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**CHAPTER 32**

**HB 578-FN - FINAL VERSION**

8Jan2020... 2826h

06/16/2020 1290s

06/16/2020 1531s

2020 SESSION

19-0577

01/05

HOUSE BILL *578-FN*

AN ACT establishing a committee to study the safety of residents and employees in long-term care facilities, relative to cost controls in long-term care, and relative to the reimbursement of costs of training nursing assistants.

SPONSORS: Rep. Stringham, Graf. 5; Rep. Ford, Graf. 3; Rep. Desilets, Rock. 7

COMMITTEE: Health, Human Services and Elderly Affairs

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AMENDED ANALYSIS

This bill:

I. Establishes a committee to study the safety of residents and employees in long-term care facilities.

II. Clarifies the cost controls for long-term care services.

III. Requires the commissioner of the department of health and human services to amend the state Medicaid plan amendment and adopt rules for reimbursement of the costs of training nursing assistants.

8Jan2020... 2826h

06/16/2020 1290s

06/16/2020 1531s 19-0577

01/05

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty*

AN ACT establishing a committee to study the safety of residents and employees in long-term care facilities, relative to cost controls in long-term care, and relative to the reimbursement of costs of training nursing assistants.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

32:1 Committee Established. There is established a committee to study the safety of residents and employees in long-term care facilities.

32:2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Two members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

32:3 Duties. The committee shall study the safety, including risk of suicide, of residents and employees in long-term care facilities. In light of the COVID-19 pandemic and its impact on New Hampshire's long-term care facilities, the committee shall also study the acquisition and inventory of personal protective equipment, policies on infection control, staffing and human resource adequacy, availability of appropriate testing, and support and communication with federal and state agencies. The committee may solicit information from any person or entity the committee deems relevant to its study.

32:4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

32:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2020.

32:6 Hospitals and Sanitaria; Consumer Choice. Amend RSA 151-E:4, I to read as follows:

I. A person who has been determined to be Medicaid eligible for nursing facility services in accordance with RSA 151-E:3 shall have the right to receive nursing facility services; however, the person shall be offered and may choose to receive services in a less restrictive setting if such services are available ~~and do not result in costs to the state and counties in excess of the limitations set forth in RSA 151-E:11, II~~. Such choice shall be offered in accordance with state laws and federal regulations. The person shall have the right to have his or her individual support plan developed through a person-centered planning process regardless of age, disability, or residential setting. The department shall take into consideration the family and community supports available to the person, the family's desire and ability to care for the person, and shall ensure that all consideration and support is offered to the family to maintain the person in home and community-based care. Nothing in this section is intended to require the provision of financial assistance or supports by a family member.

32:7 Long-Term Care; Program Management and Cost Controls. Amend RSA 151-E:11, II to read as follows:

II. ~~For the fiscal year beginning July 1, 2003, and each fiscal year thereafter the average annual cost for the provision of services to persons in the mid-level of care shall not exceed 60 percent of the average annual cost for the provision of services in a nursing facility. The average annual cost for the provision of services in home-based care shall not exceed 50 percent of the average annual cost for the provision of services to persons in a nursing facility. No person whose costs would be in excess of 80 percent of the average annual cost for the provision of services to a person in a nursing facility shall be approved for home-based or mid-level services without the prior approval of the commissioner of health and human services. The prior approval shall include a comparison of the mid-level or home-based care costs of the person with the costs of a facility qualified to provide any specialized services necessary for the proper care and treatment of the individual.~~ The department shall provide a report annually no later than January 1 on the utilization of non-nursing home services to the county-state finance commission and the legislative fiscal committee. The department may report to the county-state finance commission and the legislative fiscal committee more frequently if new information is provided by the Centers for Medicare and Medicaid Services.

32:8 Long-Term Care; Program Management and Cost Controls. Amend RSA 151-E:11, IV to read as follows:

IV. Pursuant to RSA 541-A, the commissioner of the department of health and human services, with prior reporting to the oversight committee on health and human services, shall adopt by rule ~~:~~

~~(a~~ methodologies for determining the cost and average annual cost of home-based care, mid-level care, and intermediate, skilled, or specialized nursing facility care, including:

~~(1)~~ (a) Bases for the methodologies;

~~(2)~~ (b) Identification of services considered in determining costs;

~~(3)~~ (c) Average annual costs based on the annual average number of recipients in the setting;

~~(4)~~ (d) The requirement that nursing facility care include both the initial Medicaid rate and supplemental rates paid through the Medicaid Quality Incentive Program; and

~~(5)~~ (e) The requirement that the nursing facility will include the cost for transitional case management.

~~(b) A process to identify persons in home-based or mid-level care whose costs are expected to exceed 80 percent of the average annual cost for the provision of services to a person in a nursing facility.~~

~~(c) A standard of review and process for prior approval by the commissioner, in accordance with paragraph II of this section, for the cases identified through the process in subparagraph (b).~~

32:9 Purpose and Findings. The general court finds that:

I. Licensed nursing assistants are the front-line providers of direct care in many settings, including hospitals and nursing homes. New Hampshire has recently seen a net loss of licensed nursing assistants, to the detriment of the staffing necessary to ensure continuity and quality of care.

II. Under federal law, including 42 C.F.R. section 483.158, federal financial participation is allowed for the reimbursement of training expenses of those nursing assistants who go to work in nursing homes. While nursing assistants might incur those costs themselves, they are often incurred by a prospective employer.

III. It is the intent of the general court to remove any unreasonable barriers to the licensure and training of nursing assistants.

32:10 Health Facility Licensing; Costs of Training for Nurse Assistants; State Plan Amendment. The commissioner of the department of health and human services shall amend, as deemed necessary, the Title XIX Medicaid state amendment to the federal Centers for Medicare and Medicaid Services to implement the provisions of section 11 of this act for the purpose of providing reimbursement, to the maximum extent possible, for the cost of training for assistants to nurses in facilities licensed under RSA 151:2 for approved programs under RSA 326-B.

32:11 Health Facility Licensing; Costs of Training for Nurse Assistants. Amend RSA 151:9, I(k) to read as follows:

(k) Procedures for reviewing documentation of the mandatory completion of, and reimbursement for, a state approved program under RSA 326-B for assistants to nurses in facilities licensed under RSA 151:2~~, who may not assume the responsibility of the position of an assistant to nurses prior to completion of the appropriate course required by this chapter~~ in accordance with the Title XIX Medicaid state plan.

32:12 Effective Date.

I. Sections 6-8 of this act shall take effect January 1, 2021.

II. Sections 9-11 of this act shall take effect 60 days after its passage.

III. The remainder of this act shall take effect upon its passage.

Approved: July 24, 2020

Effective Date:

I. Sections 6-8 shall take effect January 1, 2021.

II. Sections 9-11 shall take effect September 22, 2020.

III. Remainder shall take effect July 24, 2020.

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