

1 HB696  
2 140381-4  
3 By Representative Barton  
4 RFD: Ways and Means General Fund  
5 First Read: 17-APR-12

1  
2 ENROLLED, An Act,

3 To amend Sections 40-26B-21 and 40-26B-22 and  
4 40-26B-26, as amended by Act 2011-614 of the 2011 Regular  
5 Session (Acts 2011, p. 1376), Code of Alabama 1975, relating  
6 to the privilege assessment on nursing facilities and Medicaid  
7 nursing facility reimbursement aspects; to levy an additional  
8 monthly surcharge beginning May 20, 2012, and ending August  
9 31, 2013, to be due with each payment of the supplemental  
10 privilege assessment referred to in Section 40-26B-21(b), Code  
11 of Alabama 1975, with the initial monthly surcharge being  
12 reduced beginning September 20, 2012 until August 31, 2013;  
13 and to extend the zero percent inflation factor in computing  
14 overall reimbursement rates.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 40-26B-21 and 40-26B-22, as  
17 amended by Act 2011-614 of the 2011 Regular Session (Acts  
18 2011, p. 1376), Code of Alabama 1975, are amended to read as  
19 follows:

20 "§40-26B-21.

21 "To provide further for the availability of indigent  
22 health care, the operation of the Medicaid program, and the  
23 maintenance and expansion of medical services:

24 "(a) There is levied and shall be collected a  
25 privilege assessment on the business activities of every

1 nursing facility in the State of Alabama. The privilege  
2 assessment imposed is in addition to all other taxes and  
3 assessments, and shall be at the annual rate of \$1,899.96 for  
4 each bed in the nursing facility.

5 "(b) For the period September 1, 2010 through August  
6 31, ~~2013-2014~~ 2013, there is levied and shall be collected a  
7 supplemental privilege assessment on the business activities  
8 of every nursing facility in the State of Alabama. The  
9 supplemental privilege assessment imposed is in addition to  
10 all other taxes and assessments, including without limitation,  
11 the privilege taxes provided for under this article, and from  
12 September 1, 2010, through August 31, 2011, shall be at the  
13 annual rate of \$1,063.08 for each bed in the nursing facility,  
14 and one thousand six hundred three dollars and eight cents  
15 (\$1,603.08) for the period of September 1, 2011, through  
16 August 31, 2013, except that beginning with the monthly  
17 payment for the supplemental privilege assessment due  
18 beginning May 20, 2012, and ending August 31, 2013, there  
19 shall be a monthly surcharge due with each monthly payment of  
20 the supplemental privilege assessment. The initial monthly  
21 surcharge shall be one hundred thirty-one dollars and  
22 twenty-five cents (\$131.25) per licensed bed. Beginning with  
23 the monthly payment of the supplemental privilege assessment  
24 due on September 20, 2012, the monthly surcharge shall be

1 reduced to forty-three dollars and seventy-five cents (\$43.75)  
2 per month.

3 "(c) The total privilege assessment, and  
4 supplemental privilege assessment, (privilege assessments) and  
5 surcharge paid by a nursing facility pursuant to this article  
6 shall be considered an allowable costs, as that term is  
7 defined in the reimbursement methodology for nursing  
8 facilities contained in Title 560 of the Alabama  
9 Administrative Code, and, to the extent permitted under  
10 applicable federal law governing the Alabama Medicaid nursing  
11 home program, the total privilege assessments paid must be  
12 included in the computation of the Medicaid per diem rate  
13 determined under the reimbursement methodology for nursing  
14 facilities contained in Title 560 of the Alabama  
15 Administrative Code. The payment to nursing facilities of the  
16 determined allowable costs in respect to the supplemental  
17 privilege assessment described in subsection (b) shall be  
18 included in Medicaid per diem rates for services provided  
19 commencing as of January 1, 2011, and shall continue to be  
20 included in such Medicaid per diem rates for a period equal to  
21 the number of months during which the supplemental assessments  
22 shall have been in effect. For each Medicaid nursing facility,  
23 in determining the adjustment to the Medicaid per diem for the  
24 allowable costs associated with the supplemental assessment,  
25 the Alabama Medicaid Agency shall divide the total

1 supplemental assessment due under subsection (b) by the total  
2 of all incurred resident days (regardless of payor class)  
3 reported by such nursing facility in its Medicaid cost report  
4 filed for the period then ended June 30, 2010. To accommodate  
5 the increase in the supplemental assessment and the surcharge  
6 described in subsection (b), Medicaid shall use the ~~same~~  
7 mechanism described herein to adjust each nursing facility's  
8 rate effective as of October 1, 2011, regarding the privilege  
9 assessment, and May 1, 2012, regarding the surcharge.

10 Notwithstanding the foregoing, in the event that such cost  
11 report shall be for a period less than one year, the resident  
12 days reported shall be annualized. In the event that any  
13 portion of the privilege ~~taxes~~ assessment paid by a facility  
14 cannot be included in the computation of the Medicaid per diem  
15 rate because of the effect of any cost ceiling provision of  
16 the reimbursement methodology, the cost ceiling must be  
17 adjusted to ensure continued treatment of the total privilege  
18 assessments as an allowable cost.

19 "(d) The privilege assessment rate or the  
20 supplemental privilege assessment rate or the surcharge rate  
21 shall be reduced by the department upon the advice of the  
22 Alabama Medicaid Agency if, but only if, such reduction is  
23 required to ensure that the total revenues to the State of  
24 Alabama produced by this privilege assessment or, if the  
25 supplemental privilege assessment ~~is~~ and surcharge are in

1 effect, the aggregate of the supplemental privilege assessment  
2 and surcharge and the privilege assessment, during any state  
3 fiscal year are less than or equal to ~~five and one-half~~ six  
4 percent of the total revenues received by the nursing  
5 facilities in the state subject to the assessment during that  
6 same fiscal year. In the event that the supplemental privilege  
7 assessment ~~is~~ or surcharge are reduced as provided in the  
8 preceding sentence, then for each Medicaid nursing facility a  
9 corresponding reduction shall be made to the Medicaid per diem  
10 adjustment described in subsection (c) to ensure that only the  
11 amount of supplemental privilege assessment or surcharge  
12 actually paid is used in computing that Medicaid nursing  
13 facility's allowable costs.

14 "§40-26B-22.

15 "(a) The privilege assessments imposed by this  
16 article shall be due and payable in monthly installments to  
17 the department on or before the twentieth day of the month  
18 next succeeding the month in which the ~~tax~~ assessment accrues,  
19 and shall, when collected, be paid by the department into the  
20 State Treasury. Payment by United States mail will be timely  
21 if mailed in accordance with Section 40-1-45. When so paid  
22 into the State Treasury, all such privilege assessments shall  
23 be deposited to the credit of the Alabama Health Care Trust  
24 Fund or any successor fund administered by or on behalf of the  
25 Alabama Medicaid Agency.

1           "(b) The receipts from the privilege assessments  
2           levied in this article shall be solely available for  
3           appropriation by the Alabama Legislature to the Alabama  
4           Medicaid Agency for use by the agency in accomplishing the  
5           purposes of this article. Provided, however, for the first  
6           fiscal year in which this article is effective, to defray its  
7           expenses including salaries and costs of operation incident to  
8           the collection of this privilege assessment, there is hereby  
9           appropriated to the department and shall be deducted as a  
10          first charge thereon, an amount not to exceed one percent of  
11          the revenues collected pursuant to this article. Such amount  
12          of money as shall be appropriated for each succeeding fiscal  
13          year by the Legislature to the department with which to pay  
14          the salaries, the cost of operation and the management of the  
15          department shall be deducted, as a first charge thereon, from  
16          the privilege assessments collected under and pursuant to this  
17          article. Provided, however, the expenditure of the sum so  
18          appropriated shall be budgeted and allotted pursuant to  
19          Article 4 of Chapter 4 of Title 41, and limited to the amount  
20          appropriated to defray the expenses of operating the  
21          department for each fiscal year, incident to the collection of  
22          this privilege assessment."

23           "§40-26B-26

24           "(a) No revenues resulting from the privilege  
25           assessment established by this article and applied to

1 increases in covered services or reimbursement levels or other  
2 enhancements of the Medicaid program shall be subject to  
3 reduction or elimination while the privilege assessment is in  
4 effect.

5 "(b) Every nursing facility participating in the  
6 Medicaid program in the State of Alabama shall be reimbursed  
7 according to the reimbursement methodology contained in  
8 Chapter 560-X-22 of the Alabama Medicaid Agency Administrative  
9 Code (Supp. 12/31/95) on January 31, 1998, which methodology  
10 is incorporated by reference herein, except that the following  
11 shall apply:

12 "(1) The ceiling for the operating cost center  
13 described in Title 560-X-22-.06 (2) (a) of the Alabama Medicaid  
14 Agency Administrative Code (Supp. 12/95) shall be computed at  
15 the median plus five percent.

16 "(2) The ceiling for the direct patient care cost  
17 center described in Title 560-X-22-.06 (2) (b) of the Alabama  
18 Medicaid Agency Administrative Code (Supp. 12/95) shall be  
19 computed at the median plus 10 percent, and the provider's  
20 actual allowable reported cost per patient day plus 11  
21 percent, or the established ceiling plus 11 percent, whichever  
22 is less, will be used for each provider's rate computation.

23 "(3) The Medicaid Inflation Index described in Title  
24 560-X-22-.07 of the Alabama Medicaid Agency Administrative  
25 Code (Supp. 12/95) shall be computed without regard to the

1 trend factor variance described in Title 560-X-22-.07 (5) of  
2 the Alabama Medicaid Agency Administrative Code (Supp. 12/95).

3 "(4) In calculating the ceiling for the operating  
4 cost center, the direct patient care cost center or the  
5 indirect patient care cost center, any increase in that  
6 ceiling over such ceiling set in the year next preceding,  
7 shall not exceed an amount equal to the product of such  
8 ceiling for the previous year times the sum of the Medicaid  
9 Inflation Index, described in Title 560-X-22-.07 of the  
10 Alabama Medicaid Agency Administrative Code (Supp. 12/95),  
11 plus four percent.

12 "(5) In determining the reimbursement in any fiscal  
13 year to a nursing facility for certain specialized medical  
14 equipment as described in Title 560-X-22-.14 (19) of the  
15 Alabama Medicaid Agency Administrative Code (Supp. 12/95),  
16 there shall be added to the daily Medicaid per diem rate  
17 computed for that fiscal year, without regard to the cost of  
18 such specialized medical equipment, an amount equal to the  
19 actual cost of such specialized medical equipment utilized for  
20 Medicaid residents during the fiscal year next preceding and  
21 divided by the actual number of Medicaid patient days incurred  
22 during that preceding fiscal year. For the purpose of this  
23 subdivision the terms Medicaid patient days, Medicaid per diem  
24 rate, and fiscal year shall have the meanings assigned to them

1 in Title 560-X-22 et seq. of the Alabama Medicaid Agency  
2 Administrative Code (Supp. 12/95).

3 "(6) For the period that the federal financial  
4 participation under Title XIX of the Social Security Act for  
5 certain intergovernmental transfers is available to the  
6 Alabama Medicaid program, the Commissioner of the agency may  
7 pay an enhancement, not to exceed the upper limits for  
8 Medicare nursing facility payments, to rural hospital  
9 connected nursing facilities under governmental authority or  
10 control. Notwithstanding the foregoing, the enhancement shall  
11 not be limited by the provisions of Title 560-X-22 of the  
12 Alabama Medicaid Administrative Code.

13 "(7) Notwithstanding subdivision (3), from October  
14 1, 2011, through September 30, ~~2013~~ 2014, in applying the  
15 inflation factor, zero percent shall be used to compute  
16 overall rates.

17 "(c) Payments by the Medicaid program to each  
18 nursing facility for nursing home services shall be sufficient  
19 to cover the costs determined by cost reporting principles  
20 incurred by each such nursing facility in providing care in an  
21 economical and efficient manner and that is adequate to permit  
22 the provision of care and services necessary to attain or  
23 maintain the highest practicable, physical, mental, and  
24 psychosocial well-being of each resident eligible for Alabama  
25 Medicaid nursing home benefits in conformity with applicable

1 state and federal laws, rules and regulations and quality and  
2 safety standards.

3 "(d) Notwithstanding subsection (b), Medicaid shall  
4 be empowered to create a special reimbursement model to  
5 accommodate enhanced reimbursed care provided in dedicated  
6 ventilator units in nursing facilities that meet special  
7 physical plant requirements such as dedicated emergency power  
8 generation, through-the-wall medical gases and suction,  
9 24-hour per day staffing with trained licensed respiratory  
10 therapists, and medical direction through contract with or  
11 employment of an Alabama licensed physician who is a board  
12 certified pulmonologist."

13 Section 2. This act shall become effective  
14 immediately following its passage and approval by the  
15 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 03-MAY-12, as amended.

Greg Pappas  
Clerk

Senate	10-MAY-12	Amended and Passed
House	16-MAY-12	Concurred in Senate Amendment