

By: Kolkhorst

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 requirements.

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

SECTION 1. Section 540.0752(b), Government Code, as
effective April 1, 2025, 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 direct 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
regarding all available long-term care settings;

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

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

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

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

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

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

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

21 (A) acute care professionals; and

22 (B) telemedicine, when feasible and in
23 accordance with state law, including rules adopted by the Texas
24 Medical Board; and

25 (8) the commission approves the staff rate enhancement
26 methodology for the staff rate enhancement paid to a nursing
27 facility that qualifies for the enhancement under the program.

1 SECTION 2. Subchapter F, Chapter 540, Government Code, as
2 effective April 1, 2025, is amended by adding Section 540.0283 to
3 read as follows:

4 Sec. 540.0283. NURSING FACILITY PROVIDER AGREEMENTS:
5 COMPLIANCE WITH DIRECT CARE EXPENSE RATIO. (a) A contract to which
6 this subchapter applies must require that each provider agreement
7 between the contracting Medicaid managed care organization and a
8 nursing facility include a requirement that the facility comply
9 with the direct care expense ratio adopted under Section 32.0286,
10 Human Resources Code.

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

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

14 (b-1) The application must:

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

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

19 (B) the real property on which the nursing
20 facility is located, including any owner, common owner, tenant, or
21 sublessee; and

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

24 SECTION 4. Subchapter B, Chapter 242, Health and Safety
25 Code, is amended by adding Section 242.0333 to read as follows:

26 Sec. 242.0333. NOTIFICATION OF CHANGE TO OWNERSHIP INTEREST
27 APPLICATION INFORMATION. A license holder shall notify the

1 commission, in the form and manner the commission requires, of any
2 change to the ownership interest application information provided
3 under Section 242.032(b-1).

4 SECTION 5. Section 32.028, Human Resources Code, is amended
5 by amending Subsection (i) and adding Subsection (i-1) to read as
6 follows:

7 (i) The executive commissioner shall ensure that rules
8 governing the incentives program described by Subsection (g)(1):

9 (1) provide that participation in the program by a
10 nursing facility is voluntary;

11 (2) do not impose on a nursing facility not
12 participating in the program a minimum spending requirement for
13 direct care staff wages and benefits;

14 (3) do not set a base rate for a nursing facility
15 participating in the program that is more than the base rate for a
16 nursing facility not participating in the program; ~~and~~

17 (4) establish a funding process to provide incentives
18 for increasing direct care staff and direct care wages and benefits
19 in accordance with appropriations provided; and

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

23 (i-1) The commission shall prohibit a provider who is the
24 subject of the recoupment of an incentive payment under Subsection
25 (i)(5) from participating in the incentives program described by
26 Subsection (g)(1) for a period of not less than two consecutive
27 years following the date on which the recoupment occurs. The

1 commission shall publish and maintain on the commission's Internet
2 website a list of each provider prohibited from participating in
3 the incentives program under this subsection.

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

6 Sec. 32.0286. ANNUAL DIRECT CARE EXPENSE RATIO FOR
7 REIMBURSEMENT OF CERTAIN NURSING FACILITY PROVIDERS. (a) In this
8 section, "direct care expense":

9 (1) includes an expense for:

10 (A) non-revenue generating support services,
11 such as laundry, housekeeping, dietary services, and nursing
12 administration;

13 (B) ancillary services, such as laboratory tests
14 and services, physical therapy services, occupational therapy
15 services, speech-language pathology services, or audiological
16 services; and

17 (C) program services, such as an adult day-care
18 program; and

19 (2) does not include an expense for:

20 (A) administrative costs other than nursing
21 administration;

22 (B) capital costs;

23 (C) debt service;

24 (D) taxes, other than sales and payroll taxes;

25 (E) capital depreciation;

26 (F) rental or lease payments; or

27 (G) financial services.

1 (b) Notwithstanding any other law, the executive
2 commissioner by rule shall establish an annual direct care expense
3 ratio, including a process for determining the ratio, applicable to
4 the reimbursement of nursing facility providers for providing
5 services to recipients under the medical assistance program. In
6 establishing the ratio, the executive commissioner shall require
7 that at least 80 percent of the portion of the medical assistance
8 reimbursement amount paid to a nursing facility that is
9 attributable to patient care expenses is spent on reasonable and
10 necessary direct care expenses.

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

15 (d) To the extent permitted by federal law, the commission
16 may recoup all or part of the reimbursement amounts paid to a
17 nursing facility that are subject to the direct care expense ratio
18 under this section if the facility fails to spend the reimbursement
19 amounts in accordance with the direct care expense ratio.

20 (e) The commission may not require a nursing facility to
21 comply with the direct care expense ratio as a condition of
22 participation in Medicaid.

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

24 SECTION 7. (a) The Health and Human Services Commission
25 shall, in a contract between the commission and a managed care
26 organization under Chapter 540, Government Code, as effective April
27 1, 2025, that is entered into or renewed on or after the effective

1 date of this Act, require the managed care organization to comply
2 with Section 540.0283, Government Code, as added by this Act.

3 (b) The Health and Human Services Commission shall seek to
4 amend contracts entered into with managed care organizations under
5 Chapter 540, Government Code, as effective April 1, 2025, before
6 the effective date of this Act to require those managed care
7 organizations to comply with Section 540.0283, Government Code, as
8 added by this Act. To the extent of a conflict between that section
9 and a provision of a contract with a managed care organization
10 entered into before the effective date of this Act, the contract
11 provision prevails.

12 SECTION 8. If before implementing any provision of this Act
13 a state agency determines that a waiver or authorization from a
14 federal agency is necessary for implementation of that provision,
15 the agency affected by the provision shall request the waiver or
16 authorization and may delay implementing that provision until the
17 waiver or authorization is granted.

18 SECTION 9. This Act takes effect September 1, 2025.