

## **BILL ANALYSIS**

Senate Research Center

S.B. 344  
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Health & Human Services  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Department of Aging and Disability Services is the state agency responsible for inspecting nursing homes, assisted living facilities, and related institutions. At the conclusion of an inspection, the inspector is required to have an exit conference with a representative of the facility, during which the inspector will review the findings of the inspection. If, after leaving the facility, the inspector discovers any additional violations while reviewing field notes or preparing the official final list, an additional exit conference is required.

S.B. 344 requires that additional exit conferences be held in person so that facility operators may become fully aware of new violations discovered after the initial visit and exit conference.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 242.0336, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

[While the statutory reference in this bill is to the Texas Department of Human Services (DHS), the following amendments affect the Department of Aging and Disability Services, as the successor agency to DHS.]

SECTION 1. Amends Section 142.009, Health and Safety Code, by amending Subsections (f) and (g) and adding Subsection (g-1), as follows:

(f) Requires the Texas Department of Human Services (DHS), at the conclusion of a survey or complaint investigation, to fully inform the person in charge of the home and community support services agency (agency) of the preliminary findings of the survey at an exit conference, and to leave a written list of those findings with the agency at that exit conference.

(g) Requires DHS to provide to the chief executive officer of the agency a specific and timely written notice of the official findings, rather than the preliminary findings, including certain information.

(g-1) Requires an additional exit conference to be held in person, and prohibits the conference from being held by telephone, e-mail, or facsimile transmission, if DHS or its representatives find additional violations during the review of field notes or in preparation of the official statement of deficiencies of an agency.

SECTION 2. Amends Section 242.0336, Health and Safety Code, by amending Subsections (a) and (c) through (g) and adding Subsections (b-1) through (b-5), (c-1), and (d-1), as follows:

(a) Provides that, for purposes of this section, a temporary change of ownership license is a temporary 90-day license issued to an applicant who proposes to become the new operator of an institution existing on the date the application is filed.

(b-1) Prohibits DHS from issuing a temporary change of ownership license before the 31st day after the date DHS has received both the application for the license and

notification, in writing, of the intent of the institution's existing license holder to transfer operation of the institution to the applicant beginning on a date specified by the applicant, except as provided by Subsection (b-2).

(b-2) Requires DHS to establish criteria under which it may waive the 30-day requirement or the notification requirement of Subsection (b-1), notwithstanding Section 242.0335 (Expedited Issuance of Change of Ownership License to Certain Current License Holders). Authorizes the criteria to include the occurrence of forcible entry and detainer, death, or divorce or other events that affect the ownership of the institution by the existing license holder.

(b-3) Authorizes DHS to place a hold on payments to the existing license holder in an amount not to exceed the average of the monthly vendor payments paid to the facility, as determined by DHS, after receipt of an application or written notification described by Subsection (b-1). Requires DHS to release funds to the previous license holder not later than the 120th day after the date on which the final reporting requirements are met and any resulting informal reviews or formal appeals are resolved. Authorizes DHS to reduce the amount of funds released to the previous license holder by the amount owed to DHS or the Health and Human Services Commission (HHSC) under the previous license holder's Medicaid contract or license.

(b-4) Requires the executive commissioner of HHSC (executive commissioner) to adopt rules for DHS that define a change of ownership. Requires the executive commissioner to consider certain factors set forth in this subsection in adopting the rules.

(b-5) Authorizes the executive commissioner to adopt rules for DHS that require a license holder to notify DHS of any change, including a change that is not a change of ownership, as that term is defined by rules adopted under Subsection (b-4). Provides that nothing in this section prevents DHS from acting under Section 242.061 (Denial, Suspension, or Revocation of License) or any other provision of this chapter (Convalescent and Nursing Homes and Related Institutions).

(c) Requires DHS to issue or deny a temporary change of ownership license not later than the 31st day, rather than 30th day, after the date of receipt of the completed application. Provides that the effective date of a temporary change of ownership license issued under this section is the date requested in the application unless certain conditions are met.

(c-1) Provides that the effective date of the temporary change of ownership license is the 31st day after the date DHS receives both the application and the notification if DHS does not receive the application and written notification required by Subsection (b-1) at least 30 days before the effective date requested in the application and Subsection (b-2) does not apply.

(d) Makes conforming changes.

(d-1) Requires DHS to establish criteria under which a desk review of the facility's compliance with applicable requirements may be substituted for the on-site inspection or survey under Subsection (d).

(e), (f), and (g) Makes conforming and nonsubstantive changes.

SECTION 3. Amends Sections 242.0445(b) and (c), Health and Safety Code, as follows:

(b) Requires an additional exit conference to be held in person, and prohibits said conference from being held by telephone, e-mail, or facsimile transmission, if DHS or its representatives find additional violations during the review of field notes or in preparation of the official final list at the conclusion of an inspection, survey, or investigation stemming from an inspection, announced or unannounced, of a convalescent or nursing home, or any related institution.

(c) Requires the convalescent or nursing home to submit a plan of correction to the regional director with supervisory authority over the inspector not later than the 10th working day after the date of the facility's receipt of the final official statement of violations, rather than the final statement of violations

SECTION 4. Amends Section 247.0271, Health and Safety Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Makes a conforming change.

(d) Requires the assisted living facility to submit a plan of correction to the regional director with supervisory authority over the inspector not later than the 10th working day after the date of the facility's receipt of the final official statement of violations.

SECTION 5. Amends Section 247.050, Health and Safety Code, by adding Subsection (d) to require DHS to permanently retain at least one copy or one electronic source of information pertaining to complaints and investigations of unlicensed assisted living facilities used to maintain a registry as required under Subsection (a)(1) and used to prepare a report under Subsection (a)(2).

SECTION 6. Amends Sections 252.044(b) and (c), Health and Safety Code, as follows:

(b) Makes a conforming change.

(c) Requires the intermediate care facility for the mentally retarded to submit a plan of correction to the regional director with supervisory authority over the inspector not later than the 10th working day after the date of the facility's receipt of the final official statement of violations, rather than the final statement of violations.

SECTION 7. (a) Requires the executive commissioner to adopt the rules required by Section 242.0336, Health and Safety Code, as amended by this Act, as soon as practicable after its effective date.

(b) Makes application of Section 242.0336, Health and Safety Code, as amended by this Act, prospective.

SECTION 8. Effective date: September 1, 2007.