

House Bill 526 (COMMITTEE SUBSTITUTE)

By: Representatives Channell of the 77th, Shaw of the 143rd, and Buck of the 112th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to
2 indigent and elderly patients, so as to enact the "Nursing Home Provider Fee Act"; to provide
3 for a fee to be imposed on nursing homes to be used to obtain federal financial participation
4 for medical assistance payments to nursing homes that serve the medically indigent; to
5 provide for definitions; to establish a segregated account within the Indigent Care Trust Fund
6 for the deposit of provider fees; to provide for a method for calculating and collecting the
7 provider fee; to authorize the Department of Community Health to inspect nursing home
8 records for purposes of auditing provider fees; to provide for penalties for failure to pay a
9 provider fee; to authorize the department to withhold Medicaid payments equal to amounts
10 owed as a provider fee and penalty; to provide for the collection of fees by civil action and
11 tax liens; to provide for the appropriation of funds in the segregated account for medical
12 assistance payments to nursing homes; to provide for a request for a uniformity waiver; to
13 provide for application of the "Georgia Medical Assistance Act of 1977"; to provide for
14 related matters; to provide for an effective date; to repeal conflicting laws; and for other
15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 This Act shall be known and may be cited as the "Nursing Home Provider Fee Act."

19 **SECTION 2.**

20 Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to indigent and
21 elderly patients, is amended by adding a new Article 6A to read as follows:

"ARTICLE 6A

31-8-161.

This article is passed pursuant to the authority of Article III, Section IX, Paragraph VI(i) of the Constitution.

31-8-162.

As used in this article, the term:

(1) 'Department' means the Department of Community Health created by Chapter 5A of this title.

(2) 'Medically indigent' means a person who meets the state-wide standards of indigency adopted by the department.

(3) 'Nursing home' means a freestanding facility or distinct part or unit of a hospital required to be licensed or permitted as a nursing home under the provisions of Chapter 7 of this title which is not owned or operated by the state or federal government.

(4) 'Nursing home that disproportionately serves the medically indigent' means a nursing home for which the patient days attributable to medically indigent residents account for more than 15 percent of the nursing home's total patient days during a 12 month period. For purposes of this computation, medicare program patient days shall not be included in the nursing home's total patient days.

(5) 'Patient day' means a day of care provided to an individual resident of a nursing home by the nursing home. A patient day includes the date of admission but does not include the date of discharge, unless the dates of admission and discharge occur on the same day.

(6) 'Provider fee' means the fee imposed pursuant to this article for the privilege of operating a nursing home.

(7) 'Segregated account' means an account for the dedication and deposit of provider fees which is established within the Indigent Care Trust Fund created pursuant to Code Section 31-8-152.

(8) 'State plan' means all documentation submitted by the commissioner of the Department of Community Health on behalf of the department to and for approval by the United States secretary of health and human services, pursuant to Title XIX of the federal Social Security Act.

(9) 'Trust fund' means the Indigent Care Trust Fund created pursuant to Code Section 31-8-152.

(10) 'Waiver' means a waiver of the uniform tax requirement for permissible health care related taxes, as provided in 42 C.F.R. Section 433.68(e)(2)(i) and (ii).

1 31-8-163.

2 There is established within the trust fund a segregated account for revenues raised through
3 the imposition of the provider fee. All revenues raised through provider fees shall be
4 credited to the segregated account within the trust fund and shall be invested in the same
5 manner as authorized for investing other moneys in the state treasury. Contributions and
6 transfers to the trust fund pursuant to Code Sections 31-8-153 and 31-8-153.1 shall not be
7 deposited into the segregated account.

8 31-8-164.

9 (a) Each nursing home shall be assessed a provider fee with respect to each patient day for
10 the preceding quarter, excluding medicare program patient days. The provider fee shall be
11 assessed uniformly upon all nursing homes, except as provided in Code Section 31-8-168.
12 The aggregate provider fees imposed under this article shall equal the maximum amount
13 that may be assessed pursuant to the 6 percent indirect guarantee threshold set forth in 42
14 C.F.R. Section 433.68(f)(3)(i).

15 (b) The provider fee shall be paid quarterly by each nursing home to the department. A
16 nursing home shall calculate and report the provider fee due upon a form prepared by the
17 department and submit therewith payment of the provider fee no later than the thirtieth day
18 following the end of each calendar quarter. The initial provider fee report shall be filed and
19 the initial payment of the provider fee shall be submitted no later than July 30, 2003. A
20 nursing home shall calculate and report the initial provider fee using information about its
21 patient days for the quarter ending June 30, 2003.

22 31-8-165.

23 (a) The department shall collect the provider fees imposed pursuant to Code Section
24 31-8-164. All revenues raised pursuant to this article shall be deposited into the segregated
25 account. Such funds shall be dedicated and used for the sole purpose of obtaining federal
26 financial participation for medical assistance payments to nursing homes that
27 disproportionately serve the medically indigent.

28 (b) The department shall prepare and distribute a form upon which a nursing home shall
29 calculate and report to the department the provider fee.

30 (c) Each nursing home shall keep and preserve for a period of three years such books and
31 records as may be necessary to determine the amount for which it is liable under this
32 article. The department shall have the authority to inspect and copy the records of a
33 nursing home for purposes of auditing the calculation of the provider fee. All information
34 obtained by the department pursuant to this article shall be confidential and shall not
35 constitute a public record.

1 (d) In the event that the department determines that a nursing home has underpaid or
2 overpaid the provider fee, the department shall notify the nursing home of the balance of
3 the provider fee or refund that is due. Such payment or refund shall be due within 30 days
4 of the department's notice.

5 (e) Any nursing home that fails to pay the provider fee pursuant to this article within the
6 time required by this article shall pay, in addition to the outstanding provider fee, a 6
7 percent penalty for each month or fraction thereof that the payment is overdue. If a
8 provider fee has not been received by the department by the last day of the month, the
9 department shall withhold an amount equal to the provider fee and penalty owed from any
10 medical assistance payment due such nursing home under the Medicaid program. The
11 provider fee levied by this article shall constitute a debt due the state and may be collected
12 by civil action and the filing of tax liens in addition to such methods provided for in this
13 article. Any penalty that accrues pursuant to this subsection shall be credited to the
14 segregated account.

15 31-8-166.

16 (a) Notwithstanding any other provision of this chapter, the General Assembly is
17 authorized to appropriate as state funds to the department for use in any fiscal year all
18 revenues dedicated and deposited into the segregated account. Such appropriations shall
19 be made for the sole purpose of obtaining federal financial participation in the provision
20 of support to nursing homes that disproportionately serve the medically indigent. Any
21 appropriation from the segregated account for any purpose other than medical assistance
22 payments to nursing homes shall be void.

23 (b) Revenues appropriated to the department pursuant to this Code section shall be used
24 to match federal funds that are available for the purpose for which such trust funds have
25 been appropriated.

26 (c) Beginning July 1, 2004, appropriations from the segregated account to the department
27 shall be used to supplement and not replace or reduce any other state funds appropriated
28 to the department.

29 (d) Appropriations from the segregated account to the department shall not lapse to the
30 general fund at the end of the fiscal year.

31
32 31-8-167.

33 The department shall report annually to the General Assembly on its use of revenues
34 deposited into the segregated account and appropriated to the department pursuant to this
35 article.

1 31-8-168.

2 No later than July 1, 2003, the department shall prepare and submit to the Centers for
3 Medicare and Medicaid Services of the United States Department of Health and Human
4 Services a request for approval of a waiver pursuant to 42 C.F.R. Section 433.68(e) of the
5 uniform fee requirement. Upon approval of such waiver, the department shall take action
6 to reduce the provider fee imposed pursuant to Code Section 31-8-164 allowed by such
7 waiver for those providers who qualify for such reduction.

8 31-8-169.

9 Except where inconsistent with this article, the provisions of Article 7 of Chapter 4 of Title
10 49, the 'Georgia Medical Assistance Act of 1977,' shall apply to the department in carrying
11 out the purposes of this article."

12 **SECTION 3.**

13 This Act shall become effective upon its approval by the Governor or upon its becoming law
14 without such approval.

15 **SECTION 4.**

16 All laws and parts of laws in conflict with this Act are repealed.