



# Senate Committee on Health and Human Services

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Health and Human Services Commission

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# Regulatory Oversight in Long-term Care Settings

# Nursing Facilities

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- State licensure rules and federal certification requirements
- Minimum federal standards for a comprehensive array of services, additional state licensure requirements
- Surveyed at least annually for license renewal and every 9-15 months for recertification, as well as complaint and incident investigations
- Available enforcement actions include:
  - **Federal**
    - Denial of payment on new admissions
    - Civil money penalties
    - Denial of provider agreement
  - **State**
    - Administrative penalties
    - License denial/revocation

# Assisted Living Facilities

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- State licensure rules, but no corresponding federal requirements
- Services include:
  - personal care services
  - administration of medication and supervision of self-administration
- Surveyed every two years for license renewal, as well as complaint and incident investigations
- Available enforcement actions include:
  - Administrative penalties
  - License suspension and revocation

# Home and Community Support Services Agencies

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- State licensure rules; federal certification requirements for agencies participating in Medicare
- Services include:
  - Home health services
  - Hospice services
  - Personal assistance services
- Surveyed 18 months after initial licensure survey, and every 36 months thereafter; complaint investigations conducted at any time
- Enforcement actions include:
  - Administrative penalties
  - License denial, suspension or revocation

## Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Condition (ICF/IID)

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- State licensure rules and federal certification requirements
- Facilities categorized by size
  - Small – up to 16 resident beds, generally six-bed group homes
  - Large – 17 or more resident beds, includes State Supported Living Centers
- Required services include:
  - Active treatment
  - Health care services
  - Additional services determined necessary by the interdisciplinary team
- Surveyed at least annually for license renewal and every 12-15 months for recertification, as well as complaint and incident investigations
- Available enforcement actions include:
  - Administrative penalties
  - License suspension and revocation
  - Federal decertification

## Home and Community-based Services (HCS)

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- Medicaid-funded waiver program as an alternative to ICF/IID
- No state licensure, but provider is certified by DADS
- HCS residential settings:
  - Three and four person group homes
  - Host home and companion care services
  - Supports in an individual's own home
- Surveyed annually for recertification, as well as investigation of incidents or complaints
- Available enforcement actions include:
  - Contract sanctions
  - Vendor hold
  - Administrative penalties (SB 1385, 84<sup>th</sup> Legislature, 2015)
  - Certification denial, contract termination



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# Quality Initiatives

# Nursing Facility Culture Change

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- Shifting perspective of nursing facilities (NF)
  - More home-like atmosphere
  - Person-directed care practices
- Incentivizing small-house architectural model homes (up to 16 beds):
  - **Small house models:**
    - Single home
    - Neighborhood model
    - Household model
  - **Medicaid bed allocation**
    - NF certified to provide services to Medicaid recipients must have an allocation of Medicaid beds
    - Medicaid beds may only be increased through waiver or exemption to current moratorium
    - Small house model added as new category for bed allocation waiver

# Quality Initiatives

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- DADS Quality Monitoring Program:
  - Helps detect conditions in Texas NFs that could be detrimental to the health, safety and welfare of residents
  - During monitoring visits, monitors may:
    - Recommend changes to policies or procedures
    - Offer technical assistance
    - Educate staff about evidence-based best practices
- Improving care for people with dementia while reducing the inappropriate use of anti-psychotic drugs:
  - TRAIN– (Texas Reducing Antipsychotics in Nursing Homes)
  - Music and Memory
  - Dementia Care Academy
- Cross-Agency Collaboration:
  - DADS/BON webinar on nursing in community IDD programs
  - DADS/DSHS Infection Control conference series

## Use of Civil Money Penalties (CMPs)

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- Upon approval by CMS, facilities and organizations may submit proposals for projects and activities that benefit NF residents
- DADS Quality Monitoring program used CMP funds to develop and implement quality-focused programs:
  - Texas Nursing Facility Director of Nursing Training Academy
  - TRAIN (Texas Reducing Antipsychotics in Nursing Homes)
- Other approved projects for FY 2015 include:
  - Culture change initiatives
  - Community garden
  - Training seminars on the control of C-diff and multi-drug resistant organisms

## Quality-related Legislative Initiatives

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- Senate Bill 304 (84<sup>th</sup> Legislature, 2015)
  - License revocation for NFs with three or more immediate threat violations related to abuse or neglect
  - Modified Quality Monitoring Program
  - Contract with outside third party to perform informal dispute resolution (IDR) for NF
- Implementation status:
  - Rules in development
  - Negotiated rulemaking committee to develop criteria under which Executive Commissioner may stay license revocation
  - Updates to Quality Monitoring Early Warning System
  - HHSC contracting for external IDR

# Quality-related Legislative Initiatives

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- Other Sunset Commission recommendations:
  - **Progressive sanctions, amended right to correct violations**
    - Creating matrix of progressive sanctions for repeated violations in all licensed provider types
    - Removing right to correct violations from statute, creating in rule the right to correct for certain minor violations
  
  - **Reducing backlog of enforcement appeals at SOAH**
    - DADS directly docketing cases with SOAH
    - SOAH docket calls to expedite resolution of backlogged cases
  
  - **Improving consistency of regulatory services across DADS regions**
    - Reviewed current processes, handbooks and training materials to identify and correct any gaps or inconsistencies
    - Developing metrics for quality assurance to identify regional differences

# Critical Incident Reporting in IDD Programs

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- Current requirements:
  - ICF/IID must report certain incidents within one hour of suspecting/learning of incident
  - Waiver providers report monthly on total number of certain incidents, but data not collected on individual level
- Exploring options for expanding critical incident reporting system to include all IDD waivers
  - Funding options
  - Policy changes and statutory changes
  - Stakeholder input



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# Managed Care Nursing Facility Quality Monitoring

## Nursing Facility Quality in Managed Care

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- Since the managed care carve-in of nursing facility services (3-01-2015), HHSC has created a number of mechanisms for monitoring and incentivizing the quality of care provided to Medicaid residents:
  - SB 7 NF Quality Program
  - Dual Demonstration Quality Withhold
  - Dual Demonstration Shared Savings
  - Quality Incentive Payment Program

## SB 7 NF Quality Program

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- As part of the nursing facility carve-in required by S.B. 7 (83<sup>rd</sup> Legislature, Regular Session, 2013) HHSC was directed to develop a process for measuring quality of care provided to individuals residing in nursing facilities after the transition to managed care.
- Measures are included in the 2015 Performance Indicator Dashboard for Quality Measures, found in the Uniform Managed Care Manual.

## SB 7 NF Quality Program

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- Areas of Focus
  - Impact of NF carve-in
  - Potentially preventable events
  - Member perception of care
  - Care transitions
- The first data collection period began March 1, 2015
- HHSC anticipates beginning financial incentives in 2017

# Texas Dually Eligible Integrated Care Demonstration Project- Quality Withhold

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- Under the Demonstration, both CMS and HHSC withhold a percentage of their respective components of the capitation payment, to be paid subject to the Medicare-Medicaid Plans' performance
- One withhold measure relates to nursing facilities:
  - Number of individuals who went from the community to the hospital to the nursing facility and remained in nursing facility

# Texas Dually Eligible Integrated Care Demonstration Project- Shared Savings

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- Areas of Focus
  - Preventable hospital admissions
  - Preventable hospital readmissions
  - Medication management
- Tentatively implementing March 1, 2016

## Nursing Facility Direct Care Staff Enhancement

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- Optional participation
  - Participation in the enhancement is voluntary.
- Participation agreement
  - NFs may choose to participate in the enhancement by submitting a signed Enrollment Contract Amendment choosing to enroll, meet specified staffing levels and provide staffing and spending reports to HHSC.
- Direct care staffing and revenue enhancements for participants.
  - NFs choosing to participate in the enhancement agree to maintain a certain staffing level in return for increased direct care staff revenues.

## Nursing Facility Direct Care Staff Enhancement

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- Currently 982 out of 1,139 (86.2%) of Medicaid NFs participate in the enhancement program.
- Enhancement payments total approximately \$77 million all funds per annum.
- HHSC administers the enhancement program for the MCOs including:
  - Conducting annual open enrollment
  - Awarding enhancement levels and notifying MCOs of awarded levels
  - Collecting data on staffing levels from participating NFs through Medicaid cost reports.
  - Determining compliance with staffing and spending requirements and communicating any required recoupments to MCOs to collect from impacted NFs.

## Quality Incentive Payment Program

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- Created by HHSC Budget Rider 97 (General Appropriations Act, 2016-2017 Biennium), QIPP will incentivize nursing facilities to improve quality and innovation
- Establishes incentive payments promoting:
  - culture change
  - staffing enhancements
  - small house model
  - quality of care and life for residents
- Will replace Minimum Payment Amount Program

# Quality Incentive Payment Program

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- Minimum Payment Amount Program
  - Open only to public nursing facilities
  - Enhanced payment rate\*
  - Non-federal share funded through IGTs of public funds from governmental entities
- Quality Incentive Payment Program
  - Open to all nursing facilities with a source of public funding
  - Non-federal share funded through IGTs of public funds from governmental entities
  - QIPP payments based on improvements in quality and innovation

\* During SFY 2017, current MPAP participants will be allowed to continue receiving MPAP payments at approximately 50% of their current MPAP payment level.

# Quality Incentive Payment Program

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- Minimum Participation Requirements:
  - Meet specific licensure and contracting standards
  - Meet IGT source geographical requirements
  - Have a signed IGT Responsibility Agreement
  - Submit a complete proposal packet by the appropriate deadlines
  - Meet Medicaid-contracted bed occupancy rate requirements



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# Acute Care Quality Monitoring

## SFY 2015 Managed Care Expansion

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- STAR+PLUS expanded statewide on September 1, 2014, to include the Medicaid Rural Service Areas.
- STAR+PLUS expansion also included the following populations:
  - Acute care services for adults not enrolled in Medicare who are receiving services through a DADS 1915(c) waiver serving individuals with intellectual and developmental disabilities\* or a community-based intermediate care facility for individuals with intellectual disabilities or a related condition (September 1, 2014)
  - Adult residents of nursing facilities who receive Medicaid, including those who also receive Medicare (March 1, 2015)

\* Community Living Assistance and Support Services, Deaf Blind with Multiple Disabilities, Home and Community-based Services program, and Texas Home Living

## Measurement

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- A combination of established sets of measures and state-developed measures validated by the EQRO
  - National Committee for Quality Assurance Healthcare Effectiveness Data and Information Set (HEDIS®) (Effectiveness of care, Access, Experience, Utilization)
  - Agency for Healthcare Research and Quality (AHRQ) Pediatric Quality Indicators/Prevention Quality Indicators (Use of hospital discharge data to measure quality)
  - Consumer Assessment of Healthcare Providers & Systems (CAHPS®) Surveys (Nationally recognized tool for collecting information on members' experience with managed care)
  - Potentially Preventable Events (Admissions, Readmissions, Emergency departments, Complications, Ancillary services)

## Next Steps in HHSC Quality

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- Continue to explore opportunities to add long-term services and supports measures to one or more incentive programs.
- Continue to work with managed care organizations to increase provider-level value-based payments.
- Seek streamlined methods to obtain CMS Medicare data needed for quality monitoring.