

By: Nelson

S.B. No. 162

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to sanctions imposed against certain facilities by the  
3 Texas Department of Health.

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

5 SECTION 1. The heading to Section 241.053, Health and  
6 Safety Code, is amended to read as follows:

7 Sec. 241.053. DENIAL OF APPLICATION, SUSPENSION,  
8 REVOCATION, PROBATION, OR REISSUANCE OF LICENSE.

9 SECTION 2. Section 241.053, Health and Safety Code, is  
10 amended by adding Subsections (f) and (g) to read as follows:

11 (f) If the department finds that a hospital is in repeated  
12 noncompliance under Subsection (a) but that the noncompliance does  
13 not endanger public health and safety, the department may schedule  
14 the hospital for probation rather than suspending or revoking the  
15 hospital's license. The department shall provide notice to the  
16 hospital of the probation and of the items of noncompliance not  
17 later than the 10th day before the date the probation period begins.  
18 The department shall designate a period of not less than 30 days  
19 during which the hospital will remain under probation. During the  
20 probation period, the hospital must correct the items that were in  
21 noncompliance and report the corrections to the department for  
22 approval.

23 (g) The department may suspend or revoke the license of a  
24 hospital that does not correct items that were in noncompliance or

1 that does not comply with the applicable requirements within the  
2 applicable probation period.

3 SECTION 3. The heading to Section 243.011, Health and  
4 Safety Code, is amended to read as follows:

5 Sec. 243.011. DENIAL, SUSPENSION, PROBATION, OR REVOCATION  
6 OF LICENSE.

7 SECTION 4. Section 243.011, Health and Safety Code, is  
8 amended by adding Subsections (c) and (d) to read as follows:

9 (c) If the department finds that an ambulatory surgical  
10 center is in repeated noncompliance with this chapter or rules  
11 adopted under this chapter but that the noncompliance does not  
12 endanger public health and safety, the department may schedule the  
13 center for probation rather than suspending or revoking the  
14 center's license. The department shall provide notice to the  
15 center of the probation and of the items of noncompliance not later  
16 than the 10th day before the date the probation period begins. The  
17 department shall designate a period of not less than 30 days during  
18 which the center will remain under probation. During the probation  
19 period, the center must correct the items that were in  
20 noncompliance and report the corrections to the department for  
21 approval.

22 (d) The department may suspend or revoke the license of an  
23 ambulatory surgical center that does not correct items that were in  
24 noncompliance or that does not comply with this chapter or the rules  
25 adopted under this chapter within the applicable probation period.

26 SECTION 5. The heading to Section 244.011, Health and  
27 Safety Code, is amended to read as follows:

1           Sec. 244.011. DENIAL, SUSPENSION, PROBATION, OR REVOCATION  
2 OF LICENSE.

3           SECTION 6. Section 244.011, Health and Safety Code, is  
4 amended by adding Subsections (c) and (d) to read as follows:

5           (c) If the department finds that a birthing center is in  
6 repeated noncompliance under Subsection (a) but that the  
7 noncompliance does not endanger public health and safety, the  
8 department may schedule the center for probation rather than  
9 suspending or revoking the center's license. The department shall  
10 provide notice to the center of the probation and of the items of  
11 noncompliance not later than the 10th day before the date the  
12 probation period begins. The department shall designate a period  
13 of not less than 30 days during which the center will remain under  
14 probation. During the probation period, the center must correct  
15 the items that were in noncompliance and report the corrections to  
16 the department for approval.

17           (d) The department may suspend or revoke the license of a  
18 birthing center that does not correct items that were in  
19 noncompliance or that does not comply with the applicable  
20 requirements within the applicable probation period.

21           SECTION 7. The heading to Section 245.012, Health and  
22 Safety Code, is amended to read as follows:

23           Sec. 245.012. DENIAL, SUSPENSION, PROBATION, OR REVOCATION  
24 OF LICENSE.

25           SECTION 8. Section 245.012, Health and Safety Code, is  
26 amended by adding Subsections (d) and (e) to read as follows:

27           (d) If the department finds that an abortion facility is in

1 repeated noncompliance with this chapter or rules adopted under  
2 this chapter but that the noncompliance does not endanger public  
3 health and safety, the department may schedule the facility for  
4 probation rather than suspending or revoking the facility's  
5 license. The department shall provide notice to the facility of the  
6 probation and of the items of noncompliance not later than the 10th  
7 day before the date the probation period begins. The department  
8 shall designate a period of not less than 30 days during which the  
9 facility will remain under probation. During the probation period,  
10 the facility must correct the items that were in noncompliance and  
11 report the corrections to the department for approval.

12 (e) The department may suspend or revoke the license of an  
13 abortion facility that does not correct items that were in  
14 noncompliance or that does not comply with this chapter or the rules  
15 adopted under this chapter within the applicable probation period.

16 SECTION 9. The heading to Section 248.051, Health and  
17 Safety Code, is amended to read as follows:

18 Sec. 248.051. [~~LICENSE~~] DENIAL, SUSPENSION, PROBATION, OR  
19 REVOCAION OF LICENSE.

20 SECTION 10. Section 248.051, Health and Safety Code, is  
21 amended by adding Subsections (c) and (d) to read as follows:

22 (c) If the department finds that a special care facility is  
23 in repeated noncompliance with this chapter or rules adopted under  
24 this chapter but that the noncompliance does not endanger public  
25 health and safety, the department may schedule the facility for  
26 probation rather than suspending or revoking the facility's  
27 license. The department shall provide notice to the facility of the

1 probation and of the items of noncompliance not later than the 10th  
2 day before the date the probation period begins. The department  
3 shall designate a period of not less than 30 days during which the  
4 facility will remain under probation. During the probation period,  
5 the facility must correct the items that were in noncompliance and  
6 report the corrections to the department for approval.

7 (d) The department may suspend or revoke the license of a  
8 special care facility that does not correct items that were in  
9 noncompliance or that does not comply with this chapter or the rules  
10 adopted under this chapter within the applicable probation period.

11 SECTION 11. The heading to Section 251.062, Health and  
12 Safety Code, is amended to read as follows:

13 Sec. 251.062. DENIAL, SUSPENSION, PROBATION, OR REVOCATION  
14 OF LICENSE.

15 SECTION 12. Section 251.062, Health and Safety Code, is  
16 amended by adding Subsections (c) and (d) to read as follows:

17 (c) If the department finds that an end stage renal disease  
18 facility is in repeated noncompliance with this chapter or rules  
19 adopted under this chapter but that the noncompliance does not  
20 endanger public health and safety, the department may schedule the  
21 facility for probation rather than suspending or revoking the  
22 facility's license. The department shall provide notice to the  
23 facility of the probation and of the items of noncompliance not  
24 later than the 10th day before the date the probation period begins.  
25 The department shall designate a period of not less than 30 days  
26 during which the facility will remain under probation. During the  
27 probation period, the facility must correct the items that were in

1 noncompliance and report the corrections to the department for  
2 approval.

3 (d) The department may suspend or revoke the license of an  
4 end stage renal disease facility that does not correct items that  
5 were in noncompliance or that does not comply with this chapter or  
6 the rules adopted under this chapter within the applicable  
7 probation period.

8 SECTION 13. Subchapter E, Chapter 251, Health and Safety  
9 Code, is amended by adding Section 251.0621 to read as follows:

10 Sec. 251.0621. EMERGENCY SUSPENSION. The department may  
11 issue an emergency order to suspend a license issued under this  
12 chapter if the department has reasonable cause to believe that the  
13 conduct of a license holder creates an immediate danger to the  
14 public health and safety. An emergency suspension is effective  
15 immediately without a hearing on notice to the license holder. On  
16 written request of the license holder, the department shall conduct  
17 a hearing not earlier than the 10th day or later than the 30th day  
18 after the date the hearing request is received to determine if the  
19 emergency suspension is to be continued, modified, or rescinded.  
20 The hearing and any appeal are governed by the department's rules  
21 for a contested case hearing and Chapter 2001, Government Code.

22 SECTION 14. The heading to Section 577.016, Health and  
23 Safety Code, is amended to read as follows:

24 Sec. 577.016. DENIAL, SUSPENSION, PROBATION, OR REVOCATION  
25 OF LICENSE.

26 SECTION 15. Section 577.016, Health and Safety Code, is  
27 amended by adding Subsections (f) and (g) to read as follows:

1       (f) If the department finds that a private mental hospital  
2 or mental health facility is in repeated noncompliance under  
3 Subsection (a) but that the noncompliance does not endanger public  
4 health and safety, the department may schedule the hospital or  
5 facility for probation rather than suspending or revoking the  
6 license of the hospital or facility. The department shall provide  
7 notice to the hospital or facility of the probation and of the items  
8 of noncompliance not later than the 10th day before the date the  
9 probation period begins. The department shall designate a period  
10 of not less than 30 days during which the hospital or facility will  
11 remain under probation. During the probation period, the hospital  
12 or facility must correct the items that were in noncompliance and  
13 report the corrections to the department for approval.

14       (g) The department may suspend or revoke the license of a  
15 private mental hospital or mental health facility that does not  
16 comply with the applicable requirements within the applicable  
17 probation period.

18       SECTION 16. This Act takes effect immediately if it  
19 receives a vote of two-thirds of all the members elected to each  
20 house, as provided by Section 39, Article III, Texas  
21 Constitution. If this Act does not receive the vote necessary for  
22 immediate effect, this Act takes effect September 1, 2003.