

By: Turner, Garcia

H.B. No. 1008

A BILL TO BE ENTITLED

AN ACT

relating to suspending the employment of certain persons who provide care to individuals with an intellectual or developmental disability and who are alleged to have engaged in reportable conduct; providing an administrative penalty.

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

SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02485 to read as follows:

Sec. 531.02485. SUSPENDING EMPLOYMENT OF CERTAIN RESIDENTIAL CAREGIVERS. (a) In this section:

(1) "Consumer-directed service option" has the meaning assigned by Section 531.051.

(2) "Reportable conduct" includes:

(A) abuse or neglect that causes or may cause death or harm to an individual using the consumer-directed service option or a resident;

(B) sexual abuse of an individual using the consumer-directed service option or a resident;

(C) financial exploitation of an individual using the consumer-directed service option or a resident in an amount of \$25 or more; and

(D) emotional, verbal, or psychological abuse that causes harm to an individual using the consumer-directed service option or a resident.

1 (3) "Resident" means an individual residing in a group
2 home or other residential facility who is receiving services from a
3 residential caregiver.

4 (4) "Residential caregiver" means an individual who
5 provides, through a group home or other residential facility
6 licensed by or operated under the authority of the commission,
7 community-based residential care services:

8 (A) to not more than four individuals with an
9 intellectual or developmental disability at any time; and

10 (B) at a residence other than the home of the
11 individual providing the services.

12 (b) A Medicaid provider, including a provider providing
13 services under a Section 1915(c) waiver program, who employs or
14 contracts with a residential caregiver to provide community-based
15 residential care services through a group home or other residential
16 facility described by Subsection (a)(4), on receiving notice of the
17 reportable conduct finding, shall immediately suspend the
18 employment or contract of an individual the provider employs or
19 contracts with as a residential caregiver who the commission finds
20 has engaged in reportable conduct while the individual exhausts any
21 applicable appeals process, including informal and formal appeals,
22 pending a final decision by an administrative law judge. The
23 provider may not reinstate the individual's employment or contract
24 during the course of any appeals process.

25 (c) Notwithstanding any other law, the commission shall
26 take disciplinary action against a Medicaid provider that violates
27 Subsection (b), including imposing an administrative penalty or

1 vendor hold, terminating a contract or license, or any other
2 disciplinary action the commission determines appropriate. In
3 determining the appropriate disciplinary action to take against a
4 Medicaid provider under this subsection, the commission shall
5 consider:

6 (1) the nature and seriousness of the violation;

7 (2) the history of previous violations; and

8 (3) any other matter justice may require.

9 (d) The executive commissioner shall adopt rules necessary
10 to implement this section.

11 SECTION 2. The heading to Chapter 253, Health and Safety
12 Code, is amended to read as follows:

13 CHAPTER 253. EMPLOYEE MISCONDUCT; REGISTRY

14 SECTION 3. Section 253.001(4), Health and Safety Code, is
15 amended to read as follows:

16 (4) "Facility" means:

17 (A) a facility:

18 (i) licensed by the department; ~~or~~

19 (ii) licensed under Chapter 252; or

20 (iii) licensed under Chapter 555;

21 (B) an adult foster care provider that contracts
22 with the department;

23 (C) a home and community support services agency
24 licensed by the department under Chapter 142; or

25 (D) a prescribed pediatric extended care center
26 licensed under Chapter 248A.

27 SECTION 4. Chapter 253, Health and Safety Code, is amended

1 by adding Section 253.0025 to read as follows:

2 Sec. 253.0025. EMPLOYMENT SUSPENSION FOR FACILITY
3 EMPLOYEES ACCUSED OF COMMITTING REPORTABLE CONDUCT. A facility
4 shall suspend the employment of a facility employee who the Health
5 and Human Services Commission finds has engaged in reportable
6 conduct while the employee exhausts any applicable appeals process,
7 including informal and formal appeals and any hearing or judicial
8 review conducted in accordance with Section 253.004 or 253.005,
9 pending a final decision by an administrative law judge. The
10 facility may not reinstate the employee's position during the
11 course of any applicable appeals process.

12 SECTION 5. If before implementing any provision of this Act
13 a state agency determines that a waiver or authorization from a
14 federal agency is necessary for implementation of that provision,
15 the agency affected by the provision shall request the waiver or
16 authorization and may delay implementing that provision until the
17 waiver or authorization is granted.

18 SECTION 6. This Act takes effect September 1, 2023.