

Amend HB 1218 (Senate committee printing) by adding the following appropriately numbered SECTION to the bill:

SECTION _____. LONG-TERM CARE INCENTIVES. (a) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0283 to read as follows:

Sec. 32.0283. PAY-FOR-PERFORMANCE INCENTIVES FOR CERTAIN NURSING FACILITIES. (a) In this section, "nursing facility" means a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, that provides long-term care services, as defined by Section 22.0011, to medical assistance recipients.

(b) If feasible, the executive commissioner of the Health and Human Services Commission by rule shall establish an incentive payment program for nursing facilities that is designed to improve the quality of care and services provided to medical assistance recipients. The program must provide additional payments in accordance with this section to the facilities that meet or exceed performance standards established by the executive commissioner.

(c) In establishing an incentive payment program under this section, the executive commissioner of the Health and Human Services Commission shall, subject to Subsection (d), adopt outcome-based performance measures. The performance measures:

(1) must be:

(A) recognized by the executive commissioner as valid indicators of the overall quality of care received by medical assistance recipients; and

(B) designed to encourage and reward evidence-based practices among nursing facilities; and

(2) may include measures of:

(A) quality of life;

(B) direct-care staff retention and turnover;

(C) recipient satisfaction;

(D) employee satisfaction and engagement;

(E) the incidence of preventable acute care emergency room services use;

(F) regulatory compliance;

(G) level of person-centered care; and

(H) level of occupancy or of facility utilization.

(d) The executive commissioner of the Health and Human Services Commission shall:

(1) maximize the use of available information technology and limit the number of performance measures adopted under Subsection (c) to achieve administrative cost efficiency and avoid an unreasonable administrative burden on nursing facilities; and

(2) for each performance measure adopted under Subsection (c), establish a performance threshold for purposes of determining eligibility for an incentive payment under the program.

(e) To be eligible for an incentive payment under the program, a nursing facility must meet or exceed applicable performance thresholds in at least two of the performance measures adopted under Subsection (c), at least one of which is an indicator of quality of care.

(f) The executive commissioner of the Health and Human Services Commission may:

(1) determine the amount of an incentive payment under the program based on a performance index that gives greater weight to performance measures that are shown to be stronger indicators of a nursing facility's overall performance quality; and

(2) enter into a contract with a qualified person, as determined by the executive commissioner, for the following services related to the program:

(A) data collection;

(B) data analysis; and

(C) reporting of nursing facility performance on the performance measures adopted under Subsection (c).

(b) Subsection (a), Section 32.060, Human Resources Code, as added by Section 16.01, Chapter 204 (H.B. 4), Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(a) The following are not admissible as evidence in a civil action:

(1) any finding by the department that an institution licensed under Chapter 242, Health and Safety Code, has violated a

standard for participation in the medical assistance program under this chapter; ~~or~~]

(2) the fact of the assessment of a monetary penalty against an institution under Section 32.021 or the payment of the penalty by an institution; or

(3) any information obtained or used by the department to determine the eligibility of a nursing facility for an incentive payment, or to determine the facility's performance rating, under Section 32.028(g) or 32.0283(f).

(c) The Health and Human Services Commission shall conduct a study to evaluate the feasibility of providing an incentive payment program for the following types of providers of long-term care services, as defined by Section 22.0011, Human Resources Code, under the medical assistance program similar to the incentive payment program established for nursing facilities under Section 32.0283, Human Resources Code, as added by this section:

(1) intermediate care facilities for persons with mental retardation licensed under Chapter 252, Health and Safety Code; and

(2) providers of home and community-based services, as described by 42 U.S.C. Section 1396n(c), who are licensed or otherwise authorized to provide those services in this state.

(d) Not later than September 1, 2010, the Health and Human Services Commission shall submit to the legislature a written report containing the findings of the study conducted under Subsection (c) of this section and the commission's recommendations.

(e) As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Section 32.0283, Human Resources Code, as added by this section.