

Suspending limitations on conference committee
jurisdiction, H.B. No. 3720 (Frank/Kolkhorst)

By: Frank

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R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 87th Legislature, Regular Session, 2021, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on House Bill 3720 (long-term care
6 facilities for and Medicaid waiver programs available to certain
7 individuals, including individuals with intellectual and
8 developmental disabilities) to consider and take action on the
9 following matters:

10 (1) House Rule 13, Section 9(a)(2), is suspended to permit
11 the committee to omit text not in disagreement by omitting proposed
12 Section 531.06035, Government Code, and the transition language
13 associated with that section. The omitted text imposes a duty on
14 the Health and Human Services Commission to conduct a medical
15 necessity assessment of a child who receives Supplemental Security
16 Income (SSI) before placing the child on the interest list for the
17 medically dependent children (MDCP) program.

18 Explanation: The omission of the text is necessary to remove
19 the duty imposed on the Health and Human Services Commission to
20 conduct certain medical necessity assessments of a child who
21 receives Supplemental Security Income (SSI) before placing the
22 child on the interest list for the medically dependent children
23 (MDCP) program.

24 (2) House Rule 13, Section 9(a)(4), is suspended to permit

1 the committee to add text on a matter not included in either the
2 house or senate version of the bill by adding the following new
3 SECTION to the bill:

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

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

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

12 (2) at least one member who is a nonprofit nursing
13 facility provider;

14 (3) at least one member who is an assisted living
15 services provider;

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

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

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

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

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

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

1 (10) at least one member who is a community-based
2 provider at an intermediate care facility for individuals with
3 intellectual or developmental disabilities licensed under Chapter
4 252, Health and Safety Code.

5 Explanation: This addition is necessary to change the
6 composition of the Texas Long-Term Care Facilities Council to
7 include at least one member who is a community-based provider at
8 certain intermediate care facilities.

9 (3) House Rule 13, Section 9(a)(4), is suspended to permit
10 the committee to add text on a matter not included in either the
11 house or senate version of the bill by adding the following new
12 SECTIONS to the bill:

13 SECTION 3. Section 252.065(b), Health and Safety Code, is
14 amended to read as follows:

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

25 (1) \$5,000 for a facility with fewer than 60 beds; and

26 (2) \$25,000 for a facility with 60 beds or more.

27 SECTION 4. Section 161.089, Human Resources Code, is

1 amended by amending Subsection (c) and adding Subsection (c-1) to
2 read as follows:

3 (c) After consulting with appropriate stakeholders, the
4 executive commissioner shall develop and adopt rules regarding the
5 imposition of administrative penalties under this section. The
6 rules must:

7 (1) specify the types of violations that warrant
8 imposition of an administrative penalty;

9 (2) establish a schedule of progressive
10 administrative penalties in accordance with the relative type,
11 frequency, and seriousness of a violation;

12 (3) prescribe reasonable amounts to be imposed for
13 each violation giving rise to an administrative penalty, subject to
14 Subdivision (4);

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

17 (5) provide that a provider commits a separate
18 violation each day the provider continues to violate the law or
19 rule;

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

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

26 (8) ensure standard and consistent interpretation of
27 service delivery rules and consistent application of

1 administrative penalties throughout this state.

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

6 SECTION 6. Not later than December 1, 2021, the executive
7 commissioner of the Health and Human Services Commission shall
8 adopt the rules necessary to implement Section 252.065(b), Health
9 and Safety Code, as amended by this Act, and Section 161.089, Human
10 Resources Code, as amended by this Act.

11 SECTION 7. The Health and Human Services Commission may not
12 assess a penalty under Section 161.089, Human Resources Code, as
13 amended by this Act, until the executive commissioner of the Health
14 and Human Services Commission:

15 (1) adopts the rules necessary to implement Section
16 161.089(c)(8), Human Resources Code, as added by this Act; and

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

19 Explanation: The changes are necessary to implement certain
20 changes to law relating to the imposition of administrative
21 penalties against certain long-term care facilities, including a
22 change to the amount of an administrative penalty for certain
23 violations committed by intermediate care facilities for
24 individuals with an intellectual disability and a change to ensure
25 the executive commissioner of the Health and Human Services
26 Commission adopts standard and consistent rules relating to the
27 interpretation and consistent application of administrative

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1 penalties against certain long-term care facilities.