

AN ACT

relating to licensing of certain health facilities.

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

SECTION 1. Section 242.0021, Health and Safety Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding any other provision of this section, for purposes of this chapter, a controlling person of an institution or of a management company or other business entity described by Subsection (b)(1) that is a publicly traded corporation or is controlled by a publicly traded corporation means an officer or director of the corporation. The term does not include a shareholder or lender of the publicly traded corporation.

SECTION 2. Section 242.039, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) The executive commissioner of the Health and Human Services Commission shall adopt rules to implement an expedited inspection process that allows an applicant for a license or for a renewal of a license to obtain a life safety code and physical plant inspection not later than the 15th day after the date the request is made. The department may charge a fee to recover the cost of the expedited inspection. The rules must permit the department to set different fee amounts based on the size and type of institution.

SECTION 3. Section 247.005, Health and Safety Code, is amended by adding Subsection (b-1) to read as follows:

1        (b-1) Notwithstanding any other provision of this section,  
2 for purposes of this chapter, a controlling person of an assisted  
3 living facility or of a management company or other business entity  
4 described by Subsection (b)(1) that is a publicly traded  
5 corporation or is controlled by a publicly traded corporation means  
6 an officer or director of the corporation. The term does not  
7 include a shareholder or lender of the publicly traded corporation.

8        SECTION 4. Section 247.021, Health and Safety Code, is  
9 amended by amending Subsections (d), (g), and (h) and adding  
10 Subsections (d-1), (d-2), and (d-3) to read as follows:

11        (d) The department by rule shall establish procedures to  
12 issue a six-month provisional license to existing facilities with  
13 residents. The department may issue a provisional license ~~[only]~~  
14 if:

15                (1) the facility is in compliance with resident care  
16 standards;

17                (2) the facility voluntarily discloses that the  
18 facility needs additional time to comply with life safety code and  
19 physical plant standards;

20                (3) the disclosure is made in writing by certified  
21 mail to the department;

22                (4) an investigation of the violation was not  
23 initiated and the violation was not independently detected by the  
24 department; and

25                (5) the disclosure is made promptly after knowledge of  
26 the information disclosed is obtained by the facility.

27        (d-1) A provisional license expires the earlier of:

1           (1) the 180th day after the effective date of the  
2 provisional license or the end of any extension period granted by  
3 the department, in the department's sole discretion; or

4           (2) the date a license is issued to the provisional  
5 license holder under Subsection (d-3).

6           (d-2) The department shall conduct a life safety code  
7 inspection of the facility as soon as reasonably possible after the  
8 department issues a provisional license.

9           (d-3) After conducting a life safety code inspection, the  
10 department shall issue a license under Section 247.023 to the  
11 provisional license holder if the facility passes the inspection  
12 and the applicant meets all requirements for a license. A license  
13 issued under this subsection has the same effective date as the  
14 provisional license.

15           (g) The ~~[Notwithstanding Subsection (f), the]~~ department  
16 shall, upon submission of a written request by the applicant, [may]  
17 automatically issue a provisional license to a newly constructed  
18 facility if:

19                   (1) the facility is in compliance with resident care  
20 standards;

21                   (2) all local approvals have been obtained;

22                   (3) a complete license application is submitted within  
23 30 days of receipt of all local approvals; ~~[and]~~

24                   (4) the license fee has been paid;

25                   (5) before beginning construction, the license  
26 applicant submits working drawings and specifications to the  
27 department for review; and

1           (6) the department determines that the license  
2 applicant constructed another facility in this state that complies  
3 with the department's life safety code standards.

4           (h) The [~~Notwithstanding Subsection (f), the~~] department  
5 may automatically issue a provisional license in the case of a  
6 corporate change of ownership of a facility.

7           SECTION 5. Subchapter B, Chapter 247, Health and Safety  
8 Code, is amended by adding Section 247.0211 to read as follows:

9           Sec. 247.0211. EXPEDITED LIFE SAFETY CODE INSPECTION. (a)  
10 The executive commissioner of the Health and Human Services  
11 Commission shall adopt rules to implement an expedited inspection  
12 process that allows an applicant for an assisted living facility  
13 license or for a renewal of a license to obtain a life safety code  
14 and physical plant inspection not later than the 15th day after the  
15 date the request is made.

16           (b) The department may charge a fee to recover the cost of  
17 the expedited inspection.

18           SECTION 6. Section 247.022, Health and Safety Code, is  
19 amended by adding Subsection (b-1) to read as follows:

20           (b-1) If the department conducts more than two life safety  
21 code inspections at the applicant's facility, the department may  
22 collect a fee in addition to the fee under Subsection (b) for the  
23 application for the license.

24           SECTION 7. Subchapter B, Chapter 247, Health and Safety  
25 Code, is amended by adding Section 247.0262 to read as follows:

26           Sec. 247.0262. REPORT ON LIFE SAFETY CODE SURVEYS. (a) The  
27 department shall annually report the number of life safety code

1 surveys for an initial assisted living facility license with  
2 respect to which the department first visits the facility to  
3 conduct the survey more than 60 days after the date the applicant  
4 notifies the department that the applicant is ready for the initial  
5 survey.

6 (b) The department may report other data related to the  
7 timeliness of life safety code surveys or the processing time of  
8 license applications.

9 (c) The department may include the information described by  
10 Subsections (a) and (b) in any required annual regulatory report.

11 SECTION 8. Section 247.032(a), Health and Safety Code, is  
12 amended to read as follows:

13 (a) In this section, "accreditation commission" means the  
14 Commission on Accreditation of Rehabilitation Facilities, ~~or~~ the  
15 Joint Commission on Accreditation of Healthcare Organizations, or  
16 another organization approved by the executive commissioner of the  
17 Health and Human Services Commission.

18 SECTION 9. Sections 247.021(e) and (f), Health and Safety  
19 Code, are repealed.

20 SECTION 10. Not later than June 1, 2010, the executive  
21 commissioner of the Health and Human Services Commission shall  
22 adopt rules to implement the expedited inspection processes as  
23 required by Sections 242.039(g) and 247.0211, Health and Safety  
24 Code, as added by this Act.

25 SECTION 11. This Act takes effect September 1, 2009.

H.B. No. 2972

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2972 was passed by the House on May 4, 2009, by the following vote: Yeas 142, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2972 on May 23, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2972 was passed by the Senate, with amendments, on May 19, 2009, by the following vote: Yeas 30, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor