

**ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020**  
**COMMITTEE STATEMENT**  
**LB1053**

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**Hearing Date:** Wednesday February 12, 2020  
**Committee On:** Health and Human Services  
**Introducer:** Health and Human Services  
**One Liner:** Require rules and regulations for hospital and nursing facility medicaid reimbursement rates

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 7 Senators Arch, Cavanaugh, Hansen, B., Howard, Murman, Walz, Williams

**Nay:**

**Absent:**

**Present Not Voting:**

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**Oral Testimony:**

**Proponents:**

Senator Matt Williams (on behalf of the HHS Committee)  
Cindy Kadavy  
Jenifer Acierno  
Jim Ulrich  
Jay Colburn

**Representing:**

Introducer  
Nebraska Health Care Association  
LeadingAge Nebraska  
Nebraska Hospital Association  
York General Health Care Services - The Hearthstone

**Opponents:**

Jeremy Brunssen

**Representing:**

Department of Health and Human Services

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB 1053 would amend the Medical Assistance Act (Neb. Rev. Stat. Section 68-901). It would require DHHS to adopt and promulgate rules and regulations regarding the Medicaid rate methodology for reimbursement for hospital and nursing facility services.

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**Explanation of amendments:**

AM 2806 includes the original provisions of LB 1053, and incorporates the original provisions of LB 1043, and the amended provisions of LB 833.

The original provisions of LB 1053 may be found in Sections 1 and 2, page 1 of AM 2806.

LB 833

The amended provisions of LB 833 may be found in Sections 3 through 13, and Section 20, pages 1-4 and 12-13 of AM 2806.

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LB 833 amends statutes in the Health Care Facilities Licensure Act related to Programs of All Inclusive Care for the Elderly (PACE).

It defines "PACE center" as a facility from which a PACE provider offers service within the scope of a PACE program, pursuant to the agreement between the provider, the federal government, and Nebraska DHHS. "PACE program" and "PACE provider" are defined to incorporate federal statutes as they existed on January 1, 2020. (AM 2806, Sections 10, 11, 12, pp. 3-4).

A PACE center is included in statute as both a health care facility and a health care service. It is not considered an adult day service, a health clinic, or a home health agency. (AM 2806, Sections 5, 6, 7, 8, 9, pp. 1-3).

Currently, PACE centers are required to have multiple licenses for each health care facility or health care service the PACE center operates. LB 833, as amended, would carve out an exception allowing PACE centers to operate under a single license. (AM 2806, Section 13, p. 4).

LB 833, as amended, would also exempt licensed PACE centers from the applications of Medication Aide Act. (AM 2806, Section 20, p. 12).

Motion to include LB 833, as amended, into the committee amendment AM2806:

Vote: 7-0-0-0

Voting Aye: Senators Arch, Cavanaugh, B. Hansen, Howard, Murman, Walz, Williams

Voting Nay: None

Absent: None

Present Not Voting: None

Public Hearing (2-12-20) testifiers

Proponents:

Senator Sue Crawford - Introducer

Adam Kuenning - Immanuel

Opponents:

Darrell Klein - Department of Health and Human Services

Neutral: None

LB 1043

The amended provisions of LB 1043 may be found in Sections 14 through 19, pages 4-12 of AM 2806.

LB1043 would amend Nebraska statutes relating to receivership of health care facilities. (Neb. Rev. Stat. Sections 71-2085 through 71-2087; and 71-2092 through 71-2094). It clarifies language to state the department may petition the Lancaster County district court or the court where the health care facility is located for appointment of a receiver. It would also mandate no receiver be appointed for more than six health care facilities at the same time, unless approved by the court. It would require the receiver to conduct an analysis of the financials of the health care facility within the first 30 days, perform ongoing accounting, and provide monthly reports to the court and Department of Health and Human Services. Those reports would include plans for continued operation or sale of the facility. (AM 2806, Sections 14-16, pp. 4-8).

LB1043 would also amend language about termination of the receivership. It would change the time frame from 12 months to 6 months for the court to order the health care facility closed or sold after a hearing. It would further mandate the closure or sale date to occur within 60 days after the court order, unless ordered otherwise. It would also remove language allowing for the extension of the receivership period. Compensation for the receiver and his or her receivership expenses would need to be approved by the court. (AM 2806, Sections 17-18, p. 10).

LB1043 would also clarify language relating to the liability of the receiver. It would add personal liability for officers and members of the receiver for intentional wrongdoing or gross negligence. It would clarify the relationship between the receiver and the Attorney General. Specifically:

- The Attorney General would defend the receiver in the receiver's official capacity for acts in the scope of the receiver's duties;
- The Attorney General would investigate and reject defense of the claim if determined to be outside the scope of the receiver's duties, or an act of intentional wrongdoing or gross negligence;
- Cooperation of the receiver with the Attorney General would be mandated, or the Attorney General could reject the defense;
- It would disallow the payment of public monies for defense or judgment if actions are determined to be outside the scope, intentional wrongdoing, or gross negligence; and
- It would mandate payment by the receiver to the state for costs and attorney's fees if it is established the act amounted to intentional wrongdoing or gross negligence.

(AM 2806, Section 19, pp 10-11).

Section 21 notes that the sections related to LB 833 (Sections 3 through 13, 20, and 22) become operative on January 1, 2021.

Motion to include LB 1043, as amended, into the committee amendment AM2806:

Vote: 7-0-0-0

Voting Aye: Senators Arch, Cavanaugh, B. Hansen, Howard, Murman, Walz, Williams

Voting Nay: None

Absent: None

Present Not Voting: None

Public Hearing (2-20-20) testifiers

Proponents:

Senator Ben Hansen - Introducer

Dr. Gary Anthonie - Department of Health and Human Services

Danielle Rowley - Attorney General's Office

Abbie Widger - Nebraska Health Care Association

Sharon Colling - Lantern Health Services

Opponents: None

Neutral: None

Sections 22 and 23 are repealing clauses for the original statutes.

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Sara Howard, Chairperson