

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 457
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Health & Human Services
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Committee Report (Substituted)

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.

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 that taxpayer funds are directed to better care and outcomes for residents. This is critical as research has found living in a private equity-owned nursing home can raise residents' mortality by 11 percent, despite taxpayer spending growing by eight percent. A minimum spending requirement 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 "patient care expense ratio" for Medicaid reimbursements to ensure that 90 percent of Medicaid dollars are spent on front-facing care for nursing home residents.

Committee Substitute Changes:

- Repeals the Nursing Facility Direct Care Staff Rate Enhancement Program and removes provisions in the filed bill referencing the program, including a section permitting the Texas Health and Human Services Commission (HHSC) to recoup program funding if its requirements are not fulfilled and barring them from reentering the program for at least two years.
- Increases the ratio to 90 percent, aligning it with current spending requirements.
- Aligns the definitions of direct care in the spending ratio with the Patient Driven Payment Model (PDPM) for Long-Term Care (LTC), a new rate methodology that will take effect on September 1, 2025.
 - Redefines the direct care ratio as a patient care expense ratio.
 - Requires 90 percent of Medicaid funds to finance expenses associated with resident care, including the salaries of direct care staff, as well as food and laundry workers. The costs also extend to laboratory testing, dietary services, prescription drugs, and medical equipment.
- Establishes an outcomes-centered approach for the patient care ratio, preventing nursing facilities from being subject to recoupment if they do not meet the spending requirement and satisfy any of the following conditions, including:
 - Received a four-star rating or higher on two or more of the listed CMS Five-Star Quality Rating System's categories;
 - Had a mean occupancy rate lower than 75 percent (providers qualifying under this criteria are subject to a 75 percent patient care ratio); or
 - Acquired expenses due to a disaster for which the governor's office issued a declaration.

- Requires HHSC to publish a list of facilities whose funding has been recouped because of a failure to meet the spending requirement.
- Requires HHSC to submit a written report to the legislature on the patient care ratio.

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

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 5 (Section 32.0286, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 540.0752(b), Government Code, as follows:

(b) Requires the Health and Human Services Commission (HHSC), in implementing this subsection, to ensure that certain criteria are met, including that a nursing facility complies with the patient care expense ratio adopted under Section 32.0286, Human Resources Code.

Deletes existing text requiring HHSC, in in implementing this subsection, to ensure that HHSC approves the staff rate enhancement methodology for the staff rate enhancement paid to a nursing facility that qualifies for the enhancement under the program. Makes nonsubstantive changes.

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

Sec. 540.0283. NURSING FACILITY PROVIDER AGREEMENTS: COMPLIANCE WITH PATIENT 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 patient care expense ratio adopted under Section 32.0286, Human Resources Code.

(b) Provides 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 Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.0286, as follows:

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

(b) Requires the executive commissioner of HHSC (executive commissioner) by rule to establish an annual patient 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 85 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 patient 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 patient care expense ratio adopted under this section.

(d) Authorizes HHSC, except as provided by Subsection (e) and to the extent permitted by federal law, to recoup all or part of the medical assistance reimbursement amounts paid to a nursing facility that is subject to the patient care expense ratio under this section if the facility fails to spend the reimbursement amounts in accordance with the patient care expense ratio.

(e) Prohibits HHSC from recouping a medical assistance reimbursement amount under Subsection (d) if, during the period patient care expenses attributable to the reimbursement amount are calculated, the facility:

(1) held at least a four-star rating under the Centers for Medicare and Medicaid Services five-star quality rating system for nursing facilities in two or more of the following categories: overall, health inspections, staffing, and long-stay quality measures;

(2) both maintained an average daily occupancy rate of 75 percent or less and spent at least 70 percent of the portion of the reimbursement amount paid to the facility that was attributable to patient care expenses on reasonable and necessary patient care expenses; or

(3) incurred expenses related to a disaster for which the governor issued a disaster declaration under Chapter 418 (Emergency Management), Government Code.

(f) Requires HHSC to publish and maintain on HHSC's Internet website a list of all nursing facilities from which HHSC recouped medical assistance reimbursement amounts under Subsection (d).

(g) Prohibits HHSC from requiring a nursing facility to comply with the patient care expense ratio as a condition of participation in the medical assistance program.

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

SECTION 6. Repealers: Sections 32.028(g) (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 certain incentives) and (i) (relating to requiring the executive commissioner to ensure that rules governing the incentives program meet certain requirements), Human Resources Code.

Repealer: Section 32.028(m) (relating to prohibiting HHSC from funding an incentive program using money appropriated for base rate reimbursement for nursing facilities), Human Resources Code.

SECTION 7. (a) Requires HHSC, subject to this section, to require compliance with the initial annual patient care expense ratio adopted under Section 32.0286, Human Resources Code, as added by this Act, beginning on September 1, 2025.

(b) Requires HHSC, in a contract between HHSC and a managed care organization under Chapter 540 (Medicaid Managed Care Program), Government Code, 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.

(c) Requires HHSC to seek to amend contracts entered into with managed care organizations under Chapter 553 (Public Disclosure) or 540, Government Code, 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. Requires HHSC, not later than November 1, 2027, to prepare and submit to the legislature a written report that includes an assessment of the impact of the patient care expense ratio established under Section 32.0286, Human Resources Code, as added by this Act, on nursing facility care provided to Medicaid recipients during the preceding state fiscal biennium, including the impact on the cost and quality of care and any other information HHSC determines appropriate.

SECTION 9. 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 10. Effective date: September 1, 2025.