

1-1 By: Kolkhorst S.B. No. 1629
 1-2 (In the Senate - Filed March 6, 2023; March 16, 2023, read
 1-3 first time and referred to Committee on Health & Human Services;
 1-4 April 17, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 17, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1629 By: Hancock

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the regulation of certain nursing facilities, including
 1-22 licensing requirements and Medicaid participation requirements.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 533.00251(c), Government Code, as
 1-25 effective September 1, 2023, is amended to read as follows:

1-26 (c) Subject to Section 533.0025 and notwithstanding any
 1-27 other law, the commission shall provide benefits under Medicaid to
 1-28 recipients who reside in nursing facilities through the STAR + PLUS
 1-29 Medicaid managed care program. In implementing this subsection,
 1-30 the commission shall ensure:

1-31 (1) that a nursing facility is paid not later than the
 1-32 10th day after the date the facility submits a clean claim;

1-33 (1-a) that a nursing facility complies with the direct
 1-34 care expense ratio adopted under Section 32.0286, Human Resources
 1-35 Code;

1-36 (2) the appropriate utilization of services
 1-37 consistent with criteria established by the commission;

1-38 (3) a reduction in the incidence of potentially
 1-39 preventable events and unnecessary institutionalizations;

1-40 (4) that a managed care organization providing
 1-41 services under the managed care program provides discharge
 1-42 planning, transitional care, and other education programs to
 1-43 physicians and hospitals regarding all available long-term care
 1-44 settings;

1-45 (5) that a managed care organization providing
 1-46 services under the managed care program:

1-47 (A) assists in collecting applied income from
 1-48 recipients; and

1-49 (B) provides payment incentives to nursing
 1-50 facility providers that reward reductions in preventable acute care
 1-51 costs and encourage transformative efforts in the delivery of
 1-52 nursing facility services, including efforts to promote a
 1-53 resident-centered care culture through facility design and
 1-54 services provided;

1-55 (6) the establishment of a portal that is in
 1-56 compliance with state and federal regulations, including standard
 1-57 coding requirements, through which nursing facility providers
 1-58 participating in the STAR + PLUS Medicaid managed care program may
 1-59 submit claims to any participating managed care organization;

1-60 (7) that rules and procedures relating to the
 1-61 certification and decertification of nursing facility beds under
 1-62 Medicaid are not affected;

2-1 (8) that a managed care organization providing
2-2 services under the managed care program, to the greatest extent
2-3 possible, offers nursing facility providers access to:

- 2-4 (A) acute care professionals; and
- 2-5 (B) telemedicine, when feasible and in
2-6 accordance with state law, including rules adopted by the Texas
2-7 Medical Board; and

2-8 (9) that the commission approves the staff rate
2-9 enhancement methodology for the staff rate enhancement paid to a
2-10 nursing facility that qualifies for the enhancement under the
2-11 managed care program.

2-12 SECTION 2. Subchapter A, Chapter 533, Government Code, is
2-13 amended by adding Section 533.00512 to read as follows:

2-14 Sec. 533.00512. NURSING FACILITY PROVIDER AGREEMENTS:
2-15 COMPLIANCE WITH DIRECT CARE EXPENSE RATIO. (a) A contract between
2-16 a managed care organization and the commission to provide health
2-17 care services to recipients must require that each provider
2-18 agreement between the organization and a nursing facility include a
2-19 requirement that the facility comply with the direct care expense
2-20 ratio adopted under Section 32.0286, Human Resources Code.

2-21 (b) This section does not apply to a state-owned facility.

2-22 SECTION 3. Section 242.032, Health and Safety Code, is
2-23 amended by adding Subsection (b-1) to read as follows:

2-24 (b-1) The application must:

2-25 (1) include the name of each person with a direct or
2-26 indirect ownership interest of five percent or more in:

2-27 (A) the nursing facility, including a subsidiary
2-28 or parent company of the facility; and

2-29 (B) the real property on which the nursing
2-30 facility is located, including any owner, common owner, tenant, or
2-31 sublessee; and

2-32 (2) describe the exact ownership interest of each of
2-33 those persons in relation to the facility or property.

2-34 SECTION 4. Subchapter B, Chapter 242, Health and Safety
2-35 Code, is amended by adding Section 242.0333 to read as follows:

2-36 Sec. 242.0333. NOTIFICATION OF CHANGE TO OWNERSHIP INTEREST
2-37 APPLICATION INFORMATION. A license holder shall notify the
2-38 commission, in the form and manner the commission requires, of any
2-39 change to the ownership interest application information provided
2-40 under Section 242.032(b-1).

2-41 SECTION 5. Section 32.028, Human Resources Code, is amended
2-42 by amending Subsection (i) and adding Subsection (i-1) to read as
2-43 follows:

2-44 (i) The executive commissioner shall ensure that rules
2-45 governing the incentives program described by Subsection (g)(1):

2-46 (1) provide that participation in the program by a
2-47 nursing facility is voluntary;

2-48 (2) do not impose on a nursing facility not
2-49 participating in the program a minimum spending requirement for
2-50 direct care staff wages and benefits;

2-51 (3) do not set a base rate for a nursing facility
2-52 participating in the program that is more than the base rate for a
2-53 nursing facility not participating in the program; ~~and~~

2-54 (4) establish a funding process to provide incentives
2-55 for increasing direct care staff and direct care wages and benefits
2-56 in accordance with appropriations provided; and

2-57 (5) to the extent permitted by federal law, require
2-58 the commission to recoup all or part of an incentive payment if the
2-59 nursing facility fails to satisfy a program requirement.

2-60 (i-1) The commission shall prohibit a provider who is the
2-61 subject of the recoupment of an incentive payment under Subsection
2-62 (i)(5) from participating in the incentives program described by
2-63 Subsection (g)(1) for a period of not less than two consecutive
2-64 years following the date on which the recoupment occurs. The
2-65 commission shall publish and maintain on the commission's Internet
2-66 website a list of each provider prohibited from participating in
2-67 the incentives program under this subsection.

2-68 SECTION 6. Subchapter B, Chapter 32, Human Resources Code,
2-69 is amended by adding Section 32.0286 to read as follows:

2-70 Sec. 32.0286. ANNUAL DIRECT CARE EXPENSE RATIO FOR
2-71 REIMBURSEMENT OF CERTAIN NURSING FACILITY PROVIDERS. (a) In this

3-1 section, "direct care expense":
3-2 (1) includes an expense for:
3-3 (A) non-revenue generating support services,
3-4 such as laundry, housekeeping, dietary services, and nursing
3-5 administration;
3-6 (B) ancillary services, such as laboratory tests
3-7 and services, physical therapy services, occupational therapy
3-8 services, speech-language pathology services, or audiological
3-9 services; and
3-10 (C) program services, such as an adult day-care
3-11 program; and
3-12 (2) does not include an expense for:
3-13 (A) administrative costs other than nursing
3-14 administration;
3-15 (B) capital costs;
3-16 (C) debt service;
3-17 (D) taxes, other than sales and payroll taxes;
3-18 (E) capital depreciation;
3-19 (F) rental or lease payments; or
3-20 (G) financial services.
3-21 (b) Notwithstanding any other law, the executive
3-22 commissioner by rule shall establish an annual direct care expense
3-23 ratio, including a process for determining the ratio, applicable to
3-24 the reimbursement of nursing facility providers for providing
3-25 services to recipients under the medical assistance program. In
3-26 establishing the ratio, the executive commissioner shall require
3-27 that at least 80 percent of the portion of the medical assistance
3-28 reimbursement amount paid to a nursing facility that is
3-29 attributable to patient care expenses is spent on reasonable and
3-30 necessary direct care expenses.
3-31 (c) The executive commissioner shall adopt rules necessary
3-32 to ensure each nursing facility provider that participates in the
3-33 medical assistance program complies with the direct care expense
3-34 ratio adopted under this section.
3-35 (d) To the extent permitted by federal law, the commission
3-36 may recoup all or part of the reimbursement amounts paid to a
3-37 nursing facility that are subject to the direct care expense ratio
3-38 under this section if the facility fails to spend the reimbursement
3-39 amounts in accordance with the direct care expense ratio.
3-40 (e) The commission may not require a nursing facility to
3-41 comply with the direct care expense ratio as a condition of
3-42 participation in Medicaid.
3-43 (f) This section does not apply to a state-owned facility.
3-44 SECTION 7. (a) The Health and Human Services Commission
3-45 shall, in a contract between the commission and a managed care
3-46 organization under Chapter 533, Government Code, that is entered
3-47 into or renewed on or after the effective date of this Act, require
3-48 the managed care organization to comply with Section 533.00512,
3-49 Government Code, as added by this Act.
3-50 (b) The Health and Human Services Commission shall seek to
3-51 amend contracts entered into with managed care organizations under
3-52 Chapter 533, Government Code, before the effective date of this Act
3-53 to require those managed care organizations to comply with Section
3-54 533.00512, Government Code, as added by this Act. To the extent of
3-55 a conflict between that section and a provision of a contract with a
3-56 managed care organization entered into before the effective date of
3-57 this Act, the contract provision prevails.
3-58 SECTION 8. If before implementing any provision of this Act
3-59 a state agency determines that a waiver or authorization from a
3-60 federal agency is necessary for implementation of that provision,
3-61 the agency affected by the provision shall request the waiver or
3-62 authorization and may delay implementing that provision until the
3-63 waiver or authorization is granted.
3-64 SECTION 9. This Act takes effect September 1, 2023.

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