

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

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

**March 18, 2013**

**TO:** Honorable Jane Nelson, Chair, Senate Committee On Health & Human Services

**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.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB492, As Introduced: an impact of \$0 through the biennium ending August 31, 2015.

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
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0

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

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Federal Funds</i> 555	Probable Savings/(Cost) from <i>GR Match For Medicaid</i> 758
2014	(\$742,806)	\$966,758	(\$318,830)	(\$223,952)
2015	(\$717,175)	\$916,220	(\$277,139)	(\$199,045)
2016	(\$923,018)	\$1,189,548	(\$371,102)	(\$266,530)
2017	(\$1,000,508)	\$1,267,038	(\$371,102)	(\$266,530)
2018	(\$1,000,508)	\$1,267,038	(\$371,102)	(\$266,530)

<b>Fiscal Year</b>	<b>Change in Number of State Employees from FY 2013</b>
2014	9.0
2015	11.5
2016	15.5
2017	15.5
2018	15.5

## **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 obtain a background and criminal history check through DADS for certain individuals seeking employment and certain employees on an annual basis. These background checks are required to be conducted using the criminal history record information made available by the Department of Public Safety (DPS) or the Federal Bureau of Investigation, and the employee misconduct registry maintained by DADS. The bill would require DADS to collect fees from centers for these 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 proscribe 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 amend the Government Code to allow the Department of State Health Services (DSHS) to access criminal history record information for a licensed chemical dependency counselor and a person undergoing a check as a result of this chapter.

The bill would add pediatric extended care center to the list of facilities subject to the Nurse Aide Registry requirements under chapter 250 of the Health and Safety Code.

The bill would take effect September 1, 2013. A pediatric extended care center is not required to be licensed until July 1, 2014. Enforcement requirements and administrative penalties would take effect July 1, 2014.

## **Methodology**

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 9.0 new full-time equivalents in fiscal year 2014, 11.5 full-time equivalents in fiscal year 2015, and 15.5 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 \$710,665 in All Funds in fiscal year 2014, \$895,187 in All Funds in fiscal year 2015, and \$1,231,483 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 DADS' assumptions about the number of facilities licensed each year, the number of controlling persons and direct care staff at the centers requiring checks, and the expected rate of turnover, 4,920 background checks would occur in fiscal year 2014 and 6,396 would occur in fiscal year 2015, with the number eventually reaching 9,840 by fiscal year 2018. Processing costs for DPS and FBI processing fees are assumed to be \$154,980 in fiscal year 2014, \$201,474 in fiscal year 2015, \$232,470 in fiscal year 2016, and \$309,960 in fiscal years 2017-18.

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, the impact of the creation of this new provider type on Medicaid client services costs cannot be determined; the new provider type could create medical savings by reducing private duty nursing which is provided one-on-one to children, or could increase medical expenses by offering a new rate that would include facility costs.

This analysis assumes a General Revenue gain of \$966,758 in fiscal year 2014 and \$916,220 in fiscal year 2015 as a result of licensing, inspection, penalty, and background check fees set at levels reasonable and necessary to cover oversight costs incurred by DADS. Revenue is anticipated to increase to \$1,267,038 by 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:** 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, 529 Health and Human Services Commission, 537 State Health Services, Department of, 539 Aging and Disability Services, Department of

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