

1-1 By: Nelson S.B. No. 162  
1-2 (In the Senate - Filed January 2, 2003; January 30, 2003,  
1-3 read first time and referred to Committee on Health and Human  
1-4 Services; March 3, 2003, reported favorably by the following vote:  
1-5 Yeas 8, Nays 1; March 3, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to sanctions imposed against certain facilities by the  
1-9 Texas Department of Health.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. The heading to Section 241.053, Health and  
1-12 Safety Code, is amended to read as follows:

1-13 Sec. 241.053. DENIAL OF APPLICATION, SUSPENSION,  
1-14 REVOCATION, PROBATION, OR REISSUANCE OF LICENSE.

1-15 SECTION 2. Section 241.053, Health and Safety Code, is  
1-16 amended by adding Subsections (f) and (g) to read as follows:

1-17 (f) If the department finds that a hospital is in repeated  
1-18 noncompliance under Subsection (a) but that the noncompliance does  
1-19 not endanger public health and safety, the department may schedule  
1-20 the hospital for probation rather than suspending or revoking the  
1-21 hospital's license. The department shall provide notice to the  
1-22 hospital of the probation and of the items of noncompliance not  
1-23 later than the 10th day before the date the probation period begins.  
1-24 The department shall designate a period of not less than 30 days  
1-25 during which the hospital will remain under probation. During the  
1-26 probation period, the hospital must correct the items that were in  
1-27 noncompliance and report the corrections to the department for  
1-28 approval.

1-29 (g) The department may suspend or revoke the license of a  
1-30 hospital that does not correct items that were in noncompliance or  
1-31 that does not comply with the applicable requirements within the  
1-32 applicable probation period.

1-33 SECTION 3. The heading to Section 243.011, Health and  
1-34 Safety Code, is amended to read as follows:

1-35 Sec. 243.011. DENIAL, SUSPENSION, PROBATION, OR REVOCATION  
1-36 OF LICENSE.

1-37 SECTION 4. Section 243.011, Health and Safety Code, is  
1-38 amended by adding Subsections (c) and (d) to read as follows:

1-39 (c) If the department finds that an ambulatory surgical  
1-40 center is in repeated noncompliance with this chapter or rules  
1-41 adopted under this chapter but that the noncompliance does not  
1-42 endanger public health and safety, the department may schedule the  
1-43 center for probation rather than suspending or revoking the  
1-44 center's license. The department shall provide notice to the  
1-45 center of the probation and of the items of noncompliance not later  
1-46 than the 10th day before the date the probation period begins. The  
1-47 department shall designate a period of not less than 30 days during  
1-48 which the center will remain under probation. During the probation  
1-49 period, the center must correct the items that were in  
1-50 noncompliance and report the corrections to the department for  
1-51 approval.

1-52 (d) The department may suspend or revoke the license of an  
1-53 ambulatory surgical center that does not correct items that were in  
1-54 noncompliance or that does not comply with this chapter or the rules  
1-55 adopted under this chapter within the applicable probation period.

1-56 SECTION 5. The heading to Section 244.011, Health and  
1-57 Safety Code, is amended to read as follows:

1-58 Sec. 244.011. DENIAL, SUSPENSION, PROBATION, OR REVOCATION  
1-59 OF LICENSE.

1-60 SECTION 6. Section 244.011, Health and Safety Code, is  
1-61 amended by adding Subsections (c) and (d) to read as follows:

1-62 (c) If the department finds that a birthing center is in  
1-63 repeated noncompliance under Subsection (a) but that the  
1-64 noncompliance does not endanger public health and safety, the

2-1 department may schedule the center for probation rather than  
 2-2 suspending or revoking the center's license. The department shall  
 2-3 provide notice to the center of the probation and of the items of  
 2-4 noncompliance not later than the 10th day before the date the  
 2-5 probation period begins. The department shall designate a period  
 2-6 of not less than 30 days during which the center will remain under  
 2-7 probation. During the probation period, the center must correct  
 2-8 the items that were in noncompliance and report the corrections to  
 2-9 the department for approval.

2-10 (d) The department may suspend or revoke the license of a  
 2-11 birthing center that does not correct items that were in  
 2-12 noncompliance or that does not comply with the applicable  
 2-13 requirements within the applicable probation period.

2-14 SECTION 7. The heading to Section 245.012, Health and  
 2-15 Safety Code, is amended to read as follows:

2-16 Sec. 245.012. DENIAL, SUSPENSION, PROBATION, OR REVOCATION  
 2-17 OF LICENSE.

2-18 SECTION 8. Section 245.012, Health and Safety Code, is  
 2-19 amended by adding Subsections (d) and (e) to read as follows:

2-20 (d) If the department finds that an abortion facility is in  
 2-21 repeated noncompliance with this chapter or rules adopted under  
 2-22 this chapter but that the noncompliance does not endanger public  
 2-23 health and safety, the department may schedule the facility for  
 2-24 probation rather than suspending or revoking the facility's  
 2-25 license. The department shall provide notice to the facility of the  
 2-26 probation and of the items of noncompliance not later than the 10th  
 2-27 day before the date the probation period begins. The department  
 2-28 shall designate a period of not less than 30 days during which the  
 2-29 facility will remain under probation. During the probation period,  
 2-30 the facility must correct the items that were in noncompliance and  
 2-31 report the corrections to the department for approval.

2-32 (e) The department may suspend or revoke the license of an  
 2-33 abortion facility that does not correct items that were in  
 2-34 noncompliance or that does not comply with this chapter or the rules  
 2-35 adopted under this chapter within the applicable probation period.

2-36 SECTION 9. The heading to Section 248.051, Health and  
 2-37 Safety Code, is amended to read as follows:

2-38 Sec. 248.051. [~~LICENSE~~] DENIAL, SUSPENSION, PROBATION, OR  
 2-39 REVOCATION OF LICENSE.

2-40 SECTION 10. Section 248.051, Health and Safety Code, is  
 2-41 amended by adding Subsections (c) and (d) to read as follows:

2-42 (c) If the department finds that a special care facility is  
 2-43 in repeated noncompliance with this chapter or rules adopted under  
 2-44 this chapter but that the noncompliance does not endanger public  
 2-45 health and safety, the department may schedule the facility for  
 2-46 probation rather than suspending or revoking the facility's  
 2-47 license. The department shall provide notice to the facility of the  
 2-48 probation and of the items of noncompliance not later than the 10th  
 2-49 day before the date the probation period begins. The department  
 2-50 shall designate a period of not less than 30 days during which the  
 2-51 facility will remain under probation. During the probation period,  
 2-52 the facility must correct the items that were in noncompliance and  
 2-53 report the corrections to the department for approval.

2-54 (d) The department may suspend or revoke the license of a  
 2-55 special care facility that does not correct items that were in  
 2-56 noncompliance or that does not comply with this chapter or the rules  
 2-57 adopted under this chapter within the applicable probation period.

2-58 SECTION 11. The heading to Section 251.062, Health and  
 2-59 Safety Code, is amended to read as follows:

2-60 Sec. 251.062. DENIAL, SUSPENSION, PROBATION, OR REVOCATION  
 2-61 OF LICENSE.

2-62 SECTION 12. Section 251.062, Health and Safety Code, is  
 2-63 amended by adding Subsections (c) and (d) to read as follows:

2-64 (c) If the department finds that an end stage renal disease  
 2-65 facility is in repeated noncompliance with this chapter or rules  
 2-66 adopted under this chapter but that the noncompliance does not  
 2-67 endanger public health and safety, the department may schedule the  
 2-68 facility for probation rather than suspending or revoking the  
 2-69 facility's license. The department shall provide notice to the

3-1 facility of the probation and of the items of noncompliance not  
 3-2 later than the 10th day before the date the probation period begins.  
 3-3 The department shall designate a period of not less than 30 days  
 3-4 during which the facility will remain under probation. During the  
 3-5 probation period, the facility must correct the items that were in  
 3-6 noncompliance and report the corrections to the department for  
 3-7 approval.

3-8 (d) The department may suspend or revoke the license of an  
 3-9 end stage renal disease facility that does not correct items that  
 3-10 were in noncompliance or that does not comply with this chapter or  
 3-11 the rules adopted under this chapter within the applicable  
 3-12 probation period.

3-13 SECTION 13. Subchapter E, Chapter 251, Health and Safety  
 3-14 Code, is amended by adding Section 251.0621 to read as follows:

3-15 Sec. 251.0621. EMERGENCY SUSPENSION. The department may  
 3-16 issue an emergency order to suspend a license issued under this  
 3-17 chapter if the department has reasonable cause to believe that the  
 3-18 conduct of a license holder creates an immediate danger to the  
 3-19 public health and safety. An emergency suspension is effective  
 3-20 immediately without a hearing on notice to the license holder. On  
 3-21 written request of the license holder, the department shall conduct  
 3-22 a hearing not earlier than the 10th day or later than the 30th day  
 3-23 after the date the hearing request is received to determine if the  
 3-24 emergency suspension is to be continued, modified, or rescinded.  
 3-25 The hearing and any appeal are governed by the department's rules  
 3-26 for a contested case hearing and Chapter 2001, Government Code.

3-27 SECTION 14. The heading to Section 577.016, Health and  
 3-28 Safety Code, is amended to read as follows:

3-29 Sec. 577.016. DENIAL, SUSPENSION, PROBATION, OR REVOCATION  
 3-30 OF LICENSE.

3-31 SECTION 15. Section 577.016, Health and Safety Code, is  
 3-32 amended by adding Subsections (f) and (g) to read as follows:

3-33 (f) If the department finds that a private mental hospital  
 3-34 or mental health facility is in repeated noncompliance under  
 3-35 Subsection (a) but that the noncompliance does not endanger public  
 3-36 health and safety, the department may schedule the hospital or  
 3-37 facility for probation rather than suspending or revoking the  
 3-38 license of the hospital or facility. The department shall provide  
 3-39 notice to the hospital or facility of the probation and of the items  
 3-40 of noncompliance not later than the 10th day before the date the  
 3-41 probation period begins. The department shall designate a period  
 3-42 of not less than 30 days during which the hospital or facility will  
 3-43 remain under probation. During the probation period, the hospital  
 3-44 or facility must correct the items that were in noncompliance and  
 3-45 report the corrections to the department for approval.

3-46 (g) The department may suspend or revoke the license of a  
 3-47 private mental hospital or mental health facility that does not  
 3-48 comply with the applicable requirements within the applicable  
 3-49 probation period.

3-50 SECTION 16. This Act takes effect immediately if it  
 3-51 receives a vote of two-thirds of all the members elected to each  
 3-52 house, as provided by Section 39, Article III, Texas Constitution.  
 3-53 If this Act does not receive the vote necessary for immediate  
 3-54 effect, this Act takes effect September 1, 2003.

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