

By: Isett

H.B. No. 2499

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of quality assurance fees for nursing homes and intermediate care facilities for persons with mental retardation.

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

SECTION 1. Chapter 242, Health and Safety Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. QUALITY ASSURANCE FEE

Sec. 242.801. DEFINITION. In this subchapter, "gross receipts" means money paid as compensation for services provided to residents, including client participation. The term does not include charitable contributions to an institution.

Sec. 242.802. COMPUTING QUALITY ASSURANCE FEE. (a) A quality assurance fee is imposed on each institution for which a license fee must be paid under Section 242.034. The quality assurance fee:

(1) is an amount established under Subsection (b) multiplied by the number of patient days as determined in accordance with Section 242.803;

(2) is payable monthly; and

(3) is in addition to other fees imposed under this chapter.

(b) The Health and Human Services Commission shall establish a quality assurance fee for each day in the amount

1 necessary to produce annual revenues equal to an amount that is not
2 more than six percent of the institution's total annual gross
3 receipts in this state. The fee is subject to a prospective
4 adjustment as necessary.

5 (c) The amount of the quality assurance fee must be
6 determined using patient days and gross receipts reported to the
7 department and covering a period of at least six months.

8 (d) The quality assurance fee is an allowable cost for
9 reimbursement under the state Medicaid program.

10 Sec. 242.803. PATIENT DAYS. For each calendar day, an
11 institution shall determine the number of patient days by adding
12 the following:

13 (1) the number of patients occupying an institution
14 bed immediately before midnight of that day;

15 (2) the number of beds that are on hold on that day and
16 that have been placed on hold for a period not to exceed three
17 consecutive calendar days during which a patient is in the
18 hospital; and

19 (3) the number of beds that are on hold on that day and
20 that have been placed on hold for a period not to exceed three
21 consecutive calendar days during which a patient is on therapeutic
22 home leave.

23 Sec. 242.804. REPORTING AND COLLECTION. (a) The Health
24 and Human Services Commission shall collect the quality assurance
25 fee.

26 (b) Each institution shall:

27 (1) not later than the 10th day after the last day of a

1 month file with the Health and Human Services Commission a report
2 stating the total patient days for the month; and

3 (2) not later than the 30th day after the last day of
4 the month pay the quality assurance fee.

5 Sec. 242.805. RULES; ADMINISTRATIVE PENALTY. (a) The
6 Health and Human Services Commission shall adopt rules for the
7 administration of this subchapter, including rules related to the
8 imposition and collection of the quality assurance fee.

9 (b) The Health and Human Services Commission may not adopt
10 rules granting any exceptions from the quality assurance fee unless
11 the commission obtains any waiver necessary under federal law,
12 including 42 C.F.R. Section 433.68(e)(1).

13 (c) An administrative penalty assessed under this
14 subchapter in accordance with Section 242.066 may not exceed
15 one-half of the amount of the outstanding quality assurance fee or
16 \$20,000, whichever is greater.

17 Sec. 242.806. NURSING HOME QUALITY ASSURANCE FEE ACCOUNT.

18 (a) The nursing home quality assurance fee account is a dedicated
19 account in the general revenue fund. Interest earned on money in
20 the account shall be credited to the account.

21 (b) The comptroller shall deposit money collected under
22 this subchapter to the credit of the account.

23 (c) Subject to legislative appropriation and this
24 subchapter, money in the account together with federal matching
25 money may be used to support or maintain an increase in Medicaid
26 reimbursement for institutions.

27 Sec. 242.807. REIMBURSEMENT OF INSTITUTIONS. (a) Subject

1 to legislative appropriation, the Health and Human Services
2 Commission may use money in the nursing home quality assurance fee
3 account, together with any federal money available to match that
4 money, to:

5 (1) offset allowable expenses under the state Medicaid
6 program; or

7 (2) increase reimbursement rates paid under the
8 Medicaid program to institutions.

9 (b) The Health and Human Services Commission shall devise
10 the formula by which amounts received under this section increase
11 the reimbursement rates paid to institutions under the state
12 Medicaid program.

13 (c) The Health and Human Services Commission shall ensure
14 that the formula devised under Subsection (b) provides incentives
15 for institutions to increase direct care staffing and direct care
16 wages and benefits.

17 Sec. 242.808. INVALIDITY; FEDERAL FUNDS. If any portion of
18 this subchapter is held invalid by a final order of a court that is
19 not subject to appeal, or if the Health and Human Services
20 Commission determines that the imposition of the fee and the
21 expenditure as prescribed by this subchapter of amounts collected
22 will not entitle the state to receive additional federal funds
23 under the Medicaid program, the commission shall stop collection of
24 the quality assurance fee and shall return, not later than the 30th
25 day after the date collection is stopped, any money collected, but
26 not spent, under this subchapter to the institutions that paid the
27 fees in proportion to the total amount paid by those institutions.

1 SECTION 2. Section 252.209, Health and Safety Code, is
2 repealed.

3 SECTION 3. (a) Notwithstanding Section 242.802, Health and
4 Safety Code, as added by this Act, the quality assurance fee imposed
5 under Subchapter P, Chapter 242, Health and Safety Code, as added by
6 this Act, that is effective for the first month following the
7 effective date of this Act is equal to \$6.15 multiplied by the
8 number of patient days as determined under that subchapter. The
9 quality assurance fee established under this section remains in
10 effect until the Health and Human Services Commission obtains the
11 information necessary to set the fee under Section 242.802, Health
12 and Safety Code, as added by this Act.

13 (b) As soon as practicable after the effective date of this
14 Act, the Health and Human Services Commission shall adopt rules as
15 necessary to implement Subchapter P, Chapter 242, Health and Safety
16 Code, as added by this Act.

17 (c) If before implementing any provision of this Act a state
18 agency determines a waiver or authorization from a federal agency
19 is necessary for implementation of that provision, the agency
20 affected by the provision shall request the waiver or authorization
21 and may delay implementing that provision until the waiver or
22 authorization is granted.

23 SECTION 4. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2005.