

By: Kolkhorst, et al.

S.B. No. 457

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain nursing facilities, including
licensing requirements and Medicaid participation and
reimbursement requirements.

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

SECTION 1. Section 540.0752(b), Government Code, is amended
to read as follows:

(b) Subject to Section 540.0701 and notwithstanding any
other law, the commission shall provide Medicaid benefits through
the STAR+PLUS Medicaid managed care program to recipients who
reside in nursing facilities. In implementing this subsection, the
commission shall ensure that:

(1) a nursing facility is paid not later than the 10th
day after the date the facility submits a clean claim;

(1-a) a nursing facility complies with the patient care
expense ratio adopted under Section 32.0286, Human Resources Code;

(2) services are used appropriately, consistent with
criteria the commission establishes;

(3) the incidence of potentially preventable events
and unnecessary institutionalizations is reduced;

(4) a Medicaid managed care organization providing
services under the program:

(A) provides discharge planning, transitional
care, and other education programs to physicians and hospitals

1 regarding all available long-term care settings;

2 (B) assists in collecting applied income from
3 recipients; and

4 (C) provides payment incentives to nursing
5 facility providers that:

6 (i) reward reductions in preventable acute
7 care costs; and

8 (ii) encourage transformative efforts in
9 the delivery of nursing facility services, including efforts to
10 promote a resident-centered care culture through facility design
11 and services provided;

12 (5) a portal is established that complies with state
13 and federal regulations, including standard coding requirements,
14 through which nursing facility providers participating in the
15 program may submit claims to any participating Medicaid managed
16 care organization;

17 (6) rules and procedures relating to certifying and
18 decertifying nursing facility beds under Medicaid are not affected;
19 and

20 (7) a Medicaid managed care organization providing
21 services under the program, to the greatest extent possible, offers
22 nursing facility providers access to:

23 (A) acute care professionals; and

24 (B) telemedicine, when feasible and in
25 accordance with state law, including rules adopted by the Texas
26 Medical Board~~[, and~~

27 ~~[(8) the commission approves the staff rate~~

~~enhancement methodology for the staff rate enhancement paid to a nursing facility that qualifies for the enhancement under the program].~~

SECTION 2. Subchapter F, Chapter 540, Government Code, is amended by adding Section 540.0283 to read as follows:

Sec. 540.0283. NURSING FACILITY PROVIDER AGREEMENTS: COMPLIANCE WITH PATIENT CARE EXPENSE RATIO. (a) A contract to which this subchapter applies must 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) This section does not apply to a state-owned facility.

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

(b-1) The application must:

(1) include the name of each person with a direct or indirect ownership interest of five percent or more in:

(A) the nursing facility, including a subsidiary or parent company of the facility; and

(B) 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. Subchapter B, Chapter 242, Health and Safety Code, is amended by adding Section 242.0333 to read as follows:

1 Sec. 242.0333. NOTIFICATION OF CHANGE TO OWNERSHIP INTEREST
2 APPLICATION INFORMATION. A license holder shall notify the
3 commission, in the form and manner the commission requires, of any
4 change to the ownership interest application information provided
5 under Section 242.032(b-1).

6 SECTION 5. Subchapter B, Chapter 32, Human Resources Code,
7 is amended by adding Section 32.0286 to read as follows:

8 Sec. 32.0286. ANNUAL PATIENT CARE EXPENSE RATIO FOR
9 REIMBURSEMENT OF CERTAIN NURSING FACILITY PROVIDERS. (a) In this
10 section, "patient care expense":

11 (1) includes an expense incurred by a nursing facility
12 for:

13 (A) providing compensation and benefits to:

14 (i) direct care staff of a facility,
15 whether the staff are employees of or contract labor for the
16 facility, including:

17 (a) licensed registered nurses and
18 licensed vocational nurses, including directors of nursing and
19 assistant directors of nursing;

20 (b) medication aides;

21 (c) restorative aides;

22 (d) nurse aides who provide
23 nursing-related care to residents occupying medical assistance
24 beds;

25 (e) licensed social workers; and

26 (f) social services assistants;

27 (ii) additional staff associated with

providing care to facility residents with a severe cognitive impairment;

(iii) nonprofessional administrative staff, including medical records staff and accounting or bookkeeping staff;

(iv) central supply staff and ancillary facility staff;

(v) laundry staff; and

(vi) food service staff;

(B) central supply costs and ancillary costs for facility services and supplies, including:

(i) diagnostic laboratory and radiology costs;

(ii) durable medical equipment costs, including costs to purchase, rent, or lease the equipment;

(iii) costs for oxygen used to provide oxygen treatment;

(iv) prescription and nonprescription drug costs; and

(v) therapy consultant costs; and

(C) costs for dietary and nutrition services, including costs for:

(i) food service and related supplies; and

(ii) nutritionist services; and

(2) does not include an expense for:

(A) administrative or operational costs, other than administrative or operational costs described by Subdivision

1 (1); or

2 (B) fixed capital asset costs.

3 (b) The executive commissioner by rule shall establish an
4 annual patient care expense ratio, including a process for
5 determining the ratio, applicable to the reimbursement of nursing
6 facility providers for providing services to recipients under the
7 medical assistance program. In establishing the ratio, the
8 executive commissioner shall require that at least 85 percent of
9 the portion of the medical assistance reimbursement amount paid to
10 a nursing facility that is attributable to patient care expenses is
11 spent on reasonable and necessary patient care expenses.

12 (c) The executive commissioner shall adopt rules necessary
13 to ensure each nursing facility provider that participates in the
14 medical assistance program complies with the patient care expense
15 ratio adopted under this section.

16 (d) Except as provided by Subsection (e) and to the extent
17 permitted by federal law, the commission may recoup all or part of
18 the medical assistance reimbursement amount paid to a nursing
19 facility that is subject to the patient care expense ratio under
20 this section if the facility fails to spend the reimbursement
21 amount in accordance with the patient care expense ratio.

22 (e) The commission may not recoup a medical assistance
23 reimbursement amount under Subsection (d) if, during the period
24 patient care expenses attributable to the reimbursement amount are
25 calculated, the facility:

26 (1) held at least a four-star rating under the Centers
27 for Medicare and Medicaid Services five-star quality rating system

for nursing facilities in two or more of the following categories:

(A) overall;

(B) health inspections;

(C) staffing; and

(D) long-stay quality measures;

(2) both:

(A) maintained an average daily occupancy rate of 75 percent or less; and

(B) 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, Government Code.

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

(g) The commission may not require a nursing facility to comply with the patient care expense ratio as a condition of participation in the medical assistance program.

(h) This section does not apply to a state-owned facility.

SECTION 6. Sections 32.028(g), (i), and (m), Human Resources Code, are repealed.

SECTION 7. (a) The Health and Human Services Commission shall, subject to this section, require compliance with the initial

1 annual patient care expense ratio adopted under Section 32.0286,
2 Human Resources Code, as added by this Act, beginning on September
3 1, 2025.

4 (b) The Health and Human Services Commission shall, in a
5 contract between the commission and a managed care organization
6 under Chapter 540, Government Code, that is entered into or renewed
7 on or after the effective date of this Act, require the managed care
8 organization to comply with Section 540.0283, Government Code, as
9 added by this Act.

10 (c) The Health and Human Services Commission shall seek to
11 amend contracts entered into with managed care organizations under
12 Chapter 533 or 540, Government Code, before the effective date of
13 this Act to require those managed care organizations to comply with
14 Section 540.0283, Government Code, as added by this Act. To the
15 extent of a conflict between that section and a provision of a
16 contract with a managed care organization entered into before the
17 effective date of this Act, the contract provision prevails.

18 SECTION 8. Not later than November 1, 2027, the Health and
19 Human Services Commission shall prepare and submit to the
20 legislature a written report that includes an assessment of the
21 impact of the patient care expense ratio established under Section
22 32.0286, Human Resources Code, as added by this Act, on nursing
23 facility care provided to Medicaid recipients during the preceding
24 state fiscal biennium, including the impact on the cost and quality
25 of care and any other information the commission determines
26 appropriate.

27 SECTION 9. If before implementing any provision of this Act

1 a state agency determines that a waiver or authorization from a
2 federal agency is necessary for implementation of that provision,
3 the agency affected by the provision shall request the waiver or
4 authorization and may delay implementing that provision until the
5 waiver or authorization is granted.

6 SECTION 10. This Act takes effect September 1, 2025.