

NURSING CARE FACILITY MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen L. Whyte

Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies provisions related to nursing care facilities.

Highlighted Provisions:

This bill:

- ▶ removes statutorily prescribed penalties and interest imposed on nursing care facilities for failure to pay an assessment;
- ▶ grants to the Division of Integrated Healthcare rulemaking authority to require nursing care facilities to pay a penalty for failure to timely pay an assessment; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-3-403, as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-3-404, as renumbered and amended by Laws of Utah 2023, Chapter 306

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26B-3-403** is amended to read:



28 **26B-3-403. Collection, remittance, and payment of nursing care facilities**
29 **assessment.**

30 (1) (a) Beginning July 1, 2004, an assessment is imposed upon each nursing care
31 facility in the amount designated in Subsection (1)(c).

32 (b) (i) The department shall establish by rule, a uniform rate per non-Medicare patient
33 day that may not exceed 6% of the total gross revenue for services provided to patients of all
34 nursing care facilities licensed in this state.

35 (ii) For purposes of Subsection (1)(b)(i), total revenue does not include charitable
36 contribution received by a nursing care facility.

37 (c) The department shall calculate the assessment imposed under Subsection (1)(a) by
38 multiplying the total number of patient days of care provided to non-Medicare patients by the
39 nursing care facility, as provided to the department pursuant to Subsection (3)(a), by the
40 uniform rate established by the department pursuant to Subsection (1)(b).

41 (2) (a) The assessment imposed by this part is due and payable on a monthly basis on
42 or before the last day of the month next succeeding each monthly period.

43 (b) The collecting agent for this assessment shall be the department which is vested
44 with the administration and enforcement of this part, including the right to audit records of a
45 nursing care facility related to patient days of care for the facility.

46 (c) The department shall forward proceeds from the assessment imposed by this part to
47 the state treasurer for deposit in the expendable special revenue fund as specified in Section
48 [26B-1-332](#).

49 (3) Each nursing care facility shall, on or before the end of the month next succeeding
50 each calendar monthly period, file with the department:

51 (a) a report which includes:

52 (i) the total number of patient days of care the facility provided to non-Medicare
53 patients during the preceding month;

54 (ii) the total gross revenue the facility earned as compensation for services provided to
55 patients during the preceding month; and

56 (iii) any other information required by the department; and

57 (b) a return for the monthly period, and shall remit with the return the assessment
58 required by this part to be paid for the period covered by the return.

59 (4) Each return shall contain information and be in the form the department prescribes
60 by rule.

61 (5) The assessment as computed in the return is an allowable cost for Medicaid
62 reimbursement purposes.

63 (6) The department may by rule, extend the time for making returns and paying the
64 assessment.

65 (7) Each nursing care facility that fails to pay any assessment required to be paid to the
66 state, within the time required by this part, or that fails to file a return as required by this part,
67 shall pay, in addition to the assessment[;] and penalties [and interest] as provided in Section
68 [26B-3-404](#).

69 Section 2. Section **26B-3-404** is amended to read:

70 **26B-3-404. Penalties .**

71 [~~(1) The penalty for failure to file a return or pay the assessment due within the time~~
72 ~~prescribed by this part is the greater of \$50, or 1% of the assessment due on the return.]~~

73 [~~(2) For failure to pay within 30 days of a notice of deficiency of assessment required~~
74 ~~to be paid, the penalty is the greater of \$50 or 5% of the assessment due.]~~

75 [~~(3) The penalty for underpayment of the assessment is as follows:]~~

76 [~~(a) If any underpayment of assessment is due to negligence, the penalty is 25% of the~~
77 ~~underpayment.]~~

78 [~~(b) If the underpayment of the assessment is due to intentional disregard of law or~~
79 ~~rule, the penalty is 50% of the underpayment.]~~

80 [~~(4) For intent to evade the assessment, the penalty is 100% of the underpayment.]~~

81 [~~(5) The rate of interest applicable to an underpayment of an assessment under this part~~
82 ~~or an unpaid penalty under this part is 12% annually.]~~

83 (1) The division shall require a nursing care facility that fails to pay an assessment due
84 under this part to pay the division, in addition to the assessment, a penalty determined by the
85 division.

86 [~~(6)~~] (2) The department may waive the imposition of a penalty for good cause.

87 (3) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
88 Administrative Rulemaking Act, prescribing the administration and requirements for this
89 section.

90 Section 3. **Effective date.**

91 This bill takes effect on May 1, 2024.