

1 to this section upon each nursing facility licensed in this state.
2 Facilities operated by the Oklahoma Department of Veterans Affairs
3 shall be exempt from this fee. Quality of care enhancements
4 include, but are not limited to, the purposes specified in this
5 section.

6 B. As a basis for determining the Nursing Facilities Quality of
7 Care Fee assessed upon each licensed nursing facility, the Oklahoma
8 Health Care Authority shall calculate a uniform per-patient day
9 rate. The rate shall be calculated by dividing six percent (6%) of
10 the total annual patient gross receipts of all licensed nursing
11 facilities in this state by the total number of patient days for all
12 licensed nursing facilities in this state. The result shall be the
13 per-patient day rate. Beginning July 15, 2004, the Nursing
14 Facilities Quality of Care Fee shall not be increased unless
15 specifically authorized by the Legislature.

16 C. The Nursing Facilities Quality of Care Fee owed by a
17 licensed nursing facility shall be calculated by the Oklahoma Health
18 Care Authority by adding the daily patient census of a licensed
19 nursing facility, as reported by the facility for each day of the
20 month, and by multiplying the ensuing figure by the per-patient day
21 rate determined pursuant to the provisions of subsection B of this
22 section.

23 D. Each licensed nursing facility which is assessed the Nursing
24 Facilities Quality of Care Fee shall be required to file a report on

1 a monthly basis with the Oklahoma Health Care Authority detailing
2 the daily patient census and patient gross receipts at such time and
3 in such manner as required by the Oklahoma Health Care Authority.

4 E. 1. The Nursing Facilities Quality of Care Fee for a
5 licensed nursing facility for the period beginning October 1, 2000,
6 shall be determined using the daily patient census and annual
7 patient gross receipts figures reported to the Oklahoma Health Care
8 Authority for the calendar year 1999 upon forms supplied by the
9 Authority.

10 2. The Nursing Facilities Quality of Care Fee for the fiscal
11 year beginning July 1, 2001, and each fiscal year thereafter shall
12 be determined by:

13 a. using the daily patient census and patient gross
14 receipts reports received by the Authority covering
15 the six-month period October 1 through March 31 of the
16 prior fiscal year, and

17 b. annualizing those figures.

18 For the 2005 fiscal year and each fiscal year thereafter, the
19 annualization of the Nursing Facilities Quality of Care Fee
20 specified in this paragraph shall be subject to the limitation in
21 subsection B of this section.

22 F. The payment of the Nursing Facilities Quality of Care Fee by
23 licensed nursing facilities shall be an allowable cost for Medicaid
24 reimbursement purposes.

1 G. 1. There is hereby created in the State Treasury a
2 revolving fund to be designated the "Nursing Facility Quality of
3 Care Fund".

4 2. The fund shall be a continuing fund, not subject to fiscal
5 year limitations, and shall consist of:

- 6 a. all monies received by the Authority pursuant to this
7 section and otherwise specified or authorized by law,
- 8 b. monies received by the Authority due to federal
9 financial participation pursuant to Title XIX of the
10 Social Security Act, and
- 11 c. interest attributable to investment of money in the
12 fund.

13 3. All monies accruing to the credit of the fund are hereby
14 appropriated and shall be budgeted and expended by the Authority
15 for:

- 16 a. reimbursement of the additional costs paid to
17 Medicaid-certified nursing facilities for purposes
18 specified by Sections 1-1925.2, 5022.1 and 5022.2 of
19 Title 63 of the Oklahoma Statutes,
- 20 b. reimbursement of the Medicaid rate increases for
21 intermediate care facilities for the mentally retarded
22 (ICFs/MR),
- 23 c. nonemergency transportation services for Medicaid-
24 eligible nursing home clients,

- 1 d. eyeglass and denture services for Medicaid-eligible
2 nursing home clients,
- 3 e. ten additional ombudsmen employed by the Department of
4 Human Services,
- 5 f. ten additional nursing facility inspectors employed by
6 the State Department of Health,
- 7 g. pharmacy and other Medicaid services to qualified
8 Medicare beneficiaries whose incomes are at or below
9 one hundred percent (100%) of the federal poverty
10 level; provided however, pharmacy benefits authorized
11 for such qualified Medicare beneficiaries shall be
12 suspended if the federal government subsequently
13 extends pharmacy benefits to this population,
- 14 h. costs incurred by the Oklahoma Health Care Authority
15 in the administration of the provisions of this
16 section and any programs created pursuant to this
17 section,
- 18 i. durable medical equipment and supplies services for
19 Medicaid-eligible elderly adults, and
- 20 j. personal needs allowance increases for residents of
21 nursing homes and Intermediate Care Facilities for the
22 Mentally Retarded (ICFs/MR) from Thirty Dollars
23 (\$30.00) to Fifty Dollars (\$50.00) per month per
24 resident.

1 4. Expenditures from the fund shall be made upon warrants
2 issued by the State Treasurer against claims filed as prescribed by
3 law with the Director of the Office of Management and Enterprise
4 Services for approval and payment.

5 5. The fund and the programs specified in this section funded
6 by revenues collected from the Nursing Facilities Quality of Care
7 Fee pursuant to this section are exempt from budgetary cuts,
8 reductions, or eliminations.

9 6. The Medicaid rate increases for intermediate care facilities
10 for the mentally retarded (ICFs/MR) shall not exceed the net
11 Medicaid rate increase for nursing facilities including, but not
12 limited to, the Medicaid rate increase for which Medicaid-certified
13 nursing facilities are eligible due to the Nursing Facilities
14 Quality of Care Fee less the portion of that increase attributable
15 to treating the Nursing Facilities Quality of Care Fee as an
16 allowable cost.

17 7. The reimbursement rate for nursing facilities shall be made
18 in accordance with Oklahoma's Medicaid reimbursement rate
19 methodology and the provisions of this section.

20 8. No nursing facility shall be guaranteed, expressly or
21 otherwise, that any additional costs reimbursed to the facility will
22 equal or exceed the amount of the Nursing Facilities Quality of Care
23 Fee paid by the nursing facility.

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1 H. 1. In the event that federal financial participation
2 pursuant to Title XIX of the Social Security Act is not available to
3 the Oklahoma Medicaid program, for purposes of matching expenditures
4 from the Nursing Facility Quality of Care Fund at the approved
5 federal medical assistance percentage for the applicable fiscal
6 year, the Nursing Facilities Quality of Care Fee shall be null and
7 void as of the date of the nonavailability of such federal funding,
8 through and during any period of nonavailability.

9 2. In the event of an invalidation of this section by any court
10 of last resort under circumstances not covered in subsection I of
11 this section, the Nursing Facilities Quality of Care Fee shall be
12 null and void as of the effective date of that invalidation.

13 3. In the event that the Nursing Facilities Quality of Care Fee
14 is determined to be null and void for any of the reasons enumerated
15 in this subsection, any Nursing Facilities Quality of Care Fee
16 assessed and collected for any periods after such invalidation shall
17 be returned in full within sixty (60) days by the Oklahoma Health
18 Care Authority to the nursing facility from which it was collected.

19 I. 1. If any provision of this section or the application
20 thereof shall be adjudged to be invalid by any court of last resort,
21 such judgment shall not affect, impair or invalidate the provisions
22 of the section, but shall be confined in its operation to the
23 provision thereof directly involved in the controversy in which such
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1 judgment was rendered. The applicability of such provision to other
2 persons or circumstances shall not be affected thereby.

3 2. This subsection shall not apply to any judgment that affects
4 the rate of the Nursing Facilities Quality of Care Fee, its
5 applicability to all licensed nursing homes in the state, the usage
6 of the fee for the purposes prescribed in this section, and/or the
7 ability of the Oklahoma Health Care Authority to obtain full federal
8 participation to match its expenditures of the proceeds of the fee.

9 J. The Oklahoma Health Care Authority shall promulgate rules
10 for the implementation and enforcement of the Nursing Facilities
11 Quality of Care Fee established by this section.

12 K. The Authority shall provide for administrative penalties in
13 the event nursing facilities fail to:

- 14 1. Submit the Quality of Care Fee;
- 15 2. Submit the fee in a timely manner;
- 16 3. Submit reports as required by this section; or
- 17 4. Submit reports timely.

18 L. As used in this section:

- 19 1. "Nursing facility" means any home, establishment or
20 institution, or any portion thereof, licensed by the State
21 Department of Health as defined in Section 1-1902 of Title 63 of the
22 Oklahoma Statutes;

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1 2. "Medicaid" means the medical assistance program established
2 in Title XIX of the federal Social Security Act and administered in
3 this state by the Oklahoma Health Care Authority;

4 3. "Patient gross revenues" means gross revenues received in
5 compensation for services provided to residents of nursing
6 facilities including, but not limited to, client participation. The
7 term "patient gross revenues" shall not include amounts received by
8 nursing facilities as charitable contributions; and

9 4. "Additional costs paid to Medicaid-certified nursing
10 facilities under Oklahoma's Medicaid reimbursement methodology"
11 means both state and federal Medicaid expenditures including, but
12 not limited to, funds in excess of the aggregate amounts that would
13 otherwise have been paid to Medicaid-certified nursing facilities
14 under the Medicaid reimbursement methodology which have been updated
15 for inflationary, economic, and regulatory trends and which are in
16 effect immediately prior to the inception of the Nursing Facilities
17 Quality of Care Fee.

18 M. If any provision of this section, or the application
19 thereof, is determined by any controlling federal agency, or any
20 court of last resort to prevent the state from obtaining federal
21 financial participation in the state's Medicaid program, such
22 provision shall be deemed null and void as of the date of the
23 nonavailability of such federal funding and through and during any
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1 period of nonavailability. All other provisions of the bill shall
2 remain valid and enforceable.

3 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-890.4, is
4 amended to read as follows:

5 Section 1-890.4. A. Each application for establishment of a
6 continuum of care facility or assisted living center shall be
7 accompanied by a nonrefundable application fee. The State Board of
8 Health shall develop a sliding fee scale not to exceed One Thousand
9 Dollars (\$1,000.00) for each application, except that any facility
10 operated by the Oklahoma Department of Veterans Affairs shall be
11 exempt from the fee. The scale shall be based upon the bed capacity
12 of the continuum of care facilities or assisted living centers.

13 B. Each application for an initial license, or annual renewal
14 of the license, to operate a continuum of care facility or assisted
15 living center shall be accompanied by a license fee of Ten Dollars
16 (\$10.00) for each bed included in the maximum bed capacity at such
17 facility or center, except that any facility operated by the
18 Oklahoma Department of Veterans Affairs shall be exempt from this
19 fee. Each application for an initial or renewal license for a
20 continuum of care facility that includes an adult day care component
21 shall be accompanied by an additional license fee in an amount to be
22 determined by the Board, but not to exceed Seventy-five Dollars
23 (\$75.00), except that any facility operated by the Oklahoma
24 Department of Veterans Affairs shall be exempt from the fee.

1 C. Each application to establish or license a continuum of care
2 facility or assisted living center shall be on a form approved by
3 the Commissioner to include, but not be limited to, the following:

4 1. Disclosure of the applicant's identity and background in the
5 operation of continuum of care and assisted living services; and

6 2. Evidence of the adequacy of the applicant's financial
7 resources and ability to ensure adequate staffing.

8 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-1905, is
9 amended to read as follows:

10 Section 1-1905. A. An application for a license, or renewal
11 thereof, to operate a facility shall be accompanied by a fee of Ten
12 Dollars (\$10.00) for each bed included in the maximum bed capacity
13 at such facility, except that any facility operated by the Oklahoma
14 Department of Veterans Affairs shall be exempt from the fee. All
15 licenses shall be on a form prescribed by the State Commissioner of
16 Health, which shall include, but not be limited to, the maximum bed
17 capacity for which it is granted and the date the license was
18 issued. The license shall:

19 1. Not be transferable or assignable;

20 2. Be posted in a conspicuous place on the licensed premises;

21 3. Be issued only for the premises named in the application;

22 and

23 4. Expire twelve (12) months from the date of issuance,
24 provided an initial license shall expire one hundred eighty (180)

1 days after the date of issuance. Licenses may be issued for a
2 period of more than twelve (12) months, but not more than twenty-
3 four (24) months, for the license period immediately following the
4 effective date of this provision in order to permit an equitable
5 distribution of license expiration dates to all months of the year.

6 B. The fee for a license amendment to reflect an increase in
7 bed capacity shall be prorated based on the number of days remaining
8 in the licensure period and the change in the number of beds, except
9 that any facility operated by the Oklahoma Department of Veterans
10 Affairs shall be exempt from the fee.

11 C. The issuance or renewal of a license after notice of a
12 violation has been sent shall not constitute a waiver by the State
13 Department of Health of its power to rely on the violation as the
14 basis for subsequent license revocation or other enforcement action
15 under this act arising out of the notice of violation.

16 D. 1. When transfer of ownership or operation of a facility is
17 proposed, the transferee shall notify the Department of the transfer
18 and apply for a new license at least thirty (30) days prior to final
19 transfer.

20 2. The transferor shall remain responsible for the operation of
21 the facility until such time as a license is issued to the
22 transferee.

23 3. The license granted to the transferee shall be subject to
24 the plan of correction submitted by the previous owner and approved

1 by the Department and any conditions contained in a conditional
2 license issued to the previous owner. If there are outstanding
3 violations and no approved plan of correction has been implemented,
4 the Department may issue a conditional license and plan of
5 correction as provided in this act.

6 4. The transferor shall remain liable for all penalties
7 assessed against the facility which are imposed for violations
8 occurring prior to transfer of ownership.

9 E. Nursing and specialized facilities, as defined and licensed
10 pursuant to the Nursing Home Care Act shall be surveyed through an
11 unannounced inspection at least once every fifteen (15) months, with
12 a statewide average survey cycle of twelve (12) months.

13 SECTION 4. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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18 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
19 03/28/2013 - DO PASS, As Coauthored.
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