

Senate Amendment to
House File 685

H-1315

1 Amend House File 685, as passed by the House, as follows:

2 1. Page 20, after line 2 by inserting:

3 <DIVISION ____

4 NURSING FACILITY AND HOSPITAL CAPACITY AND FINANCING

5 Sec. ____ . NEW SECTION. 135C.7A **Nursing facility license**
6 **application for change of ownership — required information.**

7 1. In addition to the requirements of section 135C.7,
8 the change of ownership of a previously licensed nursing
9 facility shall be subject to approval by the department through
10 application for a license. An applicant for a nursing facility
11 license under this section shall submit all of the following
12 information to the department with the license application:

13 a. Information about the applicant's organizational and
14 ownership structures. The applicant shall provide information
15 regarding all related parties with a five percent or greater
16 controlling interest in the applicant organization, including
17 the related party's relationship to the applicant organization.
18 The information provided shall be updated at least thirty
19 days prior to issuance of the license if any changes in the
20 information occur.

21 b. Information regarding any related party transactions and
22 associated reimbursement structures.

23 c. Information related to the applicant's financial
24 suitability to operate a nursing facility as verified by the
25 applicant, which shall include but is not limited to all of the
26 following:

27 (1) Financial projections for operational expenses and
28 revenues, including realistic occupancy and reimbursement rates
29 and the disclosure of any related party transactions, projected
30 for the first three years of operation.

31 (2) Projected initial cash and liquid assets relative to the
32 acquisition or start-up of the applicant's organization.

33 (3) If the applicant is a component of a corporate chain
34 organization, no less than three years of historical financial
35 and operating information.

1 d. Information related to the applicant's regulatory history
2 with any other state or licensing jurisdiction as verified by
3 the applicant, which shall include but is not limited to all
4 of the following:

5 (1) Information related to any complaint, allegation, or
6 investigation concerning the applicant in any other state or
7 licensing jurisdiction.

8 (2) Affirmation that the applicant has not voluntarily
9 surrendered a license while under investigation in any other
10 state or licensing jurisdiction.

11 (3) Supporting documentation regarding the resolution
12 of any disciplinary action or complaint, allegation, or
13 investigation against the applicant in any other state or
14 licensing jurisdiction.

15 (4) Affirmation that no other nursing facility owned or
16 operated by the applicant has been subject to operation by a
17 court-appointed receiver or temporary manager.

18 2. Information required under subsection 1 shall not be
19 limited to information relating to nursing facility operations
20 but shall also include information relative to any other
21 health care operations under the control and management of
22 the applicant or related parties which may include but is
23 not limited to assisted living programs, hospice services,
24 home health agencies, or other long-term care related health
25 services.

26 3. The department may request that an applicant provide
27 additional or supplemental information with the application
28 which may include verification of cash or liquid resources to
29 maintain nursing facility operations for a period of not less
30 than two months.

31 4. The department may require an applicant to create an
32 escrow account sufficient to sustain financial operations of
33 the applicant's nursing facility for a period of not less
34 than two months upon consideration of the timing of projected
35 deposits and disbursements during the nursing facility's

1 initial operating period.

2 *a.* The escrow account shall be sufficiently funded by the
3 applicant prior to the issuance of the nursing facility license
4 under this section.

5 *b.* The department, in consultation with the applicant, may
6 reduce or return the amounts held in escrow two years from
7 the date of initial commencement of operation of the nursing
8 facility.

9 *c.* The escrow requirement shall be terminated no later than
10 five years from the date of initial commencement of operation
11 of the nursing facility.

12 *d.* The department may utilize funds held in escrow if the
13 applicant's nursing facility is subject to operation under
14 receivership pursuant to section 135C.30.

15 5. The department shall verify the accuracy and
16 completeness of the information provided under this section.

17 6. The information or documents provided to the department
18 under this section detailing the applicant's financial
19 condition or the terms of the applicant's contractual business
20 relationships shall be confidential and not considered a public
21 record under chapter 22.

22 7. For the purposes of this section:

23 *a.* "*Applicant*" means a person required to obtain a nursing
24 facility license under this section due to change of ownership
25 of a previously licensed nursing facility.

26 *b.* "*Related party*" means a related party or organization
27 described by rule of the department of health and human
28 services relating to nursing facility financial and statistical
29 reporting and determination of payment rates pursuant to 441
30 IAC 81.6(11)(1).

31 Sec. ____ . NEW SECTION. 135C.35A **Moratorium — new**
32 **construction or increase in bed capacity — nursing facilities.**

33 1. Beginning July 1, 2023, and ending no later than June
34 30, 2026, the department shall impose for an initial period
35 of twelve months a temporary moratorium on submission of

1 applications for new construction of a nursing facility or a
2 permanent change in bed capacity of a nursing facility that
3 increases the bed capacity of the nursing facility. The
4 department, in consultation with the department of health
5 and human services, may extend the moratorium in six-month
6 increments following the conclusion of the initial twelve-month
7 period, but for no longer than a total of thirty-six months.

8 2. The department, in consultation with the department
9 of health and human services, may waive the moratorium as
10 specified in this section if any of the following applies:

11 a. The departments jointly determine there is a specialized
12 need for the nursing facility beds requested.

13 b. The average occupancy of all licensed nursing facility
14 beds located within the county and contiguous counties of
15 the location of the proposed increase in nursing facility
16 bed capacity exceeded eighty-five percent during the three
17 most recent calendar quarters as published by the centers for
18 Medicare and Medicaid services of the United States department
19 of health and human services at the time of the filing of the
20 application.

21 3. The department shall publish any request for a waiver of
22 the moratorium as well as an explanation for the decision to
23 either grant or deny the waiver request.

24 4. For the purposes of this section, "occupancy" means the
25 average number of residents of the nursing facility during the
26 applicable time period divided by the licensed bed capacity of
27 the nursing facility.

28 Sec. _____. NEW SECTION. 135C.35B **Availability of nursing**
29 **facility bed data.**

30 No later than January 1, 2024, the department of health and
31 human services shall develop a publicly available dashboard
32 detailing the number of nursing facility beds available in the
33 state, the overall quality rating of the available nursing
34 facility beds as specified by the centers for Medicare and
35 Medicaid services of the United States department of health

1 and human services star ratings, any increase in the number of
2 available nursing facility beds in each county during the state
3 fiscal year, any decrease in the number of available nursing
4 facility beds in each county during the state fiscal year, and
5 an explanation of the causes of such increase or decrease in
6 available nursing facility beds.

7 Sec. _____. NEW SECTION. **249A.28 Hospital directed payment —**
8 **prohibition of pass-through on non-Medicaid payors.**

9 A hospital participating in the hospital directed payment
10 program pursuant to 42 C.F.R. §438.6 shall not knowingly pass
11 on the directed payment increase for health care services
12 provided to non-Medicaid payors, including as a fee or rate
13 increase. If a hospital violates this section, the hospital
14 shall not receive the directed payment but shall instead only
15 be reimbursed the hospital base reimbursement rate for health
16 care services provided under the medical assistance program for
17 one year from the date the violation is discovered.

18 Sec. _____. Section 249L.3, Code 2023, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 6A. A nursing facility shall not knowingly
21 pass on the quality assurance assessment to non-Medicaid
22 payors, including as a rate increase or service charge. If a
23 nursing facility violates this section, the department shall
24 not reimburse the nursing facility the quality assurance
25 assessment due the nursing facility under the medical
26 assistance program, but shall instead only reimburse the
27 nursing facility at the nursing facility base reimbursement
28 rate under the medical assistance program for one year from the
29 date the violation is discovered.

30 Sec. _____. **NURSING FACILITY BED NEED FORMULA — STUDY AND**
31 **RECOMMENDATIONS.** The department of health and human services
32 shall convene a workgroup including representatives of nursing
33 facilities, managed care organizations, the department of
34 inspections, appeals, and licensing, and other appropriate
35 stakeholders to review the existing nursing facility bed need

1 formula. The department of health and human services shall
2 submit a report of the recommendations of the workgroup for
3 improvement to the nursing facility bed need formula, including
4 recommendations related to the process for establishing a
5 projection of future nursing facility bed use taking into
6 consideration the state's changing demographics and the need
7 to ensure an adequate number of nursing facility beds, to the
8 governor and the general assembly by December 2, 2024.>

9 2. Title page, line 1, after <relating to> by inserting
10 <health care services and financing, including nursing facility
11 licensing and financing and>

12 3. By renumbering, redesignating, and correcting internal
13 references as necessary.