87R5399 JG-D

By:  Campos H.B. No. 1323

A BILL TO BE ENTITLED

AN ACT

relating to a state plan and requirements for nursing facilities to provide care for persons with Alzheimer's disease and related disorders.

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

SECTION 1.  Effective September 1, 2031, Section 242.032(c), Health and Safety Code, is amended to read as follows:

(c)  The applicant or license holder must furnish evidence to affirmatively establish the applicant's or license holder's ability to comply with:

(1)  minimum standards of medical care, nursing care, and financial condition; [~~and~~]

(2)  standards for the specialized care and treatment of persons with Alzheimer's disease and related disorders; and

(3)  any other applicable state or federal standard.

SECTION 2.  Effective September 1, 2031, Section 242.037, Health and Safety Code, is amended by amending Subsection (e) and adding Subsection (f-1) to read as follows:

(e)  In addition to standards or rules required by other provisions of this chapter, the executive commissioner shall adopt and publish and the department shall enforce minimum standards relating to:

(1)  the construction of an institution, including plumbing, heating, lighting, ventilation, and other housing conditions, to ensure the residents' health, safety, comfort, and protection from fire hazard;

(2)  the regulation of the number and qualification of all personnel, including management and nursing personnel, responsible for any part of the care given to the residents;

(3)  requirements for in-service education of all employees who have any contact with the residents;

(4)  [~~training on the care of persons with Alzheimer's disease and related disorders for employees who work with those persons;~~

[~~(5)~~] sanitary and related conditions in an institution and its surroundings, including water supply, sewage disposal, food handling, and general hygiene in order to ensure the residents' health, safety, and comfort;

(5) [~~(6)~~]  the nutritional needs of each resident according to good nutritional practice or the recommendations of the physician attending the resident;

(6) [~~(7)~~]  equipment essential to the residents' health and welfare;

(7) [~~(8)~~]  the use and administration of medication in conformity with applicable law and rules;

(8) [~~(9)~~]  care and treatment of residents and any other matter related to resident health, safety, and welfare;

(9) [~~(10)~~]  licensure of institutions; and

(10) [~~(11)~~]  implementation of this chapter.

(f-1)  The executive commissioner shall adopt, publish, and enforce standards for the specialized care and treatment of persons with Alzheimer's disease and related disorders, including training requirements for nursing facility employees who provide that specialized care or treatment. The executive commissioner by rule shall adopt and modify as necessary to conform to changes in medical practice a definition of "Alzheimer's disease and related disorders," and may adopt by reference a definition published in a generally accepted clinical resource for medical professionals. The commission may periodically modify the standards as the executive commissioner determines appropriate.

SECTION 3.  The heading to Section 242.040, Health and Safety Code, is amended to read as follows:

Sec. 242.040.  CERTIFICATION REQUIREMENTS TO PROVIDE [~~OF INSTITUTIONS THAT~~] CARE FOR PERSONS WITH ALZHEIMER'S DISEASE AND RELATED DISORDERS.

SECTION 4.  Section 242.040, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (e), and (f) and adding Subsections (b-1) and (b-2) to read as follows:

(a)  The commission [~~department~~] shall establish a system for certifying nursing facilities [~~institutions~~] that meet standards adopted by the executive commissioner concerning the specialized care and treatment of persons with Alzheimer's disease and related disorders. The commission may periodically modify the system and standards as the executive commissioner determines appropriate.

(b)  A nursing facility may not [~~An institution is not required to be certified under this section in order to~~] provide care and treatment for [~~of~~] persons with Alzheimer's disease and related disorders unless the facility holds a certification issued under this section.

(b-1)  Notwithstanding Subsection (b) and subject to Subsection (b-2), a nursing facility is not required to hold a certification issued under this section to provide care and treatment for persons with Alzheimer's disease and related disorders before January 1, 2031.

(b-2)  A nursing facility that is initially licensed under this chapter on or after January 1, 2023, must hold a certification issued under this section to provide care and treatment for persons with Alzheimer's disease and related disorders.

(c)  The executive commissioner by rule shall [~~may~~] adopt standards for the specialized care and treatment of persons with Alzheimer's disease and related disorders and provide procedures for nursing facilities [~~institutions~~] applying for certification under this section. The rules must provide for a three-year certification period.

(e)  A nursing facility [~~An institution~~] may not advertise or otherwise communicate that the facility [~~institution~~] is certified by the commission [~~department~~] to provide specialized care for persons with Alzheimer's disease or related disorders unless the facility [~~institution~~] is certified under this section.

(f)  The executive commissioner by rule shall adopt a system under which an appropriate number of certifications issued by the commission [~~department~~] expire on staggered dates occurring in each three-year period. If the expiration date of a certification changes as a result of this subsection, the commission [~~department~~] shall prorate the certification fee relating to that certification as appropriate. To the extent possible, the system must align the expiration date for a nursing facility's certification under this section with the expiration date for the facility's license under this chapter.

SECTION 5.  Subchapter B, Chapter 242, Health and Safety Code, is amended by adding Section 242.0405 to read as follows:

Sec. 242.0405.  STATE PLAN FOR CERTIFICATION OF NURSING FACILITIES TO PROVIDE CARE FOR PERSONS WITH ALZHEIMER'S DISEASE AND RELATED DISORDERS. (a) The commission shall develop a state plan to certify each nursing facility in this state under Section 242.040 to provide care and treatment for persons with Alzheimer's disease and related disorders by January 1, 2031, and after that date require as part of licensure under this chapter that the facilities comply with the standards formerly required for certification under Section 242.040. The executive commissioner must approve the state plan and shall adopt rules for implementing the approved state plan.

(b)  In developing the state plan, the commission shall:

(1)  conduct a study on certifying each nursing facility in this state under Section 242.040 by January 1, 2031; and

(2)  determine and consider in implementing the state plan the:

(A)  costs and challenges;

(B)  legal and technical issues; and

(C)  scheduling factors and time considerations.

(c)  The state plan must require that:

(1)  at least 10 percent of the total number of nursing facilities in this state be certified under Section 242.040 by January 1, 2023;

(2)  at least 25 percent of the total number of facilities in this state be certified under Section 242.040 by January 1, 2025;

(3)  at least 50 percent of the total number of facilities in this state be certified under Section 242.040 by January 1, 2027;

(4)  at least 75 percent of the total number of facilities in this state be certified under Section 242.040 by January 1, 2029; and

(5)  each facility in this state as part of the facility's license qualification meets the standards for certification under Section 242.040 by January 1, 2031.

(d)  The state plan may provide for reimbursement to nursing facilities that become certified under Section 242.040 in amounts based on the following schedule:

(1)  for a facility that is certified by January 1, 2023, the state plan may provide for 100 percent reimbursement of the certification costs;

(2)  for a facility that is certified by January 1, 2025, the state plan may reimburse the facility in an amount not to exceed 75 percent reimbursement of the certification costs;

(3)  for a facility that is certified by January 1, 2027, the state plan may reimburse the facility in an amount not to exceed 50 percent reimbursement of the certification costs; and

(4)  for a facility that is certified by January 1, 2029, the state plan may reimburse the facility in an amount not to exceed 25 percent reimbursement of the certification costs.

(e)  The commission may use existing resources and solicit and accept gifts, grants, and donations from any source to implement the state plan.

(f)  This section expires September 1, 2033.

SECTION 6.  Section 242.202, Health and Safety Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d)  The disclosure statement must contain the following categories of information:

(1)  the nursing facility's [~~institution's~~] philosophy of care;

(2)  [~~whether the institution is certified under Section 242.040 for the provision of specialized care and treatment of residents with Alzheimer's disease and related disorders;~~

[~~(3)~~] the preadmission, admission, and discharge process;

(3) [~~(4)~~]  resident assessment, care planning, and implementation of the care plan;

(4) [~~(5)~~]  staffing patterns, such as resident-to-staff ratios, and staff training;

(5) [~~(6)~~]  the physical environment of the facility [~~institution~~];

(6) [~~(7)~~]  resident activities;

(7) [~~(8)~~]  program costs;

(8) [~~(9)~~]  systems for evaluation of the facility's [~~institution's~~] programs for residents;

(9) [~~(10)~~]  family involvement in resident care; and

(10) [~~(11)~~]  the toll-free telephone number maintained by the department for acceptance of complaints against the facility [~~institution~~].

(d-1)  Before January 1, 2031, the disclosure statement must also include a statement on whether the nursing facility is certified under Section 242.040 for the provision of specialized care and treatment of residents with Alzheimer's disease and related disorders. This subsection expires September 1, 2031.

SECTION 7.  Effective September 1, 2031, the following provisions of the Health and Safety Code are repealed:

(1)  Section 242.040;

(2)  Section 242.041; and

(3)  Section 242.201.

SECTION 8.  Not later than September 1, 2022, the Health and Human Services Commission shall develop, and the executive commissioner of the commission shall approve and adopt, rules for implementing the state plan required by Section 242.0405, Health and Safety Code, as added by this Act.

SECTION 9.  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 necessary to implement the changes in law made by this Act.

SECTION 10.  Except as otherwise provided by this Act, this Act takes effect September 1, 2021.