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## HOUSE BILL NO. 839

House Amendments in [ ] — February 14, 2000

A BILL to amend the Code of Virginia by adding a section numbered 32.1-325.1:2, relating to certified nursing facilities.

Patron—Hamilton

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 32.1-325.1:2 as follows:**

§ 32.1-325.1:2. Medicaid reimbursement to certified nursing facilities; electronic database.

A. For the purposes of this section, the following definitions shall apply:

"Ancillary costs" means expenses associated with the provision of laboratory; radiology; speech, occupational and physical therapy; and kinetic therapy services.

"Department" means the Department of Medical Assistance Services.

"Direct care costs" means salaries, wages, benefits and other related costs of registered nurses, licensed practical nurses, certified nursing assistants, contract nursing labor, nursing administration, social services, activities, quality assurance and assessment functions, and the cost of medical directorship, pharmacy consultants, raw food and medical supplies.

"Resource Utilization Group methodology" or "RUG methodology" means a guideline mutually agreed upon by provider groups representing certified nursing facilities and the Department of Medical Assistance Services.

B. Effective July 1, [ 2000 2001 ], the Director of Medical Assistance Services shall implement revisions of the existing payment system for reimbursement of nursing facilities. The revised payment system shall be comprised of two distinct components, i.e., operating and capital costs as follows:

1. The operating component shall include two distinct cost centers, i.e., direct care costs and indirect care costs.

2. The direct care cost center shall be calculated according to subsection C of this section.

C. The direct care cost center shall include:

1. Direct care costs.

2. Salaries, wages, benefits and other related costs for registered nurses, licensed practical nurses, certified nursing assistants, contract nursing labor, nursing administration and the cost of medical supplies shall be case mix adjusted on a semiannual basis to reflect the change in facility-specific patient acuity. The existing Patient Intensity Rating System and associated resident assessment instruments shall continue to be used for purposes of determining patient acuity until such time as a RUG methodology is developed and implemented, which shall occur no later than [ ~~January~~ July ] 1, 2001.

3. Ancillary costs [ associated with the provision of wound care services ] that are included under the direct care costs shall be removed and reimbursed under a separate fee screen methodology. [ These costs include, but are not limited to, support surfaces and kinetic therapy beds. ] The Department shall evaluate the appropriateness of utilizing the existing Medicare Part B fee screen for reimbursement of such services.

D. The Department shall reimburse certified nursing facilities for direct care costs using facility-reported cost data from the prior fiscal year updated to reflect inflationary cost increases, i.e., a National Nursing Home Producer Price Index as developed and published by the Bureau of Labor Statistics. The Department shall annually determine the [ ~~mean~~ median ] costs of nursing facility care on a geographic peer group basis and establish a direct care cost ceiling at 125% of the inflation-adjusted [ ~~mean~~ median ] costs. Each certified nursing facility shall receive a prospective direct care payment rate based upon the lesser of the certified nursing facility's semiannually case-mix adjusted prior year inflation-adjusted cost or the applicable semiannually case-mix adjusted direct care peer group cost ceiling.

The Department shall not utilize a minimum occupancy adjustment for the calculation of direct care costs, rates or ceilings. The determination of both direct care and indirect costs shall be made without applying limits on compensation paid or cost of services for any unrelated party transaction, including, but not limited, to employment or contracting of facility administrators and medical directors.

E. The Department shall annually determine the [ ~~mean~~ median ] certified nursing facility indirect costs on a geographic peer group basis and establish an indirect care rate at 110 percent of the inflation-adjusted [ ~~mean~~ median ] costs. The Department shall also calculate [ ~~mean~~ median ] indirect

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60 costs using facility-reported cost data from the prior fiscal year updated to reflect inflationary cost  
61 increases using the National Nursing Home Producer Price Index as developed and published by the  
62 Bureau of Labor Statistics.

63 The Department shall, however, continue to utilize this price-based methodology upon implementation  
64 of the RUG methodology, which shall occur no later than [ ~~January~~ July ] 1, 2001. At such time the  
65 RUG methodology for payment for indirect costs shall continue to be based upon a prospective price set  
66 at 110 percent of the inflation-adjusted [ ~~mean~~ median ] costs.

67 F. [ ~~The Department shall utilize a minimum occupancy adjustment for the calculation of~~  
68 ~~capital-related costs and indirect cost means based upon the lower of eighty-five percent or average~~  
69 ~~statewide occupancy for the prior calendar year less five percentage points.~~ The Department shall utilize  
70 a minimum occupancy adjustment for the calculation of capital-related costs and indirect costs medians  
71 based upon the higher of actual patient days of the effective minimum occupancy limitations defined as  
72 the lower of 85 percent or average statewide occupancy for the prior calendar year less five percentage  
73 points. ]

74 G. The Department shall continue to recognize and reimburse for the direct costs and related  
75 efficiency incentive payments associated with care provided to residents meeting the criteria for the  
76 existing Specialized Care program until such time as a RUG methodology can be developed, which shall  
77 be no later than [ ~~January~~ July ] 1, 2001. The RUG methodology shall fairly recognize and reimburse  
78 certified nursing facilities for costs associated with the specialized care patient population. Indirect costs  
79 associated with the Medicaid Specialized Care program shall be paid in accordance with the RUG  
80 methodology to become effective July 1, [ ~~2000~~ 2001 ] .

81 H. The Department shall develop, publish and distribute all applicable Virginia certified nursing  
82 facility regulations, the state plan for medical assistance services, Title XIX of the Social Security Act  
83 and Health Care Financing Administration memoranda in a searchable electronic format. Such format  
84 shall include, but not be limited to, distribution by CD-ROM and the Department's Internet web site.  
85 Such information shall be available on or before July 1, [ ~~2000~~ 2001 ] , and shall be updated  
86 periodically.

87 [ I. The Department shall develop a plan for implementing the provisions set forth herein and report  
88 the plan to the Governor and the General Assembly by January 1, 2001. ]