

By: Madden

H.B. No. 1729

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain requirements regarding the provision of home  
3 and community-based services under the Medicaid program.

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

5 SECTION 1. Section 242.003, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 242.003. EXEMPTIONS. Except as otherwise provided,  
8 this chapter does not apply to:

9 (1) a hotel or other similar place that furnishes only  
10 food, lodging, or both, to its guests;

11 (2) a hospital;

12 (3) an establishment conducted by or for the adherents  
13 of a well-recognized church or religious denomination for the  
14 purpose of providing facilities for the care or treatment of the  
15 sick who depend exclusively on prayer or spiritual means for  
16 healing, without the use of any drug or material remedy, if the  
17 establishment complies with safety, sanitary, and quarantine laws  
18 and rules;

19 (4) an establishment that furnishes, in addition to  
20 food, shelter, and laundry, only baths and massages;

21 (5) an institution operated by a person licensed by  
22 the Texas Board of Chiropractic Examiners;

23 (6) a facility that:

24 (A) primarily engages in training, habilitation,

1 rehabilitation, or education of clients or residents;

2 (B) is operated under the jurisdiction of a state  
3 or federal agency, including the Department of Assistive and  
4 Rehabilitative Services, Department of Aging and Disability  
5 Services, Department of State Health Services, Health and Human  
6 Services Commission [~~Texas Rehabilitation Commission, Texas~~  
7 ~~Department of Mental Health and Mental Retardation, Texas~~  
8 ~~Department of Human Services, Texas Commission for the Blind, Texas~~  
9 ~~Commission on Alcohol and Drug Abuse~~], [institutional division of  
10 ~~the~~] Texas Department of Criminal Justice, and Department of  
11 Veterans Affairs [~~the Veteran's Administration~~]; and

12 (C) is certified through inspection or  
13 evaluation as meeting the standards established by the state or  
14 federal agency;

15 (7) a foster care type residential facility that  
16 serves fewer than five persons and operates under rules adopted by  
17 the Texas Department of Human Services or the executive  
18 commissioner of the Health and Human Services Commission, as  
19 applicable; [~~and~~]

20 (8) a facility licensed under Chapter 252 or exempt  
21 from licensure under Section 252.003; or

22 (9) a home described by Section 161.081, Human  
23 Resources Code.

24 SECTION 2. Section 247.004, Health and Safety Code, is  
25 amended to read as follows:

26 Sec. 247.004. EXEMPTIONS. This chapter does not apply to:

27 (1) a boarding facility that has rooms for rent and

1 that may offer community meals, light housework, meal preparation,  
2 transportation, grocery shopping, money management, or laundry  
3 services but that does not provide personal care services;

4 (2) an establishment conducted by or for the adherents  
5 of the Church of Christ, Scientist, for the purpose of providing  
6 facilities for the care or treatment of the sick who depend  
7 exclusively on prayer or spiritual means for healing without the  
8 use of any drug or material remedy if the establishment complies  
9 with local safety, sanitary, and quarantine ordinances and  
10 regulations;

11 (3) a facility conducted by or for the adherents of a  
12 qualified religious society classified as a tax-exempt  
13 organization under an Internal Revenue Service group exemption  
14 ruling for the purpose of providing personal care services without  
15 charge solely for the society's professed members or ministers in  
16 retirement, if the facility complies with local safety, sanitation,  
17 and quarantine ordinances and regulations; [~~or~~]

18 (4) a facility that provides personal care services  
19 only to persons enrolled in a program that is funded in whole or in  
20 part by the Texas Department of Mental Health and Mental  
21 Retardation and that is monitored by the Texas Department of Mental  
22 Health and Mental Retardation or its designated local authority in  
23 accordance with standards set by the Texas Department of Mental  
24 Health and Mental Retardation; or

25 (5) a home described by Section 161.081, Human  
26 Resources Code.

27 SECTION 3. Section 252.003, Health and Safety Code, is

1 amended to read as follows:

2           Sec. 252.003. EXEMPTIONS. Except as otherwise provided by  
3 this chapter, this chapter does not apply to an establishment that:

4           (1) provides training, habilitation, rehabilitation,  
5 or education to individuals with mental retardation or a related  
6 condition;

7           (2) is operated under the jurisdiction of a state or  
8 federal agency, including the Department of Assistive and  
9 Rehabilitative Services, Department of Aging and Disability  
10 Services, Department of State Health Services, Health and Human  
11 Services Commission [~~department, the Texas Rehabilitation~~  
12 ~~Commission, the Texas Department of Mental Health and Mental~~  
13 ~~Retardation, the Texas Commission for the Blind, the Texas~~  
14 ~~Commission on Alcohol and Drug Abuse~~], [~~the institutional division~~  
15 ~~of the~~] Texas Department of Criminal Justice, and Department of  
16 Veterans Affairs [~~or the Veterans' Administration~~];

17           (3) is certified through inspection or evaluation as  
18 meeting the standards established by the state or federal agency;  
19 [~~and~~]

20           (4) is conducted by or for the adherents of a  
21 well-recognized church or religious denomination for the purpose of  
22 providing facilities for the care or treatment of the sick who  
23 depend exclusively on prayer or spiritual means for healing,  
24 without the use of any drug or material remedy, if the establishment  
25 complies with safety, sanitary, and quarantine laws and rules; or

26           (5) is a home described by Section 161.081, Human  
27 Resources Code.

1 SECTION 4. Subchapter D, Chapter 161, Human Resources Code,  
2 is amended by adding Section 161.081 to read as follows:

3 Sec. 161.081. HOME AND COMMUNITY-BASED SERVICES PROVIDERS;  
4 NUMBER OF RESIDENTS ALLOWED. (a) In this section, "home and  
5 community-based services" means the services described by 42 U.S.C.  
6 Section 1396n(c) that are provided by a person under a contract with  
7 the department.

8 (b) A person certified by the department to provide home and  
9 community-based services may provide services in homes in which six  
10 or fewer individuals receiving similar services reside, but only if  
11 a direct services provider does not reside in the home.

12 (c) A home in which six or fewer individuals receiving  
13 similar services reside and in which at least one individual is  
14 receiving services from a home and community-based services program  
15 provider, but in which a direct services provider does not reside,  
16 is exempt from licensing under Chapter 242, 247, or 252, Health and  
17 Safety Code.

18 SECTION 5. If before implementing any provision of this Act  
19 a state agency determines that a waiver or authorization from a  
20 federal agency is necessary for implementation of that provision,  
21 the agency affected by the provision shall request the waiver or  
22 authorization and may delay implementing that provision until the  
23 waiver or authorization is granted.

24 SECTION 6. This Act takes effect September 1, 2009.