

## **BILL ANALYSIS**

S.B. 806  
By: Nelson  
Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, nursing facility administrators are not subject to enforcement actions for committing certain criminal offenses which would bar other nursing facility personnel from employment.

S.B. 806 prohibits certain criminal offenders from being licensed or employed as a nursing facility administrator.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Board of Human Services (board) is transferred to the executive commissioner of the Health and Human Services Commission (executive commissioner) in SECTION 2 (Section 242.313, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Texas Department of Human Services is transferred to the executive commissioner in SECTION 2 (Section 242.313, Health and Safety Code), SECTION 3 (Section 241.316, Health and Safety Code), and SECTION 5 (Section 242.321, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the board is modified in SECTION 4 (Section 242.318, Health and Safety Code) of this bill.

### **ANALYSIS**

SECTION 1. Amends Section 242.002, Health and Safety Code, by amending Subdivision (4) and adding Subdivision (5-a), to redefine "department" and define "executive commissioner."

SECTION 2. Amends Sections 242.313(a), (c), (d), and (e), Health and Safety Code, as added by Section 1.01, Chapter 1280 (S.B. 84), Acts of the 75th Legislature, Regular Session, 1997, as follows:

(a) Authorizes the Department of Aging and Disability Services (DADS) to revoke, suspend, or refuse to renew a nursing facility administrator's license, assess an administrative penalty, issue a written reprimand, require participation in continuing education, or place an administrator on probation, after due notice and the opportunity for a hearing, on proof that the license holder has been convicted in a court of competent jurisdiction of an offense listed in Section 250.006 (Convictions Barring Employment), Health and Safety Code. Makes nonsubstantive changes.

(c) Entitles a license holder to a hearing in accordance with rules adopted, rather than rules promulgated, by the executive commissioner of the Health and Human Services Commission (executive commissioner), rather than the Texas Board of Human Services (board), before the sanction is imposed under this section.

(d) Makes a conforming change. Deletes existing text that requires DADS to use the schedule for any sanction imposed, rather than as the result of a hearing conducted in accordance with the rules.

(e) Requires the executive commissioner, rather than DADS, by rule to establish criteria to determine whether deficiencies from a facility's survey warrant action against an administrator.

SECTION 3. Amends Sections 242.316(c) and (d), Health and Safety Code, as added by Section 1.01, Chapter 1280 (S.B. 84), Acts of the 75th Legislature, Regular Session, 1997, as follows:

(c) Requires DADS, if the person accepts the determination and the penalty recommended by DADS, or if the person fails to timely respond to the notice, to impose the recommended penalty.

(d) Requires DADS if a person requests a hearing, rather than if a person requests a hearing or fails to respond timely to a notice, to set a hearing and give notice of the hearing to the person. Requires the hearing to be held in accordance with the rules on contested case hearings adopted by the executive commissioner, rather than DADS rules.

SECTION 4. Amends Section 242.318(a) and (d), Health and Safety Code, as added by Section 2.01, Chapter 1280 (S.B. 84), Acts of the 75th Legislature, Regular Session, 1997as follows:

(a) Authorizes the board to revoke, suspend, or refuse to renew a nursing facility administrator's license, assess an administrative penalty, issue a written reprimand, require participation in continuing education, or place an administrator on probation, after due notice and the opportunity for a hearing, on proof that the license holder has been convicted in a court of competent jurisdiction of an offense listed in Section 250.006. Makes nonsubstantive changes.

(d) Requires the board by rule to adopt a broad schedule of sanctions for violations under this subchapter. Deletes existing text that requires the board to use the schedule for any sanction imposed, as the result of a hearing conducted in accordance with the rules.

SECTION 5. Amends Sections 242.321(c) and (d), Health and Safety Code, as added by Section 2.01, Chapter 1280 (S.B. 84), Acts of the 75th Legislature, Regular Session, 1997, as follows:

(c) Requires DADS, if the person accepts the determination and the penalty recommended by DADS, or if the person fails to timely respond to the notice, to impose the recommended penalty.

(d) Requires DADS, if the person requests a hearing, rather than if the person requests a hearing or fails to respond timely to a notice, to set a hearing and give notice of the hearing to the person. Requires that the hearing be held in accordance with the rules on contested case hearings adopted by the executive commissioner, rather than DADS rules.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: upon passage or September 1, 2009.

**EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2009.