

House Bill 526 (AS PASSED HOUSE AND SENATE)

By: Representatives Channell of the 77<sup>th</sup>, Shaw of the 143<sup>rd</sup>, and Buck of the 112<sup>th</sup>

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 not exceed the maximum  
13 amount that may be assessed pursuant to the 6 percent indirect guarantee threshold set forth  
14 in 42 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.

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

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

31-8-166.

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

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

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

31-8-167.

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

31-8-168.

No later than July 1, 2003, the department shall prepare and submit to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human

1 Services a request for approval of a waiver pursuant to 42 C.F.R. Section 433.68(e) of the  
2 uniform fee requirement. Upon approval of such waiver, the department shall take action  
3 to reduce the provider fee imposed pursuant to Code Section 31-8-164 allowed by such  
4 waiver for those providers who qualify for such reduction.

5 31-8-169.

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

9 **SECTION 3.**

10 This Act shall become effective July 1, 2003.

11 **SECTION 4.**

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