

26-21-23. Licensing of non-Medicaid nursing care facility beds.

(1) Notwithstanding the provisions of Section 26-21-2, for purposes of this section "nursing care facility" and "small health care facility":

(a) mean the following facilities licensed by the department under this chapter:

(i) skilled nursing homes;
(ii) intermediate care facilities; or
(iii) small health care facilities with four to 16 beds functioning as a skilled nursing home; and

(b) does not mean:

(i) an intermediate care facility for the mentally retarded;
(ii) a critical access hospital that meets the criteria of 42 U.S.C. 1395i-4(c)(2) (1998);
(iii) a small health care facility which is hospital based; or
(iv) a small health care facility other than a skilled nursing home with 16 beds or less.

(2) Except as provided in Subsection (5), a new nursing care facility shall be approved for a health facility license only if the applicant proves to the division that:

(a) the facility will be Medicaid certified under the provisions of Section 26-18-503;

(b) the facility will have at least 120 beds; or

(c) (i) the facility's projected Medicare inpatient revenues do not exceed 49% of the facility's revenues;

(ii) the facility has identified projected non-Medicare inpatient revenue sources; and

(iii) the non-Medicare inpatient revenue sources identified in this Subsection (2)(c)(iii) will constitute at least 51% of the revenues as demonstrated through an independently certified feasibility study submitted and paid for by the facility and provided to the division.

(3) The division may not approve the addition of licensed beds in an existing nursing care facility unless the nursing care facility satisfies the criteria established in Subsection (2).

(4) The department may make rules to administer and enforce this part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) The provisions of Subsection (2) do not apply to a nursing care facility that has:

(a) filed an application with the department and paid all applicable fees to the department on or before February 28, 2007; and

(b) submitted to the department the working drawings, as defined by the department by administrative rule, on or before July 1, 2008.

Amended by Chapter 382, 2008 General Session