

By: Janek

S.B. No. 1672

A BILL TO BE ENTITLED

AN ACT

relating to reimbursements for and quality of care in nursing facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 32.021, Human Resources Code, is amended by adding Subsections (q), (r), and (s) to read as follows:

(q) The department shall include in its contracts for the delivery of medical assistance by nursing facilities clearly defined minimum standards that relate directly to the quality of care for residents of those facilities. The department shall implement the recommendations made by the nursing facility quality assurance team under Section 32.060 in establishing the standards. The department shall include in each contract:

(1) specific performance measures by which the department may evaluate the extent to which the nursing facility is meeting the standards; and

(2) provisions that allow the department to terminate the contract if the nursing facility is not meeting the standards.

(r) The department may not award a contract for the delivery of medical assistance to a nursing facility that does not meet the minimum standards that would be included in the contract as required by Subsection (q). The department shall terminate a contract for the delivery of medical assistance by a nursing facility that does not meet or maintain the minimum standards

1 included in the contract in a manner consistent with the terms of
2 the contract.

3 (s) Not later than November 15 of each even-numbered year,
4 the department shall submit a report to the legislature regarding
5 nursing facilities that contract with the department to provide
6 medical assistance under this chapter and other facilities with
7 which the department was prohibited to contract as provided by
8 Subsection (r). The department may include the report required
9 under this section with the report made by the long-term care
10 legislative oversight committee as required by Section 242.654,
11 Health and Safety Code. The report must include:

12 (1) recommendations for improving the quality of
13 information provided to consumers about the facilities;

14 (2) the minimum standards and performance measures
15 included in the department's contracts with those facilities;

16 (3) the performance of the facilities with regard to
17 the minimum standards;

18 (4) the number of facilities with which the department
19 has terminated a contract or to which the department will not award
20 a contract because the facilities do not meet the minimum
21 standards; and

22 (5) the overall impact of the minimum standards on the
23 quality of care provided by the facilities, consumers' access to
24 facilities, and cost of care.

25 SECTION 2. Section 32.050, Human Resources Code, is
26 amended by adding Subsection (d) to read as follows:

27 (d) For a nursing facility service provided to an individual

1 who is eligible under the medical assistance program and Medicare,
2 the medical assistance program may not pay any portion of the
3 Medicare deductibles or coinsurance, and the nursing facility that
4 provided the service shall consider the amount paid by Medicare as
5 payment in full if the amount paid by Medicare is equal to or
6 exceeds the Medicaid reimbursement rate for a service.

7 SECTION 3. Subchapter B, Chapter 32, Human Resources Code,
8 is amended by adding Section 32.060 to read as follows:

9 Sec. 32.060. NURSING FACILITY QUALITY ASSURANCE TEAM. (a)
10 The nursing facility quality assurance team is established to make
11 recommendations to the department designed to promote high-quality
12 care for residents of nursing facilities.

13 (b) The team is composed of nine members appointed as
14 follows:

15 (1) two physicians with expertise in providing
16 long-term care, one to be appointed by the governor and one by the
17 lieutenant governor;

18 (2) one registered nurse with expertise in providing
19 long-term care, to be appointed by the speaker of the house of
20 representatives;

21 (3) three nursing facility advocates not affiliated
22 with the nursing facility industry, one to be appointed by the
23 governor, one by the lieutenant governor, and one by the speaker of
24 the house of representatives; and

25 (4) three representatives of the nursing facility
26 industry, one to be appointed by the governor, one by the lieutenant
27 governor, and one by the speaker of the house of representatives.

1 (c) The governor shall designate a member of the team to
2 serve as presiding officer. The members of the team shall elect any
3 other necessary officers.

4 (d) The team shall meet at the call of the presiding
5 officer.

6 (e) A member of the team serves at the will of the appointing
7 official.

8 (f) A member of the team may not receive compensation for
9 serving on the team but is entitled to reimbursement for travel
10 expenses incurred by the member while conducting the business of
11 the team as provided by the General Appropriations Act.

12 (g) The team shall:

13 (1) develop and recommend clearly defined minimum
14 standards to be included in contracts between the department and
15 nursing facilities for the delivery of medical assistance under
16 this chapter that are designed to:

17 (A) ensure that the care provided by nursing
18 facilities to residents who are recipients of medical assistance
19 meets or exceeds the minimum acceptable standard of care; and

20 (B) encourage nursing facilities to provide the
21 highest quality of care to those residents; and

22 (2) develop and recommend improvements to consumers'
23 access to information regarding the quality of care provided by
24 nursing facilities that contract with the department to provide
25 medical assistance, including improvements in:

26 (A) the types and amounts of information to which
27 consumers have access, such as expanding the types and amounts of

information available through the department's Internet website;
and

(B) the department's data systems that compile
nursing facilities' inspection or survey data and other data
relating to quality of care in nursing facilities.

(h) In developing minimum standards for contracts as
required by Subsection (g)(1), the team shall:

(1) study the risk factors identified by the Texas
Department of Insurance as contributing to lawsuits against
nursing facilities;

(2) consider for inclusion in the minimum standards:

(A) the practices the Texas Department of
Insurance recommends nursing facilities adopt to reduce the
likelihood of those lawsuits; and

(B) other standards designed to improve the
quality of care; and

(3) focus on a minimum number of critical standards
necessary to identify nursing facilities with poor quality services
that should not be awarded contracts for the delivery of medical
assistance.

(i) The department shall ensure the accuracy of information
provided to the team for use by the team in performing the team's
duties under this section. The Health and Human Services
Commission shall provide administrative support and resources to
the team and request additional administrative support and
resources from health and human services agencies as necessary.

SECTION 4. Subchapter K, Chapter 242, Health and Safety

Code, is amended by adding Section 242.406 to read as follows:

Sec. 242.406. GRANT PROGRAM FOR NURSING FACILITIES PROVIDING QUALITY ENVIRONMENTS. (a) The department shall establish a competitive grant program to pay part of the costs of a project proposed by a nursing facility that is designed to improve the quality of life for residents of the facility by providing:

(1) homelike environments for residents, including providing opportunities for residents to engage in meaningful activities such as gardening or other outdoor activities;

(2) direct care staff members who tailor care to the individual needs of a resident and allow the resident and the resident's family members to participate in the decision-making process regarding that care;

(3) opportunities for residents to interact with companion animals, children, family members, and other visitors from the community; or

(4) other innovative programs designed to improve the quality of residents' care.

(b) A project proposed by a nursing facility under Subsection (a) must be designed to serve as a model of best practices for the nursing facility industry.

(c) The department shall monitor the expenditure of grant money to ensure that the money is being used for the intended purpose.

(d) The department by rule shall establish guidelines for the grant program, including guidelines that specify:

(1) the procedures for submitting a grant proposal;

1 (2) the criteria the department will follow in
2 evaluating the proposals; and

3 (3) the reports that a grant recipient must file to
4 allow the department and the industry to evaluate the feasibility
5 and success of the project.

6 (e) The department shall fund the grant program using
7 available resources attributable to the savings realized from
8 implementing Section 32.050(d), Human Resources Code.

9 (f) The department shall award each grant under a contract.
10 A contract may further detail:

11 (1) reports that the grant recipient must file; and

12 (2) monitoring of the project that the grant recipient
13 must allow.

14 (g) The department shall post a summary of best practices
15 under the grant program on its Internet site to serve as a model of
16 best practices for the industry. The department shall report to the
17 legislature regarding those best practices.

18 SECTION 5. (a) The Texas Department of Human Services
19 shall implement the recommendations for improving the quality of
20 nursing facility information provided to consumers that are made by
21 the nursing facility quality assurance team as required by Section
22 32.021, Human Resources Code, as added by this Act, not later than
23 September 1, 2004.

24 (b) Section 32.021(q), Human Resources Code, as added by
25 this Act, applies only to a contract for the delivery of medical
26 assistance by a nursing facility that is entered into or renewed on
27 or after May 1, 2004. A contract for the delivery of medical

1 assistance by a nursing facility entered into before that date is
2 governed by the law in effect on the date the contract was entered
3 into, and the former law is continued in effect for that purpose.

4 SECTION 6. (a) The governor, the lieutenant governor, and
5 the speaker of the house of representatives shall appoint the
6 members of the nursing facility quality assurance team established
7 under Section 32.060, Human Resources Code, as added by this Act,
8 not later than October 1, 2003.

9 (b) The nursing facility quality assurance team shall
10 develop and make the recommendations required by Section 32.060,
11 Human Resources Code, as added by this Act, not later than March 1,
12 2004.

13 SECTION 7. This Act takes effect September 1, 2003.