

1-1 By: Coleman (Senate Sponsor - Van de Putte) H.B. No. 2972
1-2 (In the Senate - Received from the House May 5, 2009;
1-3 May 6, 2009, read first time and referred to Committee on Health
1-4 and Human Services; May 14, 2009, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 8,
1-6 Nays 0; May 14, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2972 By: Uresti

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

1-10 relating to licensing of certain health facilities.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 242.0021, Health and Safety Code, is
1-13 amended by adding Subsection (b-1) to read as follows:

1-14 (b-1) Notwithstanding any other provision of this section,
1-15 for purposes of this chapter, a controlling person of an
1-16 institution or of a management company or other business entity
1-17 described by Subsection (b)(1) that is a publicly traded
1-18 corporation or is controlled by a publicly traded corporation means
1-19 an officer or director of the corporation. The term does not
1-20 include a shareholder or lender of the publicly traded corporation.

1-21 SECTION 2. Section 242.039, Health and Safety Code, is
1-22 amended by adding Subsection (g) to read as follows:

1-23 (g) The executive commissioner of the Health and Human
1-24 Services Commission shall adopt rules to implement an expedited
1-25 inspection process that allows an applicant for a license or for a
1-26 renewal of a license to obtain a life safety code and physical plant
1-27 inspection not later than the 15th day after the date the request is
1-28 made. The department may charge a fee to recover the cost of the
1-29 expedited inspection.

1-30 SECTION 3. Section 247.005, Health and Safety Code, is
1-31 amended by adding Subsection (b-1) to read as follows:

1-32 (b-1) Notwithstanding any other provision of this section,
1-33 for purposes of this chapter, a controlling person of an assisted
1-34 living facility or of a management company or other business entity
1-35 described by Subsection (b)(1) that is a publicly traded
1-36 corporation or is controlled by a publicly traded corporation means
1-37 an officer or director of the corporation. The term does not
1-38 include a shareholder or lender of the publicly traded corporation.

1-39 SECTION 4. Section 247.021, Health and Safety Code, is
1-40 amended by amending Subsections (d), (g), and (h) and adding
1-41 Subsections (d-1), (d-2), (d-3), and (d-4) to read as follows:

1-42 (d) The department by rule shall establish procedures to
1-43 issue a six-month provisional license to existing facilities with
1-44 residents. The department may issue a provisional license ~~only~~
1-45 if:

1-46 (1) the facility is in compliance with resident care
1-47 standards;

1-48 (2) the facility voluntarily discloses that the
1-49 facility needs additional time to comply with life safety code and
1-50 physical plant standards;

1-51 (3) the disclosure is made in writing by certified
1-52 mail to the department;

1-53 (4) an investigation of the violation was not
1-54 initiated and the violation was not independently detected by the
1-55 department; and

1-56 (5) the disclosure is made promptly after knowledge of
1-57 the information disclosed is obtained by the facility.

1-58 (d-1) A provisional license is effective on the date
1-59 requested by the applicant.

1-60 (d-2) A provisional license expires the earlier of:

1-61 (1) the 180th day after the effective date of the
1-62 provisional license or the end of any extension period granted by
1-63 the department, in the department's sole discretion; or

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

(d-3) The department shall conduct a life safety code inspection of the facility as soon as reasonably possible after the department issues a provisional license.

(d-4) After conducting a life safety code inspection, the department shall issue a license under Section 247.023 to the provisional license holder if the facility passes the inspection and the applicant meets all requirements for a license. A license issued under this subsection has the same effective date as the provisional license.

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

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

(2) all local approvals have been obtained;

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

(4) the license fee has been paid;

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

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

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

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

Sec. 247.0211. EXPEDITED LIFE SAFETY CODE INSPECTION. (a) The executive commissioner of the Health and Human Services Commission shall adopt rules to implement an expedited inspection process that allows an applicant for an assisted living facility 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.

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

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

(b-1) If the department conducts at least three life safety code inspections at the applicant's facility, the department may collect a fee in addition to the fee under Subsection (b) for the application for the license.

SECTION 7. Section 247.032(a), Health and Safety Code, is amended to read as follows:

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

SECTION 8. Sections 247.021(e) and (f), Health and Safety Code, are repealed.

SECTION 9. Not later than January 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement the expedited inspection processes as required by Sections 242.039(g) and 247.0211, Health and Safety Code, as added by this Act.

SECTION 10. This Act takes effect September 1, 2009.

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