

BILL ANALYSIS

C.S.H.B. 3902
By: Rose
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that the licensure and Medicaid certification process related to a nursing facility change of ownership (CHOW) is a lengthy and complex process that often takes more than six months to complete, with the January 2025 CHOW report from the Health and Human Services Commission (HHSC) showing an average process time of 145 days. Under the current process, nursing facilities undergoing ownership changes must file separate applications for licensure with Medicaid, another for Medicare, and another for HHSC contracting, along with an additional process for contracting with managed care organizations. This is all required before the facility can begin receiving reimbursement for the care they have been providing, and the bill author has informed the committee that this creates substantial financial strain on the facilities that serve some of our most vulnerable Texans.

C.S.H.B. 3902 seeks to improve the efficiency of the process by requiring HHSC to ensure that a nursing facility providing Medicaid services to recipients continues to receive Medicaid reimbursement uninterrupted after the facility experiences a change in ownership if certain conditions are met.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3902 amends the Government Code to require the Health and Human Services Commission (HHSC) to ensure that a nursing facility providing Medicaid services to recipients continues to receive Medicaid reimbursement after the facility experiences a change in ownership, provided the facility under the new ownership meets the following criteria:

- is enrolled as a provider under Medicare, if required, and Medicaid;
- satisfies the applicable requirements of state law, including the requirements of Government Code provisions regarding health and human services generally, the requirements of Human Resources Code provisions governing the state Medicaid program, and the licensing requirements under Health and Safety Code provisions regulating convalescent and nursing facilities and related institutions;
- if required by the terms of and agreed to by the parties to the contract, assumes the contract in effect before the change in ownership;
- enters into a successor liability agreement, approved by HHSC; and
- meets any additional requirements prescribed by HHSC.

The bill requires a successor liability agreement to require that the facility under the new ownership pay HHSC for any outstanding liabilities under the prior contract that are identified by HHSC and to agree that an outstanding liability identified by HHSC may include a liability incurred by the previous owner without regard to when a service was provided or a claim was filed or whether the liability is identified by HHSC or another authorized entity, including a Medicaid managed care organization (MCO). The bill's provisions do not apply to a supplemental payment program or a directed payment program operated or administered by HHSC, and for this purpose the bill defines "directed payment program" by reference as a delivery system and provider patient initiative implemented by the state under certain federal regulations.

If before implementing any provision of the bill a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision must request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3902 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits the requirement from the introduced for HHSC to ensure that rules adopted for the issuance and renewal of licenses for convalescent and nursing facilities and related institutions accomplish the following:

- provide for a single application for licensure and contracting for the delivery of Medicaid services consistent with the statutory requirements for the state Medicaid program;
- require HHSC to issue a contract for the delivery of Medicaid services within 30 days of the issuance of a temporary change of ownership license; and
- ensure vendor payments are made to nursing facilities within 30 days of the effective date of a contract for delivery of Medicaid services, including:
 - requiring any MCO contracts with HHSC to provide for expedited credentialing of nursing facilities consistent with the HHSC rules within no more than 30 days; and
 - MCO's contracts with nursing facilities be effective the date of HHSC's Medicaid contract with such nursing facilities.

The substitute also omits provisions of the introduced that required HHSC to ensure that contracts for the delivery of Medicaid services to a nursing facility meet the following criteria:

- satisfy the requirements described by the previously described provisions of the introduced relating to the licensure rules; and
- are awarded on terms and conditions that are no more stringent than the federal requirements governing Medicare certification and enrollment of skilled nursing facilities.

Whereas the substitute required HHSC to ensure that contracts for the delivery of Medicaid services to a nursing facility allow uninterrupted Medicaid payments if a new provider meets certain conditions, the substitute requires HHSC to ensure that a nursing facility providing Medicaid services to recipients continues to receive Medicaid reimbursement uninterrupted after the facility experiences a change in ownership, provided the facility under the new ownership meets certain conditions. The introduced and the substitute differ with respect to those conditions as follows:

- the substitute includes the condition that the facility under the new ownership is enrolled as a provider under Medicare, if required, and Medicaid, whereas the introduced did not include a similar condition;
- whereas the introduced included the condition that the new provider meets statutory requirements for the state Medicaid program and licensure requirements for convalescent and nursing facilities and related institutions, the substitute includes the condition that the facility under the new ownership satisfies the applicable requirements of any state law, including those Medicaid program and licensure requirements and the requirements of Government Code provisions regarding health and human services generally;
- whereas the introduced included the condition that the new provider assumes the prior provider's contract terms and conditions that were in effect at the time of ownership transfer, the substitute includes the condition that the facility under the new ownership assumes the contract in effect before the change in ownership if required by the terms of and agreed to by the parties to the contract;
- while both versions require entrance into a successor liability agreement, they differ as follows:
 - whereas the introduced specified that HHSC is a party to the agreement, the substitute specifies that HHSC approves the agreement;
 - whereas the introduced required the agreement to indicate that the new provider agrees to pay HHSC for any liabilities that exist or may be found to exist during the period of the prior provider's contract with HHSC, the substitute requires the agreement to require the facility under the new ownership to pay HHSC for any outstanding liabilities under the prior contract that are identified by HHSC; and
 - the substitute includes a requirement absent from the introduced for the agreement to require the facility to agree that an outstanding liability identified by HHSC may include a liability incurred by the previous owner without regard to when a service was provided or a claim was filed or whether the liability is identified by HHSC or another authorized entity, including a Medicaid MCO; and
- the substitute includes the condition that the facility under the new ownership meets any additional requirements prescribed by HHSC, whereas the introduced did not include a similar condition.

The substitute includes a provision not in the introduced making the requirement for uninterrupted Medicaid reimbursement after a change in ownership inapplicable to a supplemental payment program or a directed payment program operated or administered by HHSC.

The substitute includes a provision not in the introduced requiring a state agency to request a waiver or authorization from a federal agency if necessary for implementation of a bill provision and authorizing the agency to delay implementing that provision until the waiver or authorization is granted.