TEXAS PUBLIC POLICY FOUNDATION
BillAnalysis

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Center for Health Care Policy

"Granny Tax" Overview

HB 2766 / SB 1130

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The Reinvestment Allowance, or Granny Tax, in HB 2766

- There are ≈75,000 non-Medicare nursing home beds in Texas. The ≈4,500 beds in Continuing Care Retirement Communities (CCRCs) are exempt, leaving 70,500 beds to be assessed ≈$11/occupied bed/day.

- Revenue from assessment—called reinvestment allowance and colloquially Granny Tax—will be used to leverage additional federal dollars into Texas Medicaid: for each $1.00 assessed, Texas will receive $1.32 from Centers for Medicare and Medicaid Services in Washington.

- Only occupied beds are assessed. Occupancy rate ≈70 percent.

Assessment revenue	=	(70,500*0.7)	x	($11 x 365 days)	=	$198 million.
Federal match	=	$198m	÷	0.5218 [FMAP formula for Texas]	=	$380 million.
Total revenue	=	$198m	+	$380m	=	$578 million.

- Long-term care facilities prohibited from passing cost of assessment on to residents

- Differences from SB 1130 as filed:
  - CCRCs are exempt from assessment.
  - Start date for Texas to pay out is when Washington pays Texas.
  - If Texas receives a Medicaid block grant, this program goes away.

Analysis and Concerns

- **Will patients benefit?** There is nothing in HB 2766 that assures the additional revenue will be spent on patient care as opposed to corporate profits or administrative overhead. Is it a reasonable discharge of legislative fiduciary responsibility to simply assume that $578 million of additional money will be spent on the patients?

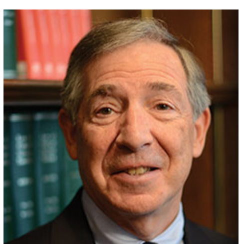
- **How will non-Medicaid facilities cope with financial loss?** Facilities that pay the assessment but have few/no Medicaid beds will receive no revenue to offset the expense of assessment. Such a facility with 100 beds would sustain an annual loss of more than $400,000. How will they survive that financial loss and continue to serve the elderly?

- **Passing the "tax" on to Granny:** There are loopholes in the wording of HB 2766 that could allow facilities to pass the cost of the tax on to residents. Many would be forced to do so to keep their doors open. Making Granny pay the assessment would violate both the intent of HB 2766 and CMS rule 42 CFR 433.68 (3) (f), the "Hold Harmless" clause.

- **Administrative cost:** Assessing 70,500 beds in more than 1,000 facilities spread over 268,597 square miles while complying with all CMS regulations will require a very costly expansion of Medicaid administration. Texas will pay this large but unspecified cost.

- **Violation of "Uniformity" criterion**. CMS rule 433.68, (2), Permissible health care-related taxes, requires that such taxes be "uniformly imposed." Firstly, while calling the assessment a reinvestment allowance avoids the word "tax," this assessment will certainly be considered a "tax" by CMS. Second, exempting the CCRC beds from the "Granny tax" would be inconsistent with this rule. When Missouri tried to implement a similar reinvestment allowance scheme, it was rejected by CMS. ✩

About the Author



Dr. Deane Waldman, M.D., MBA, is a retired pediatric cardiologist and system theorist analyst for American health care. He brings 37 years of clinical experience plus the business and administrative experience as Chief of Pediatric Cardiology at University of Chicago to the position of Director of the Center for Health Care Policy at the Texas Public Policy Foundation. He is also the Consumer Advocate member on the Board of Directors of the New Mexico Health Insurance Exchange.

His background and academic training include Yale, Chicago Medical School, Mayo Clinic, Northwestern, Harvard, and Anderson Management Schools. He has authored over 150 academic medical publications and more than 250 lay articles on both management and strategy in health care. "Dr. Deane," as he is commonly known, is the author of award-winning print books including *The Cancer in the American Healthcare System* and the eBook series titled *Restoring Care to American Healthcare*.

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