

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 12, 2007

TO: Honorable Warren Chisum, Chair, House Committee on Appropriations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3778** by Rose (Relating to the creation and administration of a quality assurance fee for nursing facilities; providing an administrative penalty.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3778, As Introduced: a negative impact of (\$642,880) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$642,880)
2009	\$0
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>New General Revenue Dedicated</i>	Probable Savings/ (Cost) from <i>New General Revenue Dedicated</i>	Probable Savings/ (Cost) from <i>GR MATCH FOR MEDICAID 758</i>	Probable Revenue Gain/(Loss) from <i>FEDERAL FUNDS 555</i>
2008	\$111,305,000	(\$36,871,723)	(\$642,880)	\$57,878,480
2009	\$225,474,000	(\$74,696,782)	\$0	\$112,232,103
2010	\$228,775,000	(\$74,696,782)	\$0	\$112,232,103
2011	\$232,255,000	(\$74,696,782)	\$0	\$112,232,103
2012	\$235,918,000	(\$74,696,782)	\$0	\$112,232,103

Fiscal Year	Probable Savings/ (Cost) from <i>FEDERAL FUNDS 555</i>
2008	(\$57,878,480)
2009	(\$112,232,103)
2010	(\$112,232,103)
2011	(\$112,232,103)
2012	(\$112,232,103)

Fiscal Analysis

The bill would provide that a quality assurance fee (QAF) is imposed on each institution subject to this subchapter for which a license fee must be paid under Section 242.034 (relating to convalescent and nursing homes and related institutions). The bill would provide that this subchapter does not apply to a state owned veterans' nursing facility or a continuing care retirement community.

The bill would require the Health and Human Services Commission (HHSC) to establish the QAF for each patient day in an amount that will produce annual revenues of not more than six percent of the institution's total annual gross receipts in this state.

The bill would provide that the QAF is an allowable cost for reimbursement under the state Medicaid program. The bill would prohibit a nursing facility from listing the QAF as a separate charge on a patient's or resident's billing statement or otherwise directly or indirectly attempting to charge the QAF to a patient or resident. The bill would require HHSC or DADS as directed by the executive commissioner to collect the QAF.

The bill would authorize the executive commissioner to adopt rules granting exceptions from the QAF, including an exception for units of service reimbursed through Medicare Part A, if HHSC obtains all waivers necessary under federal law. The bill would prohibit an administrative penalty assessed under this subchapter in accordance with Section 242.066 from exceeding one-half of the amount of the outstanding QAF or \$20,000, whichever is greater.

The bill would establish the nursing home quality assurance fee account as a dedicated account in the general revenue fund, and require that interest earned on money in the account be credited to the account.

The bill would require money in the account, together with federal matching money, subject to legislative appropriation and this subchapter, to be used to support or maintain an increase in Medicaid reimbursement for institutions. The bill would authorize HHSC, subject to legislative appropriation, to use money in the nursing home quality assurance fee account, together with any federal money available to match that money, to: offset allowable expenses under the state Medicaid program; or increase reimbursement rates paid under the Medicaid program to institutions.

This bill would create a dedicated account in the General Revenue Fund, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in the bill would be subject to the funds consolidation review by the current Legislature.

## **Methodology**

The Comptroller of Public Accounts (comptroller) estimates annual gross revenue from the QAF on nursing homes to be \$111.3 million in fiscal year 2008, \$225.5 million in fiscal year 2009, and increasing to \$235.9 million in fiscal year 2012. The comptroller's estimate is based on the number of occupied beds as reported by DADS, DADS Medicaid nursing home reimbursement rates, and estimated Texas private nursing home costs from an annual MetLife nursing home cost survey.

The comptroller assumed that 5 percent of non-Medicaid beds would be excluded from the QAF because of the exemption for beds reimbursed through Medicare, Part A. The comptroller's estimate of revenue was projected based on a per bed fee equal to the maximum 5.5 percent cap recently set in federal law. The comptroller also assumed that the QAF would be approved by the federal government in order to allow the fee to be collected beginning in February 2008.

It is assumed that funds would be appropriated for nursing home Medicaid reimbursement rate adjustments to account for the designation of the QAF as an allowable cost. The annual rate offset cost in fiscal year 2008 is estimated to be \$36.9 million in General Revenue-Dedicated Nursing Home Quality Assurance Fee account, or \$93.5 million in All Funds. The rate offset cost in this initial year is half of DADS estimate of the cost for a full fiscal year to account for time that may be necessary for the federal approval process. The annual rate offset cost is estimated to be \$74.7 million in General Revenue-Dedicated Nursing Home Quality Assurance Fee account, or \$186.9 million in All Funds, in fiscal year 2009 and thereafter.

DADS estimates an additional one-time technology cost of \$642,880 in General Revenue-Match for Medicaid, or \$1.3 million in All Funds, in fiscal year 2008 to develop systems for billing, tracking, and receiving QAF funds. Based on the current provisions of the bill, it is assumed that this cost could not be funded with General Revenue-Dedicated Nursing Home Quality Assurance Fee account funds. Funding this cost with General Revenue-Dedicated Nursing Home Quality Assurance Fee account funds would remove the cost to General Revenue.

It is assumed that administration of the nursing home QAF, once implemented, could be performed within the agency’s existing resources.

**Technology**

DADS estimates a one-time technology cost of \$1.3 million in fiscal year 2008 for 15,680 automation hours at \$82 per hour to develop systems for billing, tracking, and receiving QAF collections.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 529 Health and Human Services Commission, 539 Aging and Disability Services, Department of  
**LBB Staff:** JOB, CT, JI, JJ