

By: Nelson

S.B. No. 20

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the licensing and regulation of hospitals in this
3 state; increasing the amount of administrative penalties assessed
4 or imposed against certain hospitals.

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

6 SECTION 1. Section 241.022(b), Health and Safety Code, is
7 amended to read as follows:

8 (b) The application must contain:

9 (1) the name and social security number of the sole
10 proprietor, if the applicant is a sole proprietor;

11 (2) the name and social security number of each
12 general partner who is an individual, if the applicant is a
13 partnership;

14 (3) the name and social security number of any
15 individual who has an ownership interest of more than five [25]
16 percent in the corporation, if the applicant is a corporation; and

17 (4) any other information that the department may
18 reasonably require.

19 SECTION 2. Subchapter B, Chapter 241, Health and Safety
20 Code, is amended by adding Section 241.0261 to read as follows:

21 Sec. 241.0261. INFORMATION SHARING WITH OFFICE OF INSPECTOR
22 GENERAL. (a) The department in accordance with department rules
23 may share with the office of inspector general established under
24 Subchapter C, Chapter 242, Human Resources Code, information

1 relating to an applicant for a hospital license under this chapter
2 or a hospital license holder.

3 (b) The executive commissioner of the Health and Human
4 Services Commission shall adopt the rules necessary to implement
5 this section.

6 SECTION 3. Section 241.051(a), Health and Safety Code, is
7 amended to read as follows:

8 (a) The department shall conduct an [~~may make any~~]
9 inspection of each hospital licensed under this chapter at least
10 once every three years, and the department may make any inspection,
11 survey, or investigation [~~that~~] it considers necessary. A
12 representative of the department may enter the premises of a
13 hospital at any reasonable time to make an inspection, a survey, or
14 an investigation to assure compliance with or prevent a violation
15 of this chapter, the rules adopted under this chapter, an order or
16 special order of the commissioner of health, a special license
17 provision, a court order granting injunctive relief, or other
18 enforcement procedures. The department shall maintain the
19 confidentiality of hospital records as applicable under state or
20 federal law.

21 SECTION 4. Subchapter C, Chapter 241, Health and Safety
22 Code, is amended by adding Section 241.0532 to read as follows:

23 Sec. 241.0532. EMERGENCY SUSPENSION. (a) The department
24 may issue an emergency order to suspend a license issued under this
25 chapter if the department has reasonable cause to believe that the
26 conduct of a license holder creates an immediate danger to the
27 public health and safety. An emergency suspension is effective

1 immediately without a hearing on notice to the license holder.

2 (b) On written request of the license holder, the department
3 shall conduct a hearing not earlier than the 10th day or later than
4 the 30th day after the date the hearing request is received to
5 determine if the emergency suspension is to be continued, modified,
6 or rescinded.

7 (c) The hearing and any appeal are governed by the
8 department's rules for a contested case hearing and Chapter 2001,
9 Government Code.

10 SECTION 5. Sections 241.059(b) and (c), Health and Safety
11 Code, are amended to read as follows:

12 (b) In determining the amount of the penalty, the
13 commissioner of health shall consider:

- 14 (1) the hospital's previous violations;
15 (2) the seriousness of the violation;
16 (3) any threat to the health, safety, or rights of the
17 hospital's patients;
18 (4) the demonstrated good faith of the hospital; ~~and~~
19 (5) the effect of the penalty on the hospital's ability
20 to continue to provide services; and
21 (6) such other matters as justice may require.

22 (c) The penalty may not exceed \$25,000 [~~\$1,000~~] for each
23 violation, except that the penalty for a violation of Section
24 166.004 shall be \$500. Each day of a continuing violation, other
25 than a violation of Section 166.004, may be considered a separate
26 violation.

27 SECTION 6. Chapter 241, Health and Safety Code, is amended

1 by adding Subchapter D to read as follows:

2 SUBCHAPTER D. TRUSTEES FOR HOSPITALS

3 Sec. 241.081. INVOLUNTARY APPOINTMENT. (a) The
4 department may request the attorney general to bring an action in
5 the name and on behalf of the state for the appointment of a trustee
6 to operate a hospital if:

7 (1) the hospital is operating without a license;

8 (2) the department has suspended or revoked the
9 hospital's license;

10 (3) license suspension or revocation procedures
11 against the hospital are pending and the department determines that
12 an imminent threat to the health and safety of the patients exists;

13 (4) the department determines that an emergency exists
14 that presents an immediate threat to the health and safety of the
15 patients; or

16 (5) the hospital is closing and arrangements for
17 relocation of the patients to other licensed institutions have not
18 been made before closure.

19 (b) A trustee appointed under Subsection (a)(5) may only
20 ensure an orderly and safe relocation of the hospital's patients as
21 quickly as possible.

22 (c) After a hearing, a court shall appoint a trustee to take
23 charge of a hospital if the court finds that involuntary
24 appointment of a trustee is necessary.

25 (d) If possible, the court shall appoint as trustee an
26 individual whose background includes institutional medical
27 administration.

1 (e) Venue for an action brought under this section is in
2 Travis County.

3 (f) A court having jurisdiction of a judicial review of the
4 matter may not order arbitration, whether on the motion of any party
5 or on the court's own motion, to resolve the legal issues of a
6 dispute involving the:

7 (1) appointment of a trustee under this section; or

8 (2) conduct with respect to which the appointment of a
9 trustee is sought.

10 Sec. 241.082. QUALIFICATIONS OF TRUSTEES. (a) A court may
11 appoint a person to serve as a trustee under this subchapter only if
12 the proposed trustee can demonstrate to the court that the proposed
13 trustee will be:

14 (1) present at the hospital as required to perform the
15 duties of a trustee; and

16 (2) available on call to appropriate staff at the
17 hospital, the department, and the court as necessary during the
18 time the trustee is not present at the hospital.

19 (b) A trustee shall report to the court in the event that the
20 trustee is unable to satisfy the requirements of Subsection (a)(1)
21 or (2).

22 (c) On the motion of any party or on the court's own motion,
23 the court may replace a trustee who is unable to satisfy the
24 requirements of Subsection (a)(1) or (2).

25 (d) A trustee's charges must separately identify personal
26 hours worked for which compensation is claimed. A trustee's claim
27 for personal compensation may include only compensation for

1 activities related to the trusteeship and performed in or on behalf
2 of the hospital.

3 Sec. 241.083. COMPENSATION; RELEASE OF FUNDS. (a) A
4 trustee appointed under this subchapter is entitled to reasonable
5 compensation as determined by the court. On the motion of any
6 party, the court shall review the reasonableness of the trustee's
7 compensation. The court shall reduce the amount if the court
8 determines that the compensation is not reasonable.

9 (b) The trustee may petition the court to order the release
10 to the trustee of any payment owed the trustee for care and services
11 provided to the patients if the payment has been withheld,
12 including a payment withheld by the Health and Human Services
13 Commission at the recommendation of the department.

14 (c) Withheld payments may include payments withheld by a
15 governmental agency or other entity during the appointment of the
16 trustee, such as payments:

17 (1) for Medicaid, Medicare, or insurance;

18 (2) by another third party; or

19 (3) for medical expenses borne by the patient.

20 SECTION 7. (a) The executive commissioner of the Health
21 and Human Services Commission shall adopt the rules required by
22 Chapter 241, Health and Safety Code, as amended by this Act, not
23 later than May 1, 2014.

24 (b) The changes in law made by this Act apply only to an
25 application submitted under Section 241.022, Health and Safety
26 Code, as amended by this Act, or the assessment or imposition of an
27 administrative penalty under Section 241.059, Health and Safety

1 Code, as amended by this Act, for a violation that occurs on or
2 after the effective date of this Act. An application submitted
3 under Section 241.022 before the effective date of this Act or the
4 assessment or imposition of an administrative penalty under Section
5 241.059 for a violation that occurs before the effective date of
6 this Act is governed by the law in effect on the date the
7 application was submitted or the violation occurred, and that law
8 is continued in effect for that purpose.

9 SECTION 8. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect on the 91st day after the last day of the
14 legislative session.