

BILL ANALYSIS

C.S.S.B. 492
By: Lucio
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Prescribed pediatric extended care centers allow certain children under the age of 21 with medically complex conditions to receive medical care in a nonresidential setting. When approved, children can receive services from a center, including nursing services, personal care, developmental therapies, and caregiver training of the minor's parents or legal guardian, for up to 12 hours a day. C.S.S.B. 492 intends to provide for the development and enforcement of licensure and health and safety standards for prescribed pediatric extended care centers in order to ensure that such centers provide appropriate care.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 1 and 8 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.S.B. 492 amends the Health and Safety Code to prohibit a person from owning or operating a prescribed pediatric extended care center, defined by the bill, among other terms, as a facility operated for profit or on a nonprofit basis that provides nonresidential basic services to four or more medically dependent or technologically dependent minors who require the services of the facility and who are not related by blood, marriage, or adoption to the owner or operator of the facility, unless the person holds a license issued under the bill's provisions. The bill defines "medically dependent or technologically dependent minor" as an individual younger than 21 years of age who because of an acute, chronic, or intermittent medically complex or fragile condition or disability requires ongoing, technology-based skilled nursing care prescribed by the minor's physician to avert death or further disability or the routine use of a medical device to compensate for a deficit in a life-sustaining body function, and the bill specifies that the term does not include minor or occasional medical conditions that do not require continuous nursing care, including asthma or diabetes, or a condition that requires an epinephrine injection.

C.S.S.B. 492 requires a separate license for each center located on separate premises, regardless of whether the centers are under the ownership or operation of the same person. The bill prohibits a person from operating a center on the same premises as certain licensed child-care facilities, homes, and agencies or any other facility licensed by the Department of Aging and

Disability Services (DADS) or the Department of State Health Services. The bill exempts from the bill's licensing requirements a facility operated by the United States government or a federal agency or a health facility otherwise licensed under specified state law governing the licensing of health facilities. The bill sets out provisions relating to the application for and issuance of a license, the term and renewal of a license, and the notification of the expiration of a license and provides that a license under the bill's provisions is issued to the license holder named on the license at the location of the premises listed on the license and is not transferable or assignable. The bill establishes that the bill's provisions control to the extent of any conflict between the standards adopted under the bill's provisions and a standard required in a local, county, or municipal ordinance.

C.S.S.B. 492 establishes that a person is a controlling person for purposes of provisions regulating prescribed pediatric extended care centers if the person has the ability, acting alone or in concert with others, to directly or indirectly influence, direct, or cause the direction of the management of, expenditure of money for, or policies of a center or other person, and the bill specifies the persons and entities included and excluded within the meaning of that term. The bill authorizes the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules that define the ownership interests and other relationships that qualify a person as a controlling person for such purposes.

C.S.S.B. 492 requires the executive commissioner to adopt rules necessary to implement the bill's provisions regulating prescribed pediatric extended care centers. The bill, in order to protect the health and safety of the public and ensure the health, safety, and comfort of the minors served by a center, requires the rules to establish minimum center standards, including certain specified standards. The bill requires the executive commissioner by rule to authorize the commissioner of aging and disability services to grant a waiver from compliance with certain standards adopted under the bill's provisions relating to building construction, renovation, and maintenance conditions and the sanitary conditions within a center and its surroundings to a center located in a municipality that adopts a code to regulate any of those standards if the commissioner determines the applicable municipal code standards exceed the corresponding standards adopted under the specified bill provisions.

C.S.S.B. 492 authorizes DADS to inspect a center, including its records, at reasonable times as necessary to ensure compliance with the bill's provisions and the rules adopted under those provisions. The bill requires the center to provide DADS with access to all center records. The bill requires DADS to inspect a center before issuing or renewing a license and authorizes DADS to require a center that undergoes an inspection to take appropriate corrective action necessary to comply with the requirements of and rules adopted under the bill's provisions and to submit a corrective action plan to DADS for approval. The bill requires a center to make available to any person on request a copy of each inspection report pertaining to the center that has been issued by DADS. The bill requires the center, before making an inspection report available, to redact from the report any information that is confidential under other law. The bill sets out provisions relating to the imposition, deposit, and appropriation of fees under the bill's provisions and provides that such fees are nonrefundable. The bill requires HHSC to designate a center licensed under the bill's provisions as a Medicaid health care services provider.

C.S.S.B. 492 prohibits a center from admitting a minor client to the center unless the client is a medically dependent or technologically dependent minor, the minor's prescribing physician issues a prescription ordering care at a center, the minor's parent or legal guardian consents to the minor's admission to the center, and the admission is voluntary based on the parent's or legal guardian's preference in both managed care and non-managed care service delivery systems. The bill prohibits a center from providing services to a minor for more than 12 hours in any 24-hour period and from providing services other than services regulated under the bill's provisions and executive commissioner rule. The bill prohibits the maximum patient capacity at a center from exceeding 60. The bill requires each licensed center to display the center's license in a conspicuous location readily visible to a person entering the center.

C.S.S.B. 492 sets out provisions relating to the maintenance of records and the filing and investigating of complaints. The bill requires a center and an owner, center employee, or other applicable person to comply with statutory provisions relating to reports of abuse, neglect, and exploitation of residents at certain health facilities and rules adopted under those provisions. The bill requires the owner or operator of a center, at least 30 days before the date the center voluntarily discontinues operation, to inform the parent or legal guardian of each minor client to whom the center is providing services of the discontinuance and the proposed time of the discontinuance.

C.S.S.B. 492, in general enforcement provisions that take effect January 1, 2015, authorizes DADS to deny, suspend, or revoke a prescribed pediatric extended care center license, establishes the grounds on which such action may be taken, and provides that the denial, suspension, or revocation of a license and the appeal of those actions are governed by the procedures for a contested case hearing under the Administrative Procedure Act, except as provided by the bill's provisions relating to emergency suspensions. The bill authorizes DADS, if DADS finds that a center is in repeated noncompliance with the bill's provisions, rules adopted under the bill's provisions, or a corrective action plan, but that the noncompliance does not endanger a minor served by the center or the public health and safety, to schedule the center for probation rather than suspending or revoking the center's license. The bill sets out provisions relating to notice of a probation and of items of noncompliance and to the designation of a probation period and the required correction of the items of noncompliance during that period. The bill authorizes DADS to suspend or revoke the license of a center that does not correct items that were in noncompliance or does not comply with the bill's provisions or the rules adopted under the bill's provisions within the applicable probation period.

C.S.S.B. 492, in those same general enforcement provisions that take effect January 1, 2015, authorizes DADS to issue an emergency order to suspend a license if DADS has reasonable cause to believe that the conduct of a license holder creates an immediate danger to a minor served by the center or the public health and safety. The bill specifies that an emergency suspension is effective immediately without a hearing on notice to the license holder, provides for the conduct of a hearing within a specified period to determine if the emergency suspension is to be continued, modified, or rescinded, and establishes that the hearing and any appeal are governed by DADS rules for a contested case hearing by the Administrative Procedure Act. The bill authorizes DADS to petition a district court for a temporary restraining order to restrain a continuing violation of the bill's provisions or a rule or standard adopted under those provisions if DADS finds that the violation creates an immediate threat to the health and safety of the minors served by a center and sets out provisions relating to a suit for such an injunction. The bill provides for the imposition, collection, and deposit of a civil penalty for a violation of the bill's provisions or a rule or standard adopted under those provisions or for the failure to comply with a corrective action plan, provides for the recovery of reasonable expenses in obtaining such relief, and specifies that each day a violation continues constitutes a separate violation for these purposes. The bill makes it a Class B misdemeanor offense for a person to knowingly establish or operate a center without the appropriate license and specifies that each day a violation continues constitutes a separate offense.

C.S.S.B. 492, in administrative penalty provisions that take effect January 1, 2015, authorizes the commissioner of aging and disability services to impose an administrative penalty on a person licensed under the bill's provisions who violates those provisions or a rule or standard adopted under those provisions and sets out provisions relating to the amount of the penalty and the basis for such an amount; the required notice of a report of a violation and the recommended penalty; the person's acceptance of the determination of a violation and penalty recommendation or the person's request for a hearing; procedures for a hearing on the occurrence of a violation, the amount of a penalty, or both the occurrence and the penalty; the decision by the commissioner of aging and disability services; and a person's options following such a decision. The bill provides for the stay of the enforcement of a penalty, the collection and deposit of a penalty, a decision

regarding the occurrence of a violation by a court, the remittance of penalty and applicable interest if a penalty is reduced or is not upheld, and the release of an applicable bond if the penalty is reduced or not upheld by a court. The bill specifies that a proceeding to impose a penalty is considered to be a contested case under the Administrative Procedure Act.

C.S.S.B. 492 amends the Health and Safety Code to include a prescribed pediatric extended care center licensed by DADS under the bill's provisions in the definition of "facility" as that term is defined for purposes of statutory provisions relating to the nurse aide registry and criminal history checks of employees and applicants for employment in certain facilities serving the elderly, persons with disabilities, or persons with terminal illnesses; statutory provisions relating to the employee misconduct registry; and statutory provisions relating to reports of abuse, neglect, and exploitation of residents of certain facilities.

C.S.S.B. 492 amends the Government Code to entitle DADS to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to a person required to undergo a background and criminal history check under the bill's provisions regulating prescribed pediatric extended care centers. The bill establishes that such information is for the exclusive use of DADS and is privileged and confidential. The bill prohibits such information from being released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information. The bill authorizes DADS to destroy the criminal history record information after the information is used for the authorized purposes. The bill specifies that its provisions do not prohibit DADS from obtaining and using criminal history record information as provided by other law.

C.S.S.B. 492 amends the Human Resources Code to require HHSC to establish a separate provider type for prescribed pediatric extended care centers for purposes of enrollment as a provider for and reimbursement under Medicaid.

C.S.S.B. 492 requires the executive commissioner to adopt the rules required by the bill's provisions not later than July 1, 2014, and specifies that a person is not required to hold a prescribed pediatric extended care center license until January 1, 2015. The bill requires the executive commissioner, when determining an initial reimbursement rate for licensed prescribed pediatric extended care centers that are enrolled in Medicaid, to establish a reimbursement rate that, when converted to an hourly rate, is not more than 70 percent of the average hourly unit rate for private duty nursing services provided under the Texas Health Steps Comprehensive Care Program.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 492 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 248A to read as follows:

CHAPTER 248A. PRESCRIBED
PEDIATRIC EXTENDED CARE
CENTERS

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 248A to read as follows:

CHAPTER 248A. PRESCRIBED
PEDIATRIC EXTENDED CARE
CENTERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 248A.001. DEFINITIONS. In this chapter:

- (1) "Basic services" includes:
(A) the development, implementation, and monitoring of a comprehensive protocol of care that:
(i) is provided to a medically dependent or technologically dependent minor;
(ii) is developed in conjunction with the minor's parent or legal guardian; and
(iii) specifies the medical, nursing, psychosocial, therapeutic, and developmental services required by the minor served; and
(B) the caregiver training needs of the minor's parent or legal guardian.
(2) "Center" means a prescribed pediatric extended care center.
(3) "Commission" means the Health and Human Services Commission.
(4) "Commissioner" means the commissioner of aging and disability services.
(5) "Controlling person" has the meaning assigned by Section 248A.0012.
(6) "Department" means the Department of Aging and Disability Services.
(7) "Executive commissioner" means the executive commissioner of the commission.
(8) "Medically dependent or technologically dependent minor" means a minor who because of an acute, chronic, or intermittent medically complex or fragile condition or disability requires ongoing, technology-based skilled nursing supervision prescribed by the minor's physician to avert death or further disability or the routine use of a medical device to compensate for a deficit in a life-sustaining body function. The term does not include minor or occasional medical conditions that do not require continuous nursing care, including asthma or diabetes, or a condition that requires an epinephrine injection.
(9) "Minor" means an individual younger than 21 years of age.
(10) "Prescribed pediatric extended care center" means a facility operated for profit or on a nonprofit basis that provides nonresidential basic services to four or more medically dependent or technologically dependent minors who require the services

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(2) "Center" means a prescribed pediatric extended care center.
(3) "Commission" means the Health and Human Services Commission.
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(5) "Controlling person" has the meaning assigned by Section 248A.0012.
(6) "Department" means the Department of Aging and Disability Services.
(7) "Executive commissioner" means the executive commissioner of the commission.
(8) "Medically dependent or technologically dependent minor" means a minor who because of an acute, chronic, or intermittent medically complex or fragile condition or disability requires ongoing, technology-based skilled nursing care prescribed by the minor's physician to avert death or further disability or the routine use of a medical device to compensate for a deficit in a life-sustaining body function. The term does not include minor or occasional medical conditions that do not require continuous nursing care, including asthma or diabetes, or a condition that requires an epinephrine injection.
(9) "Minor" means an individual younger than 21 years of age.
(10) "Prescribed pediatric extended care center" means a facility operated for profit or on a nonprofit basis that provides nonresidential basic services to four or more medically dependent or technologically dependent minors who require the services

of the facility and who are not related by blood, marriage, or adoption to the owner or operator of the facility.

Sec. 248A.0012. CONTROLLING PERSON.

Sec. 248A.002. EXEMPTIONS.

Sec. 248A.003. CONFLICT WITH LOCAL LAWS.

SUBCHAPTER B. LICENSING OF CENTERS

Sec. 248A.051. LICENSE REQUIRED; PREMISES RESTRICTION. (a) A person may not own or operate a prescribed pediatric extended care center in this state unless the person holds a license issued under this chapter.

(b) A separate license is required for each center located on separate premises, regardless of whether the centers are under the ownership or operation of the same person.

(c) A person may not operate a center on the same premises as a child-care facility licensed under Chapter 42, Human Resources Code.

Sec. 248A.052. APPLICATION; ISSUANCE.

Sec. 248A.053. LICENSE TERM; RENEWAL; NOTIFICATION.

Sec. 248A.054. LICENSE NOT TRANSFERABLE OR ASSIGNABLE.

SUBCHAPTER C. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER, COMMISSION, AND DEPARTMENT

Sec. 248A.101. ADOPTION OF RULES AND STANDARDS. (a) The executive commissioner shall adopt rules necessary to implement this chapter.

(b) To protect the health and safety of the public and ensure the health, safety, and comfort of the minors served by a center,

of the facility and who are not related by blood, marriage, or adoption to the owner or operator of the facility.

Sec. 248A.0012. CONTROLLING PERSON.

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(b) A separate license is required for each center located on separate premises, regardless of whether the centers are under the ownership or operation of the same person.

(c) A person may not operate a center on the same premises as:

(1) a child-care facility licensed under Chapter 42, Human Resources Code; or

(2) any other facility licensed by the department or the Department of State Health Services.

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Sec. 248A.101. ADOPTION OF RULES AND STANDARDS. (a) The executive commissioner shall adopt rules necessary to implement this chapter.

(b) To protect the health and safety of the public and ensure the health, safety, and comfort of the minors served by a center,

the rules must establish minimum center standards, including:

(1) standards relating to the issuance, renewal, denial, suspension, probation, and revocation of a license to operate a center;

(2) standards relating to the provision of family-centered basic services that include individualized medical, developmental, and family training services;

(3) based on the size of the building and the number of minors served, building construction and renovation standards, including standards for plumbing, electrical, glass, manufactured buildings, accessibility for the physically disabled, and fire protection;

(4) based on the size of the building and the number of minors served, building maintenance conditions relating to plumbing, heating, lighting, ventilation, adequate space, fire protection, and other conditions;

(5) standards relating to the minimum number of and qualifications required for personnel who provide personal care or basic services to the minors served;

(6) standards relating to the sanitary conditions within a center and its surroundings, including water supply, sewage disposal, food handling, and general hygiene;

(7) standards relating to the programs offered by the center to promote and maintain the health and development of the minors served and to meet the training needs of the minors' parents or legal guardians;

(8) standards relating to physician-prescribed supportive or ancillary services;

(9) standards relating to transportation services; and

(10) standards relating to maintenance of patient medical records and program records in accordance with other law and with accepted professional standards and practices.

(c) The executive commissioner by rule shall authorize the commissioner to grant a waiver from compliance with standards adopted under Subsection (b)(3), (4), or (6) to a center located in a municipality that adopts a code to regulate any of those standards if the commissioner determines the applicable municipal code standards exceed the corresponding standards adopted under Subsection (b)(3), (4), or (6).

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(1) standards relating to the issuance, renewal, denial, suspension, probation, and revocation of a license to operate a center;

(2) standards relating to the provision of family-centered basic services that include individualized medical, developmental, and family training services;

(3) based on the size of the building and the number of minors served, building construction and renovation standards, including standards for plumbing, electrical, glass, manufactured buildings, accessibility for the physically disabled, and fire protection;

(4) based on the size of the building and the number of minors served, building maintenance conditions relating to plumbing, heating, lighting, ventilation, adequate space, fire protection, and other conditions;

(5) standards relating to the minimum number of and qualifications required for personnel who provide personal care or basic services to the minors served;

(6) standards relating to the sanitary conditions within a center and its surroundings, including water supply, sewage disposal, food handling, and general hygiene;

(7) standards relating to the programs offered by the center to promote and maintain the health and development of the minors served and to meet the training needs of the minors' parents or legal guardians;

(8) standards relating to physician-prescribed supportive services;

(9) standards relating to transportation services; and

(10) standards relating to maintenance of patient medical records and program records in accordance with other law and with accepted professional standards and practices.

(c) The executive commissioner by rule shall authorize the commissioner to grant a waiver from compliance with standards adopted under Subsection (b)(3), (4), or (6) to a center located in a municipality that adopts a code to regulate any of those standards if the commissioner determines the applicable municipal code standards exceed the corresponding standards adopted under Subsection (b)(3), (4), or (6).

Sec. 248A.102. INSPECTIONS;
CORRECTIVE ACTION PLAN.

Sec. 248A.103. FEES.

Sec. 248A.104. COMMISSION DUTIES.

SUBCHAPTER D. CENTER
REGULATION

Sec. 248A.151. ADMISSION CRITERIA
FOR MINOR CLIENT.

Sec. 248A.152. RESTRICTIONS ON
HOURS, SERVICES, AND PATIENT
CAPACITY.

Sec. 248A.153. LICENSE DISPLAY

Sec. 248A.154. MAINTENANCE OF
RECORDS.

Sec. 248A.155. COMPLAINTS. A person
may file a complaint with the department
against a center licensed or required to be
licensed under this chapter. The department
shall investigate the complaint in
accordance with the complaint procedures
established under Chapter 1001.

Sec. 248A.156. COMPLIANCE WITH
OTHER LAW.

Sec. 248A.157. CLOSING OF CENTER.

SUBCHAPTER E. GENERAL
ENFORCEMENT

Sec. 248A.201. DENIAL, SUSPENSION,
OR REVOCATION OF LICENSE

Sec. 248A.202. PROBATION.

Sec. 248A.203. EMERGENCY
SUSPENSION.

Sec. 248A.204. INJUNCTION.

Sec. 248A.205. CIVIL PENALTY.

Sec. 248A.206. CRIMINAL PENALTY.

SUBCHAPTER F. ADMINISTRATIVE

Sec. 248A.102. INSPECTIONS;
CORRECTIVE ACTION PLAN.

Sec. 248A.103. FEES.

Sec. 248A.104. COMMISSION DUTIES.

SUBCHAPTER D. CENTER
REGULATION

Sec. 248A.151. ADMISSION CRITERIA
FOR MINOR CLIENT.

Sec. 248A.152. RESTRICTIONS ON
HOURS, SERVICES, AND PATIENT
CAPACITY.

Sec. 248A.153. LICENSE DISPLAY.

Sec. 248A.154. MAINTENANCE OF
RECORDS.

Sec. 248A.155. COMPLAINTS. A person
may file a complaint with the department
against a center licensed or required to be
licensed under this chapter. The department
shall investigate the complaint in
accordance with the complaint procedures
established under Chapter 161, Human
Resources Code.

Sec. 248A.156. COMPLIANCE WITH
OTHER LAW.

Sec. 248A.157. CLOSING OF CENTER.

SUBCHAPTER E. GENERAL
ENFORCEMENT

Sec. 248A.201. DENIAL, SUSPENSION,
OR REVOCATION OF LICENSE.

Sec. 248A.202. PROBATION.

Sec. 248A.203. EMERGENCY
SUSPENSION.

Sec. 248A.204. INJUNCTION.

Sec. 248A.205. CIVIL PENALTY.

Sec. 248A.206. CRIMINAL PENALTY.

SUBCHAPTER F. ADMINISTRATIVE

PENALTY

Sec. 248A.251. IMPOSITION OF PENALTY.

Sec. 248A.252. AMOUNT OF PENALTY.

Sec. 248A.253. REPORT AND NOTICE OF VIOLATION AND PENALTY

Sec. 248A.254. PENALTY TO BE PAID OR HEARING REQUESTED.

Sec. 248A.255. HEARING.

Sec. 248A.256. DECISION BY COMMISSIONER.

Sec. 248A.257. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

Sec. 248A.258. STAY OF ENFORCEMENT OF PENALTY.

Sec. 248A.259. COLLECTION OF PENALTY.

Sec. 248A.260. DECISION BY COURT.

Sec. 248A.261. REMITTANCE OF PENALTY AND INTEREST.

Sec. 248A.262. RELEASE OF BOND.

Sec. 248A.263. ADMINISTRATIVE PROCEDURE.

SECTION 2. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.13861 to read as follows:

Sec. 411.13861. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF AGING AND DISABILITY SERVICES. (a) The Department of Aging and Disability Services shall obtain from the Department of Public Safety criminal history record information maintained by the Department of Public Safety that relates to a person required to undergo a background and criminal history check under Chapter 248A, Health and Safety Code.

(b) Criminal history record information obtained under Subsection (a) is for the

PENALTY

Sec. 248A.251. IMPOSITION OF PENALTY

Sec. 248A.252. AMOUNT OF PENALTY.

Sec. 248A.253. REPORT AND NOTICE OF VIOLATION AND PENALTY.

Sec. 248A.254. PENALTY TO BE PAID OR HEARING REQUESTED

Sec. 248A.255. HEARING.

Sec. 248A.256. DECISION BY COMMISSIONER.

Sec. 248A.257. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

Sec. 248A.258. STAY OF ENFORCEMENT OF PENALTY

Sec. 248A.259. COLLECTION OF PENALTY.

Sec. 248A.260. DECISION BY COURT

Sec. 248A.261. REMITTANCE OF PENALTY AND INTEREST.

Sec. 248A.262. RELEASE OF BOND.

Sec. 248A.263. ADMINISTRATIVE PROCEDURE.

SECTION 2. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.13861 to read as follows:

Sec. 411.13861. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF AGING AND DISABILITY SERVICES. (a) The Department of Aging and Disability Services is entitled to obtain from the Department of Public Safety criminal history record information maintained by the Department of Public Safety that relates to a person required to undergo a background and criminal history check under Chapter 248A, Health and Safety Code.

(b) Criminal history record information obtained under Subsection (a) is for the

exclusive use of the Department of Aging and Disability Services and is privileged and confidential.

(c) Criminal history record information obtained under Subsection (a) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information. The Department of Aging and Disability Services may destroy the criminal history record information after the information is used for the purposes authorized by this section.

(d) This section does not prohibit the Department of Aging and Disability Services from obtaining and using criminal history record information as provided by other law.

SECTION 3. Subdivision (3), Section 250.001, Health and Safety Code, is amended to read as follows:

(3) "Facility" means:

(A) a nursing home, custodial care home, or other institution licensed by the Department of Aging and Disability Services under Chapter 242;

(B) an assisted living facility licensed by the Department of Aging and Disability Services under Chapter 247;

(C) a home and community support services agency licensed under Chapter 142;

(D) an adult day care facility licensed by the Department of Aging and Disability Services under Chapter 103, Human Resources Code;

(E) a facility for persons with mental retardation licensed under Chapter 252;

(F) an adult foster care provider that contracts with the Department of Aging and Disability Services;

(G) a facility that provides mental health services and that is operated by or contracts with the Department of State Health Services;

(H) a local mental health or mental retardation authority designated under Section 533.035;

(I) a person exempt from licensing under Section 142.003(a)(19); ~~or~~

(J) a special care facility licensed by the Department of State Health Services under Chapter 248; or

(K) a prescribed pediatric extended care center licensed by the Department of Aging

exclusive use of the Department of Aging and Disability Services and is privileged and confidential.

(c) Criminal history record information obtained under Subsection (a) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information. The Department of Aging and Disability Services may destroy the criminal history record information after the information is used for the purposes authorized by this section.

(d) This section does not prohibit the Department of Aging and Disability Services from obtaining and using criminal history record information as provided by other law.

SECTION 3. Same as engrossed version.

and Disability Services under Chapter 248A.

SECTION 4. Subdivision (4), Section 253.001, Health and Safety Code, is amended to read as follows:

(4) "Facility" means:

(A) a facility:

(i) licensed by the department; or

(ii) licensed under Chapter 252;

(B) an adult foster care provider that contracts with the department; ~~[or]~~

(C) a home and community support services agency licensed by the department under Chapter 142; or

(D) a prescribed pediatric extended care center licensed under Chapter 248A.

SECTION 5. Subdivisions (5) and (7), Section 260A.001, Health and Safety Code, are amended to read as follows:

(5) "Facility" means:

(A) an institution as that term is defined by Section 242.002; ~~[and]~~

(B) an assisted living facility as that term is defined by Section 247.002; and

(C) a prescribed pediatric extended care center as that term is defined by Section 248A.001.

(7) "Resident" means an individual, including a patient, who resides in or receives services from a facility.

SECTION 6. Section 32.024, Human Resources Code, is amended by adding Subsection (jj) to read as follows:

(jj) The department shall establish a separate provider type for prescribed pediatric extended care centers licensed under Chapter 248A, Health and Safety Code, for purposes of enrollment as a provider for and reimbursement under the medical assistance program.

SECTION 7. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 4. Same as engrossed version.

SECTION 5. Same as engrossed version.

SECTION 6. Same as engrossed version.

SECTION 7. Same as engrossed version.

SECTION 8. (a) Not later than July 1, 2014, the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Subchapter C, Chapter 248A, Health and Safety Code, as added by this Act.

(b) Notwithstanding Section 248A.051, Health and Safety Code, as added by this Act, a person is not required to hold a prescribed pediatric extended care center license until January 1, 2015.

SECTION 9. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2013.

(b) Subchapters E and F, Chapter 248A, Health and Safety Code, as added by this Act, take effect January 1, 2015.

SECTION 8. (a) Not later than July 1, 2014, the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Subchapter C, Chapter 248A, Health and Safety Code, as added by this Act.

(b) Notwithstanding Section 248A.051, Health and Safety Code, as added by this Act, a person is not required to hold a prescribed pediatric extended care center license until January 1, 2015.

(c) When determining an initial reimbursement rate for licensed prescribed pediatric extended care centers that are enrolled in the medical assistance program, the executive commissioner of the Health and Human Services Commission shall establish a reimbursement rate that, when converted to an hourly rate, is not more than 70 percent of the average hourly unit rate for private duty nursing services provided under the Texas Health Steps Comprehensive Care Program.

SECTION 9. Same as engrossed version.