

By: Turner

H.B. No. 1008

Substitute the following for H.B. No. 1008:

By: Shaheen

C.S.H.B. No. 1008

A BILL TO BE ENTITLED

1 AN ACT
2 relating to suspending the employment of certain persons who
3 provide care to individuals with an intellectual or developmental
4 disability and who are alleged to have engaged in reportable
5 conduct.

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

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

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

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

13 (2) "Reportable conduct" includes:

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

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

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

22 (D) emotional, verbal, or psychological abuse
23 that causes harm to an individual using the consumer-directed
24 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 under Subsection (a) shall suspend the
17 employment or contract of an individual the provider employs or
18 contracts with as a residential caregiver who the commission finds
19 has engaged in reportable conduct while the individual exhausts any
20 applicable appeals process, including informal and formal appeals,
21 pending a final decision by an administrative law judge. The
22 provider may not reinstate the individual's employment or contract
23 during the course of any appeals process.

24 (c) The commission shall disenroll from participation in
25 Medicaid a Medicaid provider that violates Subsection (b).

26 (d) The executive commissioner shall adopt rules necessary
27 to implement this section.

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

3 CHAPTER 253. EMPLOYEE MISCONDUCT; REGISTRY

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

6 (4) "Facility" means:

7 (A) a facility:

8 (i) licensed by the department; ~~[or]~~

9 (ii) licensed under Chapter 252; or

10 (iii) licensed under Chapter 555;

11 (B) an adult foster care provider that contracts
12 with the department;

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

15 (D) a prescribed pediatric extended care center
16 licensed under Chapter 248A.

17 SECTION 4. Chapter 253, Health and Safety Code, is amended
18 by adding Section 253.0025 to read as follows:

19 Sec. 253.0025. EMPLOYMENT SUSPENSION FOR FACILITY
20 EMPLOYEES ACCUSED OF COMMITTING REPORTABLE CONDUCT. A facility
21 shall suspend the employment of a facility employee who the Health
22 and Human Services Commission finds has engaged in reportable
23 conduct while the employee exhausts any applicable appeals process,
24 including informal and formal appeals and any hearing or judicial
25 review conducted in accordance with Section 253.004 or 253.005,
26 pending a final decision by an administrative law judge. The
27 facility may not reinstate the employee's position during the

1 course of any applicable appeals process.

2 SECTION 5. If before implementing any provision of this Act
3 a state agency determines that a waiver or authorization from a
4 federal agency is necessary for implementation of that provision,
5 the agency affected by the provision shall request the waiver or
6 authorization and may delay implementing that provision until the
7 waiver or authorization is granted.

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