

AN ACT

relating to alternative methods of satisfying certain licensing requirements for assisted living facilities and to consumer choice for assisted living facilities.

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

SECTION 1. Subchapter B, Chapter 247, Health and Safety Code, is amended by adding Section 247.032 to read as follows:

Sec. 247.032. ACCREDITATION SURVEY TO SATISFY INSPECTION REQUIREMENTS. (a) In this section, "accreditation commission" means the Commission on Accreditation of Rehabilitation Facilities or the Joint Commission on Accreditation of Healthcare Organizations.

(b) The department shall accept an accreditation survey from an accreditation commission for an assisted living facility instead of an inspection under Section 247.023 or an annual inspection or survey conducted under the authority of Section 247.027, but only if:

(1) the accreditation commission's standards meet or exceed the requirements for licensing of the executive commissioner of the Health and Human Services Commission for an assisted living facility;

(2) the accreditation commission maintains an inspection or survey program that, for each assisted living facility, meets the department's applicable minimum standards as

1 confirmed by the executive commissioner of the Health and Human
2 Services Commission;

3 (3) the accreditation commission conducts an on-site
4 inspection or survey of the facility at least as often as required
5 by Section 247.023 or 247.027 and in accordance with the
6 department's minimum standards;

7 (4) the assisted living facility submits to the
8 department a copy of its required accreditation reports to the
9 accreditation commission in addition to the application, the fee,
10 and any report required for renewal of a license;

11 (5) the inspection or survey results are available for
12 public inspection to the same extent that the results of an
13 investigation or survey conducted under Section 247.023 or 247.027
14 are available for public inspection; and

15 (6) the department ensures that the accreditation
16 commission has taken reasonable precautions to protect the
17 confidentiality of personally identifiable information concerning
18 the residents of the assisted living facility.

19 (c) The department shall coordinate its licensing
20 activities with each of the accreditation commissions.

21 (d) Except as specifically provided by this section, this
22 section does not limit the department in performing any power or
23 duty under this chapter or inspection authorized by Section
24 247.027, including taking appropriate action relating to an
25 assisted living facility, such as suspending or revoking a license,
26 investigating an allegation of abuse, exploitation, or neglect or
27 another complaint, assessing an administrative penalty, or closing

1 the facility.

2 (e) This section does not require an assisted living
3 facility to obtain accreditation from an accreditation commission.

4 SECTION 2. Subchapter D, Chapter 247, Health and Safety
5 Code, is amended by adding Section 247.069 to read as follows:

6 Sec. 247.069. CONSUMER CHOICE FOR ASSISTED LIVING IN
7 COMMUNITY CARE PROGRAMS. The community based alternatives program
8 and the residential care programs, which provide an assisted living
9 option to consumers, shall provide a consumer the opportunity to
10 choose an assisted living facility that meets the department's
11 licensing standards relating to facility construction without
12 regard to the number of units in the facility, if:

13 (1) consumers are advised of all other community care
14 options; and

15 (2) the facility:

16 (A) has never been licensed by the department as
17 anything other than an assisted living facility;

18 (B) is not physically connected to a skilled
19 nursing facility;

20 (C) was constructed before September 1, 2005; and

21 (D) otherwise meets all other community care
22 program standards.

23 SECTION 3. (a) The Health and Human Services Commission
24 shall convene a workgroup composed of providers, consumer
25 advocates, building inspectors, fire marshals, and other
26 individuals as appropriate to study state laws relating to the
27 delivery of personal care services to four or more persons who are

1 unrelated to the proprietor in settings that are not licensed as
2 assisted living facilities, but are instead settings where one or
3 more residents receive personal care services through one or more
4 home and community support services agencies. The purpose of the
5 study is to perform a comprehensive review of the changing
6 environment in the personal care services delivery system to
7 determine if changes in state licensing and regulation are
8 warranted, and if so, what changes should be considered. The
9 workgroup shall consider, among other things:

10 (1) state licensing laws;

11 (2) the nature, extent, and differences of consumer
12 needs and preferences;

13 (3) the qualifications of persons authorized to
14 provide personal care services; and

15 (4) the settings in which personal care services are
16 provided, including the life safety codes applicable to those
17 settings.

18 (b) Not later than December 1, 2006, the workgroup, with the
19 assistance of the Health and Human Services Commission, shall
20 prepare and deliver a report and make recommendations on the issues
21 studied to the governor, the lieutenant governor, and the speaker
22 of the house of representatives.

23 (c) This section expires February 1, 2007.

24 SECTION 4. Not later than June 1, 2007, the Department of
25 Aging and Disability Services shall accept an accreditation survey
26 and implement the procedures required by Section 247.032, Health
27 and Safety Code, as added by this Act.

1 SECTION 5. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1055 passed the Senate on April 26, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 29, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1055 passed the House, with amendments, on May 25, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor