

## **BILL ANALYSIS**

Senate Research Center  
89R3103 JG-D

S.B. 457  
By: Kolkhorst  
Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas Medicaid provides residential long-term care services for elderly Texans over 65 who qualify, covering approximately 362,000 individuals statewide. In 2023, nursing facilities cost the state \$3.3 billion, covering 56 percent of all Texans in these homes.

Historically, Texas has operated several programs to ensure that Medicaid dollars administered to these facilities incentivize the highest levels of care, including the Quality Incentive Payment Program (QIPP) and the Nursing Facility Direct Care Staff Rate Enhancement Program. However, not all nursing homes leverage these voluntary programs to provide consistent, high-quality care.

Ownership models in nursing homes have been found to correlate to the quality of care a resident receives. Studies have found that nursing facilities owned by private equity and real estate investment trusts correlate to lower staffing levels, which can influence timeliness in serving residents. In turn, ownership transparency will enable consumers to make informed decisions in selecting a nursing facility.

Given the significant reimbursement rate increase afforded to these facilities last session, Texas must ensure these taxpayer funds are directed to better care and outcomes for residents. This is critical as living in a private equity-owned nursing home raises residents' mortality by 11 percent, despite taxpayer spending growing by eight percent. A minimum spending rate for Medicaid financing will ensure that vulnerable patients receive the level of care necessary for their health needs.

S.B. 457 seeks to improve nursing care by increasing transparency and accountability for nursing homes participating in the Medicaid program. The bill requires Texas nursing facilities reimbursed through Medicaid to disclose their ownership structure. The bill also would establish a "direct care expense ratio" for Medicaid reimbursements to ensure that 80 percent of Medicaid dollars are spent on front-facing care for nursing home residents.

As proposed, S.B. 457 amends current law relating to the regulation of certain nursing facilities, including licensing requirements and Medicaid participation requirements.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 6 (Section 32.0286, Human Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 540.0752(b), Government Code, as effective April 1, 2025, to require the Health and Human Services Commission (HHSC), in implementing this subsection, to ensure certain guidelines are met, including that a nursing facility complies with the direct care expense ratio adopted under Section 32.0286, Human Resources Code.

SECTION 2. Amends Subchapter F, Chapter 540, Government Code, as effective April 1, 2025, by adding Section 540.0283, as follows:

Sec. 540.0283. NURSING FACILITY PROVIDER AGREEMENTS: COMPLIANCE WITH DIRECT CARE EXPENSE RATIO. (a) Requires a contract to which Subchapter F (Required Contract Provisions) applies to require that each provider agreement between the contracting Medicaid managed care organization and a nursing facility include a requirement that the facility comply with the direct care expense ratio adopted under Section 32.0286, Human Resources Code.

(b) Provide that this section does not apply to a state-owned facility.

SECTION 3. Amends Section 242.032, Health and Safety Code, by adding Subsection (b-1), as follows:

(b-1) Requires that the application:

(1) include the name of each person with a direct or indirect ownership interest of five percent or more in the nursing facility, including a subsidiary or parent company of the facility and the real property on which the nursing facility is located, including any owner, common owner, tenant, or sublessee; and

(2) describe the exact ownership interest of each of those persons in relation to the facility or property.

SECTION 4. Amends Subchapter B, Chapter 242, Health and Safety Code, by adding Section 242.0333, as follows:

Sec. 242.0333. NOTIFICATION OF CHANGE TO OWNERSHIP INTEREST APPLICATION INFORMATION. Requires a license holder to notify HHSC, in the form and manner HHSC requires, of any change to the ownership interest application information provided under Section 242.032(b-1).

SECTION 5. Amends Section 32.028, Human Resources Code, by amending Subsection (i) and adding Subsection (i-1), as follows:

(i) Requires the executive commissioner of HHSC to ensure that rules governing the incentives program described by Subsection (g)(1) (relating to requiring the executive commissioner to ensure that the rules governing the determination of rates paid for nursing facility services improve the quality of care by providing a program offering incentives for increasing direct care staff and direct care wages and benefits):

(1)-(2) makes no changes to these subdivisions;

(3)-(4) makes nonsubstantive changes to these subdivisions; and

(5) to the extent permitted by federal law, require HHSC to recoup all or part of an incentive payment if the nursing facility fails to satisfy a program requirement.

(i-1) Requires HHSC to prohibit a provider who is the subject of the recoupment of an incentive payment under Subsection (i)(5) from participating in the incentives program described by Subsection (g)(1) for a period of not less than two consecutive years following the date on which the recoupment occurs. Requires HHSC to publish and maintain on HHSC's Internet website a list of each provider prohibited from participating in the incentives program under this subsection.

SECTION 6. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.0286, as follows:

Sec. 32.0286. ANNUAL DIRECT CARE EXPENSE RATIO FOR REIMBURSEMENT OF CERTAIN NURSING FACILITY PROVIDERS. (a) Defines "direct care expense."

(b) Requires the executive commissioner by rule, notwithstanding any other law, to establish an annual direct care expense ratio, including a process for determining the ratio, applicable to the reimbursement of nursing facility providers for providing services to recipients under the medical assistance program. Requires the executive commissioner, in establishing the ratio, to require that at least 80 percent of the portion of the medical assistance reimbursement amount paid to a nursing facility that is attributable to patient care expenses is spent on reasonable and necessary direct care expenses.

(c) Requires the executive commissioner to adopt rules necessary to ensure each nursing facility provider that participates in the medical assistance program complies with the direct care expense ratio adopted under this section.

(d) Authorizes HHSC, to the extent permitted by federal law, to recoup all or part of the reimbursement amounts paid to a nursing facility that are subject to the direct care expense ratio under this section if the facility fails to spend the reimbursement amounts in accordance with the direct care expense ratio.

(e) Prohibits HHSC from requiring a nursing facility to comply with the direct care expense ratio as a condition of participation in Medicaid.

(f) Provides that this section does not apply to a state-owned facility.

SECTION 7. (a) Requires HHSC, in a contract between HHSC and a managed care organization under Chapter 540, Government Code, as effective April 1, 2025, that is entered into or renewed on or after the effective date of this Act, to require the managed care organization to comply with Section 540.0283, Government Code, as added by this Act.

(b) Requires HHSC to seek to amend contracts entered into with managed care organizations under Chapter 540, Government Code, as effective April 1, 2025, before the effective date of this Act to require those managed care organizations to comply with Section 540.0283, Government Code, as added by this Act. Provides that to the extent of a conflict between that section and a provision of a contract with a managed care organization entered into before the effective date of this Act, the contract provision prevails.

SECTION 8. Provides that, if before implementing any provision of this Act 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 is required to request the waiver or authorization and is authorized to delay implementing that provision until the waiver or authorization is granted.

SECTION 9. Effective date: September 1, 2025.