

1-1 By: Menendez, et al. (Senate Sponsor - Shapleigh) H.B. No. 216
1-2 (In the Senate - Received from the House May 4, 2009;
1-3 May 6, 2009, read first time and referred to Committee on Health
1-4 and Human Services; May 15, 2009, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 9,
1-6 Nays 0; May 15, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 216 By: Shapleigh

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation of certain boarding houses and assisted
1-11 living facilities; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle B, Title 4, Health and Safety Code, is
1-14 amended by adding Chapter 254 to read as follows:

1-15 CHAPTER 254. BOARDING HOUSES

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 Sec. 254.001. DEFINITIONS. In this chapter:

1-18 (1) "Boarding house" means an establishment that:

1-19 (A) has rooms for rent to four or more persons who
1-20 are persons with disabilities or elderly persons and who are
1-21 unrelated to the owner by blood or consanguinity;

1-22 (B) provides to the persons described by
1-23 Paragraph (A) community meals, light housework, meal preparation,
1-24 transportation, grocery shopping, money management, or laundry
1-25 services; and

1-26 (C) does not provide to the persons described by
1-27 Paragraph (A) personal care services, as that term is defined by
1-28 Section 247.002.

1-29 (2) "Department" means the Department of State Health
1-30 Services.

1-31 (3) "Executive commissioner" means the executive
1-32 commissioner of the Health and Human Services Commission.

1-33 (4) "Resident" means an individual who is residing in
1-34 a boarding house that holds a certificate of registration under
1-35 this chapter.

1-36 Sec. 254.002. EXEMPTIONS. This chapter does not apply to:

1-37 (1) a facility that is required to be licensed under
1-38 Chapter 142, 242, 246, 247, or 252;

1-39 (2) a facility that is exempt from licensing under
1-40 Section 142.003(a)(19) or 247.004(4);

1-41 (3) a hotel as defined by Section 156.001, Tax Code;

1-42 (4) a retirement community;

1-43 (5) a monastery or convent;

1-44 (6) a child-care facility;

1-45 (7) a facility that provides shelter to victims of
1-46 domestic violence; or

1-47 (8) a sorority or fraternity house or other dormitory
1-48 affiliated with an institution of higher education.

1-49 Sec. 254.003. RULES GENERALLY. The executive commissioner
1-50 shall adopt rules related to the administration and implementation
1-51 of this chapter.

1-52 Sec. 254.004. CONSULTATION AND COORDINATION. (a) The
1-53 department may cooperate with local public health officials of a
1-54 municipality or county in carrying out this chapter and may
1-55 delegate to those officials the power to make inspections and
1-56 recommendations to the department under this chapter.

1-57 (b) The department may coordinate its personnel and
1-58 facilities with a local agency of a municipality or county and may
1-59 provide advice to the municipality or county if the municipality or
1-60 county supplements the state regulatory program established under
1-61 this chapter with additional rules required to meet local
1-62 conditions.

1-63 [Sections 254.005-254.050 reserved for expansion]

SUBCHAPTER B. REGISTRATION, FEES, AND INSPECTIONS

Sec. 254.051. REGISTRATION REQUIRED. A person, acting severally or jointly with any other person, may not establish, conduct, or maintain in this state a boarding house unless the person holds a certificate of registration issued under this chapter.

Sec. 254.052. APPLICATION. (a) A person may apply for registration under this chapter by submitting an application to the department on a form prescribed by the department and the required registration fee.

(b) The application must contain information that the department requires. The department may require affirmative evidence of ability to comply with the standards and rules adopted under this chapter.

Sec. 254.053. ISSUANCE AND RENEWAL OF CERTIFICATE OF REGISTRATION. (a) After receiving the application, the department shall issue a certificate of registration to the applicant if, after inspection and investigation, it finds that the applicant and boarding house meet the requirements established under this chapter and department rule.

(b) The department may issue a certificate of registration only for:

(1) the premises and persons named in the application; and

(2) the maximum number of residents specified in the application.

(c) A certificate of registration may not be transferred or assigned.

(d) A person may renew a certificate of registration by:

(1) submitting a renewal application on the form prescribed by the department; and

(2) paying the renewal fee.

(e) The executive commissioner by rule shall define specific, appropriate, and objective criteria on which the department may deny an initial certificate of registration application or certificate of registration renewal or revoke a certificate of registration.

Sec. 254.054. FEES. (a) The executive commissioner by rule may adopt a fee for a certificate of registration issued under this chapter in an amount reasonable and necessary to recover the costs of administering this chapter.

(b) The certificate of registration fee must be paid with each application for an initial certificate of registration or for a renewal or change of ownership of a certificate of registration.

(c) The executive commissioner may adopt an additional fee for the approval of an increase in number of residents.

Sec. 254.055. REGISTRY. The department shall establish a registry of boarding houses registered under this chapter and make the registry available to the public, certificate of registration holders, and appropriate state agencies.

Sec. 254.056. MINIMUM STANDARDS. The executive commissioner may adopt, publish, and enforce minimum standards relating to:

(1) the construction or remodeling of a boarding house, including plumbing, heating, lighting, ventilation, and other housing conditions, to ensure the residents' health, safety, comfort, and protection from fire hazard;

(2) sanitary and related conditions in a boarding house and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, to ensure the residents' health, safety, and comfort;

(3) equipment essential to the residents' health and welfare;

(4) the reporting and investigation of injuries, incidents, and unusual accidents and the establishment of other policies and procedures necessary to ensure the residents' safety;

(5) policies and procedures for the control of communicable diseases;

(6) specialized nutrition support;

3-1 (7) requirements for in-service education of the
 3-2 operator and each employee who has any contact with residents;
 3-3 (8) the regulation of the number of employees and the
 3-4 qualifications of the operator and each employee responsible for
 3-5 providing any part of a service to residents; and
 3-6 (9) the quality of life.

3-7 Sec. 254.057. POSTING. Each boarding house shall
 3-8 prominently and conspicuously post for display in a public area of
 3-9 the boarding house that is readily available to residents, the
 3-10 operator, any employees, and visitors:

3-11 (1) the certificate of registration issued under this
 3-12 chapter;

3-13 (2) a sign prescribed by the executive commissioner
 3-14 that specifies complaint procedures established under this chapter
 3-15 or rules adopted under this chapter and that specifies how
 3-16 complaints may be registered with the department;

3-17 (3) a notice in a form prescribed by the executive
 3-18 commissioner stating that inspection and related reports are
 3-19 available at the boarding house for public inspection and providing
 3-20 the department's toll-free telephone number that may be used to
 3-21 obtain information concerning the boarding house; and

3-22 (4) a concise summary of the most recent inspection
 3-23 report relating to the boarding house.

3-24 Sec. 254.058. INSPECTIONS. (a) The department or the
 3-25 department's representative may make any inspection, survey, or
 3-26 investigation that it considers necessary and may enter the
 3-27 premises of a boarding house at reasonable times to make an
 3-28 inspection, survey, or investigation in accordance with rules of
 3-29 the executive commissioner.

3-30 (b) The department is entitled to access to books, records,
 3-31 and other documents maintained by or on behalf of a boarding house
 3-32 to the extent necessary to enforce this chapter and the rules
 3-33 adopted under this chapter.

3-34 (c) A certificate of registration holder or an applicant for
 3-35 a certificate of registration is considered to have consented to
 3-36 entry and inspection of the boarding house by a representative of
 3-37 the department in accordance with this chapter.

3-38 (d) The department shall establish procedures to preserve
 3-39 all relevant evidence of conditions the department finds during an
 3-40 inspection, survey, or investigation that the department
 3-41 reasonably believes threaten the health and safety of a resident.
 3-42 The procedures may include photography or photocopying of relevant
 3-43 documents, such as a certificate of registration holder's notes,
 3-44 for use in any legal proceeding.

3-45 Sec. 254.059. UNANNOUNCED INSPECTIONS. (a) Each
 3-46 registration period, the department shall conduct at least one
 3-47 unannounced inspection of each boarding house.

3-48 (b) The department may require additional inspections.

3-49 Sec. 254.060. EDUCATION AND OUTREACH. The department and
 3-50 the Health and Human Services Commission shall provide to the owner
 3-51 or operator of a boarding house information on:

3-52 (1) the circumstances, including the provision of
 3-53 personal care, that require the facility to be licensed under
 3-54 Chapter 247 and the requirements for licensing under that chapter;

3-55 (2) the services the boarding house may provide;

3-56 (3) registration under this chapter; and

3-57 (4) health and safety requirements and staff training
 3-58 requirements.

3-59 Sec. 254.061. REPORTING VIOLATIONS. (a) The department or
 3-60 the department's representative conducting an inspection or
 3-61 investigation under this chapter shall:

3-62 (1) list each violation of a law or rule on a form
 3-63 designed by the department for inspections; and

3-64 (2) identify the specific law or rule the boarding
 3-65 house violates.

3-66 (b) At the conclusion of an inspection or investigation
 3-67 under this chapter, the department or the department's
 3-68 representative conducting the inspection or investigation shall
 3-69 discuss the violations with the boarding house's management in an

4-1 exit conference. The department or the department's representative
 4-2 shall leave a written list of the violations with the boarding house
 4-3 and the person designated by the boarding house to receive notice of
 4-4 the imposition of an administrative penalty at the time of the exit
 4-5 conference. If the department or the department's representative
 4-6 discovers any additional violations during the review of field
 4-7 notes or preparation of the official final list, the department or
 4-8 the department's representative shall give the boarding house an
 4-9 additional exit conference regarding the additional violations.

4-10 (c) The boarding house shall submit a plan to correct the
 4-11 violations to the department not later than the 10th day after the
 4-12 date the boarding house receives the final statement of violations.

4-13 Sec. 254.062. REPORTING OF ABUSE, NEGLIGENCE, OR EXPLOITATION.

4-14 (a) A person, including an owner, operator, or employee of a
 4-15 boarding house, who has cause to believe that a resident has been
 4-16 abused, neglected, or exploited or may be adversely affected by
 4-17 abuse, neglect, or exploitation caused by another person shall
 4-18 report the abuse, neglect, or exploitation as required by Section
 4-19 48.051, Human Resources Code, or other applicable law.

4-20 (b) Each boarding house shall require each employee of the
 4-21 boarding house, as a condition of employment with the boarding
 4-22 house, to sign a statement that the employee realizes that the
 4-23 employee may be criminally liable under Section 48.052, Human
 4-24 Resources Code, for failure to report abuse, neglect, or
 4-25 exploitation.

4-26 Sec. 254.063. NOTIFICATION OF CLOSURE. (a) A boarding
 4-27 house that is closing temporarily or permanently, voluntarily or
 4-28 involuntarily, shall notify the residents of the closing, if
 4-29 applicable, within a reasonable time before the boarding house
 4-30 closes.

4-31 (b) If the department orders a boarding house to close or
 4-32 the boarding house's closure is in any other way involuntary, the
 4-33 boarding house shall make the notification, orally or in writing,
 4-34 immediately on receiving notice of the closing.

4-35 (c) If the boarding house's closure is voluntary, the
 4-36 boarding house shall make the notification not later than one week
 4-37 after the date on which the decision to close is made.

4-38 [Sections 254.064-254.100 reserved for expansion]

4-39 SUBCHAPTER C. GENERAL ENFORCEMENT

4-40 Sec. 254.101. DENIAL, SUSPENSION, OR REVOCATION OF
 4-41 CERTIFICATE OF REGISTRATION. (a) The department, after providing
 4-42 notice and opportunity for a hearing to an applicant for a
 4-43 certificate of registration or a certificate of registration
 4-44 holder, may deny, suspend, or revoke a certificate of registration
 4-45 if the department finds that the applicant or certificate holder
 4-46 has substantially failed to comply with the requirements
 4-47 established under this chapter.

4-48 (b) The status of an applicant for a certificate of
 4-49 registration or of a certificate of registration holder is
 4-50 preserved until final disposition of the contested matter, except
 4-51 as the court having jurisdiction of a judicial review of the matter
 4-52 may order in the public interest for the welfare and safety of the
 4-53 residents.

4-54 Sec. 254.102. EMERGENCY SUSPENSION OR CLOSING ORDER.

4-55 (a) The department shall suspend a boarding house's certificate of
 4-56 registration or order an immediate closing of part of the boarding
 4-57 house if:

4-58 (1) the department finds the boarding house is
 4-59 operating in violation of the standards prescribed by this chapter;
 4-60 and

4-61 (2) the violation creates an immediate threat to the
 4-62 health and safety of a resident.

4-63 (b) The executive commissioner by rule shall provide for the
 4-64 placement of residents during the boarding house's suspension or
 4-65 closing to ensure their health and safety.

4-66 (c) An order suspending a certificate of registration or
 4-67 closing a part of a boarding house under this section is immediately
 4-68 effective on the date on which the certificate of registration
 4-69 holder receives written notice or a later date specified in the

5-1 order.

5-2 (d) An order suspending a certificate of registration or
5-3 ordering an immediate closing of a part of a boarding house is valid
5-4 for 10 days after the effective date of the order.

5-5 Sec. 254.103. INJUNCTION. (a) The department may petition
5-6 a district court for a temporary restraining order to restrain a
5-7 person from continuing a violation of the standards prescribed by
5-8 this chapter if the department finds that the violation creates an
5-9 immediate threat to the health and safety of the boarding house's
5-10 residents.

5-11 (b) A district court, on petition of the department, may by
5-12 injunction:

5-13 (1) prohibit a person from continuing a violation of
5-14 the standards or registration requirements prescribed by this
5-15 chapter;

5-16 (2) restrain or prevent the establishment, conduct,
5-17 management, or operation of a boarding house without a certificate
5-18 of registration issued under this chapter; or

5-19 (3) grant the injunctive relief warranted by the facts
5-20 on a finding by the court that a person is violating the standards
5-21 or registration requirements prescribed by this chapter.

5-22 (c) The attorney general, on request by the department,
5-23 shall bring and conduct on behalf of the state a suit authorized by
5-24 this section.

5-25 (d) A suit for a temporary restraining order or other
5-26 injunctive relief must be brought in the county in which the alleged
5-27 violation occurs or in Travis County.

5-28 Sec. 254.104. CRIMINAL PENALTY. (a) In this section,
5-29 "immediate threat to the health or safety" means a situation in
5-30 which there is a high probability that serious harm or injury to a
5-31 resident could occur at any time or already has occurred and may
5-32 occur again if the resident is not protected from the harm or if the
5-33 threat is not removed.

5-34 (b) A person who knowingly operates a boarding house that is
5-35 required to be registered under this chapter in a manner that
5-36 creates an immediate threat to the health or safety of a resident of
5-37 the boarding house commits an offense.

5-38 (c) An offense under this section is a Class B misdemeanor.

5-39 Sec. 254.105. CIVIL PENALTY. (a) A person who violates
5-40 this chapter or a rule adopted or order issued under this chapter is
5-41 liable for a civil penalty of not less than \$200 for each violation
5-42 if the department determines the violation threatens the health or
5-43 safety of a resident.

5-44 (b) Each day of a violation constitutes a separate ground
5-45 for recovery.

5-46 (c) On request of the department, the attorney general may
5-47 institute an action in a district court to collect a civil penalty
5-48 under this section. Any amount collected shall be remitted to the
5-49 comptroller for deposit in the general revenue fund.

5-50 Sec. 254.106. ADMINISTRATIVE PENALTY. (a) The department
5-51 may impose an administrative penalty against a boarding house that
5-52 violates this chapter or a rule adopted or order issued under this
5-53 chapter.

5-54 (b) The penalty for a boarding house may not be less than
5-55 \$200 for each violation. Each day a violation occurs is a separate
5-56 violation for purposes of imposing a penalty.

5-57 (c) The executive commissioner by rule shall specify each
5-58 violation for which an administrative penalty may be assessed. In
5-59 determining which violations warrant penalties, the department
5-60 shall consider:

5-61 (1) the seriousness of the violation, including the
5-62 nature, circumstances, extent, and gravity of the violation and the
5-63 hazard of the violation to the health or safety of residents; and

5-64 (2) whether the affected boarding house had identified
5-65 the violation as a part of its internal quality assurance process
5-66 and had made appropriate progress on correction.

5-67 (d) The executive commissioner by rule shall establish a
5-68 specific and detailed schedule of appropriate and graduated
5-69 penalties for each violation based on:

6-1 (1) the seriousness of the violation, including the
 6-2 nature, circumstances, extent, and gravity of the violation and the
 6-3 hazard of the violation to the health or safety of residents;

6-4 (2) the history of previous violations;

6-5 (3) whether the affected boarding house had identified
 6-6 the violation as a part of its internal quality assurance process
 6-7 and had made appropriate progress on correction;

6-8 (4) the amount necessary to deter future violations;

6-9 (5) efforts made to correct the violation;

6-10 (6) the size of the boarding house; and

6-11 (7) any other matters that justice may require.

6-12 (e) The executive commissioner by rule shall provide the
 6-13 boarding house with a reasonable period of time, not less than 45
 6-14 days, following the first day of a violation to correct the
 6-15 violation before assessing an administrative penalty if a plan of
 6-16 correction has been implemented. This subsection does not apply to
 6-17 a violation that the department determines has resulted in serious
 6-18 harm to or the death of a resident or constitutes a serious threat
 6-19 to the health or safety of a resident.

6-20 (f) The department may not assess an administrative penalty
 6-21 for a minor violation if the person corrects the violation not later
 6-22 than the 46th day after the date the person receives notice of the
 6-23 violation.

6-24 (g) The department shall establish a system to ensure
 6-25 standard and consistent application of penalties regardless of the
 6-26 boarding house location.

6-27 (h) All proceedings for the assessment of an administrative
 6-28 penalty under this chapter are subject to Chapter 2001, Government
 6-29 Code.

6-30 (i) Notwithstanding any other provision of this section, an
 6-31 administrative penalty ceases to be incurred on the date a
 6-32 violation is corrected. The administrative penalty ceases to be
 6-33 incurred only if the boarding house:

6-34 (1) notifies the department in writing of the
 6-35 correction of the violation and of the date the violation was
 6-36 corrected; and

6-37 (2) shows later that the violation was corrected.

6-38 (j) Rules adopted under this section shall include
 6-39 specific, appropriate, and objective criteria that describe the
 6-40 scope and severity of a violation that results in a recommendation
 6-41 for each specific penalty.

6-42 (k) The imposition and collection of an administrative
 6-43 penalty imposed under this section shall be conducted in the manner
 6-44 provided by Sections 252.0651, 252.066, 252.067, 252.068, and
 6-45 252.070.

6-46 SECTION 2. Section 247.004, Health and Safety Code, is
 6-47 amended to read as follows:

6-48 Sec. 247.004. EXEMPTIONS. This chapter does not apply to:

6-49 (1) a boarding house registered under Chapter 254
 6-50 [~~facility that has rooms for rent and that may offer community~~
 6-51 ~~meals, light housework, meal preparation, transportation, grocery~~
 6-52 ~~shopping, money management, or laundry services but that does not~~
 6-53 ~~provide personal care services];~~

6-54 (2) an establishment conducted by or for the adherents
 6-55 of the Church of Christ, Scientist, for the purpose of providing
 6-56 facilities for the care or treatment of the sick who depend
 6-57 exclusively on prayer or spiritual means for healing without the
 6-58 use of any drug or material remedy if the establishment complies
 6-59 with local safety, sanitary, and quarantine ordinances and
 6-60 regulations;

6-61 (3) a facility conducted by or for the adherents of a
 6-62 qualified religious society classified as a tax-exempt
 6-63 organization under an Internal Revenue Service group exemption
 6-64 ruling for the purpose of providing personal care services without
 6-65 charge solely for the society's professed members or ministers in
 6-66 retirement, if the facility complies with local safety, sanitation,
 6-67 and quarantine ordinances and regulations; or

6-68 (4) a facility that provides personal care services
 6-69 only to persons enrolled in a program that is funded in whole or in

7-1 part by the [~~Texas~~] Department of State [~~Mental~~] Health Services or
7-2 the Department of Aging and Disability Services [~~and Mental~~
7-3 ~~Retardation~~] and that is monitored by the [~~Texas~~] Department of
7-4 State [~~Mental~~] Health Services or the Department of Aging and
7-5 Disability Services [~~and Mental Retardation~~] or its designated
7-6 local authority, as applicable, in accordance with standards set by
7-7 the applicable department [~~Texas Department of Mental Health and~~
7-8 ~~Mental Retardation~~].

7-9 SECTION 3. Section 247.025, Health and Safety Code, is
7-10 amended to read as follows:

7-11 Sec. 247.025. ADOPTION OF RULES. The executive
7-12 commissioner of the Health and Human Services Commission [~~board~~]
7-13 shall adopt rules necessary to implement this chapter, including:

7-14 (1) requirements for the issuance, renewal, denial,
7-15 suspension, and revocation of a license to operate an assisted
7-16 living facility; and

7-17 (2) rules to require local mental health authorities
7-18 to work with clients to secure safe, appropriate housing to assist
7-19 clients in achieving their treatment goals by directing clients to
7-20 available assisted living facilities licensed under this chapter
7-21 and other establishments that are not required to be licensed under
7-22 this chapter that may be an appropriate referral option.

7-23 SECTION 4. Section 247.031, Health and Safety Code, is
7-24 amended to read as follows:

7-25 Sec. 247.031. MUNICIPAL ENFORCEMENT. (a) The governing
7-26 body of a municipality by ordinance may:

7-27 (1) prohibit a person who does not hold a license
7-28 issued under this chapter from establishing or operating an
7-29 assisted living facility within the municipality; and

7-30 (2) establish a procedure for emergency closure of a
7-31 facility in circumstances in which:

7-32 (A) the facility is established or operating in
7-33 violation of Section 247.021; and

7-34 (B) the continued operation of the facility
7-35 creates an immediate threat to the health and safety of a resident
7-36 of the facility.

7-37 (b) The department shall:

7-38 (1) develop a communications plan, which may include
7-39 regional meetings, to educate municipalities about this section;
7-40 and

7-41 (2) create outreach and training materials and
7-42 distribute the materials in accordance with the communications
7-43 plan.

7-44 SECTION 5. Chapter 247, Health and Safety Code, is amended
7-45 by adding Subchapter E to read as follows:

7-46 SUBCHAPTER E. CRIMINAL PENALTY

7-47 Sec. 247.101. CRIMINAL PENALTY. (a) In this section,
7-48 "immediate threat to the health or safety" means a situation in
7-49 which there is a high probability that serious harm or injury to a
7-50 resident could occur at any time or already has occurred and may
7-51 occur again if the resident is not protected from the harm or if the
7-52 threat is not removed.

7-53 (b) A person who knowingly operates without a license an
7-54 assisted living facility that is required to be licensed under this
7-55 chapter in a manner that creates an immediate threat to the health
7-56 or safety of a resident of the facility commits an offense.

7-57 (c) An offense under this section is a Class B misdemeanor.

7-58 SECTION 6. The heading to Title 4, Health and Safety Code,
7-59 is amended to read as follows:

7-60 TITLE 4. CERTAIN RESIDENTIAL AND HEALTH FACILITIES

7-61 SECTION 7. The heading to Subtitle B, Title 4, Health and
7-62 Safety Code, is amended to read as follows:

7-63 SUBTITLE B. LICENSING OF [~~HEALTH~~] FACILITIES

7-64 SECTION 8. (a) Not later than October 1, 2009, the Health
7-65 and Human Services Commission, or a health and human services
7-66 agency designated by the commission, shall establish a stakeholder
7-67 workgroup to solicit input and make recommendations for revision of
7-68 the existing rules on Type E facilities as defined by rules of the
7-69 Department of Aging and Disability Services. Members of the

- 8-1 workgroup must include:
- 8-2 (1) currently licensed Type E facility operators;
- 8-3 (2) unlicensed boarding house operators;
- 8-4 (3) local mental health authority staff;
- 8-5 (4) area agencies on aging representatives;
- 8-6 (5) regional staff of the Department of Aging and
- 8-7 Disability Services;
- 8-8 (6) staff of the Department of State Health Services
- 8-9 with responsibility for mental health services; and
- 8-10 (7) mental health advocates.
- 8-11 (b) The workgroup shall:
- 8-12 (1) examine basic supervision, resident well-being,
- 8-13 nutritional quality, and medication monitoring related to Type E
- 8-14 facilities;
- 8-15 (2) recommend rules to encourage more boarding house
- 8-16 operators to be licensed as Type E facilities; and
- 8-17 (3) examine regulatory oversight of Type E facilities
- 8-18 and recommend either the Department of Aging and Disability
- 8-19 Services or the Department of State Health Services to regulate
- 8-20 facilities considering the purpose for which the Type E
- 8-21 classification was created, the services currently regulated by
- 8-22 each agency, and cost.
- 8-23 (c) Not later than January 1, 2011, based on the
- 8-24 recommendations of the workgroup, the executive commissioner of the
- 8-25 Health and Human Services Commission shall adopt rules relating to
- 8-26 the licensing of Type E assisted living facilities.
- 8-27 (d) Not later than March 1, 2011, the Health and Human
- 8-28 Services Commission, or a health and human services agency
- 8-29 designated by the commission, shall:
- 8-30 (1) provide copies of the rules adopted under
- 8-31 Subsection (c) of this section to the members of the workgroup and
- 8-32 other interested parties;
- 8-33 (2) provide training and information to regional state
- 8-34 regulatory staff and local staff on the adopted rules; and
- 8-35 (3) provide information on the adopted rules to
- 8-36 boarding houses, state and regional staff employed by the
- 8-37 Department of Aging and Disability Services, state and regional
- 8-38 staff employed by the Department of State Health Services, and
- 8-39 local mental health authorities.
- 8-40 SECTION 9. Not later than September 1, 2010, the Health and
- 8-41 Human Services Commission shall evaluate the Section 1915(i) state
- 8-42 plan amendment option of the Social Security Act (42 U.S.C. Section
- 8-43 1396n(i)) available under the Deficit Reduction Act of 2005 (Pub.
- 8-44 L. No. 109-171) and the waiver program under Section 1915(c),
- 8-45 Social Security Act (42 U.S.C. Section 1396n(c)), to determine if
- 8-46 either would provide a feasible means for funding personal care
- 8-47 services for people with mental illness under the state Medicaid
- 8-48 program.
- 8-49 SECTION 10. (a) Not later than January 1, 2011, the
- 8-50 executive commissioner of the Health and Human Services Commission
- 8-51 shall adopt the rules necessary to implement Chapter 254, Health
- 8-52 and Safety Code, as added by this Act, and Chapter 247, Health and
- 8-53 Safety Code, as amended by this Act.
- 8-54 (b) Not later than June 1, 2011, the Department of State
- 8-55 Health Services shall develop the registry and provide the
- 8-56 education and outreach as required under Chapter 254, Health and
- 8-57 Safety Code, as added by this Act.
- 8-58 (c) Notwithstanding Chapter 254, Health and Safety Code, as
- 8-59 added by this Act, a person who owns or operates a boarding house is
- 8-60 not required to hold a certificate of registration on the effective
- 8-61 date of this Act but must hold a certificate of registration under
- 8-62 that chapter not later than September 1, 2011.
- 8-63 SECTION 11. This Act does not make an appropriation. A
- 8-64 provision in this Act that creates a new governmental program,
- 8-65 creates a new entitlement, or imposes a new duty on a governmental
- 8-66 entity is not mandatory during a fiscal period for which the
- 8-67 legislature has not made a specific appropriation to implement the
- 8-68 provision.
- 8-69 SECTION 12. (a) Except as provided by Subsection (b) of

9-1 this section, this Act takes effect September 1, 2009.
9-2 (b) Subchapter C, Chapter 254, Health and Safety Code, as
9-3 added by this Act, takes effect September 1, 2011.

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