

By: Campos

H.B. No. 1323

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a state plan and requirements for nursing facilities to  
3 provide care for persons with Alzheimer's disease and related  
4 disorders.

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

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

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

11 (1) minimum standards of medical care, nursing care,  
12 and financial condition; ~~and~~

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

15 (3) any other applicable state or federal standard.

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

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

23 (1) the construction of an institution, including  
24 plumbing, heating, lighting, ventilation, and other housing

1 conditions, to ensure the residents' health, safety, comfort, and  
2 protection from fire hazard;

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

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

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

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

15 (5) ~~[(6)]~~ the nutritional needs of each resident  
16 according to good nutritional practice or the recommendations of  
17 the physician attending the resident;

18 (6) ~~[(7)]~~ equipment essential to the residents' health  
19 and welfare;

20 (7) ~~[(8)]~~ the use and administration of medication in  
21 conformity with applicable law and rules;

22 (8) ~~[(9)]~~ care and treatment of residents and any  
23 other matter related to resident health, safety, and welfare;

24 (9) ~~[(10)]~~ licensure of institutions; and

25 (10) ~~[(11)]~~ implementation of this chapter.

26 (f-1) The executive commissioner shall adopt, publish, and  
27 enforce standards for the specialized care and treatment of persons

1 with Alzheimer's disease and related disorders, including training  
2 requirements for nursing facility employees who provide that  
3 specialized care or treatment. The executive commissioner by rule  
4 shall adopt and modify as necessary to conform to changes in medical  
5 practice a definition of "Alzheimer's disease and related  
6 disorders," and may adopt by reference a definition published in a  
7 generally accepted clinical resource for medical professionals.  
8 The commission may periodically modify the standards as the  
9 executive commissioner determines appropriate.

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

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

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

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

25 (b) A nursing facility may not [~~An institution is not~~  
26 ~~required to be certified under this section in order to~~] provide  
27 care and treatment for [~~of~~] persons with Alzheimer's disease and

1 related disorders unless the facility holds a certification issued  
2 under this section.

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

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

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

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

23 (f) The executive commissioner by rule shall adopt a system  
24 under which an appropriate number of certifications issued by the  
25 commission [~~department~~] expire on staggered dates occurring in each  
26 three-year period. If the expiration date of a certification  
27 changes as a result of this subsection, the commission [~~department~~]

1 shall prorate the certification fee relating to that certification  
2 as appropriate. To the extent possible, the system must align the  
3 expiration date for a nursing facility's certification under this  
4 section with the expiration date for the facility's license under  
5 this chapter.

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

8 Sec. 242.0405. STATE PLAN FOR CERTIFICATION OF NURSING  
9 FACILITIES TO PROVIDE CARE FOR PERSONS WITH ALZHEIMER'S DISEASE AND  
10 RELATED DISORDERS. (a) The commission shall develop a state plan  
11 to certify each nursing facility in this state under Section  
12 242.040 to provide care and treatment for persons with Alzheimer's  
13 disease and related disorders by January 1, 2031, and after that  
14 date require as part of licensure under this chapter that the  
15 facilities comply with the standards formerly required for  
16 certification under Section 242.040. The executive commissioner  
17 must approve the state plan and shall adopt rules for implementing  
18 the approved state plan.

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

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

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

24 (A) costs and challenges;

25 (B) legal and technical issues; and

26 (C) scheduling factors and time considerations.

27 (c) The state plan must require that:

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

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

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

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

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

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

19           (1) for a facility that is certified by January 1,  
20 2023, the state plan may provide for 100 percent reimbursement of  
21 the certification costs;

22           (2) for a facility that is certified by January 1,  
23 2025, the state plan may reimburse the facility in an amount not to  
24 exceed 75 percent reimbursement of the certification costs;

25           (3) for a facility that is certified by January 1,  
26 2027, the state plan may reimburse the facility in an amount not to  
27 exceed 50 percent reimbursement of the certification costs; and

1           (4) for a facility that is certified by January 1,  
2 2029, the state plan may reimburse the facility in an amount not to  
3 exceed 25 percent reimbursement of the certification costs.

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

7           (f) This section expires September 1, 2033.

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

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

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

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

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

20           (3) [~~(4)~~] resident assessment, care planning, and  
21 implementation of the care plan;

22           (4) [~~(5)~~] staffing patterns, such as  
23 resident-to-staff ratios, and staff training;

24           (5) [~~(6)~~] the physical environment of the facility  
25 [~~institution~~];

26           (6) [~~(7)~~] resident activities;

27           (7) [~~(8)~~] program costs;

1           (8) [~~(9)~~] systems for evaluation of the facility's  
2 [~~institution's~~] programs for residents;

3           (9) [~~(10)~~] family involvement in resident care; and

4           (10) [~~(11)~~] the toll-free telephone number maintained  
5 by the department for acceptance of complaints against the facility  
6 [~~institution~~].

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

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

14                   (1) Section 242.040;

15                   (2) Section 242.041; and

16                   (3) Section 242.201.

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

22           SECTION 9. As soon as practicable after the effective date  
23 of this Act, the executive commissioner of the Health and Human  
24 Services Commission shall adopt the rules necessary to implement  
25 the changes in law made by this Act.

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