

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: April 6, 2021
To: Joint Standing Committee on Health & Human Services
From: Anna Broome, Legislative Analyst

LD 250 An Act To Assist Nursing Homes in the Management of Facility Beds

SUMMARY: This bill makes the following changes to the nursing facility laws:

1. It restores the ability of nursing facilities to voluntarily reduce the number of their licensed beds and then later increase the number of their licensed beds to the prior level after obtaining a certificate of need and meeting certain conditions.
2. It modifies the process to obtain certificate of need approval to reopen reserved beds. Applications that seek to reopen reserved beds must be approved if the projected incremental costs of reopening and operating the reopened beds are consistent with the facility's costs of operating its other beds. Applicants are not required to demonstrate that any increases in MaineCare costs are offset by other MaineCare savings. The costs of ongoing operation of both the restored beds and the complement of facility beds at the time the reserved beds are reopened must be recognized as allowable costs and incorporated into the facility's MaineCare payment rates.
3. The bill requires the Department of Health and Human Services to include in its calculation of reimbursement for services provided by a nursing facility the cost incurred by the facility for a medical director.
4. The bill requires the cost incurred by a nursing facility for the acquisition, use and maintenance of computer or cloud-based software systems to be included as a fixed cost.

ISSUES FROM TESTIMONY:

- MHCA: Concerns about temporary declines in residencies with covid but can't take beds temporarily off-line under current law. Already live within the routine cap for medical director but would like to remove the statutory \$10,000 cap. Cloud based software currently under the routine cap but other computer and software related costs are under fixed cost components.

DRAFTING ISSUES:

None. This is the same as the amended version of LD 1577 in the 129th.

ADDITIONAL INFORMATION REQUESTED BY COMMITTEE:

- Costs of cloud based software. From Rick Erb, MHCA:
“During the public hearing on LD 250, Senator Claxton had asked about the amount of money that facilities are losing because cloud based software isn't currently considered a nursing home fixed cost. In this way, it is treated differently than traditional software that is purchased. Facilities and owners I have spoken with report that they are losing an amount in the area of \$10,000 because they could not claim the purchase as a fixed cost. The reason for this loss is that most facilities are over their Routine Component caps, which is where DHHS Audit is putting the cost now.”

FISCAL IMPACT:

Not yet received from OFPR.