

By: Kolkhorst

S.B. No. 890

A BILL TO BE ENTITLED

AN ACT

relating to Medicaid beds in nursing facilities.

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

SECTION 1. Section 32.0213, Human Resources Code, is amended by adding Subsections (g) through (u) to read as follows:

(g) Notwithstanding Subsection (f), the commission may not exempt applicants for Medicaid beds from the requirements of Subsection (d) on or after September 1, 2017, and before September 1, 2021.

(h) Except as provided in Subsection (i), the commission may not contract for new nursing facility beds under Medicaid unless the statewide occupancy rate of certified Medicaid beds is more than 90 percent, as determined by the commission annually on September 1.

(i) Notwithstanding Subsection (h), the commission may contract for new Medicaid beds in the following types of nursing facilities:

(1) subject to Subsection (k), that is under development on September 1, 2017, and for which there has been filed with the commission an application for Medicaid beds;

(2) subject to Subsections (m), (n), (o), and (p), a small house nursing facility;

(3) subject to Subsections (q) and (r), a replacement nursing facility, without regard to whether the nursing facility is

under development or has been constructed on September 1, 2017;

(4) subject to Subsection (s), a nursing facility located in a county where the occupancy rate of certified Medicaid beds is more than 85 percent, as determined by the commission on September 1 and March 1 of a particular year; and

(5) subject to Subsection (t), a nursing facility without any unoccupied Medicaid beds for the purpose of providing a temporary Medicaid bed for a resident of the nursing facility who has exhausted the resident's resources and, as a result, is newly eligible for Medicaid.

(j) Deadlines and any other time limitations relating to the commission's allocation or certification of Medicaid beds for nursing facilities not yet under development on September 1, 2017, and prohibited under Subsection (h) are tolled until September 1, 2021.

(k) For purposes of Subsections (i)(1) and (j):

(1) a nursing facility is considered under development if:

(A) funding to construct the nursing facility has been secured and is being used to construct the nursing facility;

(B) any zoning requirements relating to the construction of the nursing facility have been met;

(C) complete construction design plans for the nursing facility have been submitted to the appropriate governmental entities regulating fire and building safety not later than September 1, 2017; and

(D) ongoing construction activities are

1 occurring at the nursing facility site; and

2 (2) the commission, in the commission's sole  
3 discretion, shall determine whether an applicant for Medicaid beds  
4 meets the requirements of this subsection.

5 (1) The construction design plans described in Subsection  
6 (k)(1)(c) must be an accurate and true depiction of the nursing  
7 facility that is being constructed but may be modified in order to  
8 make technical changes, correct errors and omissions, or comply  
9 with zoning or other requirements of a governmental entity.

10 (m) The executive commissioner by rule shall define "small  
11 house nursing facility" for purposes of this section.

12 (n) The commission may not contract under Subsection (i)(2)  
13 for more than:

14 (1) 50 Medicaid beds per small house nursing facility  
15 per year; and

16 (2) a total of 100 new Medicaid beds for small house  
17 nursing facilities statewide per year.

18 (o) The commission shall approve completed applications for  
19 Medicaid beds by or on behalf of small house nursing facilities  
20 under Subsection (i)(2) in the order in which the applications are  
21 received by the commission.

22 (p) The commission shall rescind approval of an application  
23 described by Subsection (o) if:

24 (1) the small house nursing facility is not  
25 operational on the anniversary of the date the facility's  
26 application was approved; and

27 (2) the commission has previously denied an

application for additional Medicaid beds by or on behalf of another small house nursing facility because of the limitation on the total number of Medicaid beds contained in Subsection (n)(2).

(g) The commission may contract for Medicaid beds in a replacement nursing facility under Subsection (i)(3) only if:

(1) the replacement nursing facility:

(A) is licensed under Chapter 242, Health and Safety Code; and

(B) is located in the same county as the nursing facility that is being replaced; and

(2) the nursing facility that is being replaced:

(A) is licensed under Chapter 242, Health and Safety Code, on September 1, 2017; and

(B) surrenders the license described by Paragraph (A) not later than the 60th day after the date the replacement nursing facility is licensed under Chapter 242, Health and Safety Code.

(r) The commission may not contract for more Medicaid beds for a replacement nursing facility under Subsection (i)(3) than were contracted for the nursing facility that the replacement nursing facility replaced.

(s) The commission may not contract under Subsection (i)(4) for:

(1) more than 50 Medicaid beds per nursing facility; or

(2) a number of Medicaid beds that would result in a countywide occupancy rate of certified Medicaid beds that is below

1 the statewide occupancy rate.

2 (t) The executive commissioner by rule shall develop a  
3 process for contracting for temporary Medicaid beds under  
4 Subsection (i)(5).

5 (u) Subsections (g) through (t) and this subsection expire  
6 September 1, 2021.

7 SECTION 2. Section 32.0244, Human Resources Code, is  
8 amended by adding Subsection (e) to read as follows:

9 (e) Notwithstanding Subsections (a) through (d), the  
10 commission may not contract for new nursing facility beds under  
11 this section on or after September 1, 2017, and before September 1,  
12 2021. This subsection expires September 1, 2021.

13 SECTION 3. Section 32.0245, Human Resources Code, is  
14 amended to read as follows:

15 Sec. 32.0245. NURSING FACILITY BEDS FOR CERTAIN FACILITIES  
16 TREATING ALZHEIMER'S DISEASE. (a) The commission shall waive for a  
17 nursing facility a restriction imposed by state law on the  
18 authority to contract under the state Medicaid program for nursing  
19 facility beds based on the percentage of beds that are occupied in a  
20 geographical area if the facility:

21 (1) is affiliated with a medical school operated by  
22 the state;

23 (2) is participating in a research program for the  
24 care and treatment of persons with Alzheimer's disease; and

25 (3) is designed to separate and treat Alzheimer's  
26 disease by stage or functional level.

27 (b) Notwithstanding Subsection (a), the commission may not

1 waive a restriction on the commission's authority to contract for  
2 nursing facility beds under this section on or after September 1,  
3 2017, and before September 1, 2021. This subsection expires  
4 September 1, 2021.

5       SECTION 4. If before implementing any provision of this Act  
6 a state agency determines that a waiver or authorization from a  
7 federal agency is necessary for implementation of that provision,  
8 the agency affected by the provision shall request the waiver or  
9 authorization and may delay implementing that provision until the  
10 waiver or authorization is granted.

11       SECTION 5. This Act takes effect September 1, 2017.