

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 15, 2013**

**TO:** Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **SB492** by Lucio (Relating to the licensing and regulation of prescribed pediatric extended care centers; providing penalties; imposing fees.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB492, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2015.

In addition to the effects of the bill described in the tables below, the bill has an indeterminate implication for Medicaid client services. The bill could result in a cost or a savings to Medicaid client services, but the effect is dependent both on client choices and Health and Human Services Commission action.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Revenue Gain/(Loss) from General Revenue Fund 1</b>	<b>Probable Savings/(Cost) from Federal Funds 555</b>	<b>Probable Savings/(Cost) from GR Match For Medicaid 758</b>
2014	(\$588,591)	\$784,139	(\$278,393)	(\$195,548)
2015	(\$515,956)	\$686,225	(\$237,073)	(\$170,269)
2016	(\$691,568)	\$929,323	(\$331,037)	(\$237,755)
2017	(\$691,058)	\$928,813	(\$331,037)	(\$237,755)
2018	(\$692,588)	\$930,343	(\$331,037)	(\$237,755)

<b>Fiscal Year</b>	<b>Change in Number of State Employees from FY 2013</b>
2014	8.0
2015	10.5
2016	14.5
2017	14.5
2018	14.5

**Fiscal Analysis**

The bill would add Chapter 248A to the Health and Safety Code to require a person who owns or operates a prescribed pediatric extended care center to hold a license issued by the Department of Aging and Disability Services (DADS). The bill would require the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules to implement the chapter and to set licensing fees at a reasonable level to cover the costs associated with administering the chapter. HHSC would be required to designate a licensed prescribed pediatric extended care center as a health care services provider under the Medicaid program.

The bill would require DADS to issue a two-year license to eligible applicants. Pediatric extended care centers would be required to submit a renewal application and renewal fee. DADS would be required to collect late renewal fees.

The bill would permit DADS to inspect a center to ensure compliance with licensing standards. The bill would require DADS to inspect a center prior to issuing or renewing a license.

A center would be required to provide background and criminal history check information for certain controlling persons with the license application. DADS would be entitled to obtain criminal history record information from the Department of Public Safety (DPS) for persons required to undergo background and criminal history checks.

The bill would allow for a person to file complaints with DADS against a prescribed pediatric extended care center and for DADS to investigate complaints.

The bill identifies the circumstances in which DADS may deny, suspend, or revoke a license; schedule a center for probation; and issue an emergency order to suspend a license. The bill would allow a license holder to request a hearing related to the emergency suspension. The bill would allow DADS to petition a district court for a temporary restraining order to restrain a continuing violation of this chapter or rule. At DADS' request, the Office of the Attorney General (OAG)

would be required to institute and conduct a suit authorized by this section.

The bill would prescribe the civil, criminal, and administrative penalties related to the violation of this chapter and for a center's right to a contested case hearing through the State Office of Administrative Hearings (SOAH) and judicial review of penalties imposed. The bill would allow the OAG to sue to collect civil penalties and for OAG and DADS to recover reasonable expenses incurred.

The bill would add pediatric extended care centers to the list of facilities subject to the Nurse Aide Registry requirements under chapter 250 of the Health and Safety Code; the abuse, neglect, and exploitation reporting requirements under Chapter 253 of the Health and Safety Code; and the employee misconduct registry requirements under Chapter 260A of the Health and Safety Code.

The bill would require HHSC to set initial reimbursement rates at a level that when converted to an hourly rate, is not more than 70 percent of the average hourly unit rate for private duty nursing services provided under the Texas Health Steps Comprehensive Care program.

The bill would take effect September 1, 2013. A pediatric extended care center is not required to be licensed until January 1, 2015. Enforcement requirements and administrative penalties would take effect January 1, 2015.

## **Methodology**

Although a center is not required to be licensed until January 1, 2015, this analysis assumes that some centers would be licensed in fiscal year 2014. DADS estimates 15 prescribed pediatric extended care centers would receive a two-year license in fiscal year 2014 and an additional 7 would receive a two-year license in fiscal year 2015. By fiscal year 2018, DADS estimates there would be 40 licensed prescribed pediatric extended care centers.

To perform licensing and oversight activities of the centers, DADS indicates a need for 8.0 new full-time equivalents in fiscal year 2014, 10.5 full-time equivalents in fiscal year 2015, and 14.5 full-time equivalents in fiscal year 2016 and subsequent years, to be based out of the central office (additional staff members needed based on anticipated program growth). The cost for these employees including salaries, benefits, new employee costs, travel, and technology is \$641,824 in All Funds in fiscal year 2014, \$826,345 in All Funds in fiscal year 2015, and \$1,162,642 in All Funds in fiscal year 2016 and in subsequent years.

DADS reports cost pool increases of \$83,491 in fiscal year 2014 and \$96,697 in fiscal year 2015 and in subsequent years.

Based on the volume of background checks anticipated (an average of 3 checks per center) and the number of centers anticipated to be licensed each year, the cost to DPS is assumed to be minimal.

HHSC, DSHS, SOAH, and OAG anticipate any costs can be absorbed within existing resources. Further, the Office of Court Administration estimates that there will be no significant fiscal impact on the state judiciary.

According to HHSC, creation of this new provider type is anticipated to result in Medicaid client services cost savings due to the bill's requirement that the rate (when converted to an hourly rate), be set at not more than 70 percent of the hourly unit rate for private duty nursing. For this analysis, it is assumed that the amount of savings cannot be determined because the volume of

clients and providers that would access this model is unknown, and the actual rate has not been determined.

While DADS estimates licensing and renewal fees of \$1,750 for a two-year license period, it is anticipated that fees would need to be set at significantly higher amounts in order to cover the anticipated costs, as required by the provisions of the bill. This analysis assumes a General Revenue gain of \$784,139 in fiscal year 2014 and \$686,225 in fiscal year 2015 as a result of licensing, penalty, and background check fees set at levels necessary to cover oversight costs incurred by DADS and DPS. Revenue is anticipated to increase to \$929,323 in fiscal year 2016, \$928,813 in fiscal year 2017, and \$930,343 in fiscal year 2018.

### **Technology**

DADS indicates a one-time cost of \$336,452 in All Funds in fiscal year 2014 will be incurred for modification of existing DADS information technology systems to reflect the new facility type. This cost is included in the tables above.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 529 Health and Human Services Commission, 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 537 State Health Services, Department of, 539 Aging and Disability Services, Department of

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