

1-1 By: Shapleigh S.B. No. 1521  
1-2 (In the Senate - Filed March 9, 2009; March 17, 2009, read  
1-3 first time and referred to Committee on Health and Human Services;  
1-4 April 24, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 24, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1521 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 has  
1-19 rooms for rent to four or more persons who are unrelated to the  
1-20 owner by blood or consanguinity and that may offer community meals,  
1-21 light housework, meal preparation, transportation, grocery  
1-22 shopping, money management, or laundry services but that does not  
1-23 provide personal care services.

1-24 (2) "Department" means the Department of Aging and  
1-25 Disability Services.

1-26 (3) "Executive commissioner" means the executive  
1-27 commissioner of the Health and Human Services Commission.

1-28 (4) "Resident" means an individual who is residing in  
1-29 a boarding house that holds a certificate of registration under  
1-30 this chapter.

1-31 Sec. 254.002. EXEMPTIONS. This chapter does not apply to:

1-32 (1) a facility that is required to be licensed under  
1-33 Chapter 142, 242, 246, 247, or 252;

1-34 (2) a facility that is exempt from licensing under  
1-35 Section 142.003(a)(19) or 247.004(4);

1-36 (3) a hotel as defined by Section 156.001, Tax Code;

1-37 (4) a retirement community;

1-38 (5) a monastery or convent;

1-39 (6) a child-care facility;

1-40 (7) a facility that provides shelter to victims of  
1-41 domestic violence; or

1-42 (8) a sorority or fraternity house or other dormitory  
1-43 affiliated with an institution of higher education.

1-44 Sec. 254.003. RULES GENERALLY. The executive commissioner  
1-45 shall adopt rules related to the administration and implementation  
1-46 of this chapter.

1-47 Sec. 254.004. CONSULTATION AND COORDINATION. (a) The  
1-48 department may cooperate with local public health officials of a  
1-49 municipality or county in carrying out this chapter and may  
1-50 delegate to those officials the power to make inspections and  
1-51 recommendations to the department under this chapter.

1-52 (b) The department may coordinate its personnel and  
1-53 facilities with a local agency of a municipality or county and may  
1-54 provide advice to the municipality or county if the municipality or  
1-55 county supplements the state regulatory program established under  
1-56 this chapter with additional rules required to meet local  
1-57 conditions.

1-58 [Sections 254.005-254.050 reserved for expansion]

1-59 SUBCHAPTER B. REGISTRATION, FEES, AND INSPECTIONS

1-60 Sec. 254.051. REGISTRATION REQUIRED. A person, acting  
1-61 severally or jointly with any other person, may not establish,  
1-62 conduct, or maintain in this state a boarding house unless the  
1-63 person holds a certificate of registration issued under this

2-1 chapter.  
2-2 Sec. 254.052. APPLICATION. (a) A person may apply for  
2-3 registration under this chapter by submitting an application to the  
2-4 department on a form prescribed by the department and the required  
2-5 registration fee.  
2-6 (b) The application must contain information that the  
2-7 department requires. The department may require affirmative  
2-8 evidence of ability to comply with the standards and rules adopted  
2-9 under this chapter.  
2-10 Sec. 254.053. ISSUANCE AND RENEWAL OF CERTIFICATE OF  
2-11 REGISTRATION. (a) After receiving the application, the  
2-12 department shall issue a certificate of registration to the  
2-13 applicant if, after inspection and investigation, it finds that the  
2-14 applicant and boarding house meet the requirements established  
2-15 under this chapter and department rule.  
2-16 (b) The department may issue a certificate of registration  
2-17 only for:  
2-18 (1) the premises and persons named in the application;  
2-19 and  
2-20 (2) the maximum number of residents specified in the  
2-21 application.  
2-22 (c) A certificate of registration may not be transferred or  
2-23 assigned.  
2-24 (d) A person may renew a certificate of registration by:  
2-25 (1) submitting a renewal application on the form  
2-26 prescribed by the department; and  
2-27 (2) paying the renewal fee.  
2-28 (e) The executive commissioner by rule shall define  
2-29 specific, appropriate, and objective criteria on which the  
2-30 department may deny an initial certificate of registration  
2-31 application or certificate of registration renewal or revoke a  
2-32 certificate of registration.  
2-33 Sec. 254.054. FEES. (a) The executive commissioner by  
2-34 rule may adopt a fee for a certificate of registration issued under  
2-35 this chapter in an amount reasonable and necessary to recover the  
2-36 costs of administering this chapter.  
2-37 (b) The certificate of registration fee must be paid with  
2-38 each application for an initial certificate of registration or for  
2-39 a renewal or change of ownership of a certificate of registration.  
2-40 (c) The executive commissioner may adopt an additional fee  
2-41 for the approval of an increase in number of residents.  
2-42 Sec. 254.055. REGISTRY. The department shall establish a  
2-43 registry of boarding houses registered under this chapter and make  
2-44 the registry available to the public, certificate of registration  
2-45 holders, and appropriate state agencies.  
2-46 Sec. 254.056. MINIMUM STANDARDS. The executive  
2-47 commissioner may adopt, publish, and enforce minimum standards  
2-48 relating to:  
2-49 (1) the construction or remodeling of a boarding  
2-50 house, including plumbing, heating, lighting, ventilation, and  
2-51 other housing conditions, to ensure the residents' health, safety,  
2-52 comfort, and protection from fire hazard;  
2-53 (2) sanitary and related conditions in a boarding  
2-54 house and its surroundings, including water supply, sewage  
2-55 disposal, food handling, and general hygiene, to ensure the  
2-56 residents' health, safety, and comfort;  
2-57 (3) equipment essential to the residents' health and  
2-58 welfare;  
2-59 (4) the reporting and investigation of injuries,  
2-60 incidents, and unusual accidents and the establishment of other  
2-61 policies and procedures necessary to ensure the residents' safety;  
2-62 (5) policies and procedures for the control of  
2-63 communicable diseases;  
2-64 (6) specialized nutrition support;  
2-65 (7) requirements for in-service education of the  
2-66 operator and each employee who has any contact with residents;  
2-67 (8) the regulation of the number of employees and the  
2-68 qualifications of the operator and each employee responsible for  
2-69 providing any part of a service to residents; and

3-1 (9) the quality of life.

3-2 Sec. 254.057. POSTING. Each boarding house shall  
 3-3 prominently and conspicuously post for display in a public area of  
 3-4 the boarding house that is readily available to residents, the  
 3-5 operator, any employees, and visitors:

3-6 (1) the certificate of registration issued under this  
 3-7 chapter;

3-8 (2) a sign prescribed by the executive commissioner  
 3-9 that specifies complaint procedures established under this chapter  
 3-10 or rules adopted under this chapter and that specifies how  
 3-11 complaints may be registered with the department;

3-12 (3) a notice in a form prescribed by the executive  
 3-13 commissioner stating that inspection and related reports are  
 3-14 available at the boarding house for public inspection and providing  
 3-15 the department's toll-free telephone number that may be used to  
 3-16 obtain information concerning the boarding house; and

3-17 (4) a concise summary of the most recent inspection  
 3-18 report relating to the boarding house.

3-19 Sec. 254.058. INSPECTIONS. (a) The department or the  
 3-20 department's representative may make any inspection, survey, or  
 3-21 investigation that it considers necessary and may enter the  
 3-22 premises of a boarding house at reasonable times to make an  
 3-23 inspection, survey, or investigation in accordance with rules of  
 3-24 the executive commissioner.

3-25 (b) The department is entitled to access to books, records,  
 3-26 and other documents maintained by or on behalf of a boarding house  
 3-27 to the extent necessary to enforce this chapter and the rules  
 3-28 adopted under this chapter.

3-29 (c) A certificate of registration holder or an applicant for  
 3-30 a certificate of registration is considered to have consented to  
 3-31 entry and inspection of the boarding house by a representative of  
 3-32 the department in accordance with this chapter.

3-33 (d) The department shall establish procedures to preserve  
 3-34 all relevant evidence of conditions the department finds during an  
 3-35 inspection, survey, or investigation that the department  
 3-36 reasonably believes threaten the health and safety of a resident.  
 3-37 The procedures may include photography or photocopying of relevant  
 3-38 documents, such as a certificate of registration holder's notes,  
 3-39 for use in any legal proceeding.

3-40 Sec. 254.059. UNANNOUNCED INSPECTIONS. (a) Each  
 3-41 registration period, the department shall conduct at least one  
 3-42 unannounced inspection of each boarding house.

3-43 (b) The department may require additional inspections.

3-44 Sec. 254.060. EDUCATION AND OUTREACH. The department and  
 3-45 the Health and Human Services Commission shall provide to the owner  
 3-46 or operator of a boarding house information on:

3-47 (1) the circumstances, including the provision of  
 3-48 personal care, that require the facility to be licensed under  
 3-49 Chapter 247 and the requirements for licensing under that chapter;

3-50 (2) the services the boarding house may provide;

3-51 (3) registration under this chapter; and

3-52 (4) health and safety requirements and staff training  
 3-53 requirements.

3-54 Sec. 254.061. REPORTING VIOLATIONS. (a) The department or  
 3-55 the department's representative conducting an inspection or  
 3-56 investigation under this chapter shall:

3-57 (1) list each violation of a law or rule on a form  
 3-58 designed by the department for inspections; and

3-59 (2) identify the specific law or rule the boarding  
 3-60 house violates.

3-61 (b) At the conclusion of an inspection or investigation  
 3-62 under this chapter, the department or the department's  
 3-63 representative conducting the inspection or investigation shall  
 3-64 discuss the violations with the boarding house's management in an  
 3-65 exit conference. The department or the department's representative  
 3-66 shall leave a written list of the violations with the boarding house  
 3-67 and the person designated by the boarding house to receive notice of  
 3-68 the imposition of an administrative penalty at the time of the exit  
 3-69 conference. If the department or the department's representative

4-1 discovers any additional violations during the review of field  
 4-2 notes or preparation of the official final list, the department or  
 4-3 the department's representative shall give the boarding house an  
 4-4 additional exit conference regarding the additional violations.

4-5 (c) The boarding house shall submit a plan to correct the  
 4-6 violations to the department not later than the 10th day after the  
 4-7 date the boarding house receives the final statement of violations.

4-8 Sec. 254.062. REPORTING OF ABUSE, NEGLIGENCE, OR EXPLOITATION.

4-9 (a) A person, including an owner, operator, or employee of a  
 4-10 boarding house, who has cause to believe that a resident has been  
 4-11 abused, neglected, or exploited or may be adversely affected by  
 4-12 abuse, neglect, or exploitation caused by another person shall  
 4-13 report the abuse, neglect, or exploitation as required by Section  
 4-14 48.051, Human Resources Code, or other applicable law.

4-15 (b) Each boarding house shall require each employee of the  
 4-16 boarding house, as a condition of employment with the boarding  
 4-17 house, to sign a statement that the employee realizes that the  
 4-18 employee may be criminally liable under Section 48.052, Human  
 4-19 Resources Code, for failure to report abuse, neglect, or  
 4-20 exploitation.

4-21 Sec. 254.063. NOTIFICATION OF CLOSURE. (a) A boarding  
 4-22 house that is closing temporarily or permanently, voluntarily or  
 4-23 involuntarily, shall notify the residents of the closing, if  
 4-24 applicable, within a reasonable time before the boarding house  
 4-25 closes.

4-26 (b) If the department orders a boarding house to close or  
 4-27 the boarding house's closure is in any other way involuntary, the  
 4-28 boarding house shall make the notification, orally or in writing,  
 4-29 immediately on receiving notice of the closing.

4-30 (c) If the boarding house's closure is voluntary, the  
 4-31 boarding house shall make the notification not later than one week  
 4-32 after the date on which the decision to close is made.

4-33 [Sections 254.064-254.100 reserved for expansion]

4-34 SUBCHAPTER C. GENERAL ENFORCEMENT

4-35 Sec. 254.101. DENIAL, SUSPENSION, OR REVOCATION OF  
 4-36 CERTIFICATE OF REGISTRATION. (a) The department, after providing  
 4-37 notice and opportunity for a hearing to an applicant for a  
 4-38 certificate of registration or a certificate of registration  
 4-39 holder, may deny, suspend, or revoke a certificate of registration  
 4-40 if the department finds that the applicant or certificate holder  
 4-41 has substantially failed to comply with the requirements  
 4-42 established under this chapter.

4-43 (b) The status of an applicant for a certificate of  
 4-44 registration or of a certificate of registration holder is  
 4-45 preserved until final disposition of the contested matter, except  
 4-46 as the court having jurisdiction of a judicial review of the matter  
 4-47 may order in the public interest for the welfare and safety of the  
 4-48 residents.

4-49 Sec. 254.102. EMERGENCY SUSPENSION OR CLOSING ORDER.

4-50 (a) The department shall suspend a boarding house's certificate of  
 4-51 registration or order an immediate closing of part of the boarding  
 4-52 house if:

4-53 (1) the department finds the boarding house is  
 4-54 operating in violation of the standards prescribed by this chapter;  
 4-55 and

4-56 (2) the violation creates an immediate threat to the  
 4-57 health and safety of a resident.

4-58 (b) The executive commissioner by rule shall provide for the  
 4-59 placement of residents during the boarding house's suspension or  
 4-60 closing to ensure their health and safety.

4-61 (c) An order suspending a certificate of registration or  
 4-62 closing a part of a boarding house under this section is immediately  
 4-63 effective on the date on which the certificate of registration  
 4-64 holder receives written notice or a later date specified in the  
 4-65 order.

4-66 (d) An order suspending a certificate of registration or  
 4-67 ordering an immediate closing of a part of a boarding house is valid  
 4-68 for 10 days after the effective date of the order.

4-69 Sec. 254.103. INJUNCTION. (a) The department may petition

5-1 a district court for a temporary restraining order to restrain a  
5-2 person from continuing a violation of the standards prescribed by  
5-3 this chapter if the department finds that the violation creates an  
5-4 immediate threat to the health and safety of the boarding house's  
5-5 residents.

5-6 (b) A district court, on petition of the department, may by  
5-7 injunction:

5-8 (1) prohibit a person from continuing a violation of  
5-9 the standards or registration requirements prescribed by this  
5-10 chapter;

5-11 (2) restrain or prevent the establishment, conduct,  
5-12 management, or operation of a boarding house without a certificate  
5-13 of registration issued under this chapter; or

5-14 (3) grant the injunctive relief warranted by the facts  
5-15 on a finding by the court that a person is violating the standards  
5-16 or registration requirements prescribed by this chapter.

5-17 (c) The attorney general, on request by the department,  
5-18 shall bring and conduct on behalf of the state a suit authorized by  
5-19 this section.

5-20 (d) A suit for a temporary restraining order or other  
5-21 injunctive relief must be brought in the county in which the alleged  
5-22 violation occurs or in Travis County.

5-23 Sec. 254.104. CRIMINAL PENALTY. (a) In this section,  
5-24 "immediate threat to the health or safety" means a situation in  
5-25 which there is a high probability that serious harm or injury to a  
5-26 resident could occur at any time or already has occurred and may  
5-27 occur again if the resident is not protected from the harm or if the  
5-28 threat is not removed.

5-29 (b) A person who knowingly operates a boarding house that is  
5-30 required to be registered under this chapter in a manner that  
5-31 creates an immediate threat to the health or safety of a resident of  
5-32 the boarding house commits an offense.

5-33 (c) An offense under this section is a Class B misdemeanor.

5-34 Sec. 254.105. CIVIL PENALTY. (a) A person who violates  
5-35 this chapter or a rule adopted or order issued under this chapter is  
5-36 liable for a civil penalty of not less than \$200 for each violation  
5-37 if the department determines the violation threatens the health or  
5-38 safety of a resident.

5-39 (b) Each day of a violation constitutes a separate ground  
5-40 for recovery.

5-41 (c) On request of the department, the attorney general may  
5-42 institute an action in a district court to collect a civil penalty  
5-43 under this section. Any amount collected shall be remitted to the  
5-44 comptroller for deposit in the general revenue fund.

5-45 Sec. 254.106. ADMINISTRATIVE PENALTY. (a) The department  
5-46 may impose an administrative penalty against a boarding house that  
5-47 violates this chapter or a rule adopted or order issued under this  
5-48 chapter.

5-49 (b) The penalty for a boarding house may not be less than  
5-50 \$200 for each violation. Each day a violation occurs is a separate  
5-51 violation for purposes of imposing a penalty.

5-52 (c) The executive commissioner by rule shall specify each  
5-53 violation for which an administrative penalty may be assessed. In  
5-54 determining which violations warrant penalties, the department  
5-55 shall consider:

5-56 (1) the seriousness of the violation, including the  
5-57 nature, circumstances, extent, and gravity of the violation and the  
5-58 hazard of the violation to the health or safety of residents; and

5-59 (2) whether the affected boarding house had identified  
5-60 the violation as a part of its internal quality assurance process  
5-61 and had made appropriate progress on correction.

5-62 (d) The executive commissioner by rule shall establish a  
5-63 specific and detailed schedule of appropriate and graduated  
5-64 penalties for each violation based on:

5-65 (1) the seriousness of the violation, including the  
5-66 nature, circumstances, extent, and gravity of the violation and the  
5-67 hazard of the violation to the health or safety of residents;

5-68 (2) the history of previous violations;

5-69 (3) whether the affected boarding house had identified

6-1 the violation as a part of its internal quality assurance process  
 6-2 and had made appropriate progress on correction;

- 6-3 (4) the amount necessary to deter future violations;
- 6-4 (5) efforts made to correct the violation;
- 6-5 (6) the size of the boarding house; and
- 6-6 (7) any other matters that justice may require.

6-7 (e) The executive commissioner by rule shall provide the  
 6-8 boarding house with a reasonable period of time, not less than 45  
 6-9 days, following the first day of a violation to correct the  
 6-10 violation before assessing an administrative penalty if a plan of  
 6-11 correction has been implemented. This subsection does not apply to  
 6-12 a violation that the department determines has resulted in serious  
 6-13 harm to or the death of a resident or constitutes a serious threat  
 6-14 to the health or safety of a resident.

6-15 (f) The department may not assess an administrative penalty  
 6-16 for a minor violation if the person corrects the violation not later  
 6-17 than the 46th day after the date the person receives notice of the  
 6-18 violation.

6-19 (g) The department shall establish a system to ensure  
 6-20 standard and consistent application of penalties regardless of the  
 6-21 boarding house location.

6-22 (h) All proceedings for the assessment of an administrative  
 6-23 penalty under this chapter are subject to Chapter 2001, Government  
 6-24 Code.

6-25 (i) Notwithstanding any other provision of this section, an  
 6-26 administrative penalty ceases to be incurred on the date a  
 6-27 violation is corrected. The administrative penalty ceases to be  
 6-28 incurred only if the boarding house:

- 6-29 (1) notifies the department in writing of the  
 6-30 correction of the violation and of the date the violation was  
 6-31 corrected; and
- 6-32 (2) shows later that the violation was corrected.

6-33 (j) Rules adopted under this section shall include  
 6-34 specific, appropriate, and objective criteria that describe the  
 6-35 scope and severity of a violation that results in a recommendation  
 6-36 for each specific penalty.

6-37 (k) The imposition and collection of an administrative  
 6-38 penalty imposed under this section shall be conducted in the manner  
 6-39 provided by Sections 252.0651, 252.066, 252.067, 252.068, and  
 6-40 252.070.

6-41 SECTION 2. Section 247.004, Health and Safety Code, is  
 6-42 amended to read as follows:

6-43 Sec. 247.004. EXEMPTIONS. This chapter does not apply to:

6-44 (1) a boarding house registered under Chapter 254  
 6-45 [~~facility that has rooms for rent and that may offer community~~  
 6-46 ~~meals, light housework, meal preparation, transportation, grocery~~  
 6-47 ~~shopping, money management, or laundry services but that does not~~  
 6-48 ~~provide personal care services];~~

6-49 (2) an establishment conducted by or for the adherents  
 6-50 of the Church of Christ, Scientist, for the purpose of providing  
 6-51 facilities for the care or treatment of the sick who depend  
 6-52 exclusively on prayer or spiritual means for healing without the  
 6-53 use of any drug or material remedy if the establishment complies  
 6-54 with local safety, sanitary, and quarantine ordinances and  
 6-55 regulations;

6-56 (3) a facility conducted by or for the adherents of a  
 6-57 qualified religious society classified as a tax-exempt  
 6-58 organization under an Internal Revenue Service group exemption  
 6-59 ruling for the purpose of providing personal care services without  
 6-60 charge solely for the society's professed members or ministers in  
 6-61 retirement, if the facility complies with local safety, sanitation,  
 6-62 and quarantine ordinances and regulations; or

6-63 (4) a facility that provides personal care services  
 6-64 only to persons enrolled in a program that is funded in whole or in  
 6-65 part by the [~~Texas~~] Department of State [~~Mental~~] Health Services or  
 6-66 the Department of Aging and Disability Services [~~and Mental~~  
 6-67 ~~Retardation~~] and that is monitored by the [~~Texas~~] Department of  
 6-68 State [~~Mental~~] Health Services or the Department of Aging and  
 6-69 Disability Services [~~and Mental Retardation~~] or its designated

7-1 local authority, as applicable, in accordance with standards set by  
7-2 the applicable department [~~Texas Department of Mental Health and~~  
7-3 ~~Mental Retardation~~].

7-4 SECTION 3. Section 247.025, Health and Safety Code, is  
7-5 amended to read as follows:

7-6 Sec. 247.025. ADOPTION OF RULES. The executive  
7-7 commissioner of the Health and Human Services Commission [~~board~~]  
7-8 shall adopt rules necessary to implement this chapter, including:

7-9 (1) requirements for the issuance, renewal, denial,  
7-10 suspension, and revocation of a license to operate an assisted  
7-11 living facility; and

7-12 (2) rules to require local mental health authorities  
7-13 to work with clients to secure safe, appropriate housing to assist  
7-14 clients in achieving their treatment goals by directing clients to  
7-15 available assisted living facilities licensed under this chapter  
7-16 and other establishments that are not required to be licensed under  
7-17 this chapter that may be an appropriate referral option.

7-18 SECTION 4. Section 247.031, Health and Safety Code, is  
7-19 amended to read as follows:

7-20 Sec. 247.031. MUNICIPAL ENFORCEMENT. (a) The governing  
7-21 body of a municipality by ordinance may:

7-22 (1) prohibit a person who does not hold a license  
7-23 issued under this chapter from establishing or operating an  
7-24 assisted living facility within the municipality; and

7-25 (2) establish a procedure for emergency closure of a  
7-26 facility in circumstances in which:

7-27 (A) the facility is established or operating in  
7-28 violation of Section 247.021; and

7-29 (B) the continued operation of the facility  
7-30 creates an immediate threat to the health and safety of a resident  
7-31 of the facility.

7-32 (b) The department shall:

7-33 (1) develop a communications plan, which may include  
7-34 regional meetings, to educate municipalities about this section;  
7-35 and

7-36 (2) create outreach and training materials and  
7-37 distribute the materials in accordance with the communications  
7-38 plan.

7-39 SECTION 5. Chapter 247, Health and Safety Code, is amended  
7-40 by adding Subchapter E to read as follows:

7-41 SUBCHAPTER E. CRIMINAL PENALTY

7-42 Sec. 247.101. CRIMINAL PENALTY. (a) In this section,  
7-43 "immediate threat to the health or safety" means a situation in  
7-44 which there is a high probability that serious harm or injury to a  
7-45 resident could occur at any time or already has occurred and may  
7-46 occur again if the resident is not protected from the harm or if the  
7-47 threat is not removed.

7-48 (b) A person who knowingly operates without a license an  
7-49 assisted living facility that is required to be licensed under this  
7-50 chapter in a manner that creates an immediate threat to the health  
7-51 or safety of a resident of the facility commits an offense.

7-52 (c) An offense under this section is a Class B misdemeanor.

7-53 SECTION 6. The heading to Title 4, Health and Safety Code,  
7-54 is amended to read as follows:

7-55 TITLE 4. CERTAIN RESIDENTIAL AND HEALTH FACILITIES

7-56 SECTION 7. The heading to Subtitle B, Title 4, Health and  
7-57 Safety Code, is amended to read as follows:

7-58 SUBTITLE B. LICENSING OF [HEALTH] FACILITIES

7-59 SECTION 8. (a) Not later than October 1, 2009, the Health  
7-60 and Human Services Commission, or a health and human services  
7-61 agency designated by the commission, shall establish a stakeholder  
7-62 workgroup to solicit input and make recommendations for revision of  
7-63 the existing rules on Type E facilities as defined by rules of the  
7-64 Department of Aging and Disability Services. Members of the  
7-65 workgroup must include:

- 7-66 (1) currently licensed Type E facility operators;
- 7-67 (2) unlicensed boarding house operators;
- 7-68 (3) local mental health authority staff;
- 7-69 (4) area agencies on aging representatives;

8-1 (5) regional staff of the Department of Aging and  
8-2 Disability Services;

8-3 (6) staff of the Department of State Health Services  
8-4 with responsibility for mental health services; and

8-5 (7) mental health advocates.

8-6 (b) The workgroup shall:

8-7 (1) examine basic supervision, resident well-being,  
8-8 nutritional quality, and medication monitoring related to Type E  
8-9 facilities;

8-10 (2) recommend rules to encourage more boarding house  
8-11 operators to be licensed as Type E facilities; and

8-12 (3) examine regulatory oversight of Type E facilities  
8-13 and recommend either the Department of Aging and Disability  
8-14 Services or the Department of State Health Services to regulate  
8-15 facilities considering the purpose for which the Type E  
8-16 classification was created, the services currently regulated by  
8-17 each agency, and cost.

8-18 (c) Not later than January 1, 2011, based on the  
8-19 recommendations of the workgroup, the executive commissioner of the  
8-20 Health and Human Services Commission shall adopt rules relating to  
8-21 the licensing of Type E assisted living facilities.

8-22 (d) Not later than March 1, 2011, the Health and Human  
8-23 Services Commission, or a health and human services agency  
8-24 designated by the commission, shall:

8-25 (1) provide copies of the rules adopted under  
8-26 Subsection (c) of this section to the members of the workgroup and  
8-27 other interested parties;

8-28 (2) provide training and information to regional state  
8-29 regulatory staff and local staff on the adopted rules; and

8-30 (3) provide information on the adopted rules to  
8-31 boarding houses, state and regional staff employed by the  
8-32 Department of Aging and Disability Services, state and regional  
8-33 staff employed by the Department of State Health Services, and  
8-34 local mental health authorities.

8-35 SECTION 9. Not later than September 1, 2010, the Health and  
8-36 Human Services Commission shall evaluate the Section 1915(i) state  
8-37 plan amendment option of the Social Security Act (42 U.S.C. Section  
8-38 1396n(i)) available under the Deficit Reduction Act of 2005 (Pub.  
8-39 L. No. 109-171) and the waiver program under Section 1915(c),  
8-40 Social Security Act (42 U.S.C. Section 1396n(c)), to determine if  
8-41 either would provide a feasible means for funding personal care  
8-42 services for people with mental illness under the state Medicaid  
8-43 program.

8-44 SECTION 10. (a) Not later than January 1, 2011, the  
8-45 executive commissioner of the Health and Human Services Commission  
8-46 shall adopt the rules necessary to implement Chapter 254, Health  
8-47 and Safety Code, as added by this Act, and Chapter 247, Health and  
8-48 Safety Code, as amended by this Act.

8-49 (b) Not later than June 1, 2011, the Department of State  
8-50 Health Services shall develop the registry and provide the  
8-51 education and outreach as required under Chapter 254, Health and  
8-52 Safety Code, as added by this Act.

8-53 (c) Notwithstanding Chapter 254, Health and Safety Code, as  
8-54 added by this Act, a person who owns or operates a boarding house is  
8-55 not required to hold a certificate of registration on the effective  
8-56 date of this Act but must hold a certificate of registration under  
8-57 that chapter not later than September 1, 2011.

8-58 SECTION 11. (a) Except as provided by Subsection (b) of  
8-59 this section, this Act takes effect September 1, 2009.

8-60 (b) Subchapter C, Chapter 254, Health and Safety Code, as  
8-61 added by this Act, takes effect September 1, 2011.

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