

Effective 3/25/2016

26-18-505 Authorization to sell or transfer licensed Medicaid beds -- Duties of transferor -- Duties of transferee -- Duties of division.

- (1) This section provides a method to transfer or sell the license for a Medicaid bed from a nursing care facility program to another entity that is in addition to the authorization to transfer under Section 26-18-503.
- (2)
 - (a) A nursing care facility program may transfer or sell one or more of its licenses for Medicaid beds in accordance with Subsection (2)(b) if:
 - (i) at the time of the transfer, and with respect to the license for the Medicaid bed that will be transferred, the nursing care facility program that will transfer the Medicaid license meets all applicable regulations for Medicaid certification;
 - (ii) 30 days prior to the transfer, the nursing care facility program gives a written assurance to the director and to the transferee in accordance with Subsection 26-18-503(4);
 - (iii) 30 days prior to the transfer, the nursing care facility program that will transfer the license for a Medicaid bed notifies the division in writing of:
 - (A) the number of bed licenses that will be transferred;
 - (B) the date of the transfer; and
 - (C) the identity and location of the entity receiving the transferred licenses; and
 - (iv) if the nursing care facility program for which the license will be transferred or purchased is located in an urban county with a nursing care facility average annual occupancy rate over the previous two years less than or equal to 75%, the nursing care facility program transferring or selling the license demonstrates to the satisfaction of the director that the sale or transfer:
 - (A) will not result in an excessive number of Medicaid certified beds within the county or group of counties that would be impacted by the transfer or sale; and
 - (B) best meets the needs of Medicaid recipients.
 - (b) Except as provided in Subsection (2)(c), a nursing care facility program may transfer or sell one or more of its licenses for Medicaid beds to:
 - (i) a nursing care facility program that has the same owner or successor in interest of the same owner;
 - (ii) a nursing care facility program that has a different owner;
 - (iii) notwithstanding Section 26-18-502, an entity that intends to establish a nursing care facility program; or
 - (iv) notwithstanding Section 26-18-502, a related-party nonnursing-care-facility entity that wants to hold one or more of the licenses for a future nursing care facility program not yet identified, as long as:
 - (A) the licenses are subsequently transferred or sold to a nursing care facility program within three years; and
 - (B) the nursing care facility program notifies the director of the transfer or sale in accordance with Subsection (2)(a)(iii).
 - (c) A nursing care facility program may not transfer or sell one or more of its licenses for Medicaid beds to an entity under Subsection (2)(b)(i), (ii), (iii), or (iv) that is located in a rural county unless the entity requests, and the director issues, Medicaid certification for the beds under Subsection 26-18-503(5).
- (3) An entity under Subsection (2)(b)(i), (ii), (iii), or (iv) that receives or purchases a license for a Medicaid bed under Subsection (2)(b):
 - (a) may receive a license for a Medicaid bed from more than one nursing care facility program;

- (b) within 14 days of seeking Medicaid certification of beds in the nursing care facility program, give the division notice of the total number of licenses for Medicaid beds that the entity received and who it received the licenses from;
 - (c) may only seek Medicaid certification for the number of licensed beds in the nursing care facility program equal to the total number of licenses for Medicaid beds received by the entity;
 - (d) notwithstanding Section 26-18-502, does not have to demonstrate need or seek approval for the Medicaid licensed bed under Subsection 26-18-503(5), except as provided in Subsections (2)(a)(iv) and (2)(c);
 - (e) shall meet the standards for Medicaid certification other than those in Subsection 26-18-503(5), including personnel, services, contracts, and licensing of facilities under Chapter 21, Health Care Facility Licensing and Inspection Act; and
 - (f) shall obtain Medicaid certification for the licensed Medicaid beds within three years of the date of transfer as documented under Subsection (2)(a)(iii)(B).
- (4)
- (a) When the division receives notice of a transfer of a license for a Medicaid bed under Subsection (2)(a)(iii)(A), the department shall reduce the number of licenses for Medicaid beds at the transferring nursing care facility:
 - (i) equal to the number of licenses transferred; and
 - (ii) effective on the date of the transfer as reported under Subsection (2)(a)(iii)(B).
 - (b) For purposes of Section 26-18-502, the division shall approve Medicaid certification for the receiving entity:
 - (i) in accordance with the formula established in Subsection (3)(c); and
 - (ii) if:
 - (A) the nursing care facility seeks Medicaid certification for the transferred licenses within the time limit required by Subsection (3)(f); and
 - (B) the nursing care facility program meets other requirements for Medicaid certification under Subsection (3)(e).
 - (c) A license for a Medicaid bed may not be approved for Medicaid certification without meeting the requirements of Sections 26-18-502 and 26-18-503 if:
 - (i) the license for a Medicaid bed is transferred under this section but the receiving entity does not obtain Medicaid certification for the licensed bed within the time required by Subsection (3)(f); or
 - (ii) the license for a Medicaid bed is transferred under this section but the license is no longer eligible for Medicaid certification as a result of the conversion factor established in Subsection (3)(c).

Amended by Chapter 276, 2016 General Session