

1-1 By: Klick (Senate Sponsor - Kolthorst) H.B. No. 3240
 1-2 (In the Senate - Received from the House May 10, 2021;
 1-3 May 11, 2021, read first time and referred to Committee on Health &
 1-4 Human Services; May 21, 2021, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
 1-6 May 21, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 3240 By: Miles

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the composition of the Long-Term Care Facilities
 1-22 Council and rules related to and the imposition of administrative
 1-23 penalties against certain long-term care facilities.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 531.0581(b), Government Code, is amended
 1-26 to read as follows:

1-27 (b) The executive commissioner shall establish a Long-Term
 1-28 Care Facilities Council as a permanent advisory committee to the
 1-29 commission. The council is composed of the following members
 1-30 appointed by the executive commissioner:

1-31 (1) at least one member who is a for-profit nursing
 1-32 facility provider;

1-33 (2) at least one member who is a nonprofit nursing
 1-34 facility provider;

1-35 (3) at least one member who is an assisted living
 1-36 services provider;

1-37 (4) at least one member responsible for survey
 1-38 enforcement within the state survey and certification agency;

1-39 (5) at least one member responsible for survey
 1-40 inspection within the state survey and certification agency;

1-41 (6) at least one member of the state agency
 1-42 responsible for informal dispute resolution;

1-43 (7) at least one member with expertise in Medicaid
 1-44 quality-based payment systems for long-term care facilities;

1-45 (8) at least one member who is a practicing medical
 1-46 director of a long-term care facility; ~~and~~

1-47 (9) at least one member who is a physician with
 1-48 expertise in infectious disease or public health; and

1-49 (10) at least one member who is a community-based
 1-50 provider at an intermediate care facility for individuals with
 1-51 intellectual or developmental disabilities licensed under Chapter
 1-52 252, Health and Safety Code.

1-53 SECTION 2. Section 252.065(b), Health and Safety Code, is
 1-54 amended to read as follows:

1-55 (b) The penalty for a facility with fewer than 60 beds shall
 1-56 be not less than \$100 or more than \$1,000 for each violation. The
 1-57 penalty for a facility with 60 beds or more shall be not less than
 1-58 \$100 or more than \$5,000 for each violation. Each day a violation
 1-59 occurs or continues is a separate violation for purposes of
 1-60 imposing a penalty. The total amount of penalties ~~a penalty~~

2-1 assessed under this subsection for an on-site regulatory visit or
2-2 complaint investigation, regardless of the duration of any ongoing
2-3 violations, [for each day a violation occurs or continues] may not
2-4 exceed:

- 2-5 (1) \$5,000 for a facility with fewer than 60 beds; and
- 2-6 (2) \$25,000 for a facility with 60 beds or more.

2-7 SECTION 3. Section 161.089, Human Resources Code, is
2-8 amended by amending Subsection (c) and adding Subsection (c-1) to
2-9 read as follows:

2-10 (c) After consulting with appropriate stakeholders, the
2-11 executive commissioner shall develop and adopt rules regarding the
2-12 imposition of administrative penalties under this section. The
2-13 rules must:

2-14 (1) specify the types of violations that warrant
2-15 imposition of an administrative penalty;

2-16 (2) establish a schedule of progressive
2-17 administrative penalties in accordance with the relative type,
2-18 frequency, and seriousness of a violation;

2-19 (3) prescribe reasonable amounts to be imposed for
2-20 each violation giving rise to an administrative penalty, subject to
2-21 Subdivision (4);

2-22 (4) authorize the imposition of an administrative
2-23 penalty in an amount not to exceed \$5,000 for each violation;

2-24 (5) provide that a provider commits a separate
2-25 violation each day the provider continues to violate the law or
2-26 rule;

2-27 (6) ensure standard and consistent application of
2-28 administrative penalties throughout the state; ~~and~~

2-29 (7) provide for an administrative appeals process to
2-30 adjudicate claims and appeals relating to the imposition of an
2-31 administrative penalty under this section that is in accordance
2-32 with Chapter 2001, Government Code; and

2-33 (8) ensure standard and consistent interpretation of
2-34 service delivery rules and consistent application of
2-35 administrative penalties throughout this state.

2-36 (c-1) On adoption of the rules under Subsection (c), the
2-37 executive commissioner shall develop interpretative guidelines for
2-38 regulatory staff and providers regarding the imposition of
2-39 administrative penalties under this section.

2-40 SECTION 4. Not later than December 1, 2021, the executive
2-41 commissioner of the Health and Human Services Commission shall
2-42 adopt the rules necessary to implement the changes in law made by
2-43 this Act.

2-44 SECTION 5. The Health and Human Services Commission may not
2-45 assess a penalty under Section 161.089, Human Resources Code, as
2-46 amended by this Act, until the executive commissioner of the Health
2-47 and Human Services Commission:

2-48 (1) adopts the rules necessary to implement Section
2-49 161.089(c)(8), Human Resources Code, as added by this Act; and

2-50 (2) develops the interpretive guidelines required by
2-51 Section 161.089(c-1), Human Resources Code, as added by this Act.

2-52 SECTION 6. This Act takes effect immediately if it receives
2-53 a vote of two-thirds of all the members elected to each house, as
2-54 provided by Section 39, Article III, Texas Constitution. If this
2-55 Act does not receive the vote necessary for immediate effect, this
2-56 Act takes effect September 1, 2021.

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