

By: Klick

H.B. No. 3240

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the composition of the Long-Term Care Facilities  
3 Council and rules related to and the imposition of administrative  
4 penalties against certain long-term care facilities.

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

6 SECTION 1. Section 531.0581(b), Government Code, is amended  
7 to read as follows:

8 (b) The executive commissioner shall establish a Long-Term  
9 Care Facilities Council as a permanent advisory committee to the  
10 commission. The council is composed of the following members  
11 appointed by the executive commissioner:

12 (1) at least one member who is a for-profit nursing  
13 facility provider;

14 (2) at least one member who is a nonprofit nursing  
15 facility provider;

16 (3) at least one member who is an assisted living  
17 services provider;

18 (4) at least one member responsible for survey  
19 enforcement within the state survey and certification agency;

20 (5) at least one member responsible for survey  
21 inspection within the state survey and certification agency;

22 (6) at least one member of the state agency  
23 responsible for informal dispute resolution;

24 (7) at least one member with expertise in Medicaid

1 quality-based payment systems for long-term care facilities;

2 (8) at least one member who is a practicing medical  
3 director of a long-term care facility; ~~and~~

4 (9) at least one member who is a physician with  
5 expertise in infectious disease or public health; and

6 (10) at least one member who is a community-based  
7 provider at an intermediate care facility for individuals with  
8 intellectual or developmental disabilities licensed under Chapter  
9 252, Health and Safety Code.

10 SECTION 2. Section 252.065(b), Health and Safety Code, is  
11 amended to read as follows:

12 (b) The penalty for a facility with fewer than 60 beds shall  
13 be not less than \$100 or more than \$1,000 for each violation. The  
14 penalty for a facility with 60 beds or more shall be not less than  
15 \$100 or more than \$5,000 for each violation. Each day a violation  
16 occurs or continues is a separate violation for purposes of  
17 imposing a penalty. The total amount of penalties ~~[a penalty]~~  
18 assessed under this subsection for an on-site regulatory visit or  
19 complaint investigation, regardless of the duration of any ongoing  
20 violations, [for each day a violation occurs or continues] may not  
21 exceed:

22 (1) \$5,000 for a facility with fewer than 60 beds; and

23 (2) \$25,000 for a facility with 60 beds or more.

24 SECTION 3. Section 161.089(c), Human Resources Code, is  
25 amended to read as follows:

26 (c) After consulting with appropriate stakeholders, the  
27 executive commissioner shall develop and adopt rules regarding the

1 imposition of administrative penalties under this section. The  
2 rules must:

3 (1) specify the types of violations that warrant  
4 imposition of an administrative penalty;

5 (2) establish a schedule of progressive  
6 administrative penalties in accordance with the relative type,  
7 frequency, and seriousness of a violation;

8 (3) prescribe reasonable amounts to be imposed for  
9 each violation giving rise to an administrative penalty, subject to  
10 Subdivision (4);

11 (4) authorize the imposition of an administrative  
12 penalty in an amount not to exceed \$5,000 for each violation;

13 (5) provide that a provider commits a separate  
14 violation each day the provider continues to violate the law or  
15 rule;

16 (6) ensure standard and consistent application of  
17 administrative penalties throughout the state; ~~and~~

18 (7) provide for an administrative appeals process to  
19 adjudicate claims and appeals relating to the imposition of an  
20 administrative penalty under this section that is in accordance  
21 with Chapter [2001](#), Government Code;

22 (8) ensure standard and consistent interpretation of  
23 service delivery rules and consistent application of  
24 administrative penalties throughout this state; and

25 (9) include interpretative guidelines for regulatory  
26 staff and providers regarding the imposition of administrative  
27 penalties under this section.

1           SECTION 4. Not later than December 1, 2021, the executive  
2 commissioner of the Health and Human Services Commission shall  
3 adopt the rules necessary to implement the changes in law made by  
4 this Act.

5           SECTION 5. The Health and Human Services Commission may not  
6 assess a penalty under Section 161.089, Human Resources Code, as  
7 amended by this Act, until the executive commissioner of the Health  
8 and Human Services Commission adopts the rules necessary to  
9 implement Sections 161.089(c)(8) and (9), Human Resources Code, as  
10 added by this Act.

11          SECTION 6. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2021.