

A black and white photograph of the Texas State Capitol building, featuring its iconic dome and classical architectural details. The building is partially obscured by a large, semi-transparent purple graphic on the right side of the page, which depicts two hands clasped together. A vertical yellow bar is positioned to the left of the title text.

Legislative Report: 88th Session of the Texas Legislature | 2023

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Introduction

The 88th Legislative Session began with a more optimistic financial situation for the state than previously anticipated with a projected budget surplus of \$32.7 billion on top of the \$188.2 billion already in the budget. Some of leadership's priorities included property tax relief, school and parental choice, border security, and further bolstering the electrical grid, but as anticipated, many partisan issues arose throughout the 140 days. There were also unprecedented events like expelling a House member and impeachment of the Attorney General in the House.

Hours after adjourning, the Governor called for a special session on property tax relief and border issues. Among infighting between both chambers and the Governor, Governor Abbott made it clear there will be multiple special sessions with a few items to be considered during each.

By Sine Die, the Legislature had passed a \$321.3 billion two-year spending plan. Known as the General Appropriations Act for the 2024-25 cycle, the joint-chamber compromise on House Bill 1 seeks to spend \$144.1 billion in general revenue, including an agreement to spend \$12.3 billion in new money for property tax cuts. Some of those funds are tied to bills still in flux in the Legislature or are dependent on voters to pass in a constitutional election later this year. This is separate from SB 30, the separate supplemental budget agreement that spends just under half of the state's historic \$32.7 billion cash surplus. [Source: Texas Tribune]

The final budget approved by the legislature considered the funding challenges facing the long-term care profession upon the declaration that the Public Health Emergency (PHE) was ending on May 11. Through many months of negotiations and conversations, Texas' long-term care profession received the first Medicaid base-rate increase in ten years as well as funding to bridge the gap between the PHE ending and the 2024-2025 Fiscal Year (FY) in September 2023.

THCA pushed for this much-needed funding and the critical need to address the staffing shortages faced across Texas. Through a strong lobby presence, media efforts and provider member involvement in Austin helped drive home the need for increased funding and to develop policy changes to begin to address the staffing crisis. In addition, THCA collaborated successfully with other provider groups and consultants through a unified message to bolster the support needed in the Capitol to make meaningful change in the profession.



Introduction (cont.)



Moreover, THCA successfully played defense for the sector during this session. While several bills proposing to increase regulations or costs for long-term care providers were filed, THCA was able to help defeat or dilute each of these proposals.

Contrary to the pandemic-era 2021 session, the Capitol was back to normal this session with no mandatory testing and access to members and their hardworking staff. THCA was active at the Capitol and were in the building every day talking to members, addressing their concerns, and answering their questions.

As we move into the summer and prepare for special sessions, THCA members must stay involved with their elected officials. Let them know about you, your facility, the challenges you face every day, the heroes who work in your buildings, and thank them for their support. Not only are your facilities in their districts – you and your families are constituents.

Following is a summary of the actions taken by the 88th Legislature affecting long-term care, including bills that passed and some that did not. If you have any questions or suggestions, please do not hesitate to contact:

Amanda Tollett

Government Relations Director

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THCA Priority: Funding



Priority: Address the Medicaid Funding Crisis

✓ PASSED: HB 1 (General Appropriations Act)

Allocates ~\$911 Million to Nursing Facility Reimbursement

- Rider 24 (Nursing Facility Reimbursement Rate Increase) of the Health and Human Services Commission portion of the budget contains:
 1. \$158,955,883 in General Revenue and \$239,629,581 in Federal Funds (\$398,585,464 in All Funds) in fiscal year 2024
 2. \$165,736,789 in General Revenue and \$247,365,876 in Federal Funds (\$413,102,665 in All Funds) in fiscal year 2025
 3. Maintains language that 90% of these funds are to be used for “direct care wages and benefits”.
- Rider 25 (Patient Driven Payment Model for Nursing Facility Services)
 1. Anticipating implementation of the new PDPM Medicaid payment for September 2024, appropriates \$40,087,983 in General Revenue and \$59,832,213 in Federal Funds (\$99,920,196 in All Funds) in fiscal year 2025 for, “stabilizing revenue levels that may otherwise be impacted by the conversion to a Texas version of the PDPM...”



Priority: Continue the temporary Emergency Rate Add-on through August 2023

✓ PASSED: SB 30 by Sen. Huffman and Rep. Bonnen (Supplemental Budget)

Funds the Temporary Add-on through August 31, 2023

- SB30 states, “The Health and Human Services Commission may use money appropriated to the commission for Goal A, Medicaid Client Services, as listed in that Act, to maintain the emergency add-on reimbursement rate increase for nursing facilities originally implemented for the duration of the federally declared COVID-19 public health emergency for the period from the date on which that declaration ended and the end of the state fiscal year ending August 31, 2023.”



THCA Priority: Workforce



Priority: Address the Historic and Ongoing Staffing Crisis

- Decades of understaffing in the profession along with COVID-19 has caused facilities to have more and more difficulty finding and hiring staff. We must address both current and future staffing shortages in long-term care facilities to ensure all aging Texans have access to quality care across the state. We need a multi-faceted approach to attracting staff to join long-term care that includes:

- Expanding and incentivizing the availability of faculty in nursing schools through the state's Nursing Faculty Loan Repayment Assistance Program.
- Increasing the number of nursing school graduates through additional funding appropriated to the Nursing Shortage Reduction Program.
- Establishing a long-term care nursing student loan repayment assistance/forgiveness program that incentivizes employment in the nursing home profession

Passed

- **SB 25:** *Nursing-related postsecondary education, including scholarships to nursing students, loan repayment assistance to nurses and nursing faculty, and grants to nursing education programs.*

Author/Sponsor: Sen. Kolkhorst and Rep. Klick

- Support for nursing-related postsecondary education, scholarships to nursing students, loan repayment assistance to nurses and nursing faculty, and grants to nursing education programs. The Higher Education Coordinating Board is appropriated:
 1. \$12,500,000 in General Revenue FY 2024;
 2. \$12,500,000 in General Revenue FY 2025
 3. For scholarships and loan repayment
 4. Intention of the legislation is for the Texas Higher Ed Coordinating Board to prioritize, “whether the person is practicing in a geographical area, a practice setting, or an area of practice with an acute nursing shortage or is likely to practice in such.



Passed

- **SB 401:** *Prices charged by a medical staffing services agency during certain designated public health disaster periods; providing a civil penalty.*

Author/Sponsor: Sen. Kolkhorst and Rep. Harless

- Creates a new chapter in the health and safety code to prohibit medical staffing agencies providing physician assistants, surgical assistants, or nurses from charging hospitals and nursing homes exorbitant fees and rates during a declared disaster. Staffing agencies that violate this will be subject to a civil penalty of \$1,000 per violation.

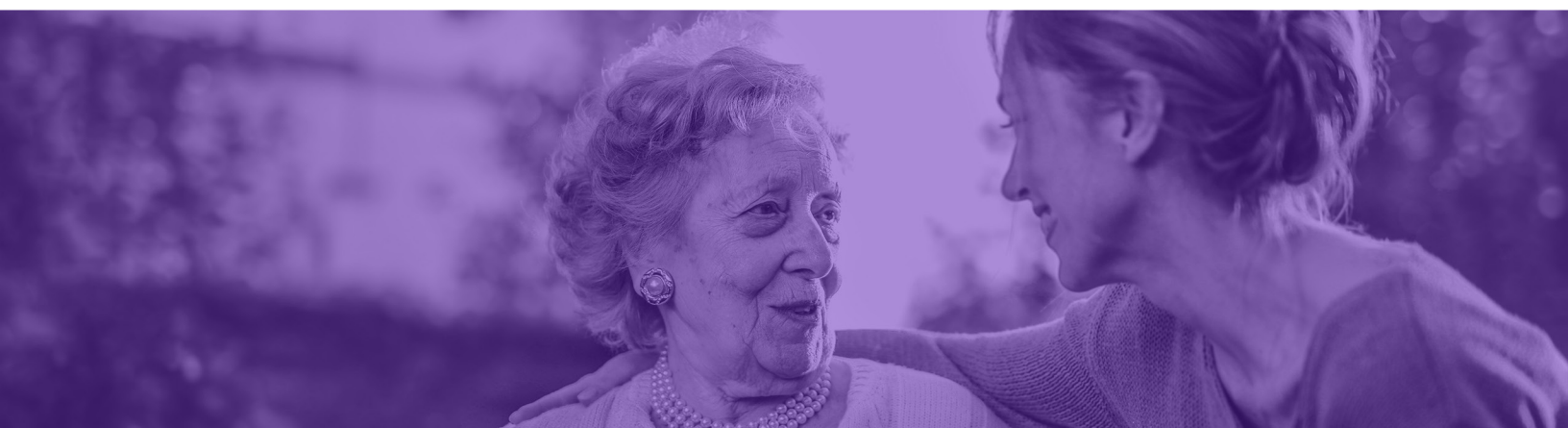
Not Passed

- **HB 4146:** *Relating to the regulation of healthcare employment agencies.*

Author: Rep. Clardy

- The bill established a formal process of accountability and consistency for healthcare employment agencies in Texas through creating an oversight process at HHSC (including a complaint process to engage the staffing agency) with an annual registration with the commission (\$500) and clarifies definitions of agency employee, direct health care services, etc. would also have enforced compounding monetary penalties as well as revocation of registration for violations.

The bill passed out of House Public Health Committee; however, did not make it out of Calendars Committee to be heard by the full House.



Passed

- **HB 4123:** *Access to and use of certain criminal history record information.*

Author/Sponsor: Rep. Guillen and Sen. Zaffirini

- Updates and reorganizes the state's criminal background check requirements to new FBI federal requirements relating to a more efficient hiring and contracting process while also ensuring the security of private information.

Passed

- **SB 1849:** *Interagency reportable conduct search engine, standards for a person's removal from the employee misconduct registry, and the use of certain information by certain state agencies to conduct background checks.*

Author/Sponsor: Sen. Kolkhorst and Rep. Noble

- Establishment of an interagency child protection database (access to reportable conduct information) with the Department of Information Resources (DIR) in collaboration with HHSC, allowing long-term care providers access to search the database when conducting background checks for applicants to a long-term care facility.

Passed

- **SB 240:** *Relating to workplace violence prevention in certain health facilities.*

Author/Sponsor: Sen. Campbell and Rep. Howard

- The bill changes existing law by requiring healthcare facilities to establish a workplace violence prevention committee, which must develop policies and a plan of action for how to prevent and respond to incidents of workplace violence. Requires facilities to respond to incidents of workplace violence by providing post-incident services, including acute medical treatment if necessary, and protects the employee's right to report the incident internally and to law enforcement without retaliation. The bill tasks the appropriate licensing agency with enforcing its legal standards against those who violate its requirements.

Regulatory

Passed

- **HB 1290:** *Confiscation or misappropriation by a nursing facility of certain federal payments.*

Author/Sponsor: Rep. Campos and Sen. Flores

- Establishes an administrative penalty for nursing facilities that confiscate or misappropriate certain payments (such as federal stimulus checks) to residents. While federal law prohibits this practice since the stimulus checks were not intended to be considered as income for purposes of Medicaid eligibility, there is currently no statewide prohibition against this practice that protects these vulnerable individuals.

Passed

- **HB 1673:** *Training requirements for staff members of certain assisted living facilities providing care to persons with Alzheimer's disease and related disorders.*

Author/Sponsor: Rep. Capriglione and Sen. Johnson

- Increases the number of hours of dementia CE and training including the initial four hours of dementia training and a competency evaluation plus two hours of best practices-based CE annually, for residents with Alzheimer's and dementia.

Passed

- **SB 26:** *Local mental health authority and local behavioral health authority.*

Author/Sponsor: Sen. Kolkhorst and Rep. Jetton

- The bill seeks to increase transparency and accountability for the Texas community-based mental and behavioral health systems by providing for the submission of regular performance and financial audits and to increase data reporting related to the populations they serve. It expands mental health capacity services to vulnerable populations. The bill also requires HHSC to develop a plan including recommendations for the feasibility of transitioning behavioral health services for individuals who require a level of care provided by nursing facilities and providing incentives to providers that participate in QIPP.

Regulatory

Passed

- **SB 681:** *Applicability of certain laws regarding the occupational licensing of individuals with criminal convictions to the licensing of certain long-term health care facility personnel.*

Author/Sponsor: Sen. Johnson and Rep. Hull

- Exempts occupations regulated by Long-term Care Regulation (LTCR), from Chapter 53 Occupations Code, aligning the convictions used to determine licensure, certification, or permitting with the convictions used to determine employability.

Passed

- **SB 745:** *Fraud prevention under certain health care programs.*

Author/Sponsor: Sen. Kolkhorst and Rep. Noble

- Expanding the scope of the Texas Medicaid Fraud Prevention Act and authorizing the OAG to investigate and pursue civil enforcement action to deter fraudulent conduct and recover funds from providers committing unlawful acts associated with “health care programs,” funded in whole or in part by Texas. This bill ensures that monies paid by Texas are used lawfully and provides the ability for the OAG to continue to root out fraud in taxpayer-funded health care systems.

Not Passed

- **HB 795:** *Relating to emergency generators or other power sources for nursing facilities and assisted living facilities.*

Author/Sponsor: Rep. Thompson of Pearland

- Bill would require assisted living facilities licensed under Health and Safety Code 247 to equip the facility with an emergency generator or comparable emergency power source. The committee substitute language had removed nursing facilities from the bill recognizing existing generator requirements.

The bill failed to pass in the House Human Services Committee and was left pending in committee.

✗ Not Passed

- **SB 1534:** *Relating to restrictions on covenants not to compete for physicians and certain other health care practitioners.*

Author: Sen. Schwertner

- Non-competes for physicians and other healthcare practitioners.

The bill passed out of the Senate, was referred to House Public Health; however, was not voted out of committee.

✗ Not Passed

- **SB 1629:** *Relating to the regulation of certain nursing facilities, including licensing requirements and Medicaid participation requirements.*

Author/Sponsor: Sen. Kolkhorst and Rep. Frank

- Increased transparency and accountability for nursing homes in Medicaid, ensuring that dollars recouped from existing nursing facilities' direct care staff rate enhancement programs are reinvested directly into the program to provide an ongoing source of staff rate enhancements for nursing homes that provide better staffing ratios for their residents. The bill would have established a "direct care ratio" for Medicaid reimbursement to ensure that 80% of Medicaid dollars are spent directly on the care of nursing home residents. The bill also would have required disclosures of ownership structure for a Texas nursing facility reimbursed through Medicaid.

This bill passed the full Senate and out of the House Human Services Committee; however, it was not heard on the House floor prior to the House rules deadline.

✗ Not Passed

- **HB 1469:** *Personnel training requirements for nursing facilities and assisted living facilities that advertise an Alzheimer's care unit or memory care unit*

Author: Rep. Capriglione

- Would have prohibited Nursing Facilities (NFs) and Assisted Living Facilities (ALFs) from advertising, marketing, or otherwise promoting the facility as an Alzheimer's care unit or memory care unit providing services to residents with Alzheimer's disease and related disorders unless the facility provides the services through specially trained personnel who have completed a min. of four training hours in caring for these residents.

This bill passed the full House and was referred to the Senate Health and Human Services Committee; however, it was not voted out of Committee.

✓ Passed

- **HB 3162:** Advance directives, do-not-resuscitate orders, and health care treatment decisions made by or on behalf of certain patients.

Author/Sponsor: Rep. Klick and Sen. Springer

- Seeks to address the shortcomings of existing law and improve protections for patients, medical professionals, and medical facilities. Updates and codifies current DNR law and orders to advance directives.

Managed Care

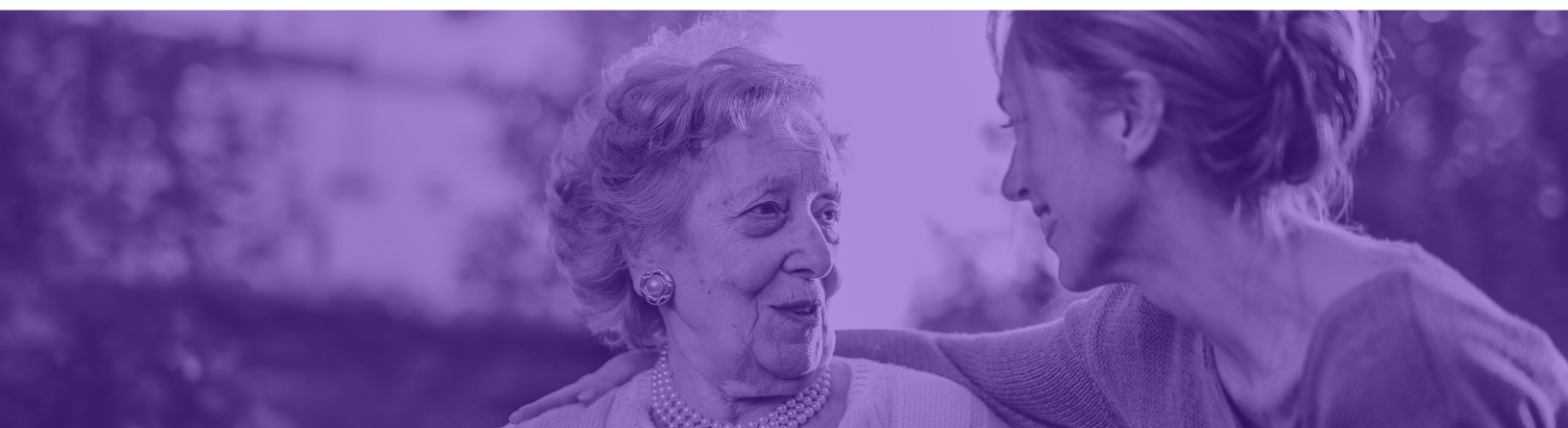
✗ Not Passed

- **HB 2401:** Relating to certain contracting requirements under the Medicaid managed care

Author: Rep. Oliverson

- The bill proposed to repeal mandatory contract law language (to remove low-performing managed care plans) and allowed HHSC to ensure that health care plans have the resources to better serve vulnerable Medicaid populations.

The bill passed the full House and was referred to the Senate Health and Human Services Committee; however, it was not voted out of Committee.



Miscellaneous

✓ Passed

- **HB 54:** *Relating to the personal needs allowance for certain Medicaid recipients.*

Author/Sponsor: Rep. Thompson of Harris and Sen. Zaffirini

- Allowing Medicaid residents to keep a certain statutory amount (from \$60/month to \$75/month) of their social security for their personal needs allowance and a biennial adjustment for current and future inflation.

✗ Not Passed

- **HB 4220:** *Relating to the office of the state long-term care ombudsman*

Author: Rep. Clardy

- The bill proposed to establish clear lines between HHSC and the LTC ombudsman program, aligning LTC ombudsman guidelines with the federal rules for the LTC ombudsman. Changes responsibilities and duties of a LTC ombudsman such as reporting and summarizing testimony and positions taken on all legislation and rules for public record.

This bill passed the full House and was referred to the Senate Health and Human Services Committee; however, it was not voted out of Committee.

Long-Term Care Nurses' Day

April 6, 2023

THCA and LeadingAge Texas, with support from Public Blueprint, hosted Long-Term Care Nurses' Day at the Capitol on April 6. The day brought together nurses and advocates to learn about long-term care legislative priorities, conduct visits with legislative offices, and provide blood pressure checks for legislators and staff. Long-term care nurses and the nursing home profession were also recognized with a resolution on the House floor.



Invites to legislative staff >>
Foam board ∨



Legislative staff,

Please join us in the **Legislative Conference Center (E2.002)** on **Thursday, April 6** to meet with nurses in the long-term care profession.

Nurses from your districts will be stopping by your offices in the morning and afternoon to discuss legislative priorities and answer any questions you may have about the long-term care profession in Texas.

We know that this time of year, tensions are high - but your blood pressure shouldn't be! Nurses will also be providing blood pressure checks in the LCC from **9:30am-11:30am and 1pm-3pm**.

We hope you and your office can attend!

When:
Thursday, April 6
9am-3:30pm

Where:
Legislative Conference Center
E2.002

About THCA
Founded in 1950, the Texas Health Care Association (THCA) is the largest long-term care association in Texas. THCA's membership is comprised of several hundred licensed nonprofit and for-profit skilled nursing facilities (SNFs), specialized rehabilitation facilities and assisted living facilities in Texas. These facilities provide comprehensive, around-the-clock nursing care for chronically ill or short-term residents of all ages, along with rehabilitative and specialized medical programs. To learn more, visit <http://txhca.org/> or connect with THCA on [Facebook](#) or [Twitter](#).

About LeadingAge Texas
LeadingAge Texas was established in 1959 as a Texas not-for-profit corporation to provide leadership, advocacy, and education for not-for-profit retirement housing and nursing home communities that serve the needs of Texas retirees. As a trade association representing the full continuum of mission-driven, not-for-profit aging services providers, LeadingAge Texas is committed to assisting its members in providing the highest quality of services possible to the residents they serve.



JOIN US

for 2023 Long-Term Care Nurses' Day & Blood Pressure Checks!

Created blood pressure card for leave behinds ∨

BLOOD PRESSURE CATEGORY	SYSTOLIC mm Hg (upper number)		DIASTOLIC mm Hg (lower number)
NORMAL	LESS THAN 120	and	LESS THAN 80
ELEVATED	120-129	and	LESS THAN 80
HIGH BLOOD PRESSURE (HYPERTENSION) STAGE 1	130-139	or	80-89
HIGH BLOOD PRESSURE (HYPERTENSION) STAGE 2	140 OR HIGHER	or	90 OR HIGHER
HYPERTENSIVE CRISIS (consult your doctor immediately)	HIGHER THAN 180	and/or	HIGHER THAN 120

SUPPORT LONG-TERM CARE!	DATE:	BLOOD PRESSURE:	SITE:	RECHECK DATE:
PATIENT NAME: _____				
DOCTOR: _____				
PHONE #: _____				



One-Pagers

To address the nursing shortage crisis made worse by COVID-19, nursing facilities were forced to engage staffing agencies to fill vacancies. This led to increased staffing costs, increased turnover, and multiple issues with agency staff compliance. HB 4146 addresses that by creating a regulatory framework to hold staffing agencies accountable.

WHAT HB 4146 DOES:

- Establishes a formal process of accountability and consistency for healthcare employment agencies in Texas.
- Creates an oversight process of healthcare employment agencies by the Health and Human Services Commission (HHSC).
- Establishes a complaint process for providers engaging the services of a healthcare employment agency.
- Defines (1) agency employee, (2) direct health care services, (3) health care employment agency, and (4) health care entity.

HEALTH CARE EMPLOYMENT AGENCY REQUIREMENTS:

- Register annually with HHSC: \$500 registration.
- Ensure the agency employee satisfies the personnel qualifications applicable to the position for which the employee is being placed.
- Maintain records documenting each agency employee meets minimum licensing, certification, training, and Continuing Education requirements.
- Report, file and provide to the regulatory authority any required documentation on behalf of the agency employee.
- May not restrict in any manner an agency employee's employment opportunity.
- May not place an agency employee with a health care entity if the agency knows the employee illegally or fraudulently obtained or misrepresented licensure, certification, or background check information.

ENFORCEMENT:

- Registration revocation or denial for one year
- Penalty of \$500 for first violation, \$5,000 for each subsequent violation
- HHSC must provide 30 days' notice before denying or revoking employment agency registration

COMPLAINT PROCESS:

- HHSC shall (1) establish a system for public to file complaints against agency or employee and (2) investigate complaints and report findings to HHSC and the person filing complain.

SUPPORT NURSING HOMES: CONTINUE THE TEMPORARY EMERGENCY RATE ADD-ON THROUGH AUGUST 2023

Throughout the COVID-19 pandemic, nursing home providers have worked tirelessly to care for thousands of vulnerable, elderly Texans. Now, they need our help.

THE PROBLEM:

With the announcement that the federally declared Public Health Emergency (PHE) will end on May 11, 2023, a vital temporary funding rate add-on is set to expire for Texas nursing homes. This emergency funding has helped long-term care facilities keep up with the costs of COVID-19, staffing, and many pandemic-associated protocols that have now become permanent.

WITHOUT EXPLICIT LEGISLATIVE AUTHORITY TO EXTEND THE ADD-ON:

- Texas nursing homes will suffer a \$100 million collective loss of revenue between May 12 and August 31.
- Rural and urban nursing homes alike will lose on average \$120,000 per facility in revenue while costs remain high.

THE SOLUTION:

There are two avenues to bridge the funding gap between the end of the PHE in May 2023 and FY 2024-2025:

1. Allocating \$40M in General Revenue (\$100 million All Funds) in Senate Bill 30.
2. Allocating \$100M in American Rescue Plan Act (ARPA) funding.

Facilities, staff, and residents have endured a lot during the pandemic. Now is the time to invest in consistent access to quality care for our residents and patients. By addressing the funding gap, the Legislature can prevent major disruptions in care for Texans.

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TEXAS HEALTH CARE ASSOCIATION: 88TH SESSION LEGISLATIVE PRIORITIES

The Problem: Access to care requires additional and sustainable funding

COVID-19 has permanently changed how facilities operate, with many staff and infection control guidelines becoming permanent protocols. The state must address this new reality by providing sustainable long-term funding. Since 2018, ~60 facilities have closed throughout Texas. When entire facilities are shuttered, wings of a facility are temporarily closed, or discharges from the local hospital are unable to be accommodated, access to care concerns become more real and are occurring in communities across Texas, especially in rural communities.

The Solution: Support SB 1 and HB 1 which allocate much-needed funding to increase the Medicaid Base Rate

Texas has historically had one of the lowest Nursing Home Medicaid rates in the country and has not had a base rate increase since the 83rd Legislative Session.

According to recent Texas HHSC data, the estimated per day Medicaid rate for nursing home care, if fully funded, has risen to an average of over \$273 per day; however, the current estimated average actual daily rate remains less than \$155 per day.

Recent cost report analysis shows that expenses for nursing homes have increased by an average 23% since 2019 meaning that without the additional funding, nursing homes will face an even larger budget shortfall while trying to maintain health and safety standards.

Since 2020, nursing homes caring for Medicaid patients have received an additional "add-on" payment, authorized by the Legislative Budget Board to provide additional financial support as long as the federal Public Health Emergency (PHE) is in effect. When the PHE expires this critical funding lifeline will end, putting further pressure on already limited financial resources.

For these reasons, THCA is advocating to increase the Medicaid Base Rate to address the increase in costs and empower facilities to continue providing the best possible care to residents.

The Problem: The Nursing Shortage Crisis in Texas Nursing Homes

Texas is facing an acute shortage of direct care staff that has been exacerbated by the COVID-19 pandemic. This is especially apparent in the long-term care profession, which saw a 10% reduction in available staff since the onset of the pandemic. We must address both current and future staffing shortages in long-term care facilities to prevent access to care issues. More Texans are staying in their communities longer and when they do need round-the-clock assistance, they are sicker and require a heightened level of care. We must recruit and retain well-trained staff to ensure access to care delivery is available when needed. The reality is that without adequate staffing levels, facilities will not be able to accept new residents.

The Solution: Fund the Nursing Faculty Loan Repayment Assistance Program and Nursing Shortage Reduction Program and incentivize employment in the nursing home profession.

Through proper funding of these two programs already in existence, we can expand the direct care workforce, incentivize nursing school opportunities, and increase the number of direct care staff in the long-term care profession.

Establishing a long-term care nursing student loan repayment assistance/forgiveness program that incentivizes employment in the nursing home profession will also address the staffing crisis in nursing homes now and in the future.

Together, we can address funding and staffing issues in nursing homes to ensure all aging Texans have access to quality care across the state.



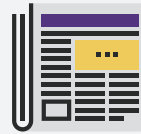
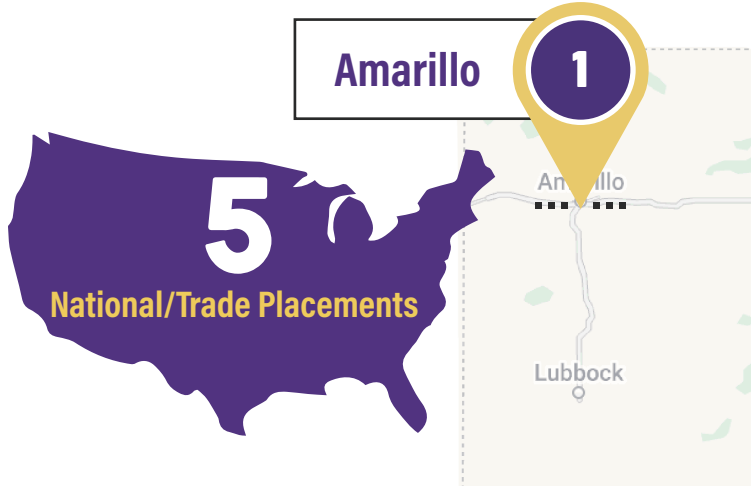
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Communications Report



Media Placements:



6 Print



1 Television



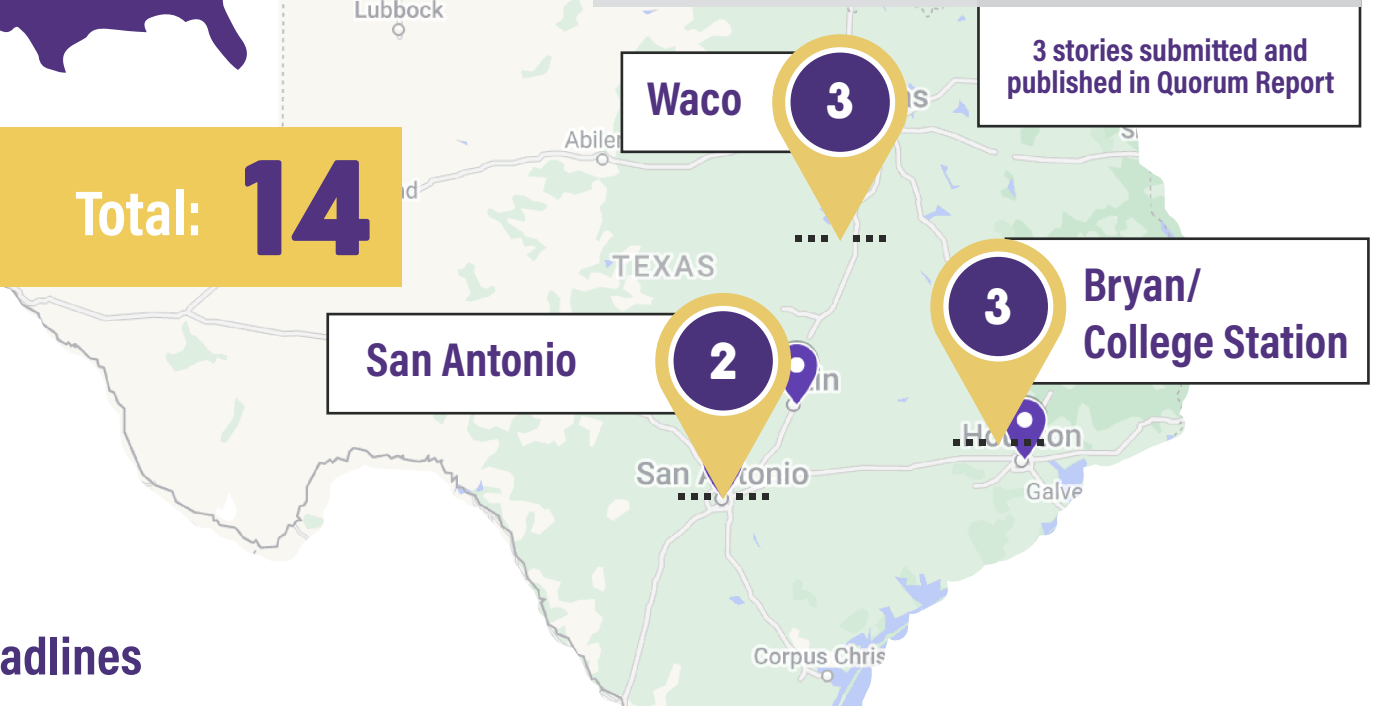
6 Online



1 Radio

3 stories submitted and published in Quorum Report

Total: 14



In the Headlines

WT Waco Tribune-Herald

Nursing homes reach for innovative solutions amid staffing crisis

Report SAN ANTONIO
NONPROFIT JOURNALISM FOR AN INFORMED COMMUNITY

San Antonio nursing homes worry poorest patients may lose out when Medicaid subsidy ends

McKnights
Long-Term Care News

Texas providers seek financial lifeline as Medicaid rate decision looms



A black and white photograph of the Texas State Capitol building, featuring its iconic dome and classical architectural details. The building is partially framed by trees on the left and right. A large, semi-transparent purple graphic of two hands clasped together is overlaid on the right side of the image. A vertical yellow bar is positioned on the left side.

THANK YOU!

THCA
Texas Health Care Association