections, nor as affecting any proceeding
24 instituted under those sections.

25 NEW SECTION. **Sec. 7.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 8.** (1) Sections 1 through 3 of this act
30 constitute a new chapter in Title 82 RCW.

31 (2) Sections 4 and 5 of this act are each added to chapter 74.46
32 RCW.

1 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 July 1, 2003.

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